UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

APPEAL NO. 20-1691

BRUCE SMITH; PAUL JOSEPH; MARTIN JOSEPH; KIM GADDY; BRIAN KEITH LATSON; LEIGHTON FACEY; MARWAN MOSS; KENNETH SOUSA; WILLIAM WOODLEY; LATEISHA ADAMS,
Plaintiffs - Appellees,

JOHN M. JOHNSON; ROBERT TINKER,
Plaintiffs,

v.

CITY OF BOSTON, MASSACHUSETTS,
Defendant - Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
Case No. 1:12-cv-10291-WGY
The Honorable William G. Young

BRIEF OF AMICUS CURIAE URBAN LEAGUE OF EASTERN MASSACHUSETTS IN SUPPORT OF PLAINTIFFS-APPELLEES AND AFFIRMANCE OF THE JUDGMENT BELOW

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FRAP RULE 29 STATEMENT

Pursuant to FRAP 29(a)(4)(E), undersigned counsel for Amicus Curiae states that no counsel for the parties authored this brief in whole or in part, and no party, party's counsel, or person or entity other than Amicus Curiae or its counsel contributed money that was intended to fund the preparing or submitting of this brief.

CORPORATE DISCLOSURE STATEMENT

Undersigned counsel for Amicus Curiae certifies pursuant to FRAP 29(a)(4)(A) that Urban League of Eastern Massachusetts is a non-profit organization. It does not have a parent corporation or issue stock, so there is no publicly-owned corporation owning 10% or more of its stock.

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Date: April 2, 2021

TABLE OF CONTENTS

FRAP RULE 29 STATEMENT i

CORPORATE DISCLOSURE STATEMENT i

TABLE OF AUTHORITIES iv

INTEREST OF AMICUS CURIAE 1

SUMMARY OF THE ARGUMENT 2

ARGUMENT 6

I. BLACK LEADERSHIP IN THE BOSTON POLICE DEPARTMENT IS ESSENTIAL TO STOPPING BLACK COMMUNITIES FROM BEING BRUTALIZED BY POLICE VIOLENCE. 6

A. Black Leadership Will Encourage Police Officers To Intervene And Raise Complaints When Observing Police Misconduct, Including Excessive Force, By Their Fellow Officers Against Black Communities. 6

B. Black Leadership Will Have A Profound Impact On The Institutional Culture Within The Boston Police Department And Mitigate Line Officers' Perceptions Of Group Threat, As Related To Black Communities. 9

C. Black Leadership Is Indispensable To Helping Build Trust Between The Police Force And Black Communities, Which Is Likely To Result In A De-Escalation Of Police Violence During Police Encounters With Black Communities. 12

II. BOSTON POLICE DEPARTMENT'S 2008 LIEUTENANTS' EXAM NOT ONLY HAD AN UNLAWFUL DISCRIMINATORY IMPACT ON BLACK OFFICERS, BUT ALSO FAILED TO TEST FOR SKILLS AND ABILITIES NECESSARY FOR PROTECTING BLACK COMMUNITIES FROM POLICE VIOLENCE. 16

CONCLUSION 19

CERTIFICATE OF COMPLIANCE..... 21

CERTIFICATE OF SERVICE 22

TABLE OF AUTHORITIES

Cases

Bradley v. City of Lynn, 443 F.Supp.2d 145, 157 (D. Mass. 2006)..... 16

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Corey Columb & Ashby Plant, *Revisiting the Obama Effect: Exposure to Obama Reduces Implicit Prejudice,* 47 Journal of Experimental Social Psychology, 499 (2011)..... 11

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Exhibit A, *Smith v. City of Boston*, 144 F.Supp.3d 177 (D. Mass. 2015) (No. 1:12-cv-10291-WGY), ECF No. 47..... 5

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Rod K. Brunson & Kashea Pegram, *"Kids Do Not So Much Make Trouble, They Are Trouble": Police-Youth Relations,* 28 The Future of Children 83 (2018)..... 14

