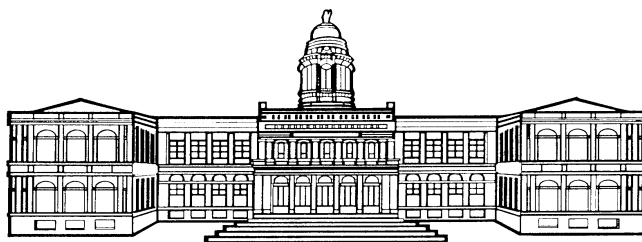


New York City Council



# BUDGET REPORT

Finance Division

March 2009

***Analysis of the  
Fiscal 2010 Preliminary Budget  
and  
Fiscal 2009 Preliminary Mayor's Management Report  
for the  
District Attorneys/Special Narcotics Prosecutor  
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 12:45 pm., the Committee on Public Safety, chaired by the Hon. Peter F. Vallone Jr., will hold a hearing on the Mayor's Fiscal 2010 Preliminary Budget and Fiscal 2009 Preliminary Mayor's Management Report for the District Attorneys/Special Narcotics Prosecutor.

Section 236 of the New York City Charter requires the Mayor to submit by January 16<sup>th</sup> a preliminary budget for the upcoming fiscal year.<sup>a</sup> In addition, under section 12 of the City Charter, the Mayor must make public and submit to the Council by January 30<sup>th</sup> the Preliminary Mayor's Management Report (PMMR) for the current fiscal year.<sup>b</sup> 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."<sup>c</sup> The Charter also requires the Council to hold hearings on the preliminary budget and to submit recommendations to the Mayor by March 25<sup>th</sup>.<sup>d</sup> 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 District Attorneys/Special Narcotics Prosecutor is not a program budget agency.

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

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<sup>a</sup> 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 30<sup>th</sup>, and the date for the Council's Response to the Preliminary Budget to April 8<sup>th</sup>.

<sup>b</sup> Local Law 03 of 2009 changed the date of submission of the PMMR to February 13, 2009.

<sup>c</sup> New York City Charter, §12(b)(2).

<sup>d</sup> *See id.* at §247.

## District Attorneys/Special Narcotics Prosecutor (901-906)

The five District Attorneys (DA's) enforce the provisions of the penal law and all other criminal statutes, which include the initial screening of new cases, preparation of hearings, gathering of resources for hearings, and presentation of cases in court for trial and appeal. The Office of the Special Narcotics Prosecutor (OSNP) enforces the provisions of the penal law relative to felony narcotics and predicate felony cases by the investigation of complaints, preparation of indictments, and trial of defendants indicted on felony narcotics charges.

### PROGRAM TO ELIMINATE THE GAP

Since the Fiscal 2009 Budget was adopted in June, the Office of Management and Budget (OMB) has twice asked agency heads to submit Programs to Eliminate the Gap (PEGs) 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 District Attorneys and Special Narcotics Prosecutor based on the Fiscal 2010 forecast at the time the Fiscal 2009 Budget was adopted (June 2008).

<b>November and January Plan PEGs for Fiscal 2010</b> <i>(in 000s)</i>	
<b>Fiscal 2010 Forecast at Fiscal 2009 Adoption (June 2008)</b>	<b>\$248,265</b>
Expense PEGs	(\$0)
Revenue PEGs	(\$0)
<b>Total Fiscal 2010 PEGs</b>	<b>(\$0)</b>
PEGs as a Percent of the Fiscal 2010 Forecast	0%

As discussed below, the lack of PEG reductions facing these offices in Fiscal 2010 is due to credits given by OMB to the prosecutors for revenue they have generated for the City.

### PRELIMINARY BUDGET HIGHLIGHTS

#### TOTAL (ALL DAs & OSNP)

Agency Funding Sources	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	\$249,945,628	\$249,945,628	\$261,470,959
Other Categorical	\$0	\$9,731,204	\$0
Capital IFA	\$0	\$0	\$0
State	\$13,092,425	\$18,559,780	\$13,092,425
Community Development	\$0	\$0	\$0
Federal-Other	\$0	\$2,701,938	\$0
Intra-City	\$1,237,000	\$1,567,000	\$1,237,000
<b>Total</b>	<b>\$264,275,053</b>	<b>\$282,505,550</b>	<b>\$275,800,384</b>

The combined Preliminary Fiscal 2010 Budget for all of the City's prosecutors is approximately \$275.8 million, an increase of \$11.5 million (4.4%) compared to their combined Adopted Fiscal 2009 Budget of \$264.3 million. This increase is due to the lack of any budget reduction actions, coupled with increases for collective bargaining and, to a lesser extent, funding added to certain offices for the operation of Family Justice Centers and for the preparation of predicate felon transcripts.

