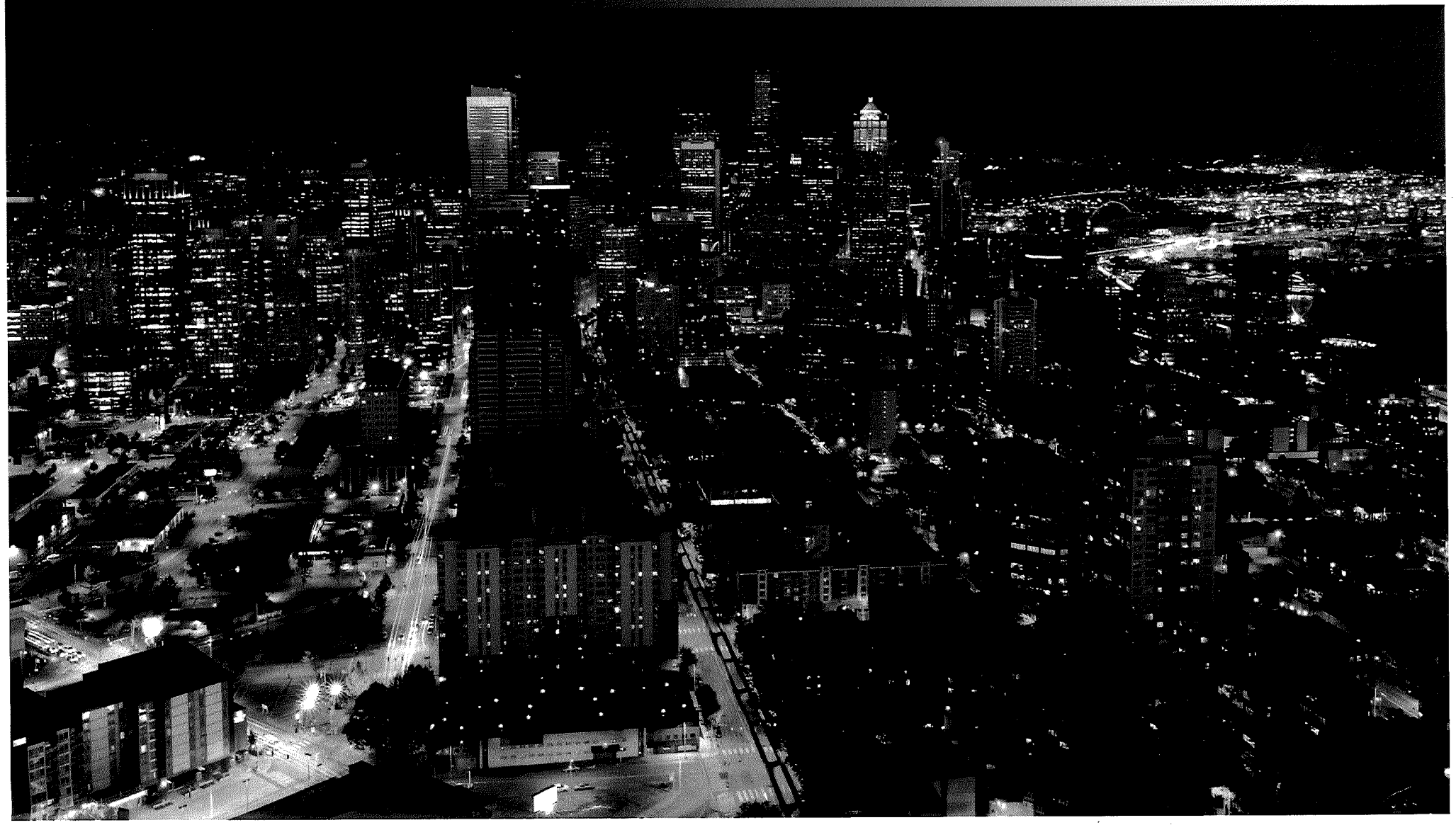
Seattle City Attorney
Annual Report 2014



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STATEMENT FROM THE CITY ATTORNEY

The first year of my second term as your City Attorney coincided with the first year of Mayor Ed Murray's first term in office.[1] I am proud to have endorsed Mayor Murray's candidacy in 2013, and have worked hard to ensure that his administration has the full support of my office in attacking the unavoidable learning curve. Interdepartmental collaboration and teamwork have already yielded significant results.

SPD Reform, Chief Kathleen O'Toole and the DOJ Consent Decree

At about this time in 2014, the Mayor had just announced his choice of Kathleen O'Toole as Seattle's Chief of Police—our fourth chief in the past five years. Officially taking the helm on June 23, 2014, O'Toole has begun the process of SPD's cultural and technological transformation into a modern, effective and constitutional police department. While there is still much work to do, I have seen much progress under her leadership toward full and effective compliance under the federal consent decree[2]. In baseball lingo, in selecting O'Toole, the mayor "knocked it out of the park." It has been a pleasure getting down to work with the true professional and command presence that O'Toole personifies.

Rather than resisting police reform, 2014 was the first full year in which Seattle truly embraced and explored the implications of constitutional policing, informed by the latest best practices. Reports in 2014 from the federal monitor, Merrick Bobb, indicate that while much work remains, Seattle is finally headed in the right direction. As sister cities across the country begin just now to grapple with questions raised about American policing in the wake of the deaths of unarmed black men in Pasco, Ferguson, Cleveland, Baltimore, North Charleston and elsewhere, Seattle can be proud of the strides made by our police department.

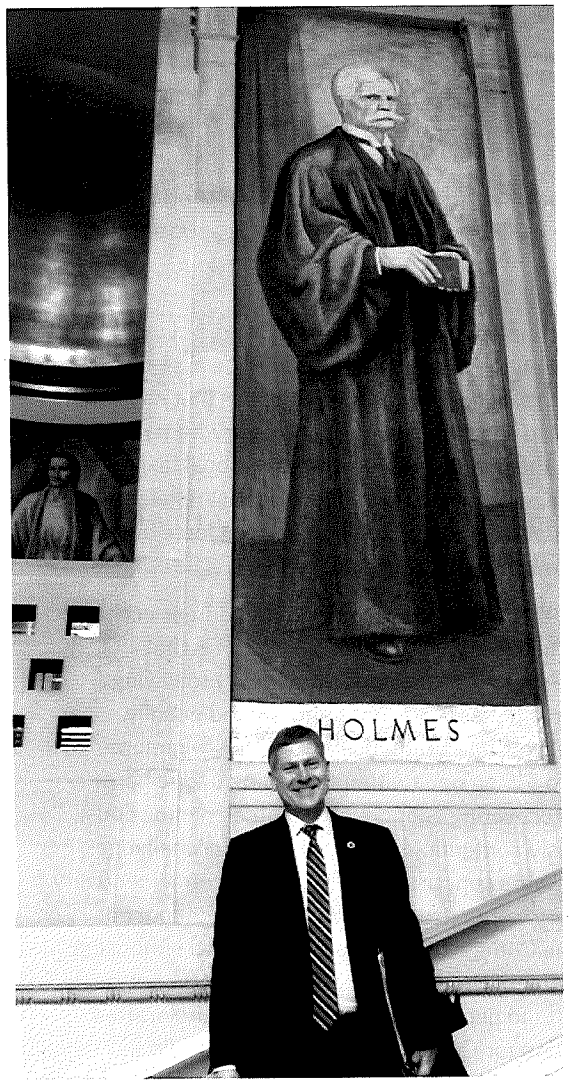
Citizen Initiatives and Progressives' Ability to Govern

2014 saw two other, simultaneous developments in Seattle: Citizens filed a near-record number of initiatives for the general election ballot[3], and the new Mayor's consensus-building leadership style. Our office has assisted the Murray Administration in launching several initiatives using innovative techniques to arrive at consensus. Seattle isn't alone, for instance, as many U.S. cities have struggled with the clash between traditional, licensed taxi services and new "ride share" technologies such as mobile app-dispatched transportation network companies (TNCs) Uber and Lyft. City Council had tried to balance equitable and other service concerns between these competing industries, only to witness continuing competitive strife in our rapidly growing city. State and municipal laws plainly had not kept up

[1] Ed Murray is Seattle's 57th Mayor; I am your 30th City Attorney/ Corporation Counsel.

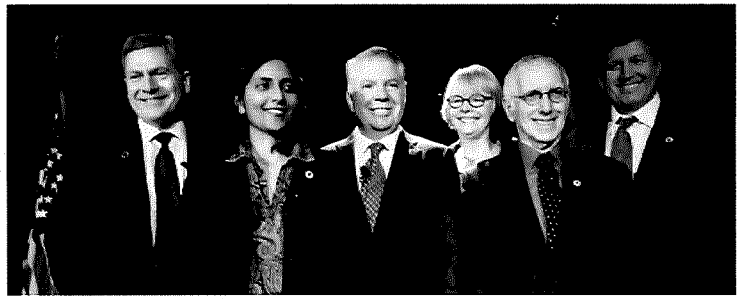
[2] The original signatories to the 2012 Seattle/DOJ Consent Decree included then-Mayor Mike McGinn, then-U.S. Attorney for the Western District of Washington Jenny Durkan, U.S. District Court Judge James Robart, and myself. Only the latter two signatories are still in office.

[3] In 2014 there were 18 proposed initiatives, six charter amendments and 1 referendum.



Pete with portrait of U.S. Supreme Court Justice Oliver Wendell Holmes in D.C.

Pete at inauguration rehearsal



Pete with newly elected Mayor Ed Murray and City Council members

Pete as a panelist at a Seattle Channel show

with technology and consumer demand, but with the support of my office, the TNC task force assembled by the Mayor helped to strike a balance that enabled Council to enact an improved regulatory framework to level the playing field for both traditional taxi cabs and TNCs. Our office continues to assist regulators to fine-tune administrative rules, and to enforce both civil and criminal penalties against unfair, unsafe outliers.

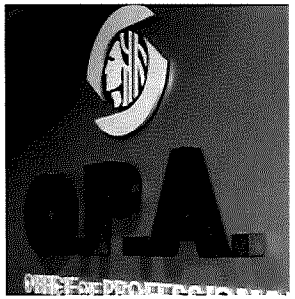
I share the Mayor's urgent desire to address economic disparities in our City. The simple truth is that Seattle's return to economic prosperity following the Great Recession is not being shared equally. Seattle's push to dramatically raise the minimum wage to $15 an hour without inflicting undue harm to the recovering economy presented an enormous, obviously contentious, political *and legal* challenge. Our lawyers supported the Mayor's Income Inequality Advisory Committee in much the same manner as with the Committee on Taxi, For-Hire and Limousine Regulations. They helped committee members understand pertinent legal constraints and drafted legislation for Council's consideration—while maintaining strictest confidences to ensure full and unfettered debate over the underlying social and economic issues. Our Council also embraced the challenge, and following enactment of the nation's most aggressive municipal wage hike in history, the inevitable litigation commenced. Defending Seattle's game-changing $15 minimum wage initiative has been one of the most rewarding but challenging efforts of my office. I am proud to have so far fended off the most aggressive attack on income disparity ever from equally aggressive and well-funded legal opposition on behalf of franchisees.

Most of the legal challenges we defended in support of the Seattle Preschool Program, in contrast to franchisees' attack on the $15 minimum wage ordinance, took place even before voters had the chance to select between two alternatives on the November 2013 general election ballot. Assistant City Attorneys had already rendered advice on the City's authority to fund universal preschool programs in Washington as Councilmembers examined firsthand existing programs elsewhere. With our assistance, Council enacted a fully-funded alternative to a citizens' initiative. Although both progressive measures recognized the value of investing in early childhood education, resources were expended fighting over the ballot title and in defending my decision to present voters with mutually exclusive ballot alternatives—and eliminate potential post-election confusion between the essentially unfunded mandate represented by the initiative and the comprehensive measure enacted by the Mayor and City Council. Voters selected the City's preferred alternative by a substantial margin.

Even now a progressive City Hall is attempting to tackle what I believe to be Seattle's most formidable social and legal problem: the rapidly disappearing supply of affordable, mixed-income housing. As densities soar through new development, Seattle is exporting its poorer, working residents to South King County and elsewhere. Fortunately, the Mayor and Council recognize the crisis and are looking at all available measures to address the problem. Our land use lawyers are working closely with the legislative and executive branches to advance the work of the Housing Affordability and Livability Agenda (HALA). The sheer amount of money at stake in developing America's fastest growing city accentuates the need to get city policy right—and that means a solid legal foundation. I believe in the fundamental right to affordable housing, and will work hard to make sure that the City Attorney's Office is a strong partner in creating the Seattle we all want, with shared prosperity. The decisions we make today will leave an indelible mark on

Pete at the opening of Cannabis City, the first retail marijuana store in Seattle

Administering the oath of office to assistant City attorneys



OPA logo

Practice swearing in by City Clerk Monica Simmons

Seattle for decades to come. It is vitally important that progressive leaders and activists advance our common values and not work at cross purposes. Now more than ever, the perfect cannot hinder the good.

How Progressive Government Should Work: The Alaskan Way Viaduct Replacement Project and Seawall Replacement Project

Some of the biggest challenges facing Seattle at the start of my second term in 2014 were technological; the biggest, most obvious example being the stalled tunneling machine known as "Bertha." When one massive public works project such as the SR 99 tunnel project impacts another—the City's Seawall Replacement Project, for instance—the potential to compound the loss of public resources requires redoubled efforts by government agencies to coordinate activities and keep long-term goals firmly at the forefront. It's when projects run into problems that calm, decisive leadership is most needed. Interagency difficulties and disputes are inevitable, but with firm leadership at the top of city, county and state governments, they can be overcome and critical infrastructure projects delivered. I embrace the "we're all in this together" approach to problem solving that never overlooks risk to the City while keeping an eye on the ultimate goal of an ever more viable, efficient and safe Seattle—the economic engine for the state and the entire Pacific Northwest. I'm proud of the groundwork by my office some four years ago to craft effective city-state agreements initially, and continue to advance the work needed with the county and state to complete the project.

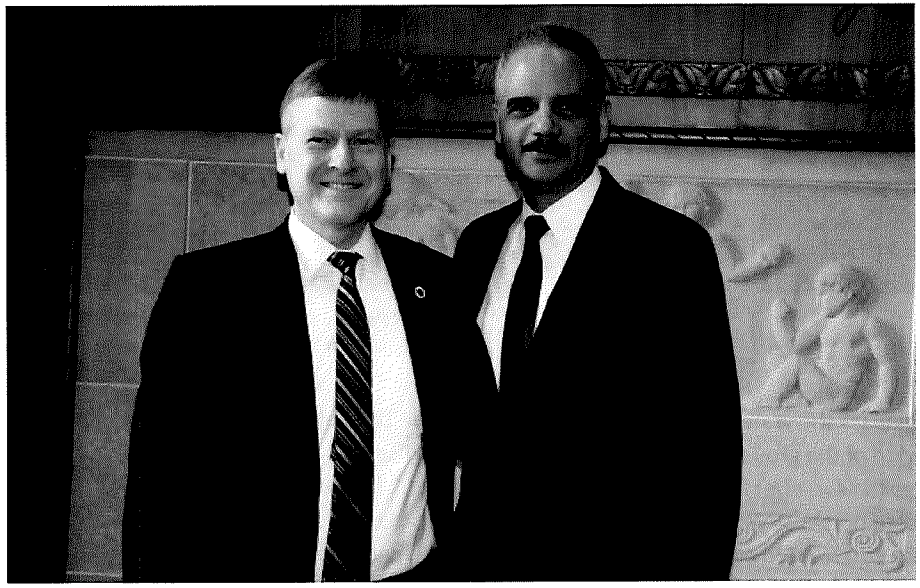
Marijuana & Drug Policy Reform: Implementing I-502 in Washington's largest city

Washington voters knew they were plowing new ground in drug policy reform by enacting I-502, mandating creation of a completely new, seed-to-sale regulated marijuana supply system amid uncertainty over federal law and an unregulated state medical marijuana industry. Unlike Colorado, it has taken more time for Washington's system to come on line. I-502 seeks to beat illegal suppliers in the market place; with just one store open in Seattle by July 2014, however, it has been difficult to determine how and when to apply traditional law enforcement measures against unlicensed, felony operations flourishing in the face of unmet demand.

Our precinct liaison attorneys helped to review applications to the state Liquor Control Board, and my office advised the Murray Administration on challenges throughout the City from opportunistic, unlicensed marijuana sales—in both open-air drug markets and storefronts thinly disguised as medical marijuana "collective gardens." By the end of 2014, I had drafted legal and policy guidance for both the City and the state Legislature to fold medical marijuana into the state-licensed I-502 system. My Jan. 4, 2015 memorandum (http://www.seattle.gov/Documents/Departments/cityattorney/pr/2015Jan05_MarijuanaMemo.pdf) helped to secure much of the needed state law changes in the 2015 legislative session. Attention now turns to efforts in Seattle, where I'm confident our leadership can show that I-502's "New Approach" can enhance both public safety and social justice, as we increasingly turn away as a nation from the failed War on Drugs.

Amendment 19: Seattle City Government will be different

Seattle is again gearing up for change, with every Council position up for grabs in a rare, unstaggered election. As the result of 2013's voter initiative, we are already seeing the impact of the return to district elections for seven of Council's nine positions. Two incumbent Councilmembers, Nick Licata and Tom Rasmussen, have decided not to run for reelection; a third, Sally Clark, has resigned from office. Amid such change and anticipated change, it's important



Pete and former Attorney General Eric Holder at Justice Department in D.C.

to have continuity in the City Attorney's Office. I pledge to work hard with both returning and newly elected Councilmembers to further the work of our municipal government.

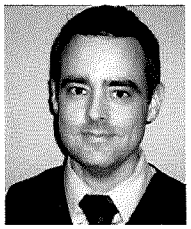
Regulatory Enforcement & Economic Justice initiative
In 2014 I began planning for a new unit within the City Attorney's Office to ensure civil, regulatory enforcement of both existing city ordinances and new initiatives like paid sick leave, rental housing inspection, and medical marijuana enforcement—to name a few. Those plans are almost ready to launch, and promise to provide a more effective clearinghouse for targeted City enforcement efforts that partner with traditional criminal law enforcement. More effective, responsive outcomes that move us away from an overreliance on SPD resources is our goal.

