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**Report to the Committee on Finance and the
Committee on Public Safety on the Fiscal 2023
Executive Plan and the Fiscal 2023 Executive
Capital Commitment Plan**

Mayor's Office of Criminal Justice

May 11, 2022

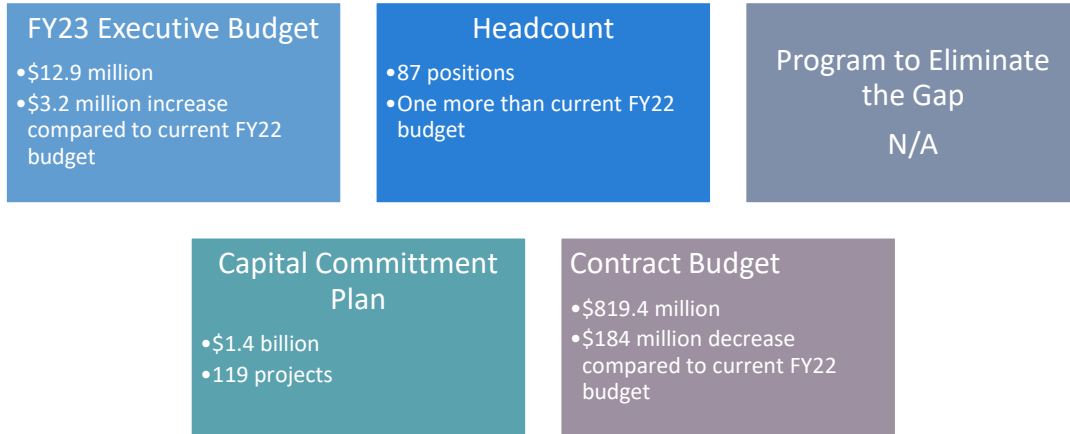
(Report Prepared by Jack Storey)



Table of Contents

Mayor’s Office of Criminal Justice Fiscal 2023 Executive Budget Snapshot	1
MOCJ Budget Overview	2
Personal Services and Headcount	3
Funding Sources.....	4
Program Area Budget.....	6
Changes Since the Preliminary Budget by Spending Type	6
Fiscal 2023 Preliminary Budget Response.....	8
Federal and State Budget Risks	8
Capital Program	8
Appendix A: Indigent Defense Funding Summary.....	10

Mayor’s Office of Criminal Justice Fiscal 2023 Executive Budget Snapshot



Budget Response

Council Priorities

- The Council called upon the Administration to undertake a comprehensive review of pay rates and funding levels for criminal defense and civil legal services providers to fully implement pay parity.

New Needs

Other Significant New Needs

- \$8.7 million for Article 10 cases.
- \$1.2 million for Abusive Partner Intervention Program expansion.
- \$1.6 million for Gowanus Points of Agreement.

Other Adjustments

Adjustments in the Executive Budget

- \$1.6 million for Summer Youth Employment.
- \$1.1 million for Family Justice Centers.

Major Agency Issues

Agency Issues Identified

- Criminal Justice Contracting Delays
- Pay Parity for Indigent Defense Providers
- Budget Transparency. Unlike other City agencies, MOCJ's budget is located in several units of appropriation across the Mayoral and miscellaneous budgets.

MOCJ Budget Overview

On April 26, 2022, the Administration released the Executive Financial Plan for Fiscal 2022-2026 (Executive Plan) with a proposed budget for Fiscal 2023 of \$99.7 billion. This report offers a review Fiscal 2023 Executive Budget for the Mayor's Office of Criminal Justice (MOCJ or the Office), including proposed budget actions taken in the Executive Plan.

MOCJ's budget is comprised of two components. The Office's expense budget, which supports its staff, operations, and administrative functions is found in the Mayoral Budget. MOCJ's contract budget, which supports the City's expansive criminal justice programming, indigent defense provision, and City Council discretionary funding is housed in the Miscellaneous Budget. The following section will provide an overview of both components of MOCJ's Fiscal 2023 Executive Budget.

Indigent Defense

MOCJ is responsible for managing the City's indigent defense system, which includes procuring contracts with legal service organizations and improving the efficiency, accountability, and quality of representation that indigent New Yorkers receive.

