

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
WISCONSIN PROFESSIONAL POLICE :
ASSOCIATION/LAW ENFORCEMENT :
EMPLOYEE RELATIONS DIVISION :
Involving Certain Employes of :
VERNON COUNTY :
(SHERIFF'S DEPARTMENT) :

Case LXIV
No. 31984 ME-2254
Decision No. 21082

Appearances:

Mr. Dennis A. Pedersen, LEER Representative, Route 1, Box 288, Tomah, Wisconsin 54660, appearing on behalf of the Wisconsin Professional Police Association, LEER Division.
Mr. Daniel Pfeifer, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, Route 1, Sparta, Wisconsin 54656, appearing on behalf of Vernon County Sheriff's Department Local 2918, AFSCME, AFL-CIO.
Mr. Jerome J. Klos, Steele, Klos & Flynn, Attorneys at Law, 800 Lynn Tower Building, P.O. Box 487, LaCrosse, Wisconsin 54601, appearing on behalf of Vernon County (Sheriff's Department).

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

Wisconsin Professional Police Association, Law Enforcement Employee Relations Division, having on July 21, 1983, filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election, pursuant to Sec. 111.70(4)(d) of the Municipal Employment Relations Act, in a claimed appropriate bargaining unit consisting of all regular full-time and regular part-time employes of the Vernon County Sheriff's Department, to determine whether said employes desired to be represented for the purpose of collective bargaining by said Association; and a hearing having been held on August 26, 1983, in Viroqua, Wisconsin, before Examiner Mary Jo Schiavoni; and at the outset of the hearing Vernon County Sheriff's Department Local 2918, AFSCME, AFL-CIO, having been permitted to intervene in the matter on the basis of the fact that it is the recognized bargaining representative of certain employes of Vernon County Sheriff's Department, and the Commission, having considered the entire record, and being fully advised in the premises herein, hereby issues the following

FINDINGS OF FACT

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

2. That Vernon County, hereinafter referred to as the County is a municipal employer having its offices at the Vernon County Courthouse, Viroqua, Wisconsin 54665; and that among its governmental functions, the County maintains and operates a Sheriff's Department, wherein individuals occupying the following classifications are employed:

<u>Classification</u>	<u>No. in Classification</u>
Sheriff	1
Undersheriff	1
Cook	1
Deputy Sheriff	13

3. That Vernon County Sheriff's Department Local 2918, AFSCME, AFL-CIO, hereinafter referred to as AFSCME, is a labor organization and has an office at Route 1, Sparta, Wisconsin 54656; and that AFSCME and the County are parties to a collective bargaining agreement, in effect from January 1, 1983 through December 31, 1983, covering wages, hours and conditions of employment for all regular law enforcement personnel employed by Vernon County excluding the Sheriff, Undersheriff, confidential employees and all other employees.

4. That the only issue in dispute is the appropriateness of the collective bargaining unit and whether certain employees should be included in the unit.

5. That in the instant proceeding WPPA seeks a representation election among law enforcement personnel in the employ of the Sheriff's Department in the following alleged appropriate collective bargaining unit:

All regular full-time and regular part-time law enforcement employees who possess the power of arrest employed by Vernon County, excluding supervisory, confidential and managerial employees.

6. That the County concurs with the WPPA's position as to the appropriate unit, but that AFSCME questions whether those Deputy Sheriffs who perform radio operator, jailor, and/or bookkeeping duties possess the power of arrest and are properly included in the unit.

7. That AFSCME stipulates to the inclusion in the unit of employees who serve as road deputies, or road deputy-investigators, namely, Gene Carry, Jody Crume, Bobbie Dixon, Bruce Hennen, Donald Jefson, Thomas Johnson and Mark Rahr; and further, that all of these employees have the power of arrest.

8. That Richard Baltzer, Erret Cox, Donald Henry, and Roger Jones are employed full-time as radio operator-jailors; that they have the power to arrest and serve on an on-call basis as road deputies; that Betty Billyard is employed as a radio operator-jailor-bookkeeper on a full-time basis, and that she also has the power to arrest; that Thomas Johnson who has the power to arrest, also works two or three days a week as a radio operator-jailor in addition to the time he spends on other police work such as investigations, service of process and traffic operation; and that Baltzer, Cox, Henry, Jones and Billyard appropriately are included in a bargaining unit of employees with the power of arrest.

