

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case XLVII  
No. 29780 ME-2106  
Decision No. 20696

Ms. Linda S. Vanden Heuvel, Attorney at Law, 207 E. Michigan, Suite 210, Milwaukee, WI 53202, appearing on behalf of the Petitioner.

Mr. Patrick L. Willis, City Attorney, City of Manitowoc, 817 Franklin Street, P. O. Box 765, Manitowoc, WI 54220, appearing on behalf of the Municipal Employer.

Mr. Michael J. Wilson, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, P. O. Box 370, Manitowoc, WI 54220, appearing on behalf of Intervenor AFSCME.

Ms. Lorene M. Mozinski, Attorney at Law, 903 Washington Street, P. O. Box 531, Manitowoc, WI 53220-0531 appearing on behalf of Intervenor Manitowoc Professional Police Association. (MPPA).

Wisconsin Professional Police Association, Law Enforcement Employee Relations Division having on May 11, 1982 filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election among law enforcement personnel in the employ of the City of Manitowoc to determine whether said employees desire to be represented by said Petitioner for the purposes of collective bargaining; and hearing in the matter having been conducted on July 22, 1982 at Manitowoc, Wisconsin, before Raleigh Jones, a member of the Commission's staff; and at the outset of the hearing Council 40, AFSCME, AFL-CIO, having been granted permission to intervene in the matter on the basis of its claim as the exclusive representative of police patrolmen; and on September 1, 1982, the Manitowoc Professional Police Association, Local 20 intervened in the case and petitioned for a new hearing; and a second day of hearing having been conducted on November 11, 1982 at which time the Manitowoc Professional Police Association, Local 20, having been granted permission to intervene in the matter on the basis of its claim as the exclusive representative of supervisory police employees; and post hearing briefs having been received by February 4, 1983: the Commission having considered the evidence and arguments of the parties and being fully advised in the premises, makes and issues the following

1. That Wisconsin Professional Police Association, Law Enforcement Employee Relations Division, hereinafter referred to as WPPA, is a labor organization and has its offices located at 9730 West Bluemound Road, Wauwatosa, WI 53226.

2. That the City of Manitowoc, hereinafter referred to as the City, is a municipal employer and has its offices at 817 Franklin Street, Manitowoc, Wisconsin 54220; and, that among its governmental functions the city maintains and operates a Police Department.

3. That Council 40, AFSCME, AFL-CIO, hereinafter referred to as AFSCME, is a labor organization and has its offices at P.O. Box 370, Manitowoc, Wisconsin, 54220; that at all times material herein AFSCME has been the voluntarily recognized collective bargaining representative of police patrolmen in the employ of the City; and, that the 1981-82 collective bargaining agreement contained the following relevant provision:

The Employer recognizes the Union as the exclusive bargaining agent for all patrolmen of the Manitowoc City Police Department excluding detectives, sergeants, lieutenants, captains, the inspector, [1/] chief of police and also excluding parking meter attendants, clerical personnel and crossing guards who do not have the authority to arrest.

4. That Manitowoc Professional Police Association, Local 20, hereinafter referred to as MPPA, is a labor organization with its offices at 903 Washington Street, P.O. Box 531, Manitowoc, Wisconsin 54220-0531; that at all times material herein MPPA has been the voluntarily recognized collective bargaining representative of a unit of City personnel including the seven detectives and seven sergeants at issue herein which unit was described in the 1982 collective bargaining agreement between MPPA and the City as follows:

The Employer recognizes the Association as the exclusive bargaining agent for all detectives, juvenile officers, sergeants, lieutenants and captains of the Manitowoc Police Department.

5. That in the petition initiating the instant proceeding, WPPA sought an election to determine whether the employees in the following alleged appropriate unit desired to be represented by it for the purposes of collective bargaining:

All patrolmen of the Manitowoc City Police Department excluding detectives, sergeants, lieutenants, captains, the inspector, [2/] chief of police and also excluding parking meter attendants, clerical personnel and crossing guards who do not have the authority to arrest;

that the above described bargaining unit is identical to that presently existing between the City and AFSCME; that during the July 22, 1983 hearings, AFSCME, the City, and the WPPA stipulated that the position of dispatcher should be included in the non-supervisory bargaining unit; and that the MPPA took no position with respect to said inclusion.

