

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON CIVIL RIGHTS AND PARKS AND
RECREATION

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October 24, 2008
Start: 10:25 am
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HELD AT: Council Chambers
City Hall

B E F O R E:
HELEN D. FOSTER
LARRY B. SEABROOK
Chairperson

COUNCIL MEMBERS:
Michael C. Nelson
Mathieu Eugene
Joseph P. Addabbo, Jr.
Helen Sears
Letitia James
Melinda R. Katz

A P P E A R A N C E S (CONTINUED)

Robert Garafalo
Deputy Commissioner
NYC Department of Parks & Recreation

Ricardo Granderson
Equal Employment Opportunity Officer
NYC Department of Parks & Recreation

Alessandro G. Olivieri
General Counsel
NYC Department of Parks & Recreation

John Payton
NAACP Legal Defense & Educational Fund

Lewis M. Steel
Outten & Golden & Park Ave. NYC

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2 CHAIRPERSON FOSTER: Good morning,
3 I'm Council Member Helen Diane Foster, Chair of
4 the Parks Committee, how are you? This is a joint
5 hearing with Civil Rights to discuss the Wright v.
6 Stern and where the Parks Department is going
7 since this ruling. We've been joined by, of
8 course, the Chair of Civil Rights, Council Member
9 Seabrook. I will introduce my members, let you go
10 into your opening statement. I have Council
11 Member Joe Addabbo from Queens, Helen Sears from
12 Queens is across the street in another meeting,
13 we'll be joined by Tish James from Brooklyn, and
14 Alan Gerson from Manhattan. We have about four
15 meetings going on, so at some point all of us are
16 going to have to run out to be marked present and
17 come back, but we will nonetheless keep the
18 meeting going. Council Member Seabrook?

19 [Pause]

20 CHAIRPERSON SEABROOK: Thank you
21 very much, Chair. Good morning, my name is Larry
22 B. Seabrook and I'm the Chair of the New York City
23 Council's Committee on Civil Rights. I'd like to
24 thank Council Member Helen Diane Foster, Chair of
25 the Committee on Parks and Recreation for inviting

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2 the Committee on Civil Rights to participate in
3 today's oversight hearing. We appreciate the
4 efforts of the staff from both committees that
5 worked to prepare today's hearing. I would also
6 like to thank in advance the Department of Parks
7 and Recreation for testifying, the NAACP Legal
8 Defense Fund, as well as all others interested
9 persons that are here today. Today's focus is the
10 Wright v. Stern settlement agreement. On May 15th
11 of this year, federal judge Denny Chin signed an
12 order settling the litigation pursuant to a
13 settlement agreement. Fortunately for the
14 defendants in this matter, the settlement releases
15 the Department of Parks and Recreation and its
16 employees from liability in any action brought by
17 class members arising from the alleged
18 discrimination that was the subject of this suit,
19 but with that release of liability, the Parks
20 Department has to meet the terms of the agreement.
21 For example, the agreement outlines new processes
22 and procedures that the department must adopt with
23 regard to filling job vacancies, conducting
24 interviews, conducting training and career
25 development programs, and compensating employees.

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2 Although only five months have passed, we are here
3 today to find out what efforts the Parks
4 Department has made thus far and what else the
5 Parks Department needs to accomplish in order to
6 meet the term of this settlement agreement. We
7 commend the Parks Department for taking steps to
8 rid the agency of discrimination and in turn
9 encourage diversity. We look forward to learning
10 more information on the efforts made, as well as
11 the successes and failures of programs thus far.
12 There is simply no excuse in this day and age for
13 there to be such blatant discrimination in any
14 work environment, especially when the work
15 environment in question is a New York City agency.
16 We must be convinced that the Parks Department is
17 making a good-faith effort to improve the
18 diversity of its workforce. With that, I will
19 relinquish the floor to Council Member Foster, but
20 I'd also like to introduce a member of my
21 committee, who is always here, Michael Nelson,
22 Councilman from Brooklyn.

23 [Pause]

24 CHAIRPERSON FOSTER: Good morning.

25 So let me make sure we have everybody here.

1
2 Robert Garafola? Did I say that correctly? Oh,
3 good. David Stark. Kathleen Comfrey. Ricardo
4 Granderson, full disclosure, Ricardo and I went to
5 law school together. Oh, and Larry, see he's
6 sitting there trying to act like he doesn't know
7 us, denying us like Peter did. And Alessandro
8 Oliviera? Oh, Alessandro, okay, let me make sure
9 to say oh and not ah. That being the case,
10 whenever you're ready, please start your
11 testimony. Thank you.

12 ROBERT GARAFOLA: Good morning,
13 Chairs Foster and Seabrook and members of the
14 Parks and Civil Rights Committees. My name is
15 Robert Garafola, I'm the Deputy Commissioner for
16 Management and Budget.

17 [Pause]

18 MALE VOICE: There you go.

19 ROBERT GARAFOLA: Sitting with me is
20 David Stark, the Assistant Commissioner for Budget
21 and Fiscal Management, Ricardo Granderson, our
22 Equal Employment Opportunity Officer, Alessandro
23 Olivieri, our General Counsel, and also Kathleen
24 Comfrey, who is the Senior Counsel for Corporation
25 Counsel. On behalf of Mayor Bloomberg, First

1 Deputy Mayor Harris and Parks Commissioner Adrian
2 Benepe, thank you for the opportunity to discuss
3 the consent decree and stipulation for the Wright
4 versus Stern lawsuit. This past spring, the law
5 department and Parks and Recreation concluded a
6 lengthy employment litigation, which began in
7 2001. In resolving the litigation, Parks has
8 codified a number of employment practices,
9 personnel practices that were initiated under
10 Commissioner Benepe's tenure. We have also
11 developed a variety of other human resources
12 initiatives and we believe fostered improved
13 communication, better morale, enhanced training,
14 and advancement opportunities for staff. I look
15 forward to discussing these issues with you this
16 morning. Parks has established a comprehensive
17 policy for recruitment and interview process that
18 ensures a level and widespread field of
19 candidates. We believe this process fosters a
20 level playing field for those seeking advancement
21 at Parks. Indeed, shortly after Parks voluntarily
22 adopted a written policy, posting policy and
23 interview policy in 2004, the federal government
24 proposed settling its lawsuit against Parks.
25

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2 Parks and the federal government subsequently
3 entered into a settlement agreement known as the
4 consent decree in 2005. The key provision of that
5 consent decree which ended the federal
6 government's lawsuit was Parks' agreement to
7 maintain its posting and interview policy for
8 three years. Our current policy is essentially
9 the same as the one initially approved by the
10 federal government, we are pleased with the
11 results it has yielded. Let me describe the
12 critical aspects of the policy. Each job posting
13 describes the essential job functions of the
14 position and concluding the minimum qualifications
15 necessary, the application deadline and the
16 anticipated salary range. Vacancies are posted
17 internally for a reasonable period of time
18 intended to maximize employee's ability to learn
19 about job vacancies at Parks. A protocol has been
20 established for extending the time frame for
21 internal postings when internal postings are
22 followed by citywide or external postings or other
23 appropriate circumstances. Parks continues to
24 practice--continues the practice of filling jobs,
25 whenever it can from within the agency through

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2 internal postings. Parks posts for jobs
3 internally at the following locations, we use the
4 Parks Intranet website, the bulletin boards at all
5 borough headquarters, plus other significant Parks
6 administrative offices, including district
7 offices. Also via e-mail we communicate with our
8 employees. Parks also advertises for positions
9 internally and externally when a wider recruitment
10 pool is sought. Ads are run in the New York City
11 newspapers such as the Amsterdam news, New York
12 Times, The Daily News, Hoy, Newsday, am/NY and
13 Metro. In addition, Park utilizes a number of
14 websites to reach potential candidates, including
15 monster.com, careerbuilders.com, ecojobs.com,
16 CityJobs, as well as college recruitment through
17 the websites Experience and Nacelink. We also
18 attend job fairs. An interview panel is
19 designated for each vacancy and Parks makes a best
20 effort to diversify the panels. The panel reviews
21 the applications, interviews the applicants, and
22 recommends the panel's top choices to the
23 selecting official. Furthermore, the EEO Officer
24 or his Deputy serve as the EEO Advisor for each
25 posting and signs off on the interview process and

