

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

American Federation of State, County,	)	
And Municipal Employees, Council 31,	)	
	)	
Petitioner,	)	
	)	Case No. L-RC-19-003
and	)	
	)	
City of Chicago,	)	
	)	
Employer.	)	

**ORDER**

On June 13, 2019, Administrative Law Judge Michelle N. Owen, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge’s Recommendation during the time allotted, and at its August 13, 2019 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

**THEREFORE**, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge’s Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

**Issued in Chicago, Illinois, this 13th day of August 2019.**

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

/s/ Helen J. Kim  
**Helen J. Kim**  
**General Counsel**

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

On July 24, 2018, American Federation of State, County and Municipal Employees, Council 31 (Union) filed a majority interest representation/certification petition in the above-captioned case with the Local Panel of the Illinois Labor Relations Board (Board) pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2014), as amended (Act). The Union sought to represent individuals in the title of Criminal Intelligence Analyst (CIA) employed by the City of Chicago (City or Employer) in the Chicago Police Department (CPD). On August 22, 2018, the Employer filed its response and objection to the petition asserting that the positions sought to be represented are managerial employees within the meaning of Section 3(j) of the Act.

In accordance with Section 9(a) of the Act, an authorized Board agent conducted an investigation and determined that there was reasonable cause to believe that a question concerning representation existed. A hearing on the matter was conducted on December 4, 2018. Both parties elected to file post-hearing briefs. After full consideration of the parties’ stipulations, evidence, arguments, and briefs, and upon the entire record of the case, I recommend the following:

**I.     PRELIMINARY FINDINGS**

The parties stipulate, and I find:

1. The Employer is a public employer within the meaning of Section 3(o) of the Act.
2. The Employer is a unit of local government subject to the jurisdiction of the Board’s

Local Panel pursuant to Section 5(b) of the Act.

3. The Union is a labor organization within the meaning of Section 3(i) of the Act.
4. At all relevant times, the City and the Union were parties to a collective bargaining agreement, dated July 1, 2014 – June 30, 2017.
5. On or about July 24, 2018, the Union filed a representation petition seeking to add the title of CIA to Bargaining Unit 3.
6. The CIAs are currently detailed as follows:

<b>Criminal Intelligence Analyst</b>	<b>District</b>	<b>Commander (Cmdr.)</b>
Scott Dedore	010	Cmdr. James Sanchez
Amanda Dion	006	Cmdr. William Bradley
Maurita Holmes	003	Cmdr. Gloria Hanna
Nicole Izbicky	002	Cmdr. Dion Boyd
David Kim	007	Cmdr. Roderick Robinson
Anthony Lindsey	005	Cmdr. Joel Howard
Zachary Maher	015	Cmdr. Ernest Cato III
Yesenia Ortiz	011	Cmdr. Darrell Spencer
Benjamin Saucedo	004	Cmdr. Jose Tirado
Bryan Shea	008	Cmdr. Brian McDermott
Becky Tupper	012	Cmdr. Stephen Chung
Joel Vargas	025	Cmdr. Anthony Escamilla
Normal Vijevic	009	Cmdr. Randall Darlin

## **II. ISSUE AND CONTENTIONS**

The issue is whether the petitioned-for employees in the title of CIA are managerial employees within the meaning of Section 3(j) of the Act.

The City contends that the petitioned-for employees are managerial employees within the meaning of the Act because they are predominantly engaged in executive and management functions and are charged with the responsibility of directing the effectuation of management policies and practices. As such, the City asserts that the CIAs have no right to organize and bargain

collectively.

The Union asserts that the petitioned-for employees are not managerial employees within the meaning of the Act, and as a result, the petition should be granted and the title certified into the bargaining unit.

