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Report on the Fiscal 2017 Executive Budget Law Department May 13, 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

Executive Budget Summary

- **Expense Budget Overview.** The Law Department's (the Department) Fiscal 2017 Executive Budget totals \$212.7 million. The Fiscal 2017 Executive Budget is \$26.1 million more than the Department's Fiscal 2016 Adopted Budget of \$186.5 million. Approximately \$205 million or 96 percent of the Department's Fiscal 2017 budget is City tax-levy (CTL) funding.

The Department's total headcount for Fiscal 2017 is 1,697 full-time positions, a net increase of 216 positions when compared to the Fiscal 2016 Adopted Budget. Of the total increase, 195 are for positions in the Department's Tort Division.

- **Executive Budget Changes:**
 - **Vertical Case Handling.** Fiscal 2017 Executive Budget contains baseline funding of \$18 million in new needs to vertically handle certain civil cases from start to finish instead of moving cases between lawyers at different stages of litigation. The impetus behind handling cases vertically is to deter frivolous lawsuits against the Police Department. The Executive Plan's investment is in addition to the initial investment of \$3.2 million in baseline funding that was in the Fiscal 2016 Adopted Plan and the \$4.2 million in baseline funding included in the Fiscal 2017 Preliminary Plan.
 - **Case-Specific New Needs.** Fiscal 2017 Executive Budget includes \$7 million for hiring expert consultants for cases the Department anticipates in Fiscal 2017 such as the Staten Island toxic tort cases, and *Floyd vs. The New York City Police Department*.
- **Major Agency Issues.**
 - **Judgments and Claims.** Fiscal 2017 Executive Budget includes a reduction in the Judgments and Claims budget totaling \$430 million over five years. This is an eleven percent reduction over the next five years from the Preliminary Plan, which projected the judgments and claims budget to reach \$855 million by Fiscal 2020. The reduction in planned spending can be attributed, in large part, to the anticipated success of the Department's new approach of vertical case handling.
 - **Contractors for Investigations.** The Law Department has contracted with the law firms Debevoise & Plimpton, as well as Carter Ledyard & Milburn to represent the City and assist in document collection and review in cooperation with law enforcement investigations.
 - **Firefighter Jury Award.** In February of 2016 a State Supreme Court jury in the Bronx awarded \$183 million in damages from the City and the building's owner to firefighters who tragically died in a Bronx fire in 2005. The jury ruled that roughly \$140 million is to be paid by the City, which the Administration believes shows a disproportionate blame on the City.

Law Department Overview

This report presents a review of the Law Department's Fiscal 2016 Executive Budget. The section below presents an overview of the Department's budget and how it has changed during the course of Fiscal 2016, followed by a review of the significant budget actions introduced in the Fiscal 2017 Executive Budget. Major issues related to the Department's budget are then discussed, including the Judgment and Claims budget, the Department's miscellaneous revenue, and Preliminary Budget highlights. Appendix 1 reports the changes made to the Fiscal 2016 and Fiscal 2017 Budgets since Adoption of the Fiscal 2016 Budget.

Law Department Financial Plan Summary						
<i>Dollars in Thousands</i>	2014	2015	2016	Executive Plan		*Difference
	Actual	Actual	Adopted	2016	2017	2016 - 2017
Spending						
Personal Services						
Full-Time Salaried - Uniformed	\$0	\$5	\$0	\$0	\$0	\$0
Full-Time Salaried - Civilian	95,711	102,231	122,422	117,849	144,014	21,592
Other Salaried and Unsalariated	4,738	4,859	2,906	2,911	2,997	92
Additional Gross Pay	2,181	1,786	282	282	282	0
Additional Gross Pay - Labor Reserve	0	817	0	0	0	0
Overtime - Civilian	1,650	1,354	1	1	1	0
P.S. Other	1	3	0	0	0	0
Amounts to be Scheduled	0	0	90	0	0	(90)
Subtotal	\$104,281	\$111,056	\$125,701	\$121,044	\$147,294	\$21,593
Other Than Personal Services						
Supplies and Materials	\$1,476	\$864	\$1,075	\$1,420	\$1,252	\$177
Fixed and Misc Charges	42	90	18	98	18	0
Property and Equipment	2,766	1,822	774	1,541	674	(100)
Other Services and Charges	20,680	21,060	23,090	24,323	20,940	(2,150)
Contractual Services	33,461	40,698	35,923	46,453	42,601	6,678
Subtotal	58,426	64,534	60,879	73,835	65,485	4,605
TOTAL	\$162,707	\$175,590	\$186,581	\$194,878	\$212,779	\$26,198
Funding						
City Funds			\$179,093	\$184,256	\$204,958	\$25,865
Other Categorical			417	747	417	0
Capital- IFA			3,588	3,588	3,705	118
Federal - Other			97	97	97	0
Intra City			3,386	6,191	3,601	216
TOTAL	\$162,707	\$175,590	\$186,581	\$194,878	\$212,779	\$26,198
Budgeted Headcount						
Full-Time Positions - Civilian	1,354	1,378	1,481	1,556	1,697	216
TOTAL	1,354	1,378	1,481	1,556	1,697	216

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

The increases in the Department's Personal Services budget and headcount since Adoption, are primarily for hiring staff in the Tort Division in order to more vigorously contest civil lawsuits brought against the Police Department.

