



BY-LAW NO. 240 - 2000

**A BY-LAW RESPECTING
POLICE ACTION AT LABOUR DISPUTES
(PO-002)**

1. PREAMBLE

1.1 WHEREAS subsection 31(1) of the *Police Services Act* provides that a Board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall:

- b. generally determine after consultation with the Chief of Police, objectives and priorities with respect to police service in the municipality;
- c. establish priorities for the effective management of the police service, and
- e. direct the Chief of Police and monitor his or her performance;

1.2 AND whereas subsection 31(6) of the *Police Services Act* provides that the Board may, by by-law, make rules for the effective management of the police service;

1.3 AND whereas O. Reg. 3/99 prescribes standards for adequacy and effectiveness of police services;

1.4 AND whereas section 20 of O.Reg.3/99 requires the Chief of Police to establish procedures on police action in respect of labour disputes;

1.5 AND whereas section 29 of O.Reg.3/99 requires a police services board to have a policy on police action in respect of labour disputes;

1.6 AND whereas Part PO-002 of the Policing Standards Manual (2000), a copy of which is attached hereto as Appendix A, contains guidelines directing the police service relative to police action at labour disputes.

NOW THEREFORE THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD ENACTS AS FOLLOWS:

2 ***DEFINITIONS***

- 2.1 *"Act"* means *Police Services Act*, R.S.O. 1990, c.P.15, as amended;
- 2.2 *"Board"* means the Regional Municipality of Niagara Police Services Board;
- 2.3 *"Chief"* means the Chief of the Niagara Regional Police Service;
- 2.4 *"Manual"* means the Policing Standards Manual published by the Ministry of the Solicitor General;'
- 2.5 *"Member"* means a member of the Niagara Regional Police Service;
- 2.6 *"Service"* means the Niagara Regional Police Service.

3 ***BOARD POLICY***

- 3.1 The Board recognizes that labour disputes are serious in nature, and it is therefore the policy of this Board that the role of police at a labour dispute be to preserve the peace, prevent offences and enforce the law, in accordance with the powers and discretion available to a police officer under the law and in accordance with procedures established by the Chief as directed in this By-law.

4 ***DIRECTION TO THE CHIEF***

4.1 ***PROCEDURES***

- 4.1.1 The Chief shall establish written procedures on the role of police at labour disputes. These procedures shall be in accordance with Appendix A.
- 4.1.2 The Chief shall ensure that the written procedures address the provision of information to management, labour and the public on police procedures at a labour dispute.

4.2 ***TRAINING***

- 4.2.1 The Chief shall ensure that Members receive training in the role of police at labour disputes and in the law regarding lawful and unlawful picketing.

5 **REPORT TO THE BOARD**

- 5.1 The Chief shall make a written report to the Board on or before August 30 of each year in respect of police action at labour disputes. The report shall include:
- a. a summary of the written procedures concerning police action at labour disputes;
 - b. the status of Service compliance with the said procedures; and
 - c. a summary of any incidents of police response to a labour dispute.

6 **IMPLEMENTATION**

- 6.1 This By-law shall come into force upon the date of its passage.
- 6.2 The Chief shall implement this By-law, where applicable, through general order.

ENACTED AND PASSED this 14th day of December, 2000.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

Chairperson



Vice Chairperson



Legislative/Regulatory Requirements

Section 29 of the Adequacy Standards Regulation requires a police services board to have a policy on police action in respect of labour disputes. In addition, section 20 requires the Chief of Police to establish procedures on police action in respect of labour disputes.

Sample Board Policy

Board Policy # _____

It is the policy of the _____ Police Services Board with respect to police action at labour disputes that:

- a) the role of the police at a labour dispute is to preserve the peace, prevent offences, and enforce the law including offences against persons and property, in accordance with the powers and discretion available to a police officer under the law; and
- b) the Chief of Police will establish procedures on:
 - i) the role of the police at a labour dispute;
 - ii) providing information to management, labour and the public on police procedures during a labour dispute; and
 - iii) secondary employment under section 49 of the *Police Services Act* and labour disputes.

