

**STATEMENT OF CORPORATION COUNSEL STEPHEN R. PATTON  
IN SUPPORT OF THE DEPARTMENT OF LAW'S  
PROPOSED 2017 BUDGET**

**October 28, 2016**

Thank you for the opportunity to testify before you today in support of the Department of Law's (DOL) proposed 2017 budget.

My testimony is organized into five parts: Part I highlights some of DOL's work during the past year to build a better future for the City. Part II discusses DOL's efforts to improve the quality of life of Chicago residents. Part III provides recent examples of DOL actions to protect and recover taxpayer dollars. Part IV provides an update on initiatives to improve the delivery of legal services and reduce the City's legal costs. Finally, Part V provides highlights of the work of each of DOL's divisions during the past year.

**I. DOL'S EFFORTS TO BUILD A BETTER FUTURE FOR CHICAGO**

Below are the highlights of some of DOL's efforts during the past year to build a better future for Chicago. These efforts largely focused on (1) the Chicago Police Department (CPD), including quarterbacking the City's cooperation with the U.S. Department of Justice's (DOJ) civil rights investigation of CPD and various reforms designed to improve the Department's use of force and other policies, related training, and transparency and accountability, and (2) the City's continuing efforts to right its financial ship and secure the pensions of its employees.

**A. Quarterbacking the City's Response to DOJ's Civil Rights Investigation**

DOL devoted considerable time and effort to the DOJ's investigation of a potential pattern or practice of violating constitutional rights by CPD. This intensive and wide-reaching investigation was initiated in December 2015, in the wake of the indictment of police officer Jason Van Dyke for the fatal shooting of Laquan McDonald and the release of the dashcam video showing that shooting. DOL's efforts have included quarterbacking CPD's response to DOJ requests for documents and other information and for interviews of CPD and other City witnesses, and working with CPD to develop and implement revised policies,

additional training, and other reforms that address concerns raised by the DOJ either in this or other “pattern and practice” investigations.

On the discovery front, the City has responded to more than 150 formal requests for documents and other information, providing millions of pages of documents and more than 1.2 terabytes of data. The City has also provided more than 100 witnesses for interviews. DOJ has made hundreds of additional, informal requests for documents and information that the City has fulfilled, often providing the documents immediately on site or before the DOJ has issued formal requests. In doing so, the City has worked diligently and cooperatively with the DOJ to promptly provide requested information and documents and access to CPD and other City personnel as quickly as possible. As was recently acknowledged publicly by the U.S. Attorney for the Northern District of Illinois, the result has been to complete this essential part of DOJ’s work at a record pace.

On the reform and policy front, DOL worked with CPD and various subject matter experts to revise CPD’s policies with respect to force mitigation and de-escalation and dealing with individuals in mental health crisis. DOL and the subject matter experts it retained then worked with CPD to develop, test, and refine 16 hours of mandatory, scenario-based training on the revised policies. That training started on September 6 and over the coming months will be given to all 12,000 sworn CPD officers.

DOL also worked with CPD and subject matter experts to draft the new use of force policies that were recently announced and posted online for comment by both CPD officers and the public. As Superintendent Eddie Johnson noted in announcing these draft policies, they conform to current best practices and address a variety of concerns raised by the DOJ and others. Among other things, they emphasize the sanctity of life as the foremost consideration in the use of force, require that officers use the least amount of force necessary and resort to physical force only when no reasonably effective alternative exists, and limit the use of deadly force to situations where it is necessary to prevent an immediate threat of death or great bodily harm to the officer or another person.

DOL also took the lead in drafting a new police accountability ordinance. This ordinance creates a new agency called the Civilian Office of Police Accountability (COPA) to investigate allegations of serious police misconduct, and

a new Deputy Inspector General for Public Safety, who will audit and oversee the City's entire police accountability system, including COPA, CPD, and the Police Board.

This ordinance, which was passed by a 39-8 vote on October 5, 2016, implements the recommendations of the Mayor's Police Accountability Task Force (PATF) and was the result of an unprecedented level of public input and community engagement. This included nine public hearings in neighborhoods across the City, as well as numerous meetings with a wide spectrum of stakeholders, including civil rights attorneys, public interest groups, community activists, the police unions, and aldermen.

The new investigative agency, COPA, will have expanded jurisdiction, including the investigation of complaints concerning improper searches and seizures and denial of access to counsel, the power to investigate patterns and practices of misconduct and to make department-wide recommendations as to policy and training, and the ability to reopen closed investigations in specified circumstances. The ordinance also imposes increased transparency, public engagement, and reporting obligations on the new agency, and provides it with additional, guaranteed funding and greater independence.

The Deputy Inspector General for Public Safety is an entirely new position and function within the City's Office of Inspector General. It will play a critical audit and oversight role over the entire police accountability system, with the power to review and audit: the system as a whole; individual COPA or Bureau of Internal Affairs investigations; and policies and practices of COPA, CPD, and the Police Board. It will also have authority to make policy, practice, and training recommendations relating to excessive force, constitutional policing, and other issues affecting CPD's integrity, transparency, and relationship with City residents. And, like COPA, the ordinance imposes unprecedented transparency, reporting, and public engagement obligations on the new Public Safety Deputy Inspector General.

## **B. Helping to Create and Implement the City's New Video Policy**

DOL worked closely with the PATF to develop, and with the Independent Police Review Authority (IPRA), to implement, a new video release policy. This policy requires the public release of video and audio recordings, and various police

reports, relating to all officer-involved shootings, officer-involved taser use that results in death or great bodily harm, and incidents of death or great bodily harm in police custody, within 60 days of the date of the incident. As the PATF noted in its April 2016 report, the adoption of this policy “made Chicago the first city in the nation to have a specific, written policy that guarantees the public’s timely access to video and audio recordings relating to sensitive police-involved incidents.”

As the PATF also noted, before the City’s adoption of this policy, “the practice in Chicago was generally to withhold from public release any video recording of a police incident until investigations, whether criminal or merely disciplinary, were concluded.” This was consistent with other jurisdictions throughout the country and the widely-held concern that releasing such evidence before criminal and other investigations were concluded could interfere with those investigations and the ability of prosecutors and disciplinary bodies to bring and sustain criminal and disciplinary charges. Indeed, the PATF conducted a survey of other cities throughout the country and concluded that “no other city had a written policy on the release of audio and video of police-involved incidents.” As the PATF concluded, the new policy “strikes a balance between the public’s need for information about police activity and the interests of law enforcement agencies in conducting investigations without risk of compromising important source of evidence.”

DOL also worked with IPRA to promptly implement the new policy. This included assembling, reviewing, and redacting personal addresses, health and other private or confidential information, and loading onto a user-friendly, searchable website and portal, more than a terabyte of video and audio recordings and police reports concerning 100 pending cases subject to the policy. In the months since its June launch, this website has already received more than 1.6 million hits.

### **C. Ensuring Transparency of Police Disciplinary Files**

As noted in prior reports, in 2014, DOL worked with CPD and other stakeholders to develop and adopt a new policy to open up to public scrutiny the Police Department’s process for investigating and resolving complaints about police misconduct. In a break with past practice, the City committed to releasing closed Complaint Register (CR) files, which are the records of CPD’s investigations into complaints about police misconduct, in response to FOIA

requests. The City's new policy was designed to balance promoting transparency on the one hand, and protecting the privacy of complainants and witnesses on the other, thereby encouraging civilians and police to come forward and report police misconduct. Pursuant to this policy, prior to releasing a CR file, CPD redacts the file consistent with available FOIA exemptions -- including the names of and identifying information for complainants, non-police witnesses, and police witnesses who provide helpful information to the investigation.

In October 2014, shortly after the City's new transparency policy became effective, the Fraternal Order of Police (FOP) and other police unions sued to enjoin the City from releasing CR-related information in response to FOIA requests and obtained an injunction prohibiting the City from releasing any CR files that were more than four years old as of the date of the FOIA request. The City, represented by Law Department attorneys and joined by the Chicago Tribune as a co-defendant, with support by the Illinois Attorney General and transparency advocates including the Better Government Association, appealed the circuit court's injunction to the Illinois Appellate Court. In July 2016, the appellate court vacated the injunction entered by the circuit court, and the Illinois Supreme Court subsequently denied a request by the police unions for further review. With this FOP litigation bar removed, the City resumed its policy of releasing closed CR files in response to FOIA requests. One national police accountability expert recently called the City's release of this data "unprecedented" and said that he was not aware of any other law enforcement agency in the country that has released records like this on such a large scale.

