

# THE COUNCIL OF THE CITY OF NEW YORK

Hon. Corey Johnson  
Speaker of the Council

Hon. Fernando Cabrera  
Chair, Committee on Governmental Operations



Report of the Finance Division on the  
Fiscal 2021 Preliminary Budget and the  
Fiscal 2020 Preliminary Mayor's Management Report for the

## **Office of Administrative Trials and Hearings**

March 20, 2020

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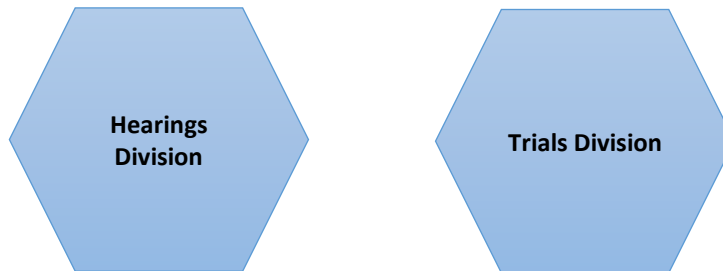
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## Office of Administrative Trials and Hearings Services Overview

The Office of Administrative Trials and Hearings (OATH or the Department) is the City's central, independent administrative law court. OATH has two divisions: the OATH Trials Division and the OATH Hearings Division.

### Divisions



#### **OATH Hearings Division**

The Hearings Division conducts hearings on summonses issued by enforcement agencies for alleged violations of City rules and regulations. The Hearings Division represents the consolidation of three previously separate tribunals: the Environmental Control Board (ECB); the Department of Health and Mental Hygiene (DOHMH) Tribunal and the Taxi & Limousine Commission (TLC) Tribunal. Under the management of current OATH commissioner Fidel Del Valle, these three tribunals have been gradually streamlined into a single Hearings Division, which manages cases that were formerly overseen by these tribunals in an integrated system with a unified hearing process. Hearings formerly adjudicated by the Department of Consumer Affairs were also streamlined into the OATH Hearings Division beginning in September 2016.

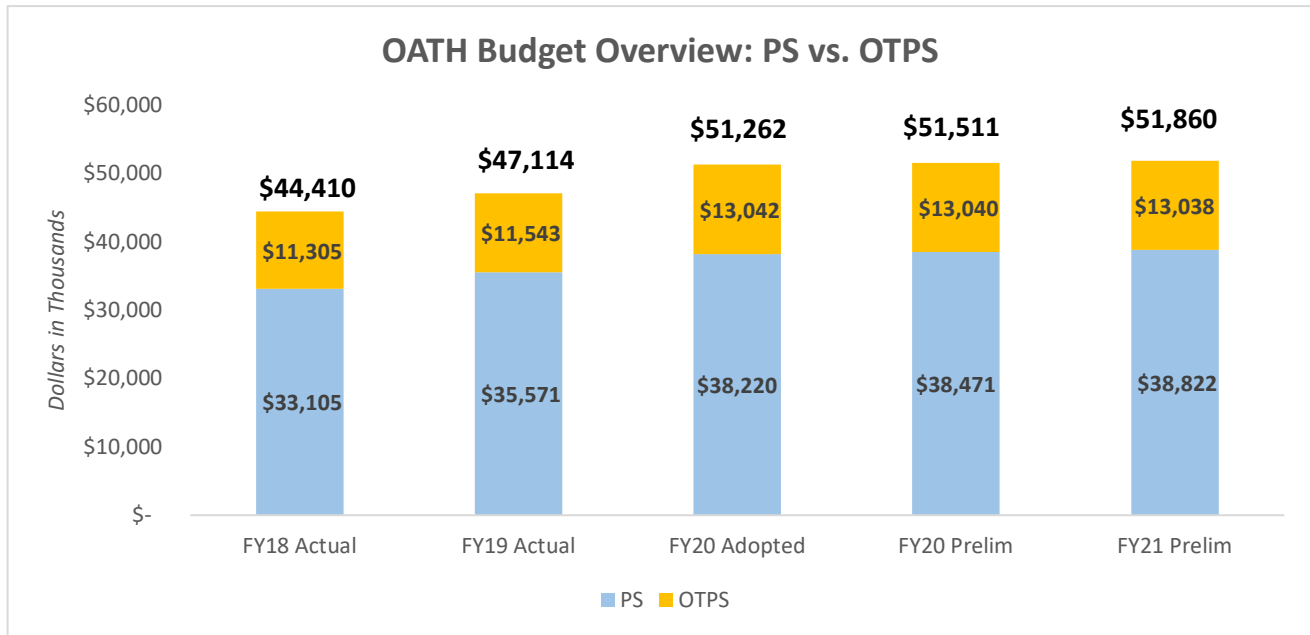
#### **OATH Trials Division**

The OATH Trials Division adjudicates a wide range of issues that can be referred by any City agency, board or commission. Hearings conducted by the Trials Division include disciplinary cases brought by City agencies against civil service employees; matters pertaining to licensing, regulatory and enforcement authority, including cases involving City contractors; cases involving holders of various City licenses and loft tenants and their landlords; and hearings conducted after the New York City Police Department (NYPD) seizes vehicles of drivers accused of crimes.