1 panel selection and reviews all relevant
2 documents. Parks is also partnered with City
3 University of New York to identify candidates who
4 qualify and would benefit from Continuing Worker
5 Education programs. We believe that this initial
6 will have an impact on diversity across the
7 agency. I would now like to talk to a little bit
8 about Parks' innovations in training. Parks
9 believes that training is critical to human
10 resource development and the advancement of our
11 employees. Historically, Parks has offered array
12 of training programs at the in-house Parks Academy
13 as well at various job sites. As part of the
14 consent decree, Parks offers 15 additional
15 supervisory and management courses annually.
16 We've exceeded that requirement every--each year
17 of the consent decree by offering more than the
18 required number of classes, holding classes even
19 if the minimum attendance has not been met, and
20 allowing anyone who wishes to participate in these
21 managerial courses to do so, regardless of the
22 title or their rank. Moreover, the Parks Academy
23 offers innovative and necessary training programs--
24 opportunities for all our Parks staff and this
25

1
2 year we are reintroducing a year-long leadership
3 training program to employees interested in
4 becoming managers at Parks called the Parks
5 Leadership Development Program. It's going to
6 begin this January, in January 2009, with
7 selections made in November of 2008. It will be
8 conducted annually for non-entry-level positions
9 and we're committed to recruiting and selecting a
10 diverse class. In addition, external training
11 programs are offered such as the Leadership
12 Institute and Management Academy at DCAS. We are
13 also offering back to college workshops and are
14 publicizing these programs through the broadcast
15 e-mails, Parks website, posters, and flyers. A
16 good example of the collaborative learning effort
17 is our partnerships with the Brooklyn Botanical
18 Garden for the last seven years on the Masters
19 Gardener class, as well as the New York Botanical
20 Garden course on the Principles of Urban Tree
21 Care. Additionally, over the past few years we've
22 hosted one-day summits with our city park workers
23 and Park supervisors to get their input on a
24 number of maintenance, operations, and other park
25 related functions that impact their performance.

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2 These helpful summits have shaped the way
3 management now works to improve and enhance the
4 efficient management of parks and playgrounds. In
5 response to requests for career guidance, the
6 Parks designated career counselors, one in each
7 borough who are available to meet or speak with
8 all employees regarding career paths at Parks.

9 The career counselors are trained and must be able
10 to provide employees with information, such as
11 dates of civil service exams, policies on
12 transfers, training and educational opportunities,
13 just to name a few. David Terhune, who is here
14 today, our Personnel Director, is essential
15 coordinator of the program. As discussed earlier,
16 Parks has formalized some of the best practice
17 already in place at the agency, as well as
18 adopting new processes. New practices include
19 posting organizational charts on the Intranet so
20 Parks employees have good understanding of the
21 organization of the agency. Parks has also
22 created and provided--is providing civil service
23 career ladders showing the lines of progress for
24 civil service titles at Parks to help make
25 advancement opportunities clearer for those who

1 wish to seek promotion and advancement in the
2 agency. Parks has also strengthened its panel
3 interview process with training for panel
4 interviewers conducted by the Parks Personnel
5 Director, the Director of Training, the Deputy
6 Director of Recruitment and an outside expert in
7 the field. Ricardo Granderson, our EEO Officer,
8 is also involved in this process. This training
9 will professionalize our panels, promote objective
10 decision-making, and reinforce the importance of
11 consistent scoring among panel members. Trainings
12 will be held monthly for approximately 25 people
13 per session. We've already done a live training
14 already, I think 59 people have been trained in
15 the panel interview process and the first session
16 is scheduled for October 27th, 2008. The class-
17 action lawsuit settled after seven years in 2008
18 resulted in a stipulation entered into May 15th,
19 2008. The stipulation memorializes Parks' ongoing
20 efforts to ensure that we continue to implement
21 the best personnel practice in our overall agency
22 business, specific areas of recruitments, the
23 interview process, compensation, and staff
24 development. The result is greater transparency.
25

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2 Let me describe some of the interesting
3 initiatives we have implemented. Parks
4 established an Advisory Committee to address
5 discrimination and retaliation concerns. The
6 committee is chaired by Parks' General Counsel,
7 Alessandro Olivieri. The other committee members
8 are Parks' EEO Officer, Ricardo Granderson, and
9 three current employees who were named plaintiffs
10 in the Wright versus Stern class-action. The
11 committee holds at least quarterly meetings, the
12 first--the meeting was held on September 19th,
13 2008. Among other things, we hope the committee
14 will make recommendations that will foster
15 diversity in our workplace and preempt issues
16 before they become complaints. In order to make
17 our compensation structure more uniform, Parks has
18 established an additional mechanism for addressing
19 individual complaints of salary disparities. That
20 mechanism provides that when an individual files
21 an internal complaint of salary disparity, Parks
22 will conduct a study of the alleged disparity by
23 examining, among other things, the pay rates of
24 similarly situated employees. We have also closed
25 the differential between salaries of the Chiefs

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2 and Deputy Chiefs of Maintenance and Operations,
3 division and the salaries of the Chief and Deputy
4 Chiefs in the Recreation division and that's been
5 done already. Parks has implemented a thorough
6 and robust EEO monitoring process, from the
7 drafting of the posting through the hiring. EEO
8 reviews and approves the interview panels, the
9 candidates questions, monitors the interviews,
10 reviews the rating sheets, and reviews the final
11 documents. Overall, I'm here to say today that we
12 have accomplished a lot, continue to develop many
13 innovative and forward thinking initiatives in
14 many areas of hiring, promoting, compensation, and
15 recruiting for staff at the Parks and Recreation.
16 Under Commissioner Adrian Benepe's leadership, we
17 are fully committed to equal employment
18 opportunity in hiring, promotions, access, and
19 service to the public. We thank the Parks and
20 Civil Rights Committees for giving us the
21 opportunity to discuss and talk about all we've
22 done over the few years and we look forward to
23 working with the Council and receiving your
24 continued support in these efforts. I would be
25 happy to answer any questions at this time.

CHAIRPERSON FOSTER: Thank you.

Council Member Seabrook had to run across the street to be marked present for another meeting. Before I get into the bulk of my questions, this is good to hear and I'm sure that, you know, I have no reason not to believe that it's not being done. My concern or my question is, has the attitude changed? Because we can have all the procedures in the world, but if the attitude has not changed, it doesn't matter, it's just paper.

ROBERT GARAFOLA: Yeah, I'd like to say that one of the things that Commissioner Benepe has done in terms of any meetings with whether it's, you know, general personnel or in terms of executive staff management meetings that's he's had at any time when he goes around, one of the main things he's talks about is the EEO policy and the agency. He's talked about the decree, he's talked about the stipulation, he's talked about all the things that are going into practice. He said this is most important to him, he wants it to succeed and he's basically told everyone that they are going to be watched very closely ensure that they're doing this. In

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2 addition, on all of our performance evaluations
3 for managers, there is a section on a category
4 that where there's a rating for EEO performance.
5 So in terms of any times like that, that's going
6 [off mic], so this is just not, this is something
7 that's being enforced, it's being put in part--
8 it's institutionalized, it's part of the
9 infrastructure at Parks, we're doing it, we're
10 breathing it every day, and I think it has changed
11 dramatically.

12 CHAIRPERSON FOSTER: How much is
13 being done on, I would say not on the Commissioner
14 Benepe, Deputy Commissioner level, but on the
15 management level, to undo stereotypes and behavior
16 of thinking that got us to this case?

17 ROBERT GARAFOLA: I think in terms
18 of the EEO training that has been done by Ricardo
19 Granderson, he's been doing a lot of the training
20 with the staff in terms of our posting, in terms
21 of what we do in terms of hiring people and
22 bringing them in, having people, you know, in on
23 panels and really seeing the process that we do in
24 terms of hiring people and what we go through now.
25 You know, they see when they go into a panel

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2 interview and they're part of that, they see the
3 objective criteria that goes into it, the
4 questions that are being asked, the scoring, the
5 measurement, and really understanding on a daily
6 basis, this is what they're doing and making a
7 living and breathing instrument in the Parks
8 Department.

9 CHAIRPERSON FOSTER: Ricardo, on the
10 EEOC level I would assume you have more contact
11 with the managers, the, you know, the people doing
12 the work day to day. Let me direct the question
13 to you, how much do you see attitudes changing--
14 and I understand you're in a interesting position
15 because if, in fact, you don't see them changing,
16 I don't expect you to say, you know they're not,
17 we're working on it is fine--but how much do you
18 see it changing and how effective do you think
19 your position is in undoing those stereotypes and,
20 even if you can't undo them or change thinking,
21 letting them check it at the door and pick it up
22 when they go back home?

