

Chapter 26- IFPO- CPO

Strikes, Lockouts and Labor Relations

Purpose

- ▶ From the moment a strike begins security should take a high visibility and low profile stance. The understanding of picket line behaviors and dynamics will Result in safety, protection of assets, property and people.

Introduction

- ▶ In the private sector and public sectors, employees belonging to a union may take action to influence the employer. These actions range from protests to strikes.
- ▶ Conversely, an employer may take action to influence the bargaining unit by locking them out of a facility. Collectively, these activities are referred to as labor relations.
- ▶ The security professional must be aware of not only their responsibilities but also their potential impact on the labor relations process.

Types of Labor Activities

Protest or Picket Line:

- ▶ A protest staged just off company property, typically at access/egress points.
- ▶ Picket lines are typically nonviolent and while they may sometimes slow access to a facility it is unusual for them to completely impede such access. Protests may be in lieu of a strike or sometimes accompany them, depending on the situation.

Strikes:

- ▶ A strike is an organized work stoppage often used in conjunction with other labor relations activities such as contract negotiations. Strikes appear in one of two forms:
 - ▶ Wildcat strike or illegal walkout: An unauthorized work stoppage in violation of law and/or an existing bargaining agreement.
 - ▶ Lawful Strike: Occurs in accordance with applicable laws and the bargaining agreement in existence. Often occur when a contract expires, and the union seeks to influence management to change one or more policies in a new bargaining agreement.

Types of Labor Activities

Lockout:

- ▶ Usually occurs in accordance with applicable laws and the bargaining agreement in existence. A lockout occurs when management refuses to allow bargaining unit members on company property.
- ▶ The purpose of a lockout by management is to put pressure on members of the union to change one or more items in an upcoming negotiation that bargaining unit members are otherwise unwilling to adopt.

Planning - What to Be Aware Of

Companies should, and often do, have plans developed for how to address protests, strikes, and/or lockout situations. The security professional must be familiar with these plans.

These issues include but are not limited to the following:

- ▶ **Access control:** The security professional must continue to ensure that only individuals permitted by company management that have access to company property are allowed to be there.
- ▶ **Key control:** Any keys or other access devices issued to employees should be recovered prior to the strike or, failing that, be disabled. For access systems using biometrics, magnetic cards, proximity cards, key fobs, or similar device, the profiles for affected employees can be disabled or suspended.
- ▶ **Escorts:** Bargaining unit members should be escorted by a security professional at all times while on company premises.

Planning - What to Be Aware Of

- ▶ **Law enforcement response:** A clear delineation of roles, responsibilities, and chain of command are essential.
- ▶ **Incident command:** A command post should be established for security and protection operations.
- ▶ **Fire Prevention/medical response:** Proper training on fire suppression systems, equipment, and response are essential, as is first aid, CPR, and AED training.
- ▶ **Lighting:** All existing facility lighting should be checked and repaired as needed. In addition, portable lighting should be considered for areas where labor activities may take place.
- ▶ **Digital Network Video Systems:** All existing cameras and recording systems should be checked and repaired as needed. If the system permits, additional cameras should be placed and added to the system for more comprehensive coverage.
- ▶ **Patrols:** Patrol rounds, locations, checkpoints, vehicles, and anything else associated with patrolling company property should be reviewed and adjusted based on the incident using all available intelligence.
- ▶ **Purchasing:** Security professionals should be coordinating with the company purchasing department to ensure essential shipments of raw materials, goods, or equipment can safely enter and/or exit the property.

What to Expect During Labor Unrest

Disruptions to company operations should be expected. Such disruptions might impact facilities, communications, employees, or some combination thereof.

► **Threatening phone calls:**

- With modern mobile phone technology, this likely will expand beyond voice calling and into social media, message boards, text (SMS) messages, and other venues.
- The intent is to provoke a reaction from the company, the more extreme the reaction the better for the bargaining unit's cause.
- All threats to be taken seriously.

► **Bomb threat:**

- The response to a bomb threat is very specific and typically involves law enforcement.
- In many companies, there is likely a “bomb threat checklist” kept near telephones reminding users what to listen for or ask for in the event a bomb threat is received.
- Time and date of the call should be recorded, as should the phone number the call came from (if known).
- The caller should be asked about the bomb itself—where it is, what it looks like, how it is activated, or who placed it.

