



# HUMAN RESOURCES DEPARTMENT

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## **Findings Regarding Petitions for Unit Modification, Decertification and Certification – Deputy Sheriff Association**

The County of Marin presents this report as its findings as to the feasibility of the proposed unit and the authentication of the representative status of the Deputy Sheriff Association.

### **1. INTRODUCTION**

The following representation petitions were filed by the Deputy Sheriff's Association (DSA) with the County of Marin's Human Resources Director:

- 1.) Petition requesting modification of established unit and decertification of the incumbent recognized representative for the listed classifications; and
- 2.) Petition requesting certification of the Deputy Sheriff Association as the recognized employee organization for the proposed newly established unit of non-sworn law enforcement employees.

The representation procedures (certification, decertification and unit modification) for the County of Marin are governed by the Employee Relations Resolution contained in the County of Marin Personnel Management Regulation (PMR) No. 4, Sections 4.4 through 4.7.

In the petition for modification, the DSA proposes that the County of Marin establish a new bargaining unit comprised of the following classifications which are currently included in three different bargaining units:

#### Unit 01-01 – General

- Accounting Assistant (1391)\*
- Accounting Technician (1404)\*
- Legal Process Assistant I (1414)\*
- Legal Process Assistant I – Bilingual (1410)\*
- Legal Process Assistant II (1415)\*
- Legal Process Assistant II – Bilingual (1411)\*
- Legal Process Specialist (1417)\*
- Medical Transcriber/Typist (1330)
- Senior Clerk/Typist (1341)\*
- Sheriff's Property & Evidence Clerk (0714)
- Sheriff's Service Technician (0696)

#### Unit 03-01 – Public Services 75 Hours

- Assistant Emergency Services Coordinator (1035)
- Crime Analyst (0713)

Unit 03-02 – Coroner’s Investigators

- Coroner’s Investigator (0515)

Unit 04-01 – Comm. & Technical Services

- Communications Technician (0902)\*
- Jail Control Dispatcher (0908)
- Parking Enforcement Officer I (0723)
- Parking Enforcement Officer II (0724)
- Senior Sheriff’s Service Assistant (0698)
- Sheriff’s Service Assistant (0700)

Unit 04-02 – Technical Unit 80 Hours

- Communications Dispatcher I (1163)
- Communications Dispatcher II (0906)
- Supervising Communications Dispatcher (0905)

\*This Petition includes only select positions allocated to the Sheriff’s Office or Coroner’s Office within this classification. According to the petition, positions within these classifications that are allocated to other departments would remain in their current bargaining unit.

2. UNIT MODIFICATION PETITION

PMR Section 4.7, “Modification of Established Unit and Decertification,” provides that a petition for decertification or unit modification may be filed with the Director of Human Resources “during a window period of no more than 180 days or less than 150 days prior to the expiration date of a collective bargaining agreement between the certified organization and the County.” The Collective Bargaining Agreement covering bargaining units 01, 03, and 04 expires on June 30, 2010, setting the window period as January 1, 2010 through January 31, 2010. The petition for unit modification and decertification was received during this window on January 28, 2010, 153 days prior to the expiration of the General Unit Collective Bargaining Agreement.

PMR Section 4.7 B(2) also provides that a decertification or unit modification petition may be filed by “[a]nother organization provided the petition is accompanied by authorization cards signed by at least thirty per cent (sic) of all employees in the proposed unit.” This serves as proof of employee support. The Deputy Sheriff Association submitted a petition for modification of established unit and decertification. Additionally, they submitted proof of support, which includes employee signatures. At the top of every signature page, except for the first page, there is a caption indicating that the document is a “decertification petition.” On the first signature page “decertification” is crossed out and replaced with, “see face page for modification and recognition language”. On every page of the petition, the following language remains:

"We, the undersigned, no longer wish to be represented by the service employees international union (SEIU) local 1021 General Bargaining Unit in regard to meeting and conferring with County of Marin representatives on salaries, hours, working conditions and other similar matters relating to the welfare of employees." (See attached copies of these signature pages.) During the County's investigation of the petition, the County questioned whether employees understood they were endorsing a unit modification. DSA asserted that the petition was circulated for signature as a complete packet and not page by page and the employees understood they were signing a unit modification petition as well as a decertification petition. The structure of DSA's petition does not violate PMR Section 4.7. Based on that fact, as well as the documentation and representations provided by DSA, as set for above, I do not find the petition for unit modification and decertification deficient. However, the County has not had adequate time to complete the verification of the certification petition. California State Mediation and Conciliation Services is currently in the process of this review. Upon completion, the County will submit those results to you.

