



The Research Bureau

# MASS. EXODUS FROM CIVIL SERVICE

Examining Worcester's Proposal to  
Exempt Police Leaders Amidst  
Statewide Shifts

REPORT 24-10

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## EXECUTIVE SUMMARY

**A SIGNIFICANT SHIFT IS UNDERWAY** as Massachusetts municipal police departments increasingly request exemptions from the Civil Service Law. **Worcester's recent petition to exempt the chief and deputy chief positions highlights this trend.** Understanding these dynamics is crucial as municipalities seek to balance merit, efficiency, and equity in their hiring and promotional practices.

This report outlines the intent and history of civil service laws, details the administration of Massachusetts' law, and

examines Worcester's petition alongside other civil service changes the City has discussed over the past 25 years. It also contextualizes the petition with findings from the Racial Equity Audit of the Worcester Police Department (WPD), relevant employment discrimination cases, and growing discontent with the state's system from other municipalities. It then compares civil service participation across the state, focusing on WPD and its peers. The report concludes with three recommendations for City leaders and the public to consider.

### PAGES 3-4 | FROM FEDERAL BEGINNINGS TO STATE ADOPTION — THE ORIGINS OF CIVIL SERVICE LAWS

- Civil service laws were created to eliminate politically motivated employment decisions through merit-based standards for select public employees. Following the Pendleton Act, Massachusetts, New York, and Ohio adopted their own comprehensive civil service laws.
- In Massachusetts, the Civil Service Law is overseen by the Human Resources Division (HRD), which handles administrative responsibilities. The Civil Service Commission adjudicates hearings between municipalities and employees.
- The Legislature convened several special commissions in the twentieth century to evaluate civil service effectiveness and propose changes to the law. More recently, in 2020, another commission was assigned to study civil service and address the growing number of departments seeking exemptions through home rule petitions.

### PAGES 4-11 | THE CITY PETITIONS TO EXEMPT KEY POSITIONS IN POLICE DEPARTMENT FROM CIVIL SERVICE

- Examines the City's home rule petition to exempt the police chief and deputy chiefs from civil service, which would eliminate the need for promotional exams, statutory candidate preferences, and the state's creation of candidate lists.
- Examines key instances when the City deliberated petitioning to remove these positions and reviews local policy discussions on civil service over the past 25 years.
- Analyzes the racial disparity in WPD's sworn staff and examines key employment discrimination lawsuits filed against the City of Worcester and Massachusetts Human Resources Division (HRD). These issues underscore the importance of creating a more diverse department, as well as the power that the City and state have to ensure equal treatment and realize equitable hiring outcomes.
- Summarizes key lessons the City, WPD, and the public can learn from the Racial Equity Audit and various employment discrimination cases related to civil service, such as:
- **Personnel Administration Rule 10 (PAR 10) allows municipalities to appoint candidates from historically underserved backgrounds while maintaining merit-based principles under the Civil Service Law. The City, despite being contractually obligated to use this rule in the past, never did so.**
- **While the relevant lawsuits pertained to promotions to sergeant, the City's petition would only exempt the chief and deputy chief positions from civil service.**

### PAGES 11-13 | REASONS MUNICIPALITIES PURSUE EXEMPTIONS FROM CIVIL SERVICE

- Summarizes key reasons why many municipal police departments (and fire departments) petition to exempt positions from civil service: **inefficient hiring timelines, ineffective exams, and a rigid hiring formula (2N+1)**
- Underscores the common goals of state and municipal police and fire departments—such as merit-based hiring, impartial oversight, and efficiency—while highlighting the differing views on how to achieve these shared objectives.

### PAGES 13-14 | GROUPING AND MAPPING POLICE DEPARTMENTS BY CIVIL SERVICE STATUS

- Uses HRD data and the Bureau's original qualitative analysis to identify municipal police departments participating in civil service and the positions covered. This section compares WPD to other departments by the number of sworn officers and civil service positions to identify peers with which Worcester would align if the City's petition succeeds.
- **Worcester would join other large police departments such as Boston, Cambridge, and Springfield, whose chiefs are not appointed through civil service.**
- However, Many large police departments, such as Lowell, Quincy, and Lynn, still fully participate in the system.

### PAGES 14-22 | ONGOING DEVELOPMENTS AND CONCLUSION

- **Explains the City and patrol union's commission to study exempting the entire department from civil service, and the deputy chiefs' recent request for the Civil Service Commission to investigate whether the City is violating the law by not considering them.**
- City's petition is approved.
- Request HRD to utilize PAR 10 to increase the diversity of WPD supervisors.
- Publish a report detailing the findings of the commission to study leaving civil service
- **The Bureau offers questions for the City and the public to consider regarding the ongoing dispute between the deputy police chiefs and the City.**

#### The Bureau's Recommends that the City:

- Develop clear criteria for police chief and deputy chief positions, including required qualifications and competencies, and a transparent appointment process, if the



## FROM FEDERAL BEGINNINGS TO STATE ADOPTION — THE ORIGINS OF CIVIL SERVICE LAWS

In the tumultuous political climate of 19th-century United States, the nation grappled with profound transformations and ideological conflicts. Debates over states' rights, economic policies such as tariffs and banking, and westward expansion dominated the national discourse. Amid these issues, a troubling trend emerged in governmental appointments: the prevalence of cronyism (hiring friends and supporters) and nepotism (hiring relatives). These practices allowed unqualified individuals with political connections to secure important administrative positions, particularly during transitions between presidential administrations. **This era of unchecked patronage, known as the 'spoils system,' underscored the necessity for merit-based hiring in public service.**

In response to corrupt practices and ineffective public administration in the federal government, President Chester A. Arthur and the Forty-Seventh Congress enacted the Pendleton Civil Service Reform Act of 1883 ([National Archives, \(n.d.\)](#)). This landmark law established the Civil Service Commission at the federal level, mandating merit-based hiring through competitive exams. It was intended to protect federal employees from arbitrary firings and prohibited the common practice of requiring applicants to provide political service or financial contributions to secure a position. The assassination of President Garfield in 1881 by Charles J. Guiteau, a disgruntled political contributor denied a cabinet position, highlighted the dangers of the spoils system. The Pendleton Act aimed to prevent politically motivated hirings, promotions, and perhaps most importantly, violence, by ensuring that experienced and qualified officials could effectively execute their duties without undue political influence. The Act is regarded as pivotal step in combating political corruption in American politics at the federal level, but it initially applied to only about 1,320 employees— 10% of the workforce at the time of its passage. Over the course of decades, however, its coverage expanded significantly, encompassing roughly 90% of federal employees by 1980 (*Ibid.*).

The Pendleton Act set a crucial precedent at the federal level, which states and local governments subsequently addressed within their own jurisdictions. Massachusetts, New York, and Ohio passed civil service laws between 1880 and 1935. Massachusetts and New York stood out for their "comprehensive statutes," which were seen as "rivals to the federal government" for their innovation and impact in public personnel administration ([Van Riper, 1958](#)).

While only a few states adopted such reforms during this time period, many cities pursued their own civil service reforms from the 1890s through the 1920s, in what is known today as the 'Progressive Era'. Some of the key policy goals of the Progressive Movement included: reducing the influence of political bosses through anti-corruption measures, adopting principles of 'scientific management' in government administration and policy analysis, and prioritizing social justice and the general welfare. Between 1884 and 1935, over 450 U.S. cities implemented civil service legislation, either following state law or independently in its absence. ([Tolbert & Zucker, 1983](#)).

Massachusetts' Civil Service Law was passed in 1884. Since then, it has evolved in order to meet the needs of modern life. The Legislature formed special legislative commissions to study its effectiveness and to propose changes four times over the twentieth century: [1938](#), [1967](#), [1979](#), and [1996](#). In each legislative commission, the issues of centralized versus decentralized power, and the subjective nature of what constitutes "merit" emerged. In 2020, the Legislature adopted "An Act Relative to Justice, Equity, and Accountability in Law Enforcement in the Commonwealth", which established another commission to study civil service ([Massachusetts Legislature, 2022](#)). Once again, the commission explored complex issues, seeking to balance the state's role in enforcing the Civil Service Law with municipalities' need for flexibility and efficiency in hiring. These ongoing discussions remain pivotal in shaping public policy debates both on Beacon Hill and within municipal governments today.

### MODERN ADMINISTRATION OF THE MASSACHUSETTS CIVIL SERVICE LAW

The Human Resources Division (HRD) of the Commonwealth of Massachusetts operates under the Executive Office of Administration and Finance. HRD administers the Civil Service Law through its Civil Service Unit, a division within HRD. Meanwhile, the Civil Service Commission (CSC) functions as a quasi-judicial body that hears complaints regarding employment-related disputes between municipalities and employees.

The **Civil Service Unit, led by the Chief Human Resources Officer (CHRO), handles the operational aspects of civil service.** This includes developing and administering entry-level and promotional exams, creating and managing eligible hiring lists based on exam results and statutory preferences in compliance with the law ([Commonwealth of Massachusetts, n.d.](#)). The Unit is also responsible for establishing Personnel Administration Rules (PARs), which govern the recruitment, selection, training, and employment of civil service positions ([Office of Legal](#)



[Counsel, Human Resources Division, n.d.](#)). Additionally, the Unit manages classification plans for positions, approves job specifications and qualifications, and administers physical abilities testing for police academy candidates. Essentially, the Unit enforces the law through its rules and the administration of day-to-day operations, ensuring that local appointing authorities and relevant state agencies adhere to these standards.

**In contrast, the Civil Service Commission (CSC) is a quasi-judicial agency separate from HRD.** The CSC investigates violations of the Civil Service Law and hears appeals from individuals aggrieved by decisions made by local appointing authorities or HRD's CHRO. These appeals address various issues, including disciplinary actions, layoffs, candidate bypasses, contested exam results, and employee reclassification disputes ([Commonwealth of Massachusetts, n.d., Civil Service Commission](#)). The CSC's role is to apply the Law in resolving employment disputes between candidates or employees and local hiring authorities. The CSC's final rulings are subject to appeal to the Superior Court.

In summary, HRD manages the operational functions and compliance aspects of civil service, while the CSC hears appeals and makes determinations to ensure the law is applied correctly. Together, these entities are tasked to effectively apply the Civil Service Law in Massachusetts.

## **THE CITY PETITIONS TO EXEMPT KEY POSITIONS IN POLICE DEPARTMENT FROM CIVIL SERVICE**

On March 19, 2024, the City of Worcester submitted a home rule petition to exempt the police chief and deputy chief from civil service, arguing that this change will enhance administrative efficiency, provide greater flexibility, and promote diversity, equity, and inclusion. This section details the process for exempting positions from civil service and explores the potential impacts. It reviews the City's historical discussions related to civil service administration over the past 25 years. The section also addresses racial disparities within the Worcester Police Department and highlights high-profile employment discrimination lawsuits involving the City and Massachusetts HRD, which underscore the ongoing challenges in achieving a diverse and equitable workforce. The section concludes by discussing how the City could utilize Personnel Administration Rule 10 (PAR 10) to better hire and promote diverse candidates under civil service.

### **THE CITY'S PETITION AND ITS IMPLICATIONS**

On March 19, 2024, the Worcester City Council unanimously authorized the City Manager to seek approval from the Massachusetts Legislature to remove

the police chief and four deputy chief positions from the Civil Service Law. The Council approved the City Manager's request in a 10-0 vote (with one councilor absent). The petition was filed with the Legislature and then referred it to the Joint Committee on Public Service. Upon approval by the Committee, the Legislature, and the Governor, the City's future hires for police chief and deputy chief will be exempt from civil service.

If the petition is approved, new hires for chief and deputy chief could be chosen from outside WPD. Candidates for these positions would no longer need to take HRD's promotional exams, HRD would not produce a ranked eligible list to select from, and the CSC would not handle disputes related to discipline or layoffs. Such issues would be resolved locally or in court.

**In essence, this change would maximize local control over hiring decisions, allowing the City Manager to exercise greater flexibility in hiring and firing these employees.**

It is important to clarify who would be impacted by this change and who would remain unaffected. When the Legislature exempts a position from civil service, current employees in that position, who were previously covered, will continue to be protected under the Civil Service Law. This protection also extends to employees on active eligible lists seeking promotion to the exempted position until the list expires.

Clarifying the role of municipalities in altering the application of the Civil Service Law for their employees is essential. **Municipalities cannot exempt positions from civil service without approval from the Legislature and Governor.** However, they can seek specific exemptions from the Legislature and request HRD to apply certain rules, such as bypassing candidates on the eligible list or making special appointments.

**Municipalities, even when working with police unions, cannot directly exempt positions from civil service through collective bargaining agreements (CBAs).** CBAs cover employment terms such as salaries, benefits, and working conditions and are negotiated between police unions and municipal governments. Although these negotiations may influence a municipality's decisions on requesting changes to civil service administration from the Legislature, the authority to grant exemptions ultimately lies with the Legislature and Governor.

