

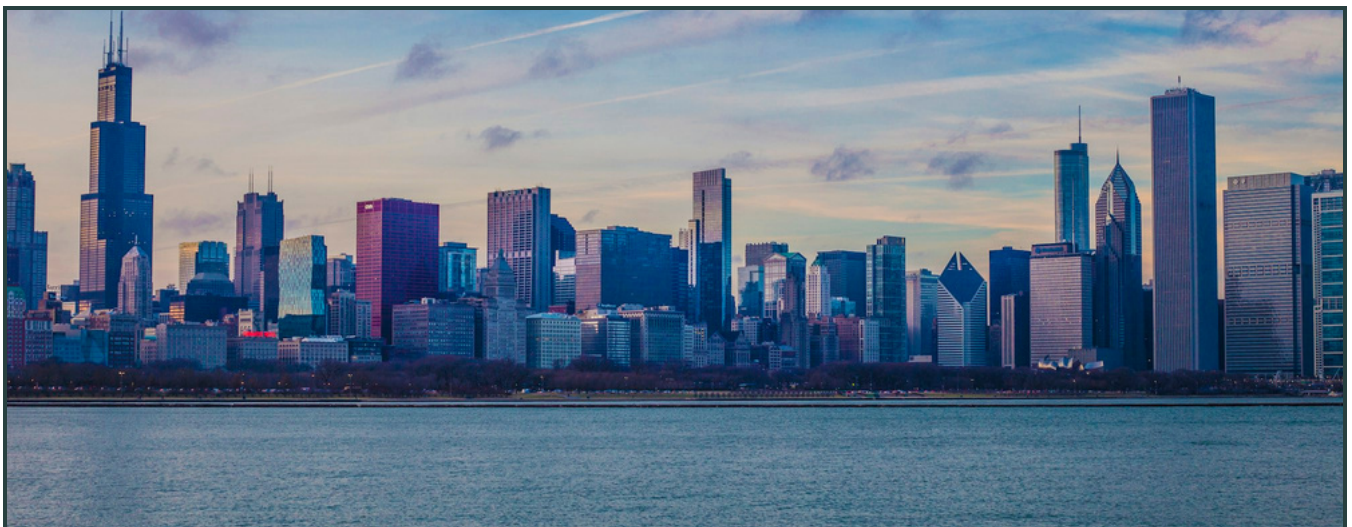


CHICAGO
POLICY
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WHY CHICAGO NEEDS AN ELECTED CITY ATTORNEY

By Gerrin Alexander



EXECUTIVE SUMMARY

The “gift room” scandal, a botched police raid and a smokestack implosion underscore how the head of Chicago’s Law Department, also known as the corporation counsel, too often lacks independence from the mayor’s office.

Chicago’s corporation counsel is appointed by the mayor and can be removed at the mayor’s discretion. Experience in other major cities suggests Chicago would benefit from an elected city attorney, accountable to voters.

An elected city attorney would offer Chicagoans three main benefits:

01

More willingness to try to renegotiate or nullify bad contracts.

02

More independent and efficient management of police misconduct cases.

03

Independent resolutions of conflicts between city government entities.

To create a law office truly independent of the mayor, Chicago voters would need to approve changing the manner of selection for the city attorney. The question could reach the ballot in one of two ways:

01

The City Council adopts an ordinance placing a binding referendum before voters.

02

Citizens initiate the referendum process by gathering the required petition signatures.



The Chicago city attorney, known as the corporation counsel, oversees all legal matters concerning the city, represents city departments in court, defends city employees sued over actions taken while performing their official responsibilities, advises departments on legal compliance, provides legal opinions, prepares legal documents, negotiates settlements (which need City Council approval), and hires outside lawyers as needed.

This gives substantial authority to the city attorney, who is appointed by the mayor. Allegiance to the mayor may affect legal decisions, such as whether to pursue litigation against politically connected interests.

In that environment, city leaders must contemplate a change. An elected city attorney is essential to establishing an independent legal watchdog accountable directly to voters. An elected office would provide Chicago with a more independent legal advocate capable of protecting taxpayers, improving government accountability and impartially serving the public interest in matters affecting city governance.

