



REPORT TO COUNCIL City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

STAFF REPORT
August 16, 2005

Honorable Mayor and
Members of the City Council

Subject: City Attorney's Annual Report for Fiscal Year 2004-2005

Location and Council District: Citywide

Recommendation:

Receive and file the Annual Report and provide direction to the City Attorney.

Contact: Samuel L. Jackson, City Attorney, 808-5346

Presenter: Samuel L. Jackson, City Attorney, 808-5346

Department: City Attorney's Office

Division: N/A

Organization No: 0500

Summary:

The attached report, which covers Fiscal Year 2004-2005, is the tenth annual report produced by the City Attorney's Office (CAO). Our report sets forth a number of facts and figures regarding performance by staff of the City Attorney's Office during Fiscal Year 2004-2005 and comparisons to performance in prior years.

Committee/Commission Action: None

Background Information:

In 1994, the City Attorney surveyed Departments of the City of Sacramento to solicit information which would assist in improving delivery of legal services. The City Attorney's annual report is the product of one such survey.

In the individual sections of the report, we measure our performance against direction provided by the City Council and goals set in our Five-Year Action Plan. The report contains a detailed analysis of the performance of each of our four operating sections, and

a discussion of administrative activities during the past year. For each section, we report significant accomplishments, statistical information regarding workload, and comparisons to past performance. As usual, land use related work, along with ordinance drafting, placed heavy demands on the Advisory Section. The Special Projects Section continued to concentrate on a number of high profile matters and on municipal finance projects. Our Code Enforcement Section continued to face heavy administrative enforcement, civil litigation and a significant increase in criminal enforcement caseloads. The Litigation Section continued to handle and successfully resolve a large volume of cases. We have included our five-year plan for the period 2005 through 2010 to guide us in providing the highest quality service to the city during those years.

Financial Considerations:

This report does not currently have a financial impact on the City's budget. However, based on a staffing study presented to Council in November 2004, the City Attorney's Office established a need to add three new attorneys, one paralegal and two legal secretaries to keep up with the volume of the ever increasing workload. Council approved the City Attorney's recommendation to add two attorneys, one secretary and one paralegal in fiscal year 2005-2006 and the remaining positions during fiscal year 2006-2007.

Environmental Considerations:

This report is not a project under CEQA, and therefore no environmental review is required.

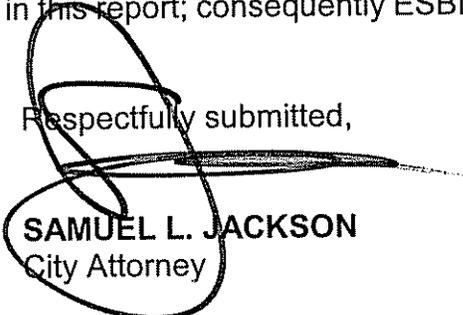
Policy Considerations:

This report is consistent with the City's policy of measuring performance and requiring accountability of all City departments.

Emerging Small Business Development (ESBD):

There is no discretionary expenditure involved in this report; consequently ESBD policies and procedures are not applicable.

Respectfully submitted,

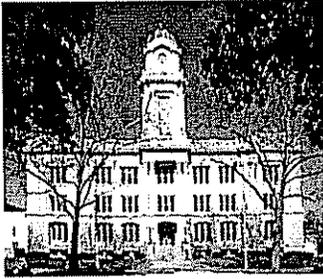


SAMUEL L. JACKSON
City Attorney

Table of Contents:

Attachment 1 - Annual Report

AUTHORITY AND FUNCTION



In 1911, the Historic City Hall at 915 I Street was opened. By 1914, the City Attorney's Office was located there. It remained there for almost 50 years.

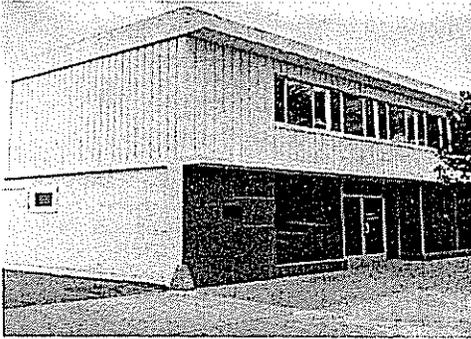
The authority and function of the City Attorney are set forth in Section 72 of the City Charter, which reads as follows:

The City Attorney shall serve as legal counsel to the City government and all officers, departments, boards, commissions and agencies thereof and shall have such other powers and duties as may be prescribed by State law and by ordinance or resolution of the City Council. In situations where the City Attorney determines there is a conflict in representation by that office, the City Council may authorize the retention of other legal counsel to represent one of the conflicting parties. The City Attorney shall appoint all other members of the City Attorney's office.

Unlike most other departments within the City, the City Attorney's ability to engage in policymaking and to interact with members of the Sacramento community regarding legal issues is restricted by the City Charter, state laws and rules of professional responsibility. The role of the City Attorney is to provide legal representation and give legal advice, and not to give advice on policy or politics. The client of the City Attorney is the City Council. The City Attorney advises and represents all City Councilmembers with respect to their official City activities. The City Attorney has an attorney-client relationship with the City Council acting as a body; it does not have an attorney-client relationship with any one Councilmember to the exclusion of the other Councilmembers. The City Attorney has an attorney-client relationship with City employees and members of City boards and commissions to the extent that such individuals act within the scope of the powers given to them by the City Council.

Our interaction with the community changed in 2001 with the commencement of criminal prosecution, because our role as a criminal prosecutor differs drastically from that of the attorney to the City as a municipal corporation. We prosecute cases on behalf of the people, and in that role, the attorney-client relationship is somewhat different since the people are our clients. We thus are able to share with the community more information regarding the status of criminal prosecutions than we are regarding civil matters when we represent the City.

CITY ATTORNEY OVERVIEW



In about 1962, the office moved from City Hall to the Prom Building located at 812 Tenth Street.

This report covers activities of the City Attorney's Office from July 1, 2004, to June 30, 2005 ("Fiscal Year 2004-2005"). This is the tenth annual report of the City Attorney's Office, and the eighth report prepared on a fiscal year basis. This report contains comparison and progressive information dating back to our fifth annual report in 1995, except where data for certain categories was not collected during that year.

The report provides a discussion of functions and accomplishments of each of the four operating sections of the office ---Advisory, Litigation, Special Projects and Code Enforcement---as well as those of the Administration Section. Appropriate comparisons to accomplishments in prior years are included in each section. It also sets out our efforts and accomplishments in achieving our Fiscal Year 2004-2005 goals and current goals established for the five-year period of Fiscal Year 2005-2006 through Fiscal Year 2010-2011.

Increased development activity in the City generally has placed great demands upon City staff, including this office. While North Natomas continues to be an area that generates significant work for City staff and this office, the proportion of time devoted to North Natomas issues was less than in prior years. Included in this workload was work implementing the revised Habitat Conservation Plan (the "HCP"), adopted by the Council in May 2003. Legal challenges were filed in both state and federal court challenging the HCP and the incidental take permits. The state court action was decided favorably for the City, and is currently on appeal. The federal court action has been tried, and the district court should issue its decision soon.

Much of the development-related legal work was handled by the Advisory Section, although the Special Projects Section also handled a range of complex matters, including bond and finance transactions. The Advisory Section continued to handle a substantial number of municipal legislative matters covering a broad range of subject matter. For the Advisory Section, the figures for Fiscal Year 2004-2005 as compared to the data for Fiscal Year 2003-2004 show a substantial increase in the overall number of reported assignments (2023 assignments, a 25.3% increase over the prior fiscal year, and a 16.3% increase over the average for prior four fiscal years); a corresponding increase in the average number of assignments per attorney (337, a 25.7 % increase over prior fiscal year, and a 16.1% increase over average of prior four fiscal years); a substantial increase in the number of contracts presented for review and approval as to form (1857 contracts, a 26% increase over the prior fiscal year, and 25% over the average of prior four fiscal years); and a reduction in the number of formal assignments generated by the City Council. The activities of the Advisory Section are discussed in Part II beginning on page 8.

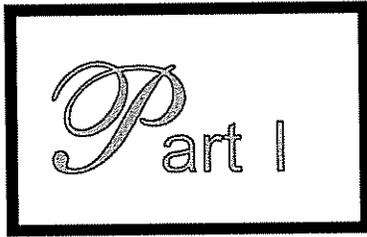
As in prior years, the Litigation Section handled a broad, varied load of litigation, at both the judicial and administrative levels. Continued emphasis was placed on keeping litigation

matters in-house and litigation costs down. Due to legal conflicts, several cases alleging misconduct by a police officer were referred to outside counsel in Fiscal Year 2002-2003 and litigated throughout Fiscal Year 2003-2004. With the exception of one case, all of these cases were resolved in Fiscal Year 2004-2005. Additionally, activities continued in two cases referred to outside counsel and discussed in the Fiscal Year 2002-2003 annual report, one involving complex federal toxic and hazardous materials issues, and the other involving a large number of flood damage claims. The continued handling of these cases by outside counsel reflects the most efficient handling of highly specialized and generally non-recurring cases. The figures for Fiscal Year 2004-2005 shows that there were 274 new civil cases, 39 of which were "risk cases"; in Fiscal Year 2003-2004 there were 182 new civil cases, 46 of which were "risk" cases; in Fiscal Year 2002-2003, there were 159 new cases, 52 of which were "risk" cases. Thirty-one (31) cases involving claims for damages were closed in Fiscal Year 2004-2005, and of these 31, 18 (or 58%) were resolved without payment by the City. This compares to 42 cases being closed in 2003-2004, with 29 (or 69%) being resolved without any payment by the City; and to 55 cases being closed in 2002-2003, with 33 (or 60 percent) resolved without any payment by the City. The activities of the Litigation Section are discussed in Part III beginning on page 24.

The Special Projects Section continued to focus on handling more complex litigation and advisory matters, including financial transactions. The Special Projects Section resolved a number of high-visibility cases in Fiscal Year 2004-2005 through trial, dismissal, or settlement. Several cases resolved against the City are now on appeal; similarly, appeals were filed by unsuccessful plaintiffs in several cases resolved in favor of the City. The figures for the Special Projects Section show that, in Fiscal Year 2004-2005, 39 new litigation cases were opened and 46 were closed, leaving 57 cases pending; the figures for 2003-2004 were 33 new cases and 45 closed, leaving 57 cases pending at the end of the year. Of the cases closed in Fiscal Year 2004-2005, 22 involved claims for damages, and 14 (64%) of those cases were resolved by dismissal or judgement favorable to the City with no payment by the City. The activities of the Special Projects Section are discussed in Part IV beginning on page 42.

Fiscal Year 2004-2005 was the fourth full year of operation for the Code Enforcement Section. The work of this section included Civil Code Enforcement, at the administrative and judicial levels; criminal prosecution of City Code violations; litigation of claims arising out of code enforcement activity; drafting of legislation related to Code Enforcement; and providing Enforcement advice. Due to a trial court decision holding a portion of the "Beat Feet" ordinance unconstitutional on a procedural ground, enforcement of the ordinance was suspended, although prostitution sting operations continued. That court decision is now on appeal. An appellate court decision involving a City of Stockton ordinance similar to Sacramento's held that the ordinance was preempted by state law and also unconstitutional on due process grounds.

A review of the data for the Code Enforcement Section for Fiscal Year 2004-2005, as compared to Fiscal Year 2003-2004, shows an increase in the overall number of administrative code-enforcement assignments of 10%, with an increase of nineteen percent (19%) in the number of Public Records Act requests. There was a 15% increase in the number of matters referred for possible criminal prosecution, and a seventeen percent (17%) increase in the number of citations and criminal complaints filed. The activities of the Code Enforcement Section are discussed in Part V beginning on page 52.



ADMINISTRATION

A. GENERAL

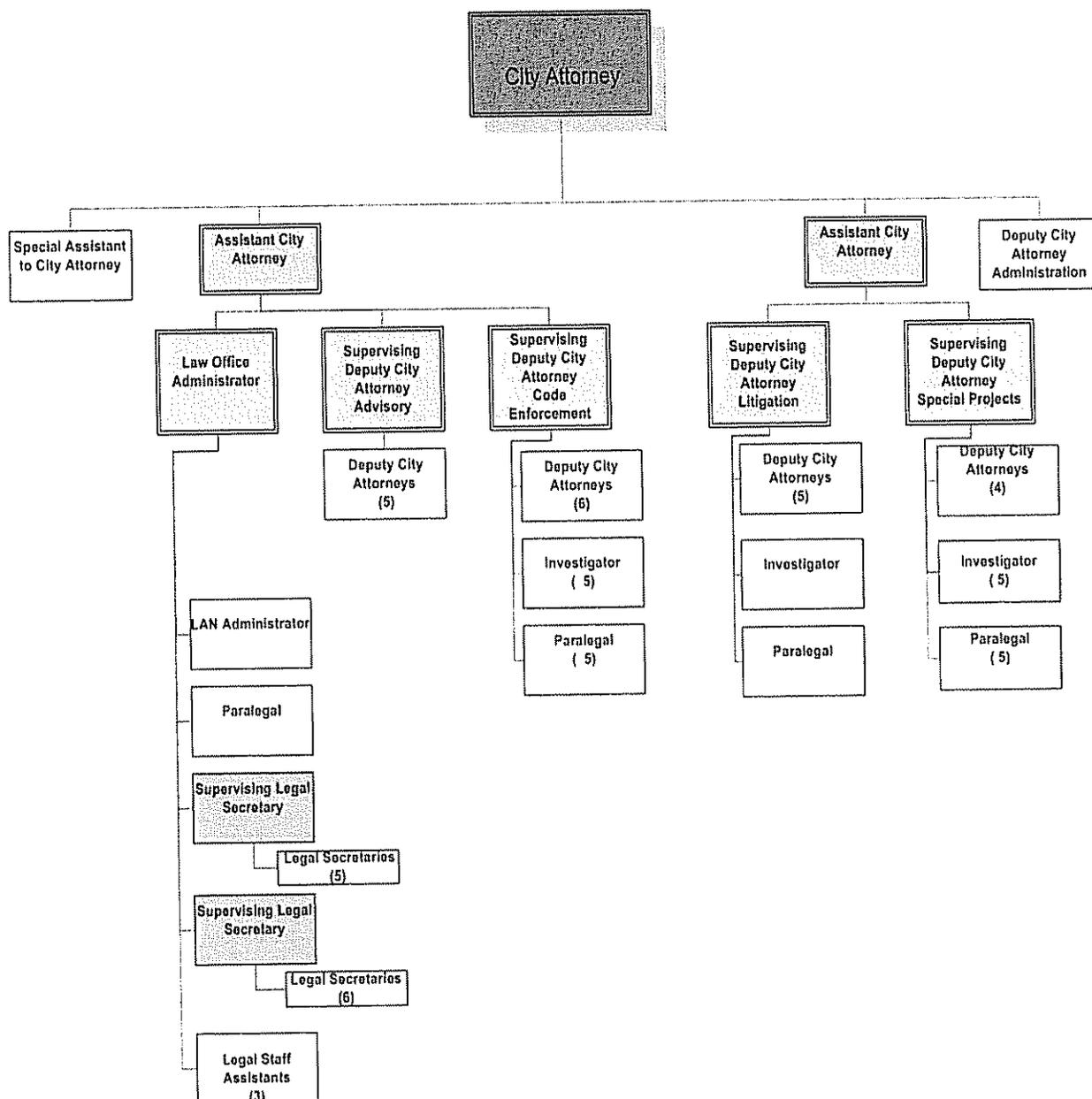
The administration and general-support functions of the office are performed under the direction of the City Attorney. The current structure of the office includes two Assistant City Attorneys, one of whom Richard E. Archibald, monitors the Advisory and Code Enforcement Sections while the other, Sandra G. Talbott, monitors the Litigation and Special Projects Sections. Immediate supervision of the Advisory, Litigation, Special Projects, and Code Enforcement Sections is provided by four Supervising Deputy City Attorneys, Susana Alcala Wood (Advisory), Brett Witter (Litigation) Robert Tokunaga (Special Projects), and Gustavo Martinez (Code Enforcement).

All support staff are generally supervised by the Office Administrator, Kathy Badgley. Two supervising legal secretaries provide immediate supervision of the legal secretaries. The Office Administrator also manages all non-legal day-to-day operations of the office, including budget preparation and monitoring; accounts payable and receivable; supplies and equipment; personnel processing and new-employee orientation; computer hardware and software; staff training; office-space needs; and many other tasks associated with operating a mid-to-large-size municipal law office.

Toni Jones, the Special Assistant to the City Attorney, is responsible for providing administrative support to the City Attorney; monitoring administration functions and recommending efficiency measures; coordinating Citywide legal awareness training; serving as department representative at meetings as needed; providing reports based on research, studies, and surveys; researching and analyzing a variety of issues; performing special assignments, including coordination of the annual report preparation; assisting with technology updates; and serving as back-up to the Office Administrator.

An office organizational chart reflecting the current organization of the office, including the number of attorneys and support staff assigned to each Section, is shown below.

**SACRAMENTO CITY ATTORNEY'S OFFICE
ORGANIZATION CHART AS OF JULY 2005**



Administration consists of the City Attorney, two Assistant City Attorneys, four Supervising Deputy City Attorneys, the Office Administrator, and the Special Assistant. Administration meets weekly to discuss issues related to the day-to-day operation and performance of the office, as well as budget and other matters. On the first Thursday of each month, Administration devotes time to the implementation of goals set forth in our five-year action plan.

B. BUDGET AND STAFFING

The City Attorney's budget for Fiscal Year 2005-2006 is \$7,016,085. The budget for Fiscal Year 2004-2005 was \$6,705,338 (amended). This is the operating and non-risk litigation expense budget. It does not include the Risk Management Fund for litigation matters. The budget includes salaries and operating costs for 53 full-time positions.

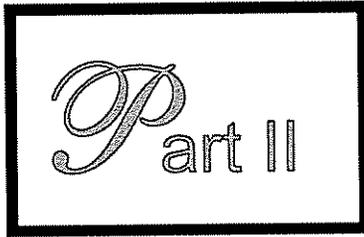
C. SIGNIFICANT ACCOMPLISHMENTS

- a. Attorney Fees Ordinance - This office drafted amendments to the City Code to allow for collection of attorneys' fees where attorneys' time has been expended in code-enforcement matters and collection matters.
- b. Internal Procedure for Living Wage Compliance - We prepared intra-office guidelines for implementing the Living Wage Ordinance and to monitor compliance.
- c. Boards and Commissions Training - At the request of Mayor, we prepared an orientation program for members of boards and commissions appointed under the City Charter and Title 2 of the City Code. The program includes written materials covering a broad range of issues and subjects that boards and commissions face, as well as a series of live presentations to the individual boards and commissions. The final presentation is scheduled in September 2005. The program will be periodically updated to reflect changes in the law and meeting procedures.
- d. Research on Indian Gaming Procedures - Indian gaming has become one of the fastest growing industries in the country, with approximately 42 gaming tribes in California. We have prepared a compendium of laws pertaining to Indian gaming and will present a summary of anticipated legal issues to the City Manager.
- e. Budget Committee - We created an internal budget committee consisting of five staff members who volunteered to participate. The committee reviewed the operating budget expenditures and made suggestions for reductions and possible new revenues. The result was a recommendation to reduce law book subscriptions and rely on more on-line research. Additionally, a suggestion for new revenue is now a proposed amendment to Chapter 1.28 of the City Code, which authorizes the City to collect attorneys' fees from code violators where attorneys' time has been expended in code-enforcement matters.
- f. Direct Call In Line - To assist in better processing the large volume of calls we receive, we implemented an automated phone-answering system that answers

incoming calls on the first ring and places them in a queue for the receptionist to answer. The receptionist views the queue on her computer screen and is constantly aware of the number of callers waiting and their time in the queue. We added a 'priority line' for Council members and charter officers to avoid delays in reaching staff. The receptionist can distinguish the priority line calls from all other calls, so she can answer the priority calls immediately no matter where they are in the queue.

