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## Lawsuit challenges fairness of police test Officers passed over for supervisory roles

By David Abel, Globe Staff | September 12, 2007

Five police officers from Lawrence and Methuen filed a federal civil rights lawsuit yesterday against the two cities and the state, contending that the state promotional exam discriminates against members of minority groups and has prevented their advancement within the ranks.

As a result, the officers say, the supervisors in both departments do not reflect the diversity of either city. In Lawrence, where about three-quarters of the population is minority, only two of the 39 police supervisors are members of minority groups, the officers say and the department confirmed. Methuen, which is more than 10 percent minority, has no minority group members among its 25 supervisors, the officers say. The Methuen Police Department did not return calls seeking confirmation of that figure.

"These examinations have, over the last 20 years, been demonstrated to have significant adverse impact on minority (black and Hispanic) test takers while not having been shown to be valid predictors of job performance," the officers argue in the lawsuit. "All of the defendants have been well aware of this fact, yet have taken no action to design a less discriminatory and more job-related examination procedure."

They say the multiple-choice format of the test, not the content of the questions, has blocked the rise of minorities, many of whom grew up speaking a different language. They want the state to devise a promotion system that would better reflect the skills used by a police supervisor, instead of how well they answer multiple-choice questions.

"We're not looking for any advantage; we're looking for an equal playing field, which we believe we still don't have," said Hemenegildo Martinez Jr., president of the Massachusetts Hispanic Law Enforcement Association, which is also a plaintiff in the case. "The numbers show that, and it's the end result that counts."

In addition to the cities of Methuen and Lawrence, the suit names Paul Dietl, the state's chief human resources officer.

Dietl and officials in the state attorney general's office and the Executive Office of Public Safety declined to comment yesterday.

Methuen solicitor Peter J. McQuillan said the city was not responsible, because the exam was designed by the state.

"We don't develop the exam, so how can we take responsibility for something we haven't taken part in?" he said. "I don't have enough information to make a comment whether it's discriminatory . . . but we would review and consider any alternative the state offers us."

Lawrence Police Chief John J. Romero, who is the city's first Latino police chief, said he could not comment on the lawsuit because he had not seen it. But Romero said that increasing the number of minority officers in all ranks was one of his main priorities when he took over the department nine years ago.

Romero said the department is now around 30 percent Latino, up from less than 9 percent in 1998.

The case comes a year after a federal judge ruled that the state's 2002 and 2004 firefighter exams discriminated against blacks and Hispanics. The state later settled a class-action lawsuit by requiring Boston, Brookline, and 18 other cities and towns to offer police and firefighter jobs to minority applicants who took civil service exams that a judge found discriminatory.

The state also paid them about \$1.5 million in back pay. The agreement called for hiring 66 minority candidates, including 26 in Boston with high scores on police or fire exams between 2002 and 2005 whom white candidates outscored.

At their lawyer's office in Boston this week, the officers said they worried their suit would spark a backlash, ending any hope of becoming a supervisor. But they said it was worth the risk.

Abel Cano, a 39-year-old Methuen patrolman who has a master's degree in criminal justice, said he has taken the sergeant exam twice, failing once and then passing with a score that was lower than others in the department. The 100-point exam, given every two years, requires a score of more than 70 to become a supervisor.

"I think this exam is really outdated," said Cano, who scored a 78 in 2006. "For me, a person whose native language is Spanish, it's a challenge. The questions are extremely complicated."

Kevin Sledge, 45, a patrolman in Lawrence for 14 years, said the test favors those who have more practice taking written exams. He took the exam last year for the first time, scoring a 76, but was passed over for others who scored higher.

"Some people are more practical and verbal, and those are important skills to be a police supervisor," he said.

Pedro Lopez, a 41-year-old patrolman with 10 years on the force in Lawrence, failed the exam twice but passed last year with a score of 76. He said he plans to keep taking the test until he becomes a sergeant.

"Hopefully, by then, we'll have a better exam in place," he said.

Russell Contreras of the Globe staff contributed to this report. ■