CITY OF SEATTLE

Seattle City Attorney's Office

2009 Annual Report

Peter S. Holmes

Seattle City Attorney

This report displays the breadth and scope of our office's work on behalf of the City in 2009 and is submitted as required by the Seattle City Charter Article XXII, Section 12.

To: The Mayor and the Seattle City Council

From: City Attorney Peter S. Holmes

Pursuant to Article XXII, Section 12 of the Seattle City Charter, as the City Attorney for the City of Seattle, I am submitting the Annual Report for the year ending December 31, 2009.

This report displays the breadth and scope of our office's work on behalf of the City. In 2009, as in previous years, the City Attorney's Office was involved in every aspect of City government.

In the Criminal Division, 14,905 cases were filed in 2009, a 9 percent increase from the previous year. Of those, 2,084 were set for jury trial, a 4 percent increase year over year.

In the Civil Division, we continued a long tradition of providing high-quality legal services economically and efficiently to the Mayor, City Council, and all City departments.

On Nov. 3, 2009, I was elected City Attorney in a decisive vote and began working right away to ensure the transition proceeded as smoothly as possible with no disruptions in our work for the City and its people.

Sincerely,

Peter S. Holmes
City Attorney

OFFICE OVERVIEW

The Seattle City Attorney's office is the fourth largest public law office in Washington State. The City Attorney is a non-partisan elected official. Thomas A. Carr was the City Attorney in 2009, serving the fourth year of his second term. The City Attorney's office employed 163 people in 2009, including full-time and part-time employees and paid interns. The office included 90 attorneys, in addition to the City Attorney.

The office provides legal advice to City leaders and officials, represents the City in litigation, develops city laws and regulations, and protects the public health, safety, and welfare by prosecuting criminal and civil violations of City ordinances.

In 2009, the City Attorney's Office was divided into three major divisions: Civil, Public and Community Safety, and Administration. In 2010, the Public and Community Safety Division was renamed the Criminal Division.

The Civil Division represents the City in lawsuits and provides legal advice to City officials as they develop programs, projects, policies, and legislation. The sections within the Civil Division include torts (claims), land use, environmental protection, labor and employment, contracts, government affairs and utilities. Attorneys represent the City in local, state, and federal courts, and at administrative hearings.

A total of 410 cases were opened in 2009. Civil Division attorneys defended the city's actions and assured compliance with land use planning laws, environmental regulations and contracts.

The Public and Community Safety Division (now Criminal) is the criminal branch of the office. Attorneys represent the City in prosecuting traffic infractions, misdemeanors, and gross misdemeanors in Seattle Municipal Court. The types of cases prosecuted include driving under the influence, traffic infractions, misdemeanor domestic violence, misdemeanor theft, and trespassing.

The Division oversees the City's specialized Mental Health and Community Courts, as well as the Domestic Violence Unit. These units provide alternative approaches to reducing crime and serving justice. This division also places attorneys in each of the City's five police precincts to work on community issues, prevent crime, and improve quality of life in Seattle neighborhoods.

In November 2009, Peter S. Holmes was elected City Attorney in a decisive election. As part of the transition, two new positions were added: Darby DuComb was hired as Chief of Staff, and John Schochet was hired as Special Counsel and Policy Advisor. In addition, Craig Sims was named the new Criminal Division Chief, and Jean Boler became the new Civil Division Chief.

HIGHLIGHTS OF 2009

PUBLIC AND COMMUNITY SAFETY DIVISION (CRIMINAL DIVISION)

The Public and Community Safety Division (renamed the Criminal Division in 2010) is made up of five work units:

- Two regular trial teams consisting of 12 attorneys and two assistant paralegals
- The Domestic Violence Unit, consisting of 6 attorneys, 11 victim advocates and an assistant paralegal
- Mental Health Court, and Community Court, consisting of the equivalent of 6.5 full-time attorneys and a harassment advocate
- The Case Preparation Unit
- The Community Prosecution Program, consisting of five attorneys; and an Administrative Unit.

The City Attorney's Office, Criminal Division uses externs and interns throughout the year. Externs and Interns in our division appeared in Seattle Municipal Court representing the City under the Washington State Bar Association's Rule 9:

> *"Rule 9 of the Admission to Practice Rules (APR) grants a limited license to practice law under the supervision of an attorney for law students and recent law school graduates."*

The division actively recruits externs and interns by attending annual recruiting events, including the Minority Job Fair as well as on- and off-campus interview sessions at the three Washington State law schools. In the past, we have had law students from the state law schools participate in our Rule 9 program, but also from out-of-state law schools such as Georgetown and Pepperdine.

2009 Caseload for the Public and Community Safety Division

Overall, caseload increased in 2009, with 6 percent mores cases referred and 9 percent more cases filed. As a direct consequence of the increased filings, the number of pretrial hearings increased 6 percent from 2008 to 2009.

Reports Received

Overall	Totals	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2008 Reports	18,096	4,511	4,407	4,831	4,347
2009 Reports	19,151	4,850	4,577	5,141	4,583
Difference	1,055	339	170	310	236
% Change	6%	8%	4%	6%	5%

Reports Filed

Overall	Totals	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2008 Filed	13,713	3,416	3,350	3,611	3,336
2009 Filed	14,905	3,808	3,585	3,958	3,554
Difference	1,192	392	235	347	218
% Change	9%	11%	7 %	10%	7 %

In Custody Arraignments

Overall	Totals	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2008 in Custody	11,439	2,975	2,737	3,019	2,708
2009 in Custody	11,103	2,827	2,834	2,941	2,501
Difference	-336	-148	97	-78	-207
% Change	-3%	-5%	4%	-3%	-8%

Pre-Trial Hearings

Overall	Totals	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2008 PTH	15,434	3,940	4,041	3,761	3,692
2009 PTH	16,405	3,881	4,051	4,220	4,253
Difference	971	-59	10	459	561
% Change	6%	-1%	0%	12%	15%

Jury Trials Set

Overall	Totals	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2008 Jury	2,010	513	490	556	451
2009	2,084	577	486	540	481
Difference	74	64	-4	-16	30
% Change	4%	12%	-1%	-3%	7%

Driving While License Suspended

Driving While License Suspended remains a significant portion of the office's caseload.

In 2009, the DWLS caseload was as follows:

Reports Received

DWLS	Totals	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2008 Reports	4,536	1,229	1,125	1,091	1,091
2009 Reports	4,837	1,237	1,178	1,265	1,157
Difference	301	8	53	174	66
% Change	7%	1%	5%	16%	6%

Cases Filed

DWLS	Totals	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2008 Filed	4,482	1,215	1,112	1,022	1,133
2009 Filed	4,715	1,186	1,135	1,222	1,172
Difference	233	-29	23	200	39
% Change	5%	-2%	2%	20%	3%

In Custody Arraignments

DWLS	Totals	1st Quarter`	2nd Quarter	3rd Quarter	4th Quarter
2008 Custody	2,227	606	566	546	509
2009 Custody	1,732	438	420	467	407
Difference	-495	-168	-146	-79	-102
% Change	-22%	-28%	-26%	-14%	-20%

Pre-Trial Hearings

DWLS	Totals	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2008 PTH	3,912	958	1,160	957	837
2009 PTH	3,832	925	873	1,034	1,000
Difference	-80	-33	-287	77	163
% Change	-2%	-3%	-25%	8%	19%

Jury Trial Settings

DWLS	Totals	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2008 Jury	221	64	45	66	46
2009 Jury	235	54	56	66	59
Difference	14	-10	11	0	13
% Change	6%	-16%	24%	0%	28%

Drug Cases/Stay Out of Drug Areas

The City of Seattle has limited jurisdiction over drug violations. Most drug crimes are felonies and fall under the jurisdiction of King County. The only exception is possession of less than 40 grams of marijuana, which is a gross misdemeanor. In 2006, the City Attorney's office, in cooperation with the King County Prosecutor, started a program to address possession of trace amounts of controlled substances, such as residual crack cocaine in a pipe. Under the agreement, the City charges individuals who are arrested with Attempted Violation of the Uniform Controlled Substances Act (VUCSA), a gross misdemeanor.

At their first appearance, defendants are offered a choice:

- Agree to a disposition under which the case is dismissed in four months as long as the defendant stays out of the geographical area in which he or she was arrested, OR
- Be charged with felony VUCSA by the county prosecutor.

From March 2006 through December 2009, the Criminal Division filed 1,310 Attempted VUCSA cases. The breakdown of those VUCSA cases was as follows:

Violation of the Uniform Controlled Substances Act 2006-2009	TOTALS
Total Cases filed	1,310
Total Dispositions	1,278
Sent to King County Prosecutor	208
Declined by King County Prosecutor	73
Filed by King County Prosecutor	75

Repeated SODA Violations	
At Least One Violation	118
At Least Two Violations	54
At Least Three Violations	28
At Least Four Violations	10
At Least Five Violations	8
At Least Six Violations	5
At Least Seven Violations	2
At Least Eight Violations	2
At Least Nine Violations	1

Cases with no violations	1082
Cases with no recidivism	763
% of cases w/no violations	83%
% of cases w/no recidivism	58%

Multiple Case Defendants	Total
Defendants with two cases	262
Defendants with three cases	126
Defendants with four cases	36
Defendants with five cases	20
Defendants with six cases	12
Defendants with seven cases	14

Precinct Liaisons

Community-based prosecutors serve Seattle residents from the five police precincts, and in the Vice and Narcotics Unit.

These community-oriented prosecutors identify and resolve public safety problems and livability issues within the community. Working with partnerships formed between community groups, business organizations, and law enforcement, public safety can be improved, crime and the potential for criminal activity reduced, and the quality of life enhanced in the community.

By responding proactively to public safety problems and working to reduce the potential for crime and criminal activity, significant social and economic cost savings can be realized by reductions in crime. Savings include emergency response, prosecution, court services and jail. Intangible savings include psychological suffering and reduced quality of life for victims of crime.

Here is a summary of crime reduction work by each of the precincts.

