

Multnomah County Attorney's 2000 - 2001 Annual Report



November 1, 2001

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MEMORANDUM

TO: Board of County Commissioners
Diane Linn, Chair
Maria Rojo de Steffey, Commissioner
Serena Cruz, Commissioner
Lisa Naito, Commissioner
Lonnie Roberts, Commissioner

FROM: Thomas Sponsler

DATE: November 1, 2001

RE: 2000-2001 Annual Report

INTRODUCTION

Our office has fourteen lawyers and seven support staff. We provide legal services for all county officers and departments. This *Annual Report* summarizes the legal services we provided to county clients last year.

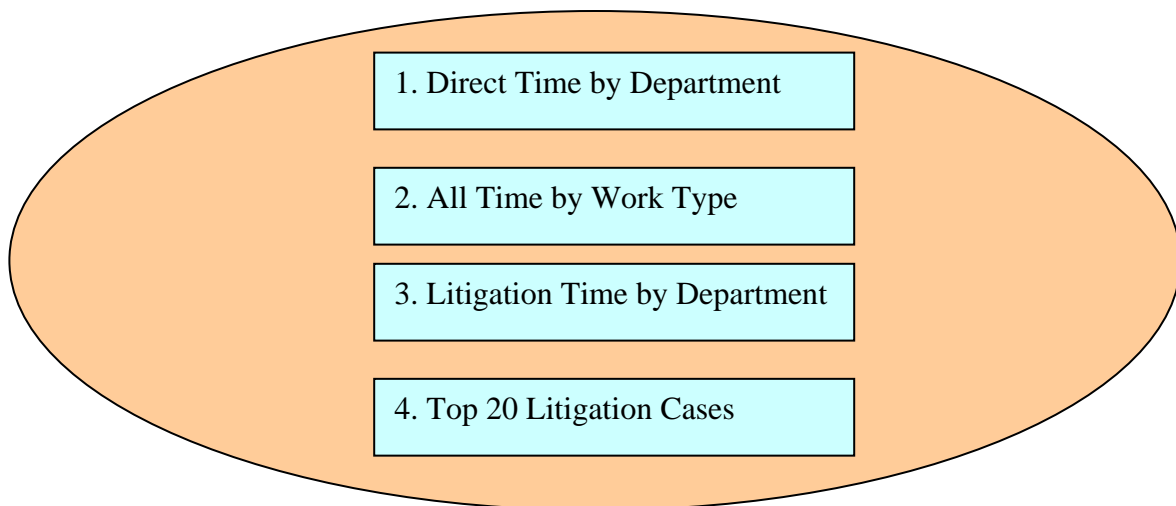
During the fiscal year 2000–2001, we provided 21,981.70 hours of direct legal services for litigation, legal consultation, legal document preparation and review, and client training.

We provided advice to all County departments regarding labor and employment issues working with the Human Resources staff, supervisors and managers, and Labor Relations to resolve employment-related matters. We also responded to discrimination complaints filed with Oregon's Bureau of Labor and Industries and the Equal Employment Opportunity Commission.

We are working with the Department of Support Services to reorganize, consolidate and update the county personnel rules. We plan for them to be adopted as a new Executive Rule and publish them in one compilation with Charter, Code and Resolution provisions relating to county officers and employees. County personnel polices and practices will then be much easier to find and use. We believe this will help reduce future employment claims and lawsuits.

GRAPHS

Graphs 1-4 outline how we spent our legal service hours.



Graph 1 shows that the greatest amount of direct service time was devoted to the Sheriff's Office. The total hours for the Sheriff decreased by 531.5 from 1999-2000. Last year 29% of all our time went to the Sheriff; in 1999-2000 it was 33%. The hours spent on Health Department legal matters increased from 1,223.5 to 2,464.5 hours, up from 7% the prior year to 11% of our time. This is almost entirely due to the defense of serious cases brought against the Corrections Health Division. Also, time in previous years that may have been coded to the Sheriff was correctly coded to Corrections Health. This also explains some of the decrease in service hours to the Sheriff.

Graph 2 depicts direct service hours expended by the various work types. Litigation consumed 58% (up from 57%) of our time. Percentage of time spent in preparation and review

of contracts and other legal documents (15%), legal consultation (26%), and client training (1%) remained about the same.

Graph 3 shows litigation time by department. At 42% (down from 50%) of the litigation time, the Sheriff is still our biggest client. The greatest change was Health Department litigation that increased from 882.3 hours in 1999-2000 to 1,784.4 hours last year, an increase from 7% to 14% of our litigation hours. This is due to an increase in time spent on Corrections Health cases and to changes in timekeeping practices that in previous years attributed time spent on some Corrections Health cases to the Sheriff. Litigation time for Community Justice decreased from 1,800.6 to 779.1 hours, primarily the result of the conclusion of several employment cases. The Department of Sustainable Community Development continued as our second biggest litigation client at 2,837.20 litigation hours (22%).

