

EL PASO COUNTY SHERIFF'S OFFICE



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Dolores B. Williams
COUNTY CLERK
EL PASO COUNTY, TEXAS

CIVIL SERVICE COMMISSION

**REGULAR MEETING AGENDA
1:30 P.M. MONDAY, JANUARY 6, 2020
SHERIFF'S HEADQUARTERS
3850 JUSTICE ROAD
SHERIFF'S CONFERENCE ROOM
EL PASO, TEXAS 79938**

**Chair
Fermin Acosta Jr.**

**Commissioners
Maria Elvira Williams
Bertha A. Gallardo**

OPEN MEETING

NOTICE TO THE PUBLIC

All matters listed under the Consent Agenda will be considered by the Civil Service Commissioners to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion of these items unless members of the Court or persons in the audience request that specific items be removed from the Consent Agenda to the Regular Agenda for discussion prior to the time the Court votes on the motion to adopt the Consent Agenda.

All matters listed on the Consent or Regular Agenda may be discussed in executive session at the option of the El Paso County Civil Service Commission and following oral announcement, if an appropriate exception to the open meeting requirement of the Texas Open Meetings Act is applicable.

PUBLIC COMMENT

Speaker's choice: Five (5) minutes per person during this segment regarding any items or three (3) minutes per person on each item as it appears on the agenda. The same will apply to any interest group consisting of three or more representatives.

CONSENT AGENDA

1. Approve the minutes of the Special Meeting for the Sheriff's Civil Service Commission on July 29, 2019.
-- Ludy Velo, Human Resources
2. Notify the Commission of the appeal letter of termination on Officer Gabriel Correa, Internal Affairs Case Number SO2019-094. The matter will be heard by an independent arbitrator; therefore waiving the right to appeal to the Civil Service Commission.
-- Jim K. Jopling CLEAT

REGULAR AGENDA

1. Discuss and take appropriate action to select the nominee to the El Paso County Ethics Commission for the term February 1, 2020 through January 31, 2022.
-- Claudia Murguia, County Administration
2. Discuss and take appropriate action to approve recommended changes to Chapter 2, Section 5 *Employment – Exempt Employees*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.
-- Ludy Velo, Human Resources
3. Discuss and take appropriate action to approve recommended changes to Chapter 3, Section 2 *Compensation – Shift Differential Pay*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.
-- Ludy Velo, Human Resources
4. Discuss and take appropriate action to approve recommended changes to Chapter 3, Section 5 *Compensation – Compensatory Time*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.
-- Ludy Velo, Human Resources
5. Discuss and take appropriate action to approve recommended changes to Chapter 3, Section 6 *Compensation – Supplemental Stipends*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.
-- Ludy Velo, Human Resources
6. Discuss and take appropriate action to approve recommended changes to Chapter 3, Section 7 *Compensation – Timekeeping and Attendance*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.
-- Ludy Velo, Human Resources
7. Discuss and take appropriate action to approve recommended changes to Chapter 5, Section 10 *Leave Policies – Worker's Compensation*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.
-- Ludy Velo, Human Resources

8. Discuss and take appropriate action to approve recommended changes to Chapter 6, Section 8 *Professional Conduct – Discrimination/Sexual Harassment*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.
-- Ludy Velo, Human Resources

9. ADJOURN

**EL PASO COUNTY SHERIFF'S OFFICE CIVIL SERVICE COMMISSION:
NOTICE: CHANGE OF RULES**

POSTED: Tuesday, December 17, 2019 -- by 5:00 pm

In accordance with Sec. 1.4.01 of the Civil Service Commission, this notice contains the proposed changes regarding sections in the Civil Service Commission Rules & Regulations. They will be discussed and appropriate action will be taken at the following special meeting:

**Monday, January 6, 2020
El Paso County Sheriff's Headquarters
(Sheriff's Conference Room)
3850 Justice Road
1:30 pm**

Proposed Change #1: Discuss and take appropriate action to approve recommended changes to Chapter 2, Section 5 *Employment – Exempt Employees*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.

