

THE COUNCIL OF THE CITY OF NEW YORK

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Speaker of the Council

Hon. Rory I. Lancman
Chair, Committee on Justice System



Report of the Finance Division on the
Fiscal 2021 Preliminary Plan and the
Fiscal 2020 Preliminary Mayor's Management Report for the
Human Resources Administration's Office of Civil Justice

March 19, 2020

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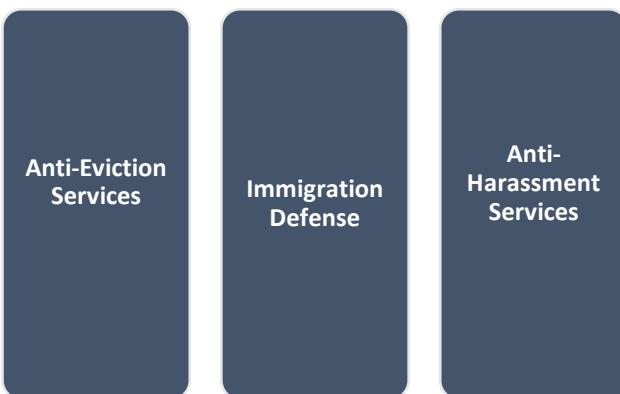
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Office of Civil Justice

The Office of Civil Justice (OCJ or the Office) advises and assists the Administration in understanding and meeting the civil legal service needs of low-income New Yorkers. HRA's Office of Civil Justice oversees the provision of free civil legal services contracts for New Yorkers in need, including tenants facing eviction, immigrant New Yorkers in need of deportation defense and other services, access to benefits, support for survivors and victims of domestic violence, assistance for veterans, and other legal assistance for tenants in need.

Legal Assistance for Low-Income New Yorkers is provided for free in three key areas:

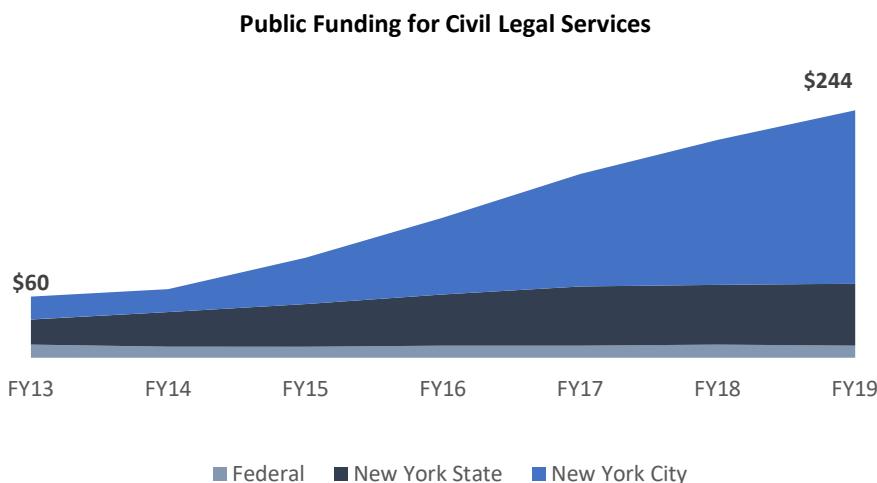


This report provides an overview of the portion of the HRA budget that supports the Office of Civil Justice. The first section provides a historical overview of public funding for civil legal services for New Yorkers. This is followed by a section which provides an overview of the Fiscal 2021 Preliminary Budget for civil legal services with a discussion of the year-over-year changes. The report then provides information on multi-agency initiatives OCJ is involved with, followed by a review of City Council Legal Services Initiatives managed by HRA.

