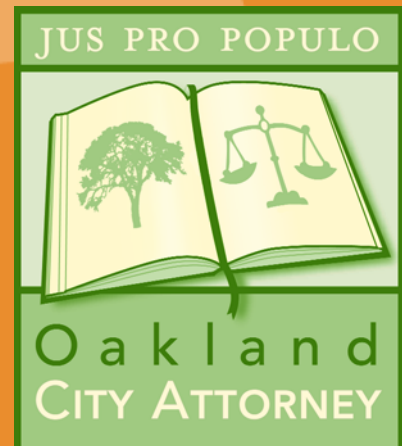
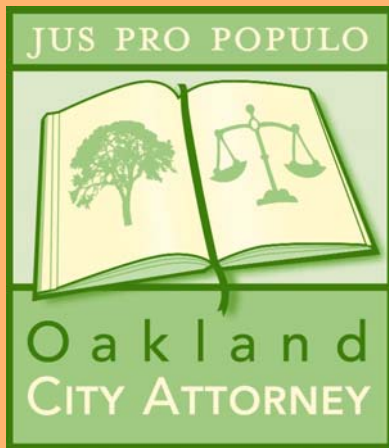


• law in the service of the public  
**jus pro populo**

**Community Report Card  
Fiscal Year 2003-2004**



**Honored by the 2004 Burton Award for Best Law Firm Publication**



# the year in review

Three years ago we initiated a long-term cost-saving strategy to stem the ballooning cost of providing legal services. The goal: to enhance in-house legal expertise, reduce reliance on costly outside counsel and aggressively manage risk and liability.

Due to the California state budget crisis, and the resulting financial uncertainty for local governments, the success of our cost-reduction strategy was imperative. A review of the data presented in this annual report shows that our aggressive tactics worked:

- Outside counsel costs, which had been cut by 42% in 2002-03, declined even further this year. This conclusively ends a six-year trend of 20% cost increases per year.
- Outside counsel costs (\$1.49 million) are at the lowest level since 1996.
- The City is no longer viewed as such a “deep pocket”—the number of claims filed against the City has dropped 21% and the number of lawsuits filed has dropped 25%.
- The number of personnel cases and lawsuits related to city fleet vehicle accidents has declined significantly as a result of enhanced risk management efforts citywide.

## philosophy

Our philosophy—**law in service of the public**—guides how we provide legal services for the City of Oakland.

We consider Oakland residents and business owners as “shareholders” of this municipal corporation. Like any 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 2003-04 (7/1/03 - 6/30/04).

## award-winning results

Good performance is not measured by numbers alone. 2003-04 was a banner year, as our results and reforms gained accolades in the region, the state and the nation.

**Law Firm Distinguished Service Award**—The Alameda County Bar Association gave special recognition to the Neighborhood Law Corps and acknowledged that “the Office of the City Attorney lives by its motto: law in service of the public.”

**Beacon Award for Open Government**—Awarded by the California First Amendment Coalition to City Attorney John Russo for having “gone above and beyond the norm to assure government transparency.”

**Best Law Firm Publication**—Last year’s Community Report Card won a second-place Burton Award, which recognizes communication pieces that reflect the highest standards of professionalism and consider content, presentation, writing, clarity and technique.

**California Lawyer of the Year**—California Lawyer Magazine named John Russo “Attorney of the Year for Government/Public Policy” for his innovation in public law while saving taxpayer money. “Russo settled a civil suit alleging widespread police misconduct for \$10.8 million, only \$2.2 million of which came from taxpayers, with the rest paid by excess insurers. Despite this payout, he managed to reduce city spending on lawyers and lawsuits by \$3.5 million compared with the previous fiscal year.”

# award-winning results

# ius pro populo

## 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 initiatives are the cornerstone of our commitment to accountability, access to City government and enhanced legal services at the neighborhood level.

