



# Protecting San Diego

2016 — 2024



BY SAN DIEGO CITY ATTORNEY MARA W. ELLIOTT

To my fellow San Diegans:

Serving the City of San Diego for the last 15 years - 8 as your City Attorney - has been the honor of a lifetime. Together we made history in 2016. That was the first year in our City's 166-year history that we put a woman in charge. It was an unprecedented and unexpected victory. I pledged then that I would always put the City's interests first, and I remained true to that promise until the day I left office. I took direction directly from our constituents, and I spoke up to protect our City's interests, even when some preferred that I stay silent or negotiate my position behind closed doors. Difficult to do in this political age? Yes, and absolutely the right thing to do, even though there was sometimes a price to pay.

Eight years flies by when you lead the legal department of our nation's eighth largest city, and it can be difficult to remember the accomplishments, so we've made it easy for San Diegans. This end-of-term report is a snapshot of some of the big efforts we tackled on your behalf, and on behalf of the State of California, over the last two terms. It is by no means comprehensive. After all, more than four hundred employees of the City Attorney's Office work on issues that impact our City every day. But it does reflect our dedication to you and to the work your City Attorney's Office achieved over a sometimes tumultuous period of time that included a global pandemic, a racial justice reckoning, a notoriously problematic real estate transaction, the unwinding of unlawful pension reform, and the sale of the City's beloved stadium.

Again, thank you for the opportunity to serve you. It has been an amazing experience, and I am so proud of the progress we made together!



## INTRODUCTION

The work of the San Diego City Attorney's Office (Office) is diverse, interesting, and high-profile. We protect San Diegans by serving as general counsel to the City's elected officials and operational departments; prosecuting and defending civil cases; and criminally prosecuting those who violate the San Diego Municipal Code (Municipal Code) and other misdemeanor crimes. I take great pride in doing work that benefits the community I'm raising my family in. The work we perform improves San Diegans' lives, and that inspires me.

I joined the Office in 2009 as a Deputy City Attorney (DCA) and became the Chief of the Public Services section in 2013. I had not considered running to replace my boss, who would term out in 2016, until a couple of City department heads suggested it. My children were in elementary school at the time. Running for office was



the last thing on my mind. However, my grandmother, Ava – born in 1922– planted the seed when I was young. She was class valedictorian and she wanted to be an attorney. Instead of going to college, she did what was expected of her: she got married and had a child. During World War II, my grandfather served our country, while she raised her son by herself and worked to make ends meet.



Later in life, she became a successful small business owner who served as the president of the local chapter of the National Association of Women Business Owners, on City of Los Angeles boards and commissions, and on the boards of organizations that supported female candidates, like the

National Women's Political Caucus and the Feminist Majority. She took me to meetings and introduced me to other female political leaders who inspired me. They were changing our world for the better.

My other grandmother, Rosalia, also influenced me. She immigrated from Mexico to the United States with my mother after my grandfather abandoned them. She was a union leader in Mexico City before marrying, and that fighting spirit remained with her all her life. She did not finish elementary school so opportunities were limited. She worked low-paying jobs to provide her daughter with a fresh start and stability.



After the initial nudge to run for City Attorney, I couldn't stop thinking about my opportunity to make San Diego a better place. I worried the other candidates for City Attorney – all male – would not advocate for the issues that were most important to me as a working mother and a City employee, like gun violence prevention and protecting victims of domestic violence and their families. I felt fiercely protective of our mission, my colleagues, and the City. I wanted to ensure a qualified and experienced municipal law attorney led the Office, and not someone who would politicize it or use it as a stepping-stone. After exhausting every available training option for first-time candidates, including the respected Emerge California program, I took a chance, ran, and won against significant odds.

When you run for office, your family runs with you. We had to sell our beloved home and relocate within City limits, and the kids had to enroll in a new school. My husband absorbed the bulk of the housekeeping, cooking, and school responsibilities, all while holding down his own full-time job. I couldn't have won, and I most certainly could not have done this job, without my family's support.

## HIGHLIGHTS

A woman had never before led the Office in our City's 166-year history, but that changed in 2016 when San Diegans elected their first woman, Latina, and mother to head the City's largest municipal law firm. I was sworn into Office on December 12, 2016.

The elected City Attorney has served as the public's watchdog for nearly a century by design. The position is independent and directly accountable to the voters. Their interests come first, and the role we play is public-facing. DCAs regularly attend discussion items at City Council (Council) and Council Committee meetings to render advice and to answer questions during deliberations. I've attended Council meetings on Tuesday mornings to hear directly from the public during public comment, and I've regularly attended community meetings to discuss the Office's work and to solicit feedback. We've issued public reports on matters of significant interest to explain to San Diegans complex and expensive City matters and their impact on our tax dollars. Since taking office, we've issued nearly 200 public reports, opinions, and memoranda of law. This information helps the public meaningfully participate in their own City's governance. The public has come to expect this high level of transparency and engagement.

The Office employs more than 400 people and has a budget of about \$85 million. The Advisory Division advises the Mayor, Council, and City departments on day-to-day operational matters; the Civil Litigation Division defends the City in litigation and initiates lawsuits to protect the City's interests; the Criminal and Community Justice Divisions prosecute misdemeanor crimes and focus on restorative justice and diversion with the goal of helping individuals get their lives back on track; and the Administrative Division provides employment and labor counsel to all City officials and departments and manages the Office's budget and administrative staff. The Office also manages the City's family justice center (FJC), Your Safe Place (YSP), formerly known as the San Diego Family Justice Center (SDFJC), which provides free and confidential services to victims of domestic violence, human trafficking, elder abuse, and child abuse.



### Making the Office more responsive

The structural changes I've made to the Office over the last 8 years have made us more efficient and more responsive to the City's needs. We:

- Split the Civil Advisory Division in half to ensure that the priorities of the Mayor and the Council receive equal attention. An Assistant City Attorney (ACA) works directly with the Mayor, the Mayor's Chief of Staff, the Chief Operating Officer, and Mayoral departments on day-to-day operations. An ACA, selected by a subcommittee of Councilmembers, works directly with the Council to provide legal advice that helps them achieve their policy objectives, and provides legal advice to independent City departments.
- Created an official training curriculum, "Councilmember Bootcamp," to help newly elected officials understand local laws and regulations.
- Launched the Affirmative Civil Enforcement (ACE) Unit to bring cases under the Unfair Competition Law (California Business & Professions Code sections 17200, *et seq.*) on behalf of the People of the State of California and the City. ACE has used its muscle to hold behemoth corporations accountable, recovering millions of dollars to make victims whole, benefit the City budget, and fund ACE's future work.
- Established a Chief Diversity Officer position to ensure hiring equity, improve outreach, and provide staff training on diversity. This position helped establish the Committee on Diversity & Inclusion, which puts on monthly educational events open to all staff.
- Created a Chief of Ethics and Compliance position to review potential conflicts of interest, advise on ethical issues generally, and refer matters to enforcement

agencies like the San Diego Ethics Commission, the San Diego County District Attorney (SDCDA), and the State Bar of California. The position also serves as an intermediary to the San Diego County Grand Jury and assists with its requests for City information. Having one point person with expertise ensures consistency and preserves resources.

- Added a Chief of Policy and Community Engagement to ensure that the Office's voice is heard in Sacramento and Washington. This position has secured funding and advocated for new laws that protect victims of domestic violence, gun violence, and hate crimes. The position also serves as the liaison to the cities and counties who are members of the Civil Prosecutors Coalition (CPC). I just completed CPC's inaugural year as Chair, with numerous successes that increased our visibility and clout, created new laws that benefit member agencies, and provided additional enforcement options.



### Performing at the highest level

The Office has a longstanding reputation for maintaining the highest standards of legal excellence. My contribution to that legacy includes the following reforms:

- Elevated the professional climate to recruit and retain the best and the brightest. I amended our interview process, created a pathway-to-career program for law students and a leadership pipeline for existing staff, fought for higher salaries, added additional pay for managerial work, and instituted mentoring and succession planning.
- Helped an unprecedented number of DCAs – 8 get appointed as judges. [3 as administrative law judges, 5 to the bench]
- Initiated bi-annual salary reviews by the City Attorney to ensure pay equity.
- Eliminated the two-tier pay system that inexplicably paid DCAs in the Criminal and Community Justice Division significantly less than their peers.
- Revitalized the performance review process to ensure employees received meaningful feedback and performance deficiencies were addressed.
- Fought for better building security, including metal detectors, and comprehensive staff training to address safety threats.
- Competitively bid legal services in all categories of potential use to give the legal community the opportunity to compete, get the best rates and talent possible, and have outside legal counsel available when needs arise.

### Protecting public safety

I also took positions to advance the public's safety. These included:

- Creating the nationally recognized Gun Violence Response Unit (GVRU) to facilitate implementation of our State's red flag laws, leading to grant funding, the disarming of more than 1,500 dangerous individuals, training of more than 500 law enforcement agencies, and the development of a regional task force focused on gun relinquishment in response to court orders.
- Leading the effort to process all crime-lab rape kits so that survivors who submit to hourslong, invasive procedures are able to seek justice and provide evidence. This includes advocating for laws that require law enforcement agencies to notify victims of the status of their kits and annually report rape kit testing to the California Department of Justice.



