

**OFFICE OF THE
CITY ATTORNEY**

SAMUEL L. JACKSON
CITY ATTORNEY

ASSISTANT CITY ATTORNEYS
RICHARD E. ARCHIBALD
SANDRA G. TALBOTT

SUPERVISING DEPUTY CITY ATTORNEYS
GUSTAVO L. MARTINEZ
ROBERT D. TOKUNAGA
BRETT M. WITTER
SUSANA ALCALA WOOD

**CITY OF SACRAMENTO
CALIFORNIA**

980 NINTH STREET, TENTH FLOOR
SACRAMENTO, CA 95814-2736
PH 916-808-5346
FAX 916-808-7455

DEPUTY CITY ATTORNEYS
DIANE B. BALTER
MICHAEL J. BENNER
SHERI M. BUZARD
ANGELA M. CASAGRANDA
JOSEPH P. CERULLO
PAUL A. GALE
SABINA D. GILBERT
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GERALD C. HICKS
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November 10, 2004

CITY OF SACRAMENTO
CITY COUNCIL
Sacramento, California

Honorable Members in Session:

SUBJECT: City Attorney's Staffing Study

LOCATION AND COUNCIL DISTRICT: City-wide

RECOMMENDATION: Based upon the attached consultant study, which analyzes the staffing level and efficiency of the City Attorney's Office (CAO) as well as other comparable municipal law offices and the presentation of the same to the City Council, the City Attorney recommends that the Council take the following action concerning staff augmentation: (1) authorize three new attorneys, one paralegal and two legal secretaries at a total approximate cost of \$596,691; (2) direct the City Manager and City Attorney to report back prior to May 1, 2005 with a plan for implementing the augmentation over the next two fiscal years (commencing with fiscal year 2005-2006); (3) direct the City Attorney to have a staffing level review conducted every three years, utilizing the criteria developed by Koff and Associates, unless otherwise directed by the Council; and (4) direct the City Attorney to continue to explore and report to the Council regarding other ways to provide non-monetary incentives to staff.

CONTACT PERSON: Samuel L. Jackson, City Attorney, 808-5346

FOR COUNCIL MEETING OF: November 23, 2004

SUMMARY: Adequacy of staffing has been one of the City Attorney's constant concerns since 1994 when the office was reorganized and the litigation workload immediately increased from approximately 16% to 90% without the addition of new staff. Since that time, the Mayor, Council and City Manager have been receptive to and supportive of increasing the level of staffing to

handle the growing demand for legal services. As a result and upon the recommendation of the City Attorney, staffing has been increased during this period of time. However, the question remains as to whether additional staffing is required to keep pace with expanding demands for legal services and to maintain a motivated and high performing professional staff.

During the presentation of the City Attorney's Annual Report for Fiscal Year 2002-2003, the Council authorized the expenditure of \$50,000 of City Attorney budget savings to conduct a staffing study. The City Attorney was directed to report back to the Council on the results of the survey with a recommendation for adjustments and an implementation plan. The City Attorney secured the consulting services of Koff and Associates, Inc. in June 2004 to conduct an objective assessment of the operation and efficiency of the office by comparison to other municipal law offices and to make a recommendation as to whether we were adequately staffed.

The consultants will discuss their study including the data collection process, analysis and conclusion as part of this report. We also surveyed other City Attorney offices to determine what, if any, staff motivation, "burn-out" prevention or other non-monetary incentive programs they are utilizing. We also understand that the department of Human Resources are reviewing such incentive programs or benefits.

BACKGROUND: As is the case with all city departments, measuring the adequacy and determining the efficient use of staffing has been an ongoing concern of the City Attorney. The City Attorney's Office was staffed with two attorneys in 1960; six by 1980; fourteen by 1990; and grew to twenty-eight by 2000. This growth occurred without any advanced planning as no prior efforts had been undertaken to determine adequacy of staffing. Eventually, in 1994, with an eye toward advanced planning, the office was reorganized to make more efficient use of our resources and bring cases "in-house," and as a result, the litigation workload increased considerably.

In recognition of the increased litigation workload, the Council authorized the addition of several litigation support positions in 1997. One of the current City Manager's first budget recommendations to the Council in 1999 regarding staffing augmentation was to authorize the City Attorney to convert recurring annual salary savings (derived by filling vacant positions with unseasoned but easily trainable staff) for use to hire three permanent attorneys. Prior to that time, the salary savings were ineffectively used to hire limited-term staff on a fiscal year basis.

In 2000, the Council directed the City Attorney's Office to undertake criminal prosecution of City Code violations. While the initial plan had been for this office to handle a limited number of criminal prosecutions to enforce City Codes, this office was ultimately directed to assume

responsibility for virtually all criminal prosecutions of City Code violations. The Council added an attorney and a secretary position to assist with that substantially increased workload. In 2001, the department of Human Services conducted a survey of staffing levels for comparable City Attorney offices. That survey reflected that Sacramento's staffing level was not keeping pace with those offices. During the City Attorney's Annual Report for 2001-2002 and 2002-2003, we again discussed with the Council the level of City Attorney staffing. During the 2002-2003 Annual Report, the Council authorized the expenditure of \$50,000 from City Attorney budget savings for a comprehensive staffing study. Due to the press of our regular legal work, we were not able to devote time to this effort until June 2004. That study has been completed and the results will be presented as part of this report. In addition, we will discuss an internal survey of other City Attorney offices to determine what, if any, staff motivation, "burn-out" prevention or incentive programs they are utilizing.

In his 2003-2004 budget, the City Manager recommended the addition of an attorney position to handle the expanding code enforcement workload. That position has been filled and is figured into the staffing study analysis referenced above.

FINANCIAL CONSIDERATIONS: The fiscal impact of this report will depend upon what action the Council takes on the City Attorney's recommendation for staffing augmentation over the next two fiscal years to reach staffing parity. The following are the recommended staffing additions based current budgetary figures: 1 Senior Deputy City Attorney = approx. \$131,040; 2 Deputy City Attorneys = approx. \$118,144 each for a total of \$236,288; 1 paralegal = \$69,680; and 2 Legal Secretaries = \$58,864 each for a total of \$117,728. The total (salary and benefits) for all positions is \$554,736. In addition to the foregoing budget impact for salary and benefits, the required augmentation to the operating budget is as follows: \$1,800 for each position to cover parking for a total of \$10,800; \$385 for each atty position for bar dues for a total of \$1,155; and an annual expense of \$5,000 for each position for a proportionate amount of supplies and services for a total of \$30,000. The total operating cost augmentation is \$41,955. The total for salaries, benefits and operating costs is \$596,691. It is the recommendation of the City Attorney that these positions be authorized and filled over the next two fiscal years. Two attorneys, one secretary and one paralegal in fiscal year 2005-2006 and the remaining positions during fiscal year 2006-2007.

ENVIRONMENTAL CONSIDERATIONS: This report involves ongoing administrative activities of the City Attorney's Office and does not constitute a "project" within the meaning of the California Environmental Quality Act (CEQA) and is exempt from the requirements of CEQA under CEQA guidelines, Sections 15061(b) (1) and 15378 (b) (3).

POLICY CONSIDERATIONS: This report is consistent with the City's policy of promoting and maintaining a high performing, highly trained, dedicated and motivated staff for the delivery of high quality legal services and requiring accountability through performance based budgeting.

City Council
Re: City Attorney's Staffing Study
November 10, 2004
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ESBD CONSIDERATIONS: We have fully complied with ESBD policies and procedures by securing the services of an ESBD Certified Consultant to undertake this staffing analysis work. However, the implementation of action by council as a result of this report would not involve outside contractors.

Respectfully submitted,



SAMUEL L. JACKSON
City Attorney

RECOMMENDATION APPROVED:

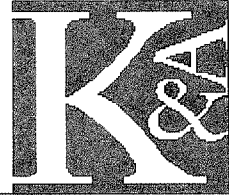
ROBERT P. THOMAS
City Manager

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- Attachment 3 - Overheads

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ATTACHMENT 1
REPORT
STAFFING STUDY
For The
SACRAMENTO CITY ATTORNEY'S OFFICE



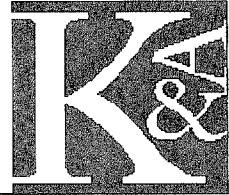
KOFF & ASSOCIATES, INC.
Human Resource Consulting Since 1984

REPORT
STAFFING STUDY
For The
SACRAMENTO CITY ATTORNEY'S OFFICE

November 10, 2004

KOFF & ASSOCIATES, INC.
18 Crow Canyon Court
Suite 165
San Ramon, CA 94583

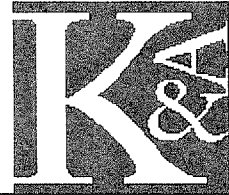
925.831.9794 - voice
925.831.9322 - fax
E-mail: gkoff@koffassociates.com



**REPORT
STAFFING STUDY
For The
SACRAMENTO CITY ATTORNEY’S OFFICE**

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**REPORT
STAFFING STUDY
For The
SACRAMENTO CITY ATTORNEY'S OFFICE**

BACKGROUND/STUDY PROCESS

In June of 2004, the Sacramento City Attorney's Office, with the authorization of the City Council, contracted with Koff and Associates, Inc. for consulting services to study the City Attorney's workload and to compare it to the workloads of comparable agencies within the State.

As indicated in the most recent and prior Annual Reports, the Sacramento City Attorney's Office had realized considerable growth in its workload. This growth was realized due to:

- An increased level of support given to the City's internal departments;
- An increased case load due to the growth of the City; and
- A commitment by the Office to manage internally the vast majority of the litigation caseload that had previously been outsourced.

