

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CIVIL SERVICE AND LABOR

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December 14, 2009
Start: 1:30pm
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HELD AT: Council Chambers
City Hall

B E F O R E:
MICHAEL C. NELSON
Chairperson

COUNCIL MEMBERS:
Charles Barron
Leroy G. Comrie, Jr.
James F. Gennaro
Melissa Mark-Viverito
Rodriguez

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

Eileen Lease
General Counsel
New York City Department of Citywide Administrative
Services

Anjana Samant
Staff Attorney
Center for Constitutional Rights

Debra Martinez
President
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James Tempro
Representing James Boyle, President
United Firefighters Association

Regina Wilson
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Paul Washington

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George Diaz
President
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Casey Clayton
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Mike Gimble
Representing Claude Forte, President
Local 375, DC37 AFSME

Serigna Srissical
Secretary
United Women Firefighters

CHAIRPERSON NELSON: Hi, again.

Okay. I'm Council Member Mike Nelson and I chair the Committee on Civil Service and Labor. Today the Committee will be holding a hearing on proposed Intro number 1093-A, a local law to amend the administrative code of the City of New York in relation to firefighter applicants who have completed high school in the city. Welcome and thank you for attending this hearing.

New York City firefighters play an important role in keeping the citizenry of New York safe. In 2009, approximately 1,600 people saved or rescued by firefighters from burning buildings, 1,200 from the utility related emergencies and 1,800 at vehicle related accidents in the city.

In 2006, the last time the firefighter examination was held, almost 30,000 people registered to take the exam. Proposed Intro number 1093-A would provide firefighter applicants extra credits on the firefighter examination if they received a high school diploma or a general education development credential from a New York City school or testing center. This

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2 legislation is meant to encourage a more diverse
3 pool of applicants become New York City
4 firefighters.

5 Today we've been joined by Council
6 Member Leroy Comrie, the chief sponsor of the
7 intro. I will now like to allow Council Member
8 Comrie to say a few words.

9 COUNCIL MEMBER COMRIE: Thank you,
10 Mr. Chair. I'm proud today to be the prime
11 sponsor of this resolution; it was brought to me
12 by The Vulcan Society and firefighters around the
13 city and individuals around the city that are
14 interested in increasing the level of diversity
15 within the Fire Department. It's clear and it's
16 unambiguous that there's been a problem with the
17 lack of diversity within the Fire Department of
18 New York. Clearly there have been court cases
19 that have shown that the New York City competitive
20 firefighter exam was designed in a way that
21 inadvertently discriminated against minority
22 groups.

23 Often the information needed to
24 perform well on the exam had no relation to the
25 job expected to be performed in the field. While

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2 the rates of applicants have gone up from 2002 to
3 2006, the rates in minorities that have passed the
4 exam have gone up from 2002 to 2006, they're still
5 less than 40% of the total applicant pool.

6 This legislation, which is a
7 diversity bill, will create an opportunity for
8 young people to have something to aspire to, for
9 young people that are attending our city schools
10 that are already struggling to be competitive with
11 the other schools around the Tri-state area. But
12 New York City is still not competitive with yet to
13 make sure that we still have an opportunity for
14 young people to have something to aspire to,
15 something to perform for.

16 I think we've clearly increased the
17 pool of applicants, clearly increased the
18 opportunities for young people to have something
19 to be excited about so that they could focus on
20 graduating from high school. Clearly create an
21 opportunity for diversity, especially in the most
22 diverse city of the year, of the world; not just
23 the city but the world. To make sure that we have
24 an applicant pool that is truly diverse and
25 reflective of the city.

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2 Also, to make sure that these
3 children that are trying to get a job, that are
4 trying to come out of an educational system that
5 is not truly taking care of all their needs but
6 have something to give them some hope. I think
7 that this diversity request in Intro 1093 to give
8 them an eight point credit, the applicants who
9 graduated from an inner city high school would be
10 a clear and distinct message sent from this city
11 that we want to help our children.

12 It would be a clear and distinct
13 message sent from our city that we want to make
14 sure that people that are New York City residents
15 have an extra opportunity to do well at city jobs.
16 Especially now and since the city is eliminating
17 residency as a requirement, we need to make sure
18 that our city residents that are struggling to
19 live in this city, struggling to get to the next
20 level of civil service, struggling to create
21 opportunities for themselves, have a real
22 opportunity.

23 I'm glad that we're having this
24 hearing today. I hope that we have an open and
25 frank discussion about all of the things that we

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2 need to do to make sure that our young people get
3 a real opportunity to move ahead. Thank you, Mr.
4 Chair.

5 CHAIRPERSON NELSON: Thank you
6 Council Member Comrie. Any questions before,
7 anything before I introduce the panel. I do want
8 to introduce Council Member Rodriguez, thank you
9 for joining us. And I suppose we'll go right to
10 the testimony. I guess Ms. Lease if you were
11 going to be the first.

12 EILEEN LEASE: Thank you, yes.

13 CHAIRPERSON NELSON: Thank you.

14 MS. LEASE: Good afternoon Chair
15 Nelson and other members of the Council who are
16 here today. I am Eileen Lease, General Counsel
17 for the New York City Department of Citywide
18 Administrative Services, most commonly known as
19 DCAS. I am joined today by my colleagues, James
20 Hine, our Deputy Commissioner for Citywide
21 Personnel Services and Mitchell Polusack, who is
22 the Deputy General Counsel for Personnel Matters.
23 On behalf of Commissioner Martha Kayhurst, I would
24 like to thank you for this opportunity to discuss
25 Intro 1093-A, in relation to firefighter

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2 applicants who have completed high school in New
3 York City.

4 Based upon the legal reasoning
5 discussed in detail below, DCAS opposes Intro
6 1093-A. The New York State civil service law
7 governs the employment of all individuals in
8 public service in the state of New York.

9 According to the civil service law, the local
10 administration of civil services laws I entrusted
11 to local commissions, termed municipal civil
12 service commissions.

13 The Charter of the City of New York
14 in turn, provides that the Commissioner of DCAS
15 shall have the powers and duties of a municipal
16 civil service commission under the civil service
17 law. Among these powers and duties is the
18 responsibility to determine the relative merit and
19 fitness of candidates vying for competitive class
20 positions.

21 Specifically, sub section 1 of
22 section 50 of the civil service law provides that
23 the merit and fitness of applicants for positions,
24 which are classified in the competitive class
25 shall be ascertained by such examinations as may

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2 be prescribed by the municipal commission having
3 jurisdiction. It is therefore the statutory
4 responsibility of DCAS as municipal civil service
5 commission to determine how to evaluate the
6 relative merit and fitness of candidates.

7 That these responsibilities
8 properly lie within the jurisdiction of a
9 locality's municipal civil service commission is
10 well settled by the courts 80 years ago. In a
11 case entitled matter of Kilcoin vs. Lore, the
12 highest court of the state affirmed a holding by
13 the Appellate Division that a local legislative
14 body does not, for example, have the power to
15 classify civil service positions and that such
16 power rests with the municipal civil service
17 commission of a locality.

18 It is perhaps important at this
19 juncture to note two fundamental concepts. First,
20 it is incorrect to consider the written test
21 component of any examination to be the entire
22 examination itself. The examination is, in fact,
23 the entire evaluation process whereby DCS
24 determines a candidate's relative merit and
25 fitness. This includes not only the written test

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2 but also any practical or physical test as well as
3 the incorporation of scores or points for
4 seniority and awards, where applicable. The
5 incorporation of these components does not occur
6 after the examination or evaluation process but
7 rather it is very much a part of that process.

8 Second, in addition to determining
9 whether an individual is qualified for a position,
10 it is the statutory responsibility of DCAS as the
11 municipal civil service commission to determine
12 relative merit and fitness. Consequently, the
13 evaluation process for competitive class titles,
14 can not result in simply a list of passers and
15 failers. We are Constitutionally obligated to
16 produce a rank ordered eligible list, which
17 reflects the relative merit and fitness of all
18 candidates. It is from this eligible list, which
19 appointments must be made in rank order.

20 If w put these two fundamental
21 concepts together, the necessary conclusion is
22 that every factor considered in the examination
23 process that affects an individual's place on an
24 eligible list must, in order to comport with the
25 Constitutional mandate, be reflective of the

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2 individual's merit and fitness as compared against
3 his or her fellow candidates. This is true with
4 respect to the examinations developed and
5 administered by DCAS for competitive class titles.

6 One exception to this mandate bears
7 noting and actually illustrates the over arching
8 significance of this mandate. Our examinations
9 include a credit for veterans and disabled
10 veterans. These credit appear on the examinations
11 not because a determination has been made by DCAS
12 or by anyone else that an individual's status as
13 either a veteran or disabled veteran is related to
14 that individual's relative merit or fitness.
15 Rather, these credits appear on our examination
16 because they are required by the New York State
17 Constitution.

18 In other words, any argument that
19 these credits violate the Constitutional mandate
20 that appointments be based upon merit and fitness
21 is quieted by the fact that these credits are, in
22 fact, provided for in the Constitution and are
23 therefore Constitutional.

24 These credits requiring veterans
25 and disabled veterans are Constitutionally

1 permitted exceptions to the mandate requiring
2 merit and fitness but this reflects precisely how
3 strong the public policy is that appointments be
4 based upon merit and fitness. The only way to
5 provide a well intentioned credit not based upon
6 merit and fitness, in this case the veterans and
7 disabled veterans credit, was to actually change
8 the New York State Constitution.
9

10 Now that I've discussed how
11 relative merit and fitness must be ascertained
12 according to the law, and that DCAS, as the
13 municipal civil service commission for the city of
14 New York is charged with this responsibility,
15 according to the Charter. I will expand upon
16 DCAS' expertise in civil service exam
17 administration.

18 To the layperson, the development
19 of an evaluation process to determine the relative
20 merit and fitness of candidates may seem easy.
21 Many, in fact, may think how hard can it possibly
22 be to put a test together. Well, it is in fact a
23 very deliberative process that requires a high
24 degree of expertise in the specialized field of
25 testing. Ultimately, it is the responsibility of

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2 DCAS testing experts to ensure that the evaluation
3 process is valid, a concept with a very specific
4 meaning in the field of testing.

5 It means much more than developing
6 an evaluation process, which simply sounds
7 reasonable. Ensuring test validity requires DCAS
8 to consider, among other things, what abilities
9 need to be examined, how and to what degree to
10 evaluate those abilities and other qualifications
11 or credentials need to be included in the
12 evaluation process.

13 As mentioned above, an ability can
14 not be tested and a credit can not be included
15 merely because it sounds good. Or even to advance
16 an honorable or worthy public policy. In order to
17 retain test validity, only those things can be
18 evaluated or incorporated into the exam process
19 which had been found to be job related after a
20 thorough job analysis. An exam, for example, can
21 not test for typing speed if a job analysis does
22 not indicate that typing is needed for a position,
23 no matter how much someone might think that having
24 typing skills is advantageous.

25 Our decisions at DCAS are driven

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2 not by notions that an ability is important or
3 that a qualification is desirable. Our decisions
4 are the result of rigorous analyses, which support
5 or reject the inclusion of an item in the
6 evaluation process. Understand that our strong
7 opposition to this proposal is based upon a strict
8 legal argument and does not include an analysis of
9 the proposal.

10 While the test developers at DCAS
11 are indeed trained and experienced testing
12 experts, we would never close the doors to
13 thoughtful discussions on how to evaluate relative
14 merit and fitness including discussions regarding
15 graduation from a New York City high school. But
16 we need to conclude by stating in the strongest
17 possible terms. That the passage of this
18 legislation would be contrary to the provisions of
19 the New York State Constitution, the New York
20 State civil service law and the New York City
21 Charter, all of which recognize that the
22 responsibilities of a municipal civil service
23 commission must rest with the experts, in this
24 case DCAS.

25 For these reasons, we strongly

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2 oppose Intro 1093. We are available collectively
3 to answer any questions you may have.

4 CHAIRPERSON NELSON: Thank you. Is
5 anybody else going to testify for the panel?
6 Okay. Before I'd ask questions I would just ask
7 Council Member Comrie if he has any.

8 COUNCIL MEMBER COMRIE: I think
9 that your testimony, while eloquently put together
10 is based on a premise that has nothing to do with
11 reality. No one here is questioning DCAS' ability
12 and the right to create a comprehensive test that
13 can measure the skills and the attributes of a
14 candidate for a position. No one is questioning
15 the ability of DCAS to, as you say, be reflective
16 of an individual's merit and fitness. Because
17 it's already been concluded by the court that DCAS
18 hadn't been able to do it properly. And it's
19 already been concluded by the court that DCAS
20 created tests that were unfair to the applicants
21 that were applying for the test.

22 The whole premise of this bill is
23 not to question DCAS' ability to deal with the
24 merit and fitness of developing a firefighter test
25 or an exam or developing the other issues that

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2 would qualify a person to be a firefighter. This
3 bill is clearly to create an opportunity for New
4 York City residents to have a leg up. To sit here
5 today and say that an eight point swing wouldn't
6 give a child a leg up or something to aspire to.

