

THE COUNCIL OF THE CITY OF NEW YORK

Hon. Corey Johnson
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Report to the Committee on Finance and the Committee on Governmental Operations
on the Fiscal 2019 Executive Budget for

Law Department

May 17, 2018

Finance Division

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Law Department Fiscal 2019 Executive Budget Overview

\$235.0 million – Fiscal 2019 Executive Expense Budget	1,966 full-time headcount
\$227 million in City funds	\$697 million J&C Budget
\$32.2 million for Raise the Age	\$21.7 million in Revenues
	\$30.2 million Contract Budget

Executive Budget Changes

- New Needs** total \$8.5 million in Fiscal 2018 and \$1.5 million in Fiscal 2019:
 - \$8.5 million in Case Specific New Needs in Fiscal 2018; and
 - \$1.5 million in Fiscal 2019 for the Mayor’s Charter Commission.
- Other Adjustments** increase the Law Department’s budget by \$283,000 in Fiscal 2018 and \$37.4 million in Fiscal 2019.
- Citywide Savings** of \$3.0 million in Fiscal 2018 and \$3.8 million in Fiscal 2019 from delays in filling vacant headcount.

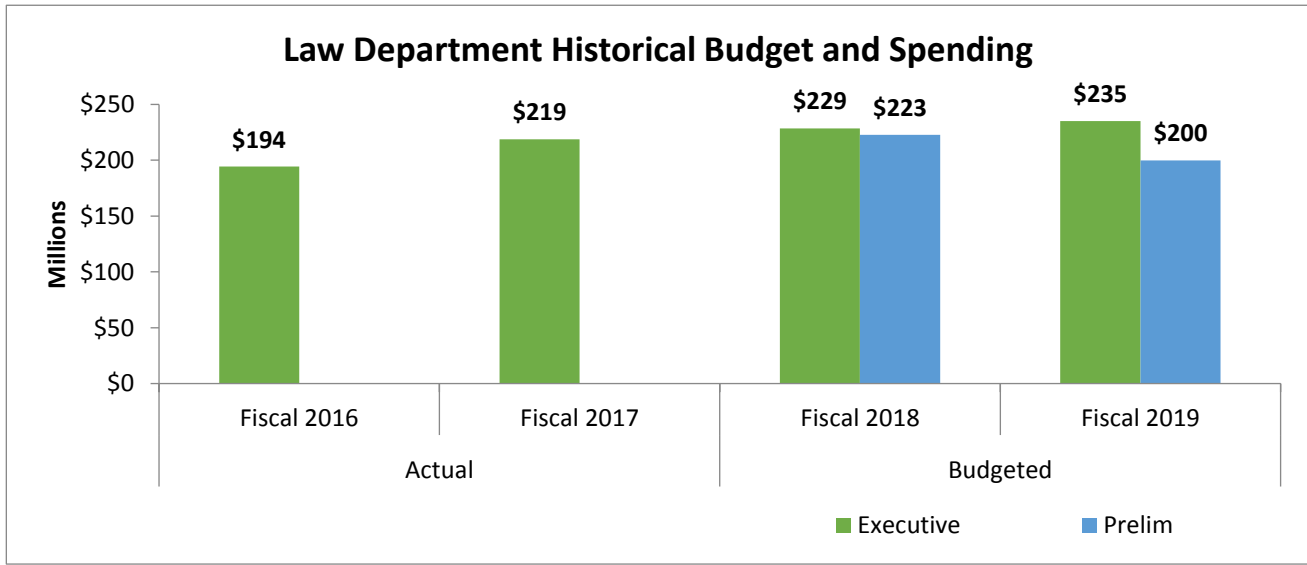
2019 Budget Response

Included in the Executive Budget

- Raise the Age.** The Executive Plan includes \$32.2 million and 254 new positions for the implementation of the first phase of Raise the Age.

Not Included in the Executive Budget

- Vertical Case Handling.** The Executive Plan does not include additional funding for the expansion of Vertical Case Handling at the Law Department.
- New Units of Appropriation.** The Executive Plan does not include new units of appropriation for the Law Department’s Tort Division.



Law Department Overview

This report presents a review of the Law Department's Fiscal 2019 Executive Budget. The section below presents an overview of the Department's budget and how it has changed during the course of Fiscal 2018, followed by a review of the significant budget actions introduced in the Fiscal 2019 Executive Budget. Major issues related to the Department's budget are then discussed. Appendix 1 reports the changes made to the Fiscal 2018 and Fiscal 2019 Budgets since Adoption of the Fiscal 2018 Budget. For additional information on the Department's budget and its various programs, please refer to the Fiscal 2019 Preliminary Budget Report for The Law Department at: <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2018/03/FY19-Law-Department.pdf>

Below is a summary of key funding changes by program area and source when comparing The Law Department's Fiscal 2019 Executive Budget to its Fiscal 2018 Adopted Budget.