Public-Funding for Civil Legal Services

Public funding for civil legal services is primarily allocated through contracts administered by OCJ. In the past few years, public funding for civil legal services has grown substantially from \$60.4 million in Fiscal 2013 to \$244.6 million in Fiscal 2019. Although State and federal funding streams support a portion of these services, the City has driven the growth in public spending for civil legal services. The chart below shows spending on civil legal services from all public sources. New York City's share

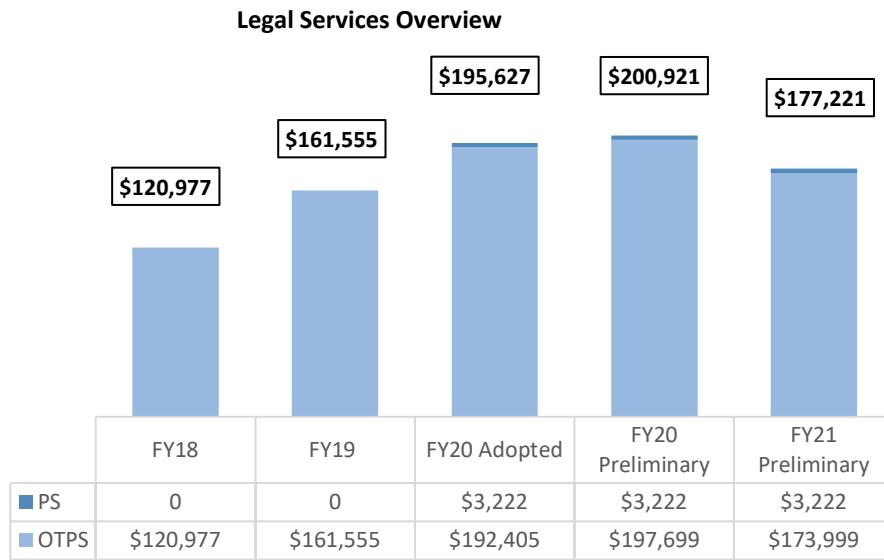
has grown from \$22.6 million in Fiscal 2013 to \$171 million in Fiscal 2019, an increase of over 650 percent.



Dollars in Millions **Source:** Office of Civil Justice

Fiscal 2021 Preliminary Budget Highlights

The Fiscal 2021 Preliminary Budget for legal services totals \$177.2 million, a decrease of \$18.4 million from the Adopted 2020 Budget of \$195.6 million. This decrease is mainly driven by the reduction in contracts from 139 to 77 in Fiscal 2021 that relates to the timing of Council Discretionary Funding.



Budget Structure and Staffing

Since OCJ is not an independent city agency and it does not have its own budget. The Office is funded in HRA, which is a vast agency with many other offices, divisions, and programs that support New Yorkers. Currently, neither the HRA budget, nor any of the supplementary budget reports provided by the Office of Management and Budget (OMB) include a section that schedules all of the resources used by OCJ. It is difficult to independently track how much of the budget supports OCJ operations, how much OCJ is allocating to its various programs, or the rationale behind those allocations. The Council recognizes that HRA did create a new Unit of Appropriation (U/A) and program area for Legal Services in Fiscal 2017. After four years a legal services U/A for PS, U/A 207, was included in the Fiscal 2020 Adopted Budget and appears in the 2021 Preliminary Plan. Unfortunately, this U/A does not reside in the Legal Services program area which was established to increase transparency and the Council's oversight ability. As such, OCJ's programmatic spending and the workforce that supports it continue to be functionally separated in the budget.

The Fiscal 2021 Preliminary Budget also includes two U/As for Legal Services, U/A 103 - public assistance and U/A 107 - legal services. Of the \$177.2 million for OCJ in Fiscal 2021, 96 percent of funding is in U/A 107. The U/As are broad and do not provide a breakdown of funding for each of the legal service programs. While the budget does include specific budget codes tied to programming, these budget codes are not coterminous with discrete programs in OCJ's array. It is not readily apparent how funding is allocated to each program and therefore, not transparent.

The Office currently includes 56 staff, including central administration, program development staff, a contract management team, and a group of HRA liaisons located in the Housing Courts who help connect individuals to legal service providers and other HRA administered benefits as needed. OCJ is part of the Homelessness Prevention Administration (HPA) which was created to streamline HRA's

work in homelessness prevention, rental assistance and early intervention. While HRA has always provided preventive services, the efforts are now housed in a single division. HPA works with the Department of Homeless Services (DHS), the NYC Housing Authority (NYCHA) and many other organizations and City agencies to prevent homelessness and assist families and individuals to maintain stable, affordable housing in their communities.

