

**Statement of Corporation Counsel Stephen R. Patton
In Support of the Department of Law's
Proposed 2014 Budget**

November 8, 2013

Thank you for the opportunity to testify before you today in support of the Department of Law's ("DOL's") proposed 2014 budget.

My testimony is organized into five parts. Part I provides a brief overview of the Department, including its mission and the work that it performs. Part II describes steps the current administration has taken to reduce the City's legal costs. Part III discusses recent Department initiatives to improve 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 the Department's various divisions during the past year.

Like my statements in 2011 and 2012, 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 laid out 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 for 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.

DOL's functions and aspirations are summarized in the following mission statement which I drafted at the Mayor's request in May 2011 shortly before I assumed this position:

The mission of the Corporation Counsel and the City's Law Department is to provide the City and its various departments, officials, and employees, with the very best legal representation possible, as efficiently and cost-effectively as possible. This includes providing the very best advice and counseling with respect to contracts, real estate and other transactions, proposed and actual legislation, and policy initiatives, and the very best representation in negotiations and in litigation, regulatory and other proceedings. The Corporation Counsel and the Law Department will provide such counseling and representation with the goal of furthering and protecting the financial and other interest, and the public safety, of the City and its citizens, and anticipating and avoiding and/or minimizing the City's exposure to adverse financial and other effects, including adverse legal rulings, judgments and awards.

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 (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 its 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 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 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 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 has achieved significant cost savings for taxpayers. As illustrated in the following chart, 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 \$34 million from the projected costs if these cases had been settled on the eve of trial or tried.

Estimated Savings from Early Assessment Program

Case Name	Date Settled	Projected Damages + Projected Fee	Settlement Amount	Estimated Savings
<i>Ligue v. Martin</i>	9/4/2013	\$75,000 plus \$300,000	\$85,000.00	\$290,000.00
<i>Howard v. Stacker</i>	8/30/2013	\$400,000 plus \$500,000	\$100,000.00	\$800,000.00
<i>Rafati v. Burkes</i>	7/10/2013	\$100,000 plus \$400,000	\$50,000.00	\$450,000.00
<i>Lias v. City</i>	7/10/2013	\$100,000 plus \$300,000	\$48,750.00	\$351,250.00
<i>Salgado v. City</i>	5/28/2013	\$75,000 plus \$500,000	\$160,001.00	\$414,999.00
<i>Prater v. City</i>	4/30/2013	\$100,000 plus \$300,000	\$70,000.00	\$330,000.00
<i>Redmond v. City</i>	4/9/2013	\$100,000 plus \$300,000	\$30,000.00	\$370,000.00
<i>Henry v. Sledge</i>	4/8/2013	\$75,000 plus \$200,000	\$50,000.00	\$225,000.00
<i>Helton v. City</i>	3/2/2013	\$7 million	\$4,500,000.00	\$2,500,000.00
<i>Ayala v. City</i>	2/25/2013	\$200,000 plus \$400,000	\$156,000.00	\$444,000.00
<i>Farmer v. City</i>	2/19/2013	\$10 million plus \$1 million	\$4,100,000.00	\$6,900,000.00
<i>Rent v. City</i>	2/15/2013	\$200,000 plus \$250,000	\$55,000.00	\$395,000.00
<i>Pough v. Barajas</i>	2/10/2013	\$95,000 plus \$250,000	\$75,000.00	\$270,000.00
<i>Phillips v. Duran</i>	2/1/2013	\$275,000 plus \$200,000	\$2,900.00	\$472,100.00
<i>Obrochta v. Wrobel</i>	1/13/2013	\$75,000 plus \$200,000	\$23,000.00	\$252,000.00
<i>Nicholson v. City</i>	12/15/2012	\$100,000 plus \$300,000	\$62,500.00	\$337,500.00
<i>Searcy v. City</i>	10/12/2012	\$750,000 plus \$300,000	\$100,000.00	\$1,400,000.00
<i>Stagger v. City</i>	9/20/2012	\$80,000 plus \$300,000	\$16,000.00	\$364,000.00
<i>Patterson v. City</i>	8/10/2012	\$8 million plus \$1.2 million	\$3,400,000.00	\$5,800,000.00
<i>Cordero v. City</i>	7/25/2012	\$300,000 plus \$400,000	\$185,000.00	\$515,000.00
<i>Simmons v. City</i>	3/22/2012	\$250,000 plus \$700,000	\$99,000.00	\$851,000.00
<i>Gray v. City</i>	2/6/2012	\$625,000 plus \$750,000	\$75,000.00	\$1,300,000.00
<i>Jeffries v. City</i>	1/30/2012	\$100,000 plus \$700,000	\$99,999.00	\$700,001.00
<i>Johnson v. City</i>	1/21/2012	\$100,000 plus \$300,000	\$99,000.00	\$301,000.00
<i>Parra v. City</i>	1/13/2012	\$100,000 plus \$450,000	\$90,000.00	\$460,000.00
<i>Triplett v. City</i>	1/12/2012	\$200,000 plus \$500,000	\$99,000.00	\$601,000.00
<i>Swanigan v. City</i>	1/5/2012	\$200,000 plus \$500,000	\$67,500.00	\$632,500.00
<i>Lewis v. City</i>	1/3/2012	\$100,000 plus \$250,000	\$5,000.00	\$345,000.00
<i>Elia v. City</i>	12/12/2011	\$40,000 plus \$200,000	\$17,500.00	\$222,500.00
<i>Cross v. City</i>	12/10/2011	\$300,000 plus \$400,000	\$70,000.00	\$630,000.00
<i>Carter v. City</i>	12/8/2011	\$200,000 plus \$500,000	\$20,000.00	\$680,000.00
<i>Brady v. City</i>	10/25/2011	\$50,000 plus \$300,000	\$25,000.00	\$325,000.00
<i>Coleman v. City</i>	8/10/2011	\$5 million plus \$500,000	\$1,300,000.00	\$4,200,000.00
TOTAL		\$35,365,000 plus \$13,650,000 = \$49,015,000	\$15,336,150.00	\$33,678,850.00

Estimated Percentage Savings - 69%

This chart lists 32 police cases that have been settled pursuant to Law's early assessment initiative. 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' would have totaled \$49 million. Utilizing our early assessment strategy, the City was able to settle these cases for \$15.3 million, including attorneys' fees and costs, which represents a 69% savings from the projected costs.

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 and the resulting savings. 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.

One recent example of both Law's early assessment and risk management strategies is a class action case involving female firefighter candidates that was settled in September. In that case, *Vasich, et al v. City of Chicago*, plaintiffs alleged that the Fire Department's physical aptitude test for new hires discriminates against women. In many respects, *Vasich* was similar to the *Lewis* case brought by African-American firefighter applicants that the City litigated for 17 years and lost shortly before the current administration took office, and which has cost the city \$74 million in damages and attorney's fees to date. *Vasich* could have resulted in similar exposure if the problems it revealed had not been proactively addressed by the Law Department working in tandem with the Fire Department. In *Vasich*, rather than embark on such a protracted and expensive legal battle with an uncertain outcome, we adopted a litigation strategy that eliminated future exposure, limited the past damages the putative class could claim, and offered the Fire Department a unique opportunity to increase gender diversity.

