

# LegalTimes

LAW AND LOBBYING IN THE NATION'S CAPITAL

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## District Paid \$12M In Settlements

Most 2001 Claims Over Police, Jail, Hospital, and Discrimination

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The D.C. government spent \$12 million last year to settle more than 400 civil lawsuits filed against the city.

More than \$1.4 million was used to settle 48 allegations of police brutality and false arrest, and nearly \$1.8 million was paid to D.C. inmates who said they were beaten by corrections officials, stabbed by other inmates, or made ill by cafeteria food. Another \$3 million went to D.C. government employees who claimed they were harassed, discriminated against, unlawfully fired, or owed overtime pay. And about \$1.5 million closed out five medical malpractice cases against D.C. General Hospital.

The information comes from internal documents prepared by the Office of Corporation Counsel, which defends the District in all civil cases filed against the city. Every time a settlement agreement is reached in such cases, the office must fill out a Settlement Report and Justification form describing the nature of the claim, the reasons for settling, and how the government arrived at a particular sum.

In response to a request from *Legal Times* in January, Corporation Counsel Robert Rigsby provided copies of all settlement reports filed in 2001. Although some of the reports were heavily redacted, they give a rare glimpse into how the city deals with the vast number of legal claims it faces.

The \$12 million is just a small fraction of the District's annual \$4.9 billion budget. And it is just more than half of

the \$23.4 million set aside in 2001 to pay for settlements and judgments.

Government lawyers say that many times it costs less to pay a plaintiff than to fight the action in court. Not only are

### Suing the District

When the D.C. government is the defendant. *An occasional series.*

cases expensive to litigate, but also D.C. juries and judges, when compared with their counterparts in Virginia and Maryland, are known to be more generous with plaintiffs.

The government lawyers add, however, that the District isn't just giving money away to anyone who asks.

"Everyone has the right to know and needs to be assured that this office makes good decisions and can be assured that we're settling the right cases at the right time for the right amount," says Arabella Teal, principal deputy corporation counsel. "We're also trying cases that need to be tried as well."

Teal says generally 2,000 to 3,000 claims are made against the District each year, and about half of them result in lawsuits. She adds that the corporation counsel office settles 90-95 percent of all actions, though almost never in the year in which the complaint was filed.

The type of cases settled by the District range from the mundane to the bizarre to the excessive. Most of the cases settled last year originated from

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incidents that occurred between 1996 and 2000. Some, however, stretched from as far back as 1984.

About half the \$12 million went toward settling cases filed against two of the District's largest agencies: the Metropolitan Police Department and the D.C. Department of Corrections.

Only one case settled for \$1 million or more. In April, the District paid the fami-

ly of Taurus Jackson \$1 million for his 1999 shooting death by police. Cases that settle for more than \$500,000 must be approved by D.C. Mayor Anthony Williams. (See "A Costly Death," May 21, 2001, Page 1.)

There were 144 settlements last year involving D.C. inmates or corrections officials—more than a quarter of all claims settled by the city the entire year. Inmates file all sorts of suits against the city, and the documents show that the District pays up in many cases.

One of the most common prison-related claims is an inmate seeking money for being stabbed, or "shanked," by another inmate. The legal reasoning behind such suits is that the prisoners are in the custody of the District, which in turn must protect them from harm.

In 2001, the D.C. government paid nearly \$500,000 to 45 separate inmates who had been assaulted by other inmates while at the D.C. Jail, the Lorton Correctional Complex, or the D.C. Youth Center. The stabbing payouts ranged from a few hundred dollars if there wasn't much proof of an injury to \$20,000, depending on how many stab wounds the prisoner suffered or how deep the wound.

Another \$260,000 was paid to inmates who claimed they were assaulted by corrections officials. In April 2001, D.C. government lawyers paid Lorton inmate Edward Maddox \$70,000 for injuries allegedly suffered at the hands of several D.C. corrections officers. The February 1999 incident left Maddox deaf in one ear.



**SUING BEHIND BARS:** Of the 400 cases settled by the District in 2001, 144 of them involved prisoners or officers at local institutions such as the Lorton Correctional Complex (above). The suits involved a range of accusations, including sexual harassment, food poisoning, poor medical care, and inadequate security.

There are also several cases in which inmates were paid hundreds of dollars for alleged minor injuries. For example, in December 2001, the city paid nine Lorton inmates \$550 each to settle their claim that they were sickened by hazardous fumes from a chemical floor wax stripper. In June 2001, the District gave \$3,500 to D.C. Jail inmate Jasper Martin, who claimed that the corrections department exposed him to second-hand smoke at several institutions.

D.C. lawyer Douglas Sparks, who has represented inmates in thousands of personal injury cases over the past 15 years, says stabbing cases became an easy win because the District did nothing to keep inmates from injuring one another. He adds that the volume of claims against the city has been dramatically reduced with the closing of the Lorton facility.

"The District was so obviously neglectful time after time that these cases became so easy," Sparks says. "In my judgment, it was a smart decision for the city to close those jails."

Last year, the city spent \$3.5 million to settle 70 police-related cases. Of that, \$1 million was used to close 37 cases in which people claimed they were assaulted by D.C. police. Another \$354,000 was paid to plaintiffs to settle 11 claims of false arrest or illegal search.

In May 2001, the District paid \$40,000 to a Vietnamese owner of a nail salon in Northeast Washington and his daughter after the two were allegedly

beaten by cops and arrested in 1998 for refusing to refund money to a dissatisfied customer. Two months earlier, the city agreed to pay two animal rights activists \$16,000 because the women received unauthorized strip searches by police after their 1998 arrest at the MCI Center.

In many of the brutality and false arrest settlement reports, government lawyers note that it was in the best interests of the District to settle the claim because the U.S. Attorney's Office had dropped the criminal charges against the plaintiff.

Teal says that such actions hamper efforts by the city to dismiss frivolous actions.

And like any civil matter, the value of a settlement is decided by the strength of the allegations had the case gone to trial. Though most of the internal decision making by the corporation counsel's office was redacted in the settlement reports provided to *Legal Times*, there are a few reports where the reasoning remains.

One such example is the city's decision to pay \$87,500 to Peter Mosher, who was injured when he tripped over an exposed bolt protruding from a barrier on a Northwest Washington sidewalk.

According to the report, Mosher, who was 58 at the time, was walking with his wife down 16th Street to a Friday night church social in April 1998 when he fell.

Mosher injured his knee and was in a wheelchair for a month. The city felt that \$87,500 was appropriate because the Mosheres were an active couple whose favorite activity was ballroom dancing.

"They are an attractive interracial couple with substantial jury appeal," the settlement report states. "Mr. Mosher is a social worker and Mrs. Mosher is a school principle [sic]."

Some patterns emerge from the hundreds of pages. For example, it takes the city roughly three years to settle routine traffic accidents or other minor damage caused by D.C. employees. In one case, it took the city 13 years to pay Geico Insurance \$394.84 for damage caused by a D.C. public school vehicle. One former D.C. government lawyer says the city has an enormous backlog of traffic cases and not enough investigators. ■