

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 2019 Preliminary Budget and the
Fiscal 2018 Preliminary Mayor's Management Report for the

Law Department

March 19, 2018

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Law Department Overview

The Law Department (LAW) is responsible for the legal affairs of the City. The Department is comprised of 1,706 employees across 16 legal divisions and 4 support divisions.

LAW’s activities include:

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

Fiscal 2019 Preliminary Budget Highlights

The Law Department’s Fiscal 2019 Preliminary Budget totals just under \$200 million, including \$143 million in Personal Services (PS) funding to support 1,706 full time positions. Approximately \$192 million or 96 percent of the Law Department’s budget is City tax-levy funding, with Capital IFA funding and Intracity funds representing the majority of the remainder of the Agency’s budget. The Law Department’s operations are carried out by 16 legal divisions and 4 support units. However, the Department’s budget is only broken out into two units of appropriation (U/As): Personal Services and Other Than Personal Services (OTPS).¹

Figure 1

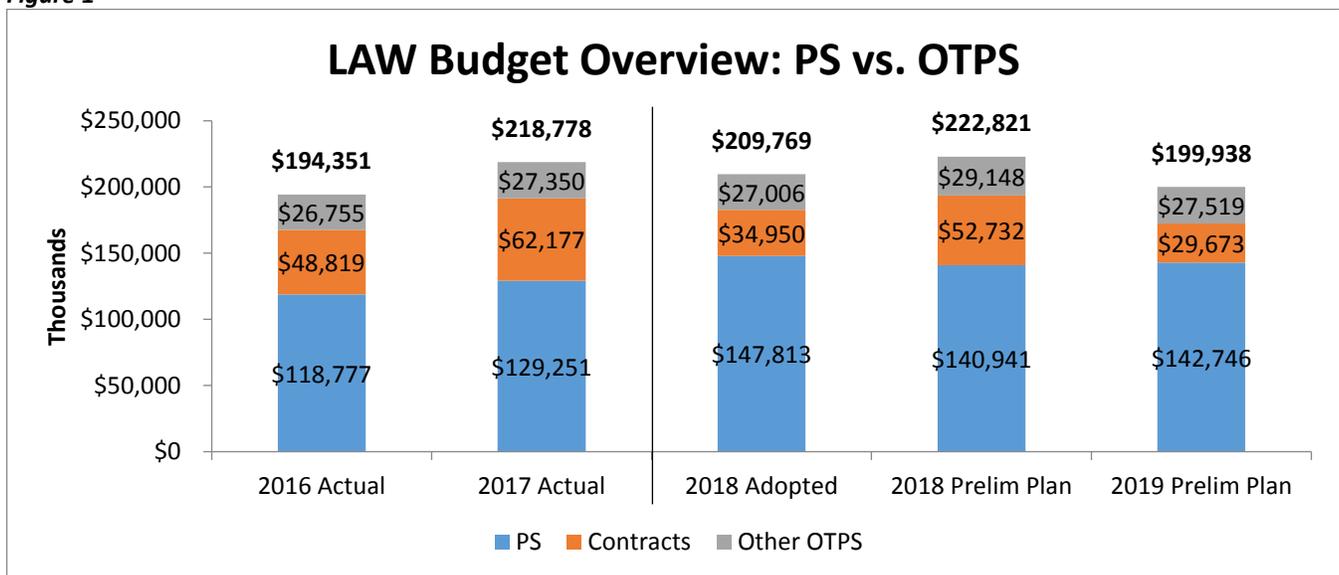


Figure 1 highlights the Law Department’s actual expenditures in Fiscal 2016 and Fiscal 2017, its Fiscal 2018 Adopted Budget, its Fiscal 2018 Budget as of the Fiscal 2019 Preliminary Plan, and its Fiscal 2019 Preliminary Budget. Actual expenditures grew between Fiscal 2016 and Fiscal 2017 as additional resources and headcount were added for the Department’s operations, primarily in the

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

Tort Division. The Law Department's Fiscal 2018 Budget has expanded since adoption as supplemental resources for specific case needs have been added to the Department's budget.

Highlights of LAW's Fiscal 2019 Preliminary Budget

- **New Needs.** Since the Adoption of the Fiscal 2018 Budget, the Law Department has identified \$14.5 million in new needs for Fiscal 2018, all allocated for Case Specific new needs;
- **Citywide Savings Program.** The Law Department will generate budget savings of \$5.1 million in Fiscal 2018 and \$5.9 million in Fiscal 2019 as part of the Citywide Savings Program introduced in the November 2017 and Fiscal 2019 Preliminary Plans. These savings represent 2.3 percent and 2.9 percent of the Law Department's budget in Fiscal 2018 and Fiscal 2019, respectively. It should be noted that these savings will not likely be used to lower the City's overall budget but instead be used to pay for other priorities;
- **Miscellaneous Revenue.** The Financial Plan projects that the Law Department will generate Miscellaneous Revenue totaling \$21.7 million in Fiscal 2019, including \$9.8 million from Affirmative Litigation;
- **Contract Budget.** The Law Department's Fiscal 2019 Contract Budget totals \$29.7 million for 429 contracts, accounting for 51.9 percent of the Department's OTPS budget;
- **Judgement & Claims.** The Judgement & Claims Budget totals \$706.8 million in Fiscal 2019. Over the past five fiscal years, J&C actual spending averaged \$681.3 million annually;
- **Preliminary Mayor's Management Report (PMMR) Highlights.** Notable performance metrics reported by the Law Department in the 2018 PMMR include the following:
 - ✓ Total cases commenced against the City;
 - ✓ Win rate on affirmative motions (%); and
 - ✓ Juveniles successfully referred to a diversion program with no new delinquency referral within one year (%).

