



# City of Sacramento City Council

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**Meeting Date:** 12/14/2010

**Report Type:** Staff/Discussion

**Title:** City Attorney's Annual Report for Fiscal Years 2008-2009 and 2009-2010

**Report ID:** 2010-00058

**Location:** Citywide

**Recommendation:** Receive and file the Annual Report and provide direction to the City Attorney.

**Contact:** Eileen Teichert, City Attorney, (916) 808-5346, Office of the City Attorney

**Presenter:** Eileen Teichert, City Attorney, (916) 808-5346, Office of the City Attorney

**Department:** City Attorney

**Division:** City Attorney

**Dept ID:** 03001011

<p><b>Attachments:</b></p> <p>1-Description/Analysis 1-Background 3-2008-2010 CAO Annual Report</p>	<p><b>City Attorney Review</b> Approved as to Form</p> <p>Eileen M. Teichert 12/9/2010 11:39:12 AM</p>

## Approvals/Acknowledgements

City Attorney: Eileen M. Teichert 12/9/2010 11:39:12 AM



## **BACKGROUND**

The Sacramento City Attorney's Office is a full service municipal law office providing a wide variety of services to its client, the City of Sacramento. This annual report reflects the work performed by the City Attorney's Office during the fiscal years 2008-2009 and 2009-2010.

Eileen Teichert was appointed by the City Council and took office in January 2006. Her vision for the City Attorney's office is reflected in our office organization which provides for specialized roles for attorneys to improve on client confidence and responsiveness, a defined commitment to the client through specific attorney-client relationships with each department, and a format for the annual report that focuses on the accomplishments of the City Attorney's Office in relationship to the City's goals as well as the goals of the City Attorney's Office.

The annual report contains a detailed analysis of the performance of each of our operating sections, and a discussion of administrative activities during the past two years. For each section we report significant accomplishments, statistical information regarding workload, and comparisons with past performance. The Transactional/Advisory section regularly provides advice to City departments and specializes in land use related work, along with ordinance drafting, negotiating and drafting contracts and municipal finance projects. Our Neighborhood Safety and Nuisance Abatement section (NSNA), continues to handle administrative enforcement, civil litigation and social nuisance cases including the most significant cases through the Justice for Neighbors program. The Litigation section performs a vital function the City defending the City against the hundred or more new litigation cases filed against the City each year.



## Description/Analysis

**Issue:** The attached report, which covers Fiscal Year 2008-2009 and Fiscal Year 2009-2010, is the fourteenth annual report produced by the City Attorney's Office (CAO). Our report provides an overview of the CAO, discusses significant activities, and sets forth a number of facts, figures and comparisons to prior years' performance by the City Attorney's Office. The annual report reflects the CAO's efforts to provide quality legal services zealously and ethically while responding to the City's ever increasing demands for legal counsel.

**Policy Considerations:** This report is consistent with the City's policy of measuring performance and requiring accountability of all City departments.

**Environmental Considerations:** CEQA does not apply where the matter before the Council does not constitute a CEQA "project." A report of this nature does not qualify as a CEQA project inasmuch as it can have no conceivable effect upon the environment.

**Commission/Committee Action:** N/A

**Rationale for Recommendation:** This report provides information and recommends the council provide direction if necessary.

**Financial Considerations:** This report does not currently have a financial impact on the City's budget.

**Emerging Small Business Development (ESBD):** There is no discretionary expenditure involved in this report; consequently ESBD policies and procedures are not applicable.



# SACRAMENTO CITY ATTORNEY'S OFFICE



Annual Report  
Fiscal Years  
2008-2009  
2009-2010



## City Attorney's Message

Fiscal years 2008-2009 and 2009-2010 were truly a time of uncertainty, arguably the most challenging two years the City of Sacramento has faced in decades. With the near collapse of global financial markets, unprecedented government bailouts, record numbers of property foreclosures, and political turmoil at home and abroad, both the world and the City have changed forever, and the City Attorney's Office has adapted to that change. This Annual Report (actually a "Biennial Report") describes the legal activities of the City Attorney's Office during these two eventful years.

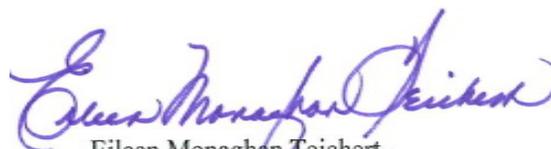
The scope of our legal practice has expanded dramatically to cover a diverse array of complex legal issues—including some that, to my knowledge, have never before been addressed or litigated by municipal lawyers in California. Many of these issues related to the record number of local initiatives filed with the City or placed on the ballot. These initiatives called for a sweeping revision of the City Charter, establishment of an independent budget analyst, a rollback of utility rates, and approval of a marijuana tax. At the same time, however, staffing in the office is now down to pre-1999 levels. But our attorneys rose to the challenge, doing more with less by broadening their legal knowledge and honing their legal skills as needed to get the work done.

Importantly, one thing has not changed in the City Attorney's Office during this tumultuous time, and never will: the professional integrity with which we discharge our duties by ethically and zealously representing our client, the City of Sacramento. We continue to provide unbiased, objective, and honest advice, counsel and representation.

Consider just two of our many recent achievements:

- Through a streamlined, collaborative effort of the Justice for Neighbors Program, we have cleaned up record numbers of problem properties throughout the City, including properties in foreclosure. Irresponsible property and business owners are being held accountable and can no longer profit from their tenants' or their own offending conduct at the expense of their neighbors. And by threatening eviction in accordance with authority granted by two new state laws, we have forced dozens of drug dealers and gun-law violators to move out of what used to be, but no longer are, problem properties.
- Litigators in the City Attorney's Office, who are among the best in the state, have ethically and zealously defended the City against an unrelenting stream of lawsuits large and small, disposing of an impressive 68% of the damage suits against the City without payment of any City money.

I encourage you to read more about the outstanding work performed during these difficult times by the women and men in the Sacramento City Attorney's Office.

  
Eileen Monaghan Teichert



**IN FOND MEMORY OF  
ASSISTANT CITY ATTORNEY  
RICHARD E. ARCHIBALD**

In July, 2009, after 22 years of service with the City Attorney's Office, Assistant City Attorney Richard E. Archibald passed away due to adrenal cancer. As a highly regarded expert on municipal law, and the longest-serving member of the office, Rich was the "go to" attorney on complex legal issues ranging from thorny land use disputes, to conflict of interest problems, to first amendment matters.

Rich started his legal career as an intern in the City Attorney's Office while attending law school at UC Davis. After graduating in 1980, Rich worked for federal Magistrate Judge Esther Mix, followed by a stint in private practice, before rejoining the City Attorney's Office as an attorney. As anyone who worked with him could attest, Rich was an outstanding attorney, blessed with an encyclopedic recall of legal knowledge, combined in equal measure with common sense and practical insight that shaped the advice and assistance he provided to clients. Rich also was a pleasure to work with. His wit and humorous stories were legendary.

His office door was never closed, and he always was willing to put his own work aside to patiently help others. Rich's ethics, commitment to his clients, as well

as the consistent quality of his work, motivated the rest of us to put forth our best effort; his ever-present humor reminded us not to take ourselves too seriously; and his strong sense of ethics served as a model to always stand up for what we think is right. Rich's death was a tragic loss for his family, friends, legal community, co-workers and the City, but we also feel privileged for the opportunity we had to know him.

**Rich's Legacy**

To encourage future lawyers to follow Rich's career path the Richard E. Archibald Municipal Law Clerk Foundation, a 501(C)(3) non-profit corporation, was formed. This Foundation will fund stipends for law clerks in the Sacramento City Attorney's Office to further the education, training, and experience of law students in the area of municipal law and foster development of future city attorneys. Donations may be made to: Richard E. Archibald Municipal Law Clerk Foundation, c/o Bob Tokunaga, 1141 Robertson Way, Sacramento, CA 95818.

