

# **City of Sacramento**

**Office of the City Attorney**

**2001 - 2002**

## **Annual Report**



### **Sacramento City Council**

**Heather Fargo, Mayor**

<b>Ray Tretheway, District 1</b>	<b>Sandy Sheedy, District 2</b>
<b>Steve Cohn, District 3</b>	<b>Jimmie Yee, District 4</b>
<b>Lauren Hammond, District 5</b>	<b>Dave Jones, District 6</b>
<b>Robbie Waters, District 7</b>	<b>Bonnie Pannell, District 8</b>

**Samuel L. Jackson, City Attorney**

**William Carnazzo, Chief Assistant City Attorney**

**Richard Archibald, Assistant City Attorney**

**Sandra Talbott, Senior Deputy City Attorney**

**Robert Tokunaga, Senior Deputy City Attorney**

**Susana Alcalá Wood, Senior Deputy City Attorney**

**Kathy Widmer, Office Administrator**

**Toni Jones, Special Assistant**

**980 9<sup>th</sup> Street, 10<sup>th</sup> Floor**

**Sacramento, CA 95814**

**Phone: (916) 264-5346 Fax: (916) 264-7455**

**Special thanks to those staff members, in addition to the administration team, without whom this report would not have been possible: Gloria Morrison, Norma Florendo, Jeannette Lee-Boykin, Lynette Fuson, Cindy Head**



# TABLE OF CONTENTS

---

	<u>Page</u>
CITY ATTORNEY OVERVIEW .....	1
PART I AUTHORITY AND FUNCTION .....	3
PART II MISSION STATEMENT .....	4
PART III ADMINISTRATION .....	4
PART IV ADVISORY .....	6
PART V LITIGATION .....	14
PART VI SPECIAL PROJECTS .....	31
PART VII CODE ENFORCEMENT .....	37
PART VIII FIVE-YEAR ACTION PLAN .....	49
PART IX CONCLUSION .....	54

---

## ATTACHMENTS:

- A Current Organizational Chart
- B Current Advisory Assignment List
- C Current Litigation Assignment List
- D Current Special Projects Assignment List
- E Current Code Enforcement Assignment List

## CITY ATTORNEY OVERVIEW

This report covers activities of the City Attorney's Office during the period from July 1, 2001 to June 30, 2002 ("Fiscal Year 2001-2002"). This is the seventh annual report of the City Attorney's Office, and the fifth report done on a fiscal year basis. This report contains comparison and progressive information dating back to our third annual report in 1997, except where data for certain categories were not collected during that year.

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 year's Report is the first to set forth a separate section for Code Enforcement. 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 all 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.

Parts I and II set forth a brief discussion of our "Authority and Function" as well as our Mission Statement. Parts III through VII provide a discussion of functions and accomplishments of each of the sections of the office, with appropriate comparisons to accomplishments in prior years. Part VIII examines our efforts and accomplishments in achieving our Fiscal Year 2001-2002 goals; it also sets out current goals established for the five-year period Fiscal Year 2002-2003 through Fiscal Year 2007-2008.

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 2001-2002 was a 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 implementation of the Settlement Agreement entered into in Fiscal Year 1999-2000 in the litigation surrounding the Habitat Conservation Plan for the North Natomas Community Plan, including fee increases, the development of a revised and improved habitat conservation plan and the preparation of the necessary environmental

documentation to allow for consideration and adoption of that plan.

Much of the work in North Natomas was handled by the Advisory Section, although the Special Projects Section also handled numerous matters, including bond and finance transactions. The Advisory Section experienced a slight decrease in the total number of assignments handled by the Section; a slight decrease in the average number of assignments per attorney; an increase in the number of contracts processed; and a marked increase in the number of Council assignments. The most plausible explanation for the apparent decrease is that the assignments related to North Natomas were fewer in number but larger in size and complexity. Consequently, the attorneys handling those matters were required to spend more time on them, and had less time available for smaller, less time consuming matters. Also of significance is Bill Carnazzo's vacation absence during the entire month of June, as he normally handle a high volume of matters. The Section continued to handle a substantial number of municipal legislative matters, covering a broad range of subject matter.

As in prior years, the Litigation Section handled a broad, varied load of litigation, at both the judicial and administrative levels. Continued emphasis was placed on keeping litigation matters in-house and litigation costs down. No new litigation cases were referred to outside counsel during the reporting period. However, activity in two cases assigned in the last reporting period escalated during this fiscal year: one involving complex federal toxic and hazardous materials issues, and the other involving a large number of flood damage claims. The continued handling of these cases by outside counsel reflects the most efficient handling of highly specialized and generally non-recurring cases.

Fiscal year 2001-2002 was the first full year of operation for the Code Enforcement Section. The work of this section included civil code enforcement, at the administrative and judicial level; continued enforcement of the "Beat Feet" ordinance; criminal prosecution of City Code violations; litigation of claims arising out of Code Enforcement activity and drafting of legislation. The Code Enforcement Section is discussed in Part VII.

In addition to being the first full year of operation for the Code Enforcement Section, Fiscal Year 2001-2002 was the first full year of criminal prosecution. The figures set forth in Part VII show that during this reporting period, 2092 criminal citations and criminal complaints were filed and handled by the office. This compares to 119 filed and handled by the office in the period from February through June of Fiscal Year 2001-2002. The citations and complaints covered a broad range of City code violations. Special emphasis was placed on prosecution of cases involving substandard housing and buildings and illegal dumping.

The formation of the Code Enforcement Section resulted in a reduction of the Special Projects Section in terms of personnel as well as subject-matter responsibility. With criminal and civil code enforcement and the "Beat Feet" ordinance enforcement being transferred to Code Enforcement, along with several of its attorneys, the Special Projects Section focused on handling more complex litigation and advisory matters, including financial transactions. As discussed in Part VI, the Special Projects Section successfully resolved a number of high visibility cases through trial, dismissal or settlement.

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 provide legal representation and give legal advice, and not to give advice on policy or politics. The client of the City Attorney is the City Council, 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 individuals 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 as a municipal corporation. We prosecute cases on behalf of the people, and as such, the attorney-client relationship is somewhat different since the people are our client. We are able to share with the community more information regarding the status of criminal prosecutions than we are regarding civil matters when we represent the City.

## PART II

### MISSION

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, Special Projects and Code Enforcement Sections was provided by four Senior Deputy City Attorneys<sup>1</sup>, two

---

<sup>1</sup> Effective July 1, 2002, this position is now called Supervising Deputy City Attorney.

of whom were promoted to that position since last year's report. At this time, one of the Senior Deputy City Attorney positions is vacant (the vacancy occurred on June 21), and the vacancy will continue pending the results of the state budget impact and the November election, where the voters of Sacramento will consider an initiative to reduce the City's Utility User Tax (UUT), which provides a significant stream of revenue for the City's General Fund, a primary source of funding for the City Attorney's Office. An office organizational chart reflecting the current organization of the office is shown in **ATTACHMENT A**.

The Advisory Section was supervised by former Senior Deputy City Attorney Shana Faber through June 21, when Ms. Faber left her employment with the City of Sacramento for the City of Vacaville. As of the date of this report, the work of this section is performed by five Deputy City Attorneys, and one Legal Secretary, with the Assistant City Attorney serving as supervisor of the section on an interim basis.

The Litigation Section is supervised by Senior Deputy City Attorney Robert Tokunaga. The work of this section is currently performed by the Senior Deputy City Attorney and five 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, created during the latter part of Fiscal Year 2000-2001, 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 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 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 Code Enforcement Section, created during the latter part of Fiscal Year 2000-2001, consists of one Senior Deputy City Attorney, Susana Alcala Wood, and four Deputy City Attorneys, along with three Legal Secretaries and one Investigator, who devotes half of his time to Special Projects assignments.

The 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 associated with operating a mid to large sized municipal law office.

The Special Assistant to the City Attorney is responsible for providing administrative support to the City Attorney and Chief Assistant City Attorney; monitoring administration functions and recommending efficiency measures; coordinating citywide legal training; serving as department representative at meetings as needed; providing reports based on research, studies and surveys; researching and analysing a variety of issues; performing

special assignments; assisting with technology updates; and backing the Office Administrator.

The Administration team consists of the City Attorney, Chief Assistant City Attorney, Assistant City Attorney, four Senior Deputy City Attorneys (with one vacancy as of June 21), the Office Administrator and the Special 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 2002-2003 is \$5,672,673. The budget for Fiscal Year 2001-2002 was \$5,300, 322. This is the operating and non-risk litigation expense budget. It does not include the Risk Management Fund for litigation matters. The budget includes salaries and operating costs for 53 full-time positions.

# **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 preparing of legislation, preparing and reviewing 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 part 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 as of the end of June, 2002.

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 2001-2002 and provide a range of information, including: i) the number and type of assignments completed during Fiscal Year 2002; 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 2001-2002. During Fiscal Year 2001-2002, this office presented seminars for City employees on conflict of interest issues, mass mailing, municipal contracting and the role of City staff in claims and legal proceedings. Additional seminars and training will be scheduled for Fall 2002 and Spring 2003, including Public Records Act, Subdivision Map Act/Permit Streamlining, and Planning and Zoning law.

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 on an as-needed basis, to discuss any problems or issues that have arisen between meetings.

### **2. Selected Significant Assignments**

a. *Civic Center Project* - Last year, we provided substantial legal advice to City staff on acquisition and environmental issues, including the negotiation of agreements pertaining to the relocation of the Youth Hostel, the preparation of environmental documentation for the development of the City Center Project, and the negotiation and preparation of agreements pertaining to the planning and development of the project. It is anticipated that the advisory section will continue to provide ongoing legal 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 adopting a revised habitat conservation plan, completion of environmental review under the National Environmental Policy Act (NEPA), and applying for a new incidental take permit following the settlement of 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. The City Attorney's Office also provided ongoing legal advice and support necessary to support the amendment of the NNCP Finance Plan and related increases in fees under the Plan, and the increase in the fees supporting the Habitat Conservation Plan.

c. *UP Depot Project* - We met with City staff on approximately a bi-weekly basis and the City's retained outside appraiser to provide ongoing legal advice and support 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. *ACORN Rental Initiative* - We provided legal advice on a rental initiative sponsored by ACORN, including enforceability issues.

e. *Citywide ADA Compliance* - Assisted staff in hiring an outside consultant to make recommendations on how the City could coordinate its ADA efforts cross-departmentally, and thereafter helped staff draft and implement a comprehensive Citywide compliance plan.

f. *Utilities Users Tax* - Provided legal analysis on the utilities users tax initiative.

g. *Public Safety Administration Building* - Provided legal analysis on remediation related and public contracting issues.

h. *Municipal Golf Course* - Provided legal advice and representation to staff on an ongoing basis, related to municipal procurement, bidding, and contracting issues.

i. *65th Street Transit Village Plan* - Ongoing project involving a plan to transform the light industrial area adjacent to the 65th Street Light Rail Station into a transit village with dense office, mixed use and housing development. We provided legal advice related to extensive environmental review, including an EIR, and the drafting of the Planning Director's Plan Review and Transit Overlay Zone ordinances.

j. *Parks Maintenance Community Facilities District* - Ongoing project involving the formation and later annexation of housing projects into a Mello-Roos special tax district designed to provide funding for the maintenance of neighborhood parks. Our office has expended a significant amount of time to date, primarily focused on preparing the formation documents for City Council approval.

k. *Heritage Parks Agreement* - This project involved the negotiation and drafting of a comprehensive agreement for the construction of three turn-key parks to be located within the Heritage project in North Natomas. Our office has been involved in protracted negotiations with the developer and an extensive drafting process.

l. *Music Circus Project* - The office continued to provide advice regarding the expansion of the Music Circus and Sacramento Theatre project, including advice regarding environmental review, bond financing and construction contracts.

### **3. 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:<sup>2</sup>

---

<sup>2</sup>The 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.

- a. \*Predatory lending ordinance
- b. \*Lobbyist registration and regulation
- c. \*Public Finance and Campaign Spending Limits
- d. \*Entertainment facility regulations (supersedes regulations governing dance permits)
- e. Environmental Oversight Program for the Downtown Railyards
- f. ADA Facilities Plan Update
- g. Cemetery regulations
- h. \*Shopping cart regulations
- i. Broadway/Stockton Special Planning District Ordinance
- j. Adult entertainment
- k. \*Revision of Chapter 13.04 (water service system)
- l. \*Transit Overlay Zone regulations
- m. Amendment of Habitat Conservation Fee in North Natomas
- n. Amendment of North Natomas Development Fees
- o. Housing Element Update
- p. Sign Relocation Agreement ordinance

**C. STATISTICAL INFORMATION**

**1. Total Number of Advisory Assignments**

FY 1997-98	FY 1998-99	FY 1999-2000	FY 2000-01	FY 2001-02
------------	------------	--------------	------------	------------

1747	1868	2156	2404 <sup>3</sup> (1851)	2123 (1740) <sup>4</sup>
------	------	------	--------------------------	--------------------------

**2. Average Number of Assignments Per Attorney.<sup>5</sup>**

<u>FY1997-98</u>	<u>FY1998-99</u>	<u>FY1999-00</u>	<u>FY2000-01</u>	<u>FY2001-02</u>
194	227	240	316	290

**3. 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.

	<u>FY1997-98</u>	<u>FY1998-99</u>	<u>FY1999-00</u>	<u>FY2000-01</u>	<u>FY2001-02</u>
<b>Pending</b>	634	236	73	203 (125)	215 (165)
<b>Closed</b>	1113	1631	2083	2201 (1946)	2076 (1882)

**4. 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 data entry was made. These figures give the reader some idea as to the demands made 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.

