

City Attorney



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Office Description

The Office of the City Attorney is among the region's largest law firms that handles a diverse caseload. The Office of the City Attorney advises the Mayor, City Council, and all City departments, as well as prosecutes and defends lawsuits or cases to which the City may be a party. The City Attorney's Office also prosecutes persons charged with violations of State and local laws occurring within the City's jurisdiction for misdemeanor offenses.

City Attorney Jan Goldsmith, an attorney since 1976, specializes in business litigation. He was appointed San Diego Superior Court Judge in 1998 and retired in December 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. During his final years as a superior court judge, he was assigned to an independent civil calendar.

Executive Assistant City Attorney Paul Cooper began his career in the City Attorney's Office in 1993 as a prosecutor in the Criminal Division. In 1996, he was asked to head the Office's nationally recognized Domestic Violence and Child Abuse Unit. In 1997, he transferred to the Office's Civil Division and became supervisor of the unit that advises the San Diego Police Department. In 2003, Mr. Cooper became the Special Advisor and Assistant to former Police Chief William Lansdowne. He returned to the City Attorney's Office in 2012 and worked as a Deputy City Attorney in the Public Safety and Employment Unit.

The San Diego City Attorney's Office is divided into four divisions: Civil Advisory, Civil Litigation, Criminal, and Community Justice. These divisions are subdivided into units and sections which allow the attorneys to specialize in areas of practice:

- **Civil Advisory Division:** The Civil Advisory Division advises the City and each of its departments, including the City Council and Mayor. The Civil Advisory Division is divided into six sections: Economic Development, Government Affairs & Finance, Public Works, Public Services, Public Safety & Employment Services, and Real Property & Land Use. This division is under the direction of Assistant City Attorney Mary Nuesca who has over 27 years of experience. She has served as a criminal prosecutor, appellate lawyer, and legal advisor to the San Diego Police Department. Ms. Nuesca has worked on a variety of special projects in the Civil Advisory Division.
- **Civil Litigation Division:** The Civil Litigation Division prosecutes and defends civil lawsuits to which the City is a party. The Civil Litigation Division is divided into five units: Civil Prosecution, Workers'

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Compensation, Land Use Litigation, General Litigation, and Special Litigation. Assistant City Attorney Dan Bamberg heads this division. He started his legal career as a Criminal Prosecutor for the City in 1974. While in private practice, Mr. Bamberg prosecuted plaintiffs' civil actions at trial and on appeal.

- **Criminal Division:** The Criminal Division prosecutes criminal misdemeanors and infractions committed within the City's jurisdiction. The Criminal Division is divided into five units: Case Issuance, General Trial, Appellate, Neighborhood Prosecution, and Domestic Violence. This division is under the direction of Assistant City Attorney Marlea Dell'Anno. Ms. Dell'Anno has more than 18 years of experience in criminal prosecution and leadership roles.
- **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, ensure fair business dealings, and promote justice. The Community Justice Division is divided into two units: Code Enforcement and Consumer & Environmental Protection. This division is also under the direction of Assistant City Attorney Marlea Dell'Anno.

The Office of the City Attorney is built upon the senior partner, junior partner, and associate model used in private law firms. The four division leaders, along with City Attorney Jan Goldsmith, have more than 155 years of combined experience.

The Office's mission is:

Integrity matters! We can best help our city by maintaining our integrity and 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.

Goals and Objectives

In reviewing strategic business plans and goals and objectives for next fiscal year, it is important to recognize that market and economic trends are changing. These changes have a direct impact on the City Attorney's practice areas and its attorney staffing needs. The Office is facing difficulties with an increased workload and the need to be competitive to address its hiring needs and retain experienced lawyers.

Due to the passage of Proposition 47 in November, the Office anticipates an increase of misdemeanor cases of approximately 15%. This increase is due to the cases that had previously been charged by the District Attorney's Office as felonies, now being reduced to misdemeanors to be issued by the Office. Additionally, the Civil and Criminal divisions must now review all police body-worn camera footage, which could range from minutes to hours, between multiple officers. This will become part of the discovery process, as well as to appropriately assess and work-up on a case with the footage for trial. The Civil Advisory and Civil Litigation Unit's workload will also increase.

Objectives moving forward are to hire for attrition and secure the best talent by being competitive in our compensation packages. By dedicating experienced lawyers to its most challenging cases, the Office can expect to achieve strong results and stiffer sentences.

