

# LEGAL

The Legal Department is divided into two programs: legal services, and safe city strike force. City attorneys represent the City's interests before all courts, administrative bodies, tribunals, and legislative bodies in New Mexico, and are responsible for oversight of the civil lawsuits filed against all City departments. In addition to trial work, the legal services division advises clients on "liability avoidance" in all employment matters, protection of environmental resources, the management of risk in the operation of City services, land use and civil rights matters.



To improve neighborhood quality of life and public safety, the safe city strike force program targets properties that pose an extreme nuisance to the neighborhoods and surrounding communities, initiates graffiti vandalism lawsuits and DWI vehicle forfeitures. Attorneys assigned to the safe city strike force also oversee the metropolitan traffic court arraignment program, which negates the need for police officers to be present at traffic arraignments.

## MISSION

To provide timely and quality legal services at a reasonable cost to the Mayor's Office, City Council and City agencies and to represent the City of Albuquerque in litigation in state and federal courts and administrative hearings.

Operating Fund Expenditures by Category (\$000s)	UNAUDITED ACTUAL FY/10	ORIGINAL BUDGET FY/11	REVISED BUDGET FY/11	ESTIMATED ACTUAL FY/11	APPROVED BUDGET FY/12	APPR 12/ EST ACT 11 CHG
Personnel	6,026	4,911	4,911	4,705	4,548	(157)
Operating	1,402	761	761	794	761	(33)
Capital	0	0	0	0	0	0
Transfers	271	340	340	339	164	(175)
<b>TOTAL</b>	<b>7,699</b>	<b>6,012</b>	<b>6,012</b>	<b>5,838</b>	<b>5,473</b>	<b>(365)</b>
<b>TOTAL FULL TIME POSITIONS</b>	<b>85</b>	<b>60</b>	<b>60</b>	<b>60</b>	<b>56</b>	<b>(4)</b>

## BUDGET HIGHLIGHTS

The FY/12 General Fund budget for the Legal Department is reduced by 9% from the original FY/11 budget. The approved budget is \$5.5 million. The budget includes moving an assistant city attorney to the Aviation department for \$132 thousand, restoring an unfunded position for \$63 thousand, as well as an increase of \$88 thousand for the cost of health care and retiree health care benefits and a decrease of \$176 thousand for internal costs associated with risk, fleet and communications.

Included in the approved budget is the deletion of three vacant positions. These are two assistant city attorneys and a senior administrative assistant for a total savings of \$293 thousand.

(\$000's)	UNAUDITED ACTUAL FY/10	ORIGINAL BUDGET FY/11	REVISED BUDGET FY/11	ESTIMATED ACTUAL FY/11	APPROVED BUDGET FY/12	APPR 12/ EST ACT 11 CHG
<b>PROGRAM STRATEGY BY FUND AND GOAL:</b>						
<b>GENERAL FUND 110</b>						
<b>GOAL 2: PUBLIC SAFETY</b>						
Safe City Strike Force	783	822	822	802	962	160
<b>GOAL 7: COMMUNITY AND CULTURAL ENGAGEMENT</b>						
City Clerk	1,328	0	0	0	0	0
<b>GOAL 8: GOVERNMENTAL EXCELLENCE AND EFFECTIVENESS</b>						
Legal Services	5,126	5,190	5,190	5,036	4,511	(525)
Real Property	425	0	0	0	0	0
<b>Total General Fund 110</b>	<b>7,662</b>	<b>6,012</b>	<b>6,012</b>	<b>5,838</b>	<b>5,473</b>	<b>(365)</b>

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**OPEN & ETHICAL ELECTIONS PROJECT FUND 232**

**GOAL 7: COMMUNITY AND CULTURAL ENGAGEMENT**

Open & Ethical Elections	0	0	0	0	0	0
Trfr from Fund 232 to Fund 110	37	0	0	0	0	0
<b>Total Open &amp; Ethical Elections Fund - 232</b>	37	0	0	0	0	0
<b>TOTAL APPROPRIATIONS</b>	<b>7,699</b>	<b>6,012</b>	<b>6,012</b>	<b>5,838</b>	<b>5,473</b>	<b>(365)</b>

<b>REVENUE</b>
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General Fund revenues for FY/12 show an overall decrease of \$131 thousand compared to estimated actual FY/11. The decrease is in special legal counsel for recovered attorney services to the Aviation Department. In FY/12 the Aviation Department will pay the attorney directly.

Department Generated Fees for Services (\$000's)	UNAUDITED ACTUAL FY/10	ORIGINAL BUDGET FY/11	ESTIMATED ACTUAL FY/11	APPROVED BUDGET FY/12	APPR 12/ EST ACT 11 CHG
Legal Services	1,303	2,794	2,300	2,300	0
Mediation Land Use Fees	12	0	0	0	0
Special Legal Counsel	99	131	131	0	(131)
Legal Counsel to Water Authority	25	32	15	15	0
Legal Counsel for CIP	98	96	96	96	0

<b>PERFORMANCE MEASURES</b>
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**GOAL 2: PUBLIC SAFETY** - The public is safe and secure, and shares responsibility for maintaining a safe environment.

