



## Request for City Council Committee Action From the City Attorney's Office

Date: February 26, 2007

To: Ways and Means/Budget Committee

Referral to: None

**Subject: Approval of the City Attorney's Office 2007-2011 Business Plan**

**Recommendation:** That the City Council approve the City Attorney's Office 2007-2011 Business Plan.

### Previous Directives:

Prepared by: Jay Heffern, City Attorney Phone: 673-3272

Approved by: \_\_\_\_\_  
Jay M. Heffern  
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

### Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).  
 Action requires an appropriation increase to the \_\_\_\_\_ Capital Budget or \_\_\_\_\_ Operating Budget.  
 Action provides increased revenue for appropriation increase.  
 Action requires use of contingency or reserves.  
 Business Plan: \_\_\_\_\_ Action is within the plan. \_\_\_\_\_ Action requires a change to plan.  
 Other financial impact (Explain):  
 Request provided to department's finance contact when provided to the Committee Coordinator.

### Community Impact

Neighborhood Notification  
City Goal(s):  
Comprehensive Plan  
Zoning Code  
Other

### Background/Supporting Information

On October 30, 2006, the draft 2007-2011 Business Plan for the City Attorney's Office was presented to the Ways and Means Committee. At that meeting, committee members raised several questions. Responses to those questions are in the order listed on the Committee Coordinator's chart.

### **Questions 1 and 6 Rising number of civil cases and the office's plan to provide proactive legal work and regulatory reform.**

The City Attorney's Office Business Plan prioritizes civil legal services. (See Business Plan, page 10) The top three priorities are all litigation-related matters. These include lawsuits that challenge the existence or structure of city government, challenge to the validity of any tax levy where city dollars are at risk or where other city goals and policies are being defended. Proactive legal work and regulatory reform are lower

Office priorities, e.g. training city employees in areas which have significant liability is priority number 13 and drafting ordinances to accomplish city's regulatory objectives is priority number 14. It has been the practice of the Office to deliver its legal service activities in accordance with the approved prioritization plan. As available resources are committed to the higher priorities, the response time for lower priority items will necessarily be longer. It is important to note that the current 5 year financial direction for the City Attorney's Office contemplates a reduction of \$150,000.00 in 2007, \$150,000.00 in 2008, and \$100,000.00 respectively in the years 2009, 2010, and 2011.

In 2003-2005, there was a significant increase in the number of civil litigation cases. (See Business Plan, page 9) The office has addressed this increase by assigning more attorneys to the litigation team. When this occurred, it was necessary to use attorneys whose primary assignment is the client services team to work with and assist the litigators in order to ensure the proper resources are devoted to litigation matters.

## **Question 2 Impact of increasing specialty courts on the City Attorney's Office and the Hennepin County District Court system.**

Currently, the Minneapolis City Attorney's Office (CAO) has 28.5 FTE attorneys positions on staff in the Criminal Division. Other than the 5 Community Attorneys, most of the attorneys are assigned to court on a regular basis. Each day, the Office must staff approximately 14 recurring assignments along with any trials which may be scheduled that day. Many of these court assignments are specialty courts, or "problem solving" courts as they are termed by the Fourth Judicial District. Currently, there are three misdemeanor specialty courts in operation - Community Court, Serious Traffic and the Domestic Violence courtroom. Recently a fourth specialty court - DWI court has been added every Thursday morning and afternoon and every Friday morning. In addition, the Mental Health Court operates as a specialty court, but it is part of the Community Court calendar.

As more and more specialty courts are established, the Office will need to determine how to staff these courtrooms on a full time basis with its existing staff. This often results in attorneys losing needed time to conduct legal research on upcoming trials, subpoena and prepare upcoming cases for trial, write legal memoranda as required, work on any pending appeals or do other assignments. Specialty courts not only impact the attorneys in the Criminal Division, but also the support staff. The Criminal Division's support staff pulls all files for each of the court calendars each day, including the specialty courts mentioned above. Frequently, these calendars are as large as 80-90 defendants per calendar.

Increasing the number of specialty courts will also impact our criminal justice partners. The Court must find judges who are available to staff these calendars, a courtroom in which to hold them, and a court clerk to staff the calendar and update the court records. The Public Defender's Office must assign attorneys to staff these calendars. Having more specialty courts to staff often results in a reduced number of public defenders assigned to each required court room and this leads to courts running late, often times past 1:00 p.m. for a calendar that began at 8:30 a.m. Whenever a judge is assigned to staff a specialty calendar, there is one less judge who might be available to hear a misdemeanor trial. If there are no judges available to conduct a trial, the trial must be continued to a new date causing a domino effect for all trials scheduled that week.

On the positive side, specialty courts fill a void that previously existed in the criminal justice system and they are consistent with the Office's Business Plan priorities. The Hennepin County District Court established a Domestic Violence Court in November, 2000. This court, and the judges, prosecutors, and community corrections personnel deal exclusively with domestic violence-related offenders and offenses. The primary goals of this court included improving the efficiency with which Domestic Violence Court cases are processed and resolved, reducing recidivism and non-compliance with court conditions among Domestic Violence Court defendants, and increasing victims' level of satisfaction with the way in which the court handles domestic violence cases.