### DISTRICT ATTORNEY – NEW YORK

Agency Funding Sources	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	\$72,174,919	\$72,174,919	\$77,989,240
Other Categorical	\$0	\$9,565,550	\$0
Capital IFA	\$0	\$0	\$0
State	\$3,727,416	\$6,486,405	\$3,727,416
Community Development	\$0	\$0	\$0
Federal-Other	\$0	\$393,557	\$0
Intra-City	\$655,000	\$655,000	\$655,000
<b>Total</b>	<b>\$76,557,335</b>	<b>\$89,275,431</b>	<b>\$82,371,656</b>

### DISTRICT ATTORNEY – BRONX

Agency Funding Sources	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	\$42,590,021	\$42,590,021	\$43,005,467
Other Categorical	\$0	\$56,014	\$0
Capital IFA	\$0	\$0	\$0
State	\$2,898,485	\$3,639,809	\$2,898,485
Community Development	\$0	\$0	\$0
Federal-Other	\$0	\$1,611,337	\$0
Intra-City	\$582,000	\$582,000	\$582,000
<b>Total</b>	<b>\$46,070,506</b>	<b>\$48,479,181</b>	<b>\$46,485,952</b>

### DISTRICT ATTORNEY – KINGS

Agency Funding Sources	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	\$72,318,088	\$72,318,088	\$74,287,286
Other Categorical	\$0	\$0	\$0
Capital IFA	\$0	\$0	\$0
State	\$3,410,381	\$3,843,951	\$3,410,381
Community Development	\$0	\$0	\$0
Federal-Other	\$0	\$254,351	\$0
Intra-City	\$0	\$330,000	\$0
<b>Total</b>	<b>\$75,728,469</b>	<b>\$76,746,390</b>	<b>\$77,697,667</b>

### DISTRICT ATTORNEY – QUEENS

Agency Funding Sources	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	\$40,184,096	\$40,184,096	\$43,870,994
Other Categorical	\$0	\$41,576	\$0
Capital IFA	\$0	\$0	\$0
State	\$1,741,726	\$2,849,523	\$1,741,726
Community Development	\$0	\$0	\$0
Federal-Other	\$0	\$394,555	\$0
Intra-City	\$0	\$0	\$0
<b>Total</b>	<b>\$41,925,822</b>	<b>\$43,469,750</b>	<b>\$45,612,720</b>

### DISTRICT ATTORNEY – RICHMOND

Agency Funding Sources	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	\$7,217,953	\$7,217,953	\$7,333,526
Other Categorical	\$0	\$68,064	\$0
Capital IFA	\$0	\$0	\$0
State	\$187,417	\$452,367	\$187,417
Community Development	\$0	\$0	\$0
Federal-Other	\$0	\$48,138	\$0
Intra-City	\$0	\$0	\$0
<b>Total</b>	<b>\$7,405,370</b>	<b>\$7,786,522</b>	<b>\$7,520,943</b>

### SPECIAL NARCOTICS PROSECUTOR

Agency Funding Sources	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	\$15,460,551	\$15,460,551	\$14,984,446
Other Categorical	\$0	\$0	\$0
Capital IFA	\$0	\$0	\$0
State	\$1,127,000	\$1,287,725	\$1,127,000
Community Development	\$0	\$0	\$0
Federal-Other	\$0	\$0	\$0
Intra-City	\$0	\$0	\$0
<b>Total</b>	<b>\$16,587,551</b>	<b>\$16,748,276</b>	<b>\$16,111,446</b>

## HEADCOUNT OVERVIEW

### TOTAL (ALL DAs & OSNP)

Headcount (Uniform and Civilian)	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	3,256	3,256	3,256
Non-City	228	228	228
<b>Total</b>	<b>3,484</b>	<b>3,484</b>	<b>3,484</b>

### DISTRICT ATTORNEY – NEW YORK

Headcount (Uniform and Civilian)	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	957	957	957
Non-City	67	67	67
<b>Total</b>	<b>1,024</b>	<b>1,024</b>	<b>1,024</b>

### DISTRICT ATTORNEY – BRONX

Headcount (Uniform and Civilian)	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	700	700	700
Non-City	24	24	24
<b>Total</b>	<b>724</b>	<b>724</b>	<b>724</b>