Consolidated CAO Offices at Columbia Center—the lease, the Council vote, and why.
I write these words as a consolidated Law Department settles in new offices in Columbia Center, immediately adjacent to City Hall, the Seattle Municipal Tower, SPD headquarters and Seattle Municipal Court. I made this decision at a crucial time when favorable lease rates and other terms were available, and am proud of the results. In particular, my Administration Director, Dana Anderson, managed this mammoth project from beginning to end with grace and style; Assistant City Attorney Rebecca Keith did a magnificent job preparing a lease that fully protects City interests. I am, finally, grateful for Council's near-unanimous support in relocating my entire department into efficient, professional office spacec. I bring private sector sensibilities to this job, and this move represents a major milestone in taking Seattle's law firm to the next level.

As Seattle and the rest of America emerge from the Great Recession, I rededicate the City Attorney's Office to the principles of shared prosperity and racial equity. Metropolitan governments like Seattle's must lead where Washington, D.C., and Olympia fall short, and the Rule of Law must be there with our policy makers to ensure these egalitarian goals are met and secured.

Seattle City Attorney

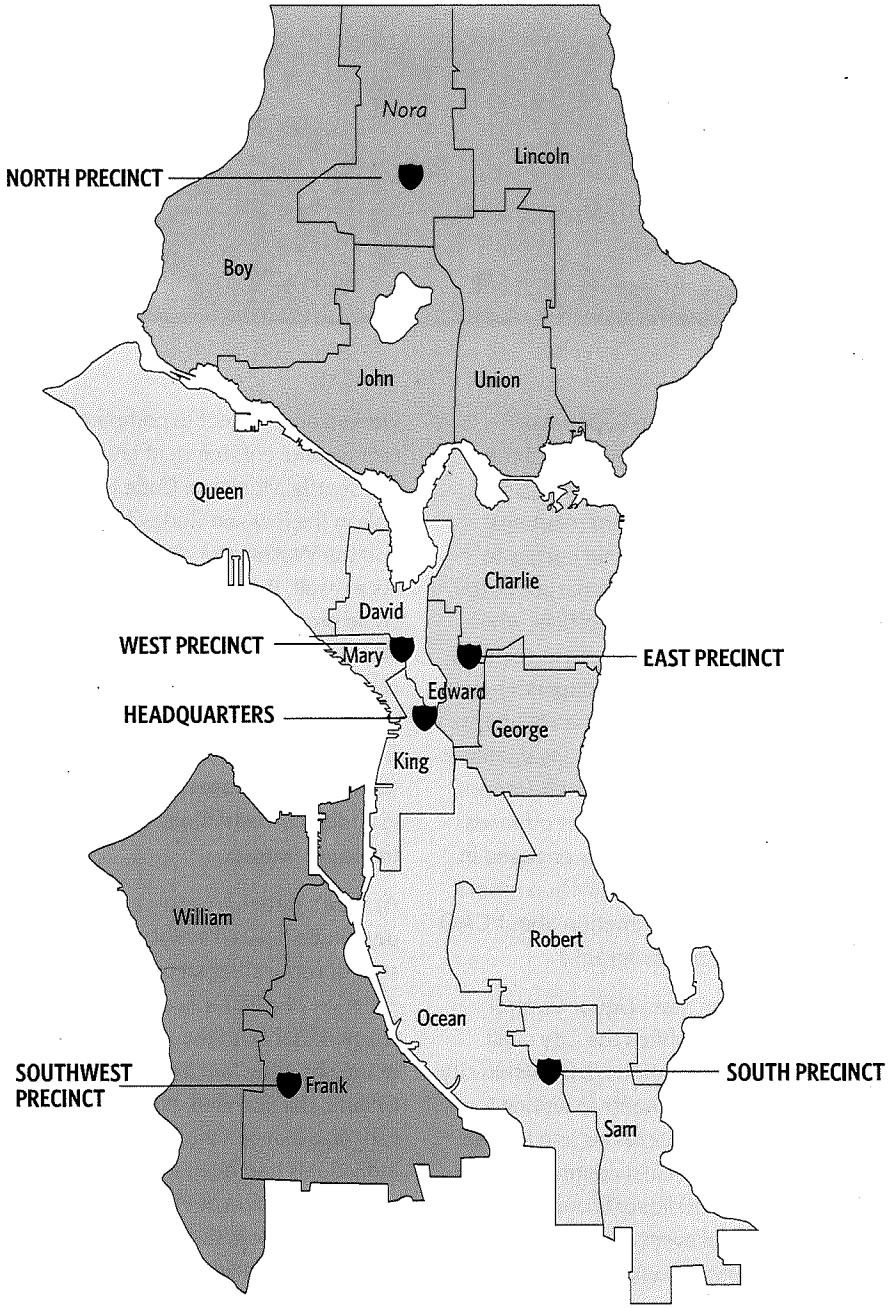
PRECINCT LIAISONS DIVISION



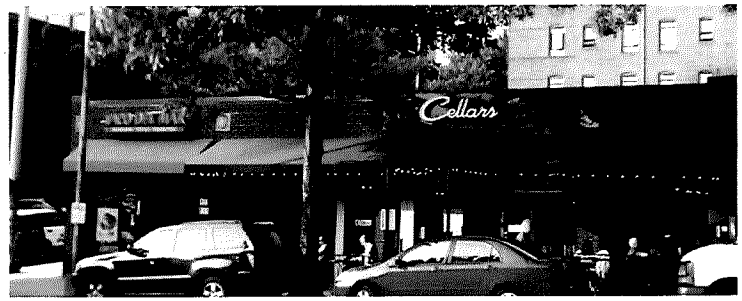
West Precinct
The West Precinct, especially Downtown Seattle, experienced significant growth in 2014. Precinct Liaison Attorney **Dave Lavelle** was assigned to West Precinct in June 2014. As the new liaison, he attended SPD roll calls, community meetings such as the West Precinct Advisory Council, smaller meetings with neighborhoods and individuals, and, with Pete, met with larger organizations across the City.

Each year over 300 demonstrations and events take place within the West Precinct, from the 2014 Seahawks Parade to the National Night Out. Demonstrations following the grand jury decision in Ferguson,MO, resulted in at least 17 nights and days of demonstrations towards the end of the year, ranging in size from small crowds to several thousand people. To ensure the safety of both participants and non-participants, West Precinct supported these demonstrations at a staffing level ranging from 100 to 400 officers based on information and lessons learned from prior demonstrations. As part of that effort, Lavelle was present and available to the SPD Operations Center (SPOC), providing support as needed, answering questions from officers and relaying information to other contacts in the CAO. Despite the number and size of demonstrations, and with the collaborative efforts of multiple departments, there were comparatively few emergency incidents while free speech rights were protected.

Throughout the year Lavelle continued to support and work with the Center City Initiative (CCI) Multi-Disciplinary Team (MDT) to address the individuals causing the greatest concern to businesses and residents. Led by the City's Human Services Department (HSD), the MDT comprises members of SPD, Parks Department, the City Attorney's Office, Metropolitan Improvement District (MID), Downtown Emergency Service Center (DESC) and Evergreen Treatment Services. In a collaborative partnership, the MDT develops a plan to engage the individual in services to provide the assistance needed. If these efforts fail, the individual may be prosecuted for criminal behaviors. With Pete's leadership, efforts to address these complex issues have been extended into Seattle Municipal Court where appropriate individuals can be referred to Mental Health Court, Community Court or Veterans Treatment Court.



PRECINCT LIAISONS DIVISION *continued*



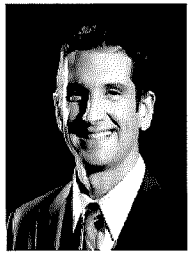
Cellars in Belltown

With Criminal Division Supervisor Andrea Chin, Lavelle represented the CAO at the Law Enforcement Assisted Diversion (LEAD) program meetings. The program allows certain crimes to be diverted from criminal charges at the discretion of the arresting officer when the suspect agrees to engage in social services such as chemical dependency or mental health treatment. The collaborative sharing of information is invaluable in assisting the CAO in the most appropriate way to handle subsequent offenses committed by those already engaged in LEAD. (See the Criminal Division report for more detailed information about CAO participation in this program.)

The Washington State Liquor Control Board (WSLCB) notifies the City of all liquor license applications to be within city limits. The City comments in writing to WSLCB on new applications and license renewals. West Precinct continues to process well over 400 liquor license applications and special event license applications each year. During the summer, Lavelle worked on a project to compare the current alcohol enforcement laws available in the Seattle Municipal Code to those available in the Revised Code of Washington and the Washington Administrative Code. As a result, the City Attorney's Office could propose incorporation of several new laws in 2014. Based on 911 incident reports, community concerns and public safety, the West Precinct was responsible for half of the license objections for the entire City. In several cases, those requests have resulted in additional restrictions being placed on the liquor license.

At Pete's direction, after a shooting incident in Belltown, the City took the rare step of requesting an emergency cancellation of a liquor license when it was learned that both the victim and suspect in the shooting had been armed inside Cellars, the licensed establishment. The City also learned that several underage individuals had been inside the establishment in violation of WSLCB rules. To support its position, the City noted there had been several incidents involving assaults and firearms at the location. Acting on the request of the City, and after a thorough investigation, the WSLCB recommended a 14-day suspension of license. Shortly thereafter the license was transferred to new ownership.

Civility issues continued to dominate many of the community meetings in 2014. SPD deployed a squad of officers, named the Neighborhood Response Team, with the task of addressing these issues in the downtown core. As part of those efforts, Lavelle worked with SPD to streamline filing of charges as a last resort. In one particular case, working with the MDT, an individual refused to accept social services until the CAO filed charges for failing to respond to multiple civil infractions. The CAO is working with SPD and downtown stakeholders to employ individualized, graduated approaches to addressing civility issues, using criminal charges only as a last resort where outreach and civil enforcement do not address ongoing chronic issues.



North Precinct
One of the most significant issues **Brendan Brophy** worked through as North Precinct Liaison Attorney in 2014 involved a house in the Haller Lake area that had drawn many complaints about suspected drug activity, excessive garbage and constant traffic. The house was functioning as a temporary home for the tenant's friends and the yard had become a temporary land fill. Brophy checked with the City agencies and learned that all of them had already visited the house in one form: the Department of Planning and Development (DPD) had completed some cursory inspections; the SPD Anti-Crime Team (ACT) team was watching the house carefully for drug activity; and the SPD Community Police Team (CPT) had contacted the residents of the home, warning them to get into compliance.

Haller Lake house

While many people claimed that residents of the house were trespassers or squatters, there was no indication that the home had been previously boarded up or abandoned. The next step was to find out if they were legal tenants; to determine that, Brophy worked with SPD to find out who owned the property. An officer tracked down the owner but we also learned the property itself was tied up in a bankruptcy declaration. Despite the legal proceedings, the owner had maintained legal ownership of the property, but thought she had relinquished the property in bankruptcy.

The owner, who had relocated to California, had stopped monitoring the property. The last action she took was to lease the home to the current tenant's brother. The current tenant had moved in with his brother shortly after it had been leased and helped share utilities. Based on this information, we determined that the current tenant (brother) was a legal tenant and subject to a month-to-month tenancy. He could only be removed from the home through the eviction process under the Residential Landlord Tenant Act.

Just as this information came together, the Haller Lake community held a meeting. Brophy explained the differences between tenants and trespassers and discussed why the property did not amount to a chronic nuisance property. Everyone at the meeting, with their new understanding of the home's legal status, took up a collection to assist the property owner in hiring a landlord tenant attorney to file eviction proceedings against the occupants. They managed to collect over $1,000 on the spot.

By mid-August, the owner of the home had hired an attorney, who was well into the eviction process. The owner had already served the required notices on the tenant and filed for eviction. In September, the final show cause hearing for the tenant's eviction was held. When the tenant failed to appear, the order was issued and the King County Sheriff posted notice the following day. Over the next week, Brophy visited the home with officers and the home owner, verified that the tenants had not yet vacated.

As eviction day grew closer it became evident that removing the tenants would not solve all the problems. Land Use Section attorney Tamera Van Ness pushed DPD to issue a citation and expedite the abatement process to clean up the house. Once the citation was posted, the owner consented to a voluntary abatement. This allowed the City to have the property cleared immediately after the eviction.

In the weeks leading up to the eviction Brophy worked closely with SPD to make sure all the pieces were in place. He maintained contact with the sheriff's deputy to ensure all parties would be present as required. The owner, with neighborhood cooperation, secured a contractor to board up the doors and windows of the home. The owner and neighborhood volunteers would clear out anything of value left by the tenant. CPT conferenced with the Conservation Corps to confirm they had the tools, namely a large dumpster, standing by to clear the garbage off the property.

Finally, on Sept. 18, all of the agencies headed out to the property for the 10 a.m. eviction. When they arrived, the Conservation Corps was set up and ready to go with a large dumpster and a back hoe. The eviction went smoothly and the tenants left peacefully. Then the cleanup frenzy began, and by 3:00 pm the place was unrecognizable. The most gratifying part for the public servants involved was seeing how grateful all the neighbors were to finally have the property cleaned up and the problem tenants gone.

Brophy also provided planning and on-site advice for several special events held in the North Precinct, namely the 4th of July celebration at Gasworks Park, Fremont Oktoberfest, Fremont Solstice Parade and Fair, and the University District Street Fair. He helped to advise SPD on applicable laws that varied on the organizations'

Ocktoberfest run in Fremont

4th of July at Gasworks Park

permissions and intended use of the location, and to educate the organizations on what actions SPD could take versus what their event security would be responsible for. Many of the issues involved trespassing, marijuana and alcohol use, and protesting.

Brophy also helped address issues with the Aqua Dive in Lake City. This property was once a vibrant recreational center, but it had been abandoned in recent years. Even though the property was fenced in and the building was boarded up, people still got past the fencing to break into the building. After repeated attempts by the owner to board up the building and SPD to remove trespassers, the building deteriorated so much that no one could enter the building safely. Brophy helped coordinate with DPD, SPD and the owners to get the proper permitting to allow the owner to begin demolition. Even though the property is now just an empty lot, it is a significant improvement over what the building had become.

Southwest Precinct Matt York took over for Melissa Chin as Southwest Precinct Liaison Attorney in 2014. He immediately collaborated with police command staff, the King County Prosecutor's Office and the Community Police Team (CPT) to address issues at the Westwood Village shopping center. The businesses there were experiencing a large group of repeat juvenile offenders trespassing, harassing customers and committing theft. Through cooperation with the local businesses, this chronic issue was greatly reduced and criminal activity all but vanished. York also started work on some nuisance residential properties, with several successes in the removal of problem residents with the help of the property owners. While these properties continue to surface, York continues his efforts in the coming year to improve the quality of life of those living in the Southwest Precinct.

While there are still several areas of trouble in the precinct, York has begun work with the CPT and command staff to address environmental issues such as poor lighting, overgrown areas, unused payphone booths and poorly placed bus stops. York and SPD are working to have lights replaced with LED bulbs and property owner to remove plant growth to increase visibility. York has also responded to question and concerns of the City Council and the community regarding marijuana regulation and complications from its decriminalization.

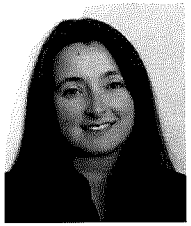
South Precinct

York also covers the South Precinct for the City Attorney's Office. Starting in the summer, the mayor and several code compliance agencies began their "Find it, Fix it" walks in the precinct. These walks, led by SPD, were an avenue for the public to communicate directly with their elected officials and city employees about real concerns in their community. Pete attended all of these events to make certain that our office was available to hear concerns and work on solutions. Following the walks, two unlicensed marijuana dispensaries subject to many complaints closed and several unmaintained properties had vegetation cleared and graffiti painted over.

York has also been involved in the implementation of I-502 and legalized marijuana businesses in production, processing and sale. The majority of applications have fallen to the South Precinct due to the limited locations available under state law. York and the CPT reviewed each application as part of a citywide cooperative effort to foster a safely regulated legal marijuana market. York has also worked with the Mayor's Office on enforcement options for regulating all marijuana sales in Seattle.

Code compliance continues to be a liaison responsibility. Chin, York's predecessor, had objected to the liquor license for May Bon Phuong. York continued to shepherd this objection, which succeeded as the owner voluntarily withdrew the application. York also met with several

neighborhoods about localized problems to work on individualized solutions to these issues.



East Precinct

One of **Beth Gappert's** focuses as the East Precinct Liaison Attorney is addressing public safety issues around hookah bars. Two of these establishments, Casablanca and the Royal Spot, were at the same intersection. In early June 2014, a homicide occurred in the parking lot of the Royal Spot. The Mayor's Office asked the City's regulatory departments and Seattle-King County Public Health to do a one-night mass enforcement of regulatory inspections at these businesses. Gappert advised the police chief and Mayor's Office on the legal options available to the City and worked with departments on enforcement. Each business received several notices of violation for failing to comply with City codes.

The City also wrote letters to the business and property owners of each hookah bar, warning them that the police chief was considering declaring their properties to be chronic nuisances under the Seattle Municipal Code. The East Precinct captain and Gappert met with the owners of Casablanca and their landlord. The landlord initiated eviction proceedings against the business but eventually settled the case, allowing the tenants to remain. The Royal Spot closed shortly after the letters were sent. While Casablanca remains in business, the violence associated with it has declined dramatically.

Another longtime public safety issue in the East Precinct was Waid's, a nightclub at 1212 E. Jefferson St. The City had objected to Waid's liquor license on five occasions. Through York's hard work when he was East Precinct Liaison, the Liquor Control Board finally revoked the liquor license in early June 2014. Waid's closed for business later that month.

Gappert also worked on the CAO's proposal for an alternative to traditional criminal justice processes based on a restorative justice model. Restorative justice is a face-to-face, facilitated dialogue practices that include restorative circles, peacemaking circles, restorative mediations, family group conferencing, and some traditional dispute resolution practices. In restorative justice, an individual accused of a crime meets with the person harmed, community members affected by the harm, and family members and other supporters of the parties. Through facilitated dialogue, the participants discuss the consequences of the event, its impact and harms, the needs and interests that arise, and the needs and interests that gave rise to the event itself. The participants then develop a consensus-based action plan that addresses the needs of all participants, repairs harms, restores relationships, and addresses underlying conditions to prevent future incidents and makes transformative changes.

The action plan requires the accused person to "set things right," if possible, with the person(s) harmed; those affected in the family and community; and the accused. In pre-filing diversion cases, provided the action plan is completed, charges are never filed. This project is still in development, but if the CAO proceeds, we will hand-select cases that meet our filing standards and divert those cases, before filing, to a restorative justice agency. All of the parties, including the victim, would need to agree to the restorative justice diversion before prosecutors would divert the case. The CAO believes that the restorative justice process could benefit both the suspect and the other people affected by criminal actions.

