

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 24.1  
(ID # 19207)**

**MEETING DATE:**  
Tuesday, June 28, 2022

**FROM :** HUMAN RESOURCES:

**SUBJECT:** HUMAN RESOURCES: Riverside Sheriff's Association Unit Modification Petition, All Districts. [Total Cost \$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Formally approve and set June 28, 2022 and July 12, 2022 as hearing dates for the RSA Petition.

**ACTION: Set for Hearing**



Brenda Diederichs, Assistant CEO / Human Resources Director 6/6/2022

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Hewitt, seconded by Supervisor Perez and duly carried, IT WAS ORDERED to direct staff to return with findings to move the Welfare fraud investigators classification series into the Law Enforcement Bargaining Unit (RSA).

Roll Call:

Ayes: Jeffries, Spiegel, Perez and Hewitt

Nays: None

Absent: Washington

and

On motion of Supervisor Hewitt, seconded by Supervisor Spiegel and duly carried, IT WAS ORDERED to direct staff to return with findings to move the Supervising Welfare fraud investigators classification series into the Law Enforcement Bargaining Unit (RSA).

Roll Call:

Ayes: Jeffries, Spiegel, Perez and Hewitt

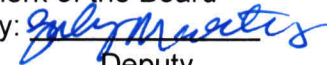
Nays: None

Absent: Washington

Date: June 28, 2022

Xc: HR

Kecia R. Harper  
Clerk of the Board

By:   
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$0	\$0	\$0	\$0
<b>NET COUNTY COST</b>	\$0	\$0	\$0	\$0
<b>SOURCE OF FUNDS: N/A</b>			<b>Budget Adjustment: No</b>	
			<b>For Fiscal Year: 21/22</b>	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The Riverside Sheriff's Association (RSA) filed a petition to move the Welfare Fraud Investigator classification series into the Law Enforcement Bargaining Unit, which consists of Deputy Sheriff's and Investigators. Both the Laborers' International Union of North America, Local 777 (LIUNA) and Service Employees International Union, Local 721 (SEIU) have filed challenges to RSA's petition. There are 18 incumbents in the Welfare Fraud Investigator classification currently represented by LIUNA and there are 4 incumbents in the Supervising Welfare Fraud Investigator classification currently represented by SEIU. Per the Employee Relations Resolution (ERR), the matter would be presented before the Board of Supervisors to decide which is the appropriate unit for the Welfare Fraud Investigator job classification series to be in.

The process is governed by Section 10(7) of the ERR. The Human Resources Director submits the petition request along with the petition challenges to the board and the Board conducts a hearing. The ERR does not specify how the hearing is to be held, but it is recommended that the hearing be held similar to an administrative hearing with opening statements, witnesses (if any), and closing arguments. At the conclusion of the hearing the Human Resources Director submits a recommendation to the Board and the Board renders a determination.

The ERR section 7 sets forth the following criteria to be considered for establishing an appropriate employee representation unit:

1. Community of interest among the employees;
2. The history of employee relations in a unit and among other employees of the County;
3. The effect of the unit on efficient operations of County Service and sound employee relations.
4. Dividing any classification among two or more units is to be avoided whenever possible;
5. The existence of common skills and duties, comparable working conditions, or similar educational requirements.
6. Each unit should be the largest feasible group of employees having an identifiable common or related interest without reference to geographical locations or the same supervisors.

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

7. No unit shall be established primarily on the basis of the extent to which employees in the proposed unit have organized.

Based on a legal evaluation of the matter, the County has discretion on how it wants to decide the Petitions. The Courts and the Public Employment Relations Board (PERB) may review, upon a challenge of the Board's decision, whether the employer's interpretation of its rules are reasonable and consistent with the Meyers-Milias-Brown Act (MMBA). RSA, SEIU and LIUNA may decide to challenge the County's determination through an outside forum, such as by filing an unfair practice charge with PERB and claiming the County's decision was unreasonable or inconsistent with the ERR or MMBA.

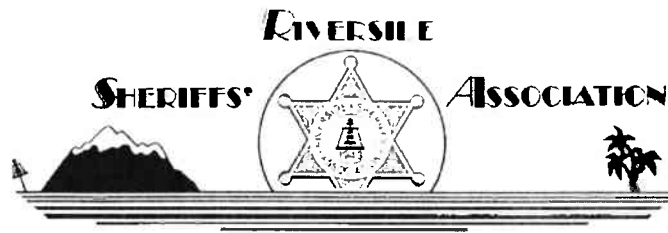
**Impact on Residents and Businesses**

Approval of this recommendation will have no direct impact to residents or businesses.

**Attachments:**

1. RSA Petition
2. LIUNA Petition Challenge
3. SEIU Petition Challenge
4. Makeup of Current Units and RSA Request
5. Employee Relations Resolution Section 10

  
Dave Rogers, Chief Administrative Officer      6/14/2022



August 9, 2021

Brenda Diederichs, Human Resources Director

County of Riverside, Human Resource Services

**RE: Petition Filed By RSA For Unit Modification re LIUNA**

Dear Ms. Diederichs:

The instant correspondence constitutes a petition filed by the Riverside Sheriffs' Association ("RSA") (pursuant to the County of Riverside's Employee Relations Resolution ("ERR") at section 10) for modification of the bargaining unit represented by LIUNA to remove the welfare fraud investigators ("investigators") from said unit and move those investigators into a bargaining unit represented by RSA.<sup>1</sup>

Pursuant to the ERR at section 9.c, RSA has been recognized by the County of Riverside as the exclusive representative of its bargaining units, and as such, by definition, RSA's represented members comprise 30% or more of the employees in the bargaining units represented by RSA.

