

**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.	)	

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

Mary Robinson, *Shakman* Compliance Administrator for Cook County (the “Compliance Administrator” or the “CA”<sup>1</sup>), by and through her attorney, Matthew Pryor, submits this Twentieth Report pursuant to the terms of the Supplemental Relief Order entered on November 30, 2006 (the “SRO”). The SRO requires the CA to study the existing employment practices of Cook County Government (the “County”)<sup>2</sup>, monitor the County’s compliance with the provisions of the SRO, assist in formulating a 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

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<sup>1</sup> “CA” shall refer to the Compliance Administrator and/or her staff.

<sup>2</sup> 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.

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.

On September 21, 2017, the CA submitted her Nineteenth Report to the Court wherein she provided updates on the County's progress in addressing the list of outstanding compliance-related matters that the CA believed the County, Public Defender, CCHHS, and OIIG needed to address prior to achieving Substantial Compliance with the SRO. *See* Dkt. 5202. The CA submits this report as a further update on progress made by those offices on those outstanding items in the past two months.

**PROGRESS ON OUTSTANDING ITEMS SINCE EIGHTEENTH REPORT**

COUNTY

The CA has continued to monitor the County's disciplinary processes and does not have any concerns regarding the same.

PUBLIC DEFENDER

The CA has continued to monitor the Public Defender's intern policy and disciplinary processes and does not have any concerns regarding implementation of either.

CCHHS

In her Nineteenth Report, the CA identified two issues that she believed CCHHS needed to address pursuant to the SRO and the CCHHS Employment Plan (the "CCHHS Plan"). Updates on CCHHS' progress on those issues are below.

**1. Implement process to disqualify candidates because of discipline**

The CCHHS Plan requires DHR to review the personnel files of internal candidates (and recent former employees) for open positions and to disqualify any such candidates from consideration if they have been suspended in the 12-month period prior to their applications. Plan § V.J.3.a-b. DHR now electronically tracks all discipline for current employees so that anyone with disqualifying discipline would not be permitted to be considered for any open position. For this process to work effectively, managers and supervisors must report discipline to DHR so it can be properly tracked.

To determine whether departments were complying with this policy, the CA conducted three audits this year (February, June and September) which showed increasing departmental compliance with the policy (especially after the CCHHS CEO suspended multiple heads of noncompliant departments). The CA notes that some departments still must issue corrective actions to resolve previous findings of noncompliance with the recordkeeping and reporting requirements in the policy. The CA and EPO will continue working with those departments to ensure the corrective actions are completed; the CA hopes all necessary corrections are completed by the filing of her next report.

**2. Resolve issues identified in EPO Incident Report 15-035 concerning Grade 24 salary schedules**

On October 18, 2016, the EPO issued an incident report finding that CCHHS was in violation of the CCHHS Personnel Rule 1.04 by not having a set salary schedule for certain non-exempted Grade 24 positions. *See* Eighteenth Report at 6-7. Grade 24 is the highest rank for County positions, and while the County has established ranges and stepped increases within those ranges for all positions below Grade 24, there are no set criteria for Grade 24 positions. Still, the Personnel Rules included a number of Grade 24 positions in

the list of those subject to the requirement that there be set salary schedules. In addition to violating the Personnel Rules, the absence of any set criteria was found to have resulted in significant inequities over the years.

In the year since that report, the parties, OIIG and CA have met multiple times to discuss the EPO's findings and to hear CCHHS' proposed resolutions to issues identified therein. CCHHS recently amended its Personnel Rules so that no Grade 24 positions remained on the list that requires set salary schedules. On June 27, 2017, CCHHS proposed two new policies that would cover how Grade 24 salaries are classified and how those salaries could be adjusted. Plaintiffs' Counsel, the OIIG and CA provided comments on those policies however CCHHS has not yet circulated revisions to the same. Finally, CCHHS has committed to resolving one final issue concerning the EPO's findings (related to the reclassification of certain positions from Grade 24 to 23) by year's end. The CA hopes that all the above issues will be resolved by the filing of her next report.

### OIIG

The OIIG does not have any outstanding obligations under the SRO other than continued adherence to its Plan and Manual.

