MAYOR AND CITY COUNCIL OF BALTIMORE
DEPARTMENT OF LAW

REPORT OF ITS WORK AND PROCEEDINGS

INTRODUCTION

The words of the esteemed Judge Simon Sobeloff still astutely describe the workings of the City Solicitor's Office.[1]

> The City Solicitor is the City's chief law officer- and he is much more than that. The mere enumeration in the City Charter of the duties and responsibilities vested in that official is sufficiently impressive, but they convey no adequate idea of the extent and the ramification of his official activities….He is called upon to deal with many problems unrelated, except by the most tenuous thread, to the duties explicitly fixed for him by law.[2]

Judge Sobeloff witnessed the Solicitor's Office during the Depression with its staff of 18 attorneys and 22 support staff. What he described then as a "striking growth in the volume of the City's legal business" is a far cry from the volume and complexity of legal matters presented to the City's Law Department today. With a staff 66 of lawyers and 44 support staff, the Department of Law is composed of eleven practice groups which meet the daily demands, both mandatory and discretionary, of the Mayor, the City Council and more than 15 City departments, agencies, boards and commissions.

[1] Simon E. Sobeloff (December 3, 1894 - July 11, 1973) was an American attorney and jurist, who served as Solicitor General of the United States, as Chief Judge of the Court of Appeals of Maryland, and as Chief Judge of the United States Court of Appeals for the Fourth Circuit.

[2] Stieff, Frederick Philip (compiled), *The Government of a Great American City*, H.G. Roebuck and Son 1935

The Central Bureau of Investigation works closely with the Litigation Practice Group in the investigation of any claim asserted against the City pursuant to the Local Government Tort Claims Act. CBI has steadily reduced the amounts paid out in claim settlements in the past few years, although the number of claims against the City increases steadily.

As a self-insurer, the City covers liability for claim damages from its own financial resources and reserves. CBI claims are divided into two categories: General Liability and Auto/Animal Liability. General Liability claims are tort claims that are not workers compensation or auto/animal claims, such as sewer backups, water main breaks, sidewalk falls and demolitions or excessive force claims against police officers which are handled by the Police Legal Affairs Practice Group. Auto/Animal Liability claims are those claims involving any wheeled vehicle owned or rented by the City, including cranes, generators and excavators, or involving City-owned animals. Each claim is assigned to an investigator who functions as a claims adjuster and also has various responsibilities which include photographing accident scenes, interviewing witnesses and claimants, securing accident reports and agency records and evaluating personal and property damage. Settlements of $2,500 or less require approval by the Deputy Chief Heinrich. Settlements up to $3,000 require approval by the Chief of Litigation. Settlements from above $3,000 to $5,000 require approval by the Small Settlement Committee designated by the City Solicitor. Finally, settlements over $5,000 require approval by the Large Settlement Committee, also designated by the Solicitor, and, if $25,000 or more, also go to the Board of Estimates for review and approval.

Litigation Practice Group

The Litigation Practice Group, led by Matthew Nayden, is responsible for representing the City in lawsuits brought at all levels of the State and federal courts, excluding suits arising out of employment, land use disputes, or police matters. Attorneys maintain a full caseload and are responsible for continuing the investigation of the

challenges to the preservation of the City's defenses of governmental immunity and notice. The Group also asserts and aggressively attempts to preserve the damage limits established by the State.

The Practice Group has been highly successful in protecting the City fisc, and ultimately the taxpayers from unwarranted liability payments. Despite increases in the number of suits against the City, the defensive litigation protocols the Group instituted have resulted in fewer settlements and judgments against the City and lower damage settlements and judgments. Plaintiffs' attorneys are learning that merely filing a suit against the City will not result in a settlement, but that the City aggressively defends claims whenever appropriate. The resulting positive outcomes discourage the filing of nuisance suits, thus curbing the national trend of ever increasing claims. The Group now achieves a 75% litigation win rate. As to damage awards, in Fiscal Year 2013, this Group defended the City in 362 lawsuits which sought a total of $355,381,088 in damages. As a result of the Group's work, the City paid only $1,736,707 in damages -- less than ½ of 1% of damages sought on those suits (less than .05%).

