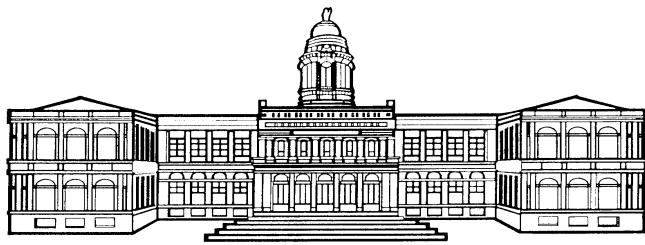


New York City Council



BUDGET REPORT

Finance Division

March 2009

*Analysis of the
Fiscal 2010 Preliminary Budget
and
Fiscal 2009 Preliminary Mayor's Management Report
for the
Department of Probation*

Friday, March 20, 2009

Hon. Christine C. Quinn
Speaker

Preston Niblack, Director

Hon. David Weprin, Chair
Committee on Finance

Jeffrey Rodus, First Deputy Director

Andy Grossman, Deputy Director

Hon. James Vacca, Chair
Committee on Fire and Criminal
Justice Services

Eisha Williams, Supervising Legislative
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PREFACE

On March 20, 2009, at 12 pm., the Committee on Fire and Criminal Justice Services, chaired by the Hon. James Vacca, will hold a hearing on the Mayor's Fiscal 2010 Preliminary Budget and Fiscal 2009 Preliminary Mayor's Management Report for the Department of Probation.

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 Department of Probation is not a program budget agency.

This report was prepared by Eisha Williams, Supervising 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.

Department of Probation (781)

The Department of Probation (DOP) promotes public safety by providing community-oriented criminal justice sanctions. The Department supplies the Supreme, Criminal and Family Courts with information and recommendations for court dispositions; supervises offenders by monitoring and enforcing compliance with conditions of probation; and provides access to rehabilitation services and counseling. The Department services approximately 40,000 adult probationers and 20,000 juveniles each year.

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 DOP 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 (in 000s)	
Fiscal 2010 Forecast at Fiscal 2009 Adoption (June 2008)	\$60,213
Expense PEGs	(\$4,015)
Revenue PEGs	\$0
Total Fiscal 2010 PEGs	(\$4,540)
PEGs as a Percent of the Fiscal 2010 Forecast	6.67%

PRELIMINARY BUDGET HIGHLIGHTS

The Department of Probation's Fiscal 2010 Preliminary Expense Budget of \$84.4 million is approximately \$2.2 million more than its Fiscal 2009 Adopted Expense Budget of \$82.2 million. The \$2.2-million increase in total funds derives from an increase of \$842,000 in City tax-levy funding, which now stands at \$61.2 million, an increase of \$399,000 in State grants and an increase of \$953,000 in Intra-City funds.

At the time of Adoption for Fiscal 2009, the agency's estimated budget for Fiscal 2010 was \$81.5 million. The estimated budget for Fiscal 2010 in City tax-levy funds was \$60.2 million. The November 2008 Plan increased the agency's Fiscal 2010 budget by \$1.7 million, for a total of \$83.3 million. The \$1.7-million increase in total funds derives from an increase of \$373,000 in City tax-levy funds, which now stands at \$60.6 million, an increase of \$339,000 in State grants and an increase of \$952,000 in Intra City funds. The increase in the agency's budget in the November Plan was attributable to other adjustments for collective bargaining. The November Plan also included two PEG proposals to reduce the agency's headcount by 30 positions through vacancies (9 positions) and the elimination of its Resource

Development Unit (21 positions), which provided referrals to community based organizations for drug treatment and employment counseling services.

The January 2009 Plan now increases the agency's Fiscal 2009 budget by \$1.2 million, for a total of \$84.4 million. The \$1.2-million increase in total funds derives from an increase of \$623,000 in City tax-levy funding, which now stands at \$61.2 million, and an increase of \$551,000 in State grants. This increase in the agency's budget in the January Plan is due to the Department's new need for pre-trial supervision and home detention, and other adjustments for collect bargaining.