- Championed the responsible use of Smart Streetlights to catch criminals and hold them accountable. To date, streetlight recordings have helped solve hundreds of crimes, including murders, sexual assaults, kidnappings, carjackings, arsons, and hate crimes. I took a lot of heat for my position, but the public's safety was worth the fight.
- Orchestrated the return of the SDFJC, now called YSP, to the Office where it originated after being housed at the San Diego Police Department (SDPD) for a decade. We rebranded and rebuilt it.
- Created the Lifesaving Intervention for Treatment Program to assess whether a person we've encountered through the criminal justice system or a City department should be conserved. Under a conservatorship, a judge appoints a fiduciary to manage a person's medication, financial decisions, and other daily activities.



*“I am most proud of my work in the gun violence prevention arena. Our City is nationally known for its effective use of our State’s red flag law and other gun-prohibiting orders. We have trained hundreds of municipalities throughout the State so that they can develop their own gun violence prevention programs, and our work has undoubtedly saved countless lives.”*

## PREVENTING VIOLENCE IN OUR COMMUNITIES

### Gun violence

GVROs are crucial crisis intervention tools in the arsenal against gun violence, yet their effectiveness hinges on proper implementation and public awareness. These orders require coordination among local law enforcement and the judicial system to respond swiftly and effectively to threats.

We made training a priority because we know that local leadership and law enforcement training leads to an increased use of GVROs. The State of California funded our efforts through a \$50,000 grant in 2018, \$1 million in 2022, and \$2.2 million in 2023. In 2024, the Office hosted summits in Southern California and Northern California that focused on how to create gun violence prevention programs. To date, more than 500 law enforcement agencies have attended one of our trainings and we’ve been credited for driving the increased use of GVROs in California. We also worked with the California District Attorney’s Association to create training videos, materials, and public safety announcements.



My work in gun violence prevention began on December 14, 2012, when I was dropping my kids, then ages 5 and 7, off at school. As we parked, a newscaster announced that six adults and twenty children between the ages of 6 and 7 had been shot and killed at Sandy Hook Elementary School. Like so many parents, I had always felt my kids would be safe at school, but that was not the case. And our state did not have laws in place in 2012 that would allow the courts to grant a restraining order disarming individuals when red flags indicate they were dangerous. Fortunately, that changed in 2014, when our state passed a red flag law following a murderous rampage in the Isla Vista community bordering the UC Santa Barbara campus. The gunman’s own parents had reported concerns about their son to law enforcement, only to be turned away because he had not committed a crime. This tragedy could have been prevented if red flag laws existed.

I made California’s new law an important part of my 2016 campaign platform with the goal of developing a gun violence prevention program upon taking office. Initially, I wanted to adopt someone else’s program, but we could not find any other government agency that was using gun violence restraining orders (GVROs), so we worked with SDPD to develop our own program. This eventually led to the creation of a Gun Violence Response Unit (GVRU) of attorneys, legal support staff, an SDPD officer, and investigators who are housed in my Office to seamlessly obtain and execute GVROs. We obtained our first GVRO in December 2017, and have disarmed more than 1,500 dangerous individuals over the last seven years. Since launching our gun violence prevention work, we have taken 3,700 weapons off the streets of San Diego from individuals the courts determined were dangerous.

Our gun violence prevention agenda has led to other important efforts. In 2019, we worked with the Council to enact the Safe Storage of Firearms Ordinance to require City residents to properly store firearms in a locked container, or to use a trigger lock, to prevent access to weapons by unauthorized users, such as children, family members with dementia, and those prohibited by law from possessing firearms. Studies show that unsecured weapons are frequently accessible to and accessed by young children, even when their parents believe they are not. In fact, 73 percent of children under age 10 know where their parents' guns are stored, and 36 percent have actually handled them.

*“San Diego City Attorney Mara Elliott has repeatedly publicly endorsed GVROs, encouraged their use as a firearm violence prevention measure, and funded a team devoted to this effort.*

*Her endorsement may help explain the disproportionate increase in use in San Diego, suggesting that local leadership may play a role in local policy use.*

*San Diego has developed and begun implementing law enforcement training in other counties...*”

—THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION

We also know that suicide attempts are impulsive acts, with one study finding that one-fourth of suicide attempts by individuals between the ages of 13 and 34 occurred within five minutes of their decision to attempt suicide. Secured firearms counter this impulsivity by giving the individual time to reflect and seek help.

In 2024, our Office partnered with Councilmember Marni von Wilpert to enact the Ira Sharp Firearm Dealer Accountability Act to ensure SDPD only buys guns and ammunition from responsible dealers. In California alone, at least 90 law enforcement agencies were identified as purchasing weapons from dealers who had violated existing gun laws. Under the ordinance, vendors seeking City contracts must have clean records, employ robust security measures to prevent firearm theft or loss, and refrain from any violations related to selling firearms to prohibited individuals. We were the first in the nation to take this step, and other municipalities are already following our lead.

We also used state grant funding to create a countywide task force of local, state, and federal law enforcement agencies focused on ensuring firearm relinquishment occurs when the court issues a gun-prohibiting civil order. The task force is collaborating to ensure consistency among agencies and to educate those impacted by gun-prohibiting orders. The Office funds a senior investigator, program manager, attorney, and support staff.

## DOMESTIC VIOLENCE

Preventing domestic violence and assisting victims who experience it was a core part of my campaign platform. Upon taking office, I added two prosecutors to our Domestic Violence & Sex Crimes Unit (DV Unit), which seeks justice on behalf of more than 2,000 crime victims each year. A single prosecutor handles each case from beginning to end, which dramatically improves overall results. After judgment, we monitor convicted defendants to ensure they're complying with protective orders and attending programs that prevent

*“Preventing domestic violence and gun violence requires a coordinated, holistic strategy that addresses threats and provides robust protection for those at risk.”*

—CITY ATTORNEY MARA W. ELLIOTT



recidivism. We also worked with the SDCDA and other law enforcement partners to create a strangulation protocol to train law enforcement to recognize the signs of strangulation and to respond in a manner that best protects the victim. Once a person is strangled by an intimate partner, the chances that she will be murdered by that partner increases by 800 percent.

It's essential that a victim receives comprehensive services when deciding whether to flee, when navigating the criminal justice process, and after proceedings have concluded. For that reason, it was important to return the SDFJC, since renamed YSP, to the Office, which the Council agreed to do in 2018. The FJC model, created by former San Diego City Attorney Casey Gwinn in 2002, is widely accepted as a

best practice and now exists around the globe. The SDFJC had been housed at the SDPD for nearly a decade and had lost many of its community partners due to budget cuts and other circumstances. My team spent months reviewing the SDFJC's staffing levels, budget, information technology, facility lease, operating manuals, and partnership roster to understand which aspects needed attention. We also met with industry professionals, former partners, and previous staff, and retained consultants to aid in the transition. We hired a new Executive Director and two victim services coordinators, and partnered with the San Diego LGBT Community Center, to project a warm, welcoming, and inclusive environment. We renamed the SDFJC because families come in all shapes and sizes, and the name could

send an unwelcoming message.. YSP was reborn and it is thriving.

Today, YSP offers confidential and comprehensive services to individuals experiencing domestic violence, intra-family violence, sex trafficking, sexual assault, elder abuse, and child abuse. It is staffed by 15 City employees whose work is supplemented by 85 community partners who provide free services to YSP clients on premises. Services include safety planning, counseling, emergency



housing, legal services, restraining orders, clothing, and other necessities. Each client is assessed to determine their particular needs. For instance, if a mother and two grade school children and their dog come to YSP for services, they may be offered counseling, a restraining order, immigration services, temporary housing, clothing, and kennel services. YSP has done so well that it has outgrown its 22,000 square foot premises. YSP will relocate to a larger facility in late 2025, allowing it to add more community partners.

We learned early on that FJCs must change with the needs of our clientele. We added sex trafficking to our services in 2018 because there is an undeniable correlation between it and domestic violence: many of our domestic violence clients have been trafficked for sex.

We also added a healthy relationships program to discourage domestic violence before it occurs. Behaviors that lead to domestic violence can take root as teens start to date. We also see teens replicate the conduct they observe at home. YSP staff work with San Diego Unified School District and other school districts to train students, teachers, and counselors.

Other recent enhancements include new remote court hearing rooms, child forensic examination rooms, a children's library, a Halloween party with free costumes, an annual backpack drive to kick off the school year, and partnerships that offer our clients free tickets to Balboa Park museums and Padres games.

Since our clients sometimes come to us from homes that house weapons, we've added a firearm threat assessment to our intake process so that we can secure a GVRO if needed. This is because the risk of homicide increases by 500 percent when a firearm is present in a domestic violence situation. Acting quickly is important because domestic violence victims are most at risk when their abuser knows they're leaving. I worked with the legislature on Assembly Bill 2137 to ensure all California FJCs provide clients with information about the availability of GVROs, domestic violence restraining orders (DVROs), and other legal avenues of protection for victims and their families.

I also led the legislative effort to make permanent the right of a victim of domestic violence or gun violence to appear in court remotely, which proved to work well during the global pandemic. Senate Bill 538 is now in effect, and victims can appear in court while at a YSP virtual courtroom. We also succeeded in changing the law so that DVRO and GVRO petitions can be filed electronically. These legislative fixes make it more likely that our clients will seek and receive the protections they need to stay safe.