01

Seeking to renegotiate or nullify bad contracts

The office of an elected city attorney is better positioned to independently investigate any fraud, corruption and misrepresentation related to city concession agreements. Such agreements encompass public and private contracts ranging from Chicago's controversial 75-year parking meter deal to the hundreds of food, beverage and recreational concession agreements across Chicago Park District properties and the city-owned Chicago Riverwalk.

An elected city attorney would be far more likely to pursue remedies than an appointed attorney, who serves at the pleasure of the mayor. The current structure can create the appearance of a conflict of interest when concerns arise regarding agreements, decisions or policies associated with the administration that selected them. Such an attorney may be less willing to revisit agreements negotiated by the administration that appointed them.

In San Diego, the elected city attorney succeeded in efforts to void the city's lease-to-own agreements after uncovering a real estate broker's violation of conflict-of-interest law. That sent a message to all public employees, contractors and the like: You will be held accountable for violating laws designed to protect the public trust.

More independently and efficiently manage police misconduct cases

An elected city attorney's office would be better equipped to manage Chicago's substantial volume of police misconduct litigation and its associated costs. The Law Department allocates \$40 million annually to external legal counsel, mainly for police misconduct matters. An appointed corporation counsel has an incentive to consider the administration's political interests and relationships within City Hall when deciding how to handle these cases. Thus, political priorities at City Hall may affect decisions regarding litigation strategy, appropriate settlement sizes and the use of outside counsel in police misconduct cases.

By contrast, an elected attorney can evaluate cases based on legal and fiscal considerations rather than concerns about who appointed them. Though the City Council would continue to approve settlements where required by law, an elected city attorney could provide a more independent assessment of the city's legal exposure and taxpayers' interests.

Moreover, an elected city attorney has stronger incentives to identify and address recurring sources of legal liability. An appointed city attorney operates in the same political hierarchy that oversees the Police Department, which can diffuse accountability for recurring misconduct settlements. While an elected city attorney still faces political pressures, the office would answer to voters rather than the administration, whose policy decisions may have contributed to the city's legal exposure.

In appointed offices, political incentives favor protecting the administration, defending the status quo and limiting embarrassment, yet taxpayers bear the financial burden of misconduct settlements. For this reason, an elected city attorney would be more inclined to identify patterns of liability, provide independent assessments of the city's legal risks and recommend reforms.

A city attorney who answers to voters has a stronger incentive to stop misconduct before taxpayers must pay for it repeatedly.

Independently resolve conflicts between city government entities

Institutional tension arises when the mayor's policy objectives, the City Council's oversight interests and the city's legal representation are all tied to the same mayor-appointed Law Department. This gives the department significant influence over disputes involving city agencies, including whether and when investigative findings are made public, in a department ultimately accountable to the mayor. As the Better Government Association has reported, Chicago's oversight framework allows the Law Department to indefinitely delay the release of full investigative findings, including by asserting attorney-client privilege.

An elected city attorney still would exercise substantial legal authority in disputes, but the office would derive its authority from voters rather than the mayor. That provides greater institutional independence for the attorney to serve as an impartial adjudicator in disputes between the mayor and other governmental entities. Also, under an elected city attorney, there would likely be less institutional incentive to shield politically damaging findings involving the administration.

CONTROVERSY SURROUNDING THE OFFICE OF CORPORATION COUNSEL

The Law Department has an annual operating budget of \$33.6 million — less than the \$40 million allocated for outside lawyers — and employs some 370 people: about 270 attorneys and 100 support staff.

The appointed corporation counsel serves at the pleasure of the mayor, though the City Council must approve the appointment. City attorneys can and do resign to pursue other opportunities or amid public controversy.

As outlined in Chicago's Municipal Code of Conduct, the city attorney is to protect the city's rights and interests in all proceedings brought against it or a sitting officer, board or department.

The city attorney legally represents the City of Chicago, including the mayor, the City Council and city departments, and can effectively fulfill the duties when the mayor's interests align with the city's. However, an ethical dilemma arises when those interests diverge: Whose interests should the city attorney represent?

