

# THE COUNCIL OF THE CITY OF NEW YORK

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Chair, Governmental Operations Committee



Report to the Committee on Finance and the Committee on Governmental Operations  
on the Fiscal 2020 Executive Budget for

## **Law Department**

May 17, 2019

## **Finance Division**

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## Law Department Overview

This report presents a review of the Law Department's Fiscal 2020 Executive Budget. The section below presents an overview of the Department's budget and how it has changed during the course of Fiscal 2019, followed by a review of the significant budget actions introduced in the Fiscal 2020 Executive Budget. Major issues related to the Department's budget are then discussed. Appendix 1 reports the changes made to the Fiscal 2019 and Fiscal 2020 Budgets since Adoption of the Fiscal 2019 Budget. For additional information on the Department's budget and its various programs, please refer to the Fiscal 2020 Preliminary Budget Report for The Law Department at: <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/03/025-LAW.pdf>

Below is a summary of key funding changes by program area and source when comparing The Law Department's Fiscal 2020 Executive Budget to its Fiscal 2019 Adopted Budget.

Law Department Financial Summary						
<i>Dollars in Thousands</i>	FY17	FY18	FY19	Executive Plan		**Difference
	Actual	Actual	Adopted	FY19	FY20	FY19-FY20
<b>Spending</b>						
Personal Services	\$129,251	\$136,491	\$161,918	\$153,805	\$178,038	\$16,119
Other Than Personal Services	89,527	90,715	73,424	106,489	73,218	(206)
<b>TOTAL</b>	<b>\$218,778</b>	<b>\$227,206</b>	<b>\$235,342</b>	<b>\$260,294</b>	<b>\$251,255</b>	<b>\$15,913</b>
<b>Personal Services</b>						
Additional Gross Pay	\$2,208	\$1,911	\$282	\$308	\$282	\$0
Full-Time Salaried - Civilian	120,357	128,105	158,617	150,315	174,457	15,841
Other Salaried & Unsalaries	5,327	5,291	3,018	3,181	3,298	280
Overtime - Civilian	1,363	1,187	1	1	0	(1)
P.S. Other	(4)	(2)	0	0	0	0
<b>SUBTOTAL</b>	<b>\$129,251</b>	<b>\$136,491</b>	<b>\$161,918</b>	<b>\$153,805</b>	<b>\$178,038</b>	<b>\$16,119</b>
<b>Other Than Personal Services</b>						
Contractual Services	\$62,177	\$60,510	\$30,227	\$65,755	\$29,866	(\$361)
Fixed & Misc. Charges	40	54	18	74	18	0
Other Services & Charges	24,299	26,531	40,944	36,457	41,099	155
Property & Equipment	1,709	2,427	984	2,736	984	0
Supplies & Materials	1,302	1,193	1,252	1,468	1,251	(1)
<b>SUBTOTAL</b>	<b>\$89,527</b>	<b>\$90,715</b>	<b>\$73,424</b>	<b>\$106,489</b>	<b>\$73,218</b>	<b>(\$206)</b>
<b>TOTAL</b>	<b>\$218,778</b>	<b>\$227,206</b>	<b>\$235,342</b>	<b>\$260,294</b>	<b>\$251,255</b>	<b>\$15,913</b>
<b>Funding</b>						
City Funds			\$227,290	\$248,409	\$242,888	\$15,598
Other Categorical			417	648	417	0
Capital- IFA			3,742	3,928	4,017	275
Federal - Community Development			333	253	145	(188)
Intra City			3,561	7,055	\$3,789	228
<b>TOTAL</b>	<b>\$218,778</b>	<b>\$227,206</b>	<b>\$235,342</b>	<b>\$260,294</b>	<b>\$251,255</b>	<b>\$15,913</b>
<b>Budgeted Headcount</b>						
Full-Time Positions	1,600	1,581	1,970	1,929	1,910	(60)
<b>TOTAL</b>	<b>1,600</b>	<b>1,581</b>	<b>1,970</b>	<b>1,929</b>	<b>1,910</b>	<b>(60)</b>

\*\*The difference of Fiscal 2019 Adopted Budget compared to Fiscal 2020 Executive Budget.

