



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

MICHAEL L. SHAKMAN, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 SHERIFF OF COOK COUNTY, et al.,)
)
 Defendants)

69cv2145

Case Number: 69 C 2145
Judge Andersen
Magistrate Judge Schenkier

**AMENDED
SUPPLEMENTAL RELIEF ORDER
FOR THE SHERIFF OF COOK COUNTY**

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On June 27, 1980, Defendant Sheriff of Cook County (the "Sheriff"), on behalf of himself and his successors in office, entered into a Consent Decree ("1980 Consent Decree") which, among other things, prohibited the Sheriff from "conditioning, basing or affecting any term or aspect of governmental employment (with respect to persons once hired) upon or because of any political reason or factor." On June 29, 1984, the Sheriff entered into a Consent Decree ("1984 Consent Decree") which extended those prohibitions to the Sheriff's hiring practices, with certain exclusions (the 1984 Consent Decree, together with the 1980 Consent Decree, "Sheriff's Consent Decrees"). In February 2007, to facilitate negotiations, the Sheriff and the Plaintiffs on behalf of themselves and candidates, voters, applicants for employment with the Sheriff and employees of the Sheriff agreed that the running of any statutory time limitations periods, judicially created time limitation periods, and all other legal or equitable time-based defenses and doctrines for violations of federal and state law and court orders entered in this case based on claims of political discrimination in connection with any term or aspect of governmental employment with the Sheriff or defenses thereto are stayed and tolled as of December 13, 2006. The tolling will be lifted at Final Approval but will not affect any claims which may have expired between the date of Final Approval and the date of Opt Out.

The Sheriff, on behalf of himself and his successors in office, and the Plaintiffs on behalf of themselves and candidates, voters, applicants for employment with the Sheriff and employees of the Sheriff, entered into this Supplemental Relief Order ("SRO") as follows:

1. Rule 23 Preliminary Approval. For the reasons stated on the record in open court and as set forth herein, the SRO is approved. The Court previously certified the IVI-IPO, on behalf of its members who are past, present or future employees or applicants for employment with the Sheriff, as class representatives of two additional classes of Plaintiffs. The Court also

previously certified the following additional classes of plaintiffs: (i) all past employees and applicants for employment with the Sheriff to the date of the entry of this SRO, pursuant to Federal Rule of Civil Procedure 23(b)(2) and (b)(3) and (ii) all employees or applicants for employment with the Sheriff during the life of the SRO. Collectively, the Plaintiff classes of Cook County registered voters, candidates for public office, applicants and employees of the Sheriff shall be referred to as the "Class Members". The Court finds that the Notice of Public Hearing has been given as required under the Preliminary Approval Order and that such notice constitutes the best notice practicable under the circumstances and is due and sufficient notice of the Settlement and proposed SRO to all persons affected by and/or entitled to participate in the Settlement. The Court finds that extensive and substantial newspaper, television, and radio publicity has been given to this case and the SRO. The Court finds that the SRO is fair reasonable and adequate.

2. Conditions Precedent to Final Approval. The Court finds that the conditions precedent for final approval of the SRO have been met:

- A. The Sheriff has promulgated a Sheriff's Order forbidding political discrimination in all terms or aspects of employment with the Sheriff, except with respect to positions that are exempt under the Sheriff's Consent Decrees as modified from time to time, and accepting the provisions of the SRO.
- B. The Sheriff has promulgated a Sheriff's Order making it a condition of employment that any employee of the Sheriff who learns of any political discrimination in connection with any term or aspect of government employment or seeking employment with the Sheriff other than for exempt positions, or who believes that such unlawful political discrimination has occurred or is occurring,

must report this information to the Sheriff's Office of Professional Review directly and without undue delay. No person filing such a report shall be subject to any negative employment action as a result of filing the report.

C. The Sheriff has adopted a written, effective whistleblower policy that forbids retribution for reporting any suspected violations of this SRO or the Sheriff's Consent Decrees, so as to be fully protective of anyone who in good faith makes any complaint of any employment practice which the person may believe violates this SRO or the Sheriff's Consent Decrees.

D. The Cook County Board of Commissioners has approved the terms of this SRO.

3. No Effect on Other Parties to the Shakman Litigation. This SRO shall have no effect on any judgments or orders, other than the Sheriff's Consent Decrees. This Court retains jurisdiction to hear and determine all claims and issues involving the validity of the other consent judgments or any other supplemental relief orders or accords brought in proceedings initiated by other parties.

4. Sheriff's Consent Decrees. The Sheriff's Consent Decrees remain in full force and effect after the Court's approval of this SRO. However, the remedy provided in the SRO shall be the exclusive remedy for Class Members who fail to opt out seeking remedies for claims of political discrimination based on events occurring prior to the final approval of this SRO. The Parties further agree and the Court hereby Orders as follows:

I. SHAKMAN COMPLIANCE ADMINISTRATOR

The Court hereby reaffirms the appointment of the Honorable Clifford McEacham as the Sheriff's Compliance Administrator ("SCA") to ensure future compliance with the Sheriff's Consent Decrees and the SRO.

- A. SCA Powers. The SCA shall be an agent of the Court and shall have only the duties, responsibilities and authority conferred herein by the Court and by subsequent Court Orders regarding such duties. The SCA, subject to the supervision and orders of the Court, shall study the Sheriff's existing employment practices, policies and procedures for nonpolitical hiring, promotion, transfer, discipline and discharge. The SCA and staff members (including independent contractors, attorneys, non-attorneys, and their employees and agents) shall possess the same immunity from suit as the Court.
- B. Initial Report. Within 60 days of being appointed, the SCA shall file a report with the Court recommending (i) additional powers the SCA should be given to carry out the SCA's duties, (ii) appropriate staff, and (iii) mechanisms for ensuring employment actions are in compliance with the orders of the Court in this case.
- C. Compensation of SCA. The County of Cook (the "County") shall promptly compensate the SCA at a rate of \$250 per hour and the SCA's counsel at \$250 per hour. The SCA's other staff member(s) shall be compensated at their reasonable and customary hourly rates which the Court shall set and which may periodically be adjusted with Court approval or with agreement by the Sheriff. The County shall promptly pay any and all reasonable costs incurred in connection with the work of the SCA.
- D. Ex Parte Communications. The SCA and the SCA's counsel and staff shall be permitted to conduct *ex parte* communications with the Court and with the Parties and their counsel.

