



Program Evaluation: Recruitment & Hiring Gender Disparities in Public Safety Occupations

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I. Executive Summary

The Equal Employment Opportunity Commission (EEOC) has the responsibility to provide guidance to federal agencies on all aspects of the Federal Government's equal opportunity program and to aid all agencies to become model employers. One step to becoming a model employer is eliminating any barriers for protected groups to employment or advancement. In keeping with that responsibility, the EEOC conducts annual program evaluations to: 1) ensure compliance with the civil rights laws, regulations, and Commission directives enforced by EEOC; 2) identify best practices employed by agencies that can be shared with other agencies; and 3) provide technical assistance and/or advice to an agency where program deficiencies are uncovered. Program evaluations are initiated through recommendations that may arrive from multiple sources including, the EEOC Chair, Commissioners, Office of Federal Operations (OFO) or Office of Field Programs (OFP) management, EEOC Administrative Judges, and OFO staff members, as well as from outside sources such as Congress, federal agencies EEO staff, other federal agency employees, and media sources. The EEOC also surveys its own employees to gather recommendations of topics for program review.

Traditionally, program evaluations focus on only one agency. However, for this program evaluation, the EEOC decided to evaluate gender disparities in public safety occupations at multiple agencies. The reasons for the EEOC's focus are, (1) several class action suits involving women in public safety positions; (2) congressional hearings on the participation of women in the federal government; and (3) the surge of hiring for federal law enforcement positions planned and currently taking place. This evaluation specifically analyzes the exclusion or low participation of women within public safety occupations and attempts to determine what barriers to employment, if any, are present during the recruitment and hiring processes. With this report, the EEOC hopes to identify the issues involved with recruiting and hiring women into law enforcement, and to unearth adequate information for a resource guide of leading practices that federal agencies may utilize Government-wide.

For this evaluation, the EEOC reviewed various data sources and met with focus groups of EEO directors, human resources staff, and public safety employees within selected Federal government agencies. The focus group participants proved to be a great resource, as they explained some possible barriers and suggested leading practices that may help increase female participation in public safety occupations Government-wide.

Several recommendations from the focus groups that agencies may wish to consider in their efforts to improve the recruitment and hiring of women in public safety occupations include:

- Coordinate a Government-wide cadet program;
- Target outreach as early as the grade school level;
- Target recruitment of women at the college level;
- Increase visibility of women recruiters;
- Set diversity strategy goals tied to recruitment and hiring;
- Make an Administration-wide push;
- Use one-stop, one-day hiring processes; and
- Use Social Media.

More details on the above-highlighted recommendations are included in Summary and Leading Practices (Part V) of this report. Please note that this report addresses only recruiting and hiring in public safety and female participation rates. In fiscal year 2019, the EEOC plans to issue a second

report evaluating promotion and retention rates of women within public safety occupations. Together, these two reports will provide an overview of the challenges and opportunities for women in federal law enforcement.

II. Introduction

A. Purpose/Objectives

The EEOC Office of Federal Operations' (OFO) Reports and Evaluation Division (RED) has produced its first Government-wide program evaluation on public safety positions and gender for three reasons:

- (1) Several class actions have been filed regarding sex discrimination in certain public safety occupations;
- (2) Congress recently held hearings to address sex-based discrimination within the Federal Government; and,
- (3) during fiscal year 2018, several federal agencies intend to increase hiring efforts in federal law enforcement occupations.

To this end, the EEOC reviewed the recruiting and hiring of women candidates at certain federal agencies that have public safety positions as mission-critical occupations. Specifically, the EEOC analyzed selected federal agencies' recruitment and hiring practices; reviewed Federal Employee Viewpoint Survey (FEVS)¹ data on relevant questions; conducted a review of relevant social science and legal literature related to gender disparities in the hiring and recruitment of public safety positions; and conducted two focus groups—one with federal Equal Employment Opportunity (EEO) professionals and the second with selected female public safety employees from agencies with public safety professionals in mission critical positions. Lastly, RED staff gathered information from agencies' websites regarding employment practices. The EEOC presents this report as a resource to assist federal agencies to consider leading practices for the recruiting and hiring of women into public safety occupations.

B. Background

Law enforcement and fire protection positions have been dominated by men; while participation by women in these occupations has increased over the decades, data indicates that the participation rates of women are still comparatively low. An expansion of women in police work during the 1990s resulted in the establishment of several law enforcement associations devoted to women including the National Association of Women Law Enforcement Executives in 1995, the National Center for Women and Policing in 1995, and Women in Federal Law Enforcement in 1999.² Despite their efforts, the growth of women in these occupations continues to be slow, and according to the

¹ Federal Employee Viewpoint Survey (FEVS) measures employees' perceptions of whether, and to what extent, conditions characterizing successful organizations are present in their agencies.

² Betsy Brantner Smith, *Police History: The Evolution of Women in American Law Enforcement*, PoliceOne: Survival Insights (June 30, 2015) <https://www.policeone.com/police-history/articles/8634189-Police-History-The-evolution-of-women-in-American-law-enforcement/>.

National Center for Women and Policing, women made up only approximately 15 percent of all law enforcement officers in 2015.³ Two years later, disparities still appear in the low recruitment and hiring rates of women.

C. Definitions

“Public safety” is defined in this report as the welfare and protection of the public, usually expressed as a governmental responsibility.⁴

“Law enforcement” means police officers and other members of the executive branch of government charged with carrying out and enforcing the criminal law.⁵

“Public Safety Occupations” are those engaged in law enforcement or otherwise protection, security, or rescue of the public.

