

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD

In the Matter of

TOWN OF UXBRIDGE

and

FRATERNAL ORDER OF POLICE

and

UXBRIDGE POLICE ASSOCIATION,
MASSCOP LOCAL 123

Case No.: MCR-26-11843

Date Issued: September 29, 2026

CERB Members Participating:

Lan T. Kantany, Chair
Kelly B. Strong, Board Member
Victoria B. Caldwell, Board Member

Appearances:

Timothy Zessin, Esq.	-	Representing the Town of Uxbridge
Scott Dunlap, Esq.	-	Representing the Fraternal Order of Police
Jennifer Smith, Esq.	-	Representing the Uxbridge Police Association, MassCOP Local 123

CERB DECISION AND DIRECTION OF ELECTION
Summary

1 The Fraternal Order of Police (Petitioner) filed a petition seeking to represent and
2 sever the position of Sergeant from an existing mixed unit of Sergeants and Police
3 Officers in the Town of Uxbridge (Town) Police Department (Department) currently
4 represented by the Uxbridge Police Association, MassCOP Local 123 (Incumbent or
5 Union). For the reasons described below, the Commonwealth Employment Relations

1 Board (CERB) finds that the Sergeants are supervisors and should be severed from the
2 overall unit and included in a separate unit.

3 Statement of the Case

4 On January 30, 2026, the Petitioner filed a representation petition in Case No.
5 MCR-26-11843 seeking to represent and sever the Sergeants within the Town's Police
6 Department from an existing unit currently represented by the Incumbent that is
7 comprised of Sergeants and Police Officers. The Department of Labor Relations (DLR)
8 issued a Notice of Hearing on February 6, 2026, scheduling a pre-hearing conference for
9 March 11, 2026, and a hearing for March 19, 2026. On the same date, the DLR issued a
10 letter to the Incumbent, stating that, pursuant to 456 CMR 14.18, it had thirty days in
11 which to file a motion to intervene in the case to appear on a ballot for an election. By
12 email dated February 17, 2026, the Incumbent notified the DLR that it would intervene in
13 the case. At the request of the parties and to facilitate witness availability, the DLR
14 postponed the March 19, 2026, hearing date. On April 1, 2026, the DLR issued a second
15 notice of hearing for April 29, 2026.

16 On April 29, 2026, a duly-designated DLR agent conducted a hearing at which all
17 parties had the opportunity to be heard, to examine witnesses, and to introduce evidence.
18 The parties submitted post-hearing briefs on June 26, 2026. The Petitioner maintains that
19 a separate bargaining unit of Sergeants is an appropriate bargaining unit within the
20 meaning of M.G.L. Chapter 150E (the Law) and seeks a bargaining unit for all Sergeants
21 employed by the Town, excluding Patrol Officers,¹ Special Police Officers and all other

¹ The Petitioner's use of the term "Patrol Officer" refers to the job title "Police Officer." Patrol Officer was also used during the hearing, in various exhibits, and the parties' briefs,

employees of the Town. The Town agrees that a separate unit is appropriate for Sergeants. The Incumbent argues that the single bargaining unit of Police Officers and Sergeants is an appropriate bargaining unit within the meaning of the Law.

Stipulated Facts²

Current Petition

1. On January 30, 2026, the Petitioner filed a petition seeking to represent:
All full-time and regular part-time Police Sergeants employed by the Town of Uxbridge, excluding all managerial, confidential, casual employees and all other employees of the Uxbridge Police Department, including the Police Chief and Lieutenant, Patrol Officers, Reserve Officers, and civilian employees.
2. Sergeants in the Department are currently represented by the Incumbent.
3. On February 6, 2026, the DLR issued a Notice of Hearing to the Petitioner, the Incumbent, and the Town.
4. On February 6, 2026, the DLR issued a letter to the Incumbent requiring intervention within 30 days.
5. By email dated February 17, 2026, the Incumbent notified the DLR that it would intervene in the case.

History of the Unit

6. On February 26, 1980, a DLR Hearing Officer issued a decision in Town of Uxbridge, MCR-3002 (February 26, 1980) (unpublished) finding the following bargaining unit appropriate: "All full-time police personnel including the civilian dispatcher, and excluding the police chief and all other civilian employees."
7. Since 1980, the Incumbent has represented all full-time police personnel in the Uxbridge Police Department, including sergeants and police officers.
8. [blank]

is synonymous with the term "Police Officer." There is no job description for a "Patrol Officer," only a "Police Officer."

² The parties' stipulations have been lightly edited for consistency.

9. The Town has created the following other positions in the Police Department: Lieutenant (1960s); Animal Control Officer (unknown); Administrative Assistant (unknown); Special Police Officers (2016); and Traffic Constable (2022).

10. Since about 1980, the Uxbridge Police Department has had only one bargaining unit comprised of only Sergeants and Police Officers. Specialty assignments, including detectives and school resource officers are included in the bargaining unit.

11. The Incumbent and the Town are parties to a Collective Bargaining Agreement for the period July 1, 2023 through June 30, 2026 (Agreement).

12. Article 1 of the Agreement states, in relevant part:

ARTICLE I: Persons Covered by This Agreement

The Town recognizes Local 123, Massachusetts Coalition of Police, AFL-CIO, as the exclusive representative for the purpose of collective bargaining relative to wages, hours and other conditions of employment, of all police sergeants, police officers (permanent full time), excluding reserve officers and all other Town employees, employed by the Police Department at the time of this Agreement; all of whom are employed by the Police Department and in the service of the Town.

All Positions in Police Department

13. In February of 2026, the Uxbridge Police Department consisted of the following positions:

- 1 Police Chief
- 1 Lieutenant
- 5 Sergeants
- 15 Police Officers
- 2 Animal Control Officers
- 1 Administrative Assistant
- 1 Special Police Officer
- 6 Dispatchers
- 7 Traffic Constables

Department Assignments include the following:

- 1 Internal Affairs Officer
- 1 Detective
- 1 School Resource Officer

14. The Lieutenant is not in any bargaining unit and is a confidential employee and supervisory employee.

1
2 15. The Lieutenant is the Internal Affairs Officer.

3
4 16. The Animal Control Officer, Administrative Assistant, Special Police Officers, and
5 Traffic Constable are all unrepresented.

6
7 Sergeant Job Description

8
9 17. The Sergeant job description is as follows:

10
11 A Sergeant provides the first level of supervision in the Department. He/she is
12 primarily responsible for the proper performance of officers assigned to duty
13 within the area subject to his/her supervision.

14
15 A Sergeant is charged with ensuring compliance with the Department's
16 regulations. He/she handles all minor infractions using his/her best judgment
17 and reports all serious violations to his/her superior.

18
19 A Sergeant shall be responsible for the efficiency, discipline, conduct,
20 appearance and strict attention to duty of all Patrol Officers under his/her
21 supervision.

22
23 I. Duties and Responsibilities

24
25 A. Perform all Duties and Responsibilities with the power and authority as
26 outlined in 3.4 Police Officers.

27
28 B. Supervision

29
30 1. Supervise officers assigned to his shift and be responsible for their
31 effectiveness. He must be thoroughly acquainted with the duties of patrol
32 in order to assist and instruct them in the proper discharge of their duties.

33
34 2. Be fully familiar with the current departmental regulations and
35 developments in the laws that affect departmental personnel.

36
37 3. Monitor the duty performance of departmental members and
38 employees, and ensure that it is satisfactory through encouragement,
39 explanation, discipline, referral to his/her superior officer, or other
40 methods consistent with departmental policy.

