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**THE COUNCIL OF THE CITY OF NEW YORK**

**Briefing Paper and Committee Report of the Justice and Governmental Affairs Divisions**

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**COMMITTEE ON THE JUSTICE SYSTEM**

**Hon. Rory Lancman*,* Chair**

**COMMITTEE ON GOVERNMENTAL OPERATIONS**

**Hon. Fernando Cabrera, Chair**

**December 11, 2019**

**Oversight: Day-Fine Pilot**

**Preconsidered Int. 1823:** By The Speaker (Council Member Johnson)

**Title:** A Local Law in relation to establishing a day-fines pilot program in the office of administrative trials and hearings

**Preconsidered Int.:** By Council Member Ampry-Samuel

**Title:** A Local Law to amend the New York city charter, in relation to mandating a citywide audit of collateral consequences for drug arrests and convictions

**City Charter:**  Amends paragraphs 4 and 5 of subdivision c of section 20-c and adds a new paragraph 6 to section 20-c

1. **Introduction**

On December 11, 2019, the Committee on the Justice System, chaired by Council Member Rory Lancman, and the Committee on Governmental Operations, chaired by Council Member Fernando Cabrera, will hold a joint oversight hearing on the implementation of a Day-Fine pilot program in the Office of Administrative Trials and Hearings (“OATH”). The Justice System Committee will hear Preconsidered Int., sponsored by the Speaker, related to OATH’s creation, implementation, and review of a day-fines pilot; and Preconsidered Int., sponsored by Council Member Ampry-Samuel, mandating an audit of the collateral consequences for drug arrests and convictions across all city agencies. Those expected to testify include representatives from OATH, the Mayor’s Office of Criminal Justice (“MOCJ”), the Department of Health, advocates, non-profits active in economic justice, other interest groups and members of the public.

1. **Day-Fine Programs**

*Overview*

The term “day-fine” was coined by Swedish Professor Johan C.W. Thryren in the 20th century to identify a system for monetary sanctions that take into account a person’s disposable income.[[1]](#footnote-1) That model consists of a two-part process. First, offenses are assigned a range of penalty units that increases with the severity of the offense and are set without considering the person’s financial position.[[2]](#footnote-2) Second, the court establishes the person’s adjusted daily income, in which basic expenses are deducted from their daily income.[[3]](#footnote-3) The total fine is then determined by multiplying the penalty unit by the adjusted daily income.[[4]](#footnote-4) Under the model, two persons who committed the same offense but differ in financial means would bear an equal burden relative to their means but pay a different actual amount.[[5]](#footnote-5)

For example, the first variable is the offense itself, which acts as a multiplier. Open consumption of alcohol might be a “2,” while illegal renting of an apartment might be a “5.” The second variable is the respondent’s disposable income for a day. In this example, Respondent A makes $10,000 a year, and it is therefore calculated that they have $5 disposable income for the day, while Respondent B makes $100,000 a year and is calculated to have $50 disposable income a day. If both were issued a summons for open container, Respondent A would have a potential fine of $10, calculated by multiplying their disposable income ($5) by the charge-level of 2. Respondent B would have a potential fine of $100, calculated by multiplying their disposable income ($50) by 2. If both were issued a ticket for illegally renting their apartment however, Respondent A’s potential fine would be $25 ($5 multiplied by 5), and Respondent B’s would be $250 ($50 multiplied by 5).

Day-fines are not a novel concept, they date back to the 13th century in England where monetary sanctions were levied against persons based on their wealth.[[6]](#footnote-6) They gained traction in Scandinavian countries in the 20th century.[[7]](#footnote-7) In 1921, Finland became the first European country to establish a day-fine model. Sweden and Denmark then introduced day-fines in 1931 and 1939, respectively.[[8]](#footnote-8) England and Wales also established day-fines in 1991, but the program was short-lived given opposition from judges.[[9]](#footnote-9)

In the United States, researchers and policymakers took an interest in day-fines in the late 1980s, piloting programs to test applicability to the criminal justice system.[[10]](#footnote-10) In 1987, the first day-fine pilot project was launched in Staten Island by the Vera Institute of Justice in partnership with the National Institute of Justice.[[11]](#footnote-11) The success of that pilot led to pilots by other jurisdictions, including Maricopa County, Arizona, Bridgeport, Connecticut, Polk County, Iowa, Milwaukee, Wisconsin, and four counties in Oregon.[[12]](#footnote-12) However, these pilots were short-lived as day-fines never gained popularity due, at least in part, to the tough-on-crime policies and rhetoric during that period.[[13]](#footnote-13)

