



JOHN W. HICKENLOOPER
MAYOR

CITY AND COUNTY OF DENVER

MAYOR'S OFFICE

CITY AND COUNTY BUILDING
1437 BANNOCK STREET
ROOM 350
DENVER, COLORADO 80202
PHONE: (720) 865-9090
FAX: (720) 865-8787

April 17, 2007

Mayor John Hickenlooper
City and County of Denver
1437 Bannock Street, Rm. 350
Denver, CO 80202

Councilman Michael Hancock
City and County of Denver
4730 Oakland Street, Ste. 200
Denver, CO 80239

Dear Mayor Hickenlooper and Councilman Hancock,

We are pleased to forward to you the Final Report of the Diversity in Safety Task Force (Task Force). Since October of 2006, the Task Force has deliberated many hours in reviewing present practices, evaluating effectiveness of those practices, and developing its recommendation regarding improving diversity with respect to the hiring of entry-level police officers and firefighters.

The Task Force focused its attention on recruiting, tutoring, mentoring, the cadet program, testing, and selection of candidates. Each issue was reviewed and discussed by members of the Task Force to determine areas of strength and opportunity. It observed that the Civil Service Commission, along with the Manager of Safety, has already instituted major changes in these areas. The Task Force would like to take an opportunity to thank both the Commission and the Manager for those important improvements. However, we believe that further improvements can be made. Those recommendations are included in our Final Report to you and have been unanimously approved by the Task Force.

We would like to thank you for the opportunity to serve on this important Task Force. We would welcome the opportunity to discuss with you any questions you may have about our deliberations and/or recommendations.

Sincerely,

[original signed]

Elbra Wedgeworth
Co-Chair

[original signed]

Katherine Archuleta
Co-Chair

Diversity in Safety Task Force

Recommendations

April 16, 2007

I. Introduction

On October 2006, Mayor John W. Hickenlooper appointed a Task Force of citizens and Denver officials and employees to make recommendations regarding improving diversity with respect to the hiring of entry-level police officers and firefighters. The Task Force was given independent discretion to review whatever issues the Task Force felt were necessary in its assignment.¹

The Task Force is co-chaired by Katherine Archuleta (the Mayor's Senior Advisor on Policy and Initiatives) and Councilwoman Elbra Wedgeworth (Council District 8). Other Task Force members who were originally appointed included Lt. Dale Chavez (President of Firefighters Incorporated for Racial Equality), Jim Chavez (Mayor's Latino Advisory Council and Executive Director of the Latin American Educational Foundation), Don Cordova (Director of the Denver Career Service Authority), Det. Kim Covert (Women's Police Association of Colorado), Captain Kevin Duncan (President of Colorado Black Professional Firefighters), Susan M. Eagan (Manager of Affirmative Action Programs for Mountain States Employers Council), Henry Knoche (Citizen Oversight Board), Al LaCabe (Manager of Safety), Michelle Lucero (Vice-President of Human Resources of Centura Health Corporation), Kevin Marchman (Executive Director of the National Organization of African Americans in Housing), Cecilia Mascarenas (Civil Service Commissioner), Councilwoman Judy Montero (Council District 9), Chris Mootz (Deputy City Attorney), Sgt. Mike Mosco (Police Protective Association), Sami Nakazono (The Denver Foundation), Earl Peterson (Executive Director of the Denver Civil Service Commission), Lt. Mike Rogers (President of Union Local 858), Firefighter Jennifer

¹ The Task Force did not undertake any review of any diversity issues with respect to promotions within the Classified Service.

Sanderson (Denver Women Firefighters), Larry Trujillo (Fire Chief of Denver Fire Department), Technician Reyes Trujillo (Latino Police Officer Association), Sgt. Joe Unser (Black Police Officers Association), Philip A. Washington (Assistant General Manager of Administration, Regional Transportation District), Gerald R. Whitman (Chief of Police of Denver Police Department), and Samuel Williams (President, Denver Civil Service Commissioner). Steve Charbonneau, Executive Director of Community Mediation Concepts, served as the Task Force's facilitator. Steven W. Moore, Esq., a labor and employment law partner with Baker & Hostetler, LLP, served as legal counsel to the Task Force.²