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Thomas Pettigrew & Linda R. Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, 90 Journal of Personality and Social Psychology 751 (2006)..... 10, 11

Tom R. Tyler, *Enhancing Police Legitimacy*, 593 The Annals of the American Academy of Political and Social Science 84 (2004). 12

Transcript of Bench Trial, *Smith v. City of* Boston, 144 F.Supp.3d 177 (D. Mass. 2015) (No: 1:12-cv-10291-WGY), ECF No. 158..... 5

Transcript of Bench Trial: Damages, *Smith v. City of Boston*, 144 F.Supp.3d 177 (D. Mass. 2015) (No. 1:12-cv-10291-WGY), ECF No. 293. 5

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INTEREST OF AMICUS CURIAE

Amicus Curiae — Urban League of Eastern Massachusetts — submits this brief, on motion, in support of Plaintiffs-Appellees' argument that the lower court's decision, holding that the Boston Police Department's 2008 Lieutenants' exam violates Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., must be affirmed.

Urban League of Eastern Massachusetts is one of the oldest affiliates of the National Urban League, the nation's oldest and largest community-based movement devoted to empowering African Americans to enter the economic and social mainstream. Established in 1919, the mission of the Urban League movement is to enable African Americans to secure economic self-reliance, parity, power, and civil rights. The Urban League is committed to furthering the goals of the Civil Rights Act of 1964 and challenging structures that systemically prevent Black and other minority employees from accessing equal employment opportunities.

The Urban League strongly believes that disparate impact theory is fundamental to correcting systemic racism, including in the promotion of Black police officers. Moreover, increasing Black leadership within the Boston Police Department is an essential step to stopping police violence against the very same Black communities which the Urban League serves. The decision below should stand, as it correctly applied disparate impact theory to this case and is a necessary

step in removing barriers for the development of much-needed Black leadership within the Boston Police Department.

SUMMARY OF THE ARGUMENT

In the summer of 2020, the world watched in horror as George Floyd was brutally murdered at the hands of the police. The image of an officer's knee crushing Mr. Floyd's neck and his haunting last words of "I can't breathe" spurred millions to protest across the globe. However, Floyd was neither the first nor the last Black American to be slain by law enforcement. Tamir Rice, Alton Sterling, Breonna Taylor —are the names of just a few people on the enormous list of Black victims of police violence.

The epidemic of police violence has ravaged Black communities and is a leading cause of mortality among Black men.[1] One out of every 1,000 Black men is likely to be killed by the police, over twice the risk posed to White men.[2] Even when unarmed, Black people are three times more likely as White people to be killed

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[1] Frank Edwards et al., *Risk Of Being Killed By Police Use Of Force In The United States By Age, Race–Ethnicity, And Sex*, 116 Proc. of the Nat'l Acad. of Sci. 16793, 16793–94 (Aug. 2019).
[2] *Id.*

during police encounters.[3] George Floyd's murder shined yet another spotlight on this protracted, systemic crisis that has inflicted violence and death on Black communities for generations.

The City of Boston is not exempt from this crisis. It was only in 2016 that Boston police officers shot and killed Terrance Coleman, a Black man suffering from paranoid schizophrenia.[4] Between January 2019 and September 2019, almost 70% of individuals stopped by Boston police were Black, amounting to nearly three times the percentage of Black residents in the city.[5] Moreover, Boston Police Department ("BPD") data from 2007-2010, showed young Black men were more likely than young white men to be searched and targeted for repeat encounters by police.[6] The overwhelming majority of these searches did not end in arrests, with