- g. Do Not Call Registry Procedure - The City Attorney's Office receives a significant amount of unsolicited faxes from various companies. To reduce the amount of unsolicited faxes the office receives, the City Attorney's Office has established a "Do Not Call" procedure by which companies are required to remove our office fax numbers from their call lists.

ADVISORY SECTION



A. GENERAL

The policymakers and staff of the City of Sacramento are charged with fulfilling the mission and goals established by the City Council; the City's multifaceted responsibilities and services to its citizens; and the City's obligations under federal, state, and local laws. This broad spectrum of activities generates substantial legal demands. The work of the Advisory Section touches upon virtually all aspects of the business of the City. Whether the attorneys are responding to requests for legal advice from the City Council, the Charter officers, or City staff; preparing legislation; negotiating and drafting contracts and other transactional documents; providing legal representation at the various legislative and administrative meetings of the Council and City boards and commissions; working alongside City staff to provide timely legal advice on City projects; providing educational forums for City staff to facilitate the work they do; or keeping the Council and staff informed of the ever-changing legal landscape in which they operate, the Advisory Section provides important assistance throughout the City.

This part provides a detailed analysis of the workload of the Advisory Section during Fiscal Year 2004-2005. The goal of the Advisory Section is to provide prompt, accurate legal assistance and advice. The assignment of specific attorneys to different areas facilitates achievement of this goal. While overlap does occur in terms of providing backup to departmental assignments or meeting the demands of a particular matter, the base assignment of attorneys to the work of the Section follows on page 19.

The work of the Advisory Section touches upon virtually all aspects of the business of the City

The initial discussion in this section of the report sets forth some of the significant accomplishments of the Advisory Section during the past fiscal year. The remaining discussion details the advisory assignments handled during the reporting period and provides a range of statistical information, including (i) the number and type of assignments completed during Fiscal Year 2004-2005; (ii) the number and source of contracts and agreements handled by this office; and (iii) the number of requests from the Council, with a breakdown of requests made by the Mayor and each Councilmember. As appropriate, comparisons are made to assignments handled by the Advisory Section in previous years.

B. SIGNIFICANT ACCOMPLISHMENTS

1. Proactive Advice and Training.

a. *Legal Awareness Seminars/Continuing Education.* The City Attorney's Office continued its presentation of formal seminars in Fiscal Year 2004-2005, presenting a seminar for City employees on the California Environmental Quality Act (CEQA) and another one on important aspects of employees testifying on behalf of the City. In addition, the office

completed its presentation of orientation programs for members of the City's various boards and commissions, so they can better understand their roles and obligations.

b. *Meetings with Police Department.* The section supervisor and the deputies with primary responsibility for advising the Police Department meet periodically with department representatives to assist with long-term operation and planning, as well as to discuss current problems or issues. The Police Department provides the Advisory Section with a significant amount of work, including work on contracts, advice opinions, ordinances and other matters. The management of the workflow between the department and this section presented substantial challenges during the year, and the two departments were able to resolve those issues through cooperation which facilitated the completion of department work in a timely and efficient manner.

c. *Early Involvement in Major Projects.* To facilitate project planning, Advisory Section attorneys are involved in early stages of major undertakings, providing general advice regarding anticipated legal issues. Recent examples include the Sacramento Intermodal Transportation Facility, and Railyard Development, Crocker Art Museum Expansion, Bridging of Interstate 5, Sutter Hospital Expansion, and Downtown Wi-Fi proposal.

2. Selected Significant Assignments. The Advisory Section has been involved in many important matters around the City. The following is but a sampling of significant assignments in which section attorneys provided legal counseling:

- a. *E-mail and Document Retention Policies:* Assist staff and consultant in developing new policies for handling e-mail and City documents.
- b. *Crocker Museum Expansion:* Advise staff regarding construction and other contracts to move this project forward.
- c. *Union Pacific Railyard Development:* Assist in negotiating agreements concerning the REA Building property to provide access to the Historic Depot and future Sacramento Intermodal Transportation Facility, and facilitating Regional Transit's Folsom-Amtrack extension line, which project will result in parking lot improvements surrounding the Historic Depot. Also provided review and advice regarding toxic remediation requirements relating to the RT project.
- d. *Infill Development:* Assist staff with ongoing efforts to facilitate development of infill areas.
- e. *Conflicts of Interest:* Provide advice and drafting of revisions to City's conflicts-of-interest ordinance.
- f. *Downtown Wi-Fi Proposal:* Provide advice on various matters supporting City Manager's efforts to implement a wireless network in the Downtown area.

- g. *Measure A*: Provide advice to Sacramento Transportation Authority concerning the passage of Measure A to ensure continued transportation-tax revenues into the future.
- h. *Library Parcel Tax*: Provide advice to the Library Authority regarding passage of a parcel tax to ensure increased funding for library operations.
- i. *Medicinal Marijuana*: Provide advice regarding this developing body of law.
- j. *Water Wholesale/Wheeling Agreement*: Assist in negotiating and drafting an agreement regarding water service for Sacramento International Airport and the Metro Airpark area.
- k. *Third-and-Capitol Properties*: Provide advice regarding disputes over acquisition of properties and closure of roadways by the state.

3. Ordinance Research and Preparation. During this reporting period, we researched and drafted or assisted in drafting numerous ordinances and other forms of municipal legislation that were adopted by the Council or are currently being processed for adoption. A sampling of adopted and pending legislative work follows:

- a. Legislation adopted Fiscal Year 2004-2005:
 - Housing Preservation Ordinance
 - Light Rail Station Ordinance
 - Sewer Code revisions
 - Mixed Income Housing Ordinance
 - Stormwater Ordinance
 - Old Sacramento Sign Regulations
 - Parks and Recreation Advisory Commission Ordinance
 - Rabies Vaccination Ordinance
 - Development Streamlining Ordinance
 - Utility Users Tax Rebates
 - Recovery of Attorney's Fees in Nuisance Cases
- b. Pending Legislation With Substantial Work During Fiscal Year 2004-2005:
 - Solid Waste Host Benefit Fee
 - Sign Regulations
 - Tree Ordinance Amendments
 - Helistops and Heliports Ordinance
 - R Street Special Planning District
 - Campaign Finance Contribution Amendments
 - Light Rail Vending Ordinance
 - Recovery of Attorney's Fees in Matters in Addition to Nuisance Cases

C. STATISTICAL INFORMATION

The following tables and charts reflect advisory assignments handled by the entire City Attorney's Office. Typically, the work of the Advisory Section excludes litigation, active code enforcement, and criminal prosecution work performed by the other sections. However, the attorneys primarily handling advisory assignments may provide assistance in litigation, code enforcement, and criminal cases as needed. Instances of such assistance are included as advisory assignments.

1. Total Number of Advisory Assignments. The staff of the City of Sacramento has experienced an upswing in activity during this reporting period. This has resulted in a large increase in work for the Advisory Section, both in matters handled and in the number of contracts processed (for analysis of contracts, see discussion at page 14). Compared to the average of matters handled over the prior four fiscal years, the section experienced a 16.3% increase in the number of matters. The increase amounts to 25.3% over the prior fiscal year. The section handled 2,023 matters during the reporting period, compared with the prior four-year average of 1,739 and the 1,615 handled during Fiscal Year 2003-2004. The average number of assignments per attorney likewise grew to 337 over the prior year's 268 average.

The increase in the volume of matters flowing into the Advisory Section placed enormous stress on the attorneys and support staff, as the workload was handled without an increase of personnel. Since 2001, the Advisory Section has maintained approximately 6 FTE's of attorney staff. In fact, the number of matters handled this year greatly exceeded the number handled in past years when the Advisory Section consisted of up to nine attorneys who were assigned responsibilities now handled by other sections of the City Attorney's Office. In November 2004, the City Council recognized the pressures encountered by the office and authorized an increase of staff (subject to budgetary concerns facing the City) that will go a long way in providing relief to the section.

The number of Advisory Section assignments increased 16.3% over the average for the prior four fiscal years and 25.3% over the prior fiscal year

The work of the Advisory Section has always included matters of varying length and complexity, and the past year is no exception. Some assignments are long-term, spanning weeks or even months. Work on ordinances, complex contracts, and major City projects are examples of matters that can include a great deal of work and time, and yet are only reflected in one or two assignments in our record keeping system. The same holds true for work with boards and commissions; each attorney in the Advisory Section is responsible for staffing various boards and commissions. The work generated by such responsibilities may far exceed the time attending meetings, and the time spent preparing for each meeting generally is not captured by separate entries into our assignment database. Hence, while the raw numbers of matters handled grew, the increase in the demands for attorney time and energy grew in greater proportion.

Total Number of Advisory Assignments

FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
1,851	1,740	1,750	1,615	2,023

2. Average Number of Assignments Per Attorney. The averages below were computed using the total number of advisory assignments handled by the Advisory Section attorneys and the average number of attorneys assigned to the Advisory Section.¹

Average Number of Assignments Per Attorney

FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
316	290	287	268	337

3. Status of Assignments Handled During Reporting Period. The tables below set forth the status of assignments as having been completed in a given year or pending at the end of the year.

a. Assignments Closed During Each Year

FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
1,946	1,882	1,655	1,627	1,870

b. Assignments Pending at End of Each Year

FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
125	165	223	212	153

4. Assignments by Source. The charts below set forth the sources from which much of the Advisory Section workload originates within the City organization. These figures are based on the number of new assignments by department or function entered into the office assignment database, and they generally indicate the demands made by and legal support provided to individual departments.

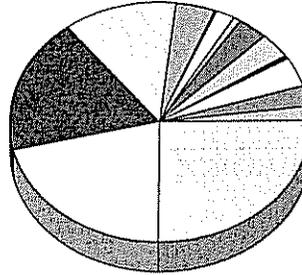
¹ Following the inception of the Special Projects Section in 2001, the averages assumed six attorneys assigned to the Advisory Section work, with the exception of Fiscal Year 2002-2003. For purposes of Fiscal Year 2002-2003, the average is calculated on the basis of 6.125 FTE's that represent (i) the average number of attorneys who were in the Advisory Section throughout the fiscal year, based on vacancies that occurred during the year; (ii) .25 FTE for the Chief Assistant City Attorney, who retired during the reporting period; and (iii) 25 FTE of combined City Attorney and Assistant City Attorney time.

ASSIGNMENT BY SOURCE

ALL CITY DEPARTMENTS

FY 04-05

- City Clerk - 2.1%
- City Council - 2.8%
- City Manager - 3.8%
- City Treasurer - 0.5%
- CVM* - 3.5%
- Finance - 3.4%
- Fire - 0.6%
- HR/Employee Rel - 2.1%
- Library - 0.2%
- Neighborhood Ser - 4.3%
- Planning - 12.2%
- Police - 18.4%
- Public Works - 21.1%
- Utilities - 25.1%

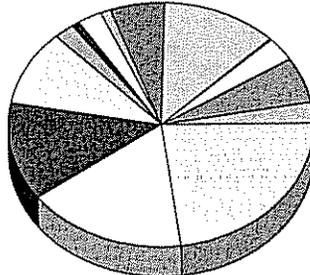


*Community/Visitor Services/Misc.

100%

FY 03-04

- City Clerk - 3.0%
- City Council - 6.0%
- City Manager - 3.0%
- City Treasurer - 0.5%
- CVM* - 12.0%
- Finance - 6.0%
- Fire - 1.0%
- HR/Employee Rel - 2.5%
- Library - 1.0%
- Neighborhood Ser - 2.0%
- Planning - 10.0%
- Police - 13.0%
- Public Works - 17.0%
- Utilities - 23.0%

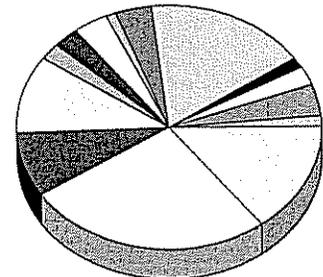


*Community/Visitor Services/Misc.

100%

FY 02-03

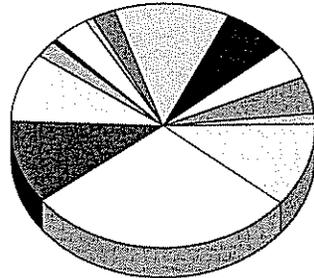
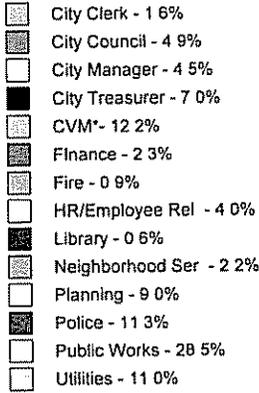
- City Clerk - 1.4%
- City Council - 4.3%
- City Manager - 2.4%
- City Treasurer - 1.6%
- CVM* - 17.0%
- Finance - 3.9%
- Fire - 1.3%
- HR/Employee Rel - 3.5%
- Library - 2.7%
- Neighborhood Ser - 2.4%
- Planning - 10.1%
- Police - 8.7%
- Public Works - 26.1%
- Utilities - 14.6%



*Community/Visitor Services/Misc.

100%

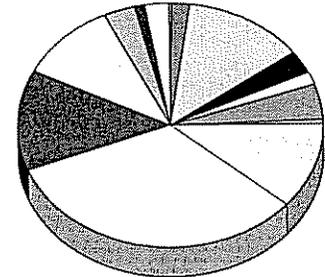
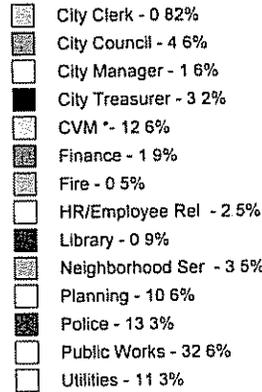
FY 01-02



100%

*Community/Visitor Services/Misc

FY 00-01



100%

*Community/Visitor Services/Misc.

5. Contracts. The Advisory Section routinely processes a broad range and large number of contracts. During Fiscal Year 2004-2005, the section processed 1,857 contracts, compared with 1467 contracts in Fiscal 2003-2004, 1475 in Fiscal Year 2002-2003, 1545 in Fiscal Year 2001-2002, and 1469 in Fiscal Year 2000-2001.

As mentioned above, as the activity of City staff increases, so do the demands on the attorneys in the Advisory Section. The number of contracts processed increased almost 25% over the average for the prior four fiscal years and 26% over the prior year. While the time spent reviewing these contracts is shorter compared to other assignments (see discussion below), the cumulative effect of the increase in both assignments and contract review has been great.

The contracts reflected in the statistics below are tracked on office logs and typically are the "standard" contracts reviewed by this office. As such, the review and approval of these contracts are not recorded, as a general rule, in the office assignment database and are not counted as assignments for purposes of the figures set forth in sections 1 through 4 above. Non-standard agreements, including those of a custom or more complex nature that require substantial attorney time in reviewing, negotiating, and/or drafting, are not included or reflected in the foregoing table but are recorded as separate assignments. Contracts for demolition presented by Housing and Dangerous Buildings and Code Enforcement are not reflected in the foregoing chart but are accounted for under the Code Enforcement Section of this report.

TOTAL NUMBER OF CONTRACTS PROCESSED

FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
1,469	1,545	1,475	1,467	1,857

The first table below reflects the source of contracts by department in Fiscal Year 2004-2005, and the second compares the figures regarding sources of contracts for Fiscal Year 2004-2005 and the four preceding fiscal years.

CONTRACTS PROCESSED IN FY 04-05 BY DEPARTMENT

Department	Number of Contracts	Percentage
Charter Officers (except Treasurer)	127	6.8%
Economic Development	19	1.0%
Development Services (except Planning)	72	3.9%
Human Resources (Labor Relations/Personnel)	26	1.4%
Information Technology	38	2.0%
Fire Department	39	2.1%
Finance (including Treasurer)	55	3.0%
General Services	532	28.6%
Library Authority	2	0.1%
Police Department	59	3.2%
Parks	293	15.8%
Planning	61	3.3%
Department of Transportation	148	8.0%
Transportation Authority	7	0.4%
Utilities	238	12.8%
Others	141	7.6%
TOTAL:	1,857	100.0%

CONTRACTS PROCESSED BY DEPARTMENT (History In Percentages)²

Department	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
Public Works ³	41.1	49.5	46.7	45.4	40.5%
Utilities	13.9	11.0	13.3	11.8	12.8%
Planning & Development	8.2	12.6	5.8	6.7	3.3%
Police Department	7.9	3.6	1.8	2.8	3.2%
Downtown & Regional Enterprises Department	6.3	2.8	5.7	4.1	1.0%
Neighborhood Services (including Parks & Code Enforcement)	16.5	11.1	4.6	14.7	15.9%
Human Resources	.3	1.1	1.0	1.4	1.4%
Other	5.0	8.3	11.1	13.1	21.9%
	100%	100%	100%	100%	100%

D. CITY COUNCIL ASSIGNMENTS

Included in the total number of advisory assignments are assignments received directly from the Mayor or individual Councilmembers. Statistics reflecting total assignments, assignments by source, and number of assignments completed and pending are provided below.

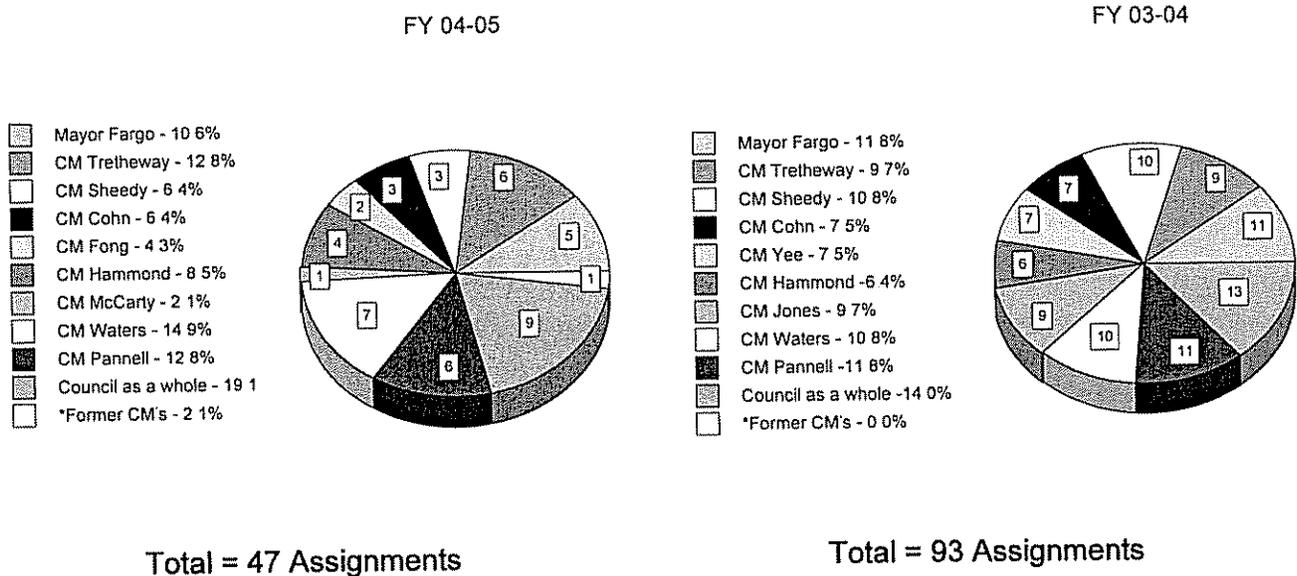
1. Total Number of Council Assignments. The total number of new assignments received from the Mayor and City Council during Fiscal Year 2004-2005 was 47, compared to 93 in Fiscal Year 2003-2004, 83 in Fiscal Year 2002-2003, 98 in Fiscal Year 2001-2002, and 76 in Fiscal Year 2000-2001.

