

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

MICHAEL L. SHAKMAN, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 69 C 2145
)	Magistrate Judge Sidney Schenkier
COUNTY OF COOK, et al.,)	
)	
Defendants.)	

**ELEVENTH REPORT OF THE *SHAKMAN* COMPLIANCE ADMINISTRATOR
FOR COOK COUNTY**

Mary Robinson, *Shakman* Compliance Administrator for Cook County (the “Compliance Administrator” or the “CA”), by and through her attorney, Matthew Pryor, submits this Eleventh Report pursuant to the order of the Court entered November 30, 2006.

This report is presented pursuant to the terms of the Supplemental Relief Order entered on November 30, 2006 (the “SRO”), requiring that the Compliance Administrator study the existing employment practices of Cook County Government (the “County”)¹, monitor the County’s compliance with the provisions of the SRO, assist in formulating a

¹ For the purposes of this and future reports, “Cook County” and “the County” shall refer to the defendant, Cook County and, in particular, to those departments and functions that operate under the direct control of the President. There are three units of County government which, due to developments since entry of the SRO, operate independently of the President for hiring and other purposes relevant to the dictates of the SRO, and separate practices are being implemented for each. Those units will be designated as follows: the Office of the Cook County Public Defender (the “Public Defender”), the Office of the Independent Inspector General for Cook County (“OIIG”) and the Cook County Health and Hospitals System (“CCHHS” or the “System”). Within the first year after entry of the SRO, the Juvenile Temporary Detention Center (JTDC) began operating under the authority of a court-appointed monitor and then was recently transferred to the authority of the Chief Judge of the Circuit Court of Cook County. The CA has engaged in no oversight of JTDC since August 2007.

new hiring plan, assist in establishing training programs on non-political hiring practices, adjudicate claims based upon violations that preceded entry of the SRO, make recommendations to the Court as to how to resolve issues regarding *Shakman* Exempt positions, and file reports describing the activities of the CA and the County's progress toward achieving Substantial Compliance with the requirements of the SRO.

SUMMARY

Cook County offices that operate under the authority of the President and the units of government that have become independent of the President's authority for purposes relevant to the SRO have made substantial progress in reforming practices which were in place at the time the SRO was entered and which fostered opportunities for unlawful political discrimination. All units addressed in this report are operating under approved and published Employment Plans, replacing the historic *ad hoc* practices that were neither recorded nor followed with any regularity. For all units, appropriate compliance mechanisms are in place and are operating effectively. All employees have been trained on the Plans, and compliance with the provisions of the Plans is generally reliable, with variances occurring primarily in connection with adjustment to more recently adopted practices rather than as a result of intentional, politically motivated reasons.

There remain tasks that include adoption of supplemental policies for the Cook County Health and Hospitals System ("CCHHS" or the "System"), finalizing implementation of some Plan provisions and supplemental policies by creating and utilizing appropriate forms and procedures, making certain documents or information available to the public, capturing data for exempt and other positions through ATAS, reform of some practices involving discipline, and development of job descriptions for employees hired by Cook

County Commissioners. In addition, a period of monitoring will be required to assure compliance with more recently adopted Plan provisions and supplemental policies.

SUBSTANTIAL COMPLIANCE

Under the SRO, the County must demonstrate the following in order to achieve Substantial Compliance:

1. The County has implemented the New Plan, including procedures to ensure compliance with the New Plan and identify instances of non-compliance;
2. The County has acted in good faith to remedy instances of non-compliance that have been identified, and prevent a recurrence;
3. The County does not have a policy, custom or practice of making employment decisions based on political factors except for Exempt Positions;
4. The absence of material noncompliance which frustrates the 1994 Consent Decree and the SRO's essential purpose. The CA and the Court may consider the number of Post-SRO complaints . . . found to be valid. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the County is not in substantial compliance; and
5. The County has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment with the County.

(SRO, III.E.8).

1. The County has implemented its Employment Plan, including procedures to ensure compliance and identify instances of non-compliance.