In addition, the foundation is a part of the City's charitable giving campaign allowing employees to make direct contributions.



### **The City Attorney's Clients and Roles**

Both state law and the City Charter specify the City Attorney's role and clients. The City Attorney's principal role is "legal counsel." Under the Charter, the City of Sacramento acts through the Mayor and City Council acting as a body. Therefore, the City Attorney is legal counsel to the Mayor and City Council, and those persons, such as the City Manager, City Treasurer, City Clerk, and Department Heads, empowered by the City Council, the Charter, or state law to act on behalf of the City.

The Mayor and City Council represent the residents of Sacramento, and when the City Attorney's Office ("CAO") advises and represents the Mayor and City Council, the residents indirectly benefit from that advice and representation. It is a rare week when a member of the public does not call the City Attorney's Office requesting legal assistance or representation, claiming they are entitled to such legal services as residents of the City. However, the Charter's definition of the City Attorney's clients, effectively proscribes the City Attorney from advising and representing others, such as City residents.

In 2001 the City Attorney assumed an additional role as City Prosecutor of misdemeanor and infraction violations of the City Code. Violations of the California Penal Code and other state criminal laws remain the prosecutorial responsibility of the District Attorney.

### **Structured to Meet Sacramento's Goals**

The City Attorney's Office two distinct roles—City legal counsel and City Code prosecutor—drive the organizational structure of the office, with legal counsel functions provided primarily by the Transactional/Advisory and Litigation Sections, and City Code prosecutor functions provided largely by the Neighborhood Safety and Nuisance Abatement Section.

The City Council's five planning focus areas provide the framework for carrying out its vision for the City:

- Culture and Entertainment
- Economic Development
- Public Safety
- Safe and Affordable Housing
- Sustainability and Livability

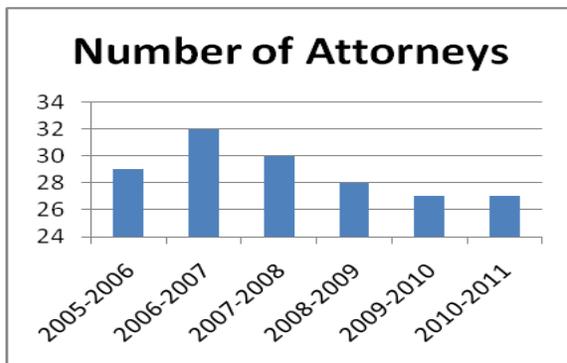
Just as the City Council's five planning focus areas direct the efforts and activities of the City's Charter Officers and Departments, they also direct the efforts and activities of the City Attorney's Office in providing legal services associated with and arising out of those focus areas. The interplay of those focus areas with our roles as legal counsel and prosecutor is discussed more fully in this report under the Neighborhood Safety and Nuisance Abatement, Litigation, and Transactional/Advisory sections.



### Administration

While the demand for legal services is seemingly unlimited, the resources to provide those services grow increasingly limited. Good organization, efficient office management, and first-rate leadership are essential to meet demand by providing excellent legal services in a cost effective manner.

The Administration Team—consisting of the City Attorney, Assistant City Attorney Sandra Talbott, Supervising Deputy City Attorneys Gustavo Martinez, Matt Ruyak, and Brett Witter, Office Administrator Toni Jones, and Special Assistant to the City Attorney Lorraine Odom—provide these organizational, managerial, and leadership skills ensuring the City receives cost-effective and excellent legal services.



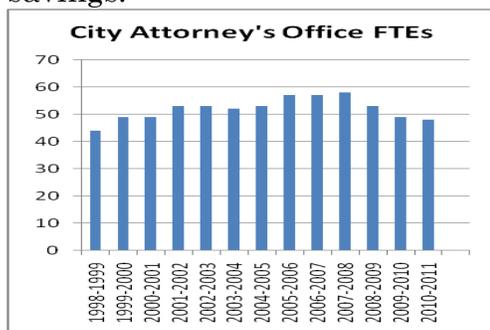
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New Assignments/Cases		
Clients	2008-2009	2009-2010
All Council Districts	54	98
City Attorney's Office	68	26
City Auditor	2	8
City Clerk	66	49
City Manager	76	87
City Treasurer	37	46
Code Enforcement	291	357
Community Development		325
Conv., Culture & Leisure	254	343
Development Services	266	104
Economic Development	208	182
Finance	138	131
Fire	168	118
General Services	719	614
Governmental Affairs	47	2
Human Resources	132	141
Information Technology	88	121
Labor Relations	185	79
Library Authority	1	443
Mayor	15	7
Neighborhood Services	25	5
Outside Agency Referral	21	7
Parks and Recreation	316	488
Planning	164	8
Planning Commission	1	23
Police	1,096	1,284
Procurement	0	159
Revenue	0	6
Risk Management	3	1
Transportation	697	578
Utilities	1,018	956
No Department Specified	5	54
<b>TOTAL</b>	<b>6,163</b>	<b>6,850</b>

Staff development and training—both internal and external—remained a key focus of the Administration Team in fiscal years 2008-2010. Senior deputy city attorneys continued spearheading a monthly in-house State Bar sanctioned training program, providing mandatory continuing legal education (MCLE) credits to attorneys in the City Attorney’s Office. On-site legal professional association seminars are provided for legal professional staff. Attorneys conducted City University classes on Sacramento City Charter Fundamentals, Conflicts of Interest, Mass Mailings and Gift Rules, and Success at the Podium: Preparing and Presenting Effecting Council Staff Reports. The City Attorney offered individualized training on the spectrum of municipal laws to the Mayor and his staff.

**Budget**

The City Attorney’s Office annual budgets in fiscal years 2008-2009 and 2009-2010 were \$6,752,960 and \$6,971,919 respectively, of which \$4,466,841 and \$4,341,476, respectively, were derived from the city’s general fund. The City Attorney’s Office budget has decreased by \$566,975 since fiscal year 2007-2008. Additionally, to assist efforts to balance the citywide budget, the City Attorney’s Office transferred “one-time” funds totaling \$568,999 to the city general fund from a fund that the City Attorney’s Office had accumulated from prior years’ budget savings.



Because approximately 92% of the City Attorney’s annual budget is for personnel-related costs, the required level of budget reductions for the reporting period was achieved primarily through staffing reductions. From a high of 58 full-time equivalent (“FTEs”) in fiscal year 2007-2008, City Attorney’s Office staffing was cut to 53 FTEs in fiscal year 2008-2009 and then 49 FTEs in fiscal year 2009-2010.

FY	TOTAL
2001/2002	\$513,437
2002/2003	\$846,117
2003-2004	\$257,015
2004/2005	\$476,488
2005/2006	\$462,567
2006/2007**	\$514,461
2007/2008	\$410,840
2008/2009	\$436,595
2009/2010	\$554,400

\*Total for each fiscal year includes budget savings from the CAO’s operational budget as well as the litigation fund, plus unbudgeted revenues, all achieved through continual operating efficiencies, fiscal conservatism, and revenue recovery efforts.

\*\*Beginning in 2006/2007, the CAO’s budget savings were swept into the city general fund to address the general fund deficit.

**NOTE BENE:** Since FY 2007-2008, the City Attorney’s Office has unfunded 10 FTEs, including 4 attorney positions, shrinking staffing levels to 1999 levels.

# Neighborhood Safety and Nuisance Abatement



***GUSTAVO MARTINEZ***  
*Supervising Deputy City Attorney*

The Neighborhood Safety and Nuisance Abatement (NSNA) section is responsible for the handling of all City Code enforcement issues, including training and advising staff on enforcement matters, and prosecuting violations through administrative, civil, or criminal actions.