² Historical comparisons of the source of contracts for processing have been included in the Annual Report since the 1999-2000 report. The department descriptions used in the 1999-2000 were consistent with the then-existing City organization and department names. These department descriptions were carried forward to facilitate year-over-year comparisons despite departmental reorganizations and renaming that have since occurred.

³ The percentage of contracts attributable to public works includes contracts originating from Department of Transportation, General Services and Development Services. As has been the case in prior years, these three departments generate the highest volume of contracts in the City. While the number of public works-related contracts has increased over the prior year, the percentage of such contracts out of the total number of contracts decreased due to increases in volume generated by other departments. However, as reflected in the prior table, the three public works departments still generate the largest absolute number of contracts in the City.

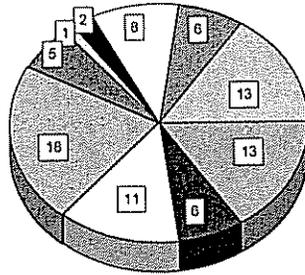
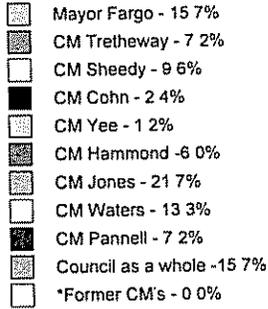
There has been a decrease in the number of Council assignments going to the Advisory Section during this reporting period. The average over the prior four years is 87 Council assignments and this year's number is 47 new assignments. Two factors contributing to the decrease in new Council assignments over last year are (1) the prior year's statistics included several individual matters that resulted in either multiple attorneys being involved (and hence each including his or her work as separate assignments in our database) or an attorney entering separate assignments for distinct segments of work on a single subject matter, and (2) the introduction of two new Councilmembers who generated substantially fewer assignments than their predecessors. As to the latter contributing factor, we expect that the new Councilmembers will become more acclimated to bringing legal concerns within their districts to our office (there already has been an increase of interaction between new Councilmembers and the City Attorney's Office). We fully expect the volume of new assignments to revert to historical norms in the future. In any event, as discussed above, the work flowing from City staff has more than made up for this decrease in terms of demands on attorney time for Council assignments. However, it should be noted that many Council questions are addressed by the City Attorney and Assistant City Attorneys in a short time frame and, as such, are not recorded in the office assignment database. We believe that the number of unrecorded assignments of such duration has not decreased during the reporting period and has, in fact, increased over the past several years.

2. Council Assignments by Originator



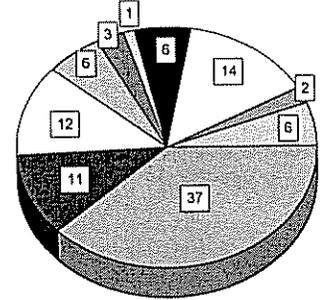
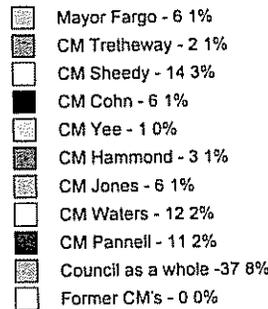
*Requests made by former Councilmembers during their terms on the Council were aggregated and set forth here.

FY 02-03



Total = 83 Assignments

FY01-02



Total = 98 Assignments

*Requests made by former Councilmembers during their terms on the Council were aggregated and set forth here.

3. Council Assignments Completed/Pending. The chart below reflects City Council assignments completed from Fiscal Year 2000-2001 through Fiscal Year 2004-2005, and those that have been carried over into the subsequent year. As indicated in the below table, the Advisory Section attorneys completed all but one Council assignment (a continuing matter that has been impacted by recent developing case law). With a fewer than normal number of new assignments received this year, the Advisory Section attorneys were able to focus on responding to and completing both the assignments carried over from the prior year (23 matters) and the new assignments thereby reducing the number of assignments carried over to the next year.

Year	Completed	Pending
FY 00-01	65	14
FY 01-02	99	13
FY 02-03	73	23
FY 03-04	103	13
FY 04-05	59	1

ADVISORY SECTION ASSIGNMENTS

Susana Alcala Wood, Supervising Deputy City Attorney

Section Attorneys

Paul Gale
Sabina Gilbert
Joe Robinson
Matthew Ruyak
Michael Sparks

ASSIGNMENTS	ATTORNEY(S)
<p>City Council Boards/Commissions</p> <ul style="list-style-type: none"> • Council meetings • Law & Legislation Committee • Sacramento Transportation Authority • Sacramento Public Library Authority • Compensation Commission <p>Advisory Functions</p> <ul style="list-style-type: none"> • General advice, opinions, project review • Conflict of interest advice (Political Reform Act; Gov. Code §1090; general conflict issues) • Review of Council agenda • Brown Act issues • Mass mailings 	<p>Sam Jackson⁴ Joe Robinson Susana Wood</p> <p>Michael Sparks, Susana Wood</p> <p>All Sabina Gilbert, Susana Wood</p> <p>All All Susana Wood, Sabina Gilbert</p>
<p>City Manager Advisory Functions</p> <ul style="list-style-type: none"> • General advice, opinions, project review 	<p>All, Richard Archibald</p>
<p>City Treasurer Advisory Functions</p> <ul style="list-style-type: none"> • Administration • Agreements 	<p>Bob Tokunaga</p>

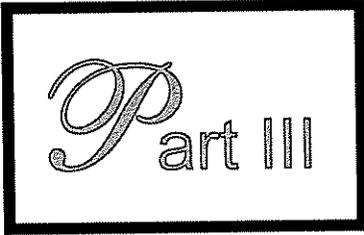
⁴ Richard Archibald, Sandra Talbott, Susana Wood, Gustavo Martinez, Bob Tokunaga, and Brett Witter may handle one or more meetings during the year.

ASSIGNMENTS	ATTORNEY(S)
<p>City Clerk Advisory Functions</p> <ul style="list-style-type: none"> • Administration (opinions, etc) • Elections Advice • Conflicts of Interest (Political Reform Act Requirements) • City contribution limits code 	<p>Susana Wood, All</p> <p>Sabina Gilbert Sabina Gilbert</p> <p>Sabina Gilbert</p>
<p>Convention, Culture & Leisure Boards & Commissions</p> <ul style="list-style-type: none"> • Metro Arts Commission • Museum & History Commission <p>Advisory Functions</p> <ul style="list-style-type: none"> • Off-Street Parking • Community/Convention Center • Old Sacramento • Library • Zoo/Fairytale Town • Golf • Crocker Art Museum • History Museum/archives/cemetery • Science Center • Waterfront & Marina 	<p>Michael Sparks, Susana Wood</p> <p>Paul Gale, Matt Ruyak Michael Sparks, Susana Wood</p>
<p>Economic Development Advisory Functions</p> <ul style="list-style-type: none"> • Downtown Redevelopment • Commercial Corridor • Project review and advice 	<p>Sabina Gilbert</p>
<p>Finance Advisory Functions</p> <ul style="list-style-type: none"> • Administration • Payroll • Utility billing • Purchasing & Stores • Budget • Asset Management • Accounting • Revenue/Permits & Licenses 	<p>All</p>

ASSIGNMENTS	ATTORNEY(S)
<p>Human Resources Boards/Commissions</p> <ul style="list-style-type: none"> • Civil Service • SCERS Administration, Investment & Fiscal Management Board • SCERS Retirement Hearing Commission <p>Advisory Functions</p> <ul style="list-style-type: none"> • Administration • Retirement • Occupational Safety & Health Benefits • Testing/recruitment; personnel problems (including EEO/AA) • Workers' Compensation/ Unemployment Insurance • Labor Relations issues • Training 	<p>Paul Gale Bob Tokunaga, Michael Sparks</p> <p>Susana Wood</p> <p>Michael Sparks, Susana Wood</p>
<p>Information Technology Advisory Functions</p> <ul style="list-style-type: none"> • Administration • Computer operations • Communications • Mail/printing • Network Services 	<p>Matthew Ruyak, Michael Sparks</p>
<p>Neighborhood Services Boards & Commissions</p> <ul style="list-style-type: none"> • Design Review & Preservation Sacramento Heritage, Inc. • Construction Advisory and Appeals Board • Sacramento Housing Advisory & Appeals Board <p>Advisory Functions</p> <ul style="list-style-type: none"> • Camp Sacramento • Administration (services for Area Managers) 	<p>Sabina Gilbert Sabina Gilbert Mike Sparks, Matthew Ruyak</p> <p>Mike Sparks, Mathew Ruyak</p> <p>Michael Sparks, Mathew Ruyak</p>
<p>Parks & Recreation Advisory Functions</p> <ul style="list-style-type: none"> • Recreation • Parks • Tree Services • Human Services 	<p>Michael Sparks, Mathew Ruyak</p>

ASSIGNMENTS	ATTORNEY(S)
<p>Planning & Building Boards & Commissions</p> <ul style="list-style-type: none"> • Planning Commission <p>Advisory Functions</p> <ul style="list-style-type: none"> • Administration • Planning Division • Building inspection • Environmental (CEQA - private projects) • Subdivisions • Development Agreements • Redevelopment matters • Permit services • North Natomas 	<p>Sabina Gilbert, Susana Wood</p> <p>Sabina Gilbert, Richard Archibald, Susana Wood</p>
<p>Public Safety Advisory Functions <u>Police Department</u></p> <ul style="list-style-type: none"> • Administration (opinions, general orders etc.) • Legislation/Transactions <p><u>Fire Department</u></p> <ul style="list-style-type: none"> • Administration (opinions, etc.) • E.M.S. functions 	<p>Matthew Ruyak, Michael Sparks</p> <p>Michael Sparks, Matthew Ruyak</p>
<p>Transportation Advisory Functions</p> <ul style="list-style-type: none"> • Transportation • On-Street Parking • Street Abandonments • Traffic Division 	<p>Paul Gale Paul Gale Paul Gale, Joe Robinson Paul Gale</p>
<p>Development Services Advisory Functions</p> <ul style="list-style-type: none"> • Development Services • Real Estate Section (including eminent domain advice) • Environmental issues (CEQA [public projects], ESA, hazardous/toxic materials) 	<p>Sabina Gilbert, Joe Robinson, Paul Gale</p> <p>Joe Robinson, Paul Gale</p> <p>Sabina Gilbert, Joe Robinson, Susana Wood</p>

ASSIGNMENTS	ATTORNEY(S)
<p>General Services Advisory Functions</p> <ul style="list-style-type: none"> • Animal Services • Engineering Division (design, construction, etc.) • Solid Waste Division • Environmental issues (CEQA [public projects], ESA, hazardous/toxic materials) • Facility Management • Administration (project planning, etc) • Procurement matters (contracts; ESD compliance) • Contract review 	<p>Paul Gale Paul Gale</p> <p>Joe Robinson Sabina Gilbert, Joe Robinson</p> <p>Paul Gale Paul Gale Paul Gale, Joe Robinson</p> <p>Paul Gale, all</p>
<p>Utilities Advisory Functions</p> <ul style="list-style-type: none"> • Water issues (CCOMWP, water supply, SWRCB, USBOR) • Sewer issues (NPDES permits for combined and other sewer systems, impact fees) • Stormwater issues (NPDES permits) • Administration (project planning) • Flood control (FEMA issues, floodplain issues, SAFCA) • Procurement matters (construction contracts; ESD compliance) • Financial issues (impact fees) • Contract Review • Environmental issues (CEQA [public projects], ESA, hazardous/toxic) 	<p>Joe Robinson</p>
<p>Miscellaneous Matters</p> <ul style="list-style-type: none"> • Ordinance/resolution drafting • Staff report review • Ordinance and opinion review 	<p>All</p>



LITIGATION

A. GENERAL

The Litigation Section handles a wide variety of litigation matters, including tort, civil rights, and other damage claims; subrogation, eminent domain, writ, contract, and bankruptcy matters; administrative hearings concerning personnel; and weapons confiscation and Pitchess motions. The list set forth on page 41 shows the various areas in which the Litigation Section performed legal services and identifies the attorneys assigned to those areas.

This section of the annual report provides a detailed analysis of the type and number of cases handled by the Litigation Section during Fiscal Year 2004-2005 and compares the results with those for the previous four fiscal years.

The overriding goal of our office has been to make the best use of the funds expended by the City in handling litigation matters. This goal has been achieved with great success over the past ten years by handling virtually all City-related litigation on an in-house basis and by achieving efficiencies in the delivery of litigation services. The statistics presented below demonstrate the cost savings obtained by retaining litigation in-house while still achieving a high level of success. These savings have been enhanced by a number of measures that increase the capacity of individual attorneys to handle a greater number of cases. These measures include the standardization of procedures and the preparation of guidelines to ease the handling of routine matters; the hiring, training, and development of support staff to provide paralegal and investigative support previously performed by litigation attorneys; the scheduling of regular case and section meetings to provide effective guidance in the handling of cases to final disposition; and the continued development of a skilled staff of litigators. These and other office processes enabled us to continue handling a high number of cases in a cost-efficient manner.

B. STATISTICAL INFORMATION AND SIGNIFICANT ACCOMPLISHMENTS

1. Reduction in Litigation Costs. In Fiscal Year 1993-1994, the City paid outside counsel fees totaling \$1,145,467. Pursuant to the City Council's direction in 1994, the City Attorney's Office has handled litigation on an in-house basis, with the dual goals of reducing outside-counsel fees while providing high-quality legal services. The data in this report demonstrate our ability to continue to meet these important goals. In the ten years since Fiscal Year 1993-1994, outside-counsel fees, conservatively speaking, have been reduced well over \$1 million annually. The significant reduction in outside-counsel fees is reflected in the following table in each of the prior years.

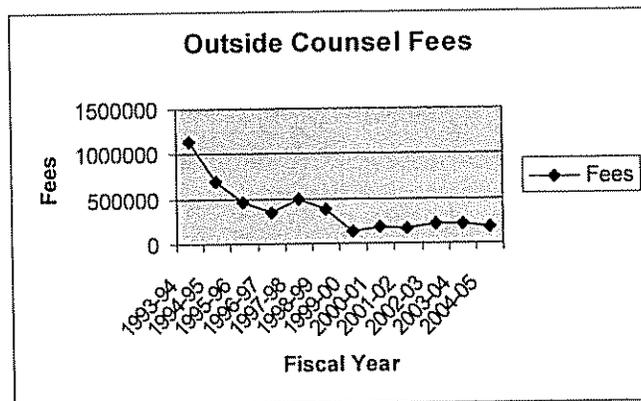
OUTSIDE COUNSEL FEES PAID

<u>YEAR</u>	<u>OUTSIDE COUNSEL FEES</u>
FY 00-01	\$176,870
FY 01-02	\$166,094
FY 02-03	\$213,483
FY 03-04	\$207,706
FY 04-05	\$181,847

While the amount of outside-counsel fees fluctuates annually depending on the types of matters handled by such counsel, the trend has been down, as indicated in the accompanying chart. However, in Fiscal Year 2002-2003, the City experienced a 28% increase in outside-counsel fees due to novel circumstances, i.e., the onset of active litigation in a complex federal toxic-remediation suit and the need to hire conflicts counsel in multiple cases arising out of allegations of misconduct involving a police officer. We were required to retain outside counsel in the foregoing matters because of the resources necessary to defend a complex environmental-litigation case and to meet our ethical responsibilities as attorneys to avoid conflicts of interest. As expected, the same level of outside counsel fees incurred in Fiscal Year 2002-2003 to handle the previously mentioned cases continued into Fiscal Year 2003-2004.

In this reporting period the fees decreased as the majority of officer-misconduct cases reached the resolution stage. We expect this level of expenditure to remain the same or to increase in the next fiscal year depending on the outcome and resolution of a high-profile case that went to trial this fiscal year.

As of the close of Fiscal Year 2004-2005, there has been a reduction of outside-counsel cases from nine to six. Of these six cases, one is related to the above-described police-related matter and one is the complex federal toxic case discussed above. The other matter includes a flood case arising out of the 1986 flooding of Strawberry Manor, filed by numerous plaintiffs, which was referred to outside counsel with in-depth experience in representing the City in related flooding cases; and a wrongful demolition case referred to outside counsel because of conflict issues. The office will continue to minimize outside-counsel expenditures by retaining all litigation matters other than those cases requiring retention of outside counsel because of unusual circumstances.



During Fiscal Year 2004-2005 only one new Risk case was assigned to outside counsel.

The City's hourly cost for maintaining a staff of in-house attorneys to handle litigation matters increased by only one dollar from the prior fiscal year. The in-house hourly rates during Fiscal Year 2004-2005 remain far below (31.5%) the hourly rates of outside counsel.

HOURLY ATTORNEY RATES

<u>YEAR</u>	<u>IN-HOUSE</u>	<u>OUTSIDE COUNSEL</u>	<u>PERCENT LOWER</u>
FY 00-01	\$82	\$130	36.6%
FY 01-02	\$87	\$125	30.4%
FY 02-03	\$94	\$130	27.7%
FY 03-04	\$113 ⁵	\$139	23.0%
FY 04-05	\$114	\$150	31.5%

In addition, it is important to note that the blended hourly rate for in-house attorneys assumes an average 40-hour work week and does not take into account the actual number of attorney work hours, which continues to range from 40-65 hours per week, resulting in even lower effective hourly rates. Outside hourly billing rates remain constant and are applied to each hour expended by outside counsel. The \$150 per hour rate for outside counsel is a rough average rate over all risk related matters handled outside of the office.

2. Payout Information. The following table sets forth the payouts in Fiscal Year 2004-2005 on cases filed against the City and handled either in-house (Litigation and Special Project Sections) or by outside counsel, and it includes claims settled prior to the filing of litigation ("Total Payouts"). Comparisons are made to payout information for prior years.

INDEMNITY PAYOUTS - ALL CLAIMS

<u>YEAR</u>	<u>NON-PROPERTY DAMAGE⁶</u>	<u>PROPERTY DAMAGE</u>
FY 00-01	\$3,194,502	\$695,082
FY 01-02	\$3,387,078	\$373,566
FY 02-03	\$1,440,657	\$860,346
FY 03-04	\$2,358,100	\$651,564
FY 04-05	\$2,724,735	\$545,376

In the last two fiscal years there has been an increase in Total Payouts for non-property damage matters. The numbers would appear to suggest that there has been a steady increase in Total Payouts. However, the gross numbers do not paint an accurate picture of the long-term trend. The increases are due in large part to two high-profile tort cases, resolved in the last two

⁵ The 20% increase in Fiscal Year 2003-2004 (from \$94 to \$113) was due in large part to the addition of experienced municipal law attorneys and support by the City Council to authorize funds for salary adjustments to assist our efforts to attract and retain experienced attorneys.

⁶ The Non-Property Damage column includes all indemnity amounts paid out for other than property-damage claims in any given year, such as damages for bodily injury, wrongful death, civil rights violations, wrongful termination, backpay claims, and inverse condemnation.

fiscal years, that settled for amounts in excess of \$1 million. Removing those two cases from the gross numbers yields a Total Payout closer to the Fiscal Year 2002-2003 number that we suggest is the more accurate figure for determining long-term trends. Accordingly, despite the spike in the last two fiscal years we do not observe a sustained increase in the long-term trend.