The petition is timely, as it was filed between July 1 and September 1.

As part of the instant petition, please find attached hereto Attachment "A" which includes: a) full printed name of employee, b) signature, and c) date signed. Attachment A was signed by all the investigators. Although not required, all signatures on Attachment A were obtained within the 30 days prior to the date that the instant petition was/is submitted.

Proof in the form of signed cards that the investigators wish to be represented by RSA in this matter is set forth in Attachment "B" enclosed herewith and incorporated into the instant petition in its entirety.

Sincerely,

William Young, RSA President

Cc: RSA Board

Attachments (2)

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<sup>1</sup> Ideally, the investigators would be placed into the Law Enforcement Unit ("LEU") because of the appropriate community of interest.

**VERIFICATION**

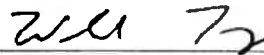
STATE OF CALIFORNIA

COUNTY OF ORANGE

I am the President of RSA. I have read the foregoing "**Petition Filed By RSA For Unit Modification**" and Attachments "A" and "B" and know their contents. I am informed and believe that the matters in them are true and on that ground allege that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

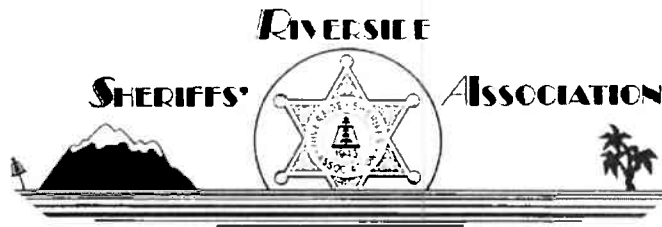
Executed on August 9, 2021, at Riverside, California.



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William Young, RSA President





August 9, 2021

Brenda Diederichs, Human Resources Director

County of Riverside, Human Resource Services

**RE: Petition Filed By RSA For Unit Modification re SEIU**

Dear Ms. Diederichs:

The instant correspondence constitutes a petition filed by the Riverside Sheriffs' Association ("RSA") (pursuant to the County of Riverside's Employee Relations Resolution ("ERR") at section 10) for modification of the bargaining unit represented by SEIU to remove the supervising welfare fraud investigators ("supervising investigators") from said unit and move those investigators into a bargaining unit represented by RSA.<sup>1</sup>

Pursuant to the ERR at section 9.c, RSA has been recognized by the County of Riverside as the exclusive representative of its bargaining units, and as such, by definition, RSA's represented members comprise 30% or more of the employees in the bargaining units represented by RSA.

The petition is timely, as it was filed between July 1 and September 1.

As part of the instant petition, please find attached hereto Attachment "A" which includes: a) full printed name of employee, b) signature, and c) date signed. Attachment A was signed by all the supervising investigators. Although not required, all signatures on Attachment "A" were obtained within the 30 days prior to the date that the instant petition was/is submitted.

Proof in the form of signed cards that the supervising investigators wish to be represented by RSA in this matter is set forth in Attachment "B" enclosed herewith and incorporated into the instant petition in its entirety.

Sincerely,

  
William Young, RSA President

Cc: RSA Board

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<sup>1</sup> Ideally, the investigators would be placed into the Law Enforcement Unit ("LEU") because of the appropriate community of interest.



**VERIFICATION**

STATE OF CALIFORNIA

COUNTY OF ORANGE

I am the President of RSA. I have read the foregoing "**Petition Filed By RSA For Unit Modification**" and Attachments "A" and "B" and know their contents. I am informed and believe that the matters in them are true and on that ground allege that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 9, 2021, at Riverside, California.



---

William Young, RSA President





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October 15, 2021

**Via Email and U.S. Mail**

Clorissa Cacho  
Principal Human Resources Analyst  
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Riverside, CA 92501  
[ccacho@rivco.org](mailto:ccacho@rivco.org)

Re: RSA's Unit Modification/Severance Petition—Welfare Fraud  
Investigations

Dear Ms. Cacho:

This firm represents Laborers' International Union of North America Local 777 ("Local 777" or "Union") in the above-referenced matter. Please accept this letter as the Union's response and opposition to the Riverside Sheriff's Association's ("RSA") petition to sever an established Local 777-represented bargaining unit of the County of Riverside's Welfare Fraud Investigators ("WFI"). Specifically, RSA recommends the County place WFIs into the RSA-represented Law Enforcement Unit ("LEU") "because of the appropriate community of interest." RSA Petition, p. 1, n. 1.

However, contrary to RSA's conclusory claim, the factors the County relies on to determine the appropriate employee representation unit, including the community of interest among employees, weighs in favor of maintaining the status quo and keeping

Local 777 as the exclusive representative of the WFIs. For these reasons and those that follow, the County should reject RSA's petition.

**I. RELEVANT FACTS.**

**A. The County's ERR.**

Section 3507(a) of the Meyers-Milias-Brown Act ("MMBA") authorizes public agencies to adopt rules for the administration of employer-employee relations, including the determination of "an appropriate unit." MMBA § 3507(a)(4). Accordingly, the County has adopted an Employment Relations Resolution ("ERR") that governs employee representation matters.

Section 7 of the ERR lists several factors the County must consider in determining an appropriate employee representation unit. Meanwhile, section 8(a) of the ERR lists twelve existing County bargaining units: Supervisory; Professional; Law Enforcement; Inspection and Technical; Trades, Crafts, and Labor; Supporting Services; Prosecution; Registered Nurses; Para-Professional; Public Safety; Law Enforcement Management; and Deputy Public Defenders.

