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E-NEWSLETTER

August 2014

ISSUE: 18

Seattle's first 502 store opens



Remember the reason for legal pot

Lost in the hoopla over the opening of state marijuana stores is the reason voters allowed them.

— By Jonathan Martin

http://seattletimes.com/html/opinion/2024041265_jonathanmartincolumnmarijuana1.xml.html

Editor's note: Pete's July 11 statement to his constituents, City employees and the media

The City of Seattle is a "drug-free workplace" under federal law, and our personnel rules reflect these sound workplace policies. Not only are controlled substances (like marijuana) banned from City offices, City employees cannot possess them while on City business.

So what is the rule when "City business" includes successful drug policy reform – specifically, transition from prohibition to a fully legal, regulated and taxed marijuana supply system? I was elected to drive such reform, and to eradicate the illegal marijuana market. I intended my public purchase at Seattle's first legal store to bolster the transition.

The workplace rule has not changed, however. When I brought the unopened marijuana to City offices – trying to keep up with a busy schedule – I nonetheless violated the City's rules. At the end of the business day, I took the marijuana home and left it there, still unopened, before I participated in the second Community Walk of the Mayor's Summer of Safety.

I have discussed the violation with the City Personnel Department director, and I have volunteered to donate \$3,000 to the Downtown Emergency Service Center. I apologize to my employees, all City employees and to the public.

CAO Supports Seattle City Light's Salmon Habitat and Wildlife Mitigation Lands Programs

One of the important functions of the City Attorney's Office (CAO) is to provide legal services with regard to City-owned real estate. The City Charter (Article IV, Legislative Department, Section 14) requires that the City Council authorize all acquisition and disposal of real property interests by ordinance. CAO assists in the drafting and submittal of such real estate legislation to the City Council, while also providing legal counsel to City departments in the negotiations and transactions to buy and manage City property such as park lands, fire and police stations, utility facilities (including sewer, water, drainage and electric transmission and distribution facilities), as well as government buildings such as City Hall, Seattle Municipal Tower and the Municipal Court Building.

Our municipal electric utility, Seattle City Light (SCL), owns and manages thousands of acres of land in Washington state both within and outside of the boundaries of the city of Seattle, to generate, transport and distribute electric power to over 400,000 customers within its service area in King County (including the cities of Seattle, Burien, Lake Forest Park, Normandy Park, Renton, SeaTac, Shoreline, Tukwila, and parts of unincorporated King County). SCL's hydroelectric dams in the North Cascades on the upper Skagit River—Ross, Diablo and Gorge—and Boundary Dam on the Pend Oreille River in northeast Washington require the City to own property above and below these dams not only for operating the dams, but also to protect critical fish and wildlife habitat.

SCL's FERC License and Settlement Agreement Concerning Wildlife

Since 1991, SCL has been engaged in long-term protection and management of lands purchased pursuant to its Federal Energy Regulatory Commission (FERC) license for operation of the three dams of the Skagit River Hydroelectric Project. The "Settlement Agreement Concerning Wildlife" (Settlement Agreement) set forth SCL's overall mitigation requirements for land acquisition and management, and incorporated a Wildlife Habitat Protection and Management Plan (Wildlife Plan) for specific management of the lands to be acquired.

The Settlement Agreement was signed in 1991 after extensive negotiations between SCL and stakeholders, including federal and state resource and land management agencies such as the National Park Service, U.S. Forest Service, U.S. Fish and Wildlife Service, the Washington Department of Fish and Wildlife, Native American tribes (including the Upper Skagit Tribe, Sauk-Suiattle Tribe and the Swinomish Indian Tribal Community) and the non-profit North Cascades Conservation Council. The purpose of the Settlement Agreement was to address the effects of the Skagit dams on terrestrial wildlife, including the inundation of over 12,000 acres of land by reservoirs above the dams, especially Ross Lake. A second settlement agreement addresses fisheries resources and habitat protection. Both agreements provide benefits to plants, wildlife, and fish in terrestrial *and* aquatic environments.