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 who possess the power of arrest employed by the Sheriff's Department of Vernon County excluding supervisory, confidential, and managerial employees, constitutes an appropriate collective bargaining unit within the meaning of Sec. 111.70(4)(d) of the Municipal Employment Relations Act.

2. That the occupants of the positions of radio operator-jailor and radio operator-jailor-bookkeeper possess the power of arrest and are appropriately included within the bargaining unit set forth in Conclusion of Law 1.

3. That a question of representation, within the meaning of Sec. 111.70(4)(d) of the Municipal Employment Relations Act has arisen among the municipal employees in the collective bargaining unit set forth in Conclusion of Law 1.

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

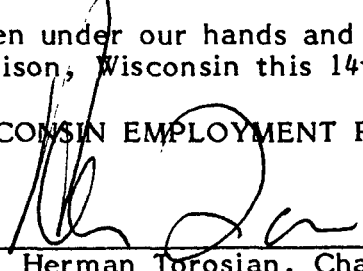
That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within forty-five (45) days from the date of this directive in the collective bargaining unit consisting of all regular full-time and regular part-time law enforcement employees who possess the power of arrest employed by the Sheriff's Department of Vernon County, excluding

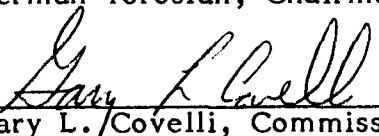
supervisory, confidential and managerial employees, who were employed by Vernon County on October 14, 1983, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of said employees desire to be represented by the Wisconsin Professional Police Association, Law Enforcement Employee Relations Division (LEER) or by Vernon County Sheriff's Department Local 2918, AFSCME, AFL-CIO, or by neither of said organizations, for the purpose of collective bargaining with Vernon County on wages, hours and conditions of employment.


Given under our hands and seal at the City of
Madison, Wisconsin this 14th day of October, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Gary L. Covelli, Commissioner


Marshall L. Gratz, Commissioner

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

The parties at hearing on August 26, 1983, stipulated to the status of the County as a municipal employer, to their respective status as labor organizations, to the timeliness of the petition in the instant proceeding, and to the existence of a question concerning representation.

The only issue upon which the parties could not agree was the inclusion of several classifications in an appropriate collective bargaining unit. WPPA in this proceeding requests the Commission to conduct an election among regular full-time and regular part-time law enforcement personnel who possess the power of arrest employed in the Vernon County Sheriff's Department. The County concurs in this unit description. AFSCME, which represents the department employees currently (the last collective bargaining agreement between it and the County extending from January 1, 1983, through December 31, 1983), while not disagreeing with the unit description per se, does, however, question whether or not certain employees employed by the Department possess the power of arrest and are properly included within the requested unit. AFSCME questions whether individuals occupying the positions of radio operator-jailors and radio operator-jailor-bookkeeper possess the power of arrest.

The Sheriff, Jeffrey Banta, testified regarding the duties and responsibilities of the employees in the various classifications. He stated that all thirteen employees in the deputy sheriff classification had the power to arrest.

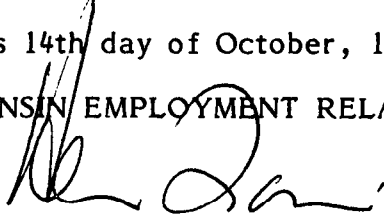
With the exception of employee Billyard, the record reveals that all of the radio operator-jailors have exercised their power of arrest in the past. Sheriff Banta was unsure whether Billyard had exercised the power of arrest in the past, but he stated that she did have the authority to arrest and was responsible for guarding and transporting female prisoners as well as serving as a radio operator-bookkeeper.

The Commission, in determining the appropriateness of a unit consisting of law enforcement personnel, will include therein only otherwise eligible law enforcement personnel who have the power of arrest. 1/ As the record establishes that all of the radio operator-jailors, including Billyard, possess that power, they are properly included in the unit herein.

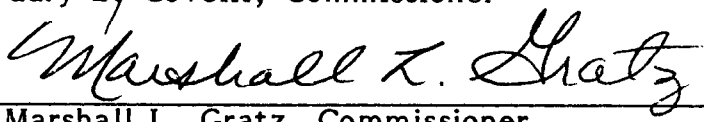
Dated at Madison, Wisconsin this 14th day of October, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Gary L. Covelli, Commissioner


Marshall L. Gratz, Commissioner

1/ Marquette County (12625) 4/74; Door County (Sheriff's Department) (20020)
10/82.