

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :

CITY OF HUDSON :

For Clarification of Bargaining :
Unit of Police Officers of :

CITY OF HUDSON :

Case II
No. 16248 ME-862
Decision No. 11470

ORDER CLARIFYING BARGAINING UNIT

The City of Hudson, Wisconsin, having on November 28, 1972, filed a petition with the Wisconsin Employment Relations Commission, wherein it requested the Commission to make a clarification of a collective bargaining unit of police officers employed by the City of Hudson; and pursuant to notice, a hearing having been held in the matter at Hudson, Wisconsin, on December 12, 1972, Marvin L. Schurke, Hearing Officer, being present; and the Commission having considered the evidence and arguments of Counsel and being fully advised in the premises, makes and files the following

ORDER


1. That the position of Policewoman shall be, and the same hereby is, included in the collective bargaining unit consisting of all full-time employees of the City of Hudson Police Department, excluding supervisors, confidential employees, managerial employees and executive employees.

2. That the Patrol Sergeant and Detective Sergeant employed by the City of Hudson Police Department are supervisors, and the same hereby are excluded from the collective bargaining unit described above.

Given under our hands and seal at the
City of Madison, Wisconsin, this 15th
day of December, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

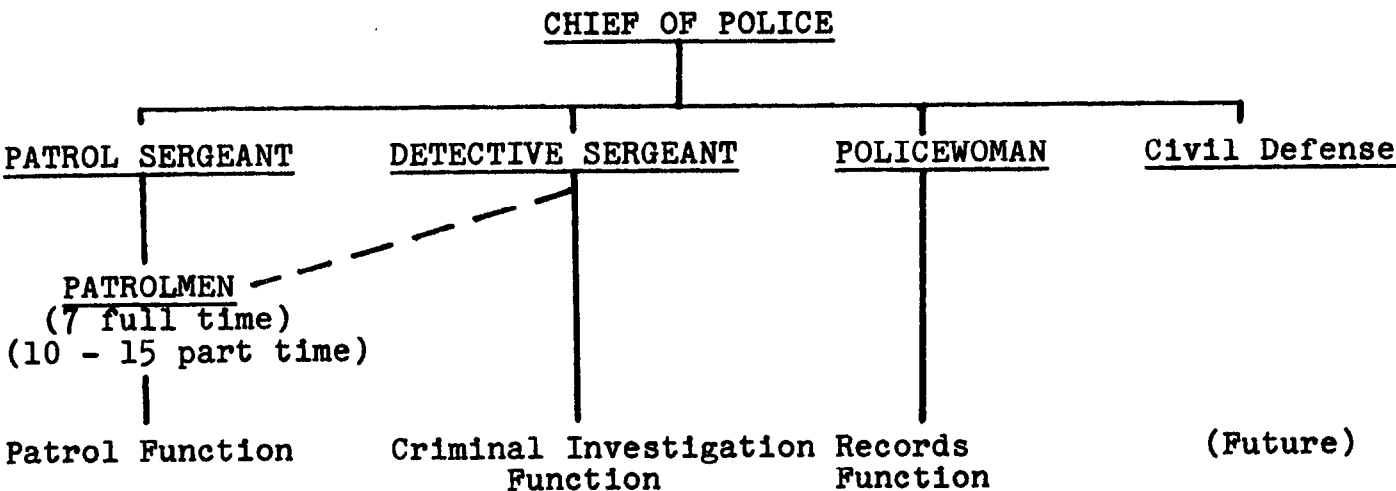

Morris Slavney, Chairman


Zel S. Rice II, Commissioner

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

The City of Hudson recognizes Attorney James A. Drill of New Richmond, Wisconsin, as the collective bargaining representative of certain full-time employees in the Hudson Police Department. On October 31, 1972, Attorney Drill filed a petition with the Commission to initiate final and binding arbitration under Section 111.77, Wisconsin Statutes.^{1/} During informal investigation on such petition a dispute arose as to whether a Policewoman and two Sergeants should be included in the bargaining unit. The City filed the instant petition with the Commission, seeking resolution of the questions concerning eligibility for inclusion in the unit.

