

**CITY OF OAKLAND**  
**COUNCIL AGENDA REPORT**

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05:00 PM - OCT 11 2005

**TO:** Finance and Administrative Services Committee  
**ATTN:** Chairperson, Councilmember Jean Quan  
**FROM:** John Russo, City Attorney  
**DATE:** October 11, 2005  
**RE:** Office of the City Attorney's Annual Report, Fiscal Year 2004-2005

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## **1.0 INTRODUCTION**

Our philosophy—**law in service of the public**—guides how we provide legal services to the City of Oakland. We believe that the law should be applied in an innovative and community-oriented manner. As a team, we are committed to providing first-rate legal services that are cost-effective, efficient and accessible.

This annual report summarizes the financial results of the Office of the City Attorney, outlines claims and litigation trends and highlights our ongoing community-impact initiatives during the last fiscal year (2004-05).

### **1.1 The Year in Review**

In FY04-05 we decreased the cost for legal services to the City of Oakland by \$1.34 million from the prior fiscal year. The total cost to provide legal services was \$17.56 million (including staff and outside counsel costs, claims, and lawsuit payouts, settlements and judgments).

For FY04-05 the number of claims filed dropped 9 percent and the number of lawsuits filed dropped 18 percent. In the last five years, the number of claims and lawsuits filed against the City has dropped an average of 11 percent each year.

Enhanced risk management efforts in the area of City Safe Vehicle Driving have resulted in a dramatic decline in vehicle accident claims. Claims dropped from 117 in FY03-04 to 79 in FY04-05. Payouts for city vehicle accidents have dropped to a five-year low of \$244,203.

### **1.2 Office Profile**

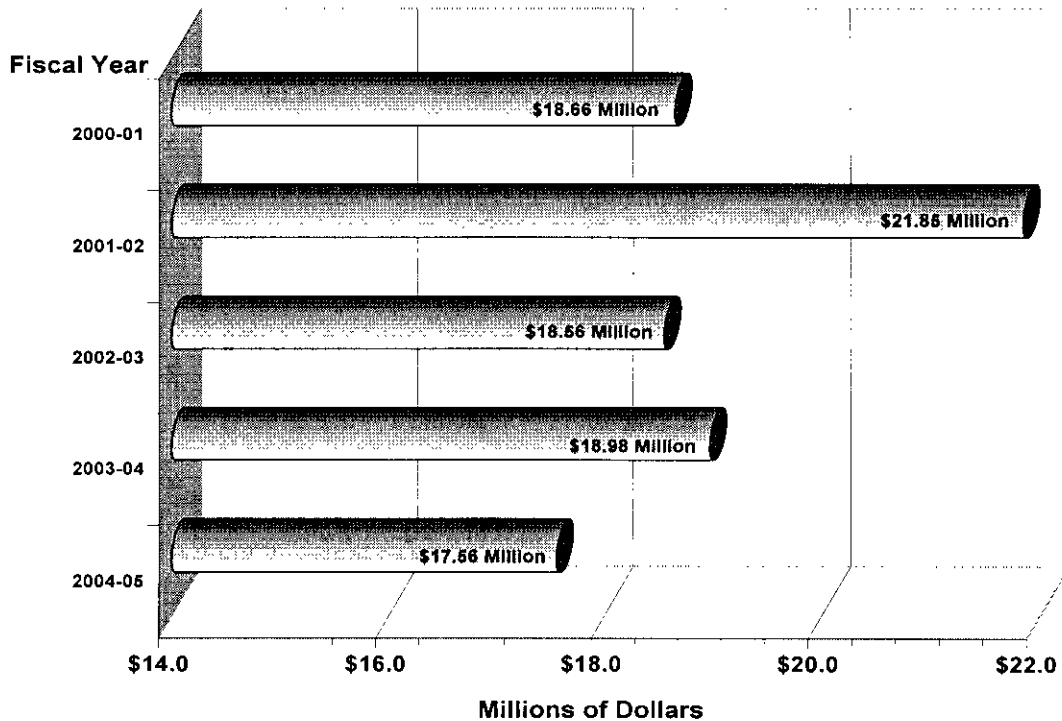
As one of the largest law firms in Oakland we are also one of the most diverse legal teams in the country. Last year, the Office of the City Attorney was the first public entity to ever receive the In-House Diversity Award from the California Minority Counsel Program. Our 78-member team of dedicated professionals includes:

- 41 attorneys—City Attorney, 2 Assistant City Attorneys, 35 Deputy City Attorneys, and 3 Neighborhood Law Corps Attorneys (funded by private donations)
- 31 support staff—legal secretaries, paralegals, clerks, claims investigators, and executive assistants
- 6 operations staff—budget, accounting, information technology, communications, personnel administration, and Open Government Program coordination

## 2.0 FINANCIAL ANALYSIS

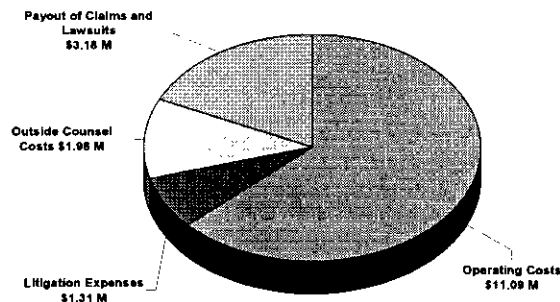
### 2.1 Cost of Legal Services

In FY04-05, the cost to provide legal services to the City of Oakland was \$17.56 million (including staff and outside counsel costs, claims, and lawsuit payouts, settlements and judgments), a 9% (\$1.34 million) decrease from the prior fiscal year, as shown in **Figure 1**. The office’s work to aggressively investigate claims, strategically use legal remedies in settlement and litigation, as well as use our in-house expertise to efficiently address and advise in risk management have all contributed to the reduction in payouts.



**Figure 1: Cost to Provide Legal Services**

Even though there have been cost of living increases to salaries, and a slight increase in outside counsel costs and litigation expenses, the Office of the City Attorney was able to keep payouts for all claims and lawsuits to a five-year low at \$3.18 million (see **Figure 2** and **Figure 3**)—almost half the cost in payouts from the previous fiscal year and the lowest amount in payouts in the last five years.



