

**CITY ATTORNEYS AND CORPORATION COUNSEL:
THE ORIGINAL COMMUNITY PROSECUTORS
AND PROBLEM SOLVERS**

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February 2002

Working Paper #02-02-06

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City attorneys and corporation counsel are key players on the front line of crime control: they deal with the majority of committed offenses and offenders, many of them serious, as well as exercising jurisdiction over quality of life offenses. At the same time, their role and influence extend well beyond the power to prosecute, as their activities over the past few years demonstrate. Some city attorneys, such as those in Seattle and San Francisco, have been partners in the development of community policing,¹ while in Grand Rapids, Michigan, the office assisted in the creation of a police/civilian appeal board to review police activities during a sensitive time when African-American residents were concerned about possible racial profiling. In Seattle, City Attorney Mark Sidran developed extensive legislation to address quality of life issues.² San Diego City Attorney Casey Gwinn has become a spokesperson for

“In lots of big and small cities around the United States, control over important elements of what will become either problem-solving prosecution, or community prosecution, is in the context of some kind of misdemeanor order maintenance strategies, some kind of nuisance abatement, civil remedy strategy. And those things are quite often not going to be under the control of the county prosecutor, or the district attorney....”

[Seattle City Attorney Mark Sidran]

and nationally recognized educator in issues related to domestic violence, while deputy city attorneys in his office work with neighborhood policing teams and community groups on POP (problem-oriented policing) projects. San Jose’s city attorney successfully pursued an anti-gang nuisance abatement effort upheld by the California Supreme Court in 1997 (People ex rel. Gallo v. Acuna) that brought relief to desperate local citizens.

Around the country city attorneys have brought suits against gun makers,³ led or joined efforts using code enforcement and public nuisance suits to close drug houses and clean up neighborhoods, helped devise and implement legislation aimed at reducing prostitution and other quality of life concerns, and worked directly with citizens to develop and implement crime prevention and juvenile justice programs. The potential impact of these crime control practices is matched by the equally significant core work of city attorneys—providing informed advice and assistance to mayors, city managers, city councils, and city departments in setting policy and doing their jobs on a day-to-day basis.

Nevertheless, all these areas of practice are overshadowed by the attention and prestige accorded district attorneys and county prosecutors for their prosecution of felony crime, and the greater visibility of police in the eyes of the public. In fact city attorneys are crucial, even necessary, partners for district attorneys who move into community prosecution and continually “bump up” against the domain and functions of municipal attorneys. And for more than a few city attorneys, the “new” prosecution practices are not merely familiar--their offices are already at the cutting edge of community prosecution, and they are beginning to speak out and pursue ever more active agendas.

In this chapter, we look briefly at attributes of city attorney roles that affect their potential for contributing to crime control; then focus upon discrete activities of city attorneys that constitute an important part of community prosecution efforts across the country. In both of these discussions, we draw upon the experiences and comments of Mark Sidran, who as Seattle’s City Attorney has pioneered in the area and whose office was awarded a community prosecution grant in 2000 by the Bureau of Justice Assistance. Finally we examine exemplary community prosecution practices in two other city attorney offices—San Diego, California, and Grand Rapids, Michigan. Our conclusions are that greater attention to the work of city attorneys nationwide would serve both city attorneys and their clients—mayors, city councils and managers, and the local community—well, and recognition of their contributions will enable us to better appreciate the full range of current developments in community and problem-oriented prosecution.

I. The Mission of the City Attorney/Corporation Counsel

In a number of important respects, the mission and duties of city attorneys are fundamentally different from those of state prosecutors. Perhaps the most significant dissimilarities arise from the fact that the city attorney is more than a prosecutor. First, s/he has a client. Boston’s City’s Law Department acknowledges this responsibility in its formal stated mission, “to provide a high level of professional legal services to its clients—the Mayor, the City Council, and City departments—regarding their official capacities within City government.” Furthermore, unlike most district attorneys/county prosecutors, the city attorney or corporation counsel is usually appointed by the city manager, mayor, or city

“I think that an elected city attorney can exercise a certain amount of independence to undertake community-oriented efforts. A city attorney appointed by the City Commission can also take significant steps toward those objectives, when the City Commission wants to see them pursued. If the city attorney is more closely aligned with the City staff – such as one who is appointed directly by a city manager – you might have less community-oriented efforts that cause stress...or ‘push the envelope’, for management to deal with, and it’s important to look at these things....”

[Assistant City Attorney Bernard Schaefer, Grand Rapids, Michigan]

council/commission. These factors affect the degree of independence with which most city attorneys operate: a city attorney who is elected, or appointed by and directly accountable to a city commission or council, is likely to be more responsive to public pressure and desires. All city attorneys and corporation counsel are connected to problem solvers in government in ways that district attorneys are not.

The various tasks of the city attorney require an office that operates in many respects like a civil law firm. Most offices

have, at minimum, a litigation section that defends the city or sues on its behalf (for example, to collect taxes or to bring nuisance abatement or zoning suits); a prosecution section that handles misdemeanor and/or ordinance violation cases; and a corporate services department that develops and reviews legislation and provides legal assistance to city officials, departments and agencies. The corporation counsel or city attorney often advises the police department and defends it in suits brought against the department or the city.⁴ These functions and responsibilities carry with them access to resources and tools that the city attorney can draw upon in crime control efforts and in community prosecution.

II. City Attorneys/Corporation Counsel as Community Prosecutors

Four elements of the community prosecution strategy as implemented by district attorneys have direct parallels in the work of city attorneys: (1) according high priority to misdemeanors and low-level (including quality of life) offenses; (2) adopting a problem-solving approach to reducing and preventing crime that employs a variety of tactics (such as civil law and civil remedies, code enforcement, and drafting of legislation); (3) joining in active collaborations with police, other justice agencies, and local government officials; (4) developing direct accountability to and working relationships with citizens and groups in the local community. The practices of city attorneys in these areas illustrate the unique capacities, assets, liabilities and approach to problem solving that they bring to community prosecution.

Misdemeanors Matter to the City Attorney: Prosecuting Low-Level Offenses

According to City Attorney Mark Sidran, attending to disorder offenses and misdemeanors is “the single most neglected tool in the criminal justice system’s tool box.” Sidran explains that misdemeanors matter in four ways. First some, like domestic violence and drunk driving, are serious in themselves: by dealing with them early on you can prevent escalation in violence. Second, career criminals commit misdemeanors as well as violent crime, and misdemeanor charges offer a means by which they often can be apprehended, prosecuted, and taken off the streets. Third, misdemeanors are at the core of order maintenance efforts. Fourth, attention to misdemeanors helps to socialize children, teaching them about the value of following rules, and self-control.⁵ If misdemeanors “matter”—if attending to them can affect overall conditions of crime, public safety, and quality of life—then what prosecutors and police do about them also matters. City attorneys can do a great deal.

“When you take the misdemeanor responsibility and give it to a city prosecutor, it creates an entirely different dynamic.... Because, my number one job, as...a city prosecutor, is misdemeanor law enforcement. That includes serious cases, like domestic violence, but it also includes order maintenance.
“My issues, in terms of management and motivation and reward, are very different than you’re going to find in an integrated prosecutor’s office that has to deal with the people who want to be homicide prosecutors and felony trial lawyers on the one hand and don’t really see the payoff in misdemeanor prosecution, or aren’t interested in doing nuisance abatement, or landlord tenant kinds of issues.”
[Seattle City Attorney Mark Sidran]

For city attorneys, misdemeanors matter in a different sense as well. City attorneys generally prosecute ordinance violations (including quality of life offenses), traffic offenses (often shared with other prosecutors’ offices), and some misdemeanors such as domestic violence. Although the 1998 BJS survey of state court prosecutors reports that 91 percent had jurisdiction over misdemeanor cases and 82 percent handled traffic violations, a state prosecutor may opt to leave most misdemeanor prosecutions to the city attorney.⁶ And the line dividing misdemeanors from felonies is often blurred: in practice, as district attorneys, assistant city attorneys, municipal court judges and police all report, misdemeanors and even felonies are routinely filed in municipal courts as ordinance violations.⁷

Far more than is true for district attorneys, the culture of a city attorney’s office dictates that misdemeanors and low-level offenses are a priority. Attorneys not facing constant comparison with felony prosecutors whose work is more highly valued can concentrate on misdemeanors without

distraction. The result in many city attorney offices (where resources are available) is a proliferation of programs to address low-level offenses. Clearly the value placed on specific issues or violations depends in part upon the policies and tone set by city government, as well as demand emanating from the police and the local community—often in the form of requests for attention to discrete problems identified by local citizens in their own neighborhood. In Indianapolis, for example, an anti-panhandling ordinance was never enforced until a new mall opened downtown in 1995 and local merchants approached the City, anticipating panhandling problems: city attorney staff and police responded by standardizing enforcement and the filing of cases, and prosecution under the ordinance became a high priority.⁸ At times, misdemeanor enforcement can raise objections and opposition develops, and the city attorney can become embroiled in heated public policy debates.⁹