Law Department Financial Summary						
	FY16	FY17	FY18	Executive Plan		*Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	FY18	FY19	FY18-FY19
Spending						
Personal Services	\$118,777	\$129,251	\$147,813	\$136,967	\$161,618	\$13,805
Other Than Personal Services	75,574	89,527	61,956	91,638	73,424	11,468
TOTAL	\$194,351	\$218,778	\$209,769	\$228,605	\$235,042	\$25,273
Personal Services						
Additional Gross Pay	\$2,296	\$2,208	\$282	\$282	\$282	\$0
Full-Time Salaried - Civilian	109,672	120,357	144,553	133,665	158,317	13,764
Other Salaried & Unsalariated	5,439	5,327	3,016	3,018	3,018	2
Overtime - Civilian	1,372	1,363	(39)	1	1	40
P.S. Other	(1)	(4)	0	0	0	0
SUBTOTAL	\$118,777	\$129,251	\$147,813	\$136,967	\$161,618	\$13,805
Other Than Personal Services						
Contractual Services	\$48,819	\$62,177	\$34,950	\$62,009	\$30,227	(\$4,723)
Fixed & Misc. Charges	33	40	18	67	18	0
Other Services & Charges	24,231	24,299	24,753	26,524	40,944	16,191
Property & Equipment	1,192	1,709	984	1,691	984	0
Supplies & Materials	1,299	1,302	1,252	1,348	1,252	(0)
SUBTOTAL	\$75,574	\$89,527	\$61,956	\$91,638	\$73,424	\$11,468
TOTAL	\$194,351	\$218,778	\$209,769	\$228,605	\$235,042	\$25,273
Funding						
City Funds			\$201,687	\$217,073	\$226,990	\$25,303
Other Categorical			417	729	417	0
Capital- IFA			3,742	3,742	3,742	0
Federal - Community Development			310	325	333	23
Intra City			3,614	6,736	3,561	(53)
TOTAL	\$194,351	\$218,778	\$209,769	\$228,605	\$235,042	\$25,273
Budgeted Headcount						
Full-Time Positions	1,428	1,600	1,706	1,709	1,966	260
Full-Time Equivalent Positions	163	160	64	61	61	(3)
TOTAL	1,591	1,760	1,770	1,770	2,027	257

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

The Law Department's Fiscal 2019 Executive Budget totals \$235 million, including \$162 million in Personal Services (PS) funding to support 1,966 full time positions and 61 full-time equivalent positions. Approximately \$227 million or 97 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

The Law Department's Fiscal 2019 Budget has grown by \$35.1 million since the Fiscal 2019 Preliminary Plan. The vast majority of this increase is due to the \$32.2 million added to the Department's Budget for the implementation of the first phase of Raise the Age, which begins in October 2018. Other new funding includes an additional \$5.2 million for Lease Adjustments, as well as \$1.5 million to finance the work of the Mayor's Charter Revision Commission. The additional funding added to the Law Department's Fiscal 2019 Budget is partially offset by \$3.8 million in savings brought about by a delay in the filling of vacant positions.

The Law Department's Fiscal 2018 Budget has grown by \$5.8 million since the Fiscal 2019 Preliminary Plan, primarily due to an increase of \$8.5 million for Case Specific New Needs, partially offset by \$3.0 million in savings from hiring delays.

New in the Executive Budget

New Needs

The Law Department's Fiscal 2019 Executive Plan introduces new needs of \$8.5 million in Fiscal 2018 and \$1.5 million in Fiscal 2019.

- **Case Specific New Needs.** The Fiscal 2019 Executive Plan introduces \$8.5 million in case specific new needs in the Fiscal 2018 Budget. Cases that this funding will cover include the Department of Education Employee Retirement Income Security Act matter, the Vulcan Society FDNY lawsuit, the Central Park Jogger case, and various others. This is in addition to the \$14.5 million in Case Specific New Needs added to the Law Department's Fiscal 2018 Budget in the November and Preliminary Plans.
- **Charter Revision Commission.** The Fiscal 2019 Executive Plan includes an additional \$1.5 million and 17 new positions in Fiscal 2019 for the Mayor's Charter Revision Commission. Of this funding, \$1 million is allocated towards PS expenses and the remaining \$500,000 towards OTPS spending.

Other Adjustments

The Fiscal 2019 Executive Plan introduces Other Adjustments of \$37.4 million in Fiscal 2019, including the following.

- **Raise the Age Implementation.** The Fiscal 2019 Executive Plan adds \$32.2 million and 254 budgeted positions to the Law Department's Fiscal 2019 Budget for the implementation of the first phase of the Raise the Age legislation. The first phase of implementation, which begins in October 2018, transitions 16-year-olds from being tried as adults to being tried as juveniles. The second phase expands this transition to 17-year-olds, and will begin in October 2019. The second phase has yet to be funded.

