

THE COUNCIL OF THE CITY OF NEW YORK

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Speaker of the Council

Hon. Rory L. Lancman
Chair, Committee on the Justice System



Report of the Finance Division on the
Fiscal 2021 Preliminary Financial Plan

The Legal Aid Society and Indigent Defense

March 19, 2020

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Indigent Defense Services

State law requires New York City to assume sole responsibility for funding legal representation for indigent criminal defendants, or those who are unable to pay. The Mayor's Office of Criminal Justice (MOCJ) manages the Assigned Counsel Program (18-B, or 18-B Program) and contracts with several legal service providers that represent indigent criminal defendants. The City's indigent defense program ensures that all eligible individuals charged with crimes will have fair, just, and effective counsel at both the trial and appellate levels.

Legal Aid Society (LAS), the City's primary service provider, provides indigent criminal defense services in the State courts at the trial, appellate, conflict, and homicide levels. LAS is the sole institutional provider for Richmond County and on Riker's Island for indigent parole revocation defense. There are five additional indigent defense providers in the City: New York County Defenders (NYCD), Brooklyn Defender Services (BDS), Bronx Defenders (BXD), Queens Law Associates, P.C. (QLA) and the Neighborhood Defender Service of Harlem (NDS). Lawyers appointed to the 18-B Program represent indigent defendants in all five boroughs.

In the Appellate Courts, LAS, 18-B Attorneys and three other alternative contractors: Appellate Advocates (AA), Center for Appellate Litigation (CAL), and the Office of the Appellate Defender (OAD) handle cases. On a limited basis, the City provides legal representation to indigent parents or guardians in Family Court for Article 10 cases (abuse and neglect). The providers are the Center for Family Representation (CFR), which handles cases in Manhattan and Queens; Brooklyn Defender Services (BDS) in Kings County; Bronx Defenders (BXD) in Bronx County; and Neighborhood Defender Service of Harlem (NDS), which represents defendants from northern Manhattan.

This report provides an overview of the total funding for Indigent Defense Providers (or Providers) as of the Preliminary Financial Plan, an overview of State criminal justice reform changes, and key budget issues for Fiscal 2021, followed by an overview by provider and case type.

Financial Plan Summary and Funding Overview

Funding for the public defense providers is scheduled in the Miscellaneous Budget (098) and is allocated through contracts with MOCJ. The table on the following page provides an overview of the Providers' Adopted Budget for Fiscal 2020 and planned expenditures for Fiscal 2020 and Fiscal 2021 as proposed in the January Plan by contract type.

Indigent Defense Funding Summary <i>Dollars in Thousands</i>	Adopted FY20	Current FY20	Preliminary FY21	*Difference 2020-2021
18-B Assigned Counsel Program (City)	\$11,654	\$11,654	\$10,598	(1,056)
18-B Assigned Counsel Program (State)	39,751	39,751	39,751	0
Total 18-B Assigned Counsel Program - Subtotal	\$51,405	\$51,405	\$50,349	(1,056)
Legal Aid Society - Trial	\$93,246	\$93,246	\$93,246	\$0
Legal Aid Society - Appellate	9,481	9,481	9,481	0
Legal Aid Society - Conflict	5,643	5,643	5,643	0
Legal Aid Society - Subtotal	\$108,370	\$108,370	\$108,370	\$0
NY County Defenders	\$9,066	\$9,066	\$9,066	\$0
Bronx Defenders	13,878	13,878	13,878	0
Brooklyn Defender Services	18,775	18,775	18,775	0
Neighborhood Defender Services	4,936	4,936	4,936	0
Queens Law Associates	11,448	11,448	11,448	0
Alternative Providers - Trial Level Subtotal	\$58,102	\$58,102	\$58,102	\$0
Non-Homicides New Contracts	\$7,800	\$7,800	\$7,800	\$0
Indigent Defense - Homicides New Contracts	19,999	19,999	19,999	0
New Contracts - Subtotal	\$27,799	\$27,799	\$27,799	\$0
Appellate Advocates	\$5,448	\$5,448	\$5,448	\$0
Center for Appellate Litigation	5,505	5,505	5,505	0
Office of the Appellate Defender	2,079	2,079	2,079	0
Alternative Providers - Appellate Level Subtotal	\$13,031	\$13,031	\$13,031	\$0
Bronx Family Defense Practice - Bronx Defenders	\$7,251	\$7,251	\$7,251	0
Brooklyn Family Defense Project - Brooklyn Defender Services	7,606	7,606	7,606	0
Center for Family Representation	5,952	5,952	5,952	0
Neighborhood Defender Services - CA Harlem	2,574	2,574	2,574	(0)
Article 10 Increase	8,740	8,740	0	(8,740)
Family Court Providers - Subtotal	\$32,123	\$32,123	\$23,383	(8,740)
Indigent Defense Contract Total:	\$290,831	\$290,831	\$281,036	(\$9,796)
Indigent Defense Providers' Salary Adjustment	\$0	\$3,690	\$3,690	\$3,690
Criminal Justice Reform Implementation	0	9,518	9,375	9,375
State Regional Immigration Centers	0	55	0	0
Indirect Cost Rate	0	1,319	1,319	1,319
Wage Adjustments and Cost of Living Adjustments	14,480	14,480	14,480	0
Miscellaneous	3,196	3,196	3,196	0
Other Subtotal:	\$17,676	\$32,258	\$32,060	\$14,384
Grand Total:	\$308,507	\$323,089	\$313,095	\$4,588
<i>Funding source</i>				
City	\$249,409	\$263,991	\$267,082	\$17,673
State	54,243	54,243	44,442	(9,801)
Federal	4,855	4,855	1,572	(3,284)
TOTAL	308,507	\$323,089	\$313,095	\$4,588

