

**Statement by First Assistant Corporation Counsel Georgia Pestana to the City Council
in Connection with the Executive Budget for Fiscal Year 2017**

May 13, 2016

Good afternoon Chair Ferreras-Copeland, Chair Kallos and distinguished Members of the Finance and Government Operations Committees. My name is Georgia Pestana, and I am the First Assistant Corporation Counsel. Zachary W. Carter, the Corporation Counsel, asked me to extend his regrets that a longstanding out-of-state obligation prevents his appearance before you today. My colleague, Managing Attorney Muriel Goode-Trufant and I are pleased to come before you on his behalf to discuss the Law Department's fiscal year 2017 Executive Budget.

The Law Department consists of sixteen legal and three support divisions. We handle an extraordinary array of cases and non-litigation matters: from tort to tax, from environmental and administrative issues to economic development and municipal financing. We also represent the City as plaintiff in a wide variety of affirmative matters.

The Executive Budget contains approximately \$12.5 Million Dollars in new PS funding for FY17 and nearly \$14.6 Million Dollars in new OTPS Funding.

Tort Division:

A significant portion of the new funding is for the Tort Division. The volume of litigation matters pending against the City presents a substantial challenge. The Tort Division alone defends more than 20,000 cases currently pending against the City, its agencies and employees. Approximately 7,500 new Tort cases are filed against the City each year and more than 6,000 cases are resolved annually by trial, motion practice and settlement. The proposed budget increase will fund what we refer to as the "verticalization" of the two Tort borough offices with the highest new case filings, Bronx and Brooklyn.

The majority of Tort cases have been handled in a horizontal manner, meaning that no one attorney takes ownership over the case and that as tasks become due, someone is assigned to complete that discrete task. The Law Department has long sought to "verticalize" our Tort practice. We use "verticalization" to mean that attorneys are directly assigned to develop case strategy and implement that strategy by handling all tasks and events throughout the life of the case. Verticalization not only strengthens defense, but also enables more proactive handling of litigation. With the City Council's help, in FY2013, the Law Department verticalized state court law enforcement cases commenced in the Bronx and later expanded to verticalize state law enforcement cases city-wide in FY2015. We believe that the 33% reduction in law enforcement related filings in the Bronx between FY13 and FY15 is largely attributable to the establishment of the Bronx state law enforcement unit. The establishment of the Bronx state law enforcement defense unit was patterned in large part after the successful Trial Initiative in the Special Federal Litigation Division, the division responsible for handling law enforcement related civil rights cases in federal court. Prior to the start of Special Federal Litigation's Trial Initiative in September 2011, there had been steady annual increases in new federal civil rights case filings. Special Federal Litigation received a staffing increase that enabled the division to be more

proactive in the preparation of cases and take more cases to trial. Rather than offering modest settlements to get rid of a case, Special Federal Litigation not only took more cases to trial – and won --, but also got more cases dismissed by motion and more cases withdrawn by plaintiffs. Dedicated case preparation by an assigned attorney from pleadings through trial has translated into a trial success rate this calendar year of 93% in federal civil rights trials (13 out of 14 verdicts in favor of the City, saving more than \$16,000,000.) Moreover, the steady increase in new civil rights filings has been eliminated.

In order to bring this successful model to the non-law enforcement cases handled in the Bronx and Brooklyn Tort offices, an increase in staffing is required. With additional staff, these offices will be restructured to accommodate the handling of cases by attorneys assigned to the cases from inception to conclusion.

Our work with City Council:

The Law Department has worked cooperatively with the City Council to support its energetic legislative agenda. In recognition of this increased legislative activity, two additional Legal Counsel attorney lines have been funded in the Executive Budget.

OTPS Funding:

In addition to new Personal Services funding, the Executive Budget contains OTPS funds in support of the Tort verticalization and funds for experts and other services connected with certain complex litigations. Finally, in order to increase collection revenue, more funds will be expended for services by collection agencies.

Conclusion

I thank you for your support of the Law Department and look forward to our continued cooperative relationship. I would be happy to answer any questions you may have.