

CITY ATTORNEY OVERVIEW

This report covers activities of the City Attorney's Office during the period from July 1, 2000 to June 30, 2001 ("Fiscal Year 2000-2001"). This is the sixth annual report of the City Attorney's Office, and the fourth report done on a fiscal year basis. This report contains comparison and progressive information dating back to our second annual report in 1996. Future reports will contain data covering only the most recent five-year period unless there is a particular need to include older data.

The report covers the activities of the four operating sections of the office, Advisory, Litigation, Special Projects and Code Enforcement, as well as those of the Administration Section. This Report does not contain a separate section on Code Enforcement actions because until June 25, 2001, all Code Enforcement matters were handled by the Special Projects Section. At the request of Council, a separate report is being presented on the status of Criminal Prosecution. The Special Projects Section was established in the latter part of Fiscal Year 2000. The original focus of the Special Projects Section was on high priority projects, including code enforcement, criminal prosecution, debt financing, complex projects, complex and high visibility litigation, development in North Natomas, collections, intellectual property and extraordinary relief. In November 2000, the Council directed this office to assume responsibility for all criminal prosecutions of City Code violations. The Special Projects Section commenced criminal prosecutions on February 5, 2001.

While the original plan was to focus on select prosecution of City Code violations, the arrangements ultimately made with the District Attorney and the local courts require the City Attorney to undertake prosecution of most City Code violations. To devote the necessary attention and resources to this task, the Code Enforcement Section was created in June 2001. This section is responsible for handling all code enforcement and criminal prosecution matters.

This year's report is structured somewhat differently than prior reports, reflecting an effort to streamline and improve its "readability". Parts I and II set forth a brief discussion of our "Authority and Function" as well as our Mission Statement. Parts III through VI provide a discussion of functions and accomplishments of each of the sections of the office, with appropriate comparisons to accomplishments in prior years. Part VII examines our efforts and accomplishments in achieving our Fiscal Year 2001 goals; it also sets out current goals established for the five year period Fiscal Year 2001-2002 through Fiscal Year 2005-2006.

This report is intended to furnish information sufficient for the Council to assess whether the City Attorney's Office is performing as expected. Fiscal Year 2000-2001 was a particularly busy year for the City, and this is reflected in this report's analysis of the amount and nature of work handled by this office. Increased development activity in the City generally, and in North Natomas specifically, has placed great demands upon City

staff, including this office. Included in this workload has been the litigation surrounding the Habitat Conservation Plan for the North Natomas Community Plan, the recent settlement of that litigation in May, 2000 and the preparation of legislation, including fee increases, required by the settlement. Pursuant to the settlement, development within the North Natomas Community Plan will continue during the next two years while a revised and improved habitat conservation plan is prepared and processed for consideration by the Council. Code enforcement has continued to be a significant component of this office's workload, with an increasing emphasis on the use of criminal prosecutions as a means of achieving compliance with City Code requirements.

The increased workload placed upon City staff in the past fiscal year is reflected in the discussion of the workloads of each of the four attorney sections. The Advisory Section discussion reveals an increase in the total number of advisory assignments handled by the office; an increase in the average number of assignments handled per attorney; a nearly thirty-seven percent (37%) increase in the number of contracts processed by the Section; and a more than two-fold increase in the number of Council assignments received and completed. The discussion also reveals a significant increase in municipal legislation handled by the Advisory Section.

The Litigation Section continued to handle a substantial, broad and varied load of litigation. Continued emphasis was placed on keeping litigation matters in-house. Due to conflicts of interest, four cases were referred to outside counsel for handling during the past year.

The Special Projects Section continued with its strong emphasis on: i) code enforcement, including enforcement of the "Beat Feet" ordinance; ii) the use of criminal prosecutions as a means of achieving compliance with City Code requirements; iii) development in North Natomas; iv) development in Granite Park and other large, new projects. The Special Projects Section handled a number of controversial, high profile and potentially high-exposure cases, including the ADA litigation; American River sewer spill litigation; gun litigation and Florin-Perkins landfill litigation.

Pursuant to Council direction, emphasis was placed by the City Attorney's Office on establishing the necessary infrastructure to undertake criminal prosecution of City Code violations. That structure has been established, and on February 5, 2001, this office commenced criminal prosecution of City Code violations. The Code Enforcement Section was created in June 2001 to handle criminal prosecutions and all other aspects of Code Enforcement. For purposes of this report, the discussion of the Code Enforcement Section is included in the discussion of the Special Projects Section.

A copy of this report will be placed on our web page. We welcome comments from the City Council as well as from all departments. Please do not hesitate to contact me if you have questions regarding any aspect of this report.

PART I

AUTHORITY AND FUNCTION

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 of 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 give legal advice, and not to give advice on policy or politics. The client of the City Attorney is the City Council, in the first instance. 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 people act within the scope of the powers given to them by the City Council. Many citizens believe that the City Attorney serves as the attorney for the community rather than just the municipal corporation known as the City of Sacramento. However, the City Attorney works for citizens only indirectly through City officials, and the City Attorney has no attorney-client relationship with citizens at large.

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

PART II

MISSION STATEMENT

The mission of the City Attorney's office is to serve the City of Sacramento by providing the highest quality legal advice and representation to the City Council and the officers and employees of the City, in a manner which is as efficient as possible, including:

1. Providing the highest quality litigation representation by continuing to devote the time and resources necessary to assure that each case is investigated, analyzed, researched and prepared for settlement or trial in the highest professional manner;
2. Providing the highest quality legal advice by continuing to devote the time and resources necessary to assure that requests for opinions, ordinances, contracts and other documents, and all other non-litigation matters are handled in the highest professional manner;
3. Working, on a continuing basis, with City officers and employees to provide advice and educational services to accomplish the policy objectives of the City and to prevent legal problems from arising.

PART III

ADMINISTRATION

A. GENERAL

The administration and general support functions of the office are performed under the direction of the City Attorney. The structure of the office includes a Chief Assistant City Attorney (William P. Carnazzo), who provides supervision over the activities of all sections generally, and in particular the Special Projects Section and the newly formed Code Enforcement Section; the Chief Assistant City Attorney is also responsible for training those handling municipal financing and complex transactions. The Assistant City Attorney (Richard E. Archibald) oversees the Litigation and Advisory Sections, and provides supervision over the Special Projects Section and Code Enforcement Section in the absence of the Chief Assistant City Attorney. Immediate supervision of the Advisory, Litigation and Special Projects Sections was provided by three Senior Deputy City Attorneys, two of whom were recently promoted to that position after a period of training. The Code Enforcement Section is headed by an experienced Deputy City Attorney, who

is being trained for promotion to the Senior Deputy position. An office organizational chart reflecting the current organization of the office is shown in **ATTACHMENT A**.

The Advisory Section is supervised by Senior Deputy City Attorney Shana Faber. As of the date of this report, the work of this section is performed by the supervisor, four (4) Deputy City Attorneys, and two Legal Secretaries. An additional permanent position became temporarily vacant as of April 2001 as a result of medical leave.

The Litigation Section is supervised by Senior Deputy City Attorney Bruce C. Cline. The work of this section is currently performed by the Senior Deputy City Attorney and five (5) Deputy City Attorneys. Support assistance is provided by one Paralegal, one Investigator, three Legal Secretaries, and as available and appropriate, clinical legal interns.

The Special Projects Section was created during the latter part of this reporting period. It is supervised by Senior Deputy City Attorney Sandra Talbott. Throughout most of Fiscal Year 2001, when code enforcement and criminal prosecution were part of this Section's responsibility, the work was performed by the Senior Deputy City Attorney and six (6) Deputy City Attorneys, with support assistance provided by three Legal Secretaries, one Paralegal and one investigator. With the creation of the Code Enforcement Section and the transfer of staff, the Special Projects Section now consists of the Senior Deputy City Attorney and four (4) Deputy City Attorneys, with support assistance provided by two Legal Secretaries and one investigator, who devotes half of his time to Special Projects and half of his time to Code Enforcement.

The newly-created Code Enforcement Section consists of one supervising Deputy City Attorney, Susana Alcala Woods, and four (4) Deputy City Attorneys, along with two (2) Legal Secretaries and one Investigator, who devotes half of his time to Special Projects assignments.

With the exception of the administration support staff, support staff is supervised by the Office Administrator, Kathy Widmer. 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.

The administration support staff is directly supervised by the Administrative Assistant, Toni Jones. The Administrative Assistant is also responsible for administrative support provided to the City Attorney and Chief Assistant City Attorney; monitoring administration functions and recommending efficiency measures; citywide legal training; serving as department representative at meetings as needed; providing reports based on

research, studies and surveys; special assignments; assist with technology updates; and backup to the Office Administrator.

The Administration team consists of the City Attorney, Chief Assistant City Attorney, Assistant City Attorney, three Senior Deputy City Attorneys, the Deputy City Attorney supervising the Code Enforcement Section, the Office Administrator and the Administrative Assistant. The team 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, the team devotes time to reviewing efforts to achieve goals set forth in our action plan.

B. BUDGET AND STAFFING

The City Attorney's budget for Fiscal Year 2001-2002 is \$5,300,322. The budget for Fiscal Year 2000-2001 was \$4,609,595. 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 54 full time positions.

PART IV

ADVISORY

A. GENERAL

The Advisory Section provides strategic support to the City's policymaking function by responding to requests for legal advice presented by the City Council, the City Manager and the other Charter officers, and the City departments and divisions. The support includes preparation of legislation, preparation and review of contractual documents, providing legal representation and advice at meetings of the Council and City boards and commissions, educating City staff in relevant areas of the law, and keeping the Council and City staff informed on recent changes or developments in the law.

This section provides a detailed analysis of the workload of the Advisory Section during this reporting period. This is important to the proper management of the increasing workload of this section. The goal of the Advisory Section is to provide prompt, accurate legal advice, and to be able to respond to requests for legal advice within the framework of a well-understood priority system. **ATTACHMENT B** is a list of the areas in which the Advisory Section performed legal services together with a listing of the attorneys assigned to those areas. The list reflects the current organization of the City and the current assignments of Advisory Section attorneys.

The initial discussion sets forth a list of the most significant accomplishments of the Advisory Section, based primarily on input from the section attorneys. The remaining discussion details the advisory assignments handled in Fiscal Year 2000-2001 and provide a range of information, including: i) the number and type of assignments completed during Fiscal Year 2001; 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 each Council member and the Mayor. As appropriate, comparisons are made to assignments handled by the Advisory Section in previous years.

