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Highlights

- The City and firefighters have been in unproductive negotiations for over 20 months
- Over five months ago, Boston asked the JLMC to take jurisdiction of the firefighters contract, but it has not yet made a decision
- A final contract without drug testing or with drug testing but no significant reform language should not be approved

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Time for Drug Testing for Firefighters

The three-member Fire Review Panel appointed by Mayor Menino released its report on November 30th and as expected, one of its chief recommendations was that firefighters should be subject to mandatory random drug and alcohol testing. The Panel acknowledged that this recommendation would need to be negotiated with the firefighters union, the International Association of Firefighters, Local 718. That is true now but it is clearly in the broader interest of the Commonwealth that all uniformed public safety employees be subject to standard drug and alcohol testing. Drug testing should be a state public safety requirement and should be made exempt from collective bargaining.

Recent events have placed drug testing at the forefront of what is expected in the new contract with Local 718. However, other issues important to improved management of the Boston Fire Department (BFD) also need to be included in this contract. Drug testing is now more common in public safety departments and should be achievable with these other management changes within the budget parameters established by new contracts already negotiated. The public should expect nothing less and after over 20 months of protracted discussion, it is time for Local 718 to seriously engage in negotiations. The firefighters should embrace drug testing to strengthen the public trust and to ensure greater protection for each other. Even so, the contentious nature of these negotiations to date and the unwillingness of Local 718 to participate on the newly created Strategic Planning Committee show why improved management of the Boston Fire Department will not come easily. Other factors influencing this situation include:

- The Boston Fire Department has a history of an imbedded culture resistant to change
- Little change came about after two major studies on the BFD were released in 1995 and 2000
- With the exception of the Fire Commissioner and three top Chiefs, all Chiefs, Lieutenants and firefighters are members of the same union, Local 718
- Boston's police officers negotiated drug testing in 1998 effective in 1999, eight years ago.

The Fire Review Panel's recommendation on drug testing is not the first time this issue has been raised. Drug testing for firefighters was a recommendation of the O'Toole Commission in 2000. The Menino Administration put drug testing on the table in contract negotiations with Local 718 in 1999 and 2004 but no agreement was reached.

Contract Status

While the City has been able to negotiate new contracts with most of its unions this year, it has been in negotiations with Local 718 for over 20 months for a four-year contract that would be retroactive to July 1, 2006. Issues other than drug testing that need to be negotiated in this round should be:

- The City's new health insurance agreement negotiated with other unions
- Temporary promotion policy (acting out of grade) and the shift swapping practice
- Sick leave control
- Vehicle maintenance civilianization
- Modified (light) duty control
- Fire Review Panel's recommendations

After protracted and unproductive negotiations over 16 months with Local 718, city officials on August 1, 2007 petitioned the state Joint Labor - Management Committee (JLMC) to take jurisdiction of the case and begin mediation. Five months later, the JLMC has yet to act. The deliberative process of the JLMC contrasts with its own rules that stipulate that the Committee make a determination to exercise jurisdiction over the dispute within 30 days of receiving the petition.

On January 3, 2008, the City requested that the state Division of Labor Relations (DLR) take responsibility for dispute resolution of this case as required by state law if the JLMC does not act within 30 days. The Division did accept jurisdiction of the dispute on January 14 and will initiate mediation proceedings. However, the DLR did note that the JLMC has "ultimate jurisdiction" over municipal fire disputes. The JLMC is scheduled to meet on January 24 and can vote to take jurisdiction of this case then.

Police and Fire Parity

In contract negotiations with Boston's police and fire unions, relative parity is an important factor because a perceived advantage by one uniformed force will become the key demand of the other in the next round of negotiations. In this regard, it is interesting to note that in the calendar 2006 earnings report, the base pay for a

firefighter exceeded the base pay for a patrol officer. That situation reversed when overtime pay and detail pay were included in total compensation. For firefighters and police officers of all ranks retiring in 2006, the average pension for a firefighter exceeded that of a police officer as shown below.

2006 Average Earnings and Pensions			
	Base Pay	Total Compensation	Pension*
Firefighter	\$71,591	\$85,105	\$70,924
Police Patrol Officer	\$67,894**	\$102,314	\$60,380

*Applies to 2006 retirees of all ranks ** Includes Quinn Bill pay

Negotiated Drug Testing

Police - Drug testing was first negotiated in the Boston Police Patrolmen's Association (BPPA) contract in 1998 and became effective in 1999. The testing of hair samples for illicit drugs was achieved at a time when it was considered innovative and not the norm that it is today.

In the same contract, the Menino Administration agreed to accept the Quinn Bill, an educational incentive program that would boost base pay of eligible officers by 10% to 25% depending on the degree attained. The police unions had been seeking this benefit since the White Administration. Because of the added cost of this benefit, the Quinn Bill provisions did not become effective until July 2000 and the unions agreed to no salary increases in 2000 and 2001. For these same years, the firefighters received salary increases of 4.0% and 4.5% respectively. No salary increase for two years has had a cumulative financial benefit for the City over subsequent years.

Fire - Drug testing was on the table with Local 718 in negotiations in 1999. The O'Toole Commission had issued its report on the Fire Department in January 2000 which had recommended random drug testing for firefighters. The contract was not finalized and ratified until 2001 at a cost of approximately \$57 million of which \$47 million was for salaries which grew on average by 21.5% over four

years. Despite the generous compensation and new benefits described below, drug testing was not negotiated in this contract. Union resistance and the City's need to achieve other management changes in the contract, especially a few recommended by the O'Toole Commission, contributed to this outcome.