#### A. APPROPRIATENESS OF THE UNIT

##### 1. Community of Interest Factors

In determining the appropriate bargaining unit composition, the County's process is governed by PMR section 4.2.A which states, "For the purpose of this resolution, a representation unit is the largest feasible grouping of county employees, which has a community of interest." The County looked to the Public Employment Relations Board (PERB) for assistance in defining "Community of Interest". PERB evaluates the community of interest using the following criteria:

- *Job Duties* – The duties assigned to the classifications in question;
- *Qualifications/Training/Skills* – The educational background, training, or other qualifications that are required for the classifications in question;
- *Work Location* – The physical work environments for the classifications in question;
- *Hiring/Supervising/Discipline* – The methods of hiring employees, reporting relationships, and similarities in personnel practices for the classifications in question;
- *Integration/Interchange* – The inter-relationship of the work functions and the ability to promote, transfer or fill in for vacant positions. In addition, whether or not skills learned in one job are transferable to other classifications;
- *Wages and Hours* – The methods of compensation for employees in the classifications in question, including overtime, supplemental pay, etc., and the shift schedules and availability of extra duty or overtime assignments;
- *Fringe Benefits* – Whether or not employees in the classifications in question are covered by the same benefit plans, leave provisions, etc.

##### 2. Analysis

The petition for modification of an established unit contains classifications that are currently in three different bargaining units represented by SEIU. These bargaining units are:

- Unit 01: General Clerical and Related Clerical Technicians Unit (petition includes classifications in unit subgroup 01);
- Unit 03: Public Services and Related Unit (petition includes classifications in unit subgroups 01 & 02); and
- Unit 04: Technical Services, Regulatory and Related Unit (petition includes classifications in unit subgroups 01 & 02).

Bargaining unit 01 has been designated for classifications that perform duties and responsibilities that are of a clerical nature, providing a variety of County departments with administrative and technical office support. The classifications from bargaining unit 01 that are included in this petition all share the strongest community of interest with the classifications in the existing bargaining unit. The existing bargaining includes classifications such as Secretary, Elections Clerk and Library Branch Aide. Specifically, each classification in the existing unit is of a clerical and administrative support nature, with similar work hours (75 bi-weekly hours), reporting relationships in their respective departments (classifications are not supervisory or managerial), training and skills (similar minimum qualifications and no advanced degree required), and wages, and benefits, as other classifications included in this bargaining unit across the County.

This petition also includes the Sheriff's Property and Evidence Clerk and Sheriff's Service Technician, which are clerical and administrative support positions specific to the Sheriff's office. Even though they share a common work location with the other Sheriff Department employees, their clerical and administrative duties and responsibilities, wages, fringe benefits, work hours, respective levels in the organization, and interchange of knowledge is all most similar to the other classifications represented in bargaining unit 01.

In addition, this petition includes a request to remove only Sheriff Department positions from bargaining unit 01, i.e. Accounting Assistant, Accounting Technician, Legal Process Assistant I, Legal Process Assistant I – Bilingual, Legal Process Assistant II, Legal Process Assistant II – Bilingual, Legal Process Specialist, Medical Transcriber/Typist, and Senior Clerk/Typist, leaving identical classifications and employees in other departments to remain in bargaining unit 01. The modification, as proposed, would result in mirror classifications being included in different bargaining units. This is clearly not consistent with Personnel Management Regulation 4.2.A, as the proposed unit does not result in the largest feasible grouping that shares a community of interest. Further, this modification would also result in administrative difficulties for the County, having to treat employees who are performing the same job differently based upon possibly different terms and conditions negotiated for each of the units.