The Task Force conducted an investigation and examination into the current state of diversity in the City's Police and Fire Departments. This included a series of meetings in which the Task Force obtained information from numerous officials, employees, and others. Among the individuals who presented information included Manager of Safety Al LaCabe; Director of the Civil Service Commission Earl Peterson; Head of Recruitment for the Denver Department of Safety Don Ronyak; President of the Black Fire Fighters Association, Captain Kevin Duncan; representatives from the Black Police Officers Association, Lt. Les Perry and Sgt. Joe Unser; and Dr. Jim Ford, a testing consultant retained by the Civil Service Commission. Task Force members employed within the Department of Safety also provided information and their respective views and opinions regarding diversity issues in the Police and Fire Departments. The Task Force also carefully reviewed the Denver Charter and Revised Municipal Code, the Civil Service Rules, the *Hogue* Consent Decree that is applicable to the Denver Police Department, the Cadet Program, current recruitment practices and statistics, and numerous other policies, documents, and other relevant information.

² Not all individuals who were originally appointed to the Task Force participated in all of the meetings and deliberations leading to these recommendations. The recommendations reflect the consensus of the Task Force members who regularly participated in the process.

As a preliminary matter, the Task Force notes that the Manager of Safety recently led another task force known as the Denver Public Safety Recruitment and Selection Task Force which was formed in May 2004 and also addressed and made several recommendations regarding strategies to improve diversity with recruitment, testing, and ultimately the hiring of entry-level police officers and firefighters. The Manager’s task force, which was impaneled for more than two years, analyzed the same issues that our Task Force reviewed. In our investigation, we were pleased to find that the Civil Service Commission, the Police Department, and the Fire Department have already started to implement the recommendations from the Manager’s task force. The Manager’s task force recommendations are contained in a report entitled, “Denver Public Safety Recruitment and Selection: Process Improvement,” dated October 28, 2006. We concur with the Manager’s task force recommendations but we offer additional recommendations that build upon those recommendations.

Background Information

Before turning to the Task Force’s recommendations, a brief overview of the hiring process for entry-level police officers and firefighters is necessary to fully understand the recommendations. The City and County of Denver has a merit personnel system for the hiring of entry-level police officers and firefighters into its Classified Service.³ Under the Denver Charter, the Civil Service Commission, which was first established in 1904, is charged with the responsibility of “establishing, fostering, and maintaining a merit personnel system providing for the selection and appointment by the Manager of Safety to the Classified Service of the Denver Fire and Police Departments those determined to be the best qualified applicants” Denver Charter § 9.3.1. The Civil Service Commission is comprised of five members. In making

³ The Classified Service is comprised of uniformed police officers and firefighters employed in the Denver Police and Fire Departments.

appointments to the Commission, the Mayor and City Council are required to “consider the diversity of the citizens of the City and County of Denver.” Denver Charter § 9.3.2(C). Under the Denver Charter, the Civil Service Commission has been vested with rule-making authority to promulgate rules to carry out its Charter-mandated duties, powers, and responsibilities. Denver Charter § 9.3.4. The City Council is also required by the Denver Charter to “annually appropriate funding to the Commission to ensure that the Commission is able to carry out its duties, powers and responsibilities.” Denver Charter § 9.3.3.

The hiring process begins with the Manager of Safety, as the appointing authority, requisitioning the Civil Service Commission to issue a “list of the names of those individuals eligible to be considered for appointment to the position.” Commission Rule 8 § 2 A 1. The requisition must be in writing and state the number of appointments to be made. Commission Rule 8 § 2 A 2. The Civil Service Commission then conducts and supervises examinations of applicants for entry-level positions within the Classified Service. The examinations are required to be “impartial” and “relate only to matters which will test the qualifications of the persons examined.” Denver Charter § 9.3.1; *see also* Commission Rule 5 §1 A. Applicants who take such examinations are “graded according to an announced examination process.” Denver Charter § 9.3.11(A). Applicants for original appointment to the Police and Fire Departments must have a high school diploma or GED equivalent on the date of application. Commission Rule 3 § 4 A. All applicants must achieve a passing score, as established by the Commission, to proceed further in the examination process. Commission Rule 5 § 5. Applicants who have passed the examination, meet the minimum qualifications,⁴ and pass the Civil Service

⁴ “Applicants for original appointment must be physically, mentally, and psychologically qualified to perform, with or without reasonable accommodation, the essential functions of the position for which application is made. . . . Applicants for original appointment must also possess all other minimum qualifications as determined by job analyses or studies of the positions to be filled.” Commission Rule 3 §§ 6 and 7.

