

CRIMINAL JUSTICE COMMITTEE

Allegations Regarding the 2002 Sheriff's Election

Citizen Complaints #01/02-C-027 and #01/02-C-035

Reason for the Report

Two citizens' complaints were received alleging inappropriate and unprofessional election campaign conduct by Sheriff's Department employees. Both candidates for the office of Sheriff and their respective supporters were accused of inappropriate campaign conduct, such as misuse of county time and pressuring merchants to put up their campaign signs.

Scope of the Investigation

The following documents were reviewed:

- Complaint #01/02-C-027;
- Complaint #01/02-C-035;
- California Government Code §3206;
- Sheriff's Office General Order 3-07;
- Civil Service Ordinance 2.60.090;
- Human Relations Department draft policy regarding "Political Activities," May 2001;
- Sheriff's Department General Order, Section 3-07, July 2, 2001;
- Sheriff's Department General Order, Section 3-05, July 2, 2001;
- Memo from Sheriff's Department Captain to Sheriff, January 18, 2002; and
- Sheriff's Department Policy/Planning, April 1999.

The following persons were interviewed:

- Sheriff;
- UnderSheriff;
- Lieutenant, Sheriff's Department;
- Sergeant, Sheriff's Department;
- Deputy Sheriff, Sheriff's Department; and
- Community Services Officer.

Findings

F1: The only formal electioneering guidance given by the County, to County employees is Civil Service Code 2.60.090, which reads as follows:

“No person employed under the system created by this chapter shall seek or accept election, nomination or appointment as an

officer of a political club or organization, take an active part in a county political campaign favoring or opposing any candidate for election or nomination to a county office, or distribute badges, pamphlets, dodgers or handbills of any kind favoring or opposing any candidate for election or for nomination to a county public office. This chapter does not prevent any such officer or employee from becoming or continuing to be a member of a political club or organization, from attending political meetings or from seeking or accepting election or appointment to public office.”

F2: Section 3206 of the California Government Code provides as follows:

"No officer or employee of a local agency shall participate in political activities of any kind while in uniform."

F3: To implement that provision of state law, El Dorado County Sheriff's Office General Order No. 3-07, after citing Section 3206, provides as follows:

"To ensure compliance with this section, no employee of the El Dorado County Sheriff's Office shall participate in any political activities, including but not limited to, appearing as a candidate or supporting a candidate for public office, either in person or in any visual media while wearing the official uniform or clearly identifiable official patch or badge of the El Dorado County Sheriff's Office.”

F4: Restriction of campaigning by Sheriff's Department employees is especially important because of the possibility that members of the public may feel intimidated when confronted by law enforcement officers.

F5: The Sheriff's election in 2002 was the first highly contested Sheriff's election in many years. Some inappropriate electioneering behavior and possible violations of law occurred during the course of campaigning in 2002 for the position of Sheriff.

F6: Both candidates claimed that they had specifically directed their active supporters to obey the law regarding elections, and that they enforced those directives.

F7: The Sheriff requested that the Department of Human Resources (HRD) develop a policy which would specifically state what is appropriate, or inappropriate, employee campaign behavior.

F8: HRD drafted a proposed policy in May 2001. The policy was sent to County Counsel's office for review, but has yet to be issued.

- F9: Although the policy has yet to be approved, the Sheriff issued the draft policy to managers and supervisors prior to the 2002 election, to assist them in their direction of subordinates.
- F10: Managers were directed to discuss the draft policy in their management meetings.
- F11: Sergeants were directed to discuss the draft policy in pre-shift meetings.
- F12: Managers had follow-up discussions; most sergeants had such discussions, but at least one did not.
- F13: The draft policy regarding elections was to be incorporated into ongoing Sheriff's training programs.
- F14: The Sheriff claims that individually reported violations have been followed-up and dealt with appropriately.
- F15: Even when off-duty and out of uniform, law enforcement officers are viewed as officers. The distinction between on- and off-duty is blurred. Therefore, when an officer is handing out campaign literature in front of a business or nailing a campaign poster onto a telephone pole, civilians (or even other officers) probably would not know if that officer is off-duty.
- F16: County managers, such as Sheriff's Department Captains and Lieutenants are allowed to utilize their respective 96 or 80 hours of management leave for personal purposes, including electioneering. These hours are sometimes used during regular eight-hour shifts, creating the impression that the Captains or Lieutenants may be campaigning on county time.
- F17: Internal election battles waged within the Sheriff's Department and the resulting bad feelings affected relations among Sheriff's personnel and between Sheriff's personnel and the public.
- F18: There are residual bad feelings among some of the Sheriff's personnel. Many believe it will take years for healing to take place.
- F19: There are seven elected county department heads. Elections for Sheriff are frequently contentious because:
- Opposing candidates are generally long time employees of the Department.
 - The Sheriff' Department has a greater number of employees.
 - Departmental employees are highly visible in uniform.
 - The type of work, such as responding to emergencies, is stressful.
 - Persons attracted to law enforcement are usually assertive, tough minded and confrontational.
 - The culture and traditions of law enforcement encourage such contentiousness.

- F20: The Sheriff's Team of Active Retirees (STAR) are uniformed volunteers who assist the Sheriff's Department with a variety of functions. There are more than 200 STAR volunteers. They are viewed by the public as being departmental employees.
- F21: The 2002 election is over. The unsuccessful candidate has already announced that he will be a candidate in 2006. That announcement may result in continued contentiousness for the next four years.

Recommendations

- R1: The draft policy entitled "Political Activities," dated May 2001, should be immediately reviewed, approved or revised, and then disseminated and implemented.
- R2: County Counsel should provide legal advice in a timely manner. This is especially important in situations which could lead to acrimony among county employees and potentially affect the quality of services provided to the public.
- R3: The County should establish an independent body to investigate campaign violations by Sheriff's Department employees.
- R4: The Sheriff's Department should develop procedures that specifically address appropriate and inappropriate election behavior for Sheriff's Department employees.
- R5: The "Political Activities" policy should be incorporated into all Sheriff's Department training programs.
- R6: Sheriff's Department Captains and Lieutenants should be held accountable for the campaign conduct of their subordinates.
- R7: The personnel practice allowing Sheriff's Department Captains and Lieutenants to use their respective 96 or 80 hours of personal management leave for election activities should be amended to preclude the use of such time for election activities.
- R8: STAR volunteers should receive training in appropriate election campaign behavior and be held accountable to the same standards as the sworn deputies.

Responses Required for Findings

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| F1 through F21 | El Dorado County Board of Supervisors
El Dorado County Sheriff
Director, Human Resources Department |
| F8 | County Counsel |

Responses Required for Recommendations

R1 through R8

El Dorado County Board of Supervisors
El Dorado County Sheriff
Director, Human Resources Department
County Counsel

R2