**B. WFIs and Local 777-Represented Classification in the County's Supervisory Unit.**

Local 777 has been the exclusive representative of County employees in several of these bargaining units, including those in the Inspection and Technical Unit, for a long period of time. Indeed, Local 777 organized WFIs in 1997 and has served as their exclusive representative since that time. Notably, throughout the duration of Local 777's representation of the WFIs, Local 777 and the County has successfully negotiated numerous memoranda of understanding covering the terms and conditions of employment for these WFIs.

As the County is aware, WFIs work in the Investigative Branch of the Department of Public Social Services. They are responsible for conducting investigations of suspected violations of public assistance laws, rules, and regulations, and other departmental matters. WFIs work closely with Supervisory Welfare Fraud Investigators. And some incumbents in the WFI classification must possess an Intermediate Peace Officer Standards and Training (P.O.S.T.) certificate (WFI-B) or an Advance P.O.S.T. certificate (WFI-A), while others are only required to possess Basic P.O.S.T. certification at the date of hire or obtain one within one year of the date of hire.

Relatedly, Local 777 represents several other County employees in the Inspection and Technical Unit that, like WFIs, who perform investigative work for the County—e.g., Code Enforcement Officers, Senior Code Enforcement Officers, Public Defender Investigators, Sheriff's Corrections Assistants, Animal Control and Licensing Officers,

and Investigative Technicians.<sup>1</sup> And, like WFIs, some Local 777-represented classifications in the Inspection and Technical Unit are also required to hold a P.O.S.T. certificate or training, e.g., Code Enforcement Officers, Senior Code Enforcement Officers, Animal Control and Licensing Officers II, and Investigative Technicians.

Importantly, WFIs ultimately report to the Assistant Director of Public Social Services. Equally important, unlike RSA-represented LEU members, WFIs are miscellaneous members of the California Public Employees' Retirement System ("CalPERS") and, are not considered public safety members of CalPERS.

### **C. RSA's Petition.**

On or about August 9, 2021, RSA submitted a petition to the County, requesting "for a modification of the bargaining unit represented by LIUNA to remove the welfare fraud investigators ("investigators") from said unit and move those investigators into a bargaining unit represented by RSA." RSA Petition, p. 1. Besides presenting signatures showing support for severance, RSA's petition provides the County absolutely no analysis of how the community of interest factors, or the County's remaining section 7 factors, support severance or unit modification. *See id.*

## **II. ARGUMENT.**

First, as an initial matter, the County's ERR does not contain a section on severing an established bargaining unit and moving it into a different bargaining unit, represented by another employee organization. However, section 10 of the ERR details the process required for the modification of bargaining units. Notably, Section 7 of the ERR provides in full:

In the determination of appropriate employee representation units, the following factors, among others, are to be considered:

1. Community of interest among the employees.
2. The history of employee relations in a unit and among other employees of the County.
3. The effect of the unit on efficient operations of County Service and sound employee relations.
4. Dividing any classification among two or more units is to be avoided wherever possible.
5. The existence of common skills and duties, comparable working conditions or similar educational requirements.

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<sup>1</sup> Service Employees International Union, Local 721 ("Local 721) also represents employees, some in the Supervisory Unit, that perform investigative work for the County, e.g., Supervising Welfare Fraud Investigators, Supervising Code Enforcement Officers, Supervising Investigative Technicians, and Senior Tax Enforcement Investigators.

6. Each unit should be the largest feasible group of employees having an identifiable common or related interest without reference to geographical locations or the same supervisors.
7. No unit shall be established primarily on the basis of the extent to which employees in the proposed unit have organized.

Second, in determining a unit modification, severance petition or the appropriate bargaining unit for a group of employees, “[a] local government employer does not need to determine ‘the ultimate unit or the most appropriate unit. The act requires only that the unit be ‘appropriate.’” *City of Glendale* (2007) PERB Order No. Ad-361-M, pp. 4-5. The Public Employment Relations Board (“PERB”) has rejected a strict “most” appropriate unit standard. *Id.* at 5.

However, crucially, a severance petitioner has the burden of proving its proposed unit is an appropriate unit. *City of Lodi* (2010) PERB Decision No. 2142-M, adopting proposed decision at p. 10. And to meet its burden, a severance petitioner must show that the proposed unit has a community of interest *separate and distinct* from other employees in the existing bargaining unit. *See City of Glendale* (2021) PERB Decision No. 2773-M, p. 27. If the existing bargaining unit was certified by PERB, the severance petitioner must also show that the proposed unit is “more appropriate” than the existing unit. *See id.*, at 27, n. 14.

Though recommending the County place WFIs into the RSA-represented LEU or another RSA-represented unit “because of the appropriate community of interest,” RSA fails to address how the ERR’s section 7 factors, including the community of interest considerations, cut in favor of severance. As we demonstrate below, RSA simply cannot carry its burden as the severance petitioner.

**A. As a Whole, the Traditional Community of Interest Factors Cuts in Favor of Denying the Petition.**

Like the MMBA, the County’s ERR does not define “community of interest.” Nonetheless, PERB determines whether a community of interest exists among employees by considering: “job function and duties, wages, method of compensation, hours, employment benefits, shared supervision, qualifications, training and skills, and contact and interchange with other employees.” *County of Riverside* (2010) PERB Decision 2119-M, p. 13. Community of interest is assessed by the totality of circumstances, and “is not determined by going down a checklist of . . . factors.” *Monterey Peninsula Community College District* (1978) PERB Dec. No. 76. Critically, PERB has held employees’ desires are irrelevant in determining an appropriate unit. *Los Angeles Unified School District* (1998) PERB Dec. No. 1267.