### NEIGHBORHOOD LAW CORPS

The Office of the City Attorney’s innovative community lawyering program continues its commitment to respond to residents and solve neighborhood problems. The Neighborhood Law Corps works to empower the community to tackle problem liquor outlets, bars, drug houses, blight and inhumane housing conditions. 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 for the year include:

- Achieved a significant increase in drug nuisance abatement actions – from 17 in 2001 to 30 last year.
- Significantly increased the number of alcohol-related nuisance suits filed – from one in 2001 to 8 last year.
- Issued Oakland’s first Report Card on liquor stores titled *The Good, The Bad and The Ugly*, prompting the City to take vigorous enforcement action against problem outlets. This focused, coordinated effort will continue next year.
- Used the City’s new nuisance abatement ordinance, in coordination with the City Administrator’s Office, to revoke land use permits and shut down a problem liquor store in West Oakland.
- Filed Oakland’s first unfair business practice lawsuit for \$4 million against a negligent landlord of two apartment buildings. The settlement resulted in complete renovations of every apartment unit. Similar actions against problem property owners are planned for the coming year.
- Components of the NLC program are being modeled by local governments around the state, including Riverside, Modesto, and Alameda County.

**“This a quick note to say I am in shock, and most pleased, that you have done the impossible. . . . You and the police removed a house of crack and prostitution from a community on the crime fringe, and that the mayhem and nuisance and fear are gone. Moreover, the task was done safely, quietly, and with correct family support, and the elderly owner is being cared for. . . not exploited. You are amazing!”**

—Letter of gratitude to a Neighborhood Law Corps attorney from a North Oakland resident following a successful drug nuisance abatement action

**“We want to thank the City Attorney’s Office and the Neighborhood Law Corps for its work with tenants and the Code Enforcement division in order to improve the quality of housing for families at both properties. . . . (The families) expressed tremendous gratitude for all of the recent repairs and improvements with the property management. The families feel that they are living in a safer, cleaner and healthier environment and are grateful that the city has listened and responded to their concerns.”**

—Letter from residents and a community organization to the Neighborhood Law Corps regarding a code enforcement action to resolve inhumane living conditions at an apartment building in Fruitvale.

## Cost of Legal Services

In 2003-04, it cost \$18.9 million to provide legal services. This is a 3% (\$0.5 million) increase from the prior fiscal year, primarily due to cost of living and benefit increases negotiated in citywide labor agreements. Total litigation expenses, including payouts, remained virtually even, as did the cost of hiring outside counsel.

	2003 - 2004	2002 - 2003
Operating costs (salaries, equipment, overhead)	\$10.6 million	\$10 million
Litigation expenses (expert witnesses, depositions, exhibits)	\$0.95 million	\$1.4 million
Payouts of claims and lawsuits	\$5.9 million	\$5.5 million
Outside counsel costs	\$1.5 million	\$1.5 million

## OUR COST-REDUCTION STRATEGY

The fact that outside counsel costs remained steady demonstrates the success of the cost-reduction strategy we initiated three years ago. Our 2000-01 annual report revealed that the cost to hire outside counsel had nearly doubled since 1996, rising an average of 20% per year. To curb this sharp rise and contain costs, we hired in-house attorneys in specialized practice areas whose average billable rates are 50% lower than outside counsel.

As shown in **Chart 1**, this strategy worked. Last year (2002-03) we achieved a 42% reduction in outside counsel costs compared to the prior fiscal year, and this year we shaved off another 3%.

Outside counsel costs are at their lowest level since 1996.

The graphics are striking; the savings are significant. Without the intervention of our cost-saving strategy, outside counsel costs could have reached \$3.8 million this year. The actual cost was \$1.5 million—

a \$2.3 million savings to the City's General Fund. To put this in perspective, the savings could fund the City's entire tree maintenance budget for a year (\$2.4 million) or cover the cost to run the Main Library (\$2.1 million).

These results are particularly significant given that last fiscal year we were required to lay off seven full-time attorneys due to the City's severe budget shortfall. Had we been able to retain the staffing levels that were authorized two years ago, we are confident that outside counsel costs would have declined even more sharply.