In Chicago, the city attorney's allegiance is significantly influenced by the authority that appoints them — the mayor. Here are cases in which city lawyers demonstrated loyalty to the mayor rather than the city, risking the erosion of public trust:

Law Department obstructions

Critics of Chicago's legal structure have argued that the Law Department wields too much influence over the city's oversight mechanisms, particularly in disputes involving politically sensitive investigations.

On Feb. 7, 2025, a memo from then-Inspector General Deborah Witzburg to the City Council's ethics committee alleged that the Law Department "selectively acts in opposition to (the Office of Inspector General's) investigative work when OIG's work may result in embarrassment or political consequences to City leaders."

The memo specified three Law Department practices that impede the OIG's investigative work:

1. The assertion of attorney-client privilege.
2. City lawyers attending OIG investigative interviews.
3. The department may require the OIG to disclose information about investigations before helping enforce subpoenas.

The OIG argues that these practices undermine its independence.

Per Chicago city code, it is the duty of every "appointed officer, employee, department, agency, lobbyist engaged in the lobbying of elected or appointed City officers or employees, contractor, subcontractor, agent, or licensee of the City, and every applicant for certification of eligibility for a City contract or program, to cooperate with the inspector general in any inquiry." Despite that obligation, the OIG accused the Law Department of acting as though it could unilaterally define the scope of the OIG's oversight, including by deciding which city records the OIG could review during an investigation.

The alleged demands of Law Department attorneys to attend investigative interviews can compromise witness candor, making cooperation more difficult and potentially delaying or canceling interviews.

The corporation counsel's approval of the inspector general's request should not be "unreasonably withheld, delayed, or conditioned," according to city code.

The OIG says the Law Department believes it can impose conditions on how the OIG enforces subpoenas, resulting in investigation delays and potentially discouraging the OIG from investigating specific subjects.

'Gift room' case

One noteworthy example of Law Department interference in an OIG investigation is the infamous "gift room."

Witzburg disclosed the “gift room” dispute in a January 2025 report, which noted an informal agreement to record gifts in a ledger accessible for public inspection at City Hall.

The OIG initially sent an undercover employee to the mayor’s office to request access to the room. The report said the staff member was denied entry and instructed to submit a Freedom of Information Act (FOIA) request. Witzburg stated that the FOIA request was also rejected because the mayor’s office failed to respond promptly, thereby resulting in a denial. In January 2025, Mayor Brandon Johnson contested the allegation, asserting that reporters would be allowed entry to the gift area. His office granted media access to the area more than six weeks later.

The Law Department got involved in the “gift room” scandal “on behalf of City leadership in opposition to an OIG investigation,” and attempted to minimize the embarrassment or political consequences for city leadership, Witzburg said in a memo to the City Council ethics committee.

The gift room controversy illustrates how a mayor-appointed law department can become entangled in investigations involving the administration it serves. Even though city lawyers were not accused of creating the gift room, they became involved in disputes over the OIG’s investigation and disclosure of information.

This created the appearance that the city’s legal office was protecting the mayor rather than acting as an independent watchdog.

ShotSpotter case

For years, Chicago relied on ShotSpotter — a gunshot-detection system using a network of acoustic sensors to identify and locate suspected gunfire — to help the police department respond quicker to shootings. However, the program became the subject of intense debate over its efficiency, accuracy and impact on policing practices among city government.

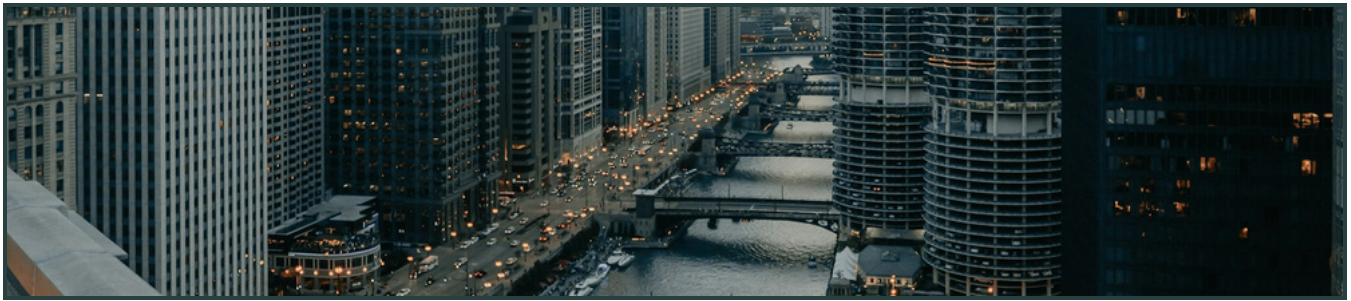
The ShotSpotter gunshot-detection system controversy presented the Law Department with an internal conflict, as the city attorney must represent the mayor and the City Council. In his mayoral campaign, Johnson pledged to terminate the ShotSpotter contract, despite most aldermen opposing the move.