North Precinct Liaison

- Initiated criminal tax charges against several crime-plagued Aurora motel owners as well as their corporate officers.
- Initiated criminal charges against two managers of crime-plagued Aurora motels.
- As a member of the City's Anti-Graffiti Task force, reduced graffiti on public and private property, reducing associated costs to the City.
- Testified before the Seattle City Council's Public Safety Committee regarding the then-proposed Chronic Nuisance Properties ordinance.
- Worked with community members to start the first North Seattle community court site, bringing community court members to Lake City for beautification projects.
- Regular attendance at the Eckstein Community Coalition to Prevent Underage Drinking, providing guidance for community action plans and strategies to reduce underage substance abuse.
- Objected to the liquor license renewal of SP Mart. This establishment repeatedly sold alcohol to minors, some as young as 14 years old. Other liquor license objections include

the Rose Garden, TRUE, Piece of Mind, El Norte Lounge, Tom's Smoke Shop, and Dollar Max.

- Contacted numerous rental and other property owners regarding complaints of narcotics and other crime or nuisance activities negatively impacting neighborhoods.

- Reviewed, commented on and disseminated information on new or proposed liquor laws, rules and regulations. Drafted protocols for dealing with unusual liquor issues such as Special Occasion license applications and notices.

- Successfully worked with the owners of the Rose Garden, resulting in closure of the business that catered to gang members, drug users and violent offenders.

- Presented at the National District Attorney's Association Annual Conference on topics such as Effectively Drafting Community Good Neighbor Agreements.

- Negotiated Good Neighbor Agreements with LTD Bar and Grill, Rat & Raven, Lucid Lounge, Santolea, Dollar Store, Chisou, and Sinners and Saints. Amended Good Neighbor Agreement for 35th Street Bistro and Smash Wine Bar.

- Successfully negotiated a settlement agreement for Babalu, allowing continued operation and assurance of compliance with the law.

- Worked closely with Seattle Police Department's Community Police Team, Burglary/Theft Unit, Crime Prevention, and other law enforcement units to provide training, ensure prosecutable cases and to reduce follow-up investigation.

- Attended community and business meetings at all hours to provide problem-solving information, obtain information on community problems or concerns and to educate citizens on the law and law enforcement efforts.

- Drafted creative problem-solving tools for officers including warning letters, checklists, and information-gathering information for more effective law enforcement and prosecution.

- Attended "house meetings" of University of Washington students to discuss legal issues, crime reduction efforts and legal rights and obligations.

- Provided daily legal advice to Seattle police officers and other City departments. Provided legal information to citizens about public safety problems or other livability concerns.

South Precinct Liaison

- Participated regularly at the Southeast Crime Prevention Council: to solve public safety issues; respond to complaints and concerns from community members; provide presentations on safety, theft prevention, and police and constitutional issues.

- Attended community meetings throughout Southeast Seattle.

- Revised the Rainier Beach Trespass program and admonishment. Discussed implementation with the Rainier Business Association, Seattle Neighborhood Group, and the Seattle Police attorneys.

- Gave one-hour presentation and workshop to the Seattle Neighborhood Group about the various liquor licenses and the process for responding to the Washington State Liquor Control Board with concerns.

- In conjunction with Seattle Neighborhood Group, presented workshops on drafting letters, documenting incidents, and pursuing public nuisance actions in small claims court.

- Provided the Board with information about charges, arrests, and public safety concerns about southeast Seattle establishments; assisted in coordinating educational seminars for the community about liquor laws.

- Objected to several liquor license applications:

    - A beer and wine license for mini-mart in SODO where the applicant had two recent convictions for supplying alcohol to a minor.

    - A mini-mart in Rainier Valley, which is located in the same building as state-run drug rehabilitation facility.

- Objected to renewal of application for Columbia City bar/tavern-based on their inability to control fights and allegations of drug sales and use on premises and failure to adhere to conditions of negotiated Good Neighbor Agreement.

- Continued to work with Liquor Control Board's Enforcement Section: coordinated meeting with the Board and liquor establishments in Southeast Seattle; follow up with SPD with information provided by the Board about alleged criminal activity in Southeast Seattle establishments

- Successfully worked with the Liquor Control Board, Seattle City Department of Administration (Bill Reddy), and the Department of Planning and Development to bring numerous Southeast Seattle establishments into compliance.

- Successfully assisted and advised SPD, the community, and the Mount Baker Housing Authority (new owner) in drafting a business plan and implementing safety measures for tenants and the public at The Creston Apartments.

- Worked continuously with Sgt. Ann Martin (Community Police Team-South Precinct) to draft and implement letters and protocols to address problems in owner-occupied, tenant-occupied, and business dwellings.

- Provided constitutional analysis and advice to precinct captain, watch lieutenants, sergeants, and patrol officers daily.

- Provided refresher courses in search and seizure and other aspects of policing.

- In conjunction with Office of Film and Music (James Keblas and Rachel White) worked with several SODO (South of Downtown) liquor establishments to improve security and liquor service; monitor and identify signs of under-age intoxication and drug abuse.

- Met with Santa Fe-Burlington Northern Railroad security personnel to implement a method and enforcement to lessen/abate problem transients along their train right-of-ways.

- Facilitated multiple meetings with East African merchants and building owner at Rainier and Rose. Purpose was to enhance communication between merchants and South Precinct Patrol Officers. Several merchants have provided contact information in case of after hour concerns.

- Devoted at least two days/nights a month to meet with off-hour watches (after 6 p.m. and before 8 a.m.) doing ride along and training (terry-stop, drug traffic, loitering).

- Worked with Seattle Housing Authority's (SHA) General Counsel to revoke the housing voucher and remove a problem tenant in Section 8 housing, after numerous police incidents (involving firearms) and public safety.

- Worked with management at New Holly (SHA), SPD, SDOT, and other city departments to develop a mechanism to address trespassing issues.

- Pursuant to a liquor application, held meetings and teleconferences with Walgreens' general counsel and local counsel to discuss public safety and Walgreens' policies for beer and wine sales in their local stores.

East Precinct Liaison

Drug Market Initiative

During 2009, the Seattle Drug Market Initiative was implemented in the East Precinct.

The Seattle Drug Market Initiative is a partnership between law enforcement and the community designed to reduce or eliminate overt drug dealing in residential neighborhoods and the crimes and violence often associated with them.

As part of the initiative, the Seattle Police Department, in partnership with the City Attorney's Office, implemented strategies to address such activity occurring within the East Precinct.

West Precinct Liaison

- Reviewed 153 liquor license applications for establishments that sell alcohol: mini-marts, grocery stores, restaurants, taverns, nightclubs.

- Reviewed 173 special occasion liquor license applications for functions sponsored by non-profit organizations that served alcohol.

- Prepared five liquor license objections to the Washington State Liquor Control Board: Belltown Billiards, Crawfish King, Diamond, I-Booze, Vela Pizzeria.

- Entered negotiations for good neighbor agreements with five establishments, and concluded three agreements: Belltown Billiards, Bustle, and Vela Pizzeria.

- Facilitated meetings between an after-hours club and a neighboring homeowners association.

- Prepared a case for administrative hearing with the WSLCB.

- At the request of the community in the International District, facilitated the removal of three problematic pay telephones.

- Prosecuted two criminal cases in Municipal Court involving harassment and a long-term neighbor dispute.

- Conducted drug traffic loitering trainings for police officers

- Attended monthly meetings for the West Precinct Advisory Council, the Metropolitan Improvement District, the MID board, and the West Precinct Security Forum.

- Assisted with the start-up of the Belltown Citizens on Patrol group.

- Panelist at the Responsible Hospitality Institute's regional forum in Seattle.

- Advised the precinct commander and precinct officers on numerous issues.

Southwest Precinct Liaison

- Assisted SPD and Revenue and Consumer Affairs in drafting amendments and rewrites to the existing Used Goods Dealers' code, as well as advised Revenue and Consumer Affairs in creating procedures to revoke Used Goods Dealers' Licenses

- Worked with the Southwest Precinct and other city agencies to establish a procedure to meet with problem used goods/ scrap metal/ pawn shop dealers.

- Filed criminal cases against a notorious Southwest Precinct used goods dealer, resulting in his guilty plea in 2009 and a deferred sentence.

- Assisted Revenue and Consumer Affairs and the City Attorney's Office in preparing for revocation of a Used Goods Dealer's license. This resulted in the revocation of his license and the closure of his business, a decades-old problem in the Delridge neighborhood.

- Assisted the Seattle Police Department in addressing used goods/ pawn shops/ metal recyclers who were fencing stolen property and failing to keep records.

- Filed 103 criminal cases against Seattle pawn shops and their employees who failed to comply with SMC 6.288.050(c). Working with numerous defense counselors, resolved the cases and worked with pawn shops to establish procedures that changed the business operations of the pawn shops in the city.

- Drafted a letter objecting to the renewal of Juan Colorado's liquor license. When the LCB granted renewal over the City's objection, consulted with the Southwest Precinct's command staff and, at their request, filed an appeal of the decision.

- Drafted an objection letter to the renewal of the Admiral Pub's liquor license. The Admiral Pub's clientele had become more violent in 2009, with two gun-related offenses within a three-month period. Conducted a meeting with the pub owner and the Seattle Police Department, provided the City of Seattle's Nightlife Information Handbook and emphasized information about SPD's security personnel training. The owner of the Admiral Pub agreed to sign a Good Neighbor Agreement.

- Assisted with drafting SPD's protocol for dealing with people in parks with firearms. Provided training to SPD officers regarding "firearms in parks" protocol.

- Helped the Seattle Neighborhood Group give its Take Action Workshop to two neighborhoods, attended the workshops and assisted with drafting letters to the problem property-owners.

- Reviewed several hundred cases for potential criminal prosecution.

Vice/Narcotics Liaison

- Litigated several asset forfeiture cases with favorable outcomes. The cases involved drug trafficking, money laundering, promoting prostitution, child pornography, and other crimes. The total value of currency and property forfeited to the Forfeiture Unit in 2009 was $619,999.36.

- Advised SPD on the proper and efficient use of statutes that enable asset forfeiture. The statutes are an effective tool to fight serious crime in Seattle.

- Actively litigated several administrative forfeiture hearings, as well as matters in both King County District and Superior Court.

- Prevailed in a complex motion involving an operation that involved three drug houses, several weeks of surveillance, and the seizure of over $300,000 in cash and property.

- Coordinated with federal law enforcement agencies and the U.S. Attorney's Office in cases where property was seized due to joint investigations.

- Worked with the Forfeiture Unit on improving SPD's execution of asset forfeiture. Assisted in training other SPD units on the procedures and legal issues associated with forfeiture statutes.

- Provided legal advice to the Seattle Police Department's Vice Unit.

- Obtained necessary subpoenas to investigate Internet prostitution and child sexual exploitation.

