

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

Illinois Fraternal Order of Police,	)	
Labor Council,	)	
	)	
Petitioner	)	
	)	
and	)	Case No. S-RC-14-015
	)	
Village of Campton Hills,	)	
	)	
Employer	)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

On November 3, 2014, Administrative Law Judge (ALJ) Sarah R. Kerley issued a Recommended Decision and Order (RDO) in the above-captioned case, recommending that the Illinois Labor Relations Board, State Panel, certify a bargaining unit of all full-time sworn officers below the rank of sergeant employed by the Village of Campton Hills (Employer). She recommended the Board exclude from that unit Sergeant Robert Reichardt because he is a supervisor within the meaning of Section 3(r) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), and therefore not a public employee within the meaning of Section 3(n) of that Act.

The Petitioner, Illinois Fraternal Order of Police Labor Council (FOP), filed exceptions to the ALJ's RDO pursuant to Section 1200.135 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1200 through 1300. The Employer, Village of Campton Hills, filed a response and cross-exception, and the Petitioner responded to the cross-exception. Based on our review of the RDO, exceptions, cross-exceptions, and record, we affirm the RDO with only slight modification.

We modify the RDO in two respects. First, the Employer excepts to the ALJ's statement that it had conceded that the sergeant's work was not obviously and visibly different from that of regular patrol officers—the first of two inquiries for the first of three requirements for supervisory status in the police context. It makes no argument that the sergeant's work was, in fact, obviously and visibly different from that of its subordinates, just that it never conceded as much. In light of this exception, we clarify that the Employer did not affirmatively concede this point. In failing to provide any argument to the contrary, it merely forfeited any challenge to such a finding. 80 Ill. Admin. Code §1200.135(b)(2).

Second, Petitioner excepts to the ALJ's factual finding that one of the three shifts in the Village ran from 2:00 a.m. to 10:00 a.m., when in actuality, this shift ran from 2:00 p.m. to 10:00 p.m. We are further aware that the Village's practice of having an "early car" allows for one hour of overlap in the shifts, and this practice might be construed as providing the Village with six shifts rather than three. We are also aware that for three days each week, the sergeant's shift overlaps with that of the chief, his superior, and that the sergeant's shift overlaps with that of a subordinate only one hour each day. We find this requires no change in result. We reject Petitioner's contention that the sergeant is unable to supervise subordinates within the meaning of the Act unless he is actually on duty at the same time as those subordinates. The record in this case proves otherwise. It establishes that the sergeant is able to discipline subordinates by means of issuance of Personnel Incidence Reports, and also that he directs his subordinates, and he is able to do so even during those periods when they are not simultaneously on shift.<sup>1</sup>

With these clarifications, we adopt the RDO, and order that the following bargaining unit of Village of Campton Hills employees be certified:

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<sup>1</sup> We also note that, in police employment, there is no requirement that supervisors perform supervisory functions a preponderance of their employment time. 5 ILCS 315/3(r) (2012).

Included: All full-time sworn officers below the rank of sergeant.

Excluded: Sergeant and all other employees employed with the Village of Campton Hills.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ John J. Hartnett  
John J. Hartnett, Chairman

/s/ Paul S. Besson  
Paul S. Besson, Member

/s/ James Q. Brennwald  
James Q. Brennwald, Member

/s/ Michael G. Coli  
Michael G. Coli, Member

/s/ Albert Washington  
Albert Washington, Member

Decision made at the State Panel's public meeting held by video conference in Chicago, Illinois and Springfield, Illinois, on January 13, 2015; written decision issued in Chicago, Illinois on January 26, 2015.

**STATE OF ILLINOIS  
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Petitioner	)	
	)	Case No. S-RC-14-015
and	)	
	)	
Village of Campton Hills,	)	
	)	
Employer	)	

**ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER**

On August 28, 2013, the Illinois Fraternal Order of Police Labor Council (Petitioner) filed a petition in Case No. S-RC-14-015 with the State Panel of the Illinois Labor Relations Board (Board) pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), as amended (Act), and the Rules and Regulations of the Board, 80 Ill. Admin. Code, Parts 1200 through 1300 (Rules). The Petitioner seeks to represent all full-time sworn police officers in the rank of sergeant and below employed by the Village of Campton Hills (Employer/Village). The Employer opposes the inclusion of officers in the rank of sergeant, asserting that the position is excluded from the Act’s coverage pursuant to the exemptions for supervisory employees.

