

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Decision No. 10147-A

No. 10147-A

that one of said Sergeants is employed as a Relief Sergeant, whose duties sometimes include the duties performed by Patrol or Desk Sergeants.

CONCLUSION OF LAW

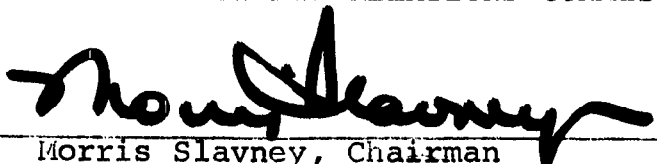
That the Sergeants in the employ of the Municipal Employer in its Police Department are not supervisors of police officers and are eligible for inclusion in the collective bargaining unit of police personnel for the purpose of exercising their rights under Section 111.70(4)(j) of the Wisconsin Statutes.

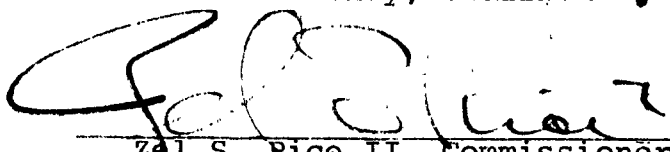
DECLARATORY RULING

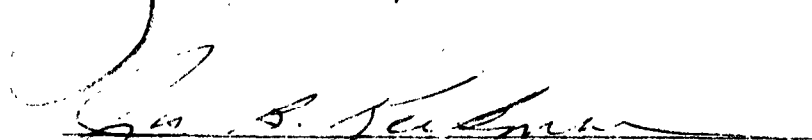
That for the purpose of exercising the rights granted law enforcement personnel under Section 111.70(4)(j) of the Wisconsin Statutes, the appropriate collective bargaining unit of law enforcement personnel in the employ of the Municipal Employer's Police Department consists of all law enforcement personnel having the power of arrest, including Patrolmen and Sergeants but excluding the Chief, Captains, supervisors and all other employees.

Given under our hands and seal at the City of Madison, Wisconsin, this 24th day of August, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF NEENAH (Police Department)

No. 10147-A

5. Whether the supervisor is primarily supervising an activity or is primarily supervising employees.
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees.
7. The amount of independent judgment and discretion exercised in the supervision of employees. 3/

In order to find that an employee is a supervisor it is not necessary that the Commission find that all of the above factors are present but these factors should appear in sufficient combination in a given case to clearly establish that an employee is a supervisor.

Applying these factors to the case at hand it appears that none of the Sergeants in the employ of the Municipal Employer are, in fact, supervisors. The Municipal Employer's Police Department is, like most police departments, organized according to a paramilitary structure. The police personnel are advised that in the absence of the Chief, the "ranking officer" is in command and that when there are officers of equal rank present the most senior ranking officer is in command. This paramilitary structure existed both prior to and subsequent to the Common Council's resolution of November 4, 1970, and no major changes in the organization of the Police Department were made as a result of that resolution.

In spite of the paramilitary structure of the Police Department, supervision does not strictly follow the theoretical chain of command. In fact, certain police officers serving in the rank of Sergeant seldom if ever are in a position to perform supervisory functions over other personnel even though they may exceed other personnel in seniority.

The Chief of Police has two captains working directly under his supervision, the Station Captain and the Field Captain. The Station Captain has the responsibility for supervising the four Investigative or Detective Sergeants. The Field Captain exercises direct supervisory authority over the four Patrol or Desk Sergeants. The hours worked by the two Captains nearly coincide with the hours worked by the Chief, those being daytime hours Monday through Friday. The Traffic Sergeant works directly under the supervision of the Chief although he is sometimes subject to the supervision of the Station Captain. The Traffic Sergeant supervises four non-police personnel who perform maintenance and stenographic functions. His job primarily deals with traffic engineering and accident reporting and he does not supervise any Patrolmen in the performance of those functions. The one remaining Sergeant is a Relief Sergeant who relieves Patrolmen and Patrol Sergeants alike.

It is clear that the Traffic Sergeant exercises no supervisory authority over other police officers even though he is the most senior Sergeant. This is because his hours preclude the possibility that he would be the senior ranking officer on most occasions.

The Investigative or Detective Sergeants spend most of their time in the field or in the police headquarters pursuing investigative work for which they assume primary responsibility. While it is true that

3/ City of Milwaukee (Engineers), (6960) 12/64.

Detective Sergeants are sometimes in police headquarters during the hours when the Chief and Captains are absent, they do not normally get involved in handling problems that arise among the patrolmen unless they are asked for help by the Desk Sergeant or go to the scene of an emergency or unusual occurrence. Although they are senior to the Desk Sergeants, their work is separate and distinct from the work of the Desk Sergeants.

The Desk Sergeants perform certain functions which are ordinarily performed by supervisory personnel. They direct and assign the work force in the sense that if an assigned patrolman fails to appear during the hours when the Chief and Captain are not present they follow set procedures in order to make up for his absence either by calling in a Patrolman or reassigning the Patrolmen who are present. During the hours when the Chief and Captain are not present there are normally four patrolmen on duty, two walking a beat and two driving cars. It is obvious that the Desk Sergeant spends very little time in the capacity of directing and assigning a work force of this size in a normal workday especially since they work on their own. When an emergency or unusual occurrence arises the Desk Sergeant has the responsibility of reassigning the four patrolmen to cover the emergency. In such a case the Desk Sergeant might call upon a Detective Sergeant for advice if he thought the situation warranted it. After having made any necessary reassignment of personnel the Desk Sergeant is expected to call the Chief or Captain.

On the other hand, Desk Sergeants do not have the responsibility of evaluating patrolmen nor do they have authority to discipline or effectively recommend their discipline. The pay differential between Sergeants and Patrolmen is not so substantial as to be indicative of substantially increased responsibility. The Desk Sergeants spend the majority of their time working either at their desk or in the field. The duties of the men in the field are sufficiently clear that they do not require direct supervision so that the majority of the time spent by the Desk Sergeants in the field is in the capacity of performing patrol duties. Desk Sergeants exercise little or no independent judgment or discretion insofar as it relates to their relationship with the patrolmen. What little independent judgment and discretion they do exercise is primarily in the area of handling emergencies or unusual occurrences and does not deal with personnel practices.


The Relief Sergeant only performs supervisory functions to the extent that he sometimes acts in the capacity of a Desk Sergeant. Since Desk Sergeants do not perform sufficient supervisory functions to be classified as supervisors, the Relief Sergeant is clearly not a supervisor.

For the above and foregoing reasons the undersigned conclude that the ten Sergeants in the employ of the Municipal Employer in its Police Department are not supervisors as that term is employed in the field of

labor relations and should not be excluded from the unit of law enforcement personnel recognized by the Municipal Employer for the purpose of exercising their rights under Section 111.70(4)(j).

Dated at Madison, Wisconsin, this 24th day of August, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


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