



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Staff Report

June 15, 2010

**Honorable Mayor and
Members of the City Council**

**Title: Report Back on Legal Authority For City Attorney To Prosecute State Law
Misdemeanors Committed Within the City**

Location/Council District: Citywide

Recommendation: None.

Contact: Eileen M. Teichert, City Attorney, (916) 808-5346

Presenters: Eileen M. Teichert, City Attorney

Department: City Attorney's Office

Division: N/A

Organization No: 03001011

Description/Analysis:

Issue: On May 25, 2010, Councilmember Kevin McCarty requested a report back from the City Attorney on what options the City has to obtain legal authority to prosecute state law misdemeanors committed within the City. He further requested that the Chief of Police be available to weigh in on the issue.

Policy Considerations: This report is for information only, and does not consider the implications of prospective action by the City Council.

Environmental Considerations: This action is not subject to the California Environmental Quality Act (CEQA) because it does not constitute a "project" as defined in section 15378 of the CEQA guidelines, and is otherwise exempt pursuant to section 15061(b)(3) (no significant effect on the environment) of the CEQA Guidelines.

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Sustainability Considerations: N/A.

Other: N/A.

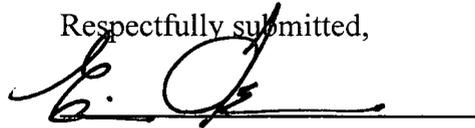
Commission/Committee Action: N/A.

Rationale for Recommendation: N/A.

Financial Considerations: N/A.

Emerging Small Business Development (ESBD): N/A.

Respectfully submitted,



EILEEN M. TEICHERT

City Attorney

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Attachment 1

BACKGROUND

On May 25, 2010, Councilmember Kevin McCarty requested a report back from the City Attorney on what options the City has to obtain legal authority to prosecute state law misdemeanors committed within the City. He further requested that the Chief of Police be available to weigh in on the issue.

GENERAL CITY ATTORNEY ROLE AND DUTIES

Generally, a city attorney's primary duties are to act as the legal advisor to the city and to bring and defend civil actions on behalf of the city. Additionally, a city attorney may prosecute misdemeanor criminal cases which arise within the city under a variety of circumstances. For example, the violation of a city ordinance may constitute a misdemeanor which the city attorney may be required to prosecute on behalf of the city. Also, although a district attorney generally prosecutes state misdemeanors wherever committed within the county (Gov. Code § 26500), a city attorney may prosecute state misdemeanors committed in the city if the district attorney consents. (Gov. Code § 41803.5.) In a charter city, the charter may designate the city attorney as the "city prosecutor," having the primary duty to prosecute all state misdemeanors committed within the city. (Gov. Code § 72193.) Accordingly, a city attorney, particularly in a charter city which has a designated city prosecutor, may have extensive misdemeanor prosecutorial duties similar to those of a district attorney.

SACRAMENTO

From 1921 to 1963 the City Charter included the office of City Prosecutor. In 1962, the City Council submitted a charter amendment to the voters. The amendment stated, "[a]t the present time the City Attorney's Office prosecutes all misdemeanors in the Municipal Court and it is proposed to transfer and merge these duties with the District Attorney's Office..." (Proposition A "Eliminate Office Of City Prosecutor.") The amendment to eliminate the City Prosecutor and transfer the misdemeanor prosecutions to the Sacramento County District Attorney (hereinafter referred to as the "District Attorney") was approved by the voters at the November 6, 1962 election. It went into effect on July 1, 1963.

From 1963 to 2000 the District Attorney prosecuted all state law misdemeanors and City code misdemeanors and infractions committed within the City. However, on February 5, 2001, pursuant to City Council direction, the Office of the City Attorney recovered the authority to prosecute City code misdemeanor and infraction violations pursuant to Government Code section 36900 (a). Consent of the District Attorney was no longer required for prosecution of City code violations. Since 2001 to the present the City Attorney has been prosecuting City code crimes while the District Attorney continues to prosecute all state law misdemeanors committed within the City.

