

THE COUNCIL OF THE CITY OF NEW YORK

Hon. Corey Johnson
Speaker of the Council

Hon. Daniel Dromm
Chair, Committee on Finance

Hon. Rory Lancman
Chair, Committee on the Justice System



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

The Mayor's Office of Criminal Justice

May 20, 2020

Finance Division

Monica Peple, Financial Analyst
Eisha Wright, Unit Head

Latonia McKinney, Director
Regina Poreda-Ryan, Deputy Director

Paul Scimone, Deputy Director
Nathan Toth, Deputy Director

Mayor's Office of Criminal Justice Overview

This report presents a review of the Mayor's Office of Criminal Justice (MOCJ) Fiscal 2021 Executive Budget. The section below presents an overview of MOCJ's budget, followed by a review of the significant budget actions introduced in the Fiscal 2021 Executive Budget. Major issues related to MOCJ's budget are then discussed. Analysis and highlights of the Courts Capital Commitment Plan for Fiscal 2020 – 2024 follows the discussion of the expense budget. For additional information on the MOCJ's budget and its various programs, please refer to the Fiscal 2021 Preliminary Budget Report for MOCJ at: <https://council.nyc.gov/budget/fy2021/>

The budget priorities of the City as a whole have been altered by the COVID-19 pandemic which has resulted in a burdened medical system, business closures, job losses, and an unprecedented drop in economic activity and revenue. As a result, in comparison to the Fiscal 2021 Preliminary Budget, the City is contending with a budget shortfall of \$8.7 billion over Fiscal 2020 and Fiscal 2021. The Executive Financial Plan balances the budget with \$2.7 billion in savings, use of \$4 billion from the City's reserves, and \$2 billion in additional federal aid from the stimulus packages.

The Program to Eliminate the Gap (PEG) introduced in the Executive Plan proposes \$824 million in savings for Fiscal 2020 and \$1.49 billion for Fiscal 2021. The PEG reduces the MOCJ's contracts found in the miscellaneous budget by \$2 million in Fiscal 2020 and \$4.5 million in Fiscal 2021. The PEGs imposed on MOCJ programs amount to less than one percent of the Citywide total PEG. The \$4.5 million Fiscal 2021 cut targets programs agreed to in the Borough-Based Jails Points of Agreement (POA). In addition to the PEG, a number of programmatic changes and criminal justice practices have occurred due to COVID-19, which will be discussed in the report.

MOCJ Budget Changes

The table below provides an overview of MOCJ's actual expenditures for Fiscal 2018 and Fiscal 2019, the Adopted Budget for Fiscal 2020, and planned expenditures for Fiscal 2020 and Fiscal 2021 as proposed in the Executive Financial Plan.

MOCJ – Expense Budget (002)						
<i>Dollars in Thousands</i>						
	FY18	FY19	FY20	Executive Plan		*Difference
	Actual	Actual	Adopted	FY20	FY21	FY20-FY21
Spending						
Personal Services	\$5,273	\$5,309	\$4,163	\$5,620	\$6,269	\$2,106
Other Than Personal Services	5,571	5,352	3,371	5,509	3,371	0
TOTAL	\$10,844	\$10,661	\$7,534	\$11,129	\$9,640	\$2,106
Funding						
City Funds			\$3,463	\$3,940	\$5,537	\$2,074
Capital IFA			\$359	\$359	\$361	\$2
Federal			\$3,423	\$4,403	\$3,450	\$27
Other Categorical			\$290	\$2,307	\$292	\$2
State			\$0	\$121	\$0	\$0
TOTAL	\$10,844	\$10,661	\$7,534	\$11,129	\$9,640	\$2,106
Budgeted Headcount						
Full-Time Positions - Civilian	76	62	43	68	64	21
TOTAL	76	62	43	68	64	21

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

As shown in the table, MOCJ's Fiscal 2021 Executive Budget totals \$9.6 million, and supports MOCJ's office and operations, including headcount.

- The Fiscal 2021 Executive Budget for MOCJ increases by \$2.1 million when compared to the Fiscal 2020 Adopted Budget, attributable mainly to the expansion of the office by 21 positions to support the new Office of Neighborhood Safety and the Office of Pretrial Support. For more information, please visit the Council's website and see the aforementioned MOCJ report.
- MOCJ's Fiscal 2020 Budget as of the Fiscal 2021 Executive Plan increases by \$3.5 million when compared to the Fiscal 2020 Adopted Budget, largely due to the expansion of MOCJ's office, as well as the recognition of approximately \$1 million in federal funding for a Justice Assistance Grant.
- The additions to the budget are offset by a \$500,000 PEG in Fiscal 2020 related to savings from the Personal Services budget. This PEG does not affect personnel or programming.

