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

District Attorneys and Special Narcotics Prosecutor

May 20, 2020

Finance Division

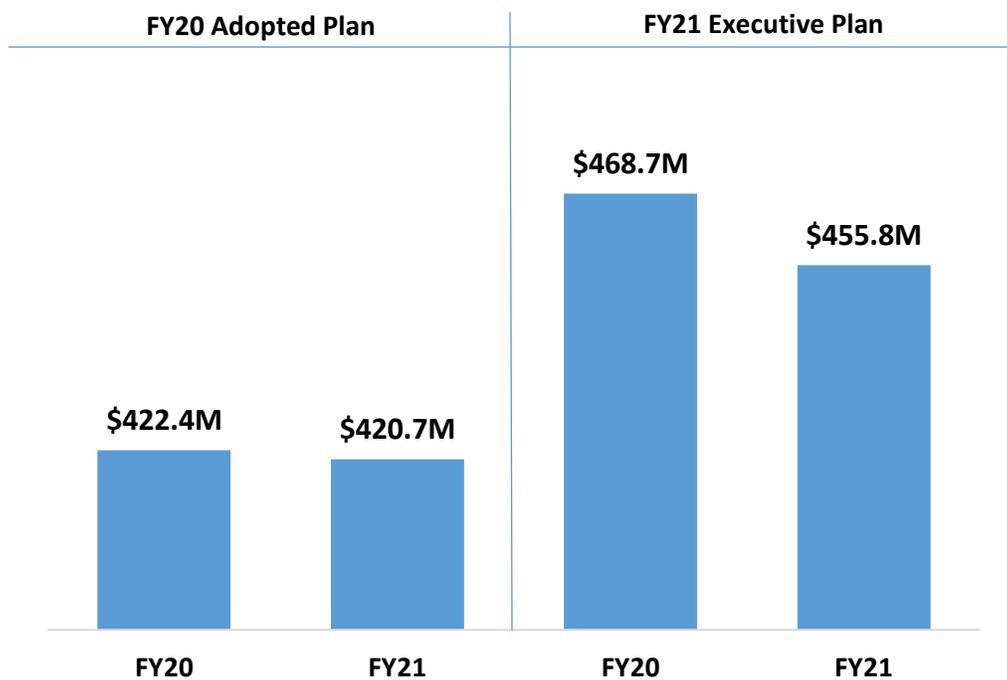
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District Attorneys and Special Narcotics Prosecutor Budget Overview

This report presents a review of the Prosecutors’ Fiscal 2021 Executive Budget. The five DAs consist of the Bronx County DA (BXDA), Kings County DA (KCDA), New York County DA (DANY), Queens County DA (QNDA), and Richmond County DA (RCDA). The section below presents an overview of the five District Attorneys (DAs) and Special Narcotics Prosecutor (SNP), or Prosecutors budget, followed by a review of the significant budget actions introduced in the Executive Financial Plan and the Prosecutors’ programmatic response to COVID-19. Major issues related to the Prosecutors’ budget are then discussed. For additional information on the Prosecutors’ budget and its various programs, please refer to the Fiscal 2021 Preliminary Budget Report for the City’s DAs and SNP 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 loss, 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 \$7.4 billion over Fiscal 2020 and Fiscal 2021, which has been balanced with \$2.7 billion in savings, the use of \$4 billion of the City’s reserves, and \$4 billion in federal stimulus aid.

The citywide Program to Eliminate the Gap (PEG), introduced in the Fiscal 2021 Executive Financial Plan proposes \$824 million in savings for Fiscal 2020 and \$1.49 billion for Fiscal 2021. For the DAs and SNP, the PEG reduces the budget by \$21.1 million in Fiscal 2020 and \$2.6 million in Fiscal 2021 for the DA of New York only. Given the overall size of the budget, the PEGs represent less than one percent of the DAs total budget in both fiscal years. The table below provides an overview of the prosecutors’ 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.