AGENCY FUNDING OVERVIEW

Agency Funding Sources	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	\$60,367,677	\$60,367,677	\$61,209,287
Other Categorical	\$0	\$10,000	\$0
Capital IFA	\$0	\$0	\$0
State	\$18,078,090	\$18,805,967	\$18,476,910
Community Development	\$0	\$0	\$0
Federal-Other	\$0	\$281,000	\$0
Intra-City	\$3,770,294	\$3,776,786	\$4,722,675
Total	\$82,216,061	\$83,241,430	\$84,408,872

HEADCOUNT OVERVIEW

Headcount	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	946	953	943
Non-City	301	303	294
Total	1,247	1,256	1,237

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/As represent the amount appropriated for Personal Services (i.e. salaries, overtime, etc.) or Other Than Personal Services (i.e. supplies, contracts, etc.) for a particular program, purpose, activity or institution. The table below presents the DOP 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	Executive Management	\$6,130,735	\$6,130,735	\$6,223,101	1.51%
002	Probation Services	\$61,987,131	\$62,515,795	\$65,666,344	5.94%
	Total PS	\$68,117,866	\$68,646,530	\$71,889,445	5.54%
003	Probation Services	\$13,856,877	\$14,353,582	\$12,386,109	-10.61%
004	Executive Management	\$241,318	\$241,318	\$133,318	-44.75%
	Total OTPS	\$14,098,195	\$14,594,900	\$12,519,427	-11.20%
	Total Agency	\$82,216,061	\$83,241,430	\$84,408,872	2.67%

FUNDING ANALYSIS

Units of Appropriation – Personal Services and Other Than Personal Services

- **Probation Services – U/As 002 and 003.** Administers investigations of most adult and juvenile offenders before sentencing and supervision of those sentenced to probation in adult and family courts as well as several related supervision programs for adult probationers, and alternative-to-placement program for juvenile probationers.

Trend Analysis for Probation Officer Caseloads for Adults

The Department of Probation provides services to 40,000 adults each year. Adults sentenced to probation can range from one to three years for a misdemeanor and up to five years for a felony. Adult probationers fall into one of four different categories:

Adult Supervision Caseload					
Calendar Year	2005	2006	2007	2008	2009*
Special Offender	55	49	49	56	48
High Risk	54	54	55	59	56
Intensive Supervision Program	35	19	23	23	23
Reporting Track (No community Supervision)	460	484	473	469	473

Source: Department of Probation

As of January 31, 2009

- **High Risk**, in which the probationer represents a high risk to commit violent crimes.
- **Special Offender**, a subset of High Risk in which the probationer represents an increased threat to public safety.
- **Intensive Supervision**, in which, “carefully selected felony offenders” are provided with comprehensive alternative to sentencing plans. Procedures and requirements for Intensive Supervision are strictly enforced by the State because the probationer would otherwise be incarcerated.
- **Reporting**, in which the probationer is not considered a high risk for committing crimes or a threat to public safety. Probationers in the Reporting Track are permitted to report monthly to a kiosk as opposed to being supervised by a probation officer.

Relevant Preliminary Mayors Management Report Indicators

The PMMR indicates that, “the number of high-risk probationers supervised per officer declined slightly, remaining well below the Department’s maximum case ratio standard of 65:1, and allowing the Department to exceed its goal for contact with these cases. These probationers, who represent the greatest

threat of violent recidivism while on probation, are intensely supervised via stringent enforcement measures such as frequent home visits, random drug tests, and rapid response to violations of the conditions of probation.”

Proposed Changes to Adult Services

- **Adult Services - Intensive Supervision Program (ISP).** According to DOP’s website, “The Intensive Supervision Program provides an alternative to incarceration for carefully selected felony offenders Citywide for whom comprehensive alternative sentencing plans have been developed. It also serves as an intermediate sanction for low-risk felony offenders who have violated the conditions of regular probation. ISP provides intensive and comprehensive supervision in the community, ensuring that the offender receives the necessary services and fully complies with the conditions of his or her sentence. In addition to frequent meetings at [the] Probation offices, participants are also subject to mandated home visits. The ISP unit has become increasingly involved in the supervision of complex felony domestic violence matters, where Probation Officers develop and maintain close contact with domestic violence victims.”

January Plan Changes

New Need

- **Pre-trial Supervision and Home Detention Program.** Beginning in Fiscal 2010, the New York City Criminal Justice Agency (CJA), the New York City Criminal Justice Coordinator’s Office (CJC) and, the New York City Department of Probation, will coordinate to institute the Supervised Release Program. The program will target qualifying low-risk pre-trial detainees by allowing them to be released from the Department of Correction and back into their communities with supervision by the Department of Probation.

According to DOP, all eligible pre-trial detainees will be assigned to a probation officer who will provide intensive supervision, which will include the screening and monitoring of probationers while in the community to ensure that they are fulfilling the conditions of their probation. In addition, Probation Officers will also act as court liaison during court appearances. The current plan calls for a ratio of 1:25 for Probation Officer to probationer and ratio of 1:5 for Supervising Probation Officer to Probation Officer. According to OMB, the coordinating agencies are still working on the details and criteria for release, and it is anticipated that the program will begin at the start of Fiscal 2010.

