

THE COUNCIL OF THE CITY OF NEW YORK

Hon. Melissa Mark-Viverito
Speaker of the Council

Hon. Ben Kallos
Chair, Committee on Governmental Operations



Hearing on the Fiscal 2015 Preliminary Budget & the Fiscal 2014 Preliminary Mayor's Management Report

Law Department

March 25, 2014

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Law Department Overview

Under the direction of the corporation counsel, the New York City Law 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 Law Department is comprised of 17 legal divisions and three support divisions and is responsible for more than 80,000 matters, and provides legal advice to all City agencies. It is staffed with 690 lawyers and 850 support professionals (not all of which are salaried positions) in ten offices located in all five boroughs, as well as in Kingston, N.Y.

This report provides a review of the Law Department's Fiscal 2015 Preliminary Budget. In the first section the highlights of the Fiscal 2015 Preliminary Plan are presented. The report then reviews the City's Judgment and Claims Budget, and the Department's Miscellaneous Revenue projections. The report includes a breakdown of the Department's Personal Services spending and describes the Tort Division, the agency's largest, and the Family Court Division. Financial Plan actions and relevant sections of the Preliminary Mayor's Management Report for Fiscal 2014 are presented throughout the report. A summary of the Department's financial plan actions since Adoption can be found in Appendix A.

Fiscal 2015 Preliminary Plan Highlights

- **Judgment and Claims.** The City's projected Fiscal 2014 Judgment and Claims Budget is \$718 million, which is significantly higher than the actual J&C expenditures 6-year average of \$597.8 million from 2008-2013. A breakdown of judgment and claims is outlined on page 3.
- **Funding Transfer: Miscellaneous Budget to Law Department.** The November Plan included a budget action in Fiscal 2014 that transferred \$15.4 million in funding for major cases which outside counsel may be used, from the City's Miscellaneous Budget to the Law Department's Budget. The majority of new funding is allocated to expenses related to the FDNY hiring bias case in which the Court has appointed four "Special Masters" to adjudicate the claims for back-pay and compensatory damages, and a Court Monitor to oversee procedure and policy changes at the FDNY going forward.
- **Bronx Police Unit.** The Preliminary Plan includes a budget proposal to create a Bronx Police Unit. The plan includes \$1.7 million in Fiscal 2015 and baselined funding totaling \$3.5 million beginning in Fiscal 2015 for 45 new positions to address the increase in civil rights cases brought against the Police Department in State Court.

Law Department Financial Summary

	2012	2013	2014	2014	2015	*Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	Prelim. Plan	Prelim. Plan	2014 - 2015
Spending						
Personal Services	\$98,281	\$100,011	\$107,767	\$107,585	\$108,072	\$306
Full-Time Salaried	91,223	92,227	104,761	104,579	105,066	306
Other Salaried & Unsalaries	4,245	4,434	2,722	2,722	2,722	0
Additional Gross Pay	1,845	1,974	282	282	282	0
Overtime	969	1,376	1	1	1	0
Other Than Personal Services	39,150	43,841	39,666	65,396	50,440	10,774
Supplies and Materials	1,088	1,176	1,206	1,046	1,149	(57)
Property and Equipment	711	918	674	2,268	674	0
Other Services and Charges	20,057	22,842	20,140	19,344	19,956	(183)
Contractual Services	17,263	18,870	17,629	42,700	28,643	11,014
Fixed and Misc. Charges	30	36	18	38	18	0
TOTAL	\$137,431	\$143,852	\$147,433	\$172,981	\$158,513	\$11,080
Funding						
City Funds			\$140,456	\$161,871	\$151,536	\$11,080
Other Categorical			417	831	417	\$0
Capital-IFA			3,335	3,287	3,287	(\$48)
Intra-City			3,225	6,993	3,273	\$48
TOTAL			\$147,433	\$172,981	\$158,513	\$11,080
Positions						
Full-Time Positions	1,249	1,382	1,370	1,373	1,353	(17)

*The difference of Fiscal 2014 Adopted compared to Fiscal 2015 Preliminary Plan funding.

