



# CITY of SACRAMENTO

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OFFICE OF THE CITY ATTORNEY



2006-07 ANNUAL REPORT  
Eileen Monaghan Teichert, City Attorney

# ADMINISTRATION

## MISSION STATEMENT

The mission of the Sacramento City Attorney's Office is to provide the highest quality legal services to the City of Sacramento.

## THREE-YEAR GOALS 2006-2009

*(Not in priority order)*

- Increase intra-office communication, cooperation, fairness, and respect
- Attract, develop, and retain staff
- Implement electronic document-storage-and-retrieval systems
- Increase organization effectiveness and efficiency
- Improve client confidence in our office

## CITY ATTORNEY'S MESSAGE

As I review the list of the City Attorney's Office achievements for fiscal year 2006-2007—my first full fiscal year as City Attorney—I am struck by the depth, breadth and quality of legal expertise in the City Attorney's Office. Few law firms in the state have so many excellent municipal law practitioners in one office.

A look at the projects for which the City Attorney's Office served as legal counsel provides a glimpse of the myriad legal practice areas encompassed by the term "municipal law."

The City's acquisition of the Historic Railyards Depot and transfer of the downtown railyards from Union Pacific into private hands after 150 years in December 2006 would not have been possible without the business-savvy attorneys in the City Attorney's Office helping to structure a win-win transaction.

Through a streamlined, collaborative effort of the police, code enforcement, and neighborhood services departments and the City Attorney's Office, record numbers of problem properties have been cleaned up throughout the City. The specter of nuisance abatement lawsuits brought by the City Attorney's Office has communicated loud and clear that property and business owners are being held accountable and can no longer profit from their patrons' or their own unsavory conduct—all at the expense of their neighbors.

Litigators in the City Attorney's Office, who are among the best in the state, ethically and zealously defended the City against a steady stream of lawsuits large and small. These fine attorneys disposed of seventy-five percent of the damage suits against the City without payment of any sums by the City.

I hope you enjoy reading about the work performed by the women and men in one of the finest public law offices in California—the Sacramento City Attorney's Office.



Eileen Monaghan Teichert  
*City Attorney*



## CITY ATTORNEY'S ROLES AND CLIENTS

Both state law and the City Charter specify the City Attorney's role and clients. The City Attorney's principal role is to serve as "legal counsel," providing advice to and legal representation for her clients. And in 2001, with the approval of the Mayor and City Council and the District Attorney, the City Attorney assumed an additional role as "City Prosecutor" of misdemeanor and infraction violations of the City Code.

The City Attorney's clients are the Mayor and City Council acting as a body, plus those persons or entities empowered by the City Council, the City Charter, or state law to act on the City's behalf—for example, the City Manager, City Treasurer, City Clerk, and Department Heads.

The Mayor and City Council represent the residents of Sacramento. So when the City Attorney's Office advises and represents the Mayor and City Council, the residents benefit indirectly from that advice and representation.

Rarely does a week pass without members of the public calling the City Attorney's Office and requesting legal assistance or representation, believing they are entitled to such legal services as residents of the City. But, as discussed above, the City Charter and state law specify who are the City Attorney's clients, and thus prohibit the City Attorney from advising and representing all others, including City residents.

### NOTA BENE:

City Charter Section 72 provides in part as follows: "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. In situations where the City Attorney determines there is a conflict in representation by that office, the City Council may authorize the retention of other legal counsel to represent one of the conflicting parties. The City Attorney shall appoint all other members of the City Attorney's office."



Staff photo taken August 2007

## STRUCTURED TO MEET SACRAMENTO'S GOALS

The City Attorney's Office serves two distinct roles—City legal counsel and City Code prosecutor. These roles 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 has established five planning-focus areas that 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 activities. The interplay of those focus areas with our roles as legal counsel and prosecutor is discussed more fully in this report under the Transactional/Advisory, Litigation and Neighborhood Safety and Nuisance Abatement headings.

## COUNCIL STAFF REPORT PROCESS

During the reporting period, the City Clerk and City Attorney revamped the manner in which staff reports are processed and reviewed for submission to the City Council. In the past, the vast majority of the staff reports and proposed resolutions were compiled into agenda binders before being provided to the City



The City Attorney's Office awarded City Clerk Shirley Concolino its annual "Most Supportive Client" award due to her outstanding efforts at agenda and document process improvements in furtherance of increased government transparency.

Attorney's Office. This allowed less than two business days before a given Council meeting for the review by the City Attorney's Office and for the correction of errors. The new process implemented during the reporting period allows sufficient time for a review to be conducted not only by the City Attorney's Office but also by the City Clerk and City's Budget Office. The new process has resulted in better staff reports and resolutions in terms of consistency, content, clarity, and legal adequacy.

## ENHANCED CLIENT SERVICES

To provide the highest quality legal services, excellent client relationships are essential. To build those relationships and respond to requests from City officers and department heads, the City Attorney assigned attorneys to serve as lead legal counsel and legal teams for specific officers and departments. In addition to soliciting client input on attorney selection, attorney input was solicited on client selection—resulting in optimal pairings of attorneys and clients. For example, attorneys with strong public safety interests and public safety legal experience became lead legal counsel and legal team members for the police and fire departments.

Although the office still engages in cross-training, the regular rotation of attorneys from section to section has ceased. The goal is to ensure City Attorney's Office clients that the attorney or attorneys representing them are extremely knowledgeable about the unique aspects of their operations and specialized areas of law applicable to them, yielding the highest quality legal services.

The listing of the attorneys and departments or divisions to which they are assigned is located at [www.cityofsacramento.org/cityattorney/](http://www.cityofsacramento.org/cityattorney/).

## ADMINISTRATION

While the demand for legal services is seemingly unlimited, the resources to provide those services are always limited. Good organization, efficient office management, and first-rate leadership are essential to bridge the gap between demand for and provision of excellent legal services in a cost-effective manner.

