

LEGAL DEPARTMENT 2018 ANNUAL REPORT

Excellence | Accountability | Innovation | Inclusion | Empowerment

MISSION

The Legal Department provides quality legal representation to the City of South Bend's Mayor, departments, commissions and agencies with a dedicated and professionally-skilled staff, efficiently and cost effectively, in furtherance of the City's strategic goals, and while preserving the legal and ethical integrity of the City. The services of the Legal Department are most directly tied to the City's core value of being a **Well-Governed and Administered City**.

WHO WE ARE

Great Employer with Great Employees

The Legal Department is comprised of diverse and talented attorneys and staff members in an environment in which gender, race, and age equality are indicative of a strong commitment to the City's core values of inclusion and excellence.

WE ARE:

8 Attorneys



2 Paralegals



2 Legal Assistants



1 Great Team!



Legal Department Staff Benefits

The Legal Department takes the City’s goal of being a “Great Employer with Great Employees” seriously. We offer the following benefits to our employees to enhance retention and recruitment of talented, skilled staff:



* In 2018, the Legal Department achieved a record level of participation in the Indiana Municipal Lawyers’ Association Municipal Law Conference, with six (6) attorneys traveling to Indianapolis for statewide legislative updates, training, and networking opportunities.

Community Service and Participation

The attorneys and staff of the Legal Department are great employees in the office and beyond. As dedicated members of the community, our staff serve in leadership and volunteer positions throughout the County, including:

- ✦ Robert A. Grant Inn of Court
- ✦ St. Joseph County Bar Association and Board of Governors
- ✦ Volunteer High School Mock Trial Coach- Trinity at Greenlawn and Adams HS
- ✦ Hannah’s House Board
- ✦ Youth Services Bureau
- ✦ South Bend Lyric Opera Board
- ✦ Habitat for Humanity Carter Work Project
- ✦ St. Joseph County Humane Society
- ✦ South Bend Youth Symphony Orchestra Committee
- ✦ SJCBA Pro Bono Committee and South Bend Ask-A-Lawyer
- ✦ Volunteer Lawyer Network
- ✦ SJCBA Bench and Bar Committee and Family Law Committee
- ✦ League of Women Voters
- ✦ Indiana State Board of Law Examiners, Indiana Supreme Court Character and Fitness Committee



Supporting the City's Employees

The Legal Team works with the City's Departments to help them reach their goals in a manner that is compliant with state, federal, and local laws. We help each of our Departments to be a great employer with great employees.

✓ Sexual Harassment Training Ordinance

Aided the City's Human Resources Department in the creation of a Sexual Harassment Training Ordinance, mandating annual sexual harassment training for all City Employees, making the City of South Bend an even greater Employer with Great Employees.

✓ South Bend Police Department Contracts

Negotiated and finalized multiple contracts enhancing transparency and training in the Police Department, including:

- ✚ Body Worn Cameras
- ✚ Virtual Academy
- ✚ Promotional Process Testing
- ✚ CARFAX
- ✚ Fingerprinting software

✓ Interlocal Agreement between St. Joseph County Prosecutor and South Bend Police Department

Assisted in the creation of an interlocal agreement between SJC Prosecutors' Office and SBPD to create a formalized framework for the interactions between the two entities and memorializing the expectations for participation and cooperation in the County-wide units.

✓ South Bend Fire Department and EMS Programs

Established a preliminary framework for medical direction and oversight for the **SBFD Community Paramedicine Program pilot**, in conjunction with Beacon Medical Group and Memorial Hospital of South Bend, and under the local EMS co-sponsorship in which the City participates.