As the Community Court program evolves, the Office anticipates that additional providers will come on board, expanding the resources available to participants. The Office hopes to see Community Impact Panels created in each City Council district.

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In the Criminal Division, additional goals include providing trial deputies and prosecution teams with the specialized expertise in handling DUI drug cases. Their objectives will be to recognize signs of drugged driving, anticipate defense tactics, and deploy the latest advances in drug toxicology to keep dangerous motorists off the streets.

The Code Enforcement Unit will continue to close down all illegal marijuana dispensaries that do not obtain proper permits and conform to zoning regulations.

Service Efforts and Accomplishments

The City Attorney's Office was awarded a state DUI Prosecution grant. The \$263,000 grant from the California Office of Traffic Safety will fund an Alcohol and Drug Impaired Driving (ADID) vertical prosecution team that will work DUI cases from arrest through sentencing. Funding will aid the City Attorney's Office in handling cases throughout each step of the criminal process, prosecuting both alcohol and drug-impaired driving cases. Prosecution team members will work with the State's Traffic Safety Resource Prosecutor program to expand knowledge and resources in the Office by obtaining specialized training, including training in the emerging problem of drug-impaired driving.

The Consumer & Environmental Protection Unit (CEPU) prosecutes violations of law that arise from consumer transactions or actions that damage the environment. In a recent consumer protection case, *People v. CSK Auto, Inc.* (O'Reilly Auto Parts) was a civil case brought by the City Attorney, along with the District Attorney offices in San Bernardino, Santa Clara, and Santa Cruz counties. CSK Auto, Inc. agreed to pay \$1.6 million in civil penalties, investigation costs, and restitution for alleged scanner price and injunction violations. O'Reilly has agreed, and is required, to maintain a "\$5 off or Get It Free Program" to protect consumers against overcharges. Any customer who discovers an overcharge can obtain \$5.00 off the price of the item or, if the item price is less than \$5.00, O'Reilly has agreed to give the item to the customer for free.

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

San Diego Community Court, a post-plea diversion program for people who commit low-level misdemeanors, is off to a successful start. It allows defendants to get their case dismissed if they pay their debt to society by completing conditions that include two days of community service. Community Court provides swift consequences for individuals who commit lesser crimes, but without the lasting stain of a criminal conviction. It has the potential to redirect lives, by putting offenders in contact with the social service agencies and allowing them to pay their debts through community service and restorative-justice programs. The Program was developed by the San Diego City Attorney's office in close cooperation with the Sheriff's Department, the Public Defender's Office, the Alpha Project, and Urban Corps of San Diego County. This program eliminates the public costs of pre-trial motions, trials, and appeals. Those resources can now be directed to more serious crimes and other public benefits.

The City Attorney's Code Enforcement Unit continued to aggressively shut down illegal marijuana dispensaries operating in violation of the City's zoning laws. In the past four years, more than 200 unpermitted marijuana dispensaries have been shut down as a result of CEU obtaining civil injunctions against property owners and dispensary operators. The dispensary cases prosecuted by CEU typically had crime occurring at the property due to the large amounts of cash at the dispensary and large amounts of high grade marijuana (with values from \$3,000 to \$4,000 per pound). Many of the cases had incidents of violent crimes such as assaults, robberies, and burglaries.

The City Attorney's Office negotiated with 16 insurance carriers to cover the City's \$15.0 million share of a San Diego bay cleanup program in a lawsuit settlement that protects taxpayers, as well as the environment. The Office, with assistance from an "insurance archaeologist", sifted through 70 years of City records and determined levels of

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coverage responsibility on behalf of the insurance carriers. This achievement saves millions of dollars for City programs and infrastructure.

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

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

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

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

The Land Use Litigation Unit was successful in *American Tower Corporation v. City of San Diego*. This federal matter involved seven consolidated cases challenging the City's application of its telecommunications regulations. The case arose out of the City's denial of use permits for large cell towers throughout the City that violated the regulations in effect at that time. The federal District Court and Ninth Circuit Court of Appeals found in favor of the City and upheld the City's right to place reasonable restrictions on the height and aesthetic appearance of cell phone towers. This was a groundbreaking case with nationwide significance.