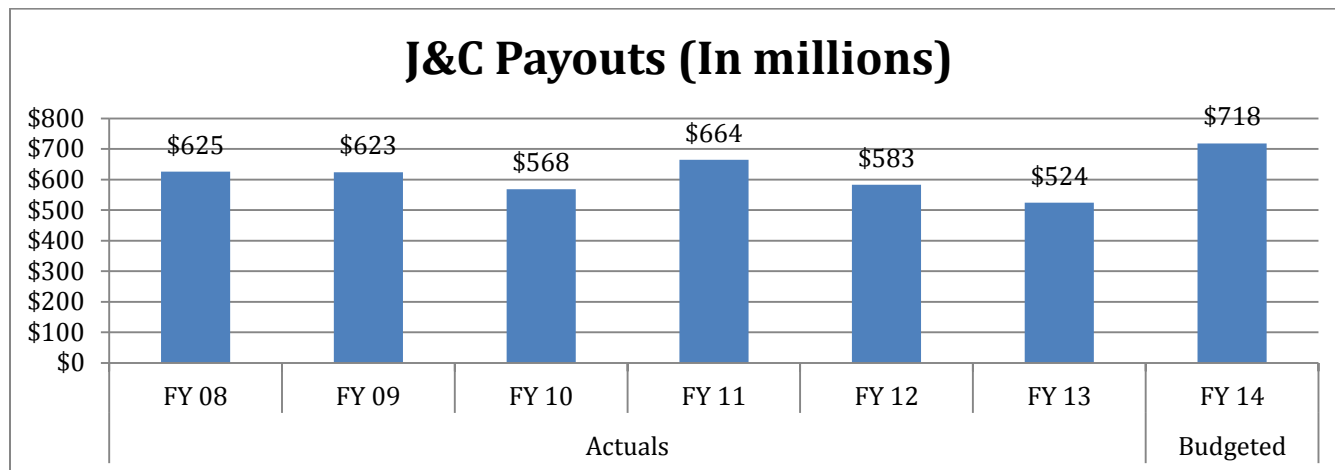
The Law Department's proposed budget for Fiscal 2015 totals \$158.5 million including 108.1 million to support 1,353 budgeted positions. Of the Fiscal 2015 total, 95.6 percent would come from City tax levy funding.

Since Adoption, the Department's budget for Fiscal 2014 and 2015 increases significantly due to budget actions including the transfer of funding from the City's Miscellaneous Budget and the identification of new needs. (See page 7 for details.) The Department's headcount varies from year to year depending on case volume.

Law Department Budget Components

Judgment and Claims

The Judgment and Claims (J&C) Budget is included in the City's Miscellaneous Budget and includes \$718 million in Fiscal 2014 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. These projections incorporate a substantial amount of claims attributed to the Health and Hospitals Corporation for which the Corporation will reimburse the City.



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 pay-outs.

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.

	Actual		Planned			
	2012	2013	2014	2015	2016	2017
Admin. Code Violations	\$1,240,800	\$1,393,105	\$1,000,000	\$1,375,000	\$1,375,000	\$1,375,000
Sale of Streets	1,625,664	1,215,182	1,322,000	275,000	275,000	275,000
Affirmative R/E Litigation	209,614	13,355,911	448,000	448,000	448,000	448,000
Affirmative Litigation	13,681,857	12,587,743	9,759,000	9,759,000	9,759,000	9,759,000
Vending, XEROX Supoena Fees	46,995	48,249	100,000	100,000	100,000	100,000
Collection Agency Claims	1,919,255	2,126,660	2,000,000	1,100,000	1,100,000	1,100,000
Worker Compensation	8,861,241	8,059,267	7,404,000	7,404,000	7,404,000	7,404,000
TOTAL	\$27,585,426	\$38,786,117	\$22,033,000	\$20,461,000	\$20,461,000	\$20,461,000

The Financial Plan projects that the Law Department will generate Miscellaneous Revenue totaling \$22 million in Fiscal 2014. The majority of revenue, approximately 78 percent, is projected to be generated through affirmative litigation and reimbursements for worker compensation payouts. The Department generated Miscellaneous revenue totaling \$38.8 million in Fiscal 2013, which included a \$13 million settlement from the owners of 25 and 45 Sutton Place (Manhattan) for failure to maintain curtain walls for which the City incurred repair expenses.