However, the political landscape has shifted in recent times, and there is growing interest in day-fines as an alternative to incarceration and one-size-fit-all pecuniary sanctions.[[14]](#footnote-14) The movement towards graduating monetary sanctions has gained support from the American Civil Liberties Union (“ACLU”), American Legislative Exchange Council (“ALEC”), and Conference of State Court Administrators.[[15]](#footnote-15)

*Advantages of Day-fines*

One of the major advantages of the day-fines model is greater deterrence. Researchers find that day-fines can result in greater deterrence as compared to a fixed-fines model.[[16]](#footnote-16) Under a fixed-fines model, fines are flat for all individuals committing similar offenses. In effect, where the conduct is the same, fines are generally too low to deter persons with high incomes, and also too high for poor persons to pay. As a result, poor persons are imprisoned for defaulting on the payment of the fine and wealthy persons are able to “buy the right to commit crimes.”[[17]](#footnote-17) In contrast, under a day-fines model, legal financial obligations are based on the ability to pay, which, according to researchers, enables judges to impose on each person similar relative burdens of punishment.[[18]](#footnote-18) Researchers find that “standardizing the burden of punishment increases the punitive bites”[[19]](#footnote-19) of day-fines and has the effect of equalizing the “distribution of fine-defaulters across all levels of wealth.”[[20]](#footnote-20)

Another potential advantage of a day-fines model is its potential to generate higher revenue for government. Research shows that compliance with monetary sanctions increases when the fine was based on the person’s financial status. For example, in Polk County, Iowa, where a day-fine program was piloted in 1991, the level of full payment rose from 32 percent to 72 percent.”[[21]](#footnote-21) Similarly, in Maricopa County, Arizona, again in 1991, 89 percent of persons who received a day-fine as a sentence paid in full.[[22]](#footnote-22) According to researchers, the improvement in payment rates was due to the fact that the monetary sanctions were imposed in accordance with the person’s ability to pay.[[23]](#footnote-23) Notably, in the Staten Island pilot, there was an improvement in payment rates, but this was correlated with both the day-fines model and a shift in the collection mechanism.[[24]](#footnote-24)

*Concerns About Day-fines*

One of the major concerns regarding day-fines is that it may violate the Excessive Fines Clause of the U.S. Constitution.[[25]](#footnote-25) Because the financial element of a day-fine is separated from the severity of the crime, a wealthy person would face a significantly higher fine for minor violations under a day-fine system.[[26]](#footnote-26) This concern is especially true where the model of day-fines includes no limit on the daily unit of the fine.[[27]](#footnote-27) To minimize the risk of violating the Excessive Fines Clause, many of the day-fine programs piloted in the U.S. included statutory maximum caps on the daily unit of fine.[[28]](#footnote-28) However, research shows that is this practice is not optimal as it reduces the fines of the wealthiest person, which undermines both the deterrent effect of day-fines and revenue generation.[[29]](#footnote-29) For example, in the Staten Island project, the use of mandatory caps resulted in reduced revenue in about a 25 percent of cases.[[30]](#footnote-30) Still, researchers purport that as long as wealthy persons do not comprise a large share of the petitioners, statutory caps would not have a significant impact on overall effectiveness of a day-fine system.[[31]](#footnote-31)

Another major concern about day-fines is the way in which an individual’s ability to pay is determined. Ability to pay determinations are generally based on standardized formulas, which can lead to artificial inflation in the assessment of a person’s ability to pay by the imputation of income when the person has none, the inflexibility in accommodating the actual needs and obligations of a person, and the addition of ungraduated monetary sanctions on top of the day-fine amount.[[32]](#footnote-32) The imputation of income where a person has no income is accomplished in two ways: speculating about the future earnings of person[[33]](#footnote-33) and considering the income of all household members.[[34]](#footnote-34) Both methods are problematic. Predicting future employment as part of an ability to pay an assessment would make fines unmanageable where the projected employment does not materialize.[[35]](#footnote-35) Similarly, considering household income punishes innocent household members while increasing the fine amount a person would owe.[[36]](#footnote-36) These practices undermine the effect of day-fines, and were part of the reason Oregon abandoned its day-fine project in favor of a more flexible model.[[37]](#footnote-37)

