

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
**RACINE POLICE ASSOCIATION**

Involving Certain Employes of

**CITY OF RACINE**

Case 547  
No. 56560  
ME-949

**Decision No. 29828**

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Appearances:

Weber & Cafferty, S.C., by **Attorney Robert K. Weber**, 2932 Northwestern Avenue, Racine, WI 53404, appearing on behalf of the Racine Police Association.

**Attorney William R. Halsey**, Long & Halsey Associates, Inc., Suite 500, 8338 Corporate Drive, Racine, WI 53406, appearing on behalf of the City of Racine.

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND ORDER CLARIFYING BARGAINING UNIT**

On June 16, 1998, the Racine Police Association filed a petition with the Wisconsin Employment Relations Commission seeking to clarify certain sergeants and lieutenants employed by the City of Racine Police Department into the Association bargaining unit. The City opposed the petition on the grounds that the sergeants and lieutenants are supervisors and/or managerial employees.

After lengthy but unsuccessful efforts to resolve the matter, hearings were held on February 22 and 23, April 16 and May 14, 1999, in Racine, Wisconsin, before Commission Examiner Karen J. Mawhinney. The parties filed written argument, the last of which was received October 6, 1999.

In its brief, the Union withdrew its request to clarify the status of lieutenants, the Sergeant of Courts and the Sergeant of Internal Affairs. Thus, at present, the Association seeks inclusion of 16 sergeants from the Patrol Division, 2 sergeants from the Investigations Division (the Sergeant-Drug Enforcement and the Sergeant-Gang Enforcement), 1 sergeant from the Administrative Division (the Sergeant of Planning), and the Sergeant of Policy and Procedure. The City contends that all of the sergeants are supervisors and that the Sergeant of Policy and Procedure and the Sergeant of Planning are also managerial employees.

Having considered the matter and being fully advised in the premises, the Commission makes and issues the following

### **FINDINGS OF FACT**

1. The City of Racine, herein the City, is a municipal employer having its offices at 730 Washington Avenue, Racine, Wisconsin 53403. The City has a Police Department.

2. The Racine Police Association, herein the Union, is a labor organization representing a collective bargaining unit of City Police Department employees. It has an office address of 2932 Northwestern Avenue, Racine, Wisconsin 53404. The City and the Union are parties to a 1998-2000 collective bargaining unit which includes the following recognition clause:

The City recognizes the Association as the exclusive bargaining agent for the regular full-time employees of the Police Department of the City of Racine in the grades Police Officer, Traffic Investigator and Investigator.

3. The Staff Officers' Association is composed of sergeants, lieutenants and captains in the City Police Department. The City and the Staff Officers' Association are parties to a 1998-2000 collective bargaining agreement which includes the following recognition clause:

The City of Racine recognizes the Staff Officers' Association of the Racine Police Department as the sole and exclusive agent for the purpose of engaging in conferences to establish wages, hours, and conditions of employment for Sergeants, Lieutenants and Captains employed by the Racine Police Department.

The Association has taken no position in this litigation.

4. There are 205 sworn officers in the Police Department and 38 civilian employees that work for the Department in crime analysis and secretarial positions. Some of the civilian employees are represented by Local 2239, AFSCME, AFL-CIO. Chief of Police Richard

Polzin heads the Police Department. The Sergeant of Internal Affairs, the Assistant Chief and the Inspector report directly to the Chief. One of the positions in dispute, the Sergeant of Policy and Procedure, reports directly to the Inspector.

The Department has three major divisions with a captain in charge of each division.

Captain Thomas Cooper heads the Administrative Division, and there are two lieutenants and two sergeants under him including one of the positions in dispute, the Sergeant of Planning.

The largest division is the Patrol Division, headed by Captain Richard Klofanda. There are 5 lieutenants and 16 sergeants in the Patrol Division. All of these sergeants are in dispute in this proceeding. A lieutenant heads each shift with several sergeants under that lieutenant. Under the lieutenant in charge of the day shift, there are three sergeants, plus a traffic sergeant and a sergeant who works 10:00 a.m. to 6:00 p.m. as a school liaison officer. The mid shift lieutenant has four sergeants under him, and the night shift lieutenant has seven sergeants under him working two different blocks of hours.

In the Patrol Division, the Captain is on duty during the day shift until 5:00 p.m. His shift would overlap with both the day shift and mid shift sergeants and lieutenants.