Financial Plan Summary

HRA's Legal Services Program Area provides funding for various legal services programs to assist individuals and families. The program area includes two OTPS units of appropriation for the Legal Services contracts, U/A 103 and U/A 107. U/A 207 is PS and includes funding for OCJ's 56 staff but does not reside within the Legal Services program area. Within the U/As are budget codes which more accurately define program spending: Access to Counsel, Anti-Eviction Services, Deportation Defense, and Other Expenses. However, program spending may be spread across a number of budget codes, which makes it challenging to determine how much is being allocated for each specific program. The table below provides actual expenditures for Fiscal 2018 and Fiscal 2019, the Fiscal 2020 Adopted Budget, and the Fiscal 2020 and 2021 Budgets as of the Preliminary Plan.

Legal Services Financial Plan Summary						
	FY18 Actual	FY19 Actual	FY20 Adopted	Preliminary Plan	*Difference	
				FY20	FY21	FY20-FY21
Personal Services Spending						
207-Legal Services	\$0	\$0	\$3,222	\$3,222	\$3,222	\$0
Subtotal	\$0	\$0	\$3,222	\$3,222	\$3,222	0
Other than Personal Services Spending						
103-Public Assistance	\$405	\$16	\$3,125	\$3,125	\$3,125	0
107-Legal Services	120,572	161,538	189,280	194,575	170,874	(18,406)
Subtotal	\$120,977	\$161,555	\$192,405	\$197,699	\$173,999	(\$18,406)
TOTAL	\$120,977	\$161,555	\$195,627	\$200,921	\$177,221	(\$18,406)
Funding Source						
City Funds			\$149,260	\$154,554	\$126,599	(22,661)
Federal - TANF			40,021	40,021	44,275	4,254
Intra City			3,125	3,125	3,125	0
TOTAL	\$120,977	\$161,555	\$192,405	\$197,699	\$173,999	(\$18,406)
Headcount						
Full Year Positions			56	56	56	0

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

The Fiscal 2021 Preliminary Budget for legal services totals \$177.2 million of which \$174 million support 77 contracts. The remaining \$3.2 million supports a headcount of 56 positions. Of the Office's total Fiscal 2021 budget, approximately \$127 million is City tax-levy and \$44 million is non-city funding. At adoption, OCJ's Fiscal 2021 budget was projected to be \$169.6 million, approximately \$23 million less than the Fiscal 2020 budget. As noted above, the Fiscal 2021 Preliminary Budget does not

include City Council's discretionary funding which is added at adoption to support additional legal service contracts.

Financial Plan Actions

OCJ's Fiscal 2020 budget has grown by \$5.3 million since the budget was adopted.

November 2019 Plan

- **Legal Pay Parity.** The November 2019 Plan baselines funding of \$3.6 million to support pay parity for providers of access to legal services.
- **Indirect Cost Rate Initiative.** The November 2019 Plan included approximately \$900,000 for the indirect cost rate initiative.

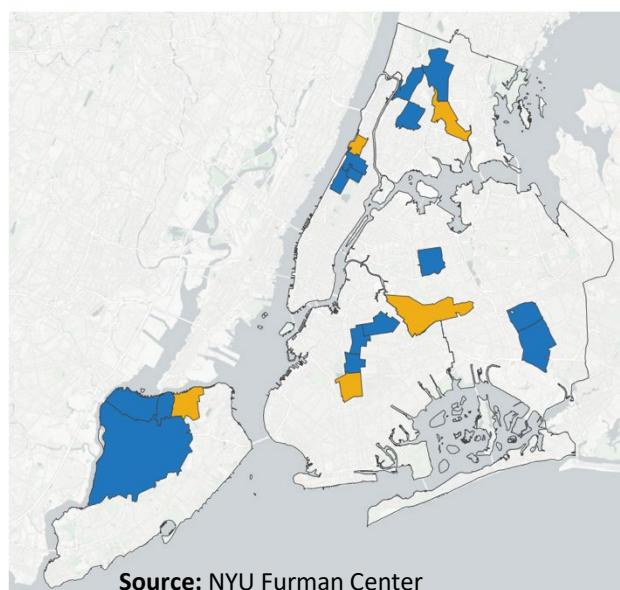
Office of Civil Justice Programs Overview