Financial Plan Summary

Table 1

LAW Financial Summary						
	FY16	FY17	FY18	Preliminary Plan		*Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	FY18	FY19	FY18-FY19
Spending						
Personal Services	\$118,777	\$129,251	\$147,813	\$140,941	\$142,746	(\$5,066)
Other Than Personal Services	75,574	89,527	61,956	81,880	57,192	(4,764)
TOTAL	\$194,351	\$218,778	\$209,769	\$222,821	\$199,938	(\$9,830)
Personal Services						
Additional Gross Pay	\$2,296	\$2,208	\$282	\$282	\$282	\$0
Full-Time Salaried - Civilian	109,672	120,357	144,553	137,641	139,447	(5,106)
Other Salaried & Unsalariated	5,437	5,323	3,016	3,016	3,016	0
Overtime - Civilian	1,372	1,363	-39	1	1	40
SUBTOTAL	\$118,777	\$129,251	\$147,813	\$140,941	\$142,746	(\$5,066)
Other Than Personal Services						
Contractual Services	\$48,819	\$62,177	\$34,950	\$52,732	\$29,673	(\$5,277)
Fixed & Misc. Charges	33	40	18	67	18	0
Other Services & Charges	24,231	24,299	24,753	26,307	25,265	512
Property & Equipment	1,192	1,709	984	1,522	984	0
Supplies & Materials	1,299	1,302	1,252	1,253	1,252	0
SUBTOTAL	\$75,574	\$89,527	\$61,956	\$81,880	\$57,192	(\$4,764)
TOTAL	\$194,351	\$218,778	\$209,769	\$222,821	\$199,938	(\$9,830)
Funding						
City Funds			\$201,687	\$211,440	\$191,958	(\$9,728)
Other Categorical			417	729	417	0
Capital- IFA			3,742	3,742	3,742	0
Federal - Community Development			310	320	320	10
Intra City			3,614	6,590	3,501	(113)
TOTAL	\$194,351	\$218,778	\$209,769	\$222,821	\$199,938	(\$9,830)
Budgeted Headcount						
Full-Time Positions - Civilian	1,428	1,600	1,706	1,709	1,706	0
TOTAL	1,428	1,600	1,706	1,709	1,706	0

*The difference of Fiscal 2018 Adopted Budget compared to Fiscal 2019 Preliminary Budget.

The Law Department's Fiscal 2019 Preliminary Budget is \$9.8 million less than the Fiscal 2018 Adopted Budget of \$209.8 million. This is primarily due to \$5.3 million less in anticipated contractual spending in Fiscal 2019 relative to Fiscal 2018, as well as \$5.9 million less funding for the Law Department Tort Division's PS Budget, primarily as a result of savings found in the Citywide Savings Plan. However, it is anticipated that the Law Department's Fiscal 2019 Budget will grow in upcoming plans as additional new needs are identified.

Contracts represent 14.8 percent of the Law Department's planned spending in Fiscal 2019. The majority of the Law Department's contracts are intended to provide legal and other support for the Department's litigation in areas in which its permanent staff has insufficient expertise.

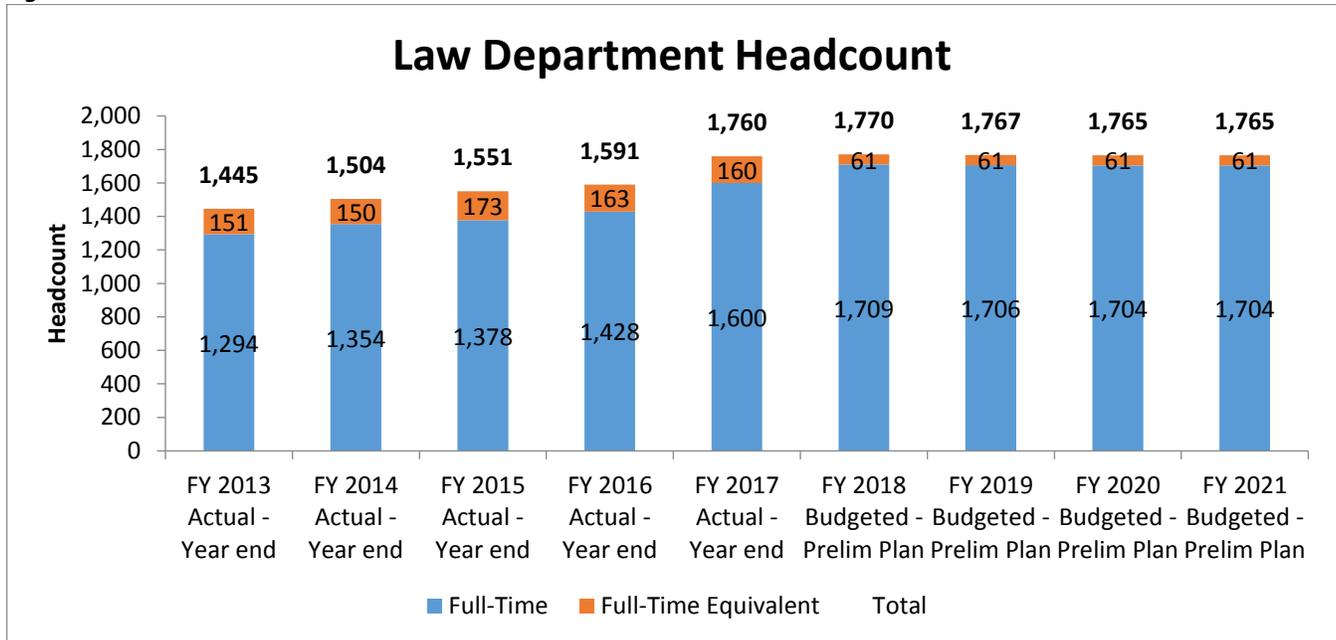
Since the Adoption of the Fiscal 2018 Budget, the Law Department has added \$14.5 million in its budget to address Case Specific new needs, including Gulino vs. DOE, Center for Independence of the Disabled lawsuits, the Con Ed Steam Explosion, Stop and Frisk, False Claims, and other cases.

