

ANNOTATED MINUTES

Monday, May 23, 1994 - 9:00 AM
Multnomah County Courthouse, Room 602

BUDGET WORK SESSION

WS-1 *Citizen Budget Advisory Committee Recommendations, Board and Staff Discussion and Review of the 1994-95 DEPARTMENT OF ENVIRONMENTAL SERVICES Budget.*

BETSY WILLIAMS, MIKE OSWALD, MIKE ZOLLITSCH, JIM MANTHE, DOUG FISCHER, DAVE WARREN, WAYNE GEORGE, KATHY BUSSE, BOB THOMAS, SCOTT PEMBLE, DAVE BOYER, BOB KIETA, DAVE FLAGLER, JANICE DRULAN, TOM GUINEY AND VICKI ERVIN PRESENTATIONS AND RESPONSE TO BOARD QUESTIONS. STAFF TO RESPOND TO FOLLOW UP INFORMATION REQUESTS.

Monday, May 23, 1994 - 11:30 AM
Multnomah County Courthouse, Room 602

BUDGET HEARING

Chair Beverly Stein convened the hearing at 11:30 a.m., with Vice-Chair Tanya Collier, Commissioners Sharron Kelley, Gary Hansen and Dan Saltzman present.

BH-1 **PUBLIC HEARING on the 1994-95 DEPARTMENT OF ENVIRONMENTAL SERVICES Budget. Testimony Limited to 3 Minutes Per Person.**

JOHN MURPHY TESTIMONY ON BEHALF OF MHRC ADVISORY COMMITTEE FOR THE DISABLED URGING CONTINUED FUNDING FOR ADA COMPLIANCE. BILL PANARETOS TESTIMONY ON BEHALF OF THE BOARD OF EQUALIZATION REGARDING EQUIPMENT NEEDS, SECURITY CONCERNS AND INCREASED STIPEND FROM \$84 TO \$100. MR. PANARETOS RESPONSE TO BOARD AND STAFF QUESTIONS.

There being no further testimony, the hearing was adjourned at 11:37 a.m. and the work session reconvened. There being no further business, the meeting was adjourned at 11:53 a.m.

Monday, May 23, 1994 - 1:30 PM
Multnomah County Courthouse, Room 602

BUDGET WORK SESSION

WS-2 *Citizen Budget Advisory Committee Recommendations, Board and Staff Discussion and Review of the 1994-95 DEPARTMENT OF COMMUNITY CORRECTIONS Budget.*

TAMARA HOLDEN, CARY HARKAWAY, SUSAN KAESER, MICHAEL HAINES, PAT BOZANICH, WILLIAM TRAPPE, JOANNE FULLER AND DAVE WARREN PRESENTATIONS AND RESPONSE TO BOARD QUESTIONS. STAFF TO RESPOND TO FOLLOW UP INFORMATION REQUESTS.

*Monday, May 23, 1994 - 4:30 PM
Multnomah County Courthouse, Room 602*

BUDGET HEARING

Chair Beverly Stein convened the hearing at 4:31 p.m., with Vice-Chair Tanya Collier, Commissioners Sharron Kelley and Dan Saltzman present, and Commissioner Gary Hansen excused.

BH-2 ***PUBLIC HEARING on the 1994-95 DEPARTMENT OF COMMUNITY CORRECTIONS Budget. Testimony Limited to 3 Minutes Per Person.***

WILLIAM HOFFSTETTER TESTIMONY EXPRESSING NEED FOR EVALUATION OF ONGOING DCC PROGRAMS.

There being no further business, the hearing was adjourned at 4:35 p.m.

*Tuesday, May 24, 1994 - 9:00 AM
Multnomah County Courthouse, Room 602*

BUDGET WORK SESSION

WS-3 *Citizen Budget Advisory Committee Recommendations, Board and Staff Discussion and Review of the 1994-95 DEPARTMENT OF ENVIRONMENTAL SERVICES AND MANAGEMENT SUPPORT SERVICES DIVISION Budgets.*

DES WORK SESSION CANCELLED.

BILL FARVER, BRUCE GREEN, KEN UPTON, MELINDA PETERSEN, CURTIS SMITH, DAVE BOYER, DAVE WARREN, CHING HAY, MEGANNE STEELE,

**JEAN MILEY, ROBERT PHILLIPS, MERRIE ZIADY,
LAWRENCE KRESSEL AND PENNY MALMQUIST
PRESENTATIONS AND/OR RESPONSE TO BOARD
QUESTIONS. STAFF TO RESPOND TO FOLLOW UP
INFORMATION REQUESTS.**

*Tuesday, May 24, 1994 - 11:30 AM
Multnomah County Courthouse, Room 602*

BUDGET HEARING

Chair Beverly Stein convened the hearing at 11:30 a.m., with Vice-Chair Tanya Collier, Commissioners Sharron Kelley, Gary Hansen and Dan Saltzman present.

BH-3 PUBLIC HEARING on the 1994-95 DEPARTMENT OF ENVIRONMENTAL SERVICES AND MANAGEMENT SUPPORT SERVICES DIVISION Budgets. Testimony Limited to 3 Minutes Per Person.

NO PUBLIC TESTIMONY OFFERED.

There being no testimony, the hearing was adjourned at 11:30 a.m. and the work session reconvened. There being no further business, the meeting was adjourned at 11:36 a.m.

*Tuesday, May 24, 1994 - 1:30 PM
Multnomah County Courthouse, Room 602*

PLANNING ITEMS

Chair Beverly Stein convened the meeting at 1:35 p.m., with Vice-Chair Tanya Collier, Commissioners Sharron Kelley, Gary Hansen and Dan Saltzman present.

P-1 RESOLUTION in the Matter of Adopting the Regional Strategies Application and Recommending the Application be Submitted to the Oregon Economic Development Commission and the Governor of the State of Oregon for Consideration Under the Regional Strategies Program

**COMMISSIONER KELLEY MOVED AND
COMMISSIONER HANSEN SECONDED, APPROVAL OF
P-1. PATRICIA SCRUGGS EXPLANATION.
RESOLUTION 94-94 UNANIMOUSLY APPROVED.**

P-2 RESOLUTION in the Matter of Adopting Hearing Rules for the Conduct of a Joint Planning Commission and Board Quasi-Judicial Hearing on June 13, 1994

COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF P-2. CHAIR STEIN EXPLANATION. JOHN DuBAY RESPONSE TO BOARD QUESTIONS. RESOLUTION 94-95 UNANIMOUSLY APPROVED.

P-3 FD 1-94 PUBLIC HEARING, DE NOVO, 20 MINUTES PER SIDE, in the Matter of an Appeal of the March 1, 1994 Hearings Officer Decision DENYING a Request for a 4.5 Foot Height Variance to the Finished Floor Elevation for a Proposed Single Family Residence on Property within the Flood Hazard District, for Property Located at 11930 SE LIEBE STREET, PORTLAND.

P-4 FD 3-94 PUBLIC HEARING, DE NOVO, 20 MINUTES PER SIDE, in the Matter of an Appeal of the March 1, 1994 Hearings Officer Decision DENYING a Request for a 4.5 Foot Height Variance to the Finished Floor Elevation for a Proposed Single Family Residence on Property within the Flood Hazard District, for Property Located at 11950 SE LIEBE STREET, PORTLAND.

CHAIR STEIN INTRODUCTION AND PROCEDURAL OUTLINE FOR DE NOVO HEARING. FOLLOWING BOARD AND STAFF DISCUSSION, COUNTY COUNSEL JOHN DuBAY ADVISED THE TWO HEARINGS COULD BE COMBINED, BUT THE FINAL DECISIONS SHOULD BE SEPARATE. AT THE REQUEST OF CHAIR STEIN, GREG FRANK, ATTORNEY FOR APPELLANT JOSEPH VAUGHN, REQUESTED THAT THE HEARINGS FOR FD 1-94 AND FD 3-94 BE COMBINED FOR THE PURPOSE OF EXPEDIENCY, AND STATED FOR THE RECORD THAT HIS CLIENT WAIVES HIS RIGHTS TO RAISE ANY CHALLENGES DUE TO THE CONSOLIDATION OF THE HEARINGS.

PLANNER BOB HALL PRESENTED THE STAFF REPORT.

AT THE REQUEST OF CHAIR STEIN, THERE WERE NO BOARD DISCLOSURES OF BIAS, PREJUDGMENT, POTENTIAL OR ACTUAL CONFLICTS OF INTEREST, EX PARTE CONTACTS OR SITE VISITS. MR. FRANK INDICATED THERE WOULD BE NO CHALLENGE ON DISCLOSURE OR PROCEDURAL GROUNDS.

HEARINGS OFFICER ROBERT LIBERTY PRESENTED HIS DECISION AND RESPONDED TO BOARD QUESTIONS.

GREG FRANK PRESENTED TESTIMONY IN SUPPORT OF A REVERSAL OF THE HEARINGS OFFICER DECISION AND REBUTTAL TO MR. LIBERTY'S INTERPRETATION OF CRITERIA COMPLIANCE. MR. FRANK SUBMITTED A WRITTEN SUMMARY OF HIS TESTIMONY; THE CONTRACTOR'S COST ESTIMATES FOR INSTALLING AN 8 FOOT HIGH FOUNDATION AND BRINGING IN FILL TO BUILD A STANDARD POST AND BEAM HOUSE WITH THE FLOOR AREA ONE FOOT ABOVE THE 100 YEAR FLOOD PLANE; AND PHOTOS OF THE SUBJECT SITES AND NEIGHBORING HOMES.

JOHN MAHAFFY OF GEORGETOWN REALTY PRESENTED TESTIMONY REGARDING A REDUCTION OF THE REAL PROPERTY MARKET VALUES OF THE NEIGHBORING HOMES AND THE NEW HOMES IF BUILT WITH AN 8 FOOT HIGH FOUNDATION.

ROGER ADAMS TESTIFIED ON BEHALF OF THE NEIGHBORING HOMEOWNERS IN SUPPORT OF A REVERSAL OF THE HEARINGS OFFICER DECISION.

AT THE REQUEST OF CHAIR STEIN, NO OBJECTIONS WERE RAISED TO THE CONDUCT OF THE HEARING. THERE BEING NO FURTHER TESTIMONY, THE PUBLIC HEARING WAS CLOSED.

COMMISSIONER COLLIER MOVED AND COMMISSIONER HANSEN SECONDED, TO REVERSE THE HEARINGS OFFICER DECISION AND TO MODIFY THE FINDINGS TO INCLUDE A CONDITION OF APPROVAL REQUIRING THE FILING OF A DEED RESTRICTION CONTAINING LANGUAGE INDICATING THE PROPERTY IS LOCATED IN THE FLOOD HAZARD AREA.

COMMISSIONER COLLIER COMMENTED IN SUPPORT OF HER MOTION. COMMISSIONER KELLEY COMMENTED IN OPPOSITION TO THE MOTION. COMMISSIONER HANSEN COMMENTED IN SUPPORT OF THE MOTION.

MR. FRANK EXPLANATION IN RESPONSE TO QUESTIONS CONCERNING COMPLIANCE WITH COMPREHENSIVE PLAN POLICY 37. MR. DuBAY RESPONSE TO QUESTIONS OF CHAIR STEIN.

COMMISSIONER SALTZMAN COMMENTED IN SUPPORT OF THE MOTION.

CHAIR STEIN COMMENTED IN SUPPORT OF THE MOTION, EXPLAINING THE VARIANCE CRITERIA IN MCC 11.15.6323 ARE ALL SATISFIED, IN THAT SHE FINDS THERE IS ADEQUATE EVIDENCE TO SHOW THERE WOULD BE HARDSHIP IN THE FORM OF FINANCIAL HARDSHIP; THAT THE MINIMUM NECESSARY IS COMPLIED WITH; AND THAT WITH THE INCLUSION OF A DEED RESTRICTION NOTICE, THE PUBLIC WOULD BE PROTECTED FROM FRAUD AND VICTIMIZATION. CHAIR STEIN EXPLAINED THAT IN TERMS OF THE STANDARDS, SHE FINDS THAT COMPLIANCE IS POSSIBLE AND SUGGESTED THAT VICE-CHAIR COLLIER AMEND HER MOTION TO INCLUDE LANGUAGE TO INSURE THAT THE STANDARDS ARE DEFERRED TO THE NEXT STAGE AND PROVIDE FOR PROPER NOTIFICATION.

FOLLOWING DISCUSSION WITH MR. DuBAY, COMMISSIONER COLLIER MOVED AND COMMISSIONER SALTZMAN SECONDED, AN AMENDMENT REQUIRING COMPLIANCE WITH THOSE STANDARDS DEFERRED TO THE BUILDING PERMIT OR APPROVAL STAGE; THAT APPROVAL NOT BE GIVEN UNTIL NOTICE OF THE DECISION AND THE OPPORTUNITY TO REQUEST A HEARING IS GIVEN AS REQUIRED BY ORDINANCE FOR THE INITIAL APPLICATION.

IN RESPONSE TO A QUESTION OF MR. HALL, MR. DuBAY ADVISED THAT THE COUNTY WOULD BE RESPONSIBLE FOR NOTIFYING THE PARTIES. MR. DuBAY RESPONSE TO QUESTIONS OF COMMISSIONER KELLEY.

FOLLOWING DISCUSSION AND WITH BOARD CONSENSUS, MR. DuBAY RESTATED THE PREVIOUS AMENDMENT MOVED BY COMMISSIONER COLLIER AND SECONDED BY COMMISSIONER SALTZMAN.

THE AMENDMENT TO ADD A CONDITION THAT SATISFACTION OF COMPLIANCE WITH MCC 11.15.6315 (F),(G) & (H), MAY BE DEFERRED TO THE BUILDING PERMIT APPROVAL STAGE, AND THAT BEFORE THE BUILDING PERMIT IS APPROVED BY

THE COUNTY PLANNING DEPARTMENT, NOTICE OF THE PROPOSED DECISION BE GIVEN TO THOSE PERSONS ENTITLED TO NOTICE UNDER THE CODE, AND THAT THEY BE GIVEN AN OPPORTUNITY TO REQUEST A HEARING BEFORE THE DECISION BECOMES FINAL, WAS UNANIMOUSLY APPROVED.

THE MOTION TO REVERSE THE HEARINGS OFFICER DECISION AND TO MODIFY THE FINDINGS TO INCLUDE A CONDITION OF APPROVAL REQUIRING THE FILING OF A DEED RESTRICTION CONTAINING LANGUAGE INDICATING THE PROPERTY IS LOCATED IN THE FLOOD HAZARD AREA APPROVED, WITH COMMISSIONERS HANSEN, COLLIER, SALTZMAN AND STEIN VOTING AYE, AND COMMISSIONER KELLEY VOTING NO.

MR. HALL ADVISED THESE PROPERTIES WILL BE ANNEXED TO THE CITY OF PORTLAND ON JUNE 29, 1994. FOLLOWING BOARD DISCUSSION, MR. DuBAY WAS DIRECTED TO PREPARE LETTER TO THE CITY OF PORTLAND FOR CHAIR STEIN'S SIGNATURE, ASKING THE CITY TO ABIDE BY BOARD'S DECISION AND RECOGNIZE THE VARIANCES APPROVED PRIOR TO ANNEXATION.

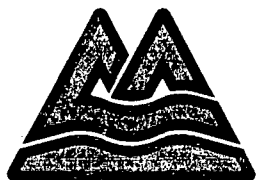
BOARD DISCUSSION AND CRITIQUE OF DE NOVO HEARING PROCESS. BOARD CONSENSUS TO INSURE FUTURE BOARD DECISIONS ARE BASED SOLELY ON CRITERIA ISSUES. VICE-CHAIR COLLIER SUGGESTED THERE BE A REVIEW OF THE HEARINGS OFFICER PRESENTATION FORMAT TO ASSURE THEY ARE DELIVERED IN AN OBJECTIVE, NON-ADVERSARIAL MANNER. COMMISSIONER KELLEY AND CHAIR STEIN DISCUSSION REGARDING THE CREDIBILITY OF WITNESSES AND THE BOARD'S ABILITY TO CROSS-EXAMINE. MR. HALL RESPONSE TO BOARD QUESTIONS. MR. DuBAY COMMENTS REGARDING VARIANCE PROCEDURES.

There being no further business, the meeting was adjourned at 3:04 p.m.

**OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON**



Deborah L. Bogstad



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN •	CHAIR •	248-3308
DAN SALTZMAN •	DISTRICT 1 •	248-5220
GARY HANSEN •	DISTRICT 2 •	248-5219
TANYA COLLIER •	DISTRICT 3 •	248-5217
SHARRON KELLEY •	DISTRICT 4 •	248-5213
CLERK'S OFFICE •	248-3277 •	248-5222

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

MAY 23, 1994 - MAY 27, 1994

<i>Monday, May 23, 1994 - 9:00 AM - DES Budget Work Session</i>	<i>Page 2</i>
<i>Monday, May 23, 1994 - 11:30 AM - DES Budget Hearing</i>	<i>Page 2</i>
<i>Monday, May 23, 1994 - 1:30 PM - DCC Budget Work Session</i>	<i>Page 2</i>
<i>Monday, May 23, 1994 - 4:30 PM - DCC Budget Hearing</i>	<i>Page 2</i>
<i>Tuesday, May 24, 1994 - 9:00 AM - DES/MSS Budget Work Session</i>	<i>Page 2</i>
<i>Tuesday, May 24, 1994 - 11:30 AM - DES/MSS Budget Hearing</i>	<i>Page 3</i>
<i>Tuesday, May 24, 1994 - 1:30 PM - Planning Items</i>	<i>Page 3</i>
<i>Thursday, May 26, 1994 - Regular Meeting - CANCELLED</i>	

Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen by Paragon Cable subscribers at the following times:

Thursday, 6:00 PM, Channel 30 - East County only
Friday, 10:00 PM, Channel 30
Saturday, 12:30 PM, Channel 30
Sunday, 1:00 PM, Channel 30

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222, OR MULTNOMAH COUNTY TDD PHONE 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

Monday, May 23, 1994 - 9:00 AM
Multnomah County Courthouse, Room 602

BUDGET WORK SESSION

- WS-1 *Citizen Budget Advisory Committee Recommendations, Board and Staff Discussion and Review of the 1994-95 DEPARTMENT OF ENVIRONMENTAL SERVICES Budget.*

Monday, May 23, 1994 - 11:30 AM
Multnomah County Courthouse, Room 602

BUDGET HEARING

- BH-1 *PUBLIC HEARING on the 1994-95 DEPARTMENT OF ENVIRONMENTAL SERVICES Budget. Testimony Limited to 3 Minutes Per Person.*

Monday, May 23, 1994 - 1:30 PM
Multnomah County Courthouse, Room 602

BUDGET WORK SESSION

- WS-2 *Citizen Budget Advisory Committee Recommendations, Board and Staff Discussion and Review of the 1994-95 DEPARTMENT OF COMMUNITY CORRECTIONS Budget.*

Monday, May 23, 1994 - 4:30 PM
Multnomah County Courthouse, Room 602

BUDGET HEARING

- BH-2 *PUBLIC HEARING on the 1994-95 DEPARTMENT OF COMMUNITY CORRECTIONS Budget. Testimony Limited to 3 Minutes Per Person.*

Tuesday, May 24, 1994 - 9:00 AM
Multnomah County Courthouse, Room 602

BUDGET WORK SESSION

- WS-3 *Citizen Budget Advisory Committee Recommendations, Board and Staff Discussion and Review of the 1994-95 DEPARTMENT OF ENVIRONMENTAL SERVICES AND MANAGEMENT SUPPORT SERVICES DIVISION Budgets.*

Tuesday, May 24, 1994 - 11:30 AM
Multnomah County Courthouse, Room 602

BUDGET HEARING

BH-3 PUBLIC HEARING on the 1994-95 DEPARTMENT OF ENVIRONMENTAL SERVICES AND MANAGEMENT SUPPORT SERVICES DIVISION Budgets. Testimony Limited to 3 Minutes Per Person.

Tuesday, May 24, 1994 - 1:30 PM
Multnomah County Courthouse, Room 602

PLANNING ITEMS

- P-1 RESOLUTION in the Matter of Adopting the Regional Strategies Application and Recommending the Application be Submitted to the Oregon Economic Development Commission and the Governor of the State of Oregon for Consideration Under the Regional Strategies Program**
- P-2 RESOLUTION in the Matter of Adopting Hearing Rules for the Conduct of a Joint Planning Commission and Board Quasi-Judicial Hearing on June 13, 1994**
- P-3 FD 1-94 PUBLIC HEARING, DE NOVO, 20 MINUTES PER SIDE, in the Matter of an Appeal of the March 1, 1994 Hearings Officer Decision DENYING a Request for a 4.5 Foot Height Variance to the Finished Floor Elevation for a Proposed Single Family Residence on Property within the Flood Hazard District, for Property Located at 11930 SE LIEBE STREET, PORTLAND.**
- P-4 FD 3-94 PUBLIC HEARING, DE NOVO, 20 MINUTES PER SIDE, in the Matter of an Appeal of the March 1, 1994 Hearings Officer Decision DENYING a Request for a 4.5 Foot Height Variance to the Finished Floor Elevation for a Proposed Single Family Residence on Property within the Flood Hazard District, for Property Located at 11950 SE LIEBE STREET, PORTLAND.**
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MULTNOMAH COUNTY BUDGET MEETING SCHEDULE

(May 12, 1994 Revision)

Department of Environmental Services (DES) Work Session	5/23/94	9:00-11:30 am - Board Room
<u>DES Public Testimony</u>	<u>5/23/94</u>	<u>11:30-12:00 pm - Board Room</u>
Department of Community Corrections (DCC) Work Session	5/23/94	1:30-4:30 pm - Board Room
<u>DCC Public Testimony</u>	<u>5/23/94</u>	<u>4:30-5:00 pm - Board Room</u>
 DES & Management Support Services (MSS) Work Session	 5/24/94	 9:00-11:30 am - Board Room
<u>DES/MSS Public Testimony</u>	<u>5/24/94</u>	<u>11:30-12:00 pm - Board Room</u>
 Department of Library Services (DLS) Work Session	 5/31/94	 9:00-11:30 am - Board Room
<u>DLS Public Testimony</u>	<u>5/31/94</u>	<u>11:30-12:00 pm - Board Room</u>
<u>*DLS/DES/DCC Public Testimony</u>	<u>5/31/94</u>	<u>1:30-4:30 pm - Board Room</u>
 Independent Agencies & Other Government Support Work Session	 6/1/94	 9:00-11:30 am - Board Room
<u>Ind/Other Public Testimony</u>	<u>6/1/94</u>	<u>11:30-12:00 pm - Board Room</u>
<u>Public Hearing/Budget</u>	<u>6/1/94</u>	<u>7:00-9:00 pm - Council Chambers, Gresham City Hall, 1333 NW Eastman Parkway, Gresham</u>
 General Work Session	 6/7/94	 9:30-12:00 pm - Board Room
<u>Public Hearing/Budget</u>	<u>6/7/94</u>	<u>7:00-9:00 pm - Board Room</u>
 General Work Session	 6/8/94	 9:30-12:00 pm - Board Room
 General Work Session	 6/14/94	 9:30-12:00 pm - Board Room
 General Work Session	 6/15/94	 9:30-12:00 pm - Board Room
<u>Public Hearing/Adopt Budget</u>	<u>6/16/94</u>	<u>9:30-12:00 pm - Board Room</u>

(* Denotes Additional Public Testimony As Needed)

+ Board Room Address:

Multnomah County Courthouse, Room 602
1021 SW Fourth Avenue, Portland, Oregon 97204

Contact the Office of the Board Clerk, 248-3277 or 248-5222
for Further Information

MEETING DATE: MAY 24, 1994

AGENDA NO: WS-3

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: DEPARTMENT OF ENVIRONMENTAL SERVICES AND MANAGEMENT SUPPORT SERVICES BUDGET
WORK SESSION

BOARD BRIEFING Date Requested: MAY 24, 1994

Amount of Time Needed: 9:00-11:30 AM

REGULAR MEETING: Date Requested:

Amount of Time Needed: 2½ HOURS

DEPARTMENT: NON-DEPARTMENTAL DIVISION: CHAIR BEVERLY STEIN

CONTACT: DAVE WARREN TELEPHONE #: 248-3883; EXT 3822
BLDG/ROOM #: 106/1400

PERSON(S) MAKING PRESENTATION: CBAC, BETSY WILLIAMS, DES AND MSS STAFF

ACTION REQUESTED:

☒ INFORMATIONAL ONLY ☒ POLICY DIRECTION ☐ APPROVAL ☐ OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

CITIZEN BUDGET ADVISORY COMMITTEE RECOMMENDATIONS, BOARD AND
STAFF DISCUSSION AND REVIEW OF THE 1994-95 DEPARTMENT OF
ENVIRONMENTAL SERVICES AND MANAGEMENT SUPPORT SERVICES DIVISION
BUDGETS

BOARD OF
COUNTY COMMISSIONERS
1994 MAY 19 AM 8:54
MULTNOMAH COUNTY
OREGON

SIGNATURES REQUIRED:

ELECTED OFFICIAL: Beverly Stein

OR

DEPARTMENT MANAGER:

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

0516C/63

6/93



Beverly Stein, Multnomah County Chair

Room 1410, Portland Building
1120 S.W. Fifth Avenue
P.O. Box 14700
Portland, Oregon 97204
(503) 248-3308

FILE COPY

TO: Board of County Commissioners
FROM: Beverly Stein, Chair
SUBJECT: Budget Work Sessions
DATE: April 25, 1994

I consider it very important that you have access to all the information you need to understand my proposed budget and to formulate your own recommendations. I have asked department and division heads to meet with their liaison commissioners before the scheduled work session with the full Board and to make themselves and their staff available to commissioners for briefings. In addition, I hope each of you will feel comfortable requesting information from my staff, the Budget Office and other Management Support Services divisions.

Attached for your review and comment is the outline for a proposed approach to the budget work sessions. Please review this and contact me if you have any questions or concerns.

Thank you.

CC: Department & Division Heads
Management Support Services
Budget Office
Chair's Officer ✓



PROPOSED APPROACH TO BUDGET WORKSESSIONS

I. Pre-meeting Communications

- department managers meet with liaison commissioners to review proposed budget in detail as soon as possible, but definitely before the scheduled worksession
- transmit agenda & issue/opportunity staff reports through the Chair's Office to BCC at least two working days before meeting

II. Budget Overview

[Departmental Manager - not more than 20 minutes]

- Departmental Services [scope of the department, the relative size of the total departmental budget and the general fund support]
- Recent Accomplishments
- Budget Highlights

III. CBAC Report

[by the chair person, if he/she can attend]

IV. Discussion of Issues & Opportunities

[BCC, Departmental Manager and, if desired, key staff - allow most of the time for this]

- Department manager provides overview of issue, then invites questions [uses visuals as appropriate]
- Board asks questions for clarification of background and options
- Chair decides whether it is necessary to postpone further discussion until additional information is needed or to elicit the sense of the Board at this time
- Next issue/opportunity is discussed in turn

V. Division by Division Level Q & A

[BCC, Departmental Manager, Budget Manager; related departmental staff and budget analyst in attendance to join the others at the table as appropriate - allow about 10 minutes per division]

- Chair leads the discussion through the budget book, soliciting questions section by section
- Department manager/ key staff field most questions [this is really at the discretion of the manager; it is suggested here in the interest of time]

VI. Meeting Logistics

- The BCC is encouraged to identify proposed amendments as soon as possible
- Budget Manager maintains two flip charts listing: 1) proposed amendments ; 2) informational items needing follow-up
- Departments should not hesitate to offer to follow-up in writing, or at later meeting, with answers to questions

VII. Discussion of Vision, Partnerships & Strategies

- postpone review & discussion of these statements until after budget adoption on June 16
- plan to conduct a Board worksession in early July for this discussion

WORKSES2

MULTNOMAH COUNTY BUDGET MEETING SCHEDULE

(April 22, 1994 Revision)

Community & Family Services Division (CFS) Work Session	5/3/94	9:00-11:30 am - Board Room +
<u>CFS Public Testimony</u>	<u>5/3/94</u>	<u>11:30-12:00 pm - Board Room</u>
Health Department (HD) Work Session	5/4/94	9:00-11:30 am - Board Room
<u>HD Public Testimony</u>	<u>5/4/94</u>	<u>11:30-12:00 pm - Board Room</u>
<u>*CFS/HD Public Testimony</u>	<u>5/4/94</u>	<u>1:30-4:30 pm - Board Room</u>
<u>Budget 101 Orientation</u>	<u>5/4/94</u>	<u>6:00-7:00 pm - Central Library</u>
<u>Public Hearing/Budget</u>	<u>5/4/94</u>	<u>7:00-8:00 pm - Central Library</u>
		<u>Auditorium, 801 SW 10th,</u>
		<u>Portland</u>
Aging Services Division (ASD) Work Session	5/9/94	10:00-11:30 am - Board Room
<u>ASD Public Testimony</u>	<u>5/9/95</u>	<u>11:30-12:00 pm - Board Room</u>
Juvenile Justice Division (JJD) Work Session	5/9/94	1:30-3:00 pm - Board Room
<u>JJD Public Testimony</u>	<u>5/9/94</u>	<u>3:00-3:30 pm - Board Room</u>
District Attorney (DA) Work Session	5/9/94	3:30-4:30 pm - Board Room
<u>DA Public Testimony</u>	<u>5/9/94</u>	<u>4:30-5:00 pm - Board Room</u>
Multnomah County Sheriff's Office (MCSO) Work Session	5/10/94	9:00-11:30 am - Board Room
<u>MCSO Public Testimony</u>	<u>5/10/94</u>	<u>11:30-12:00 pm - Board Room</u>
<u>*ASD/JJD Public Testimony</u>	<u>5/11/94</u>	<u>1:30-3:00 pm - Board Room</u>
<u>*DA/MCSO Public Testimony</u>	<u>5/13/94</u>	<u>9:30-12:00 pm - Board Room</u>
Department of Environmental Services (DES) Work Session	5/23/94	9:00-11:30 am - Board Room
<u>DES Public Testimony</u>	<u>5/23/94</u>	<u>11:30-12:00 pm - Board Room</u>
Department of Community Corrections (DCC) Work Session	5/23/94	1:30-4:30 pm - Board Room
<u>DCC Public Testimony</u>	<u>5/23/94</u>	<u>4:30-5:00 pm - Board Room</u>
DES & Management Support Services (MSS) Work Session	5/24/94	9:00-11:30 am - Board Room
<u>DES/MSS Public Testimony</u>	<u>5/24/94</u>	<u>11:30-12:00 pm - Board Room</u>

MULTNOMAH COUNTY BUDGET MEETING SCHEDULE - continued
(April 22, 1994 Revision)

Department of Library Services (DLS) Work Session	5/31/94	9:00-11:30 am - Board Room
<u>DLS Public Testimony</u>	<u>5/31/94</u>	<u>11:30-12:00 pm - Board Room</u>
<u>*DLS/DES/DCC Public Testimony</u>	<u>5/31/94</u>	<u>1:30-4:30 pm - Board Room</u>
Independent Agencies & Other Government Support Work Session	6/1/94	9:00-11:30 am - Board Room
<u>Ind/Other Public Testimony</u>	<u>6/1/94</u>	<u>11:30-12:00 pm - Board Room</u>
<u>Public Hearing/Budget</u>	<u>6/1/94</u>	<u>7:00-9:00 pm - Council Chambers, Gresham City Hall, 1333 NW Eastman Parkway, Gresham</u>
General Work Session	6/7/94	9:30-12:00 pm - Board Room
<u>Public Hearing/Budget</u>	<u>6/7/94</u>	<u>7:00-9:00 pm - Board Room</u>
General Work Session	6/8/94	9:30-12:00 pm - Board Room
General Work Session	6/14/94	9:30-12:00 pm - Board Room
General Work Session	6/15/94	9:30-12:00 pm - Board Room
<u>Public Hearing/Adopt Budget</u>	<u>6/16/94</u>	<u>9:30-12:00 pm - Board Room</u>

(* Denotes Additional Public Testimony As Needed)

+ Board Room Address:

Multnomah County Courthouse, Room 602
1021 SW Fourth Avenue, Portland, Oregon 97204

Contact the Office of the Board Clerk, 248-3277 or 248-5222
for Further Information

1994-95 Budget Work Session & Public Hearing

ENVIRONMENTAL SERVICES

Monday, May 23

9:00 - 12:00

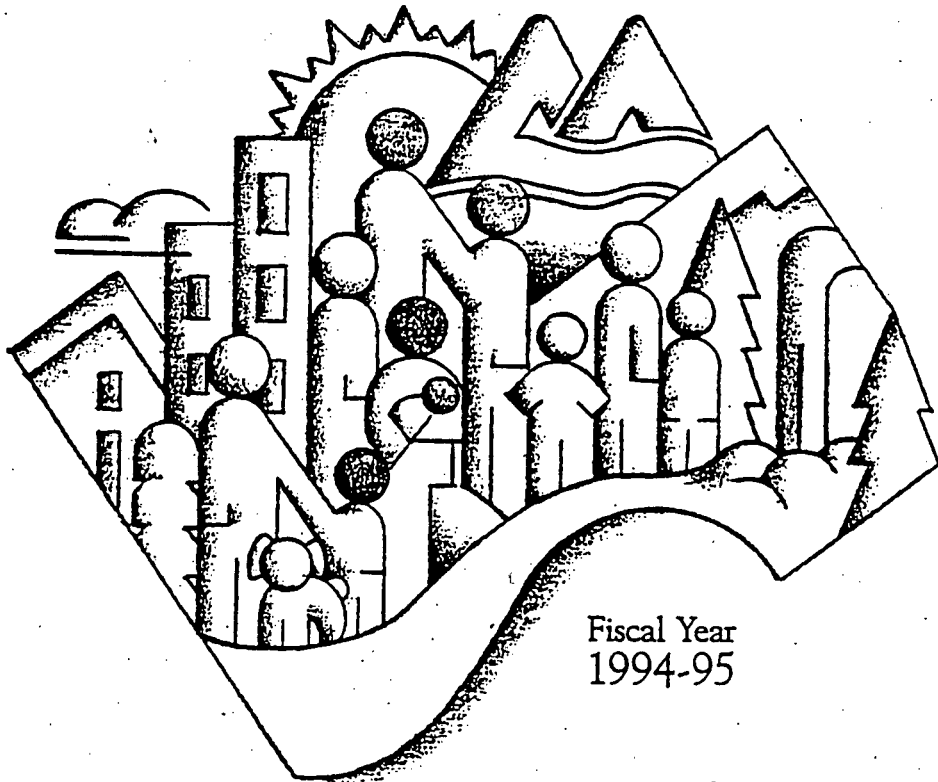
AGENDA

- | | | |
|-------------|---|--------------|
| I. | Department Budget Overview | 9:00 |
| II. | CBAC Report | 9:20 |
| III. | Discussion of Issues & Opportunities | 9:30 |
| | 1. Information Management [page 1 *] | |
| | 2. Facilities [page 6 *] | |
| | 3. Bridges [page 9 *] | |
| | 4. Future Role of the County in Natural Resource Protection
[page 12 *] | |
| | 5. Future of the Multnomah County Fair [page 15 *] | |
| | * these page numbers refer to the supplemental information packet | |
| IV. | Division Level Questions & Answers | 10:30 |
| | 1. Director's Office [page 17] | |
| | 2. Land Use Planning [page 21] | |
| | 3. Facilities and Property Management [page 23] | |
| | 4. Animal Control [page 32] | |
| | 5. Fleet, Records, Electronics & Distribution Services [page 38] | |
| | 6. Transportation [page 45] | |
| | 7. Assessment & Taxation [page 55] | |
| | 8. Elections [page 70] | |
| | 9. Information Services [page 72] | |
| V. | Capital Budget Questions & Answers | 11:15 |
| | [the capital budget is presented in a separate tab section] | |
| VI. | Public Testimony | 11:30 |

Please note that the Environmental Services work session is scheduled to be continued on Tuesday, May 24, at 9:00, if necessary.

Multnomah County Budget

Supplemental Information



Fiscal Year
1994-95

Packet #9

Environmental Services
Issues & Opportunities Reports



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
2115 S.E. MORRISON
PORTLAND, OREGON 97214
(503) 248-5000

BOARD OF COUNTY COMMISSIONERS
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SHARRON KELLEY • DISTRICT 4 COMMISSIONER

Memorandum

To: Board of County Commissioners
From: Betsy Williams, Director, Department of Environmental Services
Subject: DES "Issues and Opportunities" in the FY94-95 Budget
Date: May 18, 1994

1. Topic

Issue and Opportunities DES # 1 - "Information Management."

2. Introduction

The County is embarking on an exciting new way of doing business. Taking programs directly to the communities they serve, responsiveness to internal and external customer needs, collaboration with others who share our interests and concerns and program level evaluation of the services we provide are some of the major elements. The common thread between the values, benchmarks, RESULTS projected and the programs is information. The County's information systems are the way we get the data in the hands of all of those who need it, from the direct service providers, to the Board of County Commissioners, to the citizens we serve. The explosion of personal computing technology and the new mainframe applications that have been developed in recent years greatly facilitate this process. There is an enormous opportunity to expand on these improvements by creating, and basing future decisions on, a comprehensive information management plan.

3. Analysis/Alternatives

The current body for setting data processing policy is the Data Processing Management Committee, as authorized by Ordinance 511. The DPMC Operating Committee provides staff support to the DPMC. ISD, for the DPMC, reviews software and hardware purchases over \$1,000 for basic compatibility with County policies. Each year the DPMC reviews and approves an Information Systems Plan for the upcoming fiscal year. This plan generally comprises mainframe or network issues, and is only for projects that are able to be funded through the DPMC's

3. Analysis/Alternatives (continued)
allocation of funds.

Departments can currently choose to allocate funds from their equipment and supplies budgets for personal computing ("PC") equipment and software. Because of this, the equipment, software, support and training an employee or program relies on is largely determined by how much money can be squeezed from the budget, rather than by the actual needs.

A new user group exploring integrated data processing needs between certain County agencies has recently begun work and has developed a series of steps in planning management information services (MIS) needs and requirements across County Divisions and departments.

PC use is rapidly expanding throughout the County. To date in FY 93/94 over 700,000 dollars have been independently invested into PC's and related software and equipment. PC's are now replacing or enhancing mainframe applications in many data management environments. In order to fully take advantage of the productivity gains of PC's, they must not each function in a vacuum as a stand-alone machine. Only by creating a comprehensive network of PC's, allowing the ready sharing and transfer of information, can our goals be truly met.

Mainframe computer operations, however, are still the backbone of Multnomah County's data processing needs. The county has a multi-million dollar investment in computer applications. Like any other capital asset, they must be maintained and enhanced, or they will deteriorate to the point that they are no longer viable. At that point, they must be replaced, usually at a significantly higher cost. Not only is it important to maintain the hardware, but the software as well. Many of our applications support programs with mandated data and processing requirements. These mandates must be built into our systems as required by federal, state and other laws and rules. Although the budget request increases maintenance staff for mainframe applications by two FTE's, ISD operations are still below pre-Measure 5 staffing levels. However, the workload has continued to expand.

It is critical to understand that bringing the power of personal computing to our employees is more than a one time purchase of a computer and some software. Without training and support, the potential increases in productivity and service are unlikely to be recognized. Currently, the only PC support ISD can provide is to support the administration of the County's 31 local area networks.

Technological obsolescence is a fact of doing business in the information age. However, with technological advances come great opportunities to expand and enhance our data processing capabilities. The advantages that can be realized from investment in our computer infrastructure are many. It is also true that taking

3. Analysis/Alternatives *(continued)*

no action does not result in zero cost. Eventually, outmoded methods are no longer supported by the manufacturers and support maintenance becomes potentially not only expensive, but impossible.

There are several approaches the County can take with respect to an information systems plan. The first is to simply do nothing. Given the vast changes in technology and in the way the County intends to do business, this alternative is both financially and technologically risky.

The second and third alternatives are to either revise the charge of the DPMC to specifically encompass all areas of data processing, and to ask that group to develop the comprehensive plan; or to create a second group to specifically address PC issues, then have the two groups discuss joint areas of concern. The group should create a strategic plan for information management that addresses all of the following from a county-wide perspective to achieve the greatest programmatic and cost efficiencies:

- Design and standards for PC/mainframe systems, applications and networks;
- Planning, to take advantage of technological advances and avoid obsolescence;
- Funding for new hardware and applications, and for maintenance and integration of existing ones;
- Compatibility of hardware and software;
- Sharing and coordination of data between programs;
- Coordination of purchasing and allocation of resources;
- Training and support.

Using the DPMC seems to be the better choice. It is a group already formed, consisting of department managers and elected officials' representatives. They have a strong operating committee also already in place. Generally, it is the same person within each department that coordinates all data processing needs, so it is likely the two troupes would be comprised of the same people. Using one group will also allow the "global" perspective that will be necessary to create a truly comprehensive plan.

Alternatives abound in each of the specific areas the plan needs to address, but it will be the duty of the group creating the plan to explore and analyze these individual possibilities.

4. Financial Impact

The 1994/5 Information Systems Plan identified over 1.8 million in needed new development projects to support County programs in the services they provide. Assuming the funding strategy incorporated in the 94/95 budget is approved, we are still over \$600,000 short of meeting those needs. It is also estimated that the actual need may be greater than even this figure due to the reluctance of departments to submit requests given past levels of new development funding, and given the fact that new programs, with new data processing needs, are currently being developed.

The effect of the Health Department pulling of our system provided a "wake up call" we can't ignore. As a result, an additional draw on the General Fund in excess of half a million dollars is required to maintain current service levels for the remaining users.

Current spending on PC's should stay the same or increase. At current levels, nearly one million dollars will be spent related to PC's this fiscal year.

A plan that determines a method for the best and most efficient use of all our computing resources can help to ensure these moneys are well spent.

5. Legal Issues

No significant legal issues.

6. Controversial Issues

Departments, and often the divisions and programs within those departments, have historically had great autonomy in selecting personal computers, related equipment and software. Incorporating a County-wide strategy for personal and mainframe computers will be a significant cultural change. If it is decided that ISD will play the facilitating role in all computer activity, this could be a point of some contention as well. However, a strategic plan created by an effort involving personnel from all County programs, and input from as many other affected group or individuals as possible, will be the best method to alleviate some of these potential problems.

7. Link to Current County Policies

A strong information management structure is critical to many of the underlying values and benchmarks defined for the County. Ordinance 511 creating and defining the role of the DPMC is the current guiding policy in this area.

8. Citizen Participation

During the creation of the plan, it may prove to be helpful to have it reviewed by independent technical experts.

9. Partnerships & Collaboration

Collaboration and partnerships are very important in this area. One of the main reasons to create this plan is to facilitate data sharing between County programs, and between County programs and outside agencies. It will be necessary to involve these partners in the creation of the plan. The entire development of the plan will be a cooperative project involving all County agencies. In addition, the plan itself should address methods of project development that include looking for all possible collaborative efforts.



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SHARRON KELLEY • DISTRICT 4 COMMISSIONER

Memorandum

To: Board of County Commissioners
From: Betsy Williams, Director, Department of Environmental Services
Subject: DES "Issues and Opportunities" in the FY94-95 Budget
Date: May 18, 1994

Betsy Williams

1. Topic Issues and Opportunities DES #2 - "Facilities."

2. Introduction

Like other governments nationwide, Multnomah County is currently facing a **potential crisis** due to our **deteriorating infrastructure systems**, which constitute the very backbone of our community and the services we provide. Of particular concern is the current condition of our buildings and facilities, computerized information systems, and the Willamette River Bridges.

Essential maintenance and repair of our County owned buildings and facilities has been deferred in response to funding reductions --seismic concerns and Americans with Disabilities Act requirements magnify the problem. In the 1994/95 budget, some strategies are offered to begin to address these serious issues; but it is important to note that they are just a start. To begin to address the severe **backlog of deferred major maintenance** in our **County buildings**, this budget includes a **surcharge** which is applied to all base facility costs in order to **enhance our current efforts** in this area.

3. Analysis/Alternatives

Over the past year, we have conducted a **needs assessment** of County buildings and have identified over **\$18.5 million** in unfunded **major maintenance and capital improvements** over the next five years. This does not include the as-yet unknown results of structural studies currently underway, nor does it address additional space needs for expanding or changing County programs. Even if current funding levels and the new surcharge are sustained, we are still more than **\$5 million short** in funding our five-year Capital Improvement Plan (CIP).

DES - "Facilities."

3. Analysis/Alternatives *(continued)*

Over the course of the next five years, we must identify other strategies to address these unfunded liabilities. Alternatives we will explore include **additional charges** built into base facility costs, **General Obligation bonds**, **Certificates of Participation**, **energy loans**, and/or **possible disposition of existing buildings and acquisition of more cost efficient facilities**.

4. Financial Impact

The 1994/95 budget request increases funding for Capital Improvements in our facilities by approximately **\$750,000**, collected from County programs through a **surcharge** to their base facility costs. As noted above, even if this surcharge is continued, the CIP budget is still over \$5 million short of needed resources over the next five years.

5. Legal Issues

No significant legal issues.

6. Controversial Issues

Financing internal infrastructure needs is always potentially sensitive and/or controversial, given the potential impact on funding for County programs. To minimize controversy, a team approach has been and will continue to be used to build organizational consensus for infrastructure funding. The newly constituted **Facilities Client Committee**, which is comprised of department managers and elected officials, has been actively involved in developing the **funding recommendations** contained in the 1994/95 budget request. They will play an ongoing role in developing long range strategies to address the County's building needs.

7. Link to Current County Policies

Funding for County infrastructure is addressed in the **Draft Financial Policy** for Multnomah County. The **proposed policy statement** is as follows:

"The Board recognizes that an adequate ongoing level of funding for capital improvements is essential to avoid costly reconstruction or replacement of capital assets. These capital assets include County buildings, bridges and roads."

"It is the policy of the Board to have a Capital Improvement Program (CIP) Plan developed covering a period of five years. The Plan is to provide for anticipated future major improvements and maintenance to County owned and leased capital

7. Link to Current County Policies (continued)

assets and provide for additional and replacement capital assets. The Plan will include major construction to be undertaken by the County, no matter what the funding source. The Plan will be reviewed and updated annually..."

The issues discussed in this paper also address several **County Benchmarks**, including **Access to Facilities, Community Design, Infrastructure Investment and Cost of Government**.

8. Citizen Participation

The DES Citizen Budget Advisory Committee has noted in several previous reports the importance of reinvestment in the County's physical assets. In their 1991/92 budget report, for example, they noted the following:

It is bad business practice to allow the County's facilities to deteriorate further than they already have. To do so will clearly only cost the County more in the long run. The DES C.B.A.C., over the past several years, has consistently recommended that the County's facilities maintenance program is underfunded and recommended that **more**, not less, resources should be directed to the preservation and maintenance of the County's buildings and other assets. It is especially important in the face of Measure 5 that the County fund this program at a level adequate to protect the health and safety of employees and the public in County facilities and to preserve the structural integrity of the County's physical assets...

In their 1994/95 budget recommendations, the DES CBAC has discussed the current strategies regarding the facilities CIP, and are supportive of the approaches being recommended.

9. Partnerships and Collaboration

In addition to those discussed in #6, discussions are currently underway with the City of Portland regarding the potential for jointly seeking voter approval for General Obligation Bonds for our respective capital improvement needs.



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Memorandum

To: Board of County Commissioners
From: Betsy Williams, Director, Department of Environmental Services
Subject: DES "Issues and Opportunities" in the FY94-95 Budget
Date: May 18, 1994

Betsy Williams

1. Topic

Issues and Opportunities DES #3 - "Bridges."

2. Introduction

Like other governments nationwide, Multnomah County is currently facing a **potential crisis** due to our **deteriorating infrastructure systems**, which constitute the very backbone of our community and the services we provide. Of particular concern is the current condition of our buildings and facilities, computerized information systems, and the Willamette River Bridges. As the 1994 Audit, Bridge Section, Continue Diligent Efforts, noted, the Capital Improvement Plan for Willamette river Bridges is seriously underfunded. This budget also provides funding for a **Seismic Lifeline Study**, which will provide critical information regarding the current needs of the **Willamette River Bridges**.

3. Analysis/Alternatives

In July 1993, the Transportation Division completed an update of their **20-year Capital Improvement Program** for the **Willamette River Bridges**. That plan identifies needed improvements to **mechanical, electrical and structural systems** in excess of **\$193 million**, an average of almost **\$10 million per year**. Major needs identified include replacement of the **Sellwood Bridge**, estimated at **\$50 million**, and **painting costs** of more than **\$77 million**. Obviously, the **current funding level of \$1.5 million annually**, as provided for in the current intergovernmental agreement with Portland, is woefully **inadequate**. Given the regional importance of these facilities, it is critical that a **regional solution** be sought to address the bridge capital needs. A recent resolution passed by the Board of Commissioners asks the **Joint Policy Advisory Committee on Transportation (JPACT)**, comprised of Multnomah County,

DES - "Bridges."

3. Analysis/Alternatives *(continued)*

Portland, Metro, the adjacent counties, and other regional partners, to **develop some alternative funding strategies** to bridge funding.

In addition, the Transportation Division is pursuing all potential sources of **State or Federal assistance**, as well as exploring the possibility of reallocating road capital dollars to fund higher priority bridge capital needs. Finally, it may be necessary to **re-open discussions with Portland on the allocation formula** contained in the **intergovernmental agreement** to provide a **more adequate funding level** for bridge capital needs.

4. Financial Impact

The FY94-95 budget includes \$500,000 additional Capital funding for the Willamette River Bridges program. Two positions have been added to address the anticipated workload increase.

5. Legal Issues

No significant legal issues.

6. Controversial Issues

Financing internal infrastructure needs is always potentially sensitive and/or controversial, given the potential impact on funding for County programs. To minimize controversy, a team approach has been and will continue to be used to build organizational consensus for infrastructure funding.

Funding for bridge capital will be sought in a public forum struggling for critical needs in **all areas of transportation**, including road capital, light rail, bikeways, and other mass transit needs. Regional consensus with other political jurisdictions will be essential.

7. Link to Current County Policies

Funding for County infrastructure is addressed in the **Draft Financial Policy** for Multnomah County. The **proposed policy statement** is as follows:

"The Board recognizes that an adequate ongoing level of funding for capital improvements is essential to avoid costly reconstruction or replacement of capital assets. These capital assets include County buildings, bridges and roads."

It is the policy of the Board to have a Capital Improvement Program (CIP) Plan developed covering a period of five years. The Plan is to provide for anticipated

7. Link to Current County Policies (*continued*)

future major improvements and maintenance to County owned and leased capital assets and provide for additional and replacement capital assets. The Plan will include major construction to be undertaken by the County, no matter what the funding source. The Plan will be reviewed and updated annually..."

The issues discussed in this paper also address several **County Benchmarks**, including **Access to Facilities, Community Design, Infrastructure Investment and Cost of Government.**

8. Citizen Participation

The DES **Citizen Budget Advisory Committee** has noted in their 1994/95 budget recommendations the importance of developing alternative financing for the Willamette River bridge system.

9. Partnerships and Collaboration

Discussed in #6.



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Memorandum

To: Board of County Commissioners
From: Betsy Williams, Director, Department of Environmental Services
Subject: DES "Issues and Opportunities" in the FY94-95 Budget
Date: May 18, 1994

Betsy Williams

1. Topic

Issues and Opportunities DES #4 - "Future role of County in Natural Resource Protection."

2. Introduction

With the transfer of the County's Parks system to Metro, the County has significantly reduced its role in the region vis-a-vis parks and open space. Those County employees with the most expertise and perspective on natural resource preservation and protection are now Metro employees. Ownership of the County's most significant open spaces - Oxbow and Blue Lake Parks - will transfer to Metro in 1996. This situation then raises the question, "What continued role, if any, will the County play in protecting the County's diminishing natural resources?"

3. Analysis/Alternatives

Even with the transfer of Parks to Metro, Multnomah County continues to have a role, although considerably diminished, in natural resource protection. In 1993, the Board of Commissioners reconfirmed their commitment to the **Natural Areas Acquisition and Protection Fund**, which dedicates one half of the proceeds of sales of undeveloped, unrestricted County property to manage and protect natural areas in Multnomah County. Use of these funds is guided by policies adopted by the Board in 1992 in the **Multnomah County Natural Area Protection and Management Plan**. This plan identifies sensitive natural areas in the county for possible acquisition or other protection strategies. The plan further identifies implementation strategies that define the respective roles of the Parks Division and other County agencies, including Property Management, Transportation and Land Use Planning.

DES - "Future Role of the County in Natural Resource Protection."

3. Analysis/Alternatives (continued)

Although the staff expertise to administer the Natural Areas Plan has essentially been transferred to Metro, the intergovernmental agreement with Metro stipulates that the fund continue to be maintained by Multnomah County. The proposed budget for the **Natural Areas Fund** in 1994/95 is approximately **\$620,000**. The major source of revenue to this fund will be the future sale of the Edgefield property. The entire 284 acres at Edgefield were appraised in March, 1990 at \$6,618,700. The long term potential, therefore, for funds to be deposited into the Natural Areas Fund is somewhat in excess of \$3 million.

The **other** primary role the County continues to play in natural resource protection is in the area of **land use planning**. In 1992/93, the County initiated a **strategic initiative** to update the **rural area plans** for the non-urban parts of unincorporated Multnomah County. These areas include the West Hills, East of the Sandy River, Sauvie Island, South of Gresham and the National Scenic Area.

Prior to the initiation of this effort, no comprehensive look at the County's rural areas had occurred since 1981. Increasing land use demands inside and outside the urban growth boundary are forcing us to reexamine these almost forgotten rural areas and focus on their role in assuring all Multnomah County residents a high **quality of life**. A critical component of this planning effort includes implementation of **Goal 5** to inventory, assess, and, if appropriate, put land use mechanisms in place to protect **sensitive natural resources**, such as streams, wildlife, wetlands, vegetation, and others.

Five sub-regional planning areas were identified in the 1992 strategic initiative, with the intention to fund one area per year until the plan is complete. The **first** of these plans, for the **West Hills**, is scheduled for completion in the **fall of 1994**. A **second** rural area plan, for **east of the Sandy River**, has been budgeted in the 1994/95 budget request.

County staff and officials, environmental groups and others concerned about the protection of our diminishing **natural areas**, however, are concerned at the **alarming rate** with which rural areas are currently being **lost to development**. An **accelerated implementation** of the rural planning process is, therefore, proposed which would begin the **third rural area plan** - for Sauvie Island - in January, 1995. An **add package** is being submitted for this purpose, at a cost of approximately **\$75,000**.

4. Financial Impact

If the Board chooses to fund the add package to initiate a third rural area plan in 1994/95, the General Fund impact would be **\$75,000**.

5. Legal Issues

None.

6. Controversial Issues

Use of scarce County resources for a purpose not currently identified as an "urgent benchmark" could be potentially controversial. It is also possible that the development community could resist such an effort on the part of the County.

7. Link to Current County Policies

An ongoing role for Multnomah County in the area a natural resource protection is consistent with **Board policy** as adopted in the **Multnomah County Natural Area Protection and Management Plan** in 1992.

This issue also addresses **County Benchmarks** including **Water Quality, Open Space, Land Use Planning, and Community Design**.

8. Citizen Participation

Citizens of Multnomah County have a very large role to play in the area of natural resource protection. The **Multnomah County Planning Commission** will be largely responsible for reviewing staff reports, conducting public hearings, and recommending changes to land use ordinances. There is no question that the **environmental community** has a large stake and major role to play in this area.

Although the DES CBAC has yet to comment on the 1994/95 add package, they did note in their 1992/93 budget report, in support of the strategic initiative that "**we view environmental protection of the rural areas in Multnomah County to be one of the primary purposes of the County's planning program and consistent with themission of the Department of Environmental Services.**"

9. Partnerships and Collaboration

Long term protection of the County's remaining natural resources will require collaborative efforts and the development of partnerships with a variety of agencies and groups including Metro, LCDC, the Columbia River Gorge Commission, environmental groups, the cities within Multnomah County, and many others.



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Memorandum

To: Board of County Commissioners
From: Betsy Williams, Director, Department of Environmental Services
Subject: DES "Issues and Opportunities" in the FY94-95 Budget
Date: May 18, 1994

Betsy Williams

I. Topic

Issues and Opportunities DES #5 - "Future of Multnomah County Fair."

2. Introduction

Since the 1960's, Multnomah County has been the producer of the Multnomah County Fair, staffed by employees of the Exposition Center. Historically, this event has been heavily subsidized by racing revenues from the State, including parimutuel revenues from horse racing, as well as a special allocation from dog racing. Since the institution of the State lottery, Multnomah County as well as other counties has seen a continued decrease in racing revenues to offset the production of the County Fair, to the point that this revenue source is now negligible.

In addition, in January of this year, Multnomah County transferred the Expo Center and all staff to Metro; so the County no longer has any staff resources for the production of the Fair. Although the intergovernmental agreement with Metro makes some cost concessions to the County Fair for the next two years, the IGA is clear that the Fair "shall continue to be the sole and exclusive responsibility of" Multnomah County.

This issue raises a number of questions. **Is the County going to stay in the County Fair business; and, if not, how are we going to extricate ourselves from this long community tradition?** Is the County willing to "just say no" to the County Fair and walk away from it? If not, is the County willing to commit resources to successfully spin the Fair off to a community group, assuming such a community group can be identified and nurtured? If not, is the County willing to fund and continue to produce the Multnomah County Fair? If not, are there other alternatives?

DES - "Future of the County Fair."

3. Analysis/Alternatives

Depending on the level of entertainment and advertising, the **unsubsidized cost** of producing a Multnomah County Fair is approximately **\$500,000** in current dollars. Operating **revenues** since 1990/91 have varied from a low of **\$135,000** to a high of approximately **\$250,000**. Metro has agreed to subsidize the Multnomah County Fair in 1994 and 1995 by charging **no rent**, using Expo **staff** during the event at **no charge**, and allowing the Fair to retain **concession and parking revenues** collected during the event, a **total subsidy** of approximately **\$150,000-170,000**. Although the State did authorize the allocation of **state lottery** money to County Fairs for 1994 in the amount of **\$35,000**, the future of this funding source is tenuous at best.

The **proposed budget** for the 1994 Fair is **\$265,450**. This excludes the subsidy being provided by Metro. The proposed budget is fully funded by County Fair funds and operating revenues; although the **Multnomah County Fair Advisory Board** is requesting a **General Fund** contribution, in excess of the proposed budget, of **\$40,500**. This includes \$15,500 to enhance events at the Fair itself and a \$25,000 "challenge grant" to the Friends of the Multnomah County Fair, to encourage their pursuit of outside private and corporate **sponsorships** to offset the costs of the event.

The Friends of the Multnomah County Fair is a start-up non-profit group that has evolved in the wake of the funding crisis of the County Fair. They are interested in becoming the producer of this community event. **DES recommends that the County provide financial support and technical assistance in order that this group become a viable organization to "spin off" the County Fair.**

4. Financial Impact

If the Board of Commissioners accepts the recommendation of the County Fair Advisory Board, the **General Fund** impact in 1994 would be **\$40,500**. Whether or not this would be a continuing expense would depend on future Board policy regarding funding of the Multnomah County Fair. Assuming the State discontinues the allocation of lottery money to County Fairs, this could result in an expectation that the County **supplant** the loss of those revenues with **General Funds**. This amount is approximately **\$35,000** in 1994.

If Metro decides to withdraw their subsidy to the County Fair after the 1995 event, the potential financial impact to the Fair, as mentioned above, would be **\$150,000-170,000**. If the County continues to be responsible for the Fair, this would potentially become a cost to the County as well.

5. Legal Issues

A lawsuit was recently filed by the Multnomah County Pomona Grange et. al., challenging the transfer of the Expo Center to Metro on the grounds that it violates various state statutes regarding fairgrounds and the powers of the Fair Board. According to a December 30, 1993 memo from County Counsel, there are no motions pending in this case and no court dates set as yet.

6. Controversial Issues

As the County discovered when it contemplated eliminating the County Fair in 1993, the Multnomah County Fair has a strong constituency in the community, including members of the Grange, 4-H, open class participants, vendors and contractors, and many others. In addition, regardless of the outcome of the legal challenge to the Expo Center transfer, there are vocal community members who charge that the County has a moral obligation to continue its support of this longstanding community tradition.

7. Link to Current County Policies

The Multnomah County Fair Advisory Board recommends that the Board of Commissioners exempt the 1994 County Fair from the current County prohibition to sell alcohol or utilize alcohol-related sponsors for County events. The Advisory Board projects that allowing such activity at the County Fair could **increase revenues in sponsorships and concession sales by approximately \$50,000.**

The County Fair addresses several **County Benchmarks**, including **Sense of Community and Citizen Involvement.**

8. Citizen Participation

The Friends of the Multnomah County Fair is entirely a grass roots volunteer organization. In addition, the Board of County Commissioners recently appointed a **Multnomah County Fair Advisory Board** to develop plans for the 1994 County Fair and develop recommendations on the future of the Multnomah County Fair for Board consideration.

9. Partnerships and Collaboration

In order to ensure the success of the 1994 County Fair, the County Fair Administrator, the Friends of the Fair and the County Fair Advisory Board are making a **major community outreach effort** to increase participation in this event. Outreach includes efforts to include **neighborhood associations, public schools, local business, non-profit and service clubs, environmental groups, OMSI, and many others.**



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
2115 S.E. MORRISON
PORTLAND, OREGON 97214
(503) 248-5000

BOARD OF COUNTY COMMISSIONERS
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GARY HANSEN • DISTRICT 2 COMMISSIONER
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SHARRON KELLEY • DISTRICT 4 COMMISSIONER

1994/95 BUDGET RECOMMENDATIONS DEPT. OF ENVIRONMENTAL SERVICES CITIZENS BUDGET ADVISORY COMMITTEE

The Department of Environmental Services CBAC met several times to review and discuss the proposed 1994/95 budget for DES. Following is a summary of our recommendations and other observations:

FUNDING FOR ADD PACKAGE REQUESTS

After considerable review and discussion of add packages submitted by DES, we recommend funding in the following prioritized order. We have grouped these in two "tiers," Tier 1 proposals being of extremely high priority, Tier 2 proposals being important but less critical than those in Tier 1.

Tier 1

1) Fund as additional **Property Appraiser** in Assessment and Taxation to support the **Board of Equalization** - cost \$42,633.

This additional staff position is important to provide better **customer service** to the public in the property assessment appeals process. With good appraisal data being provided to the BOE, Board members will be in a position to make **better informed decisions**, which will likely result in **fewer appeals to the State** of decisions rendered by the BOE. In addition, the appeals process will be perceived as more objective and **fair** by the public.

2) Fund a strategic planning process for the County's **information management systems** - cost \$50,000.

Many issues regarding information management have been discussed in various DES CBAC meetings, including the need of the County to move toward a more modernized network system and perhaps rely less on mainframe applications in the future. Given the large amount of money the County spends on data processing, both within the Information Services Division as well as within departmental budgets, a **long term plan** is essential to ensure that **data and systems integration** occurs when appropriate and that the County **achieves maximum value of financial resources** through standardization and volume purchase of software and hardware.

Tier I (continued)

3) Accelerate the start-up of a third rural area plan in Land Use Planning, which will focus on the Sauvie Island area - cost \$75,000.

Sensitive natural resources are quickly being lost to development within Multnomah County. Updates of the County's land use plans are critical to inventory and identify significant environmental resources such as wildlife, scenic areas, vegetation, streams and waterways, and others and institute protective legislation in the County's zoning codes. The current funding strategy of funding one rural area plan per year until all five are complete is inadequate. These fragile systems are diminishing quickly and must be addressed sooner, not later.

We understand that all Tier I add packages have been funded in the County Chair's Executive Budget proposal, and we urge the Board to approve their inclusion in the Adopted Budget.

Tier 2

4) Fund a Pet Adoption and Education Outreach Center at Clackamas Town Center - cost \$33,011.

We recognize that animal-related services may not be as high a priority for funding given the needs in public safety and social services. However, the Animal Control Division has been extremely innovative in their approach to service delivery; and these efforts should be encouraged and supported. This particular project is especially creative in its use of public-private partnerships and the use of volunteers to hold costs down. The value of the donated space by Clackamas Town Center is nothing to sneeze at either! Benefits of funding this package include increased adoptions of unwanted dogs and cats, both at the Outreach Center as well as the Troutdale animal shelter, increased public awareness of Animal Control services and responsible pet ownership, and increased pet licensing, an important revenue source to fund animal control programs.

We understand that this add package has been included in the Executive Budget and urge Board support.

Tier 2 (continued)

- 5) Provide General Fund support to the 1994 Multnomah County Fair - cost \$40,500.

This add package provides a \$25,000 challenge grant to the Friends of the Multnomah County Fair, \$10,000 for an arts program "Create a Cow" to involve school age kids in the Fair, and \$5,500 to provide free health tests and screenings at the Fair.

We understand that the Board approved the \$25,000 challenge grant as a 1993/94 contingency request and applaud the Board for supporting the Friends of the Multnomah County Fair's efforts in this manner.

We urge the Board to support the additional request in order to encourage the development of a supportive network in the community to increase attendance at the Multnomah County Fair. The proposed art program for kids and health screenings support County benchmarks related to support for children and families.

Not Recommended

Two additional add packages were submitted by DES that we do not recommend funding at this time. A request was submitted and then withdrawn to fund a **fiscal position** in **Facilities Management** to help implement the new **Facilities Fund**. Facilities Mgt. has decided to try reallocating existing resources internally to meet this need, and we commend them in this effort. If this effort is not successful, however, we would support such a position in the future.

In addition, we do not recommend funding the request of DES Administration to fund Phase II of the support services **consolidation** project, in the amount of \$21,000. We understand that the citizens Task Force on this project recommended against consolidation at this time; therefore, this expenditure is not justified.

OTHER COMMENTS AND OBSERVATIONS

The DES CBAC has reviewed the Multnomah County **Urgent Benchmarks** and agrees with the guiding principles within the Benchmarks and the need to provide resources by reducing the level of effort for some of the established general fund programs.

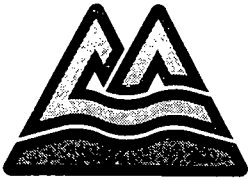
The DES CBAC believes it is important to develop the **Five Year Capital Improvement Plan**. If the County is going to be able to deliver the needed services outlined in the Urgent Benchmarks document, maintenance of the County's assets is critical. We also understand the need to explore alternative funding mechanisms for this program. The County's past experience with deferred maintenance has been a lesson to us all on the true expense of putting off needed repairs.

The County should also consider very carefully any deferred projects with regard to **information systems**. This is another area where if you get behind, the effects may snowball and these services are critical in serving the needs of the County citizens.

The Department of Environmental Services has been **outstanding** in its efforts to develop the **Facility Fund** recommended by this CBAC in past years. The Department should be commended for its effort in involving the affected departments and considering their input with regard to charge back policies. Further progress in this area may require additional financial staff in the future to administer the Facilities Fund Cost Accounting Sytem, although we understand that in the short term Facilities Management will attempt to meet those needs by reallocating existing internal resources.

The CBAC also wants to remind the Board of the importance of developing alternative financing for the **Bridge Maintenance System**. Again, any deferred projects in this area will tend to compound over time.

Thank you for this opportunity to review and comment on the 1994/95 budget request for the Department of Environmental Services.



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SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

To: Board of County Commissioners

From: Dept. of Environmental Services Citizen Budget Advisory Committee

Subject: Board of Equalization

Date: May 12, 1994

We have been asked by Caroline Miller to comment on her recommendations regarding the Board of Equalization contained in her report to you dated April 18, 1994.

After a presentation by Ms. Miller's at our meeting on April 6, reviewing the reports, and considerable discussion, we offer the following observations:

o We share Ms. Miller's concern that the Board of Equalization (BOE) should be autonomous from Assessment and Taxation (A&T), who sets the values that are in dispute before the Board of Equalization. Although we agree that the staff of "Assessment and Taxation have been scrupulous in their conduct" and are not aware of any improprieties on their part, we also agree that the current structure could create a public perception that A&T is able to control or influence decisions made by the BOE.

We also understand that the current structure creates a confusing situation for the Clerk of the BOE, who reports administratively to A&T but also has responsibilities to the Chair's Office and the Chair of the BOE itself.

Therefore, in order to minimize the opportunity for undue influence and to ensure the public trust, we concur with Ms. Miller's recommendation that the Board of Equalization should be autonomous from Assessment and Taxation and should report instead directly to the Chair's Office. That is, we recommend that the Clerk of the Board report directly to the Chair's Office and that the direct budget for the BOE be separated from the budget of A&T and administered under the direction of the Chair's Office.

o We also understand, however, that certain economies of scale are achieved by the current organizational structure; and we share Janice Druian's concern that separation of the BOE function could result in some increased costs to both A&T and the BOE. We

DES CBAC
Board of Equalization
Page Two

therefore also recommend that "shared" costs be negotiated between the BOE and A&T, and that the BOE reimburse A&T for costs incurred on some sort of charge back basis. In this way, the desired autonomy could be achieved while still retaining some of the economies of scale created by the current structure.

o Regarding the recommendation that a system be installed to ensure the personal safety of BOE members during public hearings, we wholeheartedly agree. Petitioners are often angry and distraught, and the potential for violence is always present. We understand, however, and are very pleased that Assessment & Taxation has already instructed staff to install a warning bell system to alert BOE staff in the event of a problem during a hearing.

We appreciate the opportunity to consider this issue and hope you find our comments helpful.

c: Caroline Miller
Janice Druian

1994-95 Budget Work Session & Public Hearing

Management Support Services

Tuesday, May 24

9:00 - 12:00 *

AGENDA

- | | | |
|-------------|---|--------------|
| I. | Budget Overview | 9:00 |
| II. | CBAC Report | 9:20 |
| III. | Discussion of Issues & Opportunities | 9:30 |
| | 1. Labor contract Negotiations | |
| | 2. RESULTS Campaign Training Program | |
| IV. | Division Level Questions & Answers | 9:50 |
| | 1. Finance | |
| | 2. Employee Services | |
| | 3. Labor Relations | |
| | 4. Risk Management | |
| | 5. Budget | |
| | 6. Affirmative Action | |
| | 7. County Counsel | |
| | 8. Emergency Management | |
| V. | Public Testimony | 11:30 |

* This time is revised. The Management Support Services work session will begin at 9:00. The Board will need to be available for public comment from 11:30 to 12:00.

1994-95 Budget Work Session & Public Hearing

Management Support Services

Tuesday, May 24

10:00 - 12:00 *

AGENDA

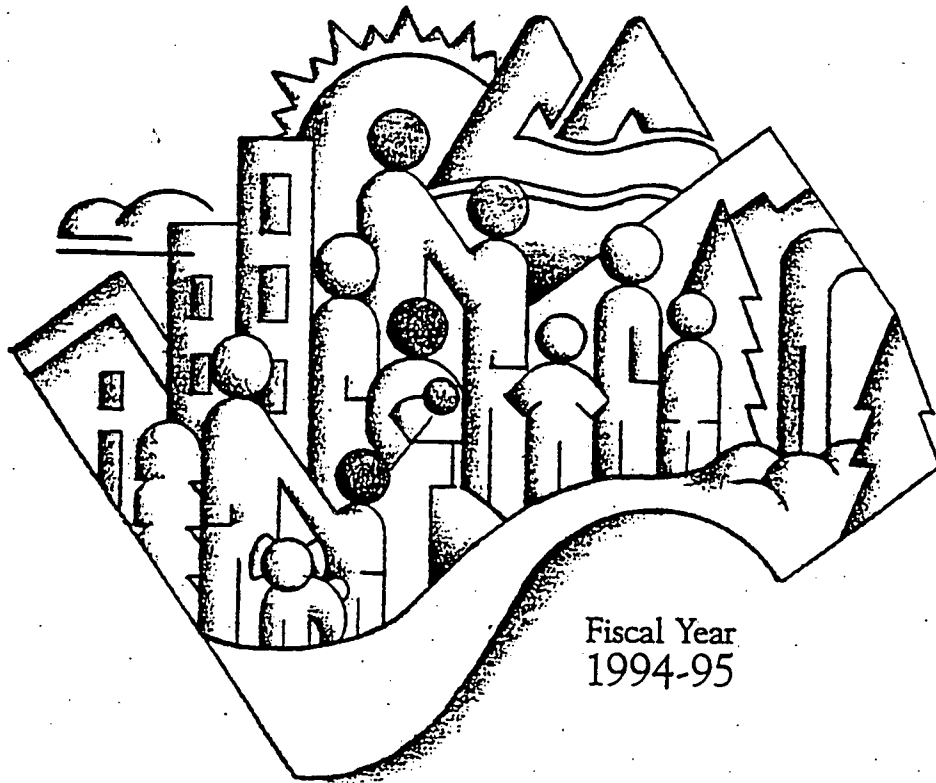
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|-------------|---|--------------|
| I. | Budget Overview | 10:00 |
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| | 1. Labor contract Negotiations | |
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| | 1. Finance | |
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| | 3. Labor Relations | |
| | 4. Risk Management | |
| | 5. Budget | |
| | 6. Affirmative Action | |
| | 7. County Counsel | |
| | 8. Emergency Management | |
| V. | Public Testimony | 11:30 |

this time is tentative. The Management Support Services work session will begin after the conclusion of the Environmental Services Department work session.

mss

Multnomah County Budget

Supplemental Information



Fiscal Year
1994-95

Packet #11

(MSS) Labor Relations
(MSS) Employee Services

Follow-up Information to add packages



MULTNOMAH COUNTY OREGON

BEVERLY STEIN
COUNTY CHAIR

EMPLOYEE SERVICES
FINANCE
LABOR RELATIONS
PLANNING & BUDGET
RISK MANAGEMENT

(503) 248-5015
(503) 248-3312
(503) 248-5135
(503) 248-3883
(503) 248-3797

(503) 248-5170 TDD

PORTLAND BUILDING
1120 S.W. FIFTH, 14TH FLOOR
P.O. BOX 14700
PORTLAND, OREGON 97214


PURCHASING, CONTRACTS
& CENTRAL STORES

(503) 248-5111

2505 S.E. 11TH, 1ST FLOOR
PORTLAND, OREGON 97202

MEMORANDUM

TO: Board of County Commissioners

FROM: Kenneth Upton, Labor Relations Manager 

DATE: May 19, 1994

SUBJECT: Labor Relations Specialist - Add Package

1. Topic

This proposal would add one (1) Labor Relations Specialist to the Labor Relations staff.

2. Introduction

FY 1994-95 promises to be a peak demand year, since seven of the County's nine labor contracts will expire June 30, 1995. Three of the contracts are with non-strikable units and are thus subject to resolution through interest arbitration hearings. The hearings have grown increasingly elaborate over the past few years, requiring months of advance preparation. In addition, there is interest in a more collaborative approach to bargaining with the AFSCME Local 88 general employees unit, which will involve broader participation in the process and more meetings and coordinative efforts on the part of Labor Relations. The number of contracts open, the number of potential interest arbitrations, and a more participative bargaining with the general employees unit engender a need for more technical support.

Also note the substantial increase in the number of unionized employees over the last few years described in BUD J. Specifically, the number of unionized employees has grown approximately 50% since 1988 with no increase in staffing.

3. Background/Alternatives/Analysis

The chief alternative for dealing with the increased workload is to use temporary help. However, there is a substantial difference in the quality of employee available to work as a temporary versus a regular employee. Also, training for Labor Relations support typically takes six months, even for candidates with substantial experience elsewhere. There is a six month limitation for temporary employees under the County's Civil Service Rules. Finally, the increase in workload described in BUD J will remain and perhaps intensify over the next few years.

4. Financial Impact

Base Salary	\$28,914
Fringe	7,480
Insurance	5,574
Phone	450
Supplies	2,200
Equipment	3,000
Training	400
TOTAL	\$48,018

5. Evaluation

Not applicable.

6. Legal Issues

None.

7. Controversial Issues

None.

8. Link to Current County Policies and Benchmarks

None.

9. Citizen Participation

Support Services CBAC consulted. Supported by Support Services CBAC with recommendation to re-evaluate next year. Not approved by Central CBAC.

10. Other Government Participation

None.



MULTNOMAH COUNTY OREGON

BEVERLY STEIN
COUNTY CHAIR

EMPLOYEE SERVICES
FINANCE
LABOR RELATIONS
PLANNING & BUDGET
RISK MANAGEMENT

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& CENTRAL STORES

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2505 S.E. 11TH, 1ST FLOOR
PORTLAND, OREGON 97202

MEMORANDUM

TO: Board of County Commissioners

FROM: Curtis Smith, Manager
Employee Services Division *Curtis Smith*

DATE: May 19, 1994

SUBJECT: RESULTS Campaign Training Program - Add Package

I. Introduction

This program provides the training component to the Chair's RESULTS Campaign. The RESULTS Campaign is a plan to achieve good government through a customer-focused quality improvement initiative. It is a strategy of management working in partnership with labor, and is designed to earn Multnomah County a place as a national model of excellence. This training program for the RESULTS Campaign will support the Campaign by 1) Conducting a training workshop for key stakeholders; 2) Establishing project grants to develop and nurture high-performance work teams throughout the County; and 3) Reinforcing successful projects and encouraging expansion of high-performance teams through a periodic newsletter and other publicity as appropriate.

II. Background/Alternatives/Analysis

The RESULTS Campaign, and this training program which supports it, link up with the County's new benchmarking; the program budgeting process which includes key results areas and measurable goals; the new results-oriented pay system for managers; and the ongoing workforce diversity training program.

Our investment in employees is planned to translate readily into an investment in the quality of services, by focusing on results and outcomes. We also hope that a demonstration of the County's commitment to this effort will help us leverage external resources.

We understand that the change we are initiating must go deeply into the organization, and will require training to achieve a fundamental transformation of our culture. We expect this to be a 3 to 5 year process, and are planning accordingly. We are committed to a long-term process, and are now building internal commitment among elected officials and employees.

Alternative #1: **Do nothing.** This would continue the present workforce culture which tends to be very process oriented. It would be inconsistent with recent Board actions directing that exempt employees be paid for results obtained, and establishing program budgeting.

Alternative #2: **Adopt the RESULTS Training program.** This would begin to provide employees with the knowledge and skills needed to implement high performance work teams focused on results. It would be consistent with the exempt results-oriented pay policy and the Employee Suggestion System, as well as program budgeting and benchmarking.

III. Financial Impact

First year impact is estimated at \$ 48,200. Assuming the program proves successful and that implementation of the total RESULTS Campaign may take 3 to 5 years to impact the total County, it is reasonable to assume continuing costs of about the same annual amount, adjusted for normal inflation.

IV. Evaluation

All training will be evaluated by participants in the same way as other classes given by Employee Services/Training. In addition, the success of individual project grants will be individually evaluated in accordance with their own evaluation designs, which will be part of the grant application.

V. Legal Issues

None are anticipated.

VI. Controversial Issues

None anticipated. All stakeholders are currently being involved in the development of the RESULTS Campaign, so the training program should flow as a natural result of that effort.

VII. Link to Current County Policies and Benchmarks

This training proposal will help County work teams gain the knowledge and skills they need to form themselves into high performance teams, so that they can achieve their desired goals, as well as make an impact on County benchmarks. This program is also consistent with Employee Services Division's mission in countywide training.

VIII. Citizen Participation

The RESULTS Advisory Committee, composed of citizens expert in the development of high performance work teams, endorsed this training program on 2/16/94.

The Support Services CBAC did not recommend the RESULTS Campaign Training Program, but would like to see an expansion of the Employee Suggestion Program because of its proven success.

The Central CBAC did recommend approval of the RESULTS Campaign Training Program.

IX. Other Government Participation

The project grants described above will encourage improved service delivery across traditional organizational boundaries, such as intersectional, interdivisional, interdepartmental, intergovernmental, and even across government/community lines.