The Law Department's Fiscal 2020 Executive Budget totals \$251.3 million, including \$178 million in Personal Services (PS) funding to support 1,910 full-time positions. Approximately \$242 million, or 97 percent, of the Law Department's budget is City tax-levy funding, with Capital Inter-Fund Agreement (IFA) funding and intra-city funds representing the majority of the remainder of the Department's Fiscal 2020 Executive Budget. The Law Department's operations are carried out by 16 legal divisions and four support units. However, the Department's budget is only broken

out into two Units of Appropriation (U/As), which include Personal Services (PS) and Other than Personal Services (OTPS).<sup>1</sup>

The Law Department's Fiscal 2020 Budget has grown by approximately \$15.9 million since the Fiscal 2019 Adopted Budget. One of the primary reasons for this increase was funding allocated to the Department's budget for collective bargaining agreements, including \$5.1 million in Fiscal 2019 and \$8.7 million in Fiscal 2020, that were included in the November 2019 Financial Plan and Fiscal 2020 Preliminary Plan. Other new funding includes an additional \$1.9 million in Fiscal 2020 for lease adjustments to fund contractual lease agreements discussed in the "Other Adjustments" section of this report. The Law Department's Fiscal 2019 Budget has grown by \$24.9 million since the Fiscal 2019 Adopted Budget, also mainly due to funding added for collective bargaining purposes, and \$13.2 million added for Case Specific New Needs across the Fiscal 2020 Preliminary and Executive Plans. Additional funding added to the Law Department's Fiscal 2020 Budget is partially offset by \$3.3 million in baselined savings beginning in Fiscal 2020 through the permanent elimination of vacant positions across the Department.

## New in the Executive Plan

### New Needs

The Law Department's Fiscal 2020 Executive Plan introduces new needs of \$6.4 million in Fiscal 2019. The following includes a breakdown of each new need added in the Plan.

- **Case Specific New Needs.** The Fiscal 2020 Executive Plan introduces \$3.9 million for case specific needs in the Fiscal 2019 Budget. This funding is associated with a recent federal agreement with the Law Department, in which the Department would cover monitoring and management consultant costs related to a review of New York City Housing Authority (NYCHA) operations, and to engage in a non-conflict-of-interest law firm to investigate compliance with the whistleblower law.
- **Gowanus Canal Remediation Trust.** The Fiscal 2020 Executive Plan introduces \$2.5 million for the Gowanus Canal Remediation Trust in its Fiscal 2019 Budget. This funding will be used to address the design work of environmental consultants, pursuant to an Order issued in May 2014 by the US Environmental Protection Agency (EPA) for NYC and other entitled to cooperate and participate in the clean-up of the Gowanus Canal.

### Other Adjustments

The Fiscal 2020 Executive Plan introduces Other Adjustments of \$30,000 in Fiscal 2019 and \$1.9 million in Fiscal 2020, which include the following.

- **Heat, Light and Power.** The Fiscal 2020 Executive Plan adds \$30,000 in Fiscal 2019 and baselines \$36,000 beginning in Fiscal 2020 to increase the Law Department's Heat, Light and Power budget.
- **Lease Adjustment.** The Fiscal 2020 Executive Plan includes baselined funding of \$1.9 million beginning in Fiscal 2020 for increased lease expenditures. This funding would be used to fund the Department's contractual lease agreements, specifically for the lease renewal at 100 Church Street, the renewal of the licensing agreement at 1 MetroTech Center for Brooklyn

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<sup>1</sup> Units of Appropriation are the subdivisions of the City Expense Budget that the City Council votes upon.

Raise the Age Phase 1 space, and the licensing agreement at Gertz Plaza for Queens Raise the Age Phase 1 space.

### Citywide Savings

- **Hiring Freeze Savings.** The Fiscal 2020 Executive Plan includes baselined savings of \$3.3 million beginning in Fiscal 2020 by permanently eliminating 41 vacant positions in the Tort and Family Court Divisions. This is in addition to the Department's permanent reduction of 11 vacant positions through a technical adjustment that had no budgetary impact in the November 2018 Financial Plan.
- **Additional Affirmative Litigation Revenue.** The Affirmative Litigation Division oversees the activities of the Department's collection contract. Attorney's in this Division represent the City as a plaintiff on a wide range of issues, including restitution, breach of contract, and insurance. The Fiscal 2020 Executive Plan includes savings of \$8.8 million in Fiscal 2019 due to additional revenue from a one-time Federal Express (FedEx) cigarette settlement payment. This is in addition to the \$14.5 million in Fiscal 2019 from additional revenue from one-time settlement payments that the Law Department recognized in the November 2018 Financial Plan and the Fiscal 2020 Preliminary Plan.