Adoption and implementation of an employment plan is, perhaps, the most fundamental step toward creating systems that will prevent opportunity for unlawful political discrimination. Accomplishing that for purposes of this SRO involved development of several different plans to cover the units of government which, after entry of the SRO, came to operate independently of the President for purposes of some or all employment actions.

An approved Employment Plan covering County offices under the President was filed with the Court on March 19, 2012. Agreement on additional provisions allowing for direct appointments of certain managerial employees in the Public Defender's Office was reached as of July 20, 2012, whereupon the Public Defender agreed to be bound by remaining provisions of the County Plan. Later, it became apparent that the Public Defender was not following Plan requirements for awarding internship/volunteer opportunities. Appointment of a new Public Defender, Amy Campanelli, broke an unreasonably long impasse in development of alternative procedures for an intern policy uniquely drawn to the Public Defender's needs, and a Plan amendment incorporating provisions for the Public Defender volunteer program was filed on July 23, 2015.

CCHHS sought to adopt its own employment plan targeted to the needs of a medical system. The first step toward that goal consisted of an approved process for direct appointment of CCHHS managerial employees, filed by December 12, 2012. At the time, the System was converting to operating as a managed care organization under the Affordable Care Act, requiring significant changes in staffing, organizational structure, and management. Those changes, coupled with the departure of the former CEO delayed work on the Employment Plan, which was finally filed on October 23, 2014. An addition to the Plan allowing for more flexible procedures in hiring doctors and other advanced clinicians (the "Advanced Clinical Process" or "ACP") was recently reached and will be formally included as a Plan amendment in the near future. It remains necessary to develop procedures for the CCHHS practice of hiring part-time temporary physicians.

In deference to the independence of the Office of the Independent Inspector General (the "OIIG") from the authority of the President, a separate Employment Plan was

developed for that office and filed May 8, 2013.

Besides those Employment Plans, each unit subject to this SRO has been required to adopt and implement supplemental policies for employment actions not covered by the Plans, such as discipline, overtime, and transfers. The County adopted approved supplemental policies effective August 1, 2013. The Public Defender agreed to be bound by those same policies as of July 2014. CCHHS is close to adoption of a supplemental policy manual. The OIIG implemented its own policies effective June 3, 2014.

Implementation of the Plans and supplemental policies for each unit involved several components: 1) appointment of compliance officials; 2) mapping systems and creating forms compliant with Plan and supplemental policy provisions; 3) training of all employees on the provisions of the Plan; and 4) monitoring of compliance.

Compliance Officials

Shortly after the SRO was entered, the Cook County Board adopted an ordinance creating the OIIG, subject to approval of the County Board, after nomination by an independent committee and another committee consisting of bipartisan senior representatives of the County Board, the State's Attorney, and the Executive Director of Ethics. The OIIG has authority over all units of government bound by the SRO and, as relevant here, the OIIG is charged with responsibility to investigate allegations of unlawful political discrimination and to recommend appropriate action when allegations are founded. In addition, the Employment Plans filed pursuant to the SRO provide for internal compliance officers who are appointed by the chief executive, have some tenure protections, and are responsible for training, monitoring employment actions, and investigating allegations of Plan violations that do not involve political discrimination.

Patrick Blanchard has served as the initial Independent Inspector General since his appointment in October 2008, having been reappointed in October 2014. The Compliance Officer (CO) for all offices under the President and for the Public Defender, Letitia Dominici, was appointed in October 2011. CCHHS and the OIIG identify their internal compliance official as the Employment Plan Officer (EPO). Carrie Pramuk-Volk was appointed to that position at CCHHS effective June 2013 and Steve Cyranoski was named the OIIG's EPO in May 2013.

Each of the individuals responsible for internal compliance has been instrumental in moving their respective units of government toward substantial compliance. Each has proven capable, diligent and trustworthy. As a result of their combined efforts, employees responsible for hiring actions understand what the Plans require of them, concerns are often resolved as hiring actions progress, and allegations of violations are being properly investigated and dealt with.