We recently achieved our longstanding goal of providing emergency shelter for women and children. We feared our clients would return to their abuser if their only option was to

sleep in a car, on a friend's couch, in a hotel room for a night or two, or on the street. YSP staff estimated that they could only arrange for lodging for one out of four clients due to shelter deficiencies and a shortage of hotel vouchers. We worked with local and state leaders to secure funding to open a shelter for clients of YSP and One Safe Place, the SDCDA's North County FJC. In 2024, after years of advocacy, we opened Casa Mariposa, which is managed by SBCS, a non-profit recognized for its stellar work in preventing and addressing domestic violence. This 164-bed facility has 40 separate units, each with its own bathroom, closet, and space for multiple family members. The site offers shared kitchens, communal spaces, laundry facilities, and outdoor patios and gardens, as well as on-site security protections and 24-hour staff. Casa Mariposa adds 75 percent more capacity to serve domestic violence victims. This life-changing add on has already proven successful.



Standing up to sexual assault on Denim Day 2024

## SEX TRAFFICKING

Sex trafficking is a modern-day form of slavery where perpetrators profit from the control and exploitation of adults and children for sex through force, fraud, or coercion. It's San Diego's second largest underground economy after drug trafficking. DCAs and support staff assigned to the DV Unit, the Nuisance Abatement Unit (NAU), and the Neighborhood Justice Unit (NJU), are specially trained to recognize and respond to human trafficking activity.

Our office has moved aggressively to address the scourge of sex trafficking. We assigned a DCA to work closely with the San Diego Human Trafficking Task Force (SDHTTF) to reduce demand and hold sex buyers accountable. In 2023, the SDHTTF launched Operation Better Pathways and arrested 48 individuals for human trafficking, sexual exploitation, and other criminal offenses, and these cases were referred to prosecutors.



### Our Neighborhood Justice Unit

NJU works directly with those who purchase sex by educating them about the impacts of their conduct. The Prostitution Impact Panel came into existence in 2002, when the law did not distinguish between prostitution and sex trafficking. We now recognize that those who are sold for sex are not participating freely, which prompted us to rename it the Sex Trafficking Education and Prevention Program (STEPP). We fortified the education experience for STEPP participants by increasing training from three to eight hours and adding more informative panels and interactive sessions. The administrative fee increased from \$200 to \$600 to absorb the additional costs that accompany added training.

NJU also handles all the vacatur requests for victims of trafficking and domestic violence. Vacatur allows individuals who have been trafficking or abused to get relief from their convictions when the conviction is a product of their abuse. Survivors are better equipped to secure jobs, obtain housing, and return to school if they do not have a criminal record. We are grateful to Jamie Beck, founder of Free to Thrive, for educating YSP and Office staff on pertinent laws and the role we can play to ensure those who've been abused and exploited by their partners are not further victimized.

In 2023, my Office brought an enforcement action against the Main Street Motel located in Barrio Logan near the naval base, small businesses, and an elementary school. SDPD responded to 229 service calls related to reports of sex trafficking, loitering, fights, and drug overdoses, between January 2019 and February 2023. SDPD also received numerous complaints of women flagging down cars near the motel at all hours. The women often had motel room keys in their possession when stopped by police. We sued the motel owner when the owner refused to abate the nuisance. After extensive litigation, the motel owner agreed to implement compliance measures intended to stop trafficking in and around the motel site. This included hiring uniformed security guards, installing security cameras and providing SDPD with remote access to those cameras, monitoring guests' entry and departure, requiring a valid photo ID, and posting large signs advising that trespassing, loitering, prostitution, drugs, and

*“If you come to our neighborhoods to buy sex, be prepared to leave in handcuffs. We are committed to cleaning up our streets by prosecuting sex traffickers and buyers, while obtaining help for victims forced into illicit activity.”* — CITY ATTORNEY MARA W. ELLIOTT

weapons are prohibited on the property. The owner can lose his motel if he fails to meet these conditions.

It's no secret that massage parlors and hotels can be hotbeds for trafficking. While sex trafficking is a felony handled by the SDCDA, my Office has found ways to do its part to fight this horrific industry. This includes enforcing local and state land use laws to rescue victims, restore tranquility in neighborhoods, and provide relief to impacted businesses. We also visit massage parlors to ensure they've placed a poster on their walls informing the public and trafficking victims about reporting options and assistance.

My Office recently filed a civil enforcement action to stop human trafficking at the Ocean Spa massage parlor. The “spa,” which was operating out of a business park, employed non-English speaking immigrant women who offered sex in addition to massages to those who frequented the establishment. SDPD devoted more than 125 hours investigating the massage parlor. Four people were arrested for selling the women, and the business ceased operations. My Office continues to monitor the operators because businesses like this often start anew elsewhere under a new name.

### COMBATting ABUSE OF THE ELDERLY AND DISABLED

Elder abuse can include physical abuse, neglect, mental suffering, and financial abuse, and is often underreported. Many remain silent in order to protect abusive family members from the legal consequences of their crimes, or they live with the shame of having fallen victim to predators.

Protecting the elderly is a major Office priority, and two of our units handle this important work: DV and NAU.

The DV Unit works closely with the County of San Diego's Adult Protective Services (APS) and SDPD's Elder Abuse Unit to investigate instances of suspected abuse of elders and dependent adults who live in private homes, apartments, or hotels, or in facilities when the alleged abuser is not a resident or staff member. The Office is also a member of the SDCDA's Elder Protection Council. We work together to identify problems our elders are facing in San Diego County and create effective solutions.

Ensuring that those who operate Independent Living Facilities (ILF) do not exploit or abuse their occupants is an important enforcement area. ILFs are residences that are operated by an owner or property manager that lease rooms to individuals who are supposed to be independent, meaning that they do not require assistance with daily living activities. Occupants are typically poor, elderly, disabled, or a combination of these factors. ILFs can slip under the radar because they are not regulated. Although responsible ILFs are a boon for people of limited income, irresponsible ILFs can be deadly and can impact the quality of life in the neighborhoods where they operate.

In 2018, my Office created the Unsafe Facilities Task Force (UFTF) to investigate and respond to dangerous substandard housing violations, including vermin infestation, electrical violations, and egress issues, and to work with the State's Community Care Licensing Division and APS to relocate victims to habitable housing and hold offenders accountable. My prosecutors have since shut down seven ILFs and forced 35 others to correct their deficiencies and to comply with health codes and zoning laws. A Victim Service Coordinator works with those who are rescued from abusive ILFs to find safe and affordable housing, and then seeks reimbursement for relocation costs and the expenses incurred by the City to address and remediate the legal violations at the ILF. We've seen a drop off in referrals because of our aggressive oversight.

### Saving lives on the street

We sometimes encounter individuals who need a higher level of care. In January 2021, I created the Lifesaving Intervention for Treatment (LIFT) to assess whether a person we've encountered should be conserved. Under a conservatorship, a judge appoints a fiduciary to manage a person's medication, financial decisions, and other daily activities. We created LIFT to help vulnerable individuals receive appropriate care and to reduce the City's costs in responding to high utilizers of emergency resources. Most of LIFT's referrals are cycling from the streets to hospital emergency rooms and jails. The LIFT team includes the Fire-Rescue Department, SDPD, the Homelessness Strategies and Solutions Department, contracted physicians, a specially trained program manager, and legal support. In 2022, the Council invested \$500,000 into the LIFT program to fund additional staff. Initially housed on our Office, the LIFT Program now resides under the Fire and Rescue Department. Other California cities have expressed an interest in replicating our program.



## ENDING ANIMAL ABUSE

We added a sub-unit to prosecute animal abuse cases to the DV unit because there is a correlation between those who commit animal cruelty and their likelihood to commit domestic violence, child abuse, and gun violence. Animal abuse can occur as a method of asserting power and control over domestic violence victims to manipulate, intimidate, and retaliate against them. Seventy-four percent of women who had companion animals during abusive relationships reported that their animals were threatened, harmed, or killed by their abusive partner. That's why we added Bundle x Joy and BestyBnB in 2023 as community partners at YSP. This enables us to connect pet owners in crisis situations with safe temporary homes for their animals.



Not all animal abuse cases prosecuted by this unit directly relate to domestic violence and other violent crimes. The most common animal abuse charges prosecuted by this unit are intentional animal abuse, animal neglect, and failure to provide proper care. We work closely with the San Diego Humane Society (SDHS) to bring abusers to justice. Once the SDHS concludes an animal abuse investigation, it refers the matter to us for potential prosecution. Animal abusers may be required to take classes on how to properly take care of animals, attend counseling sessions to understand the root of their behavior, or be banned from owning, possessing, residing with, or having care or custody of any animals for a specific period of time.

## PROSECUTING MISDEMEANOR CRIMES

Nearly half of the Office's staff prosecutes Municipal Code and State law violations. The San Diego City Attorney has concurrent jurisdiction with the SDCDA to prosecute misdemeanors within City limits. We also prosecute misdemeanors in the City of Poway and 4S Ranch by agreement with the SDCDA. We review, on average, between 1,000 and 1,200 referrals a month from approximately 15 different law enforcement agencies, including the SDPD, the San Diego Harbor Police Department, the San Diego Sheriff's Office, the San Diego Airport Authority, San Diego Metropolitan Transit System, the University of California San Diego, and San Diego State University (SDSU). From those referrals, my Office files more than 600 criminal complaints each month in San Diego Superior Court. These cases include driving under the influence of alcohol and/or drugs, being under the influence or in possession of drugs, battery, vandalism, graffiti, theft, weapons offenses, hate crimes, illegal street racing, reckless driving, hit-and-run, road rage, furnishing alcohol to minors, minors in possession of alcohol, resisting arrest, utility theft, harassing telephone calls, vehicular manslaughter, embezzlement, credit card fraud, and identity theft. We recognize that the criminal justice system is intimidating and confusing. For that reason, our Victim Services Coordinators guide crime victims through the criminal case process. DCAs also appear at post-conviction court events, including restitution hearings and probation violations.

