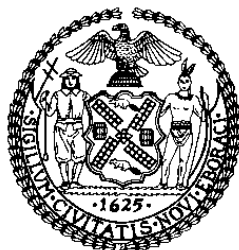


Committee on Civil Service and Labor
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The Council of the City of New York

BRIEFING PAPER OF THE HUMAN SERVICES DIVISION

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COMMITTEE ON CIVIL SERVICE AND LABOR

Hon. I. Daneek Miller, *Chair*

June 25, 2019

**Oversight: Pay inequity issues within the New York City Probation Department and the
New York City Fire Department**

INTRODUCTION

On June 25, 2019, the Committee on Civil Service and Labor, chaired by Council Member I. Daneek Miller, will hold an oversight hearing entitled “Pay Inequity Issues within the New York City Probation Department and the New York City Fire Department.” The hearing will focus on the pay disparities within the Fire Department of New York (FDNY) and New York City Department of Probation (DOP). Witnesses invited to testify include the New York City Office of Labor Relations (OLR), FDNY, DOP, the NYC Comptroller, various unions, research institutes and others interested parties.

BACKGROUND

The Wage Gap in the United States

Pay equity is a means of eliminating sex and race discrimination in the wage-setting system.¹ Pay equity means that the criteria employers use to set wages must be sex- and race-neutral.² The discrepancy in wages is represented by the wage gap, which is the average difference between the pay for men and women in the workforce.³ The most common measure for calculating the gender wage gap is based on the median annual earnings of full-time, year-round workers.⁴ According to the most recent data available by the United States Department of Labor, in 2016, 56.8 percent of all women participated in the labor force⁵ and in 2017, women earned 81.8 percent of what men earned, based on the median weekly earnings for full-time wage and salary workers.⁶

¹ Pay Equity Information, National Committee on Pay Equity. Accessed at: <https://www.pay-equity.org/info-Q&A.html>.

² *Id.*

³ *Id.*

⁴ United States Department of Labor, Women’s Bureau. Issue Brief: Women’s earnings and the Wage Gap. Accessed at: https://www.dol.gov/wb/resources/Womens_Earnings_and_the_Wage_Gap_17.pdf.

⁵ United States Department of Labor, Women’s Bureau. “Labor Force Participation Rates.” Accessed at: <https://www.dol.gov/wb/stats/NEWSTATS/latest/laborforce.htm#LFPagesex>.

⁶ Catalyst, “Quick Take: Women’s Earnings – The Wage Gap.” July 16, 2018. Accessed at: <https://www.catalyst.org/research/womens-earnings-the-wage-gap/>.

The wage gap between men and women has come under increasing scrutiny in recent years, with annual events such as “Equal Pay Day” that emphasize that women make significantly less than men for doing the same work in this country.⁷ The next Equal Pay Day is March 31, 2020; this date symbolizes how far into the year the average woman must work to earn what the average man earned in the previous year.⁸

Traditional Factors Affecting the Gender Pay Gap

Some of the factors driving the gender wage gap have been labor force participation; occupational title differences (for similar work); education; labor force experience and hours worked; gender differences in formal job training and retention; the impact of gender on the division of labor and on family caregiving; occupations and industries; and labor market discrimination.⁹

Much of the wage gap has been explained by the factors outlined above, and some progress has been made in each of those factors in the five decades since World War II, which has seen the women’s labor force participation in the United States increase dramatically.¹⁰ Since the United States Census Bureau started collecting such information, women today are more likely to have a bachelor’s degree than men;¹¹ yet, these underlying causes have been hard to alleviate, hence there is still a wage gap in America.¹²

⁷ Tarlo, S., “What Is Equal Pay Day? Here’s Everything You Need to Know,” (“What is Equal Pay Day?”) *NBC News*. April 4, 2017. Accessed at: <http://www.nbcnews.com/news/us-news/what-equal-pay-day-here-s-everything-you-need-know-n741391>

⁸ Equal Pay Day Kit, National Committee on Pay Equity. Accessed at: <https://www.pay-equity.org/day.html>.

⁹ Blau, F.D., and Kahn, L. M., “The Gender Wage Gap: Extend, Trends and Explanations” (Cambridge, MA, 2016), 11-34.

¹⁰ *Id at 11*.

¹¹ Feeney, N., “Women are Nor More Likely to Have a College Degree,” *TIME*. October 7, 2015. Accessed at: <http://time.com/4064665/women-college-degree/>.

¹² Nikki, G., et. al., “The narrowing, but persistent, gender gap in pay.” *Pew Research Center*. April 9, 2018. Accessed at <http://www.pewresearch.org/fact-tank/2018/04/09/gender-pay-gap-facts/>.

New York City

While New York State has the second smallest wage gap in the nation among men and women working full-time, year round, when comparing their median annual earnings, there still exists a gap within the state and the City.¹³ Moreover, this gap, the difference between the median annual earnings of men and women working full-time, year-round, is more acute for minority women.¹⁴ For 2016, the wage gap in the City was 85 percent.¹⁵ When compared with the median annual earnings of white men working full-time, year round, the wage gap for black women was 53 percent, 44 percent for Latina women, 74 percent for Asian women and 76 percent for white women.¹⁶ According to a 2018 report by then-Public Advocate Leticia James, the average salary of women at the top 10 majority-women New York City agencies¹⁷ is \$10,000 less than the average salary of men at the top 10 majority-male New York City agencies.¹⁸ However, the same report found that in some agencies, male and female employees of the same rank or position are paid equally and that collective bargaining agreements and civil service examinations can be an effective tool to both address wage equity and other issues related to retention and promotion.¹⁹

¹³ Milligan, S., “States with Largest and Smallest Gender Pay Gap.” *U.S. News and World Report*. April 2, 2019. Accessed at: <https://www.usnews.com/news/best-states/articles/2019-04-02/states-with-largest-and-smallest-gender-pay-gap>.

