

MUNICIPAL LAW

BY JEFFREY D. FRIEDLANDER

Recruiting City Attorneys Despite Necessary Salary Limitations

Over the past two years, I have written about the wide range of legal issues confronting the attorneys at the New York City Law Department. A recurring theme has been the complex and innovative nature of the litigation and transactions we deal with on a daily basis. A continuing challenge is how to hire and retain the best legal talent to handle these matters, given the necessary limitations on the salaries that a public law office is able to provide to its lawyers.

Prior to 1980, the Law Department was required by State Civil Service law to select candidates based upon the results of a written competitive examination. Pursuant to an innovation established in the early 1970s, some attorneys, including several still with the office (myself among them), were hired through an "honors program," which permitted candidates in the top quarter of their law school or a member of the law review to be evaluated less formally by way of an oral examination by a panel of attorneys.

System of Merit Selection

In the late 1970s, following the New York Court of Appeals' decision in *Grossman v. Rankin*, 43 NY2d 493 (N.Y. 1977), a civil service reclassification enabled the Law Department, under the leadership of then-Corporation Counsel Allen G. Schwartz, to institute a system of merit selection pursuant to which we are able to hire the way that most private firms do—on the basis of resumes, interviews, and references.

With approximately 650 attorneys, the Law Department is the third-largest law office in the city. When hiring, it must keep in mind the needs of its 17 divisions. We require expertise in disparate areas, such as tax, bankruptcy, legislative drafting, environmental law, civil rights law, juvenile rights, labor law, pensions and trial and appellate litigation. We need attorneys who want to be on their feet five days a week in front of judges and juries. At the same time, we need attorneys who will be happy researching and writing on the more academic subjects confronting our office, such as Municipal Home Rule and Uniform Land Use Review Procedure (ULURP). We handle 10,000 member class actions in the U.S. District Court for the Southern District of New York at the same time that we handle 10,000 separate tort cases in Bronx Supreme Court. We do work in the nature of both criminal prosecution and civil defense. We do economic development and municipal finance work as well as processing 18,000 workers' compensation claims each year.

We must compete with the private sector for the most talented lawyers, but we cannot compete on the basis of salary. When I began working at the Law Department in 1970, the salary of an Honors Program attorney who was admitted to the bar was \$13,300. The starting salaries at top law firms had just been increased to \$15,000. Today, an assistant corporation counsel starting in the fall of 2005



will earn about \$51,000 prior to bar admission—roughly 35 percent of the starting salary offered to his or her private firm peers. Public sector salaries have not just decreased compared to what our attorneys might earn elsewhere. Our salaries have also declined dramatically when compared to the typical debt load accumulated by a graduating law student. As a question of sheer economics, the choice of an attorney to enter public service represents more of a personal sacrifice than ever before.

Public Law Offices Compete?

Given the financial realities facing today's law students, can a public law office compete with the private firms for the best legal talent? The answer in our case, happily for the city, is, "Yes." Over the past few years, the total number of applications received by the Law Department for entry, lateral and summer internship positions has increased fivefold.

For example, for our fall 2005 class, half of the approximately 50 positions were filled by our summer honors interns. For the remaining 25 positions, we received more than 2,000 applications. We made 33 offers for these positions and received 25 acceptances—a 75 percent acceptance rate—significantly higher than those of private firms of a similar size. From resume to extended offer, a third-year student applying for a position with the Law Department had less than a two percent chance of receiving an offer.

One major initiative of the Law Department has been to expand the range of law schools from which we draw our attorneys. We now receive applications from over 100 different law schools and will have 28 law schools represented in the entry class. Over all, 76 law schools are represented among our current attorneys, including an increasing number of Canadian law schools.

With an increase in applications, we have seen an improvement in the paper credentials of our entry class. More than one-third of our entry class comes from the top 30 law schools as ranked in the U.S. News & World Report. Most of the entry class is graduating in the top third or top quarter of their class. However, more important than paper credentials, we have the sense that we are selecting attorneys who are more suited to the type of work we do. One sign of that is that our attorney attrition rate has fallen steadily in recent years.

How does a public office attract the attorneys it needs? It would seem that our greatest draw is the experience and training we can offer our attorneys, together with the excitement and importance of the work we do. We are one of the few offices that can send attorneys to conduct trials before they are admitted to practice. Under "practice orders" issued by the First and Second departments, our recent graduates can appear in state court and argue motions prior to admission. Our juvenile prosecutors are entitled to conduct fact-finding hearings (the equivalent of trials in the adult criminal system) and disposition hearings (the equivalent of sentencing) prior to admission. In their first year, most of our juvenile prosecutors will have conducted 10 to 15 such hearings.

The attorneys in our civil divisions also enjoy an unusual amount of courtroom time. At one recent Southern Dis-

Jeffrey D. Friedlander is first assistant corporation counsel of the city of New York. **Stuart Smith**, director of legal recruitment for the law department, assisted in the preparation of this article.

