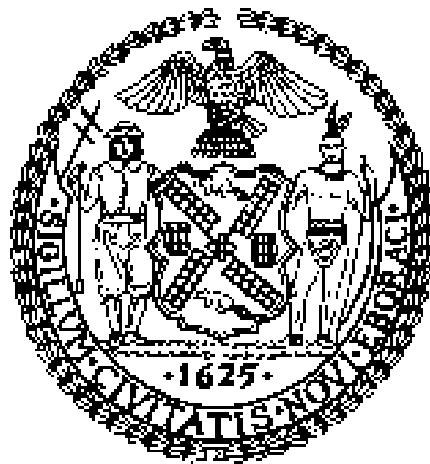


THE COUNCIL OF THE CITY OF NEW YORK

Hon. Corey Johnson
Speaker of the Council

Hon. Fernando Cabrera
Chair, Committee on Governmental Operations



Report of the Finance Division on the
Fiscal 2022 Preliminary Budget and the
Fiscal 2021 Preliminary Mayor's Management Report
Office of Administrative Trials and Hearings

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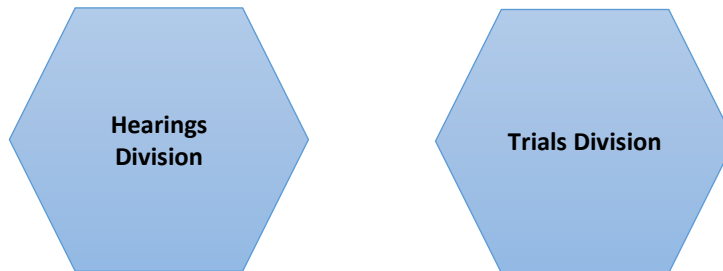
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Office of Administrative Trials and Hearings Services Overview

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) Health 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.

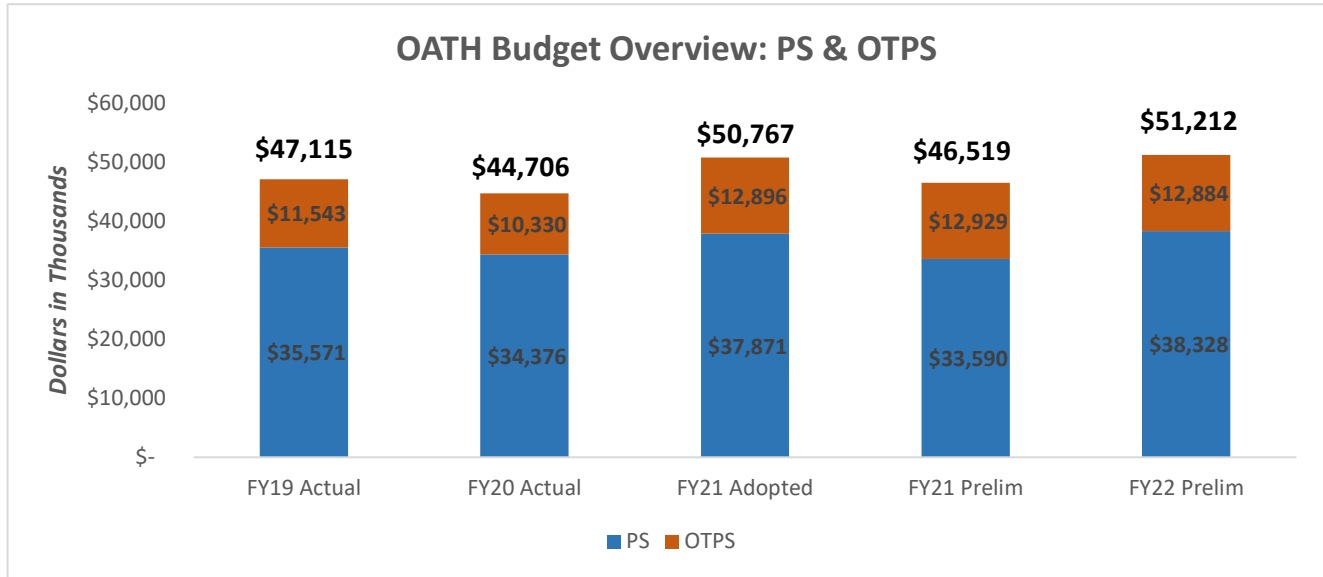
The OATH Trials Division adjudicates a wide range of issues that can be referred by any City agency, board or commission. Hearings conducted by the Trials Division include disciplinary cases brought by City agencies against civil service employees; matters pertaining to licensing, regulatory and enforcement 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.

