



Oakland City Attorney Highlights



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CITY ATTORNEY SUES THE GUN INDUSTRY TO MAKE OAKLAND SAFER

City Attorney Jayne W. Williams, with the consent of the Oakland City Council, has joined the City of Oakland in a lawsuit with San Francisco, Sacramento and other cities against the gun industry. The goal of the lawsuit is to make the industry change its business practices, to make guns safer, and to stop the flood of guns into the community, including the illegal practice of 'straw sales'. A straw sale occurs when a convicted felon or other person legally prohibited from owning a gun has someone else buy the gun with the knowledge and approval of the gun store.

The lawsuit is brought on behalf of the People of the State of California. The lawsuit alleges that gun industry defendants knowingly and recklessly market, distribute, promote, design and sell handguns that will be used in crimes, are unsafe, and circumvent federal, state and local laws. Between 1992 and 1997, over 70 percent of all homicides were committed with firearms, and 64 percent of those homicides were committed with handguns. In 1997, alone, there were 25,000 incidents in California in which a victim suffered serious injuries from a firearm. A substantial percentage of the firearms used to inflict harm and injury in California are obtained through an illegitimate secondary market that caters to buyers who include convicted criminals, minors, gang members and

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COMMUNITY PROSECUTOR TEAM TAKES ACTION TO RID OAKLAND NEIGHBORHOODS OF CRIME

On Thursday September 23, 1999, City Attorney Jayne W. Williams unveiled the much-anticipated Oakland Community Prosecutor Program. The mission of the Community Prosecutor Program is to increase public safety in Oakland through community-based prosecution in order to reduce crime and improve the quality of life. The program, initiated by Ms. Williams, is one of the first of its kind in California and is modeled after a similar successful program in Washington, D.C. The United States Department of Justice recently funded the program, in part, by providing a \$100,000 grant.

The program is a partnership between the City Attorney's Office, the Oakland Police Department, the Alameda County District Attorney's Office, the United States Attorney's Office and the community. It combines resources to target a specific area of the community, Oakland Police Beat '26Y', to route out crime, drug dealing and nuisance activity, enforce traffic laws and eliminate blight and substandard buildings in the area, block by block.

This program is unique because it brings the expertise of lawyers from the various government agencies directly into the community to hear which problems are most pressing from the community's viewpoint. Anyone in the community can visit during the following regularly scheduled hours: at the Eastmont Mall Police Substation, every first and third Monday of the month, between the hours of 12:00 p.m. to 4:00 p.m.

The lawyers and the various city and law enforcement agencies will take reports of problems and identify hot spots. Thereafter, the team will develop an action plan to prioritize and target the problems from both an enforcement standpoint and from a prosecution standpoint. Some of the problems are very specific. They may involve abandoned autos and abandoned buildings that cause blight on a street. Some are bigger problems that cover a larger area. They may involve drug-dealing locations and other criminal behavior.

In fact, the Community Prosecutors have already moved swiftly by filing a **public nuisance lawsuit** against certain

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Message from City Attorney Jayne W. Williams



At the City Council's retreat on September 30, 1999, I presented the City Attorney's annual litigation report for fiscal 1998 - 1999 to the Council and the public.

The purpose of the report was to provide the City Council, City Manager and the public with statistical and management information about litigation in which the City is or was a party in fiscal year 1998-1999. The report is available for public viewing at the Office of the City Attorney.

One of the highlights of the report set forth my litigation and claims handling philosophy. I use a multi-pronged approach in claims and litigation management and in my efforts to minimize the City's liability exposure by:

1. Aggressively advocating the City's interests in claims and litigation to reduce potential liability exposure;
2. Proactively identify risk factors and working with the Office of the City Manager to eliminate those factors before they result in claims or lawsuits;
3. Aggressively utilizing a 'law and motion' practice, (filing motions with the court to dismiss all or part of the lawsuit before trial) crafted to dispose of as many causes of action (essence of the lawsuit) as possible prior to trial;
4. Developing substantive expertise in all areas of municipal law practice;
5. Creating joint teams of attorney and non-attorney staff with the specific subject matter expertise to strategically manage high exposure pre-litigation and litigation issues; and,
6. Proactively initiating litigation to enforce City ordinances and policies, and defending the City in administrative hearings and appeals.