AUTHORITY TO PROSECUTE STATE LAW MISDEMEANORS

The prosecution of state misdemeanor offenses is assigned generally to the district attorney of each county. However, under current California law city attorneys may also be authorized to prosecute such offenses within their respective cities by either: 1) district attorney consent or 2) express charter language.

A. District Attorney Consent

Government Code section 41803.5(a), applicable to both general law and charter cities, provides:

With the consent of the district attorney of the county, the city attorney of any general law city or chartered city within the county may prosecute any misdemeanor committed within the city arising out of violation of state law. . . .

Under this section the District Attorney can easily provide consent to the City Attorney to prosecute state law misdemeanors committed within the City of Sacramento. Nothing more than City Council direction and District Attorney consent is required for the City Attorney to lawfully commence state law misdemeanor prosecutions. The key issue is whether the political and policy interests of the District Attorney support the decision to transfer her existing authority over state law misdemeanor prosecutions in the City to the City Attorney. That issue, as well as whether the City should devote resources to fund a misdemeanor criminal unit in the Office of the City Attorney, fall outside the scope of this report.

Several cities in California, including Oakland, have requested and received consent from its district attorney to prosecute state law misdemeanors. The Oakland City Attorney, with the consent of the Alameda County District Attorney, prosecutes “quality of life” or lower level state law misdemeanors, with the District Attorney continuing to prosecute the more serious misdemeanors committed within the City of Oakland. The partnership and collaboration between the two law offices has allowed each to provide more effective and efficient services to its residents. However, the majority of cities that prosecute state law misdemeanors do so pursuant to their charter authority, not district attorney consent.

B. Charter Amendment

If the district attorney refuses to provide consent, state law provides charter cities with an alternative.

Government Code section 72193, applicable only to charter cities, states:

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Whenever the charter of any city . . . creates the office of city prosecutor . . . and charges such prosecutor with the duty, when authorized by law, of prosecuting misdemeanor offenses arising out of violations of state laws . . . (a) [t]he city prosecutor shall prosecute all such misdemeanors committed within the city, and handle all appeals arising from it

When the provisions of section 72193 are implemented by a charter city, the city attorney has the primary duty of prosecuting state misdemeanors within the city, with the district attorney acting in a subsidiary or "backup" role. (See Menveg v. Municipal Court (1964) 226 Cal.App.2d 569, 571-572.) This "backup" role may be viewed as analogous to the role of the Attorney General in cases where for some reason a district attorney is unable to prosecute an offense or where there has been a breakdown in the law within the county. (See 79 Ops. Cal. Atty. Gen. 221, 223 (Cal. AG 1996))

Accordingly, the City Council may submit an amendment to the voters asking them to amend the City charter to require the City Attorney to prosecute state law misdemeanors and, thereby, recovering the prosecutorial duties the City Attorney transferred to the District Attorney in the charter amendment (Proposition A) of 1962. With voter approval, the City Attorney will, once again, be authorized to prosecute state law misdemeanors committed within the City, notwithstanding an absence of consent from the District Attorney.

Fourteen California cities have been identified that, pursuant to their charters, authorize and require their city attorneys to prosecute state law misdemeanors. (See Attachment 2.)

C. State Legislation

A third alternative is to lobby the state legislature to authorize the City Attorney to prosecute state law misdemeanors committed within the City of Sacramento. While no city has been identified that has made such a request, and no city has received such authorizing state legislation, that does not mean such legislation is not possible.

Specific state law authorization for designated city attorneys to prosecute enumerated civil and criminal statutes is becoming common. The most recent example is the authority this office received in 2010 to evict tenants arrested for drug violations. The Sacramento City Attorney is one of five city attorneys in the state (the others are Los Angeles, Oakland, San Diego and Long Beach) authorized to prosecute under this civil statute. (Civil Code section 3486.)

