



**Report in Support of the Judiciary's 2015-2016
Budget Request**

Council on Judicial Administration

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**REPORT IN SUPPORT OF THE
JUDICIARY'S 2015-2016 BUDGET REQUEST**

The New York City Bar Association (“City Bar”)¹ urges the Legislature to accept the Judiciary’s 2015-2016 Budget Request (“the Judiciary Budget Request”) in its entirety.

The Judiciary Budget Request seeks a 2.5% increase which constitutes a \$51.3 million increase in the “All Funds Budget.” Funds would be used to increase the number of courts that can remain open to the public until 5 p.m., allow courts to maintain current staffing levels, and fill a limited number of critical positions. In addition, increased funds are requested for legal services to ensure that the most vulnerable New Yorkers are not without counsel in cases involving the essentials of life.

Since 2009, the Judiciary has absorbed nearly \$400 million in increased costs while its budget has increased only \$27.5 million, or 1.5% over the entire period. As a result of cutbacks of \$170 million in the Judiciary Budget in 2011, the Judiciary was forced to close the Civil Court buildings at 3:45 p.m., courtrooms at 4:30 p.m., lay off staff, and cease hiring to replace employees lost through attrition. During this period, the New York State Unified Court System lost 2000 employees. Staff shortages caused delays in processing court documents and opening court parts and imposed hardship on litigants throughout the court system.

It is essential that the Judiciary Budget Request be approved in order to ameliorate the major impact budget cuts have had upon the courts. While the 2014-2015 “Road to Recovery” Judiciary Budget ameliorated somewhat the harsh impact of the budgetary shortfalls implemented in 2011, the Judiciary still has a long way to go before it recovers from those cutbacks. The Legislature should appropriate sufficient funds to ensure that the Judiciary Budget continues on its road to recovery and is able to satisfy the Judiciary’s important responsibilities to the people of the State of New York.

The Judiciary Budget Request includes the costs of five Family Court judgeships created effective January 1, 2016, the 20 Family Court judgeships created effective January 1, 2015, and the City Court judgeships established pursuant to Chapter 548 of the Laws of 2013. In addition, it includes an increase of \$15 million in funding for civil legal services to address the needs of unrepresented litigants. As set forth in the 2015-2016 Judiciary Budget Request, it is estimated that for each dollar invested in civil legal services, New York State receives more than six dollars in economic benefits resulting from reduced social services and other public expenses as well as an increase in federal benefits.

¹ This report was authored by the City Bar’s Council on Judicial Administration. The Council is chaired by Steven M. Kayman. This report was prepared by the Council’s Judiciary Budget Subcommittee, Janet Ray Kalson (Chair).

In 2014 and 2015, the impact of judiciary budget shortfalls has continued. Long lines of litigants still snake around the Civil and Family Courts on many mornings, even in inclement weather. Significant shortages of interpreters in all courts cause lengthy delays in court proceedings, and delay trials in all forums. Shortages of court officers prevent many courts from opening in a timely manner in the morning, after lunch, and in some instances, at all. Insufficient numbers of court clerks slow the functioning of the courts and delay trials.

In Criminal Court, too few court officers, clerical staff, and reporters result in the closure of trial parts at the last moment. Often there are available judges who are precluded from presiding over their parts. Such conditions cause delays in trials, including those for incarcerated individuals.

Defendants who are brought to evening or weekend arraignments for warrants (after being picked up for warrants on open matters or whose arrest matters were dismissed prior to arraignment) often spend much longer times waiting for their “warrant only” matters to be called. Often a court officer is unavailable to retrieve files from the warrant room. This problem results in longer incarceration times for such defendants.

At this time, due to budget cutbacks Family Court buildings continue to be closed at 4:30 p.m. As a result, the Family Court Division of the Law Department (the Presentment Agency) cannot interview victims and witnesses in the late afternoon/early evening at its offices in the Family Court buildings in Manhattan and Queens because the victims/families cannot enter the buildings. This makes it difficult for the Presentment Agency to meet with victims/witnesses who are in school or work during the day. Court delays result in missed school time and lost wages to victims and witnesses who often end up refusing to participate in cases due to long processing and wait times in Family Court.