41
42 4. Submit a written report to the superior officer of any member of the
43 department when he/she commits a serious breach of the regulations of
44 the department, and informal corrective measures prove inadequate.
45 Include in such report the complete details of the misconduct and of

1 those corrective measures attempted. Examples of types of misconduct
2 which would ordinarily be considered serious in this respect are:

- 3
4 a. Flagrant refusal to obey orders.
5 b. The commission of any criminal offense.
6 c. Verbal and/ or physical abuse of a member of the public.
7 d. Excessive use of force with a prisoner or other person.
8 e. Absence without leave.
9 f. Excessive tardiness.
10 g. A conflict of interest.
11 h. Negligent failure by departmental personnel to discover or act upon
12 a felony or upon the existence of conditions dangerous to the health
13 and safety of the public.
14 i. Repeated failure to respond to orders, instructions or other
15 admonitions to correctly execute his/her duties.
16

17 5. Seek officer's opinions about their assignments and police policies
18 generally.
19

20 6. Keep up-to-date on current developments in the law and police practices
21 affecting his/her area of assignment.
22

23 7. Implement all orders received from superior officers. Explain to officers
24 the content of the new orders that affect their responsibilities. Request
25 clarification whenever uncertain as to what is expected of him/her.
26

27 8. Be accountable for the actions or omissions of officers under his/her
28 supervision which are contrary to departmental regulations and which
29 would have been avoided if (s)he had been properly executing his
30 supervisory responsibilities.
31

32 9. Respond to any emergency or incident of a serious nature which may
33 occur within his patrol area, and take command of the situation until
34 relieved by an officer of superior rank.
35

36 10. Ensure that all Officers receive warrants, summonses, subpoenas or
37 other official papers, and serve or deliver or perform their duties
38 regarding such papers promptly and accurately.
39

40 11. Before beginning his/her tour of duty familiarize him/herself with all
41 important matters that have occurred since his/her last tour. Make
42 certain that the Officers under his supervision are made aware of such
43 matters.

44 C. Report Writing Procedures

1. Be familiar with the department's records and reporting system in detail and instruct officers in the proper method of reporting.
2. Report to his commanding officer all serious or unusual occurrences immediately.
3. Cause reports to be filed on preliminary investigations and periodic reports on the status of more in-depth investigations, calling to his commanding officer's attention any significant developments in all investigations.

Police Officer Job Description

18. The Police Officer job description is as follows:

Uxbridge Police Officers shall be responsible for the efficient performance of his/her duties in conformance with the rules, regulations and policies contained within all Policies and Procedures, and Rules and Regulations. The duties shall consist of, but are not necessarily limited to, a number of general police responsibilities necessary to the stability and safety of his community.

I. General Orders

- A. Identify criminal offenders and criminal activity and, where appropriate, apprehend offenders and participate in subsequent court proceedings.
- B. Reduce the opportunities for the commission of crime through preventive patrol and other measures.
- C. Aid individuals who are in danger of physical harm.
- D. Facilitate the movement of vehicular and pedestrian traffic.
- E. Identify problems that are potentially serious law enforcement or governmental problems.
- F. Create and maintain a feeling of security in the community.
- G. Promote and preserve the peace.
- H. Provide other service on an emergency basis.
- I. Perform other such related duties as assigned.

II. Delegation of Authority

1 A. Each supervisor, or employee to whom responsibilities are delegated shall
2 have commensurate authority to make decisions necessary for the effective
3 execution of their responsibilities.

4
5 B. The delegation of authority by a superior rank to a lower rank shall not
6 relieve the higher rank of responsibility for that which has been delegated.
7

8 III. Duties and Responsibilities
9

10 A. Exercise authority consistent with Massachusetts General Law C. 41 s.98;
11 obligations imposed by his/her oath of office, and be accountable to his/her
12 superior officers, promptly obeying legitimate orders.
13

14 B. Coordinate efforts with those of other members of the department so that
15 their teamwork may ensure continuity of purpose and maximum
16 achievement of police objectives.
17

18 C. Communicate to superiors and to fellow officers all information he/she may
19 obtain which is pertinent to the achievement of police objectives.
20

21 D. Respond punctually to all of his/her assignments.
22

23 E. Acquire and record information concerning events that have taken place
24 since his/her last tour of duty.
25

26 F. Record activity during his/her tour of duty in the manner prescribed by
27 superiors. Complete detailed reports on all crimes, vehicle accidents and
28 other incidents requiring police attention. In cases where an arrest is made,
29 an arrest report is submitted along with the required crime reports. When
30 property is recovered or additional information is discovered pertaining to a
31 previously reported offense, the officer completes an investigation report.
32

33 G. Carry and use weapons as defined in MGL C. 41 s.98 and any subsequent
34 policy issued by the Chief of Police. All full time Police Officers shall be
35 authorized to carry both lethal and less lethal weapons, if that officer has
36 completed the appropriate training on the equipment. Part time officers shall
37 be authorized [to carry] both less lethal and lethal weapons, if the
38 Permanent Intermittent Officer or Special Police Officer has completed the
39 appropriate training. All equipment shall be maintained in a functional,
40 presentable condition.
41

42 H. Assist citizens requesting service, assistance, or information, and
43 [courteously] explain any instance where jurisdiction does not lie with the
44 police department and suggest other procedures to be followed.
45

- I. Be accountable for the securing, receipting, and property transporting of all evidence and property coming into custody.
- J. Be alert to the development of conditions tending to cause crime, take action to correct such conditions, and inform his superiors as soon as the situation permits.
- K. Conduct a thorough investigation of all offenses and incidents within his/her area of assignment and scope of activity. He/she shall collect evidence and record data which will aid in identification, apprehension and prosecution of offenders and the recovery of property.
- L. Patrol an assigned area for general purposes of crime prevention and law enforcement. Pay special attention to any conditions conducive to crime or indicative of criminal activity. Patrol includes: apprehending persons violating the law or wanted by the police; public assembly checks; building security checks; observation and interrogation of suspicious persons; issuing traffic citations; locating fires; reporting street light and traffic signals out of order, street hazards and any conditions that endanger public safety; checks of schools, parks and playgrounds; responding to any public emergency.
- M. Respond to situations brought to his attention while in the course of routine patrol or assigned by radio. Render first aid to persons who are seriously ill or injured. Assist persons needing police services.
- N. Answer questions asked by the general public, counsel juveniles and adults when necessary and refer them to persons or agencies where they can obtain further assistance.
- O. Preserve the peace at public gatherings, neighborhood disputes and family quarrels.
- P. Serve or deliver warrants, summonses, subpoenas, and other official papers promptly and accurately; when so directed by a superior officer.
- Q. Confer with court prosecutors and testify in court.
- R. If assigned to operate a motor vehicle; possess a valid State Driver's License; see that it is well maintained mechanically and that it is kept clean inside and out. Inspect the vehicle at the beginning of the tour of duty for any defects or missing equipment. Immediately report all defects and damages sustained to the vehicle to the proper authority and complete all reports and forms required by current procedures. Use the call number assigned to the car to contact headquarters. Operate the radio in line with FCC regulations and current departmental procedures.

