City of Long Beach
Working Together to Serve

Memorandum

Date: March 15, 2019

To: Mayor and Members of the City Council

From: Patrick H. West, City Manager

Subject: **Review of Illegal Use of Fireworks in Long Beach**

The Fourth of July holiday is the busiest day of the year for the Long Beach Fire (LBFD) and Police Departments (LBPD). The City of Long Beach's (City) primary goal each year is to ensure that residents and visitors celebrate the holiday safely in our City.

At its June 19, 2018 meeting, the City Council received a report from LBFD and LBPD on their outreach, prevention, and enforcement plans to curb illegal use of fireworks in the City for this year's Fourth of July holiday. The City Council also received a presentation by the Third District Residents Fireworks Committee on mitigating illegal use of fireworks, recommending that the City expand its aggressive enforcement and prevention efforts. In a subsequent meeting on July 24, the City Council requested that the City Manager provide a report back on how the City can expand its enforcement of fireworks violations through ordinance changes, the City's ability to enhance and/or develop an administrative citation process for fireworks violations, include more technology-based ways of reporting fireworks violation, evaluate the possibility of utilizing video to enforce violations, and evaluate the feasibility of video evidence of fireworks violations provided to the City by residents being used in enforcement and/or citations.

City staff worked with the Police, Fire, Development Services, Health and Human Services, and Parks, Recreation and Marine Departments, as well as the Offices of the City Manager, City Prosecutor, and Attorney to compile information for this report.

CURRENT EFFORTS AND DATA

Prevention, Education, and Outreach

The City's fireworks outreach and education efforts have been designed to communicate the message to residents and visitors that all fireworks, including those marked "Safe and Sane," are dangerous, and illegal in the City. The National Fire Protection Administration reports a national annual average of 18,500 fires are caused by fireworks, including 1,300 structure fires, 300 vehicle fires, and 16,900 outside and other fires.

Currently, LBFD coordinates with all City departments to deliver public service announcements and press releases communicating that all fireworks are dangerous and illegal in the City. Educational materials are disseminated in English, Spanish, Khmer, and Tagalog, and messages are delivered through a variety of media outlets and platforms, including social media and the City's website. Announcements are also displayed in highly-visible locations, such as parks and libraries. Other outreach efforts include posting on electronic marquee signs, flyers, banners, posters, and the distribution of over 200 lawn signs.

Representatives from the LBFD also speak at community events and block parties about the illegality and dangers of all fireworks, and "Fireworks are Illegal" magnets are displayed on Fire Department apparatus. Additionally, the Department of Parks, Recreation and Marine's Animal Control Bureau distributes educational materials to the community, advising pet owners of ways to mitigate the impacts of fireworks on their pets.

Moving forward, the City Manager's Office plans to address gaps with the City's current fireworks communications efforts. Beginning in early 2019, the Office of Public Affairs and Communications (OPAC) will lead a citywide communications campaign across all departments in an effort to more effectively minimize the use of fireworks within the City. The campaign will involve a more concerted approach to enhance current efforts and implement robust communications strategies. OPAC will work closely with elected officials, community partners, and all City departments, including LBPD and LBFD. To capture a wide audience, the fully-integrated campaign will include social and digital media, as well as news outlets and traditional media. Relevant data regarding the 2019 campaign and the use of illegal fireworks will be collected and compared to 2018 data to measure the impact of enhanced communications efforts.

Fireworks Enforcement Deployment Statistics

Currently, LBPD and LBFD deploy enhanced police and fire arson patrols from July 1 through July 5 each year to conduct fireworks enforcement. In 2018, dozens of sworn personnel from the LBPD and LBFD were deployed on police and fire arson patrols to respond to reports of illegal fireworks activity throughout City. The enhanced police and fire arson patrols consist of four LBFD Arson Investigators and teams of LBPD Officers. The enhanced police and fire arson patrols augment regular LBPD and LBFD deployment assignments that respond to all public safety related calls for service.

