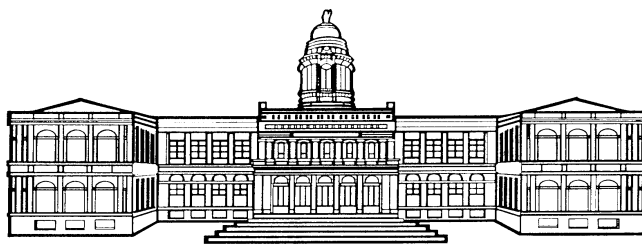


New York City Council



BUDGET REPORT

Finance Division

March 2009

***Analysis of the
Fiscal 2010 Preliminary Budget
and
Fiscal 2009 Preliminary Mayor's Management Report
for the
Civilian Complaint Review Board
Tuesday, March 31, 2009***

Hon. Christine C. Quinn
Speaker

Hon. David I. Weprin, Chair
Committee on Finance

Hon. Peter F. Vallone Jr., Chair
Committee on Public Safety

Preston Niblack, Director

Jeffrey Rodus, First Deputy Director

Andy Grossman, Deputy Director

Lionel Francois, Legislative Financial
Analyst

PREFACE

On March 31, 2009, at 2 pm., the Committee on Public Safety, chaired by the Hon. Peter Vallone F. Jr., will hold a hearing on the Mayor's Fiscal 2010 Preliminary Budget and Fiscal 2009 Preliminary Mayor's Management Report for the Civilian Complaint Review Board.

Section 236 of the New York City Charter requires the Mayor to submit by January 16th a preliminary budget for the upcoming fiscal year.^a In addition, under section 12 of the City Charter, the Mayor must make public and submit to the Council by January 30th the Preliminary Mayor's Management Report (PMMR) for the current fiscal year.^b Among other things, the PMMR must contain "proposed program performance goals and measures for the next fiscal year reflecting budgetary decisions made as of the date of submission of the preliminary budget."^c The Charter also requires the Council to hold hearings on the preliminary budget and to submit recommendations to the Mayor by March 25th.^d This year, the Council will hold joint hearings on the Fiscal 2010 Preliminary Budget and the Fiscal 2009 Preliminary Mayor's Management Report.

Beginning with the Fiscal Year 2008 Adopted Budget, the Council and the Mayor's Office of Management and Budget agreed to an additional budget presentation, referred to by OMB as the budget function analysis, and by the Council as the program budget. Two agencies were initially presented in the program budget form. Beginning with the January 2008 Financial Plan (Fiscal 2009 Preliminary Budget), a total of 16 agencies are now in program budget form. The Civilian Complaint Review Board is not a program budget agency.

This report was prepared by Lionel Francois, Legislative Financial Analyst, under the supervision of Deputy Director Andy Grossman.

^a The Charter prescribes specific actions that are required as part of the annual budget submission process during a fiscal year. The Charter allows for changes, via local law, in the dates in the submission of the PMMR, as well as an extension for subsequent steps in the budget process. This year, Local Law 03 of 2009 changed the date for the submission of the Preliminary Budget to January 30th, and the date for the Council's Response to the Preliminary Budget to April 8th.

^b Local Law 03 of 2009 changed the date of submission of the PMMR to February 13, 2009.

^c New York City Charter, §12(b)(2).

^d See *id.* at §247.

Civilian Complaint Review Board (054)

The Civilian Complaint Review Board (CCRB) receives, investigates, holds hearings, and recommends actions to the Police Commissioner on complaints by members of the public against members of the New York City Police Department (NYPD). Complaints handled by the Board include allegations of misconduct involving excessive use of Force, Abuse of authority, Discourtesy and the use of Offensive language, including, but not limited to, references to race, ethnicity, religion, sexual orientation and disability. These are collectively referred to as FADO allegations.

