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Report to the Committee on Finance and the Committee on Justice System on the
Fiscal 2021 Executive Budget for the

Human Resources Administration's Office of Civil Justice

May 18, 2020

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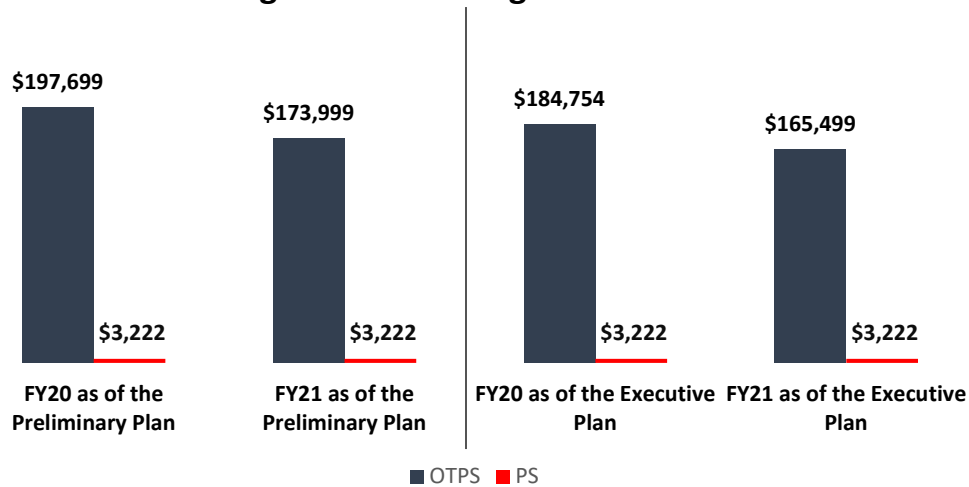
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Office of Civil Justice Overview

The Office of Civil Justice (OCJ or the Office) advises and assists the Administration in understanding and meeting the civil legal service needs of low-income New Yorkers. HRA’s Office of Civil Justice oversees the provision of free civil legal services to New Yorkers in need, including tenants facing eviction, immigrant New Yorkers in need of deportation defense and other services, access to benefits, support for survivors and victims of domestic violence, assistance for veterans, and other legal assistance for tenants in need.

This report presents an overview of the portion of the HRA budget that supports the Office of Civil Justice. The first section reviews the Fiscal 2021 Executive Budget for civil legal services with a discussion of the changes included in the Executive Financial Plan. The report then describes the impact of COVID-19 on civil legal services. Finally, the report provides an overview of the City Council’s initiatives that OCJ oversees.

Legal Services Budget Overview



The number of confirmed COVID-19 cases increased rapidly throughout New York during March 2020, leading to emergency declarations and a citywide shutdown of nonessential businesses and services as part of a concerted public health response. As a result, New York City faced precarious budget shortfalls that have led to widescale cuts across the City’s agencies. Compared to the Preliminary Budget just three months ago, the City is facing an \$8.7 billion budget shortfall in Fiscal 2020 and 2021 due to the pandemic. The Executive Plan is balanced with a \$2.7 billion Program to Eliminate the Gap (PEG), roughly \$2 billion in Federal aid, and use of \$4 billion in reserves.

COVID-19 has three direct impacts on OCJ and its service provision. In the Executive Plan, OCJ’s budget for anti-eviction services, which includes its Universal Access to Counsel program, is reduced by \$20 million over Fiscal 2020 and 2021 as a result of the PEG. As a percentage of the City’s total \$2.7 billion PEG initiative, OCJ’s portion makes up approximately less than one percent, but it is five percent of OCJ’s total legal service contract budget in Fiscal 2021. Second, Statewide and Citywide restrictions on non-essential services, social distancing, and changes to Court operations are having a direct impact on the day to day work of legal services providers contracted through OCJ. Finally, the deepening economic crisis accompanying the pandemic directly impacts OCJ providers who make up important components of the City’s social safety net.

The table below provides actual expenditures for Fiscal 2018 and Fiscal 2019, the Fiscal 2020 Adopted Budget, and the Fiscal 2020 and 2021 Budgets as of the Executive Plan for OCJ.