6. That at the hearing herein, WPPA amended its petition to include the position of detective in the petitioned-for bargaining unit, but argued that Detective-Sergeant/Court Officer Norbert Nelson was a supervisory employee, and therefore should be excluded from the proposed bargaining unit.

7. That AFSCME also sought inclusion of the detective position into the proposed bargaining unit, but in addition sought inclusion of sergeants into the proposed unit; and that AFSCME contended that neither Detective Sergeant/Court Officer Norbert Nelson nor Crime Prevention Officer Sergeant Roger Halverson were supervisory employees.

8. That both the City and MPPA contend that the positions of detectives and sergeants are supervisors and should not be included in the patrol officers' bargaining unit because their duties and job skills are not substantially comparable; and that MPPA also contends that the detectives are confidential employees.

9. That although MPPA was not formally notified of the hearing on July 22, 1982 because the Commission was unaware of its existence prior to said date, various members of MPPA were present at the July 22, 1982 hearing as a result of being subpoenaed by WPPA and/or AFSCME; that a copy of the transcript of the hearing was sent to MPPA in care of Detective Fran Nellis; and that MPPA was informed that it could petition the Commission for a reopening of the hearing.

10. That on September 1, 1982, MPPA filed a petition for a new hearing on the grounds that it had not been notified of the July 22, 1982 hearing at which

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1/ The position previously identified as inspector is now referred to by the parties as the Deputy Chief.

2/ See Footnote 1, above.

issues of substantial interest to MPPA had been raised; that WERC General Counsel Davis responded by letter dated September 3, 1982, as follows:

I am writing in response to your Petition for New Hearing in the above-entitled matter. Pursuant to your request, Examiner Jones will be contacting you and the other parties in the near future to schedule a second day of hearing so that you and your client will have every opportunity to participate in the proceedings. If you have any doubts about the availability of witnesses you have the opportunity to subpoena any individual you feel should be present. You will also have the opportunity to cross-examine any individuals with respect to their testimony given at the first day of hearing.

I would also point out to you that Examiner Jones' role is to make a factual record within the context of a non-adversarial proceeding. Thus he is empowered under Sec. 227.08(1), Stats., to exclude information or testimony which is unduly repetitious, immaterial or irrelevant. Should you have any questions, please feel free to call either myself or Examiner Jones.

and, that a second day of hearing, rather than a completely new hearing, was held on November 11, 1982 at which MPPA intervened and was given full opportunity to call and to elicit testimony from witnesses, as well as to fully address issues raised at the first day of hearing.

11. That the organizational structure of the Manitowoc Police Department consists of a police chief, one deputy chief, one captain of detectives, three lieutenants, seven sergeants, seven detectives and forty-two patrol officers; that the work of the Department is allocated to four subdivisions, namely the Detective Bureau, the Patrol and Traffic Division, the Community Safety Division and the Record Bureau; that the Detective Bureau is headed by the captain of detectives who supervises five detectives, the detective sergeant/court officer, and the youth service officer; that the Patrol and Traffic Division operates on a three shift, twenty-four hour basis, with each shift consisting of a lieutenant, two sergeants, and fifteen patrol officers; that the Community Safety Division consists of the crime prevention officer (currently occupied by a sergeant) the police/school liaison officer and twelve crossing guards; that the Record Bureau consists of six secretaries; and that each of these subdivisions report to the deputy chief.