2.5.01 The following positions are exempt from the provisions of the El Paso County Sheriff's Office Civil Service system as authorized by Section 158.038, Local Government Code:

- (1) Executive Chief Deputy – Law Enforcement Bureau
- (2) Chief Deputy – Detention Services Bureau
- (3) Executive Administrative Officer – Administration Services Bureau
- (4) Assistant Chief – Detention Facility Division
- (5) Assistant Chief – Jail Annex Division
- (6) Commander – Patrol Division
- (7) Commander – Criminal Investigations Division
- (8) Commander – Planning Accreditation and Inspection Division
- (9) Public Affairs Director
- (10) Administrative Specialist Senior to the Sheriff
- (10+) Executive Assistant to the Sheriff – Administration Services Bureau

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Proposed Change #2: Discuss and take appropriate action to approve recommended changes to Chapter 3, Section 2 *Compensation – Shift Differential Pay*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.

3.2.01 This policy serves as the shift differential policy for Sheriff's Office employees in which FLSA non-exempt employees are scheduled on a regular, rotating or sporadic basis to work during the evening or graveyard shifts.

3.2.02 Policy
Employees who are assigned, ordered, or volunteer to work a shift for at least four (4) consecutive hours that begins on or after 4:00 p.m. shall work the "evening" shift. Employees who are assigned, ordered, or volunteer to work a shift for at least four (4) consecutive hours that begins on or after 12:00 a.m. (midnight) shall work the "graveyard" shift. Non-exempt employees working either of these two shifts are entitled to shift differential pay.

3.2.03 Eligibility

Positions must be regular full-time or part-time non-exempt employees who are not covered by the collective bargaining agreement.

3.2.04 Procedure

A. The evening shift differential applies to hours consecutively worked between 4:00 p.m. and 12:00 a.m. midnight. (Minimum of 4 hours must be consecutively worked during this time frame.) Employees will be paid an evening shift differential of \$0.35 for each hour worked during this time. Hours worked within this timeframe shall be coded Hours Worked and to SDA, and shall be verified and approved by the immediate supervisor. See example below:

Week starting: Sun 3/05

	Pay Code	Transfer	Sun 3/05	Mon 3/06	Tue 3/07	Wed 3/08	Thu 3/09	Fri 3/10
<input checked="" type="checkbox"/>	Hours Worked			8.00	8.00			
<input checked="" type="checkbox"/>	Hours Worked					8.00	8.00	8.00
<input checked="" type="checkbox"/>	SDA			8.00	8.00	8.00	8.00	8.00

B. The graveyard shift differential applies to hours consecutively worked between 12:00 a.m. midnight and 8:00 a.m. (Minimum of 4 hours must be consecutively worked during this timeframe.) Employees will be paid a graveyard shift differential of \$0.70 for each hour worked during this time. Hours worked within this timeframe shall be coded to Hours Worked and SDB, and shall be verified and approved by the immediate supervisor. See example below:

Week starting: Sun 2/26

	Pay Code	Transfer	Sun 2/26	Mon 2/27	Tue 2/28	Wed 3/01	Thu 3/02	Fri 3/03
<input checked="" type="checkbox"/>	Hours Worked				8.00	8.00		
<input checked="" type="checkbox"/>	Hours Worked			8.00			8.00	8.00
<input checked="" type="checkbox"/>	SDB			8.00	8.00	8.00	8.00	8.00

C. Employees shall not be eligible to receive both the "evening" shift differential pay and the "graveyard" shift differential pay for the same hours of work. However, if an employee works through parts of both shifts, the employee shall code their time properly to reflect the hours worked in each shift. Example: If an employee is scheduled from 7:00 p.m. to 12:00 a.m. (5 hours) to SDA. The employee would then code their time from 12:00 a.m. to 7:00 a.m. (7 hours) to SDB.

D. All differentials paid to employees will be included in the employee's regular rate for purposes of overtime accrual calculation where applicable.

E. Compensatory (comp) time will apply in accordance with the County's Compensatory Time policy.

3.2.05 Exclusions

- A. Exempt employees and Temporary employees are not eligible for shift differential pay.
- B. Shift differential pay will not be paid for hours not worked.
- C. Funding has been set aside for the Shift Differential Program; however, Commissioners Court has final approval of shift differentials and may rescind when conditions warranting the pay premium are no longer applicable or funds are no longer available.
- D. Employees with questions regarding shift differential pay should contact the immediate supervisors, or the Human Resources Office.

