

County of Santa Clara

Employee Services Agency

County Government Center, East Wing
70 West Hedding Street, 8th Floor
San Jose, California 95110
(408) 299-4355 FAX 295-3012



June 10, 1996

TO: James T. Beall, Jr., Supervisor, District 4

FROM: Peter Kutras, Jr., Director, Employee Services Agency

SUBJECT: REPORT BACK: SHERIFF LIGHT DUTY

This memo provides the information you requested on May 14, 1996 regarding light duty in the Sheriff's Office. This memo has been developed in conjunction with staff from the Sheriff and OBA.

1. HOW MANY SHERIFFS ARE CURRENTLY ON LIGHT DUTY AND WHAT PERCENTAGE OF THE TOTAL FORCE DOES THAT FIGURE REPRESENT?

Table 1 below summarizes the current situation:

Table 1: Sheriff's Badge Personnel with Job Restrictions as of 5/21/96		
Employee Status	Number of Personnel	Percent* of Current Force (415 Badge Personnel)
On Light Duty	40	9.64%
On Medical or Workers' Comp Leave	23	5.54%
SUBTOTAL	63	15.18%
Assignment Restricted Duty	105	25.30%
TOTAL	168	40.48%

* Percentages are based on the FY 1997 figure of 407 badge personnel (captains, lieutenants, sergeants, and deputies) plus eight positions which are not yet cut, for a total of 415.

As of May 21, 1996, there were 40 badge personnel (one lieutenant, six sergeants, and 33 deputies) on light duty in the Sheriff's Department – 10% of the current total badge force of 415. These are badge personnel who have provided physician certification requiring accommodation by the department for a light duty assignment. These 40 personnel are, however, doing law enforcement work.

In addition to this 10%, there are two additional categories that should be considered in this discussion. The first of these categories is badge personnel who are on the payroll, but are on some type of medical or workers' compensation leave and are not able to work. Their job restriction may be temporary or permanent; in either case, the physician has not returned the employee to duty. There are currently 23 badge personnel in this category – all of them deputy sheriffs.

The second category, Assignment Restricted Duty, is somewhat more complex; it is comprised of badge personnel who have been released by their physician to return to work for a specific assignment which may not include all assignments as a peace officer. From a practical standpoint, the Department is frequently unable to fully utilize these deputies because, when they are reassigned (usually from Court Services to Patrol or from one Court assignment to another), they may produce a doctor's statement certifying that, due to their injury, they cannot perform the new assignment. The Sheriff estimates that there are currently 105 badge personnel in this category.

There was past discussion concerning what have been called "made up" positions. The most serious of these, positions which were modified to be light duty, have been eliminated over the past year through retirements. When these modified positions were in effect, other deputies had to cover portions of these assignments through use of overtime and extra help. After the retirements, the modified positions became full-function assignments with a resulting reduction in overtime and extra help.

2. WHAT JOB ASSIGNMENTS WILL THE 12 NET NEW DEPUTIES IN THE FY 1997 RECOMMENDED BUDGET BE GIVEN?

Although there may be 12 new faces in the Sheriff's Department in the near future, there are no new deputy positions in the FY 1997 recommended budget – in fact, the number of filled positions will actually decrease by eight. This is because 20 positions in the Sheriff's Department are currently filled by badge personnel who are unable to perform patrol duties due to injury or illness. Unbudgeted overtime and extra help is currently being used to perform law enforcement for these positions when the regular officer is unable to do so.

As the FY 1997 budget proposes, 20 badge personnel will be granted disability retirements and their positions will become vacant. The first eight of these positions to become vacant will be eliminated. This will leave 12 vacancies (funded codes) available to be filled with new personnel rather than through overtime and extra help.

The Sheriff will decide which divisions will absorb the loss of the eight deputy positions and where the 12 replacement deputies will be assigned. Since positions are approved at the budget unit level, placement and transfer of staff depend on several factors: when and where a vacancy occurs, changes in workload or responsibilities, or the creation of a new program or function. Examples include unbudgeted security station staffing at the Old Superior Court and the Sexual Assault Felony Enforcement Task Force. The 12 replacement deputies may be used first in the Court Security Division for two reasons: 1) the new

deputies may not be fully field trained for patrol duties, and 2) Court positions are required to be filled.