The Investigations Division is headed by Captain Carl Pavilonis. There are three lieutenants under him. The Lieutenant in Street Crimes has two sergeants – one in drug enforcement and one in gang enforcement – that are in dispute in this case.

5. Patrol Division sergeants typically direct the work of 7-12 officers/investigators. Except when serving as roll call sergeant, the sergeants typically spend 75-90% of a shift out on the City streets in a squad car. However, their work generally differs from the officers/investigators in that they typically do not make routine traffic stops or arrests. Instead, they provide assistance/advice to officers/investigators, check reports filed by officers, and may assume responsibility for major emergency situations.

Sergeants change officers/investigators work assignments as needed during a shift. They call in additional officers in emergency situations or where necessary to maintain minimum staffing levels.

None of the Patrol Division sergeants have any involvement in hiring of police officers which would differentiate them from other Department employees. A list of applicants is sent to all sworn employees in the Department to see if anyone knows the applicants or has good or bad recommendations about them. Any officer in the Department may be assigned to perform a background check on applicants. There is a recruitment team composed of a mix of various ranks of sworn employees.

Patrol Division sergeants do not formally evaluate the performance of officers.

Patrol Division sergeants are not formally part of the grievance procedure contained in the collective bargaining agreement between the Union and the City unless a sergeant was filling in for a lieutenant as shift commander on a particular day. As shift commander, the sergeant would serve as the first step in the grievance procedure. Sergeants do receive and resolve informal grievances.

Patrol Sergeants have authority to issue an oral reprimand, a written reprimand, and to effectively recommend suspensions up to and including three days in length. In general, sergeants initiate or investigate complaints against officers and make recommendations regarding discipline. If the matter can be corrected by instruction or training, then discipline is not used. There is little formal discipline imposed in the Department.

Promotions to the positions of sergeant, lieutenant and captain are made by the Chief. The Chief has asked sergeants, lieutenants and captains for evaluations of candidates for sergeants and lieutenants.

Sergeants and lieutenants do not have the authority to lay off employees or transfer employees. The collective bargaining agreement establishes the procedure for shift transfers for Union bargaining unit members. It also provides for officers to exchange days off with fellow officers and establishes the hours of shifts. Under the agreement, the granting of compensatory time off is at the discretion of the shift unit commander, who is usually a lieutenant but could be a sergeant.

Sergeants and lieutenants attend supervisory meetings, and they hold meetings with officers. Sergeants are not included in some supervisory meetings. Personnel matters may be discussed at supervisory meetings.

The Department has numerous policies and procedures. Among them are procedures on reporting sick leave (Procedure #101), reporting injuries in the line of duty (Procedure #102), conditions for maternity leave of absence (Procedure #103), and funeral leave (Procedure #105). Procedure #106 governs requests for time off for vacations, holidays, casual days, compensatory time, exchange of days, leaves of absence and military leaves. Procedure #107 establishes a policy on how overtime is handled and when it is paid. These various procedures limit the amount of discretion exercised by sergeants when granting time off and authorizing overtime.

As established by the applicable collective bargaining agreements, the relevant current annual wage for sworn Department employees is as follows:

Police Officers	\$49,130
Traffic Investigators	\$50,877
Investigators	\$52,708
Sergeants	\$55,266
Lieutenants	\$59,759
Captains	\$63,440

Sergeants, lieutenants and captains are paid overtime under the Staff Officers' collective bargaining agreement.

Patrol Division sergeants have supervisory responsibilities in sufficient combination and degree to be supervisors.

6. The Sergeant of Policy and Procedure has two primary duties: (1) researching and drafting departmental policy and (2) coordinating the Department's responsibilities for providing law enforcement resources during special events.

As to policy, the Sergeant reviews all Department policies for compliance with the law and Department practice. Examples would be policies on use of force, both deadly and non-lethal, how incidents are reported and investigated, and how restraints are used. Working closely with the Assistant Chief and the Inspector of Professional Standards and after getting input from other Department personnel and reviewing manuals of other police departments, the Sergeant drafts recommended policies for the Chief's consideration.

The City has a large number of annual special events which require the presence of law enforcement personnel. The Sergeant of Policy and Procedure is responsible for coordinating the use of departmental personnel (from a dozen to 100 officers at a time) at these events and spends all of his work time from April to mid-August performing this responsibility.

