

THE COUNCIL OF THE CITY OF NEW YORK

Hon. Corey Johnson
Speaker of the Council

Hon. Fernando Cabrera
Chair, Committee on Governmental Operations



Report of the Finance Division on the
Fiscal 2022 Preliminary Plan and the
Fiscal 2021 Preliminary Mayor's Management Report

Law Department

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Law Department Overview

The Law Department (LAW or the Department) is responsible for the legal affairs of the City. The Department currently has a headcount of 1,897 employees, which includes 1,788 full-time positions and 109 full-time equivalent positions, across 16 legal divisions and four support divisions.

The Law Department’s responsibilities include:

- Representing the City, Mayor, other elected officials and other City agencies in all affirmative and defensive civil litigation;
- Representing the same entities in juvenile delinquency prosecutions brought in Family Court and Administrative Code enforcement proceedings; and
- Drafting and reviewing local and State legislation, real estate leases, procurement contracts, and financial instruments for the sale of municipal bonds.

Law Department Fiscal 2022 Preliminary Budget: Expense

The Law Department’s Fiscal 2022 Preliminary Budget totals \$240.9 million, including \$165.9 million in Personal Services (PS) funding to support 1,788 full-time positions. Approximately \$232.3 million, or 96.4 percent of the Department’s budget is funded through City tax-levy sources, with Capital Inter-Fund Agreement (IFA) funding and Intra-City funding representing the majority of the remaining funding. 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 one for Personal Services and Other than Personal Services (OTPS).¹

Figure 1

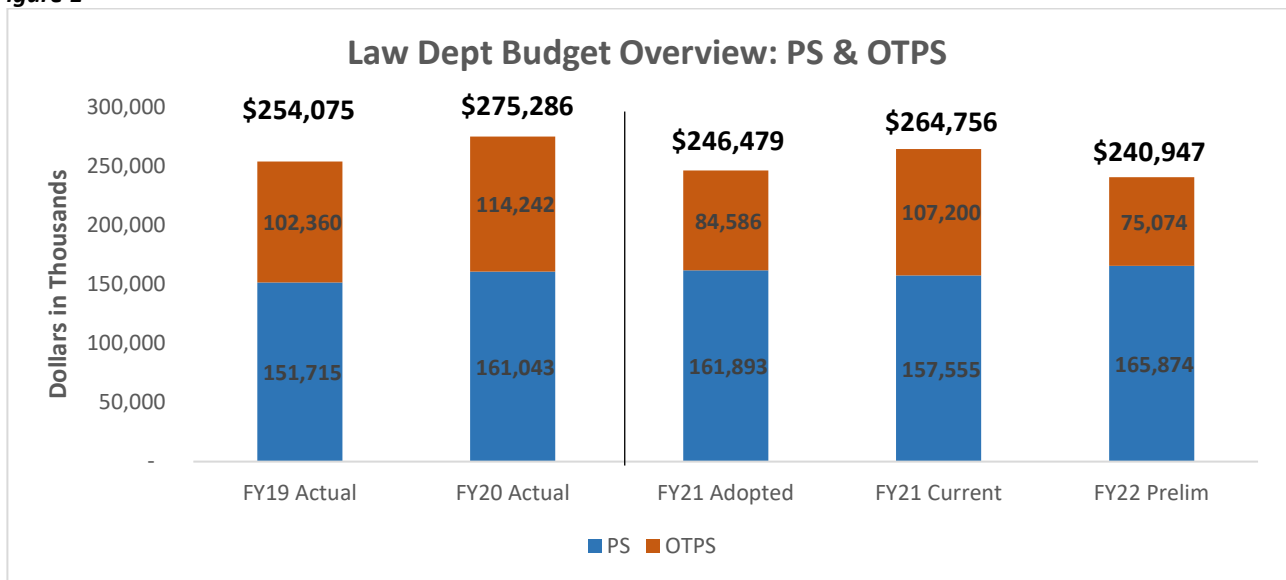


Figure 1 highlights the Law Department’s actual expenditures in Fiscal 2019 and Fiscal 2020, its Fiscal 2021 Adopted Budget, its Fiscal 2021 Budget as of the Fiscal 2022 Preliminary Plan, and its Fiscal 2022 Preliminary Budget. Actual expenditures grew between Fiscal 2019 and Fiscal 2020 as the Department added funding in its Fiscal 2020 budget for case specific needs, cases which included *Floyd vs. NYC*, *NYC vs. Gulino*, *NYC vs. Vulcan*, *NYC vs. Hydro Project*, and actuarial work related to the Employee Retirement Income Security Act (ERISA), among others. This increase was also brought about by