**Attorneys:**

Michael Benner  
Michael Fry  
Susan Hayes  
Gary Lindsey  
Steve Itagaki

**Paralegals:**

Norma Florendo  
Lynette Fuson

**Legal Secretaries:**

Jenny Beck  
Dianne Chasteen  
Jamie Gifford  
Angela Kolak  
Cleo Morris  
Desiree Stockton



# NSNA

## Overview

Diligent and comprehensive enforcement of the Sacramento City Code is essential to achieving the city council's goal of making Sacramento the most livable community in the country. The City Attorney's Neighborhood Safety and Nuisance Abatement section ("NSNA") serves as legal counsel and prosecutor for a multi-departmental team effort to improve public safety. NSNA also provides training to the city's enforcement departments (e.g., the police department's problem-oriented police officers ("POP") and code enforcement officers) as part of its team approach to addressing and responding to citywide enforcement problems and issues. The goal is to create a seamless process from the inception of an enforcement case through its prosecution.

## Code Enforcement and Nuisance Abatement Tools

The city code and state law, including specialized nuisance abatement laws, provide code enforcement staff and NSNA a variety of enforcement tools. NSNA routinely uses three types of enforcement actions to prosecute nuisance cases: civil, administrative, and criminal.

### Civil Actions

In civil actions, NSNA invokes state and local laws to file lawsuits on the city's behalf against problem persons, properties (both commercial and

residential), and businesses. Typically, NSNA seeks court orders that (1) require property owners to clean up their properties or maintain landscaping, (2) require certain problem persons to stay away from properties, and (3) appoint receivers to repair and rehabilitate problem properties. For commercial properties, NSNA may also request orders that require increased lighting, security guards, and other safety related measures. Because civil lawsuits can be complex and time-consuming, they are generally reserved for the most serious community problems, such as complex housing and building abatement cases, and drug, gang, prostitution, and chronic social nuisance cases.

**NOTE BENE:** The NSNA Section has collected \$48,605 in penalties and fees related to social nuisance cases in this reporting period.

## Administrative Enforcement Actions

The city code authorizes city staff to pursue enforcement actions through various administrative proceedings, such as imposing administrative penalties; ordering buildings and properties closed, demolished, secured, or cleaned up; and issuing stop-work orders. Administrative enforcement also includes business and zoning violations, and matters related to the city's entertainment permits. NSNA advises staff on applying the city code's administrative enforcement remedies to specific cases. NSNA attorneys also serve as advocates before

administrative hearing officers in appropriate cases. Although code enforcement staff can handle most administrative actions, NSNA assists staff with actions involving complex legal issues or parties represented by counsel.

### **Criminal Prosecutions**

When appropriate, NSNA attorneys file criminal complaints against city code violators. If convicted, these violators may be sentenced to serve jail time, or placed on probation subject to specified conditions such as stay-away orders, job-and housing-search requirements, clean-up requirements, and other conditions designed to deter future violations. The most common prosecutions for city code violations are those dealing with substandard housing or buildings, failure to comply with an administrative notice and order, illegal dumping, commercial violations, illegal businesses, drinking in public, and trespassing. These prosecutions greatly enhance the quality of life in city neighborhoods and communities.

Here are three notable criminal cases from fiscal years 2008-2009 and 2009-2010:

- **People v. Offender A (Dist. 3):** The offender was criminally cited for repeatedly ignoring Code Enforcement orders to remove the junk and debris from his property. The offender pleaded guilty, and as part of his sentence he agreed to clean up the property and pay \$3,431 in penalties to the city.



- **People v. Offender B (Dist. 8):** The offender was criminally cited for trespassing at an apartment complex, despite having received a prior notice not to enter or be on the property. The offender pleaded guilty, and as part of his sentence he served four days in jail and was ordered to stay away from the apartment complex for life or until the apartment owner returned his privilege to enter the complex.
- **People v. Offender C (Dist. 5):** The offender was criminally cited for illegally dumping a washer and building material near the K-Mart store on Stockton Boulevard. He was convicted, ordered to pay a \$1,000 fine, and placed on one year of probation.

**NSNA Client and Services**

NSNA attorneys provide myriad services to their client departments. For example:

**Code Enforcement Department**

- Advice, criminal prosecution, inspection warrants, and nuisance abatements
- Advocacy and representation at administrative hearings
- Enforcement of entertainment ordinance
- Review of contracts, administrative notices, letters, and forms
- Periodic training of enforcement staff
- Support for the neighborhood response teams
- Enforcement support for the housing and dangerous building division
- Enforcement support for the business compliance division
- Drafting enforcement-related ordinances and ordinance amendments
- Illegal dumping program
- Graffiti abatement actions

**Development Services Department**

- Enforcement support for pursuing violations of title 17 (zoning) of the Sacramento City Code
- Assistance with enforcement of entitlement conditions

2008-2009 New NSNA Matters	
Code Enforcement	241
Police	421
All Others	63
<b>TOTAL</b>	<b>725</b>

**Downtown Enforcement Team/Task Force**

To complement the efforts of Code Enforcement staff, the District Attorney’s community prosecutor, and the police department, NSNA joined this focused team effort in the downtown area, producing several positive benefits such as—

- Maintaining a downtown presence of law enforcement through walkabouts with police officers, Downtown Partnership staff, the community prosecutor, and city-code enforcement staff;
- Identifying and obtaining quick resolution of downtown issues, such as problem properties; and
- Participating and teaching in the Downtown Partnership’s safety and crime prevention forums

**Fire Department**

- City code enforcement advice
- Support on fire prevention issues

**Parks and Recreation Department**

- Enforcement of city code chapter 12.72 (parks, park buildings, and recreational facilities)
- Enforcement of city code chapters 12.56 (trees generally), 12.60 (Dutch elm disease), and 12.64 (heritage trees)

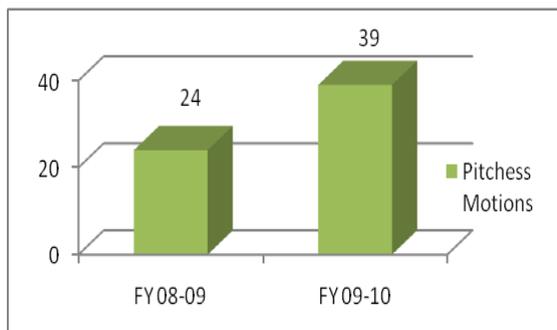
2009-2010 New NSNA Matters	
Code Enforcement	262
Police	761
All Others	73
<b>TOTAL</b>	<b>1,096</b>

### Police Department

- Advice on city code enforcement issues
- Criminal prosecution of city code violations
- Periodic training on enforcement matters
- Problem-oriented-policing (“POP”) projects
- Drug abatements
- Actions to abate social nuisances
- Gang injunctions
- Drug and gun evictions

### Discovery of Peace Officer Personnel Records

Criminal defendants often file so-called *Pitchess* motions to gain access to confidential peace officer personnel records. Sometimes the only purpose of these motions is to conduct fishing expeditions in a police officer’s personnel file, hoping to find anything the defendant can use to smear the officer’s reputation. Given the sensitive nature of peace officer personnel records, NSNA attorneys vigorously oppose unjustified motions, seeking appellate review if necessary. In fiscal year 2008-2009 we handled 24 *Pitchess* motions, and in 2009-2010 we handled 39 — a 60% increase from the year before.



**Pitchess Motions**

### Vehicle Code Prosecutions

The Sacramento Police Department identified a residence being used as a chop shop. Auto parts from at least six stolen vehicles were recovered, and the suspects were arrested and convicted. During the investigation, the police department located a 1994 Acura Integra assembled predominately of stolen auto parts. Many parts on the vehicle had identification numbers removed or altered.

Under Vehicle Code section 10751, any vehicle found with altered or defaced component parts can be seized and destroyed. NSNA attorneys successfully petitioned the court for an order of destruction, and the vehicle was “crushed” at a local auto-salvage yard. NSNA and the police department publicized the destruction to serve as a warning to auto thieves that their cars could be next.



