

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

- - - - -
In the Matter of the Petition of :

MILWAUKEE COUNTY :

For Clarification of the Bargaining :
Unit for Certain Employees of :

MILWAUKEE COUNTY :
- - - - -

Case LXXVIII
No. 19102 ME-1190
Decision No. 14169-A

Appearances:

Mr. Robert P. Russel, Corporation Counsel, by Mr. Patrick J.
Foster, Assistant Corporation Counsel, appearing on behalf
of the Municipal Employer.

Podell & Ugent, Attorneys at Law, by Ms. Nola Hitchcock Cross, appearing
on behalf of District Council 48, AFSCME, AFL-CIO and its appro-
priate affiliated locals.

ORDER CLARIFYING BARGAINING UNIT

On April 29, 1975, Milwaukee County, referred to herein as the
Municipal Employer, filed and later amended a unit clarification petition
requesting that the Wisconsin Employment Relations Commission determine
whether certain classifications and positions are included in or excluded
from the existing bargaining unit 1/ of its employees represented by District
Council 48, AFSCME, AFL-CIO and its appropriate affiliated locals. The
original petition is attached hereto as Appendix G. Hearing was held before
Examiner Marshall L. Gratz at Milwaukee, Wisconsin on August 6 and 27 and
September 12 and 19, 1975 with an expedited order determining the status
of one position issued on December 9, 1975. Only the Union chose to sub-
mit a brief with respect to any of the issues remaining in dispute, and that
brief was filed on June 8, 1976. The Commission has considered the parties'
stipulations, the evidence and the oral arguments of counsel and the Union's
brief and, being fully informed in the premises, makes and issues the
following

ORDER

IT IS HEREBY ORDERED that, pursuant to stipulations of the parties,

1. The amended petition herein shall be and hereby is dismissed
without prejudice to refile as regards the positions and/or
classifications set forth in Appendices E and F attached
hereto;
2. The positions and/or classifications set forth on Appendix B
shall remain included in the above-noted bargaining unit;
3. The positions and/or classifications set forth on Appendix A
shall be, and hereby are, included in the above-noted bargaining
unit;

1/ That unit is described in the following previous Commission decisions:
Milwaukee County, (7135-Q) 4/68; (6467-E) 4/66; (7462-E) 6/66; (7463-E)
6/66; (8393) 2/68; (9318) 11/69; (9768) 6/70; (9767) 6/70.

4. The positions and/or classifications set forth on Appendices C and D shall be, and hereby are, excluded from the above-noted bargaining unit for the reasons noted in brackets following each.

IT IS FURTHER ORDERED that:

5. The following existing positions and/or classifications shall remain included in the above-noted bargaining unit:

HIGHWAY

Custodial Work Supervisor I

INSTITUTIONS

GENERAL HOSPITAL

Hospital Administration

Clerk IV (Herman)

CHILDREN'S COURT CENTER

Dictation Machine Transcriber (Foster)
Housekeeper I

NORTH DIVISION

Clerk Steno II (Bogatz)

6. The following existing positions and/or classifications shall be and hereby are excluded from the above-noted bargaining unit:

HIGHWAY

Assistant Highway Foreman [as supervisors]
Stores Supervisor (Scotty)

INSTITUTIONS

GENERAL HOSPITAL

Hospital Administration

Clerk Steno II (Payne) [as confidential]
Clerk Typist II (Prevetti) [as confidential]
Clerk Steno II (Schwartz) [as confidential]

Dietary

Cook III (Perrin) [as supervisor]

Housekeeping

Housekeeper I [as supervisor]

NORTH DIVISION

Clerk Typist II (Cuda) [as confidential]

SOUTH DIVISION

Medical Records Assistant II (Burke) [as supervisor]

WELFARE

Clerk Typist III (Crowell) [as supervisor]

7. The following newly or recently created positions and/or classifications shall be, and hereby are, excluded from the above-noted bargaining unit:

Assistant Administrative Services Manager (Title Code 32.4)
[as supervisor]

Administrative Assistant II (General Assistance) (Title Code
103.4) [as managerial]

Systems Analyst, Data Processing III (Title Code 122.2) [as
supervisory]

Orthotist (Title code 543.9) [as craft].

Given under our hands and seal at the
City of Madison, Wisconsin this 26th
day of October, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney /s/
Morris Slavney, Chairman

Herman Torosian /s/
Herman Torosian, Commissioner

Charles D. Hoornstra /s/
Charles D. Hoornstra, Commissioner

APPENDIX A

NEW POSITIONS AND/OR CLASSIFICATIONS INCLUDED IN THE
UNIT BY STIPULATION

<u>Title</u> <u>Code</u>	<u>Classification</u>
	Neighborhood Security Aide
11.8	Clinic Clerk
17.1	Dictating Machine Transcriber (Medical)
21.2	Property Control Clerk
21.3	Family Court Record Clerk
29.6	Data Control Clerk
30	Computer Operations Technician
63	Materials Distribution Clerk
63.1	Materials Distribution Coordinator
292	Park Equipment Foreman
439.1	Psychiatric Program Assistant
439.4	Alcoholism Aide
528.1	Radiologic Technician (Ultra sound)
543.9	Aquatic Instructor
546	Pathologist Assistant I
546.5	Pathologist Assistant II
548.9	Emergency Medical Services Instructor (Hospital)
567.5	Case Coordinator (Alcoholism & Drug Services)
567.6	Case Coordinator (Development Disabilities)
567.7	Quality Control Coordinator (Developmental Disabilities)
567.8	Quality Control Coordinator (Mental Health)
567.9	Quality Control Coordinator (Alcoholism & Drug Services)
584	Inmate Contact Worker
585.1	Correction Officer I (Clerical)
643.9	Emergency Medical Services Instructor (Field)
19.8	Identification Bureau Assistant
19.9	Clerk Messenger
20.3	Inpatient Account Information Aide
32.3	Assistant Programmer
37.1	Photo Composition Equipment Operator
101.4	Administrative Assistant I (Real Estate)
134.1	Custodial Worker III In Charge
425.2	Greenhouse Technician
439.2	Clinic Assistant
439.6	Family Health Assistant
526.9	Renal Technician
527.7	Cardiovascular Technician

APPENDIX A (Continued)

<u>Title Code</u>	<u>Classification</u>
528.9	Radiation Therapy Mold Technician
529.6	Ophthalmic Photographer
548.2	Pulmonary Function Technician I
548.9	Emergency Medical Services Instructor (Hospital)
567.5	Case Coordinator (Alcoholism & Drug Services)
567.6	Case Coordinator (Developmental Disabilities)
567.7	Quality Control Coordinator (Developmental Disabilities)
567.9	Quality Control Coordinator (Mental Health)
584	Inmate Contact Worker
585.1	Correction Officer I (Clerical)
643.9	Emergency Medical Services Instructor (Field)
19.8	Identification Bureau Assistant
19.9	Clerk Messenger
20.3	Inpatient Account Information Aide
32.3	Assistant Programmer
37.1	Photo Composition Equipment Operator
101.4	Administrative Assistant I (Real Estate)
134.1	Custodial Worker III In Charge
425.2	Greenhouse Technician
439.2	Clinic Assistant
562.3	Caseworker II (Court Liaison)
572.1	Offender Evaluator
585.7	Correction Officer I (County Jail)
20.2	Mail Room Supervisor