Positive working relationships between city attorneys and county prosecutors can lead to more effective handling of misdemeanor cases and prosecutions overall.¹⁰ In Kansas City, Missouri, collaboration takes place in areas agreed upon as high priority by the County Prosecutor and the City Attorney—especially drugs and domestic violence, where policies and programs were coordinated at the initiative of former Jackson County Prosecutor Claire McCaskill. The deputy city attorney assigned to handle domestic violence cases in a designated municipal court communicates regularly with Domestic Violence Unit prosecutors in the County Prosecutor’s Office; charging policies are jointly planned; repeat offenders are monitored through a coordinated effort; and both work with Kansas City police, who have been trained by staff from the County Prosecutor’s Office. Since the passage of COMBAT (the countywide anti-drug sales tax), which brings significant funds into the County Prosecutor’s Office, that Office has taken over low-level misdemeanor drug prosecutions, integrating the prosecutions with other drug-related problem-solving activities.¹¹

City Attorneys as Problem Solvers

City attorneys can contribute to problem solving in different capacities, as advisors to their clients, as well as by joining multi-agency collaborations created to address particular local problems. City attorneys routinely serve as experienced advisors in problem solving for mayors and city managers, city councils,

police departments and other city agencies, where their local government clients make the final decisions. But as partners in multi-agency problem-solving initiatives, they may be full participants, not only coordinating ordinance violation and misdemeanor prosecutions, but assigning attorneys to explore the creative use of nuisance abatement suits and other civil remedies, offering legal advice to staff from city departments, and assisting in the development of crime prevention efforts. Depending upon the size and resources available, some offices develop significant expertise in particular substantive areas, such as substance abuse or domestic violence, which can be brought to bear in problem solving.

The Use of Civil Law and Code Enforcement

City attorney offices frequently draw upon a

Mark Sidran on Problem Solving in the Seattle City Attorney's Office:

“Like the police, prosecutors have come to realize that some public safety and neighborhood livability problems can be better addressed through community-oriented problem solving rather than by traditional “case-by-case” prosecution. Five years ago we started the Precinct Liaison Program, assigning an assistant city attorney as a liaison to each of the City’s four police precincts to serve as a single point of contact for the police, other departments and the community when they needed legal advice and help on public safety-related issues. For example, we’ve worked with others to help reduce alcohol, drug and other illegal behaviors in Cowen and other parks, combat prostitution and drug trafficking along Lower Aurora Avenue, reduce problems associated with excessive public intoxication in Pioneer Square and elsewhere, fight violence, noise, and disorder erupting from some nightclubs, and get abandoned junk vehicles off our streets. We’ve seen the value to the community of these efforts, but felt the burden and frustration of asking our liaison attorneys to do all this on top of their normal caseloads.

“Now, thanks in part to a federal grant and savings made possible by a substantial reduction in prosecutions for driving with a suspended license, we’re taking our community prosecution efforts to a new level – assigning one attorney full-time to the West Precinct and one attorney split between the South and East Precincts. Relieved of their usual caseloads and officed in the Precincts, these attorneys will devote themselves to helping solve public safety problems.... The liaison prosecutors’ primary responsibilities include identifying community concerns; building linkages with our problem solving partners; litigating appropriate code and criminal violations resulting from problem solving efforts; and facilitating community and intergovernmental communication and cooperation. I believe that getting outside the box of traditional case-by-case prosecution and getting into the community will mean we can do more to help make Seattle safer and more livable.”

[From **Liaison Links**, Vol. 1, Issue 1(September 2000), quarterly newsletter of the Seattle City Attorney’s Precinct Liaison Program.]

host of civil remedies—such as nuisance abatement, health and safety code enforcement, forfeiture actions, historic preservation ordinances, eminent domain, and legislation authorizing receivership—as particularly effective tactics for reducing crime and improving safety. City attorneys often have more training and experience in civil law than do criminal prosecutors in a district attorney or county prosecutor’s office, and find an almost infinite array of uses in concrete situations. For example,

nuisance abatement has been incorporated into efforts to reduce crime in San Jose (CA), and replicated in other locations, where the city attorney sought an injunction to prevent knowing association among gang members in a small neighborhood in which local residents were terrorized by gang activities. The California Supreme Court upheld the injunction (*People ex rel. Gallo v. Acuna*). Stay-away orders or injunctions as conditions of bail or probation for offenses such as street prostitution and drug dealing have become standard fare for many other offices. This knowledge of civil law can make city attorneys a valuable resource for police who are involved in code or other civil enforcement activities.

Developing, Using, and Defending Local Laws

With growing attention focused on quality of life issues in the last decade, city attorneys have crafted laws to address such activities as loitering, panhandling, camping, sleeping in parks and other public places, obstructing sidewalks, and producing graffiti. They have also developed truancy and curfew laws,¹² and a broad range of other types of legislation, including Tempe, Arizona's, ordinance setting out minimum requirements for CPTED (crime prevention through environmental design) standards in new construction.¹³ Often provoking strong citizen debate and resistance, so-called "quality of life" legislation has also produced constitutional challenges that have been resolved by the courts.¹⁴

City Attorney Mark Sidran's legislative efforts in Seattle offer an example of one jurisdiction's success in this area.¹⁵ Beginning with the compilation of a careful record—thoroughly researching legal issues, gaining the strong support of the mayor and city council, and encouraging public debate—Sidran and his staff produced an array of quality of life legislative measures, including (among others) a city ordinance that prevents lying down on sidewalks in certain commercial and downtown areas during specified hours, and a park exclusion ordinance that allows parks personnel and police to administratively ban lawbreakers from parks (where violation constitutes criminal trespass). Seattle's sidewalk ordinance fared well in both federal and state court suits brought to challenge it (*Roulette v. City of Seattle*). Sidran was also instrumental in commissioning a study of local misdemeanor sentencing practices as part of his campaign to convince criminal justice officials—"from cops to prosecutors to judges to jail administrators and elected officials"—that misdemeanors matter, must be

handled in a meaningful way, and that a commitment is needed from every agency.¹⁶ Specifically, Sidran was targeting the much discussed problem of jail crowding, and related issue of capacity for misdemeanants released, or not even booked, due to lack of jail space.

In the last few years city attorneys have shown greater determination to address violent crime through local ordinances aimed at preventing and reducing gang activity. After the U.S. Supreme Court struck down Chicago's gang loitering ordinance in June 1999 (*Chicago v. Morales*),¹⁷ Mayor Richard Daley introduced new legislation crafted to meet the Court's earlier objections, limiting police discretion by targeting loitering designed "to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities."¹⁸

Community Partnerships and Accountability

As more cities today try to understand and respond to problems within the framework of local neighborhoods, community action teams, neighborhood governance teams, and citizen advisory boards for police and prosecution initiatives are being established.¹⁹ In the new neighborhood-based crime control partnerships among police, prosecutors, other justice agencies, and private citizens, citizens themselves are encouraged to take greater responsibility for maintaining order and preventing crime in their community. The role of the city attorney as a representative of city government who can work directly with such groups through these structures, who has immediate access and proximity to local government departments when their services are needed as part of crime control efforts, and who is accountable to local constituencies through working for elected officials, holds significant potential. Such potential has already been realized in locations such as Salt Lake City, Boston, Denver, and Dallas.

"When prosecutors partner with the community, they may find new reasons for doing the work that they do, feel more inspired to work on bettering policy, be more interested in law reform and have more energy and enthusiasm to prosecute more strenuously on behalf of the community they serve."

[Assistant City Attorney Laurie Kaczanowska, Denver, CO]

To sample a few of the exemplary practices and experiences of city attorneys, we look briefly at two distinctly different organizations: City Attorney Offices in Grand Rapids, Michigan, and San Diego, California contrast in context, size, and organization. Grand Rapids has a mid-sized (13 attorneys) Midwestern office, and the City Attorney is appointed; San Diego's is a large (125 attorneys) West Coast

office, headed by an elected official. The Grand Rapids Police Department is actively developing and implementing community policing, while in San Diego's Police Department it is firmly entrenched. Regardless of the differences, a problem-solving approach and community orientation permeate the work of both offices.

Institutionalizing Community-Oriented Government and Problem-Solving Processes in the Grand Rapids, Michigan, City Attorney's Office.

In Grand Rapids, Michigan, the City's *Five Year Strategic Plan: 1999-2003* sets out developing partnerships between government and private interests in the community, and a community-oriented government service delivery system, as explicit strategies for the coming years. But City Attorney Philip Balkema maintains that community and problem-oriented government are nothing new in this "small big city" (with a population of approximately 200,00; and 675,000+ in the metropolitan area): both (elected) Mayor John Logie, himself an attorney, and (appointed) City Manager Kurt Kimball share a problem-

**City of Grand Rapids Department of Law
1999 Performance Management Plan**

The Department of Law has adopted three premises in framing its performance management plan:*

1. We should measure what our employees can translate into direct corrective action, if such action is needed.
2. We should measure that which is of value to our clients, not just what is easy to measure.
3. We believe that the outcome of an employee's effort will depend not upon the performance measures used to quantify it, but upon the passion used to do it.