Forms and Systems

Implementation of each Plan required development of appropriate forms and specific procedures. The County had successfully implemented all but a handful of processes required under the Plan by early 2014. Recently, the County finalized two of the few remaining steps by creating the Ineligible for Rehire list and making the technical changes needed to allow tracking of appointments to Exempt Positions through ATAS. The County must implement the same ATAS tracking for Public Defender Direct Appointment hires and all Executive Assistants. An additional remaining task is creation of job descriptions for Commission staff.

The Public Defender recently implemented an amendment to the Plan addressing the special circumstances of the Public Defender intern/volunteer program. Postings and applications now go through ATAS, greatly enhancing transparency and the ability to assure that opportunities are awarded even-handedly. Record keeping practices for identifying where volunteers are assigned are also recent.

CCHHS has adopted appropriate forms and procedures for most functions covered by its Employment Plan. Remaining to be done: internal candidate preference option; disqualification of candidates because of discipline; posting of up-to-date quarterly reports of employment actions on the CCHHS website; procedures for tracking Direct Appointments through ATAS; and procedures to assure updating of, reference to, and public requests for the Ineligible for Rehire list. Finally, supplemental policies must be finalized and the EPO must train relevant staff on the same as well as the recently finalized ACP process.

Training

Ms. Dominici took responsibility for training all human resource employees, supervisors and others involved in hiring decisions, and all other County, and Public Defender employees bound by the provisions of the Plan. She did most of the training personally, with assistance from the Bureau of Human Resources, the OIIG, and the CA's office. Ms. Dominici and the Bureau of Human Resources ("BHR") worked hard to assure that every employee took part. In all, the first round of training was completed by September 2012 and involved more than 90 sessions and over 2,400 attendees. Ms. Dominici has continued annual electronic training for all employees.

Ms. Pramuk-Volk undertook training once the CCHHS Plan was filed in October

2014. She, too, did most of the training personally, with assistance from her staff, the OIIG and the CA's office. The first round of CCHHS training was completed by August 2015 and involved more than 150 sessions and over 5,500 attendees. Plans are underway for annual electronic training options for the future.

The OIIG training was conducted by its Employment Plan Officer, Steve Cyranoski. He conducted training of all OIIG employees and completed that training by July 2013. Annual training has since been conducted online.

In the training sessions on the provisions of the Employment Plans, both supervisors and other employees expressed appreciation for the transformation from the days of *ad hoc* decisions with no recorded practices, where they were often left in the dark about why or how anything happened. Not everyone likes every procedure dictated by each Plan, but employees generally appreciate the commitment by leadership procedures that are reduced to writing and available to all employees. The training gives employees an explanation of what procedures will be followed and face-time with those responsible for enforcing compliance. It also advises them of their right and duty to be part of compliance enforcement.

All affected employees of the County, Public Defender, and OIIG have also been trained on supplemental policies. Similar training will be required once CCHHS adopts supplemental policies, and it will be coupled with training on the newly adopted ACP process.

Monitoring

For years, the CA monitored most hiring sequences for all divisions of the offices under the President. Issues with compliance were observed particularly during early

implementation, as employees involved in hiring and other employment actions became accustomed to following the newly adopted practices. There were missteps, there were omissions, and there were decisions that the CA questioned. But since adoption of the Plans, the CA has not encountered open defiance of its work. Nor has there been evidence of significant politically motivated intentional evasion as was the case in the past. While monitoring of the County, CCHHS, Public Defender and OIIG will continue by those offices' respective Compliance Officers/EPOs (as well as the OIIG), the CA's active monitoring of some aspects of SRO and Plan compliance will change as described below.

Over a period of time, the County has established a pattern of sustained and pervasive compliance, as well as appropriate responses to concerns that were raised, with most issues being identified by the County's own CO without intervention by the OIIG or the CA. That pattern of compliance has continued through upheavals in leadership in BHR, including significant interim periods with no Director in place. Because new leadership in BHR has only been in place for a few months, the CA will continue meeting with BHR to ensure compliance continues unabated.

Because compliance became dependable, the CA significantly reduced monitoring of County hiring sequences in 2015. Regular monitoring continued for four departments where historical issues had been more pronounced, but those departments have shown consistent compliance, and CA monitoring in those departments is ending. CA oversight for the County will be limited to audits to ensure continued compliance and spot checks to assure implementation of recently and yet-to-be adopted practices (e.g., updating of Ineligible for Rehire list, posting data for Exempt Employees, Public Defender Direct Appointments, and Executive Assistant hires).