12. That in the Patrol and Traffic Division, the lieutenant acts as the shift commander when present; that in the absence of the lieutenant, the senior sergeant on duty assumes the position of shift commander which involves direction and assignment of the patrolmen on the shift; that as a result of the normal work schedule of five work days and two rest days followed by five work days and three rest days, a sergeant acts as a shift commander for one out of every three days even before any of the lieutenant's vacations or holidays are taken into account; that by utilizing the average work week of thirty-seven and one-half hours and testimony that for one-third of the time only one officer is present, an average sergeant spends roughly one-fourth of this time acting as shift commander; that the shift commander calls in additional patrol officers to work, makes job assignments, schedules vacations and authorizes overtime and/or compensatory time-off; that a sergeant spends approximately twenty to twenty-five hours per week on the road, during which time he primarily is overseeing the activities of the patrol officers rather than functioning as an additional patrolman; that the sergeants regularly attend meetings with lieutenants, the detective sergeant, the captain and the police chief at which departmental policies, work schedules, patrol officers' performance, and problem areas are reviewed and discussed; that the sergeants do not issue oral or written reprimands of a disciplinary nature, since the police chief has the ultimate authority to discipline employees; that the sergeants do not regularly evaluate patrol officers; that although on occasion the sergeants have given their recommendations to the chief concerning applicants for employment, there is no indication such recommendations are a normal component of the hiring process; that the sergeants are not directly and regularly involved in the hiring, transferring, promoting, disciplining, or discharging of patrol officers; and that the occupants of the position of sergeant do not exercise supervisory responsibilities in sufficient combination or degree so as to make them supervisory employees.

13. That the primary function of the detective is to properly utilize his skills in the investigation of a crime; that while investigating a crime scene or overseeing a criminal investigation, a detective may direct the activities and authorize overtime for patrol officer(s) assisting the detective, but such activity exists only in the realm of the detective's special investigatory function; that the detectives do not have effective authority to recommend the hiring, transfer, suspension, promotion or disciplining of patrol officers, nor do they participate in meetings of supervisory employees; that the detectives, unlike sergeants, do not act as shift commanders; and that the occupants of the position of detective do not exercise supervisory responsibilities in sufficient combination or degree so as to make them supervisory employees.

14. That there are differences between the sergeants, detectives and the patrol officers in terms of their salaries, work schedules, promotional interests and supervision; that such factors do not mean that the sergeants, detectives and the patrol officers fail to share a community of interest based on their common law enforcement functions; and, that while the sergeants and detectives have in the past been included in the supervisory unit, this is not determinative either of whether said employees are indeed "supervisors" or of whether they should be in a different bargaining unit than are the patrol officers.

15. That the detectives are called upon on occasion to investigate charges of misconduct against patrol officers; and, that since the detectives serve as fact gatherers who do not participate in the decision making process following such internal investigations, said occasional duty is insufficient reason for concluding they are confidential employees.

16. That the primary function of the detective sergeant/court officer is to process and prepare cases for court under the supervision of the captain of detectives; that the detective sergeant substitutes for the captain of detectives in his absence due to regular off days, vacations or illness, but since both individuals work the same daily Monday through Friday work schedule, the detective sergeant's role as a substitute supervisor is limited; that in the absence of the captain of detectives, the detective sergeant is responsible for the assignment and coordination of investigative work, and also makes a determination as to whether information is released to attorneys and the public; that his responsibility for the coordination and follow-up of investigative work theretofore performed is a responsibility that is as much related to the advanced skill and experience of the detective sergeant as to his supervisory authority; and, that although the detective sergeant attends the regular staff meetings of "supervisory" personnel, the existence of such a practice does not, in and of itself, establish that the position of detective sergeant is supervisory so as to exclude the position from the patrol officer's bargaining unit; and that the occupant of the position does not exercise supervisory responsibilities in sufficient combination and degree so as to make him a supervisory employee.

17. That the crime prevention officer is assigned to certain specialized tasks within the department; that he meets with and speaks to civic groups regarding law enforcement, organizes neighborhood watch programs and is generally involved with community relations activities; that he does not work in the field with the patrol officers, but may have a patrol officer assigned to him for a specific project such as the bicycle safety program; that the crime prevention officer's position is currently filled by a sergeant; that the position primarily is responsible for the supervision of an activity rather than the supervision of other employees; and that the occupant of the position does not exercise supervisory responsibilities in sufficient combination and degree so as to make him a supervisory employee.

18. That MPPA expressed a desire to appear on the election ballot if the detectives and/or sergeants are included in the patrol officers' bargaining unit, and, has timely filed an adequate showing of interest to permit such an appearance.