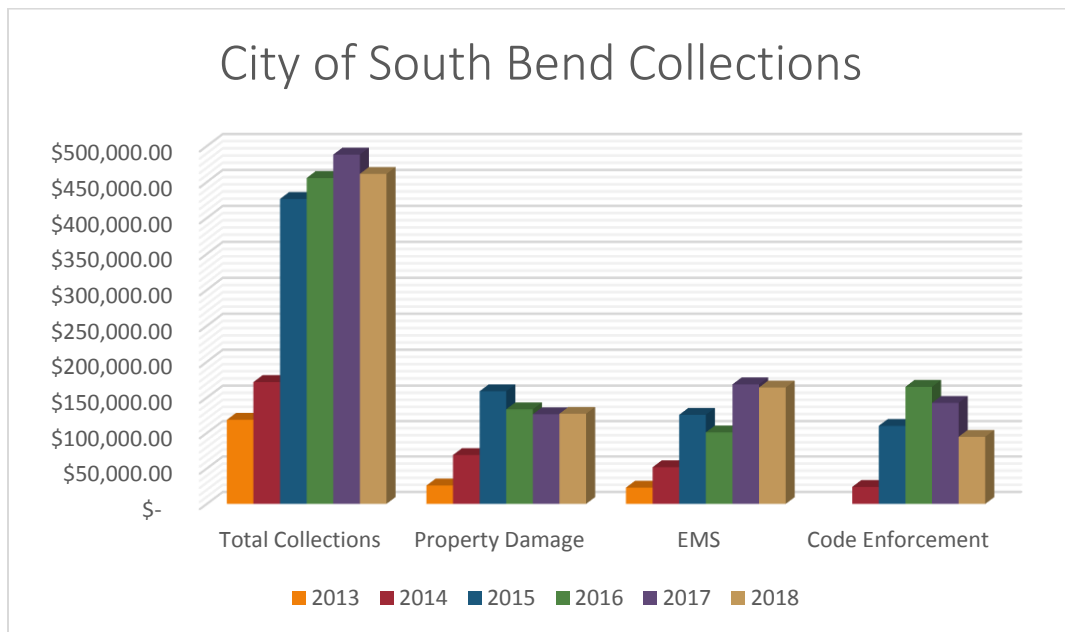
Finalized the contract for the SBFD's participation in the **Michiana Health Information Network**, which will enable access to and sharing of information with other community healthcare organizations in support of the pilot.

Enduring Financial Strength

The Legal Department supports responsible collections practices, a thorough subrogation practice, economic investment, and important partnerships to enhance the City’s financial strength.

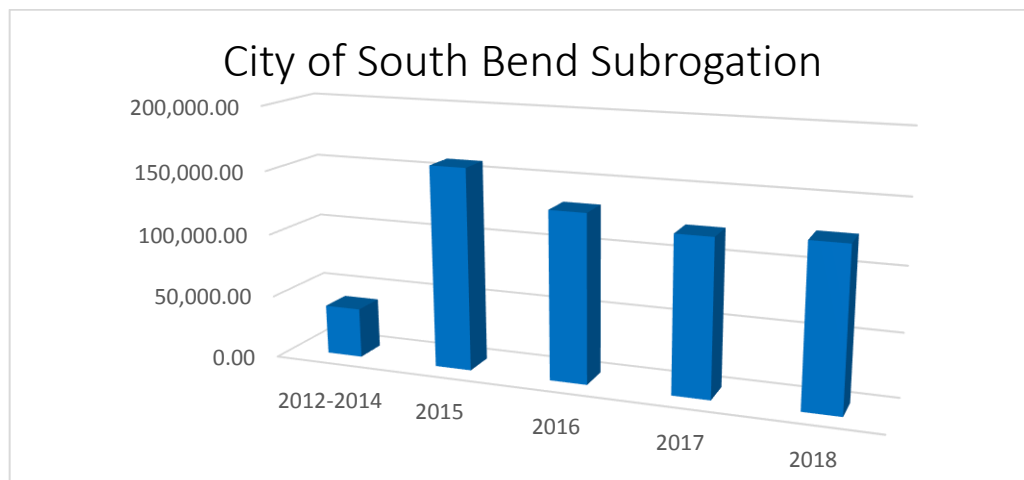
Collections Practice

In the fifth year of its partnership with a local law firm specializing in collections, the Department collected over **\$461K** in obligations owed to the City, modeling our value of Accountability.



Subrogation Practice

In the fifth year of the Department’s created Claims Administrator position, City Legal collected **\$125,688.59** owed to the City for property damage.



Economic Development Investments

The Legal Department counseled and represented the Department of Community Investment regarding economic development projects that attracted **over \$100 million of private investment to the City** in 2018 and approximately **489 new jobs**.

Crowe ERP Agreement

The Legal Department successfully completed a two-month negotiation with Crowe for improved software systems for the Department of Administration and Finance. The agreement represents a multi-million dollar effort to update and vastly improve the City's internal finance procedures.

Pokagon Band Relationship

The Legal Department facilitated the City's first reimbursement under the Pokagon Agreement in the amount of **\$1.2 million**. These funds will be used to fund initiatives aimed at contributing to the improvement of educational opportunities, poverty issues, and unemployment issues in the City.

