

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL RIGHTS AND
COMMITTEE ON WOMEN'S ISSUES

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B E F O R E: DARLENE MEALY
CHAIRPERSON

LAURIE CUMBO
CHAIRPERSON

COUNCIL MEMBERS:
ELIZABETH CROWLEY
MATHIEU EUGENE
BEN KALLOS
ANDY KING
KAREN KOSLOWITZ

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

BRITNEY SAUNDERS
OFFICE OF THE MAYOR

CHARISE TERRY
EEPC

REGINA WILSON
THE VALCAN SOCIETY

ELIZABETH HOLTZMAN
UNITED WOMEN FIREFIGHTERS

SARINYA SRISAKUL
UNITED WOMEN FIREFIGHTERS

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2 CHAIR MEALY: Good afternoon were going
3 to start the Committee on Civil Rights, good
4 afternoon everyone. Good afternoon I'm Darlene
5 Mealy, I'm the Chair of the New York City Committee
6 on Civil Rights. I joined, I am joined here today by
7 my colleagues to my right is Elizabeth Crowley, Andy
8 King, and the sponsor of this bill Laurie Cumbo that
9 who is now the Chair of the Committee Women's Issues
10 and the Women's Caucus, hey let's give her a hand
11 (clapping). All right good gracefully. I'd like to
12 also introduce Mr. Mathieu also on this Committee.
13 Today the Committee on Civil Rights will hear Intro.
14 #921, a bill that will make sure there is fairness
15 and physical testing when used by City agencies for
16 employment purposes. It is very important that
17 access to City jobs be equal and fair for everyone
18 including minority wom... minorities and women. This
19 bill is sponsored by my colleague Council Member
20 Cumbo so she will explain it in more detail in her
21 opening, is that ok?

22 COUNCIL MEMBER CUMBO: That's fine.

23 CHAIR MEALY: Thank you. It is our hope
24 that this bill will be will let us take another step
25 towards providing more protections and equal access

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2 for all New Yorkers. Today we will hear testimony
3 from equal employment practices commission and
4 various interest groups. We hope to discuss the
5 impact of this legislation will have on all New
6 Yorkers and I thank you in advance for everyone's
7 testimony and I will just like to thank my counsel
8 here Alicia Brown, counsel to the Committee for all
9 her hard work, now will turn it over to my colleagues
10 Laurie Cumbo to give her opening statement.

11 COUNCIL MEMBER CUMBO: Thank you I want
12 to thank Council Member Darlene Mealy for her rapid
13 response as soon this hearing came up she got it on
14 to the calendar in record time so this so very
15 appreciated, it's right on the heal of women's
16 history month, herstory month and were going to make
17 some dynamic changes and I'm so happy were having
18 this particular hearing today. I also want to thank
19 Council Member Elizabeth Crowley because she has done
20 an extraordinary amount of work in the City Council
21 and she has been influential in terms of making sure
22 that this bill has been created and is here today and
23 I also want to add that Council Member Crowley as
24 well as Council Member Mealy have been the previous
25 co-chair of the Women's Issues Committee, excuse me

2 the Women's Issue Caucus and have been very
3 supportive in terms of the transition of electing
4 Council Member Rosenthal and myself to the post and
5 so there's a lot of women's herstory going on right
6 here today on this leap year day, so were going to
7 make sure that we continue it. I look at it as an
8 extra day in Black History Month but also a jump
9 start to Women's Herstory Month. Good Afternoon I am
10 Council Member Laurie Cumbo, I'd like to thank you
11 all for coming today. I'd like to thank my co-chair
12 Council Member Mealy for her commitment to empowering
13 women in our City and for joining me in hosting this
14 hearing today. I'd also like to thank the members of
15 the Committee on the Women's Issues that are
16 president that are present; Council Member Crowley,
17 King, Mealy, myself as well as Council Member Eugene.
18 In December 2014 the Committee on Women's Issues held
19 a joint hearing with the Committee on Fire and
20 Criminal Justice Services to discuss women in the
21 FDNY. That hearing shed light on the dearth of women
22 in the Fire Department but also raised critical
23 questions about women in non-traditional employment
24 generally like sanitation workers and EMT's for
25 instance. Among the many obstacles female applicants

2 in non-traditional employment face are physical test
3 that are required in the hiring process. While some
4 argue that these test are necessary indicators of an
5 applicant ability to perform job related task, they
6 actual serve to screen out a disproportionate number
7 of women and ethnic minorities. The Department of
8 Sanitation for instance requires job applicants to
9 take a physical test known as the "Superman Test",
10 noted not the "Superwoman Test". That name in of
11 itself reinforces women need not apply. Mentality
12 among those who would otherwise want to apply to what
13 could very well be an attractive entry level position
14 with upward career mobility. We also have to note
15 that there are a significate number of women that are
16 in are Armed Forces, that are in the Military, that
17 are in the Marines, that are in the Navy and the Air
18 Force and were are still challenged as to why those
19 numbers have not risen in the FDNY. There are also
20 other City agencies that require job applicants take
21 a physical test. I am happy to note that because of
22 our work that you're seeing here on the Council,
23 after our December 2014 hearing the FDNY phased out
24 the functional skills test that used to be
25 administered to probationary firefighters in the Fire

2 Academy. A test that advocates testified does not
3 accurately reflect or test the skills necessary for a
4 firefighter to properly perform his or her duties. I
5 introduced Intro. 921 to ensure that such physical
6 test are evaluated for fairness every year. Intro.
7 921 would require the Equal Employment Practices
8 Commission (EEPC) to audit and evaluate any physical
9 testing utilized by any City agency either for hiring
10 or promotional purposes. The EEPC would be permitted
11 to use outside resources to complete its audits and
12 evaluations. This is critical. We want to be sure
13 that we are honestly accessing there test on a
14 regular basis. We want to encourage not detour women
15 to apply to become firefighters, cops, EMT's,
16 sanitation workers and the list goes one. We don't
17 want to close the doors of opportunities simply
18 because of unfair physical testing that has little
19 bearing on whether applicants can do well on the job.
20 I sponsored Intro. 921 to make sure that those doors
21 remain open and to make sure that no one is
22 discriminated against. I want to thank Council
23 Member Mealy for agreeing to hold this hearing as
24 well as my Committee staff; Aminta Kilawan, Counsel
25 and Joan Povolny the Policy Analyst for their work.

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2 Thank you again and I will turn the floor back to
3 Council Member Mealy.

4 CHAIR MEALY: Yes you know we have this
5 were you end right now to raise your right hand and
6 this is... is... Ms. Britney Saunders.

7 UNKNOWN SPEAKER: No, Charise Hendricks.
8 Charise Herrings from the EEPC.

9 CHAIR MEALY: Terry and Marie Giraud.
10 There you go and Britney Saunders can you come up
11 from the Mayor's Office. And just for the record
12 Equal Employment Practices Commission is separate
13 from the Mayor's Office they said that they would
14 like everyone to sit on the panel at that same time,
15 is that ok?

16 PANEL: Yes

17 CHAIR MEALY: Ok. They are two separate
18 entities. Can you raise your right hand? Do you
19 affirm the truth, the whole truth and nothing but the
20 truth in your testimony before the Committee and to
21 respond honestly to the Council Members questions?

22 PANEL: I do (in unisom).

23 CHAIR MEALY: Thank you.

24 CHARISE TERRY: Good morning members of
25 the Council. My name is Charise Terry, it is my

2 pleasure as the Executive Director of the Equal
3 Employment Practices Commission to present this
4 testimony on behalf of the members of this
5 Commission. Agency Attorney and Director of
6 Compliance Marie Giraud will join me in presenting
7 this testimony and responding to questions.

8 About the EEPC, Chapter 36 of the New
9 York City Charter establishes the Equal Employment
10 Practices Commission or EEPC as the monitor of the
11 City's employment practices. The EEPC is an
12 independent agency, headed by a board the consist of
13 5 per-diem members, 2 Mayoral appointees, 2 City
14 Council appointees, and a jointly appointed
15 Chairperson. Our official headcount is 12. The EEPC
16 audits agencies where the majority of the board
17 members are appointed by the Mayor. Agencies where
18 the majority of the board members serve by virtue of
19 being City officers or agencies which receive funding
20 in whole or in part, by the City treasury.

21 The proposed bill specifies that the
22 commission shall audit and evaluate any physical test
23 used by any City agency, either for hiring or
24 promotional purposes at least once every year. In so
25 auditing and evaluating, the commission shall utilize

2 the services of non-governmental expert where such
3 use would assist such auditing and evaluating in any
4 way. The EEPC's mandate is broad. Section 830 if of
5 the City charter authorizes the EEPC to review,
6 evaluate and monitor the employment practice,
7 procedures and programs of any City agency and the
8 Department of Citywide Administrative Services or
9 DCAS. Section 831, empowers the EEPC to audit and
10 evaluate the employment practices and procedures of
11 each City agency and their efforts to ensure fair and
12 effective equal employment opportunity for minority
13 group members and women. Section 832 provides that
14 this Commission may pursuant to an audit, make a
15 determination that any plan, program, procedure,
16 approach, measure or standard adopted or utilized by
17 any City Agency does not proved equal employment
18 opportunity and recommend corrective action as the
19 Commission may deem appropriate. The proposed Bill
20 would put specific emphasis on our authority to audit
21 and evaluate physical testing which under the
22 aforementioned sections of the Charter is an
23 employment procedure, measure, standard, etc.
24 Adopted and utilized by City agencies.

2 A physical test, which assesses a
3 candidate's ability to perform essential physical
4 tasks of a job is a selection procedure and is
5 required to be job-related and consistent with
6 business necessity as dictated by Title VII of the
7 Civil Rights Act of 1964, the Americans with
8 Disabilities Act of 1990, as well as the New York
9 City Human Rights Law which prohibits employment
10 practices that result in disparate impact.

11 As delineated in the City Charter, the
12 EEPC audits on a quadrennial cycle or every four
13 years or upon the request of the Civil Service
14 Commission or a City Commission on Human Rights. An
15 EPC audit is a methodical review, analysis, and
16 evaluation of an agency's employment practices. It
17 concludes upon the implementation of corrective
18 action if any. The EEPC has six primary audit types
19 including the Employment Practices Audit which is
20 being conducted within the current quadrennial cycle.
21 This type of audit reviews, evaluates and monitors
22 whether an agency has assessed its recruitment or
23 selection procedures to determine if there is adverse
24 impact upon any particular racial, ethnic,
25 disability, or gender group. It also requires that

2 the competencies, skills and abilities outlined in
3 notices of examinations are job-related and required
4 by business necessity. The Charter assigns DCAS the
5 responsibility for establishing and maintaining
6 uniform procedures and standards to ensure equal
7 employment opportunity in competitive civil service
8 examinations. The EEPC requires agencies to work
9 with DCAS and the New York City Civil Service
10 Commission if protected groups are underutilized in
11 civil services titles relative to their availability
12 in the labor market.