Under civil service, candidates for an entry-level position or promotion must take a corresponding exam. HRD scores the exams and then ranks candidates based on their scores and preferences outlined in [M.G.L. c. 31, § 26](#). These preferences move certain candidates to the top of



the list in the following order: (1) child of a firefighter or police officer who died in the performance of their duties; 2) disabled veterans; (3) veterans; (4) spouses or parents of veterans killed in action; and (5) all other candidates. Also, [M.G.L. c. 31, § 58](#) allows municipalities to prioritize residents over non-residents for police and fire positions. When two candidates have similar qualifications but different residency statuses, the resident would be given priority. Worcester has utilized the residency preference for over forty years. On the next page, **Figure 1 shows that resident candidates are ranked higher than non-residents within the same preference group.**

Once the list is finalized, the local appointing authority may select candidates from the top-ranked applicants from within the 2N+1 formula, where 'N' represents the number of vacancies. For example, with one vacancy, a local hiring authority may choose one candidate from the top three candidates. HRD rules allow local hiring authorities to appoint qualified candidates based on criteria beyond their rank on the eligible list. One rule permits municipalities to bypass candidates from the 2N+1 formula if HRD approves their justification. Bypassed candidates can then appeal to the CSC.

#### **HISTORICAL SHIFTS TO CIVIL SERVICE IN WORCESTER**

March 19, 2024, was not the first time city leaders considered petitioning to exempt police positions from civil service. Over the past 25 years, the decision has been evaluated several times, alongside various smaller changes aimed at addressing local needs. What set this occasion apart was both a visible and deeper shift: the City Manager and City Council were finally in agreement and acted together. **More notably, the City's justification for exempting these positions now includes a focus on promoting equity within the department.** While previous discussions did not lead to changes as significant as this, it is important to understand how the City's recent history of policy

discussions regarding civil service has led to the current request before the Legislature.

After extensive deliberation in 2002 to address hiring shortages, the City Manager and City Council approved a plan to raise the age limit for new police officers and firefighters to 32 years old. The measure was delayed over concerns about its impact on candidates on the City's current eligible list, but it was ultimately approved unanimously by the Council.

On September 4, 2004, the new City Manager, Michael O'Brien, announced an administrative reorganization plan for the City of Worcester. The plan presented to the City Council included a proposal to file a home rule petition with the Legislature to exempt the chiefs and deputy chiefs in the police and fire departments from civil service. The final version of plan concluded that "the current system of promotions is dangerously hindering the City's ability to deploy effective and efficient police and fire strategies" (Worcester Regional Research Bureau, 2012, 2:45-3:00).

#### **On September 7, 2004, the City Council requested The Research Bureau to study and propose changes to the current state of public service agencies for the City.**

However, while the report was in development, the chief of police retired in October— ten months into the role. Then, a new chief was quickly appointed before the City Council heard the Bureau's recommendations. The new chief, a finalist for the position in 2001, was hired through the civil service process.

In December 2005, with the new chief having been in the role for over one year, The Research Bureau's report, [Reorganizing Public Safety Functions: Considerations For and Against](#), recommended removing the chief and deputy chief positions in both the police and fire departments from civil service. The Bureau found that participating in the system was "dangerously hindering effective and efficient police and fire strategies" and a

**Figure 1: Sample Eligible List by Ranked Preferences**



Source: M.G.L. c. 31, § 26 and § 58, Civil Service Unit Website





"limitation for the hiring authority to evaluate candidates based on their shared vision of the department." On December 19, the Worcester Telegram and Gazette published an editorial supporting the Bureau's recommendation.

However, the City Council did not act on the recommendation. The new police chief was protected by civil service, and allowed to remain in office until his retirement, which was ultimately a distant event. He retired in 2016, marking the end of a tenure that made him the longest-serving chief of police in Worcester since World War II ([Worcester Magazine, 2016](#)).

In 2006, civil service reform in Worcester shifted focus from dealing with the hiring practices for the police and fire departments to prioritizing greater representation of Worcester residents in the City's workforce. The City Council was alarmed that only 18% of the municipal workforce (excluding the Worcester Public Schools) lived within Worcester. The City Council considered a home rule petition to give residents an upper hand by accrediting them two additional points on the exam. This initiative was designed to encourage more city employees to live in Worcester, but was "quickly run aground" by Worcester's interim Human Resources Director ([Kotsopoulos, 2006](#)). The director assured the Council that assigning additional points would not be possible under the Civil Service Law. Additionally, the Director explained, the City maintained a residency preference for the police and fire departments dating back nearly twenty years. This policy remains in effect today. The rule mandates that new candidates for entry-level positions must reside in Worcester for one year immediately before the exam date to be prioritized over nonresidents.

Local discussions about civil service changes largely ceased until 2012. Interest in exempting the police chief's position from civil service resurfaced due to controversy over the then-police chief's Twitter remarks. ([Croteau, 2012](#)). A city councilor reignited the debate by filing an order with the City Council to review the process of exempting the chief and deputy chief positions. The councilor contended that in the future, candidates should be chosen based on their "compatible views and management styles" rather than "antiquated civil service regulations" introduced by "another level of bureaucracy." ([Kotsopoulos, 2012a](#); [Kotsopoulos, 2012b](#)). Given the renewed attention to the issue, The Research Bureau reaffirmed its recommendations from its 2005 report ([Worcester Regional Research Bureau, 2012](#)). The Council referred the matter to the Municipal Operations Committee, but ultimately, the City Council did not move forward with a petition to the Legislature.

## **DRIVERS OF EQUITY PUSH FOR CIVIL SERVICE REFORM IN WORCESTER**

Until now, arguments favoring the exemption of leadership positions in the police department focused on administrative efficiency. **The City Manager, City Council, the Telegram & Gazette, and The Research Bureau have all emphasized the benefits of a more efficient and flexible approach to selecting and managing leaders in these key roles.** However, in recent years, Worcester's city managers and elected officials have emphasized the importance of fostering a more representative WPD across race, ethnicity, and gender. ([City of Worcester, 2024](#); [Radio Worcester, 2024](#); [Worcester City Council, 2024](#)). These calls have been supported by government advisory bodies and contracted entities that have examined how leaving civil service could help the City diversify the department.

For example, the former City Manager tasked the Diversity and Inclusion Advisory Committee (DIAC) with assessing whether the City should continue using civil service exams for entry-level hiring and promotions ([McNamara, 2021](#)). Operating under the City's Executive Office of Diversity, Equity, and Inclusion, this committee advises on "recruiting, hiring, and retaining a diverse pool of city employees" ([City of Worcester, 2021](#)). In December 2021, the Committee made a preliminary recommendation that the City opt out of the civil service exams, citing barriers to access for candidates from historically underserved populations and the inefficient administration of tests ([Cartolano, 2021](#)).

On March 15, 2024 the City released the **Racial Equity Audit of Worcester Police Department**, conducted by the Center for Naval Analyses (CNA). CNA covered a wide variety of issues in the report, including analysis from community listening sessions, interviews and surveys with police officers, and WPD data on arrest rates, citations, and employee demographics. CNA cited evidence that White officers have historically performed better than non-White officers on civil service exams, which is a barrier to diversifying the department's entry-level and leadership positions. CNA recommended the following:

8.1: The City, in consultation with WPD stakeholders, should consider removal from the Massachusetts civil service system, enabling the department to tailor its hiring and promotion policies more effectively in order to advance equity and diversity.

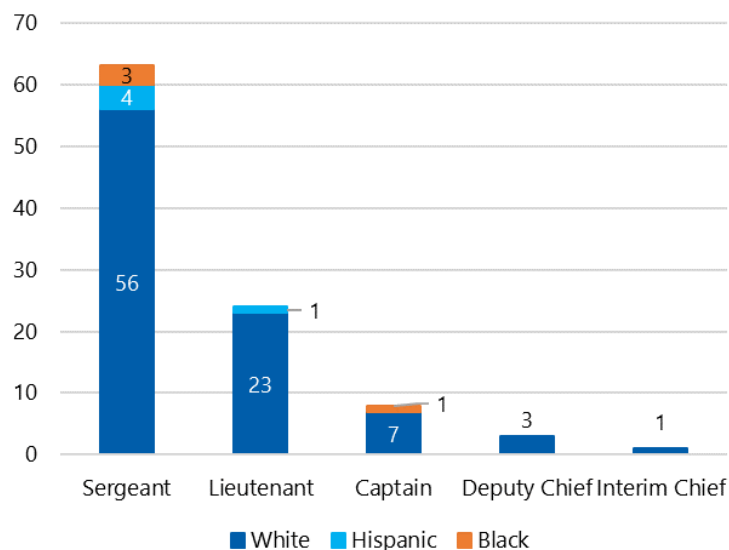
8.2: The City, in consultation with WPD stakeholders, should consider revising promotions criteria to give additional weight to experience and other valued characteristics. ([Richardson et al., 2024](#), p. 51)



**CNA supported the recommendations with data from WPD, showing that the department's sworn officers overrepresent White residents and underrepresent non-White residents.** Figure 1 from the audit indicates that CNA or WPD used the 2021 5-Year Estimates from the American Community Survey (ACS) to compare the racial and ethnic composition of the City with that of WPD's sworn officers. However, they did not accurately capture the degree of overrepresentation of White officers, although the general finding is correct.<sup>1</sup> The Bureau identified issues with the audit's reporting, updated the data using the ACS's 2022 5-Year estimates, and used the City's 2023 Employee Earnings Report to extrapolate the share of WPD's sworn officers by race and ethnicity.<sup>2</sup> Thus, Chart 1 on the following page more accurately reflects the disparities in racial and ethnic diversity between WPD's sworn staff and the city's demographics.

**White, non-Hispanic residents are overrepresented in WPD by almost 27%.** Meanwhile, communities of color are underrepresented across the board, particularly among the largest non-White groups in the city. **Hispanic residents of all races are underrepresented by 9%, Black or African American (non-Hispanic) residents by 7%, and Asian (non-Hispanic) residents by 6%.**

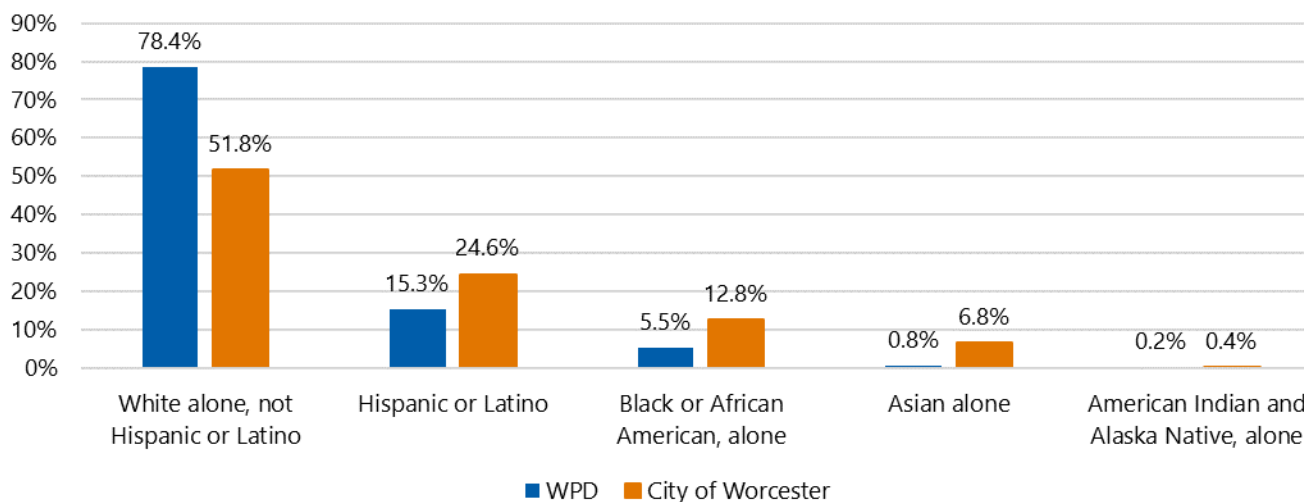
While the exact measurement of overrepresentation was misreported in the audit, the overall finding remains the same: WPD overrepresents White residents and underrepresents residents of color. **This adjustment does not contradict CNA's conclusion but clarifies one of the bases by which they made their recommendation. The Bureau's analysis aims to support informed public debate on the issue.**

**Chart 2: Race and Ethnicity of WPD's Supervisors**

Source: *Racial Equity Audit of WPD, Employee Earnings (2023)*

The equity audit's Figure 5 displays the share of officers by rank from each racial and ethnic category collected, as of January, 2023. The exact number of sworn officers within the entire department was approximated using the City's 2023 Employee Earnings Report, which was originally published on April 2, 2024 and updated in July, 2024, showing 472 sworn officers in WPD. Due to this gap in time, the share of officers by race and ethnicity for all positions below the rank of lieutenant should be interpreted as estimates rather than real-time figures. Nevertheless, the Bureau endeavored to conduct a secondary analysis of this data to provide greater accuracy.

