



**New York City Council**

Christine C. Quinn, Speaker

**Finance Division**

Preston Niblack, Director

Jeffrey Rodus, First Deputy Director

**Hearing on the Mayor's Fiscal Year 2011 Executive Budget**

**Civilian Complaint Review Board**

June 3, 2010

**Committee on Finance**

Hon. Domenic M. Recchia, Jr., Chair

**Committee on Public Safety**

Hon. Peter F. Vallone Jr., Chair

Andy Grossman, Deputy Director, Finance Division

Lionel Francois, Legislative Financial Analyst

# Summary and Highlights

	2008 Actual	2009 Actual	2010 Adopted	2010 Executive	2011 Executive	Difference 2010 – 2011
Personal Services	\$8,936	\$9,417	\$8,473	\$8,303	\$8,473	\$0
Other Than Personal Services	2,137	1,884	1,797	1,769	1,797	0
<b>Total</b>	<b>\$11,074</b>	<b>\$11,300</b>	<b>\$10,270</b>	<b>\$10,073</b>	<b>\$10,270</b>	<b>\$0</b>

## Highlights of CCRB’s Fiscal 2011 Executive Budget:

- Budget Reductions Since Fiscal 2009.** Although the Board is being held harmless in the Fiscal 2011 Executive Budget when compared to the Fiscal 2010 Adopted appropriation, this current financial plan still represents a reduction of \$1 million or 8.8% below its actual expenditures and \$1.2 million or 10% below its Adopted appropriation for Fiscal 2009. Absent the New Need funding for the four positions related to the Administrative Prosecution Unit (APU) pilot program (mentioned below) and additional funding for lease needs, the reductions to the Board’s budgeted appropriations would be even more draconian.
- Investigator Headcount Decline.** 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. 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. Unfortunately, the Administration has neglected to maintain adequate funding for CCRB’s investigative staff (*see above chart*).
- Administrative Prosecution Unit (APU) Pilot.** The CCRB will receive \$366,313 in “New Needs” funding and four additional staff to help implement the Administrative Prosecution Unit (APU) pilot program with the Police Department in Fiscal 2011.

**CCRB Headcount Summary**

	2009 Adopted	2010 Adopted	2011 Executive
Investigators	147	128	123
Non-Investigators	33	32	30
<b>Totals</b>	<b>180</b>	<b>160</b>	<b>153</b>

# Civilian Complaint Review Board

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.

**Key Public Service Area**

- Investigate and resolve claims of police misconduct in a timely and efficient manner.

**Critical Objectives**

- Improve the quality, thoroughness and timeliness of case investigations.
- Increase the number of cases mediated while decreasing the mediation completion time.

SOURCE: Mayor's Management Report

## Civilian Complaint Review Board

Dollars in Thousands

	2008 Actual	2009 Actual	2010 Adopted	2010 Executive	2011 Executive	*Difference 2010–2011
<b>Spending</b>						
Personal Services	\$8,936	\$9,417	\$8,473	\$8,303	\$8,473	\$0
Other Than Personal Services	2,137	1,884	1,797	1,769	1,797	\$0
<b>TOTAL</b>	<b>\$11,074</b>	<b>\$11,300</b>	<b>\$10,270</b>	<b>\$10,073</b>	<b>\$10,270</b>	<b>\$0</b>
<b>Funding</b>						
City Funds			\$10,270	\$10,073	\$10,270	\$0
<b>TOTAL</b>			<b>\$10,270</b>	<b>\$10,073</b>	<b>\$10,270</b>	<b>\$0</b>
<b>Positions</b>						
Full-Time Positions	176	175	160	145	153	(7)
<b>TOTAL</b>	<b>176</b>	<b>175</b>	<b>160</b>	<b>145</b>	<b>153</b>	<b>(7)</b>

## Expense Budget Summary

The CCRB's Fiscal 2011 Executive Budget of approximately \$10.3 million is the same as the Board's Fiscal 2010 Adopted appropriation. The current Executive Budget appropriation for Fiscal 2011 represents an increase over the January Plan for Fiscal 2011 of approximately \$654,000 or 6.8%. Although the Board is being held harmless when compared to the Fiscal 2010 Adopted appropriation, this current appropriation still represents a reduction of \$1 million or 8.8% below its actual expenditures for Fiscal 2009. It also does not account for the increase in workload with which the Board must contend in spite of its continued budgetary constraints and resulting difficulties with maintaining adequate staffing levels (see "*Performance Measures*").