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[3] Gabriel Schwartz & Jaquelyn Jahn, *Mapping Fatal Police Violence Across U.S. Metropolitan Areas: Overall Rates And Racial/Ethnic Inequities, 2013-2017* 15 PloS One, 1, 5 (2020).
[4] Benjamin Swasey & Simón Rios, *Mother Whose Son Was Fatally Shot By A Boston Cop Files A Civil Rights Lawsuit*, WBUR News, (Apr. 4, 2018), https://www.wbur.org/news/2018/04/04/coleman-shooting-lawsuit.
[5] Gal Tziperman Lotan, *Data Show Boston Police Stop Black People Most Often*, Boston Globe, https://www.bostonglobe.com/2020/06/15/metro/data-show-boston-police-stop-black-people-most-often/ (last updated on June 15, 2020).
[6] *Black, Brown and Targeted: A Report on Boston Police Department Street Encounters from 2007 to 2010*, American Civil Liberties Union of Massachusetts (Oct. 3, 2014).

over 75% of searches seemingly conducted without any legal justification.[7] The state of affairs is clear: there are significant racial inequities with regards to how BPD interacts with Black communities.

The presence of Black leadership in law enforcement can mean the difference between life and death for Black communities. Over the last five years, in fifteen of the twenty cities with the highest numbers of fatal police shootings, the police departments were led by White police chiefs, while thirteen of the twenty cities with the lowest rates of deadly police shootings were led by Black police chiefs.[8] Despite being the oldest police department in the United States, the Boston Police Department only appointed its first Black Police Commissioner in 2018 — nearly 164 years after the department was established.[9] Despite this single promotion, the Boston Police Department as a whole remains unreflective of the community it engages with. Over 65% of BPD officers are White, with Black officers making up just over 21% of the entire force, despite the fact that approximately 70% of

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[7] *Id.*

[8] Stephen Wu, *Leadership Matters: Police Chief Race and Fatal Shootings by Police Officers,* 102 Social Science Quarterly, 407, 407 (2021).

[9] Vernal Coleman, *Boston Police Once Resembled the Community. But Force Has Grown Whiter as City Becomes More Diverse*, Boston Globe (last updated on Jun. 30, 2020), https://www.bostonglobe.com/2020/06/30/metro/boston-police-once-resembled-community-force-has-grown-whiter-city-becomes-more-diverse.

individuals stopped by Boston police are Black.[10] The leadership within BPD is even less reflective of Black communities — as of 2019, BPD has only ever had 1 active Black captain in its entire department.[11] Furthermore, minorities comprised a mere 7% of lieutenants as of 2013, despite making up 29% of the applicants who took the 2008 Lieutenants' exam.[12] BPD's discriminatory promotion examinations, like the one at issue in this case, have routinely screened out qualified Black candidates, limiting the growth of Black officers in leadership.

Black leadership within BPD is essential to combatting these racial inequities and preventing police violence against Black communities. Under Black leadership, line officers are more likely to intervene when senior officers use excessive force against Black communities in their presence. Black leadership is also an essential component in changing the institutional culture within the BPD to mitigate line officer's perceptions of group threat, as it relates to Black communities. Lastly, Black leadership in BPD is a key part of building trust between the police force and

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[10] *Id.*

[11] Tr. of Bench Trial: Damages at 27, *Smith v. City of Boston*, 144 F.Supp.3d 177 (D. Mass. 2015) (No. 1:12-cv-10291-WGY), ECF No. 293.

[12] Tr. of Bench Trial at 88, *Smith v. City of Boston*, 144 F.Supp.3d 177 (D. Mass. 2015) (No: 1:12-cv-10291-WGY), ECF No. 158; Ex. A at 11, *Smith v. City of Boston*, 144 F.Supp.3d 177 (D. Mass. 2015) (No. 1:12-cv-10291-WGY), ECF No. 47.

Black communities, which in turn is likely to result in decreased violence inflicted on Black communities during police encounters.

The BPD's 2008 Lieutenants' exam prevented much-needed Black leadership from developing within the police force. The exam failed to rank applicants based on job-related skills and disparately impacted Black officers. Moreover, the exam failed to actually test for much-needed attributes like interpersonal skills, cultural competency, and conflict management, which are critical to preventing police violence against Black communities. The First Circuit should affirm the District Court's decision that the Boston Police Department's 2008 Lieutenants' exam disparately impacted Black and Latino officers and was insufficiently job-related, in violation of Title VII.