Since the Adoption of the Fiscal 2018 Budget, the Law Department has also registered PS savings of \$5.1 million in Fiscal 2018 and \$5.9 million in Fiscal 2019 as a part of its Fiscal 2019 Citywide Savings

Program. These savings are expected to be generated through general delays in hiring and staff attrition.

Headcount

Figure 2



In the Fiscal 2019 Preliminary Plan, the Law Department’s Fiscal 2019 Budget provides for \$142.7 million to support a headcount of 1,706 full-time positions and 61 full-time equivalent positions. As of December 2017, the Department actually employs 1,613 full-time staff and 99 full-time equivalent staff. Thus, while the Law Department has a full-time staff vacancy rate of 5.5 percent, its full-time equivalent staff is notably over headcount.

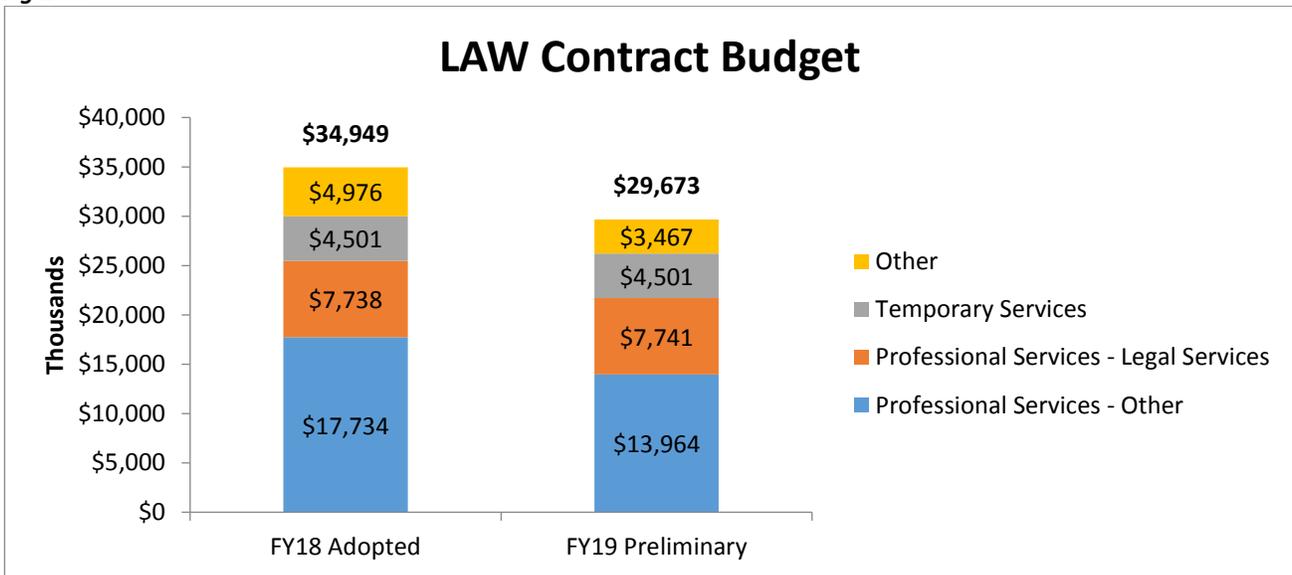
The Law Department’s budgeted headcount has risen in recent years as the Department has made efforts to reduce its reliance on outside counsel by hiring additional in-house lawyers. In addition, the Department has in recent years greatly expanded the number of staff in its Tort Division in an effort to better defend the City against lawsuits. Please see Appendix B for more detail regarding the Law Department’s headcount.

