



STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petitions of

MANITOWOC COUNTY COURTHOUSE EMPLOYEES  
LOCAL 986A, AFSCME, AFL-CIO and  
MANITOWOC COUNTY SHERIFF'S DEPARTMENT  
EMPLOYEES LOCAL 986A, AFSCME, AFL-CIO

Case VI  
No. 11622 ME-324  
Decision No. 8152-C

Involving Certain Employees of

MANITOWOC COUNTY (MISC. DEPTS.)  
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Appearances:

Mr. Michael J. Wilson, District Representative, Council 40, Wisconsin Council of County and Municipal Employees, appearing on behalf of the Petitioner.

Mr. Richard E. Garrow, Corporation Counsel, Manitowoc County, appearing on behalf of the Municipal Employer.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
ORDER CLARIFYING BARGAINING UNITS

Manitowoc County Courthouse Employees Local 986A, AFSCME, AFL-CIO, having, on September 20, 1978 filed a petition with the Wisconsin Employment Relations Commission, wherein it requested the Commission to clarify an existing collective bargaining unit consisting of certain employees of Manitowoc County, and said Union, 1/ having, on October 11, 1978, filed another petition with the Commission, wherein it requested the Commission to accrete three clericals in the Sheriff's Department to the Sheriff's Department bargaining unit; and Examiner Dennis P. McGilligan having issued an Order Consolidating Petitions for Hearing on October 17, 1978; and hearing on said petitions having been held on November 20, 1978, at the Manitowoc County Courthouse, Manitowoc, Wisconsin, before the Examiner; and a transcript having been prepared and the parties having completed their briefing schedule on January 30, 1979, and the Commission having considered the evidence and arguments of the parties, issues the following Findings of Fact, Conclusions of Law and Order Clarifying Bargaining Units.

FINDINGS OF FACT

1. That Manitowoc County Courthouse Employees Local 986A, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization and has its offices at Manitowoc, Wisconsin.

2. That Manitowoc County, hereinafter referred to as the County, has its offices at Manitowoc, Wisconsin and operates various departments wherein, among others, individuals occupying the positions of Data Entry Clerk-Key Punch Operator (Computer Operator), Records Clerk and Secretary II are employed.

3. That at all times material herein the Union has, on the basis of an election conducted by the Commission and the following decision,

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1/ Michael Wilson filed both petitions in the instant case on behalf of Manitowoc County Courthouse Employees Local 986A. The record is clear that Wilson also represents the Manitowoc County Sheriff's Department Employees, and it is on their behalf, presumably, that Wilson requests the accretion.

Manitowoc County (8152-A) 3/78, been the exclusive representative for the purpose of collective bargaining of the following unit of employes, hereinafter referred to as the Courthouse unit:

All employes engaged in the operations of the various departments of Manitowoc County as follows: county nurse clericals, clerk of court, register of deeds, veterans service, treasurer, tax listing, University of Wisconsin Manitowoc County Center custodians, county clerk, courthouse custodians, district attorney, county courts and University Extension Office, sheriff's department clerk, non-professional employes of the Mental Health Center, veterans service office, emergency government office, family court commissioner office, and comptroller's office, but excluding supervisors, department heads, elected and appointed officials.

4. That at all times pertinent hereto, the Union has also been the exclusive representative for the purpose of collective bargaining of the following unit of employes:

The employes of the County Sheriff Department excluding the position of Sheriff, Chief Deputy and temporary employes.

5. That the Computer Operator position in Manitowoc County when first created was referred to as the Key Punch Operator; that at the time of the position's creation the County and the Union could not agree as to whether the Key Punch Operator's position should be included in the instant Courthouse bargaining unit; that the Union, in an attempt to resolve the recognition dispute on July 5, 1977, filed a petition with the Commission for Clarification of Bargaining Unit, which in material part sought a determination as to whether the position of Key Punch Operator should be appropriately included in the Courthouse bargaining unit; that hearing on the petition was held on August 12, 1977 at Manitowoc, Wisconsin; that the Commission in Manitowoc County (8152-A) 3/78, ruled that the Key Punch Operator was appropriately included in the Courthouse bargaining unit; that at all times subsequent to said decision the County has refused to recognize the Union as the bargaining agent for said position, and has refused to bargain the wages, hours and working conditions for said position with the Union; that on September 20, 1978 the Union filed a second Petition for Clarification of Bargaining Unit as to whether the position of Computer Operator should be appropriately included in the Courthouse bargaining unit.

6. That the change from the Key Punch Operator position to the Computer Operator position occurred sometime within the past year; that the changes in said position's duties since the previous Commission decision in the matter, irrespective of a change in job title, amount to the following: operation of a more sophisticated computer (System 34 computer); more involvement in the actual running of various County programs utilizing data processing including A.D.C., Child Support and Payroll and running of two trial programs on the amount and value of holidays, vacation and sick leave used by the Highway Department employes and Health Care Center employes in 1977; that sometime in the future the Computer Operator will run various programs to obtain raw data for the County to assist it in labor negotiations.

7. That the Union, on October 11, 1978, petitioned the Commission to accrete two Records Clerk positions and one Secretary II position to the Sheriff's Department bargaining unit; and that all three positions are presently in the Courthouse bargaining unit and have been in the latter bargaining unit from its inception.

