



Law Department

CITY OF PHILADELPHIA

2019: A Year in Review





About the Law Department

The City of Philadelphia Law Department acts as general counsel for the entire City government structure. We provide legal advice to all City officials, employees, departments, agencies, boards, and commissions concerning any matter related to the exercise of their official powers. Our responsibilities include:

- Representing the City and its officials and employees in all litigation, including tort, commercial, employment, civil rights, affirmative, and code enforcement matters;
- Negotiating, drafting, and approving City contracts for commercial, real estate, and finance transactions;
- Collecting unpaid taxes, fines, and other debts owed to the City;
- Advising the City on compliance with regulatory law, including environmental, transportation, and public utility matters;
- Representing the City in social services matters, including child welfare and health matters; and
- Analyzing and drafting legislation for introduction in City Council.

We employ over 300 public servants—including approximately 225 attorneys and 100 professional staff. The department is led by the City Solicitor, who is appointed by the Mayor with the advice and consent of City Council.

Our mission is to serve the residents of Philadelphia by providing legal counsel of the highest quality to all City of Philadelphia officials, employees, departments, agencies, boards, and commissions. Our office proudly celebrates the rich diversity of our staff, the City's workforce, and the residents whom we serve.

The Executive Team of the Law Department:

CITY SOLICITOR

Marcel S. Pratt

FIRST DEPUTY CITY
SOLICITOR

Craig M. Straw

CHAIR, CORPORATE & TAX

Valerie M. Robinson

CHAIR, SOCIAL SERVICES

Clay Cauley, Sr.

CHAIR, LITIGATION

Diana P. Cortes

ADMINISTRATIVE SERVICES
DIRECTOR

Steve Ludovico

CHIEF OF STAFF TO THE
SOLICITOR

Andrew Richman

Letter from the City Solicitor

The Law Department's *Year in Review* presents an opportunity for our office to reflect on the many successes of the previous year. Most importantly, it allows us to share our success stories with our many stakeholders, including our clients across City government, members of the local legal community, and the residents of Philadelphia.

As one of the largest municipal law departments in the United States, we offer expertise in a wide range of subject matters and provide counsel on countless projects and initiatives. Looking back on 2019, several themes emerged from our biggest accomplishments. We vigorously protected *public health and safety*—whether responding to unexpected emergencies affecting the public welfare or working with City officials as they explored creative measures to address public problems. We supported the City's commitment to advancing economic, social, and racial *equity* through advising on cutting-edge initiatives and defeating legal challenges to our antidiscrimination laws and policies. And, we advised our clients on significant commercial transactions and economic development projects that amplified Philadelphia's reputation as a city of *innovation and growth*.

The success stories in this report are only possible because of the hard work and dedication of our talented lawyers and staff, who are highly valued in City government and recognized as leaders in the Philadelphia legal community.

Finally, we remain grateful to our clients—the many City officials, departments, boards, and agencies—for their tremendous support and confidence in our lawyers and staff.

Marcel S. Pratt

MARCEL S. PRATT, CITY SOLICITOR



Quick Facts

The Law Department has 15 units in 3 practice groups:

Litigation

Affirmative & Special
Litigation
Appeals
Civil Rights
Code & Public
Nuisance Litigation
Labor & Employment
Tort Litigation

Corporate

Commercial Law
Property Assessment
Real Estate &
Development
Regulatory Law
Tax & Revenue

Social Services

Child Welfare
Health & Adult
Services
HIPAA & Privacy Law

Legislation & Legal Counsel

(not in a practice group)

The Law Department has three department-wide committees:

- ▶ Diversity Committee
- ▶ Professional Development Committee
- ▶ Public Service Committee

The majority of our department leaders—practice group chairs and unit chiefs—are women; and the majority of our executive team is diverse.