Police Service Guidelines

Procedures

1. Every police service's procedures on police action in respect of labour disputes should:
 - a) indicate that the role of the police at a labour dispute is to preserve the peace, prevent offences, and enforce the law including offences against persons and property, in accordance with the powers and discretion available to an officer under the law;
 - b) require, that upon the request of a trade union, an employer or any member of the public, information will be provided on:
 - i) the procedures and role of the police service during a labour dispute or organizing activity by a trade union;
 - ii) the distinctions between lawful picketing and those activities which may constitute a breach of statute; and
 - iii) sources of information on civil remedies during labour disputes, but not advice on possible civil remedies;
 - c) designate an officer responsible for coordinating the implementation of the police service's procedures on police action at labour disputes;



- d) provide that the responsibilities of the designated coordinator, upon learning that a labour dispute is likely to occur or has begun, include:
 - i) appointing, if necessary, a liaison officer for the duration of the dispute who may perform the responsibilities of the coordinator;
 - ii) contacting the employer and union involved and providing information on the police service's procedures and role during a labour dispute, and the distinctions between lawful picketing and activities which may constitute an offence under the *Criminal Code* or other legislation;
 - iii) meeting with representatives from management and labour to discuss issues such as peace, order, traffic and crowd control problems, the prevention of offences against persons and property, and to identify solutions;
 - iv) maintaining a daily log of significant activities and reported incidents, as well as ensuring that such incidents are fully documented;
 - v) where possible, not appearing in uniform when undertaking liaison duties; and
 - vi) where the above functions are performed by a liaison officer, briefing the designated coordinator on a regular basis;
 - e) provide that police personnel, other than the liaison officer(s), are not to be present at a strike location unless there is a perceived threat to peace and order, or traffic and crowd control problems exist, or there is a history of violence or disorder during labour disputes between the employer and the trade union;
 - f) indicate that the deployment of police officers at the location of a strike, when required, is to be kept proportional to the actual or anticipated problem that necessitates police involvement;
 - g) address the circumstances in which the services of a public order unit should be requested; and
 - h) provide that officers are prohibited from undertaking paid-duty policing on behalf of an employer or union that is related to a labour dispute.
2. Every police service should ensure that its procedure includes the following information on lawful and unlawful picketing:

Definition of Lawful and Unlawful Picketing

"Many disputes involve picketing. In these cases, it is important for the police to understand the distinction between lawful and unlawful conduct by picketers. Only informational picketing is lawful. That is, picketing is permitted only for the purpose of communicating information. Picketers may communicate information through a variety of means including placards, shouted slogans, pamphlets, and the mere fact of solidarity exhibited by the number of persons present on picket. However, they may not interfere with or obstruct the lawful right to enter or leave the struck premises."

Ontario courts have confirmed that picketing is unlawful if it interferes with the rights of entrance or exit from private property. Picketers may not lawfully engage in the following activity:

- *stopping vehicles entering the struck premises;*
- *blocking roadways that lead to the premises;*
- *limiting access to the premises;*
- *limiting exit from the premises; or*
- *making threats or engaging in intimidation.*

In summary, picketing that blocks or obstructs access to the struck premises is unlawful and has never been condoned by the courts.

The distinction between lawful (i.e., informational) picketing and unlawful picketing is reflected in the Criminal Code, which says that a person is not guilty of watching and besetting if he attends near a place 'for the purpose only of obtaining or communicating information...'

From time to time a party to a labour dispute may seek a court injunction to restrain picketing. However, the availability of this remedy does not diminish the police responsibility to preserve the peace, prevent the commission of offences, and enforce the law. In fact, under the Courts of Justice Act an injunction in connection with a labour dispute will not be granted unless the court is satisfied 'that reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry or exit from the premises in question or breach of the peace have been unsuccessful.'

*Clearly, policing of labour disputes and of picketing is a complex task that requires sensitivity and tact on the part of the officers involved. However, the courts have made it clear that where a breach of the law occurs, a labour dispute must be treated like any other situation (see Montgomery J.'s decision in *Canada Post Corp. v. C.U.P.W.* (1991), 84 D.L.R. (4th) 150 at p.153 "Breaches of the law must be remedied just as assiduously in a labour dispute as in any other situation.").*