#### **D. Assisting CPD's Efforts to Ensure That Investigatory Stops Are Constitutional**

As we reported last year, in August 2015, DOL, CPD, and the American Civil Liberties Union (ACLU) entered into a landmark settlement agreement in which they agreed to work together with an independent consultant, Judge Arlander Keys, and his police practices and statistical experts, to confirm that CPD's policies and practices relating to investigatory stops and protective pat downs (sometimes called stops and frisks) comply with applicable laws. The ACLU Agreement, which is reportedly the first of its kind in the nation, was reached after the ACLU raised concerns in a March 2015 report about CPD's investigatory stop policies and practices. In its report, the ACLU found that in

nearly half of the stops reviewed, officers either gave an unlawful reason for the stop or failed to provide enough information to justify the stop.

In light of these findings, the ACLU stated its intent to file a lawsuit challenging CPD's investigatory stop policies and practices. The Agreement was a proactive alternative to otherwise inevitable litigation to resolve the ACLU's concerns. The Agreement also is an important step toward ensuring CPD's ability to safely and successfully provide police services; as the DOJ has found with regard to other cities. Unconstitutionally employed investigatory stops can have a detrimental impact on police-community relations, particularly in communities of color, making the job of policing more dangerous and less effective.

Throughout 2016, DOL worked closely with CPD to ensure that CPD's policies and practices comply with the ACLU Agreement and applicable laws, including the Illinois Police and Community Relations Improvement Act, which became effective on January 1, 2016 and imposed substantial new requirements on CPD to document and collect data regarding investigatory stops. This work focused on three areas: (1) revising CPD's written policy regarding investigatory stops and protective pat downs to clarify constitutional limitations, improve recordkeeping, and more specifically delineate supervisory and internal auditing responsibilities; (2) updating and expanding CPD's training on investigatory stops and protective pat downs and providing the new training to nearly all CPD officers; and (3) implementing internal review mechanisms to assess whether CPD's practices regarding investigatory stops and protective pat downs comply with applicable law.

Under the Agreement, Judge Keys will issue a report and recommendations two times each year detailing his findings regarding whether CPD is in substantial compliance with applicable laws and the ACLU Agreement. Judge Keys currently is preparing his first report, which will address the first six months of 2016. DOL worked closely with CPD to provide Judge Keys with the investigatory stop data and other materials needed to prepare his report. Upon receipt of Judge Keys' first (and subsequent) reports and recommendations, DOL will work with CPD to implement any recommendations provided by Judge Keys.

## **E. Providing Financial Reparations To Burge Victims**

In May 2015, the City Council approved a sweeping package of reparations for individuals whom former Chicago Police Commander Jon Burge tortured and abused prior to being fired in 1993. This package was the result of months of work by DOL and the Mayor's Office, sponsoring Aldermen Joe Moreno, Howard Brookins, and Joe Moore, and representatives of the Burge victims.

A central component of the reparations package, which was praised by Burge victims and their advocates as a means of finally bringing closure to this dark chapter in the City's history, was the provision of financial reparations to individuals with a credible claim of Burge-related torture or physical abuse. Over several months in late 2015 and early 2016, DOL administered a claims verification process, including arbitration of disputed claims before former federal judge David Coar, to determine who was entitled under the Reparations Ordinance to receive financial reparations.

In total, 88 individuals submitted claims for financial reparations, and 57 claims were ultimately allowed. Each of the 57 recipients was awarded \$100,000 in financial reparations.

## **F. Reforming and Funding the Pensions of City Employees**

Earlier this year, the Illinois Supreme Court ruled that legislation securing the pensions of participants in two of the City's four pension funds (Municipal and Laborers) through a combination of greatly-increased, actuarially based City funding, increased employee contributions, and a reduction in the size of future automatic annual increases to current and future retirees' pension benefits, was unconstitutional. Although this was a severe disappointment to the City, for the Funds, and 28 of 31 unions representing Fund participants, all of whom supported the legislation, the decision at least provided guidance as to those means of addressing the Funds' under-funding crisis that the Supreme Court deems constitutionally permitted. With that guidance, the City turned to negotiating a new plan for rescuing the Funds from insolvency.

This included negotiating new agreements with the unions representing Fund participants with respect to future employee contributions and benefits. These agreements, which the parties will seek to codify later this fall in legislation drafted

by DOL in-house and outside counsel, increase the annual pension contributions for employees hired after January 1, 2017 by 3 percent (from 8.5 percent to 11.5 percent of annual payroll), but lowers their age of eligibility for benefits from 67 to 65. The agreements also provide employees hired after January 1, 2011 the option to elect a similar trade-off of a lower benefit eligibility age of 65 (instead of 67) in exchange for increasing their pension contributions by 3 percent (from 8.5 percent to 11.5 percent of annual payroll). In addition, the agreements call for the City to greatly increase its contributions to both Funds over a five-year period, to reach actuarially-required funding levels by 2022 and 90 percent funding by 2057.

Finally, the City's plan for rescuing the Funds from insolvency dedicates new sources of additional revenue for each of the Funds, which were developed and implemented with DOL's assistance. For Laborers, this includes an increase in the City's 911 surcharge, which will provide an additional \$40 million in yearly revenue to the Laborers Fund beginning with the City's 2017 contribution, payable in 2018. For Municipal, a new tax on water-sewer usage, to be phased in over five years, will provide hundreds of millions of dollars in new revenues. This new tax was enacted by the City Council in September in an ordinance researched and drafted by DOL.

### **G. Reducing Retiree Medical Costs**

In 2013, the City announced a plan to gradually phase out the subsidy it provides to cover a portion of the medical costs for certain City retirees (those who retired after August 1989) as those retirees transitioned to new options available under the recently-enacted Affordable Care Act. The plan provided that the City would continue to subsidize the medical care of those who retired before August 1989. A group of retirees promptly filed suit challenging the plan, and the City has been defending that litigation ever since. Plaintiffs' federal claims were dismissed in 2014, and the Seventh Circuit Court of Appeals affirmed that dismissal in 2015. This past year, a state court dismissed all but one of plaintiffs' state law claims. Plaintiffs' request for leave to immediately appeal that dismissal to the state appellate court is currently pending.

The plan is currently saving the City and its taxpayers an estimated \$100 million per year. Those savings are projected to increase in future years.



## **H. Successfully Defending the City's Regulation of Ridesharing Services**

On October 7, 2016, the Seventh Circuit Court of Appeals resoundingly rejected a lawsuit brought by taxicab owners and operators that challenged the City's regulation of ridesharing services such as Uber and Lyft. The district court earlier had dismissed all but two claims, and the appellate court ordered that court to dismiss the remaining claims -- which accused the City of denying the equal protection of the laws by allowing the ridesharing services to compete with taxicabs without being subject to the same regulations. The appellate court agreed with the City that there are meaningful differences between taxi and ridesharing companies that justify regulating them differently. Most significant, taxis alone are permitted to pick up passengers who hail them from the street; ridesharing passengers must sign up and enter into a contractual relationship with a particular service and then must use a smartphone app to summon a ride from it.

The appellate court also rejected the taxi companies' argument that the City's more permissive regulation of ridesharing services is an unconstitutional "taking" of the companies' property rights in their medallions, once again agreeing with the City. The court explained that, while obtaining a medallion conveys the right to own and operate a taxi in Chicago, it is not a right to exclude competing transportation services from the Chicago market. Thus, the appellate court endorsed the City's decision to embrace deregulation and competition over the preservation of the taxi companies' traditional monopoly.

## **I. Continuing Progress on the Barack Obama Presidential Center**

Last year, we reported on DOL's work in helping to secure the Barack Obama Presidential Center for Chicago. This included transferring the land for the library and museum to the City and negotiating and drafting a proposed ground lease and related transaction documents with the Obama Foundation. Earlier this year, the Foundation selected Jackson Park as the site for the Center. Since then, DOL has worked with the Foundation to revise and finalize the Ground Lease and related documents for the construction and operation of the Center. We expect to introduce an ordinance to approve these documents in 2017.

DOL has also been working with the Department of Planning and Development to identify new park land in the Washington Park and Woodlawn area to replace the land on which the new center will be located. The City will be

engaging the community in this process, and we will be coordinating with the Chicago Park District, the National Park Service, and the state historic preservation office in an effort to mitigate any environmental or historic impacts of the project.

