

**INDEPENDENT REVIEW OF THE NEW BRITAIN
FIRE DEPARTMENT**

**CITY OF NEW BRITAIN OFFICE OF HUMAN
RESOURCES and DCB LAW GROUP LLC**

**SUBMITTED TO CORPORATION COUNSEL
CITY OF NEW BRITAIN, CONNECTICUT**

AUGUST 9, 2017

SCOPE AND METHODOLOGY OF REVIEW

Mayor Erin E. Stewart, via the Corporation Counsel for the City of New Britain (“City”) retained DCB Law Group LLC (the “Firm”) on May 2, 2017 to work with the City’s Human Resources Director (collectively the “Team”) to conduct an independent review of the New Britain Fire Department (NBFD) with special emphasis on the extent to which discriminatory or unfair treatment may be perceived to exist by its members.

The basis for this review involved an initial incident involving a member of the NBFD and certain allegations of racial discrimination as the basis of same. Additional allegations were raised by this NBFD member to the Mayor who has requested that that this independent investigation is conducted with oversight and guidance from the Firm to help ensure adequate independence and focus. The scope of the Firm’s retention is limited to (1) assisting staff in document collection and review; (2) conducting interviews of NBFD members and relevant parties; (3) review and discussion of the information contained from these documents and interviews; (4) creation, upon request, of a written summary report of observations and opinions. The Firm was not tasked with providing legal representation of the City in any pending matter nor has the Firm offered any legal advice concerning labor or other matters.

The Team was not tasked to conduct any employment-related investigation nor is it intended that this report be relied upon, in whole or in part, as the sole basis to make, support or defend any employment-related action. The focus of this report is to provide city leadership with an insight into the perceptions of Nbfd members regarding their working environment and to synthesize and report on communicated instances of any perceived discriminatory or unfair treatment.

The Team did not independently investigate any specific incidents that were described during the interviews and makes no representations herein as to the accuracy or truthfulness of any such claim. As such, we do not render herein any official opinion as whether harassment, retaliation, or discrimination actually exists in any particular case, per se, and offer this report as guidance for city officials to deliberate on this question and as a basis to explore a number of mitigating actions independently with the Mayor and Human Resources Director.

To the extent that any member interviewed wished to make a separate complaint surrounding a specific incident, they were encouraged to do so with the Human Resources Director so that it could be investigated independently pursuant to existing city policy.

In order to help preserve the anonymity of interviewees, this report will not reference any member specifically by name or other personally identifiable information other than those incidents which have been reported publicly or for

which there is a pending or prior legal claim. Any reference to gender pronouns with respect to any reference to any person is not necessarily indicative of gender.

Over a term of approximately fifteen (15) weeks, the Team individually interviewed 49 members of the department and other individuals, including the Chief and all Deputy Chiefs. Each and every minority and female member of the department was affirmatively and individually contacted by the Team and solicited to participate in the formal interview process. All interviewees were cooperative with the Team, provided thoughtful information, and affirmatively agreed to provide completely truthful responses. All participants were advised that they should feel comfortable providing information to the team without fear of retaliation or reprisal and that they should immediately report any such activity to the Director of Human Resources¹. It should be noted that the majority of those interviewed requested to meet with the Team and volunteered to be interviewed.

In addition to the individual interviews and concurrent with the term of this Review, the Office of Human Resources engaged with a third party consultant to conduct seventeen (17) separate cultural diversity training sessions with Nbfd Personnel. These broader group training discussions served to guard against the Team having a less than representative sample of interviewees as well as to engage in active group discussions regarding racial tensions / unfair treatment that may

¹ Despite these assurances, many members expressed strong resistance to coming forward for fear of retaliation by the Chief; several were visibly nervous during the interview and stated they were particularly afraid to come to City Hall in that they might be seen by the Chief.

exist within the Nbfd. At the beginning of each of these training sessions, the Human Resources Director reiterated the ongoing Review process to all attendees and encouraged anyone who wished to come forward to do so without fear of retaliation.