Anti-Eviction Services

Homelessness Prevention Law Project (HPLP)/ Universal Access to Counsel. The HPLP program offers legal representation in housing court to low-income New Yorkers facing eviction and displacement. People who earn up to 200 percent of the federal poverty line are eligible. New Yorkers earning more than the federal poverty level receive free legal advice and help navigating the court system. Program attorneys are available in all housing courts and provide an array of legal services that help ensure that low-income families facing eviction or other potential losses of housing remain housed and avoid becoming homeless or entering the shelter system. The HPLP acts as an umbrella for the contracts associated with Universal Access to Counsel. The Fiscal 2021 Preliminary Plan includes \$93 million for the HPLP/ Universal Access to Counsel program. An increase of approximately \$16 million from when the budget was adopted.

Zip Codes Served by Universal Access in the First and Second Phases

■ First year Zip codes ■ Second year Zip codes



Universal Access to Counsel Almost three years ago, with nearly two years until full implementation, New York City became the first city in the country to offer free legal services to tenants facing eviction in housing court and NYCHA tenancy termination proceedings. The Fiscal 2021 budget includes \$93 million of Universal Access. When Universal Access is fully implemented, New Yorkers who earn less than \$50,000 a year will be able to access full legal representation in while facing his or her landlord in court. Implementation of Universal Access will be rolled out in phases. Phases include targeted zip code. We are currently in phase three. Once the program is fully implemented in Fiscal 2022, any New Yorker who earns less than \$50,000 a year will be guaranteed free legal representation while facing his or her landlord in court; those

earning more will be offered free legal advice. The program will be phased in over the course of the next several years, adding new neighborhoods each year, for a total investment of \$166 million by

Fiscal 2022. The City estimates an additional 400,000 New Yorkers each year will qualify for legal help in Housing Court with 125,000 cases annually.

Neighborhoods targeted for services, identified by zip code, were based on several factors including: shelter entries, the prevalence of rent-regulated housing, the volume of eviction proceedings in the zip code, availability of other OCJ-funded legal services programs, among others. The map above shows the zip codes served in the first and second phases of expansion. There have been questions about the process that was used to identify the neighborhoods chosen for services and criticism of whether those that were identified are truly representative of communities with the highest need for this program.

Universal Access to Legal Services: A Report on Year Two Implementation in New York City

Although OCJ has not issued its Annual Report for Fiscal 2019. However, in November 2019, the Office published a report specifically on the second year of Universal Access. As shown in the table above, in Fiscal Year 2019, the latest complete reporting period, OCJ provided some form of assistance to 32,170 families, with 22,264 receiving full legal representation, benefiting 83,475 individuals facing eviction in housing court in every borough and 175 targeted zip codes.

Legal Services for Tenants Facing Eviction in Housing Court July 1,2018-June 30,2019

	Households Assisted			Individuals Assisted		
	Brief/ Advice	Full Legal Representation	Total	Brief/ Advice	Full Legal Representation	Total
UA Zip Codes	The Bronx	392	4,881	5,273	1,005	13,177
	Brooklyn	503	2,976	3,479	1,213	7,281
	Manhattan	276	2,303	2,579	570	5,097
	Queens	270	893	1,163	697	2,501
	Staten Island	58	798	856	128	2,428
	Total	1,499	11,851	13,350	3,613	30,484
Non-UA Zip Codes	The Bronx	2,339	3,294	5,633	6,286	9,106
	Brooklyn	2,717	3,864	6,581	6,972	10,071
	Manhattan	1,243	1,322	2,565	2,576	3,037
	Queens	2,074	1,376	3,450	5,939	3,856
	Staten Island	34	557	591	83	1,452
	Total	8,407	10,413	18,820	21,856	27,522
TOTAL NYC		9,906	22,264	32,170	25,469	58,006
						83,475