### **J. Enhancing Neighborhoods by Reactivating Vacant Lots**

DOL continues to play a critical role in reactivating and improving hundreds of vacant lots the City has inherited from delinquent property owners over the years. Through its Large Lot Program, the City is transferring ownership of City-owned lots in economically challenged communities to nearby homeowners and not-for-profit organizations for \$1 per lot. DOL drafted the ordinances that made this initiative possible and has managed the legal closings of each property transfer.

Pursuant to this program, parcels are conveyed to individuals or entities that already own property on the same block as the City parcel. Recipients are required to maintain the lots and, for those lots that are not a side yard, to fence them in. By conveying the parcels, the City gives local residents greater control over land in their neighborhoods and further incentivizes residents to help revitalize their communities. At the same time, the program reduces the City's costs for property maintenance and clean-up.

Since December 2014, the City conveyed approximately 475 vacant parcels across the city. In September 2016, the City conveyed approximately 35 vacant parcels in the Roseland and Pullman community areas. Closings on an additional 30 lots in the Auburn Gresham community are expected before the end of 2016, while an additional 4,000 lots in over 30 communities will be made available for transfer later this year.

### **K. Automated Enforcement Violation Review and Refund Ordinance**

In September, the City Council approved the Automated Enforcement Violation Review and Refund Ordinance of 2016. This ordinance, which was drafted and sponsored by DOL, creates administrative procedures that address two complaints related to the City's pre-May 2015 enforcement of automated red light and speed enforcement violations that have been raised in a recent lawsuit that seeks refunds of past fines and late penalty payments that could total several hundred million dollars.

First, the Ordinance directs the City to mail a “review notice” to vehicle owners who were entitled to, but were not sent, a second notice of violation between March 23, 2010, and May 14, 2015, and against whom liability was imposed. This review notice will serve as the second notice that was not previously sent and will provide the vehicle owner with a second opportunity to challenge their red light or speed camera ticket. The notice will contain details about the underlying violation, as well as directions on how to view photographs and/or video of the violation online, and how to contest the violation. Each owner will then be given 30 days to request an administrative hearing, or submit evidence online or by mail to contest the violation. If the owner challenges the ticket and prevails, the City will refund all previous payments for the violation, and any outstanding debt for the violation will be expunged. If the owner does not prevail, or if the owner does not respond to the review notice, the prior assessments will be confirmed.

Second, the Ordinance authorizes a refund to those individuals who should not have been charged a late payment penalty because they paid the underlying ticket on time. Beginning in July 1, 2012, before a late payment penalty would be charged, an owner had a 25-day grace period to pay his or her ticket after a determination of liability. But for approximately 4,800 tickets, the City charged that penalty even though the owner paid the ticket within the 25 days. The Ordinance addresses this error by requiring the City to offer a full refund to these owners.

## **II. DOL’S ENFORCEMENT OF “QUALITY OF LIFE” ORDINANCES**

DOL also continued to aggressively enforce “quality of life” ordinances and to take other steps to make our communities safer and otherwise improve the lives of Chicago residents. Some of these efforts are highlighted below.

### **A. Closing Nuisance Businesses and Eliminating Drug Sale and Crime Hot Spots**

DOL continues to work with CPD and the Department of Buildings to reduce narcotic trafficking by criminal street gangs through its Drug and Gang House Enforcement and License Enforcement units. Thus far in 2016, DOL has prosecuted more than 320 drug and gang house cases and 518 license cases, including 418 license discipline proceedings. Among other things, DOL works to

obtain closures and revocations of liquor licenses of businesses that are used by street gangs as locations for narcotics trafficking and other illegal activities.

DOL also continues to prosecute businesses that cause a community nuisance. Based on police reports of criminal activity at or around a particular business, and on input and testimony from community members, DOL seeks to revoke the business' liquor and/or other licenses and/or to impose a plan of corrective action.

Last year, DOL worked with CPD to draft and enact a new Summary Closure Ordinance, which provides another tool in prosecuting problem businesses. This ordinance subjects a business establishment to a summary and temporary closure of up to six months when it operates its business in a manner that constitutes a threat to public safety. To reopen, the establishment must demonstrate either that the public safety threat did not occur, or that it has adopted and implemented an approved nuisance abatement plan designed to prevent a reoccurrence of the public safety threat. DOL continues to work closely with CPD in developing the protocols and policies implementing this new ordinance.

As in past years, numerous establishments have been closed as a result of these initiatives. Below are some examples:

- **5937 W. Madison (Candy Haven) and 1108 W. Granville (Granville Food Mart).** These businesses were the subject of criminal enforcement by CPD's Organized Crime Unit earlier this year. The Building Commissioner then closed both businesses after inspections disclosed dangerous conditions. DOL thereafter worked with the building owners to document the illegal activity their tenants were engaging in, which, in turn, prompted the owners to evict the tenant businesses. This also provided DOL attorneys with the opportunity to encourage the owners to lease to responsible businesses and advise them on proper abatement measures.
- **Flores, Inc. d/b/a El Baron Rojo, 4957 S. Ashland.** This business was initially closed in April pursuant to the emergency closure authority of the Liquor Control Commissioner, after undercover officers purchased cocaine inside the establishment on four separate occasions. DOL

attorneys initiated an expedited license revocation proceeding, and the building was closed pursuant to the authority of the Building Commissioner due to dangerous and hazardous building conditions.

- **Shrine Nightclub, 2109 S. Wabash.** This night club was closed in February pursuant to the Summary Closure Ordinance after a shooting occurred on the premises. DOL negotiated a permanent closure and the surrender of all licenses.
- **One Eleven Food & Liquor, 111 N. Kedzie.** This liquor store closed in January pursuant to the Summary Closure Ordinance after two separate shootings occurred there. The licensee entered into a Nuisance Abatement Plan which allowed it to reopen, but limited its hours of operation and required licensed security personnel to be present during all hours of operation.

## **B. Protecting the City from Prolonged Blockages at Railway Crossings**

During the past year, DOL has worked closely with Alderman Matt O'Shea and other elected officials to remedy a long-standing problem affecting the South Side and the surrounding suburbs: repeated and prolonged blockages at railway crossings caused by CSXT operations on the Elsdon Line, a track that traverses the 19th Ward, the Village of Evergreen Park, and other communities. Significantly, the Elsdon Line crosses 95th Street, a major east-west thoroughfare, between Little Company of Mary Hospital and Advocate Christ Medical Center. Advocate Christ is the primary major trauma center on the South Side, providing emergency medical services to thousands of Chicago residents. Prolonged blockages on the Elsdon Line caused by delayed trains and malfunctioning equipment have hampered medical care, created other safety risks, and inconvenienced thousands of pedestrians and motorists.

Operations on the Elsdon and other rail lines are regulated by the Surface Transportation Board (STB) in Washington, D.C., which has long recognized the problem of blockages on the Elsdon Line and required CSXT to make specific commitments to minimize the number and length of blockages when CSXT acquired the right to operate on the Line in 2013. Police department records and

citizen complaints since the purchase, however, demonstrated that these commitments had not been fulfilled. Consequently, in February 2016, DOL filed a petition with the STB asking that it reopen its proceedings, conduct additional investigations, and provide various forms of relief. This petition was supported by Senators Durbin and Kirk and others. DOL later supplemented its filing with more than 100 separate complaints by Chicago residents, documenting the ways in which continued blockages on the Elsdon Line had threatened their safety or otherwise adversely affected their lives.

In June 2016, the STB granted DOL's petition to reopen the proceedings, ordered CSXT to comply with its earlier promises not to route trains onto the Line unless the Line is clear and not to block crossings for more than ten minutes, and required CSXT to file monthly reports for an additional year so that the STB can assess CSXT's progress in remedying idling trains and malfunctioning gates. Based on CSXT's reports to date, the STB recently ordered CSXT to take additional measures and to attend a technical conference with STB staff to address the ongoing problems and to commit to concrete solutions.

### **C. Preserving Single Room Occupancy Buildings**

DOL was instrumental in implementing the Single Room Occupancy (SRO) Preservation Ordinance, which went into effect last year. Under the ordinance, owners who wish to demolish SRO's or convert them to market-rate rentals are required either to maintain at least 20 percent of the building's units as affordable, or to pay a \$20,000 "preservation fee" for every unit that falls short of that threshold. Additionally, if an owner wishes to sell an SRO, it must allow non-profits committed to maintaining SRO units or other affordable housing a chance to engage in good-faith negotiations to purchase the property before selling the property to private developers.

