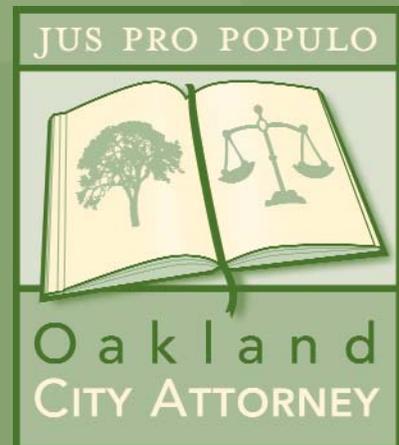
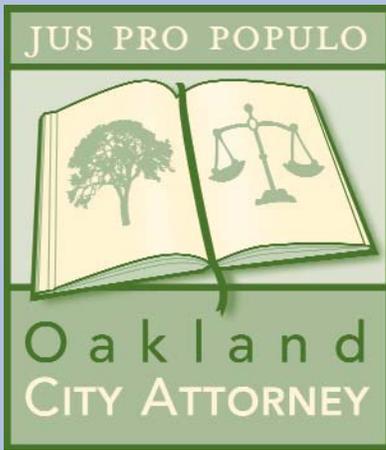


• law in the service of the public
jus pro populo

Community Report Card
Fiscal Year 2002-2003





philosophy

Our philosophy—law in service of the public—guides our approach to providing legal services for the City of Oakland.

Oakland residents and business owners are essentially "shareholders" of this municipal corporation, and like any corporate shareholder, you are entitled to know how your taxpayer dollars are spent.

This annual "shareholder's report" provides an overview of how the Office of the City Attorney performed in Fiscal Year 2002-03 (7/1/02–6/30/03). Inside you'll find:

- the cost to conduct the City's legal business
- strategies to contain those costs
- the amount the City paid to resolve claims and lawsuits
- highlights of significant community initiatives, legislation and litigation that illustrate our commitment to "law in service of the public."

the year in review

FY 2002-03 marked the second full year of operation under an elected City Attorney. Two years ago, the Office of the City Attorney (OCA) initiated a long-term cost-reduction strategy to stem the rising cost of providing legal services to the City of Oakland.

The unprecedented financial crisis in California and ballooning City budget deficits this past year underscored the relevance and urgency of this strategy, which focuses on enhancing in-house legal expertise and reducing reliance on costly outside counsel.

Aggressive cost-containment strategies paid significant dividends:

- Cut outside counsel costs by \$1.1 million—a 42% cost reduction, and the first downward trend in years
- Outside counsel costs (\$1.5 million) have not been this low since 1996
- Reduced liability payouts by \$3 million, even with the \$2.5 million payout for the "Riders" case
- Payouts for claims and lawsuits are down 35% compared to last year
- **Total reduction in the overall cost of providing legal services: \$3.5 million**

These results are particularly remarkable considering our shrinking resources due to budget cutbacks (a 20% staff cut eliminated six full-time attorneys), and the settlement of the "Riders" case—the most costly payout in Oakland's history.

profile

We are proud to be one of the most diverse legal teams in the country, reflecting the diversity of the community we serve.

Our 74-member team of dedicated professionals includes:

37 attorneys

City Attorney, 2 Assistant City Attorneys, 34 Deputy City Attorneys

31 support staff

Legal secretaries, paralegals, clerks, claims investigators, executive assistants

6 operations staff

Budget, accounting, information technology, communications, personnel administration, Open Government Program coordination

Law in service of the public

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 violated. These community initiatives illustrate our commitment to accountability, access to City government, and enhanced legal services at the neighborhood level.

NEIGHBORHOOD LAW CORPS

Inspired by direct-service models like the Peace Corps and legal aid, Oakland’s Neighborhood Law Corps (NLC) provides legal services straight to the neighborhoods where problems are most severe. Community members and NLC lawyers work together to prioritize the problems plaguing their neighborhoods and tackle cases of blight, public nuisances, drug houses and substandard housing. Funded by a non-profit corporation, the NLC uses an array of legal and community-based tools to achieve its goal of improved neighborhoods.

HIGHLIGHTS:

Beacon Gas—Besieged for nearly a decade by wreckless “sideshows,” drug dealing, late-night noise, drinking and public urination from a 24-hour gas station and mini mart that generated 800 calls for police service, a group of East Oakland neighbors and the NLC compiled evidence and testified at a hearing. As a result, the City was able to impose severe restrictions and forced the owner to reduce hours, improve security and clean up the property. Neighbors report drastic improvement.

Community Partnership Pledge—Following the community’s victory at Beacon Gas, word spread that neighbors and the City were getting tough on nuisance liquor stores. A grocers’ association representing 300 small markets throughout the City approached the NLC about facilitating dialogue with neighbors to improve community relations. As a result, over 100 neighborhood grocers volunteered to sign an innovative pledge to close by midnight, eliminate the sale of fortified wine and drug paraphernalia, and attend regular community meetings. This unique pledge illustrates the strength of voluntary rather than coerced compliance.