APPENDIX B

EXISTING UNIT POSITIONS REMAINING IN
THE UNIT BY STIPULATION

ELECTION COMMISSION

Clerk Steno III (Owsianny)

HIGHWAY

Highway Specification Writer (Automotive)
Stores Supervisor (Automotive)
Assistant Automotive Mechanic Foreman

INSTITUTIONS

COLLECTION AND INVESTIGATION

Assistant Supervisor - Collection and Investigation

SOUTH DIVISION

Clerk Steno II (Mroczkowski)
Clerk Typist III (Price)

WELFARE

Clerk Steno II (Sprtel)

CHILDREN'S COURT CENTER

Cook III

POLICE

Ambulance Driver III

NORTH DIVISION

Clerk Stenographer II (Peskie)

GENERAL HOSPITAL

Housekeeping

Custodial Work Assistant Supervisor (Four positions outside
the Infirmary)

APPENDIX C
NEW POSITIONS AND/OR CLASSIFICATIONS EXCLUDED
FROM THE UNIT BY STIPULATION

<u>Title Code</u>	<u>Classification</u>
32.7	Data Processing Standards Analyst [as confidential]
103.6	Project Director (Operation Mainstream) [as managerial]
107.2	Administrative Assistant III (Parks Budget) [as supervisor]
442.7	Registered Nurse II (Public Health) [as professional]
442.8	Registered Nurse III (Public Health) [as professional]
565.1	Deputy Program Director [as supervisor]
565.2	Program Coordinator (Mental Health) [as supervisor]
565.3	Program Coordinator (Developmental Disabilities) [as supervisor]
565.4	Program Coordinator (Alcoholism & Drug Services) [as supervisor]
565.6	Case Coordinator Supervisor [as supervisor]
568.6	Social Service Resources Supervisor [as supervisor]
592.6	Assistant Corporation Counsel I [as properly in another existing unit]
708.9	Community Center Program Director [as supervisor]
14.1	Law Stenographer IV (Corporation Counsel) [as confidential]
19.6	Receptionist (County Board) [as confidential]
46.7	Audit Supervisor (Data Processing) [as confidential]
57.7	Director of Labor Relations [as supervisor]
57.8	Assistant Director of Labor Relations [as confidential]
100.7	Administrative Assistant I (Hospital Systems) [as supervisor]
108.2	Administrative Assistant IV (Public Works) [as supervisor]
120.9	Budget Analyst IV [as confidential]
122.4	Legislative Research Analyst [as confidential]
123.1	Information Officer (Public Welfare) [as confidential]
123.6	Director of Employees' Retirement System [as supervisor]
318.5	Power Plant Operator (Instruments) [as properly in Local 317]
426.8	Nature Center Director [as supervisor]
510.1	Director of Child & Adolescent Treatment Services [as professional]
510.3	Associate Director of Child & Adolescent Treatment Services [as professional]
527.3	Electrophysiologist [as professional]
563.6	Assistant Casework Supervisor (Court Liaison) [as supervisor]
564.2	Casework Supervisor I (Quality Control) [as supervisor]
564.4	Branch Office Manager [as supervisor]
572.2	Offender Evaluator and Rehabilitation Project Director [as supervisor]
586	Correction Officer Supervisor (County Jail) [as supervisor]
599.8	Court Intake Commissioner [as professional]
650.7	Associate Medical Director [as professional]
654	Research Librarian [as confidential]
708.8	Assistant Sports Center Program Director [as supervisor]
32.6	Programmer V [as supervisor]

APPENDIX D

EXISTING UNIT POSITIONS EXCLUDED FROM THE
UNIT BY STIPULATION

HIGHWAY

Clerk Typist IV [pursuant to prior WERC decision]

INSTITUTIONS

GENERAL HOSPITAL

Hospital Administration

Assistant Director of Volunteers (Southern) [pursuant
to prior WERC decision]

Clerk Typist II (Gradzinski, nee Zambrow) [as confidential]

Medical Steno I (Knudsen) [as confidential]

Dietary

Clerk Typist II (Goldberg) [as confidential]

Engineering

Clerk Typist II [as confidential]

Nursing

Clerk Steno II (Warmouth) [previously excluded]

REHABILITATION HOSPITAL

Clerk Typist II (Krueger) [as confidential]

WELFARE

Housing Supervisor (Duvall) [previously excluded]

Clerk Steno IV (Valcq) [as supervisor]

Clerk Steno II (Szymanski) [as confidential]

CHILDREN'S COURT CENTER

Cook III (Schurltz) [as supervisory]

NORTH DIVISION

Clerk Typist II (Stone) [as confidential]

Clerk Typist II (Bechmann) [as confidential]

Clerk Stenographer II (Peskie) [as managerial or executive]

PARKS

Assistant Director of Senior and Youth Activities (Dick) [as supervisor]

WORK EXPERIENCE AND TRAINING PROJECTS

Clerk Steno II (Koehlert) [as confidential]

APPENDIX E

NEW POSITIONS AND/OR CLASSIFICATIONS WITHDRAWN FROM
CONSIDERATION WITHOUT PREJUDICE

<u>Title Code</u>	<u>Classification</u>
21	Ward Clerk Supervisor
11.6	Clerical Pool Aide
20.4	Inpatient Account Supervisor
101.9	Administrative Assistant I (District Attorney)
101.8	Administrative Assistant I (Recreation)
103.1	Administrative Assistant II (Nursing Home)
103.2	Administrative Assistant II (Student Affairs)
103.5	Administrative Assistant II (Work Experience & Training Projects)
275.1	Assistant Automotive Mechanic Supervisor
526.6	Radiopharmacist
532.6	Respiratory Therapy Assistant Supervisor
565.5	Assistant Program Coordinator (Alcoholism & Drug Services)

APPENDIX F

EXISTING UNIT POSITIONS WITHDRAWN FROM
CONSIDERATION WITHOUT PREJUDICE

INSTITUTIONS

GENERAL HOSPITAL

Hospital Administration

Radiologic Technologist II
Stores Clerk Supervisor

Housekeeping

Custodial Work Assistant Supervisor (Infirmary)

NORTH DIVISION

Typist II (Hawkinson)
Housekeeper I

WELFARE

Operating Engineer I (Wallenbacker)
Clerk Steno II (Management Analysis)

SOUTH DIVISION

Housekeeper I

COUNTY CLERK

Clerk Steno III (Schwensow)

APPENDIX G

ME-1
4/69

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

PETITION FOR ELECTION INVOLVING MUNICIPAL EMPLOYEES

APR 24 1975

INSTRUCTIONS	DO NOT WRITE IN THIS SPACE			
Submit an original and 5 copies of this petition to the Commission at Madison. If more space is required for any one item, attach additional sheets, numbering items accordingly.	Municipal Employer: <i>Milwaukee County</i>			
	Case <i>XVIII</i>	No. <i>1910a</i>	ME <i>190</i>	Date Filed <i>4-24-75</i>

The petitioner alleges that the following circumstances exist and requests the Wisconsin Employment Relations Commission to proceed under its proper authority, pursuant to Sec. 111.70, Wis. Stats., and ~~to determine the appropriate bargaining unit for the employees involved in the above-captioned election and to clarify the bargaining unit in regard to newly created positions as well as existing positions.~~

1. Name and address of the municipal employer involved:

Milwaukee County
901 N. 9th Street, Room 304
Milwaukee, Wisconsin 53233

Principal representative: Robert G. Polasek, Director of Labor Relations Phone No.