Legal Services Financial Plan Summary						
<i>Dollars in Thousands</i>						
	FY18	FY19	FY20	Executive Plan		*Difference
	Actual	Actual	Adopted	FY20	FY21	FY20-FY21
Spending						
Personal Services	\$0	\$0	\$3,222	\$3,222	\$3,222	\$0
Other Than Personal Services	120,977	161,555	192,405	184,754	165,499	(26,906)
TOTAL	\$120,977	\$161,555	\$195,627	\$187,976	\$168,721	(\$26,906)
Funding Source						
City Funds			\$152,482	\$144,831	\$121,322	(\$31,160)
Federal - TANF			40,021	40,021	44,275	\$4,254
Intra City			3,125	3,125	3,125	\$0
TOTAL	\$120,977	\$161,555	\$195,627	\$187,976	\$168,721	(\$26,906)
Headcount						
Full Time Positions			56	56	56	0
TOTAL			56	56	56	0
<i>*The difference of Fiscal 2020 Adopted Budget compared to Fiscal 2021 Executive Budget.</i>						

Overall Budget and Headcount Changes

- **Overall Budget.** The Fiscal 2021 Executive Budget for legal services totals \$168.7 million of which \$165.5 million supports 77 contracts. The remaining \$3.2 million supports the Office's headcount of 56 positions. OCJ's Fiscal 2021 budget decreased by \$27 million when compared to the Fiscal 2020 Adopted Budget. When the budget was adopted in June, OCJ's Fiscal 2021 budget was projected to be \$169.6 million. The Plan lowers that projection by approximately \$1 million. Of note, the Fiscal 2021 Budget does not include the City Council's discretionary funding which is recognized at adoption to support additional legal service contracts.
- **Headcount.** OCJ's budgeted headcount remains unchanged in this Plan at 56 positions.
- **Funding Source.** City tax-levy supports the majority, or 72 percent, of OCJ's budget. Federal Temporary Assistance for Needy Family (TANF) funds make up \$44 million, or 26 percent, of OCJ's budget in Fiscal 2021. TANF funding for OCJ increased by \$4 million in this Plan.
- **PEG.** In total, the PEG reduces OCJ's budget by \$20 million across Fiscal Years 2020 and 2021. In Fiscal 2020, OCJ's PEG is \$11.5 million, which is eight percent of its City tax-levy funding and six percent of its total budget. In Fiscal 2021, OCJ's PEG is \$8.5 million, which makes up seven percent of its City tax-levy and five percent of its total budget. PEG savings stem from funds that were unallocated as a result of provider hiring delays. According to providers and OCJ, because this money was unallocated it will not have an impact on the contracts.

Impacts of COVID-19 on Civil Legal Services

The onset of the COVID-19 pandemic has led to programmatic and operational changes for legal services providers. The following section will discuss the ongoing public health crisis, the growing economic crisis and the implications for providers contracted through OCJ.

Anti-Eviction Services

- **Anti-Eviction Services Programs.** OCJ's anti-eviction program contains five programs, including the Homelessness Prevention Law Project, which is the umbrella program for contracts associated with Universal Access to Counsel.
 - The Homelessness Prevention Law Project (HPLP)
 - Universal Access to Counsel
 - Anti-Harassment Tenant Protection (AHTP)
 - Housing Help Program
 - Assigned Counsel Project for Seniors (ACP)
- **Remote Services.** Providers are now offering legal services remotely. Before COVID-19, a number of providers maintained hotlines for legal assistance, guidance, and support. These hotlines have seen increased use and providers have expanded their availability. Apart from hotlines, providers have set up designated COVID-19 resource webpages, factsheets, and townhall events.
- **Court Operations.** As of March 22, 2020 virtual court operations began for New York City's Family Court and Criminal Court, and New York City Civil Court started hearing essential or emergency applications. Essential business in Housing Court includes landlord lockouts, serious code violations, serious repair orders, and post-eviction relief applications. The New York State Unified Court System, which includes the Supreme Civil and Criminal Courts, Family and Surrogate Courts, as well as some specialized court parts, are using Skype Business for all virtual court operations. As of April 13, 2020, New York City Civil Court began hearing selected non-essential cases and virtual court operations continue to expand to include non-essential functions.
- **Eviction Moratorium.** As of March 16, 2020 all eviction proceedings and pending eviction orders were suspended statewide until further notice. The moratorium suspended all pre-existing orders and any court dates for eviction were postponed indefinitely. Executive Order 202.28, signed on May 7th, extended the eviction moratorium to August 20 in certain circumstances. The moratorium continues to apply for tenants who are receiving unemployment benefits or who can document financial hardship due to the COVID-19 pandemic. Executive Order 202.28 also prevents landlords from bringing non-payment cases against those who can document financial hardship due to COVID-19. Landlords are now prevented from charging late fees for rent owed between March 20th and August 20th. The Executive Order also now allows tenants to apply their security deposits to rent if they replenish the security deposit over the following year.
- **NYCHA and Section 8 Termination Proceedings.** Residential evictions are also suspended for NYCHA residents and the Office of Impartial Hearings was closed until at least April 17th.

