

**LOS ANGELES CITY ATTORNEY’S OFFICE: AN ESSENTIAL PUBLIC SAFETY DEPARTMENT**

March 7, 2011

*“[I]t makes no sense for the Police Department to apprehend [a criminal] and then find the prosecution cannot be completed.”*

LAPD Chief Daryl Gates (Los Angeles Times, 1/7/82)

The Office of the City Attorney provides essential public safety services to the City and its residents under the mandates of the City Charter. As a Charter-mandated department, the City Attorney’s Office and its functions have been identified as one of the core, non-discretionary missions of the City. Unfortunately, over the past two years, this Office has been subjected to seemingly arbitrary and disproportionate budget cuts, as compared to the City’s two other Charter-mandated public safety offices, namely, the Police and Fire Departments.

Most notably, while the LAPD’s adopted FY 2010/11 Budget was increased by 1% to \$1.177 billion, the City Attorney’s budget was decreased by nearly 10% to \$85 million. Similarly, the LAFD’s adopted FY 2010/11 Budget was reduced by only 2% to \$495 million. The figures listed below clearly demonstrate such an apparent arbitrary disparity in the funding between the City’s three public safety departments, which has materially impaired this Office’s ability to perform its duties under the Charter:

<u>Department</u>	<u>2009/10 Adopted</u>	<u>2010/11 Adopted</u>	<u>% Change</u>
<b>Police</b>	<b>1,166,229,399</b>	<b>1,177,483,228</b>	<b>+0.96%</b>
<b>Fire</b>	<b>505,655,091</b>	<b>495,009,381</b>	<b>-2.11%</b>
<b>City Attorney</b>	<b>\$ 95,267,403</b>	<b>\$ 85,897,183</b>	<b>-9.84%</b>

This fiscal year is not an isolated incident. A review of the past five years shows that the General Fund share allocated to the City Attorney’s Office has continued to drop from 3.3% in FY 2006/07 to 2.7% in FY 2010/11. In comparison, the General Fund share of our primary public safety partner, the LAPD, steadily increased from 47% in FY 2006/07 to 52.6% in FY 2010/11. Such an ongoing and growing disparity between the funding of this Office and the LAPD, whose officers arrest the criminals prosecuted and kept in jail by this Office, and whose officers are regularly defended in civil courts by this Office, makes absolutely no sense.<sup>1</sup>

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<sup>1</sup> This downward budget trend for the City Attorney’s Office is illustrated even more starkly in the attached chart. *City Attorney Budget – The Underfunding Trend*. It is also important to note that although this Office started FY 2009/10 with an \$18 million deficit, through a combination of cost-saving and revenue-generating measures, we were able to eliminate that deficit and end the year with a \$200,000 revenue surplus.

Given the current staffing levels of this Office and the LAPD, there is only one City prosecutor for every 50 police officers in this City. Further reducing the number of City prosecutors assigned to prosecute criminals arrested by the LAPD, including “broken window” or quality of life crimes, will jeopardize the significant reductions in gang and other crimes achieved in this City.

These historic reductions in crime are unprecedented and were accomplished through the hard work and efforts of many law enforcement agencies, including the LAPD, Los Angeles County Sheriff’s Department, the City Attorney’s Office and the Los Angeles County District Attorney’s Office, over the past several years. Without a doubt – as the number of criminal prosecutors decreases in the City, criminal prosecutions will also decrease – and with reduced prosecutions, crime rates and threats to public safety will eventually increase.

As our prosecutors protect and serve our communities from threats to public health and safety posed by criminals, our litigators serve and protect other City departments so they can continue delivering City services, including police and fire protection. Without the City Attorney’s Office providing the public safety, legal and risk management services mandated under the provisions of the City Charter, no City services whatsoever could long be provided and public safety would be greatly diminished. For these reasons, the City Attorney’s Office and its functions are Charter-mandated and non-discretionary.

### The Office of the City Attorney

The City Attorney serves as Los Angeles’ top Law Enforcement Official, as well as the sole legal representative and primary defender of the City’s treasury pursuant to the strict mandates of the Los Angeles City Charter. Along with the Chiefs of the Police and Fire Departments, the City Attorney oversees one of the City’s three core public safety departments and has the Charter-mandated responsibility to protect and maintain the public health and safety of our nearly 4 million residents, as well as defend their tax dollars.

The essential and invaluable public safety and treasury protective services provided by the City Attorney’s Office, however, have been largely overlooked and under-appreciated by some within our community. In an attempt to remedy that situation, we hope to better educate the public and others of both the mandated responsibilities imposed upon, and the outstanding accomplishments achieved by, the prosecutors, litigators, investigators and trial support staffs of the City Attorney’s Office. This is not to detract from or diminish the important missions and services provided by other City departments. All provide much needed and

appreciated services to our residents. However, as recently noted in the Los Angeles Daily News, “*Public safety is government’s No. 1 priority. What good is regular trash pickup or Monday library hours when residents are afraid to leave their homes?*” (Editorial, 1/9/11).