Source: Office of Civil Justice Universal Access to Counsel 2019 Report

Furthermore, according to the report, of those who were provided with full legal representation, 84 percent of households and 84 percent of individuals were allowed to remain in their residence respectively. However, successful outcomes varied across the City; tenants in Manhattan (92 percent), the Bronx (90 percent), and Brooklyn (84 percent) remained in their homes and apartments at greater rates than in Queens and Staten Island (66 percent and 68 percent, respectively). Outcomes for tenants facing eviction in NYCHA administrative termination tenancy proceedings experienced higher rates of success with 97 percent of households and 98 percent of individuals who were allowed to remain in their residence.

Expansion of Universal Access to Counsel

In July 2019, the Office launched a model program to provide comprehensive access to legal services for NYCHA tenants facing termination of tenancy proceedings. The pilot program offers legal services on site at 804 Atlantic Avenue where NYCHA administers termination proceedings. Currently, the pilot is available to senior heads of households in NYCHA units who are facing termination. This program is a part of expansion of Universal Access. The Office is currently working with providers to modulate the pilot and refine the model before expanding to other NYCHA tenants in termination proceedings. This process is currently underway, and the Office expects to expand this program in Fiscal 2021. At the time of this writing, it is unclear how much the Administration has spent on this pilot and how much expansion would cost.

In December 2019, OCJ announced the expansion of Universal Access to five additional zip codes. With these additions, Universal Access now covers tenants residing in 25 zip codes across all five boroughs. Tenants in these zip codes may now access full legal representation in court and in their communities. According to the Office, future expansion will also follow a “zip-by-zip” method. The “zip-by-zip” method refers to the Office’s decision to continue expanding access to legal services by groups of zip codes instead of other geographic subdivisions.

Additionally, the Council held an oversight Hearing on February 24, 2020 on two bills that would expand Universal Access to Counsel. The first, a bill in relation to expanding the right to counsel for tenants, would broaden the income eligibility for full legal services to 400 percent of the federal poverty line, as well as expand services to other types of housing proceedings. The second is, a bill that requires the Office to proactively collaborate, engage, and educate tenants of their right to counsel and the services provided through the Office.

Issues and Concerns for Expansion of Universal Access to Counsel

There are several programmatic, budgetary, and operational concerns with expanding Universal Access to Counsel raised by providers and advocates, as well as the Council.

- **Income Eligibility.** The provision of full legal representation is determined by tenants’ income. Currently, tenants whose households are below 200 percent of the federal poverty line, less than \$25,000 for a single adult and less than \$51,000 for a family of four according to the 2019 Federal Guidelines, are eligible for full representation. It is estimated that 60 percent of all tenants who face eviction in Housing Court are eligible under these conditions, more than a third may not. What’s more, if tenants fall outside of the current income eligibility requirements the costs of counsel may be too prohibitive, leaving them above the income requirements but below the ability to secure legal support independently. What is more, expanding the income eligibility would expand coverage for tenants who are ineligible because of other government transfers, programs, or benefits. For example, potential clients who earn New York’s \$15 minimum wage would be ineligible because their income surpasses the current threshold. However, with the passage of the Local Laws mentioned above, these potential clients would be eligible for full legal representation
- **Types of Proceedings.** With geographic expansion of Universal Access, OCJ has also been called upon to expand to other types of proceedings. The Council’s expansion bills mentioned above bring full representation for eligible households into Housing Choice Voucher (Section 8) termination proceedings. Expanding Universal Access to Counsel to appeals for eviction decisions is also under consideration as this program grows. Currently, Universal Access does not cover cases that move from housing court to appeals.

