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In the Matter of the Petition of :
 :
MILWAUKEE POLICE SUPERVISORS :
ORGANIZATION :
 :
Involving Certain Employees of :
 :
CITY OF MILWAUKEE :
 :
----- :

Appearances :

DIRECTION OF ELECTION

NOW, THEREFORE, it is

DIRECTED

No. 11971

Services), Secretary-Police Department, Deputy Inspector-Police Identification, Superintendent of Police Communications, First Deputy Inspector of Police, Inspector of Detectives, Detective, Chief Document Examiner, who were employed on July 5, 1973, except such supervisory personnel as may prior to the election quit their employment or be discharged for cause for the purpose of determining whether a majority of such employes desire to be represented by Milwaukee Police Supervisors Organization for the purposes of negotiations with the above named Municipal Employer.

Given under our hands and seal at the City of Madison, Wisconsin, this 5th day of July, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Morris Slavney, Chairman

Zel S. Rice II, Commissioner

MEMORANDUM ACCOMPANYING
DIRECTION OF ELECTION

Background

In December, 1971, approximately six weeks subsequent to the effective date of the revised Municipal Employment Relations Act (MERA), the Milwaukee Police Supervisors Organization, hereinafter referred to as MPSO, petitioned the Commission to conduct an election, pursuant to Section 111.70(3)(d) of MERA, among supervisory personnel with the power of arrest employed by the City of Milwaukee (Police Department), hereinafter referred to as the Municipal Employer, to determine whether said supervisory personnel desired to be represented by MPSO for the purposes of negotiating with the Municipal Employer.

Hearing in the matter was scheduled for February 2, 1972. The proceeding was indefinitely postponed at that time in order to afford the parties an opportunity to reach agreement on the appropriate unit and the eligibility of various supervisors. The parties were unsuccessful in such endeavor and hearing was set in the matter. On July 1, 1972, appropriate rules as provided in Chapter ERB 17, Elections to determine bargaining representative for supervisory law enforcement or supervisory fire-fighter personnel pursuant to Section 111.70(3)(d), Wis. Stats. became effective.

Hearing was held on October 4, November 7 and December 6, 1972. During the course of the proceeding, the Municipal Employer filed a petition with the Commission requesting that, prior to a continuation of the instant proceeding, the Commission amend and create certain rules relating to elections conducted pursuant to Section 111.70(3)(d) of MERA. Said petition was dismissed in City of Milwaukee (11434) 11/72.

As amended, MERA contains the following relevant provisions:

"111.70 MUNICIPAL EMPLOYMENT

(1) Definitions. As used in this subchapter:

(b) 'Municipal employe' means any individual employed by a municipal employer other than an independent contractor, supervisor, or confidential, managerial or executive employe.

(c) 'Supervisor' means:

1. As to other than municipal and county fire-fighters, 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 employes, 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.

(3) PROHIBITED PRACTICES AND THEIR PREVENTION.

(d) Nothing in this subchapter shall preclude law enforcement or firefighting supervisors from organizing separate units of supervisors for purposes of negotiating with their municipal employers. The commission shall by rule establish procedures for certification of such units of supervisors and the levels of supervisors to be included. The commission may require that the representative in a supervisory unit shall be an organization that is a separate local entity from the representative of the employees but such requirement shall not prevent affiliation by a supervisory representative with the same parent state or national organization as the employee representative.

..."

Furthermore, ERB 17.01 provides that:

"The determination as to levels of law enforcement and firefighter supervisors to be included in bargaining units, as set forth in section 111.70(3)(d), Wis. Stats., will be determined on a case-to-case basis, because of a variance of the duties and responsibilities assigned to supervisory officers in law enforcement and firefighting services in the various municipalities throughout the state. Since section 111.70(1)(b), Wis. Statutes, specifically excludes confidential, managerial and executive employees, as well as supervisors, from the term 'municipal employee', supervisors who perform confidential, managerial or executive duties shall be excluded from units of supervisory law enforcement or firefighter personnel. Supervisors employed in law enforcement departments, who have no power of arrest, and supervisors employed in fire departments, who are not actively engaged in firefighting, are not considered as law enforcement or firefighter supervisors."

The issues to be determined herein concern the appropriate levels or positions of supervisory personnel, with the power of arrest, employed by the Municipal Employer to be included in a supervisory law enforcement personnel collective bargaining unit. The organizational structure of the Police Department of the Municipal Employer is attached hereto as Appendix A.

Police personnel holding rank of Sergeant and under are represented by the Milwaukee Professional Policemen's Protective Association for the purposes of collective bargaining with the Municipal Employer. To date the following positions have been excluded from the aforementioned collective bargaining unit on the basis of their supervisory, confidential, managerial or executive duties, and, thereby, have not been considered "employees" as defined in Sec. 111.70(1)(b) of MERA.