The Administration Team—consisting of the City Attorney, Assistant City Attorneys Rich Archibald and Sandra Talbott; Supervising Deputy City Attorneys Gustavo Martinez, Matt Ruyak, Robert Tokunaga, and Brett Witter; Office Administrator Kathy Badgley; and Special Assistant to the City Attorney, Toni Jones—

## 2006-2007 NEW ASSIGNMENTS/CASES BY CLIENT

City Auditor .....	1	Human Relations.....	85
City Manager's Office.....	85	Information	
City Clerk's Office .....	1,267*	Technology .....	134
City Treasurer's Office.....	34	Internal Coordination .....	2
Civil Service Board .....	1	Labor Relations .....	34
Council/Mayor.....	66	Neighborhood	
Code Enforcement.....	44	Services .....	420
Convention Culture		Parks and Recreation .....	736
and Leisure.....	152	Planning.....	153
Development Services.....	973	Police.....	1,912
Economic Development .....	101	Procurement.....	20
Finance.....	123	Risk Management .....	5
Fire .....	107	SHRA.....	1
General Services.....	761	Transportation .....	376
Housing Code		Utilities.....	401
and Adv. Appeals Brd.....	2	<b>Total.....</b>	<b>7,996</b>

\*This number includes a review by the City Attorney's Office of 1,176 staff reports submitted by other departments to the City Clerk's document review system.

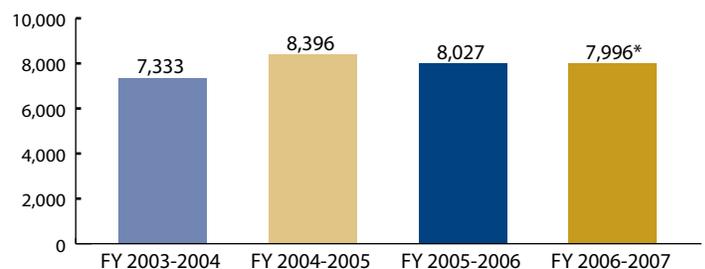
provides these organizational, managerial, and leadership skills that ensure excellent legal services.

In Fiscal Year 2006-2007, one major focus of the Administration Team was staff development and training—both internal and external. Attorneys received monthly mandatory continuing legal education (MCLE) credits through an in-house state bar sanctioned program. Legal professional staff were able to partake of on-site professional association seminars. Attorneys conducted City University classes on Public Records Act and Contracts Code Enforcement and DA training on Social Nuisance Abatement. The City Attorney served as co-editor of the League of California Cities "Open and Public IV: A User's Guide to the Ralph M. Brown Act."

## Budget

The City Attorney's Office budget for fiscal year 2006-2007 was \$7,613,322 for operations and non-risk litigation expenses. That did not include the Risk Management Fund for litigation matters. About 86.85% of the budget was for personnel costs of 58 full-time equivalent positions, including 31 attorneys, an office administrator, a special assistant to the City Attorney, a LAN administrator, 2 investigators, 4 paralegals, 15 legal secretaries, and 3 legal staff assistants.

## NEW CASES/ASSIGNMENTS (ALL SECTIONS)



\*Total number of assignments decreased because infractions not requiring legal services are no longer included in total assignments.

## TRANSACTIONAL/ADVISORY

### NOTA BENE:

The Transactional/Advisory Section plays a key role in supporting a broad spectrum of activities.

### PROVIDING LEGAL SERVICES TO A MUNICIPAL CORPORATION

The City of Sacramento was incorporated in 1849. It is a charter city organized to provide a wide range of services to the residents and businesses existing within its boundaries and doing what it can to enhance and enrich the lives of those citizens, guided by the policies and priorities of its governing body, the City Council.

Like any private corporation with 5,000-plus employees and an annual budget approaching \$1 billion, the City has a continuous need for sound legal advice, both routine and extraordinary. However, unlike a private corporation that focuses its energies on one core product or service, the City has a responsibility to do many things well and in accordance with the law for its 450,000 residents and many businesses. The City's multifaceted responsibilities and services to its citizens; its obligations under federal, state, and local laws; the mission and goals established by the City Council; and the programs of the City Manager and his numerous and varied department directors, all generate substantial legal demands in a myriad of subjects. The Transactional/Advisory Section plays a key role in supporting that broad spectrum of activities.

The work of the Transactional/Advisory Section touches upon virtually all aspects of the City's business. Whether the attorneys are responding to requests for legal advice from the City Council, the Charter officers, or City staff; preparing legislation; negotiating and drafting contracts and other transactional documents; advising on financial matters both straight-forward and complex; providing legal representation at the various legislative and administrative meetings of the Council and City boards and commissions; working alongside City staff to provide timely legal advice on City projects; providing educational forums for City staff to facilitate the work they do; or keeping the Council and staff informed of the ever-changing legal landscape in which they operate, the Transactional/Advisory Section provides important assistance throughout the City. Together with Litigation and NSNA attorneys, the Transactional/Advisory Section helps the City Attorney provide the full range of legal services to the City.

### SECTIONS TRANSFORMED

At the beginning of the fiscal year, the attorneys performing primarily advisory functions operated in two separate sections: the Advisory Section, which provided legal services across the City; and the Special Projects Section, which focused on development-related activities of the City and the City's financial and fiscal matters. At mid-year, the two sections merged into one section known as the Transactional/Advisory Section.

The merger of the two sections brought with it the benefits of coordination, consistency, efficiencies in communication, and mentorship between the most senior attorneys holding wide-ranging experience and those attorneys expanding their professional expertise into new subjects. The combined section allows for a more effective



distribution of assignments and less duplication of efforts. It also facilitates the assignment of specific attorneys to the different City departments with the goal of providing prompt, accurate legal assistance and advice by developing lasting relationships between the attorney and his or her assigned client.