In 2019, three Law Department attorneys received awards at the Annual International Municipal Lawyers Association Conference: Valerie Robinson, Rachel Rosser, and Ed Jefferson



Law Department attorneys are active leaders in the Philadelphia legal community as exemplified by the dedication of the following attorneys:

JULIE ASSIS

International Association of
Privacy Professionals
Advisory Board Member

CLAUDIA M. BECKER

Philadelphia Bar Association
*Executive Committee Member of
Real Property Section*

LAURA BONNINGTON

American Bar Association
*Advisory Board of Paralegal
Professional Certificate Program*

CLAY CAULEY

Philadelphia Bar Association
*Executive Committee Member of
Family Law Section*

MEGHAN CLAIBORNE

Philadelphia Bar Association
Board of Governors

ADAM COLEMAN

Philadelphia Bar Association
*Communications Officer of the
Executive Committee of the
Business Law Section*

DEBORAH CUNNINGHAM

Philadelphia Association
of Paralegals
Board of Directors

R. IAN EVANS

Philadelphia Bar Association
*Co-Chair of LGBTQ Rights
Committee*

BRADFORD HAM

Philadelphia Bar Association
*Co-Chair of Government & Public
Service Lawyers Committee*

MEGAN HARPER

Philadelphia Bar Association
*Co-Chair of the Bankruptcy
Committee*

EUGENE HSUE

Philadelphia Bar Association
*Vice-Chair of Government
and Public Service Lawyers
Committee*

KIA GHEE

Foundation of the National
Bar Association–Women
Lawyers Division
Recording Secretary

JOANNA KLEIN

Philadelphia Bar Association–
Young Lawyers Division
Executive Committee Member

PATRICK O'NEIL

Delaware Valley
Environmental Inn of Court
Membership Committee

LINDA MEDLEY

Foundation of the National
Bar Association–Women
Lawyers Division
Board Member

MARISSA O'CONNELL

Philadelphia Bar Association
Tax Section Council

NDIDIAMAKA ONEJEME

Barristers' Association of
Philadelphia
Scholarship Committee Member

JULIA PARK

Asian Pacific American Bar
Association of Pennsylvania
Board of Directors

RAINA YANCEY

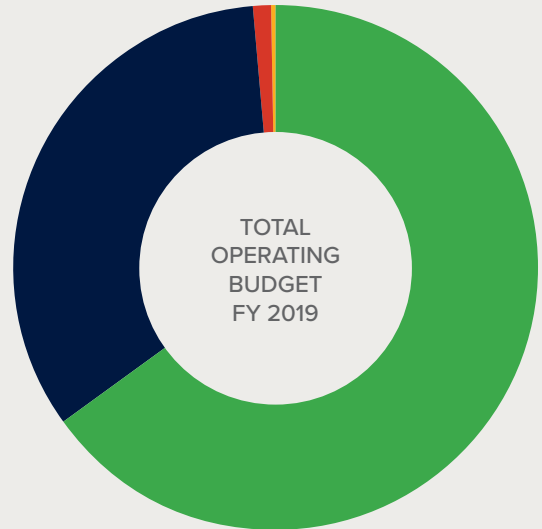
Barristers' Association
Scholarship Committee Member

By the Numbers

TOTAL OPERATING BUDGET

\$21.19 million

- PERSONAL SERVICES (SALARIES)
\$13.8 million
- PURCHASE OF SERVICES
\$7.1 million
- MATERIALS AND SUPPLIES
\$241K
- EQUIPMENT
\$50.5K



\$50.7 million

Delinquent real estate taxes collected by the Tax

& Revenue Unit; **\$37.7 million** in other delinquent taxes, and **\$10.2 million** in delinquent water debt in FY 2019.



\$3.35 million

Fines, fees, and court costs collected by the Code & Public Nuisance Litigation

Unit. In addition, the Code & Public Nuisance Litigation Unit obtained **\$4.53 million** in judgments for outstanding fines, fees, and court costs.

6,079

CODE ENFORCEMENT CASES litigated in FY 2019

6,932

Cases handled by the HEALTH AND ADULT SERVICES UNIT in FY 2019

\$50.25 Million



Amount the City expended on claims, settlements, and judgments in FY 2019

225

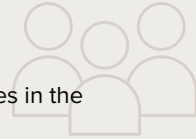
Number of attorneys in the Law Department

2,397

Total number of Right To Know Requests processed in 2019

347

Total Number of employees in the Law Department



3,826

Number of CLE Hours awarded through in-house training programs



42%

Percentage of Law Department employees who identify as racially diverse

150

Real estate transactions closed by the Real Estate & Development Unit in FY2019 with square footage amounts in excess of **1.5 million square feet**, valued at nearly **\$35 million**

\$948 Million

Value of bond transactions completed in 2019



\$14.65 Million

Affirmative litigation recoveries





Impact Issues

The Law Department works at the forefront on many issues that have a significant impact on the health, safety, and equity for Philadelphia residents. This year was no exception, and the work described below showcases some of the high-impact issues that we worked on.