ARGUMENT

I. BLACK LEADERSHIP IN THE BOSTON POLICE DEPARTMENT IS ESSENTIAL TO STOPPING BLACK COMMUNITIES FROM BEING BRUTALIZED BY POLICE VIOLENCE.

A. Black Leadership Will Encourage Police Officers To Intervene And Raise Complaints When Observing Police Misconduct, Including Excessive Force, By Their Fellow Officers Against Black Communities.

Far too often, police leadership insulates its officers from punishment, in part because fellow officers who observed the conduct are afraid to complain about their colleagues. From the moment officers are hired, they are recruited into a culture that

pressures them to conform to the departmental norms – the "blue wall of silence."[13] This "blue wall of silence" reflects a culture within many law enforcement agencies of protecting one's colleagues not only from physical harm but also protecting their reputation and job, even in the face of their misconduct.[14] Whistleblowers who break the code of silence face physical and mental harassment, job suspension and loss, isolation, and risk finding themselves without reinforcements during crises.[15]

Police officers are also molded throughout the police academy, field training, and in their departments to match their colleagues' behavior within a hierarchical bureaucracy.[16] Police officers are expected to obey authority and follow the chain of command. Police departments often incentivize officers to follow orders by tying their ability to do so to their performance reviews, compensation, and even promotion.[17]

This level of deference to colleagues can become problematic if an officer behaves or enables behavior that is immoral, unethical, or unlawful, as line officers

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[13] Hoon Lee et al., *How Police Organizational Structure Correlates with Frontline Officers' Attitudes toward Corruption: A Multilevel Model*, 14 POLICE PRAC. & Res. 386, 386, (2013).
[14] *Id.* at 389.
[15] *Id.*
[16] David Eitle et al., *The Effect of Organizational and Environmental Factors on Police Misconduct*, 17 POLICE Q. 103, 105-06, (2014); Ivan Y. Sun & Brian K. Payne, *Racial Differences in Resolving Conflicts: A Comparison Between Black and White Police Officers*, 50 Crime & Delinquency 516, 519 (2004).
[17] George Wood et al., *The Network Structure of Police*, 5 SOCIUS 1, 3, (2019).

may fear that they will be ostracized for complaining about their fellow officer. Black officers risk further alienation if they choose to deviate from the code of silence, as they are already marginalized by a predominantly White leadership.[18] Black officers are often excluded from police departments' informal social networks, including an "old boys club," which is often a tight knit community of White officers and leadership who promote each other's interests.[19] These forces can deter police officers from raising complaints about their colleagues up the chain of command.

Under Black leadership, employees are more likely to raise complaints about their fellow officers' misconduct. Leaders shape how employees behave through their policies and leadership styles and can bolster dissenting viewpoints within an organization.[20] Women leaders, for example, can serve as allies to other women employees by "strengthening their voices and advocating on their behalf.[21] Black

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[18] Sun & Payne, *supra* note 16, at 519.
[19] Bocar A. Ba et al., *The Role of Officer Race and Gender in Police-Civilian Interactions In Chicago,* 371 SCIENCE 1, 1 (2021); C.J. Chivers, *For Black Officers, Diversity Has Its Limits*, N.Y. Times (Apr. 2, 2001), https://www.nytimes.com/2001/04/02/nyregion/for-black-officers-diversity-has-its-limits.html.
[20] Wu, *supra* note 8, at 409.
[21] Evelyn Hunter et al., *The Hurdles are High: Women of Color Leaders in Counseling Psychology*, Journal of Counseling Psychology 1, 8 (2020); Isis H. Settles & Lilia M. Cortina, *Voice Matters: Buffering the Impact of a Negative Climate for Women in Science*, 31 Psychology of Women Quarterly 270, 272 (2007).

leadership within law enforcement is likely to parallel this through empowering Black officers by giving voice to their concerns.[22] Increased Black leadership may also reduce the pressure on employees to adhere to a racial group identity, fostering an environment where employees of all races feel more comfortable expressing dissenting opinions and differences.[23] Increased Black leadership within the Boston Police Department is likely to create a stronger environment of openness to complaints about fellow officers' use of excessive force, which in turn is likely to result in less police violence against Black communities.

