

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

**DESERT PALACE, LLC d/b/a
CAESARS PALACE LAS VEGAS
Employer¹**

and

Case 28-RC-264748

**INTERNATIONAL UNION, SECURITY POLICE
& FIRE PROFESSIONALS OF AMERICA
(SPFPA)**

Petitioner

DECISION AND DIRECTION OF ELECTION

On August 14, 2020,² International Union, Security Police & Fire Professionals of America (SPFPA) (the Petitioner) filed a representation petition pursuant to Section 9(c) of the National Labor Relations Act (the Act), seeking to represent certain employees of Desert Palace, LLC d/b/a Caesars Palace Las Vegas (the Employer) at its hotel and casino located in Las Vegas, Nevada. A hearing was held by before a hearing officer of the National Labor Relations Board (the Board) via videoconference over five days, beginning September 11 and ending September 17. The parties submitted post-hearing briefs, which I have carefully considered.

This case involves three issues. First, the Employer challenges the Petitioner's status as a labor organization as defined by the Act. Second, the Employer challenges the appropriateness of

¹ The Petitioner has moved to amend the petition to change the Employer's name to "Desert Palace, LLC, a subsidiary of Caesars Entertainment Corp.," or as I otherwise deem appropriate. The Petitioner bases its motion on testimony of human resources director for the properties of Caesars Palace Las Vegas and the Rio All-Suite Hotel and Casino, who named "Desert Palace, LLC," as the employer of the classifications of guards the Petitioner seeks to represent in this matter. The Employer opposes the Petitioner's motion, arguing that Caesars Entertainment Corp.'s "umbrella" covers all its different employing entities, and the record evidence demonstrates that the Employer operates its security forces under one department.

Despite the Employer's contention, I find otherwise. As the Petitioner notes, the human resources manager testified that all the classifications of guards whom the Petitioner seeks to represent are employed by Desert Palace, LLC. Additionally, Board Exhibit 5 consists of the parties' stipulation regarding the effect on interstate commerce by "Desert Palace, LLC d/b/a Caesars Palace Las Vegas." Accordingly, I grant the Petitioner's motion to amend the petition to change the Employer's name, and I find the correct name of the Employer to be Desert Palace, LLC d/b/a Caesars Palace Las Vegas.

² All dates are for the year 2020.

the petitioned-for unit, including a challenge to the scope of the unit and a challenge to the composition of the unit. Third, the parties disagree on the method of election. Pursuant to Section 3(b) of the Act, I have the authority to decide these matters.

Having considered the parties' positions and the entire record, I am directing an election by mail ballot in the unit I have found appropriate, as described below. To give context for my discussion of this matter, I first begin with introductory facts relating to the Employer's operations and the petition. Second, I turn to the Petitioner's status as a labor organization. Third, I consider the appropriateness of the unit. Fourth, I consider the appropriate election method for this case. Finally, I conclude with my findings.

I. INTRODUCTORY FACTS

According to the human resources director for the properties of Caesars Palace Las Vegas (Caesars Palace) and the Rio All-Suite Hotel and Casino (the Rio), Caesars Entertainment Corporation (Caesars Entertainment) is a parent company with multiple legal entities underneath it. The record is unclear as to the exact legal relationship between Caesars Entertainment and the other companies and properties discussed in this report.

For its security operations, Caesars Entertainment has grouped its nine properties Las Vegas, Nevada, under its Las Vegas Region. These nine properties consist of hotels and casinos that provide food, lodging, entertainment, and gaming. The nine properties are further divided into three separate operational "pods." One pod includes Caesars Palace and the Rio. Another pod includes Bally's Las Vegas (Bally's), Paris Las Vegas (Paris), and Planet Hollywood Las Vegas (Planet Hollywood). And the third pod includes Harrah's Las Vegas (Harrah's), the LINQ Hotel & Casino (the LINQ), Flamingo Las Vegas (the Flamingo), and the Cromwell.³

The Petitioner seeks to represent the following classifications⁴ of employees employed by the Employer at Caesars Palace:

All full-time and part-time armed and unarmed security officers, report writers, field training officers (FTOs), bike officers, emergency medical technician officers (EMTs), dispatchers, and corporals performing guard duties as defined in Section 9(b)(3) of the Act; excluding all office clerical employees, professional employees, and supervisors as defined by the Act.

³ The parties have stipulated to the names and addresses for these Caesars Entertainment properties. The parties also stipulated to the name and address for Harrah's Laughlin, located in Laughlin, Nevada. However, this case does not involve any employees who regularly work or assigned to Harrah's Laughlin.

⁴ The Petitioner did not initially include in its petition the classifications of dispatcher and corporal. However, in the Petitioner's statement of position responding to the Employer's statement of position for the hearing in this case, the Petitioner agreed with the Employer that dispatchers and corporals should be included in the unit.

The Petitioner does not seek to represent any employees in these classifications at any of the properties other than Caesars Palace.

II. PETITIONER'S LABOR ORGANIZATION STATUS

A. The Employer's Position

The Employer challenges the Petitioner's status as a labor organization, arguing that employees do not participate in the Petitioner's organization. In support of this argument, the Employer submitted into the record the SPFPA Constitution and By-Laws. The Employer specifically points out that, under the SPFPA Constitution and By-Laws, the Petitioner's International Union negotiates and ratifies first-time contracts, and employees have no right to vote on or ratify them. Based on this lack of participation, the Employer argues that the Petitioner does not meet the definition of a labor organization under Section 2(5) of the Act.

Additionally, the Employer argues that past certifications of the Petitioner are insufficient to prove its status as a labor organization. In support of this argument, the Employer relies on *SAG-AFTRA New York (Various Employers)*, 370 NLRB No. 14 (2020). There, the Board found that the General Counsel had not established jurisdiction because the General Counsel failed to present sufficient evidence to prove that the operations of the employer involved affected interstate commerce. In so finding, the Board found that stipulated jurisdiction in past cases and an incomplete commerce questionnaire in another case were insufficient to establish the requisite commerce facts.

B. The Petitioner's Position

The Petitioner asserts that it is a labor organization. In support of this assertion, the Petitioner relies on a decision and direction of election in a previous case, Case 28-RC-264748,⁵ in which the parties stipulated to the Petitioner's status as a labor organization, and on various certifications of representative for the Petitioner that this and other Regions have issued in 2020.⁶

At hearing, the hearing officer in this matter directed the Petitioner to present a witness to testify as to the Petitioner's status as a labor organization. The Petitioner did not present any such witness.

⁵ The employer in Case 28-RC-264748 was Caesars Entertainment, Inc. In that case, the Petitioner sought to represent a unit of security officers performing guard duties at three of the facilities in Las Vegas. The parties in that case had stipulated to the Petitioner's status as a labor organization.

⁶ The Petitioner presented certifications of representative for Cases 05-RC-252847, 05-RC-253544, 06-RC-254036, 07-RC-252880, 08-RC-253227, 10-RC-257846, 10-RC-261880, 19-RC-262728, 28-RC-257985, and 28-RC-260934. I have taken administrative notice of the docket activity in these cases, which is available at www.nlr.gov. In all of these cases, the involved parties entered into stipulated or consent election agreements—none of them went to a pre-election hearing.

C. Discussion

Initially, I find it appropriate to take administrative notice of cases in which the Petitioner was found to be a labor organization, as the Board has done so in its own proceedings. See, for example, *Imaginarium*, 366 NLRB No. 25, slip op. at 3 fn. 6 (2018); *Building & Construction Trades Council (Neshaminy Constructors, Inc.)*, 265 NLRB 1194, 1194 (1982); and *William W. Backus Hospital*, 220 NLRB 414, 414 fn. 4 (1975). In particular, the decision and direction of election in Case 28-RC-264748 and the certifications of representative in Cases 28-RC-257985 and 28-RC-260934, all of which involve this Region and the Petitioner, sufficiently establish the Petitioner's status as a labor organization within the meaning of the Act.

In taking administrative notice of the Petitioner's status as a labor organization, I am unpersuaded by the Employer's reliance on *SAG-AFTRA*, as I find that reliance is misplaced. In that case, an unfair labor practice matter, the employer argued that the General Counsel failed to present any evidence to establish jurisdiction based on the employer's effect on interstate commerce. The Board found that the administrative law judge in those proceedings improperly took administrative notice of jurisdiction, stating that "[w]here [jurisdiction] is not admitted, it must be proven." *SAG-AFTRA*, 370 NLRB No. 14 slip op. at 3. Here, however, the Employer's effect on interstate commerce is not in dispute. And, as I have noted above, the Board has taken administrative notice of its own proceedings in finding that organizations were labor organizations within the meaning of the Act.

Alternatively, even if I refused to take administrative notice of the Petitioner's status as a labor organization within the meaning of the Act, I would nevertheless arrive at the same finding based on the record in this case. Section 2(5) of the Act defines a labor organization as follows:

The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

The Board has found that organizations that admit employees to their membership, and whose purpose involves the above-described negotiating, are labor organizations within the meaning of the Act. See, for example, *Butler Mfg. Co.*, 167 NLRB 308, 308 (1967); and *Iowa Packing Co.*, 125 NLRB 1408, 1408 fn. 3 and cited cases (1959).

