

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

VILLAGE OF WHITEFISH BAY (POLICE
DEPARTMENT)

[illegible]

Case XXII
No. 23869 ME-1617
Decision No. 16928

Lt. Donald E. Reader, appearing as the Petitioner.
Hayes & Hayes, Attorneys at Law, by Mr. Thomas E. Hayes,
appearing on behalf of the Municipal Employer.

Lt. Donald E. Reader having, on December 7, 1978, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to conduct an election in a unit of supervisory law enforcement personnel in the employ of the Village of Whitefish Bay (Police Department) for the purposes set forth in Section 111.70(8) of the Municipal Employment Relations Act; and a hearing on said petition having been held at Whitefish Bay, Wisconsin on February 1, 1979, before Douglas Knudson, a member of the Commission's staff; and the Commission, having considered the evidence and arguments of the parties, issues the following Findings of Fact, Conclusions of Law and Direction of Election.

4. That also during the course of the hearing, the Village contended that the Whitefish Bay Police Supervisors Association

should not be permitted to represent the supervisory law enforcement personnel of the Village eligible for inclusion in a supervisory law enforcement unit because of that organization's alleged relationship with the representative of the nonsupervisory law enforcement personnel of the Village.

5. That the Lieutenants neither participate, to a significant degree, in the formulation, determination and implementation of management policy, nor do they possess effective authority to commit the Village's resources.

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

CONCLUSIONS OF LAW

1. That the Lieutenants in the employ of the Police Department of the Village of Whitefish Bay are not managerial, but supervisors within the meaning of Section 111.70(1)(o) of the Municipal Employment Relations Act, and therefore, the Lieutenants, as well as the Sergeants, employed in said Police Department, are properly included in the law enforcement supervisory unit within the meaning of Section 111.70(8) of the Municipal Employment Relations Act.

2. That since the Whitefish Bay Police Supervisors Association is a separate local entity from the representative of the nonsupervisory law enforcement personnel of the Village, it cannot be disqualified by Section 111.70(8), Stats., from representing the eligible supervisory personnel employed in the Police Department of the Village of Whitefish Bay.

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

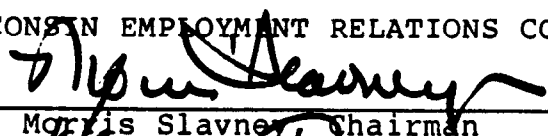
DIRECTION OF ELECTION

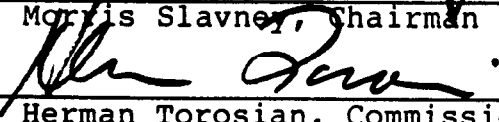
That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days of the date of this Directive in the appropriate unit consisting of all law enforcement supervisors with the power of arrest (Lieutenants and Sergeants), but excluding the Chief of Police, employed by the Village of Whitefish Bay (Police Department), who were employed on March 26, 1979, except such supervisory personnel as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such supervisors casting valid ballots desire to be represented by the Whitefish Bay Police Supervisors' Association for the purposes of negotiating with the Village of Whitefish Bay (Police Department).

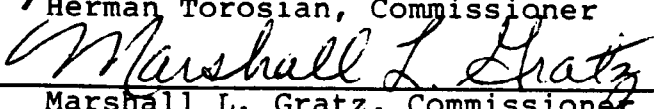
Given under our hands and seal at the City of Madison, Wisconsin this 26th day of March, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavner, Chairman


Herman Torosian, Commissioner


Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

It is clear from the record that the development and implementation of departmental policies is carried out by the Chief, although the Chief usually consults with the Lieutenants prior to making policy changes. For example, the Chief recently developed a policy whereby a form letter is sent to the property owner when a Patrolman observes an open garage door at a residence. The form letter was drafted by the Chief. Similarly, the Chief has attempted to relieve the officers and Patrolmen of clerical duties by hiring two employees to perform such duties. While other officers suggest duties which possibly could be transferred to the clerical employees, the decision to make such a transfer must be made by the Chief. While the Chief frequently requests the opinion of the Lieutenants concerning a possible purchase of equipment, he makes the final decision on any such purchases.

Since the Lieutenants neither participate, to a significant degree, in the formulation, determination and implementation of management policy, nor possess effective authority to commit the Villages' resources, which are the criteria for managerial status, 1/ the Commission concludes that the Lieutenants are appropriately included in a unit of supervisory law enforcement personnel of the Village of Whitefish Bay.

We have rejected the Village's contention that the Whitefish Bay Police Supervisors Association should be deemed not qualified to be on the ballot or to represent the nonsupervisory Village law enforcement personnel eligible for inclusion in a Section 111.70(8), Stats., unit; for we are satisfied that said organization is a separate local entity from the organization which represents the bargaining unit of nonsupervisory Village law enforcement employees, the Police-men's Protective and Benevolent Association of Whitefish Bay.

We need not and do not address herein the question of the propriety of the membership of supervisors in the latter organization for social (as opposed to collective bargaining) purposes, but we call to the parties' attention in that regard the portion of Section 111.70(3)(a)2, Stats., which reads as follows:

" . . . Supervisors may remain, members of the same labor organization of which their subordinates are members, but such supervisor shall not participate in determinations of the collective bargaining policies of such labor organization or resolution of grievances of employees. After January 1, 1974, said supervisors shall not remain members of such organizations."

Dated at Madison, Wisconsin this 26th day of March, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Marshall L. Gratz
Marshall L. Gratz, Commissioner

1/ City of Milwaukee (12035-A), 3/76.