Here, RSA cannot show that there is a substantial community of interest between any RSA-represented bargaining unit on the one hand, and WFIs on the other, that the

latter (1) must be included in an RSA-represented unit or (2) inclusion in an RSA-represented unit is more appropriate than keeping WFIs in the established Local 777-represented unit.

**1. Job Function and Duties.**

RSA has simply neglected to provide a compelling argument, much less any argument, supporting a claim that the duties and skills of WFIs are so unique that they have a clear, separate, and distinct community of interest with RSA-represented units such that severance here is appropriate. In any event, such a claim on RSA's part would ring hollow. Presently, Local 777 represents several other employee classifications in the Inspection and Technical Unit, that like WFIs, perform investigative work for the County, e.g., Code Enforcement Officers, Senior Code Enforcement Officers, Public Defender Investigators, Sheriff's Corrections Assistants, Animal Control and Licensing Officers, and Investigative Technicians. Thus, there is nothing distinct about a WFI's job functions and duties that would make their inclusion in an RSA-represented unit more appropriate than their continued inclusion in an established Local 777-represented bargaining unit.

**2. Wages, Method of Compensation, Hours, and Employment Benefits.**

Like the RSA-represented classifications, including those in the LEU, the wages, method of compensation, and hours of employment for Local 777-represented classifications in the Inspection and Technical Unit are varied and, therefore, these cannot be determinative factors in establishing a community of interest.

However, LEU members are generally considered public safety members of CalPERS and, thereby, receive the accompanying benefits and privileges associated with that categorization. WFIs, on the other hand, are considered miscellaneous CalPERS participants.

**3. Shared Supervision and Contact and Interchange with Other Employees.**

RSA can provide no evidence of any meaningful interchange between the RSA-represented employees and WFIs. An examination of the County's chain of command shows that WFIs are a part of the DPSS and, ultimately, report to the Assistant Director of Public Social Services and not someone in the Sheriff's Department. Put simply, these factors do not weigh in favor of RSA's severance/modification.

**4. Qualifications, Training, and Skills.**

Like other Local 777-represented County employees in the Inspection and Technical Unit, e.g., Code Enforcement Officers, Senior Code Enforcement Officers, Public Defender Investigators, Sheriff's Corrections Assistants, Animal Control and



Licensing Officers, and Investigative Technicians, WFIs are trained to carry out investigations regarding violations of County ordinances and/or state laws and regulations.

What's more, it is of no bearing that WFIs, like employees in several RSA-represented classifications, are required to obtain a P.O.S.T. certificate. RSA does not represent every classification at the County that is required to obtain a P.O.S.T. certification. For instance, several Local 721-represented classifications at the County in the Supervisory Unit, e.g., Senior Dispatchers and Supervising Investigative Technicians, are likewise required to obtain a P.O.S.T. certification. Critically, Local 777 also represents other classifications in the Inspection Unit other WFIs that are required to possess P.O.S.T. certification or training, e.g., Code Enforcement Officers, Senior Code Enforcement Officers, Animal Control and Licensing Officers II, and Investigative Technicians.

In short, RSA cannot provide any discernable evidence or argument showing a *separate* and *distinct* community of interest shared between WFIs and any RSA-represented units or classifications. Instead, the RSA severance petition conflicts with the well-settled, multi-factor community of interest test for determining the appropriateness of a petition-for bargaining unit/unit modification.

**B. The Remaining Section 7 Factors of the Employment Relations Resolution Support Denying the Severance Petition.**

**1. The History of Employee Relations in a Unit and Among Other Employees of the County.**

Covering a period of approximately 25 years, the County and Local 777 have, for the most part, maintained a positive history of employer-employee relations regarding the County's WFIs. This is evidenced by the parties entering numerous, successive memoranda of understanding covering WFIs during this time. But even assuming for the sake of argument that Local 777's exclusive representation of WFIs has not been flawless, RSA submits no evidence, or can they, that the history of employee relations between Local 777 and the County is unstable, or that Local 777 has inadequately represented the interests of the WFIs. Thus, that Local 777 can undoubtedly address the interests of these WFIs cuts against severance, especially given the fact that there is already a stable and productive quarter-century-long relationship between the County and Local 777 in negotiating terms and conditions of employment for WFIs.

**2. The Effect of the Unit on Efficient Operations of County Service and Sound Employee Relations.**

PERB has acknowledged that severing classifications from an established unit can destabilize negotiating relationships. *Los Rios Community College District* (2018) PERB Decision No. 2587, pp. 4-6. For this reason, PERB has held that maintaining continuity



generally weighs against severance, absent proof that collective negotiations are incapable of addressing the needs of a discrete minority within an existing unit. *See id.*

RSA can provide no such proof. And here, severing the WFIs from Local 777's representation would surely require additional time for the County to meet bargaining requirements. Moreover, this severance could result in friction from similar employees/County investigators placed in different, already established units and, thus, could invite undue unit proliferation and/or further, unnecessary severance or modification petitions by other unions. In other words, a grant of RSA's petition would undoubtedly, negatively impact the County's operations.

**3. Common Skills and Duties, Comparable Working Conditions or Similar Educational Requirements.**

As detailed above, RSA cannot explain how the following community of interest factors support the County granting the petition: job function and duties; shared supervision; qualifications, training, and skills; and contact and interchange with other employees. Instead, these factors as a whole weigh in favor of the County rejecting the petition. Local 777 represents several other employee classifications in the Inspection and Technical Unit that also perform investigative work for the County. And pursuant to the County's chain of command, WFIs are part of the DPSS and, ultimately, report to the Assistant Director of Public Social Services and not anyone in the Sheriff's Office. Moreover, several other Local 777-represented County classifications in the Inspection and Technical Unit, like WFIs, are required to obtain P.O.S.T. certification or training.