SCL's Endangered Species Act Early Action Program

In 1999, in response to the listings of Puget Sound Chinook (King) Salmon and the Bull Trout as threatened under the federal Endangered Species Act (ESA), the City Council passed Resolution 29905, which directed City departments, including SCL and Seattle Public Utilities (SPU), to develop and implement an Early Action Program (EAP). One of the five directives was for habitat acquisitions and restoration projects within and outside the city of Seattle in locations offering the greatest benefit to salmon species. The commitment was formalized in Ordinance 120618 (2001) and Ordinance 121114 (2003), which authorized SCL and SPU to acquire various habitat lands in the Skagit and Tolt/Snoqualmie watersheds as part of the EAP.

SCL's Skagit Habitat Lands Acquisition and Management Program

Since 1991 -- pursuant to the requirement of its FERC license, the Settlement Agreement and the City's EAP -- SCL, with the assistance of the CAO, has acquired, preserved, restored and managed over 13,000 acres of land for fish and wildlife habitat purposes in the Skagit, South Fork Nooksack, Sauk, and Suiattle River Basins. Most of the land acquired is in Skagit County between the towns of Newhalem on the east and Sedro Woolley on the west, with some parcels along the Sauk River in north Snohomish County near the town of Darrington.

Several thousand acres of SCL's habitat lands have been acquired from the Washington Department of Natural Resources (DNR) pursuant to the state's Trust Land Transfer Program, as well as through grants from the state's Salmon Recovery Funding Board (SRF Board). For these properties acquired from DNR or with SRF Board funds, SCL is required to grant the State of Washington a "Deed of Right" to ensure that the properties will be preserved for fish and wildlife habitat purposes in perpetuity. Since 1991, SCL has spent almost \$30 million for the acquisition and management of habitat lands, paid for with both ratepayer funds and government grants from the SRF Board.

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Careful planning and management by SCL and coordination with the CAO has helped ensure preservation and protection of these habitat lands. The management of these habitat lands is intended to be minimal or low intensity, directed towards habitat preservation and restoration, and consistent with tribal rights. Site monitoring is done on a regular basis to identify and avert problems on specific properties, including timber trespass, wildlife poaching, squatters taking up residence, illegal dumping, setting up of labs to and unauthorized use of motorized vehicles that can degrade or destroy fish habitat. Habitat damage can also be caused by fire induced events, which inspection can prevent occurrence of.

SCL has installed access gates to prevent activities, while lands open to public for hiking, viewing. Cultural been performed prior to activities to ensure tribal resources. maintenance and done to protect and protect aquatic and 2005, SCL cooperated landowners pursuant to abandonment of 17

roads southeast of the Rockport-years later, in 2008, a bridge no longer used across the South Fork of the Nooksack River was removed. In 2013, SCL, with the help of the CAO, negotiated and executed a Land Exchange Agreement with private timberland owner Sierra Pacific Industries to transfer ownership of several miles of a logging road along with the responsibilities for maintaining it in exchange for road less high quality habitat property in the South Fork Nooksack River basin.

Public use of SCL's habitat lands is allowed as long as such use does not compromise habitat or threaten or endanger wildlife or fish, and does not involve commercial gain. Passive recreational day use is permitted and encouraged, while overnight camping, campfires, firewood gathering and Christmas tree cutting are not allowed.

Fishing and hunting are generally permitted on the habitat lands, as regulated by WDFW and the tribes, although restrictions on hunting may be imposed if public safety requires because of proximity of housing or other human activity, or if there is evidence that hunting has caused adverse impacts to wildlife populations, including wildlife other than the species being hunted, or if hunting poses unacceptable conflicts with other recreational users, such as wildlife viewers.