7 I think really smacks in the face
8 of people that are trying to find some way to
9 increase the numbers for people that want to take
10 the test to increase some excitement about people
11 to want to be firefighters. To create an aura of
12 diversity that I think is needed, clearly needed,
13 not that I think. It's clearly been demonstrated
14 and proven in the courts, is needed to increase
15 the pool of firefighter applicants that reflect
16 the diversity of the city.

17 So I don't understand the legal
18 premise for this opposition. If, in fact, DCAS is
19 going to argue that you have a test that at the
20 end of the day, whether the person's merit and
21 fitness is decided as a panel, I could sit here
22 and argue all day about the ins and out of DCAS
23 methodology. We could ask you for a breakdown but
24 I'm sure you wouldn't have it today so I don't
25 think I even want to waste time and insult myself

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2 for asking you what your methodology for
3 determining merit and fitness. What your
4 methodology for determining whether an applicant
5 is acceptable for the firefighter test. None of
6 that is in question today.

7 Our question to you simply is what
8 do you think is going to increase the numbers of
9 diversity for applicants. What is your plan to do
10 that and why would something as simple as
11 something that's already been done in other areas,
12 something that's already been done by the city in
13 all the times, creating a point system for people
14 that have graduated from city schools. Why
15 couldn't that be part of your overall focus and
16 application and test development?

17 MS. LEASE: With regard to the high
18 school credit, I don't believe we said anything
19 about foreclosing it. What we have pointed out is
20 that DCAS is constrained to including any
21 qualifications, credits or other calculations that
22 go into the score those items that are determined
23 to be demonstrative of relative fitness and merit.
24 These--

25 COUNCIL MEMBER COMRIE:

1 [interposing] A test score is not demonstrative of
2 relative fitness or merit. A test score
3 determines a person's either mental ability,
4 general knowledge, specific knowledge and the
5 reason behind coming out with this idea was to try
6 to increase the pool of happy applicants; people
7 that want to be firefighters. People that can now
8 have an opportunity for the city to touch in a new
9 and different way so that they can want to be
10 firefighters as opposed to--it's like giving a
11 child a scholarship opportunity.
12

13 It's making an announcement from
14 the Mayor's office that if you graduate from high
15 school you get an opportunity to be a firefighter
16 if you have that desire. Why can't that part of
17 the discussion? I don't want to go down this road
18 about merit and fitness and development. I think
19 we need to focus in on what can bring the
20 applicant pool to a more diverse level.

21 MS. LEASE: And that's understood.
22 Certainly diversity is a very, very important
23 goal. I can understand your reluctance to go down
24 that road and yet we, as the municipal civil
25 service commission, are constrained to go down

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2 that road. We must limit the inclusion of such
3 items to those, which are demonstrative of
4 relative merit and fitness, that is the standard
5 that's set forth for us. And the--

6 COUNCIL MEMBER COMRIE:

7 [interposing] Well, you want to then explain what
8 you mean by relative merit and fitness in regards
9 to a test score. And how an eight point swing in
10 a test score would come into any of that that
11 would have the power to deal with relative merit
12 and fitness. Since you said in your testimony
13 that you have to deal with he merit and fitness
14 compared to his or her fellow candidates. That
15 the credits that are developed based on a holistic
16 or a comprehensive approach to testing a candidate
17 on more than one level. So that you may be need
18 to break that down so I can have a better
19 understanding on why a test score could not be
20 part of a credit to give an applicant an
21 opportunity.

22 MS. LEASE: A civil service exam
23 must test to ensure that an individual possesses
24 the fundamental abilities to perform a given job
25 appropriately. Sometimes that is just a written

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2 exam; sometimes there are other components. In
3 the firefighter exam, for example, there's also a
4 physical test. Those tests are geared towards
5 ensuring that these individuals possess those very
6 specific abilities and knowledge in order to
7 perform that job appropriately.

8 The residency or rather the high
9 school graduation credit, which you're proposing,
10 we have not seen any evidence of how that ties
11 into merit and fitness, visa vee performing the
12 firefighter function. If you have analyses, if
13 you have studies, if you have data and would like
14 to share them with them, I think we've left the
15 door open. We'd be happy to talk to you about
16 that.

17 In the event that we could
18 establish that there were merit and fitness
19 established by the high school graduation
20 requirement or credit rather. Then that is
21 something that we can consider including. But
22 absent that, we believe that it would be
23 unconstitutional to include the credit, even
24 though it advances a very important lofty goal.

25 COUNCIL MEMBER COMRIE: So you're

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2 staying behind the merit and fitness to say that
3 you don't want to give a credit for high school
4 graduation to people. Even though you still have
5 the ability to do a physical test. I believe you
6 also do a psychological test. Is that correct for
7 the firefighters, along with an agility and
8 ability test? So you're definition of merit and
9 fitness according to what you stated or the civil
10 service rules and the state constitution, it does
11 not include test scoring.

12 My argument is that the ability to
13 increase the pool of eligible applicants would
14 automatically increase the ability of people that
15 have fitness or merit to be in the pool of
16 applicants for firefighters, where you can go from
17 a 40% pool of minorities to an 80% pool with the
18 right opportunity. To do the advertising campaign
19 and the notification to high schools; right now,
20 if you look at the recruiters for the military,
21 they go into the schools. They have a training
22 program and they get a much higher applicant pool
23 from people that are coming out of the, going into
24 the military even now with the Selective Choice.

25 Now why can't we do the same thing

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2 as the city, which would increase the pool, which
3 would give you people that would be determined.
4 Once you do the fundamental physical exam, the
5 psychological exam and the agility exam to give
6 you a larger pool of people that are not only more
7 diverse but people that would have the ability to
8 meet those other requirements. I understand,
9 hasn't there been a precedent-- Maybe I should ask
10 the last question.

11 Hasn't there been a precedent prior
12 to, for giving points on an exam for specialized
13 ideas. You mentioned veterans, disabled veterans.
14 Hadn't there been other veteran credits given for
15 people and how did you determine that formula?

16 MS. LEASE: There are other credits
17 that you've mentioned. We've already discussed
18 veterans credits, which is a Constitutional
19 exception. There are other credits such as legacy
20 credits and those are included based on a state
21 law. Frankly this administration, I think has
22 been very clear in discussing its concerns with
23 regard to the legacy credit. For those who are
24 not familiar with the legacy credit it is--

25 COUNCIL MEMBER COMRIE:

1 [interposing] I'm not familiar with that. Can you
2 tell me what that is?
3

4 MS. LEASE: Yes. The legacy credit
5 gives additional credits to children and siblings
6 of firefighters and police officers, I believe,
7 who have been killed in the line of duty. And
8 this is based upon a state law. Our concern,
9 frankly, is that if it is challenged it may well
10 be found to be Constitutionally infirmed as
11 similarly we understand the policy concerns.

12 We understand the feeling that it
13 would be a good thing, a beneficial thing to give
14 a leg up to folks who have lost a parent or a
15 sibling serving in the line of duty. But
16 nonetheless we have the same concerns with regard
17 to merit and fitness. We have not been able to
18 identify how this relates to merit and fitness.
19 So again, if challenged in the courts we believe
20 that they may be found Constitutionally infirmed.

21 COUNCIL MEMBER COMRIE: How long
22 has the legacy credit been in place?

23 MS. LEASE: Let's see. They're
24 pretty recent. Let's see, let's see. The parent
25 was just before September 11th and the sibling was

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right after 9-11.

COUNCIL MEMBER COMRIE: And it hasn't been challenged in the courts so far, correct?

MS. LEASE: It hasn't thus far. We also have a residency credit. That is something which enables applicants to establish that they are residents of the City of New York to get additional credits on their scores as a result of that. That is something, which has been challenged in the Midwin case and was upheld to be Constitutional and could be reflective of merit and fitness.

COUNCIL MEMBER COMRIE: Well, the residency credit is an issue that we need to work on also because the proof for residency is not high enough to ensure that a lot of the applicants are not faking the residency to get in. The legacy credit, which has not been challenged because it only makes sense and it has an emotional connection to getting applicants to stay in the Fire Department.

I think that this will not be challenged either because it gives you also

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2 another emotional opportunity to connect the
3 children at the high school level to, again, I
4 keep hating to say the same thing. But you give
5 children a real opportunity to have a goal and a
6 desire. If you can tell a ninth grader that if
7 you meet a certain obligation, you can be a
8 firefighter and you can get an eight point credit
9 coming out of high school to be a firefighter.

10 If you tell that to a ninth grader,
11 you're going to get a more diverse pool of
12 applicants. You're going to get more female
13 applicants. You're going to get a better set of
14 people that are prepared and willing to be
15 considered fit and meritorious to be an applicant.
16 I would appeal to you that in your development of
17 your exams and in your development of the psyche
18 to create a pool of applicants that it only makes
19 perfect sense, even more than, I would say the
20 residency credit.

21 I just had to establish that I live
22 in my Council district. I had to come up with six
23 different proofs of residency. Again, I don't
24 know what you use for the firefighter to prove
25 residency. But to come up with six different

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2 proof of residency, my passport, my driver's
3 license, four utility bills plus another bill
4 stating my name and address. At first I was a
5 little upset about that but then I realized in the
6 face of everything that I'm trying to do, it only
7 makes sense. And they asked me, actually, for my
8 income taxes. They know how much I make so it's
9 not a big deal for me. Everything, my whole life
10 is public. How much I make, how much I fundraise,
11 everything. So I'm used to living under a wide
12 window.

13 I think that clearly the issues of
14 proving residency from my understanding with the
15 Fire Department is not that extensive and it needs
16 to be more extensive. My issue with creating a
17 high school opportunity I think only lends to the
18 ability of your department to have a better pool.
19 I don't think anyone that would want to dismiss an
20 opportunity to have a wider pool of applicants
21 that would be keen to be fire fighters. I think
22 that this, and marketed properly, would give the
23 Mayor's office and DCAS and all of the people that
24 are trying to recruit a diverse applicant pool, a
25 greater ability to actually make that happen.

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2 I'm trying to get away from all of
3 the means and fitness parts of the test. While I
4 think there are some flaws in that too that need
5 to be dealt with, I'm just trying to target on an
6 opportunity here that I think would be lost. I
7 think we need to focus on making it. I hear from
8 your statement you're willing to somewhat consider
9 it so I'm trying to just pound that in as opposed
10 to worry about some future law suits or some
11 future arguments that may or may not happen.

12 I think that we can get state
13 legislation to follow up on this if we push it
14 through the city. I think we could give an
15 opportunity to back it up on a state wide level,
16 hopefully, to make that happen. Because I don't
17 think any municipality in this state would not
18 want their local children to miss an opportunity
19 to be given an extra credit for their high school.
20 To let them know in high school that they could
21 have an opportunity to be in their local fire
22 department, to get them through a curriculum to
23 make that happen.

24 I just heard that today, it's in
25 the wrong Council Member's district. But there's

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2 a fire fighter school in the city or a school
3 geared to fire fighting. He's not here at the
4 moment so he's not taking hombrage [phonetic] with
5 me. But I think that clearly that the ability to
6 let children know, especially in a city where we
7 have a 40% drop out rate or 60% drop out rate that
8 we have children that could aspire to something
9 makes a lot of sense to me.

10 I want to pass back to my Chair
11 while I come up with some arguments before you
12 leave. But I think that clearly I'm working from
13 a different perspective. The issues of the test
14 and DCAS and determining the fitness and merit, I
15 think, clearly are other things that we need to
16 work on also. But I'm just focusing on my piece
17 of the rock at the moment. So thank you. Thank
18 you Mr. Chair.

19 CHAIRPERSON NELSON: Thank you
20 Council Member. We've been joined by Council
21 Member James Gennaro and Melissa Mark-Viverito.
22 We had a question from Council Member Rodriguez.
23 I'm sorry. One other thing, if you're tired, if
24 you need to sit down, the Sergeant at Arms has
25 informed me that we have opened up the room next

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2 door. It's technically the cafeteria room. And
3 the sound will go across to it as well. So
4 anybody that would feel more comfortable, avail
5 yourself to that opportunity. Thank you.

6 COUNCIL MEMBER RODRIGUEZ: I think
7 that first of all, we definitely have to agree
8 that diversity is something that we have to
9 address. Not only in the Fire Department but in
10 other institutions in New York City. I believe
11 that when we look at our firefighters, we have to
12 have a lot of respect for the work that we do
13 everyday. But now what we are saying is that
14 Black, Asian, Latino, women are not happy on the
15 number that we have at the Fire Department. The
16 question is how much does the exam play a role in
17 the number that we have inside the Fire
18 Department?