PROGRAM TO ELIMINATE THE GAP

Since the Fiscal 2009 Budget was adopted in June, the Office of Management and Budget has twice asked agency heads to submit Program to Eliminate the Gap (PEG) proposals. In the first round, in September, OMB sought PEG submissions equal to five percent of agency City tax-levy budgets for Fiscal 2010, with a further seven percent sought in December.

PEGs reduce the City's budget gap either by reducing an agency's City tax-levy Expense Budget spending, or by increasing City revenues. The chart below indicates the proposed PEG amounts for the CCRB based on the Fiscal 2010 forecast at the time the Fiscal 2009 Budget was adopted (June 2008).

November and January Plan PEGs for Fiscal 2010 <i>(in 000s)</i>	
Fiscal 2010 Forecast at Fiscal 2009 Adoption (June 2008)	\$11,262
Expense PEGs	(\$1,324)
Revenue PEGs	(\$0)
Total Fiscal 2010 PEGs	(\$1,324)
PEGs as a Percent of the Fiscal 2010 Forecast	11.76%

PRELIMINARY BUDGET HIGHLIGHTS

The CCRB's Fiscal 2010 Preliminary Budget is approximately \$10.6 million, which is a decrease of about \$700,000 when compared to the agency's Fiscal 2009 Adopted Budget appropriation of \$11.4 million. If the January Plan is implemented, the Board would suffer PEG reductions of almost twelve percent (see chart above), and a headcount reduction of 18 positions.

Chart 1
Actual/estimated impact of headcount levels on investigative docket
Fiscal Years 2007-2010