¹ Units of Appropriation are the subdivisions of the City Expense Budget that the City Council votes upon.

increases in funding that cover monitoring and management consultant costs related to the review of New York City Housing Authority (NYCHA) operations. Since Adoption of the Fiscal 2021 Adopted Budget, the Law Department has identified \$18 million in new needs for Fiscal 2021, for case specific needs. Additional information regarding the new needs is included later on in this report. Additionally, since Adoption, the Law Department has identified savings of \$12 million in Fiscal 2021, \$5 million in Fiscal 2022, and baselined savings of \$1.5 million beginning in Fiscal 2023, the majority of which is from the generation of additional affirmative litigation revenue.

Financial Plan Summary

Table1

LAW Financial Summary						
	FY19	FY20	FY21	Preliminary Plan		*Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	2021	2022	2022-2021
Personal Services						
Additional Gross Pay	\$2,427	\$2,300	\$2,272	\$3,340	\$2,272	\$0
Full-Time Salaried - Civilian	141,080	151,227	151,544	146,143	155,523	3,979
Unsalaries & Other Salaried	5,849	5,846	5,946	5,940	5,947	1
Overtime & P.S. Other	2,358	1,671	2,131	2,132	2,131	0
SUBTOTAL	\$151,714	\$161,044	\$161,893	\$157,555	\$165,873	\$3,980
Other Than Personal Services						
Contractual Services	\$63,152	\$77,442	\$32,061	\$60,289	\$31,040	(\$1,021)
Fixed & Misc. Charges	31	74	18	88	18	0
Other Services & Charges	34,969	33,209	50,273	43,903	41,782	(8,491)
Property & Equipment	2,739	2,234	984	1,616	984	0
Supplies & Materials	1,468	1,283	1,250	1,375	1,250	0
SUBTOTAL	\$102,359	\$114,242	\$84,586	\$107,201	\$75,074	(\$9,512)
TOTAL	\$254,073	\$275,286	\$246,479	\$264,756	\$240,947	(\$5,532)
Funding						
City Funds			\$237,879	\$252,601	\$232,346	(\$5,532)
Other Categorical			417	617	417	0
Capital- IFA			4,064	3,990	4,065	1
Federal - Community Development			147	145	147	0
Intra-City			3,972	7,403	3,972	0
TOTAL	\$254,073	\$275,286	\$246,479	\$264,756	\$240,947	(\$5,532)
Budgeted Headcount						
Full-Time Positions - Civilian	1,714	1,713	1,802	1,749	1,788	(14)

**The difference of Fiscal 2021 Adopted Budget compared to Fiscal 2022 Preliminary Budget.*

The Law Department's Fiscal 2022 Preliminary Budget totals \$240.9 million, and contains \$165.9 million in PS funding to support 1,788 full-time positions. The Department's Fiscal 2022 Preliminary Budget is \$5.5 million less than its Fiscal 2021 Adopted Budget of \$246.5 million. This is primarily due to the Department's Citywide Savings Program, which will be discussed later on in this report.

The Department's Fiscal 2021 Budget, however, is \$18.3 million more than its Fiscal 2021 Adopted Budget. This is mainly due to the \$18 million in new needs, identified in the Fiscal 2022 Preliminary Budget, to cover costs associated with case specific needs. These include NYC vs. Gulino, NYC vs. Nuñez, NYC vs. Vulcan, NYC vs. Floyd, among other major cases.

Lastly, since the Adoption of the Fiscal 2021 budget, the Law Department has identified savings of \$12 million in Fiscal 2021, \$5 million in Fiscal 2022, and baselined savings of \$1.5 million beginning in Fiscal 2023. The majority of the savings in Fiscal 2021 comes from the generation of additional revenue from affirmative litigation from one-time settlements, primarily from a one-time cigarette

settlement with the United Postal Service (UPS). For additional information regarding budgetary actions within the Law Department, please refer to Appendix A.

Financial Plan Actions

The Fiscal 2022 Preliminary Plan included moderate changes to the Law Department's budget. These changes include: \$18 million in new needs, a net decrease of \$198,296 in other adjustments, and citywide savings of \$823,000. The following section and chart provides highlights of financial plan actions since the Fiscal 2021 Adopted budget that have impacted the Law Department's budget.