¹⁴ Hegewisch, A., and Hartmann, H., “The Gender Wage Gap: 2018 Earnings Differences by Race and Ethnicity.” *Institute for Women’s Policy Research*. March 7, 2019. Accessed at: <https://iwpr.org/publications/gender-wage-gap-2018/>.

¹⁵ American Association of University Women (AAUW), “U.S. Cities Reveal a Wide Range of Gender and Racial Pay Gaps.” December 11, 2017. Accessed at: <https://www.aauw.org/article/u-s-cities-reveal-a-wide-range-of-gender-and-racial-pay-gaps/>.

¹⁶ *Id.*

¹⁷ Department of Education Paraprofessionals, Human Resources Administration/Dept. of Social Services, Department of Probation, Department of Education Administration, Administration for Children’s Services, Landmarks Preservation Commission, Department for the Aging, Mayor’s Office of Contract Services, Department of Youth and Community Development, Department of Education Pedagogical. Public Advocate for the City of New York, “Tipping the Scales. Wage and Hiring Inequity in New York City Agencies.” March 2018. Page 5.

¹⁸ Public Advocate for the City of New York, “Tipping the Scales. Wage and Hiring Inequity in New York City Agencies.” March 2018. Pages 3 and 5.

¹⁹ *Id.* at 6.

The City is actively taking steps to help eliminate this gap and provide wage equity. In 2016, Mayor Bill de Blasio signed an executive order²⁰ that eliminated salary history as a requirement when a person applies for a job within a mayoral agency and the City Council enacted Local Law 67 for the year 2017, which prohibits all New York City employers from inquiring about or relying on a prospective employee's salary history.

New York City Fire Department Pay Inequities

Emergency medical technicians (EMTs) and paramedics (EMTs with advanced training to perform more difficult pre-hospital medical procedures) provide vital care and attention at the scene of an emergency.²¹ EMTs, along with paramedics, are sent to the scene of an emergency in an effort to mitigate loss and help those who need it, generally working in tandem with fire and police department personnel.²² Nationwide, an average salary for a full-time EMT and paramedic was \$37,760 in 2018, which varies by specialty and geographic region.²³ In New York State, according to the New York State Department of Labor, the average annual salary for an EMT is \$42,580 (entry level-\$28,290, experienced-\$49,730).²⁴

The New York City Fire Department Bureau of Emergency Medical Services, also known as FDNY EMS, was established in 1996.²⁵ It was the result of a merger of the FDNY and the New York City Health and Hospitals Corporation's EMS division.²⁶

²⁰ The City of New York, Office of the Mayor. Executive Order No. 21, November 4, 2016. Accessed at: https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2016/eo_21.pdf

²¹ New York Health Careers. "EMTs and Paramedics." Accessed at: <http://www.healthcareersinfo.net/emts-paramedics/>.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ New York City Fire Department, "History." Accessed at: <https://www1.nyc.gov/site/fdny/about/overview/history/history.page>.

²⁶ *Id.*

Recent news articles have highlighted that there exists a pay gap within the FDNY between firefighters and those working as EMTs and paramedics. They have been treated as civilian staff by the City even though they work in a similar capacity to firefighters and cops, responding to emergencies with needed care.²⁷ EMTs are paid \$50,604²⁸ a year after five years of employment, whereas firefighters are paid \$110,293 for a comparable time period²⁹ In fact, in 2018, nearly 900 EMS workers became firefighters, straining the effectiveness of the City's EMS.³⁰

During a January 2019 press conference on an unrelated matter regarding the federal government shutdown, Mayor de Blasio was asked about the pay disparities and responded that “the work is different. We are trying to make sure people are treated fairly and paid fairly but I do think the work is different.”³¹ The National Association of EMS Physicians responded to de Blasio's comments and said EMTs and paramedics “are doing critical work for substantially less compensation than other first responders” and that these workers “who provide life-saving care on a daily basis should be paid fairly and impartially with respect to fire and law enforcement colleagues.”³²

Notably, these workers are continually being overworked, yet still underpaid and understaffed, with only 4,133 EMTs and paramedics handling nearly 1.9 million calls, as of 2018.³³

²⁷ Otis, G. A., “EMS unions sue city, FDNY to obtain records needed in fight for better pay.” *New York Daily News*. November 9, 2017. Accessed at: <https://www.nydailynews.com/new-york/ems-sues-city-fdny-fight-better-pay-article-1.3622816>.

²⁸ New York City Fire Department, “EMS.” Accessed at: <https://www1.nyc.gov/site/fdny/jobs/career-paths/ems.page>.

²⁹ New York City Fire Department, “Benefits and Salary.” Accessed at: <https://www1.nyc.gov/site/fdny/jobs/career-paths/firefighter-salary-guide.page>.

³⁰ Edelman, S., and Garger, K., “NYC's emergency worker shortage has become a crisis.” *New York Post*. January 5, 2019. Accessed at: <https://nypost.com/2019/01/05/nycs-paramedic-shortage-has-become-a-crisis-emts-say/>.

³¹ NYC Office of the Mayor, “Transcript: Mayor de Blasio Holds Media Availability to Provide an Update on the Federal Government Shutdown.” January 17, 2019. Accessed at: <https://www1.nyc.gov/office-of-the-mayor/news/041-19/transcript-mayor-de-blasio-holds-media-availability-provide-update-the-federal-government>.

³² National Association of EMS Physicians, “NAEMSP Supports Equal Pay for First Responders.” January 28, 2019. Accessed at: <https://naemsp.org/home/news/naemsp-supports-equal-pay-for-first-responders/>.

³³ Calder, R., “Overtime cap lifted for understaffed, overworked EMTs.” *New York Post*. March 8, 2019. Accessed at: <https://nypost.com/2019/03/08/overtime-cap-lifted-for-understaffed-overworked-emts/>.