Although I am somewhat troubled by the Petitioner's failure to present a witness on this issue, I am persuaded of the Petitioner's status as a labor organization by the Employer's own evidence. The Employer points to the Petitioner's constitution and by-laws to argue that employees do not participate in the Petitioner's organization because they do not vote on or ratify first contracts. However, this is a selective reading of the document. Article XIX, Contracts and Negotiations, Section 2(a), of the constitution and by-laws states the following:

In the case of newly certified, recognized or affiliated bargaining units, the International Union shall conduct and complete collective bargaining for an initial collective bargaining agreement *with the assistance of an appointed Unit bargaining committee*. Such agreement shall be referred [sic] to the International Executive Board for ratification. [Emphasis added.]

Thus, while the Petitioner's International Union may conduct and complete bargaining for an initial contract, employees nevertheless assist. For this reason, I reject the Employer's argument and find that employees do, indeed, participate in the Petitioner's organization—including in the bargaining for an initial contract.

Next, in describing the Petitioner, the constitution and by-laws fully incorporate the requisite factors of a labor organization as defined in Section 2(5) of the Act. Article VI, Membership, includes the following sections:

Section 1. This International Union shall be composed of employees eligible for membership as defined in Section 2.

Section 2. All employees employed as Guards, Security Officers, Security Police Officers and Fire Protection as defined in the Labor Management Relations Act, 1947 (as amended), to enforce against employees and other persons rules to protect the property of the private or public employer or to protect the safety of persons on said employers' premises shall be eligible for membership in this International Union.

....

Section 12. This International Union and the Local Union to which a member belongs shall be his exclusive representative for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment and other conditions of employment or compensation and for the negotiation and execution of contracts with employers covering all such matters.

As detailed in Sections 1 and 2, the Petitioner admits employees to its membership. And, as detailed in Section 12, the Petitioner's purpose in representing the employees is to bargain on behalf of those employees for their "rates of pay, wages, hours of employment and other conditions of employment or compensation." Accordingly, the Petitioner meets the definition of a labor organization under the Act.

Based on the above, I find that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

III. THE APPROPRIATE UNIT

The Petitioner seeks to represent a guard unit consisting of security officers, report writers, FTOs, bike officers, EMTs, dispatchers, and corporals employed at Caesars Palace. Throughout the record, the parties regularly refer to these classifications collectively as “unarmed officers.”

The Employer asserts that the unit must also include the special response team officers (SRTs),⁷ whom the Petitioner seeks to represent in Case 28-RC-264756. Additionally, the Employer asserts that the unit must also include K9 handlers (K9s), intelligence officers, investigators,⁸ security supervisors,⁹ and SRT supervisors.¹⁰

In the alternative, the Employer asserts that the unit should consist of the Petitioner’s proposed unit as well as investigators and security supervisors.

For the reasons detailed below, I find that Petitioner’s proposed unit is appropriate with the exception that the security supervisors will be permitted vote subject to challenge.

To give context to my discussion of the appropriate unit, I begin with a description of the Caesars Entertainment security operations and summaries of relevant evidence concerning each of the guard classifications at issue in this case. I then briefly summarize the Board law applicable to deciding the appropriate unit. Next, I summarize and analyze the facts relevant to deciding the unit-scope issue. I then summarize and analyze the facts relevant to deciding the unit-composition issues.

⁷ SRTs include the classifications of SRT I and SRT II.

⁸ Investigators include the classifications of investigator I and investigator II. According to the list of employees the Employer provided with its pre-election hearing position statement, the investigator’s position is called a security investigator.

⁹ Security supervisors have a multitude of alternative names. In the Employer’s wage and salary chart and the list of employees the Employer provided with its pre-election hearing position statement, they are titled as include the classifications of supervisor security shift (supv security shift) and supervisor security (supv security). On the Employer’s organization chart, these individuals are sergeants, lieutenants, and captains. The record contains a job description for sergeants, but it does not contain them for lieutenants or captains. Lastly, security supervisors are also called team leaders.

¹⁰ SRT supervisors are also referred to as team leaders. At a various times in the record, SRT supervisors are called SST supervisors. As the vice president of security operations explained at hearing, the “Special Response Team” used to be called the “Security Saturation Team,” but some personnel still erroneously refer to SRT as SST, and any references to SST are administrative errors in the Employer’s records. In the Employer’s wage and salary chart and the list of employees the Employer provided with its pre-election hearing position statement, SRT supervisors are called “supv SST.”

A. Security Operations and Guard Classifications

1. Security Operations

As mentioned in the above introductory facts, Caesars Entertainment has nine properties in Las Vegas. The record reveals that some of the security operations for all nine properties are centralized, while other operations are designated by pod or by a specific property. By way of reminder, the nine properties are divided into three pods: one that includes Caesars Palace and the Rio; one that includes Bally's, Paris, and Planet Hollywood; and one that includes Harrah's, the LINQ, the Flamingo, and the Cromwell.

The vice president for security operations testified to having direct oversight and responsibility for security of all nine properties in Las Vegas. The record reveals that the reporting structure from each individual job classification up to the vice president of security operations follows one of four chains of command:

- i. All unarmed guard classifications—security officers, report writers, FTOs, bike officers, EMTs, dispatchers, and corporals—are specific to individual properties. On each shift, these classifications report to a security supervisor, who also works at only one property. The security supervisor reports to the assistant director of security; for Caesars Palace, there is one assistant director of security.¹¹ That assistant director of security reports up to the director of security for the pod, who in turn reports to the vice president of security operations.
- ii. SRTs and K9s are assigned to specific pods, properties, or individual events by the SRT/K9 program manager and the SRT manager. The SRT manager reports to the SRT/K9 program manager. These two managers report to two individuals: the director of security for whichever pod or event where the SRTs and K9s are working, and the vice president for security operations.
- iii. Intelligence officers work out of the security intelligence center located at Caesars Palace; however, they provide intelligence information to security personnel at all nine properties. Intelligence officers report to the security intelligence manager. The security intelligence manager also reports to the vice president for security operations and to any of the directors of security for whichever pod needs intelligence support.
- iv. The single investigator at issue in this case works out of Caesars Palace and reports to the assistant director of security for Caesars Palace. The vice president for security operations testified that there are, in total,

¹¹ The record reveals that the other property sharing a pod with Caesars Palace, the Rio, has its own assistant director of security. However, the record contains no details as to whether each of the other seven properties has its own assistant director of security.

approximately five or six investigators working for the nine properties in Las Vegas. The job descriptions for investigators I and investigator II, investigators report to the director of investigations, who is also the director of security and surveillance for the pod containing Caesars Palace and the Rio.

All guard classifications go through the same hiring process, which includes background checks, including a background check with the Nevada Gaming Control Board. Once hired, all guard classifications attend a 7-day security training academy within their first 90 days of employment. This training is not separated by classification: any of the guard classifications may attend the same 7-day training academy with any of the other guard classifications. The training provides all the skills needed to function as a security officer.

2. Security Officers

The vice president for security operations testified that “[e]verybody is a security officer first before their special training.”

Security officers’ general function is to ensure the protection of company assets, guests, and employees. Security guards do this through a variety of tasks, such as patrolling all areas of Caesars Palace, checking for underage guests, manning stationary posts at entrances, performing COVID-19 screenings at entrances, and responding to incidents. Such incidents may involve fights between guests, checking on suspicious individuals, escorting guests from or around the property, or tending to a medical issue. Security officers also perform “fills” or “money drops,” which involve taking game chips from the casino cage, where they are stored, to the gaming tables.

In addition to their usual duties, security officers may also be assigned work according to “operations orders.” Operations orders are written plans for security during special events. In consultation with the SRT/K9 manager, the security intelligence manager, and the assistant director of security for Caesars Palace, the SRT manager writes the operations orders for any events that occur at Caesars Palace. These orders include the types of officers and the number of those officers needed for working an event.

All of the security officers at issue in this case are employed by the Employer. There are approximately 70 security officers employed at Caesars Palace.

3. Report Writers

Report Writers’ primary duty is to gather facts relating to incidents and then, using a computer, documenting the incidents in reports. These incidents include those described above and any others. When writing reports, the report writers spend their time in the security building. The security building is a detached building on the Caesars Palace property. When not writing reports, report writers perform the same duties as security officers.

Report writers are usually senior security officers whom supervisors and managers have selected based on their writing and investigative abilities.

All of the report writers at issue in this case are employed by the Employer. There are approximately six report writers employed at Caesars Palace.

4. Field Training Officers (FTOs)

FTOs are typically seasoned security officers. FTOs provide on-the-job-training to any new officers working at Caesars Palace. This on-the-job training usually takes place over the course of three weeks. In addition to providing training on security officer duties, FTOs assist others in becoming familiar with the layout of the Caesars Palace property. FTOs may also be instructors during the seven-day security training academy. When not performing these training duties, FTOs perform all the same duties as security officers.

All of the FTOs at issue in this case are employed by the Employer. There are approximately six FTOs employed at Caesars Palace.

5. Bike Officers

Bike officers typically patrol the outside areas of Caesars Palace, which includes the parking garage and the outside perimeter. Bike officers, as their title implies, ride bicycles in patrolling these outside areas. Bike officers also assist with traffic control in the front and in the rear of Caesars Palace. If an incident occurs outside on the property, bike officers typically respond.

As needed, bike officers will also enter Caesars Palace to respond to an incident. In those cases, bike officers must properly secure their bikes before entering Caesars Palace.

Security officers may become bike officers by expressing their interest in the position to management and then passing a three-day course on the mechanics, maintenance, and use of a bicycle.

All of the bike officers at issue in this case are employed by the Employer. There are approximately 10 bike officers employed at Caesars Palace.

