

# E-NEWSLETTER

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## Restorative Justice: Settling disputes outside the courtroom

It was late at night on August 16, 2015 in the Capitol Hill area. A shooting had occurred in the vicinity, and as two young men pulled their car into a parking lot, a stranger aimed a firearm at them and stated they were not free to leave the area. Frightened, the two men stayed in their vehicle. Nearby, the police investigating the shooting were alerted to the commotion. Little did police know, this entire altercation was a gross misunderstanding among the three men.

The man who pointed the weapon was arrested at the scene for the misdemeanor crime of “Aiming a Firearm” under Seattle Municipal Code 12A.14.071. Normally, such a case would go through the traditional criminal justice system. But what if there were an alternative route that was more cost effective, consumed less time and healed rather than punished those involved?

In Seattle that route now exists in the form of a restorative justice diversion project that is being piloted by the City Attorney's Office (CAO) and Seattle Restorative Justice, a non-profit organization (SRJ). The misdemeanor noted above was the first successful case to be managed through the restorative justice approach.

The project began in April 2015 with the goal of creating another way to deal with conflicts outside the court system. Restorative justice as a whole is well defined by Fania Davis, who helped create the Restorative Justice for Oakland Youth program:

*“Restorative justice is a worldview, rooted in indigenous principles, and a theory of justice that emphasizes bringing together everyone affected by wrongdoing to address their needs and responsibilities and to heal the harm as much as possible.”*

Instead of punishing those who have run afoul of the law, restorative justice focuses on healing the harm that has been inflicted upon the victim. At the same time, the goal is also to reintegrate the perpetrators in the community so they themselves can rectify the damage they have caused.



When devising this pilot project, the CAO and SRJ looked at four successful restorative justice projects across the United States through a feasibility study.

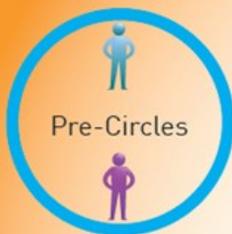
- \* Community Conferencing Center (CCC) in Baltimore, MD.
- \* Community Works West (CW) in Oakland and San Francisco, CA.
- \* Longmont Community Justice Partnership (LCJP) in Longmont, Boulder County, CO,
- \* Restorative Justice for Oakland Youth (RJOY) in Oakland, CA.

These programs used restorative justice in criminal and juvenile justice settings as well as within schools and communities.

Seattle's pilot program uses the restorative circle method in which a neutral facilitator assists with conversations that take place among all those affected by the harm. This includes community members and family members in addition to those who were directly involved. By involving multiple people in the process, it is believed greater healing can be attained. This method contains pre-circles, a main restorative circle, and a post-circle (detailed in the diagram below).

## Restorative Circles Overview

Restorative Systems and Restorative Cultures can involve a continuum of Restorative Practices including: Mindfulness Centering, Restorative Dialogue, Restorative Circles, Peacemaking Circles, Conferencing, Mediation and Traditional Dispute Resolution. The Restorative Circle practice has three phases: Pre-Circles, a Restorative Circle, and a Post-Circle.



### Pre-Circles

- » Separate meetings between the facilitators and each participant (or group of commonly situated participants), which focus on the harm and its consequences, explore underlying causes and responsibilities, and gain clarity regarding values and interests in possible outcomes.
- » Determines who needs to be present to resolve the conflict and provide necessary support.
- » Ensures readiness and voluntary consent to participate.



### Restorative Circle

- » A facilitated face-to-face dialogue brings everyone involved in and impacted by the harm into a safe space.
- » Participants have the opportunity to express their truth and engage in deep listening and "standing in the shoes" of others.
- » Relictive dialogue, provides an opportunity for all to be heard: "What would you like known?"; "What did you hear him/her say?"; "Was that it? Is there more?"
- » Three components:
  1. **Mutual Understanding** of the meaning, impact, consequences and harms of the act. ("Where are you now in relation to the event and its consequences?")
  2. **Self Responsibility** for the act, the conditions underlying the act, and the responses (with focus on the needs, interests, root causes, and hopes underlying the act). ("What were you seeking at the time you chose to act?")
  3. **Action Plan** a consensus-based action plan that addresses the individual needs of all, repairs the harm, restores relationships, prevents future harms, and transforms conditions. ("What would you like to see next? What would you like to offer? What would you like to request?")