D. Occupational Groups Selected for Inclusion

In this report, the EEOC focuses on occupational groups with job functions that consist of providing protection, security, or rescue to the public. The specific occupational groups (and OPM occupational codes) included in this study/analysis are:

- **Correctional Officer (0007):** This occupational group involves the correctional treatment, custody, and supervision of criminal offenders.
- **Park Ranger (0025):** This occupational group supervises, manages, and/or performs work in the conservation and use of federal park resources.
- **Fire Protection & Prevention (0081):** This occupational group supervises or performs work to control and extinguish fires, rescue persons endangered by fire, and reduce or eliminate potential fire hazards. This group also covers positions that control hazardous materials; provide emergency medical services; train personnel in fire protection and prevention; operate fire communications equipment; develop and implement fire protection and prevention plans, procedures and, standards; and advise on improvements to structures for better fire prevention.
- **U.S. Marshal (0082):** This occupational group involves a range of law enforcement responsibilities that includes serving a variety of writs and criminal warrants issued by Federal courts, tracing and arresting people wanted under court warrants, seizing and disposing of property under court order, safeguarding and transporting prisoners, providing for the physical security of court facilities and personnel, providing the physical safety of jurors and key Government witnesses and their families, preventing civil disturbances or restoring order in riot and mob violence situations, and performing other special law enforcement duties as directed by a court order or the Department of Justice.
- **Police (0083):** This occupational group performs and/or supervises law enforcement work in the preservation of the peace; the prevention, detection, and investigation of crimes; the

³ *Id.*

⁴ *Public Safety*, BLACK’S LAW DICTIONARY (4th pocket ed.).

⁵ The EEOC adopted the third, more narrow definition of “law enforcement from Black’s Law Dictionary.

arrest or apprehension of violators; and the aid of citizens during emergencies, which may include the protection of civil rights.

- **Security Guard (0085):** This occupational group is responsible for the performance and/or supervision of protective services work in guarding federally owned or leased buildings and property; protection of government equipment and materials; and controlling access to federal installations by visitors, employees, residents and patients.
- **Forestry Technician (Firefighter) (0462)⁶:** This series covers all positions that primarily require a practical knowledge of the methods and techniques of forestry and other biologically based resource management fields. Forestry technicians provide practical technical support in forestry research efforts; in the marketing of forest resources; or in the scientific management, protection, and development of forest resources.
- **Criminal Investigator (1811):** This occupational group supervises, leads, or performs work involving the planning, conducting, or managing of investigations related to alleged or suspected criminal violations of federal laws.
- **Customs & Border Protection Interdiction (1881):** This occupational group supervises, or performs aviation law enforcement operations to detect, interdict, apprehend, and prevent terrorist and other persons, weapons, and contraband from illegally entering the United States.
- **Border Patrol Agent (1896):** This occupational group supervises, leads, or performs work that involves enforcing the laws that protect the nation's homeland by the detection, interdiction, and apprehension of those who attempt to illegally enter or smuggle any person or contraband across the Nation's borders.

E. Agencies Selected for Inclusion

The following agencies were included in the report's analyses because they employ public safety personnel, and many cite those personnel as mission critical. The report only includes agencies with at least 100 employees serving in these occupations, to prevent small numbers from skewing the ratios and statistics. Also, please note that the Intelligence Community was not included in this review, because relevant data is classified and thus unavailable. Nonetheless, Intelligence Agencies may find this report's results helpful.⁷

- **Department of Agriculture (USDA):** The public safety occupations at USDA are Criminal Investigator and Forestry Technician (Firefighter).
- **Department of Defense (DOD):** The public safety occupations at DOD are Park Ranger located at the Department of Army; Fire Protection and Prevention, Police, and Criminal Investigator agencywide; and Security Guard at Air Force, Army, and Navy.
- **Department of Justice (DOJ):** The public safety occupations at DOJ are Correctional Officers located at subcomponent agency Bureau of Prisons (BOP); US Marshals located at U.S. Marshal Service; Police located at Federal Bureau of Investigations (FBI), and Criminal Investigators agencywide.

⁶ The Department of Agriculture uses the Forestry Technician occupation code to classify their Firefighters. Please note, however, that this code also covers non-fire positions as well.

⁷ Each selected agency's mission statement can be found in the appendix of this report.

- **Department of Interior (DOI):** The public safety occupations at DOI are Correctional Officers at Indian Affairs; Park Rangers at the Bureau of Land Management, National Park Service, and Fish and Wildlife Service; and Police and Security Guard positions at the Bureau of Indian Affairs, National Park Service, and Bureau of Reclamation.
- **Department of Homeland Security (DHS):** The public safety occupations at DHS are Police and Criminal Investigator agencywide; and, Customs and Border Protection Interdiction, and Border Patrol Agent in U.S. Customs and Border Protection.
- **Department of Health and Human Services (DHHS):** The public safety occupations at DHHS are Security Guard and Criminal Investigator.
- **Department of Housing and Urban Development (HUD):** The public safety occupation at HUD is Criminal Investigator.
- **Environmental Protection Agency (EPA):** The public safety occupation at EPA is Criminal Investigator.
- **Smithsonian Institute (SI):** The public safety occupation at SI is Security Guard.
- **Department of State (STATE):** The public safety occupation at STATE is Criminal Investigator.
- **Social Security Administration (SSA):** The public safety occupation at SSA is Criminal Investigator.
- **Department of Treasury (TREAS):** The public safety occupations at TREAS are Police and Criminal Investigator.
- **Department of Transportation (DOT):** The public safety occupation at DOT is Criminal Investigator.
- **Department of Veteran Affairs (VA):** The public safety occupations at VA are Fire Protection and Prevention, Police, and Criminal Investigator.

