

**Statement of Corporation Counsel Stephen R. Patton
In Support of the Department of Law's
Proposed 2015 Budget**

October 31, 2014

Thank you for the opportunity to testify before you today in support of the Department of Law's ("DOL's") proposed 2015 budget.

As in past years, my testimony is organized into five parts. Part I provides a brief overview of the Law Department's organization and the work it performs. Part II describes steps the current administration has taken to reduce the City's legal costs. Part III discusses our recent successes in improving the quality of life of Chicago residents. Part IV provides recent examples of actions DOL has taken to protect and recover taxpayer dollars. Finally, Part V provides some examples of the work and successes of each of the Department's various divisions during the past year.

Like my previous statements, this statement is not limited to Law's proposed budget; it also provides an update on our successes during the past year, and our progress in achieving the goals and objectives detailed in my prior statements.

I. Overview

DOL attorneys satisfy the City's legal needs in a wide array of areas. This includes police, tort, and employment litigation; municipal finance; affordable housing; aviation; civil rights; environmental law; and collective bargaining. The Department is fortunate to employ some of the City's most prolific and talented trial attorneys, as well as high-caliber transactional attorneys who finalize large, complex financial transactions for the City. All of this work is done for a fraction of what outside law firms would charge and by individuals whose institutional knowledge and experience results in high-quality work product and informed, solid advice.

The Department works closely with the Mayor's Office, City Departments, Boards and Commissioners, and the City Council: to protect the public safety and maximize the quality of life of the citizens of the City; to minimize the City's exposure to financial liability for claims and lawsuits; and to seek revenue and savings for the benefit of its taxpayers. In short, we seek to provide the City and its

various departments, officials, and employees with the very best legal representation available, as efficiently and cost-effectively as possible.

II. Reducing Legal Costs

During the past year, the Law Department has continued to implement a number of initiatives to reduce the City's legal costs. This includes making an early assessment whether cases should be settled or tried and paying increased attention to risk management (that is, correcting and avoiding City practices and/or omissions that lead to lawsuits). In addition, we have continued – and built on the prior successes of – our efforts: to reduce outside legal costs by bringing more legal work in-house; 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 I initiated when the current administration first took office in 2011; and to try – and win – non-meritorious cases, and thereby reduce the number of new cases (particularly police cases) filed against the City. I briefly address each of these efforts below.

A. Early Assessment

In last year's budget statement, I recounted how, historically, the City had 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 its 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. This is primarily because the plaintiff discovers additional evidence supporting its claims 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.

In particular, when the current administration took office in May 2011, 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, the Law Department 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 we 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.

I am pleased to report that our 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 taxpayers have saved at least \$63 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, in addition to the \$34 million in estimated savings reported last year, another \$29 million in savings in the last year (since September 2013):

**Estimated Savings from Early Assessment Program
September 2013 – October 2014**

Case Name	Date Settled	Projected Damages + Projected Fees	Settlement Amount	Estimated Savings
<i>Smith v. City</i>	10/10/2014	\$145,000 plus \$450,000	\$80,000	\$515,000
<i>Gaye v. City</i>	10/6/2014	\$120,000 plus \$200,000	\$45,000	\$275,000

<i>Nieto v. City</i>	10/3/2014	\$120,000 plus \$200,000	\$60,000	\$260,000
<i>Britt v. City</i>	10/1/2014	\$200,000 plus \$475,000	\$80,000	\$595,000
<i>Toolie v. City</i>	9/17/2014	\$450,000 plus \$700,000	\$100,000	\$1,050,000
<i>Jones v. Baldassano</i>	9/17/2014	\$170,000 plus \$450,000	\$75,000	\$545,000
<i>Moore v. City</i>	9/17/2014	\$5,000,000 plus \$700,000	\$1,200,000	\$4,500,000
<i>Huffman v. City</i>	9/16/2014	\$1,000,000 plus \$750,000	\$75,000	\$1,675,000
<i>Navas v. City</i>	9/4/2014	\$425,000 (no fees)	\$100,000	\$325,000
<i>Williams v. City</i>	8/29/2014	\$5 million (no fees)	\$1,250,000	\$3,750,000
<i>Sperling v. City</i>	8/16/2014	\$100,000 plus \$750,000	\$100,000	\$750,000
<i>Tosado v. City</i>	8/15/2014	\$150,000 plus \$400,000	\$43,500	\$506,500
<i>Ducre v. City</i>	8/13/2014	\$75,000 plus \$400,000	\$15,000	\$460,000
<i>Cash v. City</i>	7/18/2014	\$450,000 plus \$250,000	\$55,000	\$645,000
<i>Klyszek v. City</i>	7/18/2014	\$99,000 plus \$500,000	\$150,000	\$449,000
<i>Codgell v. City</i>	7/17/2014	\$100,000 plus \$500,000	\$15,000	\$585,000
<i>De Jesus v. City</i>	7/8/2014	\$300,000 plus \$475,000	\$6,500	\$768,500
<i>Daoud v. City</i>	7/2/2014	\$100,000 plus \$250,000	\$56,000	\$294,000
<i>Lyazale v. City</i>	6/5/2014	\$100,000 (no fees)	\$45,000	\$55,000
<i>Cross v. City</i>	5/18/2014	\$555,000 plus \$250,000	\$134,000	\$671,000
<i>Matthews v. Rodriguez</i>	5/16/2014	\$140,000 plus \$450,000	\$30,000	\$560,000
<i>Coppage v. Rodriguez</i>	5/14/2014	\$125,000 plus \$300,000	\$45,000	\$380,000
<i>Sledge v. Rodriguez</i>	5/14/2014	\$150,000 plus \$250,000	\$60,000	\$340,000
<i>Cooke v. Rodriguez</i>	5/14/2014	\$99,000 plus \$350,000	\$50,000	\$399,000
<i>Jordan v. Rodriguez</i>	5/14/2014	\$150,000 plus \$250,000	\$60,000	\$340,000
<i>Stovall v. Rodriguez</i>	5/14/2014	\$100,000 plus \$225,000	\$58,000	\$267,000
<i>Edwards v. City</i>	5/12/2014	\$300,000 plus \$500,000	\$100,000	\$700,000
<i>Taylor v. City</i>	4/10/2014	\$150,000 plus \$250,000	\$50,000	\$350,000
<i>Woldermarian v. City</i>	4/3/2014	\$95,000 plus \$225,000	\$40,000	\$280,000
<i>Davis v. City</i>	3/20/2014	\$600,000 plus \$650,000	\$100,000	\$1,150,000
<i>Beiles v. City</i>	3/11/2014	\$150,000 plus \$250,000	\$30,000	\$370,000
<i>Flint v. City</i>	3/10/2014	\$75,000 plus \$200,000	\$19,000	\$256,000
<i>Haralson v. City</i>	2/27/2014	\$100,000 plus \$250,000	\$15,000	\$335,000
<i>Cherry v. City</i>	2/17/2014	\$100,000 plus \$250,000	\$20,000	\$330,000
<i>Byars v. Evans</i>	2/14/2014	\$100,000 plus \$500,000	\$71,000	\$529,000
<i>Willis v. City</i>	2/5/2014	\$100,000 plus \$300,000	\$38,000	\$362,000
<i>Phillips v. City</i>	1/21/2014	\$95,000 plus \$225,000	\$20,000	\$300,000
<i>Thompson v. City</i>	12/13/2013	\$500,000 plus \$700,000	\$490,000	\$710,000
<i>Bishop v. City</i>	12/13/2013	\$99,000 plus \$350,000	\$40,000	\$409,000
<i>Heard v. City</i>	12/11/2013	\$65,000 plus \$275,000	\$9,000	\$331,000
<i>Hope v. City</i>	12/5/2013	\$300,000 plus \$400,000	\$75,000	\$625,000
<i>Keeler v. City</i>	10/9/2013	\$475,000 (no fees)	\$200,000	\$275,000
<i>Wangemann v. City</i>	9/11/2013	\$400,000 plus \$350,000	\$100,000	\$650,000
TOTAL		\$19,127,000 plus \$15,200,000 = \$34,327,000	\$5,405,000	\$28,922,000

This chart lists 43 police cases that have been settled pursuant to Law’s early assessment initiative since September 2013. 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 \$34 million. Utilizing our early assessment strategy, the City was able to settle these cases for \$5.4 million, including attorneys’ fees and costs, which represents an 84% savings.