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PAGE 9
05/02/94
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BUDGET WORKSHEET -- CENTER EXPENSE
CITY OF PORTLAND

FUND: 101
GENERAL FUND
AU: 307
OFFICE OF FISCAL ADMIN
CENTER: 30711050
AFFIRMATIVE ACTION

ACCOUNT	DESCRIPTION	REQUESTED 9	PROPOSED 95	APPROVED 95	DIFFERENCE LAST 2 COLS
511000	FULL-TIME EMPLOYEES	105,339	105,339	105,339	
517000	BENEFITS	46,018	46,018	46,018	
510000	PERSONAL SERVICES	151,357	151,357	151,357	
521000	PROFESSIONAL SERVICES	11,949	11,538	11,538	
524000	REPAIR & MAINT SERVICES	1,000	1,000	1,000	
529000	MISC SERVICES	500	500	500	
531000	OFFICE SUPPLIES	3,000	3,000	3,000	
541000	EDUCATION	3,000	3,000	3,000	
543000	OUT-OF-TOWN TRAVEL	1,100	1,100	1,100	
EXTERNAL	MATERIALS AND SERVICES	20,549	20,138	20,138	
552000	PRINT/DISTRIBUTION	6,298	6,298	6,298	
553000	FACILITIES SERVICES	22,579	22,579	22,579	
554000	COMMUNICATIONS SERVICES	5,109	5,109	5,109	
555000	DATA PROCESSING SERVICES	7,609	7,609	7,609	
556100	INSURANCE & CLAIMS	932	932	932	
556600	WORKERS' COMPENSATION	592	592	592	
550000	INTERNAL SERVICES	43,119	43,119	43,119	
AFFIRMATIVE ACTION		215,025	214,614	214,614	
CENTER 30711050					

PAGE 10
05/02/94
23:24:22

BUDGET WORKSHEET -- CENTER EXPENSE
CITY OF PORTLAND

FUND: 101
GENERAL FUND
AU: 307
OFFICE OF FISCAL ADMIN
CENTER: 30711053
AA OUTREACH

ACCOUNT	DESCRIPTION	REQUESTED 9	PROPOSED 95	APPROVED 95	DIFFERENCE LAST 2 COLS
511000	FULL-TIME EMPLOYEES	81,265	81,265	81,265	
517000	BENEFITS	25,898	25,898	25,898	
510000	PERSONAL SERVICES	107,163	107,163	107,163	
521000	PROFESSIONAL SERVICES	7,000	7,000	7,000	
524000	REPAIR & MAINT SERVICES	600	600	600	
529000	MISC SERVICES	14,000	13,350	13,350	
531000	OFFICE SUPPLIES	1,031	1,031	1,031	
541000	EDUCATION	2,668	2,668	2,668	
543000	OUT-OF-TOWN TRAVEL	4,000	4,000	4,000	
549000	MISCELLANEOUS	3,200	3,200	3,200	
EXTERNAL	MATERIALS AND SERVICES	32,499	31,849	31,849	
551000	FLEET SERVICES	1,500	1,500	1,500	
552000	PRINT/DISTRIBUTION	7,200	7,200	7,200	
553000	FACILITIES SERVICES	7,378	7,378	7,378	
554000	COMMUNICATIONS SERVICES	1,057	1,057	1,057	
555000	DATA PROCESSING SERVICES	1,000	1,000	1,000	
556100	INSURANCE & CLAIMS	424	424	424	
556600	WORKERS' COMPENSATION	1,608	1,608	1,608	
550000	INTERNAL SERVICES	20,167	20,167	20,167	
AA OUTREACH		159,829	159,179	159,179	
CENTER 30711053					

BUDGET WORKSHEET -- CENTER EXPENSE
CITY OF PORTLAND

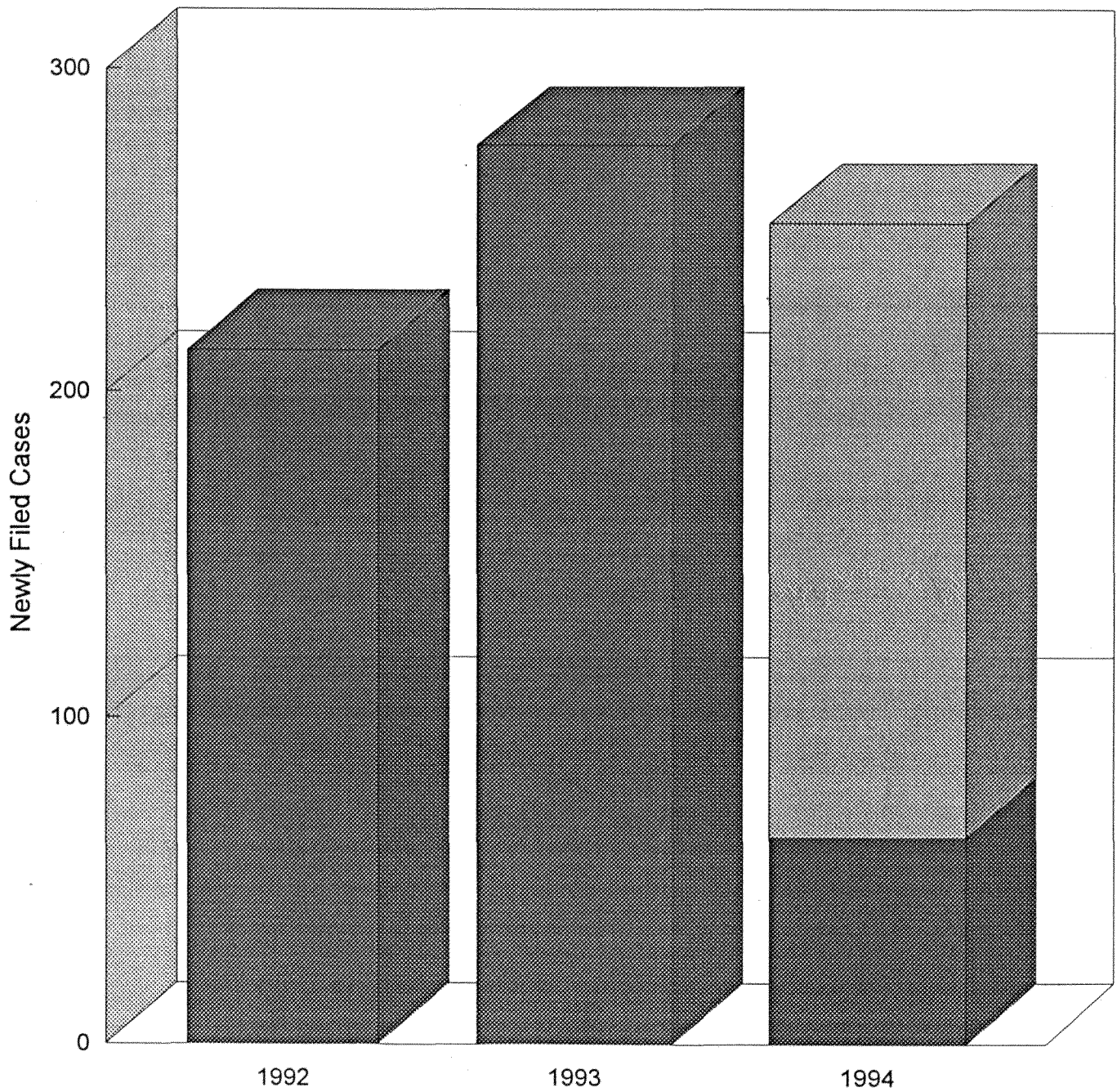
FUND: 101
GENERAL FUND
AU: 307
OFFICE OF FISCAL ADMIN
CENTER: 30711055
AA-TRAINING

ACCOUNT	DESCRIPTION	REQUESTED 9	PROPOSED 95	APPROVED 95	DIFFERENCE LAST 2 COLS
541000	EDUCATION	15,000	15,000	15,000	
EXTERNAL	MATERIALS AND SERVICES	15,000	15,000	15,000	
AA-TRAINING		15,000	15,000	15,000	
CENTER 30711055					

New Litigation Cases by Year

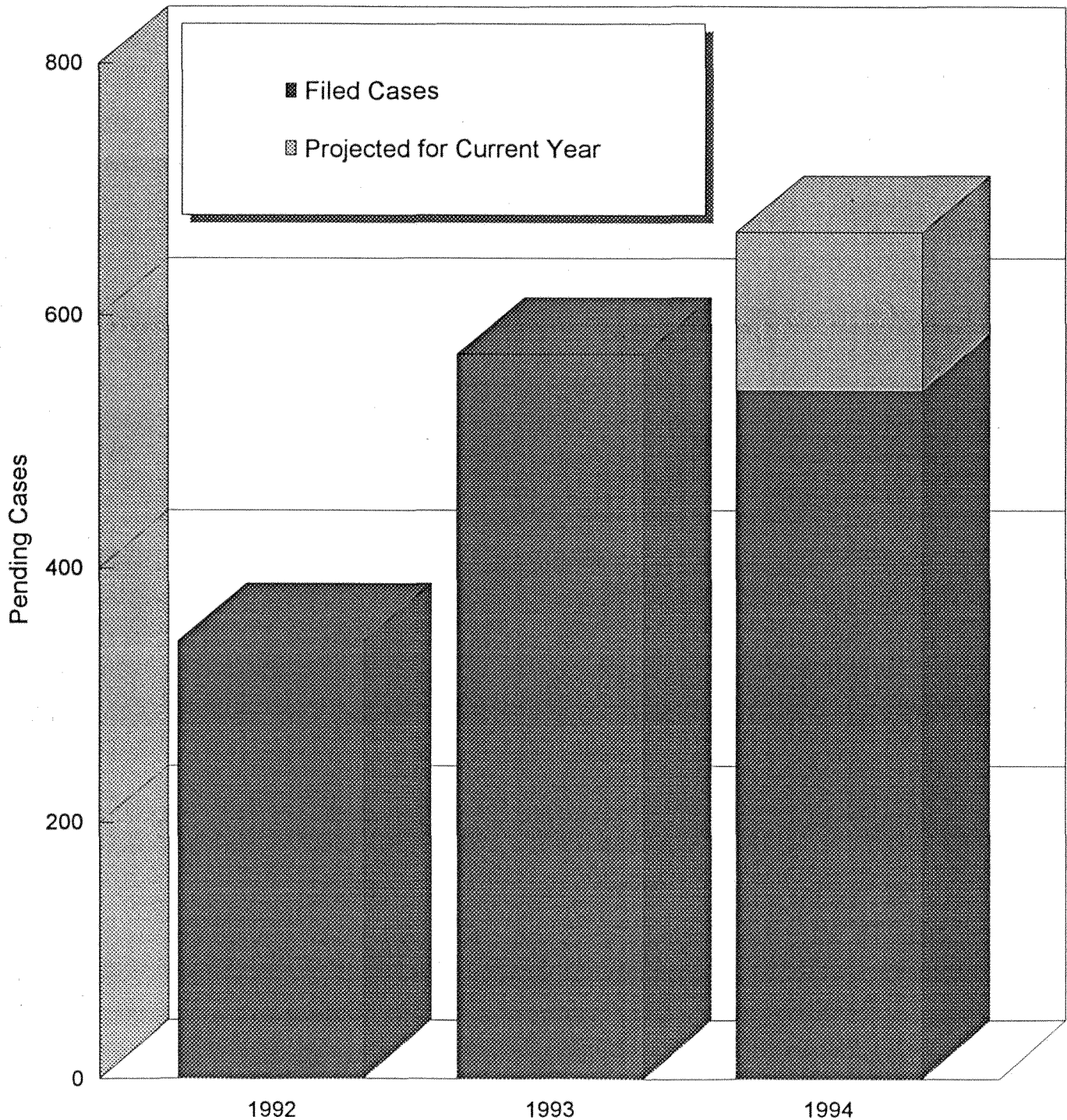
(Federal and State Courts and Agencies)

- Filed Cases
- Projected for Current Year



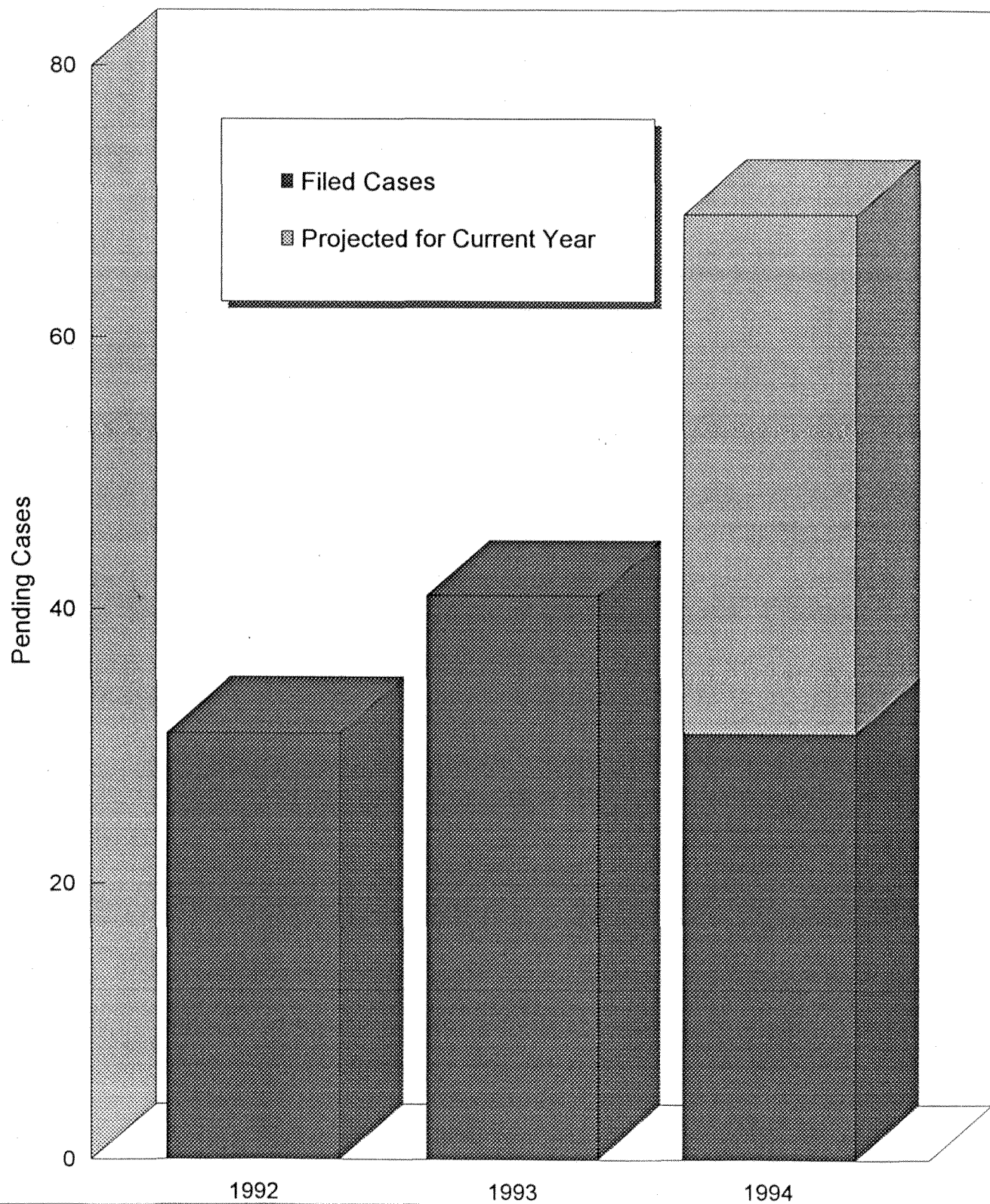
Pending Litigation Cases By Year

(Federal and State Courts and Agencies)



Pending Labor and Employment Cases

(Federal and State Courts and Agencies)





MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS

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PHONE (503)248-3883

TO: Dave Boyer, Finance Director
Curtis Smith, Employee Services Director
Jean Miley, Risk Manager
Larry Kressel, County Counsel
Robert Phillips, Affirmative Action Officer
Ken Upton, Labor Relations Manager
Penny Malmquist ("Lucky Penny"), Emergency Management

FROM: Dave Warren

DATE: May 24, 1994

SUBJECT: Follow Up Items from the Work Session on May 24

BOARD OF
COUNTY COMMISSIONERS
1994 MAY 24 PM 3:52
MULTNOMAH COUNTY
OREGON

Attached is a list of items about which the Board of Commissioners would like additional information.

Please prepare a memo answering the Board's questions. I suggest that the responses state the question, and then state the response. The response may be a reference to an attached document.

I have two requests to make about the responses:

1. Please respond to all the questions by Wednesday, June 1. I realize that answers to several of the requests on the list will not be available by June 1. However, you will probably have a reasonable idea of when the answers will be available. The response to these items could be to say when the research is expected to be complete.
2. Please help us keep track of the responses. Send them to the Budget Office. We will copy them, attach a sequentially numbered cover sheet that will help the Board be sure that they are getting all the packets of information, and distribute them to the Commissioners and the Clerk of the Board.

Let me know if you have further suggestions.

c Board of County Commissioners
Larry Aab
Kelly Bacon
Susan Clark
Ginnie Cooper
Marie Eighmey
Margaret Epting
Bill Farver
Tom Fronk

May 24, 1994

Kathy Gillette
Tamara Holden
Susan Kaeser
Jim McConnell
Hal Ogburn
Mike Oswald
District Attorney Mike Schrunk
Tom Simpson
Sheriff Bob Skipper
Meganne Steele
Kathy Tinkle
Betsy Williams
CIC
Patrol

Follow Up Items from the May 24 budget work session:

MANAGEMENT SUPPORT SERVICES

1. Labor Relations - Provide workload numbers for the unit: grievances, arbitrations, consultations, and legal processes.
2. Labor Relations - Explain the pros and cons of using professional services as an alternative to increasing permanent staff for the workload anticipated in 1994-95.
3. Labor Relations - Survey other organizations with multiple bargaining units and compare their labor relations staffing with Multnomah County's.
4. Employee Services - Expand on the explanation of 1993-94 training expenses and compare those expenses with the 1994-95 expenses including the detailed expenditure plan for the RESULTS campaign.
5. Employee Services - Provide the Board a copy of the summary of departmental training.
6. Budget - Explain the changes in FTE in the Chair's Office and the Budget Office.
7. Budget - Describe the plan for involving Budget Office in analysis as opposed to traditional budgeting.
8. Budget - Trace the financial and personnel history of MSS as a whole (the numbers on page 3) explaining the year to year changes.
9. Affirmative Action - Provide workload numbers for the unit: investigations, complaints, cases filed, and average lengths of time spent on cases. Compare this workload with the reduction in work that follows from completion of the Affirmative Action Plan.
10. Affirmative Action - Explain the relationship of the office to the City of Portland. Explain the effects and advantages of the consolidated county/city office. Summarize the funding and staffing from both jurisdictions.
11. Risk Management - Report on the costs of sexual harassment claims during the last two years and estimate the claims for the current fiscal years.
12. Budget - Provide a list of new positions broken out by fund. Compare the indirect costs recovered to the changes in MSS positions.
13. Affirmative Action - Compare the total Affirmative Action budget for the City and County with the total spent by the State and other jurisdictions (e.g. METRO).

Follow Up Items from the May 24 budget work session:

14. County Counsel - Provide a breakout of the number of cases handled that relate to: race/gender discrimination, "whistle blower" incidents, ADA claims, sexual discrimination.

15. County Counsel - Explain the basis and methodology for the 1994 projections provided the Board on May 24.

16. County Counsel - Explore a mechanism to report the workload of the office based on the department that initiates the workload, the kinds of activities requested or involved, a spectrum of appropriate staffing to respond to the array of requests, and the relationship of County Counsel to other support functions in responding to these requests.

17. County Counsel - Explain how the office disciplines access to legal assistance and explore the pros and cons of alternative ways of controlling access.

MEETING DATE: MAY 24, 1994

AGENDA NO: BH-3

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: DEPARTMENT OF ENVIRONMENTAL SERVICES AND MANAGEMENT SUPPORT SERVICES
DIVISION BUDGET HEARING

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING: Date Requested: MAY 24, 1994

Amount of Time Needed: 11:30-12:00 PM

DEPARTMENT: NON-DEPARTMENTAL DIVISION: CHAIR BEVERLY STEIN

CONTACT: DAVE WARREN TELEPHONE #: 248-3883; EXT 3822
BLDG/ROOM #: 106/1400

PERSON(S) MAKING PRESENTATION: PUBLIC HEARING

ACTION REQUESTED:

☒ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☐ APPROVAL ☐ OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

PUBLIC HEARING ON THE 1994-95 DEPARTMENT OF ENVIRONMENTAL SERVICES AND MANAGEMENT SUPPORT SERVICES DIVISION BUDGETS. TESTIMONY LIMITED TO 3 MINUTES PER PERSON

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1994 MAY 19 AM 8:55

SIGNATURES REQUIRED:

ELECTED OFFICIAL: Beverly Stein

OR

DEPARTMENT MANAGER:

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

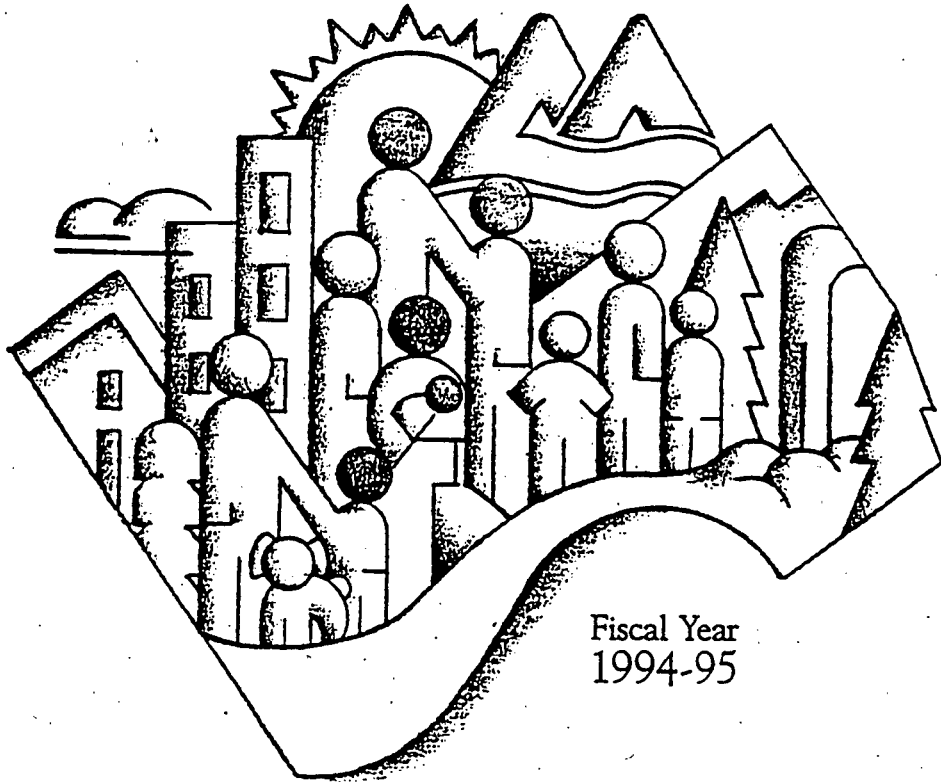
Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

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6/93

Multnomah County Budget

Supplemental Information



Fiscal Year
1994-95

Packet #22
Portland-Multnomah Progress Board

Issues and Opportunities



Beverly Stein, Multnomah County Chair

Room 1410, Portland Building
1120 S.W. Fifth Avenue
P.O. Box 14700
Portland, Oregon 97204
(503) 248-3308

To: Board of County Commissioners
From: Beverly Stein, Chair
Date: June 2, 1994
Subject: Portland-Multnomah Progress Board Budget

The Portland-Multnomah County Progress Board was established in September 1993 as a shared effort by government, education, business and community leaders. The Progress Board used a community-based process to develop benchmarks for maintaining and enhancing the quality of life in Multnomah County. A total of 97 community benchmarks, including eleven urgent benchmarks, were adopted in January 1994. These benchmarks are quantified, measurable targets which can act as magnets to draw our community together to work in collaboration to address fundamental quality of life issues.

The community-level benchmarks provide a linkage to connect the efforts of various local organizations with each other and with the Oregon benchmarks. Without a Progress Board, the benchmarks effort might be discounted as just applicable to the City or the County. The participation and support of the Progress Board membership sets the stage for adoption of the benchmarks model by the community.

The City and County partnership in leadership of the Portland-Multnomah County Progress Board provides a model for the type of collaboration needed to achieve the benchmarks. It is very important that we continue in this direction. Towards that end, I have worked with Mayor Vera Katz to develop a work plan, budget and organizational structure for Progress Board staffing in 1994-95. The following is a brief summary of more detailed documents which are attached for your review and input.

Progress Board Work Plan

The 1994-95 work plan for the Progress Board contains the following elements:

- educate and advocate for adoption of benchmarks [on-going]
- refine urgent & related benchmarks for measurability [summer]
- establish baseline data and targets [summer]
- recognize successful efforts in reaching the benchmarks [summer & on-going thereafter]



- identify and discuss barriers to reaching the urgent benchmarks [on-going]
- prepare annual report on community performance on benchmarks [fall]
- convene selected policy-makers to discuss gaps in efforts towards the benchmarks [winter & on-going thereafter]
- extend benchmark refinement and data collection efforts to other benchmarks [winter & on-going thereafter]

Budget and Organizational Plan

The Chair's Proposed 1994-95 Multnomah County Budget includes \$60,000 which is approximately one-half of the 1994-95 funding requirements for the Progress Board. In addition, in-kind staff time will be contributed by both City and County staff. The detailed budget, attached for your review, has the following main features:

- The City and the County Share Equally in the Costs
- Staffing consists of a full-time Project Manager and one Staff Assistant
- Staff are City Employees but they are not Civil Servants
- The Mayor and The Chair Shall Jointly Select and Direct the Project Manager

In 1993-94, the work of the Progress Board was supported by a half-time project manager, a half-time intern, a full-time office assistant, professional services and other materials and services; the City of Portland supported the full budget of about \$107,000. We expect the City to support the 1994-95 Progress Board budget in total if the County Board of Commissioners decides it does not want to share the costs.

By sharing equally in the costs for operating the Progress Board, we secure the County's position as a full partner in the benchmarks efforts. It is important for all citizens of the County that we secure our leadership role in this arena --- it may guide our local policies and priorities for the next two decades.

The success of our intergovernmental efforts towards the benchmarks is attracting national attention. Federal dollars and less restrictive grant allocations may result.

I urge you to join me in supporting the Chair's 1994-95 Proposed Budget allocation of \$60,000 for the Portland/ Multnomah County Progress Board.

Thank you.

Attachments:

Progress Board membership list
 1994-95 Proposed Budget for Progress Board
 1994-95 Progress Board Draft Workplan

PORTLAND-MULTNOMAH COUNTY PROGRESS BOARD

September 2, 1993

Mayor Vera Katz, Chair
City of Portland
City Hall
1220 SW Fifth Avenue
Portland, OR 97204
823-4120

John Bierwirth
Portland Public Schools
501 N. Dixon
Portland, OR 97227
249-2000

J. E. "Bud" Clark
1729 SW Madison
Portland, OR 97205
227-2576, H: 222-7415

Sho Dozono
Azumano Travel
320 SW Stark, Ste 600
Portland, OR 97204
294-6471

Barbara Karmel
The Reed Company
P O Box 1548
Lake Oswego, OR 97034
684-4000

Dan Moriarty
Portland Community College
P O Box 19000
Portland, OR 97219
452-4929

Beverly Stein, Co-Chair
Executive Office
Multnomah County
1120 SW Fifth, Ste 1400
Portland, OR 97204
248-3308

Alex Munoz
3280 S. W. 170th
Apt. 506
Beaverton, OR 97007
649-9625

Mary Zoe Petersen
Gresham Optical
24900 SE Stark, Ste.101
Gresham, OR 97030
667-2424

Judith Ramaley
Portland State University
P O Box 751
Portland, OR 97207
725-4411

Reverend John Rogers
Vernon Presbyterian Church
5425 NE 27th
Portland, OR 97211
282-5366

Sharon Gary Smith
United Way of Columbus-Willamette
718 W. Burnside
Portland, OR 97209
228-9131

Page two

Mike Thorne
Port of Portland
700 NE Multnomah
Portland, OR 97232
231-5000

Bill Wyatt
Oregon Business Council
1100 SW Sixth
Portland, OR 97204
220-0691

PORTLAND - MULTNOMAH COUNTY PROGRESS BOARD
Proposed 1994-95 Budget

Personal Services

Project Manager	1.0 FTE @ \$ 23/ hour	\$ 48,000
Staff Assistant - Clerical	1.0 FTE @ \$ 10.81/ hour	22,571
Benefits	[est. at 30%]	<u>22,370</u>
TOTAL PERSONAL SERVICES		92,941

External Materials & Services

Miscellaneous Services	Meeting expenses	\$ 2,000
Office Supplies		1,500
Miscellaneous		<u>5,083</u>
TOTAL EXTERNAL M & S		8,583

Internal Materials & Services

Printing	Reports, final document	\$ 8,607
Facilities	Office space rental	8,128
Communication	Telephone (2 lines)	<u>1,741</u>
TOTAL INTERNAL M & S		18,476

**TOTAL PROGRESS BOARD
BUDGET \$ 120,000**

COUNTY SUPPORT FOR PROGRESS BOARD

Half of Direct Budget	60,000
In-Kind Contribution	

• Evaluation & outcome	.25 FTE @ \$25/ hour	\$ 13,000
measurement expertise	.05 FTE @ \$30/ hour	3,100
	.20 FTE @ \$20/ hour	8,320
• Citizen participation &	.25 FTE @ 14/ hour	7,280
communications expertise		
BENEFITS	Est. At 30 %	<u>9,510</u>

COUNTY IN-KIND \$ 41,210

TOTAL COUNTY CONTRIBUTION BUDGET & IN-KIND \$ 101,210

PORTLAND-MULTNOMAH COUNTY PROGRESS BOARD DRAFT WORKPLAN

March 18, 1994

♦ WORK SESSIONS AROUND CLUSTERS OF BENCHMARKS (APR - JUNE)

- A. USE CLUSTER OF URGENT BENCHMARK & RELATING BENCHMARKS (STAFF)
- B. IDENTIFICATION OF ISSUES RELATING TO BENCHMARKS (STAFF)
- C. IDENTIFICATION OF LEAD PLAYERS (STAFF)
- D. AGREEMENT ON BENCHMARK (WORK SESSION)
- E. WHAT DATA IS CURRENTLY BEING USED? (STAFF & WORK SESSION)
- F. AGREEMENT ON COOPERATION FOR IMPLEMENTATION (WORK SESSION)
 - 1. IDENTIFICATION OF LEAD COORDINATING AGENCY
- G. IDENTIFICATION OF BARRIERS (WORK SESSION)
- H. IDENTIFY WHAT PROGRESS BOARD CAN DO TO ASSIST EFFORTS (STAFF & WORK SESSION)
- I. DEFINITION FOR SUCCESSFUL IMPLEMENTATION (WORK SESSION)

- TWO-THREE PROGRESS BOARD MEMBERS ATTEND WORK SESSION
REPORT BACK TO PROGRESS BOARD (LATE JUNE)

♦ JULY PROGRESS BOARD MEETING

- A. REVIEW BASELINE DATA, ESTABLISH TARGETS IN THREE-FOUR AREAS
- B. IDENTIFY DISCREET AREAS TO APPLY ASSISTANCE
- C. RECOGNIZE SUCCESSFUL EFFORTS IN REACHING BENCHMARKS
- D. PUBLIC EDUCATION UPDATE

♦ AUGUST PROGRESS BOARD MEETING

- A. REVIEW BASELINE DATA, ESTABLISH TARGETS IN THREE-FOUR AREAS
- B. IDENTIFY DISCREET AREAS TO APPLY ASSISTANCE
- C. RECOGNIZE SUCCESSFUL EFFORTS IN REACHING BENCHMARKS
- D. PUBLIC EDUCATION UPDATE

♦ **SEPTEMBER PROGRESS BOARD MEETING**

- A. OVERALL REVIEW OF BENCHMARKS
- B. INITIAL INFORMATION FOR ANNUAL REPORT
- C. COMMUNITY ASSISTANCE PLANS UPDATE
- D. PUBLIC EDUCATION UPDATE
- E. DATA BASE ESTABLISHED & ON LINE
 - 1. DATA INFORMATION
 - 2. IMPLEMENTING ORGANIZATIONS

♦ **NOVEMBER PROGRESS BOARD MEETING**

- A. ANNUAL REPORT REVIEWED & FINALIZED
- B. 1995 WORKPLAN DEVELOPMENT
- C. PUBLIC EDUCATION UPDATE
- D. COMMUNITY ASSISTANCE UPDATE

• **DECEMBER 15, 1994**

- A. ANNUAL REPORT RELEASED
- B. PRESS CONFERENCE TO ANNOUNCE RELEASE OF ANNUAL REPORT

Multnomah County Budget

Supplemental Information



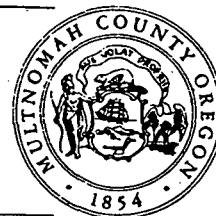
Packet #25
Affirmative Action

Follow-up Information from 5/24/94



CITY/COUNTY
AFFIRMATIVE ACTION OFFICE


Robert Phillips
Affirmative Action/EEO Officer
1220 S.W. Fifth Avenue, Room 104
Portland, Oregon 97204
(503) 823-4164



May 31, 1994

MEMORANDUM

TO: The Multnomah County Board of Commissioners

FROM: Robert Phillips 
Affirmative Action/EEO Officer

SUBJECT: Affirmative Action Follow-up Response to Budget Work Session Questions of May 24, 1994

Per the request of the Board, I am providing the following information in the attached notebook:

Question/Request:

1. Provide workload numbers for the unit: investigations, complaints, cases filed, and average lengths of time spent on cases. Compare this workload with the reduction in work that follows from completion of the Affirmative Action Plan.
 - a. Workload for the office has been defined by point of contact, and not hour expended. Point of contacts may take anywhere from 15 minutes, three to four hours, or up to several days to complete a contact point. This measurement was selected, since multiple contacts often occur within the hours expended, making them difficult to track. Over the last month and a half of tracking, the Office received over 2,501 contacts. The contacts are broken down after Tab 1 in the notebook, which shows total contacts and contacts for all staff of the office.
 - b. Complaints - The Affirmative Action Office received within a month and a half 132 contacts regarding complaints. For these contacts, 40 concerned the City, and 86 regarded the County (see Tab 1, Page 3). Additionally, 245 consultations internally came to the Office. These consultations reflected 128 City of Portland and 129 Multnomah County contacts. (See Tab 1, Page 3.)

During Fiscal Year 1993-94 (as of May 24, 1994), twenty-one complaints were formally filed, where investigatory action was required. The County accounted for 12 of the complaints, and the City accounted for 9.

AN EQUAL OPPORTUNITY EMPLOYER

From the 12 complaints of the County, 9 had a harassment or gender bases to the complaint. Cases involving the County have taken an average of 117 days to resolve, compared to 66 days for the City of Portland. This is due to the multi-faceted nature of the complaints. (See Tab number 5 for additional details.)

Finally, the Office received 14 ADA related complaints. From the 14, 12 concerned the City and 2 concerned the County. These complaints required 584 hours to resolve.

c. Workload resulting from completion of County's Affirmative Action Plan.

The affirmative action plan is a written document describing a program plan to be implemented in meeting regulatory requirements and mandates. The workload does not decrease (see Tab 1 regarding workload), but increases due to the plan's implementation requirements (see Tab 3).

2. Affirmative Action - Explain the relationship of the office to the City of Portland. Explain the effects and advantages of the consolidated county/city office. Summarize the funding and staffing from both jurisdictions.
 - a. The relationship of the consolidated City/County Affirmative Action Office, its purpose and intent can be found behind Tab 2. Additionally, information regarding the obligations of the two separate units of government within the scope of the consolidated program can be found behind Tab 2, as well as the fiscal benefits, effects and advantages.
 - b. The summary of the funding and staffing from both jurisdictions can be found behind Tab 2.
3. Affirmative Action - Compare the total Affirmative Action budget for the City and County with the total spent by the State and other jurisdictions (e.g. METRO).

Information concerning other jurisdictions' budget for program comparable to the Affirmative Action Office, can be found behind Tab 4.

The most comparable programs are that of the City of Seattle designated under Human Rights, and the City/County of San Francisco's Human Rights Commission. Both of these programs implement essential work functions similar to the City/County Affirmative Action Office.

4. Half-time position (female investigator/mediation) justification.

The position is being requested for the following purpose:

- a. To assist in handling complaints (see Tab 5) and reduce closure time averaging 66 days for the City, and 117 for the County (see Tab 5, Page 3) and on the need for prompt response (see Tab 7).

- b. To assist in meeting the standards contained with the Ninth Circuit Court of Appeals - "Reasonable Woman Standard) rule (see Tab 6); and to see that gender differences are accounted for during the investigatory process and in the investigatory findings, (see Tab 6, The Mating Game, Willamette Week, May 25-31, for details); and
- c. Finally, to avoid charges of a negligent investigation, see article following:

NEGLIGENT INVESTIGATION

Lambert v. Morehouse, 68 Wn App 500, 843 P2d 1116, rev den 121 Wn2d 1022 (1993). The Washington Court of Appeals rejected an employee's claim that his employer did not follow its duty to investigate properly when it fired him after he was accused of sexually harassing co-workers. When the employer investigated his conduct, it interviewed 27 employees. The employee argued that if the employer had properly conducted the investigation, he would have been found innocent. In this case, the employee's employment was "at will." The court reasoned that recognizing a claim for negligent investigation would have conflicted with the employer's right to discharge the employee for any cause.

Additionally, see requirements involved in investigating complaints (Tab 9), and the information contained in the notebook pocket.

Thank you for your questions. We are always pleased to share information on the scope, focus, activities and demands placed on the Affirmative Action Office.

RP:lw

Supervisors have special responsibilities

Supervisors and those who influence the work of others are responsible for their own actions and for those of their employees. As a supervisor, it's your job to be sure that people aren't being sexually harassed, and to take appropriate action if they are.

Be fair to everyone

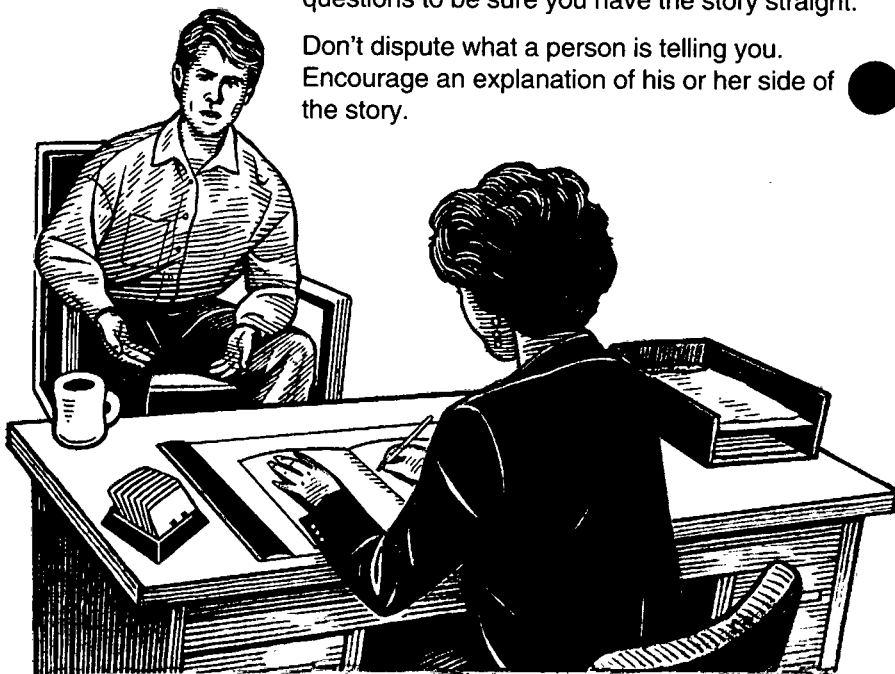
Take all sexual harassment complaints seriously. That way:

- ☐ The accuser sees that you and the company are concerned with his or her welfare
- ☐ The accused knows that there will be a full and fair investigation
- ☐ Other workers see that the company is dedicated to fair treatment in the workplace.

Follow company procedure

Get all the facts—and be specific about times, actions, words, etc. Take notes and write out a report as soon as possible. Ask questions to be sure you have the story straight.

Don't dispute what a person is telling you. Encourage an explanation of his or her side of the story.

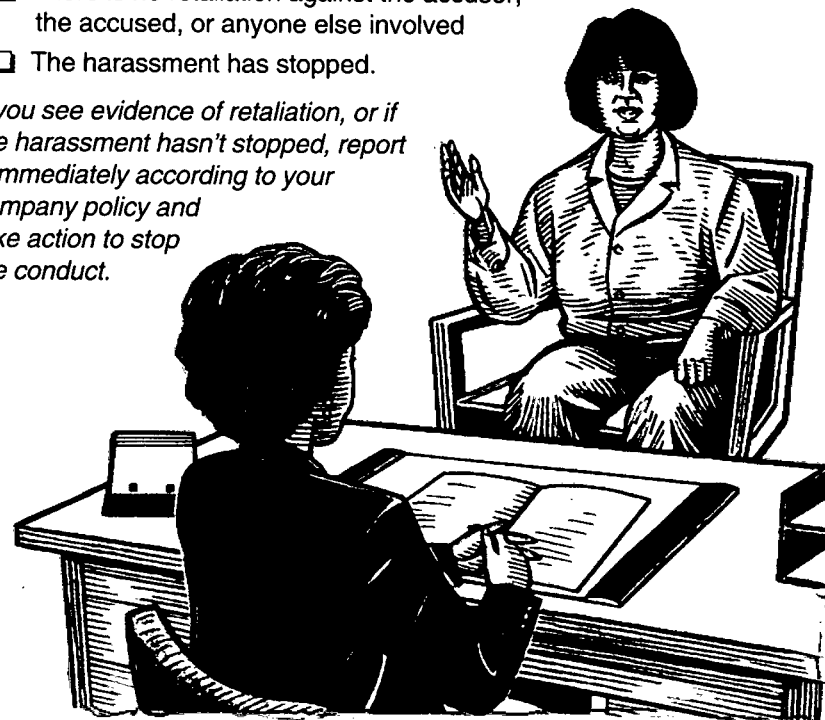


Ensure good working conditions

Once a complaint has been investigated and settled, it's important for supervisors to ensure that:

- ☐ There is no retaliation against the accuser, the accused, or anyone else involved
- ☐ The harassment has stopped.

If you see evidence of retaliation, or if the harassment hasn't stopped, report it immediately according to your company policy and take action to stop the conduct.



You can help prevent sexual harassment by:

- ☐ Demanding and demonstrating professional behavior at work
- ☐ Being friendly and helpful without using sexual references or jokes
- ☐ Letting people know when their behavior is inappropriate.

Complaints should follow an investigation procedure

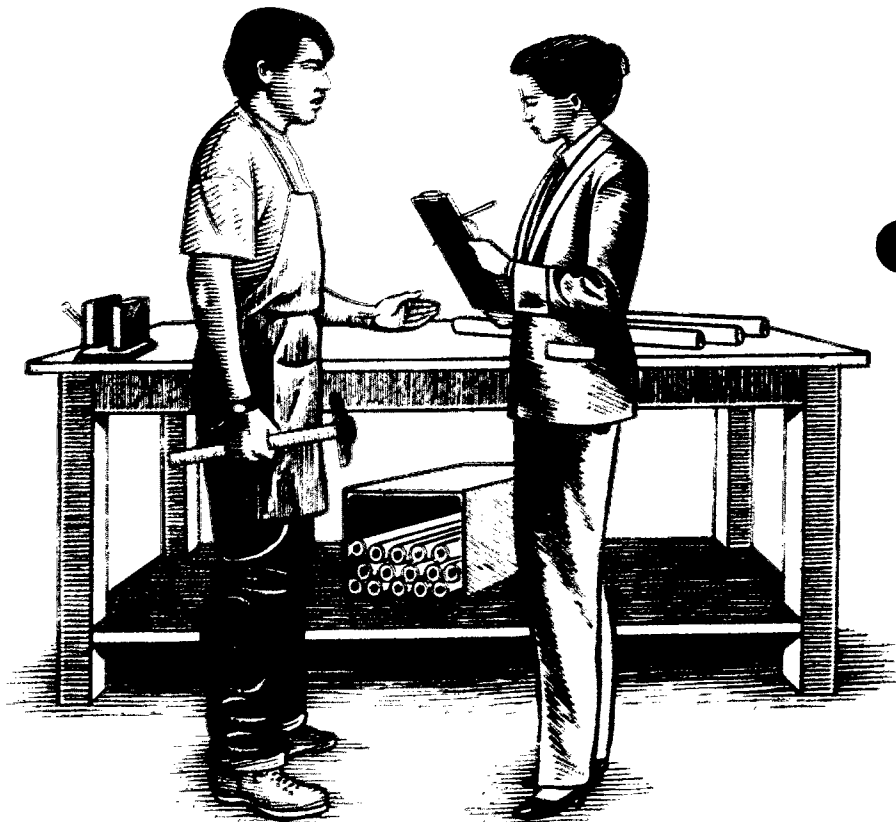
Although company policies vary, a fair investigation must include:

Fact Gathering

All documents that may establish facts should be collected and reviewed. This includes carefully interviewing and getting signed statements from:

- ☐ Accuser and accused—including specific information about the incident(s) and what the effects have been
- ☐ Others—co-workers or friends who may know about the incident(s), or who may have observed the effects on the accuser's work or personal life.

Be sure to explain the investigation procedure to those involved.

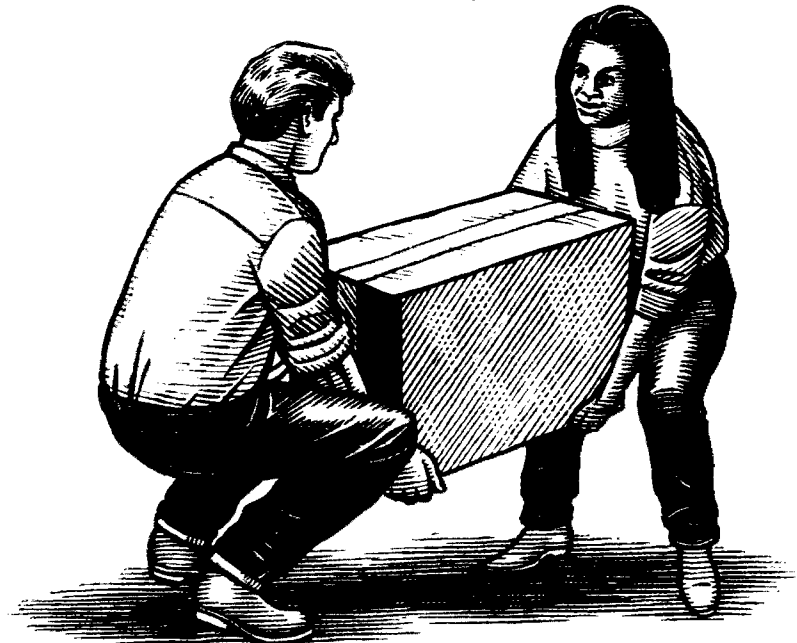


If you observe sexual harassment:

- ☐ Help the victim get out of the situation safely
- ☐ Encourage the victim to express his or her feelings
- ☐ Offer support in reporting the harassment
- ☐ Follow your company's policy.

Think about your own actions:

- ☐ Be sure you're bringing a professional attitude to work
- ☐ Make sure your actions don't make other employees uncomfortable
- ☐ Treat your co-workers with respect. Don't do or say things based on someone's gender or sexual orientation
- ☐ Don't make assumptions based on a person's clothing or appearance
- ☐ If someone asks you to stop, or tells you "no," you're obligated to stop your behavior. If you don't, it could be sexual harassment
- ☐ Don't continue to ask someone out if he or she finds a reason not to go the first time. Repeated requests for a date can be sexual harassment without a "no" ever being said.



What you can do about sexual harassment

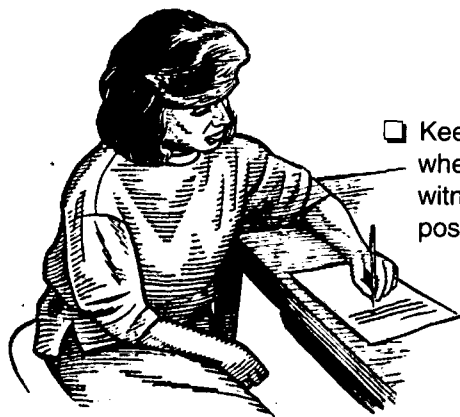
Everyone needs to be involved in the fight against sexual harassment.

If you are the victim of unwanted sexual attention or behavior:

- ☐ Express your feelings in a calm and reasonable manner. Make it clear that you don't enjoy the remarks or behavior and you want them to stop.



- ☐ Keep a record. Write down what happened, when it happened, and who may have witnessed the behavior. Be as specific as possible.



- ☐ Talk with a friend or co-worker. Describe what's happening. Again, be specific. Ask for an opinion on whether the conduct is unreasonable, if you are unsure.
- ☐ Report continuing problems. Follow your company's policy. If there isn't a clear policy, report it to your supervisor. If your supervisor is harassing you, report it to your supervisor's boss, another supervisor, or your human resources representative.



Documentation

After all the facts are gathered, a report should be prepared and a decision made. In most cases, a company's human resources representative will determine the validity of the complaint and any disciplinary measures to be taken. A company's legal counsel may also be involved in the investigation and decision.

The report may be:

- ☐ Founded—the incident(s) occurred as charged
- ☐ Unfounded—the accused is not guilty of sexual harassment
- ☐ No conclusion—there is insufficient evidence to make a ruling either way. This may occur when the accuser and the accused provide conflicting information and there are no other witnesses.

The findings should always be put in writing, and a reason for the judgment should be given.

Resolution

Depending on the finding, the consequences may range from an apology to loss of seniority or termination. If no conclusion is made, there may be a verbal warning to the harasser, a follow-up investigation, or no consequences at all. Records of the investigation may or may not be included in personnel files.

A fair procedure protects everyone

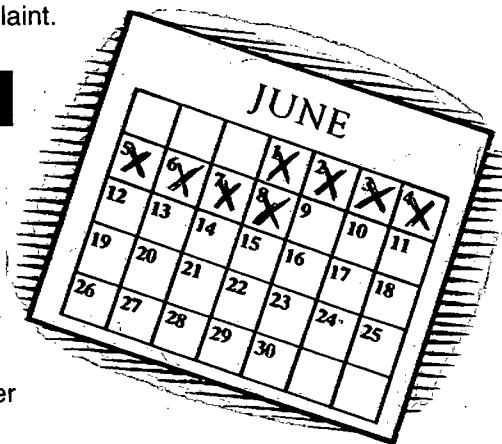
Each sexual harassment report should be handled according to company policy. Usually, a company's human resources representative will review the complaint.

Prompt Action

Each sexual harassment complaint should be investigated as soon as possible in order to:

- ☐ Relieve anxiety
- ☐ Ensure that people remember the incident clearly
- ☐ Ensure that paperwork or other evidence isn't destroyed.

Unless special circumstances prevent it, investigations should begin within a few days of the report. Most can be completed promptly.

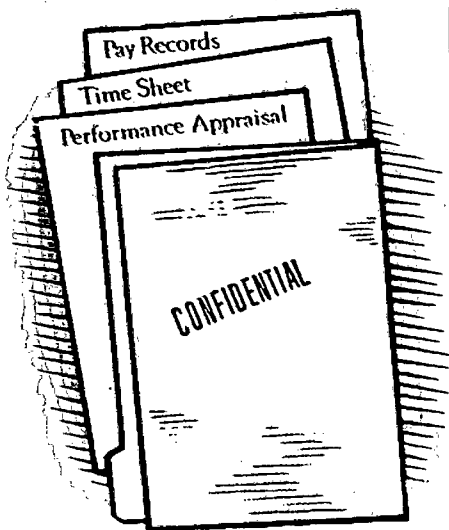


Thorough Investigation

That means getting all information that has a bearing on the complaint, including:

- ☐ Written statements from everyone involved in the incident, including witnesses
- ☐ Company documents that may have a bearing on the case, such as pay records, promotions, transfers, job assignments, working hours, written performance appraisals, etc.

The investigation may end as soon as a clear decision can be made. This keeps the number of people involved to a minimum and helps limit the investigation time.

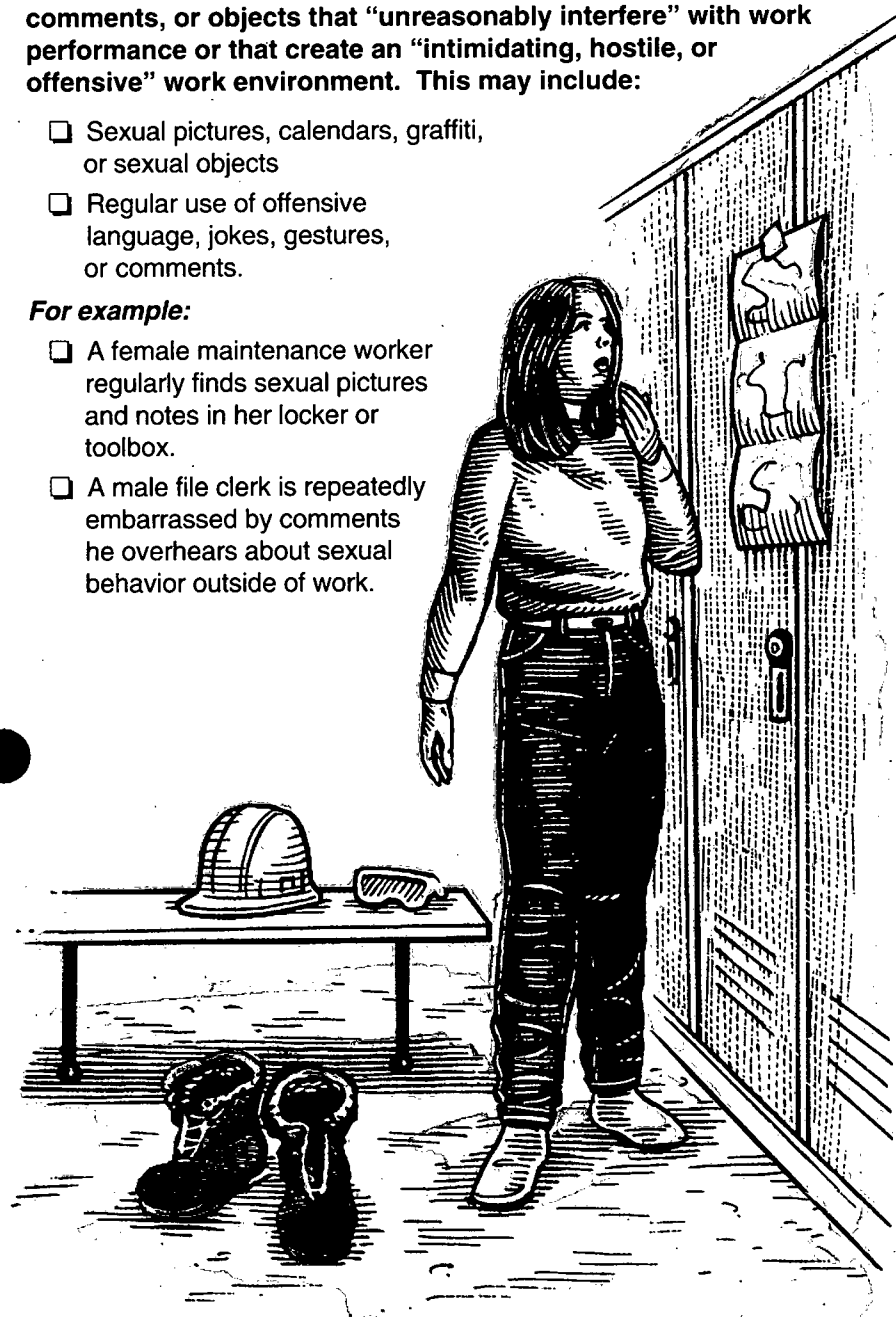


2. Hostile work environment. Repeated actions, comments, or objects that “unreasonably interfere” with work performance or that create an “intimidating, hostile, or offensive” work environment. This may include:

- ☐ Sexual pictures, calendars, graffiti, or sexual objects
- ☐ Regular use of offensive language, jokes, gestures, or comments.

For example:

- ☐ A female maintenance worker regularly finds sexual pictures and notes in her locker or toolbox.
- ☐ A male file clerk is repeatedly embarrassed by comments he overhears about sexual behavior outside of work.



Recognizing sexual harassment⁴

Harassment is unprofessional, inappropriate behavior that is either (or both):

- ☐ Uncomfortable for someone
- ☐ Done to influence someone's actions.

There are two types of sexual harassment defined by the government and the courts.

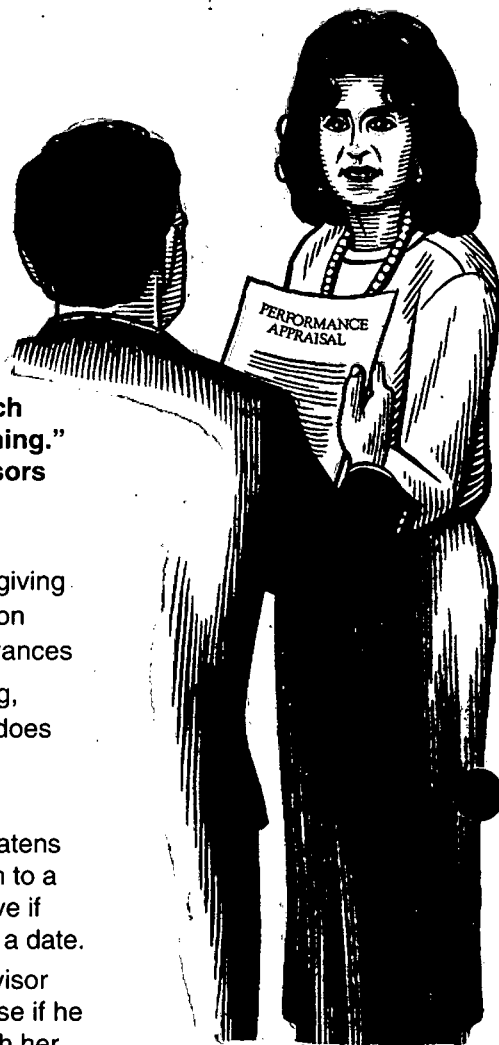
1. "Quid pro quo," which means "something for something." This usually involves supervisors who use:

- ☐ Threats—firing, blocking promotion, transferring, or giving a bad evaluation—if a person does not accept sexual advances
- ☐ Rewards—hiring, promoting, giving a raise—if a person does accept sexual advances.

For example:

- ☐ A male office manager threatens to give a poor job evaluation to a female service representative if she declines his request for a date.
- ☐ A female production supervisor offers a male foreman a raise if he agrees to have an affair with her.

These cases are easy to recognize because the actions are clear. But, in some cases, threats and rewards are only suggested or implied by a person's behavior.

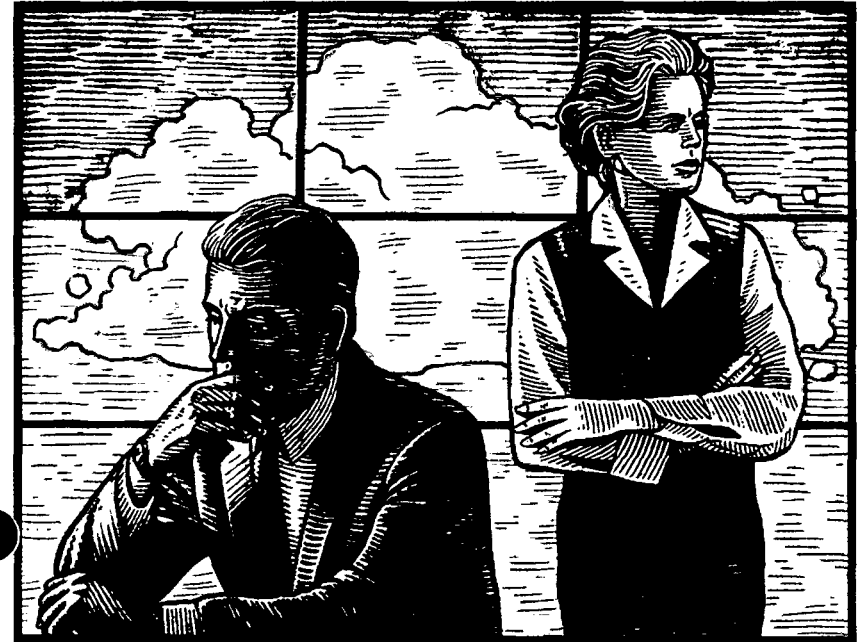


Confidentiality

- ☐ Since sexual harassment investigations often involve matters that can damage a person's reputation, information about the investigation must be limited to only those who need to know about it. Even the accuser and accused should limit their discussions to those investigating the case.
- ☐ At the same time, information given to investigators cannot be kept "off the record"—what people say is important and must be used in the investigation. Be sure to get a written statement from everyone involved. Remember that knowingly false statements may subject the employee to disciplinary action.
- ☐ Everyone interviewed is assured of "non-retaliation"—there will be no retaliation (transfers, pay cuts, changed tasks, demotions) for their participation in the investigation, regardless of the outcome.



What to Do About Sexual Harassment Complaints In the Workplace



City/County Affirmative Action Office

1220 S.W. Fifth Avenue, Room 104
Portland, Oregon 97204



City TDD (For Hearing & Speech Impaired) 823-6868
County TDD (For Hearing & Speech Impaired) 248-5040

THE EMPLOYER ADVISER POCKET ADVISER SERIES

An Employer's Guide to **INVESTIGATING EMPLOYEE MISCONDUCT**

LANE

POWELL

SPEARS

LUBERSKY



This *Pocket Adviser* discusses a topic of general interest to employers. Because of the changing nature of this area of the law and the importance of individual facts, it is not meant to provide legal opinions and is not a substitute for the advice of counsel.

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AN EMPLOYER'S GUIDE TO INVESTIGATING EMPLOYEE MISCONDUCT

by

PAULA A. BARRAN

LANE

POWELL

SPEARS

LUBERSKY



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INTRODUCTION

YOUR IDEA OF FUN MAY NOT BE A WEEKEND SPENT DEVOURING THE latest in detective fiction, but there may be times you feel like your job has put you right in the middle of a real life whodunit! If you're feeling ill-equipped for the task, this *Pocket Adviser* will help.

The need to investigate comes from a basic business truth: The better your information, the better your decision. If your job is to make good employment decisions, then you must know how to conduct an investigation of employee misconduct.

There are two aspects to every investigation of employee misconduct. First, you have to gather all the facts about what happened. They are necessary to help you make a good decision. Second, you must gather those facts in a manner that is, and appears to be, fair to everyone involved in the matter.

Every year employers come to grief from poorly conducted investigations. Court decisions have provided us with examples of mistakes which probably appeared to be trivial at the time, but which led to wrong results and poorly conceived discipline. And many of the same decisions discuss investigative techniques which probably appeared to be effective at the time, but which later turned out to be coercive or unfair.

WHAT DO YOU NEED TO INVESTIGATE?

MANY EMPLOYERS ARE UNCLEAR WHETHER, AND WHEN, TO CONDUCT an investigation. It may just be that giving the process a formal name complicates the question. Here are some guidelines to help you:

Investigate Instances Of Known Misconduct

If you know misconduct has occurred, you have a simple “yes/no” choice. You can look into it, or you can let it go. You should adopt two simple rules to help you decide whether to investigate: First, always investigate known misconduct unless you have a very good reason to ignore it. Second, always investigate known misconduct if it has harmed another employee or a member of the public.

Think about these rules for a moment. Employee misconduct has three potential “victims”: the general public, co-workers, or the organization itself. Ignoring misconduct is a potent signal that you don’t care if it continues; it’s an invitation to do it again. If you ignore deeds that harm the public, you are permitting an unacceptable risk to continue and may well be liable for any consequences that flow from repeated instances of similar misconduct. If you ignore deeds that harm other employees, you are knowingly exposing them to that harm. Among other things, the law calls that negligence.

Only in those instances where the organization (and the organization alone) is the victim may you realistically decide not to investigate known misconduct. But there is danger in that choice, for you may be sending the same signals — you don’t particularly care that the deed occurred in the first place and you don’t particularly care if it is repeated. That’s why you should have a very good reason if you decide not to do an investigation.

Investigate If You Are “On Notice” That There Might Have Been Employee Misconduct

Having information which would lead a reasonable person to conclude employee misconduct occurred is barely different from actually knowing that misconduct occurred. So the same standards for responsibility and liability

apply. Once you are on notice of a likely problem, you may be legally responsible for any future harm because you could have prevented it. Here are some examples.

If you actually see one of your drivers drinking alcohol just before getting into your vehicle, you have actual notice that your driver has ingested alcohol and therefore may not be fit to drive. But if all you see is that same employee walking out of a bar just before getting into your vehicle, you don't have actual knowledge of alcohol consumption, but you have actual knowledge of circumstances that suggest it. Either way, that knowledge imposes responsibility on you to look a bit further.

If you actually hear an employee make an offensive sexual comment to another, you have actual knowledge of possible sexual harassment. But if all you see is one employee walking away from another in disgust, you know only that something happened. Either way, you have knowledge that there *might* be a problem, and that knowledge imposes responsibility on you to look a bit further.

Employers often have to deal with the tricky question of whether anonymous complaints are "information" which might put you "on notice" that a problem is likely. Again a simple rule can help you decide what to do. Investigate, unless you have evidence that you know refutes the anonymous complaint. Sometimes important information comes to employers anonymously. Some complaints come anonymously because they are lies and the complainant wants to cause trouble but not get caught. But some complaints come anonymously because although they are true, they are painful and the complainant does not want to be involved personally. You won't know which category is yours unless you look into it. So look at the issue from this perspective: if the complaint is true, would it be important for you to do something about it? Don't get hung up on the fact that the complainant didn't want to come forward. The investigation can separate fact from fiction.

Always Investigate If You Need To Take Disciplinary Action That Will Have An Adverse Effect Upon An Employee

The detail and extent of your investigation may vary depending upon the importance of the decision, upon the severity of the consequences to your employee, or upon the nature of the problem. For example, you may legitimately spend less effort if the problem will likely result in a verbal warning than you would if the likely result is termination for theft. But don't take disciplinary action until you know the facts. If you act too quickly, you may find later your information was faulty. Perhaps the employee you suspected of theft was actually on vacation that day. Maybe the error happened because

Lane Powell Spears Lubersky

a supervisor gave the employee wrong instructions. If you shoot first and ask questions later, you are bound to make a mistake and discipline the wrong employee, or discipline for something that should have been excused.

PLANNING THE INVESTIGATION

A LITTLE ADVANCE PLANNING WILL MAKE YOUR FACT-GATHERING task much more efficient. Here are some guidelines that will help you get started.

When Should The Investigation Begin?

Often the need to investigate results from a crisis, and unless you have the luxury of a completely open day or two you will have to decide how quickly you can look into the problem.

- ***Move quickly.*** There are two reasons an investigation should be done quickly. First, employee misconduct can be harmful to the organization, the general public, or co-workers. A quick response is needed if you want to prevent further harm. Second, if you intend to take disciplinary action, but delay unduly in gathering information, you may find that your disciplinary action is challenged. For example, suppose your investigation leads to the termination of an employee who falls within one of the many statutorily protected classifications. Your reason for the termination will, undoubtedly, be the incident of misconduct; your explanation will be that the misconduct jeopardized others or the organization. But you leave yourself open to a devastating question: "If this was so serious, why did you wait so long to investigate?" Those kinds of delays can be dangerous and can rapidly turn a good case into a bad one. If it's serious, move fast.

- ***Give yourself some breathing space.*** But investigations do take time. What do you do if your investigation turns into a complicated mess that threatens to keep you busy until retirement? When that occurs, look for the band-aid. If you are concerned about possible harm, you are free to suspend an employee pending the investigation. Under most circumstances, it is a good practice to make such a suspension with (rather than without) pay. That means that you aren't pre-judging the situation, and it prevents employees who may be disciplined later from assuming that the suspension was the discipline. Suspending with pay may also be required for public employers. And if nothing else, suspending with pay will almost guarantee that you complete the investigation quickly! If scheduling or staffing problems won't permit suspensions, you can still buy a little breathing room by transferring fighting employees so they no longer have to work together, rearranging shifts, assigning extra supervision, or by restricting access of possible wrongdoers to specific locations or limiting their responsibility temporarily.

Select The Right Investigator

Any investigation needs an investigator. But not every manager or supervisor is suited to conduct the process. Consider the following suggestions before deciding who should investigate.

- ***Investigations need to be unbiased.*** Select an investigator who does not have an obvious bias. Don't pick the best friend of the subject of the investigation. Don't pick somebody who is known to engage in the same type of misconduct. And keep reporting or other power relationships in mind; it's very difficult for a subordinate to investigate a superior.

- ***Since you need to move quickly, pick an investigator who has the time.*** If you put this problem on an already-overflowing desk, you're asking for delays.

- ***If the investigation will involve technical data or specialized areas, select somebody who understands the issues and has a working knowledge of the area.*** For example, if you are looking into sophisticated computerized embezzlement, you will want somebody who understands the computer system, can read the reports, and decide if an explanation is true or not. If you are investigating racial harassment, you will want somebody who has enough EEO background to recognize and understand the discrimination laws.

- ***Don't underestimate the value of an investigatory team.*** Two investigators can get the job done faster, and you may find that witnesses will talk to one or the other more freely. Many employers have used team investigators with great success in sensitive investigations such as complaints of sexual harassment. And two investigators can support each other in important interviews where you think an extra witness may be important. But you lose something with a team — the ability to compare impressions of all witnesses.

- ***Think twice before asking your lawyer to conduct an investigation for you.*** Ethical requirements that are binding on lawyers may actually hinder the investigation. For example, a lawyer is not usually allowed to talk to an adverse party (such as the subject of the investigation) if he or she is represented by counsel on that issue. This rule prohibits one lawyer from bypassing the other to deal directly with the client. So if you are investigating an employee who has retained a lawyer, your lawyer can't talk to your employee unless the employee's lawyer is also present. In addition, your lawyer's direct participation in an investigation may mean he or she is disqualified from representing you in later litigation where the lawyer may be called as a witness. That doesn't mean your lawyer shouldn't do the investigation; it does mean you need to be aware of the consequences before you decide. Of course you may always use your lawyer for advice and guidance behind the scene, and in a complicated or difficult matter you should!

- ***Consider whether you want to engage a trained investigator to conduct the investigation.*** This may be appropriate in especially sensitive matters, in closely held organizations in which there is no clear choice of who

Investigating Employee Misconduct

should investigate, or in situations in which company personnel simply cannot conduct the investigation in a timely fashion. But remember that bringing someone in from the outside can import its own problems. You may not be able to guarantee quality. You may have little or no control over the manner in which the investigation is conducted. And you may find that a stranger is unable to earn the confidence of witnesses or is too easily misled.

Start With A Plan (But Be Flexible)

If you knew where the investigation would lead, you wouldn't need to investigate. But that does not mean that you can't start with some sort of plan.

Investigations normally involve two categories of information: information provided by witnesses, and physical evidence such as may be provided by documents, other things, or locations. Before starting, you should map out what sorts of information will help you understand the problem.

Which witnesses should you interview? If there is a complaint, the obvious choices are the complainant and the subject of the complaint, but a little planning will also help you understand whether there may be witnesses who can contribute a lot to your understanding.

If the problem involves a location, plan to visit it. You may find that the incident couldn't have happened the way one of your witnesses says it did. Or you may conclude that an accident really was avoidable because of the configuration of the road. Plan in advance to photograph or draw what you see.

If documents are involved, plan to gather all the important ones as quickly as possible. You may find that copies are appropriate, but if the originals are necessary, make sure you can get your hands on them. And if you need to show them to your witnesses, obviously you'll need to plan to gather documents in advance of any witness interviews.

Make Your Location Work For You

Investigations usually require witness interviews. And witness interviews require a location. Not every location is appropriate. You'll find that the interviews go more smoothly, and that the process is less subject to challenge, if you give some thought to where the interviews will occur.

- **Interview witnesses in person, if possible.** There is no rule that says you can't interview witnesses by telephone. In fact, there will be circumstances in which a telephone interview may be the best you can do. But try to interview in person, if at all possible. Otherwise you'll miss the visual cues that may help you separate truth from lies, you'll be unable to talk about documents, and you'll have a harder time establishing rapport.

- ***Give the witness a chance to suggest a location.*** Your goal in the investigation is to acquire information. You'll do that best if your witness is comfortable. Permitting the witness to suggest a place for the interview can help.

- ***Watch out for eavesdroppers.*** You will rarely want to conduct an interview where you can be overheard. Open cubicles separated by half-height partitions may provide efficient office space but are disastrous for interviews unless you want the rest of the building to know what you're discussing. Avoid the headache and opt for a conference room.

- ***Don't be an "event."*** You may want a witness to come to you, particularly if your appearance at the witness' work space is an unusual event. If you think that just showing up will send the message faster than the facsimile, schedule your interviews off-site.

- ***Avoid "interrogation locations."*** We all know about interrogation locations. These are spaces that are intimidating just by their physical layout. Small, windowless rooms or cramped spaces with blocked doorways fall into this category. These spaces are particularly unsuitable for interviewing the subject of your investigation and don't work well for witnesses either.

- ***Accommodate the outsiders.*** You may find the need to talk to outsiders such as customers who have registered complaints, former employees, or bystanders. You have no control over these witnesses, but their input may be important. Keep their convenience in mind when you schedule an interview. Be prepared to travel to their homes or work locations, or to a neutral location. And remember that your witnesses may be conscious of personal security and not want to let a stranger into their homes; be flexible and let them make a suggestion.

AVOIDING COERCIVE TECHNIQUES

THE CRIMINAL LAW HAS ALWAYS RECOGNIZED THAT COERCED CONFESSIONS are inherently unreliable. That's why there are so many built-in provisions in the criminal justice system to protect suspects from undue coercion. These same protections don't apply formally in the workplace, but don't ignore them. Use them to your advantage because they'll help ensure that your investigation is fair.

- **Do not threaten employees.** Ideally the information you gather during your investigation should flow as freely as possible from your witnesses. Sometimes, however, witnesses and suspects need a little prodding. You must be careful not to let prodding become threatening; once you threaten, the information you receive is likely to be given under duress and may be unreliable. Witnesses may say what they think you want to hear just to get away more quickly. Above all, do not threaten employees with criminal prosecution if they don't cooperate. If you don't intend to make a criminal complaint, there shouldn't be any need to mention prosecution at all. And if asked, you may respond truthfully that you don't intend to pursue a criminal prosecution. But don't lie! If you are planning to turn information over to the criminal authorities, or if you haven't decided, tell the truth.

- **Make certain the employee is free to leave— and knows it!** The employee locked in an interrogation room is a sympathetic figure to judge or jury. Don't let that happen. Employees should always be free to leave an interview. Don't lock or block doors. You can even leave them open if you don't have concerns about being overheard. Don't set up seats around the table so that the employee has to walk around a dozen managers to leave the room. Provide adequate restroom and coffee breaks.

- **Don't pretend you have evidence if you don't.** Many investigators have found an easy road to a confession of misconduct by pretending to have found some smoking-gun evidence. Although you may end up extracting a confession, you may be pretty unhappy with the size of the jury verdict against you. A variety of legal theories can be asserted against employers who try to trick a confession out of a suspect.

- **Don't use polygraphs or other electronic lie detector tests.** The thought of being able to detect lying with the flick of a switch is attractive, but don't give in to it. Recent federal legislation prohibits the use of lie detector tests by private employers even when the subject volunteers. There are a few exceptions to the blanket prohibition. They include national security and defense activities, employers of armored car or other security personnel, and employers whose employees handle controlled substances. There is also an

exception for ongoing investigations of theft, embezzlement, industrial espionage, sabotage or misappropriation, but that exception is very limited and requires complex procedures to be followed. The employment-related use of polygraphs and other electronic stress tests that are designed to diagnose lying is also prohibited by some states. Because of this level of regulation, there is very little chance that you can legally use a polygraph. And even if you could, polygraph tests fall into that category of coercive techniques that should be avoided during an internal employee investigation. Though most jurors wouldn't go so far as to say they'd rather see an employee fired than wired, it's probably a close call!

- ***Don't let emotions get in the way.*** This is a business meeting, not a debate. Try to keep control of your own emotions. Don't display anger. Don't use profanity. Don't make aggressive physical movements (pounding the table, hovering over your employee). Don't respond in kind if your employee slips out of line.

LAWYERS AND OTHER UNINVITED GUESTS

SOONER OR LATER YOU'LL HAVE TO DEAL WITH THE WITNESS OR employee who wants to have a friend or an attorney sit in on the interview. How you proceed depends on who the witness is, and who the friend is. The following guidelines will help you.

Lawyers

In most employment matters there is no absolute right for any witness to have a lawyer present during an investigatory interview, and you should think twice about letting your employee bring a lawyer along. Internal investigations are usually not legal proceedings. You have a relationship with your employees, not with their lawyers. And while your loyalty is to the employer, your employee's lawyer's loyalty is solely to his or her client. That may impede an investigation. You want to find out the truth. The lawyer wants to protect the client.

There are circumstances, however, under which you must permit an employee's lawyer to be present. And there are others under which you should permit the lawyer to be present. These circumstances are very limited:

1. An employee of a public body doing a custodial investigation of a matter for which some form of criminal punishment can be imposed is entitled to have counsel present (remember the *Miranda* rights provided by the criminal law).

2. An employee should be permitted to bring counsel if the investigation is done by the employer's lawyer (it would probably be unethical for the lawyer-investigator to speak with the subject of the investigation without his or her lawyer, and it certainly looks unfair for you to have your lawyer when the employee cannot).

3. If you permitted other witnesses to have lawyers present, you probably should permit the subject of the investigation to bring a lawyer. This situation could arise in cases of employee misconduct towards other employees, particularly where the employer might be liable towards the injured employee. For example, an employee who has been sexually harassed may be represented by counsel. If you permit the complainant employee to have an lawyer present, you should permit the accused employee to have a lawyer present. If you don't, you will appear to be favoring one side over the other.

Always remember that you can set some ground rules to govern the lawyer's conduct. For example, you can permit the lawyer to attend in an

advisory capacity, but not participate in the interview process. You can limit the questions the lawyer can ask. You can refuse to permit "cross examination" and require any questions to be directed to you.

Unions

Under federal law (and by analogy, many state laws), employees represented by a labor organization have the right to be accompanied by a union representative for an investigatory interview that may lead to disciplinary action against them. These are the so-called "Weingarten Rights" (from the case of the same name), and they have some limits:

1. You do not have to advise employees of this right. It is available only to the employee who asks, and you do not have to remind or educate him or her.

2. Because it is a rule that grows out of our federal labor relations law, it is available only to employees represented by a labor organization. You should be aware, however, that some years ago the National Labor Relations Board briefly imposed a different rule which permitted non-union employees to have a friend or supporter present. There is always a possibility that a change may happen again.

3. You do not have to schedule your investigation around the union representative (although you should make efforts to accommodate schedules). You can require an employee to be present at a specified time and location, even if the representative cannot be.

4. Employees do not have a right to "the union representative of their choice." If their desired representative is not available, they must proceed with whoever is available.

5. If you do not want the representative to be present, you can require the employee to elect between appearing without a representative or foregoing the right to be interviewed at all. Although this is permissible, it is not a recommended technique except in those circumstances in which you know a union representative will be so disruptive that you won't have a chance of getting at the truth.

6. Weingarten Rights belong to the suspect, not a witness who is not reasonably expected to be the subject of disciplinary action. In other words, the rights exist to protect the accused. If you are interviewing witnesses, the witnesses don't have the right to be represented at the interview (even though you could possibly find out something that implicates the witness). The test is whether the interview is reasonably likely to lead to disciplinary action against the person being interviewed.

If you are a small employer, you may be governed by state rather than federal law. Make sure you check to see if your state law differs from federal law. There might be some inconsistent rules.

Friends And Family

Friends are nice, but not in investigatory interviews. You should be cautious about the circumstances under which you permit extra unnecessary bodies to be present if for no other reason than that rumor control becomes virtually impossible when outsiders are present. The same concerns apply to family members. Like every rule, however, this one is subject to some exceptions. In cases of workplace harassment or discrimination you may be more likely to get the information you need from a victim if you permit a family member or friend to be present for support. Just remember that you should extend the same benefit to the accused or suspect.

Joint Interviews

Don't do joint interviews (of two or more witnesses, conducted at the same time). If you do, you'll lose the opportunity to look for those subtle inconsistencies that help you separate fact from fiction. And you may never know if one witness remembered, or just parroted what another said.

CONFIDENTIALITY: DON'T MAKE PROMISES YOU CAN'T KEEP

YOUR WITNESSES ARE ONLY HUMAN, AND NORMAL PEOPLE DON'T want to get involved in conflict or distasteful situations. That natural inclination often prevents witnesses from volunteering information. Many employers, recognizing this problem, solve it by assuring witnesses that either their identity, or the information they provide, will be kept confidential. Is this a good idea? Probably not! There are certain stages that may require you to divulge the information you learned, including the identity of witnesses. For example, at some point you must confront the suspect with enough information to offer a reasonable opportunity to rebut the information you have gathered. You may be able to do that without identifying witnesses, but the odds are against it.

Or, if you take disciplinary action as a result of the investigation, you may be challenged. Employees under a collective bargaining agreement may file a grievance. Others may file a discrimination claim or lawsuit. You may have to challenge an unemployment compensation claim. You simply cannot respond to any of these challenges without disclosing the identities of your witnesses and the information they provided.

Since you cannot guarantee confidentiality, don't promise it. Employees who speak to you under a promise of confidentiality will feel legitimately cheated if you renege on the promise.

This does not mean you can't take steps to make your witnesses more comfortable. For example, you can and should advise witnesses that you will make every reasonable effort to keep their identities confidential. That way they know you won't volunteer that they have been involved in the investigation unless you have to. It is also an excellent idea to notify these witnesses before you disclose their names so that they won't be surprised when the suspect learns they were interviewed and confronts them.

What about the witness who refuses to talk without a promise of confidentiality? If you have explained the need for the investigation, made whatever limited assurances you can, appealed to the witness' sense of justice, wheedled, cajoled and begged to no avail, here's your choice: accept the refusal and figure out other ways to complete the investigation, or make the promise and know that you'll have to abide by it no matter what the consequences.

SHOULD YOU WARN THE SUSPECT?

AT SOME POINT IN THE INVESTIGATION YOU WILL BE INTERVIEWING the suspect; employers frequently wonder whether employees are entitled to something like the Miranda warnings that are given to criminal suspects advising them of the right to remain silent, the right to have an attorney, and the fact that anything they say can be used against them.

Warnings like this are not required in employment. But that doesn't mean that you don't owe the suspect something. That "something" is honesty — honesty about the process, and honesty about the possible result. Here are some do's and don'ts:

- ***Do tell the suspect what you are doing.*** Provide enough detail so that an innocent suspect can clear his or her name. Normally this would include a description of the type of misconduct that generated the investigation and the information that ties the suspect to the misconduct. This does not mean, however, that you need to disclose the details of all the evidence you have collected. Try to find the middle ground. Provide enough detail so the suspect will understand the situation, but not so much that you lose your ability to complete the investigation or use the evidence to resolve questions about who is telling the truth.

- ***Don't soft-pedal the consequences or promise that nothing will happen.*** This is another version of the warning "don't make promises you can't keep." Suspects are frequently nervous during an initial interview. That's normal. It's also normal for the investigator to want to allay some of the fears and get on with the business of fact-finding. That can lead to representations that downplay the seriousness of the possible consequences. Many an investigatory interview has started with the assurance "Don't worry, you're not going to be fired for this." Is there a problem with this? Sure. You may turn up information that proves you were looking just at the tip of the iceberg. You may have thought you were investigating poor record keeping and uncover embezzlement. If that occurs, your promise that "you're not going to get fired for this" may have to be kept. If you break it, you run a risk of a claim for fraud or misrepresentation. Promises of this sort can also cause trouble if you are not the ultimate decision maker. If your decision can be overruled by somebody up the chain of command, any promise you make may be hollow.

- ***Don't promise immunity.*** Conducting investigations is a little foreign for most of us, so we tend to borrow things we've heard or read from the criminal side of life. One technique sometimes used by the authorities in criminal investigations is a grant of immunity from prosecution in exchange for providing information that will help to convict a more important criminal.

In the criminal context the grant of immunity is needed because of the constitutional privilege against self-incrimination which permits a guilty party to remain silent and refuse to testify. Immunity is not something that translates readily to employment investigations. There is no recognized constitutional protection against self-incrimination in private employment, so there is no formal need for immunity. But that isn't the only reason immunity is of questionable value. Managers who promise immunity sometimes do so because they have a target in mind. In order to "convict" or catch the target, they are willing to forgive the misdeeds of other employees, as long as those other employees provide information. Promising immunity from discipline can make a good investigation look like a witch-hunt, and can make a good motive look bad. You may also have a problem explaining why you disciplined one employee but not another when both were involved in the misconduct.

GOOD QUESTIONING TECHNIQUES: HOW TO FIND OUT WHAT YOU NEED TO KNOW

THE LION'S SHARE OF INFORMATION IN ANY MISCONDUCT INVESTIGATION comes from witness interviews. Yet employers often approach witness interviews haphazardly. A little preparation and attention to the following suggestions will pay dividends:

- ***How can this witness help?*** Before you ask the first question, you should have a good idea how this witness can help your investigation. In general, witnesses can add to your information in three ways. First, they can provide you with background information. This can help you understand motivation, relationships, and alliances. Second, they can provide you with direct observations, what they saw, what they heard, and what they know for a fact to be true. Third, they can provide you with corroboration. Corroboration can help you decide which of two or three competing versions to believe. If you don't do a little advance planning, you may miss one of these categories.

- ***Make the witness comfortable.*** There are two aspects to comfort. One is physical, and you can achieve it by choosing the right location. The other is psychological, and it is harder to achieve. Recognize that interviews are inherently disquieting encounters, and meet those concerns head on. Start the interview with a general explanation of the process and what you are attempting to learn. Answer questions honestly, or explain when you are not at liberty to answer.

- ***Ask open ended questions.*** This is an inquiry, and you will learn much more if you let the witness tell you the story than if you ask leading questions. Pepper your questions with lots of, "whos" and "whys" and "hows" and "whats" and "whens".

- ***Ask for facts, not conclusions.*** Some witnesses naturally talk in narratives. Others respond to questions with conclusions. When you interview a natural story-teller, you may need only to let the story develop. But if your witness is a "concluder," make certain you ask questions to flesh out the narrative. If you are in doubt, ask the witness to explain the conclusion (who? what? where? when? why?)

- ***Ask for details.*** Details are critical; witnesses usually remember at least some of them, but often need a little prompting from you.

• ***Are you a note taker or a taper?*** You'll want to have some record of your interviews. It's up to you, as long as there is enough of a record to capture the interview's important elements. There are pros and cons to any technique. If your penmanship is slow and methodical, you'll have trouble keeping up with your witness and should think about taping. But some witnesses freeze at the sight of a tape recorder, and you may do better with note-taking. Just remember that if you tape the interview, you should ask the witness on tape (and each time you change or flip the tape) if he or she consents to the taping. This is important because some jurisdictions have laws which require informed consent before a face-to-face conversation is taped.

• ***Ask the witness for the names of others who might have helpful information.*** Your witness may not know much, but he or she may be able to point you towards somebody else who does. Don't end a witness interview without asking if there is somebody else you should interview.

CONDUCTING PROPER SEARCHES

WORKPLACE SEARCHING IS A TOPIC THAT HITS A LOT OF HOT buttons. It sounds a little like Big Brother, and many employers are unsure whether they should even think about searching. But like many employment related rights, this is not one to ignore. You probably won't want to make searching a part of daily supervision, but the time may come when you need that right. And if you haven't thought about it in advance, you may have waived your right to search.

The right to search may become important in two situations. The first is the investigative search. You may be able to obtain necessary information or evidence by searching people, places or things. In fact, there might be times when the only way to obtain information about wrongdoing is to search. The second is the inadvertent search, and it comes up surprisingly frequently. You open an absent employee's desk drawer, looking for the only copy of an important client's order, and you find a drawer full of correspondence with your chief competitor, passing on all your trade secrets. You mistakenly tap in the wrong code for your voice mail, and end up listening to an employee's drug deal. What can you do with the information you now have? If you haven't protected your right to search, maybe nothing!

Searches are the most intrusive investigative tool you have; as a result, any search you do will be scrutinized. Keep the following principles in mind.

- ***Manage your employees' expectations.*** Whether a search is permissible or impermissible often turns on whether employees have a reasonable expectation of privacy. If you have created or reinforced a belief that you will not search, you must change that expectation before you conduct the search. That change is relatively easy to effect: tell your employees. That can be accomplished directly by putting a policy into place (for example, "we reserve the right to inspect any personal belongings brought onto the premises") or indirectly, by sending the same message (for example, by providing the locks that employees use on lockers). And make certain that you follow up. If an employee uses a personal padlock, insist on its removal.

- ***Authorize searches in advance by a publicized rule.*** Use the direct approach whenever possible — inform employees about your right to search. That way you won't get into any debate about what the indirect message was. A search policy should include some key points:

1. Define the area you intend to search. Employees should never be in doubt about how far your search right extends. You can define it by geography (for example, "all items brought into the building" or "anything on our premises including the parking lots"), by category ("all briefcases, lunchboxes and purses"), or by employee ("all production workers").

2. Specify the penalty. Although you should never force an employee to submit to a search, you have the right to discipline for refusing to submit, and you should make certain your employees understand the disciplinary consequences for refusal.

3. Address electronic communications. Some of the most troublesome "search" problems arise out of electronic communication mechanisms. Many employees believe that they may conduct private telephone conversations at work or that voice mail messages are heard only by the intended recipient. That may not be true. Employers may wish to monitor work performance to the extent it is conducted over the telephone and for that reason may tape calls. Voice mail systems may have monitoring capability (or the sender may simply use a wrong code for the recipient). Many employees also believe that computer controlled communication or storage (such as electronic mail or computer memory) is private. That too may be untrue. Most computer systems include some capacity to monitor, and even a moderately dedicated hacker can eavesdrop. Make certain you remind employees that electronic communication is not private. Tell them that if they want to ensure their conversations won't be overheard, they should conduct them elsewhere. Remind them that your computers are not the location for them to store their personal or private records.

4. If you change policies, give your employees a chance to comply. If you change from a "we don't search" environment to a "we do search" environment, make sure you give employees sufficient advance notice of the change so they can remove any belongings they don't want searched.

• **Perform searches cautiously.** Like many management tools, it is not the use that causes trouble, it's the misuse. So protect your right to search, and don't misuse it.

1. Do not force a search on an unwilling employee. Make sure the employee knows he or she is free to leave at any time. Your remedy then is to administer discipline for the rule violation or insubordination.

2. Don't make a scene. Do not perform searches in public. Ask the employee quietly to step over to a private area.

3. Perform same gender searches. Searches performed by members of the opposite sex add an additional complicating layer of embarrassment. That isn't necessary. Avoid the problem and let men search men and women search women.

4. Do not be unduly intrusive. Limit your search to what is reasonably necessary for your needs. Overkill will backfire. Don't look for a chain saw in a coat pocket. Since it wouldn't fit, you're just being nosey.

5. Don't do body searches. Body searches aren't automatically improper, but there are very few employment situations where they are warranted. They are simply too intrusive for the average employer to consider.

6. Conduct any search in the presence of the employee and a witness. Don't do a private search. You leave yourself open to later charges that there was no consent or that you planted the contraband. A better practice is to

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ensure the employee is present for the search. And if you think there is a possibility that the search may be mischaracterized later, take a witness.

7. Involve the employee in the search. That involvement will help you confirm consent (or at least non-opposition) to the search. You can involve the employee in two ways. One way is to invite the employee to disclose the subject of the search (such as by opening the locker or lunchpail, or removing the parcel from his or her pocket). Once the employee opens it, he or she will find it hard later on to argue there was no consent to the search. Another way to involve the employee is to take a tip from the pros: use words. If you've ever had a bag searched at an airport checkpoint, the agent probably asked you "do I have your permission to open this bag?" If you wanted to make your flight, your response was "of course." You clearly consented to search. You can have the same conversation with your employees.