B. SIGNIFICANT ACCOMPLISHMENTS

1. Proactive Advice and Training

a. *Seminars/Continuing Education* - The City Attorney's Office resumed its presentation of formal seminars in Fiscal Year 1999-2000. During Fiscal Year 2000-2001, this office presented seminars for City employees on CEQA and the ADA. The Advisory Section also conducted an 8-hour training session for the Code Action Team and Housing and Dangerous Building Department, including laws applicable to housing cases, due process issues, and evidence necessary to support an administrative abatement action. Additional seminars and training will be scheduled for Fall 2001 and Spring 2002, including public agency contracting procedures and the Public Records Act. The Advisory Section also prepared and distributed to City staff an ordinance drafting manual.

b. *Meetings with Police Department* - The SDCA, along with one or more attorneys who handle Police Department matters, meet with representatives of the Police Department in the morning on the first Wednesday of each month to discuss recent court cases and legislation, and to discuss any problems or issues that have arisen in the past month.

c. *MCLE* - California attorneys are subject to a minimum continuing legal education requirement (MCLE), pursuant to which all attorneys are required to devote a certain number of hours to continuing legal education. The City Attorney's Office is a certified provider of continuing legal education and regularly provides courses to its attorneys and those from other offices. This year included several presentations made by attorneys employed by the City Attorney's Office, including the Chief Assistant City Attorney and the Assistant City Attorney. Representatives from the County Counsel's office and the consolidated Superior and Municipal Courts were regular attendees at courses offered during this reporting period.

d. *Conflict of Interest, Brown Act, and Public Records Act Outlines*- With the addition of two new Council members, the City Attorney's Office prepared topical outlines providing an overview of conflict of interest issues, Brown Act compliance, and the Public Records Act.

2. Selected Significant Assignments

a. *Civic Center Project* - We provided legal advice and backup to City staff on acquisition and environmental issues, including the negotiation and drafting of acquisition agreements and the review of the draft EIR. It is anticipated that the advisory section will continue to provide ongoing support to staff on this project over the next fiscal year.

b. *North Natomas: General* - Our office continued to expend significant amounts of time in overseeing and providing litigation support to outside counsel in the federal court litigation challenging the Habitat Conservation Plan, and the related lawsuit challenging the City's decision not to issue grading permits during the pendency of the federal lawsuit. After extensive negotiation, both lawsuits were resolved and the City has agreed to adopt a revised habitat conservation plan, complete environmental review under the National Environmental Policy Act (NEPA), and apply for a new incidental take permit. The City Attorney's Office also provided ongoing legal advice and support necessary related to general development issues in North Natomas, including the updating of the North Natomas Financing Plan and establishing bonded and non-bonded community facility districts for infrastructure and maintenance activities.

c. *UP Depot Project* - We met regularly with City staff and the City's retained outside appraiser to provide legal advice on a variety of acquisition, historic preservation and environmental issues. This office will continue to provide legal assistance and advice throughout the acquisition and bidding, award and construction phases.

d. *Water Treatment Plant Expansion Projects* - We assisted City staff in the expansion of the City's Sacramento River Water Treatment Plant (SRWTP) and Fairbairn Water Treatment Plant (FWTP), including preparation of the environmental documents for the two projects, preparation and filing of petitions with the State Water Board for extensions of time to construct under the City's five water right permits, review and revision of the prequalification and construction documents, and assistance with regulatory and permitting issues.

e. *UP Railyards EOP and 7th Street Extension* - We worked with City staff, UP and Department of Toxic Substances Control to finalize the Environmental Oversight Program (EOP). Following the adoption of the EOP by Council resolution, assisted Public Works with the drafting and finalizing of the construction and maintenance agreement with UP and right of way grant needed for the City to construct the 7th Street extension across the railyards.

f. *CalPERS Headquarters Expansion Project* - We were involved with several aspects of abandonment of a one block section of 4th Street and two blocks of alleys needed for CalPERS to expand its current downtown headquarters and construct

a “superblock” between 3rd-5th Streets and R-Q Streets, including negotiating and drafting of a Memorandum of Understanding, Resolution of Abandonment, Easement Agreement, and Revocable Permit.

f. *Inclusionary Housing Ordinance Adoption and Implementation-*

We were involved in several aspects of City staff’s adoption and implementation of the City’s Inclusionary Housing Ordinance, including negotiation of acceptable inclusionary housing plans and drafting of a form inclusionary housing agreement.

h. *ADA Transition Plan for Curb Ramps and ADA Task Force -*

We provided legal advice and support to City staff and outside consultant during the drafting and implementation phases of the City’s ADA Transition Plan for Curb Ramps. We recommended the formation of an in-house ADA Task Force to coordinate ADA compliance on a City-wide basis. A member of the Advisory Section regularly attends Task Force meetings to provide ongoing legal advice.

i. *Music Circus Renovation Project -*

We assisted City staff on a variety of issues related to the Music Circus’ proposal to renovate its existing site, including advising staff in the preparation of the initial study and EIR and providing legal assistance on the project entitlements and building code issues.

j. *Hansen Ranch Project-*

We provided legal advice, assistance and review to City staff on the conveyance of the City’s 260-acre Hansen Ranch property to SAFCA, including payment agreement between the City and SAFCA, MOU between the City, SAFCA, U.S. Fish and Wildlife Service and the Sacramento Valley Open Space Conservancy (SVOSC), Conservation Easement from the City to SVOSC, and Flood Control Easement from the City to SAFCA.

k. *Sump 101 Sewer Discharge -*

We provided legal advice and support to City staff on the Sump 101 sewer discharge into the American River.

l. *ERAF Recovery-*

We instituted administrative action to recover tax money that had been shifted away from local government agencies to fund Educational Revenue Augmentation Funds (ERAF) pursuant to legislation enacted in 1992. We prepared a test claim filed with the State Commission on State Mandates.

m. *Racial Profiling Data Collection Project -*

We provided legal advice and support to the Sacramento Police Department in its collection of data relating to allegations of racial profiling in traffic stops, including review and revision of policies and orders pertaining to the project, review and revision of related agreements with the

University of Southern California and Police Foundation for the collection and analysis of the data, and overseeing compliance with a variety of Public Records Act requests.

n. *Library Authority Modernization* - We assisted Library Authority staff in the modernization of the Authority's information technology systems and updating of its Master Plan.

o. *Ordinance Research and Preparation* - During this reporting period, we researched, drafted or assisted in drafting a large number of ordinances and other forms of municipal legislation which were adopted by the Council or which are being processed for adoption. Among the ordinances were the following:¹

- Housing element update
- Ordinances implementing housing element update (establishment of inclusionary (mixed income) housing requirements, amendments to North Natomas Housing Trust Fund, amendments to emergency shelter regulations, *density bonus regulations, *amendments to regulations governing the processing of multi-family residential projects)
- Campaign contribution limits code
- *Lobbyist registration and reporting code
- *Finance spending limits
- *Amendments to regulations governing dance permits
- Comprehensive overhaul of historic preservation regulations
- Environmental Oversight Program for the Downtown Railyards
- ADA Facilities Plan Update
- *Predatory lending ordinance
- *Adult entertainment
- *Revision of Chapter 13.04 (water service system)

¹The asterisk (*) next to an ordinance indicates that the ordinance was not adopted by the Council during the fiscal year and is pending. These ordinances have either been completed and are being processed by City staff for consideration by the Council or should be brought forward for Council consideration before the end of the calendar year.

- Adoption of combined sewer system development fees
- Amendments to gun dealers ordinance
- Contractor prequalification procedures
- Amendments to graffiti abatement ordinance regarding cost recovery
- Amendment of Habitat Conservation Fee
- Amendment of North Natomas Development Fees

C. STATISTICAL INFORMATION

1. Total. During Fiscal Year 2000-2001, the Advisory Section improved its assignment tracking by switching from a DOS database to the Abacus database. This has simplified the cross-referencing of assignments, as all sections of the City Attorney’s Office now utilize the same type of database. The entry of a matter into Abacus results in the matter being formally listed and carried in the database as an "assignment." The list of assignments included in the database does **not** include the standard contracts and agreements processed by the section, and these are not included in the assignment figures set forth below. These matters are tracked in a separate contracts and agreements log, which is discussed in subsection 6 below.

There was an increase in the total number of advisory assignments handled by the office during Fiscal Year 2000-2001 as compared to Fiscal Year 1999-2000, with 2404 assignments handled this year as compared to 2156 last year. Additionally, the number of contracts processed by the Advisory Section jumped from 1073 in Fiscal Year 1999-2000 to 1469 in Fiscal Year 2000-2001, a 36.9% increase. The number of City Council assignments, which are generally complex in nature, more than doubled, from 29 in Fiscal Year 1999-2000 to 76 in Fiscal Year 2000-2001. Despite the challenge of handling an increased and complex workload, the Advisory Section has continued to provide quality legal services in a timely manner.

The chart below shows the total number of advisory assignments handled in each of the past six years. Two figures are shown for Fiscal Year 2000-2001. The higher number represents the total number of advisory assignments handled by the office, including those handled by the Special Projects Section. The lower number in parentheses reflects the number of advisory assignments handled by the Advisory Section alone.

Total Number of Advisory Assignments

1996	1997	FY 1997-98	FY 1998-99	FY 1999-2000	FY 2000-01
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1434	1745	1747	1868	2156	2404 (1851)
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2. Assignments by Attorney

In prior years, we have broken out Advisory Section assignments by individual attorney. Because of the transfer of several attorneys either to or from the Advisory Section during Fiscal Year 2000-2001, we believe that a more meaningful measure of the individual attorneys' workloads is to provide an average number of assignments handled on a fiscal year basis.

3. Average Number of Assignments Per Attorney.²

<u>1996</u>	<u>1997</u>	<u>FY1997-98</u>	<u>FY1998-99</u>	<u>FY1999-00</u>	<u>FY2000-01</u>
119.5	213	194	227	240	316

4. Assignments Completed by Reporting Period.

The chart below shows the number of assignments that were received and completed in a given year, and the number that were received and still pending at the end of the year. There are two sets of figures for Fiscal Year 2000-2001. The higher number represents the total number of advisory assignments received by the office, including those handled by the Special Projects Section. The lower numbers in parentheses reflect the number of advisory assignments handled by the Advisory section alone.

	<u>1996</u>	<u>1997</u>	<u>FY1997-98</u>	<u>FY1998-99</u>	<u>FY1999-00</u>	<u>FY2000-01</u>
Pending	842	445	634	236	73	203 (125)
Closed	597	1300	1113	1631	2083	2201 (1946)

5. Assignments by Source. The table below shows where much of the Advisory section workload originates within the city organization. These figures are based on the actual number of assignments by department or function for which an assignment sheet was filled out. These figures give the reader some idea as to the demands made

² For purposes of Fiscal Year 2000-2001, these averages are calculated on the basis of 5.25 FTE's which represented: i) the number of attorneys who were in the Advisory Section both at the beginning and at the end of the relevant period; and ii) one-half of the time of the Chief Assistant City Attorney, and three-quarters of the time of the Assistant City Attorney. The number of assignments attributable to attorneys not included in calculating the averages was deducted from the total number of assignments before calculating the average.

by individual departments. It should be noted that these numbers do not necessarily reflect the amount of time spent by this office on the requests from a particular department or function, since the assignments vary widely in terms of complexity and the time required to complete the assignment.