## Fiscal 2021 Preliminary Budget Highlights

The Office of Administrative Trials and Hearings (OATH) Fiscal 2021 Preliminary Budget totals \$51.8 million, including \$38.8 million in Personal Services (PS) funding to support 313 full-time positions. The entirety of OATH’s budget is funded through City tax-levy funding. While OATH’s operations are separated into the Hearings and Trials Divisions, the agency’s budget is organized into two Units of Appropriation<sup>1</sup> (U/As), which include one for Personal Services and one for Other than Personal Services (OTPS).

**Figure 1**



### Highlights of OATH’s Fiscal 2021 Preliminary Budget

- Miscellaneous Revenue.** The Financial Plan projects that the Office of Administrative Trials and Hearings will generate miscellaneous revenue totaling \$156.1 million in Fiscal 2021, the majority of which comes from the collection of fines issued at OATH courts.
- Contract Budget.** OATH’s Fiscal 2021 Preliminary Contract Budget totals \$3.7 million for 30 contracts, accounting for 28.5 percent of the Department’s OTPS Budget.
- Preliminary Mayor’s Management Report (PMMR) Highlights.** Notable performance metrics reported by the Office of Administrative Trials and Hearings in the Fiscal 2020 PMMR include the following.
  - During the first four months of Fiscal 2020, the OATH Trials Division issued decisions within 45 business days for 87 percent of its cases, a decrease from 91 percent of cases during the same period in Fiscal 2019, primarily due to the type and complexity of those cases that go to trial.

<sup>1</sup> Units of Appropriation are the subdivisions of the City expense budget that the City Council votes upon.

- The total number of summonses received from the issuing agencies at the OATH Hearings Division for Fiscal 2019 totaled 837,778, a decrease of 4.7 percent from Fiscal 2018.
- The total number of summonses processed at the OATH Hearings Division for Fiscal 2019 totaled 663,327, representing an increase of less than one percent since Fiscal 2018. This number has been steadily increasing since Fiscal 2017, but not enough to keep up with the growth in summonses received.

## Financial Plan Summary

Table 1

OATH Financial Summary						
<i>Dollars in Thousands</i>	FY18	FY19	FY20	Preliminary Plan		*Difference
	Actual	Actual	Adopted	FY20	FY21	FY20-21
<b>Personal Services</b>						
Additional Gross Pay	\$525	\$494	\$468	\$468	\$468	0
Full-Time Salaried - Civilian	20,356	21,764	23,889	24,137	24,176	287
Unsalaries & PS Other	12,155	13,266	13,813	13,816	14,128	315
Overtime - Civilian	68	47	50	50	50	0
<b>SUBTOTAL</b>	<b>\$33,104</b>	<b>\$35,571</b>	<b>\$38,220</b>	<b>\$38,471</b>	<b>\$38,822</b>	<b>\$602</b>
<b>Other Than Personal Services</b>						
Contractual Services	\$4,128	\$4,114	\$3,791	\$3,876	\$3,719	(72)
Fixed and Misc Charges	8	3	0	0	0	0
Other Services & Charges	5,360	5,965	7,330	7,356	7,328	(2)
Property & Equipment	468	324	275	365	346	71
Supplies & Materials	1,342	1,137	1,646	1,443	1,645	(\$1)
<b>SUBTOTAL</b>	<b>\$11,306</b>	<b>\$11,543</b>	<b>\$13,042</b>	<b>\$13,040</b>	<b>\$13,038</b>	<b>(\$4)</b>
<b>TOTAL</b>	<b>\$44,410</b>	<b>\$47,114</b>	<b>\$51,262</b>	<b>\$51,511</b>	<b>\$51,860</b>	<b>\$598</b>
<b>Funding</b>						
City Funds			\$51,262	\$51,511	\$51,860	\$598
<b>TOTAL</b>	<b>\$44,410</b>	<b>\$47,114</b>	<b>\$51,262</b>	<b>\$51,511</b>	<b>\$51,860</b>	<b>\$598</b>
<b>Budgeted Headcount</b>						
<b>Full-Time Positions - Civilian</b>	<b>290</b>	<b>310</b>	<b>313</b>	<b>313</b>	<b>313</b>	<b>0</b>

\*The difference of Fiscal 2020 Adopted Budget compared to Fiscal 2021 Preliminary Budget