Proposed Change #3: Discuss and take appropriate action to approve recommended changes to Chapter 3, Section 5 *Compensation – Compensatory Time*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.

3.5.01 Work Periods

The Sheriff or designee shall assign the work day. The workweek shall be seven (7)-day period beginning on Sunday at 12:00:01 a.m. and continuing through Saturday at midnight. This rule does not apply to employees covered by the collective bargaining agreement.

3.5.02 Compensatory Time

- A. The County will allocate and schedule work appropriately so that FLSA "non-exempt" employees are not required to work over forty (40) hours in a workweek except when mandated by operating necessities. Department Heads (or their designees) of non-exempt employees are responsible for establishing work schedules and for ensuring adherence to federal and state law and County policy. This policy applies to any and all hours where a non-exempt employee is required or is permitted to work in excess of forty (40) hours in the standard workweek.
- B. Compensatory time off (comp time) is paid time off that is earned and accrued by an employee in lieu of overtime pay for authorized overtime. Unless overtime pay is specifically authorized through Commissioners Court, County employees who physically work over forty (40) hours in a workweek are compensated with compensatory time in lieu of overtime pay. By working the additional time, employees are agreeing to this method of compensation.

3.5.03 Authorization for Compensatory Time for Non-exempt Employees

- A. Authorization to work in excess of the standard forty (40) hour workweek must be obtained in advance from the Sheriff or designee and should be documented. Employees who work in excess of forty (40) hours in a standard workweek without prior Sheriff's authorization are subject to corrective or disciplinary action.
- B. Actual compensatory time earned shall be reported on the employee's bi-weekly electronic time card as prescribed by the County Auditor and must be approved by both the employee and the Sheriff or designee.

3.5.04 Earning Compensatory Time

Non-exempt employees who are authorized or permitted to work in excess of forty (40) hours in a workweek are entitled to compensatory time off at a rate of one and one-half times for all time actually worked over forty (40) hours in a workweek. Paid or unpaid leave of any type taken during a workweek does not count as hours worked in computing overtime.

3.5.05 Limitations

Non-exempt employees may not have a balance of more than eighty (80) hours of compensatory time at any given time. The Office shall continually monitor each employee's accumulation and usage of compensatory time to avoid exceeding the limits. If any employee with a balance of eighty (80) hours or more of compensatory time works beyond forty (40) hours in the workweek, he or she must receive compensatory time for the time worked. However, the Office may incur budgetary impacts to cover the expense.

3.5.06 Using Compensatory Time

A. The employee may consume accrued compensatory time at any time; however it must be consumed on a schedule reasonably agreed upon by the Sheriff or designee. The Sheriff or designees will encourage all employees with compensatory time accrued to expend that time on a regular basis to prevent rising above the County's maximum limit of eight (80) hours.

B. Compensatory time must be used prior to the use of vacation leave.

C. Compensatory time accrued must be taken within the same fiscal year it was earned, unless otherwise approved in writing by the Sheriff. In such case, the Sheriff may extend the time for using accrued compensatory time up to ninety (90) days beyond the beginning of the next fiscal year. Failure to ensure the use of the accrued compensatory time within these time limits may result in budgetary impacts to the Office to cover the expense.

3.5.07 Position Transfers and Changes

A. When an employee is transferred to another position within the County and has a compensatory time balance at the time of such transfer, the following will occur:

(1) If the employee is transferred from one division to another division within the Office, and

(2) If the employee maintains the same pay rate, then the compensatory time will remain on account for future consumption; or

(3) If the employee is placed into a position with a different pay rate, then the compensatory time will be used at the rate of pay prior to the change taking effect, or will be paid out from the Office's salary account prior to the change taking effect.

(4) If the employee is transferred from the Office to another department within the County, the Office will allow the employee to use all accrued compensatory time at current rate of pay, or will authorize a payment of the balance from the Office's salary account prior to the transfer.

(5) If the employee's FLSA status changes from non-exempt to exempt, the Office will allow the employee to use all accrued compensatory time at the current rate of pay or will authorize a payment of the balance from the Office's salary account prior to the change in status becoming effective.