Graph 4 shows our Top 20 Cases by Litigation Time. This past year the Sheriff had 8 of the cases down from 10 in 1999-2000. Community Justice cases in the top 20 were fewer, from 4 to 1. The Health Department went from none in the top 20 cases to 4. Sustainable Community Development remained constant at 4 cases. In the past fiscal year, the total top 20 cases accounted for 57% of all litigation hours. In 1999-2000 the top 20 cases accounted for 61.4%.

Attached is a report by the Litigation Manager, Gerry Itkin. It contains additional information about litigation activities and the current status of County litigation, including information about claims frequency and losses paid. The County continued to restrain liability losses in the past fiscal year. However, given the serious nature of current cases pending and the uncertain future of the Oregon Tort Claims Law, it will be difficult to maintain that restraint.

EFFECTIVE RATE

The effective rate paid for each hour of direct legal service was \$87.41. This rate saved the County and taxpayers a significant amount of money from rates charged by private law firms.

Legal fees charged by Portland firms for representing government clients now range from \$150 to \$300 per hour. Our rate is also less than that charged by other government law firms.

The increase from 1999-2000 (\$82.83) is \$4.58 and of that amount about \$4.35 is due to the increased building charge from the office move to the Multnomah Building. This means that aside from rent, our costs only increased by \$0.23 per hour or less than 1/10th as much as the 3% rate of inflation.

Of all hours reported by County Attorneys 82.3% went to direct client legal services. This means we continue to spend less than 18% of our office time on administrative and professional development services. The average number of direct legal service hours provided during the fiscal year by each lawyer increased from 1,516 to 1,570. The following chart summarizes the effective hourly rate computation:

Total Hours Reported		26,705.91
Direct Service	(82.3%)	21,981.70
Non-Direct Service	(17.7%)	4,724.21
Administrative	(12.6%)	3,355.71
Professional	(05.1%)	1,368.50
14 Lawyer FTE Average Hours		1,570.12
Office Actual Budget Expenditures		\$1,981,972.21
Less Professional Services		\$60,555.60
Net		\$1,921,416.61
Divided by Direct Service Hours		21,981.70
Effective Hourly Rate		\$87.41

PROLAW

During the past fiscal year we installed and began using ProLaw, a new case management computer database. We converted the time recorded in Timekeeper to ProLaw and since May 2001 we have been recording our time and opening all new matters in ProLaw. We are now beginning to use the database to manage all of our matters, contacts and documents in our practice areas. The new software permits us to combine case management, matter contacts and timekeeping in a single electronic system.

We will ultimately use ProLaw as our complete document management system, including full-text indexing, document assembly and timekeeping. It will allow us to track literally anything created in the performance of legal services: word processing documents as well as images, spreadsheets, videos, audio and charts. We expect to have ProLaw fully implemented by the end of the current fiscal year.

CONCLUSION

We have now compiled three years of reliable legal service data. This permits us to quantify the hours of legal services, the nature of the services and the clients that receive services. The data allows us to more efficiently manage, monitor and deploy county legal assets.

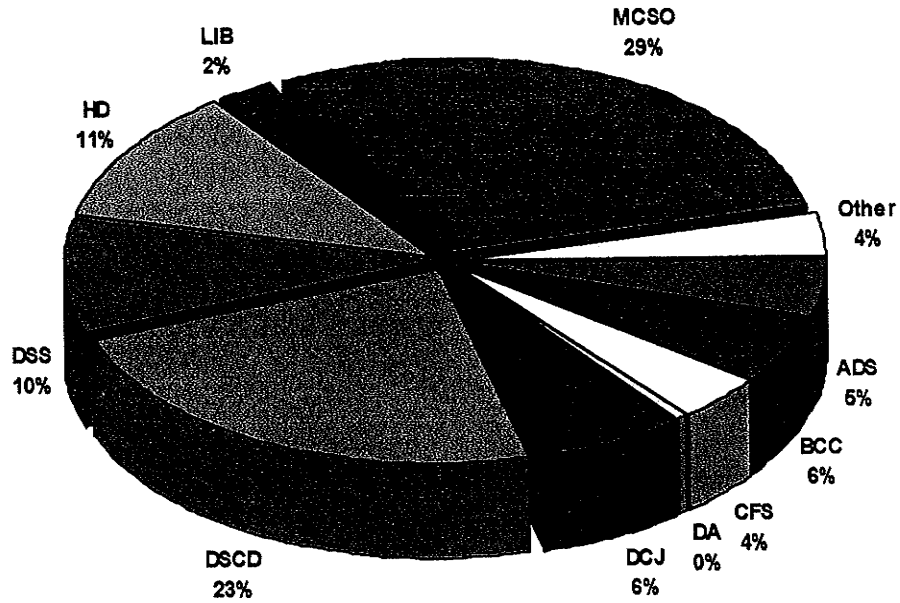
Three statistics particularly show the efficiency of the County Attorney Office:

- (1) Over 82% of lawyer office hours go to direct legal services;
- (2) Each lawyer averages 1,570 direct service hours per year; and
- (3) The cost of each direct service hour is \$87.41.