### **Pilot Program: Extension of Prosecutorial Authority to the CCRB**

The Department has agreed to a pilot program which will allow the CCRB to prosecute cases stemming from complaints against uniformed officers which it investigates rather than sending the results of those investigations (along with its own recommendations) to the Department to be tried in the Department's Trial Room by Department advocates, and assisting or "second seating" the prosecution of those cases. In calendar 2009, there were 130 administrative trials, all of which were prosecuted by NYPD advocates. Of those, 20 were submitted to the Department by the CCRB. The CCRB's attorneys served as co-counselors in some of these trials. It is not yet known how long the pilot period will be or how the parameters for its success or failure will be measured.

The idea of allowing the CCRB to prosecute its own cases dates back to an MOU (Memorandum of Understanding) between the CCRB and the Department issued in 2001 during the Giuliani Administration. At that time, it was stipulated that the trials would be held at OATH (Office of Administrative Trials and Hearing). The Patrolman's Benevolent Association (PBA), the Department's largest union, challenged the proposed policy and the New York State Court of Appeals ruled that disciplinary trials for police officers had to be held within the Department and that OATH was not a legally permissible venue for these proceedings. Subsequently, political support for the agreement waned and it was never implemented. Other questions regarding disciplinary trials against police officers have been raised in the intervening years such as whether resources to enact such a policy would be reallocated from the Department to the CCRB in order to properly implement the policy and, how large a prospective "Administrative Prosecution Unit" should be in order to handle the potential caseload.

## Personal Services (PS) & Other Than Personal Services (OTPS)

<i>Dollars in Thousands</i>	2008 Actual	2009 Actual	2010 Adopted	2010 Executive	2011 Executive	Difference 2010 - 2011
<b>Spending</b>						
<b>Personal Services</b>						
Additional Gross Pay	\$114	\$83	\$81	\$81	\$81	\$0
Amounts to be Scheduled	0	0	96	96	96	\$0
Full-Time Salaried - Civilian	8,526	8,784	8,025	7,888	8,002	(23)
Other Salaried and Unsalariated	278	317	276	294	294	18
Overtime - Civilian	18	232	0	0	0	0
<b>Subtotal, PS</b>	<b>\$8,936</b>	<b>\$9,417</b>	<b>\$8,478</b>	<b>\$8,358</b>	<b>\$8,473</b>	<b>(\$5)</b>
<b>Other than Personal Services</b>						
Supplies and Materials	\$156	\$129	\$117	\$117	\$102	(\$15)
Property and Equipment	4	4	1	2	1	0
Other Services and Charges	1,634	1,531	1,559	1,457	1,452	(107)
Contractual Services	166	70	34	37	34	0
Fixed and Miscellaneous Charges	177	149	81	102	207	126
<b>Subtotal, OTPS</b>	<b>\$2,137</b>	<b>\$1,884</b>	<b>\$1,792</b>	<b>\$1,714</b>	<b>\$1,797</b>	<b>\$5</b>
<b>TOTAL</b>	<b>\$11,074</b>	<b>\$11,300</b>	<b>\$10,270</b>	<b>\$10,073</b>	<b>\$10,270</b>	<b>\$0</b>
<b>Funding</b>						
City Funds			\$10,270	\$10,073	\$10,270	\$0
<b>TOTAL</b>			<b>\$10,270</b>	<b>\$10,073</b>	<b>\$10,270</b>	<b>\$0</b>
Full-Time Positions	176	175	160	145	153	(7)

