

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
CITY OF KENOSHA (POLICE DEPARTMENT)	:	Case XXIX
For Clarification of Bargaining Unit	:	No. 19159 ME-1196
Involving Certain Employes of	:	Decision No. 14022
CITY OF KENOSHA (POLICE DEPARTMENT)	:	

Appearances:

Mr. James J. Warzon, Supervisor of Personnel, Department of Administration, appearing on behalf of the City of Kenosha.
Mr. Gerald A. Schuetz, Vice-President, appearing on behalf of the Kenosha Professional Policemen's Association.

ORDER CLARIFYING BARGAINING UNIT

The City of Kenosha having, on May 14, 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 Kenosha; and a hearing having been held at Kenosha, Wisconsin, on June 17, 1975, before Herman Torosian, Commissioner; and the Commission having considered the evidence and arguments of the parties and being fully advised in the premises, makes and issues the following

ORDER

That the classifications of Captain and Lieutenant, with the exception of the Lieutenant employed in the Juvenile Bureau and the Lieutenant employed as a polygraph operator, shall be, and hereby are, excluded from the collective bargaining unit consisting of certain law enforcement personnel of the City of Kenosha Police Department.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
 Morris Slavney, Chairman

Howard S. Bellman
 Howard S. Bellman, Commissioner

Herman Torosian
 Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

Currently all police officers except the Chief of Police, Inspector (Assistant Chief) and Administrative Captain are included in the collective bargaining unit. The City of Kenosha, referred to herein as the Municipal Employer, contends that all Captains, Lieutenants, and Sergeants, with the exception of the Court Sergeant, Safety and Training Sergeant, and Identification Sergeant should also be excluded from the bargaining unit because of their supervisory responsibilities. The Kenosha Professional Policemen's Association, referred to herein as the Union, urges that the bargaining unit remain unchanged.

The basic organization of the Kenosha Police Department involves four patrol shifts, a Detective Bureau, a Juvenile Bureau, and various supportive units including records, safety and training, and identification personnel.

The Department employs one (1) Police Chief, one (1) Inspector, seven (7) Captains, nine (9) Lieutenants, twelve (12) Sergeants, one (1) Traffic Officer, thirteen (13) Detectives, twelve (12) Investigators, three (3) Canine Specialists, and ninety (90) Patrolmen.

CAPTAINS

The three major patrol shifts are each headed by a Captain who functions as Shift Commander with authority to assign work, establish work rules, authorize overtime, call in extra manpower, effectively recommend discipline, issue verbal reprimands, participate in departmental policy decisions, adjust employe grievances, and evaluate employes for promotional and probationary purposes. Captains spend the majority of their time in the office with only occasional field responsibility. Based upon the record, the Commission concludes that the position of Captain within the Patrol and Traffic section of the Department is supervisory and thus should be excluded from the collective bargaining unit.

The Detective Bureau and the Juvenile Bureau are each headed by a Captain who possesses essentially the same authority as a Shift Commander. Thus, the Commission also concludes that these two positions are supervisory in nature and should be excluded from the bargaining unit.

The Safety and Training Captain has budgetary and operational responsibility for the training of all police personnel including clericals and crossing guards. He administers a training academy (which is utilized by other police departments) as well as daily in-service training programs. The Captain is also responsible for the operation of the Department's hiring procedure, is consulted before an individual is hired, and provides input regarding a recruit's progress through the training program. In addition to these duties, the Safety and Training Captain functions as a supervisor over both the clericals and the crossing guards with authority to discipline and evaluate the performance of those employes. He has substantial input regarding the hiring of individual employes in both groups and participates in collective bargaining negotiations with the crossing guards. Given the above responsibilities, the Commission concludes that the managerial and supervisory aspects of the position of Safety and Training Captain require that it be excluded from the bargaining unit.

LIEUTENANTS

The primary function of Lieutenants assigned to the three patrol shifts is the supervision and observation of patrolmen in the field. Functioning primarily from a squad car, a Lieutenant has authority to effectively recommend discipline, issue verbal reprimands and call out additional manpower. He has significant input in the evaluation of subordinates, formulation of departmental policy, and the determination of shift assignments and priorities. When the Captain is absent due to illness, vacation, etc., the Lieutenant functions as the Shift Commander. Based upon the record, the Commission concludes that the position of Lieutenant in the patrol section of the Department is supervisory and thus should be excluded from the bargaining unit.