The case was based on the CFD's use of the Physical Abilities Test, or PAT, for hiring entry level firefighters. Since CFD started using this test in 1996, 93% of male applicants have passed, while an average of only 19% of females did so. Based on these differential test results, it was undisputed that the PAT had an adverse impact on female PAT test-takers.

While some differential in pass/fail rates for physical abilities testing is expected due to physiological differences between men and women, the law requires that an employer ensure that any differences are truly job related and that there is no alternative test available that is equally valid but results in less adverse impact.

Shortly after the filing of the *Vasich* complaint, the City identified such an alternative test – the Candidate Physical Abilities Test (“CPAT”). CPAT is a nationally-recognized physical abilities test for the entry level firefighter position that is used by hundreds of fire departments nationwide, including all but one of the 10 largest fire departments in the country, and more than 80 municipalities in Illinois. CPAT was developed in cooperation with the International Association of Firefighters, the largest trade association of firefighter unions in the country, and has been sanctioned by the U.S. Equal Employment Opportunity Commission. Most importantly, 50% of all women pass the CPAT, approximately 2½ times the pass rate for the PAT.

In short, the *Vasich* suit posed a substantial risk to taxpayers because another less discriminatory and equally valid alternative, the CPAT, was widely available but not even considered by the CFD when the PAT was last modified in 2006.

The Law Department moved swiftly after becoming aware of the CPAT test. First, it recommended – and the Fire Department agreed – to forego the PAT and instead adopt CPAT. This proactive step greatly reduced the City's potential exposure and eliminated entirely any future claims arising from CFD's use of an allegedly discriminatory test.

We then made an initial settlement offer in November 2011, just four months after the *Vasich* complaint was filed. This offer included use of the CPAT test going forward and the opportunity for class members to retake the physical abilities test using CPAT and, if they passed, enter the academy, provided they successfully completed CFD's other screening and testing requirements. When this offer was rejected due to what we believed to be plaintiffs' excessive demands for past damages, we filed a

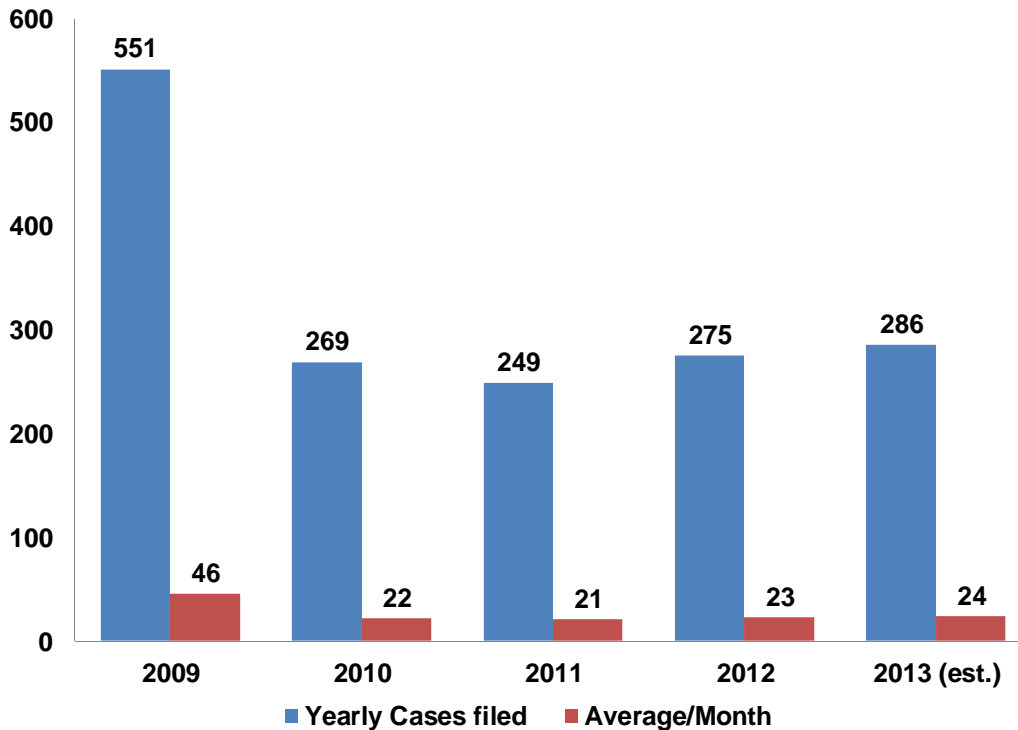
motion for summary judgment to limit the class period and the damages. This motion, which was granted in the fall of 2012, reduced plaintiffs' potential recovery to just 20% of what plaintiffs had originally sought.

Following the City's victory on summary judgment, the parties restarted settlement discussions in the fall of 2012. After a total of eight mediation sessions, a settlement was finally achieved. While the Plaintiffs initially claimed that the the City's exposure in this matter was \$10-\$12 million, excluding attorneys' fees, the City eventually settled the case for \$1.98 million, plus attorney's fees to be determined by the court, but not to exceed \$1.7 million. In addition, *Vasich* class members who pass the CPAT and fulfill CFD's other hiring requirements on a timely basis will be hired in either the 2013 or 2014 firefighter classes. As a result of the collaboration between the Law Department and the Fire Department, the City successfully limited current and future exposure to taxpayers, while also providing a unique opportunity to increase gender diversity in the Fire Department.

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 the following chart illustrates, this decline in the number of new police cases filed against the City has held steady since this policy first became effective in 2010.

Number of New Police Cases 2009-2013



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 percent reduction in new cases has continued, with the number of new filings remaining relatively constant at approximately 270 cases per year.