Chief of Police
Inspector of Police
First Deputy Inspector of Police
Inspector of Detectives
Deputy Inspector of Police Training and Special Services
Superintendent of Police Communication
Deputy Inspector of Traffic
Deputy Inspector, Police Identification
Deputy Inspector of Police
Deputy Inspector of Detectives
Captain of Police
Assistant Superintendent of Police Communications
Secretary, Police Department

Assistant Police I-D Superintendent
Lieutenant of Police (Garage)
Lieutenant of Police
Lieutenant of Detectives
Chief Operator of Police Alarm
Assistant Chief Operator of Police Alarm

During the hearing, the parties stipulated that the following positions were appropriately included in the supervisory unit, namely:

Lieutenant of Police (Garage)
Lieutenant of Police
Assistant Chief Operator of Police Alarm
Chief Operator of Police Alarm

Furthermore, the parties agreed to the appropriate exclusion of the following supervisory positions possessing confidential, managerial or executive responsibilities from the supervisory unit:

Deputy Inspector of Police Supervisors
Inspector of Police
Chief of Police
Captain, Personnel Bureau
Deputy Inspector of Police (Training and Special Services) 1/

Initially, the Municipal Employer, contrary to MPSO, alleged that all police officers with the rank of Captain or above should be excluded from the supervisory unit on the basis of their confidential and/or executive and managerial responsibilities. The Municipal Employer further contended that all officers serving on the Board of Inquiry are ineligible for inclusion in the supervisory unit. Specifically, the Municipal Employer argues that the following positions are excluded from the supervisory unit due to their status as:

Confidential Employees

Assistant Police I-D Superintendent
Secretary, Police Department

Managerial and Executive Employees

Deputy Inspector, Police Identification
Superintendent of Police Communications

Confidential, Managerial and Executive Employees

Lieutenant of Detectives

Captain of Police

First Deputy Inspector of Police

Inspector of Detectives

1/ Page 20 of the hearing transcript indicates that the parties stipulated to the exclusion of "the Deputy Inspector of Police, of which there's one position". A review of the exhibits indicates that there are four "Deputy Inspector of Police" positions and one "Deputy Inspector of Police, Training and Special Services" in the employ of the department. The assumption that the parties intended to exclude the singular position of "Deputy Inspector of Police, Training and Special Services" is dubious and therefore, we will subsequently make a determination of the inclusion or exclusion in the bargaining unit of both positions.

Deputy Inspector of Detectives
Deputy Inspector of Police Training & Special Services
Deputy Inspector of Traffic

The Municipal Employer, contrary to MPSO, asserts that several additional positions are supervisory, but neither confidential, managerial nor executive. Therefore, the Municipal Employer concludes that the following positions are properly included in any supervisory unit established as an appropriate unit rather than being included in the existing, non-supervisory unit. These positions are presently included in the collective bargaining unit represented by the Milwaukee Professional Policemen's Association:

Sergeant
Detective
Chief Document Examiner 2/

Discussion will be directed to each of the disputed positions according to the alleged basis for exclusion from the uniformed, supervisory unit as argued by the Municipal Employer and contested by the MPSO.

CONFIDENTIAL EMPLOYEES

The duties of the Assistant Police Identification Superintendent primarily consist of aiding the Deputy Inspector, Police Identification in the supervision of the Bureau of Identification. 3/ The Assistant Police Identification Superintendent assumes full supervisory responsibility over the Bureau's personnel in the absence of the Deputy Inspector, Police Identification.

The incumbent instructs the Bureau's technical staff in the proper performance of duties. He may perform or assign such duties as classifying fingerprints, questioning prisoners, maintaining records and files and using photographic and laboratory equipment. Many of his responsibilities focus upon the instruction in and application of photographic work relating to criminal investigation. These duties include insuring that photographic evidence may be admissible in court; instructing and supervising the use of photographic chemicals and reproductive processes. Furthermore, the incumbent engages in and encourages the study of and research in the improvement of the identification service. To such end, the Assistant Police Identification Superintendent may develop new systems and methods to aid the identification process. In addition, the position's occupant may question or assist in the questioning of prisoners sent to the Bureau. He is also responsible for overseeing the operation of the Tabulation Division.

The Assistant Police Identification Superintendent is directly supervised by the Deputy Inspector, Police Identification. He is permitted to use his own discretion and judgment, based upon his expert knowledge in the field of identification, in work methods employed and the assignment of work to the Bureau's personnel.

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- 2/ Exhibit #5, Agreement Between City of Milwaukee and the Professional Policemen's Protective Association, 1-1-71 through 11-3-72.
- 3/ Exhibit 20, Assistant Police Identification Superintendent job description, 2-1-72.

The Commission has held that confidential status is determined by an employee's access to or participation in confidential matters relating to employee-employer labor relations. 4/ We are not satisfied that the Assistant Police Identification Superintendent, in the exercise of his expert knowledge in the field of identification and occasional filling in for the Deputy Inspector, Police Identification, during the latter's absence, possesses knowledge of, or access to, confidential matters relating to labor relations. Therefore, we conclude that the Assistant Superintendent, Police Identification is appropriately included in a unit consisting of uniformed, supervisory personnel.

