

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

TOWN OF MADISON

Involving Certain Employes of

TOWN OF MADISON

Case 37

No. 53061 ME-792

Decision No. 27784-B

Appearances:

Lathrop & Clark, Attorneys at Law, by Mr. Kirk D. Strang, 122 West Washington Avenue, Suite 1000, Madison, Wisconsin 53701, on behalf of the Town of Madison.

Mr. Richard Thal, General Counsel, Wisconsin Professional Police Association/Law Enforcement Employee Relations Division (WPPA/LEER), 7 North Pinckney Street, Suite 220, Madison, Wisconsin 53703, on behalf of WPPA/LEER and the Town of Madison Professional Police Association.

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

On September 7, 1995, the Town of Madison (herein the Town) filed a petition with the Wisconsin Employment Relations Commission to clarify a bargaining unit of law enforcement personnel represented by the Wisconsin Professional Police Association/Law Enforcement Employee Relations Division, Town of Madison Professional Police Association (herein the Association) by excluding Sergeants because of their alleged supervisory status.

A hearing was held on March 19, 1996 in the Town of Madison, Wisconsin, before Debra L. Wojtowski, a member of the Commission's staff. Post-hearing briefs were filed, the last of which was received on March 17, 1997.

The Commission, having considered the evidence and arguments of the parties, and being fully advised in the premises, makes and issues the following Findings of Fact, Conclusion of Law and Order Clarifying Bargaining Unit.

No. 27784-B

## FINDINGS OF FACT

1. The Town of Madison, herein the Town, is a municipal employer having its offices at the Town of Madison Hall, 2120 Fish Hatchery Road, Madison, Wisconsin. The Town operates and maintains a Police Department as one of its municipal functions.

2. The Wisconsin Professional Police Association/Law Enforcement Employee Relations Division/Town of Madison Professional Police Association, herein the Association, is a labor organization having its offices at 7 North Pinckney Street, Suite 220, Madison, Wisconsin.

3. Since October, 1993, the Association has been the bargaining representative for a unit of law enforcement employees described in the 1994-95 contract as:

"all regular, permanent full-time and regular, permanent part-time employees in the Police Department having the power of arrest, including Police Officers and Sergeants, excluding the Police Chief, Police Lieutenant, office clerical employees, other supervisory personnel and all other municipal employees."

4. The Department employees with the power of arrest are the Police Chief, a Lieutenant, two Patrol Sergeants, ten Police Officers, and two Neighborhood Officers. Overall, each Patrol Sergeant directs the work of five or six officers. On any given shift, a Patrol Sergeant will be working with a minimum of two other officers. For approximately half of all shifts, a Sergeant will not be working and an Officer in Charge (O.I.C.) assumes a leadworker role. The O.I.C. is generally the most senior officer working the shift.

5. Prior to the arrival of the current Police Chief in July, 1995, the Department was under the direction of Interim Administrator and former Dane County Sheriff Jerome Lacke. At the Town's request, Lacke reviewed the Department's structure and operations and recommended, among other matters, that the Sergeants become supervisory non-bargaining unit employees. The Sergeant job description then in effect stated:

NATURE: Performance of police work relative to the maintenance of law and order, the preservation and protection of life and property, the prevention of crime and the detection and apprehension of criminals and offenders, and to perform related work as required under the functional control of the shift supervisor and administrative control of the Lieutenant and Police Chief.

PRIMARY DUTIES:

1. Prevent and deter criminal activity within the Town through patrol techniques.
2. Vigorously detect, apprehend and assist in the prosecution of those who violate Federal, State, County or local statutes and ordinances.
3. Be responsive to citizen service requests.
4. Respond to calls for police assistance whether by the public or other police agencies.
5. Collect and preserve evidence.
6. Investigate accidents, complaints, domestic troubles, theft cases, burglary cases, etc.
7. Direct traffic and assist pedestrians.
8. Receive and transmit pertinent communications in accordance with departmental policy.
9. Operate radar equipment from time to time.
10. Render first aid as needed and provide for the transportation of the injured.
11. Maintain records of actions and prepare reports as necessary.
12. Perform those assignments as required by the shift supervisor, Lieutenant or the Police Chief.

The current Police Chief approved of Lacke's recommendation and in October, 1995, the Town adopted a new job description for the position of Sergeant which was modeled after the job description for a Sergeant in the Dane County Sheriff's Department.