An evaluation of the Domestic Violence Court completed by the District Court in 2002, concluded that the City Attorney's Office prosecutors are able to be involved in an earlier point in time for many domestic violence cases, and, therefore, able to build better cases than was possible prior to the creation of the Domestic Violence Court. In addition, the average length of time to process a case (from offense to

resolution) in Minneapolis dropped, while the suburbs experienced an increase during the same period. Also, pretrial recidivism decreased slightly in Minneapolis, compared with an increase in the suburbs. Finally, the study found that the conviction rate for romantic relationship cases handled by the Office increased during the period studied, while the conviction rate in the suburbs decreased.

While it is difficult to point to any one thing that has contributed to the increase in conviction rates, decrease in dismissal rates and decrease in recidivism rates found in the study, it is clear that the combined efforts of the Office's Domestic Abuse Team and the District Court's implementation of a Domestic Violence Court have resulted in improved handling of domestic violence cases.

Similarly, the criminal Mental Health Court brings together professionals, including a dedicated judge, prosecutors, defense attorneys, community corrections personnel and mental health professionals to address those cases involving chronic livability offenders with chemical dependency, mental health and often homelessness concerns. Following is a description of a case handled in the District Court criminal Mental Health Court:

Freddie Arnett Jr. is a longtime member of the Office's top offender list. Mr. Arnett is confined to a wheelchair and has several health issues including frostbite, pneumonia, staff infections, and most recently, a flesh-eating disease. He spent a large part of 2005 and 2006 in jail or in the hospital. For a long time, the jail would not accept Mr. Arnett because of his health issues and because of his poor personal hygiene. This presented a problem because he continued to reoffend. At the City Attorney's Office's insistence, Judge Hopper ordered the jail to accept Mr. Arnett.

In 2005, Mr. Arnett was charged with three gross misdemeanor cases of indecent conduct, for exposing himself to people in the downtown area. In April 2006, Mr. Arnett was charged with a fourth indecent conduct case. These cases were referred to Judge Hopper's Mental Health Court.

After almost a year of hospitalizations, jail stays, and psychological exams, the solution came together. Following a stipulated facts trial before Judge Hopper on two of Mr. Arnett's gross misdemeanor cases, Judge Hopper found him guilty on both cases, and sentenced him to 365 days executed, consecutive to another 365 days executed, for a total of 730 days executed. Terms of probation included that Mr. Arnett was to be taken care of by Royal Health Care and he was to be under daily supervision of Hennepin County Community Corrections department. Royal Health Care provides a daily health care attendant to clean Mr. Arnett's many infected areas and help him with his day-to-day routine. Since April 24, 2006, Mr. Arnett has not reoffended, he has been cooperative, and law abiding. Through the collaboration of the court, community corrections and the City Attorney's Office, a comprehensive plan to resolve the criminal justice, mental and physical health issues faced by Mr. Arnett was developed and implemented.

Finally, while only recently implemented (January, 2007), the Hennepin County District Court's DWI Court's mission is as follows: To increase public safety and reduce the number of alcohol related traffic deaths and injuries by effectively partnering justice system and community resources to focus on the specific issues of repeat DWI offenders.

The DWI Court is a three year pilot project, aimed at Minneapolis cases only, involving 2<sup>nd</sup> degree and 3<sup>rd</sup> degree DWI offenders. It is a voluntary program, available to Hennepin County residents only who have pled guilty to one of the above DWI offenses. The program consists of three phases, 6 months each, and involves intensive judicial, police and community corrections oversight and review, including unannounced home visits by a police officer and probation officer to determine whether the participant has remained sober. Other program requirements include: no violent offenses, probation office visits, no new criminal offenses, consecutive sober days, SCRAM monitoring, employment, stable housing, sober recreation plan, support network, medical compliance, victim impact panel, license reinstatement plan, if applicable, alumni support, mentoring/volunteering, and fee/restitution payments.

### **Question 3 Progress in keeping chronic livability offenders out of the revolving door of the criminal justice system.**

These are some of the most difficult cases the City Attorney's Office handles due to the multitude of problems these offenders face, including mental health and chemical dependency. Accordingly, some years ago, the City Attorney's Office created a Special Prosecutions Team (SPT), tasked with relentlessly pursuing the City's chronic livability offenders. The members of this team identify the most problematic livability offenders based on the number of offenses committed by these individuals. In addition, each MPD precinct identifies a number of chronic livability offenders to bring the total number of offenders on which the SPT focuses to approximately 200. The prosecutors, judges and others in the criminal justice system are able to craft resolutions to these cases aimed at getting offenders help with some of the underlying issues (mental health, chemical dependency), or at providing relief to the community by asking for longer jail sentences than what would normally result.

