

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF SUPERIOR

**Decision No. 17018**

Mr. Charles Deneweth, Representative, appearing on behalf  
of the Association.

The City of Superior, herein Petitioner, filed the instant petition on December 5, 1978, with the Wisconsin Employment Relations Commission, herein Commission, wherein it requested the Chief of Police, Inspector of Police, Inspector of Detectives, Captains, Lieutenants, Lieutenant of Detectives, Juvenile Lieutenant, Traffic Lieutenant, Superintendent of Bureau of Identification, Patrol Sergeants, and Desk Sergeants to be excluded from the established collective bargaining unit. Hearing was held in Superior, Wisconsin, on December 20, 1978 before Examiner Amedeo Greco. During the course of the hearing, both parties stipulated that the Chief of Police, one Police Inspector, one Inspector of Detectives, and three Captains were to be excluded from the unit and that all the Sergeants were to be included in the unit. The Association filed a brief at the hearing. Following the close of the hearing, Petitioner filed a brief which was received on March 12, 1979. The Commission has considered the evidence and the arguments of the parties and being fully advised in the premises, hereby issues the following Findings of Fact, Conclusion of Law and Order Clarifying Bargaining Unit.

1. Wisconsin Professional Police Association, Superior Police Local No. 27, herein Association, is a labor organization which represents for collective bargaining purposes certain police officers employed by the City of Superior.

2. The City of Superior, hereinafter the City, is a municipal employer which operates and maintains a police department.

3. The City and the Association are privy to a collective bargaining agreement which recognizes the Association as the exclusive collective bargaining representative of all of Petitioner's police officers, with the exception of the Chief of Police who is excluded.

4. At the time of the hearing, there were approximately sixty-eight sworn police officers in the Police Department who worked the three eight hour shifts maintained by the Petitioner. The record shows that the

two Patrol Lieutenants, one Traffic Lieutenant, one Juvenile Lieutenant, and the Lieutenant of Detectives -- perform various supervisory duties. The Superintendent of Identification performs managerial duties.

Based on the above and foregoing Findings of Fact, the Commission makes the following

CONCLUSION OF LAW

The Patrol Lieutenants, Traffic Lieutenant, Juvenile Lieutenant and Lieutenant of Detectives are supervisory employees who should be excluded from the appropriate collective bargaining unit. The Superintendent of Identification is a managerial employee who is also excluded from the appropriate bargaining unit.

Based on the above and foregoing Findings of Fact and Conclusion of Law the Commission makes the following

ORDER CLARIFYING BARGAINING UNIT

That the classifications of Patrol Lieutenant, Traffic Lieutenant, Juvenile Lieutenant, Lieutenant of Detectives and Superintendent of Identification employed in the Police Department shall be, and hereby are, excluded from the personnel of the City of Superior, excluding however, the Chief of Police, one Police Inspector, one Inspector of Detectives, and three Captains.

Given under our hands and seal at the City of Madison, Wisconsin this 18th day of May, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Herman Torosian  
Herman Torosian, Commissioner

Marshall L. Gratz  
Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSION  
OF LAW AND ORDER CLARIFYING BARGAINING UNIT

The primary issue herein is whether the two Patrol Lieutenants, one Lieutenant of Detectives, one Traffic Lieutenant, one Juvenile Lieutenant, and one Superintendent of Identification should be excluded from the unit, with Petitioner claiming, and the Association denying, that said positions are either supervisory and/or managerial.

As noted above, the parties agreed to exclude from the unit the positions of Chief of Police, one Police Inspector, one Inspector of Detectives, and three Captains. The parties further agreed that all of the Sergeants should be included in the unit. The Commission accepts the parties' stipulation with regard to these positions.