1. **OATH**

OATH was originally established by an executive order in 1979, in the Department of Personnel, with the purpose of conducting administrative trials and hearings at the direction of the Mayor or upon the written request and delegation of the head of a City agency.[[38]](#footnote-38) However, such delegation was expressly required for civil service related hearings, such as disciplinary matters.[[39]](#footnote-39) In 1988, as part of the Charter revision ballot question that enacted the City Administrative Procedure Act, OATH was made a full agency and given greater responsibility to act as a tribunal separate from the referring agencies.[[40]](#footnote-40) The City Charter creates the presumption that all City agencies’ administrative trials will be referred to OATH, “unless otherwise provided for by executive order, rule, law or pursuant to collective bargaining agreements.”[[41]](#footnote-41) In subsequent years, the number and variety of cases referred to OATH grew significantly. Through a series of executive orders, court rulings, and local laws, OATH’s jurisdiction was expanded, with entire agency tribunals being transferred to the agency.[[42]](#footnote-42)

*Trials Division*

Cases referred to OATH are adjudicated in either the Trials Division or the Hearings Division.[[43]](#footnote-43) Trials Division matters include city employee discipline and disability hearings, Conflicts of Interest Board cases, enforcement of the City Human Rights Law, vehicle forfeiture cases, city contracts disputes, city-issued license and regulatory enforcement, and real estate, zoning and loft law violations.[[44]](#footnote-44) OATH trials are conducted by administrative law judges (“ALJs”).[[45]](#footnote-45) OATH is directed by a Chief Administrative Law Judge, appointed by the Mayor, who in turn is empowered to appoint ALJs for a term of five years each, removable only for cause after notice and opportunity for a hearing.[[46]](#footnote-46)

In Fiscal Year 2019, the total number of cases filed in the Trials Division was 2,691.[[47]](#footnote-47) Nearly all cases that go to trial result in the ALJ issuing written recommended decisions establishing facts and conclusions of law, which may be adopted, modified or rejected by the agency that referred the case.[[48]](#footnote-48) In fiscal year 2019, 100 percent of ALJ facts and conclusions were adopted by referring agencies.[[49]](#footnote-49)

*Hearings Division*

In the OATH Hearings Division, hearing officers handle summons issued by 25 different City enforcement agencies, including the Departments of Buildings, Sanitation, Environmental Protection, Consumer Affairs, Health and Mental Hygiene and the Taxi and Limousine Commission. The Hearings Division also has jurisdiction to hear summonses from the Port Authority of New York and New Jersey, among others.[[50]](#footnote-50) The Hearings Division received 837,778 summonses and conducted 10,500 hearings in fiscal year 2019.[[51]](#footnote-51)

*Criminal Justice Reform Act*

Fiscal Year 2019 was also the second year in which OATH adjudicated civil summonses under the Criminal Justice Reform Act (“CJRA”), which gave the NYPD, Parks Department and other agencies the option of filing certain low-level quality-of-life summons at OATH rather than in criminal court, thus allowing litigants to avoid collateral consequences of receiving a criminal court summons, such as an open warrant, a criminal record, or negative impacts on employment, housing or immigration status.[[52]](#footnote-52) To date, there have been over 100,000 summonses issued under the CJRA and the number of these filings in criminal court declined 95 percent, according to the 2019 Mayor’s Management Report (“MMR”).[[53]](#footnote-53)

OATH has tried to make hearings more accessible by offering remote hearings, by phone or online, and by offering mediation services.[[54]](#footnote-54) OATH operates Help Centers at Hearings Division locations across the city at which Procedural Justice Coordinators (“PJCs”), while not offering legal advice themselves, help self-represented litigants navigate the hearing process and OATH procedures, and find legal resources and city records.[[55]](#footnote-55) In 2019, to make responding to summonses more convenient, OATH launched Neighborhood Pop-Up Courts in which it held 16 courts in 15 neighborhoods across the city at locations like community boards, libraries, civic organizations and at offices of elected officials.[[56]](#footnote-56)