<b>Department or Function</b>	<b>FY 1998 (%)</b>	<b>FY 1999 (%)</b>	<b>FY 2000 (%)</b>	<b>FY 2001 (%)</b>	<b>FY 2002 (%)</b>
Human Resources	2.1	.3	.2	.8	.7

<sup>3</sup> As explained in last year's report, two figures were 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.

<sup>4</sup> The slight reduction in the total number of assignments, and the corresponding reduction in the average number of assignments per attorney, does not necessarily reflect a reduction in the workload of the Advisory attorneys, since the nature of assignments vary in terms of length and complexity. For sake of argument, the number of complex assignments taking more than 4 hours or more than 8 hours may have increased significantly in this Fiscal Year, as compared to last year.

<sup>5</sup> For purposes of Fiscal Year 2001-2002, these averages are calculated on the basis of 5.5 FTE's which represented: i) the average number of attorneys who were in the Advisory Section throughout the fiscal year, based on vacancies that occurred during the year; ii) one-third of the time of the Chief Assistant City Attorney, and (iii) one-half of the time of the Assistant City Attorney. In prior years, we have broken out Advisory Section assignments by individual attorney.

Neighborhood Services	9.6	9.8	4.8	3.5 <sup>6</sup>	2.2
Public Works	24.7	32.2	31.6	32.6	28.5
Utilities	10.4	8.78	8.34	11.3	11.0
Police	11.1	8.89	9.42	13.3	11.3
Treasurer	7.2	2.6	4.76	3.2	7.0
City Manager	1.5	1.2	1.07	1.6	4.5
City Council	3.74	3.39	3.64	4.6	4.9
Fire	1.1	.5	1.35	.5	.9
Employee Relations	.6	1.93	1.59	1.7	3.3
Planning	9.3	11.4	15.07	10.6	9.0
Community/Visitor Services	2.3	1.78	4.85	6.3	7.6
City Clerk	.9	.65	1.54	.82	1.6
Finance	2.6	2.58	2.61	1.9	2.3
Library	.95	.59	1.54	.9	.6
Miscellaneous <sup>7</sup>	12.9	3.39	3.82	6.3	4.6
	100%	100%	100%	100%	100%

**5. Contracts.** The Advisory Section processes a broad range and large number of contracts. During Fiscal Year 2001-2002, 1545 contracts were processed, as compared to 1469 in Fiscal Year 2000-01 and 1073 in Fiscal Year 1999-2000.

#### **TOTAL NUMBER OF CONTRACTS PROCESSED**

FY 1997-98	FY 1998-99	FY 1999-2000	FY 2000-01	FY 2001-02
1002	1056	1073	1469	1545

<sup>6</sup> As noted in last year's report, 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 subsequent fiscal years has decreased.

<sup>7</sup> 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.

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 2002; and the other comparing the figures regarding sources of contracts for Fiscal Years 1998-1999, 1999-2000, 2000-2001, and 2001-2002.<sup>8</sup>

**CONTRACTS PROCESSED IN FY 2001- 2002 BY DEPARTMENT**

<b>Department</b>	<b>No. of Contracts</b>	<b>Percentage</b>
Public Works	764	49.5
Utilities	171	11.0
Planning & Development	194	12.6
Police Department	56	3.9
Downtown & Regional Enterprises Department	43	2.8
Neighborhood Services (including Parks & Code Enforcement)	172	11.1
Personnel	17	1.1
Other	128	8.3
<b>TOTAL:</b>	<b>1545</b>	<b>100%</b>

**CONTRACTS PROCESSED (Percentage Comparison)**

<b>Department</b>	<b>Percentage of Contracts FY 1998-1999</b>	<b>Percentage of Contracts FY 1999-2000</b>	<b>Percentage of Contracts FY 2000-2001</b>	<b>Percentage of Contracts FY 2000-2002</b>
Public Works	38.0	44.0	41.1	49.5

---

<sup>8</sup> Fiscal Year 1998-1999 was the first year in which information concerning the departmental source of contracts was gathered.

Utilities	21.0	16.2	13.9	11.0
Planning & Development	8.6	5.5	8.2	12.6
Police Department	7.6	2.6	7.9	3.6
Downtown & Regional Enterprises Department)	7.0	9.9	6.3	2.8
Neighborhood Services (including Parks & Code Enforcement)	8.0	16.5	16.5	11.1
Personnel	3.6	.3	.3	1.1
Other	6.0	5.0	5.0	8.3
TOTAL:	100%	100%	100%	100%

#### 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 2001-2002 was 98, as compared to 76 in 2000-2001, 37 in Fiscal Year 1999-2000, 57 in Fiscal Year 1998-1999, and 69 in Fiscal Year 1997-1998.

#### 2. Council Assignments by Originator.

Member or source	FY1997-1998	FY 1998-1999	FY 1999-2000	FY 2000-2001	FY 2001-2002
Mayor Fargo	8	3	2	11	6
CM Tretheway				0	2
CM Sheedy			2	4	14
CM Cohn	13	3	2	9	6
CM Yee	2	4	4	1	1

CM Hammond	6	7	4	6	3
CM Jones		4	4	16	6
CM Waters	7	11	1	10	12
CM Pannell		5	8	3	11
Council as a whole	4	3	2	11	37
Former Council members <sup>9</sup>	29	8	8	4	0
Totals	69	57	37	76	98

### 3. Council Assignments Completed/Pending.

The table set forth below tabulates City Council assignments completed during FY 1997-1998 through FY 2001-2002 and those which have been carried over into the subsequent year.

Year	Completed	Carried Over
FY 1997-1998	69	4
FY 1998-1999	55	6
FY 1999-2000	32	3
FY 2000-2001	71	14
FY 2001-2002	99	13

## PART V

### LITIGATION SECTION

#### A. GENERAL

The Litigation Section handles a wide variety of litigation matters, including tort, civil rights and other damage claims; subrogation, eminent domain, writ, and contract matters; administrative hearings concerning personnel discipline and disability retirement hearings; and weapons confiscation and Pitchess motions.

---

<sup>9</sup>Requests made by former Council members during their terms on the Council were aggregated and set forth on this line.

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 2001-2002 and compares the results for the past fiscal year with those for the four fiscal years, resulting in reported data for the past five reporting periods.

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. Since Fiscal Year 1998-1999, the Litigation Section has implemented a number of efficiency measures designed to increase productivity, i.e., increase the capacity of individual attorneys to handle greater number of cases. Those measures include the standardization of procedures and the preparation of guidelines to ease the handling of routine matters; the hiring, training and development of staff to provide paralegal and investigative support previously required of litigation attorneys; the scheduling of regular case and section meetings to provide effective guidance in the handling of cases to final disposition; and the continued development of a skilled staff of litigators. These and other office processes have resulted in our ability to continue to handle a high number of cases in a cost-efficient manner.

## **B. STATISTICAL INFORMATION AND SUMMARY OF ACCOMPLISHMENTS**

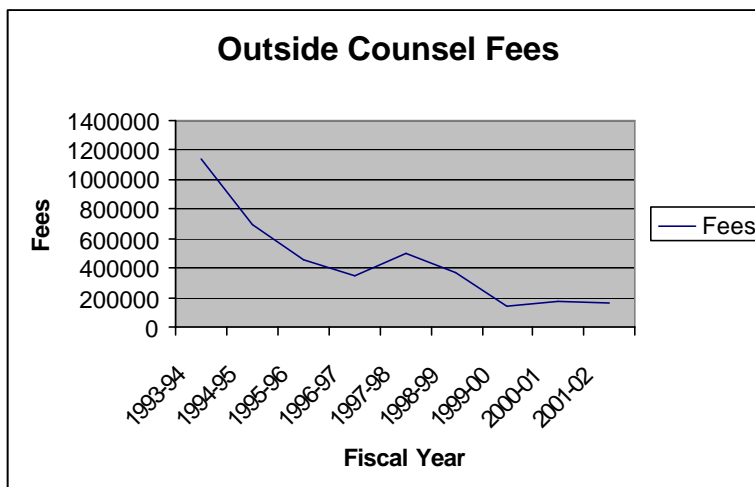
**1. Reduction In Litigation Costs.** In 1993-1994, the City paid outside counsel fees totaling \$1,145,467. Pursuant to the City Council's direction in 1994, the City Attorney's Office has handled litigation on an in-house basis, with the dual goals of reducing outside counsel fees while providing high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

<u>YEAR</u>	<u>OUTSIDE COUNSEL FEES</u>
1997-1998	\$499,827
1998-1999	\$371,535
1999-2000	\$138,552
2000-2001	\$176,870
2001-2002	\$166,094

While the amount of outside counsel fees fluctuates annually depending on the types of matter to be handled by such counsel, the trend is clearly down as indicated in the accompanying chart. In the three most recent years, outside counsel fees have fallen below \$180,000, including this year's total of \$166,094. Efforts will continue to decrease such expenditures even further in future years.

The amount of outside counsel fees for 2001-2002 represents a 5.6% decrease in expenditures for outside counsel fees over the prior year. As of the close of the 2001-2002, outside counsel continues to handle only three matters, each of which were initially assigned prior to the start of the year, including one complex federal toxic/hazardous materials case referred to outside counsel specialized in such cases; a series of flood cases arising out of the 1986 flooding of Strawberry Manor filed by numerous self-represented plaintiffs, which were referred to outside counsel with in depth experience in representing the City in related flooding cases; and a wrongful demolition case referred to outside counsel due to conflict issues. The referral of the first two cases to outside counsel reflected the most efficient handling of highly specialized and generally non-recurring cases. However, there were no new case assignments made during 2001-2002. Our office has also tendered the defense of two cases to other parties who are defending the City at their expense.

The majority of the outside counsel fees were incurred with respect to the pending wrongful demolition case which is a highly contested and active litigation matter. We anticipate that the case will be resolved either by settlement or trial during the next reporting period.



As set forth below, 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 2001-2002 was \$87, a rate that is still far below the hourly rates of outside counsel.

### HOURLY ATTORNEY RATES

<u>YEAR</u>	<u>IN-HOUSE</u>	<u>OUTSIDE COUNSEL</u>
1997-1998	\$72	\$110
1998-1999	\$84	\$115
1999-2000	\$79	\$120
2000-2001	\$82	\$130
2001-2002	\$87	\$125

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 continues to range from 40-65 hours per week, resulting in even lower effective hourly rates. Outside hourly billing rates remain constant and are applied to each hour expended by outside counsel. The \$125 per hour rate for outside counsel is an average rate over all matters handled outside of the office. Some individual rates are markedly higher than others, e.g. rates for counsel handling American River sewage spill cases.

**2. Payout Information.** Following is detailed information concerning payouts in Fiscal Year 2001-2002 on cases filed against the City and handled either in-house (Litigation and Special Project Sections) or by outside counsel, and including claims settled prior to the filing of litigation. 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>
1997-1998	\$3,339,004	\$1,731,919
1998-1999	\$3,851,558	\$783,562
1999-2000	\$3,871,377	\$981,393
2000-2001	\$3,194,502	\$695,082
2001-2002	\$3,387,078	\$373,566

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

The following tables show the total payouts on Risk Management cases closed by the Litigation and Special Projects Sections. Costs listed in the tables do not include attorney's fees, as these matters were handled in house. From and after 2000-2001, litigation cases are divided between the Litigation and Special Projects Sections. In order to facilitate comparisons with years prior to 2000-2001, the first table presented below reflects payouts on cases handled by both sections. The second table reflects payouts on cases handled by the Litigation Section only. Payout amounts on cases handled by the Special Projects Section is set forth in Part VII of this report.

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

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>BODILY INJURY</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
1997-1998	69	\$2,951,340	\$210,193	\$67,918	\$3,229,450
1998-1999	97	\$1,065,108	\$69,391	\$144,043	\$1,278,542
1999-2000	86	\$3,439,975	\$91,145	\$197,324	\$3,728,443
2000-2001	82	\$2,734,350	\$35,355	\$248,899	\$3,018,604
2001-2002	98	\$2,653,119	\$0	\$146,607	\$2,799,726

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

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>BODILY INJURY</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
2000-2001	60	\$2,244,142	\$21,500	\$218,379	\$2,484,020

2001-2002	56	\$716,173	\$0	\$85,469	\$801,642
-----------	----	-----------	-----	----------	-----------

As indicated above, the amount paid on cases handled by the Litigation Section represents a remarkable 67% decrease from the prior fiscal year. The reduction is due in large part to the resolution of 57% of the cases (32 cases) without any payment. In addition, the cases resolved with payments did not involve significant injuries and, with the exception of two cases, did not include the same number of serious vehicle accidents as the prior year. Of the \$716,173 paid on bodily injury claims, \$404,000 was the result of favorable settlements reached in two motor vehicle accident cases involving significant injuries and damages: one case involved a collision with a Regional Transit train causing substantial injuries and the other was a clear liability rear-end case also causing substantial injuries. The remaining 22 cases resulted in an average payout of only \$14,190 per case. The skill of the Litigation Section attorneys in positioning cases for favorable resolution, together with a reduction in serious accident cases, dramatically reduced the average amount of payouts compared to prior periods.

**PAYOUTS ON CASES HANDLED  
BY OUTSIDE COUNSEL**

The following table shows the total payouts on Risk Management cases closed by outside counsel on a fiscal year basis from Fiscal Year 1997-1998 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 cases during said years. Legal expenses on cases that remain open are not included, but will be reported when closed.