23 RICARDO GRANDERSON: Right. Before
24 I begin, good morning, Council Member Foster.

25 CHAIRPERSON FOSTER: Good morning.

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2 RICARDO GRANDERSON: With regard to
3 the attitude, I have to say that Commissioner
4 Benepe has gone out of his way to express an open
5 invitation to me to, not only attend, but
6 participate in cabinet meetings--that is something
7 that most EEO Officers are not afforded or
8 accorded. With that being said, in addition to
9 that he has--well, you should know that I report
10 directly to him and, with that being said as a
11 background, that he has afforded me the latitude,
12 if you will, to address concerns specifically
13 emanating from management and in that capacity and
14 with that support he has supported challenges to
15 management under certain conditions. When
16 Commissioner Benepe and I and Alessandro look at a
17 situation and determine that there may be an
18 issue, then Commissioner Benepe invariably
19 supports the recommendations that I make. I think
20 all of those practices, all of those
21 opportunities, if you will, begin to set a tone
22 that ultimately filters downward to both middle
23 managers, as well as lower level managers, crew
24 chiefs, and supervisors.

25 CHAIRPERSON FOSTER: Do you have a

1
2 copy of the organizational chart with you?

3 [Pause] No. Mike, can you just--'cause I'd like
4 to, I would like to see it to just make sure the
5 line that shows you to Commissioner Benepe is, you
6 know, significant enough. In my other life when I
7 was in the private sector, I held that role and it
8 was very important as the Compliance Officer for
9 the employees to know that I reported directly to
10 the Board of Trustees. That, in this case, while
11 it's on paper, it's very comforting to know that
12 there won't be the retaliation of coming to me and
13 then I would have gone to the president of the
14 hospital or so-and-so, I reported directly to the
15 Chairman of the Board of Trustees. Getting back
16 to your testimony, when you, on page one, talked
17 about critical aspects of the policy, I would
18 assume--or let me ask, were many of these
19 practices done before, like posting the position,
20 the qualifications, all that done prior to this
21 consent decree?

22 ROBERT GARAFOLA: There was posting
23 but it wasn't on every job the way it is now. It
24 wasn't as extensive, there was--I mean, there were
25 obviously interview processes that took place, but

1
2 it wasn't documented, it wasn't as extensive, it
3 wasn't as comprehensive, I don't think it was as
4 well organized and orchestrated as it is now, now
5 it is clearly part of the infrastructure of the
6 organization. Also previously panel interviews
7 were more ad hoc panel interviews then, now the
8 panels are official parts of the mechanism on
9 every type of interview that we're doing. That's
10 not, it's a non-civil-service, you know, flat rate
11 thing, but I mean any other type of thing, these
12 are panels that come in and we have diversity in
13 the panel, we have someone in the chain of command
14 in the panel, who knows, you know, what exactly
15 this is. Also in terms of the questions that are
16 asked, the questions have to relate to what the
17 job is, we have scoring in terms of the
18 percentages of what is important, and this is all
19 laid out and then it's reviewed by the personnel
20 director and also Ricardo goes over this as well
21 and he also reviews in terms of who's on the
22 panel, makes suggestions and recommendations if he
23 feels, you know, we should add other people on it.

24 CHAIRPERSON FOSTER: What is--when
25 you mention the filling of jobs and putting it on

1
2 the Intranet and allowing those within the Parks
3 Department to be aware of it, do you have any in-
4 house training that if I come in--and I'm making
5 this up so I don't know--if I come in as a
6 Gardener One and I can possibly get to the next
7 level, is there any training within the Parks
8 Department that will start addressing the historic
9 uneven playing ground to get me to the point where
10 I'm at least have the experience to compete?

11 ROBERT GARAFOLA: On a number of
12 areas we're doing that. One of the things I said
13 in my--in the--my address was that we are doing
14 things with the Botanical Gardens, we've done a
15 number of things. So for instance, a Master
16 Gardeners program, so if someone wants to get
17 ahead and someone wants to take a course like
18 we're availing people of doing those kind of
19 things, Commissioner Benepe is very big on
20 horticulture and gardening and that's really,
21 really turn in the administration [background
22 noise] so he really is fostering doing that kind
23 of thing. In addition, in terms of other training
24 that we have both in the Parks Academy, we have a
25 whole catalog of training courses that we do, but

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2 also we have people go through the DCAS training
3 and they're allowed to go to those trainings and
4 those are management supervisory training classes
5 and basically just tell us they want to go to it,
6 when they want to go it, and essentially we're
7 letting people go to those classes and there's 15
8 classes that we do on that on an annual basis. We
9 also have--we also are working with career--we
10 have career counselors that we have created in the
11 agency, one in each borough, and the career
12 counselors are essentially people in the agency,
13 it's almost like a little bit like a mentorship
14 program, people go to them and ask them, you know,
15 ask them for advice in terms of getting, you know,
16 if they want to, you know, go in to other jobs in
17 the agency, get promoted, you know, understanding
18 both when the tests are, when the civil service
19 tests are. Also if they want to like explore
20 other chains of command with the agency, so if I'm
21 in Maintenance and Operations, but maybe I want to
22 go into Recreation or Urban Park Service or
23 Administration, they can explore that with their
24 career counselor.

25 [Pause]

2 CHAIRPERSON FOSTER: Oh, okay, I
3 thought you got another note. How many of the
4 plaintiffs that were in the suit--named in the
5 suit are currently still at the Parks Department?

6 [Pause]

7 [Off mic]

8 ROBERT GARAFOLA: I believe it's 9
9 out of 11, but we can get you the exact number on
10 that.

11 CHAIRPERSON FOSTER: Could you?

12 ROBERT GARAFOLA: Yes.

13 CHAIRPERSON FOSTER: Can you guys
14 make a--okay, thank you. And what--oh, yeah,
15 thanks, Mike, I knew you had it. And what is--can
16 you give me the breakdown, if you have it, if not,
17 something else, of currently on what I would say
18 the--all three levels--and for me, the three
19 levels are upper management, middle management,
20 lower management--the breakdown diversity now?

21 ROBERT GARAFOLA: We can get that
22 for you, we don't have that [crosstalk]--

23 CHAIRPERSON FOSTER: Okay. How much
24 money has the city spent on this matter, not
25 including the settlement? [Pause] If you know.

2 ROBERT GARAFOLA: You know, I really
3 don't know in terms of Corporation Counsel, the
4 Parks Department, in terms of staff time, massive
5 amounts.

6 [Pause]

7 CHAIRPERSON FOSTER: So no one--
8 nowhere is there a calculation of the dollar
9 amount that's being spent above and beyond the
10 settlement amount?

11 ROBERT GARAFOLA: When you--can you
12 explain, when you say the settlement, above the
13 settlement amount, you mean for [crosstalk]--

14 CHAIRPERSON FOSTER: [Interposing]
15 In terms of implementing the decree, the--just--

16 ROBERT GARAFOLA: Oh, okay.

17 CHAIRPERSON FOSTER: --across the
18 board. If--

19 ROBERT GARAFOLA: [Interposing]
20 Yeah, I don't, you know, I don't have a number on
21 that in terms of, you know, what it entails, but I
22 know it's, you know, there's heavy involvement
23 among our personnel division, our EEO division,
24 really across the board, but it's mostly staff and
25 training costs that we're talking about.

CHAIRPERSON FOSTER: Okay. Let's go back to some of the policies in terms of training. Does the Parks Department work with the unions to-- 'cause I know unions have job training to make sure that within their ranks as much as possible, of course, the unions have their own policies and contractual things, but that members are also able to receive necessary training to fill open positions.

ROBERT GARAFOLA: Well, as a matter of fact, one of our former training directors for the Parks Academy actually trains for the union and has trained a number of our staff for civil service tests, so Ed Rudd [phonetic] is the person, and they have gone and actually taken courses with them. So we've worked with the union on, you know, on those things and, you know, that's one of the key things we do with them.

CHAIRPERSON FOSTER: I know that you have Hector Aponte [phonetic] from the Bronx, because obviously I'm from the Bronx. How many Borough Commissioners are black?

[Pause]

ROBERT GARAFOLA: There's none.

1
2 CHAIRPERSON FOSTER: There are no
3 black Borough Commissioners. [Pause] What other
4 partnerships is the Parks Department making to
5 identify, recruit, and select black candidates at
6 a higher level of management within the Parks
7 Department?

8 ROBERT GARAFOLA: You know,
9 basically we're, you know, we have a number of
10 sources that we use in terms of we--when we go out
11 for, you know, recruiting and recruit a number of
12 our candidates, you know, through, you know, the
13 various areas that I said, whether it's
14 newspapers, on the Internet, and also, I mean,
15 there's also obviously discussions if, you know,
16 the Commissioner may know of someone in--of
17 university setting, he may mention that to someone
18 as well. But I mean essentially in terms of, you
19 know, any of our recruiting, it's really very
20 open, it's very transparent and we basically put
21 this out in a number of publications throughout
22 both New York--basically New York City
23 publications and also on the Internet. Do you
24 have anything else [off mic]? Do you want to--

25 [Off mic]

1
2 ROBERT GARAFOLA: Yeah, okay. Also,
3 I just want to add one other thing, we are
4 focusing on training our staff within, so we're
5 looking at--one of the things we're focusing on is
6 promoting from people from within the agency. So
7 that's another thing that we're looking to do very
8 much so.

