

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of

LAW ENFORCEMENT EMPLOYEE RELATIONS  
DIVISION OF WISCONSIN PROFESSIONAL  
POLICE ASSOCIATION

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Case LXXVIII  
No. 26325 ME-1905  
Decision No. 18209-A  
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Involving Certain Employees of

DOUGLAS COUNTY (SHERIFF'S DEPARTMENT)

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In the Matter of the Petition of

DOUGLAS COUNTY

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Case LXXIX  
No. 26908 ME-1918  
Decision No. 18210-A  
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Involving Certain Employees of

DOUGLAS COUNTY (SHERIFF'S DEPARTMENT)

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Appearances:

Mulcahy & Wherry, S.C., Attorneys at Law, by Mr. Michael J. Burke,  
21 1/2 South Barstow, P. O. Box 1030, Eau Claire, Wisconsin  
54702, on behalf of Douglas County.

Mr. Patrick J. Coraggio, Administrator, LEER Division of Wisconsin  
Professional Police Association, 9730 West Bluemound Road,  
Wauwatosa, Wisconsin 53226, on behalf of LEER.

Halverson, Walters, Bye, Down & Maki, Ltd., Attorneys at Law, by  
Mr. Donald Bye, 700 Providence Building, Duluth, Minnesota  
55802, on behalf of General Drivers Local Union No. 346.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DIRECTION OF ELECTION

Law Enforcement Employee Relations Division of Wisconsin Professional Police Association having filed a petition requesting the Wisconsin Employment Relations Commission to conduct a representation election among deputies in the employ of the Douglas County Sheriff's Department; and Douglas County also having filed a petition requesting the Commission to conduct a representation election among deputies, jailers, and ambulance personnel in the employ of its Sheriff's Department; and the Commission having consolidated said petitions for the purposes of hearing, and hearing having been conducted on said petitions on November 6, 1980, at Superior, Wisconsin, by Robert M. McCormick, a member of the Commission's staff, during the course of which General Drivers Local Union No. 346 was permitted to intervene in the matter on the basis that said organization is the current collective bargaining representative of certain of the employees involved; and the Commission, being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That Law Enforcement Employee Relations Division of Wisconsin Professional Police Association, hereinafter referred to as LEER, is a labor organization and has its offices at 9730 West Bluemound Road, Wauwatosa, Wisconsin.

2. That Douglas County, hereinafter referred to as the County, which, among its functions, provides for law enforcement in the County, including the operation of a Sheriff's Department, the jail, as well as an ambulance service, all under the direction and control of the elected Sheriff.

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No. 18210-A

3. That General Drivers Local No. 346, hereinafter referred to as Local 346, is a labor organization and has its offices at 2802 West First Street, Duluth, Minnesota; that Local 346 is the current exclusive bargaining representative of certain personnel employed in the Sheriff's Department in three separate and distinct collective bargaining units, namely (a) deputies, (b) jailers, and (c) ambulance personnel; and that the following classifications of employees are included in said three units:

<u>Deputies</u>	<u>Jail</u>	<u>Ambulance Service</u>
Lieutenant	Chief Jailer	Attendants
Sergeant	Jail Attendant	
Juvenile Officer	Jail Clerk	
Swing Sergeant		
Detective Sergeant		
Deputy		

4. That since 1970 the County and Local 346 have been parties to separate collective bargaining agreements covering the employees employed in the aforesaid bargaining units, and that the last of such agreements were all effective from January 1, 1980 through December 31, 1980; that said agreements provided that they could be reopened by either party for negotiations on successor agreements "at least sixty (60) days prior to December 31st, 1980"; that the petition filed by LEER herein was filed with the Commission on September 23, 1980; and that the petition filed by the County was filed with the Commission on September 24, 1980.

5. That, in addition to the employees employed in the three aforementioned collective bargaining units, employees performing clerical duties, as well as matron and cook duties, are also employed in the Sheriff's Department.

6. That the employees in the "Jail" unit work in the jail facility located in the City-County Building at Superior, Wisconsin, that said employees are primarily subject to the direction and control of the Sheriff, they wear uniforms and sleeve emblems similar to those worn by the deputies, and they also wear badges; that although the jailers have never been formally sworn in by the Sheriff, they possess the powers of arrest, and exercise such powers within the jail complex and the City-County Building; that three of the jailers function interchangeably as deputies when the outside deputy force is undermanned; that in said regard the latter personnel have acquired 240 hours training time required in order to be certified as deputies by the Wisconsin Training and Standards Board of the Wisconsin Department of Justice; and that the clerical employees and cooks do not possess the power of arrest.

7. That the deputies in the "Deputy" unit possess the powers of arrest and exercise same in the performance of their duties; that the deputies seldom perform duties in the jail, they report directly to the Undersheriff and are under the primary supervision of the Sheriff; and that the deputies are required to obtain certification from the Wisconsin Training and Standards Board.

8. That the County employs matrons, who are paid and are on call, except for the Chief Matron, a full-time position, which at the time of the hearing herein was occupied by the wife of the Sheriff; that such on call matrons regularly work as much as two or three days a week on previously assigned shifts in guarding female prisoners who are in custody; that female prisoners occupy the jail approximately 80% of the time; and that the matrons, when attending female prisoners have arrest powers and perform functions similar to those performed by the jailers.

