



FRANCIS G. SLAY  
MAYOR  
SAMUEL J. SIMON  
DIRECTOR OF PUBLIC SAFETY

# St. Louis Fire Department



SHERMAN GEORGE  
FIRE CHIEF

August 3, 2007

The Honorable Francis G. Slay  
Mayor, City of St. Louis  
City Hall - Room 200  
1200 Market Street  
St. Louis, MO 63103-2877

Dear Mayor Slay:

I am responding to your letter of July 31, 2007. While you clearly advised me that you were going to post the letter on your blog, I question the necessity of that action as the letter discusses personnel matters. Now that it has been posted, there is resulting media frenzy, and I feel compelled to respond publicly to what should be a private discussion about personnel.

We had a very productive private meeting on Tuesday, and I appreciate both your concerns and your continued voicing of support for me in my position as Chief. There are some things in your letter however that requires clarification.

I am not concerned with the anger of either F.I.R.E. or Local 73 on this issue. As I have said repeatedly, the issue is not in any way racial from my point of view. The issue is solely one of safety, and whether the tests, and resulting lists, assess the ability of firefighters to perform supervisory roles in dangerous conditions required by the nature of firefighting.

I have been a firefighter for 39 years and have held every rank in the department which gives me the experience and knowledge needed to determine the skills a candidate should be required to possess before becoming a supervisor or manager in the St. Louis Fire Department.

I was not a party to the recent court case of Stewart v. City of St. Louis, in which Judge Sippel made certain findings. However, I do not believe you have been fully informed of the judge's opinion in that case. The plaintiffs in that case claimed that the promotional tests had an adverse impact on African-Americans. The issue was discrimination, not the adequacy of testing from the safety point of view of firefighting. The court found there was no adverse impact from the 2004 tests "[b]ecause no one has yet been selected from the list generated by the 2004 Battalion Chief and Fire Captain tests, there cannot be a determination of adverse impact." (Court Slip Opinion, Page 20). As a result, I have been advised that promoting from the list is likely to cause a new lawsuit, which in itself has divisive impact on my Department.

The opinion cannot be found to make any statement on whether the test is valid, or "legitimately tests the skills and knowledge needed to be a captain or battalion chief," contrary to what your letter suggests. The opinion only concludes that the 2004 tests were "job related," (Court Slip Opinion, Page 21), comply with the EEOC's Uniform Guidelines on Employment Selection

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Procedures," (Court Slip Opinion, Page 28), and are "linked to the important duties and tasks of the jobs." (Court Slip Opinion, Page 33). This is not the same as finding that the tests assess the skills and knowledge needed to perform each job.

While the Plaintiffs in the F.I.R.E. case did not produce any alternative selection procedures, as you point out in your letter, I have repeatedly done so, though my recommendations have been ignored. Prior to the 2004 test, I asked the Director of Personnel by letter that the testing use the Assessment Center Process or Modified Assessment Center Process, instead of multiple choice or fill-in-the-blank tests. Included in the requirements I seek are the following:

1. Written exams should be Pass or Fail; all who pass should go on to the next portion.
2. In the Assessment Center Process, all participants must be able to demonstrate skills and abilities in the form of various exercises which examine fire/emergency scene skills, problem employee reaction skills, training abilities, etc. Ethical Guidelines have been established for these types of tests and should be followed.
3. Rater Panels should review video tapes of each candidate taking the tests, using predetermined guidelines or benchmarks so that scoring is consistent. The sole exception to this is the fire/emergency scene scenarios, those should be video taped as well. All candidates' tapes should be available for review in the promotion process.
4. Answers for the fire/emergency scene scenario should be developed by a balanced group of Chief Officers taking the tests simultaneously with the candidates to avoid bias in results, and should be graded by a group of Fire Captains. It would be appropriate for concerned groups such as Local 73 and F.I.R.E. to participate in the selection of these Captains, perhaps 2 by each group, to insure that claims of prejudice were eliminated.

These protocols insure both fairness and accurate assessment of candidate's ability of firefighters to perform supervisory roles with safety as the primary concern. The 2004 tests did not use these protocols or any that were similar. I objected prior to the hiring of the firm hired and continued my objection afterward. I previously suggested I did not want to participate in reviewing testing that did not use the protocols, and that has been twisted by the court and the press that I did not want to review testing at all.

You suggest that the court case settled all issues. It settled the issues of racial discrimination, though I understand even the ruling is on appeal. The court case did not begin to address my concerns of testing which provided a proper assessment.

Finally, you did not accurately quote my June 22, 2007 letter to Director Simon concerning my willingness to request promotion lists. I did not state that I would promote, but that I would request promotion lists so that I could review the propriety of promotion of the candidates on the list. However, since you were not provided with accurate quotes from the letter, I assume you

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did not review the letter. I asked for a number of things that went unanswered as a prerequisite for my requesting lists.

In my letter to Director Simon, I not only asked that Director Simon or Director Frank advise me that the 2004 lists were current, I asked that either or both advise me that the lists are "promotion worthy." Neither has responded to that request.

I asked for written documentation that there has been inadequate training due to lack of promotions, as claimed by Director Simon. This request was ignored.

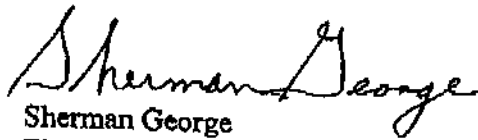
I asked for the written legal opinion upon which Director Simon claimed that continued refusal to promote exposed the City to claims of unlawful failure to promote. I was provided with none. To the contrary, I have been advised that there is no legal requirement that promotion occur, as promotion is a discretionary decision of the appointing authority. The Missouri court has made clear that I am the appointing authority.

The press has published comments attributed to Director Simon which implicated that he was trying to set me up and have me fired. I asked the Director to refute those comments in writing. He failed to pay me the courtesy of addressing that issue at all. One in my position might reasonably wonder whether the continued insistence on promoting from controversial, out-of-date promotion lists is being made simply to have me fired for appointing people who were not skilled to perform the jobs in question.

I propose that we immediately commission an independent, fair-minded organization to develop a new test along the lines of those I propose, and commit that this protocol will be the minimum basic requirement for testing of fire fighters for promotion in the future. In the meantime, even though my questions have not been answered, and the various participants seem determined to resolve this personnel issue publicly rather than prudently, I will request promotion lists and review them for appropriate candidates.

I want to emphasize that my main concern is safety, first and last. Simply because I am an African American who happens to also be Fire Chief, race need not permeate every issue that I address, and it has not and it will not from my perspective. I would be happy to meet further with you to discuss these issues, though I believe that all future discussion should be private, and not public, as is appropriate to personnel decisions.

Sincerely,

  
Sherman George  
Fire Chief

SG: seht