

SEPTEMBER 2019

CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL

AUDIT OF DELAYS IN PROVIDING NOTICE OF SANITATION CODE VIOLATIONS



REPORT OF THE OFFICE OF INSPECTOR GENERAL



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SEPTEMBER 4, 2019

TO THE MAYOR, CITY COUNCIL, CITY CLERK, CITY TREASURER, AND RESIDENTS OF THE CITY OF CHICAGO:

The City of Chicago Office of Inspector General (OIG) has completed an audit of the Department of Law's (DOL) process for notifying people of sanitation code violations, such as overflowing garbage containers or uncut weeds. The objective of the audit was to determine the average length of time it took to notify the property owner of the alleged violation, and why, in some cases, the process took more than a year.

OIG found that for the 101,729 alleged sanitation code violations in 2016 and 2017, it took DOL an average of 289 days—more than 9 months—after the violation date to issue a notice of violation. DOL sent notice at least six months after the violation in 88,503, or 87.0%, of the cases. This included 24,189 cases—23.8% of the total—where it took DOL a year or more to send notice. Fewer than 2% of notifications were sent within one month of the violation.

During this period, the primary cause for the delay in notification was DOL's backlog of violations. The process was relatively short once staff began work.

To reduce delays, OIG recommends that DOL work with the Department of Streets and Sanitation (DSS) to set a target for the maximum number of days from violation to notification. DOL should develop, document, and implement processes to meet the agreed upon goal. Because the primary cause of notification delay is the backlog itself, we recommend solutions that address the volume of "untouched" and incoming violations, such as relying on the existing ownership dispute process described on notifications to reduce the number of citations requiring ownership research and hiring temporary or seasonal staff. Finally, DOL management should monitor its performance against the target number of days to notification, making operational adjustments as needed to meet the goal and reduce any backlog.

DOL disagreed with our recommendations and disputed the notion that setting a performance goal related to notification timeliness would be "reasonable, appropriate, or even operationally feasible [...]." While we are encouraged that DOL's timeliness has improved recently, we are discouraged that the Department continues to deny the problem and the recommendations offered to prevent violation notice delays that potentially affect health and safety, take property owners by surprise and make it difficult to rebut allegations about their property, and lead to a loss of revenue for the City.

We thank DOL and DSS staff and management for their cooperation during this audit.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Ferguson', is positioned above the printed name.

Joseph M. Ferguson
Inspector General
City of Chicago

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ACRONYMS

COAL	Collections, Ownership, and Administrative Litigation division in the Department of Law
DOL	Department of Law
DSS	Department of Streets and Sanitation
METS	Mobile Electronic Ticketing System
OIG	City of Chicago Office of Inspector General



I. EXECUTIVE SUMMARY

The City of Chicago Office of Inspector General (OIG) has completed an audit of the Department of Law's (DOL) process for notifying people of sanitation code violations cited by the Department of Streets and Sanitation (DSS), such as overflowing garbage containers or uncut weeds. The Collections, Ownership, and Administrative Litigation (COAL) division of DOL is responsible for identifying the owners of properties cited by DSS for such violations. Once COAL verifies the correct owner, it sends a notice of violation. The objective of the audit was to determine the average number of days from alleged violation to notification and why, in some cases, the process took more than a year.

A. CONCLUSION

OIG concludes that the average 9-month delay in notification is due primarily to DOL's large backlog of alleged sanitation code violations. Once COAL staff are assigned a violation, it takes just a few days to identify the property owner and send the notice.

B. FINDING

For sanitation code violations that occurred in 2016 and 2017, DOL notified property owners an average of 289 days—more than 9 months—after the alleged violation. In 63.2% of cases, it took DOL 6 to 12 months to notify property owners and, in 23.8% of cases, DOL did not provide notice until a year or more had passed. Fewer than 2% of notifications were sent within one month of the violation.

The primary cause for the delay in notification was DOL's large, historical backlog of alleged violations. DOL generally processed violations in the order in which they were received, so that a new violation was not processed until older violations were processed. Once a violation came to the top of the COAL queue, the ownership verification process was relatively short. OIG selected a random sample of 30 violations with notification delays exceeding one year and asked DOL what caused the delays. According to data that DOL provided, the violations OIG sampled sat idle, or "untouched," for an average of 354 days before DOL first examined them. It then took an average of 41 days for frontline staff to become available to work on a violation, followed by an average of 6 days for staff to verify ownership and issue a notification, which is not unreasonable but itself lags other jurisdictions.

DOL told OIG that it prioritizes the accuracy of ownership verification and the strength of cases against alleged violators over the speed of notification. But DSS stated that substantially quicker notification would best support its main goal of citing violations and getting the property owner to promptly correct the problem. It would also decrease the burden on DSS to mitigate public safety or public health hazards during the lengthy average time between violation and notification. For example, if a property has weeds taller than ten inches, DSS will record the violation and mow the property to reduce health and safety hazards arising from such conditions. In some cases, DSS records a subsequent violation and mows again before the

property owner is even notified of the first violation, creating the appearance that the City is engaged in “revenue grabbing.” In 2016 and 2017, there were 48,536 instances where DSS recorded 2 or more violations of the same type at a single property. In 42,452, or 87%, of those instances, DSS recorded 1 or more additional violations before the property owner received notification of the first alleged violation. Mowing the lots related to these additional violations cost the City an estimated \$252,102 in 2016 and 2017.¹

Delayed notifications can take property owners by surprise and make it very difficult for them to rebut the City’s allegations about their property’s condition. DSS noted that complaints about late notifications are directed at DSS leadership, not DOL, so there is little outside pressure for DOL to improve its process.

C. RECOMMENDATIONS

To reduce the time between identifying a sanitation code violation and notifying the property owner, OIG recommends that DOL work with DSS to set a target for the maximum number of days from violation to notification consonant with public health and safety objectives on the one hand, and procedural fairness considerations for alleged violators on the other. DOL should develop, document, and implement processes to meet the agreed upon goal. Because the primary cause of notification delay is DOL’s backlog, we recommend DOL, in consultation with DSS, consider the following possible approaches to eliminating the large volume of “untouched” violations, and addressing the seasonal increase:

- Sending notification based on the address determined at the time of inspection and only completing further ownership research on those that are returned unopened, receive no response, or are disputed as instructed on the notification;
- Hiring temporary/seasonal staff or contractors;
- Increasing overtime for law clerks; and
- Forgiving old violations, if that would be more cost-effective than hiring additional people to work down the backlog.

Finally, DOL management should monitor COAL’s performance against the target number of days to notification, making operational adjustments as needed to meet the goal and reduce any backlog.

D. DOL RESPONSE

DOL disagreed with our recommendation to establish a performance measure related to the timeliness of notification. The Department disputes that such a performance measure is “reasonable, appropriate, or even operationally feasible [...]” DOL also disagreed with OIG’s

¹ This cost was based on the average contract costs associated with mowing and DSS’s estimate that vendors can generally cut a lot in 30 minutes.

recommendations regarding ways to further reduce large volume of “untouched” violations, and address the seasonal increase.

The detailed recommendations related to the finding, and DOL’s response, are described in the “Audit Finding and Recommendations” section of this report.

II. BACKGROUND

The Department of Streets and Sanitation (DSS) writes tickets (citations) for public nuisances such as weeds over ten inches tall, overflowing garbage containers, and unfenced vacant lots. The Collections, Ownership, and Administrative Litigation (COAL) division of the Department of Law (DOL) is responsible for determining the owners of the properties where such sanitation code violations are found, and issuing the notifications.

A. HOW IS THE PROPERTY OWNER NOTIFIED OF A SANITATION CODE VIOLATION?

DSS inspectors use the smartphone-based Mobile Electronic Ticketing System (METS) to record sanitation code violations they observe in the field. METS automatically populates the street address of the property based on a GPS-generated location and the inspector enters each code section violated and photos of the violation. If the GPS-generated location is in error, the DSS inspector can update the notes field with the correct address. COAL uses the address recorded in METS to gather further evidence to identify the property's owner. Such evidence may include the Property Identification Number, deeds, chains of title, foreclosures, and ownership confirmation from legal or land trusts. COAL collates this evidence into a "packet" for use in an administrative hearing should the alleged violator choose to challenge the charges. After compiling enough evidence to identify the property owner, COAL mails the notice(s) of violation.