* Adapted from **Performance Management in Government**, the City of Grande Prairie, Alberta, Canada.

solving orientation to city government. Mayor Logie has used his position to spearhead comprehensive problem-solving efforts for reducing crime and improving the quality of life that involve widespread community participation, particularly in the areas of drug-related crime and juvenile justice. In 1997, he

identified drug-related crime in the city as the target of what would be a major local initiative, and created the Mayor's Task Force on Drug Policy Reform.²⁰ In addition, many elected city commissioners since the 1970s and 1980s have come out of neighborhood associations, bringing their concerns and problem-solving skills to governing citywide. In fact, neighborhood associations continue to be important partners of city government in reducing and preventing crime and maintaining public safety today. Seeking to preserve the tradition of active community participation, the City for over a decade has supported the

Student Participation Program, in which high school students have served on city boards and commissions—from planning commissions, to zoning board of appeals, to “sister cities.”

“Phil” Balkema joined the Grand Rapids Department of Law over quarter of a century ago; he became City Attorney upon appointment by the Grand Rapids City Commission in 1978, and faces reappointment yearly. Twelve assistant city attorneys are equally divided among the Department’s three divisions: Civil Litigation, Municipal Affairs, and Criminal Enforcement.²¹ Within city government the City Attorney has built a Law Department that works with the City Commission and City staff as a solid

team player: possessing no formal authority over others, City Attorney Office staff nonetheless function effectively in problem solving, according to Balkema, because of the respect they have earned over time. How has this happened? Early on Balkema decided that the best way to retain talented, committed attorneys would be to build the equivalent of a law firm, with three levels of assistants. Rejecting a “top

Organization of the Grand Rapids City Attorney’s Office
Total staff: 13 attorneys

***Civil Litigation Division** attorneys represent and defend the City in civil suits brought in state and federal courts, and complaints filed in administrative agencies; investigate and decide claims filed against the City for damages to persons or property; and act as legal advisors for the Police Department.*

***Municipal Affairs Division** attorneys carry out a range of tasks such as providing legal advice and services to city officials, boards and commissions; drafting ordinances and resolutions for the City Commission; handling mortgage foreclosures and the collection of delinquent housing rehabilitation loans; offering advice to citizens with problems involving the City; acting as hearing officers on contested water/sewer bills and sidewalk repair issues; providing input into proposed state or federal legislation; and serving as Freedom of Information Act agent for the City.*

***Criminal Enforcement Division** attorneys process (and prosecute) cases involving city misdemeanors (the county prosecutor has jurisdiction over misdemeanors outside the city, countywide) and traffic and quality of life offenses; provide advice and training to the Police Department and local code enforcement officers (housing, zoning, fire, environmental protection, etc.); assist the Police Department in administering domestic violence laws; assist in income tax enforcement; advise local citizens in dispute resolution; work cooperatively with judges and court personnel of the 61st district court in administration of the City’s criminal justice system; and speak to and assist students with moot court in area schools.*

down” management style, he sought out dedicated staff and then shaped an organization characterized by collegiality and consultation, encouraging staff members to explore individual interests and develop corresponding expertise that they could apply to solving problems both inside and outside the office.

At this point, Balkema says, “All of us have developed areas [of expertise]. We have a person who specializes in zoning and planning work, but he’ll sit down with the developers, too, and help them solve their problems with zoning and planning. I think the whole process of problem solving is engrained

in the institutional fabric of this organization...more now than it ever has been...especially with our priority teams and our strategic planning....” A problem-solving approach is evident even in the Criminal Enforcement Division, where in addition to processing about 10,000 cases annually,²² attorney in charge Robert Atkinson and his team have assisted police in closing down a bar that was seriously disrupting a neighborhood on the City’s south side; prosecuted violations of the trespass ordinance under which landlords can authorize police to arrest individuals present, but not legally living, on the property; and developed procedures for handling “barking dog,” bee-keeping, and illegal dumping of trash cases that often result in avoiding prosecution (or alternatively, priority prosecution).

The mandate for many assistant city attorneys includes regular work in the community—with

“First, I’m there to answer questions. That was the original reason I started going to the [neighborhood association] meetings. The people in the community would have questions: ‘What can we do about barking dogs? What can we do about noisy cars?’ A whole variety of different problems, and I would not only answer the official, ‘call the police and we’ll prosecute,’ but I would also offer solutions: ‘talk to the neighbors, get a group together and go as a committee to meet somebody, go to the community reconciliation center,’ which has been in existence here for a long time.... I would attempt to provide practical solutions for people’s problems. That would sometimes include recommending that they institute civil litigation....

“The other thing I did, was to bring information back from them to the office, and let people know both in this office and in our enforcement division office what was bothering people out in the community and...what things they should take a special look at when they came in through the normal intake process so as to be responsive to what people wanted.”

[Grand Rapids Assistant City Attorney Mike McGuire]

block clubs, neighborhood associations, and private citizens. Attorney Mike McGuire (in Municipal Affairs), recognized in 1992 for his outstanding service by the (now) International Municipal Lawyers Association, has worked in several different positions in the City Attorney’s Office over the past two and a half decades, and served once as acting Director of Neighborhood Improvement at the request of the City Manager. Now he does no litigation but spends much of his time “trouble-shooting” and responding to particular community problems. McGuire knows local neighborhoods

intimately, thrives on working directly with citizens, and can defuse tense situations when they arise.

Balkema recognized the value of his skills and has capitalized on them:

“One of the real benefits we have with Mike on the staff is that we’ll have situations that are either volatile because they’re neighbor versus neighbor, or because they’re neighborhood against other groups...and Michael is able to go out there and sort things through...and help people to work to resolution. And that’s a skill that everybody doesn’t have and, at the same time, he can do that because he has a complete working

knowledge of the law, criminal and civil, and what cities can and can't do, so he really knows what we can do, how we can do it, and how we can problem solve.”

Barb Lester, crime prevention community organizer for the last sixteen years for the Heritage Hill Neighborhood Association, has worked with McGuire since the 1980s. Covering an area with historic buildings adjacent to the downtown area (now designated a national historic landmark), the Heritage Hill Association was formed in 1968. During the mid-1980s an upsurge in drug-related violence (particularly involving crack cocaine) began to impact the area. In 1986, when neighbors suspected they had a local crack house and tried to speak with police, they were told there was no crack cocaine in Grand Rapids yet. Not ready to give up, the Association worked through block clubs to contact the property owner, but he refused to take any action. Block club members had heard about Mike McGuire, and Lester asked him to meet with them. McGuire warned the group that “it wouldn’t be easy,” but agreed to write a letter to the owner citing all the laws that could be enforced. Lester recalls, “you know, the City wasn’t going to enforce these laws and Mike told us that. They were pretty difficult...but the letter was the tool we needed—the big step...that impressed the owner.” That was the beginning of an ongoing relationship with the City Attorney’s Office: the Association itself usually took the initiative when it had a problem (especially one that needed “teeth” to resolve) but the Office was responsive and helpful. During the late 1990s, assistant city attorney Bernard Schaefer began extensive work with the Association on code enforcement in the area. McGuire himself took on long-term jobs like crafting legislation to require deadbolt locks on area doors, but he could also be contacted with a less serious but urgent need for action—such as circumventing normal tagging and removal procedures for collecting a very large quantity of trash deposited on a curb on Friday afternoon before the start next morning of the annual Heritage Hill tour of historic houses. McGuire has worked around the City, in numerous neighborhoods, in a similar fashion.

Unlike McGuire’s long tenure in the City Attorney’s Office, Bernard Schaefer (in Municipal Affairs) came to his current position late in 1995, when Phil Balkema was looking for another attorney experienced with community organizing, City neighborhoods, and their problems. Hired from local

private practice, Bernard Schaefer's mandate was to find out what most bothered citizens in their neighborhoods and begin addressing persistent problems, while serving as a member of the Code Enforcement Team (CET) that also included a police officer, and senior housing inspector from the Neighborhood Improvement Department. When Schaefer met with citizens he heard three big complaints: "bad houses, bad drug activity that was persistent, and bad kids." He attacked these problems in a number of ways: first, on the problem property and drug fronts, with the CET.

The City Commission designated CET one of its priority teams during 1996-97, and according to Schaefer, "the Commissioners have really been behind this from day one.... They agreed, wholeheartedly endorsed, then directed that the CET be created and address these problem properties, and they have been solidly behind it even as we've had changes in Commission personnel." Senior Housing Inspector/CET member Steve Love and Schaefer both emphasize out that when it comes to addressing a

"A padlock case really functions as a City eviction of a tenant where the landlord won't do it.... When a search warrant is done, the police officers send a letter to the landlord that says, 'we can padlock your house, forfeit your house, call me'...and the police will work with the landlords to get them to understand how to evict.

