

CITY OF SACRAMENTO
Office of the City Attorney
2002-03 Annual Report

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CITY OF SACRAMENTO

CITY COUNCIL

Heather Fargo, Mayor

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

**OFFICE OF THE CITY ATTORNEY
ADMINISTRATION TEAM**

*Samuel L. Jackson, City Attorney
Richard Archibald, Assistant City Attorney
Sandra Talbott, Assistant City Attorney
Robert Tokunaga, Sup. Deputy City Attorney
Susana Alcala Wood, Sup. Deputy City Attorney
Brett Witter, Sup. Deputy City Attorney
Gustavo Martinez, Sup. Deputy City Attorney
Kathy Widmer, Office Administrator
Toni Jones, Special Assistant*

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CITY ATTORNEY OVERVIEW

This report covers activities of the City Attorney's Office from July 1, 2002, to June 30, 2003 ("Fiscal Year 2002-2003"). This is the eighth annual report of the City Attorney's Office, and the sixth report prepared on a fiscal year basis. This report contains comparison and progressive information dating back to our fourth annual report in 1998, except where data for certain categories was 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 and is divided into nine parts for reading ease. 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 2002-2003 goals; it also sets out current goals established for the five-year period of Fiscal Year 2003-2004 through Fiscal Year 2008-2009.

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 2002-2003 was a busy year for the City, and this is reflected in this report's analysis of the amount and nature of legal 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 was work on the amended, revised HCP for the North Natomas area, and the related environmental documentation. The Council adopted the revised HCP in May 2003, and thereafter the HCP was submitted to the U.S. Fish and Wildlife and the California Department of Fish and Game in support of requests for issuance of incidental take permits under the federal and state endangered species acts.

Much of the work in North Natomas was handled by the Advisory Section, although the Special Projects Section also handled a range of complex matters, including bond and finance transactions. The Advisory Section continued to handle a substantial number of municipal legislative matters covering a broad range of subject matter. For the Advisory Section, the figures for Fiscal Year 2002-2003 as compared to the data for Fiscal Year 2001-2002 show a slight reduction in the overall number of reported assignments (4.8%); a slight reduction in the average number of assignments per attorney (1%); a reduction in the number of contracts presented for review and approval as to form (4.5%); and a reduction in the number of assignments generated by the City Council (15%). The activities of the Advisory Section are discussed in Part IV.

As in prior years, the Litigation Section handled a broad, varied load of litigation, at both the judicial and administrative levels. Continued emphasis was placed on keeping litigation matters in-house and litigation costs down. Due to conflicts, several cases alleging misconduct by a police officer were referred to outside counsel last year, and those cases are still pending. Additionally, activities continued in two cases referred to outside counsel and discussed in the Fiscal Year 2000-2001 annual report, one involving complex federal toxic and

hazardous materials issues, and the other involving a large number of flood damage claims. The continued handling of these cases by outside counsel reflects the most efficient handling of highly specialized and generally non-recurring cases. The figures for Fiscal Year 2002-2003 show that there were 159 new civil cases, with 52 of those "risk" cases; in Fiscal Year 2001-2002, there were 169 new cases. Fifty-five cases involving claims for damages were closed in Fiscal Year 2002-2003. Of these 55 cases, 33 (or 60 percent) were closed without any payment by the City. This compares to 56 cases being closed in 2001-2002, 32 of which were resolved without any payment by the City. The activities of the Litigation Section are discussed in Part V.

With the transfer of assignments to the Code Enforcement Section in 2001, along with the transfer of several of its attorneys, the Special Projects Section focused on handling more complex litigation and advisory matters, including financial transactions. The Special Projects Section resolved a number of high-visibility cases in Fiscal Year 2002-2003 through trial, dismissal, or settlement. While a number of matters were resolved favorably to the City, some were not. Several cases resolved against the City are now on appeal; similarly, appeals have been filed by unsuccessful plaintiffs in several matters resolved in favor of the City. The figures for the Special Projects Section show that, in Fiscal Year 2002-2003, 34 new litigation cases were opened and 33 were closed, leaving 69 cases pending; the figures for 2001-2002 were 50 new cases and 58 closed, leaving 68 cases pending at the end of the year. Of the cases closed in Fiscal Year 2002-2003, 24 involved claims for damages, and 14 of those cases were resolved by dismissal or judgement favorable to the City with no payment by the City. The activities of the Special Projects Section are discussed in Part VI.

Fiscal Year 2002-2003 was the second full year of operation for the Code Enforcement Section. The work of this section included Civil Code Enforcement, at the administrative and judicial levels; 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 related to Code Enforcement. A review of the data for the Code Enforcement Section for Fiscal Year 2002-2003, as compared to Fiscal Year 2001-2002, shows a substantial increase in the number of administrative code-enforcement assignments (38%), with a marked increase in the number of Public Records Act requests (500%, from 42 to 217). There was an increase in the number of matters referred for possible criminal prosecution (22%); a slight decrease in the number of citations and criminal complaints filed (8%); and a sharp increase in the number of matters set for jury trial (150%, from 31 to 70). The same number of Beat Feet sting operations was conducted in Fiscal Year 2002-2003 as in Fiscal Year 2001-2002, with a reduction in the number of vehicles seized and the number of vehicles forfeited. The activities of the Code Enforcement Section are discussed in Part VII.

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. The City Attorney advises and represents all City Councilmembers with respect to their official City activities. The City Attorney has an attorney-client relationship with the City Council acting as a body; it does not have an attorney-client relationship with any one Councilmember to the exclusion of the other Councilmembers. The City Attorney has an attorney-client relationship with City employees and members of City boards and commissions to the extent that such individuals act within the scope of the powers given to them by the City Council.

Our interaction with the community 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 in that role, the attorney-client relationship is somewhat different since the people are our clients. We thus are able to share with the community more information regarding the status of criminal prosecutions than we are regarding civil matters when we represent the City.

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 that 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;

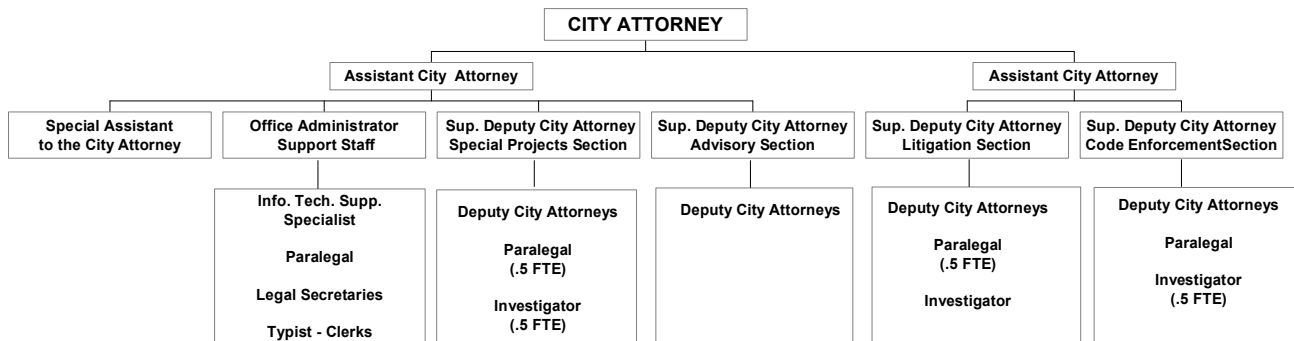
2. Providing the highest quality legal advice by continuing to devote the time and resources necessary to ensure that requests for opinions, ordinances, contracts, and other documents, and all other non-litigation matters, are handled in the highest professional manner;
3. Working on a continuing basis 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 current structure of the office includes two Assistant City Attorneys, one of whom (Richard E. Archibald) monitors the performances of the Advisory and Special Projects Sections while the other (Sandra G. Talbott) monitors the performances of the Litigation and Code Enforcement Sections. Immediate supervision of the Advisory, Litigation, Special Projects, and Code Enforcement Sections was provided by four Supervising Deputy City Attorneys. An office organizational chart reflecting the current organization of the office is shown below.

**SACRAMENTO CITY ATTORNEY'S OFFICE
ORGANIZATION CHART AS OF JULY 2003**



The Administration team consists of the City Attorney, two Assistant City Attorneys, four Supervising Deputy City Attorneys, 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 the implementation of goals set forth in our action plan.

The Advisory Section is currently supervised by Supervising Deputy City Attorney Robert Tokunaga. The work of this section is performed by the Supervising Deputy City Attorney, five Deputy City Attorneys, and 1.5 FTE Legal Secretaries. During Fiscal Year 2002-2003, the Advisory Section was supervised by Ms. Talbott.

The Litigation Section is supervised by Supervising Deputy City Attorney Gustavo Martinez. The work of this section is currently performed by the Supervising 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. During Fiscal Year 2002-2003, the Litigation Section was supervised by Mr. Tokunaga.

The Special Projects Section is supervised by Supervising Deputy City Attorney Brett Witter. With the creation of the Code Enforcement Section and the transfer of staff in Fiscal Year 2001-2002, the Special Projects Section now consists of the Supervising Deputy City Attorney and five Deputy City Attorneys, with support assistance provided by 2.5 FTE Legal Secretaries, a .5 FTE Investigator, and a .5 FTE Paralegal.

The Code Enforcement Section, created during the latter part of Fiscal Year 2001-2002, is supervised by Supervising Deputy City Attorney Susana Alcala Wood. The work of this Section is performed by the Supervising Deputy City Attorney and five Deputy City Attorneys, along with three Legal Secretaries, a .5 FTE Investigator and a .5 FTE Paralegal.

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

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



City Attorney's Office Staff Photo taken May 2003

B. BUDGET AND STAFFING

The City Attorney's budget for Fiscal Year 2003-2004 is \$5,782,147. The budget for Fiscal Year 2002-2003 was \$5,672,673. 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 52 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's 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, working with City staff on City projects, 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. The goal of the Advisory Section is to provide prompt, accurate legal assistance and advice, and to be able to respond to requests for legal advice within the framework of a well-understood priority system. **ATTACHMENT A** is a list of the areas in which the Advisory Section performed legal services together with a listing of the attorneys assigned to those areas. The list reflects the current organization of the City and the current assignments of Advisory Section attorneys.

The initial discussion sets forth a list of the most significant accomplishments of the Advisory Section, based primarily on input from the section attorneys. The remaining discussion details the advisory assignments handled in Fiscal Year 2002-2003 and provides a range of information, including (i) the number and type of assignments completed during Fiscal Year 2003; (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 Councilmember 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 2002-2003, presenting seminars for City employees on municipal bond transactions; approval, denial, and conditioning of private development projects; and the formation of maintenance districts. Additional seminars and training will be scheduled for Fall 2003 and Spring 2004, including the Brown Act and Nuisance Abatement.

b. Meetings with Police Department. The SDCA, along with one or more attorneys who handle Police Department matters, meets with representatives of the Police Department on an as-needed basis to discuss problems or issues that have arisen.

2. Selected Significant Assignments

a. Old Sacramento project: Resolved ADA lawsuit over accessibility issues in Old Sacramento. Will oversee implementation of settlement, including restriping of all parking lots; modification of K Street tunnel; and modification of boardwalks to provide accessibility.

b. North Natomas General: Provided legal advice and assistance on numerous development-related issues.

c. City Hall Project: Provided legal advice and assistance on various issues, including contractor licensing, utility relocation, mold remediation and issues pertaining to Native American remains.

d. Music Circus Project: Provided advice and assistance with contractual provisions and arrangements needed for project construction.

e. Public Safety Administration Building: Provided legal analysis and assistance on claims, insurance, and other contracting issues.

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

g. Crocker Museum Expansion : Assisted in drafting MOU and other documents related to project; provided legal advice.

h. 7th Street Extension : Provided legal advice on construction issues on project designed to create a thoroughfare to Richards Boulevard.

i. Utility Billing System: Assisted in negotiation and drafting of numerous agreements with companies providing software and services for new billing system.

j. Detention Basin Projects: Provided legal advice and assistance on various aspects of basin acquisition and construction throughout the City.

k. Water Planning: Provided legal advice and assistance on various matters relating to water planning and water supply, such as drafting wholesale water agreements, researching water meter issues, and drafting project agreements for the City County Office of Metropolitan Water Planning (CCOMWP)..

