



**NOTE ON THE FISCAL 2021 EXECUTIVE BUDGET FOR THE COMMITTEE ON
GOVERNMENTAL OPERATIONS
MAY 29, 2020**

New York City Council

Hon. Corey Johnson,
Speaker
Hon. Daniel Dromm,
Chair, Finance Committee
Hon. Fernando Cabrera,
Governmental Operations

Finance Division

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Regina Poreda Ryan, Deputy Director
Nathan Toth, Deputy Director
Paul Scimone, Deputy Director
John Russell, Unit Head
Sebastian Palacio Bacchi, Senior Financial Analyst

Law Department Overview

This report presents a review of the Law Department’s Fiscal 2021 Executive Budget. The section below presents an overview of the Department’s budget and how it has changed during the course of Fiscal 2020, followed by a review of the significant budget actions introduced in the Fiscal 2021 Executive Budget. Major issues related to the Department’s budget are then discussed. Appendix A reports the changes made to the Fiscal 2020 and Fiscal 2021 Budgets since Adoption of the Fiscal 2020 Budget. For additional information on the Department’s budget and its various programs, please refer to the Fiscal 2021 Preliminary Budget Report for The Law Department at: <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2020/03/025-LAW.pdf>

Below is a summary of key funding changes by program area and source when comparing The Law Department’s Fiscal 2021 Executive Budget to its Fiscal 2020 Adopted Budget.

Law Department Financial Summary						
<i>Dollars in Thousands</i>	FY18	FY19	FY20	Executive Plan		**Difference
	Actual	Actual	Adopted	FY20	FY21	FY20-FY21
Spending						
Personal Services	\$136,491	\$151,715	\$177,710	\$163,107	\$177,893	\$183
Other Than Personal Services	90,715	102,359	79,218	116,583	75,586	(3,632)
TOTAL	\$227,205	\$254,075	\$256,928	\$279,690	\$253,479	(\$3,449)
Personal Services						
Additional Gross Pay	\$1,911	\$2,427	\$282	\$3,298	\$2,272	\$1,990
Full-Time Salaried - Civilian	128,105	141,080	174,130	151,481	167,544	(6,586)
Other Salaried & Unsalaries	5,291	5,849	3,298	5,947	5,946	2,649
Overtime - Civilian	1,187	2,360	0	2,380	2,131	2,131
P.S. Other	(2)	(2)	0	0	0	0
Subtotal	\$136,491	\$151,715	\$177,710	\$163,107	\$177,893	\$183
Other Than Personal Services						
Contractual Services	\$60,510	\$63,152	\$35,866	\$75,653	\$32,061	(\$3,806)
Fixed & Misc. Charges	54	31	18	88	18	0
Other Services & Charges	26,531	34,969	41,099	36,722	41,273	174
Property & Equipment	2,427	2,739	984	2,518	984	0
Supplies & Materials	1,193	1,468	1,251	1,602	1,250	(1)
Subtotal	\$90,715	\$102,359	\$79,218	\$116,583	\$75,586	(\$3,632)
TOTAL	\$227,205	\$254,075	\$256,928	\$279,690	\$253,479	(\$3,449)

<i>Dollars in Thousands</i>	FY18	FY19	FY20	Executive Plan		**Difference
	Actual	Actual	Adopted	FY20	FY21	FY20-FY21
Funding						
City Funds			\$248,560	\$267,671	\$244,879	(\$3,682)
Other Categorical			417	617	417	0
Capital- IFA			4,017	4,020	4,064	47
Federal - Community Development			145	145	147	2
Intra City			3,789	7,237	3,972	184
TOTAL	\$227,205	\$254,075	\$256,928	\$279,690	\$253,479	(\$3,449)
Budgeted Headcount						
Full-Time Positions	1,581	1,714	1,906	1,871	1,882	(24)
TOTAL	1,581	1,714	1,906	1,871	1,882	(24)

**The difference of Fiscal 2020 Adopted Budget compared to Fiscal 2021 Executive Budget.*

The Law Department's Fiscal 2021 Executive Budget totals \$253.5 million, including \$177.9 million in Personal Services (PS) funding to support 1,882 full-time (FT) positions. Approximately \$244.9 million, or 96.6 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 2021 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).¹