8. That Kim Hastreiter and Colleen Brunner are employed by the County as Records Clerks; that Mary Wu is employed by the County as a

Secretary II; that the above three employees work in the office of the Sheriff, in a building separate from the Courthouse and are under the supervision of the Sheriff; that said positions are basically clerical positions, including the usual range of duties, from typing to records preparation, and filing; that Kim Hastreiter helps to serve warrants on women and transport them to jails; that Hastreiter also accompanies women prisoners to the Courthouse and various hospitals with, and under the supervision of, a deputy sheriff; that Hastreiter has participated in several police raids and performed work as a matron; that Colleen Brunner and Mary Wu perform basically clerical work with some minor and/or occasional law enforcement work and that all three employees are deputized with the power to arrest.

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

#### CONCLUSIONS OF LAW

1. That since the Computer Operator does not perform duties which are confidential in nature the occupant of said position is a "municipal employee" within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act, and, therefore, the individual occupying said position is appropriately included in the Courthouse collective bargaining unit.

2. That the individuals occupying the two Records Clerk positions and one Secretary II position, are law enforcement employees within the meaning of the Municipal Employment Relations Act and are therefore properly included in the aforementioned Sheriff's Department collective bargaining unit.

Based upon the above Findings of Fact and Conclusions of Law, the Commission issues the following

#### ORDER CLARIFYING BARGAINING UNITS

1. That the position of Computer Operator shall remain within the bargaining unit described in Finding of Fact 3, above.

2. That the two positions of Records Clerk, occupied by Kim Hastreiter and Colleen Brunner, and the position of Secretary II, occupied by Mary Wu, are hereby accreted to the bargaining unit described in Finding of Fact 4, above.

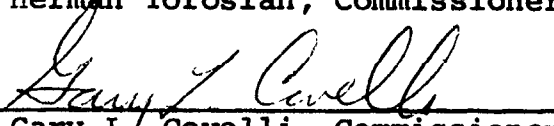
Given under our hands and seal at the  
City of Madison, Wisconsin this 7<sup>th</sup>  
day of June, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

  
Gary L. Covelli, Commissioner

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

In its petition filed on September 20, 1978 the Union contends that the County has refused to consider the Computer Operator position in the Comptroller's office as being included in the Courthouse bargaining unit. The County maintains that the position's duties now are such to exclude it from the bargaining unit as confidential.

The Commission is satisfied that the duties performed by the Computer Operator are not sufficiently confidential in nature to exclude the individual occupying said position from the Courthouse bargaining unit. Although the Computer Operator now has greater responsibility for running various County programs and supplies raw data to the County for use in labor negotiations concerning the wages and fringe benefits for certain of its employees, there is no indication in the record that the Computer Operator is privy to labor negotiations strategy or decisions by the County regarding same. Such information is also available to the Union.

Access to the information and records concerning employees as to pay levels, health and life insurance benefits, unemployment compensation, leave, retirement and personnel files and providing of same to the County, in itself, does not exclude said individual as a confidential employee. In order for an employee to be considered in a confidential relationship with management, and thereby excluded from the unit, the Commission has held that such employee must be privy to decisions of the employer with respect to personnel and labor relations policies. 2/

The County also argues the Computer Operator, sometime in the future, will be involved to a greater extent in doing comparative studies regarding employee wages and benefits. However, this proposed role for the Computer Operator is too speculative at this time to warrant its exclusion from the Courthouse bargaining unit as confidential. 3/

In the second petition filed on October 11, 1978 the Union asked that three deputized clericals in the Sheriff's Department presently in the Courthouse bargaining unit be accreted to the Sheriff's Department bargaining unit.

The Commission is convinced that said employees are law enforcement personnel and should be included in the law enforcement bargaining unit since all three employees have the power of arrest and work in the Sheriff's Department under the same supervision in a building separate from the courthouse. While it is true, as the County argues, that all municipal employees, except law enforcement and fire fighting personnel, presently are covered by the mediation/arbitration provisions of Section 111.70(4)(cm) of the Wisconsin Statutes, the law, unless renewed by the legislature, will expire after October 31, 1981. Law enforcement personnel, including employees in the Sheriff's Department bargaining unit in the instant case, will continue to have the right to proceed to final and binding arbitration of bargaining impasses under Section 111.77 of the Municipal Employment Relations Act bearing some unforeseen consequence. Thus, the legislature's mandate that representatives of law enforcement personnel, who have the power to make arrests, as well as municipal employers, who reach an impasse in bargaining over wages, hours and working conditions of law enforcement personnel, have the

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2/ City of Milwaukee (11971) 7/73. See also Outagamie County (14062) 10/75.

3/ Kenosha County (15371) 3/77.

right to proceed to final and binding arbitration to resolve such disputes is as compelling today as it was when the Commission issued its decision in Pierce County.

Based on all of the above, the Commission finds that it is appropriate to accrete the three aforementioned positions to the Sheriff's Department bargaining unit.

Dated at Madison, Wisconsin this 7<sup>TH</sup> day of June, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney  
Morris Slavney, Chairman

Herman Torosian  
Herman Torosian, Commissioner

Gary L. Covelli  
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