



E-NEWSLETTER

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CAO and SPD teamwork restores calm to Seward Park neighborhood

A neighborhood in the Seward Park area is free from the dangerous influence of a crime-infested property owned by a drug-dealing grandmother, thanks to the diligent prosecution of CAO's Criminal Division working hand-in-hand with the Seattle Police Department.

Since 1989, at least five search warrants have been served on the property, all seeking evidence of narcotics. The owner of the house, Sharon Stone, is a 70-year-old woman who has served numerous prison sentences for drug and weapons related offenses, and for welfare fraud. In 1992, the City persuaded a judge to declare the house a drug nuisance, and the property was closed by court order for one year. During that year, Stone was in prison.



Photo credit to SPD Detective Linda Diaz.

The criminal convictions, prison sentences and the prior abatement did not deter Stone. Between January 2008 and November 2010, SPD wrote 9 reports associated with activity at this property: one for a domestic violence assault, eight for narcotics related offenses, five for warrant arrests, and the remaining for a variety of other crimes. Between October 2009 and November 2010, police officers were dispatched to the property 83 times. Neighbors and visitors called 911 operators 220 times between June 2009 and November of 2010 for activities related to the property. Twenty calls were for narcotics; 20 calls were for disturbances, and 79 calls were for suspicious circumstances. Most of the remaining calls were assaults, warrants, burglaries, robberies and thefts. Thirty-eight people have used the property as their address.

Crime was so pervasive that parents were afraid to let their children play in their own yards. Every neighbor interviewed by SPD and CAO had been victimized by car prowls, burglaries, thefts or property damage -- all attributed to Stone's criminal associates.

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HOLMES CONTINUES TO PUSH FOR MARIJUANA REFORM

Pete has discontinued criminal charges for adult personal use possession of marijuana. With the exception of one case that slipped through and was quickly dismissed, Pete has not criminally charged anyone for possession of marijuana since taking office in January 2010.

Soon thereafter, State Senator Jeanne Kohl-Welles introduced legislation designed to regulate medical marijuana statewide. Convinced that rational regulation at the state level was critical to bringing medical marijuana out of the black market, City Attorney Pete Holmes and Special Counsel and Policy Advisor John Schochet worked to support the Kohl-Welles bill by meeting with legislators, staff, and stakeholders and testifying in Olympia. The bill passed the Legislature but was ultimately reduced to just a handful of smaller reforms after Governor Gregoire vetoed most of the bill.

At that point, it was time to turn the City Attorney's attention to Seattle regulators responsible for implementing the State's new rules at the local level. Chief of Staff Darby DuComb led a number of city departments in their effort to understand the legal landscape between federal prohibition and state authorization, including the regulatory options left to cities by the new state law. Members of the City Attorney's Office toured dispensaries, met with elected officials and stakeholders, and helped design a path forward that met the needs of as many constituencies as possible.

Stuck in the middle between federal prohibition and state authorization, Darby recommended relying on existing regulations (for which Seattle has many!) rather than creating a whole new regulatory scheme, which would require city employees to inspect and approve something prohib-

ited by federal law. The City Council unanimously passed such provisions and the Mayor signed the Ordinance into law. http://www.seattle.gov/council/issues/medical_marijuana.htm

Now, as City agencies struggle with incoming regulatory compliance issues, Government Affairs Director Bob Scales and Darby DuComb are helping the Mayor's Office, Seattle Police Department, Planning and Development, City Light, Business Licensing and Public Health refine their policies and practices to meet the needs of the community. For questions, comments, or complaints about City services or a medical marijuana facility in Seattle, contact the City of Seattle Customer Service Bureau at 206-684-2489 (CITY) or on-line at <http://www.seattle.gov/customerservice/request.htm>.

DEFENDING THE CITY'S RIGHT TO LIMIT UNWANTED PHONE BOOKS

Responding to resident complaints about unwanted Yellow Pages phone books appearing on their doorsteps -- numerous editions from multiple sources, every year -- the City Council passed Ordinance 123427 to require distributors to honor the requests of residents who desire not to receive these books.