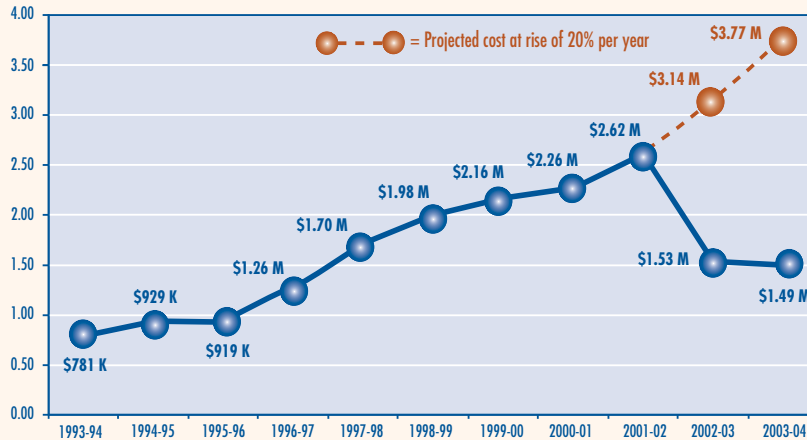


Chart 1: Trends in Outside Counsel Costs

# claims a

## Claims

In 2003-04, 669 claims were filed against the City of Oakland—about one claim every three business hours.

The sharp decline in the number of claims filed against the City is significant.

In 2000-01, the first year of this administration, the number of claims filed was 55% higher than in 2003-04; the five-year claims average is 35% higher than this year. Clearly, word has gotten out that filing claims against the City is not a lucrative proposition. In 2003-04:

- 65% of the 561 claims were denied with zero payout.
- Fewer than 5% of the claims (26) resulted in payouts of more than \$5,000

The majority (85%) of denied claims never evolve into lawsuits—underscoring the effectiveness of our strategy to thoroughly investigate and adjust claims in a fair, timely and aggressive manner.

TYPES OF CLAIMS RECEIVED	2003-04	5-year average
Municipal Infrastructure	300 45%	413 36%
Police Matters	176 26%	226 25%
City Vehicle Accidents	116 17%	137 15%
<b>Total Claims/Year</b>	<b>669</b>	<b>902</b>

# strategy cost-effective

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

## Lawsuits

We vigorously protect taxpayer dollars by using aggressive strategies to reduce litigation costs and limit potential liability exposure. Lawsuits primarily arise in four categories:

TYPES OF LAWSUITS RECEIVED	2003-04	5-year average
Municipal Infrastructure	44 28%	56 27%
Police Matters	50 32%	55 27%
Personnel/Labor	18 12%	27 13%
City Vehicle Accidents	8 5%	15 7%
<b>Total Lawsuits/Year</b>	<b>155</b>	<b>206</b>

In keeping with claims trends, the number of lawsuits filed against the City has also declined significantly. 2003-04 showed a 25% drop in the number of cases filed, further underscoring the fact that the message is out: sue the City and face an aggressive, winning litigation team.

Our hard-line litigation strategies have paid dividends. Of the 249 lawsuits resolved in 2003-04:

- More than half (55%) resulted in zero payout.
- Almost three quarters (72%) were resolved for under \$5,000.
- In fewer than 5% of the lawsuits (12), the City paid over \$100,000

As shown in **Chart 2**, the total payout of claims and lawsuits in 2003-04 was \$5.9 million, 7% (\$400,000) more than the previous fiscal year, but significantly less than the previous two fiscal years.

Our claims investigators and attorneys have become more aggressive. Because the City is self-insured, every dollar spent on claims and lawsuits is a dollar not available for other community services.