Habitat Management

SCL takes a low-intensity approach to management of its habitat lands, with the lion's share of the program funds being directed towards land acquisition rather than alteration. Where funds have been used for habitat improvement, priority has been given to restoring habitats or arresting conditions that degrade habitat. Other funding sources, including government grants and agreements with tribes and non-profit conservation organizations such as The Nature Conservancy and the Skagit Land Trust to assist in habitat restoration, have been an important part of SCL's Skagit lands management program. CAO has assisted SCL in the creation of contracts and other agreements to meet SCL's habitat management objectives on these lands.



maintained and replaced such unauthorized generally keeping these recreational use by the fishing and wildlife resource inventories have habitat restoration protection of cultural and Culvert replacements, road abandonments have been enhance fish passage and riparian environments. In with other public DNR approval in the miles of former logging Cascade Road. Three

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SCL considers potential habitat land management actions that include the following elements:

Consistency with other management or recovery plans, such as Habitat Conservation Plans (HCPs) to achieve ESA compliance

Protection of healthy habitats from threats or degradation

Management for diversity of habitat types and native species, and considering the context of SCL's habitat lands in the larger ecosystem level landscape

Efforts must of be flexible and adapt over time as more information on the properties and species inhabiting them are collected

Using expertise and capacity of other agencies, tribes and conservation groups to perform scientific studies, restoration or habitat enhancement projects on SCL's lands

Use of native indicator species, including the pileated woodpecker, elk, bald eagle and northern red-legged frog to guide terrestrial and riparian management actions to achieve improvements in overall habitat and ecosystem health

Examples of the kinds of projects undertaken by SCL to protect and improve fish and wildlife habitat on its Skagit lands include:

Old Growth Acceleration

Old growth habitat is important to habitat and native species diversity in the context of the larger landscape and health of regional ecosystems. Most of the lands acquired by SCL were formerly managed for resource-extraction purposes such as timber harvesting and mining, which degraded natural habitats through loss of both plant and animal species diversity and overall populations. SCL has through its low-intensity management has hastened the progress of the habitat lands once again reaching a mature state, and has discouraged or prevented activities that interfere with the maturation of established coniferous forest.

Noxious Weed Control

SCL has used strategies to control non-native invasive plant species such as Japanese Knotweed, Himalayan blackberry and Scotch broom on its Skagit Habitat lands in certain locations. Spread of these species can crowd out and eliminate native plant species and harm wildlife food sources or other habitat features. Eradication and control are extremely difficult, as these non-native species are common throughout the Pacific Northwest, and require cooperation of adjacent landowners, both public and private. SCL has used the capacity and resources of the Skagit Land Trust, the tribes and Skagit Fisheries Enhancement Group to assist in noxious weed control on its habitat lands in the Skagit, Sauk and South Fork Nooksack River basins. Physical removal is the preferred method and is used whenever possible, with limited use of herbicides under controlled circumstances.

Riparian Enhancement

Stream and river bank habitats on SCL Skagit lands have been improved through plantings of conifers and other native tree and shrub species. Trees and larger shrubs shade streams for temperature control, protect banks from erosion and create woody debris environments that benefit native fish (especially salmon) and wildlife species. Riparian vegetation also filters runoff from adjacent lands before it enters streams. Also, releasing conifers by cutting back adjacent vegetation has promoted their growth and over time increases the presence of large woody debris.

Monitoring of Habitat Projects and Lands

Effective monitoring of habitats on the SCL Skagit lands has been essential for successful management to enhance healthy habitats for native species, and have included:

Compliance and Implementation Monitoring to assess whether a project was implemented according to design and specifications, including surveys of vegetation, snags, forage units created for elk, riparian corridor surveys, and surveys of roads to prioritize road abandonments and closures, as well as follow-up surveys to ensure the road closures were implemented as planned and that erosion control structures have been installed as designed.