One final note. Although Law’s early assessment policy applies to all cases filed against the City, the chart above is limited to police cases. And, even as to police cases, it does not include all cases that have been settled pursuant to Law’s early assessment policy. Accordingly, we believe this is a conservative estimate of the savings from this initiative.

B. Risk Management

Another initiative that continues to show promising results is DOL’s collaboration with other City departments with respect to risk management. This includes identifying circumstances that can lead, or have led, to lawsuits in order to take steps to prevent them from recurring in the future. At bottom, there is no better way to reduce the City’s legal expenses than to reduce the risk that a lawsuit will be filed in the first place; the cheapest lawsuit to defend is one that is never filed.

1. Dismissal from Shakman Lawsuit and Release from Federal Court Oversight

Earlier this year, the City achieved “substantial compliance” with the Shakman Accord, resulting in the City’s dismissal from this 45-year-old lawsuit and release from decades of federal court oversight of the City’s hiring practices. This historic achievement delivers on a promise that then-candidate Emanuel made during his 2011 campaign for Mayor and which he started working to fulfill on his very first day of office, when he entered an Executive Order that prohibited political hiring and directed that all City employees fully cooperate with the Shakman Monitor and the City’s Inspector General with respect to complying with and reporting violations of the Shakman Accord. Thereafter, DOL and the City’s Department of Human Resources worked closely with the Mayor’s Office, the

Federal Hiring Monitor, the Inspector General, and other City departments to adopt and implement detailed hiring plans for the City, Police, and Fire, as well as numerous other policies, procedures, and other programs and initiatives to ensure that City hiring decisions with respect to non-exempt employees are based strictly on merit and not on who you know or what political work you have performed. These efforts were reported at the time, and I will not belabor them here, other than to point out that, as a predicate to achieving “substantial compliance,” the City implemented and enforced meaningful – and permanent – reforms to its hiring and employment practices. By successfully implementing these reforms, the City was not only able to get out from under federal court oversight (which had cost the City more than \$6.8 million in just the past 8 years), but also to adopt and implement policies and procedures that should limit the City’s exposure to lawsuits alleging hiring improprieties.

2. Drug and Alcohol Training Video

Another example of DOL’s risk management efforts was prompted by a June 2011 incident in which an inebriated Streets and Sanitation worker drove a City pickup truck onto a sidewalk in River North, seriously injuring a number of pedestrians. This included a nanny, who pushed a stroller and infant out of the way of the oncoming truck, saving the infant but suffering serious permanent injuries and disfigurement to herself. As part of a non-monetary settlement of claims brought by the parents of that infant, DOL and the Department of Streets and Sanitation agreed to prepare a video featuring this incident as a real-life example of the dangers of substance abuse in the workplace, and to use the video as part of a training program on drug and alcohol abuse for City drivers and their supervisors. Through a cooperative effort of Streets and Sanitation, DHR, and Law, this video was recently completed and is extremely effective. DHR is using it to train all motor truck drivers and their supervisors using the video, and then plans to extend this training to all City drivers and their supervisors.

3. Disclosure of CPD Disciplinary Records

In March, after years of hotly-contested litigation, the Illinois Appellate Court ruled in Kalven v. City of Chicago, that complaint register files (“CRs”), which are generated during the investigation of complaints of police officer misconduct, are not exempt from disclosure under the Illinois Freedom of Information Act (FOIA). Instead of further litigating this issue, including

petitioning for leave to appeal to the Illinois Supreme Court, DOL worked closely with CPD and IPRA to implement a new policy pursuant to which CR files in closed investigations are voluntarily released in response to FOIA requests. Through this new policy, Law, CPD, and IPRA have brought greater transparency and accountability to police misconduct investigations, and we hope that the policy change will reduce instances of police misconduct as well as any perception that police officers are above the law. The historic nature of the change has not gone unnoticed: the Chicago Sun-Times recently published an op-ed in which community activists and civil rights lawyers commended the new policy, which they said should alleviate the “pervasive distrust that greatly reduces the effectiveness of the police,” benefitting the City, CPD, and “the vast majority of officers who are trying to do their jobs but do not receive the cooperation they need to prevent and solve crimes.”

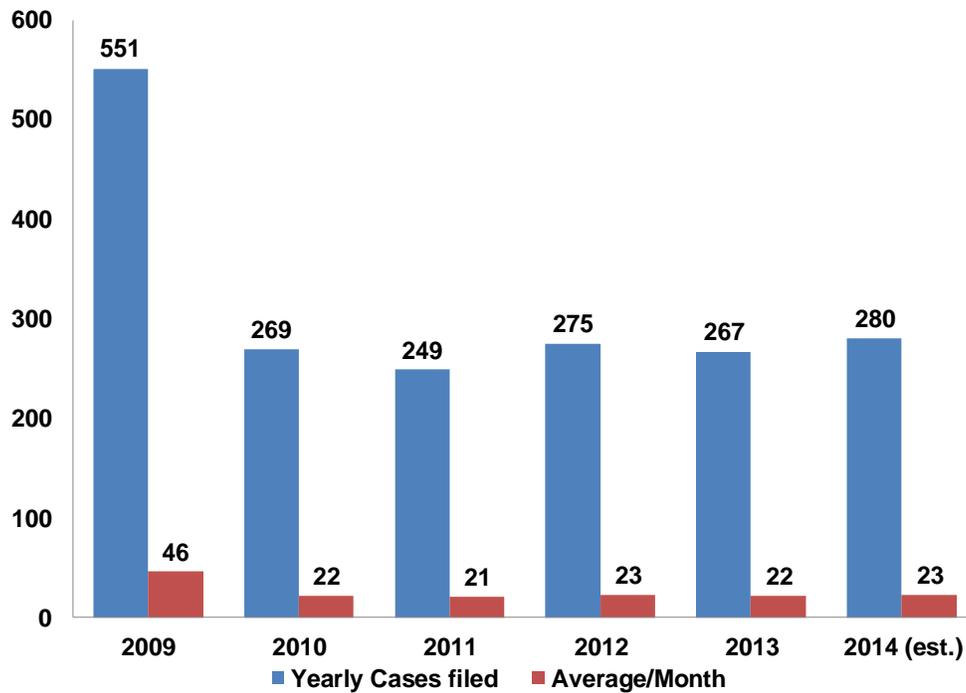
4. CPD General Orders Regarding Investigatory Stops and Use of Contact Cards

Finally, this year CPD adopted two revised orders, prepared with the advice and assistance of DOL, regarding investigatory stops and searches (so-called “stop and frisks”) and the use of “contact cards,” to ensure that these practices are fully compliant with constitutional requirements. DOL then worked with CPD to prepare the materials that CPD will use to train its officers on the revised orders. Consistent with settled Supreme Court law, the new orders limit investigatory stops to situations where the officer has a “reasonable articulable suspicion” that the person stopped is committing, about to commit, or has committed a crime, and limits the use of contact cards to such stops. The new orders also make clear that “the subject cannot continue to be detained solely for the purpose of obtaining the results of a name check.” This is important because, in a decision denying the City’s motion to dismiss a case brought by a putative class of panhandlers, the district court suggested that CPD’s prior practices might be unconstitutional. By proactively revising the general orders, we hope to avoid going the way of New York City, which has been subjected to years of litigation and hundreds of millions of dollars in potential liability for allegedly targeting minority youth with “stops and frisks,” but to do so in a manner that does not discourage or diminish the effectiveness of on-the-street police work.