Criminal Justice Programs

MOCJ contracts with community-based organizations to provide a variety of criminal justice programs including; crime victims' services, pretrial services, alternatives to incarceration and alternative to detention programs, mediation, court operations, re-entry services, and other services and initiatives.

MOCJ's Expense Budget

MOCJ's expense budget, which is found in the Mayoral budget, totals \$12.9 million and represents less than one percent of the City's proposed Fiscal 2023 budget in the Executive Plan. MOCJ's proposed Fiscal 2022 budget is \$14.1 million, a 46 percent increase from the agency's Fiscal 2022 Adopted Budget of \$9.6 million and \$3.5 million, or 33 percent, larger than the modified Fiscal 2022 budget presented in the Fiscal 2023 Preliminary Financial Plan presented in February (\$10.5 million).

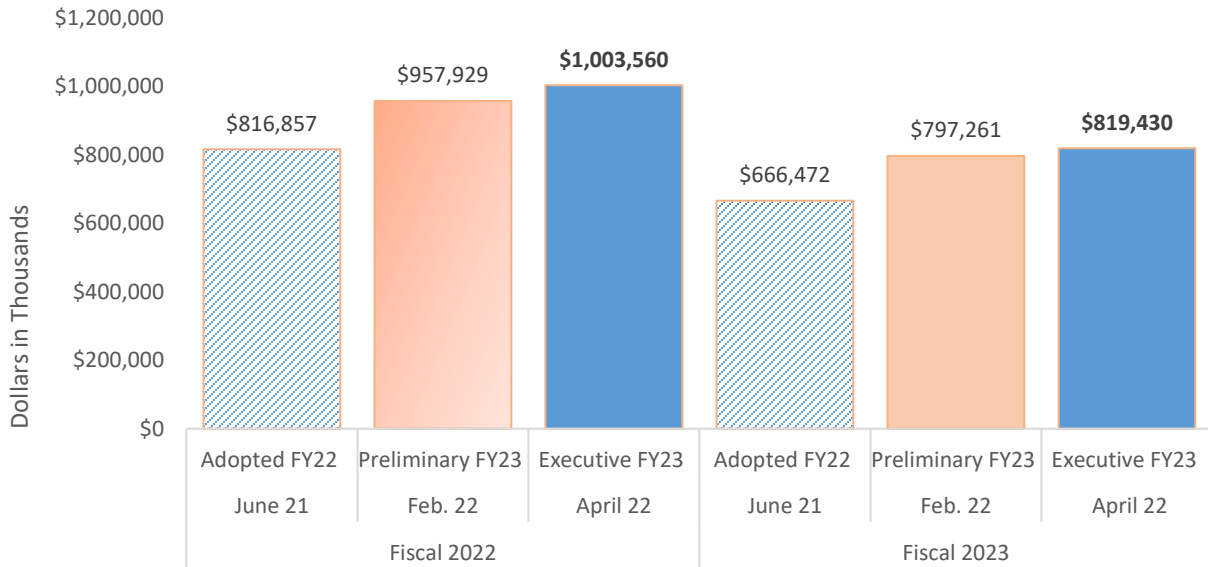
MOCJ's Fiscal 2023 expense budget increases by approximately \$1.3 million, or 11 percent, from the Preliminary Plan (\$11.6 million).

MOCJ's Contract Budget

Most of MOCJ's budget is recognized in the Miscellaneous Budget. This portion of MOCJ's budget supports its contracts, which include criminal justice programming and indigent defense services. In the Executive Plan, the total of MOCJ contracts in Fiscal 2022 is approximately \$1 billion, an increase of \$186 million, or 23 percent over the Fiscal 2022 Adopted Budget. MOCJ's Fiscal 2023 contract budget totals \$819.4 million, an increase of \$2.6 million, or less than one percent from the Fiscal 2022 Adopted Budget. For additional information on MOCJ's indigent defense contracts, please see Appendix A.

