

CITY OF NEW BEDFORD AND NEW BEDFORD BRANCH OF MASSACHUSETTS POLICE ASSOC.,  
SI-50, (5/25/77)

(100 Impasse)  
108.2 withdrawal of services

Commissioners participating: James S. Cooper, Chairman; Garry J. Wooters,  
Commissioner.

Appearances:

Arthur J. Caron, Esq.	- Counsel for the City of New Bedford
Gerard S. McAuliffe, Esq.	- Counsel for the New Bedford Branch of Massachusetts Police Association

DECISION AND ORDER

On May 5, 1977, the City of New Bedford (City) filed a Petition to investigate Strike with the State Labor Relations Commission (Commission) alleging that the New Bedford Branch of the Massachusetts Police Association (Association) and certain employees of the City had engaged in a violation of Section 9A(a) of Chapter 150E of the General Laws (the Law). The Commission investigated the Petition pursuant to its authority under Section 9A(b) of the Law, and hereby makes the following findings of fact, conclusions of law, and sets the following requirements.

Findings of Fact

The New Bedford Branch of the Massachusetts Police Association is the exclusive representative for the purpose of collective bargaining of all patrolmen, sergeants, and lieutenants in the New Bedford Police Department. The Association has had a long standing bargaining dispute with the City, which resulted in an arbitration award pursuant to the provisions of Section 4, of Chapter 1078 of the Acts of 1973. The award favored the position taken by the Association. The City has filed suit in the Superior Court challenging the validity of that award. That litigation is pending, with trial expected in the Fall of 1977.

Thirty-five officers and patrolmen were scheduled to report for duty on the shift commencing midnight, April 29, 1977. Of that number, only three reported for duty. The pattern was repeated for the following six watches through 8:00 a.m., May 2, 1977. During the seven shifts, 309 employees were scheduled to work. Two hundred sixty nine police officers called in sick, with only 40 reporting for duty. A number of the officers of the Association were among those calling in sick. The abnormal pattern of absences ended with the shift commencing 8:00 a.m., Monday, May 2, 1977.

On Saturday April 30, an order was obtained from the Superior Court restraining the members and officers of the Association from withholding their services. That restraining order remains in effect.



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Conclusions

It is apparent from the facts above<sup>1</sup> that certain employees of the New Bedford Police Department have acted in concert to withhold their services from the City. It is also clear that this action, involving 90 percent of the unit employees from its inception, was supported and condoned by the Association. Association officers were among those employees failing to report. The work stoppage started and stopped on cue, clearly indicating organization and direction. Association officers were unavailable when City officials attempted to reach them by telephone. The strike occurred in the context of a continuing dispute between the City and the Association over implementation of the arbitration award. It strains credulity to conclude that this work stoppage was not organized, induced, and condoned by the Association in order to pressure the City to abandon its appeal for the arbitration award. The failure to erect a picket line, and formally endorse the strike cannot shield the Association from liability under these circumstances. We therefore conclude that the Association, and the employees represented by the Association violated Section 9A(a) of the Law. Therefore, pursuant to our authority under Section 9A(b) of the Law, we hereby set the following requirements:

1. The Association shall cease and desist from inducing, encouraging and condoning a strike;
2. The employees represented by the Association shall cease and desist from engaging in a strike;
3. The Association shall post the attached Notice for 30 consecutive days in a conspicuous place where the Association's Notices are customarily located.

James S. Cooper, Chairman  
Garry J. Wooters, Commissioner

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE MASSACHUSETTS LABOR RELATIONS COMMISSION

The New Bedford Branch of the Massachusetts Police Association hereby gives notice to all employees represented by it that the Association does not and will not induce, encourage and condone a strike.

James A. Sylvia, President  
New Bedford Branch  
Massachusetts Police Association

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<sup>1</sup>At an investigatory conference held on May 17, 1977 Association counsel stipulated that the facts summarized above were accurate. The Association disputes that these facts constitute a violation of Section 9A(a) by the Association.

