

**Boston Herald**

# Massachusetts reaches \$40M settlement with minority police officers over civil-service suit



*Minority police officers, especially those in Boston, could see \$40,000 or more out of a new settlement over promotions. (Herald file photo)*

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The state attorney general has reached a \$40 million settlement with the hundreds of minority police officers the state has ruled the civil-service promotional exam discriminated against, drawing to a close a long-running case that has wide-ranging repercussions.

Assistant Attorney General Kate Isley of AG Andrea Campbell's office and labor attorney Harold Lichten both signed the agreement on Friday, and a notice will begin to go out to the assorted officers who are part of the class-action suit next week.

“This is a tremendous victory for minority police officers who have been held back,” Shannon Liss-Riordan, a well-known labor attorney who is a law partner with Lichten, told the Herald on Friday. The ruling comes about half a year after [a judge said](#) that the way the police sergeants promotional test was run resulted in lower scores for Black and Hispanic officers.

The full agreed-upon \$40,000,000 divided by the 600-or-so officers who potentially stand to gain in the class-action lawsuit would end up at around \$67,000 per officer, but it’s not being distributed equally to everyone. The two sides hammered out a formula that’s meant to divvy it up by missed pay and what the settlement characterizes as “alleged emotional distress.”

Boston cops involved each will receive a minimum of \$60,000, and non-Boston officers in areas that are deemed to have had “shortfalls” in minority promotions could see about \$45,000. Both sides calculated that some departments didn’t have shortfalls in minority promotions; plaintiffs from those will get a flat \$5,000 each.

Liss-Riordan — who was Campbell’s opponent in the AG primary last year — said Lichten’s been at this case since the 2000s. Then, a federal judge ruled against them, but Lichten and the officers took the case to state court in 2009 — and that’s the case that has all but come to an end this week. In the interim, the case yo-yoed up and down the appeals court spectrum a few times, making it to the Supreme Judicial Court once a decade ago before being allowed to continue.

“We’re very pleased the commonwealth has agreed to settle this long-running case,” Liss-Riordan said.

Boston Police Detective Jeffrey Lopes, the head of the Massachusetts Association of Minority Law Enforcement organization that helped bring the initial complaint, said in a statement to the Herald that “This victory shows that police promotion exams have been a barrier to leadership and advancement for BIPOC individuals. The victors in today’s decision have historically and systematically been denied access to opportunity, to hiring, to promotion, to command staff status and to the pathways of possibility that have been readily afforded to other groups.”

Campbell’s office declined to comment further.

The office of Gov. Maura Healey — who Liss-Riordan said fought them “tooth and nail” while she was attorney general — didn’t respond to a request for comment on Friday.

Both sides are next due in court May 10 for a final hearing to tie up loose ends.

Officially called *Tatum et al v. Commonwealth of Massachusetts*, this is a suit from several Black or Hispanic police officers who they claimed that the civil-service sergeants' promotional exam disadvantaged minority test-takers in the late 200s and early 2010s, leading to lower scores and therefore delayed or missed promotions through the centralized and highly regimented process used by many police and fire departments.

A Suffolk Superior judge heard the matter in a bench trial last summer and ruled on it in October, when Judge Douglas Wilkins issued a blistering finding against the state Human Resources Division.

“The evidence is very clear. It defeats any justification for HRD’s heavy reliance upon biased exams to identify the best candidates for promotion to sergeant,” the judge wrote then. “Moreover, HRD knew of clearly superior assessment methods, but continued to use the same, unnecessarily discriminatory format anyway. The massive amount of evidence proving the known and unjustified disparate impact of HRD’s format leaves no doubt in this court’s mind that the Commonwealth has interfered with the plaintiffs’ rights to consideration for promotion to police sergeant without bias due to race or national origin.”

That ruling hit the civil-service process, which is used by many cities and towns for standardizing hiring and promotion through tests, like a meteor. Under orders from the judge, HRD immediately yanked the sergeants promotional exam and began a process to create a new one shifting away from rote-memorization learning and toward situational and job-specific skills. Consultants and HRD continue to work on that.

And though the October ruling didn’t directly address it, HRD also pulled the promotional exam for firefighters, saying that it was so close to the cops one in style that they felt it had to go, too. That caused uproar among the firefighters — with the Wu administration in rare agreement with them — but assurances that the test should be done in a matter of months rather than the feared years calmed some of that.

But Wilkins’ October decision, ruling on whether the state was liable, was merely phase one of the end of this case. This settlement agreement now avoids what would have been a second trial to determine how much money the state had to pay. The plaintiffs were seeking more than \$62 million, according to one court filing from a few weeks ago.

Police departments are funded out of local budgets, but this settlement is coming from the state, because that’s who runs the civil-service test that’s at issue here.

This settlement is so large that it seems Beacon Hill will need to fund it specifically in this coming budget cycle or in a supplemental appropriation. Attorneys in the case haggled a bit about the date of pay during a Friday-morning hearing, but they all agreed they're more or less at the whims of the oft-slow legislative process.

"We can't commit to a particular date that the funds would be distributed, but we don't disagree that we have an obligation to pay," Isley, representing the state, said.

Lichten, speaking in the hearing, thanked Campbell's office, saying "they've been eminently reasonable. We don't always agree with them, but I really wanted to thank them for what we've been able to accomplish."



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Sean Philip Cotter is a reporter covering Boston City Hall and whatever else goes on around town for The Boston Herald. A South Shore native, he previously covered Quincy City Hall for The Patriot Ledger and local politics and crime in Pennsylvania for The York Dispatch, winning awards for his reporting at both papers. Sean's a graduate of Syracuse University and fan of Patriots football, long drives, overly strong coffee and bad puns.