The Department also coordinated the **first annual meeting** of the Pokagon Band and the City, which will be a recurring event to solidify the ongoing relationship, successes, and challenges as the two organizations move forward in partnership to better the community.

Reliable Compliance with Regulations and Well-Managed Risk

Guided by the principal “we pay what we owe,” the Legal Department handles each claim it receives with integrity and courtesy.



*An increase in damages claimed was due to several claims carrying over from 2017-2018 with significant exposure.

**18.7% decrease in total claims dollars paid in 2018

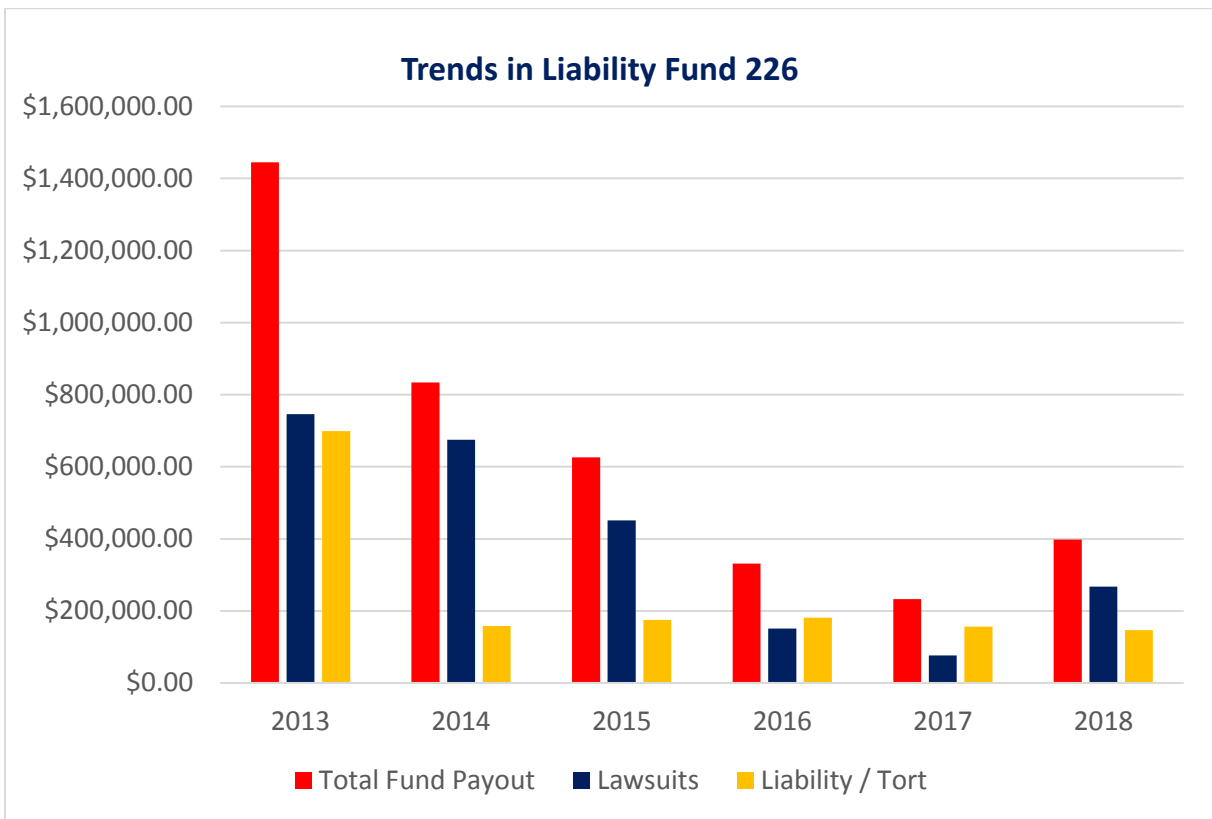
Litigation

The City settled **five (5)** lawsuits in 2018, for a total cost of **\$56,000**. **This represents a decrease of 26% from 2017.**

LIABILITY FUND 226

The Legal Department has handled claims, lawsuits, and other City matters in an equitable, fiscally-responsible manner via:

- Proactive claims investigation and evaluation;
- Interdepartmental information sharing and best practices coordination; and
- Vigorous defense litigation.