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

Department Summary

	FY2014 Actual	FY2015 Budget	FY2016 Adopted	FY2015-2016 Change
FTE Positions (Budgeted)	345.86	347.85	355.58	7.73
Personnel Expenditures	\$ 42,003,726	\$ 42,700,900	\$ 43,438,874	\$ 737,974
Non-Personnel Expenditures	2,758,480	3,201,155	3,270,814	69,659
Total Department Expenditures	\$ 44,762,207	\$ 45,902,055	\$ 46,709,688	\$ 807,633
Total Department Revenue	\$ 3,461,289	\$ 3,256,169	\$ 4,056,165	\$ 799,996

General Fund

Department Expenditures

	FY2014 Actual	FY2015 Budget	FY2016 Adopted	FY2015-2016 Change
Administration	\$ 5,089,689	\$ 5,376,278	\$ 5,329,585	\$ (46,693)
Civil Advisory	12,407,759	12,414,077	13,392,495	978,418
Civil Litigation	11,427,490	11,520,897	11,180,827	(340,070)
Community Justice	3,806,547	3,834,622	4,533,235	698,613
Criminal Litigation	12,030,721	12,756,181	12,273,546	(482,635)
Total	\$ 44,762,207	\$ 45,902,055	\$ 46,709,688	\$ 807,633

Department Personnel

	FY2014 Budget	FY2015 Budget	FY2016 Adopted	FY2015-2016 Change
Administration	27.36	26.00	27.36	1.36
Civil Advisory	75.18	78.53	82.29	3.76
Civil Litigation	82.00	81.00	76.34	(4.66)
Community Justice	39.95	35.86	38.76	2.90
Criminal Litigation	121.37	126.46	130.83	4.37
Total	345.86	347.85	355.58	7.73

Significant Budget Adjustments

	FTE	Expenditures	Revenue
Criminal Litigation Adjustments Addition of 4.00 Deputy City Attorneys and non-personnel expenditures as a result of the passage of Proposition 47 and the Police Body Worn Cameras Program.	4.00	\$ 353,690	\$ -
Alcohol and Drug Impaired Driver Vertical Prosecution Program Addition of 1.00 Deputy City Attorney, 1.00 City Attorney Investigator, non-personnel expenditures, and associated revenue for the Alcohol and Drug Impaired Driver Vertical Prosecution Program.	2.00	200,905	200,905
Code Enforcement Unit Addition of 1.00 Deputy City Attorney, 1.00 City Attorney Investigator, and associated revenue to provide additional support to the Code Enforcement Unit.	2.00	180,669	180,669

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Significant Budget Adjustments (Cont'd)

	FTE	Expenditures	Revenue
Salary and Benefit Adjustments Adjustments to reflect the annualization of the Fiscal Year 2015 negotiated salary compensation schedule, changes to savings resulting from positions to be vacant for any period of the fiscal year, retirement contributions, retiree health contributions, and labor negotiation adjustments.	0.00	136,204	-
Consumer Environmental Protection Unit Addition of 1.00 Deputy City Attorney, non-personnel expenditures, and associated revenue to provide additional support for Consumer Environmental Protection Unit (CEPU) cases.	1.00	88,422	88,422
Charter Review Committee Addition of 1.00 Deputy City Attorney to provide legal support for the Charter Review Committee.	1.00	84,422	-
Engineering Services Addition of non-personnel expenditures to support engineering services provided by the Public Works-Engineering & Capital Projects Department.	0.00	40,000	-
Non-Discretionary Adjustment Adjustment to expenditure allocations that are determined outside of the department's direct control. These allocations are generally based on prior year expenditure trends and examples of these include utilities, insurance, and rent.	0.00	38,939	-
Reclassification of IT Expenditures Adjustment reflects the reclassification of information technology expenditures.	0.00	15,640	-
Hourly Sick Leave Addition of personnel expenditures for paid sick leave benefits for eligible hourly employees consistent with the requirements of Assembly Bill 1522.	0.00	12,112	-
Non-Standard Hour Personnel Funding Adjustment to expenditures according to a zero-based annual review of non-standard hour personnel funding requirements.	(0.27)	(24,581)	-
Equipment/Support for Information Technology Adjustment to expenditure allocations according to a zero-based annual review of information technology funding requirements and priority analyses.	0.00	(47,249)	-
Criminal Litigation and Civil Advisory Reductions Reduction of 1.00 Public Information Clerk in the Criminal Litigation Division and 1.00 Assistant City Attorney in the Civil Advisory Division.	(2.00)	(271,540)	-
Revised Revenue Adjustment to reflect Fiscal Year 2016 revenue projections.	0.00	-	330,000
Total	7.73	\$ 807,633	\$ 799,996