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

#### CONCLUSIONS OF LAW

1. That a question concerning representation exists among the employees included in the following collective bargaining unit deemed appropriate within the meaning of Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act:

All regular full-time and regular part-time law enforcement employees having the power of arrest, employed by the City of Manitowoc, but excluding lieutenants, captains, the deputy chief, chief of police, and also excluding parking meter attendants, clerical personnel and crossing guards who do not have the power of arrest.

2. That the positions of sergeant in the patrol and traffic division, detectives, detective sergeant/court officer, and crime prevention officer are neither supervisory nor confidential in nature, and that therefore said positions are occupied by "municipal employees" within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act.

3. That neither Sec. 111 nor Sec. 227, Stats., require that the Commission, in the instant circumstances related in Findings of Fact 9 and 10, disregard the evidence and argument presented during the July 22, 1982 hearing.

4. That the sergeants, detectives, detective sergeant/court officer and the crime prevention officer share a sufficient community of interest with the patrol officers so as to warrant their inclusion in the same bargaining unit.

5. That MPPA made a timely request to appear on the ballot in the election directed herein.

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

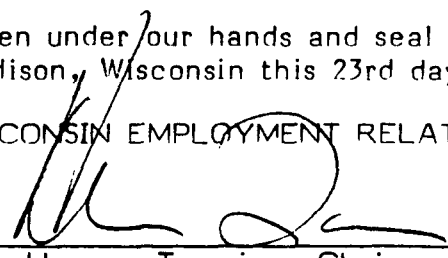
#### DIRECTION OF ELECTION

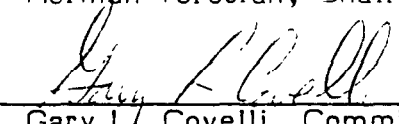
That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within forty-five (45) days from the date of this directive in the collective bargaining unit consisting of all regular full-time and regular part-time law enforcement employees having the power of arrest, employed by the City of Manitowoc, but excluding lieutenants, captains, the deputy chief, chief of police, and also excluding parking meter attendants, clerical personnel and crossing guards who do not have the power of arrest who were employed by the City of Manitowoc on May 23, 1983 except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of said employees desire to be represented by the Wisconsin Professional Police Association, Law Enforcement Employees Relations Division (LEER) or by Local 731, AFSCME, AFL-CIO, or by the Manitowoc Professional Police Association, Local 20, or by none of said organizations, for the purpose of collective bargaining with the City of Manitowoc on wages, hours and conditions of employment.

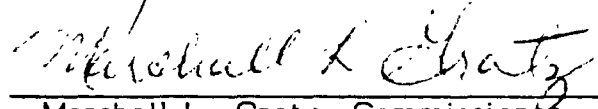
Given under our hands and seal at the City of  
Madison, Wisconsin this 23rd day of May, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Herman Torosian, Chairman

  
Gary L. Covelli, Commissioner

  
Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND DIRECTION OF ELECTION

On May 10, 1982, WPPA filed a petition seeking an election in a claimed appropriate bargaining unit of "all patrolmen of the Manitowoc City Police Department excluding detectives, sergeants, lieutenants, captains, the inspector, 3/ chief of police, and also excluding parking meter attendants, clerical personnel and crossing guards who do not have the authority to arrest." This unit description is identical to that in the existing agreement entered into between the City of Manitowoc and the City of Manitowoc Police Department employees, Local No. 731, AFSCME. The petition listed AFSCME, Local 731 as the only organization which claimed to represent any of the employees involved.

There is another independent bargaining unit which includes all detectives, juvenile officers, sergeants, lieutenants and captains of the Manitowoc Police Department which is currently represented by MPPA. This bargaining unit has a separate labor agreement with the City. The Notice of Hearing was not sent to the MPPA because the Commission was unaware of its existence.