As Chart 2 shows, WPD's leadership is about 91% White, and 9 officers of color across those positions. There are no candidates of color serving above the captain position.

**Chart 1: Racial and Ethnic Composition of the City of Worcester and WPD**

Sources: *American Community Survey's 5-Year Estimates (2022)*, *Racial Equity Audit of WPD*, *City of Worcester's Employee Earnings (2023)*



Patrol officers are the most racially and ethnically diverse rank within WPD, but there are still significant disparities. **Chart 3 on the following page shows that White officers constitute 75% of the rank, a 23% overrepresentation in a role that regularly interacts with the Worcester's diverse residents.**

The distribution of promotions by race and ethnicity also reveals disparities within the police department. This underscores the ability of qualified candidates of color to rise through the ranks, which is important for achieving more diverse leadership in the future.

**Below, Chart 4 shows that out of 49 WPD promotions between 2017 and 2022, White officers received 43 of them (88%).** Black officers received three promotions (6%) and Hispanic officers received three as well (6%). In the years 2019 and 2020, White officers received all 17 promotions.

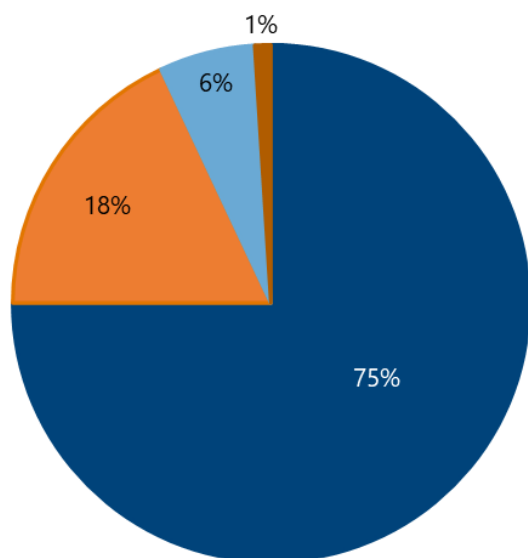
Creating representative bureaucracies is a widely endorsed objective among public agencies. The rationale is that by staffing agencies with individuals who share backgrounds and experiences with the community, there is an expectation that these public-facing employees will better understand and empathize with historically underserved populations ([Ricucci, 2017](#)). As a result, the agency's values and actions should reflect the perspectives and needs of the community.

However, some contest this theory of change, as it assumes that there is a direct link between racial and

ethnic representation and shifts in agency behavior. Public management scholars have argued bureaucratic constraints such as official and unofficial policies, institutional culture, and peer pressure can inhibit the expression of racial solidarity between government agents and community members from similar backgrounds ([Watkins-Hayes, 2018](#)). An agent's obligation to serve institutional interests can limit their ability to exercise discretion in order to improve outcomes for community members of similar backgrounds. These dynamics play out in various contexts: social work, education, health care, government administration, and policing.

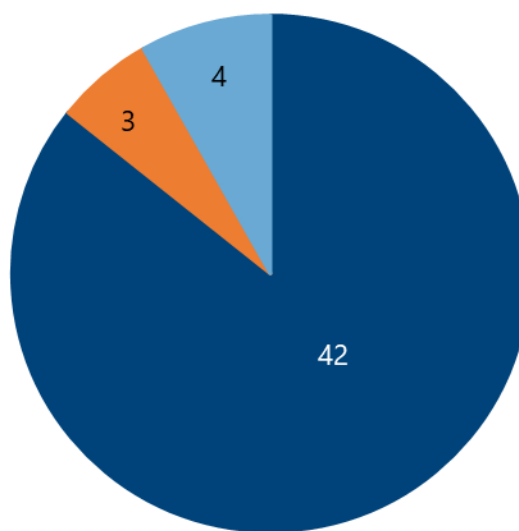
Therefore, while representative bureaucracies are a foundational step toward achieving meaningful change, they are not the ultimate goal (*Ibid*). Beyond diversifying police forces, city leaders must assess ways in which the department's culture, rules, and norms should become more representative. This sentiment was echoed by the Metropolitan Area Planning Council's (MAPC) 2020 report, ["The Diversity Deficit,"](#) which emphasized that while increasing diversity is crucial for fostering equitable policies and community trust, it must be paired with transforming workplaces into equitable, anti-racist, and anti-sexist environments. **MAPC recommended that departments struggling with diversity should consider "Withdrawing police and fire departments from the state's civil service program, replacing it instead with**

**Chart 3: Race and Ethnicity of WPD Patrol Officers**



■ White ■ Hispanic ■ Black ■ Asian and American Indian

**Chart 4: WPD Promotions by Race and Ethnicity (2017-2022)**



■ White ■ Black ■ Hispanic



**locally tailored criteria meant to mirror the community's specific needs, including diversity".**

Evidence also suggests that systemic barriers can prevent qualified candidates of color from starting and advancing their careers as police officers. Historic and ongoing police discrimination and misconduct against non-White communities can contribute to challenges in recruiting and retaining individuals from these communities ([Tyler & Huo, 2002](#)). Additionally, Black officers sometimes experience isolation within police departments due to incidents and perceptions of unequal treatment, which tend to go unreported ([Bolton et al., 2003](#); [Prengler et al., 2023](#)). The lack of adequate resources or cultural intelligence within police departments can undermine recruitment efforts, if they exist ([Sklansky, 2006](#)). The cost of exams and study materials can also present barriers at the intersection of race, ethnicity, and socioeconomic status. Police unions often resist reforms they perceive as threatening to their members' interests ([Fisk & Richardson, 2016](#)). Initiatives aimed at introducing more flexible hiring and firing standards or reforming promotion processes can encounter opposition, as unions prioritize protecting their members and preserving the status quo.

These factors generally combine to create recruitment challenges for diverse officers in police departments nationwide, and Worcester is likely experiencing similar issues. For example, the recent history of allegations and investigations of racism involving officers in the Worcester Police Department surfaced in 2021, raising concerns about the department's institutional culture and leadership ([Petrishen, 2021](#)). The [U.S. Department of Justice's "pattern-or-practice" investigation](#) is examining potential excessive force and discriminatory policing by WPD, which could contribute to negative perceptions of the department among prospective candidates. WPD's current interim chief has acknowledged that police have harmed communities of color ([Turken, 2024](#)). Also, on multiple occasions throughout the last twenty-five years, Worcester's police unions and leadership have opposed the City's consideration of requests to the Legislature and HRD to change the administration of civil service. Most recently, Worcester's police union for supervisors opposed the City's current home rule petition. ([Petrishen, 2024a, 2024b](#)). These issues illustrate some of the complex challenges Worcester faces in diversifying its police force.

The City's petition seems to suggest a shift from viewing administrative efficiency and flexibility as inherently beneficial to considering them as mechanisms for achieving greater diversity and equity in employment decisions as well.

**EMPLOYMENT DISCRIMINATION LAWSUITS AGAINST THE CITY AND HRD: CONSEQUENCES AND LESSONS**

This section examines a few legal cases that proved hiring discrimination by the City of Worcester and HRD against non-White police officers seeking promotions. Understanding the scope, implications, and the lessons from these cases is crucial for preventing future discrimination and promoting a more diverse WPD.

**One key lesson is that the City had the opportunity to diversify the department through Personnel Administration Rule 10 (PAR 10), which allows local appointing authorities to select candidates from historically underserved groups based on merit under the Civil Service Law. Despite this opportunity and a contractual obligation to utilize PAR 10 for a specified number of years, the City did not take advantage of it, leading to significant legal consequences.**

In 1994, two Black officers in WPD filed discrimination complaints with the Massachusetts Commission Against Discrimination (MCAD), alleging that the City's promotion process resulted in disparate impact for African-American officers. The complaint proceeded to its first hearing in 2001, when a hearing officer decided in favor of the City, finding "no liability on either a disparate treatment or disparate impact theory of discrimination" ([City of Worcester v. MCAD 6 Jan. 2021](#)). The officers appealed the ruling to MCAD's Full Commission, which remanded the decision back to the hearing officer to consider additional evidence. Again, the hearing officer decided in favor of the City in 2004. Following another appeal, the Full Commission was unable to reach a decision due to the absence of a third commissioner, resulting in a split outcome. Therefore, the hearing officers' decision was considered MCAD's official decision for the purpose of judicial review.

When the officers appealed again, the case was heard in Worcester Superior Court. In 2007, the Court remanded the case back to MCAD. **In 2011, MCAD found that the City made "impermissible racial considerations" in its decision not to use PAR 10, noting that "white officers' morale would suffer if lower scoring qualified minority officers were promoted ahead of higher scoring white officers"** ([Massachusetts Commission Against Discrimination, 2011](#)). MCAD decided that this demonstrated the City's preference for the interests of White officers over non-White officers. Therefore, "the appointing authority's conduct was motivated by impermissible racial bias" (*Ibid*).

All parties appealed the decision. Although the officers succeeded in proving discriminatory intent by the City, they sought review on the disparate impact theory of discrimination as well. In 2013, Worcester Superior Court



remanded the case to MCAD once again.

In 2015, MCAD issued its decision, concluding that the City violated the officers' rights based on the prohibition against **disparate impact discrimination**. MCAD found that promoting candidates based on their strict rank on the eligible list did not constitute a "business necessity" by the City, in part because PAR 10 was a clear alternative method that would not have led to discriminatory outcomes. Thus, the officers successfully argued that the City's failure to utilize PAR 10 satisfied the disparate impact theory of discrimination as well.

Another series of appeals followed, and in 2021, the Worcester Superior Court heard the appeals of MCAD's 2011 and 2015 decisions together. **The court upheld both of MCAD's decisions, concluding that the City violated employment discrimination law by demonstrating both disparate impact and disparate treatment theories of discrimination.** Later in 2021, the case was settled and the plaintiffs received \$1.5 million including retirement benefits, compensation for legal fees and the retirement status of sergeant ([Bonner, 2021](#)).

Understanding PAR 10 is crucial because the officers prevailed partly due to the City's failure to use PAR 10 as required by a contract with MCAD from 1988. The "Agreement Relative to Equal Opportunity and Affirmative

Action" required the City to implement "positive, aggressive measures to ensure equal opportunity in the areas of... promotions" for three years. ([Massachusetts Commission Against Discrimination, 2011](#)) PARs "establish standards for the conduct of the civil service merit system of employment" ([Office of Legal Counsel, Human Resources Division, n.d.](#)). PAR 10 allows municipalities to hire and promote applicants defined as "protected" or "disadvantaged persons" under [M.G.L. c. 31, §47A](#) by going outside of the standard eligible list (*Ibid.*). Figure 2 shows the step-by-step process by which local hiring authorities may utilize PAR 10.

In another local case in 2013, four officers of color in WPD filed a discrimination lawsuit against the City. The case was settled in Worcester Superior Court in 2016, promoting each officer but with "no admission of wrongdoing from the City" and a non-disparagement clause which limits the ability of the plaintiffs to discuss the details of the case ([Turken, 2021](#); [Petrishen, 2021](#)).

One of the same officers from the decades-long legal battle with the City also participated in a separate class action lawsuit against HRD in 2009. The plaintiffs, nearly 600 Black and Hispanic officers who applied for sergeant between 2005 and 2012, alleged that the division's promotional exams led to disparate impacts for non-White

**Figure 2: Utilizing PAR 10 to Select Qualified Candidates of Color for Civil Service Positions**

Method 1: Protected Groups	Method 2: Disadvantaged Groups
<ol style="list-style-type: none"><li>Protected groups are those that a department has discriminated against based on race, color, sex, or national origin in contravention of any provision of the Constitution of the United States, Title VII of the federal Civil Rights Act of 1964, or the Constitution of the Commonwealth of Massachusetts.</li><li>The appointing authority (the entity responsible for hiring) must request to fill one or more positions.</li><li>These positions must be included in the appointing authority's affirmative action plan, which is on file with the administrator.</li><li>The administrator must make a written determination, substantiating that previous hiring practices have discriminated against a protected group.</li><li>Once the above conditions are met, the administrator will certify additional names of applicants from a protected group to the traditional eligible list.</li><li>The local appointing authority will fill vacancies by appointing an equal number of candidates from the protected group and the eligible list, based on their rank on each list.</li></ol>	<ol style="list-style-type: none"><li>Disadvantaged persons, as defined by <a href="#">M.G.L. Chapter 31, § 47A</a>, are those who belong to a "minority group", are in a family with a net income that is below federal guidelines based on family size and location, lacks a high school education or equivalent, are under twenty-one years old or who is older than forty-five, or is handicapped.</li><li>The applicant must pass an exam for the lowest title in a job series. The administrator determines what constitutes the lowest title in the series. As long as the candidate in the disadvantaged group passes the exam, they are eligible to go forward.</li><li>This list of candidates from disadvantaged groups is called a special eligible list, which is separate from the traditional eligible list. Members from this list will be ranked according to the mandated preferences, just as the traditional eligible list of candidates.</li><li>When certifying names for appointment to a title where a special eligible list is valid, the hiring authority will alternate between names from this special eligible list and the traditional eligible list.</li></ol>

Source: Commonwealth of Massachusetts' Human Resources Division's Office of Legal Counsel (2010)



candidates ([Petrishen, 2023](#)). The Suffolk Superior Court found that the Commonwealth (HRD) interfered with the officers' rights to be considered for promotion to sergeant without racial bias. The court reviewed expert analyses showing that HRD's exams significantly disadvantaged Black and Hispanic candidates for police sergeant promotions, with studies from 2005 and 2008 revealing substantial performance gaps and lower scores for non-White candidates.