Before 2010, only the city attorneys from Los Angeles, Oakland, San Diego and Long Beach had the above mentioned drug eviction authority. However, as a result of the competence and ability this office demonstrated in prosecuting gun eviction cases (Civil Code section 3485), from 2008 to the present, the state legislature found it appropriate to include the Sacramento City Attorney in the list of five city attorneys authorized to prosecute drug evictions.

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Another example of specified city attorneys prosecuting state laws is the City of San Jose's authority for its city attorney to prosecute unlawful business practices. (Cal. Bus.&Prof. Code section 17200 et seq.) There existing law had provided authority for any district attorney or the Attorney General to prosecute unlawful business practices. With respect to city attorneys, only city attorneys of a city having a population in excess of 750,000 were allowed to prosecute under this statute. In 1988 state legislation was adopted that authorized the city attorney of the City of San Jose to prosecute unlawful business practices, notwithstanding the city's inability to comply with the 750,000 population threshold. The legislature found unique circumstances that warranted the exception for the City of San Jose. More specifically, it stated that "...because the office of the City Attorney of San Jose has demonstrated its competence, the enforcement of the laws relating to unfair competition will be enhanced by this act." (Cal.Bus.&Prof. Code section 17204.5, legislative findings SEC. 3.)

Clearly, the state legislature has the power and authority to specify the prosecutors that will enforce state laws. The pivotal issue is not whether the legislature has the power to authorize the City Attorney of Sacramento to prosecute state laws, but whether the political and policy interests of the state, District Attorney and City support such a delegation of authority. This issue also falls outside the scope of this report.

HISTORY OF DISTRICT ATTORNEY BUDGET CUTS

Through no fault of her own, the Sacramento County District Attorney has faced budget cuts throughout her tenure that have threatened prosecutions of misdemeanor crimes committed in the City of Sacramento and throughout the County. For example, in 2003, the District Attorney's budget was facing a six million dollar reduction. At that time, the District Attorney wrote our former mayor and city staff to inform them that she would not be reviewing officer-involved shootings nor handling any misdemeanor drug offenses. (See Attachment 3.) She identified misdemeanor crimes she would review for filing along with crimes that she would not review (e.g., vandalism, graffiti, petty theft, etc.) This meant that despite a thorough investigation, arrest, and diligent follow up by Sacramento Police Department officers, the District Attorney would not even review or consider a good case that did not fall within the designated list of misdemeanors that she would consider.

In 2009, the District Attorney again faced substantial budget cuts. The result was very much the same as in 2003, where the District Attorney again identified misdemeanor crimes that she would not review for filing. (See Attachment 4.)

Unfortunately, the District Attorney is currently being threatened with far larger cuts to her 2010/2011 budget than before. She has made it clear to the public, and to county and city elected officials, that if the proposed budget cuts are imposed the impact to her office will be devastating and that the prosecution of misdemeanor crimes committed within cities will be

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severely impacted. What the specific budget cuts will be or what misdemeanor crimes will not be prosecuted remains unknown.

The history of threatened and actual budget cuts to the District Attorney's Office has undoubtedly impacted the public safety and the quality of life of City residents. In all aspects of public safety the City Council ordinarily has control over the department budgets and is able to increase or decrease resources where it sees fit. That is not the case with criminal prosecutions, where the City Council has no control. The District Attorney exclusively controls which crimes will be prosecuted and which crimes will be ignored in Sacramento neighborhoods. Consequently, training, hiring and funding the much needed additional Sacramento police officers may not have the intended effect of making the City of Sacramento safer, if criminals are aware misdemeanor crimes will not be prosecuted.

CURRENT MISDEMEANOR PROSECUTION STATISTICS

In 2009, the District Attorney's Office received approximately 8,800 misdemeanor cases from the Sacramento Police Department (hereinafter referred to as "SPD.") Of those, approximately 5,500 were filed (62.1% of those referred) and 3,300 rejected. According to the District Attorney's figures, SPD misdemeanor cases make up 38% of all misdemeanors they process within the county. These figures do not include juvenile suspects.