2. Description of claimed appropriate bargaining unit: (Describe positions to be EXCLUDED.) Approximate number of employees in claimed unit: 6,000
- Milwaukee District Council 48, AFSCME, AFL-CIO
3427 West St. Paul Avenue
Milwaukee, Wisconsin 53208
- The bargaining unit has been described in previous decisions of this Commission in the following cases:
I, #8600, ME-10, Dec. #7135-Q XXIV, #11676, ME-329, Dec. 8393
XII, #10610, ME-222, Dec. #6467-E XXXIII, #13167, ME-488, Dec. 9318
XIII, #10611, ME-223, Dec. #7462-E XLII, 13733, ME-553, Dec. 9768
XIV, #10612, ME-224, Dec. #7463-E XLIV, 13847, ME-565, Dec. 9767
- (Check appropriate box)
☐ Claimed unit does not include any craft employees.
☐ Claimed unit includes employees of one craft only.

3. Names and addresses of individuals or organizations who claim or may claim to represent any of the employees involved.

Milwaukee District Council 48, AFSCME, AFL-CIO
3427 West St. Paul Avenue
Milwaukee, Wisconsin 53208

4. A question of ~~representation~~ ^{unit clarification} has arisen concerning the employees in the claimed unit in that: (see Exh.A)
- a) Certain newly created positions should be included in the bargaining unit; and certain newly created positions should be excluded.
b) Certain existing positions should be excluded (see Exh.B)

5. Any other relevant facts:

None

6. Complete name and address and phone number of the petitioner and its principal representative:

Milwaukee County
901 N. 9th Street, Room 304
Milwaukee, Wisconsin 53233

Robert G. Polasek, Director of Labor Relations

Phone No.
414-278-4852

I declare that I have read the contents of the instant petition and that the statements contained herein are true to the best of my knowledge and belief.

April 25, 1975

APPENDIX G (Continued)

COUNTY CIVIL SERVICE TITLES
DETERMINATION ... TO APPROPRIATE BARGAINING UNIT IF ANY

EXH. A

<u>Title Code</u>	<u>Title of Position</u>	<u>Barg. Unit Determination</u>
14.1	Law Stenographer IV (Corporation Counsel)	C
19.6	Receptionist (County Board)	C
19.8	Identification Bureau Assistant	in
19.9	Clerk Messenger	in
20.2	Mail Room Supervisor	S
20.3	Inpatient Account Information Aide	in
20.4	Inpatient Account Information Supervisor	S
21	Ward Clerk Supervisor	S
22.3	Assistant Programmer	in
27.1	Photo Composition Equipment Operator	in
26.7	Audit Supervisor (Data Processing)	C
26.6	Employee Service Coordinator	M
27.7	Director of Labor Relations	S
27.8	Assistant Director of Labor Relations	C
200.7	Administrative Assistant I (Hospital Systems)	S
201.4	Administrative Assistant I (Real Estate)	in
201.8	Administrative Assistant I (Recreation)	S
203.1	Administrative Assistant II (Nursing Home)	M
203.2	Administrative Assistant II (Student Affairs)	M
203.4	Administrative Assistant II (General Assistance)	M
203.5	Administrative Assistant II (Work Exp. & Train. Projects)	S
208.2	Administrative Assistant IV (Public Works)	S
209	Budget Analyst IV	C
22.4	Legislative Research Analyst	C
23.1	Information Officer (Public Welfare)	C
23.6	Director of Employees' Retirement System	S
234.1	Custodial Worker III In Charge	in
275.1	Assistant Automotive Mechanic Supervisor	S
218.5	Power Plant Operator (Instruments)	Local 317
25.2	Greenhouse Technician	in
26.8	Nature Center Director	S
239.2	Clinic Assistant	in
239.6	Family Health Assistant	in
210.1	Director of Child & Adolescent Treatment Services	K
210.3	Associate Director of Child & Adolescent Treatment Services	K
226.6	Radiopharmacist	K
226.9	Renal Technician	in
227.3	Electrophysiologist	K
227.7	Cardiovascular Technician	in
228.9	Radiation Therapy Mold Technician	in
229.6	Ophthalmic Photographer	in
232.6	Respiratory Therapy Assistant Supervisor	S
248.2	Pulmonary Function Technician I	in
262.3	Caseworker II (Court Liaison)	in
263.6	Assistant Casework Supervisor (Court Liaison)	S
264.2	Casework Supervisor I (Quality Control)	S
264.4	Branch Office Manager	S
272.1	Offender Evaluator	in
272.2	Offender Evaluator & Rehab. Project Director	S
285.7	Correction Officer I (County Jail)	in
286	Correction Officer Supervisor (County Jail)	S
299.8	Court Intake Commissioner	K
250.7	Associate Medical Director	K
264	Research Librarian	C
208.8	Assistant Sports Center Program Director	S

APPENDIX G (Continued)

NEW COUNTY CIVIL SERVICE TITLES
DETERMINATION AS TO APPROPRIATE BARGAINING UNIT, IF ANY

<u>Title Code</u>	<u>Title of Position</u>	<u>Barg. Unit Determination</u>
11.6	Clerical Pool Aide	Seasonal, part ti
11.8	Clinic Clerk	in
17.1	Dictating Machine Transcriber (Medical)	in
21.2	Property Control Clerk	in
21.3	Family Court Record Clerk	in
29.6	Data Control Clerk	in
30	Computer Operations Technician	in
32.4	Assistant Administrative Services Manager	WISCONSIN EMPLOYMENT S
32.6	Programer V	RELATING COMMISSION S
32.7	Data Processing Standards Analyst	C
63	Materials Distribution Clerk	In
63.1	Materials Distribution Coordinator	in
101.9	Administrative Assistant I (District Attorney)	S
103.6	Project Director (Operation Mainstream)	M
107.2	Administrative Assistant III (Parks Budget)	S
122.2	Systems Analyst, Data Processing III	C
292	Park Equipment Foreman	in
361.9	Assistant Construction Superintendent	S
439.1	Psychiatric Program Assistant	in
442.7	Registered Nurse II (Public Health)	K
442.8	Registered Nurse III (Public Health)	K
439.4	Alcoholism Aide	in
528.1	Radiologic Technologist I (Ultrasound)	in
532	Orthotist	K
543.9	Aquatic Instructor	in
546	Pathologist Assistant I	in
546.5	Pathologist Assistant II	in
548.9	Emergency Medical Services Instructor (Hospital)	in
565.1	Deputy Program Director	S
565.2	Program Coordinator (Mental Health)	S
565.3	Program Coordinator (Developmental Disabilities)	S
565.4	Program Coordinator (Alcoholism & Drug Services)	S
565.5	Assistant Program Coordinator (Alcoholism & Drug Services)	S
565.6	Case Coordinator Supervisor	S
567.5	Case Coordinator (Alcoholism and Drug Services)	in
567.6	Case Coordinator (Developmental Disabilities)	in
567.7	Quality Control Coordinator (Developmental Disabilities)	in
567.8	Quality Control Coordinator (Mental Health)	in
567.9	Quality Control Coordinator (Alcoholism & Drug Services)	in
568.6	Social Service Resources Supervisor	S
584	Inmate Contact Worker	in
585.1	Correction Officer I (Clerical)	in
592.6	Assistant Corporation Counsel I	K
643.9	Emergency Medical Services Instructor (Field)	in
708.9	Community Center Program Director	S