6. Emergency Medical Technician Officers (EMTs)

EMTs respond to incidents involving sick or injured guests or employees, usually being the first responders to such incidents. EMTs also document those incidents. EMTs assist outside emergency medical services called to Caesars Palace. EMTs also carry additional medical gear, such as a stethoscope and cuff for measuring an individual's blood pressure. EMTs also maintain the 20 medical bags located around Caesars Palace, ensuring that the bags remain stocked. When not performing these specific duties, EMTs perform all the duties of a security officer.

To become an EMT, a security officer must maintain a basic emergency medical technician certification with Nevada's Southern Nevada Health District Emergency Medical Services.

All of the EMTs at issue in this case are employed by the Employer. There are approximately 11 EMTs employed at Caesars Palace.

7. Dispatchers

Dispatchers work in an area called "security dispatch," which is on the Caesars Palace property.¹² Dispatchers use computer-aided programs to track the whereabouts of all officers working at Caesars Palace. With that information, dispatchers send officers to any incidents that require a response or additional officers. Dispatchers also receive phone calls from guests or other employees of Caesars Palace. Dispatchers also perform a roll call each hour to track all the security personnel onsite at Caesars Palace.

When more dispatchers are scheduled than there are dispatching posts at security dispatch, the excess dispatchers perform all the same duties of a security officer.

All of the dispatchers at issue in this case are employed by the Employer. There are approximately six dispatchers employed at Caesars Palace.

8. Corporals

Corporals have a limited advisory role in assisting other security officers in performing their duties, providing direction when a supervisor or manager is unavailable. Corporals may also act as security supervisors if, for whatever reason, no security supervisors are present at Caesars Palace for a shift. Otherwise, corporals perform all the duties of a security officer.

All of the corporals at issue in this case are employed by the Employer. There are three corporals employed at Caesars Palace.

9. Special Response Team Officers (SRTs)

SRTs are often referred to as "armed security officers" because they are trained to use and carry with them a firearm, i.e., a gun. SRTs go through firearms training with the SRT/K9 program manager, the SRT manager, outside law enforcement, and third-party contractors. Although SRTs are special training to use their firearms, they rarely use them. The vice president for security operations testified that, in a two-year period, SRTs only had to take out their guns "a few times," and that 95 percent of SRTs' day-to-day duties have nothing to do with firearms.

¹² The record does not indicate where exactly on Caesars Palace property the security dispatch area is located.

SRTs are always dispatched to situations involving a shooter or an individual with a gun. However, as this is not a usual occurrence, and when SRTs are not training, they perform all the same duties as a security officer.

SRTs often train together with K9s, as the two groups work in tandem when responding to certain emergency situations. For example, SRTs and K9s train together on how to deal with explosives.

The SRT/K9 program manager and the SRT manager make the schedules for SRTs.

SRTs may work on any of the nine properties in Las Vegas. SRTs are assigned to a particular pod or to a particular event. However, SRTs may be dispatched to a property outside of their assignment if a situation calls for it.

All of the SRTs at issue in this case are employed by Caesars Enterprise Services, LLC.¹³ There are approximately 28 SRTs, all of whom may deploy to any of the nine properties.

10. K9 Handlers (K9s)

K9s' principal function is to train and work with a dog as an explosive-detection unit. Training for the K9s and their dogs comes from a third-party provider, and they participate in continual trainings to maintain their skills.

K9s are responsible for the care of their dogs, which includes tasks such as feeding, washing, and veterinarian visits. Some K9s take their dogs home with them, while others house their dogs at the kennel. The kennel is a separate building on the Flamingo property. K9s are also responsible for cleaning the kennel.

When not responding to a situation that requires a K9's specialized skills, such as a suspicious unattended package, K9s perform many of the same duties of a security officer. K9s do not take stationary posts, such as COVID screening posts, because their dogs cannot be kept inactive in one place for an extended period of time.

The SRT/K9 program manager and the SRT manager make the schedules for K9s. When making these schedules, K9s are generally scheduled so that there is at least one on every shift at all times. K9s may work any of the nine properties in Las Vegas. However, because of the smaller number of K9s on the workforce—there are approximately nine K9s—they are assigned to either the “North” properties or the “South” properties. The North properties include Harrah's, the LINQ,

¹³ At hearing, the human resources director for Caesars Palace and the Rio initially testified that SRTs, K9s, intelligence officers, the investigator, and SRT supervisors were employed by Caesars Entertainment Shared Services. When recalled by the hearing officer for clarification as to each guard classification's employer, and with the exception of the investigator, the human resources director testified that the name of these classifications' employer was Caesars Enterprise Services, LLC. Subsequently during the hearing the parties stipulated to commerce information relating to Caesars Enterprise Service, LLC. Based on the human resources director's latter testimony and the stipulation, I refer to these classifications' employer as Caesars Enterprise Service, LLC in this decision.

the Flamingo, the Cromwell, and Caesars Palace. The South properties include Bally's, Paris, Planet Hollywood, and the Rio.

All of the K9s at issue in this case are employed by Caesars Enterprise Services, LLC.

11. Special Response Team Supervisors (SRT Supervisors)

SRT supervisors have some responsibilities related to scheduling, training, and payroll for SRTs and K9s. These duties only occupy about 10 percent of SRT supervisors' worktime, while the remaining 90 percent of the time is spent doing patrols, interacting with guests, and performing other security officer duties. SRT supervisors are not, however, assigned to pods or events; as such, when they are not handling scheduling, training, or payroll, they go where needed amongst the nine properties.

All of the SRT supervisors at issue in this case are employed by Caesars Enterprise Services, LLC. There are approximately five SRT supervisors working for the nine properties in Las Vegas.¹⁴

12. Security Supervisors

Security supervisors have some responsibilities related to scheduling, reviewing security incident reports, issuing discipline, and writing appraisals for the unarmed security officers at Caesars Palace. Security supervisors also check daily e-mails about any events or notable matters at Caesars Palace. As detailed later in this report, the record is unclear as to the extent of the security supervisors' involvement in these duties. In any event, security supervisors spend approximately 25 percent of their worktime performing these duties. For the remaining 75 percent of their worktime, security supervisors perform some security officer duties: they relieve security officers for breaks, patrol Caesars Palace, and perform fills.

All of the security supervisors at issue in this case are employed by the Employer. There are approximately six security supervisors employed at Caesars Palace.

13. Intelligence Officers

Intelligence officers support the other security personnel of all nine properties by providing information that may affect operations at any of the properties. Intelligence officers do this by using company-provided resources to find, research, and assess information that may present a threat or concern to guests or employees in the Las Vegas Region. Examples of such information includes delays at local airports, protests, riots, reported thefts, and reported shootings. The intelligence officers analyze the gathered information, and they then work with other security

¹⁴ On the list of employees the Employer provided with its pre-election hearing position statement, the Employer listed four SRT supervisors. In the Employer's organizational chart for Caesars Palace, which the Employer prepared specifically for the hearing, the Employer listed five SRT supervisors.

personnel, supervisors, and management to develop plans and responses to any possible threat or concern.

All of the intelligence officers in this case are employed by Caesars Enterprise Services, LLC. There are approximately seven intelligence officers, all of whom work in the security intelligence center, which is located in Caesars Palace.¹⁵

14. Investigators

Investigators investigate complaints of criminal activity and employee misconduct. To carry out this task, investigators may interview witnesses, including other employees, and work with outside law enforcement agencies. Investigators also maintain records of their investigations. Investigators make reports on their investigations to the appropriate management personnel and to the appropriate human resources office.

Specific to the one investigator working at Caesars Palace, this individual typically works only on matters involving Caesars Palace. This investigator will occasionally work with investigators at other properties if the particulars of an investigation require such interaction or if another investigator requests assistance.

The record is unclear as to which Caesars entity employs the investigator working at Caesars Palace.¹⁶ The vice president for security operations testified that there are approximately five or six investigators working for the nine properties in Las Vegas, but the record contains no details to the other investigators' employer(s).

B. Applicable Board Law

By way of reminder, the Petitioner seeks to represent a unit consisting of security officers, report writers, FTOs, bike officers, EMTs, dispatchers, and corporals employed at Caesars Palace. The Employer argues that SRTs, K9s, SRT supervisors, intelligence officers, security supervisors, and the Caesars Palace investigator also belong in the unit because they share a community of interest with the Petitioner's proposed unit.

The Employer's proposed additions to the unit raise issues of unit scope and unit composition. First, the SRTs, K9s, and SRT supervisors work at all nine properties rather than just

¹⁵ In Board Exhibit 3, the list of employees the Employer provided with its pre-election hearing position statement, the Employer listed six intelligence officers. At hearing, the security intelligence manager testified that a new intelligence officer was scheduled to begin work on September 16, bringing the total to seven.

¹⁶ At hearing, the human resources director for Caesars Palace and the Rio initially testified that the investigator was employed by Caesars Entertainment Shared Services. However, when the hearing officer recalled the human resources director to clarify which entity employed the investigator, the human resources director testified that Desert Palace LLC employed the investigator.

Caesars Palace. This, in effect, is a matter concerning the scope of the unit because the Petitioner seeks to represent only the unarmed officers at Caesars Palace.

It is well established that a single-facility unit is presumptively appropriate for collective bargaining. In cases where the petitioner seeks to represent a single facility and the employer seeks to rebut the single-facility presumption, the Board evaluates the following factors:

- (1) central control over daily operations and labor relations, including the extent of local autonomy;
- (2) similarity of skills, functions, and working conditions;
- (3) degree of employee interchange;
- (4) distance between work locations; and
- (5) bargaining history, if any.