In an effort to ensure that ambulances and EMS services are being provided, the FDNY lifted the overtime cap³⁴ in December 2018, with a waiver that runs through June 2019; however, heads of EMS unions, Locals 2621 and 2507, have emphasized that their members are overstressed, overworked.³⁵ Further compounding the issue is that many EMS workers, already overstressed and overworked reluctantly take overtime because of the low pay they receive.³⁶ In 2018, the City set aside \$29.5 million for EMS overtime, yet wound up spending nearly \$48 million, which was an increase of 39 percent compared to 2015.³⁷

In November 2017, the EMS unions, Locals 2507 and 3621, sued the City of New York and the FDNY, accusing the City and FDNY of ignoring or wrongfully denying multiple Freedom of Information Law (FOIL) requests.³⁸ The FOIL requests were initiated by the unions to get information on the pay, rank, gender, race and discipline history of employees across several different uniformed agencies, along with this same information for the members of Locals 2507 and 3621.³⁹ These FOIL requests were part of an effort to increase pay and benefits for EMS employees.⁴⁰ This data would be statistically analyzed in an effort to understand the existing pay disparities that exist between EMTs and paramedics compared to other uniformed counterparts.⁴¹ The two unions argued that their members, which consist of EMTs and paramedics — 30 percent of whom are female and 56 percent of whom are black, Latino and Asian — are denied the same pay and benefits as other City workers in similar titles and jobs, while being disciplined more

³⁴ An overtime cap is a limitation on the payment of overtime and plies to employees covered by the Citywide Agreement. See: <https://www1.nyc.gov/site/opa/my-pay/pay-frequently-asked-questions.page>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

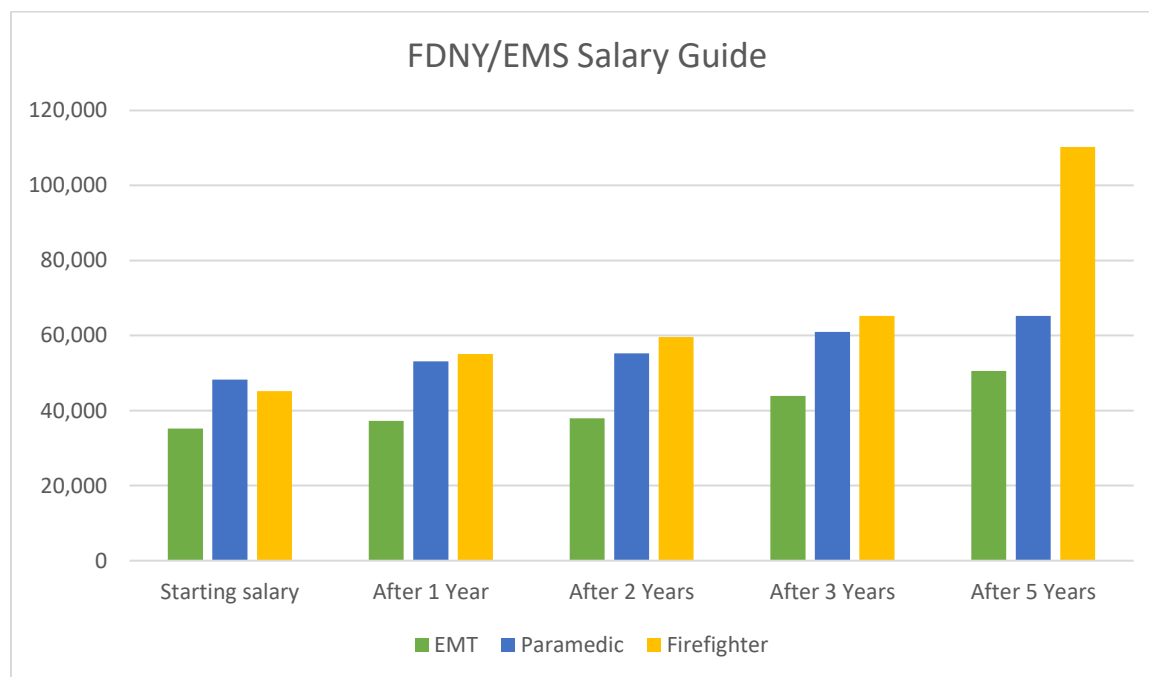
³⁸ Otis, G. A., “EMS unions sue city, FDNY to obtain records needed in fight for better pay.” *New York Daily News*. November 9, 2017. Accessed at: <https://www.nydailynews.com/new-york/ems-sues-city-fdny-fight-better-pay-article-1.3622816>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

frequently.⁴² In regards to these issues, Vincent Variale, President of the Uniformed EMS Officers Union FDNY, Local 3621, stated that “EMS receives far less support, promotional opportunity and tens of thousands less in salary than other city counterparts, many in predominantly male departments that are recognizes as uniformed. So we think it’s time for some fairness and equality for EMS.”⁴³ In addition, the bureau is chronically understaffed and lacks adequate sick leave as compared to uniformed workers that receive unlimited sick leave.⁴⁴



Source: The Fire Department of the City of New York

Department of Probation Pay Inequities

Probation is the process in which a court has determined an individual can avoid incarceration and remain in the community under supervision by the DOP.⁴⁵ Probation officers are

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ New York City Department of Probation, “Services.” Accessed at: <https://www1.nyc.gov/site/probation/services/services.page>.

tasked with supervising those on probation and providing them with opportunities to move out of the criminal justice system through meaningful education, employment, health services, family engagement and community participation.⁴⁶ In New York City, approximately 700 women and men holding probation officer titles — Probation Officer Trainees, Probation Officers and Supervising Probation Officers — throughout New York City are represented by the United Probation Officers Association (UPOA).⁴⁷ NYC probation officers, including those represented by the UPOA, are disproportionately women and people of color.⁴⁸

In 2018, alleging a pattern of longstanding pay discrimination, the UPOA filed a State Supreme Court lawsuit to demand that the de Blasio Administration provide employee data, including the salary, race and gender on City employees hired in certain titles since January 2009.⁴⁹ Union officials noted that their employees are paid significantly less than those in comparable posts in other City law enforcement agencies and far less than probation officers in nearby counties—Westchester, Rockland, Nassau and Suffolk—who are also predominately persons of color and have the same educational requirements and experiences as NYC Probation Officers.⁵⁰

UPOA lost its lawsuit on February 13, 2019.⁵¹ The court held that the UPOA did not timely file an Article 78 proceeding in court and therefore its application was time-barred.⁵²

⁴⁶ New York City Department of Probation. Careers, “Job Opportunities.” Accessed at: <https://www1.nyc.gov/site/probation/careers/careers.page>.