- S. Remain on his assigned route throughout his tour of duty except when a police emergency necessitates a temporary absence, or when a superior officer or the dispatcher has issued such authorization.
 - T. Patrol every part of his beat giving particular attention to and frequently re checking locations where the crime hazard is great. In so far as possible, he shall not patrol his area according to any fixed route or schedule, but shall alternate frequently and back track in order to be at the location least expected.
 - U. Be alert for all nuisances, impediments, obstructions, defects or other conditions that might endanger or hinder the safety, health or convenience of the public within his/her patrol area.
 - V. Take measures to direct the flow of traffic in his area during periods of congestion. If more than a temporary absence from his regular duties is required, notify the commanding officer.
 - W. Make periodic reports to the station house.
 - X. Keep radio equipment in operation at all times and be thoroughly familiar with departmental policy concerning use of the radios.
 - Y. Observe the following when assigned to traffic duty:
 1. Direct and expedite the flow of traffic at assigned intersections keeping in mind his duty as a traffic Officer in preventing accidents, protecting pedestrians and ensuring the free flow of traffic.
 2. Enforce the parking ordinances and motor vehicle laws in his area.
 3. When called from a traffic post for emergency police service, respond immediately and notify the station at the earliest possible opportunity.
 4. Wear the prescribed traffic safety clothing and protective equipment.
19. Police Officers perform all of the job duties in the above-referenced job description.

Other Information

20. The Police Department is a 24/7 operation.

Internal Affairs

21. The Uxbridge Police Department Policy 2.9, Internal Affairs Administrative Operations, states in relevant part:

III. Procedures

A. Complaint Procedures

1. Complaint Report

* * *

2. Receiving and Recording Complaints

a. General Procedures

1) The officer-in-charge of the station at the time the complaint is made shall be responsible for the efficient receiving and complete recording of any complaint of police employee misconduct made by a citizen in person or received by telephone.

* * *

7) If the substance of a complaint against the department or any of its employees, if proven, presents a grave nature or is an accusation of a serious crime, the Chief of Police shall be notified forthwith. If during normal business hour[s] and while the Chief is on-duty, he/she shall be notified in person immediately or by phone if he/she is not immediately accessible. If after normal business hours, the Chief shall be notified by phone immediately for serious allegations. In all other instances of minor alleged violations, the Chief shall be notified within 2 business days in writing or by phone by the OIC receiving the complaint.

8) If the substance of the employee misconduct warrants it, the officer-in-charge may place the employee (sworn or non-sworn) on administrative leave for the remainder of his/her shift pending notification of the Chief of Police. The employee shall only be relieved from duty otherwise at the direction of the Chief of Police in accordance with statutory and collective bargaining provisions.

* * *

B. Investigative Procedures

* * *

* * *

* * *

* * *

* * *

* * *

12

- * * *

- ## Other Town Bargaining Units

- ### Findings of Fact³

Background

The Department includes the titles and positions of Police Chief, Lieutenant, Sergeant, Police Officer, Animal Control Officer, Special Police Officer, Traffic Constable, Dispatcher, and Executive Administrative Assistant. Marc Montminy (Montminy) has been the Uxbridge Police Chief since 2018. The Chief makes all specialty assignments including Detective, School Resource Officer (SRO), Narcotics

³ The DLR's jurisdiction in this matter is uncontested. It is undisputed that the Town of Uxbridge is a public employer within the meaning of Section 1 of M.G.L. Chapter 150E.

1 Officer, Police Prosecutor, and Community Policing Officer. Other assignments include
2 Sexual Assault Investigators, a Comfort Dog Officer, an Armorer, and a Fleet Manager.

3 The Department is a full-time police department, operating 24 hours per day,
4 seven days per week. There are three shifts per day, 7:00 a.m. to 3:00 p.m. (7-3 shift or
5 day shift), 3:00 p.m. to 11:00 p.m. (3-11 shift or evening shift), and 11:00 p.m. to 7:00
6 a.m. (11-7 shift or midnight shift). When the Chief and Lieutenant are not at work, a
7 Sergeant serves as the officer in charge (OIC) and if no Sergeant is on duty, then a
8 Police Officer serves as the OIC (OIC Police Officer). The OIC Police Officer is assigned
9 by seniority and receives additional compensation in the form of a 10% wage differential.

10 The Department relies on an incident command system, which means that the first
11 officer to arrive at an emergency scene is in charge until a superior officer arrives on the
12 scene. For road accidents, if a Police Officer first arrives on scene, that Police Officer is
13 in charge at that moment to meet immediate needs. When the Sergeant on duty arrives,
14 the Police Officer updates the Sergeant on the situation, and the Sergeant takes charge
15 of the emergency scene from the Police Officer. From that point forward, the Sergeant on
16 the scene is in charge, even if the Sergeant supports the Police Officer by directing traffic
17 while the Police Officer continues handling the primary situation. If there is a significant
18 event, such as a plane crash, the Chief and Lieutenant are immediately notified. However,
19 for a routine incident such as a car crash, the Police Officer first on the scene takes
20 charge, diverts traffic, and gets a tow truck in place. The Police Officer does not need to
21 call for permission to perform these tasks, but the Police Officer's work in this capacity is
22 temporary until a Sergeant or OIC Police Officer arrives at the scene.

23 Work Schedules

1 The Chief, Lieutenant, Administrative Sergeant, Detective, and SRO work an
2 administrative schedule of Monday-Friday, from about 7:30 a.m. to 4:00 p.m. Sergeants
3 and Police Officers work a 4 and 2 schedule, which means four days on and two days off,
4 with days off rotating on a staggered basis through a six-week schedule. Shift bids occur
5 twice a year. There are 21 biddable slots, or positions in a week. The Department uses
6 PowerTime, a web-based scheduling system that is a template for building slots into the
7 schedule. The Chief makes Sergeant and Police Officer shift bid assignments based on
8 seniority, bids, and Administrative Sergeant Josiah Morrisette's (Morrisette)
9 recommendations.

10 In addition to those employees working an administrative schedule, one Sergeant
11 and four Police Officers⁴ usually are assigned to each of the three shifts.⁵ There is one
12 split-shift Sergeant that works two 11-7 shifts, then two 3-11 shifts. For example, Sergeant
13 Sullivan, the Patrol Supervisor, is assigned to the 7-3 shift. Sergeant Stratton generally
14 works the 3-11 shift. Sergeant Larrabee works the 11-7 shift, and often does a split shift,
15 but at the time of the hearing, he was out on leave for an injury. Sergeant Larrabee's split
16 shift typically covers the days off of the Sergeants who are regularly assigned to the
17 midnight shift and the evening shift. Sergeant Mastromatteo works the 11-7 shift. Chief
18 Montminy's preference is to have "somebody of rank who can make decisions when I am
19 not there to make decisions."

20 Although the five Sergeants generally work around the clock, there are gaps in
21 time where a Sergeant is not on duty because of rotating days off and leave time. Of the

⁴ There is currently one Police Officer vacancy of the four slots on the 11-7 shift.

⁵ The full names of the following named Sergeants are not in the record.

possible 21 shifts each week, there are about 16 shifts where neither the Chief nor the Lieutenant are on duty, including weekday evenings, overnights, and all weekend. Of those 16 shifts, there are about 10 shifts where the highest-ranking officer is a Sergeant and about six shifts where a Police Officer is the OIC and the highest-ranking officer. For instance, if Sergeant Sullivan is on a four-day rotation, and is off for the weekend, then a Police Officer is the OIC. Presently, an OIC Police Officer is also in charge of other shifts as well because Sergeant Larabee, the split shift sergeant, is on injured leave. Also, generally when any Sergeant uses accrued leave, that shift vacancy becomes an open shift to be filled. When Sergeant Larrabee returns, or if a Police Officer is promoted to Sergeant, the number of shifts handled by OIC Police Officers will drop from six of 21 to two of 21.