Department or Function	1997 (%)	FY 1998 (%)	FY 1999 (%)	FY 2000 (%)	FY 2001 (%)
Human Resources	1.7	2.1	.3	.2	.8
Neighborhood Services	12.2	9.6	9.8	4.8	3.5 ³
Public Works	23.1	24.7	32.2	31.6	32.6
Utilities	8.6	10.4	8.78	8.34	11.3
Police	8.4	11.1	8.89	9.42	13.3
Treasurer	5.4	7.2	2.6	4.76	3.2
City Manager	1.5	1.5	1.2	1.07	1.6
City Council	3.8	3.74	3.39	3.64	4.6
Fire	.9	1.1	.5	1.35	.5
Employee Relations	.5	.6	1.93	1.59	1.7
Planning	8.6	9.3	11.4	15.07	10.6
Community/Visitor Services	2.7	2.3	1.78	4.85	6.3
City Clerk	1.8	.9	.65	1.54	.82
Finance	1.66	2.6	2.58	2.61	1.9

³As noted above, the chart is based on the number of assignments handled by the Advisory section only. With the transfer of code enforcement responsibilities to the Special Projects Section in Fiscal Year 2000, the number of Advisory assignments attributable to Neighborhood Services in that year and this past fiscal year decreased.

Library	.79	.95	.59	1.54	.9
Miscellaneous ⁴	18.45	12.9	3.39	3.82	6.3
	100%	100%	100%	100%	100%

6. Contracts. The Advisory Section processes a broad range and large number of contracts. During Fiscal Year 2000-2001, 1,469 contracts were processed, as compared to 1073 in Fiscal Year 1999-2000 and 1056 in Fiscal Year 1998-1999. The following are figures for the number of contracts processed during the calendar year of 1997, and Fiscal Years 1997-1998 through 2000-2001.

TOTAL NUMBER OF CONTRACTS PROCESSED

1997 (Calendar)	FY 1997-98	FY 1998-99	FY 1999-2000	FY 2000-01
851	1002	1056	1073	1469

The contracts included in the contracts log and reflected in the foregoing chart represent the more straightforward contracts reviewed by this office. As a general rule, assignment sheets are not prepared for these contracts and these contracts are not considered or counted as assignments for purposes of the figures set forth in subsections 1 and 2 above. Non-standard agreements, including those of a custom or more complex nature which required the expenditure of significant amounts of attorney time, are not included or reflected in the foregoing chart, but are the subject of assignment sheets and are included within the figures set forth in subsections 1 and 2 above. Contracts for demolition presented by CAT, Housing and Dangerous Buildings and Code Enforcement are not reflected in the foregoing chart, but are accounted for separately under the Code Enforcement Section of this report.

Following are two charts, one showing the source of contracts by department in Fiscal Year 2001; and the other comparing the figures regarding sources of contracts for Fiscal Years 1998-1999, 1999-2000 and 2000-2001.⁵

⁴ The assignments in this category are varied, often entailing some administrative work. However, it also reflects many matters that did not fit well within our system of designating the department or function originating the assignment. For example, an assignment that originated from more than one department would be listed in this category.

⁵Fiscal Year 1999 was the first year in which information concerning the departmental source of contracts was gathered.

CONTRACTS PROCESSED IN FY 2000- 2001 BY DEPARTMENT

Department	No. of Contracts	Percentage
Public Works	605	41.1
Utilities	204	13.9
Planning & Development	121	8.2
Police Department	116	7.9
Downtown & Regional Enterprises Department	92	6.3
Neighborhood Services (including Parks & Code Enforcement)	241	16.4
Personnel	4	.3
Other	86	5.9
TOTAL:	1469	100%

CONTRACTS PROCESSED (Percentage Comparison)

Department	Percentage of Contracts FY 1998-1999	Percentage of Contracts FY 1999-2000	Percentage of Contracts FY 2000-2001
Public Works	38.0	44.0	41.1
Utilities	21.0	16.2	13.9
Planning & Development	8.6	5.5	5.5
Police Department	7.6	2.6	2.6
Downtown & Regional Enterprises Department)	7.0	9.9	9.9
Neighborhood Services (including Parks & Code Enforcement)	8.0	16.5	16.4
Personnel	3.6	.3	.3
Other	6.0	5.0	5.0

TOTAL:	99.8%	100%	100.0%
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D. CITY COUNCIL ASSIGNMENTS

Included among the advisory assignments are assignments received directly from the Mayor or individual Council members. Some detail regarding these assignments is provided below.

1. Total Number of Council Assignments. The total number of assignments received from the Mayor and City Council during Fiscal Year 2000-2001 was 76, as compared to 29 in Fiscal Year 1999-2000, 57 in Fiscal Year 1998-1999, 69 in Fiscal Year 1997-1998, 116 in calendar year 1996, and 96 in calendar year 1995.

2. Council Assignments by Originator.

Member or source	1996	1997	FY1997-1998	FY 1998-1999	FY 1999-2000	FY 2000-2001
Mayor Fargo	13	8	8	3	2	11
CM Tretheway						0
CM Sheedy	12	11	8	9	2	4
CM Cohn	14	5	13	3	2	9
CM Yee	4	5	2	4	4	1
CM Hammond		6	6	7	4	6
CM Jones				4	4	16
CM Waters	14	15	7	11	1	10
CM Pannell				5	8	3
Council as a whole	2	2	4	3	2	11
Former Council members ⁶	57	20	21	8	8	1

⁶Requests made by former Council members during their terms on the Council were aggregated and set forth on this line.

Totals	116	74	69	57	29	76
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3. Council Assignments Completed/Pending.

The table set forth below tabulates City Council assignments completed during 1997, FY 1997-1998, FY 1998-1999, FY 1999-2000, and FY 2000-2001 and those which have been carried over into the subsequent year.

Year	Completed	Carried Over
1996	105	24
1997	79	7
FY 1997-1998	69	4
FY 1998-1999	55	6
FY 1999-2000	32	3
FY 2000-2001	71	14

PART V

LITIGATION

A. GENERAL

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 2001 and compares the results for the past fiscal year with those for five prior reporting periods. **ATTACHMENT C** shows the current composition of the Litigation Section.

Our goal, as in previous years, has been to handle all City litigation on an in-house basis and in the most cost effective manner possible. During Fiscal Year 1998-1999, the Litigation Section implemented a number of efficiency measures. During this Fiscal Year, the Litigation Section continued to focus on refining and standardizing those measures,

which resulted in our ability to continue handling a high number of cases in a cost-efficient manner.

B. STATISTICAL INFORMATION AND SUMMARY OF ACCOMPLISHMENTS

1. Reduction In Litigation Costs. 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 the highest quality legal services. As demonstrated below, we continue to meet those goals.

<u>FISCAL YEAR</u>	<u>OUTSIDE COUNSEL FEES</u>
1993-94	\$1,145, 407
1994-95	\$693,000
1995-96	\$454,594
1996-97	\$342,751
1997-98	\$499,827
1998-99	\$371,535
1999-00	\$138,552
2000-01	\$176,870

The above figures represent an increase in expenditures for outside counsel fees over the prior year. In the past year, we referred only four cases to outside counsel, one from the Litigation Section and three from the Special Projects Section. In each case, our office had a legal conflict of interest which prevented our handling of the matter. The outside counsel expenditures in Fiscal Year 2000-2001 largely arise out of a case tried twice by outside counsel, the first resulting in a hung jury and the second in a verdict in favor of the City. Of the \$176,870.00, approximately \$25,000.00 are recoverable costs which we continue to pursue from the plaintiff. Another significant component was fees in a police suit in which the City prevailed on appeal, saving considerable indemnity exposure. Outside counsel continues to handle several matters which were referred prior to the start of this fiscal year at no cost to the City. Our office has also tendered the defense of four cases to other parties who are defending the City at their expense.

The City's cost for maintaining a staff of in-house attorneys to handle litigation matters rose slightly in Fiscal Year 2000-2001 in comparison to the prior year, primarily due to the need to pay higher salaries to attract and retain experienced attorneys. The in-house hourly rate during Fiscal Year 2000-2001 was \$82.37.

HOURLY ATTORNEY RATES

<u>YEAR</u>	<u>IN-HOUSE</u>	<u>OUTSIDE</u>
1995	\$54.80	\$100.00
1996	\$68.00	\$105.00
1997-98	\$71.80	\$110.00
1998-99	\$84.00	\$115.00
1999-2000	\$79.00	\$120.00
2000-2001	\$82.37	\$130.00

The effective 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 continue to range from 40-65 hours per week.

2. Payout Information. Following is detailed information concerning payouts in Fiscal Year 2000-2001 on cases filed against the City and handled either in-house or by outside counsel. As appropriate, comparisons are made to payout information for prior years.

BODILY INJURY AND PROPERTY DAMAGE PAYOUTS - ALL CLAIMS

<u>Year</u>	<u>Bodily Injury</u>	<u>Property Damage</u>
1994-95	\$2,172,252.52	\$727,787.57
1995-96	\$2,021,002.03	\$631,599.93
1996-97	\$2,248,692.51	\$1,322,481.77
1997-98	\$3,339,003.76	\$1,731,919.04
1998-99	\$3,851,558.03	\$783,561.58
1999-2000	\$3,871,377.20	\$981,392.83
2000-2001	\$3,194,501.74	\$695,082.11

The Fiscal Year 2000-2001 figures include cases settled prior to the filing of lawsuits, as well as those settled after a lawsuit had been filed. The figures include one pay out of \$938,037.64 in a 1999 shooting case resolved by settlement in September 2000 and also include a pay out of \$944,204.18 in a 1999 police automobile accident case resolved by settlement in the fall of 2000.

**PAYOUTS ON CASES HANDLED
BY THE LITIGATION AND SPECIAL PROJECTS SECTION**

The following table shows the total payouts on Risk Management cases closed by the Litigation Section and Special Projects. Costs do not include an hourly rate for attorney time, which would be categorized as attorney's fees, as these matters were handled in house.

<u>Fiscal Year</u>	<u>Cases Closed</u>	<u>Bodily Injury</u>	<u>Property Damage</u>	<u>Costs</u>	<u>Total</u>
1995-96	50	\$920,979.73	\$24,107.47	\$94,070.02	\$1,039,157.22
1996-97	67	\$1,433,645.95	\$21,397.70	\$71,420.62	\$1,526,464.27
1997-98	69	\$2,951,340.17	\$210,192.65	\$67,917.60	\$3,229,450.42
1998-99	97	\$1,065,108.00	\$69,391.00	\$144,043.00	\$1,278,542.00
1999-00	86	\$3,439,974.57	\$91,144.71	\$197,324.20	\$3,728,443.48
2000-01	82	\$2,734,349.80	\$35,355.16	\$248,899.00	\$3,018,603.96

(82 Total cases - Litigation 60 and Special Projects 22)

Litigation:	\$2,244,141.85	\$21,500.00	\$218,378.60	\$2,484,020
Special Projects	\$ 490,208.00	\$13,855.16	\$30,520.40	\$534,583.56

**PAYOUTS ON CASES HANDLED
BY OUTSIDE COUNSEL**

The following table shows the total pay outs on Risk Management cases closed by outside counsel on a fiscal year basis from Fiscal Year 1995-96 forward, including costs and 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

case regardless of the check issuance date. Legal expenses on cases that remain open are not included, but will be reported when closed.

