

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

```

-----
In the Matter of the Petition of          :
                                             :
GENERAL DRIVERS, DAIRY EMPLOYEES &       :           Case CXIX
HELPERS UNION LOCAL NO. 579              :           No. 26999 ME-1932
affiliated with the INTERNATIONAL        :           Decision No. 18568
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,  :
WAREHOUSEMEN & HELPERS OF AMERICA      :
                                           :
Involving Certain Employes of            :
                                           :
ROCK COUNTY                               :
                                           :
-----

```

Appearances:

Goldberg, Previant, Uelmen, Gratz, Miller, Levy & Brueggeman, S.C.,
 Law Offices, 788 North Jefferson Street, P.O. Box 92099,
 Milwaukee, Wisconsin 53202, by Ms. Marianne Goldstein Robbins,
 appearing on behalf of the Petitioner.

Mr. Victor Moyer, Corporation Counsel, Rock County, Rock County
 Courthouse, 51 South Main Street, Janesville, Wisconsin 53545,
 appearing on behalf of the Municipal Employer.

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

General Drivers, Dairy Employees & Helpers Union Local No. 579 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America having petitioned the Commission on November 3, 1980 requesting that an election be conducted to determine whether Special Investigators employed by Rock County desired to be represented by said Union for the purposes of collective bargaining; and hearing in the matter having been conducted on March 5, 1981, in Janesville, Wisconsin, before Examiner Dennis P. McGilligan; and the Commission, having considered the evidence and the arguments of the parties and being fully advised in the premises, issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. That General Drivers, Dairy Employees & Helpers Union, Local No. 579 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, hereinafter referred to as the Union, is a labor organization and has its offices at Janesville, Wisconsin.
2. That Rock County, hereinafter referred to as the County, is a municipal employer, having its main offices at the Rock County Courthouse, Janesville, Wisconsin.
3. That the instant proceeding was initiated by a petition filed by the Union, seeking an election among Special Investigators, employed in the office of the District Attorney of the County, to determine whether said employees desired to be represented by the Union for the purpose of collective bargaining on wages, hours and conditions of employment; that the Union, contrary to the County, contends that said Special Investigators constitute a separate appropriate collective bargaining unit; and that the County argues that said Special Investigators should be included in a single bargaining unit with non-supervisory law enforcement personnel in the employ of the Sheriff's Department of the County.
4. That there is presently pending before the Wisconsin Employment Relations Commission, hereinafter referred to as the Commission, an election proceeding involving the non-supervisory law enforcement personnel in the employ of the Sheriff's Department of the County, as

a result of a stipulation executed and filed with the Commission by the County and the Rock County Deputy Sheriff's Association, hereinafter referred to as the Association, as a result of the claim that the Association represents a majority of said non-supervisory law enforcement personnel.

5. That the Special Investigators perform investigatory functions on behalf of the District Attorney, under the latter's supervision, including matters relating to family maintenance and child support, welfare frauds, and other criminal matters; that, in the performance of their duties, the Special Investigators may draft legal documents, such as summons, orders to show cause, warrants, affidavits and petitions; that they interview witnesses in preparation for legal proceedings; that the functions performed by them, in many instances, are related to, and in support of, the duties performed by law enforcement personnel assigned to the Sheriff's Department; that the Special Investigators are clothed with general police powers, including the power to make arrests, as well as the right to carry arms; that applicants for the position of Special Investigator must have completed the Standard Police Academy course and be eligible for certification as a police officer in the State of Wisconsin; and that because of their duties and responsibilities the Special Investigators have a substantial community of interest with the non-supervisory law enforcement personnel employed in the Sheriff's Department of the County.

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

CONCLUSIONS OF LAW

1. That Special Investigators in the employ of Rock County in the office of its District Attorney are law enforcement personnel within the meaning of Sec. 165.85, Wis. Stats.

2. That the establishment of a collective bargaining unit consisting of only said Special Investigators would constitute an undue fragmentation of bargaining units consisting of non-supervisory law enforcement personnel in the employ of Rock County, within the meaning of Sec. 111.70(4)(d)2.a. of the Municipal Employment Relations Act, and that therefore said Special Investigators appropriately are included in a single collective bargaining unit with the non-supervisory law enforcement personnel in the employ of the Sheriff's Department of Rock County.

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

ORDER

1. That the petition filed herein be, and the same hereby is, dismissed on the basis that the unit sought by General Drivers, Dairy Employees & Helpers Union Local No. 579 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America is deemed to be an inappropriate unit.

Given under our hands and seal at the
City of Madison, Wisconsin this 5th

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

The only issue involved in this proceeding is whether Special Investigators in the employ of the Office of District Attorney of the County constitute a single appropriate unit for the purposes of collective bargaining. Both Teamsters and the County agree that the occupants of such positions are "law enforcement" personnel. There is also presently pending before the Commission, as a result of stipulations filed by the County and the Rock County Deputy Sheriff's Association, a request that the Commission conduct a representation election among non-supervisory law enforcement personnel in the employ of the Sheriff's Department, as well as among supervisory law enforcement personnel employed in said department.

If the Commission were to conclude that the Special Investigators constitute an appropriate unit, there would exist two separate units of non-supervisory law enforcement personnel employed by the County. Neither the fact that the Special Investigators are employed in the District Attorney's office, rather than in the Sheriff's Department, and thus are generally under the supervision of the District Attorney, nor the fact that their duties may be dissimilar to those normally performed by personnel in the Sheriff's Department, constitute a basis for the establishment of a separate unit consisting of only Special Investigators, especially when the Municipal Employment Relations Act admonishes the fragmentation of bargaining units. Therefore the Commission has determined that the unit sought herein by the Teamsters is inappropriate, and it has dismissed the petition.

Teamsters has indicated that, should the unit it seeks be inappropriate, it desires to be placed on the ballot in the election involving the non-supervisory law enforcement in the employ of the County. Therefore, in that proceeding, the Commission will grant such request.

Dated at Madison, Wisconsin this 5th day of May, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Gary L. Covelli
Gary L. Covelli, Commissioner