Active monitoring of compliance with supplemental policies is also being phased out because of satisfactory periods of dependable compliance, with the exception of policies concerning discipline. A coordinated audit by the County's CO and the CA identified two areas of continuing concern: 1) record-keeping is inconsistent, so that decision makers often have insufficient documentation of the conduct involved and reasons for discipline imposed by a supervisor, as a result of which implementation of certain provisions of the Employment Plan is frustrated; and 2) procedures for discipline hearings, particularly third step grievances and the Employee Appeals Board, are not defined and there appears to be considerable variability in what procedures are followed in any given case, leaving room for results driven by impermissible political considerations. Efforts to address these concerns are underway.

Monitoring of compliance by the OIIG with the provisions of its Plan and supplemental procedures showed consistent and reliable compliance. That CA monitoring has ended as well, except that implementation of the supplemental policy governing performance evaluations has been recent and the CA will monitor compliance with that policy for a time. There had been issues with the Public Defender providing notice of interviews and other activities subject to monitoring, but those issues were resolved and monitoring has established consistent compliance. CA monitoring of PD interviews and other steps in the hiring process is now ending. Because the procedures for the intern/volunteer program are relatively new and their implementation thus far has come with considerable validation errors, monitoring of those procedures will continue for a time. Also, monitoring of disciplinary hearings will continue for a time since issues with notice and objections to the monitor's presence delayed consistent oversight.

Regular monitoring of CCHHS employment actions continues. Procedures are relatively new, and there are still issues with appropriate implementation, but without evidence of improper political considerations. A period of monitoring will also be required for the newly adopted ACP process, certain Plan provisions not yet implemented, and supplemental policies yet to be adopted.

2. The County has acted in good faith to remedy instances of non-compliance that have been identified, and to prevent a recurrence.

During the first several years under the SRO, the CA identified numerous instances of employment actions that did not comply with any consistent practices and which appeared to have been motivated by unlawful political considerations. The County's responses were rarely satisfactory, with the County generally declining to accept that actions were wrongful or politically motivated despite glaring evidence, and with no serious consequences meted out to alleged offenders. Instances of noncompliance continued to be identified by both the CA and the OIIG after Mr. Blanchard's appointment in October 2008. Until the election of President Toni Preckwinkle in December 2010, responses continued to be largely unsatisfactory. Under President Preckwinkle, the tide began to turn, initially, through responses that addressed system failures, and, in due course, through responses that imposed appropriate consequences for offenders.

As of the last CA report in March 2014, there remained issues to be addressed in the County's Department of Transportation and Highways. As discussed below, those issues appear to have been effectively addressed. There have been a number of *Shakman*-related incidents since the CA's last report, e.g., Commissioners interceding on behalf of individuals seeking employment, a full-time exempt employee spending significant portions of regular working hours attending to the duties of an elective office, several County and CCHHS

candidates having falsified credentials, transfer of a CCHHS employee who was unqualified for the direct appointment position he held to a significantly less responsible direct appointment position where he was given the same pay, There have also been other, largely technical violations of the Employment Plans. While a few of the incidents are concerning, they do not suggest serious systemic problems, and responses were largely appropriate.

Previously Raised Concern: Highway Department

A series of reports addressing claims of political discrimination in the Department of Transportation and Highways identified patterns and practices that had been allowed to develop historically. The Department had been a haven for the politically connected, where sponsored individuals got and kept jobs they were not qualified to do, where other employees who had to pick up the slack stayed in lesser positions and were paid less, where job titles did not match job responsibilities, and where it was generally understood that certain “connected” employees were essentially exempt from discipline. The Department was reorganized to an extent under new leadership, but the reorganization did not correct all vestiges of past failings. Investigations by the OIIG and the Post-SRO Complaint Administrator identified continuing issues, including job responsibilities that did not match job descriptions, underutilized employees, inequities in job duties and pay, and hesitation by supervisors to impose discipline.

