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In the Matter of the Petition of :
 :
TEAMSTERS UNION LOCAL NO. 695 :
 :
Involving Certain Employees of :
 :
VILLAGE OF HALES CORNERS (POLICE :
DEPARTMENT) :
 :
----- :

Appearances:

DIRECTION OF ELECTION

NOW, THEREFORE, it is

DIRECTED

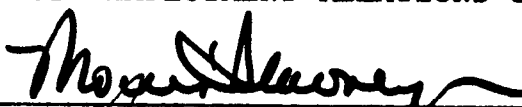
No. 15589


desire to be represented by Teamsters Union Local 695 for the purposes of collective bargaining with the Village of Hales Corners.

Given under our hands and seal at the City of Madison, Wisconsin this 20th day of June, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Charles D. Hbornstra, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

Hales Corners Line Officers Association, herein referred to as the Association, filed a petition on September 21, 1976, requesting that the Commission determine whether sergeants, presently excluded from its voluntarily recognized unit of police officers in the employ of the Municipal Employer, are supervisors. Hearing on the Association's petition was held on October 18, 1976, however, before the filing of briefs, Teamsters Union Local 695 on November 8, 1976 filed a petition requesting an election in essentially the same unit, referred to above, including the sergeants.

Although the Association was served with notice of the hearing with respect to the Teamsters' petition, and although its representatives were physically present during the hearing, it chose not to intervene. On June 13, 1977 the Association advised the Commission, by letter, that it no longer desired to represent law enforcement personnel and that it desired to withdraw its petition requesting clarification of the sergeant position. 1/ The parties in the hearing on the election petition stipulated to all relevant issues, except the timeliness of the petition and the appropriateness of the inclusion of the sergeants in the unit. Since we are satisfied the parties' stipulations conform to our established policies and that the instant petition is timely 2/ we confine ourselves to the issue of whether the sergeants are supervisors within the meaning of Section 111.70(1)(c) of the Municipal Employment Relations Act.

The Municipal Employer operates a police department with law enforcement personnel consisting of one chief, three uniformed patrol sergeants, one investigative sergeant, one investigator, and seven patrolmen. 3/ Its patrol operations are conducted on a three consecutive eight-hour shift basis, while the investigative functions are ordinarily limited to a day shift (8:00 a.m. to 4:00 p.m.), Monday through Friday. Patrol officers and sergeants work a "5-2", "6-3" or "5-3", "6-2" schedule. 4/ Ordinarily a patrol shift is manned by two patrolmen and a sergeant. However, there is often less than a full complement and occasionally only one sergeant or patrolman is the sole officer on duty. The investigative sergeant receives \$16,229 annually; the patrol sergeants receive \$15,912, while the highest paid patrolman receives \$14,477.

The chief works on the day shift Monday through Friday, with some Saturday hours. He spends 50 percent of his time on fiscal matters, ten percent of his time in rule making, and 40 percent of his time dealing with "individual problems" in the department. Only rarely does the chief do ordinary police work. He has exercised the power to suspend employees.

All sergeants report directly to the chief. Each of the three patrol sergeants is assigned to a particular shift and, when on duty, acts as shift commander. Sergeants are responsible for properly manning the shift:

- 1/ Pursuant to said request, the Commission has today dismissed said petition. (Decision No. 15588).
- 2/ There is currently no collective bargaining agreement in effect and the Association has indicated to the Commission that it no longer desires to represent the affected employees.
- 3/ It also employs nine clerical employees, 11 cadets and 15 auxiliaries, all without the power of arrest.
- 4/ References are to the number of days worked and number of days off.

they regularly authorize employe overtime by both holding officers over or calling in off duty officers, often temporarily reschedule employes from one shift to another, and approve requests to leave early. Further, under a mutual aid pact with nearby communities, sergeants determine when to seek assistance from, or send assistance to, such a community. Sergeants do the annual scheduling of employes, with the approval of the chief. While vacation selections are scheduled on a seniority basis, vacation requests can be canceled by sergeants to provide adequate staffing.

Sergeants spend, at most, 50 percent of their total time performing administrative duties, including perfunctory review of officers' accident reports, daily reports and their training status. All sergeants spend at least 50 percent of their time in performing police duties; the first and third shift sergeants spend considerably more time in such duties, such as responding to calls or assisting patrolmen. They occasionally check to determine if patrolmen are performing properly.

In the absence of a sergeant, the senior patrol officer assumes the role of shift commander. However, he consults with sergeants by telephone with respect to significant decisions, unless circumstances compel an immediate determination or the sergeant is not available.

The investigator and investigative sergeant, the latter being the senior sergeant, usually work Monday through Friday. The investigative sergeant assigns cases to both the investigator and himself, and adjusts their schedules for special circumstances arising in investigations. When the investigative sergeant determines additional help is necessary he reschedules patrol officers and directs their investigative work.

While the Municipal Employer asserts the sergeants have the authority to reprimand and suspend fellow employes, no specific grant of such authority appears in its recently drafted rules. Further, no sergeant has suspended or reprimanded an employe in writing. Based on the record in this case, it would appear to be highly unlikely sergeants would take any such action without consulting with the chief. In any case, a suspension issued without consultation would be immediately independently reviewed by the chief. Similarly, although sergeants receive grievances at the first step of the grievance procedure, they routinely pass grievances to the next step without determination on the merits.

We conclude sergeants have minimal authority with respect to scheduling and assigning employes, the exercise of which is of a relatively routine nature. Sergeants do not have any other substantial supervisory indicia. Accordingly, we conclude the sergeants are not vested with sufficient supervisory authority to require their exclusion as supervisors within the meaning of Section 111.70(1)(o)1 of the Municipal Employment Relations Act. 5/ Therefore, the sergeants are included in the unit and are eligible to vote in the election.

Dated at Madison, Wisconsin this 20th day of June, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Charles D. Hoornstra
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5/ City of Platteville (15535) 5/77; City of Madison (11087-A) 12/72;
City of West Allis (12020) 7/73, aff'd on other grounds, 72 Wis. 2d
268 (1976).