At the request of the Team, this third-party consultant provided a summary of her observations at these training sessions. This summary was provided in a letter sent via E-mail to the Director of Human Resources and is included herein for reference. (**Attachment 1**)

OVERVIEW OF OBSERVATIONS AND OPINIONS:

Subject to the defined scope and qualifications discussed above, the Team believes that there is a strong and compelling perception amongst the overall membership of the Nbfd that the administrative leadership and management of the department is deficient and dysfunctional, mired by a lack of consistent affirmative communication, unfair treatment and favoritism, and devoid of a sense of fairness and meritocracy with respect to discipline and many of the discretionary actions of the Chief (e.g., transfers, bid-and-post driver appointments, committee appointments, training opportunities, community service) which are believed by many of those interviewed to be arbitrary and/or based on personal or other bias.

Certain minority members feel passionately, and in the Team's opinion, sincerely, that they have not been treated fairly compared with white members of the department, often from the date of hire² and based on the disparity described between certain tolerated serious violations of departmental policies by white/Caucasian firefighters and the initiation of discipline against less serious infractions by minority members³. As such, the Team and others believes it is not unreasonable that a minority firefighter could perceive the existence of racial bias. Additionally, the Team believes that the triggering incident (Photograph) which prompted this Review was wholly avoidable, is without reasonable excuse, and suggests strongly, at best, a serious level of racial insensitivity by the Chief.

These observations and opinions are not meant to be descriptive of the subjective experience of every individual firefighter. During our review, there are those who came forward to express their view that the NBFD works well, without any real problems or issues, that everyone gets along, and that there are only a few people who are predisposed to causing problems. While this may be subjectively and sincerely believed by those who shared this opinion with the Team, we find the number and frequency of experiences to the contrary to be more persuasive when offering our opinion as to the actual environment within the department.

² Please see Discussion of Hiring / Stigmatization, *infra*.

³ Please see Performance and Discipline, *infra*

Equally emphatic and consistently stated throughout the interviews, members expressed a strong belief that the Nbfd was technically (emphasis added) proficient in its ability to competently perform its public service missions, including but not limited to those of fire suppression, prevention, and medical calls. Members have expressed strong concern, however, that the internal state of administrative dysfunction is having an increasingly toxic effect on the morale of the department.

RELEVANT POLICIES AND PROCEDURES

Affirmative Action Plan and Non-Discrimination Policy and Procedures

On December 19, 2016, the Mayor and Common Council of the City of New Britain City Council adopted a revised Affirmative Action Plan and Non-Discrimination Policy and Procedures (“Plan”) included in this report for reference as **Attachment 2**.

The Plan prohibits discrimination, harassment, bullying or inappropriate behavior directed toward any individual because of her gender, race, age, sexual orientation or other class protected by law and outlines the procedure for reporting any such activity to the Director of Human Resources. The plan also prohibits coercion, intimidation, or retaliation against any employee by the City as a result of enforcing the plan or engaging in a protected activity. The transmittal letter of this

policy from the Mayor to all department heads was dated January 13, 2017 and was sent via E-mail and hard copy with specific direction to distribute and discuss with all personnel. The responsibility of department heads and other managers for compliance with the policy and for “ensuring that fair and equal employment practices prevail within their respective areas of responsibility” is clearly stated within this policy. According to statements made to the Team during this review and during the group training sessions, no formal distribution of the Plan or communications surrounding its contents has yet taken place within the Nbfd.

Nbfd CENSUS / ORGANIZATION / LEADERSHIP

The Nbfd consists of a total of 133 members, as follows (as of 1/1/2017):

Chief of Department;

5 Deputy Chiefs (4 Line Chiefs and one Deputy Chief of Training);

8 On-Line Captains and 1 off-line Captain of Planning & Research;

24 On-Line Lieutenants and 1 off-line Lieutenant;

83 Privates.

Additionally, there are 7 staff (off-line) positions in the Fire Marshal's Office; 1 staff Master Mechanic and 2 Administrative Office positions (Organizational Chart attached to this report as Attachment 3).

There are eight (8) fire station houses located throughout the City.