**PROGRAM STRATEGY**

**SAFE CITY STRIKE FORCE** - Provide oversight of and legal services for the Safe City Strike Force established to address neighborhood quality of life and public safety through nuisance abatement actions, graffiti and vandalism collections, attorney staffing of Metro Court Arraignment Program and DWI Vehicle Forfeiture Program; provide counsel services to the ABQ Police Department (APD) Nuisance Abatement Unit.

Measure	Actual FY/09	Actual FY/10	Approved FY/11	Actual FY/11	Approved FY/12
<i>DESIRED COMMUNITY CONDITION - Residents, businesses, and public safety agencies work together for a safe community.</i>					
Provide attorneys and support staff to negotiate plea agreements in Metro Traffic Arraignment Court					
# of Traffic Cases going to Arraignment	46,940	55,760	68,000	57,094	68,000
% of approx 40,000 pleas resolved	83%	82%	78%	74%	78%
Initiate legal action for Nuisance Abatement plans and represent the City in court on nuisance abatement issues.					
# legal actions	-	1	2	10	10
# court cases	-	1	2	13	10
Draft package of Nuisance Abatement properties and prepare resolutions as needed.					
# of Cases By City Council District	-	520	600	680	750
Evaluate the condition of nuisance properties, taking enforcement action as necessary					
# properties evaluated	-	520	600	980	1,100
Initiate and assist with the securing of nuisance properties					
# board ups and clean ups	221	95	100	528	600
# tear downs	9	3	20	7	10

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Measure	Actual FY/09	Actual FY/10	Approved FY/11	Actual FY/11	Approved FY/12
Initiate and process to conclusion DWI vehicle forfeiture actions					
# DWI Seizure Reports reviewed	2,029	2,060	1,200	2,062	1,500
# of Vehicle Forfeiture actions	651	470	500	474	500
# vehicles booted	753	768	600	689	600
# vehicles released on agreement	748	552	600	485	500
# vehicle seizure hearings	-	1,740	1,200	1,562	1,200
# vehicles auctioned	796	1,046	600	743	600
\$ from auctions (000's)	1,527	1,527	1,000	824	800

**GOAL 8: GOVERNMENTAL EXCELLENCE AND EFFECTIVENESS** - Ensure that all existing communities are adequately and efficiently served with well planned, coordinated, and maintained infrastructure. Ensure that new development is efficiently integrated into existing infrastructures and that the costs are balanced with the revenues generated.

## PROGRAM STRATEGY

**LEGAL SERVICES** - Provide effective representation and sound legal advice to the Mayor's Office, City Council and client departments.

Measure	Actual FY/09	Actual FY/10	Approved FY/11	Actual FY/11	Approved FY/12
<i>DESIRED COMMUNITY CONDITION - Government protects the civil and constitutional rights of citizens</i>					
Defend the COA against all types of claims including employment, negligence, breach of contract, purchasing, civil rights, environmental and represent COA and Police lawsuits alleging police rights violations					
# Lawsuits received	194	253	150	224	240
# active cases	-	176	200	203	175
# cases closed	-	176	90	65	90
Process record expungements, identity theft issues and juvenile record sealing for APD					
# ID Theft, record expungements and juvenile record sealing actions	46	16	75	23	20
Alternative Dispute Resolution unit (ADR) facilitates and mediates land use, neighborhood, and employee workplace, grievance and discipline issues to promote resolution before they escalate to costly lawsuits.					
# ADR mediation referrals	1,450	1,098	600	1,030	600
# of mediations/facilitations	49	33	60	111	60
% ADR mediations not resulting in lawsuits	84%	88%	80%	85%	80%
Attendance at City Council, city boards, commissions, committees, and task forces and administrative hearings					
# meetings/hearings attended	122	214	100	208	100
Enforce air quality standards					
# of air quality enforcement actions completed (In conjunction with EHD)	27	11	10	23	10
Review contract, EC's ordinances and other resolutions					
# contract, resolution, EC, Ordinance reviews	2,095	1,721	2,000	1,865	1,500
Represent the City in land use regulation and development, including all administrative land use and approval proceedings, administrative appeals, 42 US. C. 1983 land use actions and Development Agreements					
# District Court or Metro Court land use proceedings or administrative appeals and other land use actions	-	35	30	122	100
Acquire right of ways and properties for the COA through its condemnation powers					
# rights of way acquired through condemnation powers	-	4	3	7	3

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## PRIOR YEAR ACCOMPLISHMENTS

