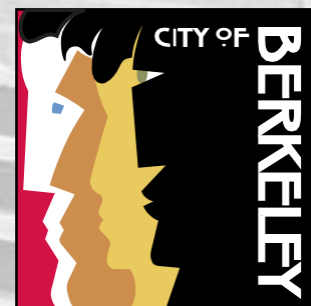


CITY ATTORNEY BUDGET

— FISCAL YEAR 2024 —

FARIMAH FAIZ BROWN
BRENDAN DARROW
SARA STEPHENS
SAMUEL HARVEY
ROSANNE MASSIMINO
KEITH NESBIT
JUNE 22, 2023



A photograph of the Martin Luther King Jr. Civic Center building in Berkeley, California. The building is a multi-story structure with a prominent entrance featuring a large glass door and windows. Above the entrance, a sign reads "MARTIN LUTHER KING JR. CIVIC CENTER". Below the glass door, a sign displays the address "2180 Milvia Street". The building's facade is light-colored with decorative architectural elements. A quote is overlaid on the image in a blue, sans-serif font.

“A small town with a big voice... needs great lawyers”

Our mission is to provide the City with the highest caliber legal services and advice and to protect and defend the interests of this dynamic City by all legal and ethical means.

CHARTER AUTHORITY

The City Attorney is the Chief Legal Officer of the City of Berkeley and advises and represents the Council and all City Boards, Commissions, and Departments, except for the Rent Stabilization Board, Housing Authority, and Board of Education.

The Berkeley Charter Section 113 States: “Upon presentation of a proposed budget by the City Attorney, the Council shall provide funds sufficient to carry out the responsibilities of the office of City Attorney and for the City Attorney’s department (subject to available resources), which shall be under the administrative control of the City Attorney.”

OVERVIEW

The City Attorney's Office provides legal advice and support to all City departments, the City Council, the City Manager, and City boards and commissions, as well as the Library Board.