The Office of Administrative Trials and Hearing's Fiscal 2021 Preliminary Budget totals \$51.8 million, including \$38.8 million in PS funding to support 313 full-time positions. OATH's Fiscal 2021 Preliminary Budget is \$598,000 more than its Fiscal 2020 Adopted Budget of \$51.3 million. This increase is primarily to collective bargaining agreements included in the November 2019 Plan, with \$251,000 added in Fiscal 2020 and \$286,000 baselined in Fiscal 2021 for costs associated with the Civil Service Bar Association (CSBA) and Local 237. Although not included as a savings in the Department's Citywide Savings Program, the Department generated projected savings of \$1,857 in Fiscal 2020 and baselined savings of \$3,714 beginning in Fiscal 2021, as the Department for Information Technology and Telecommunications (DoITT) telecommunications resource team continues to review City agency spending by service type in order to identify more cost-effective provider options.

## **Former Tribunals of the OATH Hearings Division**

The Hearings Division conducts hearings on summonses issued by enforcement agencies for alleged violations of City rules and regulations. The Hearings Division represents the consolidation of three previously separate tribunals: the Environmental Control Board (ECB), the Department of Health and Mental Hygiene (DOHMH) Health Tribunal, and the Taxi & Limousine Commission (TLC) Tribunal. These three tribunals have been gradually streamlined into a single Hearings Division, which manages cases that were formerly overseen by these tribunals under an integrated system with a unified hearing process. In addition, hearings formerly adjudicated by the Department of Consumer Affairs were also streamlined into the OATH Hearings Division beginning in September 2016.

### **Health Tribunal**

The OATH Health Tribunal provides hearings for individuals and businesses charged with violating laws related to, or affecting health within New York City. The Health Tribunal does not issue Notices of Violation (NOVs) and does not conduct inspections. The Tribunal schedules approximately 65,000 cases each year. Most of the cases involve public health and environmental sanitation, with the largest number of cases coming from inspections of food service establishments.

### **Taxi and Limousine Commission Tribunal**

The TLC Tribunal is responsible for holding hearings on tickets that are issued by the TLC, NYPD and the Port Authority of New York and New Jersey. These tickets are issued to TLC licensees and non-licensees for violations of NYC laws and TLC rules and regulations. The TLC Tribunal is not a part of the TLC. Tribunal judges do not work for the TLC and are independent, impartial decision-makers.

### **Environmental Control Board (ECB)**

ECB is the City's largest tribunal, and holds approximately 200,000 hearings annually on quality of life and public safety charges that are filed by 13 different agencies, including the Department of Buildings, the Fire Department, the Department of Environmental Protection and the Department of Sanitation, among others.

### **Department of Consumer Affairs (DCA) Hearings**

In September 2016, the OATH Hearings Division began hearing summonses issued from the Department of Consumer Affairs, which DCA formerly heard themselves. DCA is responsible for inspecting and licensing businesses in New York City in order to ensure that labor, consumer protection and other business regulations are being adhered to. The OATH Hearings Division now conducts hearings on the alleged violation of DCA business regulations.

## Budget Issues

### Environmental Control Board Debt

OATH miscellaneous revenue figures discussed in the “*Miscellaneous Revenue*” section of this report underrepresent the quantity of fines levied in ECB courts because a major share of OATH fines are not collected. Unpaid fines are re-categorized as OATH/ECB debt, which the Department of Finance is responsible for collecting. In response to growth in unpaid OATH/ECB debt, the Department of Finance (DOF) established the “NYC Amnesty Program for Office of Administrative Trials and Hearings (OATH)/Environmental Control Board (ECB) judgements violations.” This program, which ran from September through December 2016, allowed violators with OATH/ECB debt to have a portion of their debt forgiven if part of their debt was paid off over the period of the amnesty. This resulted in the generation of \$45 million in debt payments over the amnesty period.

The Department of Finance has also been more assertive in its efforts to collect OATH/ECB debt, with debt collections rising from \$41.5 million in Fiscal 2014 to \$85.8 million in Fiscal 2019. The amount DOF collected in Fiscal 2019 also represents an increase of \$18.5 million, or 27.5 percent, over the previous year. For more information on the DOF’s efforts to collect ECB debt, please to the “*Fiscal 2019 Annual Report on DOF Collection of ECB Judgement Debt*”, a report the DOF must submit to the City Council following the passage of Local Law 11.<sup>2</sup> This report can also be found on DOF’s website.