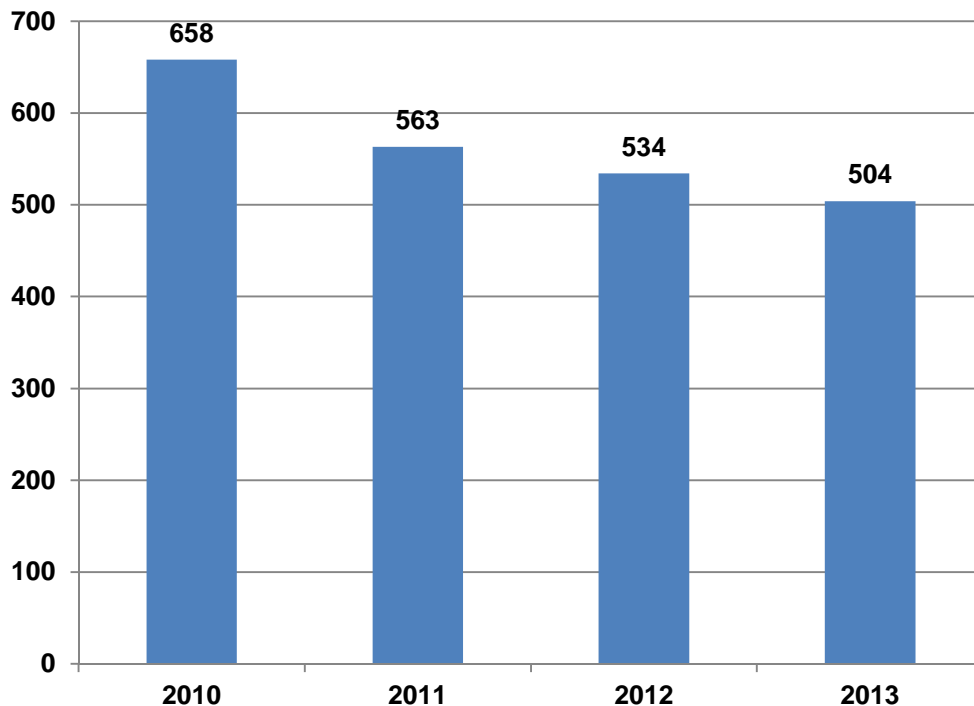
Overall, the City continues to try a significant number of cases and to win a significant percentage of those cases. Thus, through September of this year (the first 9 months of the 2013 budget year), our police and torts divisions tried 50 cases to verdict. They won 36, or 72%, of those cases. This winning track record resulted in significant savings to taxpayers. In those 50 cases, the plaintiffs sought more than \$52 million in damages but recovered only \$9.4 million or 18% of that amount.

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 Backlog of Pending Cases

The Law Department's multi-pronged approach to reducing legal costs to taxpayers has also resulted in a reduction in 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.

**Total Police Cases Pending
2010-2013**

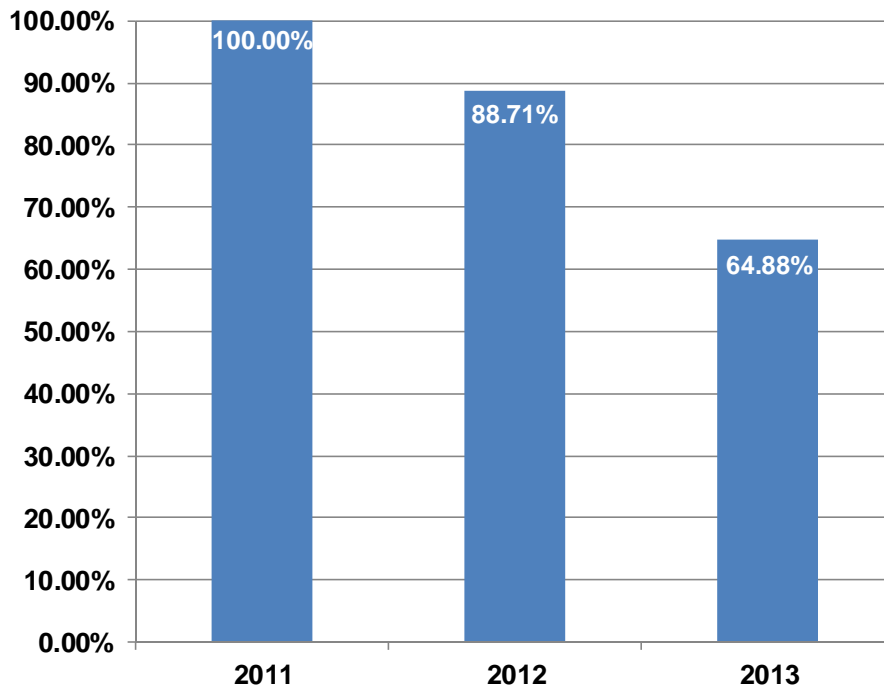


In 2010, the last full year before the current administration took office, 658 police cases were pending. Since then, we have reduced the number of pending cases by more than 25% (154 cases), to 504 cases pending as of September 2013.

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 both (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 2 ½ years, we have made significant progress in eliminating this backlog, both through 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
2011-2013**



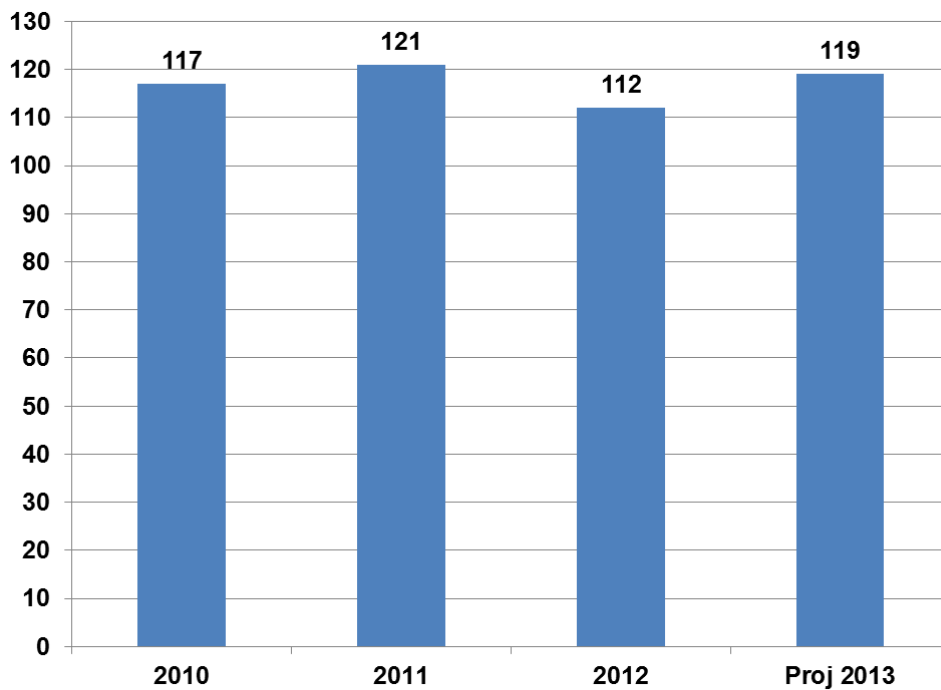
All of the settlements and judgments the City paid in 2011 related to cases that predated the current administration. In 2012, 89% of the settlements and judgments paid related to such legacy exposures. And, even this year, almost two-thirds of the total amount paid by the City for settlements and judgments (65%) 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. This should result in a reduction in the amount

that the City is required to pay in settlements and judgments in future years.