13 The EEPC supports the intent of the
14 proposed Bill with the following provisions which for
15 practical implementation in lieu of the annual audit
16 will be implemented that (1) the result and approval
17 of the EEPC's audit and evaluation precedes the
18 release of the corresponding exam schedule or
19 implementation of the exam. (2) that DCAS with the
20 assistance of the relevant agencies, provide to the
21 EEPC the titles by agency and job group which require
22 physical testing and the content and construct
23 validity studies which used to create any physical
24 requirements. A construct validation would support
25 that the test accurately measures criteria such as

2 fitness, strength and endurance. A content
3 validation would ensure job relevancy.

4 The proposed bill would position the City
5 to limit potential legal exposure, if challenged.
6 The EEPC welcomes the opportunity to work with the
7 Department of Citywide Administrative Services, the
8 New York City Civil Service Commission, the City
9 Commission on Human Right, and the relevant agencies
10 in support of the goals of this legislation.

11 CHAIR MEALY: Thank you. Well excuse me
12 a little in the middle of this history when I was
13 remised for introduce at least letting everyone know
14 one of our Sheroes are here our former New York City
15 Controller Liz Holtsman is here also, so I'm sorry
16 for the delay of introducing you but you can
17 continue, this is Woman's History Month. A Shero.

18 UNKNOWN SPEAKER: Do you guys have any
19 questions before Britney presents her testimony or
20 the Equal Employment Practices Commission
21 specifically?

22 CHAIR MEALY: We were going to try to do
23 them all together.

24 UNKNOWN SPEAKER: Ok.

25 CHAIR MEALY: Sorry.

2 UNKNOWN SPEAKER: No problem.

3 CHAIR MEALY: Can you turn on your mic
4 please.

5 BRITNEY SAUNDERS: Thanks that'll help.
6 Good afternoon Chair Mealy, Chair Cumbo and members
7 of the Civil Rights and Women's Issue Committees.
8 Thank you for inviting me to speak with you this
9 morning, this afternoon about Intro. 921 which would
10 direct the Equal Employment Practices Commission
11 (EEOC) to audit and evaluate physical test used by
12 City agencies for hiring or promotional purposes at
13 least once each year.

14 The administration is deeply committed to
15 the goals for fairness and equity. Over the last two
16 years, we have worked with greater focus and urgency
17 and across multiple agencies to ensure greater
18 opportunity and better outcomes for all New Yorkers.
19 We have reinvigorated the New York City on Human
20 Rights, appointing a leading civil rights advocate a
21 Chair and Commissioner strengthening its operations
22 and implementing progressive new policies to prevent
23 discrimination in employment, housing and other
24 areas. We have made changes to performance
25 management systems to integrate equity concerns more

2 deeply into evaluation and launched initiatives such
3 as the Young Men's Initiative to identify and address
4 needs.

5 We have also, we have also demonstrated a
6 new focus on gender equity. The administration
7 features an unprecedented number of women in
8 leadership positions in City Hall and the agencies.
9 Some 60% of the administration's senior leaders are
10 women. We have launched the Commission on Gender
11 Equity, convening a group of 30 diverse leaders
12 hailing from the public sector, private industry,
13 non-profit organizations and academia. The
14 Commission embodies the Mayor's commitment to expand
15 and increase opportunity for all New Yorkers
16 regardless of sex, gender, or sexual orientation and
17 to build a City that is safe and free of
18 discrimination. Over the past year, the City has
19 made tremendous strides toward gender parity with the
20 establishment of a historic partnership with UN women
21 and engagement in the UN's safe Cities Initiative.
22 We have worked to expand sick leave to many of the
23 City's lowest paying industries. Industries that
24 employ disproportionate numbers of women and we have
25 also made unprecedented investments in domestic

2 violence response and education through the Mayor's
3 Office to Combat Domestic Violence. And just weeks
4 ago, the Mayor announced paid family leave for 20,000
5 City employees, a policy that will benefit parents
6 overall that many (inaudible).

7 We welcome EEPC efforts to promote gender
8 equity and equal employment opportunity for everyone.
9 However, believed, we believe that there will need to
10 be changes to Intro. 921 as currently drafted. As
11 currently written, Intro. 921 would require the
12 Commission to audit and evaluate any physical test
13 used by any City agency, either for hiring or
14 promotional purposes at least each year. The bill
15 also provides that in conducting these audits and
16 evaluations, the Commission shall utilize the
17 services of non-governmental experts where such use
18 would assist such auditing or evaluation in any way.

19 There are a number of important policy
20 considerations related to Intro. 921 that require
21 examination. The evaluation of physical test is
22 likely to be time intensive task requiring
23 significant knowledge and expertise. In addition,
24 evaluating a physical test annually, as required by
25 the bill in its current form, regardless of whether

2 there have been any changes made in the exam, may not
3 be the best use of resources. Another set of
4 questions involves the conditions under which it may
5 or may not be appropriate to utilize the services of
6 outside experts. All of these issues merit
7 thoughtful consideration and we look forward to
8 working with the Council to think these question
9 through further and to advance our efforts to
10 increase equity and inclusion, thank you.

11 CHAIR MEALY: Thank you. I'm I just to
12 open up I just have two questions for EEPC, are there
13 any agencies that EEPC reviews and audits more than
14 others? Put on you mic please.

15 CHARISE TERRY: We usually audit agencies
16 on a four year cycle. There are agencies, there are
17 certain risk factors which may I guess prompt us to
18 audit agencies or get around to an agency earlier in
19 the four year cycle than later.

20 CHAIR MEALY: Could you name, could you
21 at least tell us how maybe one of them you would?

22 CHARISE TERRY: Certain things like
23 perhaps an excessive amount of discrimination
24 complaints or if there's this excessive amount of
25 underutilization of any protected group may prompt us

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2 to look even further and examine or for statistics
3 and go back to the agency and figure out what's
4 happening in terms of recruiting and selection.

5 CHAIR MEALY: So you would have
6 statistics you just said that on it.

7 CHARISE TERRY: Correct.

8 CHAIR MEALY: Ok, do you have it with
9 you.

10 CHARISE TERRY: We receive quarterly
11 reports from the Department of City Wide
12 Administrative Services on the City workforce
13 statistics.

14 CHAIR MEALY: Ok are there any... any
15 standards and procedure you'll do regularly and
16 conducting a reviews of the each case?

17 CHARISE TERRY: If we have, you mean
18 auditing protocols?

19 CHAIR MEALY: Or.

20 CHARISE TERRY: Or auditing?

21 CHAIR MEALY: Auditing.

22 CHARISE TERRY: We have auditing
23 standards yes, we have about 50 auditing standards in
24 various areas that we use when we conduct audits.
25 Like for instance I mentioned the employment

2 practices audit in the testimony, there's about I
3 would say 12 auditing standards that pertain to the
4 specific audit where we look at efforts made to
5 recruit, we look at recruitment resources, we look a
6 at whether or not (inaudible) studies were done, we
7 look at groups that may have underutilization job
8 groups, what else do we look at? Promotional
9 practices.

10 CHAIR MEALY: What's the percentage on
11 that because a lot people I think tell you can
12 contest to some people say that they've been a job
13 forever and here it is they will bring someone from
14 outside and they will have train them and the
15 employee will give the new person a job instead of
16 the one who's been there forever, do you get a lot of
17 those cases?

18 CHARISE TERRY: Were limited in terms of
19 the... the way we can drill down into individual
20 information because what we do is more on a policy
21 level, so we look at whether or not policies have
22 disparate impact in terms of maybe we may review the
23 numbers of I don't know women or minorities and if we
24 see some indicators such as underutilization we may
25 look at whether or not the agencies has tried to

2 access it selection criteria in terms of who their
3 selecting for promotion to determine if there
4 screening out any particular group. But it's
5 incumbent on the agency to look at their procedure.
6 We review the agency to make sure that there doing
7 the impact assessments and that there making efforts
8 to correct any deficiencies.

9 CHAIR MEALY: Ok, thank you just need to
10 know a few things on that. I'm a turn it over to my
11 colleague who sponsored this legislation looking for
12 a (inaudible).

13 CHAIR CUMBO: Thank you, I want to thank
14 you all for your testimony. I want to first start
15 off with a question amidst the criticisms of the FDNY
16 low hiring rate of women. The Commissioner of the
17 FDNY phased out the functional skills training test.
18 Numerous advocates had previously testified at
19 Council hearings that this test did not accurately
20 reflect or test the skills necessary for Firefighters
21 to perform on duty. Do other physical test
22 administered for City jobs pose similar concerns? Is
23 there any consideration to phase out these tests?

24 CHARISE TERRY: You would have to speak
25 with the Department of City Wide Administrative

2 Services, they are the ones that are responsible for
3 the testing.

4 CHAIR CUMBO: Ok.

5 CHARISE TERRY: The Equal Employment
6 Practices Commission, we look at whether or not
7 whomever the testing body whether or not they have
8 taken the proper precautions; meaning doing an
9 (inaudible) study to figure out whether or not the
10 test screen out candidates or if they presented any
11 kind of validation study to determine whether or not
12 the test accurately measure what it's supposed to
13 measure.

14 CHAIR CUMBO: But you audit these test
15 and you review and you oversee how there being
16 implemented.

17 CHARISE TERRY: Yes there have been
18 audits that the EEPC has done in the EEPC history
19 over regarding recruitment... recruitment test and in
20 those cases to my recollection were looking at
21 whether or not the civil service testing actually
22 screened that candidate.

23 CHAIR CUMBO: Let me ask you a question.

24 CHARISE TERRY: The written test I should
25 say.

2 CHAIR CUMBO: Why would you think in
3 doing the oversight that you've been doing and how
4 long can you give me the education how long has the
5 EEPC been set up to do this level of evaluation?

6 CHARISE TERRY: You mean an audit?

7 CHAIR CUMBO: Right. Like how, how many
8 years have you been overseeing the testing process
9 and the procedures and how the implementation has
10 been done?

11 CHARISE TERRY: Ok so the EEPC has
12 various types of audit, so employment practices audit
13 which is a recent audit that we developed
14 specifically may look at issues in terms of testing
15 but it in regards to testing it's looking at adverse
16 impact and it's looking at whether or not the
17 agencies have done adverse impact testing. There are
18 other types of audit that we do regarding
19 discrimination complaints and things of that nature.
20 If you're talking about EEPC conducting audits in its
21 entirety since its inception, we have been around
22 since I think the early 90's.

