

**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.)	

**SEVENTH 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 Seventh Report pursuant to the Order of the Court entered October 30, 2008, as amended.

I. Introduction

As stated in previous reports to the Court, 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 late 2008, the SSCA has monitored the Sheriff’s efforts to comply with the October 30, 2008 Supplemental Relief Order (the “SRO”) and has seen great progress in that time.

Since agreeing to the SRO, the Sheriff’s Office has developed and implemented procedures for various Employment Actions such as hiring, Promotions, Transfers, Details and

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

Training.² The Sheriff's Employment Plan (the "Plan") now incorporates over 20 different procedures (the "Procedures") aimed to increase transparency and accountability within the Office. The hiring of a Compliance Officer is intended to ensure that the SSCA's efforts are continued after the SRO sunsets. Additionally, the Sheriff's pending hire of a Human Resources Specialist should further the effort to improve transparency and efficiency throughout the Sheriff's Office.³ The Sheriff has, in addition, restructured various components of his Office including the Executive Office, the Department of Corrections ("DOC") and the Office of Professional Review ("OPR") and has created a new Office of Policy and Accountability ("OPA"). These positive and proactive steps were done in substantial compliance with the Plan. The SSCA believes the above steps increase oversight, accountability, and clarify reporting structures. Successful implementation will help to ensure a culture free of unlawful political influence after the SRO sunsets.

In the Sixth Report to this Court the SSCA identified the remaining issues that must be addressed prior to certifying that the Sheriff's Office is substantially compliant with the requirements of the SRO. Those issues were: (1) the implementation of the Plan and Procedures; (2) the Office of Professional Review's ("OPR") investigations of allegations of Unlawful Political Discrimination and Unlawful Political Contacts; and (3) the Compliance Officer's investigations of violations of the Plan and Procedures. *See* Sixth Report at 2-3. The SSCA asked all parties to focus their energies on the resolution of these outstanding issues so that progress could continue and the Sheriff's Office could reach substantial compliance in the near future. *See id.* at 14. While the SSCA noted several outstanding issues with the

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

³ As stated in previous reports, this Human Resources Specialist, with the Personnel Department ("Personnel"), will further implement and revise the Plan and Procedures, continue the implementation of the automated timekeeping function, implement the automated tracking system (Taleo), and assist with updating the Sheriff's document retention system. *See* Sixth Report at 2.

implementation of the Plan and Procedures, the bulk of the SSCA's concerns focused on investigations conducted by OPR and the Compliance Officer. The SSCA reacted positively to OPR's most recent report but wanted to see more such reports, and from different investigators, before certifying substantial compliance with the SRO. The SSCA expressed serious issues with earlier reports issued by the Compliance Officer and anticipated that, over time, the ability of the Compliance Officer to effectively and autonomously conduct investigations and report on the same would continue to develop. *See id.* at 10. Specifically, the SSCA urged the Compliance Officer to provide more detailed investigation summaries than he had at that point, and encouraged additional interaction with SSCA staff. *See id.* at 7-10.

Based on the SSCA's pledge to not allow for "resolved issues to resurface," *id.* at 14, the SSCA drafted a subsequent document specifically identifying what the SSCA termed the "Scope of Remaining Issues" and distributed same to the Sheriff's Office as well as Class Counsel. *See* Scope of Remaining Issues, attached hereto as Ex. A.⁴ The SSCA solicited comments to the document and received assent from both sides. The remainder of this Seventh Report is intended to update the Court on the Sheriff's progress since the Sixth Report was filed while specifically addressing the current scope of remaining issues. No new issues have been identified by any party. The Sheriff's Office is close to achieving substantial compliance with the SRO; the SSCA's time is short. This Report also includes details of how the SSCA is transitioning his responsibilities to the Compliance Officer and Sheriff's personnel.