- E. Sheriff's Cooperation. The Sheriff shall cooperate with the SCA in connection with the SCA's efforts to oversee and ensure implementation of the remaining portions of the Sheriff's Consent Decrees and the SRO, including providing reasonable access to all relevant non-privileged documents and to current employees at all levels. The SCA shall attempt to minimize disruption to the workplace during the course of the SCA's activity. Given the need of the SCA to review confidential business information maintained by the Sheriff, the SCA, and anyone working in conjunction with the SCA, shall sign a confidentiality agreement. The confidentiality agreement will not prohibit or interfere with the SCA's obligation to perform the duties provided in this SRO.
- F. Review Hiring Practices and Recommend Changes. The SCA shall review the Sheriff's hiring practices including observing actual hiring sequences to determine whether the Sheriff is complying with the Sheriff's Consent Decrees. The SCA shall make recommendations to the Sheriff for change, if warranted. The SCA shall work with the Sheriff's employees to observe current hiring practices and answer questions and provide guidance as deemed necessary.
- G. Training. The SCA shall assist in establishing a "train the trainer" program for supervisors to educate and train employees on appropriate politics-free hiring practices.

II. NEW HIRING PLAN.

- A. Review of Current Hiring Practices.
1. The Sheriff and the SCA shall review the Sheriff's hiring practices for non-exempt employees and shall make recommendations to the Sheriff for change as warranted.

2. The Sheriff and the SCA shall define appropriate and inappropriate hiring practices that are consistent with law and this SRO.
 3. The Sheriff and the SCA shall train Sheriff's employees in order to effectuate a culture free of political consideration in all non-exempt terms or aspects of governmental employment, including but not limited to, hiring, promotion, and discharge, overtime and transfers of the Sheriff's employees.
 4. The Sheriff shall provide notification to job applicants regarding the Sheriff's hiring practices and prohibitions as well as how to report allegations of non-compliance.
- B. New Plan Development. After the SCA has had six (6) months monitoring experience of Sheriff employment practices, the SCA and the Parties shall negotiate, in good faith, a new hiring plan (the "New Plan"). This negotiation obligation may be met by preparation of a proposed plan by the Sheriff and the SCA, so long as Plaintiffs have a meaningful opportunity for input before the plan is presented to the Court for approval. When adopted and approved by the Court, the New Plan shall be fully incorporated into the 1984 Consent Decree.
- C. Application Tracking System. The Sheriff, with the input of the SCA, shall conduct an analysis of the feasibility of creating an application tracking system that is user friendly and available through web-based access to applicants, to determine their current status in the hiring process in order to enhance the availability of information about the hiring process. If feasible and not

unreasonably expensive, an application tracking system shall be established as soon as practical.

- D. New List of Exempt Positions. A list of positions exempt from the hiring procedures provided for in the Decrees and this SRO shall be filed with the Court for approval. See Exhibit II.D. The Parties may amend the Exempt List from time to time. Prior to submitting any such amendments to the Court for approval, the party proposing the amendment shall present the amendment to the other party for comment and discussion in a good faith effort to reach agreement on the amendment. Any disagreements shall be resolved using the procedures described in II. E.
- E. Impasse Resolution. If, at any time, the SCA and the Parties reach an impasse regarding any component of the New Plan or the Exempt Positions, the SCA shall report to the Court the nature of the unresolved issue(s) and may make a written recommendation as how to resolve such issue(s) for the Court's determination. The Parties shall have the right to be heard and make submissions concerning the resolution of any unresolved issue(s), and the Court shall then rule on the unresolved issue(s). Provisions directed by the Court pursuant to such ruling(s) shall become part of the New Plan.

III. MONITORING AND ENFORCEMENT.

- A. Covered Employees. The prohibitions of the Sheriff's Consent Decrees cover all employment by or for the Sheriff, or by or for any person or entity under the direction and control of the Sheriff, except for Exempt Positions. For this purpose, "employment" means the relationship that constitutes employment at common law by the Sheriff or by or for any person or entity under the direction

and control of the Sheriff except for Exempt Positions and includes probationary, temporary, part time and permanent employment, whether pursuant to a written contract or otherwise. The prohibitions do not apply to the retention of independent contractors by the Sheriff. Nothing in this SRO shall have any effect on any other consent decree applying to any other governmental body or public office.

- B. Continued Jurisdiction of the Court. The Court retains jurisdiction for purposes of enforcement and ongoing monitoring of the Sheriff's compliance with the Sheriff's Consent Decrees and the SRO, including monitoring by the SCA and the SCA's counsel and staff, until such time as the Sheriff's Consent Decrees and the SRO terminate.
- C. Post-SRO Monitoring and Enforcement.
1. Continued SCA Monitoring. The SCA, with the SCA's counsel and staff, shall continue to actively monitor the Sheriff's compliance with the Sheriff's Consent Decrees, the SRO, and the New Plan until their termination.
 2. Monitoring by Plaintiffs. Plaintiffs shall monitor the Sheriff's performance under the Sheriff's Consent Decrees, the SRO, and the New Plan through counsel of their choice, may present matters to the Court in the 69 C 2145 case, including enforcement actions, and may petition the Court for County payment of costs and attorneys' fees incurred as part of their reasonable, appropriate, non-duplicative monitoring and enforcement.

