I. Introduction

The Los Angeles City Attorney’s Office (“Office”) is a dual function office responsible for both civil and criminal law actions. Due to its dual role, the Office must be vigilant in both considering and preventing potential conflicts of interest that may arise in the course of discharging its duties and responsibilities. Accordingly, the Office adheres to policies and practices that ensure that both actual conflicts of interest and appearances of conflict are avoided.

At the same time, the Office recognizes that adherence to these policies and practices, albeit central to avoiding conflicts of interest and other ethical issues, does not necessarily translate into an absolute restriction on attorneys in the Office from pursuing all legally and appropriate remedies to best serve the interests of their clients—the People of California, in the case of its (misdemeanor) prosecutors, and the municipality, in the case of its civil attorneys. Indeed, “[a] long history supports the existence of government legal positions charged both with prosecuting crimes and defending the government and its agents against civil suits.” People v. Municipal Court (Byars), 77 Cal. App. 3d 294, 301 (1978).

II. The Office of the Los Angeles City Attorney

In an effort to better understand the dual function of the Office, a brief outline of its role as general counsel to the municipal corporation and prosecutor of misdemeanors must first be examined.

A. History

The Office was first established under Spanish and subsequently Mexican rule — prior to California’s independence in 1846 and admission to the United States in 1850. Los Angeles City Attorney Opinion No. 85-46, 5 (Jan. 8, 1986)(citing J.M. Guinn, A History of California and an Extended History of its Southern Coast Counties 114 (Historic Record Company, Los Angeles, 1907); L. David, Law and Lawyers: One Hundred Twenty-Eight Years in the History of Los Angeles as Seen from the City Attorney’s Office 2-4 (1950)). During this period, the City’s civil law function was performed by the sindico-procurador (“sindico”)—one of the officers of the ayuntamiento,1 the body which was charged at that time with governing the pueblo. Id.2

Sindico, a Spanish term meaning “trustee” that is now more commonly employed in connection with bankruptcy proceedings, refers to someone who handles matters in trust for someone else, in the instant case, the people of the pueblo. Procurador, although more generally

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1 Ayuntamiento means city hall in the Spanish language.
2 The sindico appears to have been added to the ayuntamiento in or about 1822. Id. at 6.
used to refer to a prosecutor, can also describe a lawyer who practices without any limitations as to
civil or criminal law matters.

The City’s sindico-procurador had several responsibilities under both Spanish and Mexican
rule. Id. at 6 (citation omitted). He was not only charged with promoting the interest of the pueblo —
defending its rights and bringing causes of actions on its behalf, but also served as the treasurer.
Id. at 5-6 (citation omitted). With the end of Mexican rule in 1849, the California constitution was
adopted and, perhaps most relevant to the instant topic, established legislative authority to organize
municipal corporations. Id. at 6 (citing 1850 Stats., p. 28).

On March 11, 1850, during the very first legislative session, the California Legislature
adopted the "Act to Provide for Incorporation of Cities." Id. (citing 1850 Stats., ch. 40 p. 88).
Section 8 of the Act provided for an elected “city attorney.” Id. (citing 1850 Stats., ch. 30, p. 88).
The responsibilities and duties of the city attorney were set forth in Section 27 of the Act. Id..
Section 27 provides:

It shall be the duty of the City Attorney to attend all suits, matters, and things in which the
City may be legally interested; to give his advice or opinion, in writing, whenever required
by the Mayor or Common Council, and to do and perform all such things touching his
office, as by the Common Council may be required of him.

Id. (citing 1850 Stats., ch. 30, p. 90).