High-Risk Victims/ Narcotics

Unlike the other liaison attorneys, **Heidi Sargent** isn't geographically restricted. That's because her title, Narcotics and High-Risk Victims Liaison, takes her all over Seattle.

In this role, Sargent works to end the demand for prostitution in Seattle. The CAO announced its change in emphasis in the fight against prostitution over two years ago, emphasizing enforcement against sex buyers rather than prostituted people. Since then, the CAO has been working with SPD and non-governmental organizations to end demand in our city. In fall 2014, the CAO joined forces with the King County Prosecuting Attorney's Office in this effort. By focusing on prosecuting those who create the demand for prosecution—the sex buyers—and increasing services and outreach to prostituted people, we are creating opportunities to escape the life and end the downward spiral.

Sargent also worked on changing the language of prostitution to reflect the true nature of the crimes involved by updating the name of the City's ordinance regarding sex buying from "Patronizing a Prostitute" to "Sexual Exploitation." She also worked on efforts to change the law at the state level to increase the penalties for sex buying.

In her role as narcotics liaison, Sargent worked on two legislative proposals. The proposal involved hash oil, also known as marijuana concentrates. Prior to 2015, Washington law defined marijuana concentrates in a way that excluded many types of hash oil, allowing possession of up to 72 ounces (an amount of hash oil worth somewhere as much as $50,000 or more). Sargent worked with City and outside stakeholders to redefine marijuana concentrates to include all hash oil, lowering the possession limit to 7 grams, a much more reasonable amount for personal use.

CIVIL DIVISION

The Civil Division is the City's law firm. Daily, the 50-plus lawyers in the division provide legal advice and representation on everything from affordable housing to constitutional policing to the SR 99 tunnel and seawall construction to marijuana regulation. As the City's in-house law firm, the Civil Division provides high-quality legal advice and litigation services without the high price tag of a private law firm. Cases and projects handled by the division in 2014 included:

- **Duwamish Cleanup**: In the industrial heart of Seattle is a federal Superfund Site comprising the lower six miles of the Duwamish waterway. Attorneys in the Environmental Protection Section have been advising the City regarding this site for over a dozen years and are now guiding the allocation of costs for the cleanup (estimated at over $340 million) to responsible parties.

Seattle Seawall project

Looking over the top of the Bullitt Center

- **DOJ SPD Settlement Agreement**: As SPD rises to the challenge of meeting its obligations under the federal consent decree, lawyers from the Civil Division negotiate with the U.S. Department of Justice and the Monitoring Team and help guide the Police Department to full compliance.
- **Waterfront-Tunnel-Seawall**: Seattle is on course to remake its waterfront to make sure its residents are safe, its transportation needs are met, and its natural beauty is available to all. Lawyers help the City navigate the complicated partnerships and risks that accompany such an enduring change.

Civil Division attorneys also recover money for the City in taxes, damages and enforcement penalties. In 2014, our collections and torts attorneys recovered $1,807,825.01 in damages owed to the City. Division tax lawyers collected $1,222,191.15 in disputed taxes. Our Land Use Section collected $134,679.45 in enforcement penalties for land use violations.

CONTRACTS AND UTILITIES SECTION

The Contracts and Utilities Section provides legal advice, handles litigation, drafts agreements and legislation for all City departments to support a wide variety of capital projects, real property transactions, purchasing, and intellectual property matters that help the City carry on its business operations. This section also provides advice to the City's own electric, water, drainage and solid waste utilities—Seattle City Light and Seattle Public Utilities (SPU). Clients frequently draw upon the practical and business experience of section lawyers as well as the particularized knowledge of the utilities lawyers to support the complex operations of the City, its utilities and any resulting litigation.

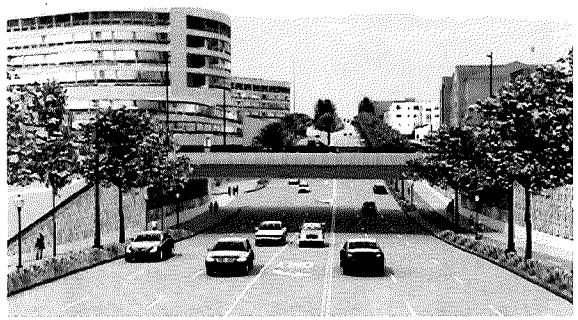
Representative Litigation:
The section handles contract litigation and litigation against Seattle's two utilities: City Light and SPU, as well as projects and advice. Below is a sampling of projects and cases:

- **Oregon Tax:** City Light electricity flows across state lines. In November 2014, our attorneys argued before the Oregon Supreme Court that Oregon taxes were improperly assessed against Seattle City Light.
- **Pacific Northwest Refund:** The effects of the energy crisis live on. The City has been pursuing refunds from energy sales made in the Pacific Northwest between December 1999 and June 2001 when Enron and others were overcharging. Although the Federal Energy Regulatory Commission has denied the refunds, the City is appealing to the 9th Circuit U.S. Court of Appeals.

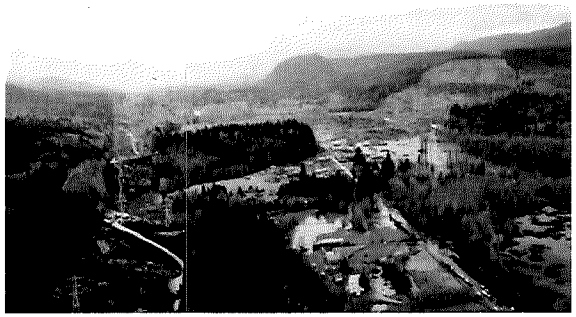
Representative Projects and Contracts:

- **Bonds:** Section attorneys worked with the Department of Finance and Administrative Services and outside bond counsel to issue approximately $397 million worth of new and $220 million worth of refinanced general obligation and revenue bonds for the City.
- **Boundary Dam:** City Light is rebuilding part of its dam in Idaho. Our attorneys assisted City Light in a difficult contract negotiation over $1.2 million in liquidated damages charged to the contractor when it was late in meeting the completion date.
- **Bullitt Foundation**: Section attorneys worked with City Light to negotiate a power purchase agreement to buy energy efficiency created by the Bullitt Center.
- **Bicycle Sharing Program:** Section attorneys have helped establish the City's bicycle sharing programs through advice on grants and negotiation of the contract.
- **Cable Communications Code Revisions:** The City's Cable Code needed modernizing to remove barriers to new entrants into the cable television market, while maintaining the City's regulatory authority and enhancing consumer protections.

First Hill Streetcar at Marion and Broadway



Mercer Project rendering



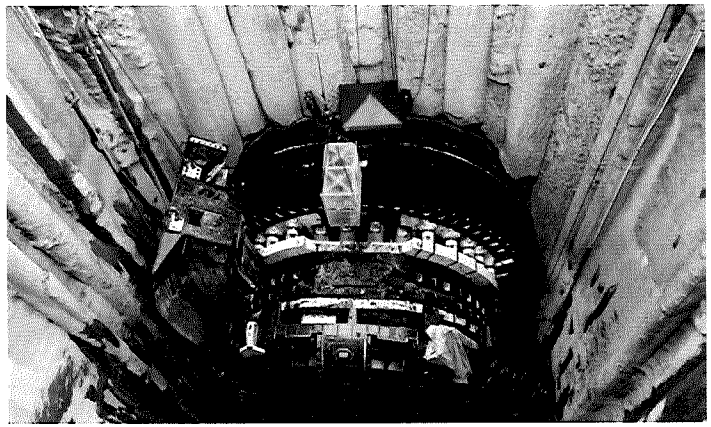
Oso landslide

- **City Light and Cable Franchise Negotiations:** Comcast's cable television franchise with the City expires in January 2016, leading to negotiations with Comcast and CenturyLink to establish and/or renew the franchise. During 2014, the cities of Shoreline and Burien also granted City Light new 15-year franchise agreements. New long-term franchises for Lake Forest Park, Snohomish County, King County and Renton are under negotiation and likely will be executed in 2015 and 2016.
- **Emergency Management:** Section attorneys continued to improve the Law Department's emergency management response capabilities. During 2014 they staffed the City's Emergency Operations Center and SPD's SPOC during several emergency event activations protests.
- **First Hill Streetcar:** Section attorneys advised on and negotiated agreements for the operation and maintenance of the Seattle Streetcar that will allow its extension to First Hill.
- **Interlocal Agreements to Update Regional Public Safety Emergency Radio Network:** The public safety radio system used by Seattle's first responders is part of a regional system built in the 1990s. The system is aging and will soon be unsupported by the vendor. We helped craft an interlocal agreement with King County and a dozen other local jurisdictions to build and implement a new regional radio system eventually operated and maintained by a government-created non-profit.
- **Mercer Street Projects:** Since 1960s the City has struggled to bring about change to the "Mercer Mess." During 2013, constructing the eastern segment of the new two-way Mercer Street was completed. During 2014, the western segment of the project moved forward, with the goal of extending a two-way Mercer Street from I-5 to Elliott Avenue. Section attorneys have provided continuous legal support to this new project, which will continue Mercer Street as a two-way enhanced transportation corridor.
- **North Recycling and Disposal Station:** SPU's construction of this $60 million transfer and recycling station commenced during 2014. We have provided legal advice and contract drafting assistance to the client and helped develop negotiating strategies when the contractor and SPU were having difficulty agreeing on the contract price for the work.
- **Oso Landslide Interagency Response:** Our attorneys represented the City and City Light in negotiations with WSDOT, state Department of Natural Resources, Snohomish County, and the Darrington & Arlington School Districts for City Light's Transmission Corridor Road for an emergency reroute for SR 530 affected by the Oso Landslide. The negotiations resulted in consent agreements with the state.
- **PC1-North Project:** Section attorneys negotiated agreements that will allow for developing a new mixed-use public market building that includes structured parking, low-income housing and public open space and connections to the waterfront on property that the City will convey to Pike Place Market PDA.
- **Transit Service Funding:** In November 2014, Seattle voters passed STBD Proposition 1 to fund transit service hours that would otherwise be eliminated by King County Metro in Seattle. After passage, the City and King County entered into contract negotiations for the provision of over 123,000 annual transit service hours. Section attorneys assisted the Department of Transportation (SDOT) with legal advice, negotiations, and contract drafting, and with legislation for approving this major transit project.

Real Property

Section attorneys provided ongoing advice on purchases, dispositions, and leases of real property related

First Hill Streetcar: Overhead Electrical Work



Bertha tunneling machine

to park and utility operations, and land management issues, including easements, encroachments, trespass and illegal dumping. Highlights include:

- Advising SCL on execution of its surplus property sales program, including drafting, review and editing of ordinances, purchase and sale documents for negotiated and competitive bid sales of former substation properties, including completed sales of the Hill, Wedgwood, Greenlake, Beverly and Boulevard Park Substation properties and finalizing of ordinance documents for sale or transfer of the former Ambaum, Andover, Dakota, Delridge, Dumar, Fauntleroy, Glendale, and White Center substation properties.
- Assisting City Light's Environmental Affairs Division (EAD) on a variety of conservation property real estate matters, including at least several separate purchases of Endangered Species Act (ESA) and Federal Energy Regulatory Commission (FERC) license mitigation fish and wildlife habitat lands, granting of state Salmon Recovery Funding Board Deeds of Right, transfer of DNR Trust Lands, easements, encroachments, and unpermitted/habitat protection incompatible uses on SCL Skagit, Sauk, and Nooksack River floodplain properties.
- Assisting the Parks Department on the property transfers and agreements occasioned by the loss of City parkland as a result of the SR520 project that will result in the creation of a new waterfront park in the University District in addition to restored open space once the SR 520 project concludes.
- **Alaskan Way Viaduct Bored Tunnel:** During 2013, the state and its contractor began mining the bored tunnel that will replace the Alaskan Way Viaduct. While the tunnel is a state highway project, over 15 contracts between the City and state require Seattle to be heavily involved in relocation of City utilities, roadway and traffic control, which must be coordinated with the state's project. Section attorneys assisted in developing those contracts and since construction began, have continued to provide guidance and advice on the meaning and implementation of contract provisions and laws governing the legal relationships between the City and state. In December 2013, the tunnel boring machine broke down. Throughout 2014, all mining operations ceased and removing and repairing the boring machine began. In October 2014, the state's contractor began excavating a 120-feet pit to reach the damaged machine. As part of that excavation, the contractor began a massive underground dewatering operation that pumped over 500 gallons of water per minute deep under the excavation work. That dewatering is believed to have caused settling of the ground that affected several million dollars-worth of City water and sewer pipes. Section attorneys have also continued to advise City Light and SPU on issues regarding the protection and relocation of their facilities, and other issues involved with implementing their contracts with the state.
- **Elliott Bay Seawall Replacement Project**: The City's $300 million Elliott Bay Seawall Replacement Project started construction in late 2013 under complex contracts. This project requires implementation of contract obligations to coordinate with the state on its tunnel project and ferry operations at the Colman Dock and our attorneys were heavily involved. We also advised SDOT, SPU and City Light in finalizing and implementing their interdepartmental agreements regarding cost allocation and other responsibilities for

Advocates lobbying City Council for a $15 minimum wage law

this City-led project, and mediated interdepartmental differences as they arose.

- **Local Improvement District:** The City continues to consider a local improvement district (LID) to pay for certain waterfront improvements. Section attorneys have worked closely with a variety of departments to explore all available options and legal risk. Once completed, the LID will fund a portion of the "Waterfront for All," one of the most significant civic projects in the City's history.

EMPLOYMENT SECTION

The 10 attorneys in the Employment Section assist the City's executives, managers and human resources professionals as they navigate the complicated matrix of employment laws, collective bargaining agreements, civil service regulations and City policies that apply to roughly 10,000 City employees. In 2014, the Employment Section expanded to provide additional day-to-day on-site assistance to SPD. We also serve as the City's in-house counsel for all workers' compensation matters.

The Employment Section attorneys are also top-notch litigators, defending the City (and sometimes its employees) in court, before administrative agencies, in arbitration, and in mediation. As counselors, we help our clients comply with the laws and our contract obligations. And as litigators, we stand behind our clients, advocating for the City's best interests.

Advice

How should the City's new Minimum Wage Ordinance be implemented? How should we work with an employee who may have a disability? Should our department investigate an employee complaint, and if so, how? Will our efforts to accomplish City Race and Social Justice Initiative goals conflict with our collective bargaining agreements? Is it legal? Is it wise? What are our options?

Employment Section attorneys consider such questions day by day throughout the year. The attorneys strive to provide solid legal, pragmatic advice that allows City operations to proceed efficiently and fairly. The Employment attorneys monitor developments in diverse aspects of employment, labor, and workers' compensation law. With a collaborative approach within the section, the attorneys take advantage of expertise on such topics as the Americans with Disabilities Act, the Washington Law Against Discrimination, wage and hour laws, personnel rules, workers' compensation statutes, and the Washington and United States Constitutions.

City managers and employees typically are dedicated, conscientious public servants who face difficult daily challenges. Employment attorneys serve as trusted advisors as managers confront personnel issues.

In 2014, our advice work included evaluating disciplinary options for misconduct by police officers and other employees, helping to identify reasonable options for accommodating disabilities, and guiding investigations into claims of harassment and discrimination. We gave highly specialized and technical advice on management of workers' compensation cases. We helped determine when managers could change policies that concern employees and when such changes must be bargained with unions.

In 2014, the Employment Section continued to develop its expertise in the unique and growing field of local labor-standards regulation. The City has focused increasingly on establishing minimum standards for private employers, through such efforts as the breakthrough $15-an-hour Minimum Wage Ordinance and our Priority Hire legislation. Employment attorneys

have played an integral role in developing and implementing such reforms.

Litigation

Employment disputes sometimes lead to litigation, and the Employment Section attorneys represent the City in federal and state courts—from the initial response to lawsuits, through extensive discovery, in motion practice, through trial, and all appeals. The attorneys provide the same service in administrative forums, including the Public Employment Relations Commission, both of Seattle's Civil Service Commissions, in arbitration, and in any other arena that employees or unions might press their claims. A few examples:

Employees v. City

Some cases demonstrate the value of patience and tenacity by the City's lawyers. Our 2012 and 2013 Annual Reports described lengthy, vigorously litigated claims asserted by two City employees. For years, the case proceeded on a slow and contentious journey through the legal system. In 2014, the matter finally saw its conclusion.

The employees alleged that they had been treated poorly through discipline and lost advancement opportunities—not because they had engaged in misconduct but because of their sexual orientation, genders or disabilities. The City prevailed in virtually every phase, because the department's promotional decisions were reasonable and thoroughly documented.

In 2012, the Employment team obtained dismissal of most claims asserted in the latest, state-court lawsuit. Notably, the Superior Court judge affirmed the City's right to evaluate evidence of the plaintiffs' alleged mental distress when the plaintiffs seek compensation for such distress. In 2013, the plaintiffs filed an "interlocutory appeal" in the Court of Appeals. They asked the court to review the trial judge's decisions, even though the case had not yet concluded at the lower level. The Court of Appeals denied the appeal. This naturally led to a Supreme Court appeal, contending that the Court of Appeals and the trial court were ***both*** wrong. The Supreme Court, too, ruled in the City's favor. Not satisfied, the plaintiffs filed yet another Supreme Court brief, asking the Court to "modify" its earlier ruling. In December, 2013, the Supreme Court agreed with the City again, denied the plaintiff's motion, and returned the case to Superior Court.

The final legal battle occurred in 2014 and, once again, the City prevailed. The Superior Court affirmed that the plaintiff's claims were now so minimal that the matter should be sent for mandatory arbitration. The parties then resumed settlement discussions and resolved the case on favorable terms for the City. The hard work and tenacity of the City attorneys was ultimately well rewarded.

Engineer v. City and CEO

Here, Employment Section attorneys teamed with outside counsel to obtain a complete defense verdict in a jury trial in King County Superior Court. A former City Light engineer, who had taken a job with the Parks Department, twice applied to return to City Light in managerial positions. When City Light did not re-hire its former employee, the employee sued, alleging that she was the victim of a retaliatory conspiracy. It was true that, years earlier, the employee had cooperated in a City Light internal review of a gender-discrimination issue. But the employee's hypothesis—that she was not re-hired because City Light and its CEO bore a grudge against her—was not supported by the facts.