From June 16 through July 5, 2018, each LBPD patrol division conducted fireworks saturation patrols as part of the City's enhanced fireworks patrols. This involved sworn officers in plain-clothes and marked units responding to fireworks related calls, and undercover officers working operations targeting buyers and sellers of illegal fireworks. LBPD responded to 762 fireworks related calls for service during this period of enhanced fireworks patrols.

During the week of July 1 through July 5, the LBPD responded to 6,774 calls for service throughout the entire City. Based on the nature of calls for service handled by the LBPD, Priority 1 calls in Long Beach typically include a variety of emergent activity, such as serious assaults cases involving weapons, sexual assaults, domestic violence, and other crimes in progress like burglary or robberies. Fireworks and party related calls are categorized under Priority 2 or 3, among other non-emergency calls. Of the 6,774 calls for service, the LBPD responded to 493 Priority 1 calls for service.

On the July 4th holiday alone, LBFD responded to 182 calls for service during a six-hour shift, a 12 percent increase over the average daily shift call volume. From July 1 through July 4, LBFD responded to 665 calls for service:

Fire Operations*	2018
Structure Fires	6
Non-Structure Fires	38
Fire Alarms	15
Medical	566
Boat Assists	7
Miscellaneous (emergency service, hazmat, etc.)	33

* Calls based on the initial call type dispatched and not on the final disposition, and do not include Marine Safety activities that were not dispatched through the Alarm Office.

Attachment A is a density map ("heatmap") illustrating the concentration of fireworks-related calls for service in 2018.

Enforcement and Penalties

It has been the City's practice to issue criminal citations for fireworks violations. Violations of Long Beach Municipal Code (LBMC) Section 18.48.730 Fireworks Display (City Fire Code adopted from the California Fire Code Chapter 56) are pursued criminally by the City Prosecutor's Office. Anyone cited or arrested for fireworks violations may be issued up to a $4,000 fine, sentenced to jail for up to six months, or both. Subsequent offenses carry fines up to $5,000. The fines and penalties may increase depending on the quantity of fireworks in possession and their classification. In 2018, 34 misdemeanor citations were issued for fireworks violations.

Defendants may have their fines reduced either by the presiding judge or the City Prosecutor's Office as part of a plea agreement. The LBMC also allows criminal citations to be filed as infractions. Infractions require significantly less time by the City Prosecutor than misdemeanors and defendants are not entitled to a jury trial.

Indirect Impacts of Fireworks

As part of this study, staff also researched potential collateral effects of fireworks use and how they affect certain populations in the community.

Each year, the City's Animal Care Services (ACS) Bureau promotes a fireworks awareness campaign focused on pet "Owner Awareness," "Pet Protection," and "Dog Fostering." The campaign emphasizes that the loud noise of fireworks commonly frightens pets, causing them to run away. ACS also stresses to residents that the days surrounding the Fourth of July holiday are the busiest time of the years for the shelter. The following table provides ACS statistics during the Fourth of July holiday.

July 4 ACS Kennel Statistics Report (Last 5 Years)

	Intake	Calls Received
2014	29	70
2015	25	65
2016	36	56
2017	17	65
2018	17	42

In partnership with the LBFD, the City's Veterans Affair's Commission conducts outreach on the risks fireworks pose on the military Veteran community. Some 500,000 Iraq and Afghanistan War Veterans throughout the nation suffer from post-traumatic stress disorder (PTSD). Accordingly, residents are warned that loud fireworks and flashing lights can trigger a PTSD episode in Veterans suffering from the disorder, including anxiety and panic attacks.

The City Council also requested information on any adverse impacts of fireworks on infants. Noise levels above 140 decibels (dB) are not considered safe for any period of time as immediate nerve damage can occur at 140 dB. The majority of fireworks tend to exceed 140 dB. For newborn babies and children, the World Health Organization (WHO) recommends no exposure to noise/sounds above 120 dB. Permanent hearing loss can occur from a single exposure to loud noise. A newborn with hearing loss can face serious delays in speech and language processing and understanding, as hearing plays a critical role in cognitive, social, and emotional development.