(6) When the Office authorizes payment for compensatory time in lieu of granting the actual time off before a change is made, the Office must notify the Payroll Division of the County Auditor's Office immediately to ensure timely payment to the employee.

3.5.08 Payment for Accrued Compensatory Time

A non-exempt employee will be paid for all compensatory time the employee has earned, but not used, at the time of separation from employment.

3.5.09 Recordkeeping

In all cases, the electronic time card for each non-exempt employee will be the official record of time worked and time taken. Appropriate supporting documentation must be maintained in the Office for granting of compensatory time off made to any employee. All non-exempt employees must record their total workweek hours accurately on their electronic time cards.

3.5.10 Exempt Employees

There is no legal requirement, nor is the County obligated, to pay overtime or grant compensatory time to FLSA-exempt employees. The Sheriff or designees may grant compensatory time off on an hour for hour basis for hours worked in excess of the forty (40) hour work week to an exempt employee.

Proposed Change #4: Discuss and take appropriate action to approve recommended changes to Chapter 3, Section 6 *Compensation – Supplemental Stipends*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.

3.6.01 Supplemental Stipends are wages paid to qualifying positions in addition to their regular base salary.

3.6.02 Qualifying Positions

Positions qualifying to receive supplement stipends include those which are needed for distinct certification or licensing, specialized assignments, or as an incentive to fill a position in an area that is of critical need or requires specialized expertise.

Not all County positions qualify for salary supplements. The criteria below must be met to qualify for salary supplements.

A. Statutory Authority

(1) The Office may have statutory authority to compensate employees with available discretionary funds. Subject to the restrictions within the governing statute, the Office may issue supplemental stipends to qualifying positions.

B. 100% Reimbursement

(1) Services provided to outside entities in which the positions receive 100% reimbursement for salaries may qualify to receive supplemental stipends.

(2) Supplemental stipends reimbursed at 100% are subject to the approval of the Human Resources Department.

3.6.03 Process

The Office will work with the Human Resources Department to submit their requests for consideration as appropriate¹.

A. Staffing Adjustment Requests (SAR) Forms

- (1) The Office will submit a SAR form, and appropriate justification for each request.
- (2) IIR will analyze the request, and work with the Budget and Fiscal Policy Department to determine budget impacts as a result of the request.
- (3) Where applicable, HR will place the request on the Commissioners Court agenda for approval.
- (4) Thereafter, approved supplemental stipends will take effect on the first day of the following pay period.

3.6.04 Rules and Restrictions

The following information provides the framework for County supplemental stipends:

- (1) Supplemental stipends are attached to a position, not to an employee.
- (2) Supplemental stipends do not transfer if the employee is reassigned.
- (3) An employee who is hired into a position where a supplemental stipend was previously paid is not automatically entitled to the supplemental stipend. The employee newly occupying the position will only receive the supplemental stipend if it is approved pursuant to the requirements of this policy.
- (4) Supplemental stipends are not guaranteed wages and may be amended or eliminated at any time.
- (5) The rates at which supplemental pay is determined is governed by the Office, as agreed to by the Human Resources Department.
- (6) Supplemental stipends are not included in individual base salaries as referenced in relevant job descriptions and will be paid on a bi-weekly basis.
- (7) Authorization to pay approved supplemental stipends requires the Sheriff's approval, Human Resources approval and Commissioners Court approval where applicable².
- (8) It is the responsibility of the Office to notify the Human Resources Department when the need for supplemental stipends has concluded.
- (9) An employee who has separated from the County (or is no longer active) is not eligible to accrue additional stipends past their effective separation date. A new employee is not eligible to earn supplemental stipends prior to their effective start date.
- (10) A temporary employee is not eligible to receive supplemental stipends.
- (11) All supplemental stipends are subject to the employee and employer's statutory deductions. Earnings may qualify for TCDRS eligibility.
- (12) If an employee fails to meet all criteria stipulated with this policy, or if the reason for the stipend is no longer needed, stipends may be discontinued.
- (13) Supplemental stipends are paid at a rate commensurate with the analysis conducted by the Compensation and Classification division of the Human Resources Department.