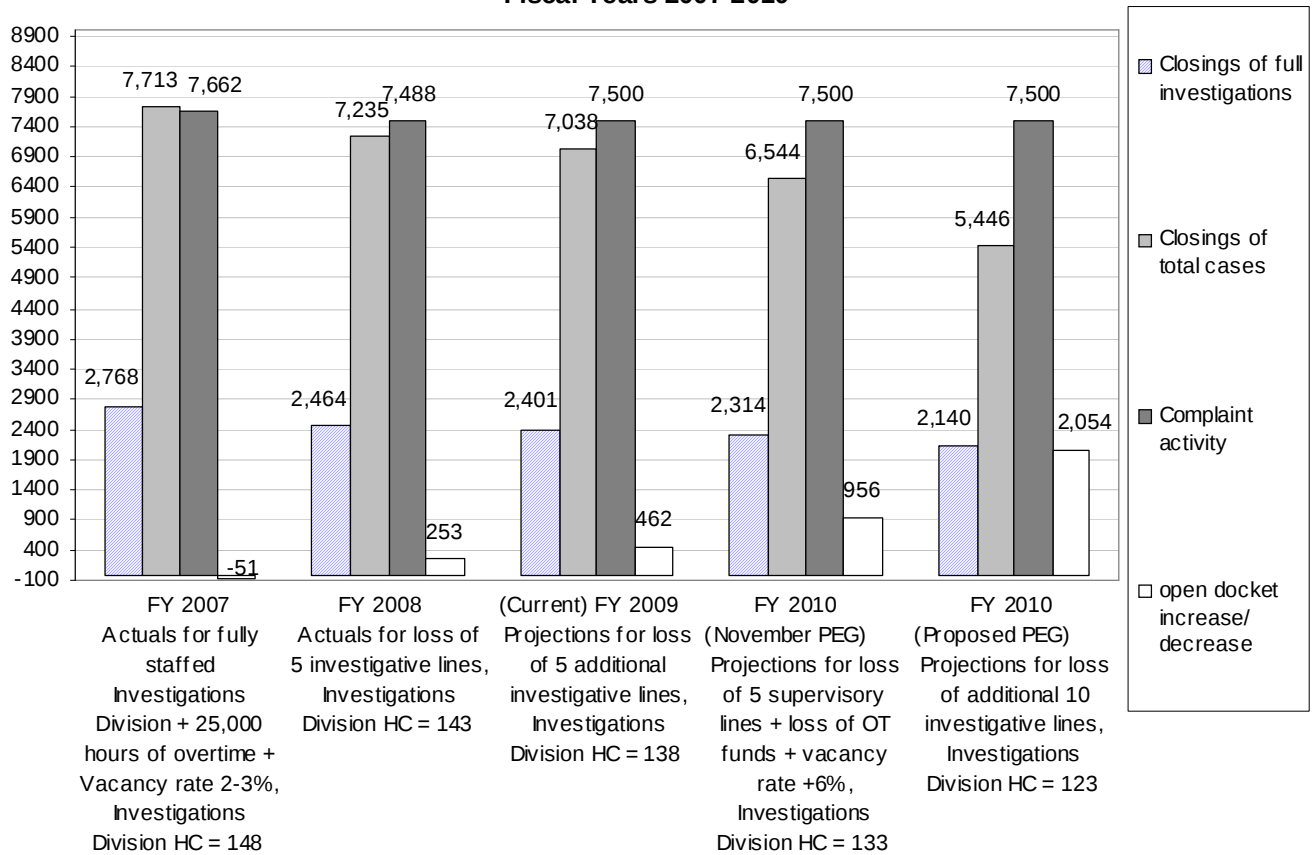
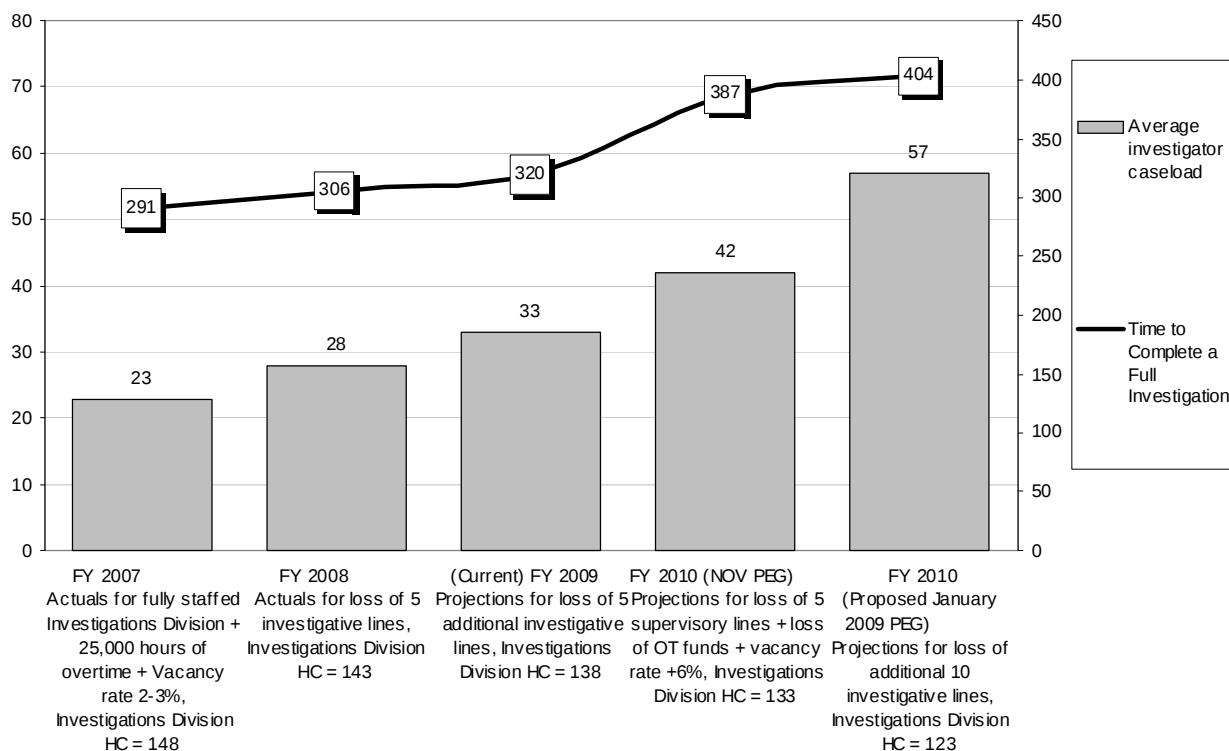


Chart 2
Actual/estimated impact of headcount levels on completion time and investigator caseloads
Fiscal Years 2007-2010



* The projections are based on historical productivity data from 2006-2008. The first model assumes two constant factors over time: a vacancy rate of 2-3% and about 25,000 additional hours worked each year. Models Number II and III assume a 6% vacancy rate and less than 10,000 additional hours worked each year.