III. Methodology

As part of the review, EEOC’s RED team analyzed data such as OPM FedScope Employment data, Federal Employee Viewpoint Survey Data (FEVS), legal cases, case studies, various agencies’ employment pages, and, USAJobs.gov. In addition, EEOC staff hosted focus groups with EEO directors, Human Resource staff, and female employees performing public safety positions within the above stated federal agencies.

A. OPM FedScope Data

For this evaluation, the EEOC utilized the Office of Personnel Management’s FedScope tool first to identify agencies with at least 100 employees in the selected occupations, and then to filter by agency and gender to better determine how many women compared to men were employed in these positions.⁸ To gain a better understanding of the employment trends over time, RED staff reviewed five years of data from 2012 to 2016 for the agencies and occupations described in part II of this report.

⁸ FedScope employment data provides quarterly federal employee population data that can be filtered by numerous characteristics.

Table 1. Female participation in public safety occupations, FY 2016⁹

OPM FedScope Data by Occupation FY 2016			
Occupation	Total # Employed	Total # Females	% of Females
Correctional Officer	18,698	2,599	14%
Park Ranger	5,667	1,859	33%
Fire Protection & Prevention	8,893	187	2%
Forestry Technician (Firefighter)	15,233	2,587	17%
U.S. Marshal	297	23	8%
Police	14,462	1,169	8%
Security Guard	4,484	480	11%
Criminal Investigator	42,612	6,948	16%
Customs & Border Protection Interdiction	605	0	0%
Border Patrol Agent	19,749	1,022	5%
Total	130,700	16,874	13%

Table 2. Female participation in select public safety occupations, FY 2012

OPM FedScope Data by Occupation FY 2012			
Occupation	Total # Employed	Total # Females	% of Females
Correctional Officer	18,141	2,446	13%
Park Ranger	6,003	2,116	35%
Fire Protection & Prevention	8,959	212	2%
Forestry Technician (Firefighter)	15,512	2,901	19%
U.S. Marshal	576	59	10%
Police	14,556	1,195	8%
Security Guard	5,473	592	11%
Criminal Investigator	44,084	7,267	16%
Customs & Border Protection Interdiction	693	14	2%
Border Patrol Agent	21,278	1,044	5%
Total	129,278	17,846	14%

B. Federal Employee Viewpoint Survey (FEVS) Data

The FEVS data measures employees' perceptions of whether, and to what extent, employment conditions characterizing successful organizations are present in their agencies. Staff specifically focused on the responses to Questions 34 and 38, which asked employees whether they agreed or disagreed with the following statements:

- **Question #34:** Policies and programs promote diversity (for example, recruiting minorities and women, training in awareness of diversity issues, mentoring) in the workplace.

⁹ Totals and percentage rates across the entire federal government may differ slightly, because this evaluation excluded agencies with fewer than 100 employees serving in the occupations of focus.

- **Question #38:** Prohibited Personnel Practices (for example, illegally discriminating for or against any employee/applicant, obstructing a person's right to compete for employment, or knowingly violating veterans' preference requirements) are not tolerated.

The tables below show the responses for each agency. This data is limited in that it cannot identify to what extent public safety personnel participated; nonetheless, it provides a good barometer of employees' overall sentiments regarding prohibited personnel practices and sensitivity to diversity issues.

Table 3. Employee Responses to FEVS question 34: Policies and Programs that Promote Diversity in the Workplace

FEVS Question 34: Policies and Programs Promote Diversity in the Workplace				
Agency Name	Total Participants	Agree	Neutral	Disagree
Agriculture	17,651	68.4%	22.1%	9.5%
Department of Justice	12,788	65.2%	23.5%	11.3%
Environmental Protection Agency	7,670	61.8%	23.1%	15.2%
Health and Human Services	30,660	62.4%	24.5%	13.1%
Homeland Security	36,049	50.2%	30.9%	18.8%
Housing and Urban Development	4,227	53.4%	28.5%	18.1%
Interior	17,010	57.0%	27.3%	15.8%
State Department	3,910	59.3%	25.2%	15.5%
Social Security Administration	6,909	64.8%	22.4%	12.9%
Transportation	11,310	59.1%	28.1%	12.8%
Treasury	32,787	60.4%	27.0%	12.6%
Veterans Affairs	22,603	56.2%	28.3%	15.6%
Department of Defense	45,620	59.2%	27.2%	13.6%

Table 4. Employee Responses to FEVS question 38: Prohibited Personnel Practices are not Tolerated

FEVS Question 38: Prohibited Personnel Practices are not Tolerated.				
Agency Name	Total Participants	Agree	Neutral	Disagree
Agriculture	17,651	74.2%	15.7%	10.1%
Department of Justice	12,788	69.7%	17.6%	12.7%
Environmental Protection Agency	7,670	70.6%	16.9%	12.5%
Health and Human Services	30,660	71.1%	16.9%	12.0%
Homeland Security	36,049	59.1%	22.6%	18.2%
Housing and Urban Development	4,227	62.9%	21.8%	15.4%
Interior	17,010	70.0%	17.1%	12.9%
State Department	3,910	76.8%	13.7%	9.5%
Social Security Administration	6,909	69.7%	17.9%	12.4%
Transportation	11,310	73.6%	15.5%	10.8%
Treasury	32,787	71.6%	17.6%	10.8%
Veterans Affairs	22,603	64.0%	19.8%	16.3%
Department of Defense	45,620	69.7%	17.2%	13.1%

C. Occupational Crosswalk: Comparing Public Safety Occupations to Similar Positions in the Current Labor Force

To gain context for the female participation rates in the selected federal government public safety occupations, the EEOC compared the relevant OPM occupations to similar occupations reported to the Census Bureau. The relevant Census occupations are derived by matching the federal workforce occupations with their civilian labor force counterparts—an analysis known as an “occupational crosswalk.” The Census occupational data covers all citizens in the United States that reported being employed in these occupations; it does not separate federal versus private sector, but rather reports the total number of citizens employed within these occupations. When reviewing the occupational crosswalk in Table 5 below, please note that a single Census occupation may relate to more than one OPM occupation code.