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

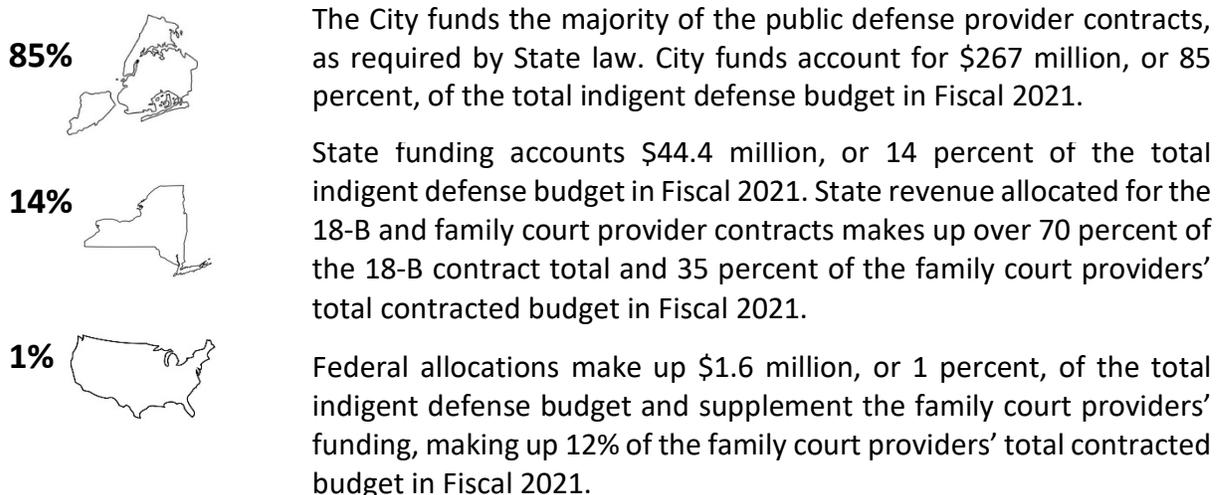
The Fiscal 2021 Preliminary Budget for indigent defense totals \$313.1 million, \$4.6 million, or 1.5 percent, more than the Fiscal 2020 Adopted Budget of \$308.5 million. In June, the Fiscal 2021 projection for Indigent Defense was \$9.8 million less than the Adopted Budget. The current budget for the indigent defense contracts totals \$323 million, an increase of \$14.5 million, or 4.7 percent, when compared to the Fiscal 2020 Adopted Budget of \$308.5 million. Budget actions in the November 2019 Plan increased the Fiscal 2020 and Fiscal 2021 Budgets and mainly are due

to recent State criminal justice reform. The November Plan baselined \$39.5 million to support implementation of the reforms. The significant actions included in the November 2019 Financial Plan are described below. The Preliminary Plan did not introduce any noteworthy changes to the indigent defense budget.

November 2019 Plan Actions

The November 2019 Plan introduced a total of \$14.4 million in changes to the indigent defense providers. These changes can be seen in the financial plan summary table in “other” category. The first, is recognition of \$3.7 million in baselined funding to provide attorneys with less than five years of experience working on MOCJ baselined contracts with pay parity to that of the New York City Law Department. The second is a baselined allocation of \$9.5 million to support the providers in implementing recently passed criminal justice reform, and last is recognition of \$1.3 million in baselined funding for standardized indirect cost rate increases. All of these items will be discussed in more detail further in the report.

For Fiscal 2021, City funds make up 85 percent of the total indigent defense budget, while State and federal funding makes up 15 percent.



Of note, in mid-Fiscal 2020, the Providers contracts have been modified to reflect a new agreement with MOCJ that removes the intake goals that were previously part of the contract. The new contract agreement shifts intake goals from a concrete number of cases to a percentage of citywide and boroughwide cases.