OATH Fiscal 2022 Preliminary Budget: Expense

The Office of Administrative Trials and Hearings (OATH) Fiscal 2022 Preliminary Budget totals \$51.2 million, including \$38.3 million in Personal Services (PS) funding to support 306 full-time positions. The entirety of OATH’s Fiscal 2022 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 Appropriation¹ (U/As), which include one for PS and one for Other than Personal Services (OTPS).

¹ Units of Appropriation are the subdivisions of the City expense budget that the City Council votes upon.

Figure 1



Highlights of OATH’s Fiscal 2022 Preliminary Budget

- **Miscellaneous Revenue.** The Financial Plan projects that the Office of Administrative Trials and Hearings will generate miscellaneous revenue totaling \$146.3 million in Fiscal 2022, the majority of which comes from the collection of fines issued at OATH courts.
- **Contract Budget.** OATH’s Fiscal 2022 Preliminary Contract Budget totals \$3.6 million for 30 contracts, accounting for 27.9 percent of the Department’s OTPS Budget.
- **Savings Program.** Since the Fiscal 2021 Adopted Budget, OATH is projected to generate savings of \$4.1 million in Fiscal 2021 and \$157,000 in Fiscal 2022, the majority of which comes from additional property assessment fee revenues.
- **Preliminary Mayor’s Management Report (PMMR) Highlights.** Notable performance metrics reported by the Office of Administrative Trials and Hearings in the Fiscal 2021 PMMR include the following.
 - During the first four months of Fiscal 2021, the OATH Trials Division issued decisions within 45 business days for 97 percent of its cases, an increase of 10 percent when compared to the same time period in Fiscal 2020.
 - The total number of summonses received from the issuing agencies at the OATH Hearings Division for Fiscal 2020 totaled 701,862, a decrease of 19.3 percent when compared to Fiscal 2019.
 - The total number of summonses processed at the OATH Hearings Division for Fiscal 2020 totaled 484,589, representing a decrease of 36.8 percent since Fiscal 2019.

Financial Plan Summary

Table 1

OATH Financial Summary						
	FY19	FY20	FY21	Preliminary Plan		*Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	FY21	FY22	FY22-FY21
Personal Services						
Additional Gross Pay	\$494	\$541	\$468	\$468	\$468	\$0
Full-Time Salaried - Civilian	21,764	22,885	23,225	22,241	23,954	729
Unsalaries & PS Other	13,266	10,898	14,128	10,832	13,856	(272)
Overtime - Civilian	47	51	50	50	50	0
SUBTOTAL	\$35,571	\$34,375	\$37,871	\$33,591	\$38,328	\$457
Other Than Personal Services						
Contractual Services	\$4,114	\$2,451	\$3,603	\$3,269	\$3,601	(\$2)
Fixed and Misc Charges	3	2	0	0	0	0
Other Services & Charges	5,965	6,180	7,321	8,072	7,312	(9)
Property & Equipment	324	277	327	370	327	0
Supplies & Materials	1,137	1,419	1,645	1,217	1,644	(1)
SUBTOTAL	\$11,543	\$10,329	\$12,895	\$12,928	\$12,884	(\$10)
TOTAL	\$47,114	\$44,704	\$50,767	\$46,519	\$51,212	\$445
Funding						
City Funds			\$50,767	\$46,500	\$51,212	\$445
Federal Funds			0	19	0	0
TOTAL	\$47,114	\$44,704	\$50,767	\$46,519	\$51,212	\$445
Budgeted Headcount						
Full-Time Positions - Civilian	310	302	309	285	306	(3)