FIGURE 1: The process from violation to notification



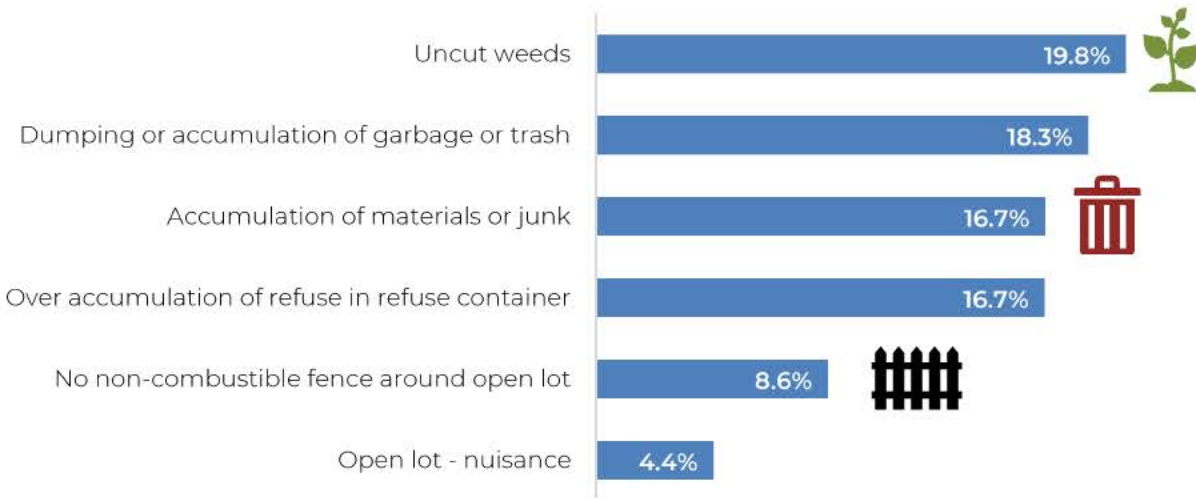
Source: OIG depiction of the sanitation violation notification process

The notification identifies the code provisions allegedly violated, the address where the alleged violations occurred, the applicable fines, and an initial hearing date. The recipient can choose to pay the fine or challenge the alleged violation on the hearing date. The notification also contains information on how to dispute ownership of the property being cited for the violation if the respondent is not the actual owner.

B. WHAT ARE THE MOST COMMON SANITATION CODE VIOLATIONS?

There are 76 different types of sanitation violations, but 84.5% of all violations in 2016 and 2017 fell into 6 categories. The most common type was uncut weeds, which constituted approximately one out of every five violations. Figure 2 provides the percentage breakdowns of the 6 most common types of violations.

FIGURE 2: In 2016-2017, 84.5% of violations fell into six categories

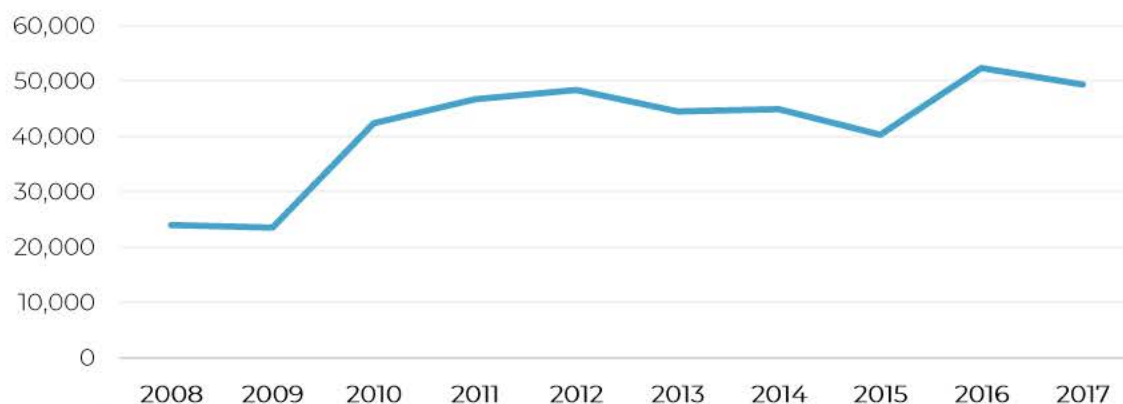


Source: OIG analysis of sanitation code violations, 2016-2017

C. HAS THE NUMBER OF SANITATION CODE VIOLATIONS INCREASED IN RECENT YEARS?

In the 10 years between 2008 and 2017, the number of sanitation violations more than doubled. Figure 3 illustrates this increase.² The greatest increase occurred between 2009 and 2010, when violations rose by 80% (from 23,516 to 42,387). During this time, the City implemented METS, which made it much more efficient for DSS to record violations. This increased volume of violations has remained relatively steady since 2010.

FIGURE 3: The number of sanitation violations increased after DSS Implemented METS in 2009



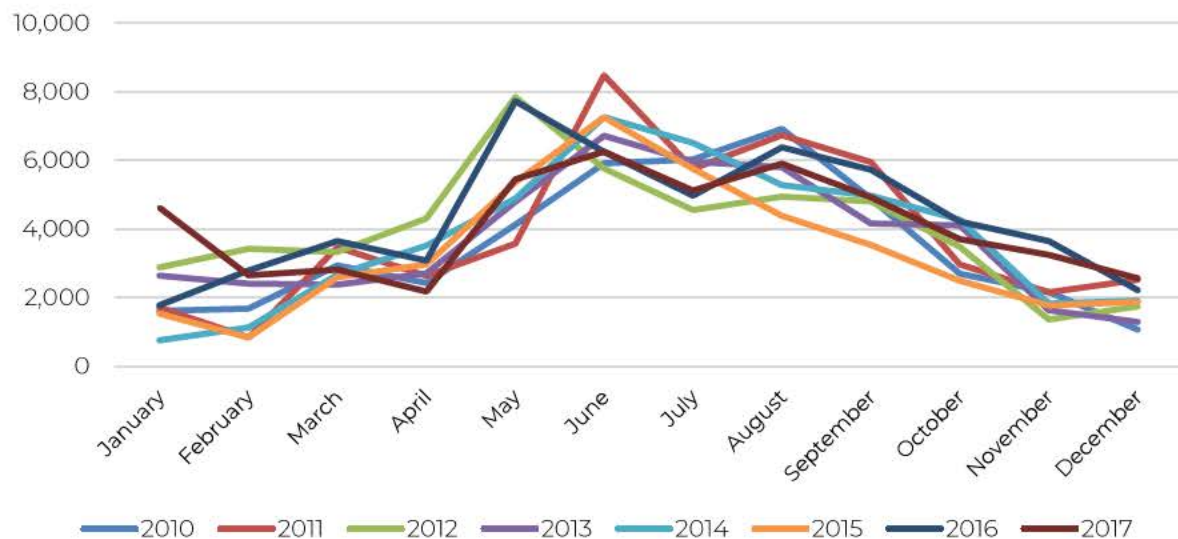
Source: OIG analysis of sanitation code violations, 2008-2017

² For purposes of this audit, the most recent available full calendar year of data was 2017. That is because a violation is not entered into the database until it is scheduled for an administrative hearing, which may happen more than a year after the violation date.

D. DOES THE NUMBER OF SANITATION VIOLATIONS FOLLOW A SEASONAL PATTERN?

As illustrated in Figure 4, from 2010 through 2017—the period after METS was implemented—DSS recorded more sanitation code violations in the late spring and summer months than at other times of the year. Given that one of the most common types of violation is uncut weeds, this seasonal increase is not surprising.

FIGURE 4: Sanitation code violations increase in late spring and summer



Source: OIG analysis of sanitation code violations, 2010-2017

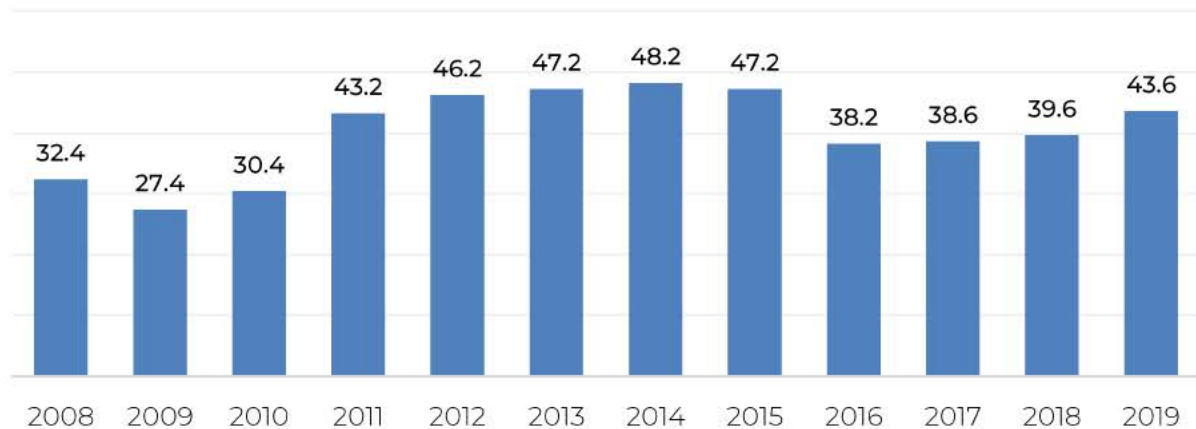
E. HOW MANY DOL EMPLOYEES WORK ON OWNERSHIP VERIFICATION?