**Figure 2: Cost to Provide Legal Services for FY 2004-05**

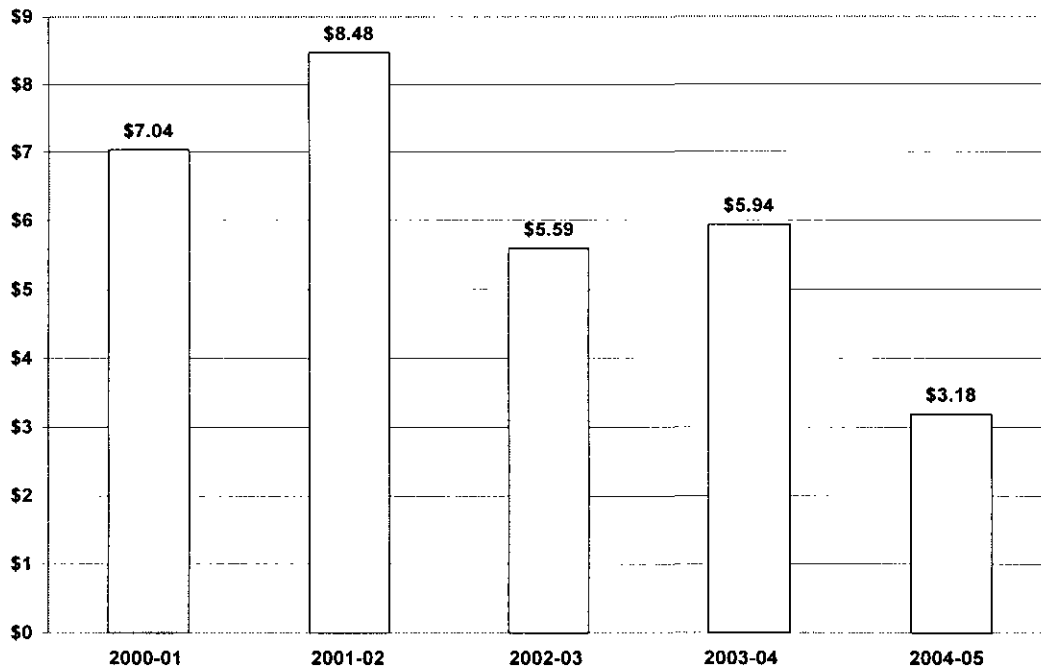


Figure 3: Payout Trend Over 5 Years - Claims and Lawsuits

### 3.0 ALLOCATION OF LEGAL RESOURCES

The Office of the City Attorney is organized into practice areas to better serve our clients' needs. **Figure 4** shows the number of attorneys assigned to each practice area.

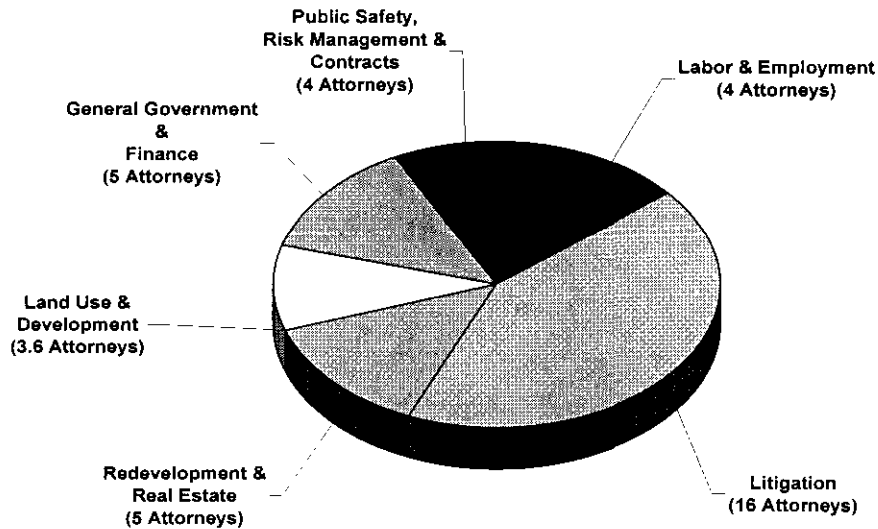
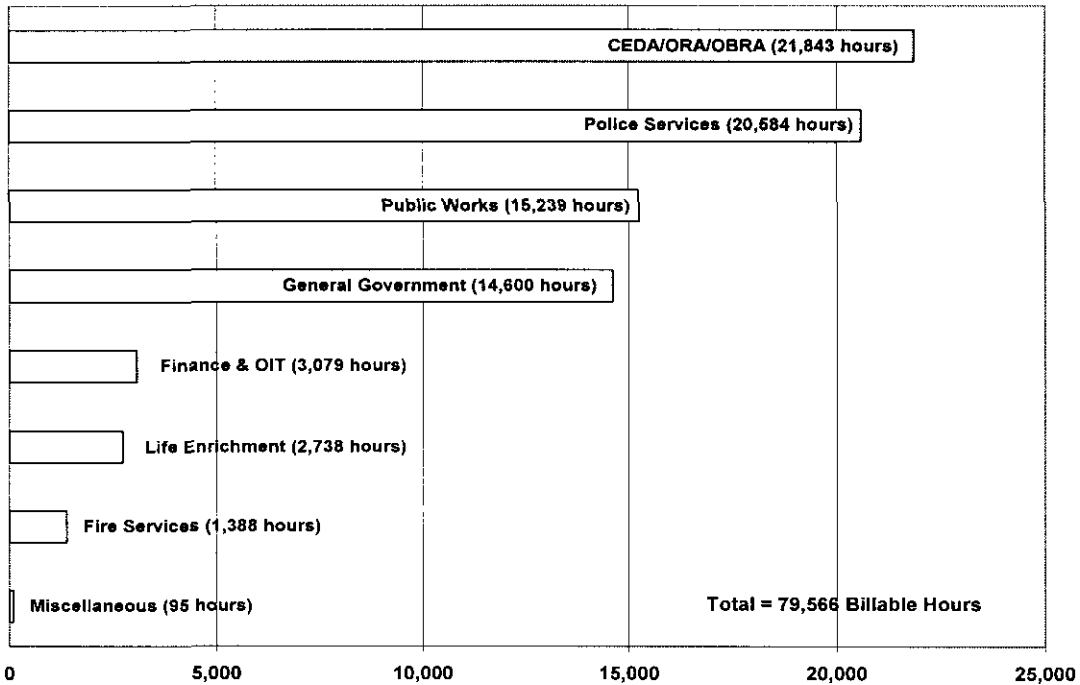


Figure 4: Allocation of Attorneys

In-house attorneys, paralegals and investigators spent approximately 80,000 staff hours delivering legal services to City departments, as shown in **Figure 5**. Although we do not

directly bill time to these departments, we closely track billable hours internally to manage our resources more effectively and contain legal costs.



