

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL L. SHAKMAN, et al.,)	
)	
Plaintiffs,)	
)	Case Number: 69 C 2145
v.)	Judge Andersen
)	Magistrate Judge Schenkier
SHERIFF OF COOK COUNTY, et al.,)	
)	
Defendants.)	

**FIFTH REPORT OF THE *SHAKMAN* COMPLIANCE ADMINISTRATOR
FOR THE SHERIFF OF COOK COUNTY**

Clifford L. Meacham, *Shakman* Compliance Administrator for the Sheriff of Cook County, by and through his attorney, Peter A. Monahan, submits this Fifth Report pursuant to the Order of the Court entered October 30, 2008, as amended.

I. Introduction

Pursuant to the October 30, 2008 Supplemental Relief Order (the “SRO”), the *Shakman* Compliance Administrator for the Sheriff of Cook County (the “SSCA”)¹ is charged with investigating the Cook County Sheriff’s Office’s (the “Sheriff” and the “Sheriff’s Office”) current employment practices and procedures and assisting in the development of new and transparent employment procedures including a new employment plan. Since January 2009, the SSCA has filed four reports updating this Court on the progress of the SSCA’s investigation. As stated in the Fourth Report to this Court filed on April 22, 2010 (the “Fourth Report”), the SSCA will file reports on a monthly basis in order to keep this Court apprised of the Sheriff’s progress towards substantial compliance on a real-time basis. While this new series of monthly reports will be shorter in length than previous reports, they are intended to identify the issues impacting

¹ “SSCA” is defined as the *Shakman* Compliance Administrator for the Sheriff of Cook County and/or the *Shakman* Compliance Administrator’s Staff.

substantial compliance and the Sheriff's progress in resolving them. The SSCA believes that all parties will benefit from a clear understanding of the tasks at hand and value of completing those tasks.

The parties agreed to meet jointly with the SSCA shortly after the SSCA filed the Fourth Report to discuss what developments had occurred and what was left to accomplish. The progress made in that meeting was noteworthy. The SSCA intends to hold such meetings after every subsequent monthly report to encourage more cooperation and progress. Judge Andersen has expressed a willingness to participate in a meeting following this report and has reserved time next week for this purpose.

The SSCA and the parties understand that the Employment Plan (the "Plan") will require revision as the Plan is implemented. Procedures for numerous Employment Actions² (as defined in the Plan) have been finalized and implemented. Others are being completed. The SSCA also understands that various procedures governing the Sheriff's Employment Actions will need to be amended as operational problems are discovered during their execution. The drafting and implementation were a challenge; the documents generated are not perfect and adjustments will be called for as practical application tests their strength.

The ability of the Sheriff to implement these documents in a fair and transparent manner is more significant than the language in the documents. The SSCA anticipates that as each Department within the Sheriff's Office implements the Plan and procedures, mistakes will be made. Mistakes have already occurred and will be discussed further below. The Sheriff's handling of such issues is a truer test of the ability of the Sheriff to identify and correct areas of concern than the draftsmanship that produced the Plan and procedures. The Sheriff's Office's ability to self-police the implementation of the Plan and procedures is a necessary component of

² Terms defined in the Employment Plan will be used in this Report and will be capitalized herein accordingly.

substantial compliance. The theory is simple: the less the Sheriff relies on the SSCA to call balls and strikes, the more likely the Sheriff will be able to identify and correct in the present and the future. The SSCA and Class Counsel, not to mention the Court, must be able to conclude that the Sheriff will maintain a workplace free of political discrimination long after the sun sets on the SRO. Many of the early mistakes in implementing the Plan and procedures were caught by the SSCA and not the Sheriff's Office. While details on these mistakes are below, the SSCA has seen improvement in this area and hopes that the next report will demonstrate even more improvement by the Sheriff's Office in its ability to both catch and solve its own problems as they arise.

