

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
WISCONSIN PROFESSIONAL POLICE :
ASSOCIATION/LEER DIVISION :
Involving Certain Employees of : Case I
TOWN OF GRAND CHUTE : No. 29811 ME-2108
(POLICE DEPARTMENT) : Decision No. 19870

Appearances:

Mr. Roger W. Clark, Herrling, Clark, Hartzheim and
Siddall, Ltd., Attorneys at Law, 301 N. Lynndale Drive, Appleton, WI
54911 appearing on behalf of the Town of Grand Chute.
Mr. Patrick J. Coraggio, LEER Administrator, 9730 West Bluemound Road,
Wauwatosa, WI 53226, appearing on behalf of the Petitioner.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

Wisconsin Professional Police Association, Law Enforcement Employee Relations Division having, on May 26, 1982, filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election among law enforcement personnel in the employ of Town of Grand Chute to determine whether said employees desire to be represented by said Association for the purposes of collective bargaining; and hearing in the matter having been conducted on June 28, 1982 at Grand Chute, Wisconsin, before Raleigh Jones, a member of the Commission's staff; and post hearing briefs having been received by August 3, 1982; and the Commission having considered the evidence and arguments of the parties and being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That Wisconsin Professional Police Association, Law Enforcement Employee Relations Division, hereinafter referred to as WPPA, is a labor organization and has its offices at 9730 West Bluemound Road, Wauwatosa, Wisconsin 53226.

2. That the Town of Grand Chute, hereinafter referred to as the Town, is a municipal employer and has its offices at the Grand Chute Municipal Building, Grand Chute, Wisconsin 54911; and, that among its governmental functions the Town maintains and operates a Police Department, wherein, in addition to the Police Administrator, two full-time police officers, eleven part-time police officers, and a police clerk are employed.

3. That, in the petition initiating the instant proceeding, WPPA seeks an election to determine whether the employees in the following alleged appropriate unit desire to be represented for the purposes of collective bargaining:

All employees with the power of arrest of the Grand Chute Police Department, excluding managerial, executive, confidential and supervisory employees.

4. That the parties stipulated that the position of Police Administrator is a supervisory position, and that the occupant of the position of Police Clerk does not possess the power of arrest.

5. That the Town contends, contrary to WPPA, that the part-time officers are casual employees, and thus, do not share a community of interest with the full-time officers, and therefore should not be included in a bargaining unit of full-time officers.

6. That the part-time police officers are listed with the full-time police officers on the work schedule and generally work an average of two eight hour shifts per week; that each part-time officer receives a regular monthly pay check and has an expectation of continuing employment; that the duties and job responsibilities of the part-time officers are identical to those performed by the full-time officers; and that the part-time officers work under the same conditions as the full-time officers in that they have the power of arrest, wear a uniform, carry a badge, receive a clothing allowance, and, participate in the Wisconsin Retirement Fund.

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

CONCLUSIONS OF LAW

1. That all regular full-time and regular part-time law enforcement employees having the power of arrest in the employ of the Police Department of the Town of Grand Chute, excluding executive, managerial, supervisory and confidential employees, constitute an appropriate collective bargaining unit within the meaning of Sec. 111.70(1)(e) and (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 employees of the Town of Grand Chute, in the appropriate collective bargaining unit described 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

That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within forty-five (45) days from the date of this directive in the collective bargaining unit consisting of all regular full-time and regular part-time law enforcement employees with the power of arrest employed in the Police Department of the Town of Grand Chute, excluding managerial, executive, confidential and supervisory employees, who were employed by the Town of Grand Chute on September 1, 1982, 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 said employees voting desire to be represented by the Wisconsin Professional Police Association, Law Enforcement Employee Relations Division, for the purpose of collective bargaining with the Town of Grand Chute, on wages, hours and conditions of employment.

Given under our hands and seal at the City of
Madison, Wisconsin this 1st day of September, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Gary L. Covelli /s/
Gary L. Covelli, Chairman

Morris Slavney /s/
Morris Slavney, Commissioner

Herman Torosian /s/
Herman Torosian, Commissioner

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

By its petition filed on May 26, 1982, the Wisconsin Professional Police Association, LEER Division, seeks an election in a unit of law enforcement personnel employed by the Town. The parties agreed to the inclusion of the two full-time police officers in the bargaining unit and to the exclusion of the Police Administrator and the Police Clerk, however, were unable to agree as to whether eleven part-time officers should be included in the bargaining unit. The Town, contrary to the WPPA, maintains that said positions should be excluded from the bargaining unit on the claim that the part-time officers are casual employees and thus do not share a community of interest with the full-time personnel.

The organizational structure of the Police Department consists of the police administrator, two full-time officers and eleven part-time officers and a police clerk. One of the full-time officers, Sergeant Schwerin, is responsible for the compilation of a weekly work schedule for all officers. This work schedule includes the hours of work for the police administrator, the two full-time officers, and the eleven part-time officers.

The Town does attempt to distribute the available hours in each week among the part-time officers on a regular and equal basis. Although many of the part-time officers do not have either a set number of hours or a set shift which they work on a weekly basis, each part-time officer on average works approximately two eight hour shifts per week. The part-time officers receive monthly paychecks, and, have an expectation of continuing employment. It is clear that the part-time officers are not merely "on-call" employees. The part-time officers work under the same conditions as the full-time officers in that they have the power of arrest, carry weapons, wear a uniform, receive a clothing allowance, and perform the same duties as the full-time officers. The part-time officers, like the full-time officers, participate in the Wisconsin Retirement Fund.

Based on the nature of the work performed and the regularity of scheduling of employees involved herein, the Commission concludes that such employees are regular part-time employees, and that the part-time officers do possess a sufficient community of interest with full-time employees to be included in the same collective bargaining unit. 1/

Dated at Madison, Wisconsin this 1st day of September, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Gary L. Covelli /s/
Gary L. Covelli, Chairman

Morris Slavney /s/
Morris Slavney, Commissioner

Herman Torosian /s/
Herman Torosian, Commissioner

1/ Tomah Area School District, 8209-D 5/78; City of Medford (Police Department)
16846 2/79.