Hillcrest Motel—Neighbors of this long-standing nuisance property suffered for over a decade from severe criminal and nuisance activity at the hotel, including fires, filth, noise, drug dealing, prostitution, violent assaults and child abuse. Armed with ample evidence and bolstered by the testimony of over a dozen neighbors, our office and the NLC convinced a hearing officer to impose significant restrictions on the property.

These examples demonstrate the power of community lawyering. We bring the legal power of the City to bear on problems identified at the grassroots level and provide residents a forum for their voices to be heard, resulting in safer and healthier neighborhoods.

OPEN GOVERNMENT

Governing in the open not only builds public confidence in the democratic process, it produces better policy and more sustainable results. This year the Open Government Program:

- Translated the *Guide to Open Government* into Chinese, Spanish and Vietnamese
- Handled 275 public records requests
- Successfully advocated to retain the 10-day public notice requirement during modifications to the Sunshine Ordinance

STOP ‘POSTAL PROFILING’

Drivers should be charged insurance rates based on how they drive, not where they live. Yet a young, single man living in Fruitvale would pay \$1,000 more for auto insurance each year than he would if he moved to Montclair.

Our office joined the City Attorneys of San Francisco and Los Angeles and a consumer coalition to end a common insurance practice of ‘ZIP code profiling,’ which unfairly discriminates against the poor by charging rates based on ZIP code rather than driving record, as mandated by voters in 1988 under Proposition 103.

In May 2003, this coalition petitioned Insurance Commissioner John Garamendi to require insurance companies’ compliance with Proposition 103. Garamendi immediately approved the petition and agreed to a public review of the regulations in Fall 2003.

Cost of Legal Services

In FY 2002-03, it cost \$18.4 million to provide legal services to the City of Oakland—a reduction of \$3.5 million from the FY 2001-02 cost of \$21.9 million:

- Operating costs (salaries, equipment, overhead) **\$10 million** (\$9.2 M)
- Litigation expenses (expert witnesses, depositions, exhibits) **\$1.4 million** (\$1.6 M)
- Outside counsel costs **\$1.5 million** (\$2.6 M)
- Payouts of claims and lawsuits **\$5.5 million** (\$8.5 M)

cost **strategy** effective

OUR COST-REDUCTION STRATEGY

Two years ago, OCA initiated a long-term cost-containment strategy to:

- enhance in-house legal expertise
- more aggressively manage risk and liability
- streamline service delivery to clients.

The most pressing objective was to curb the mounting cost of hiring outside counsel to handle the City's legal business. To reverse the trend, OCA hired additional legal specialists in land use, real estate, municipal finance, labor/personnel, and complex litigation.

Chart 1 depicts success of this strategy.



By hiring additional in-house specialists whose billable rates are almost half the rate of outside attorneys, OCA slashed \$1.1 million off its outside counsel bills and enhanced its capacity to handle complex and recurring issues in a cost-effective manner. This in-house capacity not only saves money on legal matters today, it also helps the City avoid legal problems in the first place.

In FY 2002-03, outside counsel costs are down in every practice area. The cost to retain outside land use services alone has plummeted: from \$500,000 in FY 2000-01 to less than \$15,000 this year. In redevelopment and housing, outside counsel cost \$39,000 this year compared to \$175,000 two years ago.

claims

Claims

In FY 2002-03, OCA received 852 claims against the City of Oakland—that's about one claim every two business hours.

Most claims fall into three categories, shown below:

TYPES OF CLAIMS RECEIVED	2002-03	5-year average
Municipal Infrastructure	427 50%	447 45%
Police Matters	221 26%	232 24%
City Vehicle Accidents	100 12%	148 15%
Total Claims/Year	852	984

In FY 2002-03:

- For 82% of the 882 claims resolved, the City paid **\$0.00**
- Fewer than 2% of the claims resulted in payouts over \$5,000.

The majority of denied claims never evolve into lawsuits. Fewer than 1 in 10 claims from 2002 have evolved into lawsuits. Due to the statute of limitations, some lawsuits could still be filed from incidents that occurred in 2002.

The best lawsuit is the one that's never filed and litigation

Lawsuits

Once a claim becomes a lawsuit, our legal team moves aggressively to limit the City's financial exposure. In FY 2002-03, 207 lawsuits were filed against the City of Oakland. Lawsuits primarily fall into four categories, as shown:

TYPES OF LAWSUITS RECEIVED	2002-03	5-year average
Municipal Infrastructure	61 29%	67 30%
Police Matters	50 24%	49 22%
Personnel/Labor	19 9%	35 15%
City Vehicle Accidents	9 4%	17 7%
Total Lawsuits/Year	207	227