In 2009, according to SPD statistics the following were the most reported misdemeanor crimes committed within the City (excluding Penal Code section 647(f) – drunk in public):

1. Driving Under the Influence (23152 VC)	1,730
2. Petty Theft (484 PC)	984
3. Possession of a Narcotics Pipe (11364 HS)	730
4. Battery on Spouse (243 PC)	590
5. Possession of Marijuana (11357b HS)	591
6. Battery (242 PC)	274
7. Resist Officer Arrest (148 PC)	245

CALIFORNIA CHARTER CITIES PROSECUTING STATE MISDEMEANOR VIOLATIONS

For several decades charter cities in southern California, through their city attorneys, have prosecuted state law misdemeanors. Relevant statistics related to three of the fourteen cities are provided below.

Los Angeles

The City of Los Angeles has been prosecuting state law misdemeanors since 1925. They process approximately 100,000 cases per year. Their city attorney's office files approximately 80% of the misdemeanors referred to it by the Los Angeles Police Department.

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Los Angeles, similar to other cities we have contacted, stressed the ability to better serve the community by concentrating on those crimes that are most important to their constituents: those violations that are often referred to as “quality of life” crimes.

San Diego

The City of San Diego has been prosecuting state law misdemeanors since 1953. They process approximately 35,000 misdemeanor cases per year. Their city attorney’s office files approximately 80% of the misdemeanors referred to it by the San Diego Police Department.

Anaheim

The City of Anaheim has been prosecuting state law misdemeanors since 1964. They process approximately 12,000 misdemeanor cases per year. Their city attorney’s office files approximately 90% of the misdemeanors referred to it by the Anaheim Police Department.

COSTS

It is difficult to project the number of state law misdemeanors that will be committed within the City in the next fiscal year. However, from the historical data extracted from the SPD and the District Attorney the range is projected to be 8,800 to 12,500 referrals for prosecution of state law misdemeanors committed within the City.

For information purposes only, the following is an estimate of the resources and annual costs required for the City Attorney’s Office to ethically and competently prosecute state law misdemeanors should the City Council decide to proceed with seeking authority for the City Attorney to prosecute these quality of life crimes.

To process and prosecute approximately 8,800 to 12,500 misdemeanors per year the City Attorney estimates that she will need to add the following resources to her current staff and office:

- Eight (8) Attorneys.
- Ten (10) Support Staff Members (e.g. investigators, legal secretaries and legal staff assistants).
- A reserve budget to pay for start up costs (e.g., supplies and computers), drug lab costs, expert costs, and subpoena costs.

A total of approximately 18 new staff members added to the City Attorney’s Office.

The first year cost for these additional resources is projected to be approximately \$2 million dollars.

REVENUE SOURCES

Various property business improvement districts (PBIDs) have, in the past, contributed private money to fund community prosecutors. The most recent example is the funding of the downtown prosecutor (Deputy District Attorney Susan Nelsen) by the Downtown Partnership (\$80,000), Regional Transit (\$25,000) and the City (\$35,000). With the transfer of those duties to the City Attorney and with the consent of the Downtown Partnership and RT, these private contributions could be reallocated to fund the community prosecutors in the City Attorney's Office.

The City also presently contributes over \$100,000.00 per year to the DA's office to pay for administrative work to process the City's traffic citations. This money would be reallocated to the City Attorney's Office to offset the costs.

Enforcement activities generate fines and penalties that are recoverable in the form of revenue for law enforcement agencies, including the prosecutor's office. For example, successful prosecutions of driving while under the influence of drugs or alcohol generates revenue in the form of base fines.

There are also a number of federal and state grants that the City could apply for that would fund one or more community prosecutors inside the City.

Finally, the current property tax allocation between the county and the City could be revisited to explore new shares and allocation based on new assumptions and work product. This would be a major undertaking that would involve multiple reviews by city and county departments. It is mentioned only as a possible source of new revenue, not necessarily a likely source.