⁴⁷ Lewis, C., “Probation Union Suing Alleging City Pay Bias.” *The Chief*. September 13, 2018. Accessed at: http://thechiefleader.com/probation-union-suing-alleging-city-pay-bias/article_a8fb8580-b790-11e8-88db-1b3f949378ba.html.

⁴⁸ *Id.*

⁴⁹ Davenport, E., “Forest Hills probation officers union charges City Hall with pay discrimination against its employees.” *QNS.com* September 10, 2018. Accessed at: <https://qns.com/story/2018/09/10/forest-hills-probation-officers-union-charges-city-hall-pay-discrimination-employees/>.

⁵⁰ *Id.*

⁵¹ 2019 WL 632341 (N.Y.Sup.), 2019 N.Y. Slip Op. 30337(U) (Trial Order).

⁵² *Id.*

More recently, on April 15, 2019, the UPOA and the de Blasio Administration agreed on terms for a new collective bargaining agreement.⁵³ The new agreement provided an increase in general wages: a new Probation Officer's starting salary increased from \$42,759 to \$45,934, and accounting for steps, by their 11th year on the job, the salary would top out at \$57,885.⁵⁴ Supervising Probation Officers would start at \$70,476 and increasing to \$77,299 after 16 years.⁵⁵ Yet, according to UPOA's President, Dalvanie Powell, she knew of no one who has reached top pay.⁵⁶ Comparatively, NYC Corrections Officers receive a \$5,000 boost in pay after 18 months on the job, and reach a maximum base salary of \$85,292 at the 5.5-year mark.⁵⁷ The low salary afforded to probation officers, according to the UPOA, increases turnover rates, with over 10 percent of the UPOA's members quitting over a year and a half span beginning in late 2017 to September 2018.⁵⁸

CONCLUSION

Today's hearing will provide an opportunity for the Committee to examine the FDNY and DOP's efforts to combat and address pay inequities within their respective workforces. The Committee also expects to hear from the unions representing the affected workforces in addition to advocates and other members of the public about their concerns for ensuring that all New York City's first responders and law enforcement officers are paid fairly for the work they do.

⁵³ 2017-2020 Memorandum of Agreement, United Probation Officers Association and the City of New York. Accessed at: <https://www1.nyc.gov/assets/olr/downloads/pdf/collectivebargaining/moa-2017-2020-upoa.pdf>.

⁵⁴ Khavkine, R.. "UPOA, City Agree on Pact with 7.25-percent Hike." *The Chief*. April 29, 2019. Accessed at: http://thechiefleader.com/news/news_of_the_week/upoa-city-agree-on-pact-with--percent-hike/article_ed2d9b20-6795-11e9-bdfd-dfcfd863303c.html.

⁵⁵ *Id.*

⁵⁶ Lewis, C., "Probation Union Suing Alleging City Pay Bias." *The Chief*. September 13, 2018. Accessed at: http://thechiefleader.com/probation-union-suing-alleging-city-pay-bias/article_a8fb8580-b790-11e8-88db-1b3f949378ba.html.

⁵⁷ *Id.*

⁵⁸ *Id.*

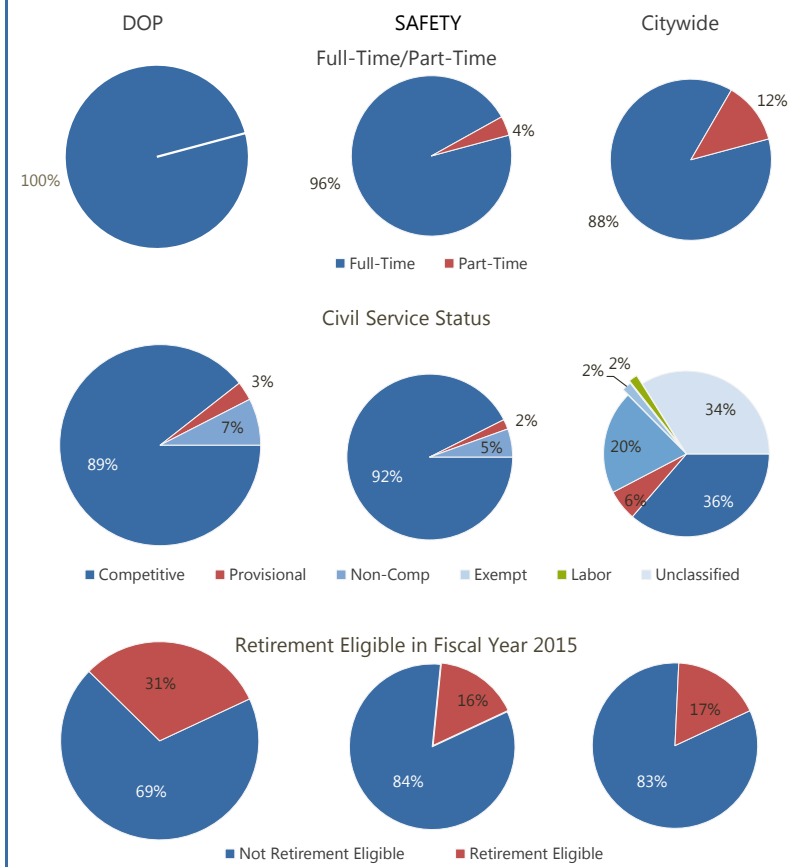
Workforce Profile: DEPARTMENT OF PROBATION (DOP) : FY2017

