

# THE COUNCIL OF THE CITY OF NEW YORK

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## **Report to the Committee on Finance and the Committee on Governmental Operations on the Fiscal 2018 Executive Budget for Law Department May 12, 2017**

### **Finance Division**

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## Executive Budget Summary

- **Expense Budget Overview.** The Law Department's (the Department) Fiscal 2018 Executive Budget totals \$207.7 million, including \$148 million in Personal Services (PS) funding to support 1,706 full-time positions, of which over 800 are lawyers. The Fiscal 2018 Executive Budget is \$3.8 million less than the Department's Fiscal 2017 Adopted Budget of \$146 million.
- **Citywide Savings Program.** The Law Department will generate expense budget savings of \$7.7 million in Fiscal 2017 and \$2 million in Fiscal 2018 and Fiscal 2019 as a part of the three Citywide Savings Programs introduced since the Adoption of the Fiscal 2017 Budget. The savings come from the reduction of Personal Services (PS) costs through hiring delays and adjustments and Personal Services accruals. The three Citywide Savings Programs also include additional Departmental revenue generation of \$6.3 million in Fiscal 2017 through the "sale of streets," or the sale of small city roadways that have significant legal considerations.
- **Executive Budget Changes.**
  - **New Needs.** The Fiscal 2018 Executive Plan includes new needs funding of \$230,000 in Fiscal 2017 and \$2.5 million in Fiscal 2018. Fiscal 2018 new needs include:
    - \$921,592 for the rental of temporary work space;
    - \$314,198 for the rental of permanent work space for the Bronx Tort Division. This cost will rise to \$942,470 in Fiscal 2019 and in the outyears;
    - \$659,000 for improved database and software security; and
    - \$578,000 to pay for an additional seven new staff.
  - **Other Adjustments.** Other adjustments reduce the Department's budget by \$4.5 million in Fiscal 2017 and \$1.1 million in Fiscal 2018. The majority of these adjustments are savings connected to the Citywide Savings Program.
- **Revenue Budget.** The Fiscal 2018 Executive Budget expects the Law Department to generate \$29.8 million in Fiscal 2017 and \$21.7 million in Fiscal 2018 in miscellaneous revenue. The majority of the revenue is generated through affirmative litigation and worker compensation reimbursement.
- **Contract Budget.** The Law Department's Fiscal 2018 Contract Budget totals \$32.5 million or 22 percent of its total budget. The bulk of this funding goes toward the hiring of outside counsel. Outside consulting services are contracted in cases that require special expertise beyond the experience of the Department's permanent staff.
- **Citywide Judgment and Claims (J&C) Expenditures.** Included in the Miscellaneous Budget is \$692 million for J&C payments for Fiscal 2018, increasing to \$740 million by Fiscal 2021. The Executive Plan includes \$40 million in Fiscal 2017 for Judgment and Claims payments, bringing total current-year expected payments to \$716 million. In Fiscal 2016, payments for J&C totaled \$720 million.
- **Raise the Age.** New York State "Raise the Age" legislation that was passed in April 2017 will try 16- and 17-year-olds as juveniles instead of as adults. This will shift relevant cases from criminal court to the Law Department's Family Court Division.

## Law Department Overview

This report presents a review of The Law Department's Fiscal 2018 Executive Budget. The section below presents an overview of the Department's budget and how it has changed during the course of Fiscal 2017, followed by a review of the significant budget actions introduced in the Fiscal 2018 Executive Budget. Major issues related to the Department's budget are then discussed, followed by highlights from the Department's Preliminary Budget. Appendix 1 reports the changes made to the Fiscal 2017 and Fiscal 2018 Budgets since Adoption of the Fiscal 2017 Budget, while Appendix 2 details a Personal Services Chart for the Department. For additional information on the Department's budget and its various programs, please refer to the Fiscal 2018 Preliminary Budget Report for the Law Department at: <http://council.nyc.gov/budget/fy2018/>

