

# Seattle City Attorney

## Annual Report 2015



## TABLE OF CONTENTS

3	Statement from the City Attorney
7	Precinct Liaison Division
12	Civil Division
23	Criminal Division
38	Race and Social Justice Initiative
41	Administration Division

## STATEMENT FROM THE CITY ATTORNEY

### **Seattle & City Government, Post-Great Recession**

As construction cranes multiplied across the Emerald City in 2015, Seattleites expressed growing concern about rapid urban change amid worsening economic inequality. Halfway through Mayor Ed Murray's first term in office (my second), we elected in 2015—for the first time in since 1911—seven of our nine City Councilmembers by district, consistent with passage of voter initiative Amendment 19 to the City Charter in 2013. As City Attorney, I continued to push this full-service exceptional "in house" law firm to ever greater levels of performance.

### **A Much-Needed New Home for the City Attorney's Office**

In 2015, we successfully consolidated our 101 lawyers and 79 legal professionals into efficient, striking new offices on the 18th, 19th and 20th floors of Columbia Center. For the first time in many decades the Seattle City Attorney's Office (CAO) now brings the full, coordinated expertise of its Civil, Criminal and Precinct Liaison Divisions to bear on every new initiative and challenge Seattle faces. Our quarters, including an outstanding conference center where we meet with City clients, is strategically housed near the municipal government campus.

And while the move itself necessarily taxed the logistical resources of Administration Chief Dana Anderson, this physical consolidation enhanced her division's support for all CAO operations:

Reducing our office footprint from five floors in two different buildings to three floors in a single location makes possible a single "storefront" for receiving visitors, mail and service of legal documents. Preparing for the move forced us to rethink all our office systems, moving us more deliberately toward a paperless office and streamlining communications throughout City government. It also allowed me to "flatten" my management structure, eliminating the chief and deputy chief of staff positions and relying more heavily on an Executive Team comprised primarily of division chiefs.

### **Leaner CAO Management**

My Executive Team has also evolved. In midyear 2015, we said goodbye to Civil Division Chief Jean Boler, who retired to her hometown of St. Paul, Minn. Following an executive search, I again promoted from within CAO ranks and appointed Greg Narver to the post, where he has continued to inspire ever-increasing excellence from the Civil Division. A true "Lawyer's Lawyer," Greg has exceeded all of our hopes and expectations.

In December, Craig Sims finally succumbed to intense recruiting and returned to private practice. Our second nationwide executive search yielded another inspiring chief for the Criminal Division in Kelly Harris. Kelly returned to the Pacific Northwest late in the first quarter of 2016 after some seven years in the Litigation Section of the U.S. Justice Department's Counterterrorism Division. No stranger to Seattle, Kelly began his



Pete Holmes



## STATEMENT FROM THE CITY ATTORNEY *continued*



*Pete with Chief O'Toole*



*Aki Kurose students*



*The floorplan of the new space*

legal career more than 20 years ago under the late King County Prosecutor Norm Maleng, thereafter becoming an Assistant U.S. Attorney for the Western District of Washington before beginning his stint with DOJ in Washington, D.C.

### **CAO: Melding Public and Private Sector Legal Best Practices**

Annual reports from my first and second terms previously acknowledged my private sector philosophy in delivering top-tier legal services to the City. CAO professionals are proud to provide innovative legal counsel to perhaps the most progressive city in the country—not to mention the 18th largest, and one of the fastest growing. Even while acclimating to our new home, we stayed ever focused on the work at hand, chalking up an impressive list of accomplishments for 2015 in service to the People of Seattle.

**Regulatory Enforcement & Economic Justice** (REEJ) is the name of our newest Civil Division section. In a rapidly growing city like Seattle, to combat escalating housing costs and simultaneously help preserve surrounding rural, agricultural and wilderness lands from overdevelopment, increasing density is a must. With increased density comes ever the greater need for thoughtful building codes that are consistently enforced.

Headed by a veteran criminal prosecutor, civil land use lawyer—even former precinct liaison—Tamera Van Ness brings her broad experience in the CAO to this innovative, multidisciplinary effort to address quality of life issues in Seattle. And Tamera's team at REEJ truly hit the ground running in 2015. For instance, half of the unlicensed marijuana dispensaries in Seattle at the start of the year were shuttered by year's end, with little or no direct police action. (Most remaining stores at this writing have at least a theoretical chance of obtaining a state license from the Washington State Liquor & Cannabis Board (LCB) by July 1, 2016, when medical marijuana enterprises became subject to LCB rules.)

REEJ is by no means limited to enforcing Seattle's marijuana rules. In a variety of commercial settings, City code compliance inspectors and analysts from other departments—the new Department of Construction & Inspections (DCI); Financial & Administrative Services (FAS) (business licenses and taxes, taxis and TNC regulations); the new Office of Labor Standards (OLS); the rental housing inspections team, to name a few—team up with REEJ lawyers every day to find innovative approaches to gaining regulatory compliance. Enforcing Seattle Municipal Code (SMC) regulatory licenses for marijuana businesses,

nightclubs, massage parlors, strip clubs and other regulated industries under SMC Title 6 allows for more targeted enforcement, tailored to the impacts of any particular activity. REEJ attorneys not only collaborate with compliance officers from multiple city departments; thanks to our newly consolidated offices they can more easily coordinate with their fellow civil litigators and criminal prosecutors in applying the most appropriate remedies to gain compliance and enhance public safety. *And REEJ was launched with no new City resources*, by recruiting assistant city attorneys, prosecutors and legal support staff with experience and enthusiasm for code enforcement. Regulatory enforcement is truly the smart answer to more of today's multidisciplinary urban challenges.

### **Key Litigation Victories**

**\$15 Minimum Wage.** Seattle's groundbreaking \$15 minimum wage ordinance was successfully defended by Civil Division Chief Greg Narver against a challenge by former U.S. Solicitor Paul Clement (the successful SCOTUS advocate in *Bush v. Gore*) in the U.S. District Court for the Western District of Washington through the U.S. Circuit Court of Appeals for the Ninth Circuit. Now that plaintiffs have recently abandoned further appeals, REEJ lawyers are already actively enforcing

## STATEMENT FROM THE CITY ATTORNEY *continued*

the ordinance's graduated introduction of the new higher minimum wage across the board in Seattle.

**Gun Violence Tax.** When the National Rifle Association (NRA) challenged Seattle's innovative new tax on guns and ammunition in order to fund academic research into the ways to reduce gun violence, lawyers from our Government Affairs Section were ready. Teaming up with Steptoe & Johnson lawyers from their Palo Alto offices and Seattle's Gordon Tilden Thomas & Cordell firm—both on a *pro bono* basis—we have been twice successful in defending this innovative funding approach.

One main reason for our successful defense of the gun violence tax thus far is the early collaboration CAO lawyers offered to the ordinance's prime sponsor, then-City Council President Tim Burgess. By helping to navigate the peculiar vagaries of state law while advancing desired policy goals, our lawyers helped to craft the most legally defensible law from the NRA's inevitable court challenge—and it paid off as a powerful example of the benefits of true interdepartmental collaboration.

**Sisleyville.** In 2015, notorious slumlord Hugh Sisley finally paid off in full his \$3.48 million tab for decades of disregard not only for Seattle laws but his Roosevelt community neighbors. In the process, we concluded extensive legal battles ranging from the Seattle Municipal Court through the King County Superior Court to the Court of Appeals and finally to the Washington Supreme Court. Even now CAO lawyers are pursuing acquisition of former Sisley problem property through eminent domain proceedings for rededication as park facilities for area residents, in support of action by Mayor Murray and the City Council. In a growing city struggling to maintain affordable housing stock, I simply will not condone

real property hoarders who allow precious residential housing stock to become uninhabitable.

**Shared Prosperity: Confronting the Affordable Housing Challenge.** The same support we offered the new Murray Administration's HALA (Housing Affordability & Livability Agenda) initiative in 2014 continued throughout 2015, just as we supported parallel efforts on City Council.

Much like our support and defense of Seattle's \$15 minimum wage law, CAO's affordable housing work is just part of a major pillar of my second term:

### **Combating homelessness and income inequality.**

I have been personally involved in attempting to assess the extent of single-family home foreclosures in Seattle, in the wake of the collapse of the housing bubble precipitating the Great Recession—including the potential for legal action under the federal Fair Housing Act [Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601, *et seq.*]. We consulted with several private law firms as well as NGOs such as Columbia Legal Services and Habitat for Humanity to explore litigation options to bring foreclosure relief. It was encouraging when the U.S. Supreme Court approved the use of disparate impact analyses in lieu of “smoking gun” evidence of discriminatory intent in [*Texas Dept. of Housing and Community Affairs v. The Inclusive Communities Project*, 135 S.Ct. 2507, \_\_\_ U.S. \_\_\_, \_\_\_ L. Ed. \_\_\_ (2015)], although such statistical analysis is expensive and time consuming. And yet anyone with knowledge of the widespread mortgage lending abuses that precipitated the Great Recession—portrayed in the Oscar-nominated film, “The Big Short”—understandably wants relief now for innocent victims, especially in minority communities.

We have consequently consulted with the King County Prosecuting Attorney and State Attorney General

regarding possible complementary strategies to keep struggling families in their homes. We have worked closely with several City Councilmembers to attempt to determine the extent of ongoing foreclosures in Seattle and King County. We have examined the possible contributions to mortgage abuses from the Mortgage Electronic Registration System (MERS), and the recording requirements under Washington's Deed of Trust and Foreclosure Fairness Acts [chapter 61.24 RCW]. Finally, we are working hard to implement the latest housing regulations recently promulgated by the U.S. Department of Housing & Urban Development (HUD) under the federal Fair Housing Act, known as “Affirmatively Furthering Fair Housing” [24 CFR Parts 5, 91, 92, *et al.*].

### **Transportation Network Companies (TNCs) & Drivers' Right to Organize.**

In perhaps one of Seattle's more legally challenging initiatives—protecting worker rights in the emerging “gig economy”—we are once again on the cutting edge of innovative lawmaking. Our Government Affairs lawyers worked hard with Councilmembers and legislative staff to create organizational rights to so-called “independent contractors”; ultimately, the courts will decide whether a city may extend such rights to workers who are otherwise not included in the National Labor Relations Act. [29 U.S.C. 151, *et seq.*], but are not, we believe, actually precluded from organizing under state and municipal law.

### **Federally Monitored Reform of the Seattle Police**

**Department (SPD).** I continue to remain personally engaged on all aspects of SPD reform—especially compliance with the pending Consent Decree entered into in 2012 with the Civil Rights Division of the U.S. Department of Justice and the U.S. Attorney for the Western District of Washington. Although the Consent Decree has been in place for nearly four years, in reality

## STATEMENT FROM THE CITY ATTORNEY *continued*

Seattle has only embraced and submitted to genuine reform for barely two years—following Mayor Murray’s appointment of Kathleen O’Toole as Chief of Police, and her efforts to address Seattle’s culture of policing, including replacement of her entire command staff and the process of “civilianization” of certain police management functions not critical to frontline public safety demands.

In 2015, Merrick Bobb, the federal court’s monitor, found SPD to be in initial compliance with several key Consent Decree provisions, including new use of force policies and officer response to individuals experiencing mental health crises. Of 2,516 incidents involving mentally ill subjects, just 189 resulted in actual arrests, with most of the balance diverted from the criminal justice system. The monitor found SPD uses of force to be well documented and studied by the Force Review Board, with appropriate cases referred to the Office of Professional Accountability for further review and investigation.

In contrast, a significant number of SPD officers continue to press litigation challenging SPD’s new use of force rules in *Mahoney v. Holder* [62 F. Supp. 3d 1215 (W.D. Wash. 2014)]. The CAO successfully defended this lawsuit in the U.S. District Court for the Western District of Washington; it is on appeal to the U.S. Court of Appeals for the Ninth Circuit.

Throughout 2015, CAO attorneys helped to guide the parallel process of negotiating a new collective bargaining agreement with the Seattle Police Officers’ Guild (SPOG).

### **Status of the Alaskan Way Viaduct and Seawall Replacement Projects.**

Bertha restarted in late December 2015 after litigation was launched in several jurisdictions. Our lawyers will

be ready to protect Seattle’s interests. In the meantime, Initiative 123 was filed to preserve a portion of the old Alaskan Way Viaduct as an elevated park. Also controversial, our lawyers will be ready to answer in court as potential litigation unfolds.

***Marijuana & Drug Policy Reform.*** As a primary sponsor of Initiative 502 in 2011-12, I remain committed to ensuring that voters receive what they were promised in this landmark ballot measure: Marijuana regulation along with legalization. While any undertaking of this magnitude is fraught with challenges, Washington’s approach is succeeding where Colorado’s may be stumbling. All eyes are on Washington, which means that all eyes are on Seattle, which has fully embraced I-502 and is committed to ensuring that the legal industry thrives so that America need never return to the nation’s insane War on Drugs.

In January 2015, I released a marijuana policy memorandum to help guide the Legislature in merging medical marijuana operations into the I-502 system. <http://www.seattle.gov/news/detail.asp?ID=14794&dept=9>

Our attorneys also helped to craft new SMC Title 6 provisions for commercial marijuana licensing, and, as noted above, were instrumental with enforcing the new rules.

### **Parting comments**

August 9, 2015, marked the first anniversary of the shooting death of Michael Brown, an 18-year old African American, by a white police officer in Ferguson, MO. Across America—especially as the presidential campaign unfolds—we are being forced into uncomfortable conversations that are long overdue. That Black Lives Matter should be beyond debate, but the fact remains that we have failed to

address lingering institutional racism, and the closely related issue of income inequality in this country. And it shouldn’t be surprising that these issues will not simply go away, and come to a head frequently in police-civilian encounters. Seattle may have a head start on police reform, but we have the same obstacles to reform that plague most if not all U.S. cities: Inadequately funded health and social services, education and intergenerational disparities in wealth distribution. And we receive little or no help from our gridlocked Congress or the Washington State Legislature.

As City Attorney, I continue to search for ways to support our municipal policy makers. Home Rule concepts from early in our country’s history suggest one way forward, from dealing with the unique, local issues for gun safety to homelessness to zoning to municipal taxing authority, Seattle needs help overcoming preemption at the state level. The exercise of Seattle’s police power to protect our residents is of little effective use if that same police power and taxing authority is preempted.



Seattle City Attorney

## PRECINCT LIAISONS DIVISION



### West Precinct

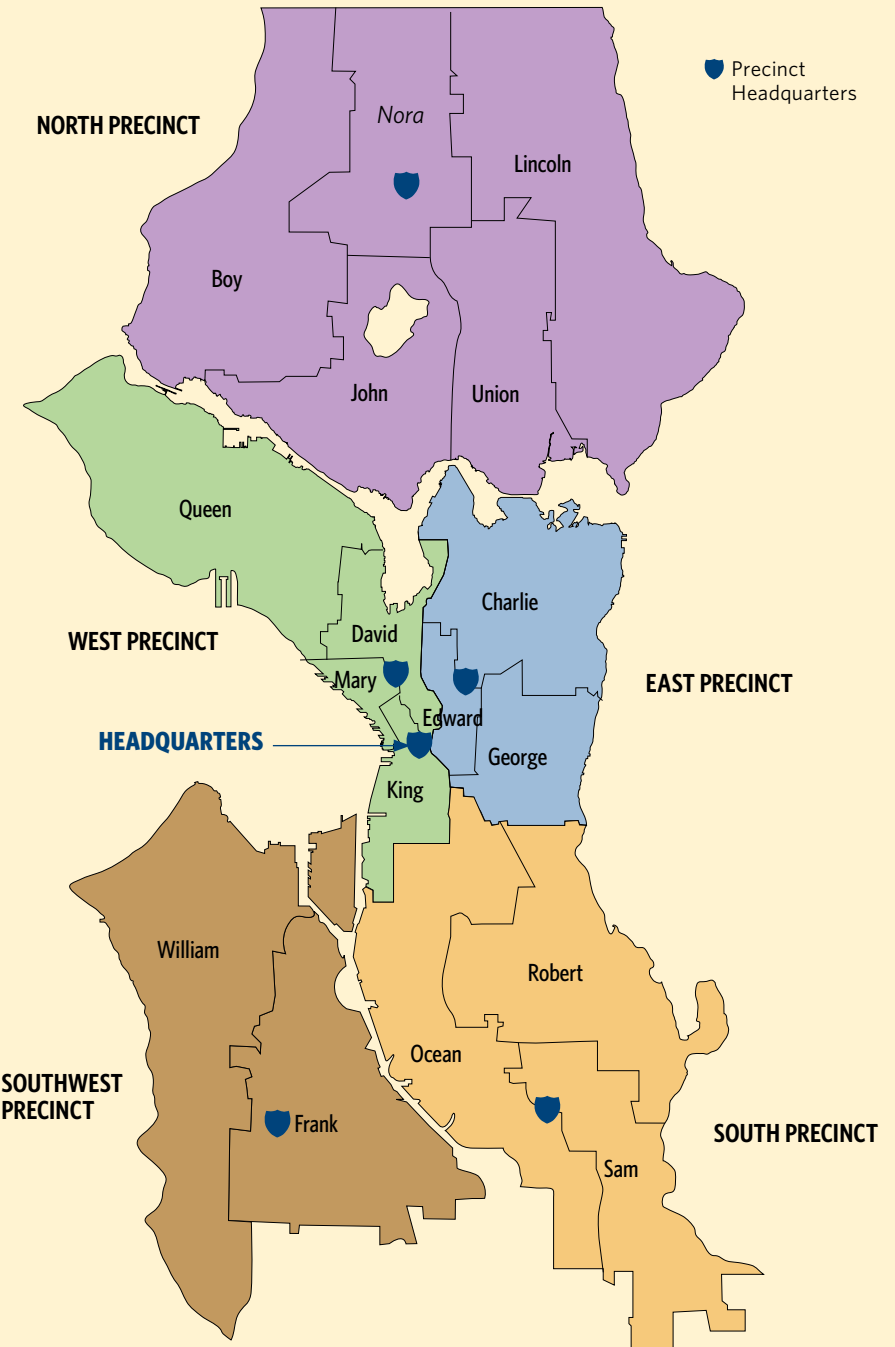
West Precinct is at the crossroads of much of the activity in the city. In addition to Downtown, West neighborhoods are the waterfront,

International District, Pioneer Square, Belltown, Queen Anne, West Edge, parts of SoDo, Westlake, Eastlake, Seattle Center, Denny Triangle, Magnolia, and South Lake Union. With Pete's leadership, Precinct Liaison **Dave Lavelle** worked with all of the community and business organizations, as well as multiple City departments, to address the issues and concerns in the downtown corridor.