Continued on page 6

*Recruiting City Attorneys Despite Necessary Salary Limitations***Continued from page 3**

trict swearing-in ceremony, the presiding judge welcomed our attorney to the federal bar with the words, "We'll be seeing a lot of you." Attorneys in our Labor and Employment, Special Federal and General Litigation divisions may handle 20 to 40 federal matters at one time and are usually in federal court at least one day per week.

The attorneys entering our tort division may be in state court two or more days per week—one day handling motions and a second day in conferences before the judge. Another two days of each week will be spent taking or defending depositions and the fifth day of the week writing motion papers. In their third or fourth year, these attorneys move to the trial team, picking a jury once or twice a week.

Most importantly, our attorneys are also attracted by the opportunity to perform public service. They see our work as a way of improving the community in which they live, whether making the streets safer by prosecuting juvenile crime or developing innovative ideas for protecting the city's air and water quality. Our client is the city of New York, the city and its people—for many applicants and lawyers serving the agency, this may be the biggest draw.

To help spread the word about the excitement and rewards of working at the Law Department, we instituted a paid Summer Honors Program about five years ago. We offer a weekly salary of \$500 and make housing (at NYU dormitories) available to out-of-town law students. Unlike other public sector or public interest employers—and like many private law firms—we make offers of permanent employment to second-year students at the end of the summer based upon their summer work performance.

The Summer Program provides nine weeks to evaluate how a prospective employee will fare in our high-pressure, high-volume environment. The result is a group of starting attorneys who know what they are getting into. This past summer, we extended offers to 33 of the 39 second-year students in the program. We now receive approximately 3,000 applications per year for the approximately 60 posi-

tions in the program, and three-quarters of the law students receiving offers of employment into the summer program accept.

Our Summer Honors Program differs substantially from the experience offered at large law firms. We cannot offer our interns the amenities they could obtain in the private sector—large salaries, Broadway shows or lunches at four-star restaurants. However, we provide an experience, different from that of the private sector, which cannot be duplicated elsewhere. Instead of attending Broadway shows, our interns test the video simulations used to train cadets at the police department facility at Rodman's Neck, and they have helped feed the homeless at soup kitchens through the Youth Services Opportunity Project. Instead of harbor cruises, they have visited Governor's Island. They also tour the Brooklyn Navy Yard (where films are now made) and visit the Police Department's Crime Laboratory.

We also try to educate our interns about city government by presenting them with a variety of outside speakers as part of our summer seminar lunch series. Deputy Mayor Dennis Walcott has spoken about Mayor Michael Bloomberg's efforts to reform the city's public education system. Deputy Mayor Daniel Doctoroff has spoken about the redevelopment of the far West Side of Manhattan and the city's rezoning. The most popular speaker has undoubtedly been Judith ("Judge Judy") Scheindlin, an alumna of the Law Department's Family Court Division.

In five short years, the Summer Honors Program has transformed the way the Law Department hires. Half of the 2005 entering class is made up of former Summer Honors interns. We are now beginning to see former summer honors interns from the earlier programs applying for positions after gaining some experience in private practice. Equally importantly, by spreading the word about the Law Department at law schools around the country, the summer program attracts highly qualified applicants for our entry class who have not worked for us before.

As with any large law firm, an ongoing challenge for the Law Department is to maintain and increase the diversity of the attorneys on the Law

Department staff. In the past few years, 20 percent of the average nationwide law school graduating class self-identifies as Black, Hispanic or Asian. At the same time, we represent a city that is more than half minority and attorneys in several of our divisions interact daily with members of the community.

The Law Department makes a concerted effort to reach out to diverse law students and diverse experienced attorneys. We sponsor an annual diversity reception, hosted most recently by former-Mayor David Dinkins. We have a diversity committee to make sure that issues of importance to diverse attorneys will be aired and addressed. And we participate in as many diversity job fairs as possible to expand the pool of candidates. On average, over the past five years our entry classes have been about 30 percent Black, Hispanic or Asian and the percentage of diverse attorneys at the Law Department has steadily increased over the past five years as have diverse attorneys in supervisory positions. The number of openly gay and lesbian attorneys at the Law Department has also increased steadily in the past few years, doubling from 16 to 33 since 2001.

As we seek to broaden our recruiting base and increase the diversity of attorneys entering the Law Department, we also strive to retain those attorneys on a long-term basis. Given the financial rewards available to senior attorneys in the private sector, retention of public sector attorneys presents challenges equal to recruitment. These challenges, and our response to them, cannot be the focus of this article, but will be the subject of future discussion.

Despite these successes in recruiting, the concern remains that recruiting for a public office will become more and more difficult as public sector salaries fall further behind private firm salaries and law school tuition.

While there has been some movement in the state Legislature towards a modest loan-forgiveness program for public sector attorneys, the enactment of any such program is far from being assured. If we reach the day where only the well-off can afford to do public service, this would be a great loss to the Law Department and to the city that we serve.