The new position description for Sergeant reads, in part, as follows:

A police department Sergeant is responsible for the direct supervision and evaluation of subordinates and work unit activities; administration and supervision of department operations when assigned as O.I.C.; planning, scheduling, coordinating and evaluating department/work unit level programs and activities; liaison and public relations with various members of the criminal justice system, news media and public; training; and performance of law enforcement functions consistent with statutory authority.

...

A3. Conduct periodic personnel and vehicle inspections, for compliance with established policies.

A4. Evaluate subordinates, conduct interviews, develop and implement performance improvement programs.

...

A7. Conduct confidential internal and personnel complaint investigations. Prepare a written summary of facts and recommendations, and take appropriate action.

...

A12. Initiate, recommend and administer corrective and/or disciplinary action involving subordinate employees, consistent with department policy and procedures.

...

B2. Evaluate ongoing situations and reassign department personnel and equipment as appropriate/necessary.

...

B7. Review and act upon requests for deviations from the published work schedule or overtime requests.

6. On October 6, 1995, the Chief advised all Department personnel as follows:

**Town of Madison Police Department**

**Interdepartmental Memorandum**

TO: All Police Department Personnel

FROM: Kevin D. Lindsey, Chief of Police

DATE: October 6, 1995

SUBJECT: Revised Organizational Chart

COPIES: Board of Supervisors; File; Department Heads

I would like to bring to your attention a few internal changes that are to be implemented immediately upon receipt of this memorandum and attached organizational chart. A meeting was held on October 5, 1995 attended by Sergeant's Boldebuck and Harper, Lieutenant Gould and myself. The meeting's focus was to define the Sergeant's supervisory responsibilities and delineate their authority in matters which affect the department.

These changes concern the following items, along with a short discussion/explanation of each item:

1. Assignment of additional supervisory responsibilities to the Sergeants as a result of the pending separation from the bargaining unit.

I have made no secret about my intent to remove the Sergeants from the bargaining unit. My sole purpose is to utilize the Sergeant's position in a true supervisory role for the benefit of the entire department. This will require changes in attitude, procedure, and an overall shift in the way things have been done in the past. Sergeant Boldebuck and Sergeant Harper will be tasked with numerous responsibilities involving performance of basic supervisory functions, including investigation of internal complaints and subsequent recommendation of disciplinary measures resulting from those complaints; responsibility for determining scheduling needs, which will include processing of overtime and days off requests; and other duties in accordance with their job description.

Note: Officers needing approval of days off, schedule changes, overtime, or other administrative and scheduling needs should contact their immediate supervisor. If their supervisor is not available, then the next available supervisor in accordance with the chain of command shall be contacted. Sergeants have supervisory responsibility throughout all shifts and areas of the department, with the obvious exception of higher ranking officers. This means that an officer on day shift may be given supervisory direction from a Sergeant that the officer does not specifically report to.

2. Delineation of the appropriate chain of command for all

personnel.

Each employee in the department should have a clear idea who their supervisor is. The purpose of the attached organizational chart is to properly delineate who that person will be. From time to time, Officer's may need to utilize other supervisors if their assigned supervisor is not available. This concept was explained in item 1 above.

3. Provide information regarding the status of current employees with respect to shift assignment, supervisor assignment, rank and status.

The revised organizational chart was developed to act as a guide for police officers for the above information.

Sergeants will be responsible for handling the assigned administrative duties, as well as handle calls for service when necessary.

Anyone with questions regarding this memo should direct them to their respective supervisor for clarification.

7. Full implementation of the new Sergeant job description was delayed until approximately January 1, 1996, in deference to ongoing bargaining over a new collective bargaining agreement.

On January 3, 1996, the Chief sent the following memo to the two Sergeants:

**Town of Madison Police Department**

**Interdepartmental Memorandum**

TO: Sergeant Harper, Sergeant Boldebuck

FROM: Kevin D. Lindsey, Chief of Police

DATE: January 3, 1996

SUBJECT: Supervisory Duties

COPIES: Lt. Gould

Very soon a hearing will be conducted to decide the issue of whether or not you are actually supervisors with respect to the type of work that you perform in your job function. Again, I will refer to the Position Description for POLICE SERGEANT to relate to each of you my expectations for the performance of your duties at the Town of Madison Police Department.