The County made a number of changes designed to address the problem, and then agreed to conduct a series of desk audits to identify what issues remained unaddressed. Those audits revealed that there were still several employees whose duties did not match their job descriptions, jobs that did not require full time efforts, and jobs that were

unnecessary or superfluous. In response to the findings, the County took corrective action that included reclassifying and eliminating positions and reassigning employees. In addition, supervisors were given training in the appropriate application of discipline. The actions taken appear to have appropriately addressed all of the concerns that were raised.

Findings Since Tenth Report

OIIG Findings Concerning Non-Compliance by Commissioners

Since the CA's Tenth Report, the OIIG has made several findings of non-compliance by County Commissioners. In one report (15-0187), the OIIG concluded that a Commissioner twice recommended a personal acquaintance to a County manager overseeing the hiring for a non-exempt position. Under the Plan and Section 44-56 of the Cook County Ordinance, such recommendations are required to be made in writing by the Commissioner and delivered only to BHR to avoid having line supervisors subjected to the threat of political influence. In another instance, the OIIG issued a letter to a different Commissioner after finding that the Commissioner had provided a relative's resume to the CCHHS CEO and made several follow-up communications inquiring whether that relative would be appropriate for any CCHHS Direct Appointment position. As all CCHHS positions (including Direct Appointments) are non-exempt and, therefore, are supposed to be free from political considerations, such overtures violated the CCHHS Plan and Section 44-56 of the County Ordinance. Unfortunately, these are not new occurrences. Interventions by Commissioners on behalf of individuals involved in employment actions have occurred on and off over the life of the SRO.

Ironically, a number of Commissioners have complained quite consistently about the cost of the *Shakman* oversight. The Commissioners can help bring the oversight to an

end by themselves carefully toeing the line. Some appear to underestimate the coercive impact of their contacts and inquiries on managers. Regardless of the subjective intent of the Commissioners and even the care with which they may attempt to phrase their inquiries, County employees assume that power is being exerted to influence employment actions when they are contacted directly by Commissioners. Practices have been adopted to neutralize that impact, and it is important that those practices be followed by all elected officials. The good news is that employees are aware of their duty to report political contacts and are doing so, rather than yielding to inappropriate influence.

OIIG Finding: Exempt Employee Working on Duties as Elected Official on County Time

In a report (15-0218) issued October 28, 2015, the OIIG found that an exempt employee who had been elected to a position in suburban government was regularly spending substantial work time at his suburban office, addressing the duties of the elective office. While the President did not agree with all of the OIIG findings in the matter, she pointed out some imprecision in County ordinances which the OIIG had found were violated and observed that the employee's status as FLSA exempt made it less clear what working hours he could be held to, she, nevertheless, agreed that the amount of time the employee appeared to have been spending at the suburban office and the fact that he had lied to the OIIG in the investigation warranted asking for his resignation, which she did. On the way out, the employee left a note for an assistant expressing his assumption (and resulting anger) that she was responsible for having reported him. The OIIG recommended that the former employee be placed on the Ineligible for Rehire List because of his conduct and what the OIIG found to be an additional violation of engaging in retaliatory conduct. The President has declined the recommendation that the employee should be deemed

ineligible for rehire.

Despite disagreement over this employee's eligibility for rehire, the incident demonstrates that the systems that have been put in place under the SRO are effective and that the County's commitment to the principles at issue is significant. Serious misconduct came to the attention of the OIIG, the OIIG did a thorough and effective investigation that cut off opportunities for the employee to escape the consequences, and the President made the important decision to require the employee's resignation. As to the employee's eligibility for rehire, it appears to be a fair conclusion that the employee's abuse of County resources and deception in the OIIG investigation would qualify as "conduct which would reflect adversely upon, or bring discredit to the County or the Career Service" so as to qualify him for inclusion on the list. That said, the President's decision to the contrary appears to be based in part upon concerns that County policies and expectations are sufficiently unclear to warrant taking a more lenient view of the conduct. As a result, the decision is not clearly at odds with the requirements of the Employment Plan.