Our challenge is to continue to provide efficient and effective legal services and increase appropriate non-litigation use of our resources. We also must meet the increasing demands of more complex and serious litigation. We continue to work closely with the Sheriff, the department that uses the largest share of our resources. We continue to seek opportunities to more effectively use County legal resources. We continue to look for ways to improve our services to best meet the County's legal needs. Our mission is to provide high quality, client-focused service and good value for the tax dollar. We believe we perform that mission well.

Direct Service Time to Departments

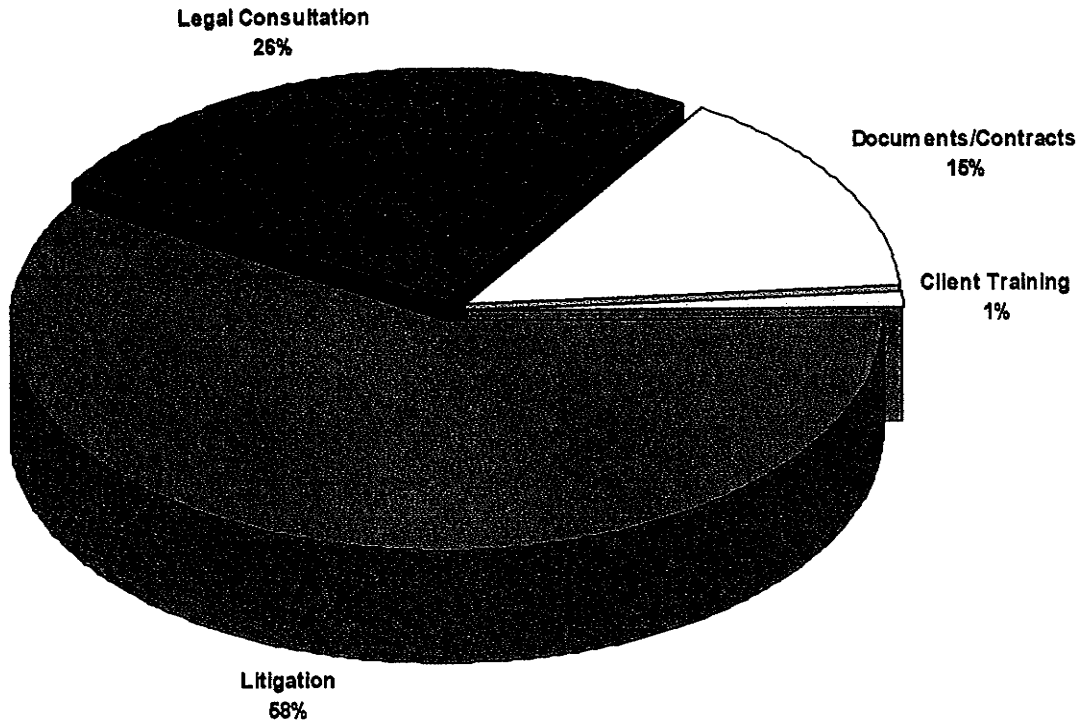
7/1/00 through 6/30/01



Department	Hours
Sheriff	6,350.10
Sustainable Community Development	5,116.30
Health Department	2,464.50
Support Services	2,104.70
Community Justice	1,420.00
Board of Commissioners	1,232.70
Aging & Disability Services	1,046.70
Community and Family Services	863.40
Other County	788.50
Multnomah County Library	529.40
District Attorney	65.40
	21,981.70