To date, you have been assigned a number of additional duties that you have not previously performed in your role as a Sergeant for the Town of Madison Police Department, these duties are **directly and specifically** related to your supervisory responsibilities. I have outlined some of these duties below:

You have been tasked with the composition of February's work schedule, and will continue to be responsible for the timely completion of future work schedules as provided for in the current and future contractual agreements with the officer's union.

You have investigated complaint's against officers, performing fact-finding duties and reporting them to the Chief of Police through appropriate channels with your recommendations on whether further action, either investigatory or disciplinary, was warranted.

You have been tasked with providing recommendations with regard to training, and the scheduling of that training.

You have been assigned administrative responsibilities regarding compliance with a number of departmental policies -- to include insuring the completion and submission of secondary employment requests, upgrading approved firearm forms, and training record release forms.

You, as supervisors, are held responsible for insuring that all officers under your command view the roll call training tapes in a timely manner.

As a result of a staff study conducted by Sgt. Harper with respect to an alternate schedule for the department's sergeants, his plan was adopted by the Chief of Police as a



viable plan to facilitate the performance of the required administrative functions of the Patrol Supervisors.

You have been provided with "Employee Data Sheets" to utilize in the planning, organizing, and scheduling of your subordinates. You have been given instruction on how to utilize the forms to track sick leave, tardiness, vacation, and other absences, either excused or unexcused. Additionally, you are responsible to take appropriate administrative action should abuse of leave is noted.

To address my concern about the quality of police reports, you have submitted a proposal to review five (5) percent of the reports written by your subordinates to monitor possible deficiencies and take corrective action as necessary.

You have been scheduled to attend supervisory training at the Wisconsin State Patrol Academy in March, 1996. This training will provide you with the latest information in contemporary supervisory techniques and concepts. The purpose of the training will be to provide a base upon which to continue your administrative development training and to prepare you for greater administrative responsibilities.

The duties described above are numerous, but only scratch the surface with respect to the totality of the responsibilities each of you incur as a member of our administrative team. You will no doubt experience some time constraints in completing the administrative and supervisory responsibilities with which you have been tasked. However, I am confident that you will be able to handle these duties, and still find time to perform some patrol functions. I offer the following guidelines to use in prioritizing your duties as a member of the administrative staff:

1. As a general rule, your administrative duties as outlined in the Police Sergeant's position description will take precedence over patrol duties. In other words, if you have administrative tasks that are not completed, then you are to spend your regularly scheduled work time completing these tasks. Over time, you may expect additional duties to be assigned to you. This will be done to facilitate the completion

of projects and other assignments necessary within the department.

Note: An exception to this will be if officer safety is compromised due to the unavailability of an officer or detective to respond as backup.

2. To reiterate past discussions on manpower: Since two officers will always be scheduled to work in patrol, and you have been authorized to maintain that level of staffing irrespective of yourselves, your primary duties with respect to handling calls for service are 1) backing up an officer (see number 1 above); and 2) maintaining your availability whenever possible (this can be done by relinquishing time consuming calls to an available patrol officer and by handling minor calls for service to provide patrol officers with time for selective enforcement, neighborhood officer duties, and the aforementioned time consuming calls).
3. I expect you to conduct your administrative review of police reports during your normal scheduled work hours.
4. Initially, you may expect to spend as much as 80% of your scheduled work time on administrative functions. This is expected due to your being unfamiliar with the new duties assigned to you. I would expect this time to be reduced somewhat once you become familiar with your new duties and responsibilities and establish a "routine" to handle your workload.

Effective supervision is not easy, it is time consuming and requires a constant effort on your part. But, when performed with pride, integrity, and common sense, it is one of the most rewarding experiences you will ever have.

If you have concerns or questions regarding your role as a supervisor, please ASK. As a management team, we must work together for the benefit of the department and the people for whom

we are responsible.

Sincerely,

Kevin D. Lindsey /s/  
Chief of Police

In March, 1996, the Sergeants attended a two-week supervisory training course.

8. Sergeants have independent authority to issue oral and written reprimands, and one-day suspensions with pay. More severe discipline may be recommended by Sergeants.

9. Hiring and firing decisions are the domain of the Police and Fire Commission. Sergeants have not been but will be involved in upcoming hiring processes, most likely by reviewing potential candidates.

10. A system for conducting evaluations has not yet been finalized or implemented, but will provide Sergeants with a significant role.