Table 2

Budget Actions since the Fiscal 2021 Adopted Budget					
Dollars in Thousands	FY21	FY22	FY23	FY24	FY25
FY21 Adopted	\$246,479	\$246,058	\$246,791	\$246,791	\$246,791
New Needs	0	0	0	0	0
Other Adjustments	1,298	(66)	(66)	(66)	(66)
Savings Program	0	(5,044)	(1,544)	(1,544)	(1,544)
Total Changes	\$1,298	\$(5,110)	\$(1,610)	\$(1,610)	\$(1,610)
2020 Nov Plan	\$247,777	\$240,946	\$245,180	\$245,180	\$245,180
New Needs	18,000	0	0	0	0
Other Adjustments	(198)	0	0	0	0
Savings Program	(823)	0	0	0	0
Total Changes	\$16,979	\$0	\$0	\$0	\$0
FY22 Prelim	\$264,756	\$240,946	\$245,180	\$245,180	\$245,180

New Needs

In the Preliminary Plan, the Law Department added \$18 million in new needs in Fiscal 2021. Highlights include:

- **Case Specific Needs.** The Fiscal 2022 Preliminary Plan includes \$18 million in new needs for Fiscal 2021 for cases such as NYC vs. Gulino, NYC vs. Vulcan, NYC vs. Floyd, NYC vs. Nuñez, among other major cases.

Other Adjustments

Since Adoption of the Fiscal 2021 Adopted Budget, the Law Department's budget includes other adjustments that increase its budget by \$1.1 million in Fiscal 2021 and a baselined decrease of \$66,000 beginning in Fiscal 2022. Other adjustments in the Preliminary Plan include a reduction of \$198,000 in Fiscal 2021. Highlights of other adjustments include the following.

- **Couch White.** The 2020 November Financial Plan included one-time funding of \$3 million in Fiscal 2021 for the Couch White law firm for energy-related legal services it provides to the City.
- **Managerial and OJ Furloughs.** Although not part of the Law Department's savings program, in the November 2020 Plan, the Law Department's budget included a reduction of \$2.1 million in Fiscal 2021 for projected savings associated with the furlough program, which requires City employees to take five unpaid furlough days over the six-month period from October 2020 through March 2021.

Citywide Savings

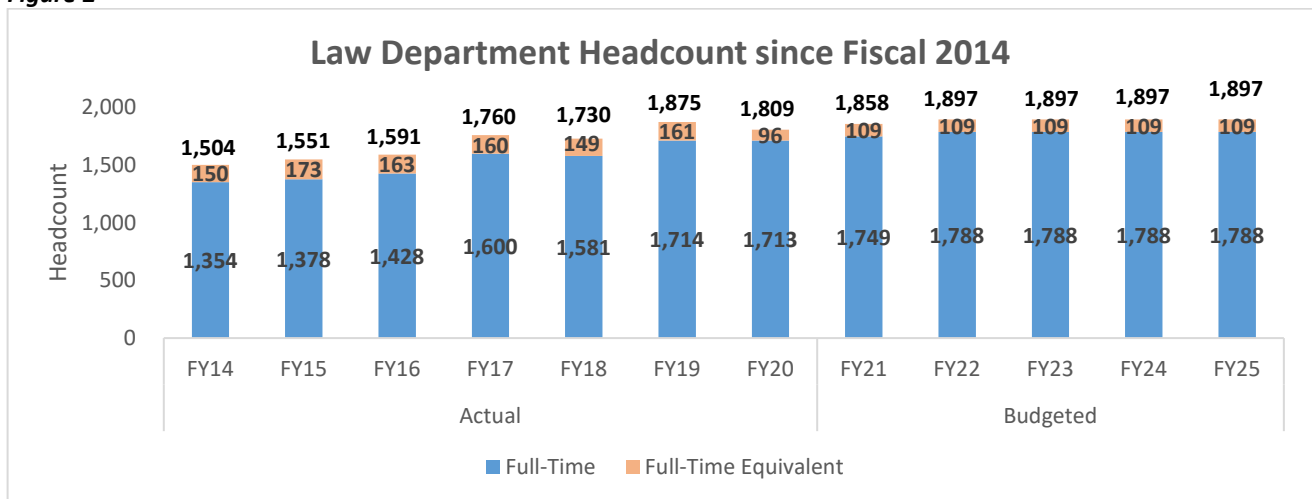
Since Adoption of the Fiscal 2021 Budget, the Law Department has identified budgetary savings of \$12 million in Fiscal 2021, \$5 million in Fiscal 2022, and baselined savings of \$1.5 million beginning in

Fiscal 2023. Savings in the Preliminary Plan total \$9.4 million in Fiscal 2021. These include the following:

- **Additional Affirmative Litigation Revenue.** Across the November 2020 and Preliminary Plans, the Law Department will generate \$11.2 million in revenue from additional revenue collected from one-time settlements in Fiscal 2021. Of this total, \$8.6 million came from a one-time cigarette case settlement with the United Postal Service (UPS).
- **Hiring Freeze Savings.** In the November 2020 Financial Plan, the Law Department generated baselined savings of \$1.5 million beginning in Fiscal 2022 through savings achieved through hiring freezes, which also permanently eliminated 18 vacant positions across the Department.
- **Personal Services Savings.** In the November 2020 Financial Plan, the Law Department generated one-time savings of \$3.5 million in Fiscal 2022 through underspending in PS costs across numerous divisions, specifically \$1 million in the Family Court Raise the Age Division, \$1.6 million in the Tort Division, and \$940,312 in the Tax and Bankruptcy Litigation Division.
- **Hiring and Attrition Management Savings.** Introduced in the Fiscal 2022 Preliminary Budget, the City has imposed strict hiring protocols that impact most City agencies whereby three positions must be vacated through attrition in order to hire one new staff person. As such, the Law Department will generate one-time savings of \$823,000 in Fiscal 2022 through this process, and would generate a one-time reduction in headcount of 37 positions in Fiscal 2022. However, it has yet to be determined which Divisions within the Law Department would be impacted by this savings program.

Headcount

Figure 2



In the Fiscal 2022 Preliminary Plan, the Law Department’s Fiscal 2022 PS Budget provides \$165.9 million to support a headcount of 1,788 full-time positions and 109 full-time equivalent positions. As of November 2020, the Department was operating with a full-time vacancy rate of 4.4 percent, equivalent to 76 vacant positions. Of this total, 66 full-time positions are City-funded vacancies.

The Law Department’s budgeted headcount has risen in recent years, as the Department has made efforts to reduce its reliance on outside counsel by hiring additional in-house lawyers. The Department has in recent years greatly expanded the number of staff in its Tort Division in an effort to better defend the City against lawsuits. Most notably, the Family Court Division expanded

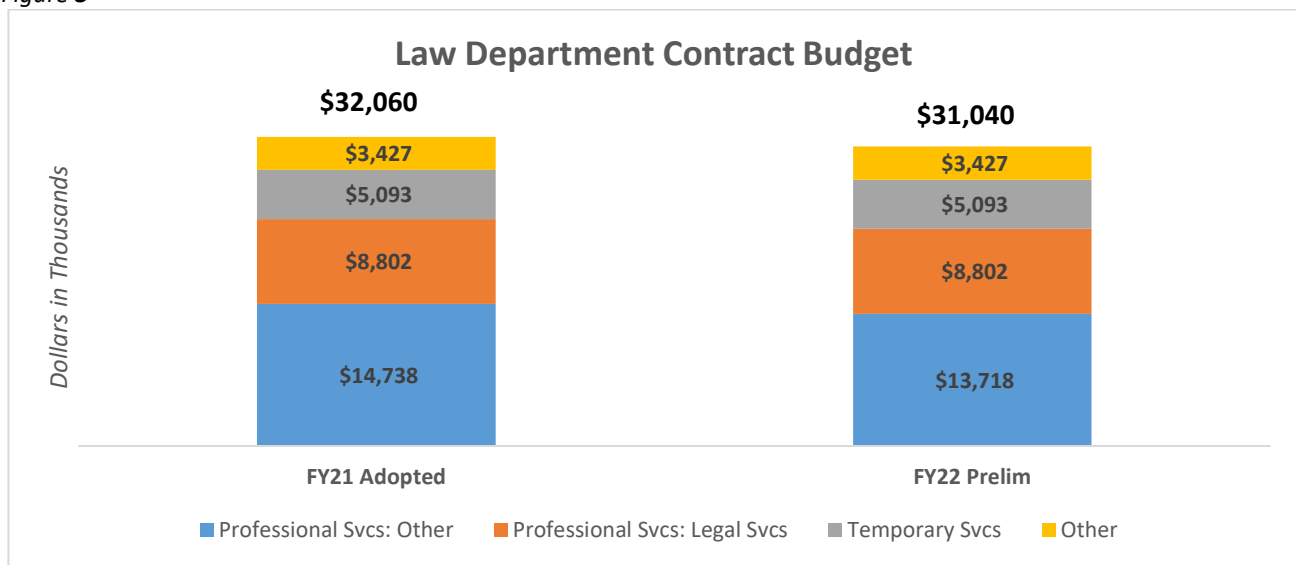
dramatically in Fiscal 2019, with \$32 million allocated for 254 positions to implement the first phase of Raise the Age. Please refer to Appendix B for more details regarding the Law Department’s headcount.