The Law Department's Fiscal 2021 Budget is \$3.4 million less than its Fiscal 2020 Adopted Budget of \$256.9 million. This decrease is primarily associated with the Department's Citywide Savings Plan, which is discussed later on in the "Citywide Savings Program" section of this report. Additionally, the Department's current year (Fiscal 2020) budget totals \$279.6 million, which is \$26.2 million more than its Fiscal 2020 Adopted Budget. This increase is primarily associated with new needs funding, related to the Criminal Justice Reform Implementation, case specific needs such as NYC vs. Gulino, and funding needed to cover costs associated with the New York City Housing Authority (NYCHA) monitor, which were included in Fiscal 2020 during the November 2019 Plan and the Fiscal 2021 Preliminary Plan. Lastly, funding added to the Law Department's Fiscal 2020 and Fiscal 2021 budgets are partially offset by \$12.8 million in savings in Fiscal 2020 and baselined savings of \$2.2 million beginning in Fiscal 2021 which were included in the Department's Fiscal 2021 Executive Budget.

New in the Executive Budget

New Needs

The Law Department's Fiscal 2021 Executive Plan introduces new needs of \$7.5 million in Fiscal 2020 and \$1 million in Fiscal 2021. The following includes a breakdown of each new need added in the financial plan.

- Case Specific New Needs.** The Fiscal 2021 Executive Plan includes \$7.5 million for case specific needs in the Fiscal 2020 budget and \$1 million in the Department's Fiscal 2021 budget. This funding includes \$3 million in Fiscal 2020 for court appointed monitor fees for NYC vs. Nunez, \$3.1 million in Fiscal 2020 for court appointed monitor fees for NYC vs. Floyd, \$450,000 in Fiscal 2020 for actuarial work related to Employee Retirement Income Security Act (ERISA)

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

matters at the Department of Education (DOE), and \$1 million in Fiscal 2021 for costs associated with the New York City Housing Authority (NYCHA) monitor.

Other Adjustments

The Fiscal 2021 Executive Plan introduces other adjustments of \$727,000 in Fiscal 2020 and \$2.1 million in Fiscal 2021, which include the following.

- **Lease Adjustment.** The Fiscal 2021 Executive Plan includes baselined funding of \$2.1 million beginning in Fiscal 2021 for increased lease expenditures at numerous Law Department locations in the City, primarily associated with increased lease expenditures at a Law Department warehouse on 147 41st Street in Brooklyn.
- **Heat, Light and Power.** The Fiscal 2021 Executive Plan decreased \$25,000 in Fiscal 2020 and baselined \$4,000 beginning in Fiscal 2021 to increase the Law Department's Heat, Light and Power Budget slightly in the outyears.
- **Silver Stars.** The Fiscal 2021 Executive Plan includes a baselined decrease of \$245,000 beginning in Fiscal 2021 for the Silver Stars program. Formerly known as Redeploy, the program allows employees eligible for retirement to shift from full-time to part-time status at the discretion of their agency, while officially filing for retirement. This initiative follows Section 212 of the New York State Retirement and Social Security Law (RSSL), which caps earnings at \$35,000 for individuals under 65 years of age who return to public employment. Although the employee benefits by earning their pension and collecting partial wages, the agency benefits by addressing inefficiencies in having full-time employees used for work that is either seasonal or does not span a full work week because part-time positions for the same work are difficult to fill. As such, this will lead to a baselined reduction of seven positions at the Department.
- **Collective Bargaining.** The Fiscal 2021 Executive Plan includes \$125,000 in Fiscal 2020, \$195,000 in Fiscal 2021, and baselined \$219,000 beginning in Fiscal 2022 to settle collective bargaining issues at the Department, specifically with Communications-Workers America (CWA) 1180.

Citywide Savings

The Law Department's Fiscal 2021 Executive Plan proposes a savings program of \$12.8 million in Fiscal 2020 and baselined savings of \$2.2 million beginning in Fiscal 2021, which include the following.

