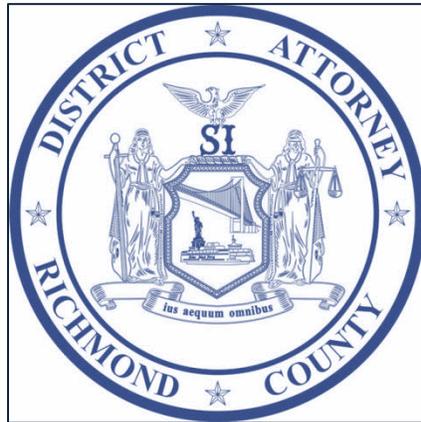

OFFICE OF THE RICHMOND COUNTY DISTRICT ATTORNEY

FISCAL YEAR 2021 EXECUTIVE BUDGET



THE COUNCIL OF THE CITY OF NEW YORK

THE FINANCE COMMITTEE AND THE COMMITTEE ON JUSTICE

MAY 20, 2020

MICHAEL E. McMAHON

DISTRICT ATTORNEY

OVERVIEW

Good afternoon. It is an honor and pleasure to appear before the City Council today. I want to thank the Chair of the Committee on the Justice System, Rory Lancman, and the Chair of the Committee on Finance, Daniel Dromm, for their time and hard work in presiding over today's Executive Budget Hearing. I also want to acknowledge and thank Speaker Corey Johnson for his leadership. I hope you and your families are well and safe and I look forward to continuing our work to improve our criminal justice system in line with our shared goal of better protecting and serving the people of the City of New York.

I also want to thank Staten Island's Council delegation: Minority Leader Steve Matteo, Council Member Debi Rose, and Council Member Joe Borelli for their ongoing advocacy on behalf of the people of Staten Island and their continued support of the Richmond County District Attorney's Office (RCDA).

As a proud alum of the City Council, who lived through September 11 and the 2008 recession in elected office, Superstorm Sandy, and now as a District Attorney with one term under my belt, I thought I had seen it all, but obviously we come before you today in unprecedented and uncertain times for this City, this State, and the country.

As we sit before you today facing a pandemic that continues to threaten the health and safety of New Yorkers and a grim fiscal outlook for our City, particularly if we do not receive the necessary and critical assistance from the Federal Government, we will all have a difficult task ahead of us to further reimagine the way our agencies and systems of government do business.

Two months ago, as we prepared to come before this body for Preliminary Budget hearings, my testimony focused on how my agency had reacted, changed and produced in the wake of sweeping reforms made to the criminal justice system that took effect on January 1, 2020. I am sure my colleagues and fellow DAs would agree that 2020 was a challenging year for our agencies well before coronavirus struck. Without question, these reforms totally upended the landscape and operations of our agencies, and although we were proudly ready to report to you that our agency had hired over 85% of the new positions created with the funding provided by this Council and the administration, I was also prepared to tell you how worried I was that I would continue to lose droves of talented and dedicated ADAs to the private sector and better paying government agencies because the change and burden of work placed on them became too much. In fact, we did lose many talented ADAs in

December, January, and February as these new laws took effect and I know I am not the only District Attorney who faced that challenge. When I look at the timesheets of ADAs from January and February I see many who often worked until 2 or 3 AM, regularly putting in over 70 and 80 hours a week without receiving any overtime or comp pay, unlike their public defender counterparts. I am incredibly proud of these public servants who embody the very best of what we expect of Assistant District Attorneys and the justice system. They performed valiantly during a time of vast change, and their work ethic then as well as now as they continue to perform essential frontline duties during the pandemic, deserves to be recognized by this City. I urge this administration and this Council to remember and fulfill its commitment to finishing and achieving salary parity for all ADAs. They are critical to our mission to keep our City safe and they deserve to be paid equal to other city attorneys.