¹ Appropriate statute will govern what requests are subject to approvals.

² Government Code 41.0106

Proposed Change #5: Discuss and take appropriate action to approve recommended changes to Chapter 3, Section 7 *Compensation – Timekeeping and Attendance*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.

3.7.01 The accurate and consistent recording of time by Sheriff's Office employees serves to create accountability to the public and equity to employees. Federal and state regulations require employers to maintain accurate employee time records. Sheriff's Office employees utilizing the County's payroll system, are responsible for accurately recording all time worked in the County's time and attendance system (KRONOS).

3.7.02 **Procedure**

All employees (or those designated by the Office to perform this function) must accurately submit their work time through KRONOS on a bi-weekly basis. However, daily time entry is a best practice and is encouraged.

A. KRONOS

- (1) Employees, or designee, must enter, save, and approve their actual work time and non-worked³ time in the KRONOS time and attendance system.
- (2) Employees, or designee, must electronically submit their time sheet at the end of each pay period for approval by their supervisor, or the Office designee responsible for KRONOS.
- (3) Supervisors, or designee, shall review and approve timesheets submitted by their employees in KRONOS on a bi-weekly basis. Supervisors must approve all timesheets at the end of each pay period by the deadlines set by the County Auditor's Office.
- (4) In the event corrections must be made to an approved timesheet after the deadline, the supervisor, or designee, must notify the Payroll Division of the Auditor's Office of the changes as soon as possible.
- (5) Only the County KRONOS system may be used to track, record, or submit time worked or leave taken. No other method of time and attendance may be used for time tracking purposes.
- (6) To ensure trust and integrity within this system, employees and supervisors who discover inappropriate and/or inaccurate time reporting must inform a supervisor as soon as reasonably possible.

3.7.03 **Policy Application**

County payroll codes are used to specify the type of attendance being reported (e.g. work time, sick leave, vacation, etc.). Codes are also utilized to specify the accounts and/or programs being charged. To ensure time recording is accurate, employees must use appropriate KRONOS codes when coding their time.

A. KRONOS Codes

- (1) Most employee time sheets will default to "hours worked" based on their relevant schedules. However, employees must adjust their time, as necessary to accurately report their time, in accordance with the published pay codes in KRONOS.
- (2) Non-exempt employees who code hours in excess of 40 hours per week will accrue compensatory time in accordance with the Fair Labor Standards Act (FLSA).

³ Non-worked time refers to any leave that would result in pay that was not physically worked. (e.g. Vacation, Sick Leave, etc.)

B. Discipline

Employees and Supervisors who violate this policy are subject to corrective or disciplinary action, up to and including termination.

Proposed Change #6: Discuss and take appropriate action to approve recommended changes to Chapter 5, Section 10 *Leave Policies – Worker's Compensation*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.

- 5.10.01 ~~Subject to the provisions contained in the following, an employee, as a result of an injury sustained in the course of his employment with El Paso County, shall be paid according to the policies of El Paso County.~~
- 5.10.02 ~~Prior to reinstatement the employee must submit a letter from the attending physicians that states the employee is physically able to return to work without restriction.~~
- 5.10.03 ~~A probationary employee off work due to a work-related injury shall have the probation period extended for such period of absence from work.~~
- 5.10.04 ~~After an employee injured on the job reaches Maximum Medical Improvement (MMI), the employee has 90 days thereafter to return to full duty with or without any reasonable accommodations to perform the essential functions of the position in which they were hired. If the employee is unable to return under these circumstances and the entitlements under FMLA have been exhausted, the employee's employment shall be terminated.~~
- 5.10.05 ~~In cases where the former employee was employed as a licensed Peace Officer or Detention Officer, the former employee will be entitled to salary payments in accordance with Article 3, Section 52c of the Constitution of the State of Texas and Article 16, Section 1 of the Articles of Agreement between the County of El Paso and the El Paso Sheriff's Officers Association. Salary shall be the base salary the former employee received when the former employee's employment was terminated. Any deductions mandated by State and Federal law shall continue. All fringe benefits or voluntary deductions will cease, including but not limited to retirement, life and health insurance, union dues, workers compensation premiums and unemployment deductions.~~
- 5.10.01 Purpose - The County of El Paso provides workers' compensation benefits for incidental injury or death and all occupational illnesses arising out of and in the course of employment in accordance with Texas workers' compensation regulations as administered by the Texas Department of Insurance (TDI). The purpose of this rule is to establish uniform guidelines and procedures, consistent with TDI workers' compensation regulations and to identify associated responsibilities for Injured employees and supervisors. The intent of this rule is to comply with Texas law. To the extent there is a conflict between this rule and Texas law, this rule is to be interpreted as consistent with Texas law.
- 5.10.02 Medical Treatment - When an incident occurs, proper medical attention should be sought. Per the Workers' Compensation Act and Rules, injured employees have the right to choose their own treating doctor should they require medical treatment for an injury sustained on-the-job. Employees may contact the Human Resources Department, Risk Management Division should they need information on how to proceed with obtaining medical treatment (Phone: 546-2218 ext.4286).
- 5.10.03 Reporting Procedures
A. Injured employees, or persons acting on employees' behalf, must report any on-the-job injury to their supervisor or the Sheriff immediately following the incident.

