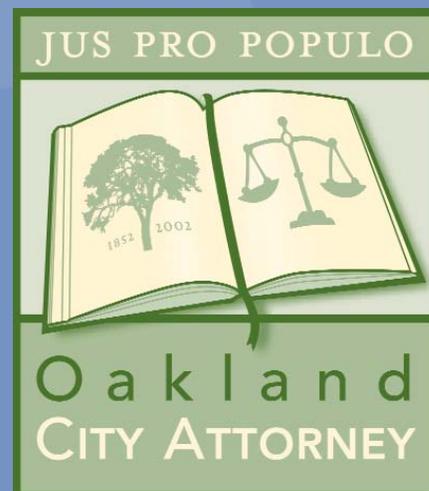
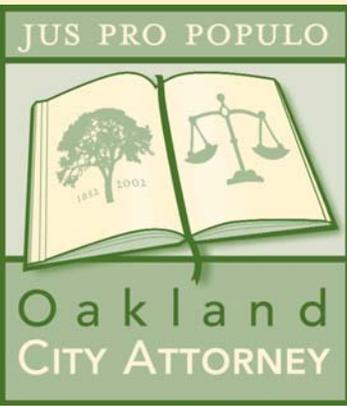


• law in the service of the public
jus pro populo

Community Report Card
Fiscal Year 2001-2002





philosophy

Our guiding philosophy — *law in service of the public* — shapes our approach to providing legal services to the City of Oakland. Our commitment is to:

- Apply the law in an innovative and community-oriented manner, and
- Provide top-notch legal services that are cost-effective, streamlined, efficient, and accessible.

purpose

This annual report to the community provides a comprehensive look at how the Office of the City Attorney (OCA) approaches the legal business of the City, with a focus on major achievements and financial information for the fiscal year ending June 30, 2002 (FY 2001-02).

FY 2001-02 marked our first full year of operation under an elected City Attorney. Major organizational and operational improvements enacted the previous fiscal year began to yield positive results. These improvements came from a September 2000 management audit which recommended a long-term cost-containment strategy with the following objectives:

- Build long-term institutional capacity and reduce reliance on costly outside counsel by hiring 11 new attorneys with a broad range of specialties.
- Manage risk and liability by creating new Departmental Counsel positions to serve two of our largest clients — the Police Department and Public Works.
- Streamline service delivery by organizing into five functional practice areas.

Implementation of these objectives has enhanced efficiency and improved service delivery. In FY 2001-02, OCA built upon this foundation and significantly improved its performance.

profile

Staffed by 83 dedicated professionals, the Office of the City Attorney is proud to employ one of the most diverse legal teams in the country, reflecting the diversity of the community we serve. The staff includes:

- 44 attorneys** (*City Attorney, 3 Assistant City Attorneys, 40 Deputy City Attorneys*)
- 32 support staff** (*Legal secretaries, paralegals, clerks, claims investigators, executive assistants*)
- 7 operations staff** (*Budget, accounting, information technology, communications, personnel administration, Open Government Program coordination*)

community initiatives

These initiatives serve as the cornerstone of our public commitment to accountability, access to City government, and enhanced legal services at the neighborhood level.

HATE CRIMES PROGRAM

Following the devastating terrorist attacks on September 11, 2001, OCA created an innovative program to punish hate crimes using California civil codes. Violators face fines of up to \$25,000 in addition to punitive damages.

Major Achievements

- Set up a toll-free, confidential, 24-hour hotline for people to report hate crimes.
- Received and addressed 13 calls to the hotline; one case is pending in civil court.
- Distributed 2,500 posters to shops and small businesses proclaiming Oakland as a hate-free zone and advertising the hate crimes hotline.
- Coordinated with civil rights organizations and the Alameda County Bar Association to establish panels of attorneys to respond to complaints and prosecute cases pro bono.

OPEN GOVERNMENT PROGRAM

The Open Government Program preserves the public's right to information about City government and enhances the opportunity for community participation in local decision making.

Major Achievements

- Created a citizens' *Open Government Bill of Rights*.
- Developed user-friendly guides to laws governing open meetings and public records.
- Distributed 5,000 guides to residents, merchants, and business owners.
- Trained 137 City staff and 19 boards/commissions on how to respond promptly to requests for public records.
- This model program was adopted by the City of Port Hueneme, CA.