At the July 22, 1982 hearing, WPPA amended its petition to include all detectives, with the exception of Detective Sergeant/Court Officer Norbert Nelson, in the non-supervisory bargaining unit. AFSCME also moved to include all detectives including Detective Sergeant Norbert Nelson and all sergeants. The City of Manitowoc took the position that the non-supervisory bargaining unit, as it currently existed, was appropriate. AFSCME, the City, and the WPPA stipulated to the inclusion of the dispatcher in the non-supervisory bargaining unit. MPPA took no position on said stipulation.

As a result of being subpoenaed by WPPA and/or AFSCME, various members of the MPPA were present at the hearing. An MPPA member requested adjournment of the hearing to allow for proper notice to his representative and provision for representation. The Examiner informed MPPA members that MPPA could petition the Commission for a reopening of the hearing, and also arranged for a copy of the transcript of the hearing to be sent to MPPA in care of Detective Fran Nellis. The Examiner then denied the request for adjournment and proceeded with the hearing on the issue of whether the detectives and sergeants should be included in the collective bargaining unit currently represented by AFSCME.

On September 1, 1982, MPPA filed a petition for a new hearing on the grounds that it had not been notified of the July 22, 1982 hearing at which issues of substantial interest to MPPA had been raised. MPPA contended that the July 22, 1982 hearing was void under Chapter 227 of the Wisconsin Statutes, under Section 111.70 of Wisconsin Statutes, and under the Administrative Code. By letter dated September 3, 1982, WERC General Counsel Peter Davis responded as noted in Finding of Fact 10. This gave MPPA the opportunity to protect the interest of their members by participating in the hearing, calling witnesses in their behalf and rebutting testimony offered at the first day of hearing. Under these circumstances we find no requirement in either Sec. 227 or Sec. 111, Stats., that the first day of hearing must be vacated and the process begun anew. Moreover, ERB 11.07 specifically allows the Commission to order "further hearing, as it may deem proper, to determine issues with regard to the appropriate collective bargaining unit." Therefore, we conclude that the conduct of second day of hearing rather than the commencement of a new hearing, did not violate either statute or the Administrative Code. We also hold that it is not a violation of the Administrative Code for the Petitioner to amend their petition at the hearing, as this is part of the flexible nature of the representative proceeding.

A second day of hearing was held on November 11, 1982 at which time MPPA was allowed to intervene and was given full opportunity to call and elicit testimony from witnesses, as well as to address issues raised at the first day of hearing. At this hearing both MPPA and the City contended the sergeants and detectives are supervisors and ought to remain in the existing supervisory unit.

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3/ See Footnote 1, above.

## THE ISSUE AS TO SERGEANTS

The City, MPPA, and WPPA, contrary to AFSCME, argue that the position of sergeant is supervisory and thus should be excluded from the patrol officers' unit. AFSCME's main contentions are that: sergeants do not spend a substantial portion of their time as shift commanders; sergeants do not regularly evaluate patrol officers; sergeants are not involved in the grievance procedure; and, sergeants generally supervise activities rather than employees.

Section 111.70(1)(a)1 of the Municipal Employment Relations Act defines the term "supervisor" as follows:

As to other than municipal and county firefighters, any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

In concluding whether an individual is a supervisor, the Commission, in order to determine whether the statutory criteria are present in sufficient combination and degree to warrant the conclusion that the individuals in question are supervisors, considers the following factors:

The authority to effectively recommend the hiring, promotion, transfer, discipline, or discharge of employees; whether the supervisor is primarily supervising an activity or is primarily supervising employees; the level of pay, including an evaluation of whether the supervisor is paid for his skill or for this supervision of employees; whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees; the number of employees supervised, and the number of other persons exercising greater, similar or lesser authority over the same employees; the amount of independent judgment and discretion exercised in the supervision of employees; and the authority to direct and assign the work force. 4/

The Commission has held that not all of the above factors need be present, but if a sufficient number of said factors appear in any given case, the Commission will find an employee to be a supervisor. 5/

The patrol and traffic division operates on the basis of three eight-hour shifts, with a lieutenant and two sergeants on each shift. When on duty, the lieutenant is the shift commander. When the lieutenant is not present, the senior sergeant assumes the position of shift commander which involves the direction, assignment and monitoring of the activities of the patrol officers on that shift in the investigation of crimes and accidents. Stripped of shift commander status, the sergeant retains largely routine command functions. AFSCME argues that the sergeants do not spend a substantial portion of their time as shift commander, but rather perform patrol duty a majority of the time. The record shows that an average sergeant spends roughly one-fourth of his time as an acting shift commander.