In 2006, the Office handled 177 chronic offenders. These offenders were cited or arrested by police an average of 5 times each, and accumulated a total of 881 cases. Of this number, 884 cases were misdemeanor offenses (96%), and 36 cases were gross misdemeanors (4%). Of the 177 chronic offenders:

- 129 have convictions (74%)
- 24 have open cases with no dispositions as of 12/31/06 (15%)
- 19 chronic offenders' cases were dismissed or found not guilty with no convictions (11%). The reasons are as follows:
  - 6 offenders; cases dismissed in exchange for plea/revocation of another sentence;
  - 7 had cases dismissed/found not guilty due to insufficient evidence;
  - 3 had cases dismissed due to mental illness
  - 1 had a case dismissed because felony charges were filed; and
  - 2 offenders' cases were dismissed because the offenders died.

The total number of jail days ordered **served** at sentencing for chronic offenders in 2006 was 16,167, or an average of 47 jail days per conviction. The total number of jail days ordered **stayed** at sentencing for chronic offenders in 2006 was 15,469, or an average of 45 days stayed per conviction.

Examples of jail sentences for chronic offenders are as follows:

- **Freddie Arnett** – 365 days executed sentence, consecutive to 365 days executed (but see above)
- **Aaron Steele** – 270 days executed sentence
- **Arcelis Dorticos** – 365 days executed sentence
- **Anrecaya Callins** – 185 days executed sentence, revocation of a stayed sentence
- **Jennifer Siems** – 180 days executed sentence
- **Liban Nur** – 83 days executed sentence
- **Melvin James** – 90 days executed sentence
- **Steven Noisyhawk** – 60 days executed sentence
- **Dwayne Taylor** – 90 days executed sentence
- **Larry Darnell Harper** – 90 days executed sentence
- **Chris Shaw** – 90 days executed sentence, along with a revocation on a stayed felony sentence of 365 days
- **Tawaun Lewis** – 150 days executed on a probation violation
- **Terry McMorris** – 76 days executed sentence, plus a subsequent probation violation for 80 days executed sentence
- **Donald Hurt** – 90 days executed sentence
- **Elston Sharps** – 90 days executed sentence

**Question 4 Interrelationship and interaction with the business plans presented by the Police Department and more general with other departments.**

The City Attorney's Office and the MPD have enjoyed a very collaborative and cooperative working relationship, particularly over the past several years. Within the MPD's two primary goals of 1) crime prevention and 2) community relations, are priorities and objectives that directly correspond with the CAO's goals and objectives. Following are examples:

**MPD Goal/Objective**

- ▶ Prevent and reduce all crime
  - ▶ Prevent loitering and street crime in high crime or high density areas
  - ▶ Serious and violent crime offenders will be arrested and charged.
  
- ▶ Contribute to effective prosecutions
  - ▶ Increase number of prosecutions
  - ▶ Increase case management
  - ▶ Improve arrests and quality of reports
  - ▶ Enhance chronic offender prosecutions
  
- ▶ Increase Community Satisfaction
  - ▶ increase cooperative strategies (including number and quality of

**CAO Goal/Objective**

- ▶ Reduce crime in the City
    - ▶ Perpetrators of domestic violence will be successfully prosecuted
    - ▶ Perpetrators of gross misdemeanor weapons violations will be successfully prosecuted
    - ▶ Chronic offenders receive appropriate and timely sanctions
    - ▶ Perpetrators of livability crimes will be successfully prosecuted
  
  - ▶ Review 100% of domestic violence cases for potential felony charges
  - ▶ Increase conviction rate on domestic violence cases to 60% by 12-31-08
  - ▶ Increase percentage of gross misdemeanor weapons cases that result in conviction
  - ▶ Increase number of gross misdemeanor cases charged by CAO.
  - ▶ Prosecute 100% of "Top 200" Chronic Offenders arrested by the police department
  - ▶ Increase by 5% the number of "Top 200" Chronic Offenders who are convicted
  - ▶ Increase conviction rate on livability crime to 65%
- 
- ▶ Participate 100% in partnerships to improve the criminal justice system
  - ▶ attend all CJCC meetings

interagency, community, and business partnerships

- ▶ Increase by 5% each year the number of community meetings attended and in person contacts made by community attorneys and paralegals.
- ▶ Promote department culture that values employee satisfaction, professionalism and professional growth
  - ▶ maintain professionalism of the department (including evaluations of in-service training)
- ▶ Percent and numbers of MPD officers trained.

**Question 5 Measures to evaluate the community attorney and restorative justice programs.**

The City Attorney's Office has established performance measures for both its Community Attorney Program and the Office's active involvement in restorative justice. (See Business Plan, page 39) In addition, beginning in 2007, each community attorney will prosecute a select number of cases that are of particular interest or concern to the community. Their effectiveness will be measured by percentage of cases where a conviction or revocation of sentence is obtained.

**Question 7 Need for more refined data for both criminal and civil matters.**

The Practice Manager software will result in more refined and useful data being available.