One final fact that bodes well for the future. While the number of pending cases has dropped each of the last three years, the number of cases the City has disposed of without settlement or trial and at no cost to taxpayers has not. This is demonstrated by the following chart, which shows the number of police cases dismissed, without any payment to plaintiff, each year starting with 2010.

**Number of Police Cases Dismissed at No Cost to the City
2010-2013**



In short, the number of police cases disposed of at no cost to taxpayers has remained relatively constant at approximately 120 cases per year, even as the number of pending cases has declined by more than 25%. This means that a greater percentage of police cases filed against the City are being resolved at no cost to taxpayers.

E. Resolution of Inherited Burge Cases

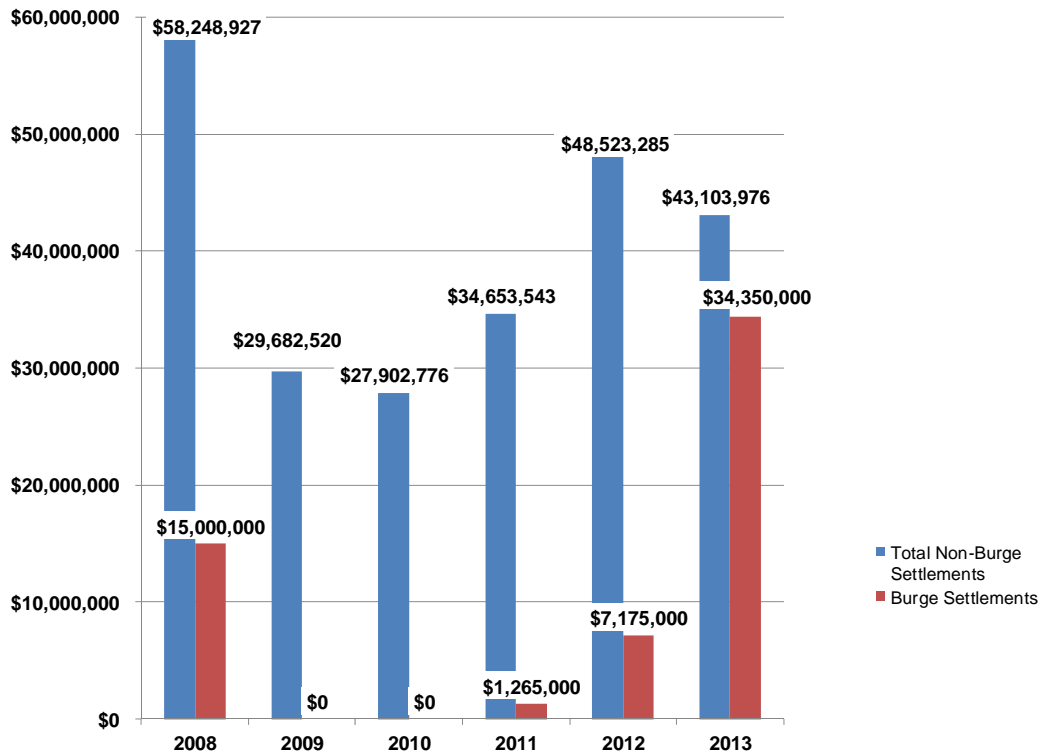
Among the backlog of inherited cases the City has resolved over the past 2 ½ years are those involving former Chicago police officers under the command of then-Area 2 Commander Jon Burge.

These settlements represent a significant milestone in closing this dark chapter in the City's history. When this administration took office in May of 2011, it inherited eight Burge cases. At the Mayor's direction, the Law Department conducted a thorough review of these cases in order to determine the best course of action to resolve these cases and protect Chicago taxpayers. Each case was painstakingly evaluated on the strength of the evidence, the likelihood of guilt or innocence on behalf of the plaintiff, and the extent to which Burge himself did or did not participate in the misconduct alleged by plaintiffs.

In September, City Council approved settlements in the last two cases we inherited upon taking office. Of the eight cases, six were settled, and two were won through court rulings. The proposed settlement amounts varied based on the merits of each case. Only three cases now remain: a new case that was filed earlier this year; and the two cases we won, which are currently on appeal.

These settlements account for almost 50% of the total amount that the City has spent on legal settlements this year (\$32.5 million out of a total of \$73.2 million). Thus, when 2013 settlement expenses are "normalized" to exclude Burge settlement amounts, they are generally in line with past years.

Total Burge and Non-Burge Settlements 2008-2013



In fact, the total amount of non-Burge settlements in 2013 exceeded only those in 2009, 2010, and 2011, when the prior administration implemented a “no settlement policy” that was in large part responsible for the large volume of unresolved cases the current administration inherited when it took office in May 2011.

As the Mayor has stated, resolving these legacy cases closes a dark chapter in the City’s history and enables us to move forward as a more united and less polarized City. And, although I cannot guarantee that new Burge cases will not be filed in the future, I can say that the City, and the Chicago Police Department in particular, have put in place measures to ensure that the abhorrent conduct that led to these cases will not happen again.

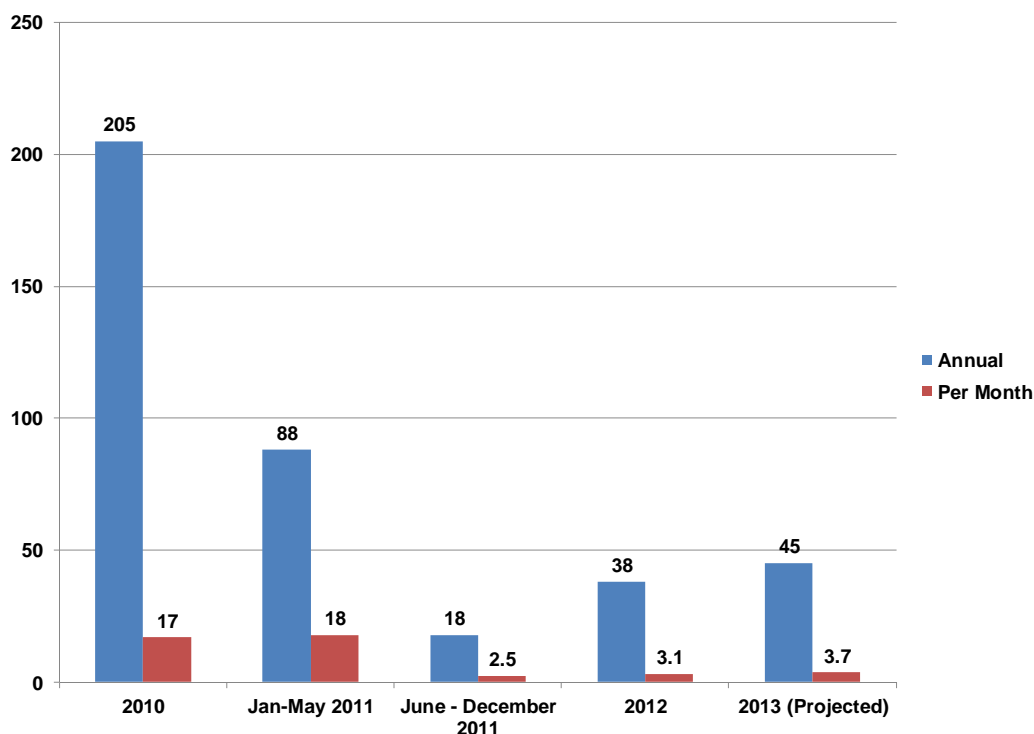
F. Handling More Cases In-House

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 45 in 2013.