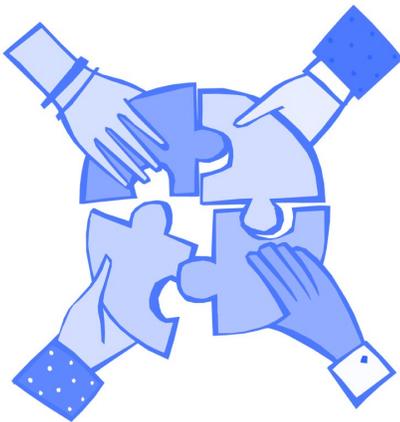
### Post-Circle

- » A facilitated reflective dialogue that brings together the Restorative Circle participants and others involved in the Action Plan.
  - Did the Action Plan meet the identified needs and interests?
  - Opportunity for celebration, mourning and/or a Revised Action Plan.
  - Completion signifies re-integration into community.

This Restorative Circle Practice is adapted by Seattle Restorative Justice from the collaborative work done by communities in Brazil with Dominic Barter. [www.restorativecircles.org](http://www.restorativecircles.org)  
Created and shared by Seattle Restorative Justice [www.seattlerestorativejustice.org](http://www.seattlerestorativejustice.org)

Katherin Hervey, with Seattle Restorative Justice, explains that an important goal of the local project is to “address disproportionality within the system through a race and social justice lens,” and to allow “the community to take conflict into its own hands versus the government.”

The cases that go through the restorative justice approach are selected by a team within CAO Criminal Division. When a case is evaluated and restorative justice is deemed an appropriate route, both parties involved in the case are contacted by CAO. If both parties agree to participate, the case can move forward with the different healing circles.



The circle approach is “a facilitated dialogue – each person can feel heard and they are not rushed. They can say how they were thinking and feeling at the time of the event,” Hervey says. Unlike the punitive system, where everyone is separated, restorative justice allows everyone to come together to be empowered to heal and restore themselves. Jenna Robert, an assistant city attorney, states that “restorative justice provides the best kind of justice we can ask for. When the circle works you have the defendants being held accountable for their actions, victims get the chance to be heard, and it is a resolution that is not punitive.” In the case of the two men held at gun point, such an outcome was achieved through Seattle’s pilot project.

W.S., the man who aimed a gun at the two men driving a car, is comfortable handling firearms. With three years of previous military experience as a topographical intelligence and data administrative specialist, he now has a legal permit to own a gun. Reflecting on the night that he was arrested, it is clear that the entire confrontation was a misunderstanding.

“It was late at night, probably around midnight or one in the morning, and I received a call from my girlfriend,” W.S. said. “She was telling me that there was a fight going on in front of her car, and then I heard gunshots over the phone so I went to go get her from the Capitol Hill area.”

When he arrived at the scene his girlfriend told him that someone was shot and killed in front of her. “I was trying to take her home when a car drove past and the men inside shouted something out the window. She pointed to the car and said, ‘That’s them. Those are the people who shot the guy.’”

Having brought his firearm, W.S. ran after the vehicle as it turned into a dead end. “I approached the vehicle to stop it because I thought they were the people who had done the shooting.” According to one of the men in the car, passenger M.F., this was when “seven to nine cops... started running down the hill” and arrested W.S.

W.S. remarks that after his arrest he found out that the men were not the shooters and cooperated with the police and relinquished his firearm.

“When I was approached by the CAO about going through the restorative justice system I didn’t see any cons to it – I knew the court system takes a long time and the whole thing was a big misunderstanding. I think the other two men knew that as well,” W.S. said.

Similarly, in a recorded phone interview between Kaitlyn Giboney, an assistant paralegal at the CAO, M.F., the passenger, stated, "I would not want to press charges. I know it was a simple mistake. I would hate for it to be criminal charges. The second option the restorative justice, I would rather take that route, I don't want [W.S.] to have issues down the road."