APPENDIX G (Continued)

EXISTING POSITIONS
to be
EXCLUDED FROM BARGAINING UNIT

EXH. B

COUNTY CLERK

Clerk Steno III (Gloria E. Schwensow) (confidential)

DEPARTMENT OF ADMINISTRATION

Accountant IV (management and supervisory)

ELECTION COMMISSION

Clerk Steno III (Owsianny) (confidential)

HIGHWAY

Clerk Typist IV (Dolgin) (confidential)
Stores Supervisor (Scotty) (supervisory)
Custodial Work Supervisor I (supervisory)
Assistant Highway Foreman (supervisory)
Highway Specification Writer (Automotive) (confidential)
Stores Supervisor (Automotive) (supervisory)
Assistant Automotive Mechanic Foreman (supervisory)

APR 2 1975
WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

INSTITUTIONS

GENERAL HOSPITAL

Hospital Administration

Clerk Steno II (Payne) (confidential)
Clerk Typist II (Prevetti) (confidential)
Clerk IV (Herman) (supervisory)
Stores Clerk Supervisor (confidential)
Clerk Typist II (Zambrow) (confidential)
Asst. Director of Volunteers (Southern) (managerial & confidential)
Medical Steno I (Berg) (confidential)

Dietary

Clerk Typist II (Goldberg) (confidential)
Cook III (Perrin) (supervisory)

Engineering

Clerk Typist II (Quall) (confidential)

Housekeeping

Custodial Work Assistant Supervisor (5) (supervisory)
Housekeeper I (12) (supervisory)

Nursing

Clerk Steno III (Warmouth) (confidential)

Radiology

Radiologic Technologist II (6) (supervisory)

Laboratories

Clerk Steno II (Schwartz) (confidential)

Outpatient

Medical Steno I (Knudsen) (confidential)

REHABILITATION HOSPITAL

Clerk Typist II (Krueger) (confidential)

APPENDIX G (Continued)

POSITIONS TO BE EXCLUDED FROM BARGAINING UNIT (cont.)

INSTITUTIONS

COLLECTION AND INVESTIGATION

Assistant Supervisory-Collection and Investigations (2) (supervisory)

SOUTH DIVISION

Housekeeper I (position) (supervisory)
Medical Record Assistant II (Burke) (supervisory)
Clerk Steno II (Mroczkowski) (confidential)
Clerk Typist III (Price) (confidential)

POLICE

Ambulance Driver III (5) (supervisory)

WELFARE

Clerk Steno II (management analysis) (confidential)
Housing Supervisor (Duvall) (supervisory)
Clerk Typist III (Crowell) (supervisory)
Operating Engineer I (Wellenhocker) (supervisory)
Clerk Steno II (Sprtel) (confidential)
Clerk Steno IV (Valcq) (supervisory)
Clerk Steno II (Szymanski) (confidential)

CHILDREN'S COURT CENTER

Dictation Machine Transcriber (Foster) (confidential)
Cook III (1) (supervisory)
Housekeeper I (supervisory)
Cook III (Schultz) (supervisory)

PARKS

Asst. Director of Senior and Youth Activities (Dick) (supervisory)

WORK EXPERIENCE & TRAINING PROJECTS

Clerk Steno II (Koehlert) (confidential)

MEMORANDUM ACCOMPANYING ORDER CLARIFYING BARGAINING UNIT

The Municipal Employer's April 29, 1975 petition (Appendix G) sought clarification of the status of 100 new job classifications and sought exclusion of 46 existing job classifications and/or positions from the bargaining unit represented by the Union. By letter dated August 1, 1975, the Municipal Employer amended the petition to add seven more existing classifications (all at North Division of the Mental Health Center) that it sought to exclude from the bargaining unit. And, by letter dated July 23, 1975, the Union requested that the status of an additional new position be determined in the instant proceeding, to wit, Neighborhood Security Aide. Hearing was held in the matter on August 6 and 27 and September 12 and 19, 1975. The Commission expedited the determination of the bargaining unit status of one existing position referred to in the petition and issued an order with respect thereto on December 9, 1975. 2/

During the hearing and by additional written stipulations, 3/ the parties agreed upon the disposition of the amended petition as regards most of the classifications and/or positions therein. Specifically, the parties agreed that the dispositions reflected in Appendices A, B, C, and D are proper and should be ordered by the Commission. The parties further agreed that the petition be amended so that the positions and/or classifications on Appendices E and F be withdrawn from consideration herein without prejudice to subsequent clarification petitions with respect thereto.

The Commission has conformed its order herein to said agreements of the parties.

Evidence was taken with respect to the four newly created and the 15 existing classifications and/or positions remaining in dispute. The Union did not object to the concept of Commission determination of the status of such positions.

The Commission's rationale for its determinations of the status of each follows.

STORES SUPERVISOR (Scotty)

The Municipal Employer, contrary to the Union, contends that the above position is supervisory and that it should, therefore, no longer be included in the unit.

The incumbent, along with three Stores Clerks II, one Stores Clerk I, two project workers, and one CETA employee, perform the inventorying, receiving, and disbursement of automotive parts for the Municipal Employer's Central Automotive Maintenance Division on the first shift. That work is continued on a second shift by one Stores Clerk I and one Stores Clerk II. Scotty is paid an hourly rate (pay range 14) exceeding that earned by other storeroom employees (pay ranges 8-10 for I's and II's), but not so high as to exclude him from premium pay for overtime work. With respect to the storeroom employees on both shifts, Scotty issues work directives, adjusts grievances at the oral step, effectively recommends disciplinary suspensions, sits in on and makes recommendations based upon hire interviews,

2/ Decision No. 14169, involving the Administrative Assistant II (Work Experience & Training Projects).

3/ A formal stipulation was filed on December 11, 1975 and a letter from Union's Counsel was filed on March 4, 1976.

fills out evaluation forms (civil service employees only) and determines when overtime work is necessary.

Approximately 25 percent of Scotty's time is spent performing work similar to that of unit employees, and a substantial additional portion of his time spent on other work related to the supervision of the stores activity rather than of employees. Even so, based on the combination and degree of supervisory responsibilities assigned to Scotty, we conclude that he is a supervisor and should be excluded from the bargaining unit.

CUSTODIAL WORK SUPERVISOR I

The Municipal Employer, contrary to the Union, contends that its four Highway Department Custodial Work Supervisors I are supervisors and should no longer be included in the unit. Each incumbent (pay range 12) is responsible for checking, correcting, and evaluating the building cleaning work performed by five project workers and 15 to 20 civil service employees (Custodial Workers I and II [pay range 7]). Three of the incumbents work a late shift with each assigned to one of the three buildings in the civic center complex (Courthouse, Safety Building, Courthouse Annex). The fourth works a day shift with a crew working in the Courthouse.

The incumbents have no role in hire or discharge determinations, make no discipline recommendations or grievance adjustments, and only routinely administer work arrangements and seniority assignment systems predetermined by others. Their contributions to employee evaluation forms are diluted by similar contributions from their immediate supervisors who share some of the first-hand work checking and correction with them.

While the incumbents perform only a de minimis amount of their time on cleaning work, and while their inclusion produces a high employee/supervisor ratio (especially on the late shift), we nevertheless find that the supervisory functions performed by the incumbents appear primarily routine and do not constitute a sufficient grouping of supervisory functions to warrant the incumbents' exclusion. Therefore, the above positions shall remain in the bargaining unit.

