



Analysis: Cost of Chicago Legal Judgments and Settlements

Description

Chicago taxpayers are on the hook for an average \$93.6 million a year for legal judgments and settlements against the city.

A Better Government Association policy team analysis found that after years of chronic underfunding by the Emanuel and Daley administrations, budgeting for legal judgments and settlements became more realistic under Mayor Lori Lightfoot. But flawed record-keeping and non-department-specific budgeting still limit the city's ability to analyze and counter the underlying causes of lawsuits.

Key findings from the analysis:

- Chicago Police Department spending on legal judgments and settlements, which makes up the vast majority of the city's lawsuit-imposed costs, has been over-budget 12 of the last 13 years.
- Citywide spending on legal judgments and settlements was over-budget throughout the Emanuel administration, which the Lightfoot administration corrected by substantially increasing the non-department-specific pool of funds available for legal costs.
- Individual departments other than the police and fire departments do not budget for judgment and settlement costs, meaning that claims against the city for a department's wrongdoing are paid out of a general fund that has no impact on the department's budget or operations.
- Settlement data provided by the Department of Law is inconsistently entered and maintained, limiting its usefulness to individual departments or to risk management analysis and policymakers.

Police Settlements

Chicago Police Department legal fees and costs make up the bulk of the city's spending on legal fees and judgments. On average, cases involving the police department make up 72% of annual judgment and settlement spending.

Made with *Flourish

Of the 10 largest judgments or settlements paid by the city since 2010, six were related to police misconduct.

The other four were related to the Chicago Fire Department's 2012 class-action racial discrimination verdict and three cases relating to privatized city services: the 2013 parking meters true-up settlement, the 2015 Millennium Garages verdict, and the 2017 red light cameras class-action settlement.

If those four multimillion-dollar cases are set aside as outliers, the police department's average share of yearly judgment and settlement costs rises to 81.9%.

Despite the consistent trend, the city has only budgeted enough funds to cover the police department's legal costs once since 2010: in Mayor Lightfoot's first budget year, when the line item jumped from the Emanuel administration's \$35 million to slightly over \$82.5 million.

The Lightfoot administration has not changed its budget for police judgments and settlements since the 2020 increase, following the Emanuel administration's pattern of repeating previous years' line items despite substantial year-to-year fluctuations in real costs.

Made with *Flourish

The police department exceeded its judgments and settlements budget by \$17.8 million in 2021, and the department is already over-budget for 2022 as of a set of settlements approved at the September meeting of the Chicago City Council. (Police settlement data from the Department of Law shows \$63.3 million spent through July 2022, and an additional \$25 million not yet reflected in law department data was approved at the September City Council meeting.)

Citywide Settlement Budgeting

Budgets under the Daley and Emanuel administrations chronically underestimated settlement and judgment spending. The Lightfoot administration corrected the habit, more than doubling the total citywide budget for judgments and settlements from roughly \$62 million in Emanuel's last budget to \$142.2 million in Lightfoot's first.

Despite police department overspending, citywide judgments and settlements spending came in under-budget in 2020 and 2021, and at its current pace the city is on track to come in under-budget again in 2022. (Court cases overall were delayed by the pandemic, however, which may have reduced the number of claims against the city coming to either settlement or judgment.)

Made with *Flourish

Outside of line items for the police and fire departments, costs of legal judgments and settlements are not considered part of departmental budgets in the Lightfoot administration's budget documents. The remainder of the city's settlements and judgments budget is considered a "finance general" appropriation, a catch-all category for citywide expenses not specific to any individual department's budget.

Departments that see hundreds of settlement and judgment cases a year, including the streets and sanitation, water management and transportation departments, do not budget for those costs as a departmental expense.

The lack of department-specific budgeting removes the cost of legal claims from individual departmentâ??s budget considerations, a benefit to departments that face frequent court cases at the expense of other departments.