District Attorney and Special Narcotics Prosecutor Financial Summary						
<i>Dollars in Thousands</i>						
	FY18	FY19	FY20	Executive Plan		*Difference
	Actual	Actual	Adopted	FY20	FY21	FY20-FY21
Spending						
Personal Services	\$347,379	\$374,939	\$367,856	\$398,260	\$396,392	\$28,536
Other Than Personal Services	40,546	48,364	54,578	70,527	59,489	4,911
TOTAL	\$387,924	\$423,303	\$422,433	\$468,787	\$455,881	\$33,448
Budget by Office						
District Attorney - New York	\$113,423	\$119,111	\$114,612	\$144,957	\$123,487	\$8,875
District Attorney - Bronx	75,537	83,443	84,688	86,995	91,944	7,256
District Attorney - Kings	98,925	110,502	112,800	120,335	119,334	6,534
District Attorney - Queens	62,421	70,019	70,118	73,237	76,898	6,780
District Attorney - Richmond	15,433	16,936	16,204	19,012	18,520	2,316
Special Narcotics Prosecutor	22,184	23,292	24,011	24,250	25,698	1,687
TOTAL	\$387,924	\$423,303	\$422,433	\$468,787	\$455,881	\$33,448
Funding						
City Funds			\$409,756	\$428,255	\$443,263	\$33,507
Federal - Other			58	7,861	58	0
Intra City			2,325	2,475	2,325	0
Other Categorical			59	199	0	(59)
State			10,235	29,997	10,235	(0)
TOTAL	\$387,924	\$423,303	\$422,433	\$468,787	\$455,881	\$33,448
Budgeted Headcount Full-Time						
Positions - Civilian						
District Attorney- New York	1,465	1,440	1,003	1,185	1,185	182
District Attorney - Bronx	999	1,054	942	1,064	1,064	122
District Attorney - Kings	1,080	1,092	922	1,097	1,094	172
District Attorney - Queens	677	694	562	730	723	161
District Attorney - Richmond	155	162	146	207	202	56
Special Narcotics Prosecutor	216	210	218	239	239	21
TOTAL	4,592	4,652	3,793	4,522	4,507	714

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

DA and SNP Budget Changes

Comparison to the Fiscal 2020 Adopted Plan

The DA and SNP Fiscal 2021 Budget has increased \$33.5 million, or eight percent, when compared to the Fiscal 2020 Adopted Budget. The PS budget increases by \$28.5 million, and the OTPS budget increases just shy of \$5 million. The Fiscal 2021 Executive Budget did not include any new needs for the DAs nor the SNP, however, budget actions from previous Plans have increased the budget and are mainly associated with investments related to criminal justice reform. A detailed list of adjustments can be found in Appendix 1.

Budgeted headcount of 4,507 positions remains unchanged when compared to the Fiscal 2020 Adopted Budget. Other adjustments in the Executive Plan add a net increase of \$956,000 in Fiscal 2020 and \$857,000 in Fiscal 2021, reconciling the DA and SNP to its current Fiscal 2020 Budget of \$468.8 million and projected Fiscal 2021 Budget of \$455.8 million.

Changes by Funding Source

City tax-levy funding increases the Fiscal 2020 Budget by \$18.5 million in Fiscal 2020 and \$33.5 million in Fiscal 2021. State and federal funding increases the current Fiscal 2020 budget by \$27.7 million, but remains essentially unchanged in Fiscal 2021 when compared to the Adopted Fiscal 2020 Budget. As has been the practice, the DAs and SNP will continue to recognize funding from both the State and federal governments in future financial plans.

Savings and Efficiencies

The Prosecutors are independently elected officials who therefore have more discretion on finances and headcount. OMB provided each DA with a PEG target amount and instruction that the PEGs could be met over Fiscal 2020 or Fiscal 2021 from either PS or OTPS funds. Each Prosecutors' office identified surplus funds, the majority of which were associated with the criminal justice reform funding increase added in the November 2019 Financial Plan. Due to the COVID-19 pandemic, and resulting lower arrest rates, offices have delayed hiring the associated headcount with these increases.