11. Sergeants are required to submit monthly schedules for officers and are responsible for employe shift changes, vacations, and holidays by granting/denying requests. They can authorize overtime, call officers in for duty, and redirect officers who are working.

12. The Lieutenant earns a salary of \$46,000 per year. The Sergeants earn \$36,468 and \$37,500 per year, while the highest ranking Officer earns \$35,052.

13. Sergeants possess supervisory authority and responsibility in sufficient combination and degree to be supervisors.

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

#### CONCLUSION OF LAW

Sergeants are supervisors within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore are not municipal employes within the meaning of Sec. 111.70(1)(i), Stats.

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

ORDER CLARIFYING BARGAINING UNIT 1/

The Sergeants are hereby excluded from the bargaining unit represented by the Association.

Given under our hands and seal at the City of Madison, Wisconsin,  
this 20th day of August, 1997.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By James R. Meier /s/  
James R. Meier, Chairperson

A. Henry Hempe /s/  
A. Henry Hempe, Commissioner

Paul A. Hahn /s/  
Paul A. Hahn, Commissioner

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- 1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

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227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent. . .

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(Footnote 1/ continues from the previous page.)

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this

decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.



TOWN OF MADISON

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

The Town seeks to exclude the Sergeants from the Association's bargaining unit because it believes the Sergeants are supervisors. The Association opposes exclusion.

POSITIONS OF THE PARTIES

Town

The Town of Madison submits that the duties and responsibilities of the position of Sergeant under the departmental reorganization are supervisory under Sec. 111.70(1)(o), Stats. Inconsistencies between the previous Sergeant job description and the authority actually exercised by the Sergeants warranted reorganization within the department. The new job description for the position of Sergeant was intended to remedy the inconsistencies by granting more authority to Sergeants in the form of increased responsibilities and broader decision-making authority. The Town has directed the current Sergeants to utilize this new authority. Consequently, Sergeants are supervisors and should be removed from the bargaining unit.

Association

The Association counters that the duties and responsibilities of the Sergeants are still not supervisory within Sec. 111.70(1)(o)1, Stats. The duties and responsibilities of Sergeants still differ in practice from the expectations conveyed by the position description. Some of the allegedly granted authority has not yet been realized and is merely planned to be implemented at some future date. Lastly, Sergeants lack the authority to act independently, as their duties are routine and ministerial in nature. Therefore, the Sergeants' duties are non-supervisory and the position must remain included in the bargaining unit.

DISCUSSION

Under the Municipal Employment Relations Act, a supervisor is defined as:

. . .any individual who has authority, in the interest of the municipal employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employes, 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. 2/

Historically, when analyzing the supervisory nature of a position, the Commission has considered seven factors. While all factors need not be present to support a finding that an employee is a supervisor, they should be "present in sufficient combination and degree to warrant the conclusion that the employee occupying the position is supervisory." 3/

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

The quasi-military organization of police departments presents a unique problem in determining supervisory status, as officers of higher rank generally have the authority to issue orders to subordinates, regardless of the determination of supervisory status. 5/ Accordingly, this analysis reflects the treatment of past decisions affecting law enforcement employees.

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2/ See Sec. 111.70(1)(o)1, Stats.

3/ City of Wisconsin Rapids (Police Department), Dec. No. 20779-B (WERC, 8/87).

4/ City of Rice Lake, Dec. No. 20791 (WERC, 6/83).

5/ See, City of Madison, Dec. No. 11087-A (WERC, 12/72).

The hiring process is governed by the requirements of the Police and Fire Commission and Sergeants have historically played no role therein. However, during future hirings, it is anticipated that Sergeants will participate in the hiring process by sitting on a panel to review potential candidates.

Regarding promotions, evaluation of other officers under the supervision of the Sergeants is a duty listed in the new position description. Currently, no system is in place for conducting such evaluations. However, a system is anticipated. It is in the early stages of creation, and is slated to be developed in large part by the Sergeants. Without any indication that the Town will fail to continue with its plans, there is no basis for assuming that evaluations are not part of the Sergeants' responsibilities. 6/ These evaluations would be a variable in promotion decisions and can be considered a form of recommendation or input for those decisions.

As to their authority to discipline, Sergeants may independently issue verbal warnings, written reprimands, and one-day suspensions. They can recommend longer suspensions and discharge from the force. Sergeants also evaluate probationary officers and give recommendations for retention.