### **III. FINDINGS OF FACT<sup>1</sup>**

#### **A. CPD Structure**

The overall mission of the CPD is public safety and the reduction of crime. The CPD is headed by the Superintendent of Police. The Superintendent of Police oversees the following offices: Office of Reform Management, Office of the General Counsel, Office of Community Policing, Office of Communications, Bureau of Internal Affairs, Office of Strategy, and Office of First Deputy Superintendent. The Office of the First Deputy Superintendent is overseen by the First Deputy Superintendent. The First Deputy Superintendent oversees five department bureaus: Bureau of Patrol, Bureau of Detectives, Bureau of Organized Crime, Bureau of Organizational Development, and the Bureau of Technical Services.

The Bureau of Patrol is overseen by the Chief of the Bureau of Patrol. The current Chief of the Bureau of Patrol is Fred Waller. The Bureau of Patrol is divided into four divisions: North Area, South Area, Central Area, and Special Functions Division. Each of the four divisions within the Bureau of Patrol is headed by a deputy chief. The deputy chiefs report to the Chief of the Bureau of Patrol. The North Area division includes districts 011, 014, 015, 016, 017, 019, 020, 024, and 025. The South Area includes districts 004, 005, 006, and 007. The Central Area includes districts 001, 002, 003, 008, 009, 010, 012, and 018.

Within the Bureau of Patrol, each district is headed by a commander who reports to their division's deputy chief. The commanders of each district are responsible for the overall command of their district. The commanders are responsible for reducing and preventing criminal acts in their districts, deployments, crime reduction strategies, interactions between the department and the public, and the overall charge of crime, disorder, and public safety in their district. The commanders

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<sup>1</sup> District Commander Randall Darlin testified on behalf of the Employer. CIA Ben Saucedo testified on behalf of the Union. The parties stipulated that if the City were to call the additional twelve district commanders who have a CIA detailed to their district to testify, their description of the CIAs' job duties and the functioning of the CIA in their district would be substantially similar to Commander Darlin's testimony.

spend about an hour per month alone with the CIA of their district.

All subordinate officers including captains, lieutenants, sergeants, and police officers report to the commander of the district. The captain reports directly to the commander. The lieutenants report directly to the captain. The sergeants report directly to the lieutenants. The police officers report directly to the sergeants. The sergeants and lieutenants are represented in bargaining units.

The Bureau of Technical Services is overseen by a chief who reports directly to the First Deputy Superintendent. The Bureau of Technical Services includes five divisions: Information Services Division, Evidence and Recovered Property Section, Records Division, Facilities Management Division, and General Support Division.

The Information Services Division is overseen by a director who reports to the Chief of the Bureau of Technical Services. The director is responsible for the design, implementation, integration, maintenance, and control of information systems for the CPD.

#### **B. CIAs**

The City currently employs thirteen CIAs. The CIAs are non-sworn. After being hired, all CIAs report to the Information Services Division for training. After completion of the training, the CIAs are assigned to a specific police district, where they work in a Strategic Decision Support Center (“SDSC room”).

The SDSC rooms are the central hub for intelligence, social media monitoring, and crime statistics within the district. The employees within the SDSC rooms monitor live cameras located throughout the district and social media accounts. The SDSC rooms are governed by standard operating procedures called department directives. The department directives were created by the CPD’s department of research and development. According to the directives, the SDSC room is the center of intelligence for the district where sworn officers and the CIA gather and analyze intelligence in order to recommend crime prevention and reduction strategies to the commander. According to the directive, the SDSC room provides hyper-local, real-time situational awareness for police officers to ensure rapid response and effective policing, and to enhance officer safety. The SDSC rooms are equipped with crime predicting and monitoring technology. According to the directive, the CIA supports the SDSC supervising sergeant with crime data analytics and crime reduction strategy to help reduce overall crime; recommends place and offender based missions; uses crime data, arrest reports, and criminal histories; analyzes trends and patterns and translates

information into actionable intelligence; keeps track of daily crime totals and compares these with district goals; provides training to district personnel on the use of intelligence tools; and reviews district crime statistics and shares information with other districts and CIAs.