So far, the City has received notice of sales impacting 637 SRO units. DOL has assisted in collecting at least \$1.7 million in connection with the sale of the Olympia Hotel (613 N. Wells), which elected to pay the preservation fee in lieu of complying with the Ordinance's notice and affordable-unit requirements. Additionally, the City has closed the sale of two SROs to new affordable housing owners who are committed to preserving the SROs -- the Palmer Sawyer (2611 N. Palmer) and Mark Twain (111 W. Division). DOL and DPD are currently working

with the owners of four additional SROs -- the East Park (3300 W. Maypole), the Carling (1512 N. Sawyer), the Darlington (4700 N. Racine), and the Marshall (1232 N. LaSalle) -- in an effort to transfer them to buyers that will preserve their SRO units.

#### **D. Preserving Safe and Habitable Residential and Other Properties**

DOL also has continued to prosecute lawsuits to preserve residential and commercial properties and to keep them occupied. Working with the departments of Buildings, Fire, Police, Health, and Streets and Sanitation, through September DOL had filed almost 2,000 “conservation” cases in Circuit Court.

An example of these efforts is the Old Post Office Building, which currently sits vacant atop the Congress Expressway. With approximately 2.5 million square feet of space, its massive size poses a significant challenge to emergency responders and the public until it is rehabilitated. Listed on the National Register of Historic Places, this iconic building has been vacant since the City’s main post office operations relocated in 1995. DOL initially filed a case in 2012 alleging 21 violations of the Municipal Code pertaining to fire-safety, security, interior junk and debris, elevators, and the building’s façade.

From the initial filing, the owner of the property, International Property Developers North America, Inc., (IPDNA), struggled to maintain the building in a safe condition. After the City threatened IPDNA with eminent domain, it sold the Old Post Office last May to 601W Companies Chicago, LLC (601W), a New York-based developer that has an exemplary track record. The City and 601W recently reached an agreement that establishes deadlines for the Old Post Office’s rehabilitation through a remediation and redevelopment plan that will also correct all of the building code violations cited in the complaint, and make the building safe for emergency responders and the public. The agreement provides deadlines for 601W to repair the building’s exterior walls; replace the roof; install high-speed elevators; start restoration of the historic lobby; and install new electrical, plumbing, and heating and ventilation systems.

601W’s three-phase renovation plan will comprehensively rehabilitate the building as offices, primarily targeting commercial users attracted to the building’s 18-foot ceilings and 250,000-square-foot open floor spaces. Amenities will include a three-acre rooftop park complex and a landscaped Riverwalk that will be

open to the public. An estimated 12,000 people could work in the building when fully leased. The five-year rehabilitation project is projected to generate more than 1,500 construction jobs and to be completed by 2021.

DOL also continued its work under the City's Troubled Buildings Initiative, a multi-department program that works with designated community groups to preserve and stabilize troubled residential properties and halt blight in residential neighborhoods. Through September, DOL prosecuted 197 cases involving smaller buildings (four units or less) pursuant to this program and, through litigation and receiverships, preserved more than 371 housing units, many in the City's more economically challenged neighborhoods. DOL also prosecuted 163 cases involving larger buildings (five or more units), preserving approximately 2,114 housing units.

#### **E. Preserving and Redeveloping Vacant and Abandoned Buildings**

Shortly after the current administration took office, DOL created a new vacant building court call and took other steps to address the hundreds of vacant and abandoned properties resulting from the mortgage foreclosure crisis that accompanied the Great Recession. Pursuant to these initiatives, DOL continues to work with various City departments and community organizations to identify vacant buildings before they cause blight, attract crime, or deteriorate to the point of requiring demolition. If property owners fail to take responsibility, our lawyers seek receivership and civil forfeiture, as well as significant fines to compel compliance. Through September, DOL had filed 317 such cases in 2016.

#### **F. Demolishing Dangerous Vacant and Abandoned Buildings**

For those properties that cannot be preserved or redeveloped and must be torn down, DOL pursues demolition through cases filed at Circuit Court. As of September, DOL had filed 355 new demolition cases, and expects to file a substantial number of additional cases by the end of the year. DOL's continued aggressive prosecution of these cases helps to minimize the negative impact of blighted properties on neighborhood safety and stability.

#### **G. Enforcing Life Safety Evaluations for High-Rise Buildings**

Pursuant to a 2004 ordinance, all pre-1975 high-rise residential buildings in the City are required to submit a Life Safety Evaluation Report (LSE) which



evaluates and grades the building on fire safety and includes a schedule for installing the required life safety upgrades.

DOL, DOB, and Fire have been working with building owners for many years to ensure that these reports are submitted and the necessary work completed. To date, 464 pre-1975 high-rise buildings are in compliance with the ordinance, and during 2016 DOL prosecuted 101 LSE cases in Circuit Court. These prosecutions have been extremely successful, with the majority of buildings taking steps to comply with LSE requirements without the need for additional litigation.

### **III. PROTECTING AND RECOVERING TAXPAYER DOLLARS**

Next, we highlight recent examples of DOL's work to protect and recover taxpayer dollars.

#### **A. Pursuing Damages from Opioids Manufacturers**

At the direction of Mayor Emanuel, DOL continues to pursue groundbreaking litigation against manufacturers and marketers of highly addictive opioid-based pain relievers, whose usage has fueled a national health crisis. The suit alleges that the defendant pharmaceutical companies misrepresented the benefits of opioids and concealed the serious addiction risks associated with their use, specifically targeting the elderly and veterans, and made false promises that opioids were unlikely to be addictive and would help improve patients' function and quality of life. Since Chicago first filed this suit in 2014, it has defeated repeated attempts by the defendants to have the suit dismissed, including a recent favorable ruling that will allow certain claims and discovery against all five of the defendant pharmaceutical companies to proceed.

In addition, in July, the City announced a breakthrough agreement with Pfizer, Inc., the second largest pharmaceutical company in the world, that will commit the company to strict standards for the marketing and promotion of prescription opioids. As part of the agreement, Pfizer committed to fairly and accurately disclose the risks of opioids in its promotional activities and external communications, including through its sales representatives who promote drugs directly to doctors. Specifically, the company will:

- disclose the risk of addiction to opioids, even when used as directed;

- disclose that there are no adequate and well-controlled studies of the use of these products longer than 12 weeks, which is especially important since opioids are frequently prescribed for long-term pain conditions;
- not promote opioids for any off-label or unapproved uses;
- include information on opioid addiction and abuse in connection with its promotional efforts and communications, whether under the Pfizer brand or not;
- maintain and promote a non-marketing website; and
- upon request, and to the extent it is educating prescribers about opioids, fund continuing medical education programs aimed at increasing prescribers' awareness of the risks of opioid addiction and abuse and helping prescribers identify signs of opioid addiction and abuse.

Consistent with the City's allegation that drug companies deceptively promoted opioids through prominent doctors, professional societies, and patient advocacy groups that were trusted and appeared objective, Pfizer also agreed that it will:

- ensure that third party materials that are approved, disseminated, edited, or otherwise directed by Pfizer fairly and accurately describe the risks and benefits of opioids;
- not support organizations and individuals that make inaccurate or unbalanced claims about the risks and benefits of opioids; and
- not distribute or promote treatment guidelines concerning opioids that are not fair and balanced.

As the Mayor noted in announcing Pfizer's agreement with the City, its commitment to these marketing and disclosure standards "is a big step in the right direction to help protect and educate the public about the true risks and benefits of highly potent and highly addictive painkillers," and "Pfizer's cooperation is proof that companies can act responsibly." It also provides a powerful example of the type of relief the City seeks against the manufacturers named as defendants in the lawsuit.

Since the City's suit was filed, a growing body of medical research has brought an even greater spotlight to the crisis of opioid addiction and the related explosion of heroin use in the Chicago area and throughout the United States. Chicago's pioneering lawsuit against the deceptive and destructive marketing practices of the industry has drawn significant national media attention, including a cover story in *Time* magazine, which cited Chicago's suit and various facts and documents it has uncovered in a cover story entitled, "They're the most powerful painkillers ever invented; and they're creating the worst addiction crisis America has ever seen."

### **B. Collecting on Overdue Debts**

DOL's Collections Division set a new record in total collections in 2015, when it brought in \$177.2 million in overdue monies owed the City. This represented a 3 percent increase over the prior year. Year-to-date collections in 2016 are more than \$137 million, which is on par with collections last year during the same period.