- **Vacancy Reductions.** The Fiscal 2021 Executive Plan includes budgetary savings of \$4.8 million in Fiscal 2020 and baselined savings of \$2.2 million beginning in Fiscal 2021 through the permanent reduction of 25 vacant positions across the Department.
- **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 Law Department will generate one-time revenue of \$2.9 million in Fiscal 2020 through additional revenue from a one-time settlement payment from Moodys for a False Claims Act payments, regarding State and City tax returns filed between 2002 and 2014.
- **Criminal Courts Revenue.** The Law Department will generate one-time savings of \$2.3 million in Fiscal 2020 through revenue from one-time criminal court collections payments. According

to the Law Department, criminal court collections made by the collection firms retained by the Department were not being reflected as paid in the Criminal Court's system (and eventually in County Clerk records) until the Law Department remitted payment to the Criminal Court to clear the fines for full payments. As such, the Criminal Court was holding checks for long periods of time. Pursuant to an agreement, the Law Department held these funds in escrow. The Office of Court Administration (OCA) built a new summons look-up tool that provides basic information about the status of fines and a copy of the summons, to which the Law Department and the collection firms have access. With this new tool, the Law Department now has the ability to mark summonses as paid, and credit the collected funds to a specific revenue structure identified by the Office of Management and Budget (OMB). Thus, the Criminal Court collections made over the past few years have now been moved from the Department's escrow account to this structure.

- **OTPS Savings.** The Fiscal 2021 Executive Plan includes one-time budgetary savings of \$2.7 million in Fiscal 2020 through surpluses in its OTPS budget, primarily due to delays in rolling out a new site for Raise the Age.

Miscellaneous Revenue

The Law Department's projected miscellaneous revenue streams for Fiscal 2021 totals \$21.3 million, and remains unchanged since its Fiscal 2021 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. Additionally, the Department's projected miscellaneous revenue streams for the current fiscal year (Fiscal 2020) increased by \$2.9 million when compared to the Department's miscellaneous revenue streams for the same fiscal year in its Fiscal 2021 Preliminary Plan, primarily due to additional affirmative litigation revenue, as mentioned in the "Citywide Savings Program" section of this report. For additional information regarding the Department's miscellaneous revenue streams, please refer to Appendix B.

Contracts

The Law Department's Fiscal 2021 Contract Budget totals \$32.1 million to provide for 429 contracts, which is an increase of \$1 million since its Fiscal 2021 Preliminary Plan. For additional information regarding the Department's Fiscal 2021 Executive Contract Budget, please refer to Appendix C.

Budget Issues

Fiscal 2021 Preliminary Budget Response

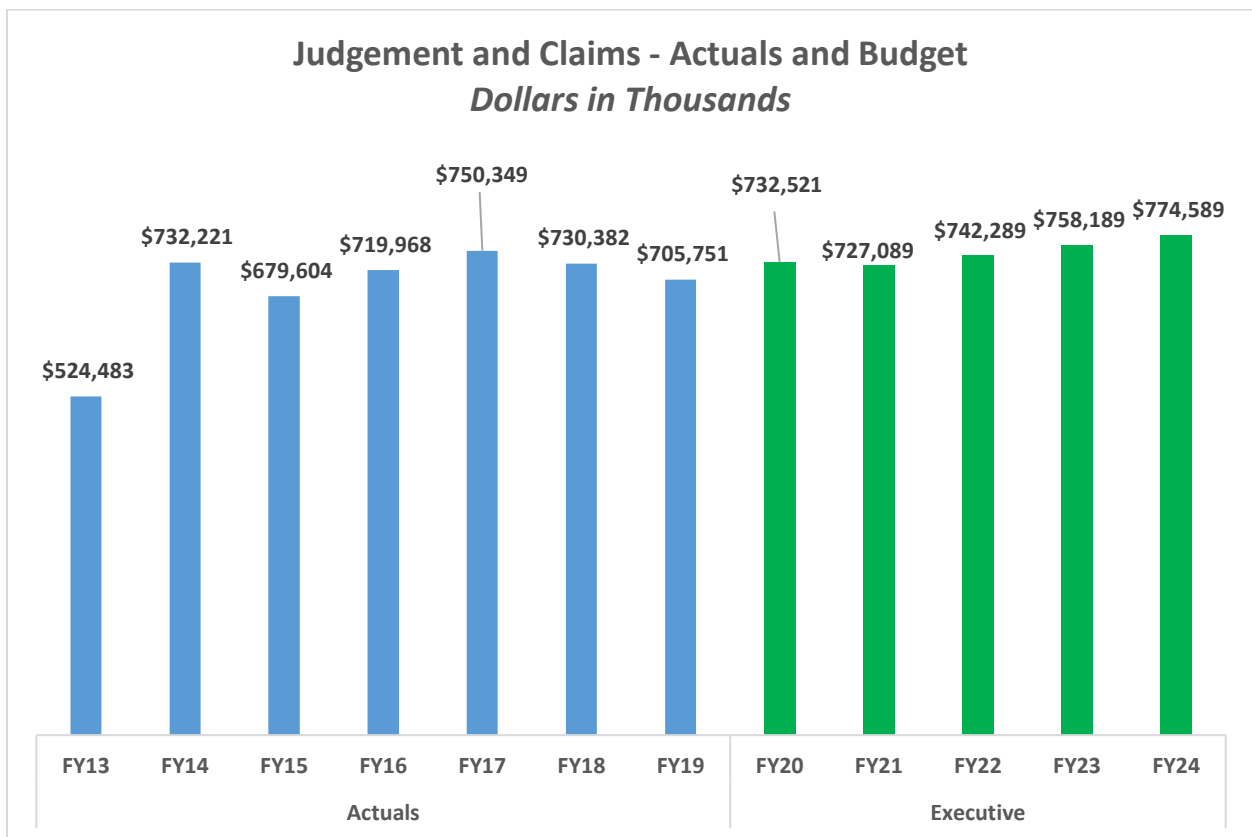
Although the Council did not include recommendations for the Law Department for its Fiscal 2021 Preliminary Budget Response, there are items that have not been included in the Fiscal 2021 Executive Budget as it pertains to the Law Department that the Council would like to address.