Table 5. Gender by Occupation

OPM Occupation and Code			Census Occupation and Code	Total # of Citizens in Occupation			Percentage by Sex	
				All	M	F	M	F
Correctional Officer (0007)			Bailiffs, Correctional Officers, & Jailers (3800)	437,400	313,300	124,100	71.6	28.4
Park Ranger (0025)			Lifeguards & Other protective Service workers (3955)	184,980	86,115	98,865	46.6	53.4
Fire Protection & Prevention (0081)	Forestry Technician (Firefighter) (0462)		Fire fighters (3740)	274,840	263,620	11,220	95.9	4.1
Security Guard (0085)			Security guards & Gaming surveillance officers (3930)	953,095	735,730	217,365	77.2	22.8
Police (0083)	Border Patrol Agent (1896)		Police officers (3850)	659,585	561,890	97,695	85.2	14.8
U.S. Marshal (0082)	Criminal Investigating (1811)	Customs & Border Protection Interdiction (1881)	Detectives & Criminal investigators (3820)	130,800	99,860	30,940	76.3	23.7

D. Historic Treatment of Women in Public Safety Occupations

The concept of equality did not, as a legal matter in the U.S., include women in employment until 1964, when Title VII of the Civil Rights Act was passed.¹⁰ Before then, law enforcement and public safety organizations often utilized women in social service roles that were viewed as consistent with their traditional nurturing role¹¹ or in clerical positions¹². Since the passage of Title VII, however, women's participation in all facets of law enforcement and public safety occupations has steadily increased.

Once employers could no longer segregate women into peripheral jobs, they began using screening tests for public safety occupations. Initially, height and weight restrictions were used in some public safety jobs to screen applicants, because it was thought that taller and heavier people were more able to perform the presumed physically demanding duties of these jobs. In 1977, the Supreme Court addressed this issue when it rejected an Alabama prison facility's height and weight restriction because it led to an unjustified disproportionate exclusion, or a "disparate impact", on women.¹³

When height and weight restrictions thus fell by the wayside, they were replaced by physical ability tests (PATs) to qualify applicants for public safety positions.¹⁴ PATs were gender-neutral, requiring the

¹⁰ See 42 U.S.C. § 2000e (2016).

¹¹ Barbara Raffel Price, *Female Police Officers in the United States*, in *POLICING IN CENTRAL AND EASTERN EUROPE: COMPARING FIRSTHAND KNOWLEDGE WITH EXPERIENCE FROM THE WEST* (Milan Pagon ed. 1996), <https://www.ncjrs.gov/policing/fem635.htm>.

¹² Curtis Crooke, *Women in Law Enforcement*, 6 DISPATCH 7 (July 2013), https://cops.usdoj.gov/html/dispatch/07-2013/women_in_law_enforcement.asp.

¹³ In *Dothard v. Rawlinson*, 433 U.S. 321 (1977), the plaintiffs showed that the height and weight requirements excluded more than 40% of women and less than 10% of men. The defendant/state was then required to show that the practice was necessary for safe and efficient job performance; but it failed to justify the need for the height and weight standards with statistical or other evidence. In 1991, Congress passed the Civil Rights Act of 1991 in part to codify disparate impact principles and clarify that if a plaintiff demonstrates disparate impact caused by an employment practice, he or she will prevail unless the employer proves "that the challenged practice is job related for the position in question and consistent with business necessity." Civil Rights Act of 1991, Pub. L. 102-166, Sec. 105 (codified at 42 U.S.C. § 2000e-2(k)(1)(A)(ii)) (2006). Even then, the plaintiff can preserve her case by identifying "an alternative employment practice" with a lesser disparate impact that the employer refused to accept. 42 U.S.C. § 2000e-(2)(k)(1)(A)(ii) (2006).

¹⁴ Research has shown that PATs may have a significant and unnecessary impact on women applicants when the tests lack a corresponding benefit or job-related need. If these tests are administered in a manner that overemphasizes physical strength, fails to account for improvements that will result from training, or fails to account for inherent physiological differences, the tests may not be evaluating the likelihood of on-the-job success and instead may screen out qualified women. See, DEPT. OF JUSTICE & EEOC, *ADVANCING DIVERSITY IN LAW ENFORCEMENT*, 20-21 (October 2016), <https://www.eeoc.gov/eeoc/interagency/police-diversity-report.cfm>. One 2003 study questions the need for PAT for police officers, noting the sedentary nature of most policing jobs and the poor physical fitness among in-service personnel. A survey found that departments without a PAT had 45% more women, but among the 62 departments studied, the highest participation of women even without the PAT was less than 16%. See, KIM LONSWAY ET AL., *NAT'L CTR. FOR WOMEN & POLICING, TEARING DOWN THE WALL: PROBLEMS WITH CONSISTENCY, VALIDITY, AND ADVERSE IMPACT OF PHYSICAL AGILITY TESTING IN POLICE SELECTION* (2003), <http://womenandpolicing.com/pdf/PhysicalAgilityStudy.pdf> (exploring alternatives to the PAT in police selection).

same performance for men and women. This still led to a disparate impact on women who had comparable physical fitness levels as qualified men, but could not reach the required threshold of a gender-neutral test.