19 So I have no doubt that we have to
20 look at it and see, revise it and see if there is
21 something that we can do. I think that in '93,
22 looking for giving credit to our people who finish
23 high school will help a lot to bring more women,
24 Black, Latino, Asian, into the Fire Department.
25 My question is when was the last time that the

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exams were revised?

MS. LEASE: The last time that the exam was revised was it was developed in 2006 and administered in 2007. That was exam 6019.

COUNCIL MEMBER RODRIGUEZ: Did you look at how the exam who had impact on those particular group that are not represented?

MS. LEASE: We looked at the exam to come up with an examination that we felt best measured the ability of candidates to perform as firefighters. I can say that exam 6019 is something of a departure from the prior exams based on developments in testing methodologies that had occurred.

COUNCIL MEMBER RODRIGUEZ: Was DCAS the only institution that went under the final approval of this exam or were there other institutions, any other body of the government that also played a role in that final exam?

MS. LEASE: We did work with some outside consultants and we used subject matter experts who come from the Fire Department. But I believe that was the breadth of the panel involved.

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2 COUNCIL MEMBER RODRIGUEZ: So you
3 mean that can we also work together with DCAS in
4 case that we continue with this introduction so
5 that we can have the experts from DCAS helping us
6 on this particular introduction.

7 MS. LEASE: We would be happy to
8 work with you. Again, diversity is a goal that is
9 important to everyone; it's something that
10 everyone would like to see. We have restrictions
11 on our end, though. So we need to sit down
12 together. We need to look at analyses. We'd need
13 to look at data and to see whether this proposal
14 or something like it would also mesh with the
15 concept of relative merit and fitness, which as
16 much as people might like to get away from it.
17 That is the fundamental underpinning of the civil
18 service examination. We must ensure that the
19 exams test for relative merit and fitness.

20 COUNCIL MEMBER RODRIGUEZ: So you
21 would be open to--

22 MS. LEASE: [interposing] We would
23 be happy to talk to you.

24 CHAIRPERSON NELSON: Okay, thank
25 you. So basically you're sure that this would be

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2 unconstitutional, violation of our charter to do
3 it through this introductions. It would cause for
4 us to try to work to get revision to the charter.
5 So we'll go to court, if I imagine if the Council
6 is so bold to push forward with this.

7 MS. LEASE: We believe that the
8 authority in terms of the civil service
9 examination process does lie solely within DCAS'
10 purview. Such that moving forward with this
11 legislation would be unlawful. That being said,
12 again, we would be happy to sit down and speak
13 more about this, explore it more and see whether
14 there is something that is both Constitutionally
15 permissible and that furthers a lofty goal.

16 CHAIRPERSON NELSON: Refresh my
17 memory, residency requirement and veterans'
18 advantage. How was that actually put into place?

19 MS. LEASE: The veterans' credit is
20 a state constitutional exception. The residency
21 credit, goodness, that goes back an awfully long
22 time, 1994. Again, that's something that had been
23 challenged in the court system, a case called
24 McGuinn and was upheld.

25 CHAIRPERSON NELSON: It is fairly

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2 understood that the familiarity with the New York
3 area would improve a firefighter's relative merit
4 and fitness. I always felt that somebody was fit
5 both ways, that they should be able to do a job
6 and not just impose somebody who weighs 50 pounds
7 and is three feet or whatever. We can't get
8 totally out of control with this. If I'm in a
9 burning building, I'd like to be able to be
10 carried out by somebody.

11 MS. LEASE: I think most people
12 would.

13 CHAIRPERSON NELSON: We can't get
14 ridiculous in certain areas, I'm sure. Any of my
15 colleagues. You had a couple of follow ups?
16 Council Member Comrie again.

17 COUNCIL MEMBER COMRIE: When is the
18 next exam scheduled?

19 MS. LEASE: I believe the next
20 examination will be taking place in 2012, 2011?
21 2011.

22 COUNCIL MEMBER COMRIE: Okay. Has
23 the exam been developed yet?

24 MS. LEASE: It has not been
25 finalized at this point now.

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2 COUNCIL MEMBER COMRIE: And who has
3 been invited so far to collaborate to put the exam
4 together and develop your criteria for merit and
5 fitness?

6 MS. LEASE: Normally, we
7 participate by having DCAS sometimes along with
8 outside experts, testing experts and subject
9 matter experts. As you pointed out, there is
10 ongoing litigation at this juncture so we're not
11 sure as to whether we will be following precisely
12 the same process as we have in the past.

13 COUNCIL MEMBER COMRIE: Had you
14 invited firefighters or retired firefighters to
15 give you some ideas or suggestions in the past?

16 MS. LEASE: Firefighters are
17 serving as subject matter experts for us.

18 COUNCIL MEMBER COMRIE: Okay. So
19 you said you have test experts and subject matter
20 experts?

21 MS. LEASE: Correct.

22 COUNCIL MEMBER COMRIE: And do you
23 also have educational experts on developing the
24 test or language experts to make sure that the
25 test verbiage is easily understood?

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2 MS. LEASE: We have
3 psychometricians who are experts in developing
4 tests as a matter of course. They do look for all
5 of these things. They need to make sure that the
6 content of the exams is valid, that the exams are
7 testing at an appropriate level, etc.

8 COUNCIL MEMBER COMRIE: But the
9 other components, do you do those as well, the
10 agility and the physical test? Is that under DCAS
11 purview or is that FDNY that does the components
12 of the test?

13 MS. LEASE: Yes, we developed it
14 but the test is administered by the Fire
15 Department.

16 COUNCIL MEMBER COMRIE: Okay, all
17 right. Do you know what the percentage weight is
18 for each component of the test?

19 MS. LEASE: The agility component
20 that you mentioned is now being administered as a
21 pass fail component. It's a relatively new,
22 pretty well accepted across the country exam call
23 the CPAT.

24 COUNCIL MEMBER COMRIE: And it's a
25 pass fail component.

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MS. LEASE: That's correct.

COUNCIL MEMBER COMRIE: And what about the agility?

MS. LEASE: That is the agility.

COUNCIL MEMBER COMRIE: I mean, I'm sorry, what about the psychological? When you talk about merit and fitness, what are the percentages that you weigh the written to the psychological to the physical.

MS. LEASE: The psychological exam, a candidate merely has to pass the psychological exam.

COUNCIL MEMBER COMRIE: It's a pass or fail.

MS. LEASE: That's correct.

COUNCIL MEMBER COMRIE: And then the written is just whatever the score is at the end of the day. Is the score weighted by any variables at all? Applicant scores, has it ever been weighted or curved or balanced to anything?

MS. LEASE: There is a very, very complicated scoring system and I'd be doing you a great disservice if I tried to explain it to you. It is really one of those testing experts that

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would have to do that?

COUNCIL MEMBER COMRIE: So what you're telling me is that what score is not necessarily what you get because of variables that are too complicated to explain? That's going down a scary path.

MS. LEASE: Not at all, sir. What I'm saying is it would be someone who is a testing expert that would be best qualified to explain the process to you and we would be happy to do that.

COUNCIL MEMBER COMRIE: So the written exam is not an A, B, C, D exam? It entails questions and answers or paragraphs and written theory?

MS. LEASE: It changes from exam to exam. As I said, we had recently updated it. There are some multiple choice questions. There's speeded judgment tests.

COUNCIL MEMBER COMRIE: in the written part there's speeded judgment?

MS. LEASE: Yes.

COUNCIL MEMBER COMRIE: Okay. Well, again, you've opened up a whole new can of worms that I didn't want to get in to. I didn't

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2 realize that the test was not a test that if you
3 made certain marks you got a certain grade. Now
4 you're telling me that it's--

5 MS. LEASE: [interposing] Again,
6 I'm merely saying that I'm not in the best
7 position to explain that to you. I'm not saying
8 that at all and we'd be happy to explain that to
9 you when someone with the necessary expertise is
10 with us.

11 COUNCIL MEMBER COMRIE: Okay. All
12 right. I'm okay with that because I'm really not
13 focused on that anyway. I'm focused on getting
14 you to incorporate the eight points and try to
15 understand the merits and the opportunities that
16 are here to increase the applicant pool to make a
17 more diverse applicant pool. And again, excite
18 children in high school about a civil service
19 career opportunity that is second to none.

20 The firefighters are people that
21 are recognized and applauded and lauded as a
22 profession that people need. That are aspired to
23 or are treated with reverence. I think that it's
24 a position that gives you a great sense of self
25 esteem, a great sense of obligation as well

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2 because you're saving people's lives. I think the
3 ability to motivate young people to want to be a
4 firefighter is a unique opportunity that this city
5 should take advantage of.

6 I want to thank Mr. Chair for
7 holding the hearing. I hope that we can sit down
8 and have some more detailed discussion. I'd be
9 happy to provide data on the motivational
10 qualities, why this eight points should be given.
11 I'd be happy to find some psycho-matricians to
12 support my point of view and the point of view of,
13 I think, many people around the city. So again,
14 thank you.

15 CHAIRPERSON NELSON: We've been
16 joined by Council Member Charles Barron, who has a
17 question.

18 COUNCIL MEMBER BARRON: I probably
19 don't have a question that you couldn't answer in
20 the context of this kind of thing that we do. But
21 to hide behind the Constitution, to hide behind
22 legality, to hide behind meritocracy is bogus.
23 Whatever process you use, you're using is
24 rendering a racist result and something has to be
25 done. So we can't sit here and have this hearing

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2 and you talk all the legalese. You didn't think
3 of that when we were being discriminated against.

4 Because we know in this country, if
5 there isn't some kind of affirmative action, if
6 there's some kind of something done and you just
7 deal with meritocracy and who's the most fit, we
8 stay behind. Because there are those in this
9 society, because of the pigmentation of their
10 skin, have a privilege and an advantage. If we
11 sit here and say that we're not going to do
12 anything and put the Constitution out there and
13 laws out there and the city charter.

14 The charter doesn't allow
15 discrimination either. The Constitution doesn't
16 allow discrimination. If you could sit back and
17 allow for the Fire Department to be as lily white
18 as it is and you don't interject anything on
19 discrimination on that wise and we come with some
20 possible--we are a legislative body. We know the
21 law. We know this might go to court. If that's
22 the case, we'll deal with it in court.

23 But I just think just coming from
24 you, I just got here. I didn't hear all the
25 testimony but just the exchange with Council

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2 Member Comrie, it just seems like a cold, callous,
3 that's the law, we can't do nothing about it. So
4 what do you suggest that we do to stop this
5 discrimination and why can't we challenge that
6 law, challenge that Constitution. And we join us
7 and say something like this has to happen and then
8 we're going to look and see.

9 Because law is murky and it's about
10 interpretation, which is why they have courts. So
11 I don't understand why you aren't more supportive.
12 I was reading your statement and the Constitution
13 and all of that. To me, it's hiding behind law
14 when the spirit of what's supposed to be happening
15 here is to stop the racism in the Fire Department.

16 MS. LEASE: We are, of course,
17 constrained to uphold the law, which is why we
18 limited our discussion to the legal argument
19 today. Perhaps what you weren't here for, though,
20 was also really our invitation to sit down with
21 you, with Council Member Comrie, with anyone who
22 cares to participate. And to figure out whether
23 there is some way to tie this proposal or the
24 spirit of this proposal to the concept of merit
25 and fitness. If we're able to do that, then we

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feel comfortable with that.

COUNCIL MEMBER COMRIE: Well, then-
-excuse me for cutting. I wasn't here. It would
have been better for you not to write that we
oppose this. Because I'm going by what you wrote,
your opposition to it. It's not comfortable being
invited to a party and a get together that you
already told us that you're rejected and opposed
to it. To me, you could have stayed open.

I always look, when we start to
negotiate things, just the spirit of things. You
could have easily written and still stuck by your
Constitutional law. We think this may not be
legal but we're open and we're not opposing it at
this point. At this point we want to remain open
to really sit down and hear your discussions and
arguments and see if things. And acknowledge that
the racism. Do you acknowledge that?

MS. LEASE: I would not acknowledge
that racism exists.

COUNCIL MEMBER BARRON: Oh, you
wouldn't.

MS. LEASE: No.

COUNCIL MEMBER BARRON: You

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wouldn't--

MS. LEASE: [interposing] But I do agree that enhanced diversity is a lofty goal.

COUNCIL MEMBER BARRON: Enhanced diversity?

MS. LEASE: Yes.

COUNCIL MEMBER BARRON: That's a cute way of saying--enhanced diversity. Why isn't there diversity? Why do you have to answer it?

MS. LEASE: That's a bit too philosophical for right this moment.

COUNCIL MEMBER BARRON:
Philosophical, philosophical? This is very practical. This is not philosophy. I'm not talking philosophy; I don't even know how to spell the word. I'm not into philosophy. I'm into practical results. What's philosophical about an overwhelming 80%, 90% of the firefighters being white. What's philosophical about that? I'm just asking you if you have to enhance diversity, I'm trying to find something that makes me think that you're serious about this and you're not playing us. And that you're not coming here and just giving us the pat answers around legality and

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meritocracy and fitness and all of that.