3. Ordinance Research and Preparation

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

- a. Parade Ordinance
- b. Multi-family Streamline Ordinance
- c. Housing Element Update
- d. Fireworks Ordinance
- e. *Housing Preservation Ordinance
- f. *Lobbyist registration and regulation
- g. *Public Finance and Campaign Spending Limits
- h. *Regulation of gun shows in City facilities
- i. *Commercial Corridor Overlay Zone

¹ 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.

- j. *Entertainment Ordinance
- k. *Freeport Special Planning District
- l. Interim Transit Station Overlay
- m. *Mixed Income Housing Ordinance Amendments
- n. Noise Ordinance Amendment
- o. *Taxicab Ordinance
- p. *Fire Code Ordinance Revisions
- q. Parking Lot Tree Shading Ordinance revisions
- r. *Ground Floor Retail Ordinance revisions
- s. *Solid Waste Restricted Overlay Zone
- t. *Second Residential Unit Ordinance revisions
- u. *Quimby Ordinance Revisions
- v. *Commercial Corridor Revitalization Strategy
- w. *Sewer Code Revisions

C. STATISTICAL INFORMATION

1. Total Number of Advisory Assignments

FY 1998-99	FY 1999-2000	FY 2000-01	FY 2001-02	FY 2002-03
1868	2156	2404 ² (1851)	2123 (1740)	2021 (1750) ³

² As explained in previous reports, two figures were shown beginning in 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.

³ The reduction in the total number of assignments does not reflect a reduction in the workload of the Advisory attorneys since the nature of assignments vary in terms of length and complexity. For example, the number of complex assignments taking more than 4 hours or more than 8 hours may have increased significantly in this Fiscal Year compared to last year. In addition, past years have reflected a portion of the work performed by the Chief Assistant City Attorney. The Chief Assistant retired at the end of the calendar year and the work he performed on a contract basis is not reflected in the figures above.

2. Average Number of Assignments Per Attorney.⁴

FY 1998-99	FY 1999-2000	FY 2000-01	FY 2001-02	FY 2002-03
227	240	316	290	287

3. Status of Assignments Opened During Reporting Period

The chart below shows the status of assignments opened during each fiscal year, those completed in a given year, and those still pending at the end of the year.

	FY 1998-99	FY 1999-2000	FY 2000-01	FY 2001-02	FY 2002-03
Pending	236	73	203 (125)	215 (165)	135 (95)
Closed	1631	2083	2201 (1946)	2076 (1882)	1886 (1655)

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 of the demands made by and legal support provided to 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.

Department or Function	FY 1999 (%)	FY 2000 (%)	FY 2001 (%)	FY 2002 (%)	FY 2003 (%)
Human Resources	.3	.2	.8	.7	1.2
Neighborhood Services ⁵	9.8	4.8	3.5	2.2	2.4
Public Works	32.2	31.6	32.6	28.5	26.1
Utilities	8.78	8.34	11.3	11.0	14.6

⁴ For purposes of Fiscal Year 2002-2003, these averages are calculated on the basis of 6.125 FTE's that represent: (i) the average number of attorneys who were in the Advisory Section throughout the fiscal year, based on vacancies that occurred during the year; (ii) .25 FTE for the Chief Assistant City Attorney, who retired during the reporting period; and (iii) .25 FTE of combined City Attorney and Assistant City Attorney time. The slight reduction in the average number of assignments per attorney does not reflect a reduction in the workload, as indicated in footnote number 3.

⁵ 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.

Police	8.89	9.42	13.3	11.3	8.7
Treasurer	2.6	4.76	3.2	7.0	1.6
City Manager	1.2	1.07	1.6	4.5	2.4
City Council	3.39	3.64	4.6	4.9	4.3
Fire	.5	1.35	.5	.9	1.3
Employee Relations	1.93	1.59	1.7	3.3	2.3
Planning	11.4	15.07	10.6	9.0	10.1
Community/Visitor Services	1.78	4.85	6.3	7.6	11.6
City Clerk	.65	1.54	.82	1.6	1.4
Finance	2.58	2.61	1.9	2.3	3.9
Library	.59	1.54	.9	.6	2.7
Miscellaneous ⁶	3.39	3.82	6.3	4.6	5.4
	100%	100%	100%	100%	100%

5. Contracts. The Advisory Section processes a broad range and large number of contracts. During Fiscal Year 2002-2003, 1475 contracts were processed as compared to 1545 contracts in FY 2001-2002, 1469 in FY 2000-2001, 1073 in FY 1999-2000, and 1056 in FY 1998-1999.

TOTAL NUMBER OF CONTRACTS PROCESSED

FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03
1056	1073	1469	1545	1475 ⁷

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

⁶ The assignments in this category are varied, often entailing some administrative work. However, this category 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.

⁷ The reduction in the total number of contracts submitted to the City Attorney's office for approval as to form is related to the fact that the section completed standard forms for security agreements for the Police Department so that approval as to form was no longer required under certain circumstances. In addition, the Public Works department, which is typically the majority of our work in this area, had a significant reduction in the number of contracts sent to our office for approval.

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 they 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 2002-2003 and the other comparing the figures regarding sources of contracts for Fiscal Years 1999-2000, 2000-2001, 2001-2002, and 2002-2003.

CONTRACTS PROCESSED IN FY 2002-2003 BY DEPARTMENT

Department	No. of Contracts	Percentage
Public Works	689	46.7
Utilities	196	13.3
Planning & Development	86	5.8
Police Department	26	1.8
Downtown & Regional Enterprises Department	84	5.7
Neighborhood Services (including Parks & Code Enforcement)	215	14.6
Human Resources	15	1.0
Other	164	11.1
TOTAL:	1475	100%

CONTRACTS PROCESSED (Percentage Comparison)

Department	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03
Public Works	44.0	41.1	49.5	46.7
Utilities	16.2	13.9	11.0	13.3
Planning & Development	5.5	8.2	12.6	5.8

Police Department	2.6	7.9	3.6	1.8
Downtown & Regional Enterprises Department	9.9	6.3	2.8	5.7
Neighborhood Services (including Parks & Code Enforcement)	16.5	16.5	11.1	14.6
Human Resources	.3	.3	1.1	1.0
Other	5.0	5.0	8.3	11.1
TOTAL:	100%	100%	100%	100%

D. CITY COUNCIL ASSIGNMENTS

Included among the advisory assignments are assignments received directly from the Mayor or individual Councilmembers. 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 2002-2003 was 83, as compared to 98 in 2001-2002, 76 in 2000-2001, 37 in Fiscal Year 1999-2000, and 57 in Fiscal Year 1998-1999.

2. Council Assignments by Originator.

Member or source	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03
Mayor Fargo	3	2	11	6	13
CM Tretheway			0	2	6
CM Sheedy		2	4	14	8
CM Cohn	3	2	9	6	2
CM Yee	4	4	1	1	1
CM Hammond	7	4	6	3	5
CM Jones	4	4	16	6	18
CM Waters	11	1	10	12	11
CM Pannell	5	8	3	11	6

Council as a whole	3	2	11	37	13
Former Council members ⁸	8	8	4	0	0
Totals	57	37	76	98	83

3. Council Assignments Completed/Pending.

The chart below reflects City Council assignments completed during FY 1998-1999 through FY 2002-2003 and those which have been carried over into the subsequent year.

Year	Completed	Carried Over
FY 1998-1999	55	6
FY 1999-2000	32	3
FY 2000-2001	71	14
FY 2001-2002	99	13
FY 2002-2003	73	23

PART V LITIGATION

A. GENERAL

The Litigation Section handles a wide variety of litigation matters, including tort, civil rights and other damage claims, subrogation, eminent domain, writ, contract and bankruptcy matters, administrative hearings concerning personnel discipline and disability retirement hearings, and weapons confiscation and Pitchess motions. **ATTACHMENT B** lists the various areas in which the Litigation Section performed legal services and identifies the individual attorneys assigned to those areas.

This section of the annual report provides a detailed analysis of the type and number of cases handled by the Litigation Section during Fiscal Year 2002-2003 and compares the results for the past fiscal year with those for the previous four fiscal years, resulting in reported data for the five most recent years.

The overriding goal of our office has been to make the best use of the funds expended by the City in handling litigation matters. This goal has been achieved with great success over the course of the past nine years by handling virtually all City litigation on an in-house basis and by achieving efficiencies in the delivery of litigation services. The statistics presented

⁸ Requests made by former Council members during their terms on the Council were aggregated and set forth on this line.

below demonstrate the cost savings obtained by retaining litigation in-house. These savings have been enhanced by a number of efficiency measures designed to increase productivity; i.e., increasing the capacity of individual attorneys to handle greater number of cases, a measure implemented by the Litigation Section since Fiscal Year 1998-1999. These measures also include the standardization of procedures and the preparation of guidelines to ease the handling of routine matters; the hiring, training, and development of support staff to provide paralegal and investigative support previously performed by litigation attorneys; the scheduling of regular case and section meetings to provide effective guidance in the handling of cases to final disposition; and the continued development of a skilled staff of litigators. These and other office processes enabled us to continue handling a high number of cases in a cost-efficient manner.

B. STATISTICAL INFORMATION AND SUMMARY OF ACCOMPLISHMENTS

1. Reduction In Litigation Costs. In Fiscal Year 1993-1994, the City paid outside counsel fees totaling \$1,145,467. Pursuant to the City Council’s direction in 1994, the City Attorney’s Office has handled litigation on an in-house basis, with the dual goals of reducing outside counsel fees while providing high quality legal services. The data in this report demonstrate our ability to continue to meet these important goals. In the nine years since Fiscal Year 1993-1994, annual outside counsel fees have been reduced approximately \$1 million, with the exception of the year-over-year increase experienced this past fiscal year (see explanation below). The significant reduction in outside counsel fees is reflected in the following table.

OUTSIDE COUNSEL FEES PAID

<u>YEAR</u>	<u>OUTSIDE COUNSEL FEES</u>
1998-1999	\$371,535
1999-2000	\$138,552
2000-2001	\$176,870
2001-2002	\$166,094
2002-2003	\$213,483

While the amount of outside counsel fees fluctuates annually depending on the types of matters handled by such counsel, the trend is clearly down as indicated in the accompanying chart. From 1999 through 2001, outside counsel fees fell into a tight range between \$138,000 and \$177,000. However, in Fiscal Year 2002-2003, the City experienced a 28% increase in outside counsel fees due to novel circumstances, i.e. the onset of active litigation in a complex federal toxic remediation suit and the need to hire conflicts counsel in multiple cases arising out of allegations of misconduct involving a police officer. We were required to retain outside counsel in the foregoing matters due to the resources necessary to defend a complex environmental litigation case and to meet our ethical responsibilities as attorneys to avoid conflicts of interest. We expect this level of expenditures to continue into the next fiscal year until those cases subside, assuming no other extraordinary cases such as these arise.

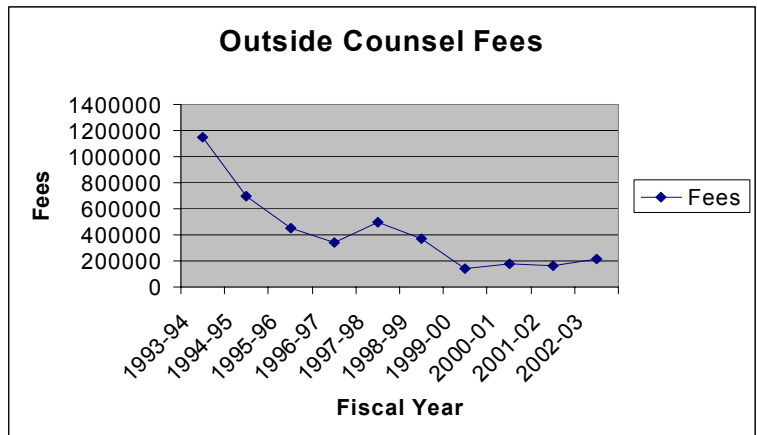
As of the close of the Fiscal Year 2002-2003, outside counsel continues to handle nine cases, four of which are related to the above-described police-related matter and one is the complex federal toxic case discussed above. The other matters include an excessive force case; a series of flood cases arising out of the 1986 flooding of Strawberry Manor filed by numerous 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 because of conflict issues. During Fiscal Year 2002-2003, seven new cases were assigned to outside counsel. The office will continue to work to minimize outside counsel expenditures by retaining all but the rare cases requiring retention of outside counsel because of unusual circumstances.

