

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	
TOWN OF MADISON	:	Case IV
Involving Certain Employes of	:	No. 19000 ME-1178
TOWN OF MADISON	:	Decision No. 13640-A

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Appearances:

Axley, Brynelson, Herrick & Gehl, Attorneys at Law, by Mr. Ronald M. Trachtenberg, appearing on behalf of the Petitioner.  
Mr. Merle Baker, Business Representative, appearing on behalf of Teamsters Union Local 695.

FINDINGS OF FACT, CONCLUSION OF LAW  
AND ORDER CLARIFYING BARGAINING UNIT

Town of Madison having filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to clarify an existing collective bargaining unit on August 1, 1978; and hearing on said petition having been held on October 6, 1978, at Madison, Wisconsin, before Examiner James D. Lynch; and the Commission having considered the evidence, briefs and arguments of the parties and being fully advised in the premises, hereby issues the following Findings of Fact, Conclusion of Law and Order Clarifying Bargaining Unit.

FINDINGS OF FACT

1. That Town of Madison, hereinafter referred to as the Municipal Employer, has its offices at 2120 Fish Hatchery Road, Madison, Dane County, Wisconsin, and operates a Police Department in which Linda Rieser is employed in the classification of Police Records Clerk.
2. That Teamsters Local 695, hereinafter referred to as the Union, is a labor organization representing employes for the purposes of collective bargaining and has its offices at 1314 North Stoughton Road, Madison, Dane County, Wisconsin.
3. That since June 24, 1975, Local 695 has been the exclusive representative for the purposes of collective bargaining of the following unit of employes: all regular employes of the Town of Madison, including public works employes and clerical employes, but excluding employes with the power of arrest, the fire chief, assistant fire chiefs and supervisory employes.
4. That on August 1, 1978, the Municipal Employer filed the instant petition for unit clarification wherein it requested the Commission to exclude the position of Police Records Clerk employed in the Police Department from the bargaining unit described above on the grounds that the individual occupying such position, Linda Rieser, is a confidential employe.
5. That the Police Records Clerk performs, in addition to routine clerical duties, substantial clerical functions which relate to confidential labor relations matters.

Upon the basis of the above and foregoing Findings of Fact, the Commission issues the following

CONCLUSION OF LAW

That the occupant of the Police Records Clerk position in the Police Department of the Town of Madison is a "confidential employe" within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act.

Upon the basis of the above and foregoing Findings of Fact, and Conclusion of Law, the Commission makes and issues the following

ORDER CLARIFYING BARGAINING UNIT

That the position of Police Records Clerk be, and the same hereby is, excluded from any bargaining unit of employes of the Town of Madison.

Given under our hands and seal at the City of Madison, Wisconsin this 14<sup>th</sup> day of February, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Herman Torosian  
Herman Torosian, Commissioner

Marshall L. Gratz  
Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSION  
OF LAW AND ORDER CLARIFYING BARGAINING UNIT

Linda Rieser, the incumbent Police Records Clerk, has occupied this position for the past eighteen months. She is a member of the highway and clerical bargaining unit represented by Teamsters Local 695. Teamsters Local 695 also is the certified collective bargaining representative of all regular permanent full-time and part-time employees in the Town of Madison Police Department having the power of arrest. The record establishes that Police Chief Louis Barth, who was hired by the Municipal Employer in 1976, has, unlike his predecessor, had substantial involvement in labor relations matters and that the job of Police Records Clerk has changed substantially since his advent. Rieser's duties include a wide variety of clerical functions. While largely consisting of routine typing and filing, she also performs the following duties on Barth's behalf: typing responses to employee grievances; typing memoranda relating to internal investigations of officer conduct following the receipt of citizen complaints, which have resulted in formal disciplinary action on a number of occasions; typing of Barth's proposed contract proposals relating to Police Department collective bargaining which are then in turn submitted to the Town Board for use in negotiations. The Police Chief and Ms. Rieser both testified that the amount of time spent performing such labor related duties occupied ten percent of Rieser's time.

In order for an employe to be considered in a confidential relationship with management and thereby excluded from the unit, an employe must be privy to decisions of the Employer with respect to personnel and labor related policies. 1/ Although the Union argues that Ms. Rieser is not a member of the police bargaining unit and, thus, should not be excluded from membership in the highway and clerical bargaining unit, the law is well-settled that confidential status of a position is determined by the incumbent's relationship to the Municipal Employer rather than by the incumbent's relationship to various collective bargaining units. 2/ In light of Ms. Rieser's involvement in the preparation for the bargaining process and access to confidential correspondence, the Commission is satisfied that Nancy Rieser is a confidential employe appropriately excluded from the collective bargaining unit.

Dated at Madison, Wisconsin this 19th day of February, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Herman Torosian  
Herman Torosian, Commissioner

Marshall L. Gratz  
Marshall L. Gratz, Commissioner

1/ Juneau County (PLeasant Acres), No. 12814 (6/74).

2/ Portage County, No. 14946 (9/76).