Direct Service Time

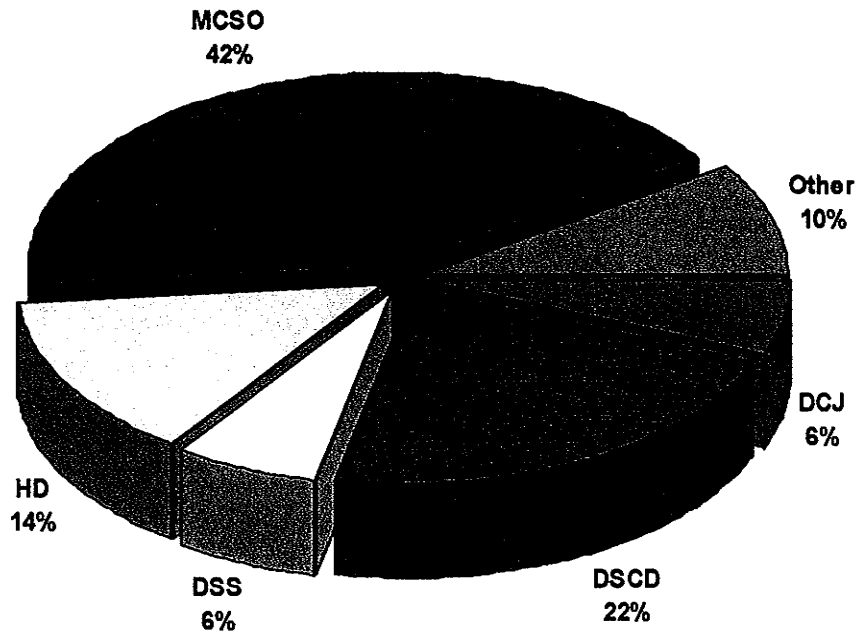
7/1/00 through 6/30/01



<u>Work Type</u>	<u>Hours</u>
Litigation	12,819.30
Legal Consultation	5,705.90
Documents/Contracts	3,211.10
Client Training	245.40
	21,981.70

Litigation Time by Department

7/1/00 through 6/30/01



Department	Time
Sheriff	5,374.30
Sustainable Community Development	2,837.20
Health Department	1,784.40
Support Services	819.90
Community Justice	779.10
Other County	498.40
Aging & Disability Services	482.70
Board of Commissioners	97.30
Multnomah County Library	92.10
District Attorney	33.80
Community and Family Services	20.10
	12,819.30

Litigation Time - Top 20 Cases

7/1/00 through 6/30/01

573 total open litigation files

<i>Community Justice</i>			1 of 26 open litigation files	Total	% of Dept's Lit
0085-00	AS	Serrano, Carie v. Multnomah County		393.20	
				393.20	779.10 50.5%
<i>Health Department</i>			4 of 38 open litigation files	Total	% of Dept's Lit
0416-98	SEA	Klarquist, Peter S. v. Multnomah County, Robert Salisbuy and Riek		891.10	
0351-00	GHI	Vazquez-Vargas, Vianey v. Multnomah County, Chan, OHSU, Stei		216.40	
0333-00	AS	Hess, Cardina vs. Multnomah County & Teschner		211.50	
0260-98	AS	Price, Raymond K. v. Multnomah County		128.00	
				1,447.00	1,784.40 81.1%
<i>Other County</i>			1 of 22 open litigation files	Total	% of Dept's Lit
0240-00	SMD	Kimoto, James v. Multnomah County, et al		257.80	
				257.80	58.7%
<i>Sheriff</i>			8 of 227 open litigation files	Total	% of Dept's Lit
0548-97	GHI	Gafford, Reginald Brian (Death Investigation)		1,167.60	
0167-00	SEA	Beckel, Jon R. v Multnomah County Sheriff's Office		363.60	
0144-00	SMD	Biberdorf, Lowell C. v. State of Oregon, Multnomah County, et al		251.70	
0189-99	SEA	Rohrscheib, Michael A. v. Multnomah County Sheriff's Office, et al.		222.70	
0246-00	JMM	Sousa, Eugene v. Multnomah County, et al		208.10	
0336-98	SMD	Canell, Alvin Howard v. Multnomah County		200.40	
0106-00	JMM	Donald, Aaron v. Multnomah County, Dan Noelle, et al.		138.80	
0245-00	JMM	Hobson, Paul Noren, et al v. Multnomah County, et al		111.60	
				2,664.50	5,315.20 50.1%
<i>Support Services</i>			2 of 65 open litigation files	Total	% of Dept's Lit
0154-00	TS	McIntire, Don, et al v. Bill Bradbury, et al		130.60	
0003-98	GHI	Administrative-Open Tort Claims		123.90	
				254.50	819.90 31.0%
<i>Sustainable Community Development</i>			4 of 117 open litigation files	Total	% of Dept's Lit
0249-99	SND	Frevach Land Co. (Fred's Marina) v. Multnomah County		1,217.60	
0373-99	SND	SFG Income Fund, LP v. May and Multnomah County		611.50	
0033-98	JST	Sellers Condemnation - SE 257th and Orient Dr.		250.10	
0294-00	AS	Nicholas, Larry F. v. Stein, Farver and Multnomah County		148.90	
				2,228.10	2,837.20 78.5%
Total Litigation Hours for these Cases				7,245.10	
Total Litigation Hours - All Departments				12,701.10	
% of Total Litigation Hours for these Cases				57.0%	

COMMUNITY JUSTICE

Carie Serrano v. Multnomah County – (393.20 hours)

This former on-call Custody Services Specialist in Juvenile Community Justice was discharged when we learned that she had married one of the youth who had been housed at Donald E. Long home and who she had supervised. We have a policy against our employees entering into personal relationships with the youth without permission. She filed a lawsuit based on freedom of association, privacy, gender discrimination, marital status discrimination. On 9/10/01, we won the case on summary judgment.