## Performance Measures

	FY 07	FY 08	FY 09	FY 10 4-Month Actual	Target FY 11
<b>Total civilian complaints against uniformed members of the NYPD (Preliminary)</b>	7,662	7,488	7,661	2,577	*
<b>Full investigations as a percentage of total cases closed (%)</b>	36%	34%	31%	36%	*
<b>Closed allegations with findings on the merits (%)</b>	63%	56%	48%	56%	*
<b>Average number of days to complete a full investigation</b>	291	306	343	341	280
<b>Case closures per investigator</b>	51	58	64	26	*
<b>Age of docket (by date of report) (%)</b>					
- 0-4 months	67%	64%	64%	63%	70%
- 5-12 months	28%	31%	29%	32%	26%
- 13 months or older	5%	5%	7%	6%	4%
<b>Age of cases when substantiated (by date of incident) (%)</b>					
- 0-5 months	20%	8%	1%	3%	14%
- 5-12 months	47%	44%	36%	45%	48%
- 12-14 months	19%	28%	26%	25%	28%
- 15 months or older	14%	20%	37%	28%	10%
<b>Officers disciplined (excluding pending and filed cases) (%)</b>	75%	55%	56%	56%	*
<b>Average successful mediation case completion time (days)</b>	153	164	158	163	150
<b>Percent of cases mediated</b>	1.7%	1.2%	1.8%	1.3%	*
<b>Age of mediation docket (by date of referral to mediation)</b>					
- 0-11 months	100%	100%	100%	100%	100%
- 12 months or older	0%	0%	0%	0%	0%

\*No target number was published for this indicator.

## Preliminary Mayor's Management Report (PMMR) Performance Indicator Highlights

- The CCRB received 7,661 complaints in Fiscal 2009. Between July and April of Fiscal 2010, the Board received 5,755 complaints, 629 (9.9%) fewer than during the same period in Fiscal 2009.
- Between July and April, CCRB closed 18.4 percent more closures -- from 5,756 to 6,815 during the same period of Fiscal 2009 and 2010 respectively.
- The number of full investigations as a percentage of total cases closed increased 4 percentage points between July and April of each fiscal year from 31 to 35 percent. Full investigations increased 33.6 percent, from 1,789 full investigations during the reporting period in Fiscal 2009 to 2,390 investigations in the same period of Fiscal 2010. However, the average number of days to complete a full investigation dropped 1.2 percent to 337 days from 341.
- In both Fiscal 2009 and 2010 during the July to April reporting period, fully one-third of all substantiated cases to 15 or more months to complete bringing them perilously close to the statute of limitations.
- Approximately 44 percent of substantiated investigations were closed in less than 12 months, 7 percentage points less than last year. Substantiated cases closed at 12 to 14 months increased by 3

percentage points, and substantiated cases closed at 15 months or older increased by 4 percentage points. To meet its Fiscal 2010 timeliness targets, CCRB has implemented changes in the way it processes cases and submits them for Board review, including videoconferencing panel meetings, as well as a series of initiatives to review time management strategies more closely.

- During the reporting period, the number of mediations decreased from 53 to 36 cases, and the number of cases mediated as a percentage of total closed cases decreased to 1.3 percent. The average completion time for mediated cases increased slightly to 163 days. The CCRB is evaluating internal processes with the goal of increasing the number of cases that are referred to mediation.