The SDSC rooms are staffed by a supervising sergeant, police officers, and one CIA. The supervising sergeant has supervisory responsibility for the SDSC room and its personnel including the CIA. The supervising sergeant also has responsibility for the overall operation of the SDSC room, which includes live monitoring of pod cameras, monitoring of social media, gathering of intelligence, transmitting intelligence briefings, providing information to officers on the wire, and compiling officer safety briefs. The supervising sergeant oversees all three watches of personnel, manages the personnel, gives direction, and assigns some duties. The supervising sergeant is a bargaining unit employee.

The supervising sergeant is responsible for analyzing, reviewing, and identifying criminal patterns. The supervising sergeant is also responsible for providing that information to the commander of the district daily through a daily briefing report. In preparing the daily briefing report, the supervising sergeant compiles information from several sources. This information is then used by the commander of the district to deploy resources within the district. The supervising sergeants oversee the creation of the daily briefing report and signs off on it. The supervising sergeant bears ultimate responsibility for the daily briefing report.

The police officers in the SDSC are primarily responsible for analyzing live intelligence. The police officers monitor the cameras on all three watches. The police officers also help to create the daily briefing report.

The CIAs are responsible for analyzing crime and crime statistics daily, providing input into all intelligence that comes into the SDSC room, assisting in the preparation of the daily briefing report, monitoring the cameras, and providing recommendations on where to deploy resources on a general level and by specific beat. The CIAs spend most of their time monitoring data and reading case reports. The CIAs take the information they receive from monitoring data and give that information to the police officers who include it in the daily briefing report. The CIAs receive assignments from their supervising sergeant and from the district commander directly.

1. Job Description

According to the job description, the CIA develops understanding of all software and

analytical platforms in use by the department to support crime reduction activities center in district SDSC rooms, where crime conditions are continuously evaluated and intervention activities are developed; leverages SDSC processes, techniques, and analytical tools to support citywide violence reduction efforts and measures the efficacy of those efforts in terms of improved crime reduction outcomes; incorporates outputs from these platforms to develop and conduct daily crime briefings for department personnel, including police officers, supervisors, and command staff members; develops, implements, monitors, and revises daily and hourly resource deployment strategies to impact violent crime, by utilizing reporting tools and analytical processes to develop resource deployment recommendations for oral and written presentation; develops strategies and methods and follows established departmental and legal procedures in collecting, organizing and charting criminal justice information and using this information to develop, implement, and measure the impact of crime reduction initiatives; develops analytical tools and procedures to identify potential leading indicators for future violence and creates processes for monitoring the impact of crime intervention strategies; enhances officer understanding of focused crime deterrence missions by assisting with determining the who/when/where/why behind crime patterns; provides assistance with the introduction and implementation of new tools and strategies in support of crime reduction strategies, further supporting department members in the use of data and analytics to inform strategic deployment of resources; prepares detailed research and analysis of criminal justice information, by analyzing data, writing reports, etc., to develop links between criminals and crime groups, or patterns of criminal activity for use by law enforcement personnel, City departments and other outside agencies; researches, compiles and organizes criminal justice information and statistics using various database systems, Internet searches, and other sources to support investigations (e.g., investigative interviews, academic research, and newspapers); utilizes predictive software such as HunchLab and other place and person-based risk models to inform and evaluate crime intervention strategies and recommend improvements to these tools based on their performance; analyzes and evaluates criminal justice information and data received from a variety of sources (e.g., local, state and federal law enforcement agencies, databases, public records) to assess the reliability of sources and the validity of content; applies inductive and deductive reasoning in analyzing data, and translates into viable criminal justice information for use in investigations and other law enforcement purposes; prepares graphic presentations of data (e.g., charts, graphs, and matrices), presenting criminal justice information with organized facts and