Changes by Funding Source

- City tax-levy funding increases MOCJ's Budget in Fiscal 2020 and Fiscal 2021 by \$2 million and \$477,500 respectively. State, federal, and other funding increase the budget by \$31,363 and \$3.1 million in Fiscal 2020 and Fiscal 2021 respectively.

MOCJ's Contract Budget

As shown in the table below, MOCJ's Fiscal 2021 Contract Budget, found in the City's Miscellaneous Budget, totals \$560.6 million. The Fiscal 2021 contract budget is approximately

\$3.4 million less, or less than one percent, when compared to the Preliminary Plan. MOCJ's contract budget supports the City's criminal justice and indigent defense contracts, as well as Council discretionary programs. Of note, Council discretionary funding will not be recognized until Adoption.

MOCJ Criminal Justice Contract Budget (098)				
<i>Dollars in Thousands</i>	Adopted	Executive Plan		*Difference
	2020	2020	2021	2020-2021
Indigent Defense (005)	\$308,507	\$358,943	\$313,095	\$4,588
Criminal Justice Programs (002)	\$154,045	\$190,237	\$247,480	\$93,345
City Council Initiatives	\$45,017	\$44,023	\$0	(\$45,017)
TOTAL	\$507,570	\$593,203	\$560,575	\$53,006
Funding				
City Funds	\$431,353	\$462,313	\$459,703	\$28,350
State	71,361	126,034	99,300	27,939
Federal	4,855	4,855	1,572	(\$3,283)
TOTAL	\$507,570	\$593,203	\$560,575	\$53,006

- The Indigent Defense Budget for Fiscal 2021 totals \$313 million, an increase of \$4.6 million when compared to the Adopted Plan. These changes were included in previous Financial Plans. However, the Fiscal 2020 budget increases by \$50.4 million, or 15 percent, when compared to the Fiscal 2020 Adopted Budget. These actions reconcile the Indigent Defense Budget to its current Fiscal 2020 Budget of \$358.9 million.
 - Budget actions from previous Plans increased the Fiscal 2020 budget by \$14.4 million which included \$9.5 million for criminal justice reform and \$3.7 million for pay parity.
 - The Executive Budget increases the current Fiscal 2020 Budget by approximately \$36 million due to the recognition of State Indigent Legal Services (ILS) funding.
- Despite a \$4.5 million PEG in Fiscal 2021, the criminal justice contracts increase by \$93.3 million when compared to the Fiscal 2020 Adopted Budget. The most significant change is a \$104 million spending increase for supervised release programs. State criminal justice reform legislation required the City to offer more alternatives to detention to a broader range of criminal defendants.
- Several budget actions in the Executive Plan result in a net decrease for the criminal justice contracts budget by \$682,000, or less than one percent, in Fiscal 2020, and \$3.4 million, or 1.3 percent, in Fiscal 2021. These actions reconcile the criminal justice contracts to \$190.2 million and \$247.5 million in Fiscal 2020 and Fiscal 2021 respectively.
 - Budget Actions Impacting Fiscal 2020:
 - A technical adjustment of \$1.7 million in State funding from DOC to support Crisis Management Re-Entry Work and Jobs Programs, a MOCJ Jails to Jobs allocation;
 - Recognition of \$214,559 for Project Fast Track; and
 - An additional \$346,860 in baselined City funding to support case management in the City's Family Justice Centers.
 - These additions are offset by \$2 million in PEGs and a decrease of \$775,427 from unclaimed indirect cost rate funding.

- Budget Actions Impacting Fiscal 2021:
 - Recognition of \$346,860 in City funding to support the aforementioned case management at Family Justice Centers:
 - Baseline funding of \$600,000 in City funding for the Young Men’s Initiative:
 - An additional \$155,037 in State funding to support Project Fast Track: and
 - These additions are offset by \$4.5 million in PEGs in Fiscal 2021 related to the Borough-Based Jails Points of Agreement.

Changes by Funding Source

- City tax-levy funding increases the Fiscal 2020 contracts budget by \$30.9 million in Fiscal 2020 and \$28.3 million in Fiscal 2021. State funding increases the current Fiscal 2020 budget by \$54.6 million and by \$27.9 million in Fiscal 2021. The decrease in federal funding is due to allocations that won’t be recognized until future financial plans.