Fiscal Year	Closed Cases	Bodily Injury	Property Damage	Costs/fees	Total
1995-96	17	\$205,235.00	\$113,800.00	\$ 635,279.05	\$978,314.05
1996-97	8	\$206,646.00	\$ 3,453.26	\$ 211,448.95	\$412,548.21
1997-98	16	\$180,500.00	\$ 450.55	\$ 443,237.80	\$624,188.35
1998-99	17	\$141,500.00	\$983,948.00	\$1,446,381.00	\$2,571,829.00
1999-00	17	\$927,520.00	\$ 45,343.16	\$ 286,053.11	\$1,258,916.20
2000-01	6	\$199,000.00	\$ 0.00	\$ 176,870.49	\$375,870.49

PAYOUTS BY SIZE OF PAYMENT

The following is a comparative breakdown, on a fiscal year basis, of pay outs on litigated cases handled by the Litigation Section, Special Projects and outside counsel. The total indemnity paid includes both bodily injury and property damage pay outs 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.

1995-96	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
Under 100K	48	\$330,087.20	\$ 56,221.29	15 \$494,746.23	\$ 56,035.00	
100K-249K	1	\$200,000.00	\$ 36,325.88	2 \$140,532.82	\$263,000.00	
250K-499K	1	\$415,000.00	\$ 1,522.85			
500K-999K						

Over 1 Million					
Grand Total	50	\$945,087.20	\$94,070.02	17	\$319,035.00 \$635,279.05

1996-97	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
	Under 100K	64	\$ 414,825.58	\$ 54,684.90	7	\$ 63,684.65
100K-249K	2	\$ 277,500.00	\$ 15,454.72	1	\$146,414.70	\$ 19,460.68
250K-499K						
500K-999K	1	\$ 760,459.40	\$ 1,281.00			
Over 1 Million						
Grand Total	67	\$1,452,784.98	\$71,420.62	8	\$210,099.35	\$211,448.95

1997-98	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
Under 100K	65	\$ 490,780.54	\$ 61,005.02	16	\$180,950.55	\$443,237.80
100K-249K	2	\$ 363,887.89	\$ 4,276.93			
250K-499K	1	\$497,073.38	\$ 110.65			
500K-999K						
Over 1 Million	1	\$1,809,791.01	\$ 2,525.00			
Grand Total	69	\$3,161,532.82	\$ 67,917.60	16	\$180,950.55	\$443,237.80

1998-99	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
Under 100K	95	\$ 516,642.00	\$129,123.00	15	\$141,500.00	\$1,225,197.10
100K-249K	1	\$ 115,000.00	\$ 5,053.00	1	\$158,948.00	\$ 19,855.02
250K-499K						
500K-999K	1	\$ 502,857.00	\$ 9,867.00	1	\$825,000.00	\$ 201,329.00
Over 1 Million						
Grand Total	97	\$1,134,499.00	\$146,134.99	17	\$1,125,448.00	\$1,444,289.01

1999-00	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	41		\$ 31,805.60	12		\$
				36,908.00		
Under 100K	39	\$ 807,388.08	\$ 61,059.61	2	\$ 79,343.160	\$182,036.80
100K-249K	4	\$ 457,594.89	\$ 11,379.66	2	\$243,520.00	\$ 67,108.31
250K-499K	1	\$ 319,254.39	\$ 39,961.25			
500K-999K				1	\$650,000.00	\$ 0 ⁷
Over 1 Million	1	\$1,946,881.92	\$ 53,118.08			
Grand Total	86	\$3,531,119.28	\$197,324.20	17	\$972,863.16	\$ 286,053.11

2000-01	Litigation Cases			Outside Counsel Cases		
	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses

⁷ Costs incurred in connection with this case were not paid until after the close of the 1999-2000 Fiscal year, and will be included in next year's Annual Report.

Closed without payment	Litigation 31 SPS 9					
Under 100K	Litigation 27 SPS 12	\$361,900.03 \$240,208.00	\$123,700.43 \$ 26,823.63	6	\$199,000.00	\$176,870.49
100K-249K	Litigation 0 SPS 0					
250K-499K	Litigation 0 SPS 1	\$250,000.00	\$3,696.77			
500K-999K	Litigation 2	\$1,882,241.82	\$94,678.17			
Over 1 Million						
Grand Total	Litigation 60 SPS 22	\$2,244,141.85 \$ 490,208.00	\$218,378.60 \$ 30,520.40	6	\$199,000.00	\$176,870.49

3. **New Cases.** The following charts show the number of all new civil cases, and the number of new risk cases filed in Fiscal Year 2000-2001 and five previous reporting periods.

NUMBER OF ALL NEW CIVIL CASES

<u>1996</u>	<u>1997</u>	<u>1979-98</u>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>
228	172	219	217	267	191 Litigation 35 SPS 226

NUMBER OF NEW RISK CASES FILED

<u>1996</u>	<u>1997</u>	<u>1979-98</u>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>
80	62	73	80	98	74 Litigation 19 SPS 93

4. **Profile of Opened Cases.**

a. Types of Cases. The following chart shows the type and nature of new cases filed in Fiscal Year 2000-2001, and in five previous reporting periods.

Fiscal Year	1996	1997	1998	1999	2000	2001		
Risk Cases						Lit #'s	SPS #'s	Total
Tort	71	53	58	60	79	54	8	62
Civil Rights	4	8	13	13	11	27	1	28
Employment	2	0	2	4	1	1	1	2
Inverse Cond.	3	0	0	1	0	0	1	1
ADA	<u>0</u>	<u>1</u>	<u>0</u>	<u>2</u>	<u>7</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	80	62	73	80	98	82	11	93
Neighborhood Services Cases								
Drug Abatement	8	1	1	4	2	0	0	0
Housing	20	18	12	13	22	0	7	7
Code Case	<u>9</u>	<u>7</u>	<u>7</u>	<u>2</u>	<u>16</u>	<u>0</u>	<u>4</u>	<u>4</u>
Total	37	26	20	19	40	0	11	11
Miscellaneous Cases								
Eminent Domain	0	1	18	7	5	0	1	1
Weapons Cases	20	22	23	30	33	33	0	33
Writ Actions	11	6	8	8	2	3	7	10
Contract/Stop Notices	11	2	6	1	1	3	1	4
Subrogation	35	15	15	19	10	11	0	11
Other general	<u>16</u>	<u>18</u>	<u>23</u>	<u>16</u>	<u>52</u>	<u>46</u>	<u>4</u>	<u>50</u>
Total	93	64	97	81	103	96	13	109
Administrative Hearings								
Discipline	12	16	24	33	15	11	0	11
Retirement	<u>5</u>	<u>4</u>	<u>5</u>	<u>4</u>	<u>11</u>	<u>2</u>	<u>0</u>	<u>2</u>
Total	17	20	29	37	26	13	0	13
Total	227	172	219	217	267	191	35	226

b. Police-Related Cases. Of the 62 tort cases opened in Fiscal Year 2000-2001 by the Litigation Section and Special Projects Section, there were 10 police-related cases. Of these 10 cases, 7 involved allegations of police misconduct and 3 involved other claims for personal injury or property damage. Of the 7 police misconduct cases, 5 involved allegations of excessive force and 2 involved allegations of false arrest.

Of the 28 civil rights cases opened in Fiscal Year 2000-2001 by the Litigation Section and Special Projects Section, 16 involved allegations of excessive force. Of these 16 cases, 8 allege use of excessive force; 6 allege false arrest; and 2 allege civil rights violations for incidents related to the plaintiffs' arrests or citations in which claims of racial profiling are made. Three of the false arrest lawsuits allege racial discrimination. One lawsuit involves a plaintiff charged with interference with a peace officer and resisting arrest.

5. In-House Handling by Litigation and Special Project Sections.

The office continues to retain a high number of cases for handling in-house. In Fiscal Year 2000-2001, four new cases were referred to outside counsel.

The following chart compare the number of cases handled in-house and those referred to outside counsel for Fiscal Year 2000-2001 and five previous reporting periods. The smaller number in parentheses for outside counsel is the number of new cases referred to outside counsel in each reporting period.

CASES HANDLED IN-HOUSE AND BY OUTSIDE COUNSEL

	1996	1997	1997-98	1998-99	1999-2000	2000-01
In-House	383	417	463	430	481	467 (128 for SPS 339 for Litigation)
Outside Counsel	29 (9)	18 (13)	18 (0)	18 (9)	7 (6)	13 (4)

We are pleased that the number of cases handled by outside counsel continues to go down from prior years, and declined during the past fiscal year. The cases listed in the above chart reflect the total number of cases referred to outside counsel, as well as those unresolved cases already assigned to outside counsel.

6. Total Closure Rate for Cases Handled In-House in Fiscal year 2000-2001.

The number of cases and case closure rates for cases handled in-house from 1996 through Fiscal Year 2000-2001 are shown below. The closure rate during any given year is

dependent upon a variety of factors, including the number and type of cases handled from year-to-year, and the complexity of the cases handled.

	<u>1996</u>	<u>1997</u>	<u>1997-1998</u>	<u>1998-1999</u>	<u>1999-2000</u>	<u>2000-2001</u>
No of Cases Closed	199	156	250	239	229	249 (69 for SPS 180 for lit)
Rate of Closure	51%	38%	54%	55%	49%	53%

7. Case Load. The average number of cases handled by attorneys is shown in the following chart:

AVERAGE NUMBER OF CASES HANDLED PER ATTORNEY

<u>1996</u>	<u>1997</u>	<u>1997-1998</u>	<u>1998-1999</u>	<u>1999-2000</u>	<u>2000-01</u>
63.8	69.5	77.1	71.6	73.1	66.85

8. Average Attorney Hours Per Case. Shown below are the following (i) average number of attorney hours expended per type of case handled by the Litigation Section during Fiscal Year 2000-2001; and (ii) the savings to the City on a per case basis, utilizing an hourly rate of \$ 82.37 for in-house attorneys and \$130.00 for outside counsel.

<u>Case Type</u>	<u>Avg Hours per Case</u>	<u>Avg Savings Per Case</u>
Civil Rights	98.3	\$4682.03
Disciplinary Hearings	78	\$3715.14
Housing/Code Enforcement	19.2	\$9145.00
Retirement Hearings	80	\$3810.40
Subrogation	28.3	\$1347.93
Tort	61.6	\$2934.01
Weapons Petitions	4.5	\$214.34
Writ Actions	47.5	\$2262.43
Miscellaneous	13.75	\$654.91

9. In-House Paralegal and Investigative Services. The City continues to realize a savings as a result of performing paralegal and investigative work on an in-house basis. Our office has two investigators, one assigned to the Special Projects section and the other to the Litigation section. The Special Projects investigator started in September of 2000.