**Figure 5: Billable Hours by Department - 2004-05**

#### 4.0 MANAGEMENT OF CLAIMS AND LITIGATION

##### 4.1 Claims

In FY04-05, 615 claims were filed against the City of Oakland. Claims fall into three primary categories: municipal infrastructure (streets, sewers and sidewalks), police matters (conduct, towing, jail and property damage) and accidents involving City vehicles.

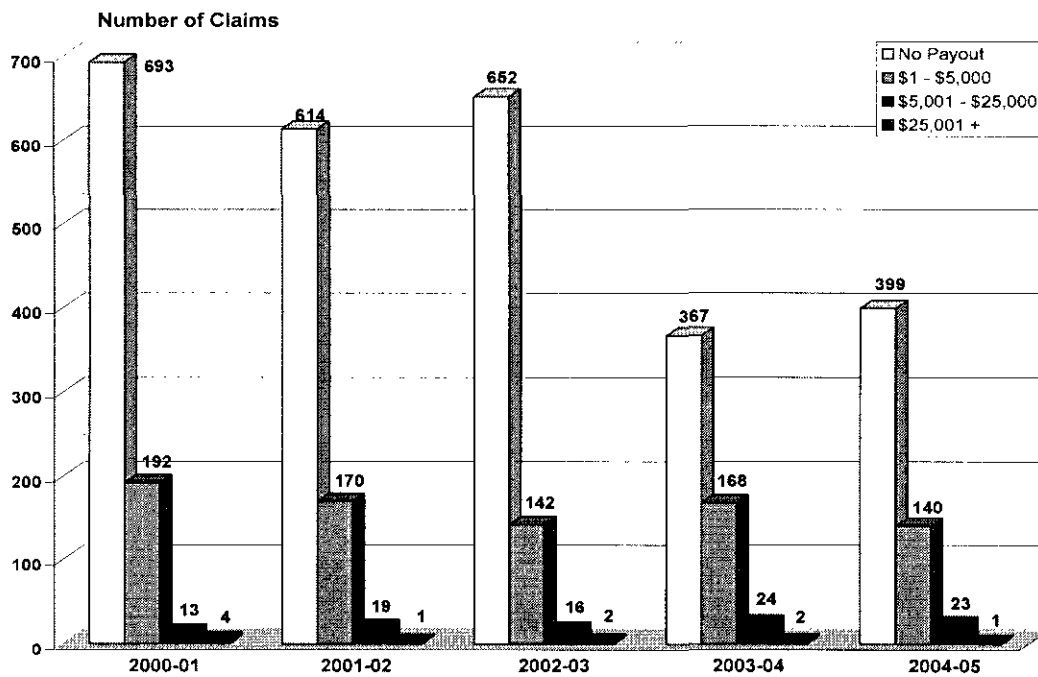
As shown in **Table 1**, the sharp decline in claims filed against the City is significant. Over the last five years, claims filed against the City have systematically decreased. In 2000-01, the number of claims filed was 59% higher than in 2004-05; the five-year average is 32% higher than this past year.

**Table 1: Types of Claims Received**

Category	2000-01	2001-02	2002-03	2003-04	2004-05	5-year average
Municipal Infrastructure	457	411	431	304	315	384
Police Matters	289	210	222	179	169	214
City Vehicle Accidents	153	150	103	117	79	120
Other	135	170	103	73	52	107
<b>Total Claims/Year</b>	<b>1034</b>	<b>941</b>	<b>859</b>	<b>673</b>	<b>615</b>	<b>824</b>

**Table 1a: Claims Received  
Municipal Infrastructure**

Category	2000-01	2001-02	2002-03	2003-04	2004-05	5-year average
Streets	154	139	168	104	137	140
Sewers/ Storm Drains	72	61	65	64	41	61
Sidewalks	69	68	77	53	47	63
Trees	104	92	88	57	59	80



**Figure 6: Claims Resolved Over 5 Years**

As shown in **Figure 6**, of the 563 claims resolved in FY04-05:

- 71% of the claims were denied with ***no payment of money***.
- Only 4% resulted in payouts of more than \$5,000

We aggressively manage potential liability at the claims stage to reduce the number that evolve into lawsuits, thereby avoiding the significant costs involved in litigating a case, such as expert witnesses, depositions, research, court costs and attorney time. As shown in **Figure 7**, the majority (88%) 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.

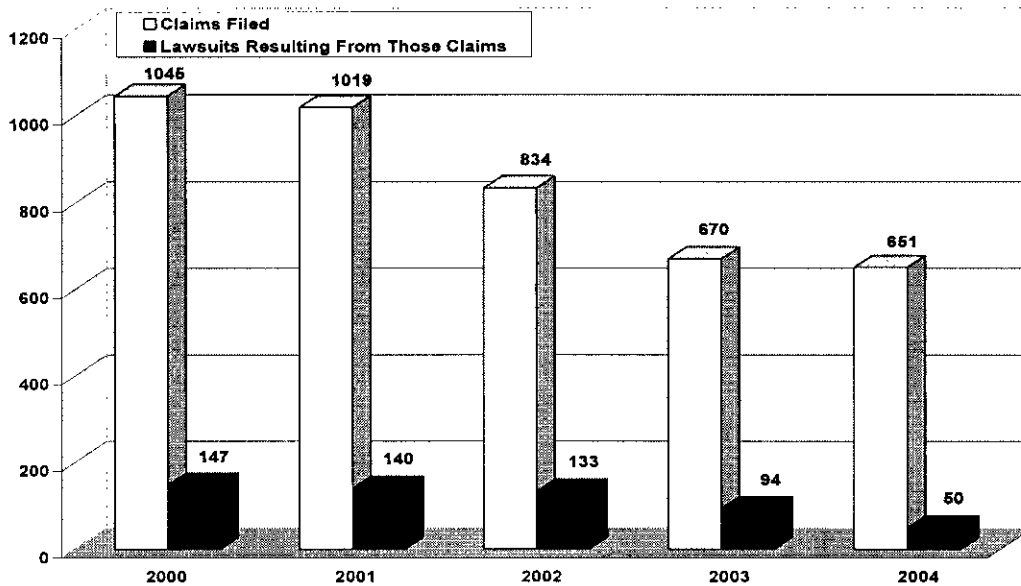


Figure 7: Claims That Evolved Into Lawsuits by Year of Incident

## 4.2 Lawsuits

**Myth:** *The City of Oakland is an easy mark to sue because, like any public agency, it has “deep pockets” of taxpayer dollars.*

**Fact:** *The majority of those that sue Oakland walk away with **no money**.*

The Office of the City Attorney vigorously protects taxpayer dollars by using aggressive litigation strategies:

- Settling claims early when there is clear liability as a way to avoid higher costs of defense and to discourage plaintiffs’ attorneys from increasing fees through needless litigation.
- Filing motions to dismiss defendants and causes of action, thereby narrowing the scope of the defense; this tactic reduces litigation costs and limits potential exposure.