- Filed all criminal complaints for Vice Unit misdemeanor cases and provided support and assistance to the trial attorneys who prosecuted the cases in Seattle Municipal Court.

- Assisted with Seattle Municipal Court's "Johns School," and helped begin work toward a coordinated community response to youth prostitution in Seattle by exploring how to better use Community Court to address the unique issues faced by prostitution defendants.

Mental Health Court

In 2009, Mental Health Court celebrated its 10-year anniversary of providing a therapeutic approach within the criminal justice system. The collaborative efforts of defense, prosecution, probation counselors and a mental health clinician have provided highly specialized attention for defendants identified as having issues around their competency to stand trial.

During the year, 642 cases, consisting of 485 defendants, were addressed. More than half of those cases involved issues of competency – or ability to proceed in the criminal justice process. Most of the evaluations of defendants were ordered out of Mental Health Court, but in all cases the defendants were returned for their competency hearing.

The court continued to streamline the process for competency evaluations and provided specialized support for that unique type of hearing. By conducting the majority of evaluations locally, rather than at Western State Hospital, the competency hearings were often completed faster than the 15-day target date.

The City Attorney's Office continued to be a resource for other prosecution agencies throughout the state. The Competency Guide prepared by the assistant city attorney supervisor in mental health court is broadly used throughout the state, as are the proposed orders contained within that primer.

Competency Orders were drafted and revised to reflect current law and presented to the Office of the Administrative Office of the Courts (AOC) for use statewide. Although not formally implemented by the AOC, those forms have been used in Mental Health Court and we hope they will ultimately be adopted for uniform use statewide.

Community Court

Seattle Community Court aims to slow down the recycling of low-risk, quality-of- life crime offenders through the criminal justice system. Rather than relying on lengthy and costly jail sentences, defendants are typically assigned between 16 and 48 hours of community service.

They are also mandated to make social service connections that are individually tailored to address the underlying issues causing their repeated criminal behavior.

Pretrial Diversions also fall under the Community Court umbrella where eligible first time offenders agree to complete eight hours of community service and stay crime free for 90 days.

There were many significant developments in Seattle Community Court in 2009. First, the court saw a record-setting 1,024 defendants voluntarily enter and perform approximately 16,738 hours of community service – nearly double last year's hours. Much of the expansion can be attributed to the implementation of Dispositional Continuances as part of the Community Court sentencing structure. This allows every defendant, regardless of their criminal history, one opportunity to have their case dismissed upon successful completion of their obligations. With the added incentive of a dismissal, our success rate rose to an impressive 55 percent.

The number of Pretrial Diversion-eligible defendants also grew to just over 1,000, with entering defendants completing nearly 6,000 hours of community service. The unique feature of this program is the neighborhood partnerships that have developed. More than half of our community service sites for this program work independently on neighborhood restoration projects. Our support provides many neighborhoods with workers to complete restoration projects that would otherwise go unfinished.

One of the most significant developments for Seattle Community Court was its designation by the U.S. Department of Justice (USDOJ) as one of only three national Community Court Mentor Sites. The court was picked as an exemplary program, well-equipped to teach other cities how to create and improve their own community court programs.

In its designation the Justice Department especially noted:

- Seattle's decision to address the underlying problems affecting "chronic public system users"
- an expansive use of volunteers, such as Americorp compliance teams, interns and young lawyers
- The collaborative relationship between the City Attorney's Office, the Seattle Municipal Court and the Associate Counsel for the Accused defense agency

Our community service site partnerships grew as well, from 16 to 24. We added a community-spearheaded site in Lake City where defendants completed tasks to improve a neighborhood plagued by low-level criminal activity. Many defendants participated in painting the first-ever neighborhood mural.

We also added a partnership with the New Holly Community Garden where many defendants helped restore a plot full of weeds and overgrown planting beds.

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A noteworthy community service partnership added in 2009 was with Medic One Foundation's Vials of Life Program. Community Court defendants put a blank medical information form, Vial of Life window sticker and a refrigerator magnet into 5-inch "prescription" plastic vials that are used by people with significant medical concerns. Emergency responders are trained to look for the vials whenever they respond to a home with such a window sticker.

The third significant development in 2009 was the new Community Court website, which can be accessed from the City Attorney's website, the Seattle Municipal Court's website and the Associate Counsel for the Accused's website.

If an inquiry is made through the website, all three partners are alerted simultaneously. A joint response is crafted, enabling our continued collaboration.

Domestic Violence Unit

Domestic Violence remains a high priority in the City Attorney's Office. The Domestic Violence Unit saw an 8 percent increase in the number of cases referred in 2009.

The number of trial settings increased by 11 percent. However the DV unit continued to provide high-quality litigation in each of these important cases. Each of the areas below describes how the DV unit effectively litigates cases in a short time frame, as pending domestic Violence litigation is potentially dangerous, stressful, and disruptive to victims and their families. Timely resolution of cases is also an important component of offender accountability.

- Processes and paperwork flow
    - The DV unit worked with the Seattle Police Department to integrate our discovery process with SPD's new records technology. We have continued to streamline our ordering of report materials such as 911 recordings and supplemental reports. These efforts have helped reduce unnecessary continuances and improve the quality of trial preparation. In 2010, the DV unit will continue to work with SPD to ensure that their technology updates are integrated into our work flow.
    - The DV unit uses a vertical prosecution model, in which the same prosecutor litigates the case from filing to sentencing. This practice results in thorough and consistent preparation of each case. Calendar coverage and workloads are carefully balanced so each prosecutor can devote sufficient time to case preparation.
    - The DV unit emphasizes consistent communication between attorneys and victim advocates so victim safety remains a high priority.
    - In addition, the DV unit continued to give increased attention and preparation to probation review matters, and has worked closely with probation to address issues of offender non-compliance.
    - Each of the trial attorneys in 2009 maintained a high level of professionalism and an outstanding work ethic while litigating a challenging caseload.

Coordination with the King County Prosecutor's Office

- The DV unit continued to have a King County Deputy Prosecuting Attorney working in the City Attorney's office for 20 hours each week in 2009. Deputy Prosecuting Attorney Kim Wyatt served in this position since April of 2008. Her presence in the City Attorney's Office has had an enormous impact on improving victim safety and offender accountability.

  Wyatt reviews eligible cases for felony referral, and helps expedite the misdemeanor charging decision when the King County Prosecuting Attorney's Office declines to file a felony. She also coordinates prosecution efforts when an offender has pending cases or probation matters in both the Municipal and Superior Courts.

  Wyatt's work reduces the time between offense and the filing – for both misdemeanors and felonies. This increased efficiency ensures that an offender is held in custody and that the case is handled in a manner that maximizes victim safety. Since these are often the most troubling cases and the most dangerous offenders that the DV unit prosecutes, the value of this position to the safety of victims in Seattle is tremendous.

Domestic Violence 2009 and 2008	Totals
2008 Reports Rec'd	**2,972**
2009 Reports Rec'd	**3,218**
DIFF 2009-2008	**246**
% Change	**8%**
2008 Cases Filed	**1,584**
2009 Cases Filed	**1,609**
DIFF 2009-2008	**25**
% Change	**2%**

- High-risk offenders
  - Since 2007, the DV unit has devoted an attorney to prosecuting cases that are identified as especially high risk for victim safety. Factors include the offender's criminal history, the offender's domestic violence history, and other issues such as violence toward children and stalking.

DV Jury Trials	TOTALS
2008 Jury Trials Set	744
2009 Jury Trials Set	829
DIFF 2009-2008	85
% Change	11%

  - Complicated facts or evidence. Such cases may include, for example, a high number of court order violations or extensive electronic communications, such as texting and e-mail.

The position was previously funded by the "Grant to Encourage Arrest Policies and Enforcement of Protection Orders" (GEAP) program, but it is now funded by the CAO.

CIVIL DIVISION

The Civil Division provides legal advice to the City on an amazing array of issues without the expense of retaining outside counsel.

The in-house legal division has expertise in many specialized areas of law including government, environment, land use, torts, contracts, public disclosure and labor and employment. The division handles civil matters ranging from claims of tripping over sidewalk cracks to complex litigation involving multiple players, such as the "Slip 4" environmental remediation lawsuit that involved Boeing, King County, the state Department of Ecology, and others, over many years.

In 2009, many attorney hours were spent assisting with the highly complex Alaskan Way Viaduct proposals and negotiations. Attorneys from many different sections of the office were involved in an array of areas calling for their expertise.

Types of Cases	2009	2008
Total Cases Opened	**410**	**420**
Contracts	6	40
Employment	32	36
Environmental Protection	1	5
Municipal Law, Civil Enforcement	153	91
Land Use (includes Code Enforcement matters)	110	129
Torts	108	117
Utilities	2	2

Attorneys were also involved in discussions and investigation of properties for siting a potential new jail.

Enforcement of collection on cases resulted in payments of more than $1 million. The land use section won significant decision in two Housing Code enforcement actions, against Hugh Sisley, a notorious violator of the land use and housing code.

The Civil Division also drafted and advised on City legislation and rules including: business licensing, chronic public nuisances, plastic bag fees, and a water utility tax.

The result of having this in-house legal team is a tremendous savings to taxpayers, while allowing the City immediate access to expertise in legal issues that confront City government.

CONTRACTS SECTION

The Contracts Section provides legal advice and handles litigation associated with the City's capital projects, its property acquisitions and dispositions and other contractual matters.

The Section is responsible for legal services at all stages of contract creation, implementation and enforcement, including negotiating, drafting, administrating, and litigating, if necessary. The section develops and maintains standardized City contracts as well as participating as counsel in complex transactions, including major capital projects for multi-million dollar construction projects.

The following list includes the major accomplishments of the Contracts Section in 2009. It should be noted that the Section also handles the constant flow of small and often-times routine contract matters that, in many ways, are just as important as large projects in supporting the diverse interests of the City.

Viaduct/Bored Tunnel

The Contracts Section continues to provide substantial legal guidance on this major project, including contracting, potential litigation, and project management.

The Section led the office's attorney team, and served as the primary legal contact for the Seattle Department of Transportation (SDOT), helping negotiate and prepare agreements between the City and the State for electrical relocation, south end viaduct work, and overall responsibility for the various parts of the project.

These agreements will allow the State to begin construction of the South end viaduct replacement in 2010.