Commission's background investigation⁵ are "entered on a eligible register in rank order by examination grade." Denver Charter § 9.3.11(A); *see also* Commission Rule 5 § 2 B.

The Civil Service Commission, in ranking applicants, provides preference points to veterans pursuant to Article XII, § 15 of the Colorado Constitution. Commission Rule 5 § 15 A. The Civil Service Commission may also designate up to five (5) preference points where a "special skill is desired and is sought in applicants for original appointment to the Classified Service." Commission Rule 5 § 15 B. On March 2, 2007, the Commission approved the granting of preference points for foreign and sign language proficiency.

The Civil Service Commission has promulgated a rule that permits applicants to be "periodically merged into the subject examination list, in rank order, based on final examination score." Commission Rule 5 § 2 A. The Civil Service Commission also has a similar rule that adjusts ranking on an eligible register on an ongoing basis: "At the sole discretion of the Commission, any eligible register for original appointment may be designated, at the time it is established, as an ongoing eligible register with names of applicants to be added and merged into the register over time, in the appropriate rank order, as additional applicants are approved for placement on the register from a corresponding examination list." Commission Rule 7 § 2 E. A Commission Rule also states that, "[i]f an eligible register for original appointment is not an

⁵ According to Denver Charter § 9.4.1, "Applicants, at time of application to the Classified Service, shall be citizens of the United States, shall be of good moral character, shall be capable of performing the essential functions of the position to which they are seeking appointment, and shall meet all other qualifications and requirements as may be set forth by Commission Rule." The Civil Service has promulgated several rules that set forth automatic disqualifiers such as, for example, convictions or deferred judgments for certain crimes and the use of drugs during specified periods of time before application. *See* Commission Rule 3 § 1 B. Before placing an applicant on an eligible register, the Commission or a designee conducts a background investigation, which may include, but is not limited to, an applicant's character, conduct, driving history, use of illegal drugs, employment history, criminal history, credit history and references. Commission Rule 5 § 12 A. The Civil Service Commission also has the authority, under Commission rule, to disqualify any applicant based upon a case by case determination who otherwise was not automatically disqualified. Specifically, Rule 3 § 1 C states, in relevant part: ". . . in determining whether any behavior(s) and/or situations regarding an applicant's history or current circumstance shall disqualify the applicant from further consideration in the examination and screening process, the Commission shall consider the available information regarding the individual's character and background on a case by case basis."

ongoing register, it shall remain in existence for a minimum of one year, unless the register is exhausted.” Commission Rule 7 § 2 I. However, such an eligible register is automatically extended into the second year if a new eligible register is not established at the end of one year through an examination process. *Id.*

Once an eligible register is prepared, whether for entry-level police officers or firefighters, a smaller list of names from that register, based upon rank score, is certified to the Manager of Safety, who, as the appointing authority, selects for hire those applicants the Manager of Safety determines are the best qualified applicants. Under Commission rule, “[t]hose certified shall be listed on the letter of certification by name and address, in appropriate rank order as listed on the eligible register, unless alternate certification procedures are otherwise required by court decree or mandate.” Commission Rule 8 § 3 A 2.

The Task Force learned, in its review of the situation, that the examination process is extremely competitive, with numerous applicants vying for a relatively small number of positions, and that a fraction of a point on an exam score may determine whether or not an applicant is placed on the list of applicants certified to the Manager of Safety. The Task Force also learned that, in many cases, there are not any appreciable or discernable differences in an applicant’s qualifications compared to another applicant who had a similar but higher score on an examination.