*Analysis of OATH fines*

Agencies impose hundreds of thousands of fines via the OATH adjudication process every year. According to a Council analysis of OATH Hearings Division case statuses available on the City’s OpenData portal,[[57]](#footnote-57) for the period between October 1, 2018 and October 1, 2019, the top ten most frequent violations that came before the division, representing approximately 42 percent of all violation types in that division, were sanitation-related offenses. These offenses included “failure to clean 18 inches into the street,” “dirty sidewalk/dirty area,” “failure to properly store trash receptacles,” “failure to properly dispose of rubbish,” and “obstructing the sidewalk,” among others. The top ten agencies for issuing the most code violations were the Departments of Sanitation (“DSNY”), Buildings, Transportation, Mental Health and Hygiene, Environmental Protection, Parks, Consumer Affairs, Information Technology, and the NYPD and Fire Departments (“FDNY”). DSNY accounted for approximately 55 percent of all violations issued during that period, with the Department of Buildings (“DOB”) and Health and Mental Hygiene (“DOHMH”) a distant second and third, at approximately 13 and 9 percent, respectively.

The value of fines OATH recommends varies widely based on the nature of the violation. The top ten most frequent fines issued in the last year ranged from an average of approximately $24.24 for “failure to properly put recyclables out for collection in a building of one to eight dwelling units,” to $441.81 for “inspection and testing” (issued by FDNY for failure to conduct required conduct a required fire inspection or test[[58]](#footnote-58)). Other typical fines for sanitation-related violations, such as failure to clean 18 inches into the street, dirty area, and improper storage of trash receptacles, generally fell between $100 to $200 dollars.

While not the most frequently-issued fines, certain quality-of-life fines that are levied against individuals carry significant average fines. According to Council analysis of the records available on the City’s OpenData portal, from October 2018 to October 2019, for the first offense for public urination, the average fine issued was $99.73. For the first offense of littering, the average fine was $102.08. The first offense of littering from a motor vehicle carried an average fine of $176.66. The average fine for unreasonable noise from a personal audio device in a motor vehicle was $110.48. The average fine for having an open container of alcohol on the street was lower, at $24.97.

*Community Service Options*

In 2016, the City Council passed legislation that required OATH to offer the option of completing community service instead of paying civil fines incurred through designated violations.[[59]](#footnote-59) The rationale behind this legislation was to offer a non-monetary alternative for individuals who may not have the means to pay civil penalties, thus creating a proportional penalty for low-income New Yorkers.[[60]](#footnote-60) The legislation used a broad definition of “community service” in order to provide OATH the discretion in the types of community service options offered, and clarified that no fees could be associated with the community service option nor could the option displace existing employment.[[61]](#footnote-61) The legislation also specified that up to seven hours of community service would satisfy a civil fine of up to $300.[[62]](#footnote-62)

Since enactment in June 2017, OATH has produced quarterly reports that detail the number of individuals who have chosen the community service option.[[63]](#footnote-63) Community service can include attendance at a program, either in-person or web-based.[[64]](#footnote-64) MOCJ composited the first year’s quarterly data, June 2017 through June 2018, stating that just 720 out of 2,000 individuals chose to complete e-learning (the Community Service option offered by OATH).[[65]](#footnote-65) Based on subsequent OATH quarterly reports spanning July 2018 through September 2019, between 9.4 and 12.91 percent of individuals who appeared before OATH regarding a designated violation opted to accept community service rather than pay a civil penalty.[[66]](#footnote-66) The e-learning module will soon be offered online, meaning that a person who receives a summons would be able to avail themselves of this option from home or a library.[[67]](#footnote-67)

1. **Issues & Concerns**

The Committees are interested to hear whether MOCJ and OATH are supportive of the

day-fines model, and whether they believe the proposed legislation is practicable. Of particular interest is whether self-reporting is a feasible mechanism for collection of financial data, whether there needs to be an income cap to avoid potential litigation, and what sorts of offenses should be included in the pilot.

The Committees are also interested in whether community service should be included as

an additional option for the offenses included in the pilot. The rate of usage for the community service option available for CJRA offenses is lower than anticipated and the Committees are interested in understanding if this low rate relates to poor communication on the part of OATH or other unforeseen barriers such time commitment, digital literacy, language access, or other concerns.