B. Black Leadership Will Have A Profound Impact On The Institutional Culture Within The Boston Police Department And Mitigate Line Officers' Perceptions Of Group Threat, As Related To Black Communities.

Police officers' perceptions are often framed by crime stereotypes, still used in trainings, which instill in them the idea that Black communities are a threat. The use of the "symbolic assailant," in which Black males are often stereotyped as exemplar criminals, reflects the implicit racism in law enforcement.[24] Reinforced by departmental policies, such as labelling minority neighborhoods as "high crime" and

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[22] *See id.*

[23] Donna Chrobot-Mason & Nicholas P. Aramovich, *The Psychological Benefits of Creating an Affirming Climate for Workplace Diversity*, 38 Group Organization And Management 659, 671, (2013).

[24] Jeffrey Fagan & Alexis D. Campbell, *Race and Reasonableness in Police Killings,* 100 B.U. L. Rev. 951, 973 (2020).

concentrating patrols in those neighborhoods, police departments end up training officers, intentionally or not, to perceive Black communities as dangerous.[25] These entrenched departmental biases explain why "stop and frisk" policies and excessive force disproportionately affect Black communities, as officers are often trained to see Black individuals primarily as threats.[26]

Deeply rooted in slavery and racism, the American policing system often separates different racial groups, breeding distrust and prejudice between Black communities and officers.[27] Homogenous police departments heighten this conflict, creating an "in-group" (i.e. police officers) and an "out-group" (i.e. Black communities).[28] However, intergroup contact mitigates group threat between Black and White communities, increasing positive interracial attitudes.[29] Through such contact, each group often comes away with mutual understanding and respect, rather than resentment or fear.[30]

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[25] *Id.*
[26] *See id.*
[27] Joscha Legewie & Jeffrey Fagan, *Group Threat, Police Officer Diversity and the Deadly Use of Police Force*, COLUMBIA PUBLIC LAW RESEARCH PAPER NO. 14-512 (2016); Thomas Pettigrew & Linda R. Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, 90 Journal of Personality and Social Psychology 751, 751, (2006).
[28] Legewie, *supra* note 27, at 8.
[29] Pettigrew, *supra* note 27, at 751.
[30] *Id.*

By developing more Black officers and leaders, police departments can undermine racialized notions of an "in-group," and an "out-group" through the power of representation.[31] Studies show that individuals exposed to an example of a Black person in a position of influence experience diminished levels of implicit anti-black bias.[32] Within law enforcement, increased contact between White and Black officers also improves the attitudes members of each group have toward one another.[33] Increasing Black representation in the leadership ranks of the Boston Police Department would likely have a profound impact on the culture of the department so as to reduce implicit anti-black bias amongst police officers and mitigate group threat.

Black leadership is also critical to the implementation of policies that will result in the lasting reduction of implicit bias against Black communities. Black leaders are uniquely positioned to understand the needs of Black communities, having certain shared experiences on account of a shared racial identity.[34] Diverse leaders can utilize their positions of power to actively respond to these communities'

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[31] Kelsey Shoub et al., *Race, Place, and Context: The Persistence of Race Effects in Traffic Stop Outcomes in the Face of Situational, Demographic, and Political Controls*, 5 Journal of Race, Ethnicity and Politics 481, 487 (2020).
[32] Corey Columb & Ashby Plant, *Revisiting the Obama Effect: Exposure to Obama Reduces Implicit Prejudice,* 47 Journal of Experimental Social Psychology, 499, 499 (2011).
[33] Pettigrew, *supra* note 27, at 751.
[34] Legewie, *supra* note 27, at 11.

needs by shaping organizational strategy, culture, and direction.[35] Leadership of women of color, for example, has been shown to intentionally focus on policies that address injustices and promote forthcoming leaders of color.[36] As such, Black leaders within BPD will likely implement policy directives to correct training and policies that disproportionately target Black communities.[37]

C. Black Leadership Is Indispensable To Helping Build Trust Between The Police Force And Black Communities, Which Is Likely To Result In A De-Escalation Of Police Violence During Police Encounters With Black Communities.