9 CHAIRPERSON FOSTER: Well, I think,
10 obviously, that is important to promote within the
11 agency and to make sure coming out of this suit
12 that the promotion is fair and that pay scales and
13 everything are on point. My question though, why
14 I'm asking that is, being a graduate of
15 historically black college and university Howard
16 University, there has to be at some point a
17 concerted effort because I can say I'm looking for
18 diverse candidates, but if I'm not--and I'm
19 putting them in publications, but if I'm not
20 actively making sure to start addressing
21 historical problems within the Parks Department
22 and, you know, I knew when I asked the question
23 that there were no black commissioners, borough
24 commissioners. That to me is a problem in and of
25 itself. Now, yes, we want to recruit within the

1
2 department and we want to build up within the
3 department, but we've got to also identify people
4 from the get-go who are at the level of upper
5 management and so that when you have a meeting in
6 front of the Parks Department and the Civil Rights
7 Department, the table at least looks diverse.

8 [Pause]

9 RICARDO GRANDERSON: Notwithstanding
10 the fact that there are no black Borough
11 Commissioners, Commissioner Benepe has just
12 appointed four employees at the Commissioner level
13 and one of those happens to have been African-
14 American. I think a pretty persuasive argument
15 can be made that that individual, as well as other
16 commissioners, black commissioners, at the agency
17 arguably are on a course to at some point secure
18 those roles, whether they be at the borough level
19 or at some higher level. So I think that the fact
20 that the agency recently, having nothing to do
21 with the consent decree, just appointed and
22 designated a black commissioner is an important
23 step. In addition to that, and I neglected to
24 mention this earlier, Commissioner Benepe has also
25 supported the EEO Officer's efforts to prevent and

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2 intervene proactively for the purpose of
3 mitigating risk at the agency, which is
4 distinctively different from how things are done
5 at other agencies where they are reacting to EEO
6 issues.

7 CHAIRPERSON FOSTER: Thank you,
8 that's good to hear, but again, when we address
9 these issues--and I'll bring this up--we had an
10 Education Committee talking--Committee hearing
11 talking about the number of black and Latino males
12 that are dropped out, pushed out of high school
13 and everyone at the table was a white male and
14 when we are going to address diversity issues, it
15 has to start at the top. Do you have a staff?

16 MALE VOICE: Yes.

17 CHAIRPERSON FOSTER: Of? [Pause]
18 Two?

19 RICARDO GRANDERSON: Well, it's also
20 [off mic]. I have a staff of two but there are
21 also 11 EEO counselors that essentially report to
22 me as well With regard to training and
23 investigations for the agency. Of that staff, I
24 would say 70% are either African-American or
25 Latino or other than white.

CHAIRPERSON FOSTER: Sorry, we've been joined by Dr. Mathieu Eugene, I'm sorry, I didn't see you, from Brooklyn and Helen Sears, who I mentioned earlier was on her way. I'm going to turn to you guys in a few, if you have questions, I just have a few more questions. With the evaluation process or the information that's funneled to you that you then report to Commissioner Benepe, [pause] are there or have there been tangible recommendations that have been implemented or--yes.

RICARDO GRANDERSON: Absolutely. [Pause] Once again, you've got to keep in mind that there is a threshold of caveats and standards, if you will, across the city. The Parks Department has gone above and beyond that. With regard to new recommendations, we, unlike, other city agencies, have a procedure it's called a Panel Attestation Form and that is where all panel members have to affirmatively attest that there is no pending or contemporaneous complaint emanating from one of the applicants or the candidates. That's an additional measure that was approved and ratified by the law department and--

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CHAIRPERSON FOSTER: [Interposing]

I'm sorry do that again for me?

RICARDO GRANDERSON: Okay. You asked about whether Commissioner Benepe had endorsed or supported recommendations--

CHAIRPERSON FOSTER: [Interposing]

Right, right, I just need you to say that, okay.

RICARDO GRANDERSON: -- one of those recommendations is a Panel Attestation Form. So not only do we gather and assemble the panel, we express them to affirmatively assert and declare that there is no pending or contemporaneous complaint filed by the applicant who is going to be before them during the interview. It's a step--it's an express procedure that's manifested in a form that has to be completed prior to the interview and part of a working group, a citywide EEO working group and no other city agency that I know of has that procedure, so that's one recommendation. Another recommendation is that Commissioner Benepe has essentially empowered me to explore the possibility of [pause] internal dispute resolution. If you look at the citywide EEO policy manual, it encourages the use of

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2 dispute resolution and mediation in particular.
3 Commissioner Benepe has expressed his support for
4 that and, as a matter of fact, we have been able
5 to effectively utilize dispute resolution to
6 mitigate risks and complaints in the agency. So
7 those are just two examples of recommendations
8 that have been supported by the agency and
9 Commissioner Benepe.

10 CHAIRPERSON FOSTER: Is there a
11 manual that you hand out?

12 RICARDO GRANDERSON: During
13 training?

14 CHAIRPERSON FOSTER: Mm-hmm.

15 RICARDO GRANDERSON: Well there's a
16 manual that employees get, it's generated by the
17 city, it's called, Getting to Know EEO and it's
18 distributed to employees upon their joining the
19 agency. What I do is training pursuant to the
20 consent decree. Just as a matter of fact, you
21 need to be aware that last year, I trained more
22 than 2,000 employees, last year I reviewed more
23 than 249 Vats [phonetic] which is the codification
24 of the interview process and I think it's
25 important to note that in only 2% of the cases

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2 investigated do I ever discover any violation of
3 citywide policy, 2%, I think that's an important
4 number. In the interest of full disclosure, I
5 have not done the necessary research to do an
6 analysis prior to with regard to the tenure prior
7 to my own, but I think the fact that it's 2% does
8 speak to the new policies, the fact that I report
9 directly to Commissioner Benepe and the fact that
10 he regularly and consistently supports my
11 initiatives and efforts throughout the agency.

12 CHAIRPERSON FOSTER: How long have
13 you been in this position?

14 RICARDO GRANDERSON: Four years this
15 November 6th.

16 [Pause]

17 CHAIRPERSON FOSTER: And in those
18 four years, your role has been what you've just
19 described or is it expanded?

20 RICARDO GRANDERSON: Well my role
21 has been the same. I have attended cabinet
22 meetings, I've done training for the Cabinet, I've
23 also been asked to represent the agency now at a
24 citywide working group that is now responsible for
25 providing training and best practices to other

1
2 citywide agencies. So it's expanded in that
3 regard, but it essentially emanates from the same
4 primary duties and functions.

5 CHAIRPERSON FOSTER: And the
6 Advisory Committee, they ultimately, or as a
7 committee ultimately reports to Commissioner
8 Benepe?

9 ALESSANDRO OLIVIERI: I chair the
10 Advisory Committee.

11 CHAIRPERSON FOSTER: Oh, I'm sorry,
12 okay.

13 ALESSANDRO OLIVIERI: No, we don't--
14 I chair the Advisory Committee and Ricardo also
15 sits on the committee. The committee is designed
16 to be a clearinghouse for ideas and concerns that
17 are brought to our attention. We've had one
18 initial meeting, the member--other members of the
19 committee expressed interest at having meeting
20 more regularly than quarterly, we agreed, we
21 thought that certainly is a very good idea
22 initially, and so we'll see what comes out of it,
23 it's too early to say. Obviously if there are
24 suggestions and recommendations which the
25 committee members wish to raise, they'll obviously

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2 raise it with Ricardo and I and we will then bring
3 it to the Commissioner if it requires, you know,
4 further change or something we don't feel we could
5 resolve at that point or enact on our own. But
6 the committee is designed to--for whatever the
7 committee wants to bring to our attention, so
8 we're hoping it'll be a good clearinghouse for
9 concerns and ideas and recommendations and we hope
10 it'll help improve the lines of communication.

11 CHAIRPERSON FOSTER: And you've had
12 one meeting thus far.

13 ALESSANDRO OLIVIERI: We've had one
14 meeting on September 19, I believe another one is
15 scheduled for November 5th or that--at least in
16 that week.

17 CHAIRPERSON FOSTER: Okay.

18 ALESSANDRO OLIVIERI: And we, again,
19 we plan to have more frequent meetings and then
20 quarterly, which is what's required by the
21 stipulation.

22 RICARDO GRANDERSON: I just wanted
23 to make this point, the EEOC standard for
24 investigating complaints is 180 days and the city
25 requires that we investigate complaints within 90

1
2 days. At the Parks Department, we're able to do
3 it within 45 days. I think that reflects the
4 seriousness, the gravements [phonetic] with which
5 we take these matters, obviously, as a result of
6 the consent decree, obviously as part of our
7 collective management initiative to bring about
8 diversity and to recognize the respect that we
9 have for the seriousness of these issues. So I
10 just thought it was important for the Committee to
11 recognize the specific numbers.