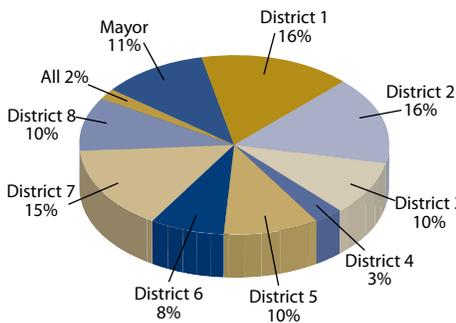
## HIGHLIGHTS

### Projects:

The Transactional/Advisory Section attorneys worked side-by-side with Councilmembers, the City Manager’s Office, Charter Officers, and City department heads and staff on many significant projects across the City. These projects included:

- Provided legal advice in support of public safety, including a water-supply agreement to resolve water pressure problems for fire-protection services, and the City’s smoke-detector program.
- Advised City staff on projects enhancing the City’s cultural and recreational amenities, including the Crocker Art Museum expansion project, the Studio for Performing Arts, the Natomas Youth Baseball Complex, and the Skatepark at Granite Regional Park.

## COUNCIL ASSIGNMENTS BY DISTRICT (62)



City-sponsored jazz festivals require agreements with musicians to make them happen.

- Provided legal advice to enhance internal City operations, including numerous infrastructure and capital-improvement financings, the “e-CAPS” project agreement, the City’s purchase of the 300 Richards Boulevard facility, substantial revisions to the City’s Standard Specifications for Public Works Contracts and the City’s form contracts, and training courses at City University.
- Contributed extensive legal advice and negotiation support for significant and complex projects involving development of the Union Pacific Railyards and Intermodal Transportation facility, other Downtown development projects, the continued build out of North Natomas, the Docks Area Project, the Fulton Avenue Development (Mel Raption Honda), and the deployment of a City-wide Wi-Fi network.
- Rendered legal support for financing and fiscal matters, including the remarketing of Arco Arena bonds, lease financings, and infrastructure bond issuances.
- Facilitated the project-approval process and improved the legislative record by revising and updating CEQA-related findings templates for Planning Commission and City Council, and record of decision and resolution templates for Commission and Council approval of projects.



Transfer of the Historic Depot in the Downtown Railyards to the City required complex transactional documents.



The City’s newly drafted animal licensing ordinance encourages responsible pet ownership.



Legal support assisted formation of much needed property business improvement districts.



Untangling property-related legal issues facilitated this transit-oriented development project.



*Successful defense of a CEQA challenge helped bring this project to fruition.*



*The CAO grapples with many legal issues associated with development and operation of parks.*



*City development efforts, such as along Del Paso Blvd., call for zoning, signage, and other ordinances.*



*The proposed Crocker Art Museum expansion called for extensive legal assistance such as bond opinions and contract drafting.*

- Provided legal support for the adoption of interim East Sacramento single-family design review program, Sutter Hospital approval, and 500 Capitol Mall approval.
- Provided legal support for the adoption of phase 2 of process streamlining measures that significantly improve notice and hearing process and significantly decrease staff time in preparing staff reports for projects that go to Council.

In addition to responding to written and oral requests for formal legal opinions and drafting legislation, the attorneys in the Transactional/Advisory Section respond to more informal inquiries, provide day-to-day counseling, attend meetings and hearings, review agreements for approval as to form, review staff reports

for City Council meetings, review subpoenas, and provide legal training. The chart below reflects the general scope and nature of the Section's workload during the year.

**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. The City Council adopted almost 100 ordinances during the fiscal year. The attorneys in the Transactional/Advisory Section work on a majority of the City's ordinances. The Transactional/Advisory Section, together with NSNA attorneys, assists City staff in drafting legislation and, when needed, works through the entire process of developing effective legislation, including working with stakeholders and other interested parties. The following are some of the more significant issues addressed by ordinances enacted during the 2006-2007 fiscal year:

- Animal Licensing
- Development Process Streamlining
- Enforcement of California Vehicle Code on Private Parking Lots
- Improvements to the City's Zoning Code
- Marina Ordinance Revisions
- McClellan Heights Special Planning District
- Permits for Minor Home Remodeling/Construction
- Reorganization of the Planning Commission
- Smoking Ban in Parks
- SRO Cooling Centers
- Transit-Oriented Development
- Utilities Users Tax Code Clarifications

**2006-2007 NEW TRANSACTIONAL/ADVISORY MATTERS**

Appeals/Hearings.....	6
Construction Agreements .....	7
Consultant Agreements .....	10
Contracts Approved as to Form.....	2,495
Development Related Advice.....	58
Financing: Assessment District.....	11
Financing: Bonds.....	8
Financing: Fees.....	5
Financing: Lease Financing.....	3
Financing: Mello Roos District.....	23
Financing: Special Districts .....	5
General Advice/Opinions .....	1,554
Interagency Agreements .....	13
Ordinances .....	40
Public Records Act Requests .....	114
Professional Service Agreements .....	4
Projects.....	32
Real Estate Agreements.....	8
Resolutions.....	12
Review/Advise.....	153
Staff Report Review .....	1,176
Subpoenas (Other).....	10
Subpoenas (Police).....	231
<b>Total.....</b>	<b>5,978</b>

# NEIGHBORHOOD SAFETY AND NUISANCE ABATEMENT

## OVERVIEW

Diligent and comprehensive enforcement of the City Code is essential to achieving the City Council's goal of making Sacramento the most livable community in the country. Attorneys in the Neighborhood Safety and Nuisance Abatement Section ("NSNA" formerly known as the "Code Enforcement Section") serve as legal counsel and prosecutors for this outstanding multi-departmental team effort. Although the City Attorney's Office has traditionally provided this kind of legal support to City staff and departments, the creation of NSNA in 2001 enabled the City Attorney's office to devote highly trained and knowledgeable attorneys full-time to the City's neighborhood safety and nuisance abatement efforts. NSNA also provides training to City enforcement staff to create the framework for a team approach that addresses and responds to enforcement problems and issues. The goal is to create a seamless process from the inception of an enforcement case through its prosecution.