Overtime and Details

The Department has a standing minimum of two officers per shift. Sergeant Morrisette makes planned overtime assignments, and in his absence the Lieutenant makes the planned assignments. Typically, Morrisette first calls a voluntary overtime list, but he can assign overtime as needed.⁶ When unexpected absences arise, Sergeants make overtime assignments. Police Officers usually volunteer to work overtime split shifts to cover the absence, but, if necessary, Sergeants can call in an off-duty Police Officer or can force an additional eight-hour shift. When forced overtime situations arise, Sergeants direct Police Officers to take overtime. Overtime is assigned to Police Officers on the basis of the least amount worked. If an officer unexpectedly calls in sick and the

⁶ Open overtime shifts are listed on a web-based scheduling program. Sometimes Sergeants or other Police Offices will notify Police Officers with a text.

1 Department falls below the two officers per shift minimum, then the Sergeant or the OIC
2 Police Officer from the previous shift has to take the last-minute overtime shift because
3 of an immediate need.⁷ Sergeants also make decisions about hiring extra overtime shifts
4 to cover special events. Sergeants do not order Police Officers to take details. Sergeants
5 and Police Officers both fill paid detail positions, as do Traffic Constables, Department
6 retirees, and other specialized positions.

7 Duties

8 Administrative Sergeant Duties

9 Sergeant Morrisette is currently the Administrative Sergeant and is responsible
10 for accreditation, scheduling, firearms licensing, licenses to carry, and grant writing.⁸ He
11 is also the backup evidence officer. In 2022, he began working on the Department's
12 accreditation process through the Massachusetts Police Accreditation Commission
13 (MPAC), a state-based accreditation agency, and the Department became certified in
14 2022. In terms of grant writing, Morrisette discusses the Chief's priorities with him before

⁷ There is conflicting testimony about whether, in this last-minute absence situation when the Department could fall below the two officer minimum, the Sergeant or OIC Police Officer from the previous shift makes an overtime assignment or fills the absent slot themselves. Morrisette testified that if the Department unexpectedly falls below the two officers per shift minimum, then the Sergeant or the OIC Police Officer from the previous shift "has to take [that shift] because of an immediate need." Union President Jesse Miller (Miller) testified that under those circumstances, the OIC Police Officer could order another Police Officer to take an overtime shift. We credit Morrisette's testimony on this point based on his experience in handling overtime within the Department and find that when there is a last-minute need, neither the Sergeant nor the OIC Police Officer assigns overtime but rather fills the absence themselves.

⁸ Morrisette has been employed by the Department since 2001. He has been a Sergeant since 2014. Morrisette originally worked midnight split shifts. In 2018, he was scheduled as an Administrative Sergeant and relieved of his Police Officer duties.

1 seeking grant funding. At the Chief's direction, Morrisette also has authored most of the
2 Department's policies and procedures.

3 Sergeant Morrisette also manages shift bids, subject to the Chief's approval and
4 the applicable provisions of the Agreement. Morrisette created the formula for the
5 Department's shift needs based on usage by using the program PowerTime. He has had
6 to change the last two shift bids based on usage. For instance, in September of 2025, an
7 additional officer joined the Department after graduating from the Police Academy.⁹ In the
8 spring of 2026, after Morrisette had been having an issue with short-staffed midnight
9 shifts, he diverted manpower per shift by adding an individual to the midnight shift and
10 reducing staffing on the evening shift. Shortages can occur with vacation leave, injured-
11 on-duty leave (IOD), and any paid time off leave (PTO). The midnight shift was often
12 understaffed because of the use of accrued leave and other issues. In the spring of 2026,
13 Morrisette recommended, and the Chief agreed, to allocate another Police Officer to the
14 midnight shift.

15 Patrol Sergeant Duties

16 In addition to the Administrative Sergeant, other Sergeants perform a variety of
17 tasks within the Department. Sergeants oversee evidence, supervise background checks
18 for both sworn officers and civilians, supervise field training for new recruits, and conduct
19 annual training. They are also in charge of the Firearms Training Unit, supervise firearms
20 permitting for the Department, and ensure that Police Officers requalify for licensure. A

⁹ Per policy and the Agreement, the Chief has managerial authority to assign an officer just out of the Police Academy anywhere the Chief chooses for six months.

1 Sergeant supervises the Armorer, the person responsible for the care and maintenance
2 of weapons. Sergeants also oversee the Sexual Assault Investigation Unit.

3 Department Policy 3.3 titled "Sergeant" contains the job duties Sergeants perform.
4 As described in the first paragraph of Policy 3.3, Sergeants provide the first level of
5 supervision in the Department and are responsible for the proper performance of officers
6 assigned to duty. As described in the third paragraph of Policy 3.3, Sergeants are also
7 responsible for the efficiency, conduct, appearance and strict attention to duty of all Patrol
8 Officers. Sergeants assign, direct, and supervise the work of Police Officers, including
9 granting leave time. They have independent authority and judgment to assign and direct
10 the work of Police Officers, including making decisions about how to deploy Police
11 Officers. For instance, Sergeants may tell Police Officers to run radar on a certain day
12 and location and may assign a junior officer to a specialized task for a day.

13 As described in the second paragraph of Policy 3.3, Sergeants are charged with
14 ensuring compliance with the Department's Regulations and handle minor infractions
15 independently. Pursuant to Section I(B)(3) of Policy 3.3, they also monitor the
16 performance of other officers and ensure that it is satisfactory through encouragement,
17 explanation, and discipline. There are five levels of discipline: counseling, verbal
18 reprimand (which is documented in writing), written reprimand, suspension, and
19 termination.¹⁰ Sergeants may independently issue the first three levels of discipline, but
20 they do not have the authority to suspend or terminate. Sergeants issue counseling to
21 Police Officers, including verbal and written warnings on minor personnel complaints,

¹⁰ With respect to major issues, such as insubordination, excessive force, or clear policy violations, counseling is not necessarily the first step of the disciplinary process.

1 such as tardiness, inappropriate dress, inappropriate language, failure to wear a seatbelt
2 in a cruiser, or failure to wear a traffic vest while directing traffic. Typically, Sergeants
3 issue a written reprimand and then notify the Chief through the chain of command, but
4 Sergeants may also discuss discipline with a superior officer prior to issuing discipline.¹¹

5 Where there are safety concerns, such as those involving intoxication or mental
6 health issues, or serious misconduct, the Department's Internal Affairs Policy 2.9, Section
7 III(A)(2)(a)(8) provides Sergeants, as OICs, the independent authority to relieve another
8 officer from duty for the remainder of the officer's shift pending notification to the Chief.
9 Sergeants also forward serious complaints to the Lieutenant. Sergeants cannot deprive
10 a Police Officer of pay based on conduct concerns. Sergeants are not involved in
11 resolving bargaining unit grievances because they are currently in the same unit.

12 Sergeants also have other responsibilities pursuant to Policy 2.9. Under Section
13 III(A)(2)(a)(1), they are responsible for receiving and recording citizen complaints
14 regarding police misconduct and have the authority to handle minor complaints. They
15 may also be assigned to investigate minor offenses pursuant to Section III(B)(1)(c).

16 OIC Police Officer Duties

¹¹ The Incumbent claims in its post-hearing brief that "Sergeants routinely check in with superior officers before issuing verbal counseling and written warnings." We do not make this factual finding based on the Chief's and Morrisette's testimony. When asked whether Sergeants check in with superior officers prior to issuing counseling, the Chief responded "[t]here have been times when it came to me after the fact." He further testified that "Sergeants typically have issued written reprimands and then notified me through the chain of command. I'm certain it's also occurred where they discussed it with higher up before they did it too. I think both are true." Additionally, Morrisette testified that with respect to written counseling or written reprimands, Sergeants "may or may not discuss it with superior officers." Morrisette further explained that he has done that himself "to make sure the language is correct rather than the fact that [the discipline] is happening."