NEIGHBORHOOD LAW CORPS

Proactive, neighborhood based and community directed, the Neighborhood Law Corps was launched in February 2002 to improve the quality of life in our community. Community-prioritized actions include drug nuisances, blight and housing code violations, nuisance liquor stores, and environmental health.

The first program of its kind in the country, the Neighborhood Law Corps is funded by a non-profit foundation.

Major Achievements

- Identified over 100 locations requiring legal intervention.
- Created multi-lingual nuisance log to help community members gather data about neighborhood problems. Logs are used as evidence in court.
- Prosecuted a public nuisance action against a 24-hour gas station/mini-mart that was a magnet for sideshow activities and drug dealing, curbing the impact on the neighborhood.
- Investigated air quality standards for Red Star Yeast plant to address community health concerns.
- Filed two new drug nuisance cases in court.

initiatives

cost-effective

COST OF LEGAL SERVICES

In FY 2001-02, the total cost to provide legal services to the City of Oakland was \$12.3 million:

- **Operating costs** **\$8.1 million*** (salaries, equipment, overhead) *Represents ± 1% of City budget*
- **Litigation expenses** **\$1.6 million** (expert witnesses, depositions, exhibits)
- **Outside counsel costs** **\$2.6 million**

* Expenditures were \$700,000 under our authorized budget of \$8.8 million.

CONTAINING OUTSIDE COUNSEL COSTS

In-house attorneys provide legal services whenever possible, but sometimes, to protect the public's money, OCA must retain outside counsel in complex matters requiring highly specialized expertise.

Since 1996, the cost to hire outside counsel has risen sharply. To curb this upward trend, OCA hired in-house lawyers in key practice areas whose effective billable rates are almost 50% lower than outside attorneys. Augmenting in-house legal staff has enhanced our institutional capacity to address complex and recurring legal issues. This capacity not only saves money on legal matters today, it also helps the City avoid legal problems in the first place.

Figure 1 depicts the success of this strategy. Actual outside counsel costs for FY 2001-02 were \$2.6 million, just below the \$2.7 million projected without intervention. This figure includes over a half-million dollars related to the "Riders" police litigation, which is a non-recurring, unprecedented case.

Discounting this one-time expenditure, outside counsel costs for FY 2001-02 would have been \$2.1 million, well below the \$2.7 million initially projected for this year and marking the first time in recent history the cost of outside counsel has decreased from year to year.

Figure 1: Five-Year Trend in Outside Counsel Costs



Figure 2 demonstrates the effectiveness of hiring specialized attorneys in key practice areas to drive down the cost of outside counsel. FY 2001-02 showed steep declines in outside counsel costs related to labor/employment, land use, and legislative support/government administration of approximately 78%, 55% and 40% respectively.

Figure 2: Downward Trend in Outside Counsel Costs

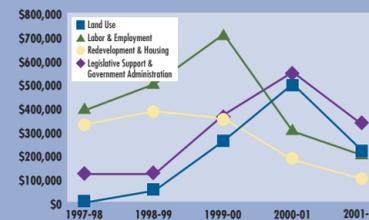


Figure 3 depicts sharp increases in the cost of outside counsel in three areas:

- **Municipal finance/collections** — to analyze and settle a complicated business tax matter involving constitutional questions and aggressively pursue payment in defaulted loans made over the last 7 years by the City.
- **Contract/construction** — to negotiate several, complex, multi-million dollar technology contracts to avoid contracting issues previously experienced by the City.
- **Police matters** — to provide expertise in the Riders litigation.

Figure 3: Categories Requiring Increases in Outside Counsel



LAND USE, REDEVELOPMENT & HOUSING

Attorneys in this practice area contribute to Oakland's economic revitalization by providing legal advice to the City regarding land use, real estate, housing, and economic development and redevelopment projects, and providing counsel to the City Council, the Planning Commission, and the Oakland Housing Authority.

Major Achievements

- Provided legal support to major housing projects at Upper Lake Merritt (23rd/Valdez) and Mandela Gateway project.
- Transferred blighted Bermuda Building property to developer for demolition and development.
- Closed City financing of Fruitvale Transit Village (now under construction).
- Provided legal support to major projects, including Uptown, Airport Roadway expansion, 2nd/3rd and Broadway, Avalon Bay, Best Buy, and Army Base.
- Closed development loans on affordable housing projects, including Downs Senior Housing, Palm Villas, Chestnut Court, and Habitat for Humanity.