Effectiveness Monitoring is used to determine whether a project was successful, including monitoring to see if created snags are being used by cavity nesting species; monitoring stands of trees to determine if desired stand conditions have been created over time; assessing elk herds to assess population changes and bull/cow ratios to allow them to reach desired goals; conducting fish

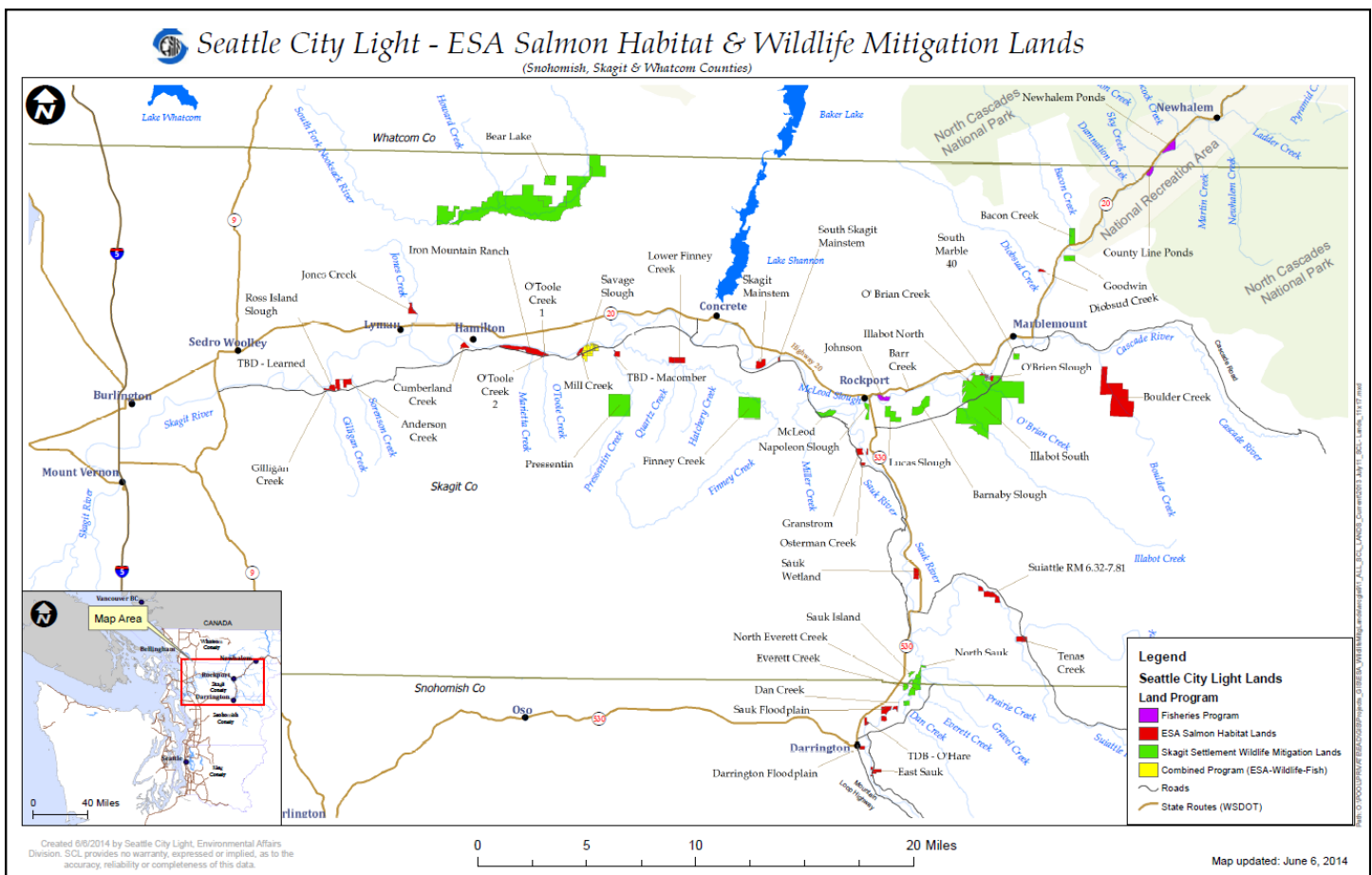
CAO Supports Seattle City Light's Salmon Habitat and Wildlife Mitigation Lands Programs

species studies to determine if fish passage projects have increased habitat for native salmon species; performing stream sediment monitoring to determine if sediment levels have decreased after road abandonment and revegetation and whether erosion control measures have been successful on open roads; conducting temperature and LDW monitoring to determine the effectiveness of riparian corridors for providing shade and LDW for fish habitat opportunities; conducting stream and river channel surveys to assess if bridge removal has improved flow conditions for aquatic species and habitat; and conducting fish use and distribution surveys and for aquatic invertebrates to determine if management actions have improved ecological health of the aquatic system.