W.S. explained that the first pre-circle was conducted over the phone with a facilitator. It was used to analyze whether both parties would be willing to cooperate and go forward. "After that we met again individually for a second time to discuss what happened, how we felt about the situation, and the level of pain we felt," he said.

When the main restorative circle was conducted, W.S. mentioned that it was pretty clear that all three involved in the encounter had the same feelings about what had happened that night. "We all met up and created an action plan during the circle, I had to convey to them my sorrow. We all agreed that in order to do that I would take them out to dinner as part of my apology."

Once a resolution was made and the three men went out to dinner, there was a final post-circle. This circle was meant to facilitate dialogue about the action plan and discuss whether full healing was achieved. All parties involved agreed that there was no animosity among them.

In an interview, the passenger reflected on why he chose to go the restorative justice route instead of the punitive court system. "The other method seemed like a huge process. The whole thing was a misunderstanding and it seemed more human to do restorative justice," he said.

CAO's Giboney, who was the first to contact the three men about the restorative justice approach, noted that "restorative justice is a great idea, I appreciate that the CAO is willing to try new methods and I think the younger generations are more open to trying different justice methods."

Looking back on the entire process, W.S. opined that, "Restorative justice is a strong concept, but the approach would not work with the majority of individuals. If two parties had more animosity towards each other restorative justice would be much more difficult." He continued by saying that the pilot project is a bit of a rough draft. "Right now there are no real guidelines set, it needs more structure and a hand of authority with scheduling."

However, overall W.S. would recommend the restorative justice process: "To come together means more understanding, we need other options than going to prison. We have an overage of people who are incarcerated because of the criminal justice system when various cases can be solved through alternative routes."

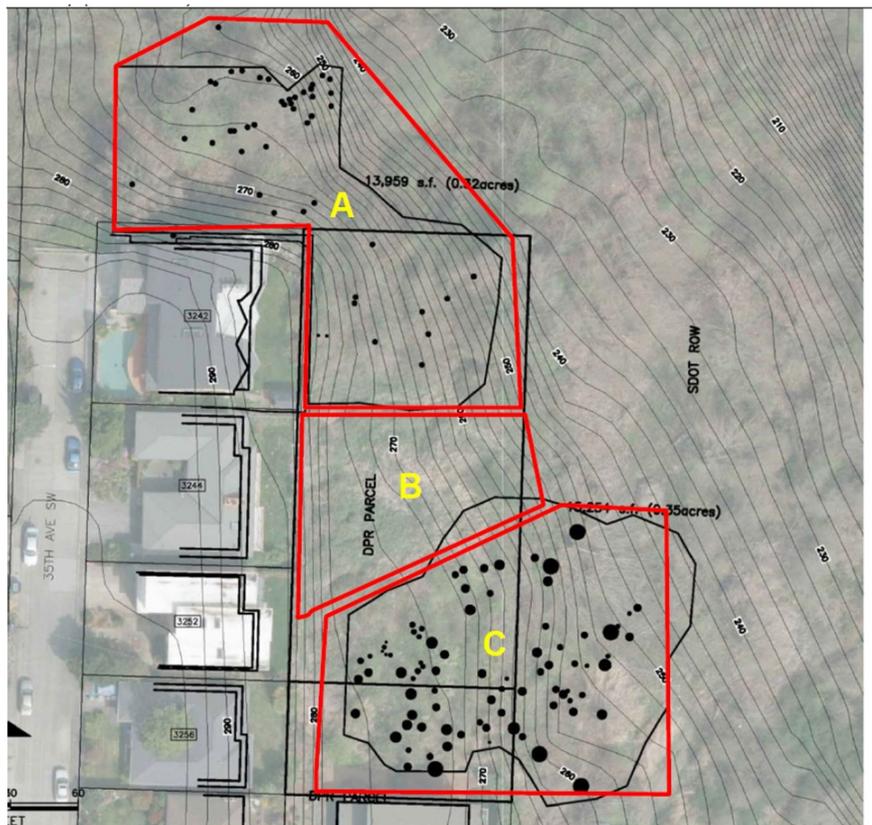


## City sues homeowners, tree cutters over decimation of public land in West Seattle



On Sept. 20 City Attorney Pete Holmes announced: “Earlier this year, the City learned of unpermitted improper tree cutting on City property in West Seattle near the 3200 block of 35th Ave. SW. Today, the City filed two lawsuits, naming people the City believes were involved in the tree cutting. The property is in an environmentally critical area on a steep slope. Approximately 150 trees of varying sizes, including many big-leaf maples and Scouler’s willows, were felled.