ASSISTANT HIGHWAY FOREMAN

The Municipal Employer, contrary to the Union, contends that its six Highway Department Assistant Highway Foremen are supervisors such that they should no longer be included in the bargaining unit.

The Municipal Employer's highway maintenance work (in summer, road repairs and grass, weed and litter control; in winter, plowing, salting and road repairs) is performed by the Department's Highway Maintenance Division headed by two centrally located supervisors and consisting of eight crews of 18 to 25 laborers and equipment operators (pay range 10, plus task rates) each. Each crew is led by a Highway Foreman (pay range 21), and an Assistant Highway Foreman (pay range 18) is assigned to all but two of the crews. Five of the crews work out of Main Shop, two out of South Shop and one out of North Shop. Neither the Foremen nor the Assistants perform more than a de minimis amount of the manual labor or machine operation performed by the balance of the crew. Rather, in summer, the Foreman allocates the work assignments among the crew and splits with the Assistant the direction and work correction functions on the variously located projects on which the crew is working with the Assistant. During the four-month winter period, at least six of the crews are split so that 40 percent (seven to ten) of the crew works a late shift under the direction of the Assistant, and 60 percent remain on the normal shift under the direction of the Foreman. During those months, and during the month and one-half to two months each Assistant

substitutes for a Foreman, the Assistant becomes entirely responsible for work assignments, direction and control of the crew members, which responsibility involves the exercise of independent judgment. Also during those months, the Assistant keeps records of employe time worked, evaluates crew members for probationary and promotional purposes, administers time-off policies and effectively recommends exceptions thereto, and is authorized to send an employe home and to recommend other disciplinary measures.

Because of the substantial non-routine duties of a supervisory nature exercised by the Assistants during approximately half of the calendar year, their non-performance of unit work throughout the year, and the geographic separation of the various projects among which each crew is divided during the summer months, we conclude that the six Assistant Highway Foremen are supervisors and should be excluded from the unit.

DICTATION MACHINE TRANSCRIBER (Foster)

The Municipal Employer, contrary to the Union, contends that the incumbent, Vera Foster, secretary to Children's Court Center Director Frohmader, is a confidential employe such that her position should no longer be included in the unit.

Frohmader's role in the Municipal Employer's labor relations is a limited one. He has neither participated personally in, nor provided inputs into the contract negotiation process, and his contract administration role has involved answering in writing, perhaps ten to 12 grievances per year.

The labor relations related materials which his secretary has opened as part of his mail or transcribed from his dictation have not been substantial and few have been of such a sensitive nature that the Union has not or will not shortly thereafter be privy to them. Moreover, when his mail is "strictly confidential", Foster leaves it for Frohmader to open personally, and Frohmader's administrative assistant (excluded as supervisory) who both types and transcribes from dictation, would be available for such limited sensitive dictation. Finally, there is no evidence that Foster has access to other confidential labor relations information.

For the foregoing reasons, the Commission concludes that Vera Foster's access to and participation in confidential labor relations matters is not sufficient to make her a confidential employe. Her Dictation Machine Transcriber position therefore shall remain in the bargaining unit.

HOUSEKEEPER I (Levy)

The Municipal Employer contends that its Housekeeper I position in the Children's Court Center now held by Kathleen Levy is supervisory such that it should no longer be included in the unit.

The Housekeeping function in the Center is performed by personnel organizationally within the Detention Section, which is headed by a Superintendent working an early shift and an Assistant Superintendent working a late shift. Three Custodial Workers I (pay range 5), one Custodial Worker II (pay range 7) and four to eight non-unit project workers are employed on the early shift to perform the washing, sweeping cleaning, laundry collection, sorting, marking, and distribution work under the direction of Levy (pay range 11). Before she leaves, Levy also makes any necessary adjustments in the work assignments of the two Custodial Workers I and two Custodial Workers II who perform the housekeeping work on the late shift under the supervision of the Assistant Superintendent. 4/

4/ On each shift there is also employed a Custodial Worker III (pay range 13), but such employes work on repair and maintenance and seem basically independent of direct supervision or assignment by Levy. Moreover, they are paid more than Levy.

Levy is responsible for observing, correcting, and evaluating the work performance of the early shift employees, and she serves at the oral step of the grievance procedure, at times dealing with stewards in such capacity. She informs hire interviewees of the nature of the job and comments to superiors about her perception of their suitability, but the Detention Section Superintendent interviews each candidate and the ultimate hire decision is formally made by the Center Director. Levy reports breaches of discipline or unsatisfactory work performance to the Superintendent, but apparently does not make specific recommendations as to what measures, if any, should be taken in connection therewith. She can recommend but cannot, alone, approve authorizations of overtime work.

The record also indicates that Levy spends 50 percent of her time performing laundry distribution and marking and other duties similar to those performed by the other housekeeping employees, and that additional portions of her time are spent in requisitioning, inventorying, and dispensing supplies used by housekeeping employees. In view of the substantial amount of unit work performed by Levy, the limited amount of time spent by her on supervisory duties, and the predominantly routine nature of her work assignment responsibilities, the Commission concludes that Levy is a lead worker rather than a supervisor. Her Housekeeper I position at the Children's Court Center shall, therefore, remain in the bargaining unit.

HOUSEKEEPER I

The Municipal Employer contends that its 12 Housekeepers I working in the Housekeeping Department of the Institutions are supervisors such that they should no longer be included in the unit.

The Institutions Housekeeping Department is responsible for cleaning, emptying waste, making beds, and delivering linen in six buildings. It is headed by the Assistant Hospital Administrator, a Housekeeper III, and a Housekeeper II (pay range 13), all of whom spend most of their time in their offices, though the II does some inspection of the various work locations. The Department also employs the 12 Housekeepers I at issue herein (pay range 11), five Custodial Work Assistant Supervisors (pay range 9), 50 Custodial Workers II (pay range 7), 112 Custodial Workers I (pay range 5), and seven Asepticists, all 186 of whom are presently in the bargaining unit.

The Housekeepers I perform little, if any, of the actual cleaning work. Rather, they are responsible for seeing to it that the work assignments are filled and properly performed. In that regard, they observe and check work performance, orally correct same, and order follow-up work where necessary. They are authorized to make emergency reassignments, e.g., of relief list personnel to assure coverage of the necessary work assignments. The content of the various work assignments are reviewed and posted quarterly by the Housekeeper III, but week-to-week adjustments made necessary by changes in space utilization, etc., are worked out between Housekeepers I and higher supervision. The Housekeepers I also record the time worked by subordinates. They may, and have, sent employees home for disciplinary reasons in the absence of the Housekeeper II and have effectively recommended disciplinary measures to higher supervision. They also inform higher supervision, in writing, of work rule violations (after discussing same with the employee involved). For at least the last four years, the Housekeepers I have prepared, for approval by higher supervision, evaluations of employee work performance and attitudes which evaluations affect probationary completion, eligibility for five annual increments, and suitability for promotion. They are considered by at least some of their subordinates as supervisors, and their actions have, on occasion, been the subject of employee grievances. They are also available as an oral grievance step, though the first written step appears to be the usual point of initiation of grievances within the Department.

Because they perform only a de minimis amount of unit work and because they have the several non-routine duties of a supervisory nature noted above with respect to substantial numbers of subordinates, we conclude that the Housekeepers I noted above are supervisors such that they shall no longer be included in the bargaining unit.

