

# THE COUNCIL OF THE CITY OF NEW YORK

Hon. Melissa Mark-Viverito  
Speaker of the Council

Hon. Benjamin Kallos  
Chair, Committee on Governmental Operations



## Report on the Fiscal 2017 Preliminary Budget and the Fiscal 2016 Preliminary Mayor's Management Report

### New York City Law Department

March 14, 2016

James Subudhi, Legislative Financial Analyst  
John Russell Unit Head

#### **Finance Division**

Latonia McKinney, Director  
Regina Poreda Ryan, Deputy Director  
Nathan Toth, Deputy Director  
Paul Scimone, Deputy Director  
Emre Edev, Assistant Director

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## New York City Department of Law Overview

Under the direction of the corporation counsel, the New York City Law Department (the Department) is responsible for all of the legal affairs of the City. It represents the City, the Mayor, other elected officials, and the City's many agencies in all affirmative and defensive civil litigation, as well as juvenile delinquency prosecutions brought in Family Court and Administrative Code enforcement proceedings brought in Criminal Court. Law Department attorneys draft and review local and State legislation, real estate leases, procurement contracts, and financial instruments for the sale of municipal bonds. The Department is comprised of 16 legal divisions with 700 lawyers and four support divisions with 690 support professionals in ten offices. It is responsible for more than 80,000 matters and provides legal advice to all city agencies.

## Fiscal 2017 Preliminary Budget Highlights

- **Law Department Fiscal 2017 Preliminary Budget.** The Department's proposed budget for Fiscal 2017 totals \$185.6 million, including \$135 million to support 1,547 budgeted positions. Of this total, 95.8 percent is City tax-levy funding. (See page 2).
- **Law Department Contract Budget.** The Law Department's Fiscal 2017 Contract Budget totals \$29 million and accounts for approximately 57 percent of the Department's total OTPS budget. The Fiscal 2017 Preliminary Contract Budget is 20 percent less than the Department's Fiscal 2016 Adopted Contract Budget. (See Appendix C on page 9)
- **Law Department New Needs.** Since Adoption, the Preliminary Plan includes \$7.1 million in Department new needs for Fiscal 2017, including \$4.2 million in baseline funding to support an additional 51 staff. The staff will be spread across different areas within the Central Tort Division, including the Special Litigation Unit and staff dedicated to matters related to the Park Avenue gas explosion.
- **Judgements and Claims.** The Judgment and Claims Budget is included in the City's Miscellaneous Budget and totals \$695 million in Fiscal 2016 and is projected to increase to \$855 million in Fiscal 2020. The increase is in part to address a backlog of cases.
- **Increase in State Cases Pending.** Compared to the same period last year, cases pending in State court increased by seven percent.

## Fiscal 2017 Financial Plan Summary

<b>Law Financial Summary</b>						
<i>Dollars in Thousands</i>						
	2014	2015	2016	Prelim Plan		*Difference
	Actual	Actual	Adopted	2016	2017	2016 - 2017
<b>Spending</b>						
<b>Personal Services</b>	<b>\$104,281</b>	<b>\$111,056</b>	<b>\$125,701</b>	<b>\$125,794</b>	<b>\$134,727</b>	<b>\$9,025</b>
Full-Time Salaried - Civilian	\$95,711	\$102,231	\$122,422	\$122,509	\$131,313	\$8,892
Additional Gross Pay	2,181	2,603	282	282	282	0
Overtime - Civilian	1,650	1,354	1	1	1	0
Unsalaries	4,738	4,859	2,903	2,909	2,995	92
Other P.S.	1	8	92	92	135	42
<b>Other Than Personal Services</b>	<b>\$58,426</b>	<b>\$64,534</b>	<b>\$60,879</b>	<b>\$70,802</b>	<b>\$50,910</b>	<b>(\$9,970)</b>
Supplies & Materials	\$1,476	\$864	\$1,075	\$1,348	\$1,075	\$0
Property & Equipment	2,766	1,822	774	1,591	674	(100)
Other Services & Charges	20,680	21,060	23,090	24,419	20,360	(2,731)
Contractual Services	8,359	8,801	7,409	7,814	7,184	(225)
Contractual Services	-	-	-	-	-	-
Professional Services	25,102	31,897	28,514	35,532	21,600	(6,914)
Fixed & Misc. Charges	42	90	18	98	18	0
<b>TOTAL</b>	<b>\$162,707</b>	<b>\$175,590</b>	<b>\$186,581</b>	<b>\$196,595</b>	<b>\$185,636</b>	<b>(\$944)</b>
<b>Funding</b>						
<i>City Funds</i>			\$179,093	\$186,082	\$177,816	(\$1,278)
<i>Other Categorical</i>			\$417	\$747	\$417	\$0
<i>Capital-IFA</i>			\$3,588	\$3,588	\$3,705	\$118
<i>Fed-Community Dev.</i>			\$97	\$97	\$97	\$0
<i>Intra-City</i>			\$3,386	\$6,081	\$3,601	\$216
<b>TOTAL</b>	<b>\$162,707</b>	<b>\$175,590</b>	<b>\$186,581</b>	<b>\$196,595</b>	<b>\$185,636</b>	<b>(\$944)</b>
<b>Positions</b>						
Full-Time Positions	1,354	1,378	1,481	1,556	1,547	66