“My office has been involved in the City’s response. We launched an investigation to assess the extent of damage and identify the responsible parties. To that end, we retained a consulting arborist to assess the damage and prepare a comprehensive restoration plan.



“No one has yet come forward to give the City the full story of what happened despite SPD’s best efforts and extensive investigation. However, we are satisfied that we now know enough to proceed with civil lawsuits. We expect to learn that additional people, beyond those named in the lawsuits, were involved with the cutting as the suits progress. Between the lawsuits, the City seeks over \$1.6 million in damages and fines. The City seeks relief on several grounds, including timber trespass, damage to land, trespass, negligence, environmentally critical areas violations, violations of the parks code and violations of the city’s tree and vegetation management in public places code.

The City alleges the illegal cutting occurred in two areas, A and C.

“On its damages theories, the City generally alleges that the defendants and/or their agents cut down trees on City property without permission when they should have known better. The extensive tree cutting damaged the trees and the underlying land. On its code violation theories, because the cutting took place on City property and some occurred in City right of way, the cutters or their employers were required to obtain a number of permits before they cut any trees. No permits were issued to authorize the cutting and penalties and fines are therefore appropriate.

“The SPD criminal investigation of this matter is ongoing, and it is possible that SPD will refer this matter to the King County Prosecutor or my office in the future for potential criminal prosecution.”



## 32 years later, veteran attorney speaks of lessons learned

*Editor's note: As in the past, Pete was the guest speaker at the Sept. 20 swearing-in ceremony for new King County lawyers admitted to the bar.*

I am excited to speak today at what Mark Twain might have called this “dignified insurrection” about the Practice of Law. Like most if not all of you, it’s been my life’s calling, and I believe it to be THE key to addressing our city’s, our county’s, our state’s, our nation’s, our world’s most pressing problems. But first, to the newest members of the Bar of the State of Washington, and your families: Congratulations! You made it—through college, through LSATs, through law school, through bar review courses, and that awful bar exam itself—again, congratulations! Today is your day—a day to take it all in, reflect on how far you’ve come, to thank those who supported you, and with them, to celebrate!

And make it a truly fun celebration, because tomorrow we expect you to start doing your part, with your newly minted bar license, to take on the problems of our world! Because we need all of you at maximum effectiveness, I’d like to take a few minutes to impart a few of my own lessons learned since I first stood where you are now, 32years ago.

First, learn your craft. We don’t call it the practice of law for nothing: Work hard at it, learn from your mistakes, vow to improve your knowledge and your skill. Seek out mentors, but always remember to be true to your own unique personal style and gifts, your own experiences, your own voice, your own truths.

At the same time seek an ever deeper understanding of the world around you. From seemingly intractable conflicts to a truly deplorable presidential campaign, form your own understanding of what makes the world operate as it does. Only by understanding the context of the busy world around you can you eventually understand your place in it—specifically, how you will use this new power in your bar license to make this world a better place.

And as you thus “dual track” your maturing professional career, always remember to put your own oxygen mask on first. Not only will you increase your personal capacity to do good, you’ll be a model for others seeking healthy relationships and balance in this increasingly crowded, increasingly warm, and, so it sometimes seems, increasingly agitated world.

Along the way, as the lawyer in you emerges, I believe you will see and believe even more in power of the Rule of Law to make things better, as I have. To facilitate this, it is sometimes necessary to listen to the universe unfolding, whispering its wisdom.

