



Wednesday, December 10, 2014

Testimony of Daniel A. Nigro, Commissioner of the New York City Fire Department
Joint Hearing of the NYC Council Fire and Criminal Justice, Contracts, and Women's Committees

Good morning Chairwoman Crowley, Chairwoman Rosenthal, Chairwoman Cumbo and all the committee members joining us here today. My name is Dan Nigro, and I am the Commissioner of the New York City Fire Department.

Thank you for affording us the opportunity to speak with you and your colleagues on a topic of such importance to myself – and to Mayor de Blasio - women in the New York City Fire Department.

Since I began this job in June of this year, I have had dozens of conversations – with advocates, with members of the department, with the United Women Firefighters, and with some of the people in this room. These conversations were incredibly valuable – to reinforce the decisions I was making, and to identify new challenges. One thing that I knew from the start, and that only became more clear, was that past decisions had been made for years in rooms lacking any meaningful diversity. Rarely were the views of people of color, or women, solicited or considered. If there is one thing we can all agree on, it is that when public institutions engage in policy making without the benefit of the diversity our city offers, we all stand to lose. Especially, from an agency that brings comfort to people in need, there should be no place for this kind of inequality.

One other thing became apparent, which is that I would need a whole new team to get this done - a team that shared my priorities and my deep desire to correct the inequalities I was seeing. For this reason, prior to my own swearing in, I appointed Elizabeth Cascio as my Executive Officer. She is the first woman and first EMS member to hold this important job, and she was the first member of my executive senior staff. Over the subsequent six months, I hired an executive team that is diverse in race, gender, and experience - including many of the staff sitting next to and behind me today - ensuring women are always at the table when major decisions are made in the department.

I cannot emphasize how historic – but also how important – this change is for the FDNY.

Working with this new leadership team, we've worked to tackle a number of challenges. While I won't touch on all of them today, I'd like to address a few key areas of particular importance.

First and foremost, the FDNY Training Academy. The training academy at Randall's Island has been a key focus of mine since my appointment. Some of the experiences relayed to me by probationary firefighters – especially women – were not only disturbing, but are exactly what I came back to the change. There is no better way to create change within the culture of the FDNY than to start where our members learn to become firefighters. This is where we have a prime opportunity to teach our members that making others uncomfortable by your words or actions in the workplace dishonors our department and our city. Especially with the tremendous time and money we invest in training our firefighters, we cannot afford for this to be anything but the best training academy in the world. Our

new Chief of Training, Chief Stephen Raynis, started a few weeks ago and I'm thrilled to have him as part of my team. He and I share a vision for an academy that not only continues to turn out the best trained firefighters, but ensures that before being assigned to a firehouse they understand our expectation that they treat all members of the department, including women, with professionalism, dignity, and respect.

In addition to the recent change in leadership at the academy, we are seeking an outside consultant to come into the academy in 2015 and make independent recommendations to the senior leadership of the department about our entire physical training program and its impacts on female candidates. This consultant will provide us with an outsiders perspective on how we can improve the physical training and teaching to ensure it's a modern academy where everyone is given a fair chance to succeed.

One key part of what happens at the academy is the Functional Skills Training – the FST. I made two changes to the FST during the last probationary firefighter class. First we removed the "critical pass" component of the FST, ensuring that the FST score is a part of the probie's overall grade – but not the sole reason they do or do not graduate. Second, I removed the requirement that probies achieve a passing score on the mid-term FST to participate in the week in the firehouse during the academy. Both of these changes will remain in effect going forward, and are not related to the FST validation process.

As for the validation process for the FST, I am eager to get the results of the PSI report in a few weeks, but I would like to emphasize that the conversation around the FST does not stop there. The validation will give us the parameters for a fair test, but we will continue to discuss how this test impacts our recruits. I know we can maintain the standards the public expects from New York City Firefighters while ensuring the process to become a firefighter is fair for all who seek to join our ranks. These goals are not mutually exclusively.

A key part of preparing for the academy for many women has been the United Women Firefighters – UWF – training program. As our CDIO Pam Lassiter will speak to further, the recruitment and retention of female candidates is a key part of our department's long-term diversity strategy. We need to ensure we are using all the resources at our disposal to help women navigate through the hiring and academy process successfully. One program that has shown to be a great success in preparing female candidates for the academy is the UWF physical training program - which is funded by the FDNY Foundation. I've asked the FDNY Foundation to commit to the full funding of the UWF physical training program through the 2017 open competitive test. With the assistance from Non-Traditional Employment for Women (NEW) we've also been able to add childcare as an option for the program. We hope that we can continue to give this program the resources it needs, and grow it as the department grows.