In summary, due to the City's lack of access to County and Court data on prosecution-related revenues and fines, the uncertainty of grant awards, and other variables, it is difficult to project revenues and cost savings derived from City Attorney state misdemeanor prosecutions. It would be speculative to identify a specific number to offset the estimated costs. However, staff is confident in projecting that there will be new revenue in the form of fines, penalties, victim restitution administrative fees, property business improvement district (PBID) contributions, and possibly grant money to help balance the estimated costs of the additional resources that will be necessary to prosecute all the City's misdemeanors.

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Attachment 2

CHARTER CITIES WITH AUTHORITY TO PROSECUTE
STATE LAW MISDEMEANORS

Anaheim

San Bernardino

Burbank

San Diego

Chula Vista

Santa Ana

Culver City

Santa Barbara

Huntington Beach

Santa Monica

Long Beach

Los Angeles

Newport Beach

Pasadena

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June 15, 2010

Attachment 3

04/24/2003 15:30 FAX 916 874 5340

SACRAMENTO CO D.A.

@002



OFFICE OF THE
DISTRICT ATTORNEY
SACRAMENTO COUNTY

JAN SCULLY
District Attorney

CYNTHIA G. BESEMER
Chief Deputy

April 24, 2003

Heather Fargo
Mayor
915 - I Street
Sacramento, CA 95814

Robert Thomas
City Manager
915 - I Street
Sacramento, CA 95814

Albert Najera
Chief of Police
5770 Freeport Boulevard, Suite 100
Sacramento, CA 95822

Dear Mayor Fargo, Mr. Thomas and Chief Najera:

This past February, the County Executive's Office established a recommended base budget allocation for my office for Fiscal Year 03/04. That allocation was approximately \$6 million less than needed to maintain a "status quo" budget for my operations. In order to balance my budget, therefore, it will be necessary for me to make programmatic cuts to our operations, reduce personnel and restructure the office. For you, these cut backs mean a reduction in the types of cases we will file and service we provide.

Beginning July 1, 2003, my office will only review the following misdemeanor cases:

- Vehicular manslaughters
- Driving under the influence
- Child/Elder/Dependent Adult abuse
- Domestic violence
- Sex offenses against adults and children

Beginning July 1, 2003, my office will no longer review officer-involved shootings nor send our criminal investigators to those shooting scenes. Criminalists from my Crime Laboratory will not respond to crime scenes. Because my office will not handle misdemeanor drug offenses, my Crime Lab will not analyze samples for these drug offenses, including violations of Health & Safety Code section 11550 (being under the influence of controlled substances).

To announce the above reductions in our operations is, to say the least, troubling and disappointing. At a time when the many law enforcement agencies we serve will not be reducing any enforcement efforts, it is disastrous that my office will not have adequate resources to meet your agency's needs. This is particularly true for misdemeanor offenses.

P.O. Box 749 • 901 G Street • Sacramento, California 95812-0749

(916) 874-6218

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04/24/2003 15:30 FAX 916 874 6340

SACRAMENTO CO D.A.

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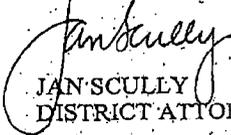
During the time my budget is insufficient to support the prosecution of all misdemeanor offenses, I am willing to temporarily deputize attorneys in your City Attorney's Office to prosecute those state code misdemeanor offenses that occur in your jurisdiction that we will be unable to handle. If you are interested in this limited and temporary prosecutorial authority, we can discuss the matter further.

Although it is possible that my budget allocation will change during the Board of Supervisors final budget hearings in June, I cannot wait until that time to bring my expenditures in line with the 03/04 proposed budget.

On Wednesday, April 30, 2003, at 3:30 p.m., I will be presenting to the Board of Supervisors the consequences of the reduced allocation of general funding to my office and to the citizens of Sacramento. Obviously, it is my hope that the Board will recognize the risks to public safety created by their cuts to my budget and find additional money to restore these necessary functions. Any support for our programs you can offer would be greatly appreciated.

I am greatly disappointed that it is necessary to take the steps outlined above but, at this time, I have no other viable options. If you have any questions or would like to discuss this matter further, don't hesitate to contact Chief Deputy Cindy Besemer or me at 874-6555.