**Rote memory multiple choice tests, with questions drawn from a reading list, favor those whose educational experiences included such examinations.** Familiarity with such tests likely reduce the anxiety of test-takers. Experience helps develop strategies for answering questions, including ways to identify "distractors" (false options) and identifying the methods used by question writers. **HRD has not accounted for the existence of disparate educational opportunities and differing exposure to high-stakes rote memory tests as between racial and ethnic groups.** The court credits the testimony of the witnesses in this case who pointed to educational disparities as an explanation for the differing performance of such groups on HRD's tests. ([Suffolk Superior Court, 2022](#))

The court found that HRD was aware of the issues but failed to change their evaluation practices, perpetuating a false perception of fairness without addressing the discriminatory outcomes. The court noted:

**HRD failed to implement some very simple ways to reduce adverse impact upon Black and Hispanic candidates. Artificial reduction of the eligible pool resulted in consideration of fewer candidates overall, including [non-White] candidates. That, in turn, precluded considering many candidates on their full merits, as opposed to their test scores** (Ibid).

The case, settled in 2023 for \$40 million, awarded \$60,000 to each officer in the Boston Police Department and \$45,000 to each officer in other departments, including WPD. The ruling required HRD to modify the promotional exams to address issues of racial bias going forward.

These costly and contentious cases are not unique to the City of Worcester. Massachusetts has seen numerous employment discrimination cases filed by officers of color, alleging that the promotional exams have a discriminatory impact. Cases such as *Lopez v. City of Lawrence*, *Smith v. City of Boston*, *Sullivan v. City of*

*Springfield*, *Cotter v. City of Boston*, and *Stuart v. Roache* have brought the issue to greater public attention as well.

The City's current Affirmative Action Plan states that the Director of Human Resources has the responsibility to "recommend the use of PAR 10" when "underutilization or underrepresentation is apparent" ([Chief Diversity Officer & Human Resources Department, n.d.](#)). In such cases, "special certifications (PAR 10), and any other method that can be used to facilitate affirmative action efforts, will be used" (Ibid). It is unclear if the City currently uses PAR 10 to promote qualified officers of color within WPD.

Importantly, the City's petition concerns only the chief and deputy chief positions within the WPD, which are not related to the hiring discrimination issues faced by officers in lower levels, as examined in this section. While exempting the chief and deputy chief from civil service may enhance efficiency, flexibility, and diversity at the highest ranks, it does not address diversity issues within the lower ranks or other important supervisory roles. **Regardless of the state's decision on the City's home rule petition, the City should seek HRD's authorization to apply PAR 10 to all eligible civil service positions within WPD. This step will help ensure more equitable hiring practices in compliance with the Civil Service Law.**

## REASONS MUNICIPALITIES PURSUE EXEMPTIONS FROM CIVIL SERVICE

Worcester is not alone in requesting exemptions from civil service. In recent years, an increasing number of municipal police and fire departments across Massachusetts have also filed **home rule petitions** to exempt departments from civil service. This section summarizes the primary reasons municipal police (and fire) departments seek exemptions from civil service: inefficient hiring timelines, ineffective exams, and the

## WHAT IS A HOME RULE PETITION?

Home rule petitions allow Massachusetts cities and towns to request special legislation from the Legislature for specific local needs. This process enables local governments to propose changes or enact laws outside their usual jurisdiction, such as altering tax regulations or exempting from state civil service rules.

The process starts with the city or town passing a resolution outlining the desired changes, which is then sent to the Legislature for review and public hearings. If approved, the new law applies only to that municipality.



rigid 2N+1 hiring formula. It underscores the common goals shared by state and municipal departments—such as merit-based hiring, impartial oversight, and operational efficiency—while also highlighting the differing perspectives on how best to achieve these objectives.

In 2020, An Act Relative to Justice Equity and Accountability in Law Enforcement in the Commonwealth established the Special Legislative Commission to Study the Civil Service Law (“the Commission”). One of the Commission’s objectives was to examine why communities have exempted their departments from civil service.

The Commission’s Subcommittee on Communities Not Subject to Civil Service presented findings highlighting the frustrations that municipalities experienced while under civil service. The Subcommittee gathered testimony from police and fire chiefs, as well as other officials from local departments that were exempt from civil service ([Massachusetts Public Service Committee, 2022, 11:50-51:00](#)). Understandably, the reasons were multifaceted, reflecting the needs of each municipality. However, the Subcommittee grouped common responses and sentiments, and presented the central themes highlighting municipal leaders’ perceived flaws of civil service. This section summarizes those criticisms, as conveyed by municipal leaders and chiefs. Their testimony is complemented by original research from the Bureau, aimed at evaluating their justifications through research and evidence.

## **HIRING, RECRUITMENT, AND PROMOTIONAL TIMELINES**

Municipal chiefs expressed concerns regarding long hiring timelines due to HRD’s slow turnover of test results and the creation of eligible lists. Smaller communities reported experiencing the same delays as larger ones, creating unfair burdens. Some departments backfilled their vacancies with overtime, which lead to increased costs. Departments that have been exempted from civil service claimed that the two-year cycle for entry-level and promotional exams impeded upward mobility for qualified candidates.

Some of these critics stopped short of blaming HRD for these frustrations. Instead, they attributed these challenges to chronic underfunding, which impedes HRD’s ability to efficiently administer test results, develop eligible lists, and address backlogs. Representatives from the Professional Fire Fighters of Massachusetts described this underfunding as “death by one thousand paper cuts,” which gradually reduces HRD’s ability to do its job, thus increasing administrative burdens for municipalities.

The Massachusetts Municipal Association (MMA) testified that the hiring timeline under civil service significantly hinders efficient hiring practices for local hiring authorities. Their analysis of the typical hiring timeline illustrates that after a conditional offer of employment is extended to a candidate, it can take two and a half years before the hire is able to “hit the road” ([Massachusetts Public Service Committee, 2021](#)). The many steps in between include the entry-level civil service exam, the formation of an eligible list, background checks, the interview process, the police academy, and field training. This timeline was framed as the “best case scenario” for officers under civil service. The MMA highlighted that the misalignment between exam schedules and police academy start dates is crucial in prolonging the hiring process. To address this, HRD has offered entry-level exams every year as opposed to every other year.

Municipal chiefs also viewed civil service as a significant barrier to hiring during a period when interest in the profession was declining. Some research indicates that police departments across the country have seen declines in applications in recent years. According to a 2023 report by the [Police Executive Research Forum \(PERF\)](#)<sup>3</sup>, the percentage of sworn officers in U.S. police departments declined by 4.8% from 2019 to 2023. Furthermore, 69% of departments surveyed reported a decline in the number of applicants for full time positions between 2020 and 2022. 65% of departments also reported an increase in retirements over this period as well.

In some of Massachusetts’ largest cities, PERF’s national findings seem to ring true. In January 2023, a representative from the Boston Police Department claimed that it had “about 220 fewer sworn members year-over-year” ([Logan & Klein, 2023](#)). Similarly, Cambridge Police Department reported that the agency has around 20 vacancies, as of April 2023 ([Fortin, 2024](#)). **In the City of Worcester, the interim chief reported in November 2023 that WPD is “down 56 officers, with 40 vacancies and another 16 officers injured on duty” ([Tran, 2023](#)).**

These trends could be driven by several factors. Policing can be a high-risk, stressful job, with officers facing increased exposure to traumatic events. Studies have indicated a concerning prevalence of Post-Traumatic Stress Disorder (PTSD) among police officers, highlighting the mental health challenges associated with the profession ([Wagner et al., 2020](#)). Additionally, police departments face intense public scrutiny, particularly following high-profile murders and cases of misconduct against non-White individuals. The COVID-19 pandemic also likely reduced interest in pursuing careers in policing, mirroring declines seen in other public-facing professions





during the acute phases of the public health crisis.

Amidst these industry-wide challenges, some chiefs argued that for civil service departments, the long hiring process is an additional deterrent. Since gaining exemption from civil service, some leaders from these departments have reported an increase in their annual application numbers. Members of the Commission have expressed their interest in receiving data to substantiate those claims, but no such evidence has been provided yet. Furthermore, there is currently no comprehensive data available to fully assess hiring shortages across Massachusetts' municipal police departments, whether they operate within or outside of civil service.

### **INEFFECTIVE EXAMS: MISLEADING METRICS, DISPARATE OUTCOMES**

Critics of the civil service exams argued that they fail to measure important attributes such as personality, attitude, and character. They claimed that officers could be trained in the procedural knowledge and skills assessed through the exams, but this limits local hiring authorities to selecting good test-takers rather than evaluating intangible qualities that align with their department's culture and approach to policing. One critic stated that "a merit system makes sense, but a multiple-choice exam is no longer a good way to select police officers." This criticism echoes the long-studied limitations of standardized testing, particularly in "high-stakes" settings such as education and in the job market ([Ricci, 2004](#); [Riccucci, 1991](#)).

Some municipalities have stopped testing, favoring interviews with panels of supervisors instead. Another viewpoint suggests that exams should be one of many factors in determining who has "merit" rather than the sole criterion.

There has been sharp and persistent criticism of multiple-choice, written exams as an obstacle to creating a diverse, representative workforce. Mark Brodin, a professor at the Boston College School of Law, has meaningfully contributed to the discourse on Massachusetts' civil service exams. Brodin claimed that HRD's test over-relies on memorization instead of essential supervisory skills such as situational judgement and interpersonal abilities. He argues that these exams disproportionately exclude non-White candidates by reflecting past educational and economic disparities rather than potential or job performance. Therefore, an over-reliance on test results impedes efforts to diversify police department leadership. Despite these flaws, Brodin argues, resistance to change persists. Exams continue to be validated in court due to weakened standards rather than alignment with job performance measurement or needs ([Brodin, 2022](#)).

Other scholars have examined how exam scores of historically underserved candidates "tells us more about past opportunity [i.e., education, family resources] than about future accomplishments on the job or in the classroom" ([Sturm & Guinier, 1996](#)). They add, "testing itself may favor the affluent because, for instance, they are more familiar with written exams. Those raised in impoverished neighborhoods may possess equal potential but less opportunity to demonstrate such potential due to inadequate schooling or mentorship" (*Ibid*).

### **ELIGIBLE LISTS AND THE 2N+1 RULE**

HRD uses a 2N+1 formula to determine how many candidates a local hiring authority may choose from once exam results and ranked preferences are applied. 'N' represents the number of vacancies, so the formula is two multiplied by the number of vacancies, plus one. Therefore, municipalities with more vacancies may select from a greater range of candidates. Some department leaders found this formula arbitrary and inadequate for selecting the best candidates for the job.

### **COMMON OBJECTIVES, CONFLICTING METHODS: THE BURDEN ON LOCAL COMMUNITIES**

After reviewing recorded meetings of the Special Commission to Study Civil Service, it is clear that state and local leaders share common objectives for administering hiring in police and fire departments. Testimony from HRD's Civil Service Unit, municipal leaders such as fire and police chiefs, and various advocates, revealed shared objectives to continue merit-based appointments, combat nepotism, and provide impartial oversight over hiring practices. However, divergence arose in the practical implementation of these goals. Critics of the current system argued that while these goals are praiseworthy, they need to be supported by a framework that enables efficient hiring, fosters diversity, equity, and inclusion, and provides municipalities with greater flexibility in decision-making. This tension highlights the ongoing debate over the best way to balance fairness and efficiency in public sector employment practices. Policymakers must address these administrative and structural issues to maintain a fair and effective public service hiring process.