Along with Andrea Chin, a supervising attorney in the Criminal Division and East Precinct Liaison Beth Gappert, Lavelle represented the CAO at the Law Enforcement Assisted Diversion (LEAD) program meetings. The program allows people charged with certain crimes to be diverted from prosecution at the discretion of the arresting officer and prosecutors when the suspect agrees to engage in social services, such as chemical dependency or mental health treatment. The collaborative sharing

of information is invaluable in assisting the CAO in the most appropriate way to handle subsequent offenses committed by those already engaged in LEAD.

Throughout 2015, Lavelle collaborated with SPD, outreach workers and the Criminal Division to address chronic civil infractions downtown. While failure to respond to a civil infraction is a misdemeanor, civil infractions on their own (including, for example, drinking in public or violating Seattle's "Sit/Lie" Ordinance) are not criminal offenses. The CAO policy is to work with SPD to address these issues using civil and outreach tools wherever possible—only filing failure to respond charges after outreach and civil enforcement efforts are exhausted. In one case, an individual was cited more than 15 times for the same civil infraction and defaulted each time (also declining services), so the CAO filed failure to respond criminal charges. Once criminal charges were filed, the CAO was able to refer the case to Community Court, part of Seattle Municipal Court. The defendant successfully completed the Community Court program, had his charges dismissed through the program, and successfully transitioned off the streets and into housing.





## PRECINCT LIAISONS DIVISION *continued*



*Pioneer Square*



*International District*



*Lower Queen Anne, waterfront and Magnolia*



*Westlake Park*

Efforts to address these complex issues have been extended into Municipal Court where appropriate individuals can also be referred to Mental Health Court or Veterans Treatment Court.

Community involvement is at the heart of the precinct liaison position. During 2015, Lavelle continued to attend meetings of the West Precinct Advisory Council, which is made up of community leaders from across downtown. He also had the opportunity, along with DUI Prosecutor Meagan Westphal, to present on criminal procedure and trial at the spring 2015 Seattle Police Community Police Academy. Later in the year, community-focused efforts included service as the CAO resource for the Mayor's Public Safety Task Force for the China International District, attending meetings of the Magnolia Neighborhood Safety Alliance, and participating in dozens of community meetings alongside the West Precinct Community Police Team.

During 2015 there were many demonstrations in West Precinct. As

part of the supporting role the CAO plays in that effort, Lavelle was present and available to the Seattle Police Operations Center; he provided support as needed, coordinating with other members of the CAO team to advise SPD on how to manage demonstrations within the scope of the law and City policy. SPD uses bicycle patrol officers during demonstration management activity, so, in the spring of 2015, SPD invited Lavelle to attend the International Mountain Bike Associations Police Cyclist Course. This was a 40-hour course involving distance rides, agility tests, and a written test. Training with the bicycle officers helped Lavelle better understand police tactics and training when discussing cases deriving from West Precinct Bike Patrol and ultimately led to increased information sharing and training between bike officers and CAO prosecutors.

Finally, Lavelle was honored with the Police Chief's Award for working collaboratively with Officer Chad McLaughlin to address nightlife

public safety issues. This work involved coordinating with the police department to file licensure objections based on 911 incident reports, community concerns and public safety when necessary. Addressing some of the more problematic locations, Lt. Tom Mahaffey of West Precinct Operations stated "These locations . . . not only served as a nuisance to the community, but also represented a considerable danger to patrons, the public, and our officers who had to respond to the innumerable calls for service generated from these businesses."



### **East Precinct**

In early 2015, East Precinct Liaison

**Beth Gappert** was assigned as the CAO lead for the "9.5 Block Strategy," an effort to reduce

open-air drug dealing in the Pike-Pine area around Westlake Park and the Westlake Center Plaza. In the months

leading up to April, 2015, SPD engaged in an extensive undercover operation, known as "Operation Crosstown Traffic," in the area around the 1500 block of 3rd Avenue into Westlake Park. As a result of that operation, SPD made over 130 arrests for felony delivery of a controlled substance. The U.S. Attorney's Office, King County Prosecuting Attorney's Office and CAO shared responsibility for prosecuting these cases based on a variety of factors, including the presence of weapons and the seriousness of the defendants' records. This represented an effort to strike the balance necessary to enforce the law and clean up downtown without falling back into the wasteful and counterproductive cycle of the War on Drugs. With Pete's leadership, and working in partnership with the Mayor, Police Chief, U.S. Attorney, FBI and County Prosecutor, the bulk of the defendants charged with misdemeanors were offered a 24-month dispositional continuance on condition of no criminal law violations and adherence to a "Stay Out of Drug Area" (SODA) court order.



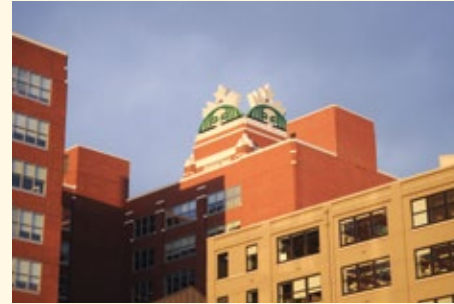
## PRECINCT LIAISONS DIVISION *continued*



CAMP Firehouse



Traejon Park, Beacon Hill



SODO



Georgetown

Gappert also continued work on an alternative to traditional criminal justice processes based on a restorative justice model. Restorative justice is a face-to-face, facilitated dialogue practices that include restorative circles, peacemaking circles, restorative mediations, family group conferencing, and some traditional dispute resolution practices. The CAO believes that the restorative justice process could benefit both the suspect and people affected by criminal actions.

Along with her efforts on bigger policy issues, Gappert supported community efforts across East Precinct. She attended the East Precinct Advisory Council, the African American Advisory Council, and City of Seattle meetings supporting public safety such as the Joint Enforcement Team (JET) comprised of citywide departments.

Nightlife activity in the East Precinct increased in 2015. As part of overall efforts to support businesses, Gappert went out with JET several times and attended nightlife public safety meetings.

These meetings were monthly check-ins that allowed nightlife management and security as well as SPD to share concerns and work together on solutions.



### **South Precinct**

In **Matthew York's** second year in the South Precinct he continued working with SPD and other Seattle agencies to improve public safety and the quality of life for those living in South Seattle. York helped close four establishments that were magnets for criminal activity. The first of these, Beacon Hill Espresso, had a long history of public safety issues and was labeled a priority by law enforcement and community alike. With the help of the property owners and the Joint Enforcement Team, York put significant pressure on Beacon Hill Espresso to close permanently.

Another business, Pyramid Studios, had multiple shooting associated with it over a period of only a few months.

York and SPD met with the property owner several times and put special enforcement on the business itself. These efforts were rewarded with a permanent closing of the business and a much safer neighborhood. The club Maxims had also caused some distress to neighbors through the nuisance activity of its customers—garbage piling up, fire safety issues, and public marijuana smoking was occurring on a regular basis. York worked with SPD, Seattle-King County Public Health, the Department of Planning and Development (DPD), and the Seattle Fire Department (SFD) to compel the business to clean up the property and make it safe for their customers and neighbors.

The greatest public safety risk among these businesses was Treehouse Collective, an illegal storefront marijuana distributor. The business, involved in very large shootouts multiple times, was a high public safety risk to the community. In one incident more

than 60 shots were fired in a manner of minutes. The business denied police access and refused to cooperate with law enforcement to remedy these repeated occurrences. York continued the work of his predecessor to pressure the property owner to evict Treehouse from the building. When Treehouse Collective responded by moving across the street and reopened, York contacted the owner of that building, who acted very quickly and removed it from the location immediately. Treehouse has now left Seattle.

The South Precinct has had challenges and opportunities beyond problem business locations. A large portion of legal and illegal marijuana businesses call the precinct home. In August 2015, the City Council passed an ordinance requiring all marijuana businesses to obtain a regulatory license. While the state gave the medical marijuana businesses until July 2016 to close, Seattle began enforcing the regulatory license requirement on the illegal stores

## PRECINCT LIAISONS DIVISION *continued*



*Hiawatha Playfield*

that opened after January 2013. York worked closely with FAS and SPD in this enforcement effort, and now more than half of the illegal medical marijuana stores have shut down.

### **Southwest Precinct**

**Matthew York** also covers the Southwest Precinct. As houses sat empty for periods of time, squatters moved in and caused problems for neighboring residences; their presence has, in some cases, caused an increase in garbage, needles used for drug use, theft and property destruction. One of the complications in policing these circumstances is that the owner is usually unavailable to provide the necessary proof that the police need to act. York aided the Southwest Precinct in becoming the second precinct to use a trial vacant property trespass program to allow more proactive policing. Over 30 properties are now signed up and York is working on overcoming some inherent challenges associated with foreclosed properties or those owned by banks.



*South Seattle Community College*

Some areas of the precinct suffer from traffic problems of one kind or another. Whether it is street racing or congestion, York has been working on solutions. The northern part of the precinct has experienced street racing; some strategically placed speedbumps may soon dissuade this dangerous activity. There is also a historical problem during the summer of cars driving the same roads over and over again, causing unnecessary congestion. York works with the precinct command staff to develop solutions to reduce traffic and make areas more accessible.

Every day the liaison attorneys deal with local problems unique to their own precinct. As one example, a McDonald's restaurant lobby that was open 24 hours a day attracted criminals who used it for their illegal activities. After York contacted corporate headquarters, McDonald's immediately agreed closed the lobby in the late night hours. This resulted in an immediate improvement to the area and a drastic



*Hiram M. Chittenden Locks*

reduction in the 911 calls for service to the location.



### **North Precinct**

North Precinct, the City's largest in land area, saw a wide variety of issues surface during 2015, particularly related to homelessness and RV campers. The business owners along North Northlake Way reached out to CAO in late January for help in addressing the number of vehicle inhabitants along that stretch of roadway. **Brendan Brophy** met with the group in early February to talk about some of the issues they were having and some of the options we could use to assist them. Many of the issues the community raised are ones that the CAO become familiar with over the last 12 months. Not only were the businesses having problems with the RVs and other cars taking up valuable parking, but also illegal dumping and an increase in



*Market Street*

disturbances. In one instance, two of the vehicle inhabitants got into an argument. This argument carried across the street and into the crowded restaurant next door. In another case, one of the vehicle inhabitants was asked to leave the restaurant premises, and the individual proceeded to spit on the valet and knock over the parking attendant stand.

After talking with the business owners, Brophy worked with the Community Police Team to devise solutions. While we were able to easily come up with all the parking and street use laws that would apply in this situation, we had very little practical success using these methods. Issuing multiple tickets was not going to offer any long-term solutions. Complicating matters, a group of vehicle inhabitants dug in. Rather than move their vehicles periodically, about five of them decided they wouldn't move at all. A confrontation, possibly a violent one, was possible.

Rather than ticket and tow the vehicles, SPD and Brophy worked with the RV

## PRECINCT LIAISONS DIVISION *continued*



*Mary's Place*

owners to get them the help they needed. If they wanted to move but couldn't because of mechanical issues, SPD either got them a new battery, more gas, or anything else they could provide. Brophy also reached out to the various agencies to see what, if any, help they could give. Mary's Place was able to shelter one woman and her family and help them with transitional housing. While the Road to Housing Program wasn't able to provide lots for the RVs to move permanently, the program helped find other streets to move to. Ultimately, Brophy worked successfully with SPD and SDOT to move all of the RVs so that Northlake Way could be cleaned and the parking areas cleared and maintained.

In 2015, Brophy also created the Vacant Property Trespass Program. After dealing with the Burke house in 2014, precinct commanders realized that not only were vacant properties becoming more of a problem, but that the North Precinct had a disproportionate number of them. Officers needed a tool to

enforce trespassing rules when it was clear that the people in the vacant home were there against the owner's wishes, but allowed them to enforce in a way that didn't require the owner to verify at each and every instance that no one belonged there. After researching what other cities were doing and consulting with the Criminal Division on required language, Brophy modeled a trespass program for vacant houses on the existing retail trespass program. Because the properties are closed at all times, the requirements are much simpler and easily understood by not only the officers, but the homeowners as well. Now, when officers receive a complaint from the community, they can contact the owner, make sure the property is vacant and not subject to some tenant claim, and then assist the owner in securing the property and posting notice to all potential trespassers. North Precinct officers have found this program extremely helpful and it's been rolled the program out to the entire city. The program has been



*Gasworks Park and North Lake Way*



*The Ave*

used to enforce trespassing in a number of buildings, including the former Seattle Times building in the West Precinct.

Finally, a section of University Way NE, commonly known as "The Ave," long experienced street crime and open air drug dealing. Based on the success of the "9.5 Block" effort downtown, SPD wanted to take a similar approach with a section of The Ave in the U-District. The main area of emphasis was from 47th up to 50th Avenues. The plan included a similar crackdown on drug dealing as well as alley closures. Because the project was much smaller in comparison, Brophy primarily advised SPD, coordinated with the lead officer on the project, and consulted with Beth Gappert on what worked downtown and what didn't. Brophy surveyed the area with the officers, made sure they contacted the appropriate people at King County regarding filing of the drug cases, and met with the community to make sure they understood the scope of the project and why getting businesses

involved was just as important. The officers came to Brophy for advice and ideas regarding "sit/lie" enforcement, trespassing, and street use so they understood the tools they had to effectively manage The Ave. Brophy also made sure they understood CAO filing policies and limitations when it came to drug crimes as well as the intricacies and requirements of SODA orders. This will be an ongoing project due to the increased emphasis patrols as well as enforcement of sit and lie and other municipal ordinances.



## CIVIL DIVISION



The Seattle City Attorney's Office Civil Division is the City's law firm. On a daily basis, the 60-plus lawyers provide legal advice and representation on a wide range of issues, from constitutional law to affordable housing, from police reform to environmental cleanups, from collective bargaining rights to bond financing. As the City's in-house law firm, the Civil Division provides high-quality legal advice and litigation services without the high price tag of a private law firm.

Civil Division attorneys also recover money for the City in damages and enforcement penalties. In 2015, our attorneys recovered in excess of \$1.3 million in damages owed to the City, including \$673,550.55 for civil code violations collected by our newly-created Regulatory Enforcement and Economic Justice Section. Additionally, our attorneys collected \$2,527,000 in disputed taxes.



The Civil Division is divided into seven sections, each dedicated to a key area of legal responsibility for the City. The sections are Contracts and Utilities; Employment; Environmental Protection; Government Affairs; Land Use; Regulatory Enforcement and Economic Justice, and Torts. A representative sampling of the cases and projects handled by each section in 2015 follows. The division also employs an investigator, who works with dozens of City departments.

### CONTRACTS AND UTILITIES

**The Contracts and Utilities Section consists of 13 attorneys (one whom is shared with the Environmental Protection Section), three paralegals and two legal assistants. The section provides legal advice, handles litigation, and drafts agreements and legislation for all City departments in support of a wide variety of capital projects, real property transactions, purchasing, and intellectual property matters that help the City carry on its business operations. The section also provides advice and litigation support to the City's electric utility, Seattle City Light, and to its water, drainage and solid waste utilities (collectively, Seattle Public Utilities). In 2015, Gov. Jay Inslee, with the support of City Attorney Holmes, appointed one of the section's attorneys to the Capital Projects Advisory Review Board, replacing**

**a prior member of the Contracts and Utilities Section who had stepped down in 2014.**

#### Representative Projects and Contracts

##### ***Bonds and Debt Financing***

Section attorneys worked with the Department of Finance and Administrative Services (FAS) and outside bond counsel to issue approximately \$1 billion worth of new money and refunding general obligation and revenue bonds for the City. Section attorneys also assisted FAS in responding to IRS inquiries and City audits on various bond issues.

##### ***Cable Code Revisions and Cable Franchise Negotiations***

In 2015, section attorneys completed three major projects for the City's Cable Communications Office that will enhance customer protections and increase competition in the City's cable market.

First, section attorneys conducted a thorough review of the City's Cable Code. Old cable districts that served as barriers to competition were eliminated in favor of opening the entire City to competition. Cable system build-out requirements were also revised to provide cable operators with more flexibility to expand their systems, and low-income requirements were added to ensure that those in less affluent neighborhoods would be able to benefit from any new cable

competition. Revisions were also made to increase consumer protection and encourage better customer service. Reporting requirements for call answering standards were modified to provide the City with more relevant data to support compliance oversight. And the revisions increased the financial sanctions and mandatory minimum credits to customers for a cable operator's failure to meet customer service standards, in order to provide better incentive for compliance and more meaningful compensation to customers when they receive substandard service.