C. Trying – And Winning – Cases

We have also continued DOL’s successful policy of litigating non-meritorious police cases, even where such cases could be settled for relatively small amounts. As previously reported, this policy has resulted in a 50% decrease in the number of new cases filed against the Police Department. As shown in the chart below, this 50% reduction has held relatively steady since this policy first went into effect in 2010.

**Number of New Police Cases
2009-2014**



In particular, in 2009, a total of 551 new cases alleging police misconduct were filed against the City. Starting in 2010, after the new policy was adopted, that total fell by 50% to 269 cases. Since then, this 50% reduction in new cases has continued, with the number of new filings remaining relatively constant at an average of less than 270 cases per year.

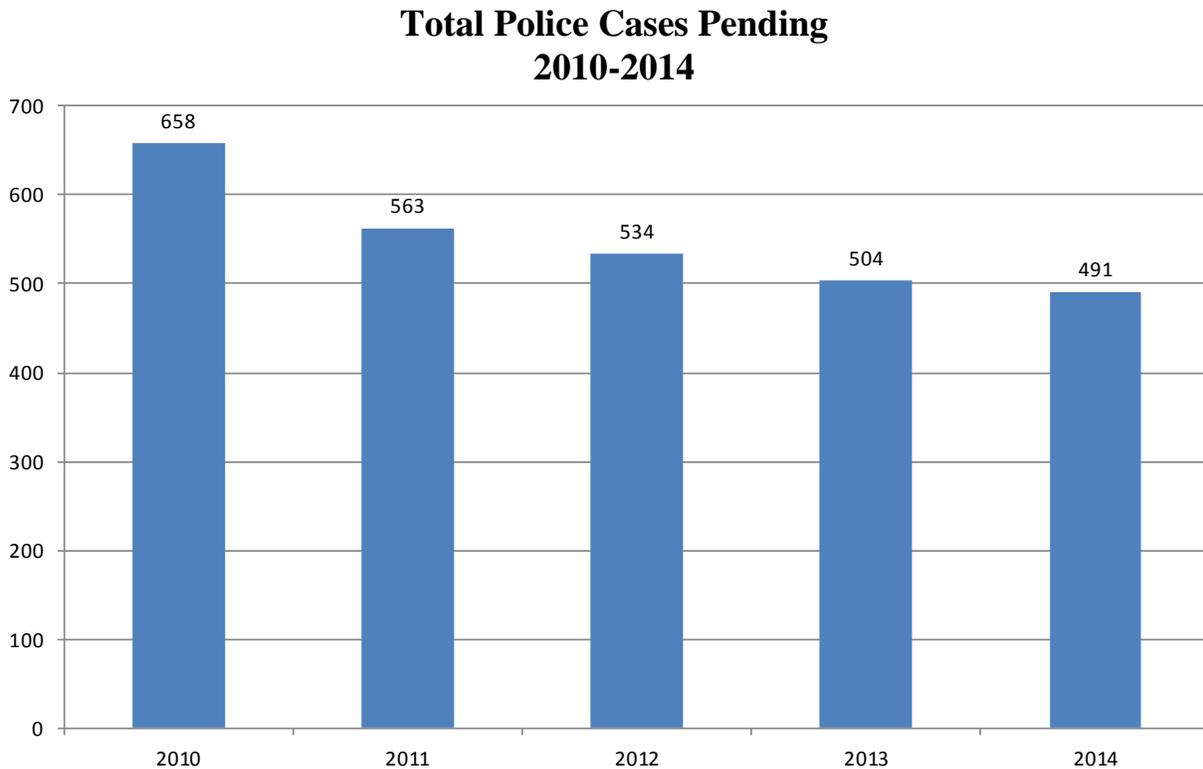
Overall, the City continues to try a significant number of cases and to win a significant percentage of those cases. Thus, through September of this year (the first 9 months of the 2014 budget year), our police and torts divisions tried 47 cases to verdict. They won 34, or 72%, of those cases. This resulted in significant savings to taxpayers. In the 47 cases tried, the plaintiffs sought more than \$68

million in damages. They recovered only \$11.5 million, or less than 17% of the amount requested.

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. Resolution of Inherited Cases

The Law Department’s multi-pronged approach to reducing legal costs to taxpayers continues to reduce 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.

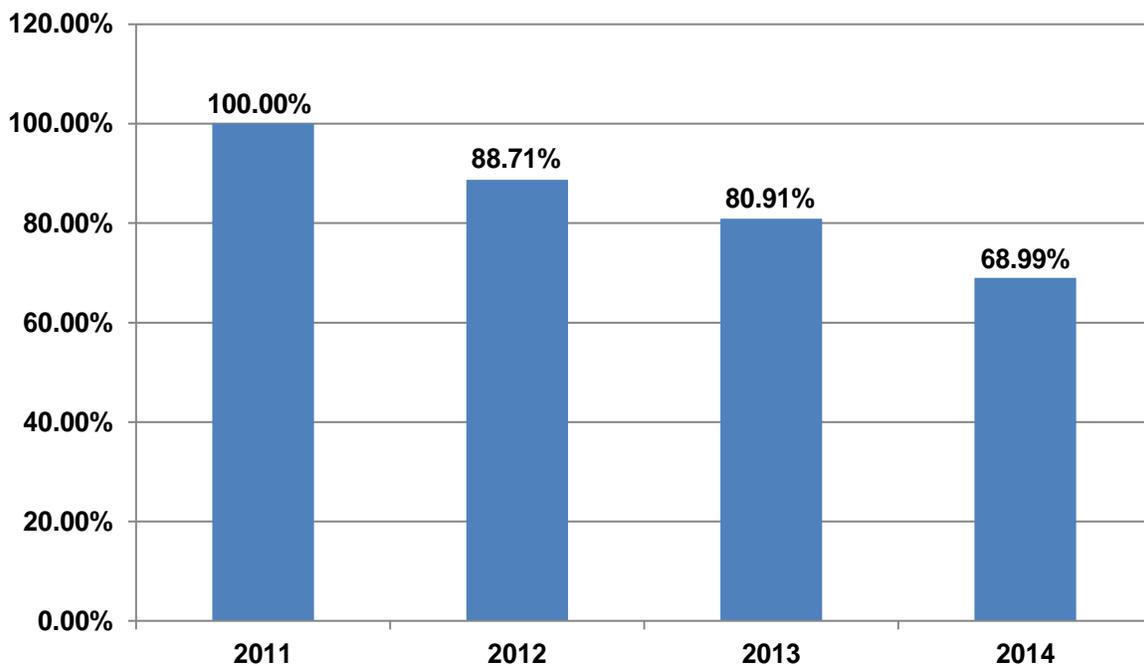


In 2010, the last full year before the current administration took office, 658 police cases were pending. Since then, we have reduced the number of pending cases by more than 25% from 658 cases to 491 cases pending as of September 2014.