A hearing was held on November 13, 2013, before Administrative Law Judge Heather Sidwell in Chicago, Illinois.<sup>1</sup> At that time, all parties appeared and were given a full opportunity to participate, adduce relevant evidence, examine witnesses, and argue orally. Briefs were timely filed by both parties.

After full consideration of the parties’ stipulations, evidence, arguments, and briefs, and upon the entire record of this case, I recommend the following:

**I. PRELIMINARY FINDINGS**

The parties stipulate, and I find, that:

1. At all times material hereto, the Employer has been a public employer within the meaning of Section 3(o) of the Act;

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<sup>1</sup> ALJ Sidwell subsequently left the employ of the Board, and this matter was assigned to me for recommended decision and order.

2. The Employer is subject to the jurisdiction of the State Panel of the Board pursuant to Sections 5(a-5) of the Act;
3. The Petitioner is a labor organization within the meaning of Section 3(i) of the Act; and
4. The Employer's full-time sworn police officers in the rank of police officer are public employees within the meaning of Section 3(n) of the Act.

## **II. ISSUES AND CONTENTIONS**

The issue to be resolved is whether the position of sergeant is supervisory within the meaning of Section 3(r) of the Act. The Employer argues that the position is supervisory and thus excluded from the Act's coverage because the sergeant has the independent authority to direct patrol officers, issue oral reprimand/counseling, and recommend discipline. The Petitioner denies that the position is supervisory and concludes that it is therefore included in the Act's coverage.

## **III. FINDINGS OF FACT**

The Village of Campton Hills was formed in 2007. The Village's police department currently employs one police chief, Daniel Hoffman; one sworn officer in the rank of sergeant, Robert Reichardt; and fourteen sworn officers in the rank of police officer, three full-time officers and eleven part-time officers. At the time of the hearing in this matter, there was a vacancy for one full-time police officer and Chief Hoffman testified that he planned to begin the testing process to fill a second sergeant position in January 2014.

The department operates in three eight-hour shifts, with two officers on duty for every shift. Sgt. Reichardt is assigned to the 6:00 a.m. to 2:00 p.m. shift Saturday through Wednesday. Chief Hoffman also reports for the day shift from 8:00 a.m. to approximately 4:00 p.m. Monday through Friday. Chief Hoffman testified that he assigned Sgt. Reichardt to the day shift when he was promoted to sergeant in order to train him for the new position, but that the two take different days off in order to "spread supervision throughout the week." The full-time officers are permanently assigned to the remaining shifts of their choosing based on seniority. These shifts run from 2:00 a.m. to 10:00 a.m., 10:00 p.m. to 6:00 a.m., and 11:00 p.m. to 7:00 a.m. The remaining shifts are assigned to part-time officers in a monthly schedule.

During each shift, officers may produce several documents. A daily activity log records the start and end time for each officer's shift, hours worked, and the calls for service received.

Each incident is memorialized in a document. A minor incident, such as a barking dog, is memorialized as a call for service. For a more serious incident, such as a burglary, the responding officer must produce an incident report; a traffic accident requires an accident report.

Violations of departmental policy or procedure can be addressed through two mechanisms. Minor violations, such as reporting for work unshaven, are addressed by filing a Personnel Incident Report (PIR). Chief Hoffman described this report as “shift-level counseling.” When a PIR is filed, it is maintained in an officer’s electronic personnel file for a period of 18 months. Continuing PIR-level violations or engaging in more serious misconduct can result in a formal complaint to the Office of Professional Standards. These complaints are investigated and can result in discipline. Chief Hoffman is authorized to issue discipline in the form of a suspension of less than five days. Discipline in the form of a suspension of five to 30 days or of termination must be approved by the Village’s Police and Fire Commission. PIRs can also be issued to recognize positive performance. Certain examples of good performance, however, are recognized by an official commendation rather than a PIR.

On his scheduled shift, Sgt. Reichardt is responsible for all patrol functions. When he is not on duty, Sgt. Reichardt serves as the “command responder” for the department and is on-call to assist with major incidents. This responsibility may require him to simply provide guidance over the telephone; however, Sgt. Reichardt testified that he responds in person to major incidents, such as fatal accidents, to ensure they are handled appropriately. By virtue of his rank, Sgt. Reichardt is the commanding officer at any scene where the police chief is not present. While Sgt. Reichardt testified that he would call to inform Chief Hoffman before he reported to any scene, Chief Hoffman responds to a scene only in the event that Sgt. Reichardt is unavailable or the incident is catastrophic.

