Clerk File No. 310003

The City of Seattle – Legislative Department

Clerk File sponsored by: TB, BH, NL

Clerk File No. 310003

2008 Annual Report of the Seattle City Attorney's Office.

Committee Action:

Date	Recommendation	Vote
8/4/09	MSP Accepted Report	TB, BH, NL 3-0-0

Related Legislation File: _____

Date Introduced and Referred:	To: (committee):
7-13-09	Public Safety, Human Services & Education (PSHSE)
Date Re-referred:	**To: (committee):**
Date Re-referred:	**To: (committee):**
Date of Final Action: 8-10-09	**Disposition:** Filed

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
8-10-09	Filed	9-0

MAY 8, 2009

Date Filed with City Clerk

Emilia M. Sanchez

By

Seattle City Attorney's Office

Annual Report
2008

Thomas A. Carr
Seattle City Attorney

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COUNCIL CLERK

To: The Mayor and the Seattle City Council

Pursuant to Article XXII, section 12 of the Seattle City Charter; as the City Attorney for the City of Seattle, I am submitting the Annual Report for the year ending December 31, 2008.

This report displays the breadth and scope of our work on behalf of the City. In 2008, as in previous years, our office was involved in almost every aspect of City government. From the Public and Community Safety Division (PCS) side we prosecuted 13,713 crimes, including 1,584 domestic violence (DV) cases and 990 driving under the influence (DUI) of alcohol cases. Once again, we also provided continuous leadership for a changing mindset in criminal justice. Our Precinct Liaison Program was recognized nationally and won the Prestigious National District Attorney Association's Iceberg Award. Previous winners included current Attorney General Eric Holder for his work as Deputy Attorney General, Colorado Governor William Ritter for his work as Denver District Attorney and Multnomah County District Attorney Mike Schrunk.

From the Civil Division side, the office continued its long tradition of providing high quality legal services, economically and efficiently. We assisted with drafting and revising ordinances, including a new noise ordinance in an effort to regulate the booming nightclub business and the effects it has on neighborhoods. Our attorneys litigated cases in the Washington State Supreme Court, the Ninth Circuit Court of Appeals, the Washington State Court of Appeals and, of course, in various trial courts. The Annual Report that follows provides an overview of our office's work during 2008.

Thomas A. Carr
Seattle City Attorney

Thomas A. Carr, City Attorney

Robert Hood, Chief, PCS Division | **Suzanne Skinner, Chief, Civil Division** | **Jack Robinson, Administrator**

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Judith Barbour
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Rebecca Boatright
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Brendan Brophy
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Henry Chae
Andrea Chin
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Rodney Eng
Mike Finkle
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Gregory Fuller
Denice Gagner
Beth Gappert
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Jennifer Gilman
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John Groh
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Rebecca Keith
Katrina Kelly
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Kristin Lamson
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John McGoodwin
Edward McKenna
Kent Meyer
Tienney Milnor
Robet Murashige
Gregory Narver
Marcia Nelson
Judith Nevins
Daniel Okada
Paul Olsen
Erin Overbey
Hanni Peralla
Mary Perry

Suzanne Pierce
Arlene Ragozin
Rebecca Robertson
Joan Roth
William J. Ross
Tuere Sala
Michael Sanders
Heidi Sargent
Jennifer Schubert
Carlton Seu
Thomas Sean Sheehan
Marya Silvernale
Jeffery Slayton
Gary Smith
Derek Smith
Suzanne Smith
Lorna Staten Sylvester
Robert Tobin
Hugh Tobin
Tamera Van Ness
Anne Vold
Theresa Wagner
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Zahraa Wilkinson
Cindi Williams
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Laura Wishik
Fritz Wollett
Kim Wyatt
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Donna Robinson
Jillette Saldi
Renee Saltzgiver
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Jennifer Tramble
Debby Trudeau
Stephanie Tschida
Linda Ve'e
Jackie Wallace
Carol Walker
Jeaneen Watkins
Michelle Wills
Michel Worthy
Janette Yamashita

Office Overview

Seattle City Attorney Thomas A. Carr is a non-partisan elected official. Seattle has elected its attorney since 1875. Mr. Carr is the 29th person to serve in this position and is currently serving the fourth year of his second term. Mr. Carr heads the Seattle City Attorney's Office, which employed 165 people in 2008 -- this included many part time employees and several paid interns. Of these 91 are attorneys, including Mr. Carr. It is the fourth largest public law office in the State of Washington. The office provides legal advice to City officials to help them achieve their goals, represents the City in litigation, and protects public health, safety, and welfare by prosecuting criminal and civil violations of City ordinances. The office consists of three divisions: Civil, Public & Community Safety (PCS), and Administration.

The Civil Division is organized into eight specialized areas of practice. Civil Division attorneys provide legal counsel, as well as representation in litigation at all levels of state and federal courts, and administrative agencies. The practice areas are: Civil Enforcement, Contracts, Employment, Environmental Protection, Land Use, Municipal Law, Torts and Utilities.

The Public & Community Safety Division prosecutes misdemeanors committed in the City of Seattle, provides legal advice to City clients on criminal justice matters, monitors state criminal justice legislation of interest to the City and takes an active role in criminal justice policy development and management of the criminal justice system. The PCS Division participates in and helps to manage the Mental Health Court, the Community Court and the Domestic Violence Court. These groundbreaking programs promote public safety by both effectively prosecuting criminals and taking alternative approaches to preventing crime.

The PCS Division also has attorneys placed in each of the City's police precincts. These attorneys work to address community problems to prevent crime and promote community livability. The Division also operates an extensive volunteer program through which citizens can provide service to, and gain a better understanding of the criminal justice system. And finally, the Civil and PCS Divisions continued to jointly manage an Infraction Prosecution Program. With the assistance of law student interns, the program has resulted in a dramatic increase in public safety by making drivers more accountable for their actions and increased revenue for the City by way of fines and fees collected by the Seattle Municipal Court.

City Attorney's Activities

In 2008, the City Attorney continued his commitment and dedication to public safety in the City of Seattle. In addition to serving as the Chair on the Public Records Exemptions Accountability Committee, also known as the "Sunshine Committee", the City Attorney sat on

various committees such as the Association of Washington Cities Legislative Committee working to educate the state legislature on the effects of legislation on cities state-wide. He serves as a member of the Public Safety Advisory Committee of the National Alcohol Beverage Control Association which meets twice a year in Washington D.C.

The City Attorney was invited to speak at the Annual Community Prosecution Conference of the National District Attorneys Association and 2008 National Forum on Criminal Justice & Public Safety, presented by the National Criminal Justice Association, the Bureau of Justice Assistance and the IIJIS Institute. It was at this conference that the City of Seattle's Precinct Liaison program won the Prestigious National District Attorney's Iceberg Award. Previous winners include current Attorney General Eric Holder for his work as Deputy Attorney General, Colorado Governor William Ritter for his work as Denver District Attorney and Multnomah County District Attorney Mike Schrunk.

Additionally, the City Attorney is one of four co-chairs of Seattle's Domestic Violence Prevention Council and serves on the Interagency Council of the Committee to End Homelessness. He is a former chair and active participant in the Regional Law Safety and Justice Committee and of the Seattle Criminal Justice Committee. At the moment, he also serves on the Regional Committee to End Homelessness. He also attends Community Court hearings regularly as a prosecutor for a select number of defendants in the Seattle Municipal Court.

PUBLIC & COMMUNITY SAFETY DIVISION

The year 2008 was not only successful for the Public and Community Safety Division (PCS) but reflecting a 40 year low in crime, this division saw a decrease in both reports received and cases filed.

PCS Highlights:

The PCS Division is made up of five work units: two regular trial teams consisting of 12 attorneys and two assistant paralegals; the Domestic Violence Unit, consisting of six attorneys, eleven victim advocates and an assistant paralegal; a team that handles in-custody filings and arraignments, Mental Health Court, and Community Court, consisting of the equivalent of 6.5 full-time attorneys and a harassment advocate; the Case Preparation Unit; the Community Prosecution Program, consisting of five attorneys; and an Administrative Unit. The Seattle City Attorney's Office, Public and Community Safety Division utilized externs and interns year round. Externs

and Interns in our division appeared in Seattle Municipal Court representing the City of Seattle. They appear in court under the Washington State Bar Association Rule 9.

The division actively recruited externs and interns by attending annual recruiting events including the Minority Job Fair as well as on and off campus interview sessions for the three Washington State law schools. In the past, we have had law students not only from the state law schools participate in our Rule 9 program but also from out of state law schools such as Georgetown and Pepperdine.