### **C. Recouping Funds in Harvey Water Case**

Last year, DOL reached a consent decree with the City of Harvey requiring Harvey to make timely payments for water it receives from Chicago and to repay past due amounts. Harvey, which resells Chicago water to its own residents and to five other suburbs, had been late or delinquent in making these payments, accruing liabilities of \$18.5 million. Following months of discovery and legal arguments in court, and immediately before a scheduled evidentiary hearing on the City's motion for an immediate injunction, Harvey agreed to a court-enforced consent decree which requires Harvey to make on-time payments on its current bills, as well as to pay \$18.5 million in past due principal amounts, plus 3 percent interest, over a seven-year period.

Through September 2016, Chicago has collected \$24.7 million from Harvey pursuant to the consent decree. While Harvey has continued to stay current on its monthly bills for its current water usage, it recently failed to make two payments totaling almost \$500,000 toward its historical liability. Accordingly, DOL recently filed a motion to enforce the City's rights under the consent decree, requesting, among other things, that the Court order the downstream municipalities to make their future payments directly to Chicago until the total amounts Harvey owes are

paid in full. That motion has been fully briefed and is set for hearing on December 12, 2016.

#### **D. Increasing Enforcement of Water and Sewer Debt**

In 2015, DOL adopted a policy of including multiple unpaid debts for water and/or sewer service involving the same address in a single (as opposed to separate) complaints before the City's Department of Administrative Hearings. This change has contributed to a significant increase in the City's collection of past due water and sewer debt. From May 31, 2015 to June 1, 2016, law firms retained by DOL helped collect \$25.2 million in past due water and sewer debt, which is a 36 percent increase over the same period in 2014-2015.

#### **E. Pursuing Damages Against Redflex**

As reported in last year's statement, the City is seeking damages against Redflex Traffic Systems, Inc., the former vendor responsible for running the City's Automated Red Light Enforcement Program. Mayor Emanuel terminated Redflex's contract in October 2012, when Redflex's fraudulent actions in obtaining that contract in 2003 first came to light. In August 2015, the City intervened and took the lead in a whistleblower suit that had previously been filed under seal by a former Redflex executive. DOL is vigorously prosecuting this matter and seeking a favorable recovery for the City that holds Redflex accountable for its misconduct in obtaining the contract.

### **IV. IMPROVING LEGAL SERVICES AND REDUCING LEGAL COSTS**

During the past year, DOL has continued to implement a number of initiatives to improve the delivery of legal services and reduce the City's legal costs. On the delivery of legal services front, this included implementing numerous reforms and improvements in how DOL defends police misconduct cases, particularly with respect to discovery and training. On the cost reduction front, it includes making an early assessment whether cases should be settled or tried, and continuing -- and building on the prior successes of -- our efforts: to bring more legal work in-house; to try -- and win -- non-meritorious cases, and thereby reduce the number of new cases filed against the City; and to enlist some of the City's leading lawyers and law firms to represent the City at no or reduced

cost pursuant to the pro bono program we initiated when the current administration first took office.

### **A. Review and Reforms in DOL's FCRL Division**

In January 2016, Judge Edmund Chang of the United States District Court for the Northern District of Illinois found that two DOL attorneys in DOL's Federal Civil Rights Litigation (FCRL) division -- one of whom had resigned before Judge Chang's decision and the other who resigned immediately after -- had engaged in serious discovery violations while litigating a police shooting case, *Pinex v. City of Chicago*. FCRL, one of DOL's twelve divisions, defends the City and Chicago Police officers in federal civil cases. Judge Chang also criticized the training and knowledge of FCRL attorneys and paralegals with respect to responding to discovery requests for CPD and OEMC records.

Immediately after receiving Judge Chang's decision, DOL took action to ensure that the type of conduct described by the judge never again occurs and that City attorneys maintain the highest professional standards going forward. In early 2016, DOL, working with professional responsibility expert and former head of the Illinois Attorney Registration and Disciplinary Commission Mary Robinson, provided enhanced ethics training to all of its attorneys, and augmented that training with tailored training for DOL's police-litigation attorneys that included a review of ethics and best practices with respect to discovery. Ms. Robinson provided these trainings at no cost to the City.

DOL also immediately initiated an independent, third-party review of FCRL's discovery practices and procedures. DOL hired Dan Webb, co-chairman of Winston & Strawn (Winston), to conduct this 360-degree review and to recommend any changes necessary to conform FCRL's practices and procedures to the highest professional and ethical standards. Mr. Webb is a former United States Attorney and has led internal investigations of global corporations and served in special investigative roles, including as the court-appointed special prosecutor in the Koschman matter. Winston's exhaustive review of the FCRL division included interviews with more than ninety individuals -- including current and former FCRL attorneys and staff, more than fifty attorneys who regularly represent plaintiffs in civil rights cases against the City and Chicago Police officers, and individuals at CPD and OEMC who are regularly called on to identify and produce documents in

cases handled by FCRL -- as well as review of thousands of records, including documents regarding FCRL cases, policies, procedures, training, and related matters.

DOL did not wait to implement the recommendations suggested by Mr. Webb and his team. Rather, DOL leadership discussed the recommendations with the review team throughout the review and made substantial progress toward implementing improvements in all areas where recommendations were made before the review was complete. During the first six months of 2016, DOL adopted new policies and practices for conducting discovery, and trained its attorneys and paralegals on those policies and practices, by:

- instituting new processes by which FCRL attorneys and paralegals directly access documents created and maintained by CPD and OEMC, rather than relying on CPD and OEMC employees to search for and produce responsive documents;
- improving the knowledge base of FCRL attorneys regarding CPD and OEMC documents by updating and expanding FCRL's current list of records to be identified and produced in discovery and conducting training on how these records are stored, located, and accessed;
- adopting improved protocols for document request processing, tracking, and follow up, and training FCRL attorneys and staff on these revised protocols;
- improving policies and procedures concerning the production of electronic communications;
- adopting a written conflict of interest policy, including a requirement that initial interviews of CPD defendant officers be conducted separately; and
- implementing a state-of-the-art case management system.

As a result, when Winston issued its report in July 2016, the review team found that that DOL had already adopted and was acting on its recommendations in all areas in which recommendations were made. In addition, the review team found no culture, practice, or approach within FCRL of intentionally concealing evidence or engaging in intentional misconduct relating to discovery practices or other obligations. Indeed, although Winston had agreed that, to the extent during

the course of the review any evidence of misconduct relating to discovery practices was discovered, such misconduct would be reported to the City's Inspector General, its exhaustive review found no instances of such misconduct other than the misconduct that prompted the review.

## **B. Early Assessment**

In past budget statements we have recounted how, historically, the City often avoided making the hard decisions as to whether a case should be settled until years after it was filed and on the eve of trial or an adverse court ruling. This was particularly true with respect to difficult and high-exposure cases. This increased the cost to taxpayers in two ways:

- First, most of the City's higher-exposure cases are brought under federal statutes that provide that the City is liable for plaintiff's attorney's fees if the City loses at trial. Accordingly, when the City loses or settles such a case, it is liable not only for plaintiff's damages, but also plaintiff's attorney's fees. This is in addition to any fees the City has paid to its own attorneys if the case was referred to outside counsel, which many of these cases were.
- Second, in many cases, the City's exposure -- and the damages sought by the plaintiff -- increase the longer a case remains pending, as additional evidence is discovered or the court makes pretrial rulings that strengthen the plaintiff's case. In addition, in many cases plaintiffs are willing to settle for less if they are paid promptly.

When the current administration took office, it inherited a large backlog of cases that were awaiting trial and which the attorneys handling the case advised that the City was likely to lose and recommended settling. Most of these cases had been pending for years and, due to attorney's fees, the cost of settling was often triple or more what it would have been if an earlier settlement had been reached. In order to avoid these increased costs going forward, it was critical that we develop a new approach.

At my direction, DOL instituted a new policy whereby cases are investigated and evaluated promptly after they are filed. A determination is then made regarding whether the case is one that should be tried or settled, and if settled, the

settlement value of the case. If the City is likely to lose the case, and further litigation would only increase the City's exposure (including by generating attorney's fees that the City would ultimately be responsible for), we will attempt to settle the case at an amount at or below the estimated value of the case. If a reasonable settlement cannot be reached, then the City knows it has to try the case. On the other hand, if the City believes it has a reasonable prospect of winning, or if further litigation is likely to reduce the City's exposure, we will aggressively defend and, if necessary, try the case.

