



New York County District Attorney's Office
Testimony before City Council Public Safety, Finance, and Justice System Committees
FY 2021 Budget & Oversight Hearings
May 20, 2020

Good afternoon Chairs Richards, Dromm, and Lancman, and members of the Committees on Public Safety, Finance, and Justice System. Thank you for the opportunity to speak today about my Office's Fiscal Year 2020 Preliminary Budget.

This is not the testimony I had prepared to deliver on March 19, nor could I have foreseen that any of us would be participating in this hearing in this manner. The coronavirus outbreak has upended our lives and the fabric of our society in ways that we are still grieving and struggling to comprehend.

Fiscally, we are presently grappling with unexpected expenses relating to COVID-19. The fast-moving nature of this virus necessitated that my Office, along with others testifying today, make an emergency purchase of personal protective equipment, cleaning supplies, and computer hardware and software to enable secure telework. For example, prior to the outbreak, approximately 500 employees had assigned RSA tokens that enabled them to work remotely. We now have 1,750 RSA tokens to support our work staff. These costs are ongoing, but at present we believe there to be approximately \$2 million in unanticipated costs through the end of 2020 that we are asking that the City, State, and possibly Federal government assist in covering. These expenses were made with the greatest consideration for public safety and public health, and we believe it has helped to better prepare us for other emergencies that could arise in the future.

Frequently when you've heard me testify, I've had the great fortune to tell you that crime is at historic low levels in Manhattan. For the first time in ten years, we find ourselves in a very changed climate, and I can unfortunately no longer make such statements, for reasons I will cover in my testimony.

Based on a review of CompStat and independently gathered data by my Office's Crime Strategies and Strategic Planning & Policy Units, I can report that the overall crime rate for the seven major index crimes is down in Manhattan, mainly because grand larcenies are down by between 50-75%, depending on the week, and felony assaults are down by a third. Burglaries and auto theft are rising, however, and, most troublingly, there have been twice as many murders in Manhattan as this time last year. Gun violence – which is measured in incidents of shots being fired, as well as non-fatal and fatal shootings – is up during the pandemic, compared to pre-pandemic 2020 and to prior years at this time. In 2018, there were 31 murders in Manhattan total. If we continue at the current pace, without a rise in the summer, we will end this year at 71 homicides, a 229% increase in just two years. Shots fired and non-fatal shootings are also on track to skyrocket this year. Right now, we cannot pinpoint any single factor or group of factors contributing to this.

Sadly, hate crimes targeting Asian immigrants and Asian-Americans are up during the pandemic. This year, there have been nine reported anti-Asian hate crimes, all during the coronavirus-impacted period. They have taken the form of assaults, graffiti, and other forms of harassment. Last year at this time, year to date, there had been no reported hate crimes against Asians and Asian-Americans in Manhattan. One can only imagine what is going unreported, and I have a great deal of concern for how the City can better protect this community while incendiary, anti-Chinese rhetoric spews from the executive branch of U.S. government.

Transit crimes committed on the subway are also up during this period, particularly, robbery. Throughout the pandemic, there have been around a dozen reported robberies in Manhattan subways in a given 28-day time period. For example, between April 6 and May 3, there were 12 reported robberies in Manhattan subways, compared to seven during in the same time period last year, a 60-70% jump even though there has been a 90% or so reduction in ridership. Pre-pandemic 2020, there were 25 or so robberies per 28-day period, a staggering increase from the year before. I am not prepared to offer explanations for the increase, given that the data set is comparatively small.

With more time than ever being now spent in the home, we are all focused on the dwindling number of domestic violence cases coming to us, including child abuse. Citywide, domestic violence felonies are down by almost 32%, when comparing data from a recent 28-day period¹ and the same time last year. In Manhattan, there have been dramatic differences in reporting between the North and South, in that domestic violence felonies are down by 12% in Manhattan North, but down by a whopping 48% in Manhattan South during the same 28-day time period. Violations of orders of protection are up 26% in Manhattan North compared to last year, and this is not a citywide or boroughwide trend: citywide, violations of orders of protection are down by 17%, and Manhattan South has experienced a decline of 60%. One possible explanation for Manhattan North having more domestic violence reports could be the strong network of service providers in this area who are connecting survivors with the police.