Fiscal 2020 Budget Agreement

Pay Parity

Pursuant to the Fiscal 2020 Adopted Budget agreement, the Administration allocated additional support to legal services providers to bring pay parity to their lawyers with lawyers employed by the Law Department. This advance was one of several pay parity initiatives supported by the City Council. The November 2019 Plan included \$7.3 million for legal services providers under contract with MOCJ and the Human Resources Administration's Office of Civil Justice (OCJ), with \$3.7 million for each Office's contracts respectively. Similar to the Fiscal 2019 pay parity increase allocated for assistant district attorneys, this increase allowed legal services providers to increase

the wages of lawyers with less than five years of experience. The expectation at adoption had been that a second pay parity adjustment for more senior district attorney lawyers would happen in Fiscal 2020 and for legal service providers subsequently.

Pay Parity Funding Across Providers		
Provider	Total Funding	Total Attorneys*
The Legal Aid Society	\$1,380	88.5
Bronx Defenders	934	106
Brooklyn Defender Services	391	71
Center for Family Representation	320	29
Neighborhood Defender Services	218	26.5
New York County Defender Services	139	23
Center for Appellate Litigation	137	13
Appellate Advocates	93	11
Office of the Appellate Defender	49	5
Queens Law Associates	29	26
MOCJ Total:	\$3,690	399

**Within MOCJ's baselined contract budget
Dollars in Thousands*

For the indigent defense providers, a total of 399 attorneys will be impacted by salary adjustments. As of March 2020, although the funding is budgeted, MOCJ has not yet amended the providers' contracts to reflect the salary adjustments. According to the Providers, MOCJ estimates that the funds will be disbursed in August or September of 2020. Some providers with larger operational budgets were able

to distribute raises to their staff in advance of receiving the funds, but for those with smaller budgets this was not an option. Additionally, the adjustments only cover attorneys that are working on MOCJ's baselined contracts; attorneys with zero to four years of experience working on State and City Council Discretionary contracts are not included in these adjustments, which is a priority across all of the providers.

Furthermore, there is concern around the issue of salary compression because the adjustment will only impact those with zero to four years of experience. Several providers have shared that although these adjustments are needed, the highest levels of attrition are actually occurring after year four, when individuals have gained a few years in the field and are at an age when significant and costly life changes are more common such as marriage, buying a home, or having children. Some providers were able to utilize cost of living adjustment funds, or plan to use any savings in revenue to help mitigate this concern, but other offices are unable to do so. This issue has been raised with MOCJ and OMB, and the Providers have been advised that there will be a second wave of salary parity analysis that will take place in the spring of 2020. The Committee will continue to track this progress.

Indirect Cost Rate: As a part of the Fiscal 2020 Adopted Budget, the Administration and the Council agreed to fund indirect rate increases for human service contracts. For years, nonprofits have advocated for a standardized indirect cost rate for health and human service contracts. In February 2019, the City of New York released *The Health and Human Services Cost Policies and Procedures Manual* (Cost Manual) to standardize cost definitions, indirect cost rate calculations, and rate claiming policies for related contracts. To adjust contracts to cover indirect costs the Administration has formalized a process for providers to claim indirect cost rates and funding. The Indigent Defense Providers received baseline funding of \$1.4 million in Fiscal 2020 and the outyears within MOCJ's contracting budget for the indirect cost rate initiative.

Council Initiative Highlights in Fiscal 2020:***New York Immigrant Family Unity Project (NYIFUP)***

The federal government's approach to immigration and the fact that New York City is a Sanctuary City, increased the workload of Public Defenders in relation to immigration defense. Beginning in March of 2019, the Varick Street US Immigration Court in Manhattan added two additional intake courtrooms, which was a 66 percent increase over the three courts that previously took on new cases. To address this situation, in Fiscal 2020, the Council increased funding to NYIFUP by \$5 million, for total funding of \$16.6 million, to allow providers to respond to the increased number of courtrooms and detained cases at the Varick Street Court House and fulfill New York City's commitment to ensure that no family is torn apart by deportation because they are not able to afford a lawyer. The providers contracted to deliver these services are The Bronx Defenders, Brooklyn Defender Services, and Legal Aid Society; each provider receives \$5.5 million and the initiative is managed by the Department of Social Services/ Human Resource Administration. As such, attorneys working under this contract are not eligible for salary adjustments under the current pay parity negotiation explained above. This remains a concern for the providers.

Family Guardianship Support Initiative

New in Fiscal 2020, the Council invested \$1.3 million, distributed evenly among the Family Court Providers (the Bronx Defenders, Brooklyn Defender Services, Center for Family Representation, and Neighborhood Defender Services of Harlem). This initiative supports the indigent family defense offices in providing legal advice, social work services, and advocacy for parents during their child welfare investigations to prevent unnecessary family separation. Previously, parents with child welfare involvement did not have access to representation until the Administration of Child Services (ACS) filed an abuse or neglect case in Family Court. Prior to court, however, there are decisions made that have an impact on the case and family, including mandated programming and services, and whether or not children will be separated from their parent. Many parents participate in ACS investigations without the advice of counsel or advocates to guide them through the process, leading to misunderstanding and mistakes that often lead to unnecessary family separations and court filings. Through this initiative, parents are connected to legal services and social workers earlier in the child welfare process before the case is filed, to assist in facilitating meetings with ACS and guide the parent through the procedures. Services are available to eligible low-income families, most of whom are underrepresented and immigrant populations.