The PEG program decreased the Prosecutors budget by \$23.7 million; \$21.1 million in Fiscal 2020 and \$2.6 million in Fiscal 2021 for the DA of New York only. PEGs reduce City tax-levy funding and make up approximately five percent of the City tax-levy portion of the 2020 Budget and less than one percent of the City tax-levy funding in Fiscal 2021. The budget cuts included in the Executive Plan have little impact on the DAs and SNP since each office identified surplus funds and the PEG was not baselined. The table on the following page outlines the PEGs for each DA and SNP over Fiscal 2020 and Fiscal 2021.

DA and SNP PEGs Across Fiscal 2020 and Fiscal 2021				
Office	FY20 PS PEG	FY20 OTPS PEG	FY21 OTPS PEG	Total PEG
BXDA	(6,161)	0	0	(\$6,161)
KCDA	(3,500)	(1,600)	0	(5,100)
DANY	0	(1,000)	(2,600)	(3,600)
QNDA	(4,094)	(2,250)	0	(6,344)
RCDA	(1,223)	0	0	(1,223)
SNP	(1,348)	0	0	(1,348)
TOTAL:	(\$16,326)	(\$4,850)	(\$2,600)	(\$23,776)

Dollars in Thousands

COVID-19

The onset of the COVID-19 pandemic in March 2020 led to a PAUSE order in New York State, with emergency executive orders requiring citywide shutdowns of nonessential businesses and services as part of a concerted public health response. In the following weeks the Governor signed several executive orders impacting the operations of Courts and impacting the work of the DAs. As of March 22, 2020 virtual court operations began for New York City's Family Court and Criminal Court, including arraignments, and the 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. 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. Most recently, preliminary hearings are set to begin mid-May in lieu of convening a Grand Jury in felony cases where someone would be held in custody. Notably, this is the first time New York City will hold preliminary hearings.

Impacts on Personnel

As discussed above, Court functions have transitioned to remote operations; however, a small percentage of staff in each of the Prosecutors' offices are required to go to the office for Court functions that are not capable of being done remotely. However, the majority of staff at the DA and SNP offices are working from home, with the exception of the security staff. Any staff that need to go to the office, or perform fieldwork are provided with personal protective equipment (PPE).

Impacts on Operations and Programming

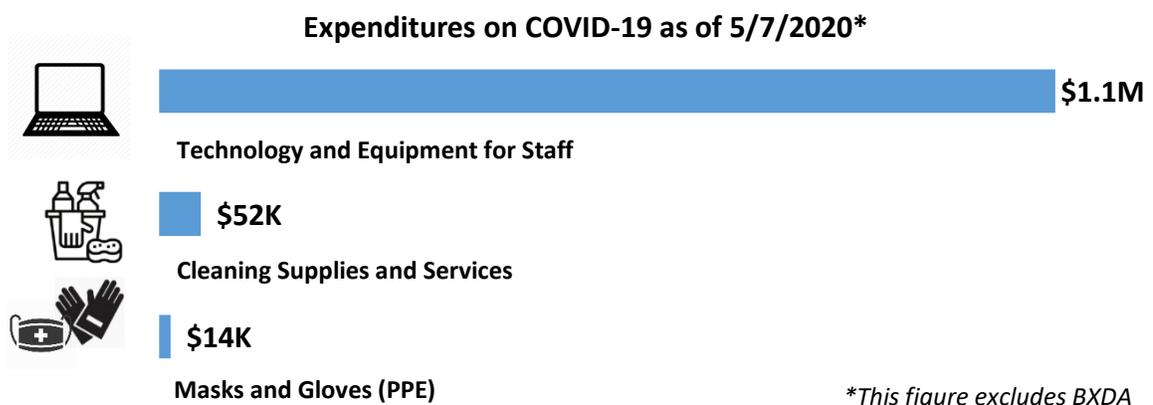
The DAs and SNP have shifted operations and programming due to COVID-19. These programmatic changes have occurred using the Prosecutors' existing resources and do not have a significant impact on the budget. Below are updates as a result of COVID-19.