The Law Department’s Expense Budget is categorized into two Units of Appropriation (U/As), the units by which the City Council approves agency funding. The Department’s headcount and Personal Services funding are spread across these divisions. For additional information regarding the headcount and PS funding across the Law Department’s divisions in Fiscal 2022, please refer to Appendix C.

Contract Budget

The New York City Charter mandates the preparation of a Contract Budget to identify expenditures for contractual services, which are defined as any technical, consultant or personnel service provided to the City by means of a contract. The Contract Budget is a subset of the OTPS portion of the City’s Expense Budget. The Administration prepares a Contract Budget twice each fiscal year. The Fiscal 2022 Preliminary Contract Budget totals \$17 billion for procurement expenditures across all agencies.

Figure 3



The Law Department’s Fiscal 2022 Contract Budget totals \$31 million for 429 contracts, accounting for 41.3 percent of the Department’s OTPS budget. The Fiscal 2022 Preliminary Contract Budget is \$1 million less than its Fiscal 2021 Adopted Contract Budget of \$32 million, primarily due to an underdeveloped contract budget for Other Professional Services. Legal and Other Professional Services comprise the largest shares of the Law Department’s Fiscal 2022 Preliminary Contract Budget, which collectively amount to \$22.5 million, or 72.5 percent of the Law Department’s Contract Budget. These contracts primarily represent the hiring of outside legal counsel and other consultants to aid the Law Department in affirmative and defensive litigation and other legal action and consultation on behalf of the City. Temporary Service contracts account for \$5.1 million, or 16.4 percent, of the Law Department’s Fiscal 2022 Preliminary Contract Budget. These contracts include payments, fees and commissions for administrative and clerical support, court reporting and transcribing and other outside temporary services. For additional information regarding the Law Department’s Fiscal 2022 Preliminary Contract Budget, please refer to Appendix D.

Fiscal 2021 Preliminary Mayor's Management Report

The Preliminary Mayor's Management Report (PMMR) for Fiscal 2021 was released in January 2021, and contains information regarding City agencies/offices that allow the public to better understand how NYC programs are performing. The Law Department's PMMR report includes over 20 different metrics, which provide high-level information regarding the Department's numerous operations, including its work to establish and enforce child support orders in interstate cases, prosecute juvenile delinquency cases in Family Court, among others. Most of these metrics contain valuable information, however, some of its targets do not seem to take into account historical performance rates. The Law Department should continue to assess which targets require an update, in order to accurately reflect the work being done by the Department. Some notable performance metrics provided by the Law Department in the Fiscal 2021 PMMR include the following:

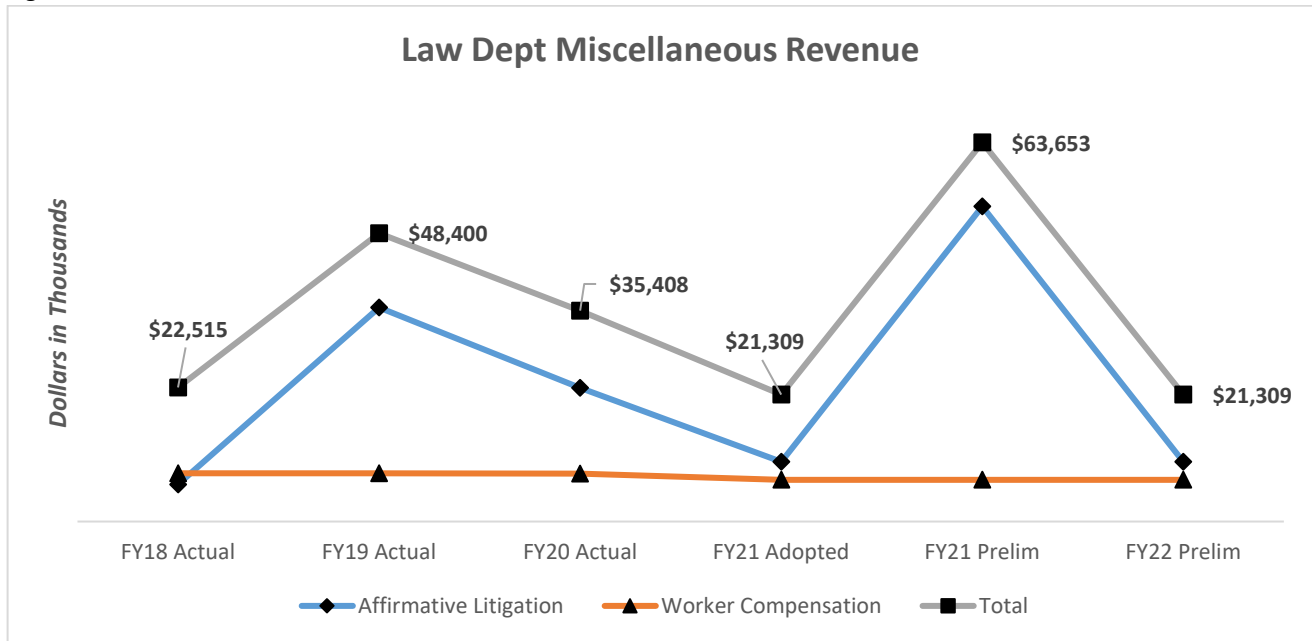
- **Family Court.** Referred cases filed for prosecution in Family Court decreased by eight percent, from 38 percent in Fiscal 2019 to 30 percent in Fiscal 2020. During the first four months of Fiscal 2021, these cases decreased by four percentage points, when compared to the same time period in Fiscal 2020. This change is attributable to the Family Court having limited the filing of cases during the pandemic to essential matters which has been defined by the Family Court as only cases where the youth was in detention;
- **Crime Victims.** The number of crime victims referred to community-based services increased by nine percent, from 57 percent in Fiscal 2019 to 66 percent in Fiscal 2020. During the first four months of Fiscal 2021, these referrals decreased by 26 percent when compared to the same time in Fiscal 2020. This change is attributable, in part, to commonly requested services not being needed during the pandemic when cases are being held virtually;
- **Child Support Cases.** The number of families entitled to a support order that get a support order decreased by five percent, from 71 percent in Fiscal 2019 to 66 percent in Fiscal 2020. However, information on this metric is not available for the first four months of Fiscal 2021. According to the Law Department, the COVID-19 pandemic caused courts to pause the processing of child support cases. As such, no referrals were received. However, the Family Court is only processing child support cases that were filed pre-COVID-19.

For additional information regarding the Law Department's Fiscal 2021 performance metrics, please refer to the Fiscal 2021 Preliminary Mayor's Management Report, found here: https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2021/2021_pmmr.pdf

Miscellaneous Revenue

The Law Department generates miscellaneous revenue from fines from violations to the City's administrative code, revenues for the sale of de-mapped small non-functional City roads, affirmative judgements and settlements in cases brought by the City, fees for OTPS costs associated with Freedom of Information Law (FOIL) requests, and reimbursements for worker compensation payouts. The Affirmative Litigation Division oversees the activities of the Department's collection contract. Attorneys in this Division represent the City as plaintiff on a wide range of issues, including restitution, breach of contract, and insurance.

Figure 4



The Preliminary Plan projects that the Law Department will generate miscellaneous revenue of \$21.3 million in Fiscal 2022. The vast majority of this revenue, 94.1 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 primarily driven by affirmative litigation. As of the release of the Preliminary Plan, the Law Department’s Fiscal 2021 miscellaneous revenue spiked to \$63.6 million.

This increase is associated with a \$40.3 million jump in affirmative litigation revenue for cigarette case settlements with the United Postal Service (UPS). For additional information regarding the Law Department’s miscellaneous revenue streams, please refer to Appendix E.