NJU participates on the San Diego County Accountability Renewal & Community Health Task Force (SD ARCH) to address chronic criminal offenders within the City of San Diego's unhoused population who commit crimes like selling drugs, stealing, and vandalism. Our collaboration has already resulted in several successful prosecutions. This novel approach focuses on the most serious offenders, reducing crime and preserving law enforcement resources.

## PROTECTING NEIGHBORHOODS

The NAU is a specialized unit within the City Attorney's Office, which has worked aggressively during the last eight years to enforce public nuisance, land use, and environmental laws in the City of San Diego. NAU targets problem properties that contribute to crime, drug activity, alcohol use, trafficking, graffiti, and transients. By rehabilitating abandoned and vacant structures, they have increased available housing stock and community pride.

I created a specialized unit called the Drug DUI Prosecution Team to address vehicular crimes involving

drugs and alcohol since nearly half of fatally injured drivers in California car crashes tested positive for legal or illegal drugs. This specialized team has a high conviction rate. The most detected drug, other than alcohol, is cannabis, which people use more frequently and less cautiously since it became legal. The Drug DUI Prosecution Team trains with the State's Traffic Safety Resource Prosecutor Program to better understand the challenges of prosecuting drug-impaired driving. In 2023, my Office received a 50 percent increase in grant funding from the California Office of Traffic Safety to hold accountable those who drive while under the influence of marijuana or prescription medication.



We also work closely with the SDPD and our communities. A DCA is assigned to each SDPD division and attends SDPD lineups, provides training, and collaborates on-site with SDPD officers about criminal investigations. DCAs also attend community meetings to publicly report on local crime and to educate on emerging trends. Building direct relationships with community members increases the likelihood that crime will be reported.

## CONFRONTING THE DRUGS CRISIS

I took office as the nation entered a deepening crisis caused by the proliferation of opioids. Our emphasis has been on saving the lives of those impacted and seeking justice for the families of those who have been lost.

## PLEADS

In 2019, we partnered with SDPD to create a pre-booking diversion program called "Prosecution and Law Enforcement Assisted Diversion Services," or PLEADS. The PLEADS process begins when law enforcement officers contact qualifying individuals who are suspected of being under the influence of a controlled substance. Suspects can avoid arrest, prosecution, and jail time by choosing to go to a sobering center that offers support services. In its first year, more than 130 individuals chose drug treatment over jail. Taxpayer money is saved because less resources are used by the court, law enforcement, attorneys, first responders, and the healthcare system. PLEADS is now a permanent City program.



## Opioids

The opioid crisis has been catastrophic for many American families, and our City has not been spared. In the mid-1990s, Purdue Pharma pushed the use of OxyContin, leading to addiction and death. In 2019, the ACE Unit civilly prosecuted Purdue Pharma and the Sackler family for violating the state's Unfair Competition Law and for violating the federal Racketeer Influenced and Corrupt Organizations Act. Our goal was to force the defendants to fund the City's rehabilitation and drug-education efforts and to recover the funds the City spent responding to opioid abuse and homelessness caused by opioids. After three years of intense litigation, we achieved a \$30 million settlement that will be paid over eight years. The City must use the settlement funds to address opioid addiction through health care, drug treatment, and related programs.



## STANDING UP TO HATE

A hate crime is a crime against a person, group, or property motivated by the victim's disability, gender, race, religion, ethnicity, gender identity, sexual orientation, or other protected class. Verbal and written threats, actual or attempted physical assault, and hate-related graffiti, including swastikas and other offensive symbols, can all be hate crimes.



Hate crimes in San Diego increased by 65 percent in 2022 over the prior year, and we're predicting those statistics will only get worse. For that reason, we put a lot of effort into educating our community and addressing this conduct through civil and criminal prosecution.

Recent prosecutions involved the physical and verbal abuse of a Latino SDG&E worker and of an autistic transgender person; brandishing knives at four victims believed to be Mexican; and battering an employee at a Hillcrest café while using an anti-gay slur and drawing a swastika on the restaurant window.

Our work does not end with criminal prosecutions. This year, we worked with Assemblymember Chris Ward to address the distribution of flyers that targeted Jewish and LGBTQ+ neighborhoods. The "Stop Hate Littering Act" expands on the Ralph Civil Rights Act to prevent the use of literature to terrorize a person and to create new legal tools for law enforcement to hold offenders accountable. Governor Newsom signed the bill into law in September 2024 and it went into immediate effect. We participated in extensive publicity before the law was enacted to put potential perpetrators on notice of the serious repercussions that could result if the law is violated. To date, we have not had a hate littering incident in San Diego, which indicates that word is out and potential perpetrators are not willing to test us.

*"An assault on our LGBTQ+ community is an assault on all of us. Everyone deserves to be safe in their own community and free from abuse."* -CITY ATTORNEY MARA W. ELLIOTT

### Protecting the vulnerable

We also spearheaded updates to the City's buffer zone ordinance governing access to places of worship, which have become even more susceptible to hate crimes. The provisions had not been updated since 1997. The ordinance creates an 8-foot safety barrier between protestors and those entering places of worship, like synagogues, and allows places of worship to file lawsuits against those who impair or disrupt their operations. The amended law ensures that everyone has a right to access these facilities free from intimidation and harassment.



## PROTECTING THE ENVIRONMENT

Every Division has a role in protecting the environment: from the civil advisory DCAs who review City projects to confirm compliance with the California Environmental Quality Act and other environmental laws, to the prosecutors who enforce the Municipal Code and State law, to the litigators who hold polluters civilly accountable.

### PFAS

In May 2022, we filed suit against more than 20 chemical companies for manufacturing and concealing the toxic nature of firefighting foams that have contaminated San Diego drinking water supplies for decades. Their fire-suppression foams used a class of chemicals called per- and polyfluoroalkyl substances (PFAS), which are considered "forever chemicals" because they do not break down into harmless components. Those toxic chemicals cause serious health conditions like cancer; liver, thyroid, and kidney disease; immune system disruption; and reproductive health dysfunction. A single fire, or even a training exercise, can result in the discharge of thousands of gallons of PFAS foam that must be removed from waters, soils, and other resources or they remain in perpetuity. The lawsuit, filed on behalf of the People of the State of California and the City, seeks to force the companies to pay for cleanup costs, which are expected to be substantial.

### Monsanto

In 2020, the City was part of a group of state governments that sued Monsanto to require it to clean up cancer-causing polychlorinated biphenyls (PCBs) it had manufactured that were released into San Diego's bays, lakes, and other waterways. Monsanto profited handsomely for decades. As a result of a settlement, and a lot of work from City staff who culled through decades of City records to understand the extent of damage sustained, Monsanto must now pay for the damage it knowingly caused by manufacturing a product that put the public's health at risk. The City used its share of the \$550 million settlement (\$7.7 million) for remediation.

### Shale Oil Price Fixing

On November 1, 2024, my Office filed a civil lawsuit under state and federal antitrust laws against nine oil and gas companies for conspiring to inflate the price of oil. Together with OPEC countries, these companies illegally coordinated production goals which meant that the City and consumers paid higher prices for gas and diesel. The City has worked hard to reduce its consumption of fossil fuels, but still needs millions of gallons of fuel every year for its police, fire, and

## Fentanyl

Fentanyl is a powerful synthetic opioid that's very addictive. Fentanyl has emerged as an incredibly deadly drug that's widely available on college campuses. That's why we've partnered with the U.S. Attorney's Office to create a curriculum about the dangers of fentanyl. We worked with SDSU and the University of San Diego to bring this training curriculum to freshman orientation, to the Greek system, and to Resident Assistants who staff the dormitories. We also worked with the San Diego Padres, the SDSU men's Aztecs basketball team, and the SDSU women's soccer team to create impactful public service announcements (PSAs). These popular PSAs are available on social media and are the most effective way to reach this demographic.



construction operations. The lawsuit will be combined with other similar suits in federal court in New Mexico.

### Tijuana Sewage Crisis

We also played a critical role in addressing the Tijuana sewage crisis. The City joined other government agencies and non-profits to sue the International Boundary and Water Commission (IBWC) to mitigate raw sewage and toxic chemicals polluting San Diego area communities and beaches and took a lead role in settlement negotiations. Under the settlement, IBWC, which owns and supervises the operation and maintenance of the South Bay International Wastewater Treatment Plant in the Tijuana River Valley, must diligently mitigate water that flows across the border and regularly share information with stakeholders on its progress



for a period of seven years, and committed \$300 million in federal funding.

### Fish and wildlife

Protecting the environment includes protecting marine animals and wildlife. In November 2018, we filed criminal charges against the Carlton Gallery in La Jolla, its owner, and an employee for trafficking ivory in defiance of California law. This prosecution followed the largest seizure of ivory products by the California Department of Fish and Wildlife (CDFW) since a state law banning their sale took effect in 2016. CDFW seized more than 300 pieces of ivory and items containing ivory from the gallery and its warehouse valued in excess of \$1.3 million. The Carlton Gallery has since closed. We have also held accountable lobster poachers and others in the fishing industry for depleting our natural resources by fishing off season or for protected species.