Turning to the authority to direct and assign the work force, Sergeants are required to submit monthly schedules for officers and are responsible for approving shift changes, vacations, and holidays off. Sergeants direct the officers with their ability to call officers to duty and order them to work, cancel or deny requests, and select the level of staffing to use. Once officers are on duty, Sergeants can redirect them.

Each Sergeant supervises five or six employees. The Chief of Police and Lieutenant exercise greater supervisory power than the Sergeants.

Existing pay levels support a non-supervisory finding for this position. The highest-paid Sergeant receives \$8,500 less base annual compensation than the Lieutenant. In contrast, the difference between the lowest paid Sergeant and the highest-paid Officer is \$1,416. While the Association is correct in asserting that City of Marshfield indicates that similarity in pay levels can lend understanding to the amount of authority that employees are paid to undertake, this is but one factor. 7/ It is also important to note that because the Sergeants' pay rates are collectively bargained, the Town could not unilaterally increase Sergeants' pay when their duties and responsibilities changed.

Another consideration is whether the Sergeants are supervising activities or employees.

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6/ See, City of Milwaukee, Dec. No. 17741-B (WERC, 1/91).

7/ See, City of Marshfield, Dec. No. 25700-A (WERC, 10/92).

Testimony and the position description indicate that both are involved. For example, supervision of Neighborhood Officers does not involve their activities, but merely supervising the individuals as employees. The position description indicates that Sergeants are charged with the conduct of certain activities, and are responsible for supervising the officers utilized in implementing these activities.

The amount of time spent by the Sergeants working as opposed to supervising is disputed. While the position description does not indicate a breakdown, the Chief testified that he expects 30-50% of each Sergeant's time to be spent on regular officer activities. A Sergeant testified that he spends 90-95% of his time doing officer activities. This discrepancy can be explained by the fact that many of the authorized activities of the new position description have not been implemented or are not currently performed. Despite a finding that significant amounts of time were spent performing duties similar to those of officers, positions with sufficient authority to undertake supervisory activities have been found to be supervisory in nature. 8/

Lastly, the amount of independent judgment exercised in the supervision of officers is a relevant consideration. Citing Portage County and City of Delavan, the Association suggests that the routine nature of the Sergeants' activities is sufficient to preclude them from being supervisory. In Portage County, Lieutenants were non-supervisory in part because their tasks were routine and directed. 9/ In City of Delavan, the mere ability to issue orders did not satisfy the requirements of supervisory status where the orders only directed employees to follow established procedures. 10/ While some of the Sergeants' tasks can be considered ministerial in nature, a majority of the new responsibilities involve independent decision-making and discretion. Exercise of this independent judgment has been mandated by the Chief via directives to the Sergeants to make decisions. Consequently, the weight of the Sergeants' tasks is upon discretionary rather than routine activities.

The Association asserts that, according to City of Two Rivers, a municipality must actually invest supervisory authority in Sergeants rather than merely intending to do so. 11/ The Town, in enacting the new position description and directing its implementation, has invested the Sergeants with such authority. That certain elements of that authority have yet to be exercised by the Sergeants is not significant where they have been given significant authority and directed to exercise it.

A thorough evaluation of the above factors yields a conclusion that the Sergeants are supervisors. While past routines and responsibilities portray the position in a non-supervisory light,

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8/ See, Dane County (Sheriff's Department), Dec. No. 21406 (WERC, 2/84).

9/ See, Portage County, Dec. No. 19798-A (WERC, 2/93).

10/ See, City of Delavan, Dec. No. 12185-A (WERC, 8/88).

11/ See, City of Two Rivers, Dec. No. 21959-A (WERC, 2/91).

a new description has been enacted and governs this determination. The new description grants Sergeants the authority to act as supervisors, and the individuals holding the positions have been directed to exercise that authority. The position of Sergeant in the Town of Madison Police Department is a supervisory position, and consequently, must be excluded from the bargaining unit.  
12/

Dated at Madison, Wisconsin this 20th day of August, 1997.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By James R. Meier /s/  
James R. Meier, Chairperson

A. Henry Hempe /s/  
A. Henry Hempe, Commissioner

Paul A. Hahn /s/  
Paul A. Hahn, Commissioner

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12/ At the conclusion of its reply brief, the Town asked that we reopen the record to cover post-hearing developments if the existing record was not sufficient to establish supervisory status. Given the result we have reached, we need not respond to this request.