- **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, especially for the Tort Division given that it is one of the largest divisions within the Department. However, the Law Department has continuously opposed this due to concerns that this will hinder the transfer of

resources across its divisions. The Council is working with the Administration to include additional U/As in the following financial plans.

Judgement & Claims

The City’s Judgement 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 judgements 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. Notable, 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 \$727.1 million in Fiscal 2021. Over the past five years, J&C actual expenditures have averaged approximately \$717.2 million annually. For additional information regarding J&C spending since Fiscal 2013, please refer to the chart below. For a breakdown of J&C spending across multiple agencies since Fiscal 2013, please refer to Appendix D.



Appendix 1: Fiscal 2021 Budget Actions since Fiscal 2020 Adoption

<i>Dollars in Thousands</i>	FY20			FY21		
	City	Non-City	Total	City	Non-City	Total
Law Budget as of the FY20 Adopted Budget	\$248,561	\$8,368	\$256,929	\$243,129	\$8,438	\$251,567
New Needs						
Criminal Justice Reform Implementation	328	-	328	487	-	487
Case Specific Needs	16,280	-	16,280	-	-	-
Collection Agencies	1,214	-	1,214	1,214	-	1,214
Gowanus Canal Remediation Trust	4,733	-	4,733	-	-	-
Subtotal, New Needs	\$22,555	\$-	\$22,555	\$1,701	-	\$1,701
Other Adjustments						
Collective Bargaining	\$35	\$6	\$41	\$51	\$7	\$58
Telecommunication Savings	-	-	-	(84)	-	(84)
Enhanced Spaced Management	(4,187)	-	(4,187)	(1,232)	-	(1,232)
Lease Adjustment	105	-	105	-	-	-
Agency Phone Plan Review	(50)	-	(50)	(101)	-	(101)
Other City Adjustments	515	-	515	552	-	552
Other Categorical Adjustments	-	200	200	-	-	-
Other Intra-City Adjustments	-	2,815	2,815	-	150	150
Subtotal, Other Adjustments	\$(3,582)	\$3,021	\$(561)	\$(814)	\$157	\$(657)
Total, All Changes	\$18,973	\$3,021	\$21,994	\$887	\$157	\$1,044
Law Budget as of the FY21 Preliminary Budget	\$267,534	\$11,389	\$278,923	\$244,018	\$8,595	\$252,613
New Need - Exec						
Case Specific Needs	\$7,550	-	\$7,550	\$1,000	\$-	\$1,000
Subtotal, New Needs	\$7,550	-	\$7,550	\$1,000	\$-	\$1,000
Other Adjustments						
Collective Bargaining	\$122	\$3	\$125	\$190	\$5	\$195
Lease Adjustment	-	-	-	2,112	-	2,112
Silver Stars	-	-	-	(245)	-	(245)
Other City Adjustments	(25)	-	(25)	4	-	4
Other Intra-City Adjustments	-	627	627	-	-	-
OTPS Savings	(2,700)	-	(2,700)	-	-	-
Vacancy Reductions	(4,810)	-	(4,810)	(2,200)	-	(2,200)
Subtotal, Other Adjustments	\$(7,413)	\$630	\$(6,783)	\$(139)	\$5	\$(134)
Total, All Changes	\$137	\$630	\$767	\$861	\$5	\$866
Law Budget as of the FY21 Executive Budget	\$267,671	\$12,019	\$279,690	\$244,879	\$8,600	\$253,479