Summary Indicators			
Headcount (FT / PT)	983 / 4	83,846 / 3,417	344,063 / 48,959
Median Age / Years of Service	51 / 24	39 / 11	43 / 10
% Male / Female	30% / 70%	69% / 31%	41% / 59%
% White / Minority	15% / 85%	40% / 60%	38% / 62%
Median Annual Base Salary (FT)	\$61,886	\$78,026	\$70,434
% Eligible to Retire	31%	16%	17%
% Hires	10%	7%	10%
% Union Represented	93%	94%	95%

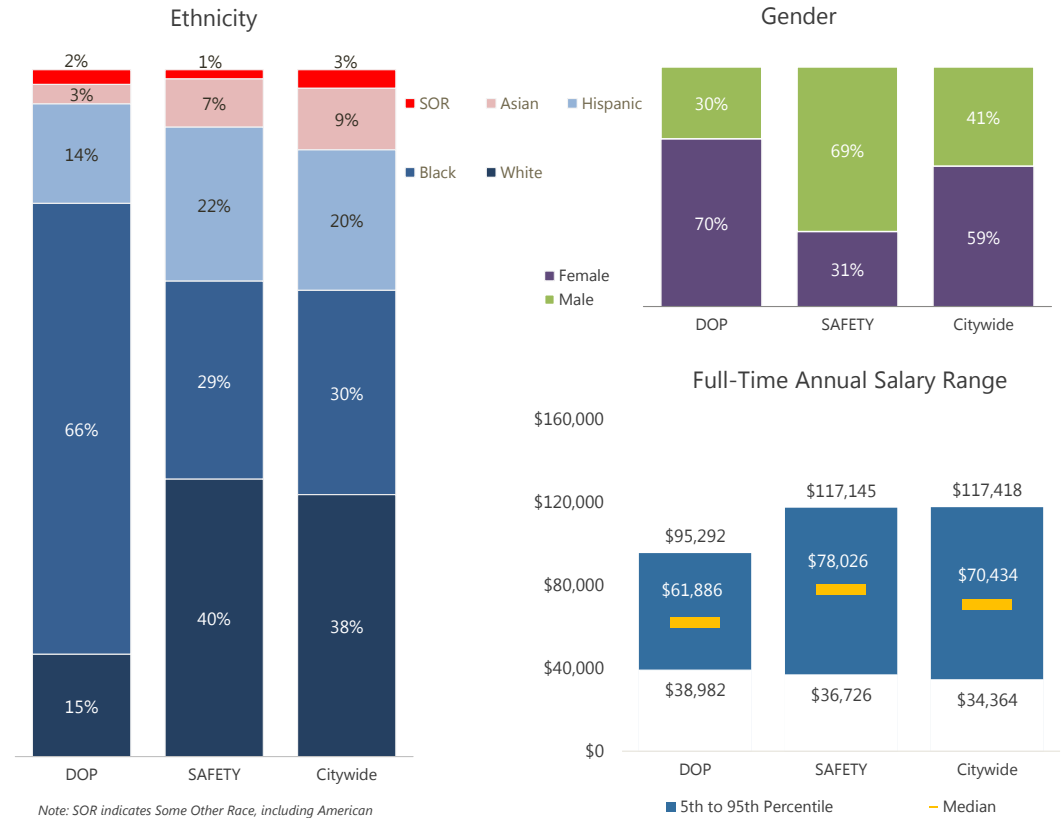
Hires			
Total Hires	103	6,330	37,572
New Hires	96	5,833	30,240
Rehires	7	497	7,332

Separations			
Total Separations	70	4,172	27,886
Retirement	44	2,633	8,524
Resignation	16	979	9,995
Dismissal	3	170	6,306
Layoff	0	0	2
Deceased	1	72	445
Other	6	318	2,614

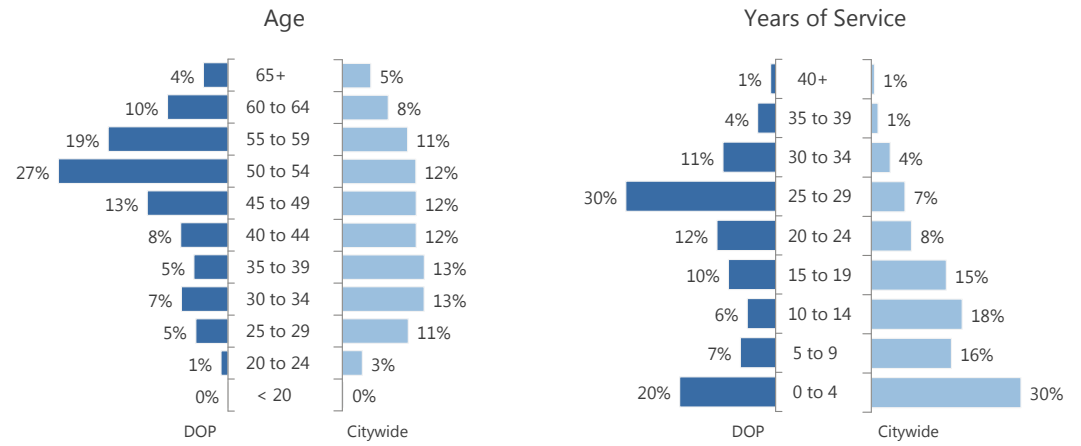
Employee Type by Agency, Agency Group, and Citywide



Public Safety & Law Enforcement Agency Group



Note: SOR indicates Some Other Race, including American Indian/Alaskan Native, two or more races, and unspecified race.