Police officers cannot perform their essential functions without securing the trust and confidence of the communities they serve.[38] Officers derive their authority from the acceptance of the community, and community members are more likely to cooperate with law enforcement when they view the police force as a valid authority.[39]

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[35] Kathleen Buse et al., *The Influence of Board Diversity, Board Diversity Policies and Practices, and Board Inclusion Behaviors on Nonprofit Governance Practices*, 133 Journal of Business Ethics 179, 187 (2016).
[36] Shandrina v. Griffin, *The Satisfaction and Dissatisfaction of African American Women Administrators Using Transformational Leadership Practices* (2007) (Ph.D. dissertation, Fielding Graduate University) (ProQuest).
[37] Legewie, *supra* note 27, at 8; Shoub, *supra* note 31, at 487.
[38] Holona L. Ochs, *The Politics of Inclusion: Black Political Incorporation and the Use of Lethal Force*, 9 Journal of Ethnicity in Criminal Justice, 238, 241 (2011).
[39] Tom R. Tyler, *Enhancing Police Legitimacy*, 593 The Annals of the American Academy of Political and Social Science 84, 87, (2004).

Generations of brutality have reduced Black Americans' confidence in the police to historic lows, with only 19% of Black Americans expressing "a great deal" of confidence in the police over the last year.[40] This decrease in trust has concrete impact, causing a fall in the rate at which Black Americans report crime or call on the police for support.[41] Both officers and Black youth cite this fear and distrust as a cause of violence during their interactions.[42] Instances of violence and negative perceptions can discourage Black community members from engaging with the police or pursuing careers in law enforcement.[43]

The presence of increased Black leadership in BPD is likely to create opportunities that will foster increased trust between the police and Black communities. As mentioned above, this benefit may even be realized prior to the adoption of substantive policy changes, simply by virtue of a Black community member occupying a space of power. Black representation among police leadership indicates to Black community members that officials at multiple levels of law

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[40] Jeffrey Jones, *Black, White Adults's Confidence Diverges Most on Police,* Gallup, (Aug. 12, 2020), https://news.gallup.com/poll/317114/black-white- adults-confidence-diverges-police.aspx.
[41] Matthew Desmond et al., *Police Violence and Citizen Crime Reporting in the Black Community*, 81 American Sociological Review 857, 858 (2016).
[42] Collin Calvert, *Perceptions of Violent Encounters Between Police and Young Men Across Stakeholder Groups*, 97 Journal of Urban Health 279, 279 (2020).
[43] *See* Elizabeth Linos, *More Than Public Service: A Field Experiment on Job Advertisements and Diversity in the Police,* 28 Journal of Public Administration Research and Theory, 67, 69 (2018).

enforcement may share similar values and experiences, laying the foundation for a trusting relationship with the institution.[44] In areas with Black representation in government (e.g. mayors, council members, etc.), for example, Black community members report greater satisfaction with the quality of their police forces when compared to others in communities without similar representation but similar policies.[45]

In addition to the power of representation in building trust, Black leaders can increase trust with Black communities through the implementation of policies relating to de-escalation of violence during police encounters as well as increased recruitment and retention of Black officers. Aggressive crime control strategies can significantly damage the public's trust in law enforcement.[46] Black leaders often promote de-escalation tactics when engaging with minority populations, and the adoption of such tactics have been shown to increase community trust.[47] Moreover, a recent study of Chicago law enforcement showed that when compared to White officers, Black officers utilize less excessive force and perform fewer invasive

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[44] Legewie, *supra* note 27, at 9.
[45] Melissa J. Marschall, *Substantive Symbols: The Attitudinal Dimension of Black Political Incorporation in Local Government*, 51 American Journal of Political Science 17, 26 (2007).
[46] Rod K. Brunson & Kashea Pegram, *"Kids Do Not So Much Make Trouble, They Are Trouble": Police-Youth Relations,* 28 The Future of Children 83, 91 (2018).
[47] *Id.*

searches when policing Black communities.[48] In order to stem police violence against Black communities, it is essential to increase the number of Black police officers.