**PAYOUTS ON OUTSIDE COUNSEL CASES**

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>BODILY INJURY</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
1997-1998	16	\$180,500	\$451	\$443,238	\$624,188
1998-1999	17	\$141,500	\$983,948	\$1,446,381	\$2,571,829
1999-2000	17	\$927,520	\$45,343	\$286,053	\$1,258,916
2000-2001	6	\$199,000	\$0	\$176,870	\$375,870
2001-2002	5	\$0	\$51,272	\$487,121 <sup>10</sup>	\$538,393

**PAYOUTS BY SIZE OF PAYMENT**

Except as noted below, the following is a comparative breakdown, on a fiscal-year basis, of payouts on litigated cases handled by the City Attorney’s Office and outside counsel. The total indemnity paid includes both bodily injury and property damage payouts and total legal expenses include ordinary legal costs (e.g., deposition transcripts, service-of-process fees), expert witness fees, and, in the case of outside counsel, attorneys’ fees. “Total legal expenses” for cases

---

<sup>10</sup> Of this amount, \$166,094 represent fees and costs paid to outside counsel. The remainder of the costs include other costs of litigation such as expert and consultant fees, discovery costs and other costs paid directly by the City.

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.

<b>1997-98</b>	<b>Litigation Section Cases</b>			<b>Outside Counsel Cases</b>		
	<b>No. of Closed Cases</b>	<b>Total Indemnity Paid</b>	<b>Total Legal Expenses</b>	<b>No. of Closed Cases</b>	<b>Total Indemnity Paid</b>	<b>Total Legal Expenses</b>
<b>Under 100k</b>	<b>65</b>	<b>\$490,781</b>	<b>\$61,005</b>	<b>16</b>	<b>\$180,951</b>	<b>\$443,238</b>
<b>100k-499k</b>	<b>3</b>	<b>\$860,961</b>	<b>\$4,388</b>			
<b>500k-999k</b>						
<b>Over 1 Mil.</b>	<b>1</b>	<b>\$1,809,791</b>	<b>\$2,525</b>			
<b>Total</b>	<b>69</b>	<b>\$3,161,533</b>	<b>\$67,918</b>	<b>16</b>	<b>\$180,951</b>	<b>\$443,238</b>

<b>1998-99</b>	<b>Litigation Section Cases</b>			<b>Outside Counsel Cases</b>		
	<b>No. of Closed Cases</b>	<b>Total Indemnity Paid</b>	<b>Total Legal Expenses</b>	<b>No. of Closed Cases</b>	<b>Total Indemnity Paid</b>	<b>Total Legal Expenses</b>
<b>Under 100k</b>	<b>95</b>	<b>\$516,642</b>	<b>\$129,123</b>	<b>15</b>	<b>\$141,500</b>	<b>\$1,225,197</b>
<b>100k-499k</b>	<b>1</b>	<b>\$115,000</b>	<b>\$5,053</b>	<b>1</b>	<b>\$158,948</b>	<b>\$19,855</b>
<b>500k-999k</b>	<b>1</b>	<b>\$502,857</b>	<b>\$9,867</b>	<b>1</b>	<b>\$825,000</b>	<b>\$201,329</b>
<b>Over 1 Mil.</b>						
<b>Total</b>	<b>97</b>	<b>\$1,134,499</b>	<b>\$144,043</b>	<b>17</b>	<b>\$1,125,448</b>	<b>\$1,446,381</b>

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		\$31,806	12		\$36,908
Under 100k	39	\$807,388	\$61,060	2	\$79,343	\$182,037
100k-499k	5	\$776,849	\$51,341	2	\$243,520	\$67,108
500k-999k				1	\$650,000	\$0 <sup>11</sup>
Over 1 Mil.	1	\$1,946,882	\$53,118			
<b>Total</b>	<b>86</b>	<b>\$3,531,119</b>	<b>\$197,325</b>	<b>17</b>	<b>\$972,863</b>	<b>\$286,053</b>

From and after 2000-2001, litigation cases are divided between the Litigation and Special Projects Sections. The following tables reflect payouts by amounts on cases handled by the Litigation Section only. Payouts by amounts on cases handled by the Special Projects Section is set forth in Part VII of this report.

2000-01	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	31					
Under 100k	27	\$361,900	\$123,700	6	\$199,000	\$176,870
100k-499k						
500k-999k	2	\$1,882,242	\$94,678			
Over 1 Mil.						
<b>Total</b>	<b>60</b>	<b>\$2,244,142</b>	<b>\$218,379</b>	<b>6</b>	<b>\$199,000</b>	<b>\$176,870</b>

---

<sup>11</sup> Costs incurred in connection with this case were not paid until after the close of the 1999-2000 Fiscal year, and are included in the amounts for 2000-2001.

2001-02	Litigation Section Cases			Outside Counsel Cases		
	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses
Closed without payment	32			3		\$357,432
Under 100k	22	\$312,173	\$63,249	2	\$51,272	\$129,689
100k-499k	2	\$404,000	\$22,219			
500k-999k						
Over 1 Mil.						
<b>Total</b>	<b>56</b>	<b>\$716,173</b>	<b>\$85,469</b>	<b>5</b>	<b>\$51,272</b>	<b>\$487,121</b>

As indicated in the above charts from 1999-2000 forward, the Litigation Section succeeded in closing over half of its cases without the payment of money to the claimant. Over said three-year span, the Section succeeded in closing 52% of its total closed cases without payment. For the most recent year, the percentage was a three-year high of 57%. Cases can be resolved without the payment of money by successfully challenging claimant's lawsuits based on procedural or substantive defects through motions made at early stages of a case without an undue expenditure of time and funding. Other cases take a considerable amount of resources prior to resolution through dispositive motions made in the later stages of a case. Still others require a trial on the merits. In the past fiscal year, the Litigation Section took one case to trial which resulted in a defense verdict.

**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 2001-2002 and four previous reporting periods. The data reflect new cases filed against the City, not City-initiated cases. The amounts reported for 1999-2000 and prior periods reflect total new litigation cases handled by the City Attorney's Office. The amounts reported for 2000-2001 and later reflect those new civil cases handled by the Litigation Section only; the number of new civil cases handled by other sections of the office are set forth in the parts of this report concerning the Special Projects and Code Enforcement Sections. Accordingly, the large decrease in the range of number of new cases between the years prior to 2000-2001 and the following years are due to the allocation of cases between the various sections within the office.

#### NUMBER OF ALL NEW CIVIL CASES

<u>YEAR</u>	<u>NEW CIVIL CASES</u>
1997-1998	219
1998-1999	217
1999-2000	267
2000-2001	191
2001-2002	169

## NUMBER OF NEW RISK CASES

<u>YEAR</u>	<u>RISK CASES FILED</u>
1997-1998	73
1998-1999	80
1999-2000	98
2000-2001	82
2001-2002	65

The reduction in the number of cases handled by the Litigation Section during the past Fiscal Year from the years prior is reflective of the caution of claimants in pursuing claims in litigation. The aggressive defense of litigated cases by skilled Litigation Section attorneys over the recent years has succeeded in delivering a message to claimants and their counsel to resolve cases short of litigation or to forgo the filing of claims against the City. The tremendous success of Risk Management in resolving claims prior to litigation also inversely impacts the number of cases reaching the litigation stage. See, Section 9 below for information concerning the high number of claims resolved prior to litigation.

The above statistics reflect a significant reduction in the number of civil rights, police-related, and weapons confiscation cases handled by the Litigation Section, counter-balanced only in part by increases in the amounts of discipline and labor grievance matters handled by the section. Police-related cases in particular have decreased from 10 new cases to four in the reporting period. See the following table reflecting the types of new cases opened by the Litigation Section for further details.

### 4. Profile of Opened Cases.

a. Types of Cases. The following chart shows the type and nature of new cases filed by or against the City and handled by the Litigation Section in Fiscal Year 2001-2002, and in the four previous reporting periods. The information reported for 1999-2000 and prior periods describe all litigation cases handled by the City Attorney's Office. The amounts reported for 2000-2001 and later reflect those new civil cases handled by the Litigation Section only; the profile of new cases handled by other sections of the office are set forth in the parts of this report concerning the Special Projects and Code Enforcement Sections. Accordingly, the large decrease in the range of number of new cases between the years prior to 2000-2001 and the following years are due to the allocation of cases between the various sections within the office.

	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002
<b>RISK CASES</b>					
<b>Tort</b>	<b>58</b>	<b>60</b>	<b>79</b>	<b>54</b>	<b>51</b>
<b>Civil Rights</b>	<b>13</b>	<b>13</b>	<b>11</b>	<b>27</b>	<b>10</b>
<b>Employment</b>	<b>2</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>3</b>
<b>Inverse Cond.</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>ADA</b>	<b>0</b>	<b>2</b>	<b>7</b>	<b>0</b>	<b>0</b>
<b>Sub-Total</b>	<b>73</b>	<b>80</b>	<b>98</b>	<b>82</b>	<b>65</b>

	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002
<b>NEIGHBORHOOD SERVICES CASES<sup>12</sup></b>					
Drug Abatement	1	4	2	0	0
Housing	12	13	22	0	1
Code Cases	7	2	16	0	0
<i>Sub-Total</i>	<i>20</i>	<i>19</i>	<i>40</i>	<i>0</i>	<i>1</i>
<b>OTHER CASES</b>					
Eminent Domain	18	7	5	0	2
Weapons	23	30	33	33	27
Writ Actions	8	8	2	3	1
Contracts/Stop Not.	6	1	1	3	6
Subrogation	15	19	10	11	10
Pitchess Motions <sup>13</sup>					25
Miscellaneous	23	16	52	46	15
<i>Sub-Total</i>	<i>93</i>	<i>81</i>	<i>103</i>	<i>96</i>	<i>86</i>
<b>ADMINISTRATIVE HEARINGS</b>					
Discipline	24	33	15	11	17
Retirement	5	4	11	2	2
Labor Grievances	0	0	0	0	7
<i>Sub-Total</i>	<i>29</i>	<i>37</i>	<i>26</i>	<i>13</i>	<i>19</i>
<b>TOTALS</b>	<b>215</b>	<b>217</b>	<b>267</b>	<b>191</b>	<b>171</b>

b. Police-Related Cases. Of the 51 tort cases opened in Fiscal Year 2001-2002 by the Litigation Section, there were 4 police-related cases all of which involved allegations of police misconduct. Said cases include one case involving allegations of excessive force, two cases alleging false arrest, and one case concerning a mistaken search. Only one false arrest case involves allegations of race being a primary factor in the events leading to the arrest.

Of the 10 civil rights cases opened in Fiscal Year 2001-2002 by the Litigation Section three cases allege use of excessive force; one alleges false arrest; one alleges improper search; one alleges improper transport of suspects in custody; and another alleges a wrongful death that occurred in the County Jail.

#### **5. In-House Handling of Litigated Cases.**

---

<sup>12</sup> With the formation of the Code Enforcement Section, all Neighborhood Services Cases are being handled by that section. The sole housing case handled by Litigation Section is a carryover by the handling attorney from a prior assignment to the Special Projects Section.

<sup>13</sup> Pitchess motions were reported under the Miscellaneous category until FY 2001-2002 and now are reported in their own category.

The office continues to retain a high number of cases for handling in-house. The following chart compares the number of cases handled in-house and those referred to outside counsel for Fiscal Year 2001-2002 and the four previous reporting periods. The number in parentheses for outside counsel is the number of new cases referred to outside counsel in each reporting period. The amounts reported for 1999-2000 and prior periods reflect total cases handled by the City Attorney's Office. The amounts reported for 2000-2001 and later reflect those cases handled by the Litigation Section only.

**CASES HANDLED IN-HOUSE AND BY OUTSIDE COUNSEL**

<u>YEAR</u>	<u>IN-HOUSE</u>	<u>OUTSIDE COUNSEL</u>
1997-1998	463	18 (0)
1998-1999	430	18 (9)
1999-2000	481	7 (6)
2000-2001	339	13 (4)
2001-2002	303	8

We are pleased that the number of cases handled by outside counsel continues to go down from prior years, and declined further during the past fiscal year. In 2001-2002, there were no new Litigation Section matters assigned to outside counsel, with the exception of additional plaintiffs being added to flood-related cases assigned to outside counsel in 2000-2001. Of the eight cases handled by outside counsel during Fiscal Year 2001-2002 five were closed, leaving three carried over to the next year.

The reduction of the number of handled cases during the reporting period from the prior fiscal years is consistent with the reduction of the total number of cases reaching the litigation stage and assigned to the Litigation Section. Reasons for this reduction are discussed in the prior Section 3 above.

**6. Total Closure Rate for Cases Handled In-House in Fiscal Year 2001-2002.**

The number of cases and case closure rates for cases handled in-house from 1997 through Fiscal Year 2000-2001 are shown below. The closure rate is calculated against the total number of cases handled as indicated in the preceding table. The closure rate during any given year 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. The amounts reported for 1999-2000 and prior periods reflect total cases handled by the City Attorney's Office. The amounts reported for 2000-2001 and later reflect those cases handled by the Litigation Section only.

**CLOSURE RATE FOR CASES HANDLED IN-HOUSE**

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>CLOSURE RATE</u>
1997-1998	250 of 463	54%
1998-1999	239 of 430	55%
1999-2000	229 of 481	49%
2000-2001	180 of 339	53%
2001-2002	147 of 303	49%

**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>YEAR</u>	<u>AVERAGE NUMBER OF CASES HANDLED PER ATTORNEY</u>
1997-1998	77.1
1998-1999	71.6
1999-2000	73.1
2000-2001	66.9
2001-2002	60.6

The reduction of cases per attorney in the reporting period from the prior fiscal year is consistent with the reduction of the total number of new cases reaching the litigation stage and assigned to the Litigation Section. Reasons for this reduction are discussed in the prior Section 3 above.

**8. Average Attorney Hours Per Case.** Shown below are (i) the rough estimate of the average number of attorney hours expended per type of case handled by the Litigation Section during Fiscal Year 2001-2002; and (ii) the savings to the City on a per case basis, utilizing an hourly rate of \$87 for in-house attorneys and \$125 for outside counsel.