Secretary-Police Department

The job description for the Secretary-Police Department, states that the position is responsible for the preparation of the annual departmental budget. 5/ The proposed budget contains requests from the various bureaus and divisions in the police department for salaries, equipment, personnel, special funds, renovation or remodeling of buildings, capital improvements and other expenditures for presentation to the Board of Estimates. The Secretary-Police Department supervises the preparation of the bi-weekly departmental payroll. In addition, the position supervises the control of departmental fund expenditures throughout the budget year. Such duties include the preparation and issuance of departmental requisitions for materials and services; the audit and certification for payment of service, work, supplies and equipment; the ledger entry of all supplies, equipment received and services performed; the maintenance of invoice files; and the deposit of monies collected with the City Treasurer; and accounting for various travel funds. The incumbent also prepares or supervises the preparation of the annual departmental report.

In light of the duties of the Secretary-Police Department, particularly with regard to the budgetary processes and his relationship with the higher echelons of the police supervisory structure, we conclude that the position is not only managerial but has access to and participates in confidential matters relating to labor relations and thereby is appropriately excluded from a unit comprised of supervisory uniformed personnel.

MANAGERIAL AND EXECUTIVE PERSONNEL

Deputy Inspector-Police Identification

The Deputy Inspector-Police Identification is responsible for the operation of the Bureau of Identification in its function of scientifically solving crimes through criminal identification. The incumbent's responsibilities are directed to the efficient operation of all identification systems; to the proper maintenance of all files, records and books; and to the appropriate use of photographic, laboratory and related equipment. 6/

4/ City of Green Bay (8390) 2/68, Winnebago County Hospital (6043) 7/62.

5/ Exhibit 21, Secretary-Police Department job description, 2-1-72.

6/ Exhibit 24, Deputy Inspector, Police Identification job description, 2-1-72.

The Deputy Inspector is in charge of all personnel assigned to the Bureau of Identification. He is responsible for the enforcement of all departmental rules and regulations. The incumbent engages in the ongoing study and research of identification systems and methods. He instructs members of the Bureau in the application of such new methods and occasionally instructs other Police Department personnel in new developments in the identification field.

The Deputy Inspector is responsible for all correspondence relating to criminal records. He is in full charge of prisoners sent to the Bureau. He may interrogate them or assign subordinate personnel to such duties. On a case-by-case basis, the incumbent orders specific registration action. Other duties include the preparation of special reports and statistical tables, review and authorization of records and reports on prisoners, criminal records for courts, venereal disease, and bartender and cab driver license applications.

The Deputy Inspector is directly supervised by the Chief of Police. The incumbent exercises his own discretion and judgment, based upon his expert knowledge in the field of identification. Such judgment is exercised in determining the work methods employed in the bureau and the assignment of bureau personnel to cases.

Managerial and executive employees are commonly regarded as those employees who formulate, determine and carry out management policies. Such duties are held to be indicative of interests different from those of the bargaining unit personnel. We are satisfied that the Deputy Inspector-Police Identification, in the exercise of his authority with regard to the policies of the Bureau of Police Identification, is a managerial and executive employee. We conclude that the position is appropriately excluded from the supervisory, uniformed unit.

Superintendent of Police Communications

The Superintendent of Police Communications is responsible for the supervision of the Communications Bureau, including all police communications facilities and operations by telephone, radiotelephone, radiotelegraph and teletype on a twenty-four hour continuing basis. 7/ The position is charged with the supervision of all Communication Bureau personnel and equipment. The incumbent supervises the installation and maintenance of base radio stations, Civil Defense and other City of Milwaukee communication equipment. The Superintendent oversees the erection and maintenance of antennas, transmission lines, portable masts, steel towers and related structures. The Superintendent is responsible for departmental application for FCC authority and for the operation of all city mobile radio systems. In the exercise of such responsibility, the incumbent must review compliance with FCC rules and regulations on behalf of all systems.

With the approval of the Chief of Police, the Superintendent develops operating procedures and methods for the Communications Bureau. He exercises supervision over the training of radio mechanics, radio dispatchers, teletype and telephone operators. In addition, the Superintendent supervises the development of test equipment and methods and spot checks equipment and personnel. The incumbent is responsible for the enforcement of departmental rules and regulations.

The immediate supervisor of the Superintendent is the Chief of Police. Qualifications for the position consist of a college degree

7/ Exhibit 26, Superintendent of Police Communications job description, 2-1-72.

in electrical engineering or its equivalent. Furthermore, the position requires responsible professional experience in the direction of radio communications and possession of an FCC license for radio telegraph, radio telephone and radar.

We find that the Superintendent of Police Communications is charged with the responsibility of determining the goals and methods of the Communications Bureau and, therefore, serves in a managerial and executive capacity. Thus, the position of Superintendent of Police Communications is appropriately excluded from the supervisory uniformed unit.