Judgement & Claims

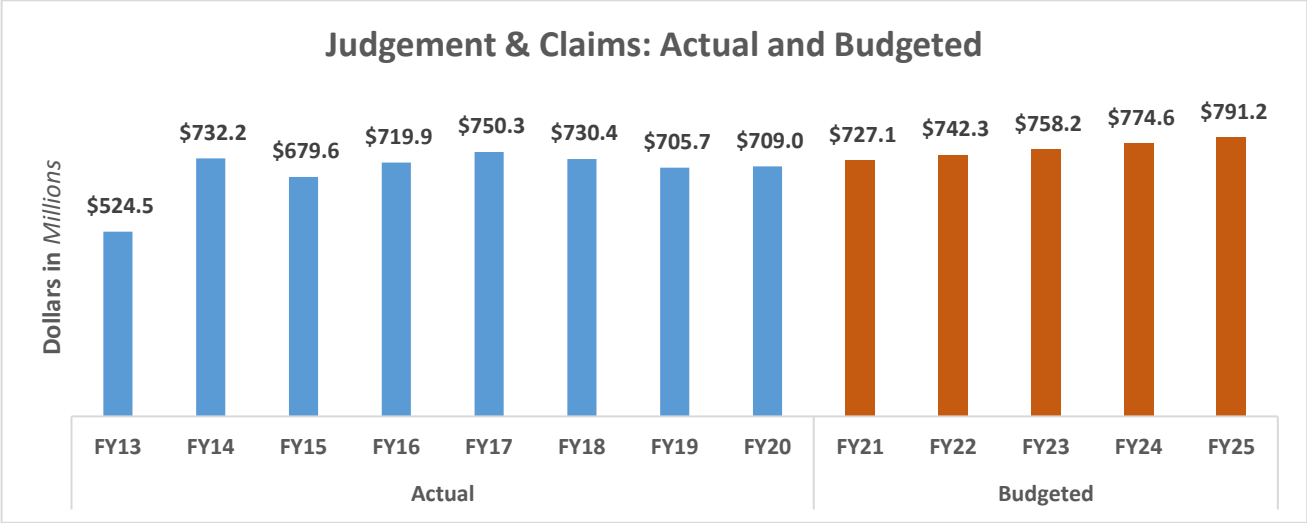
The City’s Judgment & Claims (J&C) Budget is a fund used to pay settlements resulting from judgements against the City. J&C payments include medical malpractice suits, contract suits, police suits, among other judgments.

While the Judgement & 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. The Law Department does not defend medical malpractice suits against the City, as Health and Hospitals (H+H) manages their own separate legal department. The Judgement & Claims Budget totals \$742.3 million for Fiscal 2022. Over the past five years, J&C actual spending has averaged \$723.1 million annually.

Payments for Judgement & Claims vary from year to year due to settlements for major cases. For example, J&C payments increased in Fiscal 2014 in large part due to the settlement of the Central Park Five case and the FDNY exam bias case. However, J&C expenditures have been larger in recent years, particularly in Fiscal 2017 and Fiscal 2018, due to the establishment of Conviction Integrity Units in New York City’s District Attorney Offices. These units, which are tasked to reopen old cases in which an injustice may have occurred, have led to settlements that are often substantial in their payments. The Law Department has added additional resources to its Tort Division in recent years to

help limit the growth of J&C expenses. For additional information regarding the citywide judgement and claims payout by agency, please refer to Appendix F.

Figure 5



Appendices

A: Budget Actions in the November and the Preliminary Plans

<i>Dollars in Thousands</i>	FY21			FY22		
LAW Budget as of the Adopted 2021 Budget	City	Non-City	Total	City	Non-City	Total
	\$237,879	\$8,600	\$246,479	\$237,457	\$8,601	\$246,058
New Needs	\$0	\$0	\$0	\$0	\$0	\$0
Other Adjustments						
City Adjustments	(2,056)	0	\$(2,056)	(66)	0	\$(66)
Capital IFA Adjustments	0	(74)	\$(74)	0	0	\$0
Federal Adjustments	0	(3)	\$(3)	0	0	\$0
Intra-City Adjustments	0	3,431	\$3,431	0	0	\$0
Hiring Freeze	0	0	\$0	(1,544)	0	\$(1,544)
PS Savings	0	0	\$0	(3,500)	0	\$(3,500)
Subtotal, Other Adjustments	\$(2,056)	\$3,354	\$1,298	\$(5,110)	\$0	\$(5,110)
Total All Changes	\$(2,056)	\$3,354	\$1,298	\$(5,110)	\$0	\$(5,110)
LAW Budget as of the November 2020 Plan	\$235,822	\$11,955	\$247,777	\$232,345	\$8,601	\$240,946
New Needs						
Case Specific Needs	18,000	0	\$18,000	0	0	\$0
Subtotal, New Needs	\$18,000	\$0	\$18,000	\$0	\$0	\$0
Other Adjustments						
City Adjustments	(398)	0	\$(398)	0	0	\$0
Other Categorical Adjustments	0	200	\$200	0	0	\$0
Hiring & Attrition Mgmt	(823)	0	\$(823)	0	0	\$0
Subtotal, Other Adjustments	\$(1,221)	\$200	\$(1,021)	\$0	\$0	\$0
Total All Changes	\$16,779	\$200	\$16,979	\$0	\$0	\$0
LAW Budget as of the 2022 Prelim Budget	\$252,601	\$12,155	\$264,756	\$232,345	\$8,601	\$240,946