The events generally involve overtime and the manpower needs are generally filled by police officers, sergeants and lieutenants who volunteer. Absent enough volunteers, the Sergeant has the authority to order officers to work the events.

The Sergeant meets with the civilian planners of the event, determines the law enforcement resources necessary to handle the event and assigns and directs the work of Department employees at the event. He has the authority to discipline officers for misconduct during a special event.

The Sergeant of Policy and Procedure does not exercise sufficient control over the resources of the City or have sufficient involvement at a relatively high level of responsibility in the formation, determination or implementation of management policy to be a managerial employee. He does not have supervisory responsibilities in sufficient combination and degree to be a supervisor.

7. The Sergeant of Planning applies for local and federal grants and sources of funds to help the Department. Once grants are acquired, the Sergeant prepares necessary reports for the funding source.

The Sergeant of Planning also releases information to the news media, holds news conferences and coordinates major events with the media. Because of his high profile, citizens sometimes direct complaints against officers to him, even though he does not investigate such complaints or get involved in investigating officers.

As of the beginning of 1999, the Department has a crime analysis unit staffed by two civilians who report to the Sergeant of Planning. These are clerical positions that are part of Local 2239, AFSCME's bargaining unit. While there are no formal performance evaluations of sworn officers in the Department, the Sergeant will complete performance evaluations on the two clerical employees. The Sergeant will have the authority to independently impose discipline, receive grievances as the first step in the AFSCME contract grievance procedure, assign work, change work assignments, authorize overtime, and grant time off for vacations, sick leave and compensatory time.

The Sergeant of Planning has supervisory responsibilities in sufficient combination and degree to be a supervisor.

8. The School Liaison Sergeant provides law enforcement services to Racine schools and directs the work of officers who patrol school areas. Approximately once a week, he fills in for absent Patrol Sergeants and also responds to emergencies as needed.

When directing the work of officers patrolling school areas (sometimes on mountain bikes), this Sergeant exercises less authority over the officers than do the Patrol sergeants, partly because he is providing direct services to the schools himself.

The School Liaison Sergeant does not have supervisory responsibilities in sufficient combination and degree to be a supervisor.

9. In the Investigations Division, Street Crimes Unit, there are two sergeants – one for drug enforcement and one for gang enforcement. There are nine investigators and one civilian in the Drug Enforcement, and five investigators and two officers in Gang Enforcement.

The Sergeants of Drug Enforcement and Gang Enforcement have essentially the same level of supervisory responsibility over the Investigations Division investigators/officers whose work they direct as do the Patrol Division Sergeants over the Patrol Division officers.

The Sergeants of Drug Enforcement and Gang Enforcement have supervisory responsibilities in sufficient combination and degree to be supervisors.

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

### **CONCLUSIONS OF LAW**

1. The Sergeant of Policy and Procedure is not a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and is not a managerial employe within the meaning of Sec. 111.70(1)(i), Stats., and therefore is a municipal employe within the meaning of Sec. 111.70(1)(i), Stats.

2. The Sergeant of Planning is a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore is not a municipal employee within the meaning of Sec. 111.70(1)(i), Stats.

3. The Sergeants in the Patrol Division are supervisors within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore are not municipal employees within the meaning of Sec. 111.70(1)(i), Stats.

4. The School Liaison Sergeant is not a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore is a municipal employee within the meaning of Sec. 111.70(1)(i), Stats.

5. The Sergeant of Drug Enforcement is a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore is not a municipal employee within the meaning of Sec. 111.70(1)(i), Stats.

6. The Sergeant of Gang Enforcement is a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore is not a municipal employee within the meaning of Sec. 111.70(1)(i), Stats.

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

### **ORDER CLARIFYING BARGAINING UNIT**

The Sergeant of Policy and Procedure and the School Liaison Sergeant shall be included in the bargaining unit represented by the Racine Police Association, and the other sergeants at issue in this proceeding shall continue to be included in the Staff Officers' Association unit.

Given under our hands and seal at the City of Madison, Wisconsin, this 4<sup>th</sup> day of February, 2000.

### **WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

James R. Meier /s/

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James R. Meier, Chairperson

A. Henry Hempe /s/

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A. Henry Hempe, Commissioner

Paul A. Hahn /s/

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Paul A. Hahn, Commissioner

**RACINE POLICE DEPARTMENT**

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

**POSITIONS OF THE PARTIES**

**The Union**

The Union contends that although all of the sergeants in dispute may periodically exercise a limited degree of supervision, none of the sergeants have sufficient supervisory authority to exclude them from the Union bargaining unit as supervisors.