Outside counsel typically charge the City \$65.00-\$75.00 per hour for their paralegal time. Additionally, outside process servers continue to charge approximately \$35.00-40.00 per hour for serving summons and subpoenas. The amount for service goes up if the process server is unable to complete service of process on the first attempt, or is required to go outside of Sacramento County. Many of our services involve multiple attempts, particularly in those cases where the City has initiated a lawsuit (such as Neighborhood Services cases, eminent domain and subrogation lawsuits). During the Fiscal Year 2000-2001, our in-house investigators completed 145 services of complaints and subpoenas, approximately 20 more than last year. Had the service of process been referred to outside process servers, it would have cost the City a minimum of \$5,075.00 in process service fees. Our investigators also conducted over 100 interviews of witnesses, took photographs and conducted other investigations including locating people in a variety of cases.

10. Other Statistical Information.

a. *Number of claims filed against the City*

<u>1996</u>	<u>1997</u>	<u>1997-1998</u>	<u>1998-1999</u>	<u>1999-2000</u>	<u>2000-2001</u>
739	933	899	842	843	606

b. *Claims resolved prior to litigation*

<u>1999-2000</u>	<u>2000-01</u>
804	421

c. *Claims resolved prior to litigation without payment*

<u>1999-2000</u>	<u>2000-01</u>
496	239

During the reporting period, 421 of the 606 claims filed were resolved prior to litigation. This represented a 69.5% closure rate of claims before litigation was commenced. Also during this period, the 239 of the 606 claims resolved were disposed of with no payments. The resolution of claims without payment represents 39.5% resolution of all pre-litigation claims. This excellent work by Risk Management represents a significant savings in litigation costs.

d. *Average aging of resolved claims*⁸

PRE-LAWSUIT CLAIMS

Fiscal Year	Claims resolved with payment of money	Claims resolved without payment of money
1995-96	4.13 months	8.19 months
1996-97	5.35 months	8.05 months
1997-98	4.58 months	7.56 months
1998-99	2.88 months	5.64 months
1999-00	2.04 months	3.39 months
2000-01	1.94 months	3.0 months

LITIGATED CLAIMS

Fiscal Year	City Attorney's Office		Outside Counsel	
	Cases resolved with payment of money	Cases resolved without payment of money	Cases resolved with payment of money	Cases resolved without payment of money
1995-96	22.83 months	21.36 months	16.26 months	23.06 months
1996-97	18.89 months	17.99 months	8.03 months	18.37 months
1997-98	19.26 months	14.36 months	16.13 months	14.15 months
1998-99	12.67 months	11.46 months	1.70 months	8.73 months
1999-00	N/A	4.05 months	N/A	5.53 months
2000-01	24.32months Lit 32.63months SPS	8.62 months 12.6 months SPS	55.83	N/A

⁸ The litigated claims include both cases litigated by outside counsel and the Litigation Section. Aging is based on the date of loss to date of closure; payment is then apportioned back to the fiscal year of the date of loss.

e. *Number of aged cases over 24 months*

This item, for which we started capturing data as of Fiscal Year 1998-1999, tracks the number of cases that have been pending 24 months or longer calculated from the date the case was assigned to counsel. In Fiscal Year 2000-2001, the City Attorney's Office handled 61 cases with aging ranging from one to three and a half years. Two of these cases were transferred from federal court to state court, with a corresponding delay in the proceedings. One of these cases was subsequently dismissed by the state court judge, and the other is the subject of a stay order. The remaining case is still pending in federal court. It is typical in federal court to schedule cases for trial as far out as 2-3 years from the case filing date.

f. *Number of torts/civil rights and other damages cases initiated against the City*

<u>1996</u>	<u>1997</u>	<u>1997-1998</u>	<u>1998-1999</u>	<u>1999-2000</u>	<u>2000-2001</u>
162	81	93	109	102	94

g. *Number of cases initiated by the City*

<u>1996</u>	<u>1997</u>	<u>1997-1998</u>	<u>1998-1999</u>	<u>1999-2000</u>	<u>2000-2001</u>
100	67	87	75	56	56

h. *Number of New Neighborhood Services Cases Handled by the City*

<u>1996</u>	<u>1997</u>	<u>1997-1998</u>	<u>1998-1999</u>	<u>1999-2000</u>	<u>2000-2001</u>
37	26	20	19	11	11

The 56 cases initiated in Fiscal Year 2000-2001 by the Litigation Section and Special Projects Section included the following: 11 subrogation actions; 33 weapons confiscation petitions; 11 neighborhood services enforcement cases; and 1 eminent domain action.

10. Internal employment related cases. Of the 94 torts and civil rights lawsuits filed against the City in Fiscal Year 2001, 1 case involved allegations of disability and age discrimination by a former City employee. This case was retained for handling in-house.

11. High profile litigation. During Fiscal Year 2001, the Litigation Section handled the following high profile and/or complex litigation. Due to the fact that 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 (Alleged failure to pay overtime to police academy recruits)

Case No. 2 (Settled. Civil rights violation, police misconduct, improper search)

Case No. 3 (Dismissed. Civil rights violation - alleged false arrest by police officer)

Case No. 4 (Racial discrimination in employment)

Case No. 5 (First Amendment case related to demotion of police officer)

Case No. 6 (Civil rights violation, false arrest, false imprisonment, excessive force)

Case No. 7 (Civil rights violation, police officer involved shooting)

Case No. 8 (Alleged Police misconduct by an officer on an off duty job)

Case No. 9 (Civil rights violation, allegation of racial discrimination in a police stop)

Case No. 10 (Settled. Personal injury case - police motor vehicle accident)

Case No. 11 (Disability discrimination lawsuit by former City employee, dismissed appeal pending)

Case No. 12 (Civil rights case - police officer involved shooting)

Case No. 13 (Tendered. Dangerous condition involving person burned)

Case No. 14 (Application for a disability retirement)

Case No. 15 (Settled. Tort. Alleged wrongful abatement of personal property in the street and in front of his residence.)

13. Selected Litigation Successes. The following high profile, potentially high exposure, and/or complex cases were successfully handled by the Litigation Section during the Fiscal Year 2001. The names of individual plaintiffs and defendants are not disclosed.

Case No. 16: This was a civil rights action brought by a person bitten by a police dog. The City filed a motion for summary judgment that was granted.

Case No. 17: This was a complaint for property damage following the arrest of the plaintiff's employee. The property was burglarized and plaintiff alleged that the burglary was due to the police officers' failure to properly secure the property following the arrest. The City was able to secure a dismissal of all claims upon settlement for \$1001.00.

Case No. 18: This was a complaint for false arrest, battery and false imprisonment. This matter settled for a minimal amount of money.

Case No. 19: This was a complaint for personal injuries and civil rights violations allegedly arising out of improper activities occurring at a City sponsored event between the plaintiff and several other minor females. The City was able to negotiate a favorable settlement in this matter.

Case No. 20: The City was successful in recovering \$17,278.00 from a construction company for damage caused by them while performing curb cuts for the City to make sidewalks accessible to disabled persons. In the course of their work, the construction company struck and damaged a subsurface installation consisting of City fiber optic lines and cables

Case No. 21: This was a complaint for excessive force and violation of civil rights. The plaintiff disobeyed police officers and interfered during the course of a traffic stop and was subsequently arrested. The City filed a motion for summary judgment that was granted. Plaintiff waived any potential appeal in this matter in exchange for a waiver of costs.

Case No. 22: This was a lengthy discipline case that involved a demotion of a Police Department employee. The City prevailed in this matter.

Case No. 23: This was an inverse condemnation case. Plaintiff alleged that the City placed a storm pipe, drainage ditch, and bamboo on his property. Plaintiff eventually dismissed his action with no payout from the City.

Case No. 24: This was a complaint alleging violation of civil rights, inverse condemnation and other claims arising from a stop work order placed on plaintiff's property. The City was able to secure a dismissal prior to Demurrer.

Case No. 25: Plaintiff sued for the City for disability and age discrimination arising out of his alleged forced retirement. The Court granted the City's motion to dismiss and affirmed sanctions.

Case No. 26: A former Police Department employee applied for a disability retirement. Following an administrative hearing, an administrative law judge agreed with the City and denied the application for disability benefits.

Disciplinary Actions: The Litigation Section successfully handled a number of difficult and high profile disciplinary actions involving the suspension, demotion or termination of City employees. The City prevailed in proceedings involving the demotion of a police employee, the termination of a firefighter for off duty conduct, the termination of a supervisor at animal control, and the termination of a sanitation worker.

Retirement Appeal: The Litigation Section successfully defended the appeal of a former police employee's request for an industrial disability retirement which would have meant several hundred thousand dollars to the retirement system.

Subrogation Cases: The Litigation section filed 11 subrogation lawsuits to recover Worker's Compensation benefits and property damage caused by third parties which resulted in the recovery of \$108,044 through settlement as well as judgments for an additional \$28,044.20.

PART VI

SPECIAL PROJECTS

A. GENERAL

The Special Projects Section (SPS) was created in March 2000 to facilitate training, to develop a pilot project for misdemeanor prosecutions of City Code violations and to handle a number of other special assignments.

SPS was designed to provide limited vertical handling of some high profile matters which might require the assignment of more than one attorney or matters which require a greater continuity as they move from Advisory to Litigation. This section was also designed specifically to meet the concerns of the City Council with respect to code enforcement issues. The past fiscal year, SPS handled all aspects of code enforcement including advisory, litigation and criminal matters. In addition to code enforcement, the new section handled matters related to high profile litigation, extraordinary relief, injunction monitoring, collections, asset seizure, intellectual property, elections, and finance matters. **ATTACHMENT D** is a list of the various assignments that were handled by the Special Projects Section along with a list of the attorneys assigned to those projects.

In June 2001, a new Code Enforcement Section was created to handle all administrative, civil and criminal code enforcement work. This portion of the annual report will provide an overall scope of the duties and responsibilities of SPS during the past fiscal year and our new duties for Fiscal Year 2001-2002.

B. SPECIAL PROJECTS – ADVISORY

SPS received 553 new advisory assignments in Fiscal Year 2001. At the time of this reporting period, 475 of the assignments had been completed. Many of the assignments (104) came from the area of finance/economic development, 42 assignments came from Code Enforcement and Housing and Dangerous Buildings, and a substantial number of advisory assignments were related to North Natomas development issues.

C. SPECIAL PROJECTS -- LITIGATION

During the course of the past fiscal year, SPS had the equivalent of 2 FTEs assigned to litigate special projects cases. Detailed figures can be found in the litigation section of this report.

SPS successfully handled the following high profile and/or complex cases:

Case No. 27: Successfully defended the City's 457 plan from creditors in an employee's bankruptcy proceeding in an amicus brief.

Case No. 28: 1983 action alleging unlawful search and seizure and destruction/theft of property was successfully tried to a unanimous jury verdict in favor of all named defendants in federal court.

