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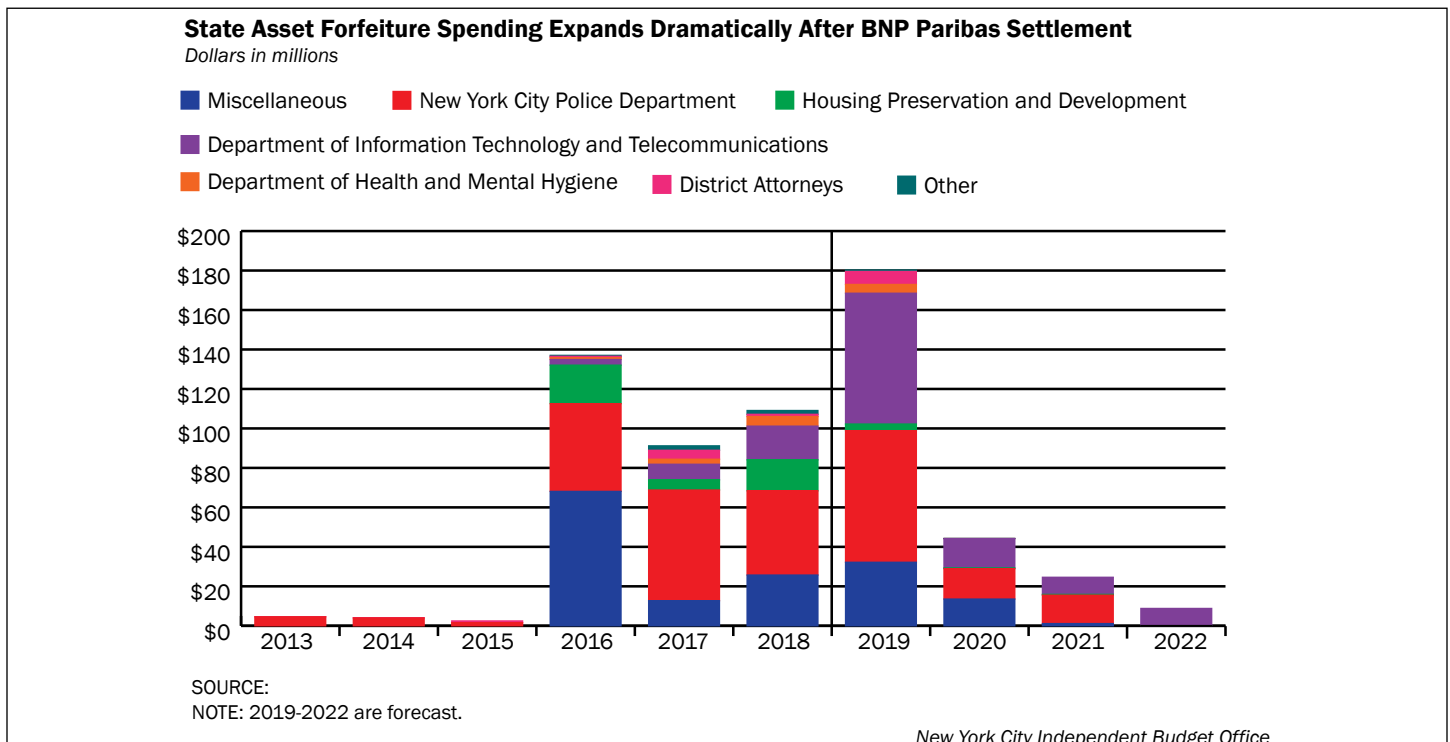
City Still Spending Asset Forfeiture Funds From the 2015 BNP Paribas Settlement

In May 2015 the French bank BNP Paribas agreed to a plea agreement related to its violations of the International Emergency Economic Powers Act and the Trading With the Enemy Act. As part of the settlement BNP Paribas would pay nearly \$8.9 billion in criminal penalties, including nearly \$900 million directly to New York City—\$449 million to the Manhattan District Attorney and \$446 million to the city budget. Roughly \$330 million of these combined funds have been spent so far, about \$195 million is budgeted for spending by 2022, and nearly \$400 million remains unallocated.

The settlement funds from BNP Paribas were deposited into interest bearing trust and agency accounts, fiduciary funds that are administered by New York City but are held separate from general fund revenues. According to state

statute, asset forfeiture dollars are restricted for use “to enhance law enforcement efforts” (CPLR § 1349 (3)) and can only supplement rather than supplant funding for regular budgetary needs like employee salaries. The Equitable Sharing Program, a similar program covering federal asset forfeitures administered by the U.S. Department of Justice, includes [extensive guidelines](#) on how funds can be used and requires annual disclosures. In contrast, for funds seized under state law, local agencies are only required to annually disclose [total funds forfeited](#), not how those funds are eventually spent. (IBO detailed the District Attorney’s use of federal asset forfeiture funds from 2011-2016 [here](#).)