### Protecting the seals

The Council passed an ordinance closing the Children's Pool to the public each year from December 15 to May 15, for harbor seal pupping season. Friends of the Children's Pool sued, claiming the seasonal beach closure violated the California Constitution, the Coastal Act, and the federal Marine Mammal Protection Act (MMPA). The City lost at the Superior Court level but won on appeal. In rejecting Friends' arguments, an appellate court held that the MMPA did not preempt the state from regulating access to its own property. The appellate court found that the City's attempt to manage public safety by "eliminat[ing] the many years of conflicts between the pro- and anti-seal constituencies resulting in near constant police involvement" was permissible. The California Supreme Court declined to review the decision, leaving the appellate decision intact. This major decision followed 17 lawsuits and appeals, the first of which commenced in 2004.

## PROTECTING PATIENTS

### Ghost directories

My Office filed lawsuits against health insurers Kaiser, HealthNet, and Molina, for misleading consumers with inaccurate provider directories that include doctors who are not affiliated with the providers and whose work is not covered by their plans. Provider directories are a prime advertising and recruitment tool for health insurance providers that new enrollees use in deciding which provider to trust with their family's health care. A consumer's decision may be determined by which doctors are in-network under which plan, as well as the number of specialists available in their geographic area. Our lawsuits alleged that the provider directories of health insurers Kaiser and HealthNet have error rates of at least 35 percent, and in Molina's case, as high as 80 percent, despite California law requiring that they provide up-to-date, complete, and accurate provider directories. The providers succeeded in shutting down our case at the Superior Court level, but we won on appeal and discovery is proceeding. In the meantime, the legislature noticed. In 2023, the California Assembly passed a bill requiring a plan or insurer to audit and delete inaccurate listings from its provider directories annually. It would require a provider directory to move towards 95 percent accuracy by the first day of 2027, with benchmarks along the way.

### Patient dumping

Another disturbing trend is patient dumping. For some hospitals, the cost of doing the right thing is more than they're willing to pay, so they illegally discharge gravely disabled patients in need of care into unsafe care facilities or onto a public sidewalk. That's why my Office brought a case on behalf of the People of the State of California against Scripps Health, a \$3.1 billion non-profit integrated health system, over its discharge and placement of a gravely disabled man into an ILF in violation of elder abuse and our state's Unfair Competition Law. The 70-year-old victim was diagnosed with schizophrenia, suffered from hallucinations, and could not care

for even his most basic daily needs. He was hospitalized at Scripps Mercy Hospital after being found naked, disheveled, and unresponsive, and then released to a substandard ILF even though staff knew he could not care for himself. He was left to manage his own prescriptions and his own medical and psychiatric appointments without transportation. We intervened and arranged for his placement in a secured skilled nursing facility. We are seeking an injunction prohibiting Scripps Health from continuing these practices, and civil penalties of at least \$1 million. Ultimately, we want Scripps Health to follow the law.

## CONSUMER PROTECTION

### Restaurant Surcharges

Shortly after taking office, I received consumer complaints alleging that some San Diego restaurants were including surreptitious surcharges on customers' bills. Failure to disclose a surcharge on the cost of menu items is a violation of the law. We initiated a crackdown that included education about the law and civil prosecution against those who refused to comply with the law. Most businesses complied and appropriately disclosed the fees or stopped the surcharge practice altogether, but a few did not. Barefoot Bar & Grill and Mountain Mike's each agreed to settle and pay penalties.

### Paint Industry

We also took on the paint industry to address lead paint poisoning. Although the United States banned the manufacturing of lead paint in 1978, it remains in many older homes, often covered by layers of newer paint. It becomes a health hazard when it deteriorates and turns to dust. A tiny amount swallowed by a child can damage reproductive organs and result in a lifetime of learning difficulties, behavioral problems, and even death. After years of litigation, we secured \$15 million from lead paint manufacturers. The funds will be used to protect San Diego children and families by removing paint from City homes.

### Water Testing

While we are not opposed to investing resources into remediating environmental problems, the law makes clear that the State of California must reimburse cities like ours when it requires us to use our resources to implement a state program. In 2017, the Water Resources Control Board (WRCB) directed the City's Public Utilities Department (P.U.D.) to test water sources at K-12 schools after lead absorbed from pipes was found in the drinking water of many Michigan schools. California's testing requirement left open the question of who pays for the testing: the state, which mandated the testing, or water districts, which provide the water. The state's Commission on State

Mandates (CSM) decided that water districts should pick up the tab, placing the \$500,000 cost of testing San Diego schools on the P.U.D. We challenged that decision and prevailed in September 2024 before an appellate court in Sacramento.

### Privacy

The Office also fights to protect consumer privacy. In 2018, we sued Experian on behalf of the People of the State of California because it failed to timely notify consumers that their information has been compromised due to a security lapse. As a result, the personal financial information of more than 30 million individuals, including 250,000 San Diegans, was breached. Since individual consumers do not have the time or the resources to fight corporate malfeasance, my Office sought justice on their behalf. Our lawsuit was dismissed on the eve of trial, but we fought that decision on appeal and got it reversed, in an important published decision that clarifies the law for all public prosecutors in California. We'll continue to move the case forward when it returns to the trial court.

### Car Manufacturers

We sued Kia and Hyundai for knowingly selling vehicles that lacked inexpensive locking devices. The theft of these cars because of the manufacturer's desire to save money hurts consumers and the law enforcement officers who respond to calls due to car theft.

### Flavored Tobacco Products

We also held accountable retailers who continued to sell flavored vaping products after local and state laws went into effect prohibiting such sales. To ensure retailers followed the law, my Office sent undercover investigators to retail chains to purchase flavored tobacco products, resulting in the prosecution of local retail chains during the summer of 2023 for violating our state's Unfair Competition Laws. We just completed a second round of lawsuits against storefronts and on-line sellers who continue to ignore a law that's been on the books for nearly two years. Our enforcement action is very important because e-cigarette sales spiked overall by 46 percent from 2020 to 2022, and flavored tobacco products are an easy on ramp to nicotine addiction by young people.

### Life Insurance Notices

On October 17, 2024, we filed a civil lawsuit against four major life insurance companies for violation of the Unfair Competition Law, based on our investigation that revealed a years-long industry practice of failing to send notices to people whose life insurance contracts expired. California

law has long provided that policy holders are entitled to notice in specific ways before a policy can be cancelled for non-payment. The law also provides for a “cure” period after expiration when payments can be made to reinstate the policy. Thousands of often elderly policy holders never received those notices and the claims their heirs brought were denied. Our lawsuit seeks to end this practice and to get restitution for the affected consumers.

## PROTECTING WORKERS

### Project Labor Agreement

With significant support from the Office, the Mayor signed our City’s first citywide Project Labor Agreement (PLA) in February 2024, a little over a year after voters repealed a 10-year-old ban on PLAs by passing Measure D in November 2022. PLAs organize complex construction projects and ensure their efficient and timely completion. The historic agreement, which is the first of its kind, establishes a variety of conditions and a consistent set of rules on most city-funded construction and infrastructure projects, including minimum wage requirements and safety condition requirements.



## Gig Economy

In 2020, the ACE Unit obtained a preliminary injunction against Instacart, a multi-billion-dollar grocery-delivery company, for misclassifying workers. This lawsuit was the first of its kind in the nation against a gig-economy company. Instacart misclassified its employees to avoid paying them a lawful wage and saddled them with the cost of equipment, car registration, insurance, gas, maintenance, parking fees, and cell phone data usage. In 2023, my Office secured a \$46.5 million dollar settlement for underpaid Instacart workers. Approximately 308,000 individuals were eligible for restitution.

The San Diego City Attorney’s Office filed a similar lawsuit against Uber and Lyft, in 2020, alleging the rideshare companies misclassified their drivers as independent contractors.



*“All Californians are harmed when companies like Instacart cheat their employees out of health care, unemployment benefits, and basic protections required by law. These are billion-dollar companies that refuse to follow the rules, expecting taxpayers to pick up the slack when their employees get sick, need a hospital, or lose their jobs. It’s time for companies like Instacart to pay their own bills.”*

— CITY ATTORNEY MARA W. ELLIOTT

## Proposition B

Passed by voters in 2012 as a citizen’s initiative, Proposition B was a pension reform measure that moved new City employees from the City’s pension system to a 401k-style retirement plan. City unions sued to block its passage, alleging it was a City measure that had been placed on the ballot without necessary negotiations. The matter went all the way to the California Supreme Court, which agreed with the unions. This meant our work shifted to the daunting task of unwinding Proposition B and allowing those employees who had joined the City workforce in the interim period to receive the pension benefits to which they were entitled. We worked with City leadership to forge a path forward, a process requiring countless actuarial analyses, years of meet and confer sessions with labor groups, Municipal Code amendments, and reports to the California Public Employment Relations Board, among many other tasks. The matter has finally concluded, and we’re seeing significant improvements in employee retention and recruiting.

## PROTECTING REPRODUCTIVE RIGHTS

In June 2022, the U.S. Supreme Court overturned *Roe v. Wade*, meaning the United States Constitution no longer protects a woman’s right to choose. While we are fortunate to enjoy robust reproductive freedoms in California, the

*“An overwhelming majority of Americans support access to abortion. I’m proud to join other California officials in standing strong against those who would turn back the clock and put women’s lives in jeopardy.”*

— CITY ATTORNEY MARA W. ELLIOTT

*Dobbs* case represented a disturbing step backwards. In the immediate aftermath of the court’s decision, I joined Attorney General Bonta’s Reproductive Rights Task Force to do my part to preserve access to reproductive care across the state.