It is therefore critical that this Office, as a public safety department, be viewed and supported in at least the same measure as the City’s Police and Fire Departments, so that it can fully and effectively execute its core missions of ensuring the physical and financial security of both the City and its residents.

#### City Charter Section 271 – Mandated Responsibilities

I understand and appreciate the serious and unprecedented financial challenges facing the City, as well as the impact such burdens have on the services the City provides to its residents. I am, however, equally mindful of the public safety and legal responsibilities I assumed and swore to uphold under Section 271 of the City Charter. The cumulative effects of the budget reductions suffered by this Office over the past three years have taken their toll and delivered this Office to a tipping point where it is increasingly difficult, if not impossible, to meet the mandated obligations of the Charter.

As City Attorney, I have directly experienced the unprecedented budgetary challenges currently facing the City. Since assuming office on July 1, 2009, the City Attorney’s Office has suffered the staggering loss of more than 10% of its staff and approximately 30% of its budget. No other public safety department in the City has suffered such a large percentage budget reduction. In my 18 months in office, I have not requested and have not hired a single employee, including any prosecutors, litigators, investigators or trial support staff, to replace the many that have departed. The staff losses of the last two years have inflicted a devastating toll on this Office – a toll that has significantly impacted our ability to protect the City from both criminal and financial threats and fulfill our Charter-mandated duties.

Although our Office’s staffing levels have been drastically reduced and are currently below those of FY 2000/01, our criminal and civil caseloads have not diminished. Each day, dozens of criminal cases are referred to this Office by the LAPD and other law enforcement agencies, and civil lawsuits and claims are filed against the City and its myriad departments. As we handle more cases with fewer resources and staff, the odds significantly increase that a violent criminal will not be prosecuted and will be released back onto the streets, or that a civil case will be lost for lack of resources or experienced litigators, subjecting the City to millions of dollars in civil damages.

The loss of more than 100 prosecutors, litigators, investigators and trial support staff has severely undermined this Office's ability to combat and protect the City against crime and ensure the health and safety of its residents. Such losses have also significantly diminished our ability to defend the City's treasury from frivolous lawsuits that attack our police, fire and other essential City departments and annually seek hundreds of millions of dollars in damage claims. These lawsuits have the potential to drain the City's treasury at a time when our taxpayers can least afford such payments.

### Criminal Prosecution: Protecting and Preserving Public Safety and Quality of Life in Our Communities

Approximately 70% of the arrests made by LAPD are referred to the City Attorney's Office for misdemeanor and/or "wobbler" prosecution.<sup>2</sup> Countless criminals, including sexual predators, gang members, thieves and scam artists, are convicted by this Office and incarcerated each day. These criminals will no longer prey upon our residents and threaten their health and safety, because our prosecutors, investigators and trial support staffs are prosecuting offenders arrested by LAPD. In prosecuting such criminals, the City Attorney's Office, in conjunction with the LAPD and the District Attorney's Office (which prosecutes felonies within the City), plays an indispensable role in reducing and maintaining lower crime levels within the City.

This Office reviews over 100,000 criminal referrals annually and prosecutes on average over 70,000 of those misdemeanor cases, which we file on behalf of the "People of the State of California." These are misdemeanor violations of both state law and the City's Municipal Code, and include, among other crimes: domestic violence; reckless driving or driving under the influence; sexual assaults, including those against the elderly and minors; gang injunctions and related prosecutions; graffiti vandals; prostitution; identity theft; sales of tobacco to minors; violations within the Safer City Initiative and Neighborhood Prosecutor Program; the Citywide Nuisance Abatement Program, including cases relating to properties with drug and gang activity, problem liquor stores and bars, neighborhoods plagued with prostitution or other nuisance activity, and medical marijuana shops engaged in illegal sales; the Housing and Problem Properties Program, including cases against slumlords and others involving fire and life safety violations, building and habitability violations, violations of the City's Vacant Building Ordinance, lead paint exposure to children and other dangerous conditions and illegal uses of property; environmental and consumer protection, including adulterated foods, counterfeit goods, grand theft/unscrupulous business

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<sup>2</sup> The California Highway Patrol also refers the vast majority of its thousands of criminal reports, in particular, DUI violations committed within the City, to this Office for prosecution.

practices, unlicensed contractors, unlicensed practice of medicine and furnishing dangerous drugs, water and air pollution, and toxic chemicals; labor, workplace, wage theft violations; elder financial abuse; hate crimes; animal abuse; and code or “broken window” enforcement, which is widely-recognized and credited with the reduction of Part One (serious felony) crimes within the City. All of these crimes directly impact the health and safety of our residents, including many of the most vulnerable members of our society, such as battered women, the elderly and abused children. There are an additional 75,000 direct citations (issued by LAPD and other City departments) that must also be reviewed and handled by our prosecutors.