23 CHAIR CUMBO: And the reason why I ask is
24 because and you can give me the information on this,
25 when the FDNY was made a dramatic move in that, in

2 the since of dramatic for the FDNY to include I
3 believe about 41 women initially right, that number I
4 believe hasn't grown maybe over the last 30 years
5 substantially, so I think it went from like maybe 41
6 to now it at 49 over the process of 40 years so,
7 women in the FDNY, so if that's the case when your
8 reviewing the audits on discriminatory practices and
9 those sorts of aspects as well as what's happening,
10 why some people are being as you said discriminated
11 against, what did, what were your finding when you
12 were looking at the FDNY since this work has been
13 being done about the same amount of time as the FDNY
14 expanded to include women and what they would
15 perceive as a dramatic way?

16 CHARISE TERRY: Ok so were really
17 skeptical of discussing specific issues with agencies
18 because after every audit comes a compliance
19 monitoring period where we monitor the agency to
20 ensure that they implement any corrective actions
21 we've given. So at the end of the six month period
22 we issue a determination of compliance, so to then
23 discuss, to then discuss the original findings we
24 feel is not really fair to the agency because go

2 through a compliance monitoring period and correct
3 whatever deficiencies we deem that they correct.

4 CHAIR MEALY: Are those finding public?

5 CHARISE TERRY: Yes. There in, there
6 available by the Department of Records and
7 Information Services and the City Hall Library and
8 the resolution that the Commissions, that our
9 Commissions votes on is on our website.

10 CHAIR MEALY: So what's the difference
11 now for discussing it now if it's public record?
12 This is the public hearing.

13 CHARISE TERRY: Because when we release
14 the records, we release the entire, we release the
15 preliminary, the agencies response which has there
16 efforts that they did to correct the actions and then
17 the final determination which when we response, we
18 response to the agency and then the agency then gets
19 a chance to respond and at the end of that process we
20 issue a determination of compliance, we stick with
21 the agency until they have complied and that's when
22 we release it because that's the most complete
23 picture. But in terms of let me get back to the 49
24 women in the FDNY, what job group is that in because..
25 because there's more than, there's more than one job

2 group in the FDNY are you speaking specifically about
3 Firefighters or?

4 CHAIR CUMBO: As specifically we
5 understand it unless you know something that we
6 don't. Woman who have passed the test, have passed
7 the physical endurance test, are on the job, are
8 considered Firefighters because they passed the
9 written exam.

10 CHARISE TERRY: Ok so in the Firefighter
11 title.

12 CHAIR CUMBO: In the Firefighter title.

13 CHARISE TERRY: Because there's many
14 titles in the FDNY and.. and when we're looking at the
15 workforce in its entirety, it may be skewed by woman
16 that are in other areas.

17 CHAIR CUMBO: They may have some
18 administrative capacities that I'm not aware of but
19 those woman were not the woman that to the best of my
20 knowledge passed the physical exam, went through all
21 of the training, went through all of the application
22 and written exam process and when through that
23 herculean process.

24 CHARISE TERRY: Right.

2 CHAIR CUMBO: In order to get in, maybe
3 there's some other process if you wanted to be
4 something else. You wanted to do some desk work or
5 administrative work or maintenance work, I... I... I
6 don't know about that but what were focused on is
7 making sure that there is a fair and equitable
8 process because we've seen in every other industry
9 whether it's the Armed Forces or just the Military,
10 the Navy, the Armory, the Marines in particular, were
11 seeing growth within the NYPD as well but what I'm
12 trying to ascertain is information about why are we
13 with you having the ability to oversee this process,
14 why have we not seen in a 30 year period any dramatic
15 expansion of women within the FDNY?

16 CHARISE TERRY: Ok I can't speak for
17 previous audits. I know that the EEPC have audited
18 the FDNY with I don't know maybe 4 times to my
19 recollection and in every instance the EEPC was
20 crucial in implementing change or working with the
21 FDNY to implement change. Yes it's incremental but
22 the EEPC has issued finding that have I guess moved
23 the needle in turns of the FDNY.

24 CHAIR CUMBO: I means its... its... its.

25 CHARISE TERRY: I would have to review.

2 CHAIR CUMBO: It's very minimal in turns
3 of any change that you've seen. I mean maybe one
4 purse, you know maybe it going from 40 to 49 in a 30
5 year period is incremental.

6 CHARISE TERRY: Right.

7 CHAIR CUMBO: But it's... it's... it's so
8 minuscule that it's not even really worth even
9 mentioning in a way. We can basically just say
10 there's been no change. So these finding are coming
11 back but there not coming back in a way that is
12 moving the number at a higher rate in order to let
13 more woman in. Can you talk about why maybe
14 something like the NYPD has been able to celebrate a
15 growth of sorts although they also too have a lot of
16 work to do but is there any way that you can explain
17 in your oversight and your audit what has been the
18 change there?

19 CHARISE TERRY: I would think that would
20 something, that would be something that the NYPD can
21 specifically speak to but I can say this in terms of
22 the FDNY the changes that we've recommended over the
23 years vary from providing physical... physical training
24 year round to candidates, I've read some of the
25 former FDNY audits even after, even though at that

2 time I wasn't at the agency but it's been providing
3 physical training year round to candidates, it's been
4 looking at, ok, right and right that's the second one
5 and increasing recruitment efforts. I've read
6 (inaudible) audits that have talked about you know
7 issues such as no but giving additional days to
8 recruiters and you know flexible hours to recruiters
9 and things like that and I can say there may be no
10 perfect you know rule but there are different
11 recommendation that the EEPC has given based on the
12 audits that I've read about the FDNY. So although it
13 may be incremental the EEPC continues to work with
14 any agency that may have deficiencies.

15 CHAIR CUMBO: Can you speak more
16 specifically about what those sort of recommendations
17 would have been?

18 CHARISE TERRY: I would have to review
19 the audits but based on the... the audit that I just or
20 the... the recommendation that I just read, I can read
21 the most current recommendation that I think physical
22 testing falls under and that we have corrective
23 action that say's if women are minorities are on
24 other protected groups are underrepresented in Civil
25 Service titles review the competencies skills and

2 abilities required as presented in job vacancy notice
3 and notices of exams for available position to ensure
4 that these standards are updated job related and
5 required by business necessity. This includes
6 working with DCAS as a Civil Service Commission if
7 applicable. Then advertise in minority or female
8 oriented publications, contact organization serving
9 women, minorities or other protected groups,
10 participate in career fairs or open houses and use
11 internship to attract interested persons and develop
12 and hire interested or qualified candidates. That's
13 a corrective action that the EEPC would give to an
14 agency with deficiencies and then we work with them
15 over the next six months to actually see what they've
16 done in terms of working with either the agency
17 that's responsible for administering the testing or
18 developing the testing and also in there recruitment
19 looking at their recruitment resources and figuring
20 out what they're doing in terms of recruitment and so
21 every time we go to the FDNY I'm pretty sure that
22 they've had some corrective action along those lines.
23 But the thing is that if we see that or if the agency
24 can document that they are making progress in they

2 are taking steps to correct the deficiencies then the
3 EEPC takes that as an documentation of efforts.

4 CHAIR CUMBO: I'm sorry to cut you off
5 but what about in the case of the FDNY where
6 recruitment of woman is not happening at a level that
7 is adequate and in the testimony it says; EEPC
8 efforts are to promote gender equality and equal
9 employment opportunity for everyone.

10 CHARISE TERRY: Right.

11 CHAIR CUMBO: So if you see that's not
12 happening and you see that in the agency for whatever
13 reason is not fulfilling that what happens then? Is
14 there a penalty, is there?

15 CHARISE TERRY: That's, so ok, so the
16 section 832 of the New York City Charter has the it's
17 kind of outlines what penalties the EEPC can give
18 which are miniscule. For a Mayoral agency the
19 recourse that the EEPC can take if and we have done
20 certain things with the FDNY, it's public information
21 that I'm pretty sure that you've heard about. If an
22 agency doesn't fulfill our corrective action to our
23 liking then if it's a Mayoral agency the EEPC can
24 write to the Mayor and ask the Mayor to intercede and
25 we have done that in our past and direct the agency

2 to take certain measures and this is what we've done
3 or we may publish a report and publicly state that
4 the agency is deficient and has not corrected the
5 measures that we have recommended. We've done that
6 with the FDNY.

7 CHAIR CUMBO: Ok.

8 CHARISE TERRY: So but according to the
9 Charter that's what the EEPC is limited to. We wish
10 we had more enforcement power but we.. we don't.

11 CHAIR CUMBO: I wanted to ask in terms of
12 the administration you stated that we believe that
13 there will be, there will need to be changes to
14 Intro. 921 as currently drafted. As currently
15 written Intro. 921 would require the commission to
16 audit and evaluate any physical test used by the City
17 agency either for hiring or promotional purposes at
18 least once a year. This bill also provides that in
19 conducting these audits and evaluations the
20 commission shall utilize the services of non-
21 governmental experts where such use would.. would
22 assist such auditing and evaluation in any way. I
23 guess I'm.. I'm confused in that way because when we
24 hear about the numbers of the FDNY, why is it that
25 the administration would take a position that we

2 don't necessarily need to focus energy into resources
3 in that way.

4 BRITNEY SAUNDERS: Oh no... no... no I would
5 certainly wouldn't suggest that we don't need to
6 focus energy and resources. This is a set of issues
7 that are of deep concern to the administration just
8 as they clearly are to the Council and many in the
9 community. I think what I was hoping to suggest
10 through my testimony is just that there are because
11 we're talking about a set of... test that are used
12 across different agencies for different purposes
13 (inaudible) but they're going to be question I think
14 like quality questions that will need to discuss
15 together around you know, you know what is the
16 appropriate frequency of testing you know what are
17 the conditions that your trigger testing should be
18 every year or should it been when a test changes but
19 were very interested in working with you on all these
20 questions but just wanted to suggest that they are
21 other quest, there are other things to consider as we
22 go through this.

23 CHAIR CUMBO: Because it says here Intro.
24 921 and it's current form regardless of whether
25 there... there have been any changes made to the exam,

2 may not be the best use of resources. So for me that
3 translate into it may not be the best use of
4 resources.

5 BRITNEY SAUDNERS: So I guess.

6 CHAIR CUMBO: That's the only, I feel
7 like it clear in that way, and I.

8 BRITNEY SAUNDERS: I, so allow me to
9 clarify a little bit more than.

10 CHAIR CUMBO: Ok.

11 BRITNEY SAUNDERS: So what I wrote was
12 let's see. In addition to testing or evaluating
13 physical test annually is required by Intro. 921 in
14 its current form regardless of whether there been any
15 changes made to the exam may not be the best use of
16 resources. So the thought there was that you know
17 there are options. You could test or you could
18 evaluate or audit the test every year right,
19 regardless if whether there have been any changes in
20 how the test is structured or applied. It may make
21 more sense to audit the test if an agency says hey we
22 now want to change some sort of feature of the exam
23 and to let that be a condition triggering it. I
24 think these were all questions that we should
25 discuss. I'm not suggesting that these are

2 necessarily the you know road blocks to any sort of
3 discussion but I just wanted to volunteer some of the
4 policy questions that I think are relative to this
5 conversation.