A separate but related issue involves the State's Statewide Register of Child Abuse and Maltreatment (SCR) database. Many individuals are denied employment based on administrative findings of child abuse or neglect. These findings remain accessible to employers for up to 28 years in the SCR and the data does not distinguish between different types of charges (sexual abuse vs. child not attending school) and often does not relate to the person's ability to perform their job duties. In the absence of counsel, having your name removed from this list can be complicated and many individuals are unaware that they have the ability to remove their names. In addition to the above, this funding also supports legal assistance to help clear the names of people who should not be listed in the SCR, specifically those who would otherwise be able to obtain employment if it weren't for their indicated case in the SCR.

Newly Passed State Legislation and City Implications

The November 2019 Plan added baseline funding of \$75.2 million in Fiscal 2020 and approximately \$70 million in the outyears to support a total of 1,023 new positions related to discovery and bail reform. The State's 2019-2020 Adopted budget passed this legislation without State funding, as such, the City made investments to support the execution of the State criminal justice reforms. Discovery reform accelerates the discovery timeline, requiring the prosecution to disclose all relevant evidence, automatically, within 15 days of arraignment for every case. Bail reform eliminates money bail and pretrial detention in almost all misdemeanor and nonviolent felony cases. Each took effect in January 2020. The table below shows the various City Agencies impacted, the City investments made in Fiscal 2020 and the outyears, as well as budgeted headcount.

2020 State Criminal Justice Reform Investments Across Agencies				
Agency	FY20	HC	FY21	HC
District Attorneys	\$35,856	729	\$35,387	729
NYPD	24,731	250	20,696	250
Law Department	328	8	487	8
FDNY	538	9	857	10
DOHMH	3,520	27	2,897	27
MOCJ Contracts*	786	0	786	0
Public Defenders	9,518	0	9,375	0
TOTAL	\$75,277	1,023	\$70,486	1,024

Dollars in Thousands

** Supports MOCJ's contract with Criminal Justice Agency (CJA)

Defense Providers Specifics:

Discovery reform, which should decrease case processing time and help to ensure a speedy trial, ultimately resulting in decreased jail stays and fewer prison or jail sentences has the greatest impact on the Providers. Before April 2019, New York State law required discovery, the disclosure of

Criminal Justice Reform Investments for Trial Level Public Defense Providers			
Provider	FY20	HC	Hired YTD
The Legal Aid Society	\$4,900	47	7
Bronx Defenders	814	14.5	4.5
Brooklyn Defender Services	927	7.45	7.45
Neighborhood Defender Services	791	15	1
New York County Defender Services	507	6	0
Queens Law Associates	877	N/A*	N/A*
18B Assigned Counsel Plan	707	N/A*	N/A*
TOTAL	\$9,518	>90	20

**Information not available at the time of the writing of this report*

relevant evidence to each party to ensure the opportunity to prepare a substantial case, to be complete by pretrial hearings or trial. The new legislation will accelerate the discovery timeline, requiring that prosecution disclose all relevant evidence to the defense automatically, no later than 15 days after arraignment for every case. Whereas before, discovery was only implemented for cases that moved forward, this legislation requires discovery for every case, even if the charges are dropped or the District Attorneys (DAs) decline to prosecute, adding thousands of cases that will require discovery.

Of the Citywide amount of \$75.3 million, the Public Defense Providers have been allocated \$9.5 million for trial-level contracts, which include conflict, criminal, and homicide cases. Each provider determines how to allocate the increase. As demonstrated in the table above, the

investments made to the Providers will support additional positions to hire paralegals, infrastructure and technology (IT) support, to assist in functions related to discovery reform particular to data redaction and analysis that is received from the Prosecutor's offices. Appendix A. on page 12 list the new staff by title, with a description of roles and responsibilities and salary range for each organization that will be supported with the criminal justice reform funding.

Capital. Along with the expense investments, the Providers will also be allocated capital funding to support IT related needs related to discovery disclosures. The Fiscal 2020 Adopted Capital Commitment Plan included \$5 million in technology and equipment projects to support IT needs related to the reform for the indigent defense providers. The funding is in DCAS' Budget and Capital Commitment Plan and is drawn from a lump sum of \$5 million with no specific allocations; some providers remain unclear on the exact amount they will receive. Providers are in the processes of building new case management systems and obtaining software licenses that have the ability to handle the increased level of discovery disclosures, as well as make upgrades to current servers and Internet circuits. These funds will also support the purchase of computers and laptops for new staff, as well as various IT needs for trial attorneys.