1 Department Policy 3.4 titled "Police Officer" contains the job duties Police Officers
2 perform. OIC Police Officers perform all of the Police Officer General Orders, Delegations
3 of Authority, and Duties and Responsibilities described in Policy 3.4. In addition, OIC
4 Police Officers perform most of the Sergeant duties listed in Policy 3.3, except for those
5 duties related to discipline, investigations, and ensuring service of official court papers.
6 They may assign overtime when an unexpected absence occurs. They do not approve
7 leave time.

8 OIC Police Officers provide the first level of supervision in the Department, are
9 responsible for the proper performance of officers assigned to duty, ensure compliance
10 with Department Regulations, and are responsible for ensuring the efficiency, conduct,
11 appearance, and strict attention to duty of all Patrol Officers. Consequently, an OIC Police
12 Officer may assign or direct the work of other Patrol Officers. Typically, this happens when
13 there is a specific event happening in Town. For instance, if there is a motorcycle run
14 coming through Town, the OIC Police Officer will direct Patrol Officers to block certain
15 intersections. An OIC Police Officer may also direct officers to engage in tasks such as
16 running radar or conducting traffic enforcement in a certain area. While OIC Police
17 Officers have the authority to tell other Patrol Officers to run radar on a certain day and
18 location, they generally do not do so.¹²

¹² The Incumbent emphasizes in its post-hearing brief that the OIC can direct other officers to engage in tasks such as running radar or conducting traffic enforcement in a particular area. However, Morrisette testified that while OIC Police Officers could tell patrol officers to run radar in a certain location, "it generally doesn't happen." Also, Miller specifically testified that an OIC Police Officer only does so "when there's something going on." Therefore, we conclude that while an OIC Police Officer has the authority to direct others to engage in these specific tasks, it happens infrequently.

OIC Police Officers also perform numerous other Sergeant duties and responsibilities described in Policy 3.3. Pursuant to Section I(B)(1), they supervise officers assigned to his/her shifts and are responsible for their effectiveness and must be thoroughly acquainted with “the duties of patrol in order to assist and instruct them in the proper discharge of their duties.” OIC Police Officers also perform all of the duties listed in Section I(B)(2), (4)-(9), and (11), such that they: must be fully familiar with the current Department Regulations and legal developments that affect Department personnel; submit written reports if another officer commits a serious breach of Department regulations; seek officers’ opinions about assignments and police policies; keep up-to-date on current developments in the law and police practices affecting his/her area of assignment; implement all orders received from superior officers, explain to officers the content of new orders, and request clarification as needed; are accountable for the actions or omissions of officers under his/her supervision which are contrary to the Department’s regulations; respond to and take command of serious emergencies; and before beginning a tour, they familiarize themselves with all important matters that have occurred since their last tour by reading the log and talking to the officers in the prior shift, and they make certain that officers under his/her supervision are made aware of such matters.

Pursuant to Policy 3.3, Section I(B)(3), Police Officers serving as OICs monitor the duty performance of officers, and may provide encouragement or explanation, or submit written reports to a superior officer pursuant to subsection (4), when there is a serious breach of Department Regulations. However, an OIC Police Officer does not discipline other officers. Where safety concerns exist, such as those involving intoxication or mental

1 health concerns, an OIC Police Officer has independent authority to relieve another officer
2 of duty pursuant to Internal Affairs Policy 2.9, Section III(A)(2)(a)(8).¹³

3 An OIC Police Officer also has other limited roles pursuant to Internal Affairs Policy
4 2.9. Although Section III(A)(2)(a)(1), provides that an OIC is responsible for the efficient
5 receipt and complete recording of citizen complaints regarding police misconduct, OIC
6 Police Officers do not handle complaints against fellow Police Officers.¹⁴ Section
7 III(A)(2)(a)(8) provides that an OIC may place an employee on administrative leave for
8 the remainder of his/her shift pending notification of the Chief in serious misconduct cases.
9 Similarly, although Section III(B)(1)(c) provides for assignment of a misconduct
10 investigation to a shift supervisor or OIC, there is no evidence that any OIC Police Officer
11 has been assigned to investigate and resolve such complaints.¹⁵

12 Police Officer Duties

13 Police Officers serve the Department in various capacities. They conduct
14 background checks during the hiring process for both sworn and civilian employees under

¹³ The Chief testified that a Sergeant or an OIC Police Officer could relieve another officer of duty where safety concerns were at issue. Morrisette testified that while Sergeants could make an independent decision to relieve an officer from duty if an officer were to arrive at work impaired, he believed that an OIC Police Officer first would seek counsel from a Sergeant, Lieutenant, or the Chief before relieving another officer of duty where safety concerns were at issue. Morrisette did not offer any further testimony in support of his belief. Therefore, based on the Chief's testimony, we find that an OIC Police Officer OIC has independent authority to relieve another officer of duty for safety reasons.

¹⁴ The Chief testified that while Sergeants have the authority to handle minor personnel complaints themselves, OIC Police Officers do not.

¹⁵ The Incumbent states in its post-hearing brief that an OIC Police Officer may be assigned to investigate and resolve complaints such as rudeness, minor insubordination, and tardiness. However, there is no evidence in the hearing record that any OIC Police Officer has been assigned to investigate and resolve such complaints. Therefore, we do not find this to be an OIC Police Officer duty.

1 the supervision of Sergeants and conduct firearms training within the Department. Three
2 or four Police Officers are certified to train new recruits as Field Training Officers (FTOs).
3 Two or three Police Officers are trained as Sexual Assault investigators. Police Officer
4 Ben Smoot (Smoot) serves as the Fleet Manager and determines which officers get which
5 squad cars.

6 Police Officers perform all of the duties described in Policy 3.4. To a limited extent,
7 non-OIC Police Officers also perform certain Sergeant duties listed in Policy 3.3, including
8 those in Sections I(B)(2), (4)-(6), and (11). Specifically, Police Officers must be fully
9 familiar with current departmental regulations and developments in the laws that affect
10 departmental personnel and submit written reports to superior officers regarding
11 misconduct by fellow officers. Like Sergeants, Police Officers also seek other officers'
12 opinions about their assignments, and police policies generally. They also keep up to date
13 on current developments in the law and police practices affecting his/her area of
14 assignment. As with Sergeants, Police Officers also familiarize themselves with all
15 important matters that have occurred since their last tour. They read the log, talk to the
16 other officers who were on the past shift, and ensure that other officers are made aware
17 of certain matters.

18 Non-OIC Police Officers also perform portions of the duties listed in Policy 3.3,
19 Section I(B)(1) and (7). They must be thoroughly acquainted with patrol duties and
20 implement all orders received from superior officers and request clarification as needed.
21 Police Officers do not explain to other officers the content of the new orders that affect
22 their responsibilities, but they talk about orders among themselves when another officer
23 has questions.

1 Non-OIC Police Officers do not perform the following Sergeant duties and
2 responsibilities described in Policy 3.3. They are not “primarily responsible for the proper
3 performance of other officers” as described in the first paragraph of Policy 3.3. Nor do
4 they assign or direct the work of fellow officers. According to Union President Miller,¹⁶
5 Police Officers might decide among themselves to “hit a warrant list,” or if “there’s been
6 a bunch of speed complaints on the board that’s public to everyone,” they might decide
7 to address that situation, but they do not tell each other what to do.