### Miscellaneous Revenue

The Law Department's projected miscellaneous revenue streams for Fiscal 2020 total \$21.3 million, and remains unchanged since the Fiscal 2020 Preliminary Plan. The vast majority of this revenue, approximately 95 percent of the total, is projected to be generated through affirmative litigation, collection agency claims, and reimbursements for worker compensation payouts. Major annual swings in the Law Department's generation of miscellaneous revenue are driven primarily from the Sale of Streets, or the sale of small non-functional roads to private entities. Some such properties are sold at relatively large sums, causing the Department's miscellaneous revenue to increase in those years. For example, the sale of lots in Queens in Fiscal 2016 was \$25.3 million greater than the Department's overall planned miscellaneous revenue generation for Fiscal 2020. For additional information regarding the Department's miscellaneous revenue streams, please refer to Appendix 2.

### Contracts

The Law Department's Fiscal 2020 Contract Budget totals \$29.9 million to provide for 429 contracts, and remains unchanged since the Fiscal 2020 Preliminary Plan. For additional information regarding the Department's Fiscal 2020 Executive Contract Budget, please refer to Appendix 3.

## Budget Issues

### Fiscal 2020 Preliminary Budget Response

The Council's response to the Mayor's Fiscal 2020 Preliminary Budget included recommendations for changes to the Law Department's Fiscal 2020 Budget.

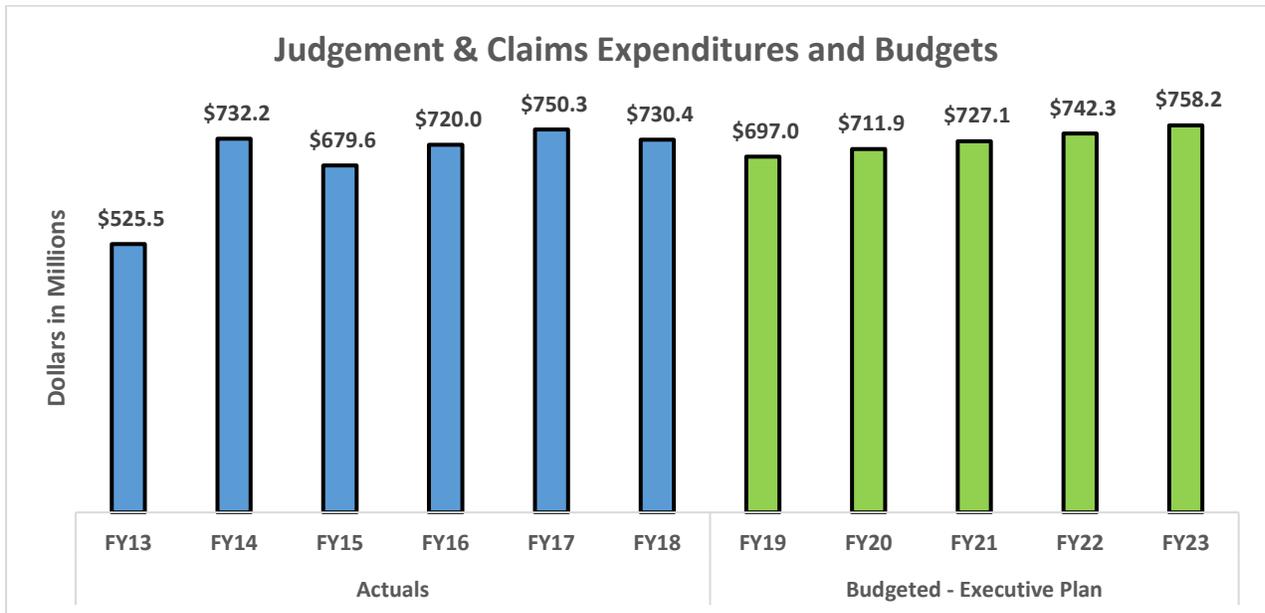
- **Recognize PS Accruals.** As of January 2019, the Law Department had 291 vacant positions across the agency, the majority of which were from delays in ramping up staffing for Raise the Age. As a result, in the Fiscal 2020 Preliminary Budget Response, the Council called on the Administration to realize PS accruals related to their vacancies. In response, the Law

Department baselined savings of \$3.3 million beginning in Fiscal 2020 by permanently eliminating 41 vacant positions across the agency.