Once women have entered our department, we need to make sure they have the proper restrooms. As my predecessor reported to the council in 2013, we remain committed to ensuring there are women's facilities in every firehouse by the end of calendar year 2016 – and City Hall has assured us they will make sure we have the resources to do so. Since last year, we've added 4 more restrooms, and put 16 more into development. In addition, we're addressing a related concern brought to us by the members in the field – the men using the unused women's facilities. While they are not supposed to do this, most locks in a firehouse are accessible by one skeleton key. We are changing all the locks for the existing women's facilities, and going forward only the women will have a key to the women's restroom. This project will be complete by the end of this year.

Another key way we can be more welcoming to uniformed and civilian women is to make our EEO office more robust. We have changed the leadership at the top of the office with the goal of creating a

program that is proactive, not reactive - an office that employees have trust in. These changes are already underway, under the leadership of our CDIO Pam Lassiter. The change in leadership will include an overhaul the curriculum and services available to our employees.

Finally, I'd like to touch on something that my colleague will speak to further – the recruitment and retention of female candidates. We've made a couple key decisions that will improve our current ability to enroll more women in each class. After an extensive analysis, we've decided to use current civil service list through its entire four-year life. Our analysis showed that the next few sections of the list are extremely diverse – containing over 60 female candidates with the candidate pool being at least 47% minority. This decision will guarantee we reach qualified women before this list expires. This decision has an additional benefit of compressing the timing for the next firefighter exam – the time between when people apply to take the firefighter exam and when we start calling people off the list. This lag between testing and being called is often the source of high attrition – especially among women and minorities. These two changes will help increase the number of women applicants, and decrease attrition, in two important and more immediate ways.

I am very proud of the changes I have made in my first 6 months as Commissioner. We have made changes in staff and policy that people thought we would never be able to make. But these changes were only the first step. We must no longer wait for a judge's ruling to tell us what fairness means. One thing I rarely heard in all of my years in the department was, 'we can't do that'. I will not accept anyone who says it now.

Finally, before I turn this over to my colleague Pam Lassiter, I would like to say a little bit about Pam. We set out on an extremely rigorous search to find our Chief Diversity Officer, because we knew it would require an exceptional candidate to possess the skill set to take on what we were asking them to do. Not only would they have to tackle EEO, compliance, and recruitment efforts but they would be looking to make change to a culture that is 150 years old. My concern was not only could we find someone qualified, but also could we find someone willing to take this on. In Pam, I believe, we have found that person. With over 20 years of experience tackling these issues, she was both experienced and willing to take this on with me – I could not be happier that she agreed.

Finally, Pam's arrival means one more thing for me, and that is the final piece of my senior staff is now in place. There is now a new leadership team at the top of the agency, with those who are willing and able to address what the FDNY needs to do going forward. I have tasked this team with developing the FDNY's next strategic plan, a plan that reflects not only the new direction of the department but addresses the immense challenges we face and sets benchmarks for our future progress. I hope that the people in this room will be partners in helping us develop, and execute, that plan.

At this time, I am going to turn it over to our CDIO Pam Lassiter, to discuss some of these matters further.



Wednesday, December 10, 2014

Testimony of Pamela Lassiter, Chief Diversity and Inclusion Officer for the New York City Fire Department
Joint Hearing of the NYC Council Fire and Criminal Justice, Contracts, and Women's Committees

Good morning Chairwoman Crowley, Chairwoman Rosenthal, Chairwoman Cumbo, and all the committee members joining us. Thank you for having me here today. My name is Pam Lassiter and I am the Chief Diversity and Inclusion Officer for the New York City Fire Department.

I have dedicated the last 20 years of my career to the fields of human resources, EEO, diversity and inclusion. I've practiced across multiple environments, including in the private sector, in academia, and in government. In addition, I've taught courses in diversity and human resources management, and I have participated in dozens of trainings and certifications related to my field. I earned my undergraduate degree from Queens College, and my law degree from the University of Virginia. My experience in diversity and inclusion is not just a career, but a personal passion in seeking fairness in process and social justice from public institutions. I am thrilled to be back in my home city, applying this experience to such an important agency, at such an important time.

When I first saw this opportunity, I was attracted to it for a number of reasons. First, the FDNY was creating a brand new position that appropriately combined the compliance role, diversity recruitment initiatives, and a chance to impact organizational culture. Second, the role reported directly to the Fire Commissioner and was part of his senior executive team. And lastly, my hope was that the FDNY was willing and open to a new way of conducting business. I have found all these elements to be present. This new role is both historic, as well as critical, to making the changes the Commissioner and Mayor have asked of the FDNY. I embrace the role of Chief Diversity and Inclusion Officer as the end-result of a career spent in the redesign and restructure of EEO operations, training and college teaching, policy design and implementation, and diversity and inclusion leadership.

While this is only my 6th week at the FDNY, I would like to speak briefly to my vision for each of the units I will be managing.