Lawsuits primarily arise in four categories: municipal infrastructure/dangerous conditions (streets, sewers, storm drainage, sidewalks, trees), police conduct, personnel/labor and accidents involving City fleet vehicles.

The number of lawsuits filed against the City has also decreased significantly, as shown in **Table 2**. FY04-05 marked a 20% decrease in the number of cases filed compared to the previous fiscal year.

<b>Category</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>5-year average</b>
Municipal Infrastructure	46	74	63	54	32	54
Police Matters	66	66	57	57	42	58
Personnel/Labor (non-lawsuits and lawsuits)	14	38	18	20	16	21
City Vehicle Accidents	23	19	14	10	11	15
Other	40	51	58	36	41	45
<b>Total Lawsuits/Year</b>	<b>189</b>	<b>248</b>	<b>210</b>	<b>177</b>	<b>142</b>	<b>193</b>

<b>Category</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>5-year average</b>
Streets	12	13	22	18	12	15
Sewers/ Storm Drains	5	9	3	5	2	5
Sidewalks	17	29	24	20	15	21
Trees	1	4	3	4	0	2

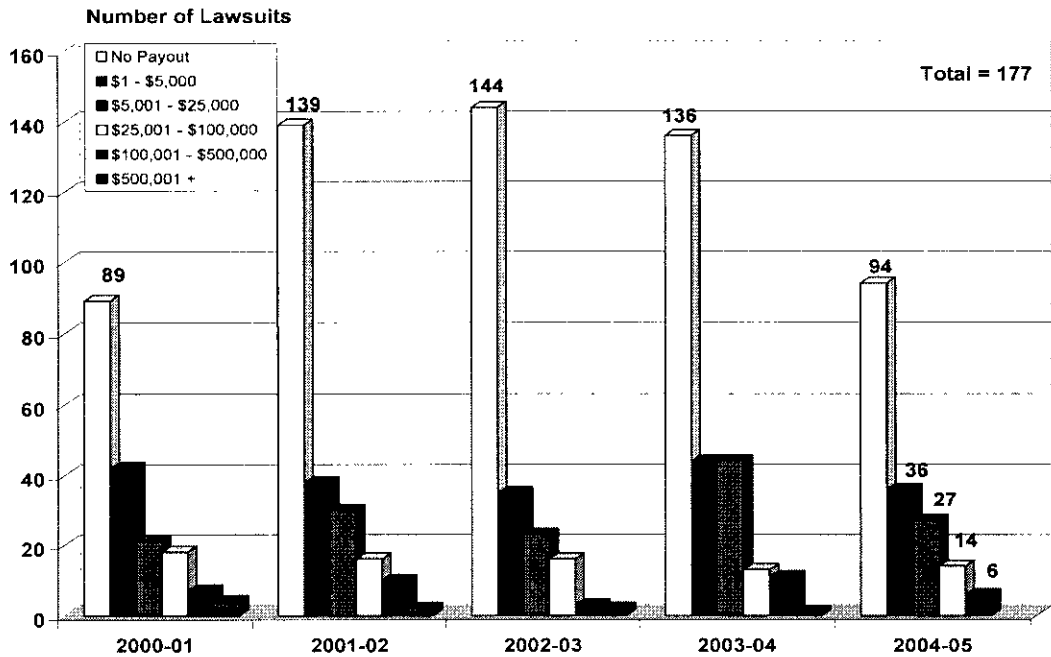


Figure 8: Lawsuits Resolved Over 5 Years

As shown in **Figure 8**, our litigation strategies are working. Of the 177 lawsuits resolved in FY04-05:

- More than half (53%) of the lawsuits resulted in **no payment of money**.
- Only 6 lawsuits resulted in a payout of more than \$100,000 (see **Table 3**).

Table 3. Payouts of Claims and Lawsuits More Than \$100,000 in 2004-05

Case	Type	Payout
<i>Bari v. City of Oakland (Earth First!)</i>	Police conduct — non-force	\$500,000 * * Second of four annual payments to total \$2M
<i>Port Anti-War Demonstration</i>	Police conduct — force	\$310,000
<i>Sandoval v. City of Oakland</i>	Retirement Writ of Mandate	\$262,500
<i>Vargas v. City of Oakland</i>	Police conduct — force	\$182,757
<i>Stewart v. City of Oakland</i>	Police conduct — non-force	\$175,000
<i>Muscadine v. City of Oakland</i>	Police conduct — force	\$150,000



### 4.3 Lawsuits Filed Against the Police Department

**Myth:** *The Office of the City Attorney settles lawsuits against the police instead of defending the officers.*

**Fact:** *Last year, half of the lawsuits filed against the police were dismissed or defended with no payment of money.*

It is a misperception that the City pays to settle police conduct cases rather than defend the officers. We seek to resolve cases by filing motions for summary judgment and dismissal. Often, bringing a case to trial is an indication that we didn't succeed in the early phase of litigation. However, in the last five years:

- Of all the claims filed against the Police Department, **92% were resolved for no payment of money;**
- Of the denied claims, only one-quarter evolved into lawsuits;
- Reviewing police conduct/use of force and wrongful death lawsuits alone, **over 50% were resolved for no payment of money;**
- Of the remaining lawsuits, one in five was resolved for less than \$5,000.