D. Sunset Procedures.

1. Motion to Dissolve. On or after July 1, 2010, or at any time that the Judge shall order, the Sheriff may file a Motion to Dissolve the Sheriff's Consent Decrees and this SRO effective thirty (30) days after filing the motion. The Sheriff shall provide a copy of the Motion to Dissolve to the Plaintiffs' Class Counsel and the SCA thirty (30) days prior to filing the Motion to Dissolve. The Sheriff has the burden of showing that it is in Substantial Compliance (as defined below).
2. Certification of Substantial Compliance. As a condition precedent to filing of a Motion to Dissolve, the Sheriff, and the Sheriff's head of Human Resources must certify in writing that, after appropriate review and inquiry, they believe that the Sheriff is in Substantial Compliance with the Sheriff's Consent Decrees and this SRO and that there is no material non-compliance (together, the "Certifications of Substantial Compliance"). The Certifications of Substantial Compliance must be attached as exhibits to the Motion to Dissolve.
3. SCA's Opinion. Within 7 days after the receipt of the Motion to Dissolve, the SCA shall advise the Court whether, in the opinion of the SCA ("SCA's Opinion"), the Sheriff is or is not in Substantial Compliance with the Sheriff's Consent Decrees and the SRO. The Sheriff and Plaintiffs' Counsel have the right to challenge the SCA's Opinion and to request a hearing from the Court.

4. Plaintiffs' Response. Within 7 days of receiving the SCA's Opinion, the Plaintiffs may file a response to the Motion to Dissolve.
5. Conditions to Termination of the Sheriff's Consent Decrees and this SRO.
The Sheriff's Consent Decrees and this SRO shall terminate if (i) the Certifications of Substantial Compliance have certified that the Sheriff is in Substantial Compliance, (ii) the SCA has filed with the Court the SCA's Opinion, and (iii) the Court has determined, after such proceedings as the Court deems appropriate, that the Sheriff is in Substantial Compliance.
6. Effective Date of Termination, Pending Arbitration Demands. The effective date of termination shall be the date upon which all judicial proceedings, and expiration of rights to appeal, have concluded following a final judicial decision that Substantial Compliance has been achieved. Termination of the Sheriff's Consent Decrees and this SRO shall have no effect on any claim, complaint or written demand for arbitration filed under the terms of the Sheriff's Consent Decrees or this SRO filed within one hundred eighty (180) days after the date the SRO and the Sheriff's Consent Decrees are terminated if based on alleged conduct occurring prior to termination.
7. Reinitiating Substantial Compliance Process. If the Sheriff's Consent Decrees and SRO are not terminated after the filing of a Motion to Dissolve by the Sheriff, they shall remain in effect. In its order denying the Motion to Dissolve, the Court, with the input of the Parties, shall set a

new date after which the Sheriff may, by written request to the Court, reinstate the above Substantial Compliance certification and SCA Opinion process.

8. Substantial Compliance Definition. Substantial Compliance means:

- (1) the Sheriff has implemented the New Plan, including procedures to ensure compliance with the New Plan and identify instances of non-compliance;
- (2) the Sheriff has acted in good faith to remedy instances of non-compliance that have been identified, and prevent a recurrence;
- (3) the Sheriff 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 Sheriff's Consent Decrees and the SRO's essential purpose. The SCA and the Court may consider the number of post-SRO complaints that have been found to be valid. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the Sheriff is not in substantial compliance; and
- (5) the Sheriff has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment with the Sheriff.

9. Recommendations and Definition of Political Reasons and Factors.

Nothing in the SRO shall limit the right of any citizen, including elected officials, to make recommendations not based on political reasons or factors to personnel involved in making employment decisions on behalf of the Sheriff. In the case of hiring for positions that are not exempt from the requirement that political reasons or factors be excluded from consideration, recommendations from public office holders or political party officials that are based on their personal knowledge of the person's work skill, work experience or other job-related qualifications are permitted and may be considered. Recommendations based on political reasons or factors shall not be given any effect, and shall be reported as provided in the New Plan. As used herein, "political reasons or factors" include:

- (1) Recommendations for hiring, promotion or other employment terms for specific persons from public office holders or political party officials that are not based on personal knowledge of the person's work skills, work experience or other job-related qualifications.
- (2) The fact that the person worked in a political campaign or belongs to a political organization or political party. Or the fact that the person chose not to work in a political campaign or to belong to a political organization or a political party. The mere fact that a person worked for a political campaign for elective office does not

prohibit consideration of a recommendation related to that person insofar as the basis for that recommendation relates to the person's relevant work experience.

- (3) The fact that the person contributed money, raised money or provided something else of value to a candidate for public office or a political organization. Or the fact that the person chose not to contribute or raise money for a candidate for public office or a political organization.
- (4) The fact that the person is a Democrat or a Republican or a member of any other political party or group. Or the fact that the applicant is not a member.
- (5) The fact that the person expressed views or beliefs on political matters such as what candidates or elected officials he or she favored or opposed, what public policy issue he or she favored or opposed, or what views on government actions or failures to act he or she expressed. However, nothing herein shall serve as a basis for an employee of the Sheriff to disobey a lawful order or disobey the chain of command.

E. Post-SRO Relief and Defenses.

1. SRO Complaints and Other Relief. Any person who believes that she or he has been injured by unlawful political discrimination in any term or aspect of employment or seeking employment with the Sheriff may file for

post-SRO relief under the post-SRO complaint procedure provided in Section V, or may seek relief as otherwise provided by law.