Caseload:

Overall, caseload dropped in 2008, with 8% fewer cased referred and 10% fewer cases filed. Unfortunately, despite the decrease in caseload, there was still a disproportionate number of pretrial hearings, with only a 1% decrease in hearing load from 2007 to 2008. The cause of this disproportionality is unrelated to caseload and appears to be driven by an unusually high number of continuances. Overall, caseload numbers were as follows:

OVERALL	**1st Q**	**2nd Q**	**3rd Q**	**4th Q**	**Totals**
2007 Reports Received	5239	5020	5266	4224	19749
2008 Reports Received	4511	4407	4831	4347	18096
Difference 2008-2007	-728	-613	-435	123	-1653
% Change	-14%	-12%	-8%	3%	-8%
2007 Cases Filed	3,956	3904	4,051	3257	15,168
2008 Cases Filed	3,416	3350	3,611	3336	13713
Difference 2008-2007	-540	-554	-440	79	-1455
% Change	-14%	-14%	-11%	2%	-10%
2007 In Custody Arrg.	3731	3861	3895	3117	14604
2008 In Custody Arrg.	2975	2737	3019	2708	11439
Difference 2008-2007	-756	-1124	-876	-409	-3165
% Change	-20%	-29%	-22%	-13%	-22%
2007 PTH Settings	3782	3953	4038	3855	15628
2008 PTH Setting	3940	4041	3761	3692	15434
Difference 2008-2007	158	88	-277	-163	-194
% Change	4%	2%	-7%	-4%	-1%
2007 Jury Trial Settings	503	394	471	404	1772
2008 Jury Trial Settings	513	490	556	451	2010
Difference 2008-2007	10	96	85	47	238
% Change	2%	24%	18%	12%	13%

Domestic Violence Unit:

Domestic violence remains a high priority. The accomplishments of which the DVU is most proud fall into three general categories:

Improved processes

A number of processes in the office have been streamlined and as a consequence the office has realized significant improvements in the speed with which these dangerous cases are addressed, as well as better accountability for decision-making. Vertical prosecution, and the assignment of specific case prep staff to the DVU, has led to more efficient handling of these cases.

Improved Coordination

The City Attorney has long been concerned about coordination with King County on domestic violence cases that could be filed as either felonies or misdemeanors. The City Attorney made a grant proposal to have a Deputy King County prosecutor work in his office to coordinate on such cases. Although the federal government rejected the grant proposal, the City Council thought so highly of the proposal, that they funded the program in the 2008 budget. In April 2008, Deputy King County Prosecutor Kim Wyatt joined the DVU to carry out her functions as a felony prosecutor here in the City Attorney's office. Kim spends 20 hours a week with the City Attorney's office. Her presence has made an enormous difference in the safety of domestic violence victims. Cases that formerly went through an inefficient referral process are now addressed immediately. As a result, the time between an offense and the filing of charges is significantly reduced, resulting in dangerous offenders being held in custody if appropriate, and victims being referred to appropriate services in a more timely fashion. In addition, defendants who have charges in both Seattle Municipal Court and Superior Court are identified, resulting in increased judicial economy and fewer defendants slipping through the cracks of the criminal justice system; the right hand knows what the left hand is doing!

Improved Outcomes

Recognizing that the law around domestic violence has been changing at an increasingly rapid rate, there was a need to increase the unit's expertise in particular areas of practice. The DVU instituted the practice of having individual DVU attorneys taking on particular subjects in more depth. The DVU now has individual prosecutors able to advise the whole unit on areas such as stalking, cyber crimes, and other defined topics when a situation presents itself that requires more than the usual amount of intensive preparation.

The DVU is able to prosecute cases that might have what were previously seen as insurmountable evidentiary issues. In 2008 the DVU tried a significant number of cases in which the victims did not participate and still obtained guilty verdicts. Victims are much safer when offenders are held accountable without requiring them to come to court to accuse the defendant. It also decreases the number of times a traumatized victim has to tell her story, and relieves her of the anxiety associated with the court process as a whole.

Also under the heading of improved outcomes is much more attention and energy given to review hearings. Accountability for offenders is essential to changing behavior, and much more attention is being devoted to preparing for review hearings so that they are meaningful. This has resulted in a significant increase in accountability. Caseload numbers for the Domestic Violence Unit were as follows:

Domestic Violence	**1st Q**	**2nd Q**	**3rd Q**	**4th Q**	**Totals**
2007 Reports Received	905	854	949	834	3542
2008 Reports Received	751	688	791	742	2972
Difference 2008-2007	-154	-166	-158	-92	-570
% Change	-17%	-19%	-17%	-11%	-16%
2007 Cases Filed	445	469	550	396	1,861
2008 Cases Filed	364	408	412	400	1584
Difference 2008-2007	-81	-61	-138	4	-277
% Change	-18%	-13%	-25%	1%	-15%
2007 In Custody Arrg.	545	502	575	495	2,131
2008 In Custody Arrg.	479	434	484	465	1862
Difference 2008-2007	-66	-68	-91	-30	-269
% Change	-12%	-14%	-16%	-6%	-13%
2007 PTH Settings	644	642	778	807	2833
2008 PTH Settings	612	632	687	665	2596
Difference 2008-2007	-32	-10	-91	-142	-237
% Change	-5%	-2%	-12%	-18%	-8%
2007 Jury Trial Settings	170	160	198	168	678
2008 Jury Trial Settings	189	181	213	161	744
Difference 2008-2007	19	21	15	-7	66
% Change	11%	13%	8%	-4%	10%

Driving While Licensed Suspended remains a significant portion of the office's caseload. 2008 DWLS caseload was as follows:

DWLS	1st Q	2nd Q	3rd Q	4th Q	Totals
2007 Reports Received	1252	1180	1,163	998	4,593
2008 Reports Received	1229	1125	1,091	1091	4,536
Difference 2008-2007	-23	-55	-72	93	-57
% Change	-2%	-5%	-6%	9%	-1%
2007 Cases Filed	1231	1165	1,148	1002	4,546
2008 Cases Filed	1215	1112	1,022	1133	4.482
Difference 2008-2007	-16	-53	-126	131	-64
% Change	-1%	-5%	-11%	13%	-1%
2007 In Custody Arrg.	586	623	688	617	2,514
2008 In Custody Arrg.	606	566	546	509	2,227
Difference 2008-2007	20	-57	-142	-108	-287
% Change	3%	-9%	-21%	-18%	-11%
2007 PTH Settings	893	1043	1,026	962	3,924
2008 PTH Settings	958	1160	957	837	3,912
Difference 2008-2007	65	117	-69	-125	-12
% Change	7%	11%	-7%	-13%	0%
2007 Jury Trial Settings	47	32	35	37	151
2008 Jury Trial Settings	64	45	66	46	221
Difference 2008-2007	17	13	31	9	70
% Change	36%	41%	89%	24%	46%

Drug Cases/Stay Out of Drug Areas:

The City of Seattle has limited jurisdiction over drug violations. Virtually all drug crimes are felonies under the jurisdiction of King County. The only exception is possession of less than 40 grams of marijuana, which is a gross misdemeanor. In late 2004, the County Prosecutor, as part of a budget cut, decided to stop prosecuting cases involving possession of trace amounts of controlled substances. These cases are generally those involving crack addicts who purchase and use crack cocaine on the streets of Seattle. The cocaine residue in the pipe constitutes a controlled substance, possession of which is a felony under Washington law.

Continuing in 2008, the City Attorney's office, in cooperation with the King County Prosecutor's office, started a new program to address this issue. These parties reached an agreement that the PCS Division would

charge individuals arrested with trace residue of a controlled substance with the crime of Attempted Violation of the Uniform Controlled Substances Act (VUCSA), a gross misdemeanor. At their first appearance, defendants would be offered a choice: either 1) agree to a disposition under which the case would be dismissed in four months as long as the defendant complied with an order to stay out of the geographical area in which he or she was arrested or; 2) be charged with felony Violation of the Uniform Controlled Substances Act by the county prosecutor. From March 2006 through December 2008, the PCS Division filed 1153 Attempted VUCSA cases. The breakdown of those cases was as follows:

	Totals
Total Cases Filed	1153
Total Dispositions	1119
Sent to King County Prosecutor	159
Filed By King County Prosecutor	71
Declined by King County Prosecutor	68
At least one SODA violation	218
At least two SODA violations	108
At least three SODA violations	54
At least four SODA violations	28
At least five SODA violations	18
At least six SODA violations	10
At least seven SODA violations	5
At least eight SODA violations	3
At least nine SODA violations	1
Defendants with at least 2 cases	161
Defendants with at least 3 cases	52
Defendants with at least 4 cases	16
Defendants with at least 5 cases	7
Defendants with at least 6 cases	4
Defendants with at least 7 cases	3
Cases with no violations	935
Cases with no recidivism	992
% of cases with no violations	81%
% of cases with no recidivism	86%

This program does not come without cost. Although there is no jail sanction as part of the original sentence, violators are jailed on a fixed schedule. On balance, however, the program is very successful. Eighty-one percent of the defendants did not violate the SODA order and 86% did not commit another Attempted VUCSA during the period. Thus, the program appears to be achieving its goal of limiting drug users' return to open air drug markets. The cost is associated with a small number of offenders who commit multiple violations or multiple offenses.

Mental Health Court:

The City Attorney's office has continued its leadership role in the area of mental health law. Representatives have given presentations and provided assistance to representatives, both nationally and regionally, on Mental Health Courts and on competency to stand trial. Two of those presentations were given by the same attorney, at the annual conference of the American Academy of Psychiatry and the Law (AAPL). The AAPL is a national organization, but the conference had an international flavor: some of the attendees came from as far away as New Zealand.