### Gang Injunctions

The 43 gang injunctions that this Office obtained and diligently maintains and enforces throughout the City have also had a dramatic effect in reducing crime. (See attached Press Release dated January 6, 2011). For example, our prosecutors have obtained lengthy jail sentences against numerous gang members who have violated the provisions of gang injunctions. (See attached Press Releases dated July 10, 2009 and July 21, 2010).

Our gang prosecutors assigned to the TOUGH Project (Taking Out Urban Gang Headquarters) take enforcement actions against gang-controlled properties, in conjunction with the United States Attorney’s Office, LAPD and the Bureau of Alcohol, Tobacco and Firearms, designed to disrupt and dismantle the ability of gangs to use such properties as bases of operation from which to engage in and direct criminal activities, including drug manufacturing and trafficking, the storage of illegal weapons and homicides. (See attached Press Release dated February 1, 2011).

Gang prosecutors assigned to our LA SAVES (City Attorney’s Strategy Against Violent Environments near Schools) also work closely, and are deployed, with a taskforce comprised of LAPD officers, Los Angeles County Probation officers, Los Angeles County Department of Children and Family Services investigators and California Parole officers that identifies and takes enforcement actions against felons residing in areas near schools who have committed violations of their probation or parole, including those convicted of gang violence or sex-related crimes. Since its inception, LA SAVES has also resulted in the rescue of more than 130 children from homes in which they were exposed to potentially dangerous situations. (See attached Press Release dated February 24, 2011).

In removing these violators from the streets and taking away their headquarters, City prosecutors prevent these gang members from harassing and committing more serious, and possibly deadly, crimes against our residents.<sup>3</sup>

### Recovery Zone (Skid Row) Injunction

In addition to the other gang injunctions obtained over the past few years, in 2010, this Office obtained the “Recovery Zone” injunction in the Skid Row area of downtown, which prohibits drug dealers, including members of several LA area street gangs, from entering and operating (selling drugs) in that impacted area. This Recovery Zone injunction is specifically designed to prevent gang members from selling drugs to and preying upon the less fortunate and already vulnerable in our community, who are struggling to recover from various addictions and hardships in the Skid Row area. (See attached Press Release dated April 7, 2010).

### Figueroa Corridor (Pimp/Prostitution) Injunction

Similarly, in an effort to protect an area of the City known as the “Figueroa Corridor” from criminals, this Office obtained an injunction against five pimps and 35 chronic prostitutes that prohibits them from entering a 6.5-mile area for ten years. (See attached Press Release dated April 15, 2010). The named pimps are known by law enforcement to be affiliated with local street gangs, while the prostitutes have previously been involved in hundreds of arrests in the impacted area. This Office currently enforces existing prostitution injunctions, and is contemplating pursuing additional such injunctions in other areas of the City.

### Anti-Tagging Injunction and Graffiti Prosecutions

In 2010, this Office also filed and served several alleged members of one of the most prolific graffiti gangs or “tagging crews” with an anti-tagging injunction designed to prevent the costly and corrosive effects of graffiti vandalism on our communities. (See attached Press Release dated June 23, 2010). This tagging injunction is currently being argued before the Superior Court. If approved by the Court, the members of the enjoined tagging crew will be prohibited from possessing certain items, supplies and tools associated with graffiti, and prohibited from associating with particular persons for the purpose of engaging in unlawful graffiti activities.

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<sup>3</sup> It has recently been reported that dozens of experienced LAPD officers assigned to anti-gang units throughout the City may transfer to other assignments in response to new financial disclosure requirements imposed by the federal court. In that likely event, the gang prosecutors in this Office will play an even more prominent role in advising, guiding and prosecuting the cases being handled by less experienced replacement officers assigned to combat gangs in the City.

This Office views graffiti and other related vandalism as serious assaults upon our community and its residents. In addition to the cost and time expended in removing and repairing the physical damage to both private and public property caused by such vandalism, graffiti exacts a heavy psychological toll on our residents, who may feel intimidated by the taggers and gangs and/or abandoned by law enforcement efforts or economic development and opportunities enjoyed by graffiti-free communities within the City. These graffiti vandals also commit serious bodily assaults, and even murders, when discovered or confronted by our residents. Accordingly, this Office prosecutes over 1,200 graffiti-related and vandalism cases annually, including those cases referenced in the attached Press Releases dated February 9 and March 23, 2010.

### Sexual Assault and Child Abuse Prosecutions

The following are a few examples of the thousands of serious criminal violations, including sexual assaults and child abuse cases, typically prosecuted by this Office: a serial child molester was convicted of abusing a mentally and physically-disabled 16-year old female neighbor (see attached Press Release dated November 19, 2009); a defendant, who was found hiding in his 13-year old niece's closet, was convicted of repeatedly sexually-abusing her (see attached Press Release February 10, 2010); a cab driver was convicted of sexually-battering a 31-year old woman with cerebral palsy and serious learning disabilities (see attached Press Release dated March 18, 2010); a sexual predator known as the "Sparking Brakes Defendant" was convicted of 31 counts of sexual battery against 27 separate young women (see attached Press Release dated April 21, 2010); and a 18-month jail sentence was imposed against a defendant, who, along with three roommates, repeatedly battered and raped a developmentally-disabled woman, having the mental abilities of an 8-year-old, over a 24-hour period. This case had been declined for felony prosecution by the District Attorney's Office. (See attached Press Release dated December 22, 2010).