Thus, though RSA may allege that WFIs clearly and distinctly share common skills and duties, comparable working conditions, or similar educational requirements with other RSA-represented units, such claims are simply without merit.

**4. Largest Feasible Group of Employees Having an Identifiable Common or Related Interest**

For these very same reasons, keeping the WFIs in the established Local 777-represented bargaining unit remains the most logical course when considering the WFIs identifiable and common or related interest with other classifications and members in the Inspection and Technical Unit. Thus, any claim by RSA that an RSA-represented unit is "more appropriate" for representing the County's WFIs is not well taken.

**5. The Extent to which Employees in the Proposed Unit Have Organized.**

It is well-established employees' desires alone are immaterial in determining an appropriate unit. *Los Angeles Unified School District*, PERB Dec. No. 1267. Consequently, in light of the totality of circumstances and given that a majority of ERR's other section 7 factors weighing in favor of denying the severance petition, the fact that

October 15, 2021

Page 8

most of the WFIs seek to be represented by RSA is insufficient to support modification or severance.

**III. CONCLUSION.**

For the foregoing reasons, Local 777 respectfully requests that the County reject RSA's severance petition.

Very truly yours,

*/s/ Carlos M. Coye*

Carlos M. Coye

CMC/rr

**ROTHNER, SEGALL & GREENSTONE**

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September 24, 2021

**Via Email and U.S. Mail**

Clorissa Cacho  
Principal Human Resources Analyst  
County of Riverside  
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Riverside, CA 92501  
ccacho@rivco.org

Re: RSA's Unit Modification/Severance Petition—Supervising Welfare Fraud Investigations

Dear Ms. Cacho:

This firm represents Service Employees International Union, Local 721 (“Local 721” or “Union”) in the above-captioned matter. Please accept this letter as the Union’s response and opposition to the Riverside Sheriff’s Association’s (“RSA”) petition to sever an established Local 721-represented bargaining unit of the County of Riverside’s Supervising Welfare Fraud Investigators (“SWFI”). Specifically, RSA recommends the County place SWFIs into the RSA-represented Law Enforcement Unit (“LEU”) “because of the appropriate community of interest.” RSA Petition, p. 1, n. 1.

However, contrary to RSA’s conclusory claim, the factors the County relies on to determine the appropriate employee representation unit, including the community of interest among employees, weighs in favor of maintaining the status quo and keeping

Local 721 as the exclusive representative of the SWFIs. For these reasons and those that follow, the County should reject RSA's petition.

**I. RELEVANT FACTS.**

**A. The County's ERR.**

Section 3507(a) of the Meyers-Milias-Brown Act ("MMBA") authorizes public agencies to adopt rules for the administration of employer-employee relations, including the determination of "an appropriate unit." MMBA § 3507(a)(4). Accordingly, the County has adopted an Employment Relations Resolution ("ERR") that governs employee representation matters.

Section 7 of the ERR lists several factors the County must consider in determining an appropriate employee representation unit. Meanwhile, section 8(a) of the ERR lists twelve existing County bargaining units: Supervisory; Professional; Law Enforcement; Inspection and Technical; Trades, Crafts, and Labor; Supporting Services; Prosecution; Registered Nurses; Para-Professional; Public Safety; Law Enforcement Management; and Deputy Public Defenders.

**B. SWFIs and Local 721-Represented Classification in the County's Supervisory Unit.**

Local 721 has been the exclusive representative of County employees in several of these bargaining units, including the Supervisory Unit, for a prolonged period of time. What's more, Local 721 represents several other supervisory employees in the Supervisory Unit that perform investigative work for the County, e.g., Supervising Code Enforcement Officers, Supervising Investigative Technicians, and Senior Tax Enforcement Investigators. And, like SWFIs, some Local 721-represented classifications in the Supervisory Unit are also required to hold a Peace Officer Standards and Training (P.O.S.T.) certificate, e.g., Senior Dispatchers and Supervising Investigative Technicians.

As the County is aware, SWFIs are responsible for supervising the activities of both sworn and non-sworn personnel assigned to investigate suspected fraudulent receipt of aid. They are also responsible for obtaining and presenting facts and evidence in support of administrative action or prosecution. SWFIs are the first line supervisors of the Department of Public of Social Services ("DPSS") Welfare Fraud Investigators, Technicians or Trainees. SWFIs work closely with LIUNA-represented Welfare Fraud Investigators, as well as Local 721-represented Social Service Supervisors. And just like Local 721-represented Social Service Supervisors, SWFIs are a part of the DPSS and, ultimately, report to the Assistant Director of Public Social Services. Unlike RSA-represented LEU members, SWFIs are regular members of the California Public Employees' Retirement System ("CalPERS") and, are not considered public safety members of CalPERS.

Throughout the duration of Local 721's representation of the SWFIs, Local 721 and the County have successfully negotiated numerous memoranda of understanding covering the terms and conditions of employment for these SWFIs. Notably, Local 721 has been the exclusive representative of the County's SWFIs for over two decades.