Assistant Superintendent of Police Communications

The duties of the Assistant Superintendent include the supervision of work and personnel in the Communications Bureau as directed by the Superintendent of Police Communications. 8/ The Assistant Superintendent assumes full responsibility for the department during the Superintendent's absence.

The duties and responsibilities exercised by the Assistant Superintendent during the Superintendent's absence include: responsibility for the proper conduct and efficiency of the Communications Bureau personnel; proper design, installation, maintenance and operation of all equipment; appropriate application of FCC rules and regulations; preparation of budget estimates, service and supply requisitions, equipment specification, records, reports and applications as required by the FCC.

We are not satisfied that the occasional assuming of the Superintendent's duties establishes that the Assistant Superintendent is a managerial or executive employee. It appears that policy decision, although occasionally carried out by the Assistant Superintendent, are determined solely by the Superintendent of Police Communications and his peers. We conclude that the Assistant Superintendent is appropriately included in a unit of uniformed supervisory personnel.

CONFIDENTIAL, MANAGERIAL AND EXECUTIVE PERSONNEL

Lieutenant of Detectives

At the time of hearing in the instant petition, there were twenty-one positions classified as Lieutenant of Detectives. Each Lieutenant of Detectives is assigned to supervise a squad or group of detectives. 9/ The incumbents review and evaluate the performance of subordinate detectives to determine whether or not assigned cases have been promptly and properly investigated. They are responsible for the efficiency, discipline, general conduct and appearance of squad members.

Under the supervision of the Captain of Police-Detective Bureau, the Lieutenants of Detectives assist and instruct detectives in the discharge of their duties. The incumbents file written reports with commanding officers concerning all cases of detective misconduct, incompetence, neglect of duties or violation of departmental rules and regulations. The Lieutenants inspect squad employees upon assignment to duty. Similarly, they inspect equipment and memorandum books assigned to detectives.

8/ Exhibit 19, Assistant Superintendent of Police Communication job description, 2-1-72.

9/ Exhibit 11, Lieutenant of Detectives job description, 2-1-72.

The immediate supervisor of the Lieutenant is the Captain of Police-Detective Bureau. On occasion, a Lieutenant may be assigned to desk duty in order to assist the Captain of Police-Detective Bureau. In the absence of the Captain of Police-Detective Bureau, a Lieutenant of Detectives takes command of a particular shift. At such times, the position exercises the authority of his immediate supervisor and assumes his duties, subject to the limitations imposed by the Captain of Police-Detective Bureau.

We find that the Lieutenant of Detectives functions strictly as a supervisor of detective squads or groups. We are not satisfied that in the exercise of such supervision, the Lieutenant possesses, or has access to, confidential matters affecting labor relations.

Although the position of Lieutenant of Detectives requires knowledge and enforcement of departmental rules and regulations, there is no indication that the Lieutenant performs a determinative role in the formation and implementation of management policies. We conclude that the position of Lieutenant of Detectives is appropriately included in the collective bargaining unit of supervisory, uniformed personnel.

Captain of Police (District Commander)

The singular position of Captain of Police - Personnel Bureau has been stipulated to be properly excluded from the unit involved herein.

Twelve positions, entitled Captain of Police (District Commander), are assigned to the Uniform Patrol Districts, Police Academy, Traffic Bureau, Youth Aid Bureau (as Commanding Officer) or Vice Squad (as Commanding Officer). The positions, subject to the orders of the Chief of Police, exercise immediate supervision over all police personnel assigned to a given district. 10/

Captains of Police (District Commander) attend employe roll call, issue instructions and inspect all personnel. They maintain records of personnel misconduct, insubordination, neglect of duty or unfitness and report in writing any such serious occurrences to the Inspector of Police. The District Commander inspects the assigned district and observes personnel in the field. He assumes immediate responsibility for the processing and treatment of all prisoners brought to the station.

The District Commander initiates investigations of homicides, accidents, thefts and other violations of law within the District. The incumbent is responsible for the service of official notices and subpoenas sent by appropriate authority.

The District Commanders investigate and report all complaints concerning the conduct of command members to the Inspector of Police. In addition, to closely scrutinizing probationary employes, the incumbents examine regulations, orders and duties. District Commanders may, with the approval of the Chief, prefer charges against any command member who lacks satisfactory examination. The District Commanders regularly check on the condition of ill or injured personnel.

The position is responsible for overseeing and maintaining various records within the District concerning licensing, enforcement of traffic regulations, illegal activities and missing persons.

10/ Exhibit 14, Captain of Police (District Commander) job description, 2-1-72.

The immediate supervisor of the Captain of Police (District Commander) is the Inspector of Police. The Captain exercises discretion and judgment, within prescribed Police Department rules and regulations, in maintaining order and discipline among assigned police ranks within the District.

It is relevant at this juncture, to discuss the intent of Section 111.70 with regard to the co-mingling of supervisory levels in a single supervisory unit. It is obvious in the discussion above, that the District Commander supervises all ranks under him, including Lieutenants who have been previously established as eligible supervisory employees.