** Varying investigator headcounts are based on different budget plans: the FY08 headcount level is equivalent to 192 agency-wide positions and the FY09 headcount level is equivalent to 180 positions.

The Importance of Maintaining Investigator Headcount

Because the core function performed by the agency is the investigation of complaints against uniformed officers of the NYPD, it is essential that the Board's investigator headcount be maintained at a level that ensures the timely and efficient processing of cases. As the above charts, provided by the CCRB, illustrate, the lower the number of investigators available to process cases, the longer it takes to dispose of those cases. Additional cuts to its already strained staff could further negatively impact the Board's case disposition rate and add to the agency's current backlog. Defined by the CCRB as cases exceeding four months from inception, the agency's backlog is expected to increase to 2,054 by Fiscal 2010 if the proposed Preliminary Budget is adopted. In Fiscal 2008, four percent of the CCRB's open cases were 13 months old or greater. (The NYPD's statute of limitation to discipline officers is 18 months.) The four-month actual for Fiscal 2009 is seven percent, two percent higher than for the same period in Fiscal 2008. The CCRB is well on its way to having its largest backlog as a percentage of its total open caseload in recent memory.

The total number of complaints received in Calendar 2008 (18,175) was the most received during any year in the CCRB's history, though the total number of these cases actually falling within the Board's jurisdiction during that period (7,498) was down slightly (1%) from the previous calendar year.

Unfortunately, the Administration has neglected to maintain adequate funding for CCRB's investigative staff. The November 2002 Financial Plan reduced the CCRB's Fiscal 2004 and annual outyear investigative headcount by 24 positions, and the Administration refused until Fiscal 2008 to baseline the annual \$1 million enhancements made by the City Council from Fiscal 2004 to Fiscal 2007 that supported the 24 additional investigators. Lacking the assurance of outyear funding and fearful that investigators hired in one year would be laid off the next, the Board was forced to hire fewer than 24 investigators in each year. (The remaining funds were directed toward an overtime program to handle both the agency's backlog and its ever larger caseload, as well as the purchase of computers and other items.)

As stated earlier, the Board's proposed headcount in the Preliminary Fiscal 2010 Budget is 18 positions lower than its Adopted Fiscal 2009 headcount. With the current need to reduce expenditures citywide, the CCRB's share of the November and January Plan targets will make it even more difficult for the Board to make headway against its rather substantial backlog of cases. Given the Board's extremely high caseload, as well as the backlog of existing complaints that await full investigation, all necessary steps must be taken to guarantee that investigator headcount at the Board is maximized and that its remaining investigative and legal staff not be unduly taxed.

AGENCY FUNDING OVERVIEW

Agency Funding Sources	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	\$11,427,558	\$11,427,558	\$10,628,324
Other Categorical	\$0	\$0	\$0
Capital IFA	\$0	\$0	\$0
State	\$0	\$0	\$0
Community Development	\$0	\$0	\$0
Federal-Other	\$0	\$0	\$0
Intra-City	\$0	\$0	\$0
Total	\$11,427,558	\$11,427,558	\$10,628,324

HEADCOUNT OVERVIEW

Headcount (Uniform and Civilian)	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	180	180	162
Non-City	0	0	0
Total	180	180	162

UNITS OF APPROPRIATION

The operating budget of an agency is structured into several levels, each of which provides varying levels of detail on an agency's spending plans. The City Charter requires that U/A's represent the amount appropriated for personal services (i.e. salaries) or Other Than Personal Services (i.e. supplies) for a particular program, purpose, activity or institution. The table below presents the CCRB budget, comparing the Fiscal 2009 Adopted Budget to the Fiscal 2010 Preliminary Budget. The Fiscal 2009 Modified Budget reflects this year's budget at the time this financial plan was released.