The SSCA recognizes the great strides the Sheriff's Office has made towards an office free of Unlawful Political Discrimination and believes the Sheriff is edging closer to substantial compliance with the SRO. The Sheriff noted this progress in his Letter to Judge Meacham on May 7, 2010. See generally Sheriff's May 7, 2010 Letter (hereinafter "May 7 Letter") attached hereto as Ex. A. Some of the progress discussed in that correspondence was prospective. Complete and accurate Organizational Charts ("Charts") remain an unfulfilled priority that requires immediate attention. The failure to provide same continues to inhibit progress in other areas. In addition, some issues of concern remain in the Office of Professional Review ("OPR"). The SSCA has identified its concerns regarding Post-SRO complaints and complaints of Unlawful Political Discrimination with OPR, has met with OPR personnel, and will be meeting regularly with the Director and other investigating OPR personnel on a regular basis. The SSCA notes that OPR has begun addressing the SSCA's concerns and the SSCA expects to receive reports on these investigations in the near future.

The Compliance Officer has been training Sheriff's employees on *Shakman* compliance issues. His duties as described in the Plan are much greater and require a high level of initiative and autonomy. The SSCA has met with, and assisted in developing a priority agenda for, the Compliance Officer and will continue to work with the Compliance Officer to implement this agenda.

The SSCA has been generally pleased with the Departments' implementation of the Plan and procedures, however, an issue in the Department of Corrections ("DOC") arose which remains unsolved as does another (noted in past reports) with the Department of Community Supervision and Intervention ("DCSI"). Better self-policing and quicker course corrections are necessary.

Perfection is not required; a level of proven self-regulation is required. The SSCA believes that through monthly reports, regular meetings with the Sheriff and Class Counsel, and periodic meetings with the Court, all parties will better understand what is left to accomplish before reaching substantial compliance. As mentioned, all are in uncharted waters; proceeding with deliberation, clarity and a sense of caution is essential.

II. Personnel

In the Fourth Report, the SSCA stressed the importance of accurate and complete Organizational Charts and job descriptions for proper implementation of the Plan. Specifically, the SSCA noted the Sheriff's Office's assurance during an April 8, 2010 meeting with the SSCA that the Sheriff would prioritize this project to ensure its swift completion. The SSCA even noted in the Fourth Report that he "expected that all Charts will be finalized well before the next Report to this Court." See Fourth Report at 11. The Sheriff's Office has not met this expectation.

The SSCA filed the Fourth Report on April 22, 2010. On the heels of that Report, after working closely with SSCA staff, the Sheriff's Office sent final versions of five Departments' Charts to Class Counsel on April 26, 2010 followed by two more final Charts the following day. After that, though, momentum lagged. While staff from both the Sheriff's Office and the SSCA continue to meet to discuss the remaining Charts, with the exception of Sheriff's Police, the Sheriff's Office has not produced final versions of the remaining Charts. Further, while eight of the twenty Charts have been sent to Class Counsel for review, three of the most complex Charts (e.g. Department of Corrections, DCSI and Court Services) remain incomplete. In the Sheriff's May 7 Letter, the Sheriff stated that he "anticipate[s] this project will be completed within two weeks." See Ex. A, ¶ 14. If that deadline is met, Class Counsel will have possession of Charts for all Departments, approved by the SSCA, by May 21, 2010. Meeting that deadline is important; doing so still requires more work on this issue.

First, Class Counsel must be provided appropriate time to review and comment on the Charts. Second, the Sheriff's Office must produce updated Exempt, Senior Manager and Personal Assistant lists that contain positions and names consistent with those on the Charts. The SSCA and Class Counsel must be allowed time to review those lists, and Class Counsel must have the right to negotiate positions. Further, in order for the SSCA and Class Counsel to verify the accuracy of the lists and Charts, accurate job descriptions for all Exempt, Senior Manager, and Personal Assistant positions included on the lists (as well as many non-Exempt positions on the Charts) must be included. Because the Sheriff's Office still has not produced complete and accurate Charts, subsequent steps towards substantial compliance cannot be undertaken. The SSCA was pleased to learn that the Sheriff is contemplating requiring all Department Heads to ensure that their Department's Charts are updated on a monthly basis. The

SSCA was encouraged by this demonstration of initiative; there are benefits to keeping the Charts current. Further, the Sheriff's Office is in the process of hiring a Human Resources Specialist on a temporary basis. The SSCA anticipates that this specialist can assist in solving many of the problems that remain in Personnel in the short-term, and can thereafter focus the Sheriff's Office on a long-term effort to institute more efficiency and transparency in that Department.