*The difference of Fiscal 2021 Adopted Budget compared to Fiscal 2022 Preliminary Budget

The Office of Administrative Trials and Hearing’s Fiscal 2022 Preliminary Budget totals \$51.2 million, including \$38.3 million in PS funding to support 306 full-time positions. OATH’s Fiscal 2022 Preliminary Budget is \$445,000 more than its Fiscal 2021 Adopted Budget of \$50.8 million. This increase is primarily due to additional PS funding for OATH’s Information Technology office and the Clerk’s Office. OATH’s current year budget of \$46.5 million is \$4.2 million less than its Fiscal 2021 Adopted Budget. This is largely due to the Department’s citywide savings program, which will be discussed later in this report. For additional information regarding OATH’s budgetary actions since the Fiscal 2021 Adopted Budget, please refer to Appendix A.

Financial Plan Actions

The Fiscal 2022 Preliminary Plan includes minor changes to OATH’s budget. These changes include a net decrease of \$40,736 in other adjustments, and citywide savings of \$2.1 million, all of which impacted OATH’s Fiscal 2021 budget. The following section and chart provides highlights of financial plan actions since the Fiscal 2021 Adopted Budget that have impacted OATH’s budget.

Table 2

Budget Actions since the Fiscal 2021 Adopted Budget					
<i>Dollars in Thousands</i>	FY21	FY22	FY23	FY24	FY25
FY21 Adopted	\$50,767	\$51,378	\$51,378	\$51,378	\$51,378
New Needs	0	0	0	0	0
Other Adjustments	(141)	(9)	(9)	(9)	(9)
Savings Program	(1,915)	(157)	(157)	(157)	(157)
Total Nov Plan Changes	\$(2,056)	\$(166)	\$(166)	\$(166)	\$(166)

Nov 2020 Plan	\$48,709	\$51,212	\$51,212	\$51,212	\$51,212
New Needs	0	0	0	0	0
Other Adjustments	(41)	0	0	0	0
Savings Program	(2,150)	0	0	0	0
Total Prelim Changes	\$(2,191)	\$0	\$0	\$0	\$0
FY22 Prelim	\$46,518	\$51,212	\$51,212	\$51,212	\$51,212

Other Adjustments

Since Adoption of the Fiscal 2021 Budget, OATH has had other adjustments which generated reductions in its Fiscal 2021 budget of \$183,000 and baselined reductions of \$9,000 beginning in Fiscal 2022. Highlights of other adjustments include the following.

- **Managerial and OJ Furloughs.** Although not part of the OATH's savings program, in the November 2020 Plan, the OATH's budget included a reduction of \$145,105 in Fiscal 2021 for projected savings associated with the furlough program, which requires City employees to take five unpaid furlough days over the six-month period from October 2020 through March 2021.

Savings Program

Since Adoption of the Fiscal 2021 Budget, OATH will generate savings of \$4.1 million in Fiscal 2021 and \$157,000 in Fiscal 2022. Savings in the Preliminary Plan totals \$2.1 million in Fiscal 2021. Below are highlights of OATH's savings program.

- **Hiring Freeze.** In the November 2020 Financial Plan, OATH generated savings of \$117,000 in Fiscal 2021, and baselined savings of \$157,000 beginning in Fiscal 2022 through hiring freeze savings, which also permanently reduced three vacant positions at the Department.
- **PS Savings.** Across the November 2020 and Preliminary Plans, OATH generated one-time savings of \$3 million in Fiscal 2021 through underspending in Personal Services that impacts OATH's Hearings Division. According to OATH, this will not have an impact on the Hearings Division's essential operations, as the agency is conducting fewer hearings, and will thus spend less on hearing officer hours, due to the decrease of summonses issued by City agencies.
- **Hiring and Attrition Management.** Introduced in the Fiscal 2022 Preliminary Budget, the City has imposed strict hiring protocols that impact many City agencies, whereby three positions would need to be vacated through attrition in order to hire one new staff person. It is estimated that this program will generate savings of \$61.4 million in Fiscal 2021, along with a headcount reduction of 2,604 positions. OATH will generate one-time savings of \$407,000 in Fiscal 2021 through this process and will generate a one-time reduction in headcount of 21 positions in Fiscal 2022. However, it has yet to be determined which Divisions within OATH will be impacted by this savings program.