The Denver Charter does not specify a particular number of applicants that should be on any certified list. According to the Charter Note for the 2003 amendment of Charter § 9.3.11(E), the prior Charter requirement for certification for original appointment of the number requisitioned plus two was eliminated, and the provisions for requisition and certification for original appointment are to be established by Commission Rule. The Commission has promulgated a rule that states:

In response to a requisition for original appointment to the Classified Service, the Executive Director shall certify to the Manager of Safety a list of names equal to the number to be appointed to the particular rank(s) from each of one or more registers, as specified in the Manager's requisition, if there be so many on a respective eligible register, plus as many additional names from the respective eligible register as the Commission deems necessary.

Commission Rule 8, § 3 A 1.

Under this new rule, the Civil Service Commission started in April 2005 (for Police) and in September 2006 (for Fire) to include a larger number of applicants on the certified list compared with the practice in years past. The applicants who have been placed on the expanded certified list still represent those who have the top scores on the examination. Interestingly, because the certified list has been expanded, the hiring process has become more inclusive for diversity purposes, where greater numbers of minorities and women are considered by the Manager of Safety for appointment into the Police and Fire Departments.

It should be noted that the Civil Service Commission must adjust the rank order for police applicants to comply with a federal consent decree issued in the case styled *Hogue v. City and County of Denver*, U.S. District Court for the District of Colorado, Civil Action No. C-3693. (The *Hogue* decree does not apply to the Fire Department). If there are not enough minority applicants to satisfy the decree based upon a natural rank order, the Civil Service Commission will certify additional minorities, based upon their ranking, to be included on the list of applicants given to the Manager of Safety to select from. The *Hogue* decree, however, prohibits the certified list for entry-level police hires to contain the ranking of applicants. Thus, the Manager of Safety, at the time he selects police applicants for hire, does not know the ranking of each applicant who is on the list certified to him.

The *Hogue* decree, which was originally enacted in 1977, established percentages and procedures by which the Civil Service Commission certifies minority police officer candidates to the Manager of Safety. The consent decree was modified in 1988 which established the hiring goals for African-Americans equal to the percentage of similarly qualified African-Americans available in the workforce within the City and County of Denver. The modified decree also established hiring goals for Hispanic, Asian, and American Indian applicants.

The Civil Service Commission has promulgated a corresponding rule that states: “Applicants shall be selected [for placement on the eligible register] based on their rank order on the examination list. Those with the highest standing shall be selected first except as may otherwise be provided by court mandate or decree.” Commission Rule 5 § 2 B; *see also* Commission Rule 8 § 3 A 2.

Independent of the *Hogue* decree, the Denver Charter mandates that the Civil Service Commission “be committed to equal employment opportunity.” Denver Charter § 9.3.1.

It should be noted that, because the hiring of police recruits has been governed by the *Hogue* decree for many years, the Denver Police Department has had greater percentages of minorities entering its Academy in comparison to the number on minorities entering the Fire Department Academy. As mentioned above, the *Hogue* decree does not apply to the Fire Department.

The results of the background investigations of applicants conducted by the Civil Service Commission are made available to the Manager of Safety for use in determining whether to appoint a particular applicant. Denver Charter § 9.3.11(B). It should be noted that the Civil Service Commission cannot appoint applicants or guarantee employment to certified applicants. *City and County of Denver v. Gibson*, 546 P.2d 974, 976, 37 Colo. App. 130, 133 (1975). The discretion to appoint applicants resides with the Manager of Safety. *Id.* The Denver Charter and

Civil Service Rules *do not* specify that the Manager of Safety must hire in rank order. According to the *Gibson* case, the Manager of Safety is not required to hire in rank order. Recognizing this principle, there is a Commission Rule that states, “Under the jurisdiction and authority of the Manager of Safety, a departmental oral interview may be conducted following certification.” Commission Rule 5 § 4 D. In September 2006, the Fire Department started using interview panels to orally interview applicants on the list certified to the Manager of Safety. The Police Department, at this time, does not use any oral interviews for entry-level hires but does use interview panels for lateral hires.

The Denver Charter does specify that the Manager of Safety “shall appoint no more than twenty-five percent cadets from the cadet eligible register of the total of any academy class selected for original appointment in the Classified Service.” Denver Charter § 9.3.18(B); *see also* Commission Rule 8 § 2 B 3 and § 4 C. The Denver Public Safety Cadet Program provides training and employment in fire, police, corrections, and related fields. Cadets are employed on an at will basis and paid an hourly rate of pay while they work during the academic school year as well as during the summer break period. The City also pays the in-state tuition fees for cadets’ attendance at Metropolitan State College of Denver and the University of Colorado at Denver. At the present time, fifty percent of incoming cadets have been graduates of the Denver Public School system.