<b>Law Department Financial Plan Summary</b>						
<i>Dollars in Thousands</i>	<b>2015 Actual</b>	<b>2016 Actual</b>	<b>2017 Adopted</b>	<b>Executive Plan</b>		<b>*Difference 2017 - 2018</b>
				<b>2017</b>	<b>2018</b>	
<b>Spending</b>						
<b>Personal Services</b>						
Full-Time Salaried - Civilian	\$102,236	\$109,672	\$142,747	\$127,301	\$144,953	\$2,206
Other Salaried and Unsalaries	4,862	5,438	2,997	2,997	2,976	(21)
Additional Gross Pay	2,603	2,296	282	282	282	0
Overtime - Civilian	1,354	1,372	1	1	1	0
<b>Subtotal</b>	<b>\$111,056</b>	<b>\$118,777</b>	<b>\$146,028</b>	<b>\$130,582</b>	<b>\$148,212</b>	<b>\$2,184</b>
<b>Other Than Personal Services</b>						
Supplies and Materials	\$864	\$1,299	\$1,252	\$1,472	\$1,252	\$0
Fixed and Misc Charges	90	33	18	87	18	0
Property and Equipment	1,822	1,192	674	2,005	984	310
Other Services and Charges	21,060	24,231	20,940	24,000	24,753	3,813
Contractual Services	40,698	48,819	42,601	63,831	32,450	(10,151)
<b>Subtotal</b>	<b>\$64,534</b>	<b>\$75,574</b>	<b>\$65,485</b>	<b>\$91,394</b>	<b>\$59,456</b>	<b>(\$6,029)</b>
<b>TOTAL</b>	<b>\$175,590</b>	<b>\$194,351</b>	<b>\$211,512</b>	<b>\$221,976</b>	<b>\$207,669</b>	<b>(\$3,843)</b>
<b>Funding</b>						
City Funds			\$203,692	\$211,396	\$199,588	(\$4,104)
Other Categorical			417	729	417	0
Capital- IFA			3,705	3,705	3,742	37
Federal - Other			97	214	310	213
Intra City			3,601	5,931	3,612	11
<b>TOTAL</b>	<b>\$175,590</b>	<b>\$194,351</b>	<b>\$211,512</b>	<b>\$221,976</b>	<b>\$207,669</b>	<b>(\$3,843)</b>
<b>Budgeted Headcount</b>						
Full-Time Positions - Civilian	1,378	1,428	1,697	1,702	1,706	9
<b>TOTAL</b>	<b>1,378</b>	<b>1,428</b>	<b>1,697</b>	<b>1,702</b>	<b>1,706</b>	<b>9</b>

\*The difference of Fiscal 2017 Adopted Budget compared to Fiscal 2018 Executive Budget.

The Law Department's Fiscal 2018 Executive Budget totals \$208 million, \$3.8 million less than its Fiscal 2017 Adopted Budget of \$211.5 million. Approximately \$200 million, or 96 percent, of the Department's Fiscal 2018 budget is City tax-levy (CTL) funding.

While the Department's Other Than Personal Services (OTPS) spending decreased by \$6 million since the Fiscal 2017 Adopted Budget, Personal Services (PS) spending increased by \$2.2 million over the same period. The decrease in OTPS funding and simultaneous increase in PS funding can in large part be attributed to efforts to use in-house counsel to replace its reliance on outside consultants.

Appendix 2 at the end of this document illustrates the distribution of the Law Department's headcount by Departmental Division. The Tort Division is the Law Department's largest division, with 643 employees and a PS budget of \$53.7 million. The division represents the City, the Department of Education and other City-affiliated entities in all tort claims. It handles over 7,000 new cases each year, with another 20,000 pending through investigation, defense before State and federal courts, and settlement agreements.

The Department's budget also includes funding for court-appointed Special Masters and Court Monitors, for which the City is required to pay. These costs total approximately \$9 million in Fiscal 2018.

## New in the Executive Budget

- **Citywide Savings.** As of the Fiscal 2018 Executive Budget, the Law Department will generate additional expense budget savings of \$5 million in Fiscal 2017, and \$2 million in Fiscal 2018 and Fiscal 2019 as a part of the newest Citywide Savings Program. The \$5 million additional Fiscal 2017 savings come from Personal Service accruals, while the \$2 million additional Fiscal 2018 and Fiscal 2019 savings come from hiring delays. The \$5 million in Fiscal 2017 savings in the Executive Plan build onto \$2.7 million in savings made in the November and Preliminary Fiscal 2018 Citywide Savings Programs.
- **New Needs.** New needs in the Executive Plan includes \$230,000 in Fiscal 2017 and \$2.5 million in Fiscal 2018. New needs include:
  - \$1.2 million in Fiscal 2018 and Fiscal 2019 for the temporary rental of office space to meet the Law Department's growing staff needs. In Fiscal 2018, the majority of this funding will go to rent space at 1 MetroTech, while in Fiscal 2019 and in the outyears it will finance the rental of temporary space in the Bronx;
  - The Law Department requires \$659,000 for Firewall Protections for its software systems and database security;
  - \$455,000 to hire 6 additional legal staff for the Division's Office of Special Enforcement (OSE), bringing the OSE's total headcount to 11. The OSE, which was formed in 2006, is responsible for coordinating enforcement efforts across City agencies regarding quality of life issues such as lawless clubs, trademark counterfeiting markets, and the illegal conversion of apartments into hotels; and
  - \$122,500 to hire an additional legislative staffer for the Office of the Legal Counsel.