Hahnemann Closure & Bankruptcy

In late June, the sudden closure of Hahnemann University Hospital presented the City with a dire public health emergency. On behalf of the Department of Public Health (DPH), we took immediate legal action in state court to ensure that Hahnemann's closure was conducted in a safe and orderly manner. We succeeded in obtaining a preliminary injunction prohibiting Hahnemann from closing or reducing emergency room services without a closure plan authorized by the City's Health Commissioner. Throughout Hahnemann's bankruptcy process, the Law Department vigorously represented the City's legal interests, including ensuring that public safety remained a priority, protecting the City's priority lien position on the hospital real estate which was threatened by the hospitals' proposed financing agreement and giving the City a voice during the sale of St. Christopher's Hospital for Children. Through these efforts and others, we supported DPH's goal to ensure continuity and quality of care. We also drafted legislation that provides the City with more tools to address future hospital closures.

PES Refinery Explosion

Following the PES refinery explosion on June 21, 2019, the Law Department supported the City of Philadelphia's Managing Director and the City's Refinery Advisory Group during PES's subsequent bankruptcy. Law's work ensured the City's goals of maintaining an environmentally safe and protective plan for the remediation of the Sunoco-owned portions of the refinery site were being met. Attorneys from the Regulatory Law Unit also worked to counsel Air Management Services regarding the response actions to the refinery explosion; provided staffing to the Refinery Advisory Group (RAG); attended public meetings and assisted in the editing of the RAG report.

Wells Fargo Fair Housing Settlement

The City of Philadelphia and Wells Fargo Bank agreed to a settlement of the litigation *City of Philadelphia v. Wells Fargo & Co., et al., No. 2:17-2203-AB (E.D. Pa.)*. In the lawsuit brought by the City of Philadelphia against Wells Fargo, the City alleged that Wells Fargo originated residential mortgage loans to minority borrowers in Philadelphia in violation of the Fair Housing Act. The City and Wells Fargo reached a settlement agreement under which the company will contribute \$10 million for sustainable housing-related programs to promote and preserve home ownership for low-and moderate-income residents in the following manner:

- \$8.5 million will be used to provide grants for down payment and closing cost assistance to low- and moderate- income persons and households purchasing homes within the City.
- Another \$1 million will be divided among up to three non-profit organizations that implement the City's Residential Mortgage Foreclosure Prevention Program.
- An additional \$500,000 in grants will be available to the City's land care program, aimed at revitalizing vacant land through clean-up and greening efforts.
- Finally, the City and Wells Fargo will collaborate to conduct a program entitled "Understanding Philadelphia" for employees who work at Wells Fargo Home Mortgage in the Philadelphia community, and will include City and PHDC officials and external subject matter experts.

Purdue Pharma Bankruptcy

Purdue is the manufacturer of Oxycontin and a significant contributor to the current opioid crisis. On September 15-16, 2019, Purdue Pharma and its affiliated

The City is involved in three high profile bankruptcies—Hahnemann University Hospital, the Philadelphia Energy Solutions refinery, and the attempt to reach a national opioid settlement with Purdue Pharmaceuticals. **Megan Harper** and **Pamela Thurmond**, the responsible attorneys, are able to bring not only years of bankruptcy experience, but also a deep understanding of and vigorous advocacy for the City’s non-financial interests in those important controversies.”

—FRANCES BECKLEY—CHIEF REVENUE COUNSEL, LAW DEPT.

companies filed for bankruptcy protection in White Plains, NY. Representatives from the Law Department serve as the City’s representative to the Ad Hoc Committee (“AHC”) of supporting governmental entities and other claimants. At an early stage of the bankruptcy proceedings, the AHC has achieved significant milestones, including finalization of a Summary Term Sheet providing for, among other things: (1) the entirety of the Purdue companies to be turned over to a public benefit trust for the benefit of all claimants; and (2) for its owners to exit the domestic and international opioid markets and contribute at least \$3 billion to the settlement framework.

