



Law Department

CITY OF PHILADELPHIA

2018: A Year in Review





About the Law Department

The City of Philadelphia Law Department acts as general counsel for the entire City government structure. We provide legal advice to all City officials, employees, departments, agencies, boards, and commissions concerning any matter related to the exercise of their official powers. Our responsibilities include:

- Representing the City and its officials and employees in all litigation, including tort, commercial, employment, civil rights, and code enforcement matters;
- Negotiating, drafting, and approving City contracts for commercial, real estate, and finance transactions;
- Collecting unpaid taxes, fines, and other debts owed to the City;
- Advising the City on compliance with regulatory law, including environmental, transportation, and public utility matters;
- Representing the City in social services matters, including child welfare and health matters; and
- Analyzing and drafting legislation for introduction in City Council.

We employ over 300 public servants—including approximately 223 attorneys and 100 professional staff. The department is led by the City Solicitor, who is appointed by the Mayor with the advice and consent of City Council.

Our mission is to serve the residents of Philadelphia by providing legal counsel of the highest quality to all City of Philadelphia officials, employees, departments, agencies, boards, and commissions. Our office proudly celebrates the rich diversity of our staff, the City's workforce, and the residents whom we serve.

The Executive Team of the Law Department is comprised of:

CITY SOLICITOR
Marcel S. Pratt

FIRST DEPUTY CITY SOLICITOR
Craig M. Straw

CHAIR, CORPORATE & TAX
Valerie M. Robinson

CHAIR, SOCIAL SERVICES
Clay Cauley, Sr.

CHAIR, LITIGATION
Diana Cortes

ADMINISTRATIVE SERVICES DIRECTOR
Steve Ludovico

CHIEF OF STAFF TO THE SOLICITOR
Andrew Richman

Letter from the City Solicitor

With great pride and excitement, the City of Philadelphia Law Department brings you its first ever Year in Review. This report is both a celebration of the accomplishments of our highly talented attorneys and staff and a medium for us to apprise you of noteworthy legal matters and activities of our office.

In 2018, we saw unprecedented success in the courtroom, including several victories that reverberated across the country. We provided legal counsel on transactions and projects that spurred growth and development in our City; vigorously protected the health, safety, and welfare of City residents; and advised our City officials on crafting laws and policies that have made Philadelphia a better place to work, live, and play. Inside our office, we reinforced our commitment to diversity and inclusion, improved the way we train, and implemented new strategies for tackling difficult legal matters. Outside our office, our lawyers are increasingly becoming leaders in the Philadelphia legal community and our office continues to enhance its professional profile.

A special thank you goes out to our clients—the many City departments, offices, and agencies that we counsel—for their tremendous support and confidence in our lawyers and staff. Our outlook for 2019 is even brighter. We promise to make 2019 another outstanding year of serving Philadelphia residents by providing top-notch legal representation to the City.

Marcel S. Pratt

MARCEL S. PRATT, CITY SOLICITOR



Quick Facts

The Law Department has 15 units in 3 practice groups:

Litigation

Affirmative & Special Litigation
Code & Public Nuisance Litigation
Civil Rights
Appeals
Labor & Employment
Tort Litigation

Corporate

Real Estate & Development
Regulatory Law
Tax & Revenue
Property Assessments
Commercial Law

Social Services

Child Welfare
Health & Adult Services
HIPAA & Privacy Law

Legislation & Legal Counsel

(not in a practice group)

The Law Department has three department-wide committees:

- ▶ Public Service Committee
 - ▶ Diversity Committee
 - ▶ Professional Development Committee
-



In 2018 The Law Department received the Philadelphia Bar Foundation's Pro Bono Award.

The Law Department has 10 employees who have provided over 30 years of service to the City of Philadelphia and 54 employees who have provided over 20 years of service to the City.

There have been 23 City Solicitors since the Home Rule Charter was adopted in 1951.