Initially, the Municipal Employer asserted that all ranks of Captain and above should be excluded from a unit of uniformed supervisory personnel. The effect of implementation of such proposal would be to create a supervisory unit consisting strictly of the first level of supervision and excluding all subsequent, supervisory positions.

The limited organizational rights granted supervisory personnel under Section 111.70 precludes concerted employee efforts which would result in a conflict of interest between various levels of supervision contained in a single unit. Although such personnel are excluded from the broader provisions of the statutes on the basis of their supervisory status, they are not precluded from self-organization. Furthermore, it is for the Commission on a case-by-case basis to determine the appropriate levels to be included in a supervisory unit. Supervisors, exercising or possessing confidential, managerial or executive responsibilities are to be excluded from such units.

Managerial, executive or confidential authority may reside in different ranks in various municipal law-enforcement departments. We conclude that the fact that a given position functions as a supervisor of a supervisor will not be determinative in establishing the eligibility of the position for inclusion in the supervisory unit.

The Captain of Police (District Commander) exercises neither confidential nor managerial and executive responsibilities. The Captain does not participate in or have access to confidential matters relating to labor relations. Furthermore, we are satisfied that the Captain does not participate in the establishment of management policies to any significant degree. We conclude that the position of Captain of Police (District Commander) is appropriately included in a unit of uniformed supervisory personnel.

Captain of Police (Detective Bureau)

There are eleven Captain of Police (Detective Bureau) positions, one of which is assigned to the Mayor's office and a second to the Special Assignment Squad. The incumbents' immediate supervisor is the Inspector of Detectives. 11/ Under the direction of the Inspector of Detectives, the Captain supervises the Detective Bureau personnel during a given tour of duty. When assigned to night duty, the Captain conducts roll call; notes and reports all absences; conveys information and instruction; attends to all complaints, applications for service and other requests; examines arrested persons and maintains pertinent records. The Captain also performs work outside the office of the Detective Bureau. While assigned to the field, the Captain assumes personal charge of field investigation of a major crime. The incumbents supervise detectives in the performance of their duties and subsequently upon completion of the tour, submit a written report

11/ Exhibit 15, Captain of Police (Detective Bureau), 1-31-72.

concerning investigation of major crimes and any instances of violation of departmental rules and regulations as reported by proper authorities.

We conclude that the position of Captain of Police (Detective Bureau) is neither a confidential nor a managerial and executive employe and is, therefore, appropriately included in the unit of supervisor, uniformed personnel.

First Deputy Inspector of Police

The First Deputy Inspector of Police is third from the top in the hierarchy of the Police Department. 12/ The position is immediately supervised by the Inspector of Police. The First Deputy assists the Inspector of Police in his duties and, under the general direction of the Chief, supervises all departmental personnel, including district and bureau commanders, and operations in the absence of the Inspector.

The First Deputy directly supervises the Vice Squad. The position is responsible for the Department's efforts to suppress gambling and vice in the municipality. The First Deputy investigates and evaluates gambling and vice conditions in the district. Whereupon, he files written reports with the Inspector of Police and maintains special vice investigation files. In addition, the incumbent supervises the enforcement of departmental rules and regulations and the discipline and efficiency of all personnel.

Although no evidence has been adduced with regard to the First Deputy Inspector of Police, access to or knowledge of confidential matters relating to labor relations, we find the position to be appropriately excluded from the uniformed supervisory unit on the basis of managerial and executive responsibility.

Deputy Inspector of Detectives

Under the immediate supervision of the Inspector of Detectives, the Deputy Inspector of Detectives assists in the supervision of the Detective Bureau. 13/ Such duties include assisting in the supervision of work-load assignments; conduct of staff meetings and roll call; preparation of news releases; work with federal, state and local law enforcement agencies and courts; show up and processing of prisoner instruction and guidance of bureau personnel; and preparation, presentation and submission of evidence. In the absence of the Inspector, the Deputy Inspector assumes full command of the Bureau.

The incumbent is responsible for the daily assignment and direction of criminal investigation. He assists in preparation of extradition related matters. The Deputy Inspector compiles statistical reports on criminal activities.

We conclude that the Deputy Inspector of Detectives possesses neither confidential nor managerial and executive responsibilities. Therefore, we find the position to be appropriate for inclusion in the collective bargaining unit consisting of uniformed supervisory personnel.

Deputy Inspector of Police

The Police Department has four positions classified as Deputy Inspector of Police. Subject to the Chief's orders, a Deputy Inspector exercises general command and control over and field supervision of one of three shifts. 14/ An incumbent supervises and reviews the enforcement of departmental rules and regulations; the discipline, efficiency and general condition of district police stations and their records. The position's occupant inspects uniforms, buildings and equipment.

The Deputy Inspector of a particular shift, investigates complaints against members of the department, taking statements and submitting detailed reports to the Chief of Police and the Inspector of Police. Deputy Inspectors supervise special assignments ranging from parades and ball games to fires and major disasters. One of the Deputy Inspectors would fill in for the First Deputy Inspector of Police in the latter's absence.

