

**Office of  
The City Attorney  
City of San Diego**

**MEMORANDUM  
MS 59**

**(619) 236-6220**

**DATE:** May 20, 2020

**TO:** Honorable Mayor and Members of the City Council

**FROM:** City Attorney Mara W. Elliott

**SUBJECT:** Exclusion of City Attorney Budget from CARES Act Funding

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We are proud of the work our Criminal Division does on behalf of the People of the State of California. About 200 employees - more than half of my Office - work hand in hand with the San Diego Police Department (SDPD) to keep San Diego one of the safest cities in the nation. Criminal Division employees are essential to public safety, and their services during this pandemic have never been more important.

This Division reviews for prosecution about 20,000 misdemeanor cases a year, and about 3,000 domestic violence cases per year. Criminal cases include quality of life offenses, domestic violence, driving under the influence, battery, vandalism, graffiti, theft, weapons offenses, hate crimes, hit-and-run, road rage, furnishing alcohol to minors, resisting arrest, utility theft, and vehicular manslaughter.

This Division also obtains gun violence restraining orders and other criminal protective orders that keep our communities safer. From the start of the pandemic until this date, we have obtained 77 GVROs. During this same time span last year, we obtained 55. The stress brought on by the pandemic has led to an increase in irresponsible gun use.

The employees who staff our Family Justice Center (FJC) are not only essential public employees, but critical law enforcement partners. During the last fiscal year, 8,000 adults and children escaped violence and sought services at the FJC. And since the pandemic began, the FJC staff has assisted nearly 1,000 callers with safety planning, case follow-up, and calls with community based agencies, and provided more than 600 telehealth counseling sessions for adults and children. Their services are needed more than ever as San Diegans deal with job loss, health concerns, home-schooling, and other stressors that can bring an already fragile family to a breaking point.

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All of these City Attorney's Office (CAO) functions are eligible for CARES Act funding for public safety, as defined by the federal government, and yet, inexplicably, our Office did not receive one single dollar from that funding source in the May 19, 2020 Memorandum describing revisions to the Mayor's proposed FY 21 budget (May Revise Memo) despite this Office's large public safety footprint.

As explained during our budget presentation on May 8, the budget challenges we're faced this year are more than we are equipped to handle.

The proposed budget assumes a \$2.4M vacancy rate plus a 4% budget decrease this fiscal year. Together, the cuts equate to over 10% of our budget. Since most of our budget is personnel related, we anticipate having to eliminate, or leave vacant, up to 40 positions – over 10% of the CAO workforce.

This is a hit that will impact our ability to fulfill core services, including our role as public safety employees, and it is a budget impact that significantly exceeds that of any other City department.

The May Revise Memo claims to “focus on public safety and core services essential during the COVID-1 pandemic.” It explains that CARES Act funds may be used “to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.” The May Revise Memo states that the Mayor's Office has allocated \$268.3 million in COVID-19 State and federal relief funds.

The exclusion of the City Attorney's Office (CAO) from CARES Act funding comes while our public safety partners at the SDPD and San Diego Fire-Rescue Department (SDFRD) will each receive CARES Act funds (SDPD will receive \$42.2M and SDFRD will receive \$38.9M). As you know, the SDPD cites those who violate the law and then refers the matter to the CAO for review and potential prosecution. If the CAO does not have staff available to assess and either prosecute the case or refer the violator to one of our diversion programs, then the SDPD's action in citing the individual is of limited value. By every measure, the CAO is an essential law enforcement partner whose work clearly qualifies for CARES Act money.

On Twitter, and during a recent press conference, the Mayor stated: “No, police officers and fire fighters will NOT be cut first — at least not in San Diego. I would never hold out first responders as leverage to balance my budget.”