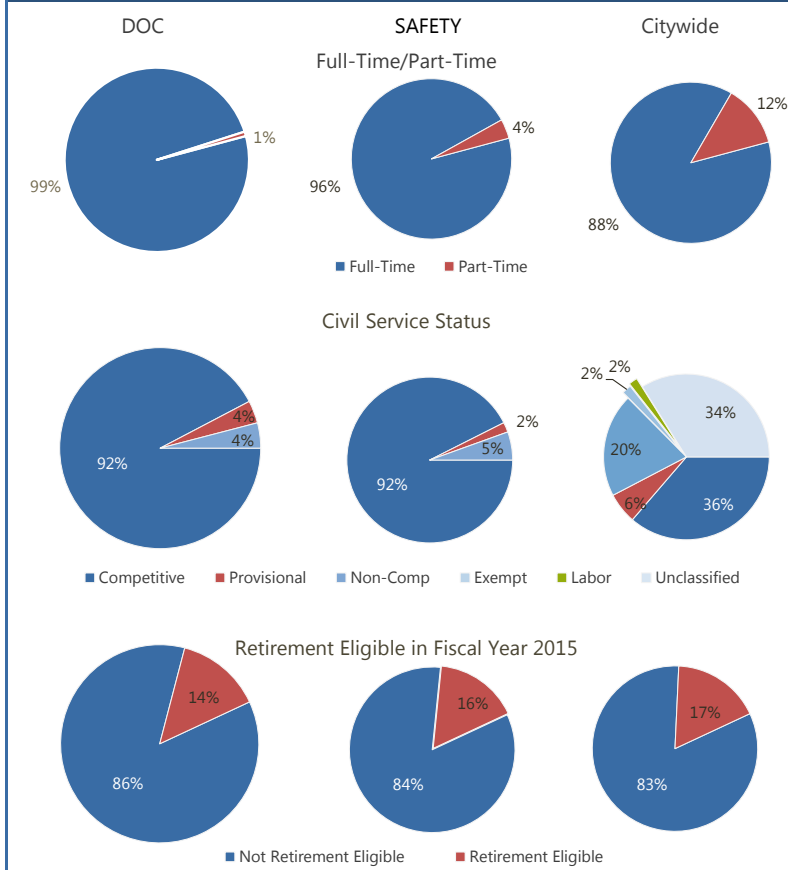
Workforce Profile: DEPARTMENT OF CORRECTION (DOC) : FY2017

Summary Indicators			
Headcount (FT / PT)	12,754 / 100	83,846 / 3,417	344,063 / 48,959
Median Age / Years of Service	39 / 8	39 / 11	43 / 10
% Male / Female	58% / 42%	69% / 31%	41% / 59%
% White / Minority	14% / 86%	40% / 60%	38% / 62%
Median Annual Base Salary (FT)	\$78,089	\$78,026	\$70,434
% Eligible to Retire	14%	16%	17%
% Hires	21%	7%	10%
% Union Represented	99%	94%	95%

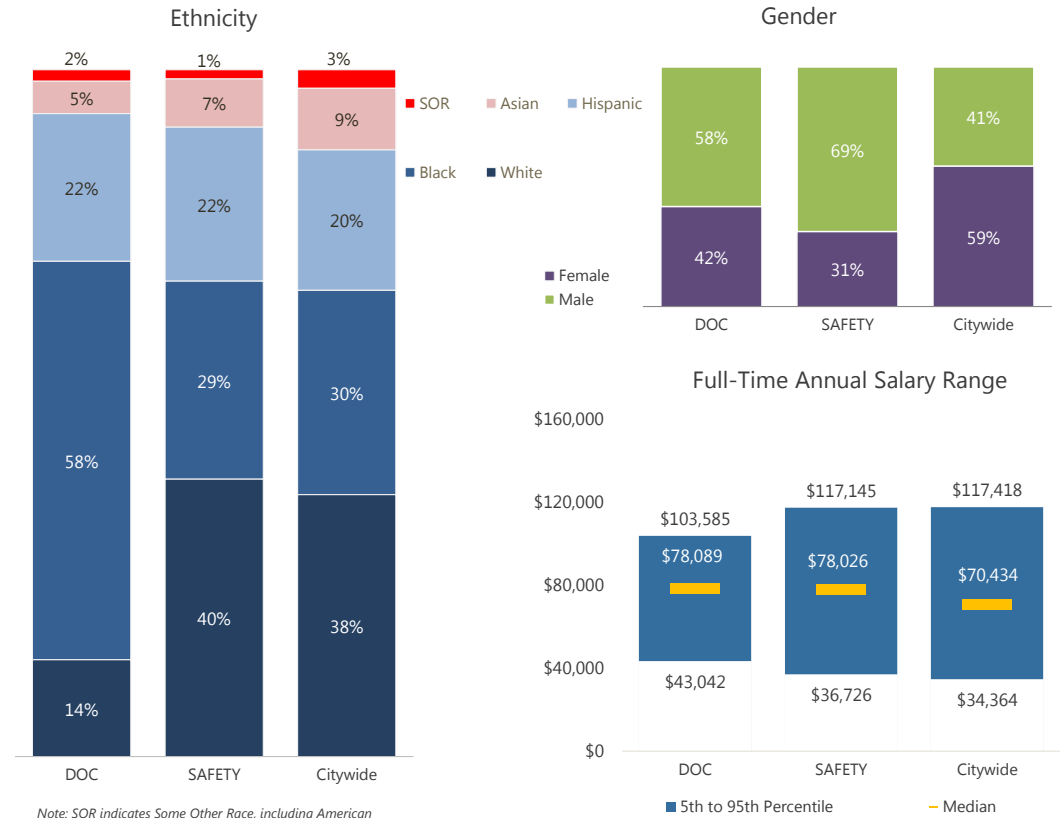
Hires			
Total Hires	2,737	6,330	37,572
New Hires	1,888	5,833	30,240
Rehires	849	497	7,332

Separations			
Total Separations	967	4,172	27,886
Retirement	619	2,633	8,524
Resignation	198	979	9,995
Dismissal	97	170	6,306
Layoff	0	0	2
Deceased	11	72	445
Other	42	318	2,614