12 CHAIRPERSON FOSTER: How many
13 complaints in your tenure roughly have you
14 investigated?

15 RICARDO GRANDERSON: In four years,
16 they ranged anywhere from [pause] I believe 25 in
17 the first year, let's say 100 complaints, well 100
18 formal complaints, but then there are informal
19 complaints that do not warrant EEO intervention,
20 but are investigated anyway. When I say an
21 informal complaint--and this is where Commissioner
22 Benepe affords to me a great degree of latitude--
23 sometimes there are facts that are asserted that
24 don't rise to the level of an EEO complaint,
25 they're just not able to state a claim, but part

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2 of my role is to resolve conflict. So what I'm
3 talking about are those factual issues that do not
4 rise to the level of an EEO claim, not even
5 probable cause or prima facie, but sometimes it's
6 an interpersonal conflict. So while I've
7 investigated 100 formal complaints, there have
8 been roughly another 50 or 60--

9 CHAIRPERSON FOSTER: [Interposing]
10 So you play mediator also.

11 RICARDO GRANDERSON: Yes.

12 CHAIRPERSON FOSTER: Thank you.
13 Council Member Nelson, I believe you have
14 questions?

15 COUNCIL MEMBER NELSON: Yes, thank
16 you, Madame Chair. Are you keeping statistics on
17 the racial diversity also with as far as even
18 going to religion or with a female male?

19 ROBERT GARAFOLA: We keep--we don't
20 keep it for religion, we do keep it for ethnicity
21 and we keep it for female and male, yes.

22 COUNCIL MEMBER NELSON: So you've
23 had that for about how long?

24 [Pause]

25 ROBERT GARAFOLA: Well DCAS keeps

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2 the information, we report the information, we've
3 been doing it for a number of years now.

4 COUNCIL MEMBER NELSON: Okay. You
5 do it also--is it a breakdown of, let's say, top
6 management, middle management, and other?

7 ROBERT GARAFOLA: We have that
8 information available, we can get that
9 information, however you--

10 COUNCIL MEMBER NELSON: Okay.

11 ROBERT GARAFOLA: --however you want
12 [crosstalk].

13 COUNCIL MEMBER NELSON: If the Chair
14 would request it or the Council. Now as far as
15 in-house promotions, if it was asked and answered,
16 forgive me, 'cause I stepped out for a moment, is
17 there a breakdown of how much--how many people you
18 would hire from the outside, from the inside?

19 'Cause I think both, personally, are important in-
20 house and out-house, if you will, in that
21 sometimes some people will have difficulty
22 supervising past friends or people who they are
23 very friendly with, so I like that though still
24 'cause it gives incentive and it's great to--
25 people to know they would work harder if they knew

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2 there was obviously areas of promotion in the
3 future possibilities, but also occasionally I
4 think taking from outside is not a bad idea
5 either.

6 ROBERT GARAFOLA: We do hire a lot,
7 you know, we do hire from the outside. However,
8 what we're trying to do is, you know, if someone
9 is in the agency who is qualified and they've been
10 doing the job and they have, you know, had
11 experience and responsibility in the agency, we
12 look to the agency first, you know, that's our
13 primary goal. If it's a situation where somebody
14 has been working a particular area and they would
15 get promoted, chances are they would probably get
16 transferred so they aren't necessarily supervising
17 their friends or people that they've been working
18 closely as colleagues with, so we'd probably move
19 them around so they have a different experience.
20 It would be a--I think it would be a difficult
21 experience for them to have and also the people
22 they were supervising, so we would do something
23 like that.

24 COUNCIL MEMBER NELSON: Oh, good,
25 and don't get me wrong 'cause I like the idea of

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2 promoting from within for that incentive that it
3 give to employees to do that--

4 ROBERT GARAFOLA: Absolutely.

5 COUNCIL MEMBER NELSON: --better
6 job, but just occasionally, and nobody should
7 criticize you if you did take somebody from the
8 outside as well. Well thank you. Thank you,
9 Madame Chair.

10 CHAIRPERSON FOSTER: Thank you very
11 much. We are placing a call to see if Council
12 Member Seabrook can come back. [Pause] What--it
13 appears to me is that at probably six months to
14 eight months from now we would do another hearing,
15 since the meetings and the advisory committee and
16 things are very new, to see how it's going and
17 what your reflections or responses are to it
18 being, you know, having more than one advisory
19 committee meeting and things like that to
20 understand going forward, we--you know, we need to
21 do this or change that or maybe, as you said, now
22 people want to meet more than quarterly, but as
23 you get more established, quarterly works out fine
24 and things like that. What I would recommend if
25 it isn't being done is either through Alessandro

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2 or Ricardo really documenting this process
3 because, of course, coming out of the suit,
4 there's some changes, but across the board when we
5 look at agencies we know that New York City
6 agencies don't reflect the diversity of this city.
7 And it's great when you talk about 2%, but we know
8 across the board it's not that way and we can
9 manipulate numbers any way and my concern is that
10 if what you're doing works and you have the
11 relationship that you are expressing with
12 Commissioner Benepe and it is ultimately best
13 practices for the Parks Department, then we need
14 to look forward through Corp. Counsel and others
15 to implement it agency-wide because when we look
16 at the police department, when we look at the fire
17 department, this isn't an isolated incident, it is
18 just that it's now and it's coming before this
19 Committee coming out of the suit, but we know it's
20 not an isolated incident in terms of the lack of
21 diversity throughout our agencies. And this is an
22 opportunity, and I'm not trying to create more
23 work for the two of you, but this is an
24 opportunity, if it works, to start making it work
25 across the board where the real open door policy

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2 exists because we've got to break the ceiling of
3 the good old boy network within the department in
4 terms of--or within agencies in terms of people of
5 color, women, and different religions. Council
6 Member Sears, do you a question?

7 COUNCIL MEMBER SEARS: No, but I
8 [off mic] [Pause] Glad that you included women
9 in that because--

10 CHAIRPERSON FOSTER: Oh, across the
11 board--

12 COUNCIL MEMBER SEARS: --I
13 appreciate that, right.

14 CHAIRPERSON FOSTER: --I think that
15 we have to--our city agencies have to reflect the
16 city and we know it doesn't and we've got to have
17 an attitude from the top that this is something
18 important to us.

19 COUNCIL MEMBER SEARS: I agree,
20 'cause as Chair of the Women's Committee, the
21 hearings that we have would absolutely reinforce
22 what you're saying, so I appreciate that.

23 [Crosstalk]

24 CHAIRPERSON FOSTER: Of course.
25 Thank you. Council Member Eugene? Are you good?

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Any questions?

COUNCIL MEMBER EUGENE: Yes, I don't have any question, but since you asked, something is crossing my mind right now. I remember the Mayor signed the Executive Order to make sure that, you know, they include the languages of many other ethnic background and when you advertise, you know, for a job or anything that you are doing in the park, what are the different languages that you use? Do you think about doing it in different languages, just to make sure that you offer the same opportunities to all or to a majority of ethnic background people?

ROBERT GARAFOLA: In terms of the Language Access Program, that's something that's just come up, it's--the Mayor signed the Executive Order and we're in the process of doing that. Primarily that's around customer service, that's at our Rec centers, that's at any kind of administrative offices where people are getting permits or getting special events permits, ball field permits, tennis permits, or any kind of interaction the public has with the Parks Department or the other city agencies, so they're

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2 provided the services that they need. So we are
3 building a whole program in terms of language
4 access, working closely with the Mayor's Office of
5 Operations on that. What you're addressing, I
6 don't--let me check with our--

7 MALE VOICE: We can't interview
8 them.

9 ROBERT GARAFOLA: Our director of--
10 when we--it's all, it's--

11 MALE VOICE: We only interview--

12 ROBERT GARAFOLA: [Interposing] So,
13 I mean, in terms of the--of what you're saying, we
14 put our ads, they are in English, we interview in
15 English, and I, you know, like even at the basic
16 job City Park worker that we have, one of the
17 important criteria and--and there's very few, it's
18 have a driver's license and have to understand
19 basic commands. But, you know, I want to talk to
20 our of Director Personnel on that and see if there
21 are any, you know, possibilities of doing that in
22 other languages. I know we used to do, you know,
23 do some other outreach and we've done a lot of
24 outreach in terms of the newspapers that we do,
25 it's across neighborhoods, across community--you

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2 know, of various throughout the city, so it's
3 really a wide outreach, widespread outreach that
4 we are doing.

5 COUNCIL MEMBER EUGENE: Yeah, since
6 you mention outreach, I believe that you just said
7 that you use only English, that--the outreach that
8 you are doing is, you know, has been done in
9 English only also, right? Is that correct?