COAL is staffed primarily with law clerks and attorneys. In addition to verifying ownership for properties cited by DSS, COAL employees identify owners for building code violations, work to collect money owed to the City, and handle liens, acquisitions, bankruptcy cases, and other financial matters.³

As shown in Figure 5, budgeted positions in COAL increased following the implementation of METS in 2009. Regarding staffing strategies, COAL management told OIG it would like to shift to more full-time attorneys because high turnover among law clerks drains operational knowledge. Management believes there will be less turnover with attorneys than with law clerks.

³ City of Chicago, Department of Law, "Collections and Ownership Litigation", Accessed February 19, 2019. https://www.chicago.gov/city/en/depts/dol/supp_info/collections_and_ownershiplitigation.html.

FIGURE 5: Full-time equivalent positions in coal increased after METS implementation



Source: OIG analysis of City of Chicago Appropriation Ordinances, 2008-2019⁴

F. HOW QUICKLY DO OTHER CITIES NOTIFY PROPERTY OWNERS OF ALLEGED SANITATION VIOLATIONS?

OIG asked five other cities how long it took them to notify property owners of alleged sanitation violations. As shown in Figure 6, each city said it typically identifies the property owner and provides notice within a few days after discovering the violation.

Instead of completing extensive property research for each violation, these municipalities rely on information from property and/or investigative databases. Although COAL told OIG that failing to undertake case-specific property research may result in many misidentified owners, none of the cities we contacted shared this concern.

FIGURE 6: Other cities typically complete the property owner notification process in a few days

City	Typical Time Taken to Provide Notice (In Business Days from Date of Violation)
Detroit ⁵	1 Day
Philadelphia	2 Days
San Diego	2 Days
Houston	3 Days
Washington D.C.	5 Days

Source: OIG's contact with other jurisdictions.

⁴ OIG analyzed the number of budgeted positions and law clerk hours for COAL from 2008 to 2019. To visualize the staffing trends, we converted the number of law clerk hours to full-time equivalent positions by dividing the number of budgeted hours by 2080. This is the method used by the City's Office of Budget and Management.

⁵ We contacted the City of Detroit at DOL's request.

III. FINDING AND RECOMMENDATIONS

FINDING: FOR ALMOST A QUARTER OF SANITATION CODE VIOLATIONS, IT TOOK DOL AT LEAST A YEAR TO NOTIFY THE PROPERTY OWNER

For the 101,729 alleged sanitation code violations in 2016 and 2017, it took DOL an average of 289 days—more than 9 months—after the violation date to provide notice to the property owner.⁶ As shown in Figure 7, DOL sent notice at least six months after the violation in 88,503, or 87.0%, of the cases. This included 24,189 cases—23.8% of the total—where it took DOL a year or more to send notice. Fewer than 2% of notifications were sent within one month of the violation.

FIGURE 7: DOL notified property owners within 1 month for only 1.9% of violations

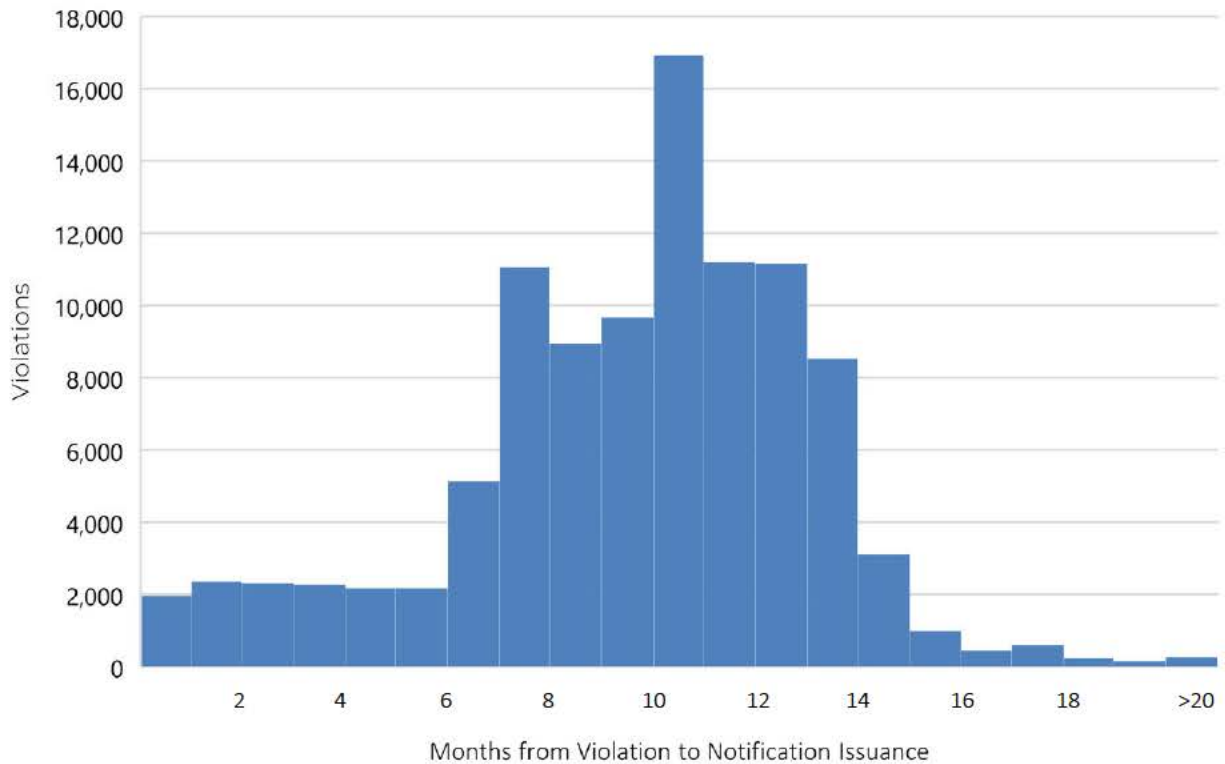
Time from Alleged Violation to Notification:	2016	2017	Total	% of Violations
1 Year or More	16,051	8,138	24,189	23.8%
6 Months to 1 Year	35,627	28,687	64,314	63.2%
3 to 6 Months	421	6,245	6,666	6.5%
1 to 3 Months	168	4,484	4,652	4.6%
2 Weeks to 1 Month	41	1,109	1,150	1.1%
1 to 2 Weeks	39	453	492	0.5%
Less than 1 Week	15	251	266	0.3%
Total	52,362	49,367	101,729	100.0%

Source: OIG analysis of administrative hearings data.

Figure 8 illustrates that DOL sent most notifications 6 to 12 months after the alleged violations.

⁶ The average time from violation to notification in 2016 was 315 days, while the average for 2017 was 261 days.

FIGURE 8: Most notifications of sanitation code violations were sent 6 to 12 months after the alleged violation date



Source: OIG analysis of administrative hearings data.

OIG selected a random sample of 30 violations with notification delays exceeding one year and asked DOL what caused the delays. DOL reported that these violations sat idle, or “untouched,” for an average of 354 days before DOL first examined them. It then took an average of 41 days for staff to become available to work on a violation, followed by an average of 6 days for staff to verify ownership and issue a notification.⁷ In other words, the ownership verification process was relatively short once staff began working on it. DOL stated that,

during the discrete period of time during which these tickets were issued, our normal workflow was hampered by staffing limitations, certain technological constraints, and, in some instances, factors outside the City’s control. Consequently, delays could usually be attributed to more than one cause. As more recent records reflect, we have been able to overcome to a significant degree many of these continuing hurdles and difficulties, and we are always striving to improve our efficiency.

⁷ DOL initially hypothesized there could be many causes for delays, including the need to re-send notifications or obtain documentation from external parties. These causes, however, were not present in the majority of the 30 violations sampled.