The Law Department’s Expense Budget is categorized into two units of appropriation, the units by which the City Council approves Agency funding. However, the Department’s headcount and Personal Services funding are spread across several divisions. Please see Appendix C for headcount and Personal Services funding across the Law Department’s divisions in Fiscal 2019. Please see the sections “Tort Division” and “Family Court” of this report for more detail regarding these divisions.

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 2019 Preliminary Contract Budget totals \$15.6 billion for procurement expenditures across all agencies.

Figure 3



The Law Department’s Fiscal 2019 Contract Budget totals \$29.7 million for 429 contracts, accounting for 51.9 percent of the Department’s OTPS budget (please see Appendix C for more detail regarding the Law Department’s Contract Budget). Legal and Other Professional Services comprise the largest shares of the Law Department’s Fiscal 2019 Contract Budget, collectively equal to \$18.5 million, or 73.1 percent of the Law Department’s Fiscal 2019 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 Services contracts, which account for \$4.5 million of 15.2 percent of the Law Department’s Fiscal 2019 Preliminary Contract Budget, include payments, fees and commissions for administrative and clerical support, court reporting and transcribing and other outside temporary services. The Department uses temporary services to manage increases in case volume.

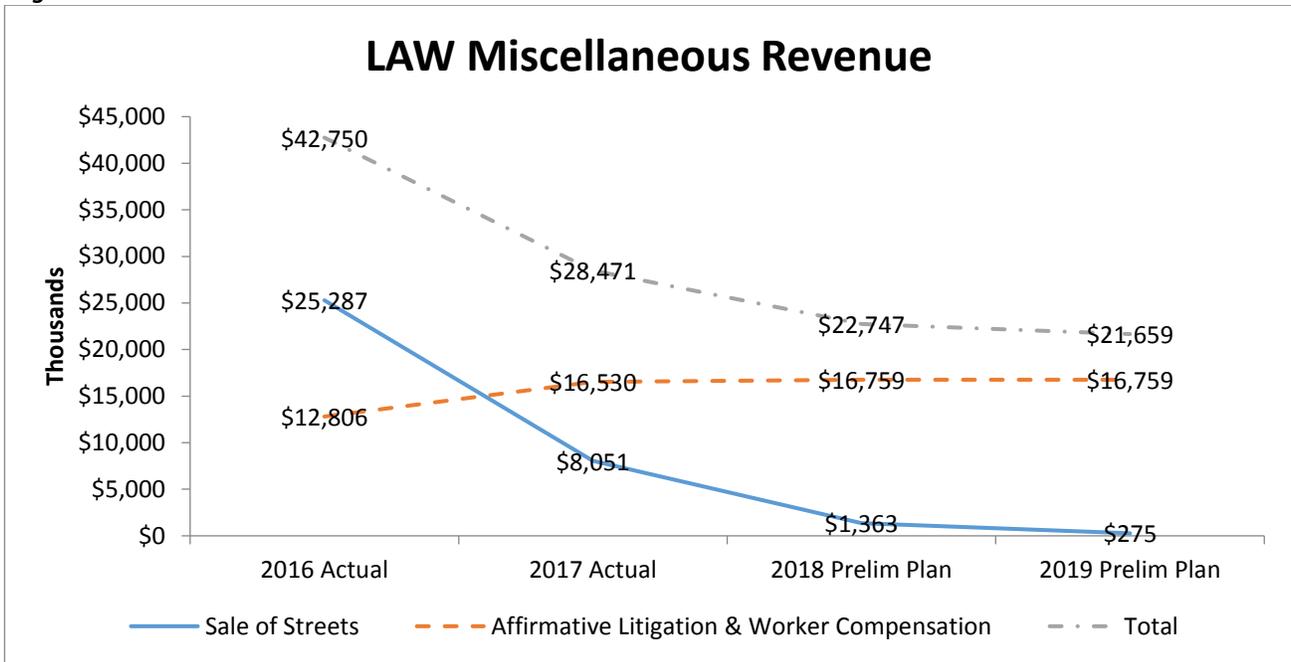
The Law Department’s Fiscal 2019 Preliminary Contract Budget is \$5.3 million smaller than its Fiscal 2018 Adopted Contract Budget of \$35 million. This decrease is in large part due to efforts to reduce reliance on outside legal consultants by increasing full-time budgeted positions.

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 judgments and settlements in cases brought by the City; fees for OTPS costs associated with 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 \$21.7 million in Fiscal 2019. The vast majority of this revenue, 92.6 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 by the Sale of Streets, or the sale of small non-functional roads to private entities. Some such properties are sold for relatively high sums, causing the Law Department’s miscellaneous revenue to rise substantially 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 2019. In the November 2017 Citywide Savings Program, the Law Department recognizes \$1.1 million in additional revenue for Fiscal 2018 from the sale of a portion of Mercer Street between West 3rd and West 4th Streets to New York University. Please see Appendix E for more detail regarding the Law Department’s miscellaneous revenue.