"[If the landlord refuses]...under the state padlock law, I can take a complaint [for drugs, illegal alcohol, prostitution or disorderly conduct] and file it the same day, giving notice for a hearing on a motion for preliminary injunction nine days later...and be in court within two weeks.

"The padlock of the property freezes everything, clears it out and enables you to deal with the owner and say, 'there's got to be an ownership change.' Forfeiture lets you initiate the change and, because the City takes ownership, send [the property] where it needs to go for the public...."

[Grand Rapids Assistant City Attorney Bernard Schaefer]

particular problem property, the CET goes far beyond enforcement. The goal is not merely a successful prosecution or boarded up building that will continue to be a blight on the local area, but getting it out of the hands of a property owner who refuses to take corrective action, and restored, thus eliminating the problem for the neighborhood.

The CET uses a variety of strategies and tactics, depending upon the particular situation. For example, if property owners are working with CET in good faith but can't comply as rapidly as code enforcement rules demand, Schaefer can exercise his discretion, using measures that

ultimately slow down the enforcement process, and seek assistance for an indigent property owner from neighborhood associations, churches, or other sources. If there is an immediate need to stop destructive drug activity emanating from a rental property, the state's padlocking law can be used. Where he

determines that the right course for a problem rental property is a change in ownership, Schaefer may proceed with prosecution or forfeiture actions, perhaps seeking to obtain restitution to cover repairs; or he may turn to neighborhood associations or community development corporations to rehabilitate and help market the property. Members of the CET also meet frequently with neighborhood associations and landlords, training them in how to identify drug-related activity and make physical improvements on their property to prevent burglary or drug activity.²³

In addition to drug activity and problem property complaints, Schaefer and the CET also heard a lot from neighborhood associations about juveniles offending, being arrested, and re-offending while awaiting adjudication or even on probation in their neighborhoods. Here Schaefer branched off in an entirely different direction—developing a new Parental Responsibility Ordinance that was subsequently passed by the City Commission, and working closely as well with Mayor Logie’s Ad Hoc Juvenile Justice Task Force and the Kent County Alliance for Juvenile Justice. Outcomes have been far-reaching and positive: involvement of the courts in discussions about juvenile justice issues and a proposal for reform from the Juvenile Court; the development of a platform for the reform of juvenile services in the county;²⁴ a community-oriented probation program in which police and probation officers visit homes together; and increased collaboration between the County Prosecutor’s Office and City Attorney’s Office.

As an assistant city attorney Margaret Bloemers (in Civil Litigation) has been heavily involved in litigation, yet she, too, has participated in problem-solving efforts—such as a task force addressing prostitution in the Garfield Park neighborhood area, and working with a City priority team to improve the sidewalk inspection process and institute a point-of-sale inspection leading to repairs before closing in the sale of a house. Bloemers’s knowledge of constitutional and criminal law led Balkema to assign her several years ago to work with the Police Department’s Internal Affairs Unit—Bloemers sat in on disciplinary hearings and helped draft opinions, and also handled litigation involving the police. In the mid-1990s, complaints were raised in the community that the Police Department’s Neighborhood Patrol Unit was unfairly targeting African-American males in its street anti-drug enforcement activities. Calls also came for the establishment of a Civilian Appeals Board to review cases filed against the police that

had been decided by the Department's Internal Affairs Unit. The City Attorney's Office assisted in establishing appeal procedures (appeals would go first to the Internal Affairs Unit; then to the Board) and

"Our police department is probably the biggest customer of the County Prosecutor's Office, but they are county employees and... [police] are city employees, and the prosecutors have absolute immunity from civil liability when they're acting within their prosecutorial authority. Obviously in the context of criminal prosecution, it's to their benefit to stretch the law as far as they can, and they will do that for our officers, but they don't think a lot about civil liability.... That's not to say that they give the police department bad advice, but they don't think about the liability aspect of it because they don't have to...."

"There is a lot of willingness on the part of other government units...the Prosecutor's Office, the Circuit Court, the District Court...to be involved in this community policing and government idea. They really want to cooperate with it, so this [police liaison] is...a position that can help those organizations have better relations with our police department, to the benefit of citizens of the City."

[Grand Rapids Assistant City Attorney Margaret Bloemers]

the format for Civilian Appeals Board operations, with Bloemers closely involved. Then after Chief Harry Dolan took office in 1998 with a mandate to move the Police Department into community policing, the City Attorney and Police Department discussed creating a new police liaison position. City Attorney Balkema saw it as "a wonderful opportunity to give on-the-spot training and advice to police officers faced with very difficult decisions...[who] do a very good job 99% of the time making the right calls. They need, however, additional resources for those unique situations where they just don't have the

answers and training manuals don't give them the answers.... Prosecutors have done this forever...on call, and that works fine, but...having someone that you can walk down the hall and say, 'Our captains are getting together to talk about this issues that's come up at a neighborhood meeting last week, could you come down the hall and meet with us on it?'--that's where we really see a benefit."

Bloemers was the logical person to serve as police liaison and in-house counsel: beginning in March 2000, she moved to an office at the Department headquarters. Her work with the Appeals Board has continued, and today she counts the evolution of this body as a significant achievement involving the Police Department and City Attorney's Office. Not only have decisions in nearly all cases reviewed by the Appeals Board been affirmed, but members of the Board are better informed about the investigation of complaints against the police and how results are reached, and they have attended police training sessions, taken part in police exercises, and met with the head of the training unit in an effort to educate them about police training, work, and experiences. Over time, Bloemers has seen new understanding

grow and antipathy diminish on the part of Board members for the police.

Bloemers's physical presence at the Police Department has led to gradually expanding responsibilities in other areas. Not only does she defend police in ongoing litigation, she assists in training, reviews police manuals and procedures, researches legal questions that arise in police procedures, and reviews contracts for the Department. Recently a community-oriented government team comprised of City departments (including the police) and neighborhood organizations that is attempting to address a broad array of crime and safety issues in one of the City's southwest side neighborhoods asked her to join them, in particular to work with on problems associated with juvenile loitering and disturbances around Sigsbee Elementary School and Park, and to investigate, along with the Kent County Prosecutor's Office and Enforcement division of the City Attorney's Office, the possible prosecution of parents under a local Parental Responsibility Ordinance.

As the work of assistant city attorneys Maguire, Schaefer and Bloemers illustrates, Phil Balkema's approach to working with the community through specialized problem solving demands that his staff be competent yet flexible, able to carry out the ongoing work of the Office yet respond with creative legal (and other) remedies to new situations that arise. The size of the Office does not lend itself to the creation of special units assigned to carry out community or neighborhood prosecution. Instead, Balkema recruits attorneys with a knowledge of the City and commitment to working with citizens, then invests them with independence, considerable responsibility, discretion, and the right to make mistakes at times—but he expects results as they work at problem solving. It is this approach, and corresponding implementation processes, that have been institutionalized in the City Attorney's Office. The resulting record of addressing problems that emanate from citizens, as well as city government, has earned the Office a reputation as a good place to turn for a thoughtful answer or solution.

The San Diego, California, City Attorney's Office: Operationalizing a "Philosophy of Proactive, Early Intervention Lawyering and Community Outreach."

Casey Gwinn, San Diego's City Attorney, is by his own admission passionate about domestic violence. Head of the Office's Domestic Violence Unit for eleven years before taking office in 1996 as City

Attorney, Gwinn carried with him an evolving philosophy, grounded in experience, that would shape his priorities for leading the entire Office. Early in his second (and final, mandated by law) four-year term,

Organization of the San Diego City Attorney’s Office
(125 attorneys)

Criminal Division: *The City Attorney prosecutes misdemeanors committed in the City including violations of state/local laws; reviews 50,000+ cases per year; intervenes to stop criminal conduct at the misdemeanor level; helps victims by obtaining restitution, assisting in safety planning and providing information about their cases; seeks accountability by offenders and appropriate punishment and rehabilitation; works for a more responsive criminal justice system to meet the needs of the community. Units:*

<i>Screening and Arraignment Unit</i>	<i>Code Enforcement Unit</i>
<i>STOP (SD Traffic Offenders Program)</i>	<i>DART (Drug Abatement Response Team)</i>
<i>Victim Information Program</i>	<i>Child Abuse/Domestic Violence Unit</i>
<i>Dispute Resolution Office</i>	<i>Special Initiatives</i>
<i>Trial Unit</i>	<i>Violence Against Women Act</i>
<i>Appellate Unit</i>	<i>Teen Summit</i>
<i>Neighborhood Prosecution Unit</i>	<i>Elder Abuse</i>
<i>Drug Court</i>	<i>Parenting Project</i>
<i>Homeless Court</i>	
<i>Community Court</i>	
<i>Consumer/Environmental Protection Unit</i>	

Civil Division: *Staff provide legal services and guidance to the Mayor, Council, and City Departments on matters ranging from the workforce, to acquiring/ using/ regulating City lands, and financing/constructing public works projects. Litigation deputies defend lawsuits against the City and its employees, and file suits when money is owed to the City. Major units and sections include:*

<i>Employment and Safety Services Unit</i>	<i>Real Property Unit</i>
<i>Public Safety/Neighborhood Services Committee</i>	<i>Trial Unit</i>
<i>Police Legal Advisors</i>	<i>Public Policy Team</i>
<i>Public Works Unit</i>	<i>Special Projects</i>

he is still guided by this philosophy, rooted in early intervention and crime prevention. Gwinn’s operational strategy emphasizes problem solving; collaboration with local government, law enforcement and justice agencies, health and service providers, and the public; through identifying and

building upon “best practices.” A key partner for Gwinn in this strategy of ongoing innovation is San Diego Police Chief David Bejarano, who succeeded Chief Jerry Sanders in 1999 and is firmly committed to extending the Department’s nationally recognized record in community and problem-oriented policing by linking it with community prosecution.