The Union asserts that in response to the unit clarification petition, Chief Polzin has recently attempted to embellish and exaggerate the role sergeants play in the Department.

The Union argues sergeants play little or no role in the hiring, evaluation, promotion and transfer of employees and that their involvement with disciplinary matters is minimal - having never exceeded the written reprimand step. Sergeants are not part of the contractual grievance process. The Union alleges that the existing contract and departmental policies and practices "all severely curtail" the sergeant's exercise of independent judgment when directing and assigning work.

Citing past Commission cases, the Union argues that: (1) these sergeants are akin to the sergeants found not to be supervisors in MILWAUKEE COUNTY, DEC. NO. 24855 (WERC, 10/87) and have less supervisory responsibility than the employees found to be supervisors in CITY OF SUPERIOR, DEC. NO. 17018-A (WERC, 2/99); (2) under CITY OF MARSHFIELD, DEC. NO. 25700-A (WERC, 10/92), sergeants do not fill in as shift/unit commanders with sufficient regularity for that factor to be supportive of supervisory status; (3) under TOWN OF MADISON, DEC. NO. 27784-B, (WERC, 8/97), the sergeants' pay level indicates non-supervisory status; (4) under CITY OF NEW BERLIN, DEC. NO. 16055 (WERC, 1/78), the sergeants' receipt of overtime is evidence of non-supervisory status; (5) direction of employees at a crime scene is not supervision in the labor relations sense, citing PORTAGE COUNTY, DEC. NO. 19798-A; (6) reviewing incident reports and making street assignments is not significant evidence of supervisory status, citing VILLAGE OF HALES CORNERS, DEC. NO. 15589 (WERC, 6/77); and (7) the special events scheduling/coordinating duties of the Policy and Procedure Sergeant are routine and ministerial and do not establish either supervisory or managerial status, citing KEWAUNEE COUNTY, DEC. NO. 11096-C (WERC, 2/86) and VILLAGE OF HALES CORNERS, SUPRA.

Given all of the foregoing, the Union asks that the sergeants in dispute be found to be municipal employees and added to the Union's bargaining unit.



## **The City**

The City contends that all of the sergeants should continue to be excluded from the Union bargaining unit because they are supervisors and/or managerial employees.

The City asserts the Policy and Procedure Sergeant is a managerial employee and a supervisor. As to his managerial responsibilities, the City cites his role in developing departmental policy and his ability to commit the City's resources when staffing major special events. As to his supervisory authority, the City points to his authority to direct/assign employees during special events.

The School Liaison Sergeant is a supervisor by virtue of his authority over officers patrolling on mountain bikes, his ability to direct employees at a crime scene, and his authority over employees when he fills in as a patrol sergeant, roll call sergeant or shift commander.

The City argues that the Patrol Sergeants and Traffic Sergeant are supervisors. It contends that these Sergeants each supervise 7-9 employees, assign work, change work assignments, attend supervisory meetings, authorize use of leave, overtime and compensatory time, are paid for supervisory duties, regularly serve as shift commanders, evaluate employees through ongoing work histories, and have the authority to impose or effectively recommend discipline.

Given the foregoing, the City asks that sergeants all continue to be excluded from the Union bargaining unit.

## **DISCUSSION**

### **Managerial Status**

While the Legislature has excluded "managerial employees" from the definition of "municipal employee" found in Sec. 111.70(1)(i), Stats., it did not provide a statutory definition of managerial employees and thus left it to the Commission to develop the precise definition. VERNON COUNTY, DEC. NO. 13805-B (WERC, 4/91). There are two analytical paths to assess claimed managerial status. One considers the degree to which individuals participate in the formulation, determination and implementation of management policy; the other considers the extent to which individuals possess the authority to commit the employer's resources. CITY OF RACINE, DEC. NO. 24840-A (WERC, 9/97).

For an individual to assume managerial status based on participation in policy, such involvement must be at a relatively high level of responsibility. VILLAGE OF JACKSON, DEC. NO. 25098 (WERC, 1/88). Managerial status based on allocation of the employer's resources necessarily entails significantly affecting the nature and direction of an employer's operations,

such as the kind and level of services to be provided, or the kind and number of employees to be used in providing services. VILLAGE OF JACKSON, SUPRA; CITY OF WHITEWATER, DEC. NO. 24354 (WERC, 3/87).