On April 4, 1850, the City of Los Angeles was incorporated by statute. Id. (citing 1850
Stats., ch. 60, p. 155). When the City’s statutory charter was amended on March 26, 1874, an
elected city attorney was again provided for and the duties of the office were set forth virtually
verbatim from the Incorporation of the Cities Act. Id. (citations omitted). When the charter was
amended on April 1, 1876, this authority was retained in substantially identical fashion. Id. (citing
Art. V, § 4, 1875-1876 Stats., p. 702). More significantly, the 1876 amendment expanded the
responsibility of the city attorney to include prosecutorial authority over violations of municipal
ordinances and resolutions. Id.

With the arrival of municipal home rule in California in 1887, the City’s electorate adopted
a charter on October 29, 1888, which was subsequently approved by the Legislature the in January
1889. Id. (citing 1889 Charter §§ 3-4, 1889 Stats, pp. 458-59). ³ Although it retained the elected
City Attorney, the 1889 City Charter was subsequently amended by the electorate on March 6,
1911 at which time the office of the City Prosecutor was created. Id. at 7 (citing 1889 Charter § 50,
1911 Stats., pp. 2099-2100). This separation of the civil and criminal offices, however, was
relatively short-lived.

The City’s current charter that provides for a City Attorney with a dual function was
adopted by the electorate on May 6, 1924, and subsequently approved by the Legislature on

³ Under the so-called home rule doctrine, a city could adopt a charter approved by the voters. A Charter City would
then have authority over all of its municipal affairs. Once adopted, such a charter could only be subsequently amended
January 22, 1925. Id. at 8. (citing 1925 Stats., pp. 1947-48). It was not until November 8, 1932, when the electorate approved amendment to the 1925 City Charter, that the office of the City Prosecutor was abolished and its duties transferred to the Office. Id. (citing 1933 Stats., pp. 2742-44).

Since 1933, the City Attorney has been responsible for both civil matters on behalf of the municipality and criminal misdemeanor matters on behalf of the People of California. Although there has been some discussion that the City Charter should be amended to create a separate and distinct office to handle criminal misdemeanor matters, it bears mentioning that the City Attorney’s dual role is not unique. Indeed, many governmental agencies such as the United States Department of Justice, the Office of the California Attorney General, and several district and city attorneys’ offices throughout California play similar dual functions in serving their clients. See Municipal Court (Byars), 77 Cal. App. 3d at 301 (1978).

B. **Breadth and Scope of Practice**

In Los Angeles, the City Attorney is the exclusive attorney for all of City government. Los Angeles has the largest city attorney's office in the country with approximately five hundred attorneys and over a thousand employees. The Office has an annual budget of more than $80 million and has attorneys working in over 20 different offices.

The City Attorney’s office is divided into four main branches: Criminal, Municipal Counsel, Appellate, and Civil Liability Management. The Criminal Branch consists of three divisions: General Criminal Misdemeanors, Safe Neighborhoods, and Special Operations. The Criminal Misdemeanor Division has seven local offices as well as domestic violence and child abuse units. This Division prosecutes any misdemeanor penal and municipal code violation that occurs within the City of Los Angeles. The Office receives some cases as a result of misdemeanor investigations conducted by the Los Angeles Police Department (“LAPD”). Other cases are felony “wobblers” that are sent to the Office because the District Attorney's Office has decided not to file them as felonies. The Office also obtains cases from other agencies, such as the State’s licensing bureaus and the City’s own enforcement agencies such as the Department of Building and Safety.

The Safe Neighborhoods Division combines the Citywide Nuisance Abatement Program with Neighborhood Prosecutors. Under the Neighborhood Prosecutor Program, a prosecutor is assigned to each of the eighteen divisions of the Los Angeles Police Department (“LAPD”). The Neighborhood Prosecutors work with communities, the LAPD and Nuisance Abatement attorneys to identify specific problems plaguing a neighborhood. In essence, these neighborhood prosecutors are go-to persons that deal with quality of life issues. The Office also has a Special Operations Unit in its Criminal Branch. The Special Operations Unit is in charge of hate crimes, environmental protection, housing enforcement, consumer protection, crimes against the elderly, and enforcement of the City’s ethics and campaign finance laws.