### Inciting Riots and Assaults on Police Officers

Our prosecutors also successfully prosecuted and convicted a number of defendants, who, among other crimes, incited riots, set fires, resisted arrest, assaulted and battered police officers, vandalized property and disturbed the peace during the Lakers' NBA Championship celebratory events in June 2010. These defendants have received jail sentences ranging from 90 days to six months, and were ordered to pay restitution to their victims. (See attached Press Releases dated July 8, 20 and 22, 2010).

## Labor and Wage Theft Prosecutions

This Office also prosecutes serious labor and wage theft violations, including obtaining a conviction in December 2010 against a car wash owner, who paid his employees less than minimum wage, failed to pay overtime and denied them breaks, including during extremely hot weather. This car wash owner was sentenced to 120 days in jail and ordered to pay his employees full restitution, estimated to be over \$300,000. (See attached Press Release dated December 14, 2010).

## Slumlord and Housing Prosecutions

Our Deputy City Attorneys have also successfully prosecuted slumlords, who allowed their properties to fall into disrepair, in violation of fire and health and safety code requirements. In July 2009, a slumlord and his company were convicted of nearly 100 criminal fire, health and safety violations at seven Los Angeles properties, including failing to maintain smoke detectors and other fire equipment, ignoring rodent and roach infestation, and allowing trash to accumulate and raw sewage to leak onto their premises. (See attached Press Release dated July 16, 2009). In July 2010, a large property management firm was ordered to pay a \$2 million penalty for engaging in a scheme to drive low-income tenants out of more than 800 rent-controlled apartment units in order to raise rents and sell the buildings at an inflated profit. (See attached Press Release dated July 2, 2010).

## Environmental Justice and Consumer Protection

Environmental and consumer protection crimes are also vigorously prosecuted by this Office against both companies and individuals who, among other things: discharge pollution into our sewers, storm drains and waters of our Harbor (see attached Press Releases dated August 14 and September 9, 2009); distribute lead-contaminated products, such as AstroTurf (see attached Press Release dated August 14, 2009); sell dangerous, contaminated food products, such as unpasteurized Mexican cheese to consumers (see attached Press Release dated August 27, 2009); unlawfully store, transport and dispose of hazardous wastes and materials, including large national retail chains, such as the Target Corporation, which paid a \$22.5 million penalty for such violations (see attached Press Releases dated September 27, 2010 and March 3, 2011); or distribute prohibited chemicals that contribute to the serious air pollution in our air basin (see attached Press Release dated April 16, 2010 relating to the successful prosecution of Safety-Kleen, Inc.). It should be noted that the \$15 million penalty in the Safety-Kleen prosecution was the largest ever imposed in California for such air quality and unfair business practice violations.

Our consumer protection prosecutions are oftentimes document-intensive, highly-complex and akin to sophisticated “white-collar” crimes normally investigated by the District Attorney or United States Attorney’s Office. In prosecuting these cases, our prosecutors typically battle against some of the most experienced and well-funded white-collar criminal defense attorneys in the nation. These prosecutions include those against: national grocery chains, such as Ralphs’ and its parent, Kroger, for scanner overcharging and short-weighting customers, which, in the aggregate, defrauds the public of millions of dollars in sales (see attached Press Releases dated May 11 and June 30, 2010); health care insurance scams; City parking lot tax cheats (see attached Press Release dated August 5, 2009); fraudulent property tax reassessment schemes; predatory towing companies; and the unlicensed practice of medicine.

### Restoring Law and Order: Medical Marijuana and Billboards/Supergraphics

This Office’s prosecutorial efforts have not only achieved actual crime reduction, but have also assured the public that the laws of this City will be consistently and credibly enforced. In July 2009, there was an apparent sense of “lawlessness” or “Wild West” mentality in certain areas of enforcement, or lack thereof, within the City, especially those involving unpermitted billboards and medical marijuana shops. Since that time, however, this Office has pursued several approaches designed to regain both legal and regulatory control over these two very important and complicated areas of enforcement.

For example, in January 2010, our prosecutors obtained a first-of-its-kind injunction against a medical marijuana shop that prohibits it from selling marijuana products, including those contaminated with pesticides or not properly labeled. This injunction was novel in that it was the first in the state to apply California’s Sherman Food, Drug and Cosmetics Law to the sale and distribution of marijuana, and was designed to protect the right of qualified patients and primary caregivers to a safe and reliable supply of legal and contaminant-free medical marijuana. (See attached Press Release dated January 29, 2010).<sup>4</sup> Through these enforcement efforts, this Office has sent a clear signal that the City will not tolerate the sale of medical marijuana to recreational users for profit by such shops, which have become magnets within our neighborhoods for serious crimes, including armed robbery and murder.<sup>5</sup>

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<sup>4</sup> In April 2010, this Office also obtained an injunction restricting the activity of another medical marijuana shop that had repeatedly violated state law. In its ruling, the Court concluded that the operator of the shop was “simply a drug dealer.” (See attached Press Release dated April 13, 2010).