MOCJ – Contracts Budget (098)						
<i>Dollars in Thousands</i>	FY20	FY21	FY22	Executive Plan		*Difference
	Actual	Actual	Adopted	FY22	FY23	2022 - 2023
Indigent Defense	\$381,821	\$419,643	\$326,511	\$440,190	\$419,544	\$93,033
Criminal Justice Programs	217,841	386,495	490,346	522,961	395,958	(90,460)
Total	\$599,662	\$806,139	\$816,857	\$1,003,561	\$819,430	\$2,573

MOCJ Contract Budget for Fiscals 2022 and 2023: Comparison of the Last Three Financial Plans



Personal Services and Headcount

MOCJ’s Executive Plan includes funding for 86 full-time positions in the current year, increasing to 87 in Fiscal 2023. The plan represents a growth in agency headcount of 25 positions in Fiscal 2022 since adoption. While the Executive Plan increases MOCJ’s headcount in the current fiscal year, the actual headcount of 64 as of March 2022 is significantly below the budgeted headcount as of the Executive Plan.

In the Executive Plan, funding for MOCJ’s personal services (all agency staffing related expenses) comprise \$8.7 million, or 61 percent of the Office’s total Fiscal 2022 plan. This increases to \$9.5 million or 73 percent in Fiscal 2023.

MOCJ Expense Spending and Headcount

Table 1: MOCJ Spending and Budgeted Headcount Summary

<i>Dollars in Thousands</i>	2020	2021	2022	Executive Plan		*Difference
	Actual	Actual	Adopted	2022	2023	2022 - 2023
Spending						
Personal Services	\$6,481	\$6,908	\$6,269	\$8,692	\$9,487	\$3,218
Other Than Personal Services	5,569	3,291	3,371	5,388	3,371	0
TOTAL	\$12,051	\$10,199	\$9,640	\$14,080	\$12,858	\$3,218
Budgeted Headcount						
Full-Time Positions - Civilian	70	65	62	86	87	25

**The difference of Fiscal 2022 Adopted Budget compared to Fiscal 2023 Executive Budget.*

Funding Sources

Expense Budget

MOCJ’s expense budget is supported by a combination of City tax-levy, State, and federal funding. The Office is primarily supported by \$7.5 million in City funds, which comprises 58 percent of the total budget in Fiscal 2023. The remainder, 42 percent, includes federal funding from various grants and programs as well as federal

Table 2: MOCJ Expense Budget Funding Sources

<i>Dollars in Thousands</i>	2022	Executive Plan		*Difference
	Adopted	2022	2023	2022 - 2023
Funding				
City Funds	\$5,537	\$5,538	\$7,471	\$1,934
Federal – Other	204	2,626	1,488	1,284
Federal – CD	3,246	3,246	3,246	0
State	292	2,309	292	0
Capital-IFA	361	361	361	0
TOTAL	\$9,640	\$14,080	\$12,858	\$3,218

Community Development Block Grant funding and State funding. The table above presents the funding sources of MOCJ’s expense budget for the Fiscal 2022 Adopted Budget, the Executive Plan for Fiscal 2022 and 2023, and the difference between the Fiscal 2023 Executive Budget and the Fiscal 2022 Adopted Budget.

Federal Funding

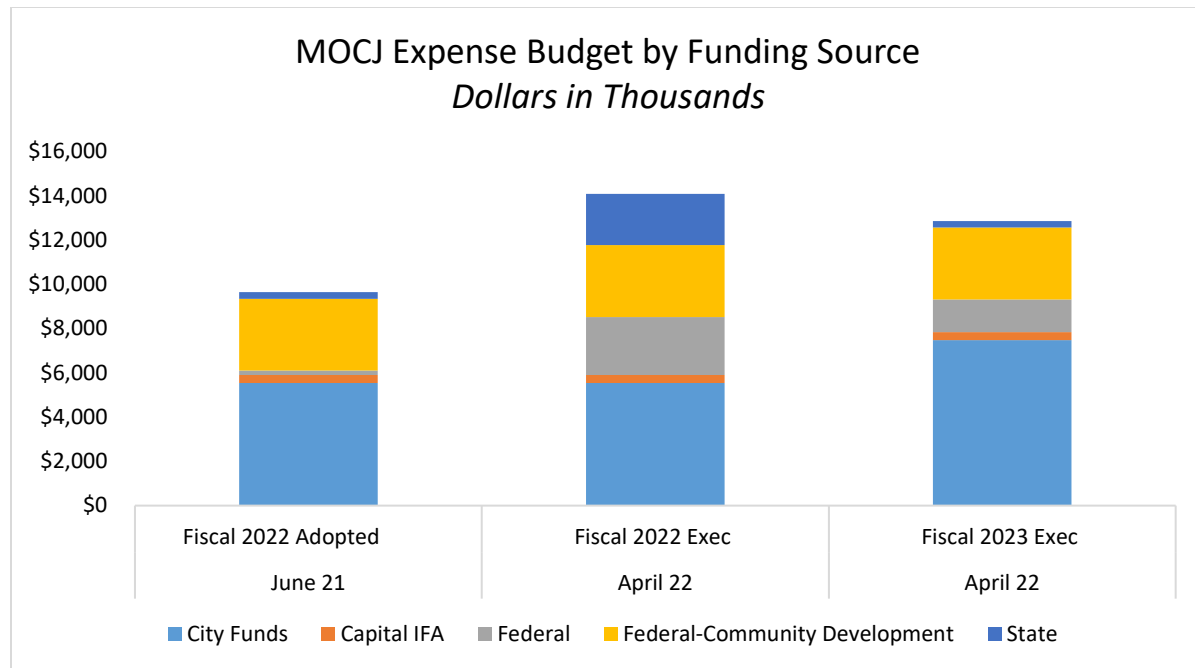
Federal funding increases by \$1.5 million in Fiscal 2022 and \$1.3 million Fiscal 2023 when compared to the Preliminary Plan.