1. **Analysis of Preconsidered Int. No. (Day-fines Pilot)**

Section 1 of this bill creates a pilot program for day-fines in OATH. It states that OATH must contract with a nonprofit organization to create an assessment tool to calculate a petitioner’s disposable income, and then work together to implement, conduct, and ultimately report on the pilot program. OATH must pick at least ten summonses, from at least two different agencies, for the pilot. The chief judge of OATH has the authority to remove any offense from the pilot. The ultimate report must include projected costs for expansion of the pilot, feedback from participants, and a historical comparison between the amount of fines collected for the selected offenses before their inclusion in the pilot, as well as during the pilot.

This bill would take effect immediately.

1. **Analysis of Preconsidered Int. No. (Collateral Consequences for Drug Convictions)**

This bill addresses the Mayor’s Office of Drug Strategy, which was established pursuant to Local Law number 48 for the year 2017. This bill would require this office to, in addition to its current duties, audit all city agencies on their policies regarding the collateral consequences of a drug related arrest or conviction. The taskforce will then make recommendations based on this audit.

This bill would take effect immediately, the first such audit would be required by January 1, 2021, and the first such report would be required within six months of such audit. This bill would expire and be repealed at the same time that Local Law number 48 for the year 2017 would expire and be repealed.

..Title

Int. No.

By Council Member Ampry-Samuel

..Title

A Local Law to amend the New York city charter, in relation to mandating a citywide audit of collateral consequences for drug arrests and convictions

..Body

Be it enacted by the Council as follows:

Section 1. Paragraphs 4 and 5 of subdivision c of section 20-c of the New York city charter, as amended by local law number 129 for the year 2018, is amended and a new paragraph 6 is added to read as follows:

4. Make recommendations to the head of the designated agency regarding the implementation of city-wide goals and objectives related to the risks associated with illicit and non-medical drug use; [and]

5. Hold at least four meetings each fiscal year, at least one of which shall be open to the general public for input and comments; and [.]

6. Make recommendations to the mayor regarding the collateral consequences of drug related arrest or conviction, within 6 months of the release of the first report issued pursuant to subdivision d of this section and at any time thereafter at the discretion of such council. For the purposes of this section, the term “collateral consequences of a drug related arrest or conviction” means any adverse action a city agency imposes on its employees or recipients of agency services for having a drug-related conviction, arrest, or for testing positive for a controlled substance as defined under section 3306 of the public health law. Such report shall include policy recommendations to ensure that each agency develops effective and proportionate responses to drug use aimed at reducing harm.

§ 2. Section 20-c of the New York city charter is amended by adding a new subdivision d to read as follows:

d. No later than January 1, 2021, and no later than every January 1 thereafter, the designated agency shall audit all city agencies on their policies regarding the collateral consequences of a drug related arrest or conviction. Such agency shall issue a report within 60 days of the beginning of each calendar year on such policies, which shall include:

1. A description of any agency-wide policies regarding the collateral consequences of a drug related arrest or conviction;

2. Whether the agency conducts drug tests, and under what circumstance and with what degree of frequency such tests are conducted;

3. A description of agency responses to findings of drug use or to discovery of drug convictions or arrests;

4. An overview of each city agency’s efforts to collaborate with existing substance use, medical, and mental health services, including community-based harm reduction programs, licensed substance use disorder treatment programs, healthcare providers, formalized recovery support programs, youth prevention programs, drug policy reform programs and community-based criminal justice programs to develop and foster effective responses to illicit and non-medical drug use in the city; and

5. A report of each incident in which the agency imposed a collateral consequence, including the gender, race, ethnicity, and borough of residence of the affected individual; whether the affected individual is an employee of the agency or a recipient of the agency’s services; and the specific collateral consequence imposed.

§ 3. This local law takes effect immediately, and shall expire and be deemed repealed on the same date local law number 48 for the year 2017 expires and is deemed repealed.

AS

11/25/2019

LS 7944

Int. No.

By The Speaker (Council Member Johnson)

..Title

A Local Law in relation to establishing a day-fines pilot program in the office of administrative trials and hearings

..Body

Be it enacted by the Council as follows:

Section 1. a. Definitions. For the purposes of this local law, the following terms have the following meanings:

Chief administrative law judge. The term “chief administrative law judge” means the chief administrative law judge of the office of administrative trials and hearings.

Day-fines. The term “day-fines” means a system of assessing and imposing fines that takes into account the daily disposable income of a respondent.

Office. The term “office” means the office of administrative trials and hearings.