Sgt. Reichardt also performs several functions specific to his position as sergeant. In this role, he reviews all of the reports and daily activity logs produced by the police officers. He checks the logs to ensure that each officer works a full eight-hour shift; he must sign off on these logs every two weeks for payroll purposes. Sgt. Reichardt reviews the incident and accident reports produced by the officers to ensure they are fully completed and free from grammatical errors. Sgt. Reichardt also reviews the tapes recorded by the dashboard cameras of each officer’s patrol car and is responsible for copying these tapes for admission as evidence in court. While doing so, Sgt. Reichardt testified that he also reviews the officer’s conduct during traffic stops.

Sgt. Reichardt is responsible for producing the monthly schedule. Because the full-time officers are permanently assigned to shifts, this requires Sgt. Reichardt to fill in the schedule using part-time officers to ensure that two officers are present on every shift. The part-time officers provide Sgt. Reichardt with their availability each month, and he produces the schedule based on this availability. Some of the part-time officers are assigned two permanent shifts a week after Sgt. Reichardt recommended the assignments and they were approved by Chief Hoffman. Sgt. Reichardt does not have the authority to change the days on which full-time officers are scheduled to be off without permission from Chief Hoffman, but he does approve their requests for paid time off.

While the department does not use regular details, there are occasional special assignments, such as directing traffic at a home in the Village that puts up a large display of holiday lights. Sgt. Reichardt is responsible for assigning officers to these special details. He testified that he typically assigns the part-time officer on a shift to such details because he has the full-time officers doing other duties.

In response to changes in applicable law, Chief Hoffman issues General Orders and memoranda to inform the officers of changes in policy or procedure at the department. Each officer must read these documents and sign a form acknowledging that he or she has done so. As sergeant, Sgt. Reichardt is responsible for following up with officers who have not read or signed off on a new General Order or memorandum.

Sgt. Reichardt is authorized to issue PIRs. While he has been instructed to inform Chief Hoffman when doing so, Chief Hoffman testified that this is merely for his information and not his review. Sgt. Reichardt has used PIRs to report violations during his tenure as sergeant. He is not authorized to initiate a formal Office of Professional Standards complaint; Sgt. Reichardt must instead make a recommendation to Chief Hoffman to initiate a complaint, and it is Chief Hoffman who ultimately decides whether a complaint is warranted.

During his approximately two-year tenure as sergeant, Sgt. Reichardt could only recall making a recommendation regarding discipline on one occasion. In that case, after an officer violated policy, Chief Hoffman approached Sgt. Reichardt in the squad room, explained the situation and that he believed the officer should be terminated, and asked Sgt. Reichardt what he would do in Chief Hoffman's situation. Sgt. Reichardt recommended that the officer be suspended rather than terminated; Chief Hoffman decided nonetheless to pursue termination.

Sgt. Reichardt is also responsible for completing annual performance evaluations for the full-time officers. Because his schedule only overlaps with that of the full-time officers for approximately an hour at the beginning or end of a shift, Sgt. Reichardt reviews the officers' personnel files for complaints and commendations and notes the total citations, reports, and calls for service for the year. After Sgt. Reichardt completes an evaluation, Chief Hoffman reviews it and returns it to Sgt. Reichardt, who then meets with the officer. While Sgt. Reichardt testified that Chief Hoffman has the authority to change his evaluation, there is no evidence that this has occurred; Chief Hoffman testified that the purpose of his review is informational. Chief Hoffman also testified that an evaluation could come to him with a recommendation, such as for a raise or discipline. If an officer's performance was rated as unsatisfactory, for example, Chief Hoffman testified that "we," presumably meaning he and Sgt. Reichardt, would determine whether that officer needed to be placed in a performance improvement plan. Because no officer has received a review that rated his or her performance as unsatisfactory, no officers have been placed in performance improvement plans as a result of their evaluations.

#### **IV. DISCUSSION AND ANALYSIS**

Section 3(s) of the Act provides that a bargaining unit as determined by the Board may neither include both supervisory and non-supervisory employees nor consist solely of supervisory employees.<sup>2</sup> 5 ILCS 315/3(s)(1) (2012). Thus, if the sergeant position is supervisory as that term is defined in the Act, they are excluded from the definition of "public employees" under the Act and may not be included in the petitioned-for bargaining unit.