### **GROUPING AND MAPPING POLICE DEPARTMENTS BY CIVIL SERVICE STATUS**

If the City's home rule petition is successful, Worcester would align with large cities like Boston, Cambridge, and Springfield, where chiefs are not appointed through civil service. Meanwhile, other large departments, such as Lowell, Quincy, and Lynn, continue to fully participate in



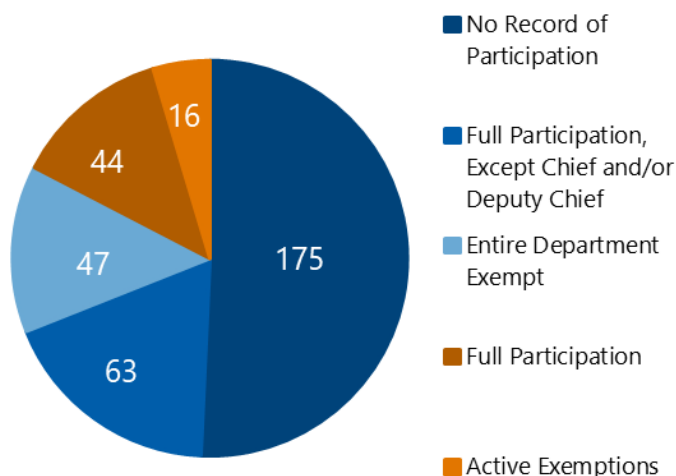


the system. This section aims to evaluate how WPD compares to other municipal police departments regarding civil service participation and leadership position exemptions, and to examine the broader landscape of civil service involvement among Massachusetts police departments.

The Bureau identified similar police departments across Massachusetts whose key leadership positions have also been exempted from civil service. With limited administrative data, the Bureau created a methodology to group every municipal police department in Massachusetts by their civil service status. This section examines the findings from the Bureau's analysis. Refer to the methodology (Appendix D) to learn more.

**Massachusetts has 345 municipal police departments. As shown in Chart 5 below, 107 of these departments participate in civil service.** 44 departments are "fully participating," which means that all of their sworn officers are subject to the Civil Service Law. The other 63 departments are fully participating, except the chief and/or deputy chiefs. An additional 47 municipalities have exempted their entire police department from civil service. **175 departments are coded as "no record of participation found"**. It is likely that in some instances, departments with no record of participation were successfully exempted from civil service years (or perhaps decades) ago. Appendix A maps each municipal police department by its participation status. This data reflects the Bureau's best attempt to code every municipal department in the Commonwealth.

**Chart 5: Municipal Police Departments by Civil Service Status**



Source: HRD Civil Service Communities Website and WRRB

**The remaining 16 departments either currently have home rule petitions awaiting review by the Legislature's Joint Committee on Public Service or**

**have recently chosen to submit such petitions.**

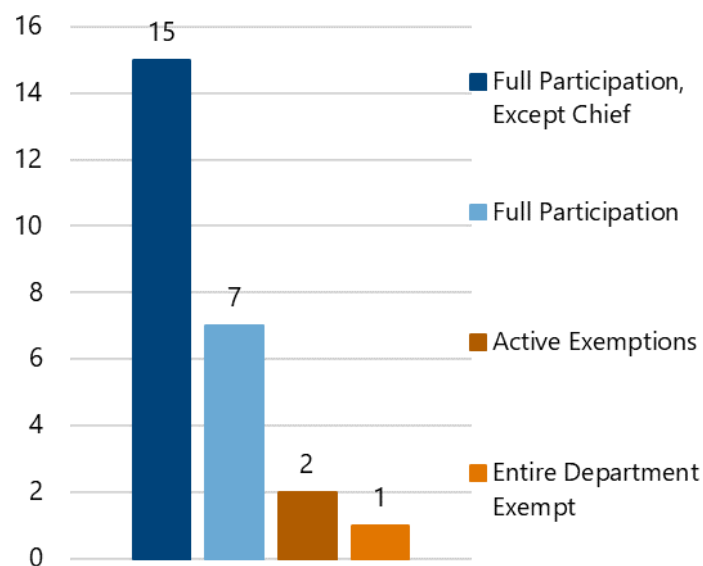
Thirteen of these departments request exemptions for the entire department, two request to exempt only their chiefs, and one department, **WPD, seek to exempt the chief and deputy chief positions. Currently, WPD is "fully participating"**. Appendix B maps all the exempted police departments as well as municipalities with active home rule petitions for an exemption.

In larger departments, which tend to serve urban communities, exemptions often apply to top leadership positions such as the chief and deputy chiefs. This trend may be influenced by concerns from police unions, which tend to resist changes to civil service and want to secure the continuity of protections. Additionally, larger cities with more constrained budgets may be worried about the costs they will incur if civil service protections are eliminated. This is because usually, removing HRD from the process requires enhancing the capabilities of local human resources divisions. The state usually seeks assurances from municipalities about maintaining fair and transparent employment practices for municipalities seeking exemptions.

If the City of Worcester's home rule petition is approved, exempting the chief and deputy chief positions would align the agency with several large departments in urban areas. Chart 6 categorizes the 25 largest police departments based on their civil service participation.

**15 departments, including Boston, Springfield, Cambridge, New Bedford, Fall River, Brockton, and Lawrence, cover all positions except the chief under civil service.** If approved, Worcester would join this list,

**Chart 6: Civil Service Policies in Police Departments Over 100 Officers**



Source: HRD's List Civil Service Communities and WRRB



along with Barnstable. Seven large departments, including Lowell, Quincy, Lynn, Chicopee, Plymouth, Taunton, and Medford, continue to include all positions in civil service. Framingham is unique in this group for exempting its entire force, which consists of 123 sworn officers serving 71,000 residents. Thus, Worcester's initiative would align it with other large departments that hire key leadership outside of civil service rather than making it an anomaly. Appendix C maps these 25 peer departments, including Worcester.

The Bureau focused on comparing departments based on which positions are currently under civil service and which are not, rather than on whether these departments successfully achieved exemptions. This approach provides a clearer understanding of how Worcester's potential transition compares to other cities.

## ONGOING DEVELOPMENTS

The ongoing dispute between the City of Worcester and its police chief deputies regarding the hiring of a permanent chief while awaiting the outcome of the home rule petition raises many important questions for public consideration. This section examines this development in detail, utilizing the most recent available information, and explores related matters, including the positions of the City Manager, police chief, and police unions, as well as the potential for eventually exempting the entire department from civil service.

Worcester's home rule petition, [Bill H.4590](#), currently sits in the Joint Committee on Public Service, along with 15 other petitions from other municipalities. There are also a few bills aimed to reform the Civil Service Law.

City leaders provided testimony in support of the home rule petition to the Joint Committee on Public Service on May 14, 2024 ([City Manager and Mayor of Worcester, 2024, 5:00-15:00](#)). Both the City Manager and the Mayor provided arguments to the Committee, advocating for the exemption of the Chief and Deputy Chief of Police positions from civil service requirements. Their testimonies highlighted the importance of this legislative change and their belief that if the home rule petition succeeds, that the City can more easily push for equity and accountability within the Worcester Police Department.

The City Manager emphasized that the existing civil service process has posed significant challenges in promoting diversity within the department. He cited that the civil service system, particularly its reliance on a written multiple-choice test, has disproportionately favored white officers, creating barriers to equitable leadership representation. The City Manager argued that

exempting the top police positions from civil service would allow for more flexible and equitable hiring practices, ensuring that the department's leadership better reflects the diverse community it serves. He stressed that this change is a crucial step in addressing systemic barriers and advancing the city's broader racial equity goals.

The Mayor echoed these concerns, noting that the civil service requirements have historically limited opportunities for officers of color to advance to leadership roles within the police department. The Mayor highlighted the City's commitment to diversity, equity, and inclusion, as reinforced by audit's findings. By removing civil service constraints, the Mayor added, the City would have greater freedom to select police leadership based on experience, qualifications, and a deep understanding of the community's needs. This, the Mayor emphasized, would lead to a more accountable and representative police department, better aligned with the city's ongoing efforts to address institutional racism. Both city leaders underscored that this legislative change is essential for ensuring a fair and equitable process in selecting Worcester's next police chief and deputy chiefs.

A bill currently before the Massachusetts Legislature could potentially include reforms to civil service across the Commonwealth. Filed by Governor Maura Healey on March 1, 2024, as H.4459, it initially focused on economic development bonding. However, after moving through various committees and undergoing numerous amendments, the House passed the bill as [H.4804](#), which included an amendment to modernize civil service. When the bill reached the Senate on July 1, 2024, this amendment was withdrawn, and the Senate's version of bill was passed on July 11. On July 17, 2024, a conference committee has been formed to reconcile the House and Senate versions. As the bill continues to move through the legislative process, it remains uncertain whether any changes to civil service will be reintroduced or addressed in future legislative sessions.

The proposed changes included in H.4804 offer several changes to the civil service system. One significant update is the introduction of a hybrid pathway for hiring, which combines traditional civil service exams with alternative assessments to create a more flexible and streamlined recruitment process. Additionally, the bill expands residency requirements, allowing candidates greater flexibility in where they live while still being eligible for employment. The amendment also supports the development of cadet programs by providing funding and guidelines to establish structured pipelines for future recruits, enhancing both preparedness and recruitment.



To promote equity and diversity, the bill introduces a Manager of Civil Service Diversity, Equity, and Inclusion position, reporting to the Director of Diversity and Equal Opportunity. This role will promote diversity and inclusion in civil service employment and support the Commission on Recruitment, Hiring, and Retention of Municipal Police Officers and Firefighters. Administrative changes include revised procedures for the CSC to improve efficiency, such as streamlined review processes and updates to procedural guidelines.

Reportedly, the Joint Committee on Public Service intends to see if there is any legislative action on reforming civil service before approving more home rule petitions to exempt departments or positions from civil service.

The City's petition initially faced criticism from the International Brotherhood of Police Officers Local 504, the union representing sergeants, lieutenants, and captains. The union "vehemently opposed" removing its members' positions from civil service, arguing that the current system "provides a fair and balanced opportunity for officers to advance through the ranks" ([Petrishen, 2024a](#)). The union considered filing an unfair labor practice charge in response to the decision, but the petition makes it clear that the change would only apply to new hires.

The City Manager and interim chief have both expressed openness to exempting the entire department from civil service, but cited logistical hurdles to doing so. In May, 2024, the interim chief told the Human Rights Commission that he was open to exempting WPD (*Ibid.*). On "The Buzz," the City Manager's informational video series, the City Manager stated, "with over 400 employees in civil service, we [the City] would need to establish protections for individuals in-house, which requires adequate resources" ([City of Worcester, 2024](#)). While many communities have removed their police departments from the civil service, "those are all much smaller communities", he said (*Ibid.*).

The New England Police Benevolent Association Local 911, the union representing patrol officers only, expressed the same concern. Exiting the civil service for the entire department would require "more [local] money to create a test, more human resources employees, and would need to be bargained with unions to ensure similar protections and grievance processes are carried forward," he said ([Petrishen, 2024a](#)). A representative also added that "the system protects against political meddling... nepotism, discrimination, and other things unrelated to merit" ([Petrishen, 2024b](#)). **According to the most recent collective bargaining agreement between the patrol**

**officers' union and the City, "the parties will form a study committee... to review eliminating civil service from the Department" ([City of Worcester, 2023](#)). The agreement was signed on June 30, 2023 and expires in 2025.**

More recently, on August 19, 2024, it was publicly reported by the Telegram and Gazette that Worcester Police Department's three permanent deputy chiefs have requested the Civil Service Commission (CSC) to investigate whether the City is complying with civil service law ([Cartolano, 2024](#)). The deputies argue that the City is required to start the process of hiring a permanent police chief under the law, even though the position is currently filled provisionally under civil service. They assert that the City should have requested HRD to initiate an examination shortly after naming one of the deputy chiefs as interim chief. Instead, the deputies claim, the City notified HRD and requested approval for a provisional appointment seven months later. They contend that the City's plan is to wait for the Massachusetts Legislature to decide whether to approve its home rule petition; at that point, if approved, the City Manager will then appoint the current interim chief into the role permanently. The three deputies argue that they have the right to be considered, which cannot be impeded by the City's desire to exempt the position.

**Below is a summary of the timeline of events submitted by the three deputies to the CSC, which were subsequently discussed during the CSC's show cause conference on August 20, 2024.** The purpose of this conference was for the CSC to hear the deputies' claims. To date, the City has neither contested nor supplemented these statements in writing, but they have 30 days after August 20, 2024 to do so. **The deputies claim that the following timeline and events took place, supplemented by the Bureau's secondary research, and updates from the show cause hearing:**

- July 10, 2023: Four deputy police chiefs met with the City Manager, Assistant City Manager, and the City's Human Resources Director. The City Manager was informed that the deputies opposed the idea of removing the chief position from civil service.
- September 1, 2023 the following facts were true:
  - The chief of police position was vacant due to the chief's retirement.
  - There was no suitable eligible list for the chief position at this time.
  - Only three of the four deputies met the civil service eligibility requirements to take the examination for chief of police.