### 4.4 Payouts to Settle Claims and Lawsuits

**Figures 9 – 10** and **Tables 4 – 7** provide a detailed breakdown of the total payouts to settle claims and lawsuits during the past five years from several perspectives:

- Payouts by cause category (Figure 9)
- Payouts by City department (Figure 10)
- Payouts related to police matters (Table 4)
- Payouts related to municipal infrastructure by category (Table 5)
- Payouts for accidents involving City vehicles by City department (Table 6)
- Payouts related to personnel/labor matters by department (Table 7)

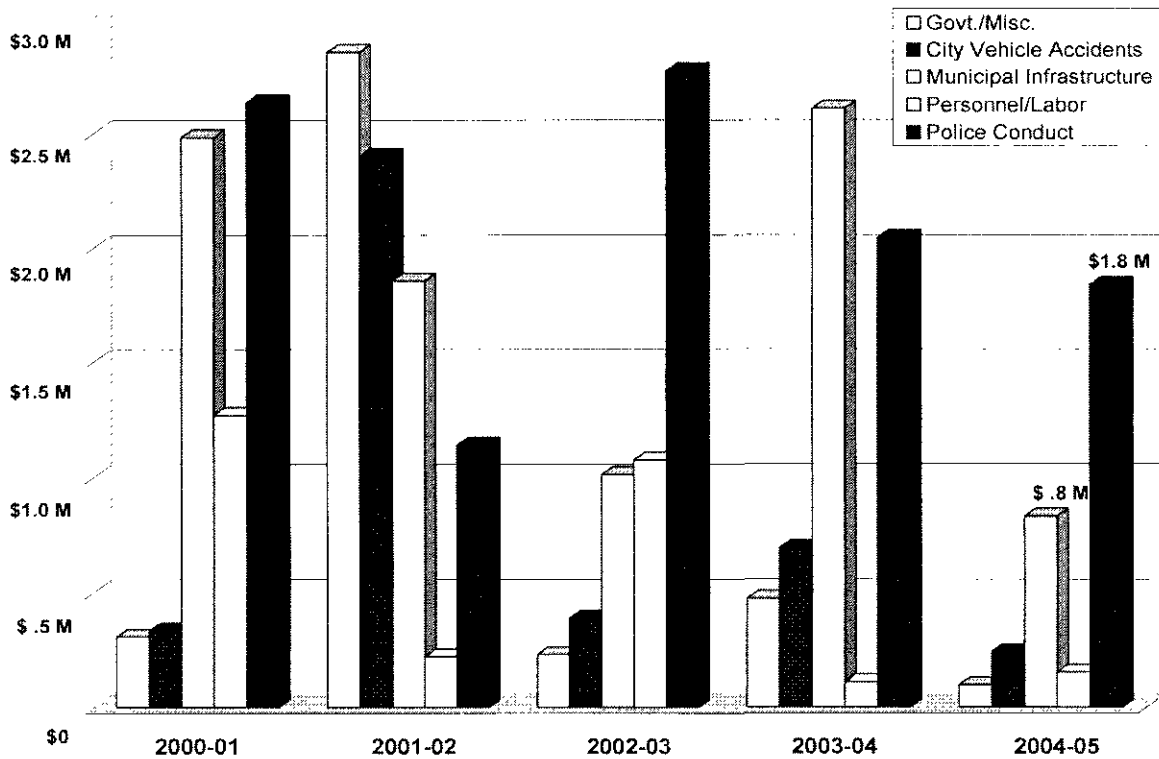


Figure 9: Total Payouts of Claims and Lawsuits by Category

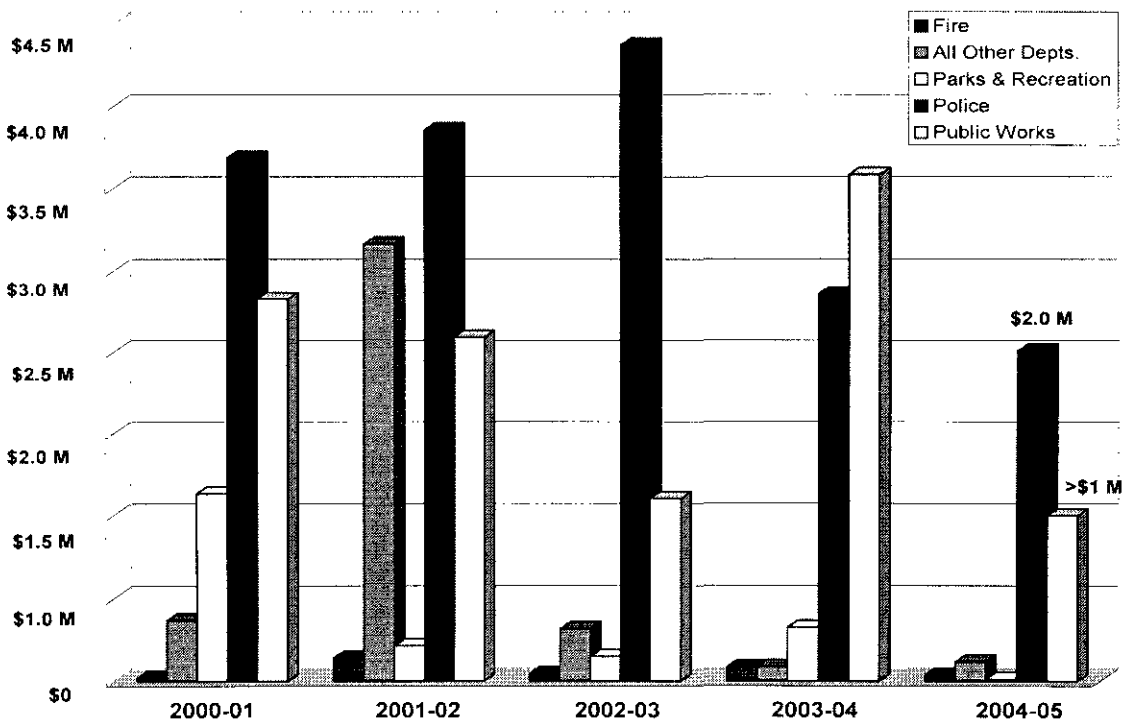


Figure 10: Payouts by Department

NOTE: The amount in payouts for the Police Department in Figure 10 includes the money spent for conduct and non-conduct cases in addition to payouts for vehicle accidents.

**Table 4: Police Matters**

<b>Category</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>5-year average</b>
Alleged use of force	\$204,036	\$155,175	\$2,571,000	\$1,380,775	\$992,040	\$1,060,605
Conduct—non-force	\$1,610,534	\$671,139	\$35,570	\$649,618	\$735,900	\$740,552
Alleged wrongful death	\$800,216	\$291,868	\$166,000	\$4,000	\$50,000	\$262,417
Vehicle Accidents	\$189,548	\$2,194,962	\$197,953	\$315,574	\$111,434	\$601,894
Property Loss	\$167,935	\$13,928	\$13,389	\$7,316	\$63,120	\$53,138
Towing	\$706	\$10,367	\$56,484	\$6,838	\$0	\$14,879
Personnel/Labor	\$216,880	\$24,900	\$836,432	\$0	\$63,000	\$228,242
<b>Total Paid/Year</b>	<b>\$3,189,855</b>	<b>\$3,362,339</b>	<b>\$3,876,828</b>	<b>\$2,364,121</b>	<b>\$2,015,494</b>	<b>\$2,961,727</b>