**PAYOUTS ON LITIGATED RISK CASES HANDLED
BY THE LITIGATION AND SPECIAL PROJECTS SECTIONS**

The following tables show the Total Payouts on Risk Management cases closed in-house by the Litigation and Special Projects Sections. Costs listed in the tables do not include attorney's fees, as these matters were handled in-house. From and after Fiscal Year 2000-2001, litigation cases are divided between the Litigation and Special Projects Sections. The first table presented below reflects payouts on cases handled by both sections. Details of the payout amounts on cases handled by the Special Projects Section are set forth in Part IV of this report. The second table reflects payouts on cases handled by the Litigation Section only.

**PAYOUTS ON ALL LITIGATED RISK CASES
(Litigation and Special Projects Sections)**

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>NON- PROPERTY DAMAGE</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
FY 00-01	82	\$2,734,350	\$35,355	\$248,899	\$3,018,604
FY 01-02	100	\$2,653,119	\$0	\$14,607 ⁷	\$2,667,726
FY 02-03	79	\$1,033,664	\$3,768	\$169,344	\$1,206,776
FY 03-04	57	\$2,176,665 ⁸	\$4,985	\$227,627	\$2,409,277
FY 04-05	45	\$1,936,813	\$3,738	\$78,219	\$2,018,770

Property damage claims continue to contribute an insignificant amount to the Total Payouts, suggesting either that tort claimants are not electing to pursue property-damage litigation against the City or that Risk Management is resolving the bulk of property-related damage claims before they turn into litigated claims.

**PAYOUTS ON ALL LITIGATED RISK CASES
(Litigation Section Only)**

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>NON- PROPERTY DAMAGE</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
FY 00-01	60	\$2,244,142	\$21,500	\$218,379	\$2,484,020

⁷ This amount reflects the amount of costs paid out during 2001-2002 only and does not reflect the entire amount of costs paid during the entire history of each closed case. The amount of costs reflected in the other years includes the entire amount of costs paid on each closed case.

⁸ The large increase in the Total Payouts for non-property damage in Fiscal Year 2003-2004 compared to the last fiscal year is due in large part to the settlement of a high-profile police excessive-force case handled by the Special Projects Section.

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>NON- PROPERTY DAMAGE</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
FY 01-02	56	\$716,173	\$0	\$85,469 ⁹	\$801,642
FY 02-03	55	\$699,129	\$3,768	\$70,864	\$773,761
FY 03-04	42	\$297,998	\$4,985	\$45,207	\$348,190
FY 04-05	31	\$573,239	\$3,738	\$46,337	\$623,314

In this reporting period there was a 92% increase over the prior year payouts for bodily injury. This year's sharp increase is largely attributable to two separate personal injury resolutions that between them accounted for \$450,000 of the current payouts.

Even including the two large personal-injury resolutions, the long-term trend continues to be down, as shown by the 23% decrease from Fiscal Year 2001-2002 to this fiscal year, and the 20% decrease from Fiscal Year 2002-2003 to this fiscal year.

Moreover, we were able to resolve cases in a cost-effective manner as reflected in the relatively low amount of costs incurred during the life of each case closed this reporting period.

Of all of the cases resolved during the past reporting period, the Litigation Section successfully resolved **55%** without the payment of money

Of the 31 damage suits closed during the Fiscal Year, 17 were resolved without the payment of any money. In sum, 55% of the cases closed during the year were without the payment of damages.¹⁰ Only 14 cases resulted in the payment of money. Of those, two accounted for \$450,000 of the current payouts. Accordingly, the \$126,977 in payouts on the remaining 12 cases resulted in an average payout of only \$10,581 per case.

PERCENTAGE OF LITIGATION SECTION CASES RESOLVED WITHOUT THE PAYMENT OF MONEY

<u>YEAR</u>	<u>PERCENTAGE</u>
FY 00-01	51%
FY 01-02	57%
FY 02-03	60%

⁹ This amount reflects the amount of costs paid out during Fiscal Year 2001-2002 only and does not reflect the entire amount of costs paid during the entire history of each closed case. The amount of costs reflected in the other years include the entire amount of costs paid on each closed case.

¹⁰ This followed a 69% success rate reflected for Fiscal Year 2003-2004.

<u>YEAR</u>	<u>PERCENTAGE</u>
FY 03-04	69%
FY 04-05	55%

From Fiscal Year 2000-2001 forward, we succeeded in closing over half of our cases without the payment of money to the claimant. The skill of the Litigation Section attorneys in positioning cases for favorable resolution, together with a reduction in serious accident cases, continued to dramatically and steadily increase the number of cases resolved without the payment of money compared to prior periods.

One of the goals of the section is to develop and retain attorneys skilled in resolving cases without the payment of money on litigated claims where the City should be held liable. This training and development produce attorneys capable of successfully challenging claimants' lawsuits based on procedural or substantive defects through motions made at early stages of a case without an undue expenditure of time and funding. This practice increases an attorney's efficiency and saves the City money by avoiding long drawn out legal battles. The statistics demonstrate how successful the section has been in meeting this goal.

CASES PRESENTED TO COUNCIL IN CLOSED SESSION

Throughout the fiscal year the office submits Risk claims or tort-related defense cases to the Council for review, recommendations, and approvals. The chart below summarizes the number and percentage of claims or cases brought to the Council's attention. This chart does not report on other closed session-matters such as labor or real estate negotiations or code-enforcement matters.

Fiscal Year	Percent of all claims filed or threatened¹¹	Percent of all litigated cases	Percent of all litigated cases that settled	Percent of all litigated cases that went to trial
FY 03-04 ¹²	.59% (5 out of 844)	7.7% (24 out of 313)	2.2% (7 out of 313)	100% (2 out of 2)
FY 04-05	1.6% (12 out of 754)	11.42% (29 out of 254)	3.15% (8 out of 254)	-0- ¹³

PAYOUTS ON CASES HANDLED BY OUTSIDE COUNSEL

The following table shows the total payouts on Risk Management cases closed by outside counsel on a fiscal-year basis from Fiscal Year 2000-2001 forward, including costs and

¹¹ Includes threatened claims that may be pending and not yet filed against the City.

¹² First fiscal year where data was captured. Prior years are not reported.

¹³ The number is zero because the office did not try a case to a jury in FY 2004-2005.

other expenses incurred, such as expert witness and attorney's fees. These figures are only for cases closed during the applicable reporting year and include all payments made on the cases during those years. Legal expenses on cases that remain open are not included but will be reported when closed.

PAYOUTS ON OUTSIDE COUNSEL CASES

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>NON-PROPERTY DAMAGE</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
FY 00-01	6	\$199,000	\$0	\$176,870	\$375,870
FY 01-02	5	\$0	\$51,272	\$487,121	\$538,393
FY 02-03	1	\$49,900	\$0	\$39,598	\$89,498
FY 03-04	0	\$0	\$0	\$0	\$0 ¹⁴
FY 04-05	4	\$390,000	\$0	\$199,850	\$589,850

Although it appears that outside counsel handled and closed four separate and unrelated cases in this reporting period, the four cases all related to one City defendant. All four cases arose out of alleged police officer misconduct and were required to be outsourced to avoid conflicts of interest. As the numbers demonstrate, we continue to handle the majority of cases in house and outsource cases only when conflicts of interest arise or in cases requiring retention of outside counsel because of matters demanding an inordinate amount of resources to defend.

PAYOUTS BY SIZE OF PAYMENT

The following is a comparative breakdown, on a fiscal-year basis, of payouts on litigated cases handled by the Litigation Section and outside counsel. The total indemnity paid includes both bodily-injury and property-damage payouts, and total legal expenses include ordinary legal costs (e.g., deposition transcripts, service-of-process fees), expert witness fees, and, in the case of outside counsel, attorneys' fees. "Total legal expenses" for cases handled in-house do not include attorneys' fees, since the cost of our attorneys' time is spread over many matters, while outside-counsel time is devoted solely to the cases shown.

FY 04-05	Litigation Section Cases			Outside Counsel Cases		
	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses
Closed without payment	18	\$0	\$9,077	1	\$0	\$16,870
Under 100k	11	\$126,977	\$24,295	1	\$7,500	\$17,847

¹⁴ The amount stated for Fiscal Year 2003-2004 appears lower than in prior years because there were no cases closed by outside counsel this fiscal year.

FY 04-05	Litigation Section Cases			Outside Counsel Cases		
	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses
100k-499k	2	\$450,000	\$12,965	2	\$382,500	\$165,136
500k-999k	0	\$0	\$0			
Over 1 Mil.	0	\$0	\$0			
Total	31	\$576,977	\$46,337	4	\$390,000	\$199,853

FY 03-04	Litigation Section Cases			Outside Counsel Cases		
	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses
Closed without payment	29		\$18,445	0	\$0	\$0
Under 100k	12	\$67,983	\$12,998			
100k-499k	1	\$235,000	\$13,764			
500k-999k						
Over 1 Mil.						
Total	42	\$302,983	\$45,207	0	\$0	\$0

FY 02-03	Litigation Section Cases			Outside Counsel Cases		
	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses
Closed without payment	33					
Under 100k	21	\$327,897	\$27,736	1	\$49,900	\$39,598
100k-499k	1	\$375,000	\$750			
500k-999k						
Over 1 Mil.						
Total	55	\$702,897	\$28,486	1	\$49,900	\$39,598

FY 01-02	Litigation Section Cases			Outside Counsel Cases		
	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses
Closed without payment	32			3		\$357,432
Under 100k	22	\$312,173	\$63,249	2	\$51,272	\$129,689
100k-499k	2	\$404,000	\$22,219			
Over 1 Mil.						
Total	56	\$716,173	\$85,469	5	\$51,272	\$487,121

3. **New Cases.** The following tables show the number of all new civil cases and the number of new risk cases filed in Fiscal Year 2004-2005 and four previous reporting periods. The data reflect new cases filed against the City and include City-initiated cases. The amounts reported reflect those new civil cases handled by the Litigation Section only; the number of new civil cases handled by other sections of the office is set forth in the parts of this report concerning the Special Projects and Code Enforcement Sections.

NUMBER OF ALL NEW CIVIL CASES

<u>YEAR</u>	<u>NEW CIVIL CASES</u>
FY 00-01	191
FY 01-02	169
FY 02-03	159
FY 03-04	182
FY 04-05	147

NUMBER OF NEW RISK CASES

<u>YEAR</u>	<u>RISK CASES FILED</u>
FY 00-01	82
FY 01-02	65
FY 02-03	52
FY 03-04	46
FY 04-05	39

Each Fiscal Year since 2000-2001, we have experienced a moderate and progressive decrease in the number of new risk cases (i.e., cases that carry a risk of monetary damages being awarded against the City, such as personal injury, wrongful death, civil rights, and discrimination and other employment cases). **In Fiscal Year 2004-2005 there was a**

seven-case drop in all new risk cases from the last fiscal year. Whether the recent decreases indicate a definitive trend in our caseload or are statistical aberrations remains to be seen. However, we believe the annual reductions are caused in no small part by the caution of claimants in pursuing claims in litigation against the City.

The aggressive defense of litigated cases by skilled Litigation Section attorneys over the recent years has succeeded in delivering a message to claimants and their counsel: either resolve cases short of litigation or forgo the filing of claims against the City. The success of Risk Management in resolving claims prior to litigation also inversely impacts the number of cases reaching the litigation stage. See Section 9 on page 36 for statistics concerning the high number of claims resolved prior to litigation. Credit also goes to City management for implementing various procedures to lessen the risk of liability and to effectively address situations involving incidents to help mitigate an injured party's damages and to facilitate early investigation of such matters.

In addition to the drop in new risk cases there was also a corresponding drop in the number of new civil cases (non-risk) handled by the Litigation Section. But unlike the steady decrease in new risk cases, the number of new civil cases fluctuates year by year. To illustrate, in Fiscal Year 2002-2003 there were 159 new civil cases. The following fiscal year the number sharply increased to 182. In this reporting period the number decreased to 147. Because of the yearly fluctuations we do not observe a trend in either direction. If statistical history is used as an indicator of future predictions, we would expect this number to remain the same or to slightly increase in the next fiscal year.

4. Profile of Opened Cases. The following chart shows the types of new cases filed by or against the City and handled by the Litigation Section in Fiscal Year 2004-2005 and in the four previous reporting periods. The profiles of new cases handled by other sections of the office are set forth in the parts of this report concerning the Special Projects and Code Enforcement Sections.

PROFILE OF OPEN CASES

	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
RISK CASES					
Tort	54	51	50	40	76
Civil Rights	27	10	2	5	16
Employment	1	3	0	1	6
Inverse Cond.	0	1	0	0	0
ADA	0	0	0	0	0
<i>Sub-Total</i>	<i>82</i>	<i>65</i>	<i>52</i>	<i>46</i>	<i>98</i>
OTHER CASES					
Eminent Domain	0	2	4	3	3
Weapons	33	27	34	23	25

PROFILE OF OPEN CASES

	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
Writ Actions	3	1	1	2	4
Contracts/Stop Not.	3	6	3	4	2
Subrogation	11	10	6	10	17
Pitchess Motions¹⁵		25	32	46	36
Miscellaneous	46	15	9	28	42
Sub-Total	96	86	89	116	128
ADMINISTRATIVE					
Discipline	11	17	12	15	44
Retirement	2	2	2	3	3
Labor Grievances	0	7	4	2	2
Sub-Total	13	19	18	20	46 ¹⁶
TOTALS	194	171	159	182	274

5. Handling of Litigated Cases In-House. The office continues to retain a high percentage of total litigation cases for handling in-house. The following chart shows the number of cases handled in-house and the number referred to outside counsel during Fiscal Year 2004-2005 and the four previous reporting periods. The number in parentheses for outside counsel is the number of new cases referred to outside counsel in each reporting period. The amounts reported reflect those cases handled by the Litigation Section only. Cases handled by the Special Projects Section are profiled in Part IV of this report.

CASES HANDLED IN-HOUSE AND BY OUTSIDE COUNSEL

<u>YEAR</u>	<u>IN-HOUSE</u>	<u>OUTSIDE COUNSEL</u>
FY 00-01	339	13 (4)
FY 01-02	303	8 (0)
FY 02-03	289	10 (7)
FY 03-04	313	9 (1)
FY 04-05	254	6(1)

¹⁵ Pitchess motions were reported under the miscellaneous category until Fiscal Year 2001-2002 and now are reported in their own category.

¹⁶ The growth in the miscellaneous category is attributable to defending against a large number of subpoenas served on high-level City executives and employees.

As noted previously, in Fiscal Year 2002-2003 we experienced an increase in the number of new cases referred to and handled by outside counsel, due in large part to resolve conflicts issues presented by the cases. The cases involved allegations of misconduct by a police officer. The handling of those cases continued into Fiscal Year 2004-2005, with a net reduction, at the close of the year, of three cases. The last case related to the police officer is pending and remains with outside counsel.

The decrease in the number of cases handled in-house is consistent with the decrease in new civil and risk case filings. There has also been a steady decrease in cases handled by outside counsel, with this fiscal year marking the smallest number of outside-counsel cases in the last four reporting periods. We expect that referrals to outside counsel will remain small and that our handling of cases in-house will continue to increase.

6. Closure Rate for Cases Handled In-House. The number of cases and case-closure rates for cases handled in-house from Fiscal Year 2000-2001 through Fiscal Year 2004-2005 are shown below. The closure rate is calculated against the total number of cases handled, as indicated in the preceding table. The closure rate during any given year depends upon a variety of factors, including the number and type of cases handled from year to year and the complexity of the cases. The amounts reported below reflect only those cases handled by the Litigation Section.

CLOSURE RATE FOR CASES HANDLED IN-HOUSE

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>CLOSURE RATE</u>
FY 00-01	180 of 339	53%
FY 01-02	147 of 303	49%
FY 02-03	158 of 289	55%
FY 03-04	197 of 313	63%
FY 04-05	130 of 254	51%

7. Case Load. The average number of cases handled by attorneys is shown in the following chart. The average is calculated utilizing the total number of cases handled by the Litigation Section, including risk cases and non-risk cases. As reflected in the chart on page 34, the total number of cases handled by the section in Fiscal Year 2004-2005 was 254.

AVERAGE NUMBER OF CASES HANDLED/SAVINGS PER ATTORNEY

<u>YEAR</u>	<u>AVERAGE NUMBER OF CASES HANDLED PER ATTORNEY</u>
FY 00-01	66.9
FY 01-02	60.6
FY 02-03	57.8

<u>YEAR</u>	<u>AVERAGE NUMBER OF CASES HANDLED PER ATTORNEY</u>
FY 03-04	62.6
FY 04-05	51

As previously mentioned, the overall decrease in the number of cases handled in-house and per attorney is consistent with the decrease in new civil and risk case filings. Reasons for this reduction are discussed in section B (3) above.

8. Average Attorney Hours Per Case. Shown below are (i) the estimates of the average number of attorney hours expended per type of case handled by the Litigation Section during Fiscal Year 2004-2005; and (ii) the savings to the City on a per-case basis, using an hourly rate of \$114 for in-house attorneys and \$150 for outside counsel. The \$150 per hour rate for outside counsel is a rough average rate over all risk related matters handled outside of the office. Again, the average amount of time per case is but a rough estimate, as the City Attorney's Office does not generally record hours spent on each case. The time accorded any given case can vary dramatically from the averages stated below for any number of reasons, including legal complexity; difficulty in dealing with facts, evidence, and witnesses; and the diligence of opposing counsel.

AVERAGE ATTORNEY HOURS PER CASE

<u>CASE TYPE</u>	<u>AVERAGE HOURS PER CASE</u>	<u>AVERAGE SAVINGS PER CASE</u>
Bankruptcy	20	\$720
Civil Rights	120	\$4,320
Disciplinary Hearings	75	\$2,700
Pitchess Motions	4	\$144
Retirement Hearings	50	\$1,800
Subrogation	30	\$1,080
Tort	80	\$2,880
Weapons Petitions	4	\$144
Writ Actions	20	\$720

9. Other Statistical Information

- a. *Number of claims filed against the City and processed by Bragg & Associates (City's risk-management claims adjustors)*

CLAIMS FILED AGAINST THE CITY

<u>YEAR</u>	<u>NUMBER OF CLAIMS</u>
FY 00-01	606
FY 01-02	619
FY 02-03	793
FY 03-04	844
FY04-05	754

b. *Non-litigated claims resolved by Bragg & Associates resolved at the claims stage*

CLAIMS RESOLVED PRIOR TO LITIGATION WITHOUT PAYMENT

<u>YEAR</u>	<u>NUMBER OF RESOLVED CLAIMS</u>	<u>CLAIMS RESOLVED WITHOUT PAYMENT</u>	<u>PCT. WITHOUT PAYMENT</u>
FY 00-01	421	239	56.8%
FY 01-02	736	352	47.8%
FY 02-03	781	419	53.6%
FY 03-04	550	326	59.3%
FY 04-05	602	391	64.9%

c. *Average aging of resolved claims¹⁷*

AGING OF PRE-LITIGATION CLAIMS HANDLED BY BRAGG & ASSOCIATES

<u>YEAR</u>	<u>CLAIMS RESOLVED WITH PAYMENT OF MONEY</u>	<u>CLAIMS RESOLVED WITHOUT PAYMENT OF MONEY</u>
FY 00-01	1.94 months	3.0 months
FY 01-02	2.06 months	3.21 months
FY 02-03	3.95 months	6.32 months

¹⁷ This information captures the average period of time Bragg & Associates devotes to resolving claims, with and without the payment of money, and is calculated based upon the time between receipt of the claim and resolution. For litigated claims, the information reflects the average amount of time a matter is handled by the Litigation Section based upon the time between receipt of the case and its resolution.