U/A#	U/A Name	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget	Percent Change from Adoption
001	Personal Services	\$9,409,087	\$9,409,087	\$8,750,644	-7.00%
002	Other Than Personal Services	\$2,018,471	\$2,018,471	\$1,877,680	-6.98%
	Total	\$11,427,558	\$11,427,558	\$10,628,324	-6.99%

FUNDING ANALYSIS

Personal Services (PS) – U/A 001

The Board's Fiscal 2010 Preliminary Budget of approximately \$8.8 million represents a reduction of seven percent, or \$658,443, when compared to the agency's Fiscal 2009 Adopted Budget of \$9.4 million. This decrease is inclusive of PEG reductions proposed in both the November and the January financial plans.

These proposed reductions include a reduction of 18 positions in authorized headcount, mostly through attrition: five proposed reductions in the November Plan and 13 in the January Plan. All five November Plan reductions are achieved through attrition, while 10 of the 13 reductions proposed in the January Plan are also achieved in this manner; three additional reductions would be achieved through proposed layoffs.

According to the Fiscal 2009 Preliminary Mayor's Management Report, during the first four months of the fiscal year, the CCRB closed 2,445 cases, three fewer than the 2,448 closed in the previous period. The number of full investigations closed as a percentage of total cases was down seven percent. This decrease resulted from a 19-percent reduction (905 to 730 cases) in full investigations closed by the Board, and a nine-percent increase (1,501 to 1,634 cases) in the number of truncated cases.

Per capita investigator productivity increased from 19 to 21 case closures during the reporting period. However, the average number of days to complete a full investigation increased by six percent and the average age of cases older than five months increased. More than 54 percent of substantiated investigations were closed in less than 12 months, a 5 five-percent increase compared to last year. However, substantiated cases closed at 12 to 14 months decreased by 14 percent and substantiated cases closed at 15 months or older (the Board's red flag aging benchmark) increased by nine percent.

PEGs

- **Investigative Position Reduction through Attrition.** The January Plan proposes a reduction of 10 positions through attrition beginning in Fiscal 2010 and savings of \$525,909 in the agency's Personal Services area growing to \$533,909 in Fiscal 2011, \$541,909 in Fiscal 2012 and \$549,909 in Fiscal 2013. This reduction would make it increasingly difficult for the Board to keep up with its docket of cases. Due to an 18-month statute of limitations, investigations must be performed in a timely manner. At about 15 months, a case is "red-flagged" by the Board as being in danger of aging out, or aging beyond the statute of limitations. The 10 positions that would be eliminated via this PEG consist chiefly of investigative staff responsible for completing the fact-finding for cases. Fewer investigators means increased time to completion for CCRB cases and an ever larger number approaching the critical 15 month aging point. At this point, the Board has lost all 24 investigators the Council funded beginning in Fiscal 2006. The Board's backlog is bound to increase, and the development of an Administrative Prosecution Unit (APU) seems increasingly unlikely.
- **Managerial and Administrative Position Reduction through Layoffs.** The Board will layoff one administrator and two members of the legal team to meet its PEG target beginning in Fiscal 2010, generating a savings of \$213,861 in Fiscal 2010 growing to \$246,571 in Fiscal 2011, \$248,971 in Fiscal 2012 and \$251,371 in Fiscal 2013. As in the above attrition reduction PEG, this reduction will make it especially difficult to eliminate the agency's backlog of cases. In addition, it will make it difficult to address some of the difficulties the CCRB has encountered in terms of getting the Police Department to treat its findings more seriously. In response to criticisms regarding the overall quality of cases sent from the CCRB to the Police Department, the Board established a legal team to handle trials and negotiations with the Department, as well as cases known as DUP (Department Unable to Prosecute) cases to deal with the disposition of cases that the Police Department was unable (or unwilling) to prosecute. The Legal Team consists of four attorneys. The administrative layoff will likely come from the Board's Case Management Unit.