Validation Monitoring is similar to Effectiveness Monitoring, but usually performed as part of a research project. For terrestrial species, it has been used at the parcel or group of parcels to assess if creating snags has improved woodpecker habitat. For aquatic species, it occurs at the watershed scale, and has been used in cooperation of other organizations on fish passage efforts.

Adaptive Management

Adaptive Management Plans are designed to incorporate the results of the different monitoring approaches of management activities back into the management planning process. These plans create a feedback loop in which the original goals are compared with the actual monitoring results to determine if such goals are being or have been met.



Doing better by DV victims

By Jana Jorgensen

Over four days in April the Sheraton Hotel Downtown Seattle was overrun with law enforcement, advocates and prosecutors. Three continents and 30 some states were represented at a program featuring all the big names in the domestic violence (DV) field. I was lucky enough to attend three days of the conference and like the other thousand attendees I was hoping to gain some amazing and novel insight on how to tackle DV.

Spoiler Alert (for anyone who's read beyond the title) there is no amazing or novel new way to address DV. What the conference did provide, however, was a better understanding of DV issues and ways to improve current practices. The conference also reinforced the power of a dynamic speaker with exciting visuals versus lifeless speakers with text-saturated powerpoint slides. Two sessions I attended were brilliantly presented and left a lasting impression: Victim Interviews (A journey from Revictimization to Trauma) and Who's Lying Here? (Reading People and Judging Credibility).

Victim Interviews

The highlight of the plenary sessions, this presentation was given by an extremely caffeinated and animated man named Russell Strand. Strand is the chief for the Behavioral Sciences Education and Training Division at the Army Military Police School. Strand took a critical look at how DV victims are treated in our society, and challenged everyone to do better.

He started with a question: How many hours after a law enforcement officer is involved in a shooting is he brought in for questioning? 48. An officer is allowed to recover and process for 48 hours after a traumatic event before giving a statement. In that 49th hour, he is given a cup of coffee, walked politely to a conference room, told how brave his actions were and the interview progresses with courtesy and understanding.

When a DV victim is interviewed by police it usually occurs immediately after the event or within 24 hours. If the interview occurs in a police station she may be put in an interrogation room, often those with hard metal chairs used for interrogations of suspects. She may be offered some water, but shortly thereafter she is peppered with questions on topics most of us don't share with anyone, ever. She is asked about the incident over and over again and must discuss intimate details of sex, current and prior abuse, failed relationships, and often, prostitution and drugs. She is also expected to provide a timeline with few holes so that everything makes perfect sense.

48 hours between incident and interview may seem like too much time, but as Strand explained, it takes that long to calm after a stressful event. The brain chemicals released when a person experiences trauma affects the memory – and not in a good way. Trauma affects the memory in a number of negative ways: the sequence of events may be encoded incorrectly, parts of the experience may be lost completely, and others may be blurry. Allowing time to process through the events allows time for the victim to progress and fill in areas that may not be available immediately following the event. Trauma's effect on the brain is a major reason why victims tend not to be believed and why a victim's statement immediately after an incident may be convoluted, disjointed and improbable. All the while the abuser appears calm, in control and coherent.

Who's Lying Here?

After that sobering discussion on victim interviews, San Diego District Attorney Wendy L. Patrick lightened the mood by telling everyone that lawyers are considered only 10% more trustworthy than a used car salesman. Despite this shocking statistic (OK not really), Patrick gave a vibrant presentation on reading people and the importance of body language.