Red Light Camera Litigation

The State has authorized local jurisdictions to use cameras at arterial intersections to "capture" cars that run red lights and to cite the owners of such vehicles. The Section defended the City in a class-action lawsuit that attempted to strike down the City's red light camera legislation on a variety of grounds.

First Hill Streetcar

The Section advised SDOT and City Council staff regarding Sound Transit's contribution of $120 million for construction of the City's planned First Hill Streetcar project. The contribution

also includes $5.2 million per year for operations and maintenance. The Section helped negotiate and prepare the agreement to implement those contributions.

Seattle Aquarium
The Section provided assistance to conclude the transfer of Aquarium operations and maintenance to the Seattle Aquarium Society. Such assistance included the provision of legal advice, negotiation of the agreement, and drafting of the transfer documents.

Washington Talking Book and Braille Library
The Section completed the conversion of the Washington Talking Book and Braille Library into four condominium units, allowing the State to reassume operation of the facility. This conversion was negotiated to resolve some long-standing issues with the then current lease.

MOHAI
The Section negotiated and executed agreements with the Museum of History and Industry to redevelop the Armory at Lake Union Park for a new historical museum. The Section also continued to address issues arising out of the potential condemnation of the current museum site by the state Route 520 expansion project.

King Street Station
The Section provided advice to SDOT regarding funding and renovation of the King Street Station. In particular, the Section provided advice regarding the use of New Markets and Historic tax credits to provide some of the needed money, and helped negotiate and prepare agreements with the State and AMTRAK to secure funding and resolve ownership and control issues.

The Section provided advice on the use of the General Contractor/Construction Management method of procurement for the renovation project and reviewed documents related to that procurement.

King County Jail
The Section provided advice to the Office of Policy and Management (OPM) regarding options for meeting future bed capacity needs for prisoners at the King County Jail. Ideas included an agreement with Eastside cities to locate a jointly owned and/or operated jail at various locations within the County (including an option to continue with King County at a new jail located next to the current one in downtown Seattle).

The Section also worked on an extension of the City's current agreement with King County to house the City's prisoners that will add bed capacity and extend the agreement through 2016.

Seattle Public Utilities South Park Pump Station
The Section condemned property rights necessary for the siting and construction of a $10 million storm water pump facility and advised Seattle Public Utilities on a variety of legal issues related to the use of the newly acquired site for the property.

Seattle Public Utilities Combined Sewer Overflow Project
This SPU multi-year project will construct facilities to capture and manage storm water run-off from significant storm events, at an estimated cost of $750 million. The Section provided advice related to facility siting and project procurement decisions.

Fire Station Replacements
A multi-year project is managed by the Fleets and Facilities Department for the construction of new fire stations. It is funded through the $167 million Fire Facilities Levy. The Section continues to provide assistance with the negotiation of voluntary purchases and condemnation of real property, as well as advice on the construction of the new stations.

Center for Wooden Boats

Assisted Seattle Parks and Recreation in negotiating and executing an agreement with the Center for Wooden Boats to construct and operate a new educational center at Lake Union Park.

Magnuson Park
The Section furthered the redevelopment of Magnuson Park by concluding, on behalf of Seattle Parks and Recreation, agreements with Arena Sports and Seattle Court Sports Unlimited for new athletic facilities.

Puget Sound Next Generation Radio Interoperability Project
This $3.4 million project implements a federal grant and other funding to update and improve the City's emergency radio system, greatly enhancing its interoperability with radio systems in other jurisdictions. The Section is assisting the Department of Information Technology (DOIT) and is in the final stages of negotiating and drafting an interlocal agreement between the City and Snohomish County, City of Tacoma, King County and Valley Communications.

South Recycling and Disposal Station
The Section was involved in the planning and drafting of the procurement documents for construction of this new transfer station using the design-build processes authorized by RCW Ch. 39.10. The Section provided advice regarding the procurement process and assisted in negotiating the final design-build contract.

Turbine Generator Rewind Project
The Section was involved in the planning and drafting of the procurement documents for the construction of this generator for Boundary Dam using the design-build processes authorized by RCW Ch. 39.10. The Section provided advice to Seattle City Light during the procurement.

Beacon and Myrtle Reservoirs
The Section provided advice related to the discovery of waterproofing problems at two newly constructed reservoirs that went into operation in 2008-2009. The Section led the effort to recover the costs of the necessary repairs. The efforts included discussions with the contractor, designer and insurers of the project. In an attempt to avoid litigation, a global mediation involving potentially responsible parties was set for mid-2010.

CIVIL ENFORCEMENT SECTION

CIVIL RIGHTS

This section represents the Seattle Office of Civil Rights and the Seattle Human Rights Commission, which enforce the City's laws against discrimination.

Leyk v. Nelson
This case was the first time the Seattle Office of Civil Rights has ever obtained a civil penalty even though the ordinance provides for civil penalties.

In this housing discrimination retaliation case, the landlord insisted that the residential manager provide information regarding race, sex, ethnicity, and familial status of potential tenants. When the manager repeatedly told the landlord he was uncomfortable providing that information and believed that it was discrimination, the landlord retaliated by telling the manager to move out, removing him from management duties and retaining his security deposit.

A settlement agreement was reached a few weeks before the case was to go to the hearing examiner. The primary agreement included an $8,000 payment to the manager, a $1,000 civil penalty, turn over all rental duties to a property management company, and provide access to all rental records.

Fords v. Nelson
This was a housing discrimination case, based on familial status and retaliation. The Fords signed a one-year lease for their unit. During the lease period, the Fords became pregnant and gave birth to a child. At the end of the lease term (baby was 3 months old) the landlord offered them a new lease, increasing the amount of rent plus a surcharge for the baby. The Fords believed the surcharge was discriminatory. The legal issues revolved around whether the surcharge was illegal. The defense deposed seven witnesses and ultimately settled the matter for $5,000 and other conditions.

Vonne Worth v. SHAG
This was a housing discrimination case based on the failure to reasonably accommodate a person with a disability. The Office of Civil Rights reached a settlement agreement before the hearing. Senior Housing Assistance Group (SHAG) agreed to change their policies and settled with Worth for $500.

April Jones v. Creston Park
Another housing discrimination based on familial status. At Creston Park apartments, the property rules stated children could not play in the parking lot or on the walkways. The City reached a settlement agreement that required the landlord to change the language of the rule so it didn't specifically single out children, and also pay April Jones $2,000.

COLLECTIONS

Enforcement of collection on cases resulted in payments of $1,034,295 for a wide variety of debts and obligations owed to the City, including $556,000 for the Seattle Department of Transportation; $298,000 for the Department of Planning and Development, and $119,000 for Seattle City Light.

In addition, a single case, worked on jointly by the Land Use Section and the City Attorney's Office, resolved a long-standing alley vacation dispute – known as Block 48. As a result of a lawsuit and a lis pendens, the City was able to recover an alley vacation fee of $498,400. The responsible party was 500 Mercer Street Partners, LLC.

MUNICIPAL LAW SECTION

Project Highlights
Drafted or advised on City legislation and rules including: business licensing, chronic public nuisances, plastic bag fees, and a water utility tax. In addition, section attorneys provided ongoing advice and assistance in all areas of municipal law, including, finance, budgeting, ordinance drafting, public records and open meetings, business improvement areas, public development authorities, bonds, constitutional issues, initiatives, and referenda

Assisted in drafting proposed state legislation amending the statute imposing brokered natural gas use taxes and testified in support of the bill at the state legislature.

Legislation
Section attorneys drafted and reviewed legislation, and advised all City departments (especially the Executive and the Legislative branches) on proposed City legislation, including: business licensing, chronic public nuisances, plastic bag fees, a water utility tax, redrafting the elections code, and redrafting the ethics code, farmers market ordinance, and a new parade permit ordinance.

Section attorneys managed Seattle Municipal Code revisions to reflect all code amendments enacted by ordinance. We consulted with multiple City departments and other sections within the City Attorney's office to investigate the legislative history of the code and address possible errors. Attorneys also assisted in drafting proposed state legislation to amend the statute imposing brokered natural gas use taxes and testified in support of the bill at the state legislature.

Budget
Reviewed and helped draft numerous pieces of City budget legislation, helped the Department of Finance draft new "stock" language for budget legislation to streamline the budget process. The Municipal Law section is the section primarily responsible for drafting and reviewing budget legislation

Ballot measures
Section attorneys helped develop and provided client advice on levy measures to fund affordable housing and other housing needs of low-income households. Section attorneys drafted ballot titles and explanatory statements for these measures as well.

Boards and Commissions
Section attorneys represented various boards and commissions, including the Ethics and Elections Commission, the Civil Service Commission, the Public Safety Civil Service Commission, the Human Rights Commission, the Retirement Board, and the Library Board. Attorneys assisted quasi-judicial commissions (Public Safety Civil Service, Human Rights, and Ethics Commission) in conducting hearings, deliberating, and drafting their decisions.

Special Events Committee
Provided advice to the City's Special Events office on First-Amendment issues related to events and protests, including Hempfest and the protest at the annual Zoo gala.

Retirement System
Continued to provide advice to the City's Retirement System Board and executive director during a challenging time of transition.

Commission Litigation
SPD v. Roberson and PSCSC. Brief and argue case in Court of Appeals re: scope of PSCSC's authority to decide appeals of SPD and SFD disciplinary decisions;

Open Government
Section attorneys advised all City departments regarding open government issues (including Public Records and Open Meetings).

First Amendment - Speech and Religion Clauses
Section attorneys advise all departments, (especially Parks, Special Events Committee, Library, Fleets and Facilities, and Seattle Center) on issues regarding free speech and religious activity on public property.

Initiative 97
The section successfully represented the City in litigation to keep a proposed measure off the ballot that was beyond the initiative power. The measure would have interfered with the Seattle City Employees' Retirement System's Board of Administration's legislative mandate to manage investments of the System in accordance with state law requirements.

Berger v. City of Seattle
In the "Magic Mike" case, attorneys defended Seattle Center's street performer rules before an *en banc* panel of the Ninth Circuit Court of Appeals which upheld the City's right to establish performance areas within the Center. However, the panel also invalidated the Center's performer permit requirement. We negotiated a settlement that included terms to protect the City from further exposure to litigation from the plaintiff over the Seattle Center's present rules. We advised clients (especially Seattle Center, Parks, SDOT, and the Legislature) regarding implications of Ninth Circuit En Banc decision.