Prior to the pandemic, the focus of this testimony would have been how my Office has been diligently working to implement the sweeping criminal justice reforms that took effect January 1st. The critical support we received from the City Council and Mayor's Office last fall helped my Office with this undertaking. Though the changes were largely welcome in spirit and intent, they have been operationally challenging in practice. Those challenges were compounded by the need to immediately reduce the population in city jail in response to the COVID-19 pandemic. My Office undertook a comprehensive review of every person being held in DOC custody to assess whether they are appropriate for release under COVID-19 circumstances. As of May 12th, there were 1,146 people being held in jail on a Manhattan case (excluding those being held on a \$1 bail or other hold), down from 2,071 on March 19th, nearly a 45% reduction. We have also responded to requests from public defenders through mass writs, bail applications and direct outreach on cases.

In 2019, the Manhattan DA's Office continued to slash unnecessary incarceration by ending the criminal prosecution of thousands of misdemeanors, violations, and infractions. In 2009, we prosecuted 101,285 cases. Last year, we prosecuted 42,229 cases – a nearly 60 percent decrease in prosecutions in the decade I have been in office. In recent years, my office has ended the routine prosecution of marijuana smoking and possession, subway fare evasion, unlicensed vending, nonpayment of fines, loitering for prostitution, and summons cases, and we have cut total prosecutions by 58% since I took office in 2010.² As a matter of policy, our office declines to

¹ The 28-day period referenced for the domestic violence data is from 4/13 to 5/10.

² As per the Council's request, the number of cases the Manhattan DA's Office prosecuted in FY20 for "Theft of services (when it involves public transit)" was 111 (includes buses and subways). The number of cases prosecuted in

prosecute arrests for social distancing and other violations of the recent emergency executive orders. We continue to seek innovative ways to drive that number lower without compromising public safety and by combining prosecutorial discretion with the widespread use of diversion programming.

Because the success of the State's new criminal justice laws hinges on New Yorkers attending their court dates, in November, my Office allocated \$100 million in forfeiture funding from bank settlements to the citywide supervised release program to help defendants stay on top of their court appearances and get connected to vital services. In February, we also launched Manhattan Justice Opportunities (MJO), a new sentencing alternative for misdemeanor and select felony cases. Located next door to Criminal Court, on the first floor of 80 Centre Street (across from the Marriage Bureau), MJO is staffed by a team of social workers, court-based resource coordinators, community health workers, and peer navigators from the following organizations: the Center for Court Innovation, the Center for Alternative Sentencing and Employment Services (CASES), the Osborne Association, and the Fund for Public Health/NYC Department of Health and Mental Hygiene (DOHMH). MJO aims to address the underlying needs that may have led to an individual's criminal justice involvement.

Up until this point, we've been able to use case-generated revenue to support innovation, but this is not a stable funding source or a long-term solution for addressing baseline salary needs. Furthermore, criminal justice reform is crucial to helping the City achieve its goal of closing Rikers Island in under a decade, but we require additional City Tax Levy funding to support our efforts. Specifically, my Office requests an additional \$12 million in personal services funding (otherwise known as salaries) to sustain critical activities that have been self-funded by our office since 2010. Without additional baseline funding support in the future, we will eventually need to drastically cut back on core prosecutorial staffing.

My testimony in recent years before these Committees has sought to highlight key investments through the Criminal Justice Investment Initiative (CJII), a first-of-its-kind effort to support innovative community projects that fill critical gaps and needs in New York City.

Several of these multi-year grants – 17 to be exact – are coming to an end in this calendar year, however. For example, Sanctuary for Families' economic empowerment program for domestic violence survivors that is run out of the Manhattan Family Justice Center and other satellite locations will shutter its doors in August if funds aren't continued. Hundreds of women who are seeking financial independence from their batterers received crucial job training services and placements at internships and high-wage jobs through this program. COVID-19 has put a spotlight on the needs of this incredibly vulnerable population. We are looking to the Council, City, and others to sustain these deserving projects to ensure a continuity of service to the community.

In addition, there are two programs that my Office has self-funded with forfeiture proceeds to date, but will not be able to much longer: Project Reset and Manhattan HOPE. In a letter sent on May 6th, I alerted Speaker Johnson to the fact that funding for Project Reset will expire in January 2021, and my office does not have the resources to provide an extension. We are proud that the Council has

FY20 for "a misdemeanor marijuana charge (P.L. 221.05, 221.10, or 221.15)": 21 cases of P.L. 221.05; 26 cases of P.L. 221.10; and 66 cases of P.L. 221.15. The number of cases prosecuted in FY20 for resisting arrest was 248. The number of cases prosecuted in FY20 for criminal possession of a controlled substance in the seventh degree was 2,298. The number of cases prosecuted in FY20 for obstructing governmental administration in the second degree was 331. The number of cases in FY20 prosecuted for "disorderly conduct (as the top charge)" was 478. The number of cases in FY20 prosecuted for loitering (P.L. 240.35) was 27.

support Project Reset's expansion to Brooklyn and the Bronx and are now seeking support to continue the program in Manhattan.³

Based on the success of Project Reset and modeled after the pilot in Staten Island, our Office launched Manhattan HOPE in partnership with the NYPD and Alliance for Positive Change in September 2018. 250 participants have enrolled in the program and 80 have had their cases declined to be prosecuted. In addition to potential jail bed savings, Manhattan HOPE yields savings in court and police resources. My Office requests \$625,000 annually starting in FY21 to continue this critical program going forward.