<u>CASE TYPE</u>	<u>AVERAGE HOURS PER CASE</u>	<u>AVERAGE SAVINGS PER CASE</u>
Bankruptcy	20	\$760
Civil Rights	54	\$2,055
Disciplinary Hearings	68	\$2,607
Miscellaneous	35	\$1,332
Pitchess Motions	4	\$152
Retirement Hearings	50	\$1,900
Subrogation	23	\$856
Tort	61	\$2,331

<u>CASE TYPE</u>	<u>AVERAGE HOURS PER CASE</u>	<u>AVERAGE SAVINGS PER CASE</u>
Weapons Petitions	4	\$145
Writ Actions	20	\$760

**9. OTHER STATISTICAL INFORMATION**

a. *Number of claims filed against the City*

**CLAIMS FILED AGAINST THE CITY**

<u>YEAR</u>	<u>NUMBER OF CLAIMS</u>
1997-1998	899
1998-1999	842
1999-2000	843
2000-2001	606
2001-2002	619

b. *Claims resolved prior to litigation*

**CLAIMS RESOLVED PRIOR TO LITIGATION; WITHOUT PAYMENT AND PERCENTAGE**

<u>YEAR</u>	<u>NUMBER OF RESOLVED CLAIMS</u>	<u>CLAIMS RESOLVED WITHOUT PAYMENT</u>	<u>PCT. WITHOUT PAYMENT</u>
1999-2000	804	496	61.7%
2000-2001	421	239	56.8%
2001-2002	736	352	47.8%

c. *Average aging of resolved claims<sup>14</sup>*

**PRE-LAWSUIT CLAIMS**

<u>FISCAL YEAR</u>	<u>CLAIMS RESOLVED WITH PAYMENT OF MONEY</u>	<u>CLAIMS RESOLVED WITHOUT PAYMENT OF MONEY</u>
1997-98	4.58 months	7.56 months
1998-99	2.88 months	5.64 months
1999-00	2.04 months	3.39 months

---

<sup>14</sup> The litigated claims include both cases litigated by outside counsel and the Litigation Section only. 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.

<b>FISCAL YEAR</b>	<b>CLAIMS RESOLVED WITH PAYMENT OF MONEY</b>	<b>CLAIMS RESOLVED WITHOUT PAYMENT OF MONEY</b>
2000-01	1.94 months	3.0 months
2001-02	2.06 months	3.21 months

**LITIGATED CLAIMS**

The amounts reported for 1999-2000 and prior periods reflect total cases handled by the City Attorney's Office. The amounts reported for 2000-2001 and later reflect those cases handled by the Litigation Section only.

<b>FISCAL YEAR</b>	<b>CITY ATTORNEY'S OFFICE</b>		<b>OUTSIDE COUNSEL</b>	
	<b>Cases resolved with payment of money</b>	<b>Cases resolved without payment of money</b>	<b>Cases resolved with payment of money</b>	<b>Cases resolved without payment of money</b>
1997-1998	19.26 months	14.36 months	16.13 months	14.15 months
1998-1999	12.67 months	11.46 months	1.70 months	8.73 months
1999-2000	N/A	4.05 months	N/A	5.53 months
2000-2001	24.32 months	8.62 month	55.83 months	N/A
2001-2002	15 months	7.4 months	51.6 months	86.4 months

d. *Number of aged cases over 24 months*

As of the close of the reporting period, none of the cases handled by outside counsel were assigned over 24 months ago. The three current cases were assigned to outside counsel between March and June, 1991. The data in the above table reflecting resolved cases averaging over 50 months in duration are skewed by a few cases assigned out as early as 1990, including long running flood cases that were slowed by appellate review and a complex toxic case which typically take a longer time to come to resolution. None of the cases have indications of outside counsel maintaining a case longer than reasonably necessary under the circumstances involved.

e. *Number of torts/civil rights and other damages cases initiated against the City and handled by the Litigation Section Only*

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

<u>YEAR</u>	<u>DAMAGE SUITS</u>
1997-1998	93
1998-1999	109
1999-2000	102
2000-2001	94
2001-2002	65

The reduction of the number of new damage suits in the reporting period from the prior fiscal year is consistent with the reduction of the total number of new risk cases filed against the City and assigned to the Litigation Section. Reasons for this reduction are discussed in the prior Section 3 above.

f. *Number of cases initiated by the City*

### NUMBER OF CASES INITIATED BY THE CITY

<u>YEAR</u>	<u>INITIATED CASES</u>
1997-1998	87
1998-1999	75
1999-2000	56
2000-2001	56
2001-2002	40

From and after 2001-2002, the code enforcement and other cases initiated to address Neighborhood Services issues are reported by the Code Enforcement Section. The 40 cases initiated in Fiscal Year 2001-2002 by the Litigation Section only include the following types of cases: 10 subrogation actions; 27 weapons confiscation petitions; 1 enforcement action; and 2 eminent domain actions.

**10. Internal employment related cases.** Of the 61 torts and civil rights lawsuits filed against the City in 2001-2002, one case involved allegations of racial discrimination and retaliation, one case involved alleged violation of ADA and FEHA disability discrimination laws. Both of these cases are being handled in-house.

**11. Notable Accomplishments in Litigation Cases.** During Fiscal Year 2001-2002, the Litigation Section handled or is handling the following cases involving high profile facts, high damage exposure, complexity, and/or some particular difficulties. 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 Retired police officer sought Superior Court review of the denial of her appeal of the City's decision to deny an industrial retirement. CAO successfully defended the writ action.

Case No. 2 Defending action brought by landfill operator for damages resulting from City closure order. Case is being mediated to address damage, code enforcement and planning issues.

Case No. 3 Successfully upheld the termination of violent City employee who was a cause of disruption in operations of work unit.

Case No. 4 Successfully defeated surviving spouse's claim for special industrial retirement benefits in connection with the suicide of her husband-employee.

Case No. 5 Defending a motorcycle accident case involving catastrophic injuries. Plaintiff claims City roadway constitutes a dangerous condition.

Case No. 6 Reached favorable settlement in civil rights claim involving allegations of racial discrimination in a police stop.

Case No. 7 Obtained a defense verdict in a trial of a slip and fall case involving the Crocker Art Museum.

Case No. 8 Defending an action challenging City planning and special districts actions concerning property located in Willowcreek.

Case No. 9 Initiated action to resolve disputes over reward money offered in connection with shooting spree involving City facilities and employee victims.

Case No. 10 Reached favorable resolution in civil rights action alleging excessive force and racial discrimination in a police stop.

Case No. 11 Represent City in bankruptcy case involving public utility. Successfully recovered unpaid utilities user taxes and obtained approval of claim.

Case No. 12 Obtained ruling upholding termination of police department employee based on improper tactics and disreputable conduct.

Case No. 13 Defending joint powers authority in wrongful death action involving decedent's crossing of railroad tracks.

Case No. 14 Obtained a dismissal of action alleging sexual misconduct in connection with after school program.

Case No. 15 Defending CEQA challenge to County facility project.

Case No. 16 Defending trip and fall case brought by plaintiff who alleged suffered closed head and facial injuries.

Case No. 17 Reached very favorable settlement on claim for alleged assault and battery of an eight-year old girl who was participating in the City's after school program. Plaintiff claimed the program was liable for allegedly causing or contributing to her seizure disorder.

Case No. 18 Resolved civil rights suit challenging collection of agency shop fees under labor agreement.

Case No. 19 Obtained favorable settlement of vehicle accident case immediately before commencement of trial. Deputy City Attorney handling case was fully prepared to defend the case at trial. Plaintiff ultimately agreed to City's settlement offer.

Case No. 20 Successfully upheld fire captain examination before the Civil Service Board.

Case No. 21 Defended City Council approval of church school project in North Sacramento and reached favorable resolution of related attorney's fee claim.

Disciplinary Actions: The Litigation Section successfully handled a number of difficult disciplinary actions involving the suspension, demotion or termination of City employees, including the termination of a police department employee and a disruptive and violent utilities employee.

Labor Relations: The Litigation Section successfully represented the City in various grievance matters including grievances involving vacation scheduling and transfer management to facilitate management's staffing requirements. The Section also defeated a challenge to a fire captain examination.

Retirement Appeal: The Litigation Section successfully defended the mandamus appeal to Superior Court of a former police employee's request for an industrial disability retirement which would have meant several hundred thousand dollars to the retirement system. The Section also defeated an attempt to recover retirement system death benefits based upon a death by suicide.

Subrogation Cases: The Litigation section concluded 13 subrogation lawsuits to recover Worker's Compensation benefits and property damage caused by third parties which resulted in the recovery of \$181,5654.70, including \$51,907.98 by way of judgment and \$115,275.46 by way of settlement. In addition, settlements included credit rights totaling \$14,381.26.

## PART VI

### SPECIAL PROJECTS SECTION

#### 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.

The Section 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. In June 2001, a new Code Enforcement Section was created to handle all administrative, civil and criminal code enforcement work previously handled by Special Projects. The past fiscal year, the Special Projects Section handled high profile litigation, extraordinary relief, injunctions and injunction monitoring, collections, intellectual property, and finance matters.

This portion of the annual report will provide an overall scope of the duties and responsibilities of the Special Projects Section during the past fiscal year 2001-2002. This portion of the report also provides a detailed analysis of the workload of the Special Projects Section during this reporting period. **ATTACHMENT D** is a list of the various areas in which the Special Projects Section performed legal services together with a listing of the attorneys assigned to those areas. The list reflects the current assignments of the Special Projects Section attorneys as of June, 2002.

Due to the loss of key employees throughout Fiscal Year 2002 and the heavy workload, the Special Projects section was unable to meet goals that were established last fiscal year. Our goals for the next fiscal year include developing expertise in finance and economic development and completing the Special Projects Manual.

#### B. SPECIAL PROJECTS - LITIGATION

During the course of the past fiscal year, the SPS had the equivalent of 2 FTE assigned to litigate special projects cases. Thirty new litigation cases were opened and 54 cases were closed. The following chart shows the type and nature of the new cases filed in Fiscal Year 2002, and in the previous reporting period.

<b>PROFILE OF CASES</b>		
	2000-01	2001-02
<b>Cases Opened</b>	35 *	30
<b>Cases Closed</b>	22 *	54
<b>Cases Pending</b>	203 *	58
<b>Risk Cases Opened</b>		
Tort	8	0
Civil Rights	1	5
ADA	1	2
EEO	0	3
Total	10	10
<b>Other Cases Opened</b>		
Eminent Domain	1	8
Inverse Condm.	1	1
Writs	7	6
Contracts	1	1
Injunction	0	1
Other	4	0
Total	14	17
<b>Administrative Hearings</b>		
Discipline	0	1
Retirement	0	1
Total	0	2

\* Includes Code Enforcement Cases

## **1. FISCAL YEAR 2002 IN REVIEW - SIGNIFICANT LITIGATION**

The SPS has handled the following notable high profile and/or complex litigation matters:

Case No. 22 A probationary police officer, was released from probation due to a motor vehicle accident while on duty. Plaintiff claimed gender and/or sexual orientation discrimination. The City prevailed on a motion for summary judgment.

Case No. 23 Jury trial in federal court alleging civil rights violations against the police department and officers with allegations of racial motivation. Officers were alleged to have used excessive force and falsely arrested plaintiff. Defense verdict.

Case No. 24 Plaintiff was struck by a City truck while walking in the crosswalk. Plaintiff suffered severe injuries which left her physically handicapped for the rest of her life. On the eve of trial the matter favorably settled.

Case No. 25 The United States District Court dismissed Plaintiffs' claim that sidewalks are a "program" under the ADA and Rehabilitation Act. The matter was recently overturned by the Ninth Circuit. A petition for rehearing and suggestion for rehearing en banc has been filed with the court.

Case No. 26 Plaintiff in this matter was the subject of an arrest warrant in 1999. In effecting plaintiff's arrest, SPD officers utilized a police canine that was able to detain. Plaintiff alleged that the use of a canine officer amounted to a use of unreasonable force under the circumstances, a violation of the Fourth Amendment of the US Constitution. After a three-day trial, the jury awarded the plaintiff just \$2,394.20, representing the cost of treatment of the leg injury suffered by plaintiff, plus one dollar in general damages.

Case No. 27 In this case, graduates of the Sacramento Police Academy alleged that the City had failed to compensate them for overtime worked during the academy training. Plaintiffs alleged that this was a violation of the Fair Labor Standards Act, which carries the potential of "liquidated damages" up to twice the amount of the damage suffered. By performing extensive legal research into both the issues of liquidated damages, and the possibility of a defense verdict based upon the statute of limitations, we were able to favorably settle the case.

Case No. 28 Wrongful demolition/inverse condemnation case. Plaintiffs were holders of a second deed of trust claiming that City failed to give them notice prior to actual demolition of property. The court found that the City had complied with its constitutional obligations to provide notice and an opportunity to challenge the findings when it served and recorded the original notice and order. This case is significant in that the Court found that the City's municipal code provisions governing the procedure used for issuing notice and opportunity for hearing conform with constitutional due process requirements. This matter is currently on appeal.

Case No. 29 The plaintiff alleged that the City had created a dangerous condition on the sidewalk and that as she was walking on it she fell and severely injured herself. At the arbitration we filed a brief that showed that the City had no liability. The arbitrator agreed and gave the City a defense verdict. The plaintiff thereafter dismissed the case against the City.

Case No. 30 Plaintiff alleged civil rights violation stemming from sexual battery by an on duty officer who was ultimately terminated by the City. Voluntary dismissal following the filing of a Motion for Summary Judgment by the City.

Cases No. 31, 32 and 33 Obtained dismissals of federal court cases alleging civil rights violations (equal protection, freedom of association, free speech) stemming from alleged discriminatory enforcement by the SPD of state law on the basis of sexual orientation. Dismissals resulted from filing of MSJ, Motion to Dismiss and voluntary dismissal.