Second, section attorneys negotiated a franchise agreement with QBSI, a wholly owned subsidiary of CenturyLink. Among other terms, QBSI agreed to provide a package of public benefits that supports the City's public, educational, and governmental channels, including the Seattle Channel; provides complimentary service to schools and City buildings; and offers a computer lab and public WIFI at the Jefferson Community Center. QBSI also agreed to offer low-income discounts.

Finally, section attorneys negotiated a renewed franchise with Comcast. Among the terms was a fee that will generate an estimated \$753,000 per year for the City to use for public, educational and governmental purposes. Comcast also agreed to provide advertising airtime on



## CIVIL DIVISION *continued*



*Interbay Safe Lot for homeless*



*Ship Canal*

the cable system, valued up to \$50,000 annually, to promote the Seattle Channel; to provide a 30% discount of its Basic Service rate and to allow Seattle residents eligible for the City's Utility Discount Program to receive the cable discount; and to provide complimentary cable television service to City buildings and schools.

### **City Light Franchise Agreements**

Section attorneys continued to advise City Light on the risks associated with and its negotiation of new Franchise Agreements with suburban cities in its service territory. Section attorneys drafted, reviewed and edited new draft franchise agreements, as well as undergrounding agreement templates for projects in franchise cities. During 2015, the cities of SeaTac and Lake Forest Park and Snohomish County granted City Light new 15-year franchise agreements.

### **Electric Meter Replacement**

Section attorneys represented and advised City Light in its lengthy, and sometimes contentious, contract negotiations for the replacement of approximately 450,000 electric meters.

### **Emergency Homeless Encampments and Vehicle "Safe Lots"**

Section attorneys provided legal advice for negotiations

to establish emergency homeless encampments and vehicle "safe lots" on City properties in Interbay and Ballard in response to the Mayor's November 2015 emergency proclamation to address the homelessness crisis in Seattle. Agreements for rental of the properties from Seattle City Light and Seattle Public Utilities were negotiated with the City's Department of Human Services. The CAO also assisted in negotiating contracts with the non-profit Low Income Housing Institute and SHARE/WHEEL for management of the emergency encampments and vehicle safe lots.

### **Energy Imbalance Markets**

Section attorneys advised Seattle City Light as it participated in a Northwest regional effort to explore the creation of a Northwest energy imbalance market.

### **First Folio Exhibit at the Library**

Section attorneys advised the Seattle Public Library in its negotiations with the Folger Shakespeare Library to exhibit Shakespeare's First Folio at the Central Library.

### **Occidental and Westlake Park**

Section attorneys advised the Parks Department regarding the procurement of an outside consultant and vendor to operate programming in the two historic parks.

### **One Reel/AEG Live - Bumbershoot Agreement**

Section attorneys advised and counseled the Seattle Center Department on a new structure for the agreement to put on the Bumbershoot Festival.

### **Pronto Bike Share Project**

Section attorneys advised the Seattle Department of Transportation (SDOT) in its proposed transition from the privately owned Pronto bike share system to a publicly owned City system.

### **Ship Canal Water Quality Project Agreement**

Section attorneys assisted Seattle Public Utilities in the negotiation and drafting of a Joint Project Agreement with King County to construct and operate the Ship Canal Water Quality Project for controlling combined sewer overflows (CSOs). This \$423 million combined effort will be the largest public works project ever undertaken by SPU, and will provide storage of CSO flows from five SPU and two King County CSO drainage basins within the City north of the Lake Washington Ship Canal.

The project will allow the City and King County to significantly minimize or eliminate overflows of untreated sewage and stormwater during high rainfall events. It will also help the City and County to meet regulatory standards under the federal Clean Water



## CIVIL DIVISION *continued*



Concrete panels are lowered into place on top of the Zee panels for the seawall



Bertha tunneling machine repair gantry

Act and state law, as well as requirements for meeting water quality standards under the City's and County's respective Consent Decrees with U.S. Department of Justice, the U.S. Environmental Protection Agency, and the Washington Department of Ecology.

### **Waterfront Projects**

#### ***Alaskan Way Viaduct Bored Tunnel***

Section lawyers have been assisting SDOT and City utilities in the enforcement of contract rights related to the State's mining of the bored tunnel, which will replace the Alaskan Way Viaduct. In addition, as part of the overall program to replace the Viaduct, the City has been performing significant related capital construction projects associated with City utilities, roadways and other facilities as well as design and project development for the surface roadway improvements once the elevated Viaduct structure has been demolished. Section attorneys played a lead role in the development of the agreements covering this work, and continue to furnish advice and guidance regarding City/State allocation of costs and responsibilities under the contracts.

#### ***Elliott Bay Seawall Replacement Project***

The City's \$410 million Elliott Bay Seawall Replacement Project commenced construction in late 2013 under

complex contracts developed with section attorneys in a lead role. This project includes significant utility reconstruction work and coordination. The project requires close coordination with the State on its tunnel project and ferry operations at the Colman Dock, and section attorneys were heavily involved in those issues. Retail businesses located on four privately owned piers were closed for months to permit the project to proceed efficiently, and section lawyers drafted the agreements with the business owners under which that closure was agreed upon. During 2015, section lawyers worked with SDOT to help reset the project budget in light of higher than anticipated costs, as well as working through myriad construction cost allocation issues between the City and its contractor.

#### ***Real Estate Acquisitions***

Section attorneys have worked with the Office of the Waterfront on real estate and real property rights acquisitions necessary to construct the Waterfront Project improvements and construction of the new roadway to serve the Waterfront area.

#### ***Representative Litigation***

#### ***City Light Safety Citation Appeals***

Section attorneys successfully resolved two City Light safety citations, including reductions of fines and

dismissal of some penalties, after filing appeals with the Board of Industrial Insurance Appeals.

#### ***Condemnation Actions***

Section attorneys have instituted multiple condemnation actions for real property acquisitions in 2015.

#### ***Pacific Northwest Refund***

Section attorneys continue to represent Seattle City Light in efforts to obtain refunds on energy sales in the Pacific Northwest between December 1999 and June 2001. Following a decision by FERC denying refunds, the case is currently on appeal to the Ninth Circuit.

## **EMPLOYMENT**

**The 10 attorneys in the Employment Section help the City's executives, managers, and human resources professionals navigate the complicated matrix of employment laws, collective bargaining agreements, civil service regulations, and City policies that apply to nearly 13,000 City employees.**

**Section attorneys also defend the City (and sometimes its employees) in court, before administrative agencies, in arbitration, and in mediation. As counselors, we help our clients comply with the laws and our contract obligations. As**

## CIVIL DIVISION *continued*



*Advocating for City employees*



**litigators, we stand behind our clients, advocating for the City's best interests.**

### **Advice**

Are there legal risks in granting collective bargaining rights to people who make a living in the “gig economy”? How can we manage an employee who makes his or her coworkers anxious or uncomfortable? Will our efforts to accomplish the goals of the Race and Social Justice Initiative conflict with our collective bargaining agreements? Is it legal? Is it wise? What are our options?

Employment Section attorneys consider such questions every day. The attorneys strive to provide solid legal, pragmatic advice that allows City operations to proceed efficiently and fairly. Section attorneys monitor developments in diverse aspects of employment, labor, and workers' compensation law. With a collaborative approach, the attorneys take advantage of expertise on such topics as the Americans with Disabilities Act, the Washington Law Against Discrimination, wage and hour laws, personnel rules, workers' compensation statutes, and the Washington and U.S. Constitutions.

In 2015, we worked extensively on disciplinary issues in the Seattle Police Department, as well as in other City departments; helped HR units deal with complicated disability-accommodation issues; and assisted with

internal investigations. We provided highly specialized and technical advice on management of workers' compensation cases. We also continued to engage with elected officials, advocates, and City employees to enhance the City's work in the growing field of local labor-standards regulation.

### **Litigation**

The employment attorneys represent the City in federal and state courts—from the initial response to lawsuits, through extensive discovery, in motion practice, through trial, and all appeals. The attorneys provide the same service in administrative forums, including the Public Employment Relations Commission, both of Seattle's Civil Service Commissions, in arbitration, and in any other arena that employees or unions might press their claims. A few examples of our litigation work include:

#### **Arbitration: Union on behalf of terminated employee**

A significant portion of City employees are represented by labor unions, who may appeal major disciplinary decisions through a grievance-and-arbitration process. The City bears the burden of proof when it seeks to sustain the disciplinary decisions made a City department, such as Seattle Public Utilities. One case, which resolved in SPU's favor in 2015, concerned the termination of an employee who had used a

customer-service computer application to record over 100 transactions on her own utility accounts. SPU terminated her for violating ethical standards and departmental expectations. The arbitrator agreed with the City's position—as presented by a section attorney—that SPU satisfied its obligation to clearly communicate its expectations, and that the employee's breach of trust justified the decision to terminate her employment.

#### **Firefighters v. City**

In another case, section attorneys addressed the ramifications of off-duty misconduct that has an effect on the City. After attending a Seattle Sounders game, two off-duty firefighters encountered several homeless individuals sitting on or near the firefighters' memorial sculpture in Occidental Park. The firefighters exchanged unpleasant words with the individuals, accusing them of showing disrespect to firefighters. A fight ensued, and one of the firefighters was hospitalized. Seattle media covered the incident extensively.

The Fire Department engaged an investigator to help determine whether the firefighters' actions violated department policy. The investigator's work demonstrated that the firefighters were responsible for a fight with the residents, not only violating policies but damaging the Fire Department's reputation and

## CIVIL DIVISION *continued*

mission through their actions. The Fire Chief decided to terminate both firefighters.

The employees' union challenged the terminations through the grievance/arbitration process. Section attorneys showed, however, that one of the firefighters was terminated "for just cause." The other firefighter's appeal was voluntarily dismissed for unrelated reasons.

### **Engineer v. City and CEO**

Section attorneys teamed with outside counsel to obtain a complete defense verdict in a jury trial in King County Superior Court. A former City Light engineer, who had taken a job with the Parks Department, twice applied to return to City Light in managerial positions. When City Light did not re-hire her, the employee sued, alleging that she was the victim of a retaliatory conspiracy.

The lengthy trial concluded with an 11-1 verdict for the City and City Light's CEO. The plaintiff appealed to the Washington Court of Appeals, where the City once again prevailed. The case is now being considered by the Washington Supreme Court.

### **Workers' Compensation**

During 2015, the Workers' Compensation practice group continued to process a high volume of cases. Some cases are routine, involving such disputes as disagreement over the cause of medical problems (was it work-related or not?). Other cases are more complex and unique: for example, do photos posted on social media sites indicate that an employee is being untruthful about his or her injuries. The section's goal is to help the City's workers' compensation unit fulfill its primary mission – to ensure that employees get the benefits to which they are entitled, while at that same time responsibly protecting the City's resources from invalid claims.

### **Alternative Dispute Resolution**

Section attorneys frequently assist City clients in mediation efforts with employees, both prior to and during litigation. In one case, a former employee filed a lawsuit alleging retaliation for his participation in activities protected by law. The facts of the case were disputed. The City's key witnesses had, however, moved out of state. Because investing significant legal resources would have been unwise, the City proposed early mediation. Through the efforts of both the client and the section attorney, the parties reached a satisfactory resolution without incurring the cost of litigation.

### **Training**

Section attorneys have continued to lead and assist with training for other City employees. These training sessions occur through the City's Department of Human Resources or directly through individual departments. Employment attorneys take an active role in helping plan and develop training programs.

## **ENVIRONMENTAL PROTECTION**

**The three attorneys in the Environmental Protection Section advise managers and staff in all City departments regarding a wide array of environmental issues. What can the City do to reduce children's exposure to lead paint? Can the City require warning signs on gasoline pumps? If workers uncover contaminated soil while fixing a City street, what should they do?**

Then there are the "big ticket" matters, such as the cleanup of the Lower Duwamish Waterway. We advise regarding the cleanup and we represent the City in a confidential process to assign liability for the cost of cleanup, currently estimated by EPA to be \$342 million. The Lower Duwamish is just one of the cleanup sites where our attorneys provide assistance.

As long as it rains in Seattle, stormwater will be a major focus of our efforts. There are City ordinances to draft regarding how stormwater must be handled at construction projects. City inspectors ask for our help to enforce the Stormwater Ordinance when a business washes its trucks and lets the dirty water run into the street. Every few years the City is subject to a new state-issued NPDES permit. Our attorneys review drafts of the permit and help staff decide which issues to comment on and what to propose as alternative language. Then the City's own regulations and Stormwater Manual must be revised to conform to the new permit.

Often we are on the "cutting edge" of evolving legal principles. We always are at the intersection of science and law, a dynamic place to be.

## **GOVERNMENT AFFAIRS**

**The City faces numerous legal challenges related to the powers and duties of local government, such as free speech, the release of public records, the power to tax, the ethical behavior of public officials, the conduct of elections and the regulation of business. The 10 attorneys in the Government Affairs Section provide legal advice and litigate cases concerning a wide range of issues, including requests for government records; the regulation of marijuana, taxis, transportation network companies, and drones; drafting laws concerning discrimination, minimum wage, and protecting workers against wage theft; and the collection of business taxes and debts owed to the City. Below is a small sampling of the work they performed in 2015.**

### **MUNICIPAL ISSUES**

#### **The City's First Marijuana Regulation**

In 2012, Washington's voters approved Washington Initiative 502, legalizing the recreational use of marijuana under state law. The Washington Legislature



## CIVIL DIVISION *continued*



*Marijuana*

had previously passed the Medical Use of Marijuana Act which, while not legalizing medical marijuana, provided medical marijuana users with a defense to criminal prosecution if they meet certain qualifications. In 2015, the Washington Legislature passed legislation bringing medical marijuana within the same state licensing system as recreational marijuana. Section attorneys helped draft a City ordinance regulating all marijuana businesses in Seattle, and successfully defended two court challenges to the ordinance. Using the newly passed ordinance, the City forced 63 unlicensed and illegal marijuana businesses to close.

### **The State's First Gun Tax**

Section attorneys helped draft the first local law in Washington, and only the second such law in the United States, imposing a tax on businesses that sell firearms. Under the tax, firearms dealers must pay \$25 for every firearm sold and \$0.05 for every round of ammunition sold. The tax will fund programs that promote public safety, prevent gun violence and address the cost of gun violence, including basic research, prevention and youth education and employment programs. With the help of section attorneys, the City successfully defended a lawsuit brought by the National Rifle Association and others challenging the tax. An appeal of the ruling is pending.



*Seattle Pacific University*

### **Transportation Network Company Collective Bargaining**

Section attorneys assisted in drafting the first legislation in the country requiring transportation network companies such as Lyft and Uber to collectively bargain with their drivers.

### **Minimum Wage, Wage Theft, Paid Sick and Safe Time, and Job Assistance**

Section attorneys assisted in the drafting of a comprehensive ordinance that will ensure that workers are paid a \$15 minimum wage, are protected against wage theft, and are provided with paid sick and safe time. The ordinance increases penalties for employers who commit violations and enhances the City's Office of Labor Standards powers to enforce these labor standards.

### **Transportation Levy**

Section attorneys helped draft a transportation tax levy measure that will raise \$930 million over nine years to help solve Seattle's transportation problems. Seattle voters approved the levy in the November 2015 general election.

## **PUBLIC RECORDS ADVICE AND LITIGATION**

### **Responding to Public Records Act Requests of Unprecedented Size**

In 2014 a requestor submitted hundreds of public disclosure requests to the Seattle Police Department and to police departments across the state seeking the broadest possible access to all police videos and other police records. In 2015 that same requestor made approximately 6,000 computer-generated requests to the City in general including, finally, a request for all City records ever created. The requestor made the same request to practically all cities in King County along with the county itself. Section attorneys took the lead in identifying the legal grounds upon which the request could be denied. The requestor then withdrew all of his requests.

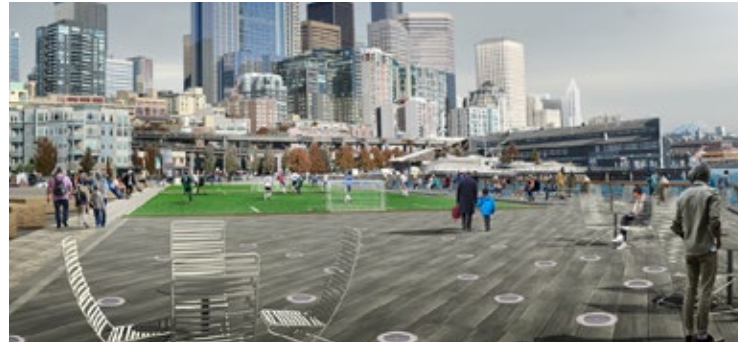
### **Seattle Pacific University Shooting PRA litigation**

Section attorneys successfully represented the police department in trial and appellate courts in a lawsuit brought by Seattle Pacific University against news media and an individual to prevent the release to them of investigative records related to a shooting. The court agreed with the position taken by section attorneys, who advocated for a limited disclosure of videos that would serve the public interest while protecting the privacy of victims.