The central question became whether PATs should be gender-neutral or gender-based to account for physiological differences between the sexes. Some litigants argued that gender-based norms for PATs were discriminatory evidence that employers were engaging in disparate treatment (or favoritism) based on sex. These litigants argued that PATs should be gender-neutral by requiring both men and women to meet the same physical fitness measures. Among the few decisions to address the use of gender-normed PATs in the Title VII context, no court has found such standards to be unlawful.¹⁵ For example, in *Bauer v. Lynch*, 812 F.3d 340 (4th Cir. 2016), the Fourth Circuit Federal Court of Appeals held that physical fitness tests that consider sex-based physiological differences are not discriminatory if they impose equal burdens on men and women by requiring equal levels of fitness.¹⁶

The Commission has not taken a position on the use of gender-neutral or gender-based PATs for evaluating law enforcement applicants in any federal sector appellate decision or guidance.¹⁷ However, an administrative judge, in *Hale v. Holder*, EEOC Dec. No. 570-2007-00423X (Sept. 20, 2010), cited by the Fourth Circuit in *Bauer*, held that the FBI's Special Agent PAT gender-normed standards were valid under Title VII. The AJ's *Hale* decision was never appealed, so the Commission has not had the opportunity to address this issue. The Commission has, however, certified a class action in *Candice B., et al. v. Dept. of Homeland Security*, EEOC Appeal No. 0120160714 (June 1, 2016), where the complainants argue that the Department of Homeland Security, Customs and Border Protection's gender-neutral push-up test requirements violate Title VII.

In related work, EEOC partnered with the Department of Justice (DOJ) in a 2016 initiative to advance diversity in law enforcement. This initiative considered the impact upon women of selection criteria

¹⁵ *E.g.*, *Bauer v. Lynch*, 812 F.3d 340 (4th Cir. 2016), *cert den.* 137 S. Ct. 372 (2017) (gender-normed physical fitness test for FBI agent positions did not violate Title VII where the tests imposed equal burdens of compliance on men and women).

¹⁶ See, *Title VII Bauer v. Lynch Fourth Circuit Applies "Unequal Burdens" Analysis to Gender-Normed Fitness Test*, 129 HARV. L. REV. 2257 (2016) for a discussion of the lack of guidance given by the Fourth Circuit in defining "burden." The author asserts that the only permissible reading of "burden" is defined by fitness, which means that as long as men and women must meet the same threshold fitness level - even if it's more difficult for one group to do so - they're held to the same burden. The article concludes by stating that while sex-based physiological differences may exist, the crucial question is whether an applicant is qualified for employment.

¹⁷ In cases involving a state or local government's use of PATs to screen law enforcement applicants, the Department of Justice (DOJ), not the EEOC, has authority to bring any lawsuit on behalf of the government. See 42 U.S.C. § 2000e-5(f)(1) (requiring EEOC to forward Title VII claims involving a state a local government to DOJ for potential litigation). The DOJ has challenged PATs as discriminatory against women. See, *e.g.*, *Lanning v. Southeastern Penn. Transp. Auth.*, 181 F.3d 478 (3d Cir. 1999) (DOJ arguing on behalf of plaintiffs who challenged requirement that all SEPTA police officer applicants run 1.5 miles in 12 minutes); *United States v. Massachusetts*, 781 F. Supp.2d 1 (D. Mass. 2011) (challenging PAT that has disparate impact against women for prison guard jobs); *United States v. City of Erie*, 411 F. Supp.2d 524 (W.D. Pa. 2005) (finding for plaintiff DOJ that unitary PAT for police officers created a disparate impact and the defendant failed to prove that requiring a unitary test time was sufficiently job-related).

in written and physical examinations. It also recognized DOJ's work to challenge physical fitness tests in various state and local government law enforcement agencies, which has resulted in many adopting new selection procedures that effectively select qualified individuals with less adverse impact on women.¹⁸

This history sheds some light on how applicant screening has impacted women's employment in public safety positions over the past forty years. The progression toward greater inclusion is encouraging, and has opened the way for more women to enter these professions.¹⁹ As this report highlights, however, agencies may make further gains in gender diversity for federal law enforcement and public safety positions by considering more inclusive recruitment and hiring practices.

E. Focus Groups

To better understand the opportunities available for women in public safety occupations, the EEOC convened two focus groups²⁰ of people who work in, hire for, or otherwise play roles in the opportunities available to people in those occupations.

Focus Group 1: This focus group met on June 6, 2017, for 90 minutes. Participation was limited to EEO Directors and Agency Officials within the agencies of focus. Fifty participants attended.

Focus Group 2: This focus group met on July 11th, 2017, also for 90 minutes. Participation in Focus Group 2 was limited to females hired in one of the occupations of focus who recently completed their new hire probationary period. A total of twenty women participated.

Both discussions were built on the same basic question framework, but each question was geared for the specific focus group audience. The questions addressed during the discussions is broken down by focus group and is as follows:

¹⁸ See, DEPT. OF JUSTICE & EEOC, ADVANCING DIVERSITY IN LAW ENFORCEMENT (2016),

<https://www.eeoc.gov/eeoc/interagency/police-diversity-report.cfm>. One example cited in this report discussed progress at the Madison (Wisconsin) Police Department towards increasing its ranks of women officers:

The agency's physical agility test used to require a bench press component, which deterred some candidates from applying and led others to fail - in part because they were not familiar with the specific weight lifting equipment or exercise. Recognizing these challenges, the agency began to give candidates the option to do push-ups, instead of the bench press, to test their upper body strength. Department leadership believes this change resulted in more women competing and passing the physical agility test. Over time, the bench press was completely removed from the exam."