HEALTH DEPARTMENT

Peter Klarquist v. Multnomah County, et al. – (891.10 hours)

Plaintiff, an inmate at the Multnomah County Detention Center, self-enucleated his eyes while in a psychotic state brought on by his failure to take his psychotropic medications. In his federal lawsuit, plaintiff contended that his civil rights were violated by the County, MCDC Corrections Officers and Corrections Health staff. Plaintiff alleged the County failed to adequately train the corrections officers and that the Corrections Health policies were inadequate to ensure the safety of mentally ill inmates at the facility. Individual defendants were also sued on negligence grounds. After extensive investigation and discovery, the County eventually settled the lawsuit by purchasing an annuity, which will provide long term support for plaintiff.

Vianey Vazquez-Vargas v. Multnomah County, et al. – (216.40 hours)

This is a medical malpractice case of an eight-month old baby who was a patient in our primary care clinic. She was diagnosed as having Viral Meningitis and who was expected to recover with no intervention. In fact, the child had TB Meningitis and suffered a debilitating stroke the neurological deficits of which are profound and permanent. Trial is set May 2002.

Carolina Hess v. Multnomah County, et al. – (211.50 hours)

This former employee of the Health Department claims she was subjected to racial discrimination and a hostile work environment. She cites a litany of incidents she believes demonstrate discrimination, all of which are facially non-discriminatory. Motions for summary judgment have been filed and oral argument is set for 10/22/01. Trial is scheduled for January 2002.

Raymond Price v. Multnomah County – (128.00 hours)

This former employee of the Health Department claimed he was retaliated against and discharged for requesting FMLA rights. He also claimed age and race discrimination. We won the case on summary judgment in July.

OVERALL COUNTY

James Kimoto v. Multnomah County, et al. – (257.80 hours)

Plaintiff brought a negligence claim against Multnomah County Animal Control after he was attacked and bitten by three dogs and as a result suffered a heart attack and other injuries. Defendant Multnomah County filed a motion for summary judgment and asserted all the actions taken by the animal control officers were based on the Multnomah County Code provisions related to animal control. Therefore, the County was entitled to discretionary immunity. The court granted the County's motion and granted summary judgment. The plaintiff did not appeal.

SHERIFF

Reginald Gafford v. Multnomah County, et al. – (1,167.60 hours)

This was a civil rights wrongful death case concerning an inmate who died in a scuffle with five corrections deputies in the Justice Center. After extensive motions practice and trial preparation, we settled the case when the trial judge made several critical adverse rulings, which would have materially harmed our case. The settlement was for \$200,000.

Jon Beckel v. Multnomah County – (363.60 hours)

In this medical malpractice case, Mr. Beckel died from a subdural hematoma he suffered in a fall prior to coming to the Justice Center. It is argued that we negligently failed to monitor him and detect the signs of his worsening condition as well as making things worse by roughing him up. Trial is set for March 2002.

Lowell Biberdorf v. Multnomah County, et al. – (251.70 hours)

Plaintiff brought a 42 USC Section 1983 action as well as state claims in Federal Court alleging that the Sheriff's Office and an individual defendant (Robert Vanderbeck, corrections counselor) violated the plaintiff's rights by failing to give plaintiff three and a half months of credit for time served. The most important issue thus far has been when does a cause of action for false imprisonment under state and federal law begin to accrue. Thus far the court has decided that accrual does not begin until release and therefore denied the County's Motion for Judgment on the Pleadings. This may be an issue on appeal; in the interim this case is still in discovery with dispositive motions due in January 2002.

Michael Rohrscheib v. Multnomah County, et al. – (222.70 hours)

Plaintiff, an inmate at MCDC, brought this federal action, alleging numerous violations of his civil rights, including assaults by corrections officers, dietary and medical improprieties and improper administrative punishments. All of the allegations were without merit and many hours were expended to prepare the case for trial. On the eve of trial, the plaintiff dismissed the case.

2000-2001 COUNTY ATTORNEYS ANNUAL REPORT

Eugene Sousa v. Multnomah County, et al. – (208.10 hours)

Fed Court: 8th Amendment Deliberate Indifference and medical malpractice case against Multnomah County and Nurse Baxter. Plaintiff was incarcerated for 5 hours and claims denial of medical treatment to swollen knee. We filed a summary judgment motion on constitutional claim and settled the negligence claim for \$1,500.

Alvin Canell v. Multnomah County – (200.40 hours)

Plaintiff brought thirty-six claims in Federal Court alleging that various conditions of confinement from the way food is handled, to adequacy of law library, to double bunking. Defendant filed a Motion for Summary Judgment for all claims. The court granted summary judgment on all claims. Plaintiff did not appeal.

Aaron Donald v. Multnomah County, et al. – (138.80 hours)

Fed Court: 8th Amendment Deliberate Indifference and medical malpractice against Multnomah County, Grant County, and respective Sheriffs. Injury to thumb not properly treated. Deliberate Indifference summary judgment motion was successful, case remanded to state court. Working on settlement of Negligence claims in State Court.