Now let’s get down to some tough realities. Our world is one of institutionalized racism and economic inequality. These are tragic truths left over from our nation’s legally-sanctioned but immoral history as a slave-owning state. That we had to fight a war to end slavery alone should explain why we need today to say emphatically that Black Lives Matter, and that we as lawyers will not allow the perpetuation of The New Jim Crow.

I believe that you can help our fellow citizens to not be afraid of these truths, whether from our nation's history or the reality of life in America today, where privileged white men like me must acknowledge that I've enjoyed great advantages—precisely because I have benefited from institutional racism.

And I'm still learning. As a devoted Seahawks fan, I've learned most recently from Colin Kaepernick of the SF 49ers. Have you read the third verse to our National Anthem? Do you know the history of that song? More importantly, are you courageous enough to understand and engage about it? As lawyers, I'm afraid, you no longer have the option of living in blissful ignorance.

The good news is that the same Rule of Law that permitted these evils to grow can also reverse the damage. It is the Rule of Law, for instance, that showed us a better alternative to the failed War on Drugs. In Seattle, the Rule of Law has enabled us to close all unlicensed marijuana dispensaries with little or no police intervention. That same Rule of Law is taking the lead in reforming the Seattle Police Department. That same Rule of Law is working away at the problems of income inequality and affordable housing and homelessness in Seattle. Of holding corporations who would poison our food and water accountable. And you are the foot soldiers for the Rule of Law.

I want to close with some wisdom learned from my friend, Norm Stamper, who credited a prosecutor with setting him on the right path when he was a young rookie cop. He reminded me just today that cynicism is optional.

I will thus leave you with two guiding rules at the start of your legal careers:

As 2.1 of the Rules of Professional Conduct state: "In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation."

Secondly, repeating what the esteemed county and appeals court judge Robert Winsor, said to my group of inductees: Go forth in peace.

### **Lawyer's Oath of Office**

I am fully subject to the laws of the State of Washington and the laws of the United States and will abide by the same.

I will support the constitution of the State of Washington and the constitution of the United States.

I will abide by the Rules of Professional Conduct approved by the Supreme Court of the State of Washington.

I will maintain the respect due to the courts of justice and judicial officers.

I will not counsel, or maintain any suit, or proceeding, which shall appear to be unjust of any defense except as I believe to be honestly debatable under the law, unless it is in defense of a person charged with a public offense. I will employ for the purpose of maintaining the cases confided to me only those means consistent with truth and honor. I will never seek to mislead the judge or jury by any artifice or false statement.

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with the business of my client unless this compensation is from or with the knowledge and approval of the client or with the approval of the court.

I will abstain from offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged.

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the case of any person.

## CAO volunteers spruce up the Ballard Boys & Girls Club



“The club looks fantastic.....we could not do it without your help. Our staff and kids are thankful for all of your hard work!”  
– Executive Director Billy Rodgers



## Staff Volunteer at UW's Day of Caring





*Keeping Your Property  
Safe & Crime Free*

For new & experienced  
property managers & landlords

**Thursday, November 17th, 2016**  
At The 2100 building  
2100 24<sup>th</sup> Avenue South  
8:45am-4:30pm

**Learn How To...**

- ▀ Prevent illegal activity and identify illegal behavior, especially relating to drug activity on your property
- ▀ Screen applicants fairly and legally.
- ▀ Create excellent rental agreements
- ▀ Deal with problems before they escalate
- ▀ Avoid situations that lead to difficult evictions
- ▀ Work with your residents to make your property a great place to live
- ▀ Learn about recent changes to landlord/tenant laws

Register online at <http://sngi.org/services/ll.php>

or call 206-323-9666

To download a flyer, click [here](#).