In a fashionable red suit and matching pumps, Patrick broke down seven areas or "colors" that allow a person to completely assess another. These include: *personal appearance, body language, voice, communication style, content, actions and environment*. The majority of the 90 minutes was spent on body language because as Patrick stated, "physical appearance is how you want to be seen, body language is the opposite – it is unintentional." During the presentation several volunteers stood before the hundred-plus crowd and allowed us to make observations of them based on only appearances and body language. Given a few minutes to really study the subjects, most of the observations made were correct. Conversely, when subjects were asked to either tell the truth or lie, it was very difficult to delineate the liars and truth-tellers based on appearance and voice alone.

To conclude, Patrick emphasized the need to get out from behind our computers and wireless headsets and engage, in person, with people in order to hone our skills and develop a mastery of reading others. While her presentation may seem less than applicable because defendants don't volunteer to let us study them, I plan to use these tactics to better assess and understand victims and witnesses who come from all races, socioeconomic backgrounds and life experiences.

Pete welcomes Chief O'Toole

I congratulate Chief Kathleen O'Toole as she takes the helm of the Seattle Police Department. Chief O'Toole's extensive experience in police reform makes her exceptionally qualified to lead the department at this critical time. I look forward to partnering with Chief O'Toole and her command staff as we work through the Department of Justice consent decree and challenging public safety issues. I also look forward to a renewed relationship with the members of the Seattle Police Officers Guild and Seattle Police Management Association – and, indeed, all sworn and unsworn personnel throughout SPD – as we strive to ensure Seattle's safety and fulfill our common role as public servants.

City mounts legal defense to minimum wage challenge

Seattle City Attorney Pete Holmes has retained the nationally known litigation firm Susman Godfrey, LLP, as co-counsel in defending against a constitutional challenge to the \$15 an hour minimum wage ordinance that the Seattle City Council passed June 2.

"Seattle's Mayor and City Council have courageously taken direct aim at income inequality with passage of Ordinance 124490," Holmes said. "It is my responsibility to protect this historic legislative victory and so we have assembled the best legal team possible."

Attorneys from Holmes' office and Susman Godfrey jointly entered their appearance in the case before U.S. District Judge Richard A. Jones in the Western District of Washington. The lawsuit was filed June 11 by the International Franchise Association and several franchise owners.

"We are honored that the City Attorney has selected our law firm to assist in defending the legality of Seattle's new \$15 minimum wage law," Parker Folse III, Seattle managing partner, said. "Our goal is to make sure that the law takes effect on schedule."

Susman Godfrey, LLP, limits its practice to high-stakes civil litigation, with 100 lawyers in offices in Seattle, Houston, Dallas, Los Angeles and New York City. The Seattle office is the firm's second-largest office with 20 attorneys.

Assisting in the City's defense will be Erwin Chemerinsky, dean and distinguished professor of law at the University of California, Irvine School of Law, a noted author and scholar of constitutional law.

Susman Godfrey lawyers have agreed to take on this work for half their usual fee and capped the amount they will charge for each phase of the litigation.

"The City's \$15 minimum wage ordinance is a landmark measure both for Seattle and for the nation," Folse said. "Those of us who will be representing the City in defending it have closely watched the process that led to its adoption, and look forward to defending its legality."

LINKS TO NEWS STORIES:

6/18/14 City responds to cops' lawsuit challenging SPD reforms -- City attorneys provided specific information to U.S. District Judge Marsha Pechman on Wednesday that might be persuasive if she considers whether to dismiss a lawsuit in which more than 120 Seattle police are asking her to block new use-of-force policies. (Seattle Times)
http://seattletimes.com/html/localnews/2023875651_cityresponsexml.html

7/7/14 Seattle DUI prosecutors say juries confused about driving high -- When it comes to smoking pot and driving, Seattle's top DUI prosecutors say you'd be surprised how many people think it's legal. (KIROTV)
<http://www.kirotv.com/news/news/seattle-dui-prosecutors-say-juries-confused-about-ngbHj/>