**Table 5:  
Infrastructure**

<b>Category</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>5-year average</b>
Building Maintenance	\$9,506	\$20,836	\$3,729	\$4,382	\$6,843	\$9,059
Sewers/Storm Drains	\$343,027	\$442,319	\$194,612	\$833,220	\$216,866	\$406,009
Sidewalks	\$230,394	\$208,031	\$491,240	\$568,970	\$287,222	\$357,171
Streets	\$1,562,179	\$398,731	\$96,659	\$245,966	\$206,164	\$501,940
Landslides	\$130,000	\$492,032	\$127,500	\$864,706	\$23,957	\$327,639
Parks & Rec. Maintenance	\$116,434	\$72,406	\$26,234	\$14,229	\$10,500	\$47,961
Trees	\$93,849	\$92,295	\$71,323	\$76,255	\$83,967	\$83,538
<b>Total Paid/Year</b>	<b>\$2,485,389</b>	<b>\$1,726,650</b>	<b>\$1,011,297</b>	<b>\$2,607,728</b>	<b>\$835,519</b>	<b>\$1,733,317</b>

**Table 6: City Vehicle Accidents**

<b>Category</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>5-year average</b>
Police	\$189,548	\$2,194,962	\$197,953	\$315,574	\$111,434	\$601,894
Public Works	\$101,915	\$123,075	\$118,814	\$73,351	\$92,617	\$101,954
Parks & Recreation	\$17,748	\$18,834	\$37,099	\$220,750	\$3,833	\$59,653
Fire	\$16,438	\$57,590	\$27,646	\$76,211	\$34,817	\$42,540
Other Departments	\$12,447	\$6,882	\$11,654	\$11,142	\$1,502	\$8,725
<b>Total Paid/Year</b>	<b>\$338,096</b>	<b>\$2,401,343</b>	<b>\$393,166</b>	<b>\$697,028</b>	<b>\$244,203</b>	<b>\$814,767</b>

**Table 7: Personnel/Labor**

<b>Category</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>5-year average</b>
Police	\$216,880	\$24,900	\$836,432	\$0	\$63,000	\$228,242
Parks & Recreation	\$830,000	\$0	\$0	\$9,000	\$0	\$167,800
General Government/Other	\$203,556	\$65,000	\$227,961	\$15,000	\$92,000	\$120,703
Public Works	\$0	\$55,000	\$0	\$87,500	\$0	\$28,500
Fire Services	\$0	\$81,800	\$14,000	\$0	\$0	\$19,160
<b>Total Paid/Year</b>	<b>\$1,250,436</b>	<b>\$226,700</b>	<b>\$1,078,393</b>	<b>\$111,500</b>	<b>\$155,000</b>	<b>\$564,406</b>

## **5.0 COMMUNITY IMPACT INITIATIVES**

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. Our attorneys look for ways to use the law as a powerful problem-solving tool and as a means to serve the community’s best interests.

### **5.1 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 empowers the community to tackle problem liquor outlets, bars, drug houses, blight and inhumane housing conditions. Neighborhood Law Corps attorneys use an array of legal and community-based tools to achieve their goal of improved neighborhoods. Highlights for the year include:

- Abated 21 drug nuisance locations/properties.
- Significantly increased the prosecution of alcohol-related nuisance suits from 8 in 2003-04 to 24 last year.
- Utilized the City’s “Deemed Approved” ordinance to secure, in writing, stricter operating conditions at nuisance alcohol outlets. The written agreements provide the City and the community with the power to ensure the businesses maintain good neighbor standards.
- Won a lawsuit against a negligent landlord, resulting in the complete rehabilitation of 18 rental properties plagued with deteriorating floors and ceilings and infestations of mold, rats and cockroaches. In addition, the landlord paid \$140,000 in fines to the city.
- Abated 2 problem hotels, 7 blighted properties and 8 general public nuisance cases.

### **5.2 Open Government Program**

The Office of the City Attorney has an Open Government Coordinator who tracks public records requests and serves as an advocate for citizens when necessary. During the last fiscal year, the Open Government program:

- Handled 229 public records requests.
- Conducted trainings on the Sunshine Ordinance and the Brown Act for the executive staff of the Port of Oakland, the Workforce Investment Board staff, CEDA Business Improvement District staff, the West Oakland Project Area Committee, Rockridge Business Improvement District and the Cultural Affairs Commission.
- Advised City boards and commissions staff on the conduct of open meetings.

### **5.3 Caltrans Public Nuisance Action**

For more than ten years the abysmal condition of Caltrans’ vacant lots, yards, highway ramps and overpasses in Oakland have been a source of misery: diminishing our quality of life, reducing property values, inviting dumping and creating dangerous conditions.

In October and November 2004, the Oakland City Attorney’s Office sent abatement notices to Caltrans with photos of blighted sites and issued a public records request for

documentation of their maintenance schedule. Copies of these notices were sent to local state elected officials along with numerous phone calls,

In January and March 2005, we received data in response to our public records request that was indecipherable and correspondence from Caltrans claiming our evidence of blight was 'stale.' Following an investigative report by a local television station on Caltrans' blight in Oakland, Caltrans officials contacted us to talk about establishing a maintenance agreement.

In July of this year, Caltrans told us they would not sign any maintenance agreement. On August 8th, the Oakland City Attorney's office filed a public nuisance lawsuit against Caltrans in Superior Court. Three days after the complaint was filed, Caltrans made a good effort to address the problem. In coordination with Council President De La Fuente, we are back in the process of negotiating an agreement.

#### **5.4 Kaiser Business Tax Victory**

After four years of vigorous litigation, the City of Oakland prevailed in a case in which Kaiser Aluminum and Chemical sought a refund of business license taxes going back to 1984. They claimed that the City's tax on commercial landlords violated the Commerce Clause of the United States Constitution by unfairly placing heavier tax burdens on out-of-city landlords.

The plaintiff's attorney had essentially established a cottage industry suing municipalities throughout the state on this issue. This was his first defeat. While the appeal was pending, he pressured the City to settle the case predicting the City would pay a judgment upwards of \$12 million.

The Appellate Court's rejection of Kaiser's claim was absolute and unequivocal. The Supreme Court of California's denial of Kaiser's petition for review confirms the City's victory in this case and saves the City tens of millions of dollars each year.