The City Attorney's office also continued to increase the efficiency of the system for handling competency to stand trial matters, both within Seattle's Mental Health Court and statewide. The Mental Health Court team played a significant role in the King County Prosecutor's "Dangerously Mentally Ill Offender Work Group", which proposed a number of potential improvements to the criminal justice system for effectively working with convicted criminals who are designated by statute as "dangerously mentally ill offenders." One of the PCS prosecutors was invited to submit a peer-reviewed article for publication in a national publication. The article focuses on improving the efficiency of the competency process.

The City Attorney's office has played, and is continuing to play, a significant role in drafting proposed legislation that will decrease the time it takes Western State Hospital to complete a competency evaluation, which will save the City significant jail costs. Many portions of the draft legislation incorporate recommendations from an article published by an assistant city attorney. Finally, prosecutors across the state continue to seek advice regarding competency issues and mental health courts in general.

Other Activities

PCS attorneys played a leadership role in other areas as well. They presented on ethics at the National Association of Criminal Defense Lawyers conference in Seattle, and presented on ethics and other topics at semi-annual conferences of the Washington State Association of Municipal Attorneys.

Precinct Liaison Program:

Like the police, prosecutors over time have come to realize that some public safety and neighborhood livability problems can be better addressed through proactive community oriented problem-solving rather than by traditional "case-by-case" prosecution. The Seattle City Attorney's Precinct Liaison Program currently involves six full-time liaisons covering the five Seattle police precincts and the sixth giving legal advice to SPD in the Vice and Narcotics unit.

Seattle's community prosecution program, like many others, involves a long-term, proactive partnership between the prosecutor's office, law enforcement, public and private organizations, and the community to solve neighborhood problems, improve public safety, and enhance the quality of life of community members. What follows are brief summaries of each precinct liaison attorney's work.

North Precinct:

- Drafted several Good Neighbor Agreements including 35th Street Bistro, Astroid, Pizzeria Picolino, Dollar Plus, Club Fusion, Hamburger Harry's, Lucid Lounge and Mennen Cafe.
- Filed liquor objections for Smoke Plus, Babalu and Dollar Max.
- Worked with SPD and attorneys for the property owner to expeditiously foreclose on and close the "Aurora Mansion" which was an illegal club serving alcohol.
- Worked with Civil Enforcement to seize and auction several vehicles to satisfy a portion of a judgment in favor of the City.
- Regular attendee of meeting and taskforces including North Precinct Advisory Council, Coalition to Prevent Underage Drinking, Graffiti Task Force, and Joint Enforcement Team.
- Worked on motel issues including advice and input on the recent ordinance change, State Health Department issues, and assisted officers in gathering information for reports for potential future action. Advised the Mayor's Officer regarding proposed changes to state law and tenant relocation.

- Assisted property owners with issues ranging from noisy neighbors to DPD violations.
- Drafted protocol to deal with liquor licensing issues such as "How to investigate a Special Occasion Liquor License Application".
- Provided input on suggested changes to City ordinances such as Residential Sellers and Used Goods Dealers.
- Assisted Community Police Team, North Burglary detectives and SPD officers in general on drafting prosecutable incident reports.

South Precinct: The South Precinct has been growing and some areas becoming gentrified. But what is most unique about this precinct is its great diversity more prevalent to the area because of affordable housing. The liaison attorney in this precinct has his work cut out for him with various issues stemming from this growing population and routinely takes care of legal matters such as:

- Worked daily with precinct community police team, patrol officers, and operations lieutenant in response to community or other City agency concerns.
- Provided roll call instructions in drug traffic loitering, terry stops, other patrol intricacies.
- Accompanied various patrol and specialty units (SWAT, ACT etc) on ride along and buy bust operations.
- Drafted and negotiated numerous Good Neighbor Agreements particularly:
- Negotiated GNA with Saigon Pearl in lieu of objecting to renewal of liquor license after numerous assaults and public safety issues.
- Negotiated GNA between Beacon Hill community and Saigon Nice in lieu of objecting to application for new liquor license.
- Worked with area mini-marts and gas station with liquor licenses to improve lighting, surveillance, and public relations.
- Worked with liquor licensees who routinely rent out portions of their establishments for private parties: informed the licensees of their responsibilities and potential negative impact on surrounding community and the potential liabilities they face as liquor licensees.
- Worked with Metro Transit to modify three troublesome bus shelters/stops by removing panels and adding additional lighting that have historically concealed criminal activity and prevented metro customers from using shelters for their intended purpose.

- Worked with SPD and new property owner's attorney to successfully evict owners of local cafe that was catering to illegal gambling.
- Wrote compelling objection letter in opposition to application for liquor license for local cafe that was subject to police on view gambling--application was subsequently withdrawn.
- Routinely worked with Seattle Neighbor Group by facilitating Nuisance Workshops informing community members how to respond to problem residential properties.
- Worked with Fire, JET, and DPD on occupancy and code compliance regarding local businesses and nightlife establishments.
- Met with and facilitated a half day session with Georgetown motel owners, SPD, and community members discussing and providing information pertaining to motel owner responsibilities, health code, criminal and civil liabilities, working with the surrounding community on quality of life issues. Meeting culminated in the Georgetown Motel Trespass Coalition with seven of the eight motels joining the coalition.
- Worked with and collaborated with Animal Control pertaining to dangerous animal complaints.
- Worked with fellow liaison attorney in the East Precinct and the counsel for Seattle Schools drafting and implementing a school wide trespass program.
- Invited to and participated in African American faith-based seminar on domestic violence providing a prosecutor's perspective.
- Attended and continue to attend community business and crime prevention meetings.

East Precinct: This precinct is unique in its demographic also because of the diverse population that resides within its boundaries. It has a thriving nightlife and a number of commercial areas within residential areas making mixed zoning a common thread. The liaison attorney working in this precinct assisted SPD in a wide variety of public safety and legal matters such as:

- Assisted in facilitating positive uses of neighborhood parks such as Flo Ware Park with Flo Ware festivals. Aided in establishing ongoing community events designed to enhance communication between law enforcement, youth, and the community.
- Trained officers and other community prosecutors nationally on a variety of issues such as the use of good neighbor agreements, day labor issues, prosecution of drug traffic loitering, and nightlife issues.

- Facilitated in resolving the neighborhood conflict over a mental health offender who lived in the neighborhood who was causing many nuisance and criminal problems. Through collaboration between the neighbors, the mother of the offender, the City Attorneys, the police, corrections, and the King County Prosecutors office the offender was able to receive alternative housing and supervision.
- Nightclubs – Worked with clubs owners, security, police, the state liquor control board, and other City agencies to develop ongoing collaboration, cooperation, and communication with issues in the East Precinct ranging from malicious harassment, assaults, drugging of drinks, to noise issues.
- Assisted in establishing director's rules for the nightlife noise ordinance.
- Assisted in holding Waid's nightclub responsible for their violation of their Administrative Conditional use permit.
- Worked with many individuals/groups to reduce bias crime and increase comfort in reporting of bias crimes to the police department.
- Assisted in the transition of Garfield high school back to the East Precinct by meeting with interesting parties, assisted in an education campaign via a safety forum and safety flier.
- Assisted in planning a variety of community safety forums and work with community groups and councils to address ongoing public safety concerns and mobilize the community to take positive action.
- Continued to work with the Midtown Center to address ongoing public safety issues.
- Assisted in negotiations between the City, Casa Latina, and the neighboring community to develop a GNA and a smooth transition of Casa Latina to the East Precinct.
- Worked with Key Bank and SPD to reduce crime in the Key Bank parking lot at 24th and Union by utilizing a trespass contract and other improvements keeping CPTED principals in mind.
- Facilitated the ongoing communication between Hidmo and its neighbors by hosting a discussion about ongoing crime in and around their property and by organizing a neighborhood cleanup.

West Precinct: Since the West Precinct includes downtown Seattle, it is the hub of commerce and entertainment. Therefore, ensuring public safety becomes a challenge because various problems occur and need constant attention as addressed by this liaison attorney such as:

- Worked to resolve criminal issues surrounding Level 5 (near Seattle Center) by filing a liquor license renewal objection with the WSLCB after numerous shootings and assaults associated with the club.
- Worked to resolve criminal issues surrounding Vito's (on First Hill) by working with the landlord after a person was shot and killed near the dance floor of the club.
- Removed 3 problem pay phones from the International District at the community's request.
- Assisted in implementing a Downtown hotels trespass program.
- Successfully tried a prolific West Precinct car prowler with 16 prior vehicle prowl convictions. After trial he spent 11 months in jail.
- Revised the City's SODA (Stay Out of Drug Area) maps and gained Municipal Court approval for their usage.
- Assisted in drafting the City's AIA (Alcohol Impact Area) report to the WSLCB.