Issues and Concerns

- **Delays in Contract Amendments.** Although the aforementioned funds were allocated and approved in the November 2019 Plan, to date, the contracts have yet to be amended, nor the funds distributed. The delay between the allocation and distribution of funds has created interruptions in hiring, especially for Providers that have smaller operating budgets.
- **Data Storage.** As of this writing, some Providers are using an online drive to capture and store all of the discovery information received from the District Attorney's offices. This system may not be sufficient to keep up with the enormous increase in data, which include large files such as videos and transcriptions. There is concern that this system will become unsustainable.
- **A Uniform and Centralized Approach to Discovery Process.** There is no requirement that discovery be provided in any specific format. As such, the discovery process between the DAs and Defenders in the first three months has been disorganized, requiring additional time and IT support. Not all files are properly identified when sent to the defense attorneys, requiring additional effort and software to decode and download properly. Additionally, some offices have attempted to set up an email account for all discovery, but not all ADAs send to this account, scattering the data across multiple platforms. A standardized format and centralized portal that is efficient and secure is a priority for the Providers.
- **Notification of Desk Appearance Tickets (DATs).** Currently, only the DAs and the Office of Court Administration are notified when individuals are arrested and offered a DAT. The Providers would like to be notified upon a client's arrest and the information related to the incident upon which the DAT was issued.
- **Witness Information.** Several providers have claimed that the witness communication portals being utilized by the DAs to provide anonymity are not in compliance with the new discovery law. This issue is currently under litigation and it remains unclear how it will be resolved.

Key Budget Priorities for Fiscal 2021

Technology Gaps

In January 2020, the Committee held an oversight hearing in an attempt to examine the “technology gap” between District Attorney Offices and Public Defender Offices in New York City. The Providers testified that they are at a severe disadvantage accessing forensic evidence as a result of not having the means to afford sophisticated technological devices and software that the Prosecutors have access to. As the availability and use of forensic evidence increases and becomes more common, the Providers are outpaced and lack the resources to process it.

The two areas in which the Providers are lacking forensic analysis tools are in DNA analysis and digital forensic analysis. Software needs include technology such as STRmix, a forensics tool that assists in analysis of DNA, and Cellebrite, which offers data extraction, transfer, and analysis from cellular devices. These software are prohibitively costly to license and maintain compared to the overall budgets of the Providers. In addition to software, some of the Providers would need to

hire additional staff whose purpose would be to provide operation and expertise related to the software and analysis. The table to the left outlines the expense and headcount estimates by each provider that would be required to create in-house capacity and sufficiently address this technology gap.

Digital and DNA Forensics Technology Costs per Provider		
Provider	Estimated Cost	HC
The Legal Aid Society	\$982	5
Bronx Defenders	200	1
Brooklyn Defender Services	437	14
Neighborhood Defender Services	N/A*	N/A*
New York County Defender Services	30	0
Queens Law Associates	N/A*	N/A*

Dollars in Thousands

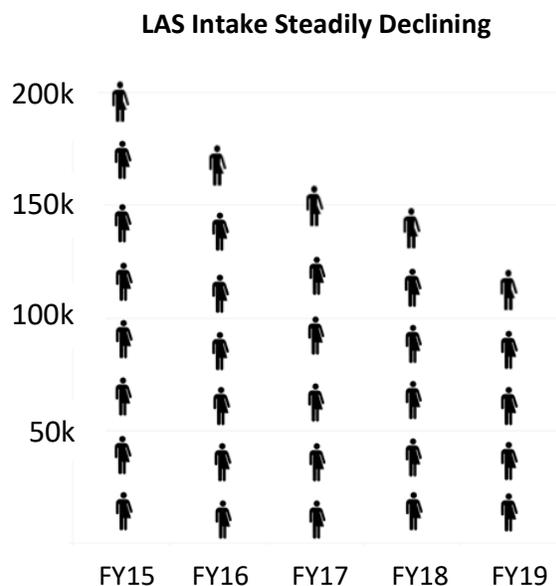
*Information not available at the time of the writing of this report.

Overview by Provider and Case Type

The Legal Aid Society (LAS)

LAS’s Fiscal 2021 contract budget totals \$119.4 million. A total of \$108.3 million is budgeted for trial-level, conflict, and appellate cases, plus an additional \$11.1 million budgeted for homicide cases (“new contracts”), which began in Fiscal Year 2019 and had its first full year of contracting in Fiscal 2020. In the last six months of Fiscal 2019, LAS saw a total intake of 44 homicide cases.

LAS’s Fiscal 2021 contracted budget remains unchanged when compared to its Fiscal 2020 Adopted contract budget.