LABOR & EMPLOYMENT

Attorneys in this practice area provide legal counsel and staff training to City departments concerning personnel issues, disciplinary matters, medical leave, disability laws, and harassment.

Major Achievements

- Delivered sexual harassment training to City executives, supervisors, and employees.
- Provided training on the Americans with Disabilities Act, the Fair Employment and Housing Act, and employee discipline.
- Developed Family Medical Leave Act/California Family Rights Act procedures.
- Defended the City in litigation brought by unions and individual employees.

PUBLIC SAFETY & CODE ENFORCEMENT

Attorneys in this unit use code enforcement to obliterate blight and improve the quality of life in Oakland's neighborhoods. Cases involve drug nuisances, building and housing code violations, the "Operation Beat Feet" vehicle seizure program, and working with the courts to rehabilitate substandard or vacant properties.

practice areas

OCA attorneys, paralegals, and investigators spent approximately 85,660 staff hours delivering legal services to City departments.

To streamline service delivery, OCA has assigned Departmental Counsel to serve as a single point of contact for the City's two largest and highest liability-generating departments—the Police Department and Public Works. These attorneys review department operations and procedures and advise their clients on risk management policy issues to reduce the City's liability.

OCA is organized into five practice areas to better serve our clients' needs, as shown in **Figure 4**.

Major Achievements

- **Blight and Public Nuisance Actions:** Prosecuted 82 code enforcement matters; initiated legal proceedings against a liquor store and nightclub, mitigating nuisance activities.
- **Drug Nuisance Abatement:** Ended a 10-year legal battle to eradicate drug trafficking and violence associated with a drug house by forcing the owners to forfeit the property and demolishing the house.
- **Operation Beat Feet:** Seized 29 vehicles used in buying drugs or soliciting prostitution and collected \$22,200 in proceeds from sold vehicles.
- **Legislation:** Drafted state legislation that would allow the City to impound vehicles used in illegal "sideshow" activities.

practice areas

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Major Achievements

- **Property Rehabilitation:** Petitioned courts to assign third-party receivers to rehabilitate severely blighted properties and return them to productive housing stock.
- **Local Business:** Helped local businesses form the Fruitvale and Montclair Business Improvement Districts.
- **Cable TV for Consumers:** Successfully negotiated terms of transfer of Oakland residents' cable service to Comcast Communications that includes better service, lower costs, and full support of public access channels. Also negotiated \$18.4 million settlement with AT&T over cable noncompliance issues.
- **Revenue and Finance:** Drafted measures to equalize tax treatment of businesses, and drafted \$198 million bond measure for Lake Merritt improvements.

practice areas

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OCA is organized into five practice areas to better serve our clients' needs, as shown in **Figure 4**.

Major Achievements

- **Neighborhood Improvement:** Assisted the Spanish Speaking Unity Council in funding the Fruitvale Transit Village that will include a new senior center and library.
- **Public Ethics:** Assisted the Public Ethics Commission in the enactment of a new lobbyist registration ordinance and its enforcement of government ethics laws.
- **Youth Programs:** Assisted in negotiations and drafted \$6.2 million contract with Coca-Cola to provide funding for Oakland youth programs.
- **Parks and Recreation:** Assisted in negotiations and drafted a \$1.2 million contract for new Recware software to make it easier for the public and staff to schedule programs.

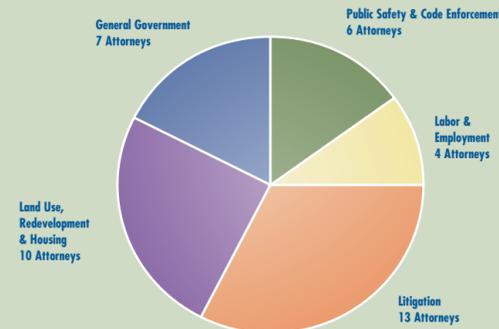


Figure 4: Allocation of Legal Resources

COMMUNITY IMPACT LITIGATION

We fulfill our motto—law in service of the public—by defending Oakland's progressive policies in court and initiating legal action when the community's quality of life or economic interests are being violated. In FY 2001-02, OCA initiated two significant community-impact cases.