Southwest Precinct: Like the other precincts, it is also unique in its demographics and includes West Seattle. This precinct has seen a rise in burglaries resulting in stolen goods being sold in pawn shops and used goods stores. What follows is the liaison attorney's active involvement from the legal perspective on a number of issues related to this precinct:

- Created a check-list for use by Revenue and Consumer Affairs and SPD to assist in citing used goods dealers for failing to comply with City law.
- Represented the City in prosecuting citations for business's failure to comply with used goods dealer law.
- Assisted SPD and Revenue and Consumer Affairs in rewriting the used goods law.
- Filed criminal charges against a used goods dealer for failure to comply with the Used Goods and Criminal Codes
- Assisted Revenue and Consumer Affairs in rewriting the Residential Sales Code.
- Objected to the renewal of the 16th Avenue Grocery's liquor license and worked with the community to address the concerns regarding this business.
- Attempted to work with Juan Colorado Mexican Restaurant to resolve the criminal activity occurring there.
- Worked with SPD to meet with numerous mini marts that were selling illegal weapons and drug paraphernalia. Provided these businesses with copies of the code applying to

them. Followed up with each of these businesses to confirm that they were complying with the code.

- Worked with two separate communities on issues involving absentee landlords. Able to resolve those issues to the satisfaction of the community
- Began filing criminal charges out of the precinct.

Vice and Narcotics Unit legal advice:

During most of 2008, the liaison attorney who was assigned to the Vice and Narcotics Unit of SPD litigated many forfeiture matters with favorable outcomes for the Seattle Police Department. These included settlements on real estate forfeitures in amounts of $75,000 and $125,000, and several contested administrative hearings with favorable outcomes.

The total value of currency and property seized by the Narcotics Section was over two million dollars in 2008. The current liaison attorney and the past one also combined their efforts to prevail on an appeal of a forfeiture case that used the felony forfeiture (non-drug) statue. The issue is one of first impression in Washington State. In late 2008, the liaison attorney began litigating drug forfeitures arising from common carrier interdiction, which is a new area of investigation for the Narcotics Section. Additionally, work with the Forfeiture Squad was initiated in order to train other SPD units to use the felony forfeiture statute as a tool to fight gang violence and other major crimes in Seattle.

The attorney also provided advice and assistance to the Vice Unit. She obtained necessary subpoenas to investigate internet prostitution and child sexual exploitation, and she litigated forfeiture cases involving property seized in these cases. She filed all of the criminal complaints for Vice Unit cases and provided support and assistance to the trial attorneys regarding these cases. One of the big cases which had to be coordinated and litigated was the Vice Unit's Sobering Thought cases, which targeted underage drinking and over service in Pioneer Square nightclubs.

Community Court:

Seattle Community Court grew exponentially in 2008, increasing defendant involvement by 25%, adding five new community service sites; two in North, one in East, one in West and one in the South precincts for a total of 16 City-wide. Since the beginning of the program, over 30,000 hours of community service were completed by December 31, 2008. Giving back to the

neighborhoods that have been most impacted by misdemeanor crimes, defendants picked up litter, painted our graffiti, removed invasive plants, cleared public stairways and trails, and assembled survival kits for the homeless and elderly.

Mark Baerwaldt of the Belltown Community Council, who was instrumental in adding to our community service sites has this to say of the program: "Seattle Community Court's community service in Belltown serves two vital purposes, and Belltown is doubly lucky because of it, its streets get cleaned and many people that might otherwise be committing petty crimes are, instead, becoming better neighbors." Rather than relying on lengthy and costly jail sentences, defendants are typically assigned between 16 and 48 hours of community service and are also mandated to make social services linkages individually tailored to address the underlying issues causing their repeated criminal behavior. Failure to comply is punished by swift and certain imposition of short jail terms.

Judge Fred Bonner one of the founding fathers stated: "Community Court has accomplished several goals: ensured a more responsive justice approach for victims and the larger community; encouraged a problem-solving versus a strictly punitive approach; established a certain, swift and sure legal process and; bridged the gap between communities and courts."

Four full-time and two part-time AmeriCorps members, as well as three college interns, have been engaged to support defendants (clients, participants) in meeting their court-ordered community service hours as well as providing resources that can help them overcome barriers to productive lives. The AmeriCorps members and volunteer teams promote defendant accountability as well as positive community engagement. In a purposeful environment of mutual respect, (clients, participants) typical disagreeable attitudes are quickly transformed to enthusiastic, positive and hopeful.

Additionally, over 15 social service organizations have partnered with Community Court to provide resources to participants with issues in their lives that lead to crime, such as homelessness, unemployment and mental health or drug/alcohol problems. Assessed for needs as they opt in to the program, defendants are required by the court to make contact with agencies that can help them.

Seattle Community Court is thus, part of a growing number of courts in the United States and around the world that are using problem solving techniques and restorative justice principles to make a positive difference in their communities. David Dillman the Chief Operating Officer of the Downtown Seattle Association said "The Metropolitan Improvement District (MID), four years ago made the decision to support the Community Court Pilot Project with $40,000 in seed

funding. That initial investment has had a positive outcome for the Downtown as well as the MID. First, it has caused the reduction of potential crime in Downtown and second, the MID has been the recipient of community court individuals who are serving their community service with the MID Ambassadors cleaning up the streets of Downtown Seattle".

Identified at point of entry by an assistant city attorney, defendants are determined eligible by the following criteria and considerations:

- Low-level, non-violent crime
- Not a present risk to public safety
- Defendant has less than three previous Community Court adjudications
- Up front assessment of defendant's appropriateness to the alternate sanctions

Eligible first time offenders are able to enter the Pre-trial Diversion program, where they agree to complete 8 hours of community service in the precinct where they committed their crime, and stay out of trouble for 90 days. Repeat offenders, those with previous criminal histories, appear in Community Court before the judge, who re-inforces the importance of seeking help. The judge also requires them to make prescribed social service linkages and complete community service hours.

There is a very quick turnaround in providing immediate defendant accountability to the community. An offender that is arrested one day may be seen in court the following day. If they agree to enter the program, they often are released from jail the next morning and transported directly to the community service site.

CIVIL DIVISION

The Civil Division has expertise in many specialized areas of law. The City Attorney's office provides prompt, cost-effective and professional legal assistance to City clients without the expense of retaining outside counsel. This policy results in substantial savings to the City's taxpayers, while allowing the City to develop expertise in areas unique to municipal government. In 2008, Civil Division attorneys provided more than 84,000 hours of legal service to the City costing the city approximately $5.8 million. This same level of service in the private sector would cost more than $20 million (assuming a conservative market average hourly rate of $250 per hour). On average, the City's "cost" was less than $70 per hour.

The Civil Division has been under increasing stress recently. The City's budget grew dramatically in the late 1990s, resulting in increased activity and expansion throughout Seattle coupled with increased litigation and increased need for legal guidance, particularly in the areas of land use, contracts, environmental protection and torts. Civil Division lawyers were involved in many aspects of all these projects from drafting the original levies and ordinances to negotiating the transactions, and where necessary, handling construction claims. Highlights from each section follow:

Contracts Section

The Contracts Section provides legal advice and assistance on, and handles litigation associated with the City's capital projects, its property acquisitions and dispositions and other contractual matters. While what follows are the major accomplishments of the Contracts Section in 2008, it should be noted that the Section also handles the constant flow of small and often-routine contract matters that, in many ways, are just as important as large projects in supporting the diverse interests of the City.

Viaduct

The Section provided substantial legal guidance on this major project, including contracting, potential litigation, and project management. The Section has led the Office's attorney team, and serves as the primary legal contact for SDOT. Keeping this project on track has been a significant challenge that has required considerable effort from the City Attorney's Office. After two years of vigorous, difficult, and sometimes contentious negotiations with the State of Washington, the first major agreement between the City and the State for utility relocation work on the central waterfront section of the Viaduct was concluded and approved by the City Council. The State has begun work on this critical preliminary project, which will enable the State to remove the existing Viaduct and will enable the City's utility customers to enjoy uninterrupted service during the lengthy construction project.

Sonics litigation

The Section spearheaded the City's legal efforts to force the Seattle SuperSonics to honor the remaining term of its lease of Key Arena. Just prior to the judge issuing a decision in the case, the parties finalized a settlement that maximized the City's ability to attract a new NBA team to Seattle.

Civic Square

The Section continues to be involved in the development of the former Public Safety Building block by Triad. A major component of the project is the construction of new Civic Square with associated retail on the south 55% of the block. The downturn in the economy has affected this project along with all other commercial construction in the area. The Section is providing ongoing assistance in restructuring the contract with Triad to account for this change in the economy.

Real Property Acquisition and Condemnation Matters

The Section has provided legal representation and advice in real property acquisition and condemnation matters. In the Mercer Corridor Improvement Project, the Section helped SDOT acquire more than 40 parcels of real property valued at more than $60 million. In SPU's South Solid Waste Transfer Station, North Operations Center and Riverside Drive Pump Facility projects, more than $15 million in real property has or will soon be acquired. The Section provides legal advice and condemnation litigation skills in behalf of the Fire Facilities Levy, ProParks Levy and other transportation and utility infrastructure projects, and provided legal advice and drafted documents for client matters involving real property acquisition and disposition, appraisal and environmental analysis. Combined, these projects involve contemplated and completed real estate transactions valued at more than $150 million. The Section has also provided analysis and advice to OIR on proposed legislation regarding changes to condemnation law.

Seattle Storm

The Section worked with the Seattle Center to negotiate and draft a ten year agreement with the Women's Basketball Club of Seattle, ensuring that KeyArena remains the venue for Seattle Storm home games.