Appendix B: Fiscal 2021 Miscellaneous Revenue Streams

Law Miscellaneous Revenue					
Title	FY20	FY21	FY2	FY23	FY24
Adm. Code Violations	\$ 650	\$ 650	\$ 650	\$ 650	\$ 650
Sale of Streets	275	275	275	275	275
Affirmative R/E Litigation	250	250	250	250	250
Affirmative Litigation	21,737	9,759	9,759	9,759	9,759
Vending, Xerox, Subpoena Fees	75	75	75	75	75
Collection Agency Claims	3,300	3,300	3,300	3,300	3,300
Worker Compensation	8,400	7,000	7,000	7,000	7,000
Total	\$ 34,687	\$ 21,309	\$ 21,309	\$ 21,309	\$ 21,309

Appendix C: Law Contract Budget as of Fiscal 2021 Executive Budget

Law Department Fiscal 2021 Executive Contract Budget						
<i>Dollars in Thousands</i>						
Category	Fiscal 2020 Adopted	# of Contracts	Fiscal 2021 Prelim	# of Contracts	Fiscal 2021 Exec	# of Contracts
Contractual Services General	\$ 440	14	\$ 440	14	\$ 440	14
Maintenance & Repair General	1,501	17	1,501	17	1,501	17
Office Equipment Maintenance	160	9	160	9	160	9
Data Processing Equipment	701	8	701	8	701	8
Security Services	225	1	225	1	225	1
Temporary Services	5,093	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 for City Employees	105	24	105	24	105	24
Professional Svcs. Accounting & Auditing	100	1	100	1	100	1
Professional Svcs. Legal Services	7,588	31	8,802	31	8,802	31
Professional Svcs. Engineering & Architecture	130	28	130	28	130	28
Professional Svcs. Other	19,758	279	13,738	279	14,738	279
TOTAL	\$ 35,866	429	\$ 31,060	429	\$ 32,060	429

Appendix D: Judgement and Claims Agency Spending since Fiscal 2013

Citywide Judgement and Claims Payouts							
<i>Dollars in Thousands</i>							
Agency	Fiscal Year						
	2013	2014	2015	2016	2017	2018	2019
Police	\$ 156,600	\$ 245,665	\$ 274,279	\$ 303,927	\$ 328,385	\$ 262,782	\$ 237,505
Fire	23,436	138,281	51,699	21,286	43,543	26,347	19,670
H+H	124,066	131,692	127,142	131,882	118,936	122,329	130,994
Transportation	75,764	73,291	54,389	70,155	81,847	84,066	55,319
Sanitation	34,544	41,107	34,149	50,468	58,957	81,259	73,370
Education	37,680	34,871	42,442	44,952	45,799	40,772	46,077
Environmental Protection	4,042	19,852	20,731	5,718	8,884	15,420	15,759
Parks	30,923	19,266	15,096	12,253	14,712	20,118	29,931
Corrections	12,127	18,522	42,284	44,326	36,173	41,650	45,728
All Other Payments	25,301	9,674	17,393	35,001	13,113	35,639	51,398
TOTAL	\$ 524,483	\$ 732,221	\$ 679,604	\$ 719,968	\$ 750,349	\$ 730,382	\$ 705,751