LEGISLATION



**RISK MANAGEMENT
REVIEW**



COMMISSION WORK



LITIGATION



ADVICE & REVIEW



INFORMATION

CITY ATTORNEY

ATTORNEYS



FARIMAH FAIZ BROWN



BRENDAN DARROW



JAMES CHANG



LAURA IRIS MATTES



LAUREN PACKARD



KASSANDRA PEREZ



ROSANNE MASSIMINO



SAMUEL HARVEY



SARA STEPHENS



ASHLEY CARTER



MARC SHAPP



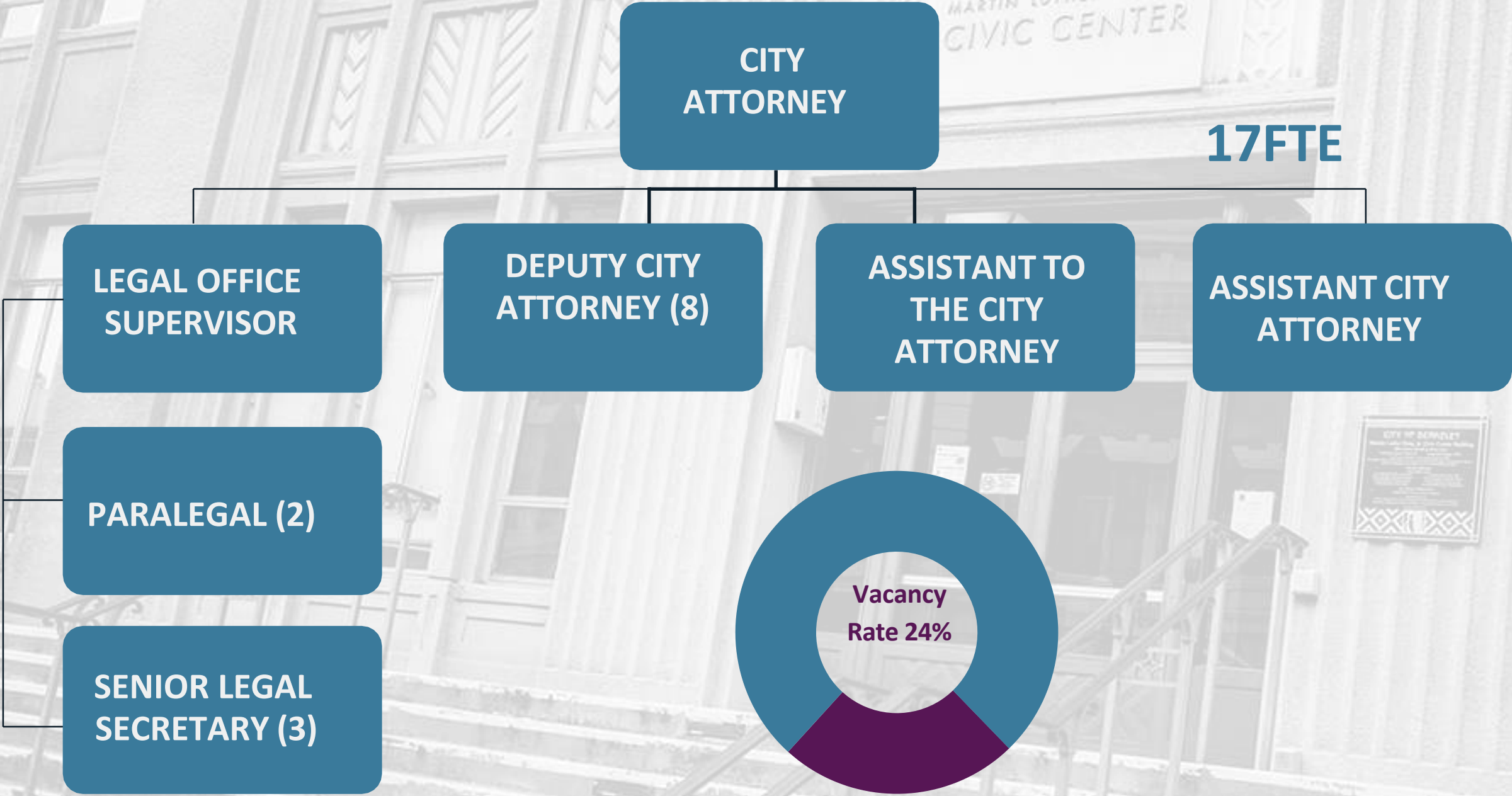
STEPHEN HYLAS



KEITH NESBIT

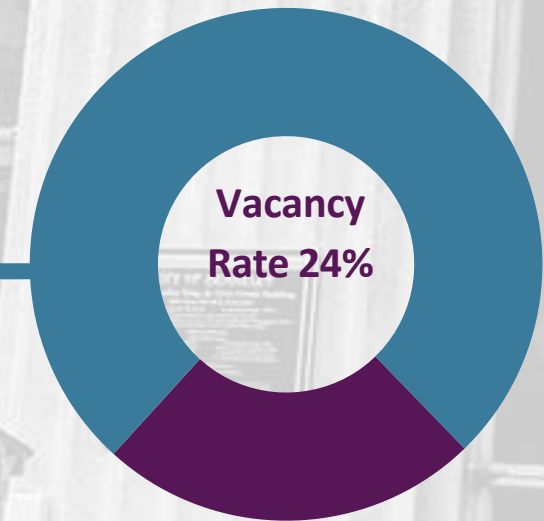
PARALEGALS & SECRETARIES

OVERVIEW



VACANCY

POSITION	GENERAL FUND (%)	STATUS
Assistant to the City Atty.	100%	Currently recruiting
Senior Legal Secretary	100%	Currently recruiting
Senior Legal Secretary	100%	Currently recruiting
Senior Legal Secretary	100%	Currently recruiting



ACCOMPLISHMENTS

✓ Fully staffing the Attorney positions

✓ Continued to support the ramp-down of the City's COVID-19 Response

Supported major projects such as:
BART Transit-Oriented

✓ Development Re-Zoning

Reorganization of the Zoning

✓ Ordinance

✓ Redistricting

✓ 2022 General Election

✓ Housing Element Update

✓ Monsanto Class Action Settlement

✓ Opioid Settlement

✓ Prop 218 Zero Waste Fees

✓ Numerous Encampment Resolutions

ACCOMPLISHMENTS

In the past two years, we have assisted in the drafting and legal review of the following noteworthy ordinances:

Controlled Equipment

**Various Eviction Moratorium
Amendments**

Ghost Gun Ban

Organics Reduction & Recycling

Accessory Dwelling Units

**Discriminatory Reports to Law
Enforcement**

Housing Code Update

Carryout and pre-checkout bags Fair Workweek

Vacancy Tax

Affordable Housing Requirements (Inclusionary)

HARD HATS

Bird Safe

Berkeley Election Reform Act Amendments

Public Campaign Financing

CHANGES, CHALLENGES, AND OPPORTUNITIES

Litigation in Defense of Groundbreaking Policy Initiatives

The propensity of the City Council to pursue groundbreaking, innovative legislation requires both significant research and analysis prior to the adoption of the legislation, and substantial dedication of resources defending legal challenges to the legislation, for example, Berkeley's first in the nation ban on natural gas infrastructure in new residential buildings.

Rapid Changes in State Law

The Legislature has rapidly transformed the landscape for local land use regulations, requiring a corresponding increase in advice about new legislative language and unforeseen consequences of that language.

CHANGES, CHALLENGES, AND OPPORTUNITIES

Steady Increase in Public Liability Litigation

An evolving legal landscape, including unprecedented jury verdicts in Alameda County and across the country, have resulted in increased public liability defense work for many jurisdictions, including Berkeley.

Police Accountability Board, Reimagining Public Safety

Berkeley is committed to Police Accountability and new models for public safety. Advising the Director of Police Accountability and the staff implementing the Specialized Care Unit requires dedication of substantial resources to groundbreaking legal issues that have not been explored in other jurisdictions.

DEPUTY CITY ATTORNEY IV

Last year Council approved the creation of a Deputy City Attorney IV position. This position involves higher-level legal work such as complex litigation, policy development, and advising the senior leadership team. This will help the City avoid legal pitfalls, minimize risk, retain talent, and save money in the long run.

Additionally, the DCA IV position will provide career advancement opportunities for existing Deputies, which will help with staff retention and recruitment efforts. The City Attorney's Office has recently lost three senior level attorneys to promotional opportunities elsewhere.

Budgeting for implementation of the DCA IV position will provide significant benefits to the City, helping to ensure smooth and efficient operations while mitigating legal risks and costs.

AREAS OF ANTICIPATED FUTURE NEED

- ✓ Professional Services
- ✓ PRA
- ✓ Risk Management
- ✓ Affirmative Litigation

ADDITIONAL DISCRETIONARY FUNDING

Flexibility: Berkeley experiences unexpected legal issues that arise periodically and often need to respond quickly to legal matters.

Responsiveness: CAO needs to respond quickly and effectively to legal issues that impact the city. Consulting with experts improves responses.