Each house is led by a Captain who is responsible for the good order of the physical plant, equipment, apparatus, and who also serves as the shift supervisor on one of the Groups. All stations are staffed by on-line personnel in 24-hour shifts via assignment to one of four “Groups” (A, B, C, D), with each Group being led by a Deputy Chief. The result of this structure is that there is the potential for thirty-two (32) distinct and separate working cultures, each with different social norms of behavior and expectations for adherence to established conduct. While there are regularly scheduled monthly meetings with the Chief and Deputy Chiefs to discuss administrative issues, the agenda for this meeting is not a function of the Deputy Chiefs input and is often not shared in advance of the meeting. According to the interviews, attendance at these meetings is sporadic and not mandatory with several Deputy Chiefs regularly not in attendance. Some Deputy Chiefs state that their input is solicited by the Chief, others state that there is little collaboration or input offered with the Chief making his decisions behind closed doors, often with the command staff being left with little or no rationale for the basis of the decision.

According to the interviews, there has never been a meeting of all Captains to discuss mutual issues of concern nor has there ever been a meeting of all Lieutenants to do likewise. The membership is therefore left to facilitate communication laterally via informal networks (often times sharing incomplete or

inaccurate information regarding policy or directives). The Firefighters see a Deputy Chief's duty as primarily being responsible for actively managing the readiness of their respective Group and the Fire Grounds (active fire scene) but see the Chief as their overall leader who should be providing the department with strong command presence and a vision of the path forward.

There is no known strategic plan for the Nbfd. Many believe that the Chief is only selectively present or available to the rank-and-file, choosing to speak with certain people he likes and purposely avoiding even recognizing or acknowledging anyone else. Firefighters state there are no regular visits to houses by Chief, no regular attendance at safety meetings, and little to no communication with the Fire Marshal's Office.

Based on the inherently diffuse organizational structure described above, the Team believes the absence of any structured and regular leadership meetings or active, repeated, and clear communication from central leadership regarding to help maintain and create a uniform working environment throughout the department is a contributing factor to the underlying perceptions of unfair and/or discriminatory treatment.

PERFORMANCE AND DISCIPLINE

The collective bargaining agreement (CBA) between the New Britain Fire Fighters Local 992 (IAFF AFL-CIO) and the City of New Britain covers all members of the Nbfd with the exception of the Chief. As such, Deputy Chiefs, Captains and Lieutenants are all in the same union as the firefighters they supervise. This situation provides for tension between being the “boss” of a fellow union member and defers, almost exclusively, to the Chief of Department to set tone and order as the person responsible for final discipline.

Nevertheless, officers have stated that they have been willing to “write up” certain offenses in order to maintain good order and discipline in the ranks, however, they are reluctant to do so today given the lack of support they receive from the Chief to provide timely responses to requests for discipline. Examples have been provided where e-mail requests for discipline have gone unanswered for months, leaving officers exposed to peer criticism (as well as their authority undermined) and therefore reluctant to be the “bad guy” with no support.

The adherence to the chain-of-command is described as not consistent, with certain privates having regular and direct access to the Chief and others being specifically ignored and/or being told to “follow the chain of command.”

Information was provided to the Team that suggested that the best way to obtain a

response from Chief was to be sure to approach him via someone he would respond to, i.e., one of the members who the Chief says “gets it”.

Additionally, anecdotes regarding the arbitrary and disparate administration of discipline were significant in almost every interview. Examples of cases (several pending and under appeal) where firefighters were formally presented for fact findings and/or counseling sessions for “insubordinate” conduct such as using all CAPS in an e-mail were contrasted with no formal discipline and a “talking to” by the Chief for incidents surrounding alleged public insubordination of a Deputy Chief and clear and very serious violations of safety protocol and operating procedures at an active fire scene.

The juxtaposition of the Chief taking formal disciplinary action against certain firefighters for relatively minor offences with the taking of no formal disciplinary action against very serious offenses has left many to conclude (reasonably, in the opinion of the Team) that there is a “double standard” within the department applied to members, depending on the discretion of the Chief. This perception has a chilling effect on officers' motivation to formally discipline members for violations and to speak up and report other issues that may need to be visibly and swiftly addressed by department leadership.