I just don't understand. If you have to enhance diversity, isn't that an admission that something's wrong?

MS. LEASE: Without saying anything further about that, I would only say that diversity is something which is, generally speaking, a lofty goal. And it's something that we would like to see in this and every other position within the city.

COUNCIL MEMBER BARRON: How come we don't have diversity to the lofty point or level that you think it should be at? What is your explanation? And you owe us one. You owe us an explanation. You can't just, I'm not here for that. What is your explanation for why we're not at that lofty goal that you are so embracing?

MS. LEASE: Well, we're not at that lofty goal but I will say that as far as the numbers seem to bear out, there does seem to be a move in the right direction. Over 40% of the applicant pool on the last exam, which was exam 6019 was minority.

COUNCIL MEMBER BARRON: How many of

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them got hired?

MS. LEASE: I don't have the numbers--

COUNCIL MEMBER BARRON:

[interposing] That's all that matters. What matters is not what's in the applicant pool, who makes it on the payroll of the Fire Department.

MS. LEASE: Not that many people have made it on the payroll based on this exam. It's--

COUNCIL MEMBER BARRON:

[interposing] Right. So I'm asking you once again. If you don't even see it as a problem or if you're not even acknowledging that a problem exists. This is what you might call philosophical. A lot of whites in America think racism is gone because Barack Obama got elected President. So they no longer see it as a problem and that now we're living in post racial society. It's very difficult to get people to see racism as a problem, to acknowledge the problem.

You almost could never get rid of a problem if you're pretending, if you're acting like it doesn't exist. Or if you're misdiagnosing

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2 it and making us think that it's just we need a
3 little more diversity. I'm just trying to get
4 from you, where do you stand in diagnosing the
5 problem we're having here? Are you acknowledging?
6 Could you, in a city that's 62% people of color
7 and such a small, tiny percentage of the Fire
8 Department, do you acknowledge that some
9 discrimination or racism might possibly exist?

10 MS. LEASE: I acknowledge that it
11 would be good to see enhanced diversity in the
12 Fire Department--

13 COUNCIL MEMBER BARRON:
14 [interposing] No further questions. You answered
15 the question more than what you think.

16 CHAIRPERSON NELSON: No, I
17 appreciate she was just taking perhaps the safest
18 way out. I understand that. I understand your
19 line of questioning, Council Member.

20 COUNCIL MEMBER BARRON: It's really
21 frustrating when you bring problem solvers in here
22 that don't even want to acknowledge that we have a
23 problem. It's very difficult to see you as a
24 partner in problem solving, you don't even think
25 it exists. That's why it continues to exist and

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2 people have to do all kinds of things to get
3 justice and get things to change because we go
4 through these kind of exchanges with individuals.
5 You wouldn't even get fired or nothing if you just
6 said, it's a problem. There may be some
7 discriminatory.

8 Could you admit this? This is my
9 last question.

10 CHAIRPERSON NELSON: Okay,
11 Councilman.

12 COUNCIL MEMBER BARRON: Could you
13 admit that whatever you're doing, the end results
14 of it is the discriminatory toward people of color
15 because we haven't been able to get in and we're
16 not stupid.

17 MS. LEASE: Now, Council Member
18 Barron, we came here in the spirit of trying to
19 open discussions regarding the spirit behind this
20 introduction. Even though we feel that it is
21 potentially a Constitutional issue and even though
22 we feel that we have the sole authority to address
23 this issue or to come up with a law, a credit that
24 addresses this issue.

25 As I hope I've been clear today, we

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2 are happy to sit down and discuss ways to figure
3 out whether this proposal is something that can be
4 incorporated. We would gladly work with whomever
5 wishes to participate to figure out whether there
6 is a Constitutional way to incorporate the spirit
7 of this proposal so that the very important goals
8 could be advanced.

9 COUNCIL MEMBER BARRON: Well, that
10 sounds great and I hope your heart is in the right
11 place. But when people have difficulties
12 acknowledging that there is a problem. If you see
13 frustration and anger coming from me it's because
14 we've been through this for a long time with
15 Safer, with Scapetta. Our communities, we've had
16 this kind of conversation, the same kind of
17 language used and no progress.

18 When I have people that commit to
19 work with us and make some progress, I just like
20 to hear something a little different. That says
21 to me this is not another okey doke. This is not
22 another, let me just use language that appears
23 we're all going to work together. The end result
24 gets us no where. One of the ways that I think
25 people can work together is when they can both

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agree.

I used to teach negotiating techniques. Both have to agree that there is a problem. If we come to the point where one party has similar definitions of it and when that doesn't occur, then I have real concern where this thing is going to go. This is part of the open discussion that you said you were hoping to have. This is a part of it.

CHAIRPERSON NELSON: I would say, of course, this is a touchy issue and there's land mines all around. I appreciate your position, where you're coming from. I think you handled the land mines well. Whether, where your heart may be somewhere else and your head also, I appreciate the way you answered it. I know where Council Member Barron's coming from. It's no fault of your own or anybody at this adieus over here. But it is really intriguing that there is such a small component make up of people of color as firefighters, knowing that they could do as good a job or whatever as anybody else. That really, I think, is why we're pursuing this issue to make the Fire Department certainly more diversified.

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2 You pretty much addressed that without falling
3 into any traps. And I think you did a good job
4 with that. Again, my feelings are for what
5 Council Member Barron has been saying, it just
6 seems to be an obvious thing to anybody out there.
7 But thank you for that.

8 COUNCIL MEMBER BARRON: Just one
9 last thing, with all due respect.

10 CHAIRPERSON NELSON: Sure.

11 COUNCIL MEMBER BARRON: We're not
12 trying to trap nobody. I'm just--

13 CHAIRPERSON NELSON: [interposing]
14 Maybe it's a poor choice of words, Charles.

15 COUNCIL MEMBER BARRON: I just want
16 to let you know when I see on here, I strongly
17 oppose this. To me, I was just trying to get them
18 to be more open, honest partners. I'm not trying
19 to lay a trap or nothing like that, to be open and
20 honest, sincere, no nonsense partners in this.
21 When you strongly oppose something before you even
22 sit down with us in an intimate discussion tells
23 me that you come here with a prejudice already, a
24 preconceived notion that this is not going to
25 happen, this is not something we're going to do.

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2 And that's what I'm trying to loosen up here. If
3 we're going to make progress, you can't strongly
4 oppose something you haven't sat down with us to
5 really get all of the details and some of the
6 additional information that we have on this topic.

7 MS. LEASE: Understood.

8 CHAIRPERSON NELSON: A poor word,
9 trap, you're right. I didn't want you to fall
10 into a hole, okay. Put it that way. Okay. Sure,
11 Council Member Rodriguez.

12 COUNCIL MEMBER RODRIGUEZ: Can we
13 then have as your final word that instead of
14 opposing that you are committed to working in
15 collaboration and be open to this introduction
16 1093?

17 MS. LEASE: Because of the legal
18 infirmities we have to oppose the legislation.
19 Conceptually, we are happy to continue working
20 with you.

21 CHAIRPERSON NELSON: That's the way
22 negotiations go, Council Member. We have hope
23 that we will move forward in this arena. Oh,
24 Council Member Mark-Viverito.

25 COUNCIL MEMBER MARK-VIVERITO:

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2 Thank you, Mr. Chair. I apologize because I did
3 step out so if this was asked. But in terms of
4 the current test, there is information or I guess
5 questions asked about whether or not you reside in
6 the city. So what is expected of the applicant to
7 provide to prove that and to what extent do you
8 follow up on that as a city, kind of ensure that
9 that is the case?

10 MS. LEASE: My understanding is
11 that the usual sort of indicia of residency are
12 explored. This process is handled by the Fire
13 Department. But things such as what was discussed
14 earlier. The location from which one is
15 registered to vote, where one files income taxes
16 from, a lease, a deed, utility bills.

17 COUNCIL MEMBER MARK-VIVERITO: But
18 are these questions that are asked yes or no or do
19 they have to provide that information?

20 MS. LEASE: They must provide that
21 information. It's a residency credit which is
22 requested and subsequently proof of residency must
23 be established.

24 COUNCIL MEMBER MARK-VIVERITO:
25 Okay, thank you.

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2 CHAIRPERSON NELSON: Okay. Any
3 further questions from any committee members or
4 non-committee members? Okay. We thank you for
5 your testimony. The new panel, please Anjana
6 Samant center for Constitutional rights, James
7 Tempro Vulcan Society, Debra Martinez, Grand
8 Council of Hispanic Societies in Public Service,
9 how about Regina Wilson, United Women's
10 Firefighters. We should get in there Paul
11 Washington on deck, Paul. That's not Paul.
12 Sorry, there's another Paul Washington that I
13 know. Whoever, want to draw straws or have arm
14 wrestling, whoever wants to go first.

15 AJANA SAMANT: Okay, I think I drew
16 the short straw.

17 CHAIRPERSON NELSON: There you go.

18 MS. SAMANT: Members of the
19 committee, Council Members, members of the public,
20 I want to thank everyone for holding this hearing
21 and I want to thank committee members for inviting
22 us to testify today. My name Anjana Samant, I'm a
23 staff attorney at the Center for Constitutional
24 Rights here in New York City.

25 For the past seven years the Center

1
2 for Constitutional Rights along with co-counsel at
3 the law firms of Levy Ratner and Scott & Scott has
4 represented the Vulcan Society, a fraternal
5 organization of Black firefighters here in New
6 York. First in administrative proceedings and now
7 in a federal class action law suit challenging the
8 New York City Fire Department's racially
9 discriminatory hiring practices.

10 For more than three decades the
11 entrance exams used by New York City to fill entry
12 level firefighter positions have excluded African
13 Americans and Hispanics from employment in the
14 FDNY at alarming rates. However, I am not here
15 today to discuss the lawsuit relevant background.
16 However, it's useful for understanding the reason
17 why the pending legislation would be helpful. But
18 I would specifically like to discuss why proposed
19 Intro 1093-A, if passed, would be a very easy and
20 effective way not only to increase diversity in
21 the Fire Department but also to ensure that the
22 Fire Department continues to provide the highest
23 quality service to and protect the safety of all
24 communities in New York City.

25 As the committee is no doubt aware,

1 every professional fire department in every major
2 metropolitan city in the United States is more
3 diverse than New York's. Los Angeles, Boston,
4 Philadelphia, San Antonio, Baltimore and Chicago
5 all have firefighting forces that are anywhere
6 from 30% to 50% Black and Latino. New York City's
7 Black and Latino firefighting force is only at
8 around 3%. It has been stuck at this rate from at
9 least the early 1990s.

11 New York did have a minority hiring
12 preference imposed by court order for one hiring
13 cycle in the 1970s. And as a result of that court
14 ordered ruling, the percentage of African
15 Americans in the ranks of the FDNY rose from about
16 3% to about 7% in the early 1980s. But since
17 then, the figure has slid right back down to about
18 3%. This is an embarrassment for New York City,
19 where as of 2008 the relevant labor pool is
20 approximately 29% African American and 32%
21 Hispanic.

22 CCR and the Vulcans believe that
23 the written firefighter exams is the biggest
24 barrier to becoming a member of the FDNY and it is
25 the centerpiece of our legal challenge. The

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2 written test unfairly weeds out African Americans
3 and Hispanics. And the exams used by the city
4 have done so for the past at least 30 years. The
5 1973 lawsuit brought by the Vulcan Society
6 challenged the FDNY's use of one such written
7 test, which a federal judge found to have
8 discriminated against minority firefighters,
9 applicants in violation of the United States
10 Constitution.

11 This committee is also no doubt
12 aware that this past summer the Vulcans in the
13 lawsuit that's currently pending involving the
14 Vulcan Society, another federal judge ruled that
15 the 1999 and 2002 New York City Firefighter Exams
16 also discriminated against African Americans and
17 Hispanic firefighter candidates. And that those
18 exams, contrary to DCAS' position, were not
19 sufficiently related to the job of firefighting.

20 Also, according to the city's own
21 data related to the most recent firefighting exam,
22 which was given in 2007, I believe. This latest
23 exam also had a significant adverse impact on both
24 African American and Hispanic candidates. This is
25 particularly troubling because a candidate's

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2 position on the current firefighter eligibility
3 list from which the Fire Department hires in rank
4 order is now determined exclusively by a
5 candidate's written score.

6 As a result, Blacks and Hispanics
7 as a group tend to fall significantly further down
8 on the list than do white candidates. They're
9 severely underrepresented among the top 4,000
10 candidates on the list, which is the portion of
11 the list from which the FDNY typically hires. As
12 a result, the prospects for increased diversity in
13 the firefighter ranks in New York City, even under
14 the current hiring system remains very bleak.