<sup>5</sup> On February 10, 2011, the California Court of Appeal, in the case County of Los Angeles v. Hill, (2011) 2<sup>nd</sup> Dist. B216432, affirmed that local jurisdictions, including counties and municipalities, may regulate medical marijuana collectives through local ordinances and that such regulations are not preempted by state law. According to the

This Office has been equally aggressive in the prosecution of the owners and operators of unlawful billboards and supergraphics that once proliferated throughout the City and posed serious fire and safety violations. Specifically, several defendants have been arrested and prosecuted for installing and/or maintaining illegal supergraphic signs, including a building owner charged with unlawfully installing a large, unpermitted sign over the windows of a historic building located in Hollywood. (See attached Press Release dated February 27, 2010). Large, national outdoor advertising companies have also been the subject of enforcement actions, including CBS Outdoors, which paid a \$4 million penalty for unpermitted supergraphics installed at several buildings located within the City. (See attached Press Release dated March 7, 2011). Since the prosecution of such violations by this Office, hundreds of unlawful supergraphic and other outdoor advertising signs have been removed throughout the City.<sup>6</sup>

### Criminal Prosecutors are Essential to Sustained Crime Reduction

Currently, there are only 200 prosecutors available to handle this staggeringly large criminal caseload throughout the City. Assuming a police force of roughly 10,000 officers, our Office's staffing equates to only one criminal prosecutor for every 50 LAPD officers. It is obvious that the City needs additional prosecutors to handle the arrests and cases referred by these officers. As stated by the late Chief Daryl Gates in 1982, when objecting to then-proposed reductions in the City Attorney's Office, "*[I]t makes no sense for the Police Department to apprehend (a criminal) and then find the prosecution cannot be completed.*" (Los Angeles Times, 1/7/82).

There should be no doubt that the Office of the City Attorney is the "law" in law enforcement and law and order, and serves as the essential component and partner in maintaining an effective and respected police force. Without City prosecutors, there can be no crime reduction or true public safety, because LAPD would be reduced to essentially a "catch and release" operation, wherein arrestees are briefly detained, then released back onto the streets for want of prosecution. A "catch and release" approach may work when dealing with endangered species in a lake or stream, but not with criminals released back onto our City's streets. Apprehended criminals remain in jail only because prosecutors, such as our Deputy City Attorneys, have determined that a crime has been committed and

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holding of the Court of Appeal, such regulation may include, among other things, the enactment and enforcement of local zoning, licensing, nuisance abatement and criminal laws relating to the operation of such collectives.

<sup>6</sup> These enforcement efforts were in addition to, and supported by, the tremendous efforts of our civil litigators, who successfully secured landmark victories in lawsuits attacking the City's newly-enacted 2009 ban on supergraphics, as well as the City's other sign regulations. (See attached Press Releases dated November 12, 2009 and May 26, 2010). These courtroom victories allowed the City to regain control of this important land use and enforcement area after many years of litigation and regulatory uncertainty.

thereafter fully investigate and file appropriate charges against and, ultimately, convict that criminal.<sup>7</sup>

The LAPD and its brave and dedicated officers perform an outstanding job investigating and apprehending criminals. LAPD officers, however, do not perform the next essential steps of prosecuting and convicting these criminals. The Deputy City Attorneys of this Office, rather, are solely responsible for prosecuting, convicting and then defending their hard-fought convictions and sentences through appeal. Any person experienced in law enforcement matters understands that criminals are not deterred merely because they are caught. Criminals are deterred and change their behavior because they are held accountable, punished, required to pay restitution to their victims and, where possible, rehabilitated, commensurate with the crimes for which they are convicted. Prosecutors are necessary in providing that consistent accountability, punishment, rehabilitation and deterrence.

In the Fall of 2009, in an effort to address our glaring shortage of prosecutors, this Office initiated and implemented a Reserve Deputy Program that annually provides at least \$2 million worth of services to the City. Under this program, at any given time, approximately 50 private-sector attorneys are volunteering as Reserve Deputy City Attorneys in our Criminal Branch. After four weeks of training provided by our newly-created Academy of Justice, these Reserve Deputies are assigned to various offices within our Criminal Branch, where they handle and prosecute (including jury trials) misdemeanor violations. Pursuant to an agreement with this Office, the Reserve Deputies serve full-time for six-months, then one day or one trial per month thereafter for three years. Since the inception of the program, our Reserve Deputies have been very successful in the prosecution of hundreds of criminals, including handling over 250 jury trials.