First, our recruitment office, which among other things is responsible for recruiting a diverse set of candidates for each firefighting test, including women. I applaud the 2012 recruitment campaign led by the FDNY, where they were able to more than double the number of female applicants to 1,952. However, sheer volume is not enough to bring women into the department, especially with such a competitive and rigorous hiring process. Our next recruitment campaign in 2017 will require us to take a more targeted approach to recruitment, and to set long-term goals so that our recruitment can build strategies to reach them. We'll also be looking at our most successful candidates and what traits they share, so we can focus on women most likely to be interested – and successful - in the job. We'll be seeking out key partners around the city who have access to such candidate pools and partnering with them before and during our next recruitment campaign – that will include veteran's organizations, community colleges, community based organizations such as Non-traditional Employment for Women, and numerous others. Additionally, we're looking to partner with an advertising and marketing firm that

will complement this grassroots outreach, and craft a message that resonates to all New Yorkers. Finally, the recruitment office is participating in a project that is already underway, which is a full analysis of the application process to find out at what points – and why – we lose female candidates so we can work on changes to the process that remediate those issues. This will include some proposals about the best ways to address the “gap years” – the years between graduating high school and becoming eligible for a firefighter job.

The other office I oversee is the office of Equal Employment Opportunity – EEO. As the Commissioner already mentioned, I believe that there is much more our EEO office can do for the agency. I look forward to a robust search for a new Assistant Commissioner for EEO. I am committed to ensuring we have a robust EEO office that focuses on proactively improving the climate of a workplace, so that all of our members feel welcomed and valued. Not only will we be seeking to close more cases, but we are adding counseling services to the tools the office can utilize. Services such as these ensure that even those cases that don’t end in disciplinary action are mediated through conflict resolution. The changes to leadership and curriculum in our EEO office will make this a place employees across the agency can trust, and will assure our female applicants that the FDNY is a place that welcomes them.

Finally, I’ll be overseeing diversity and inclusion strategies across the agency. One of the key ways we can attract more women to the job of firefighting is to present an image of an agency that is more accepting across the board, to all groups. To that end, I will be hiring an additional member to join my senior staff, to build a more robust plan around employee trainings as we move to change the culture of the FDNY. The FDNY has already hired the Kaleidoscope group, a leader in inclusion and diversity, to provide diversity training in our firehouses and I will be building on that effort. As I continue in this position, I’ll be exploring any number of ways to improve the climate of the different parts of the agency – at the academy, at headquarters, and in our firehouses and EMS stations.

One final point I would like to stress regarding my position. Both Mayor de Blasio and Commissioner Nigro have been nothing but 100% supportive, as has the rest of the senior staff in the department. The Commissioner and Mayor have given me their full support, and I know I’ll be able to ask of them whatever I need to get the job done. I hope I can count on your support as well.

Thank you.

UNITED WOMEN FIREFIGHTERS

December 10th, 2014

City Council Testimony

Oversight: Examining Ways to Increase the Number of FDNY Female Firefighters

Could we have a moment of silence for the Philadelphia 11-year veteran woman firefighter Joyce Craig Lewis killed yesterday while fighting a house fire.

My name is Brenda Berkman. I was the sole named class plaintiff in the federal sex discrimination lawsuit that in 1982 resulted in the hiring of FDNY's first 41 women firefighters including myself. I am the founder and former President of the United Women Firefighters Association (UWF). In 2006, I retired from the FDNY at the rank of Captain after 25 years of service and I currently serve as the retiree representative on the UWF executive board. Thanks to all, including Council Staff, who made this hearing possible.

A year ago I testified about the parallels between the terrible sex discrimination that occurred in the FDNY in 1982 and the sex discrimination which continues in the FDNY today.

But today, I am here to present statements from some of the newest women firefighters who would like you to hear about their experiences in the Fire Academy – experiences no trainee should have to go through. They are not testifying themselves because they know all too well the retaliation they will experience in the firehouse for speaking truth to power. I understand their fears because in the more than 35 years that I have been involved with the FDNY, I and other firefighters who have spoken out about discrimination have suffered serious retaliation – everything from death threats to tampering with protective gear to being kicked out of the firehouse meal. Current women who have objected to their treatment in the Academy have been made the subject of repeated, derogatory and untrue stories in the media that went viral or threatened with calls to their fire companies accusing them of incompetence.

I will start by reading from one young woman's statement.

In conclusion, you will hear testimony from other fire fighters today on how they feel about FST. But none of them, not even other women firefighters, are experts in the development and validation of job-related testing mechanisms. Even if their opinions and feelings are sincere, your responsibility is to ensure that the

FDNY makes employment decisions based only on legally valid measurements – not based on some test people like because they passed it themselves or they think it looks like firefighting. Just because a few women were able to pass FDNY requirements does not mean that systemic sexism does not exist in the FDNY.