10 ROBERT GARAFOLA: Yeah.

11 COUNCIL MEMBER EUGENE: Yeah, but do
12 you have any intent or any plan in the near future
13 to try to diversify what you're doing by putting--

14 ROBERT GARAFOLA: [Interposing]
15 Yeah, let me--yes, let me--you're raising a good
16 point and I want to talk with our director--our
17 Personnel Director and also with Ricardo and
18 seeing if there's a way of doing that 'cause I
19 know there's a lot of good people out there
20 throughout this city and maybe English is their
21 second language but, you know, nevertheless, if we
22 can get them in the Parks Department they can have
23 very productive and terrific careers with us.

24 COUNCIL MEMBER EUGENE: But also you
25 believe that could be done just [off mic]?

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2 ROBERT GARAFOLA: We're going to
3 start talking right away.

4 COUNCIL MEMBER EUGENE: So can you,
5 for example, I don't know when would be the next
6 hearing, what--next one?

7 CHAIRPERSON FOSTER: We have a list
8 that both Mike and counsel are keeping of things
9 we want to follow up on, so we will follow up on
10 where we are in terms of personnel and outreach in
11 other languages. And we are going to have,
12 hopefully, it's my intent to have follow-up
13 meetings in the spring given that many of the
14 practices are [pause] are just being implemented.

15 COUNCIL MEMBER EUGENE: Thank you
16 very much, Madame Chair, and thank you, sir.
17 Thank you very much.

18 CHAIRPERSON FOSTER: Thank you. One
19 last question, and this might be information that
20 needs to be forwarded to us also. Do you have a
21 breakdown of the diversity within Parks, so--
22 within specific parks. So how many--like the
23 demographics in Central Park, Prospect Park,
24 ongoing?

25 ROBERT GARAFOLA: I don't have that

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offhand--

CHAIRPERSON FOSTER: Is that something that's kept?

ROBERT GARAFOLA: We don't keep that, you know, on the basis of that, but maybe, Ricardo?

[Pause]

RICARDO GRANDERSON: Demographic information is generated via DCAS, but it's not specific to each park, so we could tell you the demographic breakdown with regard to management, with regard to climbers and pruners, with regard to personnel, but we can't tell you specifically a break--I guess we could if we went back to the office, we have that information at our disposal, but we don't--it's not something--

CHAIRPERSON FOSTER: [Interposing] Well let me tell you what I'm interested in and maybe [pause] I'm not asking the question correctly. Do--what comes to my mind is, okay, Central Park we always use that as the example of, you know, the park. Does the work force in Central Park reflect the diversity that we're trying to establish across the board in Parks

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2 Department or do we have situation where, for
3 example, in Malali [phonetic] in the Bronx, we
4 only have Puerto Ricans and blacks, and in areas
5 in Queens, we only have Jewish people and white.
6 What I'm trying to understand is that everyone is
7 given the opportunity or it reflects diversity,
8 that we're not cherry picking, maybe that's the
9 word I'm looking for.

10 ROBERT GARAFOLA: First of all, one
11 of the things I just wanted to mention was in
12 terms of seniority, a lot of times people transfer
13 to areas where they want to work, so if they then
14 have seniority in the agency--

15 CHAIRPERSON FOSTER: Okay.

16 RICHARD GARAFOLA: --they may say,
17 you know, I live--

18 CHAIRPERSON FOSTER: [Interposing]
19 Then that's their, that's their--

20 RICHARD GARAFOLA: --I live, I live
21 in the Bronx, I want to work there and based on
22 seniority, based on our union rules, we--

23 CHAIRPERSON FOSTER: Okay.

24 RICHARD GARAFOLA: --will do that.
25 Also, in terms of the--this case, it was summarily

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2 dismissed, one of the things that was--it was
3 dismissed that there wasn't decisions based on,
4 you know, race in terms of where people were
5 working. So that was one of the things that was
6 dismissed and we didn't have to defend.

7 CHAIRPERSON FOSTER: Yes, I do know
8 it was dismissed, but my--do you understand where
9 I was going with the question?

10 RICHARD GARAFOLA: [Interposing]
11 [Crosstalk] Yes, I do.

12 CHAIRPERSON FOSTER: Okay, great.
13 If I know, Mike, you always stay, but maybe
14 Alessandro and Ricardo can stay to hear the next
15 panel so that if we have follow-up questions we
16 can do it that way, does that work?

17 RICHARD GARAFOLA: Sure. Okay.

18 CHAIRPERSON FOSTER: Sorry. Don't
19 look so excited, guys. They're like, yeah, if we
20 have to. Thank you very much. Our next panel is
21 Jay Payton, John Payton, I'm sorry, the NAACP
22 Legal Defense and Education Fund, and Lewis Steel
23 from Outten and Golden. [Pause] Thank you.

24 [Pause]

25 [Off mic]

COUNCIL MEMBER SEARS: He has a lot of questions.

[Pause]

CHAIRPERSON FOSTER: We've been joined by Council Member Katz and the newest member of our committee, Carter Katz. If everyone from the--I'm sorry, Mr. Payton? You are?

[Pause]

[Off mic]

CHAIRPERSON FOSTER: Can you fill out one of these--oh, she--okay, very good. You can start in whatever order and introduce yourself and we'll go from there.

JOHN PAYTON: Okay. I'm--

CHAIRPERSON FOSTER: [Interposing]
If the light is off, the mic is on.

COUNCIL MEMBER SEARS: City of New York.

CHAIRPERSON FOSTER: Light off, mic gun.

JOHN PAYTON: Okay.

CHAIRPERSON FOSTER: Very good.
Thank you.

JOHN PAYTON: Okay. I'm catching

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2 on. I'm John Payton, I'm the President and
3 Director of Counsel of the NAACP Legal Defense and
4 Education fund, Jackie Berrien is my Associate
5 Director, Lewis Steel is at the end of the panel
6 and I believe we'll probably all be saying things
7 to you. I want to thank you for inviting us to be
8 here this morning, Chairwoman Foster. This is a
9 great opportunity and I think it will be helpful
10 just to put all of this in some context.

11 Obviously we're early in the process of where we
12 are with respect to the resolution of the case
13 against the Parks Department, but it's important
14 to sort of figure out where we are. The Legal
15 Defense fund, I think everyone knows, is the
16 nation's oldest and I would say the best civil
17 rights law firm in the country. We've challenged
18 racial discrimination in all sorts of areas, in
19 all sorts of jurisdictions in the United States
20 and we, along with co-counsel, represented the
21 plaintiffs in this case, Wright versus Stern. The
22 irony, of course, and I think you pointed it out,
23 is that New York may be the most diverse city on
24 the face of the earth and it's a leader in a lot
25 of really important ways and it ought to be a

1 leader in promoting equal employment opportunity
2 and in reflecting its own diversity throughout its
3 own governmental entities, it ought to be that
4 leader, and it has lagged behind in that. So I
5 want to talk about what we learned in the course
6 of this litigation and where we are in seeing that
7 we actually make this settlement succeed and I'd
8 say we also want to talk about what the City
9 Council could do to look at these issues beyond
10 the Parks Department, okay? Wright versus Stern
11 was filed in 2001 after it went through the EEOC
12 process and it alleged that the Parks Department
13 engaged in widespread employment discrimination
14 and retaliation against African Americans and
15 Hispanic employees, that was the class, African-
16 American and Hispanic employees who were full-
17 time. It demonstrated and revealed evidence of
18 systemic pay disparities, widespread failure to
19 follow basic personnel practices, such as posting,
20 you heard some of that this morning, racially
21 segregated job assignments, routine retaliation
22 against class members who complained of
23 discrimination. It was settled in May of 2008
24 after a 14-month mediation. Now the critical
25

1 first step towards eliminating race discrimination
2 within the department is the effective
3 implementation of this consent decree, there's no
4 question about that, and the settlement agreement
5 requires specific changes in the Parks Department
6 personnel practices, you heard some of those,
7 including changes in pay and promotion and EEOC
8 investigative processes, you heard some of that.
9 It also requires an annual review of promotions
10 into managerial titles and to remedial action if
11 the promotion rates of class members falls below
12 the white promotion rate. The settlement further
13 requires the Parks Department to establish
14 rigorous training for interviewers to ensure that
15 employees who apply for promotions are treated in
16 a fair and objective manner, and we heard about
17 some of that. The department will track the
18 experiences of individuals who file charges
19 discrimination to ensure that they're not subject
20 to retaliation. And finally, there was a back pay
21 award of \$12 million for back pay and compensatory
22 damages. Department is required to file ongoing
23 compliance reports to permit monitoring of the
24 implementation process and we will be doing that
25