San Diego is a diverse city (24% Hispanic; 14% Asian and other; 9% Black) with a population of over 1,277,000, making it the sixth largest in the country.²⁵ While the City Attorney Office’s size (125 attorneys, all appointed by Gwinn) clearly reflects the large jurisdiction it serves, notable as well are the ethos of collegiality and cooperation and high performance standards that many in the City say have

prevailed for many years. Drawing upon these resources, Gwinn used the period between election and taking office (March to December 1996) to “develop a vision for the organization from the people within it,” interviewing every staff member—lawyers, clerical support, investigators, legal assistants—to ask what the Office was doing well, where it could improve, and what each saw for the future. He also questioned the mayor, city manager and City Council members, and assembled a team of community advisors to assess the Office from the perspectives of business, organizers and communities of color.

Gwinn’s search gave rise to a three-pronged vision for the City Attorney’s Office: his approach would be proactive rather than reactive; he would stress early intervention (“It will work in domestic violence, and everything else we do. If we can save lives and prevent broken bones and dead bodies by misdemeanor intervention, then...misdemeanor intervention is the goal to prevent felony conduct...”); and the Office would be decidedly community-oriented (“Everything we do is going to be outward-focused and...run through the limbs of community, business, and social service organizations and neighborhood groups...with problem solving out there.”). Looking back, Gwinn believes an intentional

**San Diego City Attorney Casey Gwinn:
A Proactive Vision**

“I want us to be an organization that is proactive in how we do our legal work... Most prosecutors’ offices don’t work like that.... They are reactive, they get the case from the police department and decide whether or not they’re going to prosecute it...[or] they get the case to defend the City in a civil lawsuit and then look to see what the City has done and decide whether they’ve got liability.... They get brought in to sign off on an ordinance after it’s gone through the entire project....

“I really saw it as a cultural shift in the organization...that means...we are going to be there at the beginning of every single initiative, from the Police Department to City agencies, from the mayor...we’re going to...help them, support them, if we can do it ethically, morally, and legally, we’re going to make it happen.... [But] we’re going to be doing more than that. I want us to be outside the box, to be part of that vision...I want our own ideas. We’ve been prosecuting 6000 suspended license drivers for the last twenty years: what can we do differently? What can we do to keep us, ten years from now, saying ‘this year we prosecuted another 6000 suspended license drivers?’”

strategy of community outreach has had the most significant effect in transforming the culture of the organization: “When [staff] start thinking about people other than themselves...how they could change the world...it changes their legal work. We do a graffiti paint-out in 1997...come back to the Office, and people are saying ‘yeah, we cleaned out the graffiti, but we just created a clean canvas for the next tagger. Yes, we made a statement to the community that we cared about the neighborhood, but we’re gone. What do we do now?’ That’s what got us into the Parenting Project, and then Peer Court.”

Here we examine a few of those initiatives, primarily in the Office's Criminal Division, that portray Gwinn's philosophy in action. Many also illustrate the coordinated use of community policing and community prosecution, in pursuit of shared goals, in problem solving and early intervention efforts aimed at preventing crime and reducing victimization.

Both the Parenting Project and Peer Court are linked to the Child Abuse and Domestic Violence Unit, in the Criminal Division.²⁶ No one in the City Attorney's Office doubts the special place this Unit occupies. Since its inception in 1986, the Unit has evolved into a comprehensive "one-stop family violence unit," where misdemeanor cases of domestic violence, child abuse, elder abuse, school attendance, statutory rape, teen relationship violence and stalking are prosecuted alongside a host of special proactive and early intervention initiatives. Pursuing domestic violence concerns beyond the Office, Gwinn helped create and initially led the San Diego County Task Force on Domestic Violence, and later the San Diego Domestic Violence Council—a coordinating body for all domestic violence intervention/prevention efforts in the County that, from 1989-99, was funded and staffed primarily from City Attorney Office resources. With over 200 participating agencies and individuals, the Council is nationally recognized for its collaborative, innovative work in reducing and preventing family violence. Overseeing the Domestic Violence (DV) Unit today is Assistant City Attorney Gael Strack, whose commitment to domestic violence matches that of Gwinn, and who calls herself a "policy person who makes things happen." One of five Assistant City Attorneys on Gwinn's leadership team (comprised of an Executive Assistant second in line to Gwinn, and two Assistants in each of Criminal and Civil Divisions—one overseeing day-to-day operations, the other supervising special projects), Strack handles special projects in the Criminal Division. She sees Gwinn's assignment of an Assistant to work directly with the DV Unit as an indication of his ongoing commitment to domestic violence.

Gwinn acknowledges the importance of the Unit within the Office: "If you're going to do well in the organization, you need to do well with DV.... You may be just rotating through the Unit, and if you say 'this isn't the subject matter for me,' that's fine but, by the same token, this is the most important thing in the organization and if you do well in the DV Unit you will be rewarded...financially...with

promotions...with honor and recognition.” And he readily admits being regularly “down at the DV Unit walking the halls,” meeting with his deputies. To the extent that local duties permit, Gwinn (as does Strack) travels nationally and internationally to speak on behalf of domestic violence issues and participate in training. Deputy city attorneys have gotten the message: they see the DV Unit as prestigious, and high priority in terms of resources; DV assignments are coveted, highly competitive, and “exciting” since cases are prosecuted aggressively (no diversion is permitted, charges are not dropped or reduced at the request of victims, and prosecutions will proceed even without victim testimony) and deputies also work out in the community.

Head Deputy City Attorney Brian Erickson assists Strack in running day-to-day DV Unit operations. Working in the Unit are 11 prosecutors (in addition to Strack), 3 advocates, 3 investigators, 3 legal secretaries, and 7 clerical workers: many positions are grant-funded. Line deputies are trained intensively when they enter the Unit, and carry their

“Culture change takes a lot of time, but we’re starting to see it. We’ve got three full-time police legal advisors, two part-time. Three of the five are former DV deputies. To have these people caring, committed, and understanding of DV issues and working with police has been really instrumental in our getting their full cooperation and support for the ‘one-stop shop.’ Many of the community prosecutors spent time in the DV Unit so they have their eyes and ears out there on DV.... If you have deputies out in the community with an experienced background and understanding of DV, when it comes up they know how to handle it, take it to the right place, and when decisions are being made you can count on their support.”

[Assistant City Attorney Gael Strack, San Diego]

own caseload. Senior, experienced deputies usually move into a particular area—such as same sex violence, statutory rape, child molestation, elder abuse and neglect, stalking, juvenile truancy—handling cases as well as participating in community-wide education and activities. One senior deputy is assigned to screen DV cases at the Police Department; to consult with detectives in the police DV Unit to determine whether cases should go to the City Attorney or District Attorney’s Office for prosecution, or what additional information might first be required; and to provide other assistance and training. Guidelines for the treatment of different types of DV cases have been developed in the City Attorney’s Office, and a comprehensive domestic violence protocol put in place for police. DV cases are prosecuted vertically, in San Diego’s Domestic Violence Court, where an extensive range of services is available both to victims, and offenders (post conviction). An ABA study of evidence-based prosecution that included the DV Unit along with three other sites found, in a review of 400 cases in 1996 and 1999, that

the conviction rate for the Unit was 96 percent for both years, while four in five cases were settled before a trial date was set. Of all sites, the Unit had the highest percentage of batterers enrolled in counseling (87 percent), and the longest probationary term (36 months).²⁷

Apart from prosecution, a number of special initiatives aimed at early intervention and prevention are integral parts of the DV Unit. Recently Cal Logan was hired as a full-time Family Intervention Deputy to concentrate on the Parenting Project, Peer Court, and revamping the School Attendance Review Board (SARB)—all projects aimed at San Diego’s youth. The SARB project holds parents accountable for their truant children by allowing them to be prosecuted under the California Education Code (section 48293), or through contempt of court proceedings. The impetus for revamping the project comes from a DV Unit audit of teen suicides and homicides in 1998 that found a correlation with truancy, and the San Diego school system’s recent loss of funding over trancies. Convinced that earlier intervention will not only reduce truancy but crime and related problems, Strack and the SARB deputy will work with schools to identify children who could benefit from assistance and intervene *before* they are court-involved.