Washington Taxicab Association/Alliance of Taxi Associates v. King County, et al
Represented the City in litigation against the City and King County concerning an inter-local agreement with King County for the issuance of taxicab permits, and successfully moved for the City's dismissal from the case.

Special Projects

- **Taxicab regulation:** Drafted and reviewed new legislation concerning regulation of taxicabs. Advised the executive concerning legal issues that could arise in connection with a proposal to impose "green-vehicle" restrictions on taxi licensees. These included issues involving federal statutory preemption, and the constitutional due process and takings clauses.

- **Pawnshop regulation:** Negotiated a settlement with a pawnshop owner who was erroneously granted a license to operate in a zone in which his business was prohibited, helping to minimize the City's monetary liability for its error.

- **Guns on City Rule and Rental Policy:** (Mayor's Office, Parks Dept., all executive offices) This was one of our single largest special projects – drafting both the rule and the rental policy, attending more than a dozen meetings to advise clients and get their policy decisions, and then revising both documents accordingly. There were also many follow-up questions from all departments regarding implementing the rental policy and specific questions from Parks regarding enforcement scenarios for the rule.

- **Encampments:** (Mayor's Office). This was a large project in 2008 that continued in 2009. It also involved many drafts, meetings, and redrafts of the Multi-Department Rule that was eventually adopted, and lots of follow-up questions from all departments regarding enforcement.

Litigation highlights

- **B&O Receipts -** Collected thousands of dollars in Business and Occupation and Utility taxes through negotiation and litigation.

- **Vonage** - Prevailed at the court of appeals in defending a challenge to the City's right to impose its telephone utility tax on VoIP telephone service.

- **Avanade** - Prevailed at the court of appeals an appeal of the City's taxation of a technology consulting company.

- **Utility Poles** - Appealed to the Department of Revenue Administrative Law Judge in defense of the City's imposition of leasehold excise taxes on utility pole attachments.

- **Getty Images** - Prevailed at the City of Seattle Hearing Examiner on a tax appeal in which the taxpayer attempted to avoid City B&O taxes by establishing an out-of-state corporation. The taxpayer appealed to the superior court.

- **GP Gypsum** - Filed an amicus brief in support of the Department of Revenue's case at the State Supreme Court involving brokered natural gas use taxes.

- **Blistex Bracken v. City of Seattle**: Represented the City in a case concerning the imposition of the City's B&O tax on an entity that receives trademark royalties locally for a product manufactured elsewhere; drafted petition for review to the state Supreme Court. Petition for Review pending.

The Section also represented the City-as-taxpayer, including:

- **Seattle Public Utilities**: Successfully represented Seattle Public Utilities in a case involving the state's incorrect assessment of sales and use tax on the City, resulting in refund of almost $158,000 to the City.

- **Seattle Public Utilities:** Successfully settled an SPU appeal involving the state's incorrect assessment of the tax on the utility's payments for sewer inspection and rodent-removal services, resulting in an $88,000 refund to the City.

- **Seattle City Light:** Argued appeal on behalf of City Light concerning the state's assessment of sales taxes in excess of $1 million for customized software purchased by the City for its comprehensive utility computer system. A decision by the Administrative Law Judge is pending.

Public Disclosure:

- **ACLU v. City of Seattle**
  (Washington Court of Appeals)
  City attorneys prevailed on appeal after remand upholding the City's claim that issues lists exchanged by City and Seattle Police Officers' Guild negotiators at the outset of labor contract bargaining are exempt from disclosure under the Public Records Act.

The Washington Supreme Court denied the ACLU's petitions for direct and discretionary review.

- **Beal v. City of Seattle**
  (Washington Court of Appeals)
  City attorneys prevailed against a claim that an individual's vague request for background information made orally during a meeting with a department director was a request for identifiable public records under the Public Records Act.

- **Various Public-Records Act Litigation**
  City public disclosure attorneys defended or negotiated settlements in several other public records lawsuits.

- **Public Records and Public Disclosure Advice**
  Provided legal advice and assisted with drafting a public rule applicable to all City Executive departments that establishes City-wide procedures and standards to follow when responding to public disclosure requests.

- **Social Networking Advice**
  Provided legal advice and assisted with drafting Legislative department and Executive department policies that apply to the use of social networking media by City Council members and City Executive departments.

EMPLOYMENT SECTION

With some 11,000 employees, including many union members, the personnel and labor issues facing the City are complex and diverse. In conjunction with the City's Personnel Department, the Employment Section is responsible for personnel policy development and labor relations matters, including litigation, civil service and arbitration proceedings. The Employment Section advises on legal requirements related to labor and employment law, and represents the City in legal disputes around employment issues.

- **Advice**

Eight City attorneys give day-to-day advice on issues such as disability accommodation, harassment and discrimination complaints, wage and hour laws, labor law, contract requirements, employee discipline, safety, employee classification, and leave rights.
By advising departments before decisions are made, Section attorneys help assure that legal standards are met, give employees the protection they are entitled, and reduce and prevent litigation.

- **Litigation**

When litigation can't be prevented, Section attorneys represent the City in lawsuits, arbitrations, civil service appeals and settlement negotiations. The litigation demands in the Section range from complex class actions to hearings before arbitrators and civil service commissions regarding alleged employee misconduct.

- **State and Federal Cases**

The section litigated a number of complex individual suits in state and federal court in 2009. The cases included:

  - A lengthy federal court trial in which a Municipal Court employee alleged violation of his constitutional rights. He had been fired for giving information to the City's finance department about his boss's handling of traffic and parking fines.

  - A contract action brought by employees of the Woodland Park Zoo, which ended in a favorable decision by the State Court of Appeals.

  - The successful defense of two federal cases alleging discrimination on the basis of sexual orientation.

  - A reverse discrimination case by a firefighter.

  - A race, gender, and sexual harassment suit by the driver of a heavy truck for the Seattle Department of Transportation.

  - A whistleblower lawsuit in state court brought by a Deputy Chief in the Fire Department.

  - The section continues to defend a claimed class action regarding the City's payroll practices. The case is pending in King County Superior Court following a largely favorable ruling by the Court of Appeals. The section handles all such cases through the discovery, trial and appeal phases.

Civil Service Hearings and Arbitrations

Once again, a large part of the Section's work involved discipline hearings against City workers, including police officers and others accused of misconduct. These hearings may be held before either the Seattle Civil Service Commission, the Seattle Public Safety Civil Service Commission, or pursuant to a collective bargaining agreement, before an arbitrator. Many hearings are lengthy and complicated because City employees are entitled to full evidentiary hearings when they are suspended or terminated.

Public Employee's Relations Commission

The Section's attorneys also spend many hours preparing for and attending hearings before the Public Employee's Relation Commission. That Commission hears challenges to purported changes in wages, hours and working conditions of the City employees represented by unions.

In 2009, the Section successfully defended the City's practices regarding its right to discipline employees, even though the parties had not yet completed negotiation of an initial collective bargaining agreement. The Section also confirmed its right to interview union members as it prepares for arbitration hearings.

TORTS SECTION

The Torts (Claims) Section defends the City in personal injury and property damage cases, which span the spectrum from minor matters to multimillion-dollar lawsuits. In 2009, the Section opened 106 cases and 21 project files.
The Section also engaged in an extensive and wide-ranging advisory practice that focused on loss prevention and litigation avoidance.

Risk Management

The Section provided legal support for risk management activities in operating departments, including Seattle Public Utilities, Seattle Department of Transportation, the Seattle Police Department, and the Seattle Center.

The Section's attorneys provided legal support in connection with a host of incidents, exposures, programs and opportunities. An example includes the interpretation of the Americans with Disabilities Act, aimed at maintaining access to City buildings and services by the disabled pubic without litigation. The Section's attorneys provided direct training to operating departments on risk management techniques and approaches.

Personal Injury and Property Damage Litigation

The Torts Section's work in 2009 ranged from allegations of wrongful death and catastrophic brain damage cases, to comparatively minor sidewalk trip and falls. Three significant cases were tried before juries:

- The *Robinson* case, in which the plaintiff sustained a serious brain injury and orthopedic injuries, involved claims of negligent road design. After a six-week trial, the jury returned a unanimous verdict in favor of the City. The verdict was not appealed.

- The *Jones* case (a firefighter fell down a fire pole hole and was seriously injured) was tried to a jury by outside counsel. After a seven-week trial, the jury found liability against the City and awarded $12,752,094 in damages. The case is on appeal to Division I of the Court of Appeals.

- The *Struthers/Otrubova* case (waterfront property damage case) was tried to a jury by outside counsel and resulted in a jury verdict in favor of the City. That case is pending on appeal.

In addition, the Section obtained dismissals and favorable settlements in numerous cases. Examples include:

- The *Tarutis* (*Messenger*) case, (a $10 million claim alleging negligent road design) was dismissed on summary judgment. The plaintiff has appealed that dismissal.

- The City reached a $75,000 settlement on a $30 million claim alleging negligent bridge maintenance in the *McMacken* case.

- In *Smith*, the plaintiff demanded $250,000 in a case involving $60,000 in medical specials. The City settled for $35,000.

- In *Harmon*, the City settled for $10,000 a case where the plaintiff incurred $97,000 in medical specials and claimed general damages of $405,000.

- The *Lindell* case (wrongful death case involving a Seattle police officer). Claims were made by the plaintiff that the City's negligence caused his death. The case was settled for $2 million, all of which was paid by the City's insurance company.

The Section also assisted the Risk Management Division of the Department of Executive Administration in obtaining these settlements:

- The *Estate of Zhou* claim (wrongful death by survivors of a pedestrian struck and killed by a City vehicle).

- The *Sandpointer Condominium* claim, following a significant flooding event.

- A serious personal injury claim where a disabled person fell on a poorly repaired non-compliant ramp that provided access for disabled persons. After the accident, the ramp was appropriately repaired.

Appellate Litigation

The Torts Section engaged in an active appellate practice throughout 2009.

- In *Rosengren*, the City obtained a favorable decision from the Court of Appeals, Division I, holding that abutting property owners who plant private trees that damage the public sidewalk and cause pedestrian injuries can be liable.

- In *Dougherty*, Division I of the Court of Appeals affirmed the dismissal on summary judgment of a case where the plaintiff sought a declaration judgment that a patient has the right to command Medic One medical personnel to take the patient to a specific location, and secondly has the right to insist upon transport but refuse treatment en route.