The FY 1997 budget shows the eight deputy sheriff positions being eliminated from the Patrol Division because it contains the most deputies outside the Court Security Division. The reductions were not assigned to the Courts because Court positions are considered "post" positions – critical security posts that must be staffed using overtime or staff from other divisions (primarily the Patrol Division). The reductions were not assigned to the divisions which support contract services (Westside Division, Transit Patrol) because contract payments would be affected. Although the reductions were assigned to the Patrol Division, the Sheriff feels that patrol positions are all "post" positions. However, with prior cut-backs in other areas of the department, the Sheriff feels he has no other alternative.

If the County is able to create a new Deputy Sheriff I classification, the Sheriff may ask the Board to approve an add/delete action which would delete these twelve vacant deputy positions and, for about the same costs, add a greater number of new Deputy Sheriff I positions.

3. HOW MANY SHERIFFS OF ALL RANKS ARE LEFT AT DOC, AND WHAT IS THE ESTIMATE AFTER THE 12 NEW SHERIFF POSITIONS ARE FILLED?

As of April 22, 1996, there are 17 Sheriff's badge personnel at DOC (two lieutenants and 15 sergeants).

The County may choose to fill the 12 deputy sheriff positions with sergeants transferred from DOC, which would leave five Sheriff's badge personnel at DOC. However, this would result in an unbudgeted cost of \$227,603 more per year from overfilling the twelve deputy vacancies with sergeants. (The basis for this \$227,603 estimate is the difference between the estimated salary reduction which results from the Recommended Budget proposal (\$698,901) and the cost of filling the twelve remaining deputy vacancies with sergeants, which are assumed to be half 2.5% CIP and half 7.5 CIP, and all at step 5.)

Historically, all of the deputies who have come from DOC to fill vacancies in the Sheriff's department have been assigned to Court Security because they were not field trained in patrol. (Also, about 30% were either on limited duty or later identified as such.) Fully trained and unrestricted deputies were then transferred from Courts to patrol.

4. HOW MANY SHERIFFS HAVE RETIRED OVER THE LAST YEAR AND WHAT HAVE WE DONE WITH THE POSITIONS THAT WERE CREATED?

There have been 19 retirements since July 1, 1995 – four sergeants and 15 deputy sheriffs. There were 15 the year before – four sergeants and 11 deputy sheriffs.

The 19 vacancies that were created by this year's retirements were partially filled by 11 badge personnel whose jobs were eliminated when Monte Sereno dropped its contract with

the Sheriff's Department (one deputy position lost), and when the Transportation Agency renegotiated its Security contract (10 positions lost – two sergeants and eight deputies).

During the same period the 19 deputies retired this year, the Board created 13 unclassified positions (one sergeant, nine deputies, and three Sheriff technicians) in the Court Security Division for security at the Richard Allen Davis trial. Since all 13 of these unclassified positions will expire in October, 1996, any regular badge Sheriff's employees who were placed in those positions will be transferred to vacancies within the Sheriff's Department.

5. WHAT RECOMMENDATIONS DOES YOUR DEPARTMENT HAVE FOR REDUCING THE NUMBER OF SHERIFFS ON LIGHT DUTY AND WHAT PROGRESS HAS BEEN MADE TO ACCOMPLISH THIS COMPARED TO LAST YEAR?

We have granted a number of disability retirements, which has led to a reduction in the number of light duty assignments. However, aside from virtually eliminating the "make-work positions", the situation remains relatively unchanged.

Our current strategy involves combining selected disability retirements with service retirements to reduce the number of light duty personnel. One of the complicating factors is that there will always be some fixed number of both temporary and permanently injured employees who must be accommodated. Currently, there is no agreement between the Sheriff and the County as to the maximum number of positions that could accommodate light or restricted duty staff.