6 CHAIR CUMBO: I have a lot more questions
7 but in interest of my colleagues time because I know
8 they have other hearing to attend, I'll turn it back
9 to Chair Mealy.

10 CHAIR MEALY: Thank you, we still have a
11 lot of questions to clear up. My colleague Elizabeth
12 Crowley she has questions.

13 COUNCIL MEMBER CROWLEY: Ok thank you to
14 both our Chair's, this is a very important hearing.
15 I want to follow up on some question that Council
16 Member Cumbo was asking about the Mayor's
17 representative Ms. Saunders, Saunders. So you so
18 Council Member Cumbo re-read some of what you said in
19 you (inaudible) of your testimony and so you believe
20 that even if an exam is changed that there should not
21 be any audit or some way of looking at as whether.

22 BRITNEY SAUNDERS: I was saying the
23 opposite actually which is.

24 COUNCIL MEMBER CROWLEY: Ok.

2 BRITNEY SAUNDERS: Which is that if there
3 is a change in exam that might be conditions in which
4 we all say oh certainly let's look at what that
5 change is and what the implications would be but if
6 there's is no change from year to year, there's a
7 question as... as to whether should be evaluated every
8 year. But again these are, I pose them as questions
9 and it's things that I think were eager to work with
10 the Council on.

11 COUNCIL MEMBER CROWLEY: Gotcha. How
12 many civil service titles require a physical test?

13 BRITNEY SAUNDERS: So as to kind of like
14 the you know what test are used by which agencies and
15 how those test are applied, that's something that I
16 think we would want to engage in more conversation
17 with you about.

18 COUNCIL MEMBER CROWLEY: No but the... the
19 hearing is about physical test and if we're hearing a
20 bill about whether we should be auditing this
21 physical test, the administration should come to us
22 with a list of how many physical test are performed
23 for the various different civil service titles in
24 order for us to know whether you have it within your
25 agency or whether EEPCC has it within their ability to

2 audit annually or not or whether we need to put aside
3 additional funds to figure out what the financial
4 cost of these types of audits are. But you don't
5 have, you're not prepared with any list.

6 BRITNEY SAUNDERS: So that is information
7 that were happy provide for you but at this
8 particular or for this particular hearing the agency
9 themselves were not invited so we were focused on
10 trying provide some information about the
11 administration commitment around equity. I'm here as
12 a representative of the Counsels office which does
13 our...

14 COUNCIL MEMBER CROWLEY: Right... right and
15 I'm not, I'm really surprised by the administrations
16 testimony because it really doesn't demonstrate any
17 commitment. I mean you... you first talk about the
18 young men's initiative. What has the young men's
19 initiative done to address in equity?

20 BRITNEY SAUNDERS: Well the young men's
21 initiative, so I started that testimony by talking
22 about.

23 COUNCIL MEMBER CROWLEY: Unemployment.

24 BRITNEY SAUNDERS: I started testimony by
25 talking about the administration commitment to equity

2 broadly and then I transitions to gender so that the
3 young man's initiative looks at disparities between
4 outcomes for young men of color versus other
5 communities in the City. But then you'll see under
6 that, that there's a serious of initiative that I
7 point to including the commission on gender equity
8 which we recently launched which are post focused
9 specifically on gender equity and that's a group of.

10 COUNCIL MEMBER CROWLEY: Right I know the
11 group was recently launched and members were named
12 but I don't know that they've done anything and... and
13 even when you reference the office of that you have
14 to combat domestic violence, while these are all good
15 things they don't have anything to do with equality
16 in workforce in the City ranks as it relates to test
17 that are physical to enter into the various different
18 civil service titles. Your testimony says nothing
19 about what the Mayor has done in regards to what the
20 hearing is specific.

21 BRITNEY SAUNDERS: So I can speak to some
22 of the efforts that are being made by different
23 agencies where physical testing is applied to
24 increase... increase better outcome for wom... or improve

2 outcomes for women, I'm happy to do that so for
3 example.

4 COUNCIL MEMBER CROWLEY: I know but just
5 in terms of being prepared even when Council Member
6 Cumbo referred to the Fire Department and she listed
7 the number of female Firefighters, of course she was
8 speaking of female Firefighters I mean.

9 BRITNEY SAUNDERS: But I'm not that, I'm
10 sorry that was a question for EEPC, I'm not, I mean
11 I'm happy to respond now about fire but that's not
12 something I was speaking to earlier, just want to
13 clarify.

14 COUNCIL MEMBER CROWLEY: But here we have
15 an agency that is not, it's... it's not part of the
16 Mayor's administration it's independent but it's
17 funded by the City that is supposed to audit every
18 four years various different City agencies and to
19 make sure that there not discriminating against women
20 or people of color or there just not discriminating,
21 discrimination happening and the representative here
22 today was not familiar with the lack of diversity
23 within the ranks of the Fire Department. We're
24 having a test, were having a hearing on the testing
25

2 requirement and that's the biggest hurdle in order
3 for.

4 BRITNEY SAUNDERS: Ok.

5 COUNCIL MEMBER CROWLEY: Women to pass in
6 order to become a.

7 CHARISE TERRY: I'd like to just, I mean
8 if I can, Charise Terry from the EEPC. We get
9 workforce numbers from... from the City every quarter
10 and the workforce numbers change. We may not be
11 auditing the Fire Department at that time and so we
12 may not be looking specifically at the workforce
13 numbers for the Fire Department at this particular
14 time I want to say. At the time of an audit we may
15 be looking at that so for me to be like

16 COUNCIL MEMBER CROWLEY: At this.

17 CHARISE TERRY: Ready with the workforce
18 numbers for the Fire Department.

19 COUNCIL MEMBER CROWLEY: I get you, I
20 understand you know you don't need to know exactly
21 what number but.

22 CHAIR MEALY: But it's important that did
23 know the number.

24 [Crosstalk]

2 CHAIR MEALY: That's why we're having
3 this hearing.

4 CHARISE TERRY: You're correct but I just
5 want to say this.

6 CHAIR MEALY: And if feel a lot peop..
7 well it's almost unprepared for this hearing. I
8 almost feel that we should have another hearing and
9 ya'll come back with, I mean concrete information.
10 This is very important cause women have not been
11 promoted and the main thing we talking about is the
12 Firefighter women and it seem like we talking
13 different languages here.

14 BRITNEY SAUNDERS: Well we were just, I
15 just asked for the clarification on where because the
16 you guys said the Fire Department and it's different,
17 there's different titles.

18 COUNCIL MEMBER CROWLEY: Right but the
19 vast majority of employees who work for the Fire
20 Department are Firefighters. We have over 10,000 of
21 them and of which that many we have only 49 are
22 women. If you go to EMS you do have a better
23 majority of the workforce or a better percentage of
24 the workforce that are female or people of color but
25 when it comes to the Firefighters (inaudible) I

2 didn't finish my line of questions. Council Member
3 Mealy is absolutely right when she said you were not
4 prepared today for the testimony that we were
5 expecting to get, however, whether you know that
6 there's 45 or 49 there far too few it's not just a
7 Fire, not just a Fire Department it's the Department
8 of Sanitation as well they only have about 150 female
9 sanitation workers and Council Member Cumbo referred
10 to them in their test and their physical test is
11 known as the superman's test so you know in addition
12 to the testing there's obstacles in the workplace,
13 number of bathrooms both for sanitation for
14 sanitation officers as well as firefighters but these
15 you should know because you should be on top of them.
16 I believe your agency should be on top of certainly
17 the EEPC should be on top of the progress or the lack
18 there is of progress year in and year out and you
19 should know who the quote unquote the bad actors are
20 within the agencies that just are not reaching real
21 diversity numbers. It's one thing to not reflect the
22 diversity of the City and then it's another thing to
23 reflect a lack of any diversity.

24 CHARISE TERRY: So can I just say this.

25 In my testimony I actually give recommendations for

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2 how we can be better prepared. Were an agency of 12
3 people, we have four analysts, only four we have 140
4 agencies.

5 COUNCIL MEMBER CROWLEY: Do they work
6 full-time? I'm a Council Member.

7 CHARISE TERRY: Yes.

8 COUNCIL MEMBER CROWLEY: I you know I
9 have 150,000 constitutes.

10 CHARISE TERRY: Ok.

11 COUNCIL MEMBER CROWLEY: In addition to a
12 number of hearing that I sit on and the one that I
13 Chair and I happen to know these statistics.

14 CHARISE TERRY: Right, but were doing
15 comprehensive audits of agencies that take months
16 sometimes and in the testimony were actually giving
17 practical ways for how we can get this information
18 which #1, that the result or approval of our audit
19 for this bill would proceed the corresponding exam so
20 that we can have an impact on the exam before it's
21 administered and #2 is that DCAS provide the relevant
22 agencies that have these physical test and the titles
23 that they come in and that would put us on alert
24 instead of waiting until an audit in a quadrennial
25 cycle or like Britney said and audit, excuse me an

2 exam may not happen every year, it may come out three
3 years from now and then you know we may be looking at
4 the test at times when it's not being administered.
5 But once the test is generated and administ... before
6 they administer the test, if it comes to the EEPCC for
7 the review and evaluation, that would have some
8 impact on whether or not you know that test has an
9 adverse impact and also we would be able to approve
10 whether or not the test has been validated.

11 BRITNEY SAUNDERS: So I'd also like to
12 just say for the record and speak to, well one that
13 we are eager to continue this conversation, we want
14 to have this conversation with the Council. We are
15 not pleased, we are very committed to making sure
16 that we have a City workforce that better reflects
17 the people of the City itself. So we look forward to
18 having that conversation, we want to connect around
19 that stuff. I also want to say that I can speak a
20 little bit to some of the... the efforts that are
21 already underway to kind of result in better numbers
22 with respect to women at some of these agencies; so
23 for example in advance of the next round of Fire
24 Department testing in 2017 the FDNY has launched a
25 really strong push at recruitment. They've been

2 connecting with stakeholders, community groups and
3 women's group, they've been doing you know online and
4 traditional advertising. They have been you know
5 going to new events and trying to really connect more
6 broadly. I don't think anyone has really pleased
7 with were things currently stand. I know that we are
8 deeply committed to making them better. I'll also
9 say that you know that similarly I know that NYPD has
10 some new plans around outreach and recruitment.
11 They've made some strong progress in recent years but
12 again want to do even better, want to make sure
13 there... there are more and more women among their
14 ranks and are actually planning in addition to some
15 of the more traditional outreach methods they plan to
16 go out to communities where they believe they'll be
17 able to have more success finding women recruits and
18 to really do outreach in those communities.
19 Sanitation has done outreach at public universities,
20 at high schools, it's done radio based advertising,
21 it's done paper advertising, all these things all in
22 an effort to increase and improve these numbers. You
23 know we are not at all I think unaware of or
24 insensitive to or uncommitted to changing these
25 things. These are things we are deeply committed to

2 changing and are eager and excited to kind of talk to
3 the Council more about what's being done and what
4 could be done and how to make it happen.