statistics to provide investigative leads to suspects, crimes or criminal organizations; authors and prepares for distribution various informational bulletins and other informational materials related to office safety alerts, briefings and other law enforcement messages and alerts; complies investigative information case files and packets on specific criminal cases such as murders and shootings; designs, uses and maintains databases and software applications, such as geographic information systems (GIS) and artificial intelligence tools; provides oral briefings, court testimony and other presentations and trainings on analytical products and techniques; responds to requests for information and acts as a liaison with law enforcement organizations and agencies for the purpose of information sharing, community policing, and crime prevention strategies; stays abreast of current events and activities and participates in seminars, webinars and other activities for professional development purposes; conducts training for various department members on the use of analytics tools and processes to improve officer effectiveness; and represents the department at various meetings and conferences and assists with special analytics projects, as required.

Commander Darlin, the commander of the 9th district, testified that the CIA assigned to his district performs all the duties listed in the job description, except for designing, using, and maintaining databases and software applications, such as GIS and artificial intelligence tools, and developing software. Darlin stated that he was unsure whether the CIAs represent the department at various meetings and conferences. However, Darlin testified that he and the CIA assigned to his district attend meetings regularly where they have input into how software will be altered. Darlin further testified that the CIA assigned to his district “develops analytical tools and procedures,” by going to weekly and monthly meetings with supervisory staff, where there is discussion regarding which additional tools and resources could be used and how the systems being used could be adapted.

## 2. Deployments & Daily Briefings

The commander of each district is responsible for deploying resources within the district. Daily briefings are provided to the commander every day of the week. Either a police officer or the CIA will present the daily briefing to the commander. The commander receives deployment recommendations through the daily briefing report. The daily briefing report is presented in person to the commander five days of the week. The other two days, the briefing report is submitted electronically to the commander.

The daily briefing report includes one page of deployment recommendations. The police

officers assigned to the SDSC room and the CIA may create the slide which becomes the deployment recommendation page.<sup>2</sup> The supervisor of the SDSC also receives reports from the beat officers, and the information contained in those reports is also included in the daily briefing report.

Some of the deployment recommendations contained in the daily briefing report concern non-discretionary resources. Non-discretionary resources are resources which are almost always assigned to a particular beat and resources which are deployed by the deputy chief, including certain specialized units like the area gang teams. Likewise, some of the deployment recommendations contained in the daily briefing report concern discretionary resources. Discretionary resources are resources which are not always assigned to a particular beat nor resources which are deployed by the deputy chief. Discretionary resources can be used by the commander in whatever way the commander determines necessary. Discretionary resources include certain tactical units, certain patrol cars, and robbery, burglary, and theft mission teams. Overtime deployment recommendations are also included in the daily briefing report. Those recommendations are determined by an analysis of crime data. The commander follows the recommendations contained in the daily briefing report “almost all of the time.”

The commander makes his deployments after the daily briefing. In making his deployments, the commander bases his decision on several factors including population, gang activity, gang diversity, past reported crime, and available resources. The commanders also receive input and information from aldermen and the community policing function in their districts which may impact the commander’s deployment decisions. Commander Darlin testified that deployment decisions are based on an “almost endless number of factors.”

The officers on patrol do not receive the entire daily briefing report. The commander, the CIA, the police officers assigned to the SDSC room, and the supervising sergeant all have a role in deciding which parts of the report the officers on patrol will receive.

### 3. Special Missions

Besides the daily briefing report, some of the CIAs also analyze specific crime trends either on their own initiative or at the direction of the commander. For example, if there is a spike in robberies, a robbery “mission” may be created, which deploys resources to specifically address the

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<sup>2</sup> Saucedo, the CIA for the 4<sup>th</sup> district, testified that he does not prepare any deployment documents. However, Darlin testified that the CIA assigned to the 9<sup>th</sup> district does prepare deployment documents.

spike in robberies.