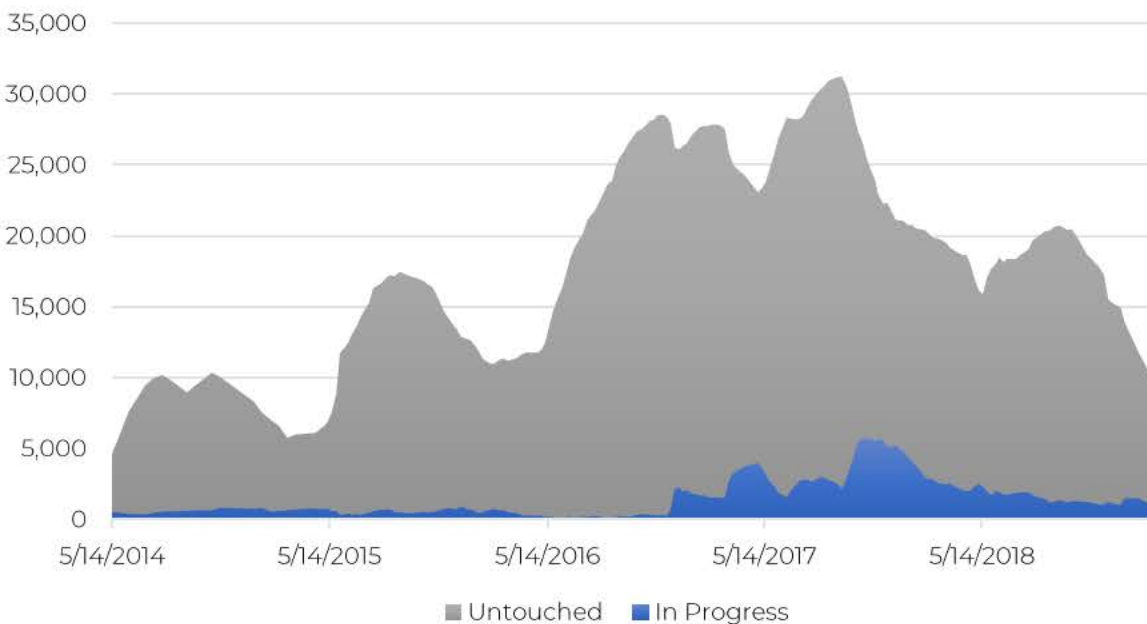
FIGURE 9: Once assigned, staff verified ownership within 6 days



Source: OIG analysis of data for a sample of 30 violations with notification delays exceeding one year.

Because COAL works on violations on a first in/first out basis, the amount of time a violation goes “untouched” constitutes a backlog. OIG analyzed weekly reports provided by COAL and found that the backlog of “untouched” violations grew significantly in 2016 and 2017, peaking at 31,218 in September 2017. As illustrated in Figure 10, although the number of “untouched” violations declined to 9,715 in February 2019, it continued to exceed the number of COAL’s active sanitation violation cases by a large margin.

FIGURE 10: The backlog of “untouched” violations peaked in September 2017



Source: OIG analysis of METS reports from 5/14/14-2/27/19 provided by COAL.⁸

DOL does not have specific goals regarding how much time it should take to identify the property owner and provide notice of an alleged sanitation code violation. Rather, DOL sets ad hoc goals based on staff availability, aiming to complete 1,000 notifications per week. DOL met its goal

⁸ COAL provided 185 METS reports. COAL said it had run the report each week, but some were missing because they had been overwritten in the system when new a report was run.

only 14% of the time between May 2014 and February 2019.⁹ DOL's performance improved in 2018, however, when it met the goal 40% of the time. During DOL's 2019 budget hearing, aldermen suggested setting a goal of no more than 60 days from violation to notification. As described in the background of this report, peer jurisdictions contacted by OIG reported that they usually identify owners and send notifications within a week. In addition, Washington D.C. and Houston report that they monitor their performance against specific targets.

DOL told OIG that it prioritizes the accuracy of ownership verification and the strength of violation cases over the speed of notification. According to DOL, there is no statute of limitations on such cases, so the time from violation to notification does not matter—only the weight of the evidence does.

While we understand that DOL's top priority is to win cases, DSS stated that its main goal in citing violations is for the property owner to correct the problem, and that quicker notification would support that goal. It would also decrease the burden on DSS to mitigate public safety or public health hazards. For example, if a property has weeds taller than ten inches, DSS will record a violation and mow the weeds because, as described on the City's website,

High weeds can conceal illegal activities, obscure dangerous debris, harbor rodents, [and] serve as a breeding ground for mosquitos. That's why Streets & Sanitation's Bureau of Street Operations is aggressive about keeping overgrown weeds from becoming a problem in our neighborhoods. Chicago residents should report instances of high weeds in their neighborhoods to 311. In most cases high weeds on vacant lots or in the public way will be cut.¹⁰

In some cases, DSS records a subsequent violation and mows again before the property owner is even notified of the first violation, creating the appearance that the City is engaged in "revenue grabbing." In 2016 and 2017, there were 48,536 instances where DSS recorded 2 or more violations of the same type at a single property. In 42,452, or 87%, of those instances, DSS recorded 1 or more additional violations before the property owner received notification of the first alleged violation. Mowing the lots related to these additional violations cost the City an estimated \$252,102 in 2016 and 2017.¹¹



⁹ OIG calculated this rate based on the 185 weekly METS reports provided by COAL. As noted in the previous footnote, some reports were missing.

¹⁰ City of Chicago, Department of Streets and Sanitation, "Weed Cutting/Weed Removal" 2019, accessed February 27, 2019, https://www.chicago.gov/city/en/depts/streets/provdrs/street/svcs/weed_control.html.

¹¹ This cost was based on the average contract costs associated with mowing and DSS's estimate that vendors can generally cut a lot in 30 minutes.

DELAYED
NOTICE OF AN
ALLEGED
VIOLATION IS
PROCEDURALLY
UNFAIR



Delayed notifications can take property owners by surprise and make it very difficult for them to rebut the City's allegations about the offending condition of their property. DSS noted that complaints about late notifications are directed at DSS leadership, not DOL, so there is little outside pressure for DOL to improve its process.

RECOMMENDATIONS

- 1) DOL should work with DSS to set a target for the maximum number of days from violation to notification consonant with public health and safety objectives on the one hand, and procedural fairness considerations for alleged violators on the other. The goal can accommodate situations beyond DOL's control that cause delays. For example, instead of a goal that *all* notifications will be sent within two weeks, DSS and DOL may decide that a more reasonable goal is for 95% of notifications to be sent within two weeks. A reconciliation of the two departments' priorities as well as information sharing will facilitate goal-setting and process improvements.
- 2) DOL should develop, document, and implement processes to meet the agreed upon goal. Because the primary cause of notification delay is the backlog itself, we recommend solutions that address the volume of "untouched" and incoming violations. Potential actions to eliminate the backlog and prevent it from recurring seasonally include:
 - a. Relying on the existing notification instructions, which advise recipients of the ownership dispute process, and sending notifications based on the address determined at the time of inspection, therefore only completing additional ownership research on notifications that are returned unopened, receive no response, or are disputed through the defined process.
 - b. Hiring temporary/seasonal staff or contractors: While COAL has reduced its backlog since 2017, the backlog remains large. Due to the seasonal nature of sanitation violations, hiring temporary staff or contractors during the summer months may help process the influx of violations and reduce the size of the backlog.
 - c. Increasing overtime for law clerks: Keeping in mind the seasonal pattern of sanitation violations, budgeting for more overtime during the summer could enable DOL to address more incoming violations.
 - d. Forgiving old violations, if that would be more cost-effective than hiring additional people to work down the backlog.
- 3) DOL management should monitor COAL's performance against the target number of days to notification, making operational adjustments as needed to meet the target and reduce any backlog.