8 Non-OIC Police Officers also do not supervise officers assigned to his/her shifts
9 and are not responsible for their effectiveness which is required of Sergeants pursuant
10 Policy 3.3., Section I(B)(1).¹⁷ Nor are they accountable for the acts or omissions of other
11 Police Officers pursuant to Section I(B)(8). Notably, the first paragraph of Policy 3.4
12 specifically states, in relevant part, that Police Officers “shall be responsible for the
13 efficient performance of his/her duties.” While Police Officers have a general duty to
14 intervene if another officer engages in serious misconduct, they do not intervene if
15 another Police Officer is in violation of a policy such as failing to wear a seatbelt in a
16 car. Furthermore, while Police Officers must be thoroughly acquainted with the duties
17 of patrol, they do not instruct other Police Officers in the proper discharge of their duties
18 as described in Section I(B)(1) of Policy 3.3, or monitor the duty performance of

¹⁶ Miller is a Detective with the Department. He has been with the Department for eight years and has been a Detective for two years. Before becoming a Detective, he was a Patrol Officer. He has been the Union President for about 3 months.

¹⁷ The Incumbent states in its post hearing brief that all Police Officers are responsible for the effectiveness of fellow officers. However, Miller’s testimony on this point is limited to an affirmative answer to a leading question on direct examination and his own question about whether a general “duty to intervene” is the same requirement.

1 departmental members and employees and ensure that it is satisfactory through
2 encouragement, explanation, discipline, referral to their superior officer or other
3 methods consistent with departmental policy as described in Section I(B)(3).¹⁸ Police
4 Officers do not counsel or discipline each other, or recommend that other officers be
5 sent for training, but they may submit reports regarding fellow officer misconduct. They
6 resolve interpersonal disputes among themselves.

7 Miller explained that he once asked another patrol officer, “how [a drunk driving
8 breath test] had printed off ‘terminated’ instead of refus[ed].” He did not submit any
9 paperwork to a superior officer on the matter and did not consider the incident to be an
10 example of underperformance. He was “just asking” how the breath test was cancelled.
11 After initially testifying on direct examination that he had counseled another officer, Miller
12 conceded on cross-examination that he did not consider this to be counseling a fellow
13 officer because he did not view his action as a disciplinary act. He did not consider it to
14 be an issue that required him to bring it to a Sergeant’s attention because he figured it
15 out the situation himself. Similarly, if he saw a fellow officer not wearing a seatbelt, he
16 would not recommend an investigation or discipline against that officer. Miller also
17 testified that if another Police Officer is sitting in a parking lot all day, he cannot do

¹⁸ The Incumbent states in its post hearing brief that all Police Officers “must be thoroughly acquainted with the duties of patrol to assist and instruct Patrol Officers in the proper discharge of their duties.” With respect to whether Police Officers “instruct” other Patrol Officers, Miller’s testimony on this point is limited to an affirmative answer to a leading question on direct examination about whether Police Officers perform such duty. When asked whether Police Officers are actually expected to monitor the duty performance of fellow officers, Miller conceded that Police Officers are limited in this regard. Therefore, we find that all Police Officers must be thoroughly acquainted with the duties of patrol, but only Sergeants and OIC Police Officers must instruct other Police Officers in the proper discharge of their duties.

1 anything about it. He explained that “you want your guys to do well, but if they’re sitting in
2 a parking lot all day, I can’t be like, cheer up, buddy.”

3 With respect to the duties listed in Section I(B)(10) of Policy 3.3, Police Officers
4 are not responsible for ensuring that all officers receive, serve, and deliver warrants,
5 summonses, subpoenas, or other official papers. Patrol Officers are attentive to the
6 Department’s “court box” which is an internal mailbox with court paperwork that goes to
7 and from court.¹⁹ Police Officers pick up official papers when they are at court and see
8 paperwork on unrelated matters that needs to be signed, and they deliver those papers
9 to other Department personnel. However, Police Officers do not go through the court
10 box to ensure that the paperwork is done.

11 Hiring and Training

12 The Town Manager has the ultimate authority to hire new Police Officers. The
13 Chief makes the decision on who to recommend to the Town Manager based on input
14 from Sergeants. A panel of Sergeants interviews candidates and recommends a
15 candidate or candidates to the Chief. Police Officers do not sit on the hiring panel. The
16 Chief has taken the Sergeants’ recommendations in the past. The Chief then interviews
17 candidates and makes hiring recommendations to the Town Manager. When a candidate
18 first applies, a Sergeant ensures that a background check is conducted, but a Police
19 Officer conducts the background check.

20 There are differences in training between Sergeants and OIC Police Officers. After
21 they are promoted, Sergeants attend a two-week leadership school at Roger Williams

¹⁹ The Incumbent states in its post-hearing brief that Patrol Officers ensure that officers receive warrants, summonses, subpoenas, and other official papers. However, Miller testified only that he assists with court papers on occasion.

1 University and receive suicide prevention training. Several Sergeants have also taken
2 advanced leadership classes through the FBI's Law Enforcement Executive
3 Development Academy (LEEDA) Academy, although funding for those classes currently
4 is not available. There is no specific training requirement to be an OIC.²⁰ However, the
5 Department tries to send Police Officers to a one-day OIC training with management
6 training sessions. Police Officers are also eligible to attend other trainings, if they request
7 to do so.

8 Evaluations and Line Inspections

9 The Department does not conduct police evaluations because it is an optional
10 standard in the accreditation process, and because of the friction it could cause with
11 Sergeants and Police Officers in the same unit. For the purposes of accreditation, the
12 Department conducts quarterly line inspections, which are part of an optional standard.
13 In practice, the Department does line inspections for every shift. Sergeants perform line
14 inspections for each other and inspect the Police Officers. The line inspection reviews
15 the patrol uniform, and accounts for issued gear. Sergeants can do minor corrections
16 during the line inspection regarding uniform issues and gear that needs to be replaced,
17 but any missing equipment is immediately reported to the Lieutenant.

18 Union Business

²⁰ The Incumbent states in its post hearing brief that the Chief testified that OIC training involves personnel assignments and assigning workload. However, the Chief stated in response to a leading question on direct examination, "I don't know personally what – what it consists of" before speculating on elements of OIC training. Because the Chief explicitly denied knowledge of the OIC training, we do not credit his other testimony on the matter. In contrast, Morrisette stated clearly during his testimony that there is no specific training requirement for a patrol officer to be an OIC.

The Union holds monthly membership meetings. In the past, the Union used email communications. Individually, Police Officers discuss Union business with each other, and with Sergeants. At the monthly meetings, there can be animated discussions about various topics as they decide what to do collectively. With respect to bargaining, there is a board consisting of Police Officers and Sergeants. There have been proposals involving only Sergeants, such as the Sergeant A and Sergeant B pay split.²¹ Sergeants have also made bargaining proposals that apply unit-wide. Most proposals, such as fitness reimbursements and other benefits, apply unit-wide.

Police Officers have a text message group chat, but it is not used to discuss Union business. There are numerous text group chats, such as one for every shift, where Police Officers discuss a variety of topics.

Opinion

The issue in this case is whether Sergeants and Police Officers should be included in a single bargaining unit or divided into two separate bargaining units. The Petitioner and the Town argue that it is appropriate to sever the five Sergeants from the current bargaining unit because they are supervisory employees. The Incumbent contends that the Sergeants and Police Officers should remain in the same unit.

Section 3 of the Law requires the CERB to determine appropriate bargaining units that are consistent with the purpose of providing for stable and continuing labor relations while giving due regard to the following considerations: 1) community of interest; 2) efficiency of operations and fair dealing; and 3) safeguarding the rights of employees to

²¹ The Agreement contains a provision that provides that Sergeant A and Sergeant B with different pay rates. Sergeant A is paid 15 percent over a 25-year Patrol Officer, and Sergeant B is paid 15% over a 15-year Patrol Officer.