The purpose of this study was to conduct an objective assessment of the workload of the Sacramento City Attorney's Office in comparison to other City Attorney Offices to determine whether the Sacramento Office is staffed appropriately.

Koff & Associates, Inc. staff met several times with the City Attorney and his staff to create the specific work plan and work schedule, reaffirm the primary objectives, determine communication links, identify comparator agencies and discuss scheduling. We agreed that the primary analysis would compare the Office to nine (9) other City Attorney Offices in Anaheim, Fresno, Long Beach, Los Angeles, Oakland, San Diego, San Francisco, San Jose and Santa Ana. These Cities were chosen for several reasons. All of the surveyed cities, including Sacramento, are the larger 10 cities in California. Secondly, most of the surveyed cities are comparable to Sacramento in terms of size, population, and the type of work handled by their City Attorney's Offices. While Los Angeles, San Diego and San Francisco were not completely comparable, they were included to give a complete picture of City Attorney Offices within the State. Finally, all of the cities included in the study are cities that frequently exchange information and resources with the Sacramento Office.

The comparisons between Offices involved the collection and analysis of three types of data:

Organizational Overviews and Background — In addition to basic data such as City population, City Attorney staffing, overall City staffing, etc., the political structure and history of the comparator cities were also included in our research.

Staffing and Litigated and Unlitigated Workload Data — This involves a wide variety of data, such as number of claims, number of clients, percentage of litigation handled internally, and other quantifiable data that are direct and indirect indicators of workload and necessary staffing levels.

Efficiency and Performance Data — This involves data such as the average length of time litigation cases are open, the percentage of cases litigated without payment by the City and the percentage of cases resolved prior to trial. Such data does not provide direct indicators of workload or required staffing but does provide important information to the City Attorney regarding the relative efficiency of the Office. This data also provides support for the cost-benefits of potential staff increases.

THE DATA COLLECTION PROCESS

Staffing studies are usually relatively straightforward and many involve comparisons between well-established productivity measures and the total product to be delivered. Data processing technicians, for example, can typically complete a certain amount of data entry in a given time period, and the amount of data to be entered will dictate the number of staff. More complex processes, such as the operation of a sewage treatment plant may have benchmarks that have been identified historically in terms of the capacity of the plant—a plant of given MGD (million gallons per day) capacity will require a given number of personnel in several occupational classifications.

Staffing decisions for professional positions such as Attorneys, however, present significant challenges. These positions are much more complex and more variable. Attorneys do not perform one repetitive task; they conduct a substantial amount of research into federal, state and local legal issues, they review and draft contracts, prepare and argue motions, represent the agency in hearings or trials, advise elected officials and public employees, verbally and through opinion/advice memorandum and perform a host of other related legal activities. There is no simple product that one can measure. Moreover, even within those “products” such as hearings and trials, there is a huge amount of variation in the work effort required. A simple hearing, for example, might require several hours of Attorney effort, but a complex trial might require weeks or months of work by several different Attorneys with different specialties. Similarly, one advice contact might require a few minutes of telephone contact, whereas another might generate several days of research and a formal, written opinion. Finally, the work

performed will vary significantly between Offices, depending on policy differences and the political environment. Some Offices try to reduce workload by routinely settling litigation cases for their “nuisance value,” whereas others discourage claims by aggressively litigating all cases. Practice variations such as this and many others will significantly affect the relative workloads.

These difficulties meant that Koff & Associates, Inc. needed to take a much broader and more in-depth look at workload data and the context within which the work is performed. Following is a description of the data that Koff & Associates, Inc. attempted to gather in support of our review of the staffing levels within the Sacramento City Attorney's Office. This ultimately included seventy-nine (79) data elements, most of which are discussed below. Included with each item is a rationale for its relevance. To simplify our analysis and presentation, we have organized the data into four areas — General Information, Litigation, Advisory and Code Enforcement.

General Information

1. Office staffing for the past five (5) years, including the number of supervising Attorneys, Attorneys, legal secretaries and other support staff identified by functions.

Rationale: This item assumes that City Attorney Offices performing the same or similar functions in comparable cities would grow at comparable rates. If other City Attorney Offices are growing at substantially different rates than the Sacramento Office, that might indicate a need for more detailed review.

2. City population and percentage growth compared to City Attorney staffing levels.

Rationale: Population growth presumably creates workload for all municipal functions, including legal staff.

3. City Workforce and percentage growth compared to City Attorney staffing levels. If other agencies maintain department-specific attrition information, identify turnover rates for the larger workload generating departments such as Police, Fire, Public Works and Parks and Recreation, which generate work for municipal legal staff.

Rationale: Since City employees constitute the basic clientele for City Attorneys; it is reasonable to assume that changes in their number would impact the workload of Attorney staff. The impact is obvious in the case of additional Fire, Police, or Code Enforcement personnel who bring cases to the City Attorney or otherwise take actions that generate workload for the City Attorney. Additional employees in a wide variety of functions will inevitably generate additional requests for legal advice.

The attrition information is useful, if available, in that the City Attorney's Office serves in an advisory role for disciplinary/termination issues. High turnover rates also impact the Office's workload in that new employees require training and during the learning curve, there is an increased risk for errors resulting in legal issues.

4. City Characteristics, including:
 - a. Age of Infrastructure
 - b. "At Large" vs. District Election of Council
 - c. Frequency of Council Meetings
 - d. Elected or Appointed City Attorney
 - e. Mayor Status (i.e. part- or full-time)

Rationale: All of these factors conceivably impact the workload of municipal legal staff. An older City, for example, might have a deteriorating infrastructure which could result in a higher number of litigated claims. Also, the more often a City Council meets, the more questions or assignments the Council might generate for the City Attorney. Although this impact may be difficult to quantify, significant differences in these factors may help to explain varying staffing levels, as the jurisdictions add legal staff to respond to higher workloads.

Litigation

Within the Sacramento City Attorney's Office, litigation is performed by both the Litigation Section and the Special Projects Section. Modern municipal government is a significant target for litigation in virtually every area of liability from "slip and fall" injuries on municipal facilities to complex lawsuits involving multiple jurisdictions and multiple issues. This work is a core function of every City Attorney's Office, and measures of the workload in this function are critical to evaluating appropriate staffing levels.

1. Percentage of litigation handled by staff vs. contract Attorneys.

Rationale: This is an obvious indicator of Attorney workload. The higher the percentage handled internally, the greater the workload.

2. Caseload Data, including:
 - a. Number of Claims Filed
 - b. Percentage of Claims That Result in Litigation
 - c. Number of Risk Cases
 - d. Number of Other Cases
 - e. Number of Administrative Hearings
 - f. Number of Motion for Summary Judgments (and percentage of total litigated claims)

- g. Average Length of Time Cases Are Open (case aging)
- h. Number of Cases That Are Handled on Appeal (Appealed by either party)
- i. Number of Extraordinary Relief Cases (e.g. injunctions, TRO's, etc).
- j. Percentage of Other Following Dispositive Motions Filed: Demurrers, Motions to Dismiss, Summary Judgments, Summary Adjudications, Motions to Dismiss in Federal Court, or Motions to Strike
- k. Percentage of Cases Settled for "Nuisance Value" Settlements

Rationale: Most of the above data represent logical workload measurements for litigation staff. Some provide indirect workload indicators, which reflect primarily on the quality and efficiency of the Office's work. As we had anticipated, however, this data was not readily available from all of the agencies surveyed and several agencies were unwilling to spend staff effort to compile that data which was not immediately available.

Advisory

Within the Sacramento City Attorney's Office, this function is performed by both the Advisory Section and the Special Projects Section and, by definition, all City Attorneys typically perform this work. The nature of this work, however, presented challenges for the definition and collection of workload indicators. Sacramento maintains data on the individual assignments in this area but most other agencies do not and were not able to provide all of this information.

- 1. Number of Contracts Drafted, Reviewed/Processed
- 2. Number of Ordinances/Resolutions Drafted
- 3. Number of Fees Enacted Requiring Attorney Input or Review
- 4. Number of Bonds or Financial Documents Issued, Requiring Attorney Input or Review
- 5. Number of Legal Advice and Opinion Memos; and
- 6. Number of Ballot Measures Drafted.

Rationale: The data above represent relatively straightforward workload indicators for this function.

- 7. Number of City Departments, Boards, Commissions, and Special Districts.

Rationale: This figure essentially represents the number of organizational "clients" and this clearly influences the relative workload of this function.

Code Enforcement

This function is not performed by all of the agencies in this study but the majority performs some enforcement and several were able to provide a reasonable proportion of the requested data.

1. Number of enforcement actions initiated, including number of administrative, civil and criminal actions.

Rationale: This is a good measure of code enforcement work but the data that Koff & Associates, Inc. obtained indicated some significant differences between jurisdictions, making it difficult to compare staffing.

2. Number of jury trials.

Rationale: These data reflect a straightforward measure of workload.

3. The total number of Full Time Equivalent (FTE) staff in various departments dedicated/assigned to code enforcement.

Rationale: This figure essentially represents another measurement of the number of "clients" generating the workload of this function. Unfortunately, the data available was insufficient to serve as a reliable indicator.

While some data was collected from the comparator agencies' websites and annual reports, the primary data collection began with a contact provided by the Sacramento City Attorney to each of his colleagues in the comparator agencies. The City Attorney explained the study to each, solicited their cooperation and obtained the name of a key contact that would be able to provide the data. Consulting staff then emailed a survey form to each of the contacts, and followed up with telephone interviews to obtain the data that is reported and used herein.

