

<p>Billerica Police Department</p> 	<p>POLICY NUMBER SPE-07</p>	<p>PAGES 6</p>	<p>EFFECTIVE 5/31/16</p>
<p>Accreditation Standards: None</p> <p>General Orders:</p>			
<p>Strike and Labor Disputes</p>			

I. General Considerations and Guidelines

The police role at the scene of any labor-management conflict is to enforce the law and to protect life and property. The key to effective police action in these circumstances is for the officers to be completely fair and objective in the performance of their duties. It is not the function of the police to determine which side is right or wrong or to take any personal or official position either way. Police officers should never permit themselves to be placed in any position which might give the appearance of favoring one side. An important factor in avoiding disorder and the subsequent necessity for making arrests is to establish an early contact with the strike leaders and company officials to seek their cooperation and to point out both the police responsibility in the controversy and their obligation to maintain public safety and good order.

II. Policy

It is the policy of the Billerica Police Department to:

- A. Fairly, and without bias, preserve the peace and protect life and property when working at strike locations; and
- B. Have officers working at a strike zone conduct themselves according to applicable law, department policies and procedures, departmental orders, and the lawful orders of their superior officers.

III. Procedures

A. Operational and Supervisory Authority

- 1. Operational control of all officers assigned to a strike location is exercised by the Chief of Police. Supervisory responsibility for such details is delegated to the Strike Commander, shift commanders, or patrol supervisors.
- 2. Officers assigned to strike locations, whether as part of a paid private detail or as assigned by the department, serve in their capacity as police officers of this department and not as special employees of the company or organization paying for their services.
- 3. No employee of any company or organization, whether paying for police services or not, is authorized to direct the activities of officers assigned to the detail or to issue any order to police officers. For further information, see the department policy on **Off Duty Employment**.

B. Assignment of Officers to Strike Details

1. Authorized Personnel Include:
 - a. Full time or retired permanent police officers.
2. Personnel Not Permitted to Work Strike Details Include:
 - a. Any officers who have not successfully completed basic police recruit academy;
 - b. Special Police Officers
 - c. Constables, whether or not academy trained; and
 - d. Massachusetts State Police Officers (unless violence has actually occurred and then only by order of the Governor).¹
3. Mutual Aid: In the event the department is unable to provide the number of officers required to fill a paid strike detail, officers from other communities may be utilized if authorized by the Chief or OIC of that department and if the officers meet the requirements of **Authorized Personnel** in this policy.

C. General Public Safety and Law Enforcement Considerations

1. Objectives: The mission of officers assigned to strike locations includes, in order of importance, the following:
 - a. The protection of life and the prevention of physical injury to persons;
 - b. The protection of the statutory and Constitutional rights of all persons;
 - c. The protection of personal and public property; and
 - d. The maintenance of the public peace.
2. Upon Learning of a Strike
 - a. Whenever the Police Department is notified of the existence of a strike or labor dispute, the following information will be obtained and documented for departmental purposes:
 - 1) The name, business address and telephone number of the employer;
 - 2) The name, address and telephone number of the labor organization concerned;
 - 3) The kind of business involved;
 - 4) The reason for the dispute;
 - 5) The date the strike was declared;
 - 6) The approximate number of employees involved;
 - 7) Any trouble that might be anticipated; and
 - 8) Any additional information which could be of assistance to the Police Department in carrying out its responsibilities.
 - b. As soon as possible, the Chief or his/her representative will contact both the employer and the labor organization officials to elicit their cooperation in maintaining a peaceful strike and to avoid unlawful activity by any of the contending parties. Both sides in the dispute will be notified:
 - 1) The use of force or violence will not be permitted;

- 2) The law will be enforced fairly and impartially;
- 3) Any unlawful or disorderly act or acts which might provoke violence will not be tolerated;
- 4) The rights of the general public to use the public streets and sidewalks will be maintained;
- 5) The rights of the striking employees to conduct orderly picketing in public areas will be protected;
- 6) The striking employees will be permitted to:
 - a) Peacefully persuade those still employed to join the strike;
 - b) Peacefully persuade those considering employment not to do so; and
 - c) Inform potential customers and the general public about the labor dispute and the reasons for their action.