2. Waiver of Challenge to Sheriff's Consent Decrees and SRO Validity and Class Member Standing; Preservation of Other Defenses. The Sheriff shall not seek to vacate, appeal or otherwise challenge the validity of the Sheriff's Consent Decrees or the SRO and the Sheriff stipulates and agrees that the Court has continuing jurisdiction and authority to enforce the Sheriff's Consent Decrees and this SRO consistent with the terms of this SRO. All such enforcement actions will be assigned to the judge presiding over the 69 C 2145 case. The Sheriff expressly waives, covenants and agrees not to assert any argument or claim that any Class Member who seeks relief under the pre or post-SRO claim procedure lacks standing to enforce the Sheriff's Consent Decrees or this SRO or to seek relief under the Sheriff's Consent Decrees or the SRO. However, the Sheriff is not precluded from defending a claim brought under the Sheriff's Consent Decrees or the SRO on the basis that the individual is not entitled to relief on grounds other than standing.

IV. CLAIMS PROCEDURE FOR ALLEGED PRE-SRO VIOLATIONS

- A. Notice. The Sheriff shall provide notice of the Claims Procedure and Opt-Out Rights to Class Members, in a form and in a manner approved by the Court, as soon as practicable, and in any event, no later than 30 days following the final approval of the SRO by the Court. The Sheriff shall also provide Claim Forms and Opt-Out Request Forms, in forms approved by the Court, to all current Sheriff employees either with their paychecks, or if the employee does not receive

a paycheck, by interoffice or US mail no later than 30 days following final approval of the SRO by the Court.

- B. Opt-Out Rights. The SRO Claims Procedure is the sole recourse for individuals seeking to enforce the Sheriff's Consent Decrees for violations occurring prior to final approval of this SRO. Any Class Member who believes that he or she was a victim of unlawful political discrimination in connection with any term or aspect of employment with the Sheriff may opt out of this lawsuit and file a separate lawsuit under a theory of relief other than a violation of the Sheriff's Consent Decrees by submitting an Opt-Out Request to the SCA. The Opt-Out Request must be received by the SCA by the date specified in the Notice which shall be approximately one hundred twenty (120) days after the final approval of the SRO (the "Opt-Out Date"). Class Members who opt out would be free to file suit to pursue any claim for political discrimination other than one alleging a violation of the Sheriff's Consent Decrees. Within seven (7) days of the Opt-Out Date, the SCA shall provide copies of all Opt-Out Request Forms to the Parties.
- C. Eligible Claimants. Any past or present employee or applicant for employment with the Sheriff, registered voter and candidate for public office who allege that she or he suffered injury as a result of unlawful political discrimination in connection with any term or aspect of employment with the Sheriff in violation of the Sheriff's Consent Decrees between June 1, 2006 and the date of final approval of this SRO ("Claimants") may file a Pre-SRO Claim under Section IV.

D. Claim Forms. Claimants who wish to file a claim against the Sheriff must submit a notarized Claim Form and notarized Release to the SCA. All Claim Forms must be received by the SCA by February 27, 2009 (the "Claim Deadline").

1. Contents. The Claim Form shall consist of sworn statements setting forth individual claims including: the date of the alleged violation; a narrative description of the alleged violation; a description of alleged damages; identifying information including the Claimant's full name, address and telephone number; and a release of certain claims as defined below. Claimants must attach any supporting documentation to the Claim Form. Claimants may only submit one Claim Form but may allege facts supporting more than one claim on their Claim Form.
2. Limitations Period. A Class Member may allege claims based on violations of the Sheriff's Consent Decrees arising on or after June 1, 2006, and the Sheriff waives any limitations or laches defenses with respect to such claims. Any Class Member who alleges political discrimination in connection with any term or aspect of employment with the Sheriff arising prior to June 1, 2006 must submit an Opt-Out Request to the SCA to preserve any such claims.
3. Interpretation. The SCA shall interpret the Claim Forms in a liberal, non-technical manner, and may request amplification or clarification of claims to facilitate identifying valid claims and eliminating those that are not. Subsequent amplification and clarification shall be deemed part of the Claim Form as of the date filed.

4. Cooperation of Sheriff and Claimants. During the claims review process the Sheriff and/or the Claimant will provide any and all information and documents reasonably requested by the SCA. No person shall be compelled to provide privileged information or information in violation of her or his constitutional rights.
5. Availability of Claim Forms. Claim Forms shall be available from the SCA, the Sheriff, and Plaintiffs' Class Counsel. Claim Forms shall also be available for printing from a website created by the SCA and from the Sheriff's website. Copies of all Claim Forms and supporting documentation filed with the SCA shall be made available to the Parties for review and copying.

E. Claim Determination.

1. Timing. Within ninety (90) days after the Claim Deadline, the SCA, in the SCA's sole discretion and after consideration of all of the evidence, shall determine whether the Claimant is eligible for recovery and, if so, shall assign a monetary award to the Claimant based on the relevant information presented to the SCA or otherwise in her possession. The SCA's decision shall be final, and not subject to appeal.
2. Matters to Be Considered. In determining the assigned award amount for any claim, the SCA may consider all relevant factors and evidence regarding the claim, including but not limited to the following, to the extent applicable: (a) the ratio of applicants to the actual number of positions filled; (b) the facts presented regarding the alleged violation; (c)

the salary of the position sought or held; (d) the economic benefit of the action at issue and the number of eligible recipients; and (e) the strength of the evidence presented. In the event additional time is required by the SCA to assess a claim, the SCA shall so inform the Claimant and the Sheriff within such ninety (90) day period, and the time shall be extended for the period so specified.

3. Notice of SCA Decision. The SCA shall inform the Claimant and the Parties of the SCA's decision by sending a Notice of Determination to the Claimant, the Sheriff's General Counsel and Plaintiffs' Class Counsel.

F. Disbursement of Awards. Within thirty (30) days following the SCA's determination on all claims, the SCA shall provide the Sheriff's General Counsel with a list of Claimants eligible for an award, the Claimants' last known mailing address, social security numbers of any non-employee, and the amount of each award. Within sixty (60) days of receipt of the SCA's list of Claimants and awards, the County shall pay the awards and mail a check in the amount of the award to each Claimant who has received an award at her or his last known mailing address. The Sheriff's General Counsel shall provide the SCA and Plaintiffs' Class Counsel with a complete list of all amounts paid, the recipients and the dates of payment.