Paul Hobson v. Multnomah County, et al. – (111.60 hours)

Class Action suit brought by former inmate claiming that Multnomah County does not provide dental or psychological care at the Constitutional minimum. Case was DISMISSED

SUPPORT SERVICES

Don McIntire v. Multnomah County, et al. – (130.60 hours)

We represented Vicki Ervin, elections officer, in case challenging disqualification of initiative petition signatures. On cross motions for summary judgment, trial court concluded State law violated Federal due process because of defective notice. The State approved notice did not inform electors that inactive registration status made them ineligible to sign petitions until they reregistered. Secretary of State agreed to adopt administrative rule requiring election officials to use constitutional notice. State and County paid \$60,000 attorneys fees - State 2/3rd and County 1/3rd.

Administrative – Open Tort Claims – (123.90 hours)

This is the work Mr. Itkin does daily on reviewing/triaging/resolving tort claims which are filed against the County. We receive 300-400 annually.

SUSTAINABLE COMMUNITY DEVELOPMENT

Frevach Land (Fred's Marina) v. Multnomah County – (1,217.60 hours)

This was a Federal Court case against the County Planning Department arising out of a Stop Work Order for grading without a permit. Plaintiff asserted several § 1983 claims. It was settled several days before trial for \$75,000.

SFG Income Fund v. Multnomah County, et al. – (611.50 hours)

This was a State Court claim by defendant May, an appraiser, against the County for misrepresentation by a County Land Use Planner. In October 2000 there was a six day trial (May's case-in-chief) and the Court granted the County's Motion for Directed Verdict. May has appealed and its brief is due at the end of October.

Sellers Condemnation – SE 257th and Orient Drive – (250.10 hours)

This case involved the acquisition by eminent domain of a small triangular shaped parcel of land needed for the new intersection that is planned at 257th and Orient Drive. This case went to trial in December 2000 and was settled at trial after all of the County's pre-trial motions were granted. It is rare that eminent domain is required to acquire property for street right of way and even rarer that such cases go to trial. During this fiscal year, the county acquired several other properties for this and other projects by negotiation.

Larry Nicholas v. Multnomah County, et al. – (148.90 hours)

This former Director of DES claims he was discharged because of his age, gender, race, and in violation of his contract rights. In addition he claims defamation and false light due to an *Oregonian* article in which a county official was quoted. The case is in the process of discovery.



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MEMORANDUM

TO: Multnomah County Board of Commissioners

FROM: Gerald H. Itkin, Deputy County Attorney

DATE: November 1, 2001

RE: Status of Litigation

Executive Summary

- Employment litigation is increasing nationally
- Multnomah County employment litigation is up substantially
- Major non employment tort litigation is experiencing a spike - particularly wrongful death and medical malpractice
- The Jensen case, currently before the Oregon Supreme Court, poses a threat to the limitation on damage awards the County now enjoys - potential impact: \$20 million
- There is too much litigation to be safely handled at current staffing levels
- Alternative of sending cases out for private firms to defend is very expensive
- A temporary part-time attorney is assisting while we analyze the situation to determine if this is a temporary or permanent problem

I. BACKGROUND

Oregon law requires that the County defend and indemnify its employees against all suits brought against them. ORS 30.285. The County Attorney performs this function as well as defending claims and suits against the County itself as directed by MCC 7-201(G). The County Attorney has five and ½ attorneys assigned litigators. There is also a litigation paralegal.

In the last decade the percentage of County Attorney time spent on litigation has risen from approximately 50% to 58% even while non-litigation legal service time has also risen.

A temporary litigation attorney is currently assisting as we determine if the current caseload is an anomaly or permanent condition. We will not request an additional permanent lawyer unless and until we are certain of the need.

II. PHILOSOPHY OF COUNTY'S LITIGATION DEFENSE

- No nuisance value paid
- When liability is reasonably clear we make a fair offer
- Otherwise we litigate
- Litigation is very time labor intensive
- Result: we are regarded in the community by the plaintiffs' bar as not an easy mark and this dissuades marginal claims.

III. NEED FOR PROACTIVE RISK MANAGEMENT

- The county seeks to minimize risk by proactively analyzing potential risks and taking steps to minimize them
- This task is complex and difficult
- Responsibility was shared between DSS/Risk Management and County Attorney
- County Attorney role is undermined by active caseload volume
- The DSS's role was reduced by the recent elimination of the position of County Risk Manager