Law Department attorneys are active leaders in the Philadelphia legal community as exemplified by the dedication of the following attorneys:

MEGHAN CLAIBORNE

Philadelphia Bar Association
Board of Governors

TERRY GARFINKEL

Philadelphia Bar Association
Executive Committee of Real Property Section

PATRICK O'NEIL

Delaware Valley Environmental American
Inn of Court
President

LINDA MEDLEY

Philadelphia Bar Association
Executive Committee for Real Property Section

NDIDIAMAKA ONEJEME

Barristers' Association of Philadelphia
Scholarship Committee Member

JOANNA KLEIN

International Municipal Lawyers Association
Pennsylvania State Chair

MARISSA O'CONNELL

Philadelphia Bar Association
Tax Section Council

RAINA YANCEY

Barristers' Association of Philadelphia
Scholarship Committee

ADAM COLEMAN

Philadelphia Bar Association
At-Large Member of the Executive Committee of the Business Law Section

IVELIZ R. CRESPO

Supreme Court of New Jersey Committee
for Minority Concerns
Committee Member

BRADFORD HAM

Philadelphia Bar Association
*Co-Chair of Government & Public Service
Lawyers Committee*

MEGAN HARPER

Philadelphia Bar Association
Co-Chair of the Bankruptcy Committee

CRYSTAL ESPANOL

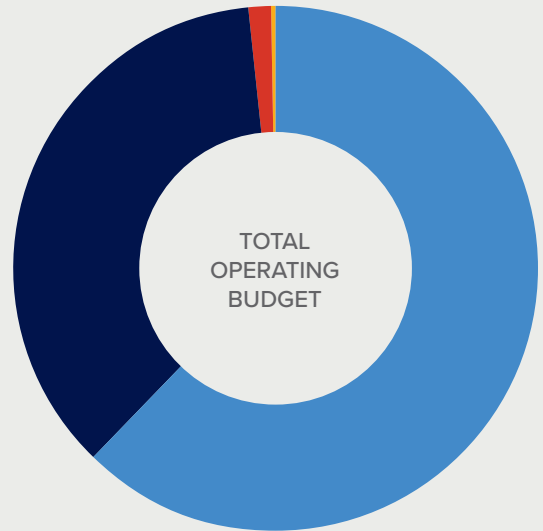
Asian Pacific Bar Association of
Pennsylvania
Board of Directors

By the Numbers

TOTAL OPERATING BUDGET

\$20.69 million

- PERSONAL SERVICES (SALARIES)
\$12.92 million
- PURCHASE OF SERVICES
\$7.47 million
- MATERIALS AND SUPPLIES
\$241K
- EQUIPMENT
\$50.5K



The Tax & Revenue Unit collected **\$61.3 million** in delinquent real estate taxes, **\$24.6 million** in other delinquent taxes, and **\$9 million** in delinquent water debt in FY 2018.



The Code & Public Nuisance Litigation Unit collected **\$2.1 million** in fines, fees, and court costs in FY 2018. In addition, the Code & Public Nuisance Litigation Unit obtained **\$4.9 million** in judgments for outstanding fines, fees, and court costs.

7,910 Number of CODE ENFORCEMENT CASES litigated in FY 2018

6,626 Number of HEALTH & ADULT SERVICES CASES litigated in FY 2018

2,680 Number of CONTRACTS executed in FY 2018

\$52.03 Million

Amount the City expended on claims, settlements, and judgments in FY 2018



223

Number of attorneys in the Law Department

315

Total Number of employees in the Law Department

42%

Law exceeded its FY2018 goal of achieving a 37% participation rate for M/W/DSBE firms on contracts, reaching a participation rate of 42% (up from 37% in FY 2017)



809

Number of children adopted in FY 2018 with help by the Philadelphia Department of Human Services



45

Number of new attorneys hired in 2018

25

Number of attorneys hired in 2018 who identify as racially diverse

7

Number of bond transactions closed in FY2018 totaling \$1.7 Billion

3,400

Number of CLE Hours awarded through in-house training programs



\$10,000

Increase in starting salary for Assistant City Solicitor in 2018



44%

Percentage of Law Department employees who identify as racially diverse



Collaboration Forges Success

By promoting increased collaboration within the different units of the Law Department, we have been able to take the lead on large cases and issues of significant public importance.