Training Initiatives

The Legal Department has worked diligently to assist our City departments in proactively changing practices or policies that lead to increased liability. In 2018, we have given many formal and informal trainings to individual departments, including:



Administration and Finance Trainings

- Contractor Registration Enforcement – Admin/Building/DCI
- Interstate Public Procurement Process
- Project Labor Agreements – Admin/DCI/Public Works



Animal Care and Control Trainings

- ACC Hearings, Evidence, Witness Preparation
- Proper Search Warrant Drafting and Use
- Proper 4th Amendment Investigations
- Ticket Issuance and Structure
- Lawful Impoundment



Code Enforcement Trainings

- Invoice Disputes and Collections/Appeals Procedures
- Unsafe Building Law and SB Property Maintenance Code
- Code Hearing Procedures, Preparation, and Continuances
- Code Hearing Appeal Lawsuits and Procedure



Community Investment Trainings

- Useful Contract Clauses and Waivers Clauses
- City Ordinance Enforcement and Timing
- Prescriptive Easements and Enforcement
- Contract Terms and Negotiation Tactics



Fire and EMS Trainings

- Medicaid Billing Best Practices
- Deposition and Discovery Process in Litigation
- Administrative Warrant Process and Procedures
- Firefighter Pension Board General and Hearing Procedures
- SBFD and Code Enforcement Inspection and Investigation General Procedures



Human Rights Commission Trainings

- Title VII
- Americans with Disabilities Act (“ADA”) , and the
- Fair Housing Act



Open Door Law Trainings

- New HPC Staff ODL Training
- PD Transparency Hub Considerations
- Open Door Law and Animal Control Commission
- Board of Public Safety Executive Session Laws
- Police Bulletin Refresher Training



Police Trainings

- Legal 101: New Police Department Supervisor Training
- Lexipol
- Utility BWC
- OPS Updates/Best Practices



Public Works Trainings

- Useful Contract Clauses and Waivers Clauses
- City Ordinance Enforcement and Timing
- Prescriptive Easements and Enforcement
- Contract Terms and Negotiation Tactics



Venues, Parks, and Arts Trainings

- Purchasing Policy Requirements in Compliance
- Competitive Purchasing and Public Works Bids, Quotes and Proposals

Environmental Responsibility

The Legal Department has effectively handled a number of Environmental matters in 2018, guided by a commitment to residents’ health and safety, balanced with a fiscally responsible approach.

- ✓ Negotiated new environmental consultant contract with Beck’s Lake Project Manager, saving significantly on testing costs required by the EPA.
- ✓ Recovered significant insurance funds.

Tapes Case

Successfully utilized nuanced case law to interplead the tapes in the “tapes case.” The City was dismissed as a litigating party in the “tapes case” and remains solely as the custodian of the tapes until either an agreement is reached between the former officers and the Common Council, or the Judge makes a ruling on the legality of the tapes. **The City will comply with any and all orders pertaining to the tapes, ensuring that it does not violate the Federal Wiretap Act.**

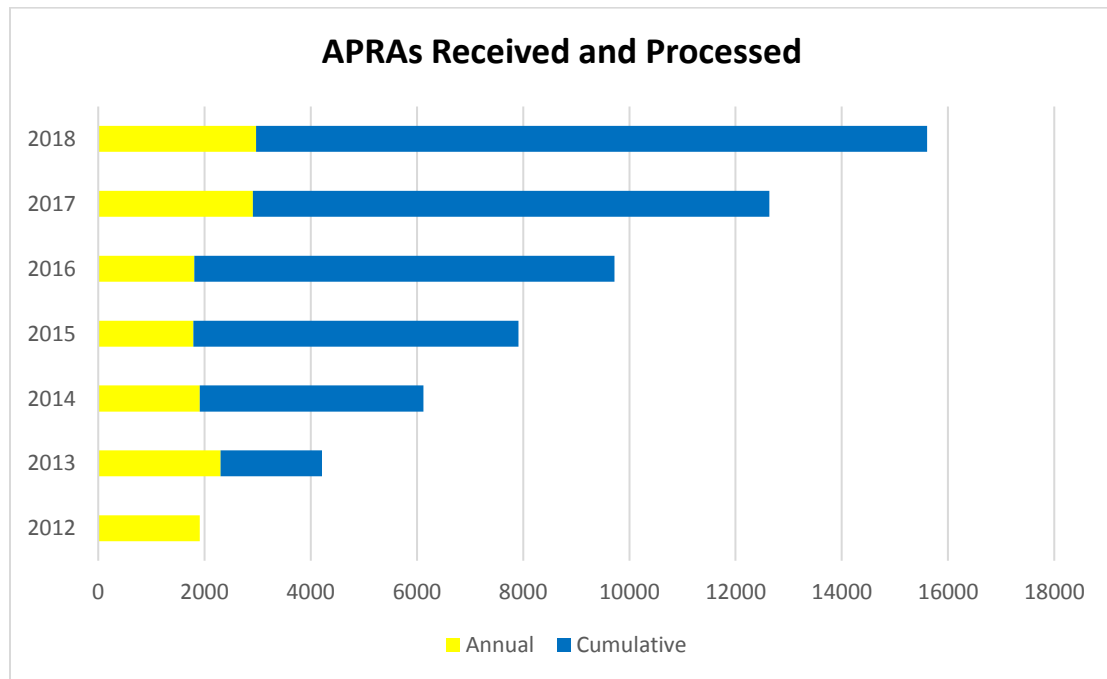
Excellent Services and Efficient Processes