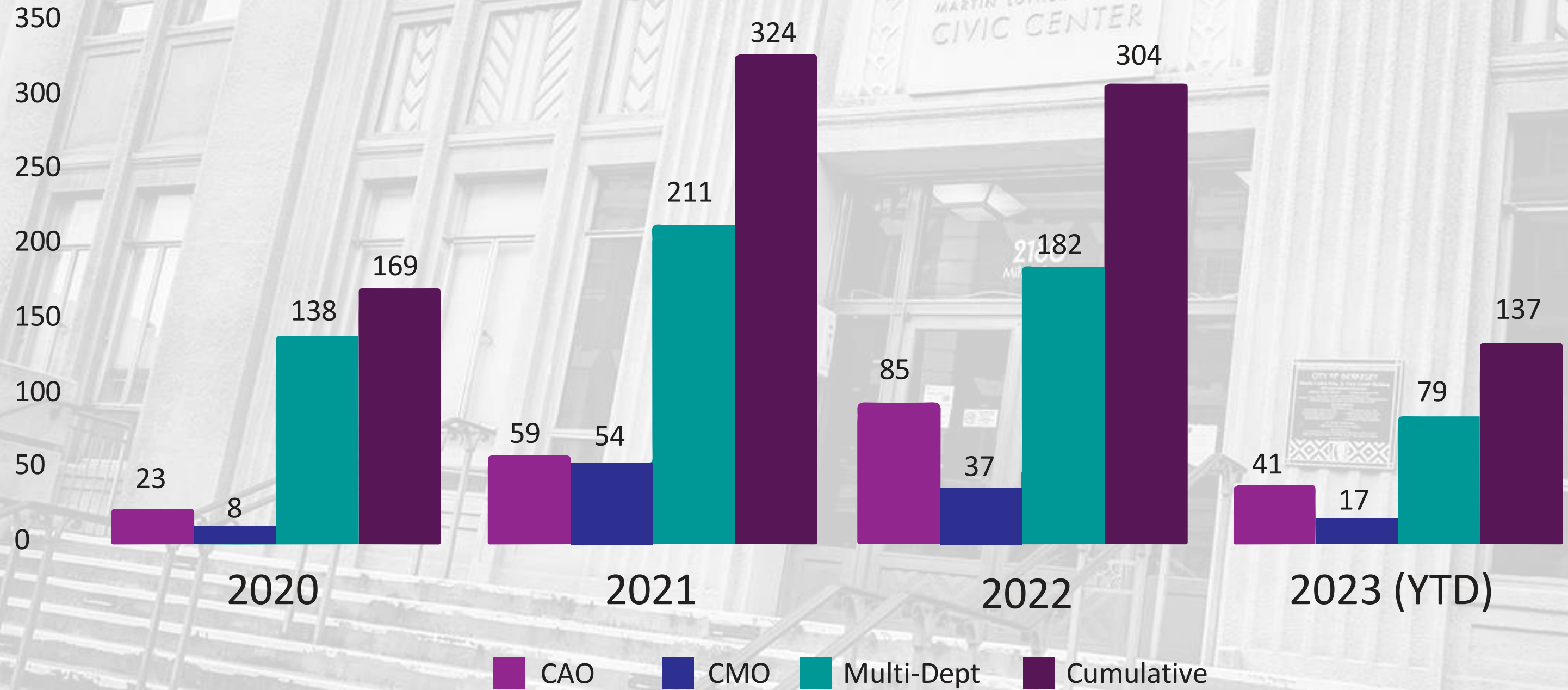
Extraordinary Expertise: CAO needs to provide legal advice/training to city employees and often needs the flexibility to consult with outside experts on complex issues.

Mitigation of Risk: CAO can oftentimes prevent costly litigation by proactively addressing potential legal issues which may require consultation with outside experts on complex legal issues.

FUNDING REQUESTS

DESCRIPTION	COST	ONGOING
Deputy City Attorney IV	\$431,268	Yes
<i>Approximate Anticipated Funding Requests for FY 24 (AAO #2)</i>		
Bike Patrol/Downtown Task Force Investigation	\$200,000	No
PAB Labor Negotiations	\$200,000	No
ERMA FLSA Issues	\$100,000	Yes
Century Urban (Economic Consultant)	\$100,000	No
Other Professional Services (Special Districts, Railroad Law)	TBD	TBD

PUBLIC RECORDS REQUEST



PUBLIC RECORDS ACT PROCESS UPDATE

We are exploring the creation of a dedicated Public Records Act department within the City Attorney's Office.

Compliance with the PRA is time-consuming, as it requires the identification, review, and redaction of potentially sensitive information within records. A dedicated PRA division would help ensure that Berkeley is overseeing the processing of PRA requests, coordinating with other departments, and ensuring deadlines are met.

RISK MANAGEMENT DIVISION

Prevent litigation/Cost Savings: a risk management division within the City Attorney's Office would help proactively addressing issues that could lead to costly litigation.

Improved Public Safety: by taking proactive steps to prevent accidents and other incidents, Berkeley can enhance public safety and reduce liability for the city.

Safe guarding Berkeley's assets: can help properly insure and protect the city's property, equipment, and other city resources.

Compliance with regulations: the risk management division within the CAO would be a resource to the rest of the city departments in helping them navigate local, state, and federal regulations and assist in strategizing compliance issues.

Insurance: the risk management division would be the single point of contact for all the city's insurance related inquiries from outside the city.

AFFIRMATIVE LITIGATION

Uphold Berkeley's unique progressive values.

Promote social justice and protect the rights of marginalized communities.

Address systemic issues that would not be addressed through the private legal services market (housing, healthcare, environment, public safety).

Recovering damages and protecting Berkeley's financial interests (Monsanto, Plastics)

Enhance Berkeley's reputation as a leader in progressive values.

THANK YOU FOR YOUR SUPPORT

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KEITH NESBIT