#### **5.5 Defending Oakland's Anti-Discrimination Policy**

In July 2003, a conservative, southern California organization funded a lawsuit attacking the City's policy that provides protection against harassment and discrimination based on race, gender, sexual orientation, national origin, and religion. The lawsuit stemmed from the removal of a posted flyer reacting negatively to the creation of a new gay and lesbian City employees' association. After receiving a complaint about the flyer's homophobic nature, a supervisor removed it and distributed a copy of the City's anti-discrimination policy.

In February 2005, United States District Court Chief Judge Vaughn Walker dismissed the final cause of action against City officials for removing the flyer. Judge Vaughn found that the City acted correctly bringing the lawsuit to an end.

#### **5.6 Predatory Lending**

The California Supreme Court issued a 4-3 decision against Oakland's anti-predatory lending law. Led by recent Bush-appointed to the federal courts, Janice Rogers Brown, four of the California Supreme Court justices argued that the state anti-predatory lending law preempted local authority. The state law offers only bare minimum protections for "house rich and cash poor," homeowners who are targets for predatory lending practices.

Chief Justice Ronald George penned the dissenting opinion describing state law as "establish(ing) a floor, not a ceiling" for the regulation of predatory lending practices. The

opinion read, "Local regulation thus is not only constitutionally valid, but practically vital to the affected communities. Although predatory lending certainly is a matter of statewide concern, the specific interests of the communities most affected by the banned practices make the regulation of this field particularly amenable to local variations."

On February 15<sup>th</sup>, 2005 Council unanimously adopted a resolution calling for the Legislature either to adopt stronger statewide borrower protections or authorize communities with severe predatory lending problems to adopt local regulations to protect local interests.

### **5.7 Legal Fight to Defeat Casino**

The Lower Lake Rancheria-Koi Nation proposed a 230,000+ square foot hotel and casino on property adjacent to the MLK Jr. Regional Shoreline Park. Jurisdictions surrounding the proposed site passed resolutions opposing the mega-casino citing numerous studies that demonstrate negative impacts of casinos and gambling. Increases in crime, personal bankruptcy, parking and traffic congestion, domestic violence and child abuse in addition to negative impacts on the fragile wetlands environment were identified as consequences of the proposed gambling establishment.

Consistent with the policy direction of the City Council, the City Attorney's Office spearheaded a joint legal cooperation agreement with officials from the County of Alameda, the City of Alameda, the City of San Leandro and the East Bay Regional Parks District to create a unified front in opposition to the proposed hotel/casino/spa in Oakland. Weeks following the creation of the legal team, the Koi Nation chose not to pursue their option to purchase the site.

### **5.8 Energy Settlements**

When electricity prices exploded in California four years ago, out-of-state energy providers raked in obscene profits while our state economy sank into recession. In 2002, Oakland joined in a class-action lawsuit naming thirteen wholesale energy suppliers of market manipulation, conspiracy, collusion and demanded return of the profits stolen from ratepayers. As a result, the Federal Energy Regulatory Commission ruled that California is owed \$3.3 billion in refunds from energy providers.

Working with the California Attorney General's Office, the City successfully fought to recoup \$500,000 from Duke Energy, \$3.5 million from Williams Energy. We are in negotiations for another settlement in excess of \$500,000 expected to complete in October.

## **6.0 PROJECT HIGHLIGHTS**

Attorneys provide legal services in nearly every aspect of municipal affairs. They negotiate contracts, advise on housing and economic development projects, draft new legislation, advise clients about labor and personnel issues, negotiate real estate transactions, issue municipal bonds, provide advice about municipal elections and ethics, defend the City's ordinances against challenges in court and initiate legal proceedings to address public nuisance problems in Oakland's neighborhoods. The following is a brief summary of highlights from our work in 2004-05.

### **6.1 Redevelopment & Real Estate**

- Provided legal counsel for Oakland's evaluation and approval of a major mixed-use redevelopment project that will revitalize a chronically blighted area of West Oakland,

including construction of over 1500 residential units, affordable housing, and restoration of the historic 16th Street train station.

- Provided legal counsel for major downtown redevelopment projects, including the Broadway-West Grand Mixed Use project (including 400 housing units), a 300-400 residential unit project at Oakland City Center West (T-12), and the Cathedral of the Light at Lake Merritt.
- Provided legal assistance to ensure proper environmental analysis of proposed modifications to Oakland's Integrated Pest Management policy.
- Negotiated a conservation easement to set aside seventy acres of open space land and negotiating agreements to ensure that developers build and bond for public infrastructure to support the Leona Quarry development project.
- Assisted City policymakers in preventing location of a proposed Indian casino in an environmentally-sensitive area near the Oakland International Airport.
- Worked with the City Council to strengthen regulation of massage establishments and therapists and to eliminate land use entitlements for new massage establishments.
- Assisted in the completion of updates to the General Plan Noise and Safety Elements.
- Successfully resolved long-standing litigation over the City's regulation of alcohol billboards.

## **6.2 General Government & Finance**

- Completed long-term Operating Agreements with Children's Fairyland, Inc. for continued management and improvement of Children's Fairyland and with the East Bay Zoological Society for continued management and improvement of the Oakland Zoo.
- Completed an Umbrella License Agreement for movie showing with Motion Picture Licensing Corporation that would allow OPR, Library, Museum, and Human Services departments to continue to show movies as part of their programs.
- Successfully defended in Superior Court the creation of the Wildfire Prevention Assessment District that protects hills homeowners from wildfire disasters.
- Helped form the Laurel Property Business Improvement District which will attract more businesses by improving and maintaining local amenities, such as sidewalks and street furniture, above and beyond those provided by the City.

## **6.3 Public Safety, Risk Management & Contracts**

- Facilitated complex contract negotiations with Motorola with respect to on-line monitoring of the Oakland police (the "PIMS system") pursuant to the Riders Negotiated Settlement Agreement.
- Negotiated and completed development and construction agreements with nonprofit developers for several park improvements, including substantial improvements to Caldecott Field, Greenman Field and Memorial Park.
- Completed construction project management training of 65 city staff.



- Drafted comprehensive revisions of the Purchasing Ordinance establishing new contract limits for the City Administrator, competitive Request for Proposal requirements, contract funding limitations and reporting requirements.
- Drafted revisions of the Purchasing Ordinance to establish procedures for expenditure of pay-go funds.
- Conducted extensive training to inform City staff of changes in the City's purchasing requirements and procedures.
- Completed major revisions to standard City contracts and grant agreements.