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 when it took office in May 2011, 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.

As discussed above, when the current administration took office in mid-2011, it inherited a large backlog of police shooting, reversed conviction, and other serious exposures that had been pending for years. Over the past 3½ years, we have made significant progress in eliminating this backlog, through both trials and settlements. This is illustrated by the following chart, which shows the percentage of settlements and judgments in the last three years that related to cases that the current administration inherited when it took office in May 2011.

**Percentage of Total Judgments and Settlements
That Relate to Cases Filed Before 6/11
2011-2014**



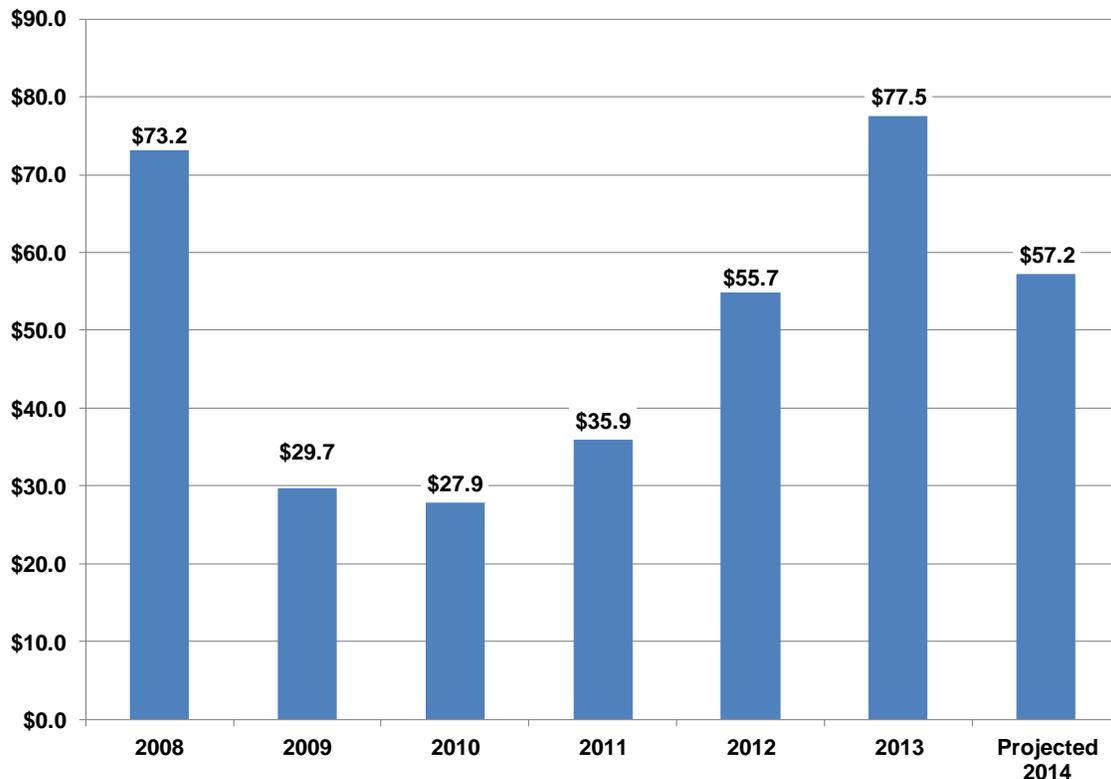
All of the settlements and judgments the City paid in 2011 related to cases that predated the current administration. In 2012, 89% of the settlements and judgments paid related to such legacy exposures, and 81% of the settlements and

judgments related to legacy exposures in 2013. And, even this year, approximately two-thirds of the total amount paid by the City for settlements and judgments (69%) related to cases the current administration inherited.

At the same time, pursuant to the current administration’s early assessment initiative, serious exposures filed since May 2011 are being assessed, and where it is in the best interest of taxpayers, settled promptly after they are filed. As a result, not only has the total number of pending cases declined, but the number of serious exposures included within those pending cases has declined as compared to what it would have been without this initiative.

Through this and other initiatives discussed above we hope to reduce the amounts the City pays out in settlements in future years. While it is still way too early to claim success in achieving this objective, the City’s recent settlement history is encouraging. That history is set forth in the chart below.

**Total Settlements
2008-1014**



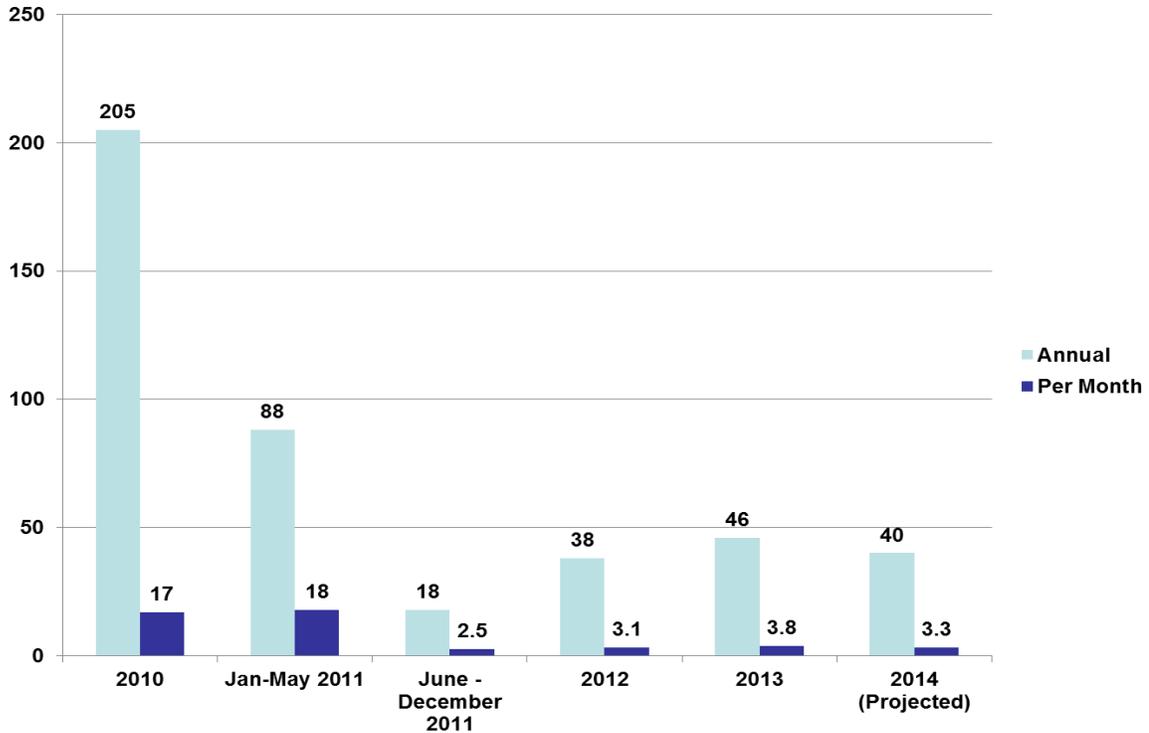
In 2009, 2010, and 2011, the City paid \$29.7 million, \$27.9 million, and \$35.9 million in settlements, respectively. During the first two and one-half years of that three-year period, the prior administration had a “no settlement” policy in

place. Accordingly, one would anticipate that the settlement amounts for those years would be low relative to years before and after that policy took effect. In 2012, the current administration's first full year, the City's settlements rose to \$55.7 million. As discussed above, almost 90% of these settlements were in inherited cases. The amount the City paid in settlements rose to \$77.5 million in 2013, a year in which the City settled a number of the most significant of its inherited exposures – including several Burge cases. This year, we project that the City will pay \$57.2 million in settlements. While settlement totals will vary from year to year depending on a number of factors, this represents a \$20 million (more than 26%) reduction from last year's total.