The Sheriff's Office is also in the process of adapting the procedures for Sworn personnel to Civilian Employees and drafting additional procedures. To date, the Sheriff's Office has provided procedures for Civilian and Sworn Employees for ADA Transfers, Assignments, Desk Audit Transfers, Details, Hardship Transfers, Internships, and Operational Transfers.³ In addition, the Sheriff's Office has provided procedures for Promotions/Lateral Transfers, Demotion of 911 employees and Seniority Bid Transfers for Civilian Employees. The SSCA continues to work with the Sheriff's Office on finalizing these procedures and expects implementation within the next two weeks.

III. OPR and the Compliance Officer: Claims Adjudication, Unlawful Political Discrimination and Unlawful Political Contacts

To date, the SSCA has received 18 Complaints of Unlawful Political Discrimination. These include formal Post-SRO Complaints as well as less formal complaints from employees. The SSCA has received OPR reports on five complaints. Three of these reports address failure to hire claims. The SSCA has no issue with these determinations or the investigations. With respect to the two other reports, the SSCA and the Director of OPR have discussed the SSCA's

³ In addition, the Sheriff's Office has provided the following Sworn procedures: Merit Rank Promotions, Transfers (Seniority Plus Bid Transfers, Non-Bid Transfers, Hardship Transfers, Desk Audit Transfers, Employer Rights Transfers, and Operational Transfers), Details (Specialized Details, Internal Details, External Details, and Emergency Details), Assignments (Reassignment Under Investigation, Special Event Assignment, and Emergency Special Event Assignment), Training (Selective Training, In-Service Training, Specialized Training, Remedial Training, Department-Initiated Training, Employee-Initiated Training, Required Training, Leadership Training, and Watch Changes Roll Call Training) and the Performance Evaluation Pilot Program.

concerns and the SSCA expects these will be addressed in OPR's future reports. Further, the SSCA and the Director of OPR have met and discussed OPR's investigations of the remaining Complaints. The SSCA has been assured by OPR that the resolution of these investigations has been made a top priority. To date, OPR has not received any referrals of Unlawful Political Contacts from the Compliance Officer. The SSCA will need a greater sample of reports prior to recommending substantial compliance. It should be noted that the Sheriff's Office is hiring two Senior Investigators and six Investigators who will help with completing the outstanding investigations on an expedited basis. See Ex. A, ¶ 5. The SSCA believes the increase in staff will assist greatly in the completion of investigations.

IV. Compliance Officer

In the Fourth Report, the SSCA noted the important step the Sheriff's Office took by hiring a Compliance Officer. The Plan contemplates numerous responsibilities for the Compliance Officer including "taking appropriate steps to eliminate, remedy and report instances of Unlawful Political Contacts and Unlawful Political Discrimination [as well as authorization to] receive and investigate complaints of alleged violations of this Employment Plan[,] . . . review OPR investigation reports and append as necessary[,] conduct training [and] audit Employment Plan compliance." See Plan, Section XIII(A). To date, the SSCA has primarily been able to monitor the Compliance Officer conduct trainings. As the Sheriff noted in his May 7 Letter, a substantial number of Sheriff's employees have been trained on Unlawful Political Discrimination, Political Contacts, the Plan and various procedures by the Compliance Officer and executive staff from Personnel. See Ex. A, ¶ 1.

The SSCA appreciates that the duties outlined in the Plan for the Compliance Officer are daunting. The importance of the position cannot be underestimated. Once the SRO expires, the

Compliance Officer becomes the single most important position charged with ensuring that the Sheriff's Office remains free from Unlawful Political Discrimination and has the duty to ensure that progress made is not lost. The SSCA has made available its staff and resources to the Compliance Officer and will continue to do so. Ultimately the Compliance Officer must be able to investigate, audit, and report effectively and autonomously. The Sheriff has granted the Compliance Officer "unrestricted access to the Sheriff's employment processes for Non-exempt Positions and all Sheriff personnel." See Plan, Section XIII(C). The Compliance Officer must now use this access to conduct his own investigations into alleged violations of the Plan and its procedures and report on the same.