Bargaining unit 03 includes classifications in the area of public service, which have direct interaction with the public or provide support services that directly impact the public in a variety of service areas. For example, bargaining unit 03 classifications include Library Desk Supervisor, who works with library patrons in circulation services in County library branches, Deputy Public Administrator, who safeguards and disposes of

estate assets, and Child Support Officer, who works with parents in the community to establish and enforce child support cases. This petition includes only three classifications from bargaining unit 03, namely the Assistant Emergency Services Coordinator, Crime Analyst, and Coroner's Investigator. The Assistant Emergency Service Coordinator provides support to the countywide long range emergency management response program and the Crime Analyst gathers statistical evidence and performs analysis to support local law enforcement efforts. These classifications are civilian classifications that perform technical and analytical duties and responsibilities in support of a service area within the County. These classifications have similar work schedules, wages, supplemental pays, benefits, leave accruals, and are at similar levels within the organization as those other classification contained in bargaining unit 03. These classifications share little commonality with the others in the proposed unit beside the fact that all of the classifications work for the Sheriff Department. If the classifications included in this petition were to be moved to the proposed separate bargaining unit, they would not be included in the largest feasible grouping that shares a community of interest. These classifications share a community of interest with the bargaining unit to which they are currently assigned. For that reason, these classifications are already included in an appropriate unit and they should remain in bargaining unit 03.

The Coroner's Investigator classification, however, is one exception. This classification shares a community of interest with another pre-existing bargaining unit, namely the Deputy Sheriff bargaining unit number 08. This existing unit includes the Welfare Fraud Investigator and the District Attorney Inspector. Consistent with the other classifications in bargaining unit 08, Coroner's Investigator's have peace officer status and the classification requires specialized training, certifications, and responsibilities associated with peace officer status. Coroner's Investigators work closely with sworn staff in the investigation of death cases by initiating an investigation, taking charge of a death scene and the body of the deceased, collecting evidence and medical information, taking photographs and fingerprints, preserving specimens, interviewing family members, friends, and witnesses, preparing related reports, and appearing and testifying in court. These duties and responsibilities are very similar to District Attorney Inspectors and Welfare Fraud Investigators, also holding peace officer status, even though they apply a different area of expertise. The District Attorney Inspector and Welfare Fraud Investigator classifications are already contained in the bargaining unit 08 and are also responsible for conducting investigations, collecting evidence, interviewing witnesses, appearing and testifying in court, and enforcing federal, state and local laws and regulations. Finally, this proposed modification is appropriate at this time due to a recent restructuring that has been approved by the Board of Supervisors. The Board of Supervisors has approved the merger of the Coroner's Department into the Sheriff Department. Beginning in January 2011, Coroner Investigators will work under the direction and authority of the Sheriff. PMR 4.7 supports a unit modification where there is organizational restructure. For these reasons, removing Coroner Investigators from bargaining unit 03 and placing them in the bargaining unit 08 is appropriate.

Bargaining unit 04 includes technical services related classifications, which perform technical responsibilities in a wide variety of service areas throughout the County. Classifications within this bargaining unit are typically single-department classifications, but they share a community of interest through their levels and types of responsibilities, wages and benefits, leave accruals, and levels of education and experience needed to successfully perform the job. The classifications in this bargaining unit 04 include, for example, Auditor, Systems Support Analyst, and Engineering Technician. This petition specifically includes the Communications Dispatcher I, Communications Dispatcher II, and Supervising Communications Dispatcher, which are classifications that work closely with sworn staff by receiving calls for emergency service and dispatching emergency personnel as appropriate. Although positions within this classification work a similar shift to sworn staff and work within the Sheriff's Office, they do not share other commonalities with sworn staff they interact with. Indeed, these classifications have different education and training requirements, duties and responsibilities, wages and fringe benefits, and do not have the ability to interchange with the other sheriff specific classifications in bargaining units 01 and 03 that are also included in this proposed unit. Thus, placement of these classifications in the Deputy Sheriff bargaining unit number 08 would not be appropriate as there is no community of interest. For these reasons, this unit modification request is not appropriate and these classifications should remain in bargaining unit 04.