5 COUNCIL MEMBER CROWLEY: To both the Co-
6 Chairs first I want to thank you for having the
7 hearing and for the administration for their
8 testimony and just simply say that this was a narrow
9 focus of a hearing. It was a physical testing and
10 which agencies offer that and whether they should be
11 audited annually or not and certainly in my opinion
12 did not come prepared, thank you.

13 CHAIR MEALY: That's true, I'm just
14 trying to think, you said that ya'll are helping now
15 and you're doing outreach so now after they do all
16 the outreach what is the administration is doing to
17 help women take these test?

18 BRITNEY SAUNDERS: So I mean I think like
19 I said I think the recruitment is the initial you
20 need to find kind of a large pool of candidate so you
21 have more people to trying to move through.

22 CHAIR MEALY: Or making the test more
23 fair.

24 BRITNEY SAUNDERS: I mean I think you
25 know.

2 CHAIR MEALY: That's the core of this
3 hearing.

4 BRITNEY SAUNDERS: Yes and I think the
5 details.

6 CHAIR MEALY: That's the core of this
7 hearing.

8 BRITNEY SAUNDERS: I understand that and.

9 CHAIR MEALY: What is the administration,
10 all right.

11 BRITNEY SAUNDERS: I understand that and
12 the details of each particular test and what might be
13 done in each particular case is something I think
14 we're happy to have a conversation with this Council
15 about.

16 CHAIR MEALY: Thank you we definitely
17 have to have more.

18 COUNCIL MEMBER KING: Good morning and no
19 good afternoon. Let me catch up but I want to thank
20 you today ladies for being here. Madam Chair's thank
21 you again for today's hearing. As the only brother
22 sitting up here I'm be real respectful for all my
23 ladies in the room and.

24 CHAIR MEALY: Women's History Month,
25 watch it.

2 COUNCIL MEMBER KING: So I almost feel
3 like when I was in college I had a professor said
4 when you walk into the classroom and you're not
5 prepared for the just test to answer the questions
6 just tell me what you know and I kind of got that
7 feeling today that you just told us what you know but
8 not what you need to do to answer the test. We had a
9 briefing that I spent time reading to catch up on
10 what today's conversation was supposed to be about and
11 everyone's time is really precious so I would really
12 urge in the future that when you come before us in
13 the Council especially Civil Rights Committee, that
14 you get, really know what today's hearing is all
15 about because I was hoping to hear this conversation
16 about the physical activity and unfairness that
17 happens in all the testing. I walk away with nothing
18 today because I didn't hear anything, I'm you know
19 Council Member Crowley laid it out best about and
20 that's all I'm going to say, she laid it out best.
21 And cause I'd really like to know how important is
22 the work that you do when it comes to these audits.
23 Are people responding to your audits? If they're not
24 responding to your audits what is the punishment of
25 them not responding to your audits? Are you really

2 irrelevant or people or dismissing the reports that
3 you do? And for the administration you had question
4 about where 921-A actually has, you have more
5 questions so I would have to ask you what would the
6 administration like to see in 921-A, that 921 that
7 would make it that much more affective that we can
8 possible pass it and implement it? I am I'm... I'm
9 curious, a little baffled of today's conversation but
10 if you could please answer those question for me,
11 thank you.

12 CHARISE TERRY: I can answer question
13 one. The way the EEPCC can become stronger and
14 possible be taken more seriously even though we have
15 a six compliance period, we very often are able to
16 work with the agencies to achieve compliances without
17 whatever our corrective actions are by the end of six
18 months but there has been agencies that have been
19 issued determinations and non-compliance at similar
20 to bill 921 to write into the charter more authority
21 with regards to this commission. So that you know
22 our in, our findings can have greater impact.

23 COUNCIL MEMBER KING: What do you do
24 though if you submit your final report and.

25 [crosstalk]

2 CHARISE TERRY: And the agency is non-
3 compliance.

4 COUNCIL MEMBER KING: It's just still
5 not, yeah what do you do next, what's the next step?

6 CHARISE TERRY: Pursuant to the charters
7 section 832 we issue a report to the Mayor and we ask
8 the Mayor to intercede. We did that in... in... in an
9 instance with the Fire Department. If the agency is
10 a non-Mayoral agency then we make a report public.
11 That's our recourse. It's in the charter. It's in
12 section 832.

13 COUNCIL MEMBER KING: Ok can...

14 BRITNEY SAUNDERS: Sure and I think with
15 respect to your question about what might make the
16 bill like what changes could be made that reflects
17 some of the concerns of the administration with the
18 bill. I mean I think the like one thing that we
19 could consider is kind of looking more, maybe doing
20 a, instead of having one wholesale requirement across
21 any physical test, maybe look more specifically at
22 the conditions under which particular test are given
23 or like or the timing or the schedule for particular
24 test and see if that can align with... with the
25 auditing requirement. So it's like the same point

2 that I was raising before so if a test is given on
3 some like not... not given every year then maybe it
4 makes sense to audit it in alignment with the
5 schedule in which it's actually given versus just
6 doing it every year because.

7 COUNCIL MEMBER KING: Ok well I
8 appreciate that and I would ask when we have the next
9 conversation any suggestion that you have, that it
10 really goes in your testimony as oppose to we have
11 some questions then we have to ask you to explain
12 what you mean by that. It would be nice if we could
13 just read it so we can really be on page because if
14 it's a matter of resource I hear you say you have a
15 staff of 12, 4 or something like that you said you
16 have a very small staff that compiling these orders
17 so how do we as a Council.

18 CHARISE TERRY: It just grew to 12.

19 COUNCIL MEMBER KING: It just, god bless
20 you. To figure out how we as a Council might be of
21 some assistance if there's anything that we can do
22 determining how important that this topic really is
23 for our women and all people who get treated mis-
24 fairly, get treated mis-fairly because of physical,
25 the physical testing and I can't even ask you a

2 question about physical testing because there's
3 nothing to talk about, it's not, you haven't brought
4 any information so I'm going to stop right there and
5 look forward to hearing our next conversation so when
6 I read something I can be a little bit more
7 intelligent and we can have a better dialogue so we
8 can figure out how we can be of some assistance to
9 make sure that if there's any injustice in any of
10 audits that we can help you and stand up, maybe
11 change something the charter give you some more teeth
12 so we can get some stuff done but we won't know it
13 unless you bring us that information so thank you
14 again, Madam Chairs thank you again for today's
15 hearing.

16 CHAIR MEALY: Thank you we just have one
17 follow-up question.

18 CHAIR CUMBO: Just wanted to follow up in
19 the legislation it says to audit and evaluate, #5 to
20 audit and evaluate the employment practices and
21 procedures of each City agency and their efforts to
22 ensure fair and effective equal employment
23 opportunity for minority group members and women at
24 least every four years. That's what it traditionally
25 has been right? So when we look at that were clear

2 about whatever we've been doing is not moving the
3 numbers so the thing about, I don't want this
4 legislation to get caught up in just the testing,
5 there is a whole procedure that goes on before you
6 get to the test.

7 CHARISE TERRY: Right.

8 CHAIR CUMBO: And if we just wait until
9 after the test and say what went right and what
10 didn't go right, oh we... we blew it again, let's wait
11 until after the next test four years from now like
12 this... this legislation is designed to make sure that
13 on an annual basis that we are doing all of the
14 things that we need to do in order to have a
15 successful outcome at the end of it. What is the
16 recruitment looking like, how are we reaching out to
17 people, have these benchmarks been served, have they
18 not been served, are we reaching out and going to the
19 specific places where the intended group is residing
20 at or living at or working at currently, are we doing
21 all of those different things, so I don't want it to
22 get caught up solely in the test. The purpose of
23 this is to be able to evaluate on an annual basis so
24 that way were not waiting every four years to see
25 like did we do or didn't we do it because what is

2 happening is that the number hasn't grown at all. So
3 you know I certainly concur with what my colleagues
4 has stated and were going to be hearing some great
5 testimony from the advocates that are here today and
6 I would strongly encourage you to stay for their
7 testimonies because this is a strong education for
8 everyone here and they really understand this because
9 not that their just advocates but they live this.
10 They live having to go into male bathrooms in order
11 to shower. They live having to walk through a male
12 locker room in order to use the facility. They live
13 with the ability of just being a small minority group
14 within a large department where there should be so
15 many more women so that's all I have to say on this
16 and I'll turn it back over to Council Member Mealy.

17 CHAIR MEALY: We want to thank you for
18 your testimony and we're going to have our next panel
19 come up but we would love to really sit down with you
20 later on.

21 CHARISE TERRY: Can I just make a
22 comment. I really agree with, I really don't like
23 the fact that the audits are retrospective, I think
24 that there should be measures in place to... to preempt
25 certain things but the nature of an audit is

2 retrospective and so any information that we would be
3 able to give you would be from the last audit or
4 maybe from the last report that we got in terms of
5 workforce statistics or something of that nature, so
6 I would welcome working with you guys to figure out
7 how we can do it prospectively.

8 CHAIR MEALY: Prospectively looking
9 forward to it and thank you.

10 CHARISE TERRY: Ok, thank you.

11 BRITNEY SAUNDERS: Thank you looking
12 forward to working with you all on this.

13 CHAIR MEALY: Thank you. We're going to
14 have our next panel Elizabeth Holtzman, United Women
15 Firefighters and Sarinya... Sarinya, thank you, United
16 Firefighters and we have Regina Wilson from the
17 Vulcan Society and we've been joined by my colleague
18 Kallos on this Committee.

19 SARINYA SRISAKUL: Good afternoon
20 everyone, thank you for.

21 CHAIR MEALY: Good afternoon.

22 SARINYA SRISAKUL: Thank you for inviting
23 us to testify today. My name is Sarinya Srisakul,
24 I'm the President of the United Women Firefighters.
25 Thank you for inviting me to testify on Intro. #921,

2 a bill to create oversight over New York City's
3 programs for the hiring of women and people of color
4 and specifically to review and audit any physical
5 test used for hiring and promotion of women and
6 minorities. I will comment on issues affecting women
7 firefighter candidates and women probationary
8 firefighters in the New York City Fire Department.
9 Women in the FDNY account for less than .5% of the
10 force, or 49 women out of approximately, I'm sorry
11 out of over 10,000 firefighters and fire officers.
12 New York City has the worst gender disparity of all
13 the major metropolitan cities in the US. With the
14 help of the Council's oversight on FDNY testing,
15 together we can change these horrible statistics.