State Funding

State funding increases by \$2 million in Fiscal 2022 and is unchanged in Fiscal 2023 when compared to the Preliminary Plan.

City Funding

City funding decreases by \$5.2 million in Fiscal 2022 and \$7.1 million in Fiscal 2023 when compared to the Preliminary Plan.



Contract Budget

City funding of \$660.5 million makes up the majority, approximately 80 percent, of funding for MOCJ’s contract budget in Fiscal 2023. State funding of \$148.8 million and federal funding of \$6.1 million makes up the remaining 19 percent of the Office’s funding. The \$146.3 million increase in the Fiscal 2022 budget between the Adopted Budget and the 2023 Executive Plan is driven an additional \$118.8 million in State funding and \$23.1 million in City funding

Dollars in Thousands	2022	Executive Plan		*Difference
	Adopted	2022	2023	2022 - 2023
Funding				
City Funds	\$684,913	\$707,975	\$660,538	(\$24,375)
Federal – Other	6,152	50,937	10,079	\$3,927
State	125,793	244,648	148,812	23,020
TOTAL	\$816,857	\$1,003,560	\$819,429	\$2,572

Federal Funding

Federal funding increases by approximately \$4 million in Fiscal 2022 when compared to the Preliminary Plan.

- Summer Youth Employment Program: The Executive Plan includes \$4.4 million in federal funding for the Summer Youth Employment Program in MOCJ’s budget.

State Funding

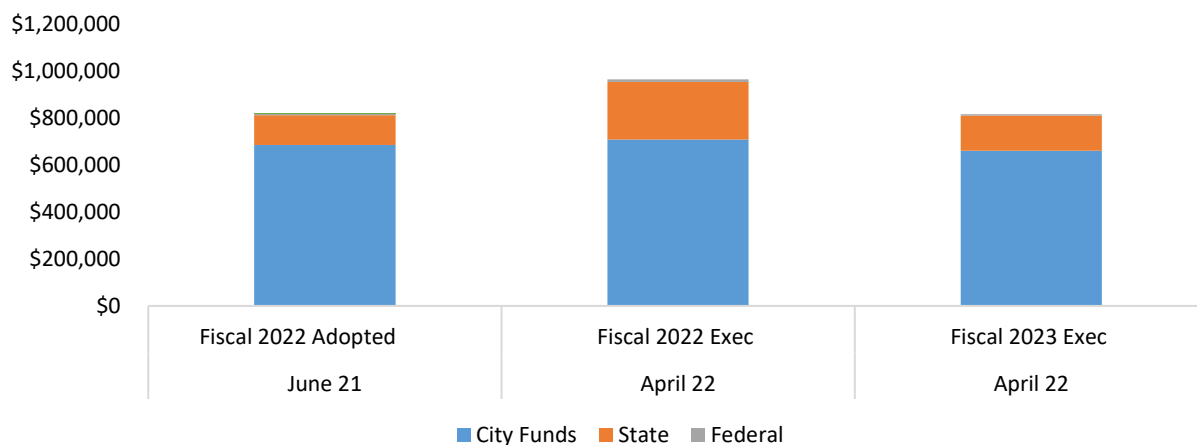
State funding increases in the Executive Plan by \$670,000 in Fiscal 2022 and \$556,000 in Fiscal 2023 when compared to the Preliminary Plan.