### **Supervisory Status**

A supervisor is defined in Sec. 111.70(1)(o)1, Stats., as follows:

. . . 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.

When applying this statutory definition, we consider the following factors:

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 alleged supervisor is paid for his/her skill or for his/her supervision of employees;
  5. Whether the alleged supervisor is primarily supervising an activity or is primarily supervising employees;
  6. Whether the alleged supervisor is a working supervisor or whether he/she spends a substantial majority of his/her time supervising employees; and
  7. The amount of independent judgment exercised in the supervision of employees.
- TOWN OF BROOKFIELD, DEC. NO. 26426 (WERC, 4/90).

Not all of the above factors need to reflect supervisory status for an employee to be found a supervisor. Rather, in each case, the inquiry is whether the factors are present in sufficient combination and degree to warrant the conclusion that the employee occupying the position is a supervisor. CITY FIREFIGHTERS UNION V. CITY OF MADISON, 48 WIS.2D 262 (1970); CITY OF TWO RIVERS, DEC. NO. 21959-A (WERC, 2/91).

The quasi-military organization of police departments presents unique problems in determining supervisory status of certain employees because officers of higher rank will generally have the authority to issue orders to subordinates, regardless of our determination of supervisory status. CITY OF MADISON, DEC. NO. 11087-A (WERC, 12/72). We also recognize that the result in a given case might split a rank within a department because of a finding that some officers of a specific rank are supervisors while others are not. Because splitting the rank will cause difficulty in terms of collective bargaining and police operations, we attempt to avoid such a result when making supervisory determinations involving law enforcement officers. See CITY OF MADISON, SUPRA.

We also note that when determining supervisory status, it is appropriate to consider an employee's exercise of supervisory authority over both bargaining unit and non-bargaining unit employees. CITY OF LAKE GENEVA, DEC. NO. 18507 (WERC, 3/81).

### **Level of Pay**

Because some of the disputed sergeants perform a variety of functions within the Department, some separate analysis of positions is appropriate in this decision. However, because all of the sergeants are paid based on the same Staff Officers' Association contract wage schedule, we think it appropriate to comment now on the level of pay as an indicia of supervisory status.

As reflected in our Findings of Fact, Sergeants are paid \$6,000 more than the Police Officers, \$4,400 more than Traffic Investigators, and \$2,500 more than Investigators. From the evidence of the bargaining history surrounding the issue of sergeants' compensation, it is clear that the gap in pay between sergeants and those whose work they direct reflects the supervision of employees. While there is some variation in the size of the gap (it is likely that for sergeants supervising civilians, the gap will far exceed \$6,000), we are generally satisfied that the smaller gap between sergeants and investigators does not reflect lesser supervisory authority by the sergeants who supervise investigators but rather a higher level of pay for investigators based on their distinctive skills and duties. We would also note that sergeants are generally rotated between assignments and that the substantial majority of the supervisory assignments involve supervision of police officers, which presents the largest pay gap between sergeants and other sworn Department employees. In any event, all of the pay gaps present here are larger than the gap in the TOWN OF MADISON case cited by the Union and just as importantly, there is no unusually large gap between sergeants and lieutenants (as there was in TOWN OF MADISON) which would tend to indicate the lieutenants are the first line supervisors.

Given all of the foregoing, we find that the level of pay factor used as part of a supervisory analysis generally supports a conclusion that all of the disputed sergeants are supervisors.

### **The Sergeant of Policy and Procedure**

The Sergeant of Policy and Procedure has two primary responsibilities — researching and drafting departmental policy and coordinating the Department's law enforcement services for City special events.

The City contends this Sergeant is a supervisor based on his authority over Department employees during special events. The Sergeant of Policy and Procedure does direct the employees that volunteer for or are assigned to work special events. He possesses some disciplinary authority over employees during these assignments. However, particularly in light of the very limited duration of the special events themselves, these supervisory responsibilities fall short of establishing supervisory status.