The Chief of Police is the highest ranking officer in the Department, and the parties agree that the Chief should be excluded from the unit. The present Chief, David Burke, was promoted to his present position in 1970. Shortly after his promotion a restructuring of the Police Department took place and job descriptions were developed covering the positions in dispute here. The organization of the Department, as implemented in 1970, is as follows:



The City presently employs 7 full-time patrolmen and 10 to 15 regular part-time police officers. Two squad cars are presently in use and foot patrols are also used. Two of the full-time positions and some or all of the part-time positions have been added in the past year and a third squad car is on order, all as part of an expansion of the Department which is attributed to problems associated with the implementation of Wisconsin's 18-year-old "age of majority" law and the proximity of Hudson to the Minneapolis-St. Paul, Minnesota metropolitan area.

^{1/} Case I, No. 16157, MIA-18.

POLICEWOMAN

Mary Lou Olson is employed as Policewoman. Prior to the 1970 reorganization of the Department, Mrs. Olson was employed as a part-time clerical employee. She became a full-time employee as "Policewoman" when that position was created. In her present capacity, Mrs. Olson wears a uniform and badge. The City purchased her original uniforms and she subsequently received an annual uniform allowance. Mrs. Olson is sworn as a police officer and has the power of arrest. The City does not operate its own jail, but Mrs. Olson has performed matron duties when a female prisoner is in the custody of the Police Department. On two occasions, Mrs. Olson has appeared as a police officer in the Hudson Municipal Court. Although no specific examples could be recalled, the Chief testified that Mrs. Olson has occasionally accompanied male officers in making arrests. There is no evidence that Mrs. Olson has ever independently made an arrest, and she is not regularly assigned to patrol work. Her job description is as follows:

"Policewoman

"Position Objective:

To efficiently perform all necessary department office assignments and complete required clerical functions as directed by the Chief of Police.

"Results Expected:

Acts as receptionist for the Police Department. Serves as radio dispatcher during business hours. Types all required reports, records and correspondence. Completes all posting and tally entries required. Maintains complete and accurate files. Secures records and checks as required. Makes up annual reports and graphs. Assists department personnel in completing their forms and reports. Represents department in official capacities delegated by Chief where allowed. Keeps an efficient and neat office atmosphere."

Within this broad description, the Policewoman prepares and documents papers in check fraud cases, maintains the court appearance schedule for the police officers and acts as secretary to the Chief of Police. She is subject to being called in on weekends and holidays, usually to perform clerical duties. The Policewoman is not regularly called upon to perform duties for other City departments and the other departments do not provide clerical assistance to the Police Department. The Chief testified that 90% of her work is of a clerical nature, but the record shows that the City has given Mrs. Olson a title and other indicia of a police officer. There was no evidence that her function as Secretary to the Chief gives her access to confidential information concerning collective bargaining matters which would warrant her exclusion from the unit as a confidential employee. The Commission concludes that the position of Policewoman should be included in the collective bargaining unit.

PATROL SERGEANT

Chet Bonneman is presently the third ranking officer in the Department and occupies the position of Patrol Sergeant. His job description is as follows:

"Patrol Sergeant

"Position Objective:

To efficiently assign and direct Patrolman activities to accomplish the law and order objectives of the department.

"Results Expected:

Creates plan to provide adequate and complete police protection coverage. Schedules patrolman shift assignments to effectively carry out the plan. Directs the patrolmen in completing their work routine and assignments in an efficient and professional manner.

Handles special problems and situations arising in conjunction with patrolman duties.

Makes assigned public contacts as directed by the Chief of Police. Creates a professional public relations image through contacts and personal job performance.

Completes normal patrolman duties as required."

The Chief of Police ordinarily works on a day-time shift, Monday through Friday. Patrolmen are scheduled on shifts as follows:

7:00 AM to 3:00 PM - 1 Patrolman
3:00 PM to 11:00 PM - 1 to 7 Patrolmen
8:00 PM to 4:00 AM - 1 to 7 Patrolmen
11:00 PM to 7:00 AM - 1 to 7 Patrolmen

The Patrol Sergeant works on a night-time shift which is subject to variance depending on specific circumstances, and includes rotation of days off. The Patrol Sergeant makes up the work schedules of both the part-time and full-time Patrolmen. This authority is exercised subject to the superior authority of the Chief, and some discussions are held between the Patrol Sergeant and the Chief concerning the schedule, but the primary responsibility for the scheduling function lies with the Patrol Sergeant.