OIIG and EPO Findings: Applicants Falsifying Credentials

Since the last Report, both the OIIG and EPO have made several findings related to concerns with the truthfulness and accuracy of information provided by candidates in certain hiring processes. There were five instances of applicants for positions at the County and/or CCHHS submitting applications falsely claiming to have degrees or other credentials or omitting required information. The deceptions were caught during the application process. Four of those five applicants were then-current County or CCHHS employees applying for other positions, and all were terminated and placed on the Ineligible for Rehire List. The fifth applicant who had never held County employment was

placed on the list as well. Two other applicants who falsified credentials were hired before the misrepresentations were discovered, but they were terminated once the deception was exposed. They, too, were put on the Ineligible for Rehire List.

In the early days of the SRO, there was little concern about preventing falsification of applications and little energy for imposing consequences. The predictability and swiftness of the terminations in these cases is a momentous change that sends an important message to those who would try to misrepresent their qualifications.

EPO and OIG Findings at CCHHS

In a report (15-026) issued on January 14, 2016, the EPO found that an interview panelist who participated in a hiring sequence had a child with a candidate who was being considered, but she failed to disclose the fact that they knew one another as required in the Plan's section on Conflict of Interest. That same employee provided the EPO with false information during her investigation. The candidate in question was awarded the position, but was terminated once the investigation revealed that he had misrepresented his credentials and in fact did not possess the minimum qualifications required for the position. No action has yet been taken in regard to the employee who participated in the hiring without disclosing her relationship. DHR's written response to the EPO's report and recommendations concerning that employee is pending.

Incidents like this were commonplace before the Employment Plans were adopted, and they promoted the sense among employees that hiring procedures could be manipulated without consequence. A severe disciplinary response in this case would further the goal of eliminating remnants of any such thinking.

In a report (15-0104) issued December 24, 2015, the OIG concluded that CCHHS'

demotion of a known politically-connected employee from a high level Direct Appointment position with responsibilities which he had shown himself incapable of performing, to another lower level Direct Appointment position was “unjustifiable and the product of mismanagement of both HHS resources and the direct appointment process.” The employee was allowed to keep his annual salary of \$210,000, despite CCHHS having a market study suggesting the appropriate annual salary for the new position was significantly lower at \$125,000. The salary decision resulted from the opinion of the CCHHS DHR Chief that a demotion policy (not approved through the SRO processes) required that the employee’s salary be left intact.

When the findings were discussed with leadership, it appeared that, while seeking to correct the problem of an employee who proved unable to perform his duties, high-level CCHHS executives had not considered simply terminating the employee as unqualified. One of the executives admitted in hindsight that it was a mistake to leave the employee at the higher pay. CCHHS leadership appeared totally unaware of the political significance of their actions, and in particular, the manner in which those decisions would be perceived by other employees. The employee in question resigned from the new position, and so there was no need for the OIG to make a recommendation for remedying the situation. He did recommend that CCHHS develop a better way to handle situations such as this in the future.

Although CCHHS has operated under the independent CCHHS Board of Directors, largely protected from improper political influence, for several years, CCHHS leadership has to remain aware that there are remnants of the old ways. Falsification of credentials, creative interpretations of required qualifications to bring in a political ally, and concealment of conflicts on the part of decision-makers were regular occurrences not that

long ago, and it would appear that there are employees who continue to believe that they will evade detection or consequences when they embark upon those practices. It is critical that leadership understand the importance of speedy, consistent, and predictable reactions to such situations.

Completed and Ongoing CO Investigations

Overall, the CO has issued 28 Incident Reports since her hire in October 2011. The vast majority of the CO's findings involve minor, technical violations of the Plan and Supplemental Policies, and the County has done an effective job at responding to the CO's recommendations of corrective action. The CO has also conducted several audits – the most recent one concerning several County departments' adherence to the County's disciplinary policies and procedures. The CO made several recommendations on recordkeeping and process fixes that the County is in the process of adopting. See above at 9-10.