The Legal Department fields questions from the public, especially requests for public records, ticket appeals, and claims. We strive to provide equitable, timely service, supporting our administration’s goals of Transparency.

Access to Public Records Act (APRA) Requests

The Department received a record number of public records requests in 2018, at a total of **2,971** requests received and processed with no violations.

The Administration’s APRA total is now **15,607** requests received and processed since 2012.



Ticket Appeals

Resolved **413** ticket appeals in 2017, a **4.8%** increase from 2017.

Bankruptcy Practice

Monitored progress of numerous bankruptcy cases, filing fifteen (15) claims totaling **\$40,716** and recovered over **\$3,200** funds paid to City departments.

Initiated use of electronic bankruptcy noticing system to reduce paper files and streamline procedures.

Code Hearings

Represented the City's interests in **over 1,000** Code Hearings.

Animal Care and Control

Represented the City in ten (10) Animal Care and Control Commission meetings and prosecuted five (5) animal control commission hearings, each resulting in determinations in the City's favor.

Mortgage Foreclosure and Quiet Title Practice

Reviewed and managed approximately **100** mortgage foreclosure and quiet title actions naming the City as a defendant, preparing answers to and monitoring sheriff's sales for proceeds to pay the City's priority interest.

Assisted with a title insurance claim within a mortgage foreclosure, resulting in a **\$13K** payment to the City.

Special Events Ordinance

The Legal Department drafted and revised the Special Events Ordinance, which was approved by Council in 2018. The ordinance represents an overhaul of past practices and includes new safety precautions, streamlined application processes, and addresses permitting and planning issues. It also provides that for-profit sponsors of large special events share equitably in City personnel and material costs. The ordinance supports opportunities for citizens to enjoy events in the City of South Bend.

Model of our Values (Excellence, Accountability, Innovation, Inclusion, and Empowerment)

The Legal Department takes the City's mission and values seriously, supporting local and national initiatives to make South Bend, and the United States at large, a more inclusive place in which to thrive.

Amicus Briefs and National Litigation

The Legal Department signed on to three (3) amicus briefs in 2018, supporting national social initiatives protecting immigrants and preventing workplace discrimination, and joined a national opioid litigation initiative.

✦ **Ramos v. Nielsen**

The City joined an amicus brief spearheaded by the City of Los Angeles challenging the U.S. Department of Homeland Security’s termination of the Temporary Protected Status for immigrants from El Salvador, Haiti, Nicaragua and Sudan. This brief supports the protection of immigrants who cannot return safely to their home country due to armed conflict, national disaster, or other circumstances, and to safely live and work in amici communities without fear of deportation. The Judge later granted an injunction to keep defendants from enforcing the decision to terminate Temporary Protected Status for Sudan, Haiti, El Salvador and Nicaragua, pending resolution of the case on the merits. **The cities and counties who joined the brief were cited in the Judge’s order.**

✦ **Washington State v. Sessions**

The City joined the City of Chicago and the City of Los Angeles in an amicus brief challenging the federal government’s policies for apprehending and detaining immigrants with children at the U.S.-Mexican border.

✦ **Chamber of Commerce for Greater Philadelphia v. City of Philadelphia**

The City joined the Public Rights Project and the cities of New York and Philadelphia in support of wage equity, through prevention of workplace inquiries that perpetuate unlawful discrimination. **The City of South Bend is cited in the brief as one of thirty cities that “had fair employment ordinances on the books” when Congress passed the Civil Rights Act of 1964.** We look forward to hearing how the court responds to Amici in their support of wage equity.