An Off-Budget Windfall. The BNP Paribas settlement represented a substantial windfall for the city. Prior to the



settlement, from 2001 through 2015, the city spent a total of only \$68 million in state asset forfeiture funds (all years are city fiscal years). From 2016 through 2018, the city spent \$337 million of state asset forfeiture funds, and it plans to spend another \$194 million of these funds from 2019 through 2022.

There are some differences when it comes to recognizing and spending asset forfeiture funds in the city's operating budget. They are held in trust by the New York City Comptroller in off-budget trust accounts until the Mayor's Office of Management and Budget requests the transfer of funds to active accounts. When transferred they are recorded as state revenue. These transfers can happen retroactively, after the close of the fiscal year and after programs have already been implemented. The transfers are not subject to City Council approval, thereby removing the funds from the regular appropriation process.

Of the \$589 million spent or planned to be spent from 2016 through 2022, \$233 million is dedicated to expenditures for the New York City Police Department (NYPD). The city's Department of Information Technology and Telecommunications will receive \$126 million of settlement funds during this period, Department of Housing Preservation and Development \$45 million, and \$154 million is allocated to a miscellaneous section of the budget. The city has tended to "over-plan" for the current fiscal year's expenditures and roll funds forward to subsequent years. If this pattern continues, IBO expects that the city will spend considerably less than the \$180 million planned for 2019 and spending planned for future years will rise.

Much of the forfeiture funds allocated for miscellaneous expenditures, as well as portions of the non-NYPD agency spending, are dedicated to programs under the administration of the Mayor's Office of Criminal Justice (MOCJ). MOCJ distributed approximately \$106 million of asset forfeiture funds to city agencies and contractors for criminal justice-related projects from 2016 through 2018, and plans to spend another \$47 million from the current fiscal year through 2022.

The New York City Housing Authority received \$56 million in asset forfeiture funds from 2016 through 2018, of which \$16 million came from MOCJ. The housing authority has spent nearly \$5 million of these funds studying the effects of temporary lighting on crime rates as part of the Mayor's Action Plan for Neighborhood Safety (MAP). Among other MAP priorities, the Department of Youth

and Community Development has received \$750,000 of asset forfeiture funds for the Summer Youth Employment Program and around \$1 million has been spent by the NYPD and Department of Social Services on programs to combat domestic violence. The city has also spent roughly \$2.2 million on studies related to supervised release, case processing, and bail risk assessment. Many of these programs are funded on an ad hoc basis, making it difficult to predict whether they will remain priorities until they appear in future financial plans.

The NYPD has come to rely heavily on asset forfeiture funding to purchase a variety of equipment. Slightly less than 10 percent of the NYPD's 2019 budget for other than staffing costs (and 15 percent of city-funded expenditures) is funded by asset forfeiture revenue. Sixty-five percent (\$93 million) of BNP Paribas asset forfeiture funds spent to date and 86 percent (\$83 million) of these funds budgeted for the police department through 2022 are dedicated

Use of Asset Forfeiture Funds, 2016-2022		
<i>Dollars in millions</i>		
	2016-2018 Spending	2019-2022 Planned Spending
New York City Police Department		
IT, Mobile Upgrades	\$93.0	\$83.0
Fleet Upgrades	29.5	5.9
Equipment Purchases	4.6	3.0
Reimbursable Overtime	8.3	0.8
Training	1.8	1.9
Other	1.5	0.0
Agency Subtotal	\$138.6	\$94.7
Miscellaneous		
MOCJ-Payments to Agencies	\$89.5	\$44.7
MOCJ-Payments to NYCHA	15.8	0.0
MOCJ-Outside Contracts	1.3	2.3
Agency Subtotal	\$106.6	\$47.0
Department of Information Technology and Telecommunications		
Cybersecurity	\$21.3	\$36.4
MOCJ-Ecology of Justice	6.5	62.0
Agency Subtotal	\$27.8	\$98.4
Housing Preservation and Development		
NYCHA Lighting Upgrades	\$40.4	\$4.2
All Other Spending	\$20.0	\$11.8
Total Spending	\$333.4	\$256.1
SOURCE:		
<i>New York City Independent Budget Office</i>		

to upgrading software and purchasing new smartphones and mobile devices. An additional \$29 million has been spent and \$6 million planned for ballistics upgrades for the NYPD fleet. The Technical Assistance Response Unit, which provides surveillance and investigation assistance, received \$4 million, a portion of which was used for the purchase of a fleet of surveillance drones. Nearly \$4 million (1.5 percent) of the funds are allocated for crisis intervention and other professional training, of which about half has been spent. The remainder has mostly been allocated for reimbursable overtime, personnel training,

and smaller grants to the Domestic Violence Unit and overdose prevention efforts.

After a review of actual transfers recorded in the city's Financial Management System and including spending planned through 2022, IBO estimates that of the original \$895.5 million received by the Manhattan District Attorney and New York City, plus accrued interest, \$395.2 million remains unallocated.

Prepared by Robert Callahan

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