**C. RSA's Petition.**

On or about August 9, 2021, RSA submitted a petition to the County, requesting "for a modification of the bargaining unit represented by SEIU to remove the supervising welfare fraud investigators ("supervising investigators") from said unit and move those investigators into a bargaining unit represented by RSA." RSA Petition, p. 1. Besides presenting signatures showing support for severance, RSA's petition provides the County absolutely no analysis of how the community of interest factors, or the County's remaining section 7 factors, support severance or unit modification. *See id.*

**II. ARGUMENT.**

First, as an initial matter, the County's ERR does not contain a section on severing an established bargaining unit and moving it into a different bargaining unit, represented by another employee organization. However, section 10 of the ERR details the process required for the modification of bargaining units. Notably, Section 7 of the ERR provides in full:

In the determination of appropriate employee representation units, the following factors, among others, are to be considered:

1. Community of interest among the employees.
2. The history of employee relations in a unit and among other employees of the County.
3. The effect of the unit on efficient operations of County Service and sound employee relations.
4. Dividing any classification among two or more units is to be avoided wherever possible.
5. The existence of common skills and duties, comparable working conditions or similar educational requirements.
6. Each unit should be the largest feasible group of employees having an identifiable common or related interest without reference to geographical locations or the same supervisors.
7. No unit shall be established primarily on the basis of the extent to which employees in the proposed unit have organized.

Second, in determining a unit modification, severance petition or the appropriate bargaining unit for a group of employees, "[a] local government employer does not need to determine 'the ultimate unit or the most appropriate unit. The act requires only that the

unit be ‘appropriate.’” *City of Glendale* (2007) PERB Order No. Ad-361-M, pp. 4-5. The Public Employment Relations Board (“PERB”) has rejected a strict “most” appropriate unit standard. *Id.* at 5. Crucially, a severance petitioner has the burden of proving its proposed unit is an appropriate unit. *City of Lodi* (2010) PERB Decision No. 2142-M, adopting proposed decision at p. 10. Equally important, to meet its burden, a severance petitioner must show that the proposed unit has a community of interest *separate and distinct* from other employees in the existing bargaining unit. *See City of Glendale* (2021) PERB Decision No. 2773-M, p. 27. If the existing bargaining unit was certified by PERB, the severance petitioner must also show that the proposed unit is “more appropriate” than the existing unit. *See id.*, at 27, n. 14.

Though recommending the County place SWFIs into the RSA-represented LEU or another RSA-represented unit “because of the appropriate community of interest,” RSA fails to address how the ERR’s section 7 factors, including the community of interest considerations, cut in favor of severance. As we demonstrate below, RSA simply cannot carry its burden as the severance petitioner.

**A. As a Whole, the Traditional Community of Interest Factors Cuts in Favor of Denying the Petition.**

Like the MMBA, the County’s ERR does not define “community of interest.” Nonetheless, PERB determines whether a community of interest exists among employees by considering: “job function and duties, wages, method of compensation, hours, employment benefits, shared supervision, qualifications, training and skills, and contact and interchange with other employees.” *County of Riverside* (2010) PERB Decision 2119-M, p. 13. Community of interest is assessed by the totality of circumstances, and “is not determined by going down a checklist of . . . factors.” *Monterey Peninsula Community College District* (1978) PERB Dec. No. 76. Critically, PERB has held employees’ desires are irrelevant in determining an appropriate unit. *Los Angeles Unified School District* (1998) PERB Dec. No. 1267.

Here, RSA cannot show that there is a substantial community of interest between any RSA-represented bargaining unit on the one hand, and SWFIs on the other, that the latter (1) must be included in an RSA-represented unit or (2) inclusion in an RSA-represented unit is more appropriate than keeping SWFIs in the established Local 721-represented unit.

**1. Job Function and Duties.**

RSA has simply neglected to provide any argument, much less a compelling one, supporting a claim that the duties and skills of SWFIs are so unique that they have a clear, separate, and distinct community of interest with RSA-represented units such that severance here is appropriate. In any event, any such claim on RSA’s part would ring hollow. Presently, Local 721 represents several other supervisory employees in the Supervisory Unit, who like SWFIs, perform investigative work for the County, e.g., Supervising Code Enforcement Officers, Supervising Investigative Technicians, and

Senior Tax Enforcement Investigators. Thus, there is nothing distinct about an SWFI's job functions and duties that would make their inclusion in an RSA-represented unit more appropriate than their continued inclusion in an established Local 721-represented bargaining unit.

**2. Wages, Method of Compensation, Hours, and Employment Benefits.**

Like the RSA-represented classifications, including those in the LEU, the wages, method of compensation, and hours of employment for Local721-represented classifications in the Supervisory Unit are varied and, therefore, these cannot be determinative factors in establishing a community of interest.

However, LEU members are generally considered public safety members of CalPERS and, thereby, received the accompanying benefits and privileges associated with that categorization. SWFIs, on the other hand, are considered regular CalPERS participants.

**3. Shared Supervision and Contact and Interchange with Other Employees.**

RSA can provide no evidence of any meaningful interchange between the RSA-represented employees and SWFIs. But an examination of the County's chain of command shows that, like several of the County's Local 721-represented supervisors in the Supervisory Unit, e.g., Social Services Supervisors, SWFIs are a part of the DPSS and, ultimately, report to the Assistant Director of Public Social Services. Indeed, SWFIs work alongside and interact with DPSS's Social Services Supervisors. Hence, these factors clearly weigh in favor of Local 721's opposition to severance/modification.

**4. Qualifications, Training, and Skills.**

Like other Local 721-represented County employees in the Supervisory Unit, e.g., Supervising Code Enforcement Officers, Supervising Investigative Technicians, and Senior Tax Enforcement Investigators, SWFIs are trained to carry out skilled investigations regarding violations of County ordinances and/or state laws and regulations. It is of no bearing that SWFIs, like employees in several RSA-represented classifications, are required to obtain a P.O.S.T. certificate. Several Local 721-represented classifications at the County in the Supervisory Unit, e.g., Senior Dispatchers and Supervising Investigative Technicians, are likewise required to obtain a P.O.S.T. certification.