Organization. The term “organization” means a not-for-profit corporation, as determined by the chief administrative law judge, capable of efficaciously selecting appropriate statutes for, and conducting research into, the efficacy and final fine-rates of, the use of day-fines.

b. No later than January 1, 2021, the office shall establish a pilot program, in consultation with the organization, in no fewer than two boroughs, for the implementation of day-fines. Such pilot program shall include a total of no fewer than 10 statutes, addressing summonses issued by no fewer than two different agencies, with a sufficient quantity to adequately assess the fiscal and policy implications of permanently imposing day-fines. Such pilot program shall continue through at least January 1, 2022, and may continue further at the discretion of the chief administrative law judge. Pursuant to such pilot program, notwithstanding the provisions of subdivision 4 of section 1049 of the New York city charter, the office may offer community service pursuant to section 1049 of the New York city charter for up to 10 offenses that are not specified offenses as defined in such section.

c. The chief administrative law judge shall have the authority, during the duration of the pilot program, to discontinue the inclusion of any statute in such pilot program, provided that no fewer than 10 statutes shall be assessed for day-fines in such pilot program at any time.

d. No later than June 30, 2022, the chief administrative law judge, in conjunction with the organization, shall submit a report to the mayor and the speaker of the city council on such pilot program, which shall include recommendations as to whether and how such pilot program should be expanded, and compare the use of community service to day-fines. Such report shall also include the following information:

1. The number of statutes included in the pilot program, in total disaggregated by the agency or agencies that issued summonses under such statutes, and also disaggregated by which statutes were utilized for day-fines and which for community service, if any.

2. The amount of fines imposed and collected, and the number of community service hours completed, in total and disaggregated by statute, and also disaggregated by the borough in which the summonses underlying such fines were issued.

3. A historical comparison of the fines imposed and collected under such pilot program to the fines imposed and collected under each such statute over the five years preceding the implementation of such program.

4. The costs associated with the pilot program, and a projection of such costs for any reasonable expansion of the use of day-fines.

5. Feedback from participants in such pilot program, including employees of the office of administrative trials and hearings judges and relevant respondents

6. A list of statutes that were removed from the pilot program, if any, and the reason for such discontinuation.

§ 2. This local law takes effect immediately.