- ▶ The one deputy chief who was not eligible to take the examination at this date had been permanently promoted to deputy chief on May 28, 2023. **The law requires that at least four eligible candidates from the next-lowest rank under chief of police must be available in order to hold an examination for the position. If there are fewer than four eligible candidates, those with at least one year of experience in the next-lowest title, such as captain, also become eligible. As of September 1, 2023, this rule meant that three deputies and seven captains within the WPD were eligible to take the chief's examination, ensuring the legal requirement of having at least four eligible candidates was met.**
  - September 1, 2023, the following events took place:
    - ▶ The four permanent deputies met with the City Manager and Assistant City Manager. The City Manager told them that the chief of police position would remain in civil service, that one of the deputies would be selected as a temporary/interim chief of police after conducting interviews on the same day, and that after appointing a temporary/interim chief, the City Manager would call for an assessment center to permanently fill the position of chief of police on a permanent basis.
    - ▶ One of the deputy chiefs was selected as the temporary/interim chief of police after each deputy was interviewed by the City Manager and Assistant City Manager.
  - November 2023: The City of Worcester published a competitive bid proposal (Bid # CR-8107-W4) for a company to schedule assessment centers for the positions of police chief, deputy police chief, police captain, fire chief, deputy fire chief, and fire district chief, on an as-needed basis. The City awarded an assessment center company a contract that will be active between January 1, 2024 to December 31, 2026.
  - February 20, 2024: The three deputy chiefs met with the City Manager. The City Manager informed them that he intended to have the chief of police position removed from civil service. The City Manager informed them that upon the City Council's approval, he would send a home rule petition requesting the change from the Massachusetts Legislature. Then, the City Manager expressed his intent to promote the current interim to the chief's position permanently.
- The three deputies objected to the City Manager's plan.
- March 10, 2024: The three deputies sent email correspondence to select members of the City Council expressing their confidence in the civil service process; their concern with the plan that the City Manager described on February 20, and asked the councilors for an open, fair, transparent process for selecting a permanent police chief.
  - March 14, 2024: The current interim forwarded the three deputy chiefs an email from the City Manager, who expressed his displeasure with the three deputies regarding the emails that they sent to select city councilors. The City Manager told the three deputies that they may be subject to discipline.
  - March 19, 2024: The City Council authorized the City Manager's request to send a home rule petition to the Massachusetts Legislature to exempt the chief and deputy chief positions within Worcester Police Department from civil service.
  - April 9, 2024: The City sent notice requesting HRD to approve a provisional appointment of the current interim chief.
  - April 26, 2024: The home rule petition (H. 4590) was referred to the Massachusetts Legislature's Joint Committee on Public Service.
  - May 28, 2024: The one deputy who was not eligible to take the chief's examination as of September 1, 2023, became eligible on that date. This meant that, at this point, four candidates from the permanent rank of deputy, including the current interim chief, were all eligible to take the chief's examination. As a result, the legal requirement of having four eligible candidates from the deputy rank was fulfilled, which eliminated the eligibility of any positions below that rank, such as captains, to take the examination.
  - June 13, 2024: The Civil Service Commission made a ruling on a dispute between the deputy fire chiefs in Medford Fire Department and the City of Medford, which the three deputies in Worcester Police Department argue is relevant to their current dispute with the City of Worcester.
  - July 3, 2024: The three deputies emailed the City Manager, Assistant City Manager, and the City's Human Resources Director asking the City to immediately schedule an assessment center for a chief's examination in order to establish an eligible list, and then fill the chief of police position on a permanent basis.





The three deputies claim that since September 1, 2023, the City has not taken any steps to fill the chief's position on a permanent basis, except for contracting a vendor to conduct an examination. More details emerged during the show cause conference, which further complicates this dispute between the City and the three deputy police chiefs.

Although the City is now utilizing the 30 days provided by the CSC to offer a written response to the three deputies, the City's legal counsel offered some preliminary responses to the deputies' claims. **The City alleges that the four deputies requested a delay in holding the examination until the one deputy chief who was ineligible in September 2023 became eligible. In other words, the deputies may have wanted the process to be delayed until May 28, 2024.** Therefore, while the deputies argue that the City's inaction over the past year has caused them harm, if the City's counterpoint is true, it suggests that the delay was at least partially due to the deputies' own request. This could weaken the deputies' argument that the City's inaction was entirely responsible for the alleged harm they experienced.

Waiting to hold the examination would have naturally benefited the deputy who was not eligible until May 28, 2024, but would yield advantages for the other two deputies involved in this dispute, as well as the current interim chief. As the three deputies noted in their statement of facts, under the civil service law, if there are not at least four eligible candidates from their rank to take the chief's examination, eligibility extends to employees in the next lowest rank ([M.G.L. c.31, §59](#)). Therefore, delaying the process would have helped ensure that the eligibility pool remained limited to the deputies, eliminating competition from seven potential competitors, the captains who were eligible over an eight-month period. This context helps to understand why a delay might have seemed advantageous for the deputies involved.

In the hearing, the deputies additionally asserted that the City submitted paperwork to the Human Resources Division (HRD) on April 9, 2024, to request a provisional appoint of the interim chief only after HRD requested such documentation in response to complaints received about the issue. Then, on June 24, 2024, the deputies claim that they filed a petition with the CSC requesting an investigation into the City's intent to not go forward with the appointment of a permanent chief until the state has decided on its home rule petition.

This raises important issues for the CSC to consider. According to [M.G.L. c.31 §12](#), an examination and an eligible list must be created after a provisional

appointment is made in order to fill a civil service position on a permanent basis. The section says:

**After authorization of a provisional appointment pursuant to the preceding paragraph, the administrator shall proceed to conduct an examination as he determines necessary and to establish an eligible list. Such examination shall be held and such eligible list shall be established within one year from the date of such authorization** if the appointment must comply with federal standards for a merit system of personnel administration as a condition for receipt of federal funds by the commonwealth or any of its political subdivisions.

The statute mandates a specific deadline for creating an examination and establishing an eligible list following a provisional appointment. **However, the City seems to have delayed formally notifying HRD to request approval for a provisional appointment for seven months after one of the deputy chiefs was locally appointed as the interim and assumed the powers and responsibilities of the position.** The critical question is whether the City of Worcester, or any local hiring authority, must obtain HRD's approval for a provisional appointment before the appointee assumes the position's duties, or if they can promote locally first and seek HRD's authorization afterward. Clarifying this issue is essential for transparency and keeping state agencies informed. It remains uncertain if the CSC will investigate and address this matter. Clarifying this issue is essential for ensuring transparency and keeping state agencies fully informed. Whether the CSC will investigate and address this matter remains uncertain.

The broader issue concerning the timing of the City's request to authorize the provisional appointment raises an important consideration: Even if the deputy chiefs or the City had reasons to delay the chief's examination, it remains unclear whether they are permitted to do so or if the City is obligated to proceed with filling the chief's position on a permanent basis. This remains an open matter that the CSC may need to address.

**The three deputies argue that there is already some precedent regarding when local hiring authorities must start the process of filling a position currently being occupied by a provisional appointee, on a permanent basis.** The deputies referenced a dispute between the City of Medford and Medford's deputy fire chiefs, which they claim is similar enough to their dispute with the City of Worcester to warrant a similar decision by the CSC. In this dispute, the CSC found that "any effort by the appointing authority [the City of Medford] to





unnecessarily delay the filling of the current vacant Fire Chief position pending an outcome of a petition currently before the City Council would be viewed as inconsistent with the requirements of the civil service law” ([Civil Service Commission, 2024](#)).

In the show cause hearing, the Commissioner clarified that while local hiring authorities are allowed to have provisional appointments for vacant positions when no eligible list is available, the city or town must also **“submit documentation requesting to participate in the next exam cycle for the affected title”, in accordance with HRD’s rules.** Should a local hiring authority request to use an assessment center instead of HRD’s traditional multiple-choice examination, the Commission stated that the local hiring authority is required to **“move expeditiously to ensure that these assessments are administered consistent with the same time frame of the [traditional] statewide examinations” for fire chiefs.** According to HRD’s website, there will be no statewide examinations for appointing police chiefs offered in 2024. After reviewing the City’s response to the three deputies, the CSC will determine whether the facts justify an investigation and if the City’s delay in requesting a provisional appointment, requesting an examination, and creating an eligible list is warranted. To learn more about the exact details of the dispute in Medford, refer to article written on the subject ([Reynolds, 2024](#)) or the CSC’s ruling itself ([Civil Service Commission, 2024](#)).

City Counsel outlined several reasons why the City plans to wait for the Legislature’s decision on its home rule petition before proceeding with the promotion of a permanent police chief. The City argued that the civil service system has been adjudicated as racially biased by courts and agencies of the Commonwealth, and the City is working to address these residual impacts. Additionally, the City of Worcester’s Racial Equity Audit of the Worcester Police Department recommended removing the department from civil service to allow for a more diverse pool of candidates. Further supporting this approach, City Counsel referred to the fact that Worcester City Council, unanimously voted to approve the City Manager’s request to file a home rule petition, which reflects a desire among voters and taxpayers for a more open hiring process. Therefore, awaiting the outcome of the home rule petition before appointing a permanent chief is a decision that will yield a more inclusive and equitable approach, without regard to the outcome of that approach, it was argued.

The three deputies later challenged this claim during the hearing. First, the deputies claim, the court cases that City

Counsel alluded to focused on racial inequalities related to the traditional, multiple-choice examination, which led to those examinations being revamped by HRD. **Second, according to the deputies, for over one decade, the positions of captain, deputy chief, and chief have not been evaluated using statewide, multiple-choice examinations, but rather assessment center examinations.** The Commissioner clarified, at a different point in the hearing, that the assessment center process usually includes evaluation methods such as in-depth interviews or inbox exercises, which are designed to gauge a candidate’s situational judgement in response to realistic issues that they might face on the job. **These types of assessment models, according to the deputies, have not been adjudicated to be racially biased.**

**City Counsel’s arguments for advancing racial equity, at least as a justification for not continuing the permanent promotion of the chief of police, may also be inconsistent with their options under civil service.** The Commissioner suggested that under an “open, competitive assessment center” model of examining candidates, the Commissioner would be hard-pressed if the City could not find a qualified list of diverse candidates. Under [M.G.L. c.31, §11](#), local hiring authorities may make a promotion through a competitive examination. This exam can be open to all of the “permanent employees of the Commonwealth, or of the city, town, or district where the promotion is to be made,” provided that these employees have been in a civil service position for at least six months before the exam date. Additionally, their job titles must be considered eligible by HRD. The Commissioner offered this approach an example of how WPD’s next permanent chief could be selected through civil service, while also creating conditions for a more diverse, but also qualified pool of candidates.

While the open, competitive assessment center model may create a more diverse pool of applicants, perhaps the City also values having individuals who are already familiar with the department’s history, culture, and existing issues, which would be crucial for promoting progress and implementing necessary changes effectively. Basically, the Commissioner’s intent was to dispel the myth that civil service does not allow options for local hiring authorities to promote diversity. However, it is important to note that the three deputies currently disputing the City’s inaction, as well as the current interim chief, who are currently the only eligible candidates for the position, are all White. While Section 11 of the civil service law creates an avenue to promote a diverse pool of candidates, achieving such diversity could come at the



cost of hiring a candidate with deep institutional knowledge of WPD.

**Importantly, neither the Commissioner, the deputy chiefs, nor City Counsel addressed how the City could have considered a more diverse pool of applicants by looking within the department.** According to the deputies' timeline of facts, such an opportunity was available to the City between September 1, 2023 and May 28, 2024, during which time, seven captains were eligible to take the chief's examination. One those seven captains is Black. This captain is the same individual noted earlier in this report who sued the City alongside three other officers of color in 2013, alleging that the City's promotional practices were problematic. That case was settled in 2016 with a lengthy non-disparagement clause for the plaintiffs and the City admitting no wrong doing. This officer was promoted to the rank of lieutenant, and the other three officers were promoted within one year of the settlement. This same officer also reportedly worked in WPD's Bureau of Professional Standards, which investigates civilian complaints against officers in order to "ensure the integrity of the WPD and its personnel" ([City of Worcester, n.d.](#)). This officer was also the first, and is currently the only, Black captain in WPD. If the City had notified HRD and received authorization for a provisional appointment at any point between September 1, 2023 and before May 28, 2024, this captain could have taken the chief's examination. In short, this would have allowed the City to consider a more diverse pool of candidates to fill the chief's position on a permanent basis, while also doing so within WPD. Based on the Bureau's analysis of WPD's staffing levels, the pool of candidates eligible for the chief's exam from September 1, 2024 to May 28, 2024 was 11 White candidates and one Black candidate. After May 28, 2024, the eligible candidates within WPD shrunk to four White candidates.

If the CSC raises concerns about the timing and sequence of the City's decisions, it is uncertain whether the captains who were eligible to take the chief's examination as of September 1, 2023, but were arguably denied that opportunity—similar to the deputy chiefs' current claims—could be granted a chance to take the examination. In the hearing, the Commissioner asked what kind of relief the deputies would request from the CSC, should the City start the process of filling the chief of police position permanently, but the Legislature approves the City's home rule petition in the middle of such a process. To that, one of the deputies responded:

We understand that that situation can play out, but we are still willing, and we would still expect them to begin the process and move forward.