MANAGEMENT RESPONSE¹²

- 1) *"For the numerous reasons set forth [in DOL's response letter (Appendix A)], DOL disputes the notion that setting a fixed time period between the date a ticket is written and the date a violation must be sent is reasonable, appropriate, or even operationally feasible, particularly because too many variables, such as seasonal fluctuations in the nature and volume of ticketing and staffing fluctuations, are beyond DOL's control. Further, it is important to note that COAL performs and prioritizes a significant amount of title work for code violations that typically involve greater public safety concerns than the violations that are the focus of the OIG's report (i.e. uncut weeds, accumulated trash, and unfenced lots). Prioritized violations and notices include emergency situations where lessors are providing insufficient heat to their tenants in cold weather, building demolitions, and building Code violations. Moreover, the Municipal Code provides mechanisms for immediately addressing even public nuisances such as overgrown weeds, when appropriate. See MCC 7-28-120 ("Weeds") ("Nothing in this section shall be construed to prevent the city from acting without notice to abate a nuisance under this section, where such nuisance poses an imminent threat to the public health, safety or welfare in the event of any other emergency. Nor shall any provision of this section be construed to deny to any person any statutory or common law right to abate a nuisance, or to prevent the city from seeking any remedy that may be provided by law.") Consequently, setting goals of the specific type proposed in the Report could prove misleading, particularly if they do not take into account delays necessitated by finding accurate ownership and service information and work prioritization; and again, it is counterintuitive that sending notices of violations to the wrong individual and/or the wrong address would serve the public interest. For the reasons outlined [in the response letter] (for example, inspector training and performance reviews by COAL), DOL also disagrees with any suggestion that it does not share information with DSS or work closely with DSS to improve their joint operations.*

"Nonetheless, the DOL is committed to continuing COAL's exemplary work and will strive to maintain its current practice of issuing a minimum of 36,000 DSS notices of violation per year. Of course, as discussed more fully [in the response letter], these goals are subject to factors beyond COAL's control, such as staffing levels and seasonal fluctuations in the number and types of violations.

- 2) *"As discussed more fully [in the response letter], COAL has already taken significant steps to make its processing of DSS violations more efficient. For example, since late 2016, COAL has requested and received eight more full-time attorney positions, and two more have been requested for 2020. As a result, in 2018, COAL completed 52,512 DSS title searches and filed 43,504 DSS cases at [the Department of Administrative Hearings], an increase of 40% and 47%, respectively, from 2017. Further COAL attorneys have trained over 180 DSS Inspectors to improve the quality and accuracy of their citations, and they communicate*

¹² DOL provided a response in the form of a letter, which is included as Appendix A to this report. OIG excerpted the portions directly responsive to the OIG recommendations and quoted them in the Management Response section.

directly with DSS Inspectors and their supervisors to ensure smooth operations as well as to evaluate the performance of those inspectors. COAL has also developed five overlay computer systems to better manage its day-to-day workflow of DSS violations, and it has been advocating for years for the development of a new and improved computer system, MET 2.0, which is now underway.

“Turning to the specific recommendations set forth in the Report, first, DOL disagrees that ‘the primary cause of notification delay is the backlog itself,’ for the reasons set forth in its response [letter]. Second, as explained more fully [in the response letter], Recommendation 2.a. would result in DOL attorneys and law clerks routinely violating the Municipal Code, breaching their professional and ethical obligations, possibly depriving others of their due process rights, and compromising the integrity of the administrative prosecution system for DSS tickets. It is also counterintuitive that sending notices of violations to the wrong individual and/or the wrong address would result in faster remedial action by the true property owner. Further this would simply return the City to the flawed system that existed before DOL volunteered to assume responsibility for this function.

“Second, DOL disputes the statement that ‘the backlog remains large,’ based upon data from 2018 and 2019 to date. In fact, as of the date of [the response] letter, all DSS tickets issues prior to May 2019 have been processed and only fifteen tickets issued during May 2019 remain to be processed. As discussed [in the response letter], DOL also disputes that ‘hiring temporary staff or contractors during the summer months’ is a meaningful proposition given the lengthy and intensive training needed for title work and the restraints imposed on such hiring by the City of Chicago Hiring Plan Contractor Policy.

“Third, DOL disputes the statement that ‘budgeting for more [law clerk] overtime during the summer could enable DOL to address more incoming violations,’ in part because it presupposes that additional funding would be provided for this purpose. Further, as discussed [in the response letter], title work training is lengthy and intensive, DOL cannot require law clerks to work overtime, and experience has shown that law clerks are disinclined to work long hours particularly when they have other demands, such as course work, exams, studying for the Bar Exam, and attempting to secure full-time employment.

“Finally, it is unclear how forgiving ‘old’ violations would be more cost-effective, and DOL does not believe it would further any of the stated goals in the Report.¹³ Nevertheless, as noted [in the response letter] if notices are violation are returned as undeliverable, COAL already works with City prosecutors to dismiss those individuals who did not receive notice.”

¹³ “On a related note, it is difficult to reconcile this recommendation with the OIG’s recent criticism that ‘the City does not actively pursue payment for driveway permit fees that are past due.’ See July 2019 Driveway Billing Audit (pages 4 and 26).”

- 3) *“DOL management will continue to monitor the performance of COAL, as it does all DOL divisions. As demonstrated [in the response letter], the City, DOL, and COAL have a long history of making operational adjustments as needed to improve the prosecution of DSS tickets; for example, DOL has been successful in recent years in securing additional full-time attorney positions for COAL. DOL will continue to look for ways in which its work can be improved, as is evident by its advocacy for a new computer system, MET 2.0.”*

IV. OBJECTIVES, SCOPE, AND METHODOLOGY

A. OBJECTIVE

The objective of the audit was to determine the average length of time it took DOL to notify property owners of alleged sanitation code violations and why in some cases the process took more than a year.

B. SCOPE

OIG reviewed data related to sanitation code violations that occurred between January 1, 2008, and December 31, 2017.

OIG did not analyze data regarding cases from other departments reviewed by COAL.

C. METHODOLOGY

To assess the number of days between a sanitation code violation and notification, we gathered data from the City's administrative hearings database on all sanitation code violations that occurred between 2016 and 2017. We calculated the days between the violation date and notification date for each violation, then summarized the results in various ways (e.g., average days and notifications that took 364 or more days).

To determine the number of sanitation violations per year, we gathered data from the administrative hearings database for the years 2008 to 2017 and sorted the data by year.

To detect seasonal trends, we sorted sanitation violation data for the years 2010–2017 by month based on when the violation occurred.

To summarize the number of violations “untouched” and “in progress,” we obtained 185 METS reports from COAL, ranging from May 14, 2014, to February 27, 2019. We then entered the data from the reports into a spreadsheet to create Figure 10.¹⁴

To determine specific causes for long delays, we selected a random sample of 30 violations that took a year or longer for notifications to be sent to property owners and asked DOL to explain the causes.

For information related to departmental objectives, we interviewed senior management from DOL and DSS.

To determine data reliability, we compared a sample of records to corresponding data within the METS system, the administrative hearings database, and actual notices of violation. We also

¹⁴ The OIG category of “untouched” is “Untouched (“Identified”)” on the METS Report. The OIG category of “In Progress” includes both “In Progress (“Eligible”)” and “Trust Disclosure Requested” on the METS Reports.

discussed the data with COAL and the Department of Administrative Hearings to confirm our understanding. We concluded that the data was sufficiently reliable for the purpose of the audit.

D. STANDARDS

We conducted this audit in accordance with generally accepted Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

E. AUTHORITY AND ROLE

The authority to perform this audit is established in the City of Chicago Municipal Code § 2-56-030 which states that OIG has the power and duty to review the programs of City government in order to identify any inefficiencies, waste, and potential for misconduct, and to promote economy, efficiency, effectiveness, and integrity in the administration of City programs and operations.

The role of OIG is to review City operations and make recommendations for improvement.

City management is responsible for establishing and maintaining processes to ensure that City programs operate economically, efficiently, effectively, and with integrity.

APPENDIX A: DOL'S RESPONSE LETTER



DEPARTMENT OF LAW
CITY OF CHICAGO

August 16, 2019

Joseph M. Ferguson
Inspector General
Office of the Inspector General
740 North Sedgwick Street, Suite 200
Chicago, Illinois 60654

Re: OIG File 18-0771

Dear Inspector General Ferguson:

The City of Chicago Department of Law ("DOL") is writing in response to Inspector General Report No. 18-0771, which concerns an audit conducted by your office regarding the manner in which the Collections, Ownership, and Administrative Litigation Division ("COAL") in DOL processed tickets issued by Department of Streets and Sanitation ("DSS") inspectors during a brief period of time between 2016 and 2017.

DOL Response To OIG Report

A. Processing DSS Tickets

The first step in the process of issuing tickets for any of the Municipal Code of the City of Chicago ("Municipal Code," "Code," or "MCC") violations pertinent to this matter occurs in the field. A DSS inspector discovers a parcel of property within city limits that has, for example, overgrown weeds. During the time period at issue in the OIG Report (2016-2017) and continuing to this day, that inspector would then use a hand-held electronic device to transmit to COAL the street address (which must be verified), the Global Positioning System ("GPS") location, and the Code violation at issue (for example, MCC 7-28-120, which pertains to weeds). The hand-held device does not automatically populate the Property Identification Number ("PIN"), and the Inspector does not otherwise have access to or provide any information regarding what individual, corporation, or business actually owns the property on that particular date, which is important in part because property ownership can change. Rather, once ticket information is received from the Inspector, the street address must be matched to a PIN. Often, this information must be verified through other sources and corrected when necessary.