Seattle Center Contracts

The Section provided advice and assistance to the Seattle Center as it negotiated a number of contracts necessitated by the Sonics settlement, including an agreement with Aramark for concessions at KeyArena and an agreement with KeyCorp for continued title sponsorship of KeyArena.

Pike Place Market

The Section worked with the Municipal Law Section and the Department of Finance on the levy and associated contract for necessary infrastructure improvements to Seattle's historic and popular Pike Place Market.

Mercer Arena lease to Seattle Opera

The Section was closely involved in the lease of this aging facility to the Seattle Opera. The lease entails an anticipated $40 million capital investment in the facility.

Lake Union Park Redevelopment

The Section has been involved with the ongoing discussions/negotiations surrounding the anticipated occupation of the Lake Union Armory bite by MOHAI. Such discussions/negotiations have included issues surrounding the relocation of MOHAI from its current site as a result of the future SR 520 expansion. This work also has included negotiation/discussion of contracts/leases with the Center for Wooden Boats and the United Indians of All Tribes.

Seattle Monorail Project

For much of the year, the Section negotiated with SMP regarding the possible transfer of its final assets to the City. As part of this effort, the Section needed to analyze significant legal risks in this possible transfer and worked closely with the Finance Department so that the City could make a fully informed decision regarding the City's acceptance of the assets and the attendant risks.

Jail Agreements

The Section provided legal assistance in the City's ongoing negotiations with other public entities regarding the housing of City inmates. Negotiations were reopened with Yakima County regarding extending the City's access to its jail while a final resolution of the City's long term jail needs is formulated. Planning work began for a possible regional jail involving the City and other cities in the central Puget Sound region. Discussions were opened with King County for the possible expansion of the County's jail in Seattle, which could be shared with the City and other regional cities.

Seattle Center Garage Artwork

The Section provided legal advice and documentation for the complex transfer of a major artwork to the City, involving both the artist and the Gates Foundation in multiple capacities.

King Street Station

The Section provided legal advice and documentation concerning the transfer of ownership of King Street Station to the City, involving lengthy and complex negotiations among the City, the State of Washington, and AMTRAK. After securing all necessary rights, the City has begun renovation of the Station.

Nextel Sprint

The Section assisted the Department of Information Technology in finalizing a contract with Sprint Nextel to replace police, fire and other public safety radios. This is the first step in accomplishing the FCC ordered re-banding of the City's 800 MHz public safety radio system.

Seattle Aquarium

The Section has been involved with ongoing discussions to transfer operation of the Aquarium to a nonprofit organization.

Washington Talking Book and Braille Library

The Section has been involved in the negotiation and drafting of documents to convert this library to a condominium. This conversion was negotiated to resolve some long-standing issues with the current lease.

South Recycling and Disposal Station

The Section has been involved in the planning and drafting of the procurement documents for the construction of this new transfer station using the design-build processes authorized by RCW Ch. 39.10.

Seattle Center Parking Lot #2

The Section was involved in negotiating and finalizing the closing documents for the receipt from IRIS (Gates Foundation) of a new parking garage located at the former Parking Lot #2 site for Seattle Center, one of the major considerations of the sale of the Lot #2 site to the Gates Foundation for its main campus.

Civil Enforcement Section

The Civil Enforcement Section is the affirmative litigation and problem-solving arm of the City Attorney's office. The section pursues actions for collection of funds owed to the City and handles a wide range of enforcement duties ranging from civil rights violations to animal control matters.

Collections

Civil Enforcement collection cases resulted in collection of $854,985.94 for a wide variety of debt/obligations owed to the City, including $180,000 for DPD, $167,000 for HSD, $165,000 for City Light and $132,000 for SDOT.

Civil Rights

Successful prosecution and damage recoveries for discrimination victims in cases filed before the Hearing Examiner by Civil Enforcement, including:

- Obtaining $8,000 in damages and $1,000 in civil penalties against a landlord for discrimination where the landlord required his manager to document and provide the landlord data on race, sex, ethnicity, and familial status of prospective tenants to whom the manager showed vacant units. Landlord was also required to hire a property management company to handle rentals and to provide rental records to Seattle Office of Civil Rights for three years.

- Obtaining $5,000 in damages against a landlord for familial status discrimination where the landlord attempted to charge a husband and wife tenants a rent surcharge for their new baby born during the lease period.

Animal Control

Successful defense of and settlement of lawsuit challenging the constitutionality of Seattle Animal Control's animal impound and detention procedures.

Other:

- Successful defense of and settlement of multi-pronged legal challenge to City's Shoreline Street Permit Ordinance.
- Assisted SPD in expanding use of automated traffic camera enforcement to enforce speed limits in school zones.
- Infraction Prosecution Program has continued to improve prosecution of traffic and other infractions in Seattle Municipal Court.
- Assisted DEA and SPU with development of infraction enforcement process and training of investigators to issue infractions.

Employment Section

The City employs over 10,000 employees, most of them represented by unions and protected by civil service laws. The City Attorney's Employment Section advises City departments on legal requirements related to labor and employment law and represents the City in legal disputes relating to employment issues.

Advice

The Section's eight attorneys give day to day legal advice on issues such as disability accommodation, harassment and discrimination complaints, wage and hour laws, labor law, contract requirements, employee discipline, safety, employee classification and leave rights. By advising departments before decisions are made, section attorneys are able to assure that legal standards are met, help give employees the protection to which they are entitled and thereby prevent litigation.

Litigation

When litigation cannot be prevented, section attorneys represent the City in lawsuits, arbitrations, civil service appeals and settlement negotiations. The litigation demands in the section range from complex class actions to hearings into employee misconduct before arbitrators and civil service commissions.

Class Actions

In 2008, Employment Section attorneys defended the City against a putative class action lawsuit. In *Lawson v. City of Seattle,* plaintiffs challenged the timing of regular and overtime payments to City employees. As a result of the section's efforts, class certification was denied and the claims were dismissed. On appeal, the Court of Appeals affirmed most of the lower court's decision, but remanded on the issue of whether any delay in overtime payments to the plaintiffs beyond the second pay period after the work was performed was willful.

State and Federal Cases

The section litigated a number of complex individual suits in state and federal court in 2008. Among those cases are a contract action brought by employees who had to leave the City's Retirement System when management of the Woodland Park Zoo was taken over by a private non-profit corporation; a sexual orientation discrimination lawsuit brought by two employees disciplined for safety violations; a wrongful termination suit brought by a Municipal Court employee terminated for violating rules on handling of employee parking tickets and fines; and a reverse discrimination suit brought by a fire fighter who had been denied a promotion. The section handles all such cases through the discovery, trial and appeal phases.

Civil Service Hearings and Arbitrations

A large part of the section's work involves discipline hearings against City workers, including police officers and others accused of misconduct. These hearings may be held before either the Seattle Civil Service Commission, the Seattle Public Safety Civil Service Commission or, pursuant to a collective bargaining agreement, before an arbitrator. Many hearings are lengthy and complicated because City employees are often entitled to full evidentiary hearings when a City employee is suspended or terminated.

Public Employees Relation Commission

The section's attorneys also spend many hours preparing for and attending hearings before the Public Employee's Relation Commission. That Commission hears challenges to purported changes in wages, hours and working conditions of City employees represented by unions. For example, in 2008 the Section represented the City in challenges brought by unions regarding changes in overtime allotment and the ability of the City attorney to meet with union members regarding pending arbitrations.

Training and Legislative Review

To the extent feasible given litigation demands, section attorneys also provide training to City departments. In 2008, section attorneys developed and provided training on changes in the Family Medical Leave Act, disability accommodation as well as giving updates on recent employment cases. The section attorneys also review ordinances and personnel rules related to labor and employment and advise the Personnel Director on programmatic changes.

Environmental Protection Section

The Environmental Protection Section provides legal advice to all City departments on a wide range of issues, including clean up of contaminated sites, enforcement of the City's storm water and side sewer ordinances, compliance with water quality regulations, wetlands, water rights, and property transactions.

Contribution lawsuits

Attorneys in the Environmental Protection Section have brought two lawsuits to insure that the City does not pay more than its fair share of costs to investigate and clean up contaminated sites in the Lower Duwamish River. One of these was settled in 2008, reducing the City's share of cleanup costs by over $3 Million. The discovery process in the second case is providing substantial evidence that the City's share of clean up costs should be small compared to other parties. The City will potentially save several million dollars as a result of this case.

Enforcement

The City of Seattle is required by law to prohibit discharges of toxic materials into its storm water sewers. Seattle Public Utilities has ramped up inspections to identify illicit connections and other violations of City codes. An attorney in the section worked closely with the inspectors to develop an enforcement protocol, including a set of criteria to assess penalties. The attorney assists the inspectors as they proceed with enforcement and files a case in municipal court if the matter is not resolved by negotiation.

Contaminated sites

Attorneys in the section provide legal advice when contamination is discovered on City-owned property. They help department staff comply with regulations and they advise on the correct steps necessary to preserve the City's ability to recover cleanup costs from other parties. When the City purchases property, attorneys in the section negotiate and draft contractual provisions that protect the City from liability for known and unknown contamination. Their advice has saved the City millions of dollars in cleanup costs.