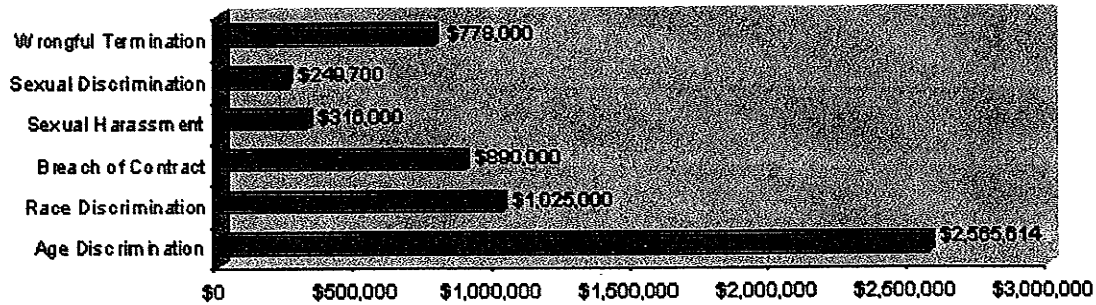
IV. LITIGATION TRENDS

• National Employment Lawsuit Trends

In the past few years there has been a tremendous increase in the number of employment related Civil Rights lawsuits in Oregon and nationwide. In 1988, 8,500 employment related lawsuits were filed in Federal District Courts nationally; in 1997, it was 28,000. Oregon Federal District Courts had 50 employment related Civil Rights suits filed in 1988; in 1997, that number increased to 349. The most recent years numbers are not available, but it is estimated that there are 450 employment lawsuits filed in the United States everyday. Twenty percent of the civil litigation in the United States now involves employment related issues. Multnomah County has followed this trend.

Further, statistics show that the employment discrimination cases that actually proceed to trial result in verdicts for the plaintiffs approximately two-thirds of the time. When defendants lose employment cases at trial the verdicts are often very large. One source estimates that the average damage award employers must pay in employment related lawsuits is \$650,000. Recently federal juries in Portland have awarded verdicts of \$1.68 million and \$1.2 million, and a jury in Clackamas County recently awarded nearly \$3 million. The following graph demonstrates average settlement awards in the United States by claim type.

Average Settlement Awards



The defense of these cases is expensive even where the employer has settled before trial or wins the case. A recent survey by the Chamber of Commerce found that half of the companies sued for employment related claims spent over \$50,000 per claim and one-third spent more than \$100,000 per claim in defense expenses alone. These include claims that were settled prior to trial.

- **Our Employment Data**

Unfortunately, but not surprisingly, the County is tracking along with the national and local statistics. Currently we are defending eight employment lawsuits. Almost all of them claim at least \$300,000 for pain and suffering, plus back pay, plus front pay, and attorney fees and costs. In addition, some seek punitive damages against individual employees they have named in the lawsuit. Any adverse verdict would include a judgment similar to those outlined above, plus an award of attorney fees typically in excess of \$100,000.

Employees must file employment claims with the Bureau of Labor and Industries or EEOC before they can file a lawsuit based on federal claims. They must give us a tort claim notice if they intend to file a lawsuit based on state claims. Therefore we always have a reasonable expectation of employment lawsuits. Based on current administrative and tort claims, we expect between 7 and 10 lawsuits within the next few months. In addition, we expect that the tight County budget and restructuring will result in additional claims.

We have on occasion hired outside counsel for cases. The cost has been high. In the Mockler case, tried a few years ago by outside counsel, we paid \$222,539 in attorney fees and lost the case. The Sabatini case was tried by outside counsel, but we provided the second chair and performed much of the preparation work in house. Still, we spent \$71,839 on that litigation. Most recently, we hired outside counsel to defend individual defendants in the Pool case. We represented the County and the Sheriff and did as much of the work as we could for the outside counsel and won on summary judgment, but still paid \$38,152. Further, we hired outside counsel to prepare the appellate brief in that case, that cost another \$34,839.

Generally, our strategy is to investigate employment claims to determine whether any actions might result in liability and if so, to attempt to negotiate a settlement before we receive formal

claims. We do not recommend settlement for “nuisance value” of employment claims because it encourages additional claims. When faced with an employment lawsuit that will not be settled, we defend it vigorously and try to win on summary judgment before trial. This is essential, because the risks at trial are so great. We have had good success winning such summary judgment motions. However, a successful summary judgment motion requires an enormous amount of investigation, discovery and briefing. It generally occurs shortly before trial.

- **Our Non Employment Tort Data**

If the Jensen case eliminates the tort claim limit currently enjoyed by Multnomah County under Oregon Law, we anticipate that County reserves will need to be increased by \$20,000,000.