Black leaders can play a critical role in broadcasting alternate messaging to Black communities about joining law enforcement. These leaders have the potential to disrupt homogenous police departments and introduce new perspectives by improving the retention, recruitment, and empowerment of Black officers.[49] For example, Black principals increased the hiring and retention of Black teachers, both tending to hire more Black teachers and retaining them.[50] A lack of Black leadership among higher echelons of law enforcement communicates the message that there is a "ceiling" for Black officers, discouraging potential recruitment.[51] In contrast, the image of a Black officer in a leadership position — one projecting a sense of belonging and enjoyment — can significantly increase the number of Black applicants.[52]

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[48] Ba et al., *supra* note 19, at 1.
[49] *Id.*
[50] Brendan Bartanen & Jason Grissom, *School Principal Race and The Hiring and Retention Of Racially Diverse Teachers*, Edworkingpaper No. 19 (2019).
[51] Jen Fifield, *Can Diverse Police Departments Ease Community Tension*, Stateline, (Aug. 26, 2016), https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/08/22/does-diversifying-police-forces-reduce-tensions.
[52] Linos, *supra* note 43, at 71.

II. BOSTON POLICE DEPARTMENT'S 2008 LIEUTENANTS' EXAM NOT ONLY HAD AN UNLAWFUL DISCRIMINATORY IMPACT ON BLACK OFFICERS, BUT ALSO FAILED TO TEST FOR SKILLS AND ABILITIES NECESSARY FOR PROTECTING BLACK COMMUNITIES FROM POLICE VIOLENCE.

To justify relying on an exam with a disparate impact against Black police officers, the Defendant must first prove that its exam was sufficiently job related for the position and consistent with business necessity.[53] To do this, the Defendant must show that "the exam measures a characteristic [constituting] an 'important element of work behavior,'" and that the exam results are "'predictive of or significantly correlated with' the characteristic described above."[54] The District Court correctly applied this test to conclude that better performance on the exam did not indicate better performance on the job, based on its finding that the exam failed to adequately test for knowledge, skills, and abilities necessary for a police lieutenant.[55] Rather, the BPD only tested the ability of lieutenants to comprehend and communicate written information, interpret maps and charts, and make basic mathematical calculations.[56]

The Boston Police Department failed to test for necessary skills — such as interpersonal skills, cultural competency, and conflict management — that are

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[53] *Bradley v. City of Lynn,* 443 F.Supp.2d 145, 157 (D. Mass. 2006).
[54] *Jones v. City of Boston,* 752 F.3d 38, 54 (1st Cir. 2014).
[55] *Smith v. City of Boston*, 144 F.Supp.3d 177, 181 (D. Mass. 2015).
[56] *Id.* at 207.

essential to protecting Black communities from police violence. Leaders with interpersonal skills use effective communication and their ability to develop stronger relationships with employees to create an environment where their subordinates feel comfortable raising concerns.[57] For example, studies show that leaders with interpersonal skills are able to create a workplace that empowers women employees to use their voices to raise concerns.[58] When overseeing training, police lieutenants with interpersonal skills can more effectively encourage their subordinates to feel comfortable raising complaints about police use of excessive force against Black communities.[59]

Culturally competent leaders are more likely than those who are not to examine and change discriminatory policies and practices.[60] For example, a recent study showed that after developing cultural competency skills, healthcare

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[57] Jennifer Mencl et al., *Transformational Leader Attributes: Interpersonal Skills, Engagement, and Well-being*, 37 Leadership & Organization Development Journal 635, 640 (2016); Shaun Pichler & Gerard Beenan, *Toward the Development of a Model and a Measure of Managerial Interpersonal Skills*, in Leader Interpersonal and Influence Skills: The Soft Skills Of Leadership 1, 14 (Ronald Riggio and Sherylle Tan).