While this represents a slight increase from the 38 cases referred to outside counsel last year, it is still 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
2010-2013**



G. Pro Bono Program

Another initiative that I described in my first budget report to you two 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, a total of 19 firms have participated in this program to date, contributing their time to the City at either no cost or at greatly reduced

rates 50% or more below their normal hourly rates. The value of the pro bono legal services they have contributed to the City total more than \$12 million. This includes more than \$2 million in free legal services in 2013.

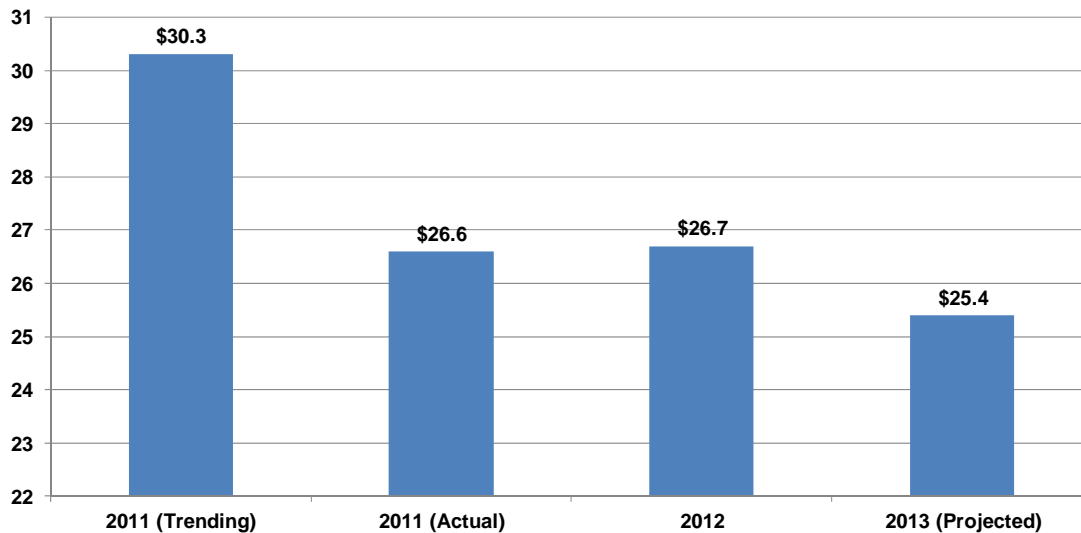
Firm	Savings to the City
Barlit Beck Herman Palenchar & Scott LLP	\$5,085,000
Jones Day	\$1,626,760
Kirkland & Ellis LLP	\$1,382,265
Mayer Brown LLP	\$1,260,087
FTI Capital Advisors	\$561,057
Schiff Hardin LLP	\$535,075
Barnes & Thornburg LLP	\$526,854
Sidley Austin LLP	\$273,596
Fulbright & Jaworski LLP	\$250,000
Chapman and Cutler LLP	\$149,874
Perkins Coie	\$118,388
Richard J. Prendergast, Ltd.	\$102,650
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, PC	\$14,397
Fox, Swibel, Levin & Carrol, LLP	\$8,000
Grant Schumann LLC	\$4,060
	\$12,140,901

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

H. Reduction in Outside Counsel Costs

All of the foregoing initiatives and efforts have contributed to a continuing reduction in the amounts the City spends on outside counsel. These costs are projected to decrease another \$1.3 million, or a further 5%, in 2013, notwithstanding a number of one-time expenses that inflated this year's total.

DOL Outside Counsel Costs (in millions) 2011-2013



When the current administration took office in May 2011, the City's spend on outside counsel was running at a \$30.3 million annual rate. We were able to reduce that spend by more than \$3.5 million during the remainder of 2011, to \$26.6 million. We were then able to maintain those savings in 2012. This year we project a further \$1.3 million reduction in outside counsel expenditures, to \$25.4 million. These savings are even more impressive when the City's 2013 expenditures are adjusted for a series of one-time, non-recurring expenditures totaling more than \$1.8 million. This includes legal fees for the ward remap litigation, school closing litigation, the parking meters arbitration and settlement, and the Midway Airport privatization transaction. When these one-off expenditures are eliminated, the 2013 reduction in outside counsel costs totals more than \$3.1 million, or more than 11 percent.

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. This included:

- Aggressively enforcing the City's vacant and abandoned buildings ordinances and taking other steps to preserve the City's housing stock;

- Prosecuting an increasing number of demolition cases;
- Eliminating drug sale and crime hot spots;
- Working with the Responsible Establishment Safe Neighborhoods Task Force to secure Safe Passage Routes;
- Actively preserving occupied residential buildings through measures such as the Heat Program and the Troubled Buildings Initiative; and
- Closing businesses that create a public nuisance.

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

Due to the sharp 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 on the Watchman Call at the Department of Administrative Hearings. 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 2013, more than \$2.3 million in fines were imposed on the Administrative Hearings Watchman Call.

During the past year, particular attention has been given to the prosecution of vacant buildings which are adjacent to schools and parks, or otherwise endanger children, including buildings on or adjacent to Safe Passage routes. Through September of this year, Law had filed more than 120 cases in Safe Passage zones. In total, Law filed 1,271 cases involving

vacant buildings, including 350 cases on the Vacant Building Call, during the first nine months of 2013.

B. Increased Number of Demolition Cases

When buildings cannot be saved, our attorneys file cases to secure and demolish them, often with great benefit to the community. One recent example is a building located at 4858 S. Winchester, close to two schools, which was in a dangerous condition and attracting violence from several rival gangs. DOL attorneys obtained emergency authorization to demolish the structure, removing a serious threat to the neighborhood.

So far this year, our lawyers have filed 921 demolition cases, and we expect to file a total of approximately 1,300 demolition cases by the end of the year.

C. 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 businesses that promote gang activity and encourage narcotics sales. So far this year, seven licensed establishments operating as "cocaine convenience stores" have been closed as a result of these efforts. Aggressively targeting businesses that provide cover for criminal enterprises improves public safety and protects the patrons and neighbors of these buildings.

