

LABOR DISPUTES

This order outlines the Department policies and procedures in response to labor disputes, including the rights of the disputants, court orders, and the enforcement duties of officers when violations occur.

I. POLICY

- A. PROTECTION OF FIRST AMENDMENT RIGHTS.** It is the policy of the San Francisco Police Department that its members maintain neutrality in labor disputes, preserve the peace, prevent violence, and facilitate the exercise of First Amendment rights.
- B. ENFORCEMENT AUTHORIZATION.** Any decision to take enforcement action pursuant to a court order shall be reviewed and authorized by a supervisory officer on the scene prior to any arrest.

II. GUIDELINES

A. PICKETING AND LEAFLET DISTRIBUTION

- 1. **PICKETING.** Peaceful picketing may occur on public sidewalks or on the aprons of private property in front of buildings where the public may lawfully be. The right to picket, however, does not include the right to break the law in any of the following ways:
 - a. Willfully and maliciously blocking a person's use of entrances, exits or sidewalks.
 - b. Using physical force on persons or throwing objects.
 - c. Disturbing the peace or using offensive words which are inherently likely to provoke an immediate violent reaction [see Section 415(3) Penal Code].
 - d. Maliciously and willfully disturbing another person by loud and unreasonable noise [see Section 415(2) Penal Code].
- 2. **LEAFLETS.** Distribution of leaflets does not require a permit.

D. COURT ORDERS

1. ORDER TO SHOW CAUSE (OSC). This is a request by a party in a dispute for a Temporary Restraining Order.
2. TEMPORARY RESTRAINING ORDER (TRO). This is an interim order of the court, generally issued before a formal hearing for an injunction is calendared. TRO's frequently address subjects not covered in criminal statutes or ordinances such as the number of pickets, the location, and the distance required between pickets. They remain valid until rescinded by the court or until a preliminary injunction is issued.
3. PRELIMINARY INJUNCTION. This is a court order issued after a formal hearing and generally covers the same subject area as a TRO. It remains valid until the date of expiration specified in the order or until it is modified or rescinded.
4. ENFORCEMENT CLAUSE
 - a. Occasionally a court will insert a provision in an order which directs law enforcement action when violations of the order occur. The following is an example of an enforcement clause which usually appears at the end of a court order:

"IT IS FURTHER ORDERED that willful disobedience of the terms of this order shall be deemed a violation of section 166.4 of the California Penal Code, and the appropriate law enforcement officials are directed to take such action as may appear necessary, including but not limited to arresting violators, in order to insure full and complete obedience and compliance with this order."

- b. Whether of not an enforcement clause is part of a TRO, an officer has authority to enforce its provisions. Enforcement action short of arrest should be in the form of warnings and advisements prior to any arrests being made. Supervisory officers shall get approval of command officers prior to making arrests at the scene of labor disputes. Supervisory officers shall not advise parties to the labor dispute under what conditions arrests will or will not be made. It is the goal of the police to remain neutral in the highly charged circumstances of a labor dispute. Supervisors and officers should avoid action which gives either party to the dispute the appearance of bias for or against either side to the dispute.
5. LINED-OUT PORTIONS. Court orders frequently have words, phrases, clauses, or paragraphs lined out by the judge. The fact that portions of the order are lined out does not impair the validity of the remaining parts of the order.

II. PROCEDURES

A. ENFORCEMENT DUTIES OF OFFICERS

1. DISCRETION. For the purpose of law enforcement, you should treat a court order the same as any other Penal Code provision; however, as a police officer, you have discretion to decide what is appropriate enforcement action.
2. GIVING NOTICE OR WARNINGS
 - a. During a labor dispute, you should dissuade people from violating the law or the terms of a court order by giving violators notice of their violation and an opportunity to stop it.
 - b. When requested by management to take action regarding alleged violations of a TRO or injunction, notify your supervisor before taking any enforcement action.
 - c. Supervisory personnel shall inform the picket captain of the specific terms of the court order allegedly being violated, request voluntary compliance and advise the picket captain that non-compliance may result in arrest(s).

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3. **ADMONISHMENT, CITATION, ARREST.** Enforcement action may include or be limited to a warning, a citation arrest, or a custodial arrest. Action to enforce the terms of the order should be taken only after ascertaining that the picket captain is familiar with the terms of the order and has been warned that the order will be enforced if non-compliance continues.
 - a. When making an arrest for a violation of a court order, indicate in your incident report that the terms of the order were explained to the picket captain and that a warning was given.
 4. **REPORTING VIOLATIONS.** If you observe a violation of a court order, document it in a memorandum or an incident report. In conducting the investigation necessary to make the report, you may obtain the names of individual picketers whom you reasonably believe were in violation of the order.
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