## CIVIL DIVISION *continued*



*Affordable housing*



*Waterfront project*

### **\$11 million PRA lawsuit**

Section attorneys successfully defended City Light at trial in a public records act lawsuit in which the plaintiff, a job applicant who was not hired by City Light, sought \$11 million in penalties. After being denied the position, the applicant made numerous records requests in multiple emails. The plaintiff claimed that a severe penalty award was justified because the City failed to timely respond to certain parts of her requests. The court disagreed and awarded just \$1,688 in penalties.

### **Kurt Cobain Records**

Section attorneys successfully obtained dismissal of a lawsuit by a person who makes repeated requests for death scene photos of Kurt Cobain taken and retained by the police department. The requestor continues to make the identical requests, and has filed a new lawsuit which section attorneys are prepared to defend.

### **FIRST AMENDMENT LITIGATION**

Section attorneys helped to revise outdated rules to issue permits for the use of tables on City sidewalks for First Amendment purposes. This was in response to a lawsuit brought by the LaRouche PAC, claiming that the First Amendment prohibited the City from requiring any permit for such tables. The court disagreed, but

ruled that a permit requirement needs to contain adequate safeguards to ensure that permits are not issued or denied based on the applicant's message. With section attorneys' assistance, the Department of Transportation adopted rules that ensure the fair exercise of free speech.

### **COLLECTIONS UNIT**

This unit collects debts owed to the City by taking debtors to court. In 2015, it assisted the City in collecting \$1,280,047.54, by sending demand letters, filing lawsuits, entering and extending judgments, and negotiating settlements.

### **Affordable Housing**

City leaders are committed to addressing Seattle's lack of affordable housing, with Land Use Section attorneys with them every step of the way. Under the umbrella of the City's Housing Affordability and Livability Agenda (or HALA), section attorneys provided creative strategic advice, drafted comprehensive plan and development regulation amendments to implement a new Housing Mitigation Program, advised on the related environmental review and technical reports, and laid the foundation for a forthcoming residential "inclusionary" affordable housing program. Section

attorneys also supported City leaders as they evaluated and pursued legislation to protect low-income tenants and homeowners from unfair landlord and foreclosure tactics. And section attorneys helped the City finance the construction of affordable housing and facilities to provide other services for lower-income residents. This involved navigating the complexities of federal housing grants and loans, tax credits, tax-exempt bonds, senior and junior loan rights, condominium documents, easements, and master leases.

### **The Central Waterfront Project**

The removal of the Alaskan Way Viaduct and replacement of the Elliott Bay Seawall will reunite downtown with Elliott Bay and provide a once-in-a-generation opportunity to shape a prominent part of our urban core from Pioneer Square to Belltown. It will involve 20 acres of new and improved public space, improved connections between center city neighborhoods and Elliott Bay, utility infrastructure improvements, and new surface streets. It also presents significant planning, logistical, and legal issues. Section attorneys are helping at every step, from shaping the required environmental review, to interpreting state and City law, to settling a dispute over a shoreline permit.

## CIVIL DIVISION *continued*



*Sisley check for Land Use*

### **Bringing a Slumlord to Justice**

Section attorneys' efforts to enforce City laws culminated in a significant payment from notorious slumlords Hugh and Martha Sisley, whose housing code violations have plagued the Roosevelt neighborhood for decades. Since 2008, the Sisleys fought the City at every judicial level in the state, from Seattle Municipal Court to King County Superior Court to the Washington Court of Appeals to the Washington Supreme Court. But finally they paid nearly \$3.5 million to satisfy the penalties they owed. That payment was in the face of the City's two moves to force the sale of the offending parcels. This strategy will be used with other property owners who flout City codes.

### **REGULATORY ENFORCEMENT AND ECONOMIC JUSTICE**

The Regulatory Enforcement and Economic Justice (REEJ) section was created in September 2015 to centralize civil enforcement of all City regulations. It is composed of one supervising attorney, two staff attorneys, one paralegal and one legal assistant. Centralization allows for specialization and consistency in enforcement. REEJ primarily handles cases referred from the Department of Construction and Inspection (SDCI), Office of Labor Standards (OLS), Office of Civil

Rights (OCR), Finance and Administrative Services (FAS), Department of Transportation (SDOT) and Department of Neighborhoods (DON).

The cases referred from SDCI involve violations of the Housing, Building, Shoreline, Land Use, ECA and Technical Codes (Grading, Electrical, Plumbing, etc.). REEJ attorneys are currently litigating 66 SDCI cases, including three SDOT enforcement cases. In 2015, REEJ obtained judgments in the amount of \$407,336.

REEJ is responsible for enforcing the Minimum Wage, Paid Sick and Safe Time, and Wage Theft ordinances for OLS and enforcing violations of the Housing, Employment and Public accommodation Discrimination Ordinances referred by OCR. REEJ attorneys are currently litigating nine labor standard cases and 13 discrimination cases.

In August 2015, the City enacted the Marijuana Regulatory License Ordinance that requires marijuana businesses obtain a City marijuana license and abide by rules regulating all aspects of the business, including location. REEJ has provided legal advice and worked collaboratively with FAS, SPD, DPD and the Mayor's Office to close down non-licensed marijuana businesses and to bring licensed marijuana businesses into compliance with all City regulations. REEJ has also

worked with the State Liquor and Cannabis Board in an effort to successfully launch this new industry.

REEJ's centralized enforcement efforts have facilitated enhanced inter-departmental collaboration to address problems that cross departmental boundaries. Some of the interdepartmental issues addressed include vacant and dilapidated buildings, marijuana and nuisance properties.

### **TORTS**

**The Torts Section defends the City against lawsuits brought by plaintiffs who allege the City caused personal injury or property damage and seek money damages. The section also defends individually named employees where the facts in the suit arise out of the employee's course and scope of employment. Besides defending lawsuits, the Torts Section takes a lead role in pursuing large damage claims on behalf of the City for damages due to the negligence of one or more persons or entities. The section also pursues insurance companies when they fail to accept our tenders of defense. The section has 13 attorneys, three paralegals and three legal assistants.**

**The section opened 60 cases and 29 project files in 2015. The number of new cases is lower than**



## CIVIL DIVISION *continued*

**in the previous three years (2012 through 2014) during which the number varied between 68 and 74. This reduction continues a trend we have observed during the past 10 years. The City, including the City Attorney's Office, has focused increased attention on loss prevention efforts. The Torts Section has also increased its risk management practice in recent years, which includes assessment of claims filed against the City and general assessments of risk. Those efforts appear to have helped reduce the overall number of lawsuits against the City.**

### **Risk Management**

The Torts Section works extensively with operating departments and with the Risk Manager on liability issues. The section focuses much of its attention for risk management purposes on the operating departments that are most frequently involved in litigation due to the nature of their work. Those departments have historically included, and continue to include, the Police Department, the Department of Transportation, Seattle Public Utilities, Parks and City Light. Wide-ranging issues, incidents, exposures, programs and opportunities are presented each year. The section also provides training to operating departments on risk management techniques and approaches. While this advisory work requires additional work and occupies additional attorney time, the reduction in new lawsuits filed indicates these efforts ultimately lead to reduced liability exposure, not just in terms of settlements or judgments but in overall litigation costs.

### **Personal Injury and Property Damage Litigation**

The section's cases typically involve matters ranging from relatively minor and resolved injuries to allegations of wrongful death and catastrophic injury cases. The section also handles property damage cases. In cases handled during 2015, the underlying

facts included allegations of injuries resulting from negligent road design, sidewalk trip and falls, automobile accidents, premises liability, negligent supervision of a Municipal Court probationer, and various allegations against police officers such as excessive force and false arrest. Property damage cases included allegations of violation of Washington's call-before-you-dig law surface water flooding, sewer backups, and landslides. Section attorneys handle all phases of litigation, including discovery, motions practice, trial (both bench and jury trials), and appeals.

### **Advice**

During 2015, section attorneys advised other Law Department sections and City departments working on significant issues including curb ramp litigation under the Americans with Disabilities Act and related ADA advice; the Triad Civic Square Project; compliance with Washington's call-before-you-dig law; and assorted insurance issues.

### **Insurance Coverage Tenders**

One of the City's primary risk management tools is its additional insured status under insurance policies issued to the City's contractors, concessionaires, vendors, permittees and those who hold events on City rights-of-way under street use permits. In 2015, section attorneys aggressively asserted the City's interests in insurance coverage, often in the face of denial or delay.

### **Disaster Planning and Emergency Operations Center Legal Support**

Section attorneys provide legal support to the Seattle Police Department's Emergency Management Section. Section attorneys help to staff the City's Emergency Operations Center, provide legal support during emergencies, and participate in training activities throughout the year.

### **Police Action Litigation**

The majority of the police professional litigation continues to be handled in-house with a small percentage of cases being handled by outside counsel mostly due to conflict situations.

During 2015, 13 police action cases and three projects were opened. Of those new cases, three were partially assigned to outside counsel due to potential conflict issues and one was partially assigned to outside counsel due to capacity issues.

The decision to bring police action work in-house continues to prove successful. In 2015, the section's police action team and/or outside counsel obtained several dismissals and advantageous settlements. Five cases were closed without payment and seven cases were settled for amounts ranging from \$17,575 to \$1.975 million. One case went to trial.

To avoid potential conflicts, the office continues to retain outside counsel to handle inquests into officer-involved incidents. During 2015 outside counsel handled three inquests into shooting deaths. All three inquests resolved in the officers' favor.

A few of the police cases of interest in 2015 are described below.

### **Dedic**

The plaintiff claimed officers were grossly negligent when they arrested her for a suspected hit and run. She alleged that the officers aggressively handcuffed her, causing her bursitis-ridden right shoulder to be seriously injured, and rendering her mentally and physically debilitated. After a seven-day jury trial, during which 14 witnesses testified—including two experts and three medical professionals—the jury returned a complete defense verdict. The plaintiff had sought \$1 million in damages.

## CIVIL DIVISION *continued*



### **Morales**

The Morales case arose out of an arrest on May Day 2012. The plaintiff claimed that excessive force was used against her during May Day and that she was falsely arrested. The case was tried to a jury in federal court. The jury found for defendants on all claims but one and awarded \$0 on that one claim. The court then changed the award to \$1 in nominal damages (since an award of nominal damages must follow from the one claim found in favor of plaintiff) and then awarded \$165,405 in attorney's fees to the plaintiff. The City's appeal to the Ninth Circuit is currently pending.

### **Mahoney**

The plaintiffs were SPD officers who challenged the department's comprehensive use of force policy on the grounds that it violated their constitutional rights under the 2nd, 4th and 14th Amendments. The City's motion to dismiss was granted in its entirety. Briefing was completed in 2015, and the case is currently pending in the Ninth Circuit Court of Appeals.

### **Consent Decree**

Attorneys on the section's police action team continued to work to implement the consent decree between the City and the U.S. Department of Justice. In 2015 this work included drafting and reviewing policies, developing training on a variety of law enforcement

topics, and representing the City in court. Police action attorneys continue to work with SPD to implement data systems and analytical measures to track the extent to which policy reform materializes into improved practices and stronger relationships with the community, particularly regarding stops and detentions and persons in crisis.

### **Other Police Work**

In 2015 the police action team provided direct client advice to SPD on issues such as the GPS tracking of allegedly stolen electronic devices; whether criminal search warrants can be used for the purpose of civil enforcement; and constitutional protocols for handling disruptive individuals at public meetings. The team has continued to work closely with the department on its body camera pilot program, providing analysis on issues of privacy and public disclosure.

Section attorneys on the team have taken the lead in providing legal advice to the Office of Emergency Management (OEM). Attorneys on the team worked with OEM to draft its legislation initiating the AlertSeattle system, as well as on legislation codifying OEM. Attorneys acted as first responders in a host of emergency scenarios, including May Day, the Aurora Bridge crash, and various protests, providing real-time legal assistance and expertise. The team continues

to work closely with the Mayor's Office in drafting emergency orders and proclamations, and provide risk assessments when requested.

Team attorneys regularly attend local police advisors meetings that bring regional attorneys together to discuss issues in law enforcement. Team attorneys also attend local and national law enforcement conferences.

## **THE CITY INVESTIGATOR**

**The City Investigator's services are offered through the City Attorney's Office, but benefit all City departments, saving tax dollars compared to the cost of retaining outside counsel.**

The City Investigator has handled numerous investigations since July 2010, when the position was created. She has worked with dozens of different City Departments, conducting investigations into complaints of discrimination, harassment, workplace safety concerns, retaliation, whistleblower claims, fraud, disciplinary issues and citizen concerns. She also provides assistance to management or human resources personnel in pending investigations, and has acted as a co-investigator with outside investigators to address complex employment issues or data driven investigations.

In addition to handling investigations, the City Investigator prepares and provides City-wide and departmental training courses on employment law issues and workplace policies. She has teamed up with Seattle Human Resources Department and other members of the City Attorney's Office to develop and coordinate City-wide training and coordinate joint training programs for the City and King County. The training programs are relevant, interesting, interactive and in-depth.

## CRIMINAL DIVISION



Emphasizing public safety and restorative justice, the Criminal Division prosecutes misdemeanors, gross misdemeanors and some traffic infractions. Highlights for 2015 included launching a pilot restorative

justice program, providing ongoing training for police officers at roll calls, continued focus on reducing the demand for sexual exploitation, and new technology to better assist us in our daily work.



## CRIMINAL DIVISION *continued*



*Pete administers oaths of office to new attorneys*

### ADMINISTRATION

#### Volunteer Program

The City Attorney's Office has a long history of providing opportunities for volunteers and student interns to learn more about the legal process and criminal justice system. Law students work side by side with prosecutors to learn the basics of case preparation, filing and trial work. During 2015, the Criminal Division's 36 volunteers provided more than 7,200 service hours. Of the 36 volunteers, eight were men and 28 were women.

#### Electronic Discovery Module

In 2015 the Criminal Division began storing most discovery in our case management database, DAMION. By using DAMION's electronic discovery module, all prosecutors and staff can access evidence from their workstations or in court; they no longer have to rely on a physical file. Electronic storage ensures that evidence

is not misfiled or misplaced during the various stages of prosecution.

Attorneys continue to increase their proficiency with the discovery module, which helps them monitor and review discovery more quickly while they prepare a case for filing, pretrial hearing or trial. The module also provides the discovery clerk and assistant paralegals a secure way to electronically transmit discovery to the defense, which allows defense counsel to receive discovery quickly and reduces the number of requested court continuances sought due to discovery issues.

#### Electronic Case Initiation

Representatives from Seattle Municipal Court (SMC), Department of Public Defense and the Criminal Division partnered to create and implement the first phase of electronic case initiation. The court and division previously expended duplicative resources in

the process of initiating criminal case filings (printing, copying, scanning and indexing documents). The switch to electronic filing makes this process more efficient, and reduces the amount of paper used within the CAO. Filing cases electronically also alleviates the delay associated with transmitting paper filings to the court and allows the court to maximize a paperless environment in its intake court.

Attorneys and staff have online access to all court documents, which has improved our ability to respond to victim or law enforcement requests for copies of orders or other public documents.

#### Criminal Division Statistics

In 2015, the division received 13,224 reports from SPD and filed 7,444 cases—an increase from 2014. Breaking down those numbers, the division received 3,734 domestic violence (DV) reports and filed DV charges

## CRIMINAL DIVISION *continued*

on 1,398; we received 950 DUI reports and filed on 956. (Note: Some reports may have been received in 2014 but were not filed until 2015.) In 2015, overall cases were, on average, finalized in 240 days.

### APPEALS

The appeals unit resolved 35 criminal appeals and writs in 2015. The unit argued *Seattle v. Evans*, which concerned the constitutionality of Seattle's dangerous knife ordinance, in the Washington Supreme Court and prevailed, as the ordinance was upheld. The unit also argued *Seattle v. Norman*, which concerned the constitutionality of Seattle's dangerous animal ordinance, in the Court of Appeals; a decision is forthcoming. The unit also prepared summaries of recent, particularly noteworthy, decisions of our appellate courts for the division attorneys.

### PUBLIC RECORDS REQUESTS

The City Attorney's Office is committed to open government and compliance with its obligations under the Washington Public Records Act, RCW 42.56, and related laws. The office strives to respond in a timely

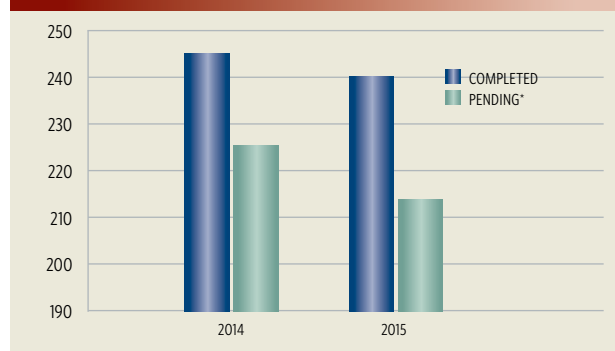
and professional manner to all requests for records from the public.

The Criminal Division handled 62 public records requests in 2015. These requests were received from suspects, victims, attorneys and members of the media. The majority of requests were related to a specific incident or police report, but some were more far-ranging, in-depth or time-consuming. The division received a number of requests from the media that related to matters that were, or became, very high profile in Seattle, or elsewhere.