### DISTRICT ATTORNEY – KINGS

Headcount (Uniform and Civilian)	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	868	868	868
Non-City	69	69	69
<b>Total</b>	<b>937</b>	<b>937</b>	<b>937</b>

### DISTRICT ATTORNEY – QUEENS

Headcount (Uniform and Civilian)	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	492	492	492
Non-City	33	33	33
<b>Total</b>	<b>525</b>	<b>525</b>	<b>525</b>

### DISTRICT ATTORNEY – RICHMOND

Headcount (Uniform and Civilian)	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	86	86	86
Non-City	6	6	6
<b>Total</b>	<b>92</b>	<b>92</b>	<b>92</b>

### SPECIAL NARCOTICS PROSECUTOR

Headcount (Uniform and Civilian)	Fiscal 2009 Adopted Budget	Fiscal 2009 Modified as of 1/30/2009	Fiscal 2010 Preliminary Budget
City	153	153	153
Non-City	29	29	29
<b>Total</b>	<b>182</b>	<b>182</b>	<b>182</b>

### 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 tables below present the prosecutors' budgets, 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.

#### District Attorney – New York (901) (U/As 001 and 002)

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	\$69,761,309	\$79,113,981	\$75,575,630	8.33%
002	Other Than Personal Services	\$6,796,026	\$10,161,450	\$6,796,026	0.00%
	<b>Total Agency</b>	<b>\$76,557,335</b>	<b>\$89,275,431</b>	<b>\$82,371,656</b>	<b>7.59%</b>

#### District Attorney – Bronx (902) (U/As 001 and 002)

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	\$43,689,731	\$45,381,658	\$44,105,177	0.95%
002	Other Than Personal Services	\$2,380,775	\$3,097,523	\$2,380,775	0.00%
	<b>Total Agency</b>	<b>\$46,070,506</b>	<b>\$48,479,181</b>	<b>\$46,485,952</b>	<b>0.90%</b>

**District Attorney – Kings (903) (U/As 001 and 002)**

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	\$60,672,875	\$61,568,503	\$61,966,282	2.13%
002	Other Than Personal Services	\$15,055,594	\$15,177,887	\$15,731,385	4.49%
	<b>Total Agency</b>	<b>\$75,728,469</b>	<b>\$76,746,390</b>	<b>\$77,697,667</b>	<b>2.60%</b>

**District Attorney – Queens (904) (U/As 001 and 002)**

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	\$36,586,189	\$37,762,412	\$37,273,087	1.88%
002	Other Than Personal Services	\$5,339,633	\$5,707,338	\$8,339,633	56.18%
	<b>Total Agency</b>	<b>\$41,925,822</b>	<b>\$43,469,750</b>	<b>\$45,612,720</b>	<b>8.79%</b>

**District Attorney – Richmond (905) (U/As 001 and 002)**

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	\$6,664,544	\$6,922,055	\$6,780,117	1.73%
002	Other Than Personal Services	\$740,826	\$864,467	\$740,826	0.00%
	<b>Total Agency</b>	<b>\$7,405,370</b>	<b>\$7,786,522</b>	<b>\$7,520,943</b>	<b>1.56%</b>

**Special Narcotics Prosecutor (906) (U/As 001 and 002)**

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	\$15,999,687	\$16,160,412	\$15,523,582	-2.98%
002	Other Than Personal Services	\$587,864	\$587,864	\$587,864	0.00%
	<b>Total Agency</b>	<b>\$16,587,551</b>	<b>\$16,748,276</b>	<b>\$16,111,446</b>	<b>-2.87%</b>