Commander Darlin testified that the CIA assigned to his district has created a robbery and burglary mission report. Darlin had requested that the CIA provide an analytical breakdown of robberies and burglaries to be used for a mission by beat officers. The CIA then created the report with the assistance of other officers and presented it to the commander outside of the daily briefing. The mission report included deployment recommendations, including providing 15 minutes of focused patrols in the designated area during certain hours, placing beat cars in specific locations for 15 to 20 minute focused time patrols during certain hours, deployment patterning for specific hours, and patrolling for short periods of time during certain time frames. Darlin followed the recommendations provided in the mission report. District intelligence officers, a tactical lieutenant, a tactical supervisor, a business liaison supervisor, police officers assigned to the SDSC rooms, and, if available, a tactical supervisor, a watch operations lieutenant, and tactical personnel are present for the presentation of the mission report.

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

The CIAs are not managerial employees within the meaning of Section 3(j) of the Act because they are not engaged predominantly in executive and management functions nor are they charged with the responsibility of directing the effectuation of management policies and practices.

Section 3(j) of the Act defines a managerial employee as “an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of management policies and practices.” 5 ILCS 315/3(j). The Act excludes managerial employees from engaging in collective bargaining to “maintain the distinction between management and labor and to provide the employer with undivided loyalty from its representatives in management.” Chief Judge of Sixteenth Judicial Cir. v. Ill. State Labor Relations Bd., 178 Ill. 2d 333, 339 (1997). As the party seeking to exclude employees from collective bargaining, the City bears the burden to prove by a preponderance of the evidence that the CIAs are managerial employees within the meaning of the Act. See Sec’y of State v. Ill. Labor Relations Bd., State Panel, 2012 IL App (4th) 111075, ¶ 55; Ill. Dep’t of Cent. Mgmt. Servs. (State Police) v. Ill. Labor Relations Bd., State Panel, 382 Ill. App. 3d 208, 221 (1st Dist. 2008).

A two-part test is used to determine managerial status under Section 3(j) of the Act.<sup>3</sup> The

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<sup>3</sup> This test is referred to as the “traditional” test. Sec’y of State, 2012 IL App (4th) 111075, ¶ 119. A second, alternative test may be used to determine managerial status. Id. The alternative test examines

employer must show that the employee is (1) engaged predominantly in executive and management functions and (2) charged with the responsibility of directing the effectuation of management policies and practices. Sec’y of State, 2012 IL App (4th) 111075, ¶ 121; Dep’t of Cent. Mgmt. Servs./Dep’t of Healthcare & Family Servs. v. Ill. Labor Relations Bd., State Panel, 388 Ill. App. 319, 330 (4th Dist. 2009). Both prongs of the test must be established to find that an employee is managerial. Sec’y of State, 2012 IL App (4th) 111075, ¶ 125.

The Act does not define “executive and management functions”, however, the Board has defined them as functions that “specifically relate to the running of an agency or department, which may include establishment of policies and procedures, preparation of the budget and the responsibility for assuring that the agency or department operates effectively and efficiently.” City of Evanston v. State Labor Relations Bd., 227 Ill. App. 3d 955, 974-75 (1st Dist. 1992), citing Ill. Dep’t of Cent. Mgmt. Servs., 1 PERI ¶ 2014 (IL SLRB 1985). Other executive and management functions include changing the focus of an employer’s organization, using independent discretion to make policy decisions, being responsible for day-to-day operations, and negotiating on behalf of an employer with its employees or the public. Sec’y of State, 2012 IL App (4th) 111075, ¶ 122; Dep’t of Cent. Mgmt. Servs., 388 Ill. App. 3d at 330. Where an individual's decisions are “significantly circumscribed by predetermined requirements and procedures, the employee’s activities are not managerial under the Act.” Chief Judge of the Eighteenth Judicial Circuit v. Ill. State Labor Relations Bd., 311 Ill. App. 3d 808, 815 (2nd Dist. 2000).