\*The difference of Fiscal 2016 Adopted Budget compared to Fiscal 2017 Preliminary Budget.

The Law Department's proposed budget for Fiscal 2017 totals \$185.6 million, including \$135 million to support 1,547 budgeted positions. Of this total, 95.8 percent is City tax-levy funding. Department's Fiscal 2017 Preliminary Plan continues a trend of increasing staff and reducing reliance on outside counsel as it includes an increase of 66 budgeted positions with a reduction in professional services by \$7 million compared to the Fiscal 2016 Adopted Budget. Of the headcount increase, 77 percent is to support an additional 51 staff for the Tort Division.

### Budget Actions since Adoption

- **Staff Increase in the Central Tort Division.** The Preliminary Plan includes \$4.2 million in baseline funding to support an additional 51 staff. The staff will be spread across different areas within the Tort Division, including the Special Litigation Unit, the

Early Intervention Unit, matters related to the Park Avenue gas explosion, and long term incarceration cases.

- **Increase for Litigation Support Division.** The Preliminary Plan includes \$1.8 million in funding in Fiscal 2017 for several major cases with ongoing litigation. The Litigation Support Division oversees several technologies focused on the practice of law at the Department, advises on techno-legal topics, and assists high-volume clients in responding to discover.
- **Restructuring of Juvenile Delinquency Unit.** The Preliminary Plan includes baseline funding of \$730,000 for 12 new positions to carry out a restructuring of the Family Court Division's Juvenile Delinquency Unit. The Unit investigates and prosecutes delinquency matters which involve youth ages seven to 15 who have been arrested for alleged conduct that would constitute a crime if they were adults.
- **Staff Increase for E-Discovery Group.** As the type and nature of potential evidence has changed with the emergence and growth of social media, the Preliminary Plan contains \$290,000 in baselined new need funding for three additional staff in the E-Discovery Group. These positions will review electronic data and images related to pending litigation.
- **High-Exposure Trials.** The Preliminary Plan includes \$600,000 in Fiscal 2016 related to complex high-exposure matters such as the Park Avenue gas explosion.

## Other Highlights

### Judgment and Claims

The Judgment and Claims (J&C) Budget is included in the City's Miscellaneous Budget and totals \$746 million in Fiscal 2017 for payments resulting from judgments against the City. These expenditures represent the City's costs for tort and contract liability. Tort expenditures cover both personal injury and property damage claims, and typically represent about 95 percent of total costs. Actual spending on J & C decreased by \$52.6 million in Fiscal 2015 when compared to Fiscal 2014. J&C payments spiked in Fiscal 2014 in large part due to the settlement of Central Park Five case and the FDNY exam bias case.

Despite the decrease in J&C payments in Fiscal 2015, the Fiscal 2017 J & C budget is significantly higher than the most recent five-year average. While the J & C budget is unpredictable, the average actual spending from Fiscal 2010 through Fiscal 2015 is \$636 million. The J & C budget grows to \$855 million by Fiscal 2020. The projected increase is in part because of a backlog of cases that could potentially result in payout.

