

Civil service ruling in judge's hands

Minority officers say test is biased

By [Maria Cramer](#)

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The future of the civil service exam used to hire sergeants in police departments across Massachusetts, which many Latino and black candidates say discriminates against them, is now in the hands of a federal district court judge in Boston.

Judge George O'Toole heard closing arguments yesterday in a case, brought by 44 minority patrol officers from seven different departments across the state, who have taken the exam since 2005 and have not received promotions. They argue that the test, which is mostly multiple-choice questions, is inherently discriminatory because minorities historically do worse on such exams compared with white and Asian candidates.

"The exams are made specifically to keep us from attaining our goals," said Lawrence patrol officer Pedro Lopez, one of the plaintiffs, who was among dozens of officers watching the proceedings in US District Court yesterday. "Some of the questions they ask have no relevance to the job that we do."

O'Toole, who did not say when he would announce his decision, will probably take months to issue a ruling, lawyers for both sides predicted.

If O'Toole decides in favor of the officers, the decision could have a dramatic effect on how officers are promoted in the state. A civil service exam is scheduled for this fall for officers across the state, but Boston officials have decided not to administer it until O'Toole rules.

Civil service exams are given to most public sector employees who want a job or promotion, but competition is particularly fierce among public safety officials looking to move up in the ranks of a police or fire department. Chiefs and commissioners are required to promote the top scorers to high-ranking positions.

The plaintiffs in this case, who work in police departments in Boston, Lawrence, Lowell, Methuen, Springfield, and Worcester, and for the MBTA transit police, argued yesterday

that to do well on the tests, candidates do not need to demonstrate that they are capable leaders, but must rely on rote memorization to answer written questions.

“We think that not only does it result in an unfair test for black and Hispanic candidates, but it’s not even doing what it’s supposed to do, which is identify the best people for these positions,” Stephen S. Churchill, a Boston lawyer representing the officers, said in an interview.

Lawyers for the plaintiffs argued that Massachusetts should follow the lead of many other major cities and states, which they said administer tests that deal with real-life scenarios. For example, candidates could be asked by a panel how they would respond to a specific incident.

Lawyers for the agencies, however, argued that the current test, which has been administered for decades, is a reliable way to assess the skills of candidates for sergeant.

“The test is a valid selection instrument,” said Bill Sinnott, corporation counsel for the city of Boston. “By valid, we mean that the exam adequately tests the candidate’s knowledge, skills, and abilities in order to perform the functions of the position.”

No one knows for sure why minorities do not perform as well on such multiple-choice exams, said Harold L. Lichten, another lawyer for the plaintiffs. One theory that was raised by a psychologist during the trial is that whites, who are more likely to have received a better education than blacks or Hispanics, fare well on exams where there is only one answer to a question, while minorities excel when they are asked to come up several different ways of solving a problem.

During the trial, lawyers for the plaintiffs pointed to an analysis by one of their witnesses, an industrial psychologist who studies and develops civil service exams. The analysis, which looked at statewide results, showed that minorities failed the test in larger numbers than whites and were promoted less.

But lawyers for the defense questioned the reliability of those findings, saying the analysis was too broad and failed to look at a specific community or police force.

Kevin McDermott, who represented the MBTA, said that the number of minority sergeants in the agency has increased since 2003, when five of the 20 sergeants were minorities. In 2009, he said, 11 of the 33 sergeants were minorities.

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