For juvenile offenders who are just starting to show up in the criminal justice system, the Parenting Project focuses upon parents, and their children, age 13 and under, who have been involved in delinquent behavior such as curfew violations, loitering, substance abuse, petty theft, vandalism, fighting, and some battery incidents. Begun in 1995 as a partnership between the City Attorney and Mayor’s Offices, the Project now counts the Police Department, public school and attendance officials, juvenile court, probation officers and several other public agencies as crucial participants. The project tries to help parents become more effective at parenting, and at the same time to reduce the involvement of their children in gangs, drugs, graffiti and other juvenile crimes. Project administrator and dispute resolution officer Mike Littlefield receives referrals from police in the form of general contact and specific incident reports with juveniles, and occasionally from other partners. Parents are notified and asked to attend a hearing where the juvenile’s activities are discussed and a parent skills assessment conducted. Parents needing help are referred as appropriate to parenting classes, “On Track “ (a class for parents and minors

together), mentoring, advocacy, and a range of community, faith-based, and criminal justice programs. Where parents are already working to address relevant problems, officials “back off;” those parents who fail to take steps to supervise and control the actions of a child at risk of committing crimes may be prosecuted under Section 272 of the California Penal Code. In 2000, 325 parenting hearings were scheduled and 278 conducted; 163 parents were referred to parenting classes, and 99 completed them.

Finally, Peer Court seeks to prevent first-time offenders from re-offending and deter non-offenders from criminal conduct.²⁸ Through a partnership among the Mayor’s Office, Police Department (especially Sergeant Robert Keetch, Juvenile Administration, who coordinates city-wide juvenile programs for the Department),²⁹ City Attorney, Public Defender, and San Diego Unified School District, two program components operate: first, youthful offenders charged with certain infractions or misdemeanors are offered the option of participating in a diversion program and being sentenced by a jury of their peers (drawn from a different high school), thereby avoiding a juvenile record. They must admit to the offense, agree to be sentenced by the Peer Court, and complete the sentence in ninety days under the supervision of a case monitor.

In the second component, students in participating high schools take a series of

San Diego’s Peer Court

“The biggest diversion process is not just with the defendants, it’s with the students that are participating.... The defense attorney talks to the juvenile before he goes to court, gets all the mitigating factors, everything associated with the crime, what’s going on in the kid’s life to put into his argument why the kid may deserve a lenient sentence. The prosecutor looks at the background, the police report, and makes a determination on why the kid should be more severely punished.... So on the day of court you hear a lot of different information.

“The students [jurors]...sit in there and try to articulate why they feel the kid did what he did...they have to reach a unanimous decision [in 12-15 minutes]... everybody has to have a say so and then they have to vote, and sometimes the jury is polarized--you have one that’s very articulate and feels ‘this kid didn’t do anything wrong...they should get off completely.’ You have another kid who says ‘shoplifting is wrong.’ And sometimes shoplifters will go on to be...offenders in other major types of crime. So you hear the different perspectives these kids have.... And for many...it’s the first time they have an impact on somebody else’s life... they see the defendants crying...[feeling] bad for what they did, and now they have to face the consequences. And the jury see this kid, listen to all the things...[said] in that closed session on the jury and then they see the results that are handed out...and what the mother, the father...have to go through.”

[Sgt. Robert Keetch, Juvenile Administration Unit, San Diego Police Department.]

classes taught by deputy city attorneys and other justice officials to introduce them to the criminal justice system, then take part in what is essentially the sentencing phase of a trial for a juvenile offender in the program, serving as jurors, bailiffs, court clerks, and prosecutors and defense attorneys (with city

attorneys and public defenders assisting, and an adult judge presiding). Jury sentencing recommendations include options such as letters of apology, research/writing assignments, counseling, attendance at workshops, restitution, graffiti clean-up, community service, curfews, attending a criminal trial, and tutoring or mentoring a younger child. The entire program takes place during school hours so as to reach the greatest number of students. The Police Department tracks offenders sentenced through Peer Court for two years (or until age 18): through December 2000, one juvenile offender out of 35 sentenced had been re-arrested. Since 1999 six high schools have participated in Peer Court, and another six will be added in the fall 2001. Demand for the project is so high that the City Attorney's Office plans to expand the program, merging it into a larger, more comprehensive Teen Court.

Assistant City Attorney Gael Strack's priority now is to make a DV "One-Stop Shop" (a dream of Casey Gwinn for nearly a decade) a reality by the end of 2001. As is characteristic in developing new initiatives, Strack and Office staff first researched best practices around the country, conducted a nationwide survey of models for such centers, cultivated local partners (for example, the Police Department is strongly supportive), and undertook a feasibility study. With plans concrete, they now are circulating grant proposals to government and private funding sources. The center will serve as a haven for domestic violence victims: the Police Department's 40-person DV Unit, the City Attorney's 30-person DV Unit, Child Protective Services, social workers, medical professionals, legal aides and child advocates will be housed together, immediately available to provide services and referrals. Plans call for a structure to accommodate the Kids in Court program; medical/dental/forensic and waiting rooms; meeting facilities; and a full-time in-house restraining order clinic. The center would also support greater DV prevention capacity as Police DV response teams channel calls there for early intervention and services, even though they do not result in filings and prosecution.

Like many other City Attorney Offices, San Diego's has an active Code Enforcement Unit (CEU), begun in 1984. Diane Silva-Martinez, Head Deputy of CEU since 1994, has worked exclusively in the Unit since 1985 (when it had only two attorneys), and has been intimately involved in its growth and developing focus.³⁰ Silva-Martinez emphasizes that the Unit's effectiveness depends in large part

upon the partnership it represents—among the City Attorney’s Office, Police Department, other City departments, Council Offices, and community groups—and upon getting attorneys into it who understand the community. With a total of 7 attorneys, 2 legal assistants, 2 investigators, and 3 support staff, CEU handles code enforcement and nuisance abatement, and includes the Drug Abatement Response Team, which addresses properties of continuous drug activity. Two attorneys prosecute nuisance abatement cases (including drug and gang abatement) exclusively. In 1998, the Unit

“I’d say 65% of our routine code enforcement cases are filed criminally. Civil complaints are filed in a wide range of cases...for drug or gang abatement or general nuisance abatement cases against problem property owners...where an immediate order is necessary to provide protection to residents or tenants.... In deciding whether to file criminally or civilly against a property owner...the profile of the violator is so important...the property owner...[may own] a number of properties and we may already have him on probation for building or litter violations. So in that case... [we’ll] just...revoke probation and put the case directly in criminal court. Many of our cases will result in the owner spending time in jail and we have even convinced judges to prohibit certain owners from buying or leasing additional property without leave of the Court.

“Judges have been receptive...they see our cases weekly, although you always have judges who seem to [think]...that the only important cases...are the felonies...and they don’t care about the litter or building violations.... So we try and educate the judiciary.... The hardest thing to communicate to [them]...is that the case invariably has a long history with the City Code Enforcement department and the community...so if a judge just gives the defendant more time to comply, it’s such a disappointment to the City as well as community...so we [may]...pack the courtroom with the community or get the media involved.”

[Diane Silva-Martinez, Head Deputy City Attorney, Code Enforcement Unit, San Diego]

was successful in a nuisance abatement suit against the Lincoln Park gang, the first time the City had used an injunction to fight gang-related crime. Unlike many other code enforcement efforts around the country, CEU actively files criminal complaints as well as pursuing civil prosecution (although a mediation program is available for cases in which a law suit does not seem the right path to pursue); the Unit also avoids boarding up and forfeiting properties, working instead to get vacant or abandoned properties into the hands of people who will bring them up to standard.

Two other recent City Attorney initiatives in particular embody Gwinn’s community-oriented, problem-solving philosophy: the Neighborhood Prosecution Unit, and Community Court. An outgrowth of the Office’s involvement over several years with San Diego Police in POP (problem-oriented policing) projects, the Neighborhood Prosecution initiative started with Deputy City Attorney Carol Trujillo serving as Police Liaison to the Department in 1996-98. Working to strengthen the relationship between the City Attorney Office’s Criminal Division and police, she began assisting in POP projects, and

vertically prosecuted misdemeanor cases arising from the projects. A small Neighborhood Prosecution Unit was formally created in 1997 with Trujillo as head; joining her soon was Deputy City Attorney Joan Dawson—a former news reporter and writer/producer, the Office’s first full-time Drug Court deputy, and committed to working in the community. When Trujillo moved to the Civil Division to become a Police Legal Advisor (though she continued work on a few POP projects), Dawson replaced her as Police Liaison/Head Deputy for Neighborhood Prosecution. In addition to collaborating on POP projects,

