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Testimony of the Boston Municipal Research Bureau
Before the Legislature's
Joint Committee on Public Safety and Homeland Security

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Regarding: H2210 – An Act Relative to Public Safety Employees – Drug Testing

Senator Timilty, Representative Costello and Members of the Joint Committee my name is Sam Tyler and I am President of the Boston Municipal Research Bureau. I am here today to testify in support of H2210, An Act Relative to Public Safety Employees. This bill would require all state and municipal public safety employees and emergency medical technicians (EMTs) to submit to a random drug and alcohol testing program as promulgated by the Secretary of the Executive Office of Public Safety and Security. Since August of 2007 when drug and alcohol testing was pushed to the forefront in contract talks between the Menino Administration and the firefighters' union, IAFF Local 718, the Research Bureau has argued that annual random drug and alcohol testing should be a statewide requirement for all uniformed public safety officers and should be established as a management right not subject to collective bargaining.

The Research Bureau believes that a standardized mandatory drug and alcohol testing program for all uniformed public safety officers, including EMTs, serves an important state interest by ensuring uniformity of the process throughout the state by all cities and towns. Such testing would help ensure that uniformed public safety officers would be alert and not in any way impaired when on duty serving the public. A consistent testing policy would give confidence to each public safety officer that he or she can trust the performance of fellow officers during stressful and dangerous work situations. The public trust in the performance of public safety officers would be strengthened. A random testing program also would help identify those officers that require counseling assistance because of drug or alcohol problems that otherwise might not be identified by observations of superiors, the more common practice employed by municipalities now.

A uniform statewide mandatory drug and alcohol testing program is an important safeguard that would ensure a consistent standard of accountability and safety for uniformed public safety officers and EMTs across the Commonwealth. The current process of negotiating testing individually with each union has created a patchwork system of standards across the state, where the strength or existence of a program is dependent on a community's financial ability to negotiate an agreement. This situation has left some municipalities with inadequate or nonexistent standards for fair testing and appropriate discipline, and some cities and towns like Boston with different programs for different public safety unions in the same community. With physical performance and mental alertness so critical to performing public safety duties, the citizens of Massachusetts are not well served if the public safety officers of one city or town are held to a lesser standard or no standard than officers in another community with regards to drug and alcohol testing. Other municipal employees who drive municipal vehicles are required by federal law to hold a Commercial Drivers License and to submit to a random drug and alcohol testing program. No less a standard should be required of uniformed public safety officers in Massachusetts.

The requirement to negotiate drug and alcohol testing with each public safety union is a difficult if not impossible task for many municipalities. Even when there is interest in negotiating such a provision, success can be derailed by different expectations of the monetary value of this program between union leaders and municipal executives and the need to secure other contract provisions at the same time. In no place is this situation documented as well as in the City of Boston. Drug and alcohol testing was proposed by the Menino Administration in contract negotiations with the firefighters' union, IAFF Local 718, in 2000 and 2001 but because of disagreement on the dollar value of drug testing and the Administration's need to secure other language changes in the firefighters' contract, no testing was agreed to in 2001. Drug and alcohol testing was on the table again in 2004 but agreement between the parties was not reached and the contract was resolved through an expedited arbitration decision that addressed only salary and paid detail fee increases.

The Menino Administration is again pushing for a comprehensive mandatory drug and alcohol testing plan in current negotiations with Local 718 on the firefighters' contract that expired on June 30, 2006. Proceedings have moved to arbitration under the jurisdiction of the Joint Labor-Management Committee (JLMC) and drug and alcohol testing is one of the items being discussed. Local 718 argued that drug and alcohol testing should not be considered in arbitration and threatened to take steps to prevent the issue from being addressed, but the arbitrator ruled that it was a legitimate issue for this case.

One of the consequences of addressing alcohol and drug testing in arbitration is that it forces the municipality to reduce the number of items submitted in order to enhance the probability that the arbitrator would include alcohol and drug testing in the final decision. That was true for the Menino Administration which limited its number of issues for arbitration to four. This was done even though there were more management issues that needed to be dealt with in this contract since no language changes have been made in the firefighters' contract for over seven years.

The Boston situation illustrates the limitations of relying on contract negotiations to achieve alcohol and drug testing for uniformed public safety officers. Legislative action is needed to establish a uniform statewide drug testing program for all municipalities to serve the state interest that all uniformed public safety officers and EMTs will be able to alertly and capably execute their duties in any situation.

The accountability and safeguards an effective drug and alcohol testing program brings should not be contingent on a community's financial position and its ability to negotiate a policy with its unions. I strongly urge the Joint Committee to act favorably on H2210.