## JUSTICE FOR NEIGHBORS

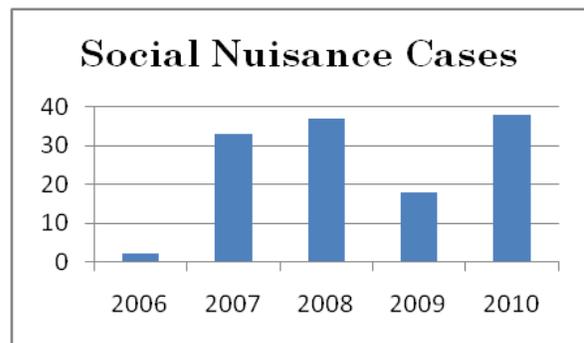
On August 1, 2006, NSNA launched the Justice-For-Neighbors program (“JFN”) targeting major social nuisance and criminal nuisance cases that degrade the quality of life in the city’s neighborhoods. Executive team members of the JFN committee meet once a month to discuss the progress of each case and identify new cases that merit JFN enforcement. The JFN committee consists of the CAO and the following departments and divisions within the city: the police department, the code enforcement, housing and dangerous buildings, and neighborhood services divisions of the community development department; and the solid waste division of the utilities department.

A welcome byproduct of JFN has been the creation of new and more efficient relationships between the CAO and outside agencies.

To focus on problem properties, businesses, and people in the city, the CAO has established relationships and collaborated with the California Department of Alcoholic Beverage Control (“ABC”), the United States Attorney, the Office of the Inspector General, the Sacramento County District Attorney, and other local agencies such as the Sacramento Housing and Redevelopment Agency. Our relationships have enabled us to create joint task forces to focus on particular problems. For example, together with the ABC, NSNA performed unannounced inspections of

alcoholic beverage establishments within the city, and NSNA attended joint meetings with the police department, the United States Attorney, and slumlords where we have demanded compliance with federal, state, and local laws. Each department or office brings its own expertise and authority to the table, and by working together we have been able to resolve social nuisance cases much sooner than ever before.

After launching the JFN program in 2006, the CAO experienced a sharp increase in social nuisance cases—jumping from 2 cases filed in 2006 to 33 cases in 2007. The trend continued into 2008 as 37 cases were handled. In 2009, however, we noticed a notable decline in the number of social nuisance cases referred to our office. We went from 37 cases in 2008 to 18 in 2009.



Our data suggests that the decline in numbers was related to the budgetary challenges faced by the enforcement departments (police department and code enforcement). The police department had been forced to deploy its limited resources to handling high-priority crime, and code enforcement had been

required to layoff inspectors. This reduction in resources substantially decreased the social nuisance work load in this office.

To address the downward trend, we revamped our community prosecution initiative called problem-oriented policing and legal-action workforce (“POPLAW”). Community prosecution focuses on targeted areas and involves a long-term, proactive partnership between the prosecutor’s office, law enforcement, the community, and public and private organizations, whereby the authority of the prosecutor’s office is used to solve problems, improve public safety, and enhance the quality of life in the community. The common denominator of all community prosecution programs is that prosecutors operate in response to community needs. Problems can be identified through analyzing crime patterns and socioeconomic data, as well as by attending community meetings and listening to concerns of citizens. Once problems are identified, resources are allocated accordingly.

In fiscal year 2009-2010, POPLAW attorneys were assigned cases from specific geographical areas (north, central, and south). These attorneys were required to become familiar with neighborhood residents and their complaints about social nuisances by attending community meetings, giving presentations at schools and civic group meetings, educating citizens on how to provide helpful information to law enforcement, and encouraging community involvement in enforcement. Most importantly, these attorneys were

requested to attend POP-team roll calls and hold office hours in the field. The goal was to lessen the paperwork burden on POP officers by allowing the POPLAW attorneys to take over that role, so that the POP officers could focus on the streets.

POPLAW yielded positive results, as we saw an increase in prosecution of social nuisance cases. In fiscal year 2009-2010, we handled 31 social nuisance cases (a sharp increase from 18 the year before). In addition, we saw a steady number of gun- and drug-evasion cases that added to the comprehensive nature of community policing by removing problem people from neighborhoods and shutting down their criminal activities.



POPLAW attorneys conduct ride-alongs with POP Officers. In this instance the POPLAW team evaluated unlawful campgrounds from the air to more effectively identify solutions and nuisance abatement.

## Justice for Neighbors Social-Nuisance Abatements

The police department's POP teams and NSNA's attorneys take an aggressive approach against gang members, drug sellers, prostitutes, and property owners who permit their properties to be used for criminal activities. When NSNA closes down a drug or nuisance property, the neighborhood sees an immediate change for the better: children play once again in their front yards, and litter, trash, and drug paraphernalia disappear. Here are a few of the notable civil cases:

- 3101 61<sup>st</sup> Street (District 6): The elderly owner of a single-family home had multiple occupants who consumed illegal narcotics. Because the owner unable to control the drug-related nuisances occurring in the home, NSNA filed a social nuisance lawsuit that resulted in a permanent injunction ordering the drug-using tenant to stay away. With the support of the POP team, the CAO, and Sacramento County Adult Protective Services, the owner was placed in an assisted-living facility for her own benefit. Calls to the police stopped, and the elder abuse was eliminated.
- Don's Bottle Shop — 611 16<sup>th</sup> Street (District 3): The owner of a liquor store allowed its parking lot to become a center for criminal activity that included social nuisances such as drinking, urinating in public, and loitering

for purposes of illegal drug activity. Calls for police service were excessive. In a joint effort, the police department and ABC conducted an undercover operation that resulted in the owner being charged with purchasing stolen property on multiple occasions and engaging in welfare fraud. NSNA filed a social nuisance lawsuit that resulted in a permanent injunction requiring the store owner to stop selling single containers of alcohol, to install a sound system capable of playing classical music (which discourages loitering), to install video surveillance cameras, and to reimburse the city for some of its past response costs. Since then, calls for service have drastically declined, and the loitering has stopped. The owner has returned to being a good neighbor.



- American Spirits Sports Bar — 3270 Northgate Boulevard (District 1): This bar had generated over 400 calls for police service over a five-year period. The bar experienced fights, robberies, drug dealing, and drunken mayhem in the parking

lot after the bar closed at night. NSNA filed a social nuisance lawsuit against the owner of the shopping center and the bar tenant. The parties understood that the calls for service were elevated when the bar was providing entertainment events such as live DJ's, live bands, dancing, and karaoke that attracted people from outside the neighborhood. The tenant bar owner was forced to surrender the bar's entertainment permit. The result was a dramatic reduction in the calls for service. The bar has returned to being a neighborhood bar.

- Denny's—6401 Mack Road (District 8): This 24-hour dining establishment had developed a reputation for people hanging out after the bar closed at 2:00 a.m. As a result of inadequate security, the restaurant experienced assaults, robberies, multiple shootings, and large gatherings of gang members that frequently resulted in violence. Denny's refused to close during the late hours despite the overwhelming evidence that by staying open late it too was the victim of crime. NSNA filed a social nuisance lawsuit that resulted in a permanent injunction requiring Denny's to close between 12 a.m. and 5 a.m. and further ordering the shopping center owner to provide 24-hour security to keep people out of the parking lot during those times. The calls for service have markedly decreased, and there are no reports of criminal activity

occurring in the parking lot.

- C Street (District 3): A property owner allowed his empty lot in a residential neighborhood to be utilized as an illegal camping site. After numerous neighbor complaints about the round-the-clock noise and foot traffic from the campers, and the smells of the portable toilets, the CAO filed a nuisance abatement lawsuit against the owner. Shortly thereafter, the owner entered into a settlement agreement with the city agreeing to cease and desist from permitting illegal camping on the site.