The City's hourly cost for maintaining a staff of in-house attorneys to handle litigation matters increased 8.6% in Fiscal Year 2002-2003 (from \$87 to \$94) in comparison to the prior year. This was due in large part to adjustments to salaries paid to City Attorney staff. The largest increases in salaries were attributed to the line Deputy positions. The changes were much-needed equity adjustments and support our efforts to retain experienced municipal attorneys. The in-house hourly rates during Fiscal Year 2002-2003 are far below the hourly rates of outside counsel.

HOURLY ATTORNEY RATES

<u>YEAR</u>	<u>IN-HOUSE</u>	<u>OUTSIDE COUNSEL</u>	<u>PERCENT LOWER</u>
1998-1999	\$84	\$115	27.0%
1999-2000	\$79	\$120	34.2%
2000-2001	\$82	\$130	36.6%
2001-2002	\$87	\$125	30.4%
2002-2003	\$94	\$130	27.7%

In addition, it is important to note that 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 rate. Outside hourly billing rates remain constant and are applied to each hour expended by outside counsel. The \$130 per hour rate for outside counsel is an average rate over all matters handled outside of the office.



2. Payout Information. The following is detailed information concerning payouts in Fiscal Year 2002-2003 on cases filed against the City and handled either in-house (Litigation and Special Project Sections) or by outside counsel, and includes claims settled prior to the filing of litigation (“Total Payouts”). Comparisons are made to payout information for prior years.

INDEMNITY PAYOUTS - ALL CLAIMS

<u>YEAR</u>	<u>NON-PROPERTY DAMAGE⁹</u>	<u>PROPERTY DAMAGE</u>
1998-1999	\$3,851,558	\$783,562
1999-2000	\$3,871,377	\$981,393
YEAR	NON-PROPERTY DAMAGE	PROPERTY DAMAGE
2000-2001	\$3,194,502	\$695,082
2001-2002	\$3,387,078	\$373,566
2002-2003	\$1,440,657	\$860,346

The large drop in the Total Payouts for non-property damage in this fiscal year compared to 2001-2002 is due in large part to the success in reducing the payouts on litigated cases by approximately \$1,600,000. Almost all of the amounts paid for property damage was on claims settled before litigation compared to the \$3,768 amount of property damage paid on litigated cases. In addition, the amount of property damage paid out in 2001-2002 was far below the average for the past five years (average is \$600,000), making the increase from last year to this year appear inordinately large. Property Damage paid this year was above the 5-year average because of a larger number of property claims and the amount of several such claims.

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

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

⁹ The Non-Property Damage column includes all indemnity amounts paid out for other than property damage claims in any given year, such as damages for bodily injury, wrongful death, civil rights violations, wrongful termination, backpay claims, and inverse condemnation.

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

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>NON- PROPERTY DAMAGE</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
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	100	\$2,653,119	\$0	\$14,607 ¹⁰	\$2,667,726
2002-2003	79	\$1,033,664	\$3,768	\$169,344	\$1,206,776

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

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>NON- PROPERTY DAMAGE</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
2000-2001	60	\$2,244,142	\$21,500	\$218,379	\$2,484,020
2001-2002	56	\$716,173	\$0	\$85,469 ¹⁰	\$801,642
2002-2003	55	\$699,129	\$3,768	\$70,864	\$773,761

The amount paid on cases handled by the Litigation Section represents a reduction of 3.5% over the prior year payouts for bodily injury and property damage. This year's decrease followed a 67% decrease from the Fiscal Year 2000-2001, reflecting two solid years of outstanding performance by the Section. Moreover, we were able to resolve cases in a cost effective manner as reflected in the relatively low amount of costs incurred during the life of each case closed this year.

Of all of the cases resolved during the past fiscal year, the Litigation Section succeeded in resolving **60% without the payment of money.**

Of the 55 damages suits closed during the last fiscal year, 33 cases were resolved without the payment of any money. In sum, 60% of the cases closed during the year were without the payment of damages. This followed a 57% success rate reflected for the Fiscal Year 2001-2002. Only 22 cases resulted in the payment of money. Of those cases, one case

¹⁰ This amount reflects the amount of costs paid out during 2001-2002 only and does not reflect the entire amount of costs paid during the entire history of each closed case. The amount of costs reflected in the other years includes the entire amount of costs paid on each closed case.

that was mediated to settlement accounted for \$375,000 of the current payouts (\$702,897 for bodily injury and property damage matters). Accordingly, the \$327,897 in payouts on remaining 21 cases resulted in an average payout of only \$15,614 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 amount of payouts compared to prior periods.

The disposition of litigated claims without the payment of money requires effective investigation during the claims stage and diligent and aggressive use of pretrial discovery and procedures. An independent audit of the City's liability claims handling concluded that the City Attorney's Office takes an aggressive position with respect to non-meritorious claims. The competent handling of claims by Bragg & Associates and the efforts of the litigators of the City Attorney's Office have provided the City with effective defense to liability claims.

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 those years. Legal expenses on cases that remain open are not included but will be reported when closed.

PAYOUTS ON OUTSIDE COUNSEL CASES

<u>YEAR</u>	<u>CASES CLOSED</u>	<u>NON- PROPERTY DAMAGE</u>	<u>PROPERTY DAMAGE</u>	<u>COSTS</u>	<u>TOTAL</u>
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	\$538,393
2002-2003	1	\$49,900	\$0	\$39,598 ¹¹	\$89,498

PAYOUTS BY SIZE OF PAYMENT

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

¹¹ As set forth above, this column reflects not only the costs in prosecuting an action, including expert witness costs, but also the amount of outside counsel attorney fees incurred on the cases closed during the fiscal year. The amount stated for Fiscal Year 2002-2003 appears lower than prior years due to the fact that only one case was closed by outside counsel this fiscal year.

include ordinary legal costs (e.g., deposition transcripts, service-of-process fees), expert witness fees, and, in the case of outside counsel, attorneys' fees. "Total legal expenses" for cases handled in-house do not include attorneys fees, since the cost of our attorneys' time is spread over many matters, while outside counsel time is devoted solely to the cases shown.

2002-03	Litigation Section Cases			Outside Counsel Cases		
	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses	No. of Closed Cases	Total Indemnity Paid	Total Legal Expenses
Closed without payment	33					
Under 100k	21	\$327,897	\$27,736	1	\$49,900	\$39,598
100k-499k	1	\$375,000	\$750			
500k-999k						
Over 1 Mil.						
Total	55	\$702,897	\$28,486	1	\$49,900	\$39,598

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.						
Total	56	\$716,173	\$85,469	5	\$51,272	\$487,121

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.						
Total	60	\$2,244,142	\$218,379	6	\$199,000	\$176,870

From Fiscal Year 2000-2001 forward we succeeded in closing over half of our cases without the payment of money to the claimant. Over the three-year span, the section successfully completed closing over 56% of its total cases without payment. One of the goals of the section is to develop and retain attorneys skilled in resolving cases 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. The statistics demonstrate how successful the section has been in meeting this goal. Other cases take a considerable amount of resources prior to resolution through dispositive motions made in the later stages of a case or through trial.

During the reporting period, an independent audit of the City's claims-handling process reviewed the procedures implemented and results achieved by Gregory Bragg & Associates, as well as the support provided by the City Attorney's Office in addressing claims. The audit concluded that the City's claims process was efficiently implemented by the Bragg staff and that the defense of claims was aggressively pursued by the City Attorney's Office. In sum, the City Risk Management and the litigators of the City Attorney's Office have done an effective job in dealing with myriad of claims filed against the City, and in combination they provide the City with above-average representation and results.

3. New Cases. The following tables show the number of all new civil cases and the number of new risk cases filed in Fiscal Year 2002-2003 and four previous reporting periods. The data reflect new cases filed against the City, not City-initiated cases. The amounts reported for Fiscal Year 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 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>
1998-1999	217
1999-2000	267
2000-2001	191

2001-2002	169
2002-2003	159

NUMBER OF NEW RISK CASES

<u>YEAR</u>	<u>RISK CASES FILED</u>
1998-1999	80
1999-2000	98
2000-2001	82
2001-2002	65
2002-2003	52

Each fiscal year since 1999-2000, we have experienced a significant decrease in the number of new risk cases (i.e., cases that carry with it a risk of monetary damages being awarded against the City, such as personal injury, wrongful death, civil rights actions, and discrimination and other employment cases. In Fiscal Year 2002-2003, there was a 10-case drop in all new civil cases from the last fiscal year following a larger 22 case drop between Fiscal Years 2000-2001 and 2001-2002. There was a similar large drop in risk cases between Fiscal Years 1999-2000 and 2000-2001. Whether the recent decreases indicate a definitive trend in our caseload or are statistical aberrations remains to be seen. However, we believe the 3-year reductions are caused in no small part by the caution of claimants in pursuing claims in litigation against the City. The aggressive defense of litigated cases by skilled Litigation Section attorneys over the recent years has succeeded in delivering a message to claimants and their counsel 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 statistics concerning the high number of claims resolved prior to litigation. Credit also goes to City management in implementing various procedures to lessen the risk of liability and to effectively address situations involving incidents to help mitigate an injured party's damages and to facilitate early investigation of such matters.

Despite the reduction in the overall number of new cases, our attorneys continue to work on a large number of cases per capita. The attorneys' efficiency in the handling of cases has increased their effectiveness. A slight reduction of cases per attorney (see table in Section B.7 below) has allowed the attorneys more opportunity to implement strategies to position and dispose of cases favorably, often without the payment of money. The decrease in cases allows the attorneys to handle their caseloads while adhering to a more normal work week with more frequency than in the past. The meeting of caseload demands within the confines of a more normal work week should lessen the wear and tear on legal staff and reduce the burn-out factor and turnover that can be caused by a constant barrage of litigation cases. On the other hand, the litigators have had to address several relatively complex and time-consuming litigated risk cases and administrative hearing cases, both new and pending, which more than make up for the reduced number of new cases in terms of demands on the attorney. Hence, the reported statistics numbers do not tell the total story of the demands placed on legal staff. Rather, the specific problems presented by certain of the cases are the true drivers of such demands of the time, effort, and skill of the litigators.

While the total number of new cases has dropped, the number of new tort actions has remained in the low to mid-fifties. The best news out of the decreased number of new cases is the marked reduction in the number of civil rights suits filed against the City. The two new civil rights cases represent a fraction of the double-digit filings in most of the past years and are far below the peak year of 2000-2001, when 27 new civil rights cases were filed. Since civil rights cases carry the exposure to attorney's fees even where the claimant proves only nominal damages against the City, the reduction in the number of such cases substantially lowers the overall risk profile for the City. The reduction in civil rights cases was also fortunate to the extent that we have been called upon to initiate more eminent domain cases to support City projects. In fact, the Section has doubled the number of eminent domain cases over the prior year. Reference is made to the following table reflecting the types of new cases for further details.

4. Profile of Opened 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 Years 2002-2003 and in the four previous reporting periods. The information reported for Fiscal Years 1999-2000 and prior periods describes 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 number of new cases after Fiscal Year 1999-2000 is due to the allocation of cases between the various sections within the office.

	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003
RISK CASES					
Tort	60	79	54	51	50
Civil Rights	13	11	27	10	2
Employment	4	1	1	3	0
Inverse Cond.	1	0	0	1	0
ADA	2	7	0	0	0
Sub-Total	80	98	82	65	52
OTHER CASES					
Eminent Domain	7	5	0	2	4
Weapons	30	33	33	27	34
Writ Actions	8	2	3	1	1
Contracts/Stop Not.	1	1	3	6	3
Subrogation	19	10	11	10	6
Pitchess Motions ¹²				25	32
Miscellaneous	16	52	46	15	9
Sub-Total	81	103	96	86	89

¹² Pitchess motions were reported under the Miscellaneous category until Fiscal Year 2001-2002 and now are reported in their own category.

	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003
ADMINISTRATIVE HEARINGS					
Discipline	33	15	11	17	12
Retirement	4	11	2	2	2
Labor Grievances	0	0	0	7	4
<i>Sub-Total</i>	<i>37</i>	<i>26</i>	<i>13</i>	<i>19</i>	<i>18</i>
TOTALS	206	229	194	171	159

Of the 50 tort cases opened during this reporting period, there was only one police-related case that involved allegations of police misconduct. The case involves allegations of mishandling of personal property from a confiscated vehicle.