Wage Equity

Following rigorous litigation spanning 2018 and 2019, the Court of Appeals for the Third Circuit reinstated the City’s law banning employers from asking for job applicants’ salary history (the “Wage Equity Ordinance”), an effort by the City to help close the undisputed wage gap for women and people of color. In 2018, the federal district court issued a preliminary injunction finding that the City failed to meet its evidentiary burden under the First Amendment to justify banning salary-history inquiries. The Third Circuit disagreed, finding that the City made a reasonable judgment, based on substantial evidence, that a salary history ban would further the City’s goal of closing the pay gap and combatting the discrimination inherent in disparate wages. The case had national implications; following the passage of Philadelphia’s law in 2017, jurisdictions across the country passed similar legislation. *Greater Phila. Chamber of Commerce v. City of Phila.*, No. 18-2175 (3d Cir. Feb. 6, 2020).

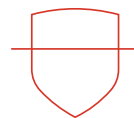
Lost & Stolen Gun Litigation

In November of 2019, the Law Department filed the first enforcement action of the City’s Lost or Stolen Firearm Ordinance, which requires that owners of firearms promptly



report missing weapons to the Philadelphia Police Department. The enforcement action came about after collaboratively working with our law enforcement partners in the Philadelphia District Attorney’s Office, the Philadelphia Police Department, and the Managing Director’s Office.

The Lost or Stolen Firearm Ordinance seeks to improve public safety by focusing on the accountability and behavior of gun owners when they no longer possess their guns. It requires that lost or stolen guns be reported to police within 24 hours after discovering the loss or theft. The sooner the Police Department is notified of a missing firearm, the more likely the weapon can be taken off the streets and prevented from being used in a subsequent crime. The Commonwealth currently has no law requiring the reporting of lost and stolen guns.



Success Stories

The Law Department helped our clients achieve major victories in 2019 that will have lasting impacts for the City and its residents. Here are some of these successes and updates on other significant projects and litigation that we worked on:

LITIGATION VICTORIES FOR LABOR & EMPLOYMENT

The Labor and Employment Unit secured defense verdicts in 5 jury trials and had 2 wins before the Pennsylvania Labor Relations Board on challenges to different Police Department policies (restrictions regarding tattoos and body art and Directive 10 regarding use of force).

APPELLATE SUCCESS

The Appeals Unit was successful in overturning two major verdicts in Pennsylvania's Commonwealth Court. In *Allen v. City of Philadelphia*, the court overturned a large verdict in a whistleblower action and in *Degliomini v. ESM Prods., Inc.*, a multi-million dollar verdict was reversed in a tort litigation matter.

IMPROVING TIME FOR ADOPTIONS

The Child Welfare Unit implemented a new targeted approach and policy to reduce the time it takes for children to be adopted. This approach led to an almost 40% reduction in the number of children waiting to be adopted, from 1,600 to just slightly over 1,000.

ANTIDISCRIMINATION IN FOSTER CARE

In *Fulton v. City of Philadelphia*, the Court of Appeals for the Third Circuit affirmed that the City has the right to require contractors who provide City-funded child welfare services to comply with its non-discrimination requirements. Thus, Catholic Social Services could not demand a religious exception to avoid working with qualified same sex couples because of its religious objections. The U.S. Supreme Court granted certiorari recently and will hear the case next term.

Bartram Gardens



TAX SEQUESTRATION SUCCESS

The Tax and Revenue Unit's sequestration programs crossed the \$100 million mark for Real Estate Tax collected in December, 2019, five years after it was re-introduced as an enforcement strategy. The Real Estate Sequestration process allows the City to collect commercial real estate revenues in the form of rent and put the money towards the unpaid real estate taxes. Most recently, the Tax and Revenue Unit has collected more than \$3 million in past due water debt after expanding the sequestration program in March 2019.

SOLAR POWER PURCHASE AGREEMENT

The Regulatory Law Unit provided the legal services for the City's purchase of 22% of current electricity requirements from solar energy. The City has committed to a fixed price 20-year contract at very competitive rates that ensures major progress toward the City's goal of using renewable resource generation for all the City's electricity. The electricity will be produced at an 800 acre "solar farm" which will be the largest solar installation in Pennsylvania.

SALE OF NE PHILADELPHIA AIRPORT LAND

The Regulatory Law Unit's Transportation Division helped the City structure a deal in August, 2019 to sell approximately 8.36 acres of land located at Northeast Philadelphia Airport to an affiliate of The Union League of Philadelphia. Part of the work on this transaction included securing a deed of release from the Federal Aviation Administration and placement of an aviation easement on the property.