By Commission rule, the Manager of Safety has been delegated the responsibility for recruiting entry-level police officers and firefighters to the Classified Service. The Commission Rule also specifies that “[a] concerted effort should be made to actively recruit qualified women and minorities for both departments.” The Commission Rule further states that, “[i]n any of its advertising related to entry-level recruiting, the Commission or its designee will make a concerted effort to include media directed toward women and minorities.” Commission Rule 4 §

8. The Police and Fire Departments, in years past, have had and continue to have recruiters who conduct local, regional, and national recruiting in an inclusive manner so that minorities and women are also recruited but the recruiting program is underfunded and there is not a sufficient number of police officers and firefighters who are assigned as recruiters.

Also, employee representative groups have voluntarily engaged in efforts to recruit applicants to the Police and Fire Departments, have tutored applicants to take the examinations conducted by the Civil Service Commission, and have informally mentored applicants who passed the examinations and became recruits of the police or fire academies. The employee representative groups have also forged relationships with educational institutions, such as the Emily Griffith Opportunity School, to provide classes to teach students about careers in public safety and to learn about the examinations conducted by the Civil Service Commission. The voluntary efforts of the employee representative groups have resulted in an increase in diversity.

II. Recommendations

The Task Force understood its charge to be to provide recommendations to the Mayor and City Council regarding ways to improve diversity with respect to future incoming classes of entry-level police officers and firefighters. The Task Force believes that the City and County of Denver's recruitment, testing, and hiring processes for entry-level police officers and firefighters should be designed so that goals of diversity and inclusiveness are met so that the City's police officers and firefighters reflect the diversity of the general population they serve. After considering extensive information and studying the present recruiting and hiring policies and practices for police officers and firefighters, the Task Force has the following recommendations:

A. Recruiting

The Task Force recognizes that, in order to reach the goal of inclusiveness and equal opportunity of employment, an emphasis and priority must be placed on recruitment.

The Task Force believes that in order to have inclusive recruiting, where minorities and women are also recruited, *at least two recruiters* for each department are essential to effectively recruit quality candidates during normal operating years. The Task Force recommends that the recruiters positions be independent, dedicated funded positions, which do not strip resources from other units within the Police or Fire Departments.

The Task Force realizes that, during any given recruiting year, the recruiters may need additional temporary recruiters to assist. During our investigation, we learned that some years recruiters became too busy to efficiently recruit or devote enough time to each potential candidate. Therefore, in operating years which are not normal, the Task Force recommends that the Manager of Safety be given the discretion to temporarily increase the number of recruiters to meet the goal of ensuring that the pool of qualified applicants reflects the diversity in the City and County of Denver.

Also, the Task Force realizes that during any given recruiting year the number of applicants for one Department may be higher than the other Department. The Task Force also recommends that, when appropriate, the Manager of Safety be given the discretion to share recruiting resources and recruiters between each Department. The Manager of Safety should also have police officers and firefighters who are cross-trained to perform recruiting functions whenever a demand exists necessitating the need for additional recruiters on short notice beyond the two dedicated recruiters assigned to each department.

B. Tutoring

The Task Force recognizes that some applicants to the Police or Fire Departments may need to be tutored from an early stage to assist with developing qualified applicants. The Task Force also recognizes that some of the Departments' employee representative groups have built strong tutoring relationships with educational institutions such as the Emily Griffith Opportunity School.

However, while the City should not discourage the wonderful work the employee representative groups have done to foster relationships with institutions such as the Emily Griffith Opportunity School to provide courses for taking the Civil Service Commission examination, the Task Force recommends that the City should not abdicate its responsibility to any employee representative groups to take on that task.

To this end, the Task Force recommends that there should be greater financial involvement with the Departments' efforts to help develop relationships with other civic organizations, educational institutions, and non-profit groups to increase the regional scope of tutoring applicants and to lengthen the tutoring time frame.