The ordinance drafted with CAO guidance establishes a new license requirement for businesses distributing Yellow Pages phone books. It established a City sponsored Opt-Out Registry through which residents can indicate

their preference not to receive the phone books. The ordinance also requires distributors, prior to making deliveries, to access the registry and download the addresses of those residents who have opted out. Distributors who fail to honor opt-out requests are subject to civil penalties of up to \$125 per violation. The opt-out registry is funded by a 14-cent fee imposed on each phone book distributed.

The Yellow Pages industry brought suit challenging the ordinance, alleging that it violated federal and

state constitutional free speech protections. In late June, U.S. District Court Judge Robart granted the City's summary judgment motion and dismissed the Yellow Pages federal claims. Currently, the district court is considering the parties' cross-motions on the remaining state law claims.

Since May 5, about 20 percent of Seattle's roughly 360,000 addresses have registered their preferences to opt out.

Reinventing Precinct Liaison Program to meet new demands

Backed by community and business leaders and City Council members, City Attorney Pete Holmes is advocating for a full complement of five police precinct liaisons to bolster the City's response to emerging and increasingly complex neighborhood public safety and regulatory issues. Holmes' 2012 budget proposal, as submitted to the City Budget Office on July 13, would reinvent the Precinct Liaison Program by providing a full-time assistant city attorney in each police precinct. These attorneys will focus on providing critical legal services on the issues of high importance in their precincts. They will also be accountable for managing a number of regulatory provisions in a more effective and efficient manner because they will better understand the dynamics in the individual communities.

Due to multiple reasons the program has been reduced by 60%. "We have tried to preserve the core functions of the Precinct Liaison Program but with only two attorneys we can no longer provide the full range of legal services that the Seattle Police Department and our community have come to expect," said Holmes, who seeks an additional \$470,000 in the budget year beginning Jan. 1, 2012 to fully fund the program. "Right now it's more appropriate to call them circuit-riding liaisons," he said, because the remaining two liaisons travel among the North, East, West, South and Southwest Precincts. "Clearly, the status quo is unacceptable."

Councilmember Tim Burgess, chair of the Council's Public Safety and Education Committee, strongly supports a revitalized program. "Reestablishing the precinct liaison attorney program reflects our desire to bring critical thinking and innovation to policing. We know that effective policing uses a wide variety of means beyond traditional police responses. These attorneys will partner with our officers to proactively tackle neighborhood safety and crime challenges," Burgess said.

The Precinct Liaison Program was created in 1995 to give direct and proactive legal advice to police officers and to act as a legal resource for public safety problem-solving efforts in the neighborhoods. The program has since fluctuated in size as grant funding has come and gone and city budgets have tightened.

The current staffing makes it impossible to provide geographic-based legal services for either SPD or the community. This month the remaining two liaisons will be brought into the City Attorney's Office downtown to work on criminal cases as well as regulatory matters for the remainder of 2011.

The increased demands on precinct liaisons are varied and voluminous, Holmes said. Two of them -- nightlife regulations and liquor licenses -- relate specifically to the interplay between the entertainment industry and the neighborhoods, and Holmes' plan is endorsed by industry leaders. "During my 20 years in the restaurant and nightlife industry, I've witnessed firsthand the value that the City Attorney's precinct liaisons deliver to both local businesses and the neighborhoods they are situated in," said Pete Hanning, president of the Seattle Nightlife & Music Association and owner of the Red Door in Fremont. "The liaisons also play a critical role in facilitating proactive communications and ensuring a safe and vibrant nightlife economy."

With more than 2,000 liquor licenses up for renewal each year in the City and dozens of new license applications, significant time is spent identifying and monitoring establishments that have public safety concerns and representing the City before the Washington State Liquor Control Board when the City files an objection to a license. Precinct-based attorneys will be able to identify potential problems earlier and attempt to work with the licensee to correct the problems before an objection is filed.