Judgement & Claims

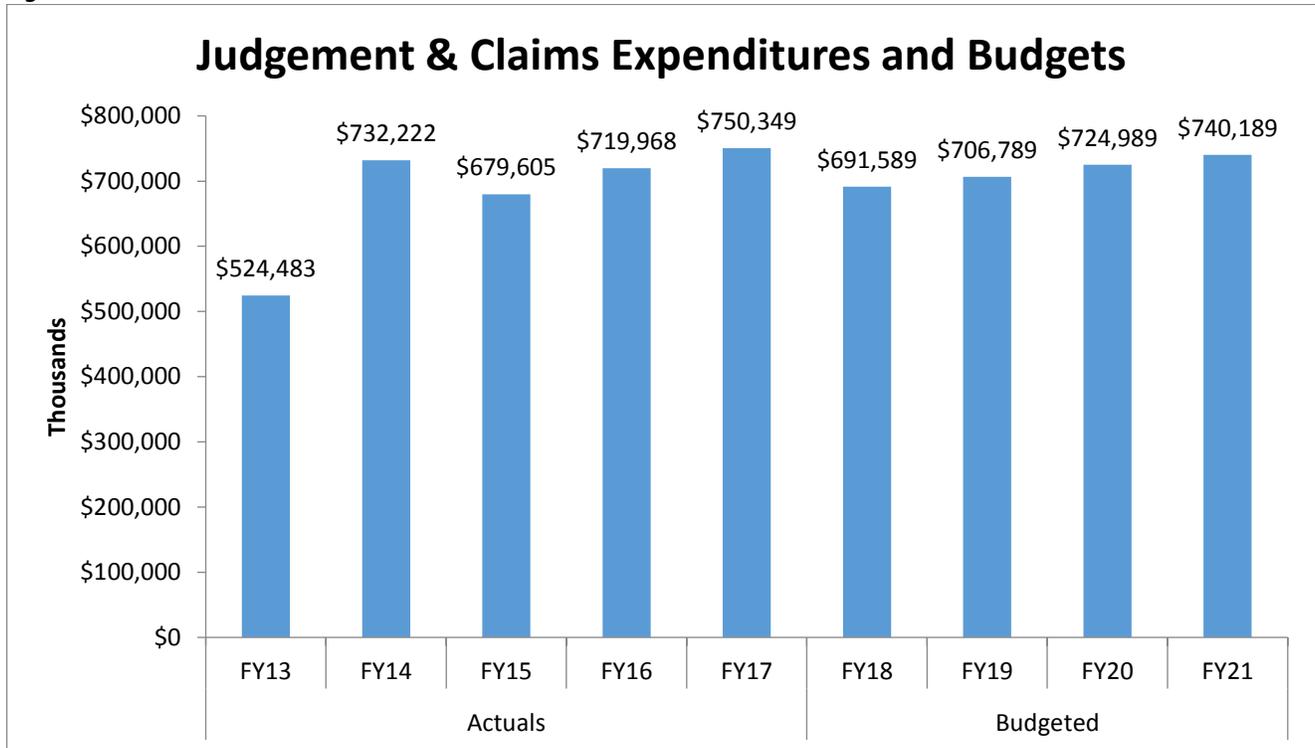
The City’s Judgment & Claims (J&C) Budget is a fund used to pay settlements resulting from judgements against the City. J&C payments include medical malpractice suits, contract suits, police suits and other judgments.

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. Notably, the Law Department does not defend medical malpractice suits against the City, which Health and Hospitals manages through their own separate legal department. The Judgement & Claims Budget totals \$706.8 million in Fiscal 2019. Over the past five fiscal years, J&C actual spending averaged \$681.3 million annually.

Payments for J&C vary from year to year due to settlements for major cases. For example, J&C payments spiked in Fiscal 2014 in large part due to the settlement of the Central Park Five case and the FDNY exam bias case. In addition however, J&C expenditures have been growing over time 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 in J&C expenditures. Please see Appendix F for a breakdown of Miscellaneous Budget Judgement & Claims payments by agency.