DOL's efforts also extend to residential buildings plagued with crime. Through September 2013, Law has filed more than 270 Drug and Gang House Enforcement cases in circuit court, and almost 430 such cases at the Department of Administrative Hearings.

One example of DOL's aggressive prosecution of drug and gang house crime is the 13-building complex at Pine and Lotus streets in the Austin neighborhood, where eight drug, gang and crime-infested buildings were demolished in May 2013. This was the culmination of an 18-month effort by DOL to finally abate this drug and gang hotspot, which had been described by the local police commander as "the armpit of a drug infested neighborhood." Over the past 15 years, the police dedicated an extraordinary amount of resources to abate the crime there, which was entrenched at the complex due to the lack of responsible ownership. In

fact, there were approximately 1500 police calls for service at the complex in the 18 months prior to the City taking action, for crimes including drug dealing, shootings, and illegal gang parties. The approximately 30 owners of the buildings in the complex were never able to organize a successful response to the crime, and the demolished buildings were all severely neglected and contained serious building code violations.

D. Responsible Establishment Safe Neighborhoods Task Force

This task force was created in 2012 as a joint venture by DOL, the Buildings Department, and CPD to target problem establishments with significant community complaints and/or criminal activity. To date, over 200 problem businesses have been inspected, and over 75 have been closed, either through the Building Commissioner's police powers or court orders. Targeting these nuisance establishments has reduced crime and encouraged other establishments to follow the law.

A closely-related DOL priority has been ensuring safe passage for Chicago school children, including eliminating problems caused by bad businesses in buildings along safe passage routes. DOL has worked closely with the Building Department to get problem buildings into court as quickly as possible. Examples include:

- 6230 S. Ashland (U.S. Market) and 6531-35 S. Halsted (Hot Line Wireless). After being advised of these problem businesses, DOL promptly requested an inspection, and the Building Department found hazardous conditions that resulted in the immediate closure of the businesses. DOL then filed emergency complaints in circuit court, which resulted in these businesses remaining closed. DOL is now prosecuting business license revocation litigation with respect to both of these properties.
- 7059 S. Halsted (The Connect). Connect Cell Phone and Clothing Store at 7059 S. Halsted was a hotbed of criminal activity. Police had recovered over 1,500 grams of cannabis at the property, as well as 13 iPads stolen from nearby Dewey Elementary School. DOL attorneys filed a case and obtained a court order to vacate and close the business.

- 2847 W. Washington (Hotel Parie). Hotel Parie is a licensed single-room occupancy hotel. Prostitutes were loitering in front of the building. DOL attorneys quickly called the owner in for a meeting with the Police Department, and the owner agreed to hire security from 6 a.m. to 6 p.m. and to ban known prostitutes from renting rooms.
- 333 W. 119th (Big Sam's Food Mart). This “cocaine convenience store” was plagued with drug and gang loitering activity, and had multiple dangerous building code violations. DOL obtained a court order shutting down this problematic business.

E. Preserving Occupied Residential Properties

In addition to the special initiatives discussed above, DOL has continued to preserve occupied residential properties – and keep them occupied. With its multiple calls at Administrative Hearings and Circuit Court, and working with the Buildings, Fire, Police, Health, and Streets and Sanitation Departments, in just the first nine months of 2013, DOL has preserved 10,300 occupied units.

Essential to the health and safety of tenants, especially children and seniors, is ensuring that no one suffers from lack of heat. In 2013, Law continued to vigorously prosecute properties whose tenants lack heat or hot water. DOL is proactive in reducing the number of buildings suffering from lack of heat by 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 2012-13 heat season (September to May), DOL kept the heat on in more than 1,900 residential units in the city.

Law also continues its work with community groups under the City’s Troubled Buildings Program, which targets multi-unit properties. From May 2012 to May 2013, we filed approximately 238 court cases and, through litigation and receiverships, preserved 2,644 housing units.

Finally, DOL continues to work with the Department of Public Health to bring more than 300 cases per 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 Health Department. In Circuit Court, DOL

attorneys compel compliance through injunctions, and seek fines against owners who fail to promptly remediate lead-paint hazards.

F. Closing Nuisance Businesses

In 2013, DOL attorneys began prosecuting businesses that cause a community nuisance under the City's recently-revised public nuisance ordinance. These ordinance revisions were prompted by DOL, and expand the scope of the ordinance from liquor-only to non-liquor businesses. So far, the licenses of three problem businesses have been revoked: South Shore Produce, 7900 S. South Shore Drive (7th Ward); Congress Theater, 2135 N. Milwaukee (1st Ward); and The Factory, 12050-54 S. Doty (9th Ward).

Finally, Law continues to work with the Police Department to revoke the liquor licenses of taverns being used by street gangs for narcotics trafficking. Recent examples include Villagrana a/k/a Carmen's Place; 2758 S. Spaulding (22nd Ward), and Caden's Irish House, 3423 W. Montrose (33rd Ward).

IV. Protecting and Recovering Taxpayer Dollars

Next, I highlight some recent examples of the Law Department's work in fighting to protect and to recover taxpayer dollars. This includes:

- Resolving the dispute with Chicago Parking Meters ("CPM") over more than \$1 billion of "true up" adjustments with respect to past "reserved power actions" under the City's concession agreement with CPM;
- Recovering more than \$23 million from firms that designed and constructed the Façade and Circulation Enhancement ("FACE") project at O'Hare Airport;
- Successfully pursuing claims against pharmaceutical companies and M/WBE vendors for fraud and/or other wrongdoing;
- Successfully litigating against online retailer travel companies to recover uncollected amusement taxes due the City; and

- Winning a suit to recover taxes on Personal Seat Licenses sold for Chicago Bears games.

A. Resolution of Parking Meter Dispute

As you know from my (and other witnesses') testimony on the subject earlier this year, a team from Law and Finance 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 also know, the City used these negotiations as an opportunity to negotiate various improvements to the agreement, including pay-by-cell and Free Sunday parking in the neighborhoods.

Since taking office, the administration has undertaken steps to aggressively assert and defend the City's rights under the agreement and to more effectively administer and manage the agreement. This included fighting unjustified charges and invoices, and litigating disputes over disabled parking and true-up adjustments.

As a result of these efforts, CPM reached out to the City last December to resolve these disputes. Over the course of the next few months, we engaged in long and difficult negotiations. These negotiations culminated in a settlement agreement and amended and restated concession agreement that were approved by City Council in June, after several weeks of hearings and intensive review and debate.

As part of this agreement, CPM released its claims to more than \$49.8 million in true-up adjustments invoiced during the last two years, in exchange for a one-time lump sum payment of \$8.9 million. This is the amount the City calculated it owed under the terms of the agreement. CPM is also releasing any claims for similar true-up adjustments over the remaining life of the agreement, thereby eliminating an exposure for taxpayers of more than \$20 million per year for each of the remaining 71 years of the agreement, or a total of more than \$1 billion in today's dollars.