When we initiated the data collection, we recognized that it was unlikely that all of this data would be available from all of the agencies contacted. On one hand, most agencies are not as thorough in collecting and compiling data as the Sacramento City Attorney's Office. On the other hand, experience in data collection indicates that some agencies would be reluctant to dedicate the staff effort to complete a survey as lengthy as this one. Nevertheless, Koff & Associates, Inc. and the City Attorney's staff agreed that, to the extent that such data is available, it would be useful both to our staff and to the City Attorney and, therefore, worth the effort to try to collect it. As noted below, the results were entirely consistent with these expectations.

COMPARATOR AGENCIES

Working with the City Attorney's Office, we originally identified six (6) agencies that would be appropriate for comparison — Anaheim, Fresno, Long Beach, Oakland, San Jose and Santa Ana. These cities were selected to provide a sufficiently large sample that covered a diverse sample of the State and that included cities of size and complexity roughly comparable to that of the City of Sacramento. At the request of the City Attorney's Office, we added the three largest cities in California — Los Angeles, San

Diego and San Francisco to determine if they could share data in at least some comparative areas. This would extend our data to include all of the ten (10) largest cities in the State and it would ensure that we had a complete perspective of the scope of municipal legal services.

As we had anticipated, there was some variation in the availability of data and the cooperation of the comparator agencies. Ironically, the three largest cities provided the least data; each referred us to either their website or their annual reports, none of which provided detailed information on most of the requested data. For this reason, the data that they provided is not reflected in this report. Nevertheless, with the exception of "the big three," we were able to collect sufficient data to make some useful and reliable comparisons.

DATA ANALYSIS

We have commented above on the difficulty in analyzing the staffing of City Attorneys' Offices. To facilitate our analysis, we prepared a number of data collection charts, two of which are summarized and attached. The first is a *Summary of Relevant Data* (Attachment I) comparing the Sacramento City Attorney's Office with the six (6) cities that provided data. This chart presents the most useful data elements that we were able to obtain. The data elements we use consists of nineteen (19) of the seventy-nine (79) elements that we attempted to collect. Some items, such as age of the city and turnover were deleted because they were relatively comparable between agencies. Others, including such items as the number of ballot measures and city budget figures, were deleted because they did not clearly relate to staffing levels, and others, such as the number of employees in "client" departments, were either not available or inconsistently reported.

In some cases, we were unable to use potentially valuable data because the variation in the way that other agencies record and report that information made it unreliable. Data on the total number of litigated cases, for example, would be an excellent indicator of workload of the City Attorney's litigation staff. Some agencies, however, report only cases filed in the current year, whereas others carry forward numbers from prior years; some include administrative hearings, while others do not maintain that data; and some include data on litigation such as workers' compensation that other agencies do not perform. In the area of litigation, however, we were able to obtain useful data from the number and percentage of claims that are litigated yearly.

The second chart *Comparative Analysis* (Attachment II) summarizes the analysis upon which our conclusions and recommendations are based. Following is a brief explanation of each of the items on this chart with the rationale for its inclusion in this analysis and our analysis of what we found:

1. **Staff Attorney/Support:** These figures represent the number of Attorneys and support staff in the Office, with the number of Paralegals in parentheses. This basic data item is included here because it is involved in most of the ratios and analyses.
2. **Percentage of Outside Litigation:** This figure represents the percentage of litigation that is handled by outside Attorneys on contract. This is an important workload indicator because it directly impacts the number of staff Attorneys required to meet the litigation workload. In Fresno's case, for example, 30% of litigation is done on contract, and this fact helps to explain why their Attorney staffing is lower than one might expect according to most other variables. Fresno would have to hire an additional two Attorneys to handle the same percentage of litigation internally as Sacramento does.

Findings: The Sacramento City Attorney's Office does a somewhat higher proportion of litigation internally (99%) than most of the comparator agencies, except Anaheim (98-99%), and a significantly higher proportion than Fresno (70%). While, with the exception of Fresno, these differences are not large, they are significant when one considers that Sacramento assigns a lower proportion of its resources (32.1% of its Attorneys) to Litigation than the norm for the group (37.2%). The following data reinforces the significance of fact that Sacramento does a higher percentage of litigation internally, with a lower proportion of resources:

- Fresno does a much lower proportion of internal work (70%) with approximately the same percentage of resources (31.6%) as Sacramento; if Fresno performed the same percentage of litigation internally as Sacramento, they would have to hire two (2) additional Attorneys;
- Oakland does 98% of its litigation internally, but devotes a much larger portion of resources (58.1%) to litigation; and
- Similarly, San Jose does 95% internally with 53.1% of their resources.

3. **Number of City Employees/Attorney:** This is an important ratio because City employees represent the essential "client" base for City Attorneys. Along with elected and appointed officials, municipal employees need legal advice; they take actions that result in litigation; and they bring work in a variety of other forms to staff Attorneys. While there are no industry-established benchmarks for City Attorneys, it is reasonable to expect, based upon our experience in organizational analysis, that, as you add city employees, the workload of municipal staff Attorneys will increase.

Findings: The Sacramento City Attorney's Office has a higher ratio of City employees to Attorneys (168:1) than the average for the agencies surveyed (150:1), and a significantly higher ratio than all of the others in the survey except Fresno (200:1) and Long Beach (225:1). If the Sacramento Office employed the same proportion of Attorneys as the norm for the cities in the survey, Sacramento

would employ thirty-one (31) Attorneys, three (3) more than are presently on staff.

- 4. Number Boards and Departments/Advisory Attorneys:** This number represents the ratio of the number of boards, commissions, special districts, departments, etc. within the individual agency to the number of staff Attorneys within the City Attorney's Advisory function affiliated with the City. We point out above that City employees present a discrete "client" base for the City Attorney, and the individual departments, boards organizational entities within the City also constitute a significant "client" base. Advisory Attorneys often have standing assignments to provide advice to individual departments and boards, and, the greater the number of departments, the more work will be generated for staff Attorneys assigned to Advisory functions.

Findings: Of the cities surveyed, the City of Sacramento has a higher ratio of organizational clients to advisory Attorneys (6.4 departments per Attorney) than all of the other cities in the survey, except Fresno, which has a ratio of 6.9 to 1. Moreover, the Sacramento ratio is significantly higher than the norm for this group, which is 2.9 to 1. Again, if the Sacramento Office employed the same proportion of Attorneys as the norm for the cities in the survey, Sacramento would employ thirty-one (31) Attorneys, three (3) more than are presently on staff.

- 5. Number of Litigated Claims/Attorney:** This figure represents the number of litigated claims filed against the City divided by the number of Attorneys assigned to the litigation function within each agency. While the litigation cases handled were reported inconsistently between agencies, the data regarding the number or claims and the percentage that were litigated were consistent and reliable. Thus, we were able to obtain an indirect, but useful, litigation workload indicator by multiplying the number of claims by the percentage of those that are litigated. This does not reflect the entire litigation workload, but it is useful for comparative purposes.

Findings: The Sacramento Office has a significantly larger number of litigated claims per Attorney (32.6 per litigation Attorney) than all of the other agencies surveyed, except Long Beach (39 per Attorney) that includes within their figures, a large number of workers' compensation claims that are considerably less complex than other civil litigation. Moreover, Sacramento's litigation Attorneys' workload is substantially higher than the group norm of 13.5 claims per Attorney.

- 6. City Attorney's Office/City Population Percentage Growth:** This data element compares the recent growth in City population with growth in the number of City Attorney staff.

Findings: Over the last several years, the City of Sacramento has grown at a substantially greater rate (9.4%) than all of the other cities surveyed and at a rate nearly twice that of the next fastest growing city (Fresno). This is very significant because rapid growth in a City, particularly one as old and well established as Sacramento, can create a major workload for City Attorney staff. In Sacramento, this actual workload increase is exemplified by the impact of the North Natomas Development. Attorney workload in bond and finance transactions, land use issues, requests for public safety services, litigation, contracts, municipal legislation, parks & recreation, and other areas—work which affects all functions of the City Attorney's Office. However, while the City Attorney's Office was authorized a limited-term Attorney's position to meet some of this workload, that position has since been eliminated, and the Office has not grown over the past five (5) years. The growth in City population also has obvious workload implications for City staff in service departments such as Fire, Police, Code Enforcement, Public Works, Parks & Recreation, and Planning, and this is reflected in the growth in City staff described below.

7. **City Attorney's Office /City Staff Percentage Growth:** This data element compares the growth in the overall City work force with growth in the number of City Attorney staff. Given the fact that City employees represent the most critical "client" base for the City Attorney's Office, growth in the number of city employees, particularly in departments such as Fire, Police, Planning, Code Enforcement, Parks & Recreation and Public Works that generate a significant amount of work for legal staff, inevitably will impact the workload of the Attorney's Office.

Findings: Not surprisingly, the growth in City staff has paralleled the City's overall population growth, with numbers growing from four thousand two hundred forty-two (4,242) to four thousand seven hundred two (4,702), an 11% increase in the past five (5) years. As we have pointed out above, City employees represent the essential "client" base for City Attorney staff and this indicates that the number of those "clients" has increased substantially. With that increase comes the increased workload.

The Sacramento City Attorney's Office, however, has not grown in staff to parallel the significant increases in City staff and to accommodate the increased workload. In fact, as we have pointed out above, the Office staff has effectively decreased through the elimination of the limited term position devoted substantially to North Natomas financing and land use issues.

