

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

MENOMONEE FALLS PROFESSIONAL
POLICEMEN'S ASSOCIATION, LOCAL 47
OF THE WISCONSIN PROFESSIONAL POLICE-
MEN'S ASSOCIATION

Case VII
No. 18472 ME-1123
Decision No. 13159-A

For Clarification of Bargaining Unit
of Certain Employees of

VILLAGE OF MENOMONEE FALLS

Appearances:

Hippenmeyer, Reilly & Arenz, Attorneys at Law, by Mr. William F. Reilly, Esq., and Mr. Donald A. Molter Jr., Esq., on behalf of Menomonee Falls Professional Policemen's Association, Local No. 47 of the Wisconsin Professional Policemen's Association.

Quarles & Brady, Attorneys at Law, by Mr. Laurence E. Gooding, Esq., on behalf of Village of Menomonee Falls.

ORDER CLARIFYING BARGAINING UNIT

Menomonee Falls Professional Policemen's Association, Local 47 of the Wisconsin Professional Policemen's Association, herein Petitioner, having filed an amended petition with the Wisconsin Employment Relations Commission, herein Commission, wherein it requested that the Commission determine whether certain clerk-dispatchers and sergeants employed by the Village of Menomonee Falls, herein the Employer, should be included in an existing collective bargaining unit which consists of all police officers below rank of sergeant; and hearing on said petition having been held on December 17, 1974 at Waukesha, Wisconsin, before Hearing Officer, Amedeo Greco; and both parties thereafter having filed briefs which were received by March 3, 1975; and the Commission having considered the petition, the record, and the arguments of the parties, and being satisfied that the unit requested herein is inappropriate;

NOW, THEREFORE, the Wisconsin Employment Relations Commission makes and issues the following

ORDER

That clerk-dispatchers and sergeants in the employ of the Village of Menomonee Falls should not be included in the existing collective bargaining unit which consists of police officers below the rank of sergeant.

Given under our hands and seal at the
City of Madison, Wisconsin this 4th
day of June, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman

Howard S. Bellman, Commissioner

No. 13159-A

MEMORANDUM ACCOMPANYING ORDER
CLARIFYING BARGAINING UNIT

The Petitioner asserts that the clerk-dispatchers and sergeants in the Employer's police department should be included in a voluntarily recognized collective bargaining unit which currently consists of police officers below the rank of sergeant. The Employer, on the other hand, opposes the requested inclusions on the primary grounds that: (1) the clerk-dispatchers do not have the power of arrest and therefore cannot be included within a bargaining unit consisting entirely of police officers who have such arrest power; and (2) the sergeants are supervisors, and as such, are excluded from the non-supervisory unit.

These two issues will be discussed separately.

The Clerk-Dispatchers

In agreement with the Employer, the Commission finds that the petitioned-for clerk-dispatchers, approximately six in number, do not have the power of arrest and that they primarily perform the type of duties usually found in their classification. It is true, as noted by the Petitioner, that most of these clerk-dispatchers are retired police officers who have served with other police departments and that therefore they are familiar with most aspects of police work. However, the record establishes that such prior police experience is not now a prerequisite of the job. Further, although the clerk-dispatchers perform some duties which are somewhat similar to those performed by bargaining unit personnel, such duties are primarily clerical in nature and are minimal.

In such circumstances, the Commission finds that it would be inappropriate to include employees who do not have the power of arrest in the same collective bargaining unit with other employees who do exercise such power. For, as noted, in Douglas County (Sheriff's Department): 1/

"... in determining law enforcement personnel units, the determinative factor involving whether certain individuals are considered law enforcement personnel is whether said personnel have the 'power of arrest.'"

Accordingly, and in accordance with its well established policy, 2/ the Commission concludes that there is no basis for including clerk-dispatchers in the existing bargaining unit.

The Sergeants.

With respect to sergeants, the record establishes that there was several factors which seem to support the Petitioner's contentions that the approximately eight sergeants are not supervisors, and that they may share some community of interest with rank and file police officers. For example, sergeants spend some of their time performing patrol duties; patrolmen sometimes fill in for sergeants on a temporary basis; sergeants were formerly in the bargaining unit for a number of years prior to 1974; sergeants do not hire or transfer employees; and independent investigations are made in the event that sergeants recommend that a patrolman be disciplined.

1/ (10993) 5/72.

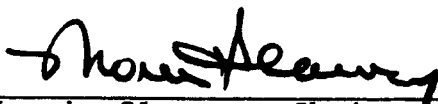
2/ City of Milwaukee (8605) 7/68; Village of Fox Point (9959-A) 2/71; and Sawyer County (Sheriff's Department) (12457) 1/74.

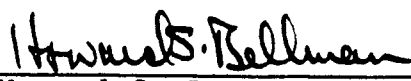
On the other hand, there are a number of significant factors which support the Employer's contrary view that sergeants do perform supervisory functions. The record shows in this respect that sergeants: effectively recommend disciplinary action; have the power to suspend patrolmen for short periods of time; can recommend dismissal of probationary employees, at which time no independent investigation is made regarding said recommendation; file monthly personnel evaluations on probationary employees and file yearly evaluations on regular patrolmen; are expected to exercise command authority over patrolmen; grant time off, overtime, and assign work schedules; frequently fill in for lieutenants, and exercise the same supervisory authority as do lieutenants; attend staff meetings with supervisory personnel, at which time police department personnel policies and procedures are discussed; receive a higher rate of pay than do patrolmen; voluntarily withdrew from the then existing collective bargaining unit near the end of 1973 because they believed they were supervisors and thereafter joined in with other supervisory personnel in bargaining with the Employer.

Weighing the above-mentioned factors, the Commission finds that, on balance, the aforementioned factors establish that sergeants perform a substantial number of supervisory functions and that, therefore, they serve as supervisors in the Employer's police department. Accordingly, the Commission holds that they cannot be included within the present collective bargaining unit which consists of non-supervisory employees. 3/

Dated at Madison, Wisconsin this 4th day of June, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Howard S. Bellman, Commissioner

3/ See City of Janesville (12371-A) 5/74.