Although the Reserve Deputy Program is widely viewed as a resounding success and a model for other municipalities and agencies, a large metropolitan public safety office cannot rely on volunteers to prosecute the tens of thousands of criminals this Office charges annually. Neither the Police nor Fire departments rely on volunteers to arrest the criminals that this Office prosecutes or fight the fires in our communities. Moreover, in an improving legal job market, this Office will face increasing difficulty finding volunteers to fill the void created by attrition and any additional furloughs. Thus, as we lose such talented and public service-minded volunteers, our efforts to prosecute and combat criminals will be significantly diminished, much to the detriment of public health and safety.<sup>8</sup>

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<sup>7</sup> Given the serious budget and legal challenges facing the state, increasing numbers of parolees will be released from prisons, with the vast majority returning to the streets of Los Angeles. It is therefore important to maintain a sufficient number of prosecutors to handle any anticipated increase in crimes committed within the City.

<sup>8</sup> Currently, during FY 2010/11, the prosecutors, litigators, investigators and trial support staffs of this Office are subject to 26 imposed furlough days. Although our employees are achieving extraordinary results, these furloughs

## Civil Defense – Protecting the City’s Treasury and Taxpayers

Our litigators and trial support staffs defend and provide legal representation on behalf of the “City of Los Angeles,” including to the municipal corporation and all of its boards and departments. In one year alone, our litigators saved the City from having to pay over \$200 million in civil damages sought in lawsuits filed against various City departments. Incredibly, in the first eight months of this fiscal year, our civil litigators successfully defended the City against nearly \$80 million in demanded damages. Had the City lost these civil lawsuits and been forced to pay millions in damages, it is very likely that the City could not have avoided insolvency and “possibly,” bankruptcy, given the precarious nature of the City’s general and reserve funds.

As I have said many times, “The City Attorney’s Office does not create liability for the City – we prevent and extinguish it.” The liability claims we defend against are the result of the actions or omissions committed by other City departments, including, among others, the LAPD, LAFD, Sanitation Department, and Bureau of Street Services, or other elected officials, including the City Council. Without the experienced professionals of the City Attorney’s Office, the City would be defenseless against the private lawyers filing lawsuits each day against the City (now totaling over 7,000) and currently demanding an estimated \$2 billion in aggregated damages from our taxpayers’ treasury – an amount we surely cannot pay.<sup>9</sup>

These civil lawsuits include causes of action involving, among other things: police and fire liability; serious bodily injury or death; complex business and regulatory transactions; breach of contract; land use and environmental issues; employment and labor; workers’ compensation claims; and government code violations. Each month, approximately 30 to 40 claims are submitted to the City for payment, the vast majority of which are thereafter denied and filed as lawsuits against the City.<sup>10</sup>

Attached are numerous press releases that reflect only a few of the trial victories achieved by our litigators against lawsuits demanding, among other alleged damages: millions of dollars demanded by a mother of a 19-month old

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have a devastating impact on this Office’s ability to effectively manage and staff both criminal and civil cases on a sustained basis. It is impossible to operate a viable and effective public safety and prosecution/litigation office with essentially part-time staffs, having staggered schedules, when the courts and police departments operate, and the prosecutions and lawsuits continue, full-time. Moreover, our litigators practice in both state and federal courts, which are not furloughed and do not recognize or consider our furloughed schedules.

<sup>9</sup> On average, over 1,000 civil lawsuits are filed against the City annually.

<sup>10</sup> With fewer litigators, this Office has a diminished capacity to file or respond to dispositive pre-trial motions, such as motions for summary judgment, which could prolong costly litigation, as well as result in more time-intensive and potentially risky jury trials.

child, who tragically died when LAPD SWAT officers attempted to rescue the child from her father, who used her as a shield; \$3.1 million demanded by a terminated probationary LAPD officer claiming discrimination based on his sexual orientation; \$22 million demanded by the family of two students injured and killed in an intersection, claiming that the City maintained a dangerous roadway condition near a crosswalk; \$8 million demanded by an accident victim riding a motor scooter, who was hit by a non-City vehicle, claiming that the City maintained a dangerous roadway condition; and \$16 million demanded by a passenger injured in a traffic accident caused by a drunk driver, claiming that the City maintained a dangerous roadway without warning signs. In the Courts of Appeal, our litigators were equally successful and obtained victories in, among others, the following cases: a \$15 million verdict against the City relating to a traffic accident was reversed by the Court of Appeal, finding that the trial court had improperly instructed the jury; and a \$6.2 million verdict against the City was reversed in a case involving alleged discrimination against a LAFD employee.

In addition to defending the City's Treasury, a top priority of our litigators is to aggressively pursue monies owed to the City. The litigators assigned to the Public Finance and Collections Section of our Office have been very successful in collecting business and other transit and occupancy taxes owed to the City through their litigation efforts. Since July 2009, these litigators have collected a total of nearly \$6 million. Specifically, in FY 2009/10, our litigators collected \$3.4 million. Since July 1, 2010, our litigators have already collected more than \$2.3 million, with an estimated total of at least \$3 million to be collected before June 30, 2011. These current collection rates greatly exceed those amounts collected by this Office prior to July 2009. For example, in FYs 2007/08 and 2008/09, the total amounts collected by this Office were \$983,000 and \$2.6 million, respectively.