- **Expand Vertical Case Handling.** Vertical case handling involves individual lawyers working on specific cases from start to finish. In contrast, horizontal case handling is when different specialized attorneys work on different stages of a large volume of cases. Vertical case handling is more expensive, but tends to lead a higher win rate in court, which can ultimately result in significant savings. As such, the Council called on the Administration to expand vertical case handling to reduce the judgement and claims budget and other payouts from lost litigation settlements to find savings of \$4.5 million. This was not included in the Law Department's budget.
- **Create Unique Units of Appropriation (U/As) for the Tort Division.** The Law Department has 20 divisions, but has only two U/As, for PS and OTPS, respectively. The Council has long requested that additional U/As be created, but the Law Department has continuously opposed this due to concerns that this will hinder the transfer of resources across its divisions, which it does regularly. In the Fiscal 2020 Preliminary Budget Response, the Council called on the Administration to create two new U/As for the Tort Division, the Department's largest, and maintain the remainder of the Agency's budget in its existing U/A structure. We are working with the Administration to include additional U/As in the following financial plan.

### Judgement & Claims

The City's Judgment and Claims (J&C) Budget is a fund used to pay settlements resulting from judgements against the City. J&C payments include medical malpractice suits, contract suits, police suits and other judgments against the City. While the Judgement and Claims Budget is part of the City's Miscellaneous Budget, and is not included in the Law Department's Budget, the Law Department's Tort Division defends the City against most J&C suits. Notably, the Law Department does not defend medical malpractice suits against the City, which Health & Hospitals manages through its own separate legal department. The Judgement and Claims Budget totals \$711.9 million in Fiscal 2020. Over the past five years J&C actual expenditures have averaged approximately \$722.5 million annually. For additional information regarding J&C spending since Fiscal 2013, please refer to the chart below.



For Fiscal 2018, over 35 percent, or \$262.7 million, of all judgement and claims were for cases against the Police Department, while cases for medical malpractice totaled \$122.3 million of all judgement and claims for the same fiscal year. Other major judgement and claims cases were against the Department of Transportation, the Department of Sanitation, and the Department of Corrections, among others. For additional information on the breakdown of Judgement and Claims from Fiscal 2013 – 2018, please refer to Appendix 4.

## Appendix 1: Fiscal 2020 Budget Actions since Fiscal 2019 Adoption

<i>Dollars in Thousands</i>	Fiscal 2019			Fiscal 2020		
	City	Non-City	Total	City	Non-City	Total
<b>Law Budget as of the Fiscal 2019 Adopted Budget</b>	<b>\$227,290</b>	<b>\$8,053</b>	<b>\$235,343</b>	<b>\$235,939</b>	<b>\$7,757</b>	<b>\$243,696</b>
<b>New Needs - Prelim Fiscal 2020</b>						
Case Specific New Needs	\$9,255	\$-	\$9,255	\$-	\$-	\$-
IT installations	600	-	600	-	-	-
<b>Subtotal, New Needs</b>	<b>\$9,855</b>	<b>\$-</b>	<b>\$9,855</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>
<b>Other Adjustments</b>						
Collective Bargaining	\$4,806	\$272	\$5,078	\$8,235	\$465	\$8,700
Couch White (law firm) Legal Services	-	600	600	-	-	-
DOT Legal Services	-	369	369	-	-	-
Other Professional Legal Services	-	13	13	-	-	-
Health Legal Services	-	145	145	-	145	145
NYC & Co Legal Reimbursement	-	231	231	-	-	-
DORIS Agreement	-	84	84	-	-	-
DEP Energy Legal Services	-	1,511	1,511	-	-	-
Current Year Funding Takedown	-	(88)	(88)	-	-	-
Temp Legal Staff	-	610	610	-	-	-
<b>Subtotal, Other Adjustments</b>	<b>\$4,806</b>	<b>\$3,747</b>	<b>\$8,553</b>	<b>\$8,235</b>	<b>\$610</b>	<b>\$8,845</b>
<b>Total, All Changes</b>	<b>\$14,661</b>	<b>\$3,747</b>	<b>\$18,408</b>	<b>\$8,235</b>	<b>\$610</b>	<b>\$8,845</b>
<b>Law Budget as of the Fiscal 2020 Prelim Budget</b>	<b>\$241,950</b>	<b>\$11,799</b>	<b>\$253,749</b>	<b>\$244,174</b>	<b>\$8,368</b>	<b>\$252,542</b>
<b>New Needs - Exec Fiscal 2020</b>						
Case Specific Needs	\$3,930	\$-	\$3,929	\$-	\$-	\$-
Gowanus Canal Remediation Trust	2,500	-	2,500	-	-	-
<b>Subtotal, New Needs</b>	<b>\$6,430</b>	<b>\$-</b>	<b>\$6,429</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>
<b>Other Adjustments</b>						
Agency Phone Plan Review	\$-	\$-	\$-	(\$7)	\$-	(\$7)
Crax binders Scanning	-	46	46	-	-	-
Heat, Light and Power	30	-	30	36	-	36
IFA Retro CB	-	25	25	-	-	-
Ira Goldenberg Services	-	15	15	-	-	-
Lease Adjustment	-	-	-	1,943	-	1,943
Skilled Trades Overtime	-	-	-	(6)	-	(6)
Hiring Freeze Savings	-	-	-	(3,253)	-	(3,253)
<b>Subtotal, Other Adjustments</b>	<b>\$30</b>	<b>\$86</b>	<b>\$116</b>	<b>(\$1,287)</b>	<b>-</b>	<b>(\$1,287)</b>
<b>Total, All Changes</b>	<b>\$6,460</b>	<b>\$86</b>	<b>\$6,545</b>	<b>(\$1,287)</b>	<b>\$-</b>	<b>(\$1,287)</b>
<b>Law Budget as of the Fiscal 2020 Executive Plan</b>	<b>\$248,409</b>	<b>\$11,884</b>	<b>\$260,294</b>	<b>\$242,888</b>	<b>\$8,368</b>	<b>\$251,255</b>

