



NEW YORK  
CITY BAR

**REPORT IN SUPPORT OF THE  
JUDICIARY'S 2021-2022 BUDGET REQUEST  
BY THE COUNCIL ON JUDICIAL ADMINISTRATION**

The New York City Bar Association urges the Legislature to accept the 2021-2022 Budget Request (“Budget”) of the Unified Court System (“UCS”) in its entirety.<sup>1</sup> At the same time, the Association notes that the pandemic and its consequences on the Budget have severely strained court operations. The courts provide an indispensable forum for addressing the issues and conflicts that invariably arise in times of societal stress and dislocation such as we are now experiencing. The need for fair, equal and timely justice dispensed by our courts and supported by legal services providers is rising as the resources available to support their operations are falling. It is therefore incumbent on the Legislature to restore funding for judicial operations, including for the Judiciary Civil Legal Services Program, to pre-pandemic levels as quickly as possible to minimize long-lasting harm to the social fabric.

USC’s assessment that its \$2.25 billion spending estimate reflects what it needs to fulfill its constitutional mission “appropriately”<sup>2</sup> says more about funding realities than about any assessment of actual needs. The “sharp contraction”<sup>3</sup> in available funding has already reduced FY 2021 spending to a level at least \$264 million (10.5%) below the original budget request for this year. The Budget seeks FY 2022 funding at the same reduced level. Given these reductions, it seems likely that court backlogs and delays will continue to grow, and New Yorkers’ equal access to fair and timely adjudication will be increasingly constrained.<sup>4</sup>

The Judiciary is doing what it can to keep the wheels of justice turning, relying creatively on remote communications technology and electronic filing systems to substitute for in-person proceedings and paper filings. But as proceedings progress towards more complicated stages, such as those requiring cross-examination and jury trials, virtual substitutes for in-person proceedings become unwieldy and less satisfactory. Achieving closure becomes difficult, resulting in growing case dockets and backlogs that will have to be cleared to return the courts to normal operations. This will require more resources, not fewer.

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<sup>1</sup> The Budget addresses spending for the fiscal year commencing April 1, 2021.

<sup>2</sup> Budget, at i.

<sup>3</sup> *Id.*, at xii.

<sup>4</sup> The Budget appropriately requests that appropriation authority be maintained at higher levels should additional resources become available, through federal aid or otherwise, *see* Budget, at i, note 3, and xiv, xv.

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

But fewer resources is what we have. Already, a system-wide hiring freeze has reduced court staffing below 15,000, a level 12% below that which existed in 2009 in the midst of the Great Recession. Of particular concern is the lack of court clerks, especially in the criminal courts, many of whom are working overtime to try to keep up with the backlog of cases and challenges resulting from Covid-19. Judicial staff raises have been deferred. All paid judicial hearing officer positions have been eliminated, reducing an essential resource that judges rely on to fix damages, mediate cases, and perform other tasks essential to resolving matters. Forty-six senior trial and appellate judges have effectively been forced into retirement, reducing the availability of our most experienced judges when they are most needed to address growing case backlogs. Cuts have also been made in funding for court-supported legal services organizations that provide crucial assistance to those whose lives and livelihoods have been severely disrupted by the pandemic. Again, funding has been cut just as the need for services is rising.

Budget constraints imposed by the pandemic appear to have put several OCS initiatives on pause, including continued implementation of the Excellence Initiative announced by the Chief Judge in 2016. That initiative focuses on measures to promote fair and prompt adjudication and equal access to the courts for all New Yorkers. Although the data-driven judicial management approach promoted by the Initiative has proved useful in responding to the pandemic, the Budget acknowledges that reducing backlogs will have to await a return to normal operations.<sup>5</sup> This will presumably require reversing budget cuts, at the very least.

Other paused initiatives include efforts to implement the Chief Judge’s proposal to reorganize and simplify the byzantine structure of the New York court system,<sup>6</sup> and efforts to implement and assess far reaching criminal justice system reforms that took effect on January 1, 2020.<sup>7</sup>

The Budget seeks to maintain Judicial Legal Services Grants to support legal services for low-income New Yorkers but at reduced levels, which should be restored as soon as additional funding is available.<sup>8</sup> Support has also continued for specialized “problem solving” courts organized to handle issues involving opioid and other drug abuse, mental health, human trafficking, family, and veterans issues, and breaking down language barriers through the provision of robust interpretative and translation services.<sup>9</sup>

The pandemic has spurred continuing efforts to promote the electronic filing and exchange of documents and records for use in remote court proceedings throughout the state. In 2020, expansion of e-filing through the New York State Courts Electronic Filing systems was supplemented by a new Electronic Document Delivery System used to send documents around the

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<sup>5</sup> Budget, at v.

<sup>6</sup> *Id.*, at vi.

<sup>7</sup> *Id.*, at vi.

<sup>8</sup> *Id.*, at vi-vii.

<sup>9</sup> *Id.*, at vii-ix.

court system where NYSCEF has not yet been implemented.<sup>10</sup> Here the pandemic has spurred digital innovations that will remain useful to increase court access and efficiency after the pandemic has receded.

The bulk of the Budget goes to fund the Courts of Original Jurisdiction (“COJ”), including the Supreme and County Courts, Family Courts, Surrogate’s Courts, City and District Courts, and certain other courts and court functions. The requested COJ appropriation totals \$1.85 billion, which is 1.4% below the current year appropriation. About 85% of the requested appropriation is for personnel costs. Although the Budget generally continues funding at currently distressed levels, there are some reductions of particular note in the proposed COJ budget.

The \$465.3 million appropriation requested for the Supreme and County Courts represents a 5.5% decrease from the current level.<sup>11</sup> The amount of the reduction appears to roughly correspond to the level of savings anticipated from OCA’s decision to not (re)certify 46 Supreme Court justices otherwise eligible for certification.

The \$31.1 million appropriation requested for the New York City Housing Courts represents a 9.7% decrease from the current appropriation level.<sup>12</sup> This decrease is surprising in light of the increased demands to be placed on the Housing Courts by the effects of the pandemic compounded by recent changes in the housing laws. The Housing Courts are currently operating, at best, at extremely reduced levels, and will require augmented resources to resolve an overwhelming case backlog once they effectively re-open.

Other notable non-personnel reductions in the Budget include a \$3 million saving resulting from the elimination of paid Judicial Hearing Officers and a \$3.1 million saving resulting from the elimination of accounting and auditing services.<sup>13</sup>

This year’s Budget attempts to maintain court operations at minimally acceptable levels while recognizing the financial constraints resulting from the pandemic. We urge the Legislature to adopt it, recognizing that additional resources should be committed to the Judiciary as soon as they are available, including any resources that are made available from federal sources.

Council on Judicial Administration  
Michael P. Regan, Chair

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<sup>10</sup> *Id.*, at viii-ix.

<sup>11</sup> *Id.*, at 17.

<sup>12</sup> *Id.*, at 35.

<sup>13</sup> Budget, at 4–7. The rationale for eliminating the prior appropriation for accounting and auditing services is not articulated.