RESEARCH AND EVALUATION

Administrative Citations

In the last several years, some cities have begun using the administrative citation process as the primary method for fireworks enforcement. The administrative citation program is used as a remedy for certain violations of the LBMC, and may be exercised in place of, or in addition to, any other remedy allowed by law, whether administrative, criminal, or civil. Through the administrative citation process, a citation may be issued by any designated City officer, sworn or not, pursuant to the LBMC. Once a citation is issued, the responsible person has a specific amount of time to pay the fine to the City or contest the citation by requesting an administrative hearing. The City may impose a fine up to $1,000, per California Government Code Section 36901, for violations of ordinances.

Chapter 9.65.060 of the LBMC provides for issuance of administrative citations to any responsible person who violates specific Titles of the LBMC. Due to the difficulty of pursuing non-criminal administrative penalties for an individual, administrative citations are typically issued to responsible persons tied to real property. Failure to pay an administrative fine within the specified time period may result in a 25 percent late charge, imposition of a special assessment, and/or lien against the real property on which the violation occurred, collections

processing, filing of a claim with the small claims court for recovery of the fine and all costs associated with such filing, suspension and/or revocation of any City permits, business licenses, or land use approvals, or other legal remedy available.

A person may appeal their administrative citation by requesting an administrative hearing pursuant to Section 9.65.100 of the LBMC. The administrative hearing process requires that an independent Hearing Officer be hired. During the hearing, both appellant and a Deputy City Attorney on behalf of the City present their respective cases to the Hearing Officer. The Hearing Officer makes a decision and submits their Administrative Order to the City. If the Hearing Officer decides in favor of the City and the person responsible fails to pay the fine by the time ordered in the Administrative Order, the City may recover the outstanding fine by imposing a lien against the real property on which the violation occurred.

The administrative citation program provides an effective tool for remedying building and health code violations through administrative means. However, enforcement of fireworks through the administrative citation process presents unique challenges. As mentioned, administrative citations are most effective when tied to real property. When issuing administrative penalties for fireworks violations, either by mail or in person, City staff must be able to clearly identify the property where the violation occurred and prove that the responsible party knew about, invited, or condoned use of fireworks on their property. Proving that a property owner is directly responsible party for a fireworks violation is a significant challenge that City staff expects to face. For example, if a fireworks violation is observed by patrol personnel in the middle of a City street, it is nearly impossible to ascertain which property is responsible and should be issued a citation.

City staff researched nearby cities' fireworks enforcement and penalty procedures. A list of 16 cities in the area and their fireworks enforcement practices is below:

	Population	Are Safe and Sane Fireworks Allowed?
Los Angeles	10,163,507	No
Long Beach	469,450	**No**
Anaheim	352,497	Yes
Irvine	277,453	No
Rancho Cucamonga	177,452	No
Garden Grove	174,226	Yes
Torrance	146,758	No
Pasadena	142,647	No
Downey	113,092	Yes
Norwalk	106,084	Yes
Burbank	104,834	No
Santa Monica	92,306	No
Whittier	86,838	No
Lakewood	80,967	Yes
Paramount	54,909	Yes
Cerritos	51,020	No

Of the 16 cities that participated in the study, 6 allow use of "Safe and Sane" fireworks. A review of the results indicates that 7 of the 10 cities that prohibit all fireworks, including the City of Long Beach, primarily issue misdemeanor citations to enforce fireworks, and one issues both misdemeanor and administrative citations. All six cities that allow "Safe and Sane" fireworks enforce violations through the administrative citation process. Six of the nine cities that issue administrative citations allow use of "Safe and Sane" fireworks.