Providing Assistance in Community Policing: Police Liaisons and Police Advisors from the San Diego City Attorney’s Office
“The Liaison [one]...is from the Criminal Division... the prosecuting half of the Office...to the Police Department and the initial focus was to build a positive working environment...and communicate things as basic as our willingness to be part of their team.... I did things...like line-up trainings that evolved into working on specific projects...and POP projects where we would vertically prosecute [cases].... The Liaison provides a contact...[on] everything from the complaints department...to troubleshooter on basic paper flow issues...to ‘how can you help us with this...what types of probationary terms can you craft that will address these problems?’.... The Legal Advisors [three full time; two part time] work in the civil half of the Office...basically as corporate counsel for the Department...advise them on contracts, employment issues, represent the Department in disciplinary hearings, we go to court to argue against disclosure of confidential police personnel records, we get involved with substantive issues such as a strip search policy...a procedure by which officers could get entry warrants for loud parties and misdemeanors, disturbing the peace...we’re working with officers on rehabilitation programs for chronic inebriates....
“The [Police] Department is very proactive and aggressive...and constantly in touch with innovations... ‘well this is what they are doing in this city, so why can’t we have this [here]...?’” They are constantly bringing us ideas for improvements and changes, and we work with them to refine or evaluate...and make them happen.... It makes sense if everyone has the same goal and knows what their responsibilities are...and that feeling ‘well, I can come to you early and you can bring your resources’ and we can help at the very earliest stage so that we’re not in the position...of reacting to or trying to fix mistakes....”
 [Deputy City Attorney/Police Legal Advisor Carol Trujillo]

Dawson organized community crime prevention fairs, and worked intensively with Mid-City for Youth and San Diegans United for Safe Neighborhoods to start “Juveniles and Justice: A Community Safety Initiative”—an eight-week “hands on” program for fifth grade students that teaches them about the criminal justice system and roles of law enforcement and criminal justice agencies, including focusing on the Bill of Rights and 4th to 6th Amendments, and offering

participation in a mock trial and a court tour. The program emphasizes how individuals can be good community members.

1999 proved a crucial year in “ratcheting up” community prosecution efforts in the City Attorney’s Office. With a new police chief, the time was ripe for City Attorney Gwinn to explore with Chief Bejarano the idea of putting more prosecutors out in the community. Bejarano responded

enthusiastically and a Neighborhood Prosecution Committee was formed (including Trujillo; other deputy and assistant city attorneys--a Police Legal Advisor, heads of the Criminal Division, its Screening/Arraignment section, and Code Enforcement Unit, and the deputy city attorney planning the Mid-City Community Court; police from line officers through top management levels; and community representatives). The committee's mission was to consider how San Diego might improve its community policing and prosecution, and devise a model for a pilot project that could be implemented in a defined area. As part of its work, the committee surveyed community prosecution practices nationwide and visited existing programs. This process dovetailed ongoing planning (by Deputy City Attorney Linh Nguyen, in the Neighborhood Prosecution Unit) for a Mid-City Community (misdemeanor) Court, supported by a grant received by the City Attorney's Office in fall 1999 from the Bureau of Justice Assistance. With input from the Prosecution Committee, the City Attorney's Office identified specific areas for expanding community prosecution and prepared a grant proposal to support further development: in spring 2000 they received a BJA community prosecution grant, allowing the Neighborhood Prosecution Unit to expand from two to four deputies.

Today Joan Dawson continues to serve as Head Deputy of the Neighborhood Prosecution Unit and Police Liaison, as well as supervising the Office's participation in San Diego's Drug Court.³¹ Dawson handles POP projects citywide: an ongoing example involves a multi-faceted approach to the problem of drag racing in northeastern San Diego. On weekend evenings, as many as 400-1000 cars come into this industrial area, drawing crowds of pedestrians and taking over roads. A number of deaths have resulted. As part of problem-solving efforts, Dawson has written a new ordinance enabling closure of roads, and prosecutes cases involving offenders who violate the prohibition. Two other deputies in the Neighborhood Prosecution Unit have been working from specific police substations, targeting four neighborhoods where they have addressed quality of life and crime problems: Chandani Sil Flinn in Mid-City Division, City Heights East and West, where the main problems are prostitution, graffiti, illegal vending, and transient activity; Marcella Ordorica in Central Division, Sherman Heights and Grant Hill, where she focuses on neighborhoods with large Spanish-speaking populations that have significant

quality of life problems. Each attends community meetings, works intensively with police and citizens, and carries a small caseload involving chronic offenders and cases derived from POP projects. Vertical prosecution is utilized as far as possible; where they cannot handle all cases, deputies in the Unit provide special information and support for those that must be prosecuted by others in the Office.

The Neighborhood Prosecution Unit is amassing a record of successful projects in which they have collaborated with police and community members: cleaning up the Mission Valley Riverbed area that had become a haven for transients camping there; mounting a large-scale effort to reduce prostitution in Mid-City by obtaining restraining orders against prostitutes and prosecuting violations criminally; and solving the problem of the “neighborhood screamer,” a deranged individual who made life in a particular neighborhood unbearable, by finally getting him into appropriate substance abuse and mental health treatment. And as of October 2001, the Unit is expanding in size and range of activities: a second BJA grant for community prosecution and funding from the San Diego City Council will support two additional positions, allowing deputies to cover more neighborhoods in the City.

Planning for the Mid-City Community Court also continues. Mid-City is the most ethnically and culturally diverse area of San Diego, with over thirty languages spoken (including a number of African and Asian languages, as well as Spanish), and residents with high and low incomes. Project coordinator Deputy City Attorney Linh Nguyen (whose family lived in Mid-City) brought together groups that had not talked with each other or collaborated before; visited community courts around the country to observe a range of experiences and models; and convened a Community Court Steering Committee of residents, community-based organizations, service providers, and stakeholders such as the Superior Court, Public Defender, and Police, to work on community outreach, fund raising, and development of a specific plan. Although the City Attorney’s Office preferred an arraignment court (with power to compel compliance), lack of funding from the Superior Court required reformulating that conception. The current model is for a pre-filing court: offenders will be notified of eligibility prior to filing; if they agree to participate, and fulfill requirements, no criminal charge will be filed. The Office is circulating a formal proposal seeking funding for implementation of the court from both private and public sources, while Nguyen remains

active with citizens in Mid-City to maintain their support.

The changes that Casey Gwinn has set in motion in just under five years as City Attorney extend far beyond the Office's nationally recognized Child Abuse and Domestic Violence Unit, throughout the Criminal and Civil Divisions, and into the community. A number of these changes bear watching: First, Gwinn has been serious about establishing and nurturing collaborative partnerships. In particular, the shared commitment of both the City Attorney's Office and Police Department to community-oriented problem-solving efforts offers a rare opportunity to examine collective action and achievement. But Gwinn also works with partners often considered antagonistic by prosecutors (such as the courts and Public Defender), bringing them into processes of collaboration and problem solving, or joining their projects—such as the City's Homeless Court, begun through the Public Defender's efforts.³² Second, Gwinn's staff members constantly search for information about best practices (much of it from District Attorney or other types of offices), about what has worked and why, and consider how they might be applied in San Diego. A number of staff have gained expertise in particular substantive areas. The innovations they build upon this knowledge base may well be at the cutting edge of current practice. Finally, Gwinn means it when he talks about being proactive and intervening early, as this brief description of his operations illustrates. Tracking the progress of these efforts and assessing outcomes (already underway by prosecutors and police) will be important to determining the value of this overall approach, as well as the effectiveness of specific programs.

Conclusions: What We Should but Don't Know About City Attorneys

The goal in this chapter has been to offer a glimpse of what appear to be some exemplary practices of city attorneys in different contexts: the description is neither exhaustive—nationwide city attorneys have developed programs that address a host of other issues and needs germane to local contexts—nor does it claim to portray what is representative or typical. In fact, at this time we lack a comprehensive understanding of the “state of the art” of current practice, and the full range of developing practices. Apart from the information collected by those organizations that seek to represent and serve the needs of city attorneys, primarily the International Municipal Lawyers Association, and the State and Local

Government Division of the American Bar Association,³³ little if any substantive research has been conducted nationally on city attorney offices.

The result today is more serious than we might at first expect: more than one corporation counsel has voiced the concern that elected city officials have no way of holding their own city attorney accountable to a standard of practice, since such standards are not well-known. In addition to the need for baseline information on practices, we could profit by learning more about the potential for city attorneys to affect crime management and public safety, including their involvement with community policing and community prosecution: How have city attorneys participated in the development of community policing? What new demands does community policing place upon city attorneys, how can they best meet them, and what role might they play in promoting excellence in community policing? Do many city attorneys practice community-oriented prosecution? How? How can municipal prosecutors and assistant district attorneys collaborate most effectively? What is the potential role for city attorneys in the new community-based, public-private configurations that seek to prevent and reduce crime, and how might they be uniquely positioned to intervene early and proactively?

Of equal importance, what obstacles present themselves to particular approaches or activities adopted by city attorneys? What issues are raised by vigorous misdemeanor enforcement, or by City Attorney leadership of law enforcement partnerships addressing crime and safety issues? City Attorney Mark Sidran, now in a race for mayor of Seattle, has received endorsements from newspapers and substantial public support in his campaign, but also faced criticism for his position on misdemeanor enforcement from civil libertarians and advocates for the homeless.