Of the two civil rights cases opened in Fiscal Year 2001-2002, both concern allegations of false arrest. Neither case concerns race or gender as a significant or central issue.

5. Handling of Litigated Cases In-House. The office continues to retain a high percentage of total litigation cases for handling in-house. The following chart compares the number of cases handled in-house and those referred to outside counsel for Fiscal Year 2002-2003 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 in-house 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 by the Special Projects Section after 2000-2001 are profiled in Part VI of this report.

CASES HANDLED IN-HOUSE AND BY OUTSIDE COUNSEL

<u>YEAR</u>	<u>IN-HOUSE</u>	<u>OUTSIDE COUNSEL</u>
1998-1999	430	18 (9)
1999-2000	481	7 (6)
2000-2001	339	13 (4)
2001-2002	303	8 (0)
2002-2003	289	10 (7)

As noted previously, we experienced an increase in the number of new cases handled by outside counsel due in large part to resolve conflicts issues presented by the cases. The cases involve allegations of misconduct by a police officer, an excessive force case, and an employment matter. Of the ten cases handled by outside counsel, one was closed, leaving nine to carry over to the next fiscal year.

The decrease in the number of cases handled is consistent with the drop in the number of new cases. The nature and effects of the decrease in the number of new cases is discussed in subsections 3 and 4. Despite these laudable accomplishments, many relatively complex cases were carried over from the prior year, each demanding significant time and effort by the attorneys and legal staff. The hard work required is less reflected in the numbers than in the specific problems presented in any given case.

6. Closure Rate for Cases Handled In-House. The number of cases and case-closure rates for cases handled in-house from 1998 through Fiscal Year 2002-2003 are shown below. The closure rate is calculated against the total number of cases handled as indicated in the preceding table. The closure rate during any given year depends upon a variety of factors, including the number and type of cases handled from year to year and the complexity of the cases handled. The amounts reported for 1999-2000 and prior periods reflect total cases closed 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>
1998-1999	239 of 430	55%
1999-2000	229 of 481	49%
2000-2001	180 of 339	53%
2001-2002	147 of 303	49%
2002-2003	158 of 289	55%

7. Case Load. The average number of cases handled by attorneys is shown in the following chart. The average is calculated utilizing the total number of cases handled by the section, including risk cases and non-risk cases. As reflected in the chart above, the total number of cases handled by the section in Fiscal Year 2002-2003 was 289.

AVERAGE NUMBER OF CASES HANDLED PER ATTORNEY

<u>YEAR</u>	<u>AVERAGE NUMBER OF CASES HANDLED PER ATTORNEY</u>
1998-1999	71.6
1999-2000	73.1
2000-2001	66.9
2001-2002	60.6
2002-2003	57.8

The number of cases per attorney in the reporting period remained fairly consistent with the prior fiscal year. The nature of the caseload decrease and its impact on the Litigation Section are discussed in subsections 3 and 4 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 2002-2003; and (ii) the savings to the City on a per case

basis, utilizing an hourly rate of \$94 for in-house attorneys and \$130 for outside counsel. Again, the average amount of time per case is but a rough estimate, as the City Attorney's Office does not generally record hours spent on each case. The time accorded any given case can vary dramatically from the averages stated below for any number of reasons including legal complexity; difficulty in dealing with facts, evidence, and witnesses; and the diligence of opposing counsel.

<u>CASE TYPE</u>	<u>AVERAGE HOURS PER CASE</u>	<u>AVERAGE SAVINGS PER CASE</u>
Bankruptcy	20	\$720
Civil Rights	85	\$3,060
Disciplinary Hearings	80	\$2,880
Pitchess Motions	4	\$144
Retirement Hearings	50	\$1,800
Subrogation	23	\$828
Tort	75	\$2,700
Weapons Petitions	3	\$108
Writ Actions	30	\$1,080

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>
1998-1999	842
1999-2000	843
2000-2001	606
2001-2002	619
2002-2003	793

b. *Claims resolved prior to litigation*

CLAIMS RESOLVED PRIOR TO LITIGATION WITHOUT PAYMENT

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

c. *Average aging of resolved claims*¹³**AGING OF PRE-LITIGATION CLAIMS**

<u>YEAR</u>	<u>CLAIMS RESOLVED WITH PAYMENT OF MONEY</u>	<u>CLAIMS RESOLVED WITHOUT PAYMENT OF MONEY</u>
1998-1999	2.88 months	5.64 months
1999-2000	2.04 months	3.39 months
2000-2001	1.94 months	3.0 months
2001-2002	2.06 months	3.21 months
2002-2003	3.95 months	6.32 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.

FISCAL YEAR	CITY ATTORNEY'S OFFICE		OUTSIDE COUNSEL	
	Cases resolved with payment of money	Cases resolved without payment of money	Cases resolved with payment of money	Cases resolved without payment of money
1998-1999	12.7 months	11.5 months	1.7 months	8.7 months
1999-2000	N/A ¹⁴	4.0 months	None	5.5 months
2000-2001	24.3 months	8.6 month	55.8 months	None
2001-2002	15 months	7.4 months	51.6 months	86.4 months
2002-2003	15.5 months	11.9 months	10.2 months	None

d. *Number of aged cases over 24 months*

As of the close of the reporting period, three cases handled by outside counsel were

¹³ This information captures the average period of time Bragg & Associates devotes to resolving claims, with and without the payment of money, and is calculated based upon the period of time between receipt of the claim and resolution. For litigated claims, the information reflects the average amount of time a matter is handled by the Litigation Section based upon the period of time between receipt of the case and its resolution.

¹⁴ Information not tracked during this fiscal year.

assigned over 24 months ago. The three cases skew the average duration of the cases handled by outside counsel, but by their nature or facts and circumstances require a prolonged period of time to handle. These cases include long-running flood cases that involved multiple appeals and a complex federal toxics-remediation case involving dozens of parties, which typically takes a longer time to come to resolution. In one other case, a wrongful demolition case, outside counsel obtained a defense ruling on a motion for summary judgment. However, the case remains open as there is a pending appeal. None of the cases have indications of outside counsel maintaining a case longer than reasonably necessary under the circumstances involved.

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

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

<u>YEAR</u>	<u>DAMAGE SUITS</u>
1998-1999	109
1999-2000	102
2000-2001	94
2001-2002	65
2002-2003	52

The reduction of the number of new damage suits in the reporting period from the prior fiscal year is fairly 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 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>
1998-1999	75
1999-2000	56
2000-2001	56
2001-2002	40
2002-2003	47

From and after Fiscal Year 2001-2002, code enforcement and other cases initiated to address Neighborhood Services issues are reported by the Code Enforcement Section. Over the past four years, the number of cases initiated by the Litigation Section has remained around the average of 50 cases per year. The 47 cases initiated in Fiscal Year 2002-2003 by the Litigation Section only include the following types of cases: 6 subrogation actions; 34 weapons-confiscation petitions; 2 unlawful-detainer actions; 1 collection case; and 4 eminent-

domain actions.

10. Internal employment related cases. Of the 56 new risk cases filed against the City in Fiscal Year 2002-2003, none involved allegations of racial discrimination and retaliation, or alleged violation of ADA and FEHA disability discrimination laws.

11. Notable Accomplishments in Litigation Cases. During Fiscal Year 2002-2003, the Litigation Section resolved or continue to handle the following cases involving high-profile facts, high-damage exposure, complexity, and/or other 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 Settled action brought by landfill operator for damages resulting from City closure order. Settlement agreement now being implemented with future site-use matters being addressed by City planning department.

Case No. 2 Successfully upheld the termination of violent City employee who was accused of destroying public property.

Case No. 3 Successfully represented City in litigation involving technology services firm resulting in performance under existing City contract and securement of employment of members providing important services to City.

Case No. 4 Obtained dismissal of case involving allegations of excessive force and racial discrimination in a police stop.

Case No. 5 Successfully defended the denial of industrial disability retirement benefits of retired police officer.

Case No. 6 Obtained dismissal of case filed against joint powers authority in wrongful death action involving decedent's crossing of railroad tracks.

Case No. 7 Obtained favorable ruling by the Third District Court of Appeal upholding trial court decision granting judgment in favor of City in case alleging the dangerous condition of traffic intersection.

Case No. 8 Assisted in obtaining favorable ruling in CEQA challenge to County facility project.

Case No. 9 Obtained order declaring person a vexatious litigant who filed numerous excessive force actions against police officers.

Case No. 10 Obtained restraining order against person who repeatedly threatened library staff and patrons.

Case No. 11 Resolved civil rights suit challenging collection of agency shop fees under labor agreement.

Case No. 12 Represented City in trip and fall case in shopping center resulting

in a settlement involving no payment of money from City and the recovery of attorney's fees for our role in the case.

Case No. 13 Obtained voluntary dismissal of personal injury case arising out of a double-fatality accident by establishing overwhelming defense to plaintiff's allegations.

Case No. 14 Obtained defense judgment in trip and fall case against plaintiff's claim for \$125,000.

Case No. 15 Obtained voluntary dismissal of action against police officer alleging failure to provide adequate protective services.

Case No. 16 Concluded two-year mediation resulting in settlement with solid waste operator who filed civil rights suit against the City.

Disciplinary Actions: We 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 violent parks employee. In one case, we obtained a favorable ruling from an administrative law judge upholding the termination of police employee only to have the discipline reduced by the Civil Service Board. We continue to devote substantial time to support management's decisions in administrative forums. In addition, the Litigation Section provides continuous advice to Labor Relations on pending disciplinary matters.

Labor Relations: We successfully represented the City in various grievance matters including several grievances involving solid waste employees regarding vacation scheduling and other issues.

Retirement Appeal: We successfully defended the administrative appeal of a former police employee's request for an industrial disability retirement.

Subrogation Cases: We concluded several subrogation lawsuits to recover Worker's Compensation benefits and property damage caused by third parties which resulted in the recovery of \$77,048, including \$4,292 by way of judgment and \$72,756 by way of settlement.

PART VI

SPECIAL PROJECTS

A. GENERAL

The Special Projects Section (SPS) provides both litigation and advisory support to various departments and divisions throughout the City. In addition, attorneys in this section are often asked to handle specific high profile matters that might otherwise require the assignment of more than one attorney or matters that would otherwise start in the Advisory Section, and then move to litigation. Greater continuity results when one attorney is assigned to handle such projects as they move through the "advisory" phase and into litigation. During the past fiscal year, the SPS handled high profile and complex litigation, extraordinary relief, injunctions and injunction monitoring, collections, and extensive development and finance matters.

This portion of the annual report provides a discussion of the overall scope of the responsibilities of the SPS during Fiscal Year 2002-2003. This report also provides a detailed analysis of the workload of the SPS during this reporting period. **ATTACHMENT C** is a list of the various areas in which the SPS performed legal services, and it identifies the individual attorneys assigned to those areas. The list reflects the current assignments of the SPS attorneys.

In last year's annual report, the SPS's stated goals were to develop expertise in finance and economic development and to complete the Special Projects Manual. We happily report that over the course of the past fiscal year we have hired two attorneys with experience in municipal finance and have supported their efforts to further their knowledge in this area through independent training and communication with those City departments involved in the process. Work on the Special Projects Manual was delayed as a result of the appointment of a new supervisor for the section. However, this remains a priority and an ongoing project. For the next fiscal year, our goals include developing an extensive database of motions and memoranda prepared by attorneys in all sections and completing the Special Projects Manual.

B. SPECIAL PROJECTS – LITIGATION

During the past fiscal year, the SPS had the equivalent of 2.0 FTE assigned primarily to litigation assignments. Thirty-four new litigation files were opened and thirty-three cases were closed. The following charts show the type and nature of the new cases opened in Fiscal Year 2002-2003 and in the two previous reporting periods. For Fiscal Year 2002-2003, there is a noticeable decrease in the number of litigated files handled by the SPS. This decrease is mirrored by a significant increase in the number of advisory assignments handled by the section over the same period (discussed below). This shift in the assignments handled is largely the result of staffing changes, and an increase in the number of assignments pertaining to development/land use and finance issues in the North Natomas area. With the rapid development of North Natomas, two attorneys were hired to the SPS based upon their expertise in such matters. As these attorneys carried a heavy advisory workload, the number of litigation assignments handled by the section was necessarily reduced.