Savings and Efficiencies

Citywide Program to Eliminate the Gap

As part of the \$2.3 billion in PEG savings over Fiscal 2020 and 2021, reductions proposed for the Mayor’s Office of Criminal Justice total \$6.5 million from the Agency’s criminal justice contract budget; \$2 million and \$4.5 in in Fiscal 2020 and Fiscal 2021 respectively. This PEG is less than one percent of the City’s total PEG.

- **Delay in the Expansion of the Crisis Management System.** Due to operational challenges from COVID-19, MOCJ will delay the expansion of the Crisis Management System related to the POA. Savings total \$3.1 million, of which \$425,000 will be realized in Fiscal 2020 and \$2.7 million in Fiscal 2021. The total MOCJ budget for the Crisis Management System is \$34.8 million in Fiscal 2020 and \$36.7 million in Fiscal 2021, therefore, the PEG represents a 1.2 percent reduction to the overall Fiscal 2020 budget and a 7.4 percent reduction for Fiscal 2021. The table below captures the planned expansion by catchment area that is now delayed.

CMS Points of Agreement Adds and Total Precinct Budget				
Borough	Precinct	Location	New Add	Precinct Total
Manhattan	25	East Harlem (Wagner House)	\$250	\$250
Bronx	40	Mott Haven (Patterson and Mitchel House)*	994	2,100
Queens	113	Jamaica	250	1,800
Bronx	47	Edenwald Houses	250	1,240
Brooklyn	60	Coney Island	250	1,240
Brooklyn	67	East Flatbush	700	1,840
TOTAL			\$2,694	\$8,470

*New catchment area

- **Delay in the Opening of Community Justice Center in Far Rockaway.** The City plans to delay the opening of the community justice center that was scheduled to open in Far Rockaway as a part of the POA, for a savings of \$1.8 million in Fiscal 2021. This was originally funded in the Preliminary Plan through Fiscal 2023 as a three-year pilot with the Center for Court Innovation (CCI). Programming would have focused on providing law enforcement alternatives to arrest and incarceration, providing local options to complete mandatory volunteer service, as well as reducing recidivism post-incarceration.

- **Underspending in MOCJ programs due to procurement delays (Project RESET and Justice for Sex-Trade Workers).** Due to delays in the procurement process, OMB has proposed \$1.5 million in savings in Fiscal 2020 due to underspent funds for two programs that received one-time funding in Fiscal 2020; \$732,922 for Justice for Sex-Trade Workers, and \$810,000 for part of the Citywide Project Reset expansion that had yet to begin.

COVID-19

The onset of the COVID-19 pandemic in March 2020 led to a PAUSE order for New York State, with emergency Executive Orders leading to citywide shutdowns of nonessential businesses and services as part of a concerted public health response. This has led to programmatic and operational changes for MOCJ. The following section will discuss the ongoing public health crisis and the implications for policies and programming.

Impacts on Personnel

All MOCJ staff, including its various sub-offices (The Office on the Prevention of Hate Crimes Office, Office of Pre-Trial Services, etc.), are currently working remotely for the duration of the Governor's Executive PAUSE Order, with the exception of the Office of Special Enforcement. The Office of Special Enforcement has been deemed essential and is monitoring compliance with executive orders for businesses related to closures and social distancing practices.

Impacts on Operations and Programming

- **Releases from City Jails and State Department of Corrections and Community Supervision (DOCCS).** Due to the COVID-19 pandemic, the Board of Correction noted early action taken by Los Angeles and Cuyahoga County, Ohio, to release vulnerable people and respond to the public health risks of COVID-19 in correctional settings. Shortly after, the City and State took action to release as many people as possible from City Jails and State facilities. In collaboration with the Mayor's Office of Criminal Justice (MOCJ), the Department of Correction (DOC), the public defenders, prosecutors, and State DOCCS, the City has released more than 2,650 people from DOC custody, weighing the public health risk against the public safety risk and prioritizing the release of those in custody with increased health risks:
 - 1) people over age 50;
 - 2) people with an underlying health condition, including lung disease, heart disease, diabetes, cancer, or a weakened immune system;
 - 3) people detained for administrative reasons (including failure to appear and parole violations; and
 - 4) people serving City-sentences.

For a breakdown of release processes and the stakeholders involved in the authority to release, please see the graphic on the following page.