## Appendix 2: Fiscal 2020 Miscellaneous Revenue Streams

Law Department Miscellaneous Revenue - Fiscal 2020 Executive Budget				
Law Department Misc Revenue Sources <i>(Dollars in Thousands)</i>	Actuals		Planned	
	2017	2018	2019	2020
Adm. Code Violations	\$657	\$1,615	\$650	\$650
Sale of Streets	8,051	1,363	275	275
Affirmative R/E Litigation	668	272	14,570	250
Affirmative Litigation	7,773	5,968	20,353	9,759
Vending, Xerox, Subpoena Fees	77	41	75	75
Collection Agency Claims	2,488	5,153	3,300	3,300
Worker Compensation	8,757	8,103	7,000	7,000
<b>Total</b>	<b>\$28,471</b>	<b>\$22,515</b>	<b>\$46,223</b>	<b>\$21,309</b>

## Appendix 3: Contract Budget as of Fiscal 2020 Executive Budget

<b>Law Fiscal 2020 Executive Contract Budget</b>						
<i>Dollars in Thousands</i>						
<b>Category</b>	<b>Fiscal 2019 Adopted</b>	<b># of Contracts</b>	<b>Fiscal 2020 Prelim</b>	<b># of Contracts</b>	<b>Fiscal 2020 Exec</b>	<b># of Contracts</b>
Contractual Services General	\$440	14	\$440	14	\$440	14
Maintenance and Repair General	1,501	17	1,501	17	1,501	17
Office Equipment Maintenance	200	9	160	9	160	9
Data Processing Equipment	701	8	701	8	701	8
Security Contracts	225	1	225	1	225	1
Temporary Services	4,501	15	5,093	15	5,093	15
Cleaning Services	15	1	15	1	15	1
Transportation Expenditures	50	1	50	1	50	1
Training Program City Employees	105	24	105	24	105	24
Professional Svcs: Accounting & Auditing	100	1	100	1	100	1
Professional Svcs: Legal Services	7,801	31	7,588	31	7,588	31
Professional Svcs: Engineer & Architect	130	28	130	28	130	28
Professional Services: Other	14,458	279	13,758	279	13,758	279
<b>Total</b>	<b>\$30,227</b>	<b>429</b>	<b>\$29,866</b>	<b>429</b>	<b>\$29,866</b>	<b>429</b>

## Appendix 4: Judgement and Claims Detail

<b>Citywide Judgment and Claims Payouts</b>						
<i>Dollars in Thousands</i>						
	<b>Actuals</b>					
<b>Agency</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
Police	\$156,600	\$245,665	\$274,279	\$303,927	\$328,385	\$262,782
Fire	23,436	138,281	51,699	21,286	43,543	26,347
H+H	124,066	131,692	127,142	131,882	118,936	122,329
Transportation	75,764	73,291	54,389	70,155	81,847	84,066
Sanitation	34,544	41,107	34,149	50,468	58,957	81,259
Education	37,680	34,871	42,442	44,952	45,799	40,772
Environmental Protection	4,042	19,852	20,731	5,718	8,884	15,420
Parks	30,923	19,266	15,096	12,253	14,712	20,118
Corrections	12,127	18,522	42,284	44,326	36,173	41,650
All Other Payments	25,301	9,674	17,393	35,001	13,113	35,639
<b>Total</b>	<b>\$524,483</b>	<b>\$732,221</b>	<b>\$679,604</b>	<b>\$719,968</b>	<b>\$750,349</b>	<b>\$730,382</b>