E. Handling More Cases In-House

One of the initiatives that I outlined in my first budget statement was filling a number of vacant positions in DOL's police litigation division, so that cases that would otherwise have been sent to outside counsel at a cost of up to \$295 per hour are now handled in-house by DOL attorneys for approximately \$46 per hour. This initiative has been fully implemented and the impact continues to be dramatic. The number of new police cases referred to outside counsel has decreased by 80%, from more than 200 cases per year in 2010 to a projected 40 in 2014. This is 15% less than the 46 cases referred to outside counsel last year and, most important, far below the number of cases that were being referred out when the current administration took office in mid-2011.

**Number of Cases Referred to Outside Counsel
for Resource Reasons, Annual/Per Month
2010-2014**



F. Pro Bono Program

Another initiative that I described in my first budget report three years ago 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. Since that time, 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% or more below their normal hourly rates. The value of the pro bono legal services they have contributed to the City totals more than \$15.7 million. This includes more than \$2.8 million in free legal services in 2014.

FIRM	SAVINGS TO CITY
Barlit Beck Herman Palenchar & Scott LLP	\$5,254,335
Mayer Brown	\$2,800,952
Jones Day	\$1,800,355
Kirkland & Ellis LLP	\$1,756,141

Sidley Austin LLP	\$1,381,319
Schiff Hardin, LLP	\$645,157
FTI Capital Advisors, LLC	\$561,057
Barnes & Thornburg	\$526,854
Fulbright & Jaworski LLP	\$250,000
Chapman and Cutler, LLP	\$249,874
Richard J. Prendergast, Ltd.	\$166,347
Perkins Coie LLP	\$118,388
William Blair & Company, LLC	\$84,000
Ice Miller LLP	\$81,471
Gould & Ratner, LLP	\$53,719
Katten Muchin Rosenman, LLP	\$23,649
Pugh, Jones, & Johnson, P.C.	\$14,397
Fox, Swibel, Levin & Carroll, LLP	\$8,000
Andrew M. Hale & Associates	\$6,760
Grant Schumann LLC	\$4,060
	\$15,786,834

I want to personally thank each of these firms on behalf of a grateful Mayor and City. They have demonstrated their commitment to the City and its continued financial health through deeds and selfless service that speak far louder than words ever could.

III. DOL Enforcement of “Quality of Life” Ordinances

During the past year, DOL continued to aggressively enforce “quality of life ordinances” and participated in several new initiatives to improve the lives of Chicago residents and make our communities safer. We begin with two examples of new DOL initiatives to protect public health and the environment and then provide an update on various ongoing programs, including a number of initiatives to preserve neighborhood housing and address vacant and abandoned buildings.

A. New Initiatives to Protect Public Health and the Environment

1. Protecting Against the Environmental Hazards of Petcoke

During the past year, DOL, working with the Mayor’s Office and Aldermen Burke and Pope, undertook aggressive efforts to protect Chicago residents from the hazards associated with petroleum coke or “petcoke”. Petcoke is a byproduct of oil

refining that, when improperly stored, can release clouds of gritty black dust – as was occurring in neighborhoods on the southeast side of Chicago.

First, DOL worked with the Chicago Department of Public Health (CDPH) to draft new petcoke regulations. Confirming the success of this effort, the Governor subsequently announced state petcoke regulations that largely mirrored the City’s previously-announced regulations.

Second, and separately, the City and the Illinois Attorney General jointly filed a lawsuit against Beemsterboer, the owners of the Calumet Transload (Cal Trans) petcoke storage facility on Chicago’s southeast side. Beemsterboer subsequently agreed to remove all petcoke and other unauthorized materials from this site until it obtained proper state permits. This result was achieved quickly and through an effective partnership between DOL and the Attorney General.

DOL also assisted CDPH in issuing and enforcing a cease-and-desist order against Cal Trans. As a result, Cal Trans removed 12,000 tons of offending material from the site (and abandoned plans to bring an additional 8,000 tons on site). Because removal was not immediately completed, DOL and CDPH also obtained penalties in the amount of \$50,000 for the ten days that Cal Trans was in violation of the cease-and-desist order.

2. USDOT Rulemaking Concerning Rail Transportation of Crude Oil and Other Hazardous Materials

Due to the recent boom in American oil production, more than 40 crude oil-carrying trains now pass through Chicago every week, some longer than 100 tank cars and carrying more than a million gallons of crude oil. To reduce the risks of a freight train accident, which could have disastrous consequences for Chicago and its residents, Mayor Emanuel has made it a priority to improve oversight of rail transportation of these hazardous materials. Earlier this year, the Mayor laid out a multi-pronged approach to reducing the risk of a catastrophe like the July 2013 derailment that devastated Lac Megantic, Quebec and killed 47 people. In a January 2014 speech to the U.S. Conference of Mayors, Mayor Emanuel proposed: (1) imposing a national hazardous materials freight fee on companies that extract crude oil and industrial consumers of it, and using the proceeds to rebuild America’s aging rail infrastructure; (2) setting stricter safety standards for tank cars; (3) using improved technology to build better railroads; (4) requiring rail

companies that transport hazardous material to carry insurance sufficient to compensate for the loss of life and property after an accident; and (5) requiring that municipal officials receive notice of shipments of hazardous materials through their cities. To help effectuate these common-sense measures, DOL is participating in the U.S. Department of Transportation's (USDOT) promulgation of new rules relating to the safe rail transportation of crude oil and other hazardous materials. DOL worked with the Mayor's Office and the Chicago Department of Transportation (CDOT) to submit initial proposals to improve tank car and train safety to USDOT. Then, after USDOT released the details of its own proposals, DOL worked with the Mayor's Office, Aldermen Burke and O'Shea, and CDOT to provide written comments on USDOT's proposed standards. Through these efforts, we are working to ensure that the national standards ultimately adopted best reduce the risk of freight train accidents, thereby protecting the health and safety of Chicago residents.

B. DOL's Continued Efforts to Preserve and Safeguard Neighborhood Housing

During the past year, DOL also continued to aggressively enforce "quality of life" ordinances that safeguard the City's housing stock and make Chicago residents and our communities safer.

1. Preserving Occupied Residential Properties

DOL has continued to aggressively prosecute lawsuits, before both the Department of Administrative Hearings (DOAH) and circuit court to preserve occupied residential properties – and keep them occupied. Working with the Buildings, Fire, Police, Health, and Streets and Sanitation Departments, these DOL efforts have preserved 10,800 occupied units, in just the first nine months of 2014.

Law also continues its work with community groups under the City's Troubled Buildings Program, which targets problem multi-unit properties. For the 12 months ending Sept. 30, 2014, we pursued 390 cases and, through litigation and receiverships, preserved nearly 4,200 housing units.

Essential to the health and safety of tenants, especially children and seniors, is ensuring that no one suffers from lack of heat. In 2014, Law responded to the especially cold winter by vigorously prosecuting properties whose tenants lack heat or hot water. DOL is proactive, working with Peoples Gas to receive notice

prior to the termination of service to larger buildings, which allows DOL attorneys to immediately move these buildings into court for possible receivership. During the 2013-14 heat season (September to May), DOL kept the heat on in more than 2,450 residential units in the City.