[58] Settles et al., supra note 21, at 272.

[59] Boston Police Dep't, *Rules and Procedures*, Rule 105 (1979), https://bpdnews.com/rules-and-procedures (last visited Mar. 12, 2021).

[60] Camille Smith, *School Factors That Contribute to the Underachievement of Students of Color and What Culturally Competent School Leaders Can Do*, 17 Educational Leadership and Administration: Teaching and Program Development 21, 27 (2005).

professionals improved both provider awareness of racial healthcare disparities and the health outcomes of Black patients.[61] Moreover, such leaders tend to provide their employees with the skills needed to effectively navigate cross-cultural interactions by prioritizing certain practices through strategies and plans.[62] Lieutenants in BPD with cultural competency skills are more likely than those who do not possess that skill to lead a reduction in police violence against Black communities by introducing new trainings and policies combatting implicit racism and notions of "group threat" as related to Black communities. Moreover, culturally competent lieutenants can reduce discriminatory practices and bias through modeling, using their own language and behavior.

As liaisons between the department and the community, lieutenants who possess strong conflict management skills can build trust with Black communities by ensuring that line officers have substantial training in de-escalation tactics. Moreover, lieutenants who approach conflict flexibly, without becoming defensive, can create opportunities for open discussion and peaceful resolutions when engaging with Black communities.[63] Lieutenants are among the most visible members of the

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[61] Mary Beach et al., *Cultural Competence: A Systematic Review of Health Care Provider Educational Interventions*, 43 Medical Care 356, 356 (2005).
[62] Smith, *supra* note 60, at 28.
[63] Michele J. Gelfand et al., *Conflict Cultures in Organizations: How Leaders Shape Conflict Cultures and Their Organizational-Level Consequences*, 97 Journal of Applied Psychology 1131, 1134 (2012).

police organization and will likely influence employees' who look to them to guide their actions.[64] A lieutenant skilled in conflict management can use their expertise to guide the development of department-wide policies around preferred responses to conflict, ensuring officers adopt behaviors that are calibrated to increase trust and reduce violence against Black communities.

A lieutenant must have interpersonal skills to communicate values and policies to subordinates and commanding officers alike, have the cultural competency to combat implicit bias in the police department, and be able to use their own conflict-management skills to both teach their subordinates and build community trust. BPD should not be permitted to use a discriminatory lieutenant promotion exam that is insufficiently job-related and fails to test for these essential skills.

CONCLUSION

Black leadership in the Boston Police Department is critical to addressing the ongoing crisis of police violence against Black communities. The City of Boston's 2008 Lieutenants' exam restricted the development of much-needed Black

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[64] *Id.*

leadership and failed to test for sufficiently job-related skills. For these reasons and those listed above, the Court should affirm the judgement of the District Court.

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(5) (A), (6), and First Circuit Local Rule 32, I certify that the Amicus Brief of the Urban League of Eastern Massachusetts in Support of Plaintiffs-Appellees complies with the 6500 word Type-Volume limit of Fed. R. App. P. 29 (a) (5) because it contains not more than 4300 words, exclusive of the cover page, corporate disclosure statement, table of contents, table of authorities, signature block, and certificate of service. The Brief complies with typeface and typesize requirements because it has been prepared in a proportionately spaced typeface, using 14-point Times New Roman type.

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CERTIFICATE OF SERVICE

Appeal No. 20-1691

I, Reena Parikh, hereby certify that on April 2, 2021, I electronically filed this Amicus Curiae Brief with the Court using the CM/ECF system. I certify that the following parties or counsel are registered CM/ECF users and will receive service through the CM/ECF system:

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