Other Adjustments

- **Fringe Benefit Offset Reduction.** In order to give the agency PEG credit, the PEG actions described above include fringe benefit savings that should be properly accounted for not in the Board's budget, but in the City's Miscellaneous Budget. To reflect the neutral impact on the Board's budget that would result from these fringe benefit savings, an offsetting sum totaling \$153,630 in Fiscal 2010, increasing to \$215,140 in Fiscal 2013, is being added back to the Board's budget as an adjustment.
- **Collective Bargaining Adjustments.** Funds totaling \$305,328 in Fiscal 2009, \$465,900 in Fiscal 2010, and \$466,810 in Fiscal 2011 and the outyears are being transferred from the Labor Reserve in the Miscellaneous Budget to the Department's PS budget to cover the costs associated with recent collective bargaining settlements with the Communications Workers of America (CWA), District Council 37 (DC 37), public information and health employees, and Special Officers.

Other Than Personal Services (PS) – U/A 002

The Board's OTPS budgeted appropriation of \$1.9 million as of the Fiscal 2010 Preliminary Budget represents a decrease of \$140,791 from its Fiscal 2009 Adopted Budget appropriation of just over \$2 million. This reduction is accounted for by a few relatively small reductions to the agency's OTPS appropriation in the November and January Plans. In the January Plan, the Board's reductions are entirely the result of PS reduction proposals.

PEGs

- **OTPS Associated with the Investigative Position Reduction.** The January Plan includes a reduction to the Board's investigative staff of 10 positions. This reduction represents the OTPS associated with that reduction proposal. It will total \$21,000 beginning in Fiscal 2010, falling to \$13,000 in Fiscal 2011 and \$5,000 in Fiscal 2012.
- **OTPS Associated with the Managerial and Administrative Position Reduction.** The January Plan proposes to eliminate one administrator and two members of the Board's legal team. The OTPS reduction associated with this proposal would save \$6,000 in Fiscal 2010.

PRELIMINARY BUDGET ACTIONS (in 000s)

The following table is a summary of the Preliminary Plan actions for Fiscal 2009 and Fiscal 2010 that are described in the sections above. The Non-City actions include State, Federal, Other Categorical, Intra-City and Capital Inter-Fund Agreement (IFA) funding changes for the CCRB.

Description	Fiscal 2009			Fiscal 2010		
	City	Non-City	Total	City	Non-City	Total
Agency Budget as per the November Plan	\$11,142	\$0	\$11,142	\$10,776	\$0	\$10,776
January Plan Programs to Eliminate the Gap (PEGs)						
Investigative Position Reduction - Attrition	\$0	\$0	\$0	(\$547)	\$0	(\$547)
Managerial and Administrative Position Reduction - Attrition	\$0	\$0	\$0	(\$220)	\$0	(\$220)
Total PEGs	\$0	\$0	\$0	(\$767)	\$0	(\$767)
January Plan New Needs						
Total New Needs	\$0	\$0	\$0	\$0	\$0	\$0
January Plan Other Adjustments						
CWA CBA	\$4	\$0	\$4	\$5	\$0	\$5
DC 37 CBA	\$299	\$0	\$299	\$455	\$0	\$455
Fringe Benefit Offset	\$0	\$0	\$0	\$154	\$0	\$154
Public Info and Health Workers CBA	\$2	\$0	\$2	\$4	\$0	\$4
Special Officer CBA	\$1	\$0	\$1	\$2	\$0	\$2
Total Other Adjustments	\$305	\$0	\$305	\$620	\$0	\$620
Total January Plan Budget Changes	\$305	\$0	\$305	(\$147)	\$0	(\$147)
Agency Budget as per the January Plan	\$11,447	\$0	\$11,447	\$10,629	\$0	\$10,629