New Britain Transportation Co., 330 NLRB 397 (1999). The burden is on the Employer to rebut the single-facility presumption. *J&L Plate, Inc.*, 310 NLRB 429 (1993). Accordingly, I will apply these factors in determining whether the presumption has been rebutted.

The remaining two issues concern unit composition. First, the Employer contends that security supervisors at Caesars Palace must be included in the unit. The Petitioner argues otherwise, claiming that security supervisors are supervisors as defined in Section 2(11) of the Act. Section 2(11) of the Act states the following:

The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

In order to meet this definition, the Board must determine the following:

- (1) whether the individual has authority to engage in any one of the twelve criteria listed in Section 2(11) of the Act;
- (2) whether the individual's exercise of that authority requires the use of independent judgment; and
- (3) whether the individual holds that authority in the interest of the employer.

NLRB v. Health Care & Retirement Corp., 511 U.S. 571, 573-574 (1994). To resolve this issue, I will apply this inquiry to the record evidence relating to security supervisors' duties.

The second composition issue concerns the Employer's proposed addition of the intelligence officers and the investigator working at Caesars Palace. The Employer asserts that the only appropriate unit must include these classifications. The Petitioner disagrees, arguing that the intelligence officers and the investigator do not share a community of interest with the proposed unit.

In *PCC Structural*s, the Board reinstated the traditional community-of-interest test as enunciated in *United Operations, Inc.*, 338 NLRB 123 (2002). Under this test, the Board is required in each case to determine

Whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work; including inquiring into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.

Id. at 123. Subsequently, in *The Boeing Co.*, 368 NLRB No. 67 slip op. at 3 (2019), the Board clarified *PCC Structural*s, stating that any inquiry as to an appropriate bargaining unit requires a three-step process. This three-step process involves the following considerations: (1) the proposed unit must share an internal community of interest; (2) the interests of employees within the proposed unit and the shared and distinct interests of employees excluded from that unit must be comparatively analyzed and weighed; and (3) consideration must be given to the Board's decisions on appropriate units in the particular industry involved.

In resolving whether the intelligence officers and the investigator working at Caesars Palace share a community of interest with the Petitioner's proposed unit at Caesars Palace, I will evaluate the record evidence in accordance with *Boeing* and *PCC Structural*s.

C. Unit Scope: Inclusion of SRTs, K9s, and SRT Supervisors

As explained above SRTs, K9s, and SRT supervisors all work at all nine properties in Las Vegas—they do not work only at Caesars Palace, as is the case for the employees in the Petitioner's proposed unit. Below, I review the five factors—central control over daily operations and labor relations; including the extent of local autonomy; similarity of skills, functions, and working conditions; degree of employee interchange; distance between work locations; and bargaining history, if any—involved in rebutting the single-facility presumption for each of the Employer's additions to the Petitioner's proposed unit. After reviewing the factors, I analyze them conclude with my findings.

1. SRTs

Central control over SRTs' daily operations comes mainly from three sources. First, the SRT/K9 program manager and the SRT manager schedule the SRTs to particular pods or events. Second, SRT supervisors may adjust those schedules to conform to daily needs, accounting for

call-offs or other unexpected incidents. Third, once an SRT arrives at a particular pod or event, the SRT checks in with the property supervisors—which may be security supervisors or property management—to determine where they may be deployed on that property. Compared to the employees in the proposed unit, who typically only answer to the Caesars Palace security supervisors and management for nearly the entirety of their daily work, control over SRTs' duties is more widely spread.

Labor relations for SRTs and the unarmed officers at Caesars Palace are largely centralized through the human resources staff at Caesars Palace. For any matters pertaining to benefits or disputes of discipline, both SRTs and the unarmed officers must report to the same human resources staff. Even when an SRT receives discipline while working at one of the other eight properties, the SRT would nevertheless appeal the matter with the human resources staff at Caesars Palace rather than the human resources staff at the other property. Additionally, recruitment for all security personnel at all nine properties is centralized through the same recruitment center.

SRTs and the Petitioner's proposed unit share similarities in their basic skills and functions. As summarized earlier in this report, all officers go through the same seven-day security training academy, and they are all capable of performing the duties of a security officer. All of their duties also go toward the same overall function: ensuring the safety of guests, employees, and company assets. However, the specialized skills differ amongst the specialized officers, and the record contains no evidence that security officers of any of the specialized classifications could fill in for another specialized classification. For example, EMTs cannot fill in for SRTs because they do not have firearms training, and SRTs cannot fill in for EMTs because they do not have an emergency medical technician certification.

Working conditions between the SRTs and the Petitioner's proposed unit have some similarities and some differences. As noted above, all these classifications may perform security officer duties at Caesars Palace at some time. In performing their duties, all security personnel must abide by the same Caesars Entertainment Las Vegas Region Security Manual. Both SRTs and the unarmed officers work a mix of 8-hour and 12-hour shifts. When SRTs are assigned to Caesars Palace, they may use the same break areas and dining rooms as the regular Caesars Palace security personnel. However, working conditions are different for SRTs when they are not working at Caesars Palace: they report to different onsite supervisors, and they use the break areas and dining rooms at their assigned site. Additionally, in the event an SRT's specialized skills are needed at another property, an SRT may be directed to go to that property—this could potentially occur multiple times during one shift. Because the other properties have their own employees working the same classifications as the Petitioner's proposed unit, the likelihood of Caesars Palace unarmed officers going to another property is much less. And, on occasions when another property requests additional unarmed officers, employees from usually Caesars volunteer for such assignments.

SRTs, unlike the unarmed officers, wear body armor. SRTs also have their firearms on them at all times. Aside from this additional gear, the SRTs' shirts have an SRT logo on them, which says "SRT." The record is unclear as to whether unarmed officers' shirts are of the same

type and color as the SRTs.¹⁷ Some of the unarmed officers also have distinguishing characteristics: FTOs wear a pin on their collars that says “FTO,” EMTs wear a pin that says “EMS,” and bike officers wear a helmet while patrolling outside Caesars Palace. Aside from these distinguishing factors, the rest of the uniform and gear for SRTs and unarmed officers is the same: pants, belt with a security officer badge attached to it, handcuffs, handcuff key, baton, belt keeper, tourniquet, and radio. Employees must, of course, wear shoes, but the specific type is not mandated.

Another difference in working conditions between the SRTs and the unarmed officers at Caesars Palace is their processes for recording their workhours. All unarmed officers and SRTs are hourly positions. The unarmed officers swipe in and out for their shifts at timeclocks located at Caesars Palace. Prior to the COVID-19 pandemic, SRTs would report to the satellite SRT office at the Flamingo and sign in for work on a sign-in sheet. Alternatively, and as SRTs now exclusively do since the onset of the pandemic, SRTs report directly to their assigned location and radio to dispatch when they arrive on the property. The SRT manager, the SRT/K9 program manager, or an SRT supervisor who is also tuned in to dispatch by radio then notes the time for when SRTs radioed in for their shifts. These recorded times are then reviewed by the SRT manager or SRT/K9 program manager before being put in the payroll system. The same process occurs when SRTs radio to dispatch at the end of their shift to notify dispatch that they are leaving the property.

The degree of interchange between the Petitioner’s proposed unit and SRTs is slight. As previously described, SRTs frequently perform the duties of a security officer. However, this is the extent of the interchange. No other position may perform the SRTs’ specialized duties. Additionally, SRTs do not perform specialized duties for the specialized unarmed officers. There have been at least two or three unarmed officers who permanently became SRTs after expressing interest in doing so and completing the necessary firearms training; however, the record is unclear as to the timeframe for when these permanent transfers occurred.

In the table below, I have summarized the distances, in miles, between the nine properties.¹⁸ As seen in the table, the properties are all less than two miles from one another.

¹⁷ The record reveals that SRTs wear a beige-colored polo shirt. The record contains no testimony or evidence as to the color of the unarmed officers’ shifts, nor does the record state what kind of shirt the unarmed officers wear (for example, a button-down shirt of a polo).

¹⁸ I have taken administrative notice of the shortest driving distance between the properties using Google Maps (<https://www.google.com/maps>). See *Bud Antle, Inc.*, 361 NLRB 873 (2014), incorporating by reference *Bud Antle, Inc.*, 359 NLRB 1257 (2013), and specifically footnote 3 of 359 NLRB at 1257, where the Board takes administrative notice of approximate distances based on Google Maps. I note that these distances may be shorter should any officers travelling between properties walk rather than drive. Also, as the LINQ and Bally’s are between 46 and 49 feet apart according to Google Maps, and because Google Maps generally shows short distances to the nearest tenth of a mile, I have listed these distances in the table as less than one-tenth of a mile.

To From	Caesars Palace	Rio	Bally's	Paris	Planet Hollywood	Harrah's	LINQ	Flamingo	Cromwell
Caesars Palace		1	0.5	0.7	1	0.2	0.2	0.8	0.7
Rio	0.9		1.3	1.5	1.9	1.5	1.4	1.4	1.2
Bally's	0.4	0.9		0.7	1	0.3	0.3	0.2	0.1
Paris	0.6	1.1	0.2		0.5	0.5	0.5	0.4	0.3
Planet Hollywood	0.7	1.2	0.3	0.3		0.6	0.5	0.5	0.4
Harrah's	0.6	1.5	0.6	1	1.7		< 0.1	0.5	0.7
LINQ	0.7	1.6	0.9	1.1	1.5	< 0.1		1.2	0.3
Flamingo	0.8	1.3	0.4	0.9	1.3	0.7	0.7		0.5
Cromwell	0.3	1.1	0.5	0.7	1.1	0.2	0.1	0.1	

There is no bargaining history between the Petitioner and the Employer.