COOK III (Perrin)

The Municipal Employer, contrary to the Union, contends that the Cook III position in the General Hospital Dietary Department is supervisory such that it should no longer be included in the bargaining unit. The parties stipulated that the duties of the position are as follows:

"Under direction, to assist the chef in the direction of a large institutional kitchen, to have charge of the cooking and food service in a medium-sized kitchen, or to assist with the cooking and food preservation at the House of Correction; to plan, lay out, and supervise the work of cooks and food service personnel; to supervise the preparation, cooking, preserving, and distribution of foods; to requisition, receive and control the use of foods and supplies; to be responsible for maintaining the kitchen, refrigerators, storerooms, equipment, and utensils in a clean and sanitary condition; to be responsible for the sanitary practices of food service personnel; to direct the taking of inventories; to prepare meal cost analyses; to keep records; when assigned, to prepare or modify menus; and to perform such other duties as may be assigned."

The parties further stipulated that a substantial majority of the work time of the Cook III in Dietary is spent in supervisory activity which requires independent judgment.

On the basis of that record, we conclude that the Cook III in the General Hospital Dietary Department is a supervisor such that said position is excluded from the bargaining unit.

ASSISTANT ADMINISTRATIVE SERVICES MANAGER (Title Code 32.4)

The Municipal Employer contends, contrary to the Union, that the newly created classification noted above should be excluded from the bargaining unit as supervisory. The parties stipulated that the duties of the position are as follows:

"Under general direction, to have responsible charge of a moderately large electronic data processing division engaged in the processing of a wide variety of accounting and statistical data for all county departments and institutions; to coordinate data processing and related operating and clerical activities; to direct the assignment and supervision of subordinate personnel; to plan, formulate, and develop policies, procedures, and methods for the uniform collection, recording, and processing of data; to direct the development of work flow charts and the arrangement of data in final form; to prepare time and cost estimates; to develop and implement new and revised operating procedures and work methods to maintain operating schedules and effect maximum computer utilization; to have administrative responsibility for the development and productivity of a medium-sized programming staff; to confer with operating and administrative personnel to ascertain input and output requirements and to explain data processing capabilities and limitations; to analyse [sic] departmental systems and procedures to determine the feasibility of conversion to data processing; to establish and direct in-service training programs; to analyze production, malfunction, and maintenance reports of the computers and peripheral equipment; to make recommendations regarding

personnel, space, and equipment needs; to direct the maintenance of operating records and production reports; to submit recommendations for the annual budget; and to perform such other duties as may be assigned."

The parties further stipulated that the instant position was created by reason of the reclassification (upward in pay) of a previously existing position that was, at the time of (and before) the reclassification, excluded from the unit as a supervisor.

On the basis of the foregoing, we conclude that the above position is supervisory and excluded from the unit.

SYSTEMS ANALYST, DATA PROCESSING III (Title Code 122.2)

The Municipal Employer, contrary to the Union, contends that the newly created position, above, is supervisory. The parties stipulated that the duties of the position are as follows:

"Under general direction, to have responsible charge of the data processing systems function of designing, implementing, and maintaining major systems applications; to plan, coordinate, assign, and supervise the work of systems analysts; to define systems logic and the scope and task of systems studies; to determine study priorities and organize study schedules; to estimate time and personnel commitments; to maintain progress reports and keep management informed of project status and personnel activity; to prepare final reports on completed studies; to review systems and narrative documentation and check that documentation is complete; to present systems recommendations to data processing and user departments; to keep abreast of the latest developments in systems and procedure applications; and to perform such other duties as may be assigned."

The parties further agree that a significant portion of the duties of the above position are supervisory.

On the basis of the foregoing, we conclude that the above classification is supervisory and excluded from the unit.

ORTHOTIST (Title Code 543.9)

The Municipal Employer contends that the above position should be excluded from the bargaining unit because it is a craft position. The Union joins the Municipal Employer in stipulating that the position is one that is held by a skilled journeyman craftsman, but the Union declines to stipulate to its exclusion from the unit.

The parties agree that the following describes the duties of the position:

"Under general direction and in accordance with the physician's prescription, to devise static and functional kinetic orthotic devices for upper and lower extremity bracing or splinting; to fabricate the type of orthotic device or the variation or adaptation of such device which will make the patient most functional; to measure patients and fit devices; to adjust devices to improve function; to evaluate and re-evaluate the results of devices as the patient progresses and to confer with and coordinate such findings with the physician; to coordinate the patients' use of orthotic devices with therapists and nursing personnel; to instruct and explain the technicalities of orthotic procedures and devices to residents, students, and therapists; to keep abreast of developments in the field of orthotics; to maintain records and prepare reports; to requisition supplies and equipment; and to perform such other duties as may be assigned."

On the basis of the foregoing and a review of the prior decisions (noted in footnote one) that bear on the nature of the instant unit, we conclude that because of its craft nature, the instant position falls without the Union's bargaining unit and within an express exclusion therefrom. It is noted that the Union has not argued otherwise herein.

Therefore, the above position is excluded from the instant bargaining unit.

CLERK STENO II (Payne), CLERK TYPIST III ^{5/} (Prevetti),
CLERK STENO II (Schwartz)

The Municipal Employer, contrary to the Union, contends that the above secretaries to Medical Complex administrators are confidential employees such that their positions should no longer be included in the bargaining unit. Rosemary Payne and Petronella Prevetti are secretaries for the two Associate Administrators (Messrs. McGinnis and Bruni, respectively) who are at the second highest level of Medical Complex administration. At various times, McGinnis and Bruni perform the Administrator's function in his absence. McGinnis is responsible for the day-to-day operation of the Complex including the personnel function as regards the vast majority of its operations. Bruni is responsible for the fiscal aspects of Medical Complex activities, including accounts receivable and payable, purchasing, and materials management, and for the personnel function regarding employees in his areas of responsibility.

Geographically, the adjoining offices of Bruni and his secretary (Prevetti) are separate from a suite containing the Administrator's and McGinnis' offices and an office shared among Payne, a non-County secretary of the Medical College working with the Administrator on liaison matters, and the County secretary to the Administrator (who is presently excluded as a confidential).

McGinnis and Bruni participate in the development of grievance answers by subordinates, of recommendations for future contract bargaining objectives, of the Medical Complex budget, of recommendations for reclassifications by the Civil Service Commission, and their participation in employee discipline hearings. As a result, their secretaries are privy to or have access to such sensitive labor relations materials and information as the Medical Complex strike plan, recommended guidelines of flexibility for the County bargaining team (e.g., with respect to the matter of reallocations of Medical Complex classifications), recommendations for County bargaining demands, drafts and modified drafts of grievance answers, results of management studies of particular jobs in connection with possible reclassification requests, budget drafts at various stages of development (including indications of staff positions that may be eliminated) and reports of investigations of matters being considered for possible discipline. The extent to which these secretaries come into contact with information and materials that is sensitive to the Municipal Employer's labor relations is substantial, and the availability of the Administrator's secretary does not appear to negate the validity of the Municipal Employer's request for Payne's exclusion, especially since Payne takes over the Administrator's secretary's duties in that person's absence. Payne and Prevetti are, therefore, confidential employees, and their positions are excluded from the bargaining unit.