With respect to the two Patrol Lieutenants, the record shows that they respectively serve as shift commander for eighty (80) and forty (40) percent of their scheduled shifts. During that time, they perform a multiplicity of functions such as scheduling, conducting investigations regarding shootings and accidents involving City owned vehicles, assigning police officers to various patrol districts, disciplining police officers, calling in additional police officers, assigning overtime, conducting inspections and briefings, correcting reports, granting vacation time, recommending police officers for departmental citations, evaluating police officers, and training police officers. During the time that they serve as shift commanders, the Patrol Lieutenants receive captain's pay. With respect to the time that the Patrol Lieutenants do not serve as shift commanders, the record further shows that they perform duties which are different from those performed by rank and file police officers. Thus, they ride in unmarked cars, they patrol the entire city rather than a designated district, they generally do not enforce violations and, instead, they notify the patrol unit of said violations. They also have the authority to call up additional forces to the scene of a crime or accident. Furthermore, they attend staff meetings where personnel and departmental policies and grievances are discussed. In such circumstances, which establish that the Patrol Lieutenants spend a substantial part of their time as shift commanders and that they perform duties which are supervisory in nature, the Commission finds that they are supervisors who should be excluded from the unit. 1/

Turning now to the Superintendent of the Identification Bureau, that position which is now held by Lieutenant Elbert Zaun. Zaun primarily obtains photographs and fingerprints of persons who are either arrested or who are taken into custody. Zaun also serves as the department's photographer and he is responsible for recognizing and preserving evidence and then transmitting it to the crime laboratory. No one else besides Zaun works in the Identification Bureau. The record also establishes that Zaun sets the budget for the bureau, which this past year amounted to nearly \$10,000.00; that Zaun has the authority to expend funds on behalf of the department, that he decides what

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1/ See, for example, City of LaCrosse, Decision No. 14019 (10/75); City of Kenosha, Decision No. 14022 (10/75); and City of Greenfield, Decision No. 14393 (3/76).

services and equipment shall be supplied to the bureau, that he decides whether equipment should be repaired, that he applies for and administers state and federal grants, and that he thereafter spends such grants without further approval. In light of these factors, the record establishes that Zaun is a managerial employe and that, as a result, his position should be excluded from the unit.

The position of Traffic Lieutenant is presently held by Bronislaus M. Lugowski. Lugowski is primarily in charge of keeping traffic records, investigating accidents, handling public relations, ensuring that street signs are maintained, and assigning officers to traffic accidents. In addition, he supervises the parkette and approximately thirteen route crossing guards. Lugowski also personally hires and fires the guards. Since he can hire and fire, the Commission finds that the Traffic Lieutenant is a supervisor who should be excluded from the unit.

With respect to the Juvenile Lieutenant, Lavern Lysdahl, the record establishes that he investigates juvenile crime and directly supervises the activities of one detective and one patrolman juvenile officer. Lysdahl also prepares cases for presentation to the court, works with the District Attorney on preparing cases for court and makes recommendations to the judge on juvenile matters. He also assigns police officers to cases, directly supervises two police officers on the afternoon shift, effectively recommends police officers for reassignment, has served as shift commander for the entire department for fourteen days in 1978, assigns overtime, disciplines police officers, informally evaluates police officers, and is involved in training. By virtue of these latter factors, we find that the Juvenile Lieutenant is a supervisor and that he is excluded from the unit.

Turning now to the Lieutenant of Detectives, Robert Bennett, the record shows that that person is assigned to the three o'clock to eleven o'clock p.m. shift, where he is the highest ranking officer in the detective bureau. He is in charge of the approximately four detectives who serve under him, and he is also in charge of the vice squad. In that role, he directs the Detectives in their investigations, he assigns them work, he reviews their reports, he effectively recommends overtime, he authorizes paid relief and the taking of compensatory time off and sick leave, and he makes recommendations that departmental citations be given deserving police officers. In addition, the Lieutenant of Detectives has served as shift commander for approximately three to five times in 1978. While it is also true that higher ranking officers frequently tell the Lieutenant of Detectives what to do and that sergeants, who are in the collective bargaining unit, also have the authority to grant sick leave and paid relief, nonetheless we find that, on balance, the Lieutenant of Detectives possesses sufficient supervisory authority to warrant his exclusion from the unit. In this connection, the Commission has given effect to its policy of ordinarily attempting to avoid "rank splitting" when determining the supervisory status of law enforcement personnel. 2/

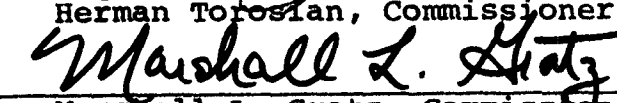
Dated at Madison, Wisconsin this 18th day of May, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

  
Marshall L. Gratz, Commissioner

2/ See City of Madison (11087-A) 12/72.