



## County of El Dorado, Department of Human Resources

*Tameka Usher, Director of Human Resources*

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November 24, 2020

To: Michael Eggener, Operating Engineers Local Union No. 3, Senior Business Representative  
Michael DeAnda, Operating Engineers Local Union No. 3, Business Representative

From: Tameka Usher, Director of Human Resources

Subject: MMBA Representation Petition

### **Background**

On September 10, 2020, I received a Meyers-Milias-Brown Act (MMBA) Representation Petition and supporting documents on behalf of Joshua Courtney, a County employee who is named in the petition. The petition requests to decertify Local 1 from representing a total of fifty-two (52) employees allocated to four (4) classifications as noted below, and to certify the creation of a new bargaining unit titled "Public Safety Support Unit", which would be represented by the Operating Engineers Local Union No. 3 (OELU3). The classifications at issue are:

- Sheriff's Security Officer
- Sheriff Technician (I/II)
- Sheriff's Property Evidence Technician
- Department Systems Analyst

Below are specific communications and dates related to the review of your request:

- September 22, 2020, I received the amended MMBA Representation Petition.
- October 7, 2020, the Public Employment Relations Board issued a Notice of Withdrawal and Closure of Case, because the County's Employer-Employee Relations Resolution (EERR) covers this severance petition, in which OELU3 is seeking to modify the General Employees and Professional Employees classifications represented by Local 1.
- October 12, 2020, I sent a memo clarifying that some information was missing that is required by the EERR, specifically Article II, Section 2.01 (a-J) - Filing of Recognition of Petition by Employee Organization.
  - The requested certified copies of the Employee Organization's constitution and bylaws have since been received.



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- October 20, 2020, I had a telephone conversation with Michael Eggener that addressed some gaps in OELU3's petition, specifically a statement addressing the EERR, Article II, Section 2.07 - (a-J) - Policy and Standards for Determination of Appropriate Bargaining Units.
  - October 22, 2020, I received an email that contained a letter of clarification per the phone conversation on October 20, 2020. With the understanding that OELU3 has provided the final clarification related to their obligation as noted in the EERR, the petition was formally complete. Therefore, my analysis of this request is based on the various documents submitted by OELU3 and EERR, Article II, Section 2.07 - (a-J) - Policy and Standards for Determination of Appropriate Bargaining Units.

### Analysis

To determine the appropriateness of the requested decertification and appropriateness of the proposed bargaining unit, I analyzed them pursuant to the criteria set forth in EERR section 2.07; the portions of section 2.07 that are applicable to the analysis are noted below.

*1) The efficient operations of the County and its compatibility with the primary responsibility of the County and its employees to effectively and economically serve the public, and*

- The creation of a small bargaining unit containing four (4) classifications and approximately fifty-two (52) employees would decrease efficiency for the County, given that these classes are currently represented by other, larger bargaining units that would still exist after the separation. This would create an additional bargaining table that would most certainly result in additional General Fund costs (representation costs, additional employee time within Human Resources to both support bargaining and manage ongoing labor relations issues, etc.). The request also fragments the Sheriff's Technician classification series (I, II, and Sr.) into two different bargaining units that will be represented by two different groups. This is because the authorization for representation only has signatures of employees from the Sheriff's Technician I and II classifications and the MMBA Representation Petition does not reference the Sr. Sheriff's Technician. A similar fragmentation could occur with the Sheriff's Property Evidence Technician series, because the Sr. Sheriff's Property Evidence Technician is also not included in the petition. However, there are no current allocations for the Sr. Sheriff's Property Evidence Technician classification.

*(2) Providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest.*

*In considering whether classifications share an identifiable community of interest, the following factors shall be considered:*



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- a. *Similarity of the work performed, required qualifications, level of responsibility, and the general working conditions.*

Sheriff's Technician (I/II)- These classifications are specific to the Sheriff's Office. These classifications perform a variety of routine duties of a clerical and technical administrative and programmatic technical nature. Some of these are certainly specific to the Sheriff's Office, including inmate booking and monitoring the jail's entrance and exit. However, these classifications also perform administrative duties that are performed County-wide, such as processing legal documents (e.g., report processing, warrants, etc.); functioning as a receptionist; handling FMLA, injury and illness, workers' compensation, and fleet; and performing a variety of general clerical duties. This general administrative work and legal process work is consistent with other County classifications currently represented by Local 1.