- B. Employees whose injuries results from an occupational disease, or persons acting on employees' behalf, must give notice no later than the 30th day after the date the employees knew or should have known the injury may be related to their employment.
- C. Supervisors must notify Human Resources Department, Risk Management Division immediately following an on-the-job injury and submit an Investigation Report of Occupational Injury/illness <http://intranet/hr/workcomp.htm> within 48 hours.

5.10.04

Investigation Procedures

- A. Immediate supervisors, or other designated individuals, will investigate all on-the-job injuries or occupational illnesses occurring under their authority. The purpose of the investigation is be to determine what happened, why it happened, and what steps should be taken to prevent a reoccurrence of the incident.
- B. Any attempt to defraud El Paso County with a false workers' compensation claim will result in disciplinary action up to and including termination. The case may also be referred to the District Workers' Compensation Fraud Unit.
- C. The Principle Purposes of Incident Investigation are:
 - (1) To determine the cause of an incident so similar incidents may be prevented through mechanical improvement, better supervision, and/or employee instruction.
 - (2) To publicize the particular hazard among employees and their supervisors and to direct attention to incident prevention in general.
 - (3) To determine facts bearing on legal liability.

5.10.05

Conducting Investigations

- A. Supervisors must investigate and document every on-the-job injury involving personnel under their supervision, in order to take or recommend corrective action and prevent recurrence of similar incidents.
- B. Each investigation should be started as soon as possible after the incident. A delay of only a few hours may permit important evidence to be either intentionally or unintentionally destroyed or removed.
- C. Supervisor conducting investigations should follow the following guidelines:
 - (1) Arrive at the scene as soon as possible in order to obtain facts while they are still fresh.
 - (2) Interview the injured employee and all witnesses to obtain the facts surrounding the incident.
 - (3) Record information as to conditions present at the time of the incident, including weather, mechanical defects, or other unsafe working conditions. Also note any available physical evidence. If possible, take photographs of the scene.
 - (4) Note any unsafe acts that may have contributed to the incident.
- D. Reports of Investigations:
 - (1) Investigation results must be submitted to the Human Resources Department Risk Management Division on Part III of an Investigation Report of Occupational Injury/Illness form within 48 hours. The report should include information that answers the following questions:
 - a. WHC/WHAT was injured or damaged?
 - b. HOW did the incident happen?

- c. WHERE did it happen?
- d. WHEN did it happen?
- e. WHO saw it happen?
- f. WHAT persons, equipment, materials and conditions were involved?
- g. WHY did the incident happen?
- h. WHAT could/should have been done to prevent the incident and the recurrence of similar incidents?

Supervisors must be particularly thorough in determining WHY an incident occurred. For example, in a case of an employee eye injury, supervisors might list the cause as "failure to wear goggles." Examples of questions used to determine WHY the injury occurred include: Why didn't the employee wear goggles? Were goggles available? Was the employee instructed to wear them, by what means was the employee instructed to wear goggles and why didn't the employee wear them?