In short, RSA cannot provide any discernable evidence or argument showing a separate and distinct community interest shared between SWFIs and any RSA-represented units or classifications. Instead, the RSA severance petition conflicts with the well-settled, multi-factor community of interest test for determining the appropriateness of a petition-for bargaining unit/unit modification.



**B. The Remaining Section 7 Factors of the Employment Relations Resolution Support Denying the Severance Petition.**

**1. The History of Employee Relations in a Unit and Among Other Employees of the County.**

Covering a period over two decades, the County and Local 721 have, for the most part, maintained a positive history of employer-employee relations regarding the County's SWFIs. This is evidenced by the parties entering numerous, successive memoranda of understanding covering SWFIs. But even assuming for the sake of argument that Local 721's exclusive representation of SWFIs has not been flawless, RSA submits no evidence, or can they, that the history of employee relations between Local 721 and the County is unstable, or that Local 721 has inadequately represented the interests of the SWFIs. Thus, that Local 721 can undoubtedly address the interests of these SWFIs cuts against severance, especially given the fact that there is already a stable and productive historical relationship between the County and Local 721 in negotiating terms and conditions of employment for SWFIs.

**2. The Effect of the Unit on Efficient Operations of County Service and Sound Employee Relations.**

PERB has acknowledged that severing classifications from an established unit can destabilize negotiating relationships. *Los Rios Community College District* (2018) PERB Decision No. 2587, pp. 4-6. For this reason, PERB has held that maintaining continuity generally weighs against severance, absent proof that collective negotiations are incapable of addressing the needs of a discrete minority within an existing unit. *See id.*

RSA can provide no such proof. And here, severing the SWFIs from Local 721's representation would surely require additional time for the County to meet bargaining requirements. Moreover, this severance could result in friction from similar employees/County investigators placed in different, already established units and, thus, could invite undue unit proliferation and/or further, unnecessary severance or modification petitions. In other words, a grant of RSA's petition would undoubtedly, negatively impact the County's operations.

**3. Common Skills and Duties, Comparable Working Conditions or Similar Educational Requirements.**

As explained above, RSA cannot explain how the following community of interest factors support the County granting the petition: job function and duties; shared supervision; qualifications, training, and skills; and contact and interchange with other employees. Instead, these factors as a whole weigh in favor of the County rejecting the petition. Local 721 represents several other supervisory employees in the Supervisory Unit that also perform investigative work for the County. And pursuant to the County's chain of command, SWFIs, like several of the County's Local-721 represented supervisors in the Supervisory Unit, are part of the DPSS and, ultimately, report to the

Assistant Director of Public Social Services. Indeed, SWFIs, like Local 721-represented social service supervisors, work out of DPSS. And SWFIs, similar to other Local 721-represented County employees, some who are required to obtain P.O.S.T. certification, are trained to carry out skilled investigations. Though RSA may allege that SWFIs clearly and distinctly share common skills and duties, comparable working conditions or similar educational requirements with other RSA-represented units, any such claim is without merit.

**4. Largest Feasible Group of Employees Having an Identifiable Common or Related Interest**

For these very same reasons, keeping the SWFIs in the established Local 721-represented bargaining unit remains the most logical course when considering the SWFIs identifiable and common or related interest with other classifications and members in that unit. This is especially apparent given SWFIs, similar to several of the County's Local 721-represented supervisors in the Supervisory Unit, are part of the DPSS and, ultimately, report to the same supervisors. Thus, any claim by RSA that an RSA-represented unit is "more appropriate" for representing the County's SWFIs is not well taken.

**5. The Extent to which Employees in the Proposed Unit Have Organized.**

It is well-established employees' desires alone are immaterial in determining an appropriate unit. *Los Angeles Unified School District*, PERB Dec. No. 1267. Consequently, in light of the totality of circumstances and given that a majority of ERR's other section 7 factors weigh in favor of denying the severance petition, the fact that most of the SWFIs seek to be represented by RSA is insufficient to support modification or severance.

**III. CONCLUSION.**

For the foregoing reasons, Local 721 respectfully requests that the County reject RSA's severance petition.

Very truly yours,

*/s/ Carlos M. Coye*

Carlos M. Coye

CMC/rr

# Current Unit Makeup vs. RSA Unit Mod Request

CURRENT UNIT COMPOSITION		
Inspection & Technical Unit*	Supervisory Unit*	Law Enforcement Unit
ANIMAL C & L OFFICER I	ANIMAL SERVICES SUPERVISOR	CORONER CORPORAL
ANIMAL C & L OFFICER II	COMMUNITY ACTION PROGRAM SUPV	COURT DEPUTY
CODE ENFORCEMENT OFFICER I	COMMUNITY IMPROVEMENT SUPV	D.A. INVESTIGATOR
CODE ENFORCEMENT OFFICER II	COMMUNITY RELATIONS MANAGER	DEP CORONER I
CODE ENFORCEMENT OFFICER II(D)	SHERIFF COMMUNICATIONS SUPV	DEP CORONER II
CODE ENFORCEMENT TECHNICIAN	SR TAX ENFORCEMENT INVESTIGATOR	DEP SHERIFF
COMMUNITY SERVICES OFFICER I	SUPV AG & STANDARDS INVESTIGATOR	DEP SHERIFF TRAINEE
COMMUNITY SERVICES OFFICER II	SUPV CODE ENFORCEMENT OFFICER(D)	SHERIFF CORPORAL
ESTATE INVESTIGATOR	SUPV CODE ENFORCEMENT OFFICER	SHERIFF'S INVESTIGATOR I
INVESTIGATIVE TECH I	SUPV INVESTIGATIVE TECH	SHERIFF'S INVESTIGATOR II
INVESTIGATIVE TECH II	SUPV PUBLIC DEFENDER INVESTIGATOR	SHERIFF'S LEAD INV III
INVESTIGATIVE TECH TRAINEE	SUPV WELFARE FRAUD INVESTIGATOR	SHERIFF'S MASTER INV IV
PARKING/ORD ENFORCEMENT OFFICER		SR D.A. INVESTIGATOR
PUBLIC GUARDIAN INVESTIGATOR		SR D.A. INVESTIGATOR II
SHERIFF'S SERVICE OFFICER I		SR D.A. INVESTIGATOR III
SHERIFF'S SERVICE OFFICER II		
SR CODE ENFORCEMENT OFFICER		
SR CODE ENFORCEMENT OFFICER(D)		
SR INVESTIGATIVE TECHNICIAN		
SR PARKING/ORD ENFORCEMENT OFF		
TAX ENFORCEMENT INVESTIGATOR I		
TAX ENFORCEMENT INVESTIGATOR II		
WELFARE FRAUD INVESTIGATOR		