16 The UWF strongly supports having an
17 independent body that will review the exams used for
18 physical testing in the FDNY. It is our deep belief
19 that two of the existing test, the Functional Skills
20 Training (FST) and the Exit Run discriminate against
21 women and are not valid tests of the physical
22 capacity need to be a good firefighter. Just a point
23 of contention that the FST is currently still being
24 used in Fire Academy, it was just modified slightly
25 since we last spoke. Although the DeBlasio

2 Administration and Commissioner Nigro have expressed
3 concern about past discriminatory practices and have
4 made isolated reforms to improve the FDNY's
5 interaction with women firefighters, the FDNY
6 supported by the Corporation Counsel's Office has
7 adamantly refused to abandon these two test that are
8 invalid and have a plainly adverse effect on women.
9 We hope that an independent body, after taking a
10 fresh look at the test, will force the needed changes
11 that we have been urging for a long time. And
12 another I guess point of process is that our
13 contention here DCAS does not have jurisdiction over
14 these task because it's a task that's being
15 administered while in fire academy when they've
16 already been sworn in as probationary firefighters.
17 DCAS has administration over when their candidates so
18 there's a difference there, so oversight needs to be
19 made throughout the process of women candidates into
20 until they become probationary firefighters and
21 promotion.

22 The first test that we believe is unfair
23 to women and not based on science or validated on a
24 scientific basis is the FST. The FST was originally
25 used as a training tool at the Fire Academy for

2 probationary firefighters. Significantly after the
3 Vulcan society suit that required the hiring of more
4 firefighters of color and the record number of women
5 firefighter candidates, the FST became a test for
6 graduation from the Fire Academy. In other words as
7 diversity of the pool of candidates for the FDNY
8 increased, the FST turned into a testing tool under
9 which probationary firefighters were timed and
10 graded. In 2013 the probationary firefighters were
11 forced to achieve a minimum time on the FST to
12 graduate from the Academy, which adversely affected
13 the very few women in the academy class. Many gender
14 disparity lawsuits in the fire departments across the
15 country suggest that speed to completion test have an
16 adverse impact on women and have little job
17 relevance. It's worth noting the test was developed
18 by an instructor at the Academy. He's not certified
19 in developing test and has no formal training on the
20 subject. Nonetheless this test was used to screen
21 out candidates for graduation. What's worse the test
22 has never been formally invalidated. In 2005 the
23 instructor was removed from Academy and transferred
24 elsewhere.

2 In response to the UWF criticisms of the,
3 of the FST, the FDNY and the Corporation Counsel
4 attempted to validate it. A firm without any
5 expertise in physical testing was hired to oversee
6 the validation process. Not surprisingly it was
7 filled with flaws and rushed. Firefighters,
8 probationary firefighters of I'm sorry, Firefighters
9 were asked in a survey to guess how many seconds it
10 took them to complete various firefighters task
11 instead of objectively measuring the length of the
12 time required through observations in the field. The
13 people who designed and defended the FST were named
14 as subject matter experts. And to top things off
15 even though the validation is supposed to test for
16 skills over the course of a firefighter career, the
17 only people who were used to validate the physical
18 testing were probationary firefighters who had just
19 graduated from the Academy three months earlier.
20 There are pole who had the FST course memorized and
21 had been forced by the instructors to complete the
22 course as quickly as possible. They are also the
23 people with the least experience in the field. Any
24 objective person would recognize that the FS... that
25 the validation process is clearly tainted but for

2 over a year a probationary firefighters including
3 women have lived with this unfair findings.

4 Another example of irrelevant and ivalid
5 testing that the FDNY academy engages in is the
6 requirement to run a mile and a half under 12 minutes
7 in order to graduate from the Academy, which by the
8 Corporation Counsel's own admission has no valid
9 reason for being in place. In response to our
10 complaints about this test the FDNY has modified this
11 policy to include a stair alternative. However,
12 probationary firefighters at this stage would have
13 already completed this stair test twice as part of
14 their medicals and as part of any entry run right
15 before they start academy. There is no valid reason
16 to do this test a third time, except to create
17 barriers to entry into the department. What more
18 once probationary firefighters finish their final FST
19 exam and run in the Academy they will no longer be
20 tested ever again roving that these measures are not
21 necessary to demonstrate needed firefighting skills
22 and suggest that they were created just to keep women
23 and diversity out of the Fire Department. The United
24 Women Firefighters can list many examples of why
25 independent oversight for testing in the FDNY is

2 critical. Physical fitness and job experts need to
3 be relied on instead of home grown irrelevant and
4 illegal tests. The FDNY needs to base its test on
5 current science and the law to ensure fairness and
6 erase barriers for all firefighter candidates
7 including women, thank you.

8 CHAIR MEALY: Thank you my colleague
9 Elizabeth Crowley have a question. The Vulcan Society
10 then will have our Elizabeth Holtzman.

11 REGINA WILSON: Good afternoon everyone I
12 would like to thank the Committee on Civil Rights,
13 sorry, I would like to thank the Committee on Civil
14 Rights along with the Committee on Women's Issues for
15 holding a hearing in relation to ensuring fairness in
16 the physical testing, thank you. My name is Regina
17 Wilson, I'm the President of the Vulcan Society of
18 the Fire Department of New York. Throughout the
19 history of the FDNY the employment process for the
20 title of firefighter has always proved difficult for
21 people of color. We are happy that you are taking a
22 look into the fairness of physical testing. In the
23 past the Vulcan Society has uncovered the desperate
24 impact in the written test for the title of
25 firefighter affecting African Americans and

2 Hispanics. These findings unfortunately resulted in
3 a lawsuit because the FDNY and the City would not
4 take the appropriate actions to right the wrongs in
5 there testing practices which affected so many of New
6 York City residence. It's my great hope that this
7 hearing will fix the next phase of issues which are a
8 problem in the physical training. As the Fire
9 Department begins it's hiring under Courts
10 supervision the Vulcan Society again were monitoring
11 the process. We observed patterns of discrimination
12 in the physical and medical examination results. Our
13 organization noted a pattern of people of color being
14 eliminated from the department physical and medical
15 examinations. The number of the department showing
16 that African Americans would disqualify at a higher
17 rate than whites. 30% of blacks failed as compared
18 to only 12% of whites. The Stairamill (sp) which of
19 course has not been validated eliminate a large
20 portion of the candidate. This test has
21 cardiovascular health which has an adverse impact on
22 blacks. Candidate who pass this CPAC and a criminal
23 background check are then given a series of medical
24 exams including the stair climbing test, which
25 measures the candidates aerobic fitness. Candidate

2 are placed on a stair mill wearing a heart rate
3 monitor and a 50 pound weighted vest, they climb the
4 stairs at a rate of 59 steps per minute for 5 minutes
5 and 12 seconds. But they are disqualified if there
6 heart rates are above a certain heart, a heart, above
7 a certain heart rate. The Department uses an formal
8 which has been used, has not been used for decades
9 and many medical experts believe to be irrelevant. If
10 their heart rate reaches the numbers before they get
11 on the stair master they are not allowed to continue
12 with the test. Candidate who fail are permitted to
13 retest after four weeks. If they fail at that point
14 they are permitted to precede of they can stay on the
15 stairmill for eight minutes at 59 steps per minute
16 without regard of the heart rate but subjects to
17 subjective assessment of the medical profession of
18 this level of excursion. If their heart rate reaches
19 this before they get on the stairmill rate once again
20 they are not allowed. They are failed, they, those
21 who fail are permitted to retest but they can stay on
22 the stairmill for 8 minutes and 59 minutes without
23 regards to the heart rate but are subjected to people
24 coming in and being able to say well you look to
25 tired or you know your appearance seems like you

2 won't be able to do it anymore so, there is unfair
3 treatment in that, in that sense as well. We are
4 also questioning the legitimacy of required interest
5 in exit run for probationary firefighter school.
6 When receiving the notice of examination which gives
7 the candidate the description of the steps necessary
8 to become a firefighter, no mention is made of the
9 need to complete and entrance or exit run. The
10 candidate are not made aware of the run until two
11 weeks prior to the entrance of probationary
12 firefighter school. If the candidate does not pass
13 the run they will be tested again on the stairmill
14 that they passed previously with the medical. When
15 questioning the department on the validity of the,
16 the invalidated run, there excuse is the time between
17 the medical and Probie (sp) school is so far apart
18 that they have to retest to make sure the candidate
19 still have cardiovascular fitness. The candidate is
20 tested with their physical level through CPAC and the
21 medical to prove their physical fitness levels so we
22 question why do they have to keep taking these test
23 that they created in the front and also as well as in
24 the back if you already told us in the notice of
25 examination that this is what we have to do in order

2 to become firefighters. Why does the department
3 still find the need to create more testing and
4 additional hurdles? In regards to the exit run, the
5 department is still testing for cardiovascular
6 endurance even after 18 weeks of training. The
7 probationary firefighters are asked to complete the
8 run in 12 minutes now instead 13 when they get in.
9 So once again we question their level of training if
10 we've been in Probie (sp) school for 18 weeks and
11 you're supposed to get a swab peak conditioning, why
12 do we now have to test again to get out. So were
13 questioning a lot of these man made testing that have
14 had desperate impact on women as well as African
15 Americans and we would like you to be able to take a
16 look at it and see what it is that can be done. In
17 no way shape or form does my organization or the UWF
18 would like to lower any standards but you have to
19 realize that testing has been done unfairly for so
20 many years that sometimes the people that have had
21 these testing think that it's the right testing to do
22 when it never has been a historically has had an
23 impact on women and people of color. So we would
24 like you to really take a look at it and finally find

2 the real remedy of fairness for the citizens of New
3 York.

4 CHAIR MEALY: Thank you our Shero. And I
5 hope do you have a copy of your testimony?

6 ELIZABETH HOLTZMAN: Chair Mealy I
7 actually hadn't prepared testimony because I was
8 going to be just here to support.

9 CHAIR MEALY: Support.

10 ELIZABETH HOLTZMAN: My... my wonderful
11 clients of UWF but in light of the Chair statement
12 and the other statements made by the members of the
13 Committee I just would like to say a couple of words
14 here. First I want to congratulate you, Chair Mealy
15 and you Chair Cumbo for your leadership and
16 understanding that changes will not come about unless
17 there are institutional changes forcing that change.
18 I mean I think Council Member Crowley put her finger
19 on it. 40 years have gone by, what has happened?
20 Whatever institutions we've had in the City, whether
21 it's the Human Rights Commission, whether it's the
22 Equal Employment Commission, whether it's the Mayor's
23 office very little has changed and the only changes
24 come about basically for two reason, #1 there was a
25 lawsuit so the Federal Courts had to intervene and

2 the Justice Department but that's only with respect
3 to minorities and secondly a number of member of the
4 City Council have raised their voices along with the
5 United Women Firefighters and that's brought some
6 attention to resolving some of these problems but
7 without that and without your efforts nothing will
8 happen and if we just go along and we get suggestions
9 from the Mayor's office nothing is going to happen.
10 I was very surprised frankly to hear that the Mayor's
11 office citing it's work with the UN. Well it's very
12 fine and good for the City of New York to be
13 concerned about the problem all over the world but
14 what about starting right here at home. This is the
15 most disgraceful problem in the City of New York in
16 terms of discrimination. So we really need not just
17 we want to work with you from the Mayoral agencies or
18 these independent agencies, that's not good enough,
19 not after 40 years it's not good enough. People have
20 to come here with a plan of action and you need to
21 demand it and I know that's what you're going to do
22 so that's what I have to say today in support of my
23 clients.