PROFILE OF CASES (FISCAL YEAR COMPARISON)			
	2000-01	2001-02	2002-03
Cases Opened	35 ¹⁵	50	34
Cases Closed	22 ¹⁵	58	33
Cases Pending	203 ¹⁵	68	69
Risk Cases Opened			

¹⁵ The significant reduction in the number of pending files from Fiscal Year 2000-2001 to Fiscal Year 2001-2002 reflects the movement of staff and cases from SPS to the Code Enforcement Section, which occurred during the course of Fiscal Year 2001-2002.

	2000-01	2001-02	2002-03
Tort	8	6	8
Civil Rights	1	6	7
ADA	1	0	0
EEO	0	3	1
Total	10	15	16
Other Cases Opened			
Eminent Domain	1	9	2
Inverse Condem.	1	2	2
Writs	7	10	6
Contracts	1	1	3
Injunction	0	5	1
Other	4	8	4
Total	14	35	18
Administrative Hearings			
Discipline	0	1	0
Retirement	0	1	1
Total	0	2	1

1. SIGNIFICANT ACCOMPLISHMENTS

During Fiscal Year 2002-2003, the SPS handled the following notable high profile and/or complex litigation matters:

Case No. 17 Plaintiff was injured during an arrest and alleged civil rights violations, assault and libel based upon statements in the newspaper. Although liability issues were problematic, a favorable settlement was reached at an early stage for a fraction of plaintiff's original demand.

Case No. 18 Plaintiff was injured during the course of an arrest and alleged civil rights violations against the police officers involved. The case was dismissed on a motion for summary judgment, but plaintiff made several attempts to keep his claims alive. After extensive motion practice, SPS attorneys were able to have the plaintiff declared a vexatious litigant. Plaintiff appealed that finding and the dismissal to the Third District Court of Appeal, but both appeals were decided favorably to the City.

Case No. 19 Plaintiff tripped and fell on a City sidewalk, and sued both the City

and the abutting landowner. Plaintiff alleged a significant closed-head injury, precluding any further employment, and causing significant medical injuries. After a 5 week trial, plaintiff asked the jury for over \$2,000,000, but the jury found no liability on the part of the City.

Case No. 20 Petitioner was a police officer that had been terminated for misconduct and dishonesty in the line of duty. Although the Administrative Law Judge and Civil Service Board agreed with the decision to terminate this officer, his appeal to the Superior Court resulted in a reversal, and the officer had to be reinstated immediately. The City's appeal of the Superior Court ruling is now pending before the Third District Court of Appeal.

Case No. 21 Plaintiff fell over a parking curb in a City owned garage, and suffered injuries requiring surgery. Plaintiff was awarded a significant verdict at a non-binding arbitration, which award was rejected by the City. After extensive discovery and investigation, the City filed a successful motion for summary judgment; the court held that the curb did not present a dangerous condition of public property.

Case No. 22 The Sacramento Police Officers' Association (SPOA) filed a writ challenging the City's decision to utilize retired officers ("annuitants") as a temporary labor force as a violation of their collective bargaining agreement. After extensive briefing and oral argument, the Superior Court granted the writ. Following the adverse ruling, SPS attorneys successfully petitioned the court to deny the SPOA's request for attorney's fees. Appeals by the City to the court's ruling on the writ, and by the SPOA to the order denying fees are both now pending before the Third District Court of Appeal.

Case No. 23 Plaintiff was shot by SWAT officers attempting to serve a warrant and made an initial settlement demand of one million dollars. SPS attorneys vigorously defended the case, and on the eve of trial the plaintiff settled the matter for \$49,000, which was significantly less than the amount awarded earlier in a non-binding arbitration.

Case No. 24 Plaintiff was involved in an automobile accident that she alleged was the result of a dangerously designed and controlled intersection. The City successfully moved for summary judgment, with the court finding that the intersection was not a dangerous condition as a matter of law. Plaintiff appealed the decision to the Third District Court of Appeal, but the City successfully defended the appeal on the same grounds.

Case No. 25 After a year and a half of eminent domain litigation, the City effected a settlement that resulted in the purchase of approximately 200 acres for use as a regional park.

Case No. 26 After three years of litigation against the gun industry, the City, along with other cities and counties, successfully negotiated a series of settlement agreements that reformed the gun industry's business practices and helps to keep guns out of the hands of criminals and children.

Case No. 27 Plaintiff, a police officer whose disciplinary termination had previously been upheld by the Civil Service Board and subsequent appeals, filed a civil suit alleging that his termination was racially motivated. The City argued that the prior termination was binding and precluded the new lawsuit. Although the trial court disagreed, the City successfully appealed the trial court's decision to the Third District Court of Appeal. In deciding the appeal, the court held that the prior termination barred the civil action and instructed the trial court to dismiss the discrimination lawsuit. Plaintiff requested reconsideration by the Third District and review by the California Supreme Court, both of which were denied.

2. SPECIAL PROJECTS SECTION PAYOUTS

The following charts set forth the amounts paid to claimants on SPS litigation matters handled during the last three fiscal years. As the chart for Fiscal Year 2002-2003 indicates, SPS attorneys had a very successful year, obtaining a favorable judgment or dismissal of 14 of the 24 cases (58%) in which damages were sought against the City.

FISCAL YEAR 2002-2003

2002-03 Closed	Special Projects Cases		Outside Counsel Cases	
	No. of Cases	Total Paid	No. of Cases	Total Paid
Cases Closed Without Payment	14		0	
Under 100K	8 ¹⁶	\$200,640.00	0	0
100K - 499K	2	\$250,015.20	0	0
500K - 999K	0	0	0	0
\$1 Million+	0	0	0	0
Other Closures ¹⁷	9	0	0	0

¹⁶ The monetary value of cases which dictates whether they are handled in the Litigation Section or by SPS is \$400,000. Thus, generally SPS would not have these cases unless they come to the section upon attorney reassignment due to staffing issues in Litigation Section. Alternatively, some cases come to SPS that are initially accessed at high value, but a favorable settlement is required.

¹⁷ "Other" closures are those cases in which the City had no risk of being subject to a damages award. This group of cases includes discipline matters, eminent domain, nuisance abatement and those cases in which the City was a plaintiff.

2002-03 Closed	Special Projects Cases		Outside Counsel Cases	
	No. of Cases	Total Paid	No. of Cases	Total Paid
Grand Total	33	\$450,655.20 ¹⁸	0	0

FOR FISCAL YEAR 2001-2002

2001-02 Closed	Special Projects Cases		Outside Counsel Cases	
	No. of Cases	Total Paid	No. of Cases	Total Paid
Cases Closed Without Payment	46		1	
Under 100K	10	\$112,002.00	1	\$25,000.00
100K - 499K	0	0	0	0
500K - 999K	1	\$825,000.00	0	0
\$1 Million+	1	\$1,000,000.00	0	0
Grand Total	58	\$1,937,002.00	2	\$25,000.00

FISCAL YEAR 2000-2001

2000-01 Closed	Special Projects Cases		Outside Counsel Cases	
	No. of Cases	Total Paid	No. of Cases	Total Paid
Cases Closed Without Payment	9		0	
Under 100K	12	\$240,208.00	0	0
100K - 499K	1	\$250,000.00	0	0
500K - 999K	0	0	0	0
\$1 Million+	0	0	0	0
Grand Total	22	\$490,208.00	0	0

¹⁸ This figure does not represent all damages paid to claimants during the fiscal year; rather, it represents only those damages paid in cases that "closed" before June 30, 2003. One additional significant case (± \$900,000) was settled during the fiscal year, but the plaintiff did not provide the City with all closing documents before June 30.

C. SPECIAL PROJECTS – ADVISORY

SPS received 271 new advisory assignments in Fiscal Year 2002-2003. During this reporting period, 161 of the assignments had been completed and 110 are pending. The chart below identifies the number of advisory assignments by the department requesting opinions and/or advice. The nature of the assignments varied greatly, particularly between the various departments. Special Projects attorneys were integrally involved in both planning and development issues and had numerous assignments in the area of municipal finance. Finance projects included those for capitol improvement projects, such as the Music Circus, but the largest portion of the financing issues involved construction in the rapidly developing North Natomas area. Significant time was also spent working with the Police Department on issues pertaining to legal staffing of an emergency operations center, and with the Department of Public Works when a Native American cemetery was found within the site for the new city hall project. Finally, SPS attorneys have been, and continue to be, actively involved in the review and analysis of the “living wage ordinance” currently being considered by the City Council.

The following chart describes the number of advisory assignments received from the various City departments for Fiscal Years 2001-2002 and 2002-2003.¹⁹

Department	2001-2002 Assignments	Percentage of 2001-2002 Assignments	2002-2003 Assignments	Percentage of 2002-2003 Assignments
Charter Dept.	23	15.2	7	2.58
City Council	1	0.66	8	2.95
Data Mgmt.	0	0.00	1	0.37
Downtown Development	3	1.98	6	2.21
Finance	5	3.31	5	1.85
Fire	1	0.66	1	0.37
Labor	2	1.32	5	1.85
Library	1	0.66	0	0.00
Parks	8	5.30	4	1.48
Personnel	1	0.66	1	0.37
Planning	37	24.50	7	2.58
Police	13	8.60	6	2.21

¹⁹ Assignments received from each department were not tracked for Fiscal Year 2000-2001, the fiscal year in which the SPS was created.

Department	2001-2002 Assignments	Percentage of 2001-2002 Assignments	2002-2003 Assignments	Percentage of 2002-2003 Assignments
Public Works	18	11.92	62	22.88
Treasurer	36	23.84	149	54.98
Utilities	2	1.32	9	3.32
Totals	151	100.00	271	100.00

D. COLLECTIONS

During Fiscal Year 2002-2003, staff members determined that a cable television carrier had not been properly charging and collecting the City's Utility User's Tax ("UUT") from its customers. SPS attorneys worked closely with the accounting department to determine the amount legally owed to the City by the cable carrier, and entered into negotiations. The end result was the cable carrier acknowledging its own liability for UUT, whether or not it had actually collected such taxes from its customers, and a settlement calling for the carrier to pay the City in excess of \$800,000.

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

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

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

Case No. 28 In this writ action, the residents of a downtown neighborhood challenged a significant public works project, arguing that the City's EIR did not properly evaluate all environmental impacts and that the project violated land use and planning laws. After extensive research, the preparation and review of a record in excess of 9,000 pages, extended briefing, and significant oral argument by SPS attorneys, the Superior Court found in favor of the City and the project was allowed to continue.

Case No. 29 During the course of excavation for the new city hall building, on-site archeologists located a Native American cemetery. The "most likely descendant" of the three tribes potentially involved filed a request for a temporary restraining order barring any construction on the new city hall site and a writ petition alleging violations of CEQA. Extensive research and hours of negotiation resulted in a dismissal of the TRO and writ, with the parties amicably agreeing to a mutually beneficial resolution.

In addition to the foregoing, three of the matters discussed above as significant

litigation eventually were decided favorably on appeal, and two are currently awaiting a decision by an appellate court.

F. 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. SPS attorneys arranged for numerous hours of "in-house" MCLE training sessions during the Fiscal Year 2002-2003. These training sessions were provided to all attorneys in the office, saving the City thousands of dollars that otherwise would have been paid to private MCLE providers. In-house training has included all phases of municipal finance, annexations and land use/planning.

PART VII

CODE ENFORCEMENT

A. GENERAL

The Code Enforcement Section (CES) was created in June 2001 to centralize the prosecution of all City Code violations and nuisance abatement cases within the City Attorney's Office. Formation of the CES established within the office a group of attorneys and support staff dedicated to responding to requests for assistance from City Council, code enforcement, police, and other City staff relating to abating neighborhood and public nuisances such as substandard and dangerous housing, drugs, gangs, and blight. While the City Attorney's office has always provided this kind of support, creation of the CES has allowed this arm of the office to develop expertise in enforcement and nuisance abatement thereby providing greater assistance to City staff working to resolve City and neighborhood problems. **ATTACHMENT D** lists the various areas in which the CES performed legal services and identifies the individual attorneys assigned to those areas.