COBBS CREEK RESTORATION

The Real Estate & Development Unit completed a long-term lease to the Cobbs Creek Restoration and Community Foundation (Foundation) in June of 2019. Under the lease, the Foundation will perform \$25 million dollars of improvements to the City's Cobbs Creek Golf Club to raise it to the quality standard of the best public courses in the country. Additionally, the lease commits the Foundation to undertake significant community benefit programs, including: supporting golf programs at West Philadelphia high schools; hiring and training students in high-level landscape management, agronomy, and golf course management; charging reduced fees to Philadelphia residents; and providing a college scholarship program.

BARTRAM GARDENS / HORSE STABLE TRANSACTION

The Real Estate & Development Unit drafted a first-of-its-kind license agreement for the renowned Concrete Cowboys of Southwest Philadelphia (CCSWP) to locate a temporary two-horse stable on a portion of Bartram's Mile. The Law Department also drafted a Memorandum of Understanding with our nonprofit partner, the John Bartram's Association (JBA) under which JBA will ensure that the stable supports community programs and is operated in accordance with the license. These transactions are significant because horseback riding through the streets is a uniquely Philadelphia tradition. However, as the City rapidly grows and changes, we are tasked with finding creative ways to balance development and cherished traditions.

FRAUDULENT CONVEYANCE TASK FORCE

The Real Estate & Development Unit's members are active participants in the Fraudulent Conveyance Task Force, created under the auspices of the Philadelphia Bar Association, which was reconvened in 2019. Charged with finding an array of legal and administrative solutions to the unique crime of deed and mortgage fraud, the Task Force brings together stakeholders throughout the City and Commonwealth. The Task Force is seeking to identify those areas of the system that are vulnerable to fraud and to offer recommendations to bolster the system while balancing the need to have an efficient system that the citizens and businesses of Philadelphia can rely upon when buying and selling real estate.

VRDO ANTITRUST

In February 2019, the City filed a federal class action lawsuit against seven banks, alleging that from 2008 through 2016 the banks colluded to fix the prices of and manipulate the market for variable rate demand obligations ("VRDOs"), a form of floating rate bonds frequently used by municipalities such as the City to finance public works. VRDO issuers contract with banks to act as remarketing agents, and the issuers pay them fees to reset the interest rate at the lowest possible rate each week given market conditions, and to actively remarket VRDOs tendered by investors to other investors at the lowest rate. The suit alleges that instead, the banks kept rates artificially high by agreeing not to compete against each other. As a result, VRDO issuers such as the City were required to pay above-market interest rates for years and had less funding available for critical projects and services.

VISIONQUEST LITIGATION

The Code & Public Nuisance Litigation Unit and the Appeals Unit worked together to ensure that a facility which was going to house unaccompanied immigrant youths obtained proper zoning permits. These Units defeated the facility's attempts to bypass the zoning requirements in Federal Court, before the Zoning Board of Adjustments, the Court of Common Pleas and Commonwealth Court. These Units' combined efforts ensured that the facility did not open in violation of the zoning requirements in Philadelphia. The case is currently on appeal.

NUISANCE BUSINESSES

The Code & Public Nuisance Litigation Unit increased its enforcement efforts against long-standing nuisance businesses. Those efforts have directly led to the closure of nuisance hotels, stop-and-go's, and other businesses that were being improperly used to conduct criminal activity.



Solar bill signing



Raina Yancey, Commercial Law Unit

PROFESSIONAL DEVELOPMENT

- In addition to our annual summertime CLE, the Law Department continues to host and promote additional learning opportunities throughout the year. The highlight of our in-house training this year was the presentation of the comprehensive history of African American Lawyers in Philadelphia by Raina Yancey of the Commercial Law Unit. Raina's presentation detailed how African American lawyers in Philadelphia overcame tremendous obstacles, fought relentlessly against racial injustice, and achieved extraordinary success in the legal profession. Raina's passion for showcasing her extensive historical research made this CLE a resounding success.
- Four attorneys, Adam Coleman, Katie Holland, MJ Markle and Laurice Smith participated in Drexel University's 2019 Leading for Change Fellowship. The Fellows were selected by Drexel University through a selective process including essays, recommendations, and interviews. The Leading for Change Fellowship is an intensive and experiential leadership development 12-month program that integrates the latest insights in business, leadership, public policy and innovation to strengthen leadership capacity and networks among

Q&A

WITH CHAIR OF THE SOCIAL SERVICES GROUP Clay Cauley, Sr.

Clay Cauley, Sr. joined the Law Department as the Chair of the Social Services Group in September 2018.