DOCUMENTATION: MAKING IT AND PROTECTING IT

GOOD DOCUMENTATION IS ESSENTIAL. UNLESS YOU ARE BLESSED with a remarkable memory, you won't be able to recall all the nuances of all the interviews. You won't recall what line on a particular document was a problem. You may forget whether Witness #1 said it happened on Friday, but Witness #2 was certain it was Monday. If you suddenly get promoted or transferred, there won't be a record for your successor. And if you find you have to testify three years later, you may end up stumbling over long-forgotten details, with a judge or jury wondering why you never took any notes if this investigation was so important.

Document your investigation thoroughly, and protect the integrity of your documentation.

Creating Thorough Documentation

Let's start with thoroughness. The documentation of the investigation can include the following:

- **Documentation of the problem.** If the investigation was triggered by a document (such as a letter of complaint), that document belongs in the investigation file. You may need to refer to it from time to time, particularly since it generally defines the problem for you. If the investigation was triggered by an event, a summary of the event is appropriate. If the investigation was triggered by a thing (perhaps a poor quality product), a photograph or written description can suffice.

- **The plan.** If you sketch out your investigation plan, you may want to keep a copy of it in the file. You will probably scribble notes on it as you go along (telephone numbers, availability or unavailability of witnesses, additional potential witnesses or documents). You will also want your plan available to make sure that you've covered all the bases (or can articulate why you no longer need to pursue a line of inquiry). But remember that the "plan" does not need to be particularly formal. In fact, it probably should not be much more than an outline of where you're headed and what you are trying to accomplish. And if all the information is available elsewhere in the file, there may be no need to retain this.

- **Copies of any important documents.** If you need the originals, keep them in your file, but remember that you may need to return originals to an appropriate location once you've concluded the investigation. If you keep

copies, may sure they're legible BEFORE you send the originals back where they belong.

- **Summaries of witness interviews, made as you go along.** Don't wait too long to summarize the facts you learned. You may forget important details and waiting too long may mean you cannot use the summary as business record evidence.

- **Any formal witness statements.** You should obtain formal signed statements any time you think a witness may be unavailable later or may change his or her story or if the information is critical or dense with details and you want to be sure you have the facts right. You can arrange for signed statements in a variety of ways. If you are taking thorough notes during the interview, you can ask the witness to read and sign your notes. If you want to distill what you learned, you can have a summary prepared after the interview and send or give it to the witness to review and sign. It is a good idea to try to get a signature or formal statement at the time of the interview. If you wait a few days, you may find your witness is no longer as interested in helping, and may not want to sign anything. If your witness wants a copy, you should provide a copy of any signed statement or signed notes.

- **Notes that you keep from time to time that may point out discrepancies, observations, or concerns.** If something occurs to you that may be important, jot it down and put it in the file.

At any time you should be able to pick up your investigation file and remind yourself of any significant fact you learned from any source.

It is also important that your documentation be timely — created at or near the event it records. Not only is it more likely to be accurate, timeliness is essential to the admissibility of business records in court proceedings.

Protecting Your Documentation From Prying Eyes

The security of your documentation is important. Think about security on two levels. First, you want to make certain that unauthorized people do not get hold of it while you are in the process of investigating or later, when you may want the information to be confidential to protect the identity of witnesses or limit the dissemination of information about the misconduct. Second, should you become involved in litigation, you want to be in a position to protect your documentation from discovery by your opponent. Each of these is important, but in different ways.

The protection of documentation should be an offshoot of any regular security procedures you already have in place. If you don't already have procedures, consider the following suggestions:

- **You cannot always rely on the integrity of your personnel or guarantee that they won't violate the security of your files.** With something important at stake and human nature what it is, you can't trust ethical bound-

aries to be sufficient protection. Try to use good, old-fashioned physical barriers! Keep the records in a locked drawer to which only a few people have the key. Lock your desk. Lock your office. Put them in your briefcase and take them home at night. Store them on a computer system in a password-protected file.

- ***Most disclosure is inadvertent and careless, so be cautious.*** Don't leave files lying around when you aren't actively working with them. Put them away for restroom or coffee breaks. If you must photocopy, make certain you collect all the copies and originals and don't leave extras lying around. When you throw drafts or extra copies away, shred or tear them, or dispose of them in a way that trash-sifters won't be able to review them. If you transmit via facsimile, use a confidential machine and be certain your intended recipient is present and ready to receive. Use inter-office mail systems if you must, but only if you are certain your documents won't be diverted or intercepted en route. Put confidential materials in an inner envelope marked "confidential: to be opened by addressee only" if you think that a mail room employee, assistant or secretary might open the mail. If you draft documents on a computer, make sure the documents cannot be accessed by others particularly if you are linked to the same computer host or linked by network. Most office systems today permit browsing by multiple users, but also provide mechanisms to lock or protect files. If you are going to keep confidential materials on anything but your personal stand-alone computer, learn how to protect them.

- ***Think twice before involving others in the preparation of documents such as typing out final copies of handwritten drafts.*** When you do, try to limit the number of people who might have access to these materials and documents.

- ***Invest in a rubber stamp you can use to stamp documents "confidential" so that there won't be any question.*** And don't rely on keeping loose documents in a folder that bears the stamp. Papers fall out of folders. If you want to protect the paper, stamp it, not its container.

Storage, Retrieval And Destruction

Once an investigation is completed and your work completed, you will need to arrange for two things: storage and retrieval.

Storage is simply that. You will have a folder of materials and you will need to put it someplace secure. The materials in your file are no less sensitive because your work with them has ended. You still want to be certain that access is limited, so make certain that you have a safe location for storage.

Think about *retrieval* on three levels: physical access, personnel file notations, and category searching:

- ***Ensure the file will be accessible when needed.*** You may need access to your file in the future, and may not be able to get your hands on it if you

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send it off to a warehouse in another state and learn too late that there is no indexing system. You may not be able to get your hands on it if you place it into the custody of a different person or department without instructions to keep it available. So when you think about getting all that stuff off your desk, you should also think about how you are going to get it back if you need it later.

- ***Make certain that proper personnel file notations are made.*** Think twice about using personnel files as storage for investigation files. Most states have statutes that permit employee access to their files. You may not want that, particularly if your materials contain sensitive documents recording witness interviews. But you probably want the personnel file to have some record the investigation was done. You normally won't need to worry if discipline occurs; in that case there will normally be a record in the file. But even those investigations that do not provide sufficient information for disciplinary action should be referenced in a personnel file so that a supervisor months or years later will know it occurred. Sometimes incidents in the future shed a new light on unsolved mysteries of the past. If you are the only supervisor involved, you'll no doubt remember the past problem. But if you're promoted, transferred, or leave the company, a new supervisor won't have that history and won't have a way of learning it unless there is some record in the personnel file.

- ***Be able to locate files by category.*** Records stored without an indexing system are as good as lost, and that can be dangerous for employers who must justify their disciplinary decisions in court or other proceedings sometimes years after the fact. For example, a common issue in discrimination claims is whether you treated similarly situated employees differently. To disprove disparate treatment employers may be required to produce lists or records of past disciplinary actions. While this is a burdensome task under most circumstances, it is also something employers may want to do to disprove discrimination, even if the plaintiff does not request the information. You won't be able to prove this defense without being able to make some efficient search of your records. So devise and use an indexing system. It doesn't have to be fancy, just accessible.

- ***Don't destroy documents until you are certain you won't need them again.*** Can you safely destroy documentation, either during or after the investigation? Probably not, unless it is a duplicate, or you have recorded the information in another form. If you destroy a document relating to an investigation, rest assured that somebody (perhaps a terminated employee's lawyer) will start asking why that suddenly critical document was destroyed! And no matter how innocuous it might have been, by the time closing arguments are made it will have assumed importance as the single piece of paper that could have cleared the employee's reputation. A corollary to that is: Keep copies of important documents. Don't rely on the single original document that is all-important to the investigation. Disasters do happen, even when you think that the location is secure.

- ***Decide on a logical document destruction policy.*** How long should you keep the investigation file? As long as you keep personnel files. That usually means during the employee's tenure, plus enough years for all relevant statutes of limitation to expire. In most jurisdictions, ten years is sufficient (and that period exceeds most federal limits).

HOW TO PROTECT YOUR INVESTIGATION FROM DISCOVERY IN LITIGATION

WHEN YOU CONDUCT AN INTERNAL INVESTIGATION, YOU EXPOSE faults, company and supervisory mistakes, and misconduct. The results of your investigation are a pretty good road map for a disgruntled employee who wants to sue you. So it isn't any wonder that employers want to protect their investigative files from discovery in litigation, and it is easy to understand why plaintiffs' lawyers fight hard for the right to see them. The bad news is there are no absolute protections. The good news is that you can conduct your investigation in such a way to maximize the likelihood you will win a discovery battle and, even if you don't win, you will have written documents with an audience in mind.

Protection from discovery can arise in two different ways: "public policy," and attorney-client privilege.

How Can You Trigger A "Public Policy" Protection?

Some (but not all) courts recognize a privilege that arises out of a public policy because of the nature of the investigatory task itself. They protect files from discovery where the investigation has an impact that goes beyond a single incident of misconduct with a single victim (the employer), and where the innocent (witnesses or complainants) might be hurt by disclosure. For example, there are certain types of employee misconduct that really hurt only the employer; there are others that have a much greater impact. An employee who lies on a resumé, or steals a piece of equipment from the employer, commits misconduct whose harm is really directed at the employer and not at society at large. But an employee who commits customer billing fraud, or engages in racial or sexual harassment, commits misconduct that has a greater impact, sometimes on society at large. Society may not care if employers correct resumé fraud or theft. Society does care that employers correct customer fraud or discrimination, and courts recognize that employers may not investigate properly if they think that they will only end up helping opponents in litigation. Courts are also sensitive to the impact that disclosure may

have on witnesses and worry that unlimited disclosure may mean witnesses will be less willing to come forward in the future.

This type of "public policy" protection from discovery is not recognized universally and is therefore not wholly reliable. However, you should keep it in mind because the arguments are good ones and may tip the balance in your favor. To help advance the argument, conduct your investigation whenever possible so that you are able to identify and address any larger "social" implications. You should think in terms of "how do I fix this problem for the future" as well as "is this a situation in which I need to impose discipline for misconduct".

And make certain that you note the concerns or problems you encountered with witnesses who were initially unwilling to discuss what they know because of their fear of involvement. Make careful notes of any expressed concerns or hesitation. Later, if you must approach the court for protection from discovery, you will be able to provide facts instead of speculation.

How Can The Attorney-Client Privilege Protect Your Records?

The attorney-client privilege offers more reliable protection and is well accepted by courts around the country. In the context of investigatory records, two aspects of the privilege are important: the attorney-client privilege which protects confidential communications between attorney and client and the work product privilege, which protects materials prepared in anticipation of litigation. Protection is given through the attorney-client privilege to the substance of communications between a lawyer and a client where they occur in giving legal advice and are kept confidential. Protection is given through the work product privilege where materials for litigation are produced by or at the direction of counsel. Like all privileges which protect materials from discovery, these are interpreted very narrowly and are governed by many complicated rules. In general, however, you can enhance protection by adopting the following procedures:

- ***Be clear when the purpose of a communication is to obtain legal advice.*** The attorney-client privilege which protects communications between a client and an attorney applies only when the subject is the rendering of legal advice. Many clients use the services of counsel for business advice, or for mixed legal and business advice. It helps if you're clear that the reason you are engaging counsel is for legal advice. So if you use a letter or memorandum to set out the issue, or if the hiring of an attorney is mentioned in corporate minutes, make sure you identify the nature of the advice sought.

- ***Make certain meeting notes identify the attendees by name and title.*** If you are making a record of the discussion held at a meeting, you can maximize the protection of the document if you make a notation of who was present at the meeting. Sometimes the privilege depends on the identity of

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those present at the meeting. If you have a dispute during discovery over whether a particular memorandum is protected, you will have an easier time establishing the privilege if the document shows clearly that the meeting was attended by your attorney (and designate him or her as such in the document). It also helps to make sure you write down the titles of the others who were present. Some courts require the protected communication to be between the attorney and a corporate control group. Although you can introduce that evidence separately, the package is much neater if the document speaks for itself.

- ***If you think a document is privileged, mark it privileged.*** If you intend a document to be protected, make that clear on its face. Many employers use a stamp that says simply "Protected by Attorney-Client Privilege". That simple notation helps in many ways. First, it announces (even to the court) that this communication was intended to be protected. Second, it advises casual observers who may come into contact with the document that it is not intended for their eyes and thereby minimizes the unintentional waiver of the privilege. Third, it helps down the line. Many privileged documents are inadvertently turned over to an opponent during discovery because the lawyer sifting through documents before turning them over does not recognize names and is not aware that the document might be privileged. A notation on the front page is an easy cure for that problem, but don't be greedy. If you start stamping everything in sight, you'll probably have trouble establishing that any single document is protected.

- ***Keep facts and opinions segregated.*** Technically, the privilege attaches to communications, evaluations, analysis and opinions. Facts are not protected from disclosure. It helps if you prepare documents with that rule in mind. If you keep the facts separate from comments and evaluations, you have a better chance of protecting the critical subjective portion of the document. You won't have much hope of protecting your analysis, however, if you mix up facts and opinions in the document.

- ***Limit disclosure.*** Privileges can be lost. One way of losing the protection of attorney-client or work product privilege is to disclose the document to somebody outside the scope of protection. Be careful who comes into contact with a protected document. Make few copies, and keep close control over them. Do not under any circumstances permit them to be filed away in any other non-protected corporate files and do not put privileged documents in personnel files. Keep them segregated.

- ***Documents prepared in anticipation of litigation should state that fact.*** The work product privilege attaches to certain documents prepared in anticipation of litigation or for trial. Courts don't usually require you to know a complaint is imminent, but the likelihood of litigation must at least be identifiable, which means you need to be able to point to the types of claims that are likely to be asserted. If you are in that situation and hope to protect documents you are preparing, start them with a brief description of the basis for your belief that litigation is an identifiable prospect. If an employee threat-

ened a lawsuit, yelled "you'll hear from my lawyers", or if you've received a demand letter, those are just the sorts of events you need to mention.

- ***Write for an audience—you may have one.*** Keep in mind that court proceedings are a search for the truth. Because of that underlying principle, protection of documents from discovery is the exception rather than the rule. Very few documents are actually shielded from discovery. There may be a jury reading over your shoulder somewhere down the line. Keep that audience in mind as you write. Make certain that your summaries include both incriminating (bad) facts as well as exculpatory (good) facts. Be as factual as you can, and separate your analysis from your narrative. Avoid notes or phrases that make your investigation sound like a witch hunt. "Gotcha!", "bingo!", "this gets better and better!" may all be thoughts running through your mind as you narrow your inquiry; but don't put them on paper or you'll end up looking like you're hounding a poor employee. And avoid making conclusions that could have legal ramifications, such as applying a legal term to your employee's misconduct. If you do, your statement that your employee stole or committed fraud, or sexually harassed just might end up before the jury as an admission.

FINDING THE TRUTH

IF YOU'VE DONE YOUR JOB WELL, YOU'LL HAVE COLLECTED A MASS OF information. Make certain you review it all before you make a final decision.

In most instances you will have to decide where the truth can be found. There is no easy way to do this; but here are some old fashioned "lie-detectors" that you can use.

- **Look for internal consistency in the narratives supplied by your witnesses.** Go through a witness' summary or statement looking for contradictions or inconsistencies. If you talked to the same person more than once, did the stories change? Were important facts hidden until a second or third interview? If so, consider the implications of these concerns. On the one hand, humans usually have faulty memories. It is normal for details to become fuzzy over time; in fact, you should be a bit suspicious of the witness who sounds well rehearsed and always tells it the same way. But if the inconsistency is significant, if the story does not ring true, or if the "fact" that was "just remembered" is a whopper that the witness couldn't have forgotten, then you may have an untruthful witness. Think about whether inconsistencies are part of a pattern of deception, an attempt to embellish an otherwise truthful account or just a faulty memory at work.

- **Look for external corroboration.** What do others say, particularly bystanders who weren't directly involved in the incident. Do third persons support one version over another? Were different people told different versions of the same event? Check out dates. Look at locations. Make certain that people were where they said they were. If your suspect tells it one way, but if everybody else agrees it happened a different way, your suspect is probably not telling the truth. But be careful: if you disbelieve your suspect because of something a bystander says, are you confident the bystander does not have a motive to lie?

- **Do the versions make sense?** Are there puzzling points that don't ring true? The movies can help you here: watch *Twelve Angry Men* some time and see how the jurors in the movie go through the testimony of the witnesses, looking for whether their stories made sense. How could the eyewitness have seen the deed from so far away without glasses? How long would it really have taken the old man to get to his front door to look? Somewhere in all these details the truth is lurking.

- **What sort of appearance did the witness make?** Truthful? Deceptive? Unwilling to talk? Too willing to talk? You can tell a lot about truth-telling from the behavior of the witness, and you should jot down any impressions you have during the interview. How nervous is the witness in comparison to others? Smiling and confident? That's not quite normal. Shaking and incoherent? That's not quite normal either. How does the witness answer questions?

Is he or she so literal that you have to ask the questions several different ways to get an answer? Are you fencing? Do you get a lot of requests to define terms? Those may signal the witness is trying to hide something.

- ***Was the description of events sufficiently detailed?*** Do you feel comfortable it actually occurred? If you aren't able to elicit details from a witness, it may be because the event never occurred. Or was the account so detailed that you think it might have been rehearsed or made up?

- ***Who has a motive to lie?*** Real detectives usually start with a motive. You should too.

Truth is an elusive commodity. But you must do your best to find it.

SUMMARY

THIS IS A COMPLICATED PROCESS, BUT IT'S EASY TO SUMMARIZE: *WERE YOU FAIR?* Before you finalize anything, look back at what you did and ask a few basic questions:

- Was the incident something that called for an investigation. Make sure you can explain why.
- Did you move as quickly as possible?
- Was the investigation performed by a capable and unbiased investigator?
- Did you plan out what you needed to do?
- Were witnesses and suspects given a non-coercive opportunity to provide complete information?
- Did you review important records and visit any important places?
- Have you prepared thorough documentation and protected its confidentiality?
- Did you review all your notes and materials and make a carefully considered decision?

If you missed something, you still have time to correct it.

About The Author

Paula A. Barran is a partner in the Portland office of Lane Powell Spears Lubersky where she represents management in labor and employment matters. She has a B.A. from the College of William and Mary, M.A. from Cornell University, Ph.D. from the University of British Columbia, LL.B. from Osgoode Hall Law School, and M.B.A. from the University of Oregon. She is a frequent lecturer and trainer on all aspects of employment and is the author of "An Employer's Guide to Sexual Harrassment" and co-author of "An Employer's Guide to Substance Abuse in the Workplace," two other LPSL *Pocket Advisers*.

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Lane Powell Spears Lubersky also represents private and public sector clients in maritime, transportation, aviation, tax, business, real estate, construction, corporate, securities, regulated industries, utilities, health care, medical malpractice, personal injury, complex litigation, patent law, trademark, copyright, toxic tort, hazardous waste, environmental and land-use matters.

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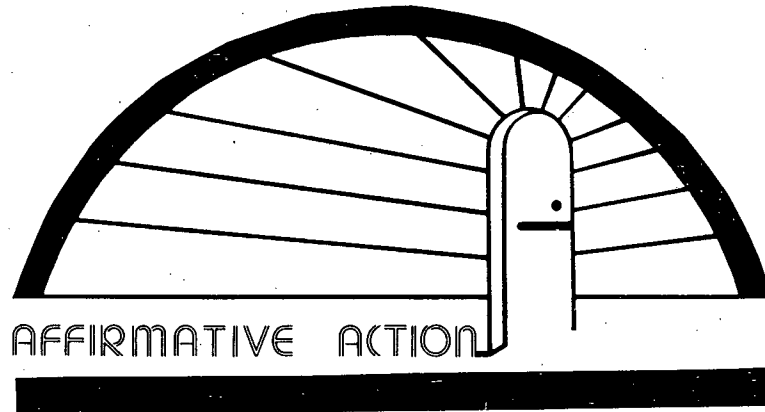
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To obtain additional copies of this Pocket Adviser, contact the Oregon Office.

CITY/COUNTY AFFIRMATIVE ACTION OFFICE



Quality Team:

Full-time Office Staff

- Robert Phillips, Affirmative Action Officer (County)
- Rick Lee, Program Specialist/Trainer (City)
- Joe Wahl, EEO Counselor/Investigator (City)
- Linda Woods, Data Technician (City)
- Vicki Mosmeier, Office Assistant (County)

*Half-time Office Staff

- Jerry Bittle, ADA Coordinator (County)
- Rebecca Sweetland, Project Specialist/Investigator/Mediator (County)

Recruiters

- Lucinda Tate, Outreach Recruiter (City)
- Glenda Durham, Outreach Recruiter (City)

*(Two half-time staff equals one full-time position)

City/County Affirmative Action Office

Core Belief:

We are an office dedicated to quality; quality of products, quality of services, quality of relationships, quality of our communications, and quality of our promises.

Vision:

To be an organization that provides a high level of technical support and services that meet the needs of our various customers through all phases of our operations.

This results from:

1. Creating constancy of purpose toward improvement of products and services.
2. Living our mission and values.
3. Providing dependable services.
4. Breaking down barriers.
5. Carrying out projects that solve problems.
6. Reporting progress.
7. Maintaining momentum by establishing annual improvement goals.

Mission:

The Affirmative Action Office provides leadership to the City of Portland and Multnomah County in recruiting, developing and retaining a quality and represented workforce.

Values:

- Respect for diversity values and differences.
- Vigorous action to ensure equal employment opportunities.
- Collaboration and partnerships with Bureaus/Departments/Divisions in eliminating barriers to equal access to programs and services.
- Increased job opportunities.
- Efficient services and operations.
- Conflict resolution and mediation.

Current Status:

The Affirmative Action Office is responsible for the design, planning and administration of the City and County's affirmative action and equal employment opportunity programs. The Office provides services to over 4633 covered City employees, in addition to temporary, part-time and seasonal workers; and 3394 County covered employees, in addition to temporary, part-time and seasonal workers. This number does not include applicants from the population who seek employment assistance or services from the Office.

Key Customers:

- City Council/Board of County Commissioners - Policy development and guidance on various regulatory compliance issues.
- City Attorney's Office/County Counsel - Statistical data, conflict management and problem solving, and consultation.
- Bureau/Department Managers - Consultation, training, program development, investigation, problem solving, conflict resolution, diversity facilitation, mediation, and data support.
- Employees - Conflict resolution, complaint investigation, research, problem solving and training.
- Public - Conflict resolution, recruitment, problem solving, complaint investigation, data, information and programs.
- Compliance Agencies - EEO-4 data and compliance reporting.

Affirmative Action Office
Staff Competencies
- Goals -

The know-how identified as part of the process improvement goals to meet our mission's goal and objectives is made up of five competencies and a three-part foundation of skills and personal qualities needed to carry out the job of the office. These shall include:

COMPETENCIES. Effective staff can productively use:

Resources: time, purchases, materials, space, staff support to meet the program objectives of the office;

Interpersonal Skills: working on teams, teaching others, serving customers, leading, negotiating, and working well with people from culturally diverse backgrounds;

Information: acquiring and evaluating data, organizing and maintaining files, interpreting and communicating, and using computers to process information;

Systems: understanding social, organizational, and technological systems, monitoring and correcting performance, and designing or improving systems;

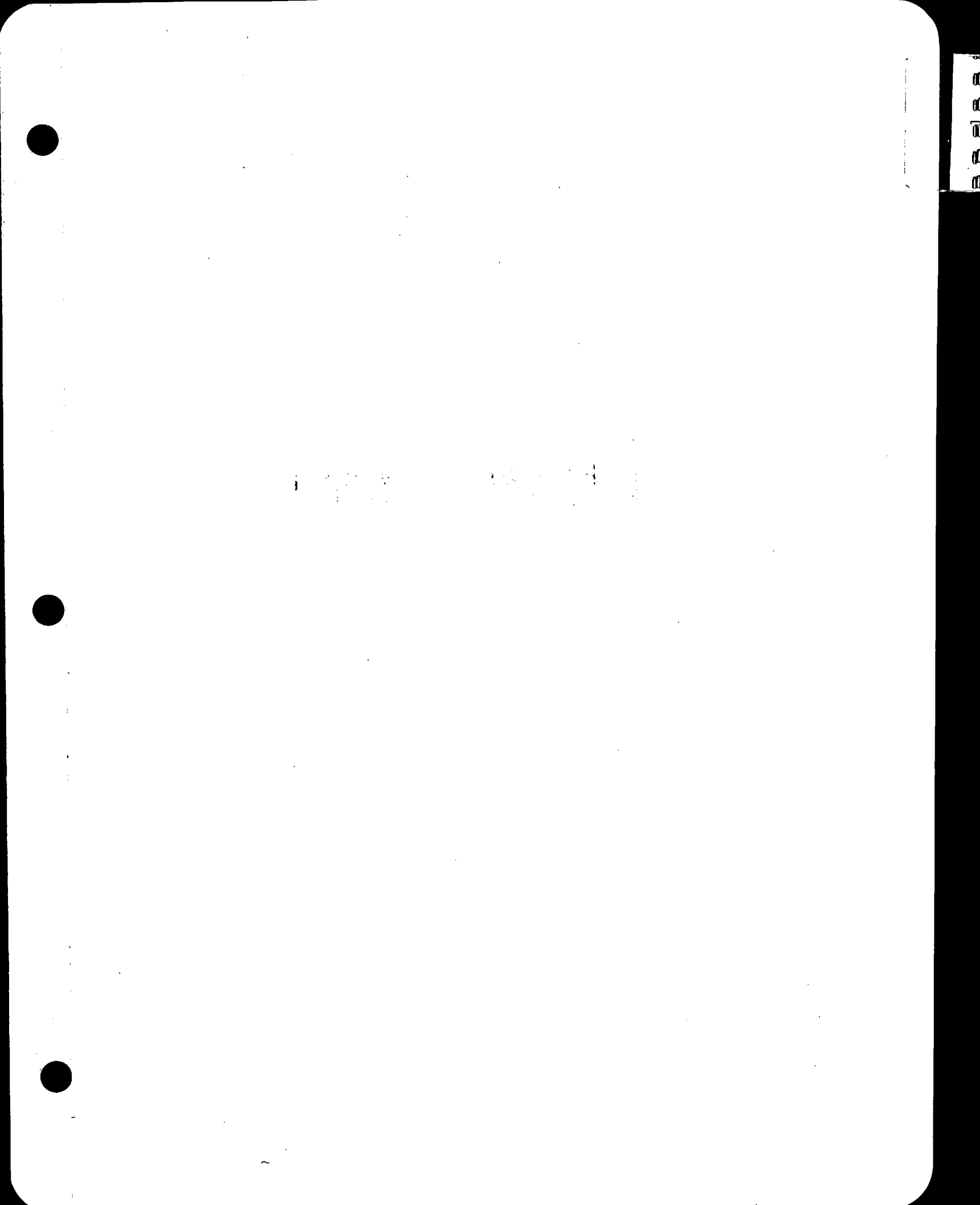
Technology: selecting equipment and tools, applying technology to specific tasks, maintaining and troubleshooting technologies, and utilizing support services appropriately.

THE FOUNDATION. Competence requires:

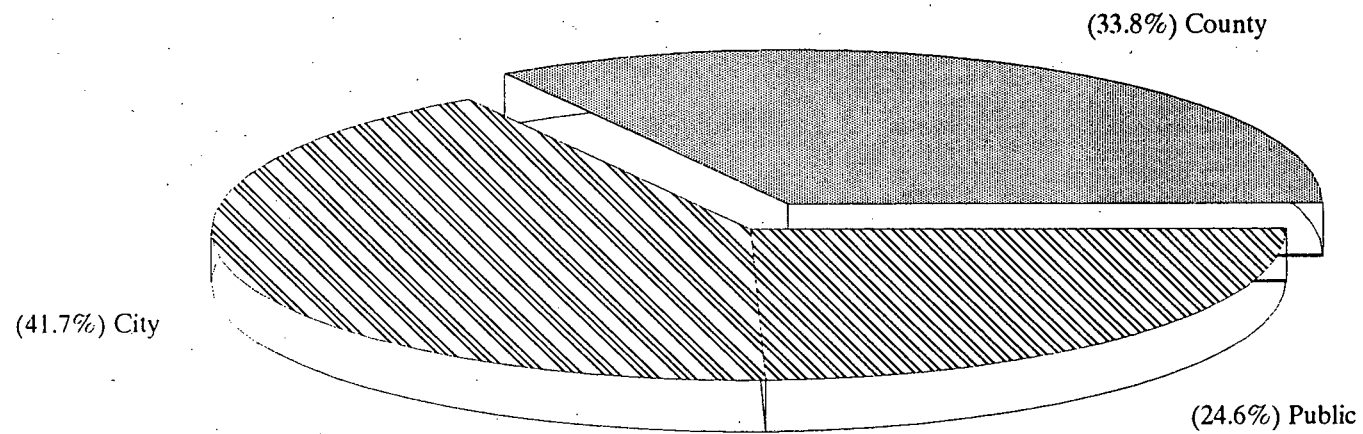
Basic Skills: reading, writing, arithmetic and mathematics, speaking and listening;

Thinking Skills: thinking creatively, making decisions, solving problems, seeing things intuitively, knowing how to learn, and reasoning;

Personal Qualities: individual responsibility, self-esteem, sociability, self-management and integrity.

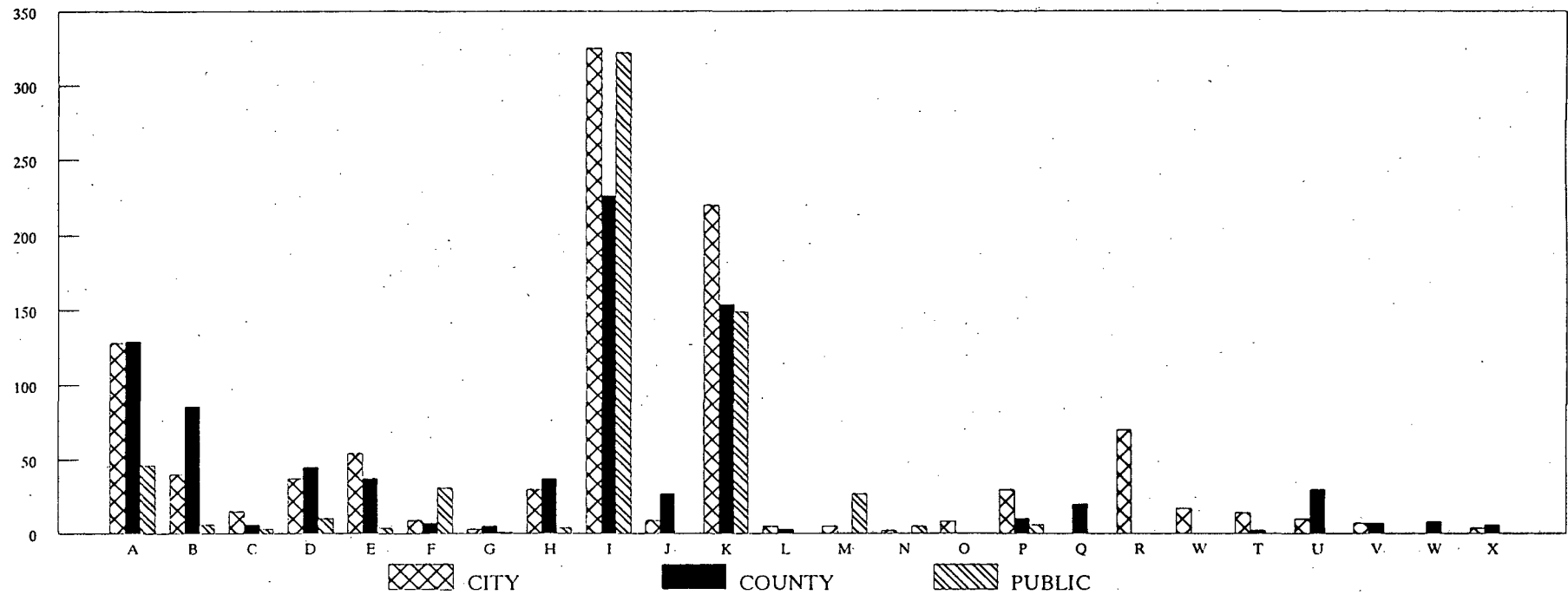


PERCENT OF CONTACTS RECEIVED BY AFFIRMATIVE ACTION OFFICE



 COUNTY  CITY  PUBLIC

CONTACTS RECEIVED BY AFFIRMATIVE ACTION OFFICE



KEY:

A = Consultation
 B = Complaints
 C = Service Calls
 D = Meeting Request
 E = Data Request
 F = Sales Inquiries
 G = General
 H = Memos

I = Mailings
 J = Advisories
 K = Phone Calls
 L = Info Request
 M = HUD Reports
 N = Exit Survey Report
 O = Coordinating Comm. (OF&A)
 P = Billings

Q = Supervision/Training
 R = AA Worksheets - Sel. Certs
 S = Biddle Reports
 T = Travel/Training Arrangements
 U = Filing
 V = Updating Reference Books
 W = County Applicant Tracking
 X = ADA Questions

TOTAL OFFICE (Excluding Recruitment)

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	205	31	7	60	245	58	128	129	46	303
Complaints	69	7	15	41	104	28	40	86	6	132
Service Calls	20	4			12	12	15	6	3	24
Meeting Request	49	1	1	41	75	17	37	45	10	92
Data Request	72	4	11	8	90	5	54	37	4	95
Sales Inquiries	32		15		1	46	9	7	31	47
General	6	2	1		8	1	3	5	1	9
Memos	26		45		64	7	30	37	4	71
Mailings	46		827		464	409	325	226	322	873
Advisories	13		23		36		9	27		36
Phone Calls	523				250	273	220	154	149	523
Info Request	5			3	5	3	5	3		8
HUD Reports	13		19		5	27	5		27	32
Exit Survey Report	7				2	5	2		5	7
Coordinating Comm. (OF&A)	5			3	8		8			8
Billings	4		40	2	7	39	30	10	6	46
Supervision/Training				20	5	15		20		20
AA Worksheets – Sel. Certs	6		36	28	70		70			70
Biddle Reports			4	13	17		17			17
Travel/Training Arrangements	10		1	5	15	1	14	2		16
Filing			40		40		10	30		40
Updating Reference Books			14		14		7	7		14
County Applicant Tracking			8		8			8		8
ADA Questions	9			1	10		4	6		10
TOTAL	1120	49	1107	225	1555	946	1042	845	614	2501
	MEASURES 2501				TYPE 2501		CONTACTS 2501			
Estimated Utilization:	County 33.8%			City 41.7%			Public 24.6%			100.0%

ROBERT PHILLIPS

AFFIRMATIVE ACTION OFFICER

Joint Responsibilities: The Affirmative Action (AA) Officer develops, implements, monitors and provides administration leadership for the City/County Affirmative Action Plans and Programs; and is responsible for bringing both the City and County into compliance with all rules and regulations governing Equal Employment Opportunity law. Team leadership is exercised over technical and clerical persons. The AA Officer works closely with City Bureaus, and County Departments and Offices, to assess policies and practices to achieve affirmative action objectives. The AA Officer establishes partnerships with, and trains County department/City bureau affirmative action representatives, assists in identifying and creating the training objectives for the affirmative action program, and provides services to City/County elected officials and managers that cannot be provided efficiently by department/bureau affirmative action representatives. Additionally, the AA Officer works with enforcement agencies to assure reports are provided, prepare and analyze quarterly reports to identify progress and/or needed remedial action(s) necessary to accomplish affirmative action goals.

EMPLOYEE: Robert Phillips

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	84	6	0	13	74	29	45	37	21	103
Complaints	19	0	0	3	15	7	10	12	0	22
Service Calls	8	0	0	0	0	8	4	4	0	8
Meeting Request	16	0	0	13	26	3	9	17	3	29
Data Request	21	0	0	0	19	2	13	7	1	21
Sales Inquiries	6	0	0	0	0	6	3	3	0	6
General	5	0	0	0	5	0	2	3	0	5
Memos	23	0	11	0	34	0	13	21	0	34
Mailings	41	0	98	0	67	72	57	45	37	139
Advisories	13	0	23	0	36	0	9	27	0	36
Training	4	0	8	0	4	8	5	6	1	12
										0
TOTAL	240	6	140	29	280	135	170	182	63	415
	MEASURES 415				TYPE 415		CONTACTS 415			
Estimated Time Utilization:	County 43.9%			City 41.0%			Public 15.2%			100.0%

EMPLOYEE: Robert Phillips

Month: April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	32	3		11	36	10	22	19	5	46
Complaints	13			1	11	3	5	9		14
Service Calls	8					8	4	4		8
Meeting Request	8			4	12		5	7		12
Data Request	13				11	2	6	6	1	13
Sales Inquiries	4					4	2	2		4
General	5				5		2	3		5
Memos	23				23		8	15		23
Mailings	41		11		21	31	25	22	5	52
Advisories	13				13		6	7		13
Training	4				4			4		4
										0
TOTAL	164	3	11	16	136	58	85	98	11	194
	MEASURES 194				TYPE 194		CONTACTS 194			
Estimated Utilization:	County 50.5%			City 43.8%			Public 5.7%			100.0%

EMPLOYEE: Robert Phillips

Month: March, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	52	3		2	38	19	23	18	16	57
Complaints	6			2	4	4	5	3		8
Service Calls										0
Meeting Request	8			9	14	3	4	10	3	17
Data Request	8				8		7	1		8
Sales Inquiries	2					2	1	1		2
General										0
Memos			11		11		5	6		11
Mailings			87		46	41	32	23	32	87
Advisories			23		23		3	20		23
Training			8			8	5	2	1	8
Training	3				3			3		3
TOTAL	79	3	129	13	147	77	85	87	52	224
	MEASURES 224				TYPE 224		CONTACTS 224			
Estimated Time Utilization:	County 38.8%			City	37.9%		Public	23.2%		100.0%

TIME UTILIZATION REPORT

Month: April
Report by: Robert Phillips

Activity

Government

Exempt Employee Meeting

County

Personnel Development Meeting

City

Management Support Services Meeting

County

City Process Re-engineering Meeting

City

Career Development Meeting

City

Fire Bureau "Minority Hiring"

City

Training

Time

Cascade Public Executive Program
Conflict Resolution/Diversity
Tri-County Affirmative Action

10 Days
8 Hours
4 Hours

Respectfully submitted,

Robert Phillips
Affirmative Action Officer

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Monthly Activities: March
Robert Phillips

- Completed Q.I.P.
- Met with Diversity Meeting County
- Met with Human Resources Policy Committee
- Met to resolve organizational issues recruitment/personnel
- Attended and provided briefing on budget to the County
- Held staff meeting
- Attended "Results Campaign" Meeting - County
- Met regarding "five" examination problems
- Met regarding "Fire" examination problems
- Met with Bar Association Affirmative Action Committee
- Attended County Managers meeting
- Attended OFA leaders meeting and training (twice during month)
- Provided training to Aging Services staff on Affirmative Action
- Provided training to Employee Services staff on Affirmative Action plan
- Completed Management Effectiveness Training, G.P.A. 4.00
- Completed Public Administration Strategic Planning Course, G.P.A. 4.00

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RICK LEE
AFFIRMATIVE ACTION PROGRAM SPECIALIST

Responsibilities: The occupant of this position develops and implements action strategies at the direction of the Affirmative Action Officer. The Program Specialist assists in coordination of program activities and monitors program performance indicators. This person analyzes policies and program reports in line with the program objectives. The Program Specialist coordinates needs assessments and planning activities with internal and external advisory groups. The Program Specialist serves as program leader of the City's diversity training project, chair the City's diversity committee; and serves as liaison to all County departments and divisions.

Additionally, the Program Specialist initiates such special efforts as are necessary to assist the County and City in recruiting protected class applicants for positions; interprets the affirmative action plans, policies and procedures to public and private groups; and counsels potential applicants on the City and/or County hiring process, and analyzes job skills for appropriate applicant referrals. Furthermore, this person assists the County in both temporary and summer job hiring efforts; assists in the organization and preparation of the City and/or County EEO/AA training; and conducts research and submits reports to guide the office in meeting the changing status of EEO/AA law. The Program Specialist will assist in developing and interpreting the results of City/County program audits. Liaison - Metropolitan Human Rights Commission, Police Hispanic Project Committee, and Law Enforcement Trainee Program.

Rick Lee

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	12	3	0	12	20	7	13	8	6	27
Complaints	2	0	0	0	0	2	1	0	1	2
Meeting Request	23	0	0	5	18	10	15	9	4	28
Data Request	25	0	3	2	30	0	22	8	0	30
Sales Inquiries	15	0	15	0	1	29	1	0	29	30
Memos	3	0	0	0	3	0	3	0	0	3
Mailings	5	0	0	0	0	5	0	0	5	5
Phone Calls	63	0	0	0	52	11	41	14	8	63
Training	3	0	0	1	4	0	4	0	0	4
TOTAL	151	3	18	20	128	64	100	39	53	192
	MEASURES 192				TYPE 192		CONTACTS 192			
Estimated Utilization:	County 20.3%			City	52.1%		Public 27.6%			100.0%

EMPLOYEE: Rick Lee

Month: April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	6			9	11	4	8	4	3	15
Complaints	2					2	1		1	2
Meeting Request	23				15	8	13	7	3	23
Data Request	25		3	2	30		22	8		30
Sales Inquiries	2					2			2	2
Memos	3				3		3			3
Mailings	5					5			5	5
Phone Calls	63				52	11	41	14	8	63
Training	3			1	4		4			4
										0
										0
TOTAL	132	0	3	12	115	32	92	33	22	147
	MEASURES 147				TYPE 147		CONTACTS 147			
Estimated Utilization:	County 22.4%			City 62.6%			Public 15.0%			100.0%

EMPLOYEE: Rick Lee

Month: March, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	6	3		3	9	3	5	4	3	12
Complaints										0
Meeting Request				5	3	2	2	2	1	5
Data Request										0
Sales Inquiries	13		15		1	27	1		27	28
Memos	Did not track this month									0
Mailings	Did not track this month									0
Phone Calls	Did not track this month									0
Training										0
TOTAL	19	3	15	8	13	32	8	6	31	45
	MEASURES 45				TYPE 45		CONTACTS 45			
Estimated Utilization:	County 13.3%			City	17.8%		Public	68.9%		100.0%

MONTHLY ACTIVITIES: APRIL 1994

Rick Lee

- * Met with Alice from computer services to discuss second phase of computer program for sexual harassment survey
- * Consulted with Dennis Harper about the disabled opportunity program
- * Met with the Justice Center Nurses to review the A.A.P.
- * Attended the Oregon Council on Civil Rights conference
- * Attended the NE Jobs Committee and City Club of Portland's community forum on minority job recruitment and training
- * Attended managers meeting (County) for R.P.
- * Facilitated City-wide DiverCity Committee meeting
- * Attended the showing of the video "Healing the Heart of America"
- * Met with Lou Boston about diversity as a follow up of our discussion during Career connection 94
- * Attended mgrs services meeting for R.P.
- * Attended Tri-County's workshop on "Advanced EEO Training"
- * Met with Mary-Lou and Sue Monahan about a Sexual harassment workshop
- * Worked on sexual harassment survey with Rebecca
- * Met with Elaine from OFA to discuss Tributary article
- * Attended the Managers of Color meeting
- * Met with Alice from computer services several times concerning sexual harassment software for survey
- * Attended County Commissioners meeting as Chair, Stein presented her proposed budget
- * Rebecca and I provided EEO/AA training to Water Bureau Managers/supervisors
- * Attended Luncheon as Vera Pool was speaking
- * Talked with Kirk Berger to discuss Personnel's volunteer position through the D.O.P.

- * Ordered May's DiverCity Calendar
- * Continued planning for DiverCity Committee and sub-committees meetings
- * Held DiverCity Committee meeting
- * Met with Moana Good concerning joining the DiverCity Committee as a representative of OFA
- * Met with Jessica to review language on application for Citizen Utility Review Board (CURB)
- * Rebecca and I provided EEO\AA training to Water Bureau manager/supervisors
- * Attended Advanced Cultural Diversity sub-committee meeting
- * Attended training on "Conflict Resolution Across Cultures"
- * Met with Dr Sharman and Gary Wappes of Washington County to discuss their diversity plan and strategies

MONTHLY ACTIVITIES: MARCH 1994

Rick Lee

- * Met with Terrel Tripplet for Robert Phillips concerning A.A. and E.E.O.
- * Attended County X-Cultural Committee meeting
- * Attended A.A. Office staff meeting
- * Attended the Council on Education in Management seminar on "A.A. Plans Today"
- * Wrote update report on the Disability Opportunity Project statements
- * Working on City's A.A. Plan
- * Met with County Diversity Conference Committee
- * Met with reps. from VRD and CB to review applications of volunteers and discuss orientation
- * Attended the Urban Leagues "Career Connections 94"
- * Attended mgrs services meeting for R.P.
- * Attended Tri-County's workshop on "Investigating Sexual Harassment Complaints the right way"
- * Reviewed discrimination complaint information received from Bash and turned over to Joe Whal
- * Worked on sexual harassment survey with Rebecca
- * Met with County Dept. Directors with the Diversity Conference Committee
- * Attended the Managers of Color meeting
- * Met with Alice from computer services several times concerning sexual harassment software for survey
- * Met with Alice to install sexual harassment software into computer
- * Met with Jim Doane to schedule EEO/AA training for Water Bureau Managers/supervisors
- * Met with Sargent McDade, representative from the Commission for the Blind, and Elaine to discuss her volunteer position with the City

- * Met with Kirk Berger to discuss Personnel's volunteer position through the D.O.P.
- * Ordered April's DiverCity Calendar
- * Began planning for DiverCity Committee meeting
- * Held DiverCity Committee meeting
- * Met with Mike Thomas concerning employment with City\County, referred him to Glenda
- * Met with Robin Gunn concerning application for Reclaiming Our Streets Committee (ROSC)
- * Met with Robert concerning R.O.S.C. application.

JOE WAHL

AFFIRMATIVE ACTION COUNSELOR

Responsibilities: This position provides professional and technical employment discrimination grievance work in investigating informal discrimination complaints. Specifically, this person researches, compiles and summarizes data in support of investigative findings, conducts field investigations, records depositions of complaints and witnesses; and prepare fact-finding reports. Furthermore, all external complaints are monitored for patterns and risk indicators for future training and/or program corrections. This employee makes independent routine decisions consistent with specified policies and procedures. Additionally, the City/County's exit survey process; all HUD training reports and monitoring; and the implementation of a mediation/conflict resolution strategy for discrimination/harassment complaints is the responsibility of this person.

EMPLOYEE: Joe Wahl

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	26	3	2	11	37	5	17	20	5	42
Complaints	20	3	2	21	42	4	10	35	1	46
Meeting Request	5	0	0	6	10	1	4	6	1	11
Info Request	5	0	0	3	5	3	5	3	0	8
HUD Reports	13	0	19	0	5	27	5	0	27	32
Exit Survey Report	7	0	0	0	2	5	2	0	5	7
Coordinating Comm. (OF&A)	5	0	0	3	8	0	8	0	0	8
										0
TOTAL	81	6	23	44	109	45	51	64	39	154
	MEASURES 154				TYPE 154		CONTACTS 154			
Estimated Utilization:	County 41.6%			City 33.1%			Public 25.3%			100.0%

EMPLOYEE: Joe Wahl

Month: April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	23	1		8	28	4	13	15	4	32
Complaints	14	2		18	30	4	7	26	1	34
Meeting Request	5				5			5		5
Info Request	5			3	5	3	5	3		8
HUD Reports			4		4		4			4
Exit Survey Report	7				2	5	2		5	7
Coordinating Comm. (OF&A)	5			3	8		8			8
										0
										0
TOTAL	59	3	4	32	82	16	39	49	10	98
	MEASURES 98				TYPE 98		CONTACTS 98			
Estimated Utilization:	County 50.0%			City 39.8%		Public 10.2%			100.0%	

EMPLOYEE: Joe Wahl

Month: March, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	3	2	2	3	9	1	4	5	1	10
Complaints	6	1	2	3	12		3	9		12
Meeting Request				6	5	1	4	1	1	6
Info. Request										0
HUD Reports	13		15		1	27	1		27	28
Exit Survey Report										0
Coordinating Comm. (OF&A)										0
TOTAL	22	3	19	12	27	29	12	15	29	56
	MEASURES 56				TYPE 56		CONTACTS 56			
Estimated Utilization:	County 26.8%			City 21.4%		Public 51.8%			100.0%	

Monthly Activities: April, 1994

Joe Wahl

- Attended PSU seminar on "Conflict Resolution Across Cultures"
- Attended Tri-County Affirmative Action Association seminar on "Advanced EEO"
- Conducted exit interview of City's GIS Manager on behalf of City - GIS Project (Transportation - lead agency)
- Met with BES management re: complaint from former employee of Wastewater Treatment Plant
- Sat in on disciplinary investigative interview of employee of City Attorney's Office at employees request
- Met with County Risk Management re: Winchester Case and case management in general
- Met with OFA TQM Coordinator to assist with presentation to OFA Team Leaders
- Attended OFA TQM Coordinating Committee meetings (2)
- Attended OFA Leaders meeting
- Attended OFA Team Leaders meeting
- Conducted investigation, with Rebecca Sweetland, of sexual harassment complaint from County Developmental Disabilities Unit (Maurice)
- Continued to monitor and conduct follow up on Winchester and Battles cases, County Juvenile Justice
- Prepared monthly complaints report
- Prepared monthly summary of pending BOLI/EEOC filings (City)
- Prepared information for City Exit Survey Report
- Compiled information for HUD Quarterly Report

Major Events

- PSU seminar on "Conflict Resolution Across Cultures"
- AAO investigation of sexual harassment complaint from County Developmental Disabilities Unit

FILE

Monthly Activities: March, 1994
Joe Wahl

- Attended City workshop on "Effective Negotiations: Making Wise Agreements"
- Attended Tri-County Affirmative Action Association seminar on "Investigating Sexual Harassment The Right Way"
- Attended OFA TQM Coordinating Committee meetings (2)
- Attended County Manager's Meeting (Exempt Evaluation Advisory Committee)
- Attended and participated in AAO staff meeting
- Attended OFA Team Leaders meeting
- Prepared monthly complaints report
- Prepared monthly summary of pending BOLI/EEOC filings (City)
- Completed Capen investigation; prepared and distributed findings; (County/Commissioner's Staff)
- Compiled information for City Exit Survey Report
- Closed Maxey case (City/Emergency Communications)
- Compiled information for HUD Quarterly Report

Major Events

- Tri-County Affirmative Action seminar, "Investigating Sexual Harassment the Right Way"
- AAO staff meeting

LINDA WOODS

DATA TECHNICIAN

Responsibilities: This position serves as the statistician for the office and is responsible for all reports and communications related to data compilation, quarterly and annual reports. The Data Technician is responsible for operating and maintaining the City's computerized data system (Criterion), counseling bureau managers and their staff on the statistical reports, and for making recommendations to Personnel on affirmative action certifications. This person must also operate the County's computerized data system (Biddle & Associates) for training the Office Assistant in managing the program, for back-up, and for providing counseling to County managers on their statistical reports. The reports prepared on both systems are: labor market identification and definition, 8-factor availability analysis, workforce analysis, job grouping, goals and timetables, and goals progress for OFCCP Compliance. In the future, this position will also provide counseling to City and County Managers and/or their staff on compliance strategies. The division of the time has to do with the nature of City Bureaus and their complexity versus the County department's size and organization. This person serves as office data systems/operations leader which includes responsibility for ordering supplies, making payments to vendors, for both scheduling and making arrangements for all internal staff training and for providing staff support assistance.

EMPLOYEE: Linda Woods

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	17	8	1	10	29	7	21	9	6	36
Complaints	5	2	2	0	5	4	5	2	2	9
Service Calls	10	0	0	0	7	3	6	2	2	10
Meeting Request	4	0	0	1	5	0	4	1	0	5
Data Request	16	0	1	0	16	1	11	5	1	17
Sales Inquiries	9	0	0	0	0	9	5	2	2	9
General	0	1	0	0	0	1	0	0	1	1
Answering Phones	127	0	0	0	76	51	60	34	33	127
Billings	4	0	40	2	7	39	30	10	6	46
Mailings	0	0	83	0	29	54	26	15	42	83
Memos	0	0	34	0	27	7	14	16	4	34
Supervision/Training	0	0	0	20	5	15	0	20	0	20
AA Worksheets – Sel. Certs	0	0	8	28	36	0	36	0	0	36
Biddle Reports	0	0	4	13	17	0	17	0	0	17
Travel/Training Arrangements	10	0	1	5	15	1	14	2	0	16
TOTAL	202	11	174	79	274	192	249	118	99	466
	MEASURES 466				TYPE 466		CONTACTS 466			
Estimated Utilization:	County 25.3%			City	53.4%		Public 21.2%			100.0%

EMPLOYEE: Linda Woods

Month: April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	11			9	17	3	13	5	2	20
Complaints	3		2		2	3	3	1	1	5
Service Calls	5				5		5			5
Meeting Request				1	1		1			1
Data Request	7				7		3	4		7
Sales Inquiries	3					3	3			3
General		1				1			1	1
Answering Phones	51				27	24	21	13	17	51
Billings	1		10		2	9	7	2	2	11
Mailings			36		10	26	11	5	20	36
Memos			14		13	1	4	10		14
Supervision/Training				15		15		15		15
AA Worksheets – Sel. Certs			8		8		8			8
Biddle Reports			4		4		4			4
Travel/Training Arrangements	3		1	3	7		6	1		7
TOTAL	84	1	75	28	103	85	89	56	43	188
	MEASURES 188				TYPE 188		CONTACTS 188			
Estimated Utilization:	County 29.8%			City 47.3%			Public 22.9%			100.0%

EMPLOYEE: Linda Woods

Month: March, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	6	8	1	1	12	4	8	4	4	16
Complaints	2	2			3	1	2	1	1	4
Service Calls	5				2	3	1	2	2	5
Meeting Request	4				4		3	1		4
Data Request	9		1		9	1	8	1	1	10
Sales Inquiries	6					6	2	2	2	6
General										0
Answering Phones	76				49	27	39	21	16	76
Billings	3		30	2	5	30	23	8	4	35
Mailings			47		19	28	15	10	22	47
Memos			20		14	6	10	6	4	20
Supervision/Training				5	5			5		5
AA Worksheets - Sel. Certs				28	28		28			28
Biddle Reports				13	13		13			13
Travel/Training Arrangements	7			2	8	1	8	1		9
TOTAL	118	10	99	51	171	107	160	62	56	278
	MEASURES 278				TYPE 278		CONTACTS 278			
Estimated Utilization:	County 22.3%			City 57.6%			Public 20.1%			100.0%

Monthly Activities: April
Linda Woods

- Assisted Manager with:
Met with Personnel on career development process
- Preparation of material for Personnel
- Payment of office bills
- Training for Office Assistant II
- Attended Ergonomics Committee Meetings
- Preparation of City's Third Quarter Affirmative Action Report
- Responded to questions about Affirmative Action Reports
- Preparation of Biddle Reports for Outreach Recruitment
- Preparation of AA Worksheets with recommendation to Personnel on AA Certifications (See attachment for recommendations.)
- Preparation of graphs for Exit Interview Report
- Assisted Office Assistant in setting up County Tracking Report

Major Events

- Quarterly Report for City
- Exit Interview Report
- County Tracking Report
- Filing System and Cleaning Office

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Monthly Activities: March
Linda Woods

- Assisted Manager with:
 - QIP Report for City
 - Met with Architect on space needs for community offices
 - Met with County on budget
- Payment of office bills
- Training for Office Assistant II
- Attended Ergonomics Committee Meetings
- Responded to questions about Affirmative Action Reports
- Preparation of Biddle Reports for Outreach Recruitment
- Preparation of AA Worksheets with recommendation to Personnel on AA Certifications
- Training for Office Assistant II

Major Events

- QIP Report
- Quarterly Report

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VICKI MOSMEIER
OFFICE ASSISTANT

Responsibilities: The occupant of this position serves as an assistant in coordinating special projects, preparing materials for training, preparing mass mailings, distributing mail, sorting and filing materials. Initial phone calls and office inquiries are handled by this person. Additionally, this person will be responsible for managing the County's computerized data system, and will back up the data technician.

EMPLOYEE: Vicki Mosmeier

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	0	5	0	1	5	1	3	2	1	6
Complaints	6	2	0	0	0	8	4	3	1	8
Service Calls	2	4	0	0	5	1	5	0	1	6
Meeting Request	0	0	0	4	4	0	1	3	0	4
Data Request	2	0	0	2	4	0	2	2	0	4
Sales Inquiries	2	0	0	0	0	2	0	2	0	2
General	0	1	1	0	2	0	1	1	0	2
Filing	0	0	40	0	40	0	10	30	0	40
Mailings	0	0	646	0	368	278	242	166	238	646
Updating Reference Books	0	0	14	0	14	0	7	7	0	14
County Applicant Tracking	0	0	8	0	8	0	0	8	0	8
Answering Phones	333	0	0	0	122	211	119	106	108	333
AA Worksheets – Sel. Certs	6	0	28	0	34	0	34	0	0	34
TOTAL	351	12	737	7	606	501	428	330	349	1107
	MEASURES 1107				TYPE 1107		CONTACTS 1107			
Estimated Utilization:	County 29.8%			City 38.7%			Public 31.5%			100.0%

EMPLOYEE: Vicki Mosmeier

Month: April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation		5			4	1	2	2	1	5
Complaints	4					4	2	1	1	4
Service Calls	1	4			4	1	4		1	5
Meeting Request				3	3		1	2		3
Data Request	2			2	4		2	2		4
Sales Inquiries	2					2		2		2
General		1			1		1			1
Filing			40		40		10	30		40
Mailings			326		178	148	97	81	148	326
Updating Reference Books			6		6		3	3		6
County Applicant Tracking			8		8			8		8
Answering Phones	203				52	151	69	56	78	203
AA Worksheets-Sel. Certs	6				6		6			6
TOTAL	218	10	380	5	306	307	197	187	229	613
	MEASURES 613				TYPE 613		CONTACTS 613			
Estimated Utilization:	County 30.5%			City 32.1%		Public 37.4%				100.0%

EMPLOYEE: Vicki Mosmeier

Month: March, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation				1	1		1			1
Complaints	2	2				4	2	2		4
Service Calls	1				1		1			1
Meeting Request				1	1			1		1
Data Request										0
Sales Inquiries										0
General			1		1			1		1
Filing										0
Mailings			320		190	130	145	85	90	320
Updating Reference Books			8		8		4	4		8
County Applicant Tracking										0
Answering Phones	130				70	60	50	50	30	130
AA Worksheets-Sel. Certs			28		28		28			28
TOTAL	133	2	357	2	300	194	231	143	120	494
	MEASURES 494				TYPE 494		CONTACTS 494			
Estimated Utilization:	County 28.9%			City 46.8%		Public 24.3%				100.0%

Monthly Activities - April 1994

Vicki Mosmeier

- *Archiving (prepared and sent 8 boxes of old records)*
- *Reorganization of County Filing Cabinet*
- *Updated Sexual Harassment Brochure*
- *Multnomah County Tracking System*
- *Certification Worksheets*
- *Newspaper Ad Filing System*
- *Printing Filing System*
- *General Office Filing*
- *Budget Reports*
- *Maintain Job Announcement Book*
- *Faxing*

Monthly Activities - March 1994

Vicki Mosmeier

- *QIP Project*
- *Resolved Printshop billing error*
- *Faxing*
- *Multnomah County Tracking System*
- *Certification Worksheets*
- *Newspaper Ad Filing System*
- *Printing Filing System*
- *General Office Filing*
- *Budget Reports*
- *Maintain Job Announcement Book*

JERRY BITLE

AFFIRMATIVE ACTION SPECIALIST

Responsibilities: The occupant of this position splits time between the City/County for the purpose of assisting and monitoring the implementation of all programs for disabled persons to assure conformity with all applicable federal, state, and local acts, rules and regulations. Special emphasis is placed on compliance with the Americans with Disability Act of 1990, and training on the program requirements. Additionally, the County's applicant tracking system and selection report monitoring is a key responsibility of this position. In the future, the City's applicant tracking process may be monitored by this staff person. Procedures for managing, tracking and reports accessibility alterations and reasonable accommodation provisions are the responsibility of this person.

EMPLOYEE: Jerry Bitle

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	59	0	3	8	62	8	26	37	7	70
Complaints	14	0	3	3	15	5	10	9	1	20
ADA Questions	9	0	0	1	10	0	4	6	0	10
Meetings	0	0	0	7	4	3	3	2	2	7
Data Request	2	0	0	0	0	2	0	0	2	2
General	1	0	0	0	1	0	0	1	0	1
										0
TOTAL	85	0	6	19	92	18	43	55	12	110
	MEASURES 110				TYPE 110		CONTACTS 110			
Estimated Utilization:	County 50.0%			City 39.1%			Public 10.9%			100.0%

EMPLOYEE: Jerry Bittle

Month: April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	43		2	5	44	6	13	31	6	50
Complaints	8		2	3	8	5	5	7	1	13
ADA Questions	9				9		4	5		9
Meetings				7	4	3	3	2	2	7
Data Request	2					2			2	2
General	1				1			1		1
										0
										0
TOTAL	63	0	4	15	66	16	25	46	11	82
	MEASURES 82				TYPE 82		CONTACTS 82			
Estimated Utilization:	County 56.1%		City 30.5%		Public 13.4%		100.0%			

EMPLOYEE: Jerry Bittle

Month: March, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	16		1	3	18	2	13	6	1	20
Complaints	6		1		7		5	2		7
ADA Questions				1	1			1		1
Meetings										0
Data Request										0
General										0
										0
TOTAL	22	0	2	4	26	2	18	9	1	28
	MEASURES 28				TYPE 28		CONTACTS 28			
Estimated Utilization:	County 32.1%		City 64.3%		Public 3.6%		100.0%			

MONTHLY ACTIVITIES: APRIL 1994
JERRY BITLE

- * Coordinated and chaired County ADA Oversight Committee - guest speaker from County Facilities Management.
- * Developed and revised draft of County Reasonable Accommodation Guidelines; final version approved by ADA Oversight Committee.
- * Responded to a citizen complaint regarding access to the Roosevelt Community Family Resource Center.
- * Met with County Risk Manager regarding issues raised in ADA Oversight Committee meeting about determining essential functions of positions.
- * Worked on and completed (maybe) a County disability discrimination complaint.
- * Attended monthly City/County Advisory Committee on the Disabled meeting."
- * Met with state employee, Chuck Wall about reasonable accommodations for County employee.
- * Met with staff of Oregon Deaf Resource Center for the purpose of renewing both City and County contracts for sign language interpreter service.
- * Met with City Personnel, Assistant City Attorney, and BOEC manager concerning continuation of accommodations for two City employees.

MONTHLY ACTIVITIES: MARCH 1994
JERRY BITLE

- * Coordinated and chaired County ADA Oversight Committee
- * Developed and revised draft of County Reasonable Accommodation Guidelines
- * Met with County Employee Service Division staff concerning Reasonable Accommodation Guidelines (Job Description Work Sheet).
- * Met with City Risk Manager regarding issues raised in QIP survey.
- * Worked on County disability discrimination complaint
- * Attended Tri-County AA seminar regarding "Investigating Sexual Harassment - The Right Way."
- * Met with Jan Campbell regarding City and County Transition Plans and City Self-evaluation

REBECCA SWEETLAND

PROJECT SPECIALIST

Responsibilities: The occupant of this position provides mediation services for City/County employees experiencing work related difficulties as a result of actual or perceived harassment or discrimination. Assists managers in organization development issues around work place breakdown caused by conflicts. Analyzes affirmative action compliance strategies to determine effectiveness and accountability, and makes recommendations for improvements. Assists in managers' and supervisors' training program on EEO issues. Additionally, assist with research and program development; technical interpretation of program; preparing technical documents; and assisting with ADA compliance. Project team leadership and systems development will be a major responsibility of this position.

EMPLOYEE: Rebecca Sweetland

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to-Person	Internal	External	City	County	Public	
Consultation	7	6	1	5	18	1	3	16	0	19
Complaint Investigation	3	0	8	14	25	0	0	25	0	25
Meeting Request	1	1	1	5	8	0	1	7	0	8
Data Request	6	4	7	4	21	0	6	15	0	21
Trainings Conducted	0	0	0	4	4	0	4	0	0	4
										0
TOTAL	17	11	17	32	76	1	14	63	0	77
	MEASURES 77				TYPE 77		CONTACTS 77			
Estimated Utilization:	County 80.7%			City 19.4%		Public 0.0%			100.0%	

EMPLOYEE: Rebecca Sweetland

Month: April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	2	3	1	2	8	0	2	6		8
Complaint Investigation	3		8	12	23			23		23
Meeting Request	1	1	1	5	8		1	7		8
Data Request	6	4		4	14		3	11		14
Trainings Conducted				4	4		4			4
TOTAL	12	8	10	27	57	0	10	47	0	57
	MEASURES 57				TYPE 57		CONTACTS 57			
Estimated Utilization:	County 81.3%			City 18.7%		Public 0.0%			100.0%	

EMPLOYEE: Rebecca Sweetland

Month: March, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	5	3		3	10	1	1	10		11
Complaint Investigation				2	2			2		2
Meeting Request										0
Data Request			7		7		3	4		7
Trainings Conducted										0
TOTAL	5	3	7	5	19	1	4	16	0	20
	MEASURES 20				TYPE 20		CONTACTS 20			
Estimated Utilization:	County 80.0%			City 20.0%		Public 0.0%			100.0%	

1993-1994
Affirmative Action Activities
Narrative
for
Rebecca A. Sweetland

First quarter: July 1, 1993 - September 30, 1993

AAO hired RAS as a temporary, part-time employee (female, disabled).

Second quarter: October 1, 1993 - December 31, 1993

Conducted survey of all City managers and supervisors regarding AA training needs

Developed and submitted AA training plan based on survey results.

Edited the implementation plan for developing a City-wide Cultural DiverCity Committee.

Began compiling the special population statistics and developing an outreach recruitment strategy.

Developed and submitted the AA compliance strategy implementation evaluation for the City.

Created and submitted the AA Quality Manager Recognition Award criteria.

Assisted in a civil rights investigation for the County.

Spoke to a high school class regarding the ACLU.

Produced and submitted an implementation plan for the Intergovernmental Agreement between VRD, CB and the City.

Assisted in getting the Intergovernmental Agreement through the City Council.

Third Quarter: January 1, 1994 - March 31, 1994

Distributed summary of AA Training Survey to managers and supervisors.

Developed draft harassment and discrimination complaint procedures manual for managers and supervisors.

Met with a PSU graduate student to discuss trends and issues in Affirmative Action.

Participated in three sexual harassment investigations (one with Rick; two with Joe). Closed another sexual harassment complaint.

Met with two managers in Buildings Bureau regarding their concerns about training for entry level minorities.

Created a draft Affirmative Action brochure for Multnomah County AAP.

Continued compiling sexual harassment survey responses with Rick.

Responded to requests regarding budget issues.

Reviewed QIP materials and isolated relevant sections.

Attended training session by Sharon Noone on "Writing Investigation Findings" with Robert, Jerry, Joe and Rick.

Extracted responsibilities under the Multnomah County AAP for EEO representatives and for supervisors/managers, and updated the one for AAO.

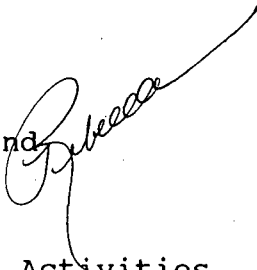
Attended two Tri-County Affirmative Action trainings ("Recognizing and Dealing with Bias in the Workplace" and "Investigating Sexual Harassment The Right Way").

Reviewed City and County policies and procedures for affirmative action and EEO compliance.

Prepared for AA/EEO training to be given to managers and supervisors in the City in April (with Rick).

Completed an application for a comprehensive ADA training as relates to older workers.

Continue to monitor a racial harassment complaint situation (with Joe).

To: Robert Phillips
From: Rebecca A. Sweetland 
Date: May 3, 1994
Subject: April 1994 Monthly Activities

Input 159 sexual harassment surveys from the City into the Paradox computer program.

Conducted four EEO/Affirmative Action trainings for the Water Bureau (City).

Investigated a sexual harassment complaint in the Developmental Disabilities Department (County).

Met with Jan Campbell regarding the training possibility through ADA and AARP.

Provided technical assistance to the Sheriff's Department regarding mediation on a sexual harassment complaint.

Worked on the Harassment Complaint Processing Guidelines for supervisors.

LUCINDA TATE and GLENDA DURHAM

OUTREACH RECRUITMENT

Responsibilities: Coordinate a comprehensive program of affirmative action outreach, recruitment data management and training that supports the efforts of City bureaus and County departments in maximizing the hiring and promotion of women, minorities, and the disabled in accordance with the Affirmative Action Plan. They also monitor the recruitment, selection, and testing process.

TOTALS FOR RECRUITMENT SECTION

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	104	42	1	35	54	128	48	9	125	182
Complaints	6	0	0	7	6	7	5	0	8	13
Service Calls	10	0	0	9	6	13	8	0	11	19
Meetings/Meeting Requests	41	0	9	36	24	62	32	8	46	86
Data Request	4	0	1	50	48	7	46	1	8	55
Sales Inquiries	9	0	0	1	0	10	0	0	10	10
General	18	0	0	23	29	12	14	1	26	41
JIF Pulls	0	0	0	69	59	10	58	5	6	69
Community Contacts	71	1	103	26	0	201	0	0	201	201
Job Mailings	0	0	5321	305	93	5533	93	0	5533	5626
Recruit. Presentation/Activities	164	37	23	58	21	261	21	0	261	282
Recruitment Exams	0	0	6	22	28	0	28	0	0	28
Training	0	0	0	7	2	5	2	0	5	7
TOTAL	427	80	5464	648	370	6249	355	24	6240	6619
	MEASURES 6619				TYPE 6619		CONTACTS 6619			
Estimated Utilization:	County 0.4%			City	5.4%		Public 94.3%			100.0%

EMPLOYEE: Lucinda Tate

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	98	40	0	27	46	119	40	4	121	165
Complaints	5	0	0	4	2	7	2	0	7	9
Service Calls	5	0	0	2	3	4	3	0	4	7
Meetings/Meeting Requests	16	0	9	18	8	35	18	5	20	43
Data Request	4	0	1	0	3	2	2	1	2	5
Sales Inquiries	6	0	0	0	0	6	0	0	6	6
General	3	0	0	3	4	2	0	0	6	6
JIF Pulls	0	0	0	0	0	0	0	0	0	0
Community Contacts	6	0	103	22	0	131	0	0	131	131
Job Mailings	0	0	1206	305	93	1418	93	0	1418	1511
Recruit. Presentation/Activities	0	0	0	21	0	21	0	0	21	21
Recruitment Exams	0	0	6	22	28	0	28	0	0	28
Training	0	0	0	0	0	0	0	0	0	0
TOTAL	143	40	1325	424	187	1745	186	10	1736	1932
	MEASURES 1932				TYPE 1932		CONTACTS 1932			
Estimated Utilization:	County 0.5%			City 9.6%			Public 89.9%			100.0%

EMPLOYEE: Lucinda Tate

Month: April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	42	25		15	25	57	24	1	57	82
Complaints	2					2			2	2
Service Calls	2					2			2	2
Meetings/Meeting Requests	4				2	2	2	1	1	4
Data Request	3				1	2		1	2	3
Sales Inquiries	4					4			4	4
General	3			1	4				4	4
JIF Pulls										0
Community Contacts	6		103	5		114			114	114
Job Mailings			229		93	136	93		136	229
Recruit. Presentation/Activities				3		3			3	3
Recruitment Exams			6	6	12		12			12
Training										0
TOTAL	66	25	338	30	137	322	131	3	325	459
	MEASURES 459				TYPE 459		CONTACTS 459			
Estimated Utilization:	County 0.7%			City	28.5%		Public 70.8%			100.0%

EMPLOYEE: Lucinda Tate

Month: March, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	56	15		12	21	62	16	3	64	83
Complaints	3			4	2	5	2		5	7
Service Calls	3			2	3	2	3		2	5
Meetings/Meeting Requests	12		9	18	6	33	16	4	19	39
Data Request	1		1		2		2			2
Sales Inquiries	2					2			2	2
General				2		2			2	2
JIF Pulls										0
Community Contacts				17		17			17	17
Job Mailings			977	305		1282			1282	1282
Recruit. Presentation/Activities				18		18			18	18
Recruitment Exams				16	16		16			16
Training										0
TOTAL	77	15	987	394	50	1423	55	7	1411	1473
	MEASURES 1473				TYPE 1473		CONTACTS 1473			
Estimated Utilization:	County 0.5%			City	3.7%		Public	95.8%		100.0%

EMPLOYEE: Glenda Durham

Months: March & April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	6	2	1	8	8	9	8	5	4	17
Complaints	1	0	0	3	4	0	3	0	1	4
Service Calls	5	0	0	7	3	9	5	0	7	12
Meetings/Meeting Requests	25	0	0	18	16	27	14	3	26	43
Data Request	0	0	0	50	45	5	44	0	6	50
Sales Inquiries	3	0	0	1	0	4	0	0	4	4
General	15	0	0	20	25	10	14	1	20	35
JIF Pulls	0	0	0	69	59	10	58	5	6	69
Community Contacts	65	1	0	4	0	70	0	0	70	70
Job Mailings	0	0	4115	0	0	4115	0	0	4115	4115
Recruit. Presentation/Activities	164	37	23	37	21	240	21	0	240	261
Recruitment Exams	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	7	2	5	2	0	5	7
TOTAL	284	40	4139	224	183	4504	169	14	4504	4687
	MEASURES 4687				TYPE 4687		CONTACTS 4687			
Estimated Utilization:	County 0.3%			City 3.6%			Public 96.1%			100.0%

EMPLOYEE: Glenda Durham

Month: April, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation	6	2	1	4	4	9	4	5	4	13
Complaints	1			2	3		2		1	3
Service Calls	2					2			2	2
Meetings/Meeting Requests	4			7	4	7	6	1	4	11
Data Request				12	10	2	9		3	12
Sales Inquiries										0
General	10			5	10	5	9	1	5	15
JIF Pulls				25	18	7	17	5	3	25
Community Contacts	33					33			33	33
Job Mailings			421			421			421	421
Recruit. Presentation/Activities	42	21	23	6		92			92	92
Recruitment Exams										0
Training				5		5			5	5
TOTAL	98	23	445	66	49	583	47	12	573	632
	MEASURES 632				TYPE 632		CONTACTS 632			
Estimated Utilization:	County 1.9%			City 7.4%		Public 90.7%			100.0%	

EMPLOYEE: Glenda Durham

Month: March, 1994

Contacts	MEASURES				TYPE		CONTACTS			TOTAL
	Phone	Walk-ins	Letters	Person-to Person	Internal	External	City	County	Public	
Consultation				4	4		4			4
Complaints				1	1		1			1
Service Calls	3			7	3	7	5		5	10
Meetings/Meeting Requests	21			11	12	20	8	2	22	32
Data Request				38	35	3	35		3	38
Sales Inquiries	3			1		4			4	4
General	5			15	15	5	5		15	20
JIF Pulls				44	41	3	41		3	44
Community Contacts	32	1		4		37			37	37
Job Mailings			3694			3694			3694	3694
Recruit. Presentation/Activities	122	16		31	21	148	21		148	169
Recruitment Exams										0
Training				2	2		2			2
TOTAL	186	17	3694	158	134	3921	122	2	3931	4055
	MEASURES 4055				TYPE 4055		CONTACTS 4055			
Estimated Utilization:	County 0.0%			City 3.0%		Public 96.9%			100.0%	

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AFFIRMATIVE ACTION OFFICE GENERAL OPERATIONS BUDGET

	County A.A. General Operations 1994-95 PROPOSED	City A.A. General Operations 1994-95 PROPOSED	Total General Operations City/County Budget 1994-95
PERSONAL SERVICES			
5100 Permanent	134495	105339	239834
5200 Temporary	1000	0	1000
5300 Overtime	0	0	0
5400 Premium	0	0	0
5500 Fringe Benefits	35539	46018	81557
TOTAL EXTERNAL	171034	151357	322391
5550 Insurance Benefits	15772		15772
TOTAL PERSONAL SERVICES	186806	151357	338163
6050 County Supplements	0	0	0
6060 Pass-Through Payments	0	0	0
6110 Professional Svcs.	3040	11949	14989
6120 Printing	7700	6298	13998
6130 Utilities	0	0	0
6140 Communications	750	5109	5859
6170 Rentals	0	0	0
6180 Repairs and Maintenance	0	1000	1000
6190 Maintenance Contracts	0	0	0
6200 Postage	0	0	0
6230 Supplies	2000	3000	5000
6270 Food	0	0	0
6310 Education & Training	3000	3000	6000
6320 Mtng Conference/Conventions	0	1100	1100
6330 Local Travel/Mileage	1900	0	1900
6520 Insurance	0	1524	1524
6530 External Data Processing	0	0	0
6550 Drugs	0	0	0
6580 Claims Paid	0	0	0
6610 Awards and Premiums	0	0	0
6620 Due and Subscriptions	1200	500	1700
6700 Library Books and Materials	0	0	0
7810 Principal	0	0	0
7820 Interest	0	0	0
TOTAL EXTERNAL	19590	33480	53070
7011 Indirect Costs	0	0	0
7150 Telephone	0	0	0
7200 Data Processing	0	7609	7609
7300 Motor Pool	0	0	0
7400 Building Management	0	22579	22579
7500 Other Internal	0	0	0
7550 Serv Reimb to Cap Lease Ret Fu	0	0	0
7560 Distribution/Postage	0	0	0
TOTAL INTERNAL	0	30188	30188
TOTAL MATERIALS & SERVICES	19590	63668	83258
8100 Land	0	0	0
8200 Buildings	0	0	0
8300 Other Improvements	0	0	0
8400 Equipment	0	0	0
TOTAL CAPITAL OUTLAY	0	0	0
DIRECT BUDGET	190624		
TOTAL BUDGET	206396	215025	421421

FTE (General Operations)

Total City - - - - - 3
Total County - - - - - 3
Total City/County - - - - - 6

* Explanation of Changes

Increase of .5 FTE to investigate sexual harassment complaints
Inflation and wage increases

Total Change

FTE's	Dollars
0.05	17539
0.00	6204
0.05	23743

Appropriation Unit: Office of Finance and Administration-AFFIRMATIVE ACTION
 Fund: General

City Add on programs

Expenditure Classification	AA GENERAL FY 94-95	AA OUTREACH FY 94-95	TRAINING FY 94-95	TOTAL FY 1994-95
511000 Full-Time Employees	\$105,339	81,265	\$0	186,604
512000 Part-Time/Limited Term	0	0		0
514000 Overtime	0	0		0
515000 Premium Pay	0	0		0
517000 Benefits	46,018	25,898	0	71,916
Total Personal Services	\$151,357	\$107,163	\$0	\$258,520
521000 Professional Services	\$11,949	14,431	\$0	26,380
522000 Utilities	0	0	0	0
523000 Equipment Rental	0	0	0	0
524000 Repair & Maintenance	1,000	600	0	1,600
528000 Local Match Payment	0	0	0	0
529000 Miscellaneous Services	500	0	0	500
531000 Office Supplies	3,000	600	0	3,600
532000 Operating Supplies	0	0	0	0
533000 Repair & Maint Supplies	0	0	0	0
534000 Minor Equipment	0	0	0	0
535000 Clothing	0	0	0	0
539000 Other Commodities	0	0	0	0
541000 Education	3,000	668	15,000	18,668
542000 Local Travel	0	0	0	0
543000 Out-of-Town Travel	1,100	0	0	1,100
544000 External Rent	0	0	0	0
545000 Interest	0	0	0	0
546000 Refunds	0	0	0	0
547000 Retirement	0	0	0	0
549000 Miscellaneous	0	6,200	0	6,200
Total External Materials & Svc	\$20,549	\$22,499	\$15,000	\$58,048
551000 Fleet Services	\$0	1,500	\$0	1,500
552000 Printing/Distribution	6,298	5,200	0	11,498
553000 Facilities Services	22,579	7,378	0	29,957
554000 Communications	5,109	1,057	0	6,166
555000 Data Processing	7,609	0	0	7,609
556000 Insurance	1,524	2,032	0	3,556
557000 Equipment Lease	0	0	0	0
558000 Same Fund Services	0	0	0	0
559000 Other Fund Services	0	0	0	0
Total Internal Materials & Svc	\$43,119	\$17,167	\$0	\$60,286

Appropriation Unit: Office of Finance and Administration-AFFIRMATIVE ACTION
Fund: General

Expenditure Classification	AA GENERAL FY 94-95	AA OUTREACH FY 94-95	TRAINING FY 94-95	TOTAL FY 1994-95
Total Materials & Services	\$63,668	\$39,666	\$15,000	\$118,334
561000 Land	\$0	0	\$0	0
562000 Buildings	0	0	0	0
563000 Improvements	0	0	0	0
564000 Equipment	0	0	0	0
566000 Equipment Lease Purcha	0	0	0	0
Total Capital Outlay	\$0	\$0	\$0	\$0
573000 Equipment Cash Transfer	\$0	0	\$0	0
Total Appropriation	\$215,025	\$146,829	\$15,000	\$376,854

Explain the effects and advantages of the consolidated City/County Affirmative Action Office.

The purpose for establishing the joint program:

1. The basic responsibility of the Affirmative Action programs of the City and County is to assist the City and County to achieve and maintain a diverse and representative work force and to assist the Training Officers for the City and County in coordinating and providing training and educational opportunities for the City and County regarding equal employment opportunity issues (e.g. Workforce 2000, sexual harassment, Americans with Disabilities, etc.)
2. Consolidation of the Affirmative Action Programs of the City and County will reduce program duplication among the two governments, while assuring that each government meets the requirement for having an office that monitors, reports, plans and implements program strategies, and provides creative solutions to work force and service programs diversity.
3. The combined strengths of the two programs through the staffing support and resources will demonstrate to the public, our employees, contractors and compliance agencies our desire to achieve the goals of equal opportunity employment and program delivery for all persons regardless of their protective status.

Multnomah County's Obligations:

Pay wages, benefits, and insurance coverage for three positions - Affirmative Action Officer, Management Analyst (A.D.A. Coordinator) and Clerical Assistant (assistant data technician, file manager, mailing coordinator, and document preparer). The County is the appointing authority for County staff only, and County Civil Service rules and regulations apply to only the County staff of the office.

City of Portland Obligations:

Pay wages, benefits, and insurance coverage for three authorized full time positions--two Personnel Analysts and one Data Technician (who also manages billings, supplies, and makes select certification decisions for City examinations). Additionally, the City pays for two full time recruiters to assist in community outreach, placement and employment testing training.

Joint Obligations:

The City is responsible for the materials and services budget, ensuring that materials and services essential to the program are obtained and shall quarterly bill the County for actual materials and services expenditures based on the approved program budgets each fiscal year.

Effects and Advantages:

Fiscal Benefits:

The major part of communications cost associated with the program is picked up by the City- \$5,109 compared to the County's cost of \$750.00.

Facility services for space to house the office is picked up by the City at \$22,529, with the addition of insurance at \$932.00.

Data processing and computer repairs and support are picked up the City at \$7,609.00, compared to -0- budgeted by the County.

With the support of the half-time position of the County, what the City provides in-kind are the services of two Affirmative Action Outreach workers to assist in recruitment support. The total cost of the program is \$159,179. If the County had to pay for the staff support at the 50% wage level it would cost \$79,589.50.

The overall, additional support available (as listed above) to the County, under the joint program totals roughly \$116,568.50.

Funding Priority Focus:

For the City, their funding priorities in staffing and operational support has been on: Direct management of the City-wide Cultural Diversity efforts from the Affirmative Action Office vs. Employee Services playing a major role for this in the County; on affirmative action contact and recruitment through the Affirmative Action Office vs. the County's passive approach through advertisements, and Affirmative Action data management and monitoring through a \$54,000 Criterion Affirmative Action Management System (CAAMS) vs. a \$2,000 system purchased by the County, which does not meet our customers (departments) needs, or compliance requirements. This will be corrected when the County is brought into the CAAMS program during FY 94-95.

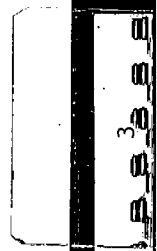
Staff Support for Both Programs:

The program has been able to meet the different needs of the two governments, while also meeting the common needs of both governments:

- Staff in the Office provides statistical support, consultation on EEO issues, and program support. This has reduced overall cost of hiring individual affirmative action staff and/or spending associated with outside consultants.
- Staff has been available to provide training on ADA, Sexual Harassment, special diversity topics, methods for handling complaints, and affirmative action requirements. Without the staff of the combined office this would be almost impossible to do upon request. Because this is mandatory under federal regulations and reduces potential liability for departments, the cost savings is in the area of professional services contracts. This service is provided free to the County from the Affirmative Action Office.

Major Area of Savings:

Availability of staff for consultation and assistance; and supplies, subscriptions, and training materials all cut in half by the joint program. Additionally, departmental staff are not diverted from assigned duties to conduct and manage complaints because of the investigative support provided by the Affirmative Action office.



1994-95
Key Strategic Goals

(Goals are established for both governments based on their specific and joint needs.)

City of Portland

1. Develop new affirmative action plan.
2. Implement Quality Improvement Plan for office.
3. Begin the process to explore "Service Process Improvement" projects.
4. Partnership with the Recruitment and Selection Unit to improve relationships and consistency of purpose.
5. Partnership with Personnel Bureau to develop assessment process for creating an upward mobility/career development plan.
6. Implement strategies to follow up and reinforce diversity awareness training.

Multnomah County

1. Implement County Affirmative Action Plan.
2. Install new data base system for affirmative action monitoring and data management.
3. Monitor implementation of ADA requirements.
4. Develop implementation strategies for managing gender and race based conflicts and misunderstandings in the work place.
5. Exit interview project start-up.
6. Initiate recruitment assistance for County jobs.