## Other Issues

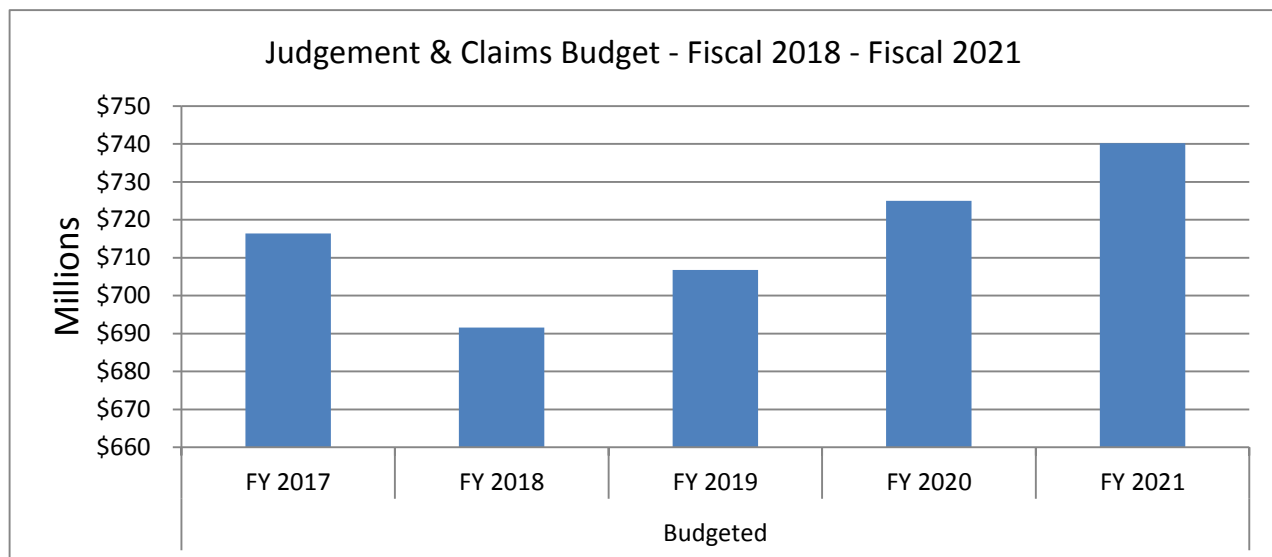
### Judgement and Claims

The Judgment and Claims (J&C) Budget is included in the City's Miscellaneous Budget and totals \$692 million in Fiscal 2018 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.

Payments for J&C vary from year to year due to settlements for major cases. J&C payments spiked in Fiscal 2014 in large part due to the settlement of the Central Park Five case and the FDNY exam bias case. Over the last five fiscal years, J&C actual spending averaged \$648 million.

<b>Citywide Judgment and Claims Payouts</b>					
<i>Dollars in Thousands</i>					
<b>Agency</b>	<b>Actuals</b>				
	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
Police	\$204,578	\$156,600	\$245,665	\$274,279	\$303,927
Fire	31,578	23,436	138,281	51,699	21,286
H+H	127,480	124,066	131,692	127,142	131,882
Transportation	73,456	75,764	73,291	54,389	70,155
Sanitation	42,536	34,544	41,107	34,149	50,468
Education	32,958	37,680	34,871	42,442	44,952
Parks	20,423	30,923	19,266	15,096	12,253
Corrections	26,651	12,127	18,522	42,284	44,326
All Other Payments	23,208	29,343	29,526	38,124	40,715
<b>Total</b>	<b>\$582,868</b>	<b>\$524,483</b>	<b>\$732,221</b>	<b>\$679,604</b>	<b>\$719,966</b>

The Executive Plan adds \$40 million in Fiscal 2017 for Judgement & Claims payments, bringing total current-year expected payments to \$716 million. The increase is being driven by the Law Department settling more claims of greater than a million dollars than expected. Notable large settlements in the Fiscal 17 plan include \$30 million for Stolowski (the “Black Sunday” fire fighters case) and \$26 million for Wilson and Yarbough (wrongful convictions in 1992).