As the commanding officer on his shift, the Patrol Sergeant assigns Patrolmen to their daily beats and other duties, and he keeps daily activity records concerning the Patrolmen. The Patrol Sergeant makes recommendations to the Chief concerning the performance of the Patrolmen, and is authorized to suspend a Patrolman without pay for misconduct, without prior approval of the Chief.

The pay scale for Sergeants contains three longevity levels. On the 1972 salary schedule, the pay rate for a beginning Sergeant is \$110.00 per month higher than the lowest paid Patrolman and \$15.00 per month higher than the highest Patrolman's rate. After two years in rank, the Sergeant earns \$178.00 per month more than the lowest paid Patrolman and \$84.00 per month more than the highest paid Patrolman.

The Commission is satisfied that the Patrol Sergeant falls within the statutory definition of Supervisor set forth in Section 111.70(1)(o)(1), Wisconsin Statutes:

"(o) 'Supervisor' means:

1. As to other than municipal and county firefighters, any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

The Patrol Sergeant clearly has independent authority in the areas of suspension, discipline and assignment. The fact that the authority to suspend has not been exercised recently does not require a conclusion that the authority does not exist or that it should be ignored.

DETECTIVE SERGEANT

Prior to his promotion to his present position, Chief Burke had occupied a position of "Inspector", which carried no rank designation superior to that of Patrolman. The original proposal for the 1970 reorganization of the Department contained two "Inspector" positions, one of which was to be subordinate to the other. That original proposal was later modified by the deletion of the subordinate position and the change of the name of the remaining job to "Detective Sergeant". The Chief testified that one of the purposes in making that change of job title was to clarify the authority of the person holding that job over Patrolmen in the Department.

The present Detective Sergeant is Darrell Felrath. He generally works on the day shift. Felrath is the second most senior officer in the Department and is designated by the Chief as the officer in command when the Chief is unavailable. The Chief was on leave to return to school for a period of three and one-half months early in 1972, during which Felrath was in charge of the Department. There is no specific job description for the position of Detective Sergeant. The Chief testified that the job is a combination of the Patrol Sergeant job described above and the following:

"Investigator

"Position Objective:

To efficiently complete investigation assignments as directed by Department Inspector.

"Results Expected:

Conducts investigation assignments in a timely and efficient manner in conformance with established procedures.

Completes contact and liason work as assigned.

Carries out juvenile officer duties and provides court and school liason requirements.

Completes necessary reports and records of the Inspector function.

Handles court arraignment requirements.

Provides meter enforcement and collection services.

Creates a professional public relations image through contacts and investigation procedures.

Completes normal patrolman duties as required."

Sergeant Felrath works in plain clothes and drives his own car most of the time. When needed, he has authority to direct and assign Patrolmen to assist him in investigative functions. He has authority concerning suspension of Patrolmen similar to that of the Patrol Sergeant. The Detective Sergeant also functions as the Court Officer for the Department on most occasions when the need arises.

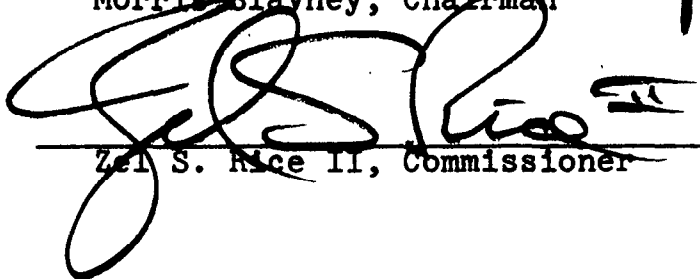
The Commission has determined that the Detective Sergeant's authority over the Patrolmen also requires his exclusion from the unit as a supervisor. In the absence of a "Lieutenant" or "Captain" rank in the departmental structure, the Detective Sergeant also stands in a position which requires the exercise of authority over the entire Department when the Chief is unavailable.

Dated at Madison, Wisconsin, this 15th day of December, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slayney, Chairman


Zel S. Rice II, Commissioner