### **OTHER UPDATES SINCE NINETEENTH REPORT**

In addition to working with the County, Public Defender, CCHHS and the OIIG on the above issues, the CA has continued to monitor discipline in the County and Public Defender, the Public Defender's volunteer program, compliance with the Plan and Supplemental Policies in CCHHS, and the performance of the Compliance Officer, EPO and OIIG Compliance Officer concerning *Shakman* compliance-related duties. Below are updates on

other issues discussed in prior Reports or otherwise still outstanding.

*OIIG Summary Report 14-0080*

The CA previously identified concerns with the County's handling of a matter concerning a successful Post-SRO complainant that was detailed in OIIG Summary Report 14-0080. *See, e.g.*, Eleventh Report at 20-21; Seventeenth Report at 6-9. The CA is pleased to report that significant progress has been made on this matter and the CA expects complete resolution in the coming weeks. The CA hopes to confirm such a resolution in her next report.

*OIIG Post-SRO Complaint Summary Report 16-0313*

On June 29th, 2017, the OIIG issued a report finding that impermissible political factors were considered in the December 2016 layoffs of two non-exempt Cook County Bureau of Human Resources ("BHR") employees while the Chief of BHR reassigned and permitted a Shakman-exempt employee who is related to a Cook County Commissioner to assume some duties of the laid off employees. *See* Eighteenth Report at 8-9. The reassignment required amendments to the exempt position description, which, under the Plan, required the concurrence of the OIIG. The OIIG objected to the proposed amendments, but the County proceeded with the reassignment of the employee to the new position, without responding to the OIIG's request to meet to discuss the objections, and despite the fact that the position was not authorized. As a result, the OIIG also found that the County did not abide by the Plan's requirements regarding amending the exempt list and found that the revised exempt position description failed to meet the legal standard for exempt positions. On September 20, 2017, the County issued a response to the OIIG Report wherein it denied using political reasons or factors in connection with the layoffs and

declined to implement three of the OIIG's four recommendations. The County agreed to meet with the OIIG to discuss the OIIG's objections to the County's proposed changes to an Administrative Assistant IV position that is Shakman Exempt.

On September 28, 2017, the OIIG, Plaintiffs' Counsel and the CA met with the County to discuss the County's response to the OIIG's report. During this meeting, the County reiterated its objection to the OIIG's findings of unlawful political discrimination; however, the County agreed to consider further amending the Administrative Assistant IV job description. The County has now agreed that the position should be removed from the exempt list, but it is seeking some resolution that would allow the formerly exempt employee to continue to occupy the position.

There remain serious issues requiring resolution. The CA needs clarification of the County's policies for addressing exempt positions in layoffs. When interviewed by the OIIG, the BHR Chief asserted that it is appropriate to favor the retention of exempt positions over non-exempt positions when layoffs are implemented. In the County's response to the OIIG report, the County asserts that the BHR Chief meant only to state that the positions themselves should be preserved whether or not they are filled, and that a typical resolution is to continue the position but fund it at one dollar. But that is not what happened here. The position was retained and funded fully, allowing the exempt employee to keep her job and her duties were transmuted to incorporate those of non-exempt employees who were laid off. That is the transgression that must be addressed. In addition, the County's only response to the finding that the Plan was violated by implementing a revised exempt position in the face of an OIIG objection has been that that was an oversight of sorts, the issue got lost in the shuffle. If the Plan was being followed, that should not and could not

have happened. There must be assurances that there is no room for “inadvertent” additions to the exempt list that have been opposed by the OIIG. Finally, resolution of what happens to this particular position and this particular employee cannot be allowed to set a precedent of allowing a Plan violation to succeed.

**CONCLUSION**

The CA believes progress is being made by the various offices and will report on further progress in her next report. The CA thanks the parties for their sincere efforts and this Court for its continued guidance on this matter.

Respectfully Submitted,

Mary Robinson  
Cook County *Shakman* Compliance  
Administrator

By: /s/ Matthew D. Pryor  
Matthew D. Pryor  
Her Attorney

Matthew D. Pryor  
(mpyor@shakmancompliance.com)  
Counsel to the Compliance  
Administrator  
69 West Washington, Suite 840  
Chicago, IL 60602  
Telephone: (312) 603-8911  
Fax: (312) 603-9505