



**Joint Labor-  
Management Committee  
40th Anniversary**

The JLMC began operating in January 1978, and since then has played an important role in the resolution of disputes between cities and towns and municipal police and firefighters. Made up of representatives from labor and management, the JLMC uses mediation and other forms of voluntary dispute resolution to help the parties reach negotiated settlements. When disputes continue for an unreasonably long period of time, the Committee is empowered to use binding arbitration to settle disputes (binding subject to a town meeting or city council vote to fund arbitration award).

Although in its 40th year the JLMC remains a difficult and time consuming process to navigate. If you are at or concerned about ending up at the JLMC, contact your CLP attorney to help guide you through the process.

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**Stale CWOFF Not Reasonable Justification For Bypass**

A continuance without a finding (CWOFF) received by a Boston Police candidate as a teenager, was not a reasonable justification for his bypass ten years later. Finklea v. Massachusetts Civil Service Commission, et al., Civil Action No. 1784CV00999 (February 9, 2018). The superior court decision affirms the Civil Service Commission’s (CSC) determination that the “single, stale” CWOFF was not a “conviction” that would disqualify him from serving as a police officer, and that Finklea had not been given an opportunity to explain it.

In 2001, Finklea was eighteen years old when he received stolen property, a tire, from a friend. At the time, Finklea disputed the charges but ultimately followed his counsel’s advice to accept the CWOFF based on the representation that the charge would have no further impact on him. He did not realize the charge was a felony or that he could seek to expunge or seal his record. Thirteen years later Finklea applied to be a Boston police officer and the CWOFF was on his record. Although the BPD background investigator mentioned the CWOFF to Finklea, he never provided him with an opportunity to discuss it. The BPD bypassed him based on his “motor vehicle and criminal histories.”

Finklea, an African-American man who at the time was thirty-two years old and married with an infant child, appealed the bypass. At the time of the bypass hearing, Finklea was working two jobs and finishing a degree at the Wentworth Institute of Technology. As part of BPD’s background investigation, he had received positive reviews from all of his supervisors, as well as three neighbors; his credit rating was excellent. The Commission determined the defendant “did not establish by a preponderance of the evidence that it had reasonable justification to bypass the [plaintiff] for the fourteen (14)-year old felony CWOFF.” It also noted that “using a criminal record, especially one as old and stale as the plaintiff’s, without a reasonably thorough review of the circumstances was problematic.”

This case is illustrative of a recent trend in CSC decisions which cautions appointing authorities not to rely on outdated information and to consider all the facts surrounding potentially disqualifying events. Contact your CLP attorney with any questions.

**DLR Upholds Principal’s Protection Of Employees From  
Member’s “Protected Activity”**

In Springfield School Committee, 44 MLC 129 (February 16, 2018), a bargaining unit member working under a voluntary resignation agreement that restricted her to working in the reference library and warned her she would be dismissed for insubordination, charged the Committee with interfering with her right to seek mutual aid and protection from the Union when the Principal further restricted her contact with other members of the unit. In soundly rejecting the charge, the DLR Hearing Officer found the Principal was actually protecting other employees from being interrupted by the Complainant’s attempts to socialize while they tried to work. The Hearing Officer also praised the Principal for exercising restraint in working with the employee to allow her to complete the rest of the school year prior to the effective date of her resignation.