B. GENERAL TYPES OF ACTIONS TAKEN BY CES

Through application of the Sacramento City Code and applicable State Law, City code enforcement staff and the CES use administrative, civil and criminal enforcement methods to attack a nuisance case.

1. CIVIL: Civil actions involve utilizing state law and City Codes through the use of lawsuits filed by members of the CES in local courts seeking temporary and permanent injunctive relief, cost recovery and orders for action. Such lawsuits are typically used for more complex housing and building abatement cases where compliance is minimal. Such civil actions are also filed to abate problem properties plagued by drug, gang, and other criminal activity or to seek the appointment of a receiver to take over the management of substandard property.

2. ADMINISTRATIVE: Administrative enforcement actions are authorized by various ordinances set forth in the Sacramento City Code (SCC). Under the SCC, City

enforcement staff may issue penalties to violators and order their building and properties closed, demolished, secured or abated. These types of actions are processed through an internal City administrative system, with appeals heard by independent Administrative Hearing Officers and Hearing Boards. The CES advises staff on pursuing administrative enforcement actions and represents the City at administrative hearings, as required.

3. CRIMINAL: The newest tool in the City's arsenal is enforcement of SCC violations via Criminal Prosecution. An effective way to attack problem property and problem people, criminal citations for SCC violations can be issued by enforcement staff as well as police officers and be prosecuted by this office. The CES can also evaluate cases for filing of criminal complaints.

C. RESPONSIBILITIES AND ASSIGNMENTS

The CES provided the following services to City staff and departments:

City Council Offices

- Respond to requests regarding SCC matters
- Legal advisor to Code AD Hocs
- Address nuisance issues arising in districts as requested
- Draft enforcement legislation as directed by Ad Hocs

Neighborhood Services Department

- Advocacy and representation at administrative hearings
- Prepare and obtain inspection warrants
- Nuisance abatement issues
- Advice on all matters
- Review of contracts, administrative notices, letters and forms
- Periodic training of enforcement staff
- NRT staff support
- Support for all CAT cases
- Housing and Dangerous Buildings issues
- Code enforcement (blight) issues
- Assist on amendments to enforcement ordinances
- Illegal dumping program
- Graffiti abatement

Police Department

- Prosecutorial support for SCC citations
- Periodic training on enforcement issues
- Drug abatements
- Illegal camping enforcement
- POP team projects
- Nuisance abatement actions

Fire Department

- Support for Fire Marshall enforcement
- Support for fire prevention

Public Works Department

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

In addition to support for the above-referenced City staff and departments, CES also participates in the following listed committees and associations, which are dedicated to addressing neighborhood and community improvement:

- MAGIC (Multi-Agency Graffiti Abatement Intervention Committee)
- SRHIP (Sacramento Rental Housing Improvement Partnership)
- Public Safety Subcommittee to County Homeless Task Force
- Avondale/Glen Elder WEED & SEED Committee
- Sacramento District Attorney's Gang Abatement unit
- Downtown Community Service Task Force

D. HIGHLIGHTS and SIGNIFICANT ACCOMPLISHMENTS OF FY 2002-2003

1. CASES

Case No. 30 Public nuisance abatement action involving entire City block: After completing a thorough investigation, the Sacramento Police Department sought the assistance of the CES to address a drug dealing problem on an entire block of a street in the northern part of the City. The Police Department characterized this location as the worst block in the area. CES filed a novel civil nuisance abatement lawsuit against 12 individuals who were selling drugs on the street but did not live there and one property owner who was allowing drugs to be sold on his property at the location. The court issued a broad injunction, including an order that the defendants stay away from that block or its vicinity and that they not engage in illegal drug activity. Police report that the neighborhood has returned to some normalcy and that conditions have significantly improved.

Case No. 31 Drug abatement actions filed against individual property owners in the north part of the city: The CES also filed a number of drug abatement cases, utilizing the remedy provided under California Health and Safety Code section 11570, which authorizes a city attorney to bring actions against property owners who allow drug activity to occur on their property.

- Property No. 1 – The action spurred the property owners to sell the property, which ended all drug activity on the property
- Property No. 2 - The action resulted in ordering the friends and relatives of the property owner who were engaged in drug transactions to stay away from the property.

2. UNLAWFUL CAMPING ENFORCEMENT: Responding to the community's concern to clean up the American River Parkway and address the nuisance conditions caused by illegal camping, the CES undertook the prosecution of unlawful campers. Using a graduated approach, the CES sought court resolutions that would provide more long term solutions and yet would differentiate between first time offender and chronic violators. The overwhelming majority of cases were resolved short of trial, with the following exceptions:

- One case resulted in a mistrial on two counts and an acquittal on one count of unlawful camping after the necessity defense was allowed over the City's relevancy objection.
- Successful prosecution of the same individual for unlawful camping on retrial after court granted the City's motion to exclude the assertion of the necessity defense.
- Additionally, CES devoted considerable efforts to preparation for a significant number of jury trials scheduled in May and June of 2003.
- CES also provided significant advisory assistance to the Police Department and County Park Rangers on unlawful camping enforcement issues

3. ILLEGAL DUMPING ENFORCEMENT: CES continued to provide support to Neighborhood Services' efforts to go after persons who illegally dump on private and public property. The CES successfully prosecuted several cases involving illegal dumping, as set forth in the statistics below. In at least one of the cases, the information was first submitted by a citizen, who then became eligible for a reward under the new illegal dumping program created last year.

4. SUPPORT TO COUNCIL ANIMAL CONTROL AD HOC COMMITTEE: Worked with Animal Control to prepare the Dangerous Animal Ordinance that revised the current SCC sections related to dangerous and potentially dangerous animals. Redefined what constitutes a dangerous animal and increased the penalties for irresponsible owners, including prosecution of violations as misdemeanors. Also provided significant new tools for Animal Care Services to take appropriate action to protect the public.

5. PREPARATION OF VESSEL ABATEMENT PROCEDURE: At the request of the Police Department, designed an administrative procedure for implementation of applicable SCC provision related to the abatement of unseaworthy vessels. This helped to streamline the Police Department processes and provided a model for future enforcement action. Initial action resulted in the removal of an extremely deteriorated boat located on the American River, which was owned by a person who had previously sunk a boat in the river which resulted in cleanup costs to the city in the amount of \$13,000. This individual was also criminally prosecuted and his boat was abated.

6. USDA SUPPORT: Preparation of quick reference guide for police department in relation to USDA conference.

E. REPORT ON FISCAL YEAR 2002/2003 STATISTICS WITH COMPARISON TO PREVIOUS YEARS STATISTICS

1. Administrative / Advisory Code Enforcement Assignments

In Fiscal Year 2002-2003, the CES received 529 requests for assistance with administrative code enforcement and advisory matters. The following figures represent administrative enforcement actions and advisory opinions requested by the various division of the City of Sacramento Neighborhood Services Department only and do not include criminal prosecutions or civil actions against individual properties or requests from other City departments that the CES supports:

TOTAL NUMBER OF ADMINISTRATIVE CODE ENFORCEMENT ASSIGNMENTS

FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03
219	330	367	313	365	529

ADMINISTRATIVE CODE ENFORCEMENT ADVISORY ASSIGNMENTS

Type	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03
Abatement	60	40	30	99	92
Demolition	110	134	118	20	61
Notice to Vacate	2	9	5	0	1
Advisory requests	33	38	38	N/A ¹	103
Refer to Litigation	3	5	6	N/A ¹	1
Securement	102	129	110	2	44
Inspection Warrant	20	12	6	4	13
PRA Requests	N/A ¹	N/A ¹	15	42	217
TOTAL	330	367	313	167	529

¹Statistics not reported.

2002-03 ASSIGNMENTS BY COUNCIL DISTRICT

Type	Dist.1	Dist.2	Dist. 3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Totals
Abatement	7	43	8	4	16	4	5	4	91
Demolition	2	23	7	2	17	4	0	6	61
Notice to Vacate	0	0	0	1	0	0	0	0	1
Advisory requests	10	18	12	5	19	8	1	9	104

Type	Dist.1	Dist.2	Dist. 3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Totals
Refer to Litigation	1	0	0	0	0	0	0	0	1
Securement	5	22	1	3	7	1	2	1	42
Inspec. Warrant	0	3	2	0	5	1	0	2	13
PRA Requests	20	72	35	24	44	11	2	9	217
TOTALS:	44	181	65	39	108	29	10	31	507 ²⁰

COMPARISON TO PREVIOUS YEARS STATISTICS

As set forth, there was a significant increase in the number of Public Records Act requests processed by the section. This is most likely attributed to the fact that the population is becoming more aware of code enforcement actions as they relate to property and are making inquiries of properties before they purchase them. A large number of requests also came about as a result of enforcement action being taken.

The increase in matters handled by the CES compared to last year is also attributable to the fact that the section is now fully operational and able to coordinate better with City staff to assist them on more matters than previously possible.

2001-02 ASSIGNMENTS BY COUNCIL DISTRICT

Type	Dist.1	Dist.2	Dist. 3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Totals
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 ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹
Refer to Litigation	N/A ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹	N/A ¹
Securement	0	2	0	0	0	0	0	0	2
Warrant	0	1	2	0	0	0	0	1	4

²⁰ Some items apply City wide and are not specific to a council district.

Type	Dist.1	Dist.2	Dist. 3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Totals
PRA Requests	7	12	5	1	12	1	0	4	42
TOTALS:	16	48	18	7	43	14	2	15	167

¹Statistics not reported.

2000-01 ASSIGNMENTS BY COUNCIL DISTRICT

Type	Dist.1	Dist.2	Dist. 3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Totals
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
TOTALS:	16	99	11	15	100	22	3	27	328

1999-00 ASSIGNMENTS BY COUNCIL DISTRICT

Type	Dist.1	Dist.2	Dist. 3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Totals
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

Type	Dist.1	Dist.2	Dist. 3	Dist.4	Dist.5	Dist.6	Dist.7	Dist.8	Totals
Opinion	3	13	3	3	9	1	1	5	38
Refer to Litigation	0	1	0	1	1	0	0	2	5
Securement	6	40	2	0	53	11	1	16	129
Warrant	0	2	0	0	6	3	0	1	12
TOTALS:	21	135	6	8	135	26	6	30	367

1998-99 ASSIGNMENTS BY COUNCIL DISTRICT

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

F. CRIMINAL PROSECUTION

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 City Code sections began in February 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. 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 neighborhoods.

The following statistics represent criminal cases referred to the CES for prosecution from all Departments are supported by CES:

CRIMINAL CASE REFERRALS FROM DEPARTMENTS

	Feb - Jun 2001	FY 01-02	FY 02-03
Number of cases referred:	124	2292	2939
Number of Citations and Criminal Complaints filed	119	2092	1920
Number of Cases Closed:	63	1491	1207

MOST COMMON SCC VIOLATIONS CITED

Violation Charged	Referring Department	Total Cases FY 00-01	Total Cases FY 01-02	Total Cases FY 02-03
Unlawful Camping	Police Department	70	844	613
Unlawful Camping	County	N/A ¹	N/A ¹	135
Illegal Dumping	Neighborhood Services	N/A ¹	N/A ¹	9
Drinking in Public	Police Department	6	96	84
Loitering	Police Department	4	1	27
Jaywalking/Entering Crosswalks	Police Department	2	167/20	128/107
Loud Stereo	Police Department	4	113	77
Animal Barking Unlicensed Dog	Public Works Control	9	27/27	6/6
Violating Notice to Vacate	Neighborhood Services	5	3	1

Violation Charged	Referring Department	Total Cases FY 00-01	Total Cases FY 01-02	Total Cases FY 02-03
Violation of Dangerous Buildings	Neighborhood Services	3	1	7
Illegal Activity Detrimental to Life and Health	Neighborhood Services	3	4	2

SUMMARY OF CASE DISPOSITION²¹

	Feb-Jun 2001	FY 01-02	FY 02-03
Cases Dismissed in the Interest of Justice ²²	19	496	559
Bench Warrants	44	218	685
Failures to Appear ²³	48	552	1491
Guilty Pleas	21	198	150
Trials	8	31	77

There was a significant increase in the number of matters set for trial. The CES actually went to jury trial three times; however, preparation for every case in anticipation of a jury trial was significant and consumed the time of three attorneys plus support staff.