5.10.06

Handling Emergencies

A. Judgment is a key factor in the handling of any emergency. Employees are expected to exercise their best judgment based upon the circumstances.

B. The following are guidelines for handling emergencies:

- (1) Call the appropriate emergency service (medical, fire, police, or rescue). Call 911.
- (2) Notify the supervisor.
- (3) Follow reporting and investigation requirements.

IF THERE IS ANY QUESTION WHATSOEVER ABOUT THE SERIOUSNESS OF AN INJURY, CALL FOR HELP AND TAKE EVERY PRECAUTION TO PRESERVE LIFE.

5.10.07

Worker's Compensation Leave and Benefits

A. Compensable Injury:

- (1) In the event an employee sustains an on-the-job injury compensable as a workers' compensation claim and which requires the employee to be absent from work, the employee will be placed on Workers' Compensation Leave until the employee reaches Maximum Medical Improvement (MMI) or returns to work, whichever occurs first. The County will provide the employee the notice and information required under FMLA. Any FMLA Leave will run concurrent with Workers' Compensation Leave, except as provided for employees covered under the collective bargaining agreement.
- (2) Payment under workers' compensation: Employees who sustain a compensable work related injury which requires them to be off work will be paid according to the Texas Department of Insurance, Division of Workers' Compensation Act and Rules. Employees covered by the collective bargaining agreement will be paid in accordance with Article 3, Section 52e of the Constitution of the State of Texas and Article 22 of the Articles of Agreement between the County of El Paso and the El Paso County Sheriff's Officers' Association.
- (3) Employees become eligible for Temporary Income Benefits (TIBs) starting with the 8th day of disability. The Sheriff or his designee may apply the employee's sick leave, comp time or vacation leave during the waiting week or first seven (7) days of lost time at the voluntary written request of the employee in accordance with County leave policies.

B. Health, Dental, Life, and Related Insurance Benefits

- (1) During the period employees are on Workers' Compensation Leave, the County shall continue to pay health and dental insurance benefits as long as the employees continues to pay their portion of the premiums within the required timelines.

Should employees fail to pay their portion of the insurance premiums, they shall be dropped from coverage. Upon return to work, employees will have 31 days to reinstate equivalent insurance coverage dropped during their absence in accordance with a qualifying event or FMLA.

- (2) Employees must make arrangements directly with the Auditors Department to continue to pay their share of the cost of any insurance coverage employees have elected under the County's benefit program.

C. Leave Accrual

Employees who are off work and receiving weekly workers' compensation payments will continue to accrue vacation leave and sick leave.

5.10.08

Physician Letter - Prior to reinstatement, the employee must submit a Work Status Report from the treating physician stating the employee is physically able to return to work with or without reasonable accommodations.

5.10.09

Modified Duty

A. Eligibility:

- (1) The County of El Paso offers eligible employees the opportunity to work under the Modified Duty Program after sustaining a compensable on-the-job injury.
- (2) When employees of the County of El Paso sustain a compensable work related injury, the treating doctor may release employees to return to work with temporary physical restriction(s). In those circumstances, the County of El Paso will make reasonable efforts to enable injured employees to return to work with the temporary, physical restrictions that progress the employees towards their regular duties as they recover.
- (3) This section describes the requirements and limitations for modified or alternate duty assignments for employees who are out on workers' compensation leave who have not yet reached Maximum Medical Improvement.
- (4) No assignment may be made to modified duty without the approval of the Risk Management Division and the Sheriff or his designee.
- (5) The County of El Paso reserves the right to adapt modified duty assignments as the injured employee's medical condition improves and physician-imposed physical restrictions are changed.
- (6) An employee on leave due to a work-related injury may be eligible to return to work in a modified capacity when the County receives the treating doctor's Work Status Report which documents a release to return to work with restrictions.

B. Return to work Modified Duty options:

- (1) Modified Duty: The Office is able to return the employee to their regular job with modifications as per the Work Status Report or the employee may be placed at a different job within the Office that meets the work restrictions;
- (2) Alternate Duty: The employee may be placed temporarily in another County Department that needs assistance and is able to accommodate the work restrictions.