2. K9s

K9s are similarly situated to SRTs with respect to nearly all of the relevant factors involved in rebutting the single-facility presumption. K9s and SRTs have the same reporting structure for daily activities. K9s have a specialized skillset (that is, explosives detection with their dogs) that no other guard classification has, and, consequently, no other officers can perform the K9s' specialized duties. Likewise, K9s do not perform any of the specialized duties for any of the specialized unarmed officers or for the SRTs.

The same human resources department at Caesars Palace assists K9s and the unarmed officers working at Caesars Palace with any human-resources related matters.

The record reveals that at least three security officers have completed training to become K9s, but the record is unclear as to the timeframe in which these permanent transfers occurred.

K9s' uniforms vary from SRTs' only in the logo on the polo shirt: K9s have a dog's head logo instead of the SRT logo. K9s carry bags with them to pick up after their dogs. K9s do not carry firearms, as they are not trained to use them. K9s do, however, have their dogs with them while on duty.

K9s' working conditions are similar to those of SRTs. One notable difference in the K9s' working conditions is that, when first arriving to work, K9s usually—more than 50 percent of the time—first report to the kennel. K9s may also report to the kennel at the end of their shifts, but the record does not reveal the frequency with which this occurs. At the kennel, K9s may spend up to an hour cleaning the kennel depending on how messy it is. No other employees assist in this activity. Additionally, K9s only work eight-hour shifts—they do not work 12-hour shifts.

3. SRT Supervisors

SRT Supervisors are also very similarly situated to SRTs. As previously noted, SRT supervisor spend approximately 10 percent of their time performing duties related to scheduling, training, and payroll for SRTs and K9s. SRT supervisors spend the remaining 90 percent of the time performing SRT duties. SRT Supervisors, however, are not assigned to pods or events. Instead, they perform other SRT duties, which include the duties of security officers, as the properties' business operations require. Additionally, and unlike SRTs who may report to an SRT satellite office before going to their assigned work area, SRT supervisors always report first to the SRT satellite office at the Flamingo.

Aside from the above, all the factors as analyzed under SRTs apply to SRT supervisors.

4. Analysis & Conclusion

Some factors support the Employer's position on including SRTs, K9s, and SRT supervisors in the proposed unit. These include the centralized human resources; the minimal distance between the other eight properties where the SRTs, K9s, and SRT supervisors work; and the centralized recruiting.

Regarding the centralized human resources, I find that these factors carry less weight because they are not centralized only for the positions at issue in this analysis. Human resources at Caesars Palace also provides services to intelligence officers and the Caesars Palace investigator. Additionally, the record reflects that the Caesars Palace handbook, which is exclusive to employees working at Caesars Palace, applies to non-security employees. Because the Caesars Handbook directs employees to human resources for certain needs, it is reasonable to assume that Caesars Palace employees also go to Caesars Palace' human resources. In sum, because these human resources services are not exclusive to the unarmed officers, SRTs, K9s, and SRT supervisors, this factor carries less weight.

The same is true about the weight of centralized recruiting. Centralized recruiting for security personnel does not only recruit for the positions at issue in this matter concerning unit scope. Instead, centralized security recruiting recruits for all security personnel at all nine properties. Consequently, this factor also carries less weight.

And, while the minimal distance between the eight properties tends to support a rebuttal of the single-facility presumption, it is important to note that the unarmed officers generally only work at the other properties on a volunteer basis, whereas SRTs, K9s, and SRT supervisors must rotate amongst all nine properties. For this reason, this factors also carries little weight.

The remaining factors favor the single-facility unit sought by the Petitioner. While some supervision of SRTs, K9s, and SRT supervisors may come from supervisors and managers of Caesars Palace, this is only the case when these classifications work at Caesars Palace—if they are performing work at Planet Hollywood or the Cromwell, for example, they will receive direction from the supervisors and managers of those properties. Additionally, the supervisors and managers

of SRTs, K9s, and SRT supervisors do not supervise the day-to-day activities of the unarmed officers at Caesars Palace. And, although SRTs, K9s, and SRT supervisor may perform the duties of security officers at Caesars Palace, they do not interchange with any of the other classifications in the Petitioner's proposed unit.

I note, too, that the weighing of these factors somewhat closely aligns with the Board's decision on roving employees in *RB Associates, Inc.*, 324 NLRB 874 (1997). In that case, the petitioner sought to represent a unit of maintenance employees and painters at a single hotel, and the employer argued that roving employees who worked at multiple hotels should be included in the unit. The Board upheld the Regional Director's decision that the employer had not rebutted the single-facility presumption. Notably, the Board pointed to the increased flexibility of the roving employees, which aligns with the flexibility of SRTs, K9s, and SRT supervisors.

Based on my assessment of the above factors, I find that the Employer has not carried its burden in rebutting the single-facility presumption. Accordingly, the appropriate scope of the unit includes only those officers who are regularly employed and working at Caesars Palace.

D. Unit Composition: Security Supervisors

The Employer asserts that security supervisors are not supervisors under Section 2(11) of the Act. The Petitioner disputes this, arguing that security supervisors engage in activities that meet the criteria for a supervisor under Section 2(11). The burden in proving supervisory status lies with the party asserting that status. As detailed below, I find that the Petitioner has failed to carry its burden because the record contains insufficient detail to resolve this matter. However, because security supervisors make up a small percentage of the voting unit, I will direct their ballots be handled in accordance with the Board's normal challenge procedure.

By way of reminder, the Board will find that an individual is a supervisor when the individual has authority to do any of the following actions in the interest of the employer and while exercising independent judgment: hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly direct them, or adjust their grievances, or effectively recommend that any of these actions.

The Petitioner makes a variety of arguments in support of its contention that security supervisors are statutory supervisors under the Act. These arguments include that the classification has the word "supervisor" in the title and that they wear insignia that says "supervisor." The Petitioner also notes that the job description states that security supervisors supervise the entire security staff on an assigned shift. However, all these factors are, at best, secondary indicia—that is, they may support finding supervisory status, but they do not constitute any of the actions enumerated above, and they are insufficient to establish supervisory status on their own.

The Petitioner also argues that security supervisors assign officers to posts and reassign personnel as needed. However, the record is unclear as to the extent of security supervisors' involvement in such scheduling. The vice president for security operations testified that, for Caesars Palace, the director of security and surveillance, the assistant director of security, and the

security supervisors prepare the master schedule for unarmed security officers. However, the record contains no further details on how these individuals contribute to that scheduling.¹⁹

The Petitioner argues that security supervisors inspect security officers for proper performance of duties. Despite the vice president for security operations' testimony that security supervisors engage in the inspection of security officers' performance, this activity, on its own, does not fall under any of the primary criteria for constituting a supervisor. This may support finding that security supervisors discipline officers or conduct annual performance appraisals, but the record is unclear as to whether security supervisors exercise independent judgment in any of these activities.

For participating in the discipline of officers, the record contains 11 "Guide Me Performance Documentation" forms that the Employer uses for recording disciplinary matters. All the forms contain signature lines for an employee, a supervisor, and a manager. Of the 11 documents, supervisor signatures appear on all of them, but a manager's signatures only appear on 3. The director of security and surveillance for Caesars Palace testified that security supervisors do not finalize discipline as it relates to performance or misconduct, and the vice president for security operations testified that security supervisors had to consult with a manager before discipline may be finalized. Without additional details, such as how involved the security supervisor is in recommending discipline in these consultations with management, or if the disciplinary matters are rote and require no independent judgment, the evidence is inconclusive.

For conducting annual performance evaluations, the vice president for security operations testified that the security supervisor's role in completing a performance feedback form, which is used for annual appraisals, was to "perform what the manager, assistant director and director are telling him to do." Although a security supervisor may type up the form and sign it, the vice president for security operations testified that the manager would approve it or change it, and the assistant director would likely have to approve it before the form became finalized. Once again, without further details on the extent of the security supervisor's involvement, this evidence is inconclusive.

Based on the above, I find that the record does not conclusively reflect whether security supervisors are supervisors as defined in Section 2(11) of the Act. However, because the security supervisors constitute only a small percentage of the voting unit,²⁰ I will permit them to vote subject to challenge.

E. Unit Composition: Intelligence Officers & the Investigator

The Employer claims that intelligence officers and the investigator, all of whom work at the Caesars Palace property, share a community of interest with the Petitioner's proposed unit. The

¹⁹ No security supervisors testified during the pre-election hearing.

²⁰ As noted later in this report, there are 103 employees in the unit that I have found appropriate, and there are only four security supervisors at issue.

Petitioner contests the Employer's claim, arguing that the proposed unit is an appropriate one and the addition of intelligence officers and the investigator is inappropriate.

As previously explained, a community-of-interest inquiry involves three steps: (1) the proposed unit must share an internal community of interest; (2) the interests of employees within the proposed unit and the shared and distinct interests of employees excluded from that unit must be comparatively analyzed and weighed; and (3) consideration must be given to the Board's decisions on appropriate units in the particular industry involved. In assessing a community of interest amongst employees, the assessment requires consideration of whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work; including inquiring into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.

Below, I will first outline the facts and caselaw related to each of the three steps. After doing so, I analyze the facts and conclude with my finding on the appropriate unit.

1. The Internal Community of Interest of the Proposed Unit

The Petitioner's proposed unit includes employees working at Caesars Palace in the following unarmed officer classifications: security officers, report writers, FTOs, bike officers, EMTs, dispatchers, and corporals.

i. Departmental Organization

All employees in these classifications work for the Caesars Palace property. The other eight properties employ their own employees in these classifications. This factor weighs in favor of finding a community of interest.

ii. Skills & Training

These employees all participate in a seven-day training academy, which teaches the employees how to perform the duties of a security officer. Indeed, the vice president for security operations testified, "Everybody goes to security academy because they're a security officer first."