The report also showed that the City Attorney's Office

obtained outstanding results regarding Public Liability Claims Administration.

- **79% of all claims were resolved with zero payout.**
- **Of those claims denied, only 61 (or 7%) thus far have resulted in lawsuits.**
- **19% of claims were resolved with a payout of \$5,000.00 or less, thus eliminating unnecessary additional litigation.**

I am proud to have achieved a substantial and dramatic reduction in the amount and number of payouts in the past year. In fact, since 1995 our total payouts have dropped **58%**.

In California, a claim must be filed with the City prior to the filing of most lawsuits. Claims are not required to be filed for causes of action based on federal or state constitutional law where a statute includes a comprehensive administrative pre-lawsuit procedure. Effective June 1, 1998, liability claims are filed directly in the Office of the City Attorney. Our three highly experienced claims investigators are responsible for investigating and adjusting the claims, as appropriate. Our aggressive and thorough approach to claims investigations and adjusting has produced very favorable results.

The number of claims filed against the City annually has remained fairly constant. Claims where there is clear City liability are settled quickly, generally for payment of the actual or reasonable cost of repair or damages sustained. Claims where liability is questionable are either settled after negotiation or are denied. A significant number of claims proceed to small claims court and are resolved through that process.

The goal of reducing liability exposure can best be achieved by resolving matters in the claims stage, to prevent litigation filings. I believe the number of 1998 claims that will evolve into litigation will either be lower than or within the same range as the previous year.

When claims evolve into lawsuits, the City Attorney's Office has a very experienced division of litigation attorneys to handle them and defend the City's interests vigorously. For example, we emphasize pro-active case management, which includes an aggressive 'law and motion' practice. Effective law and motion work substantially narrows the scope of many police conduct cases. As a result, plaintiffs have voluntarily dismissed claims in most police conduct lawsuits. //

ARRIVALS

Deputy City Attorney Richard Illgen

Richard recently joined the Advisory Division's Economic Development and Finance Unit. He is a graduate of U.C. Berkeley and Golden Gate University Law School. Prior to joining the City Attorney's Office, Richard worked with Alexander & Karshmer, a law firm that represents American Indian tribes and tribal organizations. He specialized in real estate and business development. Prior to practicing law, Richard was the executive director of Oakland Better Housing Inc., a nonprofit housing development corporation for low and moderate income housing.

Deputy City Attorney Pelayo Llamas

Pelayo also recently joined the Advisory Division. He is responsible for code enforcement, the "Deemed Approved" retail alcohol program and hotel/motel regulation. He is a graduate of U.C. Berkeley and Santa Clara University School of Law. Before joining the office, he practiced civil litigation in the Larson & Burnham law firm.

Executive Assistant Esther Vicente

Esther joins the office as an executive assistant to the City Attorney focusing on agenda preparation and special projects. She has previous experience with the City in both the Mayor's and City Manager's offices.

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property owners on 71st Avenue. For years, the house on this property has been the site of numerous, documented drug sales, leading to the arrests of dozens of people for the sale and possession of marijuana. The purpose of the lawsuit is to rid the neighborhood of this long-standing problem. In fact, on November 5, 1999, the Community Prosecutors were successful; they obtained a court order closing the property after a contentious hearing in the Superior Court.

The City Attorney's Office, along with the Oakland Police Department, has also assisted the United States Attorney's Office in filing a lawsuit in Federal Court, seeking to seize and forfeit this same house from its owners because of illegal drug sales. Ms. Williams believes that this type of coordinated effort will be very effective in making Oakland neighborhoods safer.

For further information, contact Deputy City Attorney Charles Vose at (510) 238-2961. //

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others who cannot legally obtain a firearm. The secondary market is created and promoted by the gun industry defendants.