II. Personnel and the Implementation of the Plan and Procedures

In the Sixth Report, the SSCA discussed the Sheriff's recent production of complete and accurate Organizational Charts but noted that the Sheriff's Office needed to produce more

⁴ Based on progress made by the Sheriff's Office since June 29, 2010, the version attached hereto as Ex. A has been updated.

documents under the Employment Plan and Procedures to be in substantial compliance. *See* Sixth Report at 3-4 (noting the Sheriff's need to produce an updated Exempt List, a proposed Senior Manager/Personal Assistant List and updated Job Descriptions for Exempt and Senior Manager positions). While not explicitly discussed in the SSCA's Sixth Report, the SSCA has discussed other issues with the Sheriff's Office that remain with respect to the implementation of the Plan and Procedures. Specifically, the SSCA noted its contention that the Sheriff's Office must update the Plan with text for various Employment Actions such as Promotions and Transfers as well as incorporate the over 20 other Procedures into the Plan. Further, the Plan must be finalized with updated Civilian Employment Action procedures and with respect to Taleo. The Sheriff's Office must also finalize procedures for the following Employment Actions: Approval of Benefit Time, Assessment for Fitness for Duty, Discipline, Extended Leaves, Layoffs, and Overtime. Finally, per the Plan, the Sheriff's Office must issue a Quarterly Report of Employment Actions. The SSCA is pleased to report that many of these items have been produced in the intervening month and completion of remaining items is imminent.

First, the Sheriff's Office produced an updated Exempt List including revised Organizational Charts and Job Descriptions on July 2, 2010. This list was reviewed and approved by the SSCA and provided to Class Counsel.⁵ More recently, the Sheriff's Office produced an updated Senior Manager list with relevant Job Descriptions on July 15, 2010.⁶ The following day, the SSCA was provided an updated Senior Assistant list. The Sheriff's Office also updated the Plan with references to many Procedures. This complete version of the Plan is

⁵ The SSCA acknowledges that the Sheriff's Office has undergone various Exempt-level changes since the revised Exempt List was provided to the SSCA and Class Counsel. The SSCA, however, has closely monitored the steps the Sheriff's Office has taken to make these changes and confirms that the Sheriff's Office has been in substantial compliance at every step.

⁶ The SSCA is currently compiling all of the Job Descriptions it has for any and all positions in the Sheriff's Office. The SSCA anticipates being able to produce these documents to Class Counsel in the very near future.

currently being reviewed by the Compliance Officer and SSCA. The SSCA has also received drafts of five of the six remaining Procedures. These are currently being reviewed by the SSCA and the SSCA expects these to be complete within the next 14 days. As with the completed Procedures, the Compliance Officer and SSCA will offer edits to these drafts and, after incorporated, the revised Procedures will be forwarded to Class Counsel for comment. Once they are submitted to Class Counsel, these Procedures will be incorporated into the Plan. Lastly, the Sheriff's Office filed its Quarterly Report in late June and has already substantially addressed the SSCA's concerns with that Report. The improved Quarterly Report is clearer and far more complete and comprehensive than the previous version. Personnel worked with the SSCA to identify and rectify reporting issues. Personnel continues to implement these changes and the SSCA looks forward to a revised version of the June 30, 2010 quarterly report.

The SSCA observes that in making considerable organizational changes, the Sheriff's Office has substantially complied with the Plan. While in the past the Sheriff's Office sought prior approval of the SSCA before making such moves, this responsibility has shifted to the Sheriff's Office so that the SSCA has merely reviewed the applicable forms after completion. The SSCA believes that the Sheriff's Office can satisfy the remaining issues noted above in the very near future which will bring it considerably closer to substantial compliance.

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

In the Sixth Report, the SSCA noted that while his office was becoming more comfortable with OPR's ability to investigate complaints of Unlawful Political Discrimination and Unlawful Political Contacts, "based on the number of reports received, the files reviewed, the investigations of political connections, and the results and recommendations arising from these investigations, there is insufficient material to support a finding of substantial compliance."

See Sixth Report at 5. The SSCA also discussed concerns related to the depth of inquiry by OPR in various Post-SRO investigations but noted that OPR was taking steps to address the SSCA's concerns. See Sixth Report at 5. While the SSCA has only received one additional Post-SRO Complaint Investigation Summary from OPR since the SSCA's Sixth Report, there are several significant positives to report.