C. Mentoring

Related to tutoring, the City should create a formal mentoring program that is inclusive and reflects the diversity of the City. For example, the Task Force recommends that the departments conduct open houses, coordinating ride-alongs, and building other programs designed to strengthen the relationship of the Police and Fire Departments within the community.

To foster a spirit of inclusiveness, there should also be greater involvement with minority communities through participation in cultural events, active involvement on advisory boards, and developing early contacts (*i.e.*, high school) with potential future applicants and their parents. By mentoring and/or tutoring potential applicants at an early stage, there is a greater likelihood

that the Police and Fire Departments will identify the most well-rounded candidates and aid these candidates in becoming successful police officers and firefighters.

D. Cadet Program

The Task Force recognizes that the Cadet Program is a valuable component of the Department of Safety. However, the Task Force has several recommendations for the improvement of the Program to be consistent with the City's values of inclusion.

1. The Task Force recommends that tuition payments should be extended to include institutions that are part of the Colorado community college system. Currently, the Metropolitan State College of Denver and the University of Colorado at Denver are the only two schools that cadets are eligible to receive tuition payments. By expanding the number of schools that cadets are eligible to receive tuition payments, the City's goal of inclusiveness is further achieved. In addition, the Task Force recommends that the Manager of Safety identify other possible educational institutions to expand the Program's tuition payment.

2. The Task Force recommends that further study be performed to identify the barriers to recruiting cadets to the Fire Department. During our investigation, we learned that cadets often choose to work for the Police Department rather than the Fire Department. Further study will allow the Program to identify which areas need to be focused on to attract more candidates to the Fire Department.

3. The Task Force recommends that the Cadet Program have at least 70 cadets. The Cadet Program for many years had 70 cadets at any given time. But, during the 2003 budget cuts, the cadet number decreased to 58.

E. Testing

The Task Force has two recommendations related to testing. First, the Task Force recommends that the Civil Service Commission eliminate continuous testing because it directly

affects rank order and dilutes an existing diverse pool of applicants who could have otherwise been placed on the list certified to the Manager of Safety. As mentioned above, the Civil Service Commission has a rule that permits applicants to be “periodically merged into the subject examination list, in rank order, based on final examination score.” Commission Rule 5 § 2 A; *see also* Commission Rule 7 § 2 E. (“At the sole discretion of the Commission, any eligible register for original appointment may be designated, at the time it is established, as an ongoing eligible register with names of applicants to be added and merged into the register over time, in the appropriate rank order, as additional applicants are approved for placement on the register from a corresponding examination list”). Instead, the process should include the following: (1) a defined period for registration for the examination, (2) a defined period where applicants may study and even be tutored for the examination; (3) a defined period for the actual testing such as a two-month period where exams are periodically scheduled; and (4) and a requirement that the eligible register, once created, should be available for up to two years, unless exhausted beforehand or to otherwise comply with the *Hogue* decree. Additionally, as to the examinations used by the Civil Service Commission, we recommend that the Civil Service Commission continue with its practice of validating the examinations so that they do not have any disparate impact on any particular minority groups.

As a second recommendation, the Task Force believes that testing and its related ranking based on scores should not be the only tools for selection. The Task Force believes that there is an overemphasis placed on examination scores, and that, in many circumstances, there are not any appreciable or discernable differences in an applicant’s qualifications compared to another applicant who had a similar but higher score on an examination. Indeed, in many cases, examination scores do not reveal who are the best qualified applicants as some applicants may have special skills, education, experience, or other qualifications that would be highly desirable

to the Police and Fire Departments. Nor do examination scores alone reveal any possible defects of personality, character, or disposition which may impair performance of an employee's duties in the Classified Service. The Manager of Safety should have discretion in selecting applicants by considering their background, experience, and other factors. As discussed more fully in the next section, the Manager of Safety should establish a uniform system whereby departmental oral interviews are conducted.