<u>YEAR</u>	<u>CLAIMS RESOLVED WITH PAYMENT OF MONEY</u>	<u>CLAIMS RESOLVED WITHOUT PAYMENT OF MONEY</u>
FY 03-04	3.70 months	4.15 months
FY 04-05	4.26 months	5.63 months

While the time to resolve claims increased in this reporting period Bragg & Associates is resolving more claims without the payment of money (64.9%) in this reporting period in comparison to the last fiscal year (59.3%). This increase suggests that the additional time to resolve each claim is yielding a positive result for the City in terms of lower payouts of money.

LITIGATED CLAIMS HANDLED BY THE CITY ATTORNEYS OFFICE

The amounts reported reflect those cases handled by the Litigation Section only.

<u>FISCAL YEAR</u>	<u>CITY ATTORNEY'S OFFICE</u>		<u>OUTSIDE COUNSEL</u>	
	<u>Cases resolved with payment of money</u>	<u>Cases resolved without payment of money</u>	<u>Cases resolved with payment of money</u>	<u>Cases resolved without payment of money</u>
FY 00-01	24.3 months	8.6 month	55.8 months	None
FY 01-02	15 months	7.4 months	51.6 months	86.4 months
FY 02-03	15.5 months	11.9 months	10.2 months	None
FY 03-04	16.5 months	14.3 months	None	None
FY 04-05	18.5 months	14.3 months	24.6 months	29.1 months

d. *Number of aged cases over 24 months*

As of the close of this reporting period, four cases handled by outside counsel were assigned over 24 months ago. These cases skew the average duration of the cases handled by outside counsel, but by their nature or facts and circumstances require a prolonged period of time to handle. The cases include long-running flood cases that involved multiple appeals, an excessive force case, and a complex federal toxics-remediation case involving dozens of parties, all of which typically take a long time to reach resolution. In one other case, for wrongful demolition, outside counsel recently went to trial on the matter. The case remains open.

e. *Number of risk cases initiated against the City and handled by the Litigation Section Only*

TORT, CIVIL RIGHTS, AND OTHER DAMAGE SUITS INITIATED AGAINST THE CITY

<u>YEAR</u>	<u>DAMAGE SUITS</u>
FY 00-01	94

<u>YEAR</u>	<u>DAMAGE SUITS</u>
FY 01-02	65
FY 02-03	52
FY 03-04	46
FY 04-05	39

Reasons for this reduction are discussed in section B (3) above.

- f. *Number of cases initiated by the City and handled by the Litigation Section Only*

NUMBER OF CASES INITIATED BY THE CITY

<u>YEAR</u>	<u>INITIATED CASES</u>
FY 00-01	56
FY 01-02	40
FY 02-03	47
FY 03-04	36
FY 04-05	27

From and after Fiscal Year 2001-2002, code enforcement and other cases initiated to address Neighborhood Services issues are reported by the Code Enforcement Section. Where before the Litigation Section filed and prosecuted civil code-enforcement actions, that responsibility has been moved to the Code Enforcement Section, resulting in a significant decrease, year by year, in new case filings by the Litigation Section. In this fiscal year the 27 cases filed by the Litigation Section consist of 10 subrogation actions to recover workers' compensation or property damages, 16 weapons petitions to destroy firearms or otherwise have them returned to a qualified person, and 1 action for injunctive relief.

10. Internal Employment Related Cases. Of the new risk cases filed against the City in Fiscal Year 2004-2005, three involved allegations of racial discrimination and retaliation, or violations of ADA and FEHA disability-discrimination laws.

11. Notable Accomplishments in Litigation Cases. During Fiscal Year 2004-2005, the Litigation Section resolved or continued to handle the following cases involving high-profile facts, high-damage exposure, complexity, and/or other particular difficulties. Because many of these cases are still pending, we do not identify the plaintiffs or individual defendant officials or employees, nor do we provide any detailed discussion.

Case No. 1: Successfully recovered \$30,000 in property damages after prosecuting a legal action against a third-party motor vehicle driver for damaging a City-owned sign.

Case No. 2: Successfully defended the Police Department in a false arrest and excessive force case. After a dispositive motion was filed, the Police Department was dismissed without the payout of money.

Case No. 3: Successfully compelled a home-improvement retail company to install a sign it had promised to install earlier in the development phase.

Case No. 4: Successfully defended against an employee's appeal that challenged the City's decision to discipline him for having forged an application for employment.

Case No. 5: After a City employee was sued for motor-vehicle negligence our office successfully handled the case. Instead of receiving money for his claim, plaintiff was required to pay the City for its property damage and received nothing on his claim.

Case No. 6: Successfully defended the Fire Department against a motor-vehicle negligence claim that arose after the plaintiff's vehicle failed to yield to the emergency warning lights and siren of the fire equipment.

Case No. 7: Successfully defended a multimillion-dollar claim against the Streets Division and settled the case for a minimal sum, less than \$25,000.

Case No. 8: Successfully extricated the City from a lawsuit arising out of decedent's suicide in the county jail through a dispositive motion with no payout of money.

Case No. 9: Successfully defended the Parks Department in an employment disability discrimination matter by prevailing on a motion to dismiss the employee's case.

Case No. 10: Successfully defended the City in a lawsuit arising out of a motorcycle vs. truck accident where the seriously injured motorcyclist claimed that the City maintained a dangerous condition of public property.

Disciplinary Actions: Successfully handled a number of difficult disciplinary actions involving the suspension, demotion, or termination of City employees. We continue to devote substantial time to support management's decisions in administrative forums. In addition, the Litigation Section provides continuous advice to Labor Relations on pending disciplinary matters.

Labor Relations: We represented the City in various grievance matters including several grievances by firefighter employees over testing procedures and other issues. Our section also represented the City during a very difficult firefighters' union labor arbitration.

LITIGATION SECTION ASSIGNMENTS¹⁸

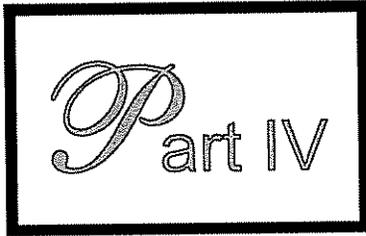
Brett M. Witter, Supervising Deputy City Attorney

Section Attorneys

Sheri M. Buzard
Chance Trimm
David Womack
Lan Wang
James Wilson

ASSIGNMENTS	ATTORNEY(S)
1983 Civil Rights Action	All
Administrative Hearings	Sheri M. Buzard; David Womack; Lan Wang and Jim Wilson
Construction	Sheri M. Buzard and Chance Trimm
Eminent Domain	Brett Witter and David Womack
Employment Discrimination	Sheri Buzard and James Wilson and Chance Trimm
General	All
Subrogation	All
Tort - General (Dangerous Condition, Vehicle, False Arrest, Excessive Force, etc.)	All

¹⁸ During the majority of this reporting period the Litigation Section was staffed with four line deputies and a supervisor. However, we added a fifth attorney to the section near the end of the fiscal year through reassignment.



SPECIAL PROJECTS SECTION

A. GENERAL

The Special Projects Section (SPS) is charged with providing both litigation and advisory support to all of the departments and divisions throughout the City. Cases assigned to attorneys in the SPS typically generate significant public interest, are especially complex, or create the possibility of substantial financial exposure. Often, advisory assignments that have a high probability of resulting in litigation are assigned to SPS attorneys at the beginning, as greater continuity is achieved when one attorney handles the file throughout. During the past fiscal year, the SPS handled high profile and complex litigation, as well as actions for extraordinary relief, injunctions and injunction monitoring, and collections. The section also provided advice to the departments on development, contract and finance matters.

This portion of the annual report discusses the overall scope of SPS responsibilities during Fiscal Year 2004-2005. It also provides a detailed analysis of the SPS workload during the same period. For a list of the various areas in which the SPS performed legal services, and of the attorneys assigned to those areas, see page 51 of this report. The list reflects the assignments of the SPS attorneys.

B. SPECIAL PROJECTS --- LITIGATION

During Fiscal Year 2004-2005, the SPS handled a wide variety of complex and high-profile litigation matters. Having experienced attorneys on staff to handle these cases creates a significant savings to the City, as the types of files handled by SPS attorneys are such that referral to outside counsel would require the retention of specialized counsel, typically at hourly rates much higher than for general civil litigation.

During the last year, SPS attorneys opened 39 new litigation files, and closed 46. As the chart on page 43 indicates, the numbers of files opened during this year was somewhat higher than last year, (from 33 to 39) but the numbers are not significantly higher.

The following charts show the type and nature of the new cases opened in Fiscal Year 2004-2005 and in the three previous reporting periods.

PROFILE OF CASES					
	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
Cases Opened	35	50	34	33	39
Cases Closed	22	58	33	45	46
Cases Pending	203 *	68 *	69	57/64 ¹⁹	57 ¹⁹
Risk Cases Opened					
Tort	8	6	8	9	9
Civil Rights	1	6	7	3	5
ADA	1	0	0	0	0
EEO	0	3	1	1	1
Total	10	15	16	14	15
Other Cases Opened					
Eminent Domain	1	9	2	0	3
Inverse Condem.	1	2	2	0	2
Writs	7	10	6	2	9
Contracts	1	1	3	7	2
Injunction	0	5	1	1	5
Other	4	8	4	7	2
Total	14	35	18	17	23
Administrative Hearings					
Discipline	0	1	0	0	1
Retirement	0	1	1	1	0
Grievance	0	0	0	1	0
Total	0	2	1	2	1

* The significant reduction in the number of pending files from Fiscal Year 2000-2001 to Fiscal Year 2001-2002 reflects the movement of staff and cases from SPS to the Code Enforcement Section during Fiscal Year 2001-2002

1. Fiscal Year 2004-2005 In Review --- Significant Litigation. During Fiscal Year 2004-2005, the SPS handled the following notable high profile and complex litigation matters:

¹⁹ In the City Attorney's 2003-2004 Annual Report, the SPS section identified 57 cases being carried over into Fiscal Year 2004-2005. However, with staffing changes, some of the matters that were pending and being handled by attorneys in the litigation section were moved to attorneys in the SPS. To maintain consistency for the reader of both reports, we include both numbers here.

Case No. 11: Plaintiff in this action alleged that he was the subject of racial discrimination while employed by the City. By keeping the lines of communication open with this plaintiff (who was representing himself), and by explaining the nature of employment law to him, SPS attorneys convinced the plaintiff to dismiss his action in its entirety.

Case No. 12: Plaintiff in this action was an insurance company seeking reimbursement of benefits it had paid for a restaurant fire. Plaintiff alleged that the City was responsible for the damage because the fire started in a dumpster that the City emptied weekly and was subject to the City code. SPS attorneys filed several dispositive motions to the complaint, and the insurance company finally withdrew the complaint before the City had to engage in expensive, time consuming discovery.

Case No. 13: A commercial tenant in a City garage had violated the lease by subletting the space. Despite staff's requests, the tenant refused to vacate the premises. SPS attorneys successfully obtained a judgment against the tenant, resulting in the tenant's eviction.

Case No. 14: Plaintiffs in this action alleged that City staff had broken a promise to annex their North Natomas property to the City. Plaintiffs's complaint alleged damages based upon the reduced value of their property and measured those damages in the hundreds of thousands of dollars. After extensive discovery, SPS attorneys obtained a favorable result by successfully filing a motion for summary judgment, which resulted in the dismissal of the case with no payment.

Case No. 15: Plaintiffs in this action claimed they had lost significant revenue from their businesses, which were located in proximity to the Ebner Hotel. Plaintiffs alleged that their businesses suffered losses during the time the Firehouse Alley was closed at the North end because of the Hotel's dangerous condition. After extensive discovery and motion practice, SPS attorneys settled this case for a fraction of the plaintiffs' original demands.

2. Fiscal Year 2004-2005 In Review - Special Projects Section Payouts. The following charts set forth the amounts paid to claimants on Special Projects litigation during the last three fiscal years.

FISCAL YEAR 2004-2005 ²⁰

FY 04-05	Special Projects Cases	
	No. of Cases	Total Paid
Cases Closed Without Payment	14	\$0
Under 100K	7	\$167,025
100K - 499K	0	0
500K - 999K	0	0
\$1 Million+	1	\$1,200,000
Other Closures	24	N/A
Grand Total	46	\$1,367,025

The above table describes three types of litigation results: (1) cases brought to recover damages in which SPS attorneys obtained a favorable judgment or dismissal without paying any money; (2) cases that had to be settled for money; and (3) "other" closures, which describes cases brought by plaintiffs seeking non-monetary remedies, (e.g. discipline labor) or in which the City was the plaintiff (e.g. eminent domain, collections). The chart establishes that SPS attorneys resolved 14 of 22 "damage" cases without having to pay a cash settlement or suffer an adverse verdict. This represents 64% of all high-profile damage cases handled by SPS attorneys, a solid measure of the exceptional work performed by the attorneys responsible for these files.

Although office policy is that cases directed to SPS have a minimum value of \$500,000, the foregoing table shows that certain cases were resolved below this threshold. These lower figures typically are an indication that cases with an potentially high exposure were favorably resolved, but may also represent cases which were "high" profile for reasons other than financial exposure.

²⁰ Historically, this annual report has included tables monitoring payouts on cases handled by outside counsel. However, because this information is already included in the Litigation Section portion of the report, and because outside counsel are monitored by the Litigation Supervisor and/or an Assistant City Attorney, that information has been excluded from this section of the report.

Of all of the damage cases resolved by SPS attorneys during the past fiscal year, 64% were resolved without the payment of money

FISCAL YEAR 2003-2004

FY 03-04	Special Projects Cases	
	No. of Cases	Total Paid
Cases Closed Without Payment	18	N/A
Under 100K	2	\$120,917
100K - 499K	4	\$850,000
500K - 999K	N/A	N/A
\$1 Million+	1	\$1,050,000
Grand Total	45	\$2,020,917

FISCAL YEAR 2002-2003

FY 02-03	Special Projects Cases	
	No. of Cases	Total Paid
Cases Closed Without Payment	14	
Under 100K	8	\$200,640
100K - 499K	2	\$250,015
500K - 999K	N/A	N/A
\$1 Million+	N/A	N/A
Other Closures	9	N/A
Grand Total	33	\$450,655

FISCAL YEAR 2001-2002

FY 01-02	Special Projects Cases	
	No. of Cases	Total Paid
Cases Closed Without Payment	44	
Under 100K	10	\$112,002
100K - 499K	0	N/A
500K - 999K	1	\$825,000
\$1 Million+	1	\$1,000,000
Grand Total	56	\$1,937,002

FISCAL YEAR 2000-2001

FY 00-01	Special Projects Cases	
	No. of Cases	Total Paid
Cases Closed Without Payment	9	
Under 100K	N/A ²¹	\$240,208
100K - 499K	N/A	\$250,000
500K - 999K	N/A	N/A
\$1 Million+	N/A	N/A
Grand Total	N/A	\$490,208

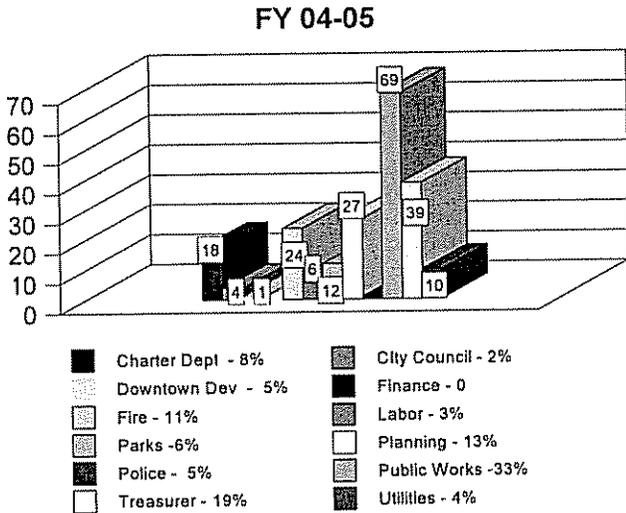
C. SPECIAL PROJECTS – ADVISORY

SPS received 210 new advisory assignments in Fiscal Year 2004-2005. During the same period, 183 advisory assignments were closed (some carried from last year), and 105 are pending. The chart on page 48 identifies the number of advisory assignments by the department requesting assistance or advice. The subsequent charts describe the number of advisory assignments received from the various City departments during Fiscal Years 2001-2002, 2002-2003, and 2003-2004.

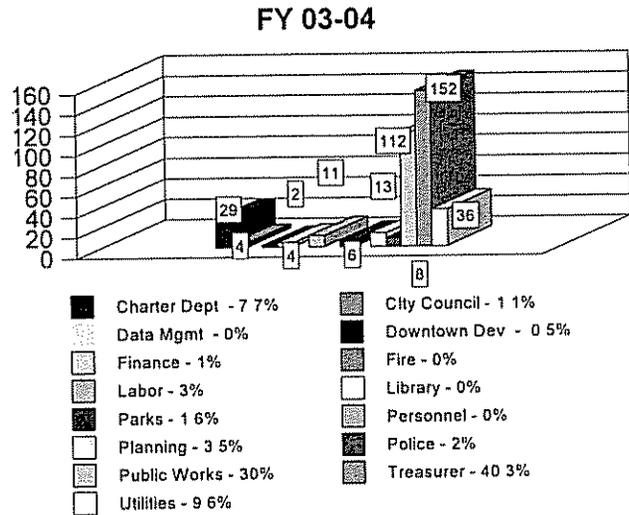
A comparison of the above data to the SPS/Advisory section from the 2003-2004 annual report establishes a dramatic reduction in the number of assignments received by SPS attorneys. (377 down to 210) This reduction can be directly attributed to a staffing change in the section. For Fiscal Year 2003-2004, the SPS had six attorneys total, with the equivalent

²¹ Information not tracked

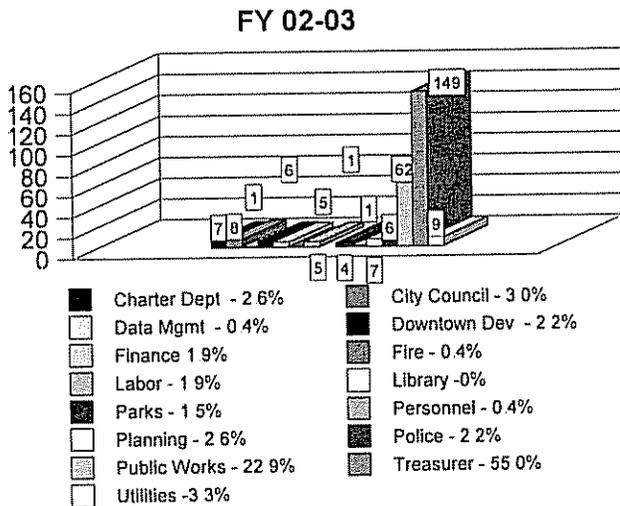
of 3 FTE working on advisory assignments. During Fiscal Year 2004-2005, the SPS reduced to five attorneys, with the equivalent of 2 FTE working on advisory assignments. In addition, one of the SPS attorneys that had handled a large number of advisory assignments in Fiscal Year 2003-2004 was heavily involved in a labor arbitration, and the volume of work associated with that assignment reduced the attorney's ability to handle advisory assignments.