One of the main reasons the Law Department has been able to take the lead on more significant cases is the continued expansion of the Affirmative & Special Litigation Unit. From 2016 to 2018, the Unit expanded from two to six attorneys and continues to attract skilled litigators to its ranks.

Further, attorneys from Real Estate & Development, Regulatory Law, and the Commercial Law Units have formed a multidisciplinary team to support Rebuild—the largest infrastructure investment in the City’s history, which will improve parks, recreation centers, and libraries across the City.

As the City continues to make increased use of data to combat the opioid crisis, attorneys across several units have formed a data privacy review committee to facilitate efficient sharing of sensitive data in compliance with the law. Our units have also closely worked with Philadelphia’s Resilience Project—the City’s unified approach to tackle the opioid crisis.

DEFENSE OF THE CITY’S ANTI-DISCRIMINATION LAWS AND POLICIES

The City’s current case with Catholic Social Services (CSS) has received national attention. The City’s contract provisions and its Fair Practices Ordinance prohibit discrimination against same-sex couples. CSS, as one of the City’s foster care providers, refused to certify same-sex couples as foster parents, and asked a federal court to require the City to continue contracting with CSS. The District Court ruling found that the City has a legitimate interest in ensuring that when it employs contractors to provide governmental services, those services are accessible to all Philadelphians who are qualified for the services. The City has vigorously contested CSS’ appeal of the district court’s decision to the U.S. Court of Appeals for the Third Circuit, and successfully has opposed multiple stay requests pending appeal, including one to the U.S. Supreme Court.

“For the CSS case, we were able to provide our client a team with expertise across the Department, from my Unit’s trial and briefing skills, to Appeals’ deep experience with First Amendment issues, Child Welfare’s intimate knowledge of the foster care system, and our Commercial brethren’s insights on our contracting processes.

—ELEANOR EWING, CHIEF OF THE AFFIRMATIVE & SPECIAL LITIGATION UNIT



OPIOID CRISIS

The Law Department is fully committed to assisting the City tackle the opioid crisis. In furtherance of that goal, the Law Department has: (1) filed a case against prescription opioid manufacturers; (2) initiated a new data privacy review committee; and (3) participated in encampment cleanup efforts in coordination with the Philadelphia Resilience Project.

OPIOID LITIGATION

In January 2018, the City filed a lawsuit against several manufacturers of prescription opioids for causing and fueling the opioid epidemic through decades of deceptive marketing that convinced doctors and medical professionals that opioids were safe and effective for long-term daily treatment of chronic pain, and that risks for addiction after long-term use were minimal. The City's lawsuit seeks, among other things, to end the ongoing deceptive marketing practices and recover money from the manufacturers to pay for the treatment of City residents suffering from opioid addiction.

NEW PRIVACY REVIEW PROCESS

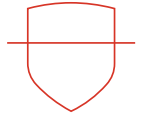
The HIPAA and Privacy Unit implemented a multi-disciplinary review procedure to better coordinate and streamline the Law Department's counseling on privacy issues. This process was established in response to the increasing number of requests the Law Department was fielding pertaining to data sharing and opioid-related health information among City Departments. The review team handles all requests made by City agencies on strategies for sharing protected health information.