The fact that we have already been delayed one year is a little unfortunate. **If the Commission finds that City should have been moving forward almost one year ago, and now the home rule petition comes out, all of that time that was delayed, we think should be given back to us, and the home rule petition should be delayed, at least so that the process can play out.**

It is unclear whether the CSC has the authority to "grant time back" by providing an additional year for the three deputies to take the chief's examination and be placed on an eligible list, especially if the Legislature approves the City's home rule petition in the interim. However, the deputies' request highlights a significant point of confusion that warrants public and Commission consideration.

If the CSC were to issue an order directing the City to immediately start or continue the process of hiring a permanent police chief under civil service, the Commission would likely also need to decide who qualifies as eligible candidates for that consideration. It is valuable to reexamine some of the key events presented by the deputies in order to evaluate the potential implications of such a scenario. The two deputies who were (and continue to be) eligible as of September 1, 2023, could argue that they have been denied the opportunity to be considered for nearly one year, with this denial continuing. In contrast, the third deputy, who is a petitioner in this dispute, could only claim a denial period of just under two months as of August 20, 2024, the date of the show cause hearing, with this denial also persisting. Additionally, the seven captains could assert that they were similarly denied an opportunity to be considered between September 1, 2023, and May 28, 2024—a nearly nine-month period, paralleling the current claims of the deputy chiefs. It is worth noting that none of the seven captains are petitioners in the current dispute before the CSC, and it is unclear if any of those captains who were eligible, expressed interest in taking the chief's examination during that time.

Aside from the more substantive preliminary responses to the three deputies' claim, City Counsel also claimed that the CSC does not have jurisdiction over this matter because the City had the right to fill the chief of police vacancy with a provisional appointment. City Counsel also argued that the Medford case is not legal precedent, but offers dicta – observations that are not essential to the decision that was made. The Commissioner disputed this later, citing several CSC decisions that dealt with the issue of how and when local hiring authorities must fill



positions currently being filled by provisional appointments (Civil Service Commission of Massachusetts, [2012](#); [2016](#); [2024a](#); [2024b](#)). City Counsel also argued that the Commission utilizes its discretion to investigate cases in which systemic violations of the civil service law are suspected, such as personal or politically motivated bias, which City Counsel argued is not present in this situation.

The Commissioner requested that the City further develop its argument and propose an alternative plan for filling the chief position in the event that the state denies the City's home rule petition and the position remains under civil service. This would benefit the City, the applicants, and the civil service system, the Commissioner noted. The City was provided 30 days to submit its written response to the deputies' petition, after which the deputies will have up to 30 days to reply. The Commission will then review these submissions to determine whether to open an investigation and, if so, issue any necessary orders.

This situation underscores the broader challenges local hiring authorities, HRD, and candidates face when trying to navigate the laws and rules designed to ensure fairness and equity, while also addressing the unique needs of their local departments. For more information regarding the CSC's show cause hearing, refer to [Appendix E, a summary of the main comments and questions raised during the CSC show causing hearing](#).

## CONCLUSION

The City's petition to exempt the police chief and deputy chief positions from civil service offers several benefits. It could lead to more efficient and flexible hiring processes and increase diversity within leadership. By removing these positions from civil service constraints, the department could attract a broader range of candidates and respond more swiftly to organizational needs. Additionally, since civil service laws do not apply to other local department heads besides the police and fire departments, it may be reasonable for the City Manager to appoint police department leadership in a similar manner. These exemptions could foster leadership that better reflects the diverse community it serves, ultimately enhancing the department's effectiveness and strengthening community relations.

However, the City should also consider the potential drawbacks. Exempting these positions might raise concerns about the fairness of appointments. The Civil Service Law was designed to protect against abuses such as cronyism, nepotism, and politically motivated employment decisions. Therefore, the City should be

prepared with a plan to ensure a merit-based system for selecting the chief and deputy chiefs. One possible approach could involve the chief's right to contract with the City, which could include merit-based procedures for appointment and evaluation. Addressing these risks is crucial for maintaining a transparent process for selecting the department's leadership.

While the dispute with the deputies continues and the outcome of the home rule petition is uncertain, the City must have a plan to achieve its goals—administrative efficiency, flexibility, and enhanced diversity, equity, and inclusion—through existing civil service mechanisms. This could include using PAR 10 and open, competitive examinations to consider qualified candidates of color from outside the department. According to Appendix E, the Commissioner suggested that the City could meet its stated objectives regardless of whether the chief and deputy chief positions are exempt from civil service.

## RECOMMENDATIONS:

### 1. Establish Clear Process for Selecting Police Chiefs and Deputies, Civil Service or Not

In light of the ongoing dispute with the deputy chiefs and the complex legal and procedural issues surrounding the appointment of a permanent police chief, the City should prioritize establishing a clear, transparent, and merit-based selection process. This process should be designed to ensure fairness and clarity, regardless of whether the position is filled under civil service rules or through alternative mechanisms such as a home rule petition.

### 2. Utilize PAR 10 in Future Hiring and Promotion Decisions

The City should utilize PAR 10 under civil service to hire and promote more officers from historically underserved groups from within each rank, whenever possible. While discussions continue about possibly exempting the entire WPD from civil service, immediate action is needed to address the representation gap within the department. The current petition does not address the broader diversity gap within the entire department, including the sergeant position, which was central to the City's nearly 30-year legal battle. PAR 10 provides a legal framework by which WPD can increase its share of racially diverse officers and department leaders.

### 3. Publish a Report on the Costs and Benefits of Having the Entire Department Exempt from Civil Service.

The City should publish a report on the findings of the commission established to evaluate whether the department should remain under civil service. This commission, which includes representatives from the patrol union, is responsible for assessing the potential



impacts of such a change. The report should detail the strengths and drawbacks of exempting the entire department and outline any associated costs for the City.

### QUESTIONS TO CONSIDER

**1. Does the City intend to evaluate a diverse pool of qualified candidates, in addition to the current interim chief, for the permanent position of police chief?** The Bureau's analysis of civil service administration changes in Worcester over the past 25 years indicates that the City's rationale for seeking an exemption has shifted from focusing solely on administrative efficiency to including goals of equity, such as increasing the representation of qualified candidates of color. The deputy police chiefs' statement of facts suggests that appointing the interim chief might be a predetermined outcome if the state approves the City's home rule petition.

**2. Will the City's position or supporting arguments change in its written response to the deputies' petition to the CSC?** The City has 30 days to submit its response. During the show cause hearing, the CSC Commissioner questioned some of City Counsel's arguments and asked the City to consider its options if the Legislature denies the petition to exempt the chief and deputy chief positions. Specifically, what alternative selection methods will the City explore as a backup plan?

**3. Is the City aware of the "menu of options" the CSC Commissioner cited, which allows the City flexibility to expand the array of candidates as well as how they are evaluated?** The law permits the City to consider candidates from across the Commonwealth in addition to those from within Worcester Police Department, provided they meet certain criteria ([M.G.L. c. 31, § 11](#)). A broader array of candidates from across the state could produce a more racially, ethnically, and ideologically diverse pool of candidates to select from, in addition to the interim chief and the three deputy chiefs, all of whom are White. The law also provides alternative examination methods for promotional appointments ([M.G.L. c. 31, § 10](#)). This provision allows for a broader evaluation approach, allowing local hiring authorities the opportunity to comprehensively assess candidates' qualifications and capabilities under civil service. Is there a way for the City to think creatively, and achieve its goals of merit-based assessment, efficient hiring, and advancing racial equity, all while complying with the civil service law? Exploring these options could help the City develop an alternative to its current approach in responding to the deputies' petition to the CSC, as advised by the CSC Commissioner.

**4. Could this dispute lead to a prolonged legal battle**

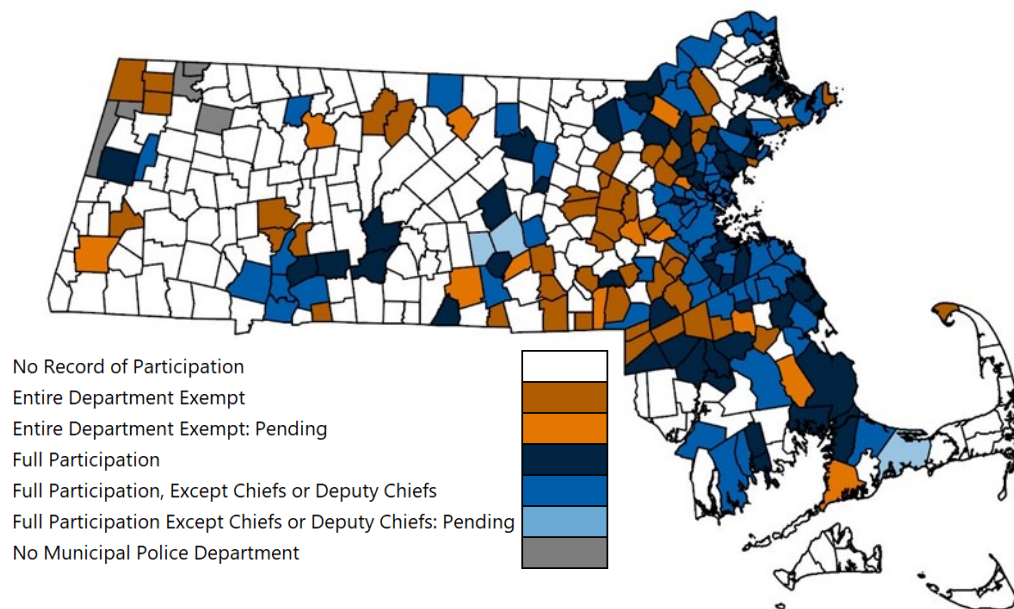
**between the deputies and the City?** It is in everyone's best interest to avoid a protracted conflict. As the City prepares its written response and awaits the Legislature's decision on whether to exempt the chief and deputy chief positions from civil service, it should work to prevent further appeals and legal actions. This is particularly important if the City believes it can permanently appoint the most qualified candidate under civil service rules. Recall that just two years ago, the City resolved a long-standing legal issue related to the promotion of qualified officers of color. To avoid a similar drawn-out legal struggle, a swift and fair resolution is essential.