**We look forward to seeing you there!**

If you have any questions please contact  
Seattle Neighborhood Group

206-323-9666 [info@sngi.org](mailto:info@sngi.org)

Seattle Neighborhood Group is a 501(c)(3) non-profit organization

## EVENTS

- 9/30-10/2** Pete will attend the annual tri-state conference of the NAACP (Washington, Oregon and Alaska) at the DoubleTree Suites-Southcenter in Tukwila.
- 10/5** Pete will talk about marijuana legalization at Vela Cannabis Retailer, 1944 1st Ave S, Seattle, from 7 to 8:30 p.m. <http://www.velacommunity.com/>
- 10/10** Pete will speak to former state Rep. Al O'Brien's criminal justice class at Seattle University from 7 to 8:30 p.m.
- 10/25** Pete will attend the state Sunshine Committee meeting from 9 a.m. to 1 p.m. at the Cherberg Building in Olympia.
- 10/28** Pete will attend the SPD Awards Banquet at the Westin Hotel.
- 11/9** Attorneys for the City will defend Seattle's tax on the sale of firearms and ammunition in oral arguments before the Washington State Court of Appeals.
- 11/12** Pete will attend the annual ACLU Bill of Rights dinner from 6 to 9 p.m. at the Westin Hotel. <https://aclu-wa.org/billofrightsdinner>

## LINKS TO NEWS STORIES

- 9/21 City sues West Seattle homeowners who allegedly cut down trees in public greenbelt --** KUOW's Kim Malcolm talks with Seattle City Attorney Pete Holmes about [two civil lawsuits](http://kuow.org/post/city-sues-west-seattle-homeowners-who-allegedly-cut-down-trees-public-greenbelt) filed against several West Seattle homeowners for their role in cutting down more than 150 trees in a public greenbelt earlier this year. <http://kuow.org/post/city-sues-west-seattle-homeowners-who-allegedly-cut-down-trees-public-greenbelt>
- 9/20 City files lawsuits, seeks \$1.6 million over cutting of 150 trees in West Seattle greenbelt --** West Seattle homeowners accused of improving their views by illegally laying waste to more than 150 trees in a public greenbelt are now staring down more than \$1.6 million in damages and fines. (Seattle Times) <http://www.seattletimes.com/seattle-news/politics/city-files-lawsuits-seeks-16m-over-cutting-of-150-trees-in-west-seattle-greenbelt/>
- 9/8 Judge: Seattle cops weren't required to monitor informant who committed crimes --** A federal judge has dismissed a lawsuit alleging that the Seattle police had a duty to monitor a confidential informant who turned violent. (Associated Press) <http://www.seattletimes.com/seattle-news/crime/judge-seattle-police-werent-required-to-monitor-informant-accused-of-committing-crimes/>
- 9/7/ A 'trade secret': SPD's record-keeping system? --** A federal court case between Versaterm, a Canada-based software company, and the City of Seattle is a microcosm of a convoluted process for disclosure fights between requestors, government agencies and third party contractors that pits a well resourced company against a single individual with an agency in the middle that just doesn't want to get sued. (Crosscut.com) <http://crosscut.com/2016/09/seattle-police-department-accurate-records-department-justice-versadex-versaterm/>
- 8/30 Public-records requests a costly cornerstone of democracy: \$60M over 12 months --** State and local governments in Washington spent more than \$60 million in a recent 12-month period complying with public-records requests, according to a new report. (Seattle Times) <http://www.seattletimes.com/seattle-news/politics/public-records-requests-a-costly-cornerstone-of-democracy-60m-over-12-months>
- 8/16 DNA of sexually motivated criminals not being entered into database --** DNA that could link criminals to hundreds of unsolved crimes has gone untested for years in Seattle, despite judges' orders to enter the samples into an international criminal database. (KIRO7) <http://www.kiro7.com/news/local/dna-of-sexually-motivated-criminals-not-being-entered-into-database/419053215>

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To view the SCAO's annual reports, please click here:

[http://www.seattle.gov/  
cityattorney/news/reports](http://www.seattle.gov/cityattorney/news/reports)

COMMENTS AND SUGGESTIONS

If you have suggestions for stories or comments on how we can make this newsletter better, please email [kimberly.mills@seattle.gov](mailto:kimberly.mills@seattle.gov).

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

The City Attorney's Office has four divisions:

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

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

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

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

**How to apply for an internship/externship in the Civil and Criminal Divisions:** <http://www.seattle.gov/cityattorney/about-us/careers>



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