121 NORTH LASALLE STREET, SUITE 600, CHICAGO, ILLINOIS 60602

Following identification of the correct PIN, a title search must be conducted¹ for the property before any additional steps may be taken, including issuing notice of a violation or a hearing pursuant to MCC 2-14-074. First, public records and databases (which are not always immediately available or accessible), such as the Cook County Recorder of Deeds' office or website (which is often nonfunctioning), must be scrutinized. Prior to 2008, when COAL took over the administrative processing of DSS tickets, DSS conducted its own title research without assistance from any other City department. This proved to be a daunting and time-consuming task for DSS, because title research can be complex and often requires legal analysis. While some property owners are relatively easy to identify, many investigations can be complicated for one or more reasons, including the following:

- (1) The street address provided by the DSS inspector is inaccurate;
- (2) The property is vacant;
- (3) The property is held in a land trust;
- (4) The corporation or LLC has been dissolved or was never actually created in accordance with the law;
- (5) The owner has died, which necessitates the examination of court documents from a probate case or finding legal heirs;
- (6) The property is in the process of a foreclosure or bankruptcy, which similarly necessitates the examination of court documents; and
- (7) A deed is either misrecorded, unrecorded, or predates the documents available on the Cook County Recorder of Deeds' website (which, again, is often inaccessible). If, for example, a deed predates a certain year, it is not available on-line and must be physically retrieved from the Recorder of Deeds' office. Further, if the Recorder of Deeds cannot locate a copy of the deed, it must order a copy from an outside source, which causes additional delay.²

Obtaining probate or foreclosure court files or beneficiary information from land trust companies can be particularly time consuming. If a property is held in a land trust, a disclosure is requested from the land trust company or a bank, which also delays the process. The OIG

¹ See MCC 7-28-005 and MCC 13-4-010 for the definition of "Owner." For certain violations involving refuse containers used by businesses, COAL instead conducts research to identify the occupant, property manager, tenant, or other responsible party and to determine how they should be served with process. The same is true for instances where the identity of the responsible party for illegal dumping is provided by the DSS inspector.

² To its credit, if COAL becomes aware of a misrecorded deed on a chain of title, it alerts the Recorder of Deeds so corrective measures can be taken to keep public records as accurate as possible.

Report does not question that the foregoing complications occur or that they prolong the process of ownership identification.

Furthermore, once the owner has been identified, an address for service of the notice of violation must be ascertained, in accordance with MCC 2-14-074. This, too, can be time consuming and difficult when, for example, the owner is a dissolved corporation, an unincorporated business, or an out-of-state corporation, or the property is a vacant piece of land. Finding the service address is an investigative process.

DSS did not have staff with specialized knowledge or systems in place to properly handle or manage these tasks. Frequent problems resulted, including incorrect owner identification, incorrect service, failures to notify property owners, and hearing delays and continuances, when, for example, the wrong person or no one at all showed up at the Department of Administrative Hearings (“DOAH”) on the designated hearing date. Consequently, the persons actually responsible for the Code violations may not have been held accountable or given any incentive to rectify or prevent the violations.

B. The Evolution of COAL

The problems experienced by DSS in identifying property owners and service addresses for ticket notifications were not unique. Prior to the creation of COAL as a division in the DOL, the Collection Unit in the DOL determined that numerous tickets were being dismissed at DOAH because client departments had failed to identify the correct building or property owners. The Collection Unit initiated a pilot program to provide title searches and service of process addresses for a sample group of violations. This program demonstrated that when the correct owners are notified, they typically show up at the hearings, address the violations, and are more likely to pay any fines that are entered. Due to this success, in 2007, the DOL created the Ownership Unit, which assumed responsibility for approximately 6000 pending Department of Building cases, as well as its day-to-day title search workload for both its DOAH and its Circuit Court cases. The Collection and Ownership Litigation Division (“COLD”) was formed in 2008 and assumed these responsibilities, as well as responsibility for the City’s Liens and Acquisitions Unit and the DSS tickets that are the subject of the Report. In 2011, COLD assumed responsibility for the majority of the City’s administrative hearing litigation work (“the DOAH Unit”) and changed its name to COAL, the Collection, Ownership, and Administrative Litigation Division. Subsequently, in late 2015, the DOAH Unit was transferred to DOL’s prosecutorial division. More recently, COAL has assumed responsibility for both the DOL’s Bankruptcy Unit and all of the property title work for lead paint violations issued by the City’s Department of Health, which had been encountering title search difficulties of its own.

Initially, COAL hired law clerks to conduct title analysis for the DSS tickets. Two COAL attorneys managed the program by overseeing the continuous training of law clerks. Because title research can be complicated, proper training and quality control are crucial. To increase accuracy, consistency, and efficiency, COAL developed and put in place protocols and procedures for conducting title research. COAL also developed systems and processes to track and resolve ownership disputes, trust disclosures, and returned mail. Every new COAL attorney

or law clerk assigned to this work undergoes a rigorous training course on conducting title searches, including various scenarios that arise most frequently (e.g., foreclosures, land trusts, corporations, LLC's, and bankruptcy), taught by the attorneys in COAL. After training, the law clerk is put on review and paired with an attorney or a veteran law clerk, who reviews his or her work until he or she has proven to conduct title searches satisfactorily. This initial process can take up to several months.

More is involved than simply determining ownership and service information, however. Before any notice is sent to the property owner and a copy is electronically sent to DOAH, which affords the parties an opportunity to be heard and ultimately determines liability, COAL generates and files with DOAH documents that serve as evidence that COAL has accurately identified the owner of the ticketed property. This is necessary because DOAH hearing officers require the City to provide convincing evidence of actual ownership for every ticket they review, in accordance with the Municipal Code, with the exception of the violations noted in footnote 1 above. Failure to provide such evidence typically results in dismissal or continuance of the ticket, not to mention upset individuals who contend that they should not have received notice of a violation for property they no longer own or never owned and that they should not have been required to appear for the hearing.³

Fortunately for the City, due to COAL's considerable efforts since assuming responsibility for this work in 2008, the City's ownership determination accuracy rate has dramatically improved, and the number of respondents taking responsibility for their property has increased, thereby advancing DSS's and the City's goals.

But COAL has not stopped there. For example, COAL attorneys have trained over 180 DSS Inspectors to improve the quality and accuracy of their citations. Training topics include understanding the Municipal Code, writing a proper ticket, creating good exhibits, and understanding the entire prosecution process. Further, COAL attorneys are in constant and direct contact with DSS Inspectors and their supervisors to ensure smooth operations, and they complete a review of all new DSS inspectors and any inspectors under review by DSS.

Moreover, COAL developed five overlay computer systems to better manage its day-to-day workflow of DSS violations. Further, if notices of violation are returned as undeliverable, COAL works with City prosecutors to dismiss those individuals who did not receive notice. Still further, COAL operates two court calls per month specifically to address difficult or unresolved ownership issues. COAL also created a process to obtain land trust disclosures from land trust companies so that, when necessary, a land trust beneficiary can be notified of the violation and take corrective measures. A database was created to track the thousands of these disclosure requests to date and the corresponding disclosures that are returned.

³ Even recipients of notice violations who dispute ownership via an email address provided by the City in the notice of violation may be required to attend their scheduled hearings at DOAH.

Of course, despite the success of the COAL Division in these and other areas, it remains the intent of DOL management to continuously monitor the performance of all DOL divisions and to always look for ways in which the DOL can improve its practices.

C. The 2016-2017 Time Frame And Beyond

As noted above, the OIG Report focuses almost exclusively on a period between 2016 and 2017 in which the number of DSS tickets dramatically increased while the number of COAL personnel available to work on DSS matters dramatically decreased and, as a result, the average length of time between the date of the violation and the date notice of the violation was sent increased. However, these statistics and others have improved dramatically since 2017, as discussed more fully below.