LS# 8256

MKW

11/26/19

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2. Beth Colgan, Graduating Economic Sanctions According to Ability to Pay, 103 *Iowa Law Review* 53, p. 56, available at <https://ilr.law.uiowa.edu/print/volume-103-issue-1/graduating-economic-sanctions-according-to-ability-to-pay/> [↑](#footnote-ref-2)
3. *Id.*  [↑](#footnote-ref-3)
4. *Id.*  [↑](#footnote-ref-4)
5. Elena Kantorowicz-Reznichenko, Day fines: reviving the idea and reversing the (costly) punitive trend, 55 *American Criminal Law Review* 333, p. 338, available at <https://www.law.georgetown.edu/american-criminal-law-review/wp-content/uploads/sites/15/2018/04/55-2-Day-Fines-Reviving-the-Idea-and-Reversing-the-Costly-Punitive-Trend.pdf> [↑](#footnote-ref-5)
6. *Id.*  [↑](#footnote-ref-6)
7. *Id.* [↑](#footnote-ref-7)
8. *Id.* [↑](#footnote-ref-8)
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17. *Id.* [↑](#footnote-ref-17)
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26. *Id.* [↑](#footnote-ref-26)
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35. *Id.* [↑](#footnote-ref-35)
36. *Id.* [↑](#footnote-ref-36)
37. *Id.* [↑](#footnote-ref-37)
38. Executive Order 32 of 1979, *available at* <http://www.nyc.gov/html/records/pdf/executive_orders/1979EO032.PDF>. [↑](#footnote-ref-38)
39. *Id*. [↑](#footnote-ref-39)
40. *See* Report of the New York City Charter Revision Commission, 1986-1988, p. 33, *available at* <https://www1.nyc.gov/assets/charter/downloads/pdf/1986-1988_final_report.pdf>. [↑](#footnote-ref-40)
41. NYC Charter §1048(1). [↑](#footnote-ref-41)
42. *See* Executive Order 148 of 2011, Executive Order 18 of 2016, *Krimstock v. Kelly*, 464 F.3d 246, 249 (2d Cir. 2006), the Community Justice Reform Act of 2016, and Local Law 35 of 2008. [↑](#footnote-ref-42)
43. Mayor’s Office of Operations, Mayor’s Management Report (Sept. 2019) at 105, *available at* <https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2019/2019_mmr.pdf>. [↑](#footnote-ref-43)
44. *Id*. [↑](#footnote-ref-44)
45. *Id*. [↑](#footnote-ref-45)
46. NYC Charter §1048 and §1049(1)(a). [↑](#footnote-ref-46)
47. Mayor’s Management Report 2019, *supra* note 43 at 106. [↑](#footnote-ref-47)
48. *Id*. [↑](#footnote-ref-48)
49. *Id*. [↑](#footnote-ref-49)
50. *Id.* [↑](#footnote-ref-50)
51. *Id*. at 106. [↑](#footnote-ref-51)
52. *See* Committee Report and Briefing Paper of the Committee on Public Safety, New York City Council, January 25, 2016. [↑](#footnote-ref-52)
53. *Id*. Under the CJRA, OATH must also submit quarterly reports regarding adjudications for specified violations and an annual evaluation of penalties and judgements imposed for specified violations. NYC Charter § 1049(6)-(7). Those reports are available at <https://www1.nyc.gov/site/oath/about/hearings-division-data.page> (last accessed Nov. 29, 2019). [↑](#footnote-ref-53)
54. *See id.*; OATH Annual Report (2017/2018) at 20, 42, *available at* <https://www1.nyc.gov/assets/oath/downloads/pdf/OATH-Annual-Report-2017.pdf>. [↑](#footnote-ref-54)
55. Mayor’s Management Report 2019, *supra* note 43 at 105. [↑](#footnote-ref-55)
56. *Id*. *See also* Corinne Ramey, *A Day in Traveling Court—Cookies, Tote Bags, Rocky the Cat*, Wall St. J. (June 3, 2019), <https://www.wsj.com/articles/a-day-in-traveling-courtcookies-tote-bags-rocky-the-cat-11559579342>. [↑](#footnote-ref-56)
57. *See* NYC Open Data, OATH Hearings Division Case Status, <https://data.cityofnewyork.us/City-Government/OATH-Hearings-Division-Case-Status/jz4z-kudi> (last accessed Dec. 4, 2019). [↑](#footnote-ref-57)
58. 3 RCNY § 109-02(b) (Violation Category 20: Inspection and Testing). [↑](#footnote-ref-58)
59. Local Law 73 of 2016. [↑](#footnote-ref-59)
60. *See generally* Committee Report, NYC Committee on Public Safety, May 25, 2016, *available at* <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2553512&GUID=D93F40DB-CD7D-424C-AC63-AECEACBD4D06&Options=ID|Text|&Search=1059>. [↑](#footnote-ref-60)
61. *Id*. at 24-25; NYC Charter § 1049(4)-(5). [↑](#footnote-ref-61)
62. NYC Charter § 1049(4)(e). [↑](#footnote-ref-62)
63. Reports are available at <https://www1.nyc.gov/site/oath/about/hearings-division-data.page>. [↑](#footnote-ref-63)
64. NYC Charter § 1049(4)(a); OATH, Community Service, <https://www1.nyc.gov/site/oath/clerks-office/community-service.page> (last accessed Dec. 4, 2019). [↑](#footnote-ref-64)
65. Mayor’s Office of Criminal Justice, Summons Reform: One Year After Legislation (CJRA), page 3, <https://criminaljustice.cityofnewyork.us/wp-content/uploads/2018/09/summons_ref_factsheet_v3.pdf>. [↑](#footnote-ref-65)
66. Criminal Justice Reform Act Quarterly Report, Vol. 2, No. 2; Criminal Justice Reform Act Quarterly Report, Vol. 2, No. 3; Criminal Justice Reform Act Quarterly Report, Vol. 2, No. 4; Criminal Justice Reform Act Quarterly Report, Vol. 3, No. 1; and Criminal Justice Reform Act Quarterly Report, Vol. 3, No. 2, *available at* <https://www1.nyc.gov/site/oath/about/hearings-division-data.page> [↑](#footnote-ref-66)
67. Center for Court Innovation, Civil Alternatives, <https://www.courtinnovation.org/programs/civil-alternatives/more-info> (last accessed Dec. 10, 2019). [↑](#footnote-ref-67)