24 REGINA WILSON: And can I make one more
25 comment, I just want to thank you really just for the

2 foresight to be able to do this because just sitting
3 here listening to some of the testimony. For an
4 agency to know about the problems because we've been
5 in the papers for many... many years about some of the
6 issues that we've had and were still been having
7 still fighting thorough but for them to not take
8 notice of... of this agency and how badly they have
9 been doing a job with just hiring women and... and
10 since we've started women have been on the job since
11 the early 80s for us to only be 49 when they started
12 41 and the City of representatives here act like they
13 didn't know what was going on all of this was new
14 until you guys decided to have this hearing is very
15 disturbing to me, so I think a more concerted effort
16 probably would have prevented a lawsuit if they would
17 have done their job more effectively.

18 CHAIR MEALY: And congratulation on that
19 big, big, big, big lawsuit.

20 REGINA WILSON: Oh thank you.

21 CHAIR MEALY: Millions of dollars, so my
22 colleague Elizabeth Crowley and then Mr. Kallos would
23 have some questions.

24 COUNCIL MEMBER CROWLEY: Thank you again
25 to both our Co-Chairs. Now Regina or Sarinya are

2 either of you familiar with the Equal Employment
3 Practices Commission?

4 SARINYA SRISAKUL: No.

5 REGINA WILSON: No.

6 COUNCIL MEMBER CROWLEY: So how long have
7 each of you been a firefighter?

8 SARINYA SRISAKUL: I'll have 11 years
9 next month.

10 REGINA WILSON: 17 years.

11 COUNCIL MEMBER CROWLEY: So now the
12 federal monitor does that audit training programs?
13 The current federal monitor that's overseeing
14 diversity, have they had any role in the training?

15 REGINA WILSON: Well as far there more
16 focused on the training portion when it goes with the
17 medical and it also goes into the entrance and the
18 expert runs so there limited to dealing over the
19 process of EEO, candidate investigations, recruitment
20 and... and there's one more aspect that they oversee
21 so.

22 [crosstalk]

23 CHAIR MEALY: In reference to.

24 REGINA WILSON: Candidate investigations.
25 So in reference to anything that happens at Randall's

2 Island or anything like that I'm trying to force that
3 in but really it's not underneath of the Court order
4 but I'm trying to make references so that we can be
5 able to still do, get something done in reference to
6 that as well.

7 COUNCIL MEMBER CROWLEY: So the Vulcan
8 Society has.

9 REGINA WILSON: The Vulcan Society yes.

10 COUNCIL MEMBER CROWLEY: Has let the
11 Federal monitor know that they need to follow through
12 enduring because your losing to many minorities in
13 the training program.

14 REGINA WILLIAMS: Absolutely, absolutely
15 and we've been working with the city to try and make
16 some significate changes especially when it comes to
17 the stairmill training and we've also been having
18 problems with pulmonary testing as well and we've,
19 I've also jointly tried to bring in the UWF in some
20 of my meeting just to make sure that they have a
21 rounded picture of what's going on and there focused
22 in on more of a people of color but I'm trying to let
23 them see that the women's issue and the overall
24 process of it is all floored.

2 COUNCIL MEMBER CROWLEY: I give you both
3 a lot of credit for your own experiences for becoming
4 female firefighters. Women in the Fire Department I
5 know that, I could only imagine the difficult road
6 that you've traveled and for being leaders in your
7 respective field. Thank you for... for being here and
8 for testifying. I don't have any other questions.

9 SARINYA SRISAKUL: I just want to have a
10 comment about what the EEPCC testified about the
11 recruitment recommendations. We had over 2,000 women
12 candidates apply for the last firefighter exam and
13 we've only been able to hire 23 of the past three
14 years. So the recruitment and issue here it's we
15 have to find out why these women are falling through
16 the cracks, why there's a greater drop off rate for
17 women compared to men and you know a lot of this has
18 to do with the testing and the environment and the
19 facilities, it's an all-encompassing and if we don't
20 address these things head on the next test that were
21 going to have next year will look the same and that's
22 why the numbers are very stagnant.

23 CHAIR MEALY: And Ms. Wilson you said
24 some of the people are eliminated just by when they

2 come the tester can tell them the way the look, they
3 cannot take the test.

4 REGINA WILSON: Yes we've have
5 (inaudible).

6 CHAIR MEALY: Really.

7 REGINA WILSON: Yes we've had instances
8 where they told them that they looked to fatigue to
9 move on so they were not able to continue their
10 testing on the stairmaster.

11 CHAIR MEALY: Do we have a percentage of
12 how many, I know that's kind of?

13 REGINA WILSON: Yeah I would have to get
14 those numbers for you. But I have a, we have the
15 general number like a said of people who have been
16 eliminated from the medical portion and a large
17 portion of them are from the stairmaster training.
18 So part of the thing that we were trying to do
19 oversight is... is to have a, we have a diversity
20 advocate which was given to us through the lawsuit to
21 come down and look at the testing because you have
22 people on staff who may have bias against women or
23 people with color who can make those determinations
24 upon their own judgement on whether or not that
25 person is a fit candidate so.

2 SARINYA SRISAKUL: And also the person
3 who is administering the test is a light duty
4 firefighter or an EMS worker so it's not any person
5 trained in any capacity to judge whether or not
6 medically speaking a person can continue with the
7 test.

8 CHAIR MEALY: We have to think about that
9 also. Who qualified them to in order to tell them wo
10 can make it and who cannot. That's something needs
11 to be addressed.

12 REGINA WILSON: But before that they have
13 to validate their stairmaster that there putting them
14 on in the first place. It's about validated.

15 CHAIR MEALY: Got you, right, got you.
16 Our colleague Ben Kallos.

17 COUNCIL MEMBER BEN KALLOS: Thank you to
18 Chair Cumbo and Chair Mealy for taking on this issue.
19 Taking it on and taking on and not dropping until we
20 get a positive resolution. I also want to thank Liz
21 Holtzman for working on this issue and not giving up
22 because it shouldn't have taken 40 years but the only
23 reason it's probably still even in the public eye is
24 because you continue to advocate and between your
25 advocacy and the Council's advocacy I'm hoping we can

2 get to the bottom of this, so I guess to open up a
3 lot of what you said is incredibly concerning I just
4 want to apologize for my tardiness we had a, I Chair
5 Governmental Operations which oversees DCAS and I'm
6 committed to this, we actually just had a hearing on
7 improving the Election franchise which just wrapped
8 and then we have a simultaneous hearing of the Courts
9 Committee which I'm also a member so my time here is
10 brief but hopefully will be worth it. In terms of
11 heart rate you're saying that if somebody is in zone
12 4 or 5 or is it a specific heart rate?

13 REGINA WILSON: There's a specific heart
14 rate. They do a type of measurement to gage what your
15 heart rate is according to your age. So that's how
16 they do the... the equations.

17 COUNCIL MEMBER KALLOS: Ok. So I'm an
18 athletic and so general what they'll do is they will
19 compute what your maximum heart rate is for your age
20 and or they using that one or.

21 SARINYA SRISAKUL: They use the formula
22 $220 \text{ minus your age times } 0.9$, which is.

23 COUNCIL MEMBER KALLOS: Right.

24 SARINYA SRISAKUL: Which is very outdated
25 formula.

2 COUNCIL MEMBER KALLOS: And for what it's
3 worth even within physical health and physicians they
4 just say that this number has no bearing in reality
5 so use that and I guess I have serious concern
6 because I'm an athletic, I spend most of my time in
7 zone 5 which means my max heart rate is theoretically
8 180 and the measure of tri-athletic is how long can
9 you spend in zone 5 not do you even go into zone 5,
10 so I guess do you believe that there is a any
11 connection between how heart fast your heart is
12 beating and at the time that you complete a task and
13 whether or not you can complete that task? If your
14 heart is beating a 180 beats per minute when you
15 complete something in four minutes did you still
16 complete it in four minutes?

17 SARINYA SRISAKUL: Well I was just going
18 to say that the formula that the Fire Department uses
19 I don't have the data but I know from speaking to the
20 people who work in that unit that the vast majority
21 of the candidate fail that portion and they have to
22 come back and do the 8 minutes part of their exam so
23 I mean I something like 95 to 98 percent of them fail
24 that. The people who actually are young and that's

2 how the formula is you know written but you want to
3 talk about this.

4 REGINA WILSON: We also had a female
5 firefighter who is well was a track star so she's
6 very, very fit right up until this day she does a
7 lot, still do a lot of physical fitness training and
8 she was almost disqualified because of her heart
9 rate. Because her heart rate was not on the level
10 where they felt that it was supposed to be. Her
11 heart rate was actually lower than what it was
12 supposed be because she was conditioned to be able
13 for her heart rate to be low, so she was not going to
14 get hired and it would have been a discredit to the
15 Fire Department for you know because right now she's
16 an officer. She's the only black female officer in
17 the City of New York as a firefighter, so for them
18 to... to not be able to see the total physicality of a
19 person and just go by this formula and not even take
20 into the race I mean to the consideration of race
21 into it as well and the different make ups of race
22 you know it does a discredit to the, to the people in
23 the City.

24 COUNCIL MEMBER KALLOS: So I guess I for
25 one would be upset if I did a Tri-Athlon and at the

2 end of the Tri-Athlon they said oh you know how you
3 think you finished the Tri-Athlon and finished
4 crossed that finish line well you heart rate spiked
5 at some point and therefore you can't, there taking
6 that away. And then in terms of, I'm an employment
7 lawyer and I believe you the... the interview and
8 qualification has to be related to task so both of
9 you are firefighters?

10 PANEL: Yes (in unison)

11 COUNCIL MEMBER KALLOS: Have you ever had
12 to run 1 ½ miles as part of your job.

13 SARINYA SRISAKUL: Rarely.

14 REGINA WILSON: Absolutely not.

15 COUNCIL MEMBER KALLOS: You've never ever
16 had to run 1 1/2?

17 REGINA WILSON: 17 years never had to run
18 a mile and a half to go anywhere.

19 COUNCIL MEMBER KALLOS: And... and do you
20 know any of your colleagues that have ever had to run
21 a mile and a half as part of their job?