Finally, DOL continues to work with the Chicago Department of Public Health (CDPH) to bring more than 550 cases each year to protect children from the serious and long-term health hazards caused by lead paint. Through the administrative hearings process, owners are encouraged to enter into “mitigation plans” with the CDPH. In circuit court, DOL attorneys compel compliance through injunctions, and seek fines against owners who fail to promptly remediate lead-paint hazards.

2. Enforcement of the City’s Vacant and Abandoned Building Ordinances

Due to the post “Great Recession” increase in the number of vacant buildings and the serious problems they cause, DOL continues to use all of the prosecutorial tools at its disposal to stem the tide of vacant, abandoned buildings throughout the City. Since 2011, DOL has successfully prosecuted the Vacant Building Call, a court call dedicated solely to vacant and abandoned properties. By collaborating with other City departments and community organizations, the City attempts 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 for their vacant building, DOL will seek receivership and civil forfeiture, in addition to significant fines, to compel compliance.

Law also prosecutes vacant building cases at the DOAH. These cases involve buildings that have violated the City’s Watchman Ordinance, which requires that a “watchman” be posted at vacant buildings to ensure the safety of the building and the public. Through September 2014, more than \$1.3 million in fines were imposed on the Administrative Hearings Watchman Call.

During the first nine months of 2014, Law filed a total of 1587 cases involving vacant buildings, including 475 cases on the Vacant Building Call and more than 1,100 cases on the Watchman Call, at DOAH.

3. Increased Number of Demolition Cases

When buildings cannot be saved, our attorneys file cases to secure and demolish them. So far this year, our lawyers have filed more than 1,100

demolition cases, and we expect to file a total of approximately 1,300 demolition cases by the end of the year.

4. Eliminating Drug Sale and Crime Hot Spots

DOL continues to work with the Police and Building Departments to reduce narcotic trafficking by criminal street gangs and to prosecute the owners of businesses and residences that promote gang activity and encourage narcotics sales. So far this year, Law has filed more than 175 Drug and Gang House Enforcement cases in circuit court, and almost 430 such cases at the DOAH.

5. Responsible Establishment-Safe Neighborhoods Task Force

This task force was created in 2012 as a joint venture by DOL and the Buildings and Police Departments to address problem establishments with significant community complaints and/or criminal activity. Through September 2014, 422 problem businesses have been inspected, and 186 have been closed, pursuant to this program. Targeting these nuisance establishments reduces crime and encourages other establishments to follow the law. Examples of such closures during 2014 include:

- Nickel Liquors and Nickel Liquors & Mini Mart, located at 3637 West Division Street, which was the subject of an undercover investigation by CPD in which numerous narcotics sales were made to officers inside the store. DOL filed a case in circuit court and obtained a court order closing the business. City attorneys simultaneously prosecuted the revocation of Nickel Liquor's liquor license.
- The owner of Gonzalez Auto Parts, Inc. scrap yard was charged with the theft and shredding of eight school buses stolen from the south side last March. CPD had traced the dismantled school buses to the scrap yard, which was prosecuted under the Drug and Gang House Ordinance. DOL attorneys obtained a \$53,000 fine for the criminal activity that occurred at this location, and an order closing down the scrap yard.
- Jamaica Food & Liquor, at 4250 South Cottage Grove, was closed through a public nuisance license revocation hearing. The alderman and numerous community members testified at the hearing about the negative impact that the business had on the community. DOL was able to successfully establish that the business created a public nuisance and its licenses were revoked.

- The Factory, located at 12050-12054 South Doty, was held to be a public nuisance due to numerous weapons and felony violations that occurred at the premises, and all of its licenses were revoked. The Factory remains closed.

DOL also works closely with other City departments to make certain that liquor and other licensees are in compliance with the law. This year, more than 400 businesses were referred for investigation and dispositions were achieved in more than 300 cases, including 80 establishments that had licenses revoked, suspended, surrendered, or voluntarily closed due to violations.

C. Aggressive Prosecution of Illegal Signs and Billboards

DOL continued its aggressive prosecution of illegal signs in 2014. This included 146 hearings and the filing of 53 new cases. Thus far in 2014, more than \$90,000 in fines have been imposed, and our lawyers achieved compliance in at least 73 of the 146 cases heard. DOL also prompted the formation of a new Sign Permit Review Committee, which reviews sign permit applications received by the Departments of Buildings, Planning and Development, and Business Affairs and Consumer Protection. Our attorneys also worked with Buildings, Zoning, and Consumer Protection to completely revamp the sign application process by creating one detailed application for use by all three departments. This will ensure a consistently rigorous review and make the process more efficient. DOL also worked with these departments, as well as the Mayor's Office and several aldermen, to draft the City's new digital sign ordinance, which regulates the size, brightness, and location standards for digital signs.

D. Dangerous and Unsafe Water Tanks

DOL has partnered with the Department of Buildings to create a special task force to prosecute water tank structures on rooftops across the City. These water tanks are difficult to maintain, and require constant supervision and repair. Buildings is inspecting hundreds of these water tanks, and DOL has already filed more than 100 cases in circuit court this year involving problematic water tanks, towers, and supporting structures.

E. Life Safety Evaluations and High-Rise Buildings

All high-rise buildings are required to submit to the Fire and Buildings Departments a Life Safety Evaluation Report (LSE) grades the building on fire safety. These grades are determined by scores given in 22 separate categories. The LSEs contain important information, including whether the building has one- or two-way voice communications, and whether the building has a sprinkler system. The LSE must also include a “compliance plan,” describing when the building will install any necessary systems and otherwise obtain compliance with all applicable Code requirements.

Buildings and Fire have worked with building owners and condominium associations to get these reports submitted. However, for those high-rise buildings that still do not have an approved compliance plan, beginning in August 2014, DOL filed approximately 50 cases in circuit court. DOL also anticipates filing an additional 250 to 350 cases in 2015 against those high-rise buildings that have failed to perform the necessary work outlined in their approved LSE and compliance plan.

IV. Protecting and Recovering Taxpayer Dollars

Next, I highlight recent examples of DOL’s work in fighting to protect and recover taxpayer dollars, including several new initiatives.

A. Parking Meters Update

Last year, I reported that a team from Law and Finance had successfully completed negotiations with Chicago Parking Meters (CPM) to resolve a \$1 billion dispute over “true up” adjustments relating to the City’s exercise of its police powers with respect to the parking meter system in 2009 and 2010. As you know, the City also used these negotiations as an opportunity to negotiate various improvements to the agreement, including pay-by-cell and free Sunday parking in the neighborhoods. Recently, we had an independent consultant review the results of the first year under the amended Agreement, and I am happy to report that those results are very favorable:

- The trade of extended evening hours for free Sunday parking has resulted in net savings to parkers of at least \$2.1 million per year.

- The net benefit to parkers increases to an estimated \$2.6 million when certain changes in parking behavior observed in the data (such as the significant reduction in paid Saturday parking that appears to be attributable to free Sunday parking) are considered.
- When the effects of other changes to the Agreement (the transfer to the City of 17 surface lots and the transfer to CPM of an additional 834 spaces) are factored in, the overall net benefit to the City and parkers is at least \$1.8 million.
- Finally, the settlement of CPM’s claims as to future true-up adjustments, and the changes to the Agreement to adopt the City’s view of how the adjustment should be calculated, resulted in savings of \$25 million in the first year the Amendment was in effect. This \$25 million per year reduction equates to total true-up savings over the remaining 70-year life of the Agreement with a net present value of \$1 billion.