Id. at Appendix A.

¹⁹ In 1987, 27,000 women were working as local police officers, which represented 8% of the total force; by 2013, women's participation had increased by 53%, to 58,000 or 12 percent of the total force. See, DEPT. OF JUSTICE & EEOC, *Supra* note 11, at 12.

²⁰ Focus Group: "A small group of people whose response to something (such as a new product or a politician's image) is studied to determine the response that can be expected from a larger population." Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/focus%20group> (last updated Jan. 30, 2018).

Both Focus groups:

- Challenges with recruitment that you've experienced at your agency?
- Challenges with hiring that you've experienced at your agency?
- How prevalent would you say these hiring challenges are in the federal sector?
- Are you aware of any best practices for recruitment of female public safety workers?
- Are you aware of any best practices for hiring?

Focus Group 1:

- What are some recruitment strategies you've tried that you found work in your experience as a director?
- Does/Did being offered employment involve the passing of a fitness test? If so are/were the test(s) gender neutral or gender norm specific?
- What are some hiring strategies you've tried that proved effective in improving the hiring of female public safety workers?

Focus Group 2:

- As a new hire, if physical testing was required did you have any challenges taking the test? Are you aware of anyone that had challenges when taking the physical fitness test?
- Are you familiar with any other challenges for hiring female public safety staff that you have not directly experienced but are sure exist?

The EEOC was pleased with the robust focus group participation and extends its sincere gratitude for their willing input. For both focus group discussions, Fire and Prevention occupations were underrepresented. Further, while the second focus group was intended to capture the thoughts of newly hired women from the selected occupations, it included some career employees with at least five years or longer service. Nonetheless, the expertise and experience that focus group participants brought to bear in responding to the questions was instrumental to developing the recommendations below.

IV. Results and Findings

A. Workplace Demographics

OPM FedScope data allowed the EEOC to analyze the gender break-down of public safety and law enforcement jobs by each agency and by each occupation group/code. Agencies with low participation rates should consider analyzing their current recruitment and hiring processes. They also may consider adopting processes from agencies with more gender diversity, particularly if those agencies recruit for similar types of public safety or law enforcement work.

Among agencies included in the study, Customs and Border Protection, in the Department of Homeland Security, has the lowest female participation rate. Customs and Border Protection had no women serving in the position of Customs and Border Protection Interdiction, and women comprised only 5%

of Border Patrol Agents. The EEOC hopes that the recommendations below may help DHS in their recent, significant hiring efforts.²¹

On the positive side to be emulated is the Department of Interior's Fish and Wildlife Service, which has in its Park Ranger occupation 66% women—the highest female participation rate among public safety agencies. This rate is high compared to other agencies that employ Park Rangers, such as the Department of the Army, which has a 25% female participation rate. The Department of Interior's Fish and Wildlife Service success may be attributed to the many outreach initiatives that it implemented to engage, inspire, and provide career pathways for youth and young adults. These outreach initiatives include the Student Conservation Association, the Youth Conservation Corps, and Youth Engaged 4 Change.

B. Workplace Climates

An agency's self-assessment should include more than a review of workforce demographics. The results of climate assessment surveys also are part of a comprehensive evaluation, because workplace climate may play a role in the success of an agency's gender diversity efforts for public safety occupations. One tool for analyzing workplace climate among federal agencies is the FEVS, questions 34 and 38 of which concern employee views on agency success at promoting a diverse workforce and the agency's tolerance for prohibited personnel practices, respectively.

Out of the thirteen agencies reviewed, an average of 59.80% of surveyed employees believe that their agencies have successful programs and policies to promote a diverse workplace, while an average of 26.01% employees were neutral, and an average of 14.22% disagreed. With respect to prohibited personnel practices, an average of 69.46% of employees surveyed agreed that prohibited personnel practices are not tolerated within their agency, 17.22% were neutral, and 12.82% disagreed and believed that prohibited practices are tolerated by their agency.

This analysis of FEVS data may assist agencies to know whether they need to improve in these two significant areas. The FEVS data also may spur agencies to survey specific occupations on these and other factors relevant to hiring and recruiting. Since the FEVS survey is conducted annually, agencies may consider performing a trend analysis to mark progress and track success.

Climate assessments also should consider how applicants may perceive the agency based on the information it makes externally available. To gain more perspective on the environment surrounding applicants for public safety occupations, EEOC staff reviewed agency websites to uncover what information study subject agencies share with candidates interested in employment in public safety occupations. For example, staff reviewed the information available for enticing prospective employees to apply. Staff found that most agency websites have an employment page that depicts females in the selected occupations, which also details the different opportunities available at the agency. Some agency website employment pages also included a diversity statement.

²¹ See OFFICE OF INSPECTOR GENERAL DEP'T OF HOMELAND SECURITY, OIG-17-98-SR, SPECIAL REPORT: CHALLENGES FACING DHS IN ITS ATTEMPT TO HIRE 15,000 BORDER PATROL AGENTS AND IMMIGRATION OFFICERS (2017), <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-98-SR-Jul17.pdf>

C. Historical Review

The historical review, in part III.D. above, revealed how law enforcement and public safety employers have treated women, and how the legal system has favored policies that reduce the barriers to female employment. Among the various screening methods used for public safety occupations, it appears that gender-normed fitness tests are the most likely to pass legal muster, if they are relevant for the job and impose an equal burden on men and women. Gender-normed tests, in comparison to other fitness or physical appearance requirements, appear to help increase the participation rates of females in those positions.

