

COUNTY OF LOS ANGELES  
EMPLOYEE RELATIONS COMMISSION

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**EMPLOYEE RELATIONS**  
**COMMISSION**  
**FEB 05 2001**

In the Matter of )  
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LOS ANGELES SHERIFF'S )  
PROFESSIONAL ASSOCIATION )  
 )  
Charging Party )  
 )  
vs. )  
 )  
LOS ANGELES COUNTY )  
SHERIFF'S DEPARTMENT )  
 )  
Respondent )  
 )  
\_\_\_\_\_)  
 )  
ASSOCIATION FOR LOS )  
ANGELES DEPUTY SHERIFFS )  
 )  
Intervenor )  
 )  
\_\_\_\_\_)

Case No. UFC 25.15  
REPORT OF HEARING OFFICER

On September 27, 1999 Los Angeles Sheriff's Professional Association (LASPA) filed an Unfair Labor Practice charge against the County of Los Angeles Sheriff's Department (Department). On April 24, 2000 the Association for Los Angeles Deputy Sheriff's (ALADS) was permitted to intervene. The parties separately and with the Hearing Officer held a number of meetings during the following months to refine the issues and to stipulate to the facts and exhibits in this matter. Ultimately such a stipulation was signed by all parties on October 24, 2000. All parties have submitted Opening and Reply Briefs.

## STIPULATED ISSUES

Does the Department's policy (as referenced herein and as applied to LASPA) regarding denial of access to the Academy violate Employee Relations Ordinance 9646? If not, the Charge shall be dismissed. If so, what is the remedy?

## STATEMENT OF FACTS

The stipulated facts and exhibits are attached hereto and are incorporated herein. They can be briefly summarized as follows:

ALADS is the certified organization representing Los Angeles County sheriff's deputies. LASPA, as of July 28, 1999, is a registered organization which does not have evidence that at least 30% of the deputies do not wish to be represented by ALADS. As a result, LASPA cannot file a petition to decertify ALADS. LASPA has been accorded the same access to the Sheriff's Academy which are available to all other registered employee organizations. These policies were explained to LASPA in a letter dated July 28, 1999 and incorporated into a memo sent to Division Chiefs and Division Directors dated August 25, 1999.

ALADS, in addition to the access to Academy classes available to all registered employee organizations, has been accorded the right to give two 1-hour presentations (once during orientation and once the day before graduation) to Academy classes for the purpose of informing Academy recruits about the provisions of the MOU, available health and other insurance coverage and the like. In addition, ALADS is permitted during its presentations to provide literature and membership cards designed to facilitate the

joining and participation in the activities of ALADS. LASPA has sought to have the same degree of access to Academy classes which ALADS has, which has been denied by the Department.

#### ARGUMENTS

LASPA argues that applying these disparate policies to it and to ALADS is an unfair labor practice because the Department is (1) interfering with, restraining and coercing employees in the exercise of their right to join an employee organization of their own choosing, and (2) dominating and interfering with the formation of LASPA as an employee organization. LASPA specifically objects to ALADS' right to recruit during Academy class presentations. Either ALADS should be precluded from recruiting during Academy class presentations or LASPA should be given the same right to recruit. ALADS should gain no legal advantage because it has a provision in its MOU with the Department that states:

The parties mutually recognize and agree fully  
to protect the rights of all employees covered  
hereby to join and participate in the activities  
of ALADS ...

At the very least, the Department should be required to notify the recruits that there is a competing organization which could represent them.

LASPA points to cases in which the NLRB and/or the courts have required equal access for unions with other types of vendors, equal access for two unions competing to organize its workforce and access for a one union attempting to decertify an incumbent union to support its claim.

The Department argues that, as least until LASPA has the ability to seek decertification of ALADS, it is lawful to accord more access to ALADS as a certified exclusive bargaining agent. Any greater access to one registered organization would require the Department to provide the same access to all registered organizations. Further, the Department pursuant to the MOU has an affirmative obligation to allow covered employees to join and participate in the activities of ALADS. It does not take any position on which, if any, organizations its employees join.

ALADS argues that it has long been recognized and approved that an incumbent union has some advantages of access to employees as part and parcel of their legitimate administration of a collective bargaining agreement. Neither the NLRB nor any court has ever denied the incumbent union the right to discuss membership with employees incident to carrying out other, lawful, union duties. ALADS recognizes that some rules might change if LASPA files a decertification petition, but argues that until that time, LASPA rightfully has been treated the same as all other registered employee organizations.

#### DISCUSSION

There is no evidence in the stipulated record that the Department has affirmatively taken any steps to favor ALADS over LASPA except to provide ALADS a forum for its undisputed right as the certified organization to educate recruits about undisputedly proper matters, such as the MOU and insurance, and to allow ALADS, incidental to that activity, to recruit members. All the relevant

cases cited by LASPA are in the context, not present here, either of competitive organizing campaigns or following the filing of a decertification petition. Even in the context of an existing decertification petition, the NLRB and the courts have recognized that an incumbent union has a "natural advantage", although the employer may have to provide more access to the challenger than it provides to other organizations and access more nearly equal to that given the incumbent union. There is nothing in the logic of the cited cases to suggest that an employer need treat any and all potential employee representatives equally regardless of their legal ability to challenge the incumbent. Equal access for purposes of recruitment has been imposed only when an election is likely in the foreseeable future.

Unless and until LASPA is eligible to file a decertification petition, it is no different than any other registered employee organization and it is not an unfair labor practice for the Department to accord different -- and greater -- access to ALADS as the certified organization, even when that results in ALADS having an edge in recruiting members.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

Having carefully considered the evidence presented and the arguments made, the Hearing Officer makes the following:

##### Findings of Fact

1. LASPA is a registered employee organization accorded the same right of access to the Sheriff's Academy as all other registered organizations.

2. ALADS is a certified employee organization which has been given additional access to the Academy to make two presentations to recruits regarding the MOU, insurance, etc., and at which membership in ALADS is solicited.
3. LASPA has not filed a decertification petition.

#### Conclusion of Law

1. The Department has not committed an unfair labor practice in applying its access policy for registered organizations to LASPA.

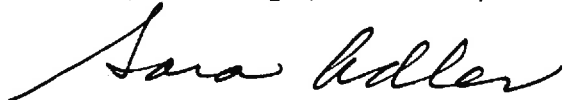
#### RECOMMENDATION

The Hearing Officer recommends that the Employee Relations Commission approve and adopt the following order:

In the matter of the Unfair Charge, Case No. 25.15, of Los Angeles Sheriff's Professional Organization vs. Los Angeles County Sheriff's Department, Association for Los Angeles Deputy Sheriffs, Intervenor, the charge is dismissed.

DATED: February 5, 2001

Respectfully submitted,

A handwritten signature in cursive script that reads "Sara Adler".

Sara Adler, Hearing Officer