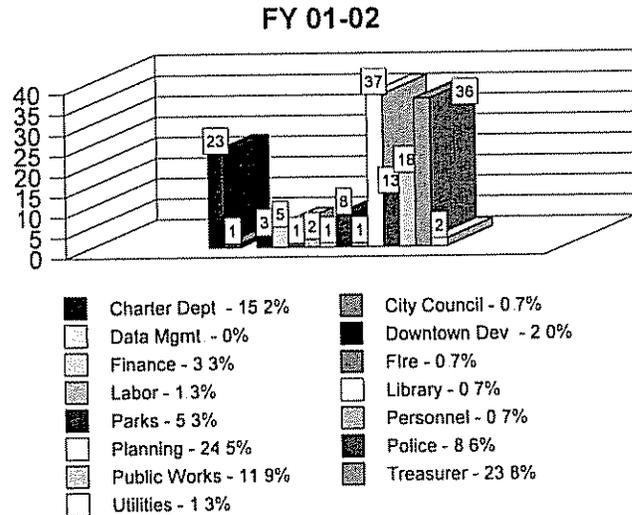
Total = 210 Assignments



Total = 377 Assignments



Total = 271 Assignments



Total = 151 Assignments

In addition to drafting and reviewing numerous contracts and other agreements from the various departments, SPS attorneys provide advice on financing, leases, and other matters that have the potential to result in litigation. A very large percentage of the advisory work performed by SPS attorneys was in the area of creation and management of assessment districts and community facilities districts (CFDs). Legal issues generated by the financing of infrastructure through CFDs and development fees have also been an area ripe for analysis by SPS attorneys, particularly in the North Natomas area, where development continues to move at a daunting pace. SPS attorneys are also responsible for reviewing all municipal bonds issued by the City, including those for the construction of infrastructure and for capital improvements. Over the last fiscal year, the SPS was also very actively involved in providing advice to the Labor Relations Department on disciplinary matters, as well as to the Fire Department.

D. COLLECTIONS

In managing its business, the City often has to collect, through litigation, amounts due on contracts, indemnification for liabilities created by others, and amounts owed on actions in subrogation. For 2004-2005, all collections cases were handled by attorneys in the Litigation Section.

E. EXTRAORDINARY RELIEF (INJUNCTIONS, WRITS, APPEALS, AMICUS)

The City Attorney's Office is often called upon to initiate and defend matters that require immediate, detailed, and intense handling. These matters include temporary restraining orders, injunctions, various types of writs, appeals, and amicus briefs. The fast-paced procedural nature of these projects typically causes a significant interruption of other work, as they require substantial investigation and research on short notice, and within a short time. This work is typically handled by the attorneys in the SPS.

The following are examples of extraordinary-relief matters handled by the SPS:

Case No. 15: Petitioner in this writ proceeding sought reinstatement to City employment after previously rejecting the City's efforts to reinstate her subject to certain retraining and testing necessary for her position as a police officer. Petitioner sought a writ compelling her reinstatement without the retraining. The court denied the writ. It also denied a second writ by the same plaintiff when she subsequently attempted to "accept" the City's previous reinstatement offer. Both judgments are pending in the appellate court.

Case No. 16: Attorneys in the SPS are, on occasion, asked to obtain restraining orders or injunctions against individuals that have threatened violence against City staff. SPS attorneys successfully obtained such relief on two occasions during this fiscal year.

Case No. 17: A local newspaper filed an action alleging it was entitled to more personnel and discipline documents than were produced by the City in response to a Public Records Act request. SPS attorneys defended the City's position that the newspaper had received all of the documents it was entitled to under the PRA. Before the court issued its ruling, the newspaper agreed to dismiss the

action. SPS attorneys also successfully defended the newspaper's motion for attorney's fees.

Case No. 18: A local religious institution attempted to secure an injunction that would prevent the City from imposing restrictions on a special permit. SPS attorneys defended the action in federal court and negotiated a favorable settlement.

Case No. 19: Several plaintiffs filed an action seeking an injunction against the City's ordinance that created a buffer zone around medical clinics within the City. Plaintiffs alleged that the ordinance, as drafted, violated the First Amendment. Although the court issued a temporary restraining order, SPS attorneys assisted in reworking the ordinance to address the court's concerns.

F. MANDATORY TRAINING

California attorneys are required by state law to obtain 25 hours of Minimum Continuing Legal Education (MCLE) every three years. To reduce the cost of having our attorneys attend outside classes, the City Attorney's Office has been accredited as an approved provider of educational-training sessions. Attorneys in the SPS oversee the MCLE program annually, offering at least 10 training programs that are open to other public sector attorneys.

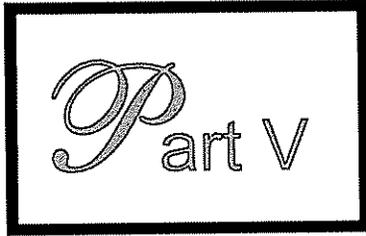
SPECIAL PROJECTS SECTION ASSIGNMENTS

Robert D. Tokunaga, Supervising Deputy City Attorney

Section Attorneys

Joseph Cerullo
Larry Duran
Steve Johns
Joseph Russell

ASSIGNMENTS	ATTORNEY(S)
Collections	Larry Duran; Jerry Hicks
Extraordinary Relief <ul style="list-style-type: none"> • Temporary Restraining Orders • Injunctions • Writs • Appeals • Amicus Briefs 	All
Financing/Economic Development <ul style="list-style-type: none"> • Assessment district creating and annexation • Mello-Roos Community Facility Districts • City bond issues • North Natomas Development 	Robert Tokunaga; Joseph Cerullo; Larry Duran
General	All
Intellectual Property <ul style="list-style-type: none"> • Protection of rights to computer software programs • Publishing materials • Logos • Symbols • Patches • Wearing Apparel 	Robert Tokunaga; Larry Duran
Special Advisory/Litigation Assignments <ul style="list-style-type: none"> • Civil Rights • Employment Discrimination • Labor • Catastrophic Injury • Environmental • Eminent Domain and other Real Estate Issues 	Joseph Russell; Jerry Hicks; Larry Duran
Administrative Hearings	Larry Duran; Joseph Russell



CODE ENFORCEMENT

A. GENERAL

The Code Enforcement Section (the "CES") is responsible for providing legal advice and enforcement support to City enforcement staff and civilly and criminally prosecuting violators of the Sacramento City Code (the "SCC"), including nuisance abatement cases which are referred to the City Attorney's Office for assistance. While the City Attorney's Office has traditionally provided this kind of support to City staff and departments, creation of the CES in 2001 enabled the office to focus on the enforcement area and thereby provide greater assistance to enforcement staff. CES also assists City staff with setting up enforcement programs and works with staff to review various options available to address problems and issues.

Through application of the SCC and applicable state law, including specialized nuisance-abatement laws, City enforcement staff and the CES use a variety of enforcement methods to pursue a nuisance case. For a list of the various areas in which the CES performed legal services, and of the attorneys assigned to those areas, see page 71. Essentially, there are three types of enforcement actions that CES routinely uses:

1. Civil Court Actions. Civil actions involve utilizing applicable state and local laws by filing lawsuits against problem persons, properties (both commercial and residential), and businesses and asking the court for temporary and permanent injunctive relief, cost recovery, and attorney's fees. In general, we will seek specific orders, such as orders requiring owners to clean up their properties or maintain landscaping, orders requiring certain problem persons to stay away from properties, and orders appointing receivers when necessary. For commercial properties, we may request orders regarding increased lighting, security guards, and other safety-related orders. Because they can be very complex and time-consuming, these civil lawsuits are generally reserved for the most serious community problems, such as complex housing and building abatement cases where compliance is minimal, dangerous housing, as well as for drug, gang, prostitution and chronic social nuisance cases.

2. Administrative Enforcement Actions. The SCC authorizes City staff to pursue enforcement of violations through various administrative proceedings consisting of, but not limited to, issuing administrative penalties; ordering buildings and properties closed, demolished, secured, or cleaned up; and issuing stop work orders or other appropriate enforcement action. Administrative enforcement also addresses such things as dangerous sidewalks, business and zoning violations, and matters related to the City's entertainment permits. The CES advises staff on the application of the SCC administrative enforcement remedies to specific cases. CES attorneys may also serve as advocates before administrative hearing officers in appropriate cases. Additionally, while most of administrative actions are handled at the department staff level, some are referred to this office when they involve more complex legal issues or when the party is represented by an attorney.

3. Criminal Prosecution of City Code Violations. In 2001, the City Council directed the City Attorney to prosecute all violations of the SCC. Through criminal prosecution,

we have the ability to request the court to impose jail time for the most egregious violators. Also, through criminal prosecution, the courts can place defendants on informal probation, requiring them to comply with specified conditions that we believe will help deter future problems. This can include stay away orders, job and housing search requirements, clean-up requirements, and other appropriate conditions.

B. RESPONSIBILITIES AND ASSIGNMENTS OF THE SECTION

A summary of services provided to City staff and departments by members of the CES is set forth below:

Neighborhood Services Department

- Criminal Prosecution
- Advocacy and representation at administrative hearings
- Entertainment ordinance enforcement
- Inspection warrants
- Nuisance abatement issues
- Advice on all matters
- Review of contracts, administrative notices, letters and forms
- Periodic training of enforcement staff
- Neighborhood Response Team staff support
- Taxicab Enforcement program
- Commercial enforcement cases
- Enforcement Support for Housing and Dangerous Building matters
- Enforcement support for all Code Enforcement matters
- Drafting ordinances/amendments related to enforcement needs
- Illegal dumping program
- Graffiti abatement

Parks and Recreation Department

- City park violations
- Street tree/heritage tree enforcement

Planning Department

- Enforcement support for zoning code violations
- Assist with enforcement of entitlement conditions

Police Department

- Advice on enforcement issues
- Criminal prosecution of SCC violations
- Periodic training on enforcement issues
- Drug abatements
- Illegal camping enforcement

- POP team projects
- Nuisance abatement actions
- Social nuisance ordinance enforcement
- Gang abatements

Fire Department

- Support for Fire Marshall enforcement issues
- Support for fire prevention issues

General Services Department

- Illegal dumping
- Hollow sidewalk enforcement issues
- Public right-of-way encroachments
- Animal Control, including advice, training, and prosecutorial support

C. PARTICIPATION IN INTER-AGENCY / COMMUNITY GROUPS / TASK FORCE

In addition to regular duties supporting City staff and departments, the CES also participates in the following multi-agency committees and associations, that are dedicated to addressing neighborhood and community improvement throughout the region:

- **M.A.G.I.C. (Multi Agency Graffiti Information Committee)**
- **RHIP (Rental Housing Improvement Partnership)**
 - Participated in survey of member agencies
 - Participated in creation of reference guidebook
- **Public Safety Sub Committee to Sacramento County Homeless Task Force**
 - Participated in county-wide homeless street count project
- **Sacramento District Attorney's Gang Abatement Unit**
- **Downtown Partnership**
 - Participated in the new Downtown Enforcement program
 - Include Downtown Security Officers forum
 - Coordinated presentations with Police on SCC provisions
- And other community organizations as related to existing cases and projects, such as presentations to the Alkali Flats Neighborhood Association presentation and the Stockton Boulevard Partnership Presentation

The Sacramento County District Attorney's Office often provides our members with assistance and advice on criminal court processes and other matters, and we are grateful for the cooperative working relationship we share with them. In particular, whenever possible, we

share information and resources with the members of the District Attorney's Community Prosecution Unit.

D. SIGNIFICANT ACCOMPLISHMENTS

1. Downtown Enforcement Team / Task Force. To better complement the efforts of City enforcement staff and the Police Department, we created a work focus assignment for Downtown and Alkali Flat area. This focused team effort has produced several positive benefits such as:

- Creation of a priority project list developed after consultation with Council Office, the Police Department and the Downtown Partnership.
- Monthly meetings with downtown police personnel and code staff to discuss priorities and progress on cases.
- Participation in Downtown Partnerships forums related to safety and crime prevention, including making a presentation with the Police Department before the Downtown Safety Council on SCC issues as requested by the Safety Council.

This project has created an effective communication system between our office and the Police Department regarding downtown issues, and has facilitated creative problem solving whenever possible. For example, the Police Department advised us of a chronic transient camped in a building foyer on K Street. We assisted the Police Department, and they worked with the building owner to install a gate on the foyer, which solved the problem.

2. Criminal prosecution - community volunteer opportunity program. This program arose out of an idea we had to find alternatives to fines and jail for indigent defendants. We created a resource of multiple non-profit associations that were willing to have indigent defendants work for them, to fulfill their community service hours, rather than pay a fine or pay for participation in traditional community service programs, neither of which are viable options for the indigent. For example, persons who commit SCC violations downtown, can work off their hours with downtown partnership cleaning and maintaining downtown areas; people who violate City park laws can work off hours cleaning parks, and so on.

3. Criminal Housing Prosecution Program: Criminal cases filed against owners of blighted, substandard, or dangerous property. This was the second year of this targeted enforcement program against problem property owners. By shifting certain assignments within the section, a Deputy City Attorney position ("DCA") is dedicated to developing and working with the Code Enforcement staff on systematically identifying problem property owners who maintain blighted, substandard, and dangerous properties in the City. This enables the DCA to spend at least a half day per week at the Code Enforcement office, discussing with staff potential cases and remedies and exploring enforcement options. Particular attention is paid to chronic violators with multiple past enforcement actions, to properties with dangerous conditions, and to commercial enterprises that profit from the violations.

4. City Attorney's Office Receivership Program. In 2004, after looking at many successful actions in other jurisdictions and talking to various experts in the field, we launched the Receivership Program. During the first year of the program, we successfully brought two actions with the assistance of outside counsel. Both cases resulted in a receiver being appointed and the court ordering the property owner to reimburse the City's attorney's fees.

One of the cases was resolved. The second one, involving a Mobile-home park, was more complicated, but it is close to being resolved with a global settlement that should result in new, stable ownership for the park as well as in the City being reimbursed all its legal fees and enforcement costs.

5. Drug Abatement Actions. The CES also filed a number of drug abatement cases, using the remedy provided under California Health and Safety Code section 11570, which authorizes City attorneys to bring actions against property owners who allow drug activity to occur on their properties.

6. Unlawful Camping Enforcement. In addition to other municipal violations, the CES continues to provide prosecutorial support for police and other staff tasked with responding to problems associated with unlawful camping and storage on public and private property. As the statistics on page 63 indicate, this office handled approximately 858 cases in both City and County parks, as well as in commercial and residential areas. Some notable cases are referenced below:

- People v. Multiple Offender A: The City appealed the Superior Court's dismissal of an unlawful camping case against a chronic, previously convicted offender. A hearing was held before the appellate panel of the Superior Court. As of the date of this report no decision has been issued.
- People v. Multiple Offender B: The defendant pled guilty and was ordered to stay away from the public property.
- People v. Multiple Offender C: The defendant frequented a particular spot on the K Street Mall. The defendant pled guilty and was ordered to stay away from several blocks of the K Street Mall.

7. Roll Call Video for Police Officers. We completed our presentation of the "Roll Call Video" that our office prepared for the police department. The roll call video explained the basics of citing for violations of the SCC, and the processes involved with review and filing of the citations. It was our intent to make it as easy as possible for the officers to encourage them to look to the SCC as an additional enforcement tool. We continue to monitor citation activity to determine if other additional training would be helpful.

8. Illegal Dumping Enforcement. We continue to support the Neighborhood Services Department ("NSD") in pursuing, both administratively and criminally, persons who illegally dump on private and public property. We also provide NSD advice on investigating and proceeding in such cases.

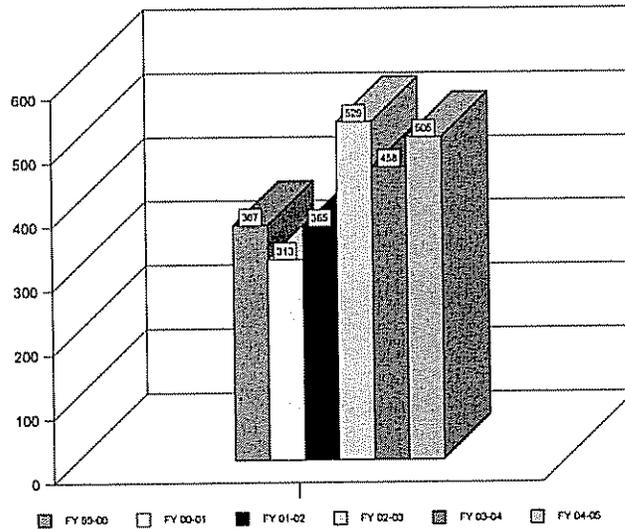
9. Significant Advisory Matters Handled by the CES. To further assist City enforcement staff, we frequently advise them on how to pursue actions or respond to matters. Of significant note are the following:

- Taxicab Enforcement
- Entertainment Permitting process
- Illegal street racing spectator ordinance

E. REPORT ON FISCAL YEAR 2004-2005 STATISTICS IN COMPARISON WITH PREVIOUS YEARS STATISTICS

1. Administrative/Advisory Code Enforcement Assignments. In Fiscal Year 2004-2005 the CES received 505 requests for assistance with administrative code enforcement matters and advisory requests. The following table classifies administrative enforcement actions and advisory opinions requested by the Code Enforcement Department only and do not include criminal prosecutions or civil actions against individual properties or requests from other City departments the CES supports.