The Deputy Inspectors receive supervision from the First Deputy Inspector of Police, Inspector of Police and the Chief of Police.

Although the Deputy Inspector of Police position is responsible for the supervision of an entire policing shift, we find no indication that the positions exercise or possess confidential, managerial and executive status. As in preceding discussions, the absence of knowledge concerning confidential labor relations matters and the lack of active participation in the formulation of management police, satisfy us that the Deputy Inspector of Police, is appropriately included in a unit of uniformed, supervisory personnel.

Inspector of Detectives

The Inspector of Detectives directly supervises all Detective Bureau personnel. 15/ The position is responsible for the departmental efficiency, discipline and for the enforcement of all Detective Bureau rules and regulations, and maintenance of departmental records. The Inspector investigates all charges of misconduct or dereliction of duty and prefers charges before the Police Board of Inquiry. The incumbent assigns detectives to various criminal investigations and directs the proceeding. Subordinates file written and oral reports concerning the progress of their cases which the Inspector reviews and advises on.

The Inspector conducts weekly staff meetings during which previous weeks' cases are discussed. The position is responsible for submitting promotion recommendations to the Chief of Police. In addition, the Inspector has administrative authority for the return and transfer of prisoners to other police jurisdictions. The position receives general supervision from the Chief of Police, Inspector of Police and First Deputy Inspector of Police.

We are satisfied that the responsibility for the direction of the Detective Bureau, as exercised by the Inspector of Detectives, entails sufficient managerial and executive authority so as to warrant his exclusion from a unit consisting of uniformed supervisory personnel.

14/ Exhibit 22, Deputy Inspector of Police job description, 1-31-72.

15/ Exhibit 28, Inspector of Detectives job description, 11-3-68.

Deputy Inspector of Police, Training and Special Services

The Deputy Inspector of Police, training and special services, receives general supervision from the Chief of Police. The position is responsible for the supervision, planning, scheduling, development and conduct of recruit and in-service training classes for all police personnel. 16/ In addition, the Deputy Inspector formulates and directs training programs for related groups such as school crossing guards, bicycle violators and auxiliary police officers; and arranges and conducts or assists in public information programs and programs for other law enforcement agencies.

The Deputy Inspector administers departmental educational programs, to the Departmental Police aide training program. He supervises and maintains the semi-annual Department rating system and employee personnel records. The incumbent inspects uniforms and equipment. He maintains uniform records, administers the uniform allowance programs and prepares specifications. The Deputy Inspector supervises and develops departmental standard operating procedures, manuals and research in improvement of methods. He is responsible for administering and finalizing research and planning recommendations submitted to the Chief. Additional administrative duties relate to participation in civil defense and National Safety Council activities and the preparation of community relations brochures.

We are satisfied that the Deputy Inspector of Police functions in a managerial and executive capacity within the Police Department. The positions' responsibility for formulation and implementation of training programs, research and planning justify the exclusion of the Deputy Inspector of Police, Training and Special Services from a supervisory unit.

Deputy Inspector of Traffic

Under the general supervision of the Chief of Police, Inspector of Police and First Deputy Inspector of Police, the Deputy Inspector of Traffic exercises immediate supervision and control over all Traffic Bureau personnel including a Captain of Police, Police Lieutenants, Police Sergeant, Patrolmen and clerical staff. 17/

The incumbent attends roll calls; inspects the members' uniforms and equipment; communicates information, orders, instructions and advise. The Deputy Inspector is responsible for the conduct and efficiency of the Traffic Bureau; for the proper and efficient enforcement of all laws and ordinances pertaining to vehicles and pedestrian traffic; and the maintenance of records. He makes investigations relative to traffic ordinances and appears before Common Council committees. The incumbent investigates all serious accidents involving major injury or loss of life. The Deputy Inspector investigates all applicants for taxicab licenses, and makes recommendations to the Public Utilities Committee. He inspects public vehicles for hire to determine their fitness for public use and compliance with relevant laws. We are satisfied that the duties of the Deputy Inspector of Traffic do not appear to manifest confidential, managerial or executive responsibilities. We find the position to be appropriately included in a unit of uniformed, supervisory personnel.

16/ Exhibit 29, Deputy Inspector of Police, Training and Special Services, 11-11-66.

17/ Exhibit 27, Deputy Inspector of Traffic, 11-3-66.

SUPERVISORY

The Municipal Employer, contrary to MPSO, argues that the positions of Sergeant, Detective and Chief Document Examiner are supervisory and thereby appropriately included in a unit of uniformed supervisory employees. Neither evidence nor testimony concerning the duties of the Chief Document Examiner were produced to substantiate the inclusion of the position in the supervisory unit.