### Criminal Justice Reform Act (CJRA)

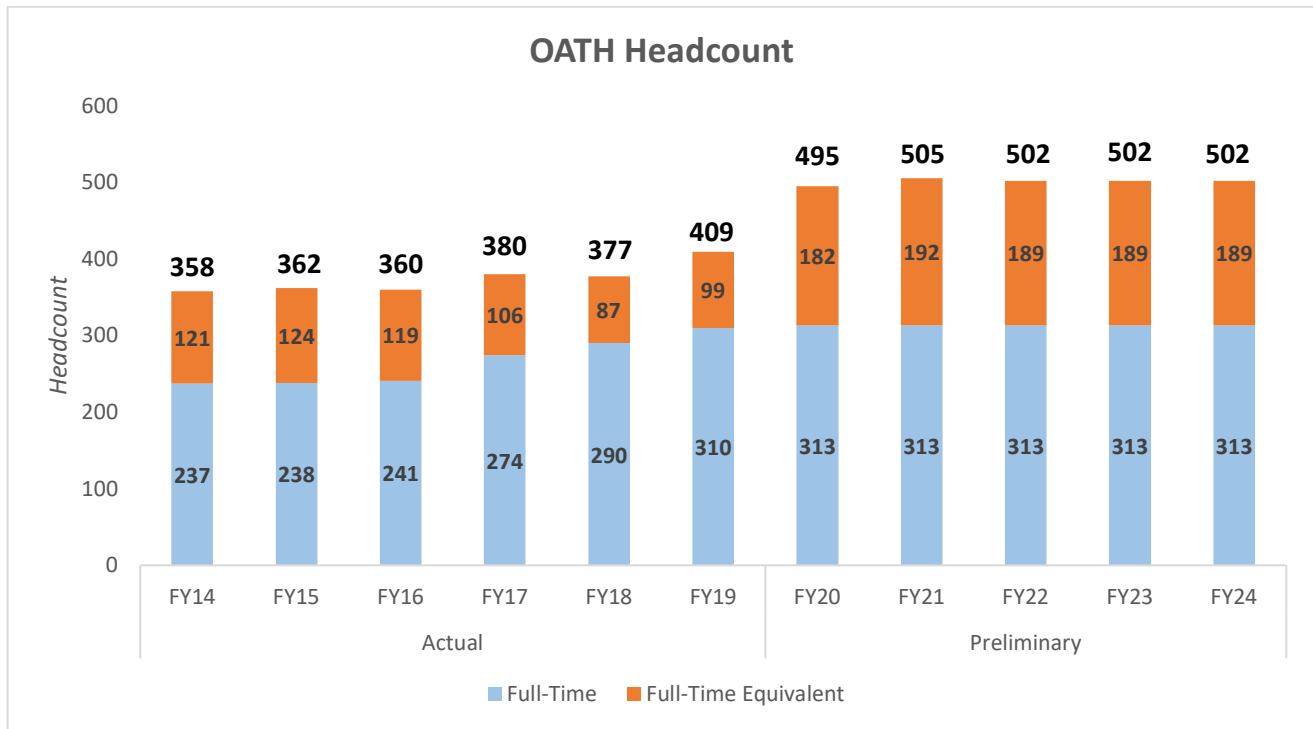
Criminal Justice Reform Act (CJRA) is a series of bills passed by the City Council and signed by the Mayor in June 2016 that diverted a number of low level offenses (such as public urination and public consumption of alcohol) from criminal court to OATH. This policy change, now in its third year of operation, allows litigants to avoid the collateral consequences of receiving a criminal summons, such as an open warrant, a criminal record, and negative impacts on employment, housing and immigration status. CJRA also gives OATH the authority to offer community service options aimed at preventing future offenses instead of a monetary penalty. According to the Fiscal 2020 Preliminary Mayor’s Management Report (PMMR), by the end of October 2019, OATH had received approximately 124,000 CJRA summonses and conducted 15,508 related hearings.

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<sup>2</sup> Fiscal 2019 Annual Report on DOF Collection of ECB Judgement Debt.  
<https://www1.nyc.gov/assets/finance/downloads/pdf/19pdf/ecb-annual-report-2019.pdf>