There are three Lieutenants assigned to the Detective Bureau. The first shift Lieutenant spends the majority of his time in the office with the Captain handling paper work, answering the phone, interviewing people, and analyzing reports. When the Captain is absent or supervising an investigation, the Lieutenant assumes the Captain's role. The Lieutenant occasionally supervises Detectives in the field and assumes command of the investigation of a major crime when the Captain is unavailable. When in the field, the Lieutenant has authority to effectively recommend discipline, issue verbal reprimands, and call out additional manpower. He has input in the evaluation of employes and the determination of work assignments and priorities.

The Lieutenant assigned to the Detective Bureau, second shift, effectively commands the Bureau during that period. While he will consult the Captain when making major decisions, the day-to-day operation of the shift is under his control. Thus, he functions at an authority level slightly above that of the first shift Lieutenant. The Commission is satisfied that both Detective Bureau Lieutenants have sufficient supervisory authority to warrant their exclusion from the bargaining unit.

The third Lieutenant in the Detective Bureau spends the majority of his time operating the polygraph machine and analyzing its output. He is responsible for preparing his own budget and maintaining his competence as an operator. The Lieutenant also fills in for the first and second shift Detective Bureau Lieutenants during periods of illness or vacation. As this position does not entail significant supervisory responsibility nor require its occupant to achieve "professional" status within the meaning of Section 111.70(1)(1), it is concluded that said position is appropriately included in the bargaining unit. While the Commission attempts to avoid "rank splitting" when determining the supervisory status of law enforcement personnel, 1/ it cannot ignore the statutory criteria of Section 111.70(1)(o)1.

The record reveals that, due to a personnel shortage, the Lieutenant in the Juvenile Bureau functions primarily as a field investigator with his own case load. While he replaces the Captain of the Juvenile Bureau during periods of illness, vacation, etc., such duty is not sufficient to establish supervisory status and thus this position is also appropriately included in the bargaining unit.

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The Department's Identification section is headed by a Lieutenant who has virtually total control of and responsibility for the Department's identification systems with primary emphasis on photography and fingerprinting. He establishes his own operating procedure, prepares his own budget and purchases his own supplies and equipment. He supervises one Sergeant who he effectively recommended for employment and trained. He possesses authority to assign work, evaluate work performance, recommend discipline and adjust grievances. Given the managerial and supervisory responsibilities of the position, the Commission concludes that it is appropriately excluded from the bargaining unit.

The Lieutenant assigned to the Records section of the Department is responsible for the development and maintenance of all aspects of the Department's record system. He prepares his own budget, establishes his own operating procedure and computer system, and effectively determines departmental policy within his area of responsibility. He supervises six civilian employes on three shifts with authority to assign work rules, effectively recommend discipline, issue verbal reprimands, authorize overtime and adjust grievances. He effectively recommends the hiring of his subordinates and is responsible for their training. Given the supervisory and managerial responsibilities of the position, it is appropriately excluded from the bargaining unit.

SERGEANTS

The Sergeants in question function within the Patrol and Traffic section of the Department. They serve in either a "desk" or "patrol" capacity. As desk officer, a Sergeant routinely assigns officers to incoming calls, answers phone calls and performs certain paper work. In the Sergeant's absence, a patrolman handles the desk position. When acting as a patrol officer, the Sergeant responds to most calls, observes the responding patrolman and then discusses the patrolman's performance with him. Sergeants also respond to their own calls and, at such times, function as patrolmen. Sergeants have limited authority to verbally reprimand a patrolman, to send an individual officer home if unfit for duty, and to provide input during promotional decisions. Occasionally, due to illness, vacations, etc., a Sergeant will function as Shift Commander. Based upon the record, the Commission concludes that Sergeants basically function as working foremen and thus lack supervisory status. Therefore, they are appropriately included in the collective bargaining unit.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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