SUMMARY OF CASE DISPOSITION PER DISTRICT FY 02-03

	Dist. 1	Dist. 2	Dist. 3	Dist. 4	Dist. 5	Dist. 6	Dist. 7	Dist. 8	Totals

²¹ Also includes cases from unincorporated American River Parkway.

²² Cases dismissed in the interest of justice include those cases where 1) the defendant has complied with the City's orders; 2) the defendant has already served time in jail; 3) the defendant is being sentenced to sufficient jail time on a companion matter brought by the District Attorney's office; or, 4) insufficient evidence existed to proceed forward with the matter.

²³ A significant number of cases filed result in the defendants failing to appear and having bench warrants issued for their arrest. This is most likely due to the fact the majority of citations issued are given to a transient population.

Dismissed in the Interest of Justice	202	51	74	28	28	32	19	20	507
Bench Warrants	289	52	135	23	43	31	0	6	673
Failures to Appear	503	144	264	170	143	92	14	55	1440
Guilty Pleas	46	11	23	17	16	6	1	6	136
	21	5	4	4	4	1	2	5	70

SUMMARY OF CASE DISPOSITION PER DISTRICT FY 01-02

	Dist. 1	Dist. 2	Dist. 3	Dist. 4	Dist. 5	Dist. 6	Dist. 7	Dist. 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 programs 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

	Dist. 1	Dist. 2	Dist. 3	Dist. 4	Dist. 5	Dist. 6	Dist. 7	Dist. 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

G. 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 the 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 199 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, 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. In December 2002, a citizen filed a taxpayer suit under California Code of Civil Procedure section 526(a) to enjoin enforcement of the ordinance. The plaintiff has alleged that the ordinance is unconstitutional on several grounds, including that it violates due process and imposes an excessive fine on forfeiture defendants. The attorney representing the plaintiff also mounted similar challenges to the nuisance vehicle seizure ordinances in Oakland and Stockton, but was unsuccessful at the trial court level. It appears that the plaintiffs in those cases will appeal. Sacramento and Stockton relied on Oakland’s ordinance as a model. The lawsuit against our ordinance is now pending in the trial court.

BREAKDOWN BY DISTRICT FY 2002-03

	Dist. 2	Dist. 5	Dist. 6	Dist. 7	Dist. 8	Totals
Number of SPD Stings	3	1	6	0	0	10
Number of Vehicles Seized	11	6	25	0	0	42
Number of Vehicles Forfeited	0	0	3	0	0	3
Number of Vehicles Donated	0	0	0	0	0	0
Number of Vehicles Returned in Settlement Agreement	10	6	21	0	0	37
Number of Arrestees Residing Outside of Arrest Area	2	5	17	0	0	24
Number of Arrestees Residing Outside of Sacramento County	1	1	5	0	0	7

BREAKDOWN BY DISTRICT FY 2001-02

	Dist. 2	Dist. 5	Dist. 6	Dist. 7	Dist. 8	Totals
Number of SPD Stings	2	2	4	0	2	10
Number of Vehicles Seized	12	10	30	0	11	85
Number of Vehicles Forfeited	6	6	6	0	0	18
Number of Vehicles Donated	0	0	0	0	0	0
Number of Vehicles Returned in Settlement Agreement	6	4	22	0	11	43

	Dist. 2	Dist. 5	Dist. 6	Dist. 7	Dist. 8	Totals
Number of Arrestees Residing Outside of Arrest Area	4	4	28	0	10	46
Number of Arrestees Residing Outside of Sacramento County	2	2	16	0	7	27

BREAKDOWN BY DISTRICT FY 2000-01

	Dist. 2	Dist. 5	Dist. 6	Dist. 7	Dist.8	Totals
Number of SPD Stings	4	2	5	1	1	13
Number of Vehicles Seized	19	11	35	2	5	72
Number of Vehicles Forfeited	1	1	7	0	1	10
Number of Vehicles Donated	1	0	1	0	0	2
Number of Vehicles Returned in Settlement Agreement	16	10	27	2	4	59
Number of Arrestees Residing Outside of Arrest Area	15	9	32	2	3	61
Number of Arrestees Residing Outside of Sacramento County	4	4	5	0	1	14

PART VIII
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. We are in the process of major revision and consolidation of several manuals.

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

3. Succession Planning. We will continue our efforts to train staff to be better prepared to take advantage of our in-house knowledge and expertise before retirements or other employment separations result in the loss of those benefits. Within the next five years, we anticipate several more retirements. Bill Carnazzo retired in February 2003 after 24 plus years of service with the office. 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.

4. 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 2002-2003, our automation improvements included: Data communications fiber optic cable installed between 10th and 17th floor replacing slower CAT 5 cable; new Cisco in-line power network data switches; voice over Internet Protocol (VOIP) phones throughout the office; removal of IPX/SPX protocol from network to increase network performance; Ghost 7.5 corporate edition upgrade for operating system images; memory upgrades for all Laptops to 256MB total; Lexis-Nexis CD Internet Browser based application installed on Netware server; ProLaw Database application upgrade from version 7 to version 9; and Microsoft SQL Server upgrade from version 7 to SQL 2000; IT Staff training with Implementing Microsoft Windows 2000 Professional and Server, Administer Microsoft SQL Server 2000 Database, Netware 5.0 to 6.0 Update and Netware 6 Advanced Network Management. Current automation projects continuing into Fiscal Year 2003-2004 include retiring NT4.0 CDROM server; Arcserve server backup software upgrade to version 9;

continue Prolaw roll out and data conversion from Abacus to Prolaw; Dell GX260 workstations; Microsoft Windows XP Professional operating system on workstations; Microsoft Office XP Suite on all workstations; WinZIP 8.1 on all workstations; new Compaq ML 370 server running NetWare 6.0; new Compaq server rack for file server storage; and ZenWorks 4.0 for desktops. During the next fiscal year, we will need to replace a significant number of our dated PCs.

5. Automated Hiring Process. In the past, the hiring process has been extremely cumbersome and slow. Due to the volume of work in the office, when vacancies occur or new positions are created, there is a need to quickly fill positions with well-qualified staff. For this reason, we have automated some aspects of our hiring process. We currently receive numerous recruitment responses via e-mail and have a dedicated e-mail address solely for this purpose. This process has proven to be a speedy one as applicants are able to quickly send the resumes to us rather than go through the mailing process. During this fiscal year, we received an estimate of about 200 resumes for interest in attorney, secretary and clerk positions. We will be exploring further automation of other aspects of hiring. In addition, we are contemplating pre-qualified process with periodic updates to reduce the processing time when vacancies occur.

6. 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.

7. 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.

8. City Employee Survey. In 2001, 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 have reviewed these areas and have implemented improvement in some areas. We will continue to monitor our progress in this area. One of the areas in which we received lower ratings related to low salaries. With assistance from the Council and the City Manager, that area was addressed in June 2003. We will be comparing the 2001 survey results to the 2003 survey results to determine where additional improvement is required.

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. The downward trend in lawsuits filed against the City is influenced by this training.

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

3. Document Retention and Retrieval Policy. 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. To assist this office and City staff, in general, in being prepared to move quickly with annexation issues as they arise, we will be preparing a quick reference guide to annexation. This guide will identify the procedure for annexation, including the sequence and the timing for completing each step in the process.

6. State and Federal Legislation. We will continue to review all state propositions and to 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.

7. Ordinances. We will continue to provide periodic updates on the status of pending ordinances. We are working with the City Manager's Office to establish a procedure 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.

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

9. City Boards and Commissions Orientation. During the presentation of the 2001-2002 Annual Report to the Council, Mayor Fargo request that we prepared materials for orientation of new members to all City boards and Commissions and to offer training sessions for the same. The materials have been prepared and made available to the Council and Charter Officers. We anticipate offering training sessions on these materials this year through City University and at times convenient to the intended audience.

10. Annual Report On-Line. Commencing with Fiscal Year 2000-2001, we place our 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.

11. Criminal Violation Quick Reference Guide. This office recently prepared a citation index booklet for use by the Police Department as a reference guide for citations and/or arrests, if necessary, during the recent USDA Conference held in Sacramento. We indexed various City Code sections that could have been used if violations were noted. This brief index has prompted us to prepare a comprehensive index on all City Code sections that may give rise to criminal prosecution as misdemeanors and infractions. When completed, a copy of the index will be provided to all City departments with citations and arrest authority, the District Attorney, the Superior Court, the Sacramento County Probation Department and other agencies as deemed appropriate. In the alternative, the index will be placed on-line for access by those agencies. If the council so desires, this index will be made available to Council staff as well.

12. Receivership Program. About ten years ago, we instituted a receivership program as a remedy for City Code violations. Unfortunately, bringing an action to establish a receivership is labor intensive, and we have not had sufficient staff to implement the program. But now, we are in the process of reviving the receivership program for use in the worse cases involving substandard and dangerous buildings. The use of this procedure will allow the appointment of a receiver to take over the operation of real property, collect rents, address all code violations in a timely manner and bring the property up to proper standards, and maintain decent, safe and sanitary housing stock.

13. Council Hearing/Notice Index. The City Attorney will work with the City Clerk to produce a comprehensive index of the various types of hearings (general public hearings, quasi-judicial hearings and legislative hearings) held before the City Council and to indicate the type of notice required or permitted (including notice by publication), the form of notice, and the amount of time that should be allowed between giving the notice and holding the hearing. The index will also reflect what time constraints may be imposed on those who have the right to speak or provide testimony at the hearings. A draft of this

document will be presented the City Manager's Cabinet for review and comment; then the final will be presented to the City Council and provided to all departments, boards and commissions of the City.

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 2002-2003. We have also addressed action taken to improve our delivery of legal services, especially in the code enforcement area. This was the second full year that this office prosecuted City Code violations as criminal matters, and the report shows a significant increase in the number of cases filed and prosecuted. The report shows, in addition, that 1,920 criminal complaints were filed. There was a sharp increase in the number of administrative code enforcement assignments handled by the Code Enforcement section, and the section successfully pursued public nuisance abatement and drug abatement actions to address problems associated with drug dealing in several neighborhoods. We have also shown our continued success in handling a significantly increased advisory and litigation workload.

We have reviewed our goals for Fiscal Year 2002-2003 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.

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

ADVISORY SECTION ASSIGNMENTS

Robert Tokunaga, Supervising Deputy City Attorney

Section Attorneys:²⁴

**Diane Balter
Sabina Gilbert
Jerry Hicks
Joe Robinson
Mike Sparks**

A. CITY COUNCIL – Mayor Heather Fargo & Councilmembers

1. Boards/Commissions:

- a. Council meetings [Sam Jackson]²⁵
- b. Law & Legislation Committee [Robert Tokunaga, Joe Robinson]
- c. Sacramento Transportation Authority [Robert Tokunaga, Diane Balter]
- d. Sacramento Public Library Authority [Robert Tokunaga, Diane Balter]
- e. Compensation Commission [Rich Archibald]

2. Advisory Functions:

- a. General advice, opinions, project review [All]
- b. Conflict of interest advice (Political Reform Act; Gov. Code §1090; general conflict issues)[Richard Archibald;Robert Tokunaga]
- c. Review of council agenda [All]
- d. Brown Act issues [All]
- e. Mass mailings [Richard Archibald; Diane Balter]

ATTACHMENT A

²⁴ Sam Jackson and Richard Archibald also perform advisory work, in addition to other duties.

²⁵ Richard Archibald, Sandra Talbott, Gustavo Martinez, Bob Tokunaga, Brett Witter, 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; Robert Tokunaga; others as needed]

C. CITY TREASURER – Tom Friery, Treasurer²⁶
[Sabina Gilbert, Jerry Hicks]

1. Advisory Functions

- a. Administration
- b. Agreements

D. CITY CLERK – Valerie Burrowes, City Clerk
[Rich Archibald, Robert Tokunaga; 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. HUMAN RESOURCES – Ken Nishimoto, Deputy City Manager
Terrence Woods, Director

1. Boards/Commissions [Jerry Hicks, Diane Balter, Sabina Gilbert]

- a. Civil Service Board [Jerry Hicks]
- b. SCERS Administration, Investment & Fiscal Management Board [Sabina Gilbert]
- c. SCERS Retirement Hearing Commission [Diane Balter]

2. Advisory Functions [Robert Tokunaga; Diane Balter; others as needed]

- a. Administration
- b. Retirement
- c. Occupational Safety & Health
- d. Benefits
- e. Testing/recruitment; personnel problems (including EEO/AA)
- f. Workers' Compensation/unemployment insurance

²⁶ Joe Cerullo and Deborah Schulte will continue to handle municipal finance matters as a part of the SPS.