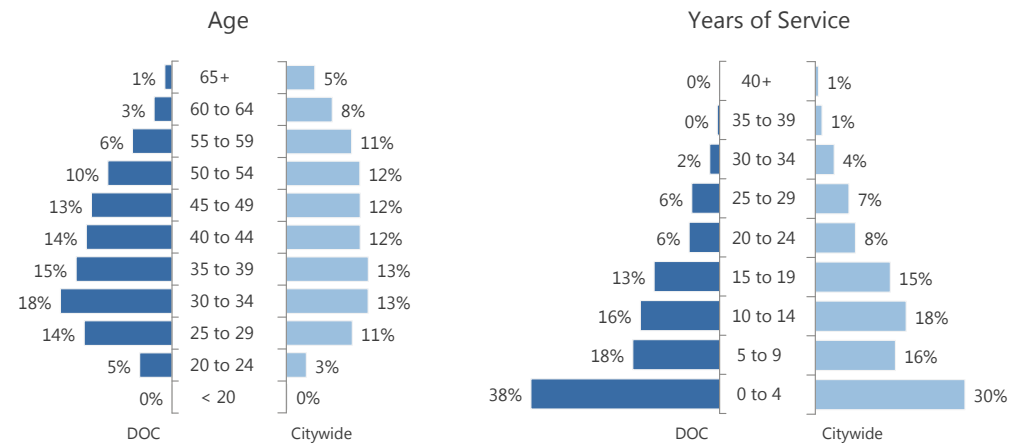
Employee Type by Agency, Agency Group, and Citywide



Public Safety & Law Enforcement Agency Group



Note: SOR indicates Some Other Race, including American Indian/Alaskan Native, two or more races, and unspecified race.



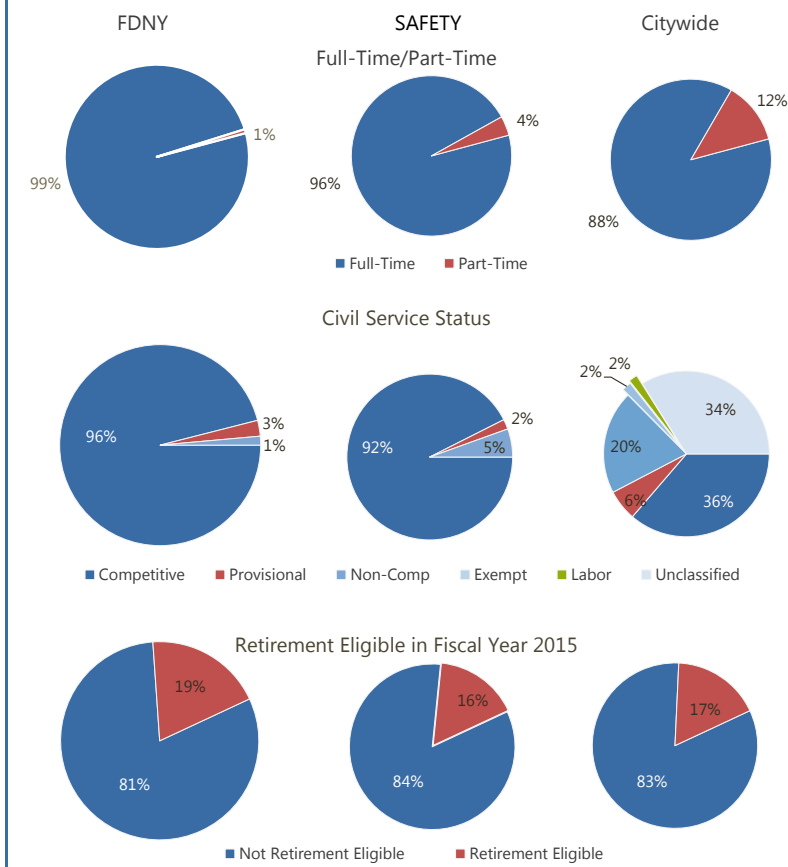
Workforce Profile: FIRE DEPARTMENT (FDNY) : FY2017

Summary Indicators			
Headcount (FT / PT)	17,479 / 118	83,846 / 3,417	344,063 / 48,959
Median Age / Years of Service	39 / 12	39 / 11	43 / 10
% Male / Female	90% / 10%	69% / 31%	41% / 59%
% White / Minority	67% / 33%	40% / 60%	38% / 62%
Median Annual Base Salary (FT)	\$85,292	\$78,026	\$70,434
% Eligible to Retire	19%	16%	17%
% Hires	8%	7%	10%
% Union Represented	99%	94%	95%