In the job descriptions for the proposed-unit classifications, the qualifications sections list the following education and experience for each position:

- Security officer – high school graduate or equivalent required; one to two years' security experience preferred; prior experience with direct guest contact preferred.
- FTO – high school graduate or equivalent required; two years' experience with police, military police, or casino security preferred; two years' experience in a position with direct guest contact required.

- Bike officers – high school graduate or equivalent required; one to two years’ security experience preferred; prior experience with direct guest contact preferred; six months experience as security officer with current property preferred.
- EMTs – high school graduate or equivalent required; one to two years’ security experience preferred; prior experience with direct guest contact preferred.
- Dispatcher – high school graduate or equivalent required; one to two years’ security experience preferred; prior experience with direct guest contact is preferred.
- Corporal – high school graduate or equivalent required; minimum three years’ supervisory experience preferred; one to two years’ guest safety experience or related casino experience required; two years’ experience with police, military police, or casino security preferred; prior experience with direct guest contact is preferred.

The record does not contain a job description for report writers.

The security officers require no additional training beyond the training academy to do their jobs. The record reflects that report writers, FTOs, and corporals also require no further training—they are seasoned security officers who excel at their positions.

As explained above in the section concerning the unit scope, some of these classifications do require further training. Bike officers must pass a three-day course on the mechanics, maintenance, and use of a bicycle. EMTs must maintain a basic emergency medical technician certification with Nevada’s Southern Nevada Health District Emergency Medical Services.

The record contains no details as to what specific skills and training dispatchers receive in order to perform their duties.

This factors weighs in favor of finding a community of interest.

iii. Job Functions & Work

The employees share many of the same job functions and work. The job descriptions for security officers, report writers, bike officers, EMTs, and dispatchers all list their main function as follows: to provide a friendly and safe environment for our guests and team members while protecting company assets. FTOs’ job functions primarily revolve around training new employees. Corporals generally advise other unarmed officers in their duties should they need assistance, and they may stand in for security supervisors. FTOs and corporals are, nonetheless, assigned to work the same posts that security officers work. All these classifications also perform fills and will respond to security incidents.

Report writers primarily, as their name implies, write up reports on security incidents. In doing this task, they gather facts relating to incidents and then, using a computer, document it. When writing reports, the report writers spend their time in the security building. The security

building is a detached building on the Caesars Palace property. When not writing reports, report writers perform the same duties as security officers.

Bike officers generally spend their time patrolling the outside of Caesars Palace, where they will also direct traffic as needed. Bike officers will also fill in for patrols and posts inside Caesars Palace if needed.

Dispatchers primarily work in an area called security dispatch on the Caesars Palace property. Dispatchers alert guards to incidents and send them to those incidents as needed. Dispatchers also receive phone calls from guests of Caesars Palace. Dispatchers also perform a roll call each hour to track all the security personnel on the property. If excess dispatchers are scheduled on a shift, the extra dispatcher will seek out security officer duties.

This factor weighs in favor of finding a community of interest.

iv. Job Overlap

As noted above, the employees have a considerable amount of job overlap, as they all may perform the duties of a security officer. The record is not entirely clear on the frequency with which dispatchers and bike officers perform security officer duties in lieu of their dispatch and outdoor duties, respectively. However, the other classifications are regularly assigned to perform security officer duties in Caesars Palace.

This factor weighs in favor of finding a community of interest.

v. Functional Integration

The employees are all involved in ensuring the safety of guests, employees, and company assets. The record also reflects some obvious integration. For example, new security officers within their first 90 days continue to train and familiarize themselves with Caesars Palace alongside FTOs. Additionally, dispatchers alert the various officers to incidents that require a response. Security officers have, prior to the pandemic and to some degree still today, patrolled Caesars Palace together.

Overlapping with the ninth factor, supervision, the fact that all these classifications report to the same security supervisors for day-to-day operations suggests that they function together.

This factor weighs in favor of finding a community of interest.

vi. Contact with Other Employees

The employees of the proposed unit have regular contact with one another. Prior to the COVID-19 pandemic, all employees on a shift attended a pre-shift meeting, during which the corporals, security supervisors, and managers would update the employees on any news or developments related to their work at Caesars Palace. Since the onset of the pandemic, this information largely gets passed around to employees individually, with corporals and security

supervisors sharing information with other officers they see while patrolling, by pushing the information out over the radio, or by using a mobile phone application, WhatsApp, to communicate electronically.

This factor weighs in favor of finding a community of interest.

vii. Interchange with Other Employees

In addition to the classifications working security guard posts and patrols, the record contains some evidence of security guards permanently transferring to a specialized position, such as FTO, bike officer, EMT, and corporal. As noted in the section above on unit scope, the exact timeframe for these transfers is unclear from the record.

Outside of permanent transfers and working security guard duties, EMT and bike officer duties require specialized training that the other positions do not possess. The record is unclear as to whether employees may temporarily perform duties of FTOs, report writers, or dispatchers.

This factor is either neutral or weighs somewhat in favor of finding a community of interest.

viii. Terms & Conditions of Employment

All these employees in the proposed unit are employed by the Employer in this case. All the employees report to Caesars Palace to work, and they clock in and clock out for their shifts by swiping a card at a timeclock. There is a timeclock at the employee entrance to Caesars Palace and there is a timeclock in the security building, which is a detached building on the Caesars Palace property. All the employees at Caesars Palace use the same employee dining room.

The employees must abide by the Caesars Palace handbook, which is issued to all employees of Caesars Palace, and the Caesars Entertainment Las Vegas Region Security Manual, which is issued to all security personnel.

Should the unarmed officers need to meet with human resources for any reasons, they report to human resources at Caesars Palace.

All unarmed officers wear the nearly the same uniform with only minor differences. All these employees' uniforms include the same pants, belt with a security officer badge attached to it, handcuffs, handcuff key, baton, belt keeper, tourniquet, and radio.

All these employees are hourly, working 8-hour or 12-hour shifts. New security officer employees have an hourly wage rate of \$14.50 during their first 90 days. Afterward, the hourly wage rate rises to \$18.00. The record shows that several outliers, with two senior security officers, each having over 40 years of experience, earning an hourly wage rate of \$24.31—this is higher than the calculated wage rate for some of the salaried security supervisors. The majority of the proposed unit, however, has hourly wage rates ranging from \$18 (a security officer who has completed the initial 90 days) to \$21.43 (the highest paid corporal).

As hourly employees, the employees in the proposed unit all have an annual review period that runs from September 1 of one year to August 31 of the following year.

This factor weighs in favor of finding a community of interest.

ix. Supervision

All the employees in the proposed unit are supervised by security supervisors. These security supervisors report up to the assistant director of security for Caesars Palace.

This factor weighs in favor of finding a community of interest.

2. The Shared and Distinct Interests of Employees Within the Proposed Unit and the Shared and Distinct Interests of Intelligence Officers and the Investigator

Below, I weigh the community of interest between the proposed unit, the intelligence officers, and the investigator.

i. Departmental Organization

Whereas all the classifications of the proposed unit work under one reporting structure at Caesars Palace, the same is not true for the intelligence officers. Although the security intelligence center, where the intelligence officers work, is located inside Caesars Palace, they provide information to all security personnel at the nine Las Vegas properties. Overlapping with the supervision factor, the intelligence employees are grouped under a single security intelligence manager. That security intelligence manager does, however, report to the director of security and surveillance for the pod that includes Caesars Palace and the Rio. For the intelligence officers, this factor weighs slightly against finding a community of interest with the proposed unit.

The investigator does not appear on the organizational chart for Caesars Palace. As noted earlier in the section detailing the overall security operations for the nine properties, the record is unclear as to whom the investigator reports regularly reports: the investigator may report to either the assistant director of security for Caesars Palace, who is the manager of the proposed unit's security supervisors; or the investigator may report to the director of investigations, who is also the director of security and surveillance over the pod containing Caesars Palace and the Rio. For the investigator, this factor weighs slightly in favor of finding a community of interest with the proposed unit.

ii. Skills & Training

Once again, all security personnel participate in a seven-day training academy, including intelligence officers and investigators.

In the job descriptions for the intelligence officer and investigator, the qualifications sections list the following education and experience for each position:

- Intelligence officer – high school graduate or equivalent required; a thorough knowledge of accepted Caesars Entertainment Security procedures
- Investigator – high school diploma required; college degree preferred; one to five years' investigative experience in law enforcement of casino security.

The intelligence officer has no required or preferred experience for working at casinos or working with law enforcement, nor does it have any required or preferred experience with direct guest contact. These were both required or preferred for all the proposed-unit classifications. Instead, intelligence officers should have knowledge of Caesar Entertainment Security procedures, which is not part of any of the proposed-unit classification qualification. This weighs against finding a community of interest with the proposed unit.

The qualifications for an investigator include a preference for a college degree and for investigative experience, neither of which the proposed-unit classifications preferred. Conversely, the investigator qualifications have no requirement or preference for experience with direct guest contact. This weighs against finding a community of interest with the proposed unit.

iii. Job Functions & Work

Intelligence officers support other security personnel by providing them with information on any events that may affect operations at any of the nine properties. Examples of such events include delays at local airports, protests, riots, reported thefts, and reported shootings. The intelligence officers analyze the gathered information, and they then work with other security personnel, supervisors, and management to develop plans and responses to any possible threat or concern. Intelligence officers also work with dispatchers to disseminate information to security personnel to promote situational awareness. This weighs in favor of finding a community of interest with the proposed unit.