Sincerely,

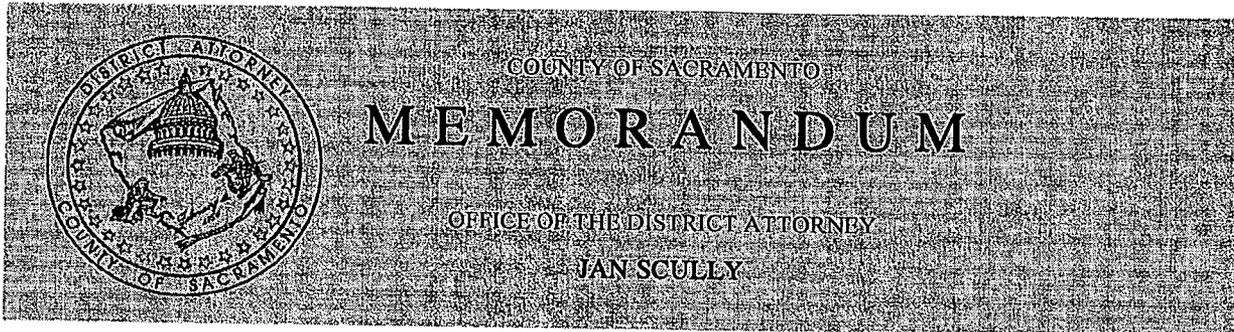

JAN SCULLY
DISTRICT ATTORNEY

JS:gf

cc: Sam Jackson

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Attachment 4



DATE: April 22, 2009

TO: Nav Gill, COO
Linda Foster-Hall, CBO

FROM: Jan Scully
District Attorney

SUBJECT: Budget Impact Statement

In many ways, the District Attorney's Office operates as a "hub" for the criminal justice system. When we tell agencies what evidence is necessary to file a case, it affects the work they do on each investigation and arrest. When those cases are filed, the Public Defender's Office is most often appointed, so it is affected by the number of and types of cases filed. The Conflict Criminal Defenders Office is affected every time the Public Defender cannot accept a case. The courts are, in turn, impacted by the volume and type of cases because they must hold hearings/trials to resolve these cases. The Sheriff's correctional facilities are impacted because inmates either spend more time in custody and/or must be released early if space is not available. Therefore, impacts to the DA's Office will have a ripple effect on other city, county, state, and federal agencies.

This office receives cases from 43 law enforcement agencies. Last year these agencies brought approximately **52,000** adult and juvenile cases for review and the DA's Office filed approximately **35,000**.¹ Consequently, our operational decisions mandated by this loss of funding will necessarily impact the operations of the following:

¹ Cases filed at Carol Miller Justice Center not included.

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- Every law enforcement agency in this county [city, county, state & some federal]
- Public Defender's Office [PD]
- Conflict Criminal Defenders Office [CCD]
- Sacramento County Superior Court
- Sheriff's Main Jail and Rio Cosumnes Correctional Center

Delays in filing and resolving cases will also impact the rights of victims established by the Victims Bill of Rights enacted in November 2008, one of which is the right to speedy trials. In addition, victims will receive a reduced level of assistance from DA victim advocates – assistance they need in their recovery from crimes of violence.

In March 2009, the District Attorney's Office requested a general fund allocation of approximately \$57 million² to maintain a status quo operation for FY 09/10. That figure includes the loss of Prop 172 funds and increased costs for COLAs [4%]³, step increases, and benefit costs. For 08/09, the office received a general fund allocation of \$47 million.

The County now proposes to provide a general fund allocation in the approximate amount of \$37 million. This figure represents a total reduction of approximately \$20 million in general fund monies to maintain the current level of operations. Stated as a percentage, the budget proposed by the County Executive's Office for the DA's Office represents a **35% reduction** in operating funds.

In a "Doomsday" scenario of a 35% cut, the DA's Office, of necessity, will be forced to focus our remaining resources on felonies involving violence and crimes for which there is a special stream of funding, e.g. traffic citations, crimes committed in state prisons,

² All numbers rounded to nearest million.