That upon the basis of the above and foregoing Findings of Fact, the Commission makes and issues the following

### CONCLUSIONS OF LAW

1. That the establishment of a single collective bargaining unit consisting of law enforcement personnel having the powers of arrest in the employ of Douglas County is consistent with the anti-fragmentation policy expressed in Sec. 111.70(4)(d)2.a. of the Municipal Employment Relations Act, and that, therefore all law enforcement personnel having the powers of arrest in the employ of Douglas County, including employees classified as deputies, lieutenants, juvenile officer, sergeants, jailers, chief jailer, jail aides and on-call matrons, but excluding the Sheriff, Undersheriff, Chief Matron (when occupied by the wife of the Sheriff), ambulance personnel, cooks, secretaries, managerial, supervisory, confidential and all other employees, constitute an appropriate collective bargaining unit within the meaning of Sec. 111.70(4)(d)2.a. of the Municipal Employment Relations Act.

2. That a question of representation, within the meaning of Sec. 111.70(4)(d) of the Municipal Employment Relations Act, presently exists among the employees of Douglas County included in the appropriate collective bargaining unit set forth immediately above.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

### DIRECTION OF ELECTION

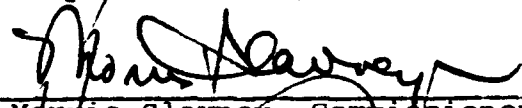
IT IS HEREBY DIRECTED that an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission, within thirty (30) days from the date hereof, in the appropriate collective bargaining unit consisting of all law enforcement personnel having the powers of arrest in the employ of Douglas County, including employees classified as deputies, lieutenants, juvenile officer, sergeants, jailers, chief jailer, jail aides, and on-call matrons, excluding the Sheriff, Undersheriff, Chief Matron (when occupied by the wife of the Sheriff), ambulance personnel, cooks, secretaries, managerial, supervisory, confidential and all other employees, who were employed by Douglas County on September 11, 1981, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees voting desire to be represented by Law Enforcement Relations Division of Wisconsin Professional Police Association, or by General Drivers Union Local No. 346, or by neither of said labor organizations, for the purpose of collective bargaining on wages, hours and conditions of employment.

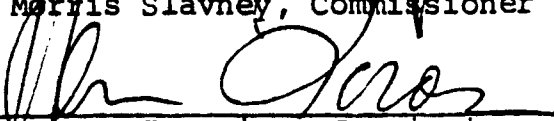
Given under our hands and seal at the  
City of Madison, Wisconsin this 11th  
day of September, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Gary L. Covelli, Chairman

  
Morris Slavney, Commissioner

  
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING  
FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND DIRECTION OF ELECTION

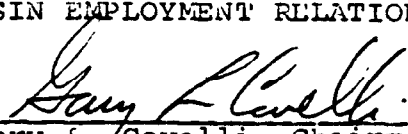
For the past number of years Local 346 has represented, in three separate units, law enforcement personnel in the employ of the Sheriff's Department of the County. Both LEER and the County timely 1/ filed petitions seeking elections among such personnel. LEER requests an election in a unit limited to deputies having the powers of arrest. The County contends that the appropriate unit consists of all employees presently represented by Local 346. The latter organization seeks to continue to represent all the employees it presently represents. During the hearing the County amended its petition to exclude the ambulance personnel from the unit it claims to be appropriate since the latter personnel do not possess the power of arrest. The County would also exclude the matrons, thus seeking to include only the "deputies" and jail personnel other than matrons. LEER does not object to the unit claimed appropriate by the County. Local 346 contends that the separate units of deputies and jailers should remain intact, or in the alternative, that an election should only be held in a unit involving the deputies, claiming that jail employees are not law enforcement personnel, and that in the event the Commission should decline to so determine, then the matrons should be included in the law enforcement unit.

As indicated in the Findings of Fact, personnel other than deputies possess the power of arrest, namely certain jail personnel, as well as the matrons. The Commission has long held that County employees having the power of arrest constitute law enforcement personnel. 2/ Therefore all Sheriff Department employees having such responsibility and power are properly included in a single collective bargaining unit. The record establishes that the "on-call" matrons have significant regularity of employment so as to be included in the unit of law enforcement personnel. Since the Chief Matron's position is occupied by the wife of the Sheriff, the inclusion of said individual in the bargaining unit would have the tendency to create a possible conflict of interest between the chosen bargaining representative and the principal managerial and supervisory officer of the Department. We have therefore excluded the position of Chief Matron from the unit as long as it is occupied by the wife of the Sheriff.

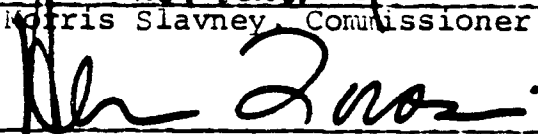
Dated at Madison, Wisconsin this 11th day of September, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Gary L. Covelli, Chairman

  
Morris Slavney, Commissioner

  
Herman Torosian, Commissioner

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1/ None of the parties raised an issue as to the timely filing of the petitions.

2/ Waukesha County (14534-A) 11/76.