City Funding

City funding increases by \$175,000 in Fiscal 2022 and \$17.7 million in Fiscal 2023 when compared to the Preliminary Plan.

- Article 10 Adjustment (\$8.7 million)
- Gowanus Points of Agreement (\$1.6 million).
- Abusive Partner Intervention Program Expansion (\$1.2 million)
- Summer Youth Employment Transfer (\$1.7 million)

MOCJ Contract Budget by Funding Source
Dollars in Thousands



Program Area Budget

This section is not applicable because MOCJ does not have a Program Budget.

Changes Since the Preliminary Budget by Spending Type

At each financial plan, agencies submit changes to their budgets from the prior plan. These changes are comprised of new needs that have not previously been included in their budget, other adjustments to existing spending (these adjustments can involve adding additional funding or removing funding), savings programs which provide additional resources either through reduced spending or increased revenue, and savings restorations which include the restoration of expenditures that had been reduced in prior financial plans. A summary of all changes made to MOCJ’s financial plan since adoption can be found in Appendix

New Needs

MOCJ’s Executive Budget includes \$300,000 in new needs in Fiscal 2022 and \$10.9 million in Fiscal 2023. Some of the major new needs include the following.

- **Article 10 Adjustment.** After longstanding calls from the Council and legal service providers, the Executive Budget includes a baseline of \$8.7 million beginning in Fiscal 2023 for Article

10 abuse and neglect contracts across the City's four family court providers. In the past, this funding was budgeted on a year-to-year basis. The inclusion of this baseline funding in response to the Council's advocacy will provide more stability for the provision of legal services in family court.

- **Abusive Partner Intervention Program (APIP) Expansion.** The Executive Plan includes \$1.2 million in Fiscal 2023, \$2.3 million in Fiscal 2024, \$2.5 million in Fiscal 2025, and \$2.7 million in Fiscal 2026 for the expansion of MOCJ's Abusive Partner Intervention Program. The goal of the program is to educate participants about the dynamics and effects of intimate partner violence and move participants toward more pro-social and less abusive behaviors, ultimately reducing recidivism among participants in each of the five criminal courts. The current MOCJ-funded APIP is a 26-week, fee-based program for individuals who are mandated to participate by the courts. MOCJ has taken steps to develop curricula and model that will enhance citywide programming for intimate partner violence defendants.
- **Gowanus Points of Agreement.** The Plan includes \$1.6 million related to the expansion of the Mayor's Action Plan for Neighborhood Safety (MAP) at Wyckoff Gardens and Gowanus Gardens included in the Points of Agreement attached to the Gowanus neighborhood rezoning. The Points of Agreement represent comprehensive neighborhood investments in housing, infrastructure, public space, community amenities, and workforce and business support programs.

Other Adjustments

MOCJ's Executive Budget includes an increase of \$4.9 million in other adjustments in Fiscal 2022 and \$6.1 million in Fiscal 2023. Some of the major adjustments include the following.

- **Family Justice Centers.** The Executive Plan includes \$578,787 in City funding and \$556,088 in State funding for Family Justice Centers in Fiscal 2023. Through any Family Justice Center, survivors of domestic and gender-based violence and their children can get connected to organizations that provide case management, economic empowerment, counseling, civil legal, and criminal legal assistance.
- **Summer Youth Employment Program.** The Executive Plan includes two adjustments that introduce funding for the Summer Youth Employment Program. These adjustments total \$6.1 million across Fiscal 2022 and 2023 with a transfer of \$1.7 million of city funds in Fiscal 2023 and \$4.4 million in federal funding in Fiscal 2022. This funding is the result of a Memorandum of Understanding which calls for transferring funding from DYCD to MOCJ to support SYEP jobs.

Savings Program

The Executive Plan did not include a savings program for MOCJ.

Savings Restorations

The Executive Plan did not include savings restorations for MOCJ.

Fiscal 2023 Preliminary Budget Response

In the Fiscal 2023 Preliminary Budget Response,¹ the Council identified several areas of concern relating to supporting legal service providers and expanding community based programmatic alternatives to incarceration. Below the Council's proposals are discussed and an analysis of how they were addressed in the Executive Plan.