	Population	Are non-sworn (i.e. Code Enforcement) personnel deployed for enforcement?	Type of violation issued for illegal use of fireworks:
Los Angeles	10,163,507	No	Misdemeanor
Long Beach	**469,450**	**No**	**Misdemeanor**
Anaheim	352,497	Yes	Administrative
Irvine	277,453	No	Both
Rancho Cucamonga	177,452	Yes	Administrative
Garden Grove	174,226	No	Administrative
Torrance	146,758	No	Misdemeanor
Pasadena	142,647	No	Administrative
Downey	113,092	No	Both
Norwalk	106,084	No	Administrative
Burbank	104,834	No	Misdemeanor
Santa Monica	92,306	No	Misdemeanor
Whittier	86,838	No	Misdemeanor
Lakewood	80,967	Yes	Administrative
Paramount	54,909	No	Administrative
Cerritos	51,020	No	Misdemeanor

It is also important to note that each year, LBPD and LBFD arson patrols personnel express significant safety concern with the public contacts made on the Fourth of July. Many of the contacts involve rowdy crowds of over 30 people coupled with alcohol consumption, greatly increasing the danger and risk for patrol personnel.

Online Reporting

City staff researched the City of San Jose's online illegal fireworks reporting system to map illegal fireworks use and conduct fireworks enforcement.

San Jose's online reporting system allows residents to report incidents of illegal fireworks use on private property, such as yards or driveways, by providing evidence to assist city officials in the issuance of administrative citations or warnings to violators. The online reporting system is monitored by civilian enforcement staff given their familiarity with the administrative citation process. When submitting a report online, reporting parties are required to provide a photo or video evidence clearly showing use or possession of fireworks on the property, the exact address where the incident occurred, and contact information. Using the online system does

not result in enforcement officers being immediately dispatched to the scene. Rather, San Jose City staff intake the complaint and, if sufficient evidence exists, the responsible party (i.e. property owner) is issued an administrative citation by mail or in person.

A reporting party's contact information can be kept confidential; however, if a citation is appealed, they will be asked to either appear as a witness or provide sufficient evidence. If the responsible party contests their administrative citation, reporting parties are required to provide testimony and evidence regarding their complaint. Residents are advised that although partial information is accepted and may be helpful in mapping the locations of fireworks use for outreach purposes, incomplete information or failing to testify at an administrative hearing will likely not result in any enforcement action.

Both the City Attorney's and Prosecutor's Offices indicated that video evidence collected by witnesses is currently a permissible enforcement option using either the misdemeanor or administrative citation process. As with any criminal misdemeanor citation, the evidence collected by the City must prove beyond a reasonable doubt that the suspect committed the crime. The higher preponderance of evidence in misdemeanor cases makes it extremely difficult for the successful prosecution of a misdemeanor crime using third-party video because the City must be able to clearly authenticate the video recording. This involves the witness identifying the exact time, location, and depiction of the criminal circumstances, as well as testifying.

Similarly, the successful imposition of administrative fines for fireworks use by means of video requires substantial evidence that the violation more than likely occurred by a responsible party tied to real property thorough authentication procedures. Although reporting party's contact information can be kept confidential, they will be required to either appear as a witness or provide sufficient evidence, if a citation is appealed.

Remote Surveillance

Staff also studied the City of Seaside's fireworks enforcement program using an unmanned aerial vehicle (drone) to surveil places open to the public for fire safety hazards and gather data. Located on the Central California coast and with a population of 33,305, the City of Seaside Police Department partnered with civilian city code enforcement staff to monitor recorded and live-feed drone video during the 2018 Fourth of July holiday week. The operation involved obtaining a permit from the Federal Aviation Administration (FAA) to operate the drone, as well as two trained police officers assigned to operate the device. If a fireworks violation was observed, Seaside staff mailed an administrative citation to property owner where the fireworks incident was observed.

In the weeks following the holiday, the City of Seaside offered to engage in one-on-one informal mediation with violators to reduce the fine amount in lieu of a formal administrative appeal hearing. The mediation effort involved multiple city staff and administrative resources to meet with residents, review cases, and process multiple reduced fines. As of October 2018, Seaside staff indicated that no violators had appealed their citations.