G. Release.

1. Released Claimants. As used herein, the term "Released Claims" means any and all claims, causes of action, rights, actions, suits, obligations, debts, demands, judgments, agreements, promises, liabilities,

controversies, costs, expenses or attorneys' fees, of every nature and description whatsoever that have been or could have been asserted in this Action (including, but not limited to, violations of the Sheriff's Consent Decrees and First Amendment political discrimination lawsuits) and whether now known or unknown, suspected or unsuspected, arising out of employment decisions of any kind (including, but not limited to, hiring, promotion, termination, assignments, disciplinary decisions, overtime and the like) made by the Sheriff with respect to Class Members prior to the final approval of the SRO by the Court and based on the claim that those employment decisions were impermissibly motivated by political considerations.

2. Released Parties. As used herein, the term "Released Parties" means: the Sheriff and all of the Sheriff's employees, agents, advisors, and attorneys, and their heirs, executors, administrators, personal or legal representatives, successors, transferees and assigns.
3. Final Settlement of Claims. The obligations incurred by the Sheriff pursuant to this SRO, shall be in full and final disposition and settlement of all claims, actions, suits, causes of action, and liabilities relating to any of the facts, transactions, events, occurrences, acts or omissions which have been asserted or could have been asserted by the Classes against the Released Parties in the Action.
4. Effect of Release. Once the SRO has been finally approved by the Court, the time for appeal has run or all appeals have been finally exhausted and

1. Making an SRO Complaint. Any individual may make a complaint to the Sheriff's Office of Professional Review alleging unlawful political discrimination in connection with any term or aspect of government employment or seeking employment with the Sheriff. In order to seek remedies through the Arbitration Procedure detailed in Section V.B for unlawful political discrimination in connection with any term or aspect of employment with the Sheriff alleged to have occurred during the period when the SRO is in effect or to toll the running of the limitations period for filing a lawsuit, an individual (hereafter referred to as "SRO Complainant") must submit an "SRO Complaint Form" to the Sheriff's Office of Professional Review. The SRO Complaint Form must be received by the Sheriff's Office of Professional Review within one hundred eighty (180) days after the SRO Complainant knew or should have known of the alleged unlawful conduct. The SRO Complaint Form shall include a sworn statement setting forth the SRO Complainant's claims, including:

- (1) the date or dates of the alleged violation;
- (2) narrative description of the alleged violation;
- (3) a description of the alleged damages;
- (4) identifying information including the SRO Complainant's name, address, telephone number; and
- (5) copies of the appropriate supporting documentation, if in the possession of the SRO Complainant.

Nothing in this SRO shall restrict the authority or ability of the Sheriff's Office of Professional Review to investigate any allegations of unlawful political discrimination in connection with government employment with the Sheriff received in any other manner established by the Sheriff's Office of Professional Review, including through the Sheriff's Office of Professional Review's complaint hotline, through its website complaint system, by fax, by phone or by letter. The filing of an SRO Complaint shall toll an individual's federal statute of limitations as described in paragraph V.A(10) below.

2. Availability of SRO Complaint Forms. SRO Complaint Forms are made available from the Sheriff's Office of Professional Review and Plaintiffs' Class Counsel. SRO Complaint Forms can also be obtained from the Sheriff's website at www.cookcountysheriff.org.
3. Investigation by Sheriff's Office of Professional Review. The Sheriff's Office of Professional Review shall be responsible for conducting or directing the investigation of the SRO Complaint.
4. Distribution to SCA. Within seven (7) days of receiving an SRO Complaint, the Sheriff's Office of Professional Review shall provide a copy of the SRO Complaint Form to the SCA. The SRO Complaint shall remain confidential and shall not be disclosed to anyone outside the Sheriff's Office of Professional review except as provided for herein. The SCA and the SCA's agents shall not disclose the contents or existence of the SRO Complaint to anyone other than the Court except as provided

below. The SCA shall, within 30 days of receipt of the SRO Complaint Form send a "Notice of Rights," to the SRO Complainant.

5. Cooperation with Sheriff's Office of Professional Review. The Sheriff, its departments and their employees and agents shall fully cooperate with the Sheriff's Office of Professional Review's investigation of the SRO Complaint, by, among other things, promptly providing any and all requested documents and information to the Sheriff's Office of Professional Review, and providing the Sheriff's Office of Professional Review with access to all requested documents and records in a manner that will preserve the confidentiality of the Sheriff's Office of Professional Review investigation.
6. Resources of Sheriff's Office of Professional Review. The Sheriff shall provide the Sheriff's Office of Professional Review with reasonable and fair resources to independently, effectively, and expeditiously investigate SRO Complaints and shall maintain such resources until the Sheriff's Office of Professional Review has completed its duties hereunder.
7. Timing of Investigation in Sheriff's Office of Professional Review. The Sheriff's Office of Professional Review shall investigate SRO Complaints expeditiously. The Sheriff's Office of Professional Review shall attempt to complete its investigation within one hundred eighty (180) days after its initiation. If any investigation is not completed within one hundred eighty (180) days after its initiations, the Sheriff's Office of Professional Review shall notify the Sheriff's General Counsel, Plaintiffs' Class Counsel, and

the SRO Complainant of the general nature of the complaint and the reasons for its failure to complete the investigation within one hundred eighty (180) days.