Response Priorities	Amount Requested	Amount Included in the Exec Budget
Support Public Defenders	N/A	\$0

- Support Public Defenders:** During Fiscal 2020 Budget negotiations, the Council successfully fought for pay parity across many public sectors, including for indigent defense providers. The City took a first step in achieving pay parity between criminal defense and civil legal service providers during the previous administration, when the salaries of attorneys with less than five years of experience were brought in line with those of their counterparts at the Law Department. The City intended to implement a second phase of pay parity for more experienced legal staff, but it was derailed by the pandemic. Since that time, the early-career pay rates for public defenders have dropped below those of their Law Department colleagues who recently received a three percent salary increase. The City reengaged with the legal services providers to restart discussions about the promised expansion of pay parity for attorneys with greater than five years of service. The Council is calling on the Administration to undertake a comprehensive review of pay rates and funding levels for criminal defense and civil legal service providers and to commit to eliminating the pay inequity between government and non-profit providers in the Fiscal 2023 Budget

Federal and State Budget Risks

As described above, the Executive Budget reflects significant State and federal funding in the current fiscal year. State funding in Fiscal 2022 for MOCJ's criminal justice and indigent defense contract budgets totals \$244.6 million. This is \$118 million greater than the amount of State funding (\$125.8 million), in the Adopted Plan. Federal funding in Fiscal 2022 totals \$50.1 million in the Executive Plan, over \$30 million greater than the amount of federal funding in the Adopted Plan. The Executive Budget reflects approximately \$40.4 million in federal stimulus funding that supports MOCJ's components of City Cleanup Corps, the Precision Employment Initiative, and the indirect cost rate in Fiscal 2022 but not the outyears. Although State and federal revenue are typically recognized midyear and account for the variance between the budget at adoption and subsequent financial plans, it is unclear how these costs will be supported in the outyears.

Capital Program

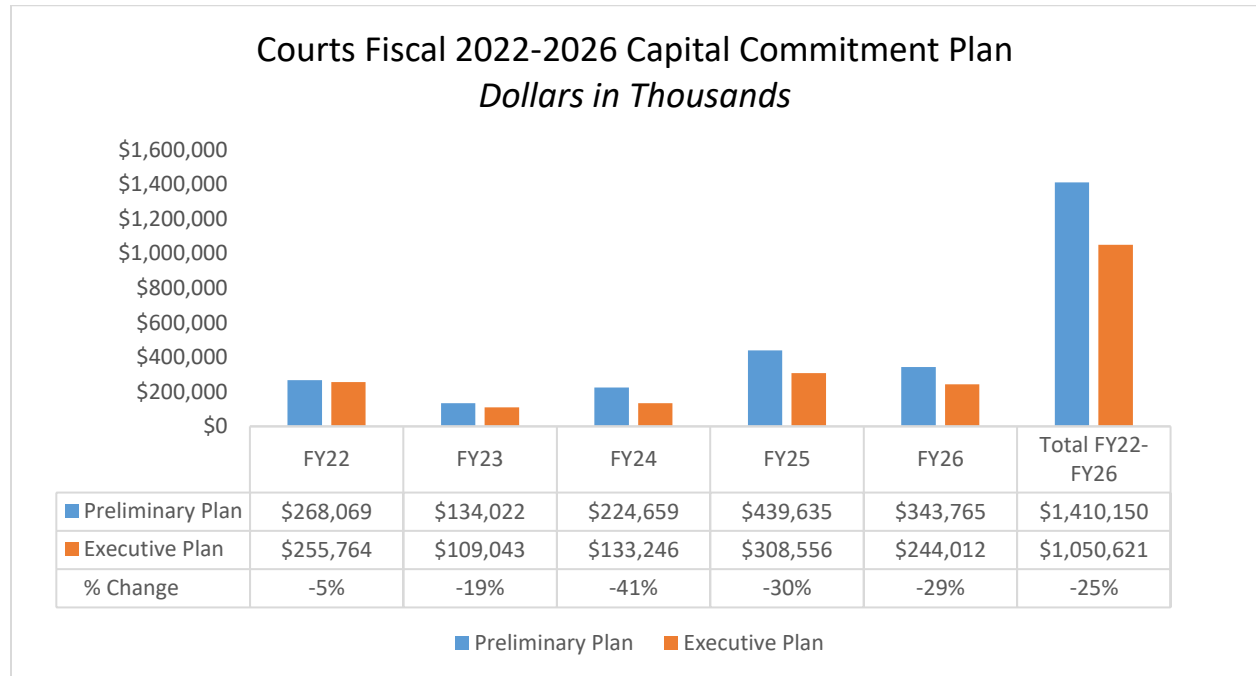
MOCJ's capital budget is presented in the Executive Capital Commitment Plan for Fiscal 2022-2026 (Commitment Plan) and the Fiscal 2023 Executive Capital Budget. MOCJ is responsible for assisting with maintenance of New York City's 29 court facilities, which include civil, criminal, family, housing, small 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-