In addition to our Criminal Branch, the Office has branches that concentrate on civil matters affecting the City. The Office represents the City, its departments and commissions, in personal

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4 More specifically, “wobblers” are cases that can be filed as either misdemeanors or felonies, and which the District Attorney, refusing to file as felonies, has sent to the City Attorney’s Office.
injury, civil rights, workers compensation and contract claims among others. The Municipal Counsel Branch acts as general counsel to the entire City. Specifically, it provides advice, negotiates and drafts transactional documents such as real estate documents, service contracts and construction contracts, drafts ordinances, and litigates for the City. The Branch also serves as general counsel to the Mayor, the City Council, all the City departments, agencies, commissions and advisory boards. This includes providing legal services to small departments such as the Department of Aging, which has fewer than a dozen employees, and to very large departments such as the LAPD with over 10,000 sworn and civilian employees. Finally, the Office represents the City’s offices, officers and employees as well as departments and commissions and agencies, including but not limited to the Community Redevelopment Agency and the Housing Authority.

The Civil Liability Management Branch aggressively defends the City’s interest in claims and lawsuits. The Branch also provides proactive advice to City departments that reduces the risks that often result in claims. Through various divisions, the Branch handles civil litigation, workers’ compensation, collections and risk management.

Finally, the Appellate Branch has three divisions: Civil Liability Appeals, Criminal Appeals, and Municipal Counsel Appeals. The Civil Liability Appeals Division has jurisdiction over appeals and writs arising out of the Civil Liability Management Branch, except for those involving the Police Employment Section. The Criminal Appeals Division has jurisdiction over appeals and writs arising out of the Criminal Branch. The Municipal Counsel Appeals Division is responsible for overseeing and handling appeals and writs arising out of the Municipal Counsel Branch and the Police Employment Section of the Civil Liability.

III. Prosecutorial Ethics and the Dual Functions of the Los Angeles City Attorney

As a dual function entity, the Office confronts and addresses important issues pertaining to prosecutorial ethics and potential and actual conflicts of interest on a daily basis. However, the mere fact that the Office is charged with representing the People of California in criminal misdemeanor matters and the municipal corporation of Los Angeles in civil matters does not in and of itself create conflicts of interest or appearances of conflict. Rather, it creates an ongoing obligation for the Office to manage any conflict—actual or potential—in an aggressive and comprehensive manner.

Accordingly, the Office has adopted and implemented firewall policies and procedures, discussed in greater detail below, that ensure that the approximately 500 attorneys employed in the Office understand that effective representation of their respective clients is accomplished only through full compliance with applicable laws pertaining to prosecutorial ethics and conflicts of interest.

A. Brief Overview: Conflict of Interests Law

In The People ex rel. J. Clancy v. Superior Court, 39 Cal.3d 740, 746 (1985) (citing ABA Code of Prof. Responsibility, EC 7-14), the California Supreme Court provided insight into the unique circumstances that distinguish a public attorney’s duties and obligations from those in other fields of law. The Supreme Court explained:
[A] prosecutor’s duty of neutrality is born of two fundamental aspects of his employment. First, he is a representative of the sovereign; he must act with the impartiality required of those who govern. Second, he has the vast power of the government available to him; he must refrain from abusing that power by failing to act evenhandedly. These duties are not limited to criminal prosecutors: A government lawyer in a civil action or administrative proceeding has the responsibility to seek justice and to develop a full and fair record, and he should not use his position or the economic power of the government to harass parties or to bring about unjust settlements or results.