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The precinct liaisons will also play a crucial role in the City's comprehensive strategy to promote a vibrant night-life and ensure public safety. Another component of that strategy is the proposal to allow for extended service hours, which was recently promoted by Mayor Mike McGinn and SPD and endorsed unanimously by the City Council. The liaison attorneys will be essential in monitoring compliance with rules and regulations and assisting SPD and other departments in responding proactively to problems before they escalate.

Possibly the most topical issue for the City Attorney's Office is the transition in the medical marijuana landscape brought about by recent changes in state and local laws. A new regulatory process gives the City's Code Compliance Team (CCT) the responsibility for managing unresolved complaints and concerns. The precinct liaisons will work with SPD and the community to ensure that medical marijuana activities comply with state and local laws.

The City created this interdepartmental team initially to monitor code compliance of business and properties that could negatively impact public safety. The team is already responsible for nightlife, liquor licensing, street vending and nuisance issues. The precinct liaisons will be able to play a large role on the team by providing legal advice to departments and helping to coordinate interventions and responses.

Holmes' plan is also endorsed by Oscar Velasco-Schmitz, who provides medical marijuana to patients through the Dockside Co-op in Fremont. "The City Attorney's Office provides an integral legal insight not only into the civic affairs of Seattle's citizens, but also into the relationship of our citizenry with our Seattle Police Department," he said. The precinct liaison program "provides a crucial element of support in each of our city's precinct communities and builds a strong relationship between SPD, City Attorney's Office and the public. The city as a whole benefits greatly from these open lines of communication, resulting ultimately in an open, more well-informed, and safer Seattle."

Other major responsibilities of the precinct liaisons will be:

- Providing real-time proactive legal advice for each precinct, which will result in better decisions by officers and ultimately reduced liability for the city and better community relations. Experience shows that officers are more willing to ask for legal advice when there is an established relationship with the liaison attorney who is also very familiar with the issues in the precinct and the concerns of officers.
- Helping neighborhoods rid themselves of chronic nuisance properties. Two years ago the City adopted an ordinance giving the police chief the authority to declare properties to be a chronic nuisance and, if corrective action is not taken, to initiate abatement proceedings. To this end, the City Attorney advises the chief, drafts documents and correction agreements and represents the City in court. Each precinct captain is responsible for monitoring and identifying potential nuisance properties and the liaison attorneys play a critical role in this process.

"The City Attorney's Office, and Ed McKenna's dedicated work -- with the North Precinct SPD, with motel owners, with the community -- made a crucial difference, both in putting necessary legislation in place and in keeping the issue on the front burner until real results were achieved," Linda Clifton of Upper Fremont said of the coordinated efforts that shut down several trouble-plagued Aurora Avenue motels in 2010.

"Now, with proposals to add significant Catholic Community Services and DESC housing on the Aurora corridor, we will need this kind of support both to assure safety for everyone living here, in the neighborhoods, in those large facilities, and on Metro, and to reassure the neighborhoods that they have protection as things change," Clifton said.

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In the summer of 2010, SPD narcotics detectives and Community Police Team officers from the South Precinct approached Assistant City Attorney Beth



Gappert after police had served a narcotics-related search warrant on the property. They wondered about filing for an abatement of the property and closing the property for a year. The City had not filed a

drug abatement case in many years, after a negative ruling from the state Court of Appeals in *Seattle v. McCoy*. The Stone case, however, seemed to be a good case for the City: The property was owned by the drug dealer; she was clearly aware of the issues; and the property was a home, not a (legitimate) business.

Gappert filed the abatement case on March 11, 2011. One week later, the City was granted a preliminary injunction, which ordered the defendant and her associates to cease using the house for narcotics-related purposes. About six weeks later and after purchasing narcotics several times from the house, police served another search warrant on the property. They found an ounce of crack cocaine, with a street value of about \$800, on Stone.