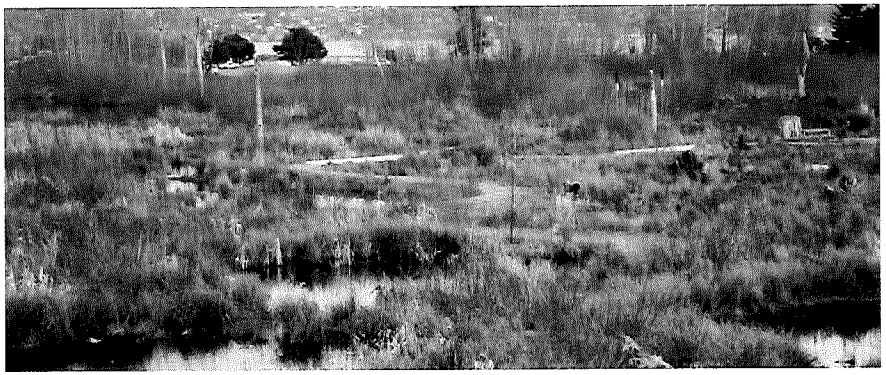
The lengthy trial concluded with an 11-1 verdict for the City and City Light's CEO. The case is now before the Washington Court of Appeals.

Police Discipline Appeal

Employment attorneys represent SPD in all appeals that challenge discipline imposed upon police officers. The City bears the burden of proof when it seeks to sustain the disciplinary decisions by the police chief. Occasionally, despite the best efforts of the attorneys and City management, we receive an adverse decision. Even in losses, however, there is value in supporting the chief's goals and objectives in improving SPD and its delivery of policing services to the public.

One difficult case in 2014 arose from a well-publicized encounter between a police officer and a Seattle resident detained following a hit-and-run accident. The suspect complied with the officers' instructions for a time, but became uncooperative. Another officer arrived to assist, raised his voice to "command" levels, and placed the suspect in handcuffs. The suspect complained that he was being choked and then spat upon the officer. The officer then hit the suspect twice, causing significant facial injuries. Following an investigation by the Office of Professional Accountability, the police chief imposed an eight-day suspension upon the officer for (a) escalating the conflict, and (b) excessive use of force.

An attorney from the Employment Section presented the facts to a Disciplinary Review Board, opposed by counsel retained by the Seattle Police Officers Guild. Although much of the officer-suspect interaction was captured by dash-cam video, a critical portion of the altercation was obscured. The board credited the officer's version of the interaction and found he employed self-defense tactics in response to a threat posed by the suspect. The Employment attorneys respectfully disagreed with the outcome, which was final and not appealable. There is considerable value, however, in our efforts to support SPD as it works to ensure accountability during difficult situations.



Wetlands at Magnuson Park, a former clean-up site

Workers Compensation

During 2014, the workers' compensation practice group continued to process a high volume of cases. Some cases are routine, involving such disputes as disagreement over the cause of medical problems (was it work-related or not?). Other workers' comp cases are more complex and unique: Does surveillance footage of an employee indicate that he or she is being untruthful about their injuries? The section's goal is to help the City's workers' compensation unit fulfill its primary mission; which is to ensure that employees get the benefits to which they are entitled, while at that same time, responsibly protecting the City's resources from invalid claims.

Alternative Dispute Resolution

Employment attorneys recognize the significant value in Alternative Dispute Resolution, which can lead to results acceptable to both the employees and management. They are frequently engaged in mediation efforts, both prior to and during litigation. In one case an attorney assisted the benefits unit in the City Personnel Department as it responded to threatened litigation over insurance coverage for behavioral therapies for certain disorders. The matter required coordination with the attorneys for potential class-action plaintiffs, City managers, and other government agencies. Instead of leading to litigation—with potential damages and attorney-fee obligations—the Employment Section enabled a fair and reasonable settlement of the issues. In appropriate cases, the best outcome for the City can be obtained without litigation costs.

Training

Employment attorneys have continued to lead and assist with training for other City employees. These training sessions occur through the City's Personnel Department or directly through individual departments. Employment attorneys take an active role in helping plan and develop training programs.

ENVIRONMENTAL PROTECTION

Attorneys in the Environmental Protection Section advise City leaders and staff regarding every type of environmental law. An inspector in the Drainage and Wastewater Utility may call when a business is washing trucks and letting the dirty water run into the storm drain, a violation of the City's Stormwater Ordinance. Environmental attorneys help inspectors draft Notices of Violation and later may represent the utility in municipal court.

Another call could be from staff in the Seattle Department of Transportation (SDOT) that have discovered contamination while doing work on a City street or even have found a long-forgotten underground storage tank. An environmental attorney would advise them how to comply with state and federal reporting requirements, things to consider before cleaning up the contamination or removing the underground tank, and how to legally dispose of what they remove.

Frequently environmental attorneys advise City departments how to reduce the risk that the City must pay for cleaning up contamination . If the Parks Department wants to purchase property that may have been contaminated by a former business, environmental attorneys may help draft the purchase and sale agreement to keep the former owner responsible for cleaning up any contamination discovered later.

Environmental health was a new topic addressed by environmental attorneys in 2014. They did extensive research and advised on issues such as the continuing dangers from lead paint and the effect of other contaminants on children's neurological development. Attorneys identified changes to the City's Housing Code that would reduce children's exposure to toxics in homes and day cares.

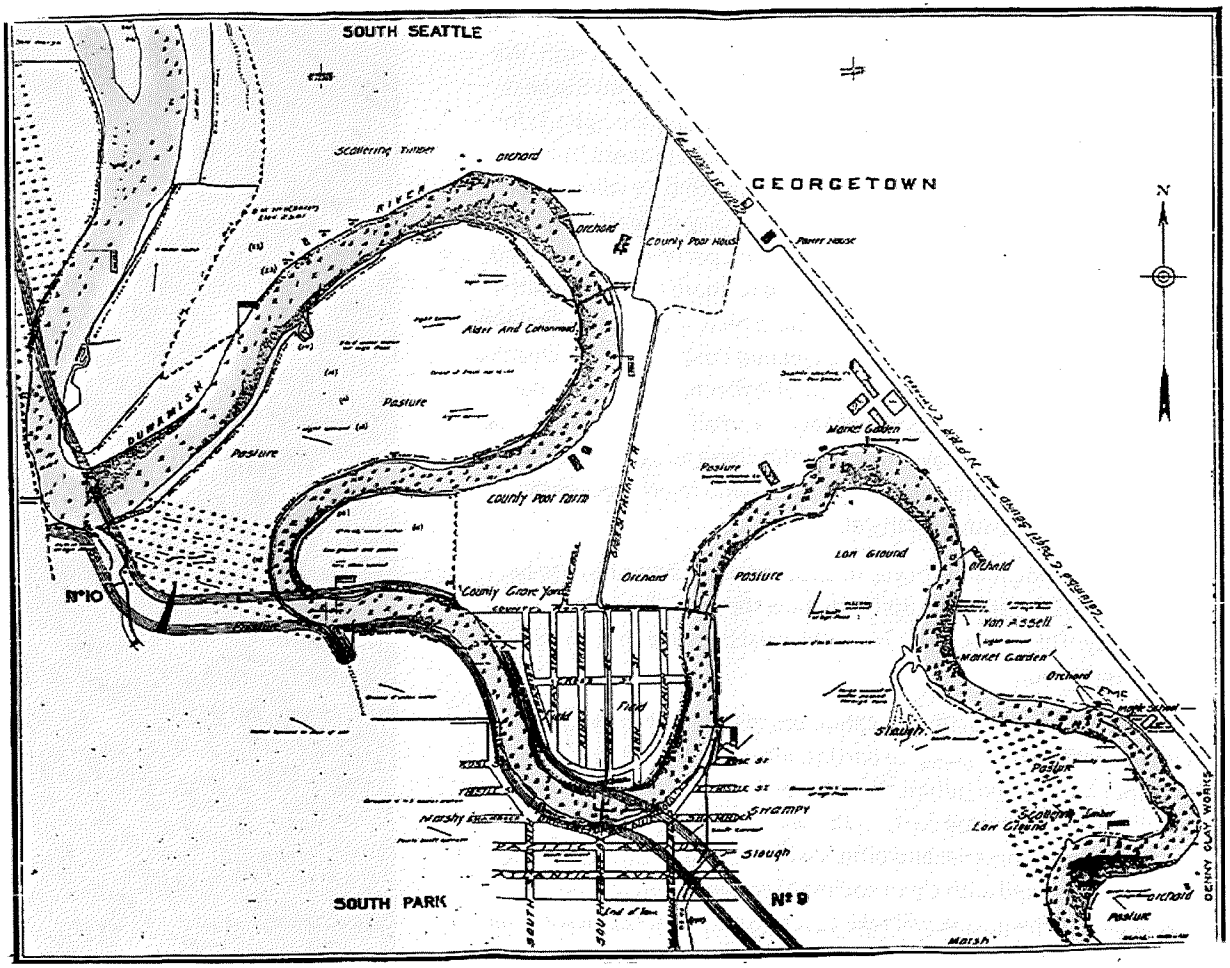
THE ONCE-MEANDERING DUWAMISH RIVER

In 1906, the Duwamish River curved and twisted through the mudflats of Seattle. Ten years later, like a string pulled taut, it was nearly straight. Now ships could move cargo easily from Elliott Bay to industries along the Duwamish "waterway," no longer a river even in name. The former loops, or oxbows, were filled with mud dredged from the channel, leaving stubby protrusions, like branches cut off near the trunk. These became slips for barges to moor while being loaded and unloaded.

The river was channelized to promote economic growth and that goal was met. Meat-packing plants, dairies and sawmills perched on the banks and dumped wastes in the water. They gave way to steel mills, airplane and truck factories, asphalt plants and barrel recyclers. The waterway received wastes from all of them. The residents of Seattle sent their waste there, too. Sewage and stormwater flowed directly into the Duwamish.

In 1940, the City built the first sewage treatment plant on the Duwamish. Treatment in those times addressed biological wastes, not chemical ones. Plus, the surge of development during WWII quickly outstripped the plant's capacity, so that much of the area's sewage flowed directly into the waterway. In 1959, the pollution of Lake Washington where lakefront residents could not swim safely, catalyzed creation of a regional sewage utility, Metro. Over the next two decades, the City partnered with Metro to separate stormwater from sewage in order to free up capacity in the sewer system. The separation projects meant Metro could build trunk lines to convey sewage to a new major treatment plant at West Point. Stormwater was considered relatively harmless, and therefore continued to flow into the Duwamish. Today, rain continues to fall and stormwater goes into the Duwamish. Sewage does, too, when the pipes are overloaded.

When people ask who will pay to clean up the Duwamish, the answer is, "All of us." Many of the industries that dumped wastes into the waterway are long gone.



Duwamish River 1907

Those that remain will share the cleanup costs, but so will current Seattle residents and businesses. We have all polluted the waterway. We pollute it every time we drive a car and flecks of metal come off the brake pads; every time we water a lawn and wash fertilizers and pesticides into the storm drain. We pollute less directly but with more of a chemical punch when we buy plastics and other products, such as cosmetics, which release phthalates. Pthalates have become ubiquitous in our urban environment and will continue flowing into the Duwamish as long as they are in the products we buy.

The City Attorney's Office has worked with staff at SPU, City Light and other departments for the past 16 years regarding the Duwamish. We have been there while scientists and managers wrestle with the best way to investigate contamination in the waterway and the options for addressing it. Now we are representing the City in a process to voluntarily resolve which entities will pay, and how much they will pay, for the cleanup. Forty-seven parties, including the City of Seattle, the Port of Seattle, King County and The Boeing Co., are participating in a kind of confidential mediation. They have agreed to share their information on pollution in the waterway and to pay for a neutral person, called the allocator, to assign them shares of the cleanup costs. Since the cleanup strategy chosen by the U.S. Environmental Protection Agency is currently estimated to cost $340 million, even a small share of liability can be painful. Parties do not have to accept the share assigned to them by the allocator, but everyone knows that those who reject their assigned shares are likely to be sued by the others.

In order for the allocation process to succeed, the parties have to be thorough and transparent in disclosing how they may have polluted the waterway. This information is confidential because the process is a voluntary mediation.

Over the next four years, the allocation process will continue, while EPA works with a small group of parties, including the City, on further studies that are needed before cleanup can begin. In about five years, dredging will start in some parts of the waterway. Other areas will be capped with clean material and others will be monitored over time to see if they are buried with clean sediment coming from upriver. The dredging and capping work will take seven to 10 years. Monitoring will continue for decades.

The Duwamish waterway will never again be a free-flowing, completely clean river. The best we can do with today's technology is to make it clean enough that it will not be a major threat to human health. Sadly, people will not be able to eat an unlimited amount of shell fish or bottom fish, because the sediments where those creatures live cannot be cleaned enough. Our society is paying for the economic boom times of the past and for our current dependence on products that release toxic chemicals into the environment. It will take a cultural shift and a great deal of time for the future of the Duwamish to be truly bright.

Old, new channels of the Duwamish River

Marijuana

Preschool

GOVERNMENT AFFAIRS

Every day legal issues arise related to the powers and duties of local government, and the distinct branches within local government. The City also faces legal challenges on issues unique to city government such as free speech, the release of public records, the power to tax, the ethical behavior of public officials, and regulating business. In 2014 the 10 attorneys in the Government Affairs Section provided legal advice and litigated cases concerning regulating marijuana, strip clubs, taxis, transportation network companies and oil trains; camping in public parks and sidewalks; requests for government records; minimum wage and protecting workers against wage theft and discrimination; elections; and the collection of business taxes and debts owed to the City. Below is just a sampling of their work.

MUNICIPAL ISSUES

Marijuana Legalization

In 2012, Washington's voters approved Initiative 502 (I-502), which legalized marijuana for adults over 21. The Medical Use of Marijuana Act, approved by voters in 1998, did not legalize marijuana, but just provided medical marijuana users with an affirmative defense post-arrest to criminal prosecution if they meet certain qualifications. Our attorneys are working with City departments to determine legal options to address concerns that medical marijuana dispensaries operate illegally, provide unfair competition to licensed recreational dispensaries, and have become nuisances in their neighborhoods, while also providing for the medical needs of patients. Our attorneys are also active in lobbying the Washington Legislature to enact state legislation to address these problems.

Pre-school ballot measure

Our attorneys advised the City Council and Mayor and assisted with the drafting of Seattle's Proposition 1A concerning a property tax measure to finance a pre-school program for the City's three- and four-year-old children. After our office successfully defended challenges in court, that proposal and Proposition 1B (a competing initiative measure on the same general subject that did not provide funding) were on the November 2014 election. These were two alternative measures concerning providing pre-school programs. The voters approved Proposition 1A, the City Council's and Mayor's proposition.

Creation of the Seattle Park District

Our attorneys advised the City Council and Mayor and assisted with drafting the proposal to create a park district to fund Seattle park programs. The voters approved the creation of the Seattle Park District at the August 2014 election.

Seattle Transportation District ballot measure

Through an interlocal agreement with the City, the City Attorney's Office advised the Seattle Transportation District in drafting a voter measure to increase vehicle license fee and sales tax to support King County Metro bus service. These revenue measures were approved at the November 2014 election.

Minimum wage legislation and litigation

Our attorneys advised the City Council and Mayor in drafting an ordinance establishing the highest minimum wage of any major city in the United States. Under the ordinance, with some limited exceptions, all businesses operating in Seattle will be required to pay at least $15 per hour by 2021. Larger businesses, and those operating as part of a large franchise network, will be required to pay at least $15 per hour by 2018. Our attorneys, with the assistance of outside counsel, are also representing the City in a lawsuit, *International*

Assistant City attorney speaking to the media about the SPD consent decree after a hearing in federal court

Franchise Association v. City of Seattle, challenging the City's minimum wage ordinance.

Wage theft legislation
Our attorneys advised the Mayor and City Council in drafting legislation that created a civil means of ensuring that employers in Seattle pay workers what is owed to them. The legislation created an Office of Labor Standards empowered to investigate claims of wage theft and to issue fines and orders of restitution, and requires all employers to provide notice to workers of their right to receive proper wages.

Transportation Network Company/For-hire vehicle/ Taxi legislation and litigation
Our attorneys advised in the drafting of one of the first laws in the nation that legalized transportation network companies such as Uber, Lyft and SideCar. With help from our lawyers, the Mayor facilitated mediation with stakeholders from each transportation industry to draft agreeable terms for new legislation. City Council passed the resulting legislation on July 14, 2014.

Police Department litigation and advice
Our attorneys do extensive work for SPD on a variety of issues. These include advising the department on compliance with the federal consent decree; defending the City's automated traffic safety camera program and advising the department on proposed legislative changes involving camera enforcement; and advising the department on issues ranging from off-duty employment to in-car video to contracting with professional sports teams for police officers at major sports events.

Mahoney v. City
Government Affairs and Torts lawyers defended the City in a lawsuit filed by approximately 100 Seattle police officers challenging the department's use of force policy, prompting U.S. District Judge Marsha Pechman to dismiss the complaint and allow SPD reforms to proceed. The ruling , which presents novel issues under both the 2nd and 14th amendments, is on appeal to the Ninth Circuit.

Public Records
Washington's Public Records Act (PRA) mandates that, upon receiving requests for records from citizens, governments conduct reasonable searches and provide access to records unless they fall within specific legal exemptions. The City receives thousands of requests each year, the majority directed to SPD. An anonymous requestor submitted hundreds of public disclosure requests to SPD and police departments across the state seeking the broadest possible access to all police videos and other police records. Departments estimated that responding to his requests would take decades, and some police agencies decided to forego body cameras rather than be burdened with responding to such broad disclosure requests. We advise departments on how to comply with the law and still do the rest of the work for the City and defend lawsuits when filed. Example lawsuits include:

- **West v. City of Seattle:** The City prevailed in the Washington Court of Appeals involving a public records request to the Law Department. The court commended the Law Department's responsive communications and efforts to ensure we had correctly interpreted the request regarding calendar entries. This is the first Washington case, and perhaps the first anywhere, offering guidance on interpreting requests for Microsoft Outlook calendar entries.
- **Fisher Broadcasting v. City of Seattle:** KOMO TV reporter Tracy Vedder requested the entire database of all of SPD's in-car video recordings tagged for retention. Our attorneys prevailed at the trial court regarding the interpretation of how long a statutory exemption applied to the videos. KOMO sought direct

review by the Washington Supreme Court. In a five-four decision, the Supreme Court reversed the trial court. The case has been remanded to the trial court.