As the Supreme Court noted and other courts have correctly opined again and again, a public prosecutor’s mandate is not to win a case but rather to ensure that justice is done. People v. Municipal Court (Byars), 77 Cal. App. 3d at 298 (citation and quotation omitted). As such, public prosecutors are presumed to discharge their duties properly and conscientiously. Superior Court (Martin), 98 Cal. App.3d 515, 521 (1979)(citation omitted). See also People v. Goodspeed, 22 Cal.App.3d 690, 705 n. 4 (1972) (citations omitted)(same). After all, “both the accused and the public have a legitimate expectation that [the public prosecutor’s] zeal, as reflected in his [or her] tactics at trial, will be born of objective and impartial consideration of each individual case.” Superior Court (Martin), 98 Cal. App. 3d at 521 (citation omitted). A motion to disqualify a public attorney from prosecuting a criminal action, as a result, may not be granted unless it is demonstrated that a conflict of interest exists such as would render it unlikely that the defendant would receive a fair trial. Cal. Penal Code § 1424(b)(1); People v. Connor, 34 Cal. 3d 141, 147 (1983)(same); People v. Eubanks, 14 Cal. 4th 580, 594 (1996)(same).

Without proper oversight and management, however, conflicts of interest and appearances of conflict can and often do arise that rebut a public prosecutor’s presumption of impartiality. For example, a conflict of interest may arise “where in the course of his [or her] official duties [the public prosecutor] acquires a conflicting personal interest, or personal or emotional involvement, or emotional stake in the case, . . . or where there is personal, as opposed to purely professional . . . involvement,” or where “criminal proceedings are used as a vehicle to aid . . . personal or fiduciary interests.” Superior Court (Martin), 98 Cal. 3d at 521 (internal citations and quotations omitted).

The aforementioned are just a few examples of where conflicts of interests and appearances of conflict can unnecessarily prejudice the judicial process. Other examples that arise in both criminal and civil matters include but are not limited to the following: 1) cases involving the prosecution of an officer, employee or agent of the City for an act committed in the course and scope of official duty; 2) cases involving the prosecution of personnel of the Office; 3) cases involving prosecution of an officer, employee or agent of the City who has provided confidential information relating to the criminal prosecution to attorneys on the civil side of the Office; 4) cases where an employee of the Office, or a member of the family of an employee, is the victim of an alleged crime.

However, California case law has repeatedly held that the mere fact that “a public attorney, acting solely and conscientiously in a public capacity, is not disqualified to act in one area of his or her public duty solely because of similar activity in another area.” In re Lee G., 1 Cal. App. 4th 17,
Indeed, the mere fact that a government agency represents both the People of California in criminal matters and the municipal corporation in civil matters, without more, does not automatically create conflicts of interest. California Court of Appeal’s decision in People v. Municipal Court (Byars), 77 Cal.App.3d 294 (1978), is particularly instructive on this salient point.

In Municipal Court (Byars), the California Court of Appeal held that the recusal of a city attorney was not required where the same city attorney both prosecuted a criminal battery on a police officer and simultaneously defended against civil claims filed by the criminal defendant where both actions were based on the same facts. To be sure, the same analysis applies to the Office where the civil and criminal functions are divided into separate branches. Attorneys in the Criminal Branch utilize civil remedies such as duties of nuisance abatement. These attorneys, however, are permitted to participate in civil matters that are in aid of or auxiliary to their usual duties and they do not necessarily create a conflict of interest by participating in actions that may be characterized as civil in nature. See People v. Parmar, 86 Cal. App. 4th 781, 807 (2001); Kain v. Municipal Court, 130 Cal. App. 3d 499, 501-502 (1982)(same).