First, effective July 9, 2010, the Sheriff reorganized OPR so that the former Integrity and Compliance section of OPR, now known as OPA, exists outside and independent of OPR. The purpose of this was to separate OPR (which is charged with investigating criminal and other complaints of employees and inmates) from OPA, which is primarily policy and contract compliance oriented. It also helps clear up confusion surrounding who appropriately qualifies as Exempt. Second, Class Counsel and Sheriff's Counsel have met to begin working through issues that have arisen with the implementation of the Post-SRO claims process set forth in the SRO. In short, through implementing the Plan, OPR's duties to investigate facially apolitical allegations made on the Post-SRO Complaint form became blurred. The Sheriff's attorneys requested that Class Counsel meet to discuss this issue and Class Counsel agreed to meet. The SSCA has asked the Sheriff's Office to memorialize the OPR-Compliance Office protocol to ensure that the areas of responsibility for both offices are clear to both parties, the SSCA and this Court. Third, SSCA staff met with various employees in OPR to share information and strategies developed in the Pre-SRO Claims process. Finally, ten Post-SRO Complaints have been assigned to four Investigators and Senior Investigators in an effort to demonstrate that the ability to conduct effective investigations into allegations of Unlawful Political Discrimination. The SSCA sees all of these developments as positive steps toward substantial compliance yet reiterates its desire to review more investigative reports in the near future.

IV. Compliance Officer

In the Sixth Report, the SSCA discussed in great detail concerns regarding the Compliance Officer. *See* Sixth Report at 6-10. The SSCA requested that the Compliance Officer keep the SSCA “apprised of the progress of his investigations” and provide much greater detail in his reports. *See id.* at 7. The SSCA has seen definite improvements since that Report which are described below.

Immediately following the SSCA’s Sixth Report, the Compliance Officer began updating the SSCA consistently on his progress on various investigations as well as his reactions to issues that arose regarding implementation of the Plan and Procedures. The SSCA is satisfied that the Compliance Officer understands the Plan and Procedures and is capable of troubleshooting issues that may arise in continued implementation. The SSCA also notes that the Compliance Officer’s receptivity to concerns of the SSCA with Plan and Procedure implementation has increased over the past month. The Compliance Officer has begun taking over the role previously held by the SSCA as the first stop for suspected violations of the Plan and Procedure. There has been a marked improvement in the rate at which the Sheriff’s senior staff and employees have gone directly to the Compliance Officer when violations of the Plan and Procedures are suspected. The SSCA and the Compliance Officer understand the importance of this transition; when the SSCA departs, Sheriff’s employees must have a full understanding of where and how to report alleged violations.

The SRO requires that the SSCA continue to monitor implementation of the Plan until substantial compliance is reached. *See* SRO, Art. III, Sec. C.1. That duty falls on the Compliance Officer once the SSCA departs. The SSCA has informed the Sheriff’s Office and Class Counsel that the degree to which it will monitor Employment Actions going forward will

gradually subside for two reasons. First, the SSCA's reduction in monitoring the implementation of the Plan and Procedures is aimed to transition those duties to the Compliance Officer to avoid any lapse in effective monitoring once substantial compliance is certified. Second, there are a number of Employment Actions that the SSCA has already had the opportunity to monitor which were conducted in substantial compliance with the Plan. The SSCA need not monitor these types of Employment Actions every time they arise but will instead spot check to the extent necessary to ensure integrity and compliance. This reduction in activity has been explained to the parties, and has resulted in staff cutbacks and reduced billings.

In the past month, the SSCA has followed closely two violations of the Plan and Procedures. The first violation, which was mentioned in the Sixth Report, concerns the Writing Sample portion of the DOC Captain Promotions. Since the Sixth Report, DOC has re-administered the Writing Sample and did so in compliance with the Merit Rank Promotion procedure. The other violation concerns the hiring of Senior Investigators in OPR. After the interview of a Candidate, a panel member from OPR revealed that he was a former co-worker of the Candidate and had a high regard for that Candidate. Because of the unreported conflict of interest, the representative from Personnel on that panel immediately notified the Compliance Officer of the situation. After analyzing the facts, the Compliance Officer determined that the best course of action would be to create a new panel and re-interview all Candidates. The SSCA was pleased with the process initiated, and believes it shows a transition from the SSCA to the Compliance Officer as the initial stop for alleged violations of the Plan and Procedures.