The firefighters were able to negotiate a new sick leave policy in which they received 15 days a year that could be accumulated up to a cap of 240 days. The 15 days are consistent with all other city employee contracts. A surprise sweetener of the contract was that each firefighter received an immediate sick leave bank of six days for each year of service with the Fire Department. This agreement created an instant financial liability for the City of approximately \$20 million that has grown as more days have been accumulated and salaries increased. The generous sick leave bank should be thought of as the firefighters' Quinn Bill. In subsequent years, excessive use of sick days by firefighters has increased significantly the cost of overtime. Language changes to improve sick leave control are included in the City's negotiating package this year.

The City was able to secure language that provided two management improvements that were included in the recommendations of the O'Toole Commission. They are:

- Light duty for injured firefighters and involvement of independent medical examiners if needed.
- The creation of two top management positions outside of Local 718, the Chief of Field Services and Chief of Support Services. These two positions, along with Chief of the Department and the Commissioner, are the only uniform management positions in the Fire Department not members of Local 718.

Language to reduce the amount of shift-swapping (firefighters exchanging regularly scheduled work shifts, which affects the

continuity of staffing and efficient management) was included but has proven to be ineffective.

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Drug testing for firefighters was also included in the Administration's package in the 2004 negotiations. Complicating these negotiations was the fact that the Democratic National Convention (DNC) was scheduled to begin on July 26, 2004. The leaders of the fire and police unions delayed serious negotiations until July, which eventually led the BPPA and City to expedited binding arbitration. With little time for hearings and review, the arbitrator approved a 14% salary increase over four years but did not address any language changes. The firefighters agreed to the same structure without language changes for three years at 10.5% just before the start of the DNC delegation parties.

2007 Negotiations

Common to all contracts negotiated to date by the Menino Administration is a modified health insurance program that requires employees to increase their share of the premium cost by 5% over two years. Other changes include payment for opting out of the City's plan and substituting the indemnity plan for a less costly plan while continuing to pay the 75% share.

The unions also agreed to support legislation or City Council action that would require city employees eligible for Medicaid (Section 18) to participate in Medicaid plans prospectively. By joining Medicaid, part of the cost of the health premiums could be shifted to the federal government, reducing the City's expense.

To keep salary increases manageable and achieve some beneficial language changes, the Mayor agreed to a relaxation of the City's residency provisions in the contracts. Now an employee would not be subject to residency requirements after 10 years of continuous

service to the City from the date of hire. Reducing the residency requirement has been a key objective of the police and fire unions for several years.

The Administration generally has negotiated four-year contracts (July 1, 2006-June 30, 2010) with city unions that provide aggregate salary increases of approximately 11% during that time. However for the three police unions and the Boston Teachers Union, the salary increase over four years was 14% due to more substantial language changes in their contracts.

Police – The framework for the four police union contracts was established by the contract negotiated and signed by the BPPA on July 9, 2007. The Detectives and Superior Detectives subsequently have agreed to the same contract provisions. Negotiations with the Superior Officers appear to be heading towards mediation. In addition to the common changes to most city contracts described above, the BPPA and two other police unions agreed to an enhanced drug testing provision effective July 1, 2007. The hair test was modified to include three hairs and up to two subsequent tests if the first test proved positive for drugs. An officer verified positive for illicit drugs will now be subject to random urine testing for the remainder of his or her career in the Boston Police Department.

A second important change in the contract involved agreement by the BPPA that certain administrative and/or clerical duties in the District stations and other administrative units performed by police officers could be assigned at the “Commissioner’s sole discretion” to others, including civilians. Implementation of a rational staffing model in the stations and units has resulted in the reassignment of 28 police officers to the field to date. Further, only four new civilian employees will be needed to complement the existing civilian staff.

A third change will reduce by one-third the cost of out-of-state specialized training, which will enable more officers to participate.

Fire – Following the events of the restaurant fire on August 29, the City presented a comprehensive drug testing plan to Local 718 but the union has not yet officially responded to the plan. Meanwhile, the Menino Administration is awaiting a response from the JLMC as to whether it will take jurisdiction of the case. No decision by the JLMC after five months forced the Division of Labor Relations to accept the case but the JLMC has ultimate jurisdiction over municipal fire disputes.

Conclusion

Drug testing of uniformed public safety employees should be a state requirement and should not be subject to collective bargaining. Uniform drug testing serves a state purpose and municipalities should not have to forego management improvements to secure what benefits the firefighters as well. The need to achieve greater management reform in the Fire Department within cost parameters is one reason drug testing has not been negotiated since it was first put on the table in 1999.

After over 20 months of unproductive discussion, it is time for Local 718 to seriously engage in negotiations and support drug testing and other needed operational changes in the Fire Department. The JLMC should act to accept this case and start mediation when it meets on January 24. If drug testing is to be achieved through binding arbitration, it should not be at the expense of sacrificing other important management improvements or exceeding the City’s financial parameters. Should two consecutive firefighter contracts be decided by arbitration, it would point to a problem in the collective bargaining process that should be reviewed. A final firefighters’ contract with no drug testing or with drug testing but no significant reform language should not be approved by the City Council.

To review examples of major cities that have drug testing for firefighters, [click here](#).