Further, the situation that existed in 2016-2017 requires more context than that provided in the Report. First, in 2009, DSS inspectors transitioned from writing paper tickets to the Mobile Electronic Ticket ("MET") system, which allows the inspectors to issue tickets electronically on handheld mobile devices. As noted above, this system does not provide a PIN or any other indicia of property ownership. Following implementation of the MET system, the number of tickets issued by DSS - - and consequently, the number of title searches necessitated by the Code - - increased, slowly at first but eventually by over three times. Simultaneously, despite its best efforts, COAL began to encounter staffing shortages beyond its control.⁴ Further, the fact that these positions (or any City positions) were budgeted does not mean that they were necessarily filled for all or part of the period between 2011 and 2017. In particular, by June of 2016, the number of full-time equivalent law clerks in COAL who worked on DSS matters had dropped to just a few due to numerous factors, including an improved legal job market; frequent absences for law school classes and exams, and the Bar Exam; a high turnover rate; and the City's often lengthy hiring process. Further, during the time period at issue, COAL relied on law clerks to assist with other Division responsibilities, not just title searches for DSS Code violations. And, as noted above, new law clerks require extensive training before they can be trusted to conduct title search work on their own.

In its Report, the OIG audit team proposes that law clerks could be asked to work more overtime when staffing is inadequate, but DOL cannot require law clerks to work overtime and experience in COAL shows that they are disinclined to work overtime particularly when they have other demands, such as law school classes and exams, studying for the Bar Exam, and

⁴ Any inference derived from Figure 5 on page 9 of the Report that COAL staffing for DSS tickets increased in 2011 would be misguided. The increase in budgeted COAL positions at that time was due to a reorganization of DOL Divisions, which included the transfer of the DOAH Unit to COAL and, consequently, more work. This unit prosecuted tickets issued by the Chicago Police Department, the Department of Animal Care and Control, the Health Department, the Department of Transportation, and DSS, as well as vehicle impoundment cases, post-tow matters, and wage garnishments for the City and its sister agencies. COAL staffing was reduced in late 2015 when the DOAH Unit was transferred to the DOL Prosecution Division.

attempting to secure full-time employment. Furthermore, DOL is mindful of recent criticisms directed by the OIG to other departments concerning the use of overtime. The OIG audit team also recommends that DOL hire “temporary staff or contractors during the summer months,” but this disregards the hiring and training challenges and turnover noted above, not to mention the restraints on such hiring imposed by the City of Chicago Hiring Plan Contractor Policy.

Fortunately, attorney staffing levels in COAL have improved significantly since the 2016-2017 timeframe, largely because COAL management worked closely with the City’s Office of Budget and Management to develop a new business model that would offer a more permanent solution to staffing and training issues. For example, in 2016, COAL was allocated two additional attorney positions, although these positions were not filled until late that year due to the hiring process. Three more were added in 2017, three more were added in 2019, and COAL has requested two more in 2020.

These developments have resulted in dramatic improvements. For example, in 2018 alone, COAL filed over 43,500 notices of violation just for DSS tickets, an increase of 47% from the year before, and it is on track to achieve comparable results for 2019. COAL attempts to complete at least 1000 DSS title searches per week and currently does so. Taking into account holidays and other factors, this projects to over 48,000 DSS title searches per year. For example, in 2018, COAL completed 52,512 DSS title searches, an increase of 40% from 2017. COAL is on track with similar numbers for 2019. Given all the constraints noted elsewhere in this response, these are remarkable accomplishments. Of course, COAL would welcome even more attorney positions to process even more tickets if budgeting permitted.

D. The Mobile Electronic Ticketing System

As noted above, in 2009, DSS inspectors transitioned from writing paper tickets to the MET system, which allows the inspectors to issue tickets electronically on handheld mobile devices. While this was a significant improvement over the paper system, it is now outdated and requires frequent maintenance. Recognizing these limitations, the DOL has been advocating since at least 2011 for the development of a new MET system (aka, “MET 2.0”) that will integrate the five computer overlay systems created by COAL and should provide better workflow management and efficiency, including title searches. The Department of Information Technology has now selected a vendor for this project and COAL management has been working assiduously with the vendor and others to move the project to completion.

E. The City Is Required Under the Municipal Code To Determine Who or What Owns The Property Ticketed By A Department of Street and Sanitations Inspector, As Well As A Service Address For That Owner, Before Notice Of A Violation And An Administrative Hearing Date May Be Issued

In its Report, the OIG’s principal recommendation is that DOL issue notices of Code violations and hearing dates without first determining who or what actually owns the property at issue, even when the DOL might have reason to question preliminary address information it has obtained from DSS. The DOL cannot agree to this specific recommendation, as it has previously

informed the audit team. As previously noted, COAL does not receive any preliminary information from DSS inspectors other than a street address and a GPS location, so COAL must conduct research whenever property ownership must be determined.⁵ Not doing so would result in DOL attorneys and law clerks routinely violating the Municipal Code, breaching their professional and ethical obligations, possibly depriving others of their due process rights, and compromising the integrity of the administrative prosecution system for DSS tickets.⁶ The fact that the City must establish ownership prior to the issuance of a notice of violation is reflected in the Notice itself.

Also, it is counterintuitive that sending notices of violations to the wrong individual and/or the wrong address would result in faster remedial action by the true property owner.⁷ Rather, it would move what might be perceived as delays in the process from the front end to the back end, but accompanied by new problems. This is evident from the history of DSS tickets

⁵ As noted above in footnote 1, different types of research are also required even for certain DSS violations that do not require property ownership determination.

⁶ The Report (page 14) conjectures that “DOL’s top priority is to win cases,” an unusual statement belied by the fact, for example, that notice recipients are provided an email address by which they can contest property ownership, not just an administrative hearing. The “top priority” of the DOL is to serve the City of Chicago and its citizens appropriately and to the best of its ability, which includes complying with the law whether or not doing so results in a victory, constitutes the most expedient approach, or generates the most revenue.

⁷ The OIG itself very recently acknowledged the importance of first obtaining accurate ownership and service information when City departments bill commercial property owners, not to mention the resulting problems associated with missing or inaccurate ownership or service information. See “Report of the Office of Inspector General, Chicago Department of Transportation [“CDOT”] Commercial Driveway Billing Audit (July 2019)” (hereinafter, “July 2019 Driveway Billing Audit”). In fact, in its July 2019 Driveway Billing Audit, the OIG states that CDOT should “[c]onsider techniques like those used by ... DOL’s Collections, Ownership, and Administrative Litigation (COAL) group (which regularly conducts ownership research related to municipal code violations)” and recommends that CDOT “[d]evelop and implement procedures to resolve property ownership issues *as they are discovered*,” that “CDOT should consider developing such procedures in-house *or potentially collaborating with COAL*,” and that CDOT should “[c]ollaborate with COAL for guidance and techniques to correct billing addresses.” (emphases added) July 2019 Driveway Billing Audit (pages 15, 19, and 20). The OIG also recommends that “[d]uring 2019 CDOT ... collaborate with ... COAL to identify the most efficient and effective use of current resources to accurately reconcile the driveway pending case permits of longer than one year.” July 2019 Driveway Billing Audit (page 19). DOL believes that obtaining accurate ownership and service information and resolving property ownership issues as early as possible in the process are equally important in the context of DSS violations.

outlined above. When DSS was processing these tickets on its own without benefit of the measures COAL takes to obtain accurate ownership and service information, frequent problems resulted once the tickets made their way to DOAH hearings. For example, when DSS had used incorrect ownership information, often the wrong person or no one at all would appear on the designated hearing date. As a result, tickets were dismissed, numerous people were inconvenienced, and City resources were wasted. Furthermore, the persons actually responsible for the Code violations may not have been held accountable or given any incentive to rectify or prevent the violations. It bears repeating that these very problems prompted the transfer of this work from DSS to DOL, and it is difficult to discern how the return to a demonstrably unsuccessful process would serve the City's best interests.

The OIG Report points to five particular cities whose practices seemingly mirror the problematic practices outlined above. However, the Report does not disclose whether any of these cities are subject to ordinances like the City's that require proof of ownership as part of the prosecution process or whether any face a volume of tickets comparable to the volume the City of Chicago handles. Further, there is no indication how these cities somehow invariably manage to obtain *reliable* ownership information within a few days -- a task that would be exceptionally difficult when, for example, the property was entangled in probate or other court proceedings or owned by a land trust or a newly dissolved corporation. Also, there is no indication how if at all the cities verify that the "information from [the] property and/or investigative databases" are up-to-date or have proved to be reliable. Lastly, there is no indication how many notices of violation are returned as undeliverable, what percentage of violations are ultimately dismissed or nonsuited because the wrong owner was served and/or the wrong person appeared on the hearing date because no one had attempted to verify current ownership, the extent to which resources were wasted as a result, and whether any of the cities' investigative bodies had ever received complaints from individuals who were angry about having improperly received from the city notices of violation for property they no longer or never owned, having improperly been summoned to appear in court, and/or having improperly been compelled to pay a fine they did not owe.