The January Plan includes new need funding in the amount of \$1.6 million in DOP’s baseline budget to support 22 new probation officers. The current plan calls for a ratio of 1:25 for Probation Officer to probationer and ratio of 1:5 for Supervising Probation Officer to Probation Officer.

This initiative has a corresponding savings within the Department of Correction that will reduce the Department’s ADP by 200 inmates per day and allow the DOC to eliminate 37 correction officer positions annually through attrition, beginning in Fiscal 2010. The January Plan is therefore recognizing savings in the amount of \$3.4 million annually beginning in Fiscal 2010 from the DOCs baseline budget. If implemented in Fiscal 2010, overall City savings would be \$1.7 million.

PEGs

- **Eliminate Probation Officer Vacancies.** This initiative reflects savings from the elimination of two vacancies. The Department will remove one vacancy from Adult Supervision and one from Adult Investigations annually, beginning in Fiscal 2010. This January Plan action will generate savings in the amount of \$90,505 in Fiscal 2010, \$92,105 in Fiscal 2011, \$93,705 in Fiscal 2012 and \$95,305 in Fiscal 2013 and the outyears.
- **Revert Certain Staff to Civil Service Titles.** The Department will achieve annual savings in the amount of \$41,100 by reverting some of its employees who are working in provisional titles back into civil service titles.

Trend Analysis for Probation Officer Caseloads for Juvenile Delinquents

The Department of Probation provides services to over 20,000 juveniles each year. The services rendered include, intake services, investigation services, and probation supervision. A juvenile delinquent is characterized as, “a person at least seven and less than 16 years of age who commits an act which would be a crime if he or she were an adult, and is also found in need of supervision, treatment or confinement.”

Juvenile Delinquent Supervision Caseload					
Fiscal Year	2005	2006	2007	2008	2009*
Per Casebearing Officer	65	48	42	39	39

Source: Department of Probation

* As of January 31, 2009

Juvenile Delinquency Cases Diverted from Court through Adjustment			
Fiscal 2006	Fiscal 2007	Fiscal 2008	Fiscal 2009*
17%	26%	30%	32%

Source: PMMR

* Fiscal 2009 4-month Actual

Trend Analysis for Alternative-to-Placement Programs

Alternative-to-Placement Programs							
Fiscal Year	2003	2004	2005	2006	2007	2008	2009
Youth Served in Esperanza Program	4*	126	118	165	160	105	81**
Probationers served in Enhanced Supervision	NA	NA	202***	500	546	575	322****

Source: Department of Probation

*Esperanza began enrolling youth in June 2003 and implemented one borough at a time.

**Includes data through January 31, 2009

***Data collection began in March 2005

****Includes data through December 31, 2008

Juvenile Home Placement Programs – Alternative-to-Placement

In recent years, the Department of Probation launched two Alternatives-to-Placement programs (the Esperanza/Hope Program and the Enhanced Supervision Program, or ESP) designed to provide an intensive level of community supervision for juveniles in lieu of placement within State Office of Children and Family Services (OCFS) facilities.

The Esperanza program, created in 2003 in conjunction with the Vera Institute of Justice and the State Office of Court Administration, is a four- to six-month program designed to offer youth a community-based, intensive family-centered supervision model. During this time, youth are on probation and remain on probation for months after completion of the program. Since the program's inception in 2003, the program has saved the City's Department of Juvenile Justice millions of dollars in placement costs that would otherwise have been paid to the New York State Office of Children and Family Services (OCFS).

The Enhanced Supervision Program, created in 2005 and run by the Department, targets the most serious juvenile offenders. The program is structured such that it, "promotes accountability and responsibility, and also increases self-esteem in probationers by building on the juveniles' strengths, addressing their service needs, and working effectively with their family support system." As this program is intended to provide uncompromising supervision to juvenile offenders, services include, but are not limited to: frequent contact with probation officers, unannounced home visits, community service, and work with the family on identifying problem areas impacting the juvenile. Since the program's inception, many youth have been diverted from State placement, again, saving the City millions of dollars.

Relevant Preliminary Mayors Management Report Indicators

According to the Preliminary Mayor's Management Report, "during the first four months of Fiscal 2009, the number of youth served by the Enhanced Supervision Program increased by 17 percent. Average daily enrollment in Esperanza, the city's first home-based, alternative to placement program, decreased by 12 percent, due primarily to the establishment of the Juvenile Justice Initiative by the Administration for Children's Services in Fiscal 2007. This program, modeled after Esperanza, also targets placement-bound youth but specializes in taking juveniles with an ACS history. In addition, the number of placement-bound youth eligible for alternative sentencing has decreased due to the Department's successful efforts to adjust cases at intake."