15 The proposed New York City high
16 school credit has the potential, however, to
17 ameliorate this outlook. Before getting into the
18 credit, I do want to touch on one issue that folks
19 have talked about today and that is namely the
20 residency credit. While the purpose of the
21 residency is laudable, you want to give
22 consideration to hiring firefighters from within
23 the communities that they're going to go out and
24 serve, as a practical matter, the residency credit
25 has been marred by fraud.

1
2 Candidates who took the recent
3 exams had a five point credit applied to their
4 overall exam score if they could establish that
5 they were residents of New York City. However, as
6 we learned through the Vulcan's litigation,
7 individuals living outside of the five boroughs of
8 New York have often claimed residency within the
9 city by using the addresses of friends and family.

10 While the FDNY obviously does not
11 condone such fraud and has disqualified those
12 applicants that it discovered to have lied about
13 their residency, we also learned through our
14 litigation that the Department's Candidate
15 Investigation Division, which is responsible for
16 confirming residency, does not have sufficient
17 resources or capacity to properly investigate and
18 verify each candidate's claim of residency.

19 As a result, candidates in every
20 exam cycle have, at times, improperly received the
21 five point residency credit and thus had their
22 exam scores wrongfully and their eligibility list
23 numbers wrongfully improved; an unfair result
24 particularly for African American and Hispanic
25 firefighter candidates, the vast majority of whom

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actually are New York City residents.

The proposed New York City high school diploma credit stands in stark contrast to the residency credit as it will be much less susceptible to fraud and abuse. The Fire Department can verify claims of a New York City high school diploma very easily by contacting and obtaining documentation from the high schools or the GED centers listed on the candidate's application. Additionally, the high school credit will further the goal that the residency credit has not been able to achieve, an increase in the number of new firefighters with a bonafide connection and a real familiarity with the communities in which they'll be serving.

At the same time, application of the high school credit to the firefighter application process will in no way compromise the quality of candidates who are hired as New York City firefighters. In its current vision, the bill under consideration would only award the high school graduation credit to firefighter candidates who have already passed the firefighter exam so any concerns about merit and fitness to the extent

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2 that DCAS believes that it has designed an exam
3 that in fact measures for merit and fitness. It's
4 just simply a red herring.

5 Thus the only candidates who have
6 otherwise met the firefighter job qualifications
7 set by the Fire Department will benefit from the
8 high school credit and have their chances of being
9 hired increase. I'm going to note for the record
10 also that members of the Fire Department have
11 testified in depositions as part of our litigation
12 that beyond simply passing the firefighter exam,
13 differences in exam scores have little or no
14 correlation to on the job performance.

15 In addition, as I previously
16 mentioned, application of the high school credit
17 revealed far more firefighter candidates who
18 possess important knowledge, which the firefighter
19 exam simply does not measure. But which members
20 of the Fire Department conceive are critical to
21 the job, that is knowledge of and familiarity with
22 the communities of New York. It should also be
23 noted that the high school credit recognizes the
24 significant improvements that have been made in
25 recent years to the quality of education in New

1
2 York City public high schools, improvements which
3 the Mayor, Chancellor Kline and this Council have
4 frequently discussed.

5 As I mentioned at the outset, the
6 use of the high school graduation credit in the
7 firefighter hiring process will increase the
8 number of African American and Hispanic New
9 Yorkers who are hired as New York City
10 firefighters and this is true for two reasons.
11 The first is the vast majority of Black and
12 Hispanic firefighter candidates to the FDNY are
13 graduates of New York City high schools, thus the
14 New York City high school credit will improve
15 their chances of appointment from the exam
16 eligibility list.

17 Second, if publicized, the high
18 school credit can give very effective minority
19 requirement tool for the FDNY. That can be used
20 to increase the interests in firefighting as a
21 career among young and talented Black and Hispanic
22 high school students in the city who, otherwise
23 because of the FDNY's notorious lack of diversity,
24 have not considered the job seriously in the past.

25 In closing, I would like to say

1
2 that the Center for Constitutional Rights and the
3 Vulcan Society remain committed to ending the
4 decades long exclusion of African Americans and
5 Hispanics and other minority New Yorkers from the
6 FDNY and to ensure that the Fire Department
7 actually finally reflects the tremendous diversity
8 of our city.

9 Changes to the FDNY hiring
10 recruitment practices, such as the use of a fairer
11 job related exam, increased resources for minority
12 recruitment and other measures along with
13 implementation for the high school graduation
14 credit will hold open the FDNY's doors to African
15 Americans and other minority New Yorkers. As well
16 as ensuring that the FDNY continues to provide
17 outstanding quality service to all New Yorkers.

18 I therefore urge the Council to
19 pass bill 1093-A. Thank you for the opportunity
20 for letting me testify today and I'm happy to take
21 any questions you may have.

22 CHAIRPERSON NELSON: Thank you for
23 your testimony. Did you want to just question
24 this lady? Okay. We may have to put a three
25 minute clock on because some people may have to

1
2 leave so if someone they could be a little more
3 concise, it would be appreciated. Thank you.

4 DEBRA MARTINEZ: I wrote my for
5 under three minutes.

6 CHAIRPERSON NELSON: Terrif.

7 MS. MARTINEZ: So right on time
8 with you gentlemen. Good afternoon. My name is
9 Debra Martinez and I am President of the Grand
10 Council of Hispanic Societies in Public Service.
11 Our organization was founded in 1967 and one of
12 our founding members was the Hispanic Society of
13 the New York City Fire Department. Our missions
14 consistently over time is to tell our children
15 what a wonderful career civil service is and to
16 encourage them to take civil service exams. And
17 once in civil service, to advance the ranks to
18 policy making positions within those departments.
19 For the record, our members are Fire Department,
20 Sanitation, Parks and Recreation, Sanitation,
21 Transit, Housing Authority, Department of
22 Transportation, Auxiliary Police, Port Authority
23 Police, Hospital Police and Suffolk County Police.

24 Let me take this time to thank the
25 Hispanic Society of the New York City Fire

1
2 Department and the Vulcan Society for asking me to
3 participate in today's hearing on proposed 1093-A,
4 local law to amend the administrative code of the
5 City of New York in relation to firefighter
6 applicants. That completed high school in the
7 city and in part says the applicants who have
8 graduated from a New York City high school will
9 receive eight points, a clear honest proof of
10 residency, a clear way to encourage our children
11 to join the ranks of civil service.

12 I want to thank the members of the
13 Council; Comrie, Barron, Rodriguez, Mark-Viverito
14 who are here today. And Rodriguez who are here
15 and I want to tell each and every one of you that
16 we are in 100% agreement with this legislation.
17 This change to the administrative code will add to
18 the diversity of the Fire Department and
19 eventually to all public service positions. Prior
20 uses of rental or utility receipts which truly
21 could be forged and never could be entirely
22 enforced with a five percent points at stake, only
23 added to not supporting the diversity of the
24 Department.

25 For the record, I believe only one

1
2 form of those residency proofs are required to
3 support the residency statute. So you don't need
4 five, you only need one. It's clearly not as
5 rigorous as Council Member Comrie shared with us
6 earlier that he had to go through to prove his
7 residency in his district. Not only do we believe
8 that this change is a more fair and clear method,
9 we are sure that the savings to the Department for
10 investigations that are clearly not occurring can
11 be used in other areas within the Department.

12 But more important, the Department
13 will reflect the diversity of this city, our city.
14 Several years ago the Grand Council joined the
15 Fire Department Vulcans and Hispanic Society to
16 create the high school that Council Member Barron
17 now has in his district. We were very happy to
18 join in that struggle to make that high school
19 happen and I'm really very pleased at the results
20 and how it's been welcomed in the community. We
21 were very glad to be a part of that. We are here
22 today in support of this legislation and we did it
23 before and I know we will make it happen again. I
24 thank you very much for your time.

25 CHAIRPERSON NELSON: Thank you for

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your testimony. Yes.

JAMES TEMPRO: Good afternoon. My name is James Temprow. I'm a 32 year veteran of the New York City Fire Department, which I entered on January 23, 1960. All the talk about exams and exams and exams and written exams, which will so called determine who can be a good firefighter and you can not be is ludicrous. When I came into the Fire Department after passing the series of exams that were given to us I reported to a division headquarters. The chief said okay, you guys are going to, this company, that company, the other company.

I worked in three different types of firehouses without even going to school. I didn't go to a Fire Department school for over a month and all I did was stay with the officer, watch what the guys did and stayed close and I was taught on the ground how to become a firefighter. That's the only way that anyone can become a firefighter, you have to do the job.

I'm going to speak about a company that I went to in 1964, Engine 217. My first fire in that company and this was before the Fire

1
2 Department was equipped with all these masks and
3 what not. We had a cellar fire on Sumner Avenue,
4 217 is in the heart of Bedford Stuyvesant. The
5 fire was in the cellar and we went into the cellar
6 and how we used to work on cellar fires was
7 relieving each other. A guy goes down, comes up;
8 goes down, another guy takes the nozzle. But we
9 extinguished the fire.

10 The fire fighter that I worked with
11 at that time, his name was James J. Boyle. We
12 worked together for over 20 years and we developed
13 firefighting skills that we could depend on each
14 other in life saving situations and death defying
15 conditions. So much so that I would have gladly
16 given my life to a guy like Jim Boyle if need be
17 to save his life and I know he would have done it
18 for me. But this is the thing that you develop,
19 not from a test but from working and living and
20 doing the job and getting to know your fellow
21 firefighters. But if you're not given the chance
22 from the beginning, this will never develop.

23 Now I became, I like to say and a
24 lot of people like to say, a good firefighter. So
25 much so that in 1968 I was awarded the Fire

1
2 Department's highest medal for bravery for the
3 saving of the life of a young child on DeKalb
4 Avenue and Thompkins from a terrific fire. I was
5 hospitalized for a week but I survived. To the
6 point that I'm approaching my 81st birthday on
7 January 4th, 2010.

8 Never thought I'd do that but
9 anyway when I'm speaking about the Fire Department
10 and what it means to become a firefighter you have
11 to give these young people the aspirations to come
12 into the job and then learn how to become
13 firefighters. Now I'm going to read a letter that
14 I got from my dear friend Jim Boyle who became the
15 president of the Uniformed Firefighters
16 Association not once, but twice he was elected
17 president. He was one of the great leaders in
18 this fire department and one of the strong
19 supporters of diversity in this Department,
20 especially when we had the controversies with
21 women coming on board; Jim Boyle stood tall and
22 strong to support the women coming in to this job.

23 Now, this is a letter that I got
24 from Jim after we spoke to him about this propose
25 legislation and he now lives in Rochester. He

1
2 would have loved to have been here today to
3 testify but he hopes that this will suffice. It's
4 addressed to Christine Quinn, Speaker of New York
5 City Council.

6 Dear Speaker Quinn, as a former
7 president of the Uniformed Firefighters
8 Association of Greater New York, I write in strong
9 support of a local law to amend the administrative
10 code of the City of New York in relation to
11 firefighter applicants who have completed high
12 school in this city. This bill would allow any
13 firefighter candidate who possesses a high school
14 diploma or a General Educational Development (GED)
15 degree from a school or testing center located
16 within the City of New York to be eligible for
17 additional credits on the open competitive
18 firefighter examination.

19 This bill should be passed as it
20 supports our local men and promotes the city. New
21 York City firefighters must know New York and a
22 large part of that includes being educated in New
23 York. As someone who was educated in New York
24 City and who worked with firefighters educated
25 both in and outside of the city, I saw first hand

1
2 the value of such an education. Please feel free
3 to contact me. He goes on. I believe each one of
4 you has a copy of this letter.

5 But in closing Jim Boyle was a
6 champion for diversity in this Department.
7 Unfortunately, a lot of his efforts didn't get
8 pushed through. But we have to continue, continue
9 to fight this dastardly unfair hiring practices
10 that keeps these jobs lily white. We have to do
11 it. It's an embarrassment not only for the city
12 but throughout the whole country to say here's a
13 city that is 60% minority and they have 3% or 4%
14 in the New York City Fire Department. So please
15 support this legislation. I want to thank Council
16 Member Comrie for his leadership in this. I want
17 to thank my dear friend Council Member Barron and
18 you, Chairman, thank you very much for your time.

19 CHAIRPERSON NELSON: You're very
20 welcome. Thank Jim for us as well. Yes, it's
21 inexplicable that it could be such a small
22 percentage of people of color. I think that's got
23 to be the emphasis. For whatever reason it was,
24 it can not be tolerated. Sure, yes ma'am.

25 REGINA WILSON: Good afternoon. My

1
2 name is Regina Wilson and I'm the president of the
3 United Women Firefighters Organization, otherwise
4 known as the UWF. The United Women Firefighter is
5 a fraternal organization representing active and
6 retired women firefighters of the Fire Department
7 of New York. The object of this organization is
8 to unite in sisterhood and to promote the
9 interests and welfare of female firefighters and
10 female fire officers in New York City.