Completed and Ongoing EPO Investigations

Since the filing of the CCHHS Plan in October 2014, the EPO has issued nine reports concerning alleged violations of the Plan which included four findings of departures from the Plan. The EPO has over 30 pending investigations into other alleged violations of the Plan.² Most of the EPO's findings have been technical in nature (e.g., untrained interview panelists, unapproved interview questions being asked of candidates, interview panelists' failure to create and maintain notes during the selection meeting, and lack of notice

² In November 2015, the EPO instituted a process whereby she issues a "Employment Plan Violation Notice" when she becomes aware of – and sustains – a finding of a technical violation of the Plan. She then uses her "EPO Incident Reports" to discuss more serious or persistent violations of the Plan. The CA appreciates this effort to provide concise findings with recommended corrective actions and has appreciated that it allows the EPO to work directly with CCHHS employees on corrective behavior. The EPO has issued 11 such Employment Plan Violation Notices since November 2015.

provided to the EPO, DHR and/or the CA), but there have been findings that are more troubling in that they involve conduct that allows evasion of procedures intended to eliminate opportunity for unlawful political influence.

An example is a July 2014 report (14-011) in which the EPO concluded that an interview panelist allowed one internal candidate to interview despite not providing her transcript at the time of interview, as required on the posting. Other candidates without transcripts were excluded from interviews. The panelist told the EPO that “the copier ate” the candidate’s transcript. However, the candidate informed the EPO she did not bring the transcript at all. It is encouraging that the panelist apparently understood she would be facing consequences and resigned from employment after the initiation of the investigation but prior to the EPO’s report being issued.

3. The County does not have a policy, custom or practice of making employment decisions based on political factors except for Exempt Positions.

The CA has concluded that, as a result of the policies and actions outlined in other sections of this and prior reports, the County no longer has policies, customs or practices of making employment decisions based on political factors except where political factors are permissible. There are only a handful of additional policies to be implemented to assure that that remains true. It also remains critical that compliance officials remain diligent in investigating, and that the County, PD, and CCHHS continue to appropriately address allegations of noncompliance. But the environment has been drastically altered from that in place when the SRO was entered, and politics as usual is no longer the rule for employment practices in offices under the President and the other units bound by the SRO.

4. **The absence of material noncompliance which frustrates the 1994 Consent Decree and the SRO's essential purpose. The CA and the Court may consider the number of post-SRO complaints . . . found to be valid. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the County is not in substantial compliance.**

In addition to matters addressed in Section 2 above, this requirement for substantial compliance focuses on instances where noncompliance has resulted in claims made by individuals negatively impacted by non-compliance.

Under the SRO (and the Plan), employees, former employees, and applicants for County employment were permitted to file complaints of alleged UPD with a Post-SRO Complaint Administrator, Mark Vogel, who was charged with investigating such complaints and issuing reports with findings on the same. In February 2012, the Post-SRO Complaint investigation duties shifted to the OIIG. By the time the Post-SRO Complaint Administrator's Office dissolved in July 2013, Mr. Vogel had sustained 16 separate Post-SRO complaints out of a total of 105 complaints filed, and the County had either settled or was in the process of settling those complaints or challenging the Post-SRO Complaint Administrator's findings in arbitration (pursuant to the SRO).

Since the last report, the County has resolved all of the Post-SRO complaints sustained by the Post-SRO Complaint Administrator. In all, the County paid just under \$2.1 million to settle 16 Post-SRO Complaints.

The CA notes that one of the Post-SRO settlements was at the center of a recent sustained Post-SRO finding by the OIIG (14-080). In that matter, the County had agreed to pay the complainant a cash amount and to hire the complainant as a Painter at CCHHS. The OIIG found that after both parties executed the settlement agreement, however, the County refused to rehire the complainant due to his failure to disclose a misdemeanor traffic

citation on his application for employment (despite disclosing a felony conviction). The OIIG found that in other situations, CCHHS requested explanations from applicants who initially failed to disclose convictions; but no such request was made of the Post-SRO complainant. In a sustained Post-SRO Report filed January 29, 2016, the OIIG recommended that the County and CCHHS provide the complainant the same consideration afforded to other similarly-situated applicants by requesting and considering an explanation from the complainant. The County has informed the CA it is currently in settlement discussions with the complainant.