## 2. SPECIAL PROJECTS SECTION PAYOUTS

FOR FISCAL YEAR ENDING JUNE 30, 2002

2001-02	Special Projects Cases		Outside Counsel Cases	
	No. of Cases	Total Paid	No. of Cases	Total Paid
Cases Closed Without Payment	30		N/A	
Under 100K	10 <sup>15</sup>	\$112,002.00	1	\$25,000.00
100K - 499K	0	N/A	N/A	N/A
500K - 999K	1	\$825,000.00 <sup>16</sup>	N/A	N/A
\$1 Million+	1	\$1,000,000.00 <sup>17</sup>	N/A	N/A
Grand Total	12	\$1,937,002.00	1	\$25,000.00
2000-01	Special Projects Cases		Outside Counsel Cases	
	No. of Cases	Total Paid	No. of Cases	Total Paid
Cases Closed Without Payment	9		N/A <sup>17</sup>	
Under 100K	N/A <sup>18</sup>	\$240,208.00	N/A <sup>17</sup>	N/A <sup>17</sup>
100K - 499K	N/A <sup>17</sup>	\$250,000.00	N/A <sup>17</sup>	N/A <sup>17</sup>
500K - 999K	N/A <sup>17</sup>	N/A <sup>17</sup>	N/A <sup>17</sup>	N/A <sup>17</sup>
\$1 Million+	N/A <sup>17</sup>	N/A <sup>17</sup>	N/A <sup>17</sup>	N/A <sup>17</sup>
Grand Total	N/A <sup>17</sup>	\$490,208.00	N/A <sup>17</sup>	N/A <sup>17</sup>

---

<sup>15</sup> The monetary value of cases which dictate where they are handled in Litigation Section or SPS is \$400,000. Thus, generally SPS would not have these cases unless they come to the section upon attorney reassignment or Litigation needs assistance.

<sup>16</sup> Case No. 27

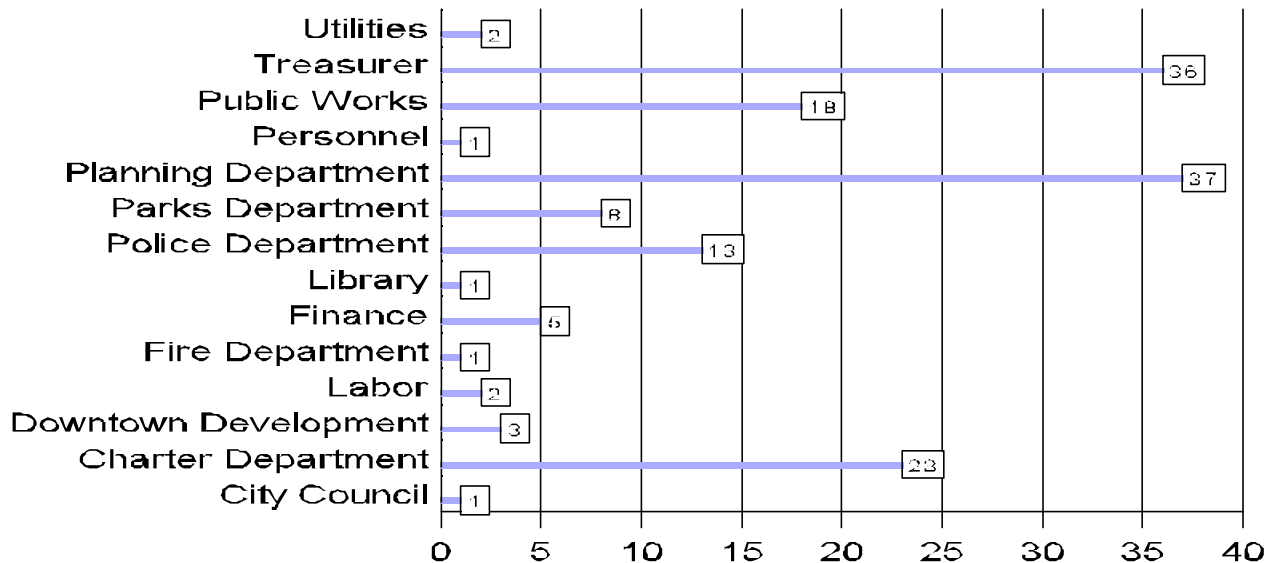
<sup>17</sup> Case No. 24

<sup>18</sup> Information Not Tracked

### C. SPECIAL PROJECTS – ADVISORY

SPS received 131 new advisory assignments in Fiscal Year 2001-2002. At the time of this reporting, 87 of the assignments had been completed and 135 are pending. The chart below identifies the number of advisory assignments by the department requesting opinions and/or advice.

**Advisory Assignments By Departments**



### D. COLLECTIONS

The SPS pursued its first collection case against a slumlord who allowed his commercial building to become so dilapidated that the City was required to demolish it. The property owner was sued to collect the City's demolition and nuisance abatement costs. The property owner capitulated before trial and agreed to pay \$15,000 to reimburse the City. The SPS is working with the Code Action Team to identify other suitable cases for pursuit of reimbursement. The SPS expects to develop a process which will allow for other departments with collections matters to submit cases for review and collection during the next fiscal year.

Collection matters, especially in code enforcement cases where damages may exceed the small claims jurisdictional amount, are an area of great concern to the City Attorney's Office. At this time, we have been unable to devote sufficient staff time to the effort of cost/penalty recovery. However, this is the type of good result we can expect to achieve on the more consistent basis with the appropriate staffing levels.

### E. INTELLECTUAL PROPERTY

The City's intellectual property is a valuable asset. Currently, this asset has not been legally protected through state and federal avenues available to the public. This fiscal year,

the SPS, with the assistance of outside counsel, made a presentation to the City's Cabinet to raise awareness of intellectual property issues involving patents, copyright, trademarks and trade secrets. The SPS is building a library of materials to assist in recognizing intellectual property issues that face the City of Sacramento and can assist in resolving some limited issues. The SPS has also identified experienced outside counsel that can provide more complex advice and analysis in this complex and specialized area of the law should the City require such services. To date, the SPS has assisted City departments with website information including evaluation of disclaimers and confidentiality concerns.

## **F. EXTRAORDINARY RELIEF (INJUNCTIONS, WRITS, APPEALS, AMICUS)**

The City Attorney's Office is called upon on numerous occasions during a given year to initiate and defend matters that require quick and intense action. These matters include temporary restraining orders, injunctions, various types of writs, appeals and amicus briefs. The nature of these projects usually cause interruption of other ongoing litigation on short notice and is often frustrating and stressful. This work has been generally centralized in the SPS which has formulated procedures for quick response to such matters and allows the section to address these matters with a minimum of disruption to the regular case load. The following are examples of extraordinary relief matters handled by the SPS:

Case No. 34 This writ action involved a CEQA challenge which primarily focused on traffic issues impacting the residential area nearby including noise, visuals, air and due process claims. The project was abandoned and the City successfully defended a claim by plaintiff's counsel for attorney's fees.

Case No. 35 Successfully petitioned the United States Supreme Court for hearing on the issue of punitive damages awarded against a municipality and filed an amicus brief on the merits of the issue. The Court ruled in favor of the municipalities.

Case No. 36 In 2000, the City participated in the closure of East Levee Road. Petitioners sought a writ of mandate requiring the City to re-open East Levee Road, alleging that the closure exceeded the City's jurisdictional limits, violated state and local laws regarding street closures, and that the closure violated CEQA. Petitioner's writ of mandate was heard by the court and was denied in its entirety.

## **G. MANDATORY TRAINING**

California attorneys are required to obtain 25 hours of Minimum Continuing Legal Education (MCLE) every three years under state law. The City Attorney's Office is an approved provider of educational training sessions. We offer 10 training programs per year which are open to other public and private sector attorneys.

The SPS handled the scheduling and content of these training sessions for the past fiscal year. The training included topics dealing with legal ethics, bias, substance abuse and stress reduction. This year included presentations made by attorneys employed by the City Attorney's Office, including the Chief Assistant City Attorney and a Deputy 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.

## PART VII

### CODE ENFORCEMENT SECTION

#### A. GENERAL

The Code Enforcement Section (CES) was formed in June of 2001. The main purpose for the creation of the Section was to focus on and centralize the legal support provided for all City enforcement actions, including everything from animal control issues to dangerous housing and drug abatements.

With the creation of the CES, the City Attorney's Office is able to focus on working with the various members of the City department who are responsible for enforcement of City codes and other nuisance and criminal activities throughout the City. Generally, requests for assistance from CES come from all City Departments and cover a large range of issues, such as the following:

<u>Neighborhood Services:</u>	CAT; Housing and dangerous building issues; Illegal dumping; Prosecuting owners of slum buildings; public and social nuisance abatement; representation at administrative hearings; blight issues; noise; vacant building enforcement; emergency abatements and securements; inspection warrants; Advisory requests regarding enforcement issues; graffiti; zoning; general nuisances
<u>Police Department:</u>	Criminal prosecution of City Code violations; Enforcement questions; drug abatements; red light abatements; permit issues; gang activity abatements; drug loitering; vehicle seizures (Beat Feet); Homeless issues; Nuisance businesses/businesses operating without proper permits; Taxicab enforcement; General nuisance
<u>Fire Department:</u>	Fire Code violations; Fire alarm violations; fire hazards; Hazardous materials; administrative remedies procedures
<u>Public Works:</u>	Animal Care Services; Right of way enforcement; encroachment enforcement; Posting of illegal Signs; graffiti; Collection of costs related to abatements;
<u>Finance/Revenue:</u>	Dance Permit; Taxicab permits; Parking violations

Sacramento is one of the few cities in the State of California with a specialized code enforcement unit in the City Attorney's Office.

## **FISCAL YEAR 2001-2002 IN REVIEW**

### **B. RESPONSIBILITIES AND ASSIGNMENTS**

CES is responsible for a full range of City Attorney services. Using a theory of "vertical prosecution" matters get assigned to the section at various stages. The goal of CES is to work with City enforcement staff in a coordinated effort to remedy nuisance and criminal activities. Frequently, our job is to work with City staff to analyze the problem/nuisance/complaint and then determine the best and most effective remedy/proceeding to pursue, and see it through from beginning to end as follows:

- **Providing Legal Advice.** Assist City staff in developing enforcement approaches or conducting research and providing them with opinions as to the legality of a proposed course of action. Also serve as the legal advisor to the Council Code Enforcement Ad Hoc Committee. Can include drafting forms and documents, approving contracts or setting up processes for violators that comport with due process requirements. Often, this assignment includes recommending and drafting revisions to current ordinances to improve their effectiveness for enforcement purposes.
- **Assist with Enforcement Efforts.** Members assist staff in their actual enforcement efforts, such as obtaining inspection warrants, checking documentation to ensure everything is in order for abatements and demolitions, writing compliance agreements and meeting with the parties involved.
- **Represent Staff at Administrative Hearings.** Members advocate on behalf of staff at administrative hearings such as those involving housing and dangerous buildings, revocation of permits and vicious dog appeals.
- **File Judicial Proceedings, Including Criminal Prosecutions.** Whenever necessary to enforce the orders of enforcement staff, members of CES will file the appropriate court action to obtain needed relief for identified nuisances. Criminal prosecutions in particular are used for particularly egregious acts, or for repeat offenders who have failed to comply with previous enforcement efforts. This includes contempt proceedings and other appropriate actions. Whenever possible, CES also seeks to re-coup the costs incurred by enforcement staff and City attorney staff, and frequently undertakes collection actions by filing matters with bankruptcy court, receiverships or submitting demands when properties are sold.
- **Specialized Abatement Actions.** Utilizing a nuisance abatement response team, CES files actions using State nuisance abatement laws against such things as drug properties, prostitution and gang activity. The purpose of these specialized nuisance abatement actions are to obtain court orders which, when enforced, can dramatically decrease or eliminate the nuisance which unreasonably disrupts and interferes with the quality of life of residents of the City.

- **Conduct Training as Needed to City Enforcement Staff.** Very often in the course of representing the departments or advising them on their processes, we are able to identify areas which will benefit from additional training. CES also participates at the request of City staff in City-sponsored training programs to community members.
- **Defend the City in Litigation and Claims Related to Enforcement Action.** In general, when actions are filed against the City arising out of an enforcement action, members of the section litigate the cases, conduct all phases of discovery and motions, and prepare the case for trial.

## C. REPORT ON FISCAL YEAR ACCOMPLISHMENTS

### 1. Administrative / Advisory Code Enforcement Assignments

In Fiscal Year 2001-2002 there were 365 requests for legal assistance on code enforcement matters. These figures represent enforcement actions against individual properties and requests for legal opinions, but does not include requests for legislation.

#### TOTAL NUMBER OF CODE ENFORCEMENT ASSIGNMENTS

FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02
219	330	367	313	365

#### TYPES OF CODE ENFORCEMENT ASSIGNMENTS

Type	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02
Abatement	64	60	40	30	99
Demolition	66	110	134	118	20
Notice to Vacate	N/A <sup>1</sup>	2	9	5	0
Opinion	N/A <sup>1</sup>	33	38	38	N/A <sup>1</sup>
Refer to Litigation	11	3	5	6	N/A <sup>1</sup>
Securement	N/A <sup>1</sup>	102	129	110	2
Warrant	18	20	12	6	4
PRA Requests	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	15	42
<b>TOTAL</b>	159	330	367	313	167

<sup>1</sup> Statistics not available.

## 2001-02 CODE ENFORCEMENT ASSIGNMENTS BY COUNCIL DISTRICT

Type	D- 1	D- 2	D- 3	D- 4	D- 5	D- 6	D- 7	D- 8	Total
Abatement	9	28	8	6	23	9	2	10	99
Demolition	0	5	3	0	8	4	0	0	20
Notice to Vacate	0	0	0	0	0	0	0	0	0
Opinion	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>
Refer to Litigation	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>
Securement	0	2	0	0	0	0	0	0	2
Warrant	0	1	2	0	0	0	0	1	4
PRA Requests	7	12	5	1	12	1	0	4	42
<b>TOTALS:</b>	16	48	18	7	43	14	2	15	167

<sup>1</sup> Statistics not reported.