## 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>						
Revenue Sources	2013	2014	2015	2016	Executive Plan	
	Actual	Actual	Actual	Actual	2017	2018
Adm. Code violations	\$1,393	\$1,088	\$822	\$760	\$1,000	\$1,000
Affirmative litigation	12,588	10,187	25,287	5,144	9,759	9,759
Affirmative r/e Litigation	13,356	30	339	806	660	250
Collection Agency Claims	2,127	2,713	13,167	3,015	3,300	3,300
Street Sales	1,215	1,323	78	25,287	8,034	275
Fees	48	31	3,619	76	75	75
Worker Compensation	8,059	8,095	7,983	7,662	7,000	7,000
<b>TOTAL</b>	<b>\$38,786</b>	<b>\$23,467</b>	<b>\$51,296</b>	<b>\$42,750</b>	<b>\$29,828</b>	<b>\$21,659</b>

The Fiscal 2018 Preliminary Budget projects that the Law Department will generate miscellaneous revenue totaling \$21.7 million in Fiscal 2018. The majority of that revenue is projected to be generated through affirmative litigation, collection agency claims 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. The chart above shows \$25.3 million in revenue as a result of the “sale of streets,” or the sale of small city roadways that have significant legal considerations, in Queens in Fiscal 2016.

## Raise the Age

“Raise the Age” legislation was signed into New York State Law on April 10<sup>th</sup>, 2017 as a part of the State Budget. This legislation has the effect of trying 16- and 17-year-olds, who are currently tried as adults, as juveniles statewide. The law will affect 16-year-olds as of October 2018 and 17-year-olds as of October 2019. This legislation is expected to expand the Law Department’s workload by shifting cases that are currently tried in criminal court to the Law Department’s Family Court Division.

## Preliminary Budget Highlights

The Law Department’s Fiscal 2018 Executive Budget also entails changes made in the Preliminary Budget. Below are some of the key highlights from the Department’s Fiscal 2018 Preliminary Budget.

- **Citywide Cost Savings.**
  - In the November and Preliminary Budgets, the Law Department identified expense budget savings of \$2.7 million in Fiscal 2017 as part of the Citywide Savings Program. Of this \$2.7 million, \$1.7 million come from Personal Services accruals, while the remaining \$1 million comes from Hiring Plan Adjustments.
  - The Department also identified additional revenue of \$6.3 million for Fiscal 2017 in the November and Preliminary Citywide Savings Programs. This revenue is generated through the “sale of streets,” or the sale of small city roadways that have significant legal considerations, including the \$1.5 million sale of Mercer Street in Manhattan.
- **New Needs.** The Law Department identified new needs of \$14.5 million for Fiscal 2017 and \$724,000 for Fiscal 2018 in the Preliminary Budget. The majority of the new needs

in Fiscal 2017 were related to outside counsel with case-specific technical and legal expertise. Of the total funding for Fiscal 2017 case-specific new needs, \$10.5 million was for legal representation of city employees related to investigations of Mayoral campaign contributions. For Fiscal 2018, the Department identified new needs that included consulting services for environmental law and additional lease expenses for the Brooklyn Tort Division.