1 too. Any efforts to reduce race discrimination in
2 the department must include careful scrutiny of
3 the department's compliance reports and careful
4 monitoring of each of these remedial provisions in
5 the settlement. In addition to effectively
6 implementing the settlement, it's critical that
7 the Parks Department to address key inequities
8 that were not part of the settlement, but that
9 threaten to perpetuate race discrimination within
10 the agency. This came up from you, Council--
11 Chairwoman Foster, there is a near absence of
12 African Americans and Hispanics from high-level
13 management jobs in the department. Sixty percent
14 of the agency's workforce is African-American and
15 Hispanic, the Parks Department's highest-ranking
16 and middle management employees, including Deputy
17 Commissioners, Borough Commissioners, Assistant
18 Commissioners, and Chiefs, have been, and remain
19 to this day, virtually all white. This disparity
20 is not limited only to high-level management
21 positions, the data we analyzed for the lawsuit
22 shows that black and Hispanic employees
23 represented only about 18 to 25% of the entire
24 managerial workforce, well below their
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2 representation in the non-managerial positions and
3 for those black and Hispanic employees who do
4 attain managerial positions, they are typically
5 limited to the lowest levels of the in-house job
6 titles. Additionally, virtually all of the
7 African-American and Hispanics who have moved into
8 mid-level management ranks have been restricted to
9 the Recreation Division. Mid-level managers and
10 the large and critically important Maintenance and
11 Operations Divisions have long been, and continue
12 to be, nearly all white. The data that we analyze
13 show that this disparity has nothing to do with
14 educational level, experience, or any other
15 objective factor. While the settlement includes a
16 number of provisions that aim to improve these
17 patterns over time, including modifications to the
18 promotions process and the implementation of
19 career development programs, the department must
20 go beyond the settlement if it hopes to eliminate
21 this racial glass ceiling. In addition to
22 focusing on racial disparities in high-level and
23 mid-level managerial positions, the department
24 must also eliminate geographic segregation among
25 the Parks Department workforce, this also came up.

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2 Senior Parks officials, including the Commissioner
3 and the Deputy Commissioner, acknowledged during
4 the litigation that employee work assignments were
5 sometimes made on the basis of race with minority
6 employees being assigned to minority
7 neighborhoods. The Parks Department should
8 eradicate this practice of assigning African-
9 American and Hispanic employees only to minority
10 neighborhoods in the city. Race-based work
11 assignments and racial segregation in the
12 workplace is plainly illegal and I'm sure everyone
13 wants to eliminate it. In addition, parks and
14 facilities in predominantly minority neighborhoods
15 are understaffed and under-funded compared to the
16 staffing and resources allocated to facilities in
17 predominantly white neighborhoods. Playground and
18 recreation equipment in white neighborhoods is
19 newer and repairs addressed faster. Any serious
20 effort to eliminate discrimination in the Parks
21 Department must include a thorough analysis of
22 these disparities as well. Finally, it's
23 important that the City Council consider broader
24 patterns of employment discrimination within other
25 city agencies, not just the Parks Department. All

1 too often the city has failed to enforce fair
2 employment practices across all municipal jobs and
3 instead has vigorously opposed employment
4 discrimination lawsuits even when those lawsuits
5 had obvious merit. The Council should investigate
6 whether the pervasive employment problems at the
7 Parks Department are taking place at other city
8 agencies as well. All city agencies should be
9 required to maintain and report uniform and
10 transparent workforce statistics on hiring,
11 promotions, and pay so that any illegal
12 disparities can be more easily identified and
13 addressed. I think the Council should consider
14 revising the role of the Equal Employment
15 Opportunity officers within each city agency.
16 Presently, all city agencies have an internal EEO
17 office that reports to each agency's Commissioner.
18 This reporting method, however, strips the EEO
19 office of any real independence. All agency EEO
20 officers should instead report to the central EEO
21 office, which should be given expanded oversight
22 and an enforcement role. The city's corporation
23 counsel could play a very effective role in making
24 sure that the antidiscrimination laws are enforced
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2 in the city. And, instead of simply responding to
3 litigation, it could actually monitor how things
4 are going in the city and play a sort of a
5 prophylactic role of making sure things are solved
6 before they turn into litigation. This case
7 dragged on for seven years, it cost the city
8 millions of dollars, it cost the employees
9 needless years of deprivation and, in some
10 instances, just humiliation. In our view, if
11 corporation counsel had an oversight role in this,
12 some of this, maybe all of this, could have been
13 avoided and we hope it could be avoided with
14 respect to the next city agency. I want to thank
15 you for the opportunity of being here today. The
16 Wright versus Stern settlement is an important
17 first step in addressing discrimination in the
18 Parks Department and I hope the Council and I hear
19 the Council being quite willing to pursue
20 additional measures in trying to head off future
21 revelations about other city agencies. Madame
22 Chairwoman, you suggested that we revisit this six
23 to eight months down the road, it may be
24 appropriate to think about doing that right after
25 the one-year anniversary when we have the first

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2 annual report saying we have a year under our belt
3 to see just how things are going and I would look
4 forward to talking to you again at that time.

5 [Pause]

6 FEMALE VOICE: Are you testifying--

7 [pause]

8 LEWIS STEEL: Yes, my name is Lewis
9 Steel [off mic] Golden law firm of Outten and
10 Golden. I am one of the attorneys representing
11 the class in this case, along with the Beldock
12 firm, Cynthia Rollings and John Payton of the
13 Legal Defense Fund. I wholeheartedly adopt Mr.
14 Payton's statement, I think it's right on. What I
15 would like to add is just my own experience as a
16 private attorney from a small civil rights and
17 employment discrimination oriented firm. The
18 reality is that in pattern and practice cases,
19 class cases, small attorneys have really very
20 little ability to deal with the city of New York
21 in a litigation mode. The reality is that this
22 case cost the plaintiffs \$1 million to handle and
23 that means, and the city corporation counsel must
24 know this, small law firms are simply unable to
25 take on that type of role, especially in a nine

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2 year battle, which is what this was, with the city
3 before we were able to settle this case and the
4 reality is that we had two relatively small
5 private entities, Beldock, Levine, and Hoffman and
6 my original firm, Steel, Bellman, Ritz, and Clark
7 and then, when that broke up, myself. Without the
8 aid of the Legal Defense Fund, we would have been
9 in--and I say this sadly--we would have had real
10 trouble bringing this case to trial, we needed the
11 aid of the Legal Defense Fund. So what does that
12 tell me and, hopefully, the Council? It should
13 tell us all that if the city is serious about
14 trying to deal with this overall problem, which
15 you with the prior panel talked about,
16 realistically, one cannot expect the private bar
17 to take on the city of New York and corporation
18 counsel on these pattern and practice cases, it's
19 simply impossible. So if the city really wants to
20 enforce equal employment opportunity, the reality
21 is city agencies must take the lead, and when you
22 think about city agencies in this area, there are
23 really two, one is corporation counsel. In my
24 experience, all corporation counsel does in these
25 cases is come in to defend. In my experience,

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2 there is literally no part of the corporation
3 counsel, no agency, no attorneys, no division, no
4 section, which takes the responsibility to ensure
5 in advance that racial discrimination on a pattern
6 and practice level, which is really what I think
7 is the most important thing that the committee
8 should be focusing on. On a pattern and practice
9 level, it is my belief, and I would hope that the
10 City Council would really take a hard look at
11 this, that corporation counsel should have a
12 division or a section responsible in advance to
13 see that these problems are handled without
14 litigation. The city itself, under the city's own
15 law, which is stronger by far than the federal
16 employment discrimination law or the state law.
17 The corporation counsel should see that its own
18 law is implemented and do that aggressively, and
19 so I think that's point one. The second area
20 where the city could intervene more effectively is
21 with its internal EEO office, its over all EEO
22 office and it seems to me that that office should
23 have the primary responsibility for staffing the
24 individual EEO offices in the various agencies.
25 So rather than having Mr. Granderson, and I'm not

1 here to challenge his good faith or his bona
2 fides, but right now, what he does is he appoints-
3 -he reports to Commissioner Benepe, if
4 Commissioner Benepe and, at this hearing, I'm not
5 challenging his bona fides, but if you have a
6 situation where the individual Commissioner does
7 not want to make a change in its policies or
8 practices, you better believe that that EEO
9 officer, who was hired by the Commissioner, will
10 be ineffective. And, frankly, that is the
11 pattern, at least one of the items that led to
12 this nine year battle where you have a very
13 ineffective EEO internal operation reporting to
14 Commissioner Stern, who in our view had no
15 interest whatsoever in dealing with any of these
16 problems. So the structural way to deal with
17 that, I would suggest, is by having your in
18 internal EEO officers report outside of the agency
19 rather than inside so that they are independent,
20 after all they are employees at will and so you
21 want them to be in a position to do their job
22 impartially and without having to worry about how-
23 -what they do and what they say will affect their
24 careers. So I think if the City Council would
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2 deal with, think about, consider, perhaps propose,
3 changes in these two areas, the city could make
4 substantial progress toward EEO enforcement and
5 could avoid these types of lawsuits and, frankly,
6 as a resident of New York, I don't want to see our
7 taxpayer money going to defending these suits and
8 I don't want to feel like I'm living in a city
9 that has EEO policies that are reminiscent of
10 policies that existed 40 and 50 years ago
11 throughout the country. I think we can do better
12 and I think that's a way to start. Thank you very
13 much.