- 2208 24<sup>th</sup> Street (District 4): This single-family home had become a gang house. The owner had allowed her home to be frequented by, and occupied by, drug users, criminals, and validated gang members. The criminal activity peaked when a drive-by shooting occurred, presumably targeting one or more gang members inside. NSNA filed a social nuisance lawsuit that resulted in a permanent injunction requiring the owner to, among other remedies, prohibit all parolees, probationers, gang members, and drug users from

entering or remaining on her property and hiring a professional property management company to maintain the property. The court also awarded the city \$325,000.00 in attorney's fees, costs, and civil penalties. Since the injunction was entered, calls for service have drastically declined, and the criminal activity has stopped. The homeowner has returned to being a good neighbor.

- 729 Dixieanne Ave. (District 2): This apartment complex had developed a reputation for being an open air drug market. The property generated excessive calls for service that often involved shootings and violence. Gangs claimed the apartment complex as their territory and operated inside to sell drugs. NSNA filed a social nuisance action that resulted in a permanent injunction ordering the property owner to stop the criminal activity in the complex. The court also awarded the city \$29,000.00 in penalties against the property owner. Since the injunction was entered, calls for service have declined and while the complex has remedied some of its worst offenses, NSNA continues to monitor and conduct inspections with enforcement departments to prevent a return to business as usual.



The Dixieanne Apartments had a history of being an open air drug market. NSNA secured a permanent injunction and a \$29,000 award against the owner.

- Gun Evictions: Under new state legislation that took effect on January 1, 2008, the City Attorney is authorized to evict tenants for firearm-related offenses committed on rental property. NSNA filed six gun-eviction actions in this reporting period. All of the gun evictions involved illegal gun possession or gang violence, and sometimes both. In one case in the 700 block of Northfield Drive (District 1), a 17-year-old was shot and killed by a 19-year-old near the apartment complex where the victim's family resided. NSNA promptly evicted the crime family from the complex. A separate gang-affiliated family residing in the same apartment complex was likewise evicted pursuant to the gun-eviction law about the same time. The evictions of two crime families for gun violations resulted in an immediate and noticeable relief to the remaining law-abiding tenants in the

neighborhood. It also reduced the potential for increased gang activity and retaliation by and against the two crime families.

- **Drug Evictions:** As a result of NSNA’s demonstrated competence in handling gun evictions, the legislature added the Sacramento City Attorney to the short list of city attorneys authorized to evict tenants for unlawful possession of illegal narcotics on rental property (the others are Los Angeles, Long Beach, Oakland, and San Diego). Since our office was added to the list on January 1, 2010, NSNA has filed seven drug-eviction cases. In one case, on the 3100 block of San Rafael Avenue (District 5), police officers had been routinely confiscating drugs and digital scales from the tenant’s property. Although the tenant admitted that he allowed drug dealers to use his porch for selling drugs, and despite other overwhelming evidence of illegal-drug sales, the landlord refused to evict the tenant. NSNA attorneys filed a drug-eviction case and threatened to join the landlord in the eviction proceeding. Within 30 days after the notice of eviction was filed, the landlord evicted the tenant, bringing immediate relief to the neighborhood and resolving a long-festering social nuisance without protracted civil litigation against the landlord.
- **Weed-and-Seed Program (District 5):** NSNA attorneys are actively working with the steering

committee of the federally funded weed-and-seed program. The program’s goal is to “weed out” social nuisances such as illegal-drug sales and crime by using targeted law enforcement, and then to “seed” the Oak Park neighborhood with restoration efforts such as after school programs and focused collaboration with neighborhood social services. Using the successful nuisance abatement action at McClatchy Park in fiscal year 2007-2008 as a guide, and with the support of the weed-and-seed team, NSNA attorneys filed individual nuisance actions against 16 defendants who had a history of selling illegal drugs on the 3600 block of Pansy Avenue. Since then there has been a noticeable decline in the illegal-drug activity in that area.

<b>2009-2010 New NSNA Matters</b>	
Administrative Assignment	5
Administrative Appeals	7
Advice	78
Collections	1
Criminal	618
Drug Evictions	8
General Questions	125
Gun Evictions	9
Litigation Review	4
Ordinance	9
Petition for Review	1
Physical Nuisance Abatement	2
Pitchess Motions	39
Public Records Act Request	106
Social Nuisance (Litigation)	38
Subpoena	27
Warrants	3
Weapons Cases	15
Writ (Litigation)	1
<b>TOTAL</b>	<b>1,096</b>

# Litigation



**BRETT WITTER**  
*Supervising Deputy City Attorney*



The Litigation Section is responsible for handling all civil litigation for the City of Sacramento and its employees. Attorneys in the Litigation Section handle lawsuits where the City or staff is the plaintiff or defendant, in matters that encompass the entire spectrum of municipal law.

**Attorneys:**

Sheri Chapman  
Marcos Kropf  
Kathleen Rogan  
Chance Trimm  
David Womack

**Paralegal:**

Lynette Fuson

**Legal Secretaries:**

Colleen Clay  
Erica Dillard  
Jamie Gifford  
Kathy Montgomery  
Di Walters  
Phyllis Zakrajsek

# Litigation

## Overview

For fiscal years 2008-2009 and 2009-2010, the City Attorney's Office (CAO) continued its commitment to maintaining one of the strongest municipal litigation units in the state. This section has earned the respect of clients and adversaries and continues to enjoy a high level of success. As in years past, this success has greatly reduced payouts in damage cases and minimized the expense of retaining outside counsel, thereby preserving precious budget resources. This success has also fostered client confidence and trust in the litigation attorneys' expertise and dedication across a wide variety of matters. The ever-improving relationship between attorney and client reduces the stress of litigation for our clients and ensures more open lines of communication with them.

Litigation attorneys represented the city and city staff as plaintiff or defendant in all areas of the law, even those not typically associated with a municipal practice. Cases in which a plaintiff seeks damages from the city remain the majority of cases handled by the section, including cases involving alleged violations of civil rights, employment disputes, breaches of contract, and personal injury. But litigation attorneys also spent considerable time defending the city in writ proceedings and in disciplinary, contract, and statutory matters related to labor relations. The section has

continued to aggressively pursue individuals who owe the city money on contracts or for unpaid fees.

Finally, litigation attorneys provided important advisory services to several departments on an as-needed basis and consistently provided advice to the police and fire departments, the labor relations department, and the risk-management and workers' compensation divisions of the human resources department.

## *Significant Savings by Keeping Litigation In-House*

When the CAO began handling all litigation in-house, the primary goal was to decrease the cost of referring litigation to outside counsel. This goal has been met by consistently realizing a substantial budget savings over referring matters out. Five years ago, the office also stopped the practice of regularly rotating attorneys into and out of the litigation section. This has allowed the section to hire and retain experienced litigators, which has increased the chances for success in all matters and further minimized the need to refer cases to outside counsel. Simply put, experienced litigators are more capable and willing to handle a broader spectrum of cases, and have the experience and skill to do so successfully.

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**NOTA BENE:** Over the two year period covered by this report, just one litigation matter was referred to outside counsel at city expense-the first in the last five years.

The starting point for understanding the savings realized by keeping litigation in-house is a comparison of the hourly rates for litigation section attorneys with rates for outside counsel. As in years past, the cost of one hour of personnel time for a deputy city attorney, including all benefits and overhead costs, remains substantially lower than for private-sector attorneys. This is only the beginning of the savings, however, as the “hourly rate” for deputy city attorneys is based upon a 40-hour week, yet litigation attorneys regularly work much longer hours. Furthermore, the use of in-house litigators allows the city to reject “nuisance” or “cost of defense” settlements, which not only saves money in the immediate term but also pays dividends long term, as local attorneys do not see the city as an easy mark for quick settlements. Although the actual amount saved by keeping litigation in-house is difficult to calculate accurately, it is safe to say that the differences in the cost of litigation expense across the 433 matters handled by the litigation section over the last two fiscal years has saved hundreds of thousands of dollars.