The City also argues that this Sergeant is a managerial employee by virtue of his role in the creation of departmental policy and his ability to commit the Department's resources during special events. As to the Sergeant's role in the creation of departmental policy, we view his role as that of a resource person who pulls together relevant information and facilitates the creation of policy through his interaction with the Chief, Assistant Chief, the Inspector of Professional Standards and other departmental personnel. While his role is an important one, we do not find him to be a policy-maker in terms of the ultimate direction the Department chooses to take as to law enforcement issues. As to his special events role, we view the primary managerial decision-making as to special events to be limited to the question of whether the City will be providing law enforcement services for an event. The Sergeant plays no role in that decision. The Sergeant does play a significant role in implementing a decision to provide special event law enforcement services. However, there is no substantial evidence that the number or type of Department employees used for special events varies significantly from year to year. Under such circumstances, whether viewed as implementing a policy decision or committing the City's resources, we find that the Sergeant's role and authority is not sufficient to make him a managerial employee.

Given the foregoing, we have included the Sergeant of Policy and Procedure in the Union bargaining unit.

### **The Sergeant of Planning**

The City asserts the Sergeant of Planning is a supervisor and a managerial employee. We need not reach the managerial issue because we are satisfied that he is a supervisor and thus should continue to be excluded from the Union bargaining unit.

We reach this conclusion because the Chief credibly testified that the Sergeant does have significant supervisory authority over two civilian employees of the Department. That authority includes evaluating the performance of the employees, receiving and adjusting

grievances, imposing discipline, assigning work, authorizing overtime and approving leave. This level of authority, even excluding consideration of the likely future participation in civilian employee hiring, is sufficient to establish supervisory status.

**Patrol Division Sergeants**  
**Sergeants-Drug Enforcement and Gangs**

As reflected in our Findings, we view these positions as all possessing essentially the same level of supervisory authority. As also reflected in our Findings, we have concluded that the level of supervisory authority these sergeants possess is sufficient to make them supervisors.

As argued by the Union, the sergeants play no significant role in hiring, transfer, evaluation or promotion. It is also true that existing Department policy and contract provisions limit the level of discretion and independent judgment exercised when the sergeants act on leave requests or authorize overtime. However, we find it of significance that sergeants typically do not perform the same work as officers/investigators, independently direct the work of between 7 and 12 employees, have the authority/discretion to change work assignments during a shift and to call in additional personnel when needed and replace lieutenants as shift commanders with some regularity. Of greatest significance is the disciplinary authority we find the sergeants possess. Although the extent of their disciplinary authority is hotly disputed between the parties, we are ultimately persuaded that sergeants have the independent authority to impose verbal and written reprimands and can effectively recommend suspensions up to and including three days in length. While some sergeants may be reluctant to exercise that authority and disciplinary authority seldom needs to be exercised, we are persuaded from the testimony of the Chief, the Assistant Chief, and sergeants themselves that sergeants possess significant disciplinary authority when performing their normal responsibilities. Given all of the foregoing and the previously discussed pay differential between sergeants and other sworn employees, we are persuaded that they are supervisors.

In reaching this conclusion, we acknowledge the Union's citation of CITY OF SUPERIOR, SUPRA. and MILWAUKEE COUNTY, SUPRA. as relevant cases involving the supervisory status of sergeants. In SUPERIOR, we found the patrol sergeants to be supervisors and we find the overall supervisory authority present here to be quite comparable to that present in SUPERIOR. In MILWAUKEE, the sergeants were found not to be supervisors and we note that the sergeants there tended to do more work of the same type performed by their subordinates and had less disciplinary authority than we find to be present here.

**School Liaison Sergeant**

The City argues that the School Liaison Sergeant is a supervisor to the extent he directs the work of other officers who assist him from time to time. We do not find that responsibility sufficient to establish supervisory status. We note that the majority of the Sergeant's work

involves providing direct law enforcement services to schools and students through patrol and his presence in the school halls, playgrounds and classrooms. His direction of others is infrequent. Although we acknowledge that this Sergeant also fills in for Patrol Sergeants, we do not find that work to be a sufficient basis for excluding him from the Union bargaining unit as a supervisor.

### **SUMMARY**

The Sergeant of Planning and Procedure and the School Liaison Sergeant are municipal employees who are clarified into the Union bargaining unit. All other disputed sergeants are supervisors who shall remain excluded from the Union bargaining unit.

Dated at Madison, Wisconsin, this 4<sup>th</sup> day of February, 2000.

### **WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

James R. Meier /s/

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James R. Meier, Chairperson

A. Henry Hempe /s/

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A. Henry Hempe, Commissioner

Paul A. Hahn /s/

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Paul A. Hahn, Commissioner