Joint Programs

1. Conflict and complaint reduction through early intervention (conflict resolution methods) and conflict management training of supervisors and managers.
2. Organize office files for information management and retrieval.
3. Partnership City/County EEO/ADA representatives for program support and assistance.

MULTNOMAH COUNTY

AFFIRMATIVE ACTION

OBJECTIVES

AFFIRMATIVE ACTION OFFICE
RESPONSIBILITIES
PER
MULTNOMAH COUNTY AFFIRMATIVE ACTION PLAN
1993-1996

Completed

Responsibility	Yes	No
<p>Communications - Take appropriate steps to ensure that all employees are advised of this policy of nondiscrimination and of its interest in actively and affirmatively providing equal employment opportunity, such as:</p> <p>A. Communication media, including bulletin boards, personal letters mailed to employees and in-house publications, will emphasize this subject.</p> <p>B. All management and any others in a position to implement this policy, including those engaged in recruiting, training and other personnel activities, will be fully advised of this policy and of their responsibilities with respect to it.</p> <p>C. The County will establish a system of communication and feedback controls within all management and department levels to ensure application of the policy throughout the entire Department. (p.15)</p>		

<p>Recruitment - Seek qualified minority, female, and disabled applicants for all job categories and will make specific efforts to increase such minority, female and disabled persons' representation in occupations at the higher levels of skill and responsibility.</p> <ul style="list-style-type: none">A. All schools, colleges, employment offices, and other recruiting sources used by the County will be advised in writing of this policy and will be asked to refer qualified minority, female and disabled applicants.B. Recruiting programs at colleges will include those attended by substantial numbers of minority/female/disabled persons.C. Where appropriate, employment advertisements will be placed in newspapers which are widely read by, and devoted to the interest of, protected class groups. In addition, the County will request appropriate protected class groups' agencies to assist in making known the County's policy and will advise such groups of available employment opportunities. Also encourage similar employment referrals from present employees. (p.15)		
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<p>Placement and Promotions - Review job categories where under-utilization of minority and female persons exist and will seek to determine the cause for such situations. When necessary, remedial efforts may include such actions as the following:</p> <ul style="list-style-type: none"> A. More vigorous recruitment of qualified minority and female candidates. B. Special discussions with appropriate management, supervisory or other personnel regarding the County's policy and its desire to ensure utilization of qualified minority and female personnel at all job levels. C. Re-evaluate qualifications of the lower echelon of minority/female employees to determine whether their skills and capabilities may be more fully utilized at higher job levels or would warrant their transfer to other types of jobs more readily leading to advancement. D. Placement, promotion and transfer activities, at all levels, will be monitored to ensure that full consideration, as required by the County policy, has been given to qualified minority and female employees. (p.16) 		
<p>Selection Procedure/Test/Examination - Will notify the Affirmative Action Office of any test having an adverse impact on minority and/or female candidates. Both the Employee Services Division and the Affirmative Action Office will determine the best course of action to correct this problem. (p.17)</p>		
<p>Pre-Employment Inquiries/Interviews - A selection decision maker may make any pre-employment inquiries which do not discriminate or tend to have an adverse impact on a basis enumerated in the Plan. Personnel interviews shall be free of discrimination and internal safeguards should be enacted to secure a discrimination-free atmosphere during interviews. (p.17)</p>		
<p>Working Conditions and Facilities: None of the County's facilities will be segregated. All facilities will be brought into compliance with the American with Disabilities Act in a timely manner. (p.18)</p>		

<p>The County training policy shall be to train employees, as needed, to assure high-quality performance. (p. 18)</p>		
<p>Where training which may make an employee eligible for promotion and/or transfer is made available, it shall be made available in a manner which does not discriminate against individuals on a basis enumerated in the Plan. (p.18)</p>		
<p>All practices affecting assignment, transfers and training for jobs at all levels, management and non-management, shall be reviewed to improve opportunities for minority, the disabled, female and male employment in all jobs in which they are under-represented. (p.18)</p>		
<p>Records shall be maintained which show job category, race, and gender of those employees who have participated in a training program. This information will be attained on a voluntary basis and will only be used to measure the extent of the County's equal opportunity compliance. The County's Training Officer will forward training attendance records quarterly to the Affirmative Action Officer. (p.18)</p>		
<p>All supervisors shall be responsible for assisting employees to acquire the knowledge and skills necessary for performing their jobs. (p. 18)</p>		
<p>All County-supported or sponsored training seminars for supervisors will be available for minority, female, and disabled supervisors, and they will be encouraged to participate. (p. 18)</p>		
<p>Layoff and Terminations - Whenever necessary to reduce the County's work force, layoff, termination or recall to work will be made without regard to race, color, sex, age, national origin, religion, physical or mental disability, or veterans' status. The County will review layoffs, bumping, and work force reductions to determine any adverse impact on the County's affirmative action program. (p. 18)</p>		
<p>As part of the County's community service commitment, the Affirmative Action Officer and/or his designee will be involved in community activities which serve to promote the objectives of this Plan and/or relevant laws. (p.19)</p>		

The City/County Affirmative Action Office will be responsible for disseminating changes and revision is the policies and/or procedures contained in this plan to all department heads. (p.19)		
Establish flexible annual and long-range affirmative action objectives, and putting forth good-faith effort strategies in an attempt to correct identified under-utilization in employment classifications or categories. (p.21)		
Take affirmative action measures to remedy employment discrimination if it is shown to exist. (p.21)		
Pursue programs which accommodate and increase access and employment opportunities for the disabled. (p.21)		
Monitoring and actively enforcing the principles contained in the plan. (p. 21)		
Develop an increased awareness and recognition of cultural differences throughout the County's work force through education and training. (p.22)		
Assure that through training, management and supervisory personnel are well informed of their responsibilities in providing equal employment opportunity. (p.22)		
Distribute a copy of the Affirmative Action Plan and the Affirmative Action Policy Statement, to all Departments, Divisions, and Offices of Elected Officials. (p.31)		
Conduct special meetings with executive, managerial and supervisory personnel for the purpose of explaining the intent of the policy, the elected officials' attitude and individual responsibilities for effective implementation. (p.31)		
Conduct special meeting with all non-management and supervisory employees to discuss the policy and explain individual employee responsibilities. (p.31)		
The County's affirmative action program and equal employment opportunity policy will be thoroughly explained in both employee orientation and management training programs. (p.31)		

The County's affirmative action/equal employment opportunity policy will be communicated to union officials to assure they understand the nondiscriminatory policy, and request their continued cooperation. (p.31)		
All known recruiting sources shall be notified verbally and in writing of Multnomah County's affirmative action/equal employment opportunity policy and program. (p.32)		
Overall responsibility and accountability for monitoring and assuring compliance with this Plan and all relevant EEO guidelines (p.39)		
Investigate, as the agent of Multnomah County, any complaint regarding an alleged act of discrimination (p.39)		
Monitor from time to time the MBE/FBE function to enhance the County's response to contracting issues (p.39-40)		
Conduct affirmative action performance reviews to measure program conformance (p.40)		
Recommend modifications to the County's personnel practices to strengthen the County's affirmative action efforts (p.40)		
Develop policy statements, affirmative action programs and internal and external communication techniques (p. 40)		
Assist County Officials in carrying out their equal employment opportunity responsibilities, including promoting the recruitment, employment, training, and retention of members of protected classes, and recommend solutions to any problems identified (p.40)		
Train County managers and supervisors in their equal employment opportunity and affirmative action responsibilities (p.40)		
Monitor records of personnel actions, develop monitoring and reporting systems to acquire statistical information for the purposes of this program (p.40)		
Accept, investigate, and resolve informal complaints of discrimination from employees, previous employees, or applicants for employment (p.40)		
Serve as the primary liaison for the County to groups concerned with equal employment opportunity and affirmative action (p.40)		

Prepare and submit annual reports on the progress and problem areas in the equal employment opportunity program and the implementation of the affirmative action plan (p.40)		
Annually, update the affirmative action program in accordance to goals achieved and existing needs (p.40)		
Communicate to management the latest developments in the equal employment opportunity area (p.40)		
Ensure that prompt and effective measures are taken by department managers to correct equal employment opportunity problems as they are identified (p.40)		
Assist managers in implementing effective Departmental Affirmative Action Programs, including the establishing of hiring practices and goal setting (p.40)		
Design and implement an evaluation system that: 1) Measures the effectiveness of the County EEO programs 2) Indicates any need for remedial action 3) Determines the degree to which the County's goals and objectives are being attained (p.40-41)		
Monitor from time to time program and service delivery systems to assure non-discriminatory practices (p.41)		
Make professional judgement as to whether the County departments' action oriented programs are sufficiently specific and result-oriented to accomplish the aims for which they were created (p.219)		
Make a professional judgement as to whether the County departments' action oriented programs were properly executed to achieve the goals and objectives of the affirmative action program (p.219)		
Establish programs for recruiting minorities, women and disabled persons (p.234)		
Coordinate with various test development organizations in an effort to develop examinations/procedures which fairly evaluate all potential candidates (p.234)		
Update lists of all minorities, women and disabled organizations and institutions to be used as recruitment sources. Establish a mailing list for distribution of information regarding exams and Affirmative Action policies. Contact community groups and organizations and maintain liaison with them (p.234)		

Work closely with schools and colleges in relation to recruitment for entrance level classes. (p.234)		
Develop system that monitors results of recruitment efforts to ensure that all sources are effectively reached (p.235)		
Establish a system for distribution of job vacancy information to provide equitable exposure to all (p.235)		
Increase involvement of County employee staff in recruitment (p.235)		
Analyze and report on appointments and promotions of employees (p.235)		
Review departmental selection processes that tend to have an adverse impact on Affirmative Action (p.235)		
Develop an exit interview form to be given to employees when they give notice of termination (p.235)		
Monitor department changes which could impact on personnel assignment and promotion as they relate to the Affirmative Action Program (p.236)		
Provide training to all personnel assigned to implement County's Affirmative Action Plan (p.236)		
Develop and implement a system for collection, maintenance and analysis of statistical data on the employment and promotion of minorities, women and disabled; evaluation of Affirmative Action Program and assessment of the effectiveness of Affirmative Action activities (p.236)		
Prepare progress reports for the Personnel Director and County Manager on the performance of Departments in achieving goals (p.237)		
Annually review and update the Plan (p.237)		
Prepare annual assessments for all Board of Commissioners (p.237)		
Review affirmative action status with the Board of County Commissioners and community groups (p.237)		
Create, and grant annually, an Affirmative Action Quality Manager Recognition Award (p. 249)		
Periodic reviews of external and internal applicant flow, to assure that the County's recruiting efforts are attracting a diversified pool of applicants for new hires and promotions (p.251)		

Review of hires, promotions and terminations to assure that such action are not having an adverse effect on the equal employment opportunities of women, minorities, and disabled persons (p.251)		
Assuring that managers are provided with the current status reports on affirmative action (p.251)		
Informing managers of achievements, problems, trends, and setting corrective action when necessary (p.251)		
Conducting organizational field reviews to determine the extent to which a department, or division is complying with the intent of this plan and appropriate affirmative action and equal employment opportunity guidelines (p.251)		
Encouraging employees who feel that the County has failed to fulfill its obligations to implement this plan to express their concerns to the City/County Affirmative Action Office (p.251)		
Requiring formal reports from department managers, on a scheduled basis, which indicate the degree to which departmental and divisional goals are attained and timetables are met (p.252)		
Reviewing all selection, promotional and training procedures to ensure that they are nondiscriminatory (p.252)		
Inform, on a regular basis, department managers of their effectiveness in implementing this policy and recommend improvements if necessary (p.252)		
Produce annually the Affirmative Action Annual Report and Performance		

AFFIRMATIVE ACTION PLAN PROGRAM IMPLEMENTATION STEPS

OBJECTIVE

SPECIFIC ACTION STEPS

RESPONSIBILITY

CURRENT STATUS

I. RECRUITMENT

To develop a recruitment plan which reaches and attracts job candidates from all sources.

1. Establish programs for recruiting minorities, women and disabled persons.
2. Coordinate with various test development organizations in an effort to develop examinations/procedures which fairly evaluate all potential candidates.
3. Update lists of all minorities, women and disabled organizations and institutions to be used as recruitment sources.
 - a. Establish a mailing list for distribution of information regarding exams and Affirm. Action policies.
 - b. Contact community groups and organizations and maintain liaison with them.
4. Work closely with schools and colleges in relation to recruitment for entrance level classes.

Employee Services
Division (ESD)
AA Ofcr/Dept Heads

As needed.

As needed.

ESD
AA Ofcr/Dept Heads

In process.

ESD

Ongoing.

AA Officer

Ongoing.

ESD/AA Officer

Ongoing.

OBJECTIVE

SPECIFIC ACTION STEPS

RESPONSIBILITY

CURRENT STATUS

5. Develop system that monitors results of recruitment efforts to ensure that all sources are effectively reached.

AA Ofcr/Dept Heads
ESD

6. Establish a system for distribution of job vacancy information to provide equitable exposure to all.

ESD/AA Officer

Ongoing.

7. Increase involvement of County employee staff in recruitment.

ESD/AA Officer

Ongoing.

II. SELECTION, APPOINTMENT, AND
RELATED PERSONNEL ACTIVITIES

235

To ensure that all personnel activities are conducted to provide and promote equal employment opportunity for all employees and applicants.

1. Develop oral panels with minorities, females and disabled persons participating.

ESD

Ongoing.

2. Analyze and report on appointments and promotions of employees.

AA Officer/ESD

3. Review departmental selection processes that tend to have an adverse impact on Affirmative Action.

AA Officer

Ongoing.

4. Maintain and compare statistics of candidates interviewed with candidates selected.

ESD

Ongoing.

5. Develop an exit interview form to be given to employees when they give notice of termination.

AA Officer

1/94

OBJECTIVE

SPECIFIC ACTION STEPS

RESPONSIBILITY

CURRENT STATUS

III. CLASSIFICATION

To identify and remove artificial barriers to employment and upward mobility which may exist within classifications used by the County.

1. Evaluate, on a continuous basis, job classifications to assure minimum qualifications are job related and do not present artificial barriers.
 - a. Identify specific areas in which bridging classes can be developed.
 - b. Monitor department changes which could impact on personnel assignment and promotion as they relate to the Affirmative Action Program.

ESD

Department Heads

ESD/AA Officer

IV. PROGRAM ORIENTATION and EVALUATION

To coordinate and evaluate the implementation of the Affirmative Action Program.

1. Provide training to all personnel assigned to implement County's Affirmative Action Plan.
2. Develop and implement a system that provides for collection, maintenance and analysis of statistical data on the employment and promotion of minorities, women, and disabled; evaluation of Affirmative Action Program and assessment of the effectiveness of Affirmative Action activities.

AA Officer

AA Officer

Ongoing.

OBJECTIVE

SPECIFIC ACTION STEPS

RESPONSIBILITY

CURRENT STATUS

IV. PROGRAM ORIENTATION and
EVALUATION (Cont'd.)

- | | | |
|---|----------------------------|------------------|
| 3. Prepare progress reports for the Personnel Director and County Manager on the performance of Departments in achieving goals. | <u>AA Officer</u> | <u></u> |
| 4. Annually review and update the Plan. | <u>AA Officer</u> | <u>Annually.</u> |
| 5. Prepare annual assessments for all Board of Commissioners. | <u>AA Officer</u> | <u>Annually.</u> |
| 6. Review affirmative action status with the Board of County Commissioners and community groups. | <u>AA Officer/ESD Dir.</u> | <u>Annually.</u> |

CITY OF PORTLAND

AFFIRMATIVE ACTION

OBJECTIVES

AFFIRMATIVE ACTION OFFICE
RESPONSIBILITIES
PER AAP
FY 1993

Responsibility

Completed

Yes No

Provide copy of the AAP to all elected officials, bureau managers, EEO representatives and Bureau of Personnel Services (p.18)	X	
Ensure that an equal employment opportunity clause is incorporated in public materials (p.18)	X	
Provide additional training to management and other employees engaged in employment, placement, transfer or promotion about applicable city, state, and federal EEO laws for the disabled and Vietnam veterans (p.19)	X	
Provide to all employees of the City of Portland a written notification of the City's commitment to AA principles and objectives, and the existence and availability of the AAP. This notice will also inform employees of the existence and the operation of the internal grievance procedure set up under the plan (p.19)	X	
Notify organizations for minorities, women and the disabled as well as community agencies and leaders, local colleges and secondary schools of the City's policy in writing (p.20)	X	
Provide a copy of the City's AAP to the Multnomah County Library (p. 21)	X	
Send a copy of the AAP to all District Offices of Neighborhood Associations to be made available to any citizen upon request (p.21)	X	
Hold community workshops to inform the public about the City's AA programs, and the opportunities and protections it provides (p.21)	X	
Review of hires, promotions and terminations to assure that such actions are not having an adverse effect on the equal employment opportunities of women, minorities and disabled persons (p. 186)	X	
Assuring that managers are provided with the current status reports on affirmative action (p.186)	X	

Informing managers of achievements, problems and trends and setting corrective action when necessary (p.186)	X	
Informing Commissioners of their bureau and office efforts to implement this plan (p.186)	X	
Conducting organizational field reviews to determine the extent to which a bureau, office or division is complying with the intent of this plan and appropriate affirmative action and equal opportunities guidelines (p.186)		X
Provide active leadership in the development and implementation of the AAP including the recommendations of good-faith effort standards, under the authority of the City Council (p.29)	X	
Serve as liaison between the City and compliance agencies, minority organizations, women's organizations, disability groups and community action groups concerned with employment opportunities (p.29)	X	
Provide information, guidance, and assistance to bureaus and divisions and related personnel on AA matters (p.29)	X	
Review the bureau programs and procedures related to personnel management activities and make recommendations for any changes necessary to remove barriers to attainment of EEO (p.29)	X	
Evaluate the effectiveness and efficiency of the overall AA/EEO program. Submit recommendations for improvement and correction where necessary. Prepare and submit quarterly progress reports to Commissioners and bureau managers or office directors on AA activities (p.30)	X	
Provide confidential counseling on complaints of discrimination (p.30)	X	
Recommend the use of corrective hiring/promotion procedures when there is underrepresentations of minorities and/or women with a City of Portland bureau or division by job category and/or job classification (p.30)	X	
Design and implement audit and reporting systems that: 1. measure the effectiveness of the City's AA/EEO and cultural diversity programs; 2. determine the degrees to which the city's goals and objectives are being attained; 3. indicated any need for remedial action (p.30)	X	

Serve as member or advisor on City committees concerned with affirmative action (p.30)	X	
At least annually, institute discussions with City managers to be certain that the City's AA/EEO policy is understood and being followed (p. 30)		X
Review and evaluate policies and procedures for program compliance; recommend revision to policies and procedures to comply with the AA program (p.30)	X	
Recommend ordinances, resolution or administrative procedures for carrying out or implementing EEO and/or AA matters (p.31)	X	
Train and provide assistance to bureau EEO Representatives on AA principles and issues (p.31)	X	
Inform managers and employees of current legislation, court decisions or policy guidelines concerning EEO and AA (p.31)	X	
Serve as the central record keeper of AA data provided to federal and state agencies (p.31)	X	
Develop educational materials for the City work force on AA (p.31)	X	
Establish standards and procedures for bureau AA programs (p.31)	X	
Prepare and submit to the City Council, with the Personnel Director, a report on the impact of <u>Workforce 2000</u> and <u>Oregon Workforce 2000</u> , trends on the City as an employer. this report shall suggest future actions that will be necessary for the City to respond to the finding outlined in the AAP (p.31)		X
Manage the delivery of cultural diversity training in the City (p.31)	X	
Provide training designed to give employees, managers and supervisors with an overview of the AAP's content and each party's specific responsibility under the plan (p.36)		X

Provide training designed to give employees knowledge of other group's perspectives, including values and sensitive issues, and to understand the impact of these values on the work environment (p.36)	X	
Provide training designed to teach employees specific skills, i.e. EEO investigation, EEO counseling, AA planning and goal setting, EEO regulations and employee interviews, developing action strategies and program designs and creating a quality work place for cultural diversity (p.36)		X
Work with the Personnel Training Unit to develop monitoring systems to ensure equal opportunity for training is fully extended in the City (p.36)	X	

Affirmative Action Office Quality Improvement Plan

FY 94-95 and FY 95-96

Strategy # 1: Make the City of Portland a leader in embracing diversity.

Program/Action Item	Responsibility	Timeline	Resources	Obstacles	Milestones
1.1 Establishing an ongoing Diversity Focus Group to monitor and update the tasks identified within the Q.I.P.	Affirmative Action Diversity Committee	Diversity Focus Group established FY 93-94.	Partnerships with Bureaus, City Council, and Affirmative Action Office.	Resources to promote groups activity. Communicating purpose and existence of group.	Action Plan and recommendations for a future course of action completed during FY 94-95. Implemented during FY 95-96.
1.2 Evaluate the current diversity training and report findings. This includes training evaluation and the consultants observation.	Diversity Committee Sub-committee	Report completed by January 31, 1995.	Affirmative Action staff, diversity trainers and subcommittee members of bureau representatives.	Establishing autonomy of report; and funding of project.	<ul style="list-style-type: none"> • Complete report by January 31, 1995, with report and summary to City Council. • Act on recommendations FY 95-96.
1.3 Establish a visible reward system which acknowledges bureau and individual efforts in promoting diversity.	Diversity Sub-committee	Establish criteria by June, 1994.	Bureau staff and Affirmative Action Office	Recognition of the importance of rewarding proactive behaviors.	Complete evaluation by January 31, 1995 and 1996.

Affirmative Action Office Quality Improvement Plan

FY 94-95 and FY 95-96

Strategy # 2: Improve Complaint Process by adding conflict resolution, problem solving, and mediation.

Program/Action Item	Responsibility	Timeline	Resources	Obstacles	Milestones
2.1 Expand complaint investigation options to include conflict resolution and mediation services.	Affirmative Action Office complaint investigators.	Beginning immediate and completed by June, 1994.	<ul style="list-style-type: none"> • Neighborhood Association Mediation Team • Staff members trained in mediation. 	Funding and trained staff.	Staff trained and program implemented as a service of the Office by July, 1994.
2.2 Monitor the effectiveness of the program to resolve conflicts.	Affirmative Action investigators.	Implement during FY 1994-95.	<ul style="list-style-type: none"> • Bureaus • Departments • Complaints 	Communicating purpose of mediation to the conflicting parties; win-loss interest of conflicting partners.	Report on program successes and barriers annually, beginning July 1, 1994 and July 1995/96.
2.3 Explore training bureau staff in mediation and conflict resolution skills.	Affirmative Action Project Specialist.	Assess need by July, 1995.	<ul style="list-style-type: none"> • Bureaus 	Funding to train bureau staff in conflict resolution & mediation skills.	<p>Decision made to train a staff person from each bureau, July, 1995.</p> <p>Training plan developed and implemented by July, 1996.</p>

Affirmative Action Office Quality Improvement Plan

FY 94-95 and FY 95-96

Strategy # 3: Implement a revised Affirmative Action Plan.

Program/Action Item	Responsibility	Timeline	Resources	Obstacles	Milestones
3.1 Develop a revised affirmative action plan. The plan will include guidelines for accomplishing specific objectives.	Affirmative Action staff	Complete plan by July, 1994.	<ul style="list-style-type: none"> • City Personnel Bureau • City Attorney's Office 	Regulatory changes.	The plan will contain its own milestones.
3.2 Completion of revised plan compliance strategies.	Bureau Directors	Revised compliance plans developed between July and September, 1994.	<ul style="list-style-type: none"> • Affirmative Action Office Staff 	<ul style="list-style-type: none"> • Coordination • Ownership of process by bureaus • Commitment to project • Bureaucratic process 	Compliance Strategies completed revisions by September 31, 1994.

3.3	Implement strategies and monitor achievements.	<ul style="list-style-type: none"> • Affirmative Action Officer • City Council • Affirmative Action Data Technician • Bureaus 	Ongoing beginning after July, 1994.	<ul style="list-style-type: none"> • Affirmative Action Office • Bureau EEO Representatives 	<ul style="list-style-type: none"> • Coordination • Cooperation 	Annual report of plan's achievements and barriers August, 1995 August, 1996
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Affirmative Action Office Quality Improvement Plan

FY 94-95 and FY 95-96

Strategy # 4: Recruitment of underutilized groups.

Program/Action Item	Responsibility	Timeline	Resources	Obstacles	Milestones
4.1 Development of a recruitment plan around targeted positions.	<ul style="list-style-type: none"> • Recruitment Staff • Affirmative Action Project Specialist 	Begin May, 1994, complete by July, 1994.	<ul style="list-style-type: none"> • Affirmative Action Data Technician • Criterion (CAAMS) • Biddle & Associates Data System 	<ul style="list-style-type: none"> • Data Processing • Personnel information 	Position identification completed by July, 1994.
4.2 Review examination plans to remove artificial barriers.	Recruitment Unit Staff	Ongoing.	<ul style="list-style-type: none"> • City Attorney's Office • Bureaus • Personnel staff • Affirmative Action Officer 	<ul style="list-style-type: none"> • Changes in examination process after review. • Resistance to changing the system. 	Adverse impact results of examinations reduced by 70%.

4.3	Applicant tracking system developed and in place.	Affirmative Action Recruitment Program	Begin evaluating systems in April, 1994.	<ul style="list-style-type: none"> • Computer Services staff • SIGMA Systems Consultants • Personnel Services Staff 	<ul style="list-style-type: none"> • System redesign • Funding 	Program in place and operation by December, 1995.
4.4	Program evaluation and revisions.	Affirmative Action Recruiters		<ul style="list-style-type: none"> • Affirmative Action Data Technician 	Data Processing	August, 1996.

Affirmative Action Office Quality Improvement Plan

FY 94-95 and FY 95-96

Strategy # 5: The City workforce representative of the labor force.

Program/Action Item	Responsibility	Timeline	Resources	Obstacles	Milestones
5.1 Percentage of targeted/disadvantaged groups in the workforce at a rate of the percentage in the relevant labor market.	<ul style="list-style-type: none"> • Affirmative Action Office • Bureaus • Personnel 	Ongoing FY 94-96	<ul style="list-style-type: none"> • Criterion (CAAMS) System for labor market availability • Personnel Assistance in reducing adverse impact of examinations • Recruitment 	<ul style="list-style-type: none"> • Limited growing in government. • Limited opportunity to hire. • Limited pool of applicants. 	Meeting baseline availability by July, 1996.
5.2 Percentage of targeted/disadvantaged group in professional occupations in proportion to their labor force representative.	<ul style="list-style-type: none"> • Affirmative Action-Recruitment Section • Personnel 	Ongoing FY 94-96	<ul style="list-style-type: none"> • Recruitment efforts. • JIF pool of applicants • Criterion data 	<ul style="list-style-type: none"> • Limited growth in government. • Limited hiring opportunity • Limited pool of applicants 	Baseline evaluation by July, 1996.

5.3	Percentages of targeted/ disadvantaged group in higher grades in proportion to their qualified labor-force representation.	<ul style="list-style-type: none"> ● Affirmative Action-Recruitment Section ● Personnel ● Bureaus 	Ongoing FY 94-96	<ul style="list-style-type: none"> ● Applicant pool. ● JIF Candidate pool 	<ul style="list-style-type: none"> ● Limited promotional opportunity. ● Limited pool of available candidates. 	EEO-4 Job Class reflective of availability.
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PROGRAM BENCHMARKS

This benchmark sets the minimum standard to provide employment opportunities sufficient to employ residents when they are ready to enter the labor force. This measures the level of employment by ethnicity relative to each group's share of the total population.

Employment	1980	1990	1992	1995	2000
Unemployment rate (as compared to the Portland Metropolitan region.)	6.9	5.0	5.0		
A. African American	15.3	12.2	12.2		
B. American Indians	18.7	11.9	11.9		
C. Asian Americans	6.3	5.1	5.1		
D. Hispanic Americans	12.6	7.1	7.1		
E. White Americans	6.1	4.7	4.7		

This benchmark highlights the community's ability to increase the skills and employability of those in poverty and to add them to the work force in jobs that provide incomes greater than poverty level.

Employment	1980	1990	1992	1995	2000	Benchmark Availability
Total Employment	100.00	100.00	100.00			100.00
A. African American	4.59	3.62	4.71			7.76
B. American Indians	.69	.93	1.22			1.33
C. Asian Americans	1.64	2.40	2.87			4.72
D. Hispanic Americans	.84	1.31	1.84			2.18
E. White Americans	92.24	91.74	89.36			84.01

Table 2 Labor Force Status by Sex

1980 Census

Data from Census Bureau sample estimates	Total	White Not Hispanic	Black Not Hispanic	Native American Not Hisp	Asian/PI Not Hispanic	Remaining Races Not Hispanic	Hispanic All Races
Universe: Persons 16 Years and Over							
Total labor force	187,246	164,245	11,923	1,406	5,901	254	3,517
Labor force participation rate	63.7	63.6	62.7	62.3	64.7	59.1	69.6
Civilian labor force	186,691	163,793	11,859	1,391	5,895	254	3,499
Civilian labor force participation rate	63.5	63.5	62.4	61.7	64.7	59.1	69.2
Employed	173,812	153,790	10,041	1,131	5,523	222	3,105
At work full time	131,345	116,399	7,299	838	4,247	163	2,399
Percent of employed	75.6	75.7	72.7	74.1	76.9	73.4	77.3
At work part time	37,757	33,520	2,154	252	1,146	50	635
Unemployed	12,879	10,003	1,818	260	372	32	394
Unemployment rate	6.9	6.1	15.3	18.7	6.3	12.6	11.3
16-19 years old	14.3	13.3	24.9	27.2	7.6	-	14.6
20-24 years old	9.2	8.4	18.2	18.6	7.4	16.7	13.5
25 years and over	5.8	5.0	13.4	17.8	6.0	14.2	10.2
Not in labor force	109,467	96,513	7,129	878	3,213	176	1,558
Inmate of institution	2,758	2,657	51	28	-	-	22
Other	106,709	93,856	7,078	850	3,213	176	1,536
Male labor force	103,726	91,120	6,513	796	3,177	103	2,017
Labor force participation rate	74.8	75.3	69.6	71.6	71.3	55.4	80.1
Civilian labor force	103,199	90,683	6,462	781	3,171	103	1,999
Civilian labor force participation rate	74.4	74.9	69.1	70.3	71.2	55.4	79.4
Employed	95,087	84,357	5,370	622	2,931	78	1,729
At work full time	77,556	69,148	4,079	477	2,400	57	1,395
Percent of employed	81.6	82.0	76.0	76.7	81.9	73.1	80.7
At work part time	15,143	13,236	970	132	485	21	299
Unemployed	8,112	6,326	1,092	159	240	25	270
Unemployment rate	7.9	7.0	16.9	20.4	7.6	24.3	13.5
16-19 years old	15.8	15.0	27.1	18.9	6.3	-	12.3
20-24 years old	11.5	10.6	20.8	21.5	8.2	43.5	15.8
25 years and over	6.6	5.7	14.8	20.2	7.6	18.7	13.0
Males not in labor force	35,847	30,794	2,872	321	1,277	83	500
Inmate of institution	879	840	33	6	-	-	-
Other	34,968	29,954	2,839	315	1,277	83	500
Female labor force	83,520	73,125	5,410	610	2,724	151	1,500
Labor force participation rate	53.8	53.4	56.1	53.3	58.5	61.9	59.1
Civilian labor force	83,492	73,110	5,397	610	2,724	151	1,500
Civilian labor force participation rate	53.8	53.4	55.9	53.3	58.5	61.9	59.1
Employed	78,725	69,433	4,671	509	2,592	144	1,376
At work full time	53,789	47,251	3,220	361	1,847	106	1,004
Percent of employed	68.3	68.1	68.9	70.9	71.3	73.6	73.0
At work part time	22,614	20,284	1,184	120	661	29	336
Unemployed	4,767	3,677	726	101	132	7	124
Unemployment rate	5.7	5.0	13.5	16.6	4.8	4.6	8.3
16-19 years old	12.8	11.5	22.7	34.4	9.4	-	17.7
20-24 years old	6.8	6.1	14.9	14.2	6.5	-	10.7
25 years and over	4.7	4.1	11.6	14.7	4.2	9.3	6.3
Females not in labor force	73,620	65,719	4,257	557	1,936	93	1,058
Inmate of institution	1,879	1,817	18	22	-	-	22
Other	71,741	63,902	4,239	535	1,936	93	1,036

3/23/92

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1990 CENSUS OF POPULATION AND HOUSING - EQUAL EMPLOYMENT OPPORTUNITY FILE
 PROFILE #04 - SUMMARY SHEET 4 OF 4 (FROM SUMMARY TAPE FILE 3A): EMPLOYMENT STATUS, CLASS OF WORKER, AND INDUSTRY - SAMPLE DATA
 STATE: OREGON AREA NAME: PORTLAND, OR PMSA COUNTY: PLACE: SUMMARY LEVEL: 301

*****NOTE: HISPANICS CAN BE OF ANY RACE AND ARE INCLUDED IN THE RACE COUNTS BELOW. RACE DATA, EXCLUDING HISPANICS, WILL BE AVAILABLE IN 1993.***
 P70/71/72. EMPLOYMENT STATUS
 (UNIVERSE: PERSONS 16 YEARS AND OVER)

	TOTAL		MALE		FEMALE	
	#	PCT	#	PCT	#	PCT
ALL PERSONS 16 AND OVER	958,598		462,270		496,328	
CIVILIAN LABOR FORCE	660,197	100.0	360,073	54.5	300,124	45.5
EMPLOYED	627,314	95.0	341,696	51.8	285,618	43.3
UNEMPLOYED	32,883	5.0	18,377	2.8	14,506	2.2
NOT IN LABOR FORCE	297,130	45.0	101,057	15.3	196,073	29.7
UNEMPLOYMENT RATE		5.0		5.1		4.8
WHITE(INCL. HISPANIC)	878,522		421,392		457,130	
CIVILIAN LABOR FORCE	603,981	91.5	328,725	49.8	275,256	41.7
EMPLOYED	575,777	87.2	313,076	47.4	262,701	39.8
UNEMPLOYED	28,204	4.3	15,649	2.4	12,555	1.9
NOT IN LABOR FORCE	273,391	41.4	91,641	13.9	181,750	27.5
UNEMPLOYMENT RATE		4.7		4.8		4.6
AMER.IND.(INCL. HISPANIC)	8,915		4,188		4,727	
CIVILIAN LABOR FORCE	6,155	0.9	3,167	0.5	2,988	0.5
EMPLOYED	5,420	0.8	2,794	0.4	2,626	0.4
UNEMPLOYED	735	0.1	373	0.1	362	0.1
NOT IN LABOR FORCE	2,745	0.4	1,006	0.2	1,739	0.3
UNEMPLOYMENT RATE		11.9		11.8		12.1
BLACK(INCL. HISPANIC)	26,035		13,169		12,866	
CIVILIAN LABOR FORCE	17,262	2.6	9,349	1.4	7,913	1.2
EMPLOYED	15,152	2.3	8,039	1.2	7,113	1.1
UNEMPLOYED	2,110	0.3	1,310	0.2	800	0.1
NOT IN LABOR FORCE	8,720	1.3	3,774	0.6	4,946	0.7
UNEMPLOYMENT RATE		12.2		14.0		10.1
ASIAN(INCL. HISPANIC)	33,176		16,137		17,039	
CIVILIAN LABOR FORCE	23,454	3.6	12,577	1.9	10,877	1.6
EMPLOYED	22,252	3.4	11,944	1.8	10,308	1.6
UNEMPLOYED	1,202	0.2	633	0.1	569	0.1
NOT IN LABOR FORCE	9,674	1.5	3,512	0.5	6,162	0.9
UNEMPLOYMENT RATE		5.1		5.0		5.2
OTHER RACE(INCL. HISPANIC)	11,950		7,384		4,566	
CIVILIAN LABOR FORCE	9,345	1.4	6,255	0.9	3,090	0.5
EMPLOYED	8,713	1.3	5,843	0.9	2,870	0.4
UNEMPLOYED	632	0.1	412	0.1	220	0.0
NOT IN LABOR FORCE	2,600	0.4	1,124	0.2	1,476	0.2
UNEMPLOYMENT RATE		6.8		6.6		7.1
HISPANIC ORIGIN	28,534		16,174		12,360	
CIVILIAN LABOR FORCE	21,943	3.3	13,527	2.0	8,416	1.3
EMPLOYED	20,386	3.1	12,574	1.9	7,812	1.2
UNEMPLOYED	1,557	0.2	953	0.1	604	0.1
NOT IN LABOR FORCE	6,578	1.0	2,634	0.4	3,944	0.6
UNEMPLOYMENT RATE		7.1		7.0		7.2

P75. SEX BY WORK STATUS IN 1989
 (UNIVERSE: PERSONS 16 YEARS AND OVER)

	TOTAL		MALE		FEMALE	
	#	PCT	#	PCT	#	PCT
TOTAL	958,598	145.2	462,270	70.0	496,328	75.2
WORKED IN 1989	714,005	108.2	382,927	58.0	331,078	50.1
DIDN'T WORK IN 1989	244,593	37.0	79,343	12.0	165,250	25.0
P79. CLASS OF WORKER (UNIVERSE: EMPLOYED WORKERS 16 YEARS AND OVER)						
			#		PCT	
TOTAL			627,314		95.0	
PRIVATE FOR-PROFIT WAGE AND SALARY WORKERS			451,971		68.5	
PRIVATE NOT-FOR-PROFIT WAGE AND SALARY WORKERS			46,699		7.1	
GOVERNMENT WORKERS			75,309		11.4	
LOCAL GOVERNMENT WORKERS			40,270		6.1	
STATE GOVERNMENT WORKERS			18,709		2.8	
FEDERAL GOVERNMENT WORKERS			16,330		2.5	
SELF-EMPLOYED WORKERS			50,678		7.7	
UNPAID FAMILY WORKERS			2,657		0.4	

P77. INDUSTRY
 (UNIVERSE: EMPLOYED WORKERS 16 YEARS AND OVER)

	#	PCT
TOTAL	627,314	95.0
AGRICULTURE/FORESTRY/FISHERIES	17,408	2.6
MINING	757	0.1
CONSTRUCTION	34,845	5.3
MANUFACTURING	110,629	16.8
NONDURABLE GOODS	31,516	4.8
DURABLE GOODS	79,113	12.0
TRANSPORTATION	29,801	4.5
COMMUNICATIONS/PUBLIC UTILITIES	16,993	2.6
WHOLESALE TRADE	37,470	5.7
RETAIL TRADE	108,062	16.4
FINANCE/INSURANCE/REAL ESTATE	46,155	7.0
SERVICES	205,393	31.1
BUSINESS/REPAIR SERVICES	34,240	5.2
PERSONAL SERVICES	17,373	2.6
ENTERTAINMENT/RECREATION SERVICES	8,586	1.3
PROFESSIONAL AND RELATED SERVICES	145,194	22.0
HEALTH SERVICES	52,523	8.0
EDUCATIONAL SERVICES	46,424	7.0
OTHER PROFESSIONAL AND RELATED SERVICES	46,247	7.0
PUBLIC ADMINISTRATION	19,801	3.0

Portland PMSA Civilian Labor Force
 Benchmarks 1990

OF&A Roles and Responsibilities

TEAM MEMBERS

1. Technically Competent.

Fully understand the systems, procedures, and customer needs necessary to fulfill assigned responsibilities. Strive to continually improve skills through training. Use learned skills.

2. Customer Focused.

Continually strive to meet the needs of the customers in the most efficient and timely manner. Listen actively to the concerns of customers, report them to team members, and where feasible creatively seek solutions. Strive to anticipate and exceed customer expectations.

3. Creative.

Continually seek new ways of conducting business in the interest of better serving customers as well as improving and enriching our work environment!

4. Self-starters, display initiative.

Take action rather than wait for direction when in the interest of the customer and consistent with the OF&A and unit mission statements. Seek to resolve problems at their origin when within your realm of influence. Initiate team problem solving process if not able to solve it alone.

Be problem solvers versus "playing by the rules" when it is in the interest of the customer.

TEAM LEADERS/COACHES

All team members plus:

1. Carry out mission of organization.

Insure that all activities performed are done consistent with the OF&A mission.

2. Empower Team Members.

Delegate responsibility and authority to team members in completing assigned tasks, improving services, creatively solving problems when such actions are consistent with the OF&A unit mission. Push responsibility and authority to the lowest possible level.

3. Actively support professional growth of team members (act as mentor/coach). Focus on each member of the team. Provide guidance, encouragement, and acknowledgement of achievements to encourage both individual and team growth.

Seek to improve the skills of each team member through training, job enrichment and promotional opportunity.

4. Facilitate the establishment and update of work unit mission statements, goals and workplans.

5. Routinely monitor overall performance for both work groups and individuals.

BUREAU LEADERSHIP

All of the team members and team leaders/coaches plus:

1. External eyes and ears

Scan the environment for changing expectations, concerns, and needs of OF&A customers.

2. External champion.

Communicate observations to work units. Communicate OF&A successes and challenges to its primary customers. Serve as a buffer for the organization in the face of inappropriate and unfounded accusations or unreasonable demands for service from customers.

3. Set general direction/visions.

Through a participatory process provide a road map for the future to meet customer requirements. Regularly monitor and evaluate organizational performance in relationship to established goals, objectives and work plans. As necessary, suggest modifications to goals, objectives, guidelines or workplans in order to keep the organization focused on achieving the future vision. Routinely and regularly communicate the vision and direction.

4. Provide resources to get job done.

Insure that OF&A work units have the financial, human, and technological resources necessary to fulfill its mission, tasks, and business improvement plans. Allocate resources consistent with the mission and goals of OF&A.

TEAM MEMBERS

5. Sense of ownership in work/empowered.

Take personal pride in work seeking to do it "right the first time, every time," and with the customers interest foremost in your mind.

Feel empowered to use discretion within the scope of the organization's mission.

View challenges as opportunities to improve customer services.

6. Commit to Excellence (beyond quality) through continuous improvement.

Continually look for new or better ways of performing responsibilities, improving services to customers, and streamlining processes. Seek out technological advancements that will improve services.

7. Commit to being a team player within your work unit and within OF&A.

Fully embrace, support, and advance the team orientation of the OF&A quality improvement process. Practice and improve such team skills as problem solving, conflict resolution, and process review. Share information and communicate.

8. Be an emissary for the organization.

Seize opportunities to educate customers on OF&A's mission, achievements, a business improvements. Speak positively about OF&A to customers, while maintaining a willingness to listen, accept and act upon constructive criticism.

TEAM LEADERS/COACHES

6. Constantly support Quality Improvement Process.

Champion the Quality Improvement process internally and with our customers. Educate stakeholders in the anticipated benefits of planned improvements. Support the completion of improvements through the provision of necessary resources, encouragement, and acknowledgement of achievements.

7. Provide direction to team and team members.

When appropriate provide direction to teams in the form of articulating future objectives, constructive criticism, breaking through logjams, and when called upon to do so making decisions on future courses of action.

8. Be a supportive and calming influence on teams in time of stress.

Render support to teams struggling to seek creative solutions to complex problems by being available for discussions, providing an audience for the expression of concerns, and cheer leading the process.

9. Foster a healthy work environment that recognizes a balance between work and private life.

Expect "extra effort" from each and every team and individual when necessary in fulfilling the OF&A mission and in completing tasks. Encourage all OF&A employees to place priority on maintaining a healthy lifestyle and to pursue personal interests.

BUREAU LEADERSHIP

5. Be internal champion.

Maintain a positive and healthy environment in which to work, provide encouragement in implementing change, recognize achievements, and honor diversity.

6. Empower the organization and its employees.

Delegate responsibility and authority, coach, train and mentor individuals and teams in proposed solutions to discrete problems when it is consistent with the organization's mission.

Initiate through OFA teams the necessary changes in policies and practices to achieve employee empowerment.

7. Laugh, maintain a sense of humor and have a good time.

TEAM MEMBERS

9. Respect, trust and value each other.

10. Participate in OF&A-wide, work unit and City-wide activities.

11. Champion the Quality Improvement process internally and with key external customers.

12. Actively listen to team members.

Listen first, seeking to understand and then to contribute to the resolution of issues and the improvement of work.

13. Celebrate accomplishments.

Recognize major achievements and ongoing exceptional performance on a regular basis.

14. Take risks

Accept errors made in the spirit of the OFA mission and in the interest of improved customer services. Learn from mistakes.

15. Review, Critique failures with a positive solution focused attitude. See failures as tests from which we learn - opportunities for growth.

16. Laugh, maintain a sense of humor and have a good time.

TEAM LEADERS/COACHES

10. Recognize continuing good work even if not exceptional. Very important to support the regular folks.

11. Laugh, maintain a sense of humor and have a good time.

BUREAU LEADERSHIP

1994-95 ADA WORK PLAN

Mandate: Americans with Disabilities Act of 1990 (ADA), Title II, State and Local Governments, Section II-5.0000, Program Accessibility, U.S. Department of Justice.

1. Monitor the progress of the Transition Plan for the County facilities.

A. Conduct quarterly review of the status of County ADA Transition Plan projects.

B. Report on progress of facilities modifications to the City/County Advisory Committee on the Disabled.

C. County contacts are Karen Anderson and Wayne George, Facilities Management.

Mandate: ADA, Title II, State and Local Governments, Section II-3.0000, General Requirements, U.S. Department of Justice.

2. Direct and monitor County compliance with the Self-evaluation.

A. Conduct quarterly review of Department and Division compliance with recommendations of the Self-evaluation.

Mandate: ADA, Title I, Employment Provisions, Section III, Reasonable Accommodation Obligation, U.S. Equal Employment Opportunity Commission. Also, Multnomah County 1993-1996 Affirmative Action Plan, Pages 18 & 25-29. ORS 659.400, Bureau of Labor and Industries, Oregon Civil Rights Laws, Chapter 7, Prohibited Discrimination Against Disabled Persons.

3. Reasonable accommodation guidelines have been developed for the County and will be distributed by the beginning of FY 94-95.

A. Management and supervisor reasonable accommodation guidelines training to be completed by the end of FY 94-95.

B. A comprehensive ADA training course, with the aid of Employee Services Division Personnel, will be developed to cover the ADA in general and specifically County requirements to provide reasonable accommodation.

C. Training sessions (15-20) will be held throughout the fiscal year to cover over 300+ County managers and supervisors.

D. Develop and conduct ADA Representative training for Department and select Divisions.

Mandate: ADA, Title I, Section X. Enforcement Provisions, Employment Technical Assistance Manual, U.S. Equal Employment Opportunity Commission. Also, Multnomah County 1993-1996 Affirmative Action Plan, Compliance Procedures, Pages 45-48.

4. Investigate complaints of disability discrimination as they are brought to the Office's attention (9 complaints investigated in fiscal year 1993-94, one complaint is still pending).

5. Coordinate and chair County ADA Oversight Committee comprised of Department representatives. (Committee aids County officials in developing and reviewing ADA policy).

3 9 9 4 3 8 2

STATE OF OREGON



CITY/COUNTY AFFIRMATIVE ACTION OFFICE

Robert Phillips
Affirmative Action/EEO Officer
1220 S.W. Fifth Avenue, Room 104
Portland, Oregon 97204
(503) 823-4164



Research: State of Oregon's Affirmative Action Program Cost

On Thursday, May 26, 1994, through telephone contact with Jeannette Pai, State of Oregon's Director of Affirmative Action, we were informed that the State's FTE is 25 for Affirmative Action, with a total personnel cost of \$808,047 per year.

This does not include office space, supplies, training, diversity, ADA Coordination, and other support costs for the offices.

Contact made by: Rebecca Sweetland, Project Specialist

AN EQUAL OPPORTUNITY EMPLOYER

CITY OF SEATTLE

HUMAN RIGHTS

MISSION: To design and carry out programs to promote equality, justice, and understanding through outreach and education; and to assure equal opportunity to all persons within the city of Seattle by enforcing City ordinances and regulations which prohibit unfair practices in employment, housing, and public accommodations, which require equal access to all City services, and which require the utilization of women, minority, and disadvantaged business enterprises on City contracts, and monitoring the City's performance under the City's Affirmative Action Plan.

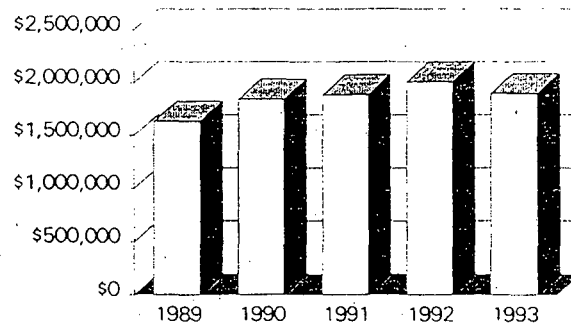
EXPENDITURES BY PROGRAM CATEGORY	1992 ACTUAL	1993 ADOPTED	1993/1994 BIENNIAL	1994 PROPOSED	1994 ADOPTED
Administration	\$401,632	\$455,960		\$568,119	\$693,697
Compliance	812,170	832,163		747,812	622,234
Enforcement	684,098	608,892		650,939	650,939
TOTAL	\$1,897,900	\$1,897,015		\$1,966,870	\$1,966,870

EXPENDITURES BY OBJECT	1992 ACTUAL	1993 ADOPTED	1994 PROPOSED	1994 ADOPTED
Personal Services	\$1,634,174	\$1,613,108	\$1,708,376	\$1,703,261
Other Charges	250,126	242,557	235,994	\$239,109
Capital Outlay	13,600	18,850	0	\$2,000
Debt Service	0	22,500	22,500	\$22,500
TOTAL	\$1,897,900	\$1,897,015	\$1,966,870	\$1,966,870

REGULAR POSITION TOTALS	1992 ACTUAL	1993 ADOPTED	1994 PROPOSED	1994 ADOPTED
Full Time	32	33	33	33
Part Time	0	0	1	1
Total	32	33	34	34

1994 Highlights

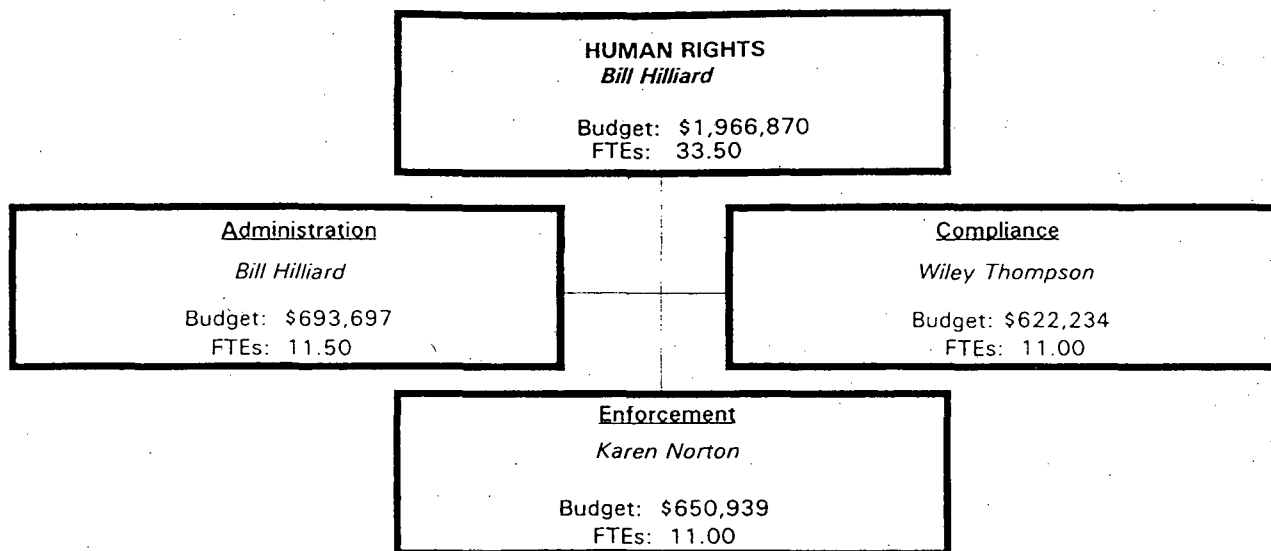
- ◆ Develop training for City departments to help them respond in a timely manner to discrimination charges and other issues of equal access to City services.
- ◆ Continue to develop the data model to improve case tracking and data collection.
- ◆ Train additional staff in mediation techniques.
- ◆ Pool the department's clerical staff to create a more flexible support staff for the department to increase efficiency.
- ◆ Add a .5 FTE to provide community outreach to people with disabilities.



1989-1993 Expenditure Trends*

*Expenditures reflect 1989-1992 Actual expenditures and the 1993 Adopted Budget in constant 1993 dollars.

HUMAN RIGHTS



PROGRAMS AND PERFORMANCE

The Human Rights Department was created by ordinance in 1969. Its areas of responsibility have developed with changes in local, state and federal legislation. Currently, its primary areas of responsibility are: 1) providing an effective forum for resolving charges of discrimination in employment, housing, public accommodations, and provision of City services; 2) administering the City's Women and Minority Business Enterprise program; and 3) monitoring the City's Affirmative Action Master Plan.

Significant Recent Accomplishments

- ♦ The department successfully reduced the time from receipt of complaint to formal case assignment for discrimination complaints.
- ♦ In 1993, the department prepared revisions to the City's fair housing ordinances so that the City can again qualify for HUD contracts to handle discrimination complaints filed under federal statutes.
- ♦ Revisions to the City's Women and Minority Business Enterprise ordinance were drafted to clarify language of the ordinance and to incorporate some of the concerns of the business communities.
- ♦ Computers were purchased for all staff members, leading to increases in efficiencies and productivity.

HUMAN RIGHTS

Highlights for 1994 Programs and Services

- ◆ In 1994, clerical staff from the Compliance and Enforcement Divisions will be transferred to the Administration Division. They will be trained to provide support for both divisions in order to enhance greater flexibility in meeting variations in workflow. In addition, they will each be trained to staff the front desk, thus providing an opportunity for improved customer service.
- ◆ The department has been working with DAS to develop a business data model which will allow better recordkeeping and greater efficiencies in case tracking. Development of the model will conclude in 1994.
- ◆ The department will develop an informational training program so that other City departments have a better understanding of the processes of the Human Rights Department and are able to respond without delay in cases involving those departments.
- ◆ The department will continue to pursue the use of Early Resolution and will send six senior staff members to mediation training to encourage staff to better use this tool.

Human Rights

Position List

TITLE	POSITIONS		SALARY RANGE	NOTES	
	1993	1994		TYPE*	FTE
PROGRAM CATEGORY V3R ADMINISTRATION					
ADMINISTRATIVE SECRETARY	1	0	26.0C	F	0.00
ADMINISTRATIVE SPECIALIST I	0	1	20.5B	F	1.00
ADMINISTRATIVE SPECIALIST II	1	3	22.0B	F	3.00
ADMINISTRATIVE STAFF ASSISTANT	0	1	29.5A	F	1.00
ADMINISTRATIVE SUPPORT ASSISTANT	1	0	18.0B	F	0.00
CIVIL RIGHTS ANALYST, SUPERVISING	0	0	35.0A	F	0.00
HUMAN RIGHTS DIRECTOR	1	1	45.5A	F	1.00
HUMAN RIGHTS DIRECTOR, DEPUTY	1	0	42.5A	F	0.00
HUMAN RIGHTS FIELD REPRESENTATIVE	0	1	\$17.00	F	1.00
HUMAN SERVICES ANALYST	0	1	33.0A	P	0.50
HUMAN SERVICES ANALYST, SR	0	1	35.0A	F	1.00
LEGAL ADVISOR	0	1	41.0A	F	1.00
STAFF ASSIST-HUMAN RIGHTS COMM/DEPT	1	1	33.0A	F	1.00
SYSTEMS ANALYST, ASST	0	1	29.5A	F	1.00
TOTALS FOR V3R ADMINISTRATION					
PERMANENT FULL TIME	6	11			11.00
PERMANENT PART TIME	0	1			0.50
TEMPORARY	0	0			0.00
PROGRAM CATEGORY V4R COMPLIANCE					
ADMINISTRATIVE SPECIALIST II	1	0	22.0B	F	0.00
CIVIL RIGHTS ANALYST, SUPERVISING	2	1	35.0A	F	1.00
COMPLIANCE MANAGER/DEPUTY DIRECTOR	1	1	42.5A	F	1.00
HUMAN RELATIONS REPRESENTATIVE III	1	1	35.0A	F	1.00
HUMAN RIGHTS FIELD REPRESENTATIVE	9	8	\$17.00	F	8.00
TOTALS FOR V4R COMPLIANCE					
PERMANENT FULL TIME	14	11			11.00
PERMANENT PART TIME	0	0			0.00
TEMPORARY	0	0			0.00
PROGRAM CATEGORY V5R ENFORCEMENT AND GRANTS					
ADMINISTRATIVE SPECIALIST II	2	0	22.0B	F	0.00
CIVIL RIGHTS ANALYST, SUPERVISING	2	2	35.0A	F	2.00
ENFORCEMENT MANAGER, HUMAN RIGHTS	1	1	41.5A	F	1.00
HUMAN RIGHTS FIELD REPRESENTATIVE	8	8	\$17.00	F	8.00

*TYPE: F= Full Time, P=Part Time, T=Temporary

Human Rights

Position List

TITLE	POSITIONS		SALARY RANGE	NOTES	
	1993	1994		TYPE*	FTE
TOTALS FOR V5R ENFORCEMENT AND GRANTS					
PERMANENT FULL TIME	13	11			11.00
PERMANENT PART TIME	0	0			0.00
TEMPORARY	0	0			0.00
TOTALS FOR HUMAN RIGHTS DEPARTMENT					
PERMANENT FULL TIME	33	33			33.00
PERMANENT PART TIME	0	1			0.50
TEMPORARY	0	0			0.00

*TYPE: F= Full Time, P=Part Time, T=Temporary

EXECUTIVE

Office for Women's Rights

Program Category: Office for Women's Rights

Purpose: To advocate for economic and social equity for women and sexual minorities through programs, policies, education, and outreach services pertaining to employment, human rights, and human services.

Programs And Performance

The Office for Women's Rights (OWR) has been in existence since 1970. In that year the Women's Division was created with the primary responsibility of providing staff to the Seattle Women's Commission. Three years later, these staff became the Office of Women's Rights in the Executive Department. They were charged with enforcing the Fair Employment and Open Housing ordinances for protected classes of gender, sexual orientation, and marital status. In 1980 the Office for Women's Rights took on a wider role in ensuring that the City was properly addressing women's concerns and rights. Their enforcement responsibilities were shifted to the Human Rights Department, while they became an advocacy, education and outreach, and policy office. In 1986, the Mayor established the Mayor's Lesbian and Gay Task Force which became a formal 15-member commission in 1989 to be staffed by OWR.

Significant Recent Accomplishments

- ♦ OWR shifted most services and programs to a stronger policy focus.
- ♦ The office maintained a more distinct community focus in the work of policy staff by assigning them areas in which to specialize.
- ♦ It upgraded policy staff positions to reflect the level of complexity of the work required.

Highlights for 1994 Programs and Services

- ♦ OWR will chair Mayor's Interdepartmental Advisory Committee on Sexual Harassment Prevention.
- ♦ It will complete sexual harassment training for all managers and supervisors.
- ♦ OWR will establish a Citywide mediation project in conjunction with Law, Human Rights, and Personnel Departments.
- ♦ It will assess programmatic and organizational recommendations from the OWR Evaluation Report and implement the highest priorities.
- ♦ OWR will participate in the Mayor's Affirmative Action Task Force and assume lead in addressing concerns of lesbian and gay employees.
- ♦ It will continue to secure external funds and in-kind resources for programs and projects and identify specific funding goals to be accomplished by the end of 1994.
- ♦ OWR will also provide specialized information and referral services to constituents and the public, and will implement its annual workplan.
- ♦ The office will continue to address the major issue areas for 1993 and 1994: violence against women, economic equity and empowerment, political empowerment, public education and information and referral, and health care.

EXECUTIVE

Performance Measures	1992	1993 Estimates	1994 Estimates
Information and referral contacts		1,750	2,000
Public information materials		13,000	23,000

Expenditures by Object	1992 ACTUAL	1993 ADOPTED	1993/1994 BIENNIAL	1994 PROPOSED	1994 ADOPTED
Personal Services	\$342,100	\$276,046		\$314,673	\$319,673
Other Charges	81,157	62,336		61,165	61,165
Capital Outlay	0	0		0	0
Debt Service	0	0		0	0
TOTAL	\$423,257	\$338,382		\$375,838	\$380,838

REGULAR POSITIONS

Full Time	5	4	4	4
Part Time	3	3	3	3
Total	8	7	7	7

Changes from Prior Year

None.


Executive

Position List

TITLE	POSITIONS		SALARY RANGE	NOTES	
	1993	1994		TYPE*	FTE
TEMPORARY	0	0			0.00
PROGRAM CATEGORY X1W OFFICE FOR WOMEN'S RIGHTS					
ADMINISTRATIVE SECRETARY	1	1	26.0C	F	1.00
ADMINISTRATIVE SPECIALIST I-BU	1	1	20.5B	P	0.75
HUMAN RELATIONS COORDINATOR	1	0	\$15.70	F	0.00
HUMAN SERVICES ANALYST	1	2	33.0A	F	2.00
HUMAN SERVICES ANALYST	1	1	33.0A	P	0.50
SOCIAL SERVICES AIDE	1	1	19.5A	P	0.75
WOMENS RIGHTS DIRECTOR	1	1	42.5A	F	1.00
TOTALS FOR X1W OFFICE FOR WOMEN'S RIGHTS					
PERMANENT FULL TIME	4	4			4.00
PERMANENT PART TIME	3	3			2.00
TEMPORARY	0	0			0.00
TOTALS FOR EXECUTIVE DEPARTMENT					
PERMANENT FULL TIME	81	89			89.00
PERMANENT PART TIME	6	9			5.10
TEMPORARY	0	0			0.00

*TYPE: F= Full Time, P=Part Time, T=Temporary

**CITY AND COUNTY
OF SAN FRANCISCO**

To: Robert Phillips
From: Rebecca A. Sweetland 
Date: May 24, 1994
Subject: San Francisco City/County AA Budget

John Madden, of the San Francisco Controller's Office (415-554-7500) says that their Affirmative Action budget is spread all through the various departments. The Human Rights Commission budget alone is \$1.1 million; he estimates that the total of all departments' affirmative action budgets is between \$5 and \$6 million. Thus includes contract compliance, employment discrimination, etc.

I left a message requesting a faxed copy of the HR Commission budget.

CITY AND COUNTY OF SAN FRANCISCO

CONSOLIDATED BUDGET

AND

ANNUAL APPROPRIATION ORDINANCE

FISCAL YEAR ENDING JUNE 30, 1994

File No. 101-93-1
File No. 101-93-2
File No. 101-93-2.2

Ordinance No. 220-93
Ordinance No. 241-93
Ordinance No. 298-93

EXPENDITURE APPROPRIATIONS

FISCAL YEAR 1993-94

NUMBER	DESCRIPTION	AMOUNT
DEPARTMENT 30 CIVIL SERVICE		
01 000	PERSONAL SERVICES	3,193,102
04 000	MANDATORY FRINGE	685,456
10 000	NON PERSONAL SERVICES	467,476
11 000	MATERIAL & SUPPLIES	32,333
30 000	SERVICES OF OTHER DEPTS	34,850
T O T A L:		4,413,217
DIVISION 01 CLASSIFICATION- COMPENSATION+LABOR		
PROGRAM PROJECT BUDGET		
00901	SALARY SURVEY	96,000
T O T A L: DIVISION		96,000
DIVISION 03 GENERAL SERVICE		
01 000	PERSONAL SERVICES	1,219,209
04 000	MANDATORY FRINGE	276,003
10 000	NON PERSONAL SERVICES	189,275
11 000	MATERIAL & SUPPLIES	15,660
22 000	CAPITAL OUTLAY	104,521
30 000	SERVICES OF OTHER DEPTS	261,235
T O T A L: DIVISION		2,065,903
DIVISION 05 RECRUITMENT & SELECTION		
PROGRAM PROJECT BUDGET		
08101	EXAMINATION SERVICES	100,225
T O T A L: DIVISION		100,225
T O T A L: DEPARTMENT		6,675,345
DEPARTMENT 31 FIRE DEPARTMENT		
01 000	PERSONAL SERVICES	77,838,937
04 000	MANDATORY FRINGE	33,704,495
10 000	NON PERSONAL SERVICES	1,058,453
11 000	MATERIAL & SUPPLIES	609,716
22 000	CAPITAL OUTLAY	1,891,285
30 000	SERVICES OF OTHER DEPTS	3,005,838
T O T A L:		118,108,724
DIVISION 00 FIRE DEPARTMENT		
PROGRAM PROJECT BUDGET		
11701	CONSENT DECREE	2,168,676
15001	COMPUTER ASSISTED DISPATCH SYSTEM	119,601
T O T A L: DIVISION		2,288,277
T O T A L: DEPARTMENT		120,397,001
DEPARTMENT 34 HUMAN RIGHTS COMMISSION		
01 000	PERSONAL SERVICES	705,900
04 000	MANDATORY FRINGE	145,380
10 000	NON PERSONAL SERVICES	207,960
11 000	MATERIAL & SUPPLIES	4,640
30 000	SERVICES OF OTHER DEPTS	11,465
T O T A L: DEPARTMENT		1,075,345
DEPARTMENT 36 PARKING & TRAFFIC COMMISSION		
01 000	PERSONAL SERVICES	10,856,650
04 000	MANDATORY FRINGE	2,379,811
10 000	NON PERSONAL SERVICES	555,704
11 000	MATERIAL & SUPPLIES	143,042
22 000	CAPITAL OUTLAY	248,320
30 000	SERVICES OF OTHER DEPTS	553,383
T O T A L: DEPARTMENT		14,736,910

METRO

Support Services Fund

HISTORICAL DATA ACTUAL \$		FY 1993-94 ADOPTED BUDGET		FISCAL YEAR 1994-95		PROPOSED		APPROVED		ADOPTED	
FY 1991-92	FY 1992-93	FTE	AMOUNT	ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Personnel											
					<u>Personal Services</u>						
				511121	SALARIES-REGULAR EMPLOYEES (full time)						
54,208	59,888	1.00	65,103		Directors	1.00	67,108	1.00	67,108		
40,235	25,602	1.00	47,773		Principal Administrative Services Analyst	1.00	49,214	1.00	49,214		
80,470	86,513	2.00	91,433		Senior Administrative Services Analyst	2.00	101,602	2.00	101,602		
24,557	33,526	2.00	68,612		Associate Administrative Services Analyst	2.00	78,613	2.00	78,613		
23,001	29,880		0		Assistant Administrative Services Analyst		0		0		
				511221	WAGES-REGULAR EMPLOYEES (full time)						
14,835	16,840	1.00	18,385		Receptionist		0		0		
21,504	23,412	1.00	24,910		Administrative Support Assistant C	1.00	25,662	1.00	25,662		
38,014	42,179	3.00	64,748		Administrative Support Assistant B	2.00	42,658	2.00	42,658		
0	0		0		Administrative Support Assistant A	1.00	22,258	1.00	22,258		
				511235	WAGES-TEMPORARY EMPLOYEES (part time)						
3,755	3,864	0.30	5,425		Temporary Administrative Support	0.30	5,588	0.30	5,588		
117	677		1,080	511400	OVERTIME		906		906		
97,417	111,189		147,387	512000	FRINGE		158,483		158,483		
398,113	433,570	11.30	534,856		Total Personal Services	10.30	552,092	10.30	552,092		
					<u>Materials & Services</u>						
3,971	7,494		5,734	521100	Office Supplies		5,600		5,600		
223	5,592		765	521110	Computer Software		0		0		
0	0		152	521111	Computer Supplies		0		0		
0	1,219		1,250	521290	Other Supplies		3,150		3,150		
674	1,004		910	521310	Subscriptions		810		810		
820	313		865	521320	Dues		385		385		
0	0		0	521540	Maintenance & Repairs Supplies-Equipment		1,095		1,095		
260	17,809		21,000	524190	Misc. Professional Services		14,250		14,250		
16,035	10,842		4,500	524310	Management Consulting Services		3,000		3,000		
14,919	15,373		16,000	526200	Ads & Legal Notices		16,250		16,250		
15	229		150	526440	Delivery Services		150		150		
186	1,417		1,500	526500	Travel		1,500		1,500		
6,294	3,867		3,000	526700	Temporary Help Services		3,000		3,000		
1,712	4,528		3,300	526800	Training, Tuition, Conferences		4,000		4,000		
516	171		520	529500	Meetings		520		520		
45,625	69,858		59,646		Total Materials & Services		53,710		53,710		

Support Services Fund

HISTORICAL DATA ACTUAL \$		FY 1993-94 ADOPTED BUDGET		FISCAL YEAR 1994-95		PROPOSED		APPROVED		ADOPTED	
FY 1991-92	FY 1992-93	FTE	AMOUNT	ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Personnel											
922	13,189		6,675	571500	<u>Capital Outlay</u> Purchases-Office Furniture & Equipment		0		0		
922	13,189		6,675		Total Capital Outlay		0		0		
444,660	516,617	11.30	601,177		TOTAL EXPENDITURES	10.30	605,802	10.30	605,802		

TABLE II

METRO EMPLOYEE PROFILE
JUNE 30, 1985

	White		Black		Native American		Asian/ Pacific Islander		Hispanic		Total		Total Non-Minority		Females Percent	Minority Percent
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Minority	Minority		
<u>General Fund</u>																
Official/Administrator	2	2									2	2	0	4	50.0	0.0
Professional	7	7					1				8	7	1	14	46.7	6.6
Administrative Support	3	13					1				4	13	1	16	76.5	5.9
											14	22	2	34		
											36		36		61.1	5.6
<u>Zoo</u>																
Official/Administrator	7	2									7	2	0	9	22.2	0.0
Professional	7	18		1							7	19	1	25	73.1	3.8
Administrative Support	1	16									1	16	0	17	94.0	0
Service/Food	74	89	3	10		2	2		1	1	79	102	18	163	56.4	9.9
Gardener/Keeper/Support	54	15			1	1			1	1	56	47	4	69	23.3	5.5
											150	156	23	283		
											306		306		51.1	7.5
<u>Solid Waste</u>																
Official/Administrator	5	0									5	0	0	5	0	0
Professional	6	2									6	2	0	8	25.0	0
Administrative Support	3	11	1			1					4	12	2	14	75.0	12.5
											15	14	2	27		
											29		29		48.3	6.9
<u>Intergovernmental Resource Center</u>																
Official/Administrator	3	0									3	0	0	3	0	0
Professional	12	5					1				13	5	1	17	27.8	5.6
Administrative Support		2		1							0	3	1	2	100.0	33.3
											16	8	2	22		
											24		24		33.3	8.3
TOTAL METRO	184	182	4	12	1	4	5		1	2	195	200	29	366	50.6	7.3
						395					395		395			

(PMSA Labor Force 1984
Females: 56.9; Males: 6.3)SR/srs
4297C/427-14
09/17/85

EXECUTIVE ORDER NO. 19

EFFECTIVE DATE: December 20, 1983

SUBJECT: Administration of the Equal Employment
Opportunity/Affirmative Action (EEO/AA) Program

AUTHORITY: Metro Ordinance No. 83-166, Establishing Authority to
Administer the Equal Employment Opportunity and
Affirmative Action Policies

This document designates persons and responsibilities for implementing and maintaining an effective Metro Affirmative Action Program to ensure Equal Employment Opportunities. Further, it is to prevent discrimination in employment personnel practices and establish complaint procedures for persons alleging that they have been discriminated against.

Definitions

For purposes of this Executive Order, the terms used in context with Equal Employment Opportunities and Affirmative Action shall be those definitions in Section 3. Definitions, Metro Ordinance No. 83-166; further, the terms used in context with personnel matters shall be those definitions in Section 6. Definitions, Metro Personnel Rules.

Affirmative Action Officer

~~The Personnel Assistant is appointed Metro Affirmative Action Officer.~~

The Affirmative Action Officer shall be responsible for developing, managing and implementing the program, and for disseminating information to employees, Metro department heads, the general public and employment agencies, including minority or culturally-related organizations having employment functions as a primary service. In addition, the Affirmative Action Officer shall be empowered to investigate as the agent of the Executive Officer, any complaint regarding an alleged act of discrimination in accordance with the procedures set forth in this Executive Order.

Department Heads

Department heads shall have the following responsibilities under this program:

- (a) assure compliance with the spirit and intent of the program;
- (b) manage and supervise all department personnel matters in accordance with Ordinance No. 83-166;

- (c) keep managers and supervisors in their respective departments aware of progress towards meeting goals;
- (d) coordinate outreach recruitment efforts with Personnel staff; and
- (e) assisting the investigation and resolution of any complaints.

Personnel Staff

Personnel staff shall be responsible for the following:


- (a) conduct training sessions;
- (b) distribute Equal Employment Opportunity and Affirmative Action laws and regulations and related information to departments;
- (c) develop and maintain a recordkeeping system to monitor Personnel Actions and progress toward goals;
- (d) monitor of personnel practices and procedures to ensure compliance with the program;
- (e) conduct outreach efforts to recruit qualified women and minorities;
- (f) maintain the Metro Pay and Classification Plan and Personnel Rules to facilitate Equal Employment Opportunity goal achievement;
- (g) provide guidance and assistance to all employees in matters related to Affirmative Action;
- (h) disseminate program information internally and externally; and,
- (i) assist in the processing of complaints of failure to comply with Ordinance No. 83-166.

Complaint Procedure

- (a) Any representative of a protected group who has made application for employment and alleges that an act of discrimination has occurred may file a discrimination complaint in writing to the Metro Affirmative Action Officer. The complaint filing must include the following information:
 - (1) complainant's name and protected class status (minority, female or handicapped);

- (2) nature of the complaint and date the alleged violation occurred; and
 - (3) if the complaint is in regard to a subrecipient, contractor or subcontractor, the name of that organization.
- (b) The Affirmative Action Officer shall, within ten (10) working days:
- (1) thoroughly investigate the complaint and establish a file of findings;
 - (2) submit the findings with a recommendation to the Executive Officer; and
 - (3) notify complainant of relevant avenues of appeal, if appropriate.
- (c) An employee who alleges that an act of discrimination has occurred may file a grievance under the procedure set forth in the Metro Personnel Rules, Section 22. An employee filing a grievance is not precluded from filing a complaint with other agencies having jurisdiction in such matters.
- (d) In all cases, the Affirmative Action Officer will notify the Federal Highway Administration division office within sixty (60) calendar days, if a complaint is made against an employee, department, subrecipient, contractor or subcontractor funded by the U.S. Department of Transportation.

Ordered by the Executive Officer this 21st day of December, 1983.

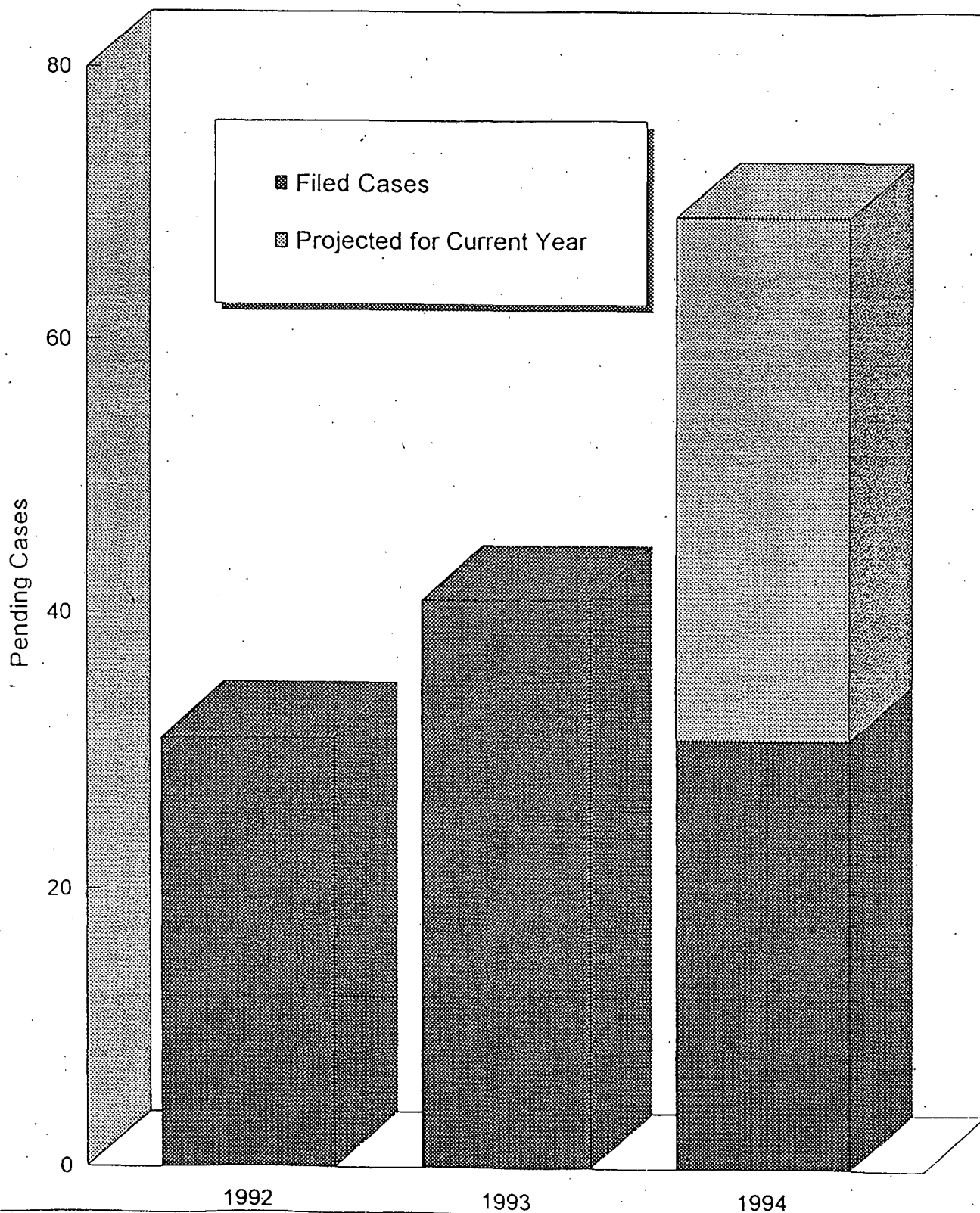

Executive Officer

DK/srb
0278C/305

8-9-58

Pending Labor and Employment Cases

(Federal and State Courts and Agencies)



01 JUN 1994

SELF-INSURED MANAGEMENT SERVICES, INC.

PAGE 1

MULTNOMAH COUNTY CLAIMS BY FISCAL YEAR, BY ACCIDENT TYPE, BY CLAIMANT'S NAME, USING ACCIDENT DATES FROM 07/01/90 TO 06/30/94, WITH ACCIDENT TYPE CODES =
(203,184,202,209,262,182,278,158,181,OR 180)

TOTALS

FISCAL YR	ACCIDENT TYPE	#OPEN	#CLOSED	RESERVE	PAID	ADJ. EXPENSE	LEGAL	TOTAL
FY91	DISC/WRNG TERM	0	5	\$.00	\$ 46,721.20	\$.00	\$ 20,163.27	\$ 66,884.47
	DISCR/AGE	0	2	.00	.00	.00	.00	.00
	DISC/SEX	0	3	.00	.00	.00	254.80	254.80
	DISC/HARRAS	0	4	.00	106,000.00	.00	21,807.46	127,807.46
	DISC/MULT.	0	1	.00	.00	.00	.00	.00
	DISC/RACE	0	1	.00	.00	.00	689.40	689.40
		0	16	\$.00	\$ 152,721.20	\$.00	\$ 42,914.93	\$ 195,636.13
FY92	DISC/WRNG TERM	1	1	\$ 49,095.71	\$ 2,820.00	\$ 417.45	\$ 3,673.80	\$ 56,006.96
	DISC/HARRAS	1	2	92,765.89	.00	121.90	57,314.22	150,202.01
	DISC/MULT.	0	2	.00	55,000.00	685.90	1,732.40	57,418.30
	DISC/DISABL	0	2	.00	750.00	.00	1,501.30	2,251.30
	DISC/RACE	1	2	10,000.00	901.00	.00	3,183.20	14,084.20
		3	9	\$ 151,861.60	\$ 59,471.00	\$ 1,225.25	\$ 67,404.92	\$ 279,962.77
FY93	DISC/WRNG TERM	0	1	\$.00	\$ 3,600.00	\$.00	\$ 605.60	\$ 4,205.60
	DISCR/OTHER	2	1	8,000.00	10,185.96	.00	.00	18,185.96
	DISC/SEX	4	1	20,711.85	5,000.00	.00	2,834.64	28,546.49
	DISC/HARRAS	1	2	15,685.35	.00	1,530.35	16,525.98	33,741.68
	DISC/MULT.	2	1	90,050.00	.00	.00	3,496.30	93,546.30
	DISC/RACE	2	1	6,000.00	.00	.00	3,915.30	9,915.30
	DISC/RELGN	1	1	4,355.00	.00	.00	658.92	5,013.92
	DISC/WHSTBLWNG	0	1	.00	.00	.00	1,880.18	1,880.18
		12	9	\$ 144,802.20	\$ 18,785.96	\$ 1,530.35	\$ 29,916.92	\$ 195,035.43

P. 14/15

FAX NU. 5032451581

SIMS FORTLAND

JUN- 1-94 WED 11:15

P. 15/15

FAX NO. 5032461581

SIMS FUKILAND

JUN- 1-94 WED 11:16

01 JUN 1994

SELF-INSURED MANAGEMENT SERVICES, INC.

PAGE 2

MULTNOMAH COUNTY CLAIMS BY FISCAL YEAR, BY ACCIDENT TYPE, BY CLAIMANT'S NAME, USING ACCIDENT DATES FROM 07/01/90 TO 06/30/94, WITH ACCIDENT TYPE CODE =
{203,184,202,209,262,182,278,158,181,OR 180}

TOTALS

FISCAL YR	ACCIDENT TYPE	#OPEN	#CLOSED	RESERVE	PAID	ADJ.EXPENSE	LEGAL	TOTAL
FY94	DISC/WRNG TERM	2	0	\$ 15,000.00	\$.00	\$.00	\$.00	\$ 15,000.00
	DISC/SEX	2	1	8,915.95	21,000.00	.00	584.05	30,500.00
	DISC/DISABL	1	0	3,500.00	.00	.00	.00	3,500.00
	DISC/RACE	3	0	11,901.30	.00	.00	1,098.70	13,000.00
	DISC/WHSTBLWNG	1	0	7,000.00	.00	.00	.00	7,000.00
		9	1	\$ 46,317.25	\$ 21,000.00	\$.00	\$ 1,682.75	\$ 69,000.00
TOTALS:		24	35	\$ 342,981.05	\$ 251,978.16	\$ 2,755.60	\$ 141,919.52	\$ 739,634.33

AFFIRMATIVE ACTION OFFICE
COMPLAINTS
FISCAL YEAR 1993-1994
(as of May 25, 1994)

City/ County	Complaint Type	Action Taken	Date Rec'd	Date Closed	Total Time
County	Sexual Harassment	Investigation completed.	7/13/93	9/17/93	60 days
County	Race discrimin- ation	Investigation completed.	8/4/93	2/22/94	198 days
City	Race & color discrimin- ation	Investigation completed.	10/19/93	12/16/93	58 days
City	Gender harassment. Retaliation	Investigation completed.	11/3/93	3/2/94	120 days
City	ADA discrimin- ation	Mutual agreement reached	11/16/93	11/29/93	13 days
City	National origin discrimin- ation. Retaliation	Investigation completed.	8/2/93	12/1/93	120 days
County	Race discrimin- ation. Retaliation	Investigation completed.	11/9/93	2/1/94	90 days
City	Race discrimin- ation	Investigation completed.	10/25/93	12/13/93	45 days
City	Race and color discrimin- ation	Investigation completed.	10/19/93	12/14/93	24 days
County	Age and sex discrimin- ation	Investigation completed.	12/7/93	3/30/93	120 days
County	Race, color, age, sex discrimin- ation and harassment	Awaiting results of internal investigation	2/28/94	In Process	

City/ County	Complaint Type	Action Taken	Date Rec'd	Date Closed	Total Time
City	Age and sex discrimin- ation. Retaliation.	Investigation completed.	3/2/94	5/27/94	85 days
City	Race and national origin employment discrimin- ation.	Investigation in process.	3/25/94	In Process	
County	Harassment	Investigation in process.	3/25/94	In Process	
County	Racial and sexual harassment	Awaiting IA investigation results	4/14/94	In Process	
County	Harassment	Awaiting formal filing	5/2/94	In Process	
County	Retaliation	Mediation attempted	5/3/94	In Process	
County	Harassment	Intake	5/9/94	In Process	
City	Gender discrimin- ation in employment	Intake	5/13/94	In Process	
County	Racial discrimin- ation, harassment	Intake	5/24/94	In Process	
County	Sexual orientation harassment	Intake	5/24/94	In Process	

Average number of days to complete an investigation for City: 66
for County: 117

Number of City complaints this fiscal year: 9
County complaints this fiscal year: 12

Number of gender discrimination or sexual harassment cases: 8
City: 3
County: 5

City/ County	Complaint Type	Action Taken	Date Rec'd	Date Closed	Total Time
City	Disability Discrimi- nation		05-26-94	--	--
City	Disability Discrimi- nation	Counsel management & employee	05-27-93	--	100 Hrs.
County	Disability Discrimi- nation	Findings sent to employee	01-06-94	04-18-94	80 Hrs.
City	Disability Discrimi- nation	Findings sent to employee	10-28-93	01-27-94	60 Hrs.
City	Disability Discrimi- nation	3 medical Reviews, Counsel Management	06-26-92	12-22-93	100+ Hrs.
City	Disability Discrimi- nation	Findings sent to employee	07-12-93	09-31-93	60 Hrs.
City	Disability Discrimi- nation	Counsel Management	12-15-92	01-15-93	40 Hrs.
County	Disability Discrimi- nation	Counsel employee and Management	05-12-92	06-15-93	40 Hrs.
City	Disability Discrimi- nation	Counsel employee and Management	07-21-93	07-30-93	20 Hrs.
City	Disability Discrimi- nation	Counsel employee	05-19-93	07-01-93	10 Hrs.
City	Harassment	Counsel employee	04-19-93	04-20-93	4 Hrs.
City	Disability Discrimi- nation	Counsel Mangement	09-01-91	10-09-91	10 Hrs.
City	Disability Discrimi- nation	Counsel Mangement	09-26-91	10-21-91	40 Hrs.
City	Disability Discrimi- nation	Counsel Mangement	06-02-92	07-22-92	20 Hrs.