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

Citywide Savings

- **PS Savings.** The Fiscal 2019 Executive Plan claims savings to the Law Department's budget of \$3 million in Fiscal 2018 and \$3.8 million in Fiscal 2019 from delays in the filling vacant positions.

Miscellaneous Revenue

Projected miscellaneous revenue for Fiscal 2019 of \$21.7 million has remained unchanged since the Fiscal 2019 Preliminary Plan. Projected miscellaneous revenue generation for Fiscal 2018 has, however, grown by \$700,000 from \$22.7 million to \$23.4 million from a rise in projected growth in revenue collections from the prosecution of administrative code violations.

Contracts

The Law Department's Fiscal 2019 Contract Budget grew by \$554,000 since the Fiscal 2019 Preliminary Plan, from \$29.7 million to \$30.2 million. This represents growth in projected spending for "Professional Services – Legal Services" and "Professional Services – Other" contracts by \$60,000 and \$494,000, respectively. The number of overall contracts has remained constant.

Budget Issues

Fiscal 2019 Preliminary Budget Response

The Council's response to the Mayor's Fiscal 2019 Preliminary Budget included recommendations for changes to the Law Department's Fiscal 2019 Budget.

- **Raise the Age.** The Council asked the Administration to fulfill its State mandate to fund the implementation of Raise the Age legislation, which impacts several agencies' budgets, including that of the Law Department. The first phase of Raise the Age's implementation was funded in the Law Department's budget in Fiscal 2019 and in the outyears.
- **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 large volumes of cases. Vertical case handling is more expensive, but tends to lead to a higher win rate in court, which can ultimately result in significant savings.

The Council called upon the Administration to expand vertical case handling in the Law Department's budget in order to more effectively represent the City, reduce Judgement and Claims payouts, and increase our win rate in court. 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 only two U/As, PS and OTPS. The Council has long requested that additional U/As be created, but the Law Department has opposed this due to concerns that this will hinder the transfer of resources across its divisions, which it does regularly. In the Preliminary Budget Response, the Council called upon 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. The Administration did not accept this recommendation.

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. In certain violent cases, specific 16- and 17-year-olds will continue to be tried as adults. 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. Costs to other agencies include the transfer of all juveniles off of Rikers Island and establishing special youth Criminal Courts for the 16- and 17-year-olds that continue to be tried as adults.

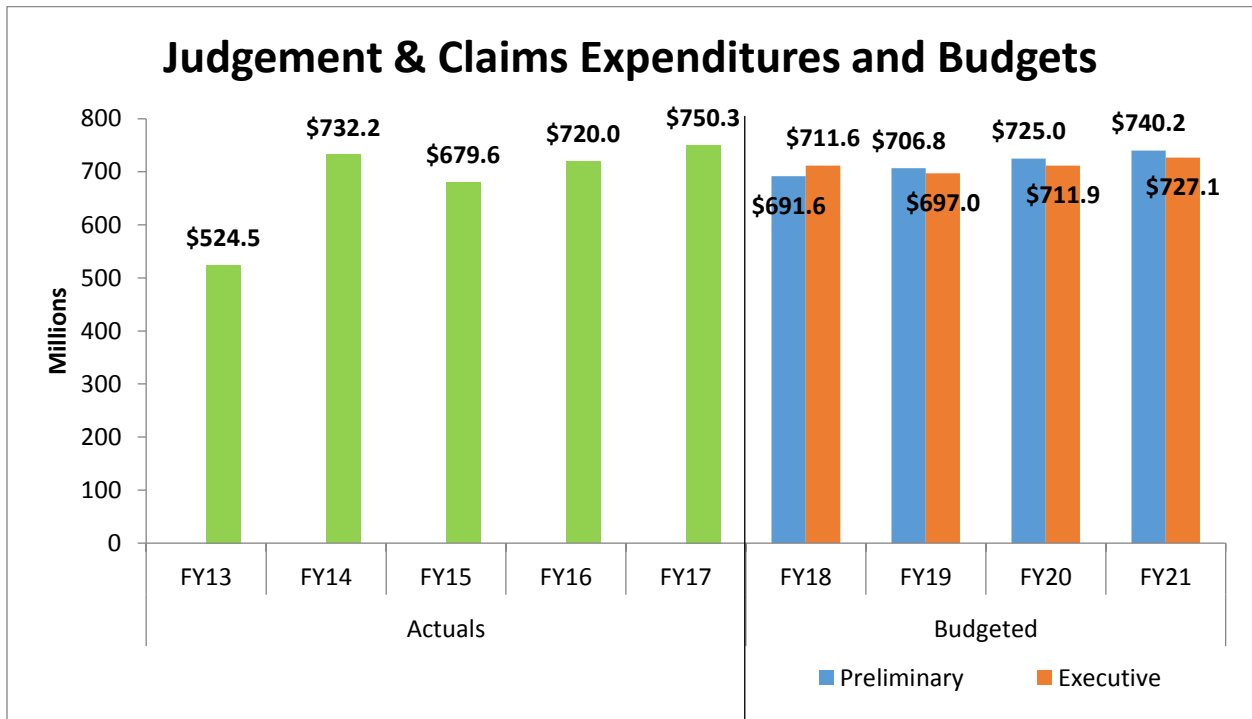
In the Fiscal 2019 Executive Plan, the Administration added \$113.4 million and 806 new budgeted positions for the implementation of the first stage of Raise the Age in the Fiscal 2019 Budgets for the Law Department, Police Department, Administration for Children’s Services, Department of Correction, and Department of Probation. Of this, \$32.2 million and 254 positions were allocated to the Law Department’s Fiscal 2019 Budget.