B: LAW Overall Headcount

	Actual							Budgeted - FY22 Prelim Plan				
	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY25	FY25
Full-Time	1,354	1,378	1,428	1,600	1,581	1,714	1,713	1,749	1,788	1,788	1,788	1,788
Full-Time Equivalent	150	173	163	160	149	161	96	109	109	109	109	109
Total	1,504	1,551	1,591	1,760	1,730	1,875	1,809	1,858	1,897	1,897	1,897	1,897

C: Law Fiscal 2022 Personal Services (PS) Chart

Law Program Areas		
<i>Dollars in Thousands</i>		
Program Area	Fiscal 2022 Budgeted	Budgeted Headcount
Administration Raise the Age	\$ 595	7
Administrative Services	14,638	74
Administrative Law	4,522	47
Affirmative Litigation	2,877	28
Appeals	5,896	57
Commercial Litigation	5,286	53
Contracting Department	1,178	9
Contracts and Real Estate	246	3
Economic Development	1,724	15
E-Discovery Department	1,899	11
Environmental Law	1,957	18
Executive	3,797	30
Family Court	29,725	359
General Litigation	3,258	29
Information Technology	2,563	27
IT Raise the Age	340	4
Labor and Employment Law	7,052	77
Legal Counsel	3,520	31
Litigation Support	2,917	32
Municipal Finance	706	7
Office of Special Enforcement	1,179	15
Operations	4,587	74
Special Federal Litigation	12,710	136
Tax and Bankruptcy	4,904	71
Tort	51,644	610
Worker Compensation	5,816	88
Financial Plan Savings	(10,989)	(126)
Other	1,326	2
Total	\$ 165,873	1,788

D: LAW Contract Budget

Law Department Contract Budget					
<i>Dollars in Thousands</i>		FY21 Adopted		FY22 Prelim	
Title		# of Contracts	Amount	# of Contracts	Amount
Contractual Services General		14	\$ 440	14	\$ 440
Maint & Repair General		17	1,501	17	1,501
Office Equipment Maintenance		9	160	9	160
Data Processing Equipment		8	701	8	701
Security Services		1	225	1	225
Temporary Services		15	5,093	15	5,093
Cleaning Services		1	15	1	15
Transportation Expenditures		1	50	1	50
Training Prgm for City Employees		24	105	24	105
Professional Svcs: Accounting & Auditing		1	100	1	100
Professional Svcs: Legal Services		31	8,802	31	8,802
Professional Svcs: Engineering & Architectural		28	130	28	130
Professional Svcs: Other		279	14,738	279	13,718
Total		429	\$ 32,060	429	\$ 31,040

E: LAW Miscellaneous Revenue

Law Department Miscellaneous Revenue						
Dollars in Thousands	Actual			FY21 Adopted	FY22 Prelim	
	2018	2019	2020		2021	2022
Adm. Code Violations	\$1,615	\$648	\$1,187	\$650	\$100	\$650
Sale of Streets	1,363	275	275	275	275	275
Affirmative R/E Litigation	272	14,605	355	250	250	250
Affirmative Litigation	5,968	21,346	22,071	9,759	52,653	9,759
Vending, Xerox, Subpoena Fees	41	84	73	75	75	75
Collection Agency Claims	5,153	3,371	3,402	3,300	3,300	3,300
Worker Compensation	8,103	8,071	8,045	7,000	7,000	7,000
Total	\$22,515	\$48,400	\$35,408	\$21,309	\$63,653	\$21,309

F: Judgement and Claims by Agency

Citywide Judgement and Claims Payouts							
<i>Dollars in Thousands</i>							
Agency	Actuals						
	FY14	FY15	FY16	FY17	FY18	FY19	FY20
Police	\$245,665	\$274,279	\$303,927	\$328,385	\$262,782	\$237,505	\$240,421
Fire	138,281	51,699	21,286	43,543	26,347	19,670	30,834
H+H	131,692	127,142	131,882	118,936	122,329	130,994	140,881
Transportation	73,291	54,389	70,155	81,847	84,066	55,319	92,911
Sanitation	41,107	34,149	50,468	58,957	81,259	73,370	44,654
Education	34,871	42,442	44,952	45,799	40,772	46,077	54,942
Environmental Protection	19,852	20,731	5,718	8,884	15,420	15,759	4,426
Parks	19,266	15,096	12,253	14,712	20,118	29,931	25,322
Corrections	18,522	42,284	44,326	36,173	41,650	45,728	46,442
All Other Payouts	9,674	17,393	35,001	13,113	35,639	51,398	28,137
TOTAL	\$732,221	\$679,604	\$719,968	\$750,349	\$730,382	\$705,751	\$708,970