Note: I have two telephone complaints; waiting for paper work. List does include telephone consultations.

9 8 6 2 2 2

THE NINTH CIRCUIT COURT OF APPEALS - "REASONABLE WOMAN STANDARD"

Where federal Title VII law is involved, the Ninth Circuit Court of Appeals is the federal appellate court which decides cases arising out of California, Oregon, Washington, Idaho, Montana, Nevada, Hawaii and Alaska. In Ellison v. Brady¹⁸ the ninth circuit held that the reasonable woman standard of care applies to the issue of whether the actor's conduct was "sufficiently severe and pervasive to alter the conditions of (the complainant's) employment and create an abusive working environment."¹⁹ In the application of federal law in the western states the Ellison decision controls and the reasonable woman standard of care will be applied in hostile work environment sexual harassment cases where the issue is whether the harassment was "pervasive or severe". This still leaves open the questions, however, of whether the ninth circuit will apply a "reasonable African American person" standard in a racial harassment case and whether they will apply the reasonable woman standard to the issue of "unwelcomeness".

Reasonable Woman Standard

For hostile environment sexual harassment to be actionable, "it must be sufficiently severe or pervasive 'to alter the conditions of [the victim's] employment and create an abusive working environment.'" Meritor Savings Bank, FSB v. Vinson, 106 S. Ct. at 2406 (citing Henson v. Dundee, 682 F.2d, 897, 904 (11th Cir. 1982)). The offensiveness of a work environment has traditionally been judged by the reasonable person standard: would the defendant's conduct "have interfered with a reasonable individual's work performance and would [it] have affected seriously the psychological well-being of a reasonable employee"

Some recent cases suggest, however, that offensiveness should be judged by the standards of the reasonable woman subjected to the conduct. See Stair v. Lehigh Valley Carpenters Local Union No. 600, No. 91-1507 (E.D.Pa. June 28, 1993), 1993 WL 235491, (calendars with nude or scantily clad women posed in sexually provocative poses were found demeaning to women in the workforce); Lehmann v. Toys 'R' Us, Inc., Nos. A-76, A-79 (N.J. July 14, 1993), ____ A.2d ____, 1993 WL 261086, (Supreme Court of New Jersey interpreted New Jersey's law against discrimination (LAD) to require a female plaintiff to "allege conduct that occurred because of her sex and that a reasonable woman would consider sufficiently severe or pervasive to alter the conditions of employment and create an intimidating, hostile, or offensive working environment." The Court noted that a different standard was necessary for men and women because women are more likely to be offended by and/or threatened by sexual harassment than are men); Ellison v. Brady, 924 F.2d 872 (9th Cir. 1991) (correct standard for determining whether a woman has suffered hostile environment sexual harassment is to evaluate whether a "reasonable woman" in that work environment would have considered the alleged conduct sufficiently severe or pervasive to alter her conditions of employment); Robinson v. Jacksonville Shipyards, Inc., 760 F. Supp. 1486 (M.D. Fla. 1991) (daily inundation of sexual remarks and the "visual assault on the sensibilities of women" caused by explicit posters and calendars created an abusive working environment. The court concluded that a "reasonable woman" would have been offended by pictures and remarks). Cf. Harris v. International Paper Co., 765 F. Supp. 1509 (D. Me.), vacated in part on other grounds, 765 F. Supp. 1529 (D.Me. 1991) ("reasonable black person" appropriate standard to be applied in case of racial harassment).

The reasonable woman standard is not, however, synonymous with a subjective standard. For example, in Equal Opportunity Commission v. Blue Diamond Growers, 1992 WL 16326 (D.N.J. Jan. 28, 1992), the plaintiff brought a hostile work environment sex harassment suit. The court examined the claim with special emphasis on the fourth element -- whether an

objective reasonable woman would have been detrimentally effected by the conduct to which plaintiff was subjected. In this case, the plaintiff's only evidence of harassment was three specific allegations of gender derogative comments. Plaintiff testified that these comments were not directed towards her, but revealed a generally sexist attitude towards women as a class. The court found that although the plaintiff had reason to be offended by these comments, they were, objectively, as a matter of law, not so severe that they altered the terms of her employment sufficiently to give rise to a cause of action for hostile work environment. See, also, Saxton v. AT&T, 58 FEP Cases 1171 (N.D. Ill. 1992) (Plaintiff failed to demonstrate hostile environment where she had not demonstrated a factual issue with respect to the severity of the defendant's conduct); Huddleston v. Roger Deon Chevrolet, Inc., 845 F.2d 900 (11th Cir. 1988); Rabidue v. Osceola Refining Co., 805 F.2d 611, 619-20 (6th Cir. 1986), cert. denied, 107 S. Ct. 1983 (1987).

Sexual and Racial Harassment and Reasonableness:
Whose Perspective Should Control

Associate Professor Caroline Forell
University of Oregon School of Law

Sexual harassment, in particular hostile environment sexual harassment, is a matter of serious concern for employers under Title VII of the Civil Rights Act of 1964 and educators under Title IX of the Education Amendments of 1972 for a number of reasons. Notably, sexual harassment has received a lot of public attention as a result of the October 1991 Senate Judiciary Committee's confirmation hearings for now Supreme Court Justice Clarence Thomas. During the hearings before a national television audience, Professor Anita Hill testified that Thomas sexually harassed her by creating a hostile work environment when she worked under his supervision at the Department of Education and the Equal Employment Opportunity Commission (EEOC) from 1981 to 1983.

The controversy and publicity surrounding Hill's testimony educated the public about what legally constitutes sexual harassment. Americans learned that sexual favors as a term of employment (quid pro quo) is not necessary in order for there to be illegal sexual harassment. According to the Equal Employment Opportunity Commission sexual harassment can also occur where "(u)nwelcome sexual advances ... and other verbal or physical conduct of a sexual nature (have) the purpose or effect of unreasonably interfering with an individual's work performance or

creating an intimidating, hostile, or offensive working environment."¹ The United States Supreme Court in 1986 expressly approved this definition of sexual harassment in Meritor Savings Bank v. Vinson²

In addition to the Hill-Thomas controversy, two major changes in federal law have occurred during the past year that make sexual harassment suits more likely. First, Congress amended Title VII of the 1964 Civil Rights Act³ in November 1991 to permit jury trials and allow both compensatory and punitive damages where sex discrimination in violation of Title VII is established.⁴ Since the United States Supreme Court has held that sexual harassment is sex discrimination under Title VII these changes apply to hostile work environment claims.⁵ In addition, earlier this year the United States Supreme Court decided Franklin v. Gwinnett County Public Schools⁶ which holds that a money damages remedy is available in actions to enforce Title IX of the Education Amendments of 1972.⁷ Franklin was a case involving a student's allegation of sexual harassment against one of her public high school teachers and appears to have involved hostile environment sexual harassment.

Most cases alleging hostile environment harassment have been brought by employees against their employers under Title VII. It appears likely, however, that the rules applicable to Title VII litigation will also be applied to Title IX hostile environment

claims⁸. A separate question is whether the rules applicable to sexual harassment are equally applicable to racial harassment claims.⁹ The Supreme Court in Meritor noted that the first hostile environment case, Rogers v. EEOC¹⁰ involved a racially hostile environment. Whether the Supreme Court will hold that the "unwelcomeness" and "serious and pervasive" standards for sexually hostile environment cases set out in Meritor apply to racially hostile environment cases remains an open question. However, the lower courts that have specifically addressed this question have held that they do.¹¹

Employers and educators must make sure that they are doing all that is required to make their environments hospitable to women and people of color. In order to do so they must understand what the law demands. Two of the critical legal terms in hostile environment cases raise the issue of whose perspective should control. Both the determinations of whether sexual harassment is sufficiently "'severe or pervasive 'to alter the conditions of (the victim's) employment and create an abusive working environment"¹² and whether sexual conduct is "unwelcome" raise perspective questions. Will the actor's and the complainant's conduct be looked at from an objective reasonableness perspective and, if so, will that perspective be the purportedly sexless reasonable person or the reasonable person of the same gender and/or race as the person claiming harassment? The answers to these questions will affect what conduct is permissible in the

work and education environments.

There is, as of yet, no uniformity on the issue of whose perspective should control. For example, the federal First Circuit Court of Appeals has set out three different and inconsistent standards since Meritor was decided.¹³ As a federal trial court said when considering the first circuit's decisions:

The different standards applied in Chamberlain and Lipsett, on the one hand, and Morgan, on the other hand, appear to be irreconcilable.¹⁴

Among the other federal circuits and the state courts the disagreement about what standard applies is equally pronounced. Most states have their own statutes that are analogous to Title VII but which may be interpreted differently.¹⁵

Even those courts that have adopted a reasonable woman standard do not agree about whether it applies to the severity and pervasiveness of the conduct or to the unwelcomeness of the conduct or both. The ninth circuit decision, Ellison v. Brady¹⁶ refers to the former and is silent on the latter. In contrast, Lipsett v. University of Puerto Rico¹⁷ appears to be applying some form of reasonable woman standard to whether the perpetrators' conduct was unwelcome. Until the United States Supreme Court resolves the issue of what standard should be applied in determining unwelcomeness and the pervasiveness and

severity of harassment the different state and federal courts will continue to apply varying and inconsistent standards.

Where federal Title VII law is involved, the Ninth Circuit Court of Appeals is the federal appellate court which decides cases arising out of California, Oregon, Washington, Idaho, Montana, Nevada, Hawaii and Alaska. In Ellison v. Brady¹⁸ the ninth circuit held that the reasonable woman standard of care applies to the issue of whether the actor's conduct was "sufficiently severe and pervasive to alter the conditions of (the complainant's) employment and create an abusive working environment."¹⁹ In the application of federal law in the western states the Ellison decision controls and the reasonable woman standard of care will be applied in hostile work environment sexual harassment cases where the issue is whether the harassment was "pervasive or severe". This still leaves open the questions, however, of whether the ninth circuit will apply a "reasonable African American person" standard in a racial harassment case and whether they will apply the reasonable woman standard to the issue of "unwelcomeness".

Whose perspective should control? The possibilities range from a purely subjective "whether the victim found the environment to be hostile" standard to a purportedly sex-neutral and objective reasonable person standard. If some objective element is to be retained, as I believe it should, then there are

two approaches which may effectively further the goal of making workplaces and educational facilities more hospitable to women and people of color. The first is to retain the reasonable person standard but to broaden its substantive content to include more than just the white middle class male perspective. The second, as Professor Martha Minow suggests, is to "take seriously the perspective of those who have not been the norm in the past"²⁰ by explicitly incorporating their perspectives into an objective standard.

The genderless reasonable person standard is a fairly recent development. The influential American Law Institute's Restatement (Second) of Torts published in 1965 still refers to the negligence standard of care as the reasonable man.²¹ One might argue that the law's traditional use of the reasonable man was meant to be the same as its use of the reasonable person. If the "man" in reasonable man is meant to represent mankind, that is, all personhood -- then the difference between reasonable man and reasonable person is purely semantics. Maybe that's what "reasonable man" is supposed to mean today but back when all judges, juries, lawyers and law professors were men that is not what it meant or was supposed to mean. In the late nineteenth century and early twentieth century when women first unsuccessfully attempted to become lawyers, judges read the language of the statutes which described who could practice law as being "any attorney", as meaning "any male attorney".²² From

the beginning the reasonableness standard was gendered.

Take a look at the traditional examples given to flesh out the reasonable man/person standard. In the United States the image conjured up is the man who mows the lawn in his shirtsleeves and who takes the magazines at home;²³ in England it is the man who rides the Clapham omnibus.²⁴ These symbols of the reasonable man/person explicitly set up middleclass male values as the source of the objective neutral standard. They define reasonableness as what a member of that particular class and gender might think.

One can make a strong argument that when the Sixth Circuit Court of Appeals, in Rabidue v. Osceola Refining Co.,²⁵ held that a reasonable person would not have found a work environment where naked pinups abounded and sexually crude remarks were frequently made to be hostile what they were saying was that a reasonable blue collar-type guy would not have found this environment to be sexually hostile and women who choose to work in traditionally male-only environments will just have to adjust. In applying its reasonable person test the Rabidue court said:

(I)t cannot seriously be disputed that in some work environments, humor and language are rough hewn and vulgar. Sexual jokes, sexual conversations and girlie magazines may abound. Title VII was not meant to - or can - change this.²⁶

The EEOC and many courts and commentators disagree with the Rabidue majority's assessment of Title VII. An EEOC's 1990 policy guidance memorandum states:

(T)he Commission believes that a workplace in which sexual slurs, displays of 'girlie' pictures, and other offensive conduct abound can constitute a hostile work environment even if many people deem it to be harmless or insignificant.²⁷

The Rabidue decision provides strong evidence in support of the Ellison court's declaration that it was adopting the reasonable woman standard of care "primarily because we believe that a reasonable person standard tends to be male-biased and tends to systematically ignore the experiences of women..²⁸

The reasonable person standard need not be male-biased. If the content of the reasonable person standard was consciously made more inclusive it could be effective in eliminating hostile work and educational environments. One means to making the standard less male-biased is to take seriously the Supreme Court's command in Meritor that "context" and the "totality of circumstances" be considered in determining whether sexual harassment occurred in a particular setting.²⁹ Where the workplace or educational environment is male-dominated, that is, it has traditionally been male-only, that factor should be a red flag to the decisionmaker. A number of courts which have retained

the reasonable person standard have taken the particular setting of the alleged harassment into account and have explicitly included the views and values of women in determining what is reasonable.³⁰ For example the court in Bennett v. Carroon & Black Corp.³¹ said:

Any reasonable person would have to regard these cartoons as highly offensive to a woman who seeks to deal with her fellow employees and clients with professional dignity and without the barrier of sexual differentiation and abuse.

This language provides substantive content to the objective standard. If courts in applying a reasonable person standard consistently meant what this court says, then the standard would be sufficiently expansive to actually require change in male-dominated highly sexualized environments.

The problem with calling a standard like that applied in Bennett "the reasonable person standard" is that this fails to acknowledge the reality that when it comes to sex, men and women view what is offensive and unwelcome differently. Studies support what common sense has known all along: a purportedly neutral standard does not represent what is reasonable for both men and women regarding sex. Dr. Susan Fiske testified in Robinson v. Jacksonville Shipyards, Inc.³²:

The general principle ... is 'when sex comes into the workplace, women are profoundly affected ... in their

job performance and in their ability to do their jobs without being bothered by it.' The effects encompass emotional upset, reduced job satisfaction, the deterrence of women seeking jobs or promotions and an increase of women quitting jobs, getting transferred, or being fired because of the sexualization of the workplace. By contrast, the effect of the sexualization of the workplace is 'vanishingly small' for men. Men and women respond to sex issues in the workplace to a degree that exceeds the normal differences in other perceptual reactions between them. For example research reveals a near flip-flop of attitudes when both men and women are asked what their response would be to being sexually approached in the workplace. Approximately two-thirds of the men said they would be flattered; only fifteen percent would feel insulted. For the women the proportions are reversed.³³

It is obvious that men and women react differently to pornographic pictures of women and sexually crude language about women. A court will therefore be forced, at least unconsciously, to choose between the sexes in applying a reasonableness standard. Since this is inevitable I believe it is appropriate to openly acknowledge this choice by expressly adopting a reasonable woman standard for determining whether an sexually hostile environment existed. Furthermore, expressly adopting a reasonable woman's perspective publicly affirms women. It is an open

rejection of the stereotype that says that a reasonable woman is an oxymoron.³⁴

A number of courts have adopted the reasonable woman standard. The two leading cases are Andrews v. City of Philadelphia³⁵ and Ellison v. Brady³⁶. In Andrews two female police officers alleged they were harassed by their fellow officers and supervisors. The harassment included sexually explicit language and pornographic pictures. Andrews is representative of one kind of hostile work environment, the male-dominated sexually permeated workplace. The perspectives of the men on the job stand in sharp contrast to the perspectives of the small number of women whom their male coworkers view as trespassers in their domain. Such cases starkly highlight the differences between men and women regarding sexual matters at work in the context of traditionally all-male environments. The conduct of the male workers in those settings is often intentionally hostile because women are not supposed to be there.³⁷

Ellison v. Brady is a harder case for making the claim of different perspectives. The perpetrator and the victim in Ellison worked for the IRS and there was no suggestion that the workplace was male-dominated or highly sexualized. Instead, one worker had an obsession about the other and wrote her two notes. Defendant Gray wrote in part:

I know that you are worth knowing with or without sex ... Leaving aside the hassles and disasters of recent weeks. I have enjoyed you so much over these past few months. Watching you. Experience you from O so far away. Admiring your style and elan ... Don't you think it odd that two people who have never even talked together, alone, are striking off such intense sparks ... I will write another letter in the near future.³⁸

As soon as plaintiff Ellison received this note she phoned her supervisor and told her she was afraid of Gray. Ellison asked that either she or Gray be transferred. Her supervisor talked to Gray and told him to leave Ellison alone. Before Ellison returned from her training Gray transferred to another office.

After being at the other office a short time, Gray filed a union grievance seeking to transfer back. The union and IRS agreed to allow him to return in four months so long as he promised to leave Ellison alone. When Ellison learned of this decision she was frantic. She filed a sexual harassment claim with the IRS and was given permission to transfer temporarily when Gray returned. Gray tried to have joint counseling with Ellison and wrote her another note which still suggested that they had a special relationship.

The Treasury Department found that Ellison did not have a

valid sexual harassment claim and this was affirmed by the Equal Opportunity Commission on appeal. Ellison then sued in federal district court which found that she had failed to state a prima facie case of sexual harassment. The ninth circuit reversed on appeal and remanded the case to the district court. In finding that Ellison had stated a valid claim for sexual harassment the ninth circuit said that a reasonable woman standard of care must be applied. The majority believed that a reasonable person standard would not adequately consider the unique experiences of women workers.

In a situation like the one in Ellison was plaintiff's injury especially severe because as a woman she perceived defendant's conduct differently? What if the tables had been reversed and the person with the sexual fantasies and unrequited ardor was female? Could a man who was subjected to the kinds of unwanted and unwelcome attention experienced here, also argue that it created a hostile work environment? Would a reasonable man feel differently when subjected to such unwanted attentions than would a reasonable woman?

While a man could genuinely feel he was sexually harassed if the tables were reversed here, I believe his reasons and perceptions would be different. For women in Ellison's position there is a very real concern that the unwelcome attentions could escalate and she could be physically and sexually injured. There

is genuine fear that the man will physically hurt her.³⁹ In contrast I think that a man subjected to such attentions is more likely to be annoyed and fearful that despite his rejections of the woman he may be viewed as the aggressor and that she may turn the tables on him and wrongfully accuse him if he rejects her. (Fatal Attraction is Hollywood not real life). I therefore believe that the reasonable person standard doesn't adequately capture what needs to be captured for either situation.

But is all this much ado about nothing? Isn't who is applying whatever standard really what matters instead of whether the standard is the reasonable person or woman? The Ellison court's solution does not guarantee that male bias will not infect the standard whatever it is. In fact the trial court in Rabidue, unlike the Rabidue appellate court, purportedly applied a reasonable woman standard ("the average female employee") when it found that the highly sexualized Osceola Refining Company's workplace was not hostile to women.⁴⁰

I believe that despite the risks that it presents, a semi-objective standard that takes account of the victim's sex and race is the appropriate one to be applied to both unwelcomeness and whether the harassment was pervasive or severe. However, in order for this standard to be effective the judge and/or jury must be informed of the appropriate content of this standard. It must be made clear to the decisionmaker that the standard is

intended to change American workplaces and educational institutions by making them hospitable to women and people of color. What the decisionmaker believes women or people of color find offensive cannot be viewed as sufficient because of the biases and values all decisionmakers bring to their judgments. I believe therefore that who the reasonable woman or who the reasonable African American is must be fleshed out in a standard way that makes it clear that such a person would want to work or learn in a setting free from sexualization or racism. One substantive measure could be the Bennett court's "woman who seeks to deal with her fellow employees and clients with professional dignity and without the barrier of sexual differentiation and abuse."⁴¹ Professor Martha Chamallas suggests the following standard: "the perspective that might reasonably be taken by women consciously interested in improving their status in the workplace."⁴²

Another issue the reasonable woman standard presents is how to establish whether a reasonable woman would have found the conduct unwelcome and whether the harassment was severe or pervasive. Should expert testimony be required such as that given by Dr. Susan Fiske in Robinson?⁴³ In that case there was a battle of the experts with the defense putting on its Phd's who testified that reasonable women employees would not have found the all-pervasive pornography in a job setting where women were only a miniscule percentage of the workforce to have

created a severe or pervasively hostile environment. In Robinson the trial court found Dr. Fiske's testimony about the differences in the perceptions of men and women regarding sex in the workplace to be more credible than the conflicting testimony provided by the defense's experts. In future cases, however, the outcome may be the opposite since there is no neutral way for the court to decide which version of the reasonable woman is "true" without some substantive guidance as to who that reasonable woman is supposed to be. This is why it is so critical to flesh out the meaning of this abstract concept. If the reasonable woman is "a woman who seeks to deal with her fellow employees ... with professional dignity and without the barrier of sexual differentiation and abuse" Dr. Fiske's testimony will more credibly describe how she would view pornography in the workplace than would the defense's expert testimony that women's reactions to sexually explicit material were not particularly strong or negative.⁴⁴

The adoption of the reasonable woman standard in hostile work or educational environment cases explicitly recognizes that on the issue of sex, men and women have different perspectives. It openly privileges women's perspective with the clear goal of changing the status quo. The price paid for adopting a sex-specific standard includes the risk of stereotyping women. In addition adopting a partial standard for sexual harassment raises the issue of whether a partial standard is also appropriate for

racial harassment. Will the reasonable AfroAmerican's perspective differ from the reasonable person's perspective? And what about the situation where both racial and sexual harassment is alleged. Should a reasonable AfroAmerican woman's standard be applied? Or should a reasonable woman's standard apply to the sexual harassment while a reasonable AfroAmerican's standard apply to the racial harassment? Where religious harassment is alleged should the standard be the reasonable person of the victim's religion?⁴⁵ The problems with fleshing out such standards, fragmentation and stereotyping increase as the objective standard is broken down further and further. One alternative would be to make the standard purely subjective and leave it to the decisionmaker to decide whether the complainant is credible when he or she claims that she suffered sexual or racial harassment as a result of the hostility of the working or educational environment. An argument can be made that the idiosyncratic and extrasensitive complainants will be weeded out before they reach the point of litigation because attorneys will not find it worthwhile to represent them. A number of commentators have suggested that this purely subjective test is the best solution.⁴⁶ However, so far no courts have approved of such a standard and it seems unlikely that any will in the foreseeable future. Their concern about flooding the courtrooms with frivolous claims is probably too great to overcome.⁴⁷

The value of recognizing the different perceptions of

victims of sexual, racial or other illegal harassment and the likelihood that the purportedly gender and race-neutral reasonable person standard is really both sex and race biased make is appropriate to adopt "a reasonable person from the protected group of which the alleged victim is a member" as the measure of whether the perpetrator's conduct was unwelcome and whether the harassment was severe or pervasive. But courts must do more than just adopt an abstract standard. To prevent inappropriate stereotyping, courts must flesh out the substance of the standard to make it clear to the decisionmaker that the reasonable person from the victim's protected group would be a person who seeks to make the work or educational environment hospitable to and respectful of the marginalized and less powerful members of our society. If such a standard is adopted, the day may arrive sooner when America's workplaces and educational institutions are hospitable rather than hostile to women and people of color.

1. 29 C.F.R. sec.1604.11(a).
2. 477 U.S. 57 (1986). (Plaintiff Mechelle Vinson is African-American as well as female.)
3. 42 U.S.C. sec. 2000e (1988).
4. P.L. 102-166, sec.102, 105 Stat. 1073 (Nov. 21, 1991) (statutory limits on amount of compensatory damages available for sex discrimination).
5. Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986).
6. 112 S.Ct. 1028 (1992).

7. 20 U.S.C. secs. 1681-1688.
8. See, e.g., *Lipsett v. University of Puerto Rico*, 864 F.2d 881 (1st Cir. 1988).
9. See, e.g., *Harris v. International Paper*, 761 F. Supp. 159, 167 (D. Me. 1991) (the appropriate standard to be applied in a hostile racial environment case was that of a reasonable black person).
10. 454 F.2d 234 (5th Cir. 1971) (Hispanic complainant could establish Title VII violation by demonstrating her employer created a racially offensive work environment).
11. See *Daniels v. Essex Group, Inc.*, 937 F.2d 1264 (7th Cir. 1991); *Harris v. International Paper Co.*, 761 F. Supp. 159, 164 (D. Maine 1991).
12. *Meritor Sav. Bank* at 67 (quoting *Henson v. Dundee*, 682 F.2d 897, 904 (11th Cir. 1982)).
13. In 1988 in *Lipsett v. University of Puerto Rico*, 864 F.2d 881 (1st Cir. 1988), the court applied two perspectives to the issue of unwelcomeness in a sexual harassment case saying that the factfinder must keep "both the man's and the woman's perspective in mind." *Ibid.* at 898. In support of this bizarre standard the court cited to the dissent in *Rabidue v. Osceola Refining Co.*, 805 F.2d 611, 626 (6th Cir. 1986) (Keith, J., dissenting), which clearly endorsed a reasonable woman standard of care. To add to the confusion the same court in the 1990 decision *Morgan v. Massachusetts General Hospital*, 901 F.2d 186, 192-93 (1st Cir. 1990), applied the reasonable person standard of care to the issue of severity or pervasiveness of the sexual harassment in a case brought by a male complainant. Other federal appellate courts have said that a reasonable man standard will be applied when the complainant is a man. See, e.g., *Ellison v. Brady*, 924 F.2d 872, 879 n.11 (9th Cir. 1991) ("Of course, where male employees allege that co-workers engage in conduct which creates a hostile environment, the appropriate victim's perspective would be that of a reasonable man"). Accord *Andrews v. City of Philadelphia*, 895 F.2d 1469, 1482 (3d Cir. 1990). In support of its standard in *Morgan* the first circuit cited to the majority opinion in *Rabidue* which applied the reasonable person standard. *Rabidue v. Osceola Refining Co.*, 805 F.2d 611, 620 (6th Cir. 1986). Most recently the first circuit in *Chamberlain v. 101 Realty, Inc.*, 915 F.2d 777, 784 (1st Cir. 1990), said that the unwelcomeness issue must be determined "from the standpoint of the employee."
14. Harris at 164.

15. It is interesting to note that two of the cases which have been most forceful in applying a woman's perspective to hostile work environment sexual harassment have been state decisions interpreting their own state statutes. See Radtke v. Everett, 471 N.W.2d 660 (Mich. App. 1991); T.L. v. Toys 'R' Us, Inc., 605 A.2d 1125 (N.J. Super. A.D. 1992).
16. 924 F.2d 872 (9th Cir. 1991).
17. 864 F.2d 881, 898 (1st Cir. 1988).
18. 924 F.2d 872 (9th Cir. 1991).
19. Ibid. at 878.
20. Martha Minow, Making All the Difference 95 (1990).
21. Section 283.
22. See Morello, The Invisible Bar 32-33 (1986).
23. See G. Calabresi, Ideals, Beliefs, Attitudes, and the Law 23 (1985); Ehrenreich, Pluralist Myths and Powerless Men: The Ideology of Reasonableness in Sexual Harassment Law 99 Yale L. J. 1177 n.125 (1990).
24. Hall v. Brooklands Club (1933) 1 Kings Bench 204, 224.
25. 805 F.2d 611 (6th Cir. 1986).
26. Ibid. at 622 (quoting from the trial judge's opinion, 584 F. Supp. at 430).
27. EEOC Policy Guidance on Current Issues of Sexual Harassment 103 (BNA 1990).
See also Robinson v. Jacksonville Shipyards, Inc., 760 F. Supp. 1486 (M.D. Fla. 1991); Ellison v. Brady, 924 F.2d 872 (9th Cir. 1991); Ehrenreich, Pluralist Myths and Powerless Men: The Ideology of Reasonableness in Sexual Harassment Law, 99 Yale L. J. 1177 (1990); Chamallis, Feminist Constructions of Objectivity: Multiple Perspectives in Sexual and Racial Harassment Litigation, 1 Tex. J. of Wom. and the Law 95 (1992).
28. Ellison at 879.
29. Meritor at 69 (quoting 29 CFR sec.1604.11(b)).
30. See, e.g., Henson v. City of Dundee, 682 F.2d 897, 904 (11th Cir. 1982).
31. 845 F.2d 104 (5th Cir. 1988).

32. 760 F. Supp. 1486, 1505 (M.D. Fla. 1991).
33. The research referred to here is by Barbara A. Guteck in her book Sex and the Workplace 96 (1985).
34. A.P. Herbert, Uncommon Law 645 (1930) (setting out the parody case Fardell v. Potts which stands for the proposition that there is no such thing as a reasonable woman).
38. 895 F.2d 1469, 1486 (3d Cir. 1990) ("work environment hostile and offensive to women of reasonable sensibilities")
36. 924 F.2d 872 (9th Cir. 1991).
37. For other examples of such environments see Robinson v. Jacksonville Shipyards, Inc., 760 F. Supp. 1486 (M.D. Fla. 1991); Lipsett v. University of Puerto Rico, 864 F.2d 881 (1st Cir. 1988); Hansel v. Public Service Co. of Colorado, 778 F. Supp. 1126 (D. Colo. 1991); Jensen v. Eveleth Taconite Co., 139 F.R.D. 657 (D. Minn. 1991).
38. Ibid. at 874.
39. I remember feeling quite apprehensive when I received a number of lengthy and intensely personal letters from a man I had dated while in college but whom I had not been in contact with for many years after he learned that I was no longer married. He lived in another state but, nevertheless, these letters, which suggested we had a different kind of relationship than we'd actually had and that we continued to have a special kindred spirit-like relationship, made me not just annoyed but actually fearful for my personal safety.
40. Rabidue v. Osceola Refining Co., 584 F. Supp. 419, 433 (E.D. Mich. 1984).
41. Bennett v. Corroon, 845 F.2d 104 (5th Cir. 1988).
42. Chamallas, supra note , at 135.
43. See supra note 32 and accompanying text.
44. Robinson at 98.
45. Should class and sexual preference also explicitly be made parts of the objective standard where the facts of the case suggest that those factors may have been the basis for harassment? Since Title VII and its state counterparts for the most part do not protect against harassment based on class or sexual orientation these aspects will continue to be treated as legally irrelevant. See, e.g., Dillon v. Frank, 1992 U.S. App. Lexis (6th Cir. 1992); Goluszek v. Smith, 697 F. Supp. 1452 (N.D.

Ill. 1988).

46. See, e.g., Abrams, Gender Discrimination and the Transformation of Workplace Norms, 42 Vand. L. Rev. 1183, 1210 (1989); Blackwood, The Reasonable Woman in Sexual Harassment Law and the Case for Subjectivity, 16 Vt. L. Rev. 1005, 1023 (1992) ("The reasonable woman standard ... creates no new societal consensus. The reasonable woman is just the wife of 'the man in his shirtsleeves.'").

47. I believe a purely subjective standard poses a real risk to certain victims of hostile environment harassment by leaving it to the decisionmaker to determine whether the complainant's claim was credible without some objective standard as to what is unacceptable conduct. In the 1992 eighth circuit decision, Burns v. McGregor Electronic Industries, Inc., 995 F.2d 559 (8th Cir. 1992), as the court noted, the environment was clearly hostile to a reasonable woman; however, the court was more concerned about whether it was possible for the complainant to ever find a workplace sexually hostile because of who she was. Because complainant had posed for nude pinup pictures the court was highly skeptical of whether she was credible when she claimed she experienced hostile work environment sexual harassment. At least the court allowed her to go forward and try to prove that "she was at least as affected as the reasonable person under like circumstances." Ibid. at 566. If the standard had been purely subjective she would have been viewed many judges and juries as unharassable just like many jurors believe certain women are unrapable.

This problem remains, however, even when an objective standard is applied because the complainant must still convince the decisionmaker that she actually suffered harassment. The only way to avoid this would be to eliminate the subjective test entirely and presume that the complainant was indeed harassed if the decisionmaker determines that a reasonable person or woman would have experienced the environment as hostile and harassing. A justification for doing this would be that statutes like Title VII are intended to make work environments hospitable and that if a reasonable person/woman would find the environment hostile then it is in the public interest to change it whether the individual complainant has personally felt harassed or not. The issue of whether the complainant actually experienced compensable harassment could be left to determination of damages.

An analogy could be made to a class action suit such as the one brought in the 1991 case, Jensen v. Eveleth Taconite Co., 139 F.R.D. 657 (D. Minn. 1991). In Jensen the court finds the commonality requirement for a class action to be allowed is satisfied by the overwhelming evidence that "a reasonable woman would find the work environment hostile." Ibid. at 665. The court therefore found it irrelevant that some women workers testified on behalf of the employer that they were not sexually harassed.

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Culture

The Mating Game

CONTINUED

about the sex act itself. It stems, Buss believes, from "the uncertainty of paternity vs. the certainty of maternity. As certain cultures say, 'Mama's baby, papa's maybe.'"

"This really gets to the seamier side of things, the dark, unpleasant side of relationships," Buss says. "One hypothesis is that if men are in fear of losing their mates, or they perceive their mate is more desirable than they are, they

could act in ways, not consciously, meant to lower the woman's perception of her own desirability so she'll stay with him. This can be in the form of verbal abuse, like condescension, which happens a lot, or in the form of physical abuse. It's a kind of desperation tactic on the part of the man. It doesn't mean that men have an evolved mechanism to beat up on women, but there could be an underlying logic to it."

Feminists may go through the roof when he talks like that, but Buss says not all feminists disagree with him—some are colleagues, working in the same vein: "What I think will be one of the most controversial aspects of the book is that I have an original theory of the origin of patriarchy. My theory is that women's preferences are part of the core, causal origins of patriarchy. It makes total logical sense. If women over evolutionary history have preferred men who have resources and have the power and status to control those resources, then over time they will drive the evolution in men of status-seeking, power-seeking mechanisms. So over time men evolve very powerful motivations for getting higher in the hierarchy and so forth. Men who failed at those tasks failed to get mates and failed to leave offspring."

"It's a novel theory," Buss concludes. "It makes women at least partially responsible, part of the causal chain, rather than passive victims."

A woman who heard Buss lecturing once told him that it might be better for the continuing improvement of women's roles and rights if he were to suppress his data. I ask him how he thinks his data might be helpful rather than a hindrance to improving relations between the sexes.

"I should say I'm not in the business of help," he demurs. "I'm a scientist trying to understand what human nature is all about. But I think that it does help. First of all, understanding the nature and repertoire of our strategies gives us more power to control which ones we want to have activated and which we don't."

Back to that study where people observe a woman smiling at a man and draw completely contrary inferences: "I think there are evolved sex differences in these inferential mechanisms, and I think they do produce conflict between the sexes," Buss says. "The knowledge that men and women seem to perceive the exact same event rather differently might lead to a closing of the gap between the sexes."

"Maybe," he offers in conclusion, "it can help the sexes understand each other, rather than mutual mud-slinging and blaming."

A longer version of this story originally appeared in the New York Press and comes to Willamette Week via the Alter-Net news service.

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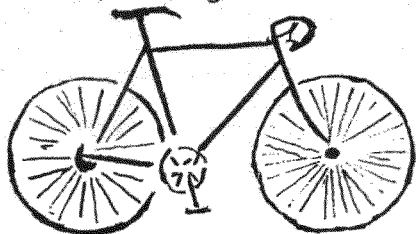
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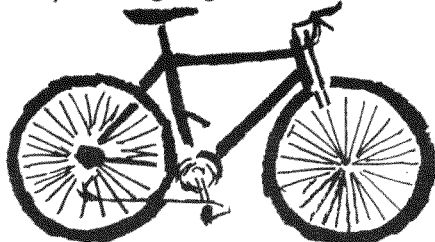
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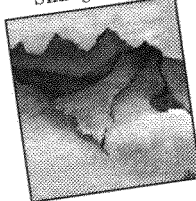
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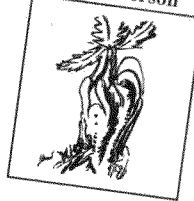
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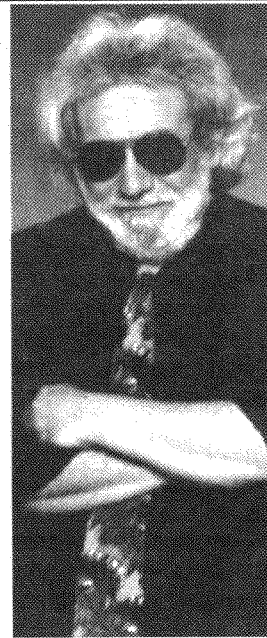


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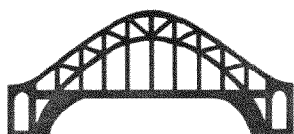


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The Mating Game

What men and women look for in each other may differ by sex, but it still comes down to a matter of survival

By John Strausbaugh

An attractive stranger walks up to you and asks you if you want to have sex. If you're a woman, it's virtually a 100 percent certainty you'd be inclined to take offense and say no. If you're a man, there's a 75 percent chance you'd be flattered and inclined to say yes.

A man and woman are having a conversation. At some point, she makes direct eye contact and smiles. If you're a woman observing this, you'll probably think she's simply being friendly. If you're a man, you'll most likely conclude she's coming on to the guy.

A group of American men and women are shown nine female figures, from very thin to fat, and asked to choose the "ideal" one. Contrary to expectations, it's the women who go for the thin figures. The men go for the "average" figure in the middle.

Yes, men do choose women for their physical beauty. But contrary to baleful thinking in some quarters, this isn't the result of Madison Avenue brainwashing. It turns out that what men look for in women is amazingly consistent across all cultures and classes, including those where they never see a movie or a fashion model. And that women are equally consistent in their ideas of the ideal man.

David M. Buss, a psychology professor at the University of Michigan, Ann Arbor, has spent the last decade studying human mating strategies all over the world. The results, which he reports in the new book *The Evolution of Desire* (Basic Books, 262 pages, \$22, ISBN 0.465.07750.1), confirm some age-old verities about the war between the sexes and fly in the face of some dearly held modern ideas.

"The evidence is overwhelming," he tells me, "that men and women differ fundamentally, essentially and universally in their desires in the mating domain." And these differences, he thinks, are hard-wired into our psyches by a few million years of human evolution in a process collectively known as evolutionary psychology.

To prove his case that we come into the world with a number of very specific, evolved psychological mechanisms, Buss launched a massive worldwide survey. From 1984 to decade's end, he and 50 collaborating scholars questioned 10,047 individuals in 37 cultures on six continents and five islands.

He says it all points in one direction. Men and women around the world are amazingly consistent in the kind of mates they seek, and the strategies they use to attract and keep them.

Think about it this way: Everyone living today is the descendant of a "long and unbroken line" of ancestors who chose their mates wisely, and successfully passed on their genes—and their desires. "If at any point in that line someone screwed up badly and made a really poor mate choice," Buss says, "then that person did not become one of our ancestors."

So what do women look for in men? Women across all continents, all political systems (including socialism and communism), all racial groups, all religious groups, and all systems of mating place more value on good financial prospects than men. They look for men with high social status. In all 37 cultures included in the international study on choosing a mate, women prefer men who are older than they are. They look for ambition and industriousness,

dependability, emotional stability, good health and physical strength, including height. (Tall men tend to have a higher status in nearly all cultures—in Western cultures, tall men make more money, advance in their professions more rapidly, and receive more and earlier promotions.) And they look for men who are willing to commit time and resources to the marriage and family.

All of which makes sense in terms of survival and evolution. Women invest extraordinary resources in the gestation and nurturing of each child. A mate lacking resources or status, who was unstable or unhealthy or unwilling to commit his part to the family, jeopardized her investment and her children's survival.

And what do men want? They don't expect the woman to have resources, status, all that; they mainly look for cues that she'll be good at bearing their children. They seek these cues in the only way available, by examining her physical appearance. That's why men are much more concerned with women's appearance than women are with men's: Over evolutionary time, women's physical appearance—what we would call "beauty"—has been the crucial variant by which our ancestors successfully chose their mates.

It adds credibility that homosexuals have these preferences as well as heterosexuals. Studies show that homosexual men are like heterosexual men in the high premium they place on their mates' physical attractiveness, while lesbians are very similar to heterosexual women in their mate preferences.

If Buss is right, then the much-held notion that standards of beauty are arbitrary

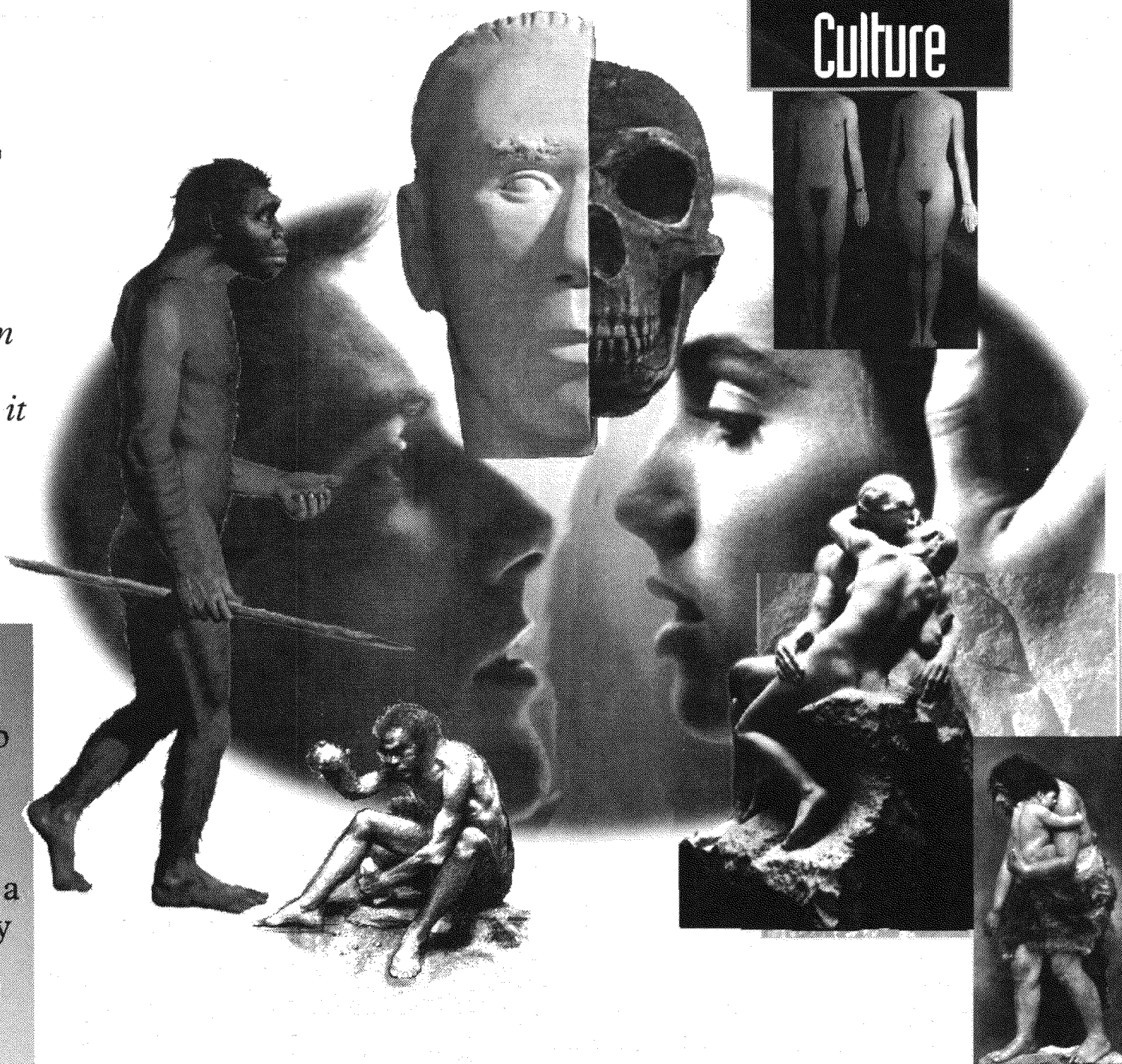
set by advertising and the media, which indoctrinate men and impose unfair burdens on women, is wrong. Buss argues that everything the cosmetic and fashion industries promote—youth, smooth skin, red lips, shiny hair, pert breasts, and on and on—are all modern versions of those ancient male preferences.

Long the stuff of folk wisdom, anecdotes and bad jokes, men's horniness turns out in Buss' studies to be a global fact. On average, men everywhere are more open to casual sex and want sex more often than women.

Why? Buss goes back to that "asymmetry in investment" in the sex act: "To produce one kid, the woman is forced to invest nine months of gestation, then lactation. In principle, the man can sleep with the woman just once to produce a kid, and that's his total investment. If the man slept with 100 women in a year, and the woman slept with 100 men, the woman would produce a maximum of one kid, while the man would produce something in excess of that." In evolutionary terms, then, "there's a payoff for men to have this desire for sexual variety."

But when either mate gets suspicious that the other one's eye is roving, jealousy rears its ugly head. Here again, the sexes differ. Buss' studies indicate that women are less worried about their men just having sex with The Other Woman than they are about them becoming emotionally committed to her—because that's more a direct threat to the long-term maintenance of the relationship. Men, on the other hand, are much more prone to get jealous

CONTINUED ON NEXT PAGE



007222

Fair Employment Practices

April 14, 1994

Vol. 14, No. 7,

UPDATE

File behind Newsletter tab in Binder 1

Section 1 of 2

Age Limit Nixed

A newly imposed age limit for state park police violates the Age Discrimination in Employment Act, a federal district court in New York rules. The court agrees with the Equal Employment Opportunity Commission that a 1990 amendment to the state civil service law, which expanded an age-29 limit to park police applicants, does not fall within the ADEA exception that allows age-based criteria in the employment of police officers and firefighters.

A 1986 amendment to the ADEA permits states and their political subdivisions to impose age limits on the employment of individuals as police officers or firefighters in accordance with laws in effect on March 3, 1983. (That exemption has expired and Congress has not acted on legislation to renew it.)

New York argued that age restrictions on law enforcement personnel were in place prior to 1983 and that park police are classified as law enforcement personnel. The civil service law amendment was merely a reasonable broadening of the specific categories of employees covered by the ADEA exemption, the state claimed. New York cannot subject applicants to age restrictions for the first time in 1990, the court holds. The affected class may include 80 to 100 individuals. EEOC estimates (*EEOC v. New York State*, DC SNY No. 92 Civ. 2789, March 23, 1994).

Getting It Right

Prompt Response Results in Dismissal Of Sexual Harassment Suit

An employer that twice "did what a company ought to do" when faced with allegations of sexual harassment is held not guilty of gender discrimination and is awarded attorney's fees and court costs by the Fifth Circuit Court of Appeals. The attorney for the complaining employee, meanwhile, is reprimanded by the court for filing a frivolous appeal.

Lubrizol Corporation hired Patsy Carmon in 1977 as an operator-trainee at its Deer Park, Texas, plant. In 1986, Carmon complained to her supervisor that a co-worker had harassed her with foul language and questions about her sexual activities. An investigation showed that an argument over Carmon's failure to complete a work assignment had degenerated into the trading of vulgar insults by both parties. Nevertheless, Lubrizol dealt with the complaint immediately. The co-worker was reprimanded and transferred to another shift.

The following year, Carmon accused a number of employees of sexual harassment. The human resources department conducted a prompt investigation and although it found no evidence of sexual harassment, it did find proof of "horseplay." Lubrizol issued a memo addressing the behavior, promised disciplinary action if the behavior continued, and held training meetings on appropriate workplace behavior.

Carmon was fired shortly after the horseplay investigation for fail-

ing to report to work or to respond to employer requests for information regarding her medical condition. Following the discharge, she sued Lubrizol under Title VII of the 1964 Civil Rights Act, claiming she was the victim of race and gender discrimination and that her absence from work was caused by a hostile environment. A federal district court dismissed the suit and Carmon appealed.

The employer took prompt and appropriate remedial action in responding to Carmon's hostile

(See *HARASSMENT*, page 42)

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Warren, Gorham & Lamont

NEWS BRIEFS

ALL STATES NOW PROVIDE THEIR PUBLIC EMPLOYEES WITH AT LEAST THE MINIMUM FAMILY LEAVE MANDATED BY FEDERAL LAW, a 1994 State Employee Benefits Survey finds. Most of the states that exceeded the Family and Medical Leave Act minimums when the federal law was adopted continue to offer more generous leaves, such as unpaid parental or adoption leave for up to one year. The 107-page survey, conducted by Workplace Economics, Inc., a Washington, D.C., consulting firm, is based on information gathered from 50 state agencies and 14 state employee organizations.



GRANT APPLICATIONS FOR PUBLIC EDUCATION PROGRAMS ON THE ANTI-BIAS PROVISIONS OF THE IMMIGRATION REFORM AND CONTROL ACT ARE BEING ACCEPTED BY THE JUSTICE DEPARTMENT. Up to \$900,000 in grant money will be competitively awarded, DOJ's Office of Special Counsel for Immigration Related Unfair Employment Practices announces. Grants of from \$50,000 to \$200,000 will be available to applicants "who have access to potential victims of discrimination

or whose experience qualifies them to educate employers about the antidiscrimination provisions of IRCA," the office says.



SAFeway, Inc., SETTLES A CALIFORNIA SEX BIAS SUIT FOR \$5 MILLION, PLUS \$2.5 MILLION IN ATTORNEYS' FEES. The company agrees to settle the case filed on behalf of up to 20,000 women who may have been discriminated against in promotional opportunities at the chain's 216 Northern California stores. Terms of the agreement, which is subject to court approval, call for the company to provide specific affirmative action goals for middle-management positions; formalize its promotion system; formalize the system for part-time workers to get additional hours and training; and have an affirmative action program for women moving out of the deli/bakery departments into the food departments without losing seniority or hourly wages. Five named complainants will each receive \$25,000. The remaining \$4.8 million will be divided among the potential class members. To qualify, women

must have worked in specific United Food and Commercial Workers Union classified jobs for more than six months and believe they were discriminated against in promotions (*Barnhart v. Safeway, Inc.*, DC ECalif, No. S92-803, April 1, 1994).



AN ADMINISTRATIVE LAW JUDGE'S RECOMMENDATION TO EXPAND THE NUMBER OF BLACK IMMIGRATION AND NATURALIZATION SERVICE OFFICERS IN A 1993 CLASS ACTION RACE BIAS SUIT is upheld with a slight modification by the Justice Department. Rather than all black officer corps members, the DOJ modifies the recommendation to include in the class suing the INS for race discrimination only those black officers at the GS-11 grade level or above. The main thrust of the complaint alleges discrimination in promotion to supervisory levels, a problem that could not affect agents below GS-11 levels, DOJ says. The complainants have 30 days from the March 28 ruling to appeal and 90 days to file a civil suit in federal court (*Potter v. Reno*, DOJ, No. 340-93-3770X, March 28, 1994).

HARASSMENT . . .

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work environment claims, and therefore cannot be held liable for discrimination, the appeals court finds. Given "the overwhelming evidence of the prompt and proper responses by Lubrizol, Carmon has not — and plausibly cannot — challenge the district court's findings and conclusions" in this case. Her attorney filed a "slap-dash excuse for a brief" that "fails to raise even one colorable challenge" to the lower court's ruling, the appeals court admonishes, imposing sanctions of double costs against Carmon and her counsel (*Carmon v. Lubrizol Corp.*, CA 5, No. 92-2964, March 31, 1994).

Lesson for employers. When faced with a charge of hostile environment sexual harassment, employers are

advised by courts and the Equal Employment Opportunity Commission to investigate the matter promptly and thoroughly. Both parties and all of the potential witnesses should be interviewed. If it is determined that harassment occurred, the employer should take appropriate action to correct the situation. There should be follow-up to make sure the disciplinary action is effective and that there is no retaliation against the complainant.

Employers also are advised to have a sexual harassment policy, communicated to all employees, explaining that such behavior will not be tolerated. The policy should provide a means for making complaints that permits employees to bypass their immediate supervisors, if necessary. The *Carmon* case illustrates that prompt and appropriate action will protect an employer from liability if a discrimination suit is filed.

Sexual Harassment

Harris v. Forklift Systems, Inc., ___ US ___, 126 L Ed 2d 295, 114 S Ct 367 (1993). The Supreme Court considered whether a plaintiff was required to prove psychological injury in order to prevail on a cause of action alleging hostile environment and sexual harassment under Title VII of the Civil Rights Act of 1964. A unanimous court held that if a workplace is permeated with behavior that is severe or pervasive enough to create a discriminatorily hostile or abusive working environment, Title VII is violated regardless of whether plaintiff suffered psychological harm. This decision reaffirms Meritor Savings Bank v. Vinson, 477 US 57 (1986), which held that Title VII is violated when the workplace is permeated with discriminatory intimidation, ridicule and insults sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. The Court noted that an "objectively hostile or work environment" is created when "a reasonable person would find [it] hostile or abusive," and the victim subjectively perceives it as such.

During the time Harris, a rental manager at Forklift Systems, worked for the company, the President, Hardy said to her, among other things, "You're a woman, what do you know," and "We need a man as manager," and "Dumb ass woman" in the presence of other employees. He also threw things onto the ground in front of her and asked her to pick them up, as well as asking her to retrieve change from his front pockets and suggesting they negotiate her raise at a local motel.

When she complained to him about his conduct, he apologized and promised to stop. Soon after, however, he asked her whether she had promised sex to a customer in order to arrange a business deal, again in front of other employees. She quit and sued, alleging a hostile environment.

The District Court found that Hardy's conduct did not create an abusive working environment because Harris did not show it seriously affected her psychological well-being. The Sixth Circuit affirmed. The Supreme Court reversed.

Dirksen v. City of Springfield, 842 F Supp 1117 (CD Ill 1994). The United States District Court for the Central District of Illinois ruled that a boss' favoritism toward a lover can form the basis for a sexual harassment claim by other workers. Plaintiff charged that from the time she became an employee, the city police chief made unwanted physical advances toward her and allegedly told her if she wanted to be promoted to be his personal secretary she had to have sex with him. Plaintiff complained to the proper officials, but they allegedly told her to "work it out" with the police chief and discouraged her from pursuing her claim. At a later

point, after the mayor found out about the charges, he asked the Illinois state police to investigate her complaint; other women came forward and reported harassment by the same person.

The court distinguished the situation before it from a 1986 ruling from the Second Circuit which dismissed male employees' Title VII claim over their supervisor's alleged favoritism toward his female lover. In that case, the Second Circuit said plaintiffs were prejudiced not because they were males but because their supervisor preferred his paramour. However, plaintiff did not allege a single incident of favoritism based on a relationship; in contrast, plaintiff was told sexual favors were the quid pro quo for appointment to be the police chief's personal secretary. In addition, the court noted that when plaintiff took medical leave, she was replaced by a worker who was having a sexual relationship with the chief of police. Thus, the alleged discriminatory conduct constituted gender-based discrimination because submission to sexual demands on the part of the woman was a condition to tangible employment benefits.

Kopp v. Samaritan Health System, Inc., 13 F3d 264 (8th Cir 1993). In this gender harassment case, the Eighth Circuit held that a doctor's encounters with female employees were abusive and harassing. Although the doctor also abused male employees, the frequency and degree of his abuse of females exceeded that of the males.

Over a decade, the doctor shoved female employees, called them names, shocked them with charged defibrillator paddles, threw charts at their heads, and grabbed and shook them by the lapels (including grabbing their bra straps and skin). The record showed that the doctor yelled at some male employees and called them names also, but much more rarely than his confrontations with women.

In addition, the hospital was aware of his treatment of employees. He was the subject of discussion at management meetings in which employees stated they would prefer not to work with him. Staff members suggested to nurses that they would get along with him better if they did not look him in the eye because he did not like women to do so. Hospital management discussed his behavior and speculated that his bad treatment of women might be due to his culture's view of women. However, nothing was ever done to curb his behavior until Kopp filed a formal complaint.

In response to Kopp's complaint, management attempted to schedule a meeting between Kopp and the doctor to allow the doctor to apologize. Kopp preferred to handle the situation through administrative channels, but when she expressed this desire to the hospital's medical staff president, he raised his voice to her, thumped her on the chest and only left her alone when her supervisor stepped between them.

The hospital decided to require the doctor to take two weeks off in response to Kopp's complaint. However, no one from the hospital actually followed up to see whether he

took the time off, nor did it investigate the confrontation between the medical staff president and Kopp. Kopp was transferred to another campus, where she had less responsibility so that she would not come into contact with the doctor. Based upon these facts, the Eighth Circuit found that the doctor's abusive treatment of women was more frequent and severe than that involving men, allowing Kopp to state a claim for gender harassment.

Herman v. Western Financial Corp., 64 DLR A-1 (Ka 1994). The Kansas Supreme Court held that plaintiff had failed to establish a hostile work environment under Title VII when she claimed she had to work harder because her male supervisor was preoccupied by an affair with a female co-worker. Plaintiff's supervisor was described by plaintiff as a "social person" who at one time allegedly made advances towards plaintiff which she successfully rebuffed. Thereafter, the supervisor began an affair with another employee. Plaintiff claimed that the affair coupled with the supervisor's heavy drinking constituted a hostile work environment.

The court rejected plaintiff's claims and cited Justice Ginsburg's concurring opinion in Harris v. Forklift, which recognized the critical issue in determining what constituted an hostile environment as whether members of one sex have been exposed to disadvantageous terms or conditions of employment to which members of the other sex were not exposed. Under this standard, plaintiff had failed to establish a claim because the alleged affair affected all employees regardless of gender. On appeal, in an effort to show gender-based discrimination, plaintiff pointed out that, as a result of the affair, five female employees had terminated their employment but no men. The court found that not only did plaintiff's claim sound in disparate impact rather than disparate treatment, but also plaintiff's theory as to why these women left was too far removed from sexual harassment to be actionable under Title VII. Although disadvantageous conditions were created by the affair, they did not rise to the level actionable on gender discrimination under Title VII.

Weiss v. Coca-Cola Bottling Co., 990 F2d 333 (7th Cir 1993). The Seventh Circuit found a female plaintiff was discharged for legitimate performance failures, despite testimony that her supervisor had asked her out on dates, called her a "dumb blond," put his hand on her shoulder several times, placed "I love you" signs in her work area, and attempted to kiss her more than once. The court held the incidents simply were not sufficiently severe or pervasive to alter the conditions of employment.

Burns v. McGregor Electronic Industries, Inc., 989 F2d 959 (8th Cir 1993). Plaintiff posed nude for two motorcycle magazines, following which her employer allegedly made sexual advances to her. The district court found for the employer on the basis that sexual advances could not have been unwelcome, because she posed nude, her appearance on the stand and her dress. The district court concluded that she had not established that the sexual harassment was offensive enough to force her to quit. The Eighth Circuit directed that judgment be entered for plaintiff, endorsing the "reasonable woman" standard. The circuit court found the trial court erred in concluding that the nude photos undermined the credibility of her

assertion that the sexual advances were offensive, reasoning that her decision to pose for a nude magazine away from the workplace is not material to whether she found work-related conduct offensive. Since plaintiff did not engage in any provocative or suggestive acts at work, her private life did not mean that she acquiesced "to unwanted sexual advances at her workplace by her employer."

Cortes v. Maxus Exploration Co., 977 F2d 195 (5th Cir 1992). The employee was sexually harassed in 1980-1982 by a supervisor. She was transferred away but ordered in 1986 to return to the same department over her objection. She tape-recorded two conversations with the human resources official who refused to do anything despite her pleas. The Fifth Circuit affirmed the lower court's holding of constructive discharge, holding that the evidence from 1980-1982 was properly admitted as background. In this case, the court relied heavily on the company's total failure to discipline the supervisor.

Landgraf v. USI Film Products, 968 F2d 427 (5th Cir 1992), cert granted in part 113 S Ct 1250 (1993). The employer properly responded to complaint of sexual harassment by giving the harasser the most serious form of reprimand and acting to reduce his workplace contact with the victim. Since this was the first documented offense and Title VII does not require an employer to use the most serious sanction available to punish a harasser, the victim's resignation following the employer's action was not constructive discharge. A reasonable employee would not have felt compelled to resign immediately following the employer's institution of measures that were reasonably calculated to stop sexual harassment.

Chrysler Motors Corp. v. International Union, Allied Industrial Workers of America, 959 F2d 685 (7th Cir 1992). An arbitrator reinstated a worker who engaged in physical sexual harassment against co-workers. The reinstatement was found not to violate public policy. Here, the offender was talking on the telephone, put it down, approached female a co-worker from behind, grabbed her breasts, returned to the phone and said, "Yes, they're real." He was discharged, but the arbitrator reduced it to a suspension of 30 days. The company reinstated the employee, paid him \$47.50 for a days' work, and promptly fired him for other incidents of sexual harassment which had come to light during its investigation. The Seventh Circuit denied the union's motion to hold the employer in contempt for failing to reinstate him.

Intelekofer v. Turnage, 973 F2d 773 (9th Cir 1992). The Ninth Circuit Court of Appeal recently overturned a trial court's judgment in favor of an employer, finding that the employer failed to act promptly and reasonably in responding to plaintiff's complaints of sexual harassment. Plaintiff and the harasser had been involved in a sexual relationship, which ceased prior to 1987. Beginning in April 1987, and continuing through July 1988, plaintiff filed 16 complaints with her employer which detailed specific incidents of sexual harassment by her former boyfriend. These incidents ranged from touching, suggestions and pressure on plaintiff

to enter into an unwanted relationship. The harasser also monitored her telephone calls, informing callers that she was busy and hanging up, threw keys at her, threatened her and drew obscene pictures on her locker.

The employer first became aware of the problem after the first report was filed in April 1987. Plaintiff's supervisor met with her and discussed the report. Subsequently, the supervisor met with the harasser, informed him of the behavior plaintiff had described, told him the behavior was inappropriate and told him that it must stop immediately. The supervisor also told the harasser that if there were any additional complaints a more severe disciplinary measure would be required.

Fifteen more complaints followed. However, the employer never did anything more serious to the harasser than changing plaintiff's and the harasser's work schedules so they would not be in contact with each other. Even after the in-house equal employment opportunity counselor concluded that the harasser was sexually harassing plaintiff, the employer refused to order him to seek professional counseling -- the most minimal of disciplinary measures. Although the employer spent a great deal of time attempting to get the harasser to cease his behavior, none of the employer's actions actually had the effect of making him stop. The Court of Appeals emphasized that an employer who fails to take "even the mildest form" of disciplinary action fails to satisfy Title VII. The court did point out that disciplinary action can range from counseling sessions to more serious and punitive measures, as long as the harassment stops. If the harasser fails to respond to the increased severity of discipline, the employer must be ready to impose more harsh disciplinary measures.

Cronin v. United Service Stations, 809 F Supp 922 (DC Ala 1992). The U.S. District Court for the District of Alabama ruled that an employer was liable for sexual harassment committed by a male assistant manager against his female manager. The assistant manager verbally abused the manager, made sexual advances and harassed her when she was trying to work. Ultimately, he attempted to physically assault her in a parking lot. When the manager fired the assistant manager, the employer intervened and transferred the assistant manager to another store. Three weeks later the employer told the manager that the assistant manager would be returning to work for her. She resigned on the spot.

Even though the assistant manager was a subordinate of the manager, the court found that the manager had experienced unlawful sexual harassment. The court recognized that although the status of the harasser as a subordinate is "relevant" in determining whether the harasser has created a hostile environment, the status is not controlling. This case illustrates the point that harassment brought to the employer's attention must be stopped because the employer's inaction or acquiescence can help foster or perpetuate the hostile environment.

Ellison v. Brady, 924 F2d 872 (9th Cir 1991). The Court of Appeals for the Ninth Circuit held that alleged sexual harassment must be judged under a "reasonable woman" -- as opposed to a "reasonable person" -- standard. Plaintiff, a female Internal Revenue Service

employee working in San Mateo, California, found herself being pursued romantically by a male co-worker. The co-worker asked plaintiff out for drinks and to lunch, but she refused his invitations. The co-worker then expressed his affections for her on a telephone message slip and in a three-page letter. After receiving the letter, plaintiff complained to her supervisor, who warned the co-worker to stay away from plaintiff.

When the co-worker continued to express his affections, plaintiff filed a formal internal complaint of sexual harassment, which was rejected as unfounded. Plaintiff then filed suit for sexual harassment in federal district court. The court dismissed plaintiff's complaint, finding that the co-worker's conduct was "isolated and genuinely trivial."

The Ninth Circuit reversed the district court's decision. The court first explained the well-settled rule that sexual conduct which unreasonably interferes with an individual's work performance or creates an intimidating or offensive work environment can constitute unlawful sexual harassment. The court then explained that in considering the severity and pervasiveness of the alleged sexual harassment, a court must focus on the victim's perspective and must consider the "different perspectives" between men and women regarding sexual conduct. In other words, sexual harassment must be viewed from the perspective of a "reasonable woman," rather than a "reasonable person." The court found the "reasonable person" standard inappropriate because the standard is "biased" in favor of the male perspective and "[c]onduct that many men consider unobjectionable may offend many women."

The court emphasized that under the reasonable woman standard, completely innocent conduct such as "well-intentioned compliments" constitutes sexual harassment if the conduct would be offensive to a reasonable woman. Applying the standard to the case before it, the court found that while the co-worker "could be portrayed as a modern-day Cyrano de Bergerac wishing no more than to woo" plaintiff, her reaction of "shock" and "fright" was reasonable from a woman's perspective.

Woods v. Graphic Communications, 925 F2d 1195 (9th Cir 1991). In another "reasonable victim" case, the Ninth Circuit held that a victim of racial harassment need only prove that conduct is regarded as offensive by the employee. The court held that intent to "harass" is not required because the relevant viewpoint is that of the victim. The court cited Glasgow v. Georgia-Pacific Corp., 103 Wn2d 401 (1985) for this proposition; however, Glasgow is a sex discrimination case, not a race discrimination case. It is interesting that the Ninth Circuit seems willing to depart from the underlying reasoning in Ellison v. Brady to apply the reasonable victim perspective even in a race discrimination case. In Ellison v. Brady, supra, the Ninth Circuit based its holding that the "reasonable victim" perspective must be used because of the special situation of women insofar as sexual occurrences are concerned.

Nichols v. Frank, 771 F Supp 1075 (D Or 1991). The U.S. District Court for the District of Oregon held an employer liable for sexual harassment committed by a supervisor where the harassed employee was afraid to come forward to complain about the harassment.

According to the employee, the supervisor repeatedly coerced her into sexual conduct at her work site. The supervisor was the highest ranking employee routinely present at the workplace on that shift and had general supervisory authority over the employee. In addition, the employee communicated primarily through American Sign Language ("ASL"), and the only other person on her shift who communicated fluently was the supervisor who was harassing her. The employee claimed that she complied with the supervisor's sexual advances because she was afraid she would lose her job and that no one would believe her complaints. The court found that the supervisor's conduct created an unlawful hostile environment and, in light of his power over the employee, found that the harassment occurred within the scope of his employment. Employers should learn from this case that employees must have confidence that their complaints of sexual harassment will be taken seriously. In addition, employers should supply employees with the means to make an "end run" around the immediate supervisor.

Robinson v. Jacksonville Shipyards, Inc., 760 F Supp 1486 (MD Fla 1991). In this case, pictures of nude and partially nude women were displayed throughout the workplace, leading the judge to conclude that women employees were viewed as sexual objects and were subjected to a hostile environment by their male co-workers and supervisors.

Sparks v. Regional Medical Center Board, 792 F Supp 735 (ND Ala 1992). This is another case where the employer did everything right. Once plaintiff complained of sexual harassment, the employer's managers conducted an immediate investigation. They met with the harassing party, a doctor, within six days. They gave him an oral warning that harassment and retaliation would not be tolerated, and they removed him from any direct supervision over personnel issues which would concern plaintiff or her co-workers. After issuing the oral warning, the employer met with plaintiff and her co-workers to inform them of the action taken, and adjusted plaintiff's work schedule so she would not have to work directly and personally with the doctor.

Although the doctor tried to retaliate, the hospital personnel director thwarted him at every turn. The doctor was warned in writing that any act of retaliation would result in the immediate termination of his contract with the hospital. The employer wrote to plaintiff to inform her about the meeting and the doctor's agreement to cease all retaliatory efforts, and asked her to return to work in another week. Plaintiff did not return to work, but rather wrote a letter to her attorney expressing concern about the doctor and her interaction with him. The hospital offered to transfer plaintiff to another position that she had formerly held, at the same pay and shift, so that she would not be working directly with the doctor. However, they required a decision within two days. Plaintiff countered by asking for a transfer to a different floor. When the hospital refused, plaintiff sued, claiming that a refusal to transfer was a constructive discharge. The court disagreed. The court held that the hospital took extremely strong measures to stop harassment and retaliation and that a return to either of the positions offered to plaintiff would not have compelled a reasonable person to resign. The court went on

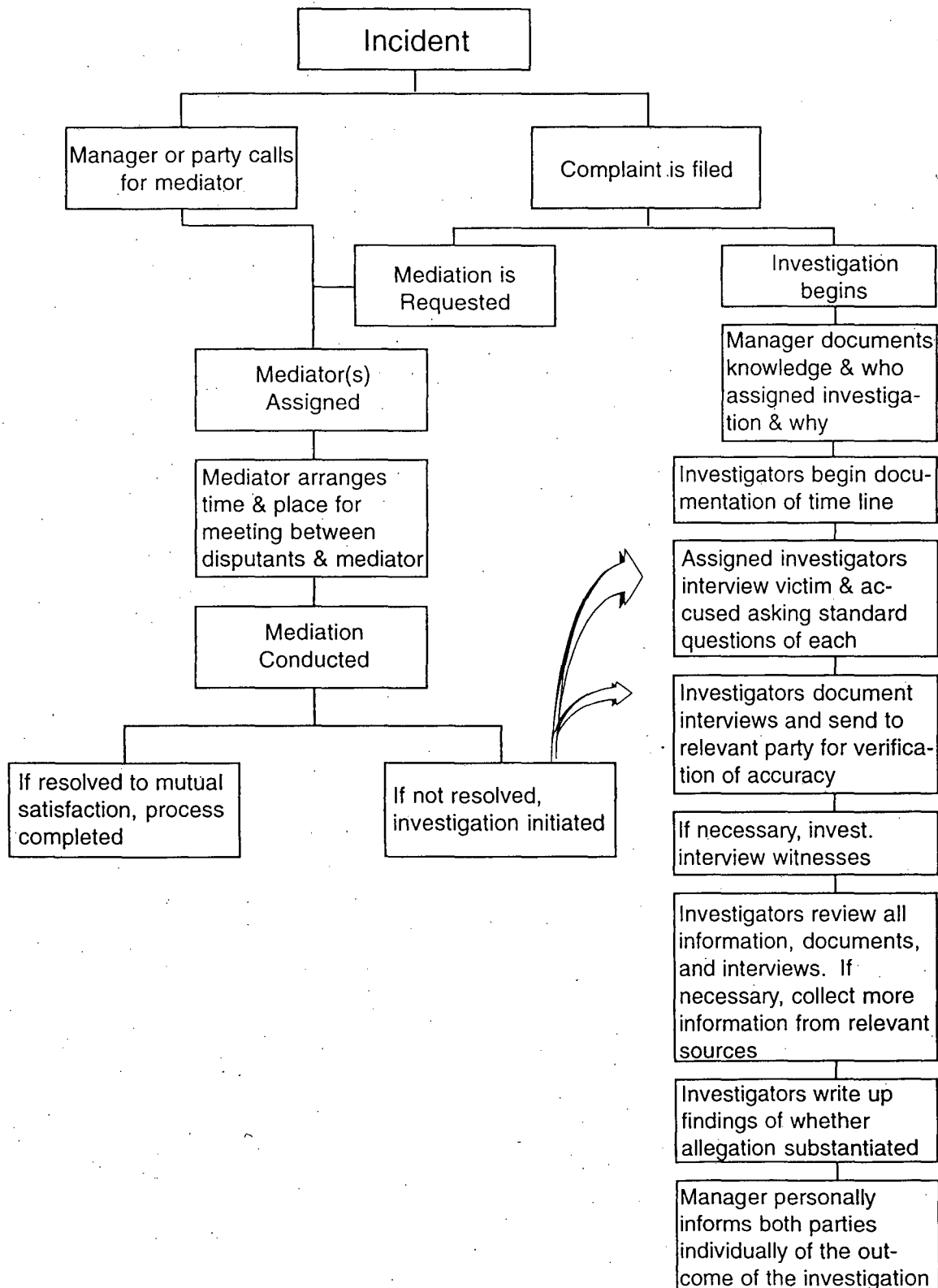
to say that plaintiff should have given the measures a chance to work and that transfer was not the only appropriate remedy. The court stated that plaintiff was not entitled to her version of perfection.

Kotcher v. Rosa & Sullivan Appliance, 957 F2d 59 (2nd Cir 1992). This is an example of a wrong response to a complaint of sexual harassment. In this case, the court of Appeals felt that the employer's response to plaintiff's sexual harassment complaint may have been a sham. Although the employer demoted and transferred the alleged harasser after receiving the complaint from plaintiff, he was reinstated to his former position immediately after plaintiff left her employment, in circumstances which made it unclear whether she quit or was fired. The court held that these circumstances tended to show that the employer tolerated harassing conduct, and that summary judgment was inappropriate in this situation.

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Mediation and Investigation Flow Chart

There are two procedural routes a manager can take in handling a harassment incident. One is mediation; the other is investigation. As mentioned earlier, mediation gives the parties an opportunity to work out their dispute themselves in a win-win solution; investigation analyzes all the facts and determines who was right or wrong. To use trained mediators, contact the Affirmative Action Office for a list of in-house or outside mediators.



MANAGEMENT'S MISTAKES

These are common mistakes that some management personnel have made when dealing with sexual harassment situations:

- ☐ Management does not consult with the internal resource person/department before taking action and/or when it is aware of actual or potential sexual harassment situations.
- ☐ Management dissuades the alleged recipient from complaining about her/his sexual harassment situation.
- ☐ Management overreacts by taking action before the investigation is completed.
- ☐ Management does not tell the alleged harasser the specific allegations.
- ☐ Management does not provide the alleged harasser an opportunity to respond to each allegation.
- ☐ Management interferes with the investigation.
- ☐ Management lets preconceived beliefs and prejudices negatively influence the investigation process.
- ☐ Management believes that, because its workplace is naturally sexual, the woman/man who finds that behavior to be unwelcome is going to have to put up with it in order to continue working there.
- ☐ Management resents the complaint and/or sees it as a nuisance.
- ☐ Management doesn't take it seriously.
- ☐ Management doesn't take action unless a complaint is received.

Summary

When management personnel initially deal effectively with a sexual harassment complaint, they will usually facilitate a quick and informal resolution of that complaint and therefore dramatically reduce the employer's and their own potential liability.

MANAGEMENT DOES NOT TAKE ACTION

These are reasons that some management personnel do not take action to resolve sexual harassment situations when they are aware of them:

- ☐ If I ignore it, it will stop by itself.
- ☐ I engage in similar behavior, so how can I tell another person to stop?
- ☐ It is embarrassing to talk about.
- ☐ I don't like conflict.
- ☐ I could make the situation worse by dealing with it.
- ☐ If the alleged harasser is an executive level manager, I could hurt my career if I did anything.
- ☐ It is not serious.
- ☐ I want to be liked.
- ☐ Production could go down.
- ☐ The harasser is about to retire.
- ☐ The recipient asks me to do nothing.

Important

None of these reasons protects management personnel from legal liability if they did not take action to deal with the sexual harassment situations they know or should have known about.

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Conference Report

Conducting an Effective Investigation Lessens Legal Liability

Allegations of sexual harassment, discrimination, drug use, or theft in the workplace can create nightmares for human resources professionals. Aside from the negative effects on productivity and morale, mishandling an investigation can expose employers to liability for thousands of dollars in damages, in addition to huge legal fees.

By developing an effective internal investigation procedure, the HR department can resolve allegations quickly and effectively, and create a record that protects the company from employment discrimination charges, according to Richard Curiale, a partner in the San Francisco law office of McKenna and Cuneo.

At a recent Washington, D.C., conference sponsored by the Society for Human Resources Management, Curiale and Douglas Mishkin, who served on President Clinton's Transition Team for the Equal Employment Opportunity Commission and is currently of counsel in McKenna and Cuneo's Washington office, explained the steps HR professionals should take when an allegation of workplace misconduct lands on their desks.

What's at stake. Any time an allegation is made, there is potential for a lawsuit, from either the accuser or the accused. It is important to realize, Curiale said, that "at the end of the investigation, generally someone will be unhappy." But whether the unhappy party is an accuser who feels the accused was not properly reprimanded, or an accused who resents having been investigated and disciplined or discharged, the record from a properly conducted investigation can protect employers.

Once an allegation is received, the law requires employers to conduct a

good-faith investigation and arrive at a reasonable conclusion based on that investigation. This standard does not require perfection — according to Curiale, the conclusion drawn from the investigation doesn't have to be "right," just reasonable. "Don't be afraid to be wrong," he cautions, "or you will never be able to conduct an effective investigation."

The first step. When employees first come to HR with a complaint, it is critical that they receive a proper response. In the initial meeting, it is important to listen intensely to what the employee is saying. Do not take the complaint at face value, Mishkin advises, but instead ask questions to make sure the real problem is identified. For example, Mishkin said, a female employee who complains about a poor performance review may actually have a sexual harassment complaint.

As the problem is discussed, a threshold determination can be made about how formal the investigation needs to be. Some minor complaints can be resolved informally, while others, such as sexual harassment, require a full-blown, formal investigation. Even as this determination is being made, however, recognize that as more facts are learned, the investigation may become more formalized.

Any employee bringing a complaint must have confidence in the investigation and the investigator. Ask the employee "Is there any reason why you feel I cannot be fair and objective?" Mishkin advises. If there is any circumstance that could later be used to question objectivity—such as a social relationship with the accused—get that out in the open "up front." In most cases, Mishkin says, the person will not view the circumstance as

Is an Investigation Needed?

Not every employee complaint will require an investigation. Complaints that stem from a simple misunderstanding of company policies or guidelines can be resolved quickly and efficiently in an informal manner. To determine if an investigation is needed, Curiale and Mishkin advise asking yourself the following questions:

- Is there a fairly simple answer to the complaint, or does a more complex problem need to be solved?
- Are other employees affected, in addition to the complaining employee?
- Does the complaint involve a single incident, or a pattern of conduct?
- How important is the issue raised by the complaint?
- Do I need more facts than the employee can give me to resolve this issue?
- Do I need to consult with others who have special expertise to resolve this issue?

If the issue cannot be resolved without obtaining information from other sources, a formal investigation is probably needed.

Before the investigation begins, examine all company policies and guidelines to see if they apply to the situation. This includes not only the company personnel manual, but also any ethics brochures, finance manuals, security guidelines, and benefits handbooks the company has issued.

compromising. If he or she does, the time to learn of the objection is at the outset, when another person in the office can be assigned to investigate the complaint. A complainant who knows about such circumstances in the beginning and does not object at that time cannot raise the circumstances later in court to attack the reasonableness of the investigation, Curiale said.

Interviewing the complaining employee. Once the issues have been identified and the employee has confidence in the process, the real interview can begin. Ask short, open-ended questions based on the five Ws of journalism — who, what, where, when, and why. Avoid questions that require a conclusion by the employee, or leading questions that suggest their own answers. The employee should be doing most of the talking, Mishkin said. "If you're talking, the likelihood is you're not getting the information."

Before the employee leaves the interview, ask if there is anything else he or she would like to discuss or any information that has not come up that he or she feels you should know. Thank the employee for bringing the matter to your attention and explain the company's policy against retaliation. Tell the employee that if an investigation will be made, he or she will be told who the investigator is. Stress that information about the investigation will be revealed only to persons within the company who have a legitimate "need to know," and ask the employee not to discuss the matter with co-workers.

Getting the Facts

Among the questions that should be answered before an interview with an employee ends are:

- Was the employee's ability to work affected? How?
- Were there any witnesses? Who?
- Have similar incidents occurred before? When?
- Are there any written records — diaries, expense reports, personnel file memos?
- Has the employee discussed the matter with anyone else in the company?
- Do other employees have the same concern or a similar one?

According to Mishkin and Curiale, encouraging the employee to provide a written summary, including the actual or approximate dates events occurred and the names of any witnesses, is also an excellent idea. This exercise will require the employee to focus on the events, and will help trigger his or her memory in ways an oral interview cannot.

The Reluctant Complainant

The employee who comes forward with a complaint, but doesn't want any remedial action taken, can present a dilemma for employers. In some instances, such as complaints of sexual harassment, the company must take action or face legal liability.

Mishkin advises against making blanket promises of confidentiality for just this reason. Instead, he says, promise the employee that the matter will be handled with sensitivity and as much confidentiality as possible.

In cases where the employer will not be held liable, the reasonableness standard used by the courts may help resolve the dilemma. A reasonable response is likely to be much more limited if the complaining employee refuses to cooperate than if he or she agrees to provide as much information as possible for the investigation.

Making a record. After every interview, a memorandum to the investigation file should be written. This memo will memorialize all of the issues and facts raised in the interview. Notes made during the interview may be used to create this memo, but should never serve as a substitute for it. Interview notes are too cursory and open to interpretation by others, according to Mishkin.

A memo to the complaining employee also should be written. This memo must identify the issue or issues raised and the facts provided by the employee that support the allegations. Most importantly, the memo should ask the employee to confirm that these are the issues and facts discussed, or to add or clarify anything that was omitted or misinterpreted in the memo. Keep the employee's revisions in the file and incorporate them into the memo. When the memo is in final form, ask the employee to sign and date the memo and return a copy to you, as a way of ensuring that the company fully understands the complaint.

This memo also should identify the person who will be conducting the investigation, and provide a "roadmap" for that investigation. Restate the company's expectations for the employee's own role in the investigation — cooperating with the investigator, maintaining the confidentiality of the investigation, and so forth.

The next issue of Fair Employment Practices Update will continue Curiale and Mishkin's suggestions for conducting investigations in the workplace, including what interim actions to take, how to interview witnesses, and how to arrive at a conclusion.

HOW TO CONDUCT AN EFFECTIVE INVESTIGATION

It is the supervisor's obligation to promote a supportive atmosphere in which an alleged discriminated or harassed employee feels safe in speaking out. It is extremely important to ensure that the complaint is not made to the same person involved in the incident. More than one person should be designated to receive complaints. It is to the employer's advantage that the complainant, and the subject of the complaint, feel comfortable with the investigation process.

EFFECTIVE INVESTIGATION TIPS

For an investigation to be most effective, several factors should be taken into account: (see also Kathy Peck's article in the Appendix.)

A. Who will Conduct the Investigation

1. Team. Most investigations are effective when performed by a team representative of the various parties. For example, in a sexual harassment complaint involving a woman and a man, a female/male investigation team would allow both the parties to feel they are being heard. Most complainants talk more freely with a person of their own gender or race or cultural background, even if there is another person present.
2. Availability. The investigators need to be available to interview the parties and witnesses quickly and for an indefinite period of time until the investigation is completed. An investigator who does not have the time to immediately investigate a complaint, and puts it off for even a day or two, can exacerbate an already sensitive situation. Having a list of possible experienced investigators and checking their availability prior to assigning the case may alleviate this difficulty.
3. Neutrality. The investigators must be objective and neutral. If there is any conflict of interest, or even a perception that there is bias, the investigatory process and conclusion becomes suspect. They must have a clean record themselves.
4. Knowledgeable. The investigators must understand what constitutes discrimination and/or harassment, and know the legal definition of each.
5. Discriminating. The investigators must be able to separate reliable evidence from rumor and hearsay, and be able to make good recommendations.
6. Excellent listener. The investigators must be easy to talk to and able to create a comfortable and relaxed atmosphere for the witnesses.

B. Pre-Investigation Actions to Consider Taking

1. Consider immediately separating complainant and alleged harasser, pending investigation. If separation does occur, do not move complainant.

2. Notify the subject of the complaint not to discuss complaint, investigation, or related matters with victim or others. Confirm notification in writing.
3. Notify the subject of the complaint, complainant, and other witnesses of non-retaliation policy, and how it applies to all employees. Confirm notification in writing.
4. Notify complainant and all others who cooperate in investigation of obligation to immediately report retaliation to investigators. Confirm notification in writing.

C. General Tips on Interviewing Witnesses

1. Document interviews through taping or notes. Verify accuracy with witness.
2. Begin each interview by establishing definition of "sexual harassment," "racial discrimination," etc., as appropriate.
3. Separate first-hand knowledge from rumor and hearsay.
4. Develop and use an effective interviewing style which creates a tone and climate that makes people feel comfortable.
5. Recognize value of silence.
6. Do not over-promise confidentiality. Explain to all parties involved that complete confidentiality cannot be guaranteed. Try, however, to prevent the incident from becoming a subject of gossip.
7. Intersperse questions to which not getting a straight answer. Ask question again later.
8. Do not offer premature opinions on merit of claim to anyone.
9. No group interviews.
10. Be prepared for "hostile" witnesses. Ask them why they do not want to cooperate. Document policy and attempts made, especially with a potential victim.

INVESTIGATION STEPS

Steps	Actions
1.	<p>Upon knowledge of a possible harassment incident, the manager/supervisor should call the AA Office to inform them of the situation. Be prepared to answer the following questions:</p> <ul style="list-style-type: none"> • What is the name of your bureau or department? • What is your name? • What is the incident? • Who are the people involved? • What have you done to date? • When did you find out about the incident, and how? • Who is going to handle the complaint? (You, the EEO Representative, or the Affirmative Action Office)
2.	<p>The manager/supervisor must either:</p> <ul style="list-style-type: none"> (a) Forward the complaint to the City/County Affirmative Action Officer; (b) Refer the complaint to the Department's EEO Representative; or (c) Investigate immediately;
3.	<p>If the manager/supervisor elects to investigate and resolve the complaint, or direct it to an EEO Representative, the action must be completed within ten (10) working days of receipt of the complaint. The manager/supervisor or EEO Representative will:</p> <ul style="list-style-type: none"> (a) Investigate the complaint utilizing Investigation Questions on pages 8-9. (b) Document the investigation and resolution efforts. (c) Before providing resolution to the employee, contact the City/County Affirmative Action Officer. (d) Follow up with complainant to explain resolution.

