

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

No. 12457

SAWYER COUNTY (SHERIFF'S DEPARTMENT), VIII,
Decision No. 12457

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

During the course of the hearing issues arose concerning the inclusion of four dispatcher-jailer positions in a unit of law enforcement personnel and concerning the eligibility of the Undersheriff for inclusion in the same unit with other employees of the Department.

Dispatcher-Jailer Positions

The County maintains a radio dispatch facility which receives and initiates response to police emergency calls in the City of Hayward and throughout the County and ambulance calls throughout the County. The radio dispatch facility is located in the same building as the County jail, and the radio dispatchers also serve as jailers. Four radio dispatcher-jailers are employed to maintain 24 hour per day coverage of these functions. During a substantial portion of the time, the radio dispatcher-jailers are the only employees on duty in the Sheriff's office and County jail. Each of the radio dispatcher-jailers carries a "special deputy" card, and is authorized to exercise the power of arrest while they are on duty in the Sheriff's office. With the exception of one employee who purchased uniforms at his own expense, the radio dispatcher-jailers wear civilian clothing while on duty. The radio dispatcher-jailers have been assigned to duty at dances and have been called out to assist patrol deputies when other assistance was unavailable, and at such times exercise the power of arrest. However, they do not exercise the power of arrest outside of the Sheriff's office except on specific instructions of the Sheriff or Undersheriff. The daily routine of the radio dispatcher-jailers includes some clerical duties, housekeeping in the jail, and escorting of prisoners from the jail to the County courthouse for appearances and trials.

Section 59.21(5), Wisconsin Statutes, authorizes a Sheriff or his Undersheriff to deputize persons, other than his regular complement of deputies, to do particular acts. The Commission has previously encountered situations wherein deputized jailers, jail cooks, police department clerical employees and sheriff's office clerical employees have sought inclusion in units of law enforcement personnel. 1/ The Commission found in those cases that the existence of the power of arrest, rather than the extent or frequency of its exercise, is the determinative factor on questions of eligibility for inclusion in a unit of law enforcement personnel. The Commission therefore concludes that the radio dispatcher-jailers employed by Sawyer County should be included in a single unit with other law enforcement personnel of the County.

Undersheriff Position

James Poppe has held the position of Undersheriff for approximately two years. Previous to that time he was employed by the City of Hayward as a police officer. Through an agreement between the County and the City of Hayward, the Sawyer County Sheriff's Department took over the provision of police protection in Hayward at or about the time that

1/ Douglas County (10993) 5/72; Jefferson County (11082) 6/72;
City of Hudson (11470) 12/72; Walworth County (11686) 3/73.

Poppe joined the County force. As Undersheriff, Poppe is the officer within the Department highest in rank below the Sheriff. The Undersheriff is vested with the authority of the Sheriff on the occasions when the Sheriff is away from the County or unavailable for duty. However, the evidence indicates that such occasions are irregular in their occurrence and average only about four per month. Only on the occasions when the Sheriff is away does the Undersheriff spend any appreciable proportion of his time working in the offices of the Sheriff's Department.

The County operates a total of six patrol cars, including those used by the Sheriff and the Undersheriff. The remaining patrol cars are personally assigned to four deputy sheriffs who engage in patrol work. Those four deputies are scheduled for regular patrol shifts, but they work independently of one another and with relatively slight supervision. The patrol schedule does not provide the County with 24 hour per day coverage of the patrol function, and the Undersheriff spends the majority of his time on patrol, working a flexible schedule of hours depending on the season and the availability of other patrol deputies. The Undersheriff has no authority with respect to the hiring or discharge of employees, but is authorized to report employee misconduct to the Sheriff and make recommendations to the Sheriff concerning employees. The record indicates that any of the members of the Department have the authority and responsibility to report misconduct of other members of the Department, and that the Sheriff makes an independent review of the situation and determines any action to be taken. The Undersheriff receives a higher salary than is paid to the patrol deputies, and would direct the work of the patrol deputies in the field if both were present at the same incident. However, the Commission concludes that the authority exercised by the Undersheriff is that of a leadman and not of a supervisor. Accordingly, James Poppe is included in the unit and is eligible to vote in the election which we have directed.

Dated at Madison, Wisconsin, this 31st day of January, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Thomas Slavney
Morris Slavney, Chairman

Howard S. Bellman

Howard S. Bellman, Commissioner