- **Discovery Reform.** Whereas the November Plan added money for discovery reform which was to begin in January, 2020 and require a 15 day discovery turnaround from the DA and SNP to defense attorneys, Executive Order 202.8, signed on March 20, 2020 initially suspended the statutory limitations for court actions, including the limitations that were initiated as part of discovery reform. Executive Order 202.28, signed on May 7, 2020 continues to suspend the statutory limitations apart of discovery sharing requirements, effective through June 6, 2020. As noted above, hiring for these additional positions have been temporarily halted.
- **Releases from City Jails and State Department of Corrections and Community Supervision (DOCCS).** Due to the COVID-19 pandemic, 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, the Prosecutors, and State DOCCS, the City has released over 2,650 people. The DAs have reviewed releases on a case by case basis, weighing the public health risk against the public-safety risk. For more information on releases from jails and this process, please see the Executive Fiscal 2021 Budget report for MOCJ: <https://council.nyc.gov/budget/fy2021/>.
- **Case Intake.** Police have made fewer arrests between March 12th and May 7th compared to the same time period last year. This has resulted in a lower case intake for the Prosecutors; however, the felony categories that have increased (noted below) are more time-intensive and take greater resources. For example, according to data provided by NYPD, misdemeanor arrests are down 52 percent and major felonies are down 23 percent, but burglaries and grand larceny are up 31 percent and 59 percent, respectively. Following the release of City data on May 8, 2020 showing racial disparities in NYPD's enforcement of social distancing, all of the DAs, with the exception of RCDA, have pledged not to prosecute social distancing offenses.

- **Programming.** Defendant and witness programming operated by the DAs have pivoted to remote settings and remain operational. Community outreach and engagement such as RCDA’s Saturday Night Lights has also pivoted to virtual programming.

Budget Implications

COVID-19 Expenditures. As of May 7, 2020, the DAs have spent \$1.8 million on COVID-19 related supplies. As shown in the graphic below, the majority of the expense has gone to supporting staff with the necessary equipment to work from home including laptops, monitors, keyboards, and data processing tools among others. The Department of Information Technology and Telecommunications has worked with the Prosecutors to provide remote access, as well as laptops to all DA and SNP staff who need equipment.



Budget Issues

The following section identifies programs supported in the Fiscal 2020 Budget that are not included in the Fiscal 2021 Executive Budget.

Operating Support. The Fiscal 2020 Adopted Budget included \$6.85 million and 15 positions, for one year only, across the DA Offices to support programmatic and technical needs, summarized in the table below. The Prosecutors have filled all positions.

FY20 Items Supported by the Administration			
<i>Office</i>	<i>Program</i>	<i>Budgeted HC</i>	<i>Amount</i>
BXDA	DCAS Security Funding	N/A	\$2,500
KCDA	EVE Domestic Violence Program	3	154
	Warehouse Storage Lease Costs	N/A	1,600
DANY	State Grant Awards	N/A	1,400
QNDA	Building Security Guard Funding	N/A	300
	Domestic Violence STAT Expansion	7	465
RCDA	Conviction Integrity Review Unit	5	425
	Body Worn Camera Footage Storage	N/A	6
TOTAL:		15	\$6,850

Dollars in Thousands

Discretionary Funding. The Fiscal 2020 Adopted Budget included approximately \$656,000 in Council funding to support programming for Kings, Queens, and Richmond County DAs Offices.

FY20 Council Support for the District Attorneys	
Kings County DA	
Brooklyn Rising Against Violence Everyday (BRAVE)	\$320
Young Adult Court	138
Domestic Violence Empowerment (DoVE) Initiative	80
Queens County DA	
Domestic Violence Empowerment (DoVE) Initiative	73
Richmond County DA	
Domestic Violence Empowerment (DoVE) Initiative	20
Subtotal	\$631
Local Initiatives	\$25
TOTAL	\$656