At all times relevant herein, the Professional Policemens' Protective Association has represented the Sergeants, Detectives and Chief Document Examiner for the purposes of collective bargaining with the Municipal Employer. 18/

During the course of the hearing, the President of the MPPA indicated that the issue of the supervisory status of Sergeants and Detectives would be effectively determined in a pending municipal interest arbitration between the MPPA and the City of Milwaukee. Spokesman for the MPPA argued that the instant proceeding is an inappropriate forum in which to determine the inclusion or exclusion of the Sergeants and Detectives in the supervisory unit.

The Commission is charged with sole responsibility for determining the composition of appropriate bargaining units among municipal employees and among supervisory police and fire personnel. 19/ This Commission has held that an agreement between a voluntarily recognized bargaining representative and municipal employer covering employees in an inappropriate existing unit would not bar an election proceeding involving employees presently in the improper unit. 20/ When a question of representation arises which involves employees in an existing unit, it is for the Commission to determine whether, in fact, those employees are in an appropriate unit. We reaffirm our position that it is strictly within the function of this Commission to determine the supervisory status of disputed positions in representation proceedings and, thereby, establish their inclusion in or exclusion from an appropriate collective bargaining unit.

18/ Exhibit #5, Agreement between City of Milwaukee and the Professional Policemen's Protective Association, effective January 1, 1971 through November 3, 1972:

"Part II, A. Recognition

1. The Association is recognized as the exclusive bargaining agent for the following employees: Detective; Detective, Legal & Administrative; Police Sergeant; Police Sergeant (Garage); Police Patrolman; Policewoman, Police Identification Supervisor; Identification Technician; Chief Document Examiner; Assistant Document Examiner; Police Alarm Operator; Administrative Police Sergeant; Police Matron; Custodian of Police Property and Stores; Assistant Custodian of Police Property and Stores; Radio Mechanic Foreman; Radio Mechanic.

19/ Section 111.70(4)(d)2a, Municipal Employment Relations Act; and Wis. Adm. Code, Sec. ERB 17.01.

20/ City of Milwaukee (Fire Dept.) (7885) 1/67.

Patrol Sergeant

The immediate supervisor of the Patrol Sergeant is the Captain or Lieutenant of Police. The Sergeant, according to the position's job description, supervises approximately 11 to 16 patrolmen. The incumbent Sergeants have the "authority to issue orders; discipline; recommend discharge, transfer, promotion; and resolve grievances". 21/ The Sergeant represents the Chief of Police in the day-to-day supervision of Patrolmen.

The Sergeant assists and instructs Patrolmen in the performance of their duties. He keeps them advised of departmental policies and procedures. The incumbents review the conduct of subordinates and investigates all complaints against them. In such instances, the Sergeant reports the facts behind the complaint and any violation of rules or regulations to the Commanding Officer. The Sergeant interviews officers, witnesses and persons having knowledge of an alleged incident and submits his findings and recommendations in a report to the Commanding Officer.

The Sergeant spends a substantial proportion of his time observing, directing and correcting the performance of Police Officers in their duties. He discusses various bulletins with officers, reviews memo books and traffic citation books of Patrolmen. Such review is intended to establish whether or not the officer is performing in an adequate manner and whether an officer is keeping notes and complying with departmental procedure.

The Sergeant is authorized to issue verbal reprimand to subordinates for minor infractions of rules and regulations. He prepares Patrolmen for roll call; informs them of all official notices, warrants or subpoenas which are to be distributed; makes assignments to beats and squad duties. The Sergeant is responsible for overseeing the maintenance of assignments during his tour of duty.

The Sergeants file daily written reports with the District Commander denoting the assigned Patrolmen's performance and any noteworthy incident during his tour of duty. Semi-annual performance ratings are prepared by the Sergeants for all men under their charge. Furthermore, monthly reports on probationary officers are submitted by the Sergeants supervising such employees. The reports serve as an integral part in the decision of whether or not to retain probationary officers. The positions' occupants call on sick and injured department members to establish whether or not they are, in fact, unfit for duty.

The incumbents function as first in the line of command at the scene of a fire or accident. The Sergeant directs officers at the scene of a crime prior to the arrival of Detective Bureau personnel. During such emergencies, the Sergeant is responsible for setting up and manning a command post at the scene.

21/ Exhibit 7, Police Sergeant job description, 2-1-72.

Desk Sergeant
Administrative Police Sergeant

The duties of Desk Sergeant and Administrative Police Sergeant are covered by the same job description. 22/ When assigned to desk duties, the Sergeant is responsible for the official clerical work of the particular station or bureau. 23/ He receives complaints of persons and reports of department members and, when appropriate, submits them to the Commanding Officer. The Desk Sergeant accepts authorized bail for arrested persons. The incumbents maintain a cash balance sheet and are responsible for monies received and property taken from prisoners as evidence of for safe keeping. Under the direction of the Commanding Officer, the Desk Sergeant is responsible for the confinement of prisoners in the station.

The Desk Sergeant checks the quantity and quality of supplies delivered to the station and keeps records thereof. In the absence of the Police Lieutenant during either of the two night shifts or in the absence of the Captain on the day shift, the Desk Sergeant acts as Commander of the Police District. On occasion, the incumbents may be assigned to field duties as a Patrol Sergeant in charge of a squad or Patrolman.