The City Attorney is solely authorized and mandated under the Charter to represent the City and therefore, has no discretion but to defend the City in any and all civil matters. No other attorneys employed by any other City offices or departments are authorized under the Charter to perform my mandated tasks, and no outside counsel are allowed to do so unless expressly authorized by the City Attorney. Although this Office continues to use outside counsel in certain limited civil matters, since July 2009, we have reduced the use of and fees charged by outside counsel by nearly 50% (from \$25 million in FY 2008/09 to \$13 million in FY 2009/10). In doing so, this Office has not only achieved tremendous savings for the City, but our litigators are now handling more civil cases in-house, which allows the City to maintain more control over litigation and its costs, as well as develop more expertise in these areas of law.

## Municipal Counsel – Guiding and Maintaining the Operations of the City

Litigators and attorneys within our Civil Branch are also assigned to function as “municipal counsel” for the City (or municipal corporation), City Council, City leaders, and the dozens of City departments, boards, and commissions, as mandated by the Charter. Each and every proposed City Ordinance, contract and any other agreement or document that could bind or subject the City to potential liability, among other matters, must be reviewed and approved by the City Attorney “as to form and legality.” Obviously, such a responsibility requires the review, research and analysis of hundreds, if not thousands, of legal and technical documents annually. Despite the severe budget reductions we have suffered over the past three years, this Office has performed remarkably well in analyzing, drafting and defending novel and complicated ordinances and public policies, ranging from land use development, medical marijuana, outdoor advertising, telecommunications, tax incentives, labor, transportation, financing, environmental protection and sustainable energy.

Without our municipal counsel performing their Charter-mandated review and approval “as to form and legality,” City operations, including, but not limited to, the drafting and enactment of new ordinances and economic development, would grind to a halt. Our Office’s efforts in this area, however, will regrettably suffer and be considerably slowed should we be subjected to any additional budget reductions. In that event, our ever-limited staff and resources would be further re-assigned and directed toward our two most critical core functions, namely, that of 1) protecting public health and safety through criminal prosecution; and 2) defending the City’s treasury against civil lawsuits that have the potential of bankrupting the City and/or undermining or enjoining its ability to function and provide any services to its residents.

This Office also frequently suggests possible improvements in the operation, maintenance and governance of the City. For example, in October 2010, this Office made recommendations it believed vital to improve the credibility of the Neighborhood Council election process. (See attached Letter dated October 29, 2010).<sup>11</sup>

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<sup>11</sup> The City Attorney has also sponsored a number of state legislative measures directly impacting this City, including those relating to, among other things: the seizure and re-distribution of counterfeit goods to community organizations assisting our homeless and indigent residents; notification of suspected child abuse; restitution to victims of DUI defendants; and mobile billboard regulation and enforcement. (See attached Press releases dated December 24, 2009, June 20, 2010 and August 23, 2010).

## Successes in Addressing Drastic Budget Reductions

This Office provides essential public safety, legal and risk management services to the City and its residents, yet we have repeatedly suffered drastic budget cuts disproportionate to the City's two other public safety departments. On July 1, 2009, we started FY 2009/10 facing a daunting budget deficit of over \$18 million. Through a combination of, among other things, ERIP, furloughs (both voluntary and imposed), attrition, increased debt collections, reduced litigation, vendor and outside counsel costs, transfers of staff to special-funded positions, increased subrogation recoveries, and increased consumer and environmental penalties, this Office was able to completely eliminate that deficit and close FY 2009/10 with a revenue surplus.

Similarly, in FY 2010/11, this Office suffered a 10% (or \$10 million) budget reduction, which was the largest cut suffered by any public safety department in the City. However, since approved in June 2010, this proposed 10% budget reduction for FY 2010/11 has increased to an actual reduction of nearly 14% (or \$13 million), due to the imposition of City-wide costs upon this Office, including cost-of-living and other increases triggered by the City's layoff of employees during the Summer of 2010. To date, while exceedingly difficult, we are again on-track to eliminate any deficit this fiscal year pursuant to our Office's organizational plan, which includes a similar combination of imposed furloughs, vendor and outside counsel cost reductions, and increased debt collections, subrogation recoveries and consumer/environmental enforcement penalties.<sup>12</sup>

## Cost-Saving and Revenue-Generating Measures

### Consolidation Efforts

This fiscal year, this Office has undertaken several in-house consolidation measures specifically designed to reduce costs and increase efficient use of staff and resources, including: the consolidation of our Safe Neighborhood and Gang Divisions in City Hall East, resulting in the closure of our West Los Angeles offices; the Reyes and Central filing operations consolidation into City Hall East; and the proposed closure of our criminal offices in San Pedro and Hollywood, with the re-assignment of prosecutors and trial support staff to our other criminal offices located throughout the City. These consolidation measures will save considerable funds for this Office, as well as other City departments that have relocated to take

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<sup>12</sup> Approximately 95% of the budget for the City Attorney's Office is payroll. The remaining 5% includes trial and litigation expenses and administrative costs. As such, this Office has nothing left to cut, except the hard-working prosecutors, litigators, investigators and trial support staff handling the voluminous criminal and civil matters discussed herein.

advantage of the now available City space (at no or considerably reduced cost to the City).