Finally, in the past month the SSCA received three reports on investigations into alleged violations of the Plan and Procedures (as required in Art. IV, Sec. O. of the Plan), and a quarterly audit from the Compliance Officer as required under the Plan. *See* Plan, Art. IV, Sec. N. The

three reports were significant improvements that contained clear identifications of the issues at hand and thorough summaries of interviews conducted and steps taken in the investigations. The SSCA would like to see more developed and clearer recommendations by the Compliance Officer – a responsibility given him in Art. IV, Sec. O. of the Plan.⁷ The SSCA suggests that in order to provide additional support to the Compliance Officer, the Plan should be amended so that all future reports from the Compliance Officer are distributed to the Executive Director of OPA as well as the Special Assistant to the Sheriff and Deputy Special Assistant to the Sheriff (who have been tasked with drafting and editing the Procedures for the past several months). The SSCA envisions that this group can help ensure that policy and Procedure changes suggested by the Compliance Officer will be enacted to ensure future violations of the Plan and Procedures are avoided.

The Compliance Officer's audit provided updates on several subjects, including Department Hiring Intervention, Exemptions, Justifications for Hire, Modifications to Job Descriptions, Minimum Qualifications, Testing Administration and Scoring, and No Political Consideration Certifications. The SSCA was satisfied with the contents of the audit and believes it demonstrates the depth to which the Compliance Officer is engaged with the duties given him under the Plan. Sections 6 and 7 of the audit in particular show that Department Heads and senior staff understand the role of the Compliance Officer and are utilizing him appropriately. The SSCA also appreciated the Compliance Officer's recommendation in Section 2 of his audit that the Plan's section on the Exempt List be amended to incorporate titles changes of Exempt positions. Recommendations such as these demonstrate the Compliance Officer's understanding of the intricacies of the Plan and that he is, and will continue to be, an asset in the evolution of

⁷ Because of the need to retain the confidentiality of the investigations' subjects, specific concerns regarding the Compliance Officer's investigative inquiries and recommendations were shared directly with the Compliance Officer on July 19, 2010.

that document. Finally, the SSCA notes that the Sheriff's Office detailed an Administrative Assistant to provide much needed support to the Compliance Officer.⁸ It is the SSCA's understanding that this new addition to the Office of the Compliance Officer will help develop a filing and tracking system to keep organized the steady flow of information into that office.

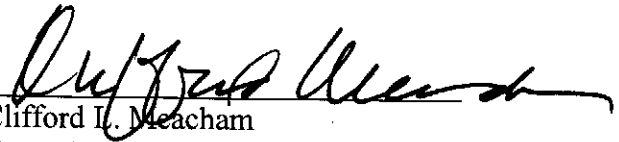
V. Conclusion

The SSCA submits this Seventh Report to the Court to acknowledge the diminishing universe of remaining issues prior to the certification of substantial compliance. The SSCA looks forward to the upcoming meeting with both parties and Judge Andersen set for July 23, 2010.

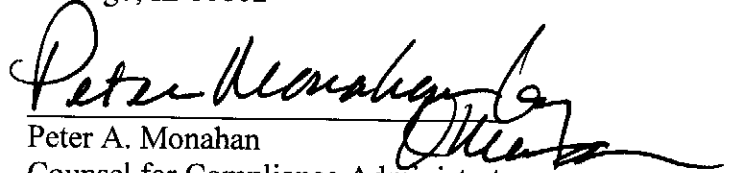
I must acknowledge the retirement of Judge Wayne Andersen who has presided over the *Shakman* litigation for many years with ongoing wisdom, judgment, and kindness. While substantial compliance for the Sheriff's Office will not be reached before Judge Andersen retires, his efforts have established a foundation that has allowed the Sheriff's Office to build a *Shakman* compliant office. The parties and Judge Andersen in particular deserve great credit for their efforts working toward substantial compliance. The Sheriff, with the help of Class Counsel, have built a better, fairer, and more functional office, and in so doing will serve the interests of Applicants and employees. Finally, the benefit to the public at large and Cook County taxpayers, while difficult to quantify, is considerable. The SSCA looks forward to working with Judge Andersen's successor on final steps toward substantial compliance, which is anticipated to occur in the near future.