Case No. 29: Plaintiff was a former employee who asserted numerous causes of action based primarily upon his purported termination in violation of public policy. Motion for summary judgment granted.

Case No. 30: A fairly simple tort case where a City solid waste truck lowered a garbage can on the plaintiff. She failed to comply with the tort claims act. Motion for summary judgment granted.

Case No. 31: The Ninth Circuit affirmed dismissal of Plaintiff's §1983 action against the City. Plaintiff claimed the City had a policy of inadequate training for CSO's.

Case No. 32: The Federal District Court dismissed Plaintiffs' claim that sidewalks are a "program" under the ADA and Rehabilitation Act. Had the court found in favor of the Plaintiffs, the City would have had an obligation to make the sidewalks "accessible" which in a great many instances would have meant tearing out and replacing sidewalks. The matter is currently pending in the Ninth Circuit.

Case No. 33: Three employees claimed sexual harassment over a period of several years. After extensive discovery, a favorable settlement was obtained.

Case No. 34: Plaintiff filed a lawsuit against an SPD officer for false arrest and excessive force. In the criminal trial the plaintiff was acquitted and found factually innocent of all charges against him. Despite the strength of the plaintiff's civil case we were able to favorably settle the matter and avoid a protracted trial.

D. CRIMINAL PROSECUTION

After several months of investigation and preparation, the transition process commenced in July, 2000, and criminal prosecution was initiated February 5, 2001.

The city has the option of pursuing code violations on an administrative level, through civil action or criminally. We created the screening and charging guidelines which were approved by the City Council on January 3, 2001. These guidelines identify the factors for the city to consider when determining whether or not to file criminal charges. The guidelines also contain a list of violations that the City will focus on for criminal prosecution where the charging guidelines are met. These are the matters of greatest concern to the neighborhoods. Finally, the guidelines identify the circumstances that balance in favor of prosecution such as repeat violators, prior convictions, the magnitude of the violation and the magnitude of the threat to health and safety.

City Code violations involving juveniles will remain under the jurisdiction of the District Attorney's Office for the present. There will also be instances where the District Attorney will defer to the City Attorney's office, and vice versa on matters that involve both state code and city code violations.

The District Attorney currently has a grant from the federal government which places a half-time Deputy District Attorney in the City of Sacramento's Avondale and Glen Elder neighborhoods. The District Attorney also has a similar grant placing a half-time Deputy District Attorney in Sacramento Police Department Sector 2, which generally covers Council District 2. The District Attorney currently acts as the sole prosecuting agency for cases involving a violation of the City Code in these areas. In the near future, the MOU will be modified to reflect that the City Attorney's Office will handle City code violations occurring in Sector 2.

The primary objective in transferring these matters to the City Attorney's Office is to maximize the time both the City Attorney and the District Attorney are able to devote to handling misdemeanor matters committed within the City. The District Attorney will now be afforded more staff time to handle state code violations that occur within the jurisdiction of the city.

Below is a list of all matters referred to the City Attorney's office for criminal prosecution between February 5, 2001 and June 30, 2001.

1. Matters Referred for Criminal Prosecution

	Feb	Mar	Apr	May	Jun	Total
Number of cases referred:	35	20	21	32	16	124
Number of Citations and Criminal Complaints filed	30	17	25	29	18	119
Number of Cases Closed:	8	8	11	13	23	63

2. Most Common Violations Referred by Departments

Violation Charged	Total Cases	Referring Department
Unlawful Camping	70	Police Department
Drinking in Public	6	Police Department
Loitering	4	Police Department
Jaywalking/Entering Crosswalks	2	Police Department
Loud Stereo	4	Police Department
Animal Barking/Unlicensed Dog	9	Public Works - Animal Control
Violating Notice to Vacate	5	Neighborhood Services
Violation of Dangerous Buildings	3	Neighborhood Services
Illegal Activity Detrimental to Life and Health	3	Neighborhood Services

3. Disposition of Cases

	Feb	Mar	Apr	May	Jun	Total
Cases Dismissed in the Interest of Justice by CAO	1	2	4	4	8	19
Bench Warrants	9	5	10	8	12	44

Failures to Appear	10	7	10	9	12	48
Guilty Pleas	1	5	5	1	9	21
Court Trials	0	1	0	1	3	5

4. Case Disposition Per District

	Dist. 1	Dist. 2	Dist. 3	Dist. 4	Dist. 5	Dist. 6	Dist. 7	Dist. 8	Totals
Cases 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 Pleas	10	1	3	0	4	0	1	2	21
Court Trials	3	0	0	2	0	0	0	0	5

E. CODE ENFORCEMENT

Advisory code enforcement matters were previously handled in the Advisory Section, while litigation related to code enforcement was generally handled by the Litigation Section. The creation of the Special Projects Section in Fiscal Year 2000 allowed all code enforcement matters, whether administrative, civil or criminal, to be handled in one section. These matters were transferred to the Code Enforcement Section for fiscal year 2001-02.

1. Total Number of Code Enforcement Assignments

As shown below, SPS processed 313⁹ requests for legal assistance on code enforcement matters in Fiscal Year 2001, as compared to 367 requests in Fiscal Year 2000, 330 requestes in Fiscal Year 1999, 219 requests in Fiscal Year 1998, and 220 requests in calendar year 1997. Included within these figures are requests related to proceeding with

⁹The number of code enforcement cases identified above does not include criminal prosecution cases.

enforcement action against individual properties, as well as requests for legal opinions. The figures include requests from CAT, Housing and Dangerous Buildings and Code Enforcement. These figures are generally limited to requests involving individual properties, and do not include assignments related to broader requests, such as requests for legislation. In addition, there were 15 public record act requests and 34 vehicle abatements handled by SPS.

TOTAL NUMBER OF CODE ENFORCEMENT ASSIGNMENTS 1997-2001

1997	FY 97-98	FY 98-99	FY 99-00	FY 00-01
220	219	330	367	313

NUMBER OF CODE ENFORCEMENT ASSIGNMENTS BY TYPE

Assignment Type	1998-1999	1999-2000	2000-2001
Abatement	60	40	30
Demolition	110	134	118
Notice to Vacate	2	9	5
Opinion	33	38	38
Refer to Litigation	3	5	6
Securement	102	129	110
PRA Request	N/A	N/A	15*
Vehicle Abatement	N/A	N/A	34*
TOTAL	310	355	356

* These statistics not available for prior years.

2000-01 CODE ENFORCEMENT ASSIGNMENTS BY COUNCIL DISTRICT

Assignment Type	Dist.1	Dist.2	Dist.3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Total
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
Litigation	1	0	1	2	1	0	0	1	6
Securement	5	25	6	2	26	9	1	16	110
Warrant	1	1	0	1	3	0	0	0	6
TOTALS:	16	99	11	15	100	22	3	27	313

1999-00 CODE ENFORCEMENT ASSIGNMENTS BY COUNCIL DISTRICT

Assignment Type	Dist.1	Dist.2	Dist.3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Total
Abatement	2	15	0	0	15	2	2	4	40
Demolition	10	59	1	4	48	8	2	2	134
Notice to Vacate	0	5	0	0	3	1	0	0	9
Opinion	3	13	3	3	9	1	1	5	38
Refer to Litigation	0	1	0	1	1	0	0	2	5
Securement	6	40	2	0	53	11	1	16	129
Warrant	0	2	0	0	6	3	0	1	12
TOTALS:	21	135	6	8	135	26	6	30	367

1998-99 CODE ENFORCEMENT ASSIGNMENTS BY COUNCIL DISTRICT

Assignment Type	Dist.1	Dist.2	Dist.3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Total
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Abatement	2	32	1	1	14	2	1	6	60
Demolition	4	45	2	3	40	8	0	8	110
Notice to Vacate	0	0	0	0	0	1	0	1	2
Opinion	3	17	0	2	6	2	0	3	33
Refer to Litigation	1	0	1	0	0	0	0	1	3
Securement	4	45	1	6	18	6	0	22	102
Warrant	1	10	0	0	8	0	1	0	20
TOTALS:	15	149	5	12	86	19	2	42	330

2. Comparison of Code Enforcement Assignments in FY 2001 with Prior Years

In the Fiscal Year 1998-99 Annual Report, figures were provided for the number of demolition requests, requests for summary abatement, requests for abatement warrants, and the number of files referred to litigation in 1998 and FY 1998-99. For comparison purposes, set forth below is a chart showing the same information for the Fiscal Years 2000-01, 1999-00, 1998-99 and 1997-98, and calendar year 1997.

SELECTED ASSIGNMENTS

Nature of Request	1997	FY 97-98	FY 98-99	FY 99-00	FY 00-01
Demolition Requests ¹⁰	66(1)	66(5)	110(19)	134(24)	118(14)
Summary Abatement	57	64	72	40	30
Abatement Warrants	9	18	20	12	6
Files Referred to Litigation	11	11	14	5	6

¹⁰The numbers in parentheses indicate the number of demolition requests denied by this office. Some of these matters were resubmitted after consideration of legal advice and approved.

F. ENFORCEMENT OF VEHICLE SEIZURE ORDINANCE

Proceedings under the Vehicle Seizure Ordinance (also known as “Beat Feet”) approved by the City Council in August, 1999 are handled by the Special Project Section. The Sacramento Police Department and the City Attorney’s Office have worked together to formulate a procedure that resulted in the seizure of 72 vehicles in Fiscal Year 2001. These vehicles were used in prostituion or drug offenses.

An annual report on vehicle seizures was presented to the council on February 13, 2001. At that time, the ordinance was amended to provide that the attempt to solicit as well as loitering for the purpose of solicitation or acquiring a controlled substance, constituted a violation of the ordinance under which vehicle seizure could occur.

The ordinance was also amended in February 2001 to allow seized vehicles to be donated to charitable organizations. The final amendment specifies that costs associated with enforcement be reimbursed prior to distribution of the remaining funds between the enforcing legal office and law enforcement.

In October 2000, the California Supreme Court denied review of the decision by the First District Court of Appeals which held that the Oakland ordinance (upon which the Sacramento ordinance is based) is not preempted by State law. This allows Sacramento’s Beat Feet ordinance to stand as valid law. We have not received any further legal challenges to our ordinance to date.

Since the implementation of the “Beat Feet” operation, approximately \$58,077 has been recovered in enforcement costs. Between January 1 and June 30, 2001, \$19,067 has been expended in operating expenses including tow fees, hotel use, equipment and operational support supplies.

The average labor cost for each operation based on 14 officers for seven hours, is \$3,700. For calendar year 2000, the police department’s operating budget absorbed approximately \$48,000 in labor costs associated with Beat Feet operations only.

The following charts break down by council district the number of vehicles seized; the number of vehicles forfeited; the disposition of the vehicle; the number of owners arrested; the number arrested who reside in Sacramento County but outside the district where the sting occurred; and the number arrested who reside outside of Sacramento County.