\* These units have 100+ classifications. Classes identified are only a sample of the unit.

## Section 10. MODIFICATIONS OF UNITS.

1. A registered employee organization may propose the modification of an established unit by filing a request with the Human Resources Director, accompanied by proof that its represented members comprise 15 percent of the employees in the unit. The Human Resources Director may also propose a modification.
2. No such proposal shall be submitted except between July 1 and September 1, for immediate determination.
3. The Human Resources Director shall give notice of the proposed modification in writing to the affected organizations of the unit or units and shall post notice in a place or places to which affected employees will have access.
4. If no challenge as provided below is filed and the Human Resources Director determines that the requested modified unit or units are not appropriate, he shall notify the employee organization which requested the unit of his determination and the reason therefore in writing. The organization may within seven days, modify its request or request the Human Resources Director to arrange a hearing by the Board on its original request.
5. Within 15 days after the notice to employees is posted, any other registered employee organization may challenge the appropriateness of the proposed unit or units and request a different unit or units. The challenge shall be filed with the Human Resources Director and must be accompanied by proof that the represented members of the organization comprise 15 percent of the employees, within any unit proposed by the challenging organization.
6. If a challenge is filed, the Human Resources Director shall notify the organization which submitted the original request for modification of the unit: If an amended request for modification of the unit; If an amended request for modification is not filed within seven days of such notice, the original request for modification and the challenge shall be submitted to the Board as provided below. Upon the filing of an amended request, the original request shall be deemed revoked and the amended request shall be considered on its own merits as if originally filed.
7. If a challenging request has been filed and the challenge has not been resolved by amendment or withdrawal, the Human Resources Director shall submit the request and the challenge to the Board. The Board shall hold a hearing on the request and challenge, at which time the organization which filed the modification request, and the challenging organization shall be heard and the Human Resources Director shall submit his recommendations. The Board shall make final determination on the appropriateness of the representation unit or units.

*COB original*

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
**FORM 11: Action on advisory arbitration opinion in accordance with Section 10 of the County's**  
**Employee Relations Resolution (ERR) to modify County bargaining units. [District- All] [Total**  
**Cost - \$0]**

**DATE: July 21, 2014**

**PAGE: 3 of 4**

9. While Deputy Sheriffs investigate all crimes (ranging from traffic accidents to homicides) and receive training on the entire crime spectrum, SFWI's and WFI's are statutorily limited to investigating claims of welfare fraud.
10. Neither SWFI's nor WFI's investigate homicides, robberies, burglaries or any other crime not related to welfare fraud.
11. WFI's are afforded only limited peace officer status under Cal. Penal Code § 830.35, which further shows that there is no interchangeability of duties with the Sheriff Investigator and Deputy Sheriff positions.
12. Also unlike Deputy Sheriffs, the County has the discretion as to whether to allow Welfare Fraud Investigators to carry firearms.
13. RSA's petitions seek to blend supervisory employees (SWFI's) with subordinate (WFI's) and other non-supervisory employees.
14. It is inappropriate to mix supervisory employees (SWFIs) and their subordinates (WFI's) in the same unit, as they have substantially dissimilar job duties and responsibilities, and therefore have different interests that could complicate the bargaining process.
15. SWFI's and WFI's are employed under the County's Department of Public Social Services (DPSS). It would undermine the efficiency of bargaining to have to consider the budget of another department – DPSS – when negotiating a collective bargaining agreement with the LEU. Currently, the LEU covers only two departments: the District Attorney's Office and the Sheriff's Department.

Denial is appropriate as to the CSO's for the following reasons:

16. There are critical distinctions concerning the powers and duties between the current members of the LEU and the CSO's.
17. Unlike Deputy Sheriffs, CSO's are not armed and have no arrest powers, which is a crucial factual and legal distinction.
18. CSO's are not defined as peace officers by applicable California law (Cal. Penal Code §§ 830, et. seq.)
19. They have no power to arrest, carry a weapon or engage in a pursuit.
20. A CSO I is "basically an office worker."
21. CSO II's "perform the most responsible law enforcement support duties involving a variety of civil and criminal issues that do not require the authority of a sworn law enforcement officer, but have a high factor of responsibility, liability and criticality."

#### The Arbitrator's Recommendation

The parties then agreed to submit the matter to a hearing officer who would make a recommendation to the Board as to whether to grant or deny RSA's petitions. On or about March 2, 2014, Prihar issued his

*Victor Oardo*  
*24.1 6/28/2012*