ADVISORY ASSIGNMENTS

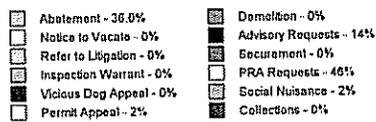
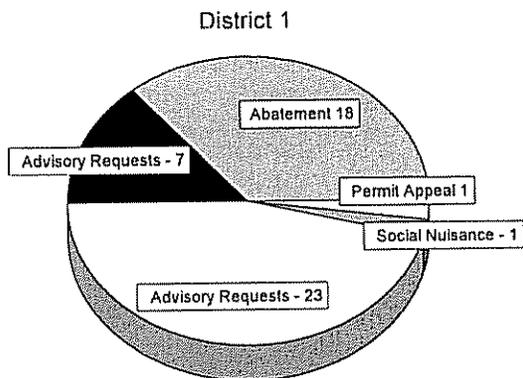


DETAILED CODE ENFORCEMENT ADVISORY ASSIGNMENTS

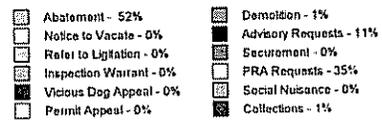
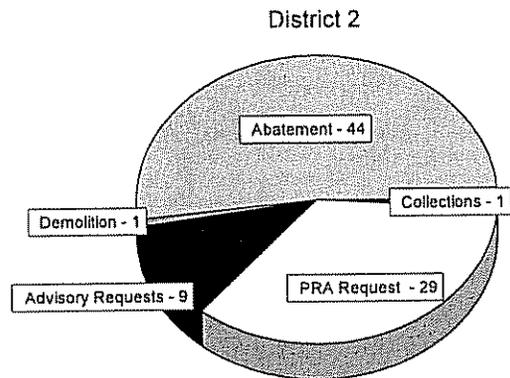
Type	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
Abatement (& Summary Abatement)	30	99	92	146	184
Collection actions					3
Demolition reviews	118	20	61	21	6
Notice to Vacate	5	0	1	0	0
Advisory requests	38	N/A	103	106	93
Refer to Litigation	6	N/A	1	0	0
Securement	110	2	44	2	0
Tobacco Related					4

Type	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
Permit Appeal					4
Inspection Warrant	6	4	13	12	8
PRA Request	15	42	217	169	201
Vicious Dog Appeal				1	0
Social Nuisance				1	2
TOTAL	313	167	529	458	505

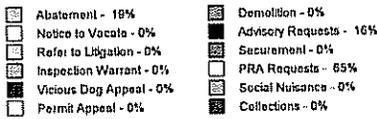
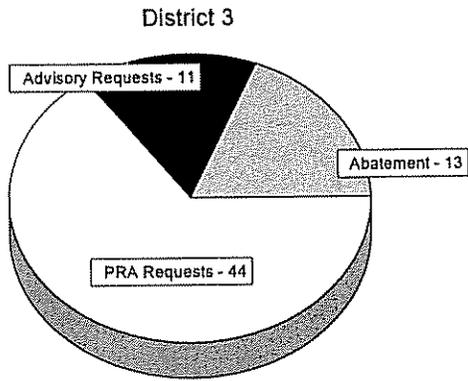
FY 04-05 ASSIGNMENTS BY COUNCIL DISTRICT



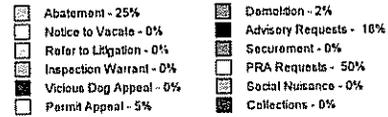
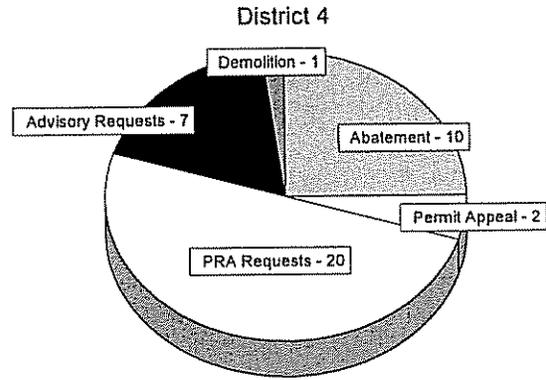
Total = 50 Assignments



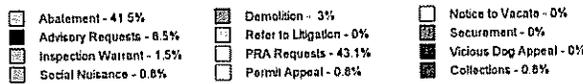
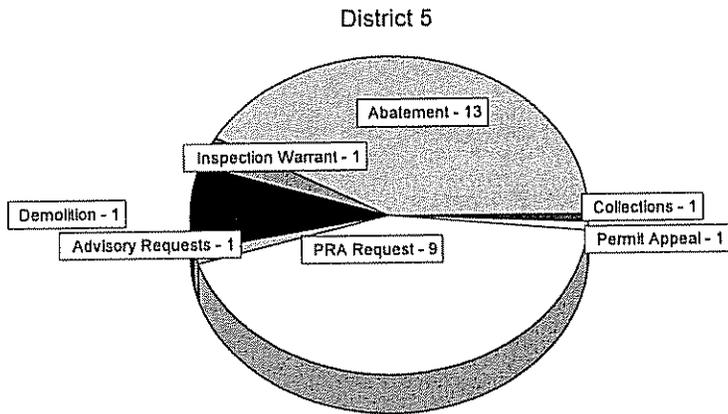
Total = 84 Assignments



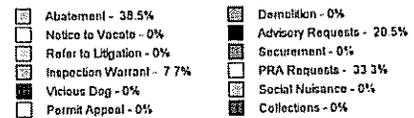
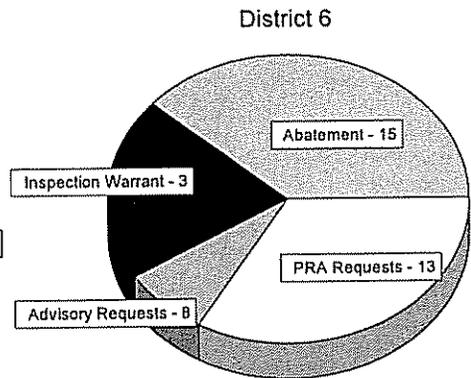
Total = 68 Assignments



Total = 40 Assignments

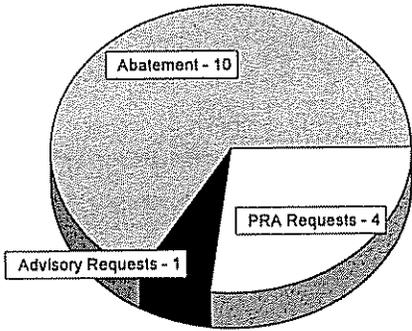


Total = 130 Assignments



Total = 39 Assignments

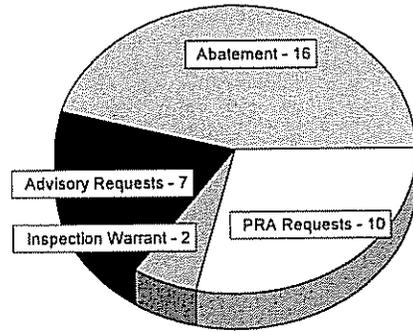
District 7



- Abatement - 66.6%
- Notice to Vacate - 0%
- Refer to Litigation - 0%
- Inspection Warrant - 0%
- Vicious Dog Appeal - 0%
- Permit Appeal - 0%
- Demolition - 0%
- Advisory Requests - 6.7%
- Securement - 0%
- PRA Requests - 26.7%
- Social Nuisance - 0%
- Collections - 0%

Total = 15 Assignments

District 8



- Abatement - 45.7%
- Notice to Vacate - 0%
- Refer to Litigation - 0%
- Inspection Warrant - 5.7%
- Vicious Dog - 0%
- Permit Appeal - 0%
- Demolition - 0%
- Advisory Requests - 20%
- Securement - 0%
- PRA Requests - 28.6%
- Social Nuisance - 0%
- Collections - 0%

Total = 35 Assignments

ASSIGNMENTS BY COUNCIL DISTRICT

	Type	Dist.1	Dist.2	Dist.3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Totals
FY 03-04	Refer to Litigation	0	0	0	0	0	0	0	0	0
	Securement	0	0	1	0	1	0	0	0	2
	Inspection Warrant	2	2	1	2	4	1	0	1	12
	PRA Request	14	48	31	18	37	10	0	11	169
	Vicious Dog Appeal	0	1	0	0	0	0	0	0	1
	Social Nuisance	0	0	0	0	0	1	0	0	1
	TOTAL	31	110	69	36	104	34	4	40	428
	FY 02-03	Demolition	2	23	7	2	17	4	0	6
Notice to Vacate		0	0	0	1	0	0	0	0	1
Advisory requests		10	18	12	5	19	8	1	9	104
Refer to Litigation		1	0	0	0	0	0	0	0	1

	Type	Dist.1	Dist.2	Dist.3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Totals
	Securement	5	22	1	3	7	1	2	1	42
	Inspection Warrant	0	3	2	0	5	1	0	2	13
	PRA Request	20	72	35	24	44	11	2	9	217
	TOTAL	44	181	65	39	108	29	10	31	507
FY 01-02	Abatement	9	28	8	6	23	9	2	10	99
	Demolition	0	5	3	0	8	4	0	0	20
	Notice to Vacate	0	0	0	0	0	0	0	0	0
	Opinion	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Refer to Litigation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Securement	0	2	0	0	0	0	0	0	2
	Inspection Warrant	0	1	2	0	0	0	0	1	4
	PRA Request	7	12	5	1	12	1	0	4	42
	TOTAL	16	48	18	7	43	14	2	15	167
FY 00-01	Abatement	1	14	0	1	9	2	1	2	30
	Demolition	0	46	2	3	53	8	0	6	118
	Notice to Vacate	3	1	0	1	0	0	0	0	5
	Opinion	5	12	2	5	8	3	1	2	38
	Refer to Litigation	1	0	1	2	1	0	0	1	6
	Securement	5	25	6	2	26	9	1	16	110
	Inspection Warrant	1	1	0	1	3	0	0	0	6
	PRA Request	1	4	1	0	5	2	1	1	15
	TOTAL	16	99	11	15	100	22	3	27	328

F. CRIMINAL PROSECUTION

One of the most important functions of the CES is criminal prosecution of SCC violations. The most common SCC offenses that are prosecuted are those dealing with maintaining substandard housing or buildings, failure to comply with an administrative notice and order, illegal dumping, unlawful camping and storage, commercial violations, illegal businesses, drinking in public, barking and vicious dogs, and loitering. Prosecution of these matters greatly enhances the quality of life in City neighborhoods and communities, thereby fulfilling the goals of the City in undertaking prosecutorial authority.

Unlawful Camping and Storage

As set forth in section 6, page 56, in Fiscal Year 2004-2005, unlawful camping cases continued to compose a significant portion of the total cases prosecuted by the section. Using a variety of creative resolutions and a graduated penalty scheme for first-time offenders, repeat offenders, and chronic offenders, the CES was able to successfully resolve the overwhelming majority of the unlawful camping cases.

1. Summary of Criminal Case Referrals from Departments and Disposition at Intake. The following table sets forth the number of criminal cases, including citations issued by police and enforcement field personnel, as well as reports submitted to the CES requesting that a criminal complaint be filed. Once the reports and citations are received, they are reviewed for accuracy and the probability of conviction. The decision is then made to file, reject, or return the case to the submitting department with a request for further investigation. The table below reflects the number of cases accepted for filing, the number of cases rejected, and the number of cases closed at intake. A case is closed or rejected at intake, usually due to insufficiency of evidence, lack of a critical element, lack of sufficient information in reports, misapplication of the SCC, or some other factor reducing the probability of a conviction:

CRIMINAL CASE REFERRALS FROM DEPARTMENTS

	Feb - June 2001	FY 01-02	FY 02-03	FY 03-04	FY 04-05
No. of Cases Referred	124	2292	2939	3108	3572
No. of Citations and Criminal Complaints Filed	119	2092	1920	2549	2985
No. of Cases Closed:	63	1491	1207	1373	1207
No of Cases Rejected:				267	168

As has been the trend, the number of cases referred to this office for review and prosecution continues to grow. This year, of the 3,572 cases referred to us, we had to reject only 123 cases at intake. This lowered rejection rate is due in part to the continued and persistent efforts of CES attorneys to train and educate police officers and City enforcement

staff through roll call videos, written memoranda, in-house training, and constant communication and feedback whenever possible.

2. An Overview of the Most Common Sacramento City Code Sections Cited by Enforcement Staff.

MOST COMMON SCC VIOLATIONS CITED

Referring Dept.	Violation Charged	Total Cases FY 99-01	Total Cases FY 01-02	Total Cases FY 02-03	Total Cases FY 03-04	Total Cases FY 04-05
County/CHP	Unlawful Camping	N/A	N/A	135	94	93/1
County/CHP	Drinking in public					5/4
County	Loud Stereo					1
Fire	Illegal Dumping				3	0
Neighborhood Svcs.	Unlawful Camping				2	5
Neighborhood Svcs.	Illegal Dumping	N/A	N/A	9	8	5
Neighborhood Svcs.	Violating Notice to Vacate	5	3	1	0	1
Neighborhood Svcs.	Violation of Dangerous Buildings	3	1	7	0	0
Neighborhood Svcs.	Illegal Activity Detrimental to Life and Health	3	4	2	4	0
Parks	Unlawful Camping				9	6
Police	Unlawful Camping	70	844	613	612	754
Police	Illegal Dumping				13	31
Police	Drinking in Public	6	96	84	227	158
Police	Loitering	4	1	27	5	3
Police	Jaywalking/Entering Crosswalks	2	167/20	128/107	405/113	511/101
Police	Loud Stereo	4	113	77	132	222
Police	Unlicensed Dog				13	49
Police	Illegal Activity Detrimental to Life and Health				23	0

Referring Dept.	Violation Charged	Total Cases FY 99-01	Total Cases FY 01-02	Total Cases FY 02-03	Total Cases FY 03-04	Total Cases FY 04-05
General Services - Animal Control	Animal Barking/ Unlicensed Dog	9	27/27	6/6	3/718	5/576

During last year's presentation of the 2003-3004 City Attorney's Annual Report, the Mayor requested that emphasis be placed on violations involving animal control, loud stereos, and jaywalking. That information was shared with the various City enforcement agencies and resulted in an increase in the number of citations for each of these areas, as emphasized below:

- **Animal Control Citations:** Although there was a decrease in cites from the previous year, Animal Care cites continue to comprise a large percentage of the cases filed.
- **Loud Stereo Citations:** The Police Department focused on loud stereo violations throughout the City, and that emphasis is reflected in the increase from prior years on the number of citations we received for this violation.
- **Jaywalking / Entering Crosswalks:** The Police Department has continued to look out for pedestrian and traffic safety, and performed several operations aimed at jaywalking violations, which is reflected in the increase of citations we handled.

3. A Summary of the Various Methods by Which Cases Were Resolved. The following table classifies how cases were resolved this year. Cases dismissed in the interest of justice by this office generally fall into two categories: (1) the defendant will plead on one of our cases in exchange for a dismissal of another pending matter; or (2) the defendant is also facing charges filed by the District Attorney's office and will be sentenced to jail time. Frequently, with regard to the second category, our attorneys will get probation conditions imposed on the defendant as part of the agreement for the defendant's pleading to the District Attorney's case -- for example, stay-away orders are common. Other times, the court will dismiss the City's counts on its own motion, as part of a plea agreement.

Notably, of all the matters filed by the this office, it was necessary to dismiss only 8 cases for lack of sufficient evidence, which is down from the previous year. This is further evidence of the good work being done by City staff to investigate and prepare cases before they are sent to our office.

These positive results, together with the consistency of our prosecution and the thoroughness of our preparation, may be convincing the defendants that the City is serious in prosecuting these matters and are prepared to pursue a jury trial in every case if necessary.

SUMMARY OF ALL CASE DISPOSITIONS

	Feb - June 2001	FY 01-02	FY 02-03	FY 03-04	FY 04-05
Plea in Abeyance	--	--	--	1	2
CAO Dismissed/IOE	--	--	--	23	8
CAO Dismissed/IOJ	--	--	--	465	705
Court Dismissed/IOE	--	--	--	9	2
Court Dismissed/IOJ	--	--	--	263	51
Court Rejected	--	--	--	8	0
DA Dismissed	--	--	--	13	26
Dismissed - "Harvey Waiver"****	--	--	--	--	2
Cases Dismissed in the Interest of Justice	16	496	559	728	756
Bench Warrants	44	218	685	496	338
Failures to Appear	48	552	1491	1121	360
Conviction	--	--	--	41	3
Guilty/Reduced to Infraction	--	--	--	3	9
Guilty Pleas	21	198	150	110	117
No Contest	--	--	--	384	245
No Contest/Reduced to Infraction	--	--	--	40	22
Trials	8	31	77	192	170
Not Guilty	--	--	--	2	3
Cases where Fines issued/Total Fine amount				250/ \$33,548.00	167 for: \$24,944
Probation				34	60
Jail Time				54	85
Community Service				36	50

***A Harvey Waiver occurs when the defendant pleads to a companion case filed by the District Attorney's office, and while the City case is dismissed, the facts of the City case are accepted and the defendant's sentence reflects those facts. For example, if a defendant is charged with unlawful camping in the American River Parkway, as well as a drug possession charge, the defendant can plead guilty to the drug possession charge, be ordered to serve jail time on it, and even though the City's case is dismissed, he can also be ordered to stay away from the American River Parkway because of the camping violation. This is an effective plea in appropriate cases to keep violators away from certain areas.

In all cases other than those involving indigent defendants, CES prosecutors are diligent in requesting the imposition of fines. Pursuant to Council direction, for those defendants who have realized a profit through their criminal activity, for example for renting out substandard rental housing or running illegal businesses or engaging in illegal practices, we consistently ask the court to impose the highest fine and or jail time possible.

This year saw a dramatic increase in the number of defendants who were placed on probation by the court, as well as the number of defendants who were sentenced to jail time for violating the SCC. Significant also was the 68% decrease in the number of failures to appear and bench warrants that were issued.

Another significant trend we saw this year was an increase in the number of cases where the court was willing to impose probation and jail time against the defendants. This is significant because it signifies the court's acknowledgement of the seriousness of these code violations and that our standard sentencing recommendations are appropriate deterrents. More than anything else, this is a direct reflection of our attorneys persistent yet professional, consistent approach to each of these cases in court. The trend that we see in the dramatic decrease in the number of failures to appear and bench warrants may also be reflective of this office's persistent efforts.

CES also spent time this year working on compiling a list of free volunteer opportunities with various agencies at which indigent defendants can serve court-ordered community service. In particular, we have worked with the County Park Rangers to have offenders ordered to serve their community service hours picking up trash along the American River Parkway, and we have also worked with the Downtown Partnership to have offenders from that area serve their community service hours cleaning downtown streets and alleys. A goal during the current fiscal year is to complete this list of local organizations and charities and present it to the court and public defender's office. In this way we can promote the idea that defendants can serve their community service within the same area in which the violations were committed. As a result, we see an increase in the number of cases where the defendant was sentenced to perform community service as a condition of their sentence.

4. Disposition of Criminal Cases, by Council District. The following table shows case disposition by Council district. As in previous years, Council District 1 continues to see a high percentage of cases because of the concentration of unlawful campers within this District's boundaries. Accordingly, District 1 also experiences a high number of bench warrants and Failures to Appear. These same reasons account for the higher number of District 3 cases. The "Other" column reflects cases referred to us by outside agencies.

SUMMARY OF CASE DISPOSITION BY DISTRICT

		Dist. 1	Dist. 2	Dist. 3	Dist. 4	Dist. 5	Dist. 6	Dist. 7	Dist. 8	Other	Totals
FY 04- 05	Dismissed in the Interest of Justice	243	82	161	59	119	53	15	17	7	756
	Bench Warrants	201	43	42	14	13	15	3	2	2	333
	Failures to Appear	206	46	48	15	17	18	3	2	0	355
	Guilty Pleas	43	11	15	2	13	12	5	14	2	117
	Trials	68	6	42	13	8	16	3	13		169
	Conviction	0	0	0	0	3	0	0	0	0	3
FY 03- 04	Dismissed in the Interest of Justice	161	39	122	72	27	52	2	11	11	497
	Bench Warrants	189	56	135	10	12	13	1	4	0	420
	Failures to Appear	413	122	244	70	65	78	17	31	15	1055
	Guilty Pleas	35	10	12	7	12	3	1	1	8	89
	Trials	61	6	28	5	8	3	0	2	1	118
	Conviction	11	4	6	7	7	3	0	2	1	41
FY 02- 03	Dismissed in the Interest of Justice	202	51	74	28	28	32	19	20		507
	Bench Warrants	289	52	135	23	43	31	0	6		673
	Failures to Appear	503	144	264	170	143	92	14	55		1440
	Guilty Pleas	46	11	23	17	16	6	1	6		136
	Trials	21	5	4	4	4	1	2	5		70

		Dist. 1	Dist. 2	Dist. 3	Dist. 4	Dist. 5	Dist. 6	Dist. 7	Dist. 8	Other	Totals
FY 01- 02	Dismissed in the Interest of Justice	268	62	109	12	17	13	3	2		496
	Bench Warrants	124	14	39	6	17	11	4	0		218
	Failures to Appear	317	5	94	26	29	21	4	3		552
	Guilty Pleas	99	21	9	9	4	8	1	1		198
	Trials	11	3	4	6	2	0	2	3		31
Feb - June 2001	Dismissed in the Interest of Justice	8	2	4	1	3	0	0	1		19
	Bench Warrants	26	0	10	4	3	1	0	0		43
	Failures to Appear	30	0	10	4	3	1	0	0		48
	Guilty	10	1	3	0	4	0	1	2		21
	Trials	5	0	0	2	1	0	0	0		8

G. NUISANCE VEHICLE SEIZURE ORDINANCE (BEAT FEET)

The Police Department and the City Attorney's Office have worked together to formulate a procedure that has resulted in the successful seizure of 208 vehicles since the Beat Feet Ordinance went into effect in January 2000. Of those seized, 55 were forfeited. The success of the ordinance has resulted in only two repeat offenders.

208 vehicles have been seized under Beat Feet
enforcement with only **two** repeat offenders

The program is currently suspended pending final resolution of a court challenge pending before the Third District Court of Appeal. A hearing on this matter took place during the fall of 2004. The City's voluntary suspension of the program began during the 2003-2004 fiscal year, which explains why there was such a drop from the previous years.