Before joining the Law Department Clay worked as a Hearing Officer in West Chester, Pa. Clay was responsible for hearing dependency matters to include but not limited to adjudicatory hearings and permanency reviews and resolving contested custody disputes.

What does success look like for the Social Services Group in 2020?

In my office I keep reminders posted on a board with the words “vision”, “excellence”, “punctual”, “improve data analysis”, and “efficient”. My goal for the Social Services Group is to continue to exhibit excellence in all that we touch. Whether it is a brief, a matter to be litigated, or providing a legal opinion to a client, I want to not only meet expectations but exceed expectations. In 2019, I drove a big initiative to have our practice groups memorialize the data that reflects the hard work that they do on a daily basis. Along with DHS, we focus on finding permanent homes for children. In 2019 there were 966 finalizations versus 880 finalizations in calendar year 2018. In 2020, I will continue utilizing data to identify areas for improvement.

How is the Law Department looking to expand its HIPAA and Privacy practice?

The HIPAA and Privacy practice, despite having the fewest attorneys in the Social Services Group, remains extremely busy addressing the City’s privacy concerns and implementing comprehensive strategies. Part of our goal is to increase responsiveness from our partners to mandatory online training of HIPAA and privacy policies. We will continue to promote the need to report incidents and provide timely feedback. In order to improve efficiency in 2020, we are expecting to roll out a new online submission process to centralize requests from clients.

What do you find most rewarding about your role?

There is a certain amount of joy that comes with knowing what I do on a daily basis and the decisions made will hopefully make someone’s life a little brighter. Whether it is a dependent child, a person needing mental health treatment intervention, or a person not yet born that will benefit from a policy decision.



What ways have you engaged new attorneys and staff in the Unit?

Part of my focus has been staff engagement, increasing proficiencies and professional development. Due to having a very large staff comprised of three distinct units, my first charge was to learn everyone’s name. Beyond names, I tried to learn something about everyone and, more importantly, to share some things about myself. Being a leader and sharing too much can create some vulnerabilities, but the traction that you gain by being available, accessible, and transparent outweighs any downside.

What are the most influential books you read in 2019?

Two of the most interesting and insightful books that I have read in 2019 were *Fans! Not Customers*. *How to Create Growth Companies in a No Growth World* by Vernon Hill and *Never Eat Alone: And Other Secrets to Success, One Relationship at a Time* by Keith Ferrazzi .

My big take-away from Hill’s book is that you really should focus your energy on being amazing every day and devoting time to exceeding client expectations. Keith Ferrazzi’s book reinforced the idea that we learn from our mistakes.

Favorite movie: E.T.

Goals for 2020

○ **Build on Diversity and Inclusion Efforts**

The Law Department will participate in the Mansfield Rule Legal Department Edition, a national certification process recognizing the department's commitment to Diversity and Inclusion efforts. As a result, the Law Department will consider at least 50% historically underrepresented lawyers for 70% or more of its leadership positions.

The Law Department will continue to work to increase contracting with M/W/DSBE firms and will continue its practice of encouraging firms who do not qualify as M/W/DSBE to assign minority partners and associates to City contracts through its outside counsel policy.

○ **Affirmative Litigation**

The Law Department will continue to identify affirmative litigation opportunities to advance the City's policy and legal interests, combat systemic public nuisances, and challenge any conduct of any entity that threatens public welfare, health or safety.

○ **Risk Mitigation**

The Law Department will continue implementation of its Action Review Policy, which utilizes our experiences and lessons from litigation to proactively counsel City clients on strategies for risk management and limiting legal liability in the future.

○ **New Case Management System**

In 2020, the Law Department will explore ways to upgrade its Case Management System in order to better track and report on litigation, centralize storage of attorney work product, analyze data, and increase efficiency for drafting legal pleadings, contracts, memoranda and other legal documents.

○ **Minimize the Funds Spent on Outside Counsel**

The Law Department will continue to minimize outside counsel fees by limiting contracting to circumstances involving legal conflicts or requiring specialized expertise. Last year, the Law Department spent \$473,370 less on outside counsel fees than it did the previous year.

○ **Continue to Build Leaders in the Legal Community**

The Law Department will continue pursuing its initiative to raise its professional profile in the City and legal community through: increased membership and participation in local bar and affinity organizations; improving the Law Department's web presence; and generating informative materials about the Law Department.

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phila.gov/law





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