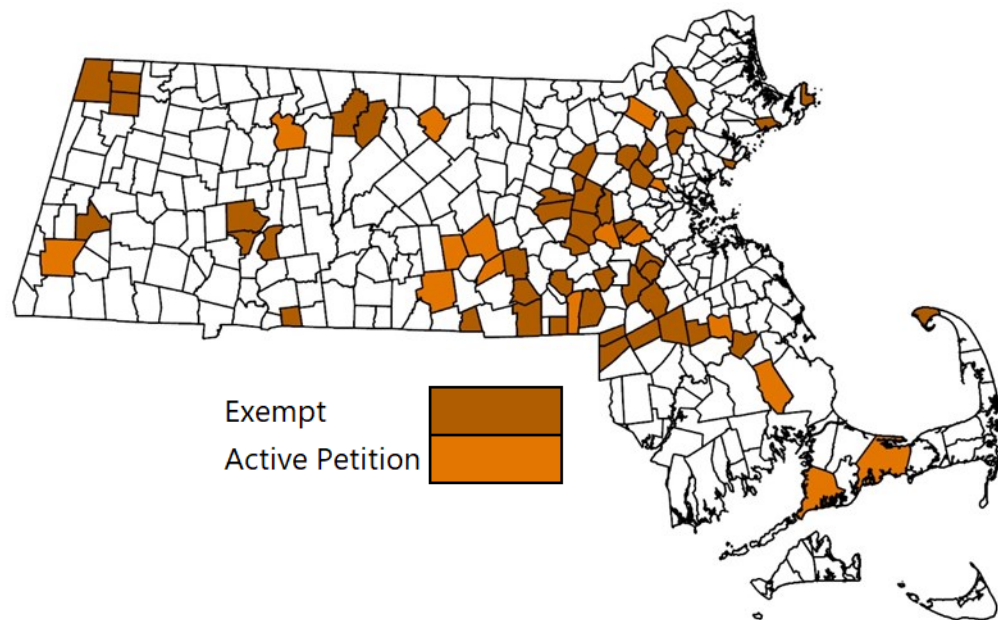


## APPENDICES

### Appendix A: Municipal Police Departments by Positions Participating in Civil Service

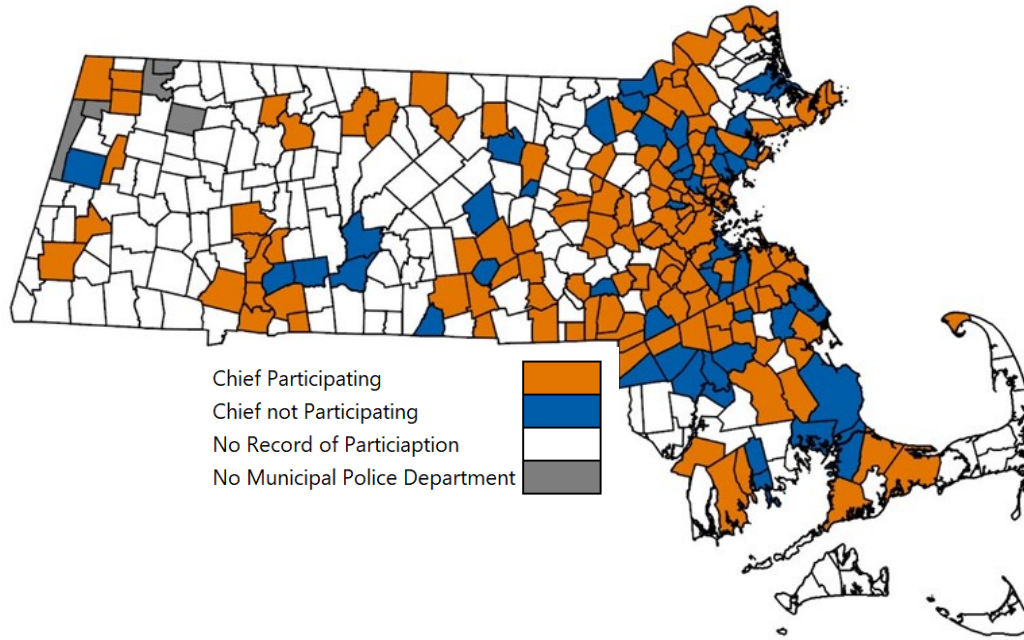


### Appendix B: Exemptions and Active Exemptions





## Appendix C: Civil Service Status of Police Chiefs



## Appendix D: Method for Coding Municipal Police Departments

Identifying which municipal police departments participate in civil service started with reviewing HRD's website, which has four pages listing civil service positions in each department. HRD lists departments with eligible lists for entry-level and promotional positions, and whose chiefs are hired under civil service. By cross-referencing these three lists, the Bureau identified departments fully participating in the system (appearing on all three lists), those with entry-level and promotional lists but without chiefs, and a few with entry-level lists and chiefs but lacking promotional lists. The last category was surprising. It would seem unlikely that patrol officers and the chief would be under civil service, but no ranks eligible for promotion such as sergeants, lieutenants, captains, and deputies would be included as well. This required more study. When searching for "[Municipality name] civil service promotional list" in a search engine, active links on HRD's website for each community were displayed. Upon opening these links, the list of names on the municipality's promotional list were blank, despite being updated in May 2024.

The discrepancy between the search engine results, which led to a blank list on HRD's website, and HRD's list of communities on its other page likely stems from how the website's pathways are configured, affecting content access. The direct links found through search engines are probably for departments where supervisors are covered by civil service, but there were no vacancies to fill at the time. As a result, the links remain active for HRD to update when vacancies arise but are not accessible through the website's regular navigation. This setup

ensures that the links are ready for future updates without cluttering the website with currently irrelevant content. Therefore, this third category of departments were coded as "fully participating".

HRD's website does not list every municipal police department in Massachusetts. Consequently, the Bureau conducted a thorough online search, reviewing municipal websites, hiring documents, applications for sworn officers, and budgets and annual reports to determine each department's participation in civil service. The Bureau also scanned municipal meeting minutes for local votes or ordinances related to civil service using key word searches. Additionally, the Bureau searched municipal police department LinkedIn, Facebook, and Instagram profiles, where available, for application information related to Civil Service participation. As a final step, the Bureau consulted the Massachusetts Cops Forum for blog posts for hiring advertisements that specify which communities are within or outside Civil Service. Only information that could be verified by credible documentation from municipalities was considered.

For the corresponding analysis of police departments by size, the Bureau relied on the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) database from 2022. This database contains employment statistics for each participating department in Massachusetts, totaling 260. For departments that did not report data to the FBI, sworn officer counts were identified through searches of municipal government websites, available police department websites, and municipal budgets as needed.



**Appendix E: Summary of CSC Commissioner's Questions and Comments and City Counsel's Answers from the Show Cause Hearing on August 20, 2024**

Civil Service Commissioner's Questions and Comments	City Counsel's Responses
The Commissioner asked if the City believes the CSC should take no action on the issue and if the position should be filled provisionally indefinitely.	City Counsel responded that it should be filled provisionally until the Legislature takes action.
The Commissioner inquired what the City's anticipated end-date is for when the Legislature will take action on the petition.	City Counsel responded that they do not have a date.
City Counsel stated that under civil service, the City is "limited to a certain number of candidates". The Commissioner asked City Counsel if this implied that the City believes that it can only consider candidates from within the Worcester Police Department to appoint a permanent chief.	City Counsel responded that the petitioners, who are the three deputies, are trying to push the City to proceed with a process that would consider only them for the chief position. This process is the standard one that the City is familiar with and currently addressing.
The Commissioner added, more specifically, if the City knows that it has the option to have an open, competitive assessment examination to permanently appoint a permanent chief. This option to look beyond the City's police department is available through <a href="#">M.G.L. c. 31, § 11</a> .	City Counsel responded that they do not know what the City's understanding of that is.
The Commissioner responded to City Counsel's statement that the dispute between the City of Medford and the Fire Department's deputy chiefs did not apply to the current dispute between the City of Worcester and the Police Department's deputy chiefs. City Counsel claimed that the comparison to the Medford dispute lacks utility because it is not a legally binding court case, but rather the CSC dismissing a petition to investigate because the issue was resolved on the locally City Counsel also asserted that the CSC does not have jurisdiction over this dispute because the petitioners (the three deputies) were not bypassed. The Commissioner responded that City Counsel is correct in stating that the Medford dispute was not a legally binding decision and that the dispute was resolved due to local action that was taken by the City. However, the issue was resolved because the City of Medford indicated that it understood that the civil service law required it to fill the fire chief position on a permanent basis regardless of its intent to consider a home rule petition to exempt the fire chief in the future. The Commissioner assured City Counsel that other decisions by the CSC have dealt with this issue in the past, citing various decisions: <a href="#">Bothelho v. Fairhaven (2024)</a> , <a href="#">Kukene and Twenty-Three Others v Amesbury Fire Department, (2012)</a> , <a href="#">Joint Request for Relief by Wynn and City of Pittsfield (2016)</a> . The Commissioner noted that City Counsel's arguments might not be the strongest ones if the issue is heard by the CSC.	[Commissioner continues]
The Commissioner claimed that the practical issue is whether starting or resuming the hiring process under civil service, only for the state to exempt the position before completion, could cause harm that should be avoided. The Commissioner noted that the other disputes mentioned above did not come to that point in the process. The Commissioner also questioned whether Worcester's home rule petition being further along in the legislative process than Medford's, which was only under local consideration, impacts this dispute.	[Commissioner continues]



<p>The Commissioner claimed that the practical issue at hand is this: if the City and the applicants start or resume the hiring process under civil service to permanently appoint a chief of police, and then the Legislature exempts the position before the process is over, will that result in some harm that should be avoided? The Commissioner noted that the other disputes mentioned above did not come to that point in the process. The Commissioner wondered if the fact that Worcester's home rule petition is further along the legislative process than Medford's, which was only being considered locally, if that makes a difference in this dispute.</p>	[Commissioner continues]
<p>The Commissioner noted that he was unsure that the City has a fully developed argument regarding how the City would be unable to attract a qualified, diverse group of candidates if the City seeks to utilize every "menu option" available to it. The Commissioner referenced HRD's interpretation of the law (<a href="#">M.G.L. c. 31, § 10</a>), which allows applicants to be evaluated based on other factors besides a multiple-choice examination, such as interviews, relevant educational experience and certifications, and other methods to select the best candidate for the role. These methods can substitute for or be considered alongside HRD's traditional examination of candidates. The Commissioner suggested that the argument could be made that, since the home rule petition is already underway, initiating the process only to halt it later would waste resources for both the City and the applicants (including those outside the department). As a result, the CSC might consider this as a factor.</p>	
<p>The Commissioner then sought clarity on one of the statements of facts submitted by the deputy chiefs. He asked City Counsel if it is true that the City is currently contracting with a vendor to pursue an "assessment center" method of examining candidates for the police chief position. In other words, he asked if the City plans to use the assessment center to appoint a permanent chief. If the contract is already paid for, it is plausible that the City would not lose any resources by starting or resuming the process of filling the police chief position on a permanent basis, even if the City's home rule petition is eventually approved by the Legislature.</p>	<p>City Counsel responded that it did not know the answer to that, but they do know that no decisions have been made about what the exact process will be if the City's home rule petition is not approved. City Counsel said that this information would be provided at a later date. They claimed that they knew of blanket RFPs to allow all departments within the City to utilize an assessment center.</p>

## NOTES TO THE TEXT

<sup>1</sup>(page 6) Page 16 of the CNA's Racial Equity Audit of the Worcester Police Department presents a comparison labeled "Figure 1: Race/ethnicity demographics of Worcester, MA vs. the WPD, 2022," which inaccurately depicts the racial and ethnic breakdowns. Upon closer inspection, it seems the report may have utilized 2021 ACS 5-Year Estimates for Worcester's demographic data, specifically from the "RACE" and "HISPANIC OR LATINO BY RACE" categories. Combining different data points from these two datasets resulted in an overcounting of Hispanic residents, ultimately leading to an inaccurate depiction of the department's overrepresentation issue.

Figure 1 appears to show that the City of Worcester has 65% White residents, 11-13% African American residents,

22-25% Hispanic residents, 6-7% Asian residents, and less than 1% American Indian residents. Conservatively, these percentages add up to 104%, which is not a rounding error.

Initially unclear about the data source, further review of plausible datasets—including the 2020 Census, the 2010 Census, and multiple ACS 1-Year and 5-Year estimates—indicates that CNA or WPD relied on the ACS 2021 Five-Year Estimates. These demographics roughly match those in the Racial Equity Audit's Figure 1. However, unlike Figure 1, this table does not specify the percentage of Hispanic or Latino residents due to its focus solely on racial categories, not ethnicities. Yet, Hispanic or Latino ethnicity data is embedded in this dataset, although not explicitly shown. For example, based on this table alone, it



is unclear how many of the 64.7% of residents who identified as White also identify as Hispanic, though this demographic does exist within the dataset.

To determine the approximately 25% Hispanic or Latino residents reported in Figure 1, CNA or WPD appears to have referenced the ACS's "HISPANIC OR LATINO AND RACE" category, which indicates that nearly 23.9% of Worcester residents identify as Hispanic or Latino (of any race). This aligns closely with Figure 1 from the Racial Equity Audit but highlights the error of combining these data into one bar chart, thereby recounting Hispanic residents.

Figure 1 suggests that racial categories and Hispanic or Latino ethnicity were treated as mutually exclusive categories for grouping officers. Figure 1 should have included only the City demographic data from "HISPANIC OR LATINO AND RACE," which distinguishes Hispanic or Latino residents of all races from non-Hispanic residents within each racial group.

Furthermore, while Figure 1 attributes the data source to the Worcester Police Department, it appears that CNA did not verify this data before publication nor consider how this presentation of racial and ethnic diversity within the department could mislead the public, elected officials, and policymakers. These practical implications are significant; the overrepresentation of White residents within WPD, as indicated by Figure 1, is reported as 15.2%, whereas the correct application of the 2021 ACS 5-Year Estimates would suggest it is actually 26.3%.

Whether CNA or WPD chose one table or the other, the percentage of Hawaiian or Pacific Islanders in Worcester is absent from Figure 1, while the survey estimates in 2021 show that 0.1% of residents identifies this way. Also, Figure 1 does not include the number of residents that identified as "some other race" or "two or more races" which combine for 3.9% of Worcester residents at the time of the estimates, approximately 8,000 residents.

The Bureau used 2022 ACS Five-Year Estimates, using the table, "HISPANIC OR LATINO AND RACE" to compare the breakdown of WPD's sworn staff by race and ethnicity because this data separates racial groups by those identify as Non-Hispanic, and group Hispanics together under (any race). Therefore, this data can be used to accurately compare how WPD categorizes their staff.

<sup>2</sup>(page 6-7) CNA's Racial Equity Audit included charts showing the racial and ethnic breakdown of the entire department's sworn staff, as well as by rank. However, only working with percentages sometimes limited the ability to understand diversity, nominally. The Bureau created a staff summary of WPD utilizing data from the City's Employee Earnings Report for 2023, and applied

the percentages shown in Figure 5 from the Racial Equity Audit to approximate the total number of officers of each racial and ethnic category in the department. The exact racial and ethnic composition of the lieutenants and all ranks above that were corroborated by news articles that disclosed the race or ethnicity of those promoted individuals. The Bureau's reporting of the racial and ethnic composition of all ranks below lieutenant, however, should be understood as estimates. This led to the development of charts 1 and 2.

<sup>3</sup>(page 12) PERF's 2023 Report on employment challenges across United States police departments is based on survey data from only 266 of the more than 18,000 police departments across the United States, and oversampled larger departments. As such, while the findings offer valuable insights, they may not fully represent the diversity of challenges faced by law enforcement agencies nationwide.





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