INVESTIGATION QUESTIONS AND POINTS

The investigation team should ask the following questions and document both the questions and responses.

COMPLAINANT

INTERVIEW QUESTIONS

1. From the Complainant's view, what action caused the complaint?
 - A. What date and time?
 - B. Who was there when it happened?
 - C. Was there something that seemed to "cause" the incident to happen at that place and time?
 - D. What was said and done?
 - E. What did other people who were there say or do?
 - F. What did the Complainant do?
 - G. How did the incident end?
2. From the Complainant's view, what happened before this incident between the Complainant and the person(s) about whom the complain is made?
3. From the Complainant's view, what happened after this incident between the Complainant and the person(s) about whom the complaint is made?
4. Which supervisors or managers saw the incident or any of the earlier or later events? What did they see?
5. Which coworkers saw the incident or any of the earlier or later events? What did they see?
6. From the Complainant's view, why does the complaint believe that (race, sex, age, etc.) was involved?
7. Did the Complainant or anyone else write anything at the time of the incident?
8. Did the Complainant notify anyone at the time of the incident?
9. What does the Complainant want to happen now?
10. Has Complainant's work been affected by the alleged discrimination?
11. Has Complainant's relationship with the supervisor or co-workers been affected by the alleged discrimination?

Investigators assure the employee that discrimination and harassment are against the City's or County's policy and the incident(s) will be investigated and tells the complainant to immediately report any retaliation.

Points to Consider with Complainant

- ☐ How a manager/supervisor initially receives a complaint can either encourage or discourage the informal resolution of that alleged incident.
- ☐ Encourage the alleged recipient to talk specifically about what happened.
- ☐ Don't make assumptions about what the employee means. Ask the employee, "Is there anything else that the person has done that we've not talked about?" Get all the facts.
- ☐ Remind complainants to not discuss the charge with anyone other than investigators, i.e., they are not to answer questions from the charging party or other employees, are not to debate the merits, are not to discuss the case with outsider (relatives, friends, the press, etc.), and most certainly are not to attempt to "explain" their past conduct.
- ☐ Managers/supervisors should meet with the complainant after the investigation is concluded. Explain how the complaint was handled. Document that the complainant was advised of the remedial measures taken, and why. The manager/supervisor should also again inform the complainant that any further discrimination, harassment, or retaliation for the original complaint, should immediately be reported. Retaliation for filing a complaint is unacceptable and counter to policy.

INVESTIGATION QUESTIONS AND POINTS

THE SUBJECT OF THE COMPLAINT

Interview Questions

1. From the subject of the complaint's view, what happened?
 - A. What date and time?
 - B. Who was there when it happened?
 - C. Was there something that seemed to "cause" the incident to happen at that place and time?
 - D. What was said or done?
 - E. What did other people who were there say or do?
 - F. What did the alleged harasser/discriminator do?
 - G. How did the incident end?
2. From the subject of the complaint's view, what happened before this incident between the Complainant and the alleged harasser/discriminator?
3. From the subject of the complaint's view, what happened after this incident between the Complainant and the alleged harasser/discriminator?
4. Which supervisors or managers saw the incident or any of the earlier or later events? What did they see?
5. Which coworkers saw the incident? What did they see?

Points to Consider with Subject of Complaint:

- ☐ Be serious and to the point. Begin with, "The purpose of this meeting is to talk about an allegation of discrimination or harassment." Focus on the specifics of the charge. Describe what behavior or statements have been alleged.
- ☐ Do not initially reveal the identity of the person who brought the complaint. Instead, describe the circumstances surrounding the complaint. For example, "Did you touch the back of a person who was standing by the water fountain around ten this morning?"
- ☐ Be unbiased.
- ☐ Stay on the topic.
- ☐ Ask the person to respond to each allegation separately.
- ☐ If the person admits to the behavior, tell the person that the behavior must stop.
- ☐ When dealing with the subject of the complaint who denies the allegation, explain that you have two sides of the story and that you will be doing additional fact finding before making a determination.

If You Talk with Witnesses, Points to Consider:

- ☐ Do not initially identify the alleged recipient or the subject of the charge. Say to the witness, "Your name has been given to us as a person who may have observed an interaction between employees, and we'd like to talk to you about your observations."
- ☐ Do not ask leading questions that give the expected answer.
- ☐ Describe the situation and circumstances of the alleged charge. For example, "Were you in the hallway by the water fountain this morning?"
- ☐ Focus on the witnesses' observations, not assumptions or opinions about the personalities, of the people involved in the allegation.
- ☐ When dealing with any discrimination/harassment situation, talk in private to maintain confidentiality. Also, conduct fact finding in a timely manner. It should take no more than three to five days to talk with the major parties involved in the allegation.

Miscellaneous Questions to be Considered:

1. Have there been other complaints of a similar nature about the person(s) now being complained about?
2. Have there been other complaints of any kind about the person(s) now being complained about?
3. Are there policies that address the issues in the complaint? What do those policies require the manager/supervisor to do?
4. Do employees know about these policies? How do they know?
5. Have there been prior complaints by this Complainant about other people?

General Principles for Investigating Discrimination/Harassment Complaints

1. Employers lose discrimination/harassment cases because they fail to investigate the complaint promptly and/or thoroughly.
2. Every complaint should be treated seriously and investigated.
3. Discrimination/harassment complaints -- and investigations -- involve the potential for injury to the reputations and employment opportunities of the charged person(s) and the complainant. Thus, discretion is essential.
4. No complaint should be dismissed unless it has been clearly shown to be without merit -- and an employer must take immediate and appropriate action against any employee who has been found to sexually and/or racially harass or discriminate against another person.

COMPLAINT PROCEDURE¹

Individuals covered by these procedures include any person who is visiting on property operated under Multnomah County, recipient of services provided by Multnomah County, and all persons who are employees of the County or applicants for employment.

¹A department/office process of complaint investigation may vary from those contained in this section. However, all departments/offices will ensure a fair and thorough investigation of all discrimination complaints.

MULTNOMAH COUNTY PROHIBITED DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

General:

There are two types of complaints - internal and external. Former employees, current employees and applicants for employment may make use of both internal and external complaint procedures. Internal complaints are complaints filed with the Affirmative Action Office on a formal complaint form. External complaints are those filed with an outside enforcement agency or the courts. No procedures discussed herein are intended to create any private right of action on behalf of any person, nor alter any substantive rights held by any person. Furthermore, nothing in these procedures create a right of action against the County for following or not following these procedures. The establishment of County internal procedures does not diminish the rights of any person to file a formal union grievance, or a formal complaint with a state or federal agency. However, a complaint will not receive parallel review under the County's internal complaint resolution procedure while it is pending before an external body, unless the issue is of a systemic nature.

Definition of Discrimination or Harassment for Internal Complaint Resolution

- A. Discriminatory or harassing conduct includes: (1) verbal discrimination or harassment, (e.g., epithets, derogatory comments or slurs); (2) acts of physical intimidation, (e.g., assault, impeding or blocking movement, physical interference with normal work); and (3) visual intimidation, (e.g., through posting of derogatory posters, cartoons or drawings, etc.)
- B. Factors to be taken into account in evaluating complaints of discrimination or harassment include whether the alleged conduct: (1) has the purpose or effect of creating an intimidating, hostile, or offensive environment; and (2) is sufficiently pervasive so as to alter the conditions of employment or terms of services; and (3) is severe and persistent, and affects the psychological well-being of an employee or applicant.

How to File an Internal Complaint:

1. Any individual who feels he/she has been the victim of prohibited discrimination or harassment should attempt to indicate to the responsible person(s) the inappropriateness of their conduct.
2. An employee should also discuss such concerns with his/her immediate supervisor. This will provide the supervisor with an opportunity to review the concerns of the individual. In many instances, the supervisor will be able to develop a swift, informal, and satisfactory resolution of the problem.

3. If the employee does not feel comfortable discussing the ~~concerns~~ with an immediate supervisor, the employee may contact either the bureau EEO Representative or the City/County Affirmative Action Office. (Former employees or applicants for employment should contact the City/County Affirmative Action Office.)
4. For individuals filing a complaint with the Affirmative Action Office, complaints must be filed on a formal complaint form used by the Office. Department or Division investigation request must be forwarded by memorandum to the Office in order for an investigation to be conducted.
5. A bureau EEO Representative or the City/County Affirmative Action Office will complete the following investigative steps upon receipt of a complaint:
 - a. Investigate the complaint.
 - b. Determine whether there is reason to believe prohibited discrimination or harassment has occurred.
 - c. Attempt informal resolution of the complaint.
 - d. Document the investigation and resolution efforts and communicate the results to the complainant and appropriate management personnel and the accused.
 - e. Where corrective action is considered to be appropriate, communicate that fact to management personnel who will determine the appropriate corrective or disciplinary action in accordance with County personnel rules, disciplinary rules, or applicable collective bargaining agreement.
 - f. Consistent with applicable rules and collective bargaining agreements, in determining the appropriate corrective action a responsible manager will consider, inter alia:
 - the severity of the conduct,
 - nature of the action,
 - position/authority of the perpetrator,
 - number/frequency of encounters,
 - apparent intent of the perpetrator,

- relationship of the parties,
- provocation/response of complainant,
- effect of action on complainant, and
- effect of action on the work environment.

External Discrimination Complaints

- A. An external discrimination complaint is defined as any complaint of discrimination that is filed with a court or a state or federal enforcement agency.
- B. External discrimination complaints are handled by the Office of County Counsel. Any employee who receives a copy of notice of an external discrimination complaint shall immediately forward that complaint to the Office of County Counsel. The County Counsel will ensure that the City/County Affirmative Action Office and the department involved are apprised of the filing of the complaint.
- C. No parallel investigation of such complaints will be conducted by any person or entity without prior consultation with the Office of County Counsel in order to enable a coherent investigation to occur and maintain attorney-client privilege. No statements, oral or written, should be made in reference to the complaint without prior consultation with the Office of County Counsel.

Employee Cooperation

All employees who have knowledge of or information on the issues involved in complaints are expected to cooperate in any authorized investigation.

Retaliation

No retaliation or adverse action in any form shall be taken against any employee or applicant because he/she has filed a complaint or participated in providing information regarding a complaint of unlawful discrimination.

It is unacceptable conduct for any manager to demote, suspend, reduce, fail to hire or consider for hire, fail to give equal consideration in making employment decisions, fail to treat impartially in the context of any recommendations for subsequent employment which the manager may make, adversely affect working conditions or otherwise deny any employment benefit to an individual because that individual has opposed practices prohibited by these procedures or has filed a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing conducted to determine alleged violations to acts declared inappropriate by these procedures, and/or other appropriate regulations.

SEXUAL HARASSMENT POLICY

Multnomah County
Sheriff's Office

MULTNOMAH COUNTY

Sexual Harassment Policy

Multnomah County is dedicated to ensuring that employees work in environments free of "sexual harassment" as defined by federal, state, and/or local laws.

Acts of sexual harassment are serious infractions of public policy and constitute misconduct. Acts of sexual harassment, which are in violation of this policy, constitute just cause for disciplinary action, up to and possibly including dismissal from Multnomah County.

The term "Sexual Harassment" includes any unwelcome sexual advances, requests for sexual favors, or any other verbal or physical behavior of a sexual nature when:

- Submission to the conduct is an explicit or implicit term or condition of employment; and/or
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that person.

Additionally, harassment as defined by this policy includes verbal or physical conduct that denigrates or shows hostility or aversion towards an individual because of gender and that: (i) has the purpose or effect of creating an intimidating, hostile, or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities.

Examples of harassing conduct include, but are not limited to, the following: (i) jokes, slurs, negative stereotyping, or threatening, intimidating, or hostile acts related to gender; (ii) written or graphic or obscene material and/or objects that denigrate or show hostility or aversion towards an individual because of gender, which is placed on walls, bulletin boards, or elsewhere on the premises or circulated in the workplace; and (iii) physical movement of a sexual nature impeding or blocking the physical movement of another person, unwanted touching and/or physical contact, staring or leering, and bodily movements suggestive of sexual activity.

NOTE: Harassing conduct may be challenged even if the complaining employee(s) is not the intended target(s) of the conduct.

Complaint Process:

1. Sexual harassment complaints will be processed in accordance with complaint procedures described in the Affirmative Action Plan (pages 45-48) or as found in Administrative Procedure #AFF-1 of the Administrative Procedures Manual, and as outlined in this section.
2. Sexual harassment complaints may also be filed with the State of Oregon Civil Rights Division, United States Equal Employment Opportunity Commission, or through the Union grievance procedure.

Responsibility of Individual Employees:

Each individual employee has the responsibility to refrain from sexual harassment in the workplace.

The harassing employee will be subject to disciplinary action up to and including discharge in accordance with departmental policy or a bargaining agreement, as appropriate.

Procedures for Filing a Complaint:

An employee who either observes or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the supervisor, Affirmative Action Office, and/or offending employee. It is not necessary for sexual harassment to be directed at the person making the complaint.

The following steps may also be taken: document or record each incident (what was said or done, any witnesses, the date, the time, and the place). Documentation can be strengthened by written records such as letters, notes, memos, and telephone messages.

No one making a complaint will be retaliated against even if a complaint made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

The process for making a complaint about sexual harassment falls into several stages.

- **Direct Communication.** If there is sexually harassing behavior in the workplace, the harassed employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor or the Affirmative Action Office. If the harasser is the immediate supervisor, the problem should be reported to the next level of supervision or the Affirmative Action Office.
- **Formal Written Complaint.** An employee may also report incidents of sexual harassment directly, bypassing internal complaint processes, to the Affirmative Action Office. The Affirmative Action Office will counsel the reporting employee and be available to assist with filing a formal, written complaint. The Office will fully investigate the complaint, and advise the complainant and the alleged harasser of the results of the investigation.

Responsibility of Management/Supervisory Personnel:

Each manager and supervisor is responsible for maintaining the workplace free of sexual harassment. This is accomplished by promoting a professional environment and by dealing with sexual harassment as with all other forms of employee misconduct.

Specifically, a supervisor must address an observed incident of sexual harassment or a complaint with seriousness, take prompt action to investigate it, report it and end it, implement appropriate disciplinary action, and observe strict confidentiality. This also applies to cases where an employee tells the supervisor about behavior considered sexual harassment but does not want to make a formal complaint.

In addition, supervisors must ensure that no retaliation will result against an employee making a sexual harassment complaint. The complaint process is as follows:

1. Any complaint of sexual harassment should receive the immediate attention of the supervisor or manager to whom it is made and should be reported immediately to the Affirmative Action Office.
2. Because of their sensitive nature, complaints of sexual harassment should be investigated with particular care and should remain, to the extent possible, strictly confidential.
3. In no event will information concerning a complaint of sexual harassment be released to third parties or to anyone not involved with the investigation or needing the information. The purpose of this provision is to protect the confidentiality of the employee who files a complaint, to encourage the reporting of any incidents of sexual harassment, and to protect the reputation of any employee wrongfully charged with sexual harassment.
4. Once the complaint has been received, the supervisor or manager must identify the offensive behavior to the accused. If, within 7 days, the situation is not settled between the complainant and the accused or the discriminatory behavior has not ceased, then
5. Initiate a full investigation on the allegations within 14 working days. The investigation will include:
 - testimony of complainant
 - testimony of accused
 - testimony of witness

All testimony will become a matter of written record.

6. The investigation of a complaint shall be completed no later than 35 calendar days from the date the complaint was received alleging harassment.
7. The Affirmative Action Officer may extend the time limit for completing an investigation upon a showing by the investigator that the investigation cannot be completed within five weeks or that there exists compelling reasons for an extension.
8. The complainant and the accused will be notified in writing on the investigatory findings.
9. If the investigation reveals that the complaint is valid, prompt disciplinary action designed to stop the harassment immediately and to prevent its recurrence will be taken.
10. Management will conduct a follow-up session with both parties after seven working days to determine the revised state of the situation. In the event that the situation has improved, the supervisor will document this and close the file. Should this situation revert to discriminatory behavior, then the process will continue from where it left off, namely, to investigate the matter and possibly turn it over to the Affirmative Action Office for investigation and final resolution.

Frivolous Complaints:

False and frivolous charges refer to cases where the accuser is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment. It does not refer to charges made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false and frivolous charge is a severe offense that can itself result in disciplinary action.

A complaint may be considered frivolous only after the investigation is complete, and the evidence indicates:

1. the complainant had no factual basis for alleging harassment; and
2. the complainant intended to unfairly hurt, harm, or damage the reputation of the accused person.

Retaliation Prohibited:

No retaliation or adverse action in any form shall be taken against any employee or applicant because he/she has filed a complaint or participated in providing information regarding a complaint of unlawful sexual harassment.

Harassment/Sexual Harassment Complaint Form:

Upon the adoption of the Affirmative Action Plan, all initial allegations of harassment/sexual harassment, covered under appropriate policies, **must** be recorded on the official "Harassment/Sexual Harassment Complaint Form" developed by the Affirmative Action Office (EEO/H-SH). Any adaptation of the form by Multnomah County units must conform to this format.

Reservation of Rights:

Multnomah County reserves the right to amend this policy and the procedures as outlined at any time; and to take whatever action it deems appropriate and reasonable in response to harassment claims.

Consultation/Investigation:

The Affirmative Action Office is available to counsel complainants, and investigate complaints (Office: 1220 SW Fifth Avenue, Room 104, Portland, OR 97204-1905; telephone (503) 823-4164; FAX (503) 823-4156; County TTD (503) 248-5040).

NOTE: Managers, supervisors, and/or EEO representatives are encouraged to review the video "Handling the Sexual Harassment Complaint," by American Media Incorporated, available in the Affirmative Action Office, prior to investigating a complaint. Informational videos are also available for staff's review and training, and for employees wishing more information on this subject.

N:\DATA\WPCENTER\AAILDRP006



CITY/COUNTY
AFFIRMATIVE ACTION OFFICE

Robert Phillips
Affirmative Action/EEO Officer
1220 S.W. Fifth Avenue, Room 104
Portland, Oregon 97204
(503) 823-4164



HARASSMENT/SEXUAL HARASSMENT COMPLAINT FORM

Name:	(Home #):
Department:	(Work #):
Job Title:	
Immediate Supervisor:	
Basis of the harassment claim:	
1. Who was responsible for the harassment?	
2. Describe the harassment.	
First incident:	
Approximate date, time, and place:	
What was your reaction?	
Did you identify the act as unwelcome?	
List any witnesses to the act:	
Second incident:	
Approximate date, time, and place:	
What was your reaction?	

AN EQUAL OPPORTUNITY EMPLOYER

City/County Affirmative Action
Harassment/Sexual Harassment Complaint Form
Page 2

Did you identify the act as unwelcome?
List any witnesses to the act.
Subsequent incidents:
Approximate date, time, and place:
What was your reaction?
Did you identify the act as unwelcome?
List any of the witnesses to the act:
3. List any additional witnesses to the harassment:
I UNDERSTAND THAT THESE INCIDENTS WILL BE INVESTIGATED, BUT THIS FORM WILL BE KEPT CONFIDENTIAL TO THE HIGHEST DEGREE POSSIBLE.
Employee:
Date:
FOR ADMINISTRATIVE USE
Dates of investigation of complaint:
Date of final report:
Finding:

SHERIFF'S OFFICE



Multnomah County Sheriff's Office

ROBERT G. SKIPPER
SHERIFF

SPECIAL ORDER

93-16

August 17, 1993

SUBJECT: REVISION OF HARASSMENT PREVENTION POLICY

EFFECTIVE: August 23, 1993

CANCEL: WHEN INCORPORATED INTO AGENCY MANUAL

- I. Attached hereto is a copy of MCSO's policy regarding harassment in the work place. This Special Order and enclosed policy supersedes Administrative Procedure A2.101.000 and all previous policies regarding harassment.
- II. All MCSO members and County employees working under direct supervision of the Sheriff's Office, including line staff, supervisors, managers, and command officers, whether sworn or unsworn, shall read and comply with the provisions of this rule.
- III. If a member is unsure of their duties or responsibilities with respect to this rule, the member shall direct their inquiry through the chain of command to the member's chief deputy.

A handwritten signature in cursive script that reads "Bob Skipper".

BOB SKIPPER
SHERIFF

Distribution:

A - All Personnel

Chapter 6

Harassment and Discrimination

- 6.01 Policy Against Harassment and Discrimination.
- 6.02 Sexual Harassment, Generally.
- 6.03 "Quid Pro Quo" Sexual Harassment.
- 6.04 Intimidating, Hostile or Offensive Work Environment.
- 6.05 Reporting Harassment; "Supervisor" Defined.
- 6.06 Duties of Supervisors.
- 6.07 Investigation, Generally.
- 6.08 Time For Completing Investigation.
- 6.09 Notification of Complaint Disposition.
- 6.10 Retaliation Prohibited.
- 6.11 Penalty for Violation of Harassment Policy.
- 6.12 Frivolous Complaints.

CROSS REFERENCES

Title VII of the Civil Rights Act of 1964, 42 USC, 29 CFR 1604.11 (f)
Americans With Disabilities Act ("ADA"),
ORS chapter 659 - Enforcement of Civil Rights; Unlawful Employment Practices
Article 21, Section A, Deputy Sheriff's Agreement with Multnomah County
Article 21, Section 1.A., MCCOA Agreement with Multnomah County
Article 24, Section 1.a., Local 88 Agreement with Multnomah County

6.01 Policy Against Harassment and Discrimination. (1) It is the policy of the Sheriff's Office and Multnomah County that harassment of any person on the basis of race, color, national origin, sex, age, sexual orientation, religion, political or union affiliation, physical or mental disability, or marital status is prohibited. The express purpose of this policy is to provide a work environment that is free of discrimination and harassment.

(2) The Sheriff's Office finds that harassment and discrimination injure the professional image of the agency and its members. Such practices hamper the agency's ability to fulfill its public safety mission, and may also result in costly settlements or monetary judgments.

(3) Acts of prohibited harassment or discrimination are serious instances of misconduct. Acts of prohibited harassment or discrimination may constitute just cause for reprimand, suspension or termination of the offending member.

6.02 Sexual Harassment, Generally. (1) Sexual harassment is a form of illegal sex discrimination. Sexual harassment is sex neutral and affects both men and women. A key element of sexual harassment is that the behavior is perceived by the victim as unwelcome and uninvited.

(2) Sexual harassment includes a sexual advance, a request for sexual favors, or other verbal or physical conduct of a sexual nature when:

- a) Made as part of a supervisor's or manager's decision to hire or fire someone;
- b) Used to make other employment decisions, such as promotions or salary adjustments;

c) The conduct has the purpose or effect of interfering with job performance or creating an intimidating, hostile or offensive working environment.

6.03 "Quid Pro Quo" Sexual Harassment. (1) "Quid pro quo" means "something for something." *Quid pro quo* sexual harassment occurs when:

(a) a supervisor demands, implicitly or explicitly, sexual favors in exchange for employment benefits, or

(b) threatens to take adverse personnel action against an employee if the employee refuses to participate in sexual activities, or

(c) actually takes adverse personnel action against an employee if the employee refuses to participate in sexual activities.

6.04 Intimidating, Hostile or Offensive Work Environment. (1) Prohibited harassment may also occur in an intimidating, hostile or offensive work environment. Such harassment may occur even though no economic harm is suffered by any employee. An intimidating, hostile or offensive work environment may exist even though the offensive conduct is not directed toward a particular employee.

(2) Conduct which may create an intimidating, hostile or offensive work environment includes speech, physical contact, and the display of offensive material in the workplace. Examples of such conduct include but is not limited to:

(a) Sexually degrading or vulgar words spoken to describe an individual, including comments about a person's body or sexual activities;

(b) Any unwelcome speech (including jokes) that disparages or is inherently derogatory of another person's race, color, national origin, sex, religion, sexual

orientation, age, political or union affiliation or physical or mental disability.

(c) Impeding or blocking physical movement of another person;

(d) Unwanted touching of another person, or any physical contact which disrupts the work of a third party;

(e) Staring or leering at co-workers in the workplace.

(f) Bodily movements suggestive of sexual activity;

(g) Sexually suggestive or obscene letters, notes and invitations;

(h) Sexually-oriented posters or calendars displaying suggestive or derogatory objects, photographs or words.

(i) Failure or refusal to treat persons respectfully based on their race, color, national origin, sex, religion, sexual orientation, age, political or union affiliation or physical or mental disability.

6.05 Reporting Harassment; "Supervisor" Defined. (1) The Sheriff's Office encourages employees to report harassment in the workplace. Any member who believes they are a victim of harassment, or who witnesses harassment of another employee, should immediately report the incident to a Sheriff's Office supervisor.

(2) The member may report the incident to any supervisor listed in subsection (3) of this section, regardless of the chain of command of the reporting member or the alleged victim.

(3) For the purposes of this chapter, "supervisor" means and includes any member with the rank of Sergeant and above, regardless of the member's branch; any member designated as a "manager" by Multnomah County ordinance; and any other member designated by the Sheriff's Office to supervise other members.

Members assigned as acting sergeants and field training officers are supervisors for the purposes of this chapter.

(4) In addition to or in lieu of reporting the incident to a supervisor, a member may present information alleging harassment directly to the Internal Affairs Unit.

6.06 Duties of Supervisors. (1) Any supervisor who witnesses or receives actual notice of occurring activity or conduct that may constitute harassment has an affirmative duty to take immediate corrective action to terminate such conduct. Such corrective action may include oral reprimand, the seizure and removal of offensive material from the work place, and reporting the incident to the Internal Affairs Manager.

(2) When a supervisor receives information from an employee alleging conduct that could be construed as harassment, the supervisor shall immediately transmit the information to the Internal Affairs Manager, who shall initiate an investigation. The Internal Affairs Manager shall notify the Sheriff via memorandum detailing the allegations.

(3) All allegations of harassment or discrimination shall be taken seriously. No manager, supervisor or command officer shall inject their subjective judgment concerning the validity of the allegations in relating the incident to the investigator.

(4) A supervisor who witnesses or receives actual notice of harassment or discriminatory actions and who fails to report the same, shall be subject to disciplinary action, in addition to any other penalties provided by law.

(5) A supervisor who receives information alleging harassment shall take all

reasonable and necessary action to ensure the information is treated discreetly.

(6) No supervisor shall make any attempt to dissuade an employee from filing a complaint alleging harassment.

6.07 Investigation of Alleged Harassment, Generally. (1) Allegations of harassment shall be investigated by the Internal Affairs Unit in accordance with procedures governing complaint investigations generally and provisions of applicable collective bargaining agreements. The purpose of such investigation is to gather all facts relevant to the allegations so that a fair and impartial determination may be made as to whether prohibited conduct occurred.

(2) The investigator shall interview the complainant, the accused, any witness or other person who may have information relevant to the allegations.

6.08 Time For Completing Investigation. (1) In order to protect the interests of the complainant, the accused member and to minimize the disruption in the workplace, investigations shall be conducted promptly and thoroughly.

(2) Except as provided in subsection (3) of this section, the assigned investigator shall complete the investigation no later than 35 calendar days from the date the Internal Affairs Unit receives the information alleging harassment.

(3) The Sheriff or his designee may extend the time limit for completing an investigation upon a showing by the Inspector that an investigation cannot be completed within five weeks or there exist compelling operational reasons for an extension.

6.09 Notification of Complaint Disposition. (1) If the complainant files a formal complaint with the Internal Affairs Unit, the IAU shall notify both the

complainant and the accused in writing of the disposition of the complaint.

(2) If the Internal Affairs Unit determines from the allegations and related information that no complaint exists, the IAU shall notify both the complainant and the accused of its findings and the basis therefore.

6.10 Retaliation Prohibited. (1) Retaliation occurs when an employer, including a supervisor, takes negative action against an employee *because* the employee has filed a harassment complaint, given a statement about harassment or participated in a harassment investigation. Retaliation is prohibited by federal and state law and this policy.

(2) Unlawful retaliation by an employer includes but is not limited to:

- (a) Involuntary transfer or changes in job duties, assignments, privileges or performance evaluations.
- (b) Permitting continuing or escalating harassment against a complainant after a complaint is reported or filed.

(3) For the purpose of this chapter, retaliation also includes conduct by any coworker or employee that adversely affects or threatens to adversely affect a member's safety or working conditions because the member has filed a harassment complaint, given a statement about harassment or participated in a harassment investigation.

6.11 Penalty for Violation of Harassment Policy. (1) A member who violates the Sheriff's Office policy prohibiting harassment shall be subject to discipline proportionate to the seriousness of the violation.

(2) Such discipline may include any penalties or remedies provided under

state and federal law, or as permitted by civil service rules or collective bargaining agreements.

(3) Any remedy imposed, including discipline of the offending member, shall be reasonably calculated to end the harassment and prevent it from reoccurring.

6.12 Frivolous Complaints. (1) A member who files a groundless complaint alleging harassment against another member, with the intent to embarrass or annoy the other member, shall be subject to discipline.

(2) A complaint may be considered frivolous only after the investigation required by this chapter is complete, and the evidence indicates:

- (a) the complainant had no factual basis for alleging harassment; and
- (b) the complainant intended to embarrass or annoy the other member.

**PRIOR YEAR SUPPORT OF
AFFIRMATIVE ACTION PROGRAMS
(41 CFR § 60-1.40(c))**

PRIOR YEAR SUPPORT OF AFFIRMATIVE ACTION PROGRAM STRATEGIES
(41 CFR § 60-1.40(c))

Goals and Results:

1. During the 12-month period from June 1991 to July 1, 1992, the County's work force went from 2,706 employees to 3,144 employees of that number 441 or 14.0% were minorities and 1,718 or 54.6% were women.
2. The number of minority employees accounted for 441 or 14.0% of the County's overall work force compared to 385 or 13.2% in the previous year.
3. The total affirmative action goal for minorities was established at 12.3%, and the County's overall minority representation is 1.7 percentage points above the goal.
4. Multnomah County's affirmative action goal for each of the minority groups were as follows:

<u>Group</u>	<u>*Goal</u>	<u>Utilization</u>	<u>Above (+)/Below (-)</u>
Black	6.5%	7.7%	(+) 1.2
Hispanic	1.9%	2.6%	(+) 0.7
Asian	3.2%	2.9%	(-) 0.3
Native American	0.7%	0.8%	(+) 0.1

*Based on work force availability.

5. The number of females employed by Multnomah County increased from 1,537 to 1,718 in the 12-month period. Females now make up 54.6% of the work force compared with 55.3% in the previous year.
6. The County's affirmative action availability goal for females was 47.7%, and the County's overall representation of females as of July 1, 1992 is 6.9 percentage points above the goal.
7. The County's overall performance during the life of the affirmative action plan shows the following EEO Job Category Performance (1992) vs. Goals:

Previous Year's Job Groups	Goals		Performance	
	Minority	Females	Minority	Females
Officials/Administration	5.6	33.6	8.4	50.6
Office/Clerical	10.6	64.8	14.6	90.3
Para-Professionals	10.5	35.5	22.4	66.0
Professionals	9.1	40.5	12.6	63.8
Protective Services	14.2	18.7	15.2	24.6
Service Maintenance	18.0	14.5	17.6	16.9
Skilled Craft	8.3	5.2	11.6	1.2
Technicians	10.9	33.7	11.1	39.2

8. Finally, Multnomah County placed major emphasis on training managers and supervisors on equal employment opportunity/affirmative action requirements, sexual and racial harassment laws, new regulations regarding the disabled and program accessibility, and cultural diversity. These training sessions have resulted in a positive work climate for the County, and a reduction of external complaints.

10-10-00

Types of Discrimination Prohibited

Type	Alaska	Calif.	Idaho	Montana	Oregon	Wash.
Race	X	X	X	X	X	X
Religion	X	X	X	X	X	X
Sex	X ¹	X	X	X ²	X ³	X
National Origin	X	X	X	X	X	X
Age ⁴	X	X 40 & over	X 40 & over	X	X 18 & over	X 40 to 70
Disability	X	X	X	X	X	X
Marital Status	X	X		X	X	X
Equal Pay	X	X	X	X	X	X
Arrest Records ⁵		X				X
Lie Detectors	X	X ⁶	X	X	X	X

¹Contains provisions prohibiting pregnancy discrimination

²Contains provisions prohibiting pregnancy discrimination

³Contains provisions prohibiting pregnancy discrimination

⁴Federal law protects a person from age 40 and up, with no upper age limit specified.

⁵See state law for employer-use provisions

⁶Includes voice stress analyzers

Who is Covered

Entity	Alaska	Calif.	Idaho	Montana	Oregon	Wash.
Private Employers ⁷	X-1	X-5	X-10	X-1	X-1	X-8
Public Employers	X	X	X	X	X	X
State Contractors ⁸		X	X	X		X
Unions	X	X	X	X	X	X
Employment Agencies	X	X	X	X	X	X
Apprenticeship Programs	X	X		X	X	X

⁷Minimum number of employees listed if specified by law

⁸Includes employers involved in public works, specifically mentioned in fair employment act or covered by separate, specific provisions

SECRET

COURT CASES

1986

Meritor Savings Bank v. Michelle Vinson, U.S. Court of Appeals for the District of Columbia, Circuit, 84-1979, Decided June 19, 1986

Sexual harassment is a form of sex discrimination under Title VII of the 1964 Civil Rights Act. A claim of "hostile environment" sexual harassment is actionable under Title VII. Employers cannot always be held liable for sexual harassment by management personnel. A grievance procedure and policy against discrimination, coupled with the employee's failure to use that procedure, does not immunize the employer from liability.

1987

Boyd v. James S. Hayes Living Health Care Agency, Inc., et al., No. 84-2233 GB, May 13, 1987

A female employee was sexually harassed by her employer's administrator during a business trip. He insisted that she come to his hotel room, touched her, tried to get her to look at a sexually explicit movie and magazine, and attempted to restrain her departure. Upon returning to work, she was disciplined for poor work performance and then terminated. The female employee was able to establish that her employer's reasons for disciplining and terminating her were pretextual and that the real reason was her rejection of the administrator's sexual advances.

O'Dell v. Basabe, Idaho 4th District, No. 88547

O'Dell was the Personnel Director of the Land and Livestock Division of the J.R. Simplot Co., a large agricultural firm. When an assistant complained to him of sexual harassment from the company's president, he conducted an investigation and provided support to the woman. The president fired O'Dell after O'Dell's 18-month investigation and O'Dell's continued support of the woman. The jury found in favor of O'Dell under both common law and Idaho's Human Rights Act. They awarded O'Dell \$1 million in punitive damages. He also received \$420,500, mostly for the loss of past and future wages and benefits.

Ross v. Double Diamond, Inc., USDC, N. Tex, 1987, 45 FEP Cases 313

A female employee sued her employer for hostile work environment sexual harassment after working only two days and won. The court concluded that the woman was degraded and that her psychological well-being was seriously impaired. And the court found that if harassment is frequent and/or intensely offensive, a pattern can be established in a short time.

1988

Valdez, et al. v. Church's Fried Chicken, Inc. et al., No. SA-86CA-262, March 30, 1988

This complex case deals with two unique sexual harassment situations: (a) an employee's financial liabilities for his sexual assault of another employee, and (b) an employer's liabilities for national origin discrimination when it did not properly investigate a sexual harassment complaint.

- (a) The court agreed that the plaintiff was sexually assaulted by her male team leader. The employer though is not liable for this personal attack because it had nothing to do with business. The court required the team leader to pay the plaintiff \$46,525 plus prejudgment and postjudgment interest on her state-law assault claim.
- (b) The plaintiff had filed an anonymous sexual harassment complaint with EEOC against Church's top management at a certain store. Church's Fried Chicken investigated, suspended, and then terminated the wrong management person (i.e., the assistant manager instead of the team leader). He immediately filed a charge with EEOC of national origin discrimination against Church's Fried Chicken. Church's determined and the court agreed that the assistant manager had sexually harassed female employees. But the court decided that Church's suspension and termination of the assistant manager had discriminated against him because of his national origin (Hispanic). The court determined that Church's had a de facto policy of tolerating sexual harassment (i.e., a norm of allowing sexual harassment to occur and of not taking action to stop it). Firing the assistant manager for sexual harassment was only an excuse to hide Church's discrimination. Church's has not dealt with other sexual harassers in a similar manner and focused their investigation only on him.

Reed v. Minnesota Department of Transportation, Golden Valley District 5, and Commissioner of Jobs and Training, No. C4-88-4, May 3, 1988

A male employee fired for misconduct by DOT because he harassed two female coworkers after work — sent them letters, gifts, and kept contacting them — is not eligible to collect unemployment benefits. The referee agreed that the male employee had been discharged for misconduct because, "If the employer had not taken action against the (male employee) it would have left itself open for a sexual harassment complaint from the two female employees." Since public policy discourages sexual harassment, DOT's request of the male employee to stop harassing the two women employees after work was reasonable. Therefore, the male's violation of that request constituted misconduct.

Brown v. City of Miami Beach, et al., No. 87-2029-Cir-Aronovitz, April 20, 1988

The court decided that the management personnel not accused of sexual harassment, but who supervised the employees accused of sexual harassment by a female police officer in her Title VII action, are not liable under the concept of respondeat superior for their employee's sexual harassment. (The courts have used the concept of respondeat superior to hold employers vicariously liable for their management personnel's sexual harassment of employees even when the employer was unaware of that sexual harassment.)

Stockley v. AT&T Information Systems, Inc., No. CV 86-1643 (RJD), May 25, 1988

This case dealt with (a) qualified privilege, (b) defamation of the alleged sexual harasser, and (c) expanded examples of sexual harassment. A manager filed a complaint of malice against his employer and the personnel who investigated a sexual harassment complaint against him. He was disciplined after the investigation determined that he had sexually harassed female employees. The investigation began after the personnel office received an anonymous letter from employees complaining of "working conditions" at their office.

- (a) Once an employer has knowledge about sexual harassment, it has a duty to investigate. The information around that Title VII investigation is protected by qualified privilege from defamation action under New York law.
- (b) The employer did not act with "reckless or negligent disregard" during its investigation to determine the truth of the allegations against the manager. If the employer had told the manager's co-workers the reason for his transfer, that would have been privileged communication made to back up its written sexual harassment policy and not an action of malice.
- (c) The court found the manager's behavior towards female employees to be sexual harassment: comments filled with sexual innuendo, brushing back a female trainee's hair, shooting rubber bands at one woman, using the term "Oh, Baby," and inviting trainees out for a drink.

Hall, et al. v. Gus Construction Co., Inc et al., No. 87-1900, March 25, 1988, U.S. Court of Appeals, Eighth Circuit (St. Louis)

The U.S. District Court for the Southern District of Iowa determined that:

- (a) behavior named in a sexual harassment claim does not have to clearly be sexual in nature,
- (b) the EEOC's definition of sexual harassment in its guidelines does not mean that other types of harassing behaviors cannot be considered when determining if sexual harassment occurred,
- (c) the employer and foreman were liable for the co-worker's sexual harassment of the female employees because they had actual and constructive knowledge of the co-worker's pattern of harassment against the female employees, and
- (d) two of the female construction workers will receive \$20,000 each for emotional distress and the third female construction worker will receive \$15,000. (The U.S. Court of Appeals upheld the U.S. District Court's decision.)

1989

Steele, et.al. v. Offshore Shipbuilding, Inc, et. al., No. 88-3142, March 15, 1989

Employer liability for sexual harassment exists only through respondeat superior where employer knew or should have known of hostile environment harassment and failed to take prompt corrective action. Therefore, strict liability is illogical in pure hostile environment situations because harassing general manager's acts are outside scope of his authority. Employer is not liable for hostile work environment where employer, after finding out about harassment, sent EEO Officer to interview employees, reprimanded manager, and assured employees that harassment would stop, which it did.

Paroline v. Unisys Corporation, et. al., No. 88-1319, June 26, 1989

This case examined these issues: the alleged sexual harasser's (Moore's) status as "employer" under Title VII, the severity or pervasiveness of harassment, imputing liability of Moore and Unisys, negligent failure to warn and reckless endangerment (effect of Virginia Worker's Compensation Act), intentional infliction of emotional distress and constructive discharge.

Nelson v. Reisher, CA 4, No. 88-1133, July 3, 1989

In this case, a male social worker was awarded \$1,500 by a district court because his female boss constantly criticized his work and sought to reprimand and harass him because she did not like working with a man. The appeals court determined that an employee may establish a violation of Title VII by proving that discrimination based on sex has created a hostile or abusive work environment. The appeals court rejected the employer's argument that the crux of a sexual harassment claim must be a supervisor's unwanted amorous demands on an employee of the opposite sex.

E.E.O.C. v. Hacienda Hotel, 881 F.2d 1504 (9th Cir. 1989)

In this case, the Ninth Circuit Court of Appeals held that hostile work environment sexual harassment violates Title VII and that the plaintiff may establish a prima facie case of hostile environment harassment by showing that 1) he or she was subject to the sexual conduct; 2) the conduct was unwelcome; and 3) the conduct was sufficiently severe and pervasive to alter the conditions of the plaintiff's employment and create an abusive working environment.

The conduct here included one supervisor repeatedly engaging in vulgarities, making sexual remarks, and asking for sexual favors. The Court held that the complainant's failure to pursue internal grievance procedures did not bar her claim. The Court also held that employers are liable for failing to prevent or remedy hostile work environment sexual harassment when management level employees knew or reasonably should have known of the harassing conduct.

Waltman v. International Paper Co., 875 F.2d 468 (5th Cir. 1989)

This case involved a female complainant working in a primarily male work environment. There was a hostile environment over a three year period involving a series of incidents by co-workers, including the broadcasting of obscenities over a public address system, offensive touching, sexually suggestive comments and sexually explicit pictures and graffiti throughout the workplace, some of which were directed at the complainant. After the plaintiff complained about the harassment, some action was taken to alleviate the harassment, but the plaintiff was discouraged from authorizing the employer to conduct an investigation and no disciplinary action was taken against the employees engaging in the conduct.

The Court permitted plaintiff to include in her complaint acts of harassment that occurred three years before she filed because the harassment was ongoing and therefore constituted a "continuing violation." The Court also held that the harassment was sufficiently pervasive that even if the plaintiff could not show that the employer had actual knowledge of it, the employer could be held to have "constructive notice." Lastly, the Court held that the employer had an affirmative duty to take steps reasonably calculated to halt the harassment, including addressing the sexual graffiti.

Fisher v. San Pedro Hospital, 214 Cal. App. 3d 590, 262 Cal.Rptr. 842 (1989)

This is the first California appellate level case that determines that the California Fair Employment and Housing Act prohibits hostile environment sexual harassment. It is significant in a number of ways. First, it shows that while hostile environment sexual harassment has been held to violate Federal law under Title VII, state laws often provide more expansive remedies than Federal. This fact gives a victim of discrimination more choices as to where to file suit. Also, in *Fisher* the court states that an employer is "strictly liable for supervisor sexual harassment of its employee." This means that the employer is held responsible even when it is unaware of the harassment. Federal law is not as clear cut regarding strict liability for a supervisor's harassment.

1990

Rojo v. Kliger, 52 Cal.3d 65, 276 Cal.Rptr. 130, 801 P.2d 373 (1990)

This California Supreme Court case determined that the State Fair Employment and Housing Act was not the exclusive remedy for filing claims of sex discrimination. The California Constitution, under Article 1, Section 8, provides that no person may be disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin. Based on this, the Court determined that there is a fundamental public policy against employment discrimination on any of those grounds and that, therefore, such discrimination may be the basis for a tort cause of action, independent of the state statute protecting people from discrimination (the Fair Employment and Housing Act, "FEHA"). Other states with similar language in their state constitutions may then also have avenues of redress broader than those under either Title VII or their state laws prohibiting discrimination. This point is significant because it may provide redress for victims of sexual harassment who otherwise could not bring a claim. For example, the Statute of Limitations in a claim brought under the state constitution is longer than one brought under Title VII or the FEHA. It also elevates sexual harassment to a constitutional violation.

DFEH v. Livermore Joe's, Inc., (1990) FEHC Decision No. 90-07, *DFEH v. Madera County*, (1990) FEHC Decision No. 90-03, *DFEH v. Rosenberg*, (1990) FEHC Decision No. 90-09.

These are a series of decisions all decided in 1990 by California's Fair Employment and Housing Commission (FEHC). These cases can be cited as authority in court in regard to the interpretation of the California Fair Employment and Housing Act, which parallels Title VII. They are useful in that they contain lengthy descriptions of behavior that is considered to constitute hostile environment sexual harassment, actions that are severe enough to warrant a finding that a plaintiff who left her job was "constructively discharged," the employer's liability for sexual harassment, and the duty of an employer to provide a harassment-free workplace. The FEHC held that an employer has an **affirmative** duty to take all reasonable steps necessary to prevent harassment and discrimination from occurring.

In these cases, employers were held **strictly** liable for harassing conduct of agents and supervisors. The FEHC also held that individuals may be held **personally** liable as "agent/employers" if they have supervisory status and either participated in harassment themselves or participated in the decision making process that formed the basis of the action. In *Livermore Joe's*, the restaurant owners were held personally liable because they were also the restaurant's managers and supervisors,

and they exercised significant control over the complainant's employment and working conditions.

Dias v. Sky Chefs, 919 F.2d 1370 (9th Cir. 1990)

In *Dias*, a general manager engaged in ongoing sexual harassment of female employees. The plaintiff refused to participate in the harassment, complained about the manager, and acted as a spokesperson for other women. Thereafter, her work was criticized and, after she returned to work from a work-related injury, her job was eliminated. *Dias* brought an action for being discharged in retaliation for resisting sexual harassment. The jury found for the plaintiff and awarded \$125,000 in general damages and \$500,000 in punitive damages.

The federal appellate court affirmed the lower court's decision. It applied Oregon law and determined that the plaintiff had presented facts that could lead to liability for wrongful discharge and intentional infliction of emotional distress. It also held that the company was responsible for its manager's acts.

1991

Robinson v. Jacksonville Shipyard, 790 F.Supp. 1486 (M.D.Fla. 1991)

Lois Robinson was a welder at Jacksonville Shipyards in Florida. She filed an action under Title VII for hostile environment sexual harassment consisting, in large part, of "visual harassment," i.e., the posting in the workplace of pictures of nude and seminude women. The U.S. District Court judge held that such visual depictions encourage sexually harassing conduct and violate Title VII. The decision states: "A pre-existing atmosphere that deters women from entering or continuing in a profession or job is no less destructive to and offensive to workplace equality than a sign declaring 'men only.'" The Court ordered widespread affirmative relief in the form of policy changes, training, and education. One of the issues on appeal is whether first amendment free speech rights preclude the prohibition of visual harassment.

Ellison v. Brady, 924 F.2d 872 (9th Cir. 1991)

This is one of the most important cases regarding sexual harassment in the last ten years. In this case, the court determined that whether or not acts constitute sexual harassment should be decided from the perspective of the "reasonable woman," rather than the "reasonable person." Due to this change in standard, the woman's view of what behavior is threatening or harassing is taken into consideration, rather than a more neutral "reasonable person" standard, which had been used previously.

Previous decisions have held that harassment must be pervasive in order to be actionable. In this case, the court determined that a co-worker's repeatedly asking the plaintiff to lunch and for drinks and sending her a number of notes indicating a strong emotional attachment to her was sufficient to be considered severe or pervasive and, therefore, to constitute sexual harassment. The court also determined in this case that where an individual is harassed by a co-worker, it violates the law for the employer to relocate the employee who was harassed rather than the employee who did the harassing.

Campbell v. Board of Regents of the State of Kansas, 770 F.Supp. 1479, August 9, 1991, U.S. Dist.

The plaintiff alleged sexual harassment, retaliation, constructive discharge, and a due process violation. The defendant filed a motion for summary judgment. The court denied all of the defendant's motions for summary judgments except the due process claims. The following includes summaries of the claims and the court's opinions.

A faculty member, the alleged sexual harasser, denied slapping the plaintiff on the butt and saying several times before the alleged occurrence that he was going to slap her. **Opinion:** Past incidents of sexual harassment committed by faculty members are relevant to the credibility of his denial of plaintiff's allegations.

Defendant asserted that the conduct was not sexual harassment because it had nothing to do with gender. **Opinion:** "... a slap on the buttocks in the office setting has yet to replace the handshake, and the court is confident that such conduct, when directed from a man towards a woman, occurs precisely and only because of the parties' respective gender."

Plaintiff complained of the sexual harassment to her office supervisor. **Opinion:** The University created a question of fact whether it can be charged with knowledge of harassment because its policy states that supervisors are responsible to respond to sexual harassment complaints.

Faculty member was a supervisor of the plaintiff. **Opinion:** An issue of fact existed whether he invoked his supervisory authority in order to facilitate his harassment of the plaintiff. If he did, the University would be liable for his actions.

After plaintiff filed a formal complaint, the defendant faculty member refused to renew her contract. **Opinion:** If plaintiff can prove a causal connection, at trial, that the decision to not renew her contract was motivated by her complaint against the faculty member, the University's "action could constitute a violation of a statutory duty that may not be avoided by contract," (even though employee's current employment contract expressly disclaimed any expectation of future employment).

Plaintiff requested leave without pay and refused the University's subsequent offers of employment. **Opinion:** Material issues of fact exist that the "defendant's discriminatory and retaliatory acts made plaintiff's working conditions so difficult that she reasonably felt compelled to request leave and refuse further employment at the University."

1992

Flait v. North American Watch Corp., 3 Cal. App. 4th 467.

In *Flait*, a salesman who had worked for the company for four years was terminated four months after reporting several instances of what he perceived to be sexual harassment perpetrated by the senior vice president against a female employee whom Flait supervised. The company had no policy instructing supervisors how to handle harassment claims.

The court held that Flait could bring an action for wrongful termination and retaliation, even if Flait was mistaken and the female employee was not being sexually harassed, if the mistake was reasonable and made in good faith. The court

also held that Flait's reporting the harassment before it became pervasive did not bar his claim.

The court reiterated the supervisor's duty under Title VII and the California Fair Employment and Housing Act (FEHA) to take immediate and appropriate corrective action when a harassment complaint is made. Both Title VII and the FEHA prohibit employers from terminating employees, including those who are terminable at-will, for attempting to comply with the law's provisions forbidding harassment.

The Retroactivity of the Civil Rights Act of 1991

Once the Civil Rights Act of 1991 was passed, a major question became whether it would be applied retroactively to civil rights cases already pending. This application would have an important effect on hundreds of cases on file in courts and administrative agencies. While the EEOC has concluded that it should not be applied retroactively, many court decisions have gone the other way.

Lee v. Sullivan (March 26, 1992) Case No. C-89-2873 EFL (WDB) (U.S. Dist. Ct., N.D. Cal.) and *U.S. v. Dept. of Mental Health, County of Fresno* (E.D. Cal. 1992) 785 F. Supp. 846 are two trial court decisions which have concluded that the damages and jury trial provisions of the Civil Rights Act of 1991 (CRA) are retroactive. Both of these cases state that since there are conflicting Supreme Court decisions on the retroactivity of statutes in general, and since Congress was unable to agree whether the CRA should be retroactive, each District Court will have to apply the law of its circuit. The decisions then state that according to the law in the Ninth Circuit, the damages and jury trial provisions of the act are retroactive because they are essentially procedural.

The Lee court criticized two decisions from other circuits that found no retroactivity [*Van Meter v. Barr* (D.D.C. 1991) 778 F. Supp. 83 and *Johnson v. Rice* (S.D. Ohio 1992) 1992 WL16284]. The County of Fresno court ignored the EEOC policy that states the opinion of the agency that the CRA is not retroactive, and specifically noted that the statement was not entitled to deference because the EEOC's expertise "is not in the area of statutory interpretation."

Franklin v. Gwinnett County Public Schools, 112 S. Ct. 1028

Franklin involved a high school student who was subjected to continual sexual harassment by her sports coach and teacher. The school became aware of the harassment and conducted an investigation. Thereafter, the teacher resigned on the condition that all matters pending against him be dropped. The school then closed its investigation.

Ms. Franklin brought a lawsuit, which was dismissed on the grounds that Title IX (which prohibits sex discrimination/harassment in federally funded educational institutions) does not authorize an award of money damages. Since the teacher was gone, there was nothing the court could award. The appellate court affirmed this but the United States Supreme Court reversed the trial and appellate courts and made a determination that monetary damages are available in Title IX cases.

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AFFIRMATIVE ACTION
AFTER THE CIVIL RIGHTS ACT OF 1991

by

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The Supreme Court's 1988 Term looked like it was going to be the Civil Rights' community's Waterloo. In five separate decisions, the Court restricted the reach and force of our nation's civil rights laws making it more difficult to bring discrimination cases, and then once brought, creating additional barriers to winning the cases.²

But, fortunately, the Court's 1988 Term was also the wake up call, not just for the Civil Rights community, but for Congress. At last the Court had gone too far even for Congress and for President Bush who supported reversing some of the Court's decisions. Shortly after the 1988 Term was completed, work began on legislation to overturn the Supreme Court's decisions in order to restore the law to what it had been before the Court's massacre. In November 1991, after two years of a hard fought

¹ The views presented in this paper are those of the author and do not represent the views of the Lawyers' Committee for Civil Rights Under Law.

² The cases were: Patterson v. McLean Credit Union, 491 U.S. 164 (1989), which limited the scope of section 1981 to contract formation; Martin v. Wilks, 490 U.S. 755 (1989), allowing challenges to consent decrees by white intervenors; Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989), changing the burdens of proof in disparate impact cases; Price Waterhouse v. Hopkins, 490 U.S. 228 (1989), limiting relief in so-called "mixed motives" cases; Lorance v. AT&T Technologies, 490 U.S. 900 (1989), limiting challenges to discriminatory seniority systems.

battle, Congress passed, and the President signed, a new Civil Rights Act that reversed eight Supreme Court decisions -- during the two subsequent Terms the Court had rendered several additional disastrous decisions.³ While widely and properly regarded as a major victory for the civil rights community, the compromise and hurried nature of the bill prevented it from being an unheralded victory. One area that has received a fair amount of attention, more so immediately after Justice Thomas' nomination to the Supreme Court than currently, is that while new damage remedies were provided to victims of discrimination those damages have monetary caps for women, the disabled, and certain ethnic minorities.⁴

An area that has received less attention in the press, but more attention in the courts, is the effect the Civil Rights Act

³ In 1991, just prior to the passage of the Civil Rights Act, the Court held that Title VII, the primary law prohibiting discrimination in employment, did not protect American employees working overseas (EEOC v. Aramco, 499 U.S. ___, 113 L.Ed.2d 274 (1991)) and that fees paid to expert witnesses were not recoverable in civil rights cases. West Virginia Univ. Hosp. v. Casey, 113 L.Ed. 2d 68 (1991). Both cases were corrected, at least in part, by the Civil Rights Act as was an earlier decision that had prevented federal employees from receiving interest on a back pay award. Library of Congress v. Shaw, 478 U.S. 310 (1986).

⁴ Section 102 of the Act provides the right to damages, both compensatory and punitive though punitive damages are not available against public employers, in intentional discrimination cases. However, depending on the size of the employer the damages are capped as follows: employers of between 15 and 100 employees, \$50,000; 100-200 employees, \$100,000; 200-500 employees, \$200,000; and employers of more than 500 employees, \$300,000. Legislation has been introduced to remove the caps but that legislation appears to be stalled in Congress and its chances of passage appear remote.

of 1991 has on affirmative action, both voluntary and with respect to court-imposed remedies for past discrimination. Indeed, the Act has already fueled attacks on affirmative action programs in both San Francisco and Los Angeles, and other attacks are likely to follow. Section 107 of the Civil Rights Act, which had the limited purpose of overruling the Supreme Court's decision in Hopkins v. Price Waterhouse, prohibits the use of race or gender as a "motivating purpose" in an employment decision. In Price Waterhouse, the Supreme Court had held that it was not a violation of Title VII of the Civil Rights Act of 1964 for an employer to base its decision on an impermissible factor such as race as long as the employer could prove that it would have made the same decision absent the impermissible factor. The Civil Rights Act of 1991 now prohibits the use of race as a motivating factor, but allows the employer to avoid monetary liability if it can demonstrate that it would have made the same decision notwithstanding the use of race.⁵

Within months of the passage of the Act, challenges arose to employment decisions that took race into account on the basis that section 107 forbids the use of race in any fashion. This paper will discuss those challenges and the intent and impact of the Civil Rights Act of 1991 on taking race into account in the employment context. This paper will conclude that the Civil Rights Act of 1991 should not have any effect on the legitimacy

⁵ I am using the term "race" in a broad manner that includes gender, religion, national origin and disability, all of which are subjected to the same standards.

of taking race into account as part of affirmative action plans, or court-imposed remedies, and that the standards for determining whether it is permissible to take race into account remain as they were prior to the passage of the Civil Rights Act. That is, it is still permissible, in appropriate and limited circumstances, to take race into account in making employment decisions.

I will also argue that the recent spate of challenges highlights the importance of devising new strategies for affirmative action so that we can move away from seeing affirmative action strictly in remedial terms and begin to see race as a "plus", as another criteria that should be taken into account in employment decisions outside of a remedial context.

I.

This section provides a brief overview of the Civil Rights Act, both with respect to its intent and actual design. As noted earlier, efforts to legislatively repudiate the Court's decisions began quickly and there was a surprising amount of bipartisan consensus on certain cases. For example, there was virtual unanimity on the need to overturn the Court's decision in Patterson v. McLean Credit Union⁶ where the Court had restricted the reach of one of our oldest Civil Rights laws, section 1981, by holding that the law only proscribed discrimination in contract formation rather than discrimination in contractual relationships.

⁶ 491 U.S. 164 (1989).

There is an interesting sidenote to this aspect of the story, which provides insight into the workings of the current Supreme Court. In 1976, the Supreme Court had held that section 1981 prohibited discrimination relating to private contracting as well as to public contracting.⁷ Thirteen years later Patterson initially came to the Court on the question of the reach of section 1981. But the Court had different designs on the case, and in an extraordinary action -- on its own motion, without the request of any party -- the Court asked the parties to address the question that had been settled in 1976, namely whether the law was intended to reach private conduct. When people wonder what all the fuss is about regarding the need to strengthen our civil rights laws, the Court's actions in Patterson should provide a clear answer. In the end, the Court decided not to reconsider the question relating to private contracts, but the fact that it had tried was frightening.

There was also consensus on certain other areas -- changing the law regarding seniority systems, and in general on the Price Waterhouse question as well. As the media chronicled, most of the controversial activity on the bill occurred over the provision relating to disparate impact cases -- those cases which challenge as violations of Title VII policies that are neutral on their face but disproportionately affect a protected group. The primary example of this kind of case is a challenge to a written test that has a disparate impact on African Americans or a

⁷ Runyon v. McCrary, 427 U.S. 160 (1976).

physical agility test that has a disparate impact on women.⁸ The theory behind these cases ought to be non-controversial: tests that screen out a large number of minority applicants should be justified as related to the job. If the test is not job-related but excludes a particular group, then the test serves as an arbitrary barrier to employment opportunities. That does not seem like a radical idea but businesses -- as well as the Reagan and Bush administrations -- have fought the theory hard. And it was the battle over disparate impact cases that was principally responsible for holding up the Civil Rights Act.

The issue surrounding the Price Waterhouse case was much less controversial. Ann Hopkins sued Price Waterhouse after she was denied partnership at the accounting firm's D.C. office. Originally when she came up for partnership consideration, the office deferred her consideration for one year. At the time of her original consideration, Price Waterhouse had 662 partners, of whom only 7, or 1.05%, were women. In that same year, although 88 persons were proposed for partnership, Ann Hopkins was the

⁸ The seminal case in this area is Griggs v. Duke Power Co., 401 U.S. 424 (1971), which like many of the cases now under attack by the Rehnquist Court was a unanimous decision. Interestingly, these cases now make up a small fraction of discrimination challenges. There were only 30 employment discrimination class actions filed last year, and of those probably only 20 or so involve disparate impact challenges. While the number of cases is small, their import is large because it is through these class actions that systemic change is advanced. One of the critical but little noticed changes made by the Civil Rights Act of 1991 was that disparate impact challenges gained an explicit statutory source whereas previously such challenges were the result of judicial interpretations of the statute, like Griggs, on which it was probably only a matter of time before the Court reversed itself.

only woman among them. In addition to Ann Hopkins, 19 other individuals were held over for partnership consideration.

When she came up for partnership, Ann Hopkins had an impressive record; in fact, the district court found that no other candidate had a comparable record of securing major contracts for the partnership.⁹ But like most candidates, Ann Hopkins was not perfect. She was apparently aggressive, and abrasive and she was a woman. When Ann Hopkins was not considered the following year as originally planned, she resigned and then she sued the partnership; the question then became whether she was denied partnership because she was "abrasive" or whether she was denied because she was a woman, and tied into the analysis was whether she was considered abrasive because she was a woman. The courts considered it to be some of both, which is how the legal issue arose. But before turning to the legal issue, let me quickly present some additional background.

The Court began its discussion noting the following: "There were clear signs . . . that some of the partners reacted negatively to Hopkins' personality because she was a woman."¹⁰ In light of the facts, that seems to be a bit of an understatement. One partner called her "macho", another said that Ms. Hopkins "overcompensated for being a woman", and a third advised her to take "a course at charm school."¹¹ In an attempt

⁹ 490 U.S. at 234 (quoting district court opinion).

¹⁰ Ibid. at 235.

¹¹ Ibid.

to be helpful and to give Ms. Hopkins advice that would improve her chances at partnership another partner suggested that she "walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled, and wear jewelry."¹² And these are the comments that the partners put in writing -- imagine what they said among themselves.

The Court's holding in this case was that Ms. Hopkins was not discriminated against because she was a woman but there were both "legitimate" and "illegitimate" reasons for the decision not to offer her a partnership. That is the long and short of its analysis. But it may be worth reflecting for a moment on the Court's decision -- what exactly does it take to prove discrimination today? Here the district court found that there was no candidate comparable to Ms. Hopkins in terms of bringing in business, which is what a partner is generally expected to do. Whatever abrasiveness Ms. Hopkins might have exhibited apparently did not affect her ability to bring in business, so it is hard to know why it would be disqualifying even if it were a valid assessment of her character. But there are plenty of reasons to believe it may not have been valid -- the comments the partners made, it can be safely said, would not have been made about a man. Being macho is good for a man, but not for a woman. Aggressive women are threatening while aggressive men are desirable. All of this is rather elementary, I realize, but one of the critical aspects of understanding what is going on with

¹² Ibid.

the Court is looking at how they view the facts, what their vision of the world is, and what one finds is not a welcome picture though it undeniably helps us to understand the need for legislation and what we are up against.¹³

Of primary importance in the context of this presentation is that the Court found that the partnership had relied on both legitimate and illegitimate rationales to support its decision. And then the question becomes whether using illegitimate motives -- in any fashion -- violates Title VII. The Supreme Court, in an opinion written by Justice Brennan, held that it was not. Instead the Court held that when it is proved that an employer has relied on impermissible motives in making its decision "an employer shall not be liable if it can prove that, even if it had not taken gender into account, it would have come to the same decision regarding a particular person."¹⁴ In a nutshell, if the employer can prove that it would have made the same decision anyway then it would not be liable.

¹³ I think it may also be useful to note that of the fourteen judges who heard Ann Hopkins' case through the judicial process, only one was a woman and that was Sandra Day O'Connor who has not been as responsive to discrimination as one might expect particularly considering her history of being denied employment opportunities because she was a woman. One can only wonder whether if a woman had evaluated the facts at the initial stage, the outcome would have been different. I will return to this point toward the end when we talk about the importance of diversity but it may be worth noting that there is an encouraging trend in the area of sexual harassment to assess the harassment from the view of a "reasonable woman" rather than from the view of a "reasonable man". See, e.g., Ellison v. Brady, 924 F.2d 871 (9th Cir. 1991).

¹⁴ 490 U.S. at 242.

Obviously, there was a pernicious quality to the decision as it seems to sanction "a little bit of discrimination" in the workplace. That said, it should also be noted that the decision broke no new ground and was, in fact, consistent with the law as it had developed around the country. Moreover, the Hopkins case did not have a serious impact on the law and there were few cases that would have come out differently had the Court created the framework that was advocated by the plaintiffs. Indeed, Price Waterhouse had a limited impact and many courts restricted the reach of the case, while others read the decision in a way that proved favorable for plaintiffs.¹⁵ It is also worth reiterating that the plurality decision -- there was no majority -- in Price Waterhouse was written by Justice Brennan, certainly one of the most, if not the most, liberal members of the Court in the last thirty years. That fact in itself does not attest to the correctness of the decision but it should give pause to anyone intent on reversing it.

When all is said and done, the real losers in Price Waterhouse were the lawyers who did not get paid when they lost. The argument the lawyers made was essentially that they should be paid when they prove that there were illegitimate motives, and I state it in that fashion because everyone agreed that if the

¹⁵ See, e.g., Simpson v. Diversitech General, Inc., 945 F.2d 156 (6th Cir. 1991), cert. dismissed, ___ U.S. ___, 112 S.Ct. 1072 (1992); Palmer v. Baker, 905 F.2d 1544, 1548 (D.C. Cir. 1990); Caban-Wheeler v. Elsea, 904 F.2d 1549, 1554 (11th Cir. 1990); Grant v. Hazelett Strip-Casting Corp., 880 F.2d 1564 (2d Cir. 1989).

employer could establish that it would have made the same decision without relying on illegitimate motives then the individual was not entitled to any relief -- though the employer could be enjoined from repeating the impermissible conduct. So at stake were not damages for victims of discrimination, but fees for attorneys.

II.

As previously noted, section 107 had the limited purpose of overruling the Court's decision in Hopkins v. Price Waterhouse.

It reads in pertinent part:

Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.

Now the question is what does that language mean, and does it mean that race can never be a motivating factor in an employment decision? In isolation, the language might be interpreted as such, but it is important to review the language in context and against the backdrop of the legislative debates. Before turning to that history, I want to address the argument that proponents of affirmative action are making which is that the Act's savings clause, section 116, somehow preserves all affirmative action plans and thus moots any force section 107 might otherwise have.

Section 116 states in full:

Nothing in the amendments made by this title shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements, that are in accordance with the

law.

The argument premised on section 116 is that the provision saves affirmative action that is in accordance with the law; more specifically, in accordance with the law as it existed prior to the Civil Rights Act.

However, treating section 116 as a general preservation or savings clause is a bit fanciful. What does it mean that the Act does not affect affirmative action plans that are in accordance with the law? It is simply not a credible reading of section 116 that the Act does not affect affirmative action plans that were in accordance with the law as it stood prior to the passage of the Civil Rights Act of 1991. That may be what people had meant but it is not what they said, nor can it be that actions that were lawful prior to the Act but would be impermissible under the Act are acceptable as long as the practice began before the passage of the Act.¹⁶

The issue of race norming is one that easily comes to mind.¹⁷ Section 106 clearly prohibits race norming in some circumstances (although it is likely that courts will say in all

¹⁶ Without getting into the details, there is a substantial and vastly litigated question of whether the Civil Rights Act of 1991 applies to conduct that occurred prior to its passage. There are strong arguments that it would be unfair and a violation of due process to impose liability for actions that were lawful prior to the passage of the Act but which the Act now forbids -- such as, the easy example, of race norming (assuming race norming was permissible prior to the Act).

¹⁷ Race norming, in a very general sense, is the practice of grouping applicants by race or gender and then norming the scores among groups.

circumstances); is it possible to argue that section 116 allows an employer to continue race norming as long as it had begun to do so prior to the passage of the Act? That seems like not only a futile argument but a bad one. And if race norming, which is explicitly prohibited by the Act, is not saved by section 116 then what is the distinction that would allow other affirmative action measures -- that are presumably prohibited by the Act -- to persist after the Act's passage? Again, there does not appear to be a readily available argument that would allow for such a distinction. So looking to section 116 is not likely to provide any salvage.¹⁸

While the language of the Act is not as helpful as one might like, the legislative history on the issue is. And perhaps what is most revealing about the history is the absence of any discussion regarding the effect section 107 would have on affirmative action plans. Surely Congress would not have adopted the provision with the intent of overruling Bakke and its progeny, which allow the consideration of race as a plus factor, without having substantial debate on the issue. Keep in mind that in the Senate every Democrat who voted supported the Act and it is rather inconceivable that Senators, such as Senators Metzenbaum and Kennedy, would have voted for an Act that had the effect of limiting the use of affirmative action -- particularly

¹⁸ Section 116 may have a different meaning if it preserved actions that were "otherwise in accordance with the law" but the word otherwise does not appear in the statute, and there is in fact evidence that it was explicitly stricken from the language as originally proposed.

in a law that was intended to fortify our civil rights laws. It is as if those who oppose affirmative action are contending that they pulled one over on the Democrats, that the bill to restore and enhance our laws against employment discrimination also -- on the sly -- wiped out affirmative action. An argument akin to saying that while the Freedom of Choice Act would protect the law as established in Roe v. Wade, it would also prohibit all abortions.

Fortunately, there is a good deal of support to back up this rather common-sense argument. First, it should be noted that the tortured history of the Act produced an unusual legislative history. As previously discussed, Congress sought to create a Civil Rights Act quickly after the 1988 Term, and in 1990 passed a comprehensive Civil Rights Act, then termed the Civil Rights Act of 1990. On that bill, there were extensive hearings and committee reports, and the bill was more detailed and refined than the Civil Rights Act of 1991. But the President vetoed that Act and the Senate failed by several votes to override the veto.

So Congress started up again the next session and, in fact, the proposed Civil Rights Act was the first bill introduced that Term in the House and came to be known as "H.R. 1." The President also got into the Act and, on behalf of the President, Representative Michel introduced a more limited bill in the House several months after the introduction of H.R.1. Again, there were hearings on H.R. 1 and Committee Reports but, although the bill passed, it failed to pass by a veto-proof majority. In

contrast, the President's bill was soundly defeated. H.R. 1 then moved to the Senate which was reluctant to take up the measure in the face of the President's sustainable veto -- which he had once again threatened under the tired aegis of "quotas".

Rather than take up H.R. 1, Senator Danforth took the initiative to craft a civil rights bill that either the President would support or which would garner enough votes to override a veto. Senator Kennedy pledged his support for the effort and the two worked together through the summer, though they were never able to secure the President's support. The bill was then put on hold while the hearings on the nomination of Clarence Thomas to the Supreme Court began. Following the hearings, things began to fall into place, though it is a matter of speculation whether the hearings had an effect on the bill.¹⁹ Senator Danforth initially won over a number of key Republicans to the point that a veto-proof majority looked likely. At that point, the President began to show support for the legislation and before anyone realized it, a bill had been put together -- very hastily -- without any hearings and the bill was then taken up in the Senate.

By the time the bill came up for debate, its passage was assured. The bill was seriously debated only for two days, and it may be going too far to suggest that there was any debate

¹⁹ It seems likely that Senator Danforth would have succeeded in securing passage of the Act had the Thomas hearings not occurred, though the hearings certainly created the air of unanimity that came to surround the bill.

since there were very limited negative comments on the substance of the bill. The debate consisted mostly of "speeches", and whatever debate there was, not surprisingly, focussed on whether the Civil Rights Act would apply to the Senate and, if so, how and to what extent.²⁰ There was no debate on the provision to correct Price Waterhouse. In addition to the limited debate, a variety of interpretive Memoranda on various sections of the Act were inserted into the Congressional Record, but it is not clear that any of the Memoranda represent the views of a majority of the Senate. There are three Memoranda of note, all of which are in agreement that section 107 does not affect affirmative action.

The primary Memorandum was inserted by Senator Danforth and the other original sponsors of the Act. Senator Danforth's Memorandum, however, makes no mention of section 107 or the Price Waterhouse decision, again supporting the notion that section 107 was not intended to affect affirmative action. In addition to Senator Danforth's Memorandum, Senator Dole also provided a section-by-section analysis that reflected the views of fourteen conservative Senators.²¹ Though the Memorandum is quite

²⁰ That issue was ultimately resolved by an elaborate procedure in which Senate employees now have limited rights under the Act and Senators are personally liable for damages that are assessed against them. This latter provision was inserted by Senator Rudman, who opposed applying the law to the Senate, in an effort to render the law's application to the Senate unconstitutional as a violation of separation of powers. The office relating to the Senate is off to a slow start with no activity to date.

²¹ In addition to Senator Dole, the Senators who signed on are Senators Burns, Cochran, Garn, Gorton, Grassley, Hatch, Mack, McCain, McConnell, Murkowski, Simpson, Seymour, and Thurmond. It

lengthy, occupying nearly seven pages in the Congressional Record, its analysis of section 107 is, in full: "Section 3 adds definitions as those already in Title VII."²² Not the kind of analysis one would expect to find regarding a provision that some are now arguing was intended to limit the reach of affirmative action. More revealing is a subsequent section which states that "this legislation should in no way be seen as expressing approval or disapproval of United Steelworkers v. Weber, 443 U.S. 193 (1979), or Johnson v. Transportation Agency, 480 U.S. 616 (1987), or any other judicial decision affecting court-ordered remedies, affirmative action, or conciliation agreements."²³

That short passage provides the key to the puzzle, for even the most conservative members of the Senate concluded that the Civil Rights Act of 1991 does not affect affirmative action programs -- either positively or negatively. The two cases cited in the Memorandum are critical because they both involve voluntary affirmative action plans and the Weber case involved setting aside specific positions as a voluntary remedy for past discrimination. And in Johnson the Court approved of taking gender into account where a manifest imbalance in the job

has been widely reported that the Memorandum was written by the President's Counsel, C. Boyden Gray, and his staff. While that may be difficult to confirm, it is worth noting that Representative Henry Hyde inserted a section-by-section analysis during the House debate that at least in some sections is identical -- word for word -- with the Memorandum issued by Senator Dole.

²² 137 Cong. Rec. S15473 (daily ed. Oct. 30, 1991).

²³ 137 Cong. Rec. S15478 (daily ed. Oct. 30, 1991).

category at issue had been demonstrated. Importantly, these Senators concluded that the state of the law regarding voluntary affirmative action was left unchanged by the Civil Rights Act. And they further noted that the Act did not affect "court-ordered remedies." So while the language of the Act does not solve the puzzle, the history does.

Central to understanding the state of affirmative action after the Civil Rights Act is an earlier attempt by Senator Jesse Helms to prohibit affirmative action. Prior to the introduction of the Civil Rights Act in the Senate, Senator Helms introduced a bill that would have prohibited all affirmative action other than recruiting programs. His bill was debated, quite vigorously though only for one afternoon, and defeated by a large margin, which serves as further proof that the Civil Rights Act was not intended to alter the law of affirmative action. Similarly, the provision in the 1990 Act that was ultimately vetoed by the President was identical to the provision in the successful 1991 Act, and there is no evidence in the history of the 1990 Act that anyone considered the Price Waterhouse fix as a threat to affirmative action programs.²⁴

²⁴ Those Representatives who constituted the Minority in the Committee on Education and Labor did suggest that what was then section five of the Civil Rights Act of 1990 might impact on affirmative action, though they ultimately suggested that the bill's affect on affirmative action was unclear. See H.R. 101-644, Committee on Education and Labor, Minority Views, p. 124 (101st Cong., 2d Sess.). As discussed below, these were the same individuals who believed that the Civil Rights Act would force employers to enact quotas, and they also opposed all Civil Rights Acts until the passage of the Civil Rights Act of 1991 was ensured. Therefore, their views should not be entitled to any

There is another interesting conundrum implicated by the contention that the Civil Rights Act of 1991 limits affirmative action plans. Recall that the principal objections to both the Civil Rights Act of 1990 and 1991 were that the Acts would lead employers to quota hiring because of the stringent standards set up by the Act. Yet, now that the Act has passed, it seems the argument has been transformed from quotas to a belief that the Act has in fact abolished -- or limited -- affirmative action plans, including any form of goals or quotas. Thus, the opponents of the Civil Rights Act have argued that the Act both encourages quotas and bans them.

Despite the spate of challenges, it is clear that the Civil Rights Act does not affect affirmative action, but one has to ask whether inserting section 107 into the Civil Rights Act will be worth it in the end. As noted earlier, the Price Waterhouse fix will have a limited effect and the only true beneficiaries of the change in law will be lawyers who will receive attorneys fees for some of their work that they might not have received otherwise. Certainly lawyers need to be paid, at least in part so that they will continue to bring civil rights cases. Yet, one must wonder at what cost. It should have been obvious to all that the language of section 107 was problematic and at the least would fuel challenges regardless of the merit of those challenges. It was also all too obvious that there are many Reagan and Bush judges who would relish the opportunity to invalidate affirmative

weight.

action plans, especially if those plans permit taking race into account in employment decisions. In this light, one of the dangers of section 107 is that it might return us to where we were before the Act, and that is seeking to preserve what we have already won. What most likely happened is that the zeal of the Civil Rights community got the better of them and in their fervor to overturn all of the "bad" decisions the consequences of overturning those decisions were not always carefully analyzed. Fortunately, the damage should be controlled but the risk was great.

III.

The challenges that have arisen to affirmative action raise some troubling questions for the future. The ink was barely dry on the Civil Rights Act before people were seeking to use the Act to strike down affirmative action plans that had long been in place. It is probably worth remembering that the Bakke case was brought only ten years after passage of the Civil Rights Act of 1964, and that the first cases to arise under the Reconstruction Civil Rights Acts were also brought by white men seeking to preserve their "rights".²⁵ The whole spectrum becomes even more

²⁵ Several cases brought by white men preceded the Bakke case in the Supreme Court though they did not have the same effect on the nation. DeFunis v. Odegaard, 416 U.S. 312 (1974) (per curiam), originally filed in 1971, raised issues similar to Bakke though the Court declined to address the issues because by the time the case reached the Court there was no meaningful relief that could be provided. McDonald v. Santa Fe Trail Transp. Co., 427 U.S. 273 (1976), which was also filed in 1971 involved a white man suing under several civil rights statutes. For a history of the Reconstruction legislation, see John Hope Franklin, "The Enforcement of the Civil Rights Act of 1875,"

demoralizing when courts -- so many of which consist of judges appointed by Presidents Reagan and Bush -- pay heed to the arguments. As was true in 1964 when the Civil Rights Act originally passed, it will not be until this nation has a sincere commitment to racial justice that we are able to move beyond the divisive fights over what constitutes permissible forms of affirmative action. Of course, pleas for understanding generally fall on deaf ears especially in difficult economic times like the present. So the question remains where do we go from here?

Obviously, the law of affirmative action -- whether voluntary or court-ordered -- remains to a large degree unsettled, which also means that there will be a great deal of litigation over the effect of the Civil Rights Act on affirmative action for wherever the law is unsettled, litigation follows. There is, however, some evidence in recent cases that the federal courts are tiring of challenges to court-ordered remedial plans by white men²⁶ and it is even conceivable that we have reached an equilibrium in the area. Even so, that would leave the question of the legal status of voluntary affirmative action programs open, an area where courts may be more hostile. In

reprinted in Race and History 116-131 (1989); E. Gressman, "The Unhappy History of Civil Rights Legislation," 50 Michigan L. Rev. 1323 (1952), and for a history of the Bakke case and its predecessors, see J. Dreyfuss & C. Lawrence, The Bakke Case (1979).

²⁶ See, e.g., Stuart v. Roche, 951 F.2d 446 (1st Cir. 1991) (rejecting challenge by white police officers for the City of Boston to consent decree); Vogel v. City of Cincinnati, 959 F.2d 593 (6th Cir. 1992) (rejecting challenge to consent decree brought by white officers for City of Cincinnati).

conservative circles, from which the judges have been drawn, there remains a firm conviction that affirmative action is no longer (if ever it was) necessary and that we must move on to -- or return to in the eyes of some -- "merit" selection systems where all are treated "equally".

For those committed to affirmative action and greater integration of our society, the last twelve years have been exceedingly frustrating. During that time there has also been considerable debate on the need, merits and desirability of affirmative action but to little avail. Public attitudes seemed to have changed little, and if anything, people seem more hostile to affirmative action today than twelve years ago. But in the end it is the attitudes that will matter. Litigation is, and always has been, a stop-gap, one link in the chain of integration. In the area of employment discrimination, we have certainly found that the adage that we cannot legislate morals is true -- which is one of the reasons for the damage remedies in the new Civil Rights Act, provisions that are based on a hope that there will be a deterrent effect to making discrimination costly. But we can, and must, continue to attempt to influence morals, continue to fight discrimination and as discussed earlier, continue to fight to demonstrate that we should look at race as a plus rather than a divisive element. The success of Andrew Hacker's recent book, "Two Nations," which surprisingly rested on best seller lists for some time, may be an indication that people are tiring of the divisions over race. The Los

Angeles riots may, too, spur further action, though it sadly seems that the immediate concern sparked by the riots has been lost. Equally troubling was the attempt by some liberals to use the riots in their political campaigns to attack lawlessness. Fortunately, those candidates lost, and Carol Moseley Braun has a real chance at entering the Senate, and one can only wonder whether Harvey Gant might have the same opportunity if he were running this year instead of two years ago.

But at the same time we need to develop new strategies to move forward on questions of affirmative action and diversity and we need to begin with the question of what kind of a society do we want to have?²⁷ While there is so much talk, particularly in politics, about the American melting pot, and the importance of diversity, we seem to have lost whatever commitment we might have had to a truly integrated society and we also seem to have forgotten what the purpose of an integrated society was or can be. Integration always meant more than improved opportunity for those who had been unduly denied life's basics -- it meant reducing hatred in our society, treating all individuals in a humane fashion and in turn introducing a needed element of humanity into our society. It meant allowing people to flourish

²⁷ Despite their promising titles, two recent books that purportedly offered fresh looks at race are, in fact, mired in very traditional thought. See Roy L. Brooks, Rethinking the American Race Problem (1990); Christopher Jencks, Rethinking Social Policy 24-69 (1992). The provocative title of Gertrude Ezorsky's recent Racism & Justice: The Case For Affirmative Action (1991) leads to disappointment insofar as the book simply recycles the arguments that have been made at least since the Court's Bakke decision.

as people, and to creating a better society, one where opportunity was more than a myth and where our children would grow up with a different heart. Racism diminishes all of us, both as individuals and as a society, causing all of us to lose part of ourselves and part of our humanity.

Yet we have lost sight of all of that, and in discussing race we find ourselves in the annual debate over compensating victims vs. creating new victims, and trying to determine who is responsible for our past evil. We have forgotten that it is not just past evil we need to be concerned with, but present evil as well. In this respect we must go beyond the traditional civil rights strategies that focus on "remedies" and "compensation" and work toward creating a belief that our society will gain, all of society, by capitalizing on our differences -- exploiting them in a positive sense -- rather than using our differences to foster conflict and fear.²⁸ What we need are new arguments and ideas, though what we generally have is new people making the same old arguments.²⁹

One area that holds great promise but that seems to have received relatively little attention is expanding on the notion, first developed in Bakke, of treating race as a plus. Bakke

²⁸ For an excellent discussion of the need for a new dialogue, and emerging trends to such a dialogue, see Robin D. Barnes, "Politics and Passion: Theoretically a Dangerous Liaison," 101 Yale L. J. 1631 (1992) (book review).

²⁹ E.g., Stephen L. Carter, Reflections of an Affirmative Action Baby (1991); Shelby Steele, The Content of Our Character (1990).

approved of the so-called Harvard plan that considered race as a plus factor in decisions for entry to college, and that part of Bakke remains the law today though it is more important today than it was in 1977 to create the proper context to justify taking race into account. Nevertheless, the question of what it means for race to be a plus factor, and how much weight the plus factor may receive, has been largely neglected at least in court litigation. What we need to do, however, is go beyond the notion of merely taking race into account to break ties, and we need to begin looking at race as a plus, as something desirable. Increasing diversity, particularly in the workplace, should be seen as an important and possibly efficient means of increasing the effectiveness of the workplace.³⁰

In this regard, race would be considered not just to remedy past discrimination but because race is, in and of itself, a plus. To borrow from a recent article, this argument might be termed "race matters."³¹ Now this argument is different from

³⁰ There is some support for this position in the important Supreme Court decision of FCC v. Metromedia, Inc., 497 U.S. ___, 110 S.Ct. 2997 (1990) which approved of diversity as a justification for a federal program that gave preference for communications licenses to minority owned businesses. This decision has almost been entirely ignored, at least in part because it was Justice Brennan's last decision and there is widespread belief that the result would be quite different if the issue were to reach the Supreme Court again.

³¹ T. Alexander Aleinikoff, "A Case for Race Consciousness," 91 Colum. L. Rev. 1060, 1069 (1991). Two other articles that discuss the use of race in non-remedial contexts are Kathleen Sullivan, "Sins of Discrimination: Last Term's Affirmative Action Plans," 100 Harv. L. Rev. 78 (1986) and Note, "Rethinking Weber: The Business Response to Affirmative Action," 102 Harv. L. Rev. 658 (1989). In a non-legal, psychological and

the current trend of some scholars to argue that race matters in scholarship because one can associate a particular voice or experience with a particular race. And I would also contend that the argument is different from the contentious campus debates over political correctness and diversifying curricula.

Rather, this argument attempts to stay within the existing legal paradigms that allow the consideration of race, and is based on a notion that race can be both relevant and important particularly in employment selections. For example, an argument could certainly be developed that it is important for police departments to have officers of color, particularly in light of a history of discrimination.³² Here, the argument must focus on how adding minority employees will make for a more effective labor force; having minority police officers will provide more effective law enforcement in the community. In this context, the argument is easiest to understand in the area of language skills -- the need for officers who speak Cantonese or Spanish in order to effectively serve the community. Or the need for minority officers to increase the trust of the minority community in the police force, which is an essential element of police

statistical context, the idea is discussed in four articles in 4 Human Performance 233-307 (1991).