FISCAL IMPACT

Implementing all the fireworks enforcement changes would require significant short and long-term costs. For instance, implementing a drone monitoring program like the City of Seaside in Long Beach would be costly, involve a bevy of administrative procedures, and carry a variety of legal concerns. In addition to the lengthy FAA application and approval process, classified City Code Enforcement Officers and Police Officers would need to team up to be trained to use drone devices.

The estimated total cost for each day of enforcement during the Fourth of July week is approximately $35,000 per day for deployment of LBPD Officers, LBFD Arson Investigators, and Code Enforcement Officers, plus an additional one-time purchase of $40,000 for two special law enforcement drones.

Long-terms costs to implement administrative citation fireworks enforcement program would include expenses for additional personnel and resources for processing evidence and follow-up duties associated with each administrative citation, including report writing, processing photo evidence, and issuing the citation. An additional 1.0 FTE Deputy City Attorney position at a cost of $210,000 per year, plus a minimum of 300 hours of administrative Code Enforcement work at $19,500 would be necessary to handle the increased workload involved with thoroughly reviewing video evidence and administering the administrative citation appeals cases. Hearing Officers would also need to be hired for each appellant, costing $150 per case.

The expanded duties of the classified positions involved will require Meet and Confer proceedings with the City's various labor unions pursuant to the Meyers-Milias Brown Act.

Costs for adding an online reporting system through a competitive bid process, additional legal fees for any cases that may be filed against the City involving privacy issues, administrative costs and fees for applying for drone operating permit from the FAA, and other administrative costs associated with Meet and Confer processes have not been determined at this time.

RECOMMENDATIONS

Given the significant immediate and long-term costs, legal concerns, potential lawsuits involving privacy issues, and the substantial administrative resources required, it is not recommended that the City implement an online reporting tool or a drone surveillance program for fireworks enforcement.

Implementing an extensive administrative citation program to enforce fireworks violations will require additional analysis to determine exact costs for additional resources and staff time. Analysis will involve additional information on the need for Meet and Confer sessions with the appropriate labor unions, costs for additional overtime for LBPD and LBFD personnel, training for Police Officers and Arson Investigators, legal fees for City Attorney review and appeals hearings, and administrative costs for Code Enforcement personnel. There are also significant concerns with the increased risk and danger to City staff when conducting enforcement of large crowds in areas of high activity during the Fourth of July holiday. Moreover, successful imposition of an administrative fine for this fireworks enforcement is greatly reduced due to the

challenges involved in using nighttime video evidence, such as clearly identifying the responsible parties involved and identifying the property owner.

Due to the legal and safety concerns involved, coupled with anticipated large costs, it is not recommended that the City implement an administrative citation program. Instead, it is recommended that the City Manager's Office explore the feasibility with the City Prosecutor's Office of implementing a system or process where the public may report illegal use of fireworks. As mentioned above, video evidence collected by witnesses is currently a permissible enforcement option using the criminal citation process. In this scenario, the evidence collected by the City must prove beyond a reasonable doubt that the suspect(s) committed the crime. The City Prosecutor's Office may develop a "Citizen's Complaint Guide" for residents to follow when reporting illegal fireworks activity.

As previously mentioned, the City Manager's Office also plans to address gaps with the City's current fireworks communications and outreach efforts. Beginning in early 2019, OPAC will lead a citywide communications campaign across all departments in an effort to more effectively minimize the use of fireworks within the City. The campaign will involve a more concerted approach to enhance current efforts and implement robust communications strategies. OPAC will work closely with elected officials, community partners, and all City departments, including LBPD and LBFD. To capture a wide audience, the fully-integrated campaign will include social and digital media, as well as news outlets and traditional media. Relevant data regarding the 2019 campaign and the use of illegal fireworks will be collected and compared to 2018 data to measure the impact of enhanced communications efforts.

If you have any questions about this report, please contact Assistant to the City Manager Andrew Vialpando at (562) 570-6782.