### Restorative Justice Program-Pilot Project

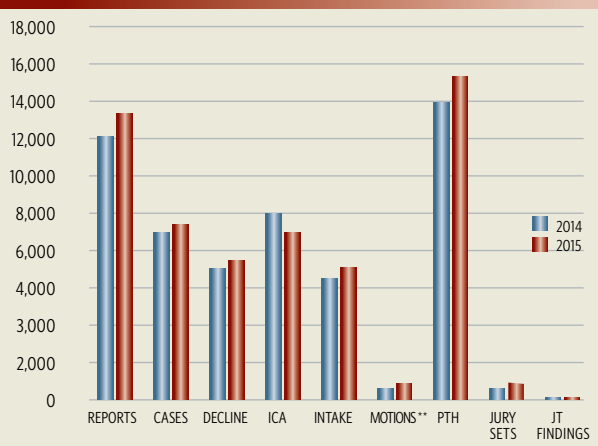
The CAO, in conjunction with Seattle Restorative Justice, launched its Restorative Justice Pilot Project in 2015. This pilot project provides a pre-filing restorative justice diversion program for individuals between 18 and 24 years of age who are accused of committing qualifying misdemeanor and gross misdemeanor offenses if the crime victim agrees to pursue a restorative justice diversion. The pilot program currently considers qualifying cases arising out of the East, South and Southwest Precincts.

CRIMINAL - 2015 AVERAGE DAYS TO DISPOSITION



\*Pending dispo = start date of PTD, DP, SOC and DC

CRIMINAL OVERALL 2015



\*\*Beginning May 2015, motions to lift NCO's are tracked in MCIS

### CRIMINAL DIVISION OVERALL: 2015

### 2014 compared to 2015\*\*

2014 Reports Rec'd	12,175
<b>2015 Reports Rec'd</b>	<b>13,224</b>
Diff 2015-2014	(1,049)
% Change	9%
2014 Cases Filed	7,142
<b>2015 Cases Filed</b>	<b>7,444</b>
DIFF 2015-2014	302
% Change	4%
2014 Reports Declined	5,045
<b>2015 Reports Declined</b>	<b>5,567</b>
DIFF 2015-2014	522
% Change	10%
2014 % Reports Received were Declined	41%
<b>2015 % Reports Received were Declined</b>	<b>42%</b>
2014 Avg # Days from Date Rec'd to Dispo	244
<b>2015 Avg # Days From Date Rec'd to Dispo</b>	<b>240</b>
2014 In Custody Arrg	8,051
<b>2015 In Custody Arrg</b>	<b>7,098</b>
DIFF 2015-2014	-953
% Change	-12%
2014 Total # Bookings	4,108
<b>2015 Total # Bookings</b>	<b>4,908</b>
DIFF 2015-2014	800
% Change	19%
2014 Total Booked w/Case Declined at ICA	839
<b>2015 Total Booked w/Case Declined at ICA</b>	<b>931</b>
DIFF 2015-2014	92
% Change	11%
2014 % Total Booked w/Case Declined	20%
<b>2015 % Total Booked w/Case Declined</b>	<b>19%</b>
2014 Intake	4,517
<b>2015 Intake</b>	<b>5,128</b>
DIFF 2015-2014	611
% Change	14%
2014 Motion Setting	699
<b>2015 Motion Settings**</b>	<b>760</b>
DIFF 2015-2014	61
% Change	9%
2014 PTH Setting	13,929
<b>2015 PTH Setting</b>	<b>15,317</b>
DIFF 2015-2014	1,388
% Change	10%
2014 Jury Trial Settings	686
<b>2015 Jury Trial Settings</b>	<b>821</b>
DIFF 2015-2014	135
% Change	20%
2014 Jury Trials with Finding	104
<b>2015 Jury Trials with Finding</b>	<b>113</b>
DIFF 2015-2014	9
% Change	9%

\*\*Beginning May 2015, motions to lift NCO's are tracked in MCIS

## CRIMINAL DIVISION *continued*

In a restorative justice conference, the accused person meets face-to-face with the persons harmed and community members impacted by the harm. Through facilitated dialogue, the participants discuss the consequences of the incident, its impacts and harms, and the needs and interests that arise. The participants then develop a consensus-based action plan that will address the needs of all participants, repair harms, restore relationships and address underlying conditions to prevent future incidents. If the accused person completes the restorative justice conference and action plan, the office will not file criminal charges.

The Restorative Justice Pilot Project successfully completed its first referral: The accused 24-year-old male learned of a recent shooting and wrongfully suspected the victims were involved. Consequently, he stopped their vehicle, brandished his firearm, pointed it at the two victims inside, and told them not to leave. The two victims were clearly fearful of the man's actions. The incident was ultimately referred to the CAO for charging. Subsequently, the two victims and the accused man agreed to a restorative justice referral. The parties participated in a restorative justice conference; they developed a consensus-based action plan, and they successfully completed the restorative justice post circle. In the end, all parties felt the restorative justice process was the best means to address this incident. They left with a positive attitude about the process and each other.

### **DRIVING UNDER THE INFLUENCE (DUI)**

In 2015 the DUI Unit of the Criminal Division, led by experienced DUI prosecutors Miriam Norman and Meagan Westphal, increased efforts to more successfully prosecute impaired driving cases. Driving while impaired by alcohol, drugs or a combination represents a significant danger to the lives of the residents of Seattle, to their property and to everyone traveling on

the City's roads. New disposition standards were drafted in 2015 to ensure community safety. These standards ensure offenders are held more accountable for their actions and signify a shift towards harsher penalties.

2015 presented new legal challenges to prosecuting impaired driving cases. The newly passed state Impaired Driving Bill includes a provision that would severely hinder the ability of officers to obtain a defendant's blood sample by placing limits on who is qualified to draw blood. Acquiring a forensic blood draw as evidence in impaired driving cases is becoming more and more prevalent, as blood evidence is often the best evidence of impairment. Without such evidence, prosecuting DUI cases may become more challenging. The DUI Unit was the first in the state to identify this issue and is actively working with local hospitals and law enforcement to amend the statute.

The statewide legalization of marijuana also created challenges in prosecuting DUI offenders. The unit has seen an increase in DUIs that involve combining other drugs with marijuana, such as alcohol. These poly-drug DUIs create a substantial danger to public safety as the impairment is extremely dangerous. Often, prosecution of these cases can be problematic as the levels of each individual drug fall below the "per se" level. Juries tend to struggle with convicting defendants in those situations, as the dangers of combining other drugs with marijuana are not widely known. The unit hopes to continue educating the public on the dangers of combining alcohol with marijuana so these cases may be successfully pursued.

The unit has also encountered an increase in DUIs involving minors using marijuana. In hopes of decreasing this number, the DUI Unit is planning a public service campaign to better educate youth about the dangers of driving while impaired by marijuana.

***"I can't thank you all enough for the work on this and for how you've helped me through. I'm very grateful."***

***"Keep up the great work :) You helped me (us) through a very difficult time—clearly, your work regularly makes a difference in many people's lives. That's very cool :) ."***



## CRIMINAL DIVISION *continued*



Criminal Division Chief Craig Sims addresses a press conference

### DUI TRAINING

The DUI Unit continues to train both officers and attorneys on DUI and traffic related matters. In combination with SPD, the unit holds a regular training on search warrant writing. This training is effective and well-received, and officers leave prepared to draft a search warrant in an impaired driving case; it makes the search warrant process easier to navigate.

In 2015 the unit launched the first roll call trainings. The training focused on the application of the *corpus delicti* legal doctrine to impaired driving cases. Application of this legal doctrine most often arises in

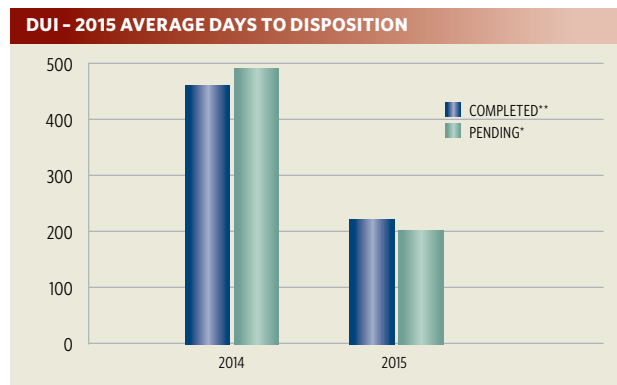
collision cases. From August to September, the unit presented at roughly 60 roll call trainings, covering all five precincts and training nearly 500 officers.

The unit has prepared a variety of other trainings for both officers and attorneys, such as: marijuana and driving, cocaine and driving, heroin and driving, MDMA/ecstasy and driving, methamphetamine/amphetamines and driving, and courtroom procedure, among others. The unit plans to train on these topics in 2016 roll call trainings.

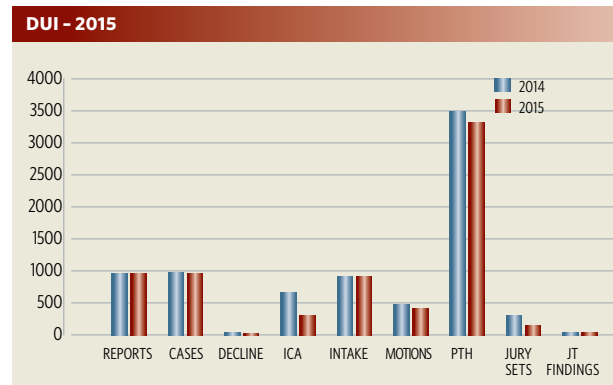
The unit also participated in multi-jurisdiction training in 2015. Washington State Patrol Academy and the Traffic Safety Resource Prosecutors invited the DUI Unit to present at several trainings in 2015. The unit trained officers on trial preparation and how to be effective witnesses for the prosecution at the Washington State Patrol Training Academy and trained new prosecutors as part of the statewide "DUI Boot Camp."

### High-Profile DUI Cases

The DUI Unit prosecuted many high-profile DUI offenders in 2015, including a member of the Seattle Fire Department. This individual is a repeat offender -- his fourth DUI case. Despite his previous DUI cases, the defendant was never actually convicted of DUI because his cases were reduced to a lesser offense. After



\*Pending dispo = start date of PT, DP, SOC and DC



DUI 2015	2014 compared to 2015
2014 Reports Rec'd **	958
<b>2015 Reports Rec'd</b>	<b>950</b>
Diff 2015-2014	-8
% Change	-1%
2014 Cases Filed	977
<b>2015 Cases Filed</b>	<b>956</b>
DIFF 2015-2014	-21
% Change	-2%
2014 Reports Declined	45
<b>2015 Reports Declined</b>	<b>17</b>
DIFF 2015-2014	-28
% Change	-62%
2014 % Reports Received were Declined	5%
<b>2015 % Reports Received were Declined</b>	<b>2%</b>
2014 Avg # Days from Date Rec'd to Dispo this Qtr	461
<b>2015 Avg # Days From Date Rec'd to Dispo this Qtr</b>	<b>487</b>
2014 In Custody Arrg	666
<b>2015 In Custody Arrg</b>	<b>301</b>
DIFF 2015-2014	-365
% Change	-55%
2014 Total # Bookings this Qtr	298
<b>2015 Total # Bookings this Qtr</b>	<b>326</b>
DIFF 2015-2014	28
% Change	9%
2014 Total Booked w/Case Declined at ICA	5
<b>2015 Total Booked w/Case Declined at ICA</b>	<b>7</b>
DIFF 2015-2014	2
% Change	40%
2014 % Total Booked w/Case Declined	2%
<b>2015 % Total Booked w/Case Declined</b>	<b>2%</b>
2014 Intake	901
<b>2015 Intake</b>	<b>902</b>
DIFF 2015-2014	1
% Change	0%
2014 Motion Setting	476
<b>2015 Motion Settings</b>	<b>411</b>
DIFF 2015-2014	(65)
% Change	-14%
2014 PTH Setting	3,500
<b>2015 PTH Setting</b>	<b>3,346</b>
DIFF 2015-2014	-154
% Change	-4%
2014 Jury Trial Settings	259
<b>2015 Jury Trial Settings</b>	<b>152</b>
DIFF 2015-2014	(107)
% Change	-41%
2014 Jury Trials with Finding	27
<b>2015 Jury Trials with Finding</b>	<b>32</b>
DIFF 2015-2014	5
% Change	19%

\*\* Beginning Q3 2015 Jury Trial Settings count the number of individual cases set rather than each charge per case.

## CRIMINAL DIVISION *continued*

numerous motions and a lengthy and complex jury trial, his newest case, handled by Meagan Westphal, resulted in a guilty finding.

The unit also handled the case of an offender with eight prior DUIs. In addition to the DUI charge, this individual was charged with multiple counts of Driving While License Suspended (DWLS) in the First Degree (which carries a mandatory penalty of 180 days in jail) and multiple violations of the Ignition Interlock Device requirement. This case was handled by Miriam Norman, and after many motions and arguments, the defendant ultimately pleaded guilty. He received a substantial jail sentence.

These cases remind us of the importance of prosecuting all DUI offenders – each DUI that is prosecuted is potentially preventing future harm to our City and its residents.

### DOMESTIC VIOLENCE UNIT

#### Prosecutors

Prosecutors in the Domestic Violence Unit (DVU) litigate cases using the vertical prosecution model, in which each prosecutor manages the case from pre-filing to sentencing. This model provides continuity in the management of each case, and the ability for a victim to connect with one prosecutor and maintain that relationship throughout the entire case. Prosecutors are assigned cases based on the letter of the defendant's last name, which allows staff, advocates and law enforcement to know exactly who they should contact regarding each case regardless of the stage of litigation. In 2015, Krystle Curley, Jana Jorgensen, Yelena Stock, Joe Everett and Andrew Tsoming served as prosecutors in the DVU. Lorna Sylvester served as the prosecutor for especially high-risk and elder abuse cases along with serving as interim supervisor after the previous supervisor, Cindi Williams, transitioned to another role in the City Attorney's Office.

In one example of a prosecutor going above and beyond, a victim experienced increased intimidation from her abuser as the case continued. There were several violations of the No Contact Order (NCO) as well as bizarre, unexplainable incidents in her home. On the day of trial, the victim did not show up for court, which violated the court order of her subpoena. In a rare move, the prosecutor asked the judge to issue a warrant allowing a police officer to escort her to court. Shortly after, the victim called our office to tell us that the defendant had violated the NCO and was threatening to kill himself to keep her from coming to court. It is unlikely that she would have shared this with our team had she not felt she was believed and supported when she shared prior incidents. She appeared in court and the defendant was immediately taken into custody and sentenced to two years in jail.

#### Advocates

The DVU continues to focus efforts and resources on victims in crisis and the important task of making sure the victim's voice is heard in the criminal justice system. Victim advocates specialize in Intimate Partner Violence (IPV): Kimberly McDaniel, Theresa Phillips, Alma Noble and Summer Rosa-Mullen. They support victims, provide them information, and make sure that their views are known to the prosecutors, the court and law enforcement. They also link victims with services in the community that help individuals in crisis achieve stability and support.

The DVU also uses advocates who focus on elder abuse, providing support for families where the victim is older, or is otherwise physically or mentally vulnerable. Joanne Luong and Cheryl Mezich both work with this population to coordinate efforts with the elder abuse prosecutor, Lorna Sylvester. Having specialists in this field is especially important, as the services supporting the senior population are often a good source of stability and safety.

***“Thank you again for your time, compassion, follow up, and resources. I appreciate your kindness and understanding with all of this. Feeling truly listened to, and understood is vital, and you exude a sincerity that isn’t all too common.”***

***“Thank you for the work that you do.”***

***“Thank you for all of your advice and help. I feel a lot more safe now that I have communication and guidance from your office.”***

## CRIMINAL DIVISION *continued*

Victim Advocate Karen Irish works exclusively with child victims, and is a skilled collaborator with agencies such as state Child Protective Services and SPD detectives, who investigate many of these cases.

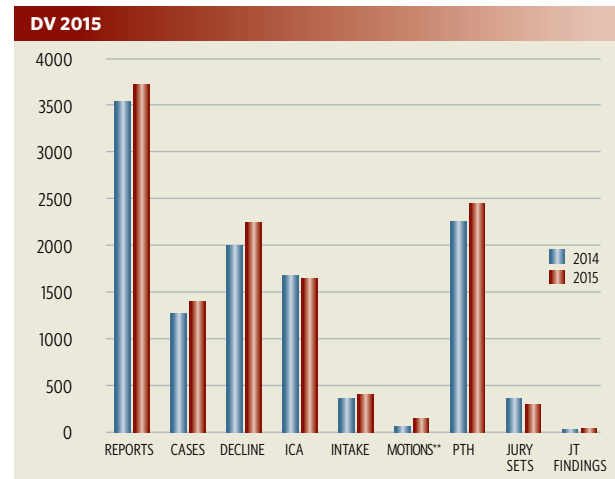
The DVU also provides support to families experiencing violence. Often, an adult child abuses a non-elder parent, or one adult sibling victimizes another. Advocates Jeaneen Watkins and Lynn Craig, who also work with IPV victims, have additional expertise in mental health and chemical dependency and work with the victims in these cases. Because mental health or addiction problems frequently intersect with DVU cases, the expertise of Watkins and Craig has provided families with targeted support that victims have found invaluable. In addition, both advocates inform the prosecutor and the court about the family's unique needs.

In 2014, DVU prosecutors began filing Family Violence cases in addition to their IPV, Child Abuse and Elder Abuse cases. This increased filing demand necessitated close and efficient working relationships with the victim advocates and support staff to maintain the efficient management of the filing and litigation caseload. In 2015, Family Violence cases continued to receive the vertical prosecution that our IPV cases have in the past. Family Violence cases frequently have many safety issues that are as significant as those in IPV cases, and the DVU prosecutors' ability to vertically prosecute these cases helped maximize the specialized advocate support that is provided to them.