- **Court Capacity.** In Fiscal 2019, legal services providers served more than 100,000 New Yorkers through OCJ. As more and more New Yorkers are covered by programmatic expansions, there are operational concerns about the capacity of court buildings and facilities. New projects to expand court facilities and capacity are underway in the Bronx and Brooklyn, where court administrators have identified the greatest need. Court facilities are City-owned properties, and these projects fall under the Department of Citywide Administrative Services' (DCAS) management.
- **State Uncertainties.** The State's Fiscal 2021 Executive Budget may have significant consequences of OCJ's ability to expand beyond its scheduled phasing. The State's budget includes cost shifts to the City and HRA of about \$1.1 billion for Medicaid. The City is also facing additional cuts to Temporary Assistance for Needy Families (TANF) and Emergency Assistance to Families (EAF) on top of cuts from Fiscal 2020. OCJ estimates that these will result in an annualized impact of approximately \$102 million in Fiscal 2020 and Fiscal 2021 combined. Additionally, \$20 million in State funding for homeowners facing foreclosure provided through the Homeowner Protection Program (HOPP) was restored last year but must be renewed annually in the State's budget. Although this is a State program, it has a large impact in New York City where nearly a quarter of all foreclosures take place statewide.



Anti-Harassment Tenant Protection (AHTP). The 2021 Preliminary Plan includes \$41.9 million in Fiscal 2021 for AHTP, a slight reduction from \$44 million adopted in Fiscal 2020. AHTP provides legal representation in housing court and resources for tenant outreach and pre-litigations services with the intention of preventing displacement. Services have been focused on several neighborhoods that have been identified as having a high-risk for landlord harassment including threats, housing disrepair, pressure tactics, and generally corrupt behavior. In October 2019, this program was included as part of a larger initiative led by the Mayor's Office to Protect Tenants to inform tenants of their protections and new rights under the Housing Stability and Tenant Protection Act of 2019.

Housing Help Program. The Preliminary Financial Plan includes \$3 million in Fiscal 2021 for the Housing Help Program. This program

works to prevent homelessness and is a partnership with the Robin Hood Foundation, the Legal Aid Society, and the Mayor's Fund for the City of New York. The Fiscal 2021 Preliminary Budget does not change this program's funding from the amount at adoption.

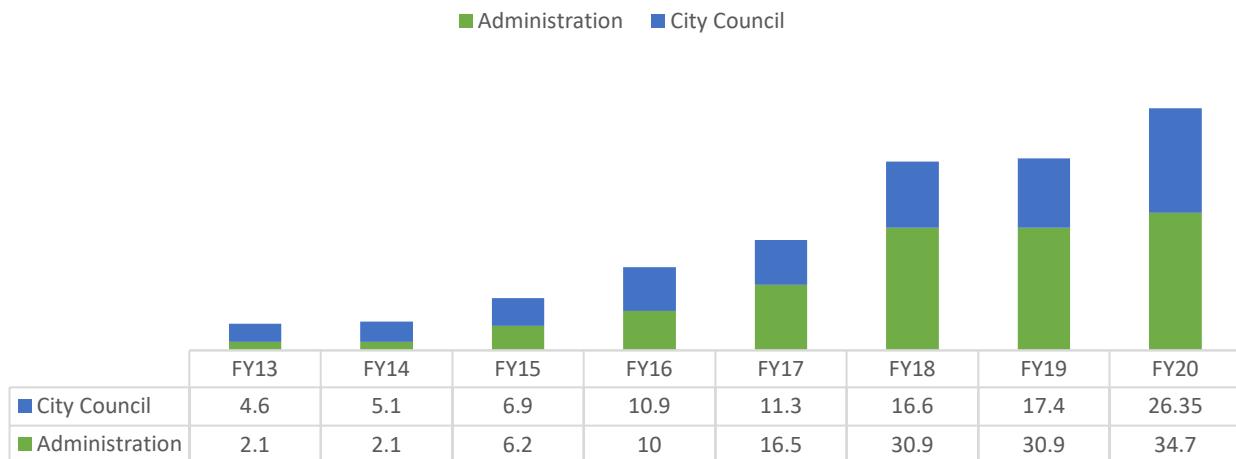
Assigned Counsel Project for Seniors (ACP). The Preliminary Plan provides \$993,500 in Fiscal 2021 for ACP, unchanged from adoption in Fiscal 2020. This program provides legal services to seniors in

New York City's Housing Court; the contract was previously housed in the Department for the Aging (DFTA) and moved over to OCJ in Fiscal 2019. OCJ and DFTA work collaboratively to provide these services and it is an important part of OCJ's array for seniors.