## Headcount

Figure 2



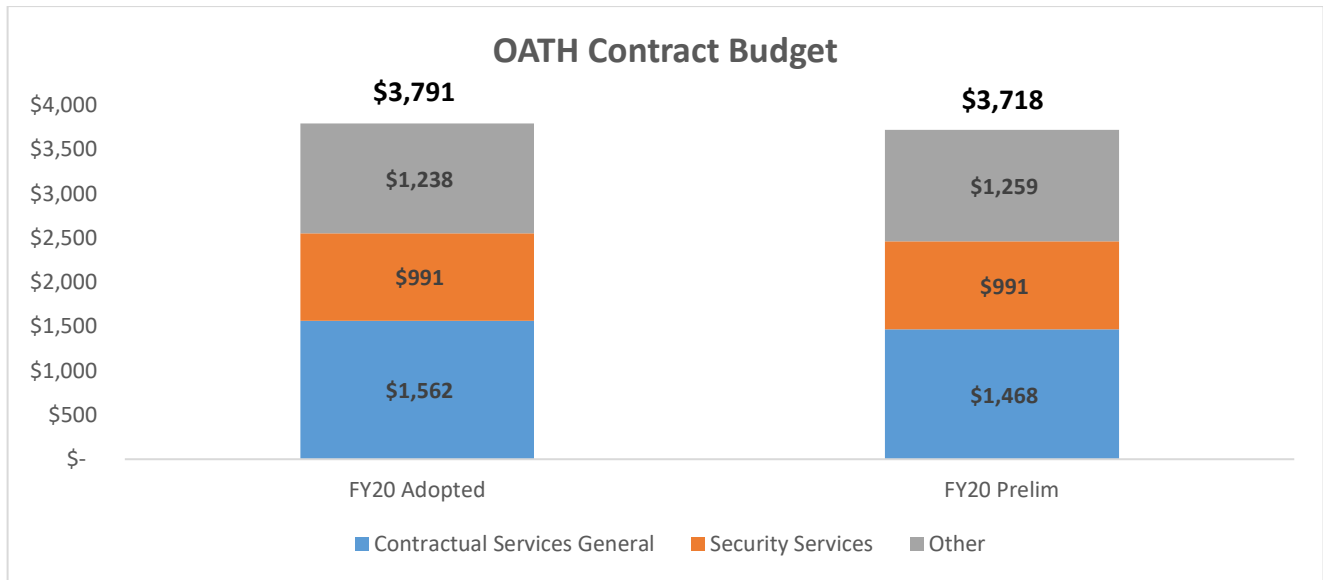
In the Fiscal 2021 Preliminary Plan, OATH’s Fiscal 2021 PS Budget provides \$38.8 million to support a headcount of 313 full-time positions and 192 full-time equivalent positions. As of November 2019, OATH was operating at a full-time vacancy rate of 3.2 percent, equivalent to 10 vacant positions, all of which are City funded. OATH’s headcount has expanded in recent years in order to accommodate several changes to the Agency, including the reorganization of OATH from four tribunals into the Trials and Hearing Divisions, the addition of new offices such as the Office of the Ombudsman and the Center for Creative Conflict Resolution, and most recently, in Fiscal 2019, to accommodate an increasing case load following the passage of the Criminal Justice Reform Act and other regulatory legislation. For additional information regarding OATH’s headcount, please refer to Appendix B.



## Contract Budget

The New York City Charter mandates the preparation of a Contract Budget to identify expenditures for contractual services, which are defined as any technical, consultant or personnel service provided to the City by means of a contract. The Contract Budget is a subset of the OTPS portion of the City's Expense Budget. The Administration prepares a Contract Budget twice each fiscal year. The Fiscal 2021 Preliminary Contract Budget totals \$16.9 billion for procurement expenditures across all agencies.