3. Picket Line

- a. When a strike develops and a picket line is established, it shall be the obligation of the OIC at the scene to make contact with the labor organization or organization leader supervising the picketing and seek the individual's cooperation. Good relations between the police and the strikers can ease the problems of law enforcement.
- b. If an incident arises, or it is apparent that a potentially dangerous situation is arising, it should be immediately called to the attention of the picket leader, who should be encouraged to handle the problem immediately. If the picket leader is unable to diffuse the situation, the police will need to intervene.

4. Impartiality

- a. Police officers shall avoid any fraternization with:
 - 1) Pickets;
 - 2) Labor organization leaders or management officials;
 - 3) Company security; or
 - 4) Non-striking personnel.
- b. Police officers shall avoid any unnecessary conversation with friends or acquaintances who may be in the picket line or associated with management.
- c. Police officers shall not enter company property except to perform a proper police purpose.
 - 1) Unless absolutely necessary Officers shall not use any company facilities or telephones, nor those of the labor organization.
 - 2) Police officers shall not use any company cafeteria and shall not accept invitations to eat with the labor organization or management personnel.

D. Rights of Picketers and Persons Crossing Picket Lines

1. Generally

- a. Persons engaged in lawful and peaceful picketing are in the exercise of a right granted to them by both Massachusetts and federal law. Police officers have an

obligation to protect that right and to protect those persons who are exercising that right.

- b. Similarly, non-striking employees, customers, and members of the public have a lawful right to enter or leave the site of a strike. Police officers have an obligation to protect those rights and to protect those persons who are exercising those rights.
- c. The police officer's role is one of balancing what may appear to be conflicting rights or interests and of providing a buffer to ensure that all parties can peacefully exercise their rights without being exposed to physical danger, property damage, or breaches of the public peace.

2. Picketers

- a. Picketers are allowed to march on public sidewalks and streets, as long as their activities do not prevent the use of those public ways by others.
- b. While picketing, persons are allowed to verbally, or by sign, attempt to persuade others to their point of view, provided such persuasion is not accompanied by injury or threat of injury.
- c. Picketers who refuse to desist in blocking sidewalks, streets, or driveways, so as to allow others to pass, are subject to arrest for disorderly conduct. However, prior to making such an arrest, officers should:
 - 1) Determine if the picketing is, in fact, blocking the sidewalk, street, or driveway in such a way that a person actually attempting to use it is prevented from doing so;
 - 2) Verbally or by clear physical direction indicate the picketers should desist in their activity; and
 - 3) Permit a reasonable time for compliance.

3. Entering & Leaving Site

- a. Persons entering or leaving the site of the strike should anticipate their passage may be subject to a reasonable delay. Such delays are related to ensuring their safety, the safety of persons on the picket line, and the right of picketers to engage in peaceful persuasion.
- b. If such persons crossing the line ignore or fail to follow reasonable and lawful directions of police officers, and, thereby, create a hazardous situation or a breach of the peace, their conduct could be considered disorderly in character.

E. Providing Safe Passage through Picket Lines

- 1. Pedestrians: Under normal circumstances, persons on foot should be escorted, by at least one officer, through the picket line and to a reasonable distance from the line.
- 2. Vehicles
 - a. Generally, when cars are waiting in line to pass through the picket line, the line should be stopped and three vehicles permitted to pass. Thereafter, the line should be allowed, briefly, to resume movement before being stopped to permit the passage of three more vehicles.
 - 1) The highest ranking officer on scene will determine the appropriate number of cars which will be allowed to safely pass at one time. In determining the

number of cars allowed to pass, the officer should ensure the number of passing cars permits the officers to remain in control of both the picketers and the motorists.