11 Our purpose are charitable and
12 educational, including without limitations to
13 perform in community service in educating and
14 training the public and fire safety and fire
15 safety issues. And in educating the public
16 concerning the demonstrated abilities of female
17 firefighters and female fire officers. To aid the
18 New York City Fire Department's recruitment office
19 in their efforts to recruit, hire, train and
20 retain female firefighters and female fire
21 officers; to promote firefighting as a career for
22 women; to promote the welfare of female
23 firefighters and female fire officers employed by
24 the city of New York. To coordinate with other
25 groups, both civilian and firefighters, to achieve

1
2 the purpose of which the corporation is formed,
3 with this purpose in mind, the UWF has found that
4 the additional percentage of New York City high
5 school and GED graduates to be beneficial.

6 Currently our total number of
7 female firefighters, officers and marshals is 32
8 out of over 11,000. Just speaking about
9 percentage wise, female firefighters are not a
10 percentage at all. Those are the total numbers
11 and over 11,000 is the total number in fire
12 suppression. Since the early 80s when the first
13 women joined the Department, our numbers have
14 decreased. We feel that this extra advantage
15 given to the women that live in the city will not
16 only allow women to get hired at a quicker rate
17 but it will be a great incentive when recruiting
18 for female candidates in the future.

19 A great number of female
20 firefighters have obtained their high school
21 diplomas from this city and this amendment would
22 have benefited them through their hire process for
23 the job. Although we feel this is not the total
24 solution to the problem of our small numbers in
25 the Department, our biggest problem being the age

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2 requirement. It is the belief that we, the UWF.
3 Must make every effort to ensure our numbers
4 increase and that we research all ways to
5 encourage women to sign up for the greatest job in
6 the world.

7 I wanted to just speak about the
8 minority factor as well as the woman factor.
9 Being a woman and being a minority on this job or
10 a person of color, we have a double disadvantage
11 because the Department has not done a great effort
12 within the past recruitment drive. I think the
13 last recruitment drive that we had, had been the
14 greatest effort made in order to make this job
15 appealing to women as well as women of color that
16 are on the job. So we are at a double
17 disadvantage of even trying to find this job
18 appealing.

19 I also wanted to speak in reference
20 to legacy and veteran credits. For instance, the
21 legacy credits came into play for 9-11. Out of
22 the 343 that died, none of them were female
23 firefighters. I can only speak of the African
24 American firefighters, 12 of those died and I'm
25 not sure of the number of Hispanics. But if you

1
2 just go by the African American members, that
3 would leave us with only 331 whites and their
4 families who would be eligible to take part in
5 this legacy credit. So those credits in no way
6 benefit female firefighters at all.

7 Also dealing with veteran credits,
8 most of the people that file for veteran credits
9 are males so that in no way helps us either. We
10 feel like this amendment would help us to, in some
11 way, get a leg up because we are the lowest on the
12 totem pole right now. We are a drop in the bucket
13 and we're trying very hard to change our numbers.
14 But the women from the 80s now are all retiring.
15 We only have one person, well actually we have two
16 people now that are on the job that were part of
17 the original 80. But they, too, are getting to
18 the point of retirement.

19 So our numbers are decreasing at a
20 great rate and we feel that this would help to
21 encourage and give us a better drive in order to
22 push forward for women to have this opportunity.

23 CHAIRPERSON NELSON: With all due
24 respect, in honesty, I'm sure you wouldn't want to
25 receive credits in that respect, having lost a

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member.

MS. WILSON: No, but I'm just saying that that's not even something that women, we might be able to take advantage of.

CHAIRPERSON NELSON: For those who lost people, I didn't want them to take that as being an insensitive.

MS. WILSON: No, I'm not in any way saying that.

CHAIRPERSON NELSON: I didn't think you were. Not at all. Now, I know Paul Washington, I'm sorry, who's a former worked for Charles Barron and a friend of mine, that's why I was surprised when it wasn't Paul Washington that I knew. So Mr. Washington.

PAUL WASHINGTON: All right, thank you Chair for allowing me to speak. Thank you committee members as well. I have some prepared statements that have been issued. But before I read those prepared statements, I just want to respond to the things that DCAS said when they were up here. Honestly, I really don't even know where to start.

They can be very convincing,

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2 particularly to people who aren't really familiar
3 with the situation. But none of what they said
4 holds any weight at all. First they claim that
5 they're scared of the unconstitutionality of this
6 bill being put forth. That's a fancy way of
7 saying that there's going to be a lawsuit against
8 it. Of course there's going to be a lawsuit
9 against it. There was a lawsuit against the five
10 points residency when that was proposed and it
11 held up. It held up in court.

12 DCAS was the one who put that five
13 points residency up in 1993. Of course it was
14 challenged and we won the challenge. This is in
15 the exact same spirit at that. Why would this be?
16 Why are they so afraid of a challenge in this law
17 but put forth the other law in 1993? That doesn't
18 make any sense. DCAS says they're concerned with
19 the legacy points that exist now. Those points
20 have existed, as they admitted, for eight or nine
21 years. I've never heard any concern on their part
22 for those points being knocked out.

23 Not only that, when they were
24 proposed, DCAS didn't stand in the way. DCAS
25 never came up like they did today and said, oh, we

1
2 can't allow this to happen because if it's
3 unconstitutionality. DCAS sat here today and said
4 that they want to discuss this with us. I
5 personally brought this up to the Commissioner of
6 DCAS, Martha Hurst in 2006, also commissioners
7 Scapetta and Mayor Bloomberg earlier in 2006 and
8 on more than one occasion. It was met with the
9 sounds good, it sounds like something that may be
10 we can do. I came to them subsequently and they
11 said, yeah, I don't know. We'll see.

12 But there was never anything about
13 unconstitutionality and they never wanted to sit
14 down at that point and talk about it. Now, all of
15 a sudden they're in such a big rush they want to
16 sit down and talk about it. They're so open to
17 talk about it. They didn't want to talk about it
18 in 2006 when it was brought up.

19 And they talked about how
20 complicated the scoring is on the last test. It
21 couldn't be any simpler. The last test, you took
22 a written test. Whatever you got on the written
23 test you combined it with whatever other points
24 you could get for residency, from military points
25 and they put your name on a list according to

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2 those two factors; that's it. It was completely
3 uncomplicated. It was nothing that you need a
4 phsycho-matrician to come and explain to you. You
5 took the test, however way you did on the test,
6 they added points from other things and they put
7 you on the list. It couldn't be any simpler.

8 They also talked about it's their
9 job to ensure validity for all of these tests. We
10 just won a lawsuit against them because they
11 don't' ensure validity for their tests. We just
12 won that lawsuit. We won that lawsuit on
13 something called summary judgment, which is where
14 you go to the judge beforehand. I just found all
15 of this out during the course of this. You go to
16 the judge and you say listen, this is such an open
17 and shut case, you don't even have to have a
18 trial. Just look at the depositions that were
19 taken, look at the evidence that's put forward and
20 you'll decide.

21 Judges don't often rule on summary
22 judgment because of that. He ruled in our favor
23 on summary judgment because it was so open and
24 shut. They don't bother to validate their tests.
25 If they're so concerned with and in terms of their

1
2 judgment as to what's Constitutional and what's
3 not. They swore up and down that they were going
4 to win this case in court. They lost so badly
5 they didn't even have to go in front of a trial.
6 So maybe their judgment in terms of what's
7 Constitutional and what's not was a little
8 impaired.

9 Excuse me for getting excited but
10 to hear the things that they say it's just so
11 blatantly absurd. I have prepared comments that
12 you all could read. I don't want to take up too
13 much time. I'll just point out a couple of
14 things. I want to point out the former Fire
15 Commissioner, Thomas Von Esson, who was
16 firefighter and then the UFA president and then
17 the Fire Commissioner. He served the Fire
18 Department for over 31 years. In a deposition
19 said the following. I'll read it to you.

20 Question: But wasn't the idea of
21 city residency to push people who are real city
22 residents five points above people who are not
23 real city residents? Wasn't that the intent?

24 Answer: Yes, it showed that it
25 wasn't a perfect solution. A perfect solution

1
2 would have been that a person had to graduate from
3 a city high school and live in New York City but
4 that wasn't the rule.

5 Later on he said, what about the
6 civil service system in your views should be
7 changed?

8 Answer: New York City you're
9 talking about?

10 Question: Yes.

11 Well, it is only my personal view,
12 now being out of the Department. I would have a
13 residency that took people who went to a New York
14 City high school and gave them a considerable
15 amount of extra points. I think that would make a
16 big difference. And give military people a
17 considerable amount of extra points because there
18 is a big percentage of people of color in the
19 military. And those would be two changes I would
20 make if I had the ability to just do it, but I
21 never did.

22 Question: When you say
23 "considerable amount", do you mean more than five
24 bonus points?

25 Answer: Yes.

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2 He goes on from there. I don't
3 want to pretend that we're good friends with
4 Thomas Van Esson. We've clashed with him over the
5 years but even him, even when he was being deposed
6 by the Vulcan Society because of the law suit, he
7 honestly admitted that this was the case.

8 Finally, I guess the most important
9 thing is the Council needs to approval from DCAS
10 to go ahead with this. This isn't up to DCAS;
11 this is up to the Council. And also, too, it's
12 even better that this be passed as a law as
13 opposed to DCAS writing this in because if they
14 write it in, they could just as easily write it
15 out in the future. So I urge the Council to push
16 this forward and let's make a change in the Fire
17 Department with or without DCAS' consent. Thank
18 you.

19 CHAIRPERSON NELSON: Thank you very
20 much for your testimony. I believe all five
21 members of the panel did testify, right? Thank
22 you. Happy Birthday being 84, it's unbelievable.
23 84? 81. Well, you look like you're 61 so that's
24 terrific. The next panel please. Oh, I'm sorry
25 and Melissa had to go to another meeting as a

1
2 matter of fact. Melissa Mark-Viverito.

3 COUNCIL MEMBER MARK-VIVERITO:

4 That's okay, Mr. Chair. I want to thank the
5 panelists for their testimony, particularly Ms.
6 Wilson in terms of the struggles that women
7 continue to have, obviously, in different agencies
8 and representation in the labor force. So thank
9 you for that. I signed on to this bill and I know
10 I met with reps from the Society earlier last week
11 and I'm supportive of it.

12 I just want to play devil's
13 advocate for one second because I raised this in
14 our meeting about the issue of the current
15 process. Which I think some of you seem to have
16 differ with the representative from DCAS that
17 there is this residency requirement, so to speak,
18 and the five points that are given. Because your
19 testimony kind of refers to it as well. But they
20 seem to indicate that there is documentation that
21 is expected of people to submit with their
22 application. Is that accurate?

23 Because the fact that in your
24 testimony you talk about that there is no real
25 proof or that people are being fraudulent. It's

1
2 hard for me to imagine that if you're asking
3 people for copies of tax statements, if you're
4 asking people for some fool proof kind of
5 documents, those could be fraudulent. I'm just
6 trying to understand, if there was a way of
7 tightening that easting requirement of the
8 residency and the documents that are expected,
9 would this ameliorate the concern or is this still
10 something that you would be interested in
11 pursuing. I'm just playing devil's advocate. I
12 support it. I see the validity of it with regards
13 to a recruiting tool in the school, serving as an
14 incentive for our young people. But just trying
15 to understand because if people are being
16 fraudulent in what they're providing I think they
17 should really be held responsible for that as
18 well.

19 MR. WASHINGTON: In a meeting we
20 had with DCAS, matter of fact when they were being
21 deposed, there is a penalty. If you lie there is
22 penalty; you get thrown off of the list,
23 officially. DCAS was asked had they ever thrown
24 anybody off of the list for this. And this has
25 existed for 16 and they said they didn't have any

1
2 record. They didn't have no knowledge of ever
3 throwing anybody off of the list.

4 The way it works is you have to
5 provide proof, either rent receipt or mortgage
6 receipt. You have to show that and then you have
7 to show, I believe, it's two other things. But it
8 could be a gas bill, phone bill or what have you.
9 Because the first thing we tried to do is to try
10 to tighten up these five points, make them more
11 effective. I was told by a deputy fire
12 commissioner and had a long conversation with this
13 person. That it just can't be done. It's
14 basically very hard to prove that someone doesn't
15 live where they say they live. And the only way--

16 COUNCIL MEMBER MARK-VIVERITO:

17 [interposing] Really, we just went through--as my
18 colleague was saying, we just went through this
19 process ourselves and we had to submit a copy of
20 what we file with the IRS. That, to me, is
21 something that is really hard to. If you're going
22 to mess with the federal government and federal
23 taxes you're going to have a real problem. But if
24 somebody has to present an IRS copy of their
25 statement that has their address on it. I think

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that that's--

I'm wondering, and this is not to say no to this. I'm supportive of it and I want to see it passed. But I'm wondering if there's still a way that we can be vigilant. Because I think that people that are being fraudulent and potentially taking jobs away from people because that is the expectation of the residency requirement is because we want to see residents of New York City in the Fire Department as a way of trying to bump up the numbers of Latinos, African Americans, Asian Americans, women, whatever.