### NOTA BENE

The City has filed 13 illegal dumping cases since 1/1/06.

## CODE ENFORCEMENT AND NUISANCE ABATEMENT TOOLS

Through application of the City Code and applicable state law, including specialized nuisance-abatement laws, City enforcement staff and NSNA use a variety of enforcement tools to prosecute a nuisance case. NSNA routinely uses three types of enforcement actions: civil, administrative, and criminal.

### *Civil Court Actions*

Civil actions involve use of applicable state and local laws to file lawsuits on behalf of the City against problem persons, properties (both commercial and residential), and businesses to enjoin and recover costs of abating problems caused by the defendants. In general, NSNA seeks court orders that (1) require owners to clean up their properties or maintain landscaping, (2) require certain problem persons to stay away from properties, and/or (3) appoint receivers to repair and rehabilitate problem properties. For commercial properties, NSNA may 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.

### *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 responding to business and zoning violations and matters related to the City's entertainment permits. NSNA advises staff on the application of the City Code administrative enforcement remedies to specific cases. NSNA attorneys also serve as advocates before administrative hearing officers in appropriate cases. Although most administrative actions are handled at the department staff level, those involving more complex legal issues or parties represented by counsel are referred to NSNA for assistance.



### *Criminal Prosecutions*

One of the most important functions of NSNA is criminal prosecution of the most egregious City Code violators. These violators may be sentenced to serve jail time, or they may be placed on probation subject to specified conditions such as stay-away orders, job- and housing-search requirements, clean-up requirements, and other conditions intended 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 barking and vicious dogs. Prosecution of these matters greatly enhances the quality of life in City neighborhoods and communities, thereby fulfilling the City Council’s goals in having the City Attorney’s Office assume the City Prosecutor role. Here are some of the notable criminal cases:

- **People v. Offender A (District 7):** The defendant was criminally cited for the keeping of junk and debris and working on inoperable cars on his property. The defendant was convicted of a misdemeanor and ordered to serve 3 years of probation. In exchange for a stay of his jail sentence, defendant agreed to reimburse the City’s code enforcement costs and cease maintaining a nuisance on his property. If he fails to obey all laws during his 3 years of probation the stay is lifted and he will be cited for violating his probation and ordered to serve his full jail sentence.



*The City Attorney’s Office prosecuted this illegal dumper and increased its successful prosecution rate against illegal dumping.*

- **People v. Offender B (District 5):** This defendant received a criminal citation for maintaining a dangerous building. The building lacked stairs to the second story units and had a number of safety violations. Despite repeated efforts to work with the owner, he ignored every City order to repair the building. He was convicted and ordered to serve 30 days in jail.
- **People v. Offender C (District 5):** The defendant engaged in unlawful dumping, for which he was criminally cited. Upon his conviction of a misdemeanor he was ordered to serve 30 days in jail. The citizen who reported the incident received a \$500 reward.

## **NSNA CLIENT DEPARTMENTS AND SERVICES**

### *Code Enforcement Department*

- Advice, criminal prosecution, inspection warrants, and nuisance abatements
- Advocacy and representation at administrative hearings
- Entertainment ordinance enforcement
- Review of contracts, administrative notices, letters, and forms
- Periodic training of enforcement staff
- Neighborhood Response Team staff support
- Taxicab ordinance enforcement
- Enforcement support for Housing and Dangerous Building Division
- Enforcement support for Business Compliance Division
- Drafting ordinances and ordinance amendments related to enforcement matters
- Illegal-dumping program
- Graffiti-abatement actions

### *Parks and Recreation Department*

- City park code violation enforcement
- Street tree and heritage tree code enforcement

### *Development Services Department*

- Enforcement support for zoning code violations
- Assist with enforcement of entitlement conditions

### *Police Department*

- Advice on City Code enforcement issues
- Criminal prosecution of City Code violations
- Periodic training on enforcement matters
- Drug abatements
- Problem Oriented Policing (“POP”) team projects
- Social nuisance abatement actions
- Gang abatements

### *Fire Department*

- Advice on code enforcement issues
- Support for fire-prevention issues

### *General Services Department*

- Enforcement support for illegal dumping program
- Public rights-of-way encroachments
- Animal Control advice, training, and prosecution

### *Inter-Agency/Community Groups/ Task Force Participation*

NSNA also participates in the following multi-agency groups dedicated to addressing neighborhood and community improvement throughout the region:

- M.A.G.I.C. (Multi Agency Graffiti Information Committee)
- RHIP (Rental Housing Improvement Partnership)
- Sacramento District Attorney’s Gang Abatement Unit
- Downtown Partnership—Community Prosecutor Program
- Other community organizations, related to existing cases and projects, such as presentations to the Cops and Coffee Neighborhood meetings and the steering committee of the Weed and Seed project
- Sacramento District Attorney’s Community Prosecution Unit, mutual assistance and advice

### *Downtown Enforcement Team/Task Force*

To better complement the efforts of City Code Enforcement staff, the Community Prosecutor, and the Police Department, NSNA joined this focused team effort in downtown producing several positive benefits such as—

- maintaining a downtown presence of law enforcement through walk-about with police, Downtown Partnership staff, the Community Prosecutor, and City Code Enforcement staff;



*The City Attorney’s Office now joins forces with the Police Department in the field by pairing Deputy City Attorneys with assigned Police Officers. This team effort has been named Problem Oriented Policing and Legal Action Workforce or POPLAW.*

- identifying and obtaining quick resolution of downtown problem properties and issues; and
- participating in Downtown Partnership’s safety- and crime-prevention forums, including making a presentation on City Code Issues with the Police Department before the Downtown Safety Council.