BEAT FEET - BREAKDOWN BY DISTRICT

		Dist. 2	Dist. 5	Dist. 6	Dist. 7	Dist. 8	Totals
FY 04-05	No. of SPD Stings	-	-	-	-	-	Suspended
	No. of Vehicles Seized	-	-	-	-	-	Suspended
	No. of Vehicles Donated	-	-	-	-	-	Suspended
	No. of Vehicles Returned in Settlement Agreement	-	-	-	-	-	Suspended
	No. of Arrestees Residing Outside of Arrest Area	-	-	-	-	-	Suspended
	No. of Arrestees Residing Outside of Sac. Co.	-	-	-	-	-	Suspended
FY 03-04	No. of SPD Stings		1			1	2
	No. of Vehicles Seized		6			3	9
	No. of Vehicles Donated		1				1
	No. of Vehicles Returned in Settlement Agreement		3			2	5
	No. of Arrestees Residing Outside of Arrest Area		5			3	8
	No. of Arrestees Residing Outside of Sac. Co.		1			1	2
FY 02-03	No. of SPD Stings	3	1	6	0	0	10
	No. of Vehicles Seized	11	6	25	0	0	42
	No. of Vehicles Forfeited	0	0	3	0	0	3
	No. of Vehicles Donated	0	0	0	0	0	0
	No. of Vehicles Returned in Settlement Agreement	10	6	21	0	0	37
	No. of Arrestees Residing Outside of Arrest Area	2	5	17	0	0	24
	No. of Arrestees Residing Outside of Sac. Co.	1	1	5	0	0	7
FY 01-02	No. of SPD Stings	2	2	4	0	2	10
	No. of Vehicles Seized	12	10	30	0	11	85
	No. of Vehicles Forfeited	6	6	6	0	0	18
	No. of Vehicles Donated	0	0	0	0	0	0
	No. of Vehicles Returned in Settlement Agreement	6	4	22	0	11	43

		Dist. 2	Dist. 5	Dist. 6	Dist. 7	Dist. 8	Totals
	No. of Arrestees Residing Outside of Arrest Area	4	4	28	0	10	46
	No. of Arrestees Residing Outside of Sac. Co.	2	2	16	0	7	27
FY 99-01	No. of SPD Stings	4	2	5	1	1	13
	No. of Vehicles Seized	19	11	35	2	5	72
	No of Vehicles Forfeited	1	1	7	0	1	10
	No. of Vehicles Donated	1	1	0	0	0	2
	No. of Vehicles Returned in Settlement Agreement	16	0	27	2	4	59
	No. of Arrestees Residing Outside of Arrest Area	15	9	32	2	3	61
	No. of Arrestees Residing Outside of Sac. Co.	4	4	5	0	1	14

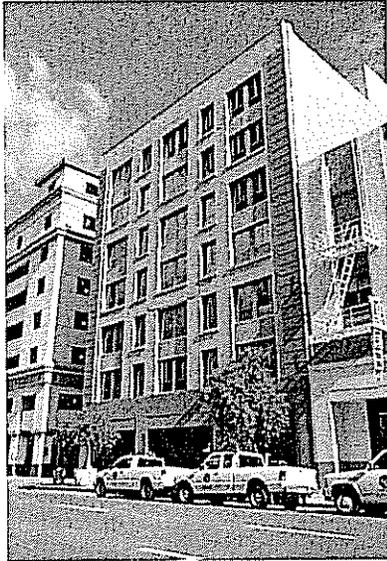
CODE ENFORCEMENT SECTION ASSIGNMENTS

Gustavo L. Martinez, Supervising Deputy City Attorney

Section Attorneys
 Dennis Beck
 Michael Benner
 Angela Casagranda
 Steve Johns
 Steve Itagaki
 Jennifer McGeorge

ASSIGNMENTS	ATTORNEY(S)
Board and Committee Participation <ul style="list-style-type: none"> • Housing Code Advisory & Appeal Board • Code Enforcement Administrative Hearing • Sacramento Rental Housing Improvement Partnership (SRHIP) • District Attorney Gang Unit • Public Safety Committee of County Homeless Task Force • M.A.G.I.C. (Graffiti Task Force) 	<ul style="list-style-type: none"> • All • All • Michael Benner • Dennis Beck • Gustavo Martinez • Jennifer McGeorge
City Council - Legal Advisor <ul style="list-style-type: none"> • Code Enforcement Ad Hoc Committee • Animal Control Ad Hoc Committee • Council Requests 	<ul style="list-style-type: none"> • Gustavo Martinez • Gustavo Martinez; Jennifer McGeorge • All
Fire Department <ul style="list-style-type: none"> • Fire Prevention 	<ul style="list-style-type: none"> • Gustavo Martinez
Neighborhood Services Department <ul style="list-style-type: none"> • Advisory Requests • Entertainment Permits • CAT Team Legal Advisor • Housing and Dangerous Building • Code Enforcement Matters • Neighborhood Response Team Support • Training Issues • Criminal Prosecution • Illegal Dumping • Graffiti • Zoning 	<ul style="list-style-type: none"> • All • Angela Casagranda • Dennis Beck • All • All • All • All • All • All • Gustavo Martinez • Jennifer McGeorge • Gustavo Martinez
Police Department <ul style="list-style-type: none"> • Drug Abatements • Nuisance Businesses/Permit Violations • Gang Abatements 	<ul style="list-style-type: none"> • Michael Benner • Angela Casagranda • Dennis Beck

ASSIGNMENTS	ATTORNEY(S)
General Services <ul style="list-style-type: none">• Animal Control Issues• Public Right of Way Enforcement• Illegal Dumping	<ul style="list-style-type: none">• Jennifer McGeorge• Gustavo Martinez• Gustavo Martinez



In 1989, the office was moved to the Plaza Building at 921 Tenth Street. A session of the California Legislature had been held on this site in the 1800's.

2005-2010 FIVE-YEAR ACTION PLAN

Below is a list of projects and programs the office will be devoting time to during the next five years. We welcome direction from the Council and input from Charter Officers and City departments. We will continue to monitor our five-year plan periodically and report to the Council on the same during our annual report.

A. INTERNAL GOALS

1. Office Policy Manuals. We have prepared manuals for the various sections of the office. These manuals reduce the time required to gain working knowledge in new areas, as well as reduce stress associated with such learning curves. They also serve as institutional memory as to how assignments and activities have been handled in the past, again reducing the potential for wasted time. There is a constant need to update existing policies and procedural manuals and to create new ones. A major revision and consolidation of the section manuals into an office policy manual is in progress and will be completed by September 2005.

2. Code Enforcement. In 2000, we commenced handling criminal code enforcement. In June 2001, we separated code work and established a Code Enforcement Section. We continue to expand our code workload, especially of criminal matters. We have added innovative procedures to our enforcement tools, such as gang abatement and receiverships to improve our response to community needs. Through several efficiency measures, modest staffing adjustments, and addition of legal staff positions we will continue to improve our capability to handle the fast growing workload in this area. In addition, we will continue to train City code enforcement staff to encourage the use of criminal prosecution when it is the most effective remedy.

3. Succession Planning. We will continue our efforts to train staff to be better prepared to take advantage of our in-house knowledge and expertise before retirements or other employment separations result in the loss of those assets. With few exceptions, it is much more prudent to train in-house staff to develop expertise in areas that repeatedly require legal assistance. Over the past five years, we have significantly reduced our need to rely on outside counsel for expertise in a variety of subject areas and increased training of senior staff in anticipation of the retirement of the City Attorney in 2005.

4. Automation Upgrades. Each year, our office undertakes major automation upgrades to keep pace with the more important technological advancements available for use in law offices. This past fiscal year was no exception. During Fiscal Year 2004-2005, our automation improvements included the following: upgrading the Netware 6.0 server to the latest release, version 6.5; replacing 6 of our 5-year-old Dell Latitude laptops with 8 newer Dell Latitude D600 series systems; installing Microsoft Office 2003 suite of business applications on all of our desktop PC's; installing Microsoft Windows XP Professional Service Pack 2 for increased security on all workstations; continuing with our ProLaw pilot in Code Enforcement

and now including the Litigation and Special Project Sections conversion from Abacus; adding a high-production scanner to network to increase efficiencies in electronic court filing; and continuing to improve the receptionist phone system using newer versions of ArcConsole software and VoIP telephone system. Current automation projects continuing into Fiscal Year 2005-2006 include extending ProLaw to Advisory and Administrative Sections; installing Novell ZENWorks 7.0 for desktop management; installing Network Associates Virus Scan Enterprise Management upgrade from version 7.0 to 8.0 to ease administration tasks on all workstations; installing Arcserve backup upgrades for both NetWare and Microsoft servers, an upgrade to version 11.0; upgrading Novell GroupWise e-mail client from version 6.0 to 6.5; upgrading Legal Solutions software from version 3.2 to version 4.0; introducing USB keychain storage devices for all staff; purchasing 5 new Dell Optiplex GX620 desktop PC's; and purchasing new server hardware for Prolaw database.

5. Automated Hiring Process. In the past, the hiring process has been extremely cumbersome and slow. Due to the volume of work in the office, when vacancies occur or new positions are created, there is a need to quickly fill positions with well-qualified staff. For this reason, we have automated some aspects of our hiring process. We currently receive numerous recruitment responses via e-mail and have a dedicated e-mail address solely for this purpose. This process has proven to be a speedy one as applicants are able to quickly send the resumes to us rather than go through the mailing process. We also have instituted a process to establish, maintain and update a hiring-eligibility list for attorneys and paralegals for use when vacancies occur, which should further reduce hiring time.

6. Library Automation. In anticipation of moving to the new City administration building, we reviewed the books in our library to eliminate materials that were outdated, little used, or available on-line or through other sources. As a result, there were significant costs savings in FY 2003-2004. In FY 2004-2005, we eliminated enough volumes of materials accessible on line to reduce the amount of shelving space needed for legal materials by approximately one half. We will continue to identify areas which will reduce the amount of hard copy materials and increase our use of online services and CD Rom materials.

7. Municipal Law Orientation: New Attorneys. We are preparing materials to orient our new attorneys to the practice of municipal law. This orientation focuses on basic principles of municipal law, including those applicable to charter cities, and the differences between the law governing private business, the laws that govern other types of governmental agencies and entities, and those governing the City of Sacramento.

8. Efficiencies/Cost Cutting. This fiscal year has seen further difficult challenges with respect to the budget. We will continue our efforts to identify areas within our current budget where efficiencies and cost-cutting measures will result in increased savings over time. In addition, our research of cost-recovery measures led to Council approval of an ordinance providing for recovery of attorney fees for the enforcement of City code provisions.

B. EXTERNAL (CITY-WIDE)

1. Surveys. Conducting client surveys will continue to be part of our future action plans. The primary objective of these surveys is to inform us about client concerns regarding services rendered and to allow us to take timely corrective action if needed. The surveys also reveal information that we are able to use to develop better legal-services delivery even though we may already be performing well in given areas. Due to the press of other business, a

survey was not conducted this fiscal year, but a survey will be undertaken in the next fiscal year.

2. Liability Prevention. We will continue to provide legal awareness seminars through City University. These seminars are designed to meet the needs of employees at every level of the organization. Through these seminars, we hope to provide employees with information that will avoid or reduce civil liability. The downward trend in lawsuits filed against the City is influenced by this training.

We will continue our work with Risk Management, the Police Department, and the Office of Police Accountability to standardize our early participation in shooting and homicide cases that potentially involve civil liability.

3. Document Retention and Retrieval Policy. The Document Retention and Retrieval Policy was approved by the City Council in May 2004. The policy addresses the fact that current state law and City practices regarding record retention and retrieval have not kept pace with rapid changes in technology. The policy has been successfully implemented and we will continue to work with the City Clerk and the City Manager to provide legal advice as it relates to the plan.

4. Major Projects Monitoring. Since approximately 1996, we have had in place a plan to monitor the progress of major projects that are likely to require legal assistance. To date, the plan has been just to monitor such projects. This involved nothing more than placing them on a radar screen and waiting for the request for legal advice.

Until recently, we were not adequately staffed or structured to provide early and preliminary advice on major projects. This should change with the recent additions to staff. We will make every effort to provide legal input at the earliest phases of major projects. Indeed, we commenced early preliminary research on a number of major projects requiring legal assistance: Sutter General expansion; Downtown Railyards; Riverfront Master plan; commercial development of City property at Haggin Oaks; medical marijuana; the Sacramento Port; and the drug free zone ordinance.



The City Attorney's Office moved to U.S. Bank Building, 980 9th Street, Tenth Floor, in 1996 and remained in this location until July 29, 2005.

5. Sphere of Influence/Annexation. Among the major projects that will require substantial staff time is SOI/Annexation. Depending on the direction this project takes, it could result in a large quantity of work akin to that involved in the North Natomas Community Plan Area. This will require us to consider the extent to which such a quantity of work can (or cannot) be efficiently performed with existing staffing levels. To assist this office and City staff in being prepared to move quickly with annexation issues as they arise, we will be preparing a quick reference guide to annexation. This guide will identify the procedure for annexation, including the sequence and timing for completing each step.

6. State and Federal Legislation. We are working with the Legislative Affairs Analyst to identify upcoming legislative actions and inform departments of adopted legislation

that might impact City operations. We will continue to review all state propositions and to present summaries of the same to Council in time for consideration of adopting resolutions in support or opposition. In addition, we will review year-end legislative measures and provide legal advice regarding required changes for implementation.

7. Ordinances. We will continue to provide periodic updates on the status of pending ordinances. We are working with the City Manager's Office to establish a procedure for prioritizing ordinances and providing status reports. The procedure alerts all concerned as to the status of slow-moving ordinances and fosters the opportunity for action to move matters forward in a more timely manner. We will continue to monitor the prioritizing procedure.

8. New Council Member Orientation. We have developed information for orientation of new Council members regarding the functions and activities of the City Attorney's Office. We will continue to modify these materials for future use.

9. Municipal Law Orientation: Boards and Commissions. At the request of Mayor and Council, we prepared an orientation program for new members of boards and commissions. This program includes a manual covering the diverse issues and subjects that boards and commissions face, such as the City structure and the City's status as a charter city, the Brown Act, the Public Records Act, meeting rules, procedures and protocol, and conflicts-of-interests laws and regulations. The program also includes video and/or live presentations to individual boards and commissions. The first program presentation, which included a presentation by the Mayor, was made in June 2004. As of FY 04/05, only one of the boards identified by Council has not yet received the training. This board had to reschedule and is calendared to complete the training by September 2005. The program will be periodically updated to reflect changes in the law as well as to include additional materials determined to be of benefit to board and commission members.

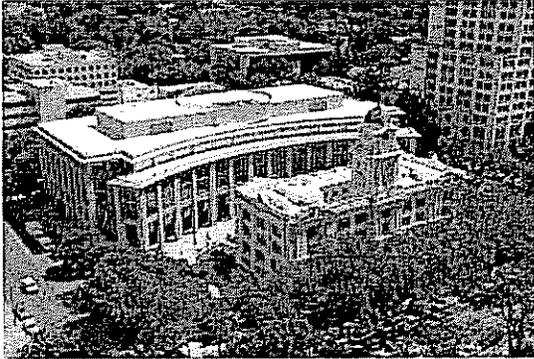
10. Annual Report On-Line. Commencing with Fiscal Year 2000-2001, we have placed our entire annual report on the City's website. We will continue this effort to make the report available for quick review by the Council, staff, and the public at any time.

11. Criminal Violation Quick Reference Guide. To assist staff in navigating the City Code, we have prepared several citation index booklets of frequently consulted code sections for use by the Police Department, Neighborhood Services, Animal Control and other City staff. We are also working on a comprehensive index of all City Code sections that may give rise to criminal prosecution as misdemeanors and infractions, as well as of administrative-enforcement sections and permit requirements. When completed, the index will be provided to all City departments with citation-and-arrest authority or any other Code-enforcement authority or responsibility. We are currently investigating the acquisition of publication software that will assist in this goal. We anticipate that this index will also be useful to the District Attorney, the Superior Court, the Sacramento County Probation Department, and other agencies as appropriate. In the alternative, the index will be placed on-line for access by those agencies. If the Council so desires, this index will be made available to Council staff as well.

12. Substandard Housing Receivership Program. This has been a long-time goal for the office, and with the assistance of outside counsel (retained because of workload demands), last year we succeeded in having receivers appointed in two cases, one involving an owner-occupied single-family residence, the other involving a multi-household mobile-home park. In both cases, the receiver took over operation of the properties and pursued actions

necessary to comply with City-ordered repairs. Thanks to the knowledge gained in those cases, our attorneys are now able to work independently with City staff in identifying cases that warrant appointment of a receiver, which is an invaluable tool for addressing serious code violations and bringing properties up to proper decent, safe, and sanitary standards.

13. Council Hearing/Notice Index. The City Attorney is working with the City Clerk to produce a comprehensive index of the various types of hearings (general public hearings, quasi-judicial hearings, and legislative hearings) held before the City Council and to indicate the type of notice required or permitted (including notice by publication), the form of notice, and the time that should be allowed between the notice and the hearing. The index will also reflect time constraints that may be imposed on those who have the right to speak or provide testimony at the hearings. A draft of this document is being prepared to be presented at the City Manager's Cabinet for review and comment; the final document will be presented to the City Council and provided to all departments, boards, and commissions of the City.



The City Attorney's Office moved to the new City Hall Annex August 1, 2005.

CONCLUSION

In this annual report, we have addressed our Administrative, Advisory, Litigation, Special Projects and Code Enforcement Section assignments undertaken during Fiscal Year 2004-2005. We have also addressed action taken to improve our delivery of legal services.

The report shows that increased development activity in the City generally has placed great demands on City staff, including the City Attorney's Office. While North Natomas continues to be an area that generates significant work for City staff and this office, the proportion of time devoted to North Natomas issues was less than in prior years. Much of the development related legal work was handled by the Advisory Section although the Special Projects section also handled a range of complex matters, including bond and finance transactions. Of all of the cases resolved during the past reporting period, the litigation section successfully resolved 55% with no payment by the City. This was the fourth full year that this office prosecuted City Code violations as criminal matters, and the report shows an increase in the number of matters referred for criminal prosecution (15%) and an increase in the number of cases filed and prosecuted (17%). Code section attorneys were successful in resolving the vast majority of cases prior to trial. Attorneys from other sections assisted in this effort.

We have reviewed our goals for Fiscal Year 2004-2005 and how we met them, and we have expressed our goals for our Five Year Plan. It is our vision that the information presented in this annual report will assist us in achieving those goals.

We hope this annual report will be of assistance to the City Council, the Charter Officers and Department Heads, and the citizens of the City of Sacramento in better understanding the function of the City Attorney's Office, what legal services we deliver, how we deliver those services, and to whom they are delivered. In addition, it is our desire that this report will be used as a vehicle for assessing our performance during the annual budgeting process and providing feedback which we might draw upon to improve the performance and responsiveness of the City Attorney's Office in the future.

It remains our desire to be the best public law office in the state. We continue to believe this goal to be a realistic one and continue to make great strides toward accomplishing it.

We welcome comments and suggestions by the Council, Charter Officers and City departments for improvements in our annual reports and as to how we may better serve you and the public.

Special thanks are extended to those staff members, in addition to the administration team, without whose hard work the production of this report would not have been possible, including: Gloria Morrison, Joseph Cerullo, Norma Florendo, and Catherine Brown. Special thanks are also extended to those departments and City employees who assisted this office in compiling the information contained in the report, including Risk Management and Bragg & Associates.