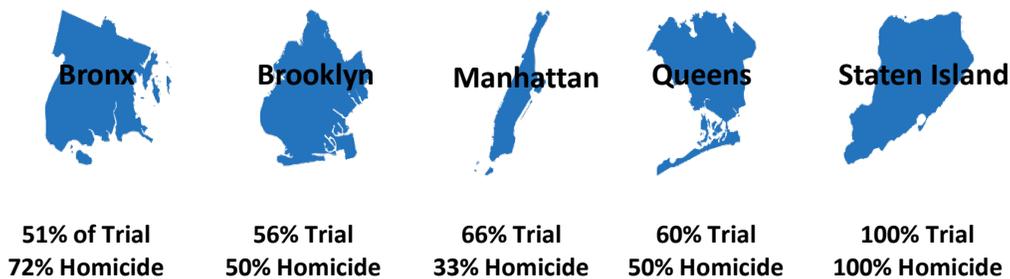


The chart to the left shows historical case intake for the Legal Aid Society from Fiscal 2015 through Fiscal 2019; case intake at LAS has steadily declined over the past five fiscal years, a 43 percent decrease since Fiscal 2015. This decrease is, at least in-part, due to changes in criminal justice practices, particularly drops in arrest, that have had a direct effect on lower-income individuals that are overly represented and impacted by the justice system. The City’s District Attorneys continue to decline to prosecute certain charges, especially as they

relate to charges resulting from poverty, such as quality of life crimes or jumping MTA turnstiles. In addition, misdemeanor charges continue to be diverted to successful pre-arraignment programs such as Project Reset and Healing NYC. To read more about these programs, please visit the Council’s website and see the Fiscal 2021 Preliminary Budget Report for the District Attorneys and Special Narcotics Prosecutor: <https://council.nyc.gov/budget/fy2021/>.

Pursuant to the recently finalized contracts for indigent defense, intake goals have shifted to percentage of citywide and boroughwide cases. Legal Aid is the City’s primary indigent defense provider and accepts trial-level and homicide cases from every borough, and takes 100 percent of cases from Staten Island since there is no borough-based provider in Richmond County. The graphic below shows the projected percentage intake by borough by case type for LAS for Fiscal 2020 and 2021.

Projected LAS FY20 and FY21 Intake by Borough



Trial Level Alternate Providers

The Fiscal 2021 Preliminary Budget for the alternate providers totals \$74.5 million. A total of \$65.9 million is budgeted for trial-level cases, plus an additional \$12.6 million budgeted for homicide cases, which began in Fiscal 2019 and is currently in its first full contract year as of Fiscal 2020. For more information on the details of these contracts, please see the Fiscal 2020 Preliminary Budget Report available on the Council’s website: <https://council.nyc.gov/budget/fy2020/>. The alternate providers Fiscal 2021 contracted budget remains unchanged when compared to its Fiscal 2020 Adopted contract budget. As shown in the table below, in Fiscal 2019, the alternate providers’ total spending was \$81.9 million and total intake was 74,471.

Historical Spending and Actual Intake by Alternate Provider										
Provider	FY15		FY16		FY17		FY18		FY19	
	Spending	Intake	Spending	Intake	Spending	Intake	Spending	Intake	Spending	Intake
NY County Defenders	\$9,003	18,510	\$8,706	22,895	\$9,152	19,265	\$9,066	16,390	\$12,382	10,705
Bronx Defenders	\$13,369	27,726	\$13,499	25,549	\$13,453	23,863	\$14,213	21,926	\$18,782	18,522
Brooklyn Defender Services	\$17,015	39,929	\$17,015	34,955	\$17,316	31,088	\$19,188	25,103	\$27,709	22,184
Neighborhood Defender Services	\$4,750	8,667	\$4,750	7,185	\$4,829	5,296	\$5,086	4,297	\$7,736	6,012
Queens Law Associates	\$10,065	25,781	\$11,085	24,939	\$11,340	22,941	\$11,668	20,257	\$15,313	17,048
Total:	\$54,202	120,613	\$55,055	115,523	\$56,090	102,453	\$59,221	87,973	\$81,923	74,471

As previously mentioned, at the beginning of Calendar Year 2020, the criminal trial providers and MOCJ entered an agreement that contracted intake goals have shifted to percentage of citywide/ boroughwide cases. The table to the right outlines the case intake disaggregated by provider and case type for Fiscal 2019.

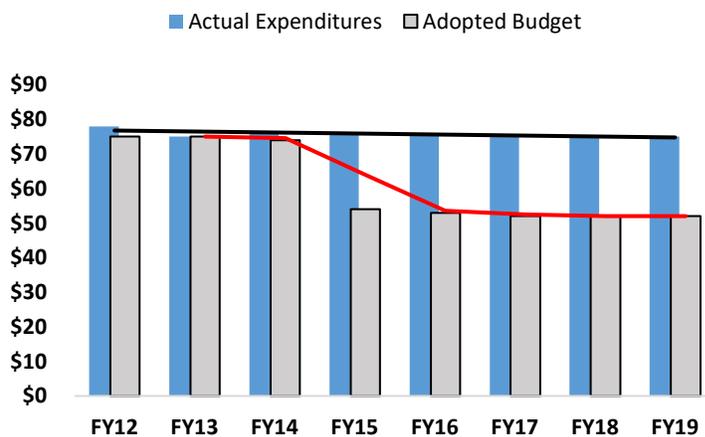
Projected Intake Percentage by Provider for FY20 and FY21		
Provider	Trial Non-Homicide	Trial Homicide
NY County Defenders	23%	28%
Bronx Defenders	49%	33%
Brooklyn Defender Services	44%	50%
Neighborhood Defender Services	11%	33%
Queens Law Associates	40%	50%