Pretrial Charges with Violent or Non-Violent Felonies, and Misdemeanors

- Requires a judge's order to change pretrial status
- Often requires a motion by district attorney or defense attorney
- If there is a warrant, the agency that issued the warrant must also clear it prior to release

City Sentences

- Requires release by DOC Commissioner
- When there is a compelling reason consistent with the public interest, state law authorizes the Commissioner of DOC to permit people sentenced to less than a year to serve the remainder of their sentence at home.

Technical Parole Violations

Violated a condition of parole but no new arrest

- Requires State DOCCS to lift the person's warrant and requires State Parole Board to complete a hearing

Violated a condition of parole tied to new arrest

- Requires State DOCCS to lift the person's warrant and requires State Parole Board to complete a hearing
- If the new arrest results in detention, a judge must change the ruling after hearing from the district and defense attorney
- Alternatively, district attorneys and judges can consent to pretrial release

MOCJ is working to ensure that lack of housing or lack of a stable residence is not a barrier for anyone's release. Hotels managed by Office of Emergency Management are being made available for those exiting City and State facilities, including individuals held on Rikers for technical parole violations. There is no detention security as would be typically found in a jail or prison setting. Individuals who have tested positive for COVID are placed in designated isolation hotels that are not for a specific criminal justice involved population. Individuals that are asymptomatic or have not identified as COVID-positive are placed in separate hotels dedicated to those involved in the criminal justice system.

The Administration instituted a policy to release vulnerable individuals serving City sentences through the DOC Commissioner's authority to release those held on City sentences to a work-release program beginning the week of March 22nd. In coordination with DOC, MOCJ modified the City's supervised release program to launch an "Early Release Program" with the City's supervised release providers, CCI, CASES, and Criminal Justice Agency. Although the providers' contracts and budgets have not yet been amended, it expected that this change will be absorbed in the aforementioned expansion of supervised release in Fiscal 2020 and Fiscal 2021. Despite repeated efforts to connect

with MOCJ, it is unclear as of the writing of this report what the budget for this new program is. The most common charges include possession or sale of a controlled substance, criminal possession of a firearm, petit larceny, and assault. This program includes daily supervision via a remote check-in every day which include a wellness check, counseling, reminders related to COVID-19 directives, and information on housing, income, food assistance, and other remote services. As of May 7, 2020, 312 people have been discharged to the City’s Early Release Program. Most, 98 percent, of participants have not been re-arrested, 92 percent are in compliance with case manager contact, and 250 referrals have been made to supportive community-based services.

- Status of Releases.** MOCJ continues its efforts to coordinate the release of individuals from the City’s jails as well as State DOCCs. Since March 16th through May 14, 2020, 1,475 people have entered DOC custody, or 76 percent less, as compared to 6,000 over the same time period last year. The jail population has decreased 29 percent in the last eight weeks, a steeper decline than all of last year. Below is a breakdown of releases and jail population as of May 13 and 14, 2020. The total daily population as of May 14th is 3,895, a daily population decline of over 1,500 people since March 16th.

Charge	Total People in Custody*	Total People Leaving**
Violent Felony	2,594	746
Non-violent Felony	480	379
Misdemeanor	143	259
City-sentenced	118	457
State Technical Parole Violators	214	647
Other	346	367
TOTAL	3,895	2,850

*As of May 14, 2020

** As of May 13, 2020

- Criminal Justice Programming.** Court programming, such as diversion and ATI programming, and the City’s Family Justice Centers, have pivoted to remote services and remain operational. MOCJ reports that community-based programming via contracted providers has all remained operational through tele-conferences and online programming; there has been no discontinuation of any services.

City Council Priorities

The Fiscal 2020 Adopted Budget included \$16.1 million for one year only for various criminal justice initiatives supported by the City Council. For more specific details on each program, please refer to the Finance Division’s report on the Preliminary Fiscal 2021 Budget.

- **Supervised Release.** With an addition of \$7 million MOCJ expanded eligibility for supervised release programming to violent felony offenders. Beginning December 1, 2019, the supervised release program started to accept those with violent offenders.