The Law Department's Fiscal 2017 Contract Budget totals \$42 million and accounts for approximately 20 percent of the Department's total operating budget. The majority of funding is allocated for consultants working on special cases, including court ordered monitors and

Special Masters. Other Department contracts account for temporary services, including administrative support, court reporting and transcribing services to manage increases in case volume. The Fiscal 2017 total is approximately \$6.6 million more than the Department's Fiscal 2016 Adopted Contract Budget, despite the Department's efforts that have previously reduced reliance on outside legal consultants by increasing budgeted full-time budgeted positions.

Law Budget Issues

Judgments and Claims. The Judgment and Claims (J&C) Budget is included in the City's Miscellaneous Budget and represents payments resulting from judgments against the City. The 2017 Executive Budget for J&C totals \$676 million in Fiscal 2017, a decrease of \$70 million when compared to the 2017 Preliminary Budget amount of \$746 million. 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. While the J & C budget is unpredictable, the average actual spending from Fiscal 2010 through Fiscal 2015 is \$636 million.

Fiscal Year	Actual Spending	Fiscal 2017 Preliminary Plan	Fiscal 2017 Executive Plan	Difference
2014	\$732,222			
2015	\$679,605			
2016		\$694,889	\$664,889	(\$30,000)
2017		\$746,389	\$676,389	(\$70,000)
2018		\$781,589	\$691,589	(\$90,000)
2019		\$816,789	\$706,789	(\$110,000)
2020		\$854,989	\$724,989	(\$130,000)

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 2017 Executive Budget projects that the Law Department will generate miscellaneous revenue totaling \$46.7 million in Fiscal 2016, of which \$25 million is from the sale of real property as a result of the sale of lots in Queens for Fiscal 2016.

Law Miscellaneous Revenue Budget Overview							
<i>Dollars in Thousands</i>							
Revenue Sources	2012	2013	2014	2015	2016	Executive Plan	
	Actual	Actual	Actual	Actual	Adopted	2016	2017
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	661	250
Affirmative r/e Litigation	210	13,356	30	339	350	9,759	9,759
Collection Agency Claims	1,919	2,127	2,713	13,167	2,300	3,000	3,300
Street Sales	1,626	1,215	1,323	78	765	25,275	1,775
Fees	47	48	31	3,619	75	75	75

Worker Compensation	8,861	8,059	8,095	7,983	7,404	7,000	7,000
TOTAL	\$27,585	\$38,786	\$23,467	\$51,296	\$24,394	\$46,770	\$23,159

Preliminary Budget Highlights

Staff Increase in the Central Tort Division. The Preliminary Plan included \$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 included \$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 included 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.

Appendix 1: Law Fiscal 2017 Budget Actions since Fiscal 2016 Adoption

<i>Dollars in Thousands</i>	FY 2016			FY 2017		
	City	Non-City	Total	City	Non-City	Total
LAW Budget as of the Adopted 2016 Budget	\$179,093	\$7,487	\$186,580	\$170,562	\$7,675	\$178,237
New Needs - Prelim. 2017						
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
Subtotal, New Needs	\$9,878	\$0	\$9,878	\$7,118	\$0	\$7,118
Other Adjustments - Prelim. 2017						
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
Subtotal, Other Adjustments	(\$2,888)	\$3,026	\$138	\$136	\$145	\$281
TOTAL, All Changes Prelim. 2017	\$6,990	\$3,026	\$10,016	\$7,254	\$145	\$7,399
LAW Budget as of the Preliminary 2017 Budget	\$186,083	\$10,513	\$196,596	\$177,816	\$7,820	\$185,636
New Needs - Exec. 2017						
Case-Specific New Needs	\$0	\$0	\$0	\$7,140	\$0	\$7,140
Freedom of Information Law Attorney	\$0	\$0	\$0	\$60	\$0	\$60
Jury Consultants	\$0	\$0	\$0	\$250	\$0	\$250
Legal Counsel Staff Increase	\$0	\$0	\$0	\$210	\$0	\$210
Municipal Finance Paralegals	\$0	\$0	\$0	\$55	\$0	\$55
Operations Staff e-Filing	\$0	\$0	\$0	\$92	\$0	\$92
Tort Division - Brooklyn and Bronx Vertical Case Processing	0	0	0	17,781	0	17,781
Subtotal, New Needs	\$0	\$0	\$0	\$25,588	\$0	\$25,588
Other Adjustments - Exec. 2017						
Collection Agency Claims	\$0	\$0	0	\$974	\$0	974
Heat, Light and Power	(77)	0	(77)	(92)	0	(92)
Lease Adjustment.	0	0	0	672	0	672
Personal Service Accruals	(1,750)	0	(1,750)	0	0	0
All Other Adjustments	\$1	\$110	\$110	\$0	\$0	\$0
Subtotal, Other Adjustments	(\$1,827)	\$110	(\$1,717)	\$1,554	\$0	\$1,554
TOTAL, All Changes - Exec. 2017	(\$1,827)	\$110	(\$1,717)	\$27,142	\$0	\$27,143
LAW Budget as of the Fiscal 2017 Executive Plan	\$184,256	\$10,623	\$194,879	\$204,958	\$7,820	\$212,779