### Workers' Compensation, Debt Collection and ACE

In addition to the successful cost-saving and revenue-generation measures already undertaken by this Office, we have repeatedly proposed and advocated for a number of measures, which, to-date, have not been approved. These measures include the consolidation of the Workers' Compensation Program<sup>13</sup> and certain debt and tax collections activities within this Office, as well as the implementation of the proposed Administrative Code Enforcement ("ACE") Ordinance (pursuant to the Motion of Councilmember Paul Koretz and currently pending before the Budget and Finance Committee).

The proposed ACE program is a comprehensive and self-funding administrative citation, hearing and enforcement program that will capture a wide-range of low-grade municipal code violations and free up scarce courtrooms and law enforcement officers for more serious crimes and civil actions. Many municipalities, including San Diego, Sacramento and Santa Ana, maintain and operate such citation enforcement programs. This Office and its employees are willing and prepared to take on more responsibility, including ACE, the City's entire Workers' Compensation program (case oversight in one department) and debt/tax collections programs, in order to assist the City in reducing costs and generating much-needed revenue.

### Deferred Entry of Judgment

This Office also hopes to implement another cost-saving, enhanced efficiency and revenue-generating measure known as the Deferred Entry of Judgment ("DEJ") or "diversion" program, in which certain non-violent criminal defendants are directed into a rehabilitative and educational process in lieu of criminal prosecution and sentencing. For example, one measure of successful participation in or completion of such a program would be the attainment of a high school diploma or college degree, and/or involvement in other community or public activities, such as enlistment in the military or other service organizations. In addition to reducing the Superior Court criminal case backlog and allowing selected non-violent offenders to avoid criminal records that could hamper their future employment opportunities, the DEJ program will provide meaningful

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<sup>13</sup> In October 2010, the Controller's Office completed its performance audit of this Office's Workers' Compensation Division. Despite pending litigation, on July 1, 2009, this Office requested that the Controller perform such an audit, which was initiated in September 2009. As a result of this audit, the City Attorney's Office is working cooperatively with the Controller and other City departments to implement recommended corrective measures. (See attached Press releases dated September 16, 2009 and October 13, 2010).

rehabilitation and educational opportunities for such offenders. This program also has the potential to generate revenue for the City by charging participation and other fees.

The City Attorney's Office is confident that the proposed consolidation measures, the ACE Ordinance and the DEJ program will generate cost savings, revenue, and increased resource efficiencies. Notwithstanding our very real and quantifiable achievements, and the high likelihood of success of the proposed measures, this Office cannot sustain any additional reductions assuming that such measures will cover any shortfalls in our budget. Over the last three years, this Office has been "cut to the bone" and, as a consequence, will be prevented from meeting its Charter-mandated obligations.

### FY 2011/12 Budget Strategy

Any additional budgetary or staff reductions going forward will prevent this Office from performing its Charter-mandated responsibilities and will jeopardize both the health and safety of the City's residents, as well as the City's financial security. Although this Office has been extraordinarily successful over the past 18 months in prosecuting criminals and defending the City against frivolous civil lawsuits, any additional staff loss will greatly diminish our ability to perform these tasks. Losing just one civil lawsuit, due to a lack of experienced or a sufficient number of litigators, could cost the City millions of dollars in damages and wipe out any potential savings one might shortsightedly believe could be accomplished through further reductions to this Office. The loss of any additional litigators or trial support staff would prove the old adage, "Penny-wise and pound foolish."

This Office has developed a budget strategy that will allow us to fulfill our Charter-mandated responsibilities, save the City money and increase its operating efficiency. As discussed hereinabove, key components include consolidating criminal branch operations and Workers' Compensation Program case management, and developing revenue-generating criminal case diversion programs, such as the Administrative Code Enforcement and Deferred Entry of Judgment programs.

### Conclusion

Protecting public health and safety through the prosecution of criminals and defending the City's treasury by winning lawsuits are core missions of this City. This Office and its prosecutors, litigators, investigators and trial support staff perform these essential services in a highly professional and cost-effective manner. Our employees are proud, resilient, adaptable, resourceful and, oftentimes, heroic,

in the execution of their duties, using limited resources in the face of well-funded opposition. Our limits, however, have been reached. Our proposed FY 2011/12 Budget Request is a reflection of that limit, beyond which we will have difficulty complying with the Charter. Any additional reductions and downsizing will significantly impact the success, quality and timeliness of the work performed by this Office, to the detriment of the City, its treasury and the health and safety of its residents.

A handwritten signature in black ink, appearing to read 'Carmen A. Trutanich', with a large, stylized flourish at the end.

CARMEN A. TRUTANICH  
City Attorney