22 SARINYA SRISAKUL: Never.

23 REGINA WILSON: No, and it's not even
24 apart.

2 COUNCIL MEMBER KALLOS: So... so you have
3 fire engine the fire engine take you and your heavy
4 equipment to where you need be.

5 SARINYA SRISAKUL: Absolutely.

6 COUNCIL MEMBER KALLOS: And then in... in
7 have you ever had to run up 472 stairs in 8 minutes?

8 SARINYA SRISAKUL: Absolutely not.

9 REGINA WILSON: No.

10 SARINYA SRISAKUL: I mean it is stair
11 climbing with equipment is a part of the job. It's a
12 big part of the job but it's not times or.

13 REGINA WILSON: They don't say you got 8
14 minutes to get up the stairs.

15 COUNCIL MEMBER KALLOS: How... how tall is
16 472 stairs would you say?

17 SARINYA SRISAKUL: I don't know. I do
18 have to say that during hurricane Sandy I did have to
19 climb a lot of stairs so I think, I mean it is part
20 of our job.

21 COUNCIL MEMBER KALLOS: And when you
22 climbed those stairs is the exigency or is it usually
23 to do rescue to deliver supplies or things like that?

24 REGINA WILSON: It could be a number of
25 things.

2 SARINYA SRISAKUL: It could be number of
3 things. If it's fire during like a power outage you
4 do have to climb those stairs if it's a fire on the
5 top floor.

6 REGINA WILSON: And if there's like if we
7 going and respond and there's a fire on 14th floor
8 and usually will take an elevator and go you know to
9 a floor, two floors below. If those elevators aren't
10 there we have (inaudible) up the stairs.

11 SARINYA SRISAKUL: Yeah it's not unusual.

12 REGINA WILSON: So it's not unusual to do
13 but were not, were not running all the way up 14
14 flights of stairs. You know you have to take into
15 consideration once you get to that fire floor the
16 floor below the fire you're going to now have to
17 perform you job, so we don't want to take away that
18 fact that there is a high level of physicality but we
19 just want to make sure that the requirement that they
20 have you know it... it is the same that we really need
21 in order to do the job. It doesn't, it doesn't mimic
22 it at all.

23 COUNCIL MEMBER KALLOS: Ok so again just
24 to reiterate people aren't running a mile and a half?

25 SARINYA SRISAKUL: No.

2 REGINA WILSON: No, not at all. We
3 don't, we don't have to fight.

4 SARINYA SRISAKUL: And.

5 REGINA WILSON: The engine takes us where
6 we need to go.

7 SARINYA SRISAKUL: And for in terms of
8 FST, there's nothing like that on the job. FST takes
9 a fire scene of many firefighters doing many
10 different tasks and combines it into one obstacle
11 course and one person doing pretty much each task in
12 a fire in succession timed so you know that has no
13 bearing on what we do in the field.

14 REGINA WILSON: And it's, and it's, it's
15 truly unrelated because no incumbent firefighter ever
16 have to run a mile and a half ever again. `

17 SARINYA SRISAKUL: Or do FST.

18 REGINA WILSON: So once, or do FST ever
19 again. So once you get out of probationary
20 firefighter school those (inaudible) physicality's
21 that they have for you in the academy, no longer
22 exist for an incoming firefighter.

23 SARINYA SRISAKUL: Were at other
24 department, Oh I'm sorry. Whereas other department
25 might have to do CPAC every year as some kind of

2 baseline to show that there, that there fit enough to
3 continue with the job. We don't have anything like
4 that in the FDNY.

5 ELIZABETH HOLTZMAN: The one point I
6 wanted to make also of NFST that that my colleagues
7 here have made many times that FST emphasis speed but
8 speed is not always the timing. That is not
9 necessarily the critical factor in fighting a fire.
10 So it's testing sometimes the wrong thing and it
11 trains people not necessarily in the right way so
12 that's one of our real concerns here that the test
13 should be fair, they should be job related, they
14 should be measured properly, they should be based on
15 the latest science. They shouldn't be based on hocus
16 pocus. And the consequences have been one lawsuit by
17 minorities, second 49 women after all these years so
18 there is a problem.

19 COUNCIL MEMBER KALLOS: Thank you very
20 much for the jobs you do and for trying to ensure
21 that every New Yorker can be a hero, thank you.

22 CHAIR MEALY: Thank you and I have one
23 question, do you have a question? You said in your
24 testimony Ms. Wilson that the testers get there and
25

2 they do not know they have to do the mile run? It's
3 not pre-in their qualifications to getting the job?

4 REGINA WILSON: Right, when you are
5 applying for the job they give you a notice of
6 examination and the notice of examination tells you
7 that you're going to do CPAC exam, that you're going
8 to do a computer based test, that you're going to do
9 a medical, that you're going do psychological, you're
10 going to be investigated, you're background is going
11 to be investigated, it lays out the procedures that
12 you need in order to be a trainable candidate. In
13 that notice of examination that you receive that
14 comes from DCAS that is received, it's lays out
15 everything that DCAS said makes you a trainable,
16 viable candidate. So now the Fire Department says
17 well you know we still need to make sure that you're
18 at this level of cardiovascular fitness that's far
19 beyond you know we fill the qualification of CPAC is
20 and we want to make sure that you reach this certain
21 level just to get in, so two weeks prior to them
22 passing everything they have to, they receive this
23 letter in the mail that say; you're required to do a
24 mile and a half in 13 minutes and you have to
25 complete it on this date and then 18 once they get

2 into the academy 18 weeks later the Fire Department
3 says well you know we trained you for 18 weeks, we...
4 we should have done the best that we can to make you
5 a viable candidate but we just gone test you one more
6 time and you going to have to do it in 12 minutes now
7 to make sure that we did our jobs effectively which
8 we should have done for the past 18 weeks to make
9 sure that you're able to get out of here. So it's...
10 it's... it's brining these candidates in... in circles
11 and hoops that they should not be jumping through.

12 CHAIR MEALY: Very unfair. My colleague
13 have the last question.

14 CHAIR CUMBO: Thank you I just want to
15 thank you all because you all show up time and time
16 again to advocate not only for yourselves but of all
17 the women in the FDNY and all of those 2,000 women
18 that also want to become a part of this dynamic
19 agency. And I just want to thank Ms. Terry for
20 remaining, for listening attentively and your
21 colleague I really appreciative you all taking in
22 this information because it is so very important.
23 And I just wanted to add when you came before us Ms.
24 Wilson you spoke so passionately about what's at
25 stake right now in terms of the test that's coming

2 up, the marketing that's going on, can you bring home
3 particularly because this particular hearing is
4 televised, what's at stake here what we're trying to
5 do and how can we better advocate at this moment to
6 have more women know about the process and what
7 happening?

8 REGINA WILSON: Well a lot is a stake and
9 it's always been at stake especially because the Fire
10 Department only hires every four years. So it is
11 important for women and people of color to have this
12 opportunity that year after year has not been given
13 to them so I think the department definitely has to
14 do a better job and unfortunately because of the
15 remedy portion of the courts for the Vulc Society,
16 they are now mandated to give us a certain amount of
17 percentage but what happens to the women candidates
18 that... that have not sued and decided to still have
19 faith in the City and have faith in the Fire
20 Department to continue to not do their job. So it's
21 important for them to have a realistic goals that
22 they can set and go above and beyond and reach out of
23 the box far than what they thought of because their
24 numbers are disgraceful and they set a bad trend
25 across the country but the Fire Department has the

2 opportunity because the Fire Department is a brand,
3 it has the opportunity to not only change the face of
4 the Fire Department in New York but they can set the
5 trend for the Country.

6 CHAIR CUMBO: That's right.

7 REGINA WILSON: Because everyone follows
8 what the Fire Department does. They come from states
9 all around the United State to come to use for
10 training so what better to have this department who
11 have such a great reputation so the right things for
12 the citizens of New York and allow them an
13 opportunity to become one of New York's bravest and
14 especially women because our numbers are deplorable,
15 it is no reason after more than 30 plus years we only
16 have 8 additional women, it is disgraceful, so we
17 really want to try and make sure we've been sitting
18 down with them for many, many years to try and get
19 this thing done and we are at the point now where we
20 have to take it somewhat to the street in order to
21 get these needs met, so there's an effort that is
22 being made by... by the Commissioner that has been
23 done, not have been done in the past administration
24 and we applaud him for work that he's doing but
25 there's so much more work to be done and in this next

2 recruitment year more has to be done and more has to
3 be, they have to be a lot more passionate about
4 trying to correct these wrongs.

5 CHAIR CUMBO: Well I just want to
6 conclude by saying there are too many dynamics women
7 in this room right now for us not to be able to move
8 this forward so I feel very passionate, this has been
9 an eye opening experience for me. It lets us know
10 how much more work we need to do. It needs to let us
11 know how much more we need to partner and really
12 understand how do we peel back the layers and really
13 hone in on getting to the bottom of what's preventing
14 so many women and putting the necessary resources,
15 changing policy and procedures and making sure that
16 this entire process is going to seek and recruit and
17 hire the most qualified and trained individuals so
18 that the FDNY is reflective of the City of New York.
19 So thank you all so much.

20 SARINYA SRISAKUL: I just want to one
21 more comment about although the current
22 administration has done a lot to improve our
23 relationship, were looking towards the future when we
24 don't have a progressive Commissioner or
25 administration and how important that we don't go

2 backwards in the work that were doing today and in
3 response to the Mayor's offices on testimony about
4 doing oversight only when we have testing. This
5 isn't an issue of just when the candidates come
6 through the door or once we have a test once every
7 four years. This is, this is a yearly issue because
8 we have fire academy test that crop up and candidates
9 that constantly tested year after year and so the
10 oversight does have to you know we do have to put
11 pressure on the Fire Department, constant pressure.
12 It can't just be once every four years where you know
13 this committee looks over what the Fire Department
14 does and has a really stern warning at the end of the
15 four years, you know real work needs to be done here
16 and you know a real commitment to diversity and you
17 know just as another comment about the Fire
18 Department is that we really don't reflect the City
19 that we serve and every time I come to work it's not
20 New York City it's Rockland County or Long Island and
21 we really need to change that.

22 CHAIR MEALY: Thank you.

23 CHAIR CUMBO: Thank you.

24 CHAIR MEALY: I'm looking forward and we
25 do have our first Vulcan Society President a woman.

2 So that, we've... we've but we need to do much, much
3 more. And once someone said the Commissioner is he's
4 kind of progressive and I must say I said it on the
5 record before I said he's been the first one so far
6 that started making changes. So dare the
7 Commissioner Daniel Nigro, I think, he's, I said were
8 going to give you a chance so I hope he takes that to
9 heed and do something drastic because we need it and
10 I want to thank everyone for coming to this hearing.
11 It was very progressive and eye opening also and this
12 Committee on Civil Rights is adjourned.

13 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 22, 2016