F. Selection

One of the primary goals in revamping the hiring process should be to make the process more inclusive whereby a higher number of highly-qualified minorities and women are considered for hire. In our review of the testing and selection process, we learned that many highly-qualified applicants, including minorities and women, are not considered for hire by the Manager of Safety because of two primary reasons: (1) numerous applicants apply for a relatively low number of vacancies, thereby making the testing process extremely competitive, where a fraction of an exam score can determine whether an applicant is placed on the certified list; and (2) the Civil Service Commission in the past certified a low number of applicants relative to the number of vacancies because it had to follow a past, but now obsolete Charter requirement. As discussed above, prior to the 2003 Charter amendment, certification for original appointment was limited to the number requisitioned plus two additional applicants. Following the 2003 amendment, the Civil Service Commission started in April 2005 to certify a larger number of applicants for consideration by the Manager of Safety for hire. By certifying a larger number of applicants to the Manager of Safety, the selection process has become more inclusive, whereby a larger number of highly-qualified applicants, including more minorities and women, are now considered for hire by the Manager of Safety.

The Task Force recommends that the Civil Service Commission continue to certify a larger number of applicants for each vacancy, specifically *three applicants for each vacancy*. For example, if there are 25 vacancies for a particular academy, the certified list would be comprised of 75 applicants who had the highest scores on the examination.

Under this proposal, the Manager of Safety would not have to hire based upon rank order. As mentioned above, the Manager of Safety, as the appointing authority, has a clear right under the Charter to choose from among those on the list without respect to their ranking. In fact, we recommend that the Civil Service Commission promulgate a rule that disallows it to provide the ranking of applicants to the Manager of Safety.⁶

The Task Force believes that modern human resources practices dictate that oral interviews be conducted because the examination scores alone do not reveal who are the best qualified applicants. Accordingly, the Task Force recommends that the Manager of Safety establish a uniform system, applicable to both departments, whereby all of the applicants certified to the Manager of Safety are thoroughly interviewed so that the best qualified applicants are hired. Commission Rule 5 § 4 D already permits this procedure: “Under the jurisdiction and authority of the Manager of Safety, a departmental oral interview may be conducted following certification.” As mentioned above, the Fire Department has been using oral interview panels since September 2006 for entry-level hires but the Police Department does not except for laterals.

To accomplish departmental oral interviews, the Manager of Safety should empanel interviewers who would interview certified applicants, using stated, objective criteria, and make recommendations to the Manager of Safety for hire. The Task Force recommends that the

⁶ The Civil Service Commission already follows this practice with respect to the Police Department in order to comply with the *Hogue* decree. However, this practice is not presently followed with entry-level hiring at the Fire Department.

interviewers should be trained on interviewing skills and equal employment opportunity laws and be comprised of both supervisory level employees and non-supervisory personnel, representing diverse interests. Under this proposal, the interviewers would make recommendations to the Manager of Safety who would then hire the persons who the Manager of Safety believes in good faith are the best qualified applicants, thereby preserving merit system principles. The process would ensure that the best qualified applicants are hired while at the same time making the process more inclusive which, in turn, should promote equal employment opportunity and diversity goals.

The Task Force views this recommendation as a long-term solution, but it will be insufficient, by itself, to cure the racial and gender imbalances that have occurred over the years with entry-level hiring at the Fire Department.⁷ The Denver Fire Department has had a history of discrimination lawsuits that resulted in court-ordered consent decrees that were similar in nature to the *Hogue* decree and mandated that the City change its recruitment, testing, and selection processes over the years. Notably, the U.S. District Court for the District of Colorado entered consent decrees in the cases styled *BeDan v. Bach*, Civil Action No. C-4662 (1974) and *Fuller v. Cisneros*, Civil Action No. 89-Z-2127 (1992).

Whenever these consent decrees were in place, the Denver Fire Department experienced an increase in diversity, but when the consent decrees were lifted, the diversity levels unfortunately decreased. Specifically, from 1964 to 1973, when no consent decrees were in effect, the entry-level classes of firefighters consisted of the following: 1 percent for African-Americans; 7.5 percent for Hispanics; 91 percent for Whites; 0 percent for Asians; and 0.5 percent for American Indians. During the time that the *BeDan* decree was in place from 1974 to

⁷ The Police Department has had greater diversity in entry-level hiring because it is required to follow the *Hogue* decree which has been in existence since the 1970s.

