

CRIMINAL JUSTICE COMMITTEE

Sheriff's Non Follow-Up Regarding Sick Leave Abuse

Citizen Complaint #C20 – 02/03

Reason for the Report

A citizen's complaint was received alleging the Sheriff failed to investigate the 200 hours of sick leave a former Undersheriff was paid. This complaint relates to a follow-up of a previous Grand Jury complaint (#00/01 – C021).

Scope of the Investigation

The members of the Grand Jury interviewed:

- The former County Sheriff (Sheriff);
- The former Undersheriff (Undersheriff);
- Employees of El Dorado County Sheriff's Department;
- Employees of El Dorado County Department of Human Resources;
- Employees of El Dorado County Risk Management.

The Grand Jury also reviewed:

- Citizen complaint #00/01-C-021 alleging abuse of sick leave by the Undersheriff;
- Grand Jury Report 2000/2001 regarding complaint #00/01-C-021;
- The Sheriff's response to the Grand Jury Report 2000/2001;
- Appropriate payroll documents;
- All sick leave records of Sheriff's Department personnel who terminated service between January 1, 1999 and November 2002;
- Correspondence between Sheriff and former Undersheriff regarding abuse of sick leave ;
- Various memoranda regarding principals involved;
- Policies for the County and Memoranda of Understandings (MOUs) relating to sick leave;
- Medical records of the former Undersheriff.

Background

The 2000/2001 Grand Jury received and investigated a citizen complaint concerning the alleged abuse of sick leave by the Undersheriff. In response to that Grand Jury Report, the Sheriff responded that he would investigate the Grand Jury's findings. He stated if it was determined that the Undersheriff was not ill, a demand for repayment of funds would be pursued.

Subsequently, the 2002/2003 Grand Jury received another complaint regarding the status of the Sheriff's investigation and requested that the County seek reimbursement for the unauthorized sick leave. A second investigation commenced.

Early in 1999, because of differences between the Sheriff and one of his Captains, the Sheriff approached the Captain with an offer to which the Captain agreed. This agreement involved the Sheriff promoting the Captain to Undersheriff with the understanding the Undersheriff would retire from the Sheriff's Department at the end of January 2000.

Thereafter, the Undersheriff sent a memo to the Sheriff, confirming their conversation that he would be retiring on April 28, 2000. He also stated he would use his accrued vacation leave from January 31, 2000 until his retirement on April 28, 2000 with the Sheriff's approval.

The Salary & Benefits Resolution for Unrepresented Employees, amended effective July 3, 1999, allows all accrued vacation leave to be paid upon the employee's retirement. However, the Resolution allows a maximum of 504 hours of accrued sick leave to be paid upon retirement. Any accrued sick leave in excess of 504 hours is lost upon retirement.

Subsequently, during the period of time he was on vacation leave, the Undersheriff contacted payroll clerks in the Sheriff's Department and instructed them to change a substantial portion of his vacation leave to sick leave. Due to his rank and no written established procedures for unrepresented employees, the clerks followed his instructions without question.

Thus, on five occasions over a period of approximately three months, the Undersheriff instructed payroll to change a portion of his vacation leave to sick leave. It appears the Undersheriff's actions enabled him to manipulate the County sick leave policy wherein he received 200 hours of sick leave, valued at over \$10,000, he would have otherwise lost at retirement.

This Grand Jury contacted members of the Sheriff's Department regarding the status of the above-mentioned investigation into the abuse of sick leave. They were informed that the Sheriff wrote a letter to the former Undersheriff on August 20, 2001, requesting medical verification for the unauthorized sick leave. (It should be noted the Sheriff's Department does not have a receipt of delivery of the letter to the former Undersheriff and the Undersheriff claims he never received said letter.) The Sheriff failed to follow up on the matter until this Grand Jury inquired into the status of his investigation.

The Sheriff wrote a second letter on October 6, 2002, fourteen months later, again requesting medical verification of sick leave. The Undersheriff, in a written response dated October 9, 2002, claimed various illnesses. He also stated no one required medical verification prior to that date. The Undersheriff indicated he would like to provide specific documentation, however, he found the request unrealistic and unreasonable. Subsequently, the Undersheriff signed a medical release for the Grand Jury to obtain his medical records. The Grand Jury reviewed the medical records and concluded there did not appear to be any verification to substantiate his use of sick leave.

Findings

- F1. It appears the former Sheriff promoted a Captain to Undersheriff for personal reasons, rather than for the benefit of the County.
- F2. The Sheriff authorized the Undersheriff to use accumulated leave from January 31, 2000 through April 28, 2000.
- F3. The Undersheriff contacted the Payroll clerks with instructions to change his vacation leave to sick leave.
- F4. The 2000/2001 Grand Jury reported this Undersheriff was paid 200 hours for sick leave when he was not sick and resulted in the use of accumulated sick leave for which he would not have been entitled to be paid for upon retirement.
- F5. The Sheriff, responding to the 2000/2001 Grand Jury Report, said he would investigate the Grand Jury's finding. If the Sheriff determined that the Undersheriff was not entitled to receive sick leave payment, he would demand repayment of funds.
- F6. The Sheriff alleges he sent a letter to the Undersheriff on August 29, 2001, requesting doctor's documentation. However he failed to follow up on said letter for a period of fourteen months until contacted by this Grand Jury.
- F7. The Undersheriff responded in a letter on October 9, 2002 that he was sick during the time in question.
- F8. The Undersheriff's medical records reviewed by this Grand Jury do not appear to substantiate his claim.
- F9. A review by this Grand Jury of Sheriff's Department sick leave records, between January 1999 and November 2002, revealed this apparent abuse of sick leave to be an isolated case.
- F10. In January 2003, the County Counsel filed suit against the Undersheriff in small claims court to recover monies owed pursuant to the limitations of said court.

Recommendations

- R1. Procedures should be established, implemented, and followed for obtaining appropriate approval to change any vacation leave to sick leave for all personnel, including management.
- R2. Written medical verification required for related sick leave should be obtained in a timely manner.

R3. Proper procedures should be established for follow-up of required written medical verification.

R4. County Counsel should review the issues presented and take whatever additional action they deem appropriate.

Commendations

County employees were cooperative with this Grand Jury’s investigation. It should be noted that the Sheriff’s Department has implemented procedures to ensure compliance to the sick leave policy.

Responses Required for Findings

F3 through F5	El Dorado County Sheriff
F4 through F5, and F10	El Dorado County Board of Supervisors

Responses Required for Recommendations

R1 through R3	El Dorado County Sheriff
R4	El Dorado County Board of Supervisors El Dorado County Counsel