

***Lui v. City and County of San Francisco***  
***No Permanent Light-Duty Assignments for Peace Officers***  
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Law enforcement agencies frequently grapple with how to accommodate officers who ask for limited-duty assignments. The California Court of Appeal in *Lui v. City and County of San Francisco* (Dec. 11, 2012) has provided some welcome guidance to law enforcement agencies dealing with this issue. The *Lui* court held that the ability to use force and make arrests is an essential function of the job even for officers assigned to administrative positions and therefore San Francisco's policy of limiting light-duty assignments to one year was lawful.

In *Liu*, San Francisco adopted a General Order providing that light-duty assignments for officers could not exceed one-year. After a year, an officer on light-duty had to return to full duty, seek a non-peace officer position as an accommodation, or take leave or retirement.

In 2008 plaintiff Kenneth Lui challenged this General Order. Lui was diagnosed with diabetes, high blood pressure, high cholesterol and coronary artery disease. Per policy, he was placed on a light-duty assignment. Near the end of his year on light-duty, he was notified that his light-duty term was ending. He then submitted a series of doctor's notes providing he could not engage in physically strenuous work. The Department told him that it could not accommodate this restriction and invited him to apply for a non-peace officer position with the City. Lui declined this offer due to negative effect this would have on his pension. Lui then opted to retire and sue for disability discrimination.

Following a trial, the Superior Court found in the City's favor finding the requirement that peace officers perform strenuous work was reasonable. The Court of Appeal affirmed. The Court noted that "for each officer in a modified-duty assignment, there is one less officer available to be deployed in an emergency." The City Charter mandated that a certain number of officers be available for deployment in emergencies and the City was deficient in meeting this number. Requiring that light-duty assignments become permanent would further weaken the City's ability to meet this requirement.

More importantly, the Court of Appeal found that the City presented sufficient evidence demonstrating it needed to be able to mobilize as many full-duty officers as possible to respond to mass celebrations, demonstrations, earthquakes and other large-scale emergencies. Even administrative officers would be called upon to perform this work which could be strenuous. Thus, the City's requirement that peace officers return to full duty after one year was reasonable.

This case provides important guidance to law enforcement agencies in crafting essential job functions lists and limited-duty policies and addressing requests for limited-duty assignments. Most importantly, it confirms that it is proper to mandate that making forcible arrests is an essential function of the peace officer position.

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