With that said, I will focus the remainder of my testimony on the following subjects:

- **COVID-19's Impact on RCDA Operations and Public Safety on Staten Island;**
- **Our Modest Priority Budget Needs for Fiscal Year 2021; and**
- **Thoughts on the Future**

COVID-19's Impact on RCDA Operations and Public Safety on Staten Island

RCDA has adapted during this pandemic and I am proud that we have remained vigilant and consistent in our dedication to the rule of law, the protection of victims of crime, and the overall improvement of public safety on Staten Island.

General Office Operations

When it was clear that the City's infection rate was rapidly escalating and that we would need to limit in-person exposure in our facilities, we were able to quickly adjust our operations to coincide with the shutdown of the Courts and transition to virtual operations. With limited exceptions since March 17th, 95% of our staff has worked from home, with a select number of ADAs and support staff reporting in-person to perform essential duties, including complaint drafting and arraignments. For those at home, we were able to deploy technology to keep them connected and productive for the duration of this crisis. In fact, some units have seen unparalleled productivity during this time frame, thanks to flexible working conditions, structured supervision, and new technology deployments. These are all things we

will consider and hope the City will help us retain as we make long term plans for future changes to how we conduct business.

This week, preliminary hearings have started as a result of the Governor's recent Executive Order, which has resulted in more of our staff, police officers, and witnesses having to report in-person to our office. We are moving cautiously forward and have taken numerous health and safety precautions to prepare our workspace and protect our employees and visitors, but those changes are not without risk or cost.

Concerning Public Safety Trends During COVID-19

Although the number of arrests dropped during the initial six weeks of the coronavirus pandemic, likely a result of a percentage of the City's residents leaving the City, those who remained here largely staying inside, a reduced police force that was disproportionately affected by COVID-19, and rainy weather, in the past few weeks we have seen a sizeable increase in daily arrests. And, there are a few trends which leave us concerned:

- Domestic Violence & Child Abuse

- Family Justice Centers are operating virtually citywide, but many victims are trapped in their homes and cannot safely call 911 or a DV hotline. Our Victim Advocates and DV ADAs continue to work tirelessly to outreach and check-in with victims, but there are surely those we are not able to reach who are in need of help.
- The closing of schools and transition to virtual learning means vulnerable children unfortunately fall through the cracks. Teachers are often that constant presence who in their interactions with students pick up on signs of neglect or abuse and file a report. Without that critical interaction, we fear that instances of child abuse are underreported at this time.

- Shootings and Violent Crimes

- In recent weeks, we have seen several serious crimes committed on Staten Island, including the double homicide of a pregnant woman and her boyfriend, and multiple unrelated arrests relating to the possession of large caches of weapons, including improvised explosive devices (IEDs), dozens of firearms, and a flamethrower. Our ADAs continue to

respond 24 hours a day to assist and bolster these cases where violence and weapons threaten our neighborhoods.

- **Mental Health - Suicides**

- We remain deeply concerned about the impact that this pandemic has had on the mental health of our constituents. The trauma caused by the disease itself, the interruption it's placed on the grief process, social gatherings and the domino effect it has had on the economy, family structure, work-life balance, and our overall quality of life is significant. Although our agency does not track suicides at this time, we have noticed an uptick in notifications regarding suicide attempts and that remains a point of serious concern.

Continuing Efforts to Connect Individuals with Services and Divert Cases Out of the Criminal Justice System

Project Reset Launched!

Although offering services virtually at this time, in coordination with the Center for Court Innovation, and with the support of this City Council and Speaker Corey Johnson in particular, we were proud to launch Project Reset earlier this month. Project Reset, originally pioneered by District Attorney Vance, seeks to divert individuals with limited criminal histories arrested on low-level misdemeanors out of the criminal justice system if they participate in community-based interventions. We have already identified approximately 15 individuals who will be offered the opportunity to participate in this program, and look forward to its continued success in the years to come. We urge this Council to continue to fund the Center for Court Innovation and the important work they do on this program and other community justice initiatives.