Stone did not respond to the City's lawsuit. On May 27, the Superior Court granted the City a default judgment and ordered the property closed for one year. The court gave Stone until June 24, 2011 to vacate, close and board the property.

On that morning, Sergeant Steve Freese, Detective Linda Diaz, Officer C.J. McRae and Gappert went to the residence, whose windows and doors had been boarded up. Gappert and the police contingent confirmed that the property was vacant and posted the house with signs, declaring that the property is a drug nuisance and trespassing is prohibited. They spoke with several of the neighbors who optimistically await the opportunity to have barbecues in their backyards and let their children ride their bikes on the sidewalks.

Stone is facing felony charges for delivery of narcotics. If convicted, she faces prison time. She still owns the house, so the City still has work to do to guarantee that it does not revert to a crack house.

Its willing and able partner is the South Seward-North Rainier Block Watch, a group of about 100 households whose spokesman is Neale Frothingham. His tenacity in keeping his neighborhood's problem child front and center with SPD and CAO demonstrates how the City can serve its residents if problems are brought to City Hall's attention.

As Frothingham noted in an email after Stone's property was shut down, the neighborhood was very appreciative of "the hours and hours of investigative and enforcement work done by the men and women of the South Precinct of the Seattle Police Department and the courageous work by the Office of Seattle City Attorney Peter Holmes to undertake this abatement....Our thanks to them all."

Another resident, Dennis Marceron, referred to a burglary at his property and verbal harassment of his fam-



ily by people living at the Stone home. "My hope is that this will cause our neighborhood to be safer and prompt these individuals to seek the help and support they need to improve their lives and live safely in the community. I know this is a hard decision for the city to make -- taking away someone's residence is a hard decision to make. Thank you for supporting us and our community."

CAO POLICY IS MODEL FOR STATE LAW EQUALIZING MISDEMEANOR PUNISHMENT

A simple change in state law – reducing the maximum sentence for a gross misdemeanor by one day – will have a big impact on noncitizens who are in the country legally.

Substitute Senate Bill 5168, which the Legislature passed with large bipartisan support during the 2011 session, reduced misdemeanor sentences from one year to 364 days.

Under federal law, a legal immigrant can be deported for committing an “aggravated felony,” which includes some crimes with a minimum sentence of at least one year imprisonment. Under Washington law, these same crimes are misdemeanors -- and not felonies -- but carry a maximum sentence of 365 days, triggering deportation proceeding for legal immigrants.

The Washington Legislature determined “this is a disproportionate outcome, when compared to a person who has been convicted of certain felonies which, under the

state’s determinate sentencing law, must be sentenced to less than one year and, hence, either have no impact on that person’s residency status or will provide that person an opportunity to be heard in immigration proceedings where the court will determine whether deportation is appropriate,” according to SSB 5168.

The legislation, effective July 22, was championed by Seattle City Attorney Pete Holmes, OneAmerica, a Seattle-based immigrants advocacy agency, the Washington Defender Association and Sens. Margarita Prentice and Adam Kline.

The idea stemmed from a policy change that Holmes instituted as part of efforts to comply with the Seattle Municipal Code’s “don’t ask, don’t tell” ordinance regarding citizenship status. To treat citizens and noncitizens (including legal immigrants) equally in criminal prosecution, Holmes’ office last summer began asking the Seattle Municipal Court to impose 364-day total

sentences, rather than 365-day sentences, in most gross misdemeanor cases.

The change in state law will not eliminate the immigration consequences of criminal convictions for all noncitizen defendants. The cases it is likely to impact are those where (1) the defendant is in the United States legally or has an avenue for obtaining legal status and (2) a 365-day total sentence would be the sole factor triggering the defendant’s loss of legal immigration status or loss of the defendant’s avenue for obtaining legal status. Certain crimes, such as most domestic violence offenses, render a non-citizen defendant deportable regardless of the sentence.

