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Black police officials sue city

Promotion tests targeted Supervisors say exams biased

Maria Cramer | GLOBE STAFF FEBRUARY 15, 2012

Nine black Boston police supervisors failed to advance in the department because of a discriminatory exam, according to a federal lawsuit filed yesterday that underscores the long-running tension between minority officers and department commanders.

The supervisors are suing the city, demanding that it scrap the multiple-choice lieutenant's test. Black and Latino officers historically fare worse on the exams - which rely on rote memorization - than white and Asian candidates.

"The impetus for this [complaint] is the striking, shocking lack of minority police lieutenants," said Harold Lichten, the lawyer for the officers. "The statistics are just horrible."

Of the department's 51 lieutenants, there are two black men and one Asian man, according to department personnel numbers. Of the department's captains, the next highest rank, only one of 23 captains is black - Pervis Ryans, who is retiring this month.

William Sinnott, the city's corporation counsel, said he had not been served with the lawsuit yet and could not comment.

"We'll give it the same thoughtful attention that we give any lawsuit," he said.

Elaine Driscoll, spokeswoman for the Boston Police Department, also declined to comment.

"We have not had the opportunity to review the information and would not comment on pending litigation," she said.

The complaint was filed more than a year after lawyers representing 44 minority patrol officers from around the state presented closing arguments in a case alleging that the sergeant's exam discriminates against black and Latino officers.

US District Court Judge George O'Toole has yet to make a decision in that case, which could have a dramatic effect on how officers are promoted in the state.

Boston police officers have not taken a supervisor's promotional exam since 2008 as they wait for O'Toole's decision.

Civil service exams are given to most public sector employees seeking a job or promotion, but competition is fierce among public safety officials looking to move up the ranks. Chiefs and commissioners are required under state law to promote the top scorers. In Boston, police are promoted to sergeant or lieutenant based mostly on their scores on the exam, but experience and education are also considered to a much lesser degree.

Some officers have complained that by relying mostly on exam scores, the department is promoting those who are good at memorizing, but not necessarily at leading.

"The Army would never promote people using pen and paper tests when you're looking for people who can lead in battle," Lichten said. "Well, lieutenants lead in battle."

Police Commissioner Edward F. Davis has said that he believes the department should follow the example of others that are using more modern exams, including interviews that test officers on how they would handle anything from a death investigation to a press conference.

State law does allow departments to administer their own test or add questions to the civil service exam, but Boston police have not made any changes.

Davis had formed a diversity council tasked in part with coming come up with alternative tests, but the group has not met in at least four months, said Larry Ellison, president of the Massachusetts Association of Minority Law Enforcement Officers and a Boston detective who is a member of the council.

"What really are these meetings for? There has been nothing to come out of them," Ellison said. "No resolutions, no purpose in going forward, nothing."

Driscoll said that department officials do not want to create a new test that might be undermined by O'Toole's pending decision in the earlier case.

"Unfortunately, at this point the proper thing to do is to wait for the guidance of the judge's ruling on how to move forward," Driscoll said.

City officials have defended the civil service exams in court.

Last year, Sinnott, the city's corporation counsel, said that the sergeant's exam is a valid way to assess a candidate's knowledge and skills.

"That was true then and it is true now," Sinnott said in a brief interview yesterday.

Captain Francis Armstrong, president of the Boston Police Superior Officers Federation, declined to comment on the complaint filed yesterday because he said he had not seen it yet.

“The Federation is in favor of merit-based promotions,” Armstrong said.

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