Deportation Defense

Individuals who live in the United States without legal authorization (those with expired visas or those who may have entered the United States by circumventing the immigration process) often have inadequate legal representation and face a number of barriers that make it difficult to secure legal

City Funding for Immigration Legal Services



Dollars in Millions

Source: Office of Civil Justice

assistance and representation, including the fear of removal when seeking legal services. The City has partnered with community-based organizations to develop programs and support services for immigrant New Yorkers to help them navigate the United States' complex immigration system. During the past six fiscal years, City funding for immigration legal services has risen sevenfold, from \$6.8 million in Fiscal 2013 to \$48.3 million in Fiscal 2019. The Council has increased its commitment to immigration legal services from \$4.6 million in Fiscal 2013 to \$17.4 million in Fiscal 2019.

The Fiscal 2021 Preliminary Budget includes support for a variety of free legal services programs for low-income immigrant New Yorkers in need of legal advice or representation in immigration matters. Below are the programs associated with immigration and deportation defense within the OCJ Office, however, it is not clear within the budget how much funding is allocated to each specific program area. Funding for these programs rests within Deportation Defense and Anti-Eviction Services budget lines.

- **Immigration Opportunity Initiative/ Deportation Defense (IOI).** The OCJ contracts with providers to deliver legal services to non-citizens to assist in matters ranging from complex cases, citizenship and lawful permanent residency applications, to more complex immigration matters, including asylum applications and removal defense work. The Fiscal 2021 Preliminary Plan includes \$19.7 million for IOI. This includes approximately \$91,000 added in the November 2019 Plan for the indirect cost plan.

- **ActionNYC.** The Fiscal 2021 Preliminary Plan supports a \$9.6 million investment for ActionNYC. ActionNYC is a joint program with the Mayor's Office of Immigrant Affairs (MOIA), HRA, and City University of New York (CUNY) that provides legal representation in immigration matters such as citizenship, green card renewals, temporary protected status, and others.
- **Community Services Block Grant Funded Legal Services (CSBG).** The Fiscal 2021 Preliminary Plan includes \$2.1 million to support CSGB, the same amount from Fiscal 2020 at adoption. This program provides legal assistance to help adults and youth attain citizenship, as well as services targeted toward survivors of domestic violence and human trafficking, and low-wage immigrant workers at risk of exploitation and violation of their rights, as well as immigrant youth in foster care.
- **Legal Services for Immigrant Survivors of Domestic Violence.** This program is not funded within the OCJ Office, but supports domestic violence related legal services for immigrant survivors. This program is administered by HRA's Office of Emergency Intervention Services in partnership with OCJ, MOIA, and the Mayor's Office to End Gender based Violence. This investment was recommended by the New York City Domestic Violence Task Force in 2017 and is supported by a \$1 million investment in the Fiscal 2021 Preliminary Plan.

Fiscal 2020 Preliminary Mayor's Management Report (PMMR) Performance Measures

The Fiscal 2020 PMMR outlines the responsibilities and goals of the Office of Civil Justice within HRA. OCJ's mission is to coordinate, evaluate, and improve civil legal services for low-income New Yorkers. The Fiscal 2020 PMMR mentions OCJ's service goal of providing homelessness prevention benefits and services to eligible children and adults. The chart highlights OCJ's performance statistics for Fiscal 2017 to 2019 and four-month actual data for Fiscal 2019 and Fiscal 2020.