B. Suit Against Opioid Manufacturers

In past years, I have reported on several, million dollar-plus recoveries against drug manufacturers for deceptive marketing practices in connection with the City’s purchases of drugs under City health plans for its employees and retirees. Pursuant to this continuing initiative, in June, Chicago became the first city (and only the third governmental plaintiff, after two California counties) to sue the major manufacturers of opium-based painkillers (“opioids”), which include well-known prescription drugs like Vicodin, Oxycontin, and Percocet. The City’s lawsuit alleges that the manufacturers made false representations to both doctors and consumers that opioids are safe and effective for long-term use, with minimal risk of addiction, when, in fact, the opposite is true. The City is seeking to recover the estimated \$10 million it spent on unnecessary and harmful prescriptions of these drugs and for emergency room visits and treatment of substance abuse as a result of these misrepresentations over the past six years, plus treble damages, attorney’s fees, and costs. Our suit was recently featured in the New York Times and other national media, where it was described as an effort “to combat the growing abuse of heroin and opioid painkillers.”

C. Recovery for M/WBE and DBE Fraud

DOL likewise continued to aggressively fight fraud and non-compliance by vendors in connection with the City's Minority and Women Owned Business Enterprise (MWBE) and Disadvantaged Business Enterprise (DBE) programs. Most notably this year, DOL (along with the Illinois Attorney General and the U.S. Department of Justice) reached a \$14 million settlement with McHugh Construction, one of the nation's biggest construction companies, to resolve claims that McHugh had unlawfully secured contracts for several Chicago projects by falsely claiming that it used a DBE-qualified subcontractor for work that McHugh performed itself. Under the settlement agreement, McHugh agreed to pay the Federal and State governments \$12 million in damages. Because the contracts for the City projects were completely funded by the Federal and State governments, the City did not have its own false claims damages. McHugh nonetheless agreed to make a donation of \$2 million to the City, to be dedicated to the City's M/WBE and DBE programs, to ensure that these programs are fully implemented and that all qualifying City projects fully comply with their requirements. In addition, McHugh agreed to enter into a detailed compliance agreement in which it agreed to reform its M/WBE and DBE programs going forward and to hire and retain an independent monitor to ensure M/WBE and DBE compliance. We hope that these reforms will become a model for the construction industry, both in Chicago and nationwide.

D. Harvey Water Bills Collections Suit

For many years, Chicago has sold water to Harvey and Harvey, in turn, has resold that water at a substantial markup to its residents and five other suburbs. Starting in 2009, Harvey began falling behind on its water bills, and in May 2014, it stopped paying its bills entirely. Accordingly, the City brought suit against Harvey, seeking all amounts owed, which currently total more than \$25 million, including late. Recently, DOL successfully obtained a court order requiring Harvey to deposit all revenues it receives from reselling Chicago water to other municipalities into its Water Fund, to be spent only for water-related purposes, including paying Chicago's water bills. Pursuant to that order, Harvey made its first payments in months to the City totaling more than \$1.9 million – and we expect that Harvey will continue to pay the full amounts due on other current bills. DOL will continue to aggressively pursue this litigation to ensure that Harvey

continues to make timely payment for current deliveries and to recover for the past-due amounts that Harvey owes.

E. Strengthened Debt Collection Efforts

Lastly, I am pleased to report that the revenue generated by DOL's Collections Division reached an all-time high of \$166 million in 2013, an increase of 16% from the prior year. For 2014, DOL has identified and implemented a three-prong strategy for further improving the City's debt collection. At present, the City is on track to collect even more than last year, and we believe this success is at least in part attributable to these new initiatives:

- DOL's Collections Division worked to improve the quality of administrative judgments (and thus to increase the likelihood that DOL can collect on the judgments) by: training the City's ticket writers to instill greater knowledge of the Municipal Code and how it should be enforced; providing more accurate property ownership and service addresses to ensure proper notice of court proceedings; and providing expert prosecution of citations filed at the Department of Administrative Hearings.
- The Collections Division continued to identify and implement systems to collect more debt in house, which is more cost effective than referring debt to outside firms for collection. This included sending out automatically generated demand letters, withholding permits and licenses until debt is satisfied, and offering and managing payment plans when debtors cannot pay their outstanding fines and fees all at one time.
- For the remaining circumstances in which DOL must refer debt to outside law firms for collection, the Collections Division devised and implemented innovative, new strategies for monitoring and supporting these efforts. This included referring matters to outside counsel more quickly, so the debt is fresh and the chances of recovery are greater, and making improvements to the computerized water billing system that allow outside firms to set up payment plans.

V. Examples of DOL's Work and Accomplishments in 2014

Even a summary of DOL's other work and accomplishments in 2014 would be too lengthy for purposes of this statement. Accordingly, set forth below are just some examples of that work – and the return to the City and its taxpayers on their investment in the Department.

A. Building and License Enforcement

- Brought over 550 cases to protect children from lead paint.
- Prosecuted more than 300 cases to restore heat in more than 2,400 residential units.
- Prosecuted more than 175 cases in circuit court and 430 cases in the Department of Administrative Hearings under the City's Drug and Gang House Ordinance.

B. Debt Collections

- Through September, collected more than \$133 million in fines, assessments, and other debts owed to the City.
- Continued to work with the Department of Finance and State Comptroller's Office to recoup money owed to the City by intercepting tax refunds. Through August, the City collected over \$23 million through this offset program. This is a 50% increase from 2013.
- Through the first three quarters of 2014, the City's Payment Plan Hotline has generated \$1.4 million in payments to the City. The payment hotline allows debtors to set up payment plans on all types of administrative debt. Currently there are more than 3,339 open payment plans.
- The City's License Hold Payment Plan keeps dozens of small business open by allowing them to remove license and permit holds on their businesses in exchange for making a down payment equal to 50% 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.

C. Contracts and Regulatory Affairs

- Drafted, reviewed, and/or provided advice concerning more than 500 matters, including contracts, amendments, bid solicitations, requests for proposals, and requests for qualifications.
- Assisted Aviation and Finance in negotiating, drafting, and closing a \$288 million loan from USDOT and a \$249 million bond issuance to fund new rental car/intermodal transportation facility at O'Hare.
- Opposed a rate increase request from Peoples Gas at the Illinois Commerce Commission, which resulted in a \$37 million reduction in the rates charged City residents and businesses.
- Obtained a ruling from the Illinois Commerce Commission requiring that ComEd credit the City for its own street light facilities, reducing the City's electricity bill by \$500,000 per year.
- Opposed ComEd's denial of funding for certain energy efficiency measures in multifamily space-heat buildings and Peoples Gas' denial of funding for air sealing measures. Helped obtain approval for \$31 million in funding to retrofit buildings in order to reduce electricity bills of City residents.

D. Finance and Economic Development

- Documented and closed 64 transactions, providing more than \$286 million in TIF assistance to various redevelopment project areas. These transactions included: 15 residential developments, providing TIF financing for 1,144 affordable rental units; and 49 commercial, industrial, institutional, and public developments, providing financing for park and CTA improvements, and school and library construction.
- Assisted in the expansion of other TIF programs: 12 TIF areas were added to the Small Business Improvement Fund (SBIF) Program, with an increased commitment of \$7,750,000; 2 TIF areas were added to the

Neighborhood Improvement Fund (NIF) Program, with an increased commitment of \$750,000; and 3 TIF areas were added to the Vacant Building TIF Purchase and Rehabilitation Program, with an increased commitment of \$3,000,000.