The Compliance Officer is charged with logging all Political Contacts and referring Unlawful Political Contacts to OPR for investigation. The Sheriff's Office sent all employees a Contact Log Memo outlining this procedure. To date, the Compliance Officer has reported that he has received many calls from employees regarding contacts – some political, some not. The SSCA has not received notice that any Complaints of Unlawful Political Contact have been referred to OPR for investigation. The SSCA anticipates receiving such notice and Contact Logs during the next month so that it can monitor the activities of OPR and the Compliance Officer.⁴ While not required by the SRO or Plan, the Compliance Officer recently indicated that he intends to send a letter regarding Political Contacts to all Cook County Public Officials. The SSCA welcomes this demonstration of initiative.

⁴ Minutes before filing this Report, the SSCA received an Activity Status Report from the Compliance Officer summarizing activities completed in his first month of employment with the Sheriff's Office. The SSCA notes that this submission also included a Political Contact Log. The SSCA appreciates this submission and looks forward to reviewing and discussing same with the Compliance Officer.

V. Implementation of the Plan and Procedures: Departmental Updates

In the Fourth Report, the SSCA updated the Court on the implementation of the Plan and procedures throughout the various Departments of the Sheriff's Office. The SSCA also noted several deficiencies in certain Departments it felt could potentially allow for the possibility of Unlawful Political Discrimination. Since that Report, the SSCA has been able to monitor another month of implementation of the Plan and procedures and is generally pleased with the Sheriff's efforts thus far. Most Employment Actions have been compliant with both the Plan and relevant procedures.

On the whole, the Department of Corrections has done an exemplary job of complying with the Plan and correcting missteps when they have occurred. Recently, though, a significant mistake occurred which has not yet been remedied. See Ex. A, ¶ 4. The SSCA noted in its Fourth Report that the Department of Corrections' Compound Wide Bid for Correctional Officers was compliant with the Collective Bargaining Agreement ("CBA"), Article XIV Section 14.1(A), for Teamsters as well as the spirit of the Plan. See Fourth Report at 14. Unfortunately, the day the SSCA filed its Fourth Report, the SSCA was informed by a Correctional Officer that four Correctional Officers were able to bid to External Operations (within DOC) during this Compound Wide Bid, despite not possessing the necessary qualifications (deputized status and valid driver's license). The SSCA informed DOC senior staff of this potential issue the following day. Over the next week, the SSCA spoke with several high-level Sheriff's employees including the Compliance Officer about the issue after receiving confirmation from the Sheriff's Office that these four individuals were indeed erroneously allowed to bid into External Operations. The SSCA was assured that an exhaustive inquiry would be conducted to compile the names of all de-deputized Officers in External Operations. Several days later the SSCA was

told by the Sheriff's Office that the total number of unqualified External Operations Correctional Officers was ten, but admitted that it had not completed the inquiry. To date, the Sheriff's Office has not determined the exact number of Officers affected by this bid and has not been able to explain why some of these apparently ineligible Officers had been working in External Operations even before the bid while unqualified to do so.

The SSCA sees several problems with the above. First, the Sheriff's Office did not catch this mistake; the SSCA did through an informant. Second, the Sheriff's Office still has not determined the scope of the mistake, much less fixed it, despite being first notified of its existence several weeks ago. Third, the information provided by the Sheriff's Office was inaccurate or incomplete in certain respects despite the SSCA being assured that it was both accurate and complete. The SSCA appreciates that the Sheriff pointed this issue out in his May 7 Letter and anticipates that this issue will be resolved promptly and satisfactorily.

Other areas of concern include the lack of promotion procedures in DCSI, Criminal Intelligence Unit ("CIU") and OPR and transfer and promotion procedures in the Department of Vehicles Services ("Vehicle Services"). With respect to DCSI, the Sheriff's Office has addressed some transfers with the recently implemented procedures, but has not yet completed the promotion procedures. The SSCA has been advised that the Sheriff's Office is currently drafting a proposal regarding the DCSI, CIU and OPR promotion procedures. With respect to Vehicle Services, the Sheriff's Office agreed to provide its plan addressing the issues raised by its internal desk audit as well as issues raised by the SSCA. In the Fourth Report, the SSCA also raised an issue regarding personnel in Vehicle Services. This issue has been addressed by the Sheriff who asked the Deputy Director of Vehicle Services to tender his resignation. See Ex. A,

¶ 11.