GUIDANCE ON ENCAMPMENT RESOLUTION

The Code & Public Nuisance Litigation Unit, with the assistance of the Appeals and Civil Rights Units and the Social Services Group, has continuously supported the City in its efforts to legally remove encampments throughout the Kensington area in response to the opioid crisis. Consequently, all four major encampments under City bridges in the Fairhill neighborhood have been successfully removed. Staff from these units have also regularly participated in the Philadelphia Resilience Project, the City's unified approach to tackling the opioid crisis. The Philadelphia Resilience Project brings together 35 City departments to focus on the most pressing needs and critical neighborhoods, including the Kensington and Fairhill neighborhoods, which have been significantly impacted by the opioid crisis.

Philadelphia Resilience Project Briefing.





Success Stories

The Law Department, working closely with our clients, provided legal representation on a wide array of matters that will benefit the City and its residents for years to come. Here are some of our success stories from 2018.

BEVERAGE TAX VICTORY

Working closely with outside counsel, the Law Department successfully defended a rigorous legal challenge to the Philadelphia Beverage Tax (PBT). The PBT was enacted to fund free, quality pre-Kindergarten (pre-K) education for children; expand community schools in high-need neighborhoods; and launch Rebuild, a capital improvement program for the City's parks, recreation centers, and libraries. As a result of Law's efforts, the City prevailed in the Pennsylvania Supreme Court, which affirmed the lower court rulings that City Council had the authority to enact this tax on distribution-level transactions. This victory was the result of years of effort by Law Department attorneys. ▼

WELCOMING CITIES LITIGATION

In 2017, the City filed suit to prohibit the Attorney General of the United States from imposing new and unprecedented immigration-related conditions on the federal Edward Byrne Memorial Justice Assistance Grant, which the City relies on to fund critical criminal justice programming and initiatives. After extensive litigation, a federal judge found in favor of the City, concluding that the Attorney General violated the law in several ways. In February 2019, the Court of Appeals for the Third Circuit affirmed the district court's ruling that the Attorney General violated federal law.

Pre-K Move Up Celebration.





Welcoming Cities Press Conference.

ACHIEVING PERMANENCY FOR CHILDREN

The Child Welfare Unit added a sixth attorney to each of the six core dependency court rooms at Family Court. This enables attorneys to dedicate more time to individual cases while helping to achieve greater permanency for children in DHS's care. The CWU has also expanded its Accelerated Adoption Review Court (AARC) team, to expedite children achieving permanency. Finally, the CWU formed a dedicated unit to handle administrative appeals before the Pennsylvania Department of Human Services' Bureau of Hearings and Appeals (BHA). As a result, in FY 2018, 809 children who were supervised by DHS achieved permanency through adoption.

SMALL CELL COMMENTS

Commercial Law attorneys drafted comments to a proposed Federal Communications Commission (FCC) rule on small cell antennas that has had national impact. The proposed FCC rule drastically impacts local regulation of the permit process for small cell antennas on rights of way and public property. Referenced in a *New York Times* article, the City's comments were specifically cited in the ruling as having influenced and moderated the proposed rules which the FCC formally issued on September 27, 2018. Along with other large and small municipalities across the country, the City is actively pursuing an appeal of the rule in the Ninth Circuit.

EXPANSION FOR PHL AIRPORT

Regulatory Law Unit attorneys supported the possession through eminent domain of the large properties adjoining the Philadelphia Airport for cargo expansion and related development. Cargo expansion will facilitate the Airport's desire to maximize use of its assets, as cargo operations frequently take place at night when the Airport is not used for passenger flight operations.

EDUCATION REFORMS

The Law Department, working closely with the Mayor's Office and City Council, was instrumental in preparing for the dissolution of the School Reform Commission, reconstitution of the Board of Education, transfer of governance, and amendment of the School District Charter.

SEXUAL HARASSMENT POLICIES

Attorneys in the Labor & Employment Unit guided a City task force created to address deficiencies in the way the City collects, processes, and resolves complaints of sexual harassment. The task force drafted new forms and procedures for filing complaints and enacted new investigation procedures.