In addition to its defense work, Litigation is also aggressive in the prosecution of claims on behalf of the City against entities or individuals who have caused the City damages in tort or contract, or who fail to comply with federal, State or local laws that impact the City. These cases have resulted in multi-million dollar payments to the City, the creation of ongoing revenue streams, and the clearing of obstacles to major development projects.

.

Collections Practice Group

The Collections Practice Group, headed by Molly Keenan, is responsible for collecting money owed to the City. The Group oversees the City's annual tax sale, offers advice on issues of bankruptcy, tax and general collection, and pursues litigation when required. The Practice Group performs all post judgment collection activities including garnishment, license suspension and monitoring repayment agreements. The staff includes 5 attorneys, six legal assistants and two support staff. For fiscal years 2007 through 2013, the Collections Practice Group collected in excess of $110 million dollars for the City, collecting $12.9M in FY13 alone.

Labor and Employment Practice Group

The Labor and Employment Practice Group, led by Gary Gilkey, represents the City in all employment related matters, advises agencies on personnel issues, serves on the City's Policy Committee and the Mayor's Leave Reform Work Group, reviews and

provides advice on labor contracts, and works closely with the Labor Commissioner's Office and the Department of Human Resources. It (a) represents the City in State and federal court in all employment disputes, (b) prepares responses to charges of discrimination with the EEOC, the Baltimore Community Relations Commissioner, and the Maryland Civil Rights Commission, (c) represents City agencies before the Civil Service Commission, the State Office of Administrative Hearings, and arbitration proceedings on employment discipline cases involving suspension, demotion, and termination, (d) conducts training on City employment policies and procedures, and (e) advises the Department of Human Resources and other City agencies on employment

TRANSACTIONS

Contracts Practice Group

The Contacts Practice Group, led by Michael Schrock, negotiates, drafts, and reviews a majority of City contracts, and provides day to day contract related advice to City agencies. The City Charter requires the Law Department to review and approve all contracts before they can be approved by the Board of Estimates.

The Group is improving its efficiency by the use of technology. It makes electronic copies of select new and historical documents and is creating a reference database which can be quickly searched. It is also using a virtual database to track the status of contracts and plans to expand access to this database to its clients in the near future. The Group is also working to post standardized "fill in the blank" contracts on the Intranet; clients can fill in the blanks for a matter, and send the contract to the Group electronically, increasing efficiency.

In FY 2014, the Contracts Group drafted uniform City procedures for cooperative purchasing and emergency contracts and drafted procurement regulations for agency comment. The Contracts Group also created standardized donation agreements for the City and the Baltimore City Foundation, Inc. which the Dept. of General Services used for its "Fire Station Renovation Project" campaign to fund the renovation of 15 kitchens at fire stations. The Contracts Group also drafts and negotiates cooperative agreements with other local governments for purchase of gas and electricity and works on contracts for power generation and waste to energy facilities.

Corporate and Real Estate Practice Group

The Corporate and Real Estate Practice Group, headed by Richard Kagan,

LEGAL AFFAIRS PRACTICE GROUP REPRESENTING THE BALTIMORE CITY POLICE DEPARTMENT

The Office of Legal Affairs, headed

of the City Code in 1986,

Fourth Circuit against a First Amendment challenge to the safety measures put in place for crowd control during Baltimore Arena events.

- The Department successfully defended most of the major reforms passed for the Fire and Police Pensions plans in the U.S. District Court and is now defending the appeal to the Fourth Circuit.
- The Department obtained affirmance from the Maryland Court of Appeals finally ending the 7 year litigation over the termination of Police Commissioner Kevin Clark.
- The Department obtained Fourth Circuit en banc review and reversal of the federal District Court decision which had declared the City's Limited Services Pregnancies Centers Ordinance a violation of free speech. On remand the Department is defending the City's ability to protect consumers of time sensitive reproductive health services from deception and confusion by requiring accurate disclosure of the services available at a center.
- The Department has implemented the long standing settlements and collaborated with the Court appointed monitors in two cases, NAACP v. BPD concerning quality of life arrests, and Hopson v. BPD concerning racial bias in police discipline. Each of those consent decrees expires in 2014 and we anticipate receiving favorable last reports from the monitors.

- The Department has successfully settled three long standing lawsuits against BPD, Sharp *v. BPD*, and *Brown v. BPD* and *Tshamba v. BPD*. The first settlement involved collaborating with the ACLU to issue a policy which instructs