<b>Citywide Judgment and Claims Payouts</b>					
<i>Dollars in Thousands</i>					
<b>Agency</b>	<b>Actuals</b>				
	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Police	\$190,235	\$204,578	\$156,600	\$245,665	\$274,279
Fire	\$23,566	\$31,578	\$23,436	\$138,281	\$51,699
HHC	\$147,364	\$127,480	\$124,066	\$131,692	\$127,142
Transportation	\$71,290	\$73,456	\$75,764	\$73,291	\$54,389
Sanitation	\$32,730	\$42,536	\$34,544	\$41,107	\$34,149
Education	\$59,313	\$32,958	\$37,680	\$34,871	\$42,442
Environmental Protection	\$12,378	\$8,540	\$4,042	\$19,852	\$20,731
Parks	\$18,893	\$20,423	\$30,923	\$19,266	\$15,096
Corrections	\$16,457	\$26,651	\$12,127	\$18,522	\$42,284
Housing, Preservation & Development	\$5,803	-	-	\$2,883	-
Children's Services	-	\$1,647	\$12,905	\$1,952	-
Citywide Administrative Services	-	\$4,718	-	-	\$2,424
Design and Construction	-	-	\$6,213	-	\$2,543
Social Services	\$70,054	-	-	-	-
All Other	\$15,990	\$8,303	\$6,183	\$4,839	\$12,426
<b>Total</b>	<b>\$664,073</b>	<b>\$582,868</b>	<b>\$524,483</b>	<b>\$732,221</b>	<b>\$679,605</b>

### Miscellaneous Revenue

The Department's miscellaneous revenue sources include: fines from violations to the City's administrative code; revenues for the sale of de-mapped, small non-functional city roads; affirmative judgments and settlements in cases brought by the City; fees for OTPS costs associated with FOIL requests; and reimbursements for worker compensation payouts. The Affirmative Litigation Division oversees the activities of the Department's collection contract. Attorneys in this Division represent the City as plaintiff on a wide range of issues, including restitution, breach of contract and insurance.

<b>Law Miscellaneous Revenue Budget Overview</b>							
<i>Dollars in Thousands</i>							
<b>Revenue Sources</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Preliminary Plan</b>	
	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Adopted</b>	<b>2016</b>	<b>2017</b>
Adm. Code violations	\$1,241	\$1,393	\$1,088	\$822	1,000	1,000	1,000
Affirmative litigation	13,682	12,588	10,187	25,287	12,500	9,759	9,759
Affirmative r/e Litigation	210	13,356	30	339	350	250	250
Collection Agency Claims	1,919	2,127	2,713	13,167	2,300	1,698	1,698
Street Sales	1,626	1,215	1,323	78	765	25,275	275
Fees	47	48	31	3,619	75	75	75
Worker Compensation	8,861	8,059	8,095	7,983	7,404	7,404	7,404
<b>TOTAL</b>	<b>\$27,585</b>	<b>\$38,786</b>	<b>\$23,467</b>	<b>\$51,296</b>	<b>\$24,394</b>	<b>\$45,461</b>	<b>\$20,461</b>

*\*The difference of Fiscal 2016 Adopted Budget compared to Fiscal 2017 Preliminary Budget.*

The Fiscal 2017 Preliminary Budget projects that the Law Department will generate miscellaneous revenue totaling \$20.5 million in Fiscal 2017. The majority of revenue, approximately 84 percent, is projected to be generated through affirmative litigation and reimbursements for worker compensation payouts. Miscellaneous revenue generated through affirmative litigation varies considerably from year to year depending on the type and size of pending cases. For example, in Fiscal 2013 the Department recognized a \$13 million settlement from the owners of 25 and 45 Sutton Place in Manhattan for failure to maintain curtain walls for which the City incurred repair expenses. As the chart above shows, there is \$25 million in revenue as a result of the sale of lots in Queens for Fiscal 2016.

## **Tort Division**

The Tort Division is the Department's largest. It employs over 500 lawyers and almost as many support staff. The Division represents the City, the Department of Education, and the Health and Hospitals Corporation in all tort claims. It handles a caseload of over 7,000 new cases each year, with another 20,000 pending through investigation, defense before State and federal courts, and settlement. The Division has the following nine offices, many of which are in each of the five boroughs: hearings & adjournments, calendar, ebt, motions, office managers, pleaders & stipulations, pre-trial possible settlement state, pre-trial possible settlement federal, and settlement clerk.