### ***Fostering Client Comfort and Confidence***

In the office’s last annual report, the litigation section’s stated primary goals were to focus its attention on increased efficiency and customer satisfaction through successful resolution of lawsuits.

Finding efficiencies in the litigation section has been difficult, as the section

downsized by one attorney in fiscal year 2007-2008. Even so, litigation attorneys have created savings and efficiencies by focusing their continuing education on those areas where they have active cases and by attending local continuing education programs whenever possible. In addition, the litigation section has been experimenting with having two-attorney teams assigned to certain larger cases, the goal being to prevent a single case from excessively diverting one attorney’s time from other assigned matters. Having these teams also provides an opportunity for litigation attorneys to practice in new areas of the law with attorneys experienced in those areas.

Customer satisfaction remains an area of focus for the section, and is achieved by maintaining—and improving—our relationships with all city departments. A client’s comfort and confidence with the litigation attorneys is vital to the litigation section’s success and is never taken for granted. Meeting with clients before depositions, mediations, arbitrations, settlement conferences, and trials has helped to de-mystify these procedures and has allowed the litigation section’s clients to be more comfortable when participating in what can be a stressful experience. Thanks to diligent preparation by litigation attorneys and open lines of communication, our clients have developed confidence in the litigation attorneys and know that the attorneys will help them to achieve successful litigation results.

### **Aggressively Pursuing Revenue**

In fiscal year 2008-2009, the litigation section began to work increasingly with staff to ensure that the city's debtors honored their obligations and to recover litigation costs and attorney's fees when the city was entitled to them. In fiscal years 2008-2009 and 2009-2010, litigation attorneys collected thousands of dollars from debtors and from persons who filed meritless lawsuits against the city. By aggressively and successfully defending the city and its employees and by relentlessly seeking to recover litigation costs, the litigation section not only generates revenue for the city but also discourages would-be plaintiffs from filing meritless lawsuits against the city.

### **Continued Litigation Success in all Areas of the Law**

As in years past, the litigation section's paramount goal is, and must be, the successful resolution of lawsuits. During fiscal years 2008-2009 and 2009-2010, the litigation section's commitment to diligent preparation, careful analysis, and aggressive but ethical tactics and strategies yielded another period of sustained success. Over that two year period, the section closed 110 lawsuits in which the plaintiff sought damages, and 75 (68%) of those lawsuits were resolved without the payment of money by the city.

**NOTA BENE:** Of the 110 damage cases resolved during the past two fiscal years, the Litigation Section successfully resolved 68% without the payment of money by the city.

Payouts for fiscal years 2008-2009 and 2009-2010 remained consistent with recent years, despite seeing a major upswing in the number of cases in which significant damages are realistically sought.

### **City Payouts on All Litigated Risk Cases<sup>1</sup>**

<b>Year</b>	<b>Cases Closed</b>	<b>Payouts</b>
<b>FY 05-06</b>	<b>44</b>	<b>\$765,953</b>
<b>FY 06-07</b>	<b>74</b>	<b>\$1,980,271</b>
<b>FY 07-08</b>	<b>68</b>	<b>\$3,328,319</b>
<b>FY 08-09</b>	<b>56</b>	<b>\$1,487,720</b>
<b>FY 09-10</b>	<b>54</b>	<b>\$1,028,938</b>

<sup>1</sup> The table does not include the payout for one case settled in FY 07-08 that was taken over by the City's excess insurance carrier. The case resolved by outside counsel for \$12,450,000. Of this amount, the City contributed \$2,000,000.

### **Looking Forward**

The litigation section's goals in fiscal year 2010-2011 will be (1) to continue focusing on increased customer satisfaction through successful litigation and (2) to ensure the job satisfaction of the litigation section attorneys and support staff. Litigation attorneys will maintain and foster the lines of communication with our clients, particularly in cases with complicated legal or factual settings. Internally, the

section's support staff has had a retreat to discuss job satisfaction and efficiency, and in the next fiscal year the section attorneys will do the same. By focusing on job satisfaction and reducing stress, the hope is to make the section even more capable of providing our clients with a high level of service while maintaining a workplace environment that fosters continued success.

### **Highlights**

As indicated above, the litigation section had substantial success in handling its cases over the last two years, resolving 68% of damage cases without payment of money. This success is the result of litigation attorneys aggressively handling all cases and rejecting "nuisance" settlements. Here are some notable cases:

- **Case No. 1:** Plaintiff sustained severe injuries while riding in a vehicle in which the driver lost control and hit a tree on Pocket Road. Plaintiff alleged that this area of Pocket Road was dangerous because of water from median over-spray. Plaintiff's medical expenses alone were over \$1,000,000. Prior to trial, co-defendants (adjacent landowners) settled with plaintiff for \$60,000. Litigation attorneys were able to convince plaintiff's attorney to dismiss the dangerous condition claim against city in exchange for a waiver of defense costs.
- **Case No. 2:** Plaintiff was injured when the attachment for a tire swing in a city park broke,

striking him in the head. The case was arbitrated, and the arbitrator found in favor of the city, as there was no evidence of any dangerous condition. Thereafter, plaintiff's attorney agreed to dismiss the city.

- **Case No. 3:** Plaintiff was injured while riding his bicycle on a transition area between the sidewalk and street on westbound J Street, sustaining a serious hip fracture that required surgical repair with titanium rods. His medical expenses were \$60,000. In his lawsuit against the city, plaintiff alleged that a raised lip caused him to fall off his bicycle and that this area was a dangerous condition of public property. Prior to trial, we filed a motion for summary judgment. The trial court granted this motion, ending the case.
- **Case No. 4:** Plaintiff alleged that he was assaulted and falsely arrested when two city animal control officers and a police officer removed a dangerous animal from his property. A non-binding arbitration resulted in a finding of no liability against the city. Following the arbitration, plaintiff failed to participate in discovery, and the case was dismissed as a sanction following the city's motion to compel that participation.

- **Case No. 5:** Plaintiff sued the city and two of its police officers for false arrest and imprisonment, conversion, and civil rights violations under state and federal law. Our aggressive use of pleading motions resulted in the plaintiff having to file four amended complaints; it also resulted in the majority of the case being dismissed. After taking the plaintiff's deposition, the city successfully moved for summary judgment and obtained a sanctions award against plaintiff for abuses of the discovery process. Plaintiff appealed, but the city successfully opposed his attempts to overturn the judgment of dismissal.
- **Case No. 6:** Plaintiff alleged she was wrongfully detained in violation of the U.S. Constitution during the execution of a search warrant. After taking the plaintiff's deposition, we successfully brought a motion for summary judgment that resulted in the outright dismissal of the case and a judgment for the city. Plaintiff appealed, but the federal appeals court affirmed the judgment.
- **Case No. 7:** Following one of the area's most violent storms, a city tree fell on plaintiff's property, causing extensive damage. At the outset of litigation, the city agreed to reimburse the cost of removing the tree. Because there was no notice that the tree created a dangerous condition or that there was any way to prevent the tree from falling, the plaintiff agreed to dismiss his case for property damage, without additional compensation, just before trial was to begin.
- **Case No. 8:** Plaintiff in this writ proceeding was a former employee who voluntarily absented herself from work and refused to participate in fitness-for-duty testing upon her return. Plaintiff argued that such testing was improper and that the city had a duty to reinstate her to her prior position. The superior court and Third District Court of Appeals agreed with the city, and the plaintiff was not reinstated.
- **Case No. 9:** Appellant was terminated for using his position as a city employee for personal gain. Litigation attorneys presented the city's case against the employee to an arbitrator, who sustained the city's decision to terminate.
- **Case No. 10:** Throughout the year, litigation attorneys participate in the city's threat assessment team, which evaluates threats of violence made against city employees in the work environment. When necessary, the attorneys obtain restraining orders against those individuals who are deemed a threat, typically within 48 hours of the complaint.