Figure 5

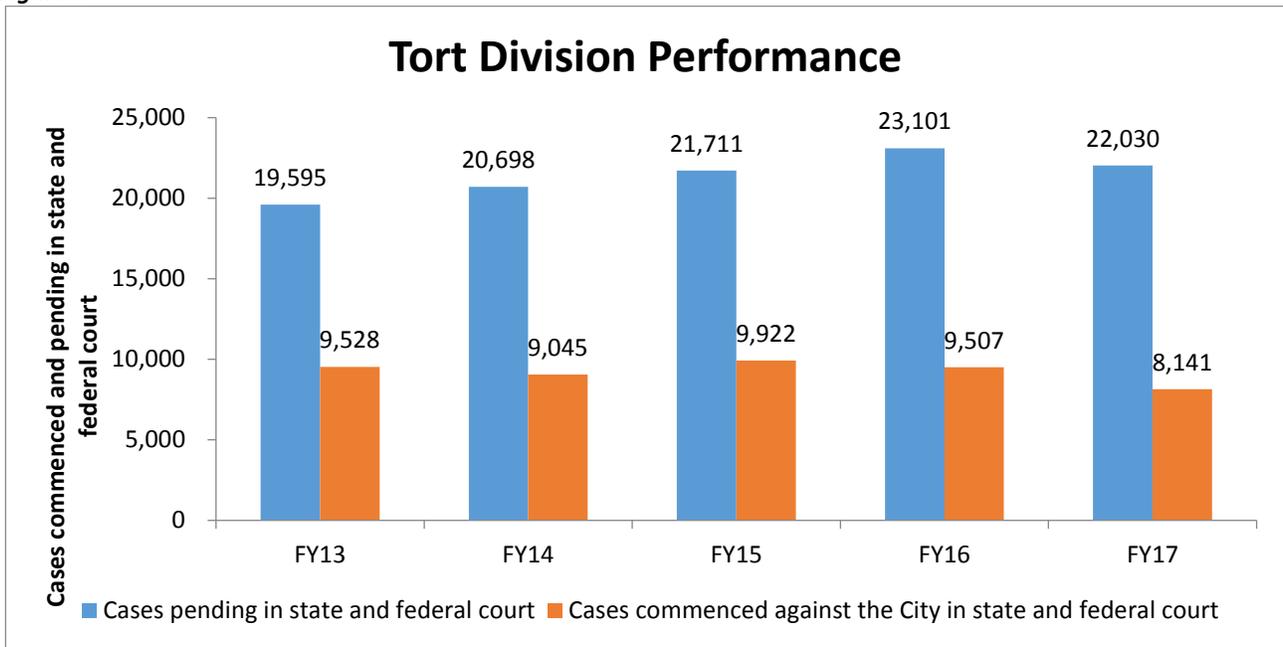


Tort Division

The Tort Division is the Law Department's largest division, with a Fiscal 2019 headcount of 643 and Personal Services Budget of \$48.3 million. The Division represents the City and its Department of Education in all tort claims, and the Health and Hospitals Corporation in all tort claims, except medical malpractice actions. The Division handles a caseload of over 8,000 new cases each year, with over 22,000 pending in State and Federal Court.

Tort Division 2018 PMMR Indicators

Figure 6



Additional resources have been allocated to the Law Department Tort Division in recent fiscal years to combat the rise in cases pending against the City in State and Federal courts, and to more aggressively defend the City against tort and contract claims in order to reduce Judgement & Claims payouts. For example, in the Fiscal 2016 Preliminary Plan, \$3.2 million was baselined to the Tort Division’s budget to fund a new unit of 30 additional attorneys and 10 additional support staff to carry out vertical case handling for certain lawsuits brought against the police department. Generally the Law Department employs horizontal case management, in which cases are passed to different specialized attorneys through different stages of a case (e.g. discovery, settlement, trial, etc.). However, the vertical case handling unit manages a selected number of important police cases from start to finish, which is intended to lead to more successful case outcomes and deter frivolous lawsuits.

While the number of cases commenced against the City in recent years has stayed relatively neutral, the number of cases pending against the City has grown, as cases take longer to resolve. However, in Fiscal 2017, the Tort Division was able to successfully reduce the caseload against the City in both State and Federal court, a product of the Division’s more proactive litigation stance. Please see Appendix G1 for a complete list of the Tort Division’s 2018 PMMR indicators.

Family Court Division

The Family Court Division is the Department’s second largest division, with a Fiscal 2019 headcount of 151 and Personal Services Budget of \$11.8 million. The Family Court Division is composed of two units: the Interstate Child Support Unit and the Juvenile Delinquency Prosecution Unit. The Interstate Child Support Unit appears on behalf of out-of-state custodial parent petitioners who are seeking to establish paternity and obtain child support from New York City residents. In addition, a custodial parent who lives in New York City may seek the Unit's assistance in filing for child support from parents who live outside the state and the country. The Juvenile Delinquency Prosecution Unit investigates juvenile delinquency matters that are referred to the office and prosecutes the matters

where appropriate. Juvenile delinquency matters involve youth ages 7 to 15 who have been arrested for conduct that would constitute a crime if they were adults.

Raise the Age

“Raise the Age” legislation was signed into New York State Law on April 10th, 2017 as a part of the State Budget. This legislation has the effect of trying 16- and 17-year-olds, who are currently tried as adults, as juveniles statewide. The law will affect 16-year-olds as of October 2018 and 17-year-olds as of October 2019. This legislation is expected to expand the Law Department’s workload by shifting cases that are currently tried in criminal court to the Law Department’s Family Court Division.