The *Dobbs* decision also meant a demand for reproductive healthcare. To protect those seeking services from intimidation, harassment, and threats, I introduced significant amendments to the City’s buffer zone ordinance, which became law in June 2024. The ordinance creates an 8-foot safety barrier between protestors and those entering healthcare facilities, K-12 schools, and places of worship, and empowers impacted organizations to file lawsuits against protestors who impair or disrupt their operations. Anti-choice plaintiffs sued to prevent the law from taking effect, even though the law is clearly on our side.

## LEADING DURING COVID

Guiding the City through a global pandemic was one of my most challenging responsibilities as City Attorney. The pandemic touched every aspect of our work, and we moved quickly to ensure City operations were not impacted. DCAs assigned to the Civil Advisory Division devoted more than 4,300 hours to pandemic-related legal services. We provided legal advice with little lead time on cutting-edge issues, ranging from the use of City facilities and property for emergency housing to emergency relief for tenants, landlords, businesses, water customers, and others impacted by COVID. We stayed apprised of orders from the Governor to determine which were essential and able to remain open and navigated how to close businesses that refused to comply with health orders. We also dealt with protocols for minimizing City employee exposure to COVID and ever-changing rules for holding accessible public meetings under the Brown Act.

Those assigned to the Criminal and Community Justice Divisions continued to report to work each day while most City staff isolated at home. We worked closely with the Superior Court, the Sheriff, SDPD, the Public Defender, and the District Attorney, to coordinate court calendars, virtual hearings, and jail population levels. Civil litigation nearly stopped, leading to a tremendous backlog that we’re still addressing.

YSP staff also continued to work on-site to respond to an uptick in domestic violence. During the first six months of the pandemic, the number of gun-related suicide threats nearly tripled, straining our GVRU. The City’s Building and Land Use Enforcement Department ceased physical inspections of problematic ILFs, so we invested our own funds to purchase personal protective equipment so that our investigators could monitor substandard properties to ensure seniors and



nearly 200 acres of City-owned land in Mission Bay. The City sued SeaWorld in 2023 after an audit by the City Treasurer revealed it owed the City more than \$12 million in unpaid rent, interest, and penalties. SeaWorld claimed it was entitled to remit less rent because the City imposed pandemic restrictions that harmed its revenue.

As the City adapted to meet the crisis, it also needed to defend City actions, including City orders to close non-essential food-serving establishments and to protect tenants from eviction for nonpayment of rent due to COVID. The court ruled in the City's favor in all these cases.

### STANDING UP FOR TAXPAYERS IN HIGH PROFILE MATTERS

The City of San Diego is our nation's eighth largest city, and the caseload reflects its size. From the time I was sworn in until now, 1,833 new cases were filed against the City. This number does not capture the cases the City brought as plaintiff, our robust worker's compensation practice, eminent domain cases, Civil Service Commission matters, collection cases, or litigation involving the ACE unit. Since there is never a lull in work, we're limiting this section to a sampling of high-profile matters.

#### The Stadium Sale

In early 2017, the Chargers announced their plan to move the team to Los Angeles. The City's stadium was ripe for reuse. Proponents of two citizen's initiatives – Soccer City and Mission Valley West – revealed their plans to pursue alternative uses of the stadium. This was an unprecedented use of the initiative process to sell public land for private use, and we questioned whether an initiative could be used to usurp the power of the executive and legislative branches of our City's government. We also felt it was important to ensure that the voters would not be presented with invalid measures, and we wanted to avoid years of costly litigation and delay. With Council's consent, my Office filed writs with the Fourth District Court of Appeal to resolve this novel issue. The League of California Cities filed a letter supportive of our efforts, agreeing that the legal question was important for all California cities. After receiving a ruling that blessed the use of the initiative process for this purpose, the measures proceeded to the ballot.

Voters ultimately approved Mission Valley West, which would require the City to sell the stadium to the State of California for use by SDSU for entertainment, research, and other university needs. This led to months of tense and public negotiations between the City and SDSU to address implementation. It was our goal to make sure that the City would not have any liability after the sale concluded.

*“My duty is to protect the interests of taxpayers in this complex legal negotiation. The City has gotten shortchanged by past real estate deals because it didn't pay attention to details. While some may be desperate for any deal at any price, my focus has been on getting this deal done right. Ultimately the council must decide whether the final agreement is fair, equitable, and in the public's interest.”*

— CITY ATTORNEY MARA W. ELLIOTT

During the course of negotiations, the Office issued 20 reports and memoranda and appeared at numerous public hearings to keep the Council and public apprised. We ignored the pressure, politics, and other distractions, to ensure the final agreement protected City taxpayers, utility ratepayers, and the general fund. Had we not fought back, the City would have been exposed to lawsuits brought by CSU's contractors even after the close of escrow; the City's groundwater monitoring wells would not be protected; the City would have been forced to give CSU unnecessary representations and assurances about the property, even though this was an “as is” sale; and the City would have been held responsible if CSU's developers failed to pay prevailing wages on post-closing construction activities, among other significant disadvantages and liabilities. Because we fought hard, the final deal was a win-win for the City and SDSU. We took the time needed to get the deal right so that San Diegans and future generations would not be saddled with a rushed and short-sighted deal that we would later regret.

#### 101 Ash Street

Contrast the stadium sale to the lease-to-own transactions approved by then-Mayor Falconer and the Council regarding Civic Center Plaza (CCP) and the 21-story building at 101 Ash Street. The Falconer administration used volunteer real estate consultant Jason Hughes to negotiate real estate deals on the City's behalf. They brought the CCP deal to the Council in 2015, which

Council approved that same year, followed by the 101 Ash Street deal, approved by Council in November 2016. The Falconer administration did not perform basic due diligence on either building before recommending the deals to Council. After the 101 Ash Street deal closed, City officials hired contractors to expand the number of offices within the building to accommodate more City employees. The contractors failed to follow asbestos protocols and released asbestos throughout the building. After asbestos debris was discovered in various building locations, the City vacated the building as a precautionary employee safety measure and instituted personal protective equipment protocols for access. The building remains empty today. The cost to make the building safe for occupancy had already exceeded \$26 million by 2020, and an independent investigation estimated \$115 million more would be needed to remediate asbestos and building systems issues and occupy the building. This amounted to \$136 million more than City staff presented to Council in October 2016



when they were considering the deal terms.

When I took office on December 12, 2016, the Council had already approved both lease-to-own deals. The prior City Attorney administration did not mention or flag concerns about the 101 Ash Street deal, nor were red flags

present in the information available to me. The DCA who completed the final paperwork on January 17, 2017, crossed off the prior City Attorney's name from the signature block and substituted his name with my name.

By 2020, it was evident that the City had invested in a lemon. Cleaning up the mess I inherited became a top priority. I marshaled the full power of the Office to resolve it and empowered our outside legal counsel to pursue whatever investigation they deemed necessary.

In 2021, we sued Hughes, seller Cisterra, and lender CGA to void the City's lease-to-own agreement for the 101 Ash Street and CCP buildings. During discovery, we learned that Hughes, who had brought the deal to the City, profited handsomely from the transactions in violation of conflict-of-interest laws. This allowed us to amend our lawsuit to seek a court order voiding the transactions which, if successful, would allow us to get the City's money back and return the buildings to the seller. Against my

advice, the Mayor and a majority of the Council agreed to settle the litigation with Cisterra and CGA. Under that settlement agreement, the City bought the 101 Ash Street building for \$86 million, and the CCP building for \$46 million. Cisterra refunded the \$7.5 million in profits it had made on the 101 Ash Street property to the City but kept the profits it made on the CCP transaction. The City agreed to pay the legal expenses incurred by CGA and Cisterra following the settlement agreement and continues to pay those bills. In a separate settlement agreement, Hughes was forced to return the \$9,433,872.30 he made from the 101 Ash and CCP transactions to the City. The City's litigation against the contractors who released the asbestos is active, and the City is still fighting for insurance coverage. Resolving this debacle required significant attention throughout my two terms. We are finally nearing the end of this unfortunate chapter in the City's history.

### Pure Water

Using technology to clean recycled water, the Pure Water San Diego Program (Program) will produce 83 million gallons of safe, high-quality water a day. Unfortunately, SDG&E refused to relocate utilities to make way for the Program and the Montezuma Project, despite the clear language in the 1970 franchise agreements that places that responsibility and cost on SDG&E. To avoid a costly delay, the City paid SDG&E \$35,578,521 under protest to relocate the utilities, and then sued after months of discussion did not resolve the dispute. The lower court agreed with SDG&E, and the City appealed. The Court of Appeal recently ruled that the lower court had erred, and that SDG&E must bear its own relocation costs. The California Supreme Court declined to hear the case, meaning that the dispute has concluded in the City's favor. SDG&E returned the \$35,578,521 plus interest, but at least 14 other similar disputes between the City and SDG&E remain over utility relocation costs. City staff had estimated a potential loss of \$100 million, had the City lost its appeal.