January Plan Changes to Juvenile Home Placement

- **Maximize Alternative to Placement Program Capacity.** Beginning in Fiscal 2010, the Department of Probation will be able to generate annual City funds savings by maximizing the usage of Esperanza, one of its Alternative-to-Placement Programs. Beginning in Fiscal 2010, the Department of Probation will use its current resources to provide services to 50 juveniles who would otherwise be in private placement for which the City would bear 100 percent of the cost. The January Plan is recognizing annual savings in the amount of \$1.3 million for Fiscal 2010 and the outyears. Because this action has no impact on the Esperanza program budget the Adopted Budget amount of \$2.9 million remains static.

Other January Plan Adjustments

- **Lease Adjustment.** The January Plan increases the Department's lease budget by \$136,000 in Fiscal 2009.
- **Other Than Personal Services Reduction (OTPS).** Beginning in Fiscal 2010, the Department will reduce its baseline OTPS budget. For Fiscal 2010, the Department will generate savings in the amount of \$181,500 from general OTPS reductions. For Fiscal 2011 and the outyears, the Department is working on two initiatives that will generate savings. First, the Department will merge two of its facilities in the Borough of Queens, and second, the Department will work with the Department of Citywide Administrative Services to merge two of its floors at the Manhattan location. The January Plan is therefore recognizing annual savings in the amount of \$704,600 beginning in Fiscal 2011.

Agency-wide Adjustments

- **Collective Bargaining.** Funds totaling \$790,000 in Fiscal 2009 and \$1.1 million in Fiscal 2010 and the outyears (consisting of both City and State funds) will be transferred from the Labor Reserve in the Miscellaneous Budget to DOP to cover costs associated with recent collective bargaining. Please see chart below which reflects all of the January Plan collective bargaining changes.

Collective Bargaining (exact \$)	Fiscal 2009	Fiscal 2010	Fiscal 2011	Fiscal 2012	Fiscal 2013
Local 237	\$3,003	\$7,261	\$8,442	\$8,442	\$8,442
Communication Workers of America	\$19,770	\$26,928	\$26,928	\$26,928	\$26,928
District Council 37	\$436,583	\$664,128	\$664,128	\$664,128	\$664,128
Organization of Staff Analyst Local 180	\$3,033	\$3,559	\$3,559	\$3,559	\$3,559
Probation Officer Collective Bargaining	\$327,606	\$447,083	\$447,083	\$447,083	\$447,083
Totals	\$789,995	\$1,148,959	\$1,150,140	\$1,150,140	\$1,150,140

- **Fringe Benefit 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 DOP's budget, but in the City's Miscellaneous Budget. To reflect the neutral impact on DOP's budget that would result from these fringe benefit savings, an offsetting sum totaling \$21,405 in Fiscal 2010, \$23,005 in Fiscal 2011 and \$24,605 in Fiscal 2012 and the outyears will be added to DOP's budget as a technical adjustment.

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 DOP.

Description	Fiscal 2009			Fiscal 2010		
	City	Non-City	Total	City	Non-City	Total
Agency Budget as per the November Plan	\$61,283	\$23,245	\$84,528	\$60,586	\$22,649	\$83,235
January Plan Programs to Eliminate the Gap (PEGs)						
Eliminate Probation Officer Vacancies			\$0	(\$91)		(\$91)
Maximize Alternative to Placement Program Capacity			\$0	(\$1,332)		(\$1,332)
Revert Certain Staff to Civil Service Titles			\$0	(\$41)		(\$41)
OTPS Reduction			\$0	(\$182)		(\$182)
Total PEGs	\$0	\$0	\$0	(\$1,645)	\$0	(\$1,645)
January Plan New Needs						
Pretrial Supervision and Home Detention Program			\$0	\$1,649		\$1,649
Total New Needs	\$0	\$0	\$0	\$1,649	\$0	\$1,649
January Plan Other Adjustments						
Collective Bargaining Local 237	\$3	\$0	\$3	\$6	\$1	\$7
CWA Collective Bargaining	\$17	\$3	\$20	\$23	\$4	\$27
Collective Bargaining D.C. 37	\$374	\$63	\$437	\$568	\$96	\$664
Fringe Benefit Offset	\$0		\$0	\$21		\$21
Lease Adjustment	\$136		\$136			\$0
OSA 180 Collective Bargaining		\$3	\$3		\$4	\$4
Probation Officer Collective Bargaining		\$328	\$328		\$447	\$447
Non-City Grants		\$325	\$325			\$0
Total Other Adjustments	\$529	\$722	\$1,251	\$619	\$551	\$1,170
Total January Plan Budget Changes	\$529	\$722	\$1,251	\$623	\$551	\$1,175
Agency Budget as per the January Plan	\$61,812	\$23,967	\$85,779	\$61,209	\$23,200	\$84,410