The most common potential conflict involving a public prosecutor’s improper use of his or her position to gain an advantage in a civil action is in the context of a dismissal of a criminal action in exchange for the release of civil claims or a stipulation to probable cause for the underlying criminal arrest. California State Bar Formal Opinion 1989-106 provides guidance on this important issue in holding that a public prosecutor’s offer to dismiss a criminal prosecution conditioned on a release from civil liability constitutes a threat to obtain an advantage in a civil dispute in violation of the Rules of Professional Conduct. See Cal. Criminal Law Procedure and Practice (Cont. Ed. Bar 2002) Professional Responsibility, § 18.42, pp. 465-466.6

5 In People v. Parmar, the Court of Appeal rejected a trial court’s finding that “[w]hen a prosecutor makes decisions and performs functions that go beyond the traditional role of a district attorney, and the prosecutor becomes the civil attorney for a county, a conflict arises.” Id. at 807. The Court of Appeal averred:

We reject the view that a conflict of interest arises whenever a district attorney participates in what are normally considered civil matters. First, although counties may, at their option, establish a county counsel to perform most of the civil legal duties required by the county, in the absence of such an election the district attorney is both criminal and civil attorney for the County. Second, when a county counsel has been established, the district attorney still retains some civil duties, most significantly here duties of nuisance abatement. Third, a district attorney is permitted to participate in civil matters that are in aid of or auxiliary to the district attorney’s usual duties. Where, as here, alleged violations of local ordinances are inextricably tied to the maintenance of a public nuisance, the district attorney may participate in such civil proceedings as are reasonably in aid of or auxiliary to the district attorney’s primary purpose of nuisance abatement. Accordingly, we conclude that [the prosecutor] did not create a conflict of interest by participating in actions that may be characterized as civil in nature.

Id.

B. Office Policies and Procedures

The Office has adopted and implemented policies and procedures, including the creation of an ethical firewall between the civil and criminal branches, to ensure that attorneys are not engaged in actions which create a conflicts of interest or appearances of conflict.7

A prosecutor may also properly inform a victim of a crime of potential civil remedies available against a criminal defendant, even if the victim does not solicit such information, unless the prosecutor is motivated by a desire for publicity or an intent to harass or injure the defendant. See Cal. Criminal Law Procedure (Cont. Ed. Bar. 2002) Professional Responsibility, § 18.44, pp. 466 (citing California State Bar Formal Opinion No. 1976-40).

7 In addition to specific policies and procedures for each of its branches, the Office plans to adopt the following general policy for all of its attorneys in an effort to avoid conflicts of interests and appearances of conflict:

Under no circumstances shall any individual employed by the Office of the City Attorney attempt to influence the exercise of prosecutorial discretion in the investigation, filing, prosecution, disposition, sentencing, settlement or outcome of a criminal matter for personal, political, monetary or other inappropriate gain. Under no circumstance shall any individual employed by the Office of the City Attorney threaten to initiate criminal prosecution in order to achieve an advantage in civil litigation.

Communication

Communications between attorneys in the Municipal Counsel Branch, the Civil Liability Management Branch and the Municipal Counsel and Civil Liability Sections of the Appellate Branch (civil attorney) and attorneys in the Criminal and the Criminal Appeals Section of the Appellate Branch (prosecutor) are limited to the following:

Sharing of legal expertise;

Case status information;

Any other information that is available to all members of the public.

Unless required to do so by other Office policy, Rules of Ethics, or other law, no confidential information should be shared outside of the attorney-client privilege.

If a prosecutor intends to appear in litigation or a legislative or administrative hearing handled by a civil attorney, the prosecutor should, prior to the appearance, inform his or her supervisor who should in turn notify the Branch Chief and Chief Deputy. If a civil attorney intends to appear in a case prosecuted by this office, that attorney should inform his or her division manager, who will notify the Branch Chief and Chief Deputy if appropriate.

Any questions concerning the appropriateness of an inter-branch communication should be directed to a Branch Chief or the Chief Deputy.