7/8/14 City charges firefighters in attack on sleeping homeless man -- The Seattle City Attorney's Office has charged three people, including two Seattle firefighters, in an attack on a homeless man sleeping in Pioneer Square three months after the King County Prosecutor's Office declined to file felony charges citing a lack of evidence. (KOMOTV)
<http://www.komonews.com/news/crime/City-charges-firefighers-in-attack-on-homeless-man-266483051.html>

7/23/14 Judge dismisses excessive-force claim against SPD -- A federal judge has thrown out a civil-rights lawsuit brought by a man who alleged he was choked while being arrested by a Seattle police officer. (Seattle Times)
http://seattletimes.com/html/localnews/2024145809_casedismissedxml.html

7/25/14 City sues Seattle's first pot grower over building permit problems -- The city of Seattle is suing Seattle's first legal, recreational pot grower, Sea of Green Farms, claiming the company altered its building without a proper permit and is continuing to operate outside of the city's building code. (Seattle Times)
<http://blogs.seattletimes.com/pot/2014/07/24/city-sues-seattles-first-pot-grower-over-building-permit-problems/>

7/25/14 City drops tree-cutting charges against former Magnuson Park volunteer -- The Seattle City Attorney's Office has dropped charges against a former Magnuson Park volunteer land steward accused of wrongly cutting down trees. (Seattle Times)
<http://blogs.seattletimes.com/today/2014/07/city-drops-tree-cutting-charges-against-former-magnuson-park-volunteer/>

EVENTS

8/5/14 It's Seattle's 30th annual **Night Out Against Crime** so Pete will be all around town, with stops in the Cowen Park neighborhood (corner of Brooklyn Avenue and NE 62nd Street) and the West Precinct's picnic at Occidental Square in Pioneer Square.

8/8/14 Pete will attend the **Mariners Hall of Fame Luncheon** benefitting Seattle's Fred Hutchinson Cancer Research Center from noon to 1:30 p.m. at Safeco Field.

8/12/14 With other City officials, Pete participates in the **Find It, Fix It Community Walk** from 7 to 9 p.m. in the Rainier Beach area. This will be the 5th and final walk this summer.

8/16/14 Pete will speak at Hempfest, to be held 8/15 through 8/17 at Myrtle Edwards Park. <http://www.hempfest.org/>

8/29/14 The **State Sunshine Committee** holds its quarterly meeting from 8 a.m. to 1:30 p.m. in the Cherberg Building in Olympia. <http://www.atg.wa.gov/opengovernment/sunshine.aspx>

9/14 – 9/18 Pete travels to Kansas City, Mo., to participate in the annual conference of the National Association for Civilian Oversight of Law Enforcement <http://nacole.org/>

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To view the 2012 annual report,
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[http://www.seattle.gov/law/docs/
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The Seattle City Attorney's Office is committed to providing the City of Seattle with the highest caliber legal advice to help protect the health, safety, welfare, and civil rights of all.

The City Attorney's Office has four divisions:

The Civil Division represents the City in lawsuits and advises City officials as they develop programs, projects, policies, and legislation. The sections within the Civil Division include torts (claims), governmental affairs, land use, environmental protection, labor and employment, and contracts/utilities.

The Criminal Division represents the City in prosecuting traffic infractions, misdemeanors, and gross misdemeanors in Seattle Municipal Court. The types of cases prosecuted by the Criminal Division include driving under the influence, traffic infractions, domestic violence, theft, assault, and trespassing.

The Administration Division staff provide budgeting, accounting, human resource, clerical and information technology services for the City Attorney's Office.

The Precinct Liaison Division assigns an assistant city attorney as a liaison to each of the City's five police precincts as another way of addressing public safety and neighborhood livability problems.

How to apply for an internship/externship in the Civil and Criminal Divisions: [http://
www.seattle.gov/law/volunteer_program/](http://www.seattle.gov/law/volunteer_program/)



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