



Cambridge Police Department

Effective Date: June 3, 2002

New Policy # 700

Policy and Procedures

2002-4

PICKETING, STRIKERS AND LABOR DISPUTES

I. Purpose

This policy will:

- A. Establish general considerations and guidelines when dealing with picketing, strikers and labor disputes.
- B. Provide general public safety and law enforcement considerations during a picket strike or labor dispute.
- C. Explain the rights of picketers and persons crossing the picket lines, and further explain how to provide safe passage through a picket line.
- D. Describe non-strike situations and the enforcement of statutes.

II. General Considerations

The police role at the scene of any labor dispute is to maintain order while protecting life and property. Similarly, the police are required to protect the rights of citizens who are exercising their right to peaceably assemble. It is where these conflicting interests clash that the police role becomes complex. Violence cannot be tolerated nor may the denial of egress and ingress to premises being picketed or the interference with the use of public thoroughfares be allowed to continue.

The key to effective police action in these circumstances is to be fair and objective in the performance of police duties. Police officers must not allow themselves to become the focus of the dispute. They must avoid taking sides or provoking any action that could result in violence. If violence does occur the police cannot ignore their duty to restore order. In doing so, they are reminded to use the minimum force necessary.

An important factor in avoiding disorder and the subsequent necessity for making arrests is to establish early contact with the leaders of demonstrations and/or strike leaders and company officials. At such a meeting police responsibility can be set out in detail and the cooperation of the prospective participants can be sought as their obligation to maintain public safety and good order is made clear to them by a police spokesperson.

The decision to use on-duty police officers at the scene of labor disputes will be made by the Incident Commander. The Incident Commander will determine which phase, if any, of the Emergency Mobilization Plan to employ. Requests for the services of off-duty officers will be governed by the detail policy.

III. Procedures

A. Operational and Supervisory Authority

1. Operational control of all officers assigned to a labor dispute or strike location will be exercised by the Police Commissioner or his/her designee.
2. Supervisory responsibility during strikes and labor disputes will be delegated to the Shift Commanders and/or the Patrol Supervisor.

IV. General Public Safety and Law Enforcement Considerations

A. 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. When working at a strike location, officers will conduct themselves according to Massachusetts law, these guidelines, Department Policies and Procedures, Departmental Orders, and the lawful orders of their superior officers. No employee of the 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. Any employee of such company or organization who seeks to so direct or order a police officers, should be directed to the Shift Commander, or his designee, or in his/her absence, the on-duty Patrol Supervisor.

B. The mission of officers assigned to strike locations includes, in order of importance, the following:

1. The protection of life and the prevention of physical injury to persons;
2. The protection of the statutory and Constitutional rights of all persons;
3. The protection of personal and public property;
4. The maintenance of the public peace.

C. Whenever the police department is notified of the existence of a strike or labor dispute, the following information will be obtained for departmental purposes:

1. the name, business address and telephone number of the employer;
2. the name, address and telephone number of the union 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;

8. any information that could be of assistance to the police department in carrying out its responsibilities.

This information should be recorded by the person receiving the information and forwarded through the chain of command to the Administrative Captain, the Superintendents and the Commissioner.

- D.** As soon as possible, the Commissioner or his/her designee will interview the employer and the union officials to ensure that there will be no unlawful activity by any of the contending parties. Both sides in the dispute will be notified:
1. that the use of force or violence will not be permitted;
 2. that the law will be enforced fairly and impartially;
 3. that any unlawful or disorderly act or acts that might provoke violence will be prevented;
 4. that the rights of the general public to use the public streets and sidewalks will be maintained;
 5. that the rights of the striking employees to conduct orderly picketing in public areas will be protected;
 6. that 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.
- E.** When a strike develops and a picket line is established, it will be the obligation of the Officer-in-Charge at the scene to make contact with the union leader supervising the picketing and seek the individual's cooperation. Picket leaders are usually responsible persons selected for their leadership ability. Good relations between the police and the strikers can ease the problems of law enforcement.
- F.** If an incident arises, or it is apparent that a potentially dangerous situation is arising, it should be called to the attention of the picket leader immediately who should be encouraged to handle the problem immediately, if at all possible. In many cases, this will eliminate the need for intervention by the police.
- G.** Police officers should avoid any fraternization with pickets, union leaders or management officials.
- H.** Police officers should avoid any unnecessary conversation with friends or acquaintances who may be in the picket line or associated with management.
- I.** Police officers should not enter company property except to perform a proper police purpose. They should not park departmental or personal vehicles on

company property or use any company facilities or telephones, nor those of the union, unless absolutely necessary.

J. Police officers should not fraternize with company security guards or with non-striking personnel.

K. Police officers should not use any company cafeteria and should not accept invitations to eat either with union or management personnel.

V. Rights of Picketers and Persons Crossing Picket Lines

A. Persons engaged in lawful and peaceful picketing are in 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.

D. Picketers are allowed to march on public sidewalks and streets, so long as their activities do not prevent the use of those public ways by others. While picketing, persons are allowed to verbally or by sign, attempt to persuade others to their point of view, provided that such persuasion is not accompanied by injury or threat of injury.

E. Picketers who refuse to desist in blocking sidewalks, streets, or driveways, so as to allow others to pass, are subject to arrest. 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 that the picketers should desist in their activity; and
3. Permit a reasonable time for compliance.

- F. Persons entering or leaving the site of the strike should anticipate that 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. 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.
- G. Additionally, persons driving motor vehicles through the line must exercise due care and caution and must obey the directions of police officers. 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.