#### **6.4 Land Use & Development**

- Finalized amendments to complex negotiations with Forest City on the Uptown Project to develop 700 units of housing, including affordable housing, retail space and a new public park.
- Closed the sale of property to the Olson Company for development of the City Walk project, 275 units of ownership housing near the federal building.
- Initiated negotiations with Resources for Community Development for the development of 80 units of affordable housing near the Fox Theater.
- Helped develop much-needed parking downtown by entering into a Disposition and Development Agreement and closing on the sale of property to develop the 17<sup>th</sup> Street Garage.
- Closed the sale of the former Bermuda Building site to Prentiss Properties for development of an office building.
- Obtained Council approval to enter into a Disposition and Development Agreement for the renovation of the historic Fox Theater.
- Assisted in the historic restoration and redevelopment of the vacant and dilapidated Key System Building site at 13<sup>th</sup> and Broadway by facilitating the transfer of the site to a new developer.
- Assisted in the rehabilitation of the Jack London Gateway Shopping Center in West Oakland by closing the deal to transfer the center to a group led by the East Bay Asian Local Development Corporation and the West Oakland Marketplace Advancement Company.
- Closed the sale of Preservation Park in downtown Oakland to the East Bay Asian Local Development Corporation preserving office space for nonprofits by requiring the buyer to continue to lease the property to nonprofit organizations.
- Helped retain Sears downtown by facilitating relocation of the Sears Auto Center.
- Closed the deal to open a new Infiniti car dealership in the Coliseum Redevelopment Area.
- Assisted with the development of the MacArthur Transit Village, a mixed-use retail and housing project on the MacArthur BART parking lot, by negotiating an Exclusive Negotiating Agreement with the developer, MacArthur Transit Community Partners.

- Negotiated a Disposition and Development Agreement with a developer for neighborhood-serving retail and housing at a vacant site on 35<sup>th</sup> Avenue and MacArthur Boulevard.
- Helped develop affordable housing by closing over \$17 million in development loans to nonprofit housing developers, including loans to the following projects:
  - Altenheim Senior Housing
  - Coliseum Gardens
  - Eastside Arts & Housing Project
  - Edes Avenue Housing
  - Lincoln Court
  - Percy Abrams Senior Housing
  - Sojourner Truth Manor Senior Housing
  - St. Andrew's Manor Senior Housing
  - St. Patrick's Terrace Senior Housing
- After several years of litigation with the U.S. Navy and the Department of Justice, we negotiated and oversaw the transfer of 5.5 valuable acres of the former Oak Knoll Naval Facility to the Redevelopment Agency.
- Oversaw the transition of financial and accounting systems, ongoing environmental remediation, the completion of regulatory requirements, and negotiations with the Port of Oakland for the transfer of the Army Base to the Redevelopment Agency.
- Assisted with the ongoing management and impending closure of the Oakland Army Base Leasing Program.
- Negotiated an Exclusive Negotiating Agreement with the Fulton Partners Development Group (controlled by the Wayans family) for development of a film production studio and theme park in West Oakland.
- Negotiated an Exclusive Negotiating Agreement with the Oakland West Wind Group for development of a mixed-use project including auto retail, industrial and other uses.
- Assisted staff in satisfying the homeless assistance component of the redevelopment plan.
- Successfully negotiated the sale of land to Caltrans to support the Bay Bridge Expansion Project.
- Successfully negotiated the purchase of a 19-acre development site adjacent to the former Oakland Army Base from the U.S. Army Reserves, with the transfer of a portion of the site to the Port of Oakland for future development of a Joint Intermodal Terminal, and an Exclusive Negotiating Agreement with Costco for development of a wholesale and retail warehouse on the site.
- Defended Measure EE, the Just Cause Eviction Ordinance, against a legal challenge.
- Drafted a Nuisance Eviction Ordinance enacted by the City Council.

- Assisted in developing conservation standards for open space properties acquired with bond proceeds.
- Assisted with the restructuring and collection of delinquent commercial loans.

## 6.5 Labor & Employment

- Resolved individual disciplinary matters as well as contractual disputes through negotiation and arbitration. Provided anti-sexual harassment training to the Police Department, Fire Department, Public Works Agency, Community and Economic Development Agency, Health and Human Services and the Library.
- Provided assistance to the Police Department in complying with its obligations under the Riders Negotiated Settlement Agreement.
- Provided advice in connection with complaints alleging denial of access to programs/services on the basis of disability.
- Trained City personnel in the enforcement of Oakland's Equal Benefits Ordinance.

## 7.0 AWARDS AND RECOGNITION

In the last year, the Office of the City Attorney received recognition for our work collectively and as individuals. They include:

- **2005 California Cities Helen Putnam Award for Excellence** for the Neighborhood Law Corps' successful work to improve the quality of life in challenged neighborhoods. The League of California Cities established this award to recognize the outstanding and innovative efforts by city governments to provide the highest quality of service in the most effective manner.
- **The John Essex and Guy Rounsaville In-House Diversity Award** from The California Minority Council Program (CMCP) for a corporation or public agency that has demonstrated the strongest commitment to diversity. The CMCP is a membership organization with a central mission of maximizing opportunities for attorneys of color. The Office of the City Attorney was the first public entity to ever receive the award.
- An **Award of Excellence** from the Legal Marketing Association for the *Community Report Card for Fiscal Year 2002-03*. The Bay Area chapter of legal marketing professionals singled out the Oakland publication over dozens of entries by law firms as "an outstanding way to convey information to the public."
- Chief Assistant City Attorney, Barbara Parker, was chosen to be one of four attorneys in the state participating on the **Judicial Council**, a state constitutional agency that provides policy direction to the courts, the Governor and the Legislature concerning court practice, procedure and administration.
- Deputy City Attorney Mark Morodomi was elected as the **President of the Asian/Pacific Bar Association of California**. An affiliate of the National Asian Pacific Bar, the association of Asian Pacific American attorneys, judges, law professors and law students represents over 40,000 attorneys and 47 local APA bar associations.
- Demetrius Shelton was elected to the **Board of Governors of the State Bar of California** and serves as Vice President.

- For 2005, City Attorney John Russo, Chief Assistant City Attorney Randolph Hall and Deputy City Attorney Demetrius Shelton were all voted Northern California **Super Lawyers** by their peers through the independent research of *Law & Politics* publication. Lawyers who have obtained a high degree of peer recognition and professional achievement are recognized through this process annually.

## 8.0 CONCLUSION

We are proud to represent a progressive and innovative city where the law can be utilized as a tool for community empowerment and neighborhood improvement. We are dedicated to defending Oakland's policies in court and initiating legal action when the community's quality of life or economic interests are jeopardized. Our commitment to accountability, fiscal responsibility and access to city government is the cornerstone of our work.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Russo', written in a cursive style.

John A. Russo  
City Attorney