## Appendix 1: Fiscal 2018 Budget Actions since Fiscal 2017 Adoption

<i>Dollars in Thousands</i>	FY 2017			FY 2018		
	City	Non-City	Total	City	Non-City	Total
<b>LAW Budget as of the 2017 Adopted Budget</b>	<b>\$203,691</b>	<b>\$7,820</b>	<b>\$211,511</b>	<b>\$197,711</b>	<b>\$7,867</b>	<b>\$205,578</b>
<b>New Needs - Prelim. 2018</b>						
Case-Specific New Needs	\$14,353	\$0	\$14,353	\$0	\$0	\$0
Environmental Law Consulting Services	150		150	150	0	150
Brooklyn Tort Division Lease	0	0	0	574	0	574
<b>Subtotal, New Needs</b>	<b>\$14,503</b>	<b>\$0</b>	<b>\$14,503</b>	<b>\$724</b>	<b>\$0</b>	<b>\$724</b>
<b>Other Adjustments - Prelim. 2018</b>						
All Other City Adjustments	\$1	\$0	\$1	\$0	\$0	\$0
All Other Non-City Adjustments	0	1,996	1,996	0	10	10
PS Accruals	(1,700)	0	(1,700)	0	0	0
Hiring Plan Adjustment	(1,018)	0	(1,018)	0	0	0
Lease Adjustment	675	0	675	0	0	0
Temp Legal Staff Services	0	225	225	0	0	0
<b>Subtotal, Other Adjustments</b>	<b>(\$2,042)</b>	<b>\$2,221</b>	<b>\$179</b>	<b>\$0</b>	<b>\$0</b>	<b>\$10</b>
<b>TOTAL, All Changes</b>	<b>\$12,461</b>	<b>\$2,221</b>	<b>\$14,682</b>	<b>\$724</b>	<b>\$10</b>	<b>\$734</b>
<b>LAW Budget as of the Prelim 2018 Budget</b>	<b>\$216,152</b>	<b>\$10,041</b>	<b>\$226,194</b>	<b>\$198,434</b>	<b>\$7,877</b>	<b>\$206,312</b>
<b>New Needs - Exec. 2018</b>						
1 MetroTech Temporary Space	\$230		\$230	\$922		\$922
Bronx Tort Rent			0	314		314
Firewall Protection			0	659		659
Legal Staff - 7 new staff			0	578		578
<b>Subtotal, new needs</b>	<b>\$230</b>	<b>\$0</b>	<b>\$230</b>	<b>\$2,473</b>	<b>\$0</b>	<b>\$2,473</b>
<b>Other Adjustments - Exec. 2018</b>						
Financial Plan Headcount Adjustments - 2 new staff FY18/FY19			\$0			\$0
Couch White		180	180			0
ENGY- LAW DEPT MOU FY 17		479	479			0
FY'17 - FY'19 OMB/ORR MOD LAW		(122)	(122)		203	203
Heat, Light and Power	13		13	14		14
Hiring Delay			0	(2,000)		(2,000)
Lease Adjustment			0	708		708
Overtime Waivers - Agency Allocation			0	(40)		(40)
Personal Services Accruals	(5,000)		(5,000)			0
<b>Subtotal, Other Adjustments</b>	<b>(\$4,987)</b>	<b>\$537</b>	<b>(\$4,450)</b>	<b>(\$1,318)</b>	<b>\$203</b>	<b>(\$1,115)</b>
<b>TOTAL, All Changes - Exec. 2018</b>	<b>(\$4,757)</b>	<b>\$537</b>	<b>(\$4,220)</b>	<b>\$1,155</b>	<b>\$203</b>	<b>\$1,358</b>
<b>LAW Budget as of the Fiscal 2018 Executive Plan</b>	<b>\$211,395</b>	<b>\$10,578</b>	<b>\$221,974</b>	<b>\$199,589</b>	<b>\$8,080</b>	<b>\$207,670</b>



## Appendix 2: Fiscal 2018 Personal Services (PS) Chart

<b>Law Program Areas</b> <i>Dollars in Thousands</i>		
<b>Program Area</b>	<b>Fiscal 2018 Funding</b>	<b>Budgeted Positions</b>
Administrative Services Division	\$8,810	74
Administrative Law	3,897	41
Affirmative Litigation	2,670	28
Appeals	4,681	48
Commercial Litigation	4,881	53
Contracting Department	1,085	9
Contracts and Real Estate	236	3
Disability Rights	107	1
Economic Development	2,089	15
E-Discovery Department	1,804	11
Environmental Law	1,815	18
Executive	3,533	30
Family Court	11,596	151
General Litigation	3,024	29
Information Technology	2,229	27
Labor and Employment Law	6,575	77
Legal Counsel	3,253	31
Litigation Support Unit	2,434	30
Municipal Finance	659	7
Operations	3,831	71
Office of Special Enforcement	840	11
OMB/ORR DR Attorney	203	2
Special Federal Litigation	14,865	137
Tax and Bankruptcy	5,391	71
Tort	51,726	643
Workers' Compensation	4,937	88
Other PS funding	1,043	0
<b>Total</b>	<b>\$148,212</b>	<b>1,706</b>