DOL Responses to OIG Report Recommendations

Recommendation 1

DOL should work with DSS to set a target for the maximum number of days from violation to notification consonant with public health and safety objectives on the one hand, and procedural fairness considerations for alleged violators on the other. The goal can accommodate situations beyond DOL's control that cause delays. For example, instead of a goal that all notifications will be sent within two weeks, DSS and DOL may decide that a more reasonable goal is for 95% of notifications to be sent within two weeks. A reconciliation of the two departments' priorities as well as information sharing will facilitate goal-setting and process improvements.

Response:

For the numerous reasons set forth above, DOL disputes the notion that setting a fixed time period between the date a ticket is written and the date a notice of violation must be sent is reasonable, appropriate, or even operationally feasible, particularly because too many variables, such as seasonal fluctuations in the nature and volume of ticketing and staffing fluctuations, are beyond DOL's control. Further, it is important to note that COAL performs and prioritizes a significant amount of title work for code violations that typically involve greater public safety concerns than the violations that are the focus of the OIG's report (i.e., uncut weeds, accumulated trash, and unfenced lots). Prioritized violations and notices include emergency situations where lessors are providing insufficient heat to their tenants in cold weather, building demolitions, and building Code violations. Moreover, the Municipal Code provides mechanisms for immediately addressing even public nuisances such as overgrown weeds, when appropriate. See MCC 7-28-120 ("Weeds") ("Nothing in this section shall be construed to prevent the city from acting without notice to abate a nuisance under this section, where such nuisance poses an imminent threat to the public health, safety or welfare or in the event of any other emergency. Nor shall any provision of this section be construed to deny to any person any statutory or common law right to abate a nuisance, or to prevent the city from seeking any remedy that may be provided by law."). Consequently, setting goals of the specific type proposed in the Report could prove misleading, particularly if they do not take into account delays necessitated by finding accurate ownership and service information and work prioritization; and again, it is counterintuitive that sending notices of violations to the wrong individual and/or the wrong address would serve the public interest. For the reasons outlined above (for example, inspector training and performance reviews by COAL), DOL also disagrees with any suggestion that it does not share information with DSS or work closely with DSS to improve their joint operations.

Nonetheless, the DOL is committed to continuing COAL's exemplary work and will strive to maintain its current practice of issuing a minimum of 36,000 DSS notices of violation per year. Of course, as discussed more fully above, these goals are subject to factors beyond COAL's control, such as staffing levels and seasonal fluctuations in the number and types of violations.

Recommendation 2

DOL should develop, document, and implement processes to meet the agreed upon goal. Because the primary cause of notification delay is the backlog itself, we recommend solutions that address the volume of "untouched" and incoming violations. Potential actions to eliminate the backlog and prevent it from recurring seasonally include:

- a. Relying on the existing notification instructions, which advise recipients of the ownership dispute process, and sending notifications based on the address determined at the time of inspection, therefore only completing additional ownership research on notifications that are returned unopened, receive no response, or are disputed through the defined process.*

- b. Hiring temporary/seasonal staff or contractors: While COAL has reduced its backlog since 2017, the backlog remains large. Due to the seasonal nature of sanitation violations, hiring temporary staff or contractors during the summer months may help process the influx of violations and reduce the size of the backlog.*
- c. Increasing overtime for law clerks: Keeping in mind the seasonal pattern of sanitation violations, budgeting for more overtime during the summer could enable DOL to address more incoming violations.*
- d. Forgiving old violations, if that would be more cost-effective than hiring additional people to work down the backlog.*

Response

As discussed more fully above, COAL has already taken significant steps to make its processing of DSS violations more efficient. For example, since late 2016, COAL has requested and received eight more full-time attorney positions, and two more have been requested for 2020. As a result, in 2018, COAL completed 52,512 DSS title searches and filed 43,504 DSS cases at DOAH, an increase of 40% and 47%, respectively, from 2017. Further, COAL attorneys have trained over 180 DSS Inspectors to improve the quality and accuracy of their citations, and they communicate directly with DSS Inspectors and their supervisors to ensure smooth operations as well as to evaluate the performance of those inspectors. COAL has also developed five overlay computer systems to better manage its day-to-day workflow of DSS violations, and it has been advocating for years for the development of a new and improved computer system, MET 2.0, which is now underway.

Turning to the specific recommendations set forth in the Report, first, DOL disagrees that “the primary cause of notification delay is the backlog itself,” for the reasons set forth in its response above. Second, as explained more fully above, Recommendation 2.a. would result in DOL attorneys and law clerks routinely violating the Municipal Code, breaching their professional and ethical obligations, possibly depriving others of their due process rights, and compromising the integrity of the administrative prosecution system for DSS tickets. It is also counterintuitive that sending notices of violations to the wrong individual and/or the wrong address would result in faster remedial action by the true property owner. Further, this would simply return the City to the flawed system that existed before DOL volunteered to assume responsibility for this function.

Second, DOL disputes the statement that “the backlog remains large,” based upon data from 2018 and 2019 to date. In fact, as of the date of this letter, all DSS tickets issued prior to May 2019 have been processed and only fifteen tickets issued during May 2019 remain to be processed. As discussed above, DOL also disputes that “hiring temporary staff or contractors during the summer months” is a meaningful proposition given the lengthy and intensive training needed for title work and the restraints imposed on such hiring by the City of Chicago Hiring Plan Contractor Policy.

Third, DOL disputes the statement that “budgeting for more [law clerk] overtime during the summer could enable DOL to address more incoming violations,” in part because it presupposes that additional funding would be provided for this purpose. Further, as discussed above, title work training is lengthy and intensive, DOL cannot require law clerks to work overtime, and experience has shown that law clerks are disinclined to work long hours particularly when they have other demands, such as course work, exams, studying for the Bar Exam, and attempting to secure full-time employment.

Finally, it is unclear how forgiving “old” violations would be more cost-effective, and DOL does not believe it would further any of the stated goals in the Report.⁸ Nevertheless, as noted above, if notices of violation are returned as undeliverable, COAL already works with City prosecutors to dismiss those individuals who did not receive notice.

Recommendation 3

DOL management should monitor COAL’s performance against the target number of days to notification, making operational adjustments as needed to meet the target and reduce any backlog.

Response:

DOL management will continue to monitor the performance of COAL, as it does all DOL divisions. As demonstrated above, the City, DOL, and COAL have a long history of making operational adjustments as needed to improve the prosecution of DSS tickets; for example, DOL has been successful in recent years in securing additional full-time attorney positions for COAL. DOL will continue to look for ways in which its work can be improved, as is evident by its advocacy for a new computer system, MET 2.0.

Conclusion

In 2008, COAL volunteered to step in and fix a flawed system of DSS prosecutions. As should now be evident, COAL and its managers have done an outstanding job handling this work and improving the process, particularly given the number of factors it cannot control. Rather than focusing solely on a brief period between 2016 and 2017, when ticketing was high and staffing was low, its performance should be judged from the entire period between 2008 and now, particularly in the ways in which it has overcome these hurdles more recently and shown impressive results.

DOL welcomes the opportunity to have a continued dialogue with the OIG and others regarding ways in which the processes described herein can be improved and the common goals

⁸ On a related note, it is difficult to reconcile this recommendation with the OIG’s recent criticism that “the City does not actively pursue payment for driveway permit fees that are past due.” See July 2019 Driveway Billing Audit (pages 4 and 26).

of all City departments involved in the process and the residents of the City of Chicago can continue to be met.

Very truly yours,



Mark A. Flessner
Corporation Counsel

MISSION

The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

- administrative and criminal investigations by its Investigations Section;
- performance audits of City programs and operations by its Audit and Program Review Section;
- inspections, evaluations and reviews of City police and police accountability programs, operations, and policies by its Public Safety Section; and
- compliance audit and monitoring of City hiring and employment activities by its Hiring Oversight Unit.

From these activities, OIG issues reports of findings and disciplinary and other recommendations,

- to assure that City officials, employees, and vendors are held accountable for violations of laws and policies;
- to improve the efficiency and cost-effectiveness of government operations; and
- to prevent, detect, identify, expose, and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

AUTHORITY

OIG's authority to produce reports of its findings and recommendations is established in the City of Chicago Municipal Code §§ 2-56-030(d), -035(c), -110, -230, and 240.

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