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Expenditures by Category

	FY2014 Actual	FY2015 Budget	FY2016 Adopted	FY2015-2016 Change
PERSONNEL				
Personnel Cost	\$ 24,778,947	\$ 25,738,836	\$ 26,490,866	\$ 752,030
Fringe Benefits	17,224,779	16,962,064	16,948,008	(14,056)
PERSONNEL SUBTOTAL	42,003,726	42,700,900	43,438,874	737,974
NON-PERSONNEL				
Supplies	\$ 262,240	\$ 306,316	\$ 328,793	\$ 22,477
Contracts	1,220,749	1,394,965	1,492,646	97,681
Information Technology	1,126,113	1,354,196	1,306,947	(47,249)
Energy and Utilities	38,702	61,254	58,004	(3,250)
Other	85,456	84,424	84,424	-
Transfers Out	13,490	-	-	-
Capital Expenditures	11,731	-	-	-
NON-PERSONNEL SUBTOTAL	2,758,480	3,201,155	3,270,814	69,659
Total	\$ 44,762,207	\$ 45,902,055	\$ 46,709,688	\$ 807,633

Revenues by Category

	FY2014 Actual	FY2015 Budget	FY2016 Adopted	FY2015-2016 Change
Charges for Services	\$ 2,873,490	\$ 2,418,292	\$ 3,218,288	\$ 799,996
Fines Forfeitures and Penalties	60,444	250,000	250,000	-
Licenses and Permits	2,968	3,500	3,500	-
Other Revenue	1,008	-	-	-
Rev from Other Agencies	523,380	584,377	584,377	-
Total	\$ 3,461,289	\$ 3,256,169	\$ 4,056,165	\$ 799,996

Personnel Expenditures

Job Number	Job Title / Wages	FY2014 Budget	FY2015 Budget	FY2016 Adopted	Salary Range	Total
FTE, Salaries, and Wages						
20000011	Account Clerk	1.00	1.00	1.00	\$31,491 - \$37,918	\$ 35,980
20000012	Administrative Aide 1	2.00	2.00	2.00	36,962 - 44,533	89,066
20001076	Assistant City Attorney	6.00	6.00	5.00	73,008 - 291,595	838,992
21000179	Assistant Dispute Resolution Officer	1.00	1.00	1.00	44,470 - 54,059	54,059
20000119	Associate Management Analyst	2.00	2.00	2.00	54,059 - 65,333	115,687
20000171	Auto Messenger 1	2.00	2.00	2.00	26,208 - 31,491	60,877
20001070	City Attorney	1.00	1.00	1.00	193,648 - 193,648	193,648
20000610	City Attorney Investigator	21.00	21.00	23.00	58,219 - 70,429	1,593,750
90000610	City Attorney Investigator - Hourly	0.40	1.35	1.25	58,219 - 70,429	72,774
20000539	Clerical Assistant 2	23.00	22.00	21.00	29,931 - 36,067	719,098
20001159	Confidential Secretary to the City Attorney	1.00	1.00	1.00	16,827 - 105,518	95,000
20000351	Court Support Clerk 1	19.00	20.00	17.00	31,491 - 37,918	629,299
20000353	Court Support Clerk 2	13.00	14.00	18.00	32,968 - 39,811	712,021
90000353	Court Support Clerk 2 - Hourly	0.10	0.10	0.09	32,968 - 39,811	2,967
20001117	Deputy City Attorney	135.75	136.75	144.75	17,805 - 204,214	14,949,337
90001117	Deputy City Attorney - Hourly	0.80	1.84	1.68	17,805 - 204,214	186,497

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Personnel Expenditures (Cont'd)