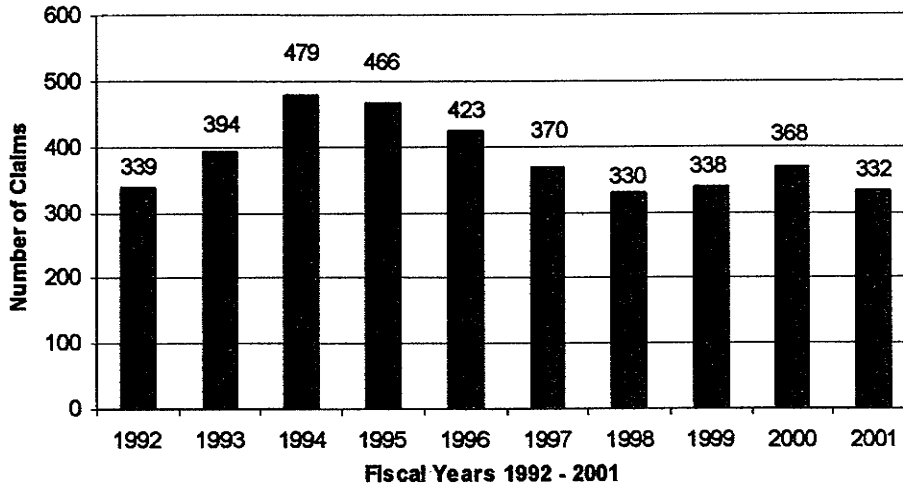
Examples of the serious non-employment cases currently open include:

- Wrongful Death-failure to diagnose subdural hematoma
- Wrongful Death-failure to diagnose liver cancer
- Wrongful Death-failure to diagnose heart attack
- Wrongful Death-failure to prevent or respond to suicide
- Wrongful Death-failure to timely serve process in products liability case
- Permanent brain injury to infant-failure to diagnose TB Meningitis
- Four (4) administration of incorrect drugs or dosage
- Failure to diagnose lung infection resulting in surgical removal of the lung

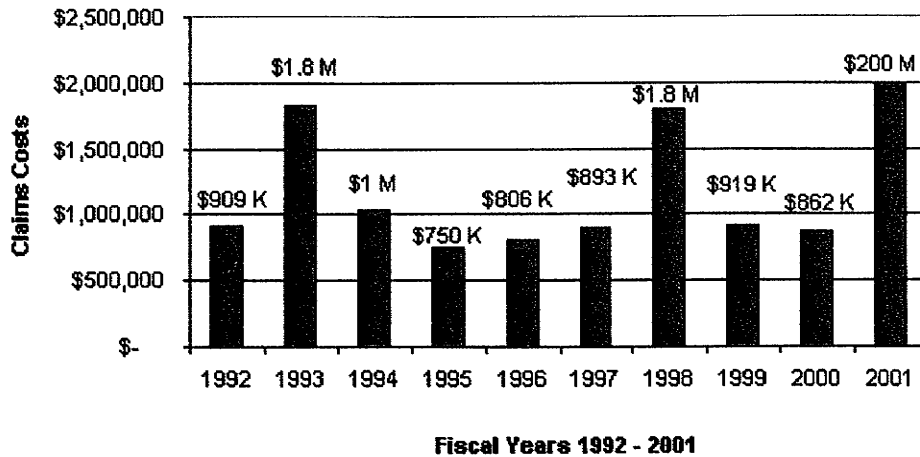
As recently as FY97 the County Attorney’s Office direct service hours were approximately 50% litigation. They are now over 58%. In this same time period the number of direct service hours for non-litigation has actually increased. The complexity and severity of cases requires this large application of direct service hours. For example, in FY01, one case had over 1,100 hours of work and this case had been open for several years. Another had nearly 900 hours. Both of these cases ultimately were settled. Had they gone to trial the hours would have been substantially greater.

The good news is that these claims have not increased in absolute numbers...the bad news is that they are growing substantially in complexity and potential liability. This means proactive risk management efforts must be increased. Current staffing of the risk management function does not permit this and presages an increase in overall claims. The County Attorney’s role in proactive risk management is also compromised as a result of the spike in litigation. It is hoped that the use of the relatively inexpensive temporary attorney will allow more time for us to work proactively and avoid such a permanent increase.

LIABILITY CLAIMS FREQUENCY



LIABILITY CLAIMS LOSSES



In FY01 alone, there were six new claims opened with the following future reserves: \$325,000, \$275,000, \$250,000, \$250,000, \$205,000, and \$120,000. These claims have the potential for far greater losses if Jensen is decided against our interests. In that event the reserves will be adjusted substantially upward. These six claims account for \$1,425,000 of the total amount of \$2,000,000 for this fiscal year to date. The remaining 326 claims make up the balance of \$575,000. An adverse decision in Jensen would result in the reserves for these cases alone being increased tenfold.

V. ALTERNATIVES

- Settle cases sooner with less work...this is “Robbing Peter to pay Paul” and is expensive in the short run; moreover, it encourages marginal cases being brought thus increasing the litigation load and is self defeating.
- Send cases out for private sector defense. Very expensive, e.g., one case costs \$100,000 to \$250,000 to prepare through trial and no one case would significantly reduce workload.
- Expand staffing levels temporarily to insure high quality in-house defense of cases.
- Monitor claim and caseload numbers and complexity and analyze staffing levels to see if permanent adjustments need to be made.