OATH Tribunals

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 and Worker Protection (DCWP) Hearings

In September 2016, the OATH Hearings Division began hearing summonses issued from the Department of Consumer and Worker Protection, which DCWP formerly heard themselves. DCWP 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 DCWP business regulations.

Budget Issues

Environmental Control Board Debt

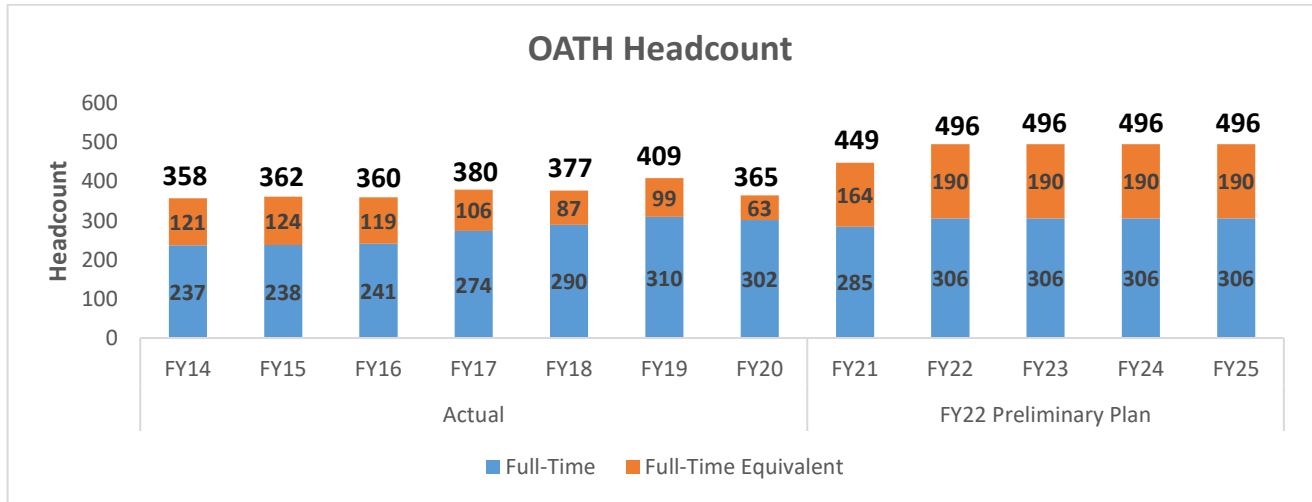
OATH miscellaneous revenue figures discussed in the "Miscellaneous Revenue" section of this report underrepresent the quantity of fines levied in ECB courts because a major share of OATH fines are not collected. Unpaid fines are re-categorized as OATH/ECB debt, which the Department of Finance is responsible for collecting.

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 \$72.3 million in Fiscal 2020. The amount DOF collected in Fiscal 2020 represents a decrease of \$13.5 million, or 15.7 percent, over the previous year, as DOF had collected \$85.8 million in Fiscal 2019. This decrease is largely due to the COVID-19 pandemic. For example, in March 2020, DOF stopped issuing legal execution referrals to City Marshalls and the City Sheriff to enforce ECB debt collection in recognition of the economic disruption caused by the pandemic. For more information on the DOF's efforts to collect ECB debt, please to the "*Fiscal 2020 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 11.² This report can also be found on DOF's website.