Nevertheless, three good reasons exist to include city attorneys in discussions about crime control and community prosecution: First, if citizen priorities continue to make their way into selective prosecution processes then lower-level offenses within the jurisdiction of city attorney offices will continue to matter. Second, city attorneys control, and have the capacity to develop even further, the use of civil remedies that are proving useful as part of the growing tool kit of prosecutors and effective in crime control. Third, city attorneys can participate effectively in problem solving aimed at crime

control, not only by joining county prosecutors in broad-ranging collaborative efforts, but through day-to-day advising of their clients in city government. Many county prosecutors believe that some of the problems they are feeling pressure from the community to address through community prosecution would be better resolved by government than by criminal justice agencies. The client-oriented problem-solving functions of city attorneys can assist local government in taking (or taking back) the responsibility for helping solve these problems—by improving the delivery of basic services, creating and maintaining safe public spaces, and assisting private citizens themselves in adopting responsible practices that promote safety in their community.

¹ See, e.g., Joan E. Jacoby, Heike P. Gramckow, and Edward C. Ratledge, “The Impact of Community Policing on the Criminal Justice System,” U.S. Department of Justice, National Institute of Justice, No. 92-IJ-CX-K033, Washington D.C., 1995.

² George L. Kelling and Catherine M. Coles, *Fixing Broken Windows: Restoring Order in American Cities*, New York, Martin Kessler Books, The Free Press, 1996.

³ These efforts have met with varying responses from the courts. Center to Prevent Handgun Violence, “New Orleans First City to Sue Gun Manufacturers: Center to Prevent Handgun Violence Co-Counsel in Landmark Lawsuit,” News Release, October 30, 1998; Mayor’s Press Office, “Gun Industry Floods Chicago with Illegal Weapons, City and County Charge in Landmark \$433 Million Lawsuit,” News Release, November 12, 1998; Mayor’s Press Office, “Mayor Daley Highlights City’s Anti-Gun Success,” News Release, December 14, 1999.

⁴ See e.g., Michael P. Moss, “Health and Environment. Crime Prevention through Environmental Design,” *Municipal Lawyer*, September/October, 1998:19; Tiffany Gurkin Hildreth and David J. LaBrec, “The Latest Word on High Speed Chases and Local Government Liability Under Section 1983,” *Municipal Lawyer* 39, 4 (July/August), 1998:10.

⁵ See Robert C. Ellickson, “Controlling Chronic Misconduct in City Spaces: of Panhandlers, Skid Rows, and Public-Space Zoning,” *The Yale Law Journal* 105, 5 (1996):1165. Sidran’s remarks were offered at a Working Group meeting held April 19, 1996, at the Kennedy School of Government, Harvard University, in conjunction with the project *Prosecution in the Community: A Study of Emergent Strategies*.

⁶ *Prosecutors in State Courts 1996*.

⁷ Personal communication, Catherine Coles, 1997. For example, in Kansas City, judges and prosecutors both reported that many cases filed as ordinance violations were actually more serious misdemeanors and D felonies—and were treated more harshly in municipal court. See Catherine M. Coles and George L. Kelling, with the assistance of Mark H. Moore, *Prosecution in the Community: A Study of Emergent Strategies, A Cross Site Analysis*, Grant No. 95-IJ-CX-0096, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, September 1998, Appendix D: Jackson County/Kansas City (MO) Case Study.

⁸ Coles and Kelling, *Prosecution in the Community: A Study of Emergent Strategies: A Cross-Site Analysis*, 1998. Prosecuting ordinance violations also can produce turmoil and tensions within a city attorney’s office: some assistant city attorneys refuse to prosecute particular ordinance violations, even though the legislation has been passed by the local city council, because it is controversial in the local community. Coles, personal observations.

⁹ Kelling and Coles, *Fixing Broken Windows: Restoring Order in American Cities*, 1996.

¹⁰ City attorney offices in some large cities deal with cases arising in more than one county, and thus may have a working relationship with more than one county prosecutor. One example is Kansas City, Missouri, a city of 320 square miles that covers parts of four different counties (and includes large rural areas as well). County prosecutors are even more likely to have more than one municipality fall within their jurisdiction, a feature that characterizes all four sites.

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- ¹¹ Coles and Kelling, *Prosecution in the Community: A Study of Emergent Strategies*, Appendix D: Jackson County/Kansas City (MO) Case Study; Gregory Mills, *Community Backed Anti-drug Tax: COMBAT in Jackson County, Missouri*. Program Focus, U.S. Department of Justice, National Institute of Justice, 1996.
- ¹² Coles and Kelling, *Prosecution in the Community: A Study of Emergent Strategies*, Appendix A: Austin (Travis County), Texas, Case Study, 1998; Eileen M. Garry, "Truancy: First Step to a Lifetime of Problems," *OJJDP Bulletin*, n.d.
- ¹³ Moss, 1998.
- ¹⁴ See for example, *Loper v. New York City Police Dept.*; *Joyce v. City and County of San Francisco*; Kelling and Coles, *Fixing Broken Windows*, 1996.
- ¹⁵ See Kelling and Coles, *Fixing Broken Windows*, 1996.
- ¹⁶ Christopher Murray, Nyak Polissar, and Merlyn Bell, "The Misdemeanant Study: Misdemeanors and Misdemeanor Defendants in King County, Washington," Seattle, WA, 1998.
- ¹⁷ See Claire Johnson, Barbara Webster, and Edward Connors, "Prosecuting Gangs: A National Assessment," *Research in Brief*, National Institute of Justice, Office of Justice Programs, Department of Justice, February, 1995.
- ¹⁸ Office of the Mayor, "Mayor Daley Introduces New Gang Loitering Ordinance," News Release, January 11, 2000.
- ¹⁹ Mills, 1996; Catherine Coles, Brian Carney and Bobbie Johnson, "Crime Prevention through Community Prosecution and Community Policing: Boston's Grove Hall Safe Neighborhood Initiative," *Problem-Oriented Policing: Crime-Specific Problems, Critical Issues and Making POP Work*, Vol. III, eds. Corina Sole Brito and Eugenia E. Gratto, Police Executive Research Forum, 2000, pp. 55-99; Catherine M. Coles and George L. Kelling, "Prevention through Community Prosecution," *The Public Interest* 136, Summer, 1999:69-84.
- ²⁰ See Mayor John Logie, State of the City Address, Grand Rapids, Michigan, January 9, 1997; City of Grand Rapids, Mayor's Task Force on Drug Policy Reform, Final Report, March 1998.
- ²¹ See City of Grand Rapids Department of Law, 1999 Performance Management Plan.
- ²² Approximately 3500 are active prosecutions; the remainder are walk-in guilty pleas.
- ²³ With the high number of CET cases, and the Police Department's organizational transformation to six neighborhood service areas, CET has expanded to include three senior housing inspectors, assigned to work with particular police officers in specific service areas.
- ²⁴ Kent County Alliance for Juvenile Justice, Community Platform. Unpub. ms.
- ²⁵ Over 2.9 million people reside in the more inclusive San Diego region, and San Diego County ranks 16th in population for metropolitan areas nationwide.
- ²⁶ The mission, policies, and activities of the Domestic Violence Unit are described at length in "Annual Report," Domestic Violence Unit of the San Diego City Attorney's Office, December 2000.
- ²⁷ The ABA study was conducted by researchers Barbara Smith and Robert Davis, with a grant from the American Bar Association's Fund for Justice and Education on behalf of the Criminal Justice Section. It was completed in December 2000.
- ²⁸ San Diego has had a youth court operating since 1992; however, during 1998-99 the mayor led an effort to create the new, more comprehensive court.
- ²⁹ Juvenile Service Teams work with out of the eight San Diego Police substations in the City, conducting problem solving related to juvenile crime or juvenile-related issues in the local community. The Juvenile Administration Office in which Sgt. Keetch works has responsibility for coordinating all juvenile programs and services (such as DARE and School Safety Patrol) carried out by the Police Department citywide.
- ³⁰ See her article, Diana Silva-Martinez and Sharren L. Carr, "The Importance of providing Effective Code Enforcement; A Team Approach," *Municipal Lawyer*, March/April 1999:6.
- ³¹ Dawson worked on developing San Diego's Drug Court, and serves as a trainer for the National Drug Court Institute. Previously, she helped develop the national training curriculum for drug court prosecutors, and has trained prosecutors and other Drug Court team members from other jurisdictions. San Diego is a mentor site for the National Association of Drug Court Professionals.
- ³² The Homeless Court operates to assist homeless individuals in shelters to clear their record, often as a first step in getting back on their feet. Information is available from Steven R. Binder, Deputy Public Defender, San Diego County.
- ³³ The IMLA's 1996 membership survey questions were aimed primarily at determining whether conferences and services offered to members met their needs. Both the IMLA and the State and Local Government Division of the ABA offer a number of publications, educational opportunities, and regular conferences. IMLA also provides members with a model ordinance service.