The Desk Sergeant spends approximately 50% of his time performing the clerical duties of the station. The remainder of his time is spent supervising other employees in the maintenance of appropriate records.

Police Sergeant (Garage)

The Police Sergeant (Garage) directs the activities performed by subordinate Garage Attendants and Patrolmen in the operation of the police garage. 24/ The position supervises the maintenance and service of department police motor vehicles. The incumbents check on the presence of fire alarms, first aid and other police equipment in the various vehicles. The immediate supervisor of the position is the Lieutenant of Police (Garage).

Police Sergeants (Garage) maintain records of all vehicle related supplies and materials including gasoline, motor oil and tires. In the absence of the Lieutenant of Police (Garage), the Sergeant exercises full supervisory authority over the Police Garage on the early or late shift.

The incumbents supervise and direct three to seven garage attendants and Police Patrolmen on the assigned shifts in the Garage. The position's supervisory authority over garage personnel includes the assignment of work; recommendation of hire, transfer and discipline. It should be noted that appointment to and removal from the position are under the direct control of the Police Chief and exempt from Fire and Police Commission procedures.

Testimony established that the various Sergeants may make recommendations to their superior officer concerning the transfer of a Patrolman from one assignment to another. The Sergeant assigns Patrolmen to their daily work assignment or squad with the approval of the Lieutenant or Shift Commander. Daily assignments tend to be permanent assignments and are made through the consultation of the Shift Commander and Sergeant. The Sergeant may make temporary assignment of substitutes to cover the positions of men off duty. The Sergeant may assign a Patrolman on foot patrol to a squad without prior approval.

22/ Page 31, Transcript.

23/ Exhibit 7

24/ Exhibit 8, Police Sergeant (Garage) job description, 10-17-66.

The Sergeant is the first step in the contractual grievance procedure. He is required to respond in writing to grievances filed by the uniformed employees. The incumbent does not participate in the hiring of employees although he may investigate the background of an individual applicant and make recommendations. Hiring of Patrolmen is the responsibility of the Fire and Police Commission. The Sergeant, having observed the past performance of assigned officers, may recommend individual Patrolmen for promotion although the final determination is made only after additional supervisory levels have been consulted. The position effectively reprimands Patrolmen through the constructive criticism of the individual officer's performance or appearance.

Based on the uncontradicted evidence and testimony presented, we are satisfied that the Sergeants exercise effective supervision over subordinate police officer ranks. Supervisory positions are commonly regarded as those whose duties include the authority to transfer, promote, assign, reward or discipline other employees, or to adjust their grievances or to effectively recommend such action, if the exercise of such authority is not merely routine or clerical but requires the use of independent judgment.

The record discloses that Sergeants are directly involved in initiating or processing the transfer, assignment, promotion, reward or discipline of subordinate ranks. Evidence substantiates that Sergeants may resolve employee grievances at the first step of the contractual grievance procedure. Furthermore, the very nature of their responsibilities establishes that Sergeants involved herein exercise independent judgment in their direction and supervision of police officers on patrol, at the scene of a crime, and in the station.

We conclude that the Patrol Sergeant, Desk Sergeant, Administrative Police Sergeant and Police Sergeant (Garage) are supervisory positions and are appropriately included in the uniformed supervisory unit established herein.

Detective
Detective, Legal & Administrative

At the time of hearing, the department employed 150 detectives and one individual in the position of Detective, Legal & Administrative. The duties of a Detective include: the investigation of criminal complaints; detection and arrest of criminal offenders; location of missing persons; and recovery of lost or stolen property. 25/ The Detectives, in cooperation with other law enforcement agencies, prepare for fugitive requisition proceedings and for the return of prisoners from other jurisdictions. The incumbents check all prisoners arrested in their districts. They are familiar with the criminal code of law, rules of evidence, traffic laws and ordinances and methods of operation.

The incumbents are supervised by the Inspector of Detectives. The position's occupants exercise the same degree of authority as the Police Sergeants do. The Detectives supervise the Patrolmen and investigation, as necessary, at the scene of a crime, incident or disaster. The Detective prepares the evidence relevant to a given case for presentation to the prosecutor. He may direct the work of photographers in the gathering of evidence at the scene.

25/ Exhibit 9, Detective job description, 6-6-72.

The Detective, while in charge of an investigation at the scene of a crime, may file a written report concerning an officer who refuses to follow orders or have that officer removed from the scene. The primary function of the Detective is to properly utilize his skills in the investigation of crime.

The Detective does not participate in the hiring, transfer, suspension, promotion or discharge of any uniformed employees. The position is not involved in the appeal of a grievance at any level in the contract.

We conclude that the duties of the Detective relate primarily to the exercise of his investigative skills rather than to the suspension or subordinate officers. The position of Detective is, therefore, excluded from the supervisory uniformed unit.

Dated at Madison, Wisconsin, this 5th day of July, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Zel S. Rice II, Commissioner