### Franchise Negotiations

Since 1920, the City has granted SDG&E exclusive use of the public rights of way for the transmission and distribution of electricity and gas, as well as the right to install and maintain wires, poles, power lines, and underground gas and electric lines. Franchise revenue from this and other franchisees accounts for about 6 percent of the City's general fund revenue, which the City uses to fund core services. The City's 50-year franchise agreements for electric and gas services were set to expire in January 2021, shortly after a mayoral transition. The City's first attempt to competitively bid the franchises drew little interest from providers other than SDG&E. The City issued a second

attempt that did not generate interest, leaving SDG&E as the sole bidder. My team and I worked with City staff to develop the terms of a new franchise for both services, to negotiate an extension of the existing franchise agreement, and to then negotiate new franchise agreements. To ensure the public understood the terms of this important transaction, I drafted a memorandum explaining the terms negotiated by the City's team and how those terms differed from the original request for proposals. In June 2021, the Council approved a 10-year agreement with SDG&E that included the option to extend for an additional 10 years and approximately \$130 million per year in franchise fees for the remaining term of the franchise, for an estimated \$3 billion. The City also receives \$30 million to help advance the City's climate equity goals. The franchise agreement left open whether the City or SDG&E would pay for relocation costs due to pending litigation. As discussed above, the courts resolved that issue in the City's favor, and that ruling



now resolves this open issue.

The City's granting of the franchises was met with a couple of lawsuits which, if successful, would have created a \$3-billion hole in the City's budget. One of the lawsuits, *Protect Our Communities Foundation v. City of San Diego*, claimed the City unlawfully negotiated the franchise agreement with SDG&E and that the franchise fees were taxes. The Superior Court determined that the City appropriately bid the franchises and followed all legally required processes. Had the lawsuit been successful, it could have had a significant impact on the City's finances, potentially disrupting essential services and long-term financial planning. The plaintiffs have appealed.

In addition, former San Diego City Attorney Mike Aguirre and his former Assistant City Attorney Kathryn Burton attempted to invalidate the franchise agreements by claiming the Council violated the Brown Act's prohibition on serial meetings during its consideration of the agreements. The Superior Court dismissed their lawsuit, and the California Court of Appeal upheld the lower court's ruling, effectively ending their case.

### Scoters

Under City regulations, scooter companies operating in San Diego must defend and indemnify the City if it is sued by a person who rents a scooter and is injured. Bird was permitted to operate in the City and had initially adhered to that agreement. However, in 2023, it filed for bankruptcy while 20 lawsuits against the City were pending. The attorneys Bird hired withdrew from representation because Bird was not paying them, leaving the Office no choice but to defend the cases and potentially pay plaintiff's damages. This could have exposed our taxpayers to more than \$46 million in legal liability. We retained a bankruptcy specialist to represent the City and other impacted municipalities who established a tort claims trust the bankruptcy court approved. This strategy reduced the City's damages to \$750,000 - an exceptional result from a potentially disastrous situation. An appeal is pending.

### Measure C

More recently, another complex - and still ongoing - series of novel legal questions were raised by Measure C, a 2020 ballot initiative to increase the City's lodging tax for funding an expansion of the San Diego Convention Center, infrastructure improvements, and homelessness programs. For years, tax measures in California have faced the high bar of a two-thirds majority of voter approval, but recent case law had indicated measures placed on the ballot by citizens, rather than local governments, would only require a simple majority vote. Sixty five percent of voters agreed with Measure C. Opponents of the measure challenged its validity on frivolous grounds, delaying the collection of hundreds of millions of dollars in revenue that the City could have already used for civic improvements. Our Office has successfully navigated this litigation at every step, most recently with an August 2023 appeals court ruling affirming our argument that a simple majority vote was needed for approving Measure C, and a subsequent Superior Court ruling in September 2024 validating the measure as a true citizens-led initiative. Further appeals may take another year to wind through the courts.

### Housing Authority

In August 2021, my Office sued a real estate broker on behalf of the City, the Housing Authority, and the San Diego Housing Commission (SDHC), alleging fraud and violation of anti-corruption laws. The real estate broker had advised the SDHC to acquire two residential hotels in Mission Valley and in Kearny Mesa for use as long-term supportive housing. The broker had a prohibited and undisclosed financial interest in one of the contracts he negotiated, and had received more commission from the SDHC than



his contract allowed. We negotiated a settlement that required the broker to pay \$1 million in damages. He also agreed to permanent debarment, meaning he can never work with the City or a City affiliate again, and to an administrative settlement with the California Fair Political Practices Commission.

The lawsuit and the issues it revealed led to the formation of a Housing Authority Working Group of three Councilmembers and me. Together, we created reforms to prevent these circumstances from recurring. The Council also formed an oversight committee that met publicly to discuss proposed reforms and to hear from the public.

### Belmont Park

The City prevailed in a challenge by San Diegans for Open Government (SDOG) to the Belmont Park Amended and Restated Lease. SDOG sought to invalidate the lease alleging it violated the Municipal Code, the Charter, and the California Environmental Quality Act (CEQA). The trial court found the Belmont Park project obtained a vested right from the Municipal Code, which enabled the City to lease the property beyond its original 50-year term, and potentially into perpetuity. The trial court also held the Charter restriction did not apply to revenue generating leases, and concluded the City properly found the lease to be exempt from CEQA. SDOG lost its appeal to the Court of Appeal. The lease will bring a minimum of \$100 million in revenue to the City if it runs its full course.

### Short Term Rentals

Short-term rentals are controversial in part because they were unregulated for decades. I repeatedly heard from constituents about the need to either ban them or create reasonable regulations that would respect neighborhoods and prevent the depletion of needed housing. We rolled up our sleeves and worked with several councilmembers



over many years. Councilmember Jennifer Campbell led the successful effort to get regulations on the books. From a lawyer’s perspective, this was very complicated because it wasn’t just about writing good law. Frustrations had brewed for decades, and had even become a hot button issue in local campaigns. I promised to tackle this vexing issue when I was elected, and I’m proud to say we got it done.

### Complex Legislation

The California legislature adopted new regulations intended to allow sidewalk vending while protecting the public’s health and safety. This, too, became controversial, yet we successfully assisted the Council in passing reasonable regulations that respected the rights of all stakeholders. Other successes included working with the Mayor and Councilmember Stephen Whitburn to write and pass the Unsafe Camping Ordinance, which addresses the location and occurrence of encampments that affect public spaces, schools, parks, and open space.

### AMICUS CURIAE PARTICIPATION

On February 14, 2017, just two months after taking office, I presented a request to the Council in closed session from the State of Washington to sign on to an amicus brief in support of its lawsuit challenging then-President Donald Trump’s Executive Order restricting non-citizen travel to the United States from seven specified Muslim-majority nations. Whether to join, or not join, an amicus brief is a decision that rests with the Council and not the City Attorney.



ACAs Mary Nuesca and Sanna Singer and then-Chief DCA Leslie FitzGerald working on the Short-Term Rentals Ordinance.

Two weeks later, I asked Council in closed session whether they wanted to sign on to an amicus brief in the matter of *Gloucester County School Board v. G.G.*, a minor. This case concerned Gavin Grimm, a 16-year-old transgender boy, who sued his school district to use the boys’ restroom at school, claiming the school board’s policy violated his rights under Title IX and the Fourteenth Amendment. The request to sign on to an amicus brief came from another jurisdiction, and not from me.

Asking the Council this question - whether to sign on to an amicus brief prepared by another government entity - sent two councilmembers over the edge. They publicly demanded my resignation, claiming I was better suited for the federal sector. One issued a press release demanding

that I “re-focus [my] efforts from chasing national policies to promoting public safety and prosecuting local criminals here in San Diego.” It is unclear how the prior City Attorney handled such requests. Evidently, he did not present those requests to the Council, but I did not shirk my ethical duty to present those requests to my client, even in the face of bullying and intimidation.

Fast forward eight years: the Mayor and Council expect to hear these requests and are proud of the role they play in explaining our City’s position on issues of importance to them and the communities they serve. In addition to the above, the City has participated as amici curiae to:

- oppose discrimination against same-sex couples (*Masterpiece Cakeshop v. Colorado Civil Rights Commission*);
- defend the DACA Program (*Batalla Vida v. Baxan/Batalla Vidal v. Chad Wolf/Batalla Vidal v. Nielsen, State of New York v. Donald Trump, The Trustees of Princeton University v. United States of America; United States v. Texas*);
- support the California Values Act (*United States v. State of California*);
- retain pre-development agency dissolution payments (*City of Grass Valley v. Michael Cohen*);
- oppose sexual orientation and gender discrimination in the workplace (*Bostock v. Clayton County* (consolidated with *Altitude Express, Inc. v. Melissa Zarda*, and *E.E.O.C. v. R.G. & G.R. Harris Funeral Homes, Inc.*);
- preserve the Temporary Protected Status Program (*Crista Ramos v. Kirstjen Nielsen; also Sanchez v. Mayorkas*);
- seek clarification concerning the Labor Code (*Sturtevant Farms and State Compensation Insurance Fund v. Workers Compensation Appeals Board*);
- protect CARES Act payments for U.S. citizen children of undocumented immigrants (*R.V. v. Mnuchin*);
- protect the Affordable Care Act (*State of California v. State of Texas*);
- Oppose unrestricted licenses to carry concealed pistols (*New York State Rifle & Pistol Association, Inc., et al. v. Bruen, et al.*);



- provide safe injection sites to preserve public health (*United States v. Safehouse*);
- oppose racial gerrymandering (*Merrill v. Milligan*);
- support non-discrimination law on Free Speech claims (*202 Creative LLP; Lorie Smith v. Elenis, et al.*);
- weigh in on ghost guns (*Division 80 LLC v. Merrick Garland, et al; also Garland et al. v. VanDerStok et al.*);
- seek clarification about the law on camping on public property (*City of Grants Pass, Oregon v. Gloria Johnson, et al.*);
- request interpretation of Proposition 218 as it relates to tiered water rates (*Coziahr v. Otay Water District*); and
- challenge the legality of Proposition 22 (*Castellanos, et al. v. State of California, et al.*).