8. **Number of Opinions/Advice Attorneys:** This number reflects the average number of opinions completed by each of the Attorneys assigned to the Advisory Section within each Office.

Findings: The reliability of this data as a workload indicator appears questionable in light of the significant variability in the data. Fresno staff, for example, prepare an average of almost 86 opinions per advice Attorney, whereas San Jose and Anaheim average 6 and 2.4, opinions per advice Attorney, respectively. Nevertheless, even including the figure for Fresno, which is extraordinarily high, Sacramento staff carry a significantly higher load of 45 opinions per advisory Attorney as compared to the norm of 17.0 per Attorney. If you eliminate the Fresno data, the norm is 8 opinions per Attorney.

While these numbers are not conclusive, their significance is enhanced by other factors. On the one hand, the fact that Sacramento has a higher than normative workload in this Advisory Section is consistent with other findings regarding the workload for that function. This Section has higher workloads than the norm in the number of contracts, the number of organizational clients and the number of City staff clients per Attorney assigned to this Section. Some of these indicators are more reliable than others, but the overall pattern is consistent and reliable, particularly in light of the finding discussed below regarding the pattern of staffing within the Sacramento Office.

9. **Number of Contracts/Attorney:** This figure represents the average number of contracts processed by the Attorneys assigned the Advisory Section within each agency. This should be a relatively straightforward workload indicator.

Findings: The average number of contracts processed by the advisory Attorneys of the Sacramento Office is appreciably greater than the norm—211 contracts per Attorney vs. 140 contracts per Attorney for other agencies. Sacramento processes 51% more contracts per Attorney than other comparable agencies. As in the factor above, the reliability of this data as a workload indicator appears questionable in light of the significant variability in the data. Anaheim, for example, averages only 81.5 contracts per Attorney; Fresno reports its 1,100 contracts as “routine only;” and San Jose reports more than 5,800 contract reviews, which includes multiple reviews of individual contracts. Nevertheless, whether or not you include the data, the overall pattern is consistent with the higher workload for the Sacramento Advisory Section, and this pattern improves the significance of this data. (See the discussion below regarding “Pattern of Staffing.”)

10. **Code Enforcement Data:** The two items listed, the numbers of administrative and criminal code enforcement actions initiated, reflect the most direct measures of the workload of the Code Enforcement Section.

Findings: The data that we attempted to collect was intended to provide workload indicators for the Code Enforcement Section. At the outset, we were disappointed with the results because it did not appear that the data would be very useful. Most of the other City Attorney's Offices do very little Criminal/Code

Enforcement work, and this is reflected in the fact that there are significant differences between the 2,549 enforcement actions initiated by Sacramento and the numbers initiated by the others, with 61 initiated by Oakland, and the closest number of 834 initiated by Fresno. This data, however, becomes much more meaningful when you look at the overall pattern of staffing of the Sacramento Office, which we discuss in the following paragraphs.

11. **Pattern of Staffing:** The last three elements listed on the *Comparative Analysis* (Attachment II) present the proportion of staff Attorneys for each agency that are assigned to the Advisory, Litigation and Code Enforcement Sections.

Findings: Generally, one of the more routine steps in any staffing study that our firm undertakes is a comparison of the organizational structures of the comparator agencies. There are always variations between organizations, but the variations in most studies are not significant, and the comparison is usually reported as a footnote in the final report. That is not the case in this study, because there are significant differences between the organization of the Sacramento City Attorney's Office and those of the other agencies in this study. The differences are not in the type of work performed—all perform litigation and provide advisory services, and most perform a degree of code enforcement work. The significant differences are found in the way that resources are allocated between the different functions.

The City of Sacramento has the largest number of Attorneys and percentage of resources allocated to Code Enforcement. Sacramento has eight (8) Attorneys, representing 28.5% of its staff resources, whereas the nearest comparator agency, Fresno, has four (4) Attorneys, representing 21.0% of its staff resources. Long Beach also assigns four (4) Attorneys (17.4%); Santa Ana assigns two (2), and Anaheim, Oakland, and San Jose include this responsibility within other functions. The converse of this pattern is that Sacramento has allocated a lower proportion of its resources to Litigation (32.1 %) and a significantly lower proportion to Advisory Services (28.5%). Anaheim (52.3%), Oakland (58.1%), San Jose (51.3%), and Santa Ana (53.8%) all devote more than half of their resources to the Advisory Section, and Fresno (36.8%) and Long Beach (34.6%) devote substantially more resources to Advisory than Sacramento.

This pattern is significant because it explains the significant differences in the Code Enforcement workload data for Sacramento and the comparator agencies. According to the City Attorney, the City Council in Sacramento has mandated that Code Enforcement be among the Office's highest priorities. Given this mandate, Sacramento assigns twice the resources to Code Enforcement than do the comparator agencies, and it is not surprising that the number of enforcement actions initiated by Sacramento would be substantially higher. This pattern also helps explain why we saw higher Litigation and Advisory workloads in Sacramento.

The fact, however, that Sacramento allocates appreciably fewer resources to Litigation and Advisory Sections, reinforces a consistent pattern that these Sections are understaffed relative to other agencies in the State. This is particularly true in the case of the Advisory Section, which has proportionally fewer resources allocated to it than within the other agencies—28.5% compared to the norm for the others of 48.4%.

CONCLUSIONS

The Sacramento City Attorney's Office has contracted with Koff and Associates to review the staffing of the Office and to recommend any necessary adjustments. Our staff attempted to collect data on seventy-nine (79) data elements from the six (6) "comparator" Cities within the State that were most comparable in size to the City of Sacramento. As we expected, most of the comparable cities provided less data than Sacramento was able to provide, and there was considerable variation in what was provided. Nevertheless, we were able to identify nineteen (19) elements, which were both reliable and useful. We were able to use these elements (*Summary of Relevant Data*, Attachment I) to provide the basis for twelve (12) items of the Comparative Analysis (Attachment II) upon which these conclusions are based.

The data that we have described and analyzed supports the conclusions that the City Attorney's Office:

- **Performs a higher percentage of litigation "in house," with proportionally fewer resources.** On the average, comparable cities devote more than 37% of their resources to litigation while performing 70%-98% of the litigation internally, whereas Sacramento performs 99% of its litigation internally, using only 32.1% of their Attorney resources. The City of Fresno, in particular, performs only 70% of its litigation internally, yet devotes a comparable 31.6% of its resources to the litigation function.
- **Employs a considerably lower ratio of Attorneys to "clients,"** including the number of employees and the number of boards, commissions, department, etc. City employees and City departments generate most of the City Attorney's work Sacramento has a ratio of 168 City employees and 6.4 City Departments to each assigned Attorney, whereas the norm for cities in this survey is 150 employees and 2.9 departments per assigned Attorney. It is also significant to observe that Anaheim and Oakland have even lower ratios of 98 and 115 employees per Attorney, and Oakland has more assigned Attorneys than departments for a ratio of 0.9 departments for each Attorney.
- **Carries higher workloads, some significantly higher, per Attorney in litigated claims, contracts and opinions.** The average Sacramento litigation Attorney has a workload of 32.6 litigated claims, versus the norm for these cities of 13.5

and a low workload of 5.7 claims per Attorney for the City of Oakland. Sacramento advisory Attorneys average forty-five (45) opinions and two hundred eleven (211) contracts per Attorney, whereas the respective norms for the study were seventeen (17) opinions per Attorney and one hundred forty (140) contracts per Attorney. While there is some variation in this data, the fact that the numbers are consistently higher for Sacramento despite the fact that the City assigns proportionately fewer Attorneys to this Section enhances the utility of these measures.

- **Has not grown while the City's population and workforce have grown significantly.** Over the past five (5) years the City of Sacramento's workforce has grown from 4,202 to 4,702, an increase of 11%. At the same time, City's population has grown by 9.4%, by far the highest rate among the cities studied. Despite such increases in population and City staff, the City Attorney's staff has remained constant. Moreover, the Office lost a limited-term position which was devoted to address the legal questions raised in North Natomas, a new growth area of the City that contributed most of the population growth in the past five years.
- **Devotes a considerably higher proportion of its Attorney resources to Code Enforcement activities.** Sacramento, with eight (8) Attorneys assigned to Code Enforcement, has twice as many Attorneys assigned to this function as any other city in the study and a significantly higher proportion of its staff at 28.5% in comparison to the norm of 17.2% for the other cities in the study. This means that proportionally fewer Sacramento resources are assigned to the Advisory and Litigation Sections, and it reinforces the pattern that staff in these Sections carry proportionately higher workloads than their counterparts in other cities.

RECOMMENDATION

That the City of Sacramento give serious consideration to making adjustments to the staffing of the City Attorney's Office to establish Attorney staffing levels that are more comparable to the norms for similar cities in the State.

ONGOING STAFFING ANALYSIS

One of the outcomes that Koff & Associates had hoped to accomplish as part of this study was the development of a benchmark formula that could be used today and in the future to periodically reevaluate and adjust staffing levels. It should be clear from the foregoing discussion that the staffing of a complex function like a City Attorney's Office is not subject to a formulistic approach. Yet, this study has identified some items that can be used as indicators of the need for staffing changes.

1. To maintain its ultimate effectiveness in handling the City's legal business, the City Attorney's staff should keep pace with the growth of the City's population and any growth in the number of City employees, particularly employees in departments that produce a substantial amount of City Attorney work, namely; Police, Fire, Public Works, Code Enforcement, Planning and Parks & Recreation. This type of data is relatively easy to update and a review on a five-year cycle should identify trends that are reliable enough to influence staffing decisions.
2. The addition of a significant governmental function or ordinance that significantly expands the scope of municipal services or the institution of a significant State or federal regulation should be evaluated to determine whether additional staff is required. For example, in the face of the State's Meyers, Milias and Brown Act and the federal extension of the Fair Labor Standard Act to cover California cities, many City Attorneys' Offices added staff to deal with the numerous legal issues that these changes created. We are informed that the City of Sacramento has enacted a number of ordinances during the past few years that fall into this category. These include: Living Wage, Housing Element, and Illegal Dumping. Other contemporary issues that might have a similar impact include the Downtown Rail Yard, Curtis Park, Taxicabs, Commercial Enforcement, Gangs, Sacramento Intermodal Transit Facility, Interim RT Facility, North Natomas Development, Sports Arena, Panhandle Annexation, North Natomas Vision, Honda Auto Dealership, and Water Meter Retrofit.
3. The following workload indicators can be easily monitored and should be reviewed periodically for significant changes in the number of:
 - a. Litigated claims against the City;
 - b. Contracts per advisory Attorney;
 - c. Opinions issued per advisory Attorney;
 - d. Total number of Code Enforcement actions initiated per Attorney.

Sacramento City Attorney Staffing –SUMMARY OF RELEVANT DATA

Variable	Anaheim	Fresno	Long Beach	Oakland	San Jose	Santa Ana	Sacramento
City Population	332,361	427,652	480,400	398,844	925,000	342,510	445,335
% Growth	4.5%	4.9%	4.0%	(0.1%)	3.4%	1.3%	9.4%
#Attorneys	21	19	26 ¹	37	50.62	13	28
#Support (para)	10 (2)	20 (4)	47 (2)	37 (14)	40 (17)	5 (2)	24 (3)
% Growth	No Change	26%	0.0%	9%	(12%)	N/A	(2%)
CA Budget	\$4,377,292	\$3,525,600	\$8,466,224	\$10,189,622	\$12,635,728	\$1,923,105	\$5,959,085
City FTE 04	2,067	3,798	5,850	4,248	6,736	1,748	4,702
FTE 03	2,100	3,756	6,003	4,603	7,213	Not provided	4,672
FTE 02	2,099	3,678	5,843	4,542	7,418	Not provided	4,609
FTE 01	2,081	3,669	5,558	4,218	7,453	Not provided	4,403
FTE 00	2,063	3,543	5,230	4,218	7,013	Not provided	4,242
%litigation internally	98-99%	70%	95%	92%	95%	95%	99%
# claims	323	550	937	669	703	240	844
%claims litigated	N/A	16%	25%	15%	21%	13%	34.8%
Ave time in litigation ²	19	“Varies”	15	18	N/A	24	16.5/14.3
# opinions	66	600	174	N/A	62	72	360
# contracts processed	847	1,100	1,433	Not Provided	Not Comparable ³	771	1,689
Code Enforcement Actions	N/A ⁴	834	102	61	N/A	223	2,549
#Organizational Clients ⁵	28	48	43	20	41	24	51

¹ This includes 4 Attorneys assigned to code enforcement in the City Prosecutor’s Office.

² In months

³ They report more than 5,800 contracts reviewed, which includes multiple reviews of the same contract.

⁴ Anaheim does more than 9,000 criminal prosecutions, including Code Enforcement, but they cannot break out data for code enforcement.

⁵ Number of Boards, Commissions, Departments, etc.

Sacramento City Attorney Staffing Study
Comparative Analysis

Ratios	Anaheim	Fresno	Long Beach	Oakland	San Jose	Santa Ana	Sacramento	Overall
Staff atty/sup ⁶	21/10(2)	19/20(4)	26/50(2) ⁷	37/37(14)	50.62/40(17)	13/5(2)	28/24(2)	194.62/183
% outside litigtn	1%	30%	5%	8%	5%	5%	1%	--- ⁸
# City FTE/Atty	98 ⁹	200	225	115	133	134	168	150
#Boards, ¹⁰ Depts/#Atty	2.5	6.9	4.8	0.9	1.6	3.4	6.4	2.9
#Litigated Claims/Atty ¹¹	N/A ¹²	14.6	39	5.7	5.9	10.1	32.6	13.5
Population Growth	4.5%	4.9%	4.0%	-.1%	3.4%	N/A	9.4%	--- ³
City FTE Growth	0	7.2%	11.9%	<1%	-4%	N/A	11%	--- ³
CA Growth	0	26%	0	9%	-12%	N/A	-2%	--- ³
Opinions/Atty	6.0	85.7	19.3	N/A	2.4	10.3	45	17.0 ¹³
% Staff Advisory	52.3%	36.8%	34.6%	58.1%	51.3%	53.8%	28.5%	41.2%
% Staff Litigation	N/A	31.6%	23.0%	42.0%	48.7%	23.0%	32.1%	37.2%
% Staff Code Enforcement	N/A ¹⁴	21.0%	17.4%	N/A ⁹	N/A ⁹	15.4%	28.5%	20.9%

⁶ The figure in () is the number of Paralegals.

⁷ Includes 4 Attorneys and 3 support staff assigned to Code Enforcement in the City Prosecutor's Office.

⁸ it is obviously inappropriate to average percentages.

⁹ Given the fact that 9 Attorneys work in misdemeanor prosecution, including code enforcement, the ratio is more likely between .70 and .80

¹⁰ This ratio includes only Attorneys assigned to advisory functions.

¹¹ The number of litigated claims was obtained indirectly by multiplying the number of claims by the percentage of claims that are litigated.

¹² Anaheim does not track the percentage of claims that end in litigation.

¹³ The data reported here are skewed by the unusually high figures from Fresno, which reports 600 opinions by 7 staff.

¹⁴ Included in either Prosecution or Litigation functions.

ATTACHMENT 2
SURVEY OF MOTIVATIONAL
AND
INCENTIVE PROGRAMS

**ADMIN SURVEY OF BENEFITS
September 29, 2004**

	Anaheim	Fresno	Long Beach	Los Angeles	Oakland	Sacramento	San Diego	San Francisco	San Jose	Santa Ana
	714-765-5198 (Wait)	559-621-6967 (Nancy Cass)	562-570-6555 (Internet Infor.)	213-978-7636 (Caroline Cooper)	510-238-4479 (Darryl Looks)		619-236-6415 (Mattie Moore)	415-557-4875 (Kerry Koe)	408-277-3262 (Connie Wilson)	714-647-5340 (Carmen)
Benefits										
Time Off										
Vacation	1-5 yrs = 2 wks 6-15 yrs = 3 wks 16+ yrs = 4 wks	Included in Annual Leave	1-5 yrs = 2 wks 6-15 yrs = 3 wks	1-5 yrs = 2 wks 6-10 yrs = 3 wks 11-15 yrs = 4 wks 16+ = 5 wks	1-4 yrs = 2 wks 5-12 yrs = 3 wks 13-25 yrs = 4 wks 26+ yrs = 5 wks	1-5 yrs - 2 wks 6-15 yrs - 3 wks 16+ yrs - 4 wks	Included in Annual Leave	1-5 yr - 2 wks 6-15 yrs - 3 wks 15+ yrs - 4 wks	1-5 yrs - 3 wks 6-14 yrs - 4 wks 15+ yrs - 5 wks	1-5 yrs - 3 wks 6-15 yrs - 4 wks 16-20 yrs 5 wks
Holiday	10 days	10 days	9 days	12 days	15 days	12 days	10 days	11 days	14 days	12 days
Floating Holiday/Holiday Accrued	n/a	3 days	4 days	1 day	1 day	2 days	1 day - must be used in a single absence	5 days	3 days which is used during the time the office closes between Christmas and New Years	no

ADMIN SURVEY OF BENEFITS September 29, 2004

	Anaheim	Fresno	Long Beach	Los Angeles	Oakland	Sacramento	San Diego	San Francisco	San Jose	Santa Ana
	714-765-5198 (Wait)	559-621-6967 (Nancy Cass)	562-570-6555 (Internet Infor.)	213-978-7636 (Caroline Cooper)	510-238-4479 (Darryl Looks)		619-236-6415 (Mattie Moore)	415-557-4875 (Kerry Koe)	408-277-3262 (Connie Wilson)	714-647-5340 (Carmen)
Benefits										
Admin Leave	n/a	6 days plus a possibility of 4 extra days based on performance	Exec. Leave - 5 days per calendar year plus a possibility of 5 extra days based on performance	MOU Comp time: 1 hour for every 1 hr worked.	5 days plus a possibility of 5 extra days based on performance	5 days	5 days	5 days - Exec. Management; and 12.5 days for Management	5 days plus a possibility of 5 extra days based on performance	5 days
Annual Leave	n/a	1-9 yrs - 23.25 days 10+ yrs - 28.25 days		no	no	no	1-4 yrs 17.03 days 5-15 yrs - 22.00 days 15+ yrs - 27.01 days	no	no	no
Sick	9.75 days per year	Included in Annual Leave		12 days each yr pd at 100% of payrate plus an add't 5 days pd at 75% of payrate	12 days	12 days	Included in Annual Leave	13 days	12 days	12 days
Longevity Pay	no	no	no	no	no	yes	no	no	no	*yes included in vacation benefits
Education Incentives	Max 75% of cost w/grade of satisfactory	Total max is equivalent to Fresno State cost of 9 units	Total max per FY \$800.00 (depends upon budget each year)	no	Total max per FY w/A-B grades \$400 w/C \$300	Total max per FY \$750.00	Total max per FY \$800.00	has tuition reimbursement program per MOU's	program has been suspended	100% of cost up to \$2,000 per year
Flex-time	9/80's Most frequently used - must be approved by dept. head	4/10's available in various departments	9/80's (mgmt) 4/80's for staff	no	Available -case by case	no	9/80's available w/approval and is a benefit to people you	no	Approved and on a case by case	no