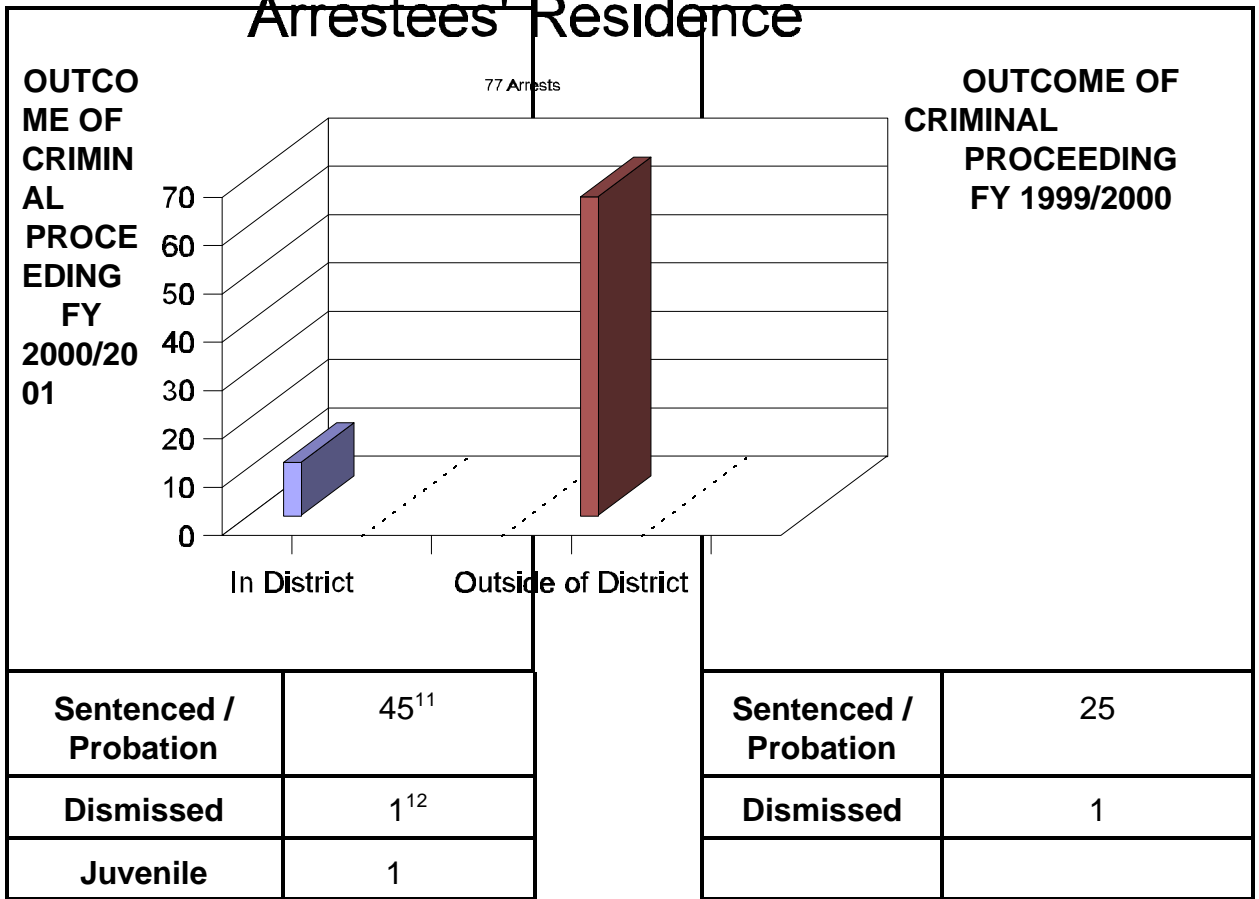
BREAKDOWN BY DISTRICT – FY 2000-01						
	D - 2	D - 5	D - 6	D - 7	D - 8	TOTALS
Number of SPD “Stings”	4	2	5	1	1	13

Number of Vehicles Seized	19	11	35	2	5	72
Number of Vehicles Forfeited	1	1	7	0	1	10
Number of Vehicles Donated	1	0	1	0	0	2
Number of Vehicles Returned in Settlement Agreement	16	10	27	2	4	59
Number of Arrestees Residing Outside of Arrest Area	15	10	36	2	3	66
Number of Arrestees Residing Inside of Arrest Area	4	2	3	0	2	11

BREAKDOWN BY DISTRICT – FY 1999/2000				
	D - 2	D - 5	D - 6	TOTALS
Number of SPD “Stings”	2	1	3	6
Number of Vehicles Seized	7	3	16	26
Number of Vehicles Forfeited	2	0	3	5
Number of Vehicles Donated	0	0	0	0
Number of Vehicles Returned in Settlement Agreement	5	3	13	21
Number of Vehicles Owned By Arrestees	4	2	9	15
Number of Arrestees Residing In Area of Arrest				
Number of Arrestees Residing Outside of Sacramento County	1	0	1	2

DISPOSITION OF CRIMINAL CASES

Arrestees' Residence



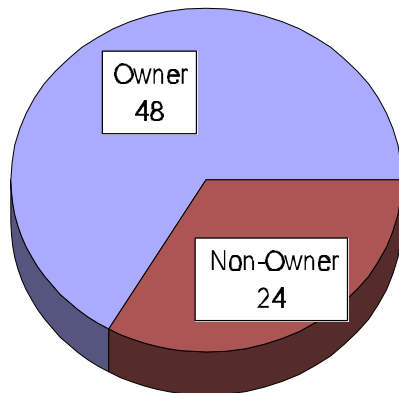
2000-2001

¹¹ In addition, 30 cases have not yet been resolved.

¹²The arrestee was charge with probation violation and the City charge was dismissed.

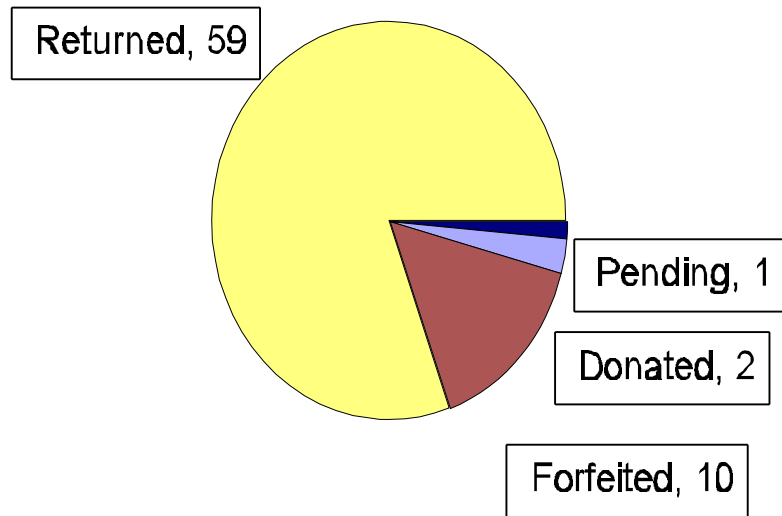
2000-2001

Arrestees' Relationship to Vehicle Seized



Disposition of Seized Vehicles

72 Vehicles Seized in FY 2000/2001



G. IMPOUNDMENT OF MARITIME VESSELS

Cases dealing with impoundment of maritime vessels under the Boat Removal Ordinance will be handled by the Code Enforcement Section in the future. The City Attorney's Office was not called upon to provide legal assistance in seizing any vessels in fiscal year 2000-01.

Part VII

FIVE YEAR ACTION PLAN

To further our mission to provide the highest quality legal services, each year we prepare and closely monitor a plan designed to: (1) promote efficient and cost-effective delivery of such services; (2) assist us in taking advantage of technological advances; and (3) foster employee and overall office growth and development. These plans do not focus on the routine, daily work performed by the office.

Prior to last year, one year action plans were prepared. Commencing with Fiscal Year 2000, we began developing action plans for a five-year period, which we believe will be more beneficial to our long-range planning process. This year's five-year plan reflects adjustments to add new projects as well as to delete completed projects. In last year's report, we indicated that the initial five-year plan would likely be the subject of significant change during its first three years. That prediction was accurate, as a review of this year's five year plan reveals.

The discussion in this section is divided into two parts: i) a brief summary of the Five Year Plan for 2001-2005, and the progress made on achieving the goals of that plan; and ii) an updated Five Year Plan for Fiscal Years 2002-2006.

A. SYNOPSIS OF 2001-2005 ACTION PLAN

The five-year plan adopted last year established Internal and External Goals. Internal Goals were divided into three categories: administrative matters; training; and client service. Following are brief summaries of the goals included in the 2001 five year plan and the progress made towards achievement of those goals.

INTERNAL GOALS

Administrative Matters

Goals: Goals pertaining to administrative matters included: preparation and updating of section manuals; development of the Special Projects Section; review and implementation of the recommendations made following a voluntary audit of the office; succession planning; assessing and providing for office space needs; criminal prosecution of code violations; automation upgrades; salary survey; and cost recovery.

Progress: Following are highlights of the progress made on achieving the goals of last year's Five Year Plan.

i) *section manuals:* The Litigation Manual, and to a lesser extent the Advisory Manual, were revised and updated to reflect changes in the law as well as the office's practices and procedures. Work on the Administration Manual continued during the past fiscal year; however, due to management's need to focus on the criminal prosecution process, less time than anticipated was spent on this task.

Substantial work has been done on the Special Projects Section Manual. It is anticipated that, with the removal of code enforcement and criminal prosecution responsibilities from the Special Projects Section, the Special Projects manual will be completed in the next fiscal year. With the creation of the Code Enforcement Section, there will be a need to prepare a separate manual for that section.

ii) *Special Projects Section:* The Special Projects Section completed its first year of operation. Systems were established to track the code enforcement, advisory and litigation assignments handled by the section. Significant time was devoted to establishing the systems and procedures necessary to handle criminal prosecutions.

iii) *criminal prosecution of code violations:* Criminal prosecution of City Code violations commenced in February, 2000. A separate Code Enforcement Section was created at the end of the year to handle criminal prosecutions and all other code enforcement matters.

iv) *office space needs:* Additional space was obtained during the past fiscal year to accommodate the growth in staffing. This space is located on the seventeenth floor of the U.S. Bank Building, and is adjacent to the additional space acquired in Fiscal Year 2000. To the extent additional space is needed, every effort will be made to create additional work space within existing facilities for all staff until the new City Hall annex is constructed. The three current leases expire in February 2003.

v) *automation upgrades*: Each year, our office experiences major automation upgrades in an attempt to keep pace with some of the more important technological advancements available for use in law offices. This past fiscal year was no exception. During Fiscal Year 2001, our automation improvements included: ProLaw case management database software purchase and customization; new SQL Server for ProLaw; connection to County Mainframe established for use by criminal prosecution section; faster connections in office and across WAN links with newer fiber lines and better Cisco switches; new laptops, color printers, color copier, digital cameras and scanner; new CD burners and software; additional presentation software including Corel Draw and Adobe PageMaker applications; installation of NDPS Network Printers; replace LaserJet 5 Printers with new 4100 models; Installation of Zenworks for Desktops ver.2; purchasing PCs with 1ghz Pentium processors; creation of computer self help web page for City Attorney staff; creation of City Attorney's Office web page.