**Figure 3**

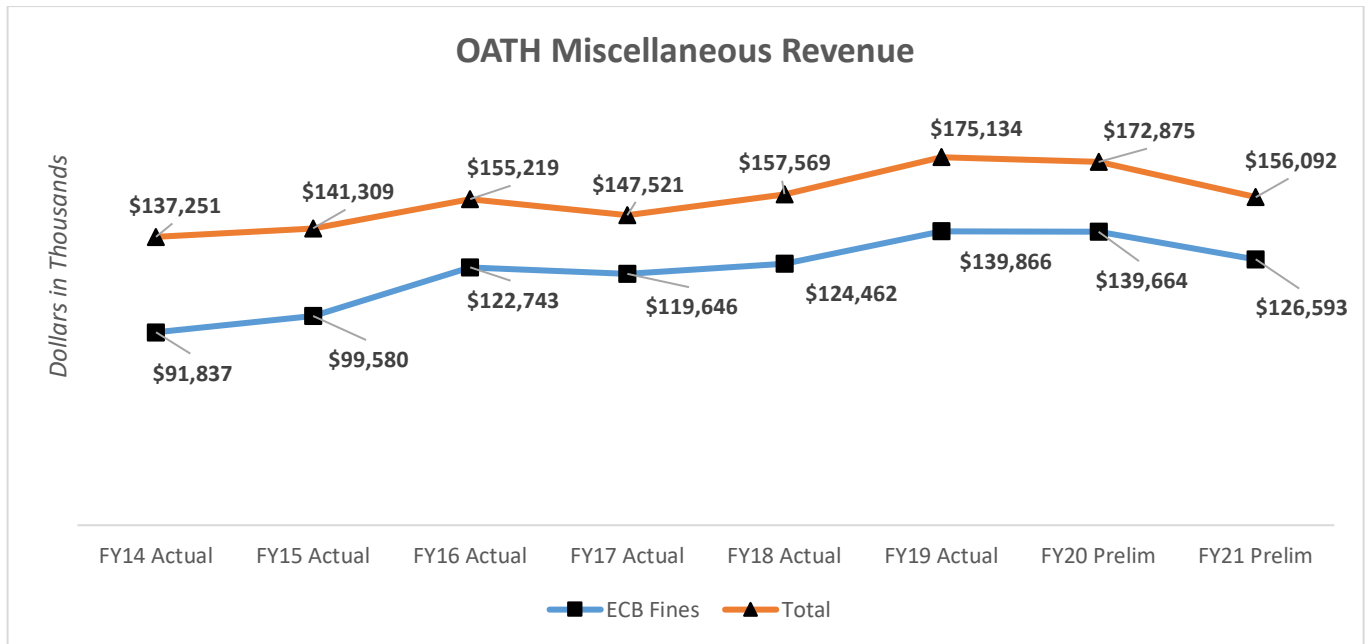


The Office of Administrative Trials and Hearing's Fiscal 2021 Contract Budget totals \$3.7 million for 30 contracts, accounting for 28.5 percent of the Department's OTPS Budget. OATH's Fiscal 2021 Budget includes \$1.4 million for general services contracts, which comprise 39.5 percent of OATH's Fiscal 2021 Preliminary Contract Budget. These contracts are related to summons processing, language services, community service and lockbox services. In addition, OATH's Fiscal 2021 Contract Budget includes \$991,000 for contracted security services, representing 26.7 percent of OATH's Fiscal 2021 Preliminary Contract Budget, which are contracted to provide security at OATH tribunals. For additional information regarding OATH's Contract Budget, please refer to Appendix C.

## Miscellaneous Revenue

The OATH Hearings Division generates revenues for the City through the collection of fines issued for various violations. Even though the Health Tribunal, TLC Tribunal and ECB have been consolidated into the Hearings Division, revenue generated from Hearings Division fines are still subdivided by the types of cases these tribunals previously adjudicated. In addition to fine revenue, a smaller share of agency revenue is generated through fees charged at the OATH Hearings Division. OATH revenues totaled \$175.1 million in Fiscal 2019.

Figure 4



It is projected that OATH will generate miscellaneous revenue of \$156.1 million in Fiscal 2021. ECB Fine revenue stems from violations issued by the Department of Sanitation (DSNY), the Department of Buildings (DOB), the Department of Environmental Protection (DEP), the Fire Department (FDNY), the Police Department (NYPD), the Department of Transportation (DOT), among several other agencies. Revenue generated from ECB fines is expected to represent 81.1 percent of OATH’s total miscellaneous revenue in Fiscal 2021, a percentage that is in line with actual revenue generation in recent fiscal years. ECB revenue has grown over the past several fiscal years as the number of ECB hearings has increased with the greater inflow of summonses. Projected revenue for ECB fines decreases by \$13 million between Fiscal 2020 and Fiscal 2021, as the Office of Management and Budget (OMB) seeks to adjust revenue projections to the mean. Although Fiscal 2019 and Fiscal 2020 have been good years for ECB revenue, OMB and OATH project that ECB fines collected for Fiscal 2021 will revert to the mean of fines collected. In contrast, revenue generated by the Health Department fines has increased in recent fiscal years, from \$24.8 million collected in Fiscal 2017 to \$32.2 million collected in Fiscal 2019. For additional information regarding OATH’s miscellaneous revenue streams, please refer to Appendix D.