## FUNDING ANALYSIS

### PEGs

- **PEG Reductions.** The November Plan contained PEGs for the prosecutors' offices totaling the following amounts: approximately \$3 million in Fiscal 2009, \$10.8 million in Fiscal 2010, \$10.9 million in Fiscal 2011 and \$11 million in Fiscal 2012. The PEGs for Fiscal 2009 and Fiscal 2010 were subsequently eliminated through an adjustment in the January Plan, while the value of the Fiscal 2011 and outyear PEGs remain in the City's baseline budget. Additional November Plan adjustments also added back the following sums: \$1.8 million in Fiscal 2009 (including a one-time \$825,000-restoration for the Manhattan DA), \$1.9 million in Fiscal 2010, \$1.9 million in Fiscal 2011 and \$2 million in Fiscal 2012.
- **Revenue Agreement Credits.** The prosecutors have been operating under a Revenue Enhancement Program for several years. The Program, established by OMB, provides a mechanism for the prosecutors to have a portion of prior-year PEGs restored through the generation of certain revenues. Originally, these potential restorations totaled \$15.7 million. However, since the Program's inception, OMB has baselined 82% of this value, leaving the remaining sum, approximately \$2.8 million as a restoration target. In certain instances, the Program allows credits generated by one or more of the offices to be shared among the rest. Because the Manhattan DA has been credited with an extraordinary level of generated revenue, the January Plan restores the entire 18% PEG amounts for all of the offices, and provides the Manhattan DA with a restoration far in excess of its 18% target. In total, these Revenue Agreement credits total approximately \$6.6 million.
- **Outyear PEGs.** As a result of the revenue generation cited above, the prosecutors' budgets were held harmless in Fiscal 2010 from the 7% PEG reductions that impacted most agencies. Outyear PEGs have been proposed totaling: \$16.2 million in Fiscal 2011, \$16.4 million in Fiscal 2012 and \$16.7 million in Fiscal 2013.
- **Predicate Felon Transcripts.** Funds totaling \$143,000 are included in the November and January Plans to cover the costs associated with the processing of predicate felon transcripts.
- **Family Justice Centers: Administration and Rent.** The November and January Plans include funding for the offices of two District Attorneys relating to their borough's Child Advocacy Centers. The Plans include \$97,000 for the Brooklyn DA in Fiscal 2010 and Fiscal 2011, and \$218,000 in Fiscal 2010 and Fiscal 2011 for the Queens DA.
- **Collective Bargaining Adjustments.** Beginning in Fiscal 2009, funds are being transferred from the Labor Reserve in the Miscellaneous Budget to the budgets of the District Attorneys and the Special Narcotics Prosecutor to cover the costs associated with recent collective bargaining settlements. For this purpose, the January Plan includes approximately \$3.7 million in Fiscal 2009 and \$5.6 million in Fiscal 2010 and the outyears.

## PRELIMINARY BUDGET ACTIONS (in 000s)

The following tables represent 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 DA's.

All DAs and OSNP (901-906) Description	2009			2010		
	City	Non-City	Total	City	Non-City	Total
<b>Agency Budget as per the November Plan</b>	<b>\$248,811</b>	<b>\$29,837</b>	<b>\$278,648</b>	<b>\$239,371</b>	<b>\$14,330</b>	<b>\$253,701</b>
<b>January Plan Programs to Eliminate the Gap (PEGs)</b>						
7% Budget Reduction	\$0		\$0	\$0		\$0
<b>Total PEGs</b>	<b>\$0</b>		<b>\$0</b>	<b>\$0</b>		<b>\$0</b>
<b>January Plan Other Adjustments</b>						
Revenue Agreement Funding			\$0	\$6,588		\$6,588
Predicate Felon Transcripts	\$137		\$137			\$0
CB Adjustments - AV Aide Tech.	\$2		\$2	\$2		\$2
CB Adjustments - Electricians	\$16		\$16	\$25		\$25
CB Adjustments - PAA 10-Year Rip	\$32		\$32	\$40		\$40
CB Adjustments - DC37	\$3,613		\$3,613	\$5,496		\$5,496
CB Adjustments - Special Officers	\$6		\$6	\$15		\$15
Fringe Benefit Offset	(\$929)		(\$929)	(\$1,862)		(\$1,862)
Lease Adjustment	\$406		\$406	\$676		\$676
Family Justice Centers				\$317		\$317
State Grants		\$101	\$101			
Other Categorical Grants		\$1,077	\$1,077			\$0
Other Federal Grants		\$648	\$648			
Brooklyn DA Welfare Fraud		\$330	\$330			
<b>Total Other Adjustments</b>	<b>\$3,283</b>	<b>\$2,156</b>	<b>\$5,439</b>	<b>\$11,298</b>	<b>\$0</b>	<b>\$11,298</b>
<b>PEG Restorations and Substitutions (PRS):</b>						
Budget Reduction	\$3,032		\$3,032	\$10,800		\$10,800
<b>Total PRS</b>	<b>\$3,032</b>	<b>\$0</b>	<b>\$3,032</b>	<b>\$10,800</b>	<b>\$0</b>	<b>\$10,800</b>
<b>Total January Plan Budget Changes</b>	<b>\$6,315</b>	<b>\$2,156</b>	<b>\$8,471</b>	<b>\$22,098</b>	<b>\$0</b>	<b>\$22,098</b>
<b>Agency Budget as per the January Plan</b>	<b>\$255,130</b>	<b>\$31,992</b>	<b>\$287,122</b>	<b>\$261,472</b>	<b>\$14,329</b>	<b>\$275,801</b>