D. Focus Groups

To hear directly from those affected about their perceptions, the EEOC convened the focus groups.²² Focus group participants shared reasons that they believe relatively few women work in federal government public safety occupations. Some felt that it was due to a lack of work-life balance, or that women do not see themselves as able to raise families and still perform in these occupations. Others believed that perceptions created barriers: perceptions that women were uncomfortable with carrying firearms as well as the potential for physically strenuous job functions. Hiring officials expressed concern that physical testing may hinder females, as they may be less likely to pass the rigorous physical fitness exam requirements. However, the women now employed in these positions stated that they passed the physical testing, and they did not feel that it was too rigorous. Focus group members also voiced concerns that no existing initiatives help or focus on recruiting women: initiatives to hire veterans target a heavily male-dominated applicant pool, and the use of Schedule A for persons with severe disabilities also does not specifically target women. While these have become very popular hiring practices implemented by the government to correct low workforce participation rates of other protected groups, they may add to the already large disparity in hiring women to public safety occupations.

V. Summary of Leading Practices and Ideas

The focus groups yielded several interesting recommendations for increased effectiveness in the recruitment and hiring of women. In general, participants believed that there is much work to be done in the federal sector to ease doubts among women over whether true equal employment opportunity exists in public safety occupations. These doubts, whether justified or not, deter women who may otherwise make strong candidates. Further, focus group participants felt that many of the current hiring and recruiting strategies have not helped to maintain gender balance in public safety occupations. Below are some of the focus groups' leading practices²³ and/or ideas to address these psychological and organizational barriers, and additional recommendations from OFO's experience working with agencies in other fields to increase gender diversity in recruitment.

²² See *infra*. Part III.E.

²³ The EEOC believes that these practices hold promise for increasing gender diversity, but it does not require agencies to implement these specific suggestions.

Recruitment Ideas and/or Practices

- **Coordination of a Government-wide cadet program.** Citing recruitment strategies among local and state law enforcement agencies, focus group participants suggested that the government create a cadet program that serves as a gateway program for recruiting and orienting potential public safety employees for service government-wide. Since one major barrier to recruiting women in public safety occupations is a misconception of what working in such occupations will require, cadet programs may help to demystify such service and reduce the anxiety associated with any misconceptions. A cadet program may better communicate to women the accessibility of public safety occupations. Also, junior cadet programs could be extended to younger women allowing high school students to jump-start their careers by training them for law enforcement or other public safety occupations before they transition into the workforce.
- **Targeted outreach at the grade school level.** To dispel early misconceptions about out-of-reach job requirements for public safety occupations, focus group participants also suggested that outreach take place by public safety agencies as early as elementary school. Outreach could take on various forms, including school career days, summer employment programs, mentoring, integrating presentations with substantive instruction, or providing tours on-site. Outreach could communicate to children the progress made in policies and practices that promote equal employment opportunities in public safety professions despite one's gender. Participants cited the National Park Service (NPS) as an example of how targeted outreach during primary school may help in recruiting female public safety professionals. NPS' current initiative, to help foster an interest in careers at the agency, introduces fourth grade through high school students to its educational and career opportunities.²⁴ These strategies could be adopted by other public safety agencies in the federal sector.
- **Targeted recruitment at the college level.** Another barrier to women in public safety professions cited by the focus groups was a lack of targeted recruiting of women from female- focused environments. It was argued that, as a whole, the federal government has failed to target female-only colleges and universities, or even sororities, as populations from which to recruit. Recruiting in female-focused environments would improve access to a greater range of female personalities and interests, increasing the chances of finding women with interest in the profession. In particular, sororities may be a natural filter for women interested in public safety occupations given their generally strong group loyalties and commitment to tenants and traditions. Greater efforts to reach such women may improve success in recruitment. Finally, the focus groups suggested that female athletes and their athletic departments also may serve as a rich opportunity for successful recruitment, because women who excel in sports also may be more likely to meet the physical demands of public safety occupations. If informed of the various opportunities, women may find that they enjoy the occupation.

²⁴ For more information on "Parks as Classrooms", visit the National Park Service, <https://www.nps.gov/index.htm> and enter "parks and classrooms" in the search box. (last visited Feb. 6, 2018).

- **Increased visibility of female recruiters.** Finally, with respect to recruitment, the focus groups identified a greater need for female recruiters. Several of our respondents argued that they were recruited by men and that a lack of a visible females during the recruitment process further reinforced the stereotype of public safety as a male-dominated profession. Some participants explained that the presence of a female recruiter was the determining factor that gave them confidence to pursue, and even remain in, the profession. Focus group members argued that it is very important for applicants to see women doing the work to convince potential hires that talk of gender equality efforts in public safety occupations are a reality.

Hiring Ideas and/or Practices

- **Set diversity strategy goals tied to recruitment and hiring.** Although most public safety agencies already have some form of hiring goals for women, the focus groups criticized the federal sector for its lack of innovation by only focusing on the number of females hires as a performance goal rather than understanding the gender disparity's root causes. The focus groups suggested that diversity goals emphasizing hiring strategies over outcomes might increase female hiring. For example, a diversity strategy hiring goal could be to visit four female college athletic departments per year. Agencies should not set a numerical hiring goal for women, but instead focus on the barriers that may limit female participation.
- **Make an Administration-wide push.** Focus group members suggested that an administration-wide initiative, awareness campaign, or emphasis on hiring more women into public safety occupations in the federal government could increase hiring of women at the agency level.
- **One-stop, one-day hiring process.** The federal sector could adopt the approach currently used by Career One Stop Centers to make the hiring process less overwhelming for potential candidates. Career One Stop Centers are a source for employment information and inspiration and are designed to make such information easier to understand so that job seekers are better prepared to enter the workforce.²⁵ The focus groups suggested that, when recruiting in female-focused environments, agencies could provide applicants with the opportunity to seek assistance with the application process, participate in physical fitness exercises, and engage in mock interviews. Such exposure may help demystify the hiring process for women who otherwise may find it intimidating.
- **Use Social Media.** Social media may improve the hiring of women into public safety occupations, by communicating job openings, demystifying job requirements and application procedures, and promoting a positive public image of these professions.