This early assessment strategy continues to achieve significant cost savings for taxpayers. By promptly evaluating and moving to settle the most difficult cases before potential damages and attorneys' fees skyrocket, we estimate that since its inception this initiative has saved taxpayers at least \$105 million from the projected costs if these cases had been settled on the eve of trial or tried. As illustrated in the following chart, this includes almost \$11 million in savings in the last year:

**Estimated Savings from Early Assessment Program  
September 2015 –September 2016**

<b>Case Name</b>	<b>Date Settled</b>	<b>Plaintiff's Demand plus estimated Fees if case were tried</b>	<b>Settlement Amount</b>	<b>Estimated Savings</b>
<i>J. Williams v. City</i>	11/5/2015	\$200,000 plus \$175,000	\$98,500	\$276,500
<i>L Rogers v. City</i>	11/10/2015	\$75,000 plus \$150,000	\$15,000	\$210,000
<i>Harpole v. City</i>	12/7/2015	\$99,999 plus \$150,000	\$50,000	\$199,999
<i>R. Williams v. City</i>	12/21/2015	\$175,000 plus \$150,000	\$78,000	\$247,000
<i>Diaz v. City</i>	1/16/2016	\$100,000 plus \$175,000	\$80,000	\$195,000
<i>LeVail Smith v. City</i>	1/21/2016	\$750,000 plus \$400,000	\$450,000	\$700,000
<i>Nwosu-Iheme v. City</i>	2/2/2016	\$100,000 plus \$125,000	\$35,000	\$190,000
<i>Claxton v. City</i>	2/9/2016	\$200,000 plus \$300,000	\$95,000	\$405,000
<i>Epps v. City</i>	2/18/2016	\$150,000 plus \$250,000	\$100,000	\$300,000
<i>E. Darko v. City</i>	3/8/2016	\$500,000 plus \$200,000	\$32,000	\$668,000
<i>C. Williams v. City</i>	3/9/2016	\$200,000 plus \$200,000	\$100,000	\$300,000
<i>Simmons v. Khan</i>	3/10/2016	\$875,000 plus \$200,000	\$100,000	\$975,000
<i>K. Beck v. City</i>	3/15/2016	\$309,000 plus \$275,000	\$100,000	\$484,000
<i>Magalaya v. City</i>	3/30/2016	\$200,000 plus \$200,000	\$70,000	\$330,000
<i>Whitehead Riles v. City</i>	4/7/2016	\$99,000 plus \$175,000	\$30,500	\$243,500
<i>Blunt v. City</i>	4/15/2016	\$36,000 plus \$100,000	\$15,000	\$121,000
<i>G. Roberts v. City</i>	4/21/2016	\$140,000 plus \$225,000	\$65,000	\$300,000



<i>Quiroz v. City</i>	5/2/2016	\$100,000 plus \$250,000	\$47,000	\$303,000
<i>Russell v. City</i>	5/16/2016	\$200,000 plus \$150,000	\$80,000	\$270,000
<i>Justin Cook v. City</i>	5/16/2016	\$3,000,000 plus \$450,000	\$1,500,000	\$1,950,000
<i>Branscomb v. City</i>	6/1/2016	\$30,000 plus \$125,000	\$12,000	\$143,000
<i>Lambert v. Khan</i>	6/3/2016	\$350,000 plus \$225,000	\$100,000	\$475,000
<i>Finnigan v. City</i>	6/8/2016	\$150,000 plus \$250,000	\$77,500	\$322,500
<i>Haynes v. City</i>	7/6/2016	\$140,000 plus \$175,000	\$50,000	\$265,000
<i>Spence v. Beard</i>	7/14/2016	\$650,000 plus \$225,000	\$220,000	\$655,000
<i>D. Hubbard v. City</i>	7/15/2016	\$250,000 plus \$160,000	\$100,000	\$310,000
<i>Giljen v. City</i>	8/3/2016	\$95,000 plus \$150,000	\$25,635	\$219,365
<i>Gipson v. City</i>	8/9/2016	\$50,000 plus \$125,000	\$5,000	\$170,000
<i>Utendahl v. City</i>	8/23/2016	\$750,000 plus \$500,000	\$100,000	\$1,150,000
<i>T. Jones v. City</i>	8/29/2016	\$150,000 plus \$130,000	\$70,000	\$210,000
<i>Lee v. Carter</i>	9/1/2016	\$45,000 plus \$100,000	\$7,000	\$138,000
<i>J. Price v. City</i>	9/9/2016	\$150,000 plus \$175,000	\$100,000	\$225,000
<i>Kinslow v. City</i>	9/13/2016	\$150,000 plus \$225,000	\$15,000	\$360,000
<i>Rocha v. City</i>	9/16/2016	\$95,000 plus \$170,000	\$45,000	\$220,000
<i>T. Hamilton v. City</i>	9/21/2016	\$150,000 plus 175,000	\$100,000	\$225,000
<i>Bowdery v. City</i>	9/26/2016	\$100,000 plus \$220,000	\$30,000	\$290,000
<i>Stepney v. City,</i>	9/26/2016	\$950,000 plus \$200,000	\$45,000	\$1,105,000
<i>Van der Vant v. City</i>	11/12/2016	\$200,000 plus \$175,000	\$70,000	\$305,000
<b>TOTAL</b>		<b>\$11,963,999 plus \$7,805,000</b>	<b>\$4,313,135</b>	<b>\$15,455,864</b>

This chart lists 38 police cases that have been settled pursuant to Law’s early assessment initiative since September 2015. Based on past experience in similar cases, our attorneys estimate that, if the City had not settled these cases promptly after filing, but instead followed its historical approach of waiting until shortly before trial to assess whether to settle or try these cases, the damages and attorneys’ fees would have totaled nearly \$15 million. Utilizing our early assessment strategy, the City was able to settle these cases for \$4 million, including attorneys’ fees and costs.

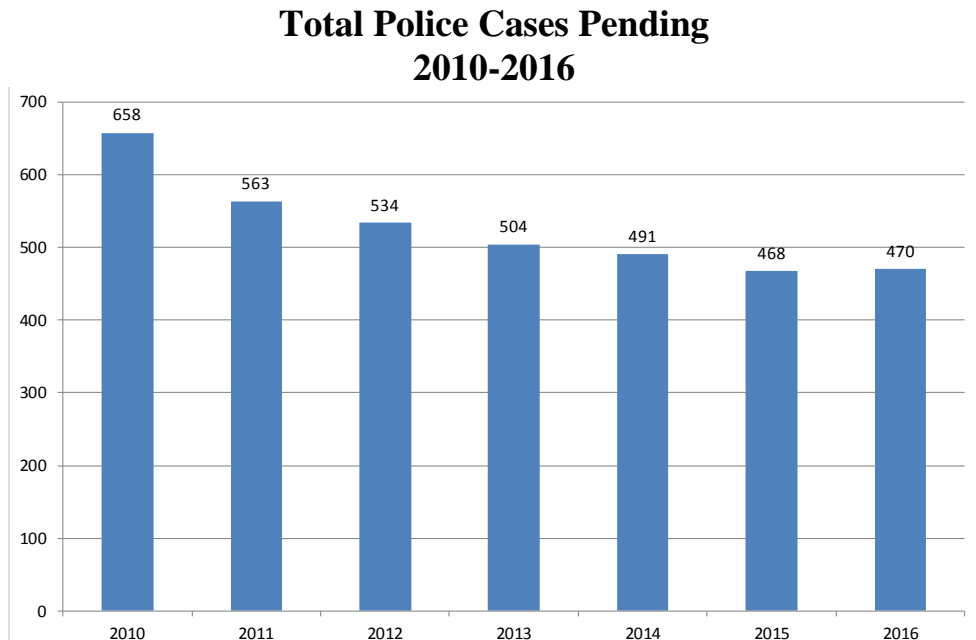
### C. Trying -- And Winning -- Cases

We have also continued DOL's successful policy of trying non-meritorious police cases. Overall, the City continues to try a significant number of cases and to win a significant percentage of those cases. Through September, our police and torts divisions alone tried 33 cases to verdict. They won 20, or more than 60 percent, of those cases.

The City's policy of trying -- and winning -- more cases has saved the City and its taxpayers millions of dollars, both in avoided judgments and settlements and by discouraging the filing of new cases. It also sends a strong message to our police officers and other employees that the City will fight on their behalf when the facts do not support the plaintiff's claims.