- Worked on 102 non-TIF intergovernmental agreements, including various cooperation agreements with sister agencies, including: mobile vision, dental, Medicaid enrollment, disease prevention, and data-sharing programs for the Chicago Public Schools; substance abuse prevention program and related educational services with the Chicago Housing Authority (CHA); an agreement with Cook County for immunization registration system enhancement; assisting the Chicago Park District in providing expanded arts programming; and providing supplemental police services at CHA developments (generating \$6 million per year from CHA), in the parks (an anticipated \$4 million per year from the Park District), and at Chicago Public School sites (\$13 million per year from CPS).

E. Labor

- Successfully concluded negotiations for new collective bargaining agreements covering more than half of all City employees, including: the Fraternal Order of Police, representing approximately 11,000 sworn Chicago police officers, as well as separate agreements for Police Sergeants, Lieutenants, and Captains; the Chicago Fire Fighters Union, Local 2, representing 4,550 members; and the American Federation of State, County and Municipal Employees (AFSCME), the City's largest civilian bargaining unit, representing approximately 3,300 City employees.
- Drafted employee discipline charges in more than 100 cases.
- Defended the City in 115 discrimination charges, 180 arbitrations, 20 Labor Board cases, two Department of Labor cases, and 17 disciplinary appeals in state court.

F. Legal Information

- Conducted 17 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.

G. Legislation

- Advised the Mayor's Office and various City departments and aldermen concerning, and assisted in drafting, numerous ordinances and statutes affecting public safety, health, and quality of life, including: an increased minimum wage; the regulation of (and a moratorium on closing) single room occupancy hotels; improved hazmat tank car safety rules; more stringent regulation of E-cigarettes and flavored tobacco products; and the regulation of petcoke, commercial ridesharing companies, pedicabs, gun stores, riverbank and digital signs, and medical cannabis cultivation centers and dispensaries.

H. Litigation

- Employment. Won or obtained dismissal in 28 cases with no liability to the City. Settled 13 cases, paying \$100,000 or less in all but two of those cases.
- Constitutional and Commercial. Successfully defended City Council's zoning decisions on several major developments, including Wolf Point and a new multi-use development on 53rd Street in Hyde Park. Defended a number of federal lawsuits filed against the Chicago Police Department concerning the registration of sex offenders and worked with the registration unit to improve the registration process. Successfully opposed six of seven emergency motions for temporary restraining orders filed against the City in a wide range of matters; in the seventh case, the court later dismissed all the claims made against the City in that case.
- Appeals. Filed briefs in 87 cases. Won 55 of 71 cases decided in which the City filed a brief as a party. Significant victories include the City ward remap and Great Lakes management.

- Police. Won or obtained dismissal in 72 of 186 cases resolved through September 2014 with no liability to the City. Through September, tried 29 cases, winning 22, or 76%, of those cases.
- Torts. Through September, defended almost 400 new lawsuits, winning 15 of 21, or 71%, of cases tried. Damages in the cases the City lost totaled \$4.5 million, or just 29.9% of the \$15 million requested by the plaintiffs in these cases. Also, resolved an additional 434 cases without trial, 246, or 56.7%, of which were resolved without any payment by the City. Favorably disposed of 1,246 out of 1,393 cases on administrative review, tried 68 workers' compensation cases before the Industrial Commission, and had the City's defense accepted by insurance or other third parties in 49 tort cases.

I. Municipal Prosecutions

- From September 2013 through August 2014, made 21,983 attempts to serve 14,066 documents, including summonses and subpoenas for code enforcement cases and testimony at depositions and trials, thereby saving the City \$1.3 million that would otherwise have been paid to the Sheriff's Office.
- Through September 2014, prosecuted 15,555 Municipal Code violations, imposing \$831,000 in fines in Branch Courts.
- Through September 2014, prosecuted nearly 240,000 traffic violations (a 10% increase from 2013), and imposed \$6.8 million in fines in Traffic Court.

J. Real Estate

- Worked with the Department of Planning and Development (DPD) to create the Large Lot Pilot Program recommended in the Five Year Housing Plan and the Green Healthy Neighborhoods Plan to sell multiple City-owned lots for \$1 per parcel in Englewood, West Englewood, Woodlawn, Washington Park, and parts of New City, Fuller Park, and Greater Grand Crossing. Received applications for 550 vacant lots, approximately 320 of which will be sold before the end of the year.

- Worked with DPD to rezone the former Chicago Milwaukee, St. Paul, and Pacific Railroad right of way and adjacent properties to facilitate the construction and operation of the 606 Trail and park system (a.k.a. the Bloomingdale Trail).
- Generated over \$1.2 million in revenues through the sale of vacant land for neighborhood and community improvements.

K. Revenue Litigation

- Collected over \$10 million in various taxes. On average, this represented collections of more than \$1 million for each attorney staffing these cases.
- In a suit against the major on-line travel companies for failing to collect and remit the City's hotel tax, obtained a favorable ruling that the defendants are required to collect tax based on the full amount paid by their customers. Since that time, reached settlements with three of the four defendant groups. Settlements include defendants' agreement to begin collecting the tax, and to pay tax owed for prior periods. Individual payment amounts are subject to confidentiality provisions, but total several million dollars.
- In a suit to apply the City's amusement tax to the sale of permanent seat licenses (PSLs) to view Bears football games at Soldier Field, received a favorable ruling that both the sale and resale of PSLs are taxable, which was affirmed on appeal. Reached an agreement in principle with the Bears as to procedures whereby such taxes will be collected on future sales of PSLs.
- Defeated more than \$14 million in property tax refund claims, which helped prevent a shift of about \$14 million in property tax burden onto residential and small business property owners.

Law Department

2015 Budget Hearing

MBE/WBE Contracting Data

Period: 1/1/14 – 9/30/14

Total Purchases: \$1,950,184.52

<u>MBE/WBE Spend</u>	
WBE:	\$194,323.93 (9.96%)
Asian MBE:	\$15,882.58 (.81%)
African-American MBE:	\$347,272.69 (17.81%)
Hispanic MBE:	\$37,072.12 (1.90%)
Total Purchases:	\$594,551.32 (30.49%)

Department Managers Ethnicity and Gender				
	Male	Female	Total	%
Am. Indian	1	0	1	2.38%
Black	1	3	4	9.52%
Hispanic	0	1	1	2.38%
White	21	15	36	85.71%
Total	23	19	42	
	54.8%	45.2%		

White	113	116	229	64.0%
Total	141	217	358	
	39.4%	60.6%		

Staffing Data

Department Ethnicity and Gender				
	Male	Female	Total	%
Am. Indian	1	1	2	.5%
Asian	3	17	20	5.6%
Black	18	66	84	23.5%
Hispanic	6	17	23	6.4%

Attorney New Hires Ethnicity and Gender				
	Male	Female	Total	%
Asian	0	3	3	17.6%
Black	0	3	3	17.6%
Hispanic	0	1	1	6.0%
White	3	7	12	58.8%
Total	3	14	17	
	17.6%	82.4%		

Interns

All New Hires Ethnicity and Gender				
	Male	Female	Total	%
Asian	0	3	3	15%
Black	0	4	4	20%
Hispanic	0	1	1	5%
White	5	7	12	60%
Total	5	15	20	
	25%	75%		

School	Gender	Race
Wright College	Male	White

DEPARTMENT OF LAW
ORGANIZATION CHART