²⁵ The CareerOneStop program is sponsored by the U.S. Dep't of Labor, Employment and Training Administration. <https://www.careeronestop.org/> (last visited Feb. 6, 2018).

Other Recommendations

- **OPM Recruitment Policy Resources.** OFO recommends that agencies utilize the Office of Personnel Management's (OPM) Recruitment Policy Studio to gain further insight on effective recruiting practices and ideas to help reach recruiting goals.²⁶
- **Pathways Program.** The Pathways Program offers federal internship and employment opportunities for current students, recent graduates and those with an advanced degree. The program contains three different paths: 1. the Internship Program for high school and college students, 2. the Recent Graduate Program for college graduates, and 3. the Presidential Management Fellows Program for advanced degree candidates.²⁷

VI. Conclusion & Next Steps

The EEOC is committed to providing federal agencies with leading practices for the recruitment and hiring of women in public safety positions to help the Federal Government become a model employer. We learned from our review that while the prospects for women in public safety occupations have improved over the long term, the participation rate among women in public safety occupations is still low, and government-wide actually has decreased in the last five-years from 14% to 13%. However, FEVS data reviewed also showed that over 50% of surveyed employees perceive that their agency promotes a diverse workplace and does not tolerate prohibited personnel practices. Focus group discussions identified potential contributing factors for the low employment rates of women in public safety professions and suggested some practices that potentially could increase the proportion of women in these roles in the future. Agencies that employ public safety officers may consider implementing one or more of this report's suggested leading practices or ideas in efforts to increase the participation of female candidates and eliminate many barriers women may face in recruitment and hiring among public safety occupations.

EEOC thanks all contributing agencies and focus group participants for the value they added to this report. Moving forward, the EEOC will continue to help agencies identify and eliminate barriers to employment through MD-715 reporting. To bring greater focus and clarity to the full circumstances surrounding women in public safety occupations in the federal government, EEOC also plans a second report to address promotion and retention issues affecting women at the same public safety agencies covered by this report.

²⁶ The OPM Recruitment Policy Studio provides information, tools, videos, and other practical resources to help agencies plan and design customized recruitment strategies. OFFICE OF PERSONNEL MGMT, HR UNIVERSITY, https://hru.gov/Studio_Recruitment/Studio_Recruitment.aspx (last visited Feb. 6, 2018).

²⁷ More details about the Pathways Program can be found at OFFICE OF PERSONNEL MGMT, HR UNIVERSITY, https://www.hru.gov/Studio_Recruitment/Job_Seekers_Pathways.aspx (last visited Feb. 6, 2018).

Appendix A.

Agency Mission Statements

Department of Agriculture (USDA): Mission is to provide economic opportunity through innovation, helping rural America to thrive; to promote agriculture production that better nourishes Americans while also helping feed others throughout the world; and to preserve the Nation's natural resources through conservation, restored forests, improved watersheds, and healthy private working lands.

Department of Defense (DOD): Mission is to provide the military forces needed to deter war and to protect the security of our country.

Department of Health & Human Services (HHS): Mission is to enhance and protect the health and well-being of all Americans. They fulfill that mission by providing for effective health and human services and fostering advances in medicine, public health, and social services.

Department of Homeland Security (DHS): Mission is to ensure a homeland that is safe, secure, and resilient against terrorism and other hazards. This mission includes preventing terrorism and enhancing security, managing our borders, administering immigration laws, securing cyberspace, and ensuring disaster resilience.

Department of Housing and Urban Development (HUD): Mission is to create strong, sustainable, inclusive communities and quality affordable homes for all.

Department of Interior (DOI): Mission is to protect and manage the Nation's natural resources and cultural heritage.

Department of Justice (DOJ): Mission is to enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.

Department of State: Mission is to shape and sustain a peaceful, prosperous, just, and democratic world and foster conditions for stability and progress for the benefit of the American people and people everywhere.

Department of Transportation (DOT): Mission is to serve the United States by ensuring a fast, safe, efficient, accessible and convenient transportation system that meets our vital national interests and enhances the quality of life of the American people, today and into the future.

Department of Treasury: Mission is to maintain a strong economy and create economic and job opportunities by promoting the conditions that enable economic growth and stability at home and abroad, strengthen national security by combating threats and protecting the integrity of the financial system, and manage the U.S. Government's finances and resources effectively.

Department of Veteran Affairs (VA): Mission is to fulfill President Lincoln's promise "To care for him who shall have borne the battle, and for his widow, and his orphan" by serving and honoring the men and women who are America's veterans.

Environmental Protection Agency (EPA): Mission is to protect human health and the environment.

Smithsonian Institute (SI): Mission is for the increase and diffusion of knowledge.

Social Security Administration (SSA): Mission is to deliver Social Security services that meet the changing needs of the American public.

Appendix B.

Table of Abbreviations

AJ	EEOC Administrative Judge
EEO	Equal Employment Opportunity
EEOC	United States Equal Employment Opportunity Commission
FEVS	Federal Employee Viewpoint Survey
OFO	Office of Federal Operations in the EEOC
OFP	Office of Field Programs in the EEOC
OPM	United States Office of Personnel Management
PAT	Physical Ability Test
RED	Reports and Evaluation Division in the EEOC Office of Federal Operations
Title VII	Title VII of the Civil Rights Act of 1964