² Fiscal 2020 Annual Report on DOF Collection of ECB Judgement Debt.
<https://www1.nyc.gov/assets/finance/downloads/pdf/20pdf/fy20-21-ecb-annual-report.pdf>

Headcount

Figure 2

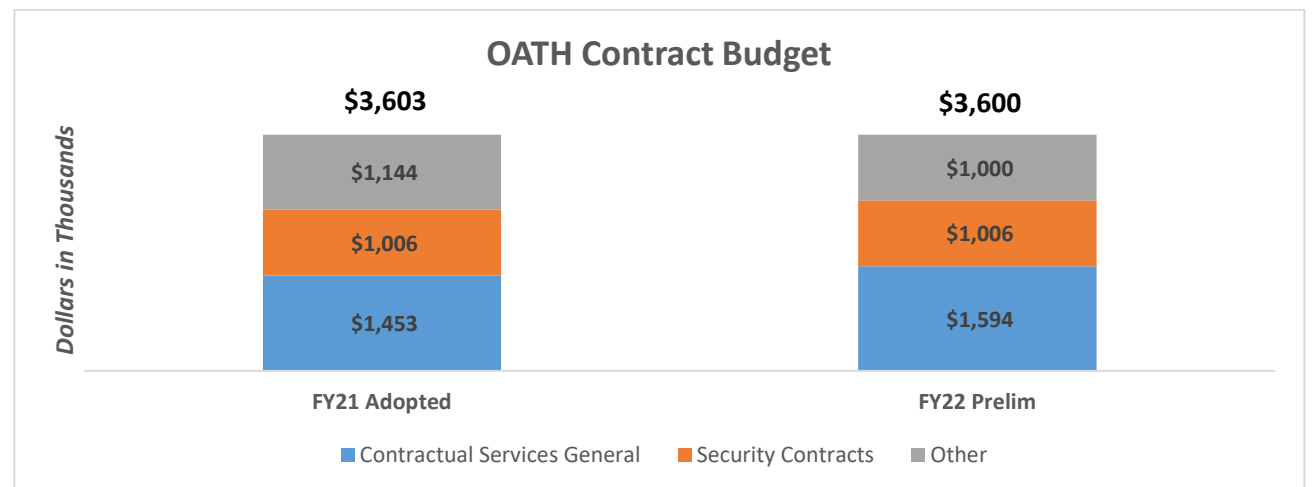


In the Fiscal 2022 Preliminary Plan, OATH’s PS Budget provides \$38.3 million to support a headcount of 306 full-time positions and 190 full-time equivalent positions. As of November 2020, OATH was at full employment, with no vacant full-time positions, all of which are City-funded. OATH’s headcount 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 2022 Preliminary Contract Budget totals \$17 billion for procurement expenditures across all agencies.

Figure 3



The Office of Administrative Trials and Hearing's Fiscal 2022 Contract Budget totals \$3.6 million for 30 contracts, accounting for 27.9 percent of the Department's OTPS Budget. OATH's Fiscal 2022 Budget includes \$1.5 million for general services contracts, which comprise 44.3 percent of OATH's Fiscal 2022 Preliminary Contract Budget. These contracts are related to summons processing, language services, community service and lockbox services. In addition, OATH's Fiscal 2022 Contract Budget includes just over \$1 million for contracted security services, representing 27.9 percent of OATH's Fiscal 2022 Preliminary Contract Budget, which are contracted to provide security at OATH tribunals. Lastly, OATH's Fiscal 2022 Preliminary Contract Budget is only \$3,000 less than its Fiscal 2021 Adopted Contract Budget. Although funding for general service contracts increased by \$141,000 since Adoption, funding for temporary contracts decreased by \$144,000 during the same time period. For additional information regarding OATH's Contract Budget, please refer to Appendix C.

Fiscal 2021 Preliminary Mayor's Management Report

The Preliminary Mayor's Management Report (PMMR) for Fiscal 2021 was released in January 2021, and contains information regarding City agencies/offices that allow the public to better understand how NYC programs are performing. OATH's PMMR report includes 29 different metrics, which provide high-level information regarding OATH's operations, including the total summonses received from the issuing agency at its Hearing Division, the number of summonses with a decision rendered at the Hearing Division, among others. The report contains valuable information, however, most of the metrics do not contain specified targets, and OATH should strive to include certain targets, based on historical performance rates, in order to increase transparency. Of note, OATH included new performance metrics to capture the work done by OATH's Center for Creative Conflict Resolution (CCCR). Although CCCR has been in existence since Fiscal 2016 and primarily worked with City employees experiencing conflict in the workplace, Fiscal 2021 is the first year that the Center has made its services available to the public. Additionally, OATH added metrics to capture information related to the number of remote hearings by type, due to the ongoing COVID-19 pandemic. Some notable performance metrics provided by the Office of Administrative Trials and Hearings (OATH) in the Fiscal 2021 PMMR include the following.