The Illinois Policy Institute found that despite Johnson’s claims that the system was harming minority communities through overpolicing, the wards with the highest numbers of gunshots fought hardest to maintain the system. Chicago aldermen voted not once but twice to limit and counteract Johnson’s control of the ShotSpotter program — to no avail.

This created a dispute around who ultimately controlled the ShotSpotter agreement: the mayor or the council? The corporation counsel sided with the mayor, arguing that the City Council’s ordinance violated the Separation of Powers Act.

Because Chicago's legal structure centralizes responsibility for representing the city in the mayor-appointed Law Department, the City Council has had limited access to independent legal representation. The arrangement has prompted multiple efforts by aldermen to create an Office of Legislative Counsel and consider hiring outside counsel in some disputes when the City Council's interests diverge from those of the mayor.

The ShotSpotter controversy highlights broader concerns with a mayor-appointed corporation counsel's ability to independently adjudicate such disputes.



BIG CITIES WITH ELECTED CITY ATTORNEYS

In 43 of 50 states, including Illinois, an attorney general is elected by popular vote and serves as the state's chief legal officer.

Among the 15 largest U.S. cities by population, Los Angeles, San Diego, and Columbus, Ohio, elect city attorneys. Milwaukee also elects the position.

City attorneys have broad responsibilities. Importantly, a city attorney plays a critical role in preventing abuses of power within City Hall.

Suppose a city attorney acted on behalf of constituents by seeking judicial review of actions taken by a mayor. An appointed city attorney in such a case could be fired by the mayor or pushed to resign.

In 2024, former New York City Corporation Counsel Sylvia Hinds-Radix was pushed out after raising concerns about the city's Law Department representing former Mayor Eric Adams in a sexual misconduct lawsuit. She learned of her replacement through the media before getting formal notice. This shows that when legal judgments conflict with the political interests of the mayor who appointed them, city attorneys are left in a vulnerable position.

The city attorney's independence is key to preserving institutional integrity by reinforcing the public's trust and belief that laws are applied equally and investigations are not compromised.

Columbus City Attorney Zack Klein and former Los Angeles City Attorney Mike Feuer told the Chicago Policy Center that being elected provides the independence necessary to advocate effectively for the city's interests.

"They're not my boss," Klein said of the mayor and city council. "The voters are my boss, but [the mayor and the council] are my client," he said.

"An elected city attorney is beneficial because of the independence that being elected creates, Feuer said. "One isn't concerned that the advice one gives might lead to losing one's job."

REFERENDUM ESTABLISHING THE CITY ATTORNEY

A mayor-appointed city attorney further delegates considerable discretion to the mayor, who already serves as the chief executive of Chicago's bureaucracy and can hire and fire city department heads at will.

The current system of appointing the corporation counsel cannot simply be changed by the mayor or City Council acting alone. Article VII, Section 6(f) of the Illinois Constitution provides that a home rule municipality may determine the manner of selecting its officers only as approved by referendum or as otherwise authorized by law. Accordingly, the question could reach the ballot either through a City Council ordinance placing a binding referendum before voters or through a citizen-initiated referendum.

A binding referendum, whether placed on the ballot by City Council ordinance or by citizen initiative, could establish an elected city attorney's office.

If approved by voters, an elected city attorney would be chosen in the same municipal election cycle as the mayor, city clerk and city comptroller.



Electing this office would help ensure Chicago voters shape the city's legal future — not just the fifth floor of City Hall.