C. Work Status Reports: Employees must turn in the Work Status Report to the Risk Management Division on the date it is received from their treating doctor. Employees on a no-work status or modified duty status must present an updated Work Status Report at the minimum of every 30 days.

D. Length of Modified or Alternate Duty:

Modified or Alternate duty is limited to 90 calendar days. A 30 day extension may be granted on a case by case basis, if medical circumstances warrant, at the discretion of the Chief Human Resources Officer or her designee.

E. Monetary Compensation:

Employees working modified duty will receive their regular salary for hours worked. If the modified duty assignment is available only for a portion of the employee's normal weekly hours or the employee is earning less than their average weekly wage, the employee will be compensated through workers' compensation (TIBs) based upon the Workers' Compensation Act and Rules of the State of Texas.

F. Refusal of Modified Duty Assignment:

Any employee who refuses to accept a modified duty work assignment in response to a written Bona-Fide-Offer of Employment may be separated from the County of El Paso.

G. Maximum Medical Improvement:

(1) Upon Risk Management Division being notified of the MMI, Risk Management Division will submit a letter to the employee informing the employee they will have 90 days, from the date of the letter, to return to work with or without reasonable accommodations to perform the essential functions of the position for which they were hired. If the employee is not able to return to work after the 90 day period, his employment will be terminated.

(2) At the time an employee is notified of being certified at Maximum Medical Improvement (MMI), the employee will no longer qualify to work modified or alternate duty and will be placed on leave without pay status unless the employee has other leave balances available. Should the employee desire to use accrued leave balances, the employee must request paid leave in writing from the Sheriff, or his designee. Use of accrued leave will not exceed 90 calendar days from the date of the notification letter.

(3) Employees covered by the collective bargaining agreement who's employment is terminated because they are unable to return to work, the former employees will be entitled to salary payments in accordance with Article 3, Section 52e of the Constitution of the State of Texas and Article 22 of the Articles of Agreement between the County of El Paso and the El Paso County Sheriff's Officers' Association during the duration of the incapacitation or until the end of the current term of office of the Sheriff, whichever occurs first. The salary shall be the base salary the former employee received at the time of separation. Any deductions mandated by State and Federal law shall continue. All fringe benefits or voluntary deductions will cease, including but not limited to retirement, life and health insurance, union dues, workers compensation premiums and unemployment deductions.

This provision will not be construed to limit any employee rights, including eligible benefits under the Family Medical Leave Act or Americans with Disabilities Act.

H. Employee Responsibilities:

Employees are expected to perform the modified duty work with the same diligence, care and effort as their regular duty work. Employees will not engage in any behavior or task beyond their physical limitations as set forth in the Work Status Report at work or outside of work.

I. Supervisor Responsibilities:
Supervisors will work with the Risk Management Division to identify areas of availability or modified duty; assist in monitoring employees to ensure compliance with work restrictions; and support their goal to return to work at regular duty.

J. Risk Management Responsibilities:
The Risk Management Division will facilitate employees' return to work by consulting with employees, the Office, employees' treating doctors, and the Third Party Administrator to ensure a safe return to work.

'This policy will not be construed or interpreted to mean any employee has a right to a modified duty assignment or that the County of El Paso is compelled to assign an individual to a modified duty status. Modified duty is granted on a case by case basis, based on the availability and need of the Office as well as the knowledge and skills of the employee, while operating in a modified capacity.'

Proposed Change #7: Discuss and take appropriate action to approve recommended changes to Chapter 6, Section 8 *Professional Conduct – Discrimination/Sexual Harassment*, of the El Paso County Sheriff's Office Civil Service Commission Rules and Regulations.

DISCRIMINATION/SEXUAL HARASSMENT ANTI-HARASSMENT

6.8.01 The El Paso County Sheriff's Office is committed to maintaining working environments free from harassment and discrimination. In accordance with this commitment, discrimination or harassment of an individual based on any of the following is prohibited:

- (1) Race,
- (2) Color,
- (3) Religion,
- (4) Sex,
- (5) National origin,
- (6) Age,
- (7) Disability,
- (8) Ancestry,
- (9) Marital status,
- (10) Pregnancy,
- (11) Sexual orientation,
- (12) Gender identity/expression,
- (13) Veