

April 5, 1991

REPORT TO THE COMMITTEE ON TRANSPORTATION AND LAND USE  
CITY ATTORNEY'S CODE ENFORCEMENT

UNIT-Caseload Statistics, Fines and Civil Penalties

At the Transportation and Land Use Committee's meeting of January 14, 1991, the Committee requested additional information on the number of criminal and civil cases filed by the City Attorney's Code Enforcement Unit (CEU) and the amount of criminal fines and civil penalties assessed in these cases. Several statistical tables are incorporated in this report for your information.

CASES RECEIVED BY DEPARTMENT

	FY 89	FY90	FY91*
Planning Department	231	33	52
Building Inspection	48	20	17
Litter Control	20	16	21
Fire Prevention	19	8	7
Other	21	9	6
TOTAL	339	86	103

\*Includes the first three quarters of this fiscal year.

The fluctuating number of cases sent from City departments to the Code Enforcement Unit can be attributed to a number of variables. The most significant is the staff of the CEU was cut by 3 1-2 positions in July 1989 as a result of the City's budget crisis. Thus, the City Attorney's Office had to restrict the number of code enforcement cases to only those that posed imminent health and safety hazards. This partially explains the decrease in cases sent by City departments for fiscal year 1990. This policy, however, was abolished in July 1990 as staff was restored to the CEU.

Overall, most of the City's code enforcement departments have once again started to send more cases to the CEU for judicial action. The 103 cases sent for the first three quarters of fiscal year 1991 represents a 46.3 percent increase in cases compared to the same time last year.

Roughly half of the new cases for this fiscal year have been sent by the Planning Department. These 52 cases include zoning, planning and sign code violations. This represents a 36.5 percent increase from the same time last year. The Planning Department is also the highest user of the Environmental Mediation Project. They have sent 110 cases since July 1, 1990.

Another variable which affects the number of case referrals is the increased availability of administrative remedies. The City's code enforcement system is more comprehensive today than it was three years ago. Instead of relying entirely upon the CEU to file court actions, the departments can now avail themselves of various administrative remedies--i.e., administrative citations for minor violations like illegal parking or signs without permits. Therefore, many of the cases which involve minor violations are no longer sent to the CEU unless the department cannot gain compliance with the administrative remedy. Where the violator fails to adhere to the administrative citation or order, the CEU can follow up with a court action.

The CEU also has a vital role with respect to representing departments at administrative civil penalties hearings. In three civil penalties hearings conducted by CEU attorneys, the City was awarded civil penalties of \$36,000, \$30,000 and \$96,000.

#### CASE RESULTS

Since its inception in August 1984, the City Attorney's Code Enforcement Unit has obtained compliance in over 2,000 cases. Approximately 38 percent of these cases were closed without litigation by merely sending a demand letter or conducting an office hearing. This represents a significant savings in time and money.

	FY 89	FY90	FY91
Demand Letters	289	60	47
Office Hearings	4	8	26

The CEU's litigation track record is also noteworthy. Any violation of the Municipal Code can be filed as either a misdemeanor criminal prosecution or a civil injunction in Superior Court. Most of these misdemeanor prosecutions were resolved within six months or less from the date a complaint was filed.

	FY 89	FY90	FY91
Criminal Complaints	151	46	57
Civil Complaints	15	5	9

Civil litigation is generally reserved for the most flagrant offenses like substandard housing, drug abatement, continuous work without permits, or significant fire and building code violations.

#### CRIMINAL FINES AND JUDICIAL CIVIL PENALTIES

Fiscal Year 1989	\$11,955
Fiscal Year 1990	\$39,075
Fiscal Year 1991*	\$37,700

\*Includes the first three quarters of this fiscal year.

These totals reflect the amount of criminal fines imposed via

misdemeanor cases and the amount of civil penalties assessed via Superior Court civil actions. We have incomplete information on the amount which has been actually collected since criminal fines are collected by the County.

Pursuant to the Penal Code, criminal fines are distributed between the County and the City according to a specified percentage. All criminal fines received by the City are deposited in the General Fund. Judicial civil penalties can be assessed either by a Drug or Redlight Abatement action or under the Unfair Business Practices Act in the Business and Professions Code. Civil penalties assessed under the Unfair Business Practices Act are divided with half going to the County and half to the City's General Fund.

For the near future, the CEU has set forth several goals to streamline and improve the processing of code enforcement cases. These goals are outlined as follows:

- (1) Expand the use of judicial civil penalties by amending the Municipal Code to permit the courts to assess civil penalties as part of the underlying civil cases.

(Please refer to the City Attorney's Report of April 2, 1991, to this Committee for more details.)

- (2) Establish specific standards for the timely filing of criminal and civil complaints once the CEU obtains complete case reports from the appropriate City departments.
- (3) Streamline the processing of complex cases which involve numerous code enforcement departments, multiple violators or properties, and significant violations. This could easily be accomplished via a Task Force strategy with the CEU coordinating departments in these highly visible and complex cases.

Respectfully submitted,  
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