It's important that we kind of really deal with that issue, too. I don't buy the argument that there's nothing that can be done and that it's hard to prove residency. I'm sure there's ways in the documentation that you ask for to really kind of tighten that a little bit more. That's just something on our end that we probably need to do some follow up. I think you to respond, Ms. Wilson.

MS. WILSON: Yes, we're not saying that it's something that can't be done. We're just saying that it's not done and--

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COUNCIL MEMBER MARK-VIVERITO:

[interposing] There's not a willingness there.

MS. WILSON: Right. And we're saying there are not people that look into it and investigate it and make sure that it's true. I've known of people that work in the Department, gave an address but then they drive home to Pennsylvania. You're not even in the city, you're not giving your money to the city. You're driving, after your tour, to your house in Pennsylvania. You're not even within the city limits.

If you're not able to stop that person who is on this job and then still continues to take their dollars and our jobs out of the city. And there's not a crack down of it then we're going to continue consistently to have this problem. That's why residency credit, for us, it's a neutral thing. It's not even something that we consider something that would help the people in the city to have a leg up because everybody gets it.

COUNCIL MEMBER MARK-VIVERITO: Just speaking to the issue that your raised about DCAS

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2 and the arguments. Let's be clear that we have
3 been told many, many times as a Council when we
4 proposed other legislation that what we were doing
5 was illegal or unconstitutional. We've been taken
6 to court many times. This administration on
7 things that they didn't want us to pass and
8 telling us we didn't have the authority to pass
9 and we beat every single one of those claims.

10 So maybe that speaks to something
11 about our legal experience here and what we have.
12 I believe very frankly that our legal reps in the
13 Council have analyzed this and said that we have
14 every right to do this that we will and we will
15 approve that in the courts as well. I think it's
16 the right thing to do.

17 I really want to thank the Vulcan
18 Society, in particular for their diligence and
19 their vigilance. Because I know that I see you
20 guys all the time. I've heard you on NY One and
21 really on these issues and working with
22 organizations. In terms of the legal roads that
23 you've taken, you've really made some great
24 inroads for people of color in the city and I
25 really appreciate that very much. I'll just leave

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it there because I just wanted to ask about that.

The question, bottom line, is if that residency aspect was tighter, if there was a way, if it was more effective, would you still see a need for this. I guess that's a question.

MS. WILSON: The high school component gives you something else. Some high school students don't work until they graduate from school. So they may not have the opportunity to have a bill in their name, to file taxes but they do have to file their financial aid forms if they're going to go to college. So this gives you another opportunity to let you know where they're from and what their incentives are.

CHAIRPERSON NELSON: Ms. Samant, I think you wanted to say something.

MS. SAMANT: I was just going to say that the pending legislation does a lot more than the residency requirement could. To the extent that's fine, even if you had a fool proof system for confirming residency, great. That helps get folks who are familiar with New York and therefore improves the quality of your firefighting force.

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2 The advantage of the proposal
3 that's under consideration today is that it not
4 only does that but also addresses this
5 longstanding problem of diversity in ways that the
6 residency requirement alone; as you said it's a
7 wash. It's neutral. It doesn't necessarily
8 promote this goal.

9 COUNCIL MEMBER MARK-VIVERITO: I
10 will leave but I have to say I'm really personally
11 offended, appalled when you talk about a 3% within
12 the Fire Department. It's really insulting. And
13 in this city that is as great as it is and as
14 diverse as it is. The fact that this
15 administration is not being as serious and trying
16 to work with us and what we're raising is really
17 something that defies logic. So it's really
18 unbelievable to me then, in this day and age that
19 it's that bad.

20 MR. WASHINGTON: Council Member,
21 one other thing. The residency you have to show
22 that you live in New York City for one year. So
23 you're not really getting someone who was born in
24 raised in New York. That's another way that
25 people get around it and it's perfectly legal.

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2 They move in to the city for a year or claim that
3 they do, just rent an apartment for a year and
4 then they move back out so it's not really a New
5 Yorker that you're getting.

6 COUNCIL MEMBER MARK-VIVERITO:

7 Thank you.

8 MS. WILSON: I think the percentage
9 for Hispanics might be 5% or 6%. We're better
10 currently on this front but still a low number.

11 COUNCIL MEMBER MARK-VIVERITO:

12 Thank you all very much for your testimony.

13 COUNCIL MEMBER COMRIE: Don't leave
14 yet. I got a couple of things to share with the
15 panel. A couple of things came up from Ms. Lease
16 testimony that I think that the panel should start
17 to work on now, especially that the legal end of
18 it with the lawsuit still pending. Is there an
19 appeal pending with the lawsuit.

20 MS. SAMANT: The lawsuit actually
21 is still pending. As Paul pointed out, we have
22 already one on the illegality of the two exams
23 that were administered prior to 6019 but we're
24 still working out what exactly the remedy is and
25 there's another component to our lawsuit that

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2 involves claims of intentional discrimination that
3 are still being litigated.

4 COUNCIL MEMBER COMRIE: The whole
5 part of the remedy is more inclusion in the
6 development of the next test. Because what came
7 out is she talked about was that they haven't
8 developed the test yet and they're still looking
9 at the same negative rubrics to develop the test.
10 Also what I heard from her today is that the
11 scoring, unlike what you said Paul, is that it's
12 not a straight score but a written test.

13 You got into this whole weird area
14 that she couldn't even tell me what the
15 development of the test scores were. I think
16 that's another thing that you could look into as
17 part of the lawsuit because if they're not getting
18 a straight score from the test, if that's being
19 also given to the whims of DCAS to develop a
20 methodology for what your scoring is, then I think
21 that needs to be looked at very strongly also.
22 Because that's another reason why we only have
23 less than 30% of the people passing the test. If
24 they're making subjective decisions on what you're
25 writing then that's a problem also.

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2 Another thing, why are they still
3 fundamentally coming up with DCAS doing the
4 development of the scoring without the inclusion
5 of the Vulcans or the inclusion of--not the
6 scoring but the development of the test without
7 the inclusion of, as the gentleman said, real
8 world application. That should be 60% of the
9 test. I think that the written exam and the
10 psychological exam are not really the main
11 rubrics. It's whether you can get out there and
12 haul that hose and work that truck and get in and
13 out of a uniform and doing those other things that
14 show that you can actually be competitive as a
15 firefighter. I think those are some things.

16 Also, like Council Member Barron
17 said, I was trying to be diplomatic. I'm a
18 diplomatic kind of guy. I didn't want to start
19 banging on the table but they did open the door.
20 This is my first time at this level and when I
21 hear that you've been going at this since 2006 for
22 the same issue, I wish I had that in my head
23 before I started talking. But my first
24 opportunity to have a direct conversation with
25 them was today.

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2 For them to indicate that they're
3 willing to talk about it, and that they're willing
4 to consider it, I think that they put that on
5 record in public is actually a positive. We need
6 to make sure that we drive everything to that to
7 make sure that they follow through with that as
8 quickly as possible. I'm going to be looking for
9 your help to make sure we do those meetings and
10 that we do it as public, I ask if possible. So
11 they don't try to duck behind whatever the
12 Constitutionality that they think there is.
13 Because there is precedent. I couldn't remember
14 when the residency was done but that was done over
15 their objection and there has been no major
16 discretions.

17 I'm disappointed also that we have
18 an opposition letter from the president of the
19 Uniformed Firefighters association stating that he
20 opposes the additional credit for an applicant.
21 I'm very disappointed in that. He uses the
22 reasons that there are private schools in New York
23 City that a large percentage of the student
24 population comes from outside of the five
25 boroughs. I would offer to say that most of the

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2 children that attend private schools in New York
3 City are not trying to be firefighters. Whether
4 you come from the city or not, if you're going to
5 the private school, you can afford private school,
6 your parents' path is on a whole other track for
7 you. So to use that as a reason not to be a
8 firefighter is a little bogus.

9 I think that as part of your appeal
10 you should definitely make sure that there is
11 minorities that sit in that development of the
12 testing at every level and especially if the
13 written is not being done in a clear and concise
14 way as far as developing the scoring and the
15 answers for the written. I think that's another
16 big pit that we fall into and why we're only 3% of
17 the final make up of the Department.

18 It's ridiculous that Chicago and
19 San Antonio and Boston, especially have higher
20 rates of minority participation than New York City
21 has. There was one other thing that she said that
22 really struck me that I think we need to go after.
23 But basically their subjective way of looking at
24 all of the reasons why you can pass the test or
25 not pass the test is clearly still in their mind

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2 objective and clearly it's discriminatory. And I
3 think that hopefully you can get that as part of
4 the lawsuit and make sure that those rubrics are
5 changes so that they don't have the same type of
6 test that's coming out in 2011.

7 When is the test due? The end of
8 this year, the beginning of the year? Does
9 anybody know?

10 MR. WASHINGTON: The application
11 period is supposed to be next year for the test to
12 probably be in 2011.

13 COUNCIL MEMBER COMRIE: Next year,
14 so we need to hurry and get on top of that.

15 MR. WASHINGTON: But we won the
16 lawsuit about the test so it will be a new test,
17 it will be a fairer test.

18 COUNCIL MEMBER COMRIE: Yes, but I
19 would think as part of your ongoing lawsuit and
20 action that you are part of the development of the
21 test and you get to look at the test before it's
22 presented.

23 CHAIRPERSON NELSON: Well thank you
24 Council Member Comrie. Thank you for this panel.
25 I appreciate your time. I think we're going to

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2 make progress in this arena. I think the last
3 panel would consist of Michael Marshall of Vulcan
4 Society. Is Michael still here? And George Diaz
5 of the New York City Fire Department Hispanic
6 Society. Hi, George, there you are. And I think
7 it's Zadory Smith.

8 ZADORY SMITH: Zadory Smith. In
9 the interest of time I take back my time because
10 everything was...

11 CHAIRPERSON NELSON: It was said,
12 right?

13 MR. SMITH: It was said.

14 CHAIRPERSON NELSON: Terrific. I
15 appreciate that.

16 MR. SMITH: Can you tack my time on
17 to Michael Marshall?

18 CHAIRPERSON NELSON: Michael
19 Marshall, okay, you were the first name I called.
20 Thank you Mr. Marshall. And Casey Clayton. Is
21 Casey still here? Yeah, and Mike Gimble Local
22 375, DC 37 of AFSME and Serigna Srissical. Did I
23 pronounce that right? So I have three. I'm
24 sorry, there's four people. Casey Clayton is not.
25 Oh, Casey is still here. Mr. Clayton, good.

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2 Thank you. And whoever would like to start off
3 the panel.

4 GEORGE DIAZ: All right. Thank
5 you. As I stated my name is George Diaz. I'm
6 president of the Hispanic Society for the New York
7 City Fire Department and I thank all the members.
8 I thank the Vulcan Society for inviting us to
9 participate in this and I'm proud to stand firm on
10 this issue with them. I thank Council Member
11 Comrie and the panel.

12 I want to discuss a few things.
13 Basically, I'm fortunate to represent all the
14 Hispanics that are within the New York City Fire
15 Department. The Fire Department has a tendency of
16 using numbers to represent the diversity of the
17 Fire Department and that may be a little
18 misleading. Sometimes they throw in numbers of 7%
19 or 8% and I'd like to just clarify that. That
20 number is not pertaining to firefighters, per se.
21 Since they combine the EMS with the New York City
22 Fire Department, they will bring up these numbers
23 that will differ from ours. Just to make sure
24 that is clarified and for future reference.

25 They like to throw their EMS, EMTs,

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2 paramedics, medical staff in to those numbers and
3 use those minority numbers to increase the
4 representation. When in fact, what we're talking
5 about here today are firefighters, per se. I have
6 all the respect for EMS and their personnel and
7 they're wonderful members of my society as well
8 but we are talking about firefighters today.

9 The other thing that I would like
10 to say is that in regards to the last probationary
11 class that DCAS referred to. Yes, there was a
12 40%, may have been a larger percentage of
13 minorities in that class but that was not done by
14 the efforts of DCAS. That was by the efforts of
15 the ground roots movement by the Vulcan Society,
16 by the Hispanic Society, by the diligent work of
17 the recruitment unit within the Fire Department
18 that was headed by an outstanding gentleman that
19 was there, Captain Tyler, who made an exceptional
20 difference in that unit. I'd like to give credit
21 where credit is due so it's not solely because of
22 the test. There are some other issues that test
23 issues still needs to be resolved.

24 What I'd like to bring to this is a
25 different view on this. In my 20 plus years with

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2 the Fire Department I've seen numerous individuals
3 that have always stated they can't afford to live
4 in this city and they live outside of this city.
5 One of appealing ideas for leaving the city is the
6 educational system within New York City. For many
7 years, everyone, the Council has been addressing
8 the inadequacies within the New York City
9 educational system, the old Board of Education and
10 how it did not favor our children and their
11 education, social promotions and things of that
12 nature.

