



Office of Multnomah County Attorney

501 SE Hawthorne Blvd., Ste. 500,
Portland, OR 97214

2008-2009 Annual Litigation Report

*County Attorney's Litigation Report
to the Multnomah County
Board of Commissioners
October 2009*



AGNES SOWLE
County Attorney

JOHN S. THOMAS
Deputy County Attorney

OFFICE OF MULTNOMAH COUNTY ATTORNEY

501 S.E. HAWTHORNE, SUITE 500
PORTLAND, OREGON 97214

FAX 503.988.3377
503.988.3138

DAVID N. BLANKFELD
CARLOS J. CALANDRIELLO
SALLY A. CARTER
SANDRA N. DUFFY
SUSAN M. DUNAWAY
STEPHANIE E. DUVALL
PATRICK W. HENRY
STEPHEN L. MADKOUR
JENNY M. MORF
BERNADETTE D. NUNLEY
MATTHEW O. RYAN
KATHRYN A. SHORT
JED R. TOMKINS
JACQUELINE A. WEBER
Assistants

MEMORANDUM

TO: Board of County Commissioners
Ted Wheeler, Chair
Deborah Kafoury, Commissioner
Jeff Cogen, Commissioner
Judy Shiprack, Commissioner
Diane McKeel, Commissioner

FROM: Agnes Sowle

DATE: October 5, 2009

RE: 2008-2009 Annual Litigation Report

INTRODUCTION

During the 2008 – 2009 fiscal year, our office had sixteen lawyers, seven permanent support staff and two limited-duration ITAX support staff. The office provides legal services for all county elected officials, officers and departments. Multnomah County Code Section 7.201(I) requires the County Attorney to submit a formal annual litigation report to the Board. This Annual Litigation Report summarizes the legal services we provided to county clients during the last fiscal year, with a specific emphasis on litigation services.

During the fiscal year 2008-2009, we provided 24,610.95 hours of direct legal services for litigation, legal consultation, legal document preparation and review, and client training.

DIRECT SERVICE HOURS

Chart 1 shows all of our direct services hours broken down by county department. The greatest amount of direct service time was devoted to the Sheriff's Office, with 30% of the hours, which is a 4% increase over last year. Community Services received 18% of our time, a decrease of 4%. The hours devoted to County Management increased slightly to 25% of the total, with the hours devoted to County Human Services decreasing from a 10% to a 6% share. The hours spent on Community Justice legal matters decreased slightly to 6%, while the Health Department remained at 3%. Services to the Board increased to 6% this year.

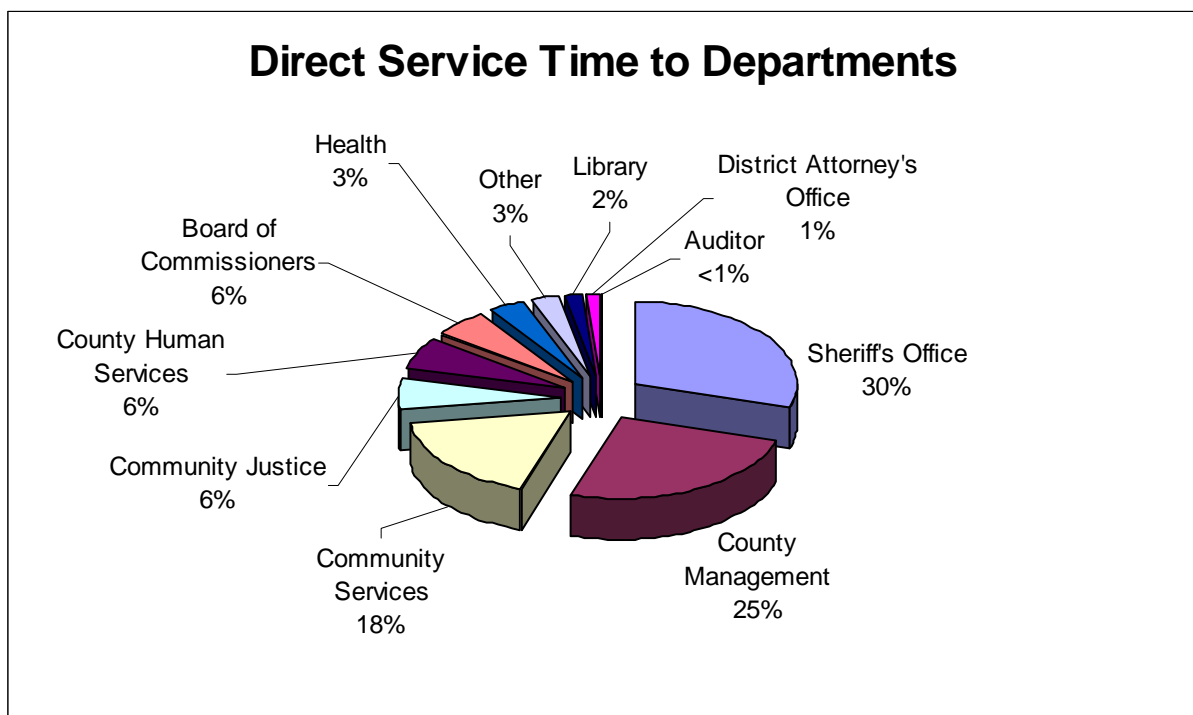
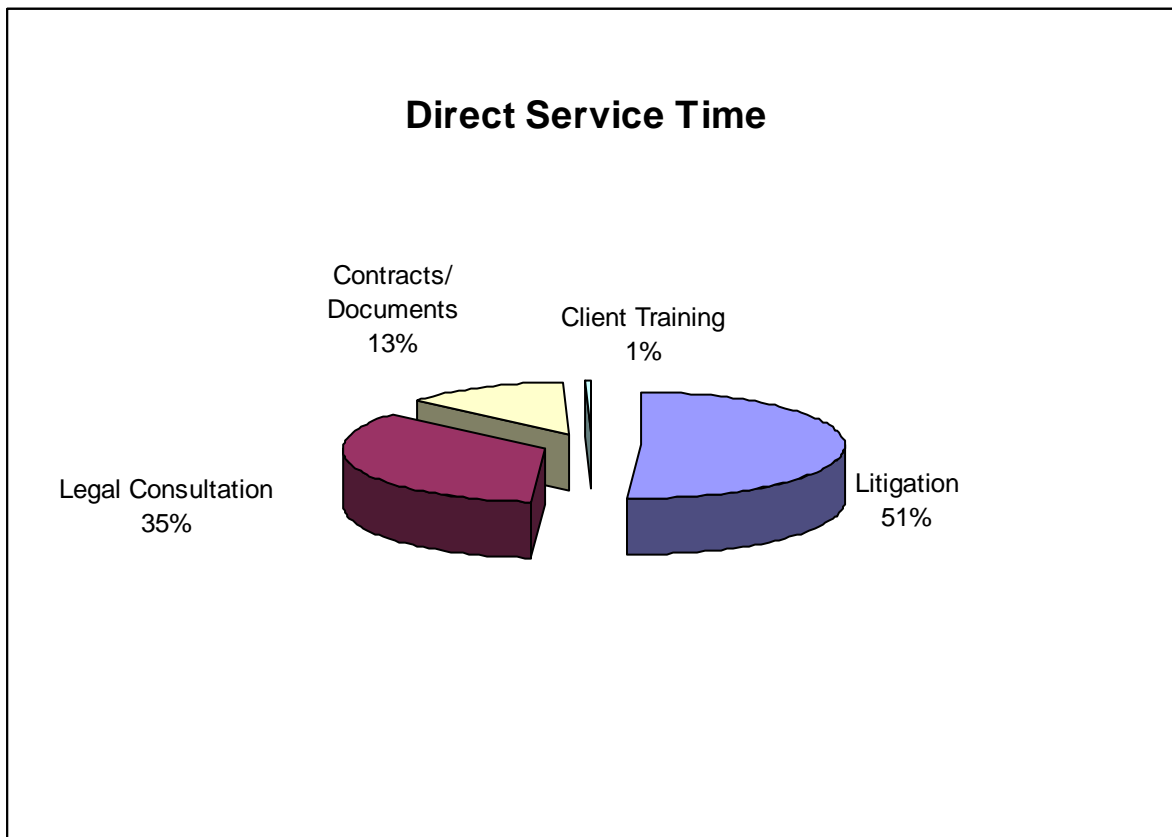


Chart 1

Department	Hours
Sheriff's Office	7,312.85
County Management	6,192.40
Community Services	4,334.20
Community Justice	1,552.65
County Human Services	1,513.70
Board of Commissioners	1,383.25
Health	853.10
Other	733.35
Library	410.05
District Attorney's Office	300.00
Auditor	25.40
	24,610.95

Chart 2 depicts direct service hours expended by the various work types. At 51%, litigation decreased slightly from last year's 52%, and legal consultation, at 35%, remained the same. Time spent in preparation and review of contracts and other legal documents also stayed the same at 13%, and client training hours increased slightly from last year. These numbers vary slightly each year but have remained fairly consistent over a number of years.

Chart 2



Work Type	Hours
Litigation	12,555.75
Legal Consultation	8,728.20
Contracts/Documents	3,190.90
Client Training	136.10
Total	24,610.95

LITIGATION

Chart 3 shows our litigation hours broken down by department. The Sheriff's Office used 52% of the litigation hours, up from last year's 45%. Community Services required 15% of our litigation hours, a decrease from last year's 19%. County Management required 17% and Community Justice 9%. County Human Services took 1%, which is down slightly from last year's 2%. It only takes one or two cases to change the numbers substantially from year to year.

During the fiscal year, the County received 127 new tort claims. We were served with 39 new lawsuits to defend, not including those involving tax matters or land use appeals. The total number of lawsuits represents a 34% increase from the 29 lawsuits filed last fiscal year.

Again, the majority of litigation involves the Sheriff's Office. This past year was no exception, with about one half of all lawsuits being brought against the Sheriff's Office. Many of those cases are brought by current or former inmates (many representing themselves) and include claims of excessive use of force, religious discrimination, violation of ADA, and other various civil rights claims. We continue to see a number of employment-related lawsuits. Additionally, there were several lawsuits concerning corrections health and community justice.

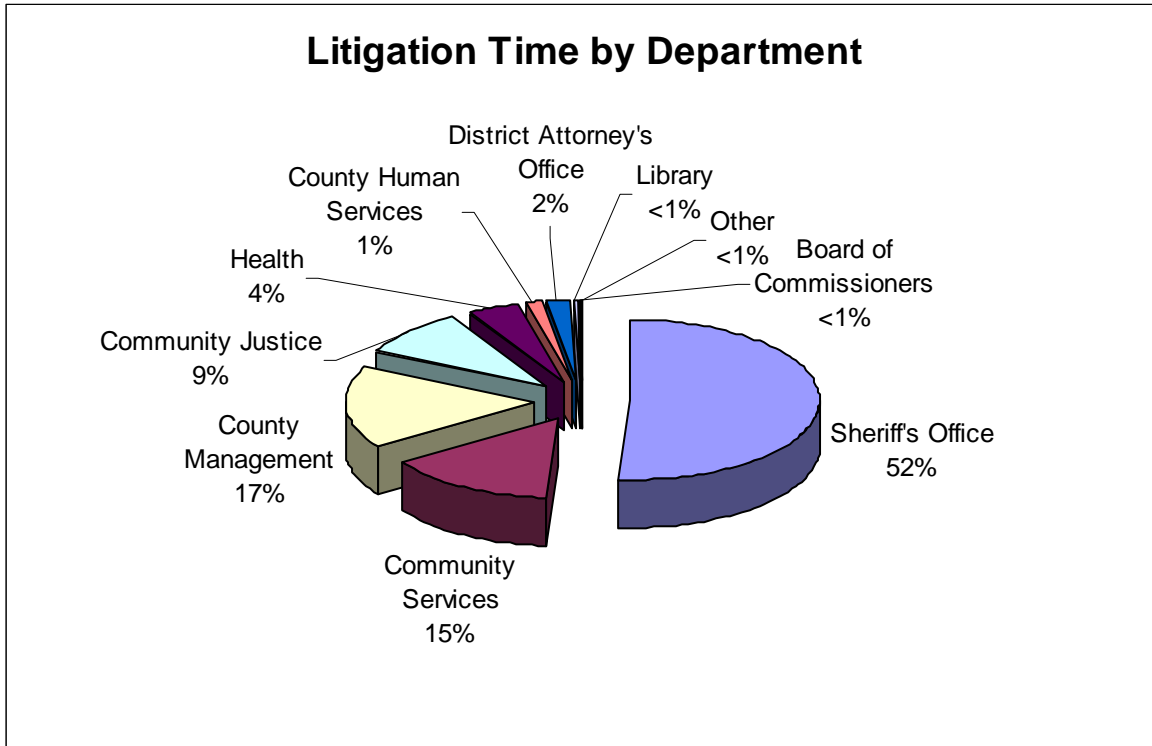
In Fiscal Year 2006-2007, we paid out \$361,020 for claims; in Fiscal Year 2007-2008, we paid out \$724,346 for claims, including one jury verdict and several settlements.

In the 2008-2009 fiscal year, we paid out \$1,101,873.61 for claims against the County. The majority of those claims are paid either through the County's third-party administrator, negotiated settlements, or mediated settlements. During the last fiscal year, we went to trial in five cases. Of those, four cases resulted in verdicts in favor of the County. In the one verdict against the County, a jury awarded \$8,500 for an assault claim occurring at Multnomah County Detention Center. Our attorneys appeared in the small claims court, circuit court, tax court, Oregon Court of Appeals, Oregon Supreme Court, the United States District Court, and the Court of Appeals for the Ninth Circuit.

Our litigation team continues to be very successful in obtaining dismissals as the result of successful motions to dismiss or motions for summary judgment. It is difficult to provide

comparative numbers for dismissals, owing to the two- to three-year life of a lawsuit, but approximately one half of the lawsuits filed are disposed of with no liability to the County.

Chart 3



Department	Time
Sheriff's Office	6,411.30
County Management	2,090.85
Community Services	1,822.00
Community Justice	1,182.85
Health	557.20
District Attorney's Office	251.80
County Human Services	181.00
Library	27.85
Board of Commissioners	24.60
Other	6.30
Total	12,555.75

EFFECTIVE RATE

The effective rate paid for each hour of direct legal service was \$132.32, up from last year's \$130.94. The rate is calculated by dividing the actual expenditures of the office, including payroll for attorneys and staff, rent, supplies, professional dues and the like, by the hours of direct service provided by the attorneys. The rate has been calculated by using direct service hours only and does not take into account the 1543 hours spent on office administration and continuing legal education activities. This hourly rate pays for a very experienced staff: Five of our attorneys have 20 or more years of experience, and six have more than 10 years of experience. In addition to the full-time staff, the office also hires part-time law clerks. We are also annual participants in the Lewis & Clark Law School's externship program, which allows third-year law students an opportunity to volunteer their services to gain valuable public-sector legal experience.

Despite the increase in our rate from last year, we saved the county and taxpayers a significant amount of money from rates charged by private law firms. Legal fees charged by Portland firms to represent government clients now exceed \$225 per hour and, in some cases, are as high as \$350 or more per hour.

Of all hours reported by county attorneys, 94.1% went to direct client legal services; the percentage of our hours devoted to administrative and professional development services is only 5.9%, a little less than last year. Those hours include management of the office, staff meetings, litigation meetings, library maintenance, and professional development, including the hours attorneys attend Mandatory Continuing Legal Education.

The following chart summarizes the effective hourly rate computation:

Total Hours Reported		26,153.97
Direct Service	94.10%	24,610.95
Non-Direct Service	5.90%	1,543.02
16 Lawyer FTE Average Direct Service Hours		1,538.18
Office Actual Expenditures 2008-09		\$ 3,256,519.79
Divided by Direct Service Hours		24,610.95
Effective Hourly Rate		\$ 132.32

CONCLUSION

We have now compiled ten years of legal service data, permitting us to quantify the hours of legal services, the nature of the services and the clients that receive our services. The data allows us to more efficiently manage, monitor and deploy the county's legal assets. We continue to work to improve the accuracy of our data.

Our challenge is to provide efficient and effective legal services and to 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 Risk Management and with the Sheriff's Office, the department that uses a large share of our resources. We seek opportunities to effectively use county legal resources and look for ways to improve our services to best meet the county's legal needs. Our mission is to provide the highest quality, customer-focused service and good value for the tax dollar. We believe we perform that mission well.