PAYOUTS OVER \$100,000 FOR FY 2002-2003

CASE	TYPE	PAYOUT
<i>Allen et al. v. City of Oakland</i> (a.k.a. "The Riders")	police conduct	\$2,300,000
<i>Hoey-Custock v. City of Oakland</i>	personnel	\$834,000
<i>Amy v. City of Oakland</i>	trip & fall	\$198,000
<i>Esters v. City of Oakland</i>	police conduct	\$166,000
<i>Hurley v. City of Oakland</i>	personnel	\$160,000

Total Number of Claims & Lawsuits Resolved: 1,105

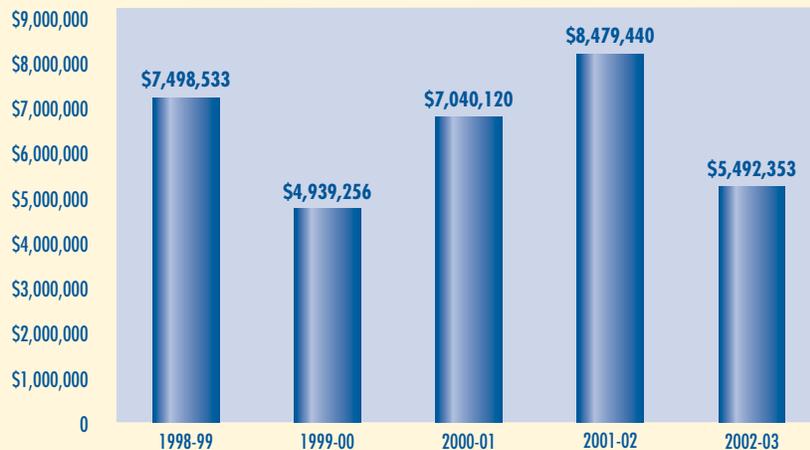
Our claims investigators and attorneys aggressively defend the City's legal interests to meet one of our top priorities: saving taxpayer money. Because the City is self-insured, every dollar spent on claims and lawsuits is a dollar not available for other community services.

Our hard-line litigation strategies have paid dividends. Of the 223 lawsuits resolved in FY 2002-03:

- Seven out of 10 resulted in zero payout.
- Two out of 10 were resolved for under \$5,000.
- Only one out of 10 was resolved with a payout over \$5,000.
- In only about 2% of the lawsuits, the City paid over \$100,000, as shown.

Chart 2 shows that in FY 2002-03, the City paid out \$3 million less in claims and lawsuits than it did the previous year—and this includes the Riders settlement (\$2.3 million). This means that OCA resolved 882 claims and the remaining 222 lawsuits (other than the Riders case) for less than \$3.2 million.

CHART 2: Payout Trend Over 5 Years – Claims and Lawsuits



BUSINESS TAX VICTORY

In March 2003, the City won a significant legal victory in *Kaiser Aluminum & Chemical Corporation v. City of Oakland* in which Kaiser sought a \$3 million refund of business taxes and challenged the constitutionality of the City's business tax.

The Alameda County Superior Court upheld the City's business tax, thereby closing the door on further claims by other similarly situated corporations. Given the three-year statute of limitations, this victory may have saved the City \$20 million per year over three years, or about \$60 million total.

'RIDERS' POLICE CASE

In February 2003, Oakland reached global settlement of the "Riders" police cases. The monetary payout to 119 individual plaintiffs is the largest in the City's history—\$10.9 million. About 80% of the monetary settlement was paid by the City's insurance companies; the remaining \$2.3 million was paid by the City.

Most notably, the settlement agreement included significant operational reforms that represent best practices in law enforcement. An independent monitor will oversee the reforms over five years and regularly report progress to the Federal Court.

The Riders settlement is unique—many say unprecedented—for three reasons:

- **The settlement was voluntary.** Unlike many cities that have faced similar charges of police misconduct, Oakland did not deny the

allegations or wait for the Department of Justice to force us into a court-ordered consent decree. Our aggressive posture from the outset to control litigation costs and our voluntary willingness to engage in reforms saved taxpayers tens of millions of dollars.

- **The process was collaborative.** For 15 months, the Office of the City Attorney and the Police Department collaborated with the plaintiffs' attorneys and the Federal Court to develop systemic reforms based on the experience of other cities across the country.
- **The result was comprehensive.** Had a global settlement not been reached, the case would have resulted in 24 separate trials (five plaintiffs at a time), at enormous cost to the taxpayers of Oakland. We estimate that each trial would have cost at least \$500,000 getting to a jury verdict, not including potential damages and attorney's fees.

WILLIAMS ENERGY SETTLEMENT

Following California's energy crisis, Oakland joined San Francisco in a class-action lawsuit that accused 13 wholesale energy suppliers of market manipulation, conspiracy and collusion, and demanded return of the profits stolen from ratepayers.

In November 2002, a \$417 million settlement was reached with Williams Energy Marketing & Trading; as part of the settlement, Oakland received \$1 million to fund alternative energy and energy efficiency retrofitting projects in the city. Settlement is anticipated with the remaining 12 energy companies.

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:

mmabney@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

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www.oaklandcityattorney.org

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