Reduce Homelessness Among Children and Adults							
Performance Indicators	Actual			Target		4-Month Actual	
	FY17	FY18	FY19	FY19	FY10	FY19	FY20
Low-income cases facing eviction and homelessness who were assisted with legal services in Housing Court	16,702	25,156	32,171	*	*	10,632	8,601

- The caseloads have increased parallel with the increase of funding to Access to Counsel.
- The increased investment in civil legal services and right to counsel has led to a decrease in residential evictions by marshals across the City. As of Fall 2019, OCJ reported that evictions have declined over 30 percent since 2013. They continue to fall as a result of the Office's work, in 2018 there were roughly 20,000 evictions a five percent reduction from the previous year.¹

¹ <https://www1.nyc.gov/office-of-the-mayor/news/075-19/mayor-de-blasio-record-breaking-37-decrease-evictions-citywide>

City Council Initiatives

In Fiscal 2020, the Council added approximately \$34 million to HRA's budget for eight civil legal services initiatives, an increase of 36 percent compared to \$25 million in Fiscal 2019.

FY20 Council Changes at Adoption	
<i>Dollars in Thousands</i>	
Council Initiatives	
Immigrant Opportunities Initiative	\$2,576
Legal Services for Low Income New Yorkers	5,550
Legal Services for the Working Poor	3205
Legal Services for Veterans	600
Low Wage Worker Support	500
New York Immigrant Family Unity Project	16,600
Supportive Alternatives to Violent Encounters (SAVE)	850
Unaccompanied Minors Children and Families	3,981
TOTAL	\$33,862

City Council-funded civil legal services initiatives managed by HRA include the following:

- **Immigrant Opportunities Initiative – \$2.6 million.** The Immigrant Opportunities initiative supports services that help immigrant adults to gain access to information and resources to strengthen their participation in the democratic process. Specifically, this initiative provides legal services for recent immigrants to assist with applications for citizenship or permanent residency, and various other immigrant related legal services
- **Legal Services for Low-Income New Yorkers – \$5.5 million.** Legal Services for Low-Income New Yorkers provides full legal representation for matters that include unemployment insurance, supplemental security income, consumer/finance, education, and employment, family, juvenile, health, housing, income maintenance, individual rights and miscellaneous benefits.
- **Legal Services for the Working Poor – \$3.2 million.** Legal Services for the Working Poor initiative provides full legal representation for the working poor in matters that include assistance in preventing eviction, foreclosure, improvement of living conditions, removal of hazardous housing conditions, housing code enforcement actions, emergency grants to prevent homelessness, disability benefits, immigration assistance, workplace abuses, consumer protections from creditors, recovery of illegal rents, and improper rent changes, and domestic violence.
- **Legal Services for Veterans – \$600,000.** Legal Services for Veterans supports legal representation for New York City veterans in the areas of family law, housing, public benefits, healthcare, homecare, financial planning and consumer protection.
- **Low Wage Worker Support - \$500,000.** This funding supports outreach efforts and referral services to low-wage workers in need of employment related civil legal services.
- **New York Immigrant Family Unity Project – \$16.6 million.** The New York Immigrant Family Unity Project program provides free, high-quality legal representation for New Yorkers

detained and facing deportation who cannot afford an attorney. Services included are master calendar, bond and individual merit hearings, appeals and social work services.

- **Supportive Alternatives to Violent Encounters (SAVE) - \$850,000.** SAVE funding supports legal service organizations that provide domestic violence victims appearing in court with a range of services that include prevention, direct legal representation, counseling and referrals.
- **Unaccompanied Minors and Families – \$3.9million.** The Unaccompanied Minors and Families program funding supports legal counsel for children in removal proceedings, and social services to children appearing on the Juvenile and Surge Dockets in New York Immigration Court to assist minors in navigating the immigration system. This initiative also provides legal services to adults with children to ensure that adults and their children have access to critical educational, health and mental health services.

Appendix

OCJ Program	Fiscal 2021
Immigrant Opportunity Initiative (IOI)	\$19,757
Homelessness Prevention Law Project (HPLP)/Universal Access	\$93,512
Housing Help Program	\$3,000
Community Service Block Grant	\$2,131
Assigned Counsel Project for Seniors	\$993
ActionNY	\$8,696
Anti-Harrassment Tenant Protection	\$41,927
Legal Services for Immigrant Survivors of Domestic Violence	\$1,000

Dollars in Thousands