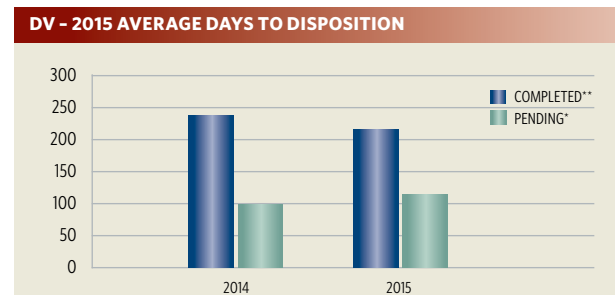
Julie Huffman served as the Victim Advocate Supervisor for the DVU and she continued to provide the team with strong guidance, survivor-focused vision and targeted problem solving during 2015.

One case underscored the difficulty of a victim advocate's job and also how the system can intervene for positive outcomes aside from convictions and

sentences. An advocate went to court to support a victim at an in-custody arraignment calendar at the King County Jail. The victim had brought her dog to court, and the advocate realized that the best way to support her was to sit with the dog outside so the victim did not have to worry about him. The advocate noticed that the dog was covered in fleas and ticks, had terrible mange and was missing all the hair on his tail. She agonized about what to do, as she was extremely concerned about the well-being of the dog but she also realized that calling animal control would possibly alienate the



\*\*Beginning May 2015, motions to lift NCO's are tracked in MCIS.



\*Pending dispo = start date of PTD, DP, SOC and DC

DV UNIT 2015	2014 compared to 2015**
2014 Reports Rec'd	3,527
<b>2015 Reports Rec'd</b>	<b>3,734</b>
Diff 2015-2014	207
% Change	6%
2014 Cases Filed	1,273
<b>2015 Cases Filed</b>	<b>1,398</b>
DIFF 2015-2014	125
% Change	10%
2014 Reports Declined	1,997
<b>2015 Reports Declined</b>	<b>2,245</b>
DIFF 2015-2014	248
% Change	12%
2014 % Reports Received were Declined	57%
<b>2015 % Reports Received were Declined</b>	<b>60%</b>
2014 Avg # Days from Date Rec'd to Dispo this Qtr	239
<b>2015 Avg # Days From Date Rec'd to Dispo this Qtr</b>	<b>216</b>
2014 In Custody Arrg	1,631
<b>2015 In Custody Arrg</b>	<b>1,327</b>
DIFF 2015-2014	-304
% Change	-19%
2014 Total # Bookings this Qtr	1,426
<b>2015 Total # Bookings this Qtr</b>	<b>1,506</b>
DIFF 2015-2014	80
% Change	6%
2014 Total Booked w/Case Declined at ICA	489
<b>2015 Total Booked w/Case Declined at ICA</b>	<b>494</b>
DIFF 2015-2014	5
% Change	1%
2014 % Total Booked w/Case Declined	34%
<b>2015 % Total Booked w/Case Declined</b>	<b>33%</b>
2014 Intake	359
<b>2015 Intake</b>	<b>408</b>
DIFF 2015-2014	49
% Change	14%
2014 Motion Setting	55
<b>2015 Motion Settings**</b>	<b>137</b>
DIFF 2015-2014	82
% Change	149%
2014 PTH Setting	2,547
<b>2015 PTH Setting</b>	<b>2,856</b>
DIFF 2015-2014	309
% Change	12%
2014 Jury Trial Settings	377
<b>2015 Jury Trial Settings***</b>	<b>292</b>
DIFF 2015-2014	-85
% Change	-23%
2014 Jury Trials with Finding	22
<b>2015 Jury Trials with Finding</b>	<b>26</b>
DIFF 2015-2014	4
% Change	18%

\*\* Beginning May 2015, motions to lift NCO's are tracked in MCIS.

\*\*\* Beginning Q3 2015 Jury Trial Settings count the number of individual cases set rather than each charge per case.



## CRIMINAL DIVISION *continued*

victim from her and worse, re-victimize her if her dog was removed.

The advocate made the difficult decision to ask Seattle Animal Control to do a welfare check at the woman's home. Officers found several animals and they reported back that the victim surrendered all of her animals for safe keeping while she sought housing in a shelter, and that the animals would be checked over and cared for. The City is proud that the Seattle Animal Shelter is part of the Safe Havens for Animals program, where select animal shelters will house and care for the animals of victims fleeing domestic violence until victims can find safe living conditions. Shelters usually do not accept pets, and this barrier can be a significant motivation for a survivor to stay in an unsafe living situation. A national directory of Safe Havens programs can be found at the [Humane Society's website](#).

Advocates often end up in unique situations in order to do what is needed to support a victim. Victims come from all socioeconomic and ethnic backgrounds, and this can play a role in how advocates approach a criminal case. Advocates work hard to build relationships that allow each individual to be comfortable enough to tell their story, hoping that doing so will empower them to stand up against the abuse. One advocate, having learned about the efficacy of mindful coloring, brought an adult coloring book to a trial to calm a teenage victim. To prepare the victim for her testimony, she practiced powerful posing to increase her confidence before she took the stand.

There are also times when victims of domestic violence end up jailed themselves. The DVU Advocates will go to the jail, if need be, to reach a victim in need. Sadly, at times victims also end up in the hospital due to domestic violence. Advocates will go to the hospital simply to show their continued support.

### **Administrative Support**

The DVU continued to enjoy targeted administrative support that maximized the vertical prosecution model. Cary Elms was the designated assistant paralegal for the DVU, and her quick response to the needs of the DVU's discovery management helped keep cases moving amid tight deadlines and the challenging expectations of both the court and victims. DVU cases are litigated more quickly than other cases in the Criminal Division, and have evidentiary elements not shared by others such as 911 recordings, recorded statements and documentation by detectives. Elms' excellent work helped the DVU manage its cases well.

Administrative Assistant Stephanie Bennett also provided critical support to the case flow of the advocates and attorneys. Her duties included managing the No Contact Lift Calendar, case initiation for a very high volume of Victim Advocate case files, and coordinating case management efforts between the DVU staff and the Criminal Division's Case Preparation Unit.

### **Co-Located Positions**

The DVU continued to have tremendous success with its co-located programs, in which staff from other agencies physically locate with the DVU to provide a seamless multi-disciplinary response to legal issues and victims' needs. The King County Prosecutor's Office assigns a deputy prosecuting attorney part-time to the DVU, and in 2015 Kim Wyatt continued in this position. She streamlined the referral of cases for felony charges, coordinated litigation and negotiation of cases where defendants have charges in multiple jurisdictions, and assisted with investigation of complex misdemeanor cases. A new 2015 law required the state Department of Corrections to extend supervision to all felony domestic violence cases. This is one of many factors that may change the analysis around whether to prosecute a case as a felony or as a misdemeanor.

The DVU also continued to benefit from the co-located Victim Advocate program. The City's Human Services Department has funded these positions and continues to support this project. Samantha Gish of Salvation Army and Ana Molina of Consejo are the community-based advocates who spend time in the DV Units of both the CAO and SPD. They provide direct services to victims, including housing, food, transportation and other assistance. Their work with victims provides a confidential support person, and the ability to help coordinate direct-service outreach. They have been a huge help to the victim advocates in our DVU.

One case in particular illustrates the ways in which our office coordinates with several units to provide the appropriate services. In this case, the defendant became abusive to his girlfriend while she was staying in a confidential DV shelter. He subsequently threatened many of the other shelter occupants. Our office worked with several of the victims and witnesses, who were DV survivors themselves and had serious safety concerns about participating in the prosecution of this defendant. They were concerned because the defendant knew where they lived. In addition, being survivors themselves, they feared their confidential location being revealed to their own abusers. Working together, the victim's advocate coordinated with North Precinct Liaison Brendan Brophy, Felony Advocate Kayleigh McNeil, the DV shelter staff, Child Protective Services, SPD Detective Adam Thorpe, King County co-located Prosecutor Kim Wyatt, and Salvation Army Victim Advocate Cydney Jones. After balancing the safety needs of the victims and witnesses, the prosecutor and advocate decided not to pursue charges.

### **Victim-Defendants**

DV cases occasionally arise from circumstances in which the survivor of an ongoing pattern of abuse commits a crime against the perpetrator of abuse in

## CRIMINAL DIVISION *continued*

the relationship. These cases have to be handled with unique caution, as victim-defendants may be made less safe by conditions such as No Contact Orders or probation. For instance, if a defendant is attempting to leave a violent abuser, imposing supervised probation or ordering a specific type of treatment may reduce the ability of the defendant to “hide” from an abuser.

In some cases, prosecution itself may be inappropriate even if the case can be proven and there is no legitimate legal defense. DVU prosecutors were diligent about screening for these issues, recognizing the ethical challenges of knowing the “real story” of a party with whom the CAO cannot communicate. The DVU entered into discussions with the Human Services Department and some public defender supervisors about increasing and improving opportunities for communication on these issues, including discussions about a screening tool for public defenders. DVU staff continues to engage in conversations with attorneys and the community to maximize our ability to properly address the unique challenges of victim-defendant cases.

### No Contact Order (NCO) Calendar

In 2015 a significant change to the DVU’s practices occurred. The No Contact Order Modification and Lift Calendar, at which victims can address the court and ask that a NCO be dropped or changed, is now managed by the court. Previously, victims asked their advocates to add their case to the next available calendar, which offered a low-barrier process for victims but presented ethical and legal challenges.

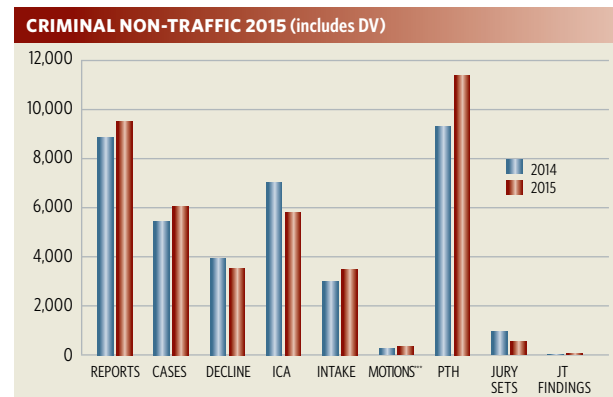
The Seattle Municipal Court enacted a local rule and crafted a process to allow victims to request a hearing in writing. The judge then determines whether an in-person hearing will be scheduled or denied. While the advocate’s role in managing the calendar has changed, they still accompany victims to court and provide them support and resources to help make criminal

justice involvement less disruptive to their lives. The CAO is working with the court to ensure that the new procedure remains accessible for victims, particularly those with language barriers or lack of computer access.

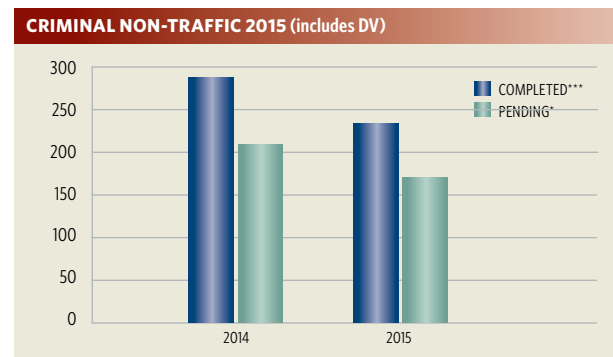
### CASES OF INTEREST

The Criminal Division prosecutes a wide variety of crimes each year, and each case involves unique facts and individuals. The following is a sampling of the some of the factual, logistical and legal issues prosecutors dealt with in 2015.

An intoxicated 20-year-old driver, with a passenger, ran a red light and was struck broadside by a City



\*\*Beginning May 2015, motions to lift NCO's are tracked in MCIS.



CRIMINAL NON-TRAFFIC 2015 (includes DV)	2014 compared to 2015**
2014 Reports Rec'd	8,931
<b>2015 Reports Rec'd **</b>	<b>9,614</b>
Diff 2015-2014	683
% Change	8%
2014 Cases Filed	5,601
<b>2015 Cases Filed</b>	<b>6,063</b>
DIFF 2015-2014	462
% Change	8%
2014 Reports Declined	3,965
<b>2015 Reports Declined</b>	<b>3,614</b>
DIFF 2015-2014	-351
% Change	-9%
2014 % Reports Received were Declined	55%
<b>2015 % Reports Received were Declined</b>	<b>38%</b>
2014 Avg. # Days From Date Rec'd to Dispo	288
<b>2015 Avg. # Days From Date Rec'd to Dispo</b>	<b>234</b>
2014 In Custody Arrg.	7,109
<b>2015 In Custody Arrg.</b>	<b>5,815</b>
DIFF 2015-2014	-1,294
% Change	-18%
2014 Total # Bookings	3,675
<b>2015 Total # Bookings</b>	<b>4,327</b>
DIFF 2015-2014	652
% Change	18%
2014 Total Booked w/Case Declined at ICA	811
<b>2015 Total Booked w/Case Declined at ICA</b>	<b>868</b>
DIFF 2015-2014	57
% Change	7%
2014 Total Booked w/Case Declined	22%
<b>2015 Total Booked w/Case Declined</b>	<b>20%</b>
2014 Intake	3,015
<b>2015 Intake</b>	<b>3,472</b>
DIFF 2015-2014	457
% Change	15%
2014 Motion Setting	232
<b>2015 Motion Settings**</b>	<b>377</b>
DIFF 2015-2014	145
% Change	63%
2014 PTH Setting	9,366
<b>2015 PTH Setting</b>	<b>11,356</b>
DIFF 2015-2014	1,990
% Change	21%
2014 Jury Trial Settings	933
<b>2015 Jury Trial Settings***</b>	<b>655</b>
DIFF 2015-2014	-278
% Change	-30%
2014 Jury Trials with Finding	70
<b>2015 Jury Trials with Finding</b>	<b>77</b>
DIFF 2015-2014	7
% Change	10%

\*\* Beginning May 2015, motions to lift NCO's are tracked in MCIS.

\*\*\* Beginning Q3 2015 Jury Trial Settings count the number of individual cases set rather than each charge per case.

## CRIMINAL DIVISION *continued*

maintenance truck. Occupants of both vehicles were injured. When police arrived, the defendant was unconscious, and someone (it is unclear who) gave the officers a false name for the defendant driver. As a result, the officers conducted their investigation and sought a blood draw warrant under the wrong name. It took patient, painstaking work by the officers and the prosecutor to untangle the facts in this case in order to coherently explain to jurors who the defendant was. The defendant was convicted of DUI, Reckless Endangerment and Driving Without a License.

A simple call from a citizen who decides to act can go a long way towards making the City safer. A passerby observed that the defendant was sitting in her car, blocking the roadway. When the citizen approached the vehicle, she noticed that the driver appeared to be extremely intoxicated. The witness helped the driver move the car off the roadway, parked it in a nearby parking lot, took the car keys away from the defendant, and called 911. Police arrived, and after an investigation, arrested the defendant for DUI. The defendant was convicted by a jury. The DUI conviction was the defendant's 10th conviction for a drinking and driving offense. The judge imposed a sentence of one year in jail, the maximum allowed.

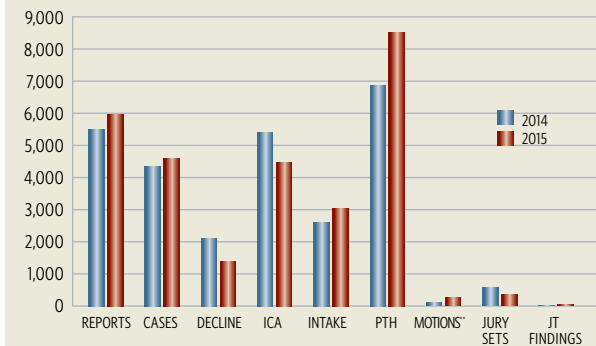
The City Attorney's Office continues to use evolving technologies to more effectively prosecute crimes, and reduce inconveniences commonly inflicted upon witnesses and victims. In one case, an intoxicated defendant was asked to leave a local restaurant. He did so, but then decided to break one of the large picture windows in the restaurant storefront, covering unsuspecting patrons with shards of glass. The defendant was charged with property destruction and reckless endangerment. There wasn't anything unusual about the prosecution except that one of the patrons who was covered by the flying glass shards lived in Oregon and could not come to Seattle to testify. In the past, the City

would simply have forfeited the participation of this victim/witness. However, the prosecutor asked the court to allow the victim to testify via Skype, and over defense objection, the motion was granted. The defendant was convicted by the jury on both counts.

### COMMUNITY COURT

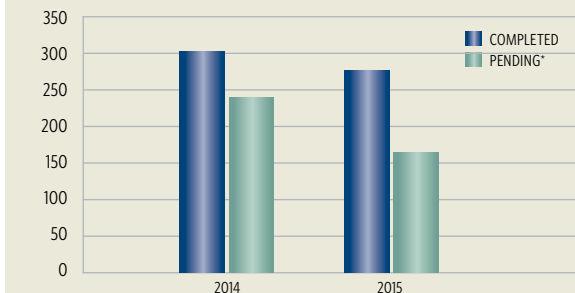
Seattle Municipal Court's Community Court marked its 10th anniversary in March. From its beginnings in the downtown corridor to its expansion throughout the entire city, the last 10 years were ones of growth and innovation.