- In *Chen*, the City obtained a dismissal on summary judgment of a negligent road design case. Division I of the Court of Appeals reversed the dismissal. The City has petitioned the Washington Supreme Court for review.

- In *Asuncion*, a dismissal on summary judgment was upheld by Division I of the Court of Appeals as to negligence and nuisance but reversed and remanded for trial as to trespass. Neighbors at the bottom of a slope in West Seattle experienced basement flooding during two severe downpours in 2004. They alleged that Seattle Public Utilities had failed to maintain the line and that it was inadequately designed. The Court of Appeals upheld summary dismissal of the allegations. Plaintiffs raised a "trespass" theory, claiming the City allowed development in West Seattle that channeled water to their basements.

Workers' Compensation Litigation and Advice

The Torts Section represents the City in workers' compensation litigation before the Board of Industrial Insurance Appeals and in the courts. In 2009, 26 new workers' compensation cases were opened, down from the exceptionally high number of 39 in the prior year.

In addition, four new workers' compensation projects were opened. The Section's workers' compensation attorney and paralegal continue to be working at maximum capacity as a result of the exceptionally high number of cases from 2008 continuing to impact their load.

The Section's workers' compensation attorney has also supported the Workers' Compensation section of the Personnel Department with legal advice. She also monitors legislative developments affecting the City's workers' compensation programs.

Police Action Litigation

The Torts Section Director works with outside counsel to manage the City's defense in police professional litigation. In 2009, 19 police action cases and seven projects were opened.

- The program had a successful year, achieving numerous dismissals and advantageous settlements, including *Wakgira* (which was settled after the trial ended in a hung jury) and *Potts* (defense verdict).

- The program also successfully handled two inquests into shooting deaths resulting from police fire:

    - On January 1, 2009, *Miles Murphy* was shot and killed by police after he, while dressed in a Nazi uniform, aimed his bayoneted rifle at four officers.

    - Also in January 2009, *Joseph Hradec* was shot and killed by police during an event at a motel on Aurora Avenue, after less lethal means to subdue him failed.

Both inquests resulted in favorable findings by the juries. The King County Prosecuting Attorney declined both cases after concluding officers violated no criminal laws.

Insurance Coverage Tenders

One of the City's primary risk management tools is additional insured status under insurance policies issued to the City's contractors, concessionaires, vendors, permit holders and those given street use permits to hold events on City rights-of-way. The Section's attorneys aggressively asserted the City's interests in insurance coverage in the face of denial or delay.

- In *Leonard*, the City convinced the Scottsdale Insurance Company to belatedly accept our tender in 2008. That acceptance was followed by an agreement in 2009 by Scottsdale to pay the City $163,665 in attorneys' fees and costs.

- In *Torgerson*, Safeco belatedly accepted our tender and paid the City $53,746 in attorneys' fees and costs.

Disaster Planning and Emergency Operations Center Legal Support
Torts Section attorneys provide legal support to the Seattle Police Department's Emergency Management Section. The Section's attorneys also staff the City's Emergency Operations Center to provide legal support during emergencies. The increased focus on disaster tabletop and exercises has required significant legal work by the section's attorneys.

Paralegal Support
The Section's paralegals provided vital support to the attorneys handling cases and projects. The paralegals work with sophisticated document management litigation support systems such as Summation. The paralegals manage extensive document production and track down critically important experts for cases.

Administrative Support
The Section's legal assistants provided essential document production and management, work processing, and other administrative support functions for the Section. They maintain our litigation calendars and provide quality control.

Non-City Litigation Advice
City employees are sometimes involved in work related cases and issues where, even though the City is not a party to the litigation, the employees need legal counsel stemming from work-related issues. The Torts Section provides review and legal advice to individual City employees and client departments regarding those business-related non-City litigation issues, trial and deposition subpoenas and required witness appearances, requests for production of documents, public disclosure requests

LAND USE SECTION

Seattle plans and regulates its growth through a comprehensive plan, zoning, and other land use regulatory ordinances, including building and construction codes, environmental regulations, and landmarks preservation ordinances.

The Land Use Section advises City administrators and elected officials regarding the adoption and implementation of these various regulatory measures, advises and represents City property owners on compliance with these and other regulatory measures and defends in litigation challenges to the City's land use regulatory measures. The section also provides training on land use matters both within the City Attorney's office and for other City employees and to other municipal attorneys.

Significant Litigation:

- **1000-1100 Dexter Ave. v. City --** Successfully defended a Land Use Plan Amendment (LUPA) in Superior Court challenging issuance of Master Use Permit for a six-story mixed use building on Dexter Avenue.

- **Anderson v. Seattle --** Defending the City in a 42 U.S.C. 1983 challenge to application of City's street use code regarding vending near the stadiums by plaintiff ticket scalper.

- **Agua Verde v. Seattle --** Settled a LUPA appeal and related enforcement action regarding a kayak rental business on Lake Union. After the Department of Planning and Development (DPD) issued a notice of violation to the business for failing to get a shoreline permit. After the applicant provided additional information about the business, DPD revised its interpretation, determined the use did not need a shoreline permit.

- **ATL v. Seattle --** Assisted Government Affairs Section in defending a challenge to City zoning and licensing ordinances for strip clubs, including denial of zoning permit.

- **Alley 24 v. Seattle --** Settled a lawsuit seeking $500,000 for $20,000. The money was reimbursement for street repairs necessitated by collapse of a street when the applicant made street improvements they claimed were required by permit.

- **Campbell v. Seattle --** Provided support to the state Attorney General's office in defending a suit challenging City State Environmental Policy Act (SEPA) compliance regarding the Alaskan Way Viaduct replacement program.

- **City of Seattle v. Hugh Sisley --** In two separate Housing Code enforcement actions, the City obtained judgments for $247,400 and $368,000. The Sisleys are relentless violators of the land use and housing code. Both cases are currently on appeal. There were also two stipulated judgments entered against the Sisleys, requiring demolition of four properties by certain dates. If the demos didn't occur, a money judgment would be entered for civil penalties.

- **Conner v. Seattle --** The section successfully defended the Landmark Preservation Board's decision denying a certificate of approval to build three additional houses on the site of Painted Lady landmark in West Seattle, before the Hearing Examiner, in Superior Court and before the Court of Appeals. A Petition for Discretionary Review is pending in Supreme Court.

- **Friends of Cedar Park v. City --** Successfully defended LUPA in Superior Court challenging the City's issuance of Determination of Non-Significance (DNS), and approval of a short plat that created four dumbbell-shaped lots in a critical area. The case is pending in Court of Appeals.

- **Appeal of Cherberg --** Successfully defended SPU's Determination of Non-Significance (DNS) for the Ballard storm water infiltration project.
- **Children's Hospital --** Advised and represented DPD before the Hearing Examiner and City Council, and advised City Council regarding Children's Hospital's proposed development plan (Major Institution Master Plan).

- **Fremont Neighborhood Council --** Successfully defended SPU's issuance of a DNS for reconstruction of the Wallingford Neighborhood Transfer Station before the Hearing Examiner and Superior Court.

- **Magnolia Neighborhood Planning Council v. Seattle --** In Superior Court, the Section defended a challenge to a City resolution approving the application and redevelopment plan for the Ft. Lawton Army Reserve Center.

- **Maple Leaf Community Council v. DPD --** Successfully defended before the City Hearing Examiner and Superior Court, issuance of a DNS and design review decision for the Maple Leaf Commons proposal, involving redevelopment of the Waldo Hospital site.

- **Margola v. Seattle --** Advice to the Executive regarding compliance with a settlement agreement and proposed stipulated dismissal of 1990's case challenging the City's mandatory housing code inspection program.

- **McBride v. City --** Defended the City Council's denial of rezone in Northgate.

- **McQuarrie v. Seattle (several cases) --** Defended the City's actions in Superior Court and before the Shoreline Hearings Board in approving permits for construction of a single-family house against the neighbor's challenges. The neighbor eventually settled with developer.

- **Salmon Bay Sand & Gravel v. Seattle --** Defended SDOT's decision to issue a DNS for the "missing link" section of the Burke-Gilman trail.

- **Schroeter v. Seattle –** In Superior Court, defended a suit alleging that the City must conduct a SEPA review before issuing permits to use Gas Works Park for the annual July 4th celebration.

- **Seattle Mariners v. Seattle: --** Defended LUPA appeal challenging DPD approval of permit for a new strip club near Safeco Field.

- **Strickland v. Seattle --** Defended a First Amendment claim in the Western District of Washington arising from a permit requirement for a marina owner to transmit best management practices to tenants.

PROJECTS

The Land Use Section provides advice and assistance to the Executive and Council on land use regulatory matters and a number of other subjects. Noteworthy projects of the past year include:

- **Alaskan Way Viaduct --** Continued advising Executive and Council regarding permitting, land use and real property issues related to the Viaduct project.

- **Bluefields --** Along with the Environmental Protection Section, provided ongoing advice to Executive departments regarding the use of City-owned properties for habitat enhancement credits.

- **Bonus/TDR programs –** Gave advice to the Executive and City Council regarding implementation and amendment of the City's various bonus and Transfer of Development Rights (TDR) programs. Reviewed and drafted documents for bonus and TDR transactions.

- **Code Drafting Manual --** Completed code-drafting manual to be used city-wide.

- **Combined Sewer Overflow Remediation Plan --** Provided land use permitting and SEPA advice on implementation of the remediation plan.

- **Comprehensive Plan/Growth Management Act Compliance** – Provided ongoing advice to the Executive and Council regarding adoption of annual amendments to the Comprehensive Plan and GMA compliance.

- **Environmentally Critical Areas Ordinance --** Advised the Executive and Council on implementation and interpretation issues. Also, negotiated more than 25 covenants with property owners for development on hazardous sites.

- **Fees –**Advised the Executive and Council regarding compliance with legal limits on fees. Reviewed and advised on annual fee ordinance for DPD and Council.

- **FEMA/NMFS –** Advised the Executive and Council on legal issues for new flood-prone areas and new National Marine Fisheries Service/Federal Emergency Management Agency regulations for flood-prone areas and habitat protection.

Housing and Human Services Issues

We provided extensive advice to the Executive and Council in anticipation of the *2009 Housing Levy***.**

- Ongoing advice to Executive and Council on various housing and human services issues, including laws and policies for the use of low-income housing and human service funds; Consolidated Plan amendments; Fair Housing issues; modifications, defaults or other issues with previously funded projects, and incentive zoning.