Council has always been very deliberate in its decision to join as amicus. It focuses on whether San Diegans will benefit from clarity or a certain ruling.

## FIGHTING FOR PROPER GOVERNMENT OVERSIGHT

Over the course of my time in office, I've come to really appreciate and respect the checks and balances on City governance and the independence of watchdog agencies, like our Office, that ensure oversight and accountability. In September 2023, after the Mayor and some Councilmembers attempted to transform the Office from an elected office to an appointed office, I proposed an ethics reform agenda to strengthen independent departments, protect whistleblowers, further the democratic process, and increase transparency. I was surprised by the level of resistance I encountered from some Councilmembers, and the media's reluctance to hold those officials accountable for their positions.



### Dividing the Office to eliminate oversight

In 2023, Council President Elo-Rivera and his allies introduced an ill-conceived proposal that would have split the Office in two: voters would elect a City Prosecutor to prosecute the Municipal Code and misdemeanors, and the Council would appoint a City Attorney to serve as general counsel, thus taking from the voter their right to elect their own City Attorney. Every administration dating back to City Attorney John Witt has proposed reducing or eliminating the City Attorney's independence to remove an important check on their authority. Voters have elected their City Attorney to prosecute and to serve as general counsel to the City for nearly 100 years, and it's a right they hold dear. Nevertheless, the proposers jammed their proposal through the Rules Committee after the deadline to submit ballot proposals had passed without discussing the proposal with those most impacted: the City Attorney, the Deputy City Attorneys Association, the San Diego Municipal

Employees Association, or the public. I wrote a rebuttal to the proposal that documented the reasons voters chose to elect their City Attorney, and described the loss of checks and balances should such a proposal pass. The proponents dropped their proposal six weeks later, claiming my rebuttal was too much to absorb on short notice. The proposal died after that, but will no doubt return at some point. San Diegans have the benefit of thorough work product describing the history behind this Office and the advantages of having an independent City Attorney. See <https://docs.sandiego.gov/cityattorneyreports/RC-2023-3.pdf>.

### Strengthening the independence of the Ethics Commission

I proposed and drafted amendments to the San Diego Charter (Charter) to fortify the independence of the Ethics Commission and to address conflicts in its appointment process and operations. The Ethics Commission (Commission) monitors and regulates the City's elected officials, lobbyists, and certain City employees, yet the very elected officials this body regulates appoint its commissioners, set its budget, confirm the appointment of its Executive Director and its complaint and investigation procedures, and retain authority to disband it at any time. My proposal to amend the Charter provides that only City voters could disband the Commission; describes the number of Commission members, their qualifications, and their length of service; guarantees adequate resources, and empowers the Commission to hire its own Executive Director and to determine its own investigation processes without Council interference. Council President Pro Tem Joe La Cava played a critical role supporting this measure, and it would not have made it onto the ballot without his strong advocacy. An overwhelming 72 percent of voters approved this proposal – Measure D – on November 5, 2024.

### Strengthening the independence of the auditing function

I also proposed strengthening the City's auditing function. To properly safeguard the interests of City taxpayers, the Auditor must be truly independent. I suggested amending the Charter so that the Auditor is elected by and accountable to San Diegans and not to the Council or an Audit Committee. Alternatively, I suggested restructuring the Audit Committee so that it is composed solely of qualified public members who are free from conflict and political allegiances. Currently, the Council appoints and terminates the Auditor, and two Councilmembers are members of the Audit Committee, to whom the Auditor reports. As the Council declined to act on these suggestions, this accountability loophole remains.

### Fortifying whistleblower protections

In January 2024, I presented a proposal to the Council's Rules Committee to add whistleblower protections to the Municipal Code so that employees would feel safe reporting suspected misconduct to the City without fear of retribution. I also proposed adding information about whistleblower resources and protections to the City's onboarding curriculum and website. The Rules Committee approved the language I drafted and it's now in the meet and confer process with the City's Represented Employee Organizations. It will return to the Council for adoption after I leave office.

### Improving the City's response to requests for public information

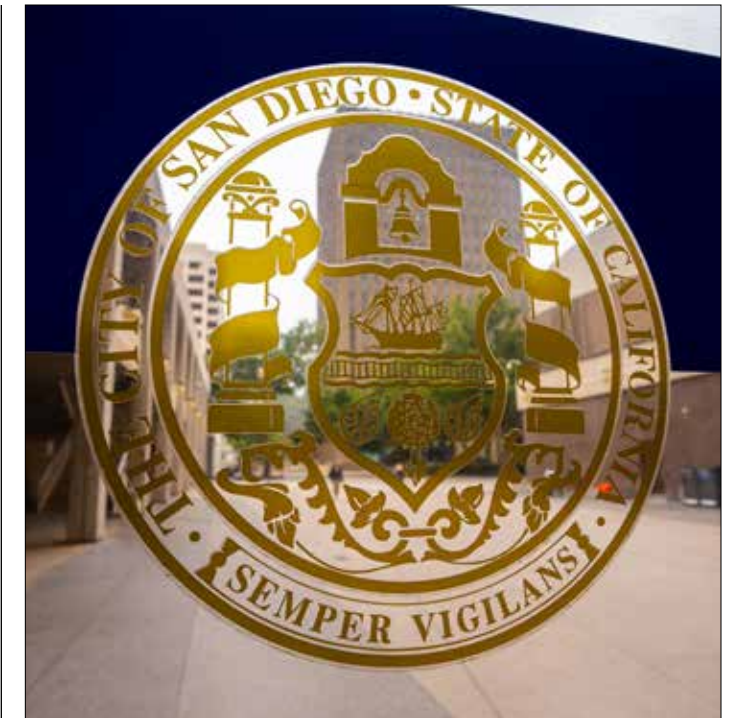
I have advocated for the creation of a centralized office that would vastly improve the City's response to requests for City information and records since 2019. Currently, each department determines which records should be produced, which should be withheld from disclosure, and the legal basis for their determination. The City's response is inconsistent because dozens of staff are making legal determinations in a vacuum. Under my proposal, one department would serve as the final reviewer and issue the City's official response, improving consistency and accuracy. I presented the proposal to the Rules Committee in early 2024, and they directed further research on the costs and mechanics associated with the proposal. Although our review is nearly complete, the proposal will not return until after I leave office, as we've added a review of the role artificial intelligence may play in record review, discovery, and review of body worn camera footage.

### Promoting civility

Many large cities have adopted a Code of Ethics or a Civility Pledge to promote and maintain the highest standards of personal and professional conduct in city governance. The City has not adopted such a code or pledge, and it does not have a written policy allowing the Council to censure a Councilmember for misconduct. Such policies also provide guidance to the public about decorum. Discourse fails and complaints are not lodged if meeting participants and attendees are not treated with respect. I worked with the National Conflict Resolution Center and Dr. Carl Luna to develop a Civility Pledge for the Council's use. Although the Council adopted such a policy for City boards, committees, and commissions, it has not done so for itself.

### Unfinished business

I also suggested other important ethical reforms that would, if adopted, promote transparency and build trust. This includes:



- Strengthening the City's lobbying laws and requiring increased disclosure from the City's decision makers to ensure the public is privy to important information that impacts City decisions and to ensure public oversight over the legislative body.
- Amending the City's Lobbying Ordinance to redefine "lobbyists" and "lobbying firms" to include anyone, paid or unpaid, who communicates with City Officials to influence a municipal decision, such as a settlement. That communication should be disclosed when an item is before the Council for a vote.
- Prohibiting the use of cell phones by the Councilmembers during open and closed session meetings to prevent Brown Act violations, the prohibited disclosure of confidential information, or the appearance of collusion.
- Amending the Municipal Code to prohibit City employees and officials from using personal devices for City business to ensure the City has access to all City records.

## CONCLUSION

It has been an honor to serve you for 15 years: 8 as your City Attorney and 7 as a DCA. This publication highlights some of the important accomplishments I achieved between December 12, 2016 and December 10, 2024, as your City Attorney. Additional information is available on the website, <https://www.sandiego.gov/cityattorney>.

## SELECT LEGAL AWARDS

- Luminaria Award from the Latina Lawyers Bar Association for being a trailblazer in the legal community (October 4, 2024)
- Tom Homann LGBT Law Association Friend of the Community Award (June 13, 2024)
- Excellence in Local Labor Law Enforcement Award from the California Labor Federation (March 17, 2024)
- Angels of Trafficking Award from the Bilateral Safety Corridor Coalition (2018, 2024)
- Witkin Award for Excellence in the Practice of Law (October 2023)
- Women of Influence in Law Award from the San Diego Business Journal (June 2023)
- California Public Lawyer of the Year Award from the California Lawyers Association (2020)
- YWCA's Tribute to Women and Industry (TWIN) Visionary Award (2019)
- San Diego Lawyers Club Woman of Color Excellence Award (2017)
- Metro Golden Watchdog Award from the San Diego Taxpayers Association (2018)



*“Protecting the public has been the driving motivation behind my career in public service, and I’m deeply humbled to be recognized by my peers. It is a special honor to be the first San Diego City Attorney to be named California’s Public Lawyer of the Year. I share in this award with my entire team, the exceptional lawyers and staff who are dedicated to making San Diego a safe, equitable, and livable community for everyone.”*

— CITY ATTORNEY MARA W. ELLIOTT, 7/29/20







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