



LAWYERS' COMMITTEE
FOR CIVIL RIGHTS AND
ECONOMIC JUSTICE
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Delivered by First Class Mail and Email

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Police Commissioner William Evans
Boston Police Department
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RE: Lack of Diversity in the Boston Police Department: A Continuing Crisis

Dear Mayor Walsh and Police Commissioner Evans:

At a time when diversity is under attack by the federal government, it is critical that the City of Boston and the Boston Police Department (BPD) recommit to meaningful transparency, diversity, and community inclusion. Last summer, in the wake of police-involved shootings of Black men across the country, the Lawyers' Committee for Civil Rights and Economic Justice called upon the City to take proactive steps to diversify its police department. We also offered concrete suggestions for how the City could do so. Seven months later, our proposed solutions remain ignored, and the problems remain unaddressed. Moreover, in the interim, we uncovered that the City is pouring millions of scarce taxpayer dollars into blocking efforts to diversify the police force.

We, therefore, renew our call for the City to reverse course and to affirmatively embrace straightforward measures that will help diversify its police force. The problems associated with lack of diversity in BPD will only get worse the longer the City delays in acting.

I. BPD Does Not Reflect The Diversity Of The Community It Serves.

It is well-recognized that a diverse police force helps build public trust and, thereby, increases public safety. The U.S. Department of Justice Task Force on 21st Century Policing has highlighted the "critical importance of hiring officers who reflect the communities they serve....," echoing decades of research demonstrating how police diversity legitimizes law enforcement authority, strengthens police forces, and increases public safety. *See* Final Report

of the President’s Task Force on 21st Century Policing (May 2015) at 16, *available at* https://cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf (“Task Force Report”); *see also* *Diversity in Law Enforcement: A Literature Review*, U.S. Department of Justice and EEOC (May 2015), *available at* http://www.cops.usdoj.gov/pdf/taskforce/Diversity_in_Law_Enforcement_Literature_Review.pdf). Moreover, to be effective, such diversity must extend throughout the force, from recruits to supervisory ranks. *See* Task Force Report at 16-17 (“achieving systematic and comprehensive diversification throughout each segment of the department is the ultimate goal”).

As we pointed out in our open letter dated July 19, 2016, the City of Boston is increasingly diverse, but the racial make-up of BPD is not. The City’s Employee Demographics Dashboard continues to report that White officers constitute approximately 65% of the department and that overall minority representation remains at approximately one-third. *See* <http://www.cityofboston.gov/diversity/>. These numbers do not reflect Boston, which since 2011 has been a majority-minority city. Latino and Asian communities are particularly under-represented on the BPD force, employed at less than half the percentage of their representation in the City. *Compare* Dashboard (reporting 9.6% of BPD employees are Latino and only 2.3% are Asian) *with* U.S. Census Bureau, American Fact Finder, *available at* https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_1YR_B03002&prodType=table (reporting 19.5% of Boston residents are Latino and 9.4% are Asian).

The numbers are even worse for superior officers. Less than one-fifth of supervisory officers are Black, Latino, or Asian – significantly below their representation in the overall force and well below their representation in the community. *See Boston Police Diversity Hitting Old Roadblocks: Promotions*, WBUR (July 12, 2016), *available at*: <http://news.wgbh.org/2016/07/12/local-news/boston-police-diversity-efforts-hitting-old-roadblock-promotions> (indicating that only three of 24 police captains are non-White, and less than one-fifth of the 300 sergeants and sergeant detectives are non-White).

II. The City Is Not Acting Aggressively Enough To Find Solutions To The Lack Of Diversity Within The Police Department.

In light of these facts, the City is not acting aggressively enough to diversify the Boston Police Department. In fact, on multiple fronts, the City is actively impeding progress on police diversity and failing to take steps that are readily available.

For example, in *Smith v. City of Boston*, a federal judge ruled that the City discriminated against Black and Latino officers by using a flawed promotional exam to select police lieutenants. However, rather than resolve the issue of appropriate remedies for this discriminatory action, the City has fought settlement and is now asking for appellate review.

Similarly, in *Jones v. City of Boston*, the City has been fighting for years to defend a discriminatory and scientifically unreliable drug-screening test that has resulted in the wrongful termination of a disproportionate number of Black police officers. Recently, a federal appellate court once again ruled in officers’ favor in this matter, sending the case to trial later this year. Meanwhile, the City continues to discipline and/or terminate minority officers based on this

flawed drug test that state and federal courts have repeatedly found to be scientifically unreliable and discriminatory.

The amount of resources that the City has expended to defend these discriminatory practices is staggering. A public records request that we filed last Fall revealed that the City has poured nearly \$1.6 million in taxpayer funds into these cases. This waste of scarce taxpayer dollars will continue if the City allows inertia to take its course and persists in its dogged defense of these discriminatory practices.

Other solutions that we have suggested – and that the City continues to ignore – include making use of the Civil Service regulation that authorizes hiring of police officers with language skills. We have pointed out that other jurisdictions have used this regulation successfully, not only gaining greater language skills within their police forces, but boosting diversity at the same time. There is absolutely no excuse for Boston not following suit, particularly because there is a tremendous need on the ground for linguistically- and culturally-competent policing.

We have also called for greater transparency, but even basic demographic information such as the composition of BPD's newest recruit class is nowhere to be found on the City's website or in other publicly accessible documents. This data is a matter of great public concern, and if BPD has nothing to hide it should be proactively disseminating demographic information. This would help bring greater transparency to the composition of BPD's recruit classes and its cadet program.

We have also suggested proactive recruiting efforts in communities of color; greater attention to retention of minority recruits and officers; and adoption of the Task Force Report's recommendation of ongoing and professional implicit bias and de-escalation training.

In sum, while the City continues to publicly propagate alternative facts concerning BPD – stating that it has done everything it possibly can to improve diversity in the police force – the evidence amply demonstrates that the City is actively precluding diversity, while ignoring concrete solutions that would help.

III. Conclusion

Last summer, we noted that “Boston is just one incident away from becoming another Ferguson or Baton Rouge.” Unfortunately, since that time Boston has in fact experienced the police-involved shooting of Terrence Coleman, a Black man who was shot by BPD officers after his mother called for an ambulance to take her son to the hospital for medical attention. *See EMT Made “Dramatic Cry For Help” Before Fatal Encounter*, BOSTON GLOBE (Nov. 2, 2016), available at <https://www.bostonglobe.com/metro/2016/11/02/civil-rights-group-wants-independent-investigation-into-police-shooting-mentally-ill-man/hsfj7TKJRC4Fu6b38Vpwfl/story.html>. We believe this incident could have been prevented if the City had acted more proactively to adopt the solutions we proposed seven months ago.

As more incidents occur in the future, BPD's legitimacy will continue to erode and public safety will continue to suffer. *See David Bernstein, Boston Is A Shooters' Paradise*, BOSTON

MAGAZINE (Feb. 2017), *available at* <http://www.bostonmagazine.com/news/article/2017/02/12/boston-shootings/> (noting that BPD's efforts to solve shooting cases are substantially undermined because minority residents "simply do not trust the authorities"). To address this, the City must act with urgency and expediency to diversify its police ranks.

We stand ready to assist you in this effort and to that end, the Lawyers' Committee and the Massachusetts Association of Minority Law Enforcement Officers (MAMLEO) request a meeting with you to discuss meaningful steps to diversify the Boston Police Department.

Sincerely,

Iván Espinoza-Madrigal, Executive Director
Oren M. Sellstrom, Litigation Director
Sophia L. Hall, Staff Attorney

cc: MAMLEO