With respect to police employment, a supervisor is an employee who: (1) engages in principal work that is substantially different from that of his subordinates; (2) has the authority, in the interest of the employer, to engage in at least one of 11 enumerated indicia of supervisory authority, or to effectively recommend such actions; and (3) must consistently use independent judgment in performing or recommending the enumerated actions. 5 ILCS 315(r) (2012); City of Freeport v. Ill. State Labor Relations Bd., 135 Ill. 2d 499, 512 (1990).<sup>3</sup> As the party asserting the supervisory exclusion, the Employer has the burden of demonstrating by a preponderance of the evidence that the sergeant position satisfies all three prongs of the statutory definition.

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<sup>2</sup> The Act contains an exception to this prohibition where an employer agrees to a bargaining unit out of supervisors, but that is not relevant here.

<sup>3</sup> With respect to other types of employment, supervisors must perform the indicia of supervisory authority "a preponderance of the employment time."

County of Boone and Sheriff of Boone County, 19 PERI ¶ 74 (IL LRB-SP 2003); Chief Judge of the Circuit Court of Cook County, 18 PERI ¶ 2016 (IL LRB-SP 2002).

**A. Principal Work**

The requirement that a supervisor's principal work be substantially different from that of his or her subordinates is easily satisfied where that work is obviously and visibly different from the work of the subordinates. City of Freeport, 135 Ill. 2d at 514. However, even when an alleged supervisor performs functions that are facially similar to those of his subordinates, the first statutory requirement is still satisfied where the employee's functions render the nature and essence of his work substantially different. Id. citing City of Burbank, 1 PERI ¶2008 (IL SLRB 1985).

The Petitioner argues that the Employer has failed to demonstrate that Sgt. Reichardt's principal work is obviously and visibly different from that of the police officers. It appears that the Employer concedes this point—the precedent cited in its post-hearing brief deals largely with the second, “nature and essence” test. In fact, the record establishes that Sgt. Reichardt is responsible for the department's patrol function during the day shift on Mondays, Tuesdays, and Wednesdays, when he and the police chief are the only officers on duty. No evidence suggests that Sgt. Reichardt patrols in a different manner than the department's rank and file officers patrol. The record does not demonstrate that he exercises more discretion than the police officers do in making their patrols or that his primary purpose for patrolling is not to search for criminal activity but to provide backup or to monitor officer performance. See Northern Ill. Univ. (Dep't of Safety), 17 PERI ¶2005 (IL LRB-SP 2000). No evidence established that Sgt. Reichardt patrols in a back-up capacity on Saturdays and Sundays when Chief Hoffman is off duty and another, lower-ranking officer is presumable scheduled for the day shift. Therefore, I conclude that Sgt. Reichardt's principal work is not obviously and visibly different from that of the officers.

The Petitioner also argues that the nature and essence of Sgt. Reichardt's principal work is not substantially different from that of the police officers because he patrols in the same manner as the officers and does not exercise authority over them sufficient to affect their terms and conditions of employment. The purpose of the supervisory exclusion is to avoid the conflict of interest that arises when supervisors, who must apply the employer's policies to subordinates, are subject to control by the same union representing those subordinates. City of Freeport, 135

Ill. 2d at 517-18 (citations omitted). The potential for this conflict of interest lies in a supervisor's authority to influence or control personnel decisions in the areas most likely to affect the employment of subordinates and thus most likely to fall within the scope of union representation. Id. at 518.

Sgt. Reichardt has this type of authority. Sgt. Reichardt is responsible for assessing the officers' performance by reviewing and correcting written reports and reviewing video from the squad car dashboard cameras. This review, as well as any other observation, can result in Sgt. Reichardt issuing a PIR or recommending a formal complaint for more severe discipline. Sgt. Reichardt is on call 24 hours a day 7 days a week. Officers faced with a situation which they believe should be reported up the chain of command are expected to call Sgt. Reichardt or Chief Hoffman. Sgt. Reichardt testified that his role is to make sure that the situation is handled appropriately. He determines whether he can adequately do that over the phone or whether he needs to proceed to the scene to give on-site instruction.

Like the ranking officers in City of Freeport, the existence of this authority renders the nature and essence of Sgt. Reichardt's principal work substantially different from his or her subordinates. Id. Accordingly, I find that the Village has satisfied the first prong of the supervisor test.