Termination proceedings for Section 8 tenants in NYCHA properties are suspended until at least May 15, 2020.

Immigration Services

Individuals without legal authorization to live in the United States, (those with expired visas or those who entered the United States without doing so through formal immigration processes) often have inadequate legal representation and face a myriad of barriers and fear of removal when seeking legal representation.

- **Deportation Defense Programs.** OCJ's deportation and immigration legal services array includes a variety of programs within the Deportation Defense and Anti-Eviction Services budget.
 - Immigration Opportunity Initiative/ Deportation Defense (IOI)
 - ActionNYC
 - Community Services Block Grant Funded Legal Services (CSBG)
 - Legal Services for Immigrant Survivors of Domestic Violence
 - New York Immigrant Family Unity Project (NYIFUP)

- **Immigration Operations.** On April 22, 2020 entry to the United States was suspended for certain people seeking to become lawful permanent residents. This suspension is set to expire after 60 days. In addition, all immigration court proceedings involving individuals who are non-detained are postponed through May 29, 2020. Detained cases are proceeding by video. Remarkably, although some proceedings and hearings are suspended, United States Citizenship and Immigration Services (USCIS) filing deadlines are not postponed. Providers continue to provide services and assistance with these filings. As detaining operations are still taking place, providers continue to serve clients in their hearings.

Other Legal Services

- **Benefits Assistance.** In mid-April, the New York State Department of Labor (DOL) reported the largest drop in private sector jobs since 2009. As a result, there has been increased pressure on the State's unemployment insurance and other benefits programs that support families. Legal services providers assist with filing for unemployment benefits, accessing Supplemental Security Income (SSI), and applying for health coverage under New York State of Health's special enrollment period. In addition, legal services providers can support individuals in accessing unemployment insurance if their claims have been denied. Providers have also reported increasing cases involving food insecurity and shortages of products for mothers, babies, and young children at food pantries and other distribution sites. Providers are attempting to address these shortages by assisting with waiver applications for certain federal benefits programs. They have also reported increases in application assistance for Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), which still requires in-person application at the Department of Health.

- **Worker Support.** Legal services providers maintain a wide range of supports for workers, particularly low wage workers. These resources include determining eligibility for City, State, and federal worker protection programs; accessing emergency paid sick time; and supporting gig workers in their efforts to gain protections.

- **General Assistance.** Legal service providers contracted through OCJ also provide broad assistance for New Yorkers facing economic hardship. The emergency response to COVID-19 has altered student debt payment regulations, mortgage payments, foreclosures, and utility payments, among other things. There has been increased demand on legal services providers to help navigate these changes and access resources through the social safety net.

Budget Issues

The following section describes two issues and concerns pertaining to OCJ's Fiscal 2021 Executive Budget.

- **Universal Access to Counsel Expansion.** Before the onset of COVID-19, the Universal Access to Counsel program was in the third phase of a staggered implementation plan. In phases, OCJ will add zip codes in which low income New Yorkers are eligible for full legal representation by OCJ providers in Housing Court. Full implementation is scheduled for Fiscal 2022, when any low income New Yorker will be guaranteed access to legal representation or counseling irrespective of zip code. As mentioned above, cuts to the Office's Anti-Eviction Services Budget included in the Executive Plan's PEG were described as savings associated with delays in provider hiring. If providers struggle to fill positions while the program is not fully implemented, this could raise concerns about a mismatch between provider capacity and the program's planned expansion next fiscal year.
- **City Council Initiatives.** In Fiscal 2020, the Council added approximately \$34 million to HRA's budget for eight civil legal services initiatives, an increase of 36 percent compared to \$25 million in Fiscal 2019. These initiatives reflect the Council's priorities in providing access to legal services and recourse to New Yorkers facing economic and legal hardship. This funding is not included in OCJ's Executive Budget, although it supports a substantial portion of OCJ's service array.