³² As a legal matter, it is important here to stay away from the argument that minority individuals are needed to serve as role models, since the Supreme Court has already rejected the role model theory and it is unlikely to receive favor in the near future. See Wygant v. Jackson Bd. of Education, 476 U.S. 267, 275 (1986) (plurality decision).

work.³³

Conservatives quickly rebound with the argument that if you allow the hiring of minority officers to assist with the minority community, then the same analysis would require hiring white officers in predominantly white communities. But this is a specious argument that cannot withstand critical analysis. First, if the theory behind having minority officers is to increase trust in the community, then one has to determine what the basis for mistrust is. Minority communities have an undeniable historical basis for mistrusting white police officers, particularly when one recalls the days of segregation when white officers were the ones enforcing the laws. Additionally, since crime is disproportionately wreaked upon minorities, and police forces have been disproportionately white, there is a natural tendency for the presence of mistrust in the community since the white police officers are associated with the crime and arresting minority individuals. And a less subtle factor would be the glaring number of beatings inflicted upon minorities by white police officers.

Turning to the argument regarding the hiring of white officers, one must begin by arguing where the "plus" is from the fact that the officers are white. If the argument is that white individuals simply trust white officers more, then one must also

³³ This issue is of particular importance in many Asian communities that consist of refugees who fled from countries where the police and military were indistinguishable, both of which represent authoritarian terror rather than peace officers.

explore the source of that trust which would likely lead to racist stereotypes. There has been no history of black officers turning fire hoses on white children; there has been no history of black officers disproportionately arresting white individuals; and there has not been an equivalent history of black officers beating white individuals. Absent a rational foundation for the sense of mistrust, there is no plus that follows from the fact that the officers are white, or at least not a plus that society ought to be willing to recognize.

It may still be possible to contend that despite the irrational basis for the mistrust, that mistrust is real and thus providing white officers in racist white communities will in fact make for a more effective police force. Maybe so, but again that is surely not the kind of argument our society should be willing to recognize as legitimate. Efficacy premised on racism can lead to many pernicious results, largely because it ignores our constitutional commitment to racial equality. In trying to devise new strategies for affirmative action, we cannot forget our history -- nor can we treat the arguments and claims of white people the same as those of African Americans for the histories are unambiguously different.

While the role model theory has been rejected as a basis for affirmative action by the Supreme Court in the context of layoffs, it is necessary that we seek to develop the idea that it is important to have people of color and women in visible positions. We will never move beyond the current mindset until

people, and here I mean white people, become used to seeing African Americans in positions of power, when white people work for African Americans -- when women are supervisors and men become used to women acting with authority. We need to have African-American school teachers not just for African-American children but for white children as well so that we can break down racist stereotypes, and so that white children will from an early age become used to dealing with people of diverse backgrounds. As such, white children will learn more by having black school children.

We also hear a great deal about underrepresentation, and how underrepresentation is a serious social concern, yet we never discuss why underrepresentation is a problem. Rather, we simply assume it is because African Americans and women are denied equal opportunities. Well those arguments have lost their force which we must acknowledge, and we need to begin to develop the notion that underrepresentation is a problem for all of us because we all lose when our diversity is hidden. For example, the problem with the Harvard Law School and its refusal to seek to hire a woman of color is not that the applicant pool is too small -- the problem is that Harvard does not value a diverse faculty, its leadership cannot see the value of having people of color on the faculty. This is likely for two reasons. One, Harvard -- like so many others -- cannot get beyond the remedial notion of race and since it has hired a few people of color it believes it has done enough to remedy its past discrimination. It simply does

not see, or refuses to understand, that its faculty will be better if it is diverse.

But the second reason is the difficult one to overcome and that is that Harvard, and places like it, resist change because the change threatens its very existence. The white men who run Harvard Law School are being told that they are not good enough, that their lives are not as valuable as they believed. After all, these are white men who graduated at the top of their class, did everything they were supposed to do -- garnered all the proper academic appendages -- and yet now they are being told that something is missing. And that is a difficult notion for people, particularly people without a commitment to diversity or integration, to accept. But that is why there needs to be a continuing dialogue, combined with new arguments, to demonstrate not just that people of color and women have a different voice, or have lived different lives, but that those voices and lives are valuable, that a diverse faculty filled with diverse viewpoints is a better faculty -- better in that it will provide a better education to students. It is these last issues that have been missing from our efforts to date, but if affirmative action is to survive, it will be these issues that will need to be developed in the coming years.

There is an important legal caveat and that is that the courts may not go along with the kind of arguments I have described above that seek to incorporate race into decisionmaking processes without a remedial justification. Indeed, one of the

reasons we so strongly focus on using race in a remedial context is that many believe that the courts, including the Supreme Court, has limited the pertinent constitutional terrain to include only remedies for past discrimination. Nevertheless, while we do not know whether courts would permit taking race into account based on an argument that race is a plus, we do know that our current arguments are no longer working. We are losing support for affirmative action and we are losing in the courts. And the arguments regarding incorporating race as an employment criteria have, for the most part, not yet been tried. If prepared properly, with data or testimony, the court would be forced to answer a new question -- whether race can be viewed as a positive factor in a way that will make for a more effective workforce? It is a question at least worth asking.

IV.

The Civil Rights Act, while far from perfect, has succeeded in reestablishing a national commitment to equal opportunity and has leveled the playing field to an important extent. At the same time, it is true that affirmative action is undeniably threatened in this country, not because of the Civil Rights Act though that Act has surely provided new evidence that there are all too many people who would like to see affirmative action disappear from our social landscape. Our old arguments justifying affirmative action have lost their force, and if we are to move our society forward, we will need to develop new arguments to counter new attacks. The theory of using race as a

plus because race is a plus may ultimately hold a key -- though it will no doubt be extremely difficult to gain the popular support the new arguments will need. This is, however, no doubt one time where the ends will surely justify the effort.

WORK FORCE 2000 TRENDS

From Portland Metropolitan Labor Trends, May 1988

The U.S. Department of Labor and the Research and Statistics Section of the Oregon Employment Division have been engaged in studies of major issues and trends which are likely to impact the local and national labor force between now and the year 2000. A U.S. Department of Labor study outlined some of these critical trends, their possible consequences, and the implications for major sectors of our society. Among some of the major findings for the U.S. as a whole were the following:

I. The U.S. population and the labor force will grow very slowly between now and the year 2000.

A. The rate of increase will be slower than at any time since the 1930s.

B. By the year 2000, the work force will be increasing by only 1% annually, one of the lowest annual growth rates in the Nation's history.

II. The pool of young workers entering the labor market will shrink. The number of young workers will decline both relatively and absolutely; workers aged 16-24 accounted for 20% of the work force in 1985, but will decline to 16% by the year 2000.

III. However, the proportion of the youth labor force that is minority will increase substantially. By 1990, one out of five new labor force entrants will be a minority youth.

IV. With the decline of young workers, the average age of the work force will rise significantly.

A. The average age of the work force will increase from 35 today to 39 by the year 2000.

B. This aging will be entirely the result of increasing numbers of middle-aged workers (ages 35-54); the proportion of older workers (55 and older) will actually decline from 13% to 11%.

V. More women will enter the work force, although the rate of increase will taper off.

A. By the year 2000, approximately 47% of the work force will be women.

B. Sixty percent of all working age women will be at work.

VI. Immigrants will represent the largest share of the increase in the population and the work force since World War I. While precise estimates are not possible, approximately 450,000 immigrants (750,000 if illegals are included) are expected to enter the country each year through the year 2000.

VII. Most labor force growth through the year 2000 will come from groups in the population that have traditionally been under-utilized and suffer from labor market problems. Women, minorities, and immigrants will account for more than 80% of the net additions to the labor force between now and the year 2000.

VIII. On the demand side, there will be significant geographic and occupational shifts in employment during this period.

IX. Regional shifts in employment are expected to continue, with greater growth in the South and West and slower gains in the Midwest.

A. Labor supply and demand are likely to be imbalanced in many regions.

B. Geographic areas dependent on single firms or industries will be most vulnerable to employment decline.

X. Jobs will continue to shift from goods-producing industries to the service sector.

A. The U.S. Bureau of Labor Statistics projects that 90% of all new jobs through 1995 will be in services.

B. Only 8% of new jobs will be in manufacturing.

XI. Responding to technological change and employers' needs to meet increased international competition, many new and existing jobs will require higher levels of analytic skills.

A. Skill requirements will change more rapidly, with a higher premium placed on cognitive and reasoning skills.

B. The level of workplace literacy required will, on average, continue to rise beyond mere ability to read and write.

C. The rapid turnover and change of industries and firms will require workers to adjust more quickly and more often, with some changing jobs five or six times during their worklives.

Consequences and Opportunities

I. As a result of the convergence of these trends by the year 2000, the labor market and the workplace of the future will be substantially different from what we have at present.

II. Most important, between now and the year 2000, labor markets may be tighter than at any time in recent history.

A. As a result of a diminished rate of labor force growth and a smaller pool of qualified workers, particularly at the entry level, some employers may face skill shortages.

B. Employers could respond to this situation by exporting jobs overseas, bidding up wages for qualified workers, investing more heavily in automation, or spending more to train and educate new employees.

III. These developments could present a unique "window of opportunity" to solve the problems of groups with long-standing labor market problems.

A. The shortened hiring queue of the year 2000 will consist, in large part, of minorities, the handicapped, immigrants and women.

B. Tight labor markets, particularly for young workers, should result in higher wages and more hiring and training opportunities for less well-prepared workers.

C. This offers the potential for significantly narrowing the occupational and earnings gaps that have separated specific groups in the population from the mainstream.

D. It also holds out the possibility for reemploying displaced experienced workers in new emerging occupations.

IV. To capitalize on this "window of opportunity", both cultural and structural issues must be addressed.

A. Although tight labor markets promise to make jobs more available for qualified individuals, many workers will have great difficulty taking advantage of the opportunities.

B. Disadvantaged and minority youth, who will constitute an increasing share of the future work force, are more likely to be functionally illiterate, to drop out of school, or to have other problems.

C. Many young people have grown deeply cynical about the utility of education, and see little value in acquiring basic reading and numeric skills.

V. These cultural and attitudinal problems among the young are compounded by structural problems that prevent other groups in the work force from being fully utilized.

A. While progress has been made, women still tend to be channeled into traditional female-stereotyped occupations. Adequate child care is still not generally available, and rigid work schedules continue to act as barriers to greater utilization of working women.

B. Emerging technology has greatly facilitated the entry of handicapped persons into the workforce, but this human resource remains greatly underutilized due to discrimination and inadequate education and training.

C. Immigrant workers are typically high in motivation and can be valuable additions to the work force but need training in English, and frequently in other basic skills, to be employed productively.

D. Experienced workers displaced due to technological changes and other factors are well-motivated and oriented to the workplace but may lack the analytic, verbal, and computational skills necessary to make the transition to high-demand occupations in information and service industries.

E. Older workers, who will comprise an increasing share of the nation's work force, are likely to be less flexible and adaptable while the nation's economy continues to undergo rapid change. Workers over 35 are less likely to move, to change occupations or to undergo training than younger people.

Oregon's Dependency on National Trends

I. Despite important differences, Oregon's economy will continue to be highly dependent upon federal policies and national business cycles.

II. In the 1990s, the economies of both Oregon and the Nation will become increasingly dependent and linked to the global economy through international product and financial/currency markets, new technologies, and competitive pressures.

III. Increased foreign and domestic competition will continue to force employers to cut costs, adopt new technologies, and restructure their operations, causing dislocations in the work force.

IV. The production of basic commodities will still be very important in Oregon by the year 2000, but fewer workers will be needed to produce larger volumes of output. In addition, the State's key lumber and wood products industry faces potentially serious timber supply constraints in the 1990s.

V. An estimated 178,000 new jobs will be created in Oregon between 1986 and 2000. Almost 95% of the new jobs will be in nonmanufacturing, primarily in service-related industries. One-fourth of the new jobs will be in retail trade.

VI. Annual pay for trade and service-sector jobs was approximately 73% of that in manufacturing in 1985. About 30% of the new jobs in trade and services will probably be part-time. The trend, therefore, is toward an increasing number and proportion of lower paying part-time jobs in Oregon's economy.

VI. Considerable job growth will occur in professional/technical occupations, managers and officers (mostly in trade and services), and sales workers. Craft workers, operatives, and laborers, however, will either decline or show very little actual growth. The demand for clerical workers will slow down as use of office automation becomes more widespread. The demand for service workers will remain high.

Changes in Oregon's Population

I. Oregon's total population and labor force, contrary to the national trend, will grow faster during the 1990s than during the 1980s, due to the severity of the last recession which sharply reduced population growth.

II. The proportion of Oregon's population and work force which is non-white or minority will increase in the 1990s, but at a slower rate than nationally. Hispanics will continue to be the largest minority group.

III. The average age of the population and labor force will increase in Oregon by the year 2000 as the "baby boom" generation reaches middle-age.

IV. A decline in the number of young adult workers may lead to labor skill shortages which will accelerate the introduction and use of new technologies.

V. A large increase in Oregon's population of retired persons will expand the demand for health and recreation services.

VI. Nearly two-thirds of the increase in Oregon's labor force through the year 2000 will be women.

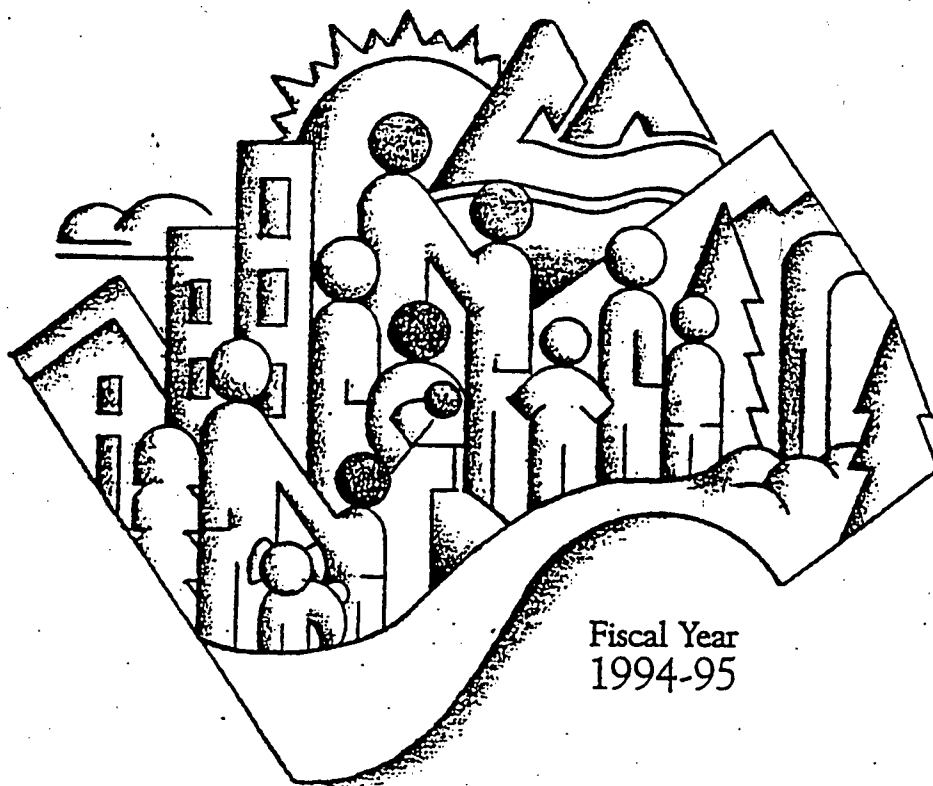
VII. A large increase in the number of middle-aged, experienced workers will mean opportunities for greater productivity gains, but less vertical mobility for younger workers.

VIII. Population immigration from other countries, and especially from other states, may modify these trends, but will not significantly alter them.

IX. School dropout rates in Oregon are closely correlated with unemployment rates and job market opportunities. Although the overall unemployment rate may be lower, obtaining "good" jobs in the future will increasingly require education and skills training beyond high school.

Multnomah County Budget

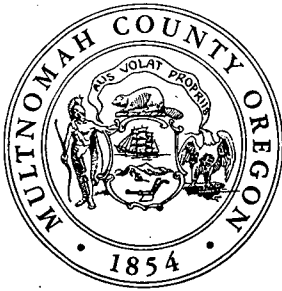
Supplemental Information



Fiscal Year
1994-95

Packet #26
County Evaluation Initiatives

Chair's Office



Beverly Stein, Multnomah County Chair

Room 1410, Portland Building
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P.O. Box 14700
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(503) 248-3308

TO: Board of County Commissioners

FROM: Beverly Stein, Chair

SUBJECT: County Evaluation Initiatives

DATE: June 6, 1994

Focusing on results and evaluating our success in achieving those results is a cornerstone of my vision for good government. During the first nine months of my administration, I believe Multnomah County has made substantial progress in clarifying both the long-term and intermediate results we strive to realize and in developing the capacity to evaluate our success.

As you deliberate on the Chair's 1994-95 Proposed Budget for Multnomah County, I want to assure you that evaluation efforts continue to be a very high priority in my administration. The following report highlights our recent accomplishments and new efforts to make evaluation an integral and routine part of the way the County does business.

This report has provided a brief overview of current County evaluation initiatives to serve as basis for discussion during the 1994-95 Budget work session on Wednesday, June 8. This report is informational -- no action by the Board of County Commissioners is requested at this time.

Multnomah County Benchmarks

The Board of County Commissioner's adoption of benchmarks for Multnomah County provides both a short-range and long-range focus for policy and program efforts. The urgent benchmarks in the areas of children and families, public safety, good government and access to services, established a framework for the Chair's 1994-95 Proposed Budget. For your information and reference, an updated progress report on "Developing Benchmarks for Multnomah County" is provided as Attachment A.

While we are still in the beginning stages of our efforts to implement the benchmarks, national evaluation experts Harry Hatry and John Kirlin (in Oregon to evaluate the Oregon benchmarks) recently identified Multnomah County as "the place to



watch" for development of a model which incorporated benchmarks in local government program planning, budgeting and evaluation. In particular, they cited our work in identifying performance measures to link departmental efforts with the benchmarks.

During 1994-95, the Chair's Office and the Budget Office will work with the Board and County departments to collect baseline data, set targets and refine benchmarks. A systematic approach will be taken in documenting, reviewing and refining our strategies to reach the benchmarks. In most cases, a collaborative strategy will need to be developed with our community and governmental partners. Benchmarks will be categorized to reflect the extent and nature of County governmental responsibility.

Portland / Multnomah County Progress Board

Adoption of benchmarks by the Portland - Multnomah county Progress Board in January 1994 has brought our community values and priorities into focus and provided a framework for collaborative action between government, private, and non-profit interests. The benchmarks provide specific, quantified targets for the quality of life we strive to achieve and sustain over the next two decades in our community.

During 1994-95, the Progress Board will speak to at least 100 organizations to educate them about the benchmarks and to advocate for their adoption. In the area of data collection and analysis, the Progress Board will refine the measurement standards for the urgent benchmarks, collect baseline data, establish targets and issue the first annual monitoring report. The Progress Board will also take a broader role to stimulate progress towards the benchmarks by identifying "best practices" which support and barriers which impede benchmark achievement. Furthermore, in areas where benchmarks efforts are lagging, the Progress Board will selectively convene stakeholders to discuss strategies and to identify collaborative opportunities.

Program Budget, Key Results & Action Plans

Each of the various features of the redesigned budget process and documents have been implemented with the objective of improving the ability of program managers, interested citizens and the Board to communicate about policy and program objectives, priorities, strategies and resources. Performance trends, key results and action plans are presented in the budget to set annual targets for County departments and programs.

During 1994-95, progress towards these annual targets will be monitored and reported to the Board on a regular basis. We will report to the Board at work sessions three times per year. This will provide the Board an opportunity to evaluate key results data and the implementation of action plans with program managers and interested citizens at key points: in the summer [early August] to wrap-up the prior fiscal year and to clarify expectations for the next; in the fall [early December] to evaluate initial efforts and to set the stage for budget preparation efforts; and in the spring [early April] to get updated information before budget deliberations. Before this monitoring and reporting system is implemented, a specific proposal including the proposed document formats and annual schedule will be provided to the Board for its review and guidance.

RESULTS Campaign

The RESULTS Campaign was launched this year as a cornerstone of our quality service goals. RESULTS stands for "Reaching Excellent Service Using Leadership and Team Strategies." Our goal is excellence. Our strategies are new forms of leadership and emphasis on teamwork.

Activities within the first few months of the RESULTS Campaign have included information sessions with County Unions; monthly training sessions with department managers and members of the steering committee; informational sessions with employees and a training session for shop stewards, hosted by Local 88; a monthly brown-bag lunch series through the Central Library featuring speakers from the business and education communities. In addition, a number of activities are taking place in County departments and divisions as they begin to initiate implementation of RESULTS in the workplace.

During 1994-95, a one-day conference for a cross-section of approximately 250 managers, employees and union representatives will be convened. Attendees will learn about the critical need to transform County government through new forms of leadership, employee empowerment and the skills and tools of continuous quality improvement. The availability of RESULTS grant funds will be announced at that conference. The grant awards are intended to motivate innovation in new and existing work teams by providing technical assistance, facilitation, training in team building and conflict resolution, software, organizational assessment methods and so on. Grants in amounts ranging from several hundred to several thousand dollars will be available to assist work groups to build a sustainable quality improvement program and to cultivate some "shining examples" of the benefits of RESULTS. A RESULTS newsletter will also be initiated.

As work groups incorporate quality improvement techniques, they tend to want better information about the demand/need for their services, the efficiency of work processes and the nature of program outcomes. Performance measurement becomes something done to meet the current needs of program staff, rather than as a perfunctory response to external requirements. This sort of work group "ownership" of performance measures is of crucial importance to the quality and sustainability of performance measurement systems. Work groups are self-directed to better define measurements, maintain the data collections systems and, most importantly, routinely use the information as an integral part of management and program evaluation efforts.

Customer and Citizen Satisfaction

There has been a marked increase in departmental efforts to assess customer satisfaction with County services this year. The benchmarks and key results each strive for a focus on outcomes: for many governmental services, the independent assessments provided in reliable customer or citizen surveys represent the best information available on quality services.

The County Auditor's Office is working with the City Auditor's Office to expand its nationally recognized Service Efforts and Accomplishments [SEA] survey to include citizen satisfaction questions related to services like library services, which are utilized by

most citizens. A sample survey technique is used for the SEA data collection to ensure representation of the entire County.

Customer satisfaction has been identified as a "key result" performance measure in the budgets for many County programs, particularly programs that provide support services in other County departments. Sample surveys are commonly used to assess customer satisfaction. The Chair's Office and Auditor's Office are working together to provide technical assistance to departments in the design of their survey instruments. Survey methodology is a specialized field and we want to feel confident in the reliability of information collected. A wide variety of efforts are currently underway in departments/divisions. A summary of that activity will be shared with departments in the near future.

New efforts in 1994-95 will include the development of a "customer complements and complaints card" to be placed for convenient citizen access throughout County facilities. Citizens will be invited to leave the cards at the site or mail them to the Chair's Office. Complaints will get responses. Another project will be the development and printing of very specific standards the County expects to meet in its public services. The standards will help individual citizens understand what to expect in terms of the timeliness or quality of services provided.

Contracted Services

Our ability to evaluate contracted services programs is being improved as a results of Board requirements to include goals, objectives and outcome-focused performance measures in all contracts. Community and Family Services, Juvenile Justice Services, Community Corrections and Health departments/divisions will meet this standards in the contracts it issues for 1994-95. Aging Services will achieve this standard next year.

Implementation of the Contracting Task Force recommendations has begun. One, uniform request for qualifications [RFQ] has been developed by an inter-departmental team and is currently being used as recommended in the Task Force report. Other inter-departmental efforts to improve coordination in planning, monitoring and evaluation of contracts are flourishing: a variety of program staff are meeting to improve systems and communication when clients or contractors are touched by more than one division/department. The Community and Family Services Division has developed one contract boiler-plate to unify the previously separate efforts of its various programs; the next step is to establish a single approach County-wide.

During 1994-95, implementation of the contracting task force recommendations will continue as a high priority. Standards and expectations will be defined for the provision of fiscal monitoring services by a new, centralized "Contracting Unit" in CFS. And broader discussions will continue regarding other opportunities to improve efficiency or program effectiveness through inter-departmental efforts. The workload reductions resulting from improved contract administration are expected to free-up significant resources for program monitoring/evaluation. These opportunities will be fully explored.

Information Systems

Automated information that is readily accessible and manipulable is an essential tool for outcome evaluations. This is currently a barrier for many programs --- including some of the County's basic functions. For example, the lack of an automated client tracking system in Juvenile Justice Services has made it impossible track youth recidivism rates.

During 1994-95, a Juvenile Justice information system will be developed. More importantly, a County-wide information systems strategic plan will be developed by the Department of Environmental Services. The plan will address decision-making systems for personal computers, data integration and sharing needs, training, user support services and equipment and software condition.

Increased Organizational Capacity

The Chair's commitment to increased program evaluation is demonstrated by several organizational changes which increase the County's overall organizational capacity for evaluation: 1) reorganization of the Budget Office as the Budget and Quality Office; 2) initiation of a centralized contracting unit in the Community and Family Services Division; and 3) the RESULTS campaign.

Changes in the Budget Office will enable it to provide more analytic staff support for policy-making and to provide departments with internal consulting services which support continuous improvement efforts. In the area of evaluation, the Budget Office will assist departments to develop performance measures, to be good consumers of program evaluation services and to develop their internal organizational capacity to conduct program evaluations.

The Community and Family Services [CFS] centralized contracting unit will handle the administrative paper-work involved with RFQs, RFPs, contract development, contract administration and fiscal monitoring of contractors. It will handle the Juvenile Justice Services Division and the Health Department as well as CFS contracts. The potential for providing services to Aging and Community Corrections is also being explored.

Recognizing that the support of top leadership is important, the RESULTS campaign is being coordinated from the Chair's Office. However, as departmental understanding and commitment grows, resource positions may be identified within departments. For example, the Health Department has internally reorganized to dedicate on position to supporting quality efforts.

Guiding Principles for Program Evaluation

As our efforts continue over the next year, they will be guided by the following principles:

- focus on outcomes
- aim for continual program improvement
- streamline data collection
- emphasize cooperation
- be inclusive
- plan collaboratively
- involve the Board early and often
- face tough decisions
- base relationships on respect & clear expectations
- be flexible

These principles are more fully described in the attached "Board Evaluation Policy" which was adopted by the Board of County Commissioners through Resolution 90-45 on March 29, 1990.

Conclusion

In recent months, the County has made significant new efforts to improve our ability to evaluate the success of County programs. The Board's leadership and active support for these evaluation initiatives has been important. We are off to a very positive start. I look forward to our continued efforts to make evaluation an integral and routine part of the way the County does business.

BOARD EVALUATION POLICY

ATTACHMENT A

In developing and implementing evaluation procedures, County staff should be guided by the following policies and themes:

- Outcome evaluation. Move beyond relying just on compliance monitoring to outcome evaluation. This evaluation process does not imply publishable evaluations, but encourages people from the county and community agencies to share their insights, criticisms, suggestions openly and continually in a joint effort to improve services to people.
- Continual program improvement. Acknowledge that successful programs often evolve over time. County staff and providers should be willing to acknowledge outcomes which fall short of goals and change programs as necessary. Progress, not perfection.
- Relevant data collection. Insure that recordkeeping requirements are all geared towards information that is essential to evaluate contract performance. Review current measures and determine how we can reduce the paperwork burden for county employees and contractors.
- Cooperation. Stress cooperation and improve quality of services delivered, rather than punitive, fault finding approach.
- Involvement. Use the insights and observations of on-line employees, clients, and informed community members in assessing success of programs. A more informal and more inclusive ongoing evaluation process may be a tool to encourage employee growth and to avoid fiscal crises that may be embarrassing and destructive to both the county and the contractor.
- Collaborative planning. Institute collaborative planning with providers and community to help clearly define desired outcomes.
- Board Involvement. Report to the Board regularly on evaluation projects. The Board should define what information they need to make good policy decisions.
- Tough decisions. Balance flexibility with the professional and political willingness to terminate contracts for repeated non-compliance or non-performance. Provide political support for proper management discretion exercised within a fair, open process.

- Uniqueness of Community Agencies. Contracting out for services implies a business relationship based on respect and clearly defined expectations. Community agencies can provide unique perceptions on needs of communities, ways of delivering services, and methods of evaluation. Community agencies can assist the County in devising culturally competent programming.

- Flexibility. Allow some flexibility in program design and using money as dictated by unique community needs.

- Advocacy with State. Advocate to the state in advancing these principles in situations where overly rigid state requirements limit effectiveness.

- Responsiveness of county rules. Reexamine County RFP requirements in light of these themes.

Clerk

Multnomah County Budget

Supplemental Information



Packet #27
Environmental Services

Follow-up Information from 5/23/94



Department of Environmental Services
"Quality Government Worth paying For !"



Interoffice *Memorandum*

To: Dave Warren, Budget Office
From: Mike Oswald, DES Administration *MO*
Subject: Follow-up Items from the DES Budget Work Session
Date: June 1, 1994

I have attached the follow-up information requested during the DES budget work session on May 23, 1994.

Questions three and four note that the Budget Office will be preparing a response.

I also understand that a new follow-up item surfaced during the May 31st work session regarding the Central Library move. We are preparing a response and will have it to you as soon as possible.

If you have any questions, or would like additional information, please let me know.

attachment

cc: Janice Druian, Acting DES Director

Follow-up Items to the Department of Environmental Services Budget Work Session held May 23, 1994

1. Data Processing

Developing a strategic plan for information services should not interfere with the Data Processing Management Committee being the gatekeeper for data processing decisions. Suggest ways the Committee can fill this role during the interim while the plan is being prepared.

Under Ordinance 511, the Data Processing Management Committee (DPMC) is the policy setting body for information processing in Multnomah County. In 1988, the Committee developed a set of policy guidelines to control the proliferation of diverse technologies. They also established a review process to maintain compliance with the policies. In 1992, the review limits were lowered to cover all purchases of information technology (software, hardware and consulting), which exceed \$1,000. The responsibility for the review was delegated to the Information Services Division and a procedure was developed with Purchasing to require ISD review of all purchases and contracts for information technology over \$1,000. In 1992-93, the Information Services Division reviewed \$1.8 million of information technology acquisitions for consistency with current policies and reported quarterly to the DPMC. We expect the current "gatekeeper" process would remain in place until the strategic plan is completed and approved by the DPMC and the Board of County Commissioners.

2. Data Processing

What is the \$50,000 for a contract to assist in developing the strategic plan for information services intended to buy? Suggest ways to assure that the projects do not get bumped from the prioritized list as part of the plan.

The development of a strategic plan for the use of information technology in Multnomah County will focus on three major areas

1. The existing information infrastructure will be benchmarked against current "best practices" and other state, local government and service bureau providers. The State of Oregon and the State of Washington have recently completed similar benchmarks as part of their planning process. This is a recognition that it is difficult to develop a plan without an accurate assessment of where you are today.
2. Current and new technologies will need to be surveyed. The new technologies have the potential to increase the efficiency and effectiveness of service delivery and align with the strategic direction of the County, as it is identified in the vision and benchmarks which were recently adopted.
3. Identify annual work plans and budgets for the implementations of the strategic direction. These plans will be developed through the Data Processing Management Committee and will be submitted to the Board of County Commissioners.

Discussions with the Chair of the Data Processing Management Committee and the members of the Operating Staff of the DPMC suggest that the complexity of the first two areas on the list will require technical expertise which is not currently available in the County. The \$50,000 will be used to pay for the necessary consulting services. The final recommendation to the Board of County Commissioners will be developed by the Data Processing Management Committee employing the same participatory process used by the Facilities Client Committee to develop the Facilities Five Year Capital Improvement Plan. ISD Director Jim Munz is researching the costs based on a similar effort in other government agencies.

3. Data Processing

Where in other budgets have programs included allocations for data processing training?

This information will be provided by Dave Warren in the Budget Office.

4. Data Processing

Discuss the problem of allocating the costs of data processing to programs and explain the consequences that result from fully charging these services back to programs.

This information will be provided by Dave Warren in the Budget Office.

5. Data Processing

Suggest a marketing plan for data processing excess capacity and the policy problems that such a plan entails.

At this time, the Information Services Division has very little excess capacity. Our central processing unit (CPU) is fully allocated between production and system testing. The production domain is operating between 80% and 100% capacity during the 8 am to 5 pm period. Our recent proposal to the City of Portland, which identified potential savings of \$2.35 million over the next five years, included the purchase of additional CPU capacity to support the work of the three data centers. The transfer of the Health Department applications to the data center at Oregon Health Sciences University should give us about 12% unused capacity; hopefully this will be sufficient to carry us through the coming fiscal year.

The consolidation project with the City of Portland identified substantial savings available to the City and the County through the consolidation of data centers. I would recommend we explore the possibility of feasibility studies with other local governments and public agencies in the metropolitan area. Other counties and smaller cities may be more interested in working with the County to reduce costs and improve quality.

6. Capital Budget

Identify strategies to deal with the five year deferred maintenance shortfall in the Capital Improvement Plan. Make sure that this problem is addressed in the strategic space plan.

The Facilities Client Committee and its subcommittee on space planning are beginning to discuss funding mechanisms for both deferred maintenance and other space needs, Options identified so far include:

- **General Obligation Bonds** (either by the County or a combination with the City of Portland and other entities).
- **Certificates of Participation** (basically, borrowing money with the property as collateral).
- **Space Surcharge** - continued or increased
- **General Fund** appropriations.
- **Disposition of Buildings** with very high maintenance needs, including recovery of net sale proceeds, if any, into the CIP Fund.
- **Deferral of some maintenance** beyond a five-year timeframe.

The strategic space plan will be dealing with maintenance costs as one of its chief components, along with issues such as operating cost, location/access issues, growth or co-location issues, and efficiency/work environment issues

7. Facilities Management

Describe the plan for developing the strategic space plan and the process anticipated for Board review. Make sure that the resources needed for this planning effort are identified.

A subcommittee of the Facilities Client Committee is working on a plan for developing a Strategic Space Plan by December 1994. Work to date has concentrated on a Vision Statement, Assumptions, and Values. These elements have been brought before the full Facilities Client Committee for review. Anticipated in the next few months are:

1. Develop Goals based on the Assumptions, Values and Vision.
2. Poll each department for their long-range projects, staffing and space need.
3. Develop desired program and project descriptions.
4. Identify alternatives to meets stated needs.
5. Analyze alternatives for cost and feasibility, and select recommended alternative.
6. Collate information to a County-wide action/budgeting list, and seeks advantageous interrelationships between various County projects, and with non-County projects.
7. Prioritize actions or projects, and submit recommendations, along with potential funding solutions, to the Board of County Commissioners for approval.

The Board review process is not yet defined, but will include one or more briefings on the work in progress prior to item 7. above.

Existing resources within DES and the other departments will be sufficient to accomplish items 1 and 2. DES Facilities and Property Management anticipates hiring a consultant to accomplish the detail investigation and written/graphic presentation of items 3 through 7.

8. **Transportation**

Describe the funding sources for the Surveyor's program.

County Surveyor's Office Revenue Sources FY94-95

The Surveyors program revenues come from four sources.

Corner Fund

These are dedicated funds that must be spent only on land corner monumentation and preservation, also reimburses the Road Fund for work that survey crews perform on government corners.

• Public Land Corner Preservation	256,000
• Reimbursement to Road Fund for Services	320,000

General Fund

For maintenance of survey records, plat checks, over the counter inquiries, and other state mandated services (non-Road Fund).

• Reimbursement to Road Fund	92,500
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Road Fund

For survey support to Engineering Services and other programs

• Revenue to Surveyor's Program	198,518
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Plat Check and other Misc. Fees

Fees serve to offset the cost of performing General Fund functions

TOTAL REVENUE	1,052,018
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9. **Planning**

Discuss the long term role for the County in land use planning.

The future role of the County in Natural Resource protection was one of the five important "Issues and Opportunities" highlighted in the Department's FY94-95 budget. The County continues to have responsibility for planning in the rural areas of Multnomah County --which represents approximately 60% of the County's total area. The County's long-term role in land use planning is an issue that the Board of County Commissioners will need to resolve as part of their continued discussions on County Benchmarks.

10. Planning

Discuss the impact of the change in zoning enforcement requirements, now that annexation of the mid-county area has been completed, on the 1994-95 workload for Planning, and the proper allocation of staff to the enforcement requirements that remain.

The Director of Land Use Planning anticipates a drop in the number of Current Planning cases as mid-county annexation is completed. However, as zoning enforcement requirements subside, the Division will be expanding its emphasis on long-range planning activities and projects in FY94-95. Specifically, the FY94-95 budget will fund an Action Plan to publish a second Rural Area Plan (east of the Sandy River), begin work on a third Rural Area Plan (Sauvie Island), and begin work on the Forest/Agriculture mapping project. Current Planning staff will be shifted to address the Division's expanded long-range planning activities. Consequently, the number of staff available to work on code enforcement will remain the same as in FY93-94. As the Division finishes work on the long-range planning projects in late FY94-95, the Director will re-evaluate the allocation of planning staff.

There are however, some dollars under a previous contract with the City of Portland for nuisance enforcement. The Department has prepared a technical amendment to carry-over the funds to FY94-95.

A following related question was asked at the budget work session: Does code enforcement work require a planner? Code enforcement work --primarily field inspection and investigation-- can be performed by someone other than a planner. However, a Planner is required to do the appropriate research, analysis and issue a citation, if required. The Planning Director will develop and research the alternatives to using a planner for code enforcement including assessing costs and benefits, and the impact on the Division's Key Result dealing with response time.

11. Facilities Management

Discuss the issue of setting a floor in the contract requirements for building security. Include a schedule for addressing this issue with the Board and suggesting how long the existing contracts should be extended so that this process can be completed.

Facilities and Property Management, along with Purchasing, Contracts, Central Stores and Dave Boyer are working together to provide a report to the Board addressing all the relevant information regarding "wage and benefits floors" on the contracts that require only State minimum wage be paid. Dave sent the Board a Memo (attached) regarding the security contract issues on May 11, 1994, which addressed several issues including the County's ability to require a wage "floor." It appears that the County does have the right to require a wage "floor."

This issue is now on the Board agenda for July 19, 1994 to discuss the findings of the work we are currently doing on wages, benefits, budgetary impact and the County's responsibilities for monitoring compliance. Should the Board come to a decision on the July 19th meeting we will then re-bid the security contract. The current bid has been cancelled due to the delays needed to research this concern. The current contractor will need an additional exemption to continue service up to August 31, 1994. This exemption will allow enough time to re-bid and award a contract after the July 19th meeting.

12. Facilities Management

How many work crews should be budgeted from the Tax Title Fund ?

Facilities and Property Management Division had agreed that 1.5 work crews were sufficient to renovate the Tax foreclosed properties that the Division would be allowed to take from the inventory. The issue was re-examined by Facilities and Property Management Division Director Wayne George and Greg Schar, at Multnomah County Inverness Jail (MCIJ). They determined that indeed 1.5 crews will be sufficient with certain understandings. MCIJ felt it was necessary to have two Sheriff's officers watch a work crew when crews renovate properties in "heavy gang areas or designated high crime areas." Wayne George suggests that we use the 0.5 Sheriff Officer (1,040 hours), if the need arises, where crews are used to renovate a property in a high crime area, as described by MCIJ. Property Management staff concur with this decision.

13. Animal Control

Develop a plan to improve the phone system at Animal Control and to improve the response to complaints received.

Animal Control Division Director Dave Flagler has developed the following draft plans:

Plan to improve the Phone System and reduce complaints

- a. Within Current Budget Constraints
 - 1. Hire temporary Office Assistants to handle calls during peak periods.
 - 2. Design a computer system to allow citizens with computers and modems to register complaints by computer.
 - 3. Provide for a means for citizens to FAX complaints to the Division
 - 4. Revise "Auto Attendant" menu selection
- b. Other Alternatives requiring additional funds
 - 1. Upgrade current system to add voice mail \$1,500
 - 2. Provide direct dial access to key Animal Control personnel \$2,500
 - 3. Hire three full-time Office Assistants to assist existing phone service staff. \$93,000
 - 4. Replace existing phone equipment with a new system capable of handling phone customer volume \$50,000
 - 5. Add two additional phone lines \$1,000
 - 6. Use "Voice Forms" for complaints about barking dogs, dog bites and animal nuisances \$2,000

Note: The Division's ability to respond to services in the field is impacted by the volume of phone calls received. Strategies that improve phone services shift the service delays and backlog problems to the Division's Field Services program--and the limited number of field staff available to respond to the requested service.

The Division will implement a Quality Initiative project to analyze the phone system at Animal Control and recommend alternatives for service improvements by early Fall 1994.

14. Animal Control

Show the costs and revenues associated with the Animal Control license canvassing project. Include a description of the process, the training that the canvassers undergo, and the impact of the canvass on the number and kind of complaints Animal Control receives. Include samples of the materials handed out as part of the canvass, and suggest ways to identify the canvassers as County agents.

License Canvassing Project - Costs and Revenues FY93-94

Costs

Personnel (3,227 hours)	49,815
Mileage Reimbursement	776
Printing	13,569
<u>Miscellaneous Supplies</u>	<u>1,625</u>
Total Costs	\$65,787

Revenues

<u>Licenses sold (6,178)</u>	<u>\$63,740</u>
Total Revenues	\$63,740

Note: These revenues reflect only actual license sales made at the door. Additional revenues are collected from increase in license sales at the sixty Pet License vendor locations (i.e. vet clinics) throughout the County. These vendors sell a full one-third of all pet licenses -- representing approximately \$200,000 in license revenue each year.

The total license revenue generated is a combination of door-to-door sales, renewals, and sales at vendor locations. Revenues have declined an average of 15% in those years when door-to-door canvassing was NOT funded. The Division must continually market and promote the sale of licenses to motivate a generally procrastinating pet owning public.

Description of License Canvasser Training Process

License Canvassers go through a two week training sessions covering the following topics:

- Division structure and operations
- Pet Licensing Laws
- When to issue a Warning Notice
- How to deliver a Warning Notice to a pet owner
- Filling out appropriate paperwork
- Custom relations skill building

At the completion of training session, canvassers work in the field with a full-time License Compliance Officer serving as a coach.

Impact of Canvass project on Complaints Animal Control Receives

The current Canvassing project has contacted more than 25,000 homes. Yet, Animal Control has received only (12) complaints. All complaints have boiled down to one common denominator: people with unlicensed pets have been "caught" and are distressed about licensing their pets.

Sample of Handout Materials

Attachment (The bag used is biodegradable).

Suggested ways to identify canvassers as County Agents

They currently wear County ID badges. A "polo shirt" will be purchased for each canvasser displaying a County logo.

15. Information Services

Provide a prioritized list and explanation of the new development data processing projects reviewed by the DPMC.

The Board of County Commissioners was provided with a copy of the 1994-95 Information Systems Plan at a Board briefing earlier this year. Attached is a description of the prioritized projects and evaluation criteria (attachments).

16. Assessment and Taxation

Follow-up and report to the Board on actions requested by the Board of Equalization to get them access to a fax machine and to copy machines that appellants can use.

FAX Machine

Janice Druian, Assessment and Taxation Director does not believe that the Board of Equalization has an extra outside line that is not being used. The line that the BOE member thought was an outside was in reality just an additional phone that was available. The Division Director will look into the usage of the FAX and determine if it is really cost effective to install an additional line—it must be done for all year or the installation costs are prohibitive—for approximately six months of usage. In addition, the cost of an additional FAX will be researched. The current review puts them considerably higher than the \$400 stated in the meeting.

Copy Machine available for petitioners

Currently, the Board of Equalization charges \$1 for copies—to be in compliance with County Code. The Division Director will request installation of a coin operated copy machine for petitioners. The Division will continue to make all copies of materials requested by members of the Board of Equalization at no cost.

Compensation rates for BOE members

The Division Director will survey Washington, Clackamas and Lane Counties for current rates and provide this information to the Chairs Office. The Division provides support to the BOE, but the stipend issue for the BOE is outside of the Division's area of responsibility.

Adequate chairs for BOE/BORR

The Division will look at FY93-94 Materials and Services savings to fund the purchase of chairs for board members. If additional savings are found, better chairs for petitioners will be purchased. BOE members serve for several hours at a time and do need comfortable seating, while petitioners are only there for 20-30 minutes.



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MEMORANDUM

To: Board of County Commissioners

From: Dave Boyer, Finance Director *DB*

Date: May 11, 1994

Subject: Security Service Contracts

This is to follow up on my memo dated April 12, 1994, regarding the policy issue of requiring security service bids/contracts to contain wage and/or benefit "floor" requirements.

We initially extended the bid opening date on the Security Guard Bid from April 21, 1994 to May 12, 1994 because the Chair and two other commissioners were contacted with a request to consider establishing a "floor" on security guard contracts. Due to the time it has taken to research our current contracts we will not be able to get on the Boards agenda until May 19, 1994. Therefore we will be extending the Bid due date for another two weeks so that you may consider this policy decision.

The following are the issues that we feel need to be considered before enacting this type of policy:

Issue #1. Can the County require a wage "floor" in its contract specifications? The answer is yes, the County can require wage "floors" in our contracts.

Issue #2. The County has similar service contracts with custodial contractors. If a minimum wage policy is established for security services, the Board may wish to enact one for custodial services.

The request to establish a "floor" on the Security bid is an attempt to have a greater level of competition and provide for an evaluation tool on security services. However, the bigger question is, would the Board want to require wage "floors" and/or medical benefit requirements on all contracts including health or community service type contracts and assume the additional costs of this requirement? Based on preliminary research, the County currently requires a minimum average wage of \$6.00/hr on several of its health/ community service contracts. The County has about 400 contracts that may be impacted and we need to perform additional

research to determine what wage levels and/or medical benefits are included in these contracts to determine an estimated financial impact.

The City of Portland has established a wage "floor" of \$7.00/hr in one of its security guard contracts.

Issue #3. The financial impact depends on the "floor" established, if the policy would include medical benefit requirements, and if this policy would pertain to all other contracted services.

The attached financial impact analysis only deals with a wage "floor" on security guard and custodial contracted services, does not include medical benefit requirements and does not include other contracted services. The analysis does include the Federal poverty level and eligibility schedule for the Oregon Health Plan. Under the time frame we are working under we can not research the entire service contracts to determine the potential total financial impact on the other contracted services.

The financial analysis is based on the minimum wage, currently \$4.75/hr, potential policy "floors" of \$5.00/hr, \$5.50/hr and \$6.00/hr, and security and custodial contracts we currently have in force. We have also had to make the assumptions ; that in our current contracts, 10% of the custodians are being paid \$5/hr, 10% \$5.50/hr, 10% \$5.75/hr, and the remaining employees are being paid \$6 or more dollars per hour.

The following is the estimated financial impact:

<u>Policy Standard</u>	<u>Annual Wage Costs</u>
"Floor" \$5.00/hr	\$ 3,673
"Floor" \$5.50/hr	17,205
"Floor" \$6.00/hr	36,920

The current proposed Facilities Management Budget does not include any of the potential increases.

Issue #4. The setting of a minimum wage will create a need for County personnel to monitor or at least request payroll certifications from the contractors to ensure compliance. This will have an impact on program and purchasing staff.

Issue #5. In addition to the above, we want to inform the Board that the Purchasing Advisory Committee has begun reviewing the entire Public Contract Review Board Rules (PCRB) and will be making recommendations for Board consideration prior to December 31, 1994. The purpose of this review is to update rules that are obsolete or no longer allowed by State law, increase dollar amounts that we feel are outdated, add Quality Based Selection criteria, for architectural and engineering services, add a section to the rules regarding the use of recycled materials and add a section regarding Minority and Women owned business use. It is our intent to pattern our PCRB rules after the State's Attorney General Model Rules.

Recommendation.

Based on the issues discussed above, it is our recommendation that if the Board wishes to enact a wage "floor" policy at this time, that it applies to this Unarmed Security Guard bid only.

We will research the total financial impact of wage "floors" and medical benefit requirements as it pertains to all contracted services and present this information along with the Public Contract Review Board Rules recommendations. This will allow the Board to consider a comprehensive look at Purchasing Rules and Policies.

If you have any questions please contact Lillie or myself.

cc: Bill Farver
Maria Rojo de Steffey
Meganne Steele
Lillie Walker
Bob Kieta

**SECURITY SERVICE CONTRACTS
ATTACHMENT
FINANCIAL ANALYSIS**

CURRENT CONTRACTS	CURRENT HOURLY WAGE	WAGE FLOOR	DIFFERENCE	ANNUAL HOURS WORKED	ADDITIONAL AMOUNT
Custodial (1)	5.00	5.00	0.00	6,184	0
Security Service	4.75	5.00	0.25	12,744	3,186
Fringe Benefits @ 15.3% (FICA)					487
Annual amount of wages					<u>3,673</u>
 Custodial	 5.00	 5.50	 0.50	 12,368	 6,184
Security Service	4.75	5.50	0.75	12,744	9,558
Fringe Benefits @ 15.3% (FICA)					1,462
Annual amount of wages					<u>17,205</u>
 Custodial	 5.00	 6.00	 1.00	 18,553	 18,553
Security Service	4.75	6.00	1.25	12,744	15,930
Fringe Benefits @ 15.3% (FICA)					2,437
Annual amount of wages					<u>36,920</u>

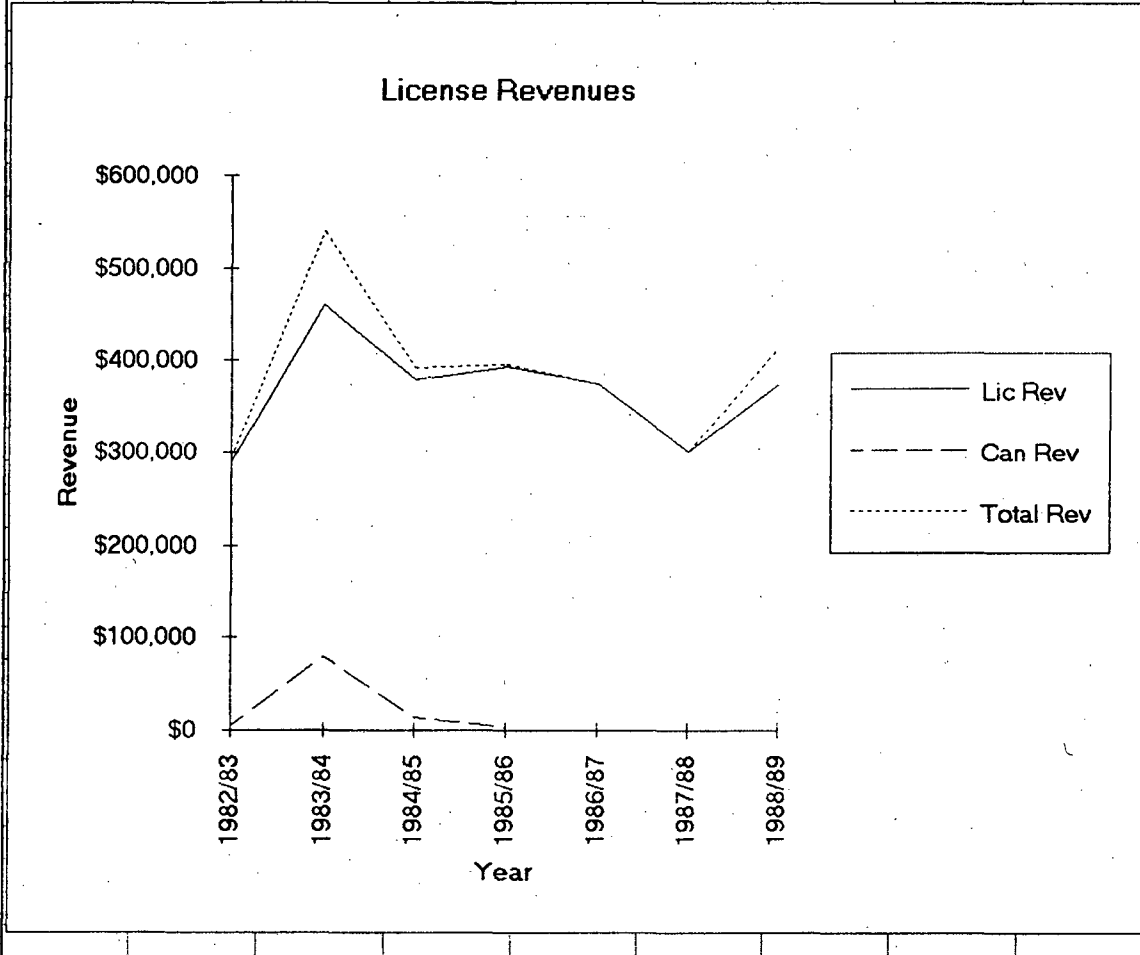
FEDERAL POVERTY LEVEL

Dependents	Annual Income	Hourly Wage
1	7,356	3.52
2	9,840	4.71
3	12,324	5.90
4	14,796	7.09

CARE OREGON LEVEL

Dependents	Annual Income	Hourly Wage
1	9,792	4.69
2	13,092	6.27
3	16,380	7.84
4	19,680	9.43

Year	Lic Rev	Can Rev	Total Rev					
1982/83	\$290,284	\$3,881	\$294,165					
1983/84	\$460,307	\$79,475	\$539,782					
1984/85	\$379,321	\$12,880	\$392,201					
1985/86	\$392,656	\$2,606	\$395,262					
1986/87	\$374,938		\$374,938					
1987/88	\$301,254		\$301,254					
1988/89	\$374,206	\$39,610	\$413,816					



IV. LONG-RANGE PLAN

This plan provides a road map. It identifies potential information systems applications and suggests an order in which they could be evaluated for potential contribution to or support of County goals and critical success factors. This Information Systems Plan is intended to be a dynamic plan; one that can be revised and updated as future needs dictate. It is also a plan that can only be accomplished through a reasonable commitment of resources and support of top management.

FY 1994-95 PROPOSED PROJECTS

Dept	Project	Score	Cost
NON	ASD/State Data Integration	80	\$24,000
LIB	Library	60	\$50,000
NON	Juvenile Information System	60	\$413,550
MCSO	Inmate and Warrant System	51	\$366,500
DES	Situs Address Refernce System	50	\$417,600
MCSO	X-Image Interface/Bar Coding	44	\$65,000
NON	Mental Health System	33	\$125,000
NON	Applicant Management	30	\$74,190
DES	Animal Control	21	\$65,000
DES	Commercial Computer Assisted Appraisal	20	\$208,500

FY 1994-95 Proposed Projects

Evaluation Criteria Score Sheet

Dept	Project	Excellence Max 10	Admin Max 10	Partner Max 10	Values Max 10	Collaboratn Max 10	Funding Max 10	Policy Goals Max 10	Dept Pri Max 10	Cost Effect Max 20	Total Max 100
NON	Aging Services	10	0	10	10	10	0	10	10	20	80
LIBRARY	Library	10	0	10	10	10	0	10	10	0	60
NON	Juvenile Inforamtion System	10	0	10	10	10	0	10	10	0	60
MCSO	Inmate and Warrant System	10	0	10	10	0	0	10	10	1	51
DES	A & T Property Address Index	10	0	10	10	10	0	0	10	0	50
MCSO	Bar Code/X-Image Interface	10	0	10	0	10	0	10	0	4	44
NON	Youth and Family Services	10	0	0	0	0	0	10	10	3	33
NON	Applicant Management	10	10	0	0	0	0	0	10	0	30
DES	Animal Control	10	0	10	0	0	0	0	0	1	21
DES	A & T Computer Assisted Appraisal	10	0	0	0	0	10	0	0	0	20

II. PORTFOLIO OF POTENTIAL INFORMATION SYSTEMS

This section provides an executive overview of the major applications systems that were proposed. They are in alphabetical order by department and within a department in the order in which they were presented to the Operating Staff. A complete description is provided in the Appendix to this report.

1. **Aging Services, ASD/State Data Integration.** This system would allow local collection and verification of data using PC/LAN technology and then transmit the data to Salem for processing.
2. **Library.** This proposal would enhance access from the County to Library resources such as:
 1. Multnomah County Library Catalogs and Databases
 2. Internet
 3. Portland Libraries Catalogs and Databases
 4. Other Libraries in the Northern Oregon Region
 5. Add a link from the Library to the County ISD for resources such as Assessment and Taxation, Animal Control, LGFS, etc.
3. **Juvenile Justice Division, Juvenile Information System.** This system would replace an existing system that no longer serves the needs of the division. This project was approved by the DPMC three years ago and money has been requested each of the last three years; only to be removed during the budget process.
4. **Sheriff's Office, Inmate and Warrant System.** This system functionally integrate the clients in the warrant's system with the clients who are currently in County detention facilities. It also collects data needed to support procedures and legal requirements for the Sheriff.
5. **Assessment and Taxation, Situs Address Reference System.** This system would provide a property address index for use by County and non-County Agencies. This index would include address, census data,

location data, zoning data, school, election, fire, neighborhood, commissioner and other district information. It would also store the location coordinates for Geographic Information System use.

6. **Sheriff's Office, Bar Coding.X-Image Interface.** This system would allow inmates to be tracked through the facility using bar-coded wrist bracelets on identification badges and would tie the inmates to the mug-shot imaging system.
7. **Youth and Family Services, Mental Health.** This system would purchase a local area network (LAN) for the division. Initially it would provide access to word processing and County electronic mail. It is anticipated that several of the basic business functions in the division would be automated using LAN technology. The money to automate these functions is not included in the request.
8. **Office of the Chair, Applicant Management.** This system would replace the applicant processing system which supports the work of Employee Services. This system currently runs on the WANG VS 100 computer in the Portland Building. The machine is technologically obsolete. The air conditioning in the room failed several weeks ago and the machine had to be repaired with used parts since new replacement parts are no longer available.
9. **Environmental Services, Animal Control.** This system would integrate the three separate data systems which support the work of Animal Control.
10. **Assessment and Taxation, Commercial Computer Assisted Appraisal.** This system would provide the computer assisted means to generate market related cost approach and income approach values, as well as maintaining property characteristic data for all commercial properties within the County.



MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS

BEVERLY STEIN
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

PLANNING & BUDGET

PORTLAND BUILDING
1120 S.W. FIFTH - ROOM 1400
P. O. BOX 14700
PORTLAND, OR 97214
PHONE (503)248-3883

TO: Board of County Commissioners
FROM: Keri Hardwick, Budget Office
DATE: June 7, 1994
SUBJECT: DES Work Session Follow Up Questions

Response to Question #3: Where in other budgets have programs included allocations for data processing training?

Allocations for training for data processing are generally found in the Education & Training line item. Occasionally, allocations in Professional Services and Conferences & Conventions are for computer related training. For 1994-95, the total amount budgeted for Education and Training is \$624,277.

It is difficult to determine exactly how much of this is specifically for data processing, as the budget requests usually have a list of the types of training for which the budget will be spent, but specific decisions as to what classes will be taken have not been made at this point. An informal survey of divisions and departments revealed a wide range of anticipated expenditures on computer training. In 1993-94, the total budgeted for Education & Training is \$552,328; fiscal year to date payments to the largest providers of computer training are approximately \$45,000, or 8.1%. However, certain divisions and departments, such as ISD and the Library, spend more than most divisions and departments on computer training. A reasonable estimate County-wide for FY 1994-95 would be 6% - 9% of the Education & Training budget, or \$37,456 - \$56,185. It is also likely that some of the funds spent on tuition reimbursement are for data processing classes, but this amount can not be determined.

Please let me know if you require any further information on this subject.

Clerk

Multnomah County Budget

Supplemental Information



Packet #28
Environmental Services

Follow-up Information
(Question asked at Library worksession 5/31/94)

DES Supplemental Questions

Follow-up Item from the May 31 budget work session

1. Central Library Move

The move to the old State Office Building will be disrupted by Portland's need to protect parking spaces during the high retail activity period in December. What options are there to negotiate an exemption from this limitation? Could the County, for example, offer spaces on the Motor Pool lot as an offset to the on-street parking what would be tied up by moving the collection?

Facilities and Property Management has already asked the City of Portland for an exception to the City's Holiday Moratorium. The request was partially granted (see attached letter). The City's decision can be appealed. However, it actually works out well to move the Central Library in two phases:

Phase 1 - November 28, 1994 to December 15, 1994

In Phase 1, all of the public areas will be moved to the temporary location. This will allow the library to start serving the public at the old State Office Building by December 16, 1994.

Phase 2 - January 2, 1995 to January 16, 1995

In Phase 2, the rest of the book collection will be moved to the storage floors at the old State Office Building.

The library will have to be closed during the move, this phasing arrangement will allow the library to keep its down-time to a minimum i.e. two week.

Mike Harrington, from Facilities and Property Management Division, is coordinating the move and can be reached to answer any questions at 248-3322.



CITY OF
PORTLAND, OREGON
OFFICE OF TRANSPORTATION

Earl Blumenauer, Commissioner
Transportation Engineering
1120 S.W. Fifth Avenue
Room 802
Portland, Oregon 97204-1971
(503) 823-7004
FAX: (503) 823-7371

February 14, 1994

Michael T. Harrington
Multnomah County Project Manager
2505 S.E. 11th Avenue
Portland, OR 97202

Dear Michael:

The Holiday Moratorium Exception Committee has received your request for an exception to the 1994 holiday moratorium. The committee understands the unique nature of your request and the special needs regarding timely completion of this move.

Each year the City, utility companies, developers, contractors, and building owners take extra effort to support the annual holiday moratorium. Schedules are adjusted, improvements are delayed, and construction projects suspended because of the importance of keeping our business districts "open for business" during the holiday shopping season. During the six week period from Thanksgiving to January 1st all parking spaces and travel lanes are to be open and clearly available to shoppers and participants in the varied holiday activities. This moratorium enables our business community to remain vital and prosperous and it is critical to their overall success.

The Holiday Moratorium Committee has considered your request for an exception to the moratorium. The committee has determined that your request can be granted with one restriction. During the period from December 16th through December 26th the permit would not be valid and meters would be returned to their normal state. It is absolutely necessary that the week before the holiday, as many spaces as possible in the Central Business District are available to the general public.

If you have questions or need additional information, please contact me at 823-7077.

Sincerely,

Jeri Jenkins
Right-of-Way Coordinator
Street Systems Management

[bld.ltr]mult-morator

Multnomah County Budget

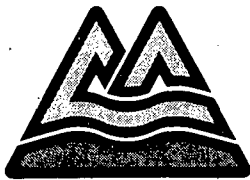
Supplemental Information



Fiscal Year
1994-95

Packet #29
Management Support Services

Follow-up Information



MULTNOMAH COUNTY OREGON

BEVERLY STEIN
COUNTY CHAIR

EMPLOYEE SERVICES
FINANCE
LABOR RELATIONS
PLANNING & BUDGET
RISK MANAGEMENT

(503) 248-5015
(503) 248-3312
(503) 248-5135
(503) 248-3883
(503) 248-3797

(503) 248-5170 TDD

PORTLAND BUILDING
1120 S.W. FIFTH, 14TH FLOOR
P.O. BOX 14700
PORTLAND, OREGON 97214


PURCHASING, CONTRACTS
& CENTRAL STORES

(503) 248-5111

2505 S.E. 11TH, 1ST FLOOR
PORTLAND, OREGON 97202

MEMORANDUM

TO: Dave Warren

FROM: Ken Upton, Labor Relations Manager 

DATE: June 1, 1994

SUBJECT: Follow-up Items from the Work Session on May 24

The answers to the questions directed to me are as follows:

1. Provide workload numbers for the unit: grievances, arbitrations, consultations, and legal processes.

We do not have readily available a useful report on the above. At the request of the Board and as indicated in Bud H - Division Action plan, the following is in process:

- "4. Develop, in consultation with the Department Labor Relations Advisory Committee, an annual Grievance Report. This report would include numerical data but also such narrative analysis which is deemed necessary for managerial action, i.e. what can we learn from the grievance pattern, and what administrative actions may be necessary?"

Attached (Attachment 1), however, is some information which is currently available on grievances for the Local 88 bargaining unit. For the period of March 1993 to present, there were fifty-six (56) formal Local 88 grievances filed. For the same period, we had a low hearing volume, four arbitrations (one interest, three grievance), all units. We have no data regarding consultations or involvement in legal processes. The latter, however, can be quite time consuming. For example, involvement by this office in the inter-related federal litigation, grievance arbitration and Unfair Labor Practice litigation involving the MCSO "Transaction with Involved Persons" rule has been very time consuming.

2. Explain the pros and cons of using professional services as a alternative to increasing permanent staff for the workload anticipated in 1994-95.

This question presupposes that utilization of a professional services contract would be legally appropriate in such a case. Without offering detailed analysis, it would appear from the attached IRS "20 Factor Guidelines" (Attachment 2) that this relationship would be a routine employee-employer relationship and therefore the "independent contractor" approach would be legally inappropriate. This test is also reflected in our Administrative Procedure CON-2. If one recasts the question a bit, however, to the following, an answer is possible:

"What are the advantages and disadvantages of a temporary versus a permanent relationship for this job?"

- Permanent

- Optimizes quality of hire.
- Ensures adequate training, and that training time is not lost.
- Assures adequate staffing after bargaining to the degree weight is given to underlying workload shift of moving from 2000 to 3000 unionized employees.
- If one believes current staffing is adequate to ongoing workload, then permanent staffing would be a disadvantage, since it would result in either over-staffing or layoff.

- Temporary

- Quality of hire will not be as high as for permanent, particularly if the appointment is for less than a year.
- Training time will be lost.
- If one believes that the ongoing staffing is adequate, then an advantage would be that there will not be over-staffing or layoff after this bargaining season.
- If, converse to the above, one feels another staffer is needed for average ongoing workload, this proposal would not meet that need.

The optimal "temporary employee" strategy for any commissioner supporting that approach would be to fund the position as a permanent position from a Civil Service perspective with a Board-declared intent to cut it shortly after the bargaining process is finished in 1995. This would coherently meet the need for quality while having an approximate date certain for ending the position.

3. Survey other organizations with multiple bargaining units. (Note: Due to time constraints, only the two specific organizations mentioned were contacted.)

A. Metro

Metro has approximately 350 Permanent full-time or permanent part-time employees in bargaining units. Staffing is at the level of one Labor Relations Officer, with .25 - .35 of the Personnel Director's time spent on labor relations. (Total labor relations professional technical staffing: 1.3 FTE.) However, unlike the County, Metro's temporary employees are unionized for a total of 1063 unionized employees out of the total of 1413 employees in seven or eight bargaining units. In discussion with Craig Cowan, Metro Labor Relations Officer, it was clear that the status difference made comparison difficult if not impossible between our organizations.

B. City of Portland

The City of Portland has 3806 permanent full-time or part-time employees in bargaining units. Staffing at the technical or professional level is 5.15 FTE as follows:

(In order of compensation.)

.15	Percent of Personnel Director's Time
1.00	Labor Relations Manager
2.00	Human Resource Coordinator
<u>2.00</u>	Senior Human Resource Specialists
Total <u>5.15</u>	FTE

All of the above positions are at a higher classification level than the one requested by the County. The City's unionized employees are in seven (7) bargaining units, but their largest unit with 1755 employees has multiple unions. Functionally, the City's labor relations unit is quite comparable to the County's, although there are some functional and programmatic dissimilarities. For example, programmatically, this unit was more involved

in the FMLA implementation than ours; functionally the City Attorneys Office performs tasks associated with Law Enforcement discipline which are handled by this office.

Analysis

Given the above comparisons, it would appear that there is not any clear, comprehensive "survey" guidance to be had. Portland is the only clear functional comparable. The City clearly has a higher staffing ratio than the County's current 3.0 FTE. If an additional position were added to make the County's staffing up to 4.0 FTE for our 3073 permanent full-time or part-time employees in our nine (9) bargaining units, the staffing ratio for the County would be roughly equal to the City's. (Note: Our three small craft units would be in the DCTU unit in the City's arrangement.) It must be added that with respect to both Portland and Metro, the issue of number of comparable, relevant employees is ambiguous at best. In fact, as perhaps an irrelevant aside, it is difficult to tell how many employees the County has at any one time:

• Number Budgeted FTE (93-94) (Source: Dave Warren)	3652 ± 30
• Currently Non-terminated Individuals on Payroll Records as Employees (Excluding election workers who would, at times, add over 1000)	4300
• Number checks issued last Payroll period	4056
• Number of permanent full-time/part-time (December 28, 1994)	3570
• Number Union Employees (December 28, 1994)	3073

I trust the above answers are responsive.

N:\DATA\WPCENTER\LABREL\LDKU101

Attachments

Attachment 1

SUBJECT	DATE
1. Discipline	May 1994
2. Reclassification - Corrections Technicians	April 1994
3. Leave Without Pay	May 1994
4. Reclassification	May 12, 1994
5. Reclassification	May 1994
6. Lateral Transfer	April 1994
7. Lateral Transfer Request	March 1994
8. Discipline	March 1994
9. Existing Conditions	April 1994
10. Discipline	February 4, 1994
11. Article 24 1.b General Provision - Union Related	February 1, 1994
12. Space	January 5, 1994
13. Reclassification	January 1994
14. Discipline	January 1994
15. Vacancy	January 1994
16. Phone Call at Home	January 1994
17. Reclassification Process	January 1994
18. Violation of Work Rules	January 1994
19. Adjustment for Leave Without Pay	January 1994
20. Holiday/Overtime	December 29, 1993
21. Discipline	November 1993
22. Reinstatement	November 17, 1993
23. Suspension	November 16, 1993
24. Holiday Pay	November 10, 1993
25. Discipline	October 14, 1993
26. Discipline for Sick Leave Usage and Work Disruption	September 22, 1993
27. Change of Existing Conditions	October 18, 1993
28. Reclassification	October 1993
29. Working Out of Class/Comp	September 28, 1993
30. Change of Working Conditions - Receiving Personal Mail at Work	October 4, 1993

SUBJECT	DATE
31. Holiday Pay - 8 Hours for 10 Hour Irregular Shift	October 4, 1993
32. Vacancy	September 30, 1993
33. Termination	September 1993
34. Mandatory Overtime	September 16, 1993
35. Making Language Proficiency Component to Classification	September 1993
36. Not Allowed to Fill Vacancy	September 1993
37. Suspension	August 16, 1993
38. Article 24.1 - General Provisions Language as Component of Job	August 1993
39. Shift Differential Pay	August 20, 1993
40. Reclassification	August 1993
41. Insurance Benefits	August 1993
42. Discipline	June 17, 1993
43. Requirement of Doctor's Slip for Sick Leave	June 7, 1993
44. Existing Conditions	June 1993
45. Sick Leave	May 1993
46. Discipline	May 1993
47. Personal Property for Work Purposes	May 5, 1993
48. Existing Conditions	May 6, 1993
49. Assigned Work	April 14, 1993
50. Salary	April 1, 1993
51. Discipline	March 30, 1993
52. Discipline	March 24, 1993
53. Leave Without Pay	March 12, 1993
54. Health Benefits - ODS	March 8, 1993
55. Sick Leave Usage	March 9, 1993
56. Discipline	March 1, 1993

The band leader—having complete control of the band—was the employer of the band members, not the dance hall operator [*Bartels v. Birmingham*, 67 S. Ct. 1547 (1947)].

Example 2. Licensed real estate salespeople worked on commissions, paid their own expenses, and had no fixed hours. The broker provided the office facilities. *Result:* Since the broker did not have the right to control how the salespeople did their jobs, the salespeople were independent contractors [*Dimmitt-Rickhoff-Bayer Real Estate Co. v. Finnegan*, 179 F.2d 882 (8th Cir. 1950)].

OTHER TESTS ➡ Although an individual may be an employee under the common-law test, two additional requirements must be met before the employer is required to withhold and pay over federal taxes. First, the services must be of a nature, or performed under certain circumstances, that the compensation paid for the services is considered wages (see ¶2525 *et seq.*). Second, the employee's compensation must be considered "wages" under the payroll tax laws (see ¶3001 *et seq.*).

IRS issues 20 factors as guidelines. As an aid in determining whether a worker is an employee under the common-law test, the IRS has identified 20 factors or elements that indicate whether sufficient control is present to establish the employer-employee relationship. The 20 factors were developed after the IRS examined numerous cases and rulings that dealt with worker status. The importance of each factor varies with the worker's occupation and the factual context in which the work is done.

The 20 factors are designed only as guides for determining worker status. Use special care in applying these factors to make sure the arrangement isn't made strictly to give the appearance of an independent contractor-employer relationship. No single factor determines whether the "employer" exercises sufficient control over the worker for the worker to be classified as an employee, but rather the relationship as a whole [Rev. Rul. 87-41, CB 1987-1, 296].

Example. Curls and Twirls, a hair styling franchise, requires all hair stylists to pay rent for their work stations and to purchase their own beauty supplies. Since the hair stylists furnish their own "tools and supplies," Curls and Twirls classifies them as independent contractors.

However, all hair stylists are required to work scheduled shifts and must work for Curls and Twirls exclusively. They are paid by the hour and must report their hours at the end of each week. Though the hair stylists furnish their own tools and supplies, the IRS may consider them to be employees because there is substantial control over how and when the work is to be done.

IRS CRACKDOWN ➡ In several recent private letter rulings, the IRS classified *office couriers* and *messengers* as employees and revoked rulings that favored an independent contractor status, even though these workers would probably be classified as independent contractors if the 20 factors were interpreted and applied as in the past. "Control" was found to exist because the workers were told "where to make pickups and deliveries" [Private Letter Ruling, 9006025, 9006026, 9010020, 9012040, and 9012041 (1990)]. *Note:* While private letter rulings may not be used as precedent, they indicate the IRS's current position.

For a discussion of messengers under the federal Wage-Hour Law (overtime and minimum wage requirements), see ¶18,145.

A list of the 20 factors that indicate an employer-employee relationship follows:

Compliance with instructions. A worker who must comply with instructions about when, where, and how the work is to be done is ordinarily an employee. The employer's right to instruct, as opposed to the actual giving of instructions, is decisive [Reg. §31.3401(c)-1(a)].

Training. Requiring a worker to be trained by an experienced worker or by other means shows that the employer wants the work done in a particular method or manner.

Periodic or sporadic training of a worker by another—either informally or formally—is indicative of an employer-employee relationship.

Integration. Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control.

Services rendered personally. The IRS considers the worker to be an employee when the job can't be delegated to a representative or employee of the worker and the employer has substantial interest in how the results will be achieved.

Example. Jake's Plumbing, Inc. entered into a service agreement with Tom Smith. Under the agreement, Tom agrees to handle emergency repair calls. Tom is required to wear a shirt with the Jake's Plumbing logo and must follow the rules of conduct established under Jake's policies and procedures. Tom's work is subject to periodic inspection by Jake's management team, and Tom must personally handle the emergency repairs. *Result:* Jake's Plumbing controls more than the results. In other words, the substantial control it exercises over how Tom performs the repairs is indicative of an employer-employee relationship.

Hiring, supervising, and paying assistants. Hiring, supervising, and paying assistants generally shows control over the workers on the job. However, if one worker hires, supervises, and pays the other assistants under a contract in which the worker provides the materials and labor and is responsible for the results, the worker is an independent contractor [Rev. Rul. 70-440, CB 1970-2, 209].

Example. A general contractor hires a subcontractor to pour concrete. The subcontractor sends its employees to do the job. The general contractor pays the subcontractor for the costs associated with the material and labor. *Result:* The subcontractor is the employer of the workers who pour the concrete.

Continuing relationship. A continuing relationship between the worker and the person for whom the work is done indicates an employer-employee relationship. The work is continuing even though performed at irregular intervals, on a part-time basis, or over a short period of time.

Set hours of work. Control is shown when the person for whom the services are performed sets the hours of work.

Making service available to the general public. Making services available to the general public on a regular and consistent basis indicates an independent contractor relationship. Physicians, accountants, dentists, lawyers, architects, contractors, subcontractors, public stenographers, and auctioneers are generally considered independent contractors when offering their services to the general public.

Full time required. If a worker must devote substantially full time to the employer's business, then the employer has control over the amount of time the worker spends working and indirectly restricts the worker from doing other gainful work. On the other hand, independent contractors are free to work when and for whom they choose.

Doing work on employer's premises. Work done on the premises of the person for whom the services are performed suggests control over the worker, particularly if the work could be done elsewhere. The fact that work is done off that person's premises shows some freedom from control but does not automatically mean that the worker is not an employee. It depends on the nature of the service and whether an employer would generally require its employees to work on its premises. Control is shown if the worker must travel a designated route to canvass a territory within a certain time or to work at specific places.

Order or sequence set. If a worker must perform services in the order or sequence set by the employer, then the worker is not free to follow his or her own pattern of work.

Often, because of the nature of the occupation, this right is not exercised. But so long as the right is retained, control is shown.

Oral or written reports. Requiring regular or written reports shows a degree of control.

Payment by hour, week, or month. Payment by the hour, week, or month generally points to an employer-employee relationship unless this method of payment is selected as a convenient way of paying the agreed upon lump-sum cost of a job. Payment made by the job or on a straight commission generally shows that the worker is an independent contractor.

Payment of business or traveling expenses. The worker is ordinarily an employee if the entity for whom the services are performed generally pays the worker's business or traveling expenses. The ability to control expenses indicates that the right to regulate and direct the worker's business activities is retained.

Exception: Some consultants, entertainers, and speakers who clearly aren't employees require reimbursement for expenses as part of the contract. This reimbursement does not alter the employer-independent contractor relationship.

Furnishing of tools and materials. Furnishing significant tools, materials, and other equipment tends to show an employer-employee relationship.

Significant investment. A worker who invests in work facilities that are not typically maintained by employees (such as an office rented at fair value from an unrelated party) tends to be an independent contractor; lack of investment indicates an employer-employee relationship. Home offices require special scrutiny.

Realization of profit or loss. Workers who can realize an additional profit or loss as a result of their services are generally independent contractors. For example, a worker who is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses (such as salary payments to unrelated employees) is an independent contractor. Since both employees and independent contractors share the risk of nonpayment for their services, the risk alone isn't sufficient to show an employer-independent contractor status.

Working for more than one firm at a time. A worker who performs more than *de minimis* services for more than one unrelated person or firm is generally an independent contractor. However, a worker who works for more than one entity may be an employee of each of the entities, especially if they are part of the same service arrangement.

Right to discharge. The right to discharge workers shows that the workers are employees and the entity that can discharge is the employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. However, independent contractors cannot be fired if they produce results meeting the contract specifications.

Right to terminate. The right to end a relationship with the person for whom services are performed at any time without liability indicates an employer-employee relationship.

¶2315

Employment status under §530

Section 530 of the Revenue Act of 1978 includes a safe-harbor provision that relieves employers of employment tax liability if they had a "reasonable basis" for not treating the worker as an employee and the other §530 requirements are met (see following). This is true even if the worker meets the definition of employee under the common-law test (see ¶2310).

See ¶2316 for a discussion of technical services specialists under §530.



MULTNOMAH COUNTY OREGON

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COUNTY CHAIR

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MEMORANDUM

TO: Board of County Commissioners

THRU: David Warren, Budget

FROM: Curtis Smith, Employee Services Manager *Curtis Smith*

DATE: June 7, 1994

SUBJECT: Item 4 of Follow-up Items from the May 24 Budget Work Session

Restatement of the Question: "Expand on the explanation of 1993-94 training expenses and compare those expenses with the 1994-95 expenses, including the detailed expenditure plan for the RESULTS Campaign."

The expenditure comparison is on page 4. The RESULTS Campaign handout is attached behind page 4.

This Add Package will provide needed support to the RESULTS Campaign.

RESULTS is Multnomah County's "good government" initiative, a plan to improve the quality of County services. RESULTS stands for "Reaching Excellent Service Using Leadership and Team Strategies." Our goal is excellence. Our strategies are new forms of leadership and emphasis on teamwork.

RESULTS will help the County reach its long-range benchmark goals to support children and families, to assure community safety, to provide access to services and to improve government accountability. The only way to achieve these goals is to orient ourselves more closely to people and their communities and to maximize the use of all our resources through partnerships with business, congregations, community-based organizations, schools and other governments.

RESULTS is a labor/management partnership that acknowledges the value of all employees and is designed to tap into their wisdom. RESULTS is linked to our County's promotion of skills in communicating within a diverse workforce, and implementation of a budgeting process that focuses on measurable outcomes. This effort will provide the tools to connect measurable goals for the County's day to day work with the County's community-based vision and long-term Benchmark goals.

Activities in the first few months of the RESULTS Campaign have included information sessions with County unions; monthly training sessions with department managers and members of the Steering Committee; informational sessions with employees and a training session for shop stewards, hosted by Local 88; a monthly brown bag lunch series through the Central Library featuring speakers from the business and education communities. In addition, a number of activities are taking place in County departments and divisions, as they begin to initiate implementation of RESULTS in the workplace. Some examples:

The Health Department began its continuous quality improvement model approximately two years ago. RESULTS has enhanced and strengthened their program by providing visibility and support for their efforts, and by beginning the overall environmental change that will give strength to their department's effort. The Health Department is implementing participatory management, seeking and obtaining client input and reviewing quality of work. The East County Health Center has developed cross functional teams to address specific issues affecting client service, such as the transition to Care Oregon (the Oregon Health Plan). The Mid County Health Center has used the tools of continuous quality improvement to effect a 30% savings in the specialty referral system.

The newly formed Community and Family Services Division has begun its RESULTS implementation. They have performed an assessment of their organizational climate, and will use this information to guide improvement of processes and systems which will directly impact services to the community. They are now forming a division-level steering committee, and have begun their own series of information sharing sessions with employees. They have formed action teams with a cross-section of employees to begin making recommendations on service improvements.

The Juvenile Justice Division has begun planning to implement RESULTS, both on a division-wide basis and with respect to the proposed enhancement of the diversion program for youth. They plan to form a multiple agency team to insure the performance and quality of this service.

The Aging Services Division has begun work with cross-functional teams. The Information Systems Division has completed several pilot projects using the methods and tools of continuous quality improvement. The Library is forming its department level steering committee, and has initiated a pilot team in the Library's Humanities Division, which will lay the groundwork for a department-wide RESULTS program. The Department of Community Corrections has formed its department level steering committee, and has begun to form several quality work teams.

The RESULTS Steering Committee includes broad representation from the Board of County Commissioners, union leadership, management and line employees. The Steering Committee urges the Board to support the RESULTS Fall Conference, grants program and newsletter. These activities will demonstrate tangible support for the County's "High Performance Government" initiative designed to improve services to our community.

The one-day conference is for a cross-section of approximately 250 managers, employees and union representatives, and is planned for Fall 1994. Attendees will learn about the critical need to transform county government through new forms of leadership, employee empowerment and the skills and tools of continuous quality improvement. The availability of RESULTS grant funds will be announced at that conference. The grant awards are intended to motivate innovation in new and existing work teams

by providing technical assistance, facilitation, training in team building and conflict resolution, software, organizational assessment methods and so on. Grants in amounts ranging from several hundred to several thousand dollars will be available to assist work groups to build a sustainable quality improvement program and to cultivate some "shining examples" of the benefits of RESULTS. A RESULTS newsletter will also be initiated in 1994-95.

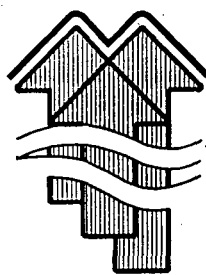
I hope the attached explanation of the RESULTS add package will answer the questions you had at the hearing last week. Please contact me at x2206 if you have any questions.

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EXPENDITURE COMPARISON FOR TRAINING PROGRAMS, EMPLOYEE SERVICES DIVISION

TRAINING PROGRAM	1993-94 APPROVED BUDGET	1994-95 PROPOSED BUDGET	DIFFERENCE
RESULTS Campaign			
RESULTS Conference	N/A	\$ 9,250	\$ 9,250
Project Grants	N/A	35,000	35,000
RESULTS Newsletter	N/A	3,950	3,950
Management Training			
Employment Interviewing	400	400	0
Substandard Performance	330	330	0
Affirmative Action	220	220	0
Communication Skills	1,740	1,740	0
Drug Abuse Prevention	900	1,000	100
Chronic Disease	0	0	0
Cultural Diversity	28,000	27,000	<1,000>
Clerical Excellence			
Telephone Training	3,360	3,360	0
Dealing with Difficult People	2,400	2,400	0
Communication Skills	6,880	6,880	0
Proofreading	1,384	1,384	0
Other Training			
HIV Training	0	0	0
Spanish	2,320	0	<2,320>
Drug & Alcohol Orientation	0	1,200	1,200
Course Development	3,070	6,436	3,366
TOTAL	\$51,004	\$100,550	\$49,546

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Multnomah County

RESULTS

Reaching • Excellent • Service • Using • Leadership & Team • Strategies

Multnomah County has adopted a set of Benchmarks for supporting children and families, assuring public safety and improving government accountability. The only way for the County to achieve its goals with current resources is to do things differently. The RESULTS Campaign will assist the County in finding innovative ways to improve services and use tax dollars wisely.

Beverly Stein
Multnomah County Chair

What is the RESULTS Campaign?

The RESULTS Campaign is Multnomah County's program to improve the quality of County services. RESULTS stands for "Reaching Excellent Service Using Leadership and Team Strategies." Our goal is excellence. Our strategies are new forms of leadership and emphasis on teamwork.

The goals are to empower managers and employees so they can provide quality service through valuing innovation, improving responsiveness, and practicing continuous quality improvement. To achieve our goals for RESULTS, we have to orient ourselves to be customer-focused and to emphasize timely, accountable and measurable performance.

RESULTS is a labor/management partnership that acknowledges the value of all employees and is designed to tap into their wisdom. It is linked to our County's promotion of skills in communicating within a diverse workforce, and implementation of a budgeting process that focuses on measurable outcomes. RESULTS provides the tools to connect measurable goals for the County's day to day work with the County's community-based vision and long-term Benchmark goals.

Why are we doing this?

Public dissatisfaction with government at every level is at an all-time high. Many voters and taxpayers believe that they do not get good value for their tax investment in public services. At the same time, many government workers are disheartened by the weight of bureaucracy and the difficulty in making changes. Years of budget slashing have too often targeted innovative programs or created impossible workloads. Anti-government sentiment wears away at employees' pride, job satisfaction and productivity.