The Caesars Palace investigator investigates complaints of criminal activity and employee misconduct at Caesars Palace. If requested, the investigator may also assist on investigations at the other eight properties. The investigator interviews witnesses, including other employees, and work with outside law enforcement agencies. Investigators maintain records of their investigations and make reports to the appropriate management personnel and to the appropriate human resources office. The investigator does not make recommendations to management or personnel regarding any findings of employee misconduct—the investigator only presents the facts. This weighs against finding a community of interest with the proposed unit.

iv. Job Overlap

Intelligence officers have virtually no job overlap with the proposed unit. Although intelligence officers are trained to perform security officer duties, the security intelligence manager testified that none had worked as security officers at Caesars Palace or the other properties since the inception of the intelligence officer position. And, although security officers performed intelligence officer duties prior to the inception of the position, this has not occurred since the

intelligence officers became official positions. This weighs against finding a community of interest with the proposed unit.

The record contains no evidence that the Caesars Palace investigators have any job overlap with the proposed-unit classifications. Again, although the investigator is also trained as a security officer, the investigator's duties are distinct from any of the proposed-unit employees' duties. This weighs against finding a community of interest with the proposed unit.

v. Functional Integration

Intelligence officers perform most of their duties independent of the proposed-unit employees' duties. That is, intelligence officers may still gather information on possible impacts to the nine properties' operations without relying on the proposed-unit employees. Conversely, the proposed-unit employees may, at times, act on information gathered by intelligence officers. The vice president for security operations provided the example of a thief who steals an individual's purse and then heads toward one of the nine properties. Intelligence officers who overhear this on a police transmission, and they may then relay that information to the proposed-unit employees and any other security employees working at Caesars Palace so that the boots on the ground can mitigate and deal with the incident in the best possible manner. Intelligence officers may relay this information by radio or through WhatsApp. The record is unclear, however, as to how frequently intelligence officers disseminate such information to proposed-unit employees.

Additionally, intelligence officers also collect information and disseminate information to employees at the other eight properties as well as to the SRTs and K9s, who rotate among the nine properties. Consequently, although intelligence officers have some integration with Caesars Palace employees, intelligence officers are likewise integrated with employees of the other eight properties. On balance, this weighs against finding a community of interest between intelligence officers and the proposed unit.

Investigators may rely on proposed-unit employees to provide details for an investigation. However, the proposed-unit employees do not rely on investigators in order to complete their own duties. Indeed, the vice president for security operations testified that investigators may get information from unarmed security officers and follow the investigation from there without further aid from the unarmed officers; this way, the unarmed officers will be able to continue carrying out their own duties without disruption. Also, the investigator primarily conducts investigations at Caesars Palace, so the investigator's time is not also devoted to other properties. This weighs slightly in favor of finding a community of interest with the proposed unit.

Similar to an investigator's interactions with the proposed-unit employees, the investigator may get information from intelligence officers that assists or initiates an investigation. This weighs slightly in favor of finding a community of interest with the intelligence officers.

vi. Contact with Other Employees

As described above in the section on functional integration, intelligence officers have some contact with the proposed-unit employees via radio and WhatsApp. However, once again, the intelligence officers also do this for the other eight properties. Additionally, intelligence officers were not required to attend the pre-shift meetings for the Caesars Palace security personnel prior to the COVID-19 pandemic. This weighs against finding a community of interest between intelligence officers and the proposed unit.

Also as described above in the section on functional integration, the investigator has some amount of regular contact with the proposed-unit employees in the course of performing his investigative duties. And, once again, because the investigator primarily works at Caesars Palace, the investigator is not dividing his attention amongst the other properties. This weighs in favor of finding a community of interest between the investigator and the proposed unit.

vii. Interchange with Other Employees

The record contains no evidence of any temporary interchange between intelligence officers and the proposed-unit employees. This weighs against finding a community of interest.

The record contains little evidence of interchange between the Caesars Palace investigator and the proposed-unit employees. The vice president for security operations testified that the Caesars Palace investigator may have once been a security officer. Given the minute evidence, this weighs against finding a community of interest.

viii. Terms & Conditions of Employment

Intelligence officers are not employed by the Employer. Instead, they are employed by Caesars Enterprise, LLC.

The security intelligence manager makes the intelligence officers' schedule. Intelligence officers report to the intelligence center for their shifts. Intelligence officers work 8-hour or 12-hour days—the same number of workhours per shift as the proposed-unit employees. The record contains no details as to how or where intelligence officers clock in and out for the shifts.

Similar to the proposed-unit employees, intelligence officers abide by the Caesars Palace handbook and the Caesars Entertainment Las Vegas Region Security Manual. Additionally, intelligence officers must abide by a separate Security Intelligence Center Policy and Procedure Manual.

In the event that intelligence officers need to meet with human resources, they report to the human resources for Caesars Palace.

Of the six intelligence officers whose pay information is in the record, five of them have hourly wage rates of \$19.50. The sixth intelligence officer has an hourly wage rate of \$22.62. The five rates of \$19.50 are equal or very close to many of the proposed-unit employees. For example,

two EMTs, one bike officer, one dispatcher, and two FTOs also have an hourly wage rate of \$19.50. Eight other proposed-unit employees have hourly wage rates that are within \$0.03 of \$19.50.

Because intelligence officers are also hourly employees, they, like the proposed-unit employees, also have an annual review period running from September 1 of one year to August 31 of the next.

Unlike the proposed-unit employees, intelligence officers do not wear uniforms. Instead, they wear business casual attire.

While some facets of this factor weigh against finding a community of interest between the intelligence officers and the proposed-unit employees, other facets weigh in favor of finding the community of interest. On balance, this factor is neutral with respect to finding a community of interest between intelligence officers.

The record is unclear as to the Caesars Palace investigator's employer. As noted above at footnote 18, the human resources director for Caesars Palace gave conflicting testimony as to who employed investigators. First, on redirect examination, she initially testified that Caesars Entertainment Shared Service employed several classifications, including SRTs, intelligence officers, and investigators. Then, when recalled by the hearing officer to provide clarification, the human resources director testified that SRTs and intelligence officers were employed by Caesars Enterprise Service LLC, but investigators were employed by Desert Palace, LLC.²¹

The investigator has his own office in the security building at Caesars Palace. They have access to the Caesars Palace employee dining room. The investigator is a salaried employee, earning \$54,001.44 annually. Assuming a 40-hour workweek and 52 workweeks in a year, the investigator has an hourly wage rate of \$25.96. Unlike the hourly employees, salaried employees—which also include security supervisors, SRT supervisors, and the emergency response coordinator—have an annual review period that runs from January 1 to December 31.

The investigator does not have a uniform and is permitted to wear plainclothes or, as described in the investigators' job description, "appropriate attire as required for the assignment."

In the event the investigator needs to meet with human resources, the investigator reports to the human resources for Caesars Palace.

This factor weighs against finding a community of interest between the investigator and the proposed unit.

²¹ Unsurprisingly, on brief, the Petitioner asserts that investigators are employed by Caesars Enterprise, LLC, while the Employer claims that investigators are employed by the Employer in this matter, Desert Palace, LLC.

ix. Supervision

Intelligence officers report to the security intelligence manager. The security intelligence manager then reports to two individuals: the director of security for whichever pod needing intelligence support and the vice president for security operations. The proposed-unit employees are supervised by security supervisors. These security supervisors report up to the assistant director of security for Caesars Palace, who reports to director of security and surveillance for Caesars Palace and the Rio. Although the reporting structure for intelligence officers and the proposed-unit employees eventually converges on a director of security, that individual is several steps removed from the daily supervising of either set of employees. This factor weighs against finding a community of interest between the intelligence officers and the proposed unit.

As noted above in the departmental organization factor, the Caesars Palace investigator reports to the assistant director of security of Caesars Palace. This individual is the manager to whom the proposed-units' security supervisors report. This factor weighs slightly in favor of finding a community of interest between the investigator and the proposed unit.

3. Board Decisions on Guard Units

The Board has a policy to include all of an employer's guards in a single unit unless "there is a subgroup with a separate community of interest that warrants separate representation." *University of Tulsa*, 304 NLRB 773, 774 (1991), citing *Broadway*, 215 NLRB 46 (1974). Additionally, the Board does not require that an election be directed in only the most appropriate unit. Rather, the standard is that the unit found appropriate need only be "an appropriate" unit. *American Security Corp.*, 321 NLRB 1145, 1146 (1996).

4. Analysis & Conclusion

Applying the three-step process in determining the appropriate unit, I find that the Petitioner's proposed unit is an appropriate one. As analyzed below, the proposed unit shares an internal community of interest, and while some factors may support finding a broader unit, the record reflects that the proposed unit has sufficiently distinct interests from the intelligence officers and investigator such that it is an appropriate unit on its own.

Firstly, the proposed unit is a clearly delineated department with separate supervision and largely shared day-to-day tasks. All of the proposed unit of unarmed officers²² are regularly performing security officer duties at Caesars Palace: they patrol the hotel, the casino, the parking garage, and the exterior; they main stations to check for underage guests and to perform COVID screenings; they escort guests through the facilities; they pick up trash to keep the property tidy; and they respond to incidents as they occur. And even when performing their specialized tasks, these unarmed officers all report through the same security supervisors, all of whom also perform

²² I note that even dispatchers, when scheduled in excess for the security dispatch office, partake in security officer duties.

security guard duties at Caesars Palace. Additionally, as further reviewed below, their terms and conditions of employment are largely the same.