Predatory Lending Victory

In June 2002, the City successfully defended its landmark anti-predatory lending ordinance in court, making Oakland the first city in America to successfully enact lending safeguards to protect its residents.

Unanimously passed by the Oakland City Council in October 2001, the ordinance is the first local law in California to address the growing problem of predatory home mortgage lending. It prohibits abusive lending terms and practices, especially high-cost home loans that charge exorbitant interest rates, points, and fees.

Oakland's legal victory is shared by cities across the nation that are similarly attempting to protect the economic interests of their low-income, elderly, and minority residents who are often gouged by unscrupulous predatory lenders.

Fraud and Corruption Suit Against Energy Companies

In winter of 2001, when electricity prices exploded around the state, over a dozen energy providers raked in obscene profits while California's economy teetered into a recession. These companies used unfair business tactics to manipulate the supply of electricity by withholding power or flooding the market to grossly inflate energy prices, costing California residents and businesses billions of dollars.

In March 2002, Oakland joined San Francisco in a class action lawsuit filed against 13 wholesale energy suppliers for violation of California consumer protection and anti-trust laws. The lawsuit seeks the return of ill-gotten profits to California ratepayers, estimated at well over \$1 billion.

California's Unfair Competition Law is a powerful legal tool that OCA uses on behalf of the public against businesses that create neighborhood nuisances and deceive or defraud Oakland consumers. We will continue to seek opportunities to use the law to protect the quality of life in Oakland.

claims and litigation

The best lawsuit is the one that's never filed.

Our claims investigators and attorneys aggressively defend the City's legal interests to meet one of our top priorities: saving taxpayer money. Because the City is self-insured, every dollar spent on claims and lawsuits is a dollar not available for other community services.

CLAIMS

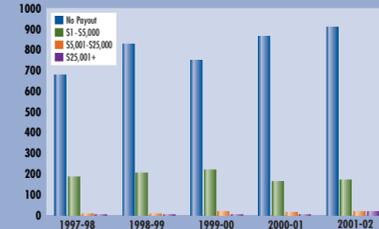
Last fiscal year, 945 claims were filed against the City of Oakland — that's one claim every 2 business hours. Claims fall in three primary categories:

- **Municipal infrastructure** (streets, sewers, sidewalks) **44%**
- **Police matters** **22%**
- **Accidents involving City vehicles** **16%**

- Eighty-three percent or 909 of the 1,100 claims resolved were denied with no payout.
- Nine out of 10 of the remaining claims (90%) were settled for under \$5,000.
- Fewer than 2% of the claims resulted in payouts over \$5,000.
- A total of \$685,609 in claims was paid without pending litigation.

Figure 5 shows that the number of claims resolved with no payout has been consistent over the past two years despite a more than 10% increase in claims in the previous three years. Two years ago, the City paid on 24% more claims than it does today.

Figure 5: Claims Results Over 5 Years



LAWSUITS

Once a claim becomes a lawsuit, winning cases is only one measure of success. Our legal team takes an aggressive and strategic approach to limit the City's financial exposure.

In FY 2001-02, 214 lawsuits were filed against the City of Oakland, a slight decrease over the five-year average of 229 cases per year. Lawsuits primarily arise in four categories:

- **Municipal infrastructure** (streets, sewers, sidewalks) **26%**
- **Police matters** **24%**
- **Personnel/labor** **15%**
- **Accidents involving City vehicles** **9%**

Our hard-line litigation strategies have paid dividends:

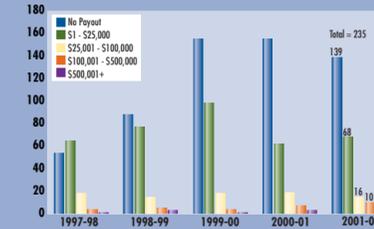
- Nearly 60% (139) of the 231 lawsuits resolved in FY 2001-02 resulted in zero payout
- Another 30% of the cases were resolved for under \$25,000.
- Only about 1 in 10 lawsuits was resolved for over \$25,000.

Figure 6 shows that the number of lawsuits resolved for no payout in FY 2001-02 was higher than the average of the previous four years, and that the number of cases resolved for over \$25,000 are consistent year to year.

In FY 2001-02, OCA settled two significant, high-value cases for a total of \$4.2 million: a constitutional challenge to Oakland's municipal business tax settled for \$2.2 million, and the City paid \$2 million to settle a serious accident

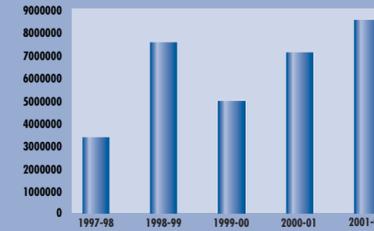
involving a police vehicle that left the passenger with severe, permanent injuries. This is the first time in Oakland's history that the City has ever paid out two, \$2+ million cases in one year. Only two other cases have ever settled for over \$2 million, both of which were resolved in separate years in the early 1990's.

Figure 6: Lawsuit Results Over 5 Years



Total lawsuit payout in FY 2001-02 was \$8.5 million. **Figure 7** shows considerable fluctuation in payouts over the last five years, demonstrating the significant impact that one or two high-value cases can have on total payouts in any given year.

Figure 7: Payout Trend Over 5 Years



our staff

City Attorney

John Russo

Assistant City Attorneys

Yanie Chaumette – *Operations*
Randolph Hall – *Litigation*
Barbara Parker – *Advice*

Executive Assistants

Sophia Li – *Litigation*
Mary Miles – *Advice*
Cheryl Moore – *Operations*
Jamie Smith – *City Attorney*

Supervising City Attorneys

Ines Fraenkel
Vicki Laden
Doryanna Moreno
Mark Morodomi
William Simmons
John Truxaw

Special Counsel to the Redevelopment Agency

Dianne Millner

Deputy City Attorneys

Maria Bee
Terry Brown
Tracy Chriss
Roberto Fortes
Margaret Fujioka
Peter Hallifax
James Hodgkins
Richard Illgen
Chris Kee
Curtis Kidder
Heather Lee
Diane Lewis
Pelayo Llamas

April Madison-Ramsey
Claudia Madrigal
Linda Moser Moroz
Celso Ortiz
Bruce Plebuch
Arlene Rosen
Daniel Rossi
Stephen Rowell
Kathleen Salem-Boyd
Michelle Sexton
Demetrius Shelton
Patrick Tang
Charles Vose
Rachel Wagner
Mark Wald
Kandis Westmore
Jannie Wong

Departmental Counsel

Rocio Fierro – *Public Works*
Claudia Leed – *Police Department*

Neighborhood Law Corps Director

Alex Nguyen

Neighborhood Law Corps Attorneys

Austin Cattermole
Liam Garland
Barbara Killey
Hali Papazian
Arturo Sanchez

Legal Administration Manager

Rosemarie Sanchez

Communications Director

Karen Boyd

Open Government Coordinator

Michelle Abney

Claims Supervisor

Elida Paredes

Claims Investigators

Ellen Dolese
Denise Hawkins

Legal Support Supervisor

Anita Hong

Paralegals

Julie Cornell
Connie Daye
Nicole Garced
Deirdra Hodges
Sandra Marion
Dondria Morgan
Sharon Orgain

Legal Secretaries

Cynthia Andrada
Kristin Ericsson
Laura Guerrero
Audrey Hall
Kathryn Jegi
La'Carolyn Nelson
Lenora Royal
Christl Smith
Barbara Woods

Information Technology Manager

Craig Strunk

Accountant

Michael Fung

Public Service Representatives

Tamora Corbin
Mary Jones

Receptionist

Carma Carden

REQUEST PUBLIC RECORDS

To request public records, download a request form from our web site at www.oaklandcityattorney.org, then submit the completed form to the appropriate City Agency or Department.

If you need additional assistance, please contact:

Michelle Abney
Open Government Coordinator
by phone: **510-238-2965**
or by email:
mabney@oaklandcityattorney.org

TO REPORT A HATE CRIME

In Oakland, we take pride in our diversity. We will not tolerate hate or violence.

If you have witnessed or been the victim of a hate crime, call: **1-866-4-NO-HATE (1-866-466-4283)**.

TO FILE A CLAIM

If you are seeking money or damages from the City of Oakland, you must file a claim with the Office of the City Attorney. A standard claim form can be picked up in person or by calling **510-238-6337**.

FOR MORE INFORMATION

Visit our web site:
www.oaklandcityattorney.org

Call us:
(510) 238-3601

Fax us:
(510) 238-6500

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