8. Sheriff's Office of Professional Review's Report. At the conclusion of its investigation, the Sheriff's Office of Professional Review shall report in writing the results of its investigation to the Complainant, the SCA, Plaintiffs' Counsel, and the Sheriff. If the Sheriff's Office of Professional Review finds at the conclusion of its investigation that impermissible political factors were considered in an employment decision, the Sheriff's Office of Professional Review's report shall include the names of all individuals who, according to its investigation, were victims of unlawful political discrimination in connection with any aspect of government employment with the Sheriff of Cook County and the individuals responsible for such discrimination. The Sheriff's Office of Professional Review shall include an Arbitration Demand Form with the Sheriff's Office of Professional Review's Report sent to the Complainant.
9. Quarterly Reports. No later than the fifteenth day of January, April, July, and October of each year, the Sheriff's Office of Professional Review shall file with the Court a report, accurate as of the last day of the preceding month, indicating: the number of SRO Complaints received since the date of the last report; the number of investigations initiated since the date of the last report; the number of investigations concluded

since the last report broken down by sustained and non-sustained cases; and the number of investigations pending as of the reporting date.

10. Tolling During Investigation by Sheriff's Office of Professional Review.

The filing of an SRO Complaint shall toll an individual's statute of limitations for political discrimination claims in federal court until thirty (30) days after the date on which he or she receives the Sheriff's Office of Professional Review's Case Report. An individual shall have thirty (30) days after he or she receives the Sheriff's Office of Professional Review's Case Report to file a complaint in federal court for a violation of the SRO, which will be assigned to the judge presiding over the 69 C 2145 case. If an individual elects to file a political discrimination claim in federal court, that individual cannot elect to participate in the Arbitration Procedure described below. If an individual elects to file an Arbitration Demand, he or she must do so within thirty (30) days after receipt of the Sheriff's Office of Professional Review's Case Report.

B. Arbitration Procedure.

1. Written Arbitration Request Due Date. Any written demands for arbitration from an applicant or employee of the Sheriff must be received by the Sheriff's General Counsel by the end of the thirtieth (30th) day after the Sheriff's Office of Professional Review issues its Case Report. The SRO Complainant seeking to invoke arbitration must submit a written demand for arbitration on the Arbitration Request Form. The Arbitration Request shall describe in plain terms the actions alleged to violate the

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SRO and the relief sought, but detailed pleadings shall not be required and any claim may be amended if permitted by the Arbitrator; the right to amend shall be liberally construed. The Arbitration Request must also include a copy of the SRO Complaint Form submitted to the Sheriff's Office of Professional Review and the Sheriff's Office of Professional Review's Case Report. The Sheriff's General Counsel shall provide a copy of any written Arbitration Request Form to the SCA and the Cook County State's Attorney's Office within seven (7) days of its receipt.

2. Settlement Conference. Within twenty-eight (28) days from the date upon which the Sheriff's General Counsel receives an Arbitration Request Form, the Sheriff's General Counsel's Office, the Cook County State's Attorney's Office, and the SRO Complainant shall hold an in person settlement conference at the offices of the Sheriff's General Counsel for settlement purposes only and the statements made and the positions taken shall not be disclosed if arbitration is sought. The SRO Complainant, the Sheriff, and the SCA can agree in writing to an extension of this date. The SRO Complainant may be represented at the settlement conference by counsel or any other representative of her or his choice. The SCA or a member of her staff shall be present at the settlement conference. Settlement offers will be made at the discretion of the Sheriff and the Cook County State's Attorney and will be paid for by the County. Settlement offers may include, but are not limited to, monetary damages, reinstatement or other equitable relief. If accepted by an SRO

Complainant, copies of executed settlement agreements shall be provided to the SCA and Plaintiffs' Class Counsel. The Sheriff's General Counsel shall provide a copy of any written Arbitration Request Form for claims to the SCA and Plaintiffs' Class Counsel within seven (7) days of the expiration of the settlement period.

3. Timing for Arbitration. If the Sheriff and the SRO Complainant are not able to reach a settlement, the Sheriff shall so inform the SCA in writing within seven (7) days of the settlement conference. Within seven (7) days of receiving notice, the SCA shall inform the Arbitrator selected pursuant to Section V.B(5) below of her or his selection by sending the Arbitrator a copy of the Arbitration Request Form and accompanying documents, including the SRO. Within ten (10) days of being notified of her or his selection, the Arbitrator shall provide the SRO Complainant, the Sheriff's General Counsel, the Cook County State's Attorney's Office and Plaintiffs' Class Counsel notice of her or his selection and a proposed arbitration schedule. The proposed schedule shall provide for a pre-hearing conference at which other steps may be scheduled, including the production of documents and information, any depositions, and a schedule for a hearing to be completed within 120 days. Failure to complete the arbitration within such period, however, shall not affect the validity of the Arbitrator's award.
4. Arbitrator's Fees; Representatives of Complainant. The Arbitrator's fees and any costs of administration shall be paid by the County. The

proceedings shall be electronically recorded. Either party may order a copy of the transcripts at its own expense. Each party is responsible for the costs of compensating its own witnesses and the costs of any transcript, if desired. An SRO Complainant may appear on his or her own behalf, be represented by an attorney, or be represented by any other representative of his or her choice.

5. Selection of Arbitrator. The Court will establish a panel of six (6) arbitrators. The Sheriff and Plaintiffs' Class Counsel may submit a list of suggested arbitrators. The arbitrators must be members of the National Academy of Arbitrators or be on a list of arbitrators approved by the American Arbitration Association. The approved arbitrators will serve on a rotating basis as administered by the SCA.
6. Governing Rules. Except as modified herein, the arbitration shall be governed by the National Rules for Employment Disputes of the American Arbitration Association. Except as expressly provided otherwise herein, the arbitration shall be conducted in accordance with the Illinois Arbitration Act, 710 ILCS 5/1, *et seq.*, and the Arbitrator shall have all powers conferred by that Act.
7. Arbitrator's Decision. The Arbitrator must issue a written award, including written findings of fact, within thirty (30) days of the completion of the arbitration hearing. Copies of the decision shall be provided to the SRO Complainant, the Sheriff's General Counsel, the Cook County State's Attorney's Office, the SCA, and Plaintiffs' Class Counsel. The

award shall determine (i) whether the Sheriff's Consent Decrees or the SRO have been violated; (ii) whether the Complainant has met the burden of proof set forth in *Mt. Healthy City School Board of Education v. Doyle*, 429 U.S. 274 (1977) and any other applicable law; and (iii) the appropriate remedy. Prevailing SRO Complainants shall be entitled to reasonable attorneys' fees and costs as determined by the Arbitrator. These attorneys' fees, costs and monetary awards will be paid for by the County. The Arbitrator will have no authority to modify any provision of the New Plan, the Sheriff's Consent Decrees, or the SRO.