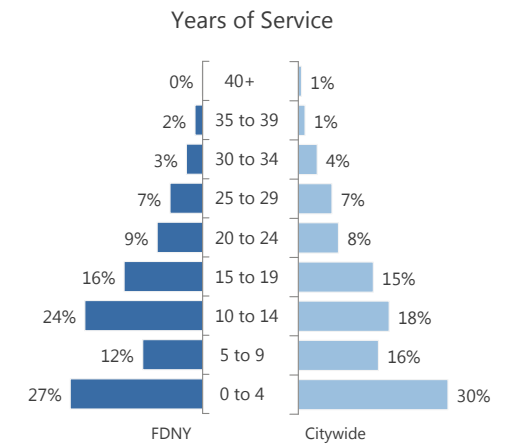
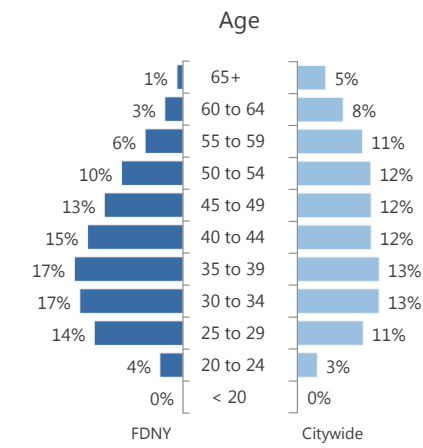
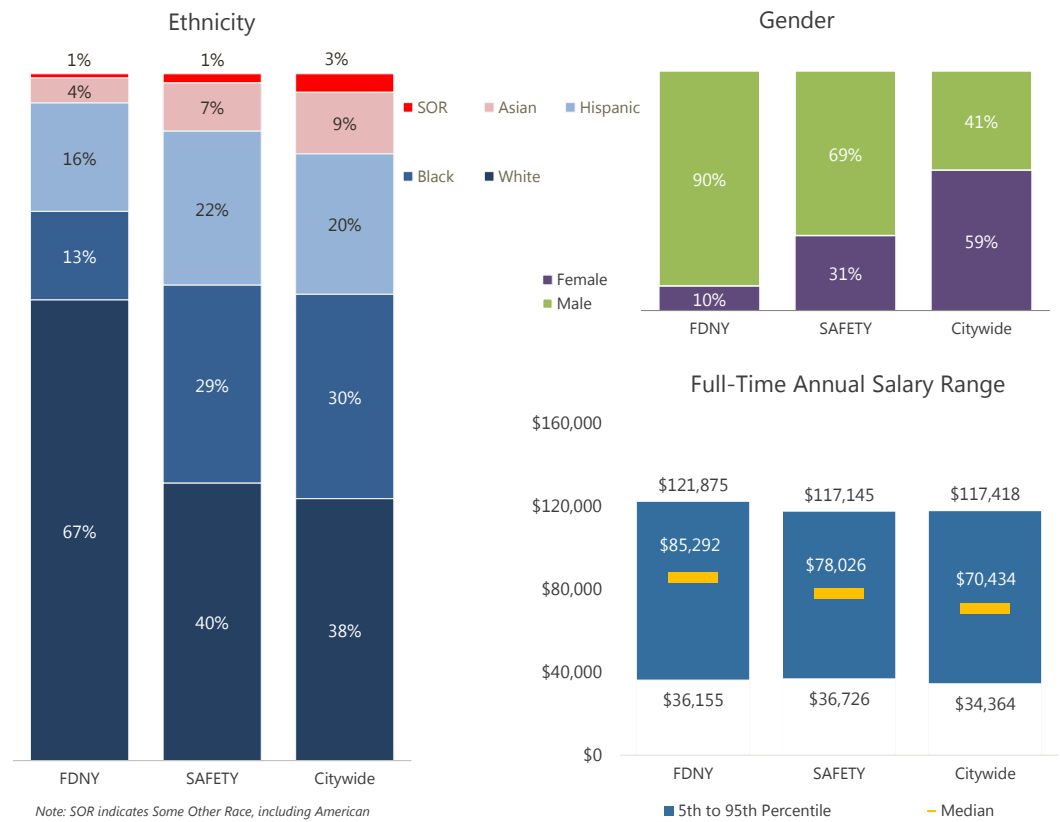
Hires			
Total Hires	1,378	6,330	37,572
New Hires	1,113	5,833	30,240
Rehires	265	497	7,332

Separations			
Total Separations	669	4,172	27,886
Retirement	437	2,633	8,524
Resignation	123	979	9,995
Dismissal	16	170	6,306
Layoff	0	0	2
Deceased	10	72	445
Other	83	318	2,614

Employee Type by Agency, Agency Group, and Citywide



Public Safety & Law Enforcement Agency Group



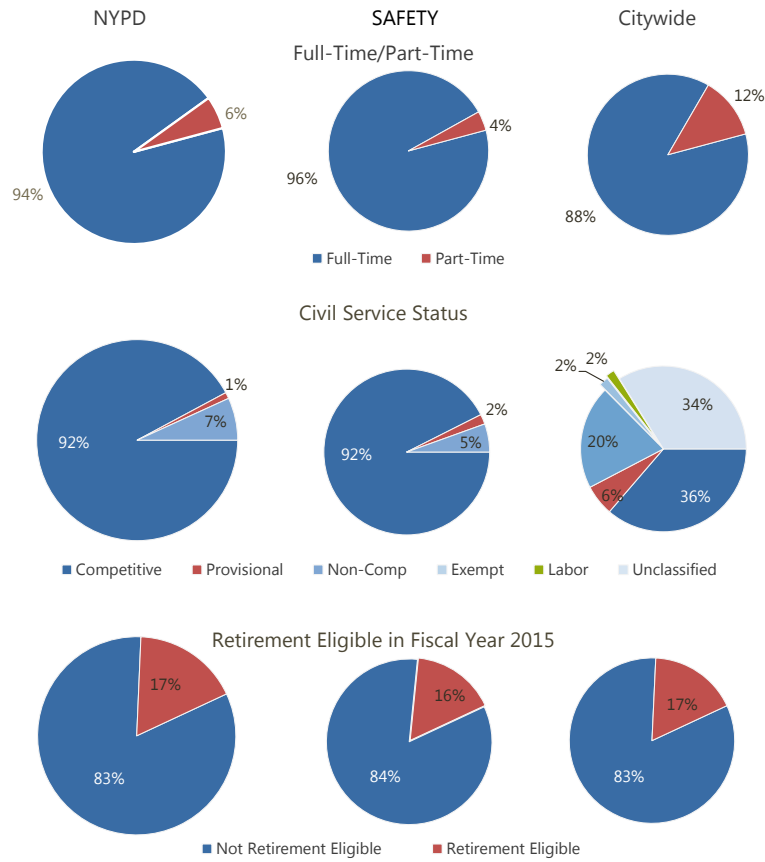
Workforce Profile: POLICE DEPARTMENT (NYPD) : FY2017

Summary Indicators			
Headcount (FT / PT)	52,110 / 3,186	83,846 / 3,417	344,063 / 48,959
Median Age / Years of Service	38 / 11	39 / 11	43 / 10
% Male / Female	65% / 35%	69% / 31%	41% / 59%
% White / Minority	38% / 62%	40% / 60%	38% / 62%
Median Annual Base Salary (FT)	\$85,292	\$78,026	\$70,434
% Eligible to Retire	17%	16%	17%
% Hires	7%	7%	10%
% Union Represented	98%	94%	95%

Hires			
Total Hires	4,042	6,330	37,572
New Hires	3,338	5,833	30,240
Rehires	704	497	7,332

Separations			
Total Separations	2,579	4,172	27,886
Retirement	1,472	2,633	8,524
Resignation	741	979	9,995
Dismissal	131	170	6,306
Layoff	0	0	2
Deceased	46	72	445
Other	189	318	2,614

Employee Type by Agency, Agency Group, and Citywide



Public Safety & Law Enforcement Agency Group