- **Richard Lee v. City of Seattle:** As the 20th anniversary of the death of Nirvana's Kurt Cobain approached, Lee requested SPD's investigative records of the singer's suicide. SPD's response included four rolls of never-before developed 35mm film retained with the file. SPD withheld some of the photographs because they showed graphic images of an identifiable decedent. Washington and federal courts have held that disclosure of decedent images invades the privacy of surviving family members. Lee sued seeking release of the photographs of Cobain's body. This case is pending in King County Superior Court.
- **Jane and John Does v. King County and City of Seattle, Seattle Pacific University v. King County and City of Seattle:** Following the June 2014 shootings at Seattle Pacific University, SPD and the King County Prosecuting Attorney's Office received multiple PRA requests for investigation records, including surveillance videos provided by SPU to investigators. King County and SPD notified SPU and the victims and witnesses in the video that the videos would be disclosed with the identities of the victims and witnesses who had requested non-disclosure redacted by blurring their faces in the videos. Those victims, witnesses and SPU sued to enjoin disclosure of the videos. The trial court denied motions for a preliminary injunction brought by the victims, witnesses, and SPU. The matters are pending before the Court of Appeals.

PRA Training

Our attorneys have provided training on compliance with the Washington Public Records Act, Chapter 42.56 RCW, including in-house CLE sessions, community and client-training classes.

Business Improvement Areas

The City supports nine Business Improvement Areas (BIA) throughout Seattle. BIAs allow business districts to assess members to provide services that support growth and management . The City's BIA program collects $15 million annually in BIA assessments to benefit neighborhoods. In 2014, our attorneys defended a challenge to the ordinance that created the SoDo (South of Downtown) BIA.

FIRST AMENDMENT

ATL v. City of Seattle

2014 saw the conclusion of a federal constitutional challenge to the City's strip club ordinance. In a case that lasted over two years, the CAO defended the City's buffer zones that prohibit strip clubs within 800 feet of property previously permitted for a day care, and within 600 feet of property previously permitted as a strip club. After a trial and an appeal the City resolved the challenge for payment by the City of $125,000.

Taxes

We regularly work with the City Council, the Department of Finance and Administrative Services (FAS), the Mayor's Office, SPU, City Light and other departments to review ordinances and advise on state and local tax issues. We work frequently and closely with FAS's audit division to address issues that arise during audits and to litigate or resolve taxpayer appeals.

Besides advising clients on tax issues, we achieved successful outcomes in several court cases, including:

- **Rogers and Lambert v. City:** We prevailed in a case alleging that the City was preempted by state and federal law from enforcing business license and zoning codes against so-called medical marijuana "collective gardens."
- **City v. Addiction Industries, Inc.:** This tax collection case involved the failure of the taxpayer, who does business as a nightclub at Pike Place Market, to pay admission and B&O taxes for several years. We sued and obtained a judgment for $80,000 in unpaid taxes.
- **Evergreen Moneysource Mortgage Co.:** The City's Hearing Examiner ruled in favor of the City in a case where the taxpayer claimed that the City wrongly imposed B&O tax on income received as "points" on mortgages.
- **Wedbush Securities, Inc.:** What is the apportionment of taxes when the taxpayer has offices both in Seattle and outside Seattle—all over the country—and our mandatory apportionment formula measures the ratio of income here to income everywhere? The City's position is that the City is owed tax on all the income generated by the Seattle office (resulting in tax of $118,982.21). Our attorneys prevailed before the Hearing Examiner in May 2013 and in King County Superior Court in April 2014. Wedbush appealed to the Court of Appeals. We anticipate oral arguments in spring 2015.

Collections Unit

This unit collects debts owed to the City by taking debtors to court. In 2014, it assisted the City in collecting $1,807,825.01 by sending out 36 demand letters, filing 22 lawsuits, entering 22 judgments, and extending 18 judgments. In addition, the unit completed all work identified under a 2013 audit and established new follow-up procedures. The largest collections came from Martin Selig for over $300,000, and from Clyde Yancey through a receivership to aid in collecting four unpaid Department of Planning and Development (DPD) judgments for code violations. Through the sale of real property, the unit could collect $421,035.55 and fully satisfy two judgments.

Amazon's new business center to be warmed by the excess heat from the Westin's downtown data center

Yancey owned several investment properties in Seattle and Bellingham. Beginning in 1987, neighboring property owners complained about the condition of Yancey's Seattle properties. Between 2000 and 2012, the City issued 39 citations and notices of violation to Yancey and obtained five separate judgments for land use penalties and abatement fees. In 2013, Yancey paid one of the judgments to avoid the sale of a Seattle property by the sheriff. In 2014, the City filed a complaint to have a receiver appointed to manage and sell Yancey's properties. The City held four judgments, which totaled over $2 million with post-judgment interest. Since then, the receiver has sold two of Yancey's Seattle properties and the City has recovered over $420,000, which satisfied two judgments. The receivership continues and additional properties will be sold.

LAND USE

Affordable Housing

Following Washington's landmark Growth Management Act(GMA), Seattle has accommodated ever-increasing numbers of residents over the past two decades, passing Boston in 2014 to come the 21st largest and fastest growing American city. Reducing urban sprawl enhances sustainability but also raises land values, which makes finding affordable housing a critical problem. This reduces sprawl and enhances sustainability. The Land Use Section plays a critical role in ensuring that Seattle doesn't become a city where only the wealthy can afford to live.

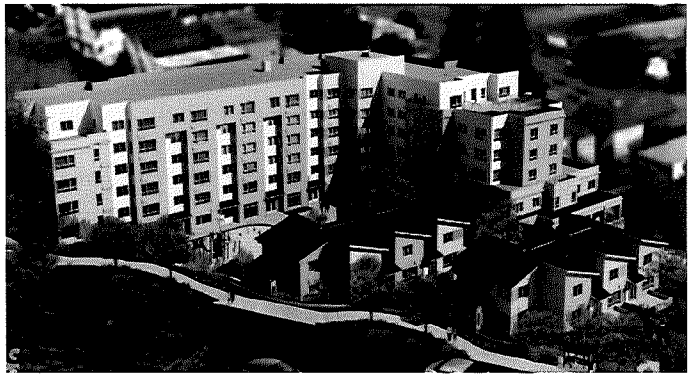
- City leaders are considering innovative ways to mitigate the impacts of growth on affordable housing and protect tenants. They need solid legal advice on how to craft those solutions to fit state laws and constitutional limits.
- Developers have already challenged some of those innovations. The *Koontz Coalition*—an homage to a 2013 pro-developer U.S. Supreme Court opinion—objected to increases in the affordable housing fee developers must pay to gain extra height as part of the downtown bonus program. The Land Use Section beat back those challenges in federal court and before the Growth Management Hearings Board.
- Neighbors have challenged other innovations. When a group appealed the City's approach to "micro-units" in Superior Court, the Land Use Section defended the City and worked with Council members on a new approach that avoided further litigation.
- The City Offices of Housing and Economic Development provide tens of millions of dollars in loans annually, and tap additional federal funding and tax incentives, to support affordable housing projects throughout the City. These significant deals require legal advice and complex negotiations to ensure the public's money is invested consistent with an array of complex laws and regulations.
- Under the guise of "affordable housing," some landlords offer squalid rental units. The Land Use Section enforces the Housing Code to protect tenants, who all deserve safe and decent affordable housing.

Fostering affordable housing is just part of the Land Use Section's duties. The Section's 10 attorneys and three professional staff constitute one of the single largest, and most respected, land use law teams in Washington, public or private. The section supports the City in all facets of shaping the urban landscapes we call home.

District Energy

It seemed like a simple idea: The Westin company's downtown data center generates excess heat that Amazon wants to use to help warm its new downtown campus, saving resources and money. But because this

Bike lanes on 2nd Avenue



Yesler Terrace

"district energy" proposal was among the first of its kind in the nation, it did not fit neatly within traditional code requirements. A Land Use lawyer helped the parties navigate the law, in turn helping to establish a model for how future downtown neighbors can turn waste into energy.

Bike lanes

Seattle likes bikes. But the sentiment is not universal, especially when enhancing safe cycling opportunities means changes to a neighborhood. The Department of Transportation proposed a more formal bike lane along the west side of Lake Union. Local property owners and tenants challenged the adequacy of the proposal's environmental review by filing an appeal with the City Hearing Examiner. Land Use lawyers defended the action and also worked with SDOT, the Mayor's Office, and opposing counsel to settle before the hearing. Plans for the bike lane, shaped by input from a range of stakeholders, continue to take shape.

Yesler Terrace

Thirty acres next to downtown Seattle will soon transform. Yesler Terrace is a diverse community of 1,200—including families with children, seniors, people with disabilities, and immigrants who speak a variety of languages—living in subsidized housing owned and operated by the Seattle Housing Authority. For nearly a decade, SHA has been working with residents, city-wide stakeholders, funders and City officials to plan a sweeping redevelopment of the community. Section lawyers have been crucial to every step. In 2014, they worked on finalizing such details as plats, street vacations, funding, park acquisitions and usage, and legislation enacted by the Council.

Signs

Signs are part of our urban landscape. But balance is key. Land Use lawyers work to strike that balance. To address the misuse of "on-premise signs"—which are limited to the sole use of a business on the property to promote its own wares and services not to be handed over to billboard companies to sell space to the highest bidder—Land Use lawyers pursued a sweeping lawsuit to bring those signs in line with City law. When a company converted an on-premise sign into a billboard without proper permits, section lawyers battled an enforcement action through three levels of courts. And when the Councilmembers tightened City law to achieve a new balance, section lawyers helped them navigate the constitutional and other parameters in play.

TORTS

The Torts Section defends the City against lawsuits brought by plaintiffs who seek money damages for either personal injury or property damage. The section also defends individually named employees where the underlying facts arise out of the course and scope of employment. Lawsuits against the City and its employees arise out of a wide variety of circumstances. Besides defending lawsuits, the Torts Section takes a lead role in pursuing large damage claims on behalf of the City as plaintiffs seeking damages due to the negligence of one or more persons or entities. The City is "self-insured" for all claims up to $6 million; that is, Seattle's general fund covers the first $6 million in fees, settlements and judgments. The Torts section also pursues insurance companies when they fail to accept our tenders of defense of cases exceeding $6 million.

The section opened 74 cases and 26 project files in 2014. The number of new cases is slightly higher than the previous two years but is still lower than during the years leading up to 2012. The City has benefitted from a general trend county-wide but also from the City Attorney's emphasis on loss prevention and risk management.

Risk Management

The Torts Section works extensively with City departments and with the City's Risk Manager on liability issues, focusing much of its attention on the operating departments that are most frequently involved in litigation due to the nature of their work: the Police Department, the Department of Transportation, SPU, Parks and City Light. Wide-ranging issues, incidents, exposures, programs and opportunities are presented each year. The section also provides direct training to operating departments on risk management techniques and approaches. These efforts have paid off in the reduction of lawsuits filed.

Personal Injury and Property Damage Litigation

The section's cases typically involve matters ranging from relatively minor and resolved injuries to allegations of wrongful death and catastrophic injury cases. The section also handles property damage cases. In cases handled during 2014, the underlying facts included allegations of injuries resulting from negligent road design, sidewalk trip and falls, automobile accidents, premises liability, negligent supervision of a Municipal Court probationer, one boating accident and various allegations against police officers such as excessive force and false arrest. Property damage cases included allegations of surface water flooding, sewer backups and landslides. One police action case was tried to a jury during 2014 (*Morales*, discussed below).

Cases of particular interest

The section obtained dismissals and favorable settlements in numerous cases. Examples include:

- *Pratt* – Plaintiff claimed injuries resulting from a rear-end collision by an SPD detective, who was then employed as an undercover narcotics detective, while driving a City vehicle. The defendant was under the influence of alcohol and ultimately pleaded guilty to DUI. The City denied liability on grounds that the detective was not in the course and scope of employment when the accident occurred. The City prevailed in its motion for summary judgment and the case was dismissed.
- *Keatts* – This case arose out of a boating accident on Lake Washington. Plaintiff alleged that his recreational boat hit a large wake created by a "police boat," causing him to become airborne and break his back upon landing hard on the boat deck. Plaintiff sued both the City and Mercer Island, both of which regularly provide harbor patrol of Lake Washington. The City was dismissed on summary judgment after proving that it had no boat in the vicinity of the accident when it took place.
- *City v. Schneider Homes* – The Torts Section recovered $102,500 regarding a sewage discharge into Bitter Lake that resulted from a defect in a private facility.
- *Scott* – Plaintiff, a university professor and nurse, sustained a traumatic brain injury after tripping over a displaced sidewalk panel. Defense and plaintiff experts agreed that plaintiff more probably than not suffered from cognitive impairment because of the fall. The case settled for $270,000, despite alleged medical specials of $1,070,475 and alleged wage loss of $732,493.
- The *Schulte v. City of Seattle and Mullan* case arises out of a tragic incident in which a drunk driver struck a family crossing a street, critically injuring a mother and her baby and killing the baby's paternal grandparents. At the time of the collision, the driver was under Seattle Municipal Court supervision for a prior DUI. The plaintiffs sued the driver and the court, alleging that the court's probation department was grossly negligent. The City moved for summary judgment because the driver reportedly complied with all treatment provisions of his probation, had committed to not drive, and because the probation officer exceeded all probation policies by requiring him to report back at a greater frequency than otherwise required. At a hearing, the trial court held that a question of fact remained whether, having undertaken to question the driver about whether he was driving, the probation officer was grossly negligent by not then seeking to verify the truthfulness of the driver's statements by contacting outside sources. The City has appealed.
- The *Torgerson (Gayle)* case involved a pedestrian struck by a motorist while crossing a City street in a marked crosswalk. The City was dismissed on summary judgment for lack of proximate cause. The plaintiff appealed to Division I of the Court of Appeals. During 2014, the Court reversed the dismissal and remanded the case for trial. The case then settled for $60,000.

APPEALS

- The plaintiff in the *Cho* is one of five pedestrians struck by a pick-up driven by an intoxicated driver at First Avenue S. and S. Massachusetts Avenue in October 2011. Cho alleged that the City was negligent regarding its failure to signalize or otherwise control the intersection. The trial court granted the City's motion for summary judgment in 2013. Plaintiff appealed to Division I of the Court of Appeals, which affirmed the dismissal. Plaintiff then filed a petition for review to the Washington Supreme Court; that petition is pending. The companion case of Ha, which was brought by another of the pedestrians struck in this crash, is still pending before the trial court. Given the thousands of Seattle intersections and miles of streets, the potential impact of cases like these on the City's general fund is enormous.

- In *Elliott Bay Marina*, plaintiff alleged that the City is illegally taxing it by requiring the marina to pay the rate for City sewer services when its side sewer connects directly to a King County trunk line. The City prevailed on summary judgment and plaintiff appealed. Division I of the Court of Appeals affirmed the decision of the trial court.

Advice

Besides the section's risk management work described above, Torts lawyers routinely advise other Law Department sections and City departments on numerous issues. During 2014 the Torts Section worked on several significant issues:

- Recommended new language to include in future City contracts that require the contractor to obtain insurance and to have the City named as an additional insured on those policies. The new language will prohibit insurers from including cross-liability exclusions in commercial general liability policies listing the City as an additional insured.

Police Action Litigation

The majority of the police litigation continues to be handled in-house with a small percentage of cases being handled by outside counsel mostly due to conflict situations. In 2014, 17 cases and six projects were opened. All new lawsuits were assigned to in-house counsel—the first year that all of the police action work was assigned in-house. Of the cases assigned to outside counsel in prior years, only two remain active.

The City Attorney's decision at the beginning of his first term to bring police action work in-house continues to pay dividends. In 2014, the section's police action team and/or outside counsel obtained several dismissals and advantageous settlements. Six cases were closed without payment and eight cases were settled for amounts ranging from $3,000 to $195,000, for $570,500. One case went to trial.

To avoid potential conflicts, the office continues to retain outside counsel to handle inquests into officer-involved incidents. During 2014 outside counsel handled four inquests into shooting deaths.

Police Action Cases of Interest:

- The *Morales* case arose out of an arrest on May Day 2012. Plaintiff claimed that excessive force was used and that she was falsely arrested. This case was tried to a jury in federal court. The jury found for defendants on all claims but one and awarded $0 on that one claim. The court then changed the award to $1 in nominal damages (since an award of nominal damages must follow from the one claim found in favor of plaintiff) and then awarded $165,405 in attorney's fees to the plaintiff. The City's appeal to the Ninth Circuit is pending.
- The *Brooks* case involved the use of a Taser in drive-stun mode on a pregnant plaintiff during a traffic stop. The case was initially filed in federal court in 2006 and resulted in a decision by the Ninth Circuit in favor of City defendants on all federal claims. The plaintiff re-filed in state court during 2012. The case settled during 2014 for $45,000 on all remaining claims.
- The *Adams* case involved five plaintiffs who claimed that excessive forced was used against them by police responding to neighbors' noise complaints during a party. The case settled with all plaintiffs during 2014 for $195,000.

Appeals in Police Action Cases:

- *Bear* – Plaintiff claimed claimed that he was wrongfully arrested and that officers used excessive force in his arrest. His claims were dismissed by the trial court. In 2013 the 9th Circuit affirmed the dismissal. Plaintiff's petition to the U.S. Supreme Court was denied in 2014.
- *Oregon* – The City defendants' motion to dismiss was granted during 2013. This case settled during 2014 for $38,000 while plaintiff's appeal was pending.
- *Pope* – Plaintiff alleged that he was falsely arrested after witnesses called police complaining about his treatment of his daughter in a grocery store. The trial court dismissed the case on summary judgment. Plaintiff's appeal to Division I of the Court of Appeals is pending.
- *Caylor* – City defendants sought dismissal on summary judgment based upon qualified immunity involving claims of excessive force. The trial court denied the motion. City defendants then appealed to the Ninth Circuit; that appeal is pending.

OTHER POLICE ACTION WORK

DOJ SPD Settlement Agreement

While litigation remains the primary focus of the Police Action Team, attorneys on the team are also deeply involved in working with SPD in implementing the consent decree between the City and the Department of Justice. In 2014 this work included drafting and reviewing policies, representing SPD (and the City) in meetings with the court-appointed monitoring team and DOJ, and serving as stewards for department reform while making sure that legitimate City concerns were raised in a diplomatic manner. Police action attorneys continue to attend most meetings on DOJ-related issues and also regularly attend Use of Force Review Board sessions, Crisis Intervention Committee meetings, and Community Police Commission meetings. In 2014 the team also provided technical assistance for developing training modules on issues such as search and seizure, use of force, crisis intervention, and supervision of officers. The Police Action Team also continues to work with SPD to implement data systems and analytical

measures to track the extent to which policy reform materializes into improved practices and stronger relationships with the community, particularly regarding stops and detentions and persons in crisis.