ATTACHMENT

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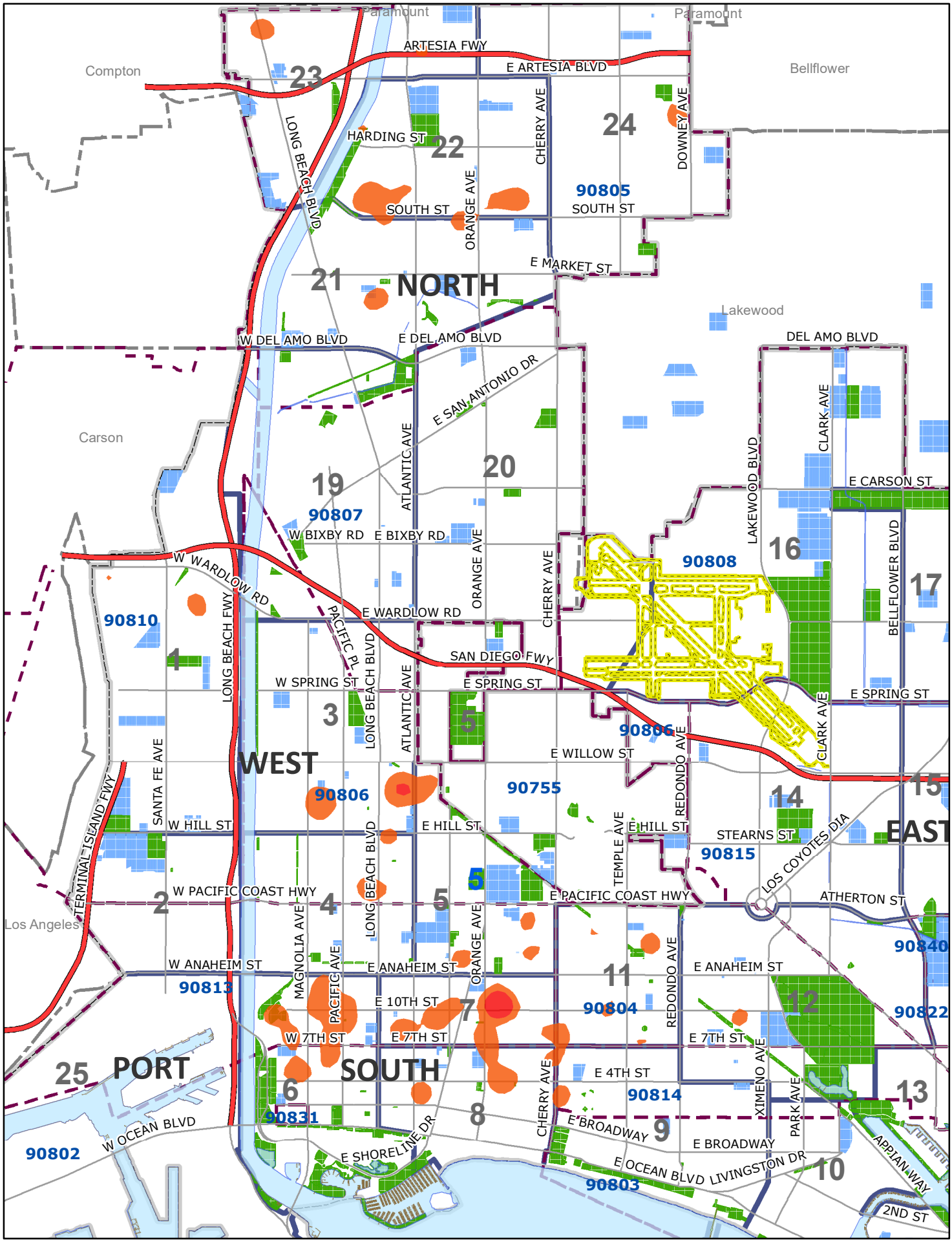
MONIQUE DE LA GARZA, CITY CLERK (REF. FILE #18-0620)
DEPARTMENT HEADS

PYRO (FIREWORKS) CALLS FOR SERVICE DENSITY YTD (1/1/2018 - 10/24/2018) **ATTACHMENT A**



A. ECONOMY LONG BEACH POLICE DEPARTMENT 10/25/2018