Tort Division

The Tort Division is the Law Department's largest. It employs over 200 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 33,000 pending as a result of an investigation, defense before State and federal courts, and settlement.

Tort Division Performance Measures

	FY 11	FY 12	FY 13	4-Month Actual FY 13	4-Month Actual FY 14	Target FY 14
Total Cases pending in Federal Court	NA	NA	1,711	1,683	1,666	1,700
Dismissals or Discontinuances (Federal)	NA	NA	264	79	67	67
Total Cases pending in State Court	16,707	17,020	17,884	17,556	18,302	19,500
Affirm. motions to dismiss /summary judgment (State)	NA	NA	1,798	564	635	*
Win rate on affirmative motions (State)	NA	NA	72%	71%	72%	70%

The 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.

Family Court Performance Measures

	FY 11	FY 12	FY 13	4-Month Actual FY 13	4-Month Actual FY 14	Target FY 14
Juveniles successfully referred to a diversion program with no new delinquency referral within 1 yr. (%)	NA	NA	90%	NA	86%	*
Referred cases for prosecution (%)	55%	55%	56%	48%	58%	55%
Crime victims assessed for comm. based services (%)	46%	44%	36%	16%	59%	35%
Juvenile conviction rate (%)	71%	73%	73%	70%	77%	70%

Law Department Initiatives

Change of Course for Major Cases under New Administration

Mayor de Blasio has pledged to reverse course on two of his predecessor's hardest-fought court battles: the litigation over the Police Department's stop-and-frisk practices and the lawsuit stemming from the Central Park Five case. The Mayor has said "We will drop the appeal on the stop-and-frisk case, because we think the judge was right about the reforms that we need to make. We will settle the Central Park Five case because a huge injustice was done."

In August 2013, District Judge Shira Scheindlin ruled that the NYPD illegally and systematically singled out large numbers of Blacks and Hispanics under its controversial stop-and-frisk policy. Her ruling called for the appointment of an independent monitor to watch over the department to ensure that cops are in compliance with the constitution. The monitor would also oversee major changes to the Department, including body cameras on some officers.

In the Central Park Five case, five Black and Hispanic teenagers were convicted in the 1989 attack of a Central Park jogger. Their convictions were later thrown out. The Law Department has been vigorously opposing a \$250 million suit against the prosecutors and the police that has been pending for a decade.

Emergency Communications Transformation Project (ECTP) Payment Recovery

Last year, Verizon agreed to pay the city \$50 million because of delays in projects associated with the Emergency Communications Transformation Project, the large scale effort to transform and consolidate the City's 911 Emergency Dispatch System. These delays resulted in increased expenses incurred by the City. The City has committed over \$1.5 billion in capital funding for this project which costs over \$50 million annually to maintain.

During the Finance Committee Preliminary 2015 Budget Hearing, OMB confirmed that the Law Department is currently engaged in efforts to recover payments from Hewlett Packard, another major contractor that did work on the ECTP.

FDNY Hiring Bias Case

On March 18, 2014, the DeBlasio Administration announced that it had reached a settlement with minority firefighter applicants who sued over FDNY entrance exams that were found to be biased. Under the terms of the settlement, the City would provide \$100 million in back pay to the 1,500 complainants. The settlement means that the City will avoid a trial scheduled for the end of the month.