DISCRIMINATORY MORTGAGE LENDING

Law continues to litigate the City's public policy lawsuit against Wells Fargo & Co. and Wells Fargo Bank for allegedly violating the Fair Housing Act by engaging in racially discriminatory mortgage-lending practices against African-American and Latino/a residents of Philadelphia. A federal judge denied the bank's motion to dismiss. In an attempt to resolve the matter, the City and Wells Fargo have agreed to mediation in early 2019.

PROPERTY TAX APPEALS

The Property Assessment Unit has achieved outstanding results throughout the past year in the litigation of property assessment appeals before the Board of Revision of Taxes (BRT). For tax year 2018, appeals were filed for 6,770 properties with a total assessed value of \$22.7 billion. Approximately 88% of the 2018 appeals have been resolved.



Renovations begin at
400 N. Broad Street.

COMPLEX REAL ESTATE TRANSACTIONS

The Real Estate Development Unit, along with outside counsel, advised and counseled the Administration through the negotiation of a lease for the improvement, operation, and maintenance of 400 N. Broad Street to serve as a new Public Safety Headquarters for the City. ▲

TAX COLLECTION

Since 2013 and in partnership with the Revenue Department, the Tax & Revenue Unit has decreased the active principal of delinquent Real Estate Tax by 37% and collected over \$100 million in other delinquent School and City taxes through the Commercial Activity License revocation program. At the same time delinquent Real Estate Tax collections have increased, Tax & Revenue attorneys have worked with Revenue and outside counsel to sign up hundreds of Philadelphia homeowners for Owner Occupied Payment Agreements (OOPA), allowing qualified residents to stay in their homes in exchange for income-based affordable payments on their Real Estate Tax liabilities.

WATER METER UPGRADES

Regulatory Law attorneys provided guidance to the Water and Procurement Departments through all phases of a major initiative to replace and upgrade the City's water meter reading system. Law also worked closely with the Water Department prior to, during, and after the 2018 Water, Sewer, and Storm Water Rate Case.

FIGHTING BLIGHT

After Commonwealth Court had invalidated the City's "Windows and Doors Ordinance," the Pennsylvania Supreme Court reversed and held that the City's anti-blight purposes amply justified the Ordinance's requirement that certain vacant buildings must install and maintain real glass and real doors on all openings, rather than using boards and cement. As a result of the successful defense of this ordinance, L&L intends to use this tool vigorously as part of its neighborhood preservation efforts.

ANTI-POVERTY INITIATIVES

The Law Department worked extensively with City Council in developing several anti-poverty initiatives. These efforts resulted in the passage of the following ordinances: fair workweek; living wage (City contractors); just cause evictions; and affordable housing incentives.

CIVIL RIGHTS UNIT VICTORIES

In 2018, the Civil Rights Unit tried 17 jury trials, resulting in 15 defense verdicts. The unit also disposed of approximately 154 cases (including pre-suit files) without any City payment. The downward trend in new filings of civil rights lawsuits against the City continued in 2018. This trend can be, at least partially, attributed to increased training, oversight, and accountability of police personnel.

Q&A

with Director of Professional Development, Diversity & Inclusion, *Iveliz Crespo*



Meet Iveliz Crespo (pronouns: she/her/ella), the new and first ever, Director of Professional Development, Diversity and Inclusion and a self-described “outgoing introvert.” Iveliz refers to herself as a lawyer by training and social change/diversity advocate by passion.

Before joining the Law Department in September, Iveliz worked as a civil litigator for various non-profits representing some of the most marginalized communities.

She has represented migrant farm workers in civil rights, labor trafficking, and employment law matters. She has also represented LGBTQ clients in a variety of legal issues that stem from their sexual orientation and gender identity.

We sat down with Iveliz to learn more about her day-to-day routine and gather some fun facts about her working style.

Open your desk drawer right now—what’s in it?

Pens that are *sometimes* functional, my pronoun pin, Post-it notes, and fruit snacks.

Give us your definition of diversity and inclusion.