## Relevant Budget Actions

- **Four Staffers for Administrative Prosecution Unit (APU).** The Board will receive funding for four additional staffers in Fiscal 2011 totaling \$366,313 to assist in implementing the prosecutorial authority trial with the NYPD's Department Advocate: one Special Counsel who will act as the lead prosecutor, one Attorney who will act as the assistant prosecutor, one Investigator and one clerical staffer. The pilot program, as well as the funding for the associated staff, is scheduled only for Fiscal 2011.
- **Layoff Savings.** In order to meet its reduction targets for the Fiscal 2011 Executive Budget, the Board had to layoff two staffers (one administrative employee and one supervising investigators) and is scheduled to layoff one additional supervisor by the end of the fiscal year. The two supervising investigators will be laid-off in Fiscal 2010 with the administrative employee following beginning in Fiscal 2011. This proposal would yield the Board \$31,000 in savings in Fiscal 2010, growing to \$264,000 in Fiscal 2011, \$287,000 in Fiscal 2012, \$290,000 in Fiscal 2013 and \$293,000 in Fiscal 2014. These savings include the cost of fringe benefits for each position.
- **Attrition Savings.** In order to meet its PEG target, the Board proposes to eliminate 13 vacancies in Fiscal 2010 to generate a total half-year value large enough to meet its reduction target. Beginning in Fiscal 2011, the Board will fill four of the vacancies with Investigators and will meet its target going forward into the outyears with a baseline headcount reduction of nine positions. This will generate savings totaling \$389,000 in Fiscal 2010, \$672,000 in Fiscal 2011, \$652,000 in Fiscal 2012, \$659,000 in Fiscal 2013 and \$668,000 in Fiscal 2014. These savings include the cost of fringe benefits for each position.
- **Mediation Cost Reduction.** The Board proposes to eliminate funding for one mediator contract saving the Board \$7,500 in Fiscal 2010, growing to \$15,000 in Fiscal 2011 and the outyears.
- **PS Accruals.** The CCRB will delay the hiring of one investigative attorney until Fiscal 2011 thereby generating \$15,500 worth of accrued PS savings in Fiscal 2010.
- **OTPS Savings.** The Board proposes to reduce its appropriation for supplies and materials thereby saving \$15,000 in Fiscal 2010, growing to \$22,500 in Fiscal 2011 and the outyears.
- **Collective Bargaining.** The Executive Budget includes an annual baseline increase in City funds of approximately \$169,000 beginning in Fiscal 2010 for collective bargaining adjustments for various titles throughout the Board. These funds would be transferred from the Labor Reserve in the Miscellaneous Budget to the Department's budget to cover the costs associated with recent collective bargaining settlements.
- **Lease Adjustment.** The Executive Plan adds \$287,664 to the Board's budget in Fiscal 2011 and \$50,746 beginning in Fiscal 2012 and thereafter to reflect costs associated with the Board's lease needs. The sizable lump sum proposed for Fiscal 2011 is related to the restoration of funds initially eliminated

in the Fiscal 2010 Executive Budget when the Board proposed to surrender the 14<sup>th</sup> floor of 40 Rector Street as part of its PEG program. Lease negotiations, however, are ongoing and, pending their outcome, the CCRB will retain its lease agreement for the 14<sup>th</sup> floor for one more year. Funds to meet this additional lease need will thus be restored to the Board's budget for Fiscal 2011.



## Appendix A: Budget Actions since Fiscal Year 2010 Adoption

<i>Dollars in Thousands</i>	FY 2010			FY 2011		
	City	Non-City	Total	City	Non-City	Total
<b>Agency Budget as per the June 2009 Plan</b>	<b>\$10,270</b>	<b>\$0</b>	<b>\$10,270</b>	<b>\$10,241</b>	<b>\$0</b>	<b>\$10,241</b>
<b>Program to Eliminate the Gap (PEGs)</b>						
Attrition Savings	\$0	\$0	\$0	(\$672)	\$0	(\$672)
Layoff Savings	(31)	0	(31)	(264)	0	(264)
Layoff Savings - Senior Investigative Staff	0	0	0	0	0	0
Legal Team Attrition	(389)	0	(389)	0	0	0
Mediation Cost Reduction	(8)	0	(8)	(15)	0	(15)
OTPS Savings	(15)	0	(15)	(23)	0	(23)
Personal Service Accruals	(16)	0	(16)	0	0	0
<b>Total, PEGs</b>	<b>(\$458)</b>	<b>\$0</b>	<b>(\$458)</b>	<b>(\$974)</b>	<b>\$0</b>	<b>(\$974)</b>
<b>New Needs</b>						
Administrative Prosecution Unit	\$0	\$0	\$0	\$366	\$0	\$366
<b>Total, New Needs</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$366</b>	<b>\$0</b>	<b>\$366</b>
<b>Other Adjustments</b>						
Fringe Offsets	\$260	\$0	\$260	\$349	\$0	\$349
Lease Adjustment	0	0	0	288	0	288
<b>Total, Other Adjustments</b>	<b>\$260</b>	<b>\$0</b>	<b>\$260</b>	<b>\$637</b>	<b>\$0</b>	<b>\$349</b>
<b>Agency Budget as per the Fiscal 2011 Executive Plan</b>	<b>\$10,072</b>	<b>\$0</b>	<b>\$10,072</b>	<b>\$10,270</b>	<b>\$0</b>	<b>\$10,270</b>