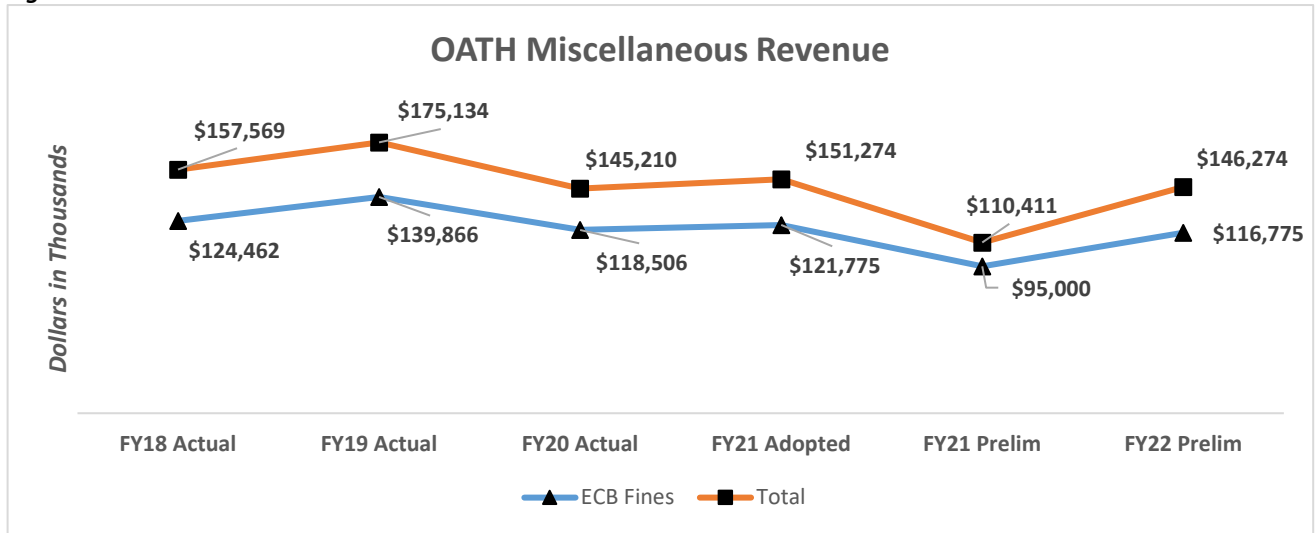
- **Average Time to Issue Decisions.** The average time for the OATH Hearings Division to issue decisions totaled seven business days in Fiscal 2020, an increase of one business day from Fiscal 2019. Additionally, during the first four months of Fiscal 2021, the average time for the OATH Hearings Division to issue decisions totaled ten business days, which is an increase of four business days when compared to the same time period in Fiscal 2020. This change was primarily due to the fact that the Division had to change its internal procedures and workflow to be able to operate efficiently while also having all Hearing Officers, staff, and respondents appearing remotely due to the COVID-19 pandemic.
- **Center for Creative Conflict Resolution (CCCR).** OATH added a new performance metric that measured the work done by OATH's Center for Creative Conflict Resolution. Although this Center has been operational since 2016, the Center has primarily worked with City employees who were experiencing conflict in their workplaces. Fiscal 2021, however, is the first year in which the Center has made its services available to the general public.

For additional information regarding OATH's Fiscal 2021 performance metrics, please refer to the Fiscal 2021 Preliminary Mayor's Management Report, found here: https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2021/2021_pmmr.pdf

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.