The second part of the test requires that the employee “must direct the effectuation of management policies and procedures.” Vill. of Elk Grove Vill. v. Ill. State Labor Relations Bd., 245 Ill. App. 3d 109, 121-22 (2nd Dist. 1993); City of Evanston, 227 Ill. App. 3d at 974-975. The second part of the test “emphasizes that a managerial employee’s authority extends beyond the realm of theorizing and into the realm of practice.” Sec’y of State, 2012 IL App (4th) 111075, ¶ 123, quoting Dep’t of Cent. Mgmt. Servs. (Ill. Commerce Comm’n) v. Ill. Labor Relations Bd. (“ICC”), 406 Ill. App. 3d 766, 774 (4th Dist. 2010). An employee directs the effectuation of management policies and practices if he or she “oversees or coordinates policy implementation through development of means and methods of achieving policy objectives, determines the extent to which the objectives will be achieved, and is empowered with a substantial amount of discretion

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whether the employees are managerial employees “as a matter of law.” Id. Here, the Employer argues that the petitioned-for employees are managers under the traditional test only.

to determine how policies will be effected.” Cnty. of Cook v. Ill. Labor Relations Bd. Local Panel, Serv. Emps. Int’l Union, 351 Ill. App. 3d 379, 386-87 (1st Dist. 2004); quoting Dep’t of Cent. Mgmt. Servs. v. Ill. State Labor Relations Bd., 278 Ill. App. 3d 79, 87 (4th Dist. 1996). “If the employee’s role is advisory and subordinate, the employee is not a managerial employee because it is the final responsibility and independent authority to establish and effectuate policy that determines management status.” ICC at 775, quoting Dep’t of Cent. Mgmt. Servs., 278 Ill. App. 3d at 87. However, an advisory employee who makes effective recommendations on “major policy issues” may be managerial. ICC at 779-80. The test of effectiveness is the “power or influence of the recommendations.” Id. at 777.

Regarding the first prong, the CIAs do not run the CPD, the district to which they are assigned, nor the SDSC rooms. Rather, the CPD is overseen by the Superintendent of Police. The districts are overseen by commanders. The commanders in turn report to their division’s deputy chief. Further, the SDSC rooms are overseen by a supervising sergeant.

In addition, the evidence fails to show that the CIAs establish policies or procedures. The City argues that CIAs “use independent discretion to make policy decisions concerning the deployment of resources within their respective districts.” However, the fact that the CIAs may make independent decisions with regard to carrying out their duties, does not mean that their actions transcend to the level of executive or management functions. See Chief Judge of Eighteenth Judicial Circuit, 311 Ill. App. 3d at 815 (“[e]xecutive function requires more than the exercise of independent judgment”); Vill. of Elk Grove Vill., 245 Ill. App. 3d at 121-22. Further, the evidence showed that the deployment recommendations contained in the daily briefing reports are made collaboratively with the police officers in the SDSC room, the supervising sergeant, and sometimes the commander. In addition, the deployment recommendations contained in the special missions are also made collaboratively with other officers. Further, the commanders base their deployment decisions on an “almost endless number of factors.” Thus, deployment decisions are a collaborative effort, which is not indicative of managerial decision-making authority. See Cnty. of Will, 34 PERI ¶ 91 (IL LRB-SP 2017); State of Ill., Dep’t of Cent. Mgmt. Servs. (Ill. Commerce Comm’n), 29 PERI ¶ 129 (IL LRB-SP 2013), aff’d by Am. Fed’n of State, Cnty. & Mun. Emps., Council 31 v. Illinois Labor Relations Bd., State Panel, 2014 IL App (1st) 123426.