⁸ The Sheriff's Office informed the SSCA that this External Detail will last three months after which the position would be posted in accordance with Section V of the Plan.

Respectfully submitted,



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EXHIBIT A

Scope of Remaining Issues

(responsible party in parens)

- A. Personnel
 - 1. Exempt List
 - a) Minor suggested revisions of Job Descriptions to be provided by SSCA to CCSO (CCSO and SSCA)
 - b) Continued monitoring of additions and deletions to the Exempt List (SSCA)
 - 2. Senior Manager/Personal Assistant List
 - a) Provide Job Descriptions for all people on list (CCSO) and send to Class Counsel for review (Plaintiffs)
 - b) Compare new Lists to final Organizational Charts for consistency (SSCA)
 - 3. Job Descriptions for non-Exempt/non-Senior Manager/Personal Assistant positions.
 - a) SSCA will provide Class Counsel with all Job Descriptions received from Sheriff's Office (SSCA). Note: SSCA will not require Job Description for all positions in the Sheriff's Office
 - 4. Plan
 - a) Update Plan with text for Promotions (Art. IX) and Transfers (Art. X) and other procedures (Art. XI). (CCSO and SSCA)
 - b) Update Plan with respect to Taleo (CCSO and SSCA)
 - 5. Procedures
 - a) Finalize following (CCSO):
 - (1) Extended Leaves
 - (2) Approval of Benefit Time

- (3) Overtime
 - (4) Layoffs
 - (5) Discipline
 - (6) Assessment for Fitness of Duty
- b) Continue updating Procedures as needed based on implementation (CCSO and SSCA)
6. Quarterly Report of Employment Actions (CCSO) (see Plan, Art. IV.B)
- B. Departments
1. SSCA Department Heads to meet with new Deputies Chief of Staff for overview of concerns and discussion of Deputies Chief of Staff's plans going forward (CCSO and SSCA)
 2. Desk Audits - will stop (with very limited exceptions)
 3. Monitoring - will continue until substantial compliance is reached (per Art. III.C.1 of SRO) but will be cut back on Procedures and in Departments, Divisions and Units where only negligible problems remain (SSCA)
- C. OPR
1. Completion and distribution of additional reports of investigations of Unlawful Political Discrimination and Unlawful Political Contacts (CCSO) (see Plan, Art. IV.J)
 2. Continued monitoring of investigations of claims of Unlawful Political Discrimination and Unlawful Political Contacts and other duties set forth in the Plan such as approving changes to the Exempt List and responding to Departmental requests for disciplinary records for Employment Actions and cooperation with the Compliance Officer in the carrying out of the duties of that office, responding to appeals regarding proposed changes to the Senior Manager/Personal Assistant List and Job Descriptions (SSCA) (See Plan, Arts. IV.J, VIII & XIII)

3. One-Time meeting between SSCA and Directors and Investigators to discuss pre-SRO Claims process (CCSO and SSCA)
- D. Compliance Officer
1. Completion of reports identified in the Plan including reports of Political Contacts, Contact Logs, Resolution Logs, appendices to OPR reports of alleged Unlawful Political Discrimination, reports concerning alleged violations of the Plan and Procedures, reviews and audits of Employment Actions (CCSO)(See Plan, Arts. IV.J, IV.N, IV.O & XIII)
 2. Continued monitoring of the Compliance Officer's investigations into alleged violations of the Plan and Procedures and other duties set forth in the Plan such as training, approving changes to the Exempt List, maintenance of the Exempt List and Senior Manager/Personal Assistant List, review of Job Descriptions (SSCA)
- E. Continued Meetings
1. Thursday mornings between SSCA and Class Counsel
 2. Thursday afternoons between SSCA and CCSO
 3. Joint meetings to be scheduled (SSCA)
 4. Meeting with Judge Andersen, SSCA and both parties after next SSCA Report (SSCA)
 5. Report on meeting between CCSO and Judge Schenkier (CCSO)
- F. Continued Reports (SSCA)