The discovery reforms that took effect at the beginning of the year have made the need for physical documentation production more necessary than ever before. In order to comply with the increased evidentiary demands, we request financial assistance for our leased warehouse space at 4312 Second Avenue in Brooklyn, which is operationally critical to the running of our office. For several years, the Department of Citywide Administrative Services (DCAS) has been working on acquiring additional records storage space at 4312 Second Avenue. We have been told by DCAS that negotiations are in the final stages and rent payments are expected to begin in Fiscal Year 2021. As we are required by law to keep most of our files for 25 years, physical storage remains a growing need for our office. We are proactive about seeking alternatives to leasing costly warehouse space, and we have begun utilizing the City's GRM contract when appropriate and actively work with the Department of Records and Information Services to transfer files destined for municipal archives. However, they are behind in collecting files from our office. We digitize certain records for the Office ourselves, such as misdemeanor arraignment paperwork, and will expand the digitization efforts across cases going to storage, but case files, including paper documents, still must be retained and stored.

Additionally, the state's new discovery laws require that we must both reproduce and keep tremendously more paper on every case than had been required in the past. Keeping copies of these discoverable materials help to ensure against any court challenges to what was provided within the new 15-day discovery window. Given the volume of cases and associated documents and the statutory retention requirements, leasing the additional space at 4312 Second Avenue is an operational necessity and we require approximately \$700,000 in additional funding annually to cover the costs associated with this warehouse space.

My Office shares the Council's goal of increasing transparency and accountability among law enforcement. We have made important progress on our effort to create public facing data dashboards that will be available on our website this summer. Key metrics such as the volume and types of cases that we screened and their outcomes will be available to the public along with demographic characteristics of the defendant population.⁴

Thank you for the opportunity to speak today, and thank you for the continued support of my Office.

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³ As per the Council's request, there were 217 cases arraigned in the Manhattan Youth Part in FY20; 141 cases were transferred to Family Court and 76 cases remained in Supreme Court.

⁴ As per the Council's request, the area of the office that work most frequently with data, including data pertaining to "tracking cases and case outcomes based on race, ethnicity, sex, and age" is the Strategic Planning & Policy (SPP). SPP employs four data analysts, two policy analysts, a Deputy Director and Director.



DISTRICT ATTORNEY

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CYRUS R. VANCE, JR.
District Attorney

May 11, 2020

Dear Speaker Johnson,

In 2015, my office joined together with the New York Police Department, public defenders and local service providers to develop Project Reset, the City's first pre-arraignment diversion program. What started as a pilot in one Manhattan precinct has grown into a citywide program and a core aspect of the City's criminal justice reform and jail reduction strategy. I proudly supported Project Reset with a \$7.8 investment from my office's Criminal Justice Investment Initiative. That funding will end in January 2021 and my office does not have the resources to provide an extension. I am seeking \$2 million in annual funding to support the program going forward.

With your leadership and financial support, Project Reset has been expanded to Brooklyn and the Bronx with much success. In Manhattan, three service providers – the Center for Court Innovation, the Osborne Association and Young New Yorkers – offer diversion workshops on topics such as building social resilience, restorative justice, and naloxone training. These organizations also offer counseling services, introduce trauma-coping interventions, link individuals to community-based wraparound services, and, for young adults arrested in Lower Manhattan, deliver arts-based restorative justice interventions. To date, 2,909 people have successfully completed Project Reset in Manhattan and had their cases declined to be prosecuted by my office without ever having to step foot in a courtroom.

My office is funding the RAND Corporation to perform an evaluation of the program's impact on recidivism and other outcomes. We eagerly await those results, which will be available in early 2021.

I am grateful for the support that you have provided to the other boroughs to make Project Reset available. I urge you to consider ways for Project Reset in Manhattan to be continued through a sustainable funding source. With your leadership, we can continue to make New York City a leader in criminal justice reform.

Sincerely,

A handwritten signature in cursive script that reads "Cyrus R. Vance, Jr.".

Cyrus R. Vance, Jr.