- **Case No. 11:** Plaintiff alleged that her minor children were injured when police officers used tear gas to force the evacuation of her home. Litigation attorneys argued that inconsistencies in deposition testimony established that the children were likely not in the home and that the use of tear gas was an appropriate use of force under the circumstances. The city prevailed on a motion for summary judgment.
- **Case No. 12:** Plaintiff argued that he was defamed when his name was placed on a press release following his arrest for sex crimes. On a motion for summary judgment, the litigation attorney argued that the publication was entirely privileged, and the court agreed, granting the motion. The court also awarded the city more than \$20,000 in attorney's fees and costs.
- **Case No. 13:** Plaintiff was struck by an automobile while crossing a heavily travelled street at night. He alleged that the failure to provide street lights and a crosswalk at the location of his accident created a dangerous condition of public property. After the litigation attorney conducted discovery and threatened to file a motion for summary judgment, the plaintiff voluntarily dismissed the case. Plaintiff's alleged damages were in excess of \$700,000.
- **Case No. 14:** Plaintiff was involved in a head-on collision with another vehicle on Garden Highway, sustaining multiple severe injuries, including a serious brain injury. Plaintiff sued the city, alleging that the road where this accident occurred was dangerous in its design. Damage estimates ranged between \$7,000,000 and \$12,000,000. Prior to trial, litigation attorneys persuaded plaintiff and her attorney to settle the case for \$350,000.
- **Case No. 15:** Plaintiff was arrested in downtown Sacramento for standing in the street, noticeably intoxicated. She sued the city and the police officers who arrested her, alleging constitutional violations primarily based upon a theory of an illegal seizure. Litigation attorneys steadfastly denied that the conduct of the officers created any liability either for them or for the city, and took the case to trial. The trial court granted the city's and officers' motions for non-suit after the plaintiff presented her evidence.
- **Case No. 16:** Plaintiff sued the city alleging that a power pole located in a sidewalk forced her to walk in the street, where she was struck by a passing car and suffered serious injuries. During plaintiff's deposition, the litigation attorney assigned to the case established that the plaintiff had actually been walking on the

opposite side of the street from the allegedly dangerous condition. Plaintiff ultimately agreed to dismiss her action against the city for a waiver of costs.

- **Case No. 17:** Plaintiff filed an inverse-condemnation lawsuit against the city, alleging that the city had installed a storm-drainage system on his property without his permission or knowledge. During discovery, litigation attorneys established that a private developer had installed a drain line adjacent to plaintiff's property, and a survey conducted by the city confirmed that the drain line did not encroach into plaintiff's property. Plaintiff was unable to establish any liability on part of the city and, as a result, plaintiff ultimately agreed to dismiss the city for a waiver of costs.
- **Case No. 18:** A city employee was terminated from her position because she had engaged in overtime fraud for almost twelve years. The employee appealed, arguing that the overtime was proper and had been approved by her supervisors. The litigation attorney assigned to this matter spent hundreds of hours obtaining calendars and other documentation to establish that the time indicated on her timesheets did not accurately reflect her hours worked. When faced with this documentation on cross-examination during arbitration, the employee voluntarily resigned her position and waived any future claims against the city.
- **Case No. 19:** Plaintiff alleged that the city was responsible for property damage in excess of \$300,000 when two city trees fell on his home. Litigation attorneys argued that powerful storm caused the trees to fall, rather than some preventable condition of the trees themselves. When the litigation attorneys filed a motion for summary judgment, plaintiff dismissed the case.
- **Case No. 20:** Plaintiff was the subject of a sting operation in which he sold cigarettes to minors. Plaintiff challenged not only the administrative penalty but also the constitutionality of the city's tobacco-retailer ordinance. The superior court upheld the ordinance and administrative hearing procedures, and plaintiff appealed to the Third District Court of Appeal. The appellate court upheld the city's ordinance and administrative hearing procedures, and its published opinion can be used as precedent in future cases.
- **Case No. 21:** The city contracted with a private security firm for patrols of city parking garages. City property was vandalized when the security company lapsed in its patrols. Litigation attorneys filed a complaint against the security

firm, and shortly thereafter the city entered into a settlement with the company, which put \$25,000 back into the budget for off-street parking.

- **Case No. 22:** This pro per plaintiff filed five actions in federal court, each alleging different facts to establish violations of his civil rights. The litigation attorney assigned to the case, by aggressively using law-and-motion proceedings, has obtained judgments for the city in all five cases.



The litigation section made this city construction project possible on Meadowview Road by obtaining rights-of-entry from recalcitrant property owners who threatened to delay city's replacement of a patchwork quilt of decaying fences with beautiful new block and stone walls.

<b>Litigation Clients</b>	<b>2008/ 2009</b>	<b>2009/ 2010</b>
City Attorney's Office	6	
City Clerk's Office	4	
City Manager	1	
City Treasurer	1	
Code Enforcement	7	8
Community Development	1	3
Conv., Culture & Leisure	3	2
City Council	1	2
Development Services	1	1
Economic Development	1	
Finance	8	2
Fire	7	3
General Services	4	2
Human Resources	9	14
Labor Relations	24	22
Neighborhood Services	1	2
Parks and Recreation	6	4
Planning	1	
Police	27	22
Revenue		1
SHRA	1	
Transportation	23	13
Utilities	13	15
<b>TOTAL</b>	<b>150</b>	<b>116</b>

## Transactional/Advisory



**MATTHEW RUYAK**  
*Supervising Deputy City Attorney*

The Transactional/Advisory Section provides counsel and day-to-day strategic support to the City's policymaking function by responding to requests for legal advice from the City Council, the Charter Officers, and the City departments and divisions

### Attorneys:

Angela Casagranda  
Joseph Cerullo  
Larry Duran  
Paul Gale  
Sabina Gilbert  
Jeff Heeren  
Jerry Hicks  
Sheryl Patterson  
Joe Robinson  
Janeth San Pedro  
Michael Sparks  
Lan Wang

### Paralegal:

Cindy Head

### Legal Secretaries:

Angela Kolak  
Dianne Chasteen  
Colleen Clay  
Angela Kolak  
Cleo Morris  
Desiree Stockton  
Di Walters  
Phyllis Zakrajsek



## Transactional/Advisory

### Overview

Section 72 of the Sacramento City Charter states that the City Attorney “shall serve as legal counsel to the city government and all officers, departments, boards, commissions and agencies thereof and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the city council.” The 13 attorneys of the transactional/advisory section discharge this mandate by providing the legal advice, counseling, and support the city needs to meet its multifaceted responsibilities to its citizens effectively and efficiently; to fulfill its obligations under federal, state, and local laws; to carry out the mission and goals established by the city council; and to implement the programs of the city manager. For example, the attorneys—

- respond to requests for legal advice from the mayor, city council, charter officers, and city staff;
- draft city ordinances, resolutions, and regulations;
- review and comment on proposed state legislation;
- negotiate, draft, and review contracts, leases, and other transactional documents;
- advise on financial matters both straight-forward and complex;
- provide legal representation at the various legislative and administrative meetings of the city council and city boards and commissions;



This innovative city “green street” project combining streetscaping, drainage and public artwork required a variety of transactional/advisory counselors on issues from public works to art in public places.

- work alongside city staff to provide timely legal advice on city projects;
- assist city staff in responding to requests under the California Public Records Act;
- conduct forums to educate city staff about laws that affect the work they do; and
- keep the mayor, city council, charter officers, and city staff informed of the ever-changing legal landscape in which they operate.

All of that work requires an impressive breadth of knowledge and experience. Certainly, the city’s legal demands require the Transactional/Advisory attorneys to be experts in many general fields of law, such as contracts, property, statutory interpretation, labor, and employment.