Simultaneous/Criminal Representation

When a civil attorney in a case discovers that there is also a criminal prosecution involving the same matter as the pending civil case, the civil attorney shall immediately notify his or her Division manager who will notify the Branch Chief and Chief Deputy. When a prosecutor in a case that there is also a civil action involving the same matter as the pending prosecution, the prosecutor shall immediately notify his or her supervisor who will notify the Branch Chief and Chief Deputy.
As discussed, attorneys assigned to the Criminal Branch or the Criminal Appellate Division of the Appellate Branch serve the People of California, not the City of Los Angeles as a municipal corporation. Accordingly, the interests of the City as the civil client of the Office must not play any role in prosecutorial decisions or influence the way in which the Office tries and disposes of criminal cases, including criminal appeals. In particular, prosecutors are not allowed to consider the civil consequences, e.g., civil liability, of prosecutorial decisions. See California Rules Professional Conduct 5-100.8

Similarly, attorneys assigned to the Municipal Counsel Branch, the Civil Liability Management Branch and the Municipal Counsel Appeals and Civil Liability Appeals Division of the Appellate Branch represent the City of Los Angeles as a civil client. Those attorneys may not seek to influence criminal prosecutions or in any way appear to use criminal prosecution to further the civil client’s position in civil litigation. This rule, however, does not interfere with the duties of an attorney representing the Police Department or individual police officers in connection with a Pitchess discovery motion.

Moreover, communications between personnel of the civil and criminal sides of the Office designed to influence the performance of duties of the other side are prohibited. In particular, personnel of the civil units in the Office may not discuss with prosecutors the civil implication of any criminal case. Other types of communications, such as sharing general legal expertise and providing case status information, are permitted, but must first receive clearance from the Branch Chief or Chief Deputy.

An attorney, moreover, may not invoke the attorney-client privilege on behalf of the City or its officers or employees in a criminal prosecution absent authorization by the City Attorney. If a situation arises during a trial or other in-court criminal proceeding where a prosecutor believes that invoking the privilege may be warranted, that attorney is required to seek a short recess and advise the witness that he or she may wish to contact a civil attorney in the office about whether the privilege should be invoked. That attorney, furthermore, must seek and obtain permission from the

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8 Rule 5-100 specifically provides:

(A) A member shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute.

(B) As used in paragraph (A) of this rule, the term “administrative charges” means the filing or lodging of a complaint with a federal, state, or local governmental entity which may order or recommend the imposition of a fine, pecuniary sanction, or other sanction of a quasi-criminal nature but does not include filing charges with an administrative entity required by law as a condition precedent to maintaining a civil action.

(C) As used in paragraph (A) of this rule, the term “civil dispute” means a controversy or potential controversy over the rights and duties of two or more parties under civil law, whether or not an action has been commenced, and includes an administrative proceeding of a quasi-civil nature pending before a federal, state, or local governmental entity.

California Rules of Professional Conduct 5-100.
City Attorney to invoke the privilege and, if permission is granted, should only then invoke the privilege.

In those matters where an attorney representing the City and/or individual police officer obtains confidential personnel information in the context of a Pitchess hearing, the attorney may disclose to the criminal defense counsel only that information which the court orders disclosed. Moreover, if an officer or employee of the City transmits to an attorney on the civil side of the Office a confidential communication constituting substantial material evidence favorable to the accused in a criminal prosecution, the information is to be conveyed to the City Attorney, who will then take the action necessary to serve the cause of justice without disclosing the contents of the confidential information.

There are three positions in the Office that have management responsibilities over both the criminal and civil functions of the Office. These are the City Attorney, the Chief Deputy and the head of the Appellate Branch. Again, these attorneys are prohibited from considering the civil consequences of criminal prosecutions or the criminal consequences of civil litigation. If related civil and criminal appeals (arising out of the same or similar set of facts) are pending in the Appellate Branch simultaneously, the head of the Branch shall determine whether his or her oversight of the substance of both cases would create a conflict or appearance of a conflict between the prosecutorial and civil functions of the Office. If the head of the Branch determines that supervision of both cases would result in a conflict or appearance of conflict, he or she is required to recuse him or herself from supervision of either the criminal or civil appeal and is required to report that recusal to the Chief Deputy. The Office will also consider voluntary recusal on a case-by-case basis if it concludes that the facts would likely lead to a court order recusal.