- 2) If the volume of picketers, their conduct, or other factors such as weather or lighting conditions make passage of three cars unsafe, officers shall reduce the flow of vehicles through the line or, in extreme cases, stop the passage of vehicles until sufficient officers are present to ensure safe passage.
- b. Motorists should be directed not to play the vehicle's radio while passing through the line, so that they may hear emergency directions from the officer.
- c. Because differing opinions exist as to the relative safety of opening or closing windows as vehicles pass through the line, officers shall not, except in exigent circumstances, direct motorists to raise or lower their windows while passing through the line.
- d. Persons driving motor vehicles through the line must exercise due care and caution and must obey the directions of police officers.
 - 1) Officers observing minor vehicle violations that do not represent an immediate threat to safety shall not stop the vehicle, but should record the registration number for later follow-up.
 - 2) When it becomes necessary to stop a vehicle, the officer should direct the vehicle to stop at a safe distance from the picket line.
 - 3) Any person who intentionally, negligently, or recklessly endangers picketers, the public, or the police by their manner of operation should be charged with the appropriate motor vehicle or criminal offense.
- e. Operators of vehicles observed entering or leaving through uncontrolled driveways should be directed to use controlled points of passage.
3. Identification Checks: Unless specific orders to the contrary are issued by a supervisor, officers will not check the identification of persons crossing the picket line.

F. Reports

1. Officers working strike locations shall prepare a written report after issuing a warning, making an arrest or taking another criminal enforcement action while working a strike scene.
2. See the department policy on **Incident Reporting**.

G. Labor Organizing Efforts

1. Workplace Access
 - a. Labor organizations may want to go onto private property in order to gain access to employees for the purpose of attempting to organize them. The National Labor Relations Act (NLRA) confers rights only on employees, not on labor organizations or their non-employee organizers. Thus, as a rule, an employer need not allow non-employee organizers onto the employer's property for the purpose of either speaking with employees or distributing labor organization literature.²
 - b. In unusual situations, a labor organization may convince the National Labor Relations Board (NLRB) or a court that a certain group of employees are so

inaccessible that an exception should be made to the general rule.³ In the absence of an order from the NLRB or a court, labor organizers have no more rights than other private citizens and may be barred from private property by the owner or person in charge of such property.

2. Publicizing Displeasure with Employer

- a. As part of their organizing efforts, labor organizations may also want to publicize their displeasure with an employer. This may include the distribution of flyers or pamphlets to members of the public in and about an employer's place of business.
- b. Such activities do not ordinarily come within the scope of the NLRA. In such situations, labor organization organizers must conform to all applicable statutes.

3. Enforcement of Statutes

- a. Labor organizers must comply with the same statutes as other private citizens in attempting to gain access to employees. Should the person who owns or is in lawful control of private property restrict solicitation, labor organizers may be denied entry.
- b. Labor organizers are to be warned their actions in violation of statutes, such as trespassing, disturbing the peace or disorderly conduct, will not be tolerated.
- c. Should a violation persist after the aforementioned warning has been given, officers shall consult with a supervisor to determine what enforcement action is most appropriate under the circumstances. This may include arrest of some or all of the organizers, applying for process on complaints or advising the complainant of his/her right to file a complaint in the appropriate District Court department.
- d. Officers should maintain neutrality on the labor relations aspect of any dispute between organizers and property owners.
- e. As with many types of disputes, if officers discover some reasonable accommodation is possible which satisfies both the property owner and the labor organization organizers, there is no need for enforcement action.

¹M.G.L. c. 22, §9A.

²See *Lechmere v. NLRB*, 502 U.S. 527, 112 S. Ct. 841 (1992).

³*N.L.R.B. v. Babcock & Wilcox Co.*, 351 U.S. 105, 76 S. Ct. 679 (1956).