³ The number we were told to use by the County Executive's Office.

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auto insurance fraud, and workers compensation insurance fraud. We will be forced to:⁴

- **Only prosecute** the following misdemeanors: driving under the influence of alcohol or drugs [DUI], misdemeanor vehicle manslaughter, misdemeanor elder abuse, misdemeanor child molest, misdemeanor sexual battery, misdemeanor child pornography, and indecent exposure. We will consider filing 148s [resisting arrest], misdemeanor vehicle theft, misdemeanor offenses involving guns, misdemeanor child abuse, and misdemeanor domestic violence on a case-by-case analysis based on revised filing standards. **All other misdemeanor cases would not be filed nor would we accept them for review.** [approximately 12,000 cases or 59% of all misdemeanors filed in 2008]
- Eliminate the Child Abduction Unit [children taken by a non-custodial parent or relative in violation of custody orders] [approx. 1,623 cases, investigations, and calls for assistance]
- Require more investigative work to be performed by law enforcement agencies in felony cases caused by loss of DA criminal investigators [10,845 felony cases]
- Reduction of criminalists at Crime Lab resulting in increased number of court hearings and delays in resolution of cases and increased costs for PD, CCD, and Sheriff's correctional operations.
- No officer-involved shooting investigations or jail death investigations
- No political corruption or public integrity investigations
- No dedicated prosecutor for sex offenders failing to register or for stalking cases
- Reduced number of prosecutors in following units: Homicides, Domestic Violence, Adult Sexual Assault, Special Assault [elders and children], and Gangs
- Elimination of TARGET Team which focuses on illegal gun possession by gang members, parolees, and other high risk offenders
- Significant reduction in Career Criminal Prosecution Program [serial robberies and/or burglaries]
- Significant reduction in prosecution of grand theft and major fraud cases

⁴ All references to case numbers are based on 2008 stats.

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- Eliminate participation in Prop 36 Court [no accountability for drug offenders] [700 cases]
- No Community Prosecution operations other than those funded by cities. As examples of work which will not be done, this unit in the last 12 months has had these projects: housing of multiple [30+] sex offender parolees in single family dwellings; nuisance houses and apartment complexes with Code Enforcement and Problem Oriented Police officers; prostitution on Watt Avenue; gang houses; and motels which fail to pay Transient Occupancy Tax
- Juvenile case prosecutions significantly reduced
- Elimination of all juvenile crime prevention programs:
 - Gun Violence Information for Teens [GIFT] – education program for 8th graders regarding gun violence
 - CHOICES – GIFT program for 5th graders
 - Driving It Home – education for teens about consequences of excess speed/reckless driving [11,846 students at 213 presentations in last 12 months]
 - Operation Success – meet w/parents of Will C. Wood middle school students about consequences of truancy [
 - Gang Awareness – presentations to students & parents
 - Youth Academy [McClatchy & Burbank High Schools]
 - Student Attendance Review Boards [SARB] – no annual truancy sweep, 150 cases filed against parents for not sending kids to schools, 483 DA warning letters to parents re truant children

We will monitor the number of cases handled by deputies to ensure that we meet our ethical responsibilities and comply with constitutional mandates for the rights of defendants and victims and that we do so within the statutory time frames. Unlike the Public Defender, we cannot declare an overload situation. Therefore, when cases involving violence are presented by law enforcement and the charges can be proved, we will file the cases. If we reach a point where high caseloads make it impossible for my attorneys to meet their ethical and constitutional mandates, I will be forced to bring back attorneys who have been laid off to ensure we meet those mandates. If my office exceeds or it appears we will exceed our spending authority before June 30, 2010, we will come back to the Board at mid-year budget discussions for additional appropriations.

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I recognize the dramatic impact these cuts will have on public safety for every citizen of this county if I am forced to reduce my operations by 35%. But the County has left me no other options. Unfortunately, I do not expect the criminals to make the same reductions.

cc: Karyl Marsh