But the city's status as a local-government entity also demands in-depth knowledge of other, more specialized fields such as constitutional law; the Ralph M. Brown Act (open meetings); the California Public Records Act; the California Political Reform Act; the California Environmental Quality Act (CEQA); other environmental laws such as the federal and state endangered species acts and the federal and state laws regulating hazardous waste; public-finance law; land-use law (e.g., general plans, zoning, permits); elections and campaign law; water law; Intellectual property law; the laws concerning taxes, special assessments, and fees; and local codes and regulations.

Although the staffing in the Transactional/Advisory section has been remarkably stable over the past three years, one of the two supervising attorneys retired in the middle of fiscal year 2008-2009, leaving the remaining 13 attorneys to continue meeting the city's legal-counseling demands. Their consistent productivity, dedication, and professionalism is especially noteworthy because their complex work is critical to the proper operation of city government, yet is not readily apparent to the public.

### Highlights

#### *Projects:*

The transactional/advisory attorneys work side-by-side with councilmembers, the city manager's office, charter officers, and city department heads and staff on many important projects throughout the city, such as:

- Strong Mayor Initiative advice and litigation



- 2030 General Plan
- 2008 Update to the North Natomas Financing Plan
- Adoption of the city's communication-users tax
- Funding for an outdoor playground at the Boys & Girls Club
- Charter-boat service in Old Sacramento
- Funding from Sacramento-Yolo County Mosquito and Vector Control District for downtown green-waste containerization
- City's participation in the Delta-Vision process
- Ongoing water-meter-retrofit project (including \$20 million ARRA Stimulus Funding Agreement)
- Automated water-meter reading
- Ticket-and-passes distribution policy
- Update to conflict-of-interest code
- Ballot and election issues
- Proposition 1C State Infrastructure and Brownfield Grants (Railyards and Township 9)

- Charter reform and review
- Issuance of the city's tax-and-revenue-anticipation notes

*Legislation:*

Many of the goals and policies of the city council are implemented by the enactment of new ordinances or the amendment of existing ordinances. As with recent years past, the city council adopted scores of ordinances during fiscal years 2008-2009 and 2009-2010. The Transactional/Advisory attorneys work on a majority of the city's ordinances. Together with NSNA attorneys, they assist city staff in drafting legislation and, when needed, in working through the entire process of developing effective legislation, including working with stakeholders and other interested parties. Some of the more significant issues addressed by ordinances enacted during fiscal years 2008-2009 and 2009-2010 include the following:

- Creation of the office of the city auditor
- Recycling of construction and demolition debris
- Refunds of parkland-dedication fees
- Establishing development-impact fees for Measure A transportation improvements for citywide benefit district
- Rental-housing-inspection program – recovery of costs
- Temporary program for development-fee deferral

- Tree-removal appeals
- Solid-waste scavenging
- Check-cashing centers
- Update to title 8 (health and safety) of the Sacramento City Code relating to dangerous buildings and housing codes
- Curbside recycling collection
- Design-review requirements for East Sacramento
- Maintenance of title 17 (zoning) in the Sacramento City Code
- Newsracks on K Street Mall
- Campaign finance
- Digital billboards



The construction of the Crocker Art Museum expansion required extensive legal assistance.



Class of 2011  
 City Attorney's Office Summer Law Clerks  
 Katherine Ebert and Emilio Camacho  
 Katerina Deaver (not pictured)

<b>Transactional/Advisory Matters</b>	<b>2008 - 2009</b>	<b>2009 - 2010</b>
Financing: Assessment District	11	1
Financing: Bonds	7	3
Financing: Fees	13	7
Financing: Lease Financing	0	6
Financing: Loans	6	1
Financing: Mello Roos Districts	6	4
Financing: Taxes	1	1
General Advice	301	200
Appeals/Hearings	3	2
Bankruptcy	1	
Collections		1
Construction Agreements	2	2
Consultant Agreements	2	
Development Related	20	18
Grand Jury Requests/Subpoenas	4	2
Interagency Agreements	6	1
Labor		1
Mediation	1	
Opinions (formal written)	19	8
Ordinances	33	30
PRAs	161	162
Professional Services Agreements	3	5
Real Estate Agreements	5	1
Resolutions	3	1
Review/Advise	30	34
Subpoenas	299	297
Project - City Initiated	17	7
Project - Council	3	5
Project - Private	3	6
Project - Public/Private	3	4
Contracts Approved as to Form	1,855	1,631
Staff Report Review	607	695
General Advisory Assignments	1,895	2,502
<b>Grand Totals</b>	<b>5,324</b>	<b>5,638</b>

# Inside the CAO

City of Sacramento

## *2010 Public Administrator of the Year*

The Sacramento Chapter of the American Society for Public Administration (ASPA) selected City Attorney Eileen Teichert as the 2010 Public Administrator of the Year. The award is presented to a non-elected professional administrator who has consistently demonstrated excellence in public management over a sustained period of time.



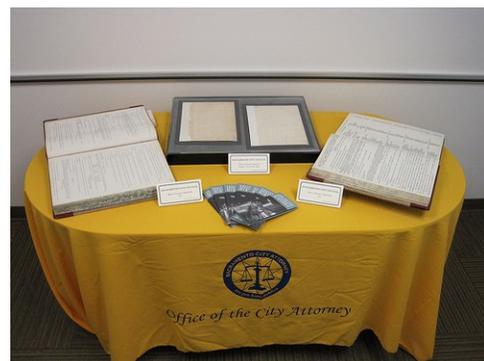
## *Sr. Deputy City Attorney Joe Robinson*

On July 16, 2010, Senior Deputy City Attorney Joe Robinson celebrated 20 years with the Sacramento City Attorney's Office working in the areas of water law, public works, construction, public utility services, and environmental laws and regulations.



## *Law Day 2010*

On Friday, April 30, 2010, the City Attorney's Office held their first annual Law Day, part of a nationwide celebration of the principle of government under the rule of law. Depicted is a display of 1849 and 1921 City Council minutes courtesy of the Center for Sacramento History, reflecting the city's strong governmental law heritage.



## City Attorney's Office Culture of Gratitude

### *Most Supportive Client Awards*

Each year the City Attorney's Office selects a special client who exemplifies the qualities attorneys respect and appreciate in a client especially adherence to the rule of law.

In December 2008, the award was presented to the Director of Transportation, Jerry Way.



City Treasurer Russ Fehr was the recipient of the Most Supportive Client award in December 2009.



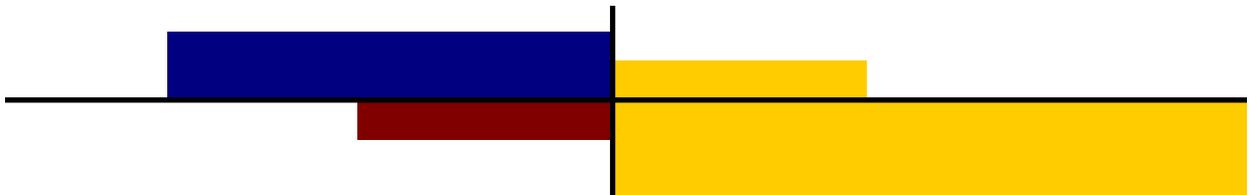
### *City Attorney's Office Gives Back*

City Attorney's Office staff reaches out and gives back to the community through generous donations to food drives and those less fortunate. In 2008, the City Attorney's staff adopted two formerly homeless families, fulfilling all of their holiday wishes with gifts and monetary contributions. The City Attorney's staff adopted and showered with gifts twenty children who had recently moved out of shelters into housing, for the 2009 holidays through the Sacramento Faith and Families Initiative.





Photographs of City Attorney's Office staff were taken by Sacramento Police Department photographer Doug Skinner.



Office of the City Attorney  
915 I Street, Fourth Floor  
Sacramento, CA 94814

Mailing Address:  
P.O. Box 1948  
Sacramento, CA 95814

(916) 808-5346 Ph  
(916) 808-7455 Fax