Litigation Analysis and Risk Management

Since 2010, settlements and judgments have cost the city an average of \$93.6 million each year. While the Department of Law makes payments data available to the public, the city does not appear to be analyzing that data in any systematic way or working on strategies to minimize the administrationâ??s exposure to lawsuits.

The cityâ??s risk management staff is divided between an Office of Risk Management within the mayorâ??s office, a small risk management team within the finance department and the police departmentâ??s internal risk manager. Of the three departments with budgeted risk management positions, only the police department has any official guidelines or policies related to legal risk.

In response to a FOIA request for any currently active risk management policies, procedures, guidelines or directives regarding the cityâ??s exposure to litigation, both the Department of Finance and the Department of Law responded that they had no such records. The mayorâ??s office responded that it had no relevant records not covered by exemption 7(1)(f), which shields â??advisory opinions, recommendations and deliberations,â?• indicating that the mayorâ??s Office of Risk Management has not produced any final or binding policies for the city. The Chicago Police Department provided a copy of Special Order S08-04, which lays out restrictions on dissemination of department information and policies for employees subject to subpoenas and civil lawsuits. The order does not govern behavior which might lead to legal exposure, but does provide guidelines for officers once litigation has begun.

A September 2022 [inspector generalâ??s report](#) provided some insight into the cityâ??s current litigation data practices, finding that â??Critical shortcomings in the collection and management of data on litigation involving CPD and its members limit the Cityâ??s ability to effectively manage the risk of expense to the City and harm to its residents.â?•

The Better Government Association policy teamâ??s analysis of law department data encountered many of the same problems highlighted in the inspector generalâ??s report. Data entry was not standardized, meaning that the critical â??primary causeâ?• and â??city department involvedâ?• fields from the dataset cannot be quickly compiled or compared.

For example, the BGA found 101 unique values for â??city department involvedâ?• in the law departmentâ??s data. Eliminating inconsistencies in spacing, punctuation, spelling and usage (â??dept of lawâ?• in one entry, â??law departmentâ?• in another, â??DOLâ?• in a third and so on) reduced the actual total to 38 unique values. Prior to the BGA data cleanup, it was not possible to use the data to accurately compare total numbers and costs of cases on a department-by-department basis.

Similarly, standardizing punctuation and spacing reduced the number of unique primary cause values in the dataset from 648 to 512. A large number of spelling and usage errors remained, requiring manual correction to consolidate cases with the same primary cause but different entries. For example, 15 separate cases were labeled variously as “fall down street gate pit,” “fall down tree grate pit,” “fall down tree pit,” and “fall down treet gate pit,” all clearly the same primary cause but treated in the data as separate and unrelated categories.

As both the inspector general’s report and the Better Government Association analysis found, the inconsistencies in the city’s litigation data as currently collected make it impossible to use for systemic analysis of the city’s legal exposure risks without manual, time-consuming cleanup.

With taxpayers ultimately on the hook for legal claims against the city, it is critical that the administration both implement the inspector general’s recommended reforms and take steps to ensure that city budgeting and risk management practices fully account for legal exposure.

The BGA policy team recommends:

- **Implementation of department-based budgeting for legal costs.** The current practice of funding all non-police/fire judgments and settlements out of the Finance General category shields department heads from accountability. Departments have little motivation to curb lawsuit costs if those costs are paid for outside of the department’s budget.
- **Data input standardization.** Any department responsible for collecting litigation data should use standardized, non-manual input fields to prevent variations in terminology.
- **Transparent risk management policies.** The administration should publish clear risk management guidelines, including for mitigating legal exposure. Each department should have a clearly responsible individual or office who can be held accountable by department heads, City Council and the budget department for department-incurred legal costs.
- **Analysis-guided policies.** Departments that face frequent or high-cost legal actions should update their internal policies yearly to account for and eliminate major sources of legal risk. This is particularly critical for the police department, which makes up the majority of Chicago’s lawsuit spending. CPD and the new Community Commission for Public Safety and Accountability should analyze existing lawsuit data to identify major causes of exposure and draft general orders that eliminate high-risk behaviors in the field.