HOPE 1.0, Hope 2.0, OAR, and Overdose Outreach

Since last year, the HOPE program and its expansions to HOPE 2.0 and OAR have continued to show success in diverting individuals suffering from substance use disorder and low-level criminal histories out of the criminal justice system. Hundreds more were offered the opportunity to participate in these programs and a high percentage completed successfully. Although new offers had slowed considerably during late March and April because of COVID, they started to rise again in recent days. Although all resource centers have had to curtail their

operating hours, most continue to offer services and remain connected with clients via video and phone conference.

Our dedicated staff also continues to remain a resource for the community and in particular for those families and individuals who need to be connected with treatment. We now employ a certified CASAC and peer recovery coach who works to connect victims of overdose and families who do not know where else to turn to support and treatment services. We have found this particularly vital during the coronavirus pandemic.

EAC Programs, Mental Health Court, Veterans Court & Drug Treatment Court

Likewise, other cases with diversion offers to EAC-run programs, including TASC, CIRT and CRAN, are continuing, but with program services being offered remotely. Staten Island's Mental Health Court continues to operate virtually as well, but new pleas are currently only accepted for incarcerated defendants. Veterans Court and Staten Island Treatment Court are currently not accepting new offers or new cases, and individuals with pending cases are participating with the court through virtual sessions.

Continuing to Prevent Crime & Engage with the Community during COVID-19

While some of our Community Partnership Unit's traditional duties have been sidelined due to cancellations caused by COVID-19, I am proud to report much of our community programming has continued and flourished over these last several weeks. It is clear that crime does not stop because of a pandemic, and neither should our efforts around crime-prevention. Here are just a few examples of the programming we have offered in the past two months:

- **Saturday Sessions Continues on Zoom!**
 - o Our hallmark Saturday Sessions programming continues to serve the young people of Stapleton and the surrounding communities each week, bringing quality athletic and academic programming to over 60 young people every Saturday via Zoom. This past Saturday featured a virtual fashion show, and this Saturday will feature presentations on gun and gang violence, and will include speakers from anti-violence community groups, the NYPD, and members of our team.

- **Anti-Bullying Art & Writing Contest.**
 - o Our fourth-annual anti-bullying art and writing contest enjoyed submissions from students across the Island, expressing touching

messages on the importance of treating others with respect, tolerance, and kindness.

- **Protect Your Business Webinar.**
 - o We recently hosted a Webinar for business owners on how to protect their place of business from crime while closed or working modified hours, how to safeguard personal and financial information, and offer guidance on available financial support and tips on how to reopen safely when the time comes.

- **Launched a weekly video series entitled: RCDA Q&A**
 - o We have launched “RCDA Q&A” a weekly video series that highlights crime prevention tips and an opportunity to communicate directly with the office. The office has enhanced its already robust social media presence, handled dozens of constituent cases of Staten Islanders impacted by crime, attended virtual civic meetings and kept open lines of communication with community leaders from all walks of life to ensure we are able to reach one another.

REMAINING NEEDS AND CHALLENGES

We recognize the significant budget challenges facing the City in this unprecedented time and as such have limited our requests below to items that merely continue existing funding commitments that are absolutely critical. We worked with the Office of Management and Budget expeditiously last month when almost \$1.3 million dollars of funding was PEG'd from our FY20 unspent funds, most of which only existed as a result of delayed hiring from the new criminal justice reform funding provided in January.

Provide Full Annual Funding for New Criminal Justice Reform Personnel – \$1.529 million (PS)

When the administration provided funding and support for the hiring of 61 new personnel to respond and adequately handle the changes brought on by the new criminal justice reforms, it was only provided on a pro-rata basis for FY20 and not for the full annual salaries of those positions. We had been assured by the administration that the full funding of these salaries would follow as hiring progressed. At this time, we have filled 85% of the new positions. We have been delayed in filling the remaining 15% of positions as a result of COVID-19, but anticipate we will be fully staffed by September 1st. There is no question all of these

staff members will be vital to fulfilling our obligations under the new criminal justice reforms.