#### CRIMINAL NON-TRAFFIC 2015 (excludes DV)



\*Beginning May 2015, motions to lift NCO's are tracked in MCIS.

#### CRIMINAL NON-TRAFFIC 2015 (excludes DV)



\*Pending dispo = start date of PTD, DP, SOC and DC

CRIMINAL NON-TRAFFIC 2015 (excludes DV)	2014 compared to 2015**
2014 Reports Rec'd	5,504
<b>2015 Reports Rec'd **</b>	<b>5,940</b>
Diff 2015-2014	438
% Change	8%
2014 Cases Filed	4,329
<b>2015 Cases Filed</b>	<b>4,666</b>
DIFF 2015-2014	337
% Change	8%
2014 Reports Declined	2,012
<b>2015 Reports Declined</b>	<b>1,399</b>
DIFF 2015-2014	-613
% Change	-30%
2014 % Reports Received were Declined	37%
<b>2015 % Reports Received were Declined</b>	<b>24%</b>
2014 Avg. # Days From Date Rec'd to Dispo	302
<b>2015 Avg. # Days From Date Rec'd to Dispo</b>	<b>272</b>
2014 In Custody Arrg.	5,478
<b>2015 In Custody Arrg.</b>	<b>4,488</b>
DIFF 2015-2014	-990
% Change	-18%
2014 Total # Bookings	3,526
<b>2015 Total # Bookings</b>	<b>4,081</b>
DIFF 2015-2014	555
% Change	16%
2014 Total Booked w/Case Declined at ICA	333
<b>2015 Total Booked w/Case Declined at ICA</b>	<b>383</b>
DIFF 2015-2014	50
% Change	15%
2014 Total Booked w/Case Declined	9%
<b>2015 Total Booked w/Case Declined</b>	<b>9%</b>
2014 Intake	2,656
<b>2015 Intake</b>	<b>3,064</b>
DIFF 2015-2014	408
% Change	15%
2014 Motion Setting	177
<b>2015 Motion Settings</b>	<b>240</b>
DIFF 2015-2014	63
% Change	36%
2014 PTH Setting	6,819
<b>2015 PTH Setting</b>	<b>8,500</b>
DIFF 2015-2014	1,681
% Change	25%
2014 Jury Trial Settings	556
<b>2015 Jury Trial Settings**</b>	<b>364</b>
DIFF 2015-2014	-192
% Change	-35%
2014 Jury Trials with Finding	48
<b>2015 Jury Trials with Finding</b>	<b>51</b>
DIFF 2015-2014	3
% Change	6%

\*\*Beginning Q3 2015 Jury Trial Settings count the number of individual cases set rather than each charge per case.



## CRIMINAL DIVISION *continued*

Community Court began as a partnership among the CAO, the Associated Counsel for the Accused (now part of the King County Office of Public Defense) and Seattle Municipal Court. At its founding, the focus of the court was to address the problem of repeat offenders who were committing “quality of life” criminal offenses (e.g. theft, criminal trespass, prostitution). Instead of continuing the practice of increased incarceration for each new offense committed, participants in Community Court were given the opportunity to have their jail time dramatically reduced by performing community service hours and meeting with social service providers to help address the underlying needs that may have led to their criminal activity.

Spurred on by successes of community courts in other cities and by a 2009 study of Seattle Municipal Court’s Community Court by the Justice Management Institute, which showed positive outcomes in lowering the rate of re-offending, Community Court has expanded to incorporate the entire city and to address cases beyond those of high-frequency offenders. In 2013, SMC launched an updated Community Court 2.0 model that sought to provide more services and support for defendants who participated in the program.

### Innovations

Since its inception, the CAO, defense and court have striven to introduce innovative initiatives into the Community Court program. Those programs include:

- **Self-Awareness Class:** This daylong class developed by the court focuses participants on looking at the choices that lead to their criminal act and what positive changes they can make to create better outcomes in their lives.
- **Library Tour:** In partnership with the Seattle Public Library, Community Court participants are given a tour of the downtown library and learn about the wide array

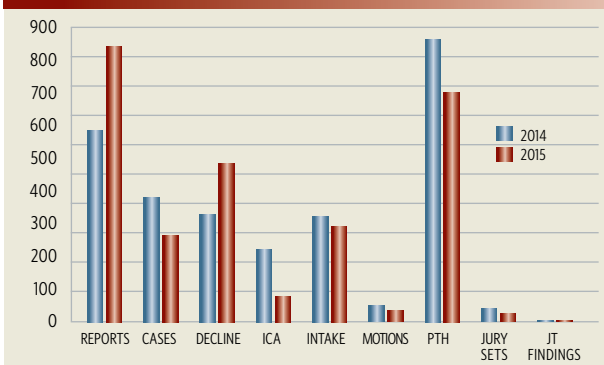
of resources the library has to offer. At the end of the tour, participants are given a library card and zip drive.

- **Life Skills Class:** This two-day class works to change participants’ perceptions of their current life situation, address anger management issues and develop skills to better communicate with others.
- **Career Convictions:** Facilitators work with participants on interview techniques and resume writing to help overcome employment barriers for job applicants with a criminal history.

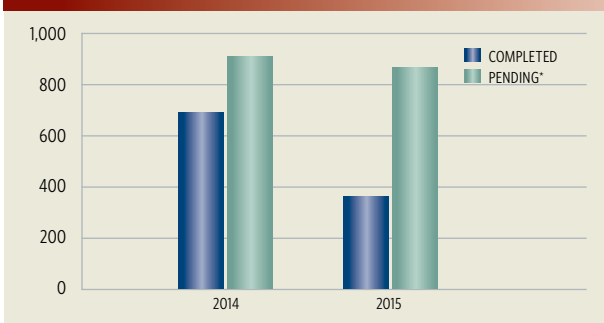
### Community Service

Since its start, participants in Community Court have provided over 70,000 hours of community service to

DWLS -3 2015



DWLS - 3 2015 AVERAGE DAYS TO DISPOSITION



DWLS-3 2015	2014 compared to 2015**
2014 Reports Rec'd	644
<b>2015 Reports Rec'd **</b>	<b>834</b>
Diff 2015-2014	190
% Change	30%
2014 Cases Filed	329
<b>2015 Cases Filed</b>	<b>292</b>
DIFF 2015-2014	-37
% Change	-11%
2014 Reports Declined	366
<b>2015 Reports Declined</b>	<b>531</b>
DIFF 2015-2014	165
% Change	45%
2014 % Reports Received were Declined	57%
<b>2015 % Reports Received were Declined</b>	<b>64%</b>
2014 Avg. # Days From Date Rec'd to Dispo	683
<b>2015 Avg. # Days From Date Rec'd to Dispo</b>	<b>905</b>
2014 In Custody Arrg.	243
<b>2015 In Custody Arrg.</b>	<b>83</b>
DIFF 2015-2014	(160)
% Change	-66%
2014 Total # Bookings	72
<b>2015 Total # Bookings</b>	<b>77</b>
DIFF 2015-2014	5
% Change	7%
2014 Total Booked w/Case Declined at ICA	11
<b>2015 Total Booked w/Case Declined at ICA</b>	<b>14</b>
DIFF 2015-2014	3
% Change	2%
2014 Total Booked w/Case Declined	15%
<b>2015 Total Booked w/Case Declined</b>	<b>18%</b>
2014 Intake	359
<b>2015 Intake</b>	<b>314</b>
DIFF 2015-2014	-45
% Change	-13%
2014 Motion Setting	49
<b>2015 Motion Settings</b>	<b>36</b>
DIFF 2015-2014	(13)
% Change	-27%
2014 PTH Setting	758
<b>2015 PTH Setting</b>	<b>683</b>
DIFF 2015-2014	-75
% Change	-10%
2014 Jury Trial Settings	45
<b>2015 Jury Trial Settings**</b>	<b>31</b>
DIFF 2015-2014	-15
% Change	-33%
2014 Jury Trials with Finding	2
<b>2015 Jury Trials with Finding</b>	<b>2</b>
DIFF 2015-2014	0
% Change	0%

\*\* Beginning Q3 2015 Jury Trial Settings count the number of individual cases set rather than each charge per case.

## CRIMINAL DIVISION *continued*



*Cleaning off graffiti*

the city and to local non-profit organizations. Current participants in Community Court may find themselves distributing food at a local foodbank, cleaning up graffiti, picking produce at a local community garden, or helping to prepare lunches for the homeless. For 2016, Community Court is excited to be forming a new partnership with Redeeming Soles, a non-profit group located in Belltown that is committed to distributing footwear to the homeless and underprivileged in the City.

### **Mentorship**

As the first community court in the state, Seattle has always worked to help facilitate their development in other jurisdictions. For many years Seattle's Community Court served as a Mentor Court with Center for Court Innovation, a New York-based organization dedicated to improving courts and providing expert assistance. In 2015, Seattle Municipal Court hosted visits with representatives from Yakima and Olympia who want to create community courts of their own.

When it began, Community Court's slogan was "a non-traditional approach to solving traditional

problems." Community Court has gone through major changes in both structure and personnel in the past 10 years and 2015 was no exception. Participants in Community Court now have the opportunity to have their charges dismissed upon successful completion of the program. A special program was created for prostituted persons coming through Community Court that offers them wraparound services and puts them in contact with peer support. New protocols were developed in 2015 for dealing with participants who are also in King County Drug Court. What has not changed is the City Attorney's Office commitment to Community Court and to finding innovative solutions to some of our most traditional crime problems.

### **MENTAL HEALTH COURT**

SMC's Mental Health Court (MHC) completed its 16th year in operation to improve public safety, reduce jail use and interaction with the criminal justice system for persons with mental illness, and connect participating defendants to mental health services. MHC is a voluntary program in which defendants must be willing and competent to comply with conditions set out by

GRAFFITI REPORTS 2015	2014 compared to 2015**
2014 Reports Rec'd	644
<b>2015 Reports Rec'd **</b>	<b>834</b>
Diff 2015-2014	190
% Change	30%
2014 West Reports Rec'd	329
<b>2015 West Reports Rec'd</b>	<b>292</b>
DIFF 2015-2014	-37
% Change	-11%
2014 East Reports Rec'd	366
<b>2015 East Reports Rec'd</b>	<b>531</b>
DIFF 2015-2014	165
% Change	45%
2014 South Reports Rec'd	243
<b>2015 South Reports Rec'd</b>	<b>83</b>
DIFF 2015-2014	(160)
% Change	-66%
2014 Southwest Cases Rec'd	72
<b>2015 Southwest Cases Rec'd</b>	<b>77</b>
DIFF 2015-2014	5
% Change	7%
2014 North Reports Rec'd	11
<b>2015 North Reports Rec'd</b>	<b>14</b>
DIFF 2015-2014	3
% Change	2%
2014 Cases Filed	359
<b>2015 Cases Filed</b>	<b>314</b>
DIFF 2015-2014	-45
% Change	-13%
2014 West Cases Filed	49
<b>2015 West Cases Filed</b>	<b>36</b>
DIFF 2015-2014	(13)
% Change	-27%
2014 East Cases Filed	758
<b>2015 East Cases Filed</b>	<b>683</b>
DIFF 2015-2014	-75
% Change	-10%
2014 South Cases Filed	45
<b>2015 South Cases Filed</b>	<b>31</b>
DIFF 2015-2014	-15
% Change	-33%
2014 Southwest Cases Filed	2
<b>2015 Southwest Cases Filed</b>	<b>2</b>
DIFF 2015-2014	0
% Change	
2014 North Cases Filed	2
<b>2015 North Cases Filed</b>	<b>2</b>
DIFF 2015-2014	0
% Change	0%

## CRIMINAL DIVISION *continued*

the court. The City Attorney's Office is an integral part of the Mental Health Court Team, which consists of a judge, prosecuting and defense attorneys, probation counselors and mental health professionals.

MHC can be an effective tool in assisting mentally ill defendants to stay on medications and stay engaged with community mental health services. An example from 2015 is the case of Ms. R who suffers from schizoaffective disorder and addiction to multiple illegal substances. She was charged with two counts of harassment from an incident in July in which she became extremely agitated and threatened to injure two staff members at a psychiatric treatment facility. The victims in the case were familiar with Ms. R, but her behavior was so extreme that they called 911 for assistance. Shortly after her arrest, Ms. R was released to her case manager, and on additional conditions of release. Instead of recommending a guilty plea and conviction, the City offered Ms. R a two-year dispositional continuance to resolve her case. Her probation conditions included both mental health and chemical dependency treatment. At her last review hearing, four months after the incident, Ms. R was doing very well. Her probation counselor reported that she was in full compliance with her psychiatric medications. She had enrolled in chemical dependency treatment services and was working hard in her recovery.

MHC also continues to resolve competency issues. When a defendant is found incompetent to stand trial because of mental disease or defect, the City cannot proceed with the criminal charges. Some cases qualify for the defendants to be transferred to Western State Hospital for medications. In most cases, however, the charges are dismissed. To ensure the safety of both the community and defendant, defendants are referred to mental health professionals to determine whether civil commitment is appropriate prior to release.

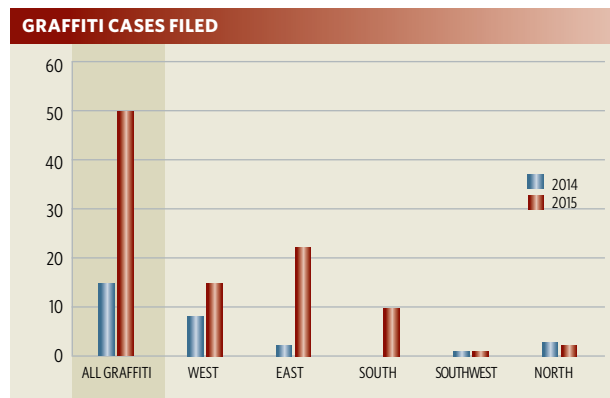
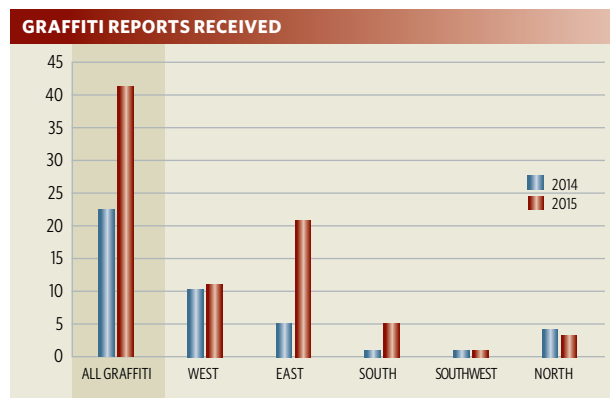
### VETERANS TREATMENT COURT

Seattle Veterans Treatment Court (VTC) completed its fourth year of operation in September 2015. VTC is a therapeutic treatment court that balances the mental health and/or substance abuse needs of veterans with the need for public safety. Seattle's Veterans Treatment Court is the first at a municipal level in the state. There are now approximately nine veteran courts statewide and 264 across the country.

Participation in VTC is voluntary and requires that veteran defendants commit to long-term treatment and court monitoring. To be considered for VTC, veterans must be eligible for VA Healthcare, be diagnosed with a mental health disorder (including substance use disorders), show a nexus between their diagnosis and their criminal charge and be amenable and motivated to make lifestyle changes. Interested veterans are screened by the VTC clinician to confirm their eligibility and amenability.

Similar to other therapeutic court models, VTC operates on the foundation that some criminal behaviors stem from mental health and substance use disorders and it is more effective to address change via treatment rather than by punitive measures alone. Additionally, VTC recognizes that it serves a unique population with distinctive experiences, treatment needs and resources. Veterans have an exceptional sense of community, camaraderie, duty, honor and ability to follow rules and respond to structure. This is especially evident in veteran defendants' respect for the court, and support of each other. In 2015 several VTC defendants, both graduated and current participants, appeared on days that they were not scheduled for court to observe and speak with other participants and VTC team members.

The VTC Team includes a judge, two probation officers, an assistant city prosecutor, two defense attorneys





## CRIMINAL DIVISION *continued*



from the Associated Counsel for the Accused, two Veterans Justice Outreach Coordinators from the VA, a representative from the Washington State Department of Veteran Affairs, and an analyst from the court. With the exception of the judge, the team meets weekly before court to discuss each veteran's compliance and needs. The team then appears together before the judge to make a record of the veteran's current status. In 2015, more often than not, reviews were positive and the team was able to focus on accomplishments rather than compliance issues, as one would expect in a traditional court.

In 2015 the City Attorney's Office gave two presentations about the unique VTC model and how it functions -- one to prosecutors at the Washington State Association of Municipal Attorney's biannual training and another to the King County Bar's Legal Assistance to Military Personnel Section.

Ten veterans entered into VTC in 2015. Each veteran was welcomed with a Challenge Coin created specifically to mark their participation. More than half of the veteran defendants who entered in 2015 maintained full compliance the entire time they've been in the court. Judge Willie Gregory began presiding over the court in January 2015. Judge Gregory is an Air Force

Veteran and was welcomed into the court with his own Challenge Coin, presented by an Air Force Veteran defendant who had served as a captain in Vietnam.

VTC graduated nine veterans in 2015. Graduates spoke highly of the support they received while participating in VTC and of how the program positively impacted their lives.