#### **B. Supervisory Indicia**

The second requirement of the statutory definition of a supervisor is the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, to adjust their grievances, or to effectively recommend any of these actions.

There is no evidence that Sgt. Reichardt has the authority to hire, transfer, layoff, recall, or promote officers. Furthermore, because there is no history of representation at the department, Sgt. Reichardt has had no past role in addressing grievances. While it is clear that Sgt. Reichardt cannot discharge or suspend officers, there is a question of whether he effectively recommends discharge, suspension, or other discipline. Likewise, there is a question of whether Sgt. Reichardt can discipline officers through the use of PIRs. Finally, there is a question of whether Sgt. Reichardt directs officers where he reviews daily work activities, is on call to provide instruction and assistance, schedules work hours for part-time officers, approves requests

for paid time off, gives assignments when special details are necessary, and formally evaluates the performance of the full-time officers.

1. Authority to Effectively Recommend Discharge, Suspension, or Discipline

It is uncontested that Sgt. Reichardt lacks the authority to discharge or suspend officers. Testimony established that only Chief Hoffman, as chief, is authorized to suspend an officer for one to four days and a suspension of five days or more or a termination must be authorized by the Village's Police and Fire Commission. Sgt. Reichardt confirmed that he is authorized to recommend to Chief Hoffman the filing of a formal Office of Professional Standards complaint relating to the conduct of an officer. However, the record is devoid of any evidence of Sgt. Reichardt ever having made such a recommendation, such that the Board could evaluate the effectiveness of such a recommendation.

On at least one occasion, Chief Hoffman consulted with Sgt. Reichardt regarding the appropriate level of discipline for an officer. The Petitioner argues that this instance is not evidence of a disciplinary recommendation; instead, the chief merely sought the sergeant's opinion. It is undisputed that Sgt. Reichardt thought the officer should be suspended and that he told Chief Hoffman of that opinion. Chief Hoffman decided to instead seek termination after discussing it with Sgt. Reichardt. Even if the Board considered this conversation to be a recommendation for a suspension, the recommendation was not effective. An effective recommendation satisfying the Act's supervisor requirements is one that is almost always adopted by the employee's superior. Dep't of Cent. Mgmt. Serv. v. Ill. Labor Relations Bd., State Panel, 2011 IL App (4th) 090966. Here, in the one instance Sgt. Reichardt could recall having suggested a specific level of discipline, his recommendation was not followed. Therefore, I find that the Village did not prove that Sgt. Reichardt has the authority to effectively recommend discipline.

2. Authority to Discipline

Sgt. Reichardt is also authorized to issue PIRs.<sup>4</sup> Through PIRs, Sgt. Reichardt documents an officer's positive and negative performance; the PIRs are maintained in an electronic file dedicated to each officer for 18 months. The Village contends that these reports constitute oral reprimands or shift level counseling and, as such, qualify as discipline for the purposes of determining whether Sgt. Reichardt is a supervisor. The Petitioner argues that these reports are

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<sup>4</sup> The record reveals that Chief Hoffman can also issue PIRs.

merely documentation of incidents of misconduct that "do not rise to the level of discipline." The Petitioner's argument, as articulated in its closing brief, too narrowly describes the evidence presented in the hearing. The record reveals that PIR is used to document negative performance that does not rise to the level of a *complaint to the Office of Professional Standards*. Chief Hoffman initiates an Office of Professional Standards complaint when he believes that the alleged conduct could result in suspension or discharge.

In City of Freeport, the Illinois Supreme Court regarded oral warnings and written reprimands as discipline. City of Freeport, 135 Ill. 2d 499. Reprimands constitute supervisory authority to discipline if: (1) the individual has the discretion or judgment to decide whether to issue such a reprimand; (2) the reprimand is documented; and (3) the reprimand can serve as the basis for future disciplinary action, that is, it functions as part of a progressive disciplinary system. Metro. Alliance of Police v. Ill. Labor Relations Bd., 362 Ill. App. 3d 469, 478-479 (2nd Dist. 2005); *see also* Northern Ill. Univ. (Dep't of Safety), 17 PERI ¶2005 (IL LRB-SP 2000) (verbal reprimands that are not recorded are not discipline within the meaning of the Act).