Baseline Rent for Additional Space for New Personnel – \$125,000 (OTPS)

Our agency has grown from 105 employees in 2016 to what will be 230 employees by September 1st without being provided any additional physical space. In recognition of this need and the provision of 61 new positions for criminal justice reform legislation, we identified and requested funding to rent a newly identified private office near the Staten Island Courthouse. Although we were provided with the capital funds to renovate the space and install the necessary technology infrastructure, we were not provided with the OTPS funding to cover the relatively modest rent for the space on an annual basis. DCAS has already determined there is no available City-owned space in the necessary vicinity, and we are well on our way to procuring this new space, but have yet to receive the baselined rent funding we have been assured we would receive. This request has become critical for us to meet the social distancing requirements soon to be imposed on workplaces when we are allowed to fully reopen, hopefully in the coming months.

Baseline Conviction Integrity Review Unit - \$425,000 (PS)

Two years ago, we were granted an historic first for our office when this Council granted us funding for a Conviction Integrity Review Unit. We recognize the importance of reviewing past convictions to ensure justice was properly handed down for all defendants, and we were grateful that the Council provided the needed funding to accomplish this mission. When funded in FY19 however, the funding, which was for salaried positions, was not baselined.

Since receiving this funding two years ago, we have put in place an experienced team that has already undertaken and expended a tremendous amount of time and resources to reviewing the cases in question. In fact, the Unit is currently reviewing multiple cases of incarcerated defendants awaiting our results. This work enhances the community's trust in the criminal justice system and our ability to pursue justice without bias. If this funding is not baselined, we will have no choice but to stop this work and abandon these reviews that require an enormous amount of time and dedicated attention, travel, and even OTPS resources. Thus, we are asking for \$425,000 for the Conviction Integrity Review Unit to be baselined in FY20 and moving forward. This is essential and just.

Body Worn Camera Storage-- \$6,000-\$8,000 (OTPS)

In FY2019, we were grateful to have received funding to meet our personnel obligations for body worn camera analysis, however, like my colleagues, we also now need to address the associated costs with storage of this footage. The OTPS cost for storage of the footage for my office is relatively modest, and we are thankful the Council provided it last year, but it is an ongoing cost, and as such we are again requesting between \$6,000-\$8,000 annually over the next five years.

LOOKING TO THE FUTURE AND LEARNING FROM THE COVID-19 PANDEMIC

As we all look to the future, and reimagine how our agencies should operate with lessons learned from this pandemic, I am asking the City to Consider the following:

- **We should continue to have flexibility to allow all staff to work from home.** Contract rules need to be re-examined to allow for employees to have greater flexibility to work from home, so long as certain supervision remains in place.
- Speaking for our agency, **the need more physical space to provide adequate workspaces with appropriate social distance between employees is absolutely essential.**
 - o It will no longer acceptable to arrange multiple workstations in the same enclosed offices, in spaces originally designated as closets, or storage rooms social distancing is impossible;
 - o The process for acquiring new space must be simplified and decentralized. It should not take 2-3 years to acquire and renovate new space. Outer boroughs like Staten Island have different factors and dynamics that should be considered and could streamline this process.
- **The City's infrastructure and facilities must be upgraded to meet the challenges of the future and that of a pandemic.** While the opportunity to make these investments during a good fiscal climate may have temporarily passed us by, the need to overhaul and modernize our elevators, bathrooms, security systems, entryways, lights, and HVAC systems to ensure a hygienic workplace is essential.

I thank you for your time and consideration of my testimony. It would be my pleasure to answer any questions you may have, and I look forward to working with this body and its members to achieve these goals and further our shared mission of a safer and more just New York for all.