Appellate Level Alternate Providers



The Fiscal 2021 Preliminary Budget for the three appellate litigation service providers is \$13 million. The Office of the Appellate Defender provides representation to indigent defendants convicted of felonies in Manhattan and the Bronx assigned by the 1st Department in the New York Supreme Court, and State and federal courts not paid by the City. Center for Appellate Litigation also provides services to individuals assigned by the 1st Department in criminal appeals and post-conviction proceedings in Manhattan. Appellate Advocates cases are assigned by the 2nd Department, and represent clients facing a range of misdemeanors to felonies and post-conviction proceedings in trial court in Brooklyn. In Fiscal 2020 and 2021, the appellate providers are collectively contracted to take 1,679 cases.

18-B Historical Spending vs. Allocated Budget



Assigned Counsel Program (18-B)

The courts appoint attorneys from the Assigned Counsel Program (18-B) to represent defendants when representation by one of the indigent defense providers would present a conflict of interest or when a defendant is charged with a crime punishable by death or life imprisonment.

Attorneys appointed to the 18-B program represent indigent defendants in criminal trials, appeals, family court proceedings, parole violation and

integrated domestic violence (IDV) cases. IDV cases are cases involving families where domestic violence is the underlying issue and one judge presides over all criminal, civil and family court matters involving the family.

The Fiscal 2021 Preliminary Budget for the 18-B Program is \$50.3 million including \$39.7 million in State funding and \$10.6 million in City funding. The State funding level has remained

unchanged from the Fiscal 2020 Adopted Budget; however, the City funding allocated in Fiscal 2021 has decreased slightly, by \$1 million.

In Fiscal 2015, the Administration reduced the 18-B City funded budget by approximately \$20 million to fund conflict cases with the alternate providers in hopes of saving City money; however, the 18-B Program providers' actual spending has not decreased. As the chart on the previous page shows, the providers are likely to continue to spend approximately \$75 million annually, requiring the City to include \$20 million in one-shot funding each year to address this issue, unless the budget for the 18-B program is rightsized.

Family Court Providers

Center for Family Representation, Bronx Defenders, Brooklyn Defender Services, and Neighborhood Defender Services all provide legal representation for parents or guardians who cannot afford a lawyer in Article 10 abuse and neglect cases heard in Family Court. The Fiscal 2021 Preliminary Budget includes a total of \$23.4 million for Family Court Providers, \$8.7 less when compared to the Fiscal 2020 Adopted Budget of \$32.1 million. Due to an uptake in abuse and neglect cases beginning in Fiscal 2016, providers were taking on more Article 10 cases than in any year before. To address this situation, the Article 10 contract budget included one-time funding of \$8.7 million dispersed among the providers for the past three fiscal years, with \$3.4 allocated from the City, and \$3.9 and \$1.3 million in State and federal funding respectively. The Fiscal 2021 Preliminary Plan does not include this one-time funding; it is unclear if this one-time funding will be seen later in the fiscal year, or if the caseload is expected to fall back. As shown in the table below, in Fiscal 2019, the Family Court providers' total spending was \$33 million and total intake was 192,317. The projections for the remainder of Fiscal 2020 and Fiscal 2021 have yet to be determined.

Historical Spending and Actual Intake by Family Court Provider										
Provider	FY15		FY16		FY17		FY18		FY19	
	Spending	Intake								
Center for Family Representation	\$6,232	789	\$5,952	831	\$8,069	1,272	\$8,887	1,189	\$9,035	1,062
Bronx Defenders	6,144	1,160	6,408	1,045	9,913	1,461	10,009	1,581	10,143	1,510
Brooklyn Defender Services	7,405	1,163	7,062	1,185	10,017	1,679	10,285	1,725	10,433	1,134
Neighborhood Defender Services	2,810	345	2,138	341	3,371	528	3,370	501	3,429	414
Total:	\$22,591	3,457	\$21,560	3,402	\$31,370	4,940	\$32,552	4,996	\$33,040	4,120

