

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF LaCROSSE

Case XIII
No. 19292 ME-1211
Decision No. 14019

Mr. Jerome H. Rusch, Personnel Director, and Mr. Ronald C. Wold, Chief of Police, appearing on behalf of the City of LaCrosse.
Mr. Donald Schoenfeld, President; Mr. James R. Brieske, Patrolman; Mr. Thomas A. Havlik, Patrolman; Mr. Kenneth Espenes, Sergeant; and Mr. William Schmidt, Detective, appearing on behalf of the LaCrosse Professional Policeman's Association.

The City of LaCrosse having, on June 23, 1975, filed a petition with the Wisconsin Employment Relations Commission, wherein it requested that the Commission clarify an existing recognized collective bargaining unit of law enforcement personnel employed by the City of LaCrosse; and a hearing regarding said petition having been held at LaCrosse, Wisconsin, on July 23, 1975, Peter G. Davis, Hearing Officer, being present; and the Commission having considered the evidence and arguments of the parties and being fully advised in the premises, makes and issues the following

2. That the classifications of Corporal and Detective shall be, and hereby are, included in the collective bargaining unit consisting of certain police officers of the City of LaCrosse Police Department.

Given under our hands and seal at the
City of Madison, Wisconsin, this 10th
day of October, 1975.

By Thomas Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

In November 1966, the City of LaCrosse, referred to herein as the Municipal Employer, voluntarily recognized the LaCrosse Professional Policeman's Association, referred to herein as the Union, as the exclusive collective bargaining representative for all of its regular full-time police officers, excluding cadets, Captains, and the Chief of Police. On June 24, 1975, the Municipal Employer requested that the Commission clarify the aforementioned bargaining unit.

During the course of the hearing, the parties stipulated that the positions of Chief of Police, Captain and Lieutenant were supervisory and thus were to be excluded from the bargaining unit. They further stipulated that the position of Patrolman was not supervisory and was to be included in the unit. Having examined the record, the Commission accepts the parties' stipulations with regard to these four positions. Thus, only the status of the positions of Sergeant, Corporal and Detective remain for clarification.

The Police Department, headed by the Chief and two Captains, operates on the basis of three basic eight hour shifts with an overlapping fourth shift to cover periods of high activity. A Lieutenant, a Sergeant, a Corporal and 16 - 20 Patrolmen are assigned to each of the three basic shifts. The recently conceived fourth shift consists of a small number of Patrolmen commanded by a Detective due to a numerical lack of command personnel.

During the three basic shifts, only two of the three command officers are on duty at any one time. About one third of the time, due to vacations, illness, etc., only one of the three command officers is on duty. The highest ranking officer present serves as Shift Commander with authority to determine work assignments and priorities, call out additional manpower, adjust employee grievances, and grant employees time off. However, the assignment function is often a matter of routine, and employee grievances and time-off requests are apparently rare. The Chief of Police and the Police and Fire Commission retain all authority to hire, promote, fire, discipline, lay off, or recall an individual employee. However, any of the command officers has the authority to recommend disciplinary action and to send an employee home with no loss in pay without consulting his superior officer. Sergeants and Corporals have significant input into the Lieutenant's evaluation of employees for promotional and probationary purposes. When two command officers are present, they assume the desk duties and patrol supervisory positions in a random fashion. The desk position involves the completion of paper work, acceptance of citizen complaints, bail monies, and bond forms, and occasional operation of the communications system. The patrol position involves direct observation of officers in the field and an availability to provide assistance and advice regarding certain calls or investigations. Neither position requires a significant exercise of supervisory authority or responsibility involving the use of independent judgment, except as specified above especially as to employee evaluations.

As the desk and patrol positions are shared relatively equally by all command officers and consist of rather routine command duties, they do not present a viable means of determining supervisory status. It seems clear that the individual designated Shift Commander, whether functioning in the desk or patrol position, has responsibility and authority that could be deemed supervisory. Stripped of Shift Commander

status both the Sergeant and Corporal retain only their aforesaid disciplinary employe evaluation and routine command functions. Thus, as the possession of Shift Commander status is virtually the only means of potentially distinguishing between command officers, the Commission finds the amount of time which a Sergeant or Corporal will actually function as Shift Commander to be a potentially significant factor in determining supervisory status.

Utilizing average work weeks, shift times, and testimony that for one-third of the time only one officer is present, the record indicates that an average Sergeant spends roughly 40 percent of his time acting as Shift Commander while an average Corporal spends roughly 15 percent of his time in this position. Although the Sergeant does not spend the majority of his time in the "supervisory" position, the Commission finds that the time spent as Shift Commander is significant enough to require that Sergeants be deemed to be supervisory personnel. Given the small amount of time which Corporals spend acting as Shift Commanders, as well as the specifics of the aforesaid supervisory status indicia, the Commission concludes that they are not supervisory personnel and thus are to be included in the collective bargaining unit.

The record indicates that Detectives spend the vast majority of their time investigating crimes or attempting to prevent criminal or delinquent activity. While investigating the scene of a crime, a Detective may well temporarily direct the activity of several Patrolmen. However, as such authority exists only in the realm of the detective's special investigatory function, it is not sufficient to indicate supervisory status.

The evidence indicates that the recently conceived fourth shift is commanded by one Detective and that the Municipal Employer is seriously considering giving qualified Detectives the classifications of Sergeant or Corporal in recognition of this supervisory function. However, in light of the potentially temporary nature of this exclusive assignment and of the Commission's policy against "rank splitting," ^{1/} the individual Detective currently commanding the fourth shift must also be deemed to be non-supervisory and thus appropriately included in the bargaining unit.

Dated at Madison, Wisconsin, this 10th day of October, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Thomas Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

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^{1/} City of West Allis (12020) 7/73.