What to Expect During Labor Unrest

Vandalism/sabotage:

- ▶ Purpose is typically to disrupt company operations as a persuasive measure.
- ▶ Can be difficult to establish or interdict and it is that difficulty that makes it an attractive tactic for bargaining units.
- ▶ May pose a risk to company employees who respond to clean or repair the damage.
- ▶ The risk of prosecution is low if the vandalism/sabotage is not recorded or witnessed.

The Picket Line and Protests

It is here, more than anywhere, that the security professional will be face-to-face with individuals who are likely to test limits with their behavior.

► **Taunts and insults:**

- Remember this: “He who angers you conquers you”
- Security professionals must not respond to insults and taunts.
- By reacting to a provocation, the security professional invites further provocation.
- Provocations could be used to distract from other happenings.

► **Crossing the picket line:** If crossing becomes a necessity, the security professional should keep the following in mind:

- Crossings are safer by vehicle; avoid crossing on foot if possible.
- Crossings are safer in groups; avoid crossing alone.
- Movement is safety. Try not to stop.
- If directly confronted by picketers in front of the vehicle, a stop may be unavoidable.
- If stopped, do not leave the vehicle and keep the windows up and doors locked.
- Be aware of picketer behavior—are there angry elements among the group that might instigate a confrontation?

Surveillance

- ▶ Monitoring and recording labor activities will serve as an evidentiary record of any incidents captured during such monitoring.
- ▶ Security professionals should consult corporate counsel regarding the recording, transmission, or sharing of any footage.
- ▶ Digital video systems, digital cameras, mobile phones, microphones, digital voice recorders, and drones are some of the options available.
- ▶ For areas without digital video coverage, video can be recorded on cameras and even mobile phones.
- ▶ The most impressive technological change at this time is the use of drones. Drones can be equipped with the same quality of camera that digital video systems use.
- ▶ There is one significant downside to digital recording technology, regardless of the venue. Just as this technology is available to security professionals, it's also available for the other side to use.
- ▶ Surveillance should be used, where possible, for the duration of the labor action—this could encompass several days or even weeks of footage.
- ▶ The security professional is gathering both evidence and intelligence through these surveillance activities and some of what is recorded will fit both categories.

Searches

- ▶ Depending on the jurisdiction, some company policies as well as some collective bargaining agreements may spell out the situations under which a search can be conducted.
- ▶ The permission levels needed to authorize a search may be delineated, as may the verbal or written consent to search. The recording of a search, or nonrecording for privacy purposes, may be considered.
- ▶ Search policy and procedures, whatever they may be, should be thoroughly vetted by corporate counsel prior to any implementation.
- ▶ If search policy and procedures are instituted, they should be practiced both consistently and impartially.
- ▶ Regular searches also serve as a deterrent as employees will recognize the increased odds of being caught.

The Disciplinary Process

There are five main types of disciplinary action that are taken against an employee when a violation is identified:

- ▶ **Verbal warning:**

- ▶ Typically there is no documentation beyond “Subject X was advised by Manager Y to stop doing Z immediately.”

- ▶ **Written warning:**

- ▶ Often used for more serious minor infractions or for an infraction where a verbal warning has already been given.
- ▶ Written warnings often follow a specific format and are retained for a specific amount of time.

- ▶ **Suspension:**

- ▶ The employee is typically given written notice of a suspension for a specific number of days and the employee may not report to the worksite or receive pay for time served in a suspension.
- ▶ Suspensions often remain in employee files indefinitely, or for a significant length of time.

- ▶ **Demotion:**

- ▶ Often a “last chance” offered before termination.

- ▶ **Termination**

- ▶ Removal of the employee from the company.

Labor Relations

- ▶ In using any disciplinary actions against a bargaining unit employee, there are specific rights for bargaining unit members that must be observed, collectively referred to as Weingarten rights.
- ▶ In Weingarten, the Supreme Court ruled that any employee being interviewed by a management representative was entitled to union representation during the interview.
- ▶ The security professional represents management and may be obligated to provide notice to an employee of their Weingarten right to representation prior to any questioning that can reasonably be expected to lead to disciplinary action.

Summary

- ▶ Labor activities such as picket lines/protests, strikes, and lockouts present unique challenges to the security professional.
- ▶ Pre-strike and pre-protest planning are essential to effectively managing these kinds of incidents, and the security professional must know his/her role in an incident as well as how that role may change depending on the situation at hand.