13 Okay. So now we're addressing the
14 educational system and now it's beginning to be
15 corrected. But the results of these corrections
16 are going to be in the future. What do we do for
17 the individuals that are graduating from high
18 school that went through this educational system
19 that lacked? If you compare our suburban schools
20 with our New York City public school system in the
21 past, everyone would argue that their schools were
22 better, their grades were better, their test
23 results are better, their SAT results were better.

24 So how to we compensate these
25 individuals as far as us as a society for

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2 providing these individuals who chose to remain
3 within the city limits, to change to remain in New
4 York City school system. Because as been
5 testified, there's individuals who live in New
6 York and choose to go to school outside of New
7 York. So how do we compensate? This eight point
8 preference would be a good leveling field for
9 these individuals.

10 It's not the lack of ability of an
11 individual being not as smart as someone else.
12 It's the ability to be able to be taught at the
13 level that someone else was taught. So I think
14 that an eight point preference for graduates from
15 the New York City school system would help to
16 increase not only the diversity of the New York
17 City Fire Department but it will help the Board of
18 Education as well. It will help to keep
19 individuals to go to New York City, to stay in the
20 New York City. It will help individuals have a
21 goal as for a reason why they should graduate.

22 Everyone does not necessarily have
23 to college directed or college oriented
24 individuals. If they know at the end of the road,
25 after high school there is something that I can

1 do. There is somewhere that I can go; I do not
2 necessarily have to be this. So this job, though
3 it's more technical than it was 20 years ago when
4 I came on. Yes, it is. We need a little bit more
5 technology oriented but our kids are. Their
6 Nintendos, they're multi-taskers, their ability to
7 handle things that I could not handle that went
8 back 20 years ago they can do. Our kids, they can
9 perform and this is not a mind setting type of job
10 as well as it is both. You have to be physically
11 agile, you have to be thinking on the spot, you
12 have to make last minute decisions, you have to be
13 hand coordinated with tools, you have to be able
14 to handle certain mechanical aspects. A written
15 test does not test those abilities.

17 DCAS says awareness and fitness and
18 says that it would be unconstitutional to see if a
19 high school diploma would make it. How would that
20 pertain to awareness? Well then why do they
21 require it in the first place. They're the ones
22 that said you must have a high school diploma,
23 then you have to have a certain amount of college
24 credits. So when awareness is an issue then why
25 ask for it in the first place. All we're asking

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2 is that if it's awareness and fitness from a
3 school, college credits then let's give preference
4 to the ones who got it here, in the city that's
5 employing them, in the city that's paying them.

6 This is also an economic bill
7 because as it's been stated before, individuals
8 that grow up here tend to stay here. That is who
9 graduated from New York high school in New York
10 City don't tend to move out if they have incentive
11 to stay here. One of the incentives would be
12 housing, of course, but that's another issue. But
13 if you give preference to the ones that have
14 already graduated from here then they will more
15 than likely stay here and that will help the
16 economics of New York City. If you think 40%, 40%
17 of the money that is handed out by the city in
18 salaries leaves New York City to be spent in the
19 suburbs, paying those taxes. That's a lot of
20 money that we could keep here and that's a lot of
21 revenue that we would generate internally back to
22 ourselves.

23 I ask you to consider this. I'll
24 use that as my testimony. I'm trying to make it
25 as brief as possible. I thank you for listening

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and I urge you to pass this bill.

CHAIRPERSON NELSON: Thank you, Mr. Diaz.

CASEY CLAYTON: How you doing? I'm Casey Clayton, I'm a New York City firefighter. My issues were basically for the representatives for DCAS but most of my issues were explained. I just wanted to say that as far as--I'm definitely here for the bill. It's definitely a good idea because the residency credit situation was from someone that was there in the academy graduating, a joke when as soon as we graduate 80% of the class getting up, wanting to sign the change of address forms. Come on, they didn't live here in the first place.

CHAIRPERSON NELSON: That's a bold one.

MR. CLAYTON: So yes, that was the issue but as far as the bill goes, I agree because as far as Long Island goes, which like you said is deplorable that half or more than half of this Department live out there. You can't even go to some beaches or parks without paying unless you live out there. That's all I have to say because

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like I said everything else was addressed.

Like the Councilwoman over here was saying, there could be stronger, better ways to get on the residency thing. But high school diploma, it would be tough to get around that one.

CHAIRPERSON NELSON: Thank you Mr. Clayton.

MR. CLAYTON: You're welcome.

CHAIRPERSON NELSON: Mr., I believe, Gimble.

MIKE GIMBLE: Mike Gimble, I'm representing Claude Forte, the president of Local 375, DC37 AFSME. But before I get into my remarks I want to respond to something that the representatives of DCAS said in reference to merit and fitness. To me, I thought it was outrageous and an insult to our educational system to essentially say that there is no merit in a New York City high school diploma. The fact is that youth from all over the country flock to New York City. I'm talking about talent comes here because of what exists in this city. That's why there's so many writers, so many talented people that come out of New York City's public school system.

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2 My high school, yes, it's
3 Stuyvesant High School. You got three top Obama
4 officials that graduated from my high school, Eric
5 Holder, a attorney general, David Actuard, the
6 main advisor to Obama and the cabinet level's
7 science representative, all from Stuyvesant High
8 school. Now, how is that possible, all of these
9 people coming from New York City public high
10 school system. We have a magnet.

11 This is a meritorious system. We
12 have every right since it's our own system to give
13 these extra points to our own graduates. You may
14 claim that suburban schools are better. They're
15 only better in the sense that they have more money
16 there. Those kids, I feel bad for them, because
17 they don't get exposed to the diversity that
18 exists in New York City, the reason why so much
19 talent comes out of New York City. To give eight
20 points for merit is valid because merit is
21 subjective opinion.

22 It's not something that you measure
23 in a book and so on. It's a subjective thing.
24 For her to claim that it doesn't qualify for
25 merit. Well, who makes that judgment? Who makes

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2 that judgment? The fact is that a New York City
3 high school diploma from one of the greatest
4 school systems in the world has a lot of merit.

5 Now getting to my remarks. My
6 local, Local 375 represents almost 7,000 workers
7 in the City of New York. Our members comes from
8 all over the world, majority are people of color,
9 majority are immigrant. My union often calls
10 itself a little United Nations. We look like the
11 rest of the city. Do the firefighters? The
12 firefighters overwhelming, it's lily white in a
13 city that's overwhelmingly people of color and
14 immigrant. That is a stain on this city. After
15 40 years ago we fought for civil rights. We
16 integrated a lot of things but for 40 years the
17 city government has stood in the door and blocked
18 the hiring of people of color in New York City's
19 firefighters. This can not stand. It's the
20 number one civil rights issue in this city and it
21 has been so for several decades and it's got to
22 end now. It can't continue. We can't allow that
23 to continue in this manner.

24 We have a situation which is a
25 shameful situation for New York City. We need to

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2 correct it. Yes, there's a monetary issues
3 involved; that's secondary. What this is all
4 about is civil rights and nothing else. I don't
5 care if it costs more, civil rights comes first.
6 And we need to deal with it and especially in this
7 period where there is such a crisis in employment
8 for youth of color.

9 You see the numbers that are
10 reported out. Right? Our high school kids of
11 color are graduating into no jobs. Are we to put
12 another doorway with a lock on it to keep them
13 from getting the jobs? We have a responsibility
14 in this crisis to make sure that this job is open
15 to them. And that is something we must deal with
16 now, not ten years from now, not to wait for the
17 lawsuits and everything. It's about time. It's
18 40 years plus over time. Thank you.

19 CHAIRPERSON NELSON: Thank you, Mr.
20 Gimble. Ms. Surristical.

21 SERIGNA SRISSICAL: Hi, my name is
22 Serigna Srissical and I'm secretary for the United
23 Women Firefighters. I just want to thank you for
24 your union support because unfortunately we don't
25 have our own union support on this issue. But I

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2 didn't have a prepared statement. In the interest
3 of time, I just wanted to say a few comments
4 because I speak from a very unique perspective
5 from the Fire Department.

6 I'm a woman, I'm an Asian American,
7 I'm also queer. As Regina said, women aren't even
8 1% of the Fire Department; we're 0.03%. There are
9 so few Asian Americans as firefighters that we
10 don't even have an organized fraternal. You can't
11 even numerate the number of LGBTQ firefighters in
12 the Fire Department because most of them are in
13 the closet because of the rampant homophobia.

14 All of these issues of sexism,
15 racism and homophobia, unfortunately it's because
16 a lot of the firefighters aren't from New York
17 City, aren't from the diversity that New York City
18 is. And when they come to work in New York City,
19 they're exposed to all these elements for the
20 first time and it's unfortunate as adults.
21 Because of that they are pretty racist. It
22 extends to their brother and sister firefighters,
23 it extends to their relationship with the
24 community, unfortunately.

25 Fire suppression isn't our only

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2 duty. We have to do medical work. We have to
3 relate to the community. We do building
4 inspection. When you're talking about language
5 barriers, when you're talking about just even we
6 have peace officer status. Even just people
7 knocking on the firehouse door and talking to the
8 firefighters, a lot of firefighters want to work
9 in the ghetto because that's where fire duty is
10 but are they a part of the community or are they
11 commuting to and from the suburbs and just passing
12 through.

13 A lot of the guys I worked with,
14 the first time in our response area was when they
15 got signed to the fire house. They had no idea
16 anything about the neighborhood, anything about
17 the surrounding areas. When they leave at the end
18 of their tour, they go straight to Long Island or
19 upstate. They are just not a part. AS
20 firefighters we're supposed to be a part of the
21 community or we're supposed to represent the
22 community.

23 When you're talking about
24 meritocracy, people from the city are merited to
25 become firefighters because when you're not from

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2 the city and you're performing your jobs duties,
3 you can not perform them to as high of a standard
4 when you don't care about the people you work for.
5 That's all I wanted to say.

6 CHAIRPERSON NELSON: Thank you.
7 Council Member Comrie.

8 COUNCIL MEMBER COMRIE: I just want
9 to thank the panel for being here today. I want
10 to thank you for your efforts in staying diligent
11 and consistent. We're trying to make some
12 fundamental changes so that we can have more
13 diversity in the Fire Department. I will be
14 working with the group and all the people that are
15 here.

16 I think immediately one of the
17 things we need to do is send a letter to
18 Commissioner Hurst and the Mayor following up on
19 what we stated today and requesting that we do a
20 follow up meeting with them to get to the nuts and
21 bolts of this. If we can get a forensic
22 psychologist of whatever it was they asked for, a
23 psycho, cyclist, whatever it was that they asked
24 for.

25 CHAIRPERSON NELSON: Psycho social.

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2 COUNCIL MEMBER COMRIE: I think
3 that the overarching need here to create a better
4 pool of applicants clearly overrides any
5 foolishness that they wanted to hide behind with
6 merit and fitness and the ability of DCAS to
7 control the application. Again, I want to thank
8 all that came. I'm going to ask you to continue
9 to stay focused on what you want to do to make
10 this goal happen. We will do everything on our
11 part to get as many members on the bill as
12 possible. Right now we have I think 12 members on
13 the bill and we'll keep pushing, with your help,
14 to get other members on the bill so that we can
15 get this passed as quickly as possible. I want to
16 thank you very much.

17 And Mr. chair, I want to thank you
18 for your diligence in being here today. I hope
19 that we can get your name on the bill also.

20 CHAIRPERSON NELSON: Yes, I'm
21 heading in that direction. In closing, on the
22 face of this whole situation it appears to be a
23 really bad situation, embarrassing to New York
24 City. I just hope it's not systemic beyond the
25 face into the body and the soul as well. It's

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2 obviously unfair and it's seemingly, of course, a
3 racist situation. I think people get stronger
4 than that on it, I know.

5 Like we in the council, we have to
6 submit five, six pieces of proof where we live. I
7 think that's another issue that should be
8 addressed as well. If it's good for the goose,
9 it's good for the gander. It's good for the
10 gander, it's also good for the goose. I wanted to
11 thank also Jen Wilcar to my right and Shaniqua
12 Russo, our counsel and our administrative person
13 for the committee for doing such a great job.
14 Having said that, this meeting on the Civil
15 Service and Labor--one last word.

16 COUNCIL MEMBER COMRIE: I want to
17 thank Teras and Nazareth also who.

18 CHAIRPERSON NELSON: Oh yeah.

19 COUNCIL MEMBER COMRIE: Who did
20 check on the legality. From what we understand,
21 we're in good legal standing. I didn't say that
22 while DCAS was here but we're in good legal
23 standing. There is precedent for this and we just
24 have to push. Thank you.

25 CHAIRPERSON NELSON: Thank you and

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this meeting is adjourned. Thank you.

C E R T I F I C A T E

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

Signature Amber Gibson

Date December 27, 2009