1978, there was an improvement in diversity, specifically 10.6 percent for African-Americans, 34.9 percent for Hispanics; 52.9 percent for Whites; 0.4 percent for Asians; and 1.2 percent for American Indians. From 1985 to 1991, when no consent decree was in place, diversity levels decreased again, with 3.2 percent for African-Americans; 13.2 percent for Hispanics; 80 percent for Whites; 2.1 percents for Asians; and 1.6 percent for American Indians. From 1992 to 1997, when the *Fuller* consent decree was in place, the diversity percentages increased again, with 11.5 percent for African-Americans; 19.2 percent for Hispanics; 65.9 percent for Whites; 0.5 percent for Asians; and 2.9 percent for American Indians. After 1997, the diversity percentages started to decline again.

While there has been slight improvement in the past year based upon the Denver Fire Department carrying out recommendations of the Manager's task force, we believe that additional measures must be taken to address the many years where racial or gender imbalances in hiring occurred and, unfortunately, continue to this day to impact the overall diversity within the Fire Department. Indeed, the diversity percentages (based on race) for firefighters at the present time are: 5.80 percent for African-Americans; 20.76 percent for Hispanics; 70.31 percent for whites; 1 percent for Asians; and 1.56 percent for American Indian. However, the Civil Service Commission has provided information that the available workforce percentages, based on race, for the Denver metropolitan area are: 10.10 percent for African-Americans; 14.25 percent for Hispanics; 70.52 percent for whites, 2.62 percent for Asians; and 1.01 percent for American Indian. Additionally, female firefighters comprise 4.02 percent of the workforce at the Denver Fire Department, yet the available work force percentage for the Denver metropolitan

area is 50.85 percent for women.⁸ These figures reflect that African-Americans and women continue to be underrepresented in Denver Fire Department’s work force. This problem with diversity at the Denver Fire Department has been and will continue to be exacerbated by retirements, both past and future, of minority firefighters who were hired during years when *BeDan* and *Fuller* consent decrees were in effect.

For these reasons, the Task Force recommends, for the Fire Department, that the Manager of Safety use race or gender as a “plus factor” in individualized considerations to choose among similarly-qualified applicants. The Task Force understands that such a proposal for the Fire Department would be temporary in nature and would be eliminated once certain numerical goals are met. For example, the Task Force recommends that the numerical goals statistically relate to the number of minority and female applicants qualified to be in the fire department from the relevant labor pool. This would require the City to periodically monitor any changing census or demographic data that may later become available. This short-term solution should not permit the hiring of unqualified applicants. There should also be in place well-defined methods to review the progress of this short-term solution. The Task Force recommends that the City Attorney’s Office study how best to design and implement this type of temporary solution so that it is consistent with the Equal Protection Clause, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1981, and other labor and employment laws.

As to the Denver Police Department, we find that the *Hogue* decree has greatly helped the City and County of Denver with its efforts to have a diverse class of entry-level police officers. The *Hogue* decree mandated hiring goals that are based on the “minority group’s percentage of available work force within the City and County of Denver.” Because we believe

⁸ The Task Force notes that the above race and gender percentages are based on the 2000 U.S. Census Bureau Statistics. The Task Force recognizes that more recent population estimates will likely result in adjustment in these percentages, particularly as these percentages reflect the different minority populations.

that the *Hogue* decree has played a significant role with maintaining some level of diversity at the Police Department, we recommend that the City and County of Denver continue to support the *Hogue* decree being in full force and effect. The Task Force further believes that the recommendation of providing expanded certified lists to the Manager of Safety in conjunction with the requirements of the *Hogue* decree will provide a system of achieving greater diversity at the Police Department.

III. Conclusion

The Denver Charter requires that the Civil Service Commission be committed to a merit-based system of employment as well as principles of equal employment opportunity and that the City Council appropriately fund the Civil Service Commission for it to carry out its duties, powers, and responsibilities. Denver Charter § 9.3.1 and 3. The City and County of Denver must allocate sufficient financial resources to have better recruitment; formal mentoring and tutoring programs; expanded lists certified to the Manager of Safety; and the implementation of other measures designed to promote diversity in the hiring of entry-level police officers and firefighters. Otherwise, without sufficient funding, many of these recommendations offered by the Task Force cannot be adequately implemented.

The Task Force members were honored to have been selected to review these important issues for the City and County of Denver. The Task Force is ready, willing, and able to answer questions or assist in any way to implement the recommendations contained in this report.