INITIAL PUBLICLY REPORTED INCIDENT (PHOTOGRAPH)

Incident Involving Photograph of Chief Mark Carr

On or about February 16, 2017, an African-American NBFD firefighter (hired by Chief Mark Carr) pulled down 5 photograph portraits of prior NBFD chiefs (Caucasian) which were hanging on the stairwell hallway of NBFD Headquarters⁴. This firefighter did so as an act of protest in response to Chief Ronalter's failure to hang a photograph portrait of Chief Mark Carr alongside the other Chief's portraits despite being asked to do so on multiple occasions and over a period of multiple years. This firefighter was subsequently disciplined by the Chief for insubordination, conduct unbecoming of a city employee, and destruction of city property. He currently is appealing his adverse administrative action and pursuing additional legal and administrative remedies⁵.

Chief Mark Carr

Chief Mark Carr was hired in 2004 and was the first African-American Fire Chief in the City of New Britain. He retired from the department in 2012 to take a senior federal emergency management position in Washington, D.C., and died

⁴ See **Attachment 4**; August 2, 2017 Photograph of NBFD Stairwell with all photos reinstalled.

⁵ (On June 14, 2017, and during the course of this Review, this firefighter filed a formal complaint with the Connecticut Commission on Human Rights and Opportunities (CHRO) alleging multiple counts of racial discrimination or unfair treatment. This CHRO complaint is being investigated and handled by the Office of Corporation Counsel and the Team has had no input or involvement in the City's investigation or defense of this matter.

unexpectedly in December 2014. While many interviewees look back on Chief Carr (in hindsight) as a good man and, ultimately toward the end of his tenure, as a good chief - his initial reception was not warm and included a vote of no confidence by the membership in 2005⁶. Interviewees describe the initial resistance to Chief Carr's arrival as rooted in several (perhaps severable) issues: that he was not from within the Nbfd and he was not the "favored internal candidate"; that he was from London, England (UK) and did not understand the culture of the fire service in the United States; and, that he was a racial minority and was charged with diversifying the ranks of the department. Multiple anecdotal reports of comments being made to support these motivations, above, including racially insensitive comments being made by firefighters during Chief Carr's tenure, were recounted by firefighters interviewed during this review. During his tenure as chief, Chief Carr hired 54 firefighters; of these, 11 were women and minorities.

Requests to Honor Chief Carr by hanging picture

According to statements provided to the Team during the interviews, multiple firefighters, including several African-American firefighters, asked Chief Ronalter on multiple occasions to hang the photograph of Chief Carr in the stairwell of Nbfd headquarters alongside other past chiefs. As discussed above,

⁶ "Firefighters Give Chief Vote Of No Confidence" The Hartford Courant, August 11, 2005

one firefighter who asked Chief Ronalter to do so was subsequently disciplined for taking down the other pictures in protest and is seeking legal review of this decision. As a result of information obtained during the interviews, the team met with Mrs. Nikki Carr to discuss her involvement in this matter as it was stated that she also had made multiple independent requests of Chief Ronalter to honor her late husband by hanging his photograph at Headquarters. Mrs. Carr described her relationship with certain NBF D firefighters, particularly several of those hired by Chief Carr, as strong and stated that she regularly sees them in the community and at events and that they will look in on her at her home from time-to-time. It was during these meetings that she would be informed that the photograph of Chief Carr was still not hanging alongside those of the other past chiefs. Mrs. Carr stated that she had spoken to Chief Ronalter on at least three separate occasions over a period of years, both at City Hall and at various times where she would see him in the public and would habitually ask him “when are you going to put the picture up?” After asking several times, Mrs. Carr expressed her frustration that the Chief was providing different excuses for not doing so, including “painting the wall” and “resizing the frame”. Given the length of time that had elapsed and that she recalled Chief Ronalter commenting something to the effect of “you’re just like your husband – you don’t give up, do you?” his excuses seemed less than genuine and she began to think there may be another reason.