Land Use Section

Seattle plans and regulates its growth through a comprehensive plan, zoning and other land use regulatory ordinances, including building and construction codes, environmental regulations, and landmarks preservation ordinances. The Land Use Section advises City administrators and elected officials regarding the adoption and implementation of these various regulatory measures, advises and represents City property owners on compliance with these and other regulatory measures and defends in litigation challenges to the City's land use regulatory measures. The section also provides training on land use matters both within the City Attorney's office and for other City employees, and to other municipal attorneys. Highlights of 2008 litigation and projects are as follows:

LITIGATION:

United Here Local 8 v. Seattle

A section attorney successfully defended in Superior Court the Hearing Examiner's decision rejecting appeals of DPD's issuance of a permit for the hotel/residence project for the Alaska Building.

Alley 24 v. Seattle

A section attorney is defending a demand for a $500,000 reimbursement for street repairs necessitated by collapse of street when the applicant made street improvements claimed to be required by permit.

Bumstead v. Seattle

Section attorneys successfully defended in Superior Court DPD's decision denying an exemption from steep slope critical area standards for proposed single family residence in steep slope area. Now on appeal to the Court of Appeals.

City of Seattle v. Tinder

With Civil Enforcement, section attorneys resolved an outstanding ejectment action against property owners encroaching on a City shoreline street end. The case resolved with a payment of $5000 by owners, and an agreement to reconfigure the owner's use of property to allow better public shoreline access.

City of Seattle v. Hugh Sisley

As a result of several adverse judgments obtained against this "frequent flier" land use and housing code violator, the Sisleys paid $64,000 in penalties, demolished 2 unfit houses and are scheduled to demolish 4 more unfit houses.

Conner v. Seattle

Section attorneys successfully defended the Landmark Preservation Board's decision denying certificate of approval to build 3 new residences on the site of the Painted Lady landmark in West Seattle in front of the Hearing Examiner. The Landmarks Board determined denial of certificate would not deny owners reasonable use of the property. The Hearing Examiner affirmed the Board's decision and King County Superior Court affirmed the Hearing Examiner's decision. The case is now on appeal to Court of Appeals.

Frank v. Seattle

Section attorneys settled damages lawsuit arising from an error in City's zoning map.

In re Burien Annexation

A section attorney successfully challenged before the Boundary Review Board, the City of Burien's attempt to annex a portion of the North Highline area in unincorporated King County.

In re Appeal of Aurora Avenue Merchants

A section attorney defended SDOT's issuance of a declaration of non-significance for Aurora Avenue Street improvements before the Hearing Examiner.

In re Bon Marche Stables

A section attorney defended the Landmarks Board's decision on imposition of controls and incentives before the Hearing Examiner.

In re Appeal of Chris Leman

A section attorney successfully defended DPD's issuance of declaration of non-significance for Noise Code amendments before the Hearing Examiner.

In re Appeal of Bill Bradburd

A section attorney successfully defended adequacy of the EIS and DPD's design review decision for the Goodwill/Dearborn street redevelopment project before the Hearing Examiner.

In re Appeal of Kate Martin

A section attorney successfully defended SDOT's issuance of a DNS for Greenwood Avenue North improvements before the Hearing Examiner.

In re Fremont Neighborhood Council

A section attorney successfully defended before the Hearing Examiner, SPU's issuance of a DNS for reconstruction of the Wallingford Neighborhood Transfer station. The case is now on appeal in Superior Court.

Magnolia Neighborhood Planning Council v. Seattle

A section attorney is defending in Superior Court a challenge to the City's passage of a resolution approving application and redevelopment plan for the Ft. Lawton Army Reserve Center.

Maple Leaf Community Council v. DPD

A section attorney successfully defended before the Hearing Examiner, DPD's issuance of DNS and design review decision for Maple Leaf Commons proposal involving redevelopment of the Waldo Hospital site. The case is now on appeal in Superior Court.

McQuarrie v. Seattle (several cases)

Section attorneys are defending the City's actions in Superior Court and before the Shoreline Hearings Board in approving permits for construction of single-family house against neighbor's challenges of noncompliance with SEPA, Shoreline code and critical areas regulations.

Naficy v. Seattle

A section attorney successfully defended a Land Use Petition Act appeal challenging the Hearing Examiner's decision affirming DPD's issuance of a DNS for a 12-story mixed-use building in Pioneer Square.

Ragen v. Seattle

A section attorney successfully defended a LUPA appeal affirming DPD's issuance of a permit for construction of a single family home with servant's quarters on Lake Washington.

Saxman v. Seattle

A section attorney successfully defended a LUPA appeal challenging the Hearing Examiner's decision affirming DPD's decision approving a design review proposal and issuing a DNS for a 6-story mixed use development.

Sheppard v. Seattle

A section attorney successfully defended in Superior Court DPD's issuance of a permit for demolition and construction of single-family home.

Strickland v. Seattle

A section attorney settled a case challenging on first amendment grounds, requirements for a shoreline best management plan, and challenging DPD's fees and process for project review.

PROJECTS:

The Land Use Section provides advice and assistance to the Executive and Council on land use regulatory matters and a number of other subjects. Some of the noteworthy projects of the past year include:

Alaskan Way Viaduct

Section attorneys advised the Mayor and Council regarding street use permitting, land use and real property issues related to the Viaduct project.

Bonus/TDR programs

Section attorneys advised the Executive and Council regarding implementation and amendment of City's various bonus and TDR (transfer of development rights) programs; review and drafting of document for TDR transactions.

Code Drafting Training

Section attorneys completed a series of training programs for Council central staff, DPD, and land use section staff in drafting code amendments, which will result in a code-drafting manual to be used City-wide.

Comprehensive Plan/GMA compliance

Section attorneys advised the Executive and Council regarding adoption of annual amendments to Comprehensive Plan and GMA compliance.

Consolidated Plan

Section attorneys reviewed portions of a new 4-year plan and gave advice to the Executive and Council regarding amendments to plan and compliance with federal requirements.

Environmentally Critical Areas Ordinance

- Section attorneys advised the Executive and Council on implementation and interpretation issues;
- Section attorneys negotiated more than 20 covenants with property owners for development on hazardous sites.

Fees

Section attorneys gave advice to the Executive and Council regarding compliance with legal limits on fees, and review of and advice on annual fee ordinance for DPD and Council.

Ft. Lawton Base Closure

Section attorneys gave advice to the Executive and Council regarding compliance with military base closure regulations for closure and potential acquisition of Ft. Lawton army base holdings.

Housing and Human Services Issues

Section attorneys advised the Executive and Council on miscellaneous low-income and other housing and human services issues, including laws and policies for the use of low-income housing funds; foreclosure prevention; modifications, defaults or other issues with previously funded projects; incentive zoning.

Jail Siting

Section attorneys provided advice regarding compliance with the State Environmental Policy Act and land use code compliance for the jail siting process. Section attorneys also drafted and negotiated interlocal agreements regarding SEPA processes with other cities and King County.

Landmarks

Section attorneys advised the Executive and Council regarding 10-20 landmarks designation ordinances designating properties as landmarks and imposing landmarks controls and providing incentives.

Land Use and Construction-related Code Amendments

Section attorneys provided advice to the Executive and Council involving drafting and review of land use and construction-related code amendments, including the following that were adopted by Council in 2008:

- Adopting an affordable-housing incentive program to be used when bonus residential development is allowed by future Code amendments
- Allowing reuse and recycling of building materials;
- Amending the Sand Point Overlay district, and modifying the uses and development standards applicable to uses in the Sand Point Overlay district;
- Amending the standards for relocation of police and fire stations and allowing relocation of police and fire stations as temporary uses;
- Amending the standards and permitting processes for sidewalk cafes;
- Amending the City's Residential Code to comply with new state Residential Code;
- Amending the City's Residential Code to comply with newly-adopted State Building Code amendments;
- Amending the single-family standards in the land use code to limit the impact of new development on existing homes and the character of single-family neighborhoods;
- Amending the Shoreline provisions of the Land Use Code;
- Amending the Environmental Critical Areas code to designate and regulate Peat Settlement-prone Geologic Hazard Areas;
- Amending the SEPA code to add an additional view-protected public place;
- Adopting interim tree preservation standards;
- Amending the Noise Code to provide better enforcement tools and to provide for a major public project construction variance;
- Amending the City's condominium conversion ordinance consistent with recent state law amendments;
- Amending the City's Building Code to comply with newly adopted State Building Code Amendments
- Amending development regulations and rezoning the Dravus area.

Major Institution Master Planning

Section attorneys provided advice to the Executive and Council on issues related to major institution master plan requirements.

Mercer Corridor Project

Section attorneys provided advice regarding NEPA/SEPA compliance and negotiation of Section-106 agreement for preservation of landmark auto dealerships.

SEPA/NEPA

Section attorneys provide almost daily advice to Executive Departments and the Council regarding compliance with State Environment Protection Act and the National Environment Protection Act for various projects.