## **HIGHLIGHTS**

### *Justice for Neighbors*

On August 1, 2006, NSNA helped launch the Justice for Neighbors (“JFN”) program, targeting major social and criminal nuisance cases that degrade the quality of life in neighborhoods. During this reporting period, executive team members of the JFN committee have met once a month to discuss the progress of each case and identify new cases that merit JFN enforcement. Initial feedback from the Council after the program’s first year was favorable. The City Attorney’s Office continues to take an active role in JFN and fully expects the program to increase beneficial results for the community and NSNA attorneys’ workload in the next reporting period. The JFN committee consists of representatives from the City Attorney’s Office and the following departments and divisions within the City Manager’s Office: Code Enforcement, Housing and Dangerous Buildings, Police Department, Neighborhood Services, and Utilities Department Solid Waste Division.

A welcomed by-product of JFN was the creation of a new and more efficient relationship between the Police Department and the City Attorney’s Office. The City Attorney’s Office now joins forces with the Police Department in the field before a case reaches the litigation stage. Deputy City Attorneys are assigned a Problem Oriented Policing (“POP”) file and do a ride-along with the assigned POP officer as soon as the file is assigned. The attorney must also attend community meetings with the POP officer in the field, interview witnesses, gather evidence, and file

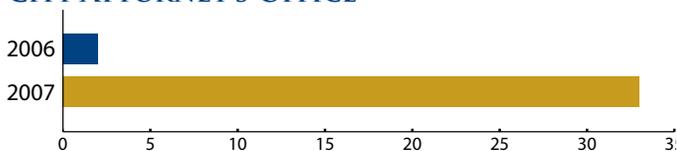
## 2006-2007 NSNA ASSIGNMENTS BY COUNCIL DISTRICT AND ASSIGNMENT TYPE

DIST #1	DIST #2	DIST #3	DIST #4	DIST #5	DIST#6	DIST #7	DIST.#8	CITYWIDE	TOTAL	
Abatement	2	1						1	1	5
Advice	1	17	12	4	28	4	3	6	21	96
Code Enforcement ( <i>Litigation</i> )			1							1
Housing					1					1
Ordinance	1								2	3
Permit Appeal			1							1
PRA	32	56	26	22	74	27	13	11	3	264
Social Nuisance ( <i>Litigation</i> )		2	3	1	14	5		7	1	33
Summary Abatement	1				2	3	2	2		10
Warrant	1	1	3	1	8	1		1		16
Writ ( <i>Litigation</i> )									1	1
<b>TOTAL</b>	<b>38</b>	<b>77</b>	<b>46</b>	<b>28</b>	<b>127</b>	<b>40</b>	<b>18</b>	<b>28</b>	<b>29</b>	<b>431</b>

a lawsuit if necessary. The pairing of the officer and the attorney provides continuity, sharing of institutional knowledge, and most importantly accountability. Each needs the other to succeed. This team effort has been named Problem Oriented Policing and Legal Action Workforce or POPLAW.

This coordination of efforts allows the City Attorney's Office and Police Department to better utilize our respective expertise by having the attorneys prepare the paper work while the officers focus on arresting the criminals that create the social nuisances. In prior reporting periods, the City Attorney's Office handled and/or prosecuted on average two social nuisance actions a year. Between August 1, 2006, and the end of this reporting period the City Attorney's Office handled and/or prosecuted 33 social nuisance actions, a 1,600% increase from the year before. In some cases civil lawsuits were filed while in other cases joint City Attorney's Office and POP meetings with property or business owners were held which resulted in changed behavior and dramatic decreases in calls for police and City services. The new relationship has allowed the Police Department to increase the volume of enforcement cases that they submit to the City Attorney's Office. Accordingly, social nuisances are more quickly eradicated from Sacramento neighborhoods.

### NUMBER OF SOCIAL NUISANCE ACTIONS HANDLED AND/OR PROSECUTED BY THE CITY ATTORNEY'S OFFICE



#### NOTA BENE:

Between August 1, 2006 and July 31, 2007 the City Attorney's Office handled and/or prosecuted 33 social nuisance actions—a 1,600% increase in such cases from the previous year.

### Justice for Neighbors Social Nuisance Abatements

The Police Department's POP teams and NSNA's "POPLAW" unit members 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 positive impact. Children return to playing in their front yards. Litter, trash, and drug paraphernalia that once plagued the neighborhood are eliminated. Here are a few of the notable civil cases:

- 3982 60th Street (Tallac Lounge Bar) (District 6):** This case concerned a gang-infested neighborhood bar that wrought havoc in a previously quiet and peaceful neighborhood. The bar owner allowed validated gang members to patronize the bar. The result was fights, loud noises, reckless driving, litter, and debris throughout the neighborhood. The gang terrorism reached its peak when a gang member was murdered in the parking lot of the bar. Numerous neighbors heard the gunshots and witnessed the grisly aftermath of the murder. NSNA filed a social-nuisance lawsuit that resulted in a permanent injunction ordering the bar owner to hire licensed security guards, enforce a dress code, install gang free zone signs, and manage the property in a way that discouraged gang members from patronizing the bar. Since the permanent injunction was entered, the calls for police service have drastically declined, the gang members have avoided the bar, and the lounge has returned to being a neighborhood bar that serves the neighbors rather than gang members.
- 5301 Fruitridge Road (World Wines and Liquors) (District 5):** This case concerned a liquor store that allowed its parking lot to become a center for unlawful activity that included drug sales, theft, assaults, and other social nuisances. The calls for police service reached a point where the Police Department was essentially serving as the store's private security. NSNA filed a social nuisance lawsuit that resulted in a permanent

injunction requiring the store owner to install a sound system capable of playing classical music to discourage loitering, hire licensed security guards, install video surveillance cameras, and reimburse the City for some of the past response costs. Since the permanent injunction was entered, the calls for service have drastically declined, the loitering has stopped, and the liquor store's remedial measures are used as examples throughout the City of how a business can rid itself of criminals and undesirables that intimidate and threaten patrons.