- Furthermore, even though the Sheriff's Technician classification is unique to the Sheriff's Office, it is functionally similar to the administrative technician classification aside from the subject of the work. The administrative technician classification is defined as follows: "Under general direction, performs a variety of responsible paraprofessional, technical, administrative, and secretarial support duties requiring the application of procedural, program, and compliance knowledge in support of a department, division, or program; assumes ongoing, technical responsibilities specific to area of assignment; coordinates assigned programs, projects, and services with other departments, divisions, and outside agencies; performs research and routine analysis on a wide variety of special projects; and performs related work as required."
- Department Systems Analyst- This classification is not used exclusively in the Sheriff's Office; the classification is also used in the District Attorney's Office and the Health and Human Services Agency. This classification performs a variety of professional, technical, and analytical duties in the operation of large complex, stand-alone department-specific computer system(s); analyzes department systems including applications, operating systems, hardware, networking with outside systems/agencies, and system programming requirements. There are significant similarities with the duties and responsibilities performed by other information technology classifications, such as Information Technology Analyst, Information Technology Specialist, Information Technology Department Coordinator, and Information Technology Customer Support Specialist assigned to the Department of Information Technologies or other County Departments, which all have a history of being represented by Local 1. Duties common to these classifications include installing and maintaining computer systems, servers, and software; help desk functions (provides second- or third-level technical assistance); assessing, investigating, troubleshooting, evaluating, and resolving difficult computer



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hardware, software, and peripheral equipment problems; providing training to end users on the use of hardware and software; and analyzing customer and enterprise infrastructure network and/or information security systems requirements.

Sheriff's Property Evidence Technician- This classification is specific to the Sheriff's Office. The classification performs a variety of clerical and technical tasks related to the receipt, storage, and disposal of property and evidence in the Sheriff's Office. However, the same functional responsibilities in terms of evidence management are also assigned to the District Attorney's Office, albeit a different classification (Investigative Assistant). The investigative assistant classification is assigned to the GE bargaining unit that is represented by Local 1.

Sheriff's Security Officer- This classification is specific to the Sheriff's Office. This classification enforces security at County courthouse buildings. Despite being a unique classification to the Sheriff's Office, the current bargaining unit (Local 1) represents a variety of unique classifications encumbered by a small group of employees County-wide or specific to the Sheriff's Office. These include classifications such as Sheriff's Training Coordinator, Sheriff's Fiscal Assistant, Telecommunications Technician, Traffic Operations Technician, etc.

*b. History of representation in the County; except that no bargaining unit shall be deemed appropriate solely on the basis of the extent to which employees in the proposed bargaining unit have organized.*

- Local 1 has represented all four (4) classifications included in the MMBA Representation for Petition since their creation.

*c. Consistency with the organizational patterns and structure of the County.*

- Details regarding the organization patterns and structure are discussed below in section E.

*d. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of bargaining units.*

- Department Systems Analyst- The petition indicates five (5) employees. However, there are a total of seven (7) employees County-wide within this classification, two (2) of which are not assigned to the Sheriff's Office.
  - o In addition, the petition does not include the Sr. Department Systems Analyst classification. (There are no current allocations for this classification.)
- Sheriff's Technician (I/II)- The petition indicates thirty-three (33) employees. However, the County's position allocation document indicates there are eleven (11) assigned to



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the Sheriff Technician I and twenty-three (23) assigned to the Sheriff Technician II, comprising thirty-four (34) total positions. Although not specifically listed, it is my assumption that the representation of thirty-three (33) employees refers to the aggregate of the Sheriff's Technician I and Sheriff's Technician II classifications.

- o There is also a Sr. Sheriff's Technician classification (not included in the petition) which currently has five (5) employees.
- Sheriff's Property Evidence Technician- There are currently four (4) employees that hold this classification, all within the Sheriff's Office. However, the petition does not include the Sr. Sheriff's Property Evidence Technician classification. (There are no current allocations for this classification.)
- Sheriff's Security Officer- There are currently ten (10) employees that hold this classification.