The City, however, argues that the CIAs “change the focus of the districts through the development of missions, which they believe will assist in crime suppression—the primary

objective of the Department, including each district.” The City also argues that the CIAs “possess and exercise authority and discretion, which affects the Department’s goals and means of achieving those goals” and “[g]iven the critical importance of deploying resources effectively to maximize crime suppression efforts, CIAs ‘predominantly’ serve those executive and management functions.” Moreover, the City asserts that the CIAs “help to run” the CPD because they are “responsible for developing recommendations for the deployment of resources in police districts to best address crime suppression, which is the overall mission of the [CPD].” However, the evidence fails to support these assertions. Any “authority” of the CIAs appears to stem from their professional and technical expertise rather than any independent authority. Regardless, although the CIAs may exercise discretion and specialized expertise in analyzing specific crime trends and providing deployment recommendations for special missions and in the daily briefing reports, this does not equate to managerial authority. See Vill. of Elk Grove Vill., 245 Ill. App. 3d at 122 (“executive functions require more than the exercise of professional discretion or technical expertise, ... a managerial employee must possess and exercise sufficient authority and discretion to bring about a department’s goals, or the means of achieving its goals, on a broad scale”); Cnty. of Cook, 351 Ill. App. 3d at 388; Dep’t of Cent. Mgmt. Servs., 388 Ill. App. 3d at 331. Further, the CIAs may perform duties essential to the CPD’s ability to accomplish its mission of suppressing crime, but it does not follow that they are managerial employees. See Id. at 331-32, citing State of Illinois, Dep’t of Cent. Mgmt. Servs., 21 PERI ¶ 205 (IL LRB-SP 2005). Moreover, the CIAs may work to the goal or mission of suppressing crime, but arguably all employees, including bargaining unit employees, of the CPD work to this goal.

The City also maintains that the “CIAs are responsible for day-to-day operations in their districts, through making determinations about the efficient deployment of resources and making effective recommendations about those deployments to their respective district commanders.” However, as noted above, the commanders are in fact responsible for day-to-day operations of the districts, and the supervising sergeants are responsible for the day-to-day operations of the SDSC rooms. Additionally, as noted above, the deployment recommendations are made collaboratively, and the commanders’ deployment decisions are based on a myriad of factors. Thus, the CIAs are not engaged predominantly in executive and management functions

Regarding the second prong, the City presented insufficient evidence to show that the CIAs provide anything other than a subordinate or advisory role. See Sec’y of State, 2012 IL App (4th)

111075, ¶ 131. The CIAs analyze crime statistics, provide input into intelligence that comes into the SDSC room, assist in the preparation of the daily briefing report and mission reports, monitor cameras, and provide recommendations on where to deploy resources. Here, the City needed to provide evidence of the CIAs doing more than merely performing duties essential to the CPD's ability to accomplish its mission of suppressing crime. See Id.; Dep't of Cent. Mgmt. Servs., 388 Ill. App. 3d at 331.

The City, however, argues that the CIAs make "effective recommendations" through both daily briefings and special mission reports because the commanders follow the deployment recommendations almost all of the time. Additionally, the City argues that these effective recommendations are substantially similar to the effective recommendations made by employees found to be managerial in Am. Fed'n of State, Cnty. & Mun. Emps., Council 31, 32 PERI ¶ 163 (IL LRB-SP 2016) and Am. Fed'n of State, Cnty. & Mun. Emps., Council 31 v. Ill. Labor Relations Bd., State Panel, 2018 IL App (1st) 172476.

However, here, the City failed to show that the deployment recommendations contained in the daily briefings and special mission reports concern "major policy issues." See ICC at 779-80. Additionally, as noted above, the deployment recommendations are made collaboratively, and therefore do not qualify as managerial duties. See Cnty. of Will, 34 PERI ¶ 91; Ill. Commerce Comm'n, 29 PERI ¶ 129. In making collaborative deployment recommendations, the CIAs do not possess the authority or responsibility to determine the specific methods or means of how the CPD's services will be provided. See Sec'y of State, 2012 IL App (4th) 111075, ¶ 123; Dep't of Cent. Mgmt. Servs., 388 Ill. App. 3d at 331.