## 2000-01 CODE ENFORCEMENT ASSIGNMENTS BY COUNCIL DISTRICT

Type	D - 1	D - 2	D - 3	D - 4	D - 5	D - 6	D - 7	D - 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
Refer to 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
PRA Requests	1	4	1	0	5	2	1	1	15
<b>TOTALS:</b>	16	99	11	15	100	22	3	27	328

## 1999-00 CODE ENFORCEMENT ASSIGNMENTS BY COUNCIL DISTRICT

Type	D - 1	D - 2	D - 3	D - 4	D - 5	D - 6	D - 7	D - 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
<b>TOTALS:</b>	21	135	6	8	135	26	6	30	367

## 1998-99 CODE ENFORCEMENT ASSIGNMENTS BY COUNCIL DISTRICT

Type	D - 1	D - 2	D - 3	D - 4	D - 5	D - 6	D - 7	D - 8	Total
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
<b>TOTALS:</b>	15	149	5	12	86	19	2	42	330

## 2. Criminal Prosecution Proceedings

As stated previously, one of the most important functions of CES was taking over the job of criminal prosecution of City code violations, a function originally created and overseen by the SPS. Criminal prosecution of Sacramento municipal code sections began in February of 2001 when the City Attorney's office took over this function from the Sacramento County District Attorney's Office. CES prosecutes all City code violations within the City of Sacramento. The particular types of offenses include: maintaining substandard housing or buildings, failure to comply with a notice and order, illegal dumping, unlawful camping, drinking in public, barking and vicious dogs, and loitering. These are matters of greatest concern to the neighborhoods.

### Criminal Case Referrals from Departments

	Feb - Jun 2001	FY 01-02
Number of cases referred:	124	2292
Number of Citations and Criminal Complaints filed	119	2092
Number of Cases Closed:	63	1491

### Most Common SCC Violations Cited

Violation Charged	Referring Department	Total Cases FY 00-01	Total Cases FY 01-02
Unlawful Camping	Police Department	70	844
Drinking in Public	Police Department	6	96
Loitering	Police Department	4	1
Jaywalking/Entering Crosswalks	Police Department	2	167/20
Loud Stereo	Police Department	4	113
Animal Barking/Unlicensed Dog	Public Works Control	9	27/27
Violating Notice to Vacate	Neighborhood Services	5	3
Violation of Dangerous Buildings	Neighborhood Services	3	1
Illegal Activity Detrimental to Life and Health	Neighborhood Services	3	4

### Summary of Case Disposition

	Feb - Jun 2001	FY 01-02
Cases Dismissed in the Interest of Justice*	19	496
Bench Warrants	44	218
Failures to Appear	48	552
Guilty Pleas	21	198
Trials	8	31

(\*Cases dismissed in the interest of justice include those cases where 1) the defendant has complied with our request; 2) The defendant has already served time in jail; 3) The defendant is being sentenced to jail time on a companion matter brought by the District Attorney's office; or, 4) Insufficient evidence exists to proceed forward with the matter.)

### Summary of Case Disposition Per District – FY 01-02

	D - 1	D - 2	D - 3	D - 4	D - 5	D - 6	D - 7	D - 8	Totals
Dismissed in the Interest of Justice	268	62	109	12	17	13	3	2	496
Bench Warrants	124	14	39	6	17	11	4	0	218
Failures to Appear	317	55	94	26	29	21	4	3	552
Guilty Pleas	99	21	39	9	4	8	1	1	198
Trials	11	3	4	6	2	0	2	3	31

(The high disparity of district one cases dismissed in the interest of justice can be explained by the fact that the overwhelming majority of unlawful camping cases involving transient offenders occur in District 1 along the American River Parkway. Very often these offenders successfully complete diversion cases, which result in dismissals. The transient nature of the offenders also explains the high percentage of defendants who fail to appear in court)

#### **Summary of Case Disposition Per District – Feb-Jun 2001**

	D - 1	D - 2	D - 3	D - 4	D - 5	D - 6	D - 7	D - 8	Totals
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
Trials	5	0	0	2	1	0	0	0	8

#### **D. OTHER HIGHLIGHTS and SIGNIFICANT ACCOMPLISHMENTS OF THE SECTION**

##### ***1) Criminal Prosecution of Substandard Housing and Building Owners/Nuisances***

One of the single most important functions of CES is to use the full power of the City to criminally prosecute those responsible parties who maintain substandard and dangerous housing and buildings in the City. Upon policy direction of Council, criminal actions against repeat offenders are pursued whenever possible. The following is a representative sample of cases CES has undertaken:

##### ***Case No. 37 People v. Out of Town Property Owner (Dist. 1)***

A CAT Team case involving 3 single family residences, a travel trailer and an outbuilding in dilapidated and substandard condition. Despite repeated Code enforcement actions, the out-of-town owner failed to comply. CES filed a criminal action against the defendant, which resulted in a plea agreement that required him to, among other things, complete all repairs ordered by code enforcement,

maintain this and any other rental housing he owns in the City in compliance with all codes, and reimburse costs to the City. Because he is on probation, a failure to comply will result in increase sanctions against him. To date, all of the outstanding violations were corrected, including the demolition of one of the substandard houses, and there is a pending sale of the property.

**Case No. 38 *People v. Nuisance Animal Owner*** (Dist. 4)

An Animal Control case. As a result of Defendant's nuisance activities in running a dog rescue operation out of his home, and repeated animal control actions that had little to no effect, the CES filed a misdemeanor action against the property owner as a way by which to try and resolve the nuisance conditions he was creating in his neighborhood. After several court appearances the defendant pled no contest to one misdemeanor for a 10 day jail sentence that will be suspended pending his successful completion of 3 years of informal probation, during which he was ordered not to have more than 2 dogs on his property. These terms are very similar to the terms of the judgment and injunction in the companion civil case that was also filed (the civil judgment has additional terms as well).

**Case No. 39 *People v. Substandard Property Owner /Occupier***  
(Dist. 2 )

Another CAT team case involving a property which had numerous housing and building code violations, including the fact that the defendant was occupying a building that was ordered vacated. Final resolution of the case included a probation condition that the defendant could not enter the property unless accompanied by an employee of the Code Enforcement Division or by a contractor licensed by the State of California for the purpose of repairing the structures on the property.

**Case No. 40 *People v. Substandard Rental Property Owner.*** (Dist. 5)

This case involved a rental property that was severely overridden by mold, among other substandard conditions. The owner had failed to comply with any of Code enforcement's prior attempts to get the owner to make repairs to the house so that it could be safe for tenants to live in. CES filed a criminal complaint against the Defendant, which resulted in the Defendant pleading guilty to a misdemeanor count of maintaining a dangerous building. He was ordered to make repairs, fined and placed on probation and ordered to make repairs.

CES continues to work with the staff of the Neighborhood Services Department to actively identify slum property with repeated violations for the purpose of bringing criminal prosecution actions against the owners and responsible parties.

## **2) *Illegal Dumping Prosecution Program***

Working in conjunction with Neighborhood Services and the Police Department, In December of 2001, the CES began an aggressive program to go after businesses and individuals who dump materials unlawfully in the City. CES assisted Neighborhood Services as they initiated this program after receiving strong support and direction from the City Council, pursuant to the recommendations made by the Council Code Enforcement Ad Hoc Committee. At the direction of Council, CES revised the ordinances

to facilitate criminally prosecuting violators and to substantially increase the penalties associated with illegal dumping by classifying the offense as a misdemeanor punishable by a minimum \$500.00 fine, 6 months in jail, or both. As a result, CES began prosecuting persons who were caught by Neighborhood Services or the Police Department illegally dumping within the City limits. Although a relatively new program, between December 2001 through June 30, 2002, CES successfully obtained five convictions against violators, as reflected in the following table:

DATE	DISTRICT	CHARGE	RESOLUTION / PENALTY
11/4/01	2	13.10.200	Failed to Appear / Pending
11/4/01	2	13.10.200	Matter dismissed due to insufficiency of evidence. Case against co-defendant who actually dumped the materials being pursued.
11/6/01	6	13.10.200	(Guilty) \$500.00 Fine
12/21/01	5	13.10.210	(Guilty) \$500.00 Fine
1/29/02	5	13.10.200	Pled guilty to companion case. 5 Years Probation with Order to Stay Away from Area
2/13/02	6	13.10.170	Failed to Appear / Pending
2/13/02	6	13.10.160	Failed to Appear / Bench Warrant
3/29/02	2	13.10.200	(Guilty) \$500.00 Fine
4/9/02	6	13.10.170	(Guilty) \$103.00 Fine (Infraction) *
4/23/02	3	13.10.200	Pending (Infraction)
4/25/02	7	13.10.200	Failed to Appear / Pending
5/01/02	5	12.10.200	Pending

(\*Court clerical error resulted in case being processed as an infraction. Follow-up with the Court addressed this problem so that it would not be repeated in the future.)

CES also assisted with revising the rewards and incentive program to encourage members of the public to report illegal dumping incidents as a further measure to combat illegal dumping in the City.

### **3) Legal Advisor to the Council Code Enforcement Ad Hoc Committee**

As part of a Council-coordinated effort to tackle code enforcement issues throughout the City, including reviewing the City's processes and ordinances, CES served as legal advisor to the Council Ad Hoc Committee and provided advice on processes and made recommendations on needed ordinance revisions. Specifically, CES drafted an ordinance at the direction of the Ad Hoc committee which clarified ordinances for enforcement purposes, toughened the penalties, especially for illegal dumpers, and made

overall changes to improve criminal prosecution. CES continues to work with staff to develop process and ordinances as identified by the Ad Hoc members.

**4) Assuming Criminal Prosecution Over Areas of the City Previously Handled by District Attorney**

Initially, when the City Attorney's office first took over criminal prosecution of City code violations from the County, the District Attorney reserved jurisdiction over cases originating in Council District 2 and the Avondale/Glen Elder area of Council District 6, which was part of their Weed and Seed grant. However, in August of 2001, CES took over prosecution of all cases originating in Council District 2. In October of 2001, following the decision of the District Attorney to re-structure her community prosecutor program, CES assumed the additional responsibility for the prosecution of City code cases originating in the Avondale/Glen Elder area. Notably, CES took over handling of this additional case load without the benefit of adding additional staff.

**5) Additional Activities Related to Criminal Prosecution**

The following additional activities related to Criminal Prosecution were undertaken during the past fiscal year.

- Training on report writing provided. Due to the use of criminal prosecutions, the City Attorney's office bears a higher burden of proof when prosecuting persons accused of violating the Municipal code. This required comprehensive training of City enforcement staff to ensure that the requisite evidence is gathered for the cases to ensure all evidence of code violations are collected and preserved correctly. There was also training provided on search and seizure issues.
- Coordinated with all departments responsible for issuing citations to have every citation issued for City code violations sent to CES for review and processing. Previously, there was no centralized process, and this resulted in a great disparity in how City cases were handled and, in some cases, resulted in cases being dismissed without our knowledge. Now CES reviews all cites for legal accuracy before filing with the court and ensures as much as possible that the courts handle them consistently.

**6) Served as the Test Section for Automation Pilot for Case Management and Reporting**

In an effort to better track cases and assignments for reporting purposes, the City Attorney's Office contracted with Impact Software Production, Inc. (now owned by West Group) to customize a database system known as Pro Law with the intent to create a system which would meet all the needs of the office with regards to tracking the wide variety of assignments the office handles.

Because CES handles assignments in virtually every area of the City Attorney's office, including criminal prosecution, CES was chosen to be the test section for the pilot project to test the pilot database system before it was approved for use by the entire office. In February of 2002 all CES members were trained on the new pilot database

system and began tracking case assignments, events and activities on the pilot system and have continuously provided valuable input on how it operates and made recommendations for revisions. The efforts of CES members in serving as “test subjects” should prove invaluable for ensuring that the City Attorney’s office gets the most out of this product.

7) **Other Successful Civil and Administrative Abatement Actions**

- **Drug Abatement of Problem Business: City v. Nuisance Business.** (Dist. 2)

This is a case the City took over from the District Attorney’s office. This involved a severe drug and nuisance problem on a commercial property which was exacerbated by the fact that the owner repeatedly failed to cooperate with the police departments efforts to abate the nuisance activities. CES successfully obtained a preliminary injunction against the owner which ordered him to obtain a security guard and refrain from selling certain items in his store (single-sale cigars and small plastic baggies) that facilitated the illicit activities of the drug dealers. When they owner violated the terms of the preliminary injunction, an immediate closure order was sought and granted by the Court. The property is now closed.

- **Revocation Proceeding for Nuisance Business: Dance Permit Revocation Proceeding.** (Dist. 4)

In an effort to stop the severe nuisance being created by the owners of this dance club’s failure to properly run their business in compliance with the terms of their dance permit, the police department, assisted by CES, initiated a dance permit revocation proceeding. CES successfully represented the City in this hearing, utilizing the testimony of police officers, neighbors and surrounding businesses to demonstrate the extreme nuisance being created by the dance club. The administrative hearing officer ordered the revocation of the dance permit until such time as the dance club owners have security plan approved by the Police Department.

- **Drug Abatement action against Rental Property Owner: City v. Out of Town Rental Property Owner.** (Dist. 2)

This was a drug abatement action initiated at the request of the Police department. CES filed a complaint against the out-of-town property owners. As a result, the owners pursued an unlawful detainer action against their drug-dealing tenants, and successfully removed them. The defendants entered into a stipulated permanent injunction with the City requiring them, among other things, not rent to new tenants unless first notifying the police department for background checks. The property now remains quiet.