With respect to the implementation of the Employment Plan and the Procedures, the SSCA is pleased to report that the Sheriff's Office has begun to rely on the Compliance Officer for explanations and clarifications of the provisions. In addition, employees have begun to identify operational problems and errors and, often with the assistance of the Compliance Officer, have presented corrections and solutions to the SSCA. A few examples of this self-correction are recognizing: (1) a non-compliant Pre-Release Center bid, withdrawing the posting and reposting a compliant bid; (2) the scoring system posted on a Specialized Training Bid needed to be modified, discussing the same with the Compliance Officer and correcting the error; (3) the Merit Board certified promotional scores are proprietary and not available for use in the promotions process, discussing the same with the Compliance Officer and revising the promotions procedures to account for this; (4) the training procedures do not address last minute opportunities provided by neighboring law enforcement agencies and notifying the SSCA of the training opportunity as well as the manner of selection; (5) the Plan did not address certain operational issues for Sworn, Civilian and Senior Manager Hiring and proposing revisions to correct the same; and 6) that recent Bids in Pre-Release Center and the Department of Women's Justice mistakenly did not include a criminal background check in their listed minimum qualifications and proposing a process by which all Applicants would be notified of the additional requirement and the Sheriff's Office would confirm such notification with the SSCA.

VI. Conclusion

The above findings are intended to focus the Sheriff and Class Counsel not only on what remains to be accomplished but on the priority the SSCA attaches to those tasks. While the Sheriff's Office continues to take positive steps toward substantial compliance, a finding of substantial compliance requires more. Greater frequency of self-policing and self-correcting is essential. The SSCA sees definite signs of progress and acknowledges the resources the

Sheriff's Office has committed to *Shakman* compliance. The SSCA is hopeful that the issues noted herein can and will be addressed by the Sheriff's Office effectively and promptly. In the meantime, the SSCA will continue to work with the Sheriff's Office to resolve the above issues while keeping in mind the SSCA's stated need for the Sheriff and Compliance Officer to demonstrate more autonomy and initiative. It is anticipated that Class Counsel will also give consideration to taking advantage of the Sheriff's offer of access to all aspects of *Shakman* compliance.

Respectfully submitted,

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EXHIBIT A



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CHICAGO, IL 60602

THOMAS J. DART

SHERIFF

May 7, 2010

The Honorable Clifford L. Meacham
Shakman Compliance Administrator
Cook County Sheriff's Office
69 West Washington

Dear Judge Meacham:

I have reviewed your Fourth Quarterly Report and I wish to extend my thanks for the compliments you have paid to my staff and me. I also appreciate the constructive criticism you have offered and wish to restate my commitment to addressing the areas of concern you have identified.

This letter is intended to update you on some of the Shakman compliance measures taken by my office since my last written correspondence with you, which was dated April 22, 2010. Included among the important progress made since that date are the following accomplishments:

1. More than 278 supervisory employees and personnel staff have attended Shakman training sessions. The training has been conducted by the Compliance Officer, Robert Egan, as well as Michael Boyce and Katie Gibson, two members of my staff that have worked closely with the Compliance Administrator on developing Shakman related procedures. Members of the CA staff have monitored each and every session. This training will remain ongoing for a number of months.
2. Two department head meetings have been held to examine and discuss the Employment Plan. Both meetings have focused on the need for department heads to be accountable for successful implementation of the plan throughout their respective divisions of the Sheriff's Office.
3. On April 30th, I distributed a letter under my signature to all employees announcing the appointment of Mr. Egan as the Compliance Officer. The letter also ordered employees to report instances of political contacts to the Compliance Officer.



4. After being alerted to the problem by the CA's staff, an effort was launched to correct a series of errors made during the bidding process for the External Operations Division at CCDOC. We are currently working with CA staff member Matt Pryor and the correctional officers' union on rectifying the problem.