Examples of the serious effects of such delays abound. Recently, the parents of a young sex offense victim, whose case had been postponed twice, sent an impassioned plea to the Presentment Agency seeking to avert further delays in the proceeding; each time the matter was postponed, their daughter suffered through a week of emotional distress causing her to experience needless pain instead of moving forward towards healing. Another aggravated sex abuse case that commenced in June of 2013 involving a juvenile victim in Family Court was adjourned five times, and is now scheduled to be heard in March, 2015.

In another example, a robbery case, suppression hearings commenced on March 4, 2014 and continued over at least six court dates. As of February 2, 2015, the case was still pending and the victim refused to appear again. In a family delinquency case, the victim was in court all day to testify. The case was called at 4:05 p.m. and direct testimony could not be completed because the court had to close at 4:30 p.m. Moreover, because of the 4:30 p.m. closing time, in interstate child support cases, voluntary returns on warrants sometimes have to be adjourned to the following day, creating a risk that the respondent will not return to court. These are just a few examples of the havoc and prejudice that have resulted from the starvation diet given to our court system.

The budgetary shortfalls have also had a deleterious impact on consumer debtors in Civil Court. In these cases, due to sewer service, debtors often first learn about old judgments entered

against them when their wages are garnished or their bank accounts seized. When consumer debtors request the files in these old cases, they are often forced to wait three months or more for the files to be retrieved from archives. Because these files are not available, consumer debtors cannot specifically refute details in the affidavits of service in such cases, which can cause judges to deny motions to vacate. This all too frequent scenario recently occurred in a case where a *pro se* defendant sought to vacate an old default judgment that may have been improperly entered against her.

In addition, due to staff shortages, affidavits of service in more recent consumer debt cases take weeks or months to be placed in the court file. This makes it difficult or impossible for consumer debtors to challenge service in these cases, particularly in light of the CPLR's 60 day time limit on making motions to dismiss based on defective service. Moreover, many satisfactions of judgment filed with the court are not physically placed in the court file and court records are often not updated to reflect that a judgment was satisfied. This problem places unnecessary barriers on individuals seeking housing, financing or employment. Even documents such as substitutions of counsel and notices of appearance are not properly filed, causing motions and filings to go astray. Moreover, court calendars are very backed up. Recently, a routine motion for summary judgment in Civil Court was adjourned five months due to clogged court calendars.

In Housing Court, there is a shortage of court attorneys, and some judges have no court attorneys at all. This makes it difficult for judges to get through their voluminous court calendars and causes delays in decision writing. Judgments are backed up for weeks and warrants for months. More long term tenants are coming into court without representation, which clogs court calendars, and results in evictions due to *pro se* tenants' lack of legal knowledge. Trials fail to go forward as a shortage of court clerks and interpreters results in interminable delays.

The Supreme Court also feels the pressure of budget constraints. Due to clogged court calendars in New York County Supreme Court, an attorney recently had to wait six months for a one sentence written decision confirming an arbitration award on default. Moreover, an order to show cause to punish a nonparty for failure to appear was filed in Kings County, and it took one month for the document to get to the judge for signature. In the general motion part in Kings Civil, motions are adjourned for four months or more because that is the first available date, as there are more than 250 motions a day on the calendar. In the Bronx, it takes at least three weeks for orders to be scanned and available on the court website after e-courts indicates that a decision was handed down.

Given the corrosive impact of the Judiciary Budget cutbacks since 2011, and the small dent that the increase in the 2014-2015 Judiciary Budget has made in ameliorating those cuts, it is essential that the Legislature pass the Judiciary Budget as presented. The proposed budget is fiscally responsible and will help ameliorate the impact of budgetary shortfalls in recent years.

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