**E. NUISANCE VEHICLE SEIZURE ORDINANCE (“BEAT FEET”)**

Proceedings under the Vehicle Seizure Ordinance approved by the City Council in August 1999, are now being handled by CES .

The Sacramento Police Department and the City Attorney's Office have worked together to formulate a procedure that has resulted in the successful seizure of 164 vehicles since the Ordinance went into effect in January 2000.

The success of the Ordinance has resulted in ***no repeat offenders***. Additionally, there were only two forfeiture hearings before the Superior Court – one involving a spouse who did not wish to relinquish title of the vehicle, and the other involving a vehicle owner who failed to file the necessary papers opposing forfeiture. Both vehicles were declared nuisances and awarded to the City of Sacramento.

Recently, the City of Sacramento auctioned nine vehicles confiscated under the Ordinance. In each of these cases, the owner failed to request return of the vehicle. The sale of the vehicles amounted to \$3,300.00.

<b>BREAKDOWN BY DISTRICT – FY 2001-02</b>						
	<b>D - 2</b>	<b>D - 5</b>	<b>D - 6</b>	<b>D - 7</b>	<b>D - 8</b>	<b>Totals</b>
Number of SPD "Stings"	2	2	5	0	2	11
Number of Vehicles Seized	12	10	30	0	11	85
Number of Vehicles Forfeited	6	2	6	0	0	14
Number of Vehicles Donated	0	0	0	0	0	0
Number of Vehicles Returned in Settlement Agreement	6	8	22	0	11	47
Number of Arrestees Residing Outside of Arrest Area	4	9	28	0	10	51

<b>BREAKDOWN BY DISTRICT – FY 2001-02</b>						
	<b>D - 2</b>	<b>D - 5</b>	<b>D - 6</b>	<b>D - 7</b>	<b>D - 8</b>	<b>Totals</b>
Number of Arrestees Residing Outside of Sacramento County	2	2	16	0	7	27
<b>BREAKDOWN BY DISTRICT – FY 2000-01</b>						
	<b>D - 2</b>	<b>D - 5</b>	<b>D - 6</b>	<b>D - 7</b>	<b>D - 8</b>	<b>Totals</b>
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	9	32	2	3	61
Number of Arrestees Residing Outside of Sacramento County	4	4	5	0	1	14

**PART VIII**

**2003-2007 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.

**A. INTERNAL GOALS**

**1. Section Manuals.** We have prepared manuals for the various sections 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. They also serve as institutional memory as to how assignments and activities have been handled in the

past, again reducing the potential for wasted time. There is a constant need to add new, and update, existing policies and procedural manuals. This will be a continuing effort.

**2. Continued Development of SPS.** Two years ago, we developed the SPS to handle a number of new areas and some of our more complex and high profile advisory and litigation assignments. The development of this section has been impaired due to the fact that we have experienced staff turnover and a need to retrain individuals to handle matters assigned to the section. In addition, we have not been able to develop several of the new areas of expertise because of a lack of staffing.

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. This section will continue to require much administrative attention during the next few years.

**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 transfer a majority of criminal prosecution of code actions 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 matters, which will result in faster and more effective results. The addition of criminal prosecution as an abatement tool has resulted in more permanent results in a shorter period of time than would the pursuit of administrative and civil remedies in appropriate cases. We will continue to devote significant effort to the activities of this section.

During the last fiscal year, we assumed responsibility for the prosecution of all City code actions with the exception of violations committed by juveniles. We have not established a time table for transferring this final area of criminal prosecution to this office and the District Attorney has been cooperative in this area.

**4. Succession Planning.** In 1994, we commenced efforts to cross-train sufficient staff in every aspect of our work to ensure that our clients will not suffer a significant adverse impact as separations and retirements occur. We still lack sufficiently trained staff in the areas of water law, municipal finance and eminent domain. We will continue our efforts to train staff to be better prepared to take advantage of our in-house knowledge and expertise before retirements or other employment separations result in the loss of those benefits. Within the next five years, we anticipate several retirements. 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.

**5. Space Needs.** We will continue our efforts to maximize the utilization of our existing facilities until the new City Hall annex is constructed. Our current leases were to expire in February 2003. However, we have executed extensions until January 2004 to ensure we have

adequate space until the relocation to the City Hall annex and to minimize disruption to the delivery of legal services.

**6. 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 2002, our automation improvements included: Completing the customization of Prolaw case management software for implementation in Code Enforcement as a pilot group, installation of Windows 2000 Desktop Operating System throughout the office, installation of Adobe Acrobat Writer version 5.0 and Roxio Easy CD Creator 5.0 Platinum, completion of Netware 6 training for IT staff, upgrading to longer lasting computer mouse (IntelliEye Technology) and ergonomic keyboards, continued development of Prolaw software for roll out to all sections in the office. Current automation projects for Fiscal Year 2003 include completion of Prolaw software development and roll out to all sections in the office, data conversion from Abacus and other databases into Prolaw, document electronic indexing and storage, implementation of Novell software upgrades including Novell GroupWise 6.0, Novell NetWare 6.0 File Server Operating Systems, and Novell ZenWorks 3.2 Desktop management software, and implementation of Microsoft Office XP upgrade.

**7. Cost recovery.** In 1998, the City Council established a cost recovery requirement for City Attorney costs in drafting or reviewing North Natomas development-related agreements. A similar requirement exists for City Attorney costs relating to North Natomas bond issues and maintenance districts. Projects subject to the cost recovery policy are listed in a log that identifies the project, and specifies an expected fee to be charged for the project. For example, if we are asked to prepare a development agreement for a North Natomas private project, the agreement will be listed in the log with a corresponding fee of \$1,500.00, to be paid after the landowner signs the agreement and before we approve it as to form. Additionally, when we are asked to prepare the legal documents for annexation of a subdivision to one of the North Natomas maintenance districts, we list that annexation in the log with a corresponding \$2,500.00 fee. When the cost recovery policy was established, the City Council authorized retention of the resulting funds in our budget, with no reduction in general fund allocations. The funds have been used to maintain and improve our automation systems. During fiscal year 2001-02, we collected the sum of \$57,750 pursuant to the cost recovery policy, for development-related agreements, and for services rendered in connection with North Natomas bond issues and maintenance districts.

**8. Automated Hiring Process.** In the past, the hiring process has been extremely cumbersome and slow. Due to the volume of work in the office, when vacancies occur or new positions are created, there is a need to quickly fill positions with well-qualified staff. For this reason, we have automated some aspects of our hiring process. We currently receive numerous recruitment responses via e-mail and have a dedicated e-mail address solely for this purpose. This process has proven to be a speedy one as applicants are able to quickly send the resumes to us rather than go through the mailing process. During this fiscal year, we received an estimate of about 180 resumes for interest in attorney, secretary and clerk positions. We will be exploring further automation of other aspects of hiring.

**9. City Attorney Web Page.** We have completed development of a City Attorney Web page that provides substantial information about the office, our responsibilities and

our performance. This has proven to be resourceful as it serves as a tool for the public to get a broad idea of our function to the City. We received an average of 51 hits per day.

**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.

**11. 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.

**12. City Employee Survey.** Last year the City conducted a survey of City employees in an effort to discover areas in which job satisfaction improvement was needed. The City Attorney's Office generally received higher ratings than the City as a whole. However, there were several areas where ratings were not significantly higher than the city-wide average. We are looking at these areas and determine what, if anything can be done to improve in those areas. We will continue to monitor our progress in this area.

## **B. EXTERNAL (CITY-WIDE)**

**1. Surveys.** Conducting client surveys will continue to be part of our future action plans. The primary objective of these surveys is to 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. The next survey will be conducted near the end of the current calendar year.

**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 continue to 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 developed information for orientation of new council members regarding the functions and activities of the City Attorney's Office. We will continue to modify these materials for future use.

**10. Annual Report On-Line.** Last year we placed out entire annual report on-line. We will continue this effort to make the report available for quick review by the Council, staff and the public at anytime.

THIS PLAN WILL BE REVIEWED AND REVISED ACCORDINGLY, SHOULD THE CITY SUFFER BUDGET CUTS AS A RESULT OF THE PASSAGE OF THE MEASURE RELATIVE TO THE UTILITIES USER TAX.

## PART IX

### CONCLUSION

In this annual report, we have addressed our Administrative, Advisory, Litigation, Special Projects and Code Enforcement Section assignments undertaken during Fiscal Year 2001-2002. 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.

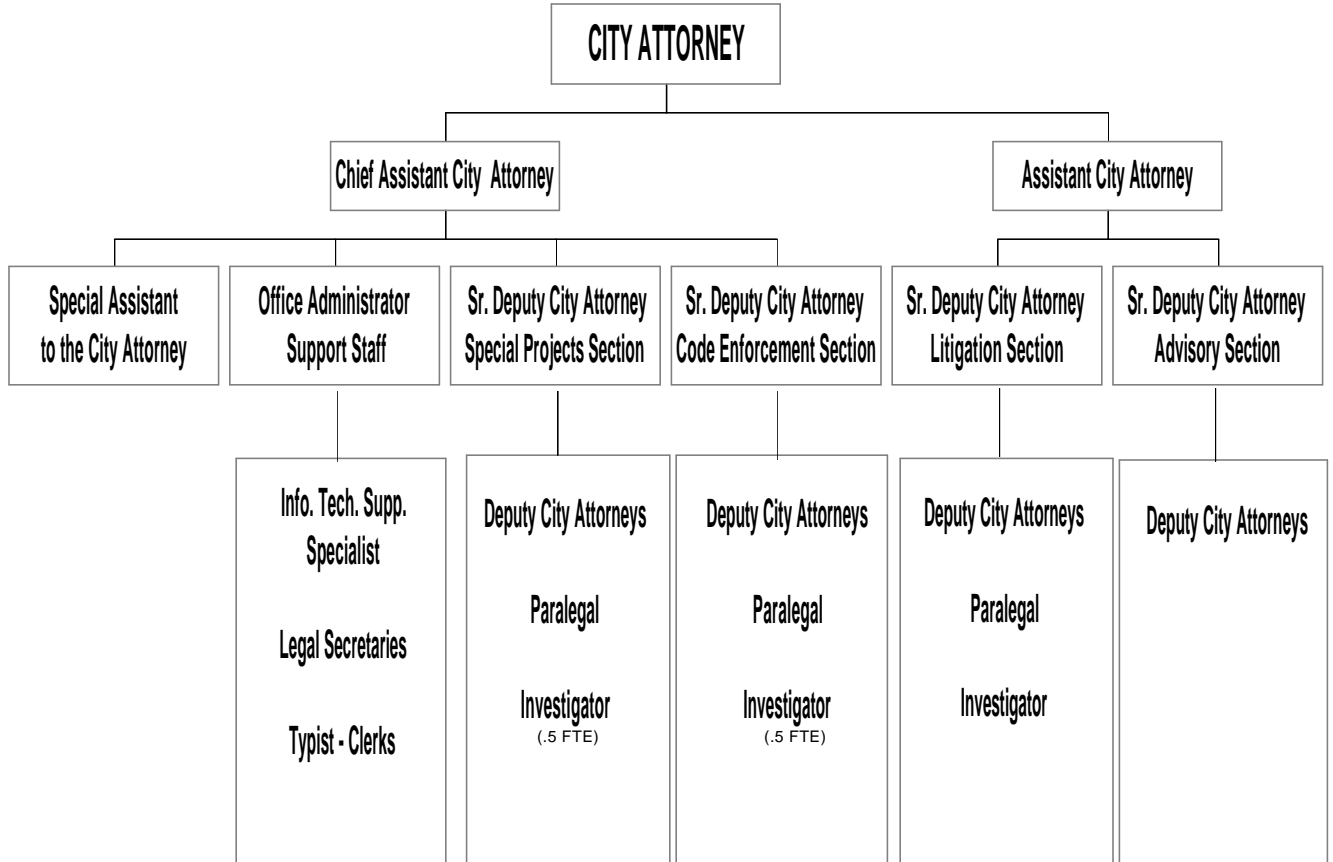
We have reviewed our goals for Fiscal Year 2001-2002 and how we met them, and we have expressed our goals for our Five Year Plan. It is our vision that the information presented in this annual report will assist us in achieving those goals.

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

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

We welcome comments and suggestions by the Council, Charter Officers and City Departments for improvements in our annual reports and as to how we may better serve you and the public. Questions and comments may be directed to the attention of the City Attorney at your earliest convenience.

# SACRAMENTO CITY ATTORNEY'S OFFICE ORGANIZATION CHART



**ATTACHMENT A**

# ADVISORY SECTION ASSIGNMENTS

**Shana S. Faber<sup>19</sup>, Senior Deputy City Attorney**

Section Attorneys:<sup>20</sup>

Diane Balter  
Jerry Hicks  
Steve Itagaki  
John Luebberke  
Joe Robinson

## **A. CITY COUNCIL -- *Mayor Heather Fargo & Councilmembers***

### **1. Boards/Commissions:**

- a. Council meetings [Sam Jackson; Bill Carnazzo]<sup>21</sup>
- b. Law & Legislation Committee [Shana Faber]
- c. Sacramento Transportation Authority [Shana Faber; Diane Balter]
- d. SAFCA [Diane Balter]
- e. Sacramento Public Library Authority [Shana Faber; Diane Balter]
- S Sacramento Housing Code Advisory & Appeals Board [John Luebberke]

### **2. Advisory Functions:**

- a. Conflict of interests advice (Political Reform Act; Gov. Code §1090; general conflict issues) [Shana Faber; John Luebberke]
- b. Review of council agenda [All]
- c. Brown Act issues [All]
- d. Mass mailings [Shana Faber; John Luebberke]

## **ATTACHMENT B**

---

<sup>19</sup> Shana S. Faber is no longer in the office, but since this report covers the time she was here, her name remains.