Veronica Schwartz is secretary to John Mudler, the Assistant Administrator responsible for administration of Radiology, Laboratories, Operating Rooms and the Department of Surgery which together total some

^{5/} Prevetti's classification changed from a Clerk Typist II between the petition's filing and the time of the hearing.

300 employees. Mudler is one of nine administrators who report directly to McGinnis. Schwartz also performs the secretarial work for Assistant Administrator Hatzi who has direct administrative responsibility for the Laboratories and the 160 employees therein. Because of Mudler's and/or Hatzi's participation in disciplinary investigations, grievance answer preparation, and budgeting, Schwartz types, or becomes privy to, sensitive labor relations information and materials such as staffing requests and plans, grievance answer drafts and modifications, management memoranda of fact concerning matters being considered for discipline, and other communications on labor relations subjects.

Since she works in a one-secretary office, Schwartz' contacts with such confidential materials would be difficult to avoid. Moreover, it is noted that seven of the nine administrators reporting directly to McGinnis have secretaries working for them who are (as a result of recent stipulations), or continue to be, excluded as confidential employees. Provision of Mudler with a confidential secretary therefore appears to be consistent with the arrangements in organizationally parallel administrative units.

Therefore, Schwartz is held to be a confidential employee, and her position is no longer included in the bargaining unit.

CLERK IV (Herman)

The Municipal Employer, contrary to the Union, contends that the position of the Clerk IV in the Purchasing Section of the Materials Management Department of the Medical Complex, currently held by Bernice Herman, is supervisory such that it should no longer be included in the unit.

The Purchasing Section, which consists of Herman (pay range 11) and three Clerk Typist II's (pay range 5), is a part of the Materials Management Department, headed by Materials Manager Joseph Zorichuk and consisting of the Hospital Storeroom (three Stores Clerks and a Stores Clerk Supervisor), the Purchasing Section, and will include a planned Warehouse Section expected to employ four employees. The Storeroom, the Purchasing Section and Zorichuk's office are all geographically quite close to one another. As a result, Zorichuk is available to, and in fact does exercise a good deal of supervisory authority with respect to the Clerk Typists II in Purchasing. For example, he observes and corrects their work on occasion, interviews candidates for those positions, approves overtime, and evaluates the performance of the II's. While Herman is authorized to receive grievances at the oral step, she communicates the facts with respect thereto for Zorichuk to determine management's answer. Herman works along with the II's in their typing, filing and expediting duties, allocates the work among them, and sees to it that the flow of work is maintained -- often taking upon herself the most difficult assignments. The record does not establish that she effectively recommends discharge or discipline or that she participates meaningfully in employee evaluation. Because of the limited number of employees in the Department and because of Zorichuk's close physical proximity to the Purchasing Section's work area, it would appear that Zorichuk would be in a position to determine many such matters from his own first-hand observations.

We, therefore, conclude that Herman is a lead worker but not a supervisor and that the disparity between her level of compensation and that of the II's is explained by her long experience and ability to perform the most difficult of Purchasing Section assignments without close supervision rather than by the extent to which she supervises the II's. For the foregoing reasons, we conclude that Herman's position properly remains included in the bargaining unit.

CLERK TYPIST II (Cuda)

The Municipal Employer, contrary to the Union, contends that Carla Cuda, secretary of the assistant to the Assistant Hospital Administrator of North Division of the County Mental Health Center, is a confidential employe such that her Clerk Typist II position should no longer be included in the bargaining unit.

Cuda is secretary to Josephine Olszewski, assistant to Joseph Amaturro, the administrator responsible for North Division which employs some 750 persons. Although Olszewski has some line responsibility in housekeeping and purchasing, the majority of her time is spent in a staff relationship to Amaturro, primarily as regards the Division's personnel function. Olszewski advises department heads on how best to answer grievances, hears some grievances at the third step in place of Amaturro, maintains personnel records for the Division, conducts staff meetings in Amaturro's absence, assists Amaturro in developing the Division budget and in developing Division policies, and sees to the implementation of Division policies by communicating with the various department heads.

Cuda shares an office with Amaturro's secretary (excluded as confidential), and is occasionally called upon to perform some secretarial work for Amaturro, including a recent assignment of typing a budget proposal. For Olszewski, Cuda types grievance answers, policy statements, directives (to line supervision and/or all employes), arranges grievance hearings, and the like. Cuda also has full access to the Department personnel files.

Because of the contact with and access to sensitive information noted above, because Olszewski performs the personnel function for North Division, and because Olszewski's counterpart at South Division has a confidential secretary, we conclude that Cuda is a confidential employe and her position is excluded from the unit.

CLERK STENO II (Bogatz)

The Municipal Employer, contrary to the Union, contends that Marie Bogatz, secretary to William Gore, head of the Social Services Department at North Division, is a confidential employe such that her Clerk Steno II position should no longer be included in the bargaining unit. The Municipal Employer contends that because the head of North Division's largest department, Nursing Services (200 employes), has a secretary excluded from the unit as confidential, the head of its second largest department, Social Services (101 employes, almost all in the unit), should also have one.

As head of Social Services, Gore serves as "hearing officer" for second step grievances, and Bogatz types grievance answers in connection with that activity. Bogatz also maintains a file of evaluations and data being developed in anticipation of subsequent evaluations or disciplinary actions with respect to Department employes. No other Department employe is excluded as confidential, but the Nursing Department secretary who is a confidential employe, works some 30 feet from Bogatz' work area.

The record indicates that Bogatz spends only a de minimis amount of time on sensitive labor relations matters. The inconvenience to the Municipal Employer of rearrangement of clerical operations to place the filing of the data and evaluations noted above in the control of an existing confidential employe does not appear sufficient in the instant case to warrant Bogatz' exclusion from the unit. For these reasons, we conclude that she is not a confidential employe and her Clerk Steno II position remains included in the bargaining unit.

MEDICAL RECORDS ASSISTANT II (Burke)

The Municipal Employer, contrary to the Union, contends that the position of Medical Records Assistant II at the South Division of the

County Mental Health Center currently held by Mary Burke is supervisory such that it should no longer be included in the bargaining unit.

South Division is organized into at least seven departments and headed by two administrators with Division-wide responsibility. Its medical records function consists of maintaining all medical records, producing statistical information necessary for reimbursement and oversight reporting purposes, and production and presentation of documents in response to requests or subpoenas. That function is performed by a Clerk Typist I, two Clerk Typists II (pay range 5) and Burke (pay range 11). While Burke spends only a small portion of her time doing the sort of statistical data collection, report typing, and initial review of medical documents for completeness that the clerks perform, she does spend the majority of her time on non-supervisory activities including liaison with medical staff and other heads of departments concerning additional information necessary to complete medical records and production of documents pursuant to request or subpoena as the official custodian thereof.

However, because the administrators with Division-wide authority do not provide direct supervision of the medical records function or employees, Burke exercises a wide range of supervisory authority with respect to the three clerks in her department. She at least participates in, if not conducts on her own, hire interviews for positions in her department, and she effectively recommends hire decisions. She has also effectively recommended discipline decisions, though she could not summarily send an employee home without authorization from higher levels of authority within the Division. She assigns the work within the department, evaluates department employees' performance for probationary and promotional purposes, approves reports of employee time worked, and schedules vacations and other off time. She serves as the first and second grievance step recipients for management and sits in on weekly meetings of heads of Division departments.