¹ The full response can be found at: <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2022/04/Fiscal-2023-Preliminary-Budget-Response-.pdf>

owned. Oversight functions include contracting capital projects for work done in any New York City court facility.

MOCJ’s commitments for Fiscal 2022 through 2026 as presented in the Commitment Plan total \$1.05 billion, \$20 million, or two percent, less than the total for the same period presented in the Preliminary Capital Commitment Plan released in February. The Department’s planned commitments comprise approximately one percent of the City’s total \$99.8 billion Fiscal 2022 through 2026 plan.

Courts Fiscal 2022-2026 Capital Commitment Plan



The amount of commitments in MOCJ’s capital plan are back-loaded with approximately 24 percent of the entire planned expenditure in the current year, 10 percent in Fiscal 2023, and 13, 29 and 23 percent in Fiscals 2024, 2025 and 2026 respectively.

Capital Highlights

- Staten Island Supreme Court Building, \$216.5 million in Fiscal Years 2022-2026
- 210 Joralemon Street, \$207.9 million in Fiscal Years 2022-2026
- Bronx Housing Court Relocation, \$17.2 million in Fiscal Years 2022-2026

Appendix A: Indigent Defense Funding Summary

<i>Dollars in Thousands</i>	Adopted FY22	Executive FY22	Executive FY23	*Difference 2021-2022
18-B Assigned Counsel Program (City)	\$9,905	\$9,896	\$9,905	\$0
18-B Assigned Counsel Program (State)	39,751	39,751	39,751	0
Total 18-B Assigned Counsel Program - Subtotal	\$49,656	\$49,647	\$49,656	\$0
Legal Aid Society - Trial	\$93,246	\$93,246	\$93,246	\$0
Legal Aid Society - Appellate	9,481	9,481	9,481	0
Legal Aid Society - Conflict	5,643	5,643	5,643	0
Legal Aid Society - Subtotal	\$108,370	\$108,370	\$108,370	\$0
NY County Defenders	\$7,577	\$7,577	\$7,577	\$0
Bronx Defenders	12,070	12,070	12,070	0
Brooklyn Defender Services	15,952	15,952	15,952	0
Neighborhood Defender Services	4,936	4,936	4,936	0
Queens Law Associates	9,476	9,476	9,476	0
Alternative Providers - Trial Level Subtotal	\$50,010	\$50,010	\$50,010	\$0
Non-Homicides New Contracts	\$7,800	\$7,800	\$7,800	0
Indigent Defense - Homicides New Contracts	8,818	8,818	8,818	0
New Contracts - Subtotal	\$16,618	\$16,618	\$16,618	\$0
Appellate Advocates	\$5,448	\$5,448	\$5,448	\$0
Center for Appellate Litigation	5,505	5,505	5,505	0
Office of the Appellate Defender	2,079	2,079	2,079	0
Alternative Providers - Appellate Level Subtotal	\$13,031	\$13,031	\$13,031	\$0
Bronx Family Defense Practice - Bronx Defenders	\$2,885	\$2,885	\$2,885	\$0
Brooklyn Family Defense Project - Brooklyn Defender Services	3,026	3,026	3,026	0
Center for Family Representation	2,885	2,885	2,885	0
Neighborhood Defender Services - CA Harlem	1,161	1,161	1,161	0
Article 10 Increase	8,700	-	8,700	0
Family Court Providers - Subtotal	\$18,657	\$9,957	\$18,657	\$0
Indigent Defense Contract Total:	\$256,342	\$247,633	\$256,342	\$0