- g. Labor Relations issues, arbitration cases
- h. Training

**F. FINANCE – Ken Nishimoto, Deputy City Manager
Gus Vina, Director**

1. Advisory Functions [Diane Balter; Mike Sparks]

- a. Administration [Diane Balter; Mike Sparks]
- b. Payroll [Diane Balter; Mike Sparks]
- c. Utility billing [Diane Balter; Mike Sparks]
- d. Purchasing & Stores [Mike Sparks]
- e. Budget [Diane Balter; Mike Sparks]
- f. Asset Management [Diane Balter; Mike Sparks]
- g. Accounting [Diane Balter; Mike Sparks]
- h. Revenue/Permits & Licenses [Diane Balter; Mike Sparks]

**G. LABOR RELATIONS – Ken Nishimoto, Deputy City Manager
Dee Contreras, Director**

1. Advisory Functions [Robert Tokunaga, Diane Balter; others as needed]

- a. Negotiations
- b. Operations
- c. ESBID office
- d. Management Assessment/Intervention Team (MAIT)

**H. INFORMATION TECHNOLOGY – Ken Nishimoto, Deputy City
Manager
Sally Nagy, Chief Information
Officer**

1. Advisory Functions [Robert Tokunaga, Mike Sparks; others as needed]

- a. Administration
- b. Computer operations [Mike Sparks]
- c. Communications [Mike Sparks]
- d. Mail/printing [Mike Sparks]
- e. Network Services

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

[Fire -Robert Tokunaga, Diane Balter]
[Police - Mike Sparks]

[Legislation/Transactions - Diane Balter; Jerry Hicks; Mike Sparks; Sabina Gilbert]

1. Advisory Functions

Police Department

- a. Administration (opinions, general orders, etc.)
[Mike Sparks]
- b. Legislation/Transactions
[Mike Sparks; Jerry Hicks]

Fire Department

- a. Administration (opinions, etc.) [Robert Tokunaga, Diane Balter]
- b. E.M.S. functions [Robert Tokunaga, Diane Balter]
- c. Legislation/Transactions [Robert Tokunaga, Diane Balter, Jerry Hicks]

**J. NEIGHBORHOOD SERVICES – *Richard Ramirez, Deputy City Manager*
*Max Fernandez, Area 1; Kelly Montgomery, Area 2; Tim Quintero, Area 3; Gary Little, Area 4***

[Diane Balter; Mike Sparks; Sabina Gilbert]

- a. Design Review & Preservation [Richard Archibald]
- b. Sacramento Heritage, Inc. [Richard Archibald]
- c. Construction Advisory and Appeals Board [Sabina Gilbert]
- d. Sacramento Housing Advisory & Appeals Board [Robert Tokunaga, Sabina Gilbert]

1. Advisory Functions [Diane Balter; Mike Sparks]²⁷

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

**K. CONVENTION, CULTURE & LEISURE – *Richard Ramirez, Deputy City Manager (Downtown)*
*Barbara Bonebrake, Director (CC&L)***

[Robert Tokunaga; Diane Balter; Jerry Hicks]

²⁷ The supervisor and other sections also provide a periodic support to Code Enforcement.

1. Boards & Commissions

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

2. Advisory Functions

- a. Off-Street Parking [Jerry Hicks]
- b. Community/Convention Center [Diane Balter]
- c. Old Sacramento [Diane Balter; Jerry Hicks]
- d. Library
- e. Zoo/Fairytale Town
- f. Golf
- g. Crocker Art Museum
- h. History Museum/archives/cemetery
- i. Science Center
- j. Waterfront & Marina

**L. PARKS & RECREATION – *Richard Ramirez, Deputy City Manager*
*Bob Overstreet, Director***

[Robert Tokunaga; Diane Balter; Sabina Gilbert]

1. Advisory Functions

- a. Recreation
- b. Parks
- c. Tree Services
- d. Human Services

2. Development Issues re: Parks [Sabina Gilbert]

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

1. Boards & Commissions

- a. Planning Commission [Sabina Gilbert]
- b. Design Review & Preservation [Richard Archibald]
- c. Sacramento Heritage, Inc. [Richard Archibald]
- d. Construction Advisory and Appeals Board [Sabina Gilbert]
- e. Sacramento Housing Advisory & Appeals Board [Robert Tokunaga, Sabina Gilbert]

2. Advisory Functions [Sabina Gilbert; others as needed]

- a. Administration
- b. Planning Division
- c. Building inspections [Diane Balter]
- d. Environmental (CEQA - private projects)
- e. Subdivisions
- f. Development Agreements
- g. Redevelopment matters
- h. Permit services
- i. North Natomas²⁸

N. PUBLIC WORKS – Tom Lee, Deputy City Manager/Interim Public Works Director

[Robert Tokunaga; Diane Balter; Jerry Hicks; Mike Sparks; Sabina Gilbert; Joe Robinson]

1. Advisory Functions

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

**O. UTILITIES - Tom Lee, Deputy City Manager
Gary Reents, Utilities Director**

²⁸ Bill Carnazzo will continue to handle some North Natomas issues on a contract basis.

[Joe Robinson; Sabina Gilbert (for development issues)]

1. Advisory Functions

- a. Water issues (CCOMWP; water supply; SWRCB; USBOR)
- b. Sewer issues (NPDES permits for combined and other sewer systems; impact fees)
- c. Stormwater issues (NPDES permits)
- d. Administration (project planning)
- e. Flood control (FEMA issues; floodplain issues; SAFCA)
- f. Procurement matters (construction contracts; ESBD compliance)
- g. Financial issues (impact fees)
- h. Contract Review
- i. Environmental issues (CEQA [public projects], ESA, hazardous/toxic)

**P. ECONOMIC DEVELOPMENT – *Betty Masuoka, Deputy City Manager*
*Vacant, Director***

[Rich Archibald; Robert Tokunaga; Joe Robinson; Sabina Gilbert]

1. Advisory Functions

- a. Downtown Redevelopment [Rich Archibald; Robert Tokunaga]
- b. Commercial Corridor [Rich Archibald; Robert Tokunaga]
- c. Project review and advice [Rich Archibald; Robert Tokunaga; Joe Robinson; Sabina Gilbert]

Q. 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 Rich Archibald, except where it is determined that the City Attorney needs to be involved.

LITIGATION SECTION ASSIGNMENTS

Gustavo L. Matrinez, Supervising Deputy City Attorney

Section Attorneys:

Sheri M. Buzard
Angela M. Casagranda
Steve Y. Itagaki
Steven T. Johns
James Wilson

A. TORTS - GENERAL

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

Sheri M. Buzard, Angela M. Casagranda, Steve Y. Itagaki, Steven T. Johns,
Gustavo L. Martinez, James Wilson

B. EMPLOYMENT DISCRIMINATION

Angela M. Casagranda

C. 1983 CIVIL RIGHTS ACTIONS

Sheri M. Buzard, Angela M. Casagranda, Steve Y. Itagaki, Steven T. Johns,
Gustavo L. Martinez, James Wilson

D. EMINENT DOMAIN

Steven T. Johns, Gustavo L. Martinez

E. GENERAL

Sheri M. Buzard, Angela M. Casagranda, Steve Y. Itagaki, Steven T. Johns,
Gustavo L. Martinez, James Wilson

F. CONSTRUCTION

Angela M. Casagranda, James Wilson

G. ADMINISTRATIVE HEARINGS

Sheri M. Buzard, Angela M. Casagranda, Steve Y. Itagaki, Steven T. Johns,
James Wilson

H. SUBROGATION

Sheri M. Buzard, Angela M. Casagranda, Steve Y. Itagaki, Steven T. Johns,
Gustavo L. Martinez, James Wilson

ATTACHMENT B

SPECIAL PROJECTS SECTION ASSIGNMENTS

Brett M. Witter, Supervising Deputy City Attorney

Section Attorneys:

**Joseph Cerullo
Michon Johnson
John Luebberke
Matthew Ruyak
Deborah Schulte**

A. SPECIAL ADVISORY/LITIGATION ASSIGNMENTS

(Civil Rights, Employment Discrimination, Labor, Catastrophic Injury, Environmental, Eminent Domain and other Real Estate Issues)

Brett Witter, Michon Johnson, Gustavo Martinez, Matt Ruyak, Deborah Schulte

B. EXTRAORDINARY RELIEF

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

Brett Witter, Michon Johnson, Gustavo Martinez, Matt Ruyak, Deborah Schulte

C. INJUNCTION MONITORING PROCESS

Brett Witter

D. COLLECTIONS

Joseph Cerullo

E. INTELLECTUAL PROPERTY

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

Matt Ruyak, Deborah Schulte

F. FINANCING/ECONOMIC DEVELOPMENT

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

Brett Witter, Joseph Cerullo, Deborah Schulte

G. GENERAL

Brett Witter, Joseph Cerullo, Michon Johnson, John Luebberke, Matt Ruyak, Deborah Schulte

ATTACHMENT C

CODE ENFORCEMENT SECTION ASSIGNMENTS

Susana Alcalá Wood, Supervising Deputy City Attorney

Section Attorneys:

**Khadijah Hargett
Lan Wang
Paul Gale
Janeth San Pedro
Michael Benner**

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

1. Legal Advisor
 - a. Code Enforcement Ad Hoc Committee [Susana Alcalá Wood]
 - b. Animal Control Ad Hoc Committee [Susana Wood, Michael Benner]
 - c. Council Requests [Susana Alcalá Wood; other members as assigned]
2. District 6 Weed and Seed Committee [Susana Alcalá Wood]

B. BOARD AND COMMITTEE PARTICIPATION

1. HCAAB/Code Enforcement Administrative Hearings as required
2. Sacramento Rental Housing Improvement Partnership (SRHIP)
3. District Attorney Gang Unit
4. Public Safety Committee of County Homeless Task Force
5. M.A.G.I.C. (Graffiti task force)
6. Public Safety Committee [Susana Alcalá Wood, Khadijah Hargett, Lan Wang,
Paul Gale, Janeth San Pedro, Michael Benner]

C. NEIGHBORHOOD SERVICES DEPARTMENT - *Richard Ramirez, Deputy City Manager*

*Max Fernandez, Area 1 Director
Kelly Montgomery, Area 2 Director
Tim Quintero, Area 3 Director
Gary Little, Area 4 Director*

1. Advisory Requests
2. CAT Team support
3. Housing and Dangerous Building matters
4. Code Enforcement matters

ATTACHMENT D

5. Neighborhood Response Team support
6. Training issues
7. Criminal Prosecution [Susana Alcala Wood, Khadijah Hargett, Lan Wang, Paul Gale, Janeth San Pedro, Michael Benner]
8. Illegal Dumping [Paul Gale, Susana Alcala Wood]
9. Graffiti [Michael Benner, Janeth San Pedro]
10. Zoning [Lan Wang, Susana Alcala Wood]

D. PUBLIC WORKS - Tom Lee, Deputy City Manager/Interim Public Works Director

Hector Cazares, Animal Care Services Manager

Harold Duffey, Solid Waste Manager

Marty Hanneman, Traffic Engineering Manager

1. Animal Control issues [Michael Benner, Janeth San Pedro, Susana Alcala Wood]
2. Public Right of Way enforcement [Paul Gale, Lan Wang, Susana Alcala Wood]
3. Illegal Dumping [Paul Gale, Susana Alcala Wood]

E. FIRE DEPARTMENT - Richard Ramirez, Deputy City Manager

Dennis Smith, Fire Chief

1. Fire Prevention [Lan Wang, Paul Gale]

F. POLICE DEPARTMENT - Richard J. Ramirez, Deputy City Manager

Albert Najera, Police Chief

1. Beat Feet [Khadijah Hargett, Lan Wang, Susana Wood]
2. Drug Abatements [Khadijah Hargett, Susana Alcala Wood]
3. Nuisance Businesses/ Permit Violations [Lan Wang, Janeth San Pedro]
4. Gang Abatements [Khadijah Hargett, Susana Alcala Wood]