### D. Reducing the Number of Open Police Cases

DOL's multi-pronged approach to reducing legal costs to taxpayers has reduced the backlog of cases pending against the City. This is illustrated by the following chart, which shows the number of police cases pending against the City each year since 2010.



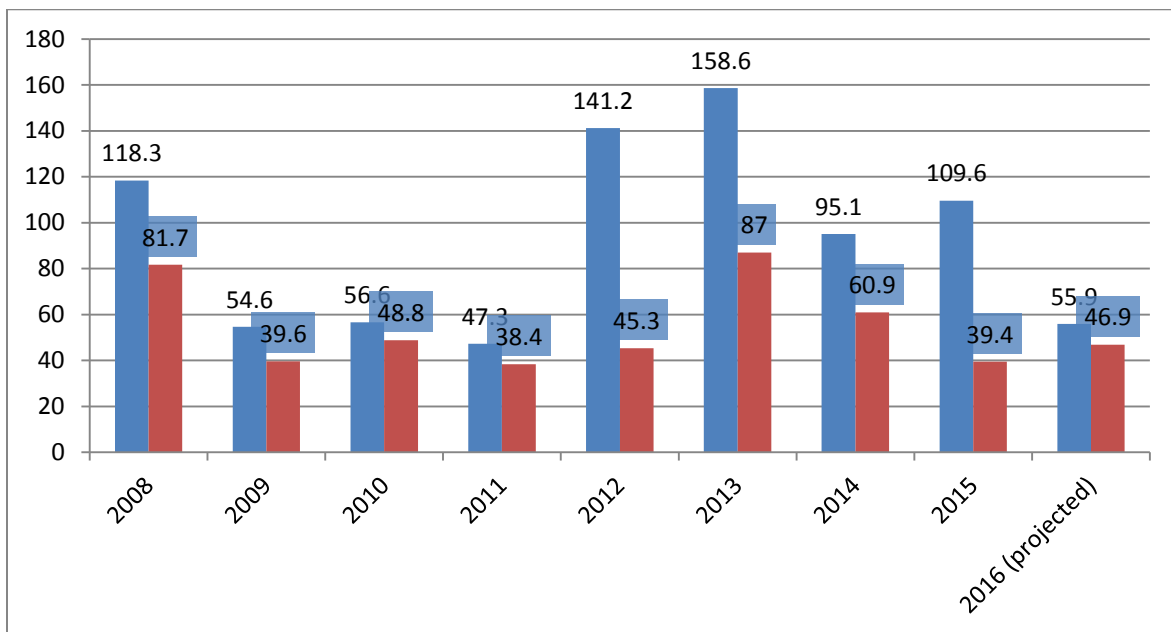
In 2010, the last full year before the current administration took office, 658 police cases were pending. Since then, we have reduced the number of pending cases by 30 percent, to 470 cases pending as of September 2016.

These totals, however, tell only part of the story. The number of serious exposures included within these case totals has decreased by an even greater percentage. This is due to (1) the current administration’s efforts to settle or try the large backlog of serious, legacy exposures it inherited, as well as (2) its early assessment strategy, whereby newly-filed exposures that are serious are more likely to be resolved promptly after they are filed, thereby reducing the number of future large exposures that remain pending.

**E. Reducing Settlement and Judgments**

There has been a similar reduction in the last two years in the City’s total settlement and judgment costs. The following chart shows the total amount of settlements and judgments by year, both in total (blue bars) and for CPD alone (red bars) from 2008-2016. During the first 9 month of 2016, settlements and judgments totaled \$42.9 million and the total settlements and judgments for 2016 are projected to be \$75.4 million. This represents the lowest total since 2011, and a 31 percent reduction from 2015 and a 21 percent reduction from 2014.

**Settlement and Judgment Payments  
2008 - 2016**



City Wide Judgments and Settlements Payments  
 Police Judgments and Settlements Payments

In 2009-2011, the total annual amounts of judgments and settlements were suppressed by the prior administration's "no settlement" policy. This strategy was not sustainable, as not settling and "kicking the can down the road" did not eliminate these exposures. It merely deferred them to subsequent years and, as explained above in connection with the current administration's early assessment initiative, increased the ultimate cost to taxpayers. This period is when much of the backlog of high exposure cases the current administration inherited accumulated. Starting in 2012, the new administration began to reduce this backlog and to implement strategies, such as early assessment and trying more cases, that resolved cases more promptly and at lower cost. In the short term (2012-2015), those strategies increased total annual settlement and judgment costs, as more high exposure cases were tried and settled. This included a number of large legacy one-off and non-recurring exposures, such as the settlement of Burge-era reversed conviction cases (\$41 million in 2012 and 2013), payment of the judgment in the 17-year old *Lewis* discrimination case (\$74 million in 2012), and the settlement of various claims under the parking meters agreement (\$54 million in 2013), and the judgment in the parking garages concession agreement (Aqua) arbitration (\$62 million in 2015). However, these strategies have begun to reduce total settlement and judgments in the past two to three years.

It is important to note that the City's total settlement and judgment costs likely will continue to fluctuate from year to year. However, the current administration's progress in eliminating the backlog of serious, legacy exposures it inherited, as well as its success in reducing the City's exposures in current cases through early assessment and settlement of cases the City is likely to lose and trying cases that are defensible, appears to be reducing the City's overall settlement and judgment amounts.

## **F. Pro Bono Program**

Another initiative described in prior budget reports is the Department's partnership with a number of leading Chicago law firms to represent the City in significant matters on a pro bono basis. The total savings from this program, as well as the number of firms participating, have continued to grow. As shown in the following chart, 20 firms have participated in this program to date, contributing their time to the City at either no cost or at greatly reduced rates of 50 percent or more below their normal hourly rates. The value of the pro bono legal services they

have contributed to the City totals more than \$28 million. This includes more than \$3.7 million in free legal services in 2016.

<b>FIRM</b>	<b>SAVINGS TO THE CITY</b>
Kirkland & Ellis	\$7,041,656
Barlit Beck Herman Palenchar & Scott LLP	\$5,254,335
Mayer Brown LLP	\$4,019,325
Jones Day	\$3,653,221
Sidley & Austin	\$1,942,998
Barnes Thornburg	\$1,902,032
Richard J. Prendergast, Ltd.	\$1,070,305
Jenner & Block LLP	\$783,644
Schiff Hardin	\$645,157
FTI Capital Advisors	\$561,057
FTI Capital Advisors	\$561,057
Fulbright & Jaworski L.L.P.	\$250,000
Chapman & Cutler	\$249,874
Laner Muchin, Ltd.	\$168,291
Clark, Hill, Schomberg	\$144,468
Perkins Coie, LLP	\$118,388
William Blair & Company, LLC	\$84,000
Ice Miller LLP	\$81,471
Franczek, Radelet	\$72,845
Holland & Knight LLP	\$58,950
Gould & Ratner	\$55,244
Borkan & Scahill	\$31,775
Katten Muchin Rosenman	\$23,649
The Sotos Law Firm	\$17,200
Pugh, Jones, & Johnson	\$14,397
Segal Cambridge	\$13,128
Fox, Swibel, Levin & Carrol	\$8,000
Andrew M. Hale	\$6,760
Grant Schuman	\$4,060
	<b>\$28,837,286</b>

As in past reports, we want to personally thank each of these firms for their efforts on behalf of the City.

## **V. 2016 DIVISION HIGHLIGHTS**

Even a summary of DOL's other work and accomplishments in 2016 would be too lengthy for purposes of this statement. Accordingly, set forth below are

some examples of that work -- and the return to the City and its taxpayers on their investment in the Department.

### **A. Aviation**

- Assisted in the issuance of \$1.9 billion of O'Hare General Airport Senior Lien Revenue and Revenue Refunding Bonds to provide funds to refund certain outstanding O'Hare bonds to achieve substantial interest cost savings.
- Assisted in the issuance of \$342 million of Midway Second Lien Airport Revenue and Revenue Refunding Bonds to provide funds to refund certain outstanding Midway bonds to achieve substantial interest cost savings and to finance certain capital projects, including an expansion of the passenger security checkpoint, rehabilitation of Runway 4R/22L and apron pavement, and expansion of the terminal parking garage.
- Assisted in obtaining the approval and agreement of United Airlines and American Airlines to proceed with the construction of new Runway 9C/27C at O'Hare and the funding of various terminal and concourse development projects at O'Hare.
- Assisted in negotiating a lease agreement with American Airlines to add five new passenger gates adjacent to Concourse L in Terminal 3 at O'Hare. These will be the first new passenger gates at O'Hare in over 20 years.
- Assisted in preparing requests for proposals for three major hotel projects at O'Hare Airport.