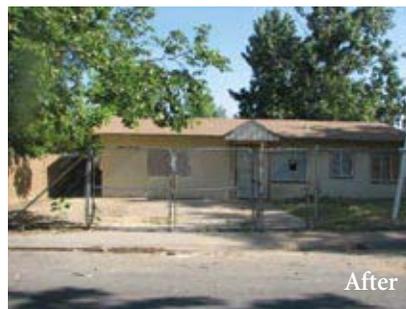
- **1454 Del Paso Blvd. (The Plantation) (District 2):** This case concerned an entertainment establishment that refused to comply with the conditions of its entertainment permit. After a shooting in the parking lot that resulted in one victim being shot multiple times, NSNA successfully imposed a suspension of the entertainment permit. As a result of the enforcement action, the permit was not renewed and the business was later closed.
  - **1481 Meadowview Road (United Gas and Food) (District 8):** This case concerned a gas station/food mart that allowed its property to become a haven for criminal activity. The store experienced a high volume of calls for police service that included stabbings, robberies, drive-by shootings, and illegal narcotics activity. NSNA successfully imposed conditions on the owner's application for a special permit to remodel his store. Among the conditions was the requirement that the owner hire a licensed security guard to patrol the property and agree to a "good neighbor policy."
  - **Weed and Seed Program (District 5):** NSNA attorneys are actively working with the steering committee of this federally-funded weed and seed program. The goal is to weed out social nuisances such as illegal drug sales and crime through targeted law enforcement, and to seed the Oak Park neighborhood through restoration efforts such as after school programs and focused collaboration with social services in the neighborhood.
- The City Attorney's Office is active under the "weeding" or law enforcement component of the program. During the last reporting period NSNA handled and/or prosecuted seven social nuisance actions in the weed and seed area. These included enforcement actions against a liquor store, slumlords, and foreclosing lenders that allowed their properties to become illegal dumping grounds and safety hazards.

NSNA attorneys are constantly looking for novel approaches to resolve long-standing neighborhood nuisances. Receiverships are an effective tool that if used properly can yield significant results.

The Westerner Mobile Home Park in District 8 is an example of a successful receivership. The action was filed three years ago and resolved in this reporting period. The mobile home park consisted of 4.56 acres and had 40 units, 37 of which were occupied. The City became aware of a sewage spill from a failed septic system and filed a complaint against the owner of the property for various City and state code violations. The City successfully petitioned the court for appointment of a receiver to address the septic system, as well as various other problems on the property. With direction from the City, the receiver made arrangements to have the property repaired and worked to ensure that the mobile-home park was safe for residents to occupy. After nearly three years of litigation, the City ultimately recovered all of its enforcement costs as well as its attorneys fees, totaling \$130,000.



*A lender-foreclosed home became an unsightly dumping ground and dangerous property with an algae-ridden pool, potentially incubating West Nile virus-carrying mosquitoes and attracting small children in an Oak Park neighborhood.*



*The lender-owner's property manager ignored code enforcement efforts for months. Three days after the City Attorney's Office filed a nuisance abatement lawsuit, the lender-owner admitted fault and cleaned up the property.*

# LITIGATION



## NOTA BENE:

For the second year in a row, the City has not had to pay outside counsel to handle its new litigation cases.

## OVERVIEW

As with the general counsel to any large corporation, the City Attorney's Office must have attorneys experienced in, and prepared to practice within, a broad spectrum of litigation specialties. The Litigation Section attorneys have that experience and preparation, successfully representing the City in litigation initiated against it in its various roles as employer, public-service provider, law enforcer, regulator, and lawmaker.

During fiscal year 2006-2007, the Litigation Section was responsible for all litigation filed against the City. The six deputies and one supervisor provided litigation support for 309 cases, which involved such diverse subjects as civil rights, employment, tort, contract and other damage claims, writs, and labor matters (including grievance, discipline and unit-determination issues). The Litigation Section attorneys also filed numerous lawsuits on behalf of the City, involving an equally diverse range of subjects: breach of contract, collections, quiet title, subrogation, and eminent domain.

As in previous years, one of the primary goals of the Litigation Section was to dramatically reduce the costs of litigation while maintaining a record of success that is unparalleled in private or public practice.

The Litigation Section also increased its involvement in pre-litigation advisory functions. Litigation attorneys have become involved in the early stages of projects or disputes that have a strong possibility of litigation. This early involvement streamlines the litigation process by having the attorney actively involved at the early stages.

## SIGNIFICANT SAVINGS TO CITY

For more than a decade, the Litigation Section has consistently improved the quality and breadth of its litigation experience. With that experience comes the ability to increase both the number and types of litigation matters handled in-house, resulting in a dramatic decrease in the number of cases referred to outside counsel. In the last six years, only nine cases have been referred to outside counsel, all of them because of conflicts of interest for attorneys in the office. In other words, no cases have been referred because of the section's inability to handle them. For the second year in a row, no City funded cases were referred to outside counsel by the City Attorney's Office.

Hiring and retaining experienced litigators has marginally increased labor expenses for the City Attorney's Office. However, the cost of providing in-house litigation services remains dramatically less than the expense of having equally experienced private attorneys provide these services. Over the last several years, the expense to the City of one hour of personnel time has been 22-30% lower than the hourly rate of litigators providing similar services in private practice. In fact, the disparity is somewhat larger, as the "hourly rate" for city attorneys is based upon a 40 hour work week, and attorneys in the section regularly work much more than that. Although the actual amount saved is difficult to accurately calculate, it is safe to say that the differences in the cost of litigation expense across the 309 cases handled by the Litigation Section this fiscal year saved the City hundreds of thousands of dollars.

## MAINTAINING A HIGH LEVEL OF SUCCESS

These cost savings would be meaningless if the City were unsuccessful in its litigation. The continued effort by the City Attorney's Office to recruit and retain attorneys with an interest and desire to defend and prosecute litigation on behalf of the City, coupled with aggressive litigation strategies, has resulted in another year of significant success for the Litigation Section. Once again, the attorneys in the Litigation Section have managed to resolve the majority of lawsuits against the City without the City's payment of any money. In all, 53 of the 71 damage suits closed during fiscal year 2007 were resolved without the payment of money by the City for any settlement or judgment.