- Advice on new legal issues and document revisions regarding federal stimulus funding (ARRA).

Jail Siting

The Section provided ongoing advice regarding SEPA and land use code compliance issues for selecting a site for a future jail.

Landmarks

- Advised the Executive and Council regarding a large number of landmarks designation ordinances designating properties as landmarks and imposing landmarks controls and providing incentives.
- Developing new ordinance template for use by Department of Neighborhoods.

Land Use and Construction-related Code Amendments

Provided advice to Executive and Council, drafted and reviewed land use and construction-related code amendments, including the following (some have been adopted, and others are pending):

- Provided major amendments to the Multifamily sections of the land use code.
- Amended and "cleaned up" numerous code sections in an Omnibus ordinance.
- Created a Pike/Pine overlay district.
- Amended the Environmental Critical Areas code.
- Added provisions allowing reuse of certain properties for other uses in industrial zones.
- Amended the Single Family provisions to authorize backyard cottages, also known as detached accessory housing.
- Amended the permit expiration rules to allow previously approved and otherwise vested projects additional time to construct in this difficult economy.
- Amended the SEPA ordinance to protect views of the Maple Leaf Reservoir;
- Adopted a new Grading Code.
- Amended the Side Sewer Code.
- Added provisions to allow projects to meet the "Living Building Challenge."
- Streamlined administrative design review procedures for certain types of projects.
- Amended provisions to allow additional height for certain projects in the South Lake Union area.
- Added provisions to allow a use on properties bordering a neighboring city to be consistent with uses allowed under that city's zoning code.
- Added exemptions to the sidewalk construction ordinance.
- Added a new height limit for woodshops.
- Amended various provisions relating to the South Downtown (SODO) area.
- Amended the sign code provisions for the Sand Point Overlay district.
- Amended the City's Building Code and Electrical Code to comply with newly adopted State Building Code and Electrical Code amendments.
- Started a review of the International Existing Building Code, and Plumbing code to comply with newly adopted State code amendments.
- Updated the Design Review guidelines.
- Amended provisions to allow redevelopment of the North Lot of the former Kingdome.
- Provided for a tree commission and tree protection.

- Advised on amendments regarding the University of Washington's Metro Tract.
- Provided for rezones in the Northgate area and review of Northgate design guidelines.
- Proposed new incentive zoning provisions.
- Developed amendments to the affordable-housing incentive programs.

- **Mercer Corridor Project –** Advised regarding National and State Environmental Policy Act compliance and negotiations for a Section-106 agreement for preservation of landmark auto dealerships.
- **Multifamily Tax Exemption –** Ongoing advice to the Executive and City Council on the program and amendments to the program. Reviewed resolutions for individual projects to be approved by Council.
- **North Highline Annexation** – Advised Executive regarding consideration of possible City annexation of a portion of North Highline.
- **Public Disclosure Responses –** Responded to public disclosure requests and advised Executive and Council regarding responses to land-use related public disclosure requests.
- **Quasi-judicial and Type V Decisions –** Advised Council on processing decisions with appearance of fairness doctrine, and reviewed proposed findings and decisions, ordinances and Property Use and Development agreements for more than 20 rezones.
- **Relocation Assistance –** Advised the Executive regarding compliance with and interpretation of the City's relocation assistance code, SMC Chapter 20.84.
- **SEPA/NEPA –** Provide advice to Executive Departments and Council regarding compliance with State/National Environmental Policy Act for City and private projects.
- **Shoreline Code Update –** Advised on state-mandated updates to shoreline code.
- **Signs –** Continued advising the Executive and Council regarding signs, billboards, and banners issues.

- **State Legislation Review:** Review of various bills in State Legislature regarding land use, growth management, eminent domain, housing, condominiums, etc., with related advice to Executive, drafting of alternative language.

- **Stormwater Code Update:** Along with the Environmental Protection section, we advised the Executive and Council and drafted Stormwater Code amendments to comply with recently-issued National Pollutant Discharge Elimination System (NPDES) permit; particularly issues related to Growth Management and critical areas compliance.

- **Subdivision review process improvements:** Advised and worked with both DPD and SDOT regarding existing processes, code amendments, and training on reviews.

- **Street use and SDOT-related services –** Ongoing advice to the Executive and Council connection with:
  - Annual street use permits
  - Skybridge and term permits
  - Subdivision and plat approvals
  - Dedications
  - Residential Parking Zone amendments

- Street vacations
- Street use fees
- Encroachments.

Transactional work:
In connection with City-financed low-income housing, economic development, and community facilities, we advised the Executive and City Council, reviewed ordinances, and prepared transactional documents for various projects, primarily low-income housing and community development, including:

- Alpha Cine Section 108 loan
- Chubby & Tubby Site Housing Loan and OED Section 108 loan
- Sand Point Housing for the Homeless
- Bakhita Gardens (Noel House)
- Cannon House (workout arrangements on defaulted HUD loan)
- Rose Street Housing
- Monica's Village Housing (Catholic Community Services site)
- First & Cedar—Plymouth Housing
- Willis and Reunion Houses (SHA ARRA-funded projects)
- New Beginnings
- Scargo Hotel
- Various community facility projects

Parks and Bike Trails – Advised and assisted the Executive and Council on various issues, including encroachments, acquisition and development issues, and drafting and review of agreements and legislation. Some of projects for the past year include:

Parks Acquisitions:

- Agreement and closing with Cornish College of the Arts for a park acquisition in the Denny Triangle
- Closing of the Agreement with the Seattle School District for acquisition of a portion of the former Crown Hill school property
- Closing of the Agreement with Seattle School District for acquisition of a portion of the former Webster school property.

- **Burke-Gilman Trail –** Completed an agreement with Nordic Heritage Museum regarding an easement for the trail extension.
- **King County Easements –** Ongoing negotiations and discussions with King County regarding wastewater pipeline easements on and under park property.
- **South Ship Canal Bicycle-Pedestrian Trail –** Ongoing advice on construction of Phase II, including railroad issues, permit issues, and agreements with adjacent property owners.
- **Rental Housing Licensing and Inspection –** Advised the Executive and Council regarding proposed state legislative amendments and the potential affect on the City's enforcement programs and future options.

- **Utility undergrounding:** Contributed to an interdepartmental team composing a draft City policy for undergrounding utility wires.
- **Yesler Terrace Redevelopment:** Began consultations on Yesler Terrace redevelopment plans and related zoning alternatives.

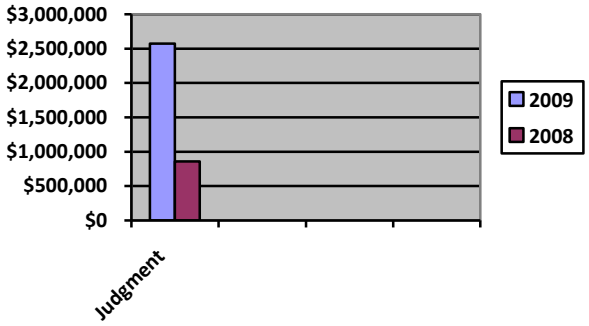
Code Enforcement:
The Land Use section handles enforcement cases for DPD, SDOT, and Parks, enforcing the City's housing, land use, and street use codes. Although cases are fairly routine, some require more aggressive and creative action to achieve results.

In the more difficult cases, attorneys seek orders of abatement, allowing the City to correct the violation, receive injunctive relief, or guardianships. Although the majority of these cases are prosecuted in Municipal Court, the Section also handles appeals in Superior Court. In 2009, discretionary review in the Court of Appeals or Supreme Court was sought in at least two cases.

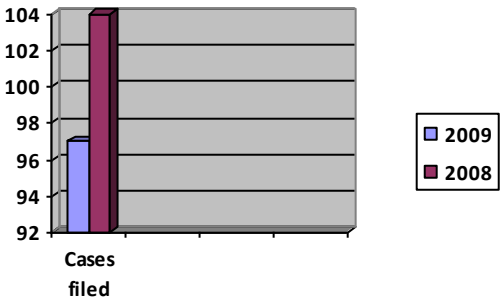
- The Section filed **97** enforcement cases and had **$2,571,680.16** in judgments entered.
- The Section collected **$204,372.20** in penalties, and closed at least **169** cases that had been referred for prosecution.
- The Section sought and obtained **16** abatement orders.

Code Enforcement:

Judgments:



Cases Filed:



ENVIRONMENTAL PROTECTION

The Environmental Protection Section represents City departments on matters involving an array of environmental issues. The litigation tends to involve millions of dollars and requires many hours of staff time.

Significant lawsuits staffed by the section in 2009 include:

City v. Chevron
The City sued Chevron and other former owners and operators of a site that the city purchased for construction of Fire Station #38. The site was contaminated by former gas station operations. An attorney in the environmental section represented the City in this case, which was favorably settled. The City will recover about 90 percent of its out of pocket costs for cleanup of the site.

City v. Boeing
The City sued Boeing in 2007 to get Boeing to pay its fair share of costs for investigation and cleanup of contamination in Slip 4 of the Duwamish River. During 2009, an attorney and paralegal in the environmental section worked in close partnership with outside legal counsel, saving the City hundreds of thousands of dollars. Dozens of witnesses were deposed and more than 64,000 documents were reviewed and indexed. A settlement favorable to the City was reached in 2010.

Verbeek Properties v. City
The City was sued by a landowner claiming that contaminated soil was brought from a City site and used as fill on his property. Attorneys in the environmental section identified insurance that may cover part of the City's liability and secured agreement from the insurer to pay defense costs. We also negotiated an agreement with the owner and another liable party to put the litigation on hold while the contaminated soil was investigated and removed, with the goal of settling the case out of court.

Much of the Environmental Protection Section's work is advising City departments how to comply with state and federal environmental laws. In 2009, key projects of this type included:

Gas Works Park
An attorney in the section worked closely with Seattle Public Utilities and Parks and Recreation to investigate contamination remaining from the former gas plant at Gas Works Park. The contamination is primarily in underwater sediments next to the park. Both EPA and the Washington Department of Ecology are involved with this site, making it very complex from a regulatory point of view.

Duwamish River Sediments
The City is one of four parties investigating contamination in the lower six miles of the Duwamish River pursuant to a joint order by EPA and the Washington Department of Ecology. Attorneys in our section advised City staff on complex legal issues to help them make strategic decisions, and negotiated with attorneys representing other parties.