To date, the Sheriff has used the light/restricted duty issue to highlight what he believes are two additional factors: 1) an inadequate relief factor for normal time off due to sick leave and other approved leaves, and 2) staffing demands that exceed his authorized level of staff. In the Sheriff's view, the combined effect of light/restricted duty, the relief factor, and staffing demands have caused him to rely on overtime and extra help usage.

It is difficult to make a blanket recommendation for the reduction of staff on light duty; this is a complex problem involving a delicate balance between compliance with the Americans with Disabilities Act and other factors – such as the Sheriff's need to maintain maximum flexibility by having fully capable staff, the cost of disability retirements (PERS rate), and the labor contract mandate to pay one full year of 4850 pay for forced retirements. The twenty disability retirements in the FY 1997 budget are one part of the continuing effort to address this ongoing problem.

We are also using a firm to reduce the duration of temporary light duty assignments following industrial injuries.

In the spring of 1995, we previously discussed this issue with the Board. At that time, after review with counsel, it was determined that our options to place injured deputies in alternative assignments were severely restricted by the California Government Code and related case law. If an individual agreement is not made, the cost of a disability retirement can be avoided by offering a "suitable modified position" which meets the following criteria:

- 1) The position is within the physical and emotional restrictions imposed by treating doctors; AND
- 2) The position is a police position; AND
- 3) The position is a permanent position; AND
- 4) The employee will receive the same salary and fringe benefits; AND
- 5) The employee will have the same promotional opportunities as other employees in the police officer classification.

In addition to these criteria, the physical and educational requirements for other police positions such as probation, corrections or D.A. also offer us no placement alternatives. Further, granting a retirement and then recalling an employee to an alternative job would not conform to our understanding of current retirement law.

6. WORK WITH THE SHERIFF TO DEVELOP A STRATEGY TO INCREASE THE NUMBER OF SHERIFFS ON PATROL BY WORKING TO REDUCE THE NUMBER ON LIGHT DUTY.

The new classification of Deputy Sheriff I is under consideration. This class could be used to perform a variety of functions within the Court Security Division, where full patrol-trained deputies are not required. This would, in turn, free up officers to be assigned to patrol. Another alternative might be to increase the use of the technician class or other civilian-type positions, which would also free up full patrol-trained deputies.

In addition, we will jointly continue to review and look for innovative ways to reduce the number of light and assignment restricted deputies.

In addition to exploring the Deputy Sheriff I class with DSA, we are exploring individual voluntary retirement incentives that will minimize County costs.

attachment

cc: Members of the Board of Supervisors
Richard Wittenberg, County Executive
Sheriff Charles Gillingham
Janet Moody, Deputy Director, Employee Services Agency
Luke Leung, Deputy Director, Labor Relations, ESA
Laurie Smith, Assistant Sheriff/Technical Services
Naomi Tsurumoto, Administrative Services Manager III - Office of the Sheriff
Rex Recchio, Chief, ESA, Employee Health & Benefit Services
Susan Phillips, Program Analyst, OBA
Fran Underwood, Benefits Analyst, ESA-Employee Health & Benefit Services

Attachment A: Distribution of Staff – Fiscal Year 1997 Recommended Budget

Division Title	Index Code	Captain	Lieutenant	Sergeant	Deputy	Sheriff Technician	TOTAL
Administration	3900			1	1		2
Fiscal	3901						
Investigative Services	3903		1	14	16	3	34
Headquarters Patrol	3904	1	2	9	77		89
Personnel	3905		1	2	4		7
Westside Substation	3907	1	1	6	61		69
Records	3909						
Internal Affairs	3912			2			2
Data Management	3913						
Court Security	3914		1	5	146	15	167*
Transit Patrol	3919		1	2	21		24
Reserves	3922			1	1		2
Parks Patrol	3927			1	10		11
Civil	3929			1	7	2	10
Warrants & Fugitives	3906			1	6		7
Training	3924			2	1		3
TOTAL		2	7	47	351	20	427

* Includes 13 unclassified positions (1 Sergeant, 9 Deputies, 3 Sheriff Technicians)