Aggressive use of law-and-motion processes has been a source of particular success for the section, as attorneys successfully brought motions for summary judgment in 11 cases and dispositively demurred in 11 others. The attorneys' aggressive approach, coupled with a willingness to go to trial at the appropriate times, has created an environment in which the attorneys expect success at a high level, and continue to strive to achieve it. Such success is not attainable without experienced attorneys providing the City with a high quality of representation.

Although payouts for the fiscal year 2006-2007 were up from fiscal year 2005-2006, the increase is due largely to a single case that resolved in fiscal year 2005-2006, but could not be closed until fiscal year 2006-2007. Furthermore, the payouts for fiscal year 2006-2007 represent the closure of 71 cases, as compared to 44 in the preceding year, and the payouts for this year were not inconsistent with the numbers in recent history.

## LOOKING FORWARD

Although the Litigation Section enjoyed another successful year in fiscal year 2006-2007, the attorneys in this section have no intention of slowing down, and recognize that there remain areas for improvement. To streamline litigation matters and ensure



ongoing success, the attorneys continue to take advantage of continuing education opportunities to broaden their knowledge of those areas of the law in which the City Attorney's Office regularly practices. Also, with the office's continuing focus on customer satisfaction, the Litigation Section will continue to seek avenues for thorough and timely reporting to its clients to

## PAYOUTS ON ALL LITIGATED RISK CASES

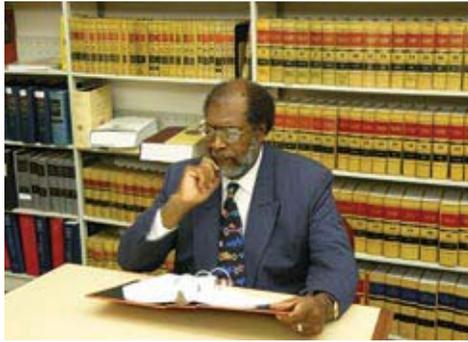
YEAR	CASES CLOSED	PAYOUTS
FY 02-03	79	\$1,037,432
FY 03-04	67	\$2,181,650
FY 04-05	53	\$1,940,551
FY 05-06	44	\$765,953
FY 06-07	71	\$1,980,271

ensure appropriate departmental participation in litigated matters. Greater interaction between staff and the handling attorney increases staff's confidence in the service provided and equally provides the attorney with additional insight into the matter, which gives the City a greater likelihood of success.

## HIGHLIGHTS

The Litigation Section had significant success in handling its cases this year, resolving 75% of damage cases without payment of money. This success is the result of litigation attorneys aggressively handling all cases and refusing to enter into any "nuisance" settlements. These are some examples of section successes:

- **Case No. 1 (Plaintiff W):** Plaintiff was terminated from his employment with the City after female employees complained about his inappropriate conduct. Plaintiff claimed that the allegations were false and sued for wrongful termination, defamation, and discrimination. After extensive discovery, the City's attorney successfully brought a motion for summary judgment, ending the case in the City's favor. That saved the City thousands of dollars in expert-witness fees and much time and effort that would have been incurred had the matter proceeded to trial.
- **Case No. 2 (Plaintiff P):** Plaintiff employee alleged gender discrimination and retaliation when she failed to pass the probationary period for a promotion. Plaintiff agreed to dismiss her complaint after the City's attorneys filed a motion for summary judgment demonstrating the weakness of her case under the law.
- **Case No. 3 (Plaintiff K):** Plaintiff had been the subject of a Code Enforcement proceeding for maintaining dilapidated vehicles on his property. When the vehicles were ordered removed, plaintiff sued the City seeking damages for lost business opportunity and personal property (the vehicles). Plaintiff's case was dismissed at the pleading stage, avoiding the need to engage in discovery or try the case.
- **Case No. 4 (Plaintiff A):** Over the last 3 years, plaintiff, who was the subject of an arrest for several violations, including rape and sexual battery, brought 6 lawsuits and/or claims against the City alleging wrongful arrest and excessive force.



Each of the 6 actions has now been dismissed by aggressive motion work at the pleadings or claims stage.

This individual has now been declared a vexatious litigant, so he must post a bond to file any lawsuit against the City.

- **Case No. 5 (Plaintiff L):** The plaintiff alleged civil rights violations following his arrest for lewd conduct, and he sought to have a class action certified by the federal court. After extensive discovery and motion practice, the court dismissed the case on a motion for summary judgment. This result not only avoided the potential for a costly trial but also eliminated the threat of a class action on behalf of similarly situated arrestees.
- **Case No. 6 (Plaintiff PP):** Plaintiff sued the City alleging that her son died as a result of the use of a taser by police officers who responded to a call. Plaintiff alleged the use of the taser was excessive and the cause of her son's death. The City's attorney successfully brought a motion for summary judgment. Plaintiff's appeal was ultimately dismissed.
- **Case No. 7 (Plaintiff R):** Plaintiff alleged that she tripped and fell on a displaced City sidewalk and that she sustained significant injuries. She further alleged that her injuries prevented her from continuing her employment, which resulted in a claim of significant ongoing wage losses. The City's attorney successfully filed a motion for summary judgment, and the court awarded the City its costs of suit. After some negotiation, the plaintiff ultimately paid the City \$4,500 in costs.
- **Case No. 8 (Evictions):** Two tenants at different locations occupying City-owned property refused to evacuate the premises despite the City's decision not to renew their respective leases. As a result, the City had to initiate eviction proceedings. Both matters were resolved via motions for summary judgment in the City's favor. One of the tenants appealed the decision, which was also decided in the City's favor. The City is currently prosecuting an action against one of the tenants to collect approximately \$21,000 in attorney's fees, and additional sums for reasonable rents during the time the tenant refused to vacate the premises.
- **Case No. 9 (Subrogation):** Over the course of fiscal year 2006-2007, the Litigation Section filed several subrogation lawsuits to recover worker's compensation benefits paid to City employees.

