

## Major metro fire departments face claims of widespread discrimination

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By Weldon H. Latham

Municipal Fire Departments are under increasing scrutiny by U.S. Department of Justice (DOJ), Equal Employment Opportunity Commission, plaintiffs' attorneys, civil rights groups and associations of minority and female firefighters. Allegations of discrimination and harassment are leading to costly, disruptive and embarrassing investigations and lawsuits. Effective diversity and inclusion programs can greatly mitigate these risks and, more importantly, create fairer, more inclusive and effective fire departments.



### Fire departments miss benchmarks for representation of minorities and women

The Bureau of Labor Statistics (BLS) reports that in 2010 there were 301,000 firefighters nationwide. 86 percent were white men; only 9.6 percent were Hispanic, 6.4 percent were African American, 0.5 percent were Asian, and 3.6 percent were women.

According to the U.S. Census Bureau, minorities comprise approximately 36 percent of *both* the population and the workforce and women comprise 51 percent of the population and 47 percent of the workforce. Fire departments fall far short of minority and female representation in the U.S. population (*i.e.*, the citizens they serve). Police departments, which have historically lagged U.S. workforce diversity, have had more than double the minority and female representation of fire departments.

According to the BLS, in 2010 Hispanics comprised 15.2 percent; African Americans, 12.1 percent; Asians, 2.7 percent; and women, 13 percent of police officers nationwide.

Demographic trends show a steady rise in the minority share of the population and the Census Bureau now projects that the country will become "majority minority" by 2041, meaning that departments that do not take action will fall further behind.

### High profile lawsuits injure city reputations

When major corporations are choosing a new city for their headquarters or major operating units, the city's reputation is a significant factor. Good schools, lower taxes, effective [public safety](#) services and fair treatment of citizens are key components.

A series of recent high profile discrimination cases has drawn attention to the lagging diversity/employment practices in fire departments and injured the reputations of the cities involved. According to media reports, the New York City Fire Department was ordered to pay \$128 million, the Chicago Fire Department \$50 million and the Los Angeles Fire Department \$15 million for discrimination and related charges. Other cities, in states ranging from Ohio to Michigan to Florida, have also paid large settlements. More telling, the DOJ reports more than 25 investigations, settlements, and Consent Decrees involving municipalities in a recent twelve month-period.

### Employment practices are an issue

Complaints of discrimination in testing (both cognitive and physical), hiring, discipline, promotions and assignment practices are prevalent. Some claims allege "disparate impact," arguing that facially neutral policies and practices result in illegal discrimination because protected classes are disproportionately adversely impacted. Others claim "disparate treatment," or intentional discrimination, against individuals in protected classes, including allegations of hostile work environment, racial or sexual slurs, unwanted touching and even such bizarre behavior as secretly feeding dog food to minority firefighters.

## **Diversity is “good business”**

Questa, New Mexico, Fire Chief Jona Olsson told *Fire Chief* magazine, “Corporate America has learned over the years that having a diverse workforce increases the bottom line. The fire service has a different bottom line – that’s our mission – and I firmly believe diversifying our workforce will strengthen our bottom line ... [W]e are responding to more calls that interact with the public ... [T]hese calls [require] more interpersonal skills and cultural competence.”

Chicago Mayor Rahm Emanuel has said, “diversity in Chicago is our strength, not our weakness. It has helped Chicago become a leader in industries such as manufacturing, insurance, risk management, print and publishing.”

## **Good diversity practices help avoid litigation**

A study by Professors Norma Riccucci and Karina Saldivar, of Rutgers University and Kean University, respectively, on discrimination lawsuits against police and fire departments demonstrates that improving diversity and inclusion can decrease the risk of, and potential liability for, discrimination lawsuits.

Based on our experience advising fire departments, we recommend the following: First, identify the department’s specific diversity-related problems:

1. Audit the fairness of processes that underlie most claims of discrimination, including recruiting/hiring, testing, discipline, and promotions.
2. Validate and/or revise processes to address potential disparate impacts while continuing to assess necessary job skills and knowledge.
3. Assess the effectiveness of current diversity programs to institutionalize fair practices and increase credibility among those constituencies most likely to raise concerns.

Second, develop an Action Plan to enhance policies and procedures to ensure a fair, representative, and effective “mission oriented” [fire department](#).

In a recent discussion we had with the Baltimore Fire Chief, he stated: “Mayor Rawlings-Blake and I are committed to having a Fire Department that is representative of our City, but we need professional help. Fire and emergency leaders and administrators need to achieve their missions and achieving diversity is crucial to that mission. Use of skilled diversity professionals is a good investment of public funds, so do not be reticent to secure help.”

In summary, scrutiny of fire department employment practices will continue to increase. Those departments that do not address diversity issues will be subjected to investigations, class action lawsuits, protests, and the adverse impacts of negative publicity. Prioritizing and enhancing diversity efforts *before* major allegations of discrimination arise can significantly reduce claims, minimize the intrusiveness of government investigations, and mitigate significant potential liability.

More importantly, a diverse and inclusive fire department will better serve its diverse community. A City with a reputation for fairness will more effectively attract new companies, taxpayers and economic opportunities.

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