Since Adoption, the Tort Division's PS budget increases by \$4.6 million to support 51 new full-time positions. The Division's OTPS budget remains the same since Adoption.

## Performance Measures

Law Performance Indicators	Actual			Target		4-Month Actual	
	FY13	FY14	FY15	FY16	FY17	FY15	FY16
Total Cases pending in Federal Court	1,711	1,659	1,652	1,675	1,650	1,571	1,646
Dismissals or Discontinuances (Federal)	264	173	228	*	*	101	64
Total Cases pending in State Court	17,884	19,039	20,059	21,000	21,500	19,427	20,751
Affirmative motions to dismiss or for summary judgment	1,798	1,903	1,561	*	*	560	446
Win rate on affirmative motions (State)	72%	78%	74%	78%	78%	72%	85%

According to the 2016 Preliminary Mayor's Management Report, when compared to the same period last year, cases pending in State court increased seven percent while dismissals and discontinuances in federal court decreased 37 percent, and the win rate on affirmative motions at the State increased.

## Family Court Division

The Family Court Division is the Department's second largest division, with over 80 attorneys who are responsible for handling some 15,000 cases annually. The Division is responsible for prosecuting juvenile crime, and its work also encompasses assisting victims of youth crime to secure access to a broad array of community-based services, including counseling, crisis intervention, and safety planning. In its civil practice, the Family Court Division aids families by bringing enforcement proceedings designed to obtain necessary financial support for children. The Division's PS budget increases by just over \$1 million since Adoption, mostly to support the 12 new full-time staff that will carry out the restructuring of the Division's Juvenile Delinquency Unit.

## Performance Measures

Law Performance Indicators	Actual			Target		4-Month Actual	
	FY13	FY14	FY15	FY16	FY17	FY15	FY16
Referred cases filed for prosecution (%)	0.56	0.58	0.54	0.55	0.55	0.53	0.55
Juvenile conviction rate (%)	0.73	0.75	0.75	0.7	0.7	0.72	0.76
Juveniles successfully referred to a diversion program with no new delinquency referral within one year (%)	0.85	0.85	0.84	0.75	0.75	0.84	0.66
Crime victims referred for community-based services (%)	0.36	0.46	0.5	0.4	0.4	0.45	0.52
Families entitled to a support order that get a support order (%)	0.65	0.65	0.68	0.65	0.65	0.66	0.66



As the chart on the previous page shows, when compared to the same reporting period, the percent of Juveniles successfully referred to a diversion program with no new delinquency referral within one year decreased from 84 percent in Fiscal 2015 to 66 percent in Fiscal 2017. According to the 2016 PMMR, the decrease is a result of a decrease in juvenile arrests in total, especially over the last two years. At the same time, the juvenile conviction rate is up four percent compared when compared to last year.

## Appendix A: Budget Actions in the November and the Preliminary Plans

<i>Dollars in Thousands</i>	FY 2016			FY 2017		
	City	Non-City	Total	City	Non-City	Total
<b>LAW Budget as of the Adopted 2016 Budget</b>	<b>\$179,093</b>	<b>\$7,487</b>	<b>\$186,580</b>	<b>\$170,562</b>	<b>\$7,675</b>	<b>\$178,237</b>
<b>New Needs</b>						
Central Tort Division	\$2,101	\$0	\$2,101	\$4,201	\$0	\$4,201
E-Discovery Group HC Increase	122	0	122	290	0	290
Family Court Headcount Increase	370	0	370	740	0	740
High-Exposure Trials: Special Litigation Unit	600	0	600	0	0	0
Litigation Support	6,685	0	6,685	1,887	0	1,887
<b>Subtotal, New Needs</b>	<b>\$9,877</b>	<b>\$0</b>	<b>\$9,877</b>	<b>\$7,118</b>	<b>\$0</b>	<b>\$7,118</b>
<b>Other Adjustments</b>						
Collective Bargaining Adjustments	\$112	\$0	\$112	\$136	\$0	\$136
Other Categorical	0	330	330	0	0	0
Misc. City Adjustments	(3,000)	0	(3,000)	0	0	0
Intra-City Adjustments	0	2,696	2,696	0	145	145
<b>Subtotal, Other Adjustments</b>	<b>(\$2,888)</b>	<b>\$3,026</b>	<b>\$137</b>	<b>\$136</b>	<b>\$145</b>	<b>\$281</b>
<b>TOTAL, All Changes</b>	<b>\$6,989</b>	<b>\$3,026</b>	<b>\$10,015</b>	<b>\$7,254</b>	<b>\$145</b>	<b>\$7,399</b>
<b>LAW Budget as of the Preliminary 2017 Budget</b>	<b>\$186,082</b>	<b>\$10,513</b>	<b>\$196,595</b>	<b>\$177,816</b>	<b>\$7,820</b>	<b>\$185,636</b>