- **Transitional Housing for Male Defendants with Mental Illness.** An allocation of \$5 million supported the creation of 100 new beds in transitional housing programs for male defendants with mental illness in lieu of incarceration. Fortune Society is providing 45 beds and is the sole awardee of the \$5 million; Fortune Society has subcontracted with additional CBOs to achieve the 100-bed total.
- **Citywide Expansion of Project Reset.** Funding of \$3.24 million was included in the Fiscal 2020 Adopted Budget to support citywide expansion of the successful post-arrest diversion program, Project Reset. Project Reset began as a pilot program funded by the City Council in the Bronx in coordination with CCI and the Bronx District Attorney. CCI has already begun programming in Brooklyn, launched Project Reset in Staten Island in May, and plans to launch in Queens on June 1, 2020.
- **Justice for Sex-Trade Workers.** At Adoption, the Administration funded \$2.9 million to support expansion of Safe Horizon's Youth Drop-In Center in Harlem. Due to delays in procurement, the City Council negotiated for \$1.5 million to be shifted to City Council discretionary funding. Based on operational considerations and the uncertainty of future funding, Safe Horizon is implementing a \$456,697 expansion supported through City Council discretionary and will increase the hours of operation at the Drop-In Center. The remaining \$1 million shifted to the Council was designated to various CBOs, and the funding that remained at MOCJ is part of the previously mentioned PEG associated with procurement delays in Fiscal 2020.

Council Discretionary Funding. The Fiscal 2020 Adopted Budget included approximately \$45.3 million in Council funding to support various criminal justice programs managed by MOCJ. For more specific details on each initiative, please refer to the aforementioned The Fiscal 2021 Preliminary Budget report on the Council's website.

Courts Overview

MOCJ is responsible for assisting with maintenance of New York City's 29 court facilities, which include civil, criminal, family, housing, small claims, supreme and surrogate courts. Pursuant to New York State Law, localities bear the responsibility of providing adequate, functional and sufficient court facilities, all of which are City-owned. Oversight functions include contracting capital projects for work done in any New York City court facility. The State and City agencies that manage the operational and programmatic activities in the courthouse include the Office of Court Administration (OCA), the administrative arm of the New York State court system, MOCJ and the Department of Citywide Administrative Services (DCAS).

MOCJ and OCA manage the infrastructure improvements and upgrading of courthouse facilities throughout New York City. DCAS' Asset Management Division is responsible for managing the maintenance staff who work in the courts, as well as some capital projects. Depending on the scope of work, projects are managed by DCAS, the Department of Design and Construction (DDC) (the City's primary capital construction project manager), or the Dormitory Authority of the State of New York (DASNY), (New York State's facilities finance and construction authority). There is no standard formula in making a decision on which entity manages the project, however, DASNY

historically manages larger, more expansive renovations and capital projects while DDC and DCAS manage smaller projects and maintenance projects respectively.

Court Operations during COVID-19. 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. 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. Criminal arraignments have now begun virtual operations, and 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. The Governor's Executive Order 202.28, signed on May 7, 2020, allows virtual Preliminary Hearings in lieu of convening a Grand Jury for anyone who would be held on a felony charge.

Courts Financial Plan Summary. The Department of Citywide Administrative Services (DCAS) has responsibility for cleaning and maintaining all of the State court buildings in the City. DCAS' budget includes a U/A pair for asset management for the Courts – public facilities. The courts Financial Summary on the following page provides an overview of the portions of DCAS' budget used for court maintenance, disaggregated by Appellate Courts and the Unified Courts System and provides an overview of DCAS' actual expenditures for Fiscal 2018 and Fiscal 2019, the Adopted Budget for Fiscal 2020, and planned expenditures for Fiscal 2020 and Fiscal 2021 as the current Financial Plan.

Courts Maintenance Financial Summary						
	Actual	Actual	Adopted	Preliminary Plan		*Difference
<i>Dollars in Thousands</i>	2018	2019	2020	2020	2021	2020-2021
Spending						
Appellate Courts						
Personal Services	\$1,121	\$1,031	\$1,791	\$1,816	\$1,829	\$39
Other Than Personal Services	24,001	24,729	26,001	26,001	31,328	5,327
Subtotal	\$25,122	\$25,760	\$27,792	\$27,818	\$33,158	\$5,366
Unified Court System						
Personal Services	\$44,630	\$47,027	\$45,384	\$46,099	\$46,593	\$1,209
Other Than Personal Services	2,267	3,202	2,258	2,558	0	(2,258)
Subtotal	\$46,897	\$50,229	\$47,642	\$48,657	\$46,593	(\$1,049)
TOTAL	\$72,019	\$75,989	\$75,434	\$76,475	\$79,750	\$4,317
Funding						
City Funds	\$15,896	\$16,597	\$16,450	\$16,450	\$21,362	\$4,912
State	56,123	59,393	58,983	60,025	58,388	(595)
TOTAL	\$72,019	\$75,989	\$75,434	\$76,475	\$79,750	\$4,317
Budgeted Headcount						
Appellate Courts	18	18	18	18	18	0
Unified Court System	624	624	624	624	647	23
TOTAL	642	642	642	642	665	23