<sup>20</sup> Sam Jackson, Bill Carnazzo and Richard Archibald also perform advisory work, in addition to other duties.

<sup>21</sup> Richard Archibald, Bob Tokunaga, Shana Faber, Sandra Talbott, and Susana Wood may handle one or more meetings during the year.

**B. CITY MANAGER -- Robert Thomas, City Manager**

**1. Advisory Functions:**

- a. General advice, opinions, project review [Rich Archibald; Shana Faber; others as needed]

**C. CITY TREASURER -- Tom Friery, Treasurer<sup>22</sup>  
[Shana Faber; John Leubberke]**

**1. Advisory Functions**

- a. Administration
- b. Agreements

**D. CITY CLERK -- Valerie Burrowes, City Clerk  
[Rich Archibald; Shana Faber; others as needed]**

**1. Advisory Functions:**

- a. Administration (opinions, etc)
- b. Elections Advice
- c. Conflicts of interest (Political Reform Act Requirements)
- d. City contribution limits code

**E. ADMINISTRATIVE SERVICES – Ken Nishimoto, Deputy City Manager  
Director (Vacant)**

**1. Boards/Commissions [Shana Faber; Diane Balter, John Leubberke]**

- a. Civil Service Board (Shana Faber; Diane Balter)
- b. SCERS Administration, Investment & Fiscal Management Board (John Leubberke)
- c. SCERS Retirement Hearing Commission (John Leubberke)

**2. Advisory Functions-Finance [Diane Balter; Steve Itagaki]**

- a. Administration [Diane Balter; Steve Itagaki]
- b. Budget [Diane Balter; Steve Itagaki]
- c. Asset management [Diane Balter; Steve Itagaki]
- d. Accounting [Diane Balter; Steve Itagaki]
- e. Revenue/Permits & Licenses [Diane Balter; Steve Itagaki]
- f. Payroll [Diane Balter; Steve Itagaki]

---

<sup>22</sup> Bill Carnazzo will continue to handle municipal finance matters as a part of the Special Projects Section.

- g. Utility billing [Diane Balter; Steve Itagaki]
- h. Purchasing & Stores [John Luebberke]
- i. ESD office [John Luebberke]

**3. Other Advisory Functions** [Shana Faber; Diane Balter]

- a. Retirement
- b. Occupational Safety & Health
- c. Benefits
- d. Testing/recruitment; personnel problems (including EEO/AA)
- e. Workers compensation/unemployment insurance
- f. Labor relations issues, arbitration cases
- g. Training
- h. Management Assessment/Intervention Team (MAIT)
- i. Computer operations
- j. Communications
- k. Mail/printing

**F. PUBLIC SAFETY** – *Richard Ramirez, Deputy City Manager*  
*Arturo Venegas, Chief of Police*  
*Dennis Smith, Chief of Fire Department*

[Fire - Diane Balter; Police - Shana Faber; Steve Itagaki; Legislation/ Transactions - Shana Faber; Diane Balter; Jerry Hicks; Steve Itagaki; John Luebberke]

**1. Advisory Functions:**

Police Department

- a. Administration (opinions, general orders, etc.) [Shana Faber; Steve Itagaki]
- b. Legislation/Transactions [Shana Faber; Diane Balter; Jerry Hicks; Steve Itagaki; John Luebberke]

Fire Department

- a. Administration (opinions, etc.) [Shana Faber; Diane Balter]
- b. E.M.S. functions [Shana Faber; Diane Balter]
- c. Legislation/Transactions [Shana Faber; Diane Balter; Jerry Hicks; Steve Itagaki; John Luebberke]

**G. PUBLIC WORKS** – *Tom Lee, Deputy City Manager*  
*Mike Kashiwagi, Public Works Director*  
*Jim Sequeira, Utilities Director*

[Shana Faber; Diane Balter; Jerry Hicks; Steve Itagaki; John Luebberke; Joe Robinson]

**1. Advisory Functions:**

Public Works (Shana Faber; Diane Balter; Jerry Hicks; Steve Itagaki; John Luebberke; Joe Robinson)

- a. Transportation Division (including air quality) (Jerry Hicks; John Luebberke)
- b. On-Street Parking & Animal Services Division (Diane Balter; Jerry Hicks)
- c. Engineering Division (design, construction, etc.) (Shana Faber; John Luebberke; Joe Robinson)
- d. Real Estate Section (including eminent domain advice) (Shana Faber; John Luebberke; Joe Robinson)
- e. Solid Waste Division (John Luebberke)
- f. Environmental issues (CEQA [public projects], ESA, hazardous/toxic materials) (Shana Faber; John Luebberke; Joe Robinson)
- g. Facility Management (Jerry Hicks; Steve Itagaki)
- h. Administration (project planning, etc.) (Shana Faber; John Luebberke; Joe Robinson)
- i. Procurement matters (construction contracts; ESD compliance) (John Luebberke; Joe Robinson)
- j. Contract review (Shana Faber; John Luebberke; Joe Robinson)
- k. Development Services (subdivisions, etc.) (Shana Faber; John Luebberke; Joe Robinson)
- l. Street Abandonments (Shana Faber; John Luebberke)
- m. Traffic Division (Shana Faber; John Luebberke)

Utilities (William Carnazzo; Joe Robinson)

- n. Water issues (CCOMWP; water supply; SWRCB; USBOR)
- o. Sewer issues (NPDES permits for combined and other sewer systems; impact fees)
- p. Stormwater issues (NPDES permits)
- q. Administration (project planning)
- r. Flood control (FEMA issues; floodplain issues; SAFCA)
- s. Procurement matters (construction contracts; ESD compliance)
- t. Financial issues (impact fees)
- u. Contract review
- v. Environmental issues (CEQA [public projects], ESA, hazardous/toxic)

## **H. NEIGHBORHOOD SERVICES**

*Richard Ramirez, Deputy City Manager  
Max Fernandez, Area 1, Kelly Montgomery, Area 2  
Tim Quintero, Area 3, Gary Little, Area 4*

[Shana Faber; Diane Balter; Steve Itagaki; John Luebberke]

### **1. Boards & Commissions:**[Richard Archibald; John Leubberke]

- a. Planning Commission (John Leubberke)
- b. Design Review & Preservation (Richard Archibald)
- c. Sacramento Heritage, Inc. (Richard Archibald)
- d. Construction Advisory and Appeals Board (John Leubberke)

**2. Advisory Functions:**

Neighborhoods (Diane Balter)

- a. Camp Sacramento
- b. Administration (services for Area Managers)

**I. PLANNING & BUILDING** - *Tom Lee, Deputy City Manager*  
*Gary Stonehouse, Planning Director*  
*Dennis Richardson, Building Official*

**1. Advisory Functions:**

Planning and Development Services [Shana Faber; John Luebberke]

- a. Administration
- b. Planning Division
- c. Building inspections
- d. Environmental (CEQA - private projects)
- e. Subdivisions
- f. Development Agreements
- g. Redevelopment matters

**J. CONVENTION, CULTURE & LEISURE --**  
*Richard Ramirez, Deputy City Manager (Downtown)*  
*Tom Lee, Deputy City Manager (Economic Development)*  
*Barbara Bonebrake, Director (CC&L)*

[Bill Carnazzo; Rich Archibald; Shana Faber; Diane Balter; Jerry Hicks; John Luebberke]

**1. Advisory Functions:**

- a. Economic Development (Bill Carnazzo; Rich Archibald; Shana Faber)
- b. Off-Street Parking (Jerry Hicks)
- c. Community/Convention Center (Diane Balter)
- d. Old Sacramento (Diane Balter)
- e. Project review and advice (Bill Carnazzo; Rich Archibald; Shana Faber; John Luebberke)

**K. CULTURAL ARTS --** *Richard Ramirez, Deputy City Manager*  
[Shana Faber; Diane Balter]

**1. Boards & Commissions**

- a. Metro Arts Commission
- b. Museum & History Commission
- c. Library Authority (J.P.A.)

**2. Advisory Functions:**

- a. Library
- b. Zoo/Fairytale Town
- c. Golf
- d. Crocker Art Museum
- e. History Museum/archives
- f. Science Center
- g. Waterfront & Marina

**L. PARKS & RECREATION -**

*Richard Ramirez, Deputy City Manager  
Director (Vacant)*

[Shana Faber; Diane Balter]

**1. Advisory Functions:**

- I. Recreation
- II. Parks
- III. Tree Services
- IV. Human Services

**M. MISCELLANEOUS MATTERS**

- 1. Ordinance/resolution drafting
- 2. Staff report review
- 3. Ordinance and opinion review

Note: as to these miscellaneous items, final review of ordinances, certain staff reports, and opinions will be done by Bill Carnazzo, Rich Archibald, or Shana Faber, except where it is determined that the City Attorney needs to be involved.

# LITIGATION SECTION ASSIGNMENTS

Robert D. Tokunaga, Senior Deputy City Attorney

Section Attorneys:

Angela M. Casagrande  
Paul A. Gale  
Steven T. Johns  
Matthew D. Ruyak  
Stephen P. Traylor

**A. TORTS - GENERAL**

(Dangerous Condition, Vehicle, False Arrest, Excessive Force, etc.)

Angela M. Casagrande, Paul A. Gale, Steven T. Johns, Matthew D. Ruyak,  
Robert D. Tokunaga, Stephen P. Traylor

**B. EMPLOYMENT DISCRIMINATION**

Angela M. Casagrande

**C. 1983 CIVIL RIGHTS ACTIONS**

Angela M. Casagrande, Paul A. Gale, Steven T. Johns, Matthew D. Ruyak  
Stephen P. Traylor

**D. EMINENT DOMAIN**

Robert D. Tokunaga, Steven T. Johns

**E. GENERAL**

Angela M. Casagrande, Paul A. Gale, Steven T. Johns, Matthew D. Ruyak,  
Robert D. Tokunaga, Stephen P. Traylor

**F. CONSTRUCTION**

Angela M. Casagrande, Matthew D. Ruyak, Robert D. Tokunaga,

**G. ADMINISTRATIVE HEARINGS**

Angela M. Casagrande, Paul A. Gale, Steven T. Johns, Matthew D. Ruyak,  
Robert D. Tokunaga, Stephen P. Traylor

**ATTACHMENT C**

## **H. SUBROGATION**

Angela M. Casagrande, Paul A. Gale, Steven T. Johns, Matthew D. Ruyak,  
Robert D. Tokunaga, Stephen P. Traylor

# **SPECIAL PROJECTS SECTION ASSIGNMENTS**

**Sandra G. Talbott, Senior Deputy City Attorney**

Section Attorneys:

Marcos Kropf  
Gustavo Martinez  
Deborah Schulte  
Brett Witter

**A. SPECIAL ADVISORY/LITIGATION ASSIGNMENTS**

(Special Civil Rights, Employment Discrimination, Excessive Force, Catastrophic Injury, etc.)

Sandra Talbott, Marcos Kropf, Gustavo Martinez, Deborah Schulte, Brett Witter

**B. EXTRAORDINARY RELIEF**

(Temporary restraining orders, injunctions, various writs, appeals and assisting other agencies with amicus briefs)

Sandra Talbott, Marcos Kropf, Gustavo Martinez, Deborah Schulte, Brett Witter

**C. INJUNCTION MONITORING PROCESS**

Gustavo Martinez

**D. COLLECTIONS**

Sandra Talbott, Gustavo Martinez

**E. INTELLECTUAL PROPERTY**

(Protection of rights to computer software programs, publishing materials, logos, symbols, patches, wearing apparel, etc.)

Marcos Kropf, Deborah Schulte

**F. FINANCING/ECONOMIC DEVELOPMENT**

(Assessment districts, Mello-Roos Community Facility Districts, City bond issues, North Natomas development, and similar matters)

Sandra Talbott, Deborah Schulte

**G. GENERAL**

Sandra Talbott, Marcos Kropf, Gustavo Martinez, Deborah Schulte, Brett Witter

**ATTACHMENT D**

# CODE ENFORCEMENT SECTION ASSIGNMENTS

Susana Alcala Wood, Senior Deputy City Attorney

Section Attorneys:

Christiana Darlington  
Michon Johnson  
Michael Sparks  
Lan Wang

## **A. BOARDS/COMMITTEES**

Council Code Enforcement Ad Hoc Committee  
Code Enforcement Administrative Hearing  
Criminal Court Committee  
Franklin Villa Multidisciplinary Task Force  
Housing Code Advisory and Appeals Board  
M.A.G.I.C. (Graffiti task force)  
Public Safety Committee

Susana Alcala Wood, Michon Johnson, Michael Sparks, Lan Wang, Christiana Darlington

## **B. ADMINISTRATIVE ENFORCEMENT ACTIONS**

Susana Alcala Wood, Michon Johnson, Michael Sparks, Lan Wang, Christiana Darlington

## **C. ANIMAL CONTROL ISSUES**

Lan Wang, Michael Sparks, Christa Darlington

## **D. BEAT FEET**

Lan Wang, Michael Sparks, Susana Wood

## **E. FIRE DEPARTMENT ENFORCEMENT**

Michon Johnson, Lan Wang

## **F. HOUSING AND DANGEROUS BUILDING ACTIONS**

Susana Alcala Wood, Michael Sparks, Lan Wang

## **G. DRUG ABATEMENTS**

Michael Sparks, Susana Alcala Wood

**ATTACHMENT E**

**H. PUBLIC WORKS ENFORCEMENT ACTIONS**

Michael Sparks, Michon Johnson

**I. ZONING ENFORCEMENT**

Michon Johnson, Christa Darlington

**J. POLICE ENFORCEMENT ACTIONS**

Susana Alcala Wood, Michon Johnson, Michael Sparks