Family Court Division 2018 PMMR Indicators

Figure 7

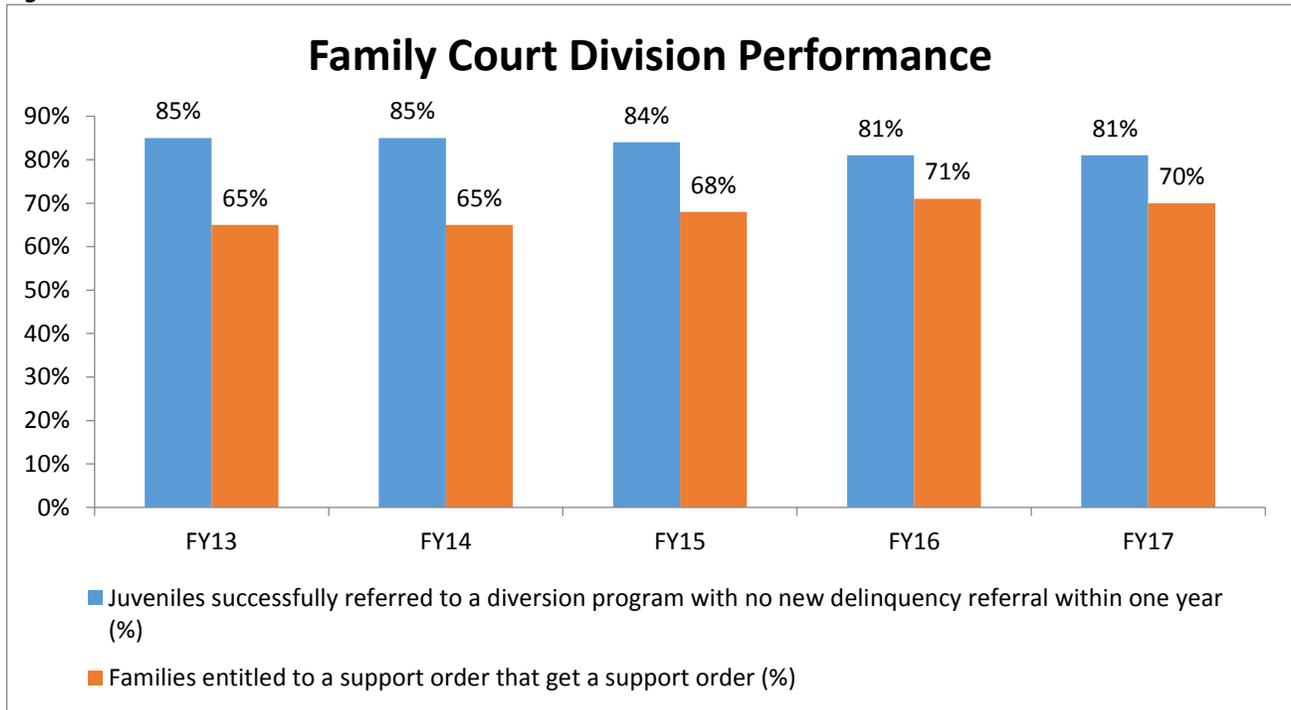


Figure 7 above highlights Family Court Division performance metrics over the past several fiscal years. The Juvenile Delinquency Prosecution Unit strives to increase the share of arrested juveniles that are successfully referred to a delinquency program without further incident. However, as juvenile arrests have decreased, a smaller pool of delinquency cases is now referred to the Unit with fewer juvenile delinquents suitable for diversion. The Interstate Child Support Unit has been successful in increasing the share of families entitled to a support order that actually receive support. Please see Appendix G2 for a complete list of the Family Court Division’s 2018 PMMR indicators.

Appendices

A: Budget Actions in the November and the Preliminary Plans

<i>Dollars in Thousands</i>	FY18			FY19		
	City	Non-City	Total	City	Non-City	Total
LAW Budget as of the FY18 Adopted Budget	\$201,687	\$8,083	\$209,770	\$197,855	\$7,937	\$205,792
New Needs						
Case Specific New Needs - November Plan	\$9,623	\$0	9,623	\$0	\$0	\$0
Case Specific New Needs - Prelim Plan	4,899	0	4,899	0	0	0
Subtotal, New Needs	\$14,522	\$0	\$14,522	\$0	\$0	\$0
Other Adjustments						
Couch White (law firm) Legal Services ²	\$0	\$1,900	\$1,900	\$0	\$0	\$0
Contract Attorneys	0	170	170	0	0	0
Temp Legal Staffing	0	300	300	0	0	0
NYC & CO Legal Reimbursement	0	312	312	0	0	0
Other Non-City Adjustments	0	257	257	0	43	43
Temp Staff and Services	0	360	360	0	0	0
Lease Adjustment	370	0	370	0	0	0
Subtotal, Other Adjustments	\$370	\$3,298	\$3,668	\$0	\$43	\$43
Citywide Savings						
PS Savings - November Plan	(929)	0	(929)	(1,979)	0	(1,979)
PS Savings - Prelim Plan	(4,208)	0	(4,208)	(3,918)	0	(3,918)
Subtotal, Citywide Savings	(5,137)	0	(5,137)	(5,897)	0	(5,897)
TOTAL, All Changes	\$9,754	\$3,298	\$13,052	(\$5,897)	\$43	(\$5,854)
LAW Budget as of the FY19 Preliminary Budget	\$211,440	\$11,381	\$222,821	\$191,958	\$7,980	\$199,938

B: LAW Overall Headcount

	Actual - Year end					Budgeted - FY19 Prelim Plan			
	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Full-Time	1,294	1,354	1,378	1,428	1,600	1,709	1,706	1,704	1,704
Full-Time Equivalent	151	150	173	163	160	61	61	61	61
TOTAL	1,445	1,504	1,551	1,591	1,760	1,770	1,767	1,765	1,765

² The Law Department has a contract with Couch White to represent the City in various energy, utility and rate matters.