Attachment #1 Captain Brenda Berkman, FDNY (ret.),
December 10th, 2014
City Council Testimony
Oversight: Examining Ways to Increase the Number of FDNY Female Firefighters

Anonymous woman firefighter

Observations about my experience at the FDNY training academy and with FST

- 1) You can't wear your own watch or see a big stopwatch to be able to pace yourself while being timed performing FST.
- 2) Females are set aside early in the beginning of the academy and warned we need remedial for FST or we can't go on our one week firehouse detail which is an important event in PFS school. Males don't get told to go to remedial until the third week.
- 3) The FST validation study was timed, coordinated and recorded by fitness personnel.
- 4) Mainly, if FST is so important to firefighting, it should be given to every member in the department, not just in proby school.
- 5) FST validation study was only conducted by using probies. This test should have been conducted by all members of different gender and age.

Attachment #2 Captain Brenda Berkman, FDNY (ret.),
December 10th, 2014
City Council Testimony
Oversight: Examining Ways to Increase the Number of FDNY Female Firefighters

Anonymous woman firefighter

My experience at proby school has completely changed how I view the fire department. I knew that becoming a firefighter wasn't going to be easy but nothing prepared me for what I endured at "hell rock". I was very excited when I had passed all the requirements to begin training at proby school. I felt really good about myself, my confidence and self-esteem were really high. But that changed very quickly. From the very first day at proby school there was an unofficial casting that went on separating the probies. Staff at the academy determined which probies belonged there and those who didn't. Unfortunately for me I was cast as one that didn't belong and with that verdict my fate at proby school had already been sealed. I was convicted and sentenced before I even started. From day one the program that was put into play for me was how quickly they can get me out. At first I thought it was my imagination but then the unfair treatment was undeniable. I was been punished for things that when done by others weren't considered punishable offenses -- such as my struggle with FST. Although I improved greatly in my time, they still looked at me as a failure. The time I spent on the Rock has been one of the worst in my life. I had never been treated or mistreated like that. Having people constantly calling me names, like "trash" or "pathetic" was not something I was used to. I was putting every imaginable effort into improving, but the harder I tried the more they punished me. I was over-worked, my body didn't have time to recuperate. The constant attack on me was so obvious that some instructors intervened. My body was so brutalized from the excessive training that towards the end of the academy I was ill. My body and my mind were barely functional, I was like a ghost, just floating from class to class. I was broken in every sense of the word, spiritually, physically and mentally. At the start of everyday I would say to myself please God don't let me die today. And at the end of each day I would say thank God they didn't get to finish me off today. I went into that academy a strong confident person but I left that place battered, wounded and broken, mentally, physically and spiritually and I don't know what I did that to deserve to be treated like that.

VULCAN SOCIETY, Inc.



VULCAN HALL

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Dear Council Members,

The Vulcan Society (the organization of African American uniformed and non uniformed fire department personnel) is in support of fair and equitable processes as it relates to recruitment, hiring and training for all fire department employees. It is unfortunate that there is a necessity for hearings on such issues related to fair hiring and training practices which continue to plague the FDNY.

Members of the council, I would have you know that training was one of the areas named in the recent vulcan society lawsuit which was settled by Mayor Deblasio on March 18, 2014; so to that end, we must now explore other avenues and suggested approaches to FST, the mile and a half run, and any other areas which has proven to negatively impact trainees.

We are at a crossroad in the department and it would be a legal liability to allow the FDNY to continue to have any component of the candidate training, which has a negative impact on specific or concentrated segments of the population. Let us also keep in mind that we are talking about individuals who have passed the written exam, physical exam, physiological evaluation, and the candidate investigation; all of which are necessary and proven components which in fact suggest that these candidates are ready to be trained as firefighters. It then is the responsibility of the FDNY to train these candidates rather than find creative means to eliminate them from the training academy.

The recent settlement stated that there is room for improvement and you are now being asked to ensure that improvement is instituted in the FDNY hiring practice and training process.

Respectfully,

John Coombs
President
Vulcan Society

UNITED WOMEN FIREFIGHTERS

December 10th, 2014

City Council Testimony

Oversight: Examining Ways to Increase the Number of FDNY Female Firefighters

Thank you Council Member Elizabeth Crowley for your leadership and Helen Rosenthal and Laurie Cumbo for your support. I also would like to thank the Speaker of the City Council for her support.

One year ago I testified on behalf of the United Women Firefighters and painted a picture of what goes on behind firehouse doors for the women of this department. Then, we had 38 women on our roster and large percentages of women flunking out of academy. We were at our wits end with the FDNY and sought the Council's help to ensure that women firefighters were treated fairly. Although there has been some small change in the right direction in the past year, it has been incremental and much, much more needs to be done.

