



Written by [Raven Clabough](#) on March 22, 2011

## DOJ Forces Cities to Lower Police Exam Standards to Aid Minority Applicants

The Justice Department continues to be the subject of controversy as it attempts to impose an offensive solution to what it perceives to be discriminatory behavior. In Dayton, Ohio, where the police and firefighter exams have proven to pass few minorities, the U.S. Department of Justice is demanding that the city lower its passing score for the police exam in order to allow a larger pool of black applicants.



The *Dayton Daily News* explains:

Dayton is in desperate need of black applicants. There are roughly 650 Dayton police and firefighters and less than 40 are black in a city with 62,000 black residents. The fact a smaller percentage of blacks passed the police exam in November doesn't help Dayton's chances of improving those numbers.

Responding to the low numbers, Randy Beane, president of the police union, remarked,

It doesn't surprise me the test results aren't different and it shouldn't surprise anyone. Not enough African-Americans are taking the exam and we need to get in the schools and talk to kids about being in law enforcement. What we are doing here is the definition of insanity.

The Justice Department has a history of forcing cities to diversify through litigation since 1971, reports the *Dayton Daily News*, after the U.S. Supreme Court ruled that disparate racial impact is in direct violation of the Civil Rights Act of 1964. According to the ruling, agencies must provide a lawful reason why the hiring practices impacted races differently, lest they be found in violation of the law.

The *Dayton Daily News* continues:

Since 1990 the Justice Department has filed 24 hiring discrimination lawsuits against cities and states from New Jersey to Los Angeles. In almost every case, cities or states settle with a consent decree a binding agreement to change questionable practices.

The Justice Department has indicated that almost every case that provokes litigation related to racial disparities begins with an outside complaint, though it refuses to release the name of the complainant in the Dayton case.

The Department of Justice has defended its imposition in this case. Spokeswoman Xochitl Hinojosa issued a statement this past Friday asserting that the goal of the DOJ is to ensure that the Civil Rights Act is being upheld and to remove any unnecessary barriers present in hiring practices. Hinojosa also



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contends that the DOJ does not simply file lawsuits based solely on the [diversity] numbers.

We only challenge examinations when we determine that the employer has failed to demonstrate the exam will do a good job of selecting qualified candidates, said Hinojosa.

In 2007, the Justice Department initiated a lawsuit against Chesapeake, Virginia claiming that the math portion of its police entrance exam had a disparate impact on blacks and Hispanics. Anxious to settle the lawsuit, the city agreed to lower the passing score from 70 to 66 percent.

Regardless of the changes, the city still reflects a low percentage of black and Hispanic police officers.

Stanard & Associates, Inc., the maker of the Chesapeake police officer examination, has defended its examination in a letter to customers in August:

Despite the vast amount of research S&A has accumulated, documenting the relationship between (the tests) content and the job of law enforcement officer ... the DOJ appears ready to combat usage of any selection instrument resulting in any amount of adverse impact against protected groups, even if the job-relatedness and validity of the (tests) have been established.

Likewise, the Department of Justice demands major changes to the passing standards. In Dayton, the passing marks were not only lowered, but the tests were then graded on a curve. Dayton proposed that participants correctly answer 57 of 86 questions (66 percent) in one portion of the exam, and 73 of 102 questions (72) in another section, but the DOJ continue to reject those standards, indicating that not enough black Americans (57 of 225) passed compared to white Americans (386 of 788), even though [258 more](#) people passed the exam as a result of the changes, says a statement released on Thursday by Civil Service officials.

Despite the Justice Departments best intentions, a number of applicants and community residents are offended by the Justice Departments solution to the problem, however, including African-American applicant Zachary Williams, who contends that the Justice Departments proposal insultingly implies that he cannot achieve his dream on his own accord.

You cant blame the city for the lack of diversity, explains Williams. This isnt your normal 9 to 5 job and you have to want it. I dont want to be in a department where I was hired because of my skin color. I want it because I earned it.

Black community leaders agree with Williams assertions, contending that the DOJ proposal stigmatizes black Americans.

Keith Lander, chairman of the local Southern Christian Leadership Conference, has called the Justice Departments recommendation a slap in the face to black people. He adds, Black people are not dumb.

U.S. District Judge Walter H. Rice said, I cannot make a legal judgment on the Justice Departments method, but there are lots of instances where competent people test poorly. What can happen in these cases, minorities are incorrectly branded as less qualified when they are infinitely qualified.

*Photo: Richard Biehl, Dayton, Ohio, Director and Chief of Police*



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