1 effective representation. Town of Chelmsford, 33 MLC 101, 103, MCR-06-5182, MCR-
2 06-5192 (December 6, 2006) (citing City of Everett, 27 MLC 147, 150-151, MCR-4824
3 (May 23, 2001); Town of Bolton, 25 MLC 62, 65, MCR-4562 (September 10, 1998)).

4 To determine whether employees share a community of interest, the CERB
5 considers factors like similarity of skills and functions, similarity of pay and working
6 conditions, common supervision, work contact, and similarity of training and experience.
7 Town of Chelmsford, 33 MLC at 103 (internal citations omitted). No single factor is
8 outcome determinative. Id. To satisfy the second and third statutory criteria, the CERB
9 considers the impact of the proposed bargaining unit structure upon a public employer's
10 ability to effectively and efficiently deliver public services while safeguarding the rights of
11 employees to effective representation. Id.

12 The CERB complies with Section 3 of the Law by placing employees with common
13 interests in the same bargaining unit, thus avoiding the proliferation of units that place an
14 unnecessary burden on the employer, while maximizing the collective strength of
15 employees in the bargaining relationship. Id. at 104. The CERB has broad discretion in
16 determining appropriate bargaining units. If a petition describes an appropriate unit, the
17 CERB will not reject it because it is not the most appropriate unit, or because there is an
18 alternative unit that is more appropriate. Id.

19 The CERB generally establishes separate bargaining units for supervisory
20 employees and the employees they supervise. Id. This well-established policy is rooted
21 in the belief that individuals who possess significant supervisory authority owe their
22 allegiance to their employer, particularly in the areas of discipline and productivity. Id.

1 To determine appropriate bargaining units in police departments, the CERB has
2 held that the existence of significant supervisory authority causes an inherent conflict
3 within the bargaining unit sufficient to warrant the severance of the supervisors. Town of
4 North Reading, 24 MLC 20, 21, MCR-4539 (October 2, 1997). It is the existence of
5 supervisory authority, not the frequency of its use, that creates the likelihood of conflict
6 between supervisors and subordinates. Hampden County Sheriff's Department, 34 MLC
7 161, 164, SCR-08-2275 (May 28, 2008). Internal union conflicts alone are neither
8 sufficient nor inevitably necessary to justify severance. City of Everett, 3 MLC 1372, 1374,
9 MCR-2030, 2129 (January 13, 1977). Consequently, when establishing bargaining units
10 in police departments, the CERB recognizes the propriety of creating separate
11 supervisory units and then determines the rank at which to make the division. Town of
12 Chelmsford, 33 MLC at 104 (internal citations omitted).

13 Functional distinctness is integral to the community of interest analysis and
14 requires, in the case at issue, an analysis of whether the Sergeants exercise significant
15 supervisory authority over the Police Officers or whether they are closely allied in
16 functions to Police Officers with only minor ministerial deviations. City of Everett, 3 MLC
17 at 1376. The CERB distinguishes between a true supervisor who possesses authority to
18 effectively recommend personnel decisions and an employee with limited supervisory
19 authority who instead acts as a conduit for the employer's actions. Town of Chelmsford,
20 33 MLC at 104 (citing Somerville School Committee, 6 MLC 2092, CAS-2312 (April 18,
21 1980)).

22 In determining whether an employee is a supervisory employee, the CERB
23 considers whether the employee has: 1) the independent authority and judgment to

1 assign and to direct the work of employees; 2) the authority to initiate and to recommend
2 discipline; 3) the authority to adjust grievances; and 4) the independent authority to make,
3 or the power to recommend effectively, personnel decisions about whether to hire,
4 transfer, suspend, promote, or discharge employees. Id. The presence of all these
5 criteria is not required, and one criterion is sufficient for the CERB to find that an employee
6 exercises supervisory authority. Id. The CERB also considers factors like the authority to
7 take charge in emergency situations, the authority to assign off-duty officers to work
8 overtime, and the responsibility to command a department in the absence of higher-
9 ranking supervisory authority. Id.

10 Our review of the duties and responsibilities of the Sergeants in Uxbridge
11 persuades us that they are supervisory employees and should be severed from the
12 existing unit. As a threshold matter, we dismiss the Incumbent's argument that because
13 there is no evidence that the Union is dysfunctional the Sergeants should not be severed
14 from the bargaining unit. The Incumbent argues that the Petitioner has failed to establish
15 any facts demonstrating friction between ranks in the bargaining unit. However, where
16 the issue is whether supervisory employees in a police department should be severed
17 from non-supervisory employees, internal conflict is largely irrelevant. Town of
18 Wilmington, 33 MLC 18, 22, MCR-06-5208 (June 30, 2006). The CERB's focus is on the
19 "duties and authority of the personnel involved, not on any past history of conflict within
20 the bargaining unit." City of Everett, 3 MLC at 1376 (citing Cambridge Police Department,
21 2 MLC 1027, 1031, MCR-2031 (July 15, 1975)).

22 The Incumbent further argues, citing City of Springfield, 48 MLC 234, MCR-21-
23 8905 (February 14, 2022), City of Fall River, 26 MLC 13, MCR-4693 (July 15, 1999), and

1 Town of Sharon, 36 MLC 97, CAS-08-3724 (November 18, 2009), that even if there were
2 documented flaws within the unit, such flaws would not override the CERB's disfavor for
3 severance petitions in light of the CERB's policy of creating broad, comprehensive
4 bargaining units rather than small and fragmented ones. However, in police departments,
5 the CERB has long favored separate collective bargaining units for superior officers and
6 nonsupervisory officers. Applying a two-step procedure, the CERB first determines
7 whether to grant severance based on the supervisory functions of superior officers, and
8 then determines the rank at which to make the division. Town of Chelmsford, 33 MLC at
9 104; City of Everett, 3 MLC at 1375; Cambridge Police Department, 2 MLC at 1031.

10 We find ample evidence that the Sergeants in the Uxbridge Police Department are
11 supervisory personnel. Sergeants, who are the highest-ranking officers on duty for
12 consistent and extended periods of time and manage the deployment of officers when
13 they are in charge of a shift, are generally considered supervisory employees. Town of
14 Wilmington, 33 MLC at 21. Here, Sergeants routinely command the Police Department
15 for the majority of shifts in the absence of higher-ranking supervisory authority. Sergeants
16 also routinely use independent authority and judgement to assign and direct the work of
17 Police Officers. Sergeants make decisions about how to deploy Police Officers and assign
18 specific tasks. The Administrative Sergeant makes significant and meaningful scheduling
19 recommendations to the Chief. Sergeants routinely grant leave time and assign overtime.
20 Sergeants also make decisions about scheduling and adding extra overtime shifts to
21 cover special events. Authority to assign off-duty officers to work overtime is evidence of
22 supervisory authority. Town of Holden, 25 MLC 175, 176, MCR-4655 (May 19, 1999).

1 It is also well-established that sergeants with independent authority to issue written
2 warnings to patrol officers are supervisory employees. Town of Chelmsford, 33 MLC at
3 104 (citing Woburn Housing Authority, 27 MLC 109, 111 (2001) (finding maintenance
4 supervisor who had the authority to issue verbal and written warnings to be a supervisory
5 employee)). Here, Sergeants have the authority to initiate and impose discipline, including
6 counseling and verbal and written reprimands. Accordingly, we reject the Incumbent's
7 arguments that this case is analogous to Town of North Reading, 24 MLC at 20 where
8 the CERB found that the sergeants were not supervisory employees and denied
9 severance from the patrol officers. In Town of North Reading, sergeants were only
10 authorized to informally discipline a patrol officer by oral reprimand. They could write a
11 report to the lieutenant regarding a patrol officer's misconduct but did not have the
12 authority to issue written reprimands or recommend discipline. Id.