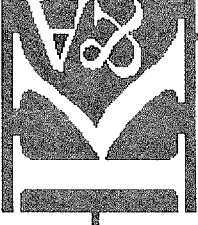
**ADMIN SURVEY OF BENEFITS
September 29, 2004**

	Anaheim	Fresno	Long Beach	Los Angeles	Oakland	Sacramento	San Diego	San Francisco	San Jose	Santa Ana
	714-765-5198 (Wait)	559-621-6967 (Nancy Cass)	562-570-6555 (Internet Infor.)	213-978-7636 (Caroline Cooper)	510-238-4479 (Darryl Looks)		619-236-6415 (Mattie Moore)	415-557-4875 (Kerry Koe)	408-277-3262 (Connie Wilson)	714-647-5340 (Carmen)
Benefits										
Sabbaticals	No paid sabbaticals; Rule: a leave is not to exceed 6 mths and to be used for illness and/or physical incapacity.	no formal program	no	no	no	no	no	no	no	no
Retirement Plan	CalPERS 2% @ 55 Fully vested w/5 yrs of service City pays employee cost - 7% and the employer rate is 2.4% totalling 9.4%	ERS 2% @ 55 Fully vested w/5 yrs of service	PERS 2.7% @ 55 Fully vested w/5 yrs of serv.	LACERS 10 yrs @ 60 or 30 yrs @ 55; 2.16 x yrs of ser. X final 12 consecutive monthly salary	CalPERS 2.7% @ 55 Fully vested w/5 yrs of service. Employee pays 3% City pays balance	PERS: 2% @ 55 Fully vested w/5 yrs of service	CERS; Age 55 w/20 yrs of serv. Age 62 w/10 yrs of serv.	SF Employee Retirement System: 1% @ 50 1.666% @ 60 Fully vested w/5 yrs of service	FCERS - Age 55 w/5 yrs of service or 30 yrs at any age; 2.5% x yrs of ser. X final compensation	CalPers - 3% @ 50 City pays 100% of both the employee & employer contribution = 11.559% -

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ATTACHMENT 3

OVERHEADS



Sacramento City Attorney's Office Staffing Study

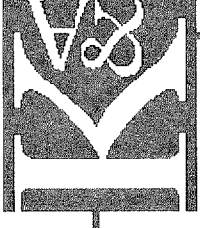
November 10, 2004

KOFF & ASSOCIATES, INC.

18 Crow Canyon Court

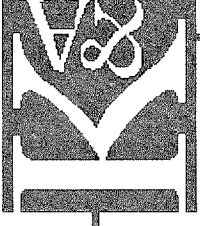
Suite 165

San Ramon, CA 94583



Background/Study Process

- City Council Authorized to Conduct Staffing Study
- June 2004 City Attorney selected Koff & Associates
- Surveyed Ten (10) California agencies regarding:
 - Organizational overview, structure, and history;
 - Staffing and Workload Data; and
 - Efficiency and Performance Data

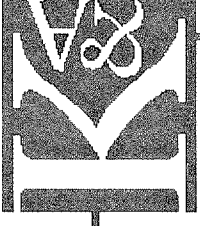


Comparator Agencies

- Anaheim
- Fresno
- Long Beach
- Oakland
- San Jose
- Santa Ana

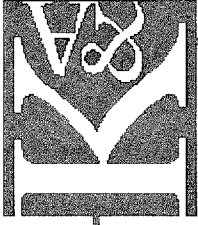
Dropped:

- Los Angeles
- San Diego
- San Francisco

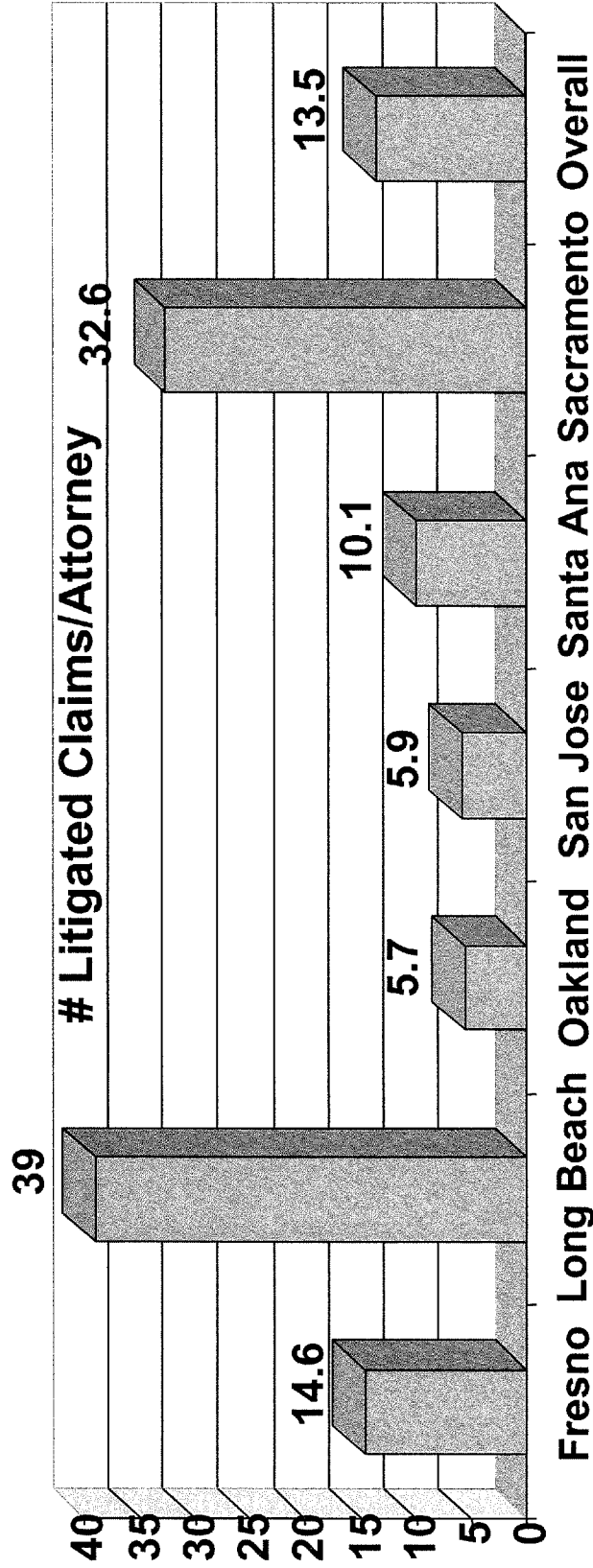


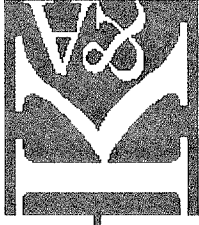
Conclusion

The Sacramento City Attorney's Office performs a higher workload, with fewer resources, than other Offices within the State.

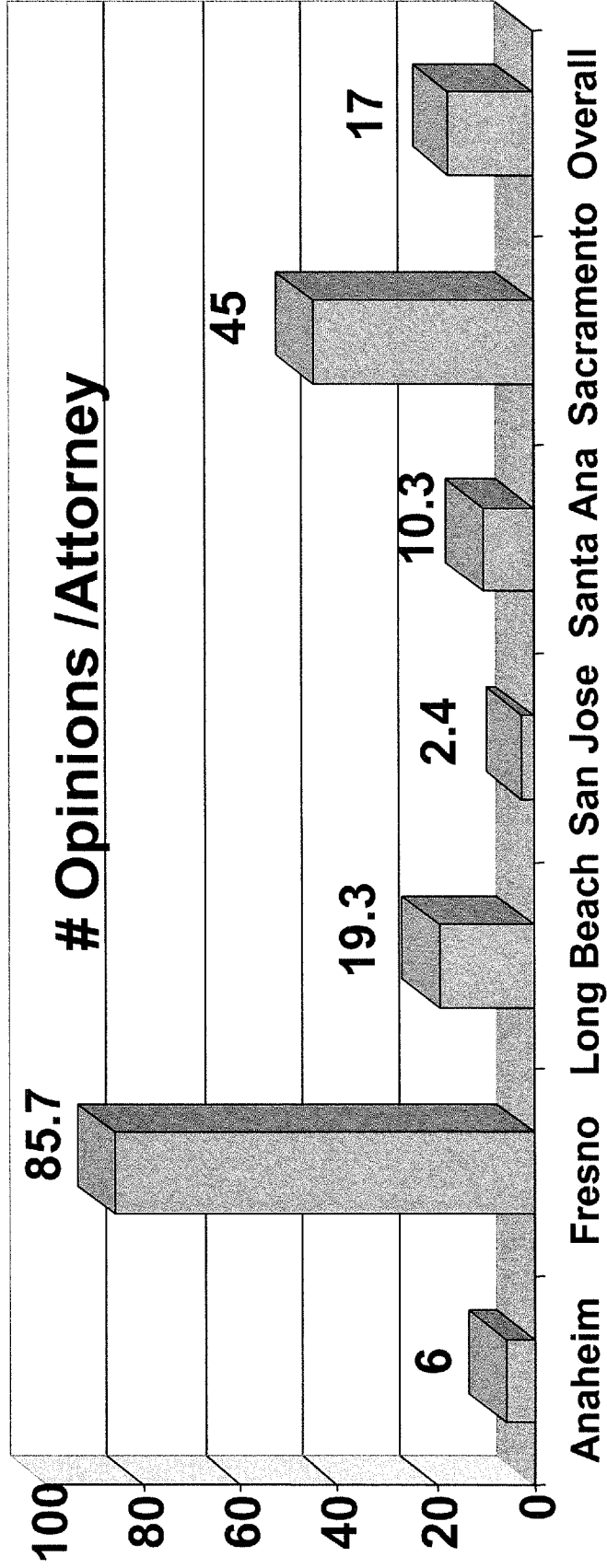


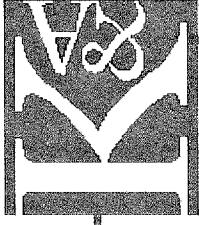
Sacramento carries a higher workload of litigated claims per Attorney.