Other SPD Advice

In 2014 the Police Action Team provided direct client advice to SPD on issues such as tracking cell phones; body-worn cameras; the use of drones, special commissions and secondary employment; and various other issues. Team members continue to work with the Mayor's Office, the City Council and the Community Police Commission on issues as they arise. Of particular note, as the department has begun a pilot project to test the use of body-worn cameras on patrol officers, the Police Action Team has worked closely with the department and the Community Police Commission to balance the use of cameras to support police accountability with the privacy concerns of the community.

Team attorneys regularly attend local police advisors meetings that bring regional attorneys together to discuss issues in law enforcement. Team attorneys also attend local and national law enforcement conferences.

Insurance Coverage Tenders

One of the City's primary risk management tools is its "additional insured" status under insurance policies issued to the City's contractors, concessionaires, vendors, permittees and those who hold events on City rights-of-way under street use permits. In 2014, section attorneys aggressively asserted the City's interests in insurance coverage often in the face of denial or delay. Examples include: *Roberts* (settled for $22,500 without contribution by the City); *Oltesvig* (settled for $46,500 without contribution by the City); and *Heay* (settled for $90,000, including the City's contribution of $30,000).

Disaster Planning and Emergency Operations Center Legal Support

Several Assistant City Attorneys and Assistant City Prosecutors, including Torts attorneys, provide legal support to SPD's Emergency Management Section. Section attorneys help to staff the City's Emergency Operations Center, provide legal support during emergencies and participate.

Non-City Litigation Advice

City employees are sometimes subpoenaed for deposition in cases where, even though the City is not a party, the subpoena arises out of work-related issues. The Torts Section provides review and legal advice to individual City employees and client departments regarding those business-related non-City litigation issues, including trial and deposition subpoenas and required witness appearances and requests for production of documents when needed.

THE CITY INVESTIGATOR

The City Investigator's services are offered through the City Attorney's Office but benefit all City departments, saving tax dollars compared with the cost of retaining outside counsel.

- The City Investigator has handled numerous investigations since July 2010, when the position was created. She has worked with dozens of different City departments, investigating complaints of discrimination, harassment, workplace safety concerns, retaliation, whistleblower claims, fraud, disciplinary issues and citizen concerns.
- The City Investigator provides assistance to management or human resources personnel in pending investigations. She has acted as a co-investigator with outside investigators to address complex employment issues or data driven investigations.
- The City Investigator's position is unique. Other agencies have asked how they could establish a similarly independent investigative position.
- The City Investigator prepares and provides City-wide and departmental training courses on employment law issues and workplace policies. She has teamed up with the Personnel Department and other members of the City Attorney's Office to develop and coordinate City-wide training and coordinate joint training programs for the City and King County. The training programs are relevant, interesting, interactive and in-depth.

CRIMINAL DIVISION

Pete and Police Chief O'Toole with DUI award winners at December ceremony

Establishing a new foundation was the theme in the Criminal Division in 2014. We continued the transition in key personnel and made advancements in electronic discovery and many IT-related matters. We also made tremendous strides with our partners in the Criminal Justice Planning Committee. The CJPC began meeting in earnest in 2014, with representation from CAO, Seattle Municipal Court, King County Department of Public Defense, Mayor's Office and the Seattle Police Department (SPD). The committee has established better ways to achieve justice for those interacting within the municipal criminal justice system.

In finding better ways to serve immigrants who may have fallen victim to wage theft, we have developed a formal method of information sharing with the U.S. Department of Labor's Wage and Hour Division. A Memorandum of Understanding between SPD and the Labor Department will allow for investigative information to be shared, so that more wage theft cases can be prosecuted at the City's misdemeanor level.

The Criminal Division's new internal organizational foundation was formalized in 2014. We completed our administrative reorganization and will conduct an evaluation during the first half of 2015. With the reorganization, we will better serve the needs of victims and the community, and provide more support for the assistant city prosecutors.

As we transition into 2015, our priorities are to focus on refining the electronic discovery process; continue to update internal polices to include proportionate sentencing, and to work more effectively with our community justice partners.

Administration

CAO has a long history of providing opportunities for volunteers and student interns to learn more about the legal process and criminal justice system. Law students work side by side with prosecutors to learn the basics of case preparation, filing and trial work. During 2014, the Criminal Division hosted 31 volunteers who provided over 7,040 service hours, or the rough equivalent of three full-time employees.

Prosecution Support Team

In 2014 we brought the administrative and paralegal support from various units together under one umbrella, Prosecution Support. This team prepares all case filing paperwork, orders and receives thousands of items of discovery, makes victim and witness contact for interviews, restitution and files motions for the division.

Cross training staff to prepare various types of cases rather than having individuals specialize in a certain case has reduced backlogs of Retail Theft Program and summons cases within the Case Preparation staff. We continue to strive toward standardization of office processes.

Prosecutors have started their training on the prosecutor software DAMION, and declines (police reports sent back to SPD) are now processed electronically. A new SPD process of report submission will allow for complete reports to be received electronically by our office. If a report is missing a necessary tabled field, the officer will receive an email and is expected to provide that information within a short while so the report can be resubmitted for a charging determination.

Successful collaboration with SPD's Video Unit has also resulted in reducing the time required for obtaining in car videos. Several new technological systems emerged: SECTOR (e-citations); SPD Auto-Decline project; the Prosecutor Discovery Module and Electronic Court Filing.

Law Department Liaison Officer: In summer 2014, SPD appointed a dedicated liaison officer, Miguel Torres, to be housed within our office. Torres assists city prosecutors in completing pre-trial investigative tasks. The objective is to increase the number of successful criminal prosecutions by providing prosecutors with pre-trial investigative assistance and determine training needs for other officers.

Law Department Decline Project: In partnership with SPD, the Decline Project was implemented at the end of 2014. Except for some report types, any report missing key information (suspect name, birthdate, height, weight, race, sex, address and zip code) is automatically rejected and returned to the officer or detective submitting the report to gather the required information. Once the key information is gathered by SPD, the report will be re-released to the division for a charging decision. This will allow us to file cases that before could not have been filed, per court rules.

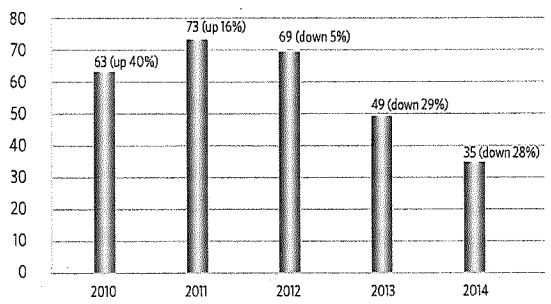
Criminal Division Statistics

In 2014, the division received 12,175 reports from SPD and filed 7,142 cases. Breaking down those numbers, the division received 3,527 domestic violence reports and filed DV charges on 1,273; we received 958 DUI reports and filed on 977. (Note: Some reports may have been received in 2013 but not filed until 2014.) In 2014, overall cases were, on average, finalized in 244 days and 107 days sooner compared with 2013.

APPEALS

The Appeals Unit resolved 35 criminal appeals and writs in 2014. We also argued *Seattle v. Evans*, 327 P.3d 1303 (2014), in which the Court of Appeals upheld the constitutionality of Seattle's dangerous knife ordinance. We also prepared six summaries of recent decisions of our appellate courts for the Criminal Division attorneys.

APPEALS 2014



CRIMINAL DIVISION OVERALL: 2014	2013 compared to 2014**
2013 Reports Rec'd **	13,953
2014 Reports Rec'd	**12,175**
Diff 2014-2013	(1,778)
% Change	-13%
2013 Cases Filed	7,818
2014 Cases Filed	**7,142**
DIFF 2014-2013	(676)
% Change	-9%
2013 Reports Declined	5,740
2014 Reports Declined	**5,045**
DIFF 2014-2013	(695)
% Change	-12%
2013 % Reports Received were Declined	41%
2014 % Reports Received were Declined	**41%**
2013 Avg # Days from Date Rec'd to Dispo this Qtr	351
2014 Avg # Days From Date Rec'd to Dispo this Qtr	**244**
2013 In Custody Arrg	8,000
2014 In Custody Arrg	**8,051**
DIFF 2014-2013	51
% Change	1%
2013 Total # Bookings this Qtr	4,609
2014 Total # Bookings this Qtr	**4,108**
DIFF 2014-2013	(501)
% Change	-11%
2013 Total Booked w/Case Declined at ICA	867
2014 Total Booked w/Case Declined at ICA	**839**
DIFF 2014-2013	(28)
% Change	-3%
2013 % Total Booked w/Case Declined	19%
2014 % Total Booked w/Case Declined	**20%**
2013 Intake	5,405
2014 Intake	**4,517**
DIFF 2014-2013	(888)
% Change	-16%
2013 Motion Setting	722
2014 Motion Settings	**699**
DIFF 2014-2013	(23)
% Change	-3%
2013 PTH Setting	15,733
2014 PTH Setting	**13,929**
DIFF 2014-2013	(1,804)
% Change	-11%
2013 Jury Trial Settings	821
2014 Jury Trial Settings	**686**
DIFF 2014-2013	(135)
% Change	-16%
2013 Jury Trials with Finding	128
2014 Jury Trials with Finding	**104**
DIFF 2014-2013	(24)
% Change	-19%

** Auto decline filter was activated during a portion of 2014

PUBLIC RECORD REQUESTS

The City Attorney's Office is committed to open government and compliance with its obligations under the Washington Public Records Act, RCW 42.56, and related laws. We strive to respond in a timely and professional manner to all requests from the public for records.

In 2014, the Criminal Division addressed 45 public records requests. The majority of requests were related to an incident or specific police report but some were more far-ranging, in-depth or time-consuming.

DRIVING UNDER THE INFLUENCE

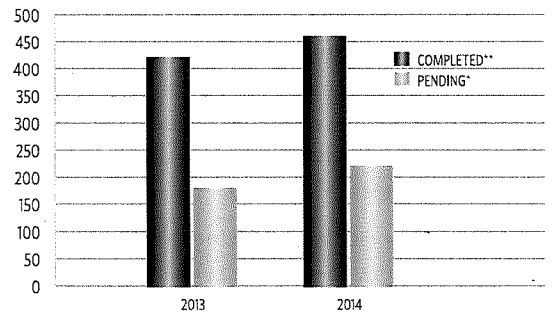
In 2014 the Criminal Division increased its capacity to prosecute DUI cases in order to assist in reducing SPD's backlog of DUI warrants. The DUI unit is staffed by two experienced DUI prosecutors, Miriam Norman and Meagan Westphal. These prosecutors file most DUI charges, try the high-profile cases and train both prosecutors and law enforcement on DUI and traffic related matters.

2014 also brought new challenges to the prosecution of DUIs. *State v. Martines* changed the legal requirements for application and testing for blood procured by a search warrant by requiring a specific warrant for blood testing. The ruling potentially invalidated hundreds of blood test results on pending DUI cases. The DUI unit worked with SPD and the Washington State Toxicology Lab to re-write warrants on numerous cases and re-test the blood to obtain admissible toxicological results allowing these cases to be prosecuted. The DUI unit also worked with SPD to revise search warrant requests for a blood draw and testing pursuant to Martines.

The DUI unit prosecuted many high-profile offenders in 2014, including a member of the Seattle Fire Department who is a repeat offender. The City also prosecuted a woman with a past vehicular homicide conviction. These cases remind us of the importance of prosecuting all DUIs to prevent future harm to our community.

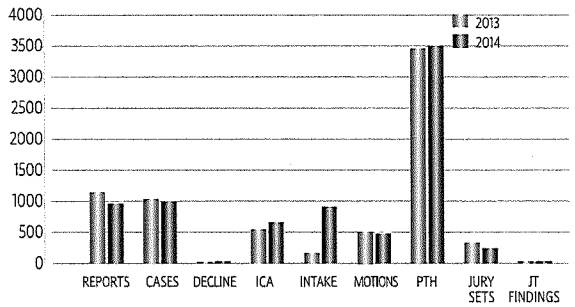
The year also marked the inception of the DUI Enforcement Awards. In December, CAO hosted a ceremony honoring the hard work of our SPD officers; they truly save lives "one traffic stop at a time." The ceremony culminated with the presentation of the Annual "Joselito Barber Memorial Award" to Officer Edward Harris for his outstanding lifetime commitment to DUI enforcement.

DUI - 2014 AVERAGE DAYS TO DISPOSITION



**Average Number of Days to Dispo beginning 2014 no longer include Dismissals Due to Age
*Pending dispo = start date of PTD, DP, SOC and DC

DUI - 2014



*** Decline code not used until 7/1/2011. 2011 only reflects numbers for 6 months.

DUI 2014	2013 compared to 2014
2013 Reports Rec'd **	1,118
2014 Reports Rec'd	**958**
Diff 2014-2013	(160)
% Change	-14%
2013 Cases Filed	1,030
2014 Cases Filed	**977**
DIFF 2014-2013	(53)
% Change	-5%
2013 Reports Declined	12
2014 Reports Declined	**45**
DIFF 2014-2013	(33)
% Change	275%
2013 % Reports Received were Declined	1%
2014 % Reports Received were Declined	**5%**
2013 Avg # Days from Date Rec'd to Dispo this Qtr	421
2014 Avg # Days From Date Rec'd to Dispo this Qtr	**461**
2013 In Custody Arrg	550
2014 In Custody Arrg	**666**
DIFF 2014-2013	116
% Change	21%
2013 Total # Bookings this Qtr	206
2014 Total # Bookings this Qtr	**298**
DIFF 2014-2013	92
% Change	45%
2013 Total Booked w/Case Declined at ICA	2
2014 Total Booked w/Case Declined at ICA	**5**
DIFF 2014-2013	3
% Change	100%
2013 % Total Booked w/Case Declined	1%
2014 % Total Booked w/Case Declined	**2%**
2013 Intake	982
2014 Intake	**901**
DIFF 2014-2013	(81)
% Change	-8%
2013 Motion Setting	497
2014 Motion Settings	**476**
DIFF 2014-2013	(21)
% Change	-4%
2013 PTH Setting	3,449
2014 PTH Setting	**3,500**
DIFF 2014-2013	51
% Change	1%
2013 Jury Trial Settings	361
2014 Jury Trial Settings	**259**
DIFF 2014-2013	(102)
% Change	-28%
2013 Jury Trials with Finding	32
2014 Jury Trials with Finding	**27**
DIFF 2014-2013	(5)
% Change	-16%

** Auto decline filter was activated during a portion of 2014

DUI awards ceremony

Signing the labor agreement with criminal attorneys union

Pete, Chief O'Toole and DUI prosecutors

DOMESTIC VIOLENCE UNIT

2014 provided the Domestic Violence Unit (DVU) several opportunities to be nimble in the face of productive change. The unit expanded services provided to families experiencing the crisis of violence. We now offer victim advocacy in all family violence cases, providing support and enhanced access to the criminal justice system.

DVU prosecutors handle these cases at every phase now, which ensures that the quality litigation we have traditionally provided intimate partner violence cases serves many family violence cases. The DVU also streamlined its trial preparation process, with a division-wide restructure of the Prosecutor Support Team. We can more quickly meet the enhanced demands of DV litigation, as our designated assistant paralegal devotes all her time to DV cases.

Detective support from SPD

In 2014 the DVU continued its good working relationship with the police department. Cases that required detective follow-up received attention from two designated detectives, and later in the year SPD transitioned the coverage so that all felony detectives handled some misdemeanors by assignment. The support of this unit was invaluable in some of our most serious cases, as a single visit by a patrol officer is often not enough to either get the whole picture of a domestic violence situation or collect all the necessary evidence and interview, to develop a complex case.

One case in which detective support was critical to the success of the prosecution was that of Gabriel Hernandez. One DV case turned into much more when the City could fully investigate the witness intimidation by the defendant during the initial litigation. Hernandez is a high-risk offender with a conviction for second-degree murder and significant DV history in Illinois. In the initial case, he and his girlfriend were staying in a hotel room when they began arguing. The defendant punched her in the head as she tried to push past him to leave. She did not appear for trial and that assault case was ultimately dismissed.

While the assault case was pending, however, Assistant City Prosecutor Lorna Sylvester requested jail recordings that showed the defendant calling the victim several times. She only answered one of the calls, but many other calls went unanswered. After several unsuccessful attempts to reach her, the defendant began calling bail bonds companies and asking them to call the victim to bail him out of jail. Each time, the bail bonds companies complied with the defendant's request and unwittingly called the victim in violation of the original no-contact order. Each time, the victim informed them she did not have the means to bail him out. The defendant was charged with 10 counts of Violation of a No Contact Order (VNCO) based on those calls.

Pursuing charges on these violations would have been impossible without the help of detective follow-up work. SPD Det. Suzanne Ross helped find the hotel manager to identify the victim as the person in the room with the defendant. She also helped document the jail calls so charges could be filed. Ross also located each bail bonds company employee, who testified about the calls and identified the voice of the caller.

The defendant was convicted of five counts of Attempted VNCO for the calls to the victim, and six counts of VNCO for the calls to the bail bonds. SMC Judge Karen Donohue sentenced the defendant to 1,500 days in jail based on his history and the strong evidence of persistent violations.

One of the unique challenges facing the Domestic Violence Unit is how to maximize victim safety and offender accountability when the victim is not willing to participate in prosecution. Many of our cases rely

on the victim's participation in the system, which is frequently very intimidating and can even make a victim feel much less safe. Sometimes, we can proceed without the victim, and since witness intimidation is so prevalent in domestic violence cases this is often the only way to ensure that an offender is held accountable.

A DV case under the microscope

In late 2013 a woman heard a loud altercation downtown. She saw James Little pushing a woman over the top of a short fence, his hands around her neck in a strangling position. The victim's body was bent backwards over the fence from the force of the man strangling her. When the man noticed the witness was on the phone with police, he ran to his nearby SUV and ordered the victim into the car. The woman complied, and they drove away at high speeds, sometimes weaving in and out of busy downtown traffic. The first police officer who followed the car lost sight of it but eventually caught up and conducted a high-risk stop.

Officers spoke with the victim, who acknowledged they had been in a heated argument and that the suspect was driving the way he was to avoid the police, but she denied the assault. From the outset, this case appeared to be one where the City would have to proceed without the victim's cooperation. Even when the prosecutor tries a case without the victim, they still must have a "voice" in the system. Research shows that simply being heard benefits the victim more than the eventual adjudication.

The DVU does outreach and service referrals for even reluctant victims. It also has a process for victims to address No Contact Orders relatively easily. No Contact Orders can have a serious negative impact on the lives of those who are protected by them, so the court must allow low-barrier access to victims to address these orders.