13 Other factors also warrant placing these Sergeants in a separate bargaining unit.
14 For instance, the CERB also has previously determined that sergeants with the authority
15 to relieve patrol officers from duty without first checking with another superior officer are
16 supervisory. Town of Chelmsford, 33 MLC at 104 (citing Massachusetts Bay
17 Transportation Authority, 6 MLC 1814,1817, CR-3575 (January 24,1980) (finding MBTA
18 starters and inspectors with the authority to relieve workers from duty to be supervisory
19 employees)). Here, Sergeants have the authority to relieve another officer of duty for the
20 remainder of his/her shift pending notification of the Chief pursuant to the Internal Affairs
21 Policy 2.9, Section III(A)(2)(a)(8) not only when safety concerns exist, but also in serious
22 cases of misconduct. Additionally, the Sergeants' role with respect to investigating and
23 resolving complaints warrants their placement in a separate bargaining unit. Although

1 internal investigations are not their primary responsibility, Sergeants may be assigned
2 investigations and required to submit reports of investigations to the Chief. A “conflict of
3 interests and loyalties is inevitable between those who investigate and those who are
4 investigated.” Town of Wilmington, 33 MLC at 21 (quoting City of Boston, 2 MLC 1353,
5 CAS-2009 (February 9, 1976)).

6 The Incumbent insists that the Sergeants do not exercise sufficient supervisory
7 authority to warrant placing them in a separate bargaining unit from Police Officers. In
8 particular, the Incumbent argues that OIC Police Officers are the highest-ranking officers
9 when on duty, and are authorized take charge in emergency situations, assign involuntary
10 overtime, send officers home if they report unfit for duty, resolve citizen complaints, and
11 file reports of officer misconduct. The Incumbent also highlights numerous shared duties
12 among Sergeants, OIC Police Officers, and Police Officers and emphasizes the
13 limitations on the Sergeants’ disciplinary authority, lack of responsibility for performance
14 evaluations, and inability to adjust grievances or conduct evaluations.

15 First, the CERB does not require that all of an employee’s duties involve
16 supervisory responsibilities to warrant placement in a supervisory unit. Town of Bolton,
17 25 MLC at 67. Second, the fact that Sergeants have some overlapping duties with Police
18 Officers, and do not have a unique role in hiring²² or evaluating employees is not

²² There is insufficient evidence in the record to demonstrate that the Sergeants make meaningful hiring recommendations to the Chief because there is no evidence in the record regarding how frequently the Chief rejects Sergeants’ hiring recommendations. In addition, the Chief makes final hiring recommendations to the Town Manager. Compare, North Reading, 24 MLC at 20 (finding sergeants’ who served on a hiring panel for vacant patrol officer positions and made hiring recommendations to the chief, who then made recommendations to the town administrator insufficient to constitute an effective ability to recommend personnel decisions) with Town of Holden, 25 MLC 175, MCR-4655 (May

1 determinative. Town of Wilmington, 33 MLC at 21. Third, while OIC Police Officers have
2 a responsibility to assume leadership in the absence of a Sergeant and may, under the
3 circumstances, assign overtime in limited situations, the OIC Police Officer's assignment
4 is temporary. A temporary assignment of supervisory authority is distinguishable from
5 supervisory authority that is a regular duty. See Hampden County Sheriff's Department,
6 34 MLC at 164 (declining to find that corporals were supervisory employees where they
7 assumed the supervisory role of the unit leader or area leader only in the absence of a
8 lieutenant or sergeant).

9 Finally, Sergeants have the authority to discipline other officers, and OIC Police
10 Officers do not. Nor do OIC Police Officers approve leave time for other officers. Nor is it
11 the Department's policy to assign OIC Police Officers to investigations pursuant to Policy
12 2.9. The fact that Sergeants cannot suspend, terminate, or adjust grievances does not
13 negate their supervisory authority in light of their responsibility to take immediate action
14 to correct misconduct, the authority to administer discipline through verbal and written
15 reprimands, and the ability to relieve officers from duty in serious cases of misconduct.
16 See Town of Wilmington, 33 MLC at 22.

17 CONCLUSION AND DIRECTION OF ELECTION

18 For the foregoing reasons, we conclude that Sergeants in the Uxbridge Police
19 Department exercise significant supervisory authority and should be included in a
20 separate supervisory bargaining unit from Police Officers.²³

18, 1999) (holding that sergeants made effective hiring recommendations to the chief where sergeants discussed hiring with the chief at bi-weekly departmental meetings).

²³ The parties stipulated that the "Lieutenant is not in any bargaining unit and is a confidential employee and supervisory employee," and that the "Lieutenant is the Internal Affairs Officer." We are unable to determine based on these stipulations and the evidence in the record whether the Lieutenant is a managerial or confidential employee excluded from collective bargaining rights under Section 1 of the Law. However, based on the

1
2 Based on the record and for the reasons stated above, we conclude that a question
3 of representation has arisen concerning the Sergeants employed by the Town in its Police
4 Department and the following unit constitutes an appropriate bargaining unit within the
5 meaning of Section 3 of the Law:
6

7 All full-time and regular part-time Police Sergeants employed by the Town of
8 Uxbridge, excluding all managerial, confidential, casual employees and all other
9 employees of the Uxbridge Police Department, including the Police Chief and Lieutenant,
10 Patrol Police Officers, Reserve Officers, and civilian employees.
11

12 IT IS HEREBY DIRECTED that an election by secret ballot shall be conducted to
13 determine whether a majority of employees in the above-described bargaining unit desire
14 to be represented by the Fraternal Order of Police, the Uxbridge Police Association
15 MassCOP Local 123, or by no employee organization.
16

17 The eligible voters shall include all those persons within the above-described
18 bargaining unit whose names appear on the Town of Uxbridge's payroll for the payroll
19 period for the week ending the Saturday preceding the date of this decision and who have
20 not since quit or been discharged for cause.
21

22 To ensure that all eligible voters shall have the opportunity to be informed of the
23 issues and their statutory right to vote, all parties to this election shall have access to a
24 list of voters in the unit and their addresses which may be used to communicate with
25 them. The list of eligible voters must be provided electronically (e.g. Microsoft Access or
26 Excel).
27

28 Accordingly, IT IS HEREBY FURTHER DIRECTED that the Town of Uxbridge will
29 file an alphabetized election eligibility list, in a Word document or an Excel spread sheet,
30 containing the names and addresses of all eligible voters, with the DLR no later than
31 fourteen days from the date of this decision. The list must be filed electronically and sent
32 to EFileDLR@mass.gov.
33

34 The DLR shall make the list available to all parties to the election. Failure to submit
35 the list in a timely manner may result in substantial prejudice to the rights of the employees
36 and the parties, therefore, no extension of time for filing the list will be granted except
37 under extraordinary circumstances. Failure to comply with this direction may be grounds
38 for setting aside the election should proper and timely objections be filed.

SO ORDERED.

parties' agreement, we exclude the Lieutenant from the petitioned-for bargaining unit of Sergeants.

COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD



LAN T. KANTANY, CHAIR



KELLY B. STRONG, MEMBER



VICTORIA B. CALDWELL, MEMBER