- Resolve cases through trial, motions to dismiss, and through settlement.
- Decreased outside counsel costs as more cases are handled internally.
- Implemented a new case management system to better capture and summarize current data on case status and volume in order to streamline billing and to facilitate the preparation of reports.
- The Alternate Dispute Resolution Office had a very successful year resolving disputes prior to the matters becoming lawsuits.
- Completed Demolitions:
  - 326 Vassar SE owners financed
  - 3301 Mateo Prado property lien for all cost
  - 4614 9th St. NW owners financed
  - 08 Aspen NW property lien for all cost
  - 6613 Jade Park NE property lien for all cost
  - 7104 Leander NE property lien for all cost
  - 1410 Central SW the historic Castle Apartments were demolished by the property owners.
  - 9 Nuisance and Dilapidated structures have been submitted to City Council for approval to be demolished.
- The Strike Force investigated and prosecuted illegal raves which are being conducted in SUBSTANDARD buildings.
- The Strike Force and Fire Marshall's Office worked with the Apartment Owners Association on safeguards for tenants and property.
- Conducted numerous Fire Inspections, Safety Inspection and City Business License checks at the local smoke shops and other commercial properties within our jurisdiction.
- The DWI Seizure Unit reviewed 2,062 police reports that were related to vehicles seized subsequent to DWI offense arrests. These include DWI offenses and driving on a revoked license offenses.
- Held 1,562 Administrative Hearing settings, each of which were requested by owners, negotiated an alternative release or immobilization agreement at the hearing setting, preceded to forfeiture after a ruling of probable cause by the Hearing Officer, or the vehicle was disclaimed by owner after options were explained.
- Filed 474 forfeiture cases in the District Court. This occurred as a result of the City not releasing the vehicle at the Administrative level and/or the owners of the vehicle never requested or did not appear at their administrative hearing.
- Entered into 689 immobilization agreements with owners and 485 release agreements with owners and/or lien holders.
- Auctioned 743 vehicles to forfeiture, disclaimer or abandonment, which generated \$824 thousand in proceeds.
- Executed 240 public infrastructure agreements totaling approximately \$60 million in public infrastructure improvements throughout the City.
- Issued a total of \$151,816,625.00 in Recourse Debt:
  - 1) 01/28/11- \$1,441,625 Fire Fund Loan w/NM Finance Authority;
  - 2) 02/24/11- \$135,000,000 GO Bonds, Series 2011;
  - 3) 05/19/11- \$15,375,000 Airport Refunding Revenue Bonds, Series 2011
- Non-Recourse Debt:
  - 1) Assisted in the asset sale involving K-tech Corporation;
  - 2) Assisted in winding down transactions involving Honeywell and Convergys.
- Assisted with the City's first fuel hedging transaction, estimated to save the general fund \$800,000.
- Provided contracts training to department personnel.
- Trained Purchasing staff to review vendor agreements.

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- Administered the Contract Tracking System; provided regular trainings to department staff.
- Completed approximately 24 evictions for cause from federally-funded Public Housing units as the result of hearings in the Bernalillo County Metropolitan Court. Evictions were the result of illegal activities by tenants who disturbed the neighborhood or violated federal housing regulations.
- Represented Albuquerque Housing Services (AHS) in several informal administrative Public Housing tenant grievance hearings at AHS. Participated in debt collection actions in Bernalillo County Probate Court.
- Participated in approximately 19 administrative hearings at the City administrative Independent Office of Hearings regarding termination of Section 8 rental assistance benefits to low income households, allowing others on the lengthy waiting list to find housing.
- Drafted legislation implementing major changes by creating the Albuquerque Housing Authority, a Public Body Corporate, effective July 1, 2011. Drafted legislation to create the Board of Housing Authority for the Albuquerque Housing Authority.
- Handled the RFP for educational access television and negotiated the subsequent contract.
- Negotiated cell tower leases for City-owned property, which will generate revenue to the General Fund.
- Negotiated the contract for operation of the technology center.
- Participated in the extensive process to obtain a new location for public access television including negotiation of the lease with Quote Unquote.
- Drafted numerous new or amended air quality regulations to clarify or strengthen air quality rules and programs and to comply with changing federal requirements and local conditions. The regulations then are published with New Mexico's state regulations.
- Coordinated Kirtland Air Force Base underground jet fuel plume permitting and enforcement actions with EPA and NM Environment Department staff.
- With EHD Air Quality Division staff, completed 13 administrative enforcement actions against entities that violated air quality laws and permits in Bernalillo County. In addition to respondents paying approximately \$118,850 in penalties into the General Fund and \$8,370 in cost recoveries, various respondents obtained permits or modifications; changed, added or updated pollution control equipment; adopted SOPs and trained employees; improved recordkeeping and monitoring; and completed performance testing of control equipment.
- Provided legal support to negotiate and revise 7 major airline contracts, a rental car RFP and 8 major rental car contracts, and a retail concession RFP that will generate approximately \$37 Million in annual revenue to the Aviation Department.
- Provided litigation support regarding various lawsuits filed by or against Aviation employees, including prosecution of a counterclaim against an airport contractor.
- Worked with Environmental Health and City Council staff to adopt a pigeon nuisance ordinance.
- Rewrote the regulations on emission testing of vehicles in Bernalillo County, which was adopted by the Albuquerque-Bernalillo County Air Board.
- Finalized licensing agreement with Kirtland Air Force Base to grant access to City rights-of-way to drill 78 wells needed to characterize the jet fuel plume threatening Albuquerque's drinking water.