Currently there are 44 women out of over 10,000 firefighters in the FDNY, which still amounts to less than 0.5% of the force. The US Department of Labor has determined that that national average for women firefighters is 4.5%. This means that the FDNY needs to hire well over 400 women just to meet the national average--and NYC should be doing better than that. But there are no plans in the works to get the number of women up to the national average. In 1982, the first group of women that were hired numbered 41. Here we are 32 years later and we are almost at the same point. In fact, the FDNY has continually had the worst gender disparity out of all major cities. San Francisco has 15% women in its fire department, Miami 12%, Seattle 8%. It is shameful that over the 32 years women have been firefighters in NYC the number of women remains so low. The numbers tell the whole story because they don't happen by accident. The pool of women ready, willing and able to be firefighters has increased over the years--there are more women in the military and more high quality physical training programs for women in high schools and colleges than before. So even though the pool of qualified applicants has increased, the FDNY has basically not budged.

As Marc Bendick, the researcher who conducted the most comprehensive study on women firefighters in the US, testified last year, certain tactics have been used against women over and over again in other fire departments around the country and by the FDNY to alienate, create unfavorable environments for, and discourage or wash out women from joining the force. Firehouse culture (not to mention explicit instructions from supervisors) strongly discourages women from filing EEO complaints, many firehouses lack proper bathroom and changing facilities for women and there are unnecessary and unvalidated physical tests that have harmed women that are in use at fire academy today. After one year, and repeated complaints to various high level city

UNITED WOMEN FIREFIGHTERS

officials, little has changed. Although the administration has changed, the facts on the ground remain the same.

It is completely unacceptable for NYC, with a progressive Mayor who talks about the importance of equality, to leave women out of the picture. FDNY's treatment of women has to change and change now.

Last year I spoke about the negative effects of one of these illegal barriers that is used in fire academy, which is an obstacle course test called Functional Skills Training (FST). This obstacle course was originally used as a training tool, but as the FDNY faced increasing racial and gender diversity, it has been turned into a timed and graded exam.

When the FDNY began to time and grade the FST, continually changed. In 2012, the FDNY began and is still using a passing time that is the average time of past classes, ensuring for no valid reason that a substantial percentage of their probationary firefighters will fail. These "passing" times adversely affect women. The fervor for forcing the probationers to pass FST is so high that it is routine for the probationers who have slow times to be pulled out of their classes that teach basic firefighting skills in order to do more FST. The probationers with slow times are also forced to do FST training on the weekend. Also, the majority of the women probationers were prevented from going to their week of field training with their peers so they could do FST everyday instead. FST is so physically stressful that the academy cautions against doing the course more than once a day. The result of forcing the women probationers to do so much FST is that several women suffered major injuries and others refused to report their injuries out of fear of not being able to graduate. In all, the FDNY's handling of FST humiliates women and deprives them of REAL training, leaving them less prepared for the actual tasks of firefighting. We have asked for the test to be dropped and used again as a training tool. While in response to our requests the requirement for passing the test as a condition of graduation from the academy has been dropped, in practice the FDNY still treats the FST as something that must be passed.

Rather than create a valid test from scratch (FST was developed by a firefighter without any credentials in developing tests), or drop the test entirely and use it simply as a training tool, a consultant, PSI, was hired to validate the existing FST. The validation process is highly questionable: a) we were told that within 2 weeks of being hired, the consultant said that no events in the test would have to change. How could the consultant possibly know the outcome of the validation process, which still hasn't been completed, within two weeks of starting? b) the test uses only first year incumbents (actually firefighters who have been on the job about three months) so the sample is skewed and it cannot test job performance over the course of a firefighter's career in FDNY; c) the consultant is apparently determining criticality and time for tasks by surveys that ask firefighters to guess how often and how long it takes to complete tasks on the job instead of actually timing and evaluating the tasks in the field; d) the use of FST has been ongoing during the validation process.

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RECOMMENDATION: DROP FST AS A TEST UNLESS AND UNTIL PROPERLY VALIDATED. FST as an exam is not necessary since it duplicates testing of air management and other skills that occur at the Academy. Nationwide, the [fire service ? what is that?] has abandoned the use of ranked-ordered speed-to-completion tests that are administered like FST.

Additionally, the entry and exit runs for the Fire Academy are not job validated. The requirement is to run 1 and 1/2 miles in 13 minutes to get into fire academy and 12 minutes to graduate. No firefighter runs a mile and a half on the job. No firefighter is ever timed on a 1.5 mile run after graduation from the fire academy. When we met with the Corporation Counsel, one of the lawyers for the City admitted that the exit run had no rationale. Still, the exit run is in place as well as the entry run. By way of comparison, to graduate NYPD academy, an individual needs to complete a run in 14 minutes 21 seconds. This longer time is particularly significant because police officers actually do have to run after escaping criminals, whereas firefighters rarely run while fighting fires.

RECOMMENDATION: DROP BOTH THE ENTRY AND GRADUATION RUNS UNLESS AND UNTIL JOB VALIDATED.