## Preliminary Mayor’s Management Report (PMMR)

Figure 5

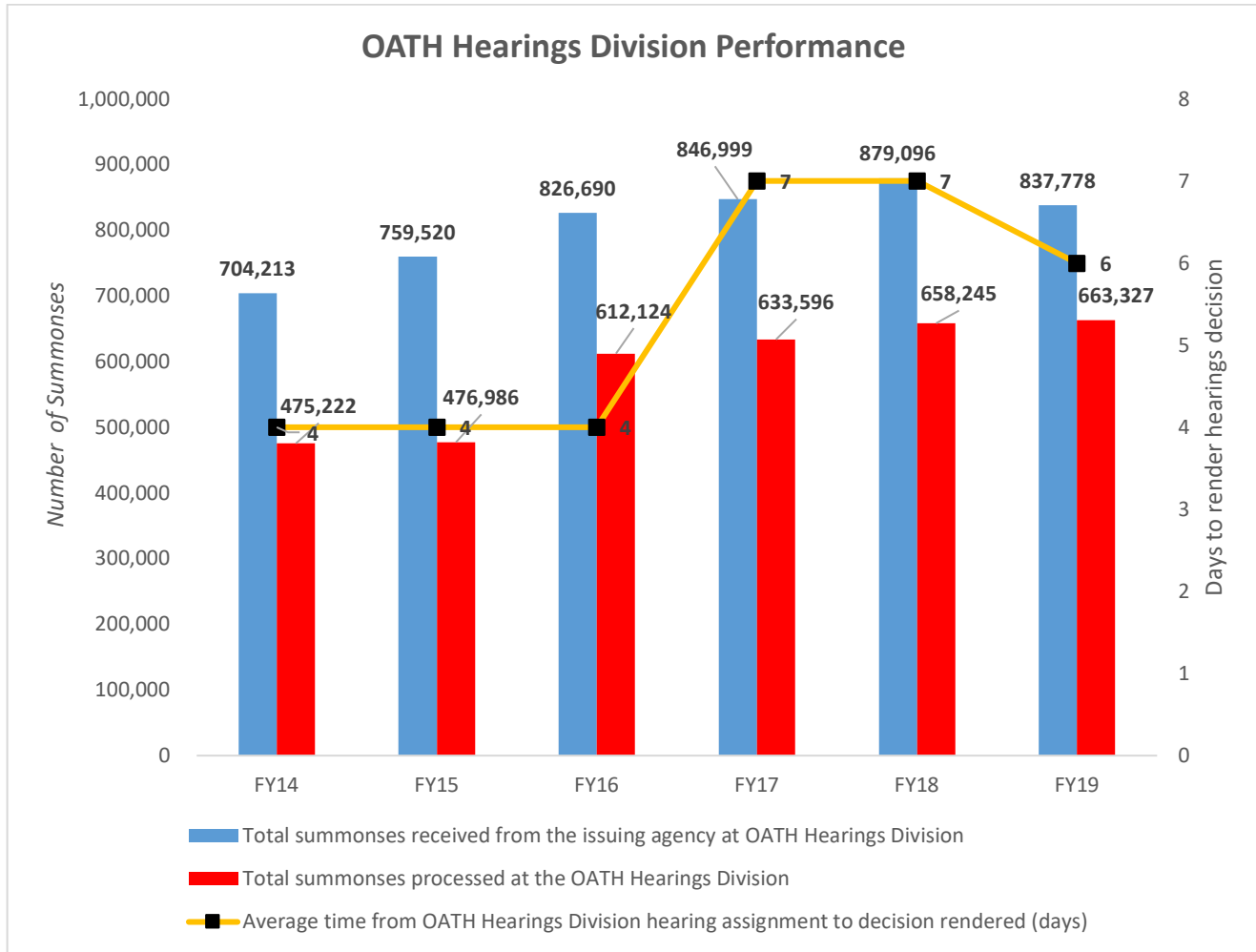


Figure 5 above highlights the OATH Hearings Division’s performance over the past several fiscal years using indicators sourced from the Fiscal 2020 PMMR. The Hearings Division has seen the number of summonses it receives increase over the past several fiscal years. The number of summonses grew between Fiscal 2014 and Fiscal 2018, primarily because of an increased caseload from the Department of Buildings and the Department of Sanitation, as well as due to a transfer of case jurisdiction from the Department of Consumer Affairs to OATH in Fiscal 2017. The number of summonses received, however, decreased slightly in Fiscal 2019, with 41,318 less summonses than in Fiscal 2018.

The Hearings Division has been able to process more summonses as a result of increased resources and efficiency gains from OATH’s internal restructuring, as well as the increase in the usage of mail, phone, and online hearings. Nonetheless, the Division has not been able to fully keep pace with the growth in summonses received. Consequently, the average time OATH requires to render a hearing decision has increased over the last fiscal years, from four days in Fiscal 2016 to seven days in Fiscal 2018. However, with fewer summonses received in Fiscal 2019, OATH was able to reduce the amount of time to render a hearing decision to six days. According to the PMMR, in Fiscal 2019, OATH established a Neighborhood Pop-Up Court initiative, that allows OATH to conduct hearings in communities across the five boroughs at Community Boards, libraries, civic organizations, among

other public spaces. The initiative targets so called “transportation deserts” in an effort to increase response rates to City-issued summonses by making it more convenient for people to have access to their hearings, with 19 Pop-Up Courts being held in different neighborhoods in the first four months of Fiscal 2020. For additional information regarding OATH’s Fiscal 2020 PMMR indicators, please refer to Appendices E and F.

## Appendices

### A: Budget Actions in the November and the Preliminary Plans

<i>Dollars in Thousands</i>	FY20			FY21		
	City	Non-City	Total	City	Non-City	Total
<b>OATH Budget as of the Adopted FY20 Budget</b>	\$51,262	\$0	\$51,262	\$51,577	\$0	\$51,577
<b>New Needs Subtotal</b>	-	-	-	-	-	-
<b>Other Adjustments</b>						
Collective Bargaining	251	0	251	286	0	286
Agency Phone Plan Review	(2)	0	(2)	(4)	0	(4)
<b>Subtotal, Other Adjustments</b>	<b>\$249</b>	<b>\$0</b>	<b>\$249</b>	<b>\$282</b>	<b>\$0</b>	<b>\$282</b>
<b>TOTAL, All Changes</b>	<b>\$249</b>	<b>\$0</b>	<b>\$249</b>	<b>\$282</b>	<b>\$0</b>	<b>\$282</b>
<b>OATH Budget as of the Preliminary FY21 Budget</b>	<b>\$51,511</b>	<b>\$0</b>	<b>\$51,511</b>	<b>\$51,860</b>	<b>\$0</b>	<b>\$51,860</b>