The City, MPPA and WPPA argue that in addition to this shift commander status, all sergeants possess the authority to effectively recommend promotions, to evaluate patrol officers, and to issue both oral and written reprimands. The record, however, fails to support these assertions. While Chief Strauss testified that sergeants have the authority to discipline patrol officers with oral and written reprimands, he further testified that he has the ultimate authority to

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4/ City of Milwaukee, (6960) 12/64; City of Manitowoc, (18590) 4/81; Door County (Sheriff's Dept.) (20020) 10/82.

5/ City of Lake Geneva (Police Dept.), (18057) 3/81; Kenosha County (Brookside Care Center), (19435) 3/82.

issue disciplinary actions. The record establishes that sergeants have never issued written reprimands and contains no specific examples of the verbal reprimands issued by sergeants. While there is some evidence suggesting that sergeants have given verbal reprimands to patrol officers, it appears that these "reprimands" were directions as to how the employee is expected to perform tasks in the future and were not identified to the employees as disciplinary in nature. The Chief also testified that sergeants evaluate patrol officers once a year, but patrol officers William Narten and Leonard Reindl both testified they have been evaluated only once; Narten six or seven years ago and Reindl five years ago. While sergeants have given their recommendations to the Chief regarding hiring, there is no indication that such recommendations either are a standard component of the hiring process or play an important role in the hiring process.

Although the six patrol/traffic sergeants do spend some time as shift commanders, the record establishes that none of the sergeants are directly involved in the hiring, transferring, promoting, disciplining or discharging of the patrol officers. Overall, the Commission is persuaded that the factors necessary to find the position of sergeant supervisory are not present in sufficient combination and degree to warrant such a conclusion. Rather, the sergeants appear to function as experienced lead persons, and as such are municipal employees and not supervisors under MERA.

#### THE ISSUE AS TO DETECTIVES

The City and MPPA, contrary to WPPA and AFSCME, argue that the position of detective is supervisory and thus should be excluded from the patrol officers' unit. Both the City and MPPA argue that the detectives act as field supervisors who share authority over patrol officers with the sergeants. The record, however, indicates that the main supervision of patrol officers by detectives is at the scene of a crime. In this limited context, the detectives do direct the activities of the patrol officers. Such direction is based on the expertise of the detectives in investigation, rather than on their role as supervisors. While detectives have given verbal reprimands to the patrol officers working with them in the course of these criminal investigations, there is nothing in the record to show that such reprimands are more than admonishments concerning proper investigative procedures. There is no evidence that these informal reprimands are placed in the employee's personnel file or are considered by higher supervisory personnel for the purposes of promotions, transfers or disciplinary actions. Contrary to the assertions of the City and MPPA, we find the detectives' duties primarily related to the exercise of their investigative skills rather than supervising employees.

MPPA contends that the detectives are confidential employees because they are called upon on occasion to investigate charges of misconduct against patrol officers. It is argued these internal investigations relate to "personnel matters" so as to make the detectives confidential employees. The Commission concludes that since the detectives serve as fact gatherers who do not participate in the decision making process following such investigations, this occasional duty is insufficient reason for concluding they are confidential employees. 6/ A decision to the contrary would exclude an inordinately large number of employees from the patrol officer's bargaining unit by spreading a limited quantity of work of a confidential nature among such employees. To do so would deprive all detectives of the status of "employees" under the law. 7/

#### THE ISSUE AS TO DETECTIVE SERGEANT/COURT OFFICER

WPPA, contrary to AFSCME, argues that the position of detective sergeant/court officer is supervisory and thus should be excluded from the patrol officers' unit. The City and MPPA make no specific arguments regarding the position but rather, include it in the overall detective category which they argue should be excluded from the patrol officers' unit.

