

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

3 CLARK COUNTY,)
Petitioner,)
4 CLARK COUNTY DISTRICT ATTORNEY)
INVESTIGATORS ASSOCIATION (CCDAIA),)
5 Applicant,)
6 vs.)
7 NEVADA SERVICE EMPLOYEES)
UNION/SEIU LOCAL 1107,)
8 Recognized Bargaining Agent.)
9

ITEM NO. 356-B
CASE NO. A1-045585

ORDER

10 For Petitioner: Cheryl Miller, Director of Personnel
11 For Applicant: Ulrich W. Smith, Esq.
12 For Recognized
Bargaining Agent: James Varga, Esq.
13 VAN BOURG, WEINBERG, ROGER & ROSENFELD

14 Pursuant to the Board's Order of June 30, 1995 (Item No.
15 356) and the Board's Order of September 7, 1995 (Item No. 356-
16 A), on October 4, 1995, the Board heard oral argument and
17 evidence regarding the matters designated as Case No. A1-
18 045585. The parties did not provide a court reporter and
19 explicitly waived the taking of a verbatim transcript of these
20 proceedings.

21 Pursuant to the Board's deliberations at its meeting of
22 October 4, 1995, noticed pursuant to Nevada's Open Meeting Law,

23 THE BOARD HEREBY ORDERS AND DECLARES:

24 (1) That, pursuant to NRS 281.0315, special
25 investigators and investigators employed by a district
26 attorney have the powers of a peace officer; ie., they are law
27 enforcement officers.
28

1 (2) That, pursuant to NRS 288.140 (3), a law enforcement
2 officer may be a member of an employee organization only if
3 such employee organization is composed exclusively of law
4 enforcement officers.

5 (3) That the Nevada Service Employees Union/SEIU Local
6 1107 (the recognized bargaining agent) is not an "employee
7 organization...composed exclusively of law enforcement
8 officers." Accordingly, as a matter of law, special
9 investigators and investigators employed by the district
10 attorney may not be a member of Nevada Service Employees
11 Union/SEIU Local 1107.

12 (4) On April 25, 1995, the Clark County District
13 Attorney Investigators Association (CCDAIA) filed an
14 application for recognition as the exclusive bargaining agent
15 for a bargaining unit consisting of Clark County District
16 Attorney Investigators. The application appears to be proper
17 and in accordance with the requirements of NRS 288.160 and
18 Clark County District Attorney Investigators appear to possess
19 the requisite community of interest to constitute an
20 appropriate bargaining unit for negotiating purposes, pursuant
21 to NRS 288.170 (1).

22 (5) Upon receipt of the application for recognition from
23 CCDAIA, Clark County petitioned the Board for a hearing "to
24 challenge the sufficiency of the application" and "(t)o
25 preserve any and all rights which the County may have",
26 pursuant to NAC 288.143.

1 By Order dated June 30, 1995 (Item No. 356), the Board
2 ordered all parties (Petitioner, Applicant and Recognized
3 Bargaining Agent) to file briefs with the Board addressing the
4 following:

5 (1) The legal and factual basis supporting or refuting
6 the respective bargaining units being proposed by
7 the Applicant (CCDAIA) and Recognized Bargaining
Agent (Local 1107) for law enforcement employees of
the County.

8 (2) The alleged community of interest or lack thereof
9 between District Attorney Investigators and the
10 other law enforcement employees who are currently
within the bargaining unit represented by Local
1107.

11 (3) The legal and factual basis supporting or refuting
12 the right of Local 1107, vis-a-vis the right of
13 CCDAIA, to represent District Attorney
Investigators and/or law enforcement employees of
the County.

14 No brief was filed by the County (Petitioner).

15 By Order dated September 7, 1995 (Item No. 356-A), the
16 Board notified the parties that on October 4, 1995, the Board
17 would hear oral argument and/or evidence regarding the matters
18 which were to have been briefed pursuant to its Order
19 designated as Item No. 356. This hearing was conducted as
20 scheduled, during which the County offered no argument or
21 evidence to challenge the sufficiency of CCDAIA's application
22 for recognition. Further, the County, which is statutorily
23 responsible for determining (after consultation with the
24 recognized organization or organizations) which group or
25 groups of its employees constitute an appropriate unit or
26 units for negotiating purposes [pursuant to NRS 288.170(1)],

1 indicated that it was "neutral" regarding the representation
2 dispute between CCDAIA and NSEU/SEIU Local 1107, and it's only
3 objection of substance consisted of an expression of general
4 opposition to a "proliferation of bargaining units". Under
5 these circumstances, the Board finds no basis under statute or
6 case law for denying CCDAIA's application for recognition as
7 the exclusive representative for a bargaining unit consisting
8 of Clark County District Attorney Investigators. Accordingly,
9 it (CCDAIA) shall be recognized immediately, pursuant to NRS
10 288.160(2).

11 Each side is to bear its own costs and attorney's fees in
12 the matter addressed hereinabove.

13 DATED this 8th day of November, 1995.

14 LOCAL GOVERNMENT EMPLOYEE-
15 MANAGEMENT RELATIONS BOARD

16 BY Christopher W. Voisin
17 CHRISTOPHER W. VOISIN, Chairman

18 BY Tamara Barengo
19 TAMARA BARENGO, Vice Chairman

20 BY David Goldwater
21 DAVID GOLDWATER, Member