Figure 4



It is projected that OATH will generate miscellaneous revenue of \$146.3 million in Fiscal 2022. 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 amount to 79.8 percent of OATH’s total miscellaneous revenue in Fiscal 2022, a percentage that is in line with actual revenue generation in recent fiscal years. Miscellaneous revenue from ECB fines totals \$95 million in Fiscal 2021, which is lower than previous fiscal years, and is entirely due to fewer agencies issuing ECB fines due to the COVID-19 pandemic. However, miscellaneous revenue from ECB fines is anticipated to grow to \$116.8 million in Fiscal 2022. This number represents the Office of Management and Budget’s (OMB’s) estimate that City agencies will return to a regular, pre-COVID-19, issuance of ECB fines by Fiscal 2022. For additional information regarding OATH’s miscellaneous revenue streams, please refer to Appendix D.

Appendices

A: Budget Actions in the November and the Preliminary Plans

<i>Dollars in Thousands</i>	FY21			FY22		
OATH Budget as of the Adopted 2021 Budget	City	Non-City	Total	City	Non-City	Total
	\$50,767	\$0	\$50,767	\$51,378	\$0	\$51,378
New Needs	\$0	\$0	\$0	\$0	\$0	\$0
Other Adjustments						
City Adjustments	(161)	0	\$(161)	(9)	0	\$(9)
Federal Adjustments	0	19	\$19	0	0	\$0
Hiring Freeze	(117)	0	\$(117)	(157)	0	\$(157)
OTPS Re-estimate	(530)	0	\$(530)	0	0	\$0
PS Savings	(1,268)	0	\$(1,268)	0	0	\$0
Subtotal Other Adjustments	\$(2,076)	\$19	\$(2,057)	\$(166)	\$0	\$(166)
Total All Changes	\$(2,076)	\$19	\$(2,057)	\$(166)	\$0	\$(166)
OATH Budget as of the November 2020 Plan	\$48,690	\$19	\$48,709	\$51,212	\$0	\$51,212
New Needs	\$0	\$0	\$0	\$0	\$0	\$0
Other Adjustments						
City Adjustments	(41)	0	\$(41)	0	0	\$0
Hiring and Attrition Management	(407)	0	\$(407)	0	0	\$0
PS Savings	(1,743)	0	\$(1,743)	0	0	\$0
Subtotal Other Adjustments	\$(2,191)	\$0	\$(2,191)	\$0	\$0	\$0
Total All Changes	\$(2,191)	\$0	\$(2,191)	\$0	\$0	\$0
OATH Budget as of the FY22 Prelim Budget	\$46,499	\$19	\$46,518	\$51,212	\$0	\$51,212

B: OATH Headcount

	Actual							Preliminary				
	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Full-Time	237	238	241	274	290	310	302	285	306	306	306	306
Full-Time Equivalent	121	124	119	106	87	99	63	164	190	190	190	190
Total	358	362	360	380	377	409	365	449	496	496	496	496

C: OATH Contract Budget

OATH Contract Budget								
<i>Dollars in Thousands</i>	FY21 Adopted				FY22 Prelim			
Category	# of Contracts		Amount		# of Contracts		Amount	
Contractual Services General	18		\$ 1,453		18		\$ 1,594	
Telecommunications Maint	1		153		1		153	
Maint & Repair General	1		35		1		35	
Office Equipment Maint	1		54		1		54	
Printing Contracts	1		51		1		51	
Security Services	2		1,006		2		1,006	
Temporary Services	1		219		1		75	
Cleaning Services	2		540		2		540	
Training Prgm for City Employees	1		8		1		8	
Professional Svcs: Direct Education Services	1		22		1		22	
Professional Svcs: Other	1		62		1		62	

Total	30	\$ 3,603	30	\$ 3,600
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D: OATH Miscellaneous Revenue

OATH Miscellaneous Revenue						
<i>Dollars in Thousands</i>	Actual			FY21	FY22 Prelim	
	2018	2019	2020	Adopted	2021	2022
OATH Hearing Fees	\$17	\$25	\$7	\$11	\$11	\$11
DOHMH Fines	29,722	32,230	24,375	26,288	13,800	26,288
ECB Fines	124,462	139,866	118,506	121,775	95,000	116,775
Taxi Fines	3,368	3,013	2,322	3,200	1,600	3,200
Total	\$157,569	\$175,134	\$145,210	\$151,274	\$110,411	\$146,274