The City employs one person as a detective sergeant/court officer, currently filled by Norbert Nelson. Until a couple of years ago, the position was simply

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6/ Green County (Sheriff's Department), (16270), 3/78.

7/ Marshfield Joint School District, (14575-A), 7/76.



entitled detective. WPPA argues that the detective sergeant is supervisory because he supervises the detectives, makes job assignments and has the authority to reprimand employees. The record, however, does not support these assertions. The record establishes that the detective sergeant's role as a substitute supervisor is limited. While it is true that the detective sergeant is responsible for the assignment and coordination of investigative work in the absence of the captain of detectives, this supervisory activity is infrequent and minimal in nature and is not sufficient to warrant a conclusion that the position is supervisory in nature.

WPPA also contends that the position of detective sergeant is supervisory because he participates in policy determination meetings. Subject matter discussed at these meetings includes department policies, work schedules, performance of patrolmen, and problem areas. We have held, however, that the existence of such a practice does not, in and of itself, establish that the position is supervisory so as to be excluded from the patrol officers' bargaining unit. 8/ Although inclusion of the detective sergeant into the patrol officers' unit may affect his participation in the policy and operations meetings, that fact is not sufficient to deter the Commission from reaching the instant conclusion. 9/ Furthermore, a ratio of two supervisors to six detectives, most of whom are presumably away from their superior officers throughout most of their shift, seems unrealistically high in the circumstances. In view of the above considerations, the Commission concludes that the detective sergeant/court officer is not a "supervisor" and thus should be included in a bargaining unit with the patrol officers. 10/

#### THE ISSUE AS TO CRIME PREVENTION OFFICER

AFSCME argues that the position of crime prevention officer is not supervisory, and thus should be included in the patrol officers' unit. The City, MPPA and WPPA make no specific arguments regarding the position, but rather include it in the overall sergeant category which they argue should be excluded from the patrol officers' unit.

The City employs one person as a crime prevention officer, currently filled by Sergeant Halverson. The position was originally designated as a community service officer, but was later changed to crime prevention officer as the result of a federal program. It is clear that Halverson's main duty is to meet with and speak to community groups regarding law enforcement and community relations, rather than working in the field with the patrol officers. The crime prevention officer's position is currently filled by a sergeant, the position is clearly responsible for the supervision of an activity rather than the supervision of other patrol officers. The Commission is therefore satisfied that the factors necessary to find the position of crime prevention officer as supervisory are not present in sufficient combination and degree to warrant such a conclusion.

Although there are differences between the sergeants, detectives and the patrol officers in terms of salaries, work schedules, promotional interests and supervision, and, although the sergeants and detectives would be a minority in the bargaining unit with the patrol officers, both groups of employees perform law enforcement functions. Therefore, we conclude that the sergeants and detectives share a common law enforcement function with the patrol officers, and since they are neither supervisory nor confidential employees, they are included in the patrol officers' bargaining unit.

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8/ City of West Allis (Police Department), (12020), 7/73.

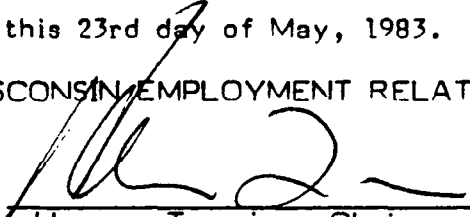
9/ Village of Bayside, (11514), 1/73.

10/ City of West Allis (Police Department), supra.

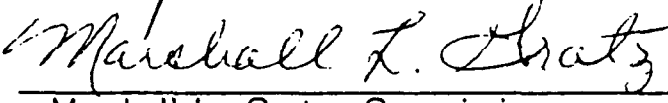
MPPA desired to appear on the election ballot if either the detectives or sergeants were included in the patrol officers' unit. Since we have concluded that the sergeants and the detectives, as well as the detective sergeant/court officer and the crime prevention officer, should be included in the proposed unit, we have determined that MPPA be added to the ballot in the election directed herein.

Dated at Madison, Wisconsin this 23rd day of May, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By   
Herman Torosian, Chairman

  
Gary L. Covelli, Commissioner

  
Marshall L. Gratz, Commissioner