## NOTA BENE

Of the 71 damage cases resolved during this past fiscal year, the Litigation Section successfully resolved 75% without the payment of money by the City.

These lawsuits resulted in over \$85,000 being returned to the City from the individuals who caused the harm to the City's employees. Credits against future treatments for these employees were also obtained in even larger numbers.

- **Case No. 10 (HIV Petitions):** In cases where a police officer is subjected to the bodily fluids of an individual being arrested, state law allows for blood to be drawn from the arrestee to determine whether he or she is HIV positive. Petitions for such blood draws must be filed with the court immediately, as the draw needs to be taken within 72 hours of the officer's exposure. Litigation attorneys handled two of these petitions in fiscal year 2006-2007, in both cases receiving authority to have blood drawn within the 72-hour time frame for the safety of the officers.
- **Case No. 11: (Plaintiff C):** Plaintiff was pulled over by Sacramento police officers for driving under the influence. In his complaint, plaintiff alleged that a Police Department officer used excessive force while assisting a nurse at the jail with a blood draw on the plaintiff. When plaintiff's counsel consistently attempted to provide inappropriate and incomplete discovery responses, the City's attorney brought three motions to compel complete responses. On the third attempt, the City's attorney successfully sought a terminating sanction for the party's bad faith participation in the litigation.

The sanction resulted in a judgment in the City's favor.





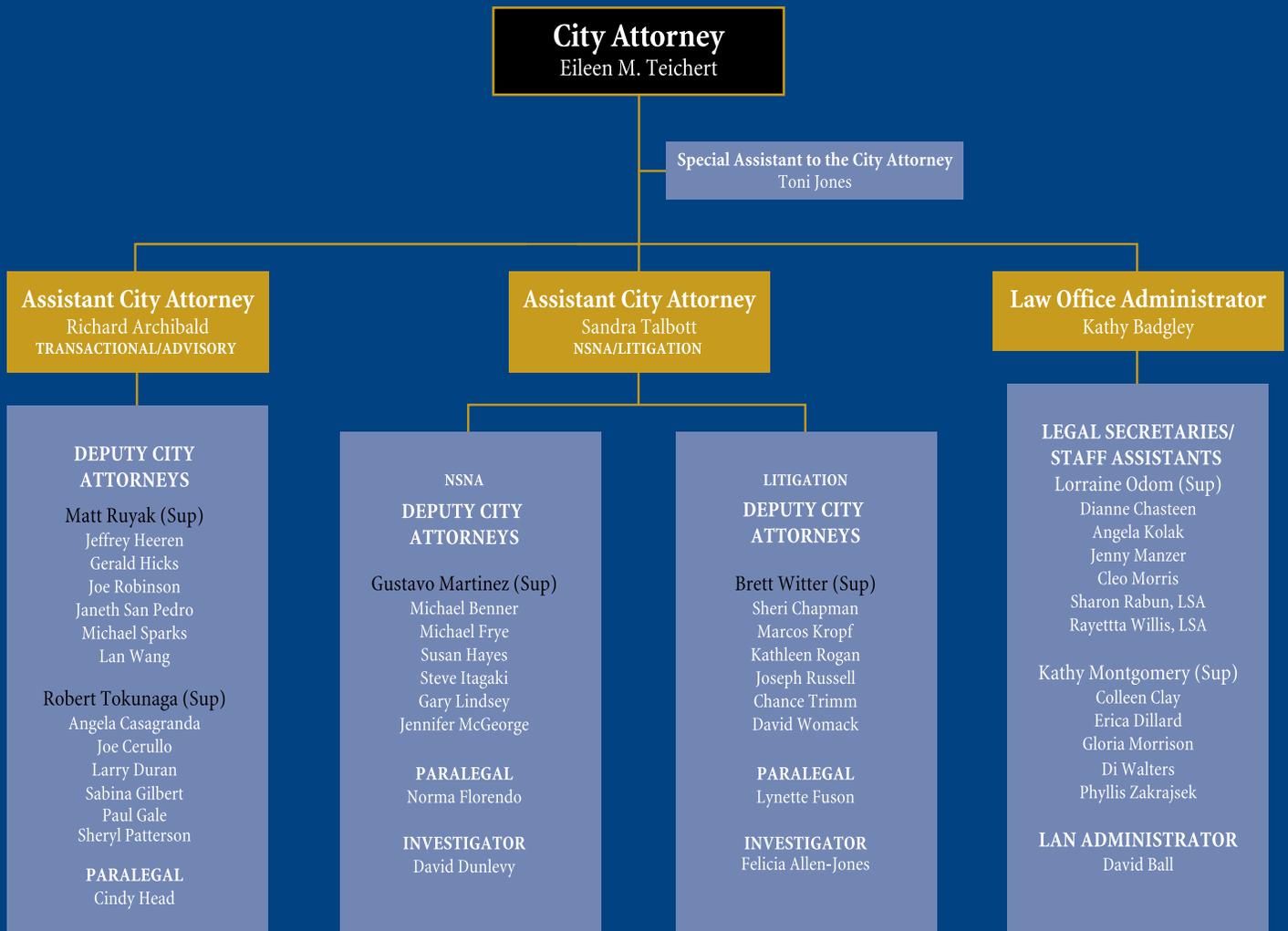
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**MAYOR HEATHER FARGO**

- DISTRICT 1** - Councilmember Ray Tretheway
- DISTRICT 2** - Councilmember Sandy Sheedy
- DISTRICT 3** - Councilmember Steve Cohn
- DISTRICT 4** - Councilmember Robert King Fong
- DISTRICT 5** - Councilmember Lauren Hammond
- DISTRICT 6** - Councilmember Kevin McCarty
- DISTRICT 7** - Councilmember Robbie Waters
- DISTRICT 8** - Councilmember Bonnie Pannell



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