Moreover, there is insufficient evidence demonstrating that the CIAs are comparable to the positions found to be managerial in the cases relied upon by the City in support of its argument that the recommendations made by the CIAs are "effective." In the first case cited by the City, Am. Fed'n of State, Cnty. & Mun. Emps., Council 31, 32 PERI ¶ 163, administrative law judges employed by the state financial and professional regulation department were deemed managerial employees within the meaning of the Act because their recommendations became in effect the agency's final order of determination in cases, and their recommendations were ultimately adopted and implemented by the agency's final decision makers. Here, the CIAs' duties are not comparable to the duties of administrative law judges, and their deployment recommendations do not become final orders of the CPD. See Id.

In the second case cited by the City, Am. Fed'n of State, Cnty. & Mun. Emps., Council 31, 2018 IL App (1st) 172476 at ¶ 38, supervisory regional attorneys who performed legal screenings and made recommendations on whether the agency should proceed with legal action to remove children from their homes were found to be managerial. In addition, in that case, a manager for the migrant and seasonal farmworkers program who was responsible for overseeing the program and formulating policies and program objectives was deemed managerial. Here, the CIAs' duties are not comparable to duties of attorneys. Further, the CIAs do not oversee any programs, and they do not recommend whether the CPD should proceed with legal action.

Finally, the City asserts that the CIAs' performance of their duties would conflict with the duty to provide the CPD with "undivided loyalty." However, a "concern over a potential conflict of interest is not a test in and of itself for determining whether an employee is 'managerial.'" Sec'y of State, 2012 IL App (4th) 111075, ¶ 135. Instead, the two-part managerial test is "designed to address this concern by determining whether certification would result in a conflict of interest." Id., citing Vill. of Elk Grove Vill., 245 Ill. App. 3d at 123–24 (rejecting the employer's argument that the court should reverse the Board's decision, even after finding the petitioned-for employees were not managers, based on a conflict of interest). Regardless, the CPD's chain of command suggests that no conflict of interest would arise if the CIAs were in a bargaining unit. See City of Evanston, 227 Ill. App. 3d at 975–76 (lack of conflict of interest suggested by the employer's chain of command in the fire department). Like the fire department in City of Evanston, the CPD is a "para-military" organization with recognized levels of authority. Id. at 977. The evidence fails to show that the CIAs are so aligned with management that a division of loyalties between the City and the Union will result if the CIAs are included in the bargaining unit. See Id. at 977. Further, as the day-to-day work of the CIAs is similar to that performed by the supervising sergeant and police officers in the SDSC, all of whom are bargaining unit members, the City's assertions of a conflict of interest are unpersuasive. See Id. In sum, the City has failed to show that the CIAs satisfy either prong of the two-part test, and thus the City has failed to establish that the CIAs are managerial employees.

## **V. CONCLUSIONS OF LAW**

The petitioned-for employees are not managerial employees within the meaning of Section 3(j) of the Act. The petitioned-for employees are public employees within the meaning of the Act.

**VI. RECOMMENDED ORDER**

Unless this Recommended Decision and Order Directing Certification is rejected or modified by the Board, the American Federation of State, County and Municipal Employees, Council 31 shall be certified as the exclusive representative of all the employees in the unit set forth below, found to be appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, or other conditions of employment pursuant to Sections 6(c) and 9(d) of the Act.

INCLUDED: The following position is to be included in the AFSCME-represented bargaining unit #3: Criminal Intelligence Analyst.

EXCLUDED: All supervisory, managerial and confidential employees as defined by the Act.

**VII. 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 to this recommendation and briefs in support of those exceptions no later than 14 days after service of this recommendation. Parties may file responses to any exceptions, and briefs in support of those responses, within 10 days of service of the 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 with the General Counsel of the Illinois Labor Relations Board, to either the Board's Chicago Office at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103 or to the Board's designated email address for electronic filings, at ILRB.Filing@Illinois.gov. All filing must be served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at 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 Chicago, Illinois this 13th day of June, 2019**

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

*/S/ Michelle N. Owen*

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**Michelle N. Owen  
Administrative Law Judge**