The concession agreement was also amended to clarify the parties' respective rights and obligations and to eliminate ambiguous language with respect to how true-up adjustments will be determined and calculated in the future. We also added new provisions to protect the City from, and reduce the amount of, future true-up adjustments, including provisions that:

- Give the City the right to reverse prior exercises of its police powers and eliminate the effect of those exercises on future true-up adjustments, for example, where the exercise of police powers had a negative effect on the value of the metered parking system greater than anticipated; and
- Allow the City to ask an expert economist to review a particular True-Up Adjustment to determine the extent to which it reflects causes other than the effect of the City's exercise of its police powers, and to reduce the adjustment accordingly.

In addition, the amended agreement puts the City firmly in control of calculating future true-up adjustments and places the burden on CPM to dispute the City's calculations. This was not the case when the new administration took office. CPM was calculating the true-up adjustments, which put the City in the defensive posture of objecting to CPM's calculations. Equally important, the proposed amendment guarantees the City automated, real time, daily access to the individual parking transaction data necessary to perform those calculations. Once again, that is not a right the City had under the original agreement. Last year, we had to fight CPM for months to obtain even historical parking transaction data. This access will not only help to ensure that the City is not overcharged in the future, but will enable it to better manage the contract going forward by, for example, calculating in advance the expected effect of proposed police power actions.

Other improvements include the implementation of a new, more convenient pay-by-cell option for customers. This upgrade will allow customers to pay for parking without walking to a pay box, waiting for the transaction to be processed, and then returning to their car to place a paper receipt on their dashboard. Under the original agreement, CPM was under no obligation to make technology upgrades.

Finally, at the Mayor's direction, we were able to provide Chicago residents with a day of rest each week from the parking meter deal, so they can enjoy our City's neighborhoods on Sundays without paying to do so. As a result, 81% of all Chicago metered parking spaces are now free on Sundays. The cost of free Sunday parking was offset by extending metered parking by one hour (from 9:00 p.m. to 10:00 p.m.) on other days for blocks where metered parking previously ended at 9:00 p.m. and by three hours

(from 9:00 p.m. to midnight) in the area bordered by the Chicago River to the South, the lake to the East, Division Street to the North, and the Chicago River to the West.

The parking meter settlement demonstrates the administration's commitment to protecting taxpayers from excessive charges and to providing system and service improvements to consumers. The City will continue to exercise tighter management and oversight over this long-term agreement, and while we may not eliminate the possibility of future charges and disputes, the settlement and amendment are an important first step toward an improved, more favorable agreement with the vendor for this vital City service.

B. FACE Project Settlements

Earlier this year, Law also negotiated settlements with various firms responsible for the design and engineering and construction of the FACE project at O'Hare Terminals 2 and 3. Pursuant to the settlements, the City recovered more than \$23 million. These payments reimbursed the City for the damages it incurred in connection with various design and construction defects in the façade and canopy project. The settlement will bring to a close the City's litigation against these parties, which has been pending since 2007.

These amounts are in addition to the costs of actually remedying the defects, which the general contractor for the project, Walsh Construction Company, agreed to undertake at its expense, and at no cost to the City. This remedial work cost Walsh an additional \$26 million.

C. Pharmaceutical Company Settlements

The City also continued its practice of suing pharmaceutical companies and other City vendors where they are alleged to have overcharged for their products or engaged in other wrongdoing that harmed the City. For example, in July, the City received a check for \$2.5 million to settle its claim against McKesson Corporation, the nation's largest drug wholesaler by revenue, in a suit alleging that McKesson agreed with First DataBank, a publisher of drug data, to wrongfully inflate the mark-up factor used by First DataBank to determine the average wholesale price (AWP) for prescription drugs from 2001 - 2006. Since the City's employee benefit plan uses the AWP to determine the amount it reimburses pharmacies for

dispensing brand-name drugs to City employees and retirees, inflation of the AWP caused the City to overpay for brand-name prescription drugs.

In August, the City recovered \$832,000 from another pharmaceutical company, Amgen. The City had alleged that Amgen caused false and/or fraudulent claims for certain drugs to be submitted to, or purchased by, the City's healthcare benefit program through off-label marketing and other unlawful conduct in violation of the City's False Claims ordinance.

Finally, in late 2012, the City reached a \$2.2 million settlement agreement with GlaxoSmithKline (GSK) to settle claims with respect to off-label marketing and other wrongdoing in connection with a number of brand name drugs purchased by the City from 2004 to 2010.

D. Recovery for M/WBE Fraud

DOL likewise continued to aggressively enforce against fraud and non-compliance by vendors in connection with the City's Minority and Women Owned Business Enterprise (M/WBE) program. Last year, this included an \$11 million recovery from City waste hauler, Allied Waste. This year, it included obtaining a \$428,000 judgment against Anthony Duffy as part of his guilty plea for making false statements regarding the economic interests of certain investors in his company, Municipal Sewer Services LLC.

E. Hotel Tax Litigation

In July, the City won a summary judgment on the issue of liability in its longstanding litigation against online travel companies. In its decision, the Court ruled that the online travel companies had a duty to collect the City's hotel tax based on the full amount they charge their customers. We anticipate that the amounts owed by defendants will exceed \$25 million.

F. PSL License Tax Recovery

Finally, in September, the Illinois Appellate Court affirmed the City's right to assess and collect the City's amusement tax on permanent seat licenses (PSLs) for Chicago Bears games. The appellate court determined that the tax was a proper exercise of the City's home rule authority. The case was remanded to the circuit court to determine the amount to be recovered on behalf of taxpayers. Once again, this ruling is expected to

result in the City's recovery of several million dollars of wrongfully-withheld tax revenue.

V. Examples of DOL's Work and Accomplishments in 2013

Even a summary of DOL's other work and accomplishments in 2013 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 300 cases to protect children from lead paint.
- Prosecuted 215 cases to restore heat with respect to more than 1,900 residential units.
- Prosecuted more than 270 cases in Circuit Court and 430 cases in the Department of Administrative Hearings under the City's Drug and Gang House Ordinance.

B. Debt Collection

- Through August, collected nearly \$119 million in fines, assessments, and other debts owed to the City. This represents a 17% increase over the same period last year.
- Worked with the Department of Finance and the State Comptroller's Office to recoup money owed to the City by intercepting tax refunds and other State payments to debtors. Year-to-date, the City has collected over \$14.5 million through this program, which is a 41% increase over the same period last year.
- Generated \$1.6 million in payments through the Law Department's Payment Plan Hotline. This hotline allows individuals to set up payment plans on all varieties of administrative debt. Improvements in promoting awareness of the hotline, additional staffing and enhanced technology have led to a 26% increase in revenue over the same period last year.