As a queer woman of color, my view of diversity is a global and intersectional one that includes, but is not limited to, race, gender, sexual orientation, gender identity, disability, age, pregnancy, religion, and veteran status. At some point, everyone falls into an identity that may come up against a barrier to their full participation. My role is to identify these barriers and to advocate breaking them down.

Diversity is about bringing together people who have different qualities, perspectives, and life experiences. Inclusion is about inviting those to proudly display their differences and creating environments in which any individual or group can be and feel welcomed, respected, and supported.

What does that look like at the Law Department?

I promote strategies and initiatives that help to ensure that there is diverse representation among employees and to ensure our working environment allows individuals to be their authentic selves.

Part of that involves ensuring that we are attracting diverse pools of highly-qualified candidates for all job openings. If we are not actively searching for all qualified candidates, including those from underrepresented groups, we are not truly considering all of the best and the brightest.

I recognize that diversity initiatives are unsuccessful unless we are intentional about creating an inclusive work environment. I am currently working on an inclusivity assessment that will allow us to measure and improve how inclusive we are as a department.

Why is professional development important for attorneys?

I think it is imperative that professional development occur across the board for ALL Law Department staff. Employee development and engagement are an integral part of maintaining a strong workplace culture. By providing ongoing opportunities for professional development, employees feel invested in their own growth as well as in the larger mission of the Law Department. This is true for all employees—attorneys and professional staff alike.

What is the biggest challenge of your role?

The biggest challenge about working in my role is that the work is never “done.” There will always be more to do when it comes to creating a more diverse and inclusive workplace and world.

What do you find most rewarding about this role?

I have the unique opportunity to work alongside of some of the brightest legal minds in Philadelphia. I am constantly learning and that is an incredible experience. I look forward to working with my colleagues to continue to elevate the Law Department’s profile as a department that is not only representative of the residents of Philadelphia but also a place where employees can thrive and grow professionally.

Goals for 2019

○ **Build on Diversity Efforts**

After hiring its first-ever Director of Professional Development, Diversity & Inclusion, we will expand outreach efforts with law schools and minority-based affinity groups to fill vacant positions, and continue to provide managerial and developmental training opportunities to existing staff.

We will implement coordinated training programs for each of the Law Department's Practice Groups and department-wide training on diversity and inclusion topics.

The Law Department will also continue to work to increase contracting with M/W/DSBE firms and will continue its practice of encouraging firms who do not qualify as M/W/DSBE to assign minority partners and associates to City contracts through its outside counsel policy.

○ **Achieve Greater Permanency for Children**

The Child Welfare Unit will continue to explore and implement efficiencies to increase the rate of achieving permanency for children in DHS' care.

○ **Expand Training for the Child Welfare Unit**

Child Welfare Unit will provide quarterly in-house trainings in the substantive areas of child welfare law and practices.

○ **Explore Additional Affirmative Litigation Opportunities**

Law will continue to identify affirmative litigation opportunities to advance the City's policy and legal interests, combat systemic public nuisances, and challenge any conduct of any entity that threatens public welfare, health, or safety.

○ **Minimize Spending on Outside Counsel**

Law will continue to minimize outside counsel fees by limiting their contracting to circumstances involving legal conflicts or requiring specialized expertise.

○ **Implement E-Discovery Software**

Law will launch its e-discovery platform to improve the ability to search, collect, cull, and produce electronic files and other documents without the use of outside vendors. The platform should significantly reduce costs, increase efficiency, and help the City improve its e-discovery processes.

○ **Increase the Professional Profile of the Law Department**

The Law Department will continue pursuing its initiative to raise its professional profile in the City and legal community through: increasing membership and participation in local bar and affinity organizations; improving the Law Department’s web presence; and generating informative materials about the Law Department’s initiatives & achievements.

Visit our website
phila.gov/law





CITY OF PHILADELPHIA
Law Department

phila.gov/law