Job Number	Job Title / Wages	FY2014 Budget	FY2015 Budget	FY2016 Adopted	Salary Range	Total
20001258	Deputy City Attorney - Unrepresented	6.00	5.00	5.00	17,805 - 204,214	635,838
20001168	Deputy Director	1.00	1.00	1.00	46,966 - 172,744	130,000
20000392	Dispute Resolution Officer	1.00	1.00	1.00	54,059 - 65,333	65,333
20000290	Information Systems Analyst 2	1.00	1.00	1.00	54,059 - 65,333	65,333
20000293	Information Systems Analyst 3	1.00	1.00	1.00	59,363 - 71,760	71,760
20000377	Information Systems Technician	2.00	2.00	2.00	42,578 - 51,334	102,668
90001128	Legal Intern - Hourly	1.00	1.00	1.00	39,000 - 47,424	39,000
20000587	Legal Secretary 2	35.25	35.25	35.25	43,555 - 52,666	1,807,497
90000587	Legal Secretary 2 - Hourly	0.10	0.10	0.10	43,555 - 52,666	4,356
20000911	Librarian 3	1.00	1.00	1.00	55,266 - 67,101	64,752
20000614	Paralegal	20.00	20.00	20.00	52,374 - 63,190	1,232,597
20000680	Payroll Specialist 2	2.00	2.00	2.00	34,611 - 41,787	80,797
20001141	Principal Assistant to the City Attorney	1.00	1.00	1.00	26,395 - 160,430	113,006
20000747	Principal City Attorney Investigator	1.00	1.00	1.00	70,221 - 85,051	85,051
20000741	Principal Clerk	1.00	1.00	1.00	43,555 - 52,666	43,555
20000380	Principal Legal Secretary	1.00	1.00	1.00	50,398 - 60,736	60,736
20000063	Principal Paralegal	1.00	1.00	1.00	63,586 - 76,502	76,502
20001222	Program Manager	2.00	2.00	2.00	46,966 - 172,744	181,251
20000783	Public Information Clerk	1.00	1.00	0.00	31,491 - 37,918	-
20000933	Senior City Attorney Investigator	5.00	5.00	5.00	63,794 - 77,314	366,111
20000935	Senior City Attorney Investigator	1.00	1.00	1.00	63,794 - 77,314	77,314
90000933	Senior City Attorney Investigator - Hourly	0.10	0.10	0.10	63,794 - 77,314	6,379
20000927	Senior Clerk/Typist	8.00	8.00	8.00	36,067 - 43,514	337,619
20001144	Senior Legal Intern	1.00	1.00	1.00	47,466 - 57,658	57,658
20000843	Senior Legal Secretary	6.00	6.00	6.00	48,006 - 57,845	342,152
20000015	Senior Management Analyst	1.00	1.00	1.00	59,363 - 71,760	70,684
20000845	Senior Paralegal	5.00	5.00	5.00	57,658 - 69,410	320,423
90001146	Student Intern - Hourly	0.36	0.36	0.36	18,616 - 22,318	6,702
20000970	Supervising Management Analyst	1.00	1.00	1.00	66,768 - 80,891	80,891
20001057	Victim Services Coordinator	4.00	4.00	4.00	36,962 - 44,533	170,561
20000756	Word Processing Operator	5.00	4.00	4.00	31,491 - 37,918	135,705
	Bilingual - Regular					27,664
	Budgeted Vacancy Savings					(772,927)
	Master Library Degree					3,355
	Overtime Budgeted					10,512
	Sick Leave - Hourly					12,112
	Termination Pay Annual Leave					28,867
FTE, Salaries, and Wages Subtotal		345.86	347.85	355.58		\$ 26,490,866

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	FY2014 Actual	FY2015 Budget	FY2016 Adopted	FY2015-2016 Change
Fringe Benefits				
Employee Offset Savings	\$ 383,844	\$ 425,106	\$ 380,552	\$ (44,554)
Flexible Benefits	2,268,778	2,636,881	3,126,165	489,284
Long-Term Disability	199,642	88,341	86,114	(2,227)
Medicare	351,687	363,323	374,460	11,137
Other Post-Employment Benefits	2,063,836	1,994,198	1,958,567	(35,631)
Retiree Medical Trust	12,031	10,945	18,043	7,098
Retirement 401 Plan	30,299	31,387	35,057	3,670
Retirement ADC	9,702,341	9,347,260	8,844,865	(502,395)
Retirement DROP	55,870	55,764	58,126	2,362
Retirement Offset Contribution	408	-	-	-
Risk Management Administration	306,695	311,328	349,388	38,060
Supplemental Pension Savings Plan	1,186,278	1,350,340	1,396,503	46,163
Unemployment Insurance	68,439	50,602	49,375	(1,227)
Workers' Compensation	594,630	296,589	270,793	(25,796)
Fringe Benefits Subtotal	\$ 17,224,779	\$ 16,962,064	\$ 16,948,008	\$ (14,056)
Total Personnel Expenditures			\$ 43,438,874	