Pramila Jayapal, executive director of the immigrant-advocacy group OneAmerica, told the Seattle Times that the new law is “a really good thing.” “That one day triggers consequences. It’s amazing how many people have no idea.”

CIVIL DIVISION BRINGS IN REVENUE FOR CITY

The City has received a refund check from the Washington Department of Revenue in the amount of \$1,710,049.21 as a result of the Civil Division’s successful appeal of sales taxes assessed against Seattle City Light for the installation of custom software.

EVENTS

State Sunshine Committee: City Attorney Pete Holmes will attend a regular meeting of the committee on Sept. 28 from 9 a.m. to 1 p.m. at the Attorney General's Office, Room N385, 7141 Cleanwater Ln. S.W., Tumwater, WA.

Candidates Forum/Police Accountability & Public Safety: The free event will be held Sept. 29, from 6 to 7:30 p.m., at New Holly Hall/ 7054 32nd Ave. South. Sponsoring groups are American Friends Service Committee, Pacific Northwest Region; Communities Uniting Rainier Beach; Minority Executive Directors' Coalition; Police Accountability Task Force; NAACP - Seattle Chapter/King County Branch; People of Color Against Aids Network; The Defender Association/Racial Disparity Project. For more information call K.L. Shannon, 206-854-5462.

CeaseFire's Day of Remembrance: Pete will speak at a ceremony marking the 10th anniversary of the murder of federal prosecutor Tom Wales, former president of CeaseFire. The remembrance will be held from 10:30 a.m. to noon Sunday, Oct. 9, at Green Lake. For more information, contact www.washingtonceasefire.org

University Park Community Club event: The club has invited Pete to be the guest speaker at its quarterly meeting, from 7 to 8:30 p.m. Thursday, Oct. 27, at the University Lutheran Church, 1604 NE 50th St.

LINKS TO NEWS STORIES :

Nuisance house neighbors reclaim street on Night Out:

<http://rainievalley.komonews.com/news/community-spirit/nuisance-house-neighbors-reclaim-street-night-out/657245>

City Attorney proposes restoring full precinct-liaison program:

<http://westseattleblog.com/2011/08/city-attorney-proposes-restoring-full-precinct-liaison-program>

New state law protects legal immigrants' rights:

http://seattletimes.nwsourc.com/html/localnews/2015690483_misdemeanor22m.html

Judge throws out petition to recall Seattle council president:

http://seattletimes.nwsourc.com/html/localnews/2015702179_conlinrecall23m.html

Judge right to toss anti-tunnel initiative:

http://seattletimes.nwsourc.com/html/editorials/2015662336_edit20campbell.html

Court to review decision that blocks release of disciplined cops' names:

http://seattletimes.nwsourc.com/html/localnews/2015601498_spdnames14m.html

Seattle officer charged with assault for stomping handcuffed man's head:

http://seattletimes.nwsourc.com/html/localnews/2015546292_offduty09m.html

Seattle seeks to license marijuana dispensaries:

<http://www.kuow.org/program.php?id=23949>

SEATTLE CITY
ATTORNEY'S OFFICE

**Civil and Administration
Division**

City Hall
600 4th Ave. - 4th Floor
PO Box 94769
Seattle, WA 98124

Phone: (206) 684-8200

Fax: (206) 684-8284

Criminal Division

Seattle Municipal Tower
700 5th Avenue Suite 5350
PO Box 94667
Seattle, WA 98124

Phone: (206) 684-7757

Fax: (206) 684-4648

WEBSITE:

[http://www.seattle.gov/
law/](http://www.seattle.gov/law/)

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The Seattle City Attorney's Office is committed to providing the City of Seattle with the highest caliber legal advice to help protect the health, safety, welfare, and civil rights of all.

With more than 90 lawyers, the City's Law Department is one of the largest law offices in Seattle and is the third largest public law office in the state.

The City Attorney's Office is made up of three divisions:

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

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

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