14 CHAIRPERSON FOSTER: Thank you very
15 much. Actually all the questions that I had were
16 answered in this. Just a couple of things, I
17 think your point obviously, the key is on both
18 sides, both the Council side and the Mayor side.
19 There has to be a concerted effort that this is an
20 issue and when I started talking to the Parks
21 Department panel, I talked about a change in
22 attitude and it's kind of like, you know, dealing
23 with a alcoholic, you've got to admit there's a
24 problem, and as long as on both levels in the
25 hierarchy we are denying that there even is a

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2 problem with diversity within other agencies,
3 we're not getting to the point where we can, you
4 know, implement these types of changes. I, as the
5 head, being the Mayor or I, as the head, being the
6 Speaker have to acknowledge that racism is alive
7 and well, these are historic practices that have
8 gone on forever. That when we talk about
9 education, or if we talk about the Parks
10 Department, or if we talk about the police
11 department, or if we talk about the fire
12 department, we have to acknowledge historically,
13 what has happened. But when you do not
14 acknowledge history and you proceed as though
15 everything is fine, you have a situation where we
16 are settling cases like this, where the fact that
17 this came out in the newspaper and kind of in
18 terms of the settlement and Commissioner Stern in
19 no way shape or form has had to answer for
20 attitudes even though he is now a private citizen,
21 attitudes that are clearly and have come out were
22 clearly pervasive in the Parks Department is an
23 issue. So when we talk about implementing
24 changes, those changes have to be acknowledged
25 that they're needed first and we have to be

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2 proactive. Most of what is done and especially
3 with corp. counsel is reactive and when I am
4 always saying it's not a problem and I'm going to
5 defend it instead of saying, you know what, we are
6 dealing with history and this could be a
7 situation, let me address it. And going forward,
8 the Council, or I should say myself and some, are
9 introducing legislation to have policies addressed
10 proactively within each agency before we get to
11 the point where we have a Wright v. Stern in the
12 Parks Department. So thank you very much.

13 Council Member Sears, do you have any questions?
14 Comments?

15 COUNCIL MEMBER SEARS: No, just a
16 comment because I think what is being proposed is
17 quite accurate and it's always very difficult when
18 we have 60 agencies and each agency feels they
19 have their own prerogatives and that is what we
20 function with inside the Council. And that's a
21 bureaucratic maze that we have to deal with and
22 it's not as expeditious as you may think so
23 because we do have to go through that enormous
24 hurdle. And the fact that we even begin to reach
25 it at some point is rather remarkable considering

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2 the procrastination of the city in many instances
3 to do things. I think the fact about expanding
4 the EEOs is a very good one, I don't know how a
5 independent one will work, I really don't. It
6 sounds like an excellent idea and when we're
7 getting through the--I think the Chair has cited
8 the major agencies that have these problems and
9 there's no question about that and perhaps they
10 may have to be the focus on the larger agencies,
11 rather than coupling together 60 agencies and
12 looking to get over a massive hurdle rather than
13 the several major ones. My question to you, as I
14 was looking at this, you stated it cost the
15 plaintiffs a lot of money and I would agree, we
16 have that issue and we're talking about other
17 issues in the Council and we've just come--just
18 finished one of the enormous heaviness that can be
19 behind somebody and not with the other. But I've
20 noticed in the Stern case, which I think is in
21 most, I worked years ago with Martin Clearwater
22 and Bill that the plaintiffs attorneys and fees,
23 the litigation costs were paid by the city. Do
24 the plaintiffs in such a case such as this, do
25 they have to put down any money? Do they have to

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2 engage and then cost them and do they get
3 reimbursed by the reimbursement with the
4 litigation and costs and disbursements? It's just
5 a clarification point, it's not a--

6 LEWIS STEEL: [Interposing] I mean,
7 the reality is that these cases are done without
8 charge to the plaintiffs--

9 COUNCIL MEMBER SEARS: Right, okay.

10 LEWIS STEEL: --the attorneys who
11 handle these cases, if they prevail, and only if
12 they prevail, they can then seek their costs so
13 that between the private attorneys and the Legal
14 Defense Fund, you had \$1 million in expenses
15 racked up--

16 COUNCIL MEMBER SEARS: Sure.

17 LEWIS STEEL: --which would--that
18 money would have been lost if we had not prevailed
19 and entered into a settlement agreement. So
20 that's one of the reasons why I say that small
21 private firms--

22 COUNCIL MEMBER SEARS: Can't

23 [crosstalk]--

24 LEWIS STEEL: --in these class-
25 action type of cases simply are really unable to

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take on the city of New York.

COUNCIL MEMBER SEARS: [Interposing]
I know that, they really can't do that.

LEWIS STEEL: And--

JOHN PAYTON: [Interposing] Can I
just say it this way? I mean, look, I've done a
lot of litigation, the Legal Defense Fund has done
a tremendous amount of litigation.

COUNCIL MEMBER SEARS: I know, I
know.

JOHN PAYTON: This case, I believe
had a hundred depositions, 100, it had eight
experts, it had a class-action hearing, in had
multiple motions that had to be addressed, it had
a 14-month mediation schedule. It took enormous
resources. It's true that there were
reimbursement for expenses and there was a payment
of attorneys fees in this case, but trust me on
this, plaintiffs counsel in these cases never get
what the case cost them.

COUNCIL MEMBER SEARS: Oh, I believe
that, I do.

JOHN PAYTON: You never get it, so
there is a cost to all of us of this having to go

1 through litigation. You know, the point that you
2 made about we need a change in attitude, everybody
3 agrees with that. One of the questions is how we
4 best get the change in attitude and I think one of
5 the purposes behind the proposal to change how EEO
6 is organized is to create the space for that
7 change in attitude, so that you change how the
8 reporting works and you give some independence
9 there, that let's some of this actually come
10 about. The other point I would make is we want
11 the change in attitude, sometimes the best way to
12 change attitude is to change outcomes and those
13 outcomes then change the attitude. If you were in
14 a room and you look at the room and it is diverse,
15 I guarantee you the attitude in the room changed,
16 okay? So some of these things create their own
17 best possibilities. So we want to change
18 attitudes, but we also want to sort of keep our
19 eye on the real measure here, which is this is a
20 phenomenally diverse and tremendous city and its
21 agencies ought to reflect it.

23 CHAIRPERSON FOSTER: I think that's
24 the bottom line and in this situation--

25 COUNCIL MEMBER SEARS: Yeah, yeah,

1 [off mic]

2 CHAIRPERSON FOSTER: --

3 commissioners and agency heads report to the Mayor
4 and within the City Council we can look at our
5 department heads, they report to the Speaker, and
6 if at the head, at the helm, we are not
7 instituting the change where I sit in a room and,
8 as you said, it reflects the diversity of the
9 city, then therein lies the problem. When you
10 have agencies and you have a police department and
11 a Commissioner and a Deputy Commissioner and the
12 Department of Education and you're talking about
13 educating 85% of schoolchildren that are of color
14 and the room doesn't reflect that, then those
15 attitudes will be pervasive. So thank you very
16 much and I look forward to our follow-up hearing
17 from both hearing from you and from the Parks
18 Department because I think this is an opportunity
19 to be an example of what should and could be in
20 the New York City and we know that depositions
21 and, you know, as a former ADA and as an attorney,
22 we know the game, we go back and forth and hoping
23 especially in small firms that we are going to
24 wear you down. When it's one versus a hundred, at
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2 some point we're hoping that we wear you down and
3 we end up settling, not because it's what should
4 be done, but it's in [pause] convenience or in
5 light of money or whatever. So going forward, I
6 would hope and, as much as possible in my tenure
7 in this position, that we are proactive and not
8 reactive to changes that need to be reflected, not
9 only in the Parks Department but in city agencies
10 across the board. So thank you very much.

11 COUNCIL MEMBER SEARS: Terrific.

12 Thank you.

13 CHAIRPERSON FOSTER: We've been
14 joined by Council Member Tish James. There being
15 no one else, this meeting is adjourned. Thank
16 you.

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C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature Tammy Wittman

Date November 7, 2008