*e. Effect on the classification structure and impact on the stability of the employer employee relationship of dividing single or related classifications among two (2) or more bargaining units.*

- Three (3) of the classifications requested will have a direct effect on the classification structure and employer-employee relations. As stated, the Department Systems Analyst is a County-wide classification used in multiple departments. The OELU3 petition only addresses the positions allocated to the Sheriff's Office. In addition, the duties and responsibilities have a direct community of interest with other classifications already represented by Local 1. Lastly, the request will fragment the Department Systems Analyst classification series by having the Department Systems Analyst represented by the proposed new bargaining unit, but having the Sr. Department Systems Analyst continue to be represented by Local 1.
- The Sheriff's Technician (I/II) are classifications specific to the Sheriff's Office, but many of the general administrative and legal functions are also performed by County-wide classifications that are used in various departments, which creates a direct community of interest. In addition, this request will fragment the Sheriff's Technician classification series. As requested, the Sheriff's Technician I/II will be represented by the proposed new bargaining unit, but the Sr. Sheriff's Technician will continue to be represented by Local 1.
- The Sheriff's Property Evidence Technician is a classification specific to the Sheriff's Office, but nearly identical duties and responsibilities are also performed by a different classification that would still be represented by Local 1. In addition, this request will fragment the Sheriff's Property Evidence Technician classification series. As requested, the Sheriff's Property Evidence Technician will be represented by the proposed new



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bargaining unit, but the Sr. Property Evidence Technician will continue to be represented by Local 1.

- Transferring the Sheriff's Security Officer would not have an effect on our classification structure. However, given the issues with changing the representation for the Department Systems Analyst, Sheriff's Technician I/II, and Sheriff's Property Evidence Technician, only changing the representation of the Sheriff's Security Officer from Local 1 to OELU3 via the Public Safety Support Unit would result in an additional bargaining unit consisting of just one (1) classification and ten (10) employees.

*f. Supervisory employees should not be placed in a bargaining unit with non-supervisory employees.*

- Not applicable, given the scope of petition.

*g. Management employees should not be placed in a bargaining unit with non-management employees.*

- Not applicable, given the scope of petition.

*h. Confidential employees should not be placed in a bargaining unit with non-confidential employees.*

- Not applicable, given the scope of petition.

*i. Professional employees shall not be required to be included in the same bargaining unit with non-professional employees.*

- Not applicable, given the scope of petition.

*j. Peace officers shall not be required to be included in the same bargaining unit as non-peace officers.*

- Not applicable, given the scope of petition.

### **Findings of Fact**

Given the analysis herein, the following is determined:

- The creation of a small bargaining unit containing four (4) classifications and approximately fifty-two (52) employees would decrease efficiency for the County, given that a larger bargaining unit, which currently represents these classifications, would still exist after the separation. Communities of interest exist between the Department Systems Analyst, Sheriff's Technician (I/II), and Sheriff's Property Evidence Technician classifications and other classifications currently represented by Local 1.
- The creation of the proposed bargaining unit would split the representation of the Department Systems Analyst classification series between Local 1 and OELU3.



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- The petition will create a fragmentation of the Department Systems Analyst, Sheriff's Technician (I/II), and Sheriff's Property Evidence Technician classification series.
  - Changing the representation of the Sheriff's Security Officer classification would not have an effect on our classification structure. However, given the issues with changing the representation for the other requested classifications, changing the representation of just the Sheriff's Security Officer classification would result in an additional bargaining unit consisting of just one (1) classification and ten (10) employees.
  - Since their creation, Local 1 has represented all four (4) classifications.

### **Recommendation**

Based on the criteria set forth in the EERR section 2.07 and the findings of fact, the OELU3's petition for representation does not support the creation of a Public Safety Support Unit with representation for the Sheriff's Security Officer, Sheriff's Technician (I/II), Sheriff's Property Evidence Technician, and Department Systems Analyst. Given such, the request is tentatively denied.

Consistent with section 2.02 of the EERR, you have thirty (30) working days from the date of this memo to request an opportunity to meet and consult on this matter.