The primary function of the wall is to ensure that attorneys on the two sides of the office do not share information that might impact either the civil or prosecutorial functions of the office. To ensure that no conflict arises, attorneys assigned as criminal prosecutors cannot take into account the interests of the City as the civil client of the office. That is, they must not allow the municipality’s interests to influence the way in which they try and/or dispose of the criminal cases.

As might be expected, the examples of conflicts of interest set forth above is nothing more than a brief survey of the various types of conflicts that may arise in a dual function office. If anything, these examples clearly illustrate that the Office must be ever-vigilant in monitoring any new case law that touches upon issues pertaining to prosecutorial ethics and conflicts of interest, and, if required, tailor its firewall policies and procedures accordingly.

Two recent cases serve as good examples of where the Office deemed it necessary to provide additional guidance and clarification for its attorneys:

**Haas v. County of San Bernardino**

The California Supreme Court’s decision in *Haas v. County of San Bernardino*, 27 Cal. 4th 10017 (2002), requires each City department that conducts administrative hearings with non-City employees to review their procedures for selecting hearing officers to ensure that their hearing officer process complies with the fair hearing mandate of the case.
In Haas, the Supreme Court found the use by the County of San Bernardino of a hearing officer who was informally selected on a one-time basis violated the due process rights of the business owner whose business license was revoked by the County. The County attorney who prosecuted the case had personally selected the hearing officer. The business owner argued that the hearing officer could not be unbiased because the County could hire the same hearing officer for other cases based on its satisfaction with the decision. The owner contended that the hearing officer had an incentive to favor the County in order to obtain future employment. The Court found that there was a sufficient risk, or at least the appearance, of unfairness given that the hearing officer had a meaningful financial incentive to favor the party who hired him and who might hire him again.

As a result of this decision, the Office instituted a policy to ensure that its attorneys were in full compliance with the law articulated by the Supreme Court. Each department that utilized non-City employees as hearing officers are now required to implement a process that avoids the appearance that the hearing officer may favor the City in the hopes of obtaining future employment.

**Quintero v. City of Santa Ana**

In Quintero v. City of Santa Ana, 114 Cal. App. 4th 810 (2003), the California Court of Appeal found that there was a clear “appearance of bias and unfairness” at an administrative hearing based upon the assistant city attorney’s prior ongoing representation of the Board and the assistant city attorney’s prosecution of the Quintero termination before the Board. Id. at 814.

The Court stated that “[f]or the Board to allow its legal advisor to also act as an advocate before it creates a substantial risk that the Board’s judgment in the case before it will be skewed in favor of the prosecution. The chance that the Board will show a preference toward [the assistant city attorney], ‘even perhaps unconsciously’ is present and unacceptable.” Id. at 817 (citation omitted).

The appellate court, however, refused to accept the plaintiff’s argument that the concurrent representation by the city attorney’s office of both the Board and the litigants who appear before the Board causes an ethical and legal conflict of interest. The court stated that “dual representation is not barred so long as there is an adequate separation of the two roles and attorneys performing them,” but added that it was “inappropriate is for one person simultaneously performing both roles.” Id.

As a result of this case, the Office safeguarded that attorneys who have generally advised boards, commissions or Council do not also appear before those boards, commissions or Council advocating on a quasi-judicial matter or appear before a court representing the prosecutor in a matter in which the attorney purportedly provided unbiased advice to the administrative body.

**IV. Conclusion**

The Los Angeles City Attorney’s Office represents various clients with differing interests in both civil and criminal matters that raise important ethical issues that must be fully examined and
addressed on a case-by-case basis. By adhering to policies and procedures that establish an ethical firewall between its dual functions, the City Attorney's Office ensures that its attorneys both recognize and avoid potential and actual conflicts of interest without diminishing the quality of the legal representation that it provides to its clients—the People of California and the municipal corporation of Los Angeles.
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