While the number of individuals supervised by Burke and the portion of her time taken in doing so are relatively small, we conclude, nonetheless, that the absence of supervisory inputs from other sources makes her supervisory role a significant one warranting the exclusion of her position from the unit.

CLERK TYPIST III (Crowell)

The Municipal Employer, contrary to the Union, contends that the Clerk Typist III position in the Welfare Department currently held by Dorothy Crowell is supervisory such that it should be excluded from the unit.

Crowell (pay range 9) is the highest rated of the 29 persons working in the secretarial/clerical room on the third floor of the Welfare Department. The other 28 consist of 14 Clerk Stenos II (pay range 6), five Clerk Typists II (pay range 5), four Telephone Clerks and five non-unit clerical assistants from either the Works Projects or Neighborhood Youth Corps programs. Those 29 employees provide secretarial services (dictation, transcription, report preparation, filing, and phone services) to the Casework Supervisors, Caseworkers and Case Aides working on the third floor. The 29 are part of the Department's Resources Division which includes a 100-person clerical staff headed by Joseph McCarthy. The social work personnel served by the 29 constitute part of the Financial Aid Division and almost all of the Family & Children's Services Division.

Seven of the Clerk Stenos II serve as personal secretaries to Casework Supervisors. As such, their work is largely directed by the Casework Supervisor for whom the II works, and most supervisory decisions affecting the II would be either initiated by or at least checked with the Casework Supervisor before implementation. The balance of the Clerk Typists II and Clerk Stenos II also have groups of Caseworkers and Case Aides for whom they regularly perform secretarial duties. Those assignments were originally established by McCarthy, the division head. The telephone duties of the telephone clerks are also pre-established.

Crowell spends ten to 20 percent of her time performing the sort of secretarial services performed by the other secretarial employees. The balance of her time is spent in observing the work of the other 28 employees in the room; adjusting the established work assignments to accommodate fluctuations in workload and to keep Telephone Clerks occupied during slack calling periods; reviewing and correcting employee work habits; reviewing and approving employee work time reports; approving and scheduling time off (vacation, personal day, compensatory time off); evaluating employees for promotion, annual increment, and probationary completion purposes; receiving and, where possible, adjusting grievances at the oral step; effectively recommending discipline; issuing written reprimands without consultation of others; and giving input regarding hire, transfer, and probation completion decisions of higher level supervisors.

Crowell reports to Jan Salick, the Clerk Steno IV who is personal secretary to the Family & Children's Services Division Supervisor, but Crowell is also in frequent phone contact with McCarthy, who visits the third floor secretarial/clerical room once a day on his rounds of clerical work areas throughout the Department. While Salick exercises direct supervisory authority over Crowell, she appears to do so with respect to the other 28 workers only in Crowell's absence. McCarthy's office is on the first floor, and Crowell's is in an area of the third floor that is geographically removed from the 28 employees.

Although, besides Crowell, there are other sources of supervisory input with respect to the 28 employees to varying degrees, the substantial amount of her time spent on supervisory responsibilities and the wide range of supervisory authority exercised by her warrant the conclusion that she is a supervisor and that her position is properly excluded from the unit.

ADMINISTRATIVE ASSISTANT II (General Assistance)
(Title Code 103.4)

The Municipal Employer, contrary to the Union, contends that the recently created classification, above, is so closely aligned to management that it should be excluded from the bargaining unit as managerial.

The incumbent in the position, Bernadine McCarthy (pay range 18), serves in a staff function to Frank Pokorny, who heads the Welfare Department's Division of Financial Assistance employing some 312 civil service personnel. Pokorny maintains his relationship with line personnel through his immediate assistant, Joseph Breiner (pay range 23), to whom five section heads (pay range 14) report.

McCarthy spends the majority of her time (50 to 60 percent) monitoring the daily flow of written records of particular occurrences (e.g., numbers of project workers who do not work out in placements) and summarizes her records in periodic reports to Pokorny. At Pokorny's direction, McCarthy developed and implemented a system by which certain aid recipients were required to personally pick up their welfare checks. While at first she was involved in the detailed administration of that program, it is now routinely administered by Tellers and McCarthy spends her time (30 percent) in personally approving exceptions to the pick-up requirement and monitoring the effectiveness of the procedures in operation. McCarthy spends a small proportion of her time (five to ten percent) in writing statements of Division policy and procedure to be followed by line personnel. Pokorny ordinarily identifies the policy or procedure to be addressed and reviews and signs each statement before it is issued. However, it appears that when McCarthy observes misapplication of Division policies or procedures, e.g., the check pick-up program, she will take steps to correct the misapplication. Also, when she observed a recurring problem in administering that program, she developed and recommended a memorandum altering the procedure in order to resolve the problem, which memorandum was ultimately

distributed to line personnel. McCarthy spends the balance of her time (circa five percent) in meetings and discussions with Pokorny and Breiner concerning ways to operate the Division more efficiently, staffing needs and prospects (including possible layoffs), and planning for staffing adjustments in the event of a work stoppage by bargaining unit personnel.

In our earlier memorandum in this case, regarding the Administrative Assistant II (WE & TP), we described the legal standards applicable to determinations of alleged managerial status as follows (case citations omitted):

"'Managerial' employees are expressly excluded from the definition of 'municipal employee' set forth in Sec. 111.70(1)(b) of MERA, but the precise meaning of that is not statutorily provided. Instead, the Commission has developed the parameters of those exclusions on a case-by-case basis with the following results. Managerial employees are those persons whose relationship to management imbues them with interests significantly at variance with those of other employees. Such a divergence of interest has been found where the employee involved participates '... in the formulation, determination and implementation of management policy'; but to yield managerial status, such involvement with the municipal employer's policies must be '... at a relatively high level of responsibility' and to a '... significant degree.' Managerial status may also--but need not necessarily--be related to a position's effective authority to commit the municipal employer's resources. Such status does not require possession of either confidential information relating to labor relations or supervisory authority over subordinate employees."

In applying those legal standards to the instant facts, we find that McCarthy's involvement with the Municipal Employer's policies is at a "relatively high level". McCarthy is either writing a policy in an area identified by Pokorny as requiring same or in an area which her own experiences indicate a recurring problem exists that needs solving. The evidence indicates that while Pokorny obviously has the authority to substantially modify or scrap draft procedures and policies prepared by McCarthy, in practice Pokorny has tended to approve her work product in that regard with little or no revision. Furthermore, while the time McCarthy spends actually writing policy and procedure statements accounts for only five to ten percent of her work time, in her meetings with Pokorny and Breiner, she is also contributing to policy discussions and deliberations, the fruits of her information monitoring, and check-pick-up program implementation work. Hence, her involvement with policy development and implementation is "of a significant degree." Finally, it is noted that her discussions with Pokorny and Breiner entail some matters of a confidential labor relations nature and that her role in seeing to it that case aides are adhering to the check-pick-up policy procedures appears somewhat supervisory in nature. Combining those confidential and supervisory aspects of her position with the policy development and implementation aspects discussed above, we conclude that McCarthy's relationship to management is one which so imbues her with interest significantly at variance with those of other employees as to require her exclusion from the bargaining unit. The above position is therefore excluded as managerial.

Dated at Madison, Wisconsin this 26th day of October, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney /s/

Morris Slavney, Chairman

Herman Torosian /s/

Herman Torosian, Commissioner

Charles D. Hoornstra /s/

Charles D. Hoornstra, Commissioner