Other Issues That Need to be Addressed:

1. Assignments out of Fire Academy for women. In the history of women firefighters in FDNY, only one woman has been directly assigned to a Ladder company from the Fire Academy. That kind of discriminatory assignment has to change.
2. End the isolation of women, which occurs because the FDNY assigns only one woman to a firehouse.
3. Bathrooms: Last year we raised the lack of bathrooms and changing facilities at all the firehouses. Some construction has taken place, but it is still insufficient. There were a number of women, upon graduating academy, who wanted to be assigned to certain firehouses, but couldn't work there because of a lack of a woman's bathroom.
4. Special monitor/inspector general for discrimination against women. While we are pleased that a Diversity Commissioner has been appointed in the FDNY, we believe that this is not sufficient: the Commissioner will be fully occupied dealing with the undoing the years of racial discrimination in the Department. There needs to be a special monitor/ inspector general tasked with getting the FDNY to address the issues we have raised plus developing and implementing a plan to increase the number of women in the FDNY dramatically and ending the hostile work environment that women

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firefighters face. The special monitor/inspector general should report bimonthly to City Council as well as to the Mayor.

5. Need for Statistics. I strongly urge the Council to require the FDNY to provide statistics on how its testing is affecting women, and support the legislation on this subject.

6. Investigate and address the reasons behind the drop off in numbers of women applying and ideas for addressing this: every step of the way there is a significant drop off rate for women candidates that outweighs the rate for men.

7. Over the past year, it is fair to say that the FDNY has made little progress on changing its record on recruiting, hiring, training, assigning and treating women. The FDNY needs to develop a 5 year plan for increasing the number of women firefighters. Serious prodding from the City Council may be one of the few ways of producing the change that we need.

Thank you,

Sarinya Srisakul
President
United Women Firefighters

UNIFORMED
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THE UNIFORMED FIRE OFFICERS ASSOCIATION TESTIFYING BEFORE
THE CITY COUNCIL FIRE & CRIMINAL JUSTICE COMMITTEE,
WOMEN'S ISSUES COMMITTEE, AND CONTRACTS COMMITTEE
DECEMBER 10, 2014

My name is Captain Derek Harkin, appearing today for the Uniformed Fire Officers Association. Chairs and Members of the City Council Fire & Criminal Justice Committee, Women's Issues Committee and Contracts Committee, thank you for this opportunity to testify here today.

I am here to testify today because there is a concern that changes could result from this proceeding that would have a negative impact upon my membership. The New York City Fire Department has a long tradition of having only the best candidates graduate the Academy. The Academy has a slogan, "Let no member's ghost come back and say my training let me down."

The Functional Skills Test, FST, is used to measure the physical fitness of all candidates wishing to graduate the academy. The FST is a series of tasks that are deemed essential job tasks by the National Fire Protection Association. All tasks required to complete the FST are in the NFPA Standard on Comprehensive Occupational Medical Program for Fire Departments.

Probationary Firefighters are also required to complete a 1 ½ mile run to graduate the Academy. The run has to be completed in less than 13 minutes. The technical reasoning behind the 13 minutes is that the candidate's aerobic capacity has to be at least 12 Metabolic Equivalents (METs).

METs is a simplified system for classifying physical activities. The physical fitness coordinators manual for Fire Departments published by FEMA states that, "A fitness level of 14 METs will meet job requirements and provide a margin of safety for the firefighter. The minimum level should be 12 METs."

The UFOA knows that changing the standard on the FST or the 1 ½ mile run will affect the quality of recruits graduating the Academy. The UFOA considers this a safety issue. The UFOA has long been an advocate of diversity in its ranks. We do not believe that the FST is the reason for a lack of diversity in the FDNY. We will support all efforts to increase females in our ranks but not at the price of safety.

-----AFFILIATED WITH-----



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NEW YORK CITY CENTRAL LABOR COUNCIL AFL-CIO * MARITIME PORT COUNCIL OF
GREATER NEW YORK & VICINITY * UNION LABEL & SERVICE TRADES COUNCIL OF
GREATER NEW YORK & LONG ISLAND * NATIONAL SAFETY COUNCIL

LEGAL momentum

The Women's Legal Defense and Education Fund

Testimony of Christina Brandt-Young, Senior Staff Attorney
Legal Momentum

Hearing of the Committees on Fire and Criminal Justice Services, Women's Issues, and Contracts:
Oversight – Examining Ways to Increase the Number of FDNY Female Firefighters

December 10, 2014

Introduction

I want to thank Chair Crowley for inviting Legal Momentum, the Women's Legal Defense Fund, to testify here today, and to thank the Committees on Fire and Criminal Justice Services, Women's Issues, and Contracts. My name is Christina Brandt-Young, and I am a Senior Staff Attorney at Legal Momentum and the head of its occupational segregation program. Legal Momentum, founded in 1970 as the NOW Legal Defense and Education Fund, provides technical assistance to employers and advocacy for women in occupations from which women historically have been excluded. We have represented women firefighters in employment discrimination suits nationwide. Legal Momentum celebrates the heroic work of firefighters everywhere, and that is why we advocate a diverse FDNY that welcomes qualified women. It is a myth that women are not strong or fast enough to be firefighters, as the experience of other cities shows. And the women of New York City are just as strong and brave as women anywhere. We encourage the Mayor and the City Council to ensure that qualified women are given an honest chance to join the FDNY.