VI. Providing Safe Passage Through Picket Lines

- A. Under normal circumstances, persons on foot should be escorted, by at least one officer, through the picket line and from and to a reasonable distance from the line.
- B. Under normal circumstances, when cars are waiting in line, either on the street or in a driveway, to pass through the picket line, the line should be stopped or three (3) vehicles permitted to pass. Thereafter, the line should be allowed, briefly, to resume movement before being stopped to permit the passage of three (3) more vehicles.
 - 1. Permitting three (3) cars to pass hopefully ensures that prolonged waiting does not become a source of problems and that vehicles are not operated at excessive speeds as they pass through the line. Additionally, that level of passage 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 (3) cars unsafe, officers will 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.
- C. Unless specific orders to the contrary are issued by the Department, officers will not check the identification of persons crossing the picket line.

VII. Non-Strike Situations

A. Background

1. Union Organizing Efforts

Unions 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 unions 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 union literature. (M.G.L. c. 149, § 19B)

In unusual situations, a union 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. In the absence of an order from the NLRB or a court, union 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.

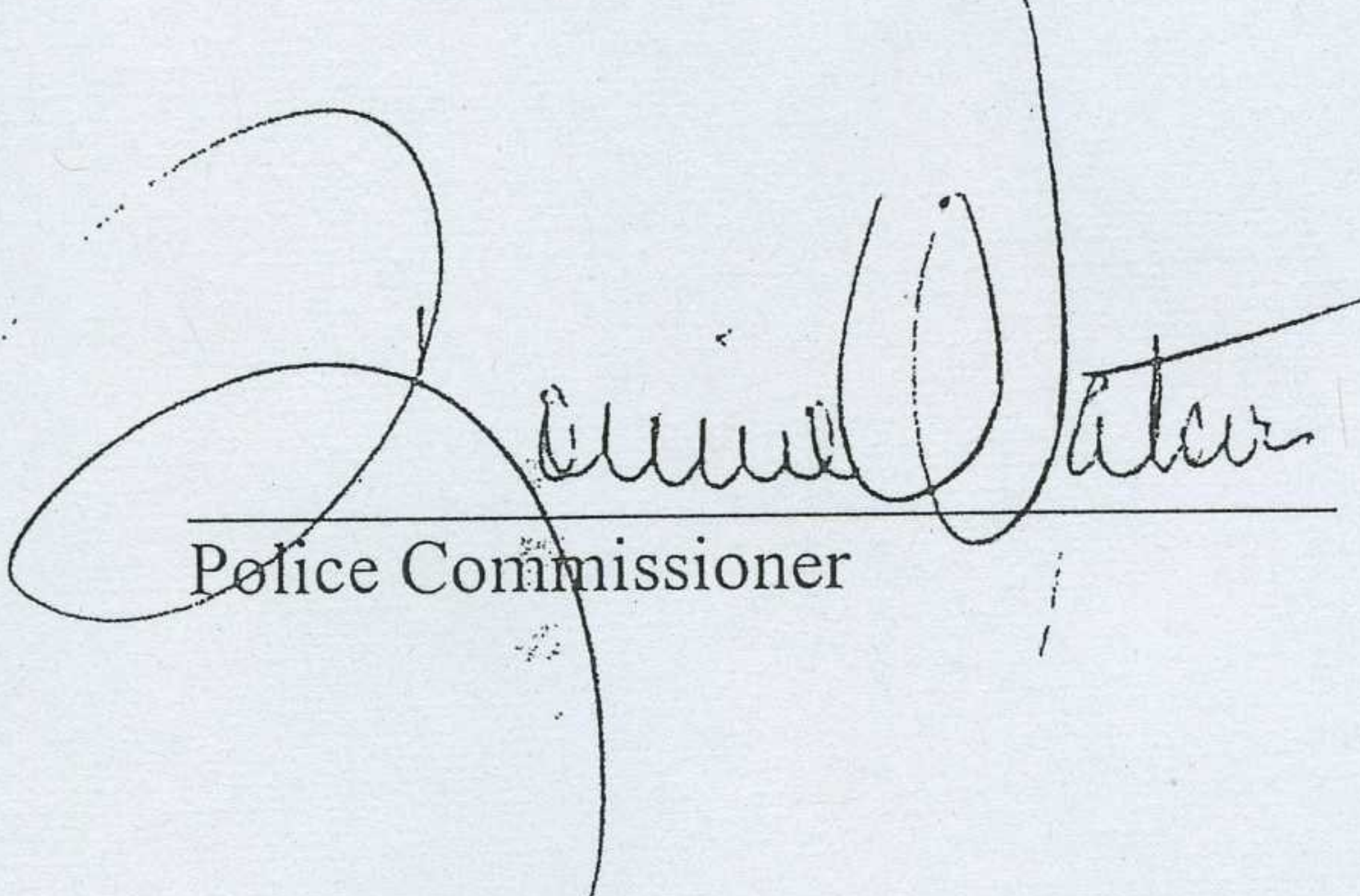
2. Publicizing Displeasure with Employer

As part of their organizing efforts, unions may also want to publicize their displeasure with an employer. This may take the form of hand billing members of the public in and about an employer's place of business. Such activities do not ordinarily come within the scope of the NLRA. In such situations, union organizers must conform to all applicable statutes.

B. Enforcement of Statutes

1. Union 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, a certain piece of property restrict solicitation, union organizers must confine their efforts to public property (or at least vacate the restricted property).
2. Union organizers are to be warned that their actions in violation of statutes such as trespass, disturbing the peace or disorderly conduct will not be tolerated.
3. Should a violation persist after the aforementioned warning has been given, officers will consult with their Patrol 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.

4. Officers should maintain neutrality as regards the labor relations aspect of any dispute between organizers and property owners.
5. As with many types of disputes, if officers discover that some reasonable accommodation is possible which satisfies both the property owner and the union organizers, there is no need for enforcement action.



Police Commissioner