Since the OIIG assumed responsibility for Post-SRO Complaints in February 2012, the OIIG has received 40 Post-SRO Complaints concerning the County, PD, or CCHHS. Only four of these complaints have been filed since January 1, 2015. The OIIG has sustained one complaint (discussed above) and has completed investigations into all but two of the 40 complaints.³

5. The County has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment with the County.

For most purposes, the County has complied with this requirement through adoption of, and sustained compliance with, the Employment Plan and supplemental policies. Compliance officials (the OIIG and CO) have assured continued effective adherence. The importance of the contributions of the OIIG and the CO cannot be overstated. Because of the abilities and diligence of the individuals who hold those offices, and the County's commitment to provide appropriate funding of their functions and

³ The CA notes that some complaints were dismissed by the OIIG for statute of limitations-type issues. The County has notified the CA that it is in the process of settling some of these complaints despite the OIIG's negative findings.

deference to their authority, there can be great confidence going forward that the changes implemented under the SRO will be maintained. The one significant remaining challenge for the County is to adopt and enforce practices for reporting discipline and procedures for the conduct of discipline hearings – consistent with recommendations made by the CO in her audit recommendations, and separately by the CA. Tightening up the County's reporting and enforcement mechanisms for discipline will help ensure both that clouted employees do not escape discipline on account of their political connections and are also subject to the Plan's language restricting employees with suspensions in the prior 12 months from being eligible to apply for new positions. Plan at Section V.A.J.2.

Similar observations apply to the Public Defender, with the remaining challenge being a demonstration of commitment to recently adopted practices for the intern/volunteer program and facilitation of the CA's ability to monitor the PD's disciplinary processes.

The OIIG has shown that confidence is warranted in its commitment to self-enforcement of its own Plan and supplemental policies.

CCHHS, with the dedication and diligence of the EPO, has made significant strides toward reaching substantial compliance. In addition to finalizing and then effectively implementing supplemental policies, along with other steps identified elsewhere in this Report, CCHHS must impress upon its employees the long-term significance of adherence to the adopted Plan and policies for purposes of preventing the return of unlawful political influence. The medical professionals and high-level executives of CCHHS tend to be apolitical and convinced that their own neutrality is assurance that politics will not hold sway. History teaches that County medical facilities are neither off-limits nor immune to

unlawful political influence, and any lowering of the guard will invite the return of illegal influences.

CONCLUSION

The County and other units of government subject to this SRO have undergone a momentous transformation over the almost ten years the SRO has been in place. Progress depended very much upon the commitment of the responsible chief executive officer, and the County began a serious commitment to the process upon the installation of President Toni Preckwinkle. As a result of great efforts by many, professional employment practices have been implemented, wrongs resulting from the old ways have been compensated, and vestiges of improper political influence have been identified and addressed.

What remains are steps intended to assure that the transformation is secure and will continue into the future. Those steps include:

County

- develop job descriptions for exempt staff hired by Commissioners
- develop, implement and monitor procedures to assure accurate and consistent reporting of discipline relevant to an employee's eligibility for other employment
- develop, implement and monitor procedures for conducting disciplinary hearings to foster predictability in process and consistency in outcomes
- ensure that all exempt and executive assistant hiring applications are input on ATAS

Public Defender

- correct missteps with implementation of intern/volunteer program and develop processes to ensure future compliance
- ensure CO and CA are permitted to monitor disciplinary processes

- ensure that all Direct Appointment applications are placed on ATAS

CCHHS

- implement internal candidate preference option
- implement employment verification procedures for non-credentialed positions
- post updated quarterly employment action reports on CCHHS website
- implement process to disqualify candidates because of discipline
- implement an Ineligible for Rehire List
- ensure that all Direct Appointment applications are placed on ATAS
- develop and implement a hiring process for part-time temporary physicians
- train relevant staff and implement recently-completed ACP hiring process
- finalize, train relevant staff, and implement policies and procedures for non-hiring employment actions such as discipline, transfer, overtime and compensatory time, and others

OIG

- conduct annual performance evaluations of all staff

The CA thanks the parties for their sincere efforts and this Court for its continued guidance on this matter.

Respectfully Submitted,

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