Throughout the Little case, the victim did not support prosecution. The victim's advocate, Summer Rosa-Mullen, maintained contact with her, updating her on the status and discussing her concerns about the No Contact Order. She could address the court three times prior to the trial, to ask that the No Contact Order be canceled. Eventually, the court allowed email and phone contact, but no in-person contact.

Assistant City Prosecutor Jana Jorgensen took the Little case to trial and the civilian witnesses testified, as did the victim and officers. The victim again denied the assault occurred; however, the jury convicted the defendant of assault because of what the witnesses saw. The jury found the defendant not guilty of reckless driving. After hearing from the victim, the court sentenced Little to 30 days in jail with domestic violence treatment and mental health treatment, a No Contact Order protecting the victim, and other conditions. While the victim remained opposed to the outcome, the DVU and the court made sure that she was heard during the case.

Specialized advocacy for more victims

The DVU continues to make strong victim advocacy the centerpiece of a victim-focused criminal justice response. The unit has always provided advocacy not only for Intimate Partner Violence (IPV), but also for Child Abuse and Elder Abuse cases. The DVU continues to have advocates who primarily specialize in Intimate Partner Violence: Kimberly McDaniel, Theresa Phillips, Alma Pavlik and Summer Rosa-Mullen work hard to make the voices of IPV victims are heard in a system often bewildering and frustrating for survivors experiencing a crisis. They also work with victims to access services in the community that help survivors in crisis achieve stability and support.

The DVU also focuses on Elder Abuse by having advocates who specialize in working with elder and physically vulnerable victims. Joanne Luong and Cheryl Mezich both work with this unique population, and they cooperate with Lorna Sylvester, who besides being the DVU's prosecutor

"I honestly appreciate the time and genuine concern. It was very refreshing to feel heard by someone who genuinely cares in a process that can feel too bureaucratic at times. Thank you so much."

From the boyfriend of a mentally ill woman who had attacked him:

for high-risk cases, is the unit's Elder Abuse prosecutor. Giving a voice to this unique population is a rewarding challenge, and besides doing this work Luong and Mezich carry a caseload of IPV cases. Karen Irish works exclusively with child victims. Having advocates who can work in multiple disciplines has helped the unit stay nimble and achieve good coverage of cases in light of busy court schedules and tight deadlines.

We have worked to maintain our strong staffing of advocates, adding Rosa-Mullen and Lynn Craig to the team to fill positions vacated by advocates who left. The team also brought Jeaneen Watkins and Craig to the DVU to provide a type of advocacy not provided before. Watkins, who was previously the Criminal Division's Harassment Advocate, joined the team to provide advocacy to all family violence cases that are not Intimate Partner Violence, Elder Abuse or Child Abuse. As with many of our other victim advocates, Craig divides her caseload between her specialty caseload and IPV cases, and she has a background in chemical dependency treatment that makes her especially suited to advocate for the families of defendants.

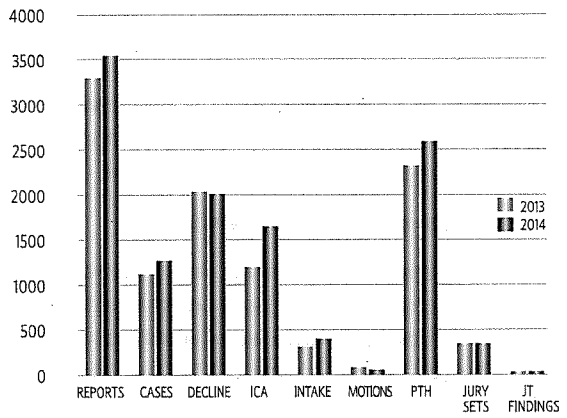
One example of how advocacy is different is that many involve adult children and parents as victims and defendants. Issues of mental health or chemical dependency frequently underlie the criminal behavior, so the advocacy needs of the victims are unique. Watkins has a background in mental health interventions that helps her steer families in crisis to resources that improve stability beyond the criminal response. Both she and Craig inform the prosecutor of the family's unique needs so conditions of release or probation conditions are appropriate tools for both the defendant and his or her family.

A Family Violence case up close

One family violence case that also involved elder abuse was that of Peter Cominos. The relationship between the advocate and the victim was very critical in the overall response to the defendant's violence and control. Cominos was initially charged with assaulting his elderly mother who suffers from dementia. A third party observed the defendant forcing his mother into a car and could hear the defendant screaming and yelling at her to take him to the store. The defendant has chemical dependency issues and is on methadone.

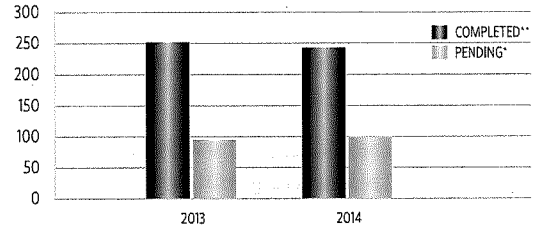
While the case was pending, elder abuse advocate Mezich kept in contact with the mother, who was also physically frail. On one occasion, Mezich noticed

DV 2014



*** Motion settings were not counted until Q1 2014

DV - 2014 AVERAGE DAYS TO DISPOSITION



**Average Number of Days to Dispo beginning 2014 no longer include Dismissals Due to Age
*Pending dispo = start date of PTD, DP, SOC and DC

DV UNIT 2014**	2013 compared to 2014**
2013 Reports Rec'd **	3,229
2014 Reports Rec'd	**3.527**
Diff 2014-2013	228
% Change	7%
2013 Cases Filed	1,154
2014 Cases Filed	**1,273**
DIFF 2014-2013	119
% Change	10%
2013 Reports Declined	2,033
2014 Reports Declined	**1,997**
DIFF 2014-2013	(36)
% Change	-2%
2013 % Reports Received were Declined	62%
2014 % Reports Received were Declined	**57%**
2013 Avg # Days from Date Rec'd to Dispo this Qtr	248
2014 Avg # Days From Date Rec'd to Dispo this Qtr	**239**
2013 In Custody Arrg	1,163
2014 In Custody Arrg	**1,631**
DIFF 2014-2013	468
% Change	40%
2013 Total # Bookings this Qtr	1,339
2014 Total # Bookings this Qtr	**1,426**
DIFF 2014-2013	87
% Change	6%
2013 Total Booked w/Case Declined at ICA	427
2014 Total Booked w/Case Declined at ICA	**489**
DIFF 2014-2013	62
% Change	15%
2013 % Total Booked w/Case Declined	32%
2014 % Total Booked w/Case Declined	**34%**
2013 Intake	300
2014 Intake	**359**
DIFF 2014-2013	59
% Change	20%
2013 Motion Setting	61
2014 Motion Settings	**55**
DIFF 2014-2013	(6)
% Change	-10%
2013 PTH Setting	2,297
2014 PTH Setting	**2,547**
DIFF 2014-2013	250
% Change	11%
2013 Jury Trial Settings	369
2014 Jury Trial Settings	**377**
DIFF 2014-2013	8
% Change	2%
2013 Jury Trials with Finding	31
2014 Jury Trials with Finding	**22**
DIFF 2014-2013	(9)
% Change	-29%

** Starting April 1, 2014, DVNI (Domestic Violence Non-Intimate Partner) referrals and cases were captured in DV data per change in office policy

a change in her demeanor. She suspected that the defendant was present in the house in violation of the no-contact order. Assistant City Prosecutor Sylvester called the precinct and asked for officers to do a welfare check of the home. When officers arrived, they saw the defendant at the home in violation of the no-contact order. Our attorney then charged Cominos with Violation of the No Contact Order.

Cominos pleaded guilty to the No Contact Order charge in exchange for a dismissal of the assault charge. Later, the prosecutor discovered numerous jail calls made by the defendant to his mother in violation of the order. A probation hearing was scheduled, and jail time was imposed for the probation violations. However after he served his sentence he was again released from custody.

Following his release, the mother arrived at court, planning to ask that the no-contact order be lifted. Mezich was present in court that day to assist her. When she arrived at the courtroom alone, Mezich became concerned because she knew that the mother had trouble with transportation in the past and had difficulty getting around. After speaking with the marshals and security staff, she and the prosecutor determined that the defendant had driven the victim to court to have the no-contact order lifted. Officers were called to the scene and the defendant was immediately taken into custody.

Dedicated trial support

Cary Elms joined the DVU as our assistant paralegal, and her arrival has been a great help to the prosecutors' trial preparation. Across the Criminal Division, the relationship between support staff and trial preparation changed dramatically in 2014. Much more focus was put on efficient and thorough trial preparation, and closer relationships between prosecutors and support staff. The DVU has unique needs in this area: DV cases are litigated more quickly than other cases and have evidentiary elements other cases don't have, such as important 911 recordings, photographs, recorded statements, medical records and documentation by detectives.

Elms coordinates the ordering of supplemental evidence and provides discovery to defense attorneys for all DV cases. Having a designated assistant paralegal has been uniquely helpful, as Elms understands the timelines and need for accuracy in all DV cases. Her diligent performance and attention to detail is even more critical to the success of the team due to the increased caseload and broad range of family violence cases DVU prosecutors now litigate.

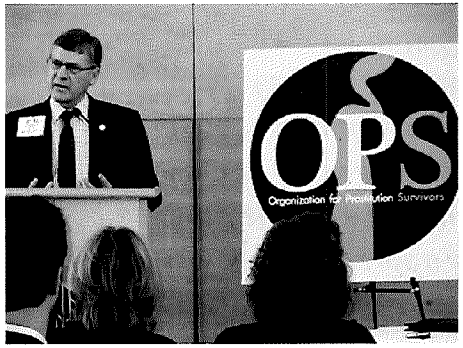
Co-location of services

The DVU continues to have tremendous success with its co-located programs, in which staff from other agencies physically reside with the DVU to provide a multi-disciplinary response to legal issues and victims' needs. The King County Prosecutor's Office assigns a deputy prosecuting attorney part-time to our unit, and in 2014 Kim Wyatt continued in this position. She streamlined the referral of cases for felony charges, coordinating litigation and negotiation of cases where defendants have charges in multiple jurisdictions, and assisted with investigation of complex misdemeanor cases.

The DVU also continued to benefit from the co-located victim advocate program. The City's Human Services Department has funded this position and expanded it last year to include two co-located advocates. Cydney Jones of Salvation Army and Ana Rivera of Consejo are the community-based advocates who spend time in the domestic violence units of both the CAO and SPD. They provide direct services to victims, including housing, food, transportation and other assistance. Their work with victims has succeeded, and the ability to help coordinate direct-service outreach has been a huge help to the victim advocates in our DVU.

"I totally appreciate all that you are doing for me and my son in this process. It would most definitely be a lot more scary and unsettling if I didn't have you helping me. I really appreciate it."

From a victim who had fled the state with her infant son to get away from her abuser



Pete at Buyer Beware prostitution press conference

Marra Farm

DUI attorneys being interviewed by KIRO

The DVU prosecutors in 2014 Jim Kenny, Krystle Curley, Jenna Robert, Yelena Stock, Jana Jorgensen, Andrew Tsoming and Lorna Sylvester. Each worked hard to deliver effective litigation in these difficult cases. Julie Huffman is the Advocate Supervisor and Cindi Williams is the DVU Supervisor.

The DVU has five prosecutors, and in 2014 they were Jim Kenny, Krystle Curley, Jenna Robert, Yelena Stock, Jana Jorgensen, Andrew Tsoming, and Lorna Sylvester. Each worked hard to deliver effective litigation in these difficult cases. Julie Huffman was the Advocate Supervisor and Cindi Williams was the DVU Director.

Domestic Violence Non-Intimate Partner Cases: In 2014, the SCAO adjusted its internal procedures to include victim advocacy for victims of domestic violence not in an intimate relationship with their abuser. These types of cases include violence between roommates, sister/brother, parent/adult-child, among others. We intend to provide advocacy to a greater number of victims and provide increased clarity and consistency within the division. The transition will also allow for all reports that fall under the domestic violence definition of family or household member per SMC 12A.06.120 to be handled by the same unit.

HIGH PROFILE CASES

Firefighters' case: On March 15, 2014 after a Sounders game two Seattle firefighters, Scott Bullene and Robert Howell, and Bullene's girlfriend, Mia Jarvinen, were reported to have attacked multiple homeless individuals near the firefighter's memorial in Pioneer Square. In the fall of 2014 the three were prosecuted for their actions.

As Bullene, Howell and Jarvinen approached the firefighter's memorial they came upon a man who appeared to be homeless. Eyewitnesses said defendants called out the victim for "disrespecting" the firefighter's memorial as he lay on/near the memorial. Some eyewitnesses saw Jarvinen kick the man in the face as he lay on the ground, wrapped in a blanket. Other witnesses saw Howell stomping on the man. In response many people ran to aid the man on the ground. Bullene was then seen beating a different man who appeared to be homeless with a walking stick he had taken from him. Eyewitnesses further indicated that among Bullene, Howell and Jarvinen they called the people around them "worthless," "scum" and chastised them for being homeless, living on taxpayer support and being a drain on society.

Overall, the eyewitnesses portrayed Bullene, Howell and Jarvinen as the aggressors who started and escalated the violence while making derogatory remarks. In response, the three were charged with assault and with malicious harassment. Malicious harassment is Seattle's sole hate crime statute. In 2007, "homelessness" was added to the statute as part of a continued effort to combat hate and intolerance directed towards homeless individuals. This case was the first time that the "homelessness" prong of the statute was used and this case demonstrated why this prong is necessary. During trial the statute was upheld by the court against multiple challenges raised by the defense attorneys. Trial lasted slightly over three weeks and the jury heard testimony from 16 people. The City called 13 witnesses, most of whom were eyewitnesses, and each defendant testified. The defendants were acquitted.

Assault with Sexual Motivation: The Seattle Municipal Code was amended in 2013 to include the crime of assault with sexual motivation.

Under SMC 12A. 06.010 (B) the City Attorney may file an assault charge with a special allegation of sexual motivation. The City must prove that "at least one of the purposes for the assault was for the actor's sexual gratification."

This change allows prosecution of misdemeanor assaults done for sexual gratification of the offender.

This past year the City filed 42 such charges. The most notable were charges against an individual who became known as the "Westlake Groper." With the assistance of a dedicated citizen the police apprehended the offender who had groped many women in the area around Westlake Park. The defendant was successfully prosecuted.

Other successful prosecutions featured the teamwork of prosecutors and domestic violence advocates. Assistant City Prosecutor John McGoodwin had two cases in which he worked with DV advocates Rosa-Mullen, McDaniel and Watkins. In both cases we brought to justice a suspect sentenced to substantial amount of jail. Assistant City Prosecutor Marc Mayo, with the invaluable assistance of advocate Irish, successfully prosecuted a suspect who assaulted a 17-year-old young woman waiting at a bus stop on her way to school. He was attempting to grab her and at least kiss her. The brave young woman successfully fought him off long enough to get away and call the police.

Our office, with the help of the victims and SPD, could act quickly to have strict No-Contact Orders in place and to request that high bail be set. Successful prosecutions resulted in offenders receiving substantial jail time, strict no-contact orders and offenders were ordered to undergo evaluations and recommended treatment for sexual deviancy.

In all cases prosecution would not have succeeded without the victims' brave and invaluable assistance in reporting the crime and willingness to assist in the prosecution.

Community Court

In October 2013, the City Attorney's Office, with Seattle Municipal Court, launched an ambitious update to its innovative Community Court. 2014 was the first full year of "Community Court 2.0." The court, which began in 2005, provides an alternative path from the traditional escalating incarceration approach for people charged with "quality of life" type crimes (theft, criminal trespass, prostitution etc.). Using ideas of restorative justice, people accepted into Community Court give back to society by participating in community service projects throughout the City. This work can range from assisting at a local food bank, helping to fix up a community garden or cleaning up graffiti. With over 15 partners, the work is varied and provides meaningful benefit to local organizations.

Besides giving back, Community Court's other focus is on providing participants the help they need to put their lives on a better path. One of the major recent changes to Community Court is an emphasis on creating an individualized plan for each person. Where the original court had a one-size-fits-all approach, the new version recognizes that some people benefit from greater structure in their lives that the court can provide while others may benefit from having a more limited contact with the criminal justice system. Another major change is an emphasis in helping participants take bigger steps in addressing the underlying issues that may have led to their criminal behavior. These steps might include getting assistance in signing up for housing or public benefits, starting a GED or job training program, or participating in chemical dependency or mental health treatment. Even with these changes, the old goal of helping participants to help themselves remains.

In 2014, Community Court added two exciting community service partners:

- Marra Farms: In the South Park neighborhood of Seattle, Marra Farms is a four-acre urban farm engaged in sustainable agriculture and education that provides fresh produce to food banks and

"In my own life, the only person who had seen justice for domestic violence was my ex-fiancé and that took 10 months of legal battles and the support of the prosecuting attorney's office. If I hadn't had their support and a court advocate, perhaps I wouldn't have gone all the way through to seeing justice."

From a victim who had a family history of violence and sexual abuse, and her case in Seattle Municipal Court was the first time she had seen someone prosecuted

local residents. This site has quickly become a favorite of Community Court participants who have commented on the satisfaction they have taken from the work at the farm and whose efforts have helped contribute to the 22,000 pounds of fresh organic produce grown there.

- Seattle Public Utilities (SPU): A common complaint of Seattle residents is the blight of graffiti in our neighborhoods. In 2014, Community Court teamed up with SPU to work on its graffiti abatement project. Community Court participants, under supervision of our new Community Service Work Crew Leader, painted over graffiti at numerous locations throughout the City.

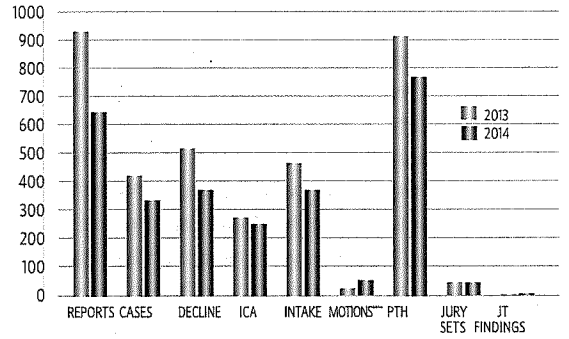
Throughout 2014, Community Court participants contributed over 5,000 hours of community service at local non-profit partners in Seattle.

Another change for 2014 was the roll-out of a different plan to address prostitution cases. Under the new guidelines, all prostituted persons are given the opportunity to have their charges dismissed upon completion of their Community Court obligations. Prostituted persons entering Community Court must attend a four-session Sex Industry Worker's Class, complete an HIV test, and make social service contacts as determined by a probation counselor. At the class, participants can meet with a case manager who can be their advocate and assist them in attaining wrap-around services.