An analyst with Seattle Municipal Court was assigned to VTC in 2015 and worked with the court and CAO to ensure that the court's statistics to date were accurate and developed a model to capture participant feedback. Four distinctive surveys were implemented and the feedback was overwhelmingly positive. Participant survey comments included, "Had I known about VTC earlier in life I believe I would have avoided late life DUIs" and "Highly recommend this program to any veteran who wishes to turn negative circumstances to positive outcomes."

### **LAW ENFORCEMENT ASSISTED DIVERSION (LEAD)**

The CAO continues to play a key role in the Law Enforcement Assisted Diversion program (LEAD). Generally, the program allows certain drug or prostitution crimes to be diverted from criminal charges, at the discretion of the arresting officer, when the suspect agrees to engage in social services such as chemical

dependency or mental health treatment. City attorneys attend twice-monthly staffing meetings in which referral decisions and program participant progress is reviewed. The collaborative sharing of information is invaluable in assisting the CAO in finding the most appropriate way to handle subsequent offenses committed by those already engaged in LEAD.

## CRIMINAL DIVISION *continued*

### CONCLUSION

The **Criminal Division** continues to work with other City departments in reviewing incident reports for less common charges in Seattle Municipal Court. This year, the CAO worked closely with Animal Control to review and file cases of animal neglect and cruelty, and negligent control of animals. The Criminal Division also worked with the Code Compliance and Consumer Protection unit of Finance and Administrative Services to review cases for criminal charges when business owners repeatedly failed to comply with business license and tax requirements.

10-Year Comparison Criminal Division Cases Received/Filed														
YEAR	TOTAL REPORTS RECEIVED	TOTAL CASES FILED	DV REC'D	DV FILED	CRIMINAL NON-TRAFFIC W/DV REC'D	CRIMINAL NON-TRAFFIC W/ DV FILED	CRIMINAL NON-TRAFFIC EX DV REC'D	CRIMINAL NON-TRAFFIC EX DV FILED	CRIMINAL TRAFFIC REC'D	CRIMINAL TRAFFIC FILED	DUI REC'D	DUI FILED	DWLS 3 REC'D	DWLS 3 FILED
2005	18,158	12,584	3,820	1,549	13,381	9,597	N/A	N/A	3,395	3,156	1,270	1,221	724	689
2006	20,503	15,143	3,500	1,771	13,181	9,880	N/A	N/A	5,799	5,472	1,295	1,211	3,227	3171
2007	19,749	15,168	3,542	1,861	10,877	9,013	N/A	N/A	6,453	6,346	1,150	1,168	4,072	4,042
2008	18,096	13,713	2,972	1,584	10,213	7,944	N/A	N/A	6,065	5,904	1,022	990	4,049	4,015
2009	19,122	14,883	3,218	1,606	12,282	8,585	N/A	N/A	6,779	6,426	1,282	1,226	4,401	4,284
2010	19,184	13,421	3,302	1,366	12,375	7,667	N/A	N/A	6,766	5,882	1,292	1,207	4,245	3,789
2011	15,476	9,345	3,254	1,394	11,471	6,951	N/A	N/A	3,683	2,489	1,504	1,498	1,479	522
2012	15,305	8,170	3,512	1,185	12,206	6,182	N/A	N/A	2,966	2,087	1,277	1,249	1,012	370
2013	13,953	7,818	3,299	1,154	10,860	5,993	N/A	N/A	2,730	1,932	1,118	1,030	932	419
2014*	12,175	7,142	3,527	1,273	8,931	5,601	5,504	4,329	2,061	1,658	958	977	644	329
2015	13,224	7,444	3,734	1,398	9,614	6,063	5,940	4,666	2,211	1,551	950	956	834	292
% Change 2014-2015	9%	4%	6%	10%	8%	8%	8%	8%	7%	-6%	-1%	-2%	30%	-11%
% Change 2005-2015	-27%	-41%	-2%	-10%	-28%	-37%	n/a	n/a	-35%	-51%	-25%	-22%	15%	-58%

\*Auto decline filter was activated during a portion of 2014

## RACE AND SOCIAL JUSTICE INITIATIVE

CAO's commitment to the City's Race and Social Justice Initiative (RSJI) remained strong in 2015, despite a challenging year for a small department dealing with an office-wide move and numerous innovative initiatives pursued by our City clients.

Numerous lawyers and other staff supported Citywide initiatives like wage theft, minimum wage and affordable housing. In addition, considerable time was devoted to analyzing staffing options to enforce all of these efforts. Then, without additional resources, Pete created a Regulatory Enforcement and Economic Justice Section (REEJ) within the Civil Division (read about REEJ at <http://www.seattle.gov/cityattorney/about-us/civil-division/new-section-focuses-on-civil-enforcement>).

**Wage Theft:** Attorneys and prosecutors worked with the City Office of Labor Standards and SPD to create a process for reporting and investigating wage theft crimes that accounts for the concerns of many immigrants fearful of SPD and of possible deportation. We also advised OLS on U-Visas for immigrant crime victims.

**Hookah Enforcement:** Attorneys and prosecutors worked with the Mayor's Office on enforcement issues related to the operation of hookah businesses. The hookah business owners are primarily Somalian, and they claimed that smoking hookahs was part of their culture. The Mayor's Office and CAO contacted these business owners to try to better understand their concerns and to develop a path for them to continue operating legally.

**Marijuana:** Attorneys helped draft legislation that restricts the location of marijuana businesses with the goal that no particular community will be unduly affected by the sale of marijuana in their neighborhood.

**Housing Affordability and Livability Agenda (HALA):** Land Use Section lawyers lead our efforts on the affordable housing issues grouped under HALA. In 2015 they assisted with strategic memos, Comprehensive Plan amendments, and SEPA analyses for the Affordable Housing Mitigation Program. Other work included: drafting an ordinance for a commercial affordable housing mitigation program and the related reports and studies; development of a residential inclusionary program; and work on affordable housing issues in the University District.

The Land Use Section and other lawyers and staff helped the City pursue the goal of enhancing affordable housing and other services for lower-income residents. To marshal funding for that goal, the section handled such complexities as: bonus funding; tax credits, tax-exempt bonds; senior and junior loan rights and priority agreements among multiple public and private funders; condominium documents; easements; and ground and master leases. Projects that saw tangible results in 2015 included: Plaza Roberto Maestas; University Commons; 710



Cherry; 2020 Jackson; the Elizabeth Thomas Homes; Ballard Senior; Strand/Kasota; Leighton Association group homes; Sand Point Housing; Sylvia; Columbia 26 (involving the Homestead Community Land Trust); four projects refinanced by Southeast Effective Development; and projects at the Othello and Mt. Baker light rail stations.

Lawyers and other staff advanced tenant-protection initiatives for the Executive and Legislative Departments. The work involved analyzing legal issues, drafting memorandums and bills, and briefing staff and elected officials on such matters as evictions, relocations assistance and housing code requirements.

**Environmental Equity Support:** An Assistant City Attorney is working with staff from other departments and the Mayor's Office to identify strategies that would reduce health impacts from lead and other toxic substances. Exposure to toxic materials is often highest in communities where residents are low income or are immigrants and minorities. Legislative, programmatic and policy strategies are all being explored. Potential grant funding may support work on a broader list of toxic materials and consideration of additional strategies.

Litigation against manufacturers of toxic materials is also being explored to fund efforts to address situations where people are exposed to them.



## RACE AND SOCIAL JUSTICE INITIATIVE *continued*

**Jury Disparity Support:** We continue to partner with Seattle Municipal Court on diversifying our jury pools. With a better understanding of where our jury pools originate, the court is leading a statewide initiative to streamline data exchanges and survey potential jurors so it may make better data-informed decisions. <http://www.seattle.gov/Documents/Departments/CityAttorney/Newsletters/2015DecNewsletter.pdf>

**Restorative Justice Project:** We are testing Restorative Justice Diversion for young offenders under 24 years old in the East and South Precincts. Cases from those precincts referred by the SPD are screened for Restorative Justice Diversion potential; then we confirm voluntary participation and refer them to Seattle Restorative Justice to complete what's called the "harm reduction circle" process. We had one extremely successful case, but victim and defendant willingness to participate as a whole is a challenge. The pilot will help us design a larger scale effort. For a primer on the general concept, see: [http://www.ojjdp.gov/mpg/litreviews/Restorative\\_Justice.pdf](http://www.ojjdp.gov/mpg/litreviews/Restorative_Justice.pdf)

**Juvenile Justice Support:** CAO staff supported the City Council, Seattle Office for Civil Rights, SPD and communities affected by King County's proposed new Children and Family Justice Center. Juvenile Justice and Zero Detention will be the focus of the City's Criminal Justice Equity Team.

2015 was a re-building year for the office's RSJI Change Team, which leads our efforts in this arena. Contracts/Utilities attorney Julio Carranza came on board as the new lead, joined by several new members. We continued to host educational events, team-building and outreach events to build our capacity in the City Attorney's Office. Our Contracts and Utilities Section accomplished great change. Under Section Director Engel Lee's leadership, it:

- Established a dedicated time to discuss RSJI issues at the beginning of each bi-monthly section meeting
- Identified a section-team project to explore the opportunities and legal implications of requesting demographic data from outside contract attorneys and firms who perform legal services for CAO
- Supported clients by providing legal advice related to the City's WMBE and Race and Social Justice Initiative to achieve racial equity in the departments' service delivery
- Sponsored three foster children for gifts during the RSJI Giving Tree holiday season charity event



CAO employees help landscape at El Centro de la Raza

## RACE AND SOCIAL JUSTICE INITIATIVE *continued*

- Encouraged section members to participate on the office Change Team, which includes at least three section members and the team leader actively participating and

One-time RSJI projects that involved anyone and everyone in CAO included:

- Quintard Taylor, Black Past developer and University of Washington Professor, provided our Black History Month event and revealed the history of the civil rights movement and housing discrimination in the Seattle area. His online reference guide to African-American history can be found at <http://www.blackpast.org/>
- Future in the Law Institute – Assistant City Prosecutors and others partnered with the King County Bar Association to host high school students for a weekend learning experience about the practice of law, participating in mock trials, and job shadowing.  
<http://wamentors.org/king-county-bar-association-future-law-institute>
- In the spring we supported Neighborhood House's "Most Youth Rise Above the Influence" selfie contest. We raised money and gifts. <http://www.seattle.gov/news/detail.asp?ID=14903&dept=9>
- Over the summer we collected clothing for the Amara Emergency Sanctuary (155 pieces of clothing, 12 miscellaneous items (books, toys, backpacks) and \$125).
- On United Way Day of Caring we returned to El Centro de la Raza to help with landscaping the property.
- In December we held a holiday gift fundraiser for Chief Seattle Club, raising \$1,200 in donations and collecting four bags and two boxes of unwrapped gifts.
- Assistant City Prosecutors and Attorneys supported Seattle Municipal Court's Jury Disparity Research and Reform.
- Supported SPD/Department of Justice reforms.
- Surpassed our Women and Minority Business Enterprise (WMBE) purchasing goal of 24%, with 69% of purchasing going to WMBE firms.
- Continued to educate staff and build capacity through book club and other media events.

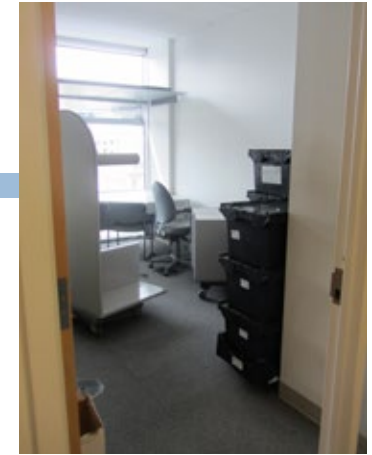
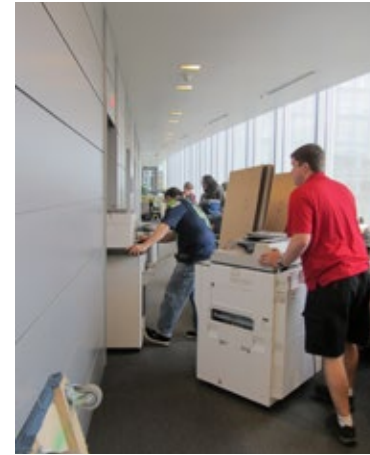




## ADMINISTRATION DIVISION



*Moving day*



The Administration Division provides executive leadership, communications and operational support for the 178-employee department and numerous interns and volunteers. The division comprises the City Attorney, his immediate staff and the Accounting, Human Resources and Information Technology sections.

Pete will ensure the office remains transparent and accessible to the people of Seattle. In 2015, the office published its bi-monthly electronic newsletter for the public (*E-Newsletter*). The newsletter provides updates on new legislation, current events, significant cases and news links. Besides the *E-Newsletter*, the Administration staff prepares a bi-monthly internal employee newsletter, *In Brief*.

### **Moving the Office to Columbia Center**

The major accomplishment for the Administration team in 2015 was moving the entire office out of two City-owned buildings and consolidating the department in Columbia Center across the street. For the first time in over 20 years, all employees of the City Attorney's Office are in one building. Bringing the staff together has promoted further collaboration and teamwork within the office while still remaining close to our clients in City Hall, Seattle Municipal Tower, Seattle Police Department and Seattle Municipal Court. Construction of the new office space was completed on time and under budget in March 2015. The department now occupies almost three full floors in Columbia Center at 701 Fifth Ave.

The Administration Division continued to help the office meet its budget goals for 2015. The team tracks expenditures, ensures salaries and other personnel costs meet the City's compensation standards, and forecasts costs anticipated later in the year.

### **Volunteer and Externship Programs**

The City Attorney's Office has a long history of providing opportunities for volunteers and student externs. The program teaches students about the legal process and criminal justice system. The Criminal Division program offers opportunities to both undergraduate and law students, while the Civil Division program focuses exclusively on law students and lawyers. Once each quarter, the City Attorney



## ADMINISTRATION *continued*

joins externs and volunteers for a sack lunch, sharing experiences, answering questions, and exchanging ideas about the legal field.

**Criminal Division program:** Participants learn about the criminal justice system while combining classroom knowledge with on-the-job training. Law students work side by side with prosecutors to learn the basics of case preparation, filing and trial work. During 2015, 36 volunteers and law students donated approximately 7,200 hours; the equivalent of about three full-time positions. Of the 36 volunteers, eight were men and 28 were women.

**Civil Division program:** The Civil Division externship program hosted 11 volunteer legal externs (six men and five women) in 2015. Law students conducted legal research, wrote briefs, observed court proceedings and assisted attorneys with a variety of employment, land use, government affairs and torts cases.

### **Information Technology**

Daily, the department's IT staff supports 210 desktop computers, 17 laptops and four department-specific servers for staff in Columbia Center, Seattle Municipal Court, Seattle Police Department headquarters and five police precincts. In addition, the IT team works collaboratively with the senior planning and management staff in the City's Department of Information Technology (DoIT) to implement improvements to City-wide data systems and security.

### **City-wide Projects**

In 2015, the City worked on a project to move the City's email system to a cloud-based solution using Exchange On-line (EXO). In November, the City Attorney's

Office successfully migrated with several other City departments to EXO. When staff access email from outside the office, they have a more secure, easy-to-use interface. When accessing email from inside the office, the new system is more reliable with fewer outages. The CAO IT team continues to work closely with the EXO project team to ensure all new features remain in compliance with legal requirements and the state Public Records Act.

### **Department-wide Projects**

Successfully moving all of the office computers, printers and copiers into the new office space in Columbia Center was a major technological accomplishment. This project included network infrastructure planning, coordinating logistics with the City's central IT team, and critical timing of the physical move of the equipment. Due to the magnitude of the project, the moves were divided into three weekends, allowing each group of employees to begin work the following Monday with minimal issues or downtime.

To align with the City's move to a new web publishing system, CAO IT and key office staff launched Phase I of a new website in March. The website is managed with a new content management system and includes a different CAO website address utilizing the City Attorney tagline: <http://www.seattle.gov/cityattorney>. Phase II of this project is under way and will launch in early 2016.

### **Civil Division**

In 2015, the IT staff teamed up with the division's Business Analyst to initiate replacement of two key applications. The first tracks civil litigation cases and projects. The IT team is involved in server configuration and data mapping to migrate all critical information to

the new application. The second is a legal document management application used to organize, edit and produce documents related to civil litigation and projects. In a coordinated effort with the City's central IT staff, the department's IT team will configure servers and managing the huge amounts of necessary storage. Both applications are expected to go live in Q2 2016.

### **Criminal Division**

In late 2014, the Seattle Police Department released an improved electronic data exchange with the City Attorney's Office. Changes required at our end were implemented in 2015, allowing the Criminal Division's case tracking application to accept this data. The improvements resulted in much higher data quality and reduced manual data entry required to enter police reports into our system. In addition, updated data exchanges with the Seattle Municipal Court have been rebuilt and tested with a go-live scheduled for Q1 2016.

### **Public Records Requests**

Throughout the year, the Administration team produced responses to 175 Public Records Act requests received by our office. Also, assistant city attorneys provided extensive legal advice and compliance training regarding public disclosure requests to our employees, staff from other City departments, the Mayor's Office and the City Council.

A wide-angle photograph of the Seattle skyline at sunset. The city's lights are visible against a backdrop of orange and blue sky. In the foreground, several wooden pilings stand in the water, with a few birds perched on them.

# Seattle City Attorney Annual Report 2015

Kimberly Mills  
Communications Director  
206.684.8602  
[Kimberly.Mills@Seattle.Gov](mailto:Kimberly.Mills@Seattle.Gov)