Training

Goals: Training goals included assistance and guidance to staff in drafting legislation; municipal law orientation of new attorneys or those unfamiliar with drafting legislation; and the cross-training of attorneys to handle a broad array of litigation and advisory assignments.

Progress:

i) *legislation drafting assistance*: An in-house manual for use by attorneys was prepared in Fiscal Year 2000, and a version for non-attorneys was prepared and distributed last year.

ii) *municipal law orientation*: Work on preparation of materials for orientation of new attorneys and staff continued.

Client Service

Goals: Our goals were to continue to refine our handling of code enforcement matters, including the addition of criminal prosecution remedies; and to further implement a plan to use other public law office counsel when conflict of interest situations arise.

Progress:

i) *code enforcement*: Code enforcement continued to be a priority of the office, and continued at the same general pace as in prior years. At the end of the year, code enforcement responsibilities were transferred to the newly created Code Enforcement Section.

ii) *criminal prosecution*: The use of criminal prosecutions as a code enforcement tool commenced. Responsibility for criminal prosecution was transferred to the Code Enforcement Section at the end of the year.

EXTERNAL GOALS

Goals:

“External Goals” included: i) conducting client surveys regarding their needs and expectations; ii) emphasizing liability prevention, through legal awareness seminars and other methods; iii) monitoring and providing advanced legal advice on major projects, iv) formulating an improved document retention and retrieval policy; v) the development of E-Government (the use of technology to deliver municipal services); vi) legal advice and assistance in sphere of influence/annexation projects; and vii) reviewing and advising on state and federal legislation.

Progress

i) *liability prevention*: As noted in the Advisory Section discussion, several seminars and training sessions for staff were conducted by this office. The topics included CEQA, the ADA and administrative hearing procedures.

ii) *sphere of influence/annexation projects*: The Special Projects Section has been actively involved in advising staff on several active projects that raise sphere of influence and annexation issues.

iii) *state and federal legislation review and advice*: Following the end of the legislative term, this office reviewed and prepared summaries of legislation relevant to City departments and staff.

2002-2006 FIVE-YEAR ACTION PLAN

Below is a list of projects and programs we 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.

I. INTERNAL GOALS

A. Administrative Matters

1. Section Manuals. We have prepared manuals for the various section of the office. These manuals are designed to reduce the amount of time required to gain working knowledge in new areas as well as to reduce stress associated with such learning curves. These manuals also serve as institutional memory as to how assignments and activities have been handled in the past. There is a constant need to add new, and update, existing policies and procedural manuals.

2. Continued Development of Special Projects Section. The development of this new section will continue to require much administrative attention during the next few years. Staff in this section will handling high profile advisory and litigation assignments, and will be constantly shifting their attention between advisory and litigation functions. In addition to monitoring how assignments are handled, the number and variety of new subject areas that are being handled by this section will dictate that we spend significant time training staff and developing expertise. As noted previously, we have removed code enforcement from this section to create a new section.

In addition, to the aforementioned high profile advisory and litigation assignments, this section will handle all extraordinary relief actions, injunctions and the monitoring of the same other than code enforcement injunctions, collections, foreclosures, intellectual property, and financing and economic development. Because we devoted so much time to the implementation of criminal prosecution during the last fiscal year, we were not able to assume and complete some of the foregoing tasks. This should change in the next fiscal year.

3. Code Enforcement. In 2000, code enforcement assignments were moved from the Advisory and Litigation Sections of the office and combined under the newly created Special Projects Section. In addition to the Administrative and civil code action, we worked closely with the District Attorney to move criminal prosecution of code action from the District Attorney to our office. In June of 2001, we created a separate Code Enforcement Section and further combined all civil, administrative and criminal code enforcement work. We believe this approach will allow for better handling of code enforcement, which will turn mean quicker and more effective results. The addition of criminal prosecution as an abatement vehicle should result, in appropriate cases, in the achievement of more permanent results in a shorter period of time than would the pursuit of administrative and civil remedies. Significant effort will be devoted to the development of this section.

During the past fiscal year, we accomplished the first of our three objectives for criminal prosecution, namely, to assume and handle competently the code work previously handled by the District Attorney. We are currently in the process of implementing the second phase of our criminal prosecution program, which is the conversion of pending administrative and civil code enforcement cases that warrant criminal prosecution. We desire to move into the third phase (to broaden the types of

cases that are prosecuted criminally) not later than the first quarter of calendar 2002. If we are successful in reaching the third phase in this time period, we will be at least 3 to 6 months ahead of our original plan for implementing all three phases.

The new Code Enforcement Section is supervised by an attorney with substantial code enforcement experience. She has been given the charge of making our code enforcement efforts among the best in the state. The section is currently staffed with the attorney and secretary authorized during last year's budget and with attorneys previously serving in the Special Projects Section.

A separate report on criminal prosecution activities will be presented when this annual report is presented.

4. Succession Planning. We will continue our efforts since 1994 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 benefits. With few exceptions, it is much more prudent to train in-house staff to develop expertise in areas which repeatedly require legal assistance. We have significantly reduced our need to rely on outside counsel for expertise in a variety of subject areas over the past five plus years.

We will continue our efforts to increase training in the handling of office administration tasks, currently handled by the City Attorney and the two assistants. The goal is to have an adequate number of staff members knowledgeable in all aspects of the office operations so that should an untimely or unexpected event occur that impacts our office leaders, others will be available to assume these duties in a timely manner.

5. Space Needs. We will continue our efforts to utilize our existing facilities until the new City Hall annex is constructed. To create the additional space necessary to accommodate our growing staff, we are adding modular workstations and assessing how to best reduce the significant amount of space devoted to hard copy legal research materials. Our two current leases expire in February 2003 and will likely require extensions to ensure adequate housing until the relocation to the City Hall annex and to minimum disruption to the delivery of legal services.

6. Automation upgrades. Projects scheduled for completion during Fiscal Year 2001-2002 include: a) establishing remote access via VPN; b) implementing a cases management and calendaring software program to integrate and track all matters currently tracked on three separate programs; c) purchasing new laptops; d) continuing to develop long-term projects for developing our intranet and document management; e) establishing regular communication with technology staff in other municipal law offices; f) continuing the converting of our law library from hard copy books

to software; and g) working closely with Technical Services to promote citywide uniformity while maintaining the security required for our work product.

7. Cost recovery. We will establish a checklist to be followed in all cases where legal action is undertaken by our office to collect fees and charges to the fullest extent possible. This will be completed and implemented during the 2001-2002 Fiscal Year by the Special Projects Section.

8. Automated Hiring Process. The hiring process is 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. We have automated some aspects of our hiring process and will be exploring further automation of other aspects.

9. City Attorney Web Page. We will complete development of a City Attorney Web page that will provide substantial information on the office, our responsibilities and our performance.

10. Library Automation. We are continuing our efforts to reduce our reliance on hard copy research materials where the same are available in an automated format. This presents the opportunity to create additional office space as well as the opportunity for potential budget savings, since we are currently maintaining some resources in hard copy and in an automated format. The elimination of the hard copy materials will produce significant savings, assuming staff is adequately trained in the use of automated research systems.

B. Training

1. Municipal Law Orientation. We will continue to work on the establishment of a municipal law orientation for new attorneys, those who rotate to the Advisory Section for the first time, and for law clerks and interns. This orientation will focus on basic principles of municipal law and how it differs from the law that governs private business and the law that governs other public agencies. We also intend to create a version of this orientation that is suitable for all city staff and present it through City University.

2. Cross-Training. We will continue to cross-train our entire staff in an effort to enhance our ability to meet the needs of the client. Cross-training means that each employee in the office will be able to handle a variety of advisory and litigation assignments. This prevents lapses in service delivery due to vacations, illness, injury, jury duty, reassignment and separation from City service. Cross-training also reduces the need to retain highly paid consultants or to bypass loyal, long-time but untrained employees when advancement opportunities present themselves.

II. EXTERNAL (CITY-WIDE)

A. Client Services

1. **Surveys.** Conducting client surveys will continue to be part of our future action plans. The primary objective of these surveys is to assist us in learning of 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 utilize for the development of better legal services delivery even though we may already be performing well in given areas.

2. **Liability Prevention.** We will continue to provide legal awareness seminars presented 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 information that will avoid or reduce civil liability.

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.** We will continue working with the City Clerk and the City Manager to establish a document retention policy consistent with state law that recognizes the use of advanced technology for records retention and retrieval. This effort is necessary because current state law and City practices regarding record retention and retrieval are not keeping pace with rapid changes in technology.

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. With the recent additions to staff and the restructuring, this should change. We will make every effort to provide legal input at the earliest phases of major projects. Indeed, we commenced early preliminary research on at least four major projects requiring legal assistance; namely, Annexation, Redistricting following the 2000 Census, the City's water rights, and technology related issues such as E-Government and Identity Theft.

5. Sphere of Influence/Annexation. Another area among the major projects that will require a substantial amount of staffing time is the subject of SOI/Annexation. Dependent upon the actual direction that 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 absorbed into and performed by existing staffing levels.

6. Regional Governance Issues. The County of Sacramento and the cities within the County are engaged in discussions concerning a broad range of issues pertaining to “regional governance” such as the composition of and representation on the governing boards of joint powers agencies and other public entities (e.g. Regional Sanitation District, Sacramento Metropolitan Air Quality District) that provide services to constituents of the cities as well as those in unincorporated areas. Resolution of these issues could potentially involve new legislation at the state and local level, amendments to existing agreements and other documents and other similar work. This office has been observing and participating in these discussions from a legal standpoint, and will continue to do so.

7. State and Federal Legislation. We will continue to review all state propositions and present summaries of the same to Council in adequate 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.

8. Ordinances. We will provide periodic updates on the status of pending ordinances. We are working with the City Manager’s Office to establish a procedure to prioritize ordinances and provide status reports. A written status reporting procedure would alert all concerned as to the status of slow moving ordinances and foster the opportunity for action to move them forward in a more timely manner.

9. New Council Member Orientation. We have commenced the development of a manual for orientation of new council members regarding the functions and activities of the City Attorney’s office.

10. Annual Report On-Line. We will be working on placing our annual report on-line for review by the council, staff and the public at anytime.

PART VIII

CONCLUSION

In this annual report, we have addressed our Administrative, Advisory, Litigation and Special Projects Section assignments undertaken during Fiscal Year 2000-2001. We

have also addressed action taken to improve our delivery of legal services, especially in the code enforcement area. This included the commencement of criminal prosecution by this office of City Code violations, and the formation of the Code Enforcement Section to handle all aspects of code enforcement, including criminal prosecution. We have also shown our continued success in handling a significantly increased advisory and litigation workload.

We have reviewed our goals for Fiscal Year 2000-2001 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 become 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. Questions and comments may be directed to the attention of the City Attorney at your earliest convenience.