### B: OATH Headcount

	Actual						Preliminary				
	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24
<b>Full-Time</b>	237	238	241	274	290	310	313	313	313	313	313
<b>Full-Time Equivalent</b>	121	124	119	106	87	99	182	192	189	189	189
<b>Total</b>	<b>358</b>	<b>362</b>	<b>360</b>	<b>380</b>	<b>377</b>	<b>409</b>	<b>495</b>	<b>505</b>	<b>502</b>	<b>502</b>	<b>502</b>

### C: OATH Contract Budget

<b>OATH FY21 Preliminary Contract Budget</b>				
<i>Dollars in Thousands</i>				
Category	FY20 Adopted	Number of Contracts	FY21 Preliminary	Number of Contracts
Contractual Services General	\$ 1,562	18	\$ 1,468	18
Telecommunications Maintenance	133	1	154	1
Maintenance & Repair General	35	1	35	1
Office Equipment Maintenance	118	1	118	1
Printing Contracts	101	1	101	1
Security Services	991	2	991	2
Temporary Services	219	1	219	1
Cleaning Services	540	2	540	2
Training Program for City Employees	8	1	8	1
Professional Svcs. Direct Education Services	22	1	22	1
Professional Svcs. Other	62	1	62	1
<b>Total</b>	<b>\$ 3,791</b>	<b>30</b>	<b>\$ 3,718</b>	<b>30</b>

## D: OATH Miscellaneous Revenue

Office of Admin Trials & Hearings Miscellaneous Revenue - FY21 Preliminary Plan					
OATH Miscellaneous Revenue Sources (\$ in Thousands)	Actuals			Planned	
	2017	2018	2019	2020	2021
OATH Hearing Fees	\$ 33	\$ 17	\$ 25	\$ 11	\$ 11
DOHMH Fines	24,813	29,722	32,230	30,000	26,288
ECB Fines	119,646	124,462	139,866	139,664	126,593
Taxi Fines	3,029	3,368	3,013	3,200	3,200
<b>Total</b>	<b>\$ 147,521</b>	<b>\$ 157,569</b>	<b>\$ 175,134</b>	<b>\$ 172,875</b>	<b>\$ 156,092</b>

## E: OATH Fiscal 2020 PMMR Indicators: Trials Division

OATH Trials Division Indicators	Actual			Target		4-Month Actual	
	FY17	FY18	FY19	FY19	FY20	FY19	FY20
OATH Trials Division cases with decisions issued within 45 business days (%)	93%	91%	90%	*	*	91%	87%
OATH Trials Division facts and conclusions adopted by agencies (%)	99%	99%	100%	96%	96%	97%	98%
OATH Trials Division settlement rate (%)	59%	57%	54%	55%	55%	55%	53%
Cases filed at OATH Trials Division (total)	2,661	2,836	2,691	*	*	893	902
Cases closed at the OATH Trials Division (total)	2,668	2,677	2,660	*	*	907	838
Cases processed per ALJ (total)	189.6	202.0	206.8	UP	UP	71.2	69.0
Average time for the OATH Trials Division to issue decisions after records closed (business days)	5.2	4.0	4.2	15.0	15.0	4.2	3.8

## F: OATH Fiscal 2020 PMMR Indicators: Hearings Division

OATH Hearings Division Indicators	Actual			Target		4-Month Actual	
	FY17	FY18	FY19	FY19	FY20	FY19	FY20
Total Summonses received from the issuing agency at OATH Hearings Division	846,999	879,096	837,778	*	*	297,874	287,452
Total hearings at OATH's Hearings Division	298,571	330,110	340,563	*	*	116,457	115,889
Total number of pre-hearing activities at the OATH Hearings Division	313,665	290,437	295,440	*	*	103,047	98,429
Total summonses processed at the OATH Hearings Division	633,596	658,245	663,327	*	*	236,115	222,726
Summonses with decisions rendered at the OATH Hearings Division	207,723	248,438	261,906	*	*	89,122	86,299
Average time from OATH Hearings Division hearing assignment to decision rendered (days)	7	7	6	*	*	6	6
OATH hearings by mail (% of total remote hearings)	32.3%	19.9%	14.3%	*	*	16.2%	11.9%
OATH hearings by phone (% of total remote hearings)	15.5%	19.2%	18.4%	*	*	18.1%	18.5%
OATH one-click hearings (% of total remote hearings)	52.2%	60.9%	67.3%	*	*	65.7%	69.6%