## Appendix B: Contract Charts

The New York City Charter mandates the preparation of a Contract Budget to identify expenditures for contractual services, which are defined as any technical, consultant or personal service provided to the City by means of a contract. The Contract Budget is actually a subset of the OTPS portion of the City's Expense Budget. The Administration prepares a Contract Budget twice each fiscal year. In January, it is prepared with the Departmental Estimates, and in late April it is submitted to the Council with the Executive Budget.

<b>Law Fiscal 2017 Preliminary Contract Budget</b>				
<i>Dollars in Thousands</i>				
<b>Category</b>	<b>Fiscal 2016 Adopted</b>	<b>Number of Contracts</b>	<b>Fiscal 2017 Preliminary</b>	<b>Number of Contracts</b>
Contractual Services General	\$440	14	\$440	14
Maint. & Rep. General	1,746	17	1,521	17
Office Equipment Maintenance	200	9	200	9
Data Processing Equipment	701	8	701	8
Temporary Services	4,171	15	4,171	15
Cleaning Services	15	1	15	1
Transportation Expenditures	50	1	50	1
Training Program City Employees	85	24	85	24
Prof. Legal Services	10,480	31	6,609	31
Other Prof. Services	18,034	308	14,991	308
<b>TOTAL</b>	<b>\$35,923</b>	<b>428</b>	<b>\$28,783</b>	<b>428</b>

The Law Department's Fiscal 2017 Contract Budget totals \$28.2 million and accounts for approximately 16 percent of the Department's total operating budget. The Fiscal 2017 Preliminary Contract Budget is 20 percent less than the Department's Fiscal 2016 Adopted Contract Budget. The decrease is in large part due to efforts to reduce reliance on outside legal consultants by increasing full-time budgeted positions as the Fiscal 2017 Preliminary Budget reflects. Contracts in the category of Other Professional Services, includes funding for consultants working on special cases, including a FDNY discrimination lawsuit, accounts for more than half of the entire contract budget. Temporary service contracts includes payments, fees and commissions for administrative and clerical support, court reporting and transcribing and other outside temporary services. The Department uses temporary services to manage increases in case volume.

## Appendix C: Fiscal 2017 PS Budget by Program Areas

<b>Law Program Areas</b>		
<i>Dollars in Thousands</i>		
<b>Program Area</b>	<b>Fiscal 2017 Funding</b>	<b>Budgeted Positions</b>
Administration & Support Services	<b>\$55,234</b>	<b>66</b>
Administrative Law	2,721	30
Affirmative Litigation	2,345	28
Appeals	5,043	55
Comm. and Real Estate Litigation	5,986	70
Contracting Department	1,076	9
Contracts and Real Estate	245	3
Disability Rights	97	1
Economic Development	1,639	15
E-Discovery Department	295	3
Environmental Law	1,796	18
Executive	3,492	30
Family Court	13,401	166
General Litigation	4,044	26
Information Technology	4,523	22
Labor and Employment Law	6,529	77
Legal Counsel	2,379	19
Litigation Support Unit	1,366	19
Municipal Finance	598	6
Operations	3,117	58
Pension division	780	8
Special Federal Litigation	11,872	137
Special Law Enforcement Defense Unit	385	5
Tax and Bankruptcy	5,349	71
Tort	44,980	523
Workers' Compensation	6,345	82
<b>Total</b>	<b>\$185,636</b>	<b>1,547</b>