The lawsuit seeks industry-wide reform, including: adoption of an industry code of conduct that would eliminate 'kitchen table' dealers and gun show dealers, limit indirect sales such as mail and internet transactions, limit retail sales to one gun per person per month; make guns safer by incorporating features such as trigger locks and digital locking devices; restrict advertising that suggests or promotes possible criminal use of firearms; and, close the Federal gun show loophole.

Other cities have also sued the gun industry for similar reasons. In California, the City of Los Angeles and the County of Los Angeles have initiated separate lawsuits against the industry. Nationally, the cities of Boston, Miami, Chicago and New Orleans have also filed legal actions against the gun industry.

For further information, contact Deputy City Attorney Manuel Fortes at (510) 238-3751. //

COMMUNITY PROSECUTOR TEAM



From left to right, Deputy City Attorneys Kandis Westmore, Demetrius Shelton, Marcia Meyers and Charles Vose, Assistant City Attorney Joyce Hicks, and City Attorney Jayne Williams //

THE CITY ATTORNEY'S BEST Profile of Deputy City Attorney Rocio V. Fierro



In 1998, City of Oakland employees nominated Deputy City Attorney Rocio Fierro for the Associate of the Year Award in recognition of her outstanding achievements for the City. Ms. Fierro is a dedicated public servant and longtime Oakland resident. She has been a community volunteer and served as a director in various legal and professional associations, including the Alameda County Bar Association, the Women Lawyers of Alameda County, and the Alameda County Juvenile Justice Commission. She has received numerous awards and recognition for her community service and pro bono work. Ms. Fierro was hired by City Attorney's Office in 1989 as a deputy city attorney in the Litigation Division. As a litigator, she defends lawsuits against the City of Oakland, and has successfully defended the City in several trials in Alameda County Superior.

Ms. Fierro came to the City Attorney's Office with a world of experiences. She is truly an American success story. Ms. Fierro was born in Texas, one of three girls born to Mexican parents who immigrated to the United States seeking better economic opportunities. Her parents moved the family back to Mexico when Ms. Fierro was very young because they wanted her to learn the language and culture of her ancestors. She remembers her family being very loving; however, she also remembers the economic hardships she constantly faced. When Ms. Fierro was 13, the family moved back to the United States and settled in the City of San Jose. As her family continued the daily struggles to stay afloat, Ms. Fierro was determined to pursue an education. Her knowledge that her parents left school to work at the age of eight due to poverty, motivated her to excel despite the lack of a quality education and financial support. She wanted to do better with her life and help support her family. As she continued working, Ms. Fierro attended San Jose State University and graduated in 1984 with a degree in political science. Her advocacy skills and community involvement contributed to her admission to the University of

California, Hastings College of the Law in San Francisco. She graduated in 1987. She chose a career in law because she wanted to be in a field that contributed to the betterment of society.

Prior to her current assignment with the Litigation Division, Ms. Fierro was assigned to the Advisory Division where she handled drug nuisance abatement cases. She worked with a team of attorneys and Oakland Police Department personnel, including investigators, police officers, sergeants and lieutenants. The team worked to stop drug activity in residential and commercial properties. Ms. Fierro negotiated with the property owners to clean up their properties but if they refused to comply with the law, she took them to court. She found this work to be extremely rewarding because it resulted in making the community a safer place. She attended community meetings to educate community members about the program and to encourage them to participate. As an Oakland resident, she felt a great measure of pride in improving her community.

After several years in the Advisory Division, Ms. Fierro returned to the Litigation Division. She recently won a trial where she successfully defended the City and four City employees against unfounded charges of employment discrimination. She was also successful in obtaining a dismissal of a similar lawsuit before it went to trial.

We are proud that Ms. Fierro received the City Manager's certificate for being one of the best City of Oakland associates of the year. The City Attorney's office joins the City Manager and City employees in recognizing Ms. Fierro as an outstanding attorney for the City of Oakland. //

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