Street use and SDOT-related services

Section attorneys provided advice to the Executive and Council, including review and approval of ordinances, and review of real property documents, including the following:

- Amending the Commute Trip Reduction (CTR) code and adopting a revised CTR plan to comply with state regulations;
- Amending the sidewalk café standards;
- Annual street use permits;
- Subdivision and plat approvals;
- Dedications;
- Street vacations;
- Street use fees;
- Skybridge and term permits; and
- Encroachments.

Wawona

Section attorneys prepared agreements and advised the Mayor's office, Parks, and DON on moving and dismantling the vessel.

TRANSACTIONAL WORK:

City Financed low income housing, economic development, and community facilities

Section attorneys advised the Executive and Council, reviewed ordinances, and reviewed or prepared transactional documents for various City financed projects and land sales, primarily low income housing and community development, including:

- Alpha Cine Section 108 loan;
- Chubby & Tubby Section 108 loan;
- Hiawatha – Pontadera (Homesight)
- LIHI Lake City Court financing;
- LIHI North Helpline;
- Puget Sound Neighborhood Health Clinics;

- Samaki Commons;
- First & Cedar—Plymouth Housing;
- Northwest Center Lobby;
- 12th and Jefferson;
- Westake II;
- First Place;
- Operational Emergency Center;
- El Centro de la Raza.

Parks and Bike Trails

Section attorneys provided advice and assistance to the Executive and Council on various issues, including encroachments, acquisition and development issues, and drafting and review of agreements and legislation. Some of projects for the past year include:

Parks Acquisitions

- Agreement and closing with Cornish College of the Arts for a park acquisition in the Denny Triangle
- Agreement with the Seattle School District for acquisition of a portion of a portion of the former Crown Hill school property
- Agreement with Seattle School District for acquisition of a portion of the former Webster school property.

Burke Gilman Trail

- Agreement with Nordic Heritage Museum re: easement for extension of the trail
- Ongoing negotiations with B-Box LLC for easement for extension of the trail.

South Ship Canal Bicycle-Pedestrian Trail

Advice on railroad issues, permit issues, and agreements and easements with adjacent property owners in connection with trail development.

Code Enforcement matters

The Land Use section handles land-use-related enforcement cases for DPD, SDOT, and Parks. Although most cases that achieve compliance and penalties are routine, some require more aggressive and creative action to achieve results. In the more difficult cases, the attorneys seek orders of abatement allowing the City to correct the violation, injunctive relief, or guardianships. In 2008 the Section filed ***104*** enforcement cases, obtained ***$ 861,168.62*** in judgments, collected ***$132,580*** in penalties, and closed ***116*** cases.

Municipal Law Section

The Municipal Law section primarily handles matters that arise from the City's role as a government entity. These include advising on and litigating a myriad of constitutional, election law, ethics and finance issues.

Litigation:

Ford Motor Company v. Seattle and Tacoma (United States Supreme Court)

Section attorneys successfully opposed Ford's *certiorari* petition for review of a Washington Supreme Court decision upholding Seattle's imposition of business and occupation tax on Ford's wholesale sales of vehicles to dealers in the City.

Berger v. City of Seattle (Ninth Circuit Court of Appeals)

Section attorneys briefed and argued, before a Ninth Circuit *en banc* panel, First-Amendment case concerning Seattle Center street-performer rules. Decision pending.

Group Health v. Seattle (Washington Court of Appeals)

Section attorneys helped preserve Seattle's right to impose business and occupation taxes, successfully countering Group Health's claim that the City had forfeited that right under state law because of its alleged miscalculation of interest.

Seattle v. Divest from War Campaign (King County Superior Court)

Section attorneys successfully challenged Initiative 97, which would have mandated that the City divest retirement system funds invested in certain corporations. The Court agreed with the City that the initiative violates Washington law vesting exclusive management authority of pension funds in a City's legislative authority or retirement board.

Vonage v. Seattle (King County Superior Court)

Section attorneys prevailed in a challenge to the City's ability to impose its telephone tax on web-based "Voice-over-Internet Protocol" telephone services.

City of Seattle v. Allan Parmelee (King County Superior Court)

Section attorneys obtained an injunction prohibiting release of personal information about City employees to an imprisoned felon who was using public records requests to harass and intimidate public agencies and their employees throughout the state; helped lobby successfully for legislation designed to prevent prisoners from using the Public Records Act as a tool for harassment while preserving legitimate access to public records.

Other Public-Records Act litigation

Section attorneys successfully defended or negotiated settlements in several other public records lawsuits.

Tax appeals:

Section attorneys represented the City in appeals concerning assessment of state sales/use tax.

Amicus briefing (G-P Gypsum v. State Dept. of Revenue--Washington Supreme Court)

On behalf of the City and Washington Association of Cities, section attorneys drafted an amicus brief supporting the state Department of Revenue's successful petition for review to the State Supreme Court. The case involved the Department's authority to collect, on behalf of many cities, a tax on the use of natural gas. A loss by the Department of Revenue could force Seattle to refund its proceeds from the tax.

Projects:

E-mail archiving

Section attorneys assisted in ongoing development of e-mail archiving and retrieval system to assist in responding to discovery requests and complying with public-records laws.

Firearms

Section attorneys drafted a proposed new policy concerning firearms on City property, as well as multi-department draft administrative rules; advised affected departments.

Encampments

Section attorneys reviewed ordinances and rules regarding unauthorized encampments on City property; advised affected City departments; drafted multi-departmental rules, as well as procedures concerning cleanups of unauthorized encampments.

Tax rules

Section attorneys drafted revised tax rules.

Legislation

Section attorneys advised on, and helped draft, a variety of City legislation, including among others:

- Legislation formulating and adopting the City's 2009 budget.
- Legislation that would, if approved by voters, impose a "green fee" on disposable shopping bags.

Ballot measures:

Section attorneys provided client advice on, and helped develop, levy measures to fund the acquisition and development of parks, open spaces and cultural facilities, and infrastructure improvements at the historic Pike Place Market. Section attorneys drafted ballot titles and explanatory statements for these measures as well.

Other

- Section attorneys represented various boards and commissions, including the Ethics and Elections Commission, the Civil Service Commission, the Public Safety Civil Service Commission, the Human Rights Commission, the Retirement Board, the Library Board, and the Special-Events Committee; assisted commissions in conducting hearings and drafting decisions.
- Section attorneys conducted regular client training in areas including the Public Records Act and the Open Public Meetings Act.
- Section attorneys provided ongoing advice and assistance in all areas of municipal law, including tax, finance, budgeting, ordinance drafting, public records and open meetings, business improvement areas, public development authorities, bonds, constitutional issues, initiatives, and referenda.
- Section attorneys gave advice concerning code-drafting and amendment issues, including those relating to the City's land-use code; assisted with client training.
- Section attorneys managed Seattle Municipal Code revisions to reflect all code amendments enacted by ordinance. Consulted with multiple City departments and other sections of the City Attorney's office to investigate the legislative history of the Code and address possible errors.

Torts Section

The Section opened 120 litigation cases and 22 project files in 2008. The Section also engaged in a wide-ranging advisory practice focused on loss prevention and litigation avoidance.

Personal Injury and Property Damage Litigation

The Torts Section's cases ranged from allegations of catastrophic brain damage to minor sidewalk slip and falls. The section obtained a defense jury verdict without any City payment in *Brevick* (street maintenance automobile crash), and obtained trial court dismissal without any City payment in *Chen* (catastrophic brain damage pedestrian crosswalk accident), *Callan* (auto

collision allegedly due to vegetation in the right-of-way), *Harris* (fallen tree damage to vehicle), *Hamilton* (bicycle crash allegedly on City grate), *Asuncion* (sewer backup), and *Colella-Ullrich* (sidewalk fall).

Advantageous Settlements

The Torts Section achieved advantageous settlements for the City in numerous litigation matters, including *Gallinger* (pedestrian brain damage railroad collision near Mariners Stadium), *Turner* (class action challenging holiday parking ticket procedures), *Ellis* (rear end collision), *Priestly* (sidewalk fall), *Saito* (slip on vault cover), and *Ellingworth* (sidewalk fall) and assisted the Risk Management Division of the Department of Executive Administration in obtaining an advantageous settlement of the *Fleming* claim (residential drowning fatality) without litigation.

Risk Management

The section has provided legal support for risk management activities in operating departments such as the Human Services Department's Case Management Program, Seattle Municipal Court's Probation Services Division, and Seattle Public Utilities. The section's attorneys have also provided legal support regarding a host of other incidents, exposures, programs, and opportunities, including interpretation of the Americans with Disabilities Act so as to maintain access by the disabled public to City buildings and services without litigation. The section's attorneys have provided direct training to operating departments on risk management techniques and approaches.

Appellate Litigation

The Torts Section has engaged in an active appellate practice in 2008. In *Rosengren* the City has argued in the Court of Appeals for the imposition of liability on abutting property owners who plant private trees that damage the public sidewalk and cause pedestrian injuries. In *Wilson* the Court of Appeals affirmed dismissal of a case based on a fall over a maintenance hole in a planting strip.

Workers' Compensation Litigation and Advice

The Torts Section represented the City in workers' compensation litigation before the Board of Industrial Insurance Appeals and in the courts. 39 new worker's compensation cases and 5 workers' compensation projects were opened, a challenge to which the section's workers' compensation attorney and paralegal responded bravely. The section's workers' compensation attorney has also supported the work of the Workers' Compensation Section of the Personnel

Department with legal advice. She also monitors legislative developments affecting the City's workers' compensation programs.