- Collected nearly \$9.1 million in outstanding water bills – a 26% increase over the previous year.
- Helped the Department of Streets and Sanitation increase its ticketing and collections efforts. Overall, collections for Streets and Sanitation Code tickets year-to-date total almost \$9 million, which is an 18% increase over the same period last year.

C. Contracts

- Drafted, reviewed and/or provided advice concerning more than 750 contract matters, including contracts, amendments, bid solicitations, requests for proposals, and requests for qualifications.
- Negotiated and/or drafted: an agreement with Microsoft for transitioning various City applications from City servers to a hosted environment; an extension of the bus shelter agreement with J.C. Decaux, assuring a continued revenue stream to the City; an agreement with Alta Corporation for the acquisition, implementation, operation, and maintenance of the bike share system currently being deployed, along with a brokerage agreement with Van Wagner for sponsorships for the bike share program; and an agreement with Oracle Corporation for the licensing of the human resources application utilized by the Department of Human Resources.
- Worked with the Department of Finance to implement the Chicago Infrastructure Trust and to secure financing for Retrofit One, the Trust's initial project.
- Assisted the PBC and CPS in developing and implementing design/build contracts for CPS' 2013 Summer Investment Program, meeting CPS' time and budget requirements for the work. Over \$200 million of work, including the installation of air conditioners, carpentry, electrical and plumbing repairs and upgrades, and painting, was performed

on 98 schools across the City, and was completed during the summer break in time for the start of school.

D. Finance

- Worked on more than 80 intergovernmental agreements, including an agreement with the Cook County Recorder of Deeds for free on-line access to computer-stored information, and agreements for Fleet and Facilities Management to provide fuel and vehicle maintenance to our sister agencies, including Chicago Public Schools, Chicago Park District, Chicago Transit Authority, Chicago Housing Authority, and City Colleges of Chicago.
- Negotiated and/or drafted: the City's first loan under USDOT's TIFIA program, in which the City obtained \$98.66 million to finance the development of the Riverwalk project; a \$200 million general obligation revolving credit agreement and the issuance of \$34.8 million of multi-family housing revenue bonds; and more than \$276 million in TIF assistance from various redevelopment project areas.
- Represented the City in the issuance of \$729 million of General Airport Revenue refunding bonds and \$452 million in Passenger Facility Charge refunding bonds for O'Hare Airport, realizing several millions of dollars of savings in interest expense.
- Assisted the CDA and DOF on a \$288.1 million loan agreement with the U.S. Department of Transportation under the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA), at an extremely low interest rate, which will provide funding for approximately one-third of the anticipated cost of the proposed new multi-modal transportation facility at O'Hare Airport. The new facility will consolidate all rental car operations at O'Hare into a single facility, and will provide convenient access to the METRA Rail Station and PACE and other buses, thereby dramatically reducing congestion on the terminal roadways.

- Assisted in the City's issuance of \$248.7 million in bonds to fund the multi-modal transportation facility project, as well as a TIFIA Bond, both of which are payable from customer facility charges imposed on customers who rent cars at O'Hare and from rental payments by the rental car companies who will occupy the facility.

E. Labor

- Drafted employee discipline charges in over 95 cases.
- Defended the City in 117 discrimination charges, 114 arbitrations, 14 Labor Board cases, and 17 disciplinary appeals in State Court.
- Assisted the Department of Human Resources in drafting revised personnel rules and policies.

F. Legal Information

- Conducted 22 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, Departments, and Aldermen concerning, and assisted in drafting, numerous ordinances, including: comprehensive ethics reform; Student Safety Zones; amendments to the Wrigley Field and night games ordinance; various gun-related ordinances to ensure compliance with current constitutional requirements in light of recent Supreme Court and 7th Circuit case law; continuing the comprehensive rewrite of code provisions pertaining to signs, including a sign moratorium for small digital signs; comprehensive bicyclist and driver safety ordinance; and the Open Data Executive Order, which directs Chicago's Department of Innovation and Technology to work with other city agencies to expand public access to information that is

not protected by privacy law and to make that information freely available online.

H. Litigation

- Employment. Won or dismissed 19 cases with no liability to the City. Settled 17 cases, paying \$35,000 or less in 12 of those cases.
- Constitutional and Commercial. Successfully defended the new ward map and defeated plaintiffs' claim that the City was unlawfully implementing the map before the 2015 elections. Defended the Landmark Commission's decision that Prentice Hospital should not be landmarked. Settled a complicated contract dispute involving federal constitutional claims for \$100,000 where the plaintiffs had asked for more than \$4 million. Successfully opposed five of the six emergency motions for a temporary restraining order filed against the City in the past year, and succeeded in dismissing the sixth on an expedited basis.
- Appeals. Filed briefs in 78 cases. Won 47 of 57 cases decided.
- Police. Won or dismissed 107 of 245 cases resolved through September 2013 with no liability to the City. Tried 26 cases through September, winning 18, or 69%, of those cases.
- Torts. Defended more than 400 new lawsuits through September 30 and, won 24 of 39, or 62%, of cases tried. Damages in the cases that the City lost totaled \$12.3 million, or just 28% of the \$43.3 million requested by the plaintiffs in these cases. Also resolved an additional 487 cases without trial, 314, or 65%, of which were resolved without any payment by the City. Favorably disposed of 907 out of 1040 cases on administrative review, tried 87 workers' compensation cases before the Industrial Commission, and had the City's defense accepted by insurance or other third parties in 69 tort cases.

I. Municipal Prosecutions

- From September 2012 through August 2013, made 23,340 attempts to serve 14,231 documents, including summonses and subpoenas for code enforcement cases and testimony at depositions and trials, thereby saving the City \$1.4 million that would otherwise be paid to the Sheriff's Office.
- Through September 2012, prosecuted 21,833 Municipal Code violations, imposing \$996,000 in fines in Branch Courts. This represented a 57% increase from 2012.
- Through September 2012, prosecuted 215,616 traffic violations (a 37% increase from 2012), and imposed \$6 million in fines in Traffic Court.

J. Real Estate

- Negotiated the sale of 105 parcels of land to the Norfolk Southern Railroad in connection with expansion of an intermodal facility for approximately \$1 million. The railroad also agreed to make a \$3 million contribution to a neighborhood investment fund.
- Closed on a redevelopment agreement and conveyance of land at 9th and State for a purchase price of \$6 million. As part of the sale, the developer is also obligated to pay \$4 million into the affordable housing fund.
- Generated over \$1.6 million in revenues through the sale of vacant land for neighborhood and community improvements.

K. Revenue Litigation

- Collected over \$10 million in various taxes.
- Defeated approximately \$13.5 million in property tax refund claims, which helped prevent a shift of about \$10 million in property tax burden onto residential and small business property owners.

- Successfully concluded litigation involving license violations and amusement tax owed by an adult entertainment cabaret, resulting in a payment of more than \$2 million, which was earmarked to provide funding to build and operate a shelter for victims of domestic violence.