

EXHIBIT # 1

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CITY OF SPRINGFIELD  
INTER-OFFICE MEMORANDUM

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SENTION OF Gordon Loveland  
DEPARTMENT Police Chief

DATE October 3, 1979

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Re: Picketing

It appears that labor problems in the private business sector have surfaced again. For various reasons both the labor unions and the managers will attempt to manipulate the police power of the City to their own advantage. Therefore both the Police Department and the prosecutor's office must be extremely careful in dealing with these situations. If the situation is not clear-cut, and if an arrest is made when the picketer is validly exercising his rights of free speech, then we are exposing the City and the officer to lawsuits charging violations of basic constitutional freedoms. On the other hand, if the situation is clear-cut, then we must enforce our ordinances to protect the rights of the managers as well.

Our department will work as closely as possible with the Police Department to try to take the guesswork out of the field situation and therefore make the police officer's job less risky. Above all, the officer should not "guess" about an arrest involving picketing. If he "guesses" incorrectly, the results can be shattering. If the officer is in doubt about whether to arrest a picketer, he should contact the prosecutor or refer the manager of the business to the prosecutor's office to file charges. This gives everyone an opportunity to calmly review the entire situation, to research legal questions, and then to make a decision without having to "guess". This takes some of the pressure off the officer in the field, and it reduces the risk of error for the City. Here are some suggested procedures:

1. If the officer observes a clear-cut violation of an ordinance, he can exercise his normal discretion and take one of several actions, including arrest, summons, towing, etc. Following is a list of some specific examples which may be fairly clear-cut, along with the code sections which apply. This list does not contain all possible violations, but instead merely contains those most commonly resulting in complaints.

a. Loud and disturbing noises, such as blowing a whistle.  
26-16.2; 26-28; 26-61(6).

b. Interfering with anyone entering or leaving the grounds or building. Requires physical force, physical injury, or the threat thereof. 26-61(1).

c. Harrassing, annoying, threatening, cursing at, abusing, mocking, or intentionally jostling any patron of any commercial establishment within the building or upon the grounds thereof.  
26-61(2).

d. Parking other than in designated parking areas. 26-

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for advice. If the prosecutor does not think it is a clear-cut situation, then he would not be expected to "guess" either. He should recommend that the manager come in to file a complaint, so that the facts can be reviewed in detail.

Since picketing involves freedom of speech, since denial of free speech has serious results, and since both the unions and the managers will seek to influence the enforcement of the law, both the police and the prosecutors should exercise caution, and neither should "guess" when deciding to arrest a picketer.

X Since this memo contains a list of ordinances to help your officers control picketing problems, it should also be balanced with a list of things they should not do. The following short list of "do nots" may be helpful to them.

1. Do not arrest a picketer for merely handing out leaflets. That activity, without more, cannot be classified as harassing or offending customers.
2. Do not try to direct the physical location of the picketing, unless the picketers are obstructing an entrance, or otherwise violating an ordinance which controls location.
3. Do not arrest for "Refusal to Leave a Commercial Establishment" (26-61(7)) unless the picketer has violated one of the other parts of 26-61.
4. Do not arrest picketers under the so-called "loitering" ordinance (26-61.5) as long as they are moving around carrying signs or handing out pamphlets, even if they are not transacting business on the premises.

If you have any questions, or if you want us to work directly with any particular officer in your department concerning these problems, please let me know.

X  
LP/ogm

SIGNED Lyndel Porterfield

Lyndel Porterfield  
Assistant City Attorney

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61(3).

e. Refusing to move a vehicle interfering with the movement of other motor vehicles on the drives or other usual passageways upon the grounds. 26-61(3).

f. Blocking aisles, doorways or other passageways into, out of, or through the grounds or buildings.

- (1) More than one person. 26-61(5).
- (2) A single individual. 26-61(6).

2. If the officer decides that the activity clearly does not violate an ordinance, and if the manager still insists upon some action being taken, then the officer can refer the manager to the manager's attorney or to the prosecutor. For example, the City has no ordinance which would prohibit picketing completely. In fact, the picketers probably would have a constitutional right to express their discontent in some form of picketing, and the City could not prohibit it completely. Another example is a manager's complaint about the content of a particular sign. As long as the sign does not contain some offensive language which might violate an ordinance, we cannot prohibit the display of that sign. The fact that the manager may feel that the sign contains lies or misleading statements is not sufficient to authorize the City to prohibit the sign. If the sign contains lies or misleading statements, then the manager should talk to his private attorney about handling the matter in a civil suit without involving the City. Still another example is where the pickets are picketing on the sidewalk in front of a store instead of at the entrance to the parking lot and the manager demands that they move. There are some situations where the picketing should be conducted at the entrance to the parking lot. There are other situations where the picketing should be conducted at the entrance (front doorway) to the business instead of at the entrance to the parking lot. But the police officer should not interfere in either of those situations. This question of where the picketing is to be conducted is a matter to be settled between the union and the business. There are civil processes (National Labor Relations Board, etc.) that have been set up to handle such disputes as these.

3. If the officer is in doubt whether the conduct violates an ordinance, then he should refer the manager of the business to the prosecutor's office to file a complaint. The complaint can then be compared to the reports and to the case law to determine whether a charge should be filed. Or, if the situation appears to need a more immediate decision, then the officer can call the prosecutor

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