Chair of the Board • District 1 Commissioner • District 2 Commissioner • District 3 Commissioner • District 4 Commissioner
Beverly Stein Dan Saltzman Gary Hansen Tanya Collier Sharron Kelley

Multnomah County has adopted long range benchmark goals to support children and families, to assure community safety, to provide access to services and to improve government accountability. The only way to achieve these goals is to orient ourselves more closely to people and their communities and to maximize the use of all our resources through partnerships with business, congregations, community-based organizations, schools and other governments.

How Will the RESULTS Campaign Change County Government?

RESULTS will focus us on meeting the needs of our community. We will be passionate about being responsive to and communicating effectively with our internal and external "customers" - based upon what they want and need.

RESULTS will value the skills, knowledge and common sense of employees. The role of managers will change from managing and controlling to coaching, facilitating and breaking down barriers. Employee morale and job satisfaction will increase and the public image of employees will improve.

RESULTS will value innovation. Workers will be encouraged to develop new solutions to old problems. We will study "best practices" in the private and public sectors and adapt successful programs to our local needs. **RESULTS** will provide County workers with tools to eliminate unnecessary bureaucracy.

RESULTS will move the focus of attention from effort to results. Using benchmarks and performance measurements we will focus on our desired outcomes, not on our effort and input.

What have we accomplished so far?

The first phase of our **RESULTS** Campaign has been to develop commitment throughout the organization -- with policy-makers, managers, employees and union representatives. We have also actively sought the advice and experience of other employers and quality experts, so that we may learn from their successes -- and mistakes.

The Board of Commissioners, department managers and labor union representatives have all been briefed on plans for the **RESULTS** campaign. Managers are taking time in their regular monthly meetings to learn about the **RESULTS** Campaign and continuous quality improvement.

We have met with managers and employees throughout the County, and have recently started a brown bag lunch series hosted by the Library. We have also provided training by a national expert to the Board of County Commissioners, our Steering Committee and top managers.

What about existing quality services efforts?

The County's goal is to implement an organization-wide approach. However, there are currently several ongoing projects in the County to transform the way services are delivered which we can learn from and build on.

The County's Health Department has adopted a continuous quality improvement model for implementing participatory management, seeking client input and reviewing quality of work.

The East County Health Center has developed cross functional teams to address specific issues affecting client service, such as the transition to Care Oregon (the Oregon Health Plan). The Mid County Health Center has used the tools of continuous quality improvement to effect a 30% savings in the specialty referral system.

The County's newly formed Community and Family Services Division has performed an assessment of its organizational climate, and will use this information to guide improvement of processes and systems which will directly impact services to the community.

The County's Aging Services Division has begun work with cross-functional teams, and the Information Systems Division has completed several pilot projects using the methods and tools of continuous quality improvement. The Library has just initiated a pilot team in its Humanities Division, which will lay the groundwork for a department-wide effort.

What is next?

The County's training program and performance evaluation system for managers are currently being revised to support a focus on outcomes and results. A conference will be held in September to teach a cross-section of managers, employees and union representatives some of the skills and tools of continuous quality improvement. A small grant fund will be provided to motivate innovation and provide technical assistance for quality teams throughout the County.

The RESULTS Campaign Steering Committee

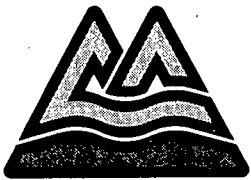
The Chair has appointed a RESULTS Steering Committee to guide the campaign. This committee includes broad representation from the Board of County Commissioners, union leadership, management and line employees.

Where are we getting advice?

We have obtained advice from experts and have begun to develop expertise within our organization. Chair Beverly Stein is on the Board of the Alliance for Redesigning Government, and on Secretary of Labor Robert Reich's Task Force on Excellence in Government through Labor/Management Cooperation. Melinda Petersen, staff to the Chair, is a member of the Association for Quality and Participation, the American Society for Quality Control and the Oregon Quality Initiative. Melinda is also on the Strategic Planning design team of the Partnerships for Quality initiative, which is designing a core curriculum for community colleges in continuous quality improvement. Barry Crook, former Quality Coordinator from Austin, Texas, was recently hired as the County's new Budget and Quality Manager.

The Chair has also enlisted the assistance of a small group of education and business leaders, all of whom are experienced in quality initiatives. This group serves as the Chair's sounding board for planning and implementation, and has given generously of their time and talents on behalf of the RESULTS Campaign.

For More Information About The RESULTS Campaign: Contact Melinda Petersen, Multnomah County Chair's Office, 248-3971



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MEMORANDUM

TO: Beverly Stein, Chair
Tanya Collier, Commissioner
Gary Hansen, Commissioner
Sharron Kelley, Commissioner
Dan Saltzman, Commissioner

FROM: Curtis Smith, Employee Services Manager

DATE: June 1, 1994

SUBJECT: Item 5 of Follow Up Items from May 24 Budget Work Session

Restatement of the Question. "Provide the Board a copy of the Summary of Departmental Training."

As was requested at the Board hearing of the MSS budget on May 24, enclosed is the survey completed in November of all training being conducted throughout the County during 1993-94.

I would be pleased to respond to any question you may have about the survey. However, if your question is about the content of a course offered by one of the departments, I am sure that the department manager would be happy to respond.

Enclosure

c: Ginnie Cooper
Tamara Holden
Billi Odegaard
Michael Schrunck
Robert Skipper
Dave Warren
Betsy Williams

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COUNTY CHAIR

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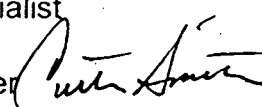
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MEMORANDUM

TO: Beverly Stein, Multnomah County Chair
Melinda Petersen, Quality Services Specialist

FROM: Curtis Smith, Employee Services Manager 

DATE: November 17, 1993

SUBJECT: 1993-94 County Training: Survey Results & Recommendations

Training Scope. During this fiscal year the County will offer 179 courses to our employees, ranging in duration from one hour to two days. Our 3,506 FTE employees will spend 112,349 hours (or just over 1% of their total paid time) participating in those courses. Put another way, the average County employee will spend 32 hours in training during 1993-94. However, these numbers represent planned, not completed training. Decisions to add and cancel classes, as well as student no shows, are likely to produce lower numbers by year-end.

Training Content. Employee training generally falls into three categories: 1) Job content training for skills and knowledge needed to deliver client services; 2) Health promotion training designed to keep employees well and on the job; and 3) Management training to help supervisors manage programs and lead employees. Attachment A lists in detail the training that is planned for FY 93-94. (Virtually all health promotion classes are offered on employees' own time!)

Outside facilitators conduct 80 of our 179 in-house courses (45%). Thirty-eight of the 80 are for courses sponsored County-wide by the Employee Services Division for clerical excellence, cultural diversity, management training, and health promotion. (Employees subsidize the health promotion program.) The remaining 42 of the 80 in-house courses conducted by outside facilitators (55%) occur throughout the various divisions and are generally job-content oriented, ranging from "Use of Restraints in Detention" to "Using the National Change of Address Program for Elections."

November 17, 1993

Page 2

Training Cost. Managers were asked to respond to the question, "How much has your area budgeted in fiscal year 1993-94 for all in-house and outside training in [the accounting categories listed]? The results:

\$161,897	6110 Professional Services
476,751	6310 Education and Training
99,444	6320 Conferences/Conventions
<u>111,753</u>	6330 Travel
\$849,845	(.2% of County's \$442,205,064 budget)

The following observations can be made about these budgeted numbers:

1. **Inside Training.** The \$161,897 is what the County will pay to bring in outside trainers, facilitators, etc. to our locations for training. This category represents payments made for services rendered to us under contract.
2. **Outside Training.** The balance of the \$849,845 (\$687,948) represents the costs of sending our employees out to training sponsored by colleges, professional associations, state and federal government, etc. This includes registration fees, travel, and the like.
3. An additional cost of County training, both inside and outside, is the value of employee time used to coordinate and conduct training. Capturing such costs would have required a considerably more detailed survey than this one, since wages and benefits are not yet budgeted by program. Attachment A does reveal, however, that portions of many employees' time are expended for this purpose.

Unmet Training Needs. Managers were asked, "What are the top unmet training needs in your area?" Attachment A lists, by department or division, the responses to that question. In addition to needed job-content training which tends to be unique to each area, two training needs were frequently mentioned which cut across departments: (1) computer literacy; and (2) management training.

November 17, 1993

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Recommendations.

1. **Benchmarks.** Develop County benchmarks for employee training that can be compared to similar state benchmarks.
2. **Training Opportunities Communication.** Develop a County-wide training reporting system, so that training resources can be made known to all managers, courses can be coordinated where desirable, and unexpected seat vacancies can be filled.
3. **Computer Literacy.** Consider re-instating ISD's computer training for employees who have to use PC's in their jobs.
4. **Management Training.** Using the management training curriculum topics which were developed jointly between the County and the City of Portland, offer more coursework to meet our known training needs. Begin with training in continuous quality improvement and program budgeting. Expand offerings, as funds are available, to provide managers with a broad range of skills in interpersonal relations, standards of supervision, team building, use of committees, and other topics which will enable managers to respond effectively to the changing demands of public administration. (See Ken Upton's 10/27/93 memo to Beverly Stein, pages 2 and 3, for an eloquent, extended discussion on this topic.)

Juvenile Justice

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
First Aid, CPR	8 hrs.	60	Paul Holland/Cheryl Warren	Employees
Use of Restraints in Detention	8 - 16 hrs.	60	Not Determined	Consultant
Crisis Prevention	8 hrs.	24	Mary Ann Crocker	Employee
New Detention Facility Training	20 hrs.	60	Various Staff	Employees
Introduction to Computers	4 hrs.	20	Various Computer Services Staff	Employees
WordPerfect	4 hrs.	40	Various Computer Services Staff	Employees

What are the top unmet training needs in your area?

Restraints in detention, Interpersonal communications, team building, contract auditing, program evaluation, implementation of integrated services model, probation contract goal writing and implementation, computer skills, dealing with difficult youth.

AA/EEO

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Affirmative Action	8 hrs.	43	Robert Phillips	Employee
Sexual Harassment	4 hrs.	265	Rick Lee	Employee
ADA	4 hrs.	150	Jerry Bittle	Employee

What are the top unmet training needs in your area?

Computer skills.

DCC

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
HIV-AIDS Release of Information	4 hrs.	120	County Counsel, Health, DCC	Employee
Managing Transition	16 hrs.	40	DBM Assoc.	Consultant
Fiscal/Personnel	4 hrs.	12	DCC Administrative Staff	Employee
ISIS	40 hrs.	100	MIS Staff	Employee
ISIS - Train the Trainer	40 hrs.	17	MIS Staff	Employee
Clerical Training	8 hrs.	44	DCC Administrative Doc.	Employee/Consultant(?)

What are the top unmet training needs in your area?

Supervisory - managing employees.

Risk Management

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Safety Committees Accident Investigations	4 hrs.	55	Wise Steps, DeEtta Burrows	Consultant
Hazard Inspections/Job Site Analysis	4 hrs.	60	Wise Steps, DeEtta Burrows	Consultant
Bloodborne Pathogen Training	1 - 2 hrs.	1,750 - 1,800	Occupational Health	Employee
Moving/Lifting Training	2 hrs.	35 (Sept. 93)	John Meyer	Employee
Earthquake Preparedness**	1 hr.	20 (Oct. 6)	Office. Emer. Mgmt./Risk Mgmt.	Employee
Office Ergonomics*	4 hrs.	50	Steve Russell	Consultant
Hazards Communication*	4 hrs.	50	Wise Steps	Consultant
Earthquake Office Preparedness*	4 hrs.	50	John Meyer	Employee
General Safety Topics♦	1 - 2 hrs.	250	John Meyer	Employee

* Not yet given.

** Classes will be given throughout the year.

◦ One class given this year, others on demand.

♦ Given frequently to small groups and various safety topics - generally at the work site.

What are the top unmet training needs in your area?

Employment-related issues for County managers, supervisors, and employees. computer skills, dealing with difficult youth.

Aging Services Division

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Clerical Staff Training	4 hrs.	30 - 40	Unknown	
Angry Family	8 hrs.	50	Bonnie (?) Genevy	
Organization Skills	8 hrs.	50	Unknown	
Protective Service	8 hrs.	25	Unknown	
Cultural Training:				
Russian	4 - 8 hrs.	50 - 80	Donald Yongchu	Employee as Moderator - with outside speakers, nominal fee
Vietnamese	4 - 8 hrs.	50 - 80	Donald Yongchu	
Hispanic	4 - 8 hrs.	50 - 80	Donald Yongchu	
Mental Hlth/Multi-Disciplinary Team	20 hrs.	30 - 50	Dr. Clifford Singer and others	Consultant
Elder Abuse Training	8 - 24 hrs.	50 - 200***	Unknown	Likely combination of both.

Includes contractors, other providers, and agencies' staff members (plans not yet complete).

What are the top unmet training needs in your area?

(a) Clerical staff training; (2) management training - continuation of former DSS topics - attached; (3) computer software-related training.

MCSO

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Sexual Harassment	2 - 4 hrs.	750	Staff	Employees
Cell Extraction	4 hrs.	100	Bishop/Ritchie	Employees
Use of Force	2 - 4 hrs.	100	Bishop/Ritchie	Employees
Firearms	2 - 8 hrs.	300	Staff	Employees
Cultural Awareness	4 hrs.	125	PPB/MCES	Consultants
ASP Baton	4 hrs.	100	Staff	Employees
PR-24	4 - 12 hrs.	25	Staff	Employees
Report Writing	4 - 8 hrs.	20	Staff	Employees
Defensive Tactics	8 - 24 hrs.	20	Staff	Employees
Emergency Vehicle Operations	4 - 8 hrs.	20	Ritchie	Employees
Seatbelt/Helmet Law Update	2 hrs.	50	Oregon State Police	Consultants
Intoxilyzer 5000 Trng	2 hrs.	70	Oregon State Police	Consultants
Bloodborne Pathogens	1 hr.	50	MCHD Occup. Health	Consultants
HAZMAT Awareness	4 hrs.	50	RG Smith/Malmquist	Empl/Consul
Public Safety Ethics	2 hrs.	50	M. Berrigan	Employee
Enforcement In-Service (various subjects)	40 hrs.	75	PPB/MCSO Staff	Empl/Consul

What are the top unmet training needs in your area?

Emergency Vehicle Operations/Defensive Driving.

Health

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Orientation of New Employees	Depends on job class	Depends on new hires (usually 4 - 8 months)	Staff plus Friedman, Livingston & Turner	Both staff and outside trainers, paid and volunteer
Provider Continuing Education	1½ hr/mo	80	Varies	Both staff or volunteer
Nursing In-service*	3 hrs/mo	140-150	Varies	Both staff and outside trainer
Support In-service*	3 hrs/mo	125-150	Varies	Varies
Dental Continuing Education	2 hr x 6 mo	50	Dr. Lee Emery	Outside trainer
Total Quality Management (TQM)	16 hrs.	70	Lee Wallace	Outside trainer
Client Services in Multiracial, Multi-Ethnic Community	70 hrs.	90	Tom Nesby	Outside trainer
HIV in the Workplace	2 hrs. for 2 x/month	All new County employees	Occupational Health Unit Staff	Staff
Clinical Skills for Bilingual Health Assistants	80 hrs.	16	Genny Oplansky/Sue Orlawski	Both
Case Conference for Field Nurses	6 hrs./mo.	50	Mary C. King	Consultant
Sexual Harassment Follow Up for Corrections Providers, Nurses, and Support Staff	6-8 hrs.	70	Jan Salisbury	Consultant
Design of HIV Educational Materials for Specific At-Risk Populations	3 - 4 hrs.	12	Cliff Jones	Consultant
Language Training: Basic and Intermediate	40 hrs.	10	Intercom Language School	Consultant
HIV Prevention for Drug Users	8 hrs.	10	Garfield de Bardelaben	Consultant

* See attached Orientation Calendar for descriptions and instructors, both staff and consultants.

** Special contract with other County departments and outside agencies like City of Portland, Port of Portland-required by federal OSHA standards.

What are the top unmet training needs in your area?

- (a) Language training in Spanish, Russian, and Vietnamese for providers, support staff, and field staff to reduce cost of interpreter services.
- (b) Adequate funding to support critical continuing education for physicians, nurse practitioners, and physicians assistants, especially given increased scope of practice and case management under implementation of Oregon Health Plan in CareOregon.
- (c) Staff and managerial skills in implementing Continuous Quality Improvement Initiative or TQM as defined by Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

DES

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?

What are the top unmet training needs in your area?

Team building.

A&T

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Conducting Employee Interviews	8	29	Curtis Smith	Consultant
Customer Service DOR #2338 Required	16	29	Margot Helphand	Consultant
Computer Training	70	65	William Arnold	Consultant

What are the top unmet training needs in your area?

None at the present.

ISD

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
LAN Training	2 hrs.	40	Francine Yunker	Employee
E-Mail Training	2 hrs.	130	Tammy Williams	Employee
TPX Training	2 hrs.	60	Stu Moss	Employee
Voice Mail Training	1½ hrs.	400	L. Taylor-Oakes	Consultant
WordPerfect Windows	16 hrs.	25	Archie Word	Employee
Natural Program	32 hrs.	6	Robin Kirkman	Employee
Sys. Architect	16 hrs.	25	Archie Word	Employee
Technical Writing	24 hrs.	32	Archie Word	Employee
JCL	24 hrs.	6	Archie Word	Employee

What are the top unmet training needs in your area?

Project Management, Advanced Data Communications Systems and Diagnostics, PC Training, Software Development Methodology.

ELECTIONS

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Synopsis of New Election Law	3½ hrs.	14	Secretary of State; or Assoc. of County Clerks	
Neighborhood Watch Program	1 hr.	16	Roger Sinnott	SE Uplift
Personal Growth Seminar	3 hrs.	16	Jerry Brown	Cascade Coun.
Teambuilding	4 hrs.	7	Jerry Brown	Cascade Coun.
Implementing the National Voter Registration Act of 1993	13 hrs.	1	Federal Elections Commission	
Election Professionals' Certification Program	16 hrs.	1	The Election Center (Wash DC)	
Conference on Information Technologies and Democratic Participation	12 hrs.	1	Center for Policy Alternatives (Wash DC)	
FEC Clearinghouse Advisory Panel	20 hrs.	1	Federal Elections Commission	
Implementing HB 2280	12 hrs.	3	Oregon Association of County Clerks	
Managing Change by Thinking Outside the Box	2 hrs.	13	Janice Druian	Assessment & Taxation
Using the National Change of Address Program for Elections	1 hr.	13	John Dozark/Dwight Beattie	US Postal Serv. - Santa Clara Co.
Understanding and Implementing HB 2280	3 hrs.	14	Oregon Association of County Clerks	
Greater Portland Postal Customer Council	6 hrs.	1	US Postal Service	
User Conference for the Computer Software	8 hrs.	1	DFM Associates	Software Vendor

What are the top unmet training needs in your area?

Personal growth; personal interaction skills.

PLANNING

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Planning Commission Training	4 - 8 hrs.	3		
and Use Law Legal Issues	4 hrs.	8		
Public Relations	2 - 4 hrs.	10.5		
NSA In-service	8 hrs.	8	Gorge Staff	

PLANNING (CONTINUED)

What are the top unmet training needs in your area?

Public relations (line staff public contact - customer relations); oral presentation training

EXPO

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?

What are the top unmet training needs in your area?

FREDS

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Incident Command System	2 hrs.	12	Gilsdorf	Employee
First Aid	4 hrs.	8	Legacy Health	Consultant
Mainstream Computer	1 hr.	20	Bailey	Employee
Mainstem Adv.	3 hrs.	6	Spranke	Consultant
Lotus Adv.	4 hrs.	8	?	Consultant
New Equipment				
Mechanic Training*	4 each	10 each	Various	Vender

* At least three different product trainings.

What are the top unmet training needs in your area?

None.

PARKS

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
CPR/First Aid	4 - 8 hrs.o	38	Nathan Wicks	Employee
Heavy Equipment Use	1 - 2 hrs.	10	Peter Scheideman	Employee

o Four hours for recertification; eight hours for new certification.

What are the top unmet training needs in your area?

Law enforcement training for Parks Rangers. Specialized/technical training opportunities, i.e. irrigation systems, electrical systems, etc.

TRANSPORTATION

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Local Area Network	4 hrs.	20	Nancy Robbins	Employee
Incident Command System	4 hrs.	60	Mike Gilsdorf	Employee

What are the top unmet training needs in your area?

Management and Supervisory, Technical, Safety, Haz Mat.

F&PM

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Building Control Systems	7 hrs.	19	Landis Gyr Powers	
Equip. Specific Classes	12 hrs./mo	10	Harold Morley	

What are the top unmet training needs in your area?

Computers; trade specific.

AUDITOR

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?

What are the top unmet training needs in your area?

Performance auditing is a relatively new field, and most good training can only be obtained in Seattle or Washington D.C. To comply with professional standards, each of my audit staff needs 40 hours of audit training per year. My travel budget has been cut from \$12,000 (when I took office) to less than \$5,000, and I don't know if I can afford adequate training for us all.

COUNTY COUNSEL

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?

What are the top unmet training needs in your area?

LIBRARIES

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Intellectual Freedom	2 hrs.	All Library staff approximately 400	IF Training Committee members, Jeanne Goodrich	Employees
ADA Training	1½ hrs.	All Library staff approximately 400	Jan Campbell, Jeanine DeLaunay, Jeanne Goodrich	Consultants & Employee
New Employee Orientation	4 hrs.	All new hires estimated 30-40	Members of New Orientation Subcommittee of Training Committee	Employees
Advanced Dyna Training	2½ hrs.	50	Staff members who have expertise to do training	Employees
Locating Legal Information at Central	3 hrs.	15	Margaret Wilchko	Employee
First Aid Training	7½ hrs.	40	Certified Instructors	Consultants
Basic Reference	18 hrs.	25	Various Library staff members	Employees
Handling the Problem Patron	4 hrs.	25	Not yet contracted	Consultant
Literary Criticism	2½ hrs.	20	Jane Salisbury, Grace Cushing	Employees
The Library Budgeting Process	1 hr.	40	Margaret Epting	Employee
Advanced Intellectual Freedom Issues	3 hrs.	20	Various staff, Jeanne Goodrich	Employees
Collection Development/Selection Training	12 hrs.	40	Various staff	Employees
E-Mail/Internet/Portals Training	Not yet planned	many	Various staff	Employees

In addition, we have many other in-house trainings that are part of managers', supervisors', and section meetings.

What are the top unmet training needs in your area?

Customer service training; dealing with difficult and/or dangerous people; personal and agency safety.

BUDGET

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Program Budgeting	2 hrs.	300	Warren/Blackmer	Employees
Budget Preparation	1 hr.	300	Innes/Coldwell/Simpson/Hay	Employees

What are the top unmet training needs in your area?

Computer skills - advanced windows, advanced spreadsheets, advanced database.

MHYFSD

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Misc. DD Trainings	8 hrs./each	70+	Julie Snook, Donna Burlingame, Nancy Hesselman	Employees
MED Continuing Education Program	3 hrs./each	10-16 Joint Trngs.	Various	Employees & Faculty
Cultural Diversity Training on Sexism	8 hrs.	182	Joseph Quinones	Consultant

What are the top unmet training needs in your area?

DISTRICT ATTORNEY

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
District Attorney Issuing	3½ hrs.	76 DOA's	Various Staff Members	Rarely use outside staff or consultants
Openings/Closings	3 hrs.	76 DOA's	Various Staff Members	Rarely use outside staff or consultants
DACTS	2 hrs.	76 DOA's	Various Staff Members	Rarely use outside staff or consultants
DNA	2 hrs.	76 DOA's	Various Staff Members	Rarely use outside staff or consultants
Vehicular Assaults	2 hrs.	76 DOA's	Various Staff Members	Rarely use outside staff or consultants
Domestic Violence	2 hrs.	76 DOA's	Various Staff Members	Rarely use outside staff or consultants
Intoxilyzer	3 hrs.	76 DOA's	Various Staff Members	Rarely use outside staff or consultants
Victims, Discovery	2½ hrs.	76 DOA's	Various Staff Members	Rarely use outside staff or consultants
Ethics	3 hrs.	76 DOA's	Various Staff Members	Rarely use outside staff or consultants

What are the top unmet training needs in your area?

Technology and its uses; Trial Advocacy; Environmental Law; Capital Crimes; specialized areas of prosecution.

PURCHASING, CONTRACTS, AND CENTRAL STORES

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
How to Expedite Your Purchases	4½ hrs.	100	Various Purchasing staff	Various Purchasing Staff

What are the top unmet training needs in your area?

Computer Literacy - Basic Training.
Purchasing Training for credentialling.

TRAINING

(Course for all County Employees, Sponsored by Employee Services Division)

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Employment Interviewing	8	72	Curtis Smith	Employee
Substandard Performance/Grievance*	8	66	Ken Upton	Employee
Affirmative Action/EEO*	8	44	Robert Phillips	Employee
Phone Training	4	24	Pete Anderson	Consultant
Proofreading	12	40	May Oka	Consultant
Communication Skills: 2-day*	16	40	Lenny Borer	Consultant
Communication Skills: 2-day* (Clerks)	16	40	Lenny Borer	Consultant
Professional Communication Skills: 2-day	16	40	Lenny Borer	Consultant
Spanish	24	32		Consultant
Dealing with Difficult People	8	60	Jerry Brown	Consultant
Drug Abuse Prevention/Managers	4	60	Jerry Brown	Consultant
Cultural Diversity			Tom Nesby County Trainers	Consultant and Employees
• Managing the Changing Workforce (Managers)*	16	88		
• Cross Cultural Human Relations (Non-Managers)*	8	512		
• Cultural Diversity Job Skill Courses - various	Varies	220		

HEALTH PROMOTION
(Courses for all County Employees, Sponsored by Employee Services Division)

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
HIV for new employees*	2½ hrs.	All new employees	Gay Monteverde	Employee
Managing Change	4 hrs.	JDH Staff approximately 100	Judy Clarke	Consultant
Time Management	4 hrs.	EASD Staff approximately 60	Donna Miller	Consultant
HIV for Managers*	4 hrs. (x2)	40	Wendy Hausotter Gay Monteverde	Employee
Peer Support*	16 hrs.	5	Donna Weatherspoon	Consultant
Drug/Alcohol*	4-8 hrs.	Managers/Supervisors	RFP to be issued	Both
Stress Management*	6 hrs. (x2)	50	Jerry Brown	Consultant
Smoking Cessation	7½ hrs.	5	Cliff Hudsick	Consultant
Freedom From Fat	22 hrs.	20	Kaiser Permanente	Consultant
Aerobics - 3 locations	120 hr./qtr. (x4)	70	Think Fitness	Consultant
Stretching - Downtown	12 hr./qtr. (x4)	25	Julie Lawrence	Consultant
Stretching - NE Health	1 hr. (x40)	8	Lynn Boatsman	Consultant
Breast Self Exam	1 hr. (x5)	80	Komen Foundation	Consultant
Healthwise Self-Care	1 hr. (x3)	50	Wendy Hausotter/ Becky Steward	Employees
Cancer Prevention	1 hr. (x2)	40	Nina Rhea	Employee
Fast Food: Healthier Choices	1 hr. (x2)	40	Nina Rhea	Employee
Lowfat Foods	1 hr. (x2)	40	Wendy Hausotter	Employee
Earthquake Safety	1 hr.	20	Wendy Hausotter	Employee
Downtown Consortium Brown Bags	1 hr. (x12)	150	Various	Employees Consultants
Eldercare	1 hr.	20	Mary Gingell (Aging Svcs.)	Consultant
Heart Chec	1 hr.	15	Portland Adventist Hospital	Consultant
Parenting: various topics	1 - 3 hrs. (x3)	60	Metro Childcare	Consultant
Living Wills	1 hr. (x4)	50	Oregon Health Decisions	Consultant
Fitness Tune-Up	2 hrs.	15	Think Fitness	Consultant
Self Defense	1 hr. (x4)	40	Barbara Green	Consultant

* On County time - all other offerings on employee's own time.

HEALTH PROMOTION (Continued)
(Courses for all County Employees, Sponsored by Employee Services Division)

Course Name	Length of Course in Hours	Total Employees to be trained, 1993-94	Instructor Name	Employee or Consultant?
Ski Fitness	1 hr.	10	Think Fitness	Consultant
55 Alive: Driving Safety	6 hrs.	25	AARP	Consultant
Allergy Management	1 hr.	30	OHSU	Consultant
Money Management	Unknown	10	Irene Khavari (Finance Division)	Employee
Back Care	1 hr.	25	Erica Sprint	Consultant
Food/Mood Connection	2 hrs.	20	Lendon Smith	Consultant
Department Request: Brown Bags/Retreat Speakers	Various (1-4)	150	Various	Employees Consultants
Anger Management	2 hrs.	20	TBA	Consultant
Conflict Resolution	4 hrs.	20	Judy Clarke	Consultant
Pain Management	1 hr.	30	OHSU	Consultant
Menopause	1 hr.	20	OHSU	Consultant

What are the top unmet training needs in your area?

Departments call to request planning and financial assistance with special trainings (e.g. Managing Change at JDH; stress management is a big topic for staff retreats, etc.) - I can only help with a limited number, but there seems to be a need for "as the need arises" trainings that they couldn't necessarily plan and budget for, so they call me (and others, I'm sure).

* Courses taken on County time. All other Health Promotion courses are taken on employees' own time.



MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

PLANNING & BUDGET
PORTLAND BUILDING
1120 S.W. FIFTH - ROOM 1400
P. O. BOX 14700
PORTLAND, OR 97214
PHONE (503) 248-3883

TO: Board of County Commissioners
FROM: R. Barry Crook, Budget and Quality Manager
DATE: June 7, 1994
SUBJECT: Answer to May 24 Management Support Services Budget Hearing Questions

In response to your questions from the May 24th Budget Worksession regarding the plan for involving the Budget Office in analysis, as opposed to traditional budgeting.

As the new Budget and Quality Manager, I would like to first explore with the Board what types of analyses they feel is not currently being conducted, before attempting to craft a plan to upgrade the capacity of the Budget Office to respond to those concerns.

In general, however, I would like to be able to respond to any request by the Board for analysis regarding operational efforts and their impact on the financial condition -- both present and future -- of the County. I would be somewhat hesitant if I am asked to perform an analysis of a specific programmatic proposal for its potential efficacy or to review existing work efforts for the same purpose -- my preference is for the *operational managers* of such programs to conduct this type of analysis.

Having said that, let me make a few remarks about my philosophy regarding the role of a Budget Office.

In terms of analyzing any *operational* proposal put forward by a department/division, I would prefer to work in concert with the proposing department/division and not be in the position of second-guessing the experts that manage the operations of the department (I would prefer to work *with* departments and to voice such concerns *with them*, rather than *at them*) -- except to the extent the Budget Office would be analyzing such a proposal for its conformance to already stated Board *policy* directives.

I say this because of my firmly-held belief that analysis and evaluation should not be separated from the management of work effort. When this is done, and analysis is *transferred* to an outside group, the commitment to respond to and plan for improvements based on such analysis is often transferred as well. Accountability for planning, doing, studying and acting on that study is best left to the people who have ownership of the work process in question -- and not to some outside entity. I would prefer for Budget Office staff to be part of a team of *workers* reviewing the efficacy of work processes.

What I would propose to do is to create the capacity within the Budget Office for reviewing departmental proposals from the perspective of their ability to meet customer requirements in a manner that is consistent with the financial condition and needs of the entire County organization.

In that context it would be appropriate for the Budget Office to inquire of the operating departments/divisions as to their current understanding of such customer requirements and their organizational capacity to meet such requirements (and the methodology utilized to determine both). This approach would not put the Budget Office in the position of "second-guessing" the program experts, but rather would allow the Budget Office to engage in a dialogue of inquiry regarding the context in which program proposals originate. The role in this area for the Budget Office would become one of consultant to the operating departments and advocate for management practices consistent with the RESULTS campaign.

The other aspect of analysis -- impact of operational proposals on the financial condition of the County -- merely requires the entire Budget Office staff to understand the current and future financial condition of Multnomah County. This is a proper role for the Budget Office to play and only requires the Office to perform this analysis (financial forecasting) and to make it known to all Budget staff (indeed to all County employees and our affected community stakeholders).

This role that I envision for the analysts requires them to become intimately familiar with all aspects of their assigned departments' operations, the people who are responsible for those operations, the customers of those departments and to thoroughly understand the climate in which their departments operate -- both the micro-world of concern that is peculiar to a specific department and the larger context of that environment -- emerging conditions that would impact both the department's operations and the whole of the operations of County government (whether those be global, national, regional or local in nature -- economic, technological or cultural). That is to say, it is appropriate for the Budget Office to offer opinions about specific departmental proposals in the context of the needs of the entire organization, to be a spokesman for the "big picture" -- thus they must understand both departmental needs and organizational needs/constraints.

To that end, it would be expected that analysts become subject matter experts regarding their assigned departments operations -- keeping abreast of ideas and industry standards -- and of county government operations in general. It also necessitates a greater understanding of customer-focused management practices and an understanding of the context in which County governments operate. It would be expected that analysts should be current on emerging trends in local government practices (from both a national and state perspective), in the cultural and economic climates in which local governments operate, in the dynamic relationships between the County, the cities, and the State and Federal governments, and to understand the political/economic implications of actions undertaken and/or contemplated by Multnomah County.

All of this understanding would be brought to bear and be a part of any analysis undertaken by the Budget Office at the request of the Board.

As I indicated earlier, the first step in being able to meet the requirements of the Board is to develop a greater understanding of what analysis the Board wants. Then it must be determined just what the current capacities of the Office are, followed by the development of a plan to bridge any gaps in capability. I am in the process of undertaking this "gap analysis" through a series of interviews with Budget staff, departmental personnel (Directors, budget/finance counterparts, and operational staff), Commissioners and the County Chair's Office.

I look forward to understanding your needs in this area and participating in determining the organizational capacity to meet those needs, and marshaling the resources to satisfy your requirements.



MULTNOMAH COUNTY, OREGON

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TO: Board of County Commissioners
FROM: Ching Hay, Budget Specialist *CH*
DATE: June 9, 1994
SUBJECT: Item 8 of Follow-up items from May 24 Budget Work Session

Restated Question: Trace the financial and personnel history of MSS as a whole (the numbers on page 3) explaining the year to year changes.

Revised Budget Overview	1992-93 <u>Adopted</u>	1992-93 <u>Actual*</u>	1993-94 <u>Adopted</u>	1993-94 <u>Revised</u>	1994-95 <u>Budget</u>
Staffing FTE	111.23	105.34	111.53	111.03	113.48
MSS Costs	24,939,207	22,632,701	25,961,300	26,409,062	28,674,360
Program Revenues	19,749,865	17,928,960	20,892,312	21,291,721	22,856,401

* The 1992-93 actual figures are lower because they are the actual expenditures and the related number of FTE's associated with those expenditures. The actual FTE's is arrived at by a mathematical calculation of base pay spent. For example, if \$500,000 base was budgeted for 5 employees and \$400,000 was actually spent, the actual FTE's would be 4 FTE's. Actual figures are usually lower than budgeted because most departments will go under budget in spending.

FTE Changes

One of the factors that could affect the actual FTE's would be vacancies. A better comparison would be to use the 1992-93 adopted budget figures. There were 111.23 FTE's in the 1992-93 adopted budget. The change between the 1992-93 and the 1993-94 adopted budgets is .3 FTE's. The change between the 1993-94 and the 1994-95 budgets is 1.95 FTE's. The changes are listed out on the next page.

Adopted FTE Changes from Previous Year	1993-94	1994-95	
Affirmative Action	0.50	0.50	.5 FTE Office Assistant 2 added in 1994 and .5 FTE Employee Services Specialist added in 1995 for sexual harassment investigation.
County Counsel	0.00	1.00	Labor/Employment Lawyer added to litigate in labor/employment law.
Emergency Management	(0.60)	0.00	1 Program Development Technician deleted & .4 Fiscal Assistant added in 1994 for a net reduction of 0.6 FTE.
Finance	0.00	1.00	Fiscal Assistant added within constraint to process bills.
Purchasing	(1.00)	0.00	Purchasing Specialist deleted in 1993-94.
Employee Services	(0.60)	0.00	Office Assistant 2 deleted in 1993-94
Labor Relations	0.00	1.00	Labor Relations Specialist added due to expected increased workload for bargaining 7 contracts.
Risk Management	2.00	(2.00)	Budgeted in permanent in 94 and temporary in 95. These are light duty people who are on workers compensation. Costs have shifted from permanent to temporary line.
Budget	0.00	0.45	Staff Assistant budgeted here to reflect budget related duties performed
Total Change	0.30	1.95	

Expenditure Changes

I have attached a spreadsheet showing the revised figures for MSS. The original document that you have shows revenue allocated differently. I do not recall how I arrived at the original allocations so I have revised them. This spreadsheet changes the revenue allocations, and hence, the General Fund support needed. I have also attached MSS pages 3, 7, and 8 with the revised figures from this recalculation.

The total change is between the 1993-94 adopted and the 1994-95 budget is \$2,713,060. Insurance fund expenditures have increased by \$1,819,836. General and Federal/State Fund expenditures have increased by \$893,224. The bulk of the change therefore comes from insurance fund expenditures which has increased due to increased wages (some insurance costs are a percentage of wages), and the cost of insurance in general. Insurance fund revenues are used to fund insurance fund expenditures.

The net General fund support has increased by 14.78% or \$748,971. The largest single increase of \$384,557 is due to a new way of allocating costs for building management to operating units. After adjusting for this technical change, the net General Fund support to MSS has increased by 7.19% or 364,414. The other significant changes are:

- Affirmative Action - 0.5 FTE \$17,539 to investigate sexual harassment
- Employee Services - \$48,200 for the RESULTS campaign for grants, conference, newsletter
- Budget - \$20,000 for software to provide on-line access to County policies and procedures
- Budget - \$34,080 for .45 Staff Assistant for budget related duties that are performed by the Staff Assistant
- Labor Relations - \$48,018 for a Labor Relations Specialist to assist with the expected increased workload in the bargaining of 7 union contracts

Emergency Management - \$7,590 for Radios for communication

Emergency Management - \$2,329 for Earthquake education through schools, libraries, etc.

After accounting for building management and major changes, MSS has increased net General Fund expenditures by \$186,658 or 3.68%. This increase is due to general inflation and miscellaneous incidental increases under the constraint allocated to Nondepartmental.

Revised MSS Budget Figures

	1992-93 Actual	1993-94 Adopted	1993-94 Revised	1994-95 Budget
Insurance Fund				
Finance	17,968	19,227	19,227	20,599
Employee Services	14,531,033	16,742,460	17,145,844	17,758,748
Risk Management	2,755,159	3,403,045	3,399,070	4,040,385
County Counsel	441,674	495,473	495,473	660,309
Total Ins Fund Exp.	17,745,834	20,660,205	21,059,614	22,480,041
Change Adopted to Adopted				1,819,836
% Change				8.81%
 Ins BWC	 1,986,000	 3,740,000	 3,740,000	 5,300,000
Svs Charge	14,000	14,000	14,000	12,000
Interest	315,000	340,000	340,000	420,000
Other Sources Needed	15,430,834	16,566,205	16,965,614	16,748,041
Total Ins Fund Revenue Required	17,745,834	20,660,205	21,059,614	22,480,041

Total MSS Budget	22,632,701	25,961,300	26,409,062	28,674,360
MSS less insurance	4,886,867	5,301,095	5,349,448	6,194,319
Less GF revenue	(123,711)	(128,107)	(128,107)	(310,806)
Less Fed/St Revenue	(59,415)	(104,000)	(104,000)	(65,554)
Net General Fund	4,703,741	5,068,988	5,117,341	5,817,959
Change Adopted to Adopted				748,971
% Change				14.78%

Total GF Cost	4,827,452	5,197,095	5,245,448	6,128,765
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Major Changes General Fund

Building Management	384,557	Budgeted for the first time
Affirmative Action	17,539	Sexual Harassment .5 FTE
Employee Services	48,200	RESULTS
Budget	20,000	Policies/Procedures
Budget	34,080	.45 FTE Staff Asst.
Labor Relations	48,018	Labor Relations Spec.
Emergency Mgmt	7,590	Radio COP's
Emergency Mgmt	2,329	Earthquake Education
Total Major Changes	562,313	
Total Change	748,971	
Net Change	186,658	
% Change net of Major Changes	3.68%	

Management Support Services

Nondepartmental

	1992-93	1993-94	1993-94	1994-95
Budget Overview	<u>Actual</u>	<u>Adopted</u>	<u>Revised</u>	<u>Budget</u>
Staffing FTE	105.34	111.53	111.03	113.48
MSS Costs	22,632,701	25,961,300	26,409,062	28,674,360
Program Revenues	17,928,960	20,892,312	21,291,721	22,856,401

Department Services

Management Support Services offers the following services:

- Finance and Purchasing
- Employee Services
- Labor Relations
- Risk Management
- Budget
- Affirmative Action
- County Counsel
- Emergency Management

Management Support Services Nondepartmental

Revenue Sources	1992-93 <u>Actual</u>	1993-94 <u>Adopted</u>	1993-94 <u>Revised</u>	1994-95 <u>Budget</u>
TOTAL GENERAL FUND COST	4,827,452	5,197,095	5,245,448	6,128,765
Less General Fund Program Revenues				
Beginning Working Capital	0	0	0	21,000
Intergovernmental	15,993	16,000	16,000	17,372
Service Charges	40,863	75,445	75,445	69,668
Interest	2,872	0	0	102,000
Other Sources	63,983	36,662	36,662	100,766
SUBTOTAL GENERAL FUND PROGRAM REVENUES	<u>123,711</u>	<u>128,107</u>	<u>128,107</u>	<u>310,806</u>
NET GENERAL FUND SUPPORT REQUIRED	<u>4,703,741</u>	<u>5,068,988</u>	<u>5,117,341</u>	<u>5,817,959</u>
Federal/State Fund				
Intergovernmental	59,415	56,000	56,000	57,000
Service Charges		48,000	48,000	8,554
TOTAL FEDERAL/STATE FUND PROGRAM REVENUES	59,415	104,000	104,000	65,554
Insurance Fund				
Beginning Working Capital	1,986,000	3,740,000	3,740,000	5,300,000
Service Charges	14,000	14,000	14,000	12,000
Interest	315,000	340,000	340,000	420,000
Other Sources	19,717,404	20,785,602	21,178,314	22,548,832
TOTAL INSURANCE FUND PROGRAM REVENUES	22,032,404	25,039,089	25,431,801	28,280,832

1994-95 Budget

Management Support Services

Nondepartmental

Budget Trends	1992-93 <u>Actual</u>	1993-94 <u>Adopted</u>	1993-94 <u>Revised</u>	1994-95 <u>Budget</u>
Staffing Levels	105.34	111.53	111.03	113.48
Personal Services	5,039,931	5,597,896	5,572,413	6,175,113
Contractual Services	1,067,096	819,768	871,568	941,115
Materials & Supplies	16,464,991	19,471,935	19,893,380	21,482,871
Capital Outlay	60,683	71,701	71,701	75,261
Total Costs	22,632,701	25,961,300	26,409,062	28,674,360

Program Revenues				
Beginning Working Capital	1,986,000	3,740,000	3,740,000	5,321,000
Intergovernmental	75,408	72,000	72,000	74,372
Service Charges	54,863	137,445	137,445	90,222
Interest	317,872	340,000	340,000	522,000
Other Sources	15,494,817	16,602,867	17,002,276	16,848,807
Net Revenues Required	4,703,741	5,068,988	5,117,341	5,817,959

Costs by Division	1992-93 <u>Actual</u>	1993-94 <u>Adopted</u>	1993-94 <u>Revised</u>	1994-95 <u>Budget</u>
Finance	2,456,969	2,684,929	2,734,929	3,121,802
Employee Services	15,323,941	17,602,589	18,005,973	18,761,558
Labor Relations	260,907	269,768	269,768	343,392
Risk Management	2,755,159	3,403,045	3,399,070	4,040,385
Budget	513,152	555,711	555,711	684,894
Affirmative Action	140,723	182,653	182,653	206,396
County Counsel	990,481	1,047,974	1,047,974	1,315,863
Emergency Management	191,369	214,631	212,984	200,070
Total Costs	22,632,701	25,961,300	26,409,062	28,674,360

Staffing by Division	1992-93 <u>Actual</u>	1993-94 <u>Adopted</u>	1993-94 <u>Revised</u>	1994-95 <u>Budget</u>
Finance	48.90	50.50	50.50	51.50
Employee Services	19.89	20.53	20.53	20.53
Labor Relations	3.40	3.50	3.50	4.50
Risk Management	3.39	6.00	6.00	4.00
Budget	8.70	9.00	8.50	9.45
Affirmative Action	2.62	3.00	3.00	3.50
County Counsel	15.71	16.00	16.00	17.00
Emergency Management	2.73	3.00	3.00	3.00
Total Staffing	105.34	111.53	111.03	113.48

1994-95 Budget



MULTNOMAH COUNTY OREGON

BEVERLY STEIN
COUNTY CHAIR

EMPLOYEE SERVICES
FINANCE
LABOR RELATIONS
PLANNING & BUDGET
RISK MANAGEMENT

(503) 248-5015
(503) 248-3312
(503) 248-5135
(503) 248-3883
(503) 248-3797

(503) 248-5170 TDD

PORTLAND BUILDING
1120 S.W. FIFTH, 14TH FLOOR
P.O. BOX 14700
PORTLAND, OREGON 97214

PURCHASING, CONTRACTS
& CENTRAL STORES

(503) 248-5111

2505 S.E. 11TH, 1ST FLOOR
PORTLAND, OREGON 97202

TO: Board of County Commissioners

FROM: Jean Miley, Risk Manager *JM*

DATE: June 3, 1994

SUBJECT: Follow-up item from May 24th budget work session

You requested that I obtain information on the sexual harassment claims that had been filed against the County over the past two years and provide a projection of the claims for future years. My understanding is that Robert Phillips is providing you with information on the claims filed with his office, while I am providing information on the claims filed with the County's third-party administrator for liability claims (SIMS).

The SIMS data shown in this report includes all tort claims filed against the County alleging discrimination, as well as claims filed with the Bureau of Labor and Industries (BOLI) and the Equal Employment Opportunity Commission (EEOC). It does not show claims or complaints filed with the City/County Affirmative Action Office unless those claims were subsequently filed with a court, BOLI or the EEOC.

The data in this report reflects claims filed alleging wrongful termination or discrimination. The claims related to sexual harassment are contained in those claims listed under "disc/sex", "disc/harass", and "disc/mult" (multiple factors). The claims coded as harassment include sexual harassment as well as other types; it is likely, however, that most of them are sexual harassment claims.

The data available from SIMS is shown by the date of the incident, rather than the date the claim was filed. For example, a claim filed on January 15, 1994 alleging harassment that occurred in June of 1993 would be shown in FY 93. As a result, the data for the most recent year (FY 94), and perhaps even FY 93, is almost certainly lower than it will ultimately be, given the administrative processes and statutes of limitation on these cases. For example, under BOLI regulations and state law, a person has up to one year after the date of the incident to file a claim or law suit. A claim alleging a violation of federal civil rights law can be filed more than two years after the incident occurs in federal or state

court, if an administrative process has been undertaken (e.g., a complaint has been filed with BOLI or EEOC).

As of the June 1, 1994 report from SIMS, the number of claims filed alleging discrimination related to sex, harassment or multiple causes was eleven in FY 93, up from five in FY 92 and eight in FY 91. To date in FY 94, there have been only 3 claims filed alleging sex discrimination, but there are likely more claims in the pipeline, given the statutes of limitation.

You requested that I predict the number of claims that will be filed in the next year, which is very difficult to do. The reading I have done on the subject indicates that the increased awareness of the issue, brought about by the Anita Hill case and increased employer training, is expected to increase the number of claims filed. Over time, it is hoped that improved prevention efforts and problem intervention strategies will reduce the number of claims, but that remains to be seen.

The Bureau of Labor and Industries reports that sexual harassment claims constituted approximately five to six percent of the civil rights claims filed with them from FY 88 through FY 92. In FY 93, the percentage jumped to nine percent and in FY 94, it has increased to eleven percent of all claims filed. Combined with sex discrimination claims, which have comprised eleven to fifteen percent of their claims filed, BOLI sees sex discrimination/sex harassment claims as their number one area. The Region X Office of the EEOC informed me that sexual harassment claims filed with the EEOC increased 15% nationally in the last quarter.

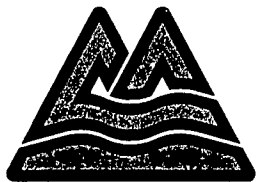
Attached is a summary of the SIMS report on discrimination claims for FY 91 - FY 94. If you have questions or need further information, please let me know.

Attachment

c: Robert Phillips
Larry Kressel
Ching Hay
David Warren ✓

SELF-INSURED MANAGEMENT SERVICES (SIMS) 06/08/94
MULTNOMAH COUNTY CLAIMS BY FISCAL YEAR

FISCAL YR.	ACCIDENT TYPE	# OPEN	# CLOSED	TOTAL CLAIMS	RESERVE	TOTAL PAID	TOTAL EXPECTED COST
FY 91	DISC/WRNG TERM	0	5	5	\$0.00	\$66,884.47	\$66,884.47
	DISCR/AGE	0	2	2	\$0.00	\$0.00	\$0.00
	DISC/SEX	0	3	3	\$0.00	\$254.80	\$254.80
	DISC/HARRAS.	0	4	4	\$0.00	\$127,807.46	\$127,807.46
	DISC/MULT.	0	1	1	\$0.00	\$0.00	\$0.00
	DISC. RACE	0	1	1	\$0.00	\$689.40	\$689.40
TOTAL:		0	16	16	\$0.00	\$195,636.13	\$195,636.13
FY 92	DISC/WRNG TERM	1	1	2	\$49,095.71	\$6,911.25	\$56,006.96
	DISC/HARRAS.	1	2	3	\$92,765.89	\$57,436.12	\$150,202.01
	DISC/MULT.	0	2	2	\$0.00	\$57,418.30	\$57,418.30
	DISC/DISABL.	0	2	2	\$0.00	\$2,251.30	\$2,251.30
	DISC/RACE	1	2	3	\$10,000.00	\$4,084.20	\$14,084.20
TOTAL:		3	9	12	\$151,861.60	\$128,101.17	\$279,962.77
FY 93	DISC/WRNG TERM	0	1	1	\$0.00	\$4,205.60	\$4,205.60
	DISCR/OTHER	2	1	3	\$8,000.00	\$10,185.96	\$18,185.96
	DISC/SEX	4	1	5	\$20,711.85	\$7,834.64	\$28,546.49
	DISC/HARRAS.	1	2	3	\$15,685.35	\$18,056.33	\$33,741.68
	DISC/MULT.	2	1	3	\$90,050.00	\$3,496.30	\$93,546.30
	DISC/RACE	2	1	3	\$6,000.00	\$3,915.30	\$9,915.30
	DISC/RELGN	1	1	2	\$4,355.00	\$658.92	\$5,013.92
	DISC/WHSTBLWNG	0	1	1	\$0.00	\$1,880.18	\$1,880.18
TOTAL:		12	9	21	\$144,802.20	\$50,233.23	\$195,035.43
FY 94	DISC/WRNG TERM	2	0	2	\$15,000.00	\$0.00	\$15,000.00
	DISC/SEX	2	1	3	\$8,915.95	\$21,584.05	\$30,500.00
	DISC/DISABL.	1	0	1	\$3,500.00	\$0.00	\$3,500.00
	DISC/RACE	3	0	3	\$11,901.30	\$1,098.70	\$13,000.00
	DISC/WHSTBLWNG	1	0	1	\$7,000.00	\$0.00	\$7,000.00
TOTAL:		9	1	10	\$46,317.25	\$22,682.75	\$69,000.00
GRAND TOTAL:		24	35	59	\$342,981.05	\$396,653.28	\$739,634.33



MULTNOMAH COUNTY OREGON

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1120 S.W. FIFTH AVENUE, SUITE 1530
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PORTLAND, OREGON 97207-0849
(503) 248-3138
FAX 248-3377

BOARD OF COUNTY COMMISSIONERS
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COUNTY COUNSEL
LAURENCE KRESSEL
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STEVEN J. NEMIROW
MATTHEW O. RYAN
JACQUELINE A. WEBER

MEMORANDUM

TO: Dave Warren
Budget Office (106/1430)

FROM: Laurence Kressel (106/1530)
County Counsel

DATE: June 2, 1994

SUBJECT: Responses to Board Questions Regarding
Proposed County Counsel Budget, FY 94-95

QUESTION 14: Provide a breakout of number of cases handled that relate to: race/gender discrimination, whistle blower incidents, ADA claims, sexual discrimination.

RESPONSE:

What we have done in response to this is calculate the number of cases¹ that fell into the following categories:

1. Race/Religion
2. Sex/Gender
3. Whistle Blower
4. ADA
5. Labor Relations (Cases involving collective bargaining law, e.g. ERB cases.)
6. Appeals of labor/employment decisions by lower tribunals

¹ A case is a complaint filed with a court or regulatory agency (EEOC, BOLI).

Thus, we have broken down the data into six subcategories, based on cases that were pending during the calendar years 1992 through the present.

	1992	1993	1994 (through first calendar quarter)
Race/Religion	9	10	8
Sex/Gender	10	14	13
Whistle Blower	1	4	4
ADA	2	3	2
Labor Relations	8	10	4
Appeals (employment and labor law)	2	5	5

Note that 1994 is only a partial year. It appears that the trend in all types of cases continues upward at an accelerating pace.

QUESTION 15: Explain the basis and methodology for the 1994 projections provided the Board on May 24th.

Response:

On the chart entitled "Pending Labor and Employment Cases" for 1994 we started with the carryover cases from 1993 (16). The new cases up to April 30, 1994 added 16 more, for a total of 32. We projected 32 additional cases in the calendar year, assuming cases would continue to come in at the rate we experienced in the first quarter. This projection yielded a total of 64 cases.

With respect to the chart on new litigation by year, we did the same thing. However, the data we had was for a shorter period. In 1994, 63 new cases were filed through March 30. We projected 189 additional cases. Again, we derived the number by assuming the cases would continued to come in at the same rate they had previously followed.

With respect to the chart on the pending litigation cases by year, we essentially used the same methodology. We took the number of carryover cases from 1993, added to it the number of new cases filed, and then projected for the balance of the year, as if cases would continue to come in at the same rate.

Dave Warren
June 2, 1994
Page 3

We generated some other pertinent data. If we look at just new labor/employment cases filed in any given calendar year, we have the following:

1. 1992 - 21 new cases
2. 1993 - 21 new cases
3. 1994 - 16 new cases through April 30.

Our office has the resources to assign one full-time attorney to this area of law. The assignment covers litigation and advisory services. But the press of litigation has overtaken the advisory function. The latter is preventive in nature, and it is counter-productive to shortchange it.

A question has also arisen as to what we would do if the upward trend in labor/employment litigation unexpectedly slows or reverses in FY 94/95 or thereafter. The answer is that, all other things being equal, we would assign the new attorney to tax collection litigation. This is an understaffed area A&T has long pressed us to address. Currently, our resources simply do not stretch that far.

QUESTION 16: Explore a mechanism to report the workload of the office based on the department that initiates the workload, the kinds of activities requested or involved, a spectrum of appropriate staffing to respond to the array of requests, and the relationship of County Counsel to other support functions in responding to these requests.

RESPONSE:

At present, we do not have a workload tracking mechanism. For FY 1994-95, we will track work during several month-long intervals. During intervals, each attorney will maintain a daily log. For each activity during the day, the log will show the client (by Department or Division), type of work (e.g. document review, legal research, court appearance) and amount of time expended. This will provide a picture of the amount of effort expended by the office (hours of service) as well as the sources and types of demand for service.

We do not know of any accepted way to objectively determine appropriate staffing levels. In the private sector, staffing decisions typically involve analysis of billable hours per attorney and total firm income. In the public sector, we can track billable hours, but firm income is not a factor.

In early 1994, the Portland City Attorney's Office issued an extensive report describing its organization and services. The report quantified office output and measured the costs of that output in various ways. But it did not attempt to compare staffing levels to any established norm.

The ratio of attorneys to other variables might be considered as a rough guide to adequacy of staff. Some possible variables might be: number of county employees, total county budget, total legal files opened in a given period, and total work requests in a given period, broken down by type. But for these ratios to be meaningful, there would have to be an accepted staffing standard in the field. We are unaware of such a standard.

Dave Warren
June 2, 1994
Page 4

Alternatively, we might compare our staffing levels to law offices serving similar clients. This would show our relative standing (vis-a-vis number of staff) in the market, but it would not show whether the staff we have is objectively "sufficient."

Parenthetically, in connection with the proposal to add an attorney to County Counsel, note that the Portland City Attorney's Office consists of 25 attorneys, 2 paralegals and 8 legal assistants. Portland assigns three full time attorneys to employment matters. By contrast, County Counsel has a staff of nine attorneys and two law clerks. We assign one full time attorney to employment matters. The City's total permanent employee workforce is only about 1/3 greater than the County's (4,700 for the City, 3,500 for the County), so the difference in legal staffing isn't attributable to the different workforce sizes.

As previously stated, the press of employment litigation has severely curtailed that attorney's availability to provide preventive law advice to clients.

QUESTION 17: Explain how the office disciplines access to legal services and explore the pros and cons of alternative ways of controlling access.

RESPONSE:

We try to strike a balance between encouraging use of preventive legal services (consultation) and controlling the flow of work into the office. The latter is accomplished through understandings with managers. We ask them to implement policies restricting who in their units can request services from County Counsel. We periodically check with managers to see if the system is working well from both sides.

A formal procedure for requesting legal services would require authorization protocols, written requests, and record keeping regimens by the requesting agency and this office. This overhead would probably not be justifiable in terms of better service to the County. It would also in some cases discourage questions where legal advice at the outset would prevent serious mistakes.

Our "open door" policy has not been abused. Attorneys in the office have been able to identify inappropriate requests, such as "opinion shopping" by clients. In these cases, the attorneys have been instructed to verify the request with the proper supervisor before responding. We have open lines of communication in the office to make each other aware of opinion shoppers.

As far as litigation is concerned, this type of work is driven by claimants and plaintiffs, over whom we have no control. But once a lawsuit comes in, we identify a "principal client." We rely on that individual to help us marshal resources (information, witnesses, etc.) to defend the case. If we start getting questions about a case from others in the system, we check with the principal client.



MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS

BEVERLY STEIN
DAN SALTZMAN
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PLANNING & BUDGET

PORTLAND BUILDING
1120 S.W. FIFTH - ROOM 1400
P. O. BOX 14700
PORTLAND, OR 97214
PHONE (503)248-3883

TO: Tamara Holden, Community Corrections Director
FROM: Dave Warren
DATE: May 24, 1994
SUBJECT: Follow Up Items from the Work Session on May 24

Just as if you did not have enough questions to answer, the Board added two more to the list this morning prior to beginning their analysis of Management Support Services. They are attached. The desired due date is still May 31, 1994. Let me know if you need further clarification.

c Board of County Commissioners

Larry Aab
Kelly Bacon
Susan Clark
Ginnie Cooper
Marie Eighmey
Margaret Epting
Bill Farver
Tom Fronk
Kathy Gillette
Susan Kaeser
Jim McConnell
Hal Ogburn
Mike Oswald
District Attorney Mike Schrunk
Tom Simpson
Sheriff Bob Skipper
Meganne Steele
Kathy Tinkle
Betsy Williams
CIC
Patrol

Follow Up Items from the May 24 budget work session:

DEPARTMENT OF COMMUNITY CORRECTIONS

17. Board Resolution - Provide a response to the resolution of 10/7/93 explaining what the Department believes it can provide as a response and where in the process of responding they are now.

18. Mental Health Assessment - List the places in the justice system where offenders receive mental health assessments.



MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS**BEVERLY STEIN****DAN SALTZMAN****GARY HANSEN****TANYA COLLIER****SHARRON KELLEY****PLANNING & BUDGET****PORTLAND BUILDING****1120 S.W. FIFTH - ROOM 1400****P. O. BOX 14700****PORTLAND, OR 97214****PHONE (503)248-3883**

TO: Dave Boyer, Finance Director
Curtis Smith, Employee Services Director
Jean Miley, Risk Manager
Larry Kressel, County Counsel
Robert Phillips, Affirmative Action Officer
Ken Upton, Labor Relations Manager
Penny Malmquist ("Lucky Penny"), Emergency Management

FROM: Dave Warren

DATE: May 24, 1994

SUBJECT: Follow Up Items from the Work Session on May 24

Attached is a list of items about which the Board of Commissioners would like additional information.

Please prepare a memo answering the Board's questions. I suggest that the responses state the question, and then state the response. The response may be a reference to an attached document.

I have two requests to make about the responses:

1. Please respond to all the questions by Wednesday, June 1. I realize that answers to several of the requests on the list will not be available by June 1. However, you will probably have a reasonable idea of when the answers will be available. The response to these items could be to say when the research is expected to be complete.
2. Please help us keep track of the responses. Send them to the Budget Office. We will copy them, attach a sequentially numbered cover sheet that will help the Board be sure that they are getting all the packets of information, and distribute them to the Commissioners and the Clerk of the Board.

Let me know if you have further suggestions.

c Board of County Commissioners
Larry Aab
Kelly Bacon
Susan Clark
Ginnie Cooper
Marie Eighmey
Margaret Epting
Bill Farver
Tom Fronk

May 24, 1994

Kathy Gillette
Tamara Holden
Susan Kaeser
Jim McConnell
Hal Ogburn
Mike Oswald
District Attorney Mike Schrunk
Tom Simpson
Sheriff Bob Skipper
Meganne Steele
Kathy Tinkle
Betsy Williams
CIC
Patrol

Follow Up Items from the May 24 budget work session:

MANAGEMENT SUPPORT SERVICES

- 1. Labor Relations** - Provide workload numbers for the unit: grievances, arbitrations, consultations, and legal processes.
- 2. Labor Relations** - Explain the pros and cons of using professional services as an alternative to increasing permanent staff for the workload anticipated in 1994-95.
- 3. Labor Relations** - Survey other organizations with multiple bargaining units and compare their labor relations staffing with Multnomah County's.
- 4. Employee Services** - Expand on the explanation of 1993-94 training expenses and compare those expenses with the 1994-95 expenses including the detailed expenditure plan for the RESULTS campaign.
- 5. Employee Services** - Provide the Board a copy of the summary of departmental training.
- 6. Budget** - Explain the changes in FTE in the Chair's Office and the Budget Office.
- 7. Budget** - Describe the plan for involving Budget Office in analysis as opposed to traditional budgeting.
- 8. Budget** - Trace the financial and personnel history of MSS as a whole (the numbers on page 3) explaining the year to year changes.
- 9. Affirmative Action** - Provide workload numbers for the unit: investigations, complaints, cases filed, and average lengths of time spent on cases. Compare this workload with the reduction in work that follows from completion of the Affirmative Action Plan.
- 10. Affirmative Action** - Explain the relationship of the office to the City of Portland. Explain the effects and advantages of the consolidated county/city office. Summarize the funding and staffing from both jurisdictions.
- 11. Risk Management** - Report on the costs of sexual harassment claims during the last two years and estimate the claims for the current fiscal years.
- 12. Budget** - Provide a list of new positions broken out by fund. Compare the indirect costs recovered to the changes in MSS positions.
- 13. Affirmative Action** - Compare the total Affirmative Action budget for the City and County with the total spent by the State and other jurisdictions (e.g. METRO).

Follow Up Items from the May 24 budget work session:

14. County Counsel - Provide a breakout of the number of cases handled that relate to: race/gender discrimination, "whistle blower" incidents, ADA claims, sexual discrimination.

15. County Counsel - Explain the basis and methodology for the 1994 projections provided the Board on May 24.

16. County Counsel - Explore a mechanism to report the workload of the office based on the department that initiates the workload, the kinds of activities requested or involved, a spectrum of appropriate staffing to respond to the array of requests, and the relationship of County Counsel to other support functions in responding to these requests.

17. County Counsel - Explain how the office disciplines access to legal assistance and explore the pros and cons of alternative ways of controlling access.

LOW COST RABIES INOCULATIONS

We want to be sure your pet is safe and healthy this year by offering the convenience of pet licensing right at your door.

Both dogs and cats need licenses, and the cost is less if your pet has been spayed or neutered.

Dogs also need current rabies shots to get a license. Save money by getting your rabies shot at these participating veterinarians. The cost is \$7 or less when you buy or renew a pet license at the same time. There is no other charge for your visit, unless you need other services. This discount is good until October 31, 1994. Remember, a license is a free call home for your pet!

Call these participating veterinarians for an appointment, and bring this flyer with you:

NORTH

A-1 Veterinary Hospital 285-6969

Hayden Meadows Pet Clinic 286-9155

NORTHEAST

Banfield Pet Hospital/Health Ctr. 254-7349

Broadway Veterinary Clinic 282-0380

SOUTHEAST

SE Portland Animal Hospital 255-8139

Stark Street Animal Clinic 667-6963

Town & County Animal Clinic 761-2330

BEAVERTON

Beaverton Pet Clinic 646-6101

GRESHAM

Burnside Animal Hospital 666-4565

Companion Pet Clinic 666-7494

Dogwood Pet Hospital 667-9457

Gresham Veterinary Clinic 665-3173

Mt. View Veterinary Hospital 666-5529

SHELTER LOCATION:

1700 West Columbia Highway
Troutdale, OR 97060

Telephone:
248-3066

SHELTER HOURS:

Monday - Friday Noon - 7pm
Saturday & Sunday Noon - 4pm

Telephone Hours:

Monday - Friday 9:30am - 5:00pm

THE PET OWNER & THE LAW

* YOU MUST OBTAIN AN ANIMAL
FACILITY LICENSE IF:

1. You keep more than 3 dogs or more than 3 fertile cats more than six months of age at any site as identified by a mailing address -- whether the animals are the property of the site owner or of other persons.

2. You keep an exotic, wild or dangerous animal at any site within Multnomah County.

*YOU MUST LICENSE YOUR DOG OR CAT:

1. Within 30 days of reaching the age of six months; or

2. Within 30 days of acquisition by the owner; whichever is greater.

3. Within 30 days of moving into Multnomah County.

*ALL DOGS SIX MONTHS OF AGE OR OLDER MUST BE INOCULATED AGAINST RABIES UNLESS SPECIFICALLY EXEMPTED FOR MEDICAL REASONS, IN WRITING, BY A LICENSED VETERINARIAN.

A/C-76 Rev 3/94

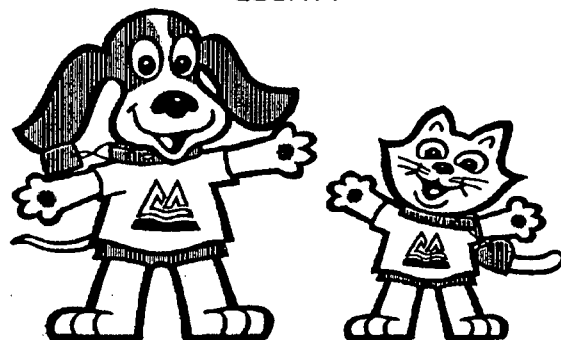


MULTNOMAH COUNTY OFFICIAL NOTICE

MULTNOMAH COUNTY
ANIMAL CONTROL IS
ENFORCING THE CAT AND
DOG LICENSE LAWS IN
GRESHAM, TROUTDALE,
FAIRVIEW, WOOD
VILLAGE AND
UNINCORPORATED
MULTNOMAH COUNTY.

AGENTS FOR
MULTNOMAH COUNTY
ANIMAL CONTROL ARE
GOING DOOR-TO-DOOR
SELLING PET LICENSE
TAGS, PROVIDING
INFORMATION ABOUT
CAT AND DOG LICENSING
AND ANIMAL CONTROL
SERVICES, AND ISSUING
WARNING NOTICES.

PET OWNERS CAN AVOID
POSSIBLE FINES BY
OBTAINING A PET
LICENSE WITHOUT DELAY.



LOVE US? LICENSE US!

PET LICENSE FEE SCHEDULE

DOGS

	1 YR	2YRS	3YRS
Fertile	\$25	\$46	\$60
Fertile (Delinquent)	\$31	\$52	\$66
Spay-Neuter	\$10	\$17	\$24
Spay-Neuter Delinquent	\$16	\$23	\$30

CATS

Fertile	\$15	\$25	\$36
Fertile Delinquent	\$21	\$31	\$42
1st Spay Neuter	\$ 8	\$14	\$19
1st Spay Neuter Delinquent	\$14	\$20	\$25
Addtl Spay Neuter	\$ 5	\$10	\$15
Addtl Spay Neuter Delinquent	\$11	\$16	\$21

SENIOR (Age 65+) DISCOUNT: 50% for first dog & first cat

REPLACEMENT TAG: \$ 3

A DOZEN GOOD REASONS TO LICENSE YOUR PET

1. A license tells everyone that your pet is not a homeless stray, and the owner cares enough to register the pet legally.
2. It means Multnomah County Animal Control will call you or send a letter, if your lost pet comes to the Shelter.
3. A license **GUARANTEES** that if your pet finds itself in the County Animal Shelter in Troutdale, it will receive wholesome food, a clean kennel and TLC while efforts are made to contact you.
4. It promises that while your pet is at the Shelter, Multnomah County Animal Control will get **EMERGENCY MEDICAL CARE** for your pet, if needed.
5. It enables Multnomah County Animal Control to protect neighborhoods from dangerous dogs and investigate dog bites.
6. Licensing helps pay for Multnomah County Animal Control's care of homeless animals not so fortunate as yours.
7. It supports investigations of cruelty, neglect and abandonment of all animals.
8. Licensing **PROMISES** that Multnomah County Animal Control will do its best to help solve neighborhood animal problems.
9. Licensing supports efforts to find good homes for homeless stray dogs and cats.
10. At least 10% of the license fee finances a low cost spay-neuter surgery subsidy program in which dozens of veterinarians participate.
11. Licensing supports youth programs about humane ethics and safety with animals.
12. 'ROUND-THE-CLOCK contact with you via your home phone or emergency number, if someone finds your lost pet...even at 2:30 in the morning! But remember, you must make sure your pet wears the license.



**NO OTHER PET
IDENTIFICATION SYSTEM
EVEN COMES CLOSE TO
BUYING ALL THE GOOD
THINGS YOUR MULTNOMAH
COUNTY PET LICENSE BUYS!**

YOU MAY PURCHASE A LICENSE AT ANY OF THESE LOCATIONS

NORTH PORTLAND

A-1 Veterinary Hospital	285-6969
1218 N. Killingsworth St.	
Hayden Meadows Pet Clinic	286-9155
1210 N. Hayden-Meadows	
North Portland Animal Clinic	285-0462
2009 N. Killingsworth	
Peninsula Dog & Cat Clinic	285-7661
5313 N. Interstate	
St. Johns Veterinary Clinic	289-4996
4818 N. Lombard	

NORTHEAST PORTLAND

Affordable Pet Clinic	254-4068
45 N.E. 122nd	
Banfield Pet Hosp./Health Ctr	254-7349
1726 N.E. 82nd Ave.	
Broadway Veterinary Clinic	282-0380
2307 N.E. Broadway	
East Portland Vet. Clinic	253-7977
11016 N.E. Sandy Blvd.	
Family Pet Center	254-5490
12413 N.E. Glisan	
Premont Veterinary Clinic	282-0991
5055 NE Fremont	
Halsey East Animal Clinic	255-0261
16057 N.E. Halsey	
Lombard Animal Hospital	285-2337
607 N.E. Lombard	
Oregon Humane Society	285-0641
1067 N.E. Columbia Blvd.	
Parkrose Veterinary Clinic	252-9069
4608 N.E. 102nd	
Pet Samaritan Vet. Clinic	233-5001
2519 E. Burnside	
Sandy Blvd. Veterinary	234-9229
3565 N.E. Sandy Blvd.	

NORTHWEST/SOUTHWEST/OTHER

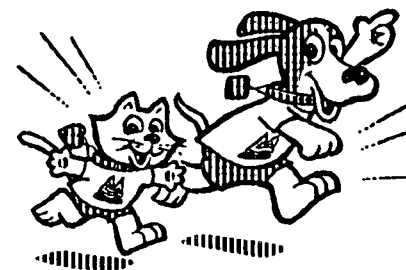
A Poodle Chateau	246-9262
7555 SW Garden Home Rd.	
Barbur Blvd. Veterinary Hosp.	246-4226
10629 SW Barbur Blvd.	
Beaverton Pet Clinic	646-6101
13095 S.W. Henry St.	
Companion Pet Clinic-West Slope	292-0464
8483 S.W. Canyon Rd.	
Easthill Animal Clinic-Clackamas	698-8374
12022 S.E. Sunnyvale Rd.	
Garden Home Vet. Clinic	244-0141
7300 S.W. Garden Home Rd.	
Healthy Pet	222-5228
21 N.W. 23rd	
Northwest Veterinary Hospital	227-6047
1320 N.W. 20th	
Pacific Veterinary Hospital	246-3373
9705 S.W. Barbur Blvd.	
Parkway Veterinary Clinic	636-2102
3 S.W. Monroe Pkwy/L. Osw.	
Pet Set	241-4051
1411 S.W. 14th	
Portland Animal Clinic	228-5256
1755 S.W. Madison	
Tigard Veterinary Hospital	639-1188
11744 S.W. Pacific Hwy.	
Vista Pet Hospital	297-2218
3200 S.W. 87th	
West Hills Animal Clinic	246-3321
4325 S.W. Bvtn-Hillsdale	
Western Pet & Supply	297-6644
4720 S. W. Scholls Py. Rd.	

SOUTHEAST PORTLAND

Canine Palace	774-9764
8409 SE Division	
Jeri's Dog Boutique	233-1967
1238 S.E. Bidwell	
Man's Best Friend	230-0237
3445 S.E. Hawthorne Blvd.	
Maranatha Pet Supply	235-4677
1711 S.E. Hawthorne Blvd.	
Montavilla Animal Clinic	253-9292
7714 S.E. Stark St.	
Mt. Scott Animal Clinic	777-3919
8401 S.E. Ellis	
Powell Blvd. Vet. Clinic	236-1834
3654 S.E. Powell	
Rose City Vet. Clinic	232-3105
809 S.E. Powell Blvd.	
Town & Country Animal Clinic	761-2330
12515 S.E. Division	
Willamette Dog & Cat Clinic	234-6601
8415 S.E. McLoughlin Blvd.	
Woodstock Veterinary Clinic	775-1519
4835 S.E. Woodstock Blvd.	

EAST COUNTY AREA

Alfie's Canine Fitness Cntr.	665-6465
4229 S.E. 182nd	
Burnside Animal Hospital	666-4565
600 N.W. Fariss	
Candi's Canine Clippers	667-3078
2470 E. Burnside	
Christian Pet Supply	665-5574
23842 N.E. Halsey	
Companion Pet Clinic	666-7494
2339 E. Powell/Gresham	
Dogwood Pet Hospital	667-9457
1440 E. Powell/Gresham	
Fletcher's Boarding Kennel	761-2091
12959 S.E. Powell Blvd.	
Gresham Veterinary Clinic	665-3173
520 N.W. Division/Gresham	
Mariyna's Pet Grooming	256-3402
15710 N.E. Glisan	
Mt. View Veterinary Hospital	666-5529
1890 N.E. Division/Gresham	
Southeast Animal Hospital	255-8139
13830 S.E. Stark	
Stark St. Animal Clinic	667-6963
19140-A S.E. Stark	
12-Mile Animal Clinic	665-1109
21920 S.E. Stark/Gresham	
Wildwood Animal Hospital	665-1126
1404 N.E. 181st	



LOST PET

Visit the Shelter in person.

Only you can positively recognize or identify your own pet. If possible bring a picture of your pet you can leave at the Shelter.

Visit the Shelter as soon as possible.

Unlicensed pets are kept for only 3 days, so it is important to check the Shelter as soon as you notice your pet is gone.

Visit the Shelter and check all areas.

Visit both kennel areas, the hospital ward, check the "Found" file and leave a "Lost" report at the front counter.

FOLLOW THESE SUGGESTIONS.... AND INCREASE THE CHANCES OF FINDING YOUR PET

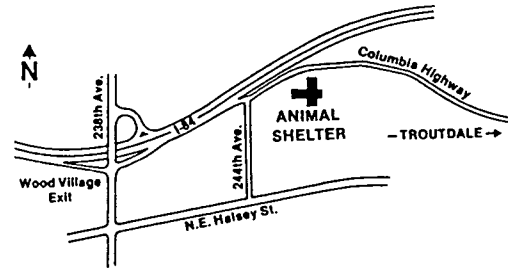
DON'T GIVE UP! Many pets return home or are brought to the Shelter months after they become lost.

- ✓ **LOOK EVERYWHERE!** As soon as you realize that your pet is missing, start looking for it.
- ✓ **ADVERTISE!** Put up signs in the neighborhood. Talk to neighbors, mail carriers and children who might have seen your pet. Place ads in the local papers. Check the found columns. If the description is close, call.
- ✓ **VISIT OTHER SHELTERS!** Check the Humane Society (285-0641), Clackamas County (655-8628) or Washington County (681-7041).

As long as your pet is missing:

CALL the Shelter (248-3066) every day (Mon. to Fri. 9:30 to 5:00)

Visit the Shelter once every three days (open to the public Mon. to Fri noon - 7pm, Sat. & Sun. noon till 4pm)



FACILITIES

DOG FACILITY

Any site, as identified by a mailing address, where more than three dogs of licensable age are kept, whether the animals are the property of the site owner or of other persons.

CAT FACILITY

Any site, as identified by a mailing address where four or more fertile cats six months of age or older are kept, whether the animals are the property of the site owner or of other persons.

EXOTIC FACILITY

Any site for keeping of exotic, wild or dangerous animals.

IF YOU FIND A PET...

Call the Shelter at 248-3066

Ask your local paper if they will run a free found advertisement.

SERVICES PROVIDED BY ANIMAL CONTROL

- ✓ Sick and injured animal rescue
- ✓ Emergency Animal Rescue
- ✓ Protective Custody for pets
- ✓ Animal bite investigations
- ✓ Vicious - animal control
- ✓ Dead stray animal pick-up
- ✓ Cruelty investigations
- ✓ Impounding of stray dogs
- ✓ Round-up of stray livestock
- ✓ Barking dog investigations
- ✓ Dog and exotic animal facility investigations
- ✓ Serving of Notices of Infraction and Citations
- ✓ Assisting other law enforcement agencies with animal problems
- ✓ Helping citizens to resolve neighborhood problems resulting from irresponsible pet ownership

NOTE: These are the laws that are used most frequently. It is not a complete summary.

Multnomah County Animal Control

1700 W. Columbia Highway

Troutdale, Or 97060

Shelter Hours:

Monday to Friday noon-7pm

Saturday and Sunday noon-4pm

CLOSED HOLIDAYS

Telephone Hours:

248-3066 Monday - Friday 9:30am-5:00pm

A/C-128, Rev 3/24

**RESPONSIBLE
PEOPLE
MAKE
RESPONSIBLE
PETS**

Multnomah County Animal Control

Making your neighborhood a better place
for people and pets.

MULTNOMAH COUNTY ANIMAL CONTROL

**"To protect people and animals
through the promotion and
enforcement of responsible animal
ownership."**

Multnomah County Animal Control is a division of your County government which is charged with enforcing the animal statutes for the County, including the cities of Portland, Fairview, Gresham, Wood Village and Troutdale. These cities have incorporated the County Animal laws into one unified set of laws for all Multnomah County residents.

PET LICENSING

Dogs and cats* shall be licensed within 30 days of obtaining the age of six months or within 30 days of acquisition by the owner. Free I.D. tags are available to pets under six months of age, living in Multnomah County. (**Cats in Troutdale do not require licenses*)

RABIES

All dogs six months of age or older must be inoculated against rabies unless specifically exempted for medical reasons, in writing, by a licensed veterinarian.

LIVESTOCK REGISTRATION

Owners of livestock shall post at an entrance to property containing livestock a sign to be furnished by the director which shall display a number assigned by the director and list the type of livestock contained on the premises.

BARKING/SCOOP LAW

It is unlawful to permit any animal unreasonably to cause annoyance, alarm, or noise disturbance at any time of the day or night by repeated barking, whining, screeching, howling, braying or other like sound which may be heard beyond the boundary of the owner's property.

Any person in physical possession and control of any animal in a public place shall remove excrement or other solid waste deposited by the animal in any public area not designed to receive those wastes, including but not limited to streets, sidewalks, parking strips and public parks.

CONFINING ANIMALS TO MOTOR VEHICLES

No animal shall be confined within or on a motor vehicle at any location under such conditions as may endanger the health or well being of the animal, including but not limited to dangerous temperature, lack of food, water or attention or confinement with a dangerous animal.

ANIMALS AT LARGE

Any animal, excluding cats, that is not *PHYSICALLY* restrained, on private property (including motorized vehicles) with the permission of the property owner, in a manner that *PHYSICALLY* prevents the animal from leaving that property or reaching any public areas; or when on public property, or any public area, and is not restrained by a leash, tether or other *PHYSICAL* control device not to exceed eight feet in length and under the *PHYSICAL* control of a capable person.

CRUELTY

It is unlawful to physically mistreat any animal either by deliberate abuse or neglect to furnish minimum care, including medical attention.

It is unlawful to leave an animal unattended for more than 24 hours, consecutively, without minimum care.

It is unlawful to deprive an animal of minimum care or facilities.

POTENTIALLY DANGEROUS DOGS

KEEPING A VICIOUS ANIMAL OR DOG/PERMITTING A DOG TO BEHAVE DANGEROUSLY

It is unlawful for any person to keep a vicious animal or dog that has been found to have engaged in level 5 behavior; or to permit any dog to engage in any of the behaviors described below.

CLASSIFICATION OF LEVELS OF DANGEROUSNESS

A dog shall be classified as potentially dangerous based upon specific behaviors exhibited by the dog. Behaviors establishing various levels of potential dangerousness are as follows:

Level 1 behavior is established if a dog AT LARGE is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person or domestic animal.

Level 2 behavior is established if a dog, WHILE AT LARGE, causes physical injury to any domestic animal.

Level 3 behavior is established if a dog, WHILE CONFINED as required by law aggressively bites or causes physical injury to any person.

Level 4 behavior is established if a dog, WHILE AT LARGE, aggressively bites or causes physical injury to any person; or WHILE AT LARGE kills a domestic animal.

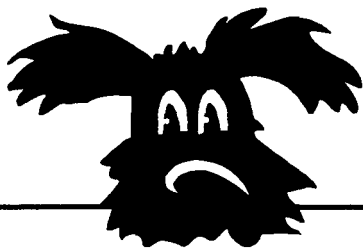
Level 5 behavior is established if:

1. a dog, whether or not confined, causes the serious physical injury or death of any person; or
2. a dog is used as a weapon in the commission of a crime; or
3. a dog classified as a LEVEL 4 potentially dangerous dog repeats the behavior described in LEVEL 4 above after the owner receives notice of LEVEL 4 classification.

It is unlawful for any person to fail to comply with the regulations applicable to potentially dangerous dogs.

ANIMAL CONTROL OFFICERS

Animal Control officers are deputized by the County Sheriff and carry commissions limited to enforcing animal laws. The majority of these laws specifically concern dogs, but officers are prepared to deal with a wide variety of animals and emergencies. Although there is no leash law governing cats, cats are not permitted to trespass. Trespassing cats may be humanely trapped and taken to Multnomah County Animal Control.



Low Cost Vaccinations

ADMINISTERED BY ROBERT RIGGLE, D.V.M.

Every year, thousands of dogs and cats die from diseases that could be prevented by proper vaccinations. Pet Prevent-A-Care has joined with local veterinarians to provide dog and cat owners with a convenient and economical way to protect their beloved companions. Vaccination events are held throughout the Portland metropolitan area each weekend. Check **This Week Magazine** for the event nearest you or call PPC for more information.

ALOHA

Corner Pet Stop.....20925 SW Tualatin Valley Hwy. at 209th

BEAVERTON

Pet Barn.....12675 NW Cornell Rd. at NW Barnes Rd.

Petco.....3905 SW 117th Ave. at SW Canyon Rd.

CLACKAMAS

Petco-Ross Center.....11211 SE 82nd Ave. next to Fuddruggers

FOREST GROVE

The Coral Jungle Pet Center2834 "H" Pacific Ave.

GRESHAM

Petco.....1905 NE Division St. at SE Burnside

HILLSBORO

Petco2643 SE T.V. HWY.

Petco-Tanasbourne Square2065 NW 185th Ave.

LAKE OSWEGO

The Palace of Pets16889 SE 65th at Boones Ferry Rd.

Pet City.....16140 Boones Ferry Rd. at Bryant

Petco.....333 S. State St. at "A" Ave.

MILWAUKIE

Ace Pet & Aquarium4308 SE King Rd.

OREGON CITY

Pet Prevent-A-Care Office.....19138-B S. Molalla Ave.

PORTLAND

A Family Affair Pet Grooming.....5016 SE Division St.

Pet City.....4409 SW Vermont at Capitol Hwy.

Petco14410 SE Division St. at 144th and SE Division

SHERWOOD

Sherwood Feed & Garden Store.....16200 SW Langer Dr.

TIGARD

Pet 'N' Pond.....14405 SW Pacific Hwy.

Petco11705 SW Pacific Hwy. at Hwy. 217

VANCOUVER

Petco.....305 SE Chkalov at Mill Plain Blvd.



For information about other events near you, call

PPC™ at 1 800 3-DOG-CAT



Checks OK



OR

© 1994 Pet Prevent-A-Care. All Rights Reserved. PPC™ and the dog are trademarks of Pet Prevent-A-Care.

RETURN ADDRESS

PLACE
STAMP
HERE

MULTNOMAH COUNTY ANIMAL CONTROL
1700 W. COLUMBIA HWY.
TROUTDALE, OREGON 97060-1093

CANVASS PROJECT



DID YOU REMEMBER TO ENCLOSE:

- **A CHECK OR MONEY ORDER MADE OUT TO MCAC—NO CASH PLEASE**
- **SPAY OR NEUTER PROOF**
- **RABIES CERTIFICATE FOR DOGS**
- **SENIOR DISCOUNT PROOF—65+ YEARS**
- **FOR ADDITIONAL PETS, ENCLOSE SEPARATE SHEET**

We have enclosed an additional donation of \$_____ for the adoption outreach trust fund.