When presented with these statements and asked for an explanation, Chief Ronalter stated to the Team that, in hindsight, he made a mistake in not hanging the picture and that he did not consider it a priority given all the other important matters he had to address on a daily basis. Chief Ronalter acknowledged having been asked both by the firefighter who was disciplined and by Mrs. Carr to hang the picture on multiple occasions and stated that he did not, nor did he ever direct anyone to do anything in furtherance of these requests over the past three years. While he did not specifically recall making the statement referenced above to Mrs. Carr, he stated he did feel that way, and he wouldn't question her recollection. Chief Ronalter denied being a racist or that racial bias had anything to do with his failing to honor Chief Carr. The photograph of Chief Carr was ultimately hung on the wall at the direction of Corporation Counsel on March 13, 2017.

DISCUSSION OF HIRING / STIGMITIZATION

All applicants to the Nbfd take a written examination and are assigned a numerical score. A list of applicants and their respective scores is compiled and a minimum qualifying score is established. Those applicants with a score at or above the minimum qualifying are deemed eligible for hire by the Chief. Under existing Nbfd policy, the Chief retains full authority on hiring decisions, subject to the "Rule of the List". The "Rule of the List" is described as follows:

Individuals hired who did not score at or close to the top of the numerical ranking of scores are often presumed by existing firefighters to have been hired for reasons other than merit. Certain minority members that scored lower on the standardized test have been told that they “were only hired because they were minorities” with one minority firefighter stating that he was routinely referred to as the “Golden Ticket”, ostensibly referring to the belief that his hire was based on his race and not based on qualifications or ability. Another minority firefighter stated that he feels he has to score at the very top of every promotional list to be seen as “legitimate” despite knowing that white firefighters that get promoted based on perceived family connections or friendships never have their legitimacy questioned by peers or Nbfd leadership.

The Team observes that the widespread knowledge of the numerical ranking of scores, especially for new hires, may serve to unfairly stigmatize new hires that are minimally qualified on the written exam but may have other attributes that make them a more qualified hire as a total person than one who scored higher on the test.

Nbfd / Fire Service Culture

Firefighters describe the fire service as having a unique workplace culture, particularly given the close living/working quarters of the members, the

dependence on each other for their lives and safety in a fire, and the nature of downtime vs. being busy and actively engaged in calls for service. There is a level of informality that naturally creates a tension with the “paramilitary” organization the fire service is believed to be. In addition to the stigmas that may attach discussed above, new recruits are often met skeptically and will have to prove they are able to achieve a series of informal social norms that exist in within their first assignment. Hazing, teasing, practical jokes, and similar activity are commonplace. Fitting in is important. Keeping things “within the ranks” and “not going outside” is the social norm. Contrasted with other paramilitary organizations, firefighters cite more of a peer relationship (“brotherhood”) between first line officers (lieutenants) and firefighters that, depending on the individual officer, can be in tension with maintaining strict discipline and initiating formal documented progressive discipline proceedings (e.g., “how can you write up the guy that just cooked you lunch and who you have to spend the next 24+ hours living with?”). This is also consistent with the union brotherhood tensions mentioned, *infra*.

The combination of these social norms and supervisory tensions is likely to create an environment where racially insensitive and/or other objectively inappropriate behavior may be tolerated at an unacceptably higher degree. Interviewees described instances of racially insensitive comments being made both

by officers and firefighters – none of which would ever go reported given the closed-ranks culture of the department and the lack of confidence that the Chief would do anything to challenge the persons responsible. The Team was told on many occasions that ‘the standards of a firehouse will never be what you would expect in corporate office’ (paraphrased), which the Team interprets as an acknowledgment of this belief. During the course of one interview, one minority firefighter brought a concern to the Team which could reasonably be perceived as racial harassment. The Human Resources Director continues to investigate the matter, however, when brought to his attention, the Chief was not sure what his involvement should be and neither took nor directed any action to mitigate or address the concerns.

The Team believes this level of senior leadership is deficient based on the totality of information provided during the interviews, the inability of the Chief to perceive a serious issue of racial sensitivity, and the absence of the enforcement of consistent discipline as discussed elsewhere herein.

The above culture demands active, aggressive, and routinely present leadership that will set a consistent tone of acceptable conduct across all stations. This active leadership should actively communicate expectations, hold officers accountable for consistent order and discipline and also ensure that there is neither disparity

between how firefighters are treated nor a tolerance of racially insensitive behavior.