Under this analysis, the PIRs in this case are discipline. It is uncontested that Sgt. Reichardt has the discretion to decide whether to issue a PIR or to merely address conduct he observes verbally with the officer. The record is clear that Sgt. Reichardt informs Chief Hoffman of the PIR after he has already issued it. Further, it is uncontested that PIRs are documented. Finally, Sgt. Reichardt's testimony makes clear that the PIRs are part of a progressive disciplinary system. Sgt. Reichardt was asked by ALJ Sidwell what happens when an officer has a PIR in his file. Sgt. Reichardt responded that if the behavior continued, he would take the issue documented in the PIR to the chief to determine whether to initiate "a more serious formal complaint." Since the PIRs can form the basis of future, more serious discipline, I find that in exercising his discretion to issue PIRs for unsatisfactory performance, Sgt. Reichardt is authorized, in the interest of the Village, to discipline subordinate officers.

### 3. Authority to Direct

Several functions can indicate the authority to direct: giving job assignments, overseeing and reviewing daily work activities, providing instruction and assistance to subordinates, scheduling work hours, approving time off and overtime, and formally evaluating job performance when the evaluation is used to affect the employees' pay or employment status. Chief Judge of the Circuit Court of Cook County, 19 PERI ¶123 (IL LRB-SP 2003); County of

Cook, 16 PERI ¶3009 (IL LLRB 1999); County of Cook, 15 PERI ¶3022 (IL LLRB 1999), *aff'd by unpub. order* No. 1-99-1183 (Ill. App. Ct., 1st Dist. 1999); City of Naperville, 8 PERI ¶2016 (IL SLRB 1992). However, in order to rise to the level of supervisory authority, an alleged supervisor must exercise significant discretionary authority which affects the terms and conditions of his subordinates' employment. Village of Broadview v. Illinois Labor Relations Board, 402 Ill. App. 3d 503, 510 (1st Dist. 2010) *citing* Illinois Fraternal Order of Police Labor Council v. McHenry, 15 PERI ¶ 2014 (IL SLRB 1999) and Chief Judge of the Circuit Court of Cook County, 9 PERI ¶ 2033 (IL SLRB 1993).

However, in the vast majority of cases, day-to-day review and oversight does not rise to the level of supervisory authority. Village of Bolingbrook, 19 PERI ¶ 125 (IL LRB-SP 2003). It is only when an alleged supervisor exercises discretionary authority that affects the terms and conditions of employment, such that the alleged supervisor would be potentially torn between his or her duty to the employer and loyalty to the union, that the second prong is met. Id.

The ability to approve requests for time off or to otherwise create schedules can constitute supervisory authority so long as the exercise of this authority involves the consistent use of independent judgment and is not of a mere routine or clerical nature. *See* Village of Morton Grove, 23 PERI ¶ 72 (IL LRB-SP 2010) *citing* City of Carbondale, 3 PERI ¶ 2044 (IL SLRB 1987). Sgt. Reichardt is responsible for ensuring there is sufficient coverage of shifts, including getting part-time officers to cover shifts vacant due to full-time officers taking time off. Further, Sgt. Reichardt is responsible for approving the full-time officers' time off. However, the record is devoid of sufficient information to determine whether Sgt. Reichardt uses discretion in assessing time off requests or whether this is a clerical task for payroll purposes. Similarly, the records reveals that certain part-time officers have set shifts while others offer dates and shifts for which they are available to work. The record tends to support that this function is clerical and does not require discretion. Therefore, the record does not support that Sgt. Reichardt exercises discretion in this area.

Sgt. Reichardt gives assignments. Both Chief Hoffman and Sgt. Reichardt testified about semi-annual special details. Sgt. Reichardt testified that he generally assigns the part-time officer on the shift to the special detail. The Petitioner argues that Sgt. Reichardt's assignment is routine or clerical, such that it does not support the second prong of the supervisory test. Sgt. Reichardt testified that he assigns the part-time officers to the special assignments because "[he]

ha[s] the full-time officers doing other duties.” However, just because Sgt. Reichardt has been consistent in his decision to have the full-time officers continue to perform duties he has assigned them and to have the part-time officer work the special detail does not make the function routine. The record reveals that Chief Hoffman has granted Sgt. Reichardt broad discretion to assign officers' duties within their shift.