The other classifications from bargaining unit 04 that are included in this petition also do not share a community of interest with the classifications included in this proposed bargaining unit. The Parking Enforcement Officer I/II, Jail Control Dispatcher, Sheriff's Services Assistant, and Senior Sheriff's Services Assistant all have a common work location, but they are civilian classifications that perform support services to Sheriff's Office operations. These classifications do not have the same duties and responsibilities assigned to those classifications from bargaining unit 01 and 03, which are also included in the proposed bargaining unit. These classifications share a community of interest with those that are assigned to bargaining unit 04, but are not included in this petition. The other bargaining unit 04 classifications absent from this petition are all responsible for supporting technical operations in their respective departments and the classification requires a specific body of knowledge to successfully perform the duties. In addition, bargaining unit 04 classifications are all civilian classifications that share similar wages, benefits, work schedules, and respective levels of education and experience to successfully perform the job. As a result, if the bargaining unit 04 classifications included in this petition were to be moved to the proposed bargaining unit, they would not be represented by the largest feasible grouping that shares a community of interest.

### 3. PETITION FOR RECOGNITION

If the Commission determines that the unit modification petition was appropriately filed with the Human Resources Department and the community of interest analysis supports some or all of unit modifications suggested by the DSA and the establishment of a new unit, the Commission must finally determine if the petition for recognition is valid to

support the calling of a secret ballot election. Recognition does not need to be evaluated if the Commission concurs with the County's evaluation that classification(s) should simply be moved from one existing unit to another existing unit where there is a stronger community of interest.

PMR Section 4.4 identifies that an employee organization must file a statement of representation in order to seek certification as the bargaining representative. A statement of representation was filed along with the decertification and unit modification petition on January 28, 2010. It included all of the required elements including:

1. Name and address of employee organization.
2. Names and titles of its officers.
3. Names of employee organization representatives who are authorized to speak on behalf of the organization.
4. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the County.
5. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
6. Certified copies of the employee organization's constitution and bylaws.
7. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice to the employee organization for any purpose.
8. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
9. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
10. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the County. Such written proof will be submitted for confirmation to the Human Resources Director or to a mutually agreed upon disinterested third party.
11. A request that the Personnel Commission formally acknowledge the petitioner as the Certified Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

Consistent with the obligation under PMR Section 4.5, which indicates that "the Director of Human Resources will investigate the statement, confer with affected department heads and organizations and prepare findings as to the feasibility of the proposed unit and the authentication of the representative status of the organization," the County met

with the Deputy Sheriff Association, SEIU, Local 1021, the Sheriff, and the Coroner, prior to writing these findings. During our investigation of the recognition petition, on February 22, 2010 the County requested, pursuant to subsection 10 above, that the Association submit the certification signatures to the Human Resources Department for neutral review and verification. The Association indicated that they believed they had already submitted the required signatures. It was pointed out to them that the signature pages they had submitted indicated that the employees no longer wished to be represented by SEIU, Local 1021, but failed to indicate that they affirmatively wanted to be represented by the Deputy Sheriff Association. The County's PMRs do not require that the certification statement, or the accompanying signatures in support of certification, be provided by a certain date or within a specified timeframe. Thereafter, the Association submitted the certification signatures on February 25, 2010. The signatures have not yet been verified, but the County has requested that Mediator Sandra Poole from State Mediation and Conciliation Services review the petitions. In accordance with the requirements set forth in this section, I submit the following findings as to the petitions referenced above:

1. The petition for unit modification and decertification was filed with the Director of Human Resources within the window period prescribed by PMR Section 4.7.
2. In order to investigate the statement raised by the unit modification and decertification petition, the County is currently having the unit modification and decertification petition reviewed by mediator Sandra Poole from State Mediation and Conciliation Services. Those results will be submitted to you for review.
3. The County has conferred with the all affected organizations, including the Deputy Sheriff Association, SEIU, Local 1021, the Sheriff, and the Coroner.
4. The unit modification, as proposed by the DSA to include all non-sworn positions within the Sheriff's Department, is inappropriate and is not consistent with PMR Section 4.2 A. These classifications are already included in appropriate bargaining units based upon the community of interest analysis.
5. While the proposed new unit is not an appropriate bargaining unit, the County finds that it is appropriate to remove the Coroner Investigators from bargaining unit 03 and place them in bargaining unit 08.
6. Based on all of the above the County has determined that the petition for unit modification as proposed should be denied; irrespective of the verification of the unit modification petition, the Coroner Investigator classification should be placed in bargaining unit 08; and the Commission should not consider the merits of the recognition petition, as we find that no new unit is appropriate.