The Fiscal 2021 Budget increases by \$4.3 million when compared to the Fiscal 2020 Adopted Budget. This increase is due to \$1.2 million in PS funding for the Unified Court System to support 23 new staff, as well as \$5.3 million in OTPS funding for the Appellate Courts, offset by a lack of

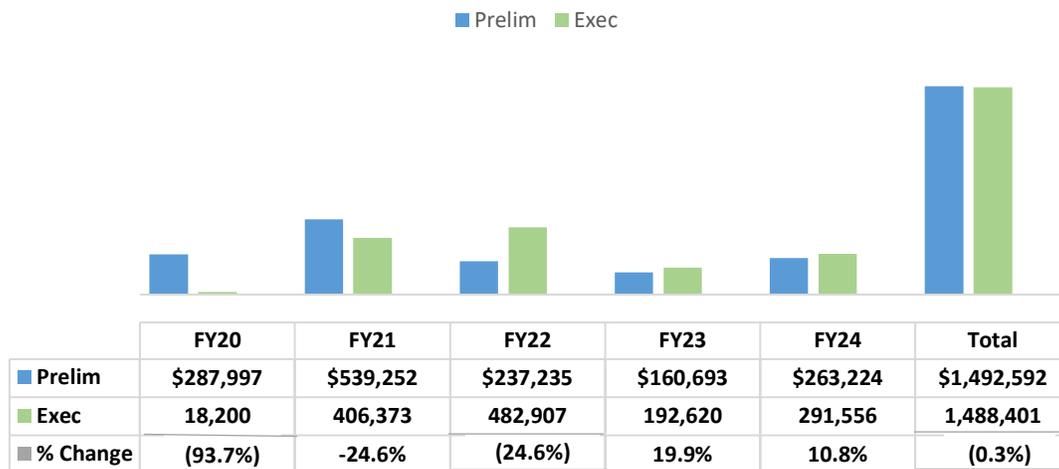
recognition in State funds for OTPS for the Unified Court System which will be seen in later financial plans. As of May 12, 2020, DCAS has incurred \$71,324 for court cleaning related to COVID-19.

Capital Program

The Courts Fiscal 2021 Executive Capital Commitment Plan includes \$1.4 billion, or 1.7 percent, of the City’s total capital plan of \$83 billion in Fiscal 2020-2024, with \$406 million in planned commitments in Fiscal 2021. Given the Court’s average annual commitment rate of 22 percent over Fiscal 2016-2019, it is unlikely that this full amount will be committed. The Capital Plan for Courts lumps discrete projects together with only two categories that are overly general; the largest category is Reconstruction and Renovation of Court Facilities, with \$1.4 billion, or 99 percent, committed of the entire amount. The other category is for Construction of New Court Facilities and makes up \$19 million, or just one percent, of the entire capital plan.

As a result of COVID-19, capital projects have been halted or delayed with the exception of projects deemed essential, or those related to health or safety. The direction was given that any court project related to fire and public safety will continued to be paid, most of which were in the design phase. As shown in the chart below, the commitments in Fiscal 2020 decreased drastically compared to the Preliminary Plan, and although the Executive Plan did not eliminate or cut any projects, projects have been pushed out into Fiscal Years 2021 and 2022.

Courts FY20-FY24 Commitment Plan



Significant Courts projects that are delayed and pushed out from Fiscal 2020 include \$242 million in various court rehabilitation projects, \$12 million in ADA compliance for toilet upgrades at Kings County Criminal Court, and \$3.5 million in roof repairs at Queens Criminal Courthouses.

Fiscal 2021 Executive Capital Commitment Plan Highlights

- **Rehabilitation of Various Court Facilities.** The Fiscal 2021 Executive Capital Commitment Plan includes \$689 million for various rehabilitation projects throughout the City. As mentioned above, the Courts Capital Plan is overly general, and this project title does not provide specifics on the types of projects or locations.

- **The Office of Court Administration Relocation from 141 Livingston Street to 210 Joralemon Street in Brooklyn.** The Fiscal 2021 Executive Capital Commitment Plan includes \$238.7 million over the next four years for the relocation of OCA in Brooklyn.