### **B. Buildings and License Enforcement**

- During the 2015-2016 heat season (September-May), prosecuted 261 cases to restore heat in more than 1,500 residential units.
- Through September, brought over 50 cases in Circuit Court to protect children from lead paint.

- Through September, prosecuted more than 100 cases against residential high-rises to enforce compliance with the City’s Life Safety requirements.
- Through September, prosecuted 243 illegal sign cases at DOAH, 28 of which were off-premise signs. Also prosecuted two illegal sign cases in Circuit Court, one off-premise and one on-premise, and settled five permit revocation cases where DOB had revoked off-premise dynamic image display signs erected without permits. The sign company paid the City a total fine of \$10,000, and agreed to remove one of the signs and bring the other four into compliance.

### **C. Debt Collection**

- Through September, collected more than \$137 million in fines, assessments, and other debts owed to the City.
- Continued to work with the Department of Finance and the State Comptroller’s Office to recoup money owed to the City by intercepting tax refunds. Through July, the City had collected \$12 million through this offset program. Since its launch in 2012, this initiative has taken in more than \$85.6 million, approximately 44 percent of which is from non-Chicago residents.
- Expanded City’s License Hold Payment Plan, which keeps dozens of small businesses open by allowing them to remove license and permit holds on their businesses in exchange for making a down payment equal to 50 percent of the total debt owed. The business is then able to operate while it pays off the remaining balance of its debt. These “win-win” agreements keep City businesses open, while paying off debt owed to the City. Continued improvements to the program have resulted in an increase in the number of executed agreements and debt collection. The Collection Unit executed 33 agreements between January 2015 and September 2015 and collected \$373,714. For the same period in 2016, 96 agreements were executed and \$712,962 was collected, resulting in a 91 percent increase in debt collected.

## **D. Contracts and Regulatory Affairs**

- Assisted on a number of high profile contracts and transactions, including: the Array of Things, which deploys technology to monitor in real time various aspects and measures of the physical environment throughout the City in order to help City decision-makers make better decisions; the purchase of body cameras and tasers for CPD; property management agreements for the Harold Washington Library Center and Millennium Park; the institution of a program for the use of computer applications for the hailing of taxicabs; and a centralized dispatch for taxicabs for people with disabilities.
- Worked closely with the Department of Procurement Services in implementing online bidding for contracts.
- Assisted 2FM in preparing a solicitation for vendors to establish concessions on the Riverwalk and in drafting an RFP for a new tour boat operator on the Chicago River.
- Drafted ordinance and agreement to allow JCDecaux to provide maintenance, operation, repair, and replacement of eight new City-owned bus shelters throughout downtown Chicago, which will bring in substantial advertising revenue for the City.
- Continued to aggressively enforce the City's Bulk Material Regulations, which required all coke and coal piles to be either removed or enclosed by June 2016. This resulted in the removal of all storage piles from the KCBX South Terminal this past summer.
- Successfully concluded negotiations with the Blackhawks for their purchase of the former Malcolm X College site for redevelopment as team practice facility and community hockey training facility.
- Advised CDOT and the Mayor's Office in ongoing discussions with Peoples Gas regarding improved communications and coordination with respect to Peoples Gas' main replacement program. Negotiated and drafted a Coordination Agreement between the City and Peoples creating



a new communications framework, construction planning efforts, and additional permit review resources.

- Advised CDOT regarding management of wireless technology located in the public right-of-way in response to a large volume of requests for placement of next-generation wireless technology on City-owned poles and other public infrastructure.
- Advised 2FM on renegotiated electric and natural gas supply agreements, which achieve significant cost savings for City operations.

### **E. Finance and Economic Development**

- Closed the conversion of \$1.1 billion of variable rate general obligation bonds, sales tax revenue bonds and wastewater revenue bonds to fixed rate bonds and terminated the associated interest-rate swaps; in connection with these transactions, the Division negotiated 15 forbearance agreements with swap counterparties/letter of credit banks.
- Closed the issuance of \$87 million in new wastewater revenue bonds, \$82 million in new water revenue bonds and \$1.5 billion in new general obligation bonds.
- Closed the conversion of \$445 million of variable rate water revenue bonds to fixed rate bonds and terminated the associated interest-rate swaps.
- Documented and closed TIF Redevelopment transactions for 20 Chicago Public Schools, two parks, and two Chicago Transit Authority facilities.

### **F. Labor**

- Drafted employee discipline charges in over 90 discharge cases; defended the City in over 150 discrimination claims, 150 labor arbitrations, 45 labor board cases, 7 department of labor cases, and 23 disciplinary appeals in state court.
- Advised client departments on disciplinary matters, discrimination issues, collective bargain agreement inquiries, and FMLA and ADA questions.

- Prevailed in 14 of 16 Police Board separation hearings, including an officer who falsely certified polygraph examinations; an officer who provided aid to a known drug trafficker; an officer who testified falsely in a criminal trial; an officer intoxicated off duty who engaged in an altercation with out-of-state police; an officer who attempted to extort \$2,500 from an undocumented resident; an officer who associated with a felon and failed to cooperate with a search warrant at her house; and an officer who hit his wife during an altercation.
- Prevailed in numerous Human Resource Board appeals, such as upholding the terminations of an employee who engaged in theft of City property and an employee who engaged in insubordinate behavior toward her supervisors.
- Prevailed in numerous Labor arbitrations, such as the FOP's grievance claiming that the Inspector General's Office does not have the authority to investigate police misconduct, as well as the Teamsters' grievance seeking Saturday overtime for motor truck driver foremen.

## **G. Legal Information and Municipal Prosecutions**

- Conducted 15 training sessions for various City FOIA officers and other department personnel on FOIA, the Local Records Act, and the preservation and production of public records; prosecuted 9,582 Municipal Code violations, imposing more than \$500,000 in fines in Branch Courts; and prosecuted 121,350 traffic violations and imposed almost \$400,000 in fines in Traffic Court.

## **H. Legislation**

- Helped draft legislation: regulating the house-sharing industry, providing for paid sick leave, strengthening the City's "Welcoming City" ordinance offering immigrant protections, updating the City's Fire and Energy codes, regulating drone usage in an ordinance that has become a national model for other municipalities, and refining and updating the standards applicable to taxi chauffeurs and rideshare drivers to create a better customer experience and foster public safety.

## **I. Litigation**

- Appeals. Filed briefs in 81 cases. Won 66 of 73 cases decided in which the City filed a brief as a party. Prevailed in important cases concerning almost every aspect of what the City does and needs to do to manage its affairs and serve its residents, including tax, demolition, lease of City parking garages, public order, police discipline, zoning cases, and other quality-of-life issues.
- Constitutional and Commercial. Successfully defended constitutional and other legal challenges to the City's: red light and automated speed ticketing camera system, affordable housing requirements ordinance, Burge torture victims reparations ordinance, and CPD's tattoo policy. Also successfully opposed a preliminary injunction against the City's ordinance regulating ride-sharing companies.
- Employment. Won or obtained dismissal in 20 cases, including two federal court trials, with no liability to the City. Settled nine cases, paying \$85,000 or less in all but two.
- Police. Won or obtained dismissal in 66 out of 240 cases resolved through September with no liability to the City. Through September, tried 19 cases, winning 11, or 58 percent, of those cases.
- Torts. Through September, defended more than 290 new lawsuits and tried 14 cases to verdict. Disposed of a total of 316 cases, 167 (or 53 percent) of which were closed without any payment being made by the City. Obtained 9 not guilty verdicts, a success rate of 64 percent at trial. Total damages requested by plaintiffs at trial was \$25.5 million and total damages awarded was \$13.5 million, or just 54 percent of the total requested. Tried 52 workers' compensation cases before the Industrial Commission, and had the City's defense accepted by insurance or other third parties in 33 tort cases.

## **J. Real Estate**

- Represented the City in vacating streets and alleys that are no longer needed for public use, generating \$3 million of revenue.

- Generated over \$13.7 million through the sale of vacant land for neighborhood and community improvements.

### **K. Revenue Litigation**

- Through September, collected more than \$40 million through judgments and settlements in various tax-related cases. On average, this represented collections of over \$5 million annually for each attorney staffing these cases.
- Defeated more than \$20.4 million in property tax refund claims by large commercial property owners, which helped prevent a shift in property tax burden onto residential and small business property owners.