5. On April 29th, the Office Professional Review completed one of the pending Post-SRO investigations (OPR#2010-0300 – Failure to Hire). Additionally, we have posted two "Senior Investigator" vacancies for OPR, and have authorized the posting of eight "Investigator" vacancies for OPR. I am confident that this anticipated infusion of staff at OPR will help address the backlog of cases and allow for swifter and thorough investigations of any Post-SRO claims in the future. This is being done in an attempt to comply with your request to shorten the time period required for OPR investigations under the SRO.

6. A policy for the hiring of interns was adopted and posted on the "Employment" page of the Sheriff's website.

7. Approval for the Pre-SRO Claims settlement was secured from the County Board of Commissioners on May 4th. Individual checks for the claimants are scheduled to be forwarded to the Compliance Administrator's office on Friday, May 7th. It should be pointed out that one of the Commissioners, Earlean Collins, complimented the Sheriff's Office and the Sheriff's Compliance Administrator for the Shakman-related work we have accomplished and said we should serve as a role model to all other county agencies.

8. Interviews have been scheduled for Wednesday, May 12th, by the Sheriff's Shakman counsel, Hinshaw and Culbertson, with candidates for our human resources consultant. The consultant will advise the Sheriff's Office on any necessary changes to the Personnel Department in order to implement the Employment Plan.

9. An effort has been launched by the Compliance and Integrity division of OPR to identify and gather all department forms that are used in employment actions (including hiring documents, transfer memos, daily assignment sheets, etc.) Once all the forms are analyzed, a process will be created to ensure "no political consideration" language is added to the appropriate forms.

10. On April 30th, the Directors of the Boot Camp and DCSI sent letters to a total of 30 employees in their departments who have refused to respond to the CA's desk audit questionnaire. Each employee was strongly urged to participate and many have since complied. Those employees who continue to hold out will be asked to provide a written explanation for their refusal.

11. Based on internal desk audits and the expressed concerns of the CA and Plaintiff, the Deputy Director of Vehicle Services, was asked to tender his resignation. His employment in the Sheriff's Office ended April 30th.

12. Based on a request from the Plaintiff's counsel, the Sheriff's Compliance Officer,

Bob Egan, was asked to conduct a formal review of the situation involving the Deputy Director of Vehicle Services. Additionally, we have requested that Mr. Egan also review the recent External Operations bid at the CCDOC.

13. Work continues to finalize all department Organizational Charts and we anticipate this project will be completed within two weeks. Upon completion, we will consult with the CA and Plaintiffs to ensure all appropriate corrections and amendments are made to the Exempt and Senior Manager Lists.

14. In addition to the OPR employment vacancies mentioned above, the following postings have been made:

- CCSPD Detective (Non-Bid Transfer) - Posting closes 5/7/10
- Training Instructor (Non-Bid Transfer) - Posting closes 5/7/10
- CIU Investigator (Non-Bid Transfer) - Posting closes 5/7/10
- Court Services ERT Training (Selective Training) - Posting closes 5/10/10
- WJS Correctional Officer (Seniority Plus Transfer) - Posting closes 5/11/10
- Pre-Release Correctional Officer (Seniority Plus Transfer) - Posting closes 5/13/10
- Janitor III (Civilian Promotion process) - Posting closed 4/27/10, in process of screening candidates (attendance/discipline)
- JDCCP DUI & Distracted Driving Prevention Officer I and II (Specialized Detail) – Interviews completed 5/5/10.

15. The Promotional process has been initiated for the following positions: Court Services Sergeant, Correctional Captain, Boot Camp Captain, and Police Lieutenant. In keeping with the new promotional procedure, the Personnel Department has completed attendance reviews for all 167 candidates for the above positions and OPR discipline reviews should be completed by the end of this week. Additionally, attendance and discipline reviews were completed for 30 candidates who applied for the Distracted Driving Prevention Officer positions. Each stage of the promotions process will be monitored by the CA staff.

I hope the above list provides you with an informative summary of the important work and accomplishments of the last two weeks. I will continue to provide you with periodic updates as we get closer to our goal of being found in substantial compliance.

Sincerely,



Thomas J. Dart
Sheriff of Cook County

cc. Judge Andersen
Brian Hays