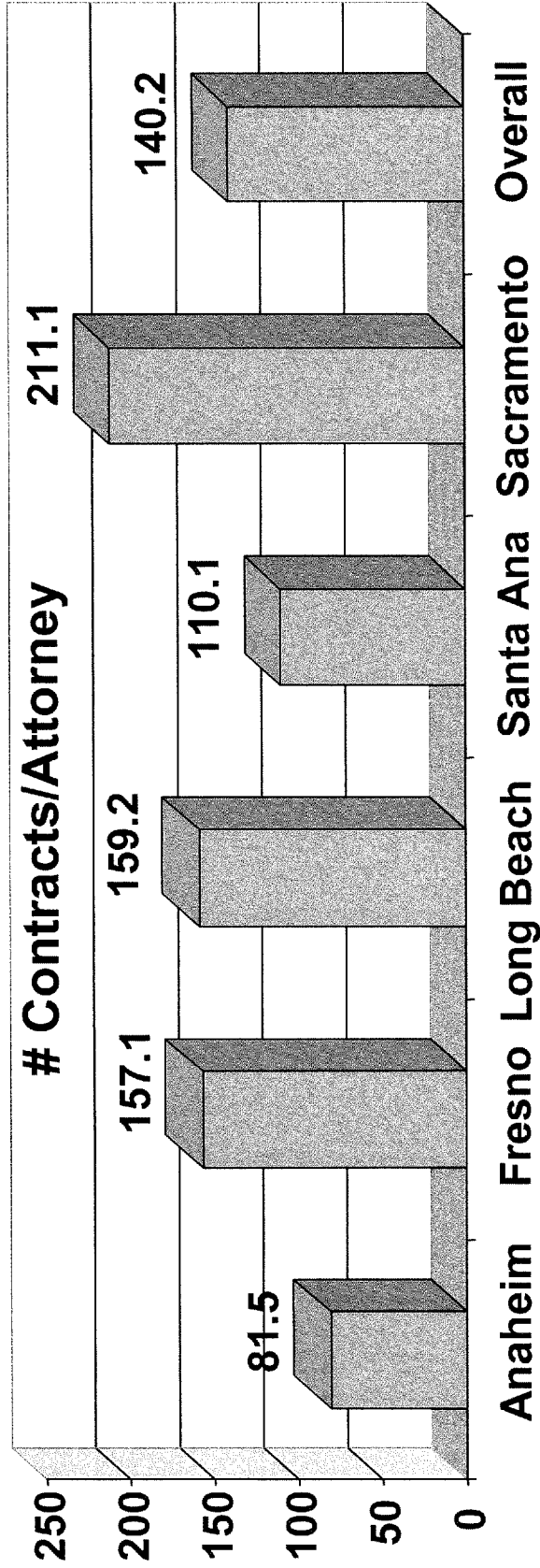


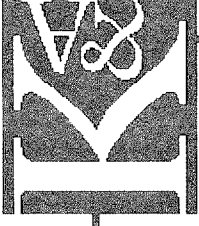
Sacramento carries a higher workload in the number of opinions per Attorney.



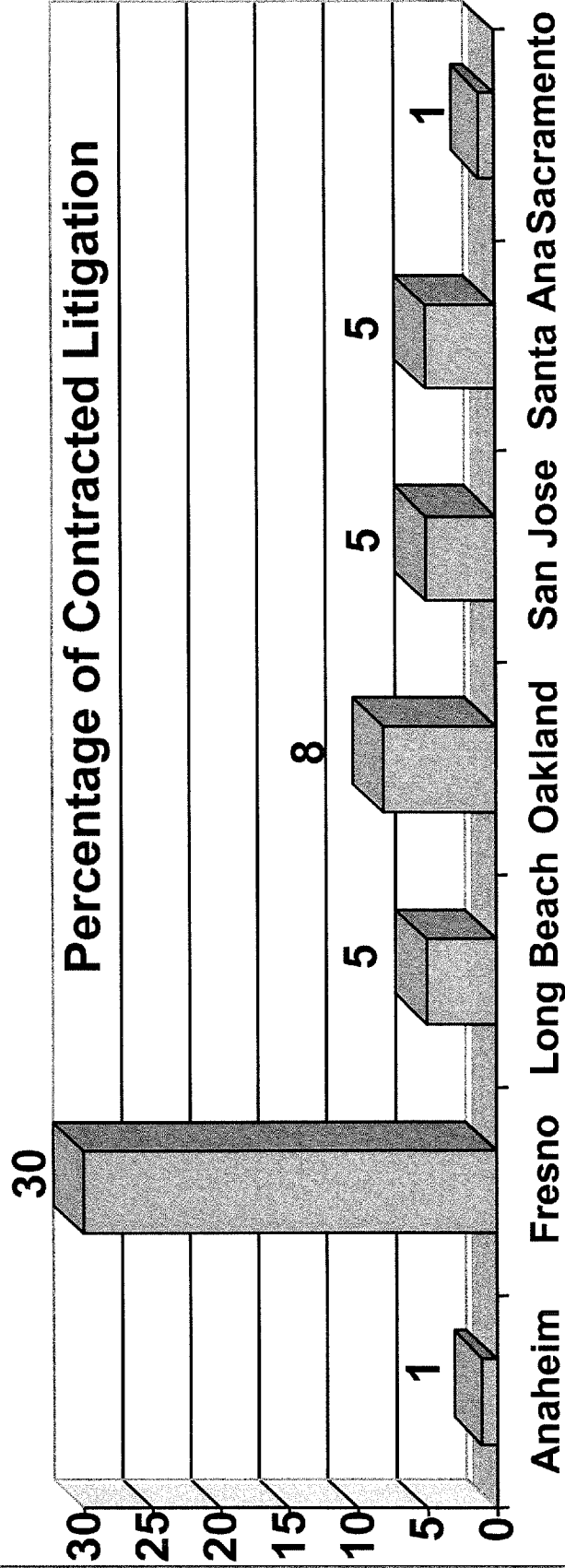


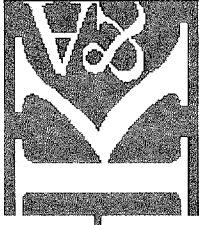
Sacramento has a higher workloads in the number of contracts per Attorney.





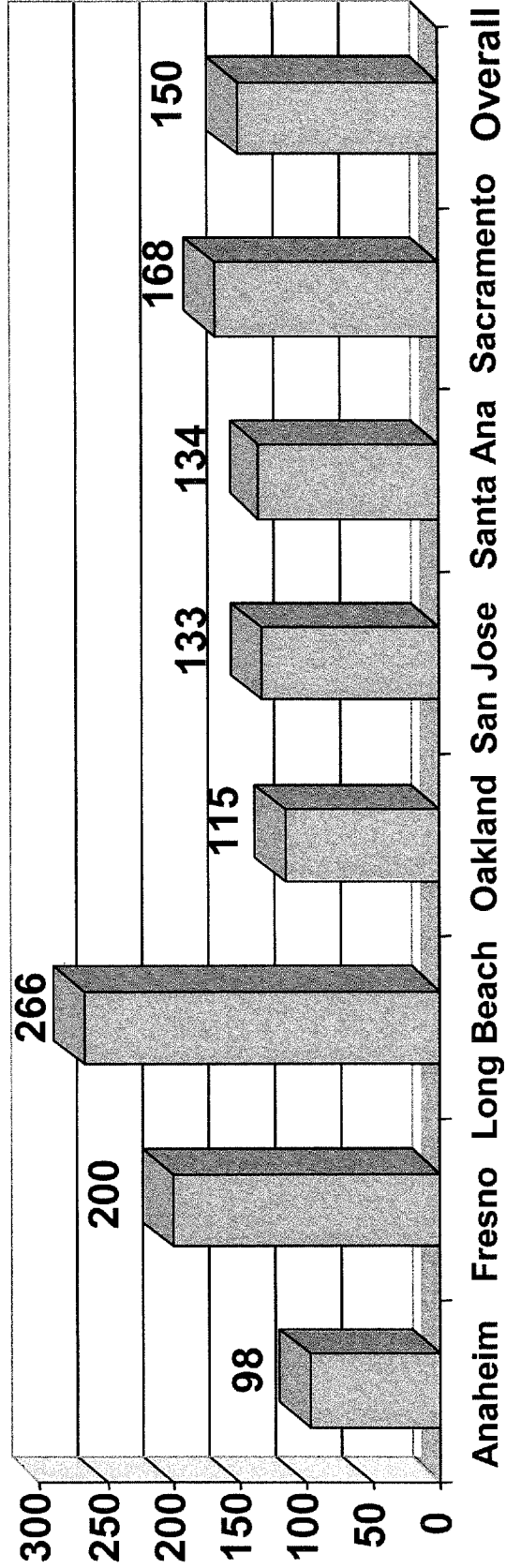
Sacramento “farms out” a smaller percentage of litigation.