8. Finality of Decision. The Arbitrator's award may be appealed by either party to this Court. The award may be reviewed and enforced, and judgment entered in conformity therewith, solely and exclusively by and in this Court, which shall apply the procedures and standards set forth in Sections 5/11-5/15 of the Illinois Uniform Arbitration Act, 710 ILCS 5/11-5/15, inclusive, and applicable court decisions under those provisions of that Act.
9. Waiver. Any SRO Complainant who proceeds under the Sheriff's Arbitration Process described herein, shall waive any and all rights she or he may otherwise have arising from the alleged political discrimination set forth in his or her written Arbitration Request Form.
10. Audit Documentation. The Sheriff shall maintain all documentation related to complaints, investigations, and arbitrations arising under Section V until two years after the SRO has terminated.

VI. NO RETALIATION

No person shall take any unlawful retaliatory action against any individual who exercises any rights provided by, or who reports violations of, the Sheriff's Consent Decrees or the SRO. The Sheriff has adopted a written, effective whistleblower policy that forbids retribution for reporting any suspected violations of the SRO and shall keep the written policy in effect during the term of the SRO. Any individual who believes retaliation has occurred may seek relief under the post-SRO process.

VII. COMPLIANCE REPORTS TO COURT.

The SCA shall report periodically, and at a minimum every six months, on the status of compliance with the Sheriff's Consent Decrees and the SRO while they are in effect. The Parties may provide input to the Court regarding information contained in the SCA's reports.

VIII. ATTORNEYS' FEES.

The Parties have not agreed to or discussed the amount of attorneys' fees awardable to Plaintiffs' Counsel or costs prior to entry of this SRO, but shall attempt to reach agreement as to such amount within forty-five (45) days of entry of the SRO for presentation to the Court for its review and approval. If the Parties are unable to reach agreement, the Plaintiffs' Counsel shall be entitled to petition for an award of fees and the Sheriff shall be entitled to assert objections thereto. Plaintiffs' attorneys' fees are to be paid for by the County.

IX. TERMINATION OF THE SRO.


- A. Effect of Non-Approval. If, for any reason, the SRO does not become final (that is, is finally approved and the time for appeal expires with no appeal being filed or all appellate review has been exhausted and the SRO remains in effect and unmodified), the Parties shall revert to their respective positions immediately prior to the execution of the SRO.

B. Effect of Termination. If the SRO is terminated as provided for in Section IX.A. above, the SRO shall have no further force and effect. All negotiations, proceedings and statements made in connection therewith shall be without prejudice to any person or party thereto, shall not be deemed or construed to be an admission by any Party of any act, matter or proposition, and shall not be used in any manner or for any purpose in any subsequent proceeding in the Action or in any other action or proceeding.

X. **ENTIRE AGREEMENT.**

All prior negotiations and agreements between the parties hereto, with respect to the SRO are superseded by the SRO and there are no representation, warranties, understandings, or agreements of the parties relating to the subject matter thereof, other than those expressly set forth in this SRO and order.

ENTER:



Hon. Wayne R. Andersen
United States District Judge

May 21, 2009

Exhibit II.D

LIST OF EXEMPT POSITIONS

I. Boot Camp

1. Deputy Director of Intake
2. Deputy Director of Programs
3. Director of Boot Camp
4. Deputy Director of Administration

II. Department of Corrections

5. Assistant Executive Director of Security
6. Assistant Executive Director of Administration
7. Business Manager Trust/Inmate Welfare Fund/Commissary
8. Business Office Supervisor
9. Director of Residential Programs
10. Employee Discipline Administrator
11. Executive Assistant to First Assistant Executive Director of Jail
12. Executive Assistant to Assistant Executive Director
13. Executive Assistant to the CCDOC Executive Director
14. Executive Director of Corrections
15. First Assistant Executive Director
16. Legal Assistant
17. Medical Liaison
18. Personnel Manger at the CCDOC
19. Program Coordinator for Program Services
20. Rehabilitation Worker Supervisor
21. Superintendent (Assistant Correctional Superintendent)
22. Superintendent (Assistant Correctional Superintendent)
23. Superintendent (Assistant Correctional Superintendent)
24. Superintendent (Assistant Correctional Superintendent)
25. Superintendent (Assistant Correctional Superintendent)
26. Superintendent (Assistant Correctional Superintendent)
27. Superintendent (Assistant Correctional Superintendent)
28. Superintendent (Assistant Correctional Superintendent)
29. Superintendent (Assistant Correctional Superintendent)
30. Superintendent (Assistant Correctional Superintendent)
31. Superintendent (Assistant Correctional Superintendent)
32. Superintendent (Assistant Correctional Superintendent)

III. Court Services

33. Assistant Director of Child Support
34. Assistant Chief Deputy Sheriff
35. Assistant Chief Deputy Sheriff
36. Assistant Chief Deputy Sheriff
37. Assistant Chief Deputy Sheriff
38. Assistant Chief Deputy Sheriff
39. Assistant Chief Deputy Sheriff
40. Assistant Chief Deputy Sheriff
41. Assistant Chief Deputy Sheriff