C: LAW Fiscal 2019 Personal Services (PS) Chart

Law Program Areas		
<i>Dollars in Thousands</i>		
Program Area	Fiscal 2019 Funding	Budgeted Positions
Administrative Services	\$9,314	74
Administrative Law	3,897	41
Affirmative Litigation	2,671	28
Appeals	4,682	48
Commercial Litigation	4,881	53
Contracting Department	1,085	9
Contracts and Real Estate	236	3
Disability Rights	117	1
Economic Development	2,089	15
E-Discovery Department	1,804	11
Environmental Law	1,815	18
Executive	3,534	30
Family Court	11,603	151
General Litigation	3,027	29
Information Technology	2,230	27
Labor and Employment Law	6,577	77
Legal Counsel	3,253	31
Litigation Support Unit	2,434	30
Municipal Finance	659	7
Office of Special Enforcement	840	11
Other	1,141	2
Operations	3,839	71
Special Federal Litigation	14,866	137
Tax and Bankruptcy	5,392	71
Tort	45,821	643
Workers' Compensation	4,941	88
Total	\$142,746	1,706

D: LAW Contract Budget

LAW FY19 Preliminary Contract Budget				
<i>Dollars in Thousands</i>				
Category	FY18 Adopted	Number of Contracts	FY19 Preliminary	Number of Contracts
Contractual Services General	\$440	14	\$440	14
Maintenance and Repair - General	3,010	17	1,501	17
Office Equipment Maintenance	200	9	200	9
Data Processing Equipment	701	8	701	8
Security Services	225	1	225	1
Temporary Services	4,501	15	4,501	15
Cleaning Services	15	1	15	1
Transportation Expenditures	50	1	50	1
Training Program City Employees	105	24	105	24
Professional Services - Accounting and Auditing	100	1	100	1
Professional Services - Legal Services	7,738	31	7,741	31
Professional Services - Engineer and Architect	130	28	130	28
Professional Services - Other	17,734	279	13,964	279
TOTAL	\$34,950	429	\$29,673	429

E: LAW Miscellaneous Revenue

LAW Miscellaneous Revenue Budget Overview						
<i>Dollars in Thousands</i>						
Revenue Sources	FY16	FY17	FY18	Preliminary Plan		*Difference
	Actual	Actual	Adopted	FY18	FY19	FY18-FY19
Adm. Code Violations	\$760	\$657	\$1,000	\$1,000	\$1,000	\$0
Sale of Streets	25,287	8,051	275	1,363	275	0
Affirmative R/E Litigation	806	668	250	250	250	0
Affirmative Litigation	5,144	7,773	9,759	9,759	9,759	0
Vending, Xerox, Subpoena Fees	76	77	75	75	75	0
Collection Agency Claims	3,015	2,488	3,300	3,300	3,300	0
Worker Compensation	7,662	8,757	7,000	7,000	7,000	0
TOTAL	\$42,750	\$28,471	\$21,659	\$22,747	\$21,659	\$0

*The difference of Fiscal 2018 Adopted Budget compared to Fiscal 2019 Preliminary Budget.

F: Judgement & Claims Detail

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

G: LAW 2018 PMMR Indicators

G1: Tort Division PMMR Indicators

Law Department Tort Division Indicators	Actual			Target		4-Month Actual	
	FY15	FY16	FY17	FY18	FY19	FY17	FY18
Total citywide payout for judgments and claims (\$000)	\$608,500	\$655,873	\$722,046	DOWN	DOWN	\$135,836	\$117,808
Total cases commenced against the City	9,922	9,507	8,141	*	*	2,755	2,646
– Cases commenced against the City in state court	8,112	8,009	7,132	7,600	7,600	2,400	2,360
– Cases commenced against the City in federal court	1,810	1,498	1,009	1,200	1,200	355	286
Cases pending in state court	20,059	21,452	20,667	22,700	22,700	21,925	20,991
– Cases pending on trial calendar	2,255	2,425	2,441	2,700	2,700	2,589	2,506
Affirmative motions to dismiss or for summary judgment	1,561	1,516	1,648	*	*	475	581
Win rate on affirmative motions (%)	74%	75%	76%	78%	78%	70%	71%
Cases pending in federal court	1,652	1,649	1,363	1,400	1,400	1,553	1,307
Dismissals and discontinuances	228	243	280	*	*	92	62

G2: Family Court Division PMMR Indicators

Law Department Family Court Division Indicators	Actual			Target		4-Month Actual	
	FY15	FY16	FY17	FY18	FY19	FY17	FY18
Referred cases filed for prosecution (%)	54%	54%	50%	55%	55%	46%	42%
Juvenile conviction rate (%)	75%	76%	75%	75%	75%	72%	76%
Juveniles successfully referred to a diversion program with no new delinquency referral within one year (%)	84%	81%	81%	75%	75%	70%	80%
Crime victims referred for community-based services (%)	50%	53%	46%	40%	40%	46%	48%
Filing of enforcement referrals within 60 days of referral (%)	94%	95%	96%	85%	85%	91%	95%
Families entitled to a support order that get a support order (%)	68%	71%	70%	65%	65%	67%	69%
Completed requests for interpretation	762	1,002	875	*	*	NA	NA
Letters responded to in 14 days (%)	100%	100%	100%	*	*	100%	100%
E-mails responded to in 14 days (%)	100%	100%	100%	*	*	100%	100%