Police Litigation

The Torts Section Director works with outside counsel to manage the City's defense in police professional litigation. 21 police action cases and 5 projects were opened in 2008. The program has had an outstanding year, achieving a jury defense verdict in *Watson* (alleged wrongful arrest and excessive force) and numerous dismissals and advantageous settlements, including *Trottman* (shooting incident involving a 13 year-old) resolved without litigation.

Insurance Coverage Tenders

One of the City's primary risk management tools is additional insured status under insurance policies issued to the City's contractors, concessionaires, vendors and those who hold events on City rights-of-way pursuant to a street use permit. The Section's attorneys aggressively asserted the City's interests in insurance coverage in the face of denial or delay, obtaining an acceptance of the City's defense in a case involving serious decubitus ulcers.

Disaster Planning and Emergency Operations Center Legal Support

Torts Section attorneys provide legal support to the Police Department's Emergency Management Section during the process of drafting and redrafting the City's Disaster Response Plan. The section's attorneys also help staff the City's Emergency Operations Center to provide legal support during emergencies. The increased tempo of disaster tabletop and field exercises has required significant legal work by the section's attorneys.

Paralegal Support

The section's paralegals provided vital support to the attorneys handling cases and projects. The paralegals have worked with sophisticated document management litigation support systems such as Summation. The paralegals have tracked down critically important experts and worked with them so that their favorable opinions are well supported by facts.

Administrative Support

The section's legal assistants provided the absolutely essential document management, word processing, and other administrative support functions for the section. They act as liaison between our attorneys, courts, opposing counsel/paralegals/secretaries, and other City departments, concerning scheduling or the exchange of case and project information. They maintain our litigation calendars and provide quality control. Their work on creating litigation forms is invaluable.

Non-City Litigation Advice

The Torts Section provided review and legal advice to individual City employees and client departments regarding City business-related non-City litigation, trial and deposition subpoenas and required witness appearances, requests for production of documents, public disclosure requests, and other non-City litigation related issues.

Utilities Section

The City of Seattle is unique in that it owns its own water, electricity and drainage utilities. Utilities law is a highly specialized and complex area. Accordingly, the City Attorney's office has specially-trained attorneys who support these complex operations and the resulting litigation issues that arise from them.

Litigation:

Lane v. Seattle ("fire hydrants")

In October 2008, the Washington Supreme Court ruled that (i) the City's increase in an excise tax on SPU in the amount necessary for the General Fund to pay the ongoing costs of fire hydrants was valid, (ii) fire hydrants are a governmental rather than a proprietary utility function, and (iii) the statutory interest of 12% applies to refunds made by SPU to ratepayers, although the refund made by the General Fund to SPU bears interest at 3.18%. A Senior Assistant City attorney argued the case in February 2008.

2000-2001 West Coast Energy Crisis Refunds

Section attorneys provided ongoing representation of Seattle City Light in the appeal of Federal Energy Regulatory Commission's denial of refunds to City Light and others for energy purchases during the energy crisis. City Light's claims currently are in excess of $100,000,000. Section attorneys also provide ongoing representation of City Light in lawsuits filed in state court in California by investor-owned utilities, against City Light and others, seeking refunds on transactions entered into during the energy crisis.

Grand Coulee Project Hydro Authority (GCPHA) Litigation

The City and the City of Tacoma, each of which is responsible for half the contract costs, had disputed the amount of incentive payments due to the GCPHA under identical long-term power purchase contracts covering 2002 through 2005. The parties had engaged in extensive negotiation, arbitration and litigation. In 2008, the matter was resolved with the Washington

State Court of Appeals affirming the trial court's confirmation of the arbitration decision. (Section attorneys argued this case with the help of outside counsel).

BPA

As part of the Regional Dialog process with the Bonneville Power Administration ("BPA"), section attorneys with the help of outside counsel advised City Light with respect to (1) a seventeen year contract with the BPA that will deliver approximately 530 aMW of power to the City, which means on the average, City Light will receive 530 million watts of power, each hour of the year; (2) implementation of a new Tiered Rate Methodology that will establish the costs of power during that contract; and (3) resolution of the Residential Exchange program issues, including overpayments from the years 2002-2007 and the implementation of new rates for 2009-2010. New BPA contracts were executed in November 2008.

Power Supply

Section attorneys advised City Light on power sales transactions and counterparty credit issues, implementation of an Open Access Transmission Tariff and participation in the Northwest Power Pool, including the review of agency agreements utilized for compliance with federally mandated reliability standards.

Solid Waste System

Section attorneys provided advice on Green Fee ordinance, new collection contracts, rate revisions and amendment of the Long Haul contract.

Stormwater Facility Credit Program

Section attorneys provided advice on creation and implementation of program.

South Lake Union (North Downtown)

Section attorneys provide ongoing advice and contract drafting for acquisition of two parcels of property for a new City Light substation; all aspects of the purchase of Greyhound property have been completed and closing is scheduled for March. This includes ongoing advice on the financing of North Downtown network electric service.

East Side Reservoir

Section attorneys provide ongoing advice and assistance in negotiation of the sale of SPU's reservoir to Cascade Water Alliance.

Port of Seattle

Section attorneys provide ongoing advice, negotiation and drafting to resolve Port of Seattle requests for street vacations at Terminal 105 and 18, where SPU has major utility infrastructure.

Alaskan Way Viaduct

Section attorneys advised City Light and SPU on utility relocation necessitated by the Alaskan Way Viaduct project and its related "SR-519 Phase 2" project; contract drafting and negotiation, including completion of the "Phase I Electrical Utility Relocation" Memoranda of Agreement with the State and related legislation, completion of the SR-519 Phase 2 Memoranda with the State, and initial drafts and negotiations regarding the South End Memoranda with the State and related real property issues.

Electric Utility Poles

Section attorneys provide ongoing advice and contract negotiation regarding poles jointly owned by Qwest, City Light and King County, including amendment of the Joint Use Agreement. Section attorneys also provided advice to City Light and negotiation of fees and other terms for rental of space on poles (pole attachments), including "phase 1" revisions to the Master Pole Attachment Agreement.

Bonds

Section attorneys advised City Light and SPU on their respective bond issues, each of which was for over $200,000,000.

Real Property General

Section attorneys assisted with acquisition of two properties for conservation purposes under City Light early action program; negotiating and drafting of easements and other real property documents for various projects for SPU (e.g., Norfolk drainage improvements) and City Light (e.g., East Marginal Way pole relocations). Section attorneys provided ongoing advice on property management problems.

I-405

Section attorneys advised on the relocation and protection of water transmission facilities in order to accommodate State of Washington improvements to the Interstate 405 corridor.

Gas Pipeline Easement

Section attorneys negotiated, drafted and gave advice to SPU regarding grant of an easement for a PSE natural gas pipeline in the Tolt right of way.

ADMINISTRATION DIVISION

The Administration Division provides support to the City Attorney's Office by providing budgeting, accounting, human resource, clerical and Information technology services. The

information technology support staff provides not only routine computer maintenance, but also innovative solutions to reduce costs and increase office efficiency.

Information Technology Efficiencies Achieved:

The City Attorney continued to focus on efforts to achieve greater efficiencies through increased use of electronic information exchanges between Seattle Police, King County Jail and the City Attorney's Office. This reduces processing time, paper waste and the potential for human error inherent with the previous paper intensive system. The new electronic exchanges increased security and paved the way for new tools and applications. One of those new tools allows viewing police reports on-line. Other security measures included data encryption where critical information is stored and when it is moved.

Evolving electronic records retention and litigation needs have required improved, secure methods for storage and retrieval. To address this issue, groundwork was formally initiated for a permanent City-wide application solution to address these needs.

Procedural and administrative process reviews in the Public and Community Safety Division resulted in the expansion of case file retention capacity and refined policies for retaining criminal case files and victim advocacy files in order to meet Washington State Records Retention rules.

Interns and Volunteer Programs:

The City Attorney's Office actively recruits interns, externs and others to assist staff with legal research, case preparation, victim advocacy, and a wide range of administrative and record keeping tasks. The volunteer program provides citizens with a first-hand opportunity to expand their knowledge of the criminal justice system as well as providing law school students valuable "real world" legal research and trial experience. During the year, the number of volunteers assisting the Public and Community Safety Division staff increased from an average of eight to 23 per month, including three attorneys who volunteered their time and talents. The Civil Division provided intern opportunities to 13 legal interns.

Public Disclosure Request Responses:

The Administration Division coordinated response to 110 public disclosure requests sent specifically to the City Attorney's Office during 2008. In addition, Assistant City Attorneys provided compliance training and legal advice regarding public disclosure requests to staff from other City Departments, the Mayor's Office and the City Council.

Emergency Preparedness:

All staff participated in emergency evacuation training exercises as well as "Drop Cover and Hold" drills related to the City's earthquake preparedness initiatives. Twenty Law Department employees received CPR training in 2008. In addition, the major responders in the City Attorney's office also did the extensive training at the new EOC headquarters in 2008.

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