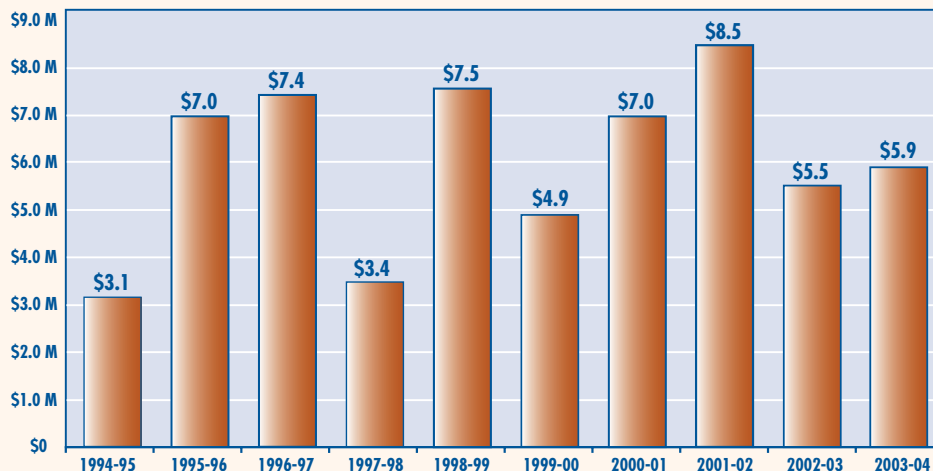


Chart 2: Payout Trend Over 10 Years - Claims and Lawsuits

CASE	TYPE/PAYOUT	CASE	TYPE/PAYOUT
<i>Watson v. City of Oakland</i>	Landslide \$517,328	<i>Jackson v. City of Oakland</i>	Police conduct \$250,000
<i>Bari v. City of Oakland</i> (Earth First! case)	Police conduct \$500,000*	<i>Yuen v. City of Oakland</i>	Sewer back-up \$225,000
<i>Fuentes v. City of Oakland</i>	Police conduct \$450,000	<i>Black v. City of Oakland</i>	City vehicle \$200,000
<i>West Bay Builders v. City of Oakland</i>	City-hired contractor \$414,483	<i>Pope v. City of Oakland</i>	Police conduct \$195,000
<i>Silveira v. City of Oakland</i>	Landslide \$325,000	<i>Kimbrell v. City of Oakland</i>	Sidewalk-slip and fall \$167,876
<i>Jones v. City of Oakland</i>	Landslide \$304,927	<i>Davis v. City of Oakland</i>	Police conduct \$110,000

Payouts of Claims and Lawsuits More Than \$100,000 for 2003-04

Total Number Resolved: 241

\* First of four annual payments to total \$2M

# noteworthy

## UNION PACIFIC RAILROAD

After years of wrangling with the severe problem of illegal dumping on railroad property, we crafted a legal agreement with one of the nation's largest railroads—Union Pacific—that is a model for what the City wants from its property owners: commitment to a clean, safe and healthy environment, stewardship of their property and partnership in the effort to beautify Oakland.

In November 2003, the City of Oakland and Union Pacific officials signed an unprecedented 10-year Inspection and Maintenance Agreement, the first of its kind in California, in which Union Pacific agreed to clean up the hundreds of tons of debris and trash that accumulate annually on their 20 linear miles of railroad right of way in Oakland.

This agreement saves the City hundreds of thousands of dollars in clean-up costs. It provides that Union Pacific will install anti-littering signs, construct fences at designated locations and work with the City to aggressively investigate and prosecute illegal dumpers to the fullest extent of the law.

## PREDATORY LENDING

In September 2003, the California Court of Appeal upheld Oakland's anti-predatory lending ordinance in a landmark decision that will impact cities throughout the nation that are trying to protect homeowners from unethical mortgage lending practices. The American Financial Services Association, a trade organization for what are called "subprime" lenders, had filed suit against the ordinance, contending that it was preempted by state lending laws.

The Court of Appeals threw out the challenge, confirming that it is up to Oakland, not Sacramento or Washington, D.C., to determine what is needed to protect Oakland residents from unscrupulous business practices that lead to foreclosures, bankruptcies and urban blight. The ordinance prohibits abusive lending terms and practices and requires borrowers to receive independent loan counseling prior to closing a high-cost home loan. The case is currently on appeal to the California Supreme Court.

## STOP POSTAL PROFILING—AN UPDATE

Drivers should be charged insurance rates based on how they drive, not where they live. Yet thousands of drivers pay higher auto insurance premiums because of the neighborhood they live in even though they have good driving records.

Our office joined the City Attorneys of San Francisco and Los Angeles and a powerful 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.

Last year this coalition petitioned Insurance Commissioner John Garamendi to require insurance companies' compliance with Proposition 103. Garamendi granted the petition and in winter 2004 he held a series of workshops throughout California seeking public review of the regulations. The Office of the City Attorney and the consumer coalition continue to press the Insurance Commissioner to do the right thing: revise the regulations to favor driving record over ZIP Code in setting insurance rates and provide fairness for all California ratepayers.

## REQUEST PUBLIC RECORDS

To request public records, download a request form from our web site at [www.oaklandcityattorney.org](http://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

Visit our web site:  
[www.oaklandcityattorney.org](http://www.oaklandcityattorney.org)

Call us:  
**(510) 238-3601**

Fax us:  
**(510) 238-6500**

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