Sgt. Reichardt is also responsible for assessing the officers' performance by reviewing and correcting written reports and reviewing video from the squad car dash cameras. This review, as well as any other observation, can result in Sgt. Reichardt issuing a PIR or recommending a formal complaint for more severe discipline. Further, it is uncontested that Sgt. Reichardt is responsible for completing annual performance evaluations for the Village's full-time police officers. Though Sgt. Reichardt testified that, as the chief, Chief Hoffman *could* alter the performance evaluations, neither Sgt. Reichardt or Chief Hoffman indicated that had ever happened. Chief Hoffman testified that he relies on Sgt. Reichardt's judgment in the evaluations and that the evaluations could be used in determining whether to give an officer a raise or to place an officer on a performance improvement plan.

Accordingly, I find that the record supports that Sgt. Reichardt directs his subordinates. Specifically, Sgt. Reichardt assigns officers to special details, oversees and reviews the full-time officers' work, and evaluates their performance. In doing so, he exercises significant discretionary authority which affects the terms and conditions of his subordinates' employment. Thus, the Village has established the second prong of the supervisory test.

### **C. Independent Judgment**

The third prong, the requirement that an alleged supervisor consistently use independent judgment when exercising supervisory authority, requires that the employee at issue “make choices between two or more significant courses of action without substantial review by superiors.” *Id. quoting St. Clair Housing Authority*, 5 PERI ¶ 2017 (IL SLRB 1989). The frequency with which independent judgment might be required, rather than the number of times supervisory authority requiring independent judgment is actually used, controls the analysis under the third prong. *City of Freeport*, 135 Ill. 2d at 520-21.

#### **1. Discipline**

In *City of Freeport*, the Illinois Supreme Court found that in exercising authority to issue reprimands, the ranking officer “ordinarily must choose between two or more significant courses

of action. Accordingly, the ranking officers consistently use independent judgment when exercising their authority to discipline patrol officers.” City of Freeport, 135 Ill. 2d at 521. Similarly, here, in exercising his authority to issue PIRs, Sgt. Reichardt decides whether the officer's conduct is sufficiently serious to be documented and maintained for 18 months or whether the performance deficiency can be addressed without documenting it. Sgt. Reichardt also decides whether a PIR is insufficient, such that he would recommend the chief take more serious disciplinary measures by initiating an Office of Professional Standards complaint.

## 2. Direct

The Board has previously found that, where an alleged supervisor considers “the knowledge of the individuals involved, the nature of the task to be performed, the employees' relative levels of experience and skill, and the employer' s operational need,” he or she exercises independent judgment in assigning work. County of DuPage (Department of Public Works), 29 PERI ¶ 105 (IL LRB-SP G.C. 2012) *citing* County of Cook, 15 PERI ¶ 3022 (IL LLRB 1999). Though the record could certainly have been more developed on this point, Sgt. Reichardt testified that when assigning officers to special details, he typically assigns the part-time officer “because he has the full-time officers doing other duties.” The Petitioner argues that Sgt. Reichardt’s assignment of special details is just a routine matter of assigning the part-time officer to that assignment. However, Richardt’s statement acknowledges that he could assign either the full-time or part-time officer to the special detail, but that he considers the Employer's operational needs in making the assignment. He generally allows the full-time officers to perform the other duties he assigned and directs the part-time officer to the special detail. In making this decision, Sgt. Reichardt is deciding between two significant courses of action - reassigning the full-time officer's previously assigned duties so that he can work the special detail or assigning the part-time officer to the special detail - without a supervisor's oversight. Sgt. Reichardt exercises this independent judgment each time special details come up, which is at least several times a year. This is sufficient to satisfy the third prong of the supervisor analysis.

Accordingly, I find that Sgt. Reichardt exercises independent judgment when exercising the supervisory authority to direct and to issue discipline to subordinate officers.

## **VI. CONCLUSIONS OF LAW**

The police sergeant employed by the Village of Campton Hills is a supervisory employee under the Illinois Labor Relations Act.

**VII. RECOMMENDED ORDER**

IT IS HEREBY ORDERED that the following bargaining unit be certified:

Included: All full-time sworn officers below the rank of sergeant.

Excluded: Sergeant and all other employees employed with the Village of Campton Hills.

**VIII. EXCEPTIONS**

Pursuant to Section 1200.135 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1200-1240, the parties may file exceptions no later than 14 days after service of this recommendation. Parties may file responses to any exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the recommendation. Within five days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed, if at all, with the General Counsel of the Illinois Labor Relation Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted in the Board's Springfield office. Exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

**Issued at Springfield, Illinois, this 3rd day of November, 2014.**

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

*Sarah R. Kerley*  
**Sarah Kerley  
Administrative Law Judge**