Dollars in Thousands

Appendix 1: Fiscal 2021 Budget Actions since the Adopted 2020 Budget

<i>Dollars in Thousands</i>	FY20			FY21		
	City	Non-City	Total	City	Non-City	Total
DA and SNP Budget as of the Adopted FY20 Budget	\$409,756	\$12,677	\$422,433	\$408,177	\$12,618	\$420,795
New Needs (Nov)						
Funding for Criminal Justice Reform	\$35,856	\$0	\$35,856	\$35,387	\$0	\$35,387
Other Adjustments (Nov and Prelim)						
Various Other Adjustments	\$2,850	\$27,720	\$30,570	\$265	\$0	\$130
TOTAL, All Changes	\$38,706	\$27,720	\$66,426	\$35,652	\$0	\$35,517
DA and SNP Budget as of the Preliminary FY21 Plan	\$448,462	\$40,397	\$488,859	\$443,829	\$12,618	\$456,447
PEGs Executive FY21 Budget						
DANY OTPS Savings	(\$1,000)	0	(\$1,000)	(\$2,600)	0	(\$2,600)
BXDA PS Accruals	(6,161)	0	(6,161)	0	0	0
KCDA OTPS Savings	(1,600)	0	(1,600)	0	0	0
KCDA PS Accruals	(3,500)	0	(3,500)	0	0	0
QNDA OTPS Savings	(2,250)	0	(2,250)	0	0	0
QNDA PS Accruals	(4,094)	0	(4,094)	0	0	0
RCDA PS Accruals	(1,223)	0	(1,223)	0	0	0
SNP PS Accruals	(1,348)	0	(1,348)	0	0	0
Subtotal, PEGs	(\$21,176)	\$0	(\$21,176)	(\$2,600)	\$0	(\$2,600)
Other Adjustments Executive FY21 Budget						
DANY						
Barrier Free Living	\$0	(\$19)	(\$19)	\$0	\$0	\$0
State Asset Forfeiture Funding	0	(2,575)	(2,575)	0	0	0
Heat, Light and Power	1	0	1	305	0	305
High Intensity Drug Trafficking Area Program	0	400	400	0	0	0
Justice Assistance Grant 2018 and 2019	0	473	473	0	0	0
Labor Funding	406	0	406	46	0	46
Lease Adjustment	0	0	0	634	0	634
Motor Vehicle	0	(10)	(10)	0	0	0
National Crime Victims' Rights	0	5	5	0	0	0
Victim Witness Grant	0	(6)	(6)	0	0	0
BXDA						
Add OTPS and PS Funds	\$0	\$790	\$790	\$0	\$0	\$0
Heat, Light and Power	1	0	1	110	0	110
Labor Funding	181	0	181	79	0	79
Lease Adjustment	0	0	0	5	0	5
Reduce OTPS Funds	0	(17)	(17)	0	0	0
Space Management	(1,399)	0	(1,399)	0	0	0
KCDA						
Revenue Adjustments	\$0	\$408	\$408	\$0	\$0	\$0
Heat, Light and Power	1,190	0	1,190	(220)	0	(220)

KCDA cont'd...						
Labor Funding	107	0	107	173	0	173
Lease Adjustment	0	0	0	648	0	648
Legal Subscriptions	0	200	200	0	0	0
QNDA						
Heat, Light and Power	(\$6)	\$0	(\$6)	\$83	\$0	\$83
Labor Funding - CWA 1180	457	0	457	159	0	159
RCDA						
Byrne Justice Assistance Grant	\$0	\$20	\$20	\$0	\$0	\$0
Crimes Against Revenue Program	0	128	128	0	0	0
Council Member Items	20	0	20	0	0	0
Heat, Light and Power	(7)	0	(7)	5	0	5
Welfare Fraud	0	150	150	0	0	0
Labor Funding	18	0	18	0	0	0
Lease Adjustment	0	0	0	9	0	9
Victim Assistance Program	0	148	0	0	0	0
Violence Against Women Act	0	40	40	0	0	0
SNP						
None	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal, Other Adjustments	\$969	\$135	\$956	\$2,036	\$0	\$857
TOTAL, All Changes	(\$20,207)	\$135	(\$20,072)	(\$564)	\$0	(\$564)
DA and SNP Budget as of the Executive FY21 Budget	\$428,255	\$40,532	\$468,787	\$443,263	\$12,618	\$455,881