Appendices

A. Positions Related to Criminal Justice Reform

Bronx Defenders Positions Related to Criminal Justice Reform			
Position Title	Headcount	Roles + Responsibilities (Brief)	Salary Range
Forensic Investigator	3	Digital analysis of audio and video recordings, social media, and other platform	\$52,500-70,000
Administrators/ IT Support, IT & Data, Project Management	7.5	Receipt, organization of discovery - updating of arraignment calendar, provide support to administrators and attorneys-manage project & IT/Data	42,000-185,000
Intake Attorneys	2	Provide pre-arraignment representation to people charged with DATs	71,936-86,000
Intake Team Investigators	1	Investigate all criminal cases	43,000-60,500
Legal Dept./ Conflicts Attorneys	1	Work with legal department to determine conflict issues based on disclosure of witness names. Assist with discovery and bail related litigation.	78,500-102,500
Brooklyn Defender Services Positions Related to Criminal Justice Reform			
Supervising Attorney	.5	Prepare materials and train attorneys for bail and discovery reform; start-up supervision-oversee implementation of discovery and bail reform; liaise with DA's office -represent BDS with MOCJ, other defender offices and other stakeholders	\$90,000-120,000
Investigators	1	Review discovery in new/on-going investigations	55,000
Paralegals/ Administration	3.5	download digital discovery files received from DA's office; ensure completeness, accuracy, upload discovery to BDS document storage system	55,000
IT Manager	.2	Troubleshoot discovery file transfer and management; coordinate with IT team at DA's office; identify/implement new document management system; train staff	180,000
Social Workers	1.75	Identify appropriate programming (where required) for additional clients now released	58,000
Legal Aid Society Positions Related to Criminal Justice Reform			
Managing Attorney of Implementation	1	Oversee the running of the Discovery Units located in each trial office, including administration, personnel management, training and supervision	\$154,300-82,173
Staff Attorney - Discovery	5	Provide advice, support and assistance to other attorneys handling discovery legal matters, provide in-house and external training, and conduct policy advocacy	\$76,659-127,753
Discovery Administrator	1	Oversee the running of the Discovery Units located in each trial office, including operational support, as well as administration and supervision of support staff	58,653-63,488
Discovery Manager	5	Oversee the running of the Discovery Unit in a trial office and supervise support staff	61,200-66,245
Paralegal I	11	Process receipt of discovery materials and certificates of compliance, preserve materials, provide notice to assigned counsel and staff, gather reciprocal discovery	47,849-51,794
Investigator	10	Investigate crime scenes and materials received through discovery, locate and interview witnesses, testify in court and serve motions and subpoenas	56,669-61,341
Director of Paralegal Services	1	Responsible for the training and mentoring of the paralegal staff in the trial offices, and providing operational support to the trial offices	80,000-90,000
Director of Investigative Services	1	Responsible for training and mentoring the investigative staff in the trial offices, implementing best practices for investigators and training staff on proper investigative techniques and technology	80,000-90,000

Senior Supervising Attorney – Intake	1	Oversee the running of the Discovery Unit located in each trial office, including administration, training and supervision of the Unit	124,300-134,173
Administrative Coordinator - Intake	1	Oversee the operation of the Community Intake Unit located in each trial office, as well as administration and supervision of support staff	59,826-63,488
Supervising Attorney – Intake	1	Manage the collaboration of the Community Intake Unit staff with other integral staff involved in cases, strategically guide cases, actively mentor staff, support professional development and growth and carry a small caseload	97,825-136,226
Staff Attorney – Intake	5	Provide advocacy and counsel for people post-arrest and before arraignments, and connect people to other resources related to housing, mental health, and substance use	79,659-127,753
Application Platform Administrator: Data Center	1	Monitoring and supporting application platform infrastructure	83,232-88,326
Discovery User/ Technical Support Staff - Field	2	Provide training and technical support to end users	78,030-82,806
Electronic Discovery Systems Programmer CMS – Field	1	Software and system development and maintenance	83,232-88,326
Neighborhood Defender Services Positions Related to Criminal Justice Reform			
Arraignment Social Worker	1	Evaluate clients and identify resources from day 1	\$60,000-75,000
Retained Intake Coordinator	1	Increase our capacity to handle community intake cases, given the sharp increase in appearance tickets	45,000-60,000
Data Analyst	1	Ensure that we are accurately capturing data and evaluating it effectively to better serve our clients, given the increase in information we are provided	50,000-70,000
IT Technician	2	Make sure our systems are working smoothly as we receive increasing discovery	50,000-70,000
Investigator	3	Increase our capacity to quickly engage in investigations, given the increased discovery materials	45,000-60,000
Investigator Supervisor	1	An experienced Investigator who can ensure the quality of our Investigators’ work and the equitable distribution of assignments	75,000-85,000
Process Server	1	Increase our capacity to timely serve subpoenas and other legal process, given the new discovery we are receiving	45,000-60,000
Social Worker	1	Helps evaluate clients and find placements. More clients are out of custody so this need has increased dramatically.	60,000
Spanish Interpreter	1	Assist us in communicated with monolingual Spanish speaking clients. This need has increased as more meetings are happening in the office and community, as opposed to courts and jails.	45,000-60,000
Team Administrator	3	Necessary to handle the increased discovery volume and client communication that has resulted from discovery and bail reform.	45,000-60,000
New York County Defender Services			
Paralegals	6	Tasked with retrieving and reviewing the discovery and coordinating its dissemination with the trial attorneys and other relevant staff members. The six paralegals will provide support for 88 attorneys, social workers and investigators.	45,000