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 & Claims Budget totals \$697.0 million in Fiscal 2019. This represents a decrease of \$9.8 million to the Fiscal 2019 J&C Budget since the Fiscal 2019 Preliminary Plan from expected savings as a result of the implementation of the Fleet Legal Coordination Citywide Savings Initiative. The Department of Citywide Administrative Services tracks the operations of the City fleet through devices it implants on vehicles. It has therefore collected substantial data on the circumstances of accidents involving City vehicles, which it will share with the Law Department in combating fleet related lawsuits through this initiative, reducing projected J&C payouts. This \$9.8 million in savings extend into the outyears.

While the Judgement & Claims budget is reduced in Fiscal 2019 and the outyears, it is expanded by \$20 million in Fiscal 2018 in the Fiscal 2019 Executive Plan, rising from \$691.6 million to \$711.6 million.



Appendix 1: Fiscal 2019 Budget Actions since Fiscal 2018 Adoption

<i>Dollars in Thousands</i>	FY18			FY19		
	City	Non-City	Total	City	Non-City	Total
LAW Budget as of the Adopted FY18 Budget	\$201,687	\$8,083	\$209,770	\$197,855	\$7,937	\$205,792
New Needs - November and Preliminary Plans						
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 - November and Preliminary Plans						
Couch White (law firm) Energy Legal Services	\$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
DEP - Energy Legal Services	0	1,500	1,500	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 - November and Preliminary Plans						
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 November and Preliminary Plans	\$9,754	\$3,298	\$13,052	(\$5,897)	\$43	(\$5,854)
LAW Budget as of the Preliminary FY19 Budget	\$211,441	\$11,381	\$222,822	\$191,958	\$7,980	\$199,938
New Needs - Executive Plan						
Case Specific New Needs	\$8,500	\$0	\$8,500	\$0	\$0	\$0
Charter Revision Commission	0	0	0	1,500	0	1,500
Subtotal, New Needs	\$8,500	\$0	\$8,500	\$1,500	\$0	\$1,500
Other Adjustments - Executive Plan						
Raise the Age Implementation	\$0	\$0	\$0	\$32,207	\$0	\$32,207
DC37 Collective Bargaining	21	0	21	21	0	21
Lease Adjustments	0	0	0	5,262	0	5,262
Energy Legal Services	0	100	100	0	0	0
Disability Access - Office of Emergency Management	0	6	6	0	0	0
Department of Education Law Transfer	59	0	59	0	0	0
Mayor's Office of People with Disabilities	0	5	5	0	13	13
Heat, Light and Power	52	0	52	52	0	52
DOC On Call Counsel	0	36	36	0	60	60
Voorhies Avenue - DOT Legal Services	0	4	4	0	0	0
Citywide Savings - Electric Vehicles	0	0	0	(1)	0	(1)
Citywide Savings - Enterprise Print Management Adoption	0	0	0	(40)	0	(40)
Citywide Savings - Procurement	0	0	0	(99)	0	(99)
Citywide Savings - Telecom Takedown	0	0	0	(32)	0	(32)
Subtotal, Other Adjustments	\$132	\$151	\$283	\$37,370	\$73	\$37,443
Citywide Savings - Executive Plan						
PS Savings	(\$3,000)	\$0	(\$3,000)	(\$3,839)	\$0	(\$3,839)
Subtotal, Citywide Savings	(\$3,000)	\$0	(\$3,000)	(\$3,839)	\$0	(\$3,839)
TOTAL, All Changes Executive Plan	\$5,632	\$151	\$5,783	\$35,031	\$73	\$35,104
LAW Budget as of the Executive FY19 Budget	\$217,073	\$11,532	\$228,605	\$226,989	\$8,053	\$235,042