While much has changed about Community Court, it still remains a firm partnership among our office, municipal court and the Associated Counsel for the Accused Division of the King County Department of Public Defense. Collaborating ensures that each participant is treated with respect and is given every opportunity to succeed. The court has also been fortunate to continue its strong relationship with AmeriCorps. These volunteers work tirelessly to help participants embrace the opportunities of the court and often work side-by-side with them on community service projects.

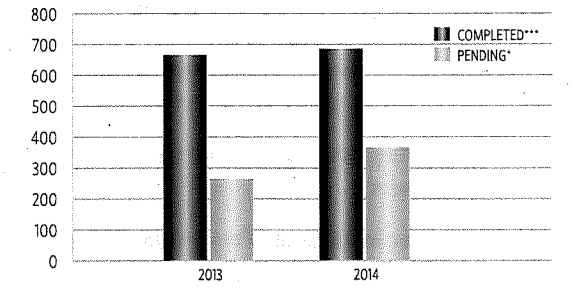
This time of change for Community Court has been both challenging and rewarding as we see how the implemented updates are making such a positive impact on people's lives. As we move forward, we recognize the difficulties we face in dealing with individuals often suffering from serious chemical dependency

DWLS -3 2014



*** Motion settings were not counted until Q1 2014

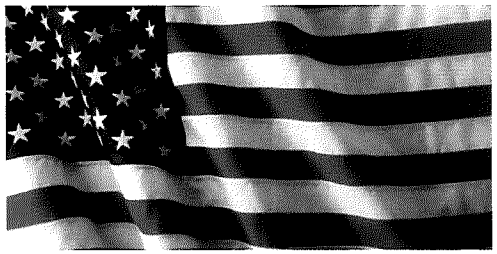
DWLS- 3 2014 AVERAGE DAYS TO DISPOSITION



***Average Number of Days to Dispo beginning 2014 no longer include Dismissals Due to Age
* Pending disposition = start date of PTD, DP, SOC and DC

DWLS-3 2014	2013 compared to 2014**
2013 Reports Rec'd	932
2014 Reports Rec'd **	**644**
Diff 2014-2013	(288)
% Change	-31%
2013 Cases Filed	419
2014 Cases Filed	**329**
DIFF 2014-2013	(90)
% Change	-21%
2013 Reports Declined	513
2014 Reports Declined	**366**
DIFF 2014-2013	(147)
% Change	-29%
2013 % Reports Received were Declined	55%
2014 % Reports Received were Declined	**57%**
2013 Avg. # Days From Date Rec'd to Dispo	668
2014 Avg. # Days From Date Rec'd to Dispo	**683**
2013 In Custody Arrg.	268
2014 In Custody Arrg.	**243**
DIFF 2014-2013	(25)
% Change	-9%
2013 Total # Bookings	87
2014 Total # Bookings	**72**
DIFF 2014-2013	(15)
% Change	-17%
2013 Total Booked w/Case Declined at ICA	16
2014 Total Booked w/Case Declined at ICA	**11**
DIFF 2014-2013	(5)
% Change	-31%
2013 Total Booked w/Case Declined	18
2014 Total Booked w/Case Declined	**15**
2013 Intake	461
2014 Intake	**359**
DIFF 2014-2013	(102)
% Change	-22%
2013 Motion Setting	28
2014 Motion Settings	**49**
DIFF 2014-2013	21
% Change	75%
2013 PTH Setting	909
2014 PTH Setting	**758**
DIFF 2014-2013	(151)
% Change	-17%
2013 Jury Trial Settings	45
2014 Jury Trial Settings	**46**
DIFF 2014-2013	1
% Change	2%
2013 Jury Trials with Finding	0
2014 Jury Trials with Finding	**2**
DIFF 2014-2013	2
% Change	100%

** Auto decline filter was activated during a portion of 2014 and approximately 176 citations were not captured due to backlog.



issues or mental health concerns. We strive to seek the proper balance between holding people accountable for their actions and providing them the services they need to keep them out of the criminal justice system.

When it began, Community Court's slogan was "a non-traditional approach to solving traditional problems." We hope that with the updates to the program we continue to be innovators and continue our quest to make Seattle a safer and more just place to live.

Mental Health Court

Seattle Municipal Mental Health Court completed its 15th year in operation to improve public safety, reduce jail use and interaction with the criminal justice system for persons with mental illness, and connect participating defendants to mental health services. Mental Health Court (MHC) is a voluntary program in which defendants must be willing and competent to comply with conditions set out by the court. CAO is an integral part of the MHC Team, which comprises a judge, prosecuting and defense attorneys, probation counselors and mental health professionals. In late 2011, the court commissioned Law and Policy Associates to conduct a study of MHC's processes and outcomes. The study was released in December 2013, and the data suggested that the program did support MHC's objectives. This study was encouraging to the MHC Team as it continued its work in 2014.

MHC can be an effective tool in assisting mentally ill defendants to stay on medications and stay engaged with community mental health services. An example from this year is the case of Mr. S. His mental illness caused him to become obsessed with his former employer's daughter, and even though no relationship existed between them, he had a fixed delusion she was his wife. The victim and her family became very afraid because of his repeated unwanted contacts. Mr. S was charged with one count of stalking. Shortly after his arrest, he was transferred to a hospital on an involuntary civil commitment. Following the hospitalization, Mr. S was stable on medications and was no longer fixated on the victim. The City was concerned, however, that Mr. S might not continue mental health treatment. Considering that his stalking behavior was caused by mental illness, the City offered a two-year dispositional continuance to resolve the case, as opposed to requiring a guilty plea and conviction. Mr. S opted into MHC in May and agreed to follow the conditions of the court for two years. Throughout the remainder of the year, Mr. S maintained engagement with his mental health services, continued to take his mental health medications, and met regularly with his MHC probation counselor.

MHC also continues to resolve all competency issues. When a defendant is found incompetent to stand trial because of mental disease or defect, the City cannot proceed with the criminal charges. Some cases qualify for the defendants to be transferred to Washington State Hospital for medications. Usually, however, the charges are dismissed. To ensure the safety of both the community and defendant, defendants are referred to mental health professionals to determine whether civil commitment is prior to release. Our office continues to advocate for better county and state funding for mental health programs.

Veterans Treatment Court

Veterans Treatment Court (VTC) began serving eligible veterans during Pete's first term, in September 2011. It was created to serve the needs of veterans negatively affected by their military service. It is a voluntary court-monitored therapeutic treatment program that balances the mental health and/or substance abuse needs of the veteran defendants with the need for public safety. It was created through the collaborative efforts of our office, Associated Counsel for the Accused, the state Department of Veteran Affairs, the U.S. Department of Veteran Affairs, King County Department of Community and Human Services and the Seattle Municipal Court. Seattle VTC is the first at a municipal level in the state; there are now eight statewide.

Any person who has served at least two years active duty in the armed forces, was discharged honorably or generally under honorable conditions, receives (or is

eligible to receive) VA benefits, has an Axis 1 diagnosis and/or substance abuse need can be referred to VTC. The VTC clinician meets with interested veterans to confirm their VA status and eligible diagnosis/substance abuse need, and determines whether they are amenable to treatment. Amenability contemplates prior treatment compliance, the veteran defendant's insight into their diagnosis and/or addiction, as well as their motivation for recovery. Eligible veterans will be asked to meet the team and observe the court.

VTC operates differently than traditional courts. Following the mental health court model, veteran defendants must attend treatment, abstain from alcohol and non-prescribed drugs, and attend frequent court reviews. Graduated sanctions are employed to encourage compliance, with termination from the program as the last resort. The most significant difference from a traditional court is the cohort effect achieved by having veterans assemble as a group for the hearing. Rather than leaving court when their hearing is finished, veterans must stay for the entire calendar so they observe the struggles and accomplishments of their fellow defendants.

The VTC team is comprised of an assistant city prosecutor, two defense attorneys from the Associated Counsel for the Accused Division of the Office of Public Defense, a court clinician from Seattle Mental Health, two Veteran Justice Outreach Social Workers from the VA, a representative from the Washington Department of Veteran Affairs, two SMC probation counselors, and the judge. Except for the judge, the VTC team attends a weekly pre-court meeting to discuss each veteran defendant to be sure all expectations of the court and individual needs are being met. The team then appears before the judge to make a record of the veteran defendants' progress. More often than not, VTC reviews are positive and the team can focus on incremental accomplishments, rather than compliance issues, as one would expect in a traditional court.

Twelve veteran defendants were welcomed into VTC in 2014 with a Challenge Coin created specifically to mark their participation. It carries the program logo on one side, and the seal of each branch of the military on the other.

VTC has graduated 13 veteran defendants in the last two years. Each graduate receives a framed certificate of graduation, a VTC lapel pin, and a military patch reflecting their military branch of service. Graduation ceremonies afford past/present VTC team members the opportunity to express their pride in the defendants' success. All graduates have previously experienced traditional court, and express heartfelt gratitude for the structure, respect, support and assistance of VTC. The VTC team and the camaraderie of military colleagues made for a positive experience filled with growth, hope and new beginnings.

This past year the court and VTC team worked with a court systems analyst to help improve service to our veteran defendants. Four VTC surveys are ready for implementation in early 2015, and will be tracked by the Research Planning and Evaluation Group at the court.

Graduates ask about helping sustain VTC for future veterans. In 2015, the VTC team will continue to work towards developing a Veteran Mentor Program where VTC graduates can provide morale and motivational support to current and incoming veterans.

The VTC team maintains an ongoing commitment to looking for ways to improve the court, to increase services for veteran defendants, and to ensure public safety.

Law Enforcement Assisted Diversion (LEAD)

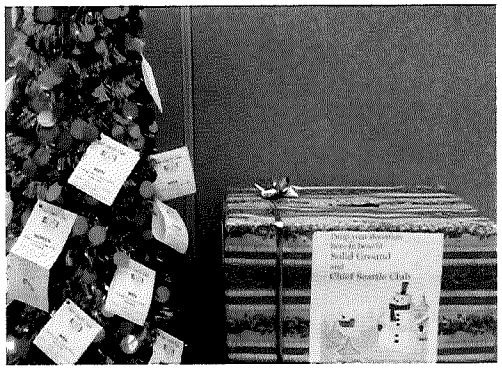
Our office continues to play a key role in the Law Enforcement Assisted Diversion program (LEAD). The program allows certain drug or prostitution crimes to be diverted from criminal charges at the discretion of the arresting officer when the suspect agrees to engage in services such as chemical dependency or mental health treatment. The CAO attends twice-monthly staffing meetings in which referral decisions and program participant progress is reviewed. The collaborative sharing of information is invaluable in assisting our office in the best way to handle subsequent offenses by those already engaged in LEAD. One LEAD participant had several cases pending that involved repeated trespassing in the same parking garage downtown. He became engaged in services through LEAD, found housing, and agreed to inpatient chemical dependency treatment. Based on his progress over time, the CAO substantially reduced the recommendations on his pending charges, so additional jail would not interfere with his housing and treatment. Another participant was diverted into LEAD, but in spite of extensive efforts by his case manager to engage in services, he refused and continued to accumulate multiple misdemeanor theft charges. The LEAD team agreed that the program was not effective for this individual so prosecution of his pending cases proceeded.

The Criminal Division continues to work with other City departments in reviewing incident reports for less common charges in SMC. This year, we worked closely with Animal Control to review and file cases for neglect and cruelty, and negligent control of animals. We worked with Code Compliance and Consumer Protection to review cases for criminal charges when business owners repeatedly failed to comply with business license and tax requirements.

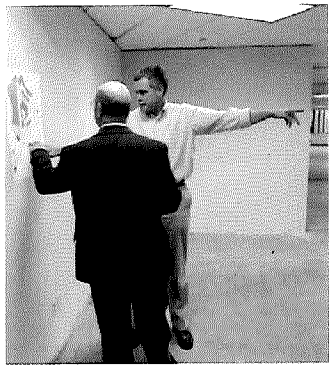
A significant case from the Fire Department involved the illegal possession and storage of fireworks by a Buddhist temple. A 12-year-old temple member was seriously burned when he ignited the explosives. The CAO

determined there may have been sufficient evidence to file criminal charges but decided another route was more prudent: In exchange for no criminal charges, the temple agreed to abide by a set of conditions to ensure the safety of the temple and its members. We realized there was a general misunderstanding, or lack of information, about what was or was not permissible in the communities that use fireworks for religious and cultural celebrations. We worked with the Fire Department's Public Education Division to set up a community outreach meeting in the International District that covered the permitting process and general safety information. The meeting in December offered informational handouts translated into several languages, and translator services were offered for the meeting.

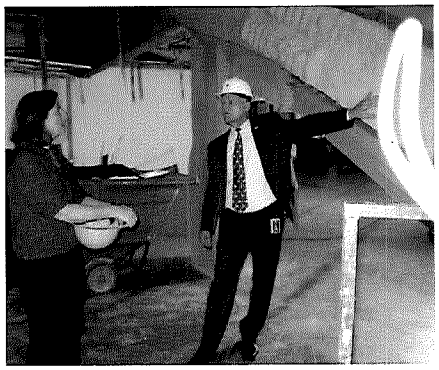
ADMINISTRATION DIVISION



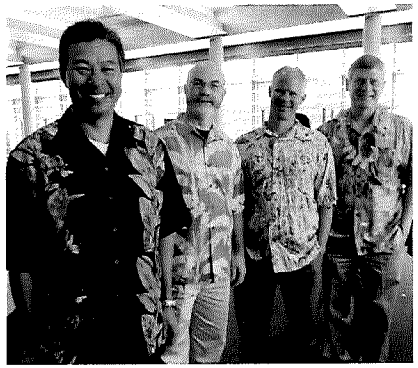
Raising money for nonprofits



Attorneys locate their new offices



Pete's hard-hat tour of construction



A summer get-together at the office

The Administration Division provides executive leadership, communications and operational support for the 160-employee department and numerous interns and volunteers. The division comprises the city attorney, his immediate staff and the accounting, human resources and information technology sections.

Pete will ensure the office remains transparent and accessible to the people of Seattle. In 2014, the office continued to produce its bi-monthly electronic newsletter for the public (*E-Newsletter*). The newsletter provides updates on new legislation, current events, significant cases and news links. In addition, the administration staff prepares a bi-monthly internal employee newsletter, *In Brief*.

Budgeting for an Office Move

The Administration Division was instrumental in helping the office achieve its budget goals for 2014. The team tracks expenditures, ensures salaries and other personnel costs meet the City's compensation standards, and forecasts costs anticipated later in the year. As part of the 2015 budget process, the department negotiated and received approval from the City Council for a 12-year office lease at Columbia Center. For the first time in over 20 years, all employees of the City Attorney's Office will be in one building. Bringing the staff together will promote further collaboration and teamwork within the office while still remaining close to our clients in City Hall, Seattle Municipal Tower and the Justice Center. Construction of the new office space began in November 2014 and moving is slated for April 2015. The office will take over almost three full floors in Columbia Center at 701 Fifth Ave.

Besides planning for the office move, the department added two new positions to provide legal advice and support to the Seattle Police Department.

Volunteer and Externship Programs

The City Attorney's Office has a long history of providing opportunities for volunteers and student externs. The goal of the program is to teach students about the legal process and criminal justice system. The Criminal Division program offers opportunities to both undergraduate and law students, while the Civil Division program focuses exclusively on law students and lawyers.

Criminal Division program: Participants learn about the criminal justice system while combining classroom knowledge with on-the-job training. Law students work side by side with prosecutors to learn the basics of case preparation, filing and trial work. During 2014, 31 volunteers and law students donated approximately 7,040 hours; the equivalent of about three full-time positions.

Of the 31 volunteers, 12 were male and 19 were female.

Civil Division program: The Civil Division externship program hosted 12 volunteer legal externs (eight male and four female) last year. Law students conducted legal research, wrote briefs, observed court proceedings and assisted attorneys with a variety of employment, land use, government affairs and torts cases in 2014.

Information Technology

Daily , the department's IT staff supports 190 desktop computers, 15 laptops and four department-specific servers for staff in City Hall, Seattle Municipal Tower, Seattle Municipal Court, Seattle Police Department headquarters and five Seattle police precincts. In addition, the IT team works collaboratively with the senior planning and management staff in the City's Department of Information Technology (DoIT) to implement improvements to citywide data systems and security.

Citywide Projects:

In 2014, the City began work on an enterprise-wide project to replace its email archiving system. This saves and protects data in email messages for retrieval at a later date. The IT team worked closely with the project manager and DoIT to make sure current and future archive practices align with the department's and City's methods for preserving email used in litigation and in compliance with the state Public Records Act. The new system is scheduled to go live in mid-2015.

Department-wide Projects:

With the City's move to a new web publishing system, the IT team devoted considerable time to revamping the City Attorney's Office public-facing website. This system, developed by the City, allows better content management, including permissions for non-technical staff to author web pages. This will help the office keep information on our website current, make updating pages easier, and reduce broken links to old or deactivated sites. Phase I is due to launch in early 2015 and Phase II enabling new authors is set for mid-2015.

A rollout and replacement of existing Netbooks (small laptops) was completed in 2014. The newer touch-screen technology used in Windows 8 provides better efficiency over the prior Windows 7 netbooks. Criminal Division prosecutors now use these devices in Seattle Municipal Court to assist in scheduling trials and accessing case information. In addition, several netbooks are available for Civil Division employees to allow electronic access to documents at meetings, reducing the need to print and transport legal documents to and from off-site appointments.

Criminal Division:

A new eDiscovery module was released in 2014 as part of the office-wide move toward paperless case filing and document management. The IT team trained prosecutors using the Case Navigator to review archived documents and trained support staff to perform case document archiving. With Phase I launched in 2014, the IT team will continue to work with staff to revamp business practices. This migration away from paper files coincides with Seattle Municipal Court's recent launch of electronic case filing.

Public Records Requests:

Throughout the year, the Administration team produced responses to 169 Public Records Act requests received by the City Attorney. Also, assistant city attorneys provided extensive legal advice and compliance training regarding public disclosure requests to our employees, staff from other City departments, the Mayor's Office and the City Council.

Race & Social Justice Initiative: Human Resources

The Human Resources staff continued its focus on the City's Race and Social Justice Initiative in 2014. Staff members attended training on Diversity in Hiring and Recruiting, which prompted a change in the language of our job postings, diversity of our interview panels, and drafting of interview questions. Besides posting attorney and paralegal job announcements with local minority bar associations, the office renewed its commitment to honor and respect cultural differences in the workplace and across the City.

Seattle City Attorney Annual Report 2014

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