✦ **Opioid Litigation**

The City engaged representation to file suit against opioid manufacturers and to represent the best interests of the City of South Bend in the national opioid litigation initiative. With the help of Departments, City Legal has gathered important data to support damages claimed and costs to residents due to the opioid crisis.

Initiatives Enhancing Inclusion

❖ **Disparity Study**

Assisted in securing a Disparity Study, which is being implemented and managed by Diversity and Inclusion. The study will be used to gather data and determine whether minority and women-owned firms have access to full and fair opportunities in the City of South Bend.

❖ **Title VI**

Developed a comprehensive plan to implement new Title VI requirements for public meetings in the City, including forms, foreign language identification flash cards, and best practices for remaining compliant with contractual obligations.

❖ **Responsible Bidding Practices and Submission Requirements Ordinance**

Provided all public works project bidders with minimum practices and submission requirements to foster quality workmanship, efficient operation, safety and timely completion of public works projects, in compliance with Indiana law.

❖ **Human Rights Commission Sponsorship of Indiana Consortium.**

City Attorney Aladean DeRose presented at the 2018 annual meeting of the Indiana Consortium of local human rights agencies, hosted by the South Bend Human Rights Commission, in furtherance of the agency's mission to discuss and implement statewide human rights policies and trainings.

Robust Physical and Technological Capital Assets

The Legal Team works with the City's Departments in drafting, negotiating, and finalizing transactional documents supporting our robust physical assets and capital.

2019 Potawatomi Zoological Society Lease and Management Agreement

The Legal Department assisted in reaching a new lease and management agreement with the Potawatomi Zoological Society, representing the parties' continued commitment to the development, support and enrichment of the zoo as a vital community asset in the areas of conservation, education and recreation.

Development Agreements and Transactions

Negotiated Agreements and represented the Department of Community Investment in transactions including:

- Sale of College Football Hall of Fame to JSK
- Revision of Century Center's contract with SMG Management Co.
- Cascades Development Project
- Lafayette Building Project
- Main & Jefferson Development
- Michigan Street Shops Disposition

City Cemetery Ordinances

Revised the City's cemetery ordinances and took control of \$455K from the Bowman Cemetery Trust Dissolution, reducing costs for the administration of the funds and enhancing the City's ability to use the funds for future investment in the cemetery.

Effective, Responsive Leadership and Communication

The Legal Department provides daily in-house legal counsel to each of the Departments, Boards, and Commissions of the City of South Bend. This valuable service is provided at no hourly charge to the City and results in effective interdepartmental collaboration and joint accomplishments, driven by highly responsive and accessible legal counsel.

The Department instituted several new processes and procedures in its representation of City Boards and Commissions in 2018, enhancing quality of service and efficiency:

✓ **Board of Public Works:**

Developed new procedures for BPW contract review internally, starting with initial review by Department attorneys and commencing with a final review by the BPW attorney. This new streamlined and efficient procedure has led to faster results for our clients.

✓ **Pension Board:**

Worked with the Fire Department to create and implement new pension board procedures that have resulted in a clear, efficient process, newly drafted template forms, and improved procedures for meetings.

✓ **Animal Care and Control Commission:**

Secured a Hearing Officer for the Commission to ensure smooth, fair, and efficient hearing procedures.

2018 STRATEGIC GOALS REACHED

The Legal Department reorganized designated practice areas to maximize the ability of our attorneys to be proactive, innovative problem-solvers and risk reducers. To that end, in 2018 we accomplished the following set goals:

- ✓ Assisted Animal Care and Control in drafting a legally sound and improved animal regulation ordinance;
- ✓ Assisted Code Department with review and creation of proactive rental housing inspection ordinance and rental restrictions related to lead contamination;
- ✓ Supported City policy and legislative interests at the regional, state, and national levels;
- ✓ Successfully implemented and utilized PD Body Cams;
- ✓ Developed further training initiatives to proactively minimize accidents and liability; and
- ✓ Continued to demonstrate a diligent and resolute litigation strategy that supports the ability of the City to deliver good government and allows residents to live a safe, healthy, meaningful life in South Bend.

2019 STRATEGIC GOALS

The Legal Department aims to achieve the following goals in 2019:

- Support City policy and legislative interests at the regional, state, and national levels;
- Continue finalizing and implementing Lexipol for the Fire Department;
- Develop further training initiatives to proactively minimize accidents and liability; and
- Continue to demonstrate a diligent and resolute litigation strategy that supports the ability of the City to deliver good government and allows residents to live a safe, healthy, meaningful life in South Bend.