The lessons of the *Berkman* lawsuit—to hire more women, and to use experts to develop their job tests—have been lost on the FDNY.

The FDNY's increasing emphasis on Functional Skills Testing ("FST") shows that the historical and legal lessons of the *Berkman* lawsuit have been lost on the FDNY. As the Committees know, New York refused to hire a single woman firefighter until 1982, when it was ordered by a federal court to hire 45 women firefighters as part of the *Berkman* lawsuit. See *Berkman v. NYC*, 705 F.2d 584 (2d Cir. 1983). Today the FDNY employs only 44 women as firefighters, less than half of one percent of its firefighting force, while other major cities pull ahead with numbers as high as 15%. Why hasn't the Fire Department hired women at the rates the federal courts initiated three decades ago?

Unfortunately, another lesson from the *Berkman* lawsuit has been lost as well: To develop its employment tests in conjunction with experts, and to rely on those experts' advice. In 1982, the federal court struck down the FDNY's physical test for admission as a firefighter because the city first hired experts to develop the test, then ignored their advice. *Berkman v. NYC*, 536 F. Supp. 177, 208-



10 (E.D.N.Y. 1982). That test was invalid and the court threw it out.

Yet in 2012, the Fire Department started imposing a new barrier to graduation from the Academy: Finishing the Functional Skills Testing, previously known as Functional Skills Training, with a timing requirement. As far as we know, when the FDNY developed the FST timing cutoffs, it didn't ignore any experts; it just never hired any in the first place. This was exactly the sort of thing the *Berkman* court warned against; why hadn't the FDNY learned that lesson before either?

The timed FST became a new obstacle to becoming a firefighter. Before 2012, none of the 10,000 firefighters hired by the FDNY had ever had to complete a timed FST. The erection of this new barrier coincided with the admission to the Academy of large numbers of EMT's and priority hires from the Vulcan lawsuit, a group that included more women, people of color, and women of color than the FDNY had ever hired before. Therefore the historical burden of this invalid test has fallen disproportionately on women and people of color.

After pressure from civil rights groups representing women firefighters and firefighters of color, the FDNY suspended the timing requirement, but now it is attempting to "validate" the FST, and for what purpose? There is no reason to think that will turn out better for the FDNY today than it did in 1982. The lessons of the *Berkman* lawsuit have not been learned.

"Validation" of the FST is a waste of the City's money.

Why hire experts to try to validate the FST, or fix it after the fact? If the goal is to make sure that everyone graduating from the Academy has all the necessary firefighting skills, the Academy already tests each candidate individually on those skills, separately from the FST, before graduation. The FST isn't needed for that. If the goal is to make sure that everyone graduating from the Academy has the fitness necessary to do all firefighter tasks, candidates are already tested for that in their medical exams before they even start the Academy. The FST isn't needed for that either.

While the FST may be a valuable training tool for practicing job skills while wearing full gear and air and under stress, fixing the FST after the fact or trying to validate cutoff times is not a good use of City money. The job isn't usually performed at top speed, so the top speed people can do the FST in doesn't tell us whether they have learned enough to become firefighters. In fact, at no fire does anyone in the FDNY ever perform every single one of the FST events, exactly once, in a sequence they know in advance, on a single tank of air, as fast as possible. Even more importantly, there is good reason to think that using timed cutoffs on the FST unnecessarily screens out disproportionate numbers of qualified women and people of color.

The overwhelming majority of today's firefighters have never taken a timed FST. After graduation from Academy, no one in the Fire Department is ever required to take the FST, timed or not, ever again. Clearly the FST is not necessary for running a safe fire department, so why validate it at all?

At 9%, the FDNY has the lowest overall proportion of female employees of any New York City agency, and cannot solve its inability to hire women firefighters on its own.

The FDNY not only has a problem hiring women firefighters, it doesn't hire enough women at all. Even taking firefighters out of the equation—and at less than half of one percent, women firefighters are barely in the equation in the first place—women are dramatically underrepresented at the FDNY as dispatchers, budget and finance personnel, administrators, lawyers, and EMT's. Research shows that when workplaces are dominated by a single sex, gender-based stereotypes can creep into decision-making, and those stereotypes are difficult to displace. In the fiscal year 2012, the workforce of New York City overall was 57% female, yet the workforce of the FDNY was only 9% women overall, which means that only about 25% of the FDNY's *non-firefighter* workforce is female. Likewise, the FDNY's executive leadership is only about 25% female, including three female EEO officials and a lawyer.