Appendix A: Law Dept. Fiscal 2015 PS Budget by Program Area

<i>(\$ In Millions)</i>	Fiscal 2015 Funding	Budgeted Positions
Administrative Law Division	\$2.4	30
Affirmative Litigation Division	2.1	28
Appeals Division	4.0	41
Commercial and Real Estate Litigation Division	5.5	70
Contracts and Real Estate Division	1.2	12
Economic Development Division	1.5	15
Environmental Law Division	1.6	18
Family Court Division	11.5	152
General Litigation Division	3.5	42
Labor and Employment Division	4.8	61
Legal Counsel Division	2.0	19
Municipal Finance Division	0.6	6
Pensions Division	0.8	8
Special Federal Litigation Division	10.0	127
Tax and Bankruptcy Division	4.9	71
Tort Division	31.5	394
Worker's Comp. Division	4.1	82
Executive Administration	3.2	30
Operations Support	2.8	58
Info Tech Support	1.9	23
Administrative Services	8.1	66
Total	\$108	1,353

Appendix B: Budget Actions in the November and Preliminary Plans

<i>Dollars in Thousands</i>	FY 2014			FY 2015		
	City	Non-City	Total	City	Non-City	Total
Agency Budget as of Fiscal 2014 Adopted	\$140,456	\$6,977	\$147,433	\$134,665	\$6,977	\$141,642
New Needs						
Bronx Police Defense Unit			0	1,729		1,729
Litigation Support	5,065		5,065	4,361		4,361
Senior Counsel Program	538		538	1,175		1,175
Workers Comp			0	303		303
Add. Staff for L&E	224		224	447		447
TOTAL, New Needs	\$5,827	\$0	\$5,827	\$8,015	\$0	\$8,015
Other Adjustments						
Funding Transfer from Misc Budget	15,370		15,370	8,856		8,856
Lease Adjustment	217		217			0
Other Categorical Grants and Adjustments		414	414			0
Intra-City Adjustments		3,720	3,720			0
TOTAL, Other Adjustments	\$15,587	\$4,134	\$19,721	\$8,856	\$0	\$8,856
TOTAL, All Changes	\$21,414	\$4,134	\$25,548	\$16,871	\$0	\$16,871
Agency Budget as of Fiscal 2015 Prelim Plan	\$161,870	\$11,111	\$172,981	\$151,536	\$6,977	\$158,513

The following are budget actions introduced since the Council Adopted the Fiscal 2014 Budget:

- **Funding for Additional Staff.** The Preliminary Plan includes baseline funding totaling \$750,000 beginning in Fiscal 2015 for 14 new Law Department positions. Of the new positions, seven would work in the Worker's Compensation Division, and seven would work in the Labor and Employment Division.
- **Senior Counsel Program.** The November Plan included funding of \$538,000 in Fiscal 2014 and \$1.2 million in Fiscal 2015 to more appropriately compensate senior counsel in order to promote retention of staff with considerable expertise and experience.

Appendix C: Contract Budget

Category	Number	Budgeted	Pct of DOL Total	Pct of City Total by Cat.
Contractual Services General	14	\$440,300	1.54%	0.08%
Maint & Repair, General	17	1,520,632	5.31%	1.15%
Office Equipment Maintenance	9	200,000	0.70%	1.44%
Data Processing Equipment	8	701,200	2.45%	0.32%
Temporary Services	12	4,170,980	14.56%	10.58%
Cleaning Services	1	15,000	0.05%	0.07%
Transportation Expenditures	1	50,000	0.17%	0.37%
Training Programs for City Employees	24	85,450	0.30%	0.53%
Professional Services Accounting & Auditing	1	100,000	0.35%	0.37%
Professional Services Legal Services	23	6,807,000	23.76%	6.53%
Professional Services Engineer. & Architect.	28	130,000	0.45%	1.92%
Professional Services: Other	267	14,422,552	50.35%	6.84%
Fiscal 2015 Preliminary Budget	405	\$28,643,114	100%	0.24%

The Law Department's Fiscal 2015 Contract Budget totals \$28.6 million and accounts for approximately 18.1 percent of the Department's total operating budget. The Department's contracts in the category of *Professional Services: Other*, includes funding for consultants working on special cases including the FDNY hiring bias case and accounts for more than half of the entire contract budget. Temporary service contracts which include payments, fees and commissions for administrative and clerical support, court reporting and transcribing and other outside temporary services, account for more than 10.6 percent of the City's total budget for that category. The Department uses temporary services to manage increases in case volume.