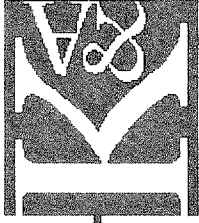




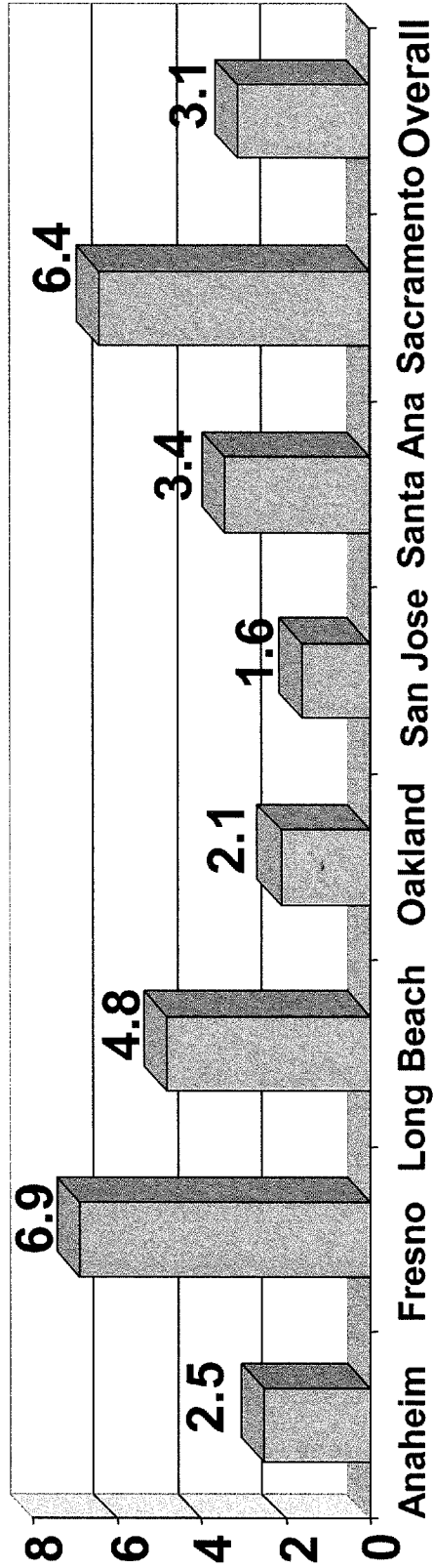
Sacramento employs a lower ratio of Attorneys to “clients”

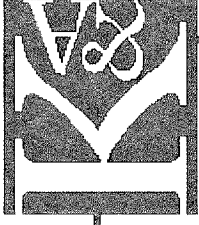
Number of City Employees Per Attorney





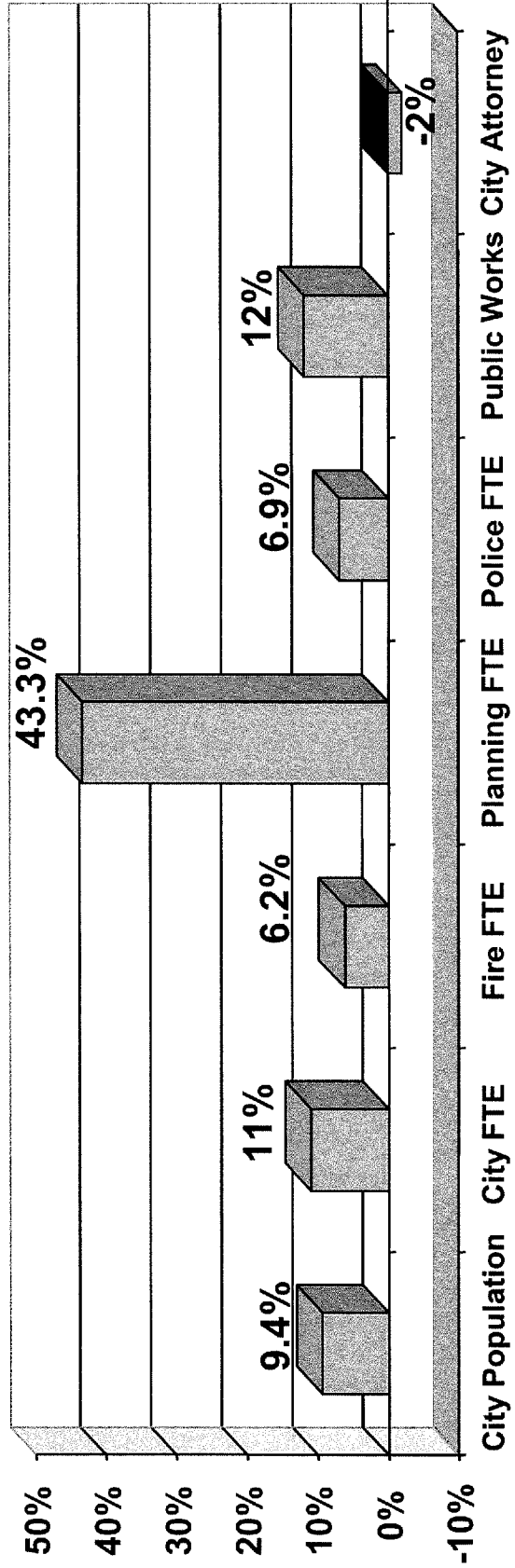
Number of Boards and Departments Per Attorney

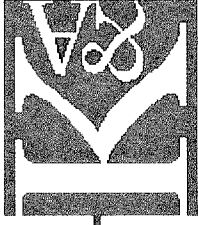




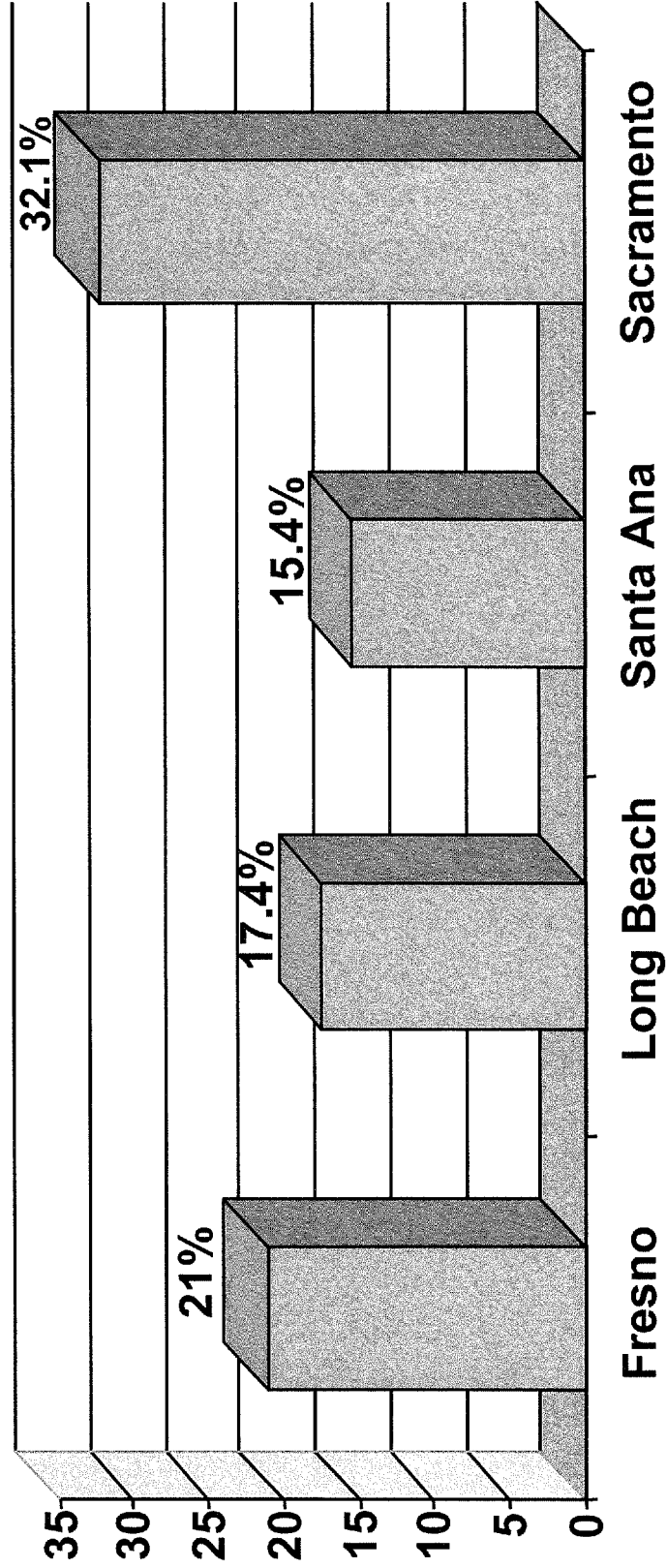
The City Attorney's Office has not grown with the rest of the City.

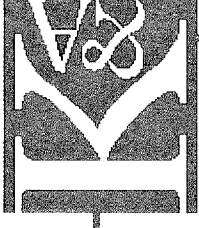
5-Year Growth Pattern





Sacramento devotes significantly more resources to Code Enforcement





Conclusion

The Sacramento City Attorney's Office performs a higher workload, with fewer resources, than other Offices within the State.