42. Assistant Chief Deputy Sheriff
43. Assistant Chief Deputy Sheriff
44. Assistant Chief Deputy Sheriff of Warrants, Evictions, Levies Unit
45. Assistant Chief Deputy Sheriff
46. Assistant Chief Deputy Sheriff
47. Chief Deputy Sheriff
48. Chief of Civil Process
49. Chief of Courts
50. Director - Sheriff's Child Support Enforcement Division
51. Executive Assistant to Chief Deputy Sheriff
52. Executive Assistant to First Chief Deputy Sheriff
53. First Assistant Chief Deputy Sheriff
54. Assistant Chief Deputy Sheriff
55. Warrants, Levy, Evictions Legal Advisor

IV. Custodial Department

56. Building Custodian
57. Building Custodian
58. Building Custodian
59. Building Custodian
60. Building Custodian
61. Building Custodian
62. Building Custodian
63. Chief Custodian
64. Deputy Director of Custodial Services

V. DCSI

65. Executive Assistant to Director of DCSI
66. Assistant Director of Electronic Monitoring
67. Business Manager for DCSI, Boot Camp and Custodial
68. Chief of Day Reporting Monitoring Room
69. Day Reporting Chief of Case Investigations
70. Chief of Electronic Monitoring Patrol
71. Chief of Electronic Monitoring Records
72. Chief of Electronic Monitoring
73. Chief of Fugitive Unit
74. Deputy Chief of Research and Development
75. Deputy Director Day Reporting Center
76. Deputy Director of Sheriff's Work Alternative Program (SWAP)
77. Deputy Executive Director of Community Supervision & Intervention
78. Director of Day Reporting Unit
79. Director of Electronic Monitoring
80. Director of Sheriff's Work Alternative Program (SWAP)
81. Executive Director of Community Supervision & Intervention
82. Chief of Security Day Reporting
83. Deputy Chief of SWAP Judiciary Coordinator
84. Legal Advisor
85. Director of Re-Entry Day Reporting
86. Day Reporting Senior Program and Policy Analyst
87. Superintendent of Pre-Release Center

VI. Drug Testing

- 88. Director of Employee Drug Testing
- 89. Drug Testing Supervisor

VII. Executive Office

- 90. Director of Community Outreach
- 91. Executive Assistant to Director of Administration
- 92. Executive Assistant to Chief of Staff
- 93. Chief of Staff
- 94. Director of Administration
- 95. Executive Assistant to Sheriff
- 96. Executive Assistant to Sheriff
- 97. Homeland Security Coordinator
- 98. Assistant to the Sheriff / Capital Projects
- 99. Chief Financial Officer
- 100. Deputy Budget Director
- 101. Director of Finance
- 102. Executive Assistant to the Sheriff's Finance Director

VIII. Information Technology Unit

- 103. Director of Information Technology

IX. Jail Diversion & Crime Prevention

- 104. Deputy Director Jail Diversion's Senior Law Enforcement Academy
- 105. Deputy Director of Community Relations / North Side
- 106. Deputy Director of Graffiti Removal
- 107. Director of Jail Diversion & Crime Prevention
- 108. Director of Youth Services

X. Legal Office

- 109. Assistant General Counsel
- 110. Executive Legal Assistant to General Counsel
- 111. General Counsel
- 112. Legal Assistant / Labor Affairs

XI. Personnel Office

- 113. Assistant Director of Personnel
- 114. Deputy Director of Personnel
- 115. Deputy Director of Personnel
- 116. Director of Personnel
- 117. Executive Assistant to Director of Personnel
- 118. Payroll Division Supervisor
- 119. Payroll Division Supervisor

XII. Planning

- 120. Director of Planning
- 121. Executive Assistant to Director of Planning
- 122. Legislative Affairs Coordinator
- 123. Legislative Affairs Administrator
- 124. Police Commander

XIII. Press Office

- 125. Assistant Director of Communications
- 126. Deputy Press Secretary
- 127. Director of Communications
- 128. Multi-Media Manager

XIV. Professional Review

- 129. Deputy Director of External Audits
- 130. Chief Investigator Fraud Unit
- 131. Assistant Executive Director Office of Professional Review
- 132. Director of Ethics
- 133. Director of External Audits
- 134. Director of Criminal Intelligence (Director of Professional Review)
- 135. Executive Assistant to Executive Director of Office of Professional Review
- 136. Executive Director
- 137. Legal Advisor

XV. Sheriff's Police

- 138. Budget & Finance Director for Police
- 139. County Police Assistant Chief
- 140. County Policy Chief
- 141. Deputy Chief of Administration
- 142. Director of Emergency Communications
- 143. Director of Investigations
- 144. Executive Assistant to Chief of Police
- 145. Executive Assistant to the First Deputy Chief of Police
- 146. First Deputy Chief of Police
- 147. Police Commander
- 148. Police Commander
- 149. Police Commander
- 150. Police Commander
- 151. Police Commander
- 152. Police Commander
- 153. Police Commander of Narcotics
- 154. Police Commander of Narcotics
- 155. Deputy Chief of Patrol

XVI. Suburban Services

- 156. Director of Suburban Services

XVII. Support Services

- 157. Deputy Director Support Services
- 158. Director of Support Services
- 159. Warehouse Manager

XVIII. Training Institute

- 160. Deputy Director of Court Services Training
- 161. Deputy Director of Training Institute
- 162. Executive Assistant to the Executive Director of Training Institute
- 163. Executive Director of Training

XIX. Undersheriff

- 164. Exec Assistant to the Undersheriff
- 165. Undersheriff

XX. Vehicle Services

- 166. Director of Vehicle Services
- 167. Deputy Director of Vehicle Services

XXI. Women's Justice Services

- 168. Deputy Director of DWJS
- 169. Assistant Director of Security
- 170. Executive Director of Women's Justice
- 171. Program Coordinator
- 172. Director of Security