Boundary Relicensing
Seattle City Light is in the midst of an intensive process to relicense its hydropower facility in Boundary, Wash. An attorney in the Environmental Protection Section assists with legal issues that arise.

NPDES Permits
The City's stormwater conveyance system and parts of its wastewater system are each subject to a permit under the Federal Clean Water Act, known as a National Pollution Discharge Elimination System (NPDES) permit. The Section advised SPU how to comply with the permit requirements and associated regulations.
Recently, the section advised SPU regarding the legal issues of Low Impact Development ("LID"), which is a technique to have storm water retained, reused, or infiltrated into the ground on site, rather than flow into the conveyance system.

Alaskan Way Viaduct and Sea Wall Replacement
Replacement of the Alaskan Way Viaduct and the nearby seawall raise many environmental issues. The Section is part of the multi-disciplinary Law Department team that advises the City on the project.

Water Rights
The Section provided legal advice to SPU and SCL on issues related to the extremely valuable water rights that the City owns.

Derby Creek
Derby Creek flows through an area where the water pipeline from the Tolt watershed is located. Somehow the creek was diverted into the pipeline right-of-way, creating maintenance problems. The Section helped SPU investigate, advised on legal options, and helped SPU negotiate agreements with other parties without litigation.

South Park Landfill
The City is participating in the investigation of contamination at the former South Park Landfill pursuant to an agreed order issued by the Washington Department of Ecology. The Section works closely with staff as they negotiate with other parties and implement the order.

Fire Station No. 2
Fuel stored in underground tanks under Fire Station No. 2 (Fifth Avenue and Bell Street) apparently leaked into the adjacent alleyway, where it penetrated the wall of a privately owned parking garage. For the past several years, Fleets and Facilities has been investigating and then removing the contamination. The Section gave advice on regulatory requirements and negotiated with the property owners.

Other contaminated sites

Some of the other contaminated sites the Section worked on in 2009:

- **Magnuson Park** – Various locations where contamination remains from Navy use.
- **Puget Park** – Contaminated with cement kiln dust.
- **Kenyon Street bus barn** – Future site of the new South Transfer Facility, which is contaminated with cement kiln dust.
- **Sunny Jim** – Site of the former Sunny Jim peanut butter factory, which is now owned by the City, was alleged to be the source of contamination in groundwater under a nearby property.

The environmental section, like other sections, also spends a significant amount of time responding to requests for documents under the Public Records Act.

Utilities

The City of Seattle is unique in that it owns its own water, electricity, drainage and solid waste utilities. Utilities law is a highly specialized and complex area. Accordingly, the City Attorney's Office has specially-trained attorneys who support these complex operations and the resulting litigation issues that arise from them.

Litigation: 2000-2001 West Coast Energy Crisis Refunds

Section attorneys provided ongoing representation of the City Light Department in the appeal of Federal Energy Regulatory Commission's denial of refunds to City Light and others for energy purchases during the energy crisis. City Light's claims currently are in excess of $100,000,000. Section attorneys also provide ongoing representation of City Light in lawsuits filed in state court in California by investor-owned utilities, against City Light and others, seeking refunds on transactions entered into during the energy crisis.

BPA

Section attorneys have appeared and represented City Light in several Ninth Circuit Court petitions arising out of the Bonneville Power Administration's Residential Exchange Program. The Ninth Circuit petitions have been consolidated into two primary consolidated petitions: (1) challenging BPA's Record of decision in its WP-07S rate case; and (2) challenging BPA's Record of Decision in its Short Term Bridge Residential Purchase and Sale Agreement for the Period Fiscal Years 2009-2011 and Regional Dialogue Long-Term Residential Purchase and Sale Agreement for the Period Fiscal Years 2012-2028.

Projects and Contracts:

Power Supply -- Section attorneys advised City Light on power sales transactions and counterparty credit issues, implementation of an Open Access Transmission Tariff and participation in the Northwest Power Pool, including the review of agency agreements utilized for compliance with federally mandated reliability standards.

Boundary Dam Relicensing – Section attorneys advised City Light regarding City Light's FERC relicensing of its Boundary Hydroelectric Project.

Solid Waste System -- Section attorneys provided advice on Green Fee ordinance, new collection contracts, rate revisions and amendment of the Long Haul contract.

Stormwater Facility Credit Program -- Section attorneys provided advice on creation and implementation of program.

Side Sewer Code Enforcement -- Section attorney provided advice on revising the Side Sewer Code and its enforcement provisions for Clean Water Act compliance.

Greenhouse Gas (GHG) Offset Contracts -- Section attorneys provide ongoing advice to City Light related to purchase of GHG Offsets or carbon credits to reduce the utility's overall carbon footprint.

South Lake Union (North Downtown) -- Section attorneys provided ongoing advice and contract drafting for a $12.2 million property acquisition for a new City Light substation (closed in November 2009); provided advice related to ongoing environmental issues and closing out the leaseback of the Greyhound property, scheduled for March 2010. This includes ongoing advice on the financing of North Downtown network electric service.

East Side Reservoir -- Section attorneys provided advice and assistance in negotiation of the potential sale of an SPU reservoir to Cascade Water Alliance.

Port of Seattle -- Section attorneys provide ongoing advice, negotiation and drafting to resolve Port of Seattle requests for street vacations at Terminals 5, 18, 25 and105, where SPU has major utility infrastructure.

Alaskan Way Viaduct -- Section attorneys advised City Light and SPU on utility relocation necessitated by the Alaskan Way Viaduct (AWV) project. This included negotiating and drafting two sets of agreements with the State for two of the AWV projects that involve relocating City Light and SPU facilities south of the downtown area, as well as advising on the various legal issues related to the bored tunnel alternative.

Electric Utility Poles -- Section attorneys provide ongoing advice and contract negotiation , including amendment of the Joint Use Agreements, regarding poles jointly owned by Qwest, City Light and King County, as well as poles jointly owned by City Light and Verizon. Section attorneys also provided advice to City Light related to updating the terms and conditions for rental of space on poles (pole attachments), and assisted City Light in drafting legislation amending the Seattle Municipal Code to update and clarify provisions regarding pole attachments.

Bonds -- Section attorneys provide ongoing advice to City Light and SPU on their respective bond issues, which ranged from approximately $130 million to $450 million in 2009 and included new bond instruments authorized under the American Recovery and Reinvestment Tax Act.

Real Property General -- Section attorneys assisted with acquisition of two properties for conservation purposes under City Light early action program; acquisition of three DNR Trust Land parcels for wildlife habitat protection under the FERC Skagit Settlement Agreement; negotiating and

drafting of easements and other real property documents for various projects for SPU (e.g., Lake Union permits, incidental use policy, land exchanges with Sound Transit, Cedar River Watershed acquisitions) and City Light (e.g., East Marginal Way pole relocations, logging road easements). Section attorneys provided advice on property management problems including encroachments, trespass and illegal dumping.

Long-Term Water Supply Contracts -- Section attorneys provide ongoing advice and contract negotiations regarding emergency interties and new long-term wholesale water supply contracts with multiple municipalities and water districts.

Franchise Issues -- Section attorneys provide ongoing advice and contract negotiations regarding various issues under SPU's franchises including design and construction to relocate water utility infrastructure required under SPU's franchise with Shoreline and extension of Lake Forest Park franchise.

ADMINISTRATION DIVISION

The Administration Division provides support to the City Attorney's Office by providing budgeting, accounting, human resources, clerical and information technology to comply with legal, administrative, and accounting regulations, achieve efficiencies, and find innovative solutions to reduce costs.

Security

In response to a Washington Access to Criminal History audit by the State Patrol, staff initiated background checks and fingerprinting of all current Criminal Division employees, volunteers, interns, and contractors. In addition, the same individuals were required to sign a Criminal Justice Information Systems (CJIS) security addendum form.

In 2010, in order to fulfill Federal compliance requirements, the Administration Division will fingerprint custodial staff, building management and other City employees who have unescorted access to Criminal Division work space.

Drug Market Initiative

The Administrative staff assisted in the preparation and tabulation of a Drug Market Initiative Survey of 2,000 residents and businesses in the East Precinct. The survey was designed to measure neighborhood opinions regarding public safety, law enforcement, and ongoing drug-dealing issues. A follow-up survey is planned for 2010.

Information Technology Efficiencies

The City Attorney's Office joined in the city-wide effort to implement the Microsoft Exchange/Outlook email system. This significant body of work paved the way for better integration into applications and the planned implementation of a City email archiving system.

Mimosa Archiving System
The Information Technology staff participated in the evaluation and selection of a vendor for the email achieving system and provided valuable advice and planning perspectives related to the implementation of the "Mimosa" archiving system. The testing and development took place during late 2009, with the goal of implementing Mimosa in the first quarter of 2010.

Microsoft Office
The City Attorney's office standardized the Microsoft Office 2007 suite as part of another city-wide effort. The update finally brought all departments to the same version removing the previous issues when operating in a mixed environment. The Information Technology staff support 180 Desktop computers to staff in the City Hall building (Civil Division), Seattle Municipal Tower (Criminal Division) and five police precincts.

Public Disclosure Request Response
The Administration Division coordinated responses to 113 public disclosure requests sent specifically to the City Attorney's Office during 2009. Assistant City Attorneys provided compliance training and legal advice regarding public disclosure requests to staff from other City departments, the Mayor's Office and the City Council.

Year	Number of Requests
2009	113
2008	110
2007	59

Interns and Volunteer Programs
The Administration Division actively recruits and engages volunteers and interns to provide citizens and law students with a first-hand opportunity to expand their knowledge of the criminal justice system and have valuable "real world" legal research and trial experience.

In 2009 the program had a record number of participants. In all, 33 volunteers or interns contributed a total of 7,609 hours to the Criminal Division and 15 interns gained on-the-job experience working more than 3,000 hours with Civil Division attorneys. The participants represent universities and law schools in Vermont, Massachusetts, Louisiana, Missouri, Oregon, California and Washington.

Emergency Preparedness
Staff participated in emergency evacuation drills as well as "Drop Cover and Hold" exercises related to the City's earthquake preparedness initiatives. In addition, a number of "first responder" attorneys received orientation training at the new Emergency Operations Center in 2009. Additional training for an expanded group of participants planned for 2010. A full review and updated process for "The Emergency Operations Center Resource Notebook for the Law Department" responders was started in 2009 with completion expected by the spring of 2010.