Women's voices and experiences cannot be adequately taken into account in this agency when not enough women are there. And an agency with unusually low numbers of women is not going to solve the problem of occupational gender segregation for firefighters in the FDNY.

Conclusion

Qualified women have been kept out of the FDNY. What the City should do in response to this situation is clear. The Mayor should ban any timing requirement in the FST as arbitrary, and the City Council should issue legislation doing the same. We support Intro. No. 579 regarding reporting on the racial and gender makeup of firefighter examination applicants, eligible lists, academy admissions and graduation statistics. We encourage the City Council to amend that bill to specify every reason why candidates did not complete the Academy, not only the FST or similar physical testing. We reiterate that the women of New York City are just as strong and brave as women anywhere, and we look forward to inclusion of many more of them in all roles in the Fire Department.

December 10, 2014

Att: NYC Council Members

My name is Joann Jorsling. I spent most of my life in the Bronx and attended NYC public schools. I was not raised in desirable conditions. According to statistics the odds were against me and I was destined for nothing good and everything bad. Prior to filing for the exam I had no knowledge of the department. I took the entrance exam in 1999. I thought like becoming a police officer so long as I passed the test I would get hired. I later learned that the process of becoming a firefighter would be challenging. Competition is fierce and rightfully so.

After taking the written exam I was contacted by the FDNY and joined a training program offered by them. I met many members of the FDNY mostly women, UWF members. The training I received I believe was very effective. I trained using familiar equipment pertinent to the physical exam. I scored a 95% on the written and after failing one event on the physical I gave up. During that time a score less than a 100% on the physical and less than a 95% on the written meant you weren't going to make it. Through hard work and perseverance I continue to train and prepare for the next opportunity. In 2002-3 I took both the written and physical exam. In 2003, the UWF offered a training program at the NYSC, which I felt would not get me to the level I needed to be in. I pulled away from the program and trained on my own using prior knowledge. I scored a 98% on the written and 100% on the physical. Hard work paid off and I landed the 4th spot on the promotional list and in the early 200's on the open competitive list.

I continued to train for the academy and successfully graduated. By this time I understood and respected the challenges ahead. My experience at the academy was a positive one. There were challenges but nothing I wasn't prepared to conquer. The instructors at the academy were helpful and many times motivating. As a firefighter you never know when an emergency call turns into a labor-intensive operation. The sudden, intense energy demand that is needed to fight a fire or handle an emergency will put a firefighter who is not in good physical condition in grave danger. In my opinion, a firefighter's lack of physical fitness can be viewed as a matter of public safety as well as a threat to one's individual health. Often our health and safety is threatened by toxic smoke, high heat, and chaotic work environments. Heart attacks continue to be one of the leading causes of firefighter line of duty deaths. I believe that there are other ways to increase the number of NYC firefighters but compromising physical fitness is not one of them.

I have shared my story but I must say it is not a unique one. Many of the women on this job faced challenges and they overcame them. These are the kinds of women I want to fight fires with. It's an unforgiving job wrong moves can cost lives. We are dependent of each other and I like the comfort of knowing that those around me are capable of doing their job. Prior to making any changes I ask that you please take into consideration the physical condition of candidates who have been unsuccessful in graduation from the academy compared to those that graduate. Although candidates should need no extra motivation to get started or continue on with some type of regular workout routine, many can benefit from guidance. My approach would be to offer better training for candidates and focus on recruitment efforts.



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(PLEASE PRINT)
Name: Christina Brandt-Young

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I represent: Legal Momentum

Address: 5 Hanover Square Ste. 1502 NY NY 10004

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Name: BRENDA BERKMAN

Address: 502A ATLANTIC BKLYN

I represent: UNITED WOMEN FIREFIGHTERS

Address: _____

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Name: DEREK HARKIN

Address: _____

I represent: UFOA

Address: 225 BROGDWAY

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Name: DAN NIGRO

Address: _____

I represent: FIRE COMMISSIONER

Address: _____

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Name: Danielle Johnston

Address: 517 EAST 77th #4D

I represent: myself

Address: _____

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Date: 12/10/2015

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Name: Joann Jorsling

Address: 1 Wellington Terrace White Plains, NY

I represent: Myself as a female member of

Address: the FDNY

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Name: Pamela M. Lassiter

Address: 9 Metro Tech Center, Brooklyn

I represent: FDNY

Address: _____

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Address: _____

I represent: UWF

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Name: DAVID PREZANT, MD

Address: NYC Fire Dept.

I represent: NYC Fire Dept.

Address: NYC Fire Dept.

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