Whereas the unarmed officers at Caesars Palace spend a significant amount of their time in the role of security officers, intelligence officers spend no time in that role. Intelligence officers specialize in information, and they spend the entirety of their shifts focused on collecting, synthesizing, and sharing that information with the security personnel. Although the employers organizational chart shows a connection between the security intelligence manager and the director of security and surveillance over Caesars Palace and the Rio, the larger picture is that the intelligence officers are a department unto themselves, also providing their services to the other eight properties.

This point as to the intelligence officers' support of all nine of the Las Vegas properties is also as an important distinction with respect to functional integration. Intelligence officers are functionally integrated across all nine properties to provide the security personnel at those properties with information on events that may affect them. To include intelligence officers in a bargaining unit with only the unarmed officers of Caesars Palace would create a unit in which the intelligence officers bargain over wages, hours, and other terms and conditions of employment with only one of property with which it is integrated. As neither party proposes a unit that includes all security personnel at all nine properties—which would align with the Board's holding in *University of Tulsa*—I find grouping the intelligence officers with only one property to be inappropriate.

Turning to the investigator, I am most persuaded in finding no community of interest with the proposed unit based on the investigator's distinct work. Investigators focus on discrete investigations that do not affect the daily activities of the Caesars palace unarmed officers. Unlike the intelligence officers' duties, which serve to support the unarmed officers and other security personnel, investigators work is wholly divorced from that of the unarmed officers.

The varied skills and training also form a distinction between the Petitioner's proposed unit and the Employer's larger unit. The job descriptions for nearly all the unarmed officers prefer experience with direct guest contact. Of particular note, neither investigators nor intelligence officers require or prefer experience with direct guest contact, which again underscores the difference in the work that investigators and intelligence officers perform.

Interchange only minorly favors the Petitioner's proposed unit. Within the proposed unit, interchange occurs to a great degree where the specialized officers perform security officer duties. However, there is no interchange whatsoever between the unarmed security guards and the intelligence officers or the investigator.

Some centralized functions, such as recruitment of security personnel (discussed above in the section on unit scope) and human resource services, would usually be a factor that favors a larger a unit. However, this factor's importance is diminished by the record evidence showing that these recruiting and human resources functions extend beyond the unarmed officers, the intelligence officers, and the investigator. For the recruiting, the recruiter for security personnel

recruits for all nine of the properties. And, for the human resources at Caesars Palace, it also serves SRTs, K9s, and SRT supervisors, all of whom work at all nine of the properties.

Other factors relating to terms and conditions of employment mostly revealed a mix of distinctions and similarities between the Petitioner's proposed unit, the intelligence officers, and the investigator: use of the same handbooks and manuals, with the exception of the intelligence officers' one additional manual, favors a larger unit; the similarity in the lengths of shifts favors a larger unit; the similar hourly wage rates between the unarmed officers and the intelligence officers favored their inclusion in a single unit, but the investigator's salary disfavored his inclusion; the lack of uniforms for intelligence officers and the investigator disfavored the larger unit; and the same appraisal periods for the unarmed officers and the intelligence officers favored their inclusion in a single unit, but the investigator's different appraisal period disfavored his inclusion.

Inasmuch as there is no collective-bargaining history for security officers at this property, this factor does not support finding the proposed unit inappropriate.

For the reasons discussed above, I find that the record establishes that the Petitioner's proposed unit is an appropriate one and fails to establish that the larger unit is the only appropriate unit.

IV. THE ELECTION METHOD

The last issue in this case is whether to conduct an election manually or by mail ballot in light of the ongoing COVID-19 pandemic. The Employer's preference is for a manual election. The Petitioner's preference is for a mail-ballot election.

On November 9, the Board issued its decision in *Aspirus Keweenaw*, 370 NLRB No. 45 (2020), in which it outlined six situations "that will normally suggest the propriety of using mail ballots under the extraordinary circumstances presented by [the COVID-19] pandemic." *Id.* slip op. at 4. The six situations are as follows:

- (1) The NLRB office tasked with conducting the election is operating under "mandatory telework" status.
- (2) Either the 14-day trend in the number of new confirmed cases of COVID-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher.
- (3) The proposed manual election site cannot be established in a way that avoid violating mandatory state or local health orders relating to maximum gathering size.
- (4) The employer fails or refuses to commit to abide by the GC Memo 20-10 protocols.

- (5) There is a current COVID-19 outbreak at the facility or the employer refuses to disclose and certify its current status.
- (6) Other similarly compelling considerations.

The Board noted that the presence of only one of the above situations will constitute extraordinary circumstances allowing for a mail-ballot election. *Id.*

Here, I find that the second factor is determinative. The Employer's operations are located in Clark County. Clark County had 559 COVID-19 cases per 100,000 population the week ending November 2, 701 COVID-19 cases per 100,000 population the week ending November 9, and 865 COVID-19 cases per 100,000 population the week ending November 16.²³ As of November 16, Clark County had a 13.2% COVID-19 test positivity rate over a 14-day period with a 7-day lag.²⁴ Because the number of daily confirmed COVID-19 cases has increased over the past 14 days, and the positivity rate is more than double the rate the Board has cited as the threshold for conducting a mail ballot election, the circumstances warrant a mail-ballot election. As the Board stated in *Aspirus Keweenaw*, when this factor is met, "the interest in public safety will ordinarily indicate the propriety of a mail-ballot election." For this reason, I am directing a mail-ballot election in this matter.²⁵

V. CONCLUSION

Based upon the entire record in this matter, including the stipulations of the parties, and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.

²³ See <https://nvhealthresponse.nv.gov/#covid-data-tracker> ("County Tracker Trends" tab, "Cases per 100,000" tab).

²⁴ See <https://nvhealthresponse.nv.gov/#covid-data-tracker> ("County Tracker Trends" tab, "Test Positivity Rate" tab).

²⁵ I note that, in considering the fifth factor under *Aspirus Keweenaw*, the record contains no details as to whether there has been a COVID-19 outbreak at any of the Employer's facilities. Nevertheless, because of the high test positivity rate, a mail-ballot election is warranted.

Although the Board issued its decision in *Aspirus Keweenaw* after the hearing in this matter closed and after the parties submitted their post-hearing briefs, I find that further briefing by the parties on the appropriate election method in light of new Board caselaw is unnecessary. Here, the second factor of *Aspirus Keweenaw* is based on an objective observation of either the 14-day trend in the number of new confirmed cases of COVID-19 or the 14-day testing positivity rate. As this factor requires no interpretation of law, further briefing on this issue would only serve to delay a decision in this matter.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.²⁶
3. Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b)(3) of the Act:

Included: All full-time and part-time armed and unarmed security officers, report writers, field training officers (FTOs), bike officers, emergency medical technician officers (EMTs), dispatchers, and corporals performing guard duties as defined in Section 9(b)(3) of the Act; excluding all office clerical employees, professional employees, and supervisors as defined by the Act.

Excluded: All other employees, office clerical employees, managers and supervisors as defined in the Act.

Others Permitted to Vote: At this time, no decision has been made regarding whether employees classified as security supervisors (“supv security shift” or “supv security”) are included or excluded from the bargaining unit, and individuals in these classifications may vote in the election but their ballots shall be challenged since their eligibility has not been determined. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

There are approximately 103 employees in the unit found appropriate. There are 4 additional employees in the other classifications permitted to vote.

VI. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Union, Security Police & Fire Professionals of America (SPFPA).

²⁶ The parties stipulated to the following commerce facts: Desert Palace LLC, d/b/a Caesars Palace Las Vegas, a Nevada limited liability company with an office and place of business in Las Vegas, Nevada, is engaged in the operation of hotels and casinos that provide food, lodging, entertainment, and gaming. During the 12-month period ending August 14, 2020, the Employer, in conducting its business operations described above, derived gross revenue in excess of \$500,000. During the same period of time, the Employer purchased and received at its Las Vegas, Nevada, facility goods valued in excess of \$5,000 directly from points located outside the State of Nevada.

A. Election Details

I have determined that a mail-ballot election will be held for the reasons explained above.

At **2:00 p.m. on Tuesday, December 1, 2020**, ballots will be mailed to voters by an agent of Region 28 of the National Labor Relations Board. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **Tuesday, December 8, 2020**, should communicate immediately with the National Labor Relations Board by either calling the National Labor Relations Board, Region 28, Las Vegas Resident Office at (702) 388-6416 or the Board's national toll-free line at 1-866-667-NLRB (1-866-667-6572).

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 28, Las Vegas Resident Office by close of business (4:45 p.m.) on **Tuesday, December 15, 2020**.

All ballots will be commingled and counted at a location to be determined by the Regional Director at **10:00 a.m. on Tuesday, December 22, 2020**.²⁷ The parties will be permitted to participate in the ballot count, which may be held by videoconference. No party may make a video or audio recording or save any image of the ballot count.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **November 12, 2020**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the

²⁷ If, on the date of the count, the Region 28 office is closed, or the staff of the Region 28 office is working remotely, the count will be done remotely. If the Regional Director determines this is likely, a reasonable period of time before the count, the parties will be provided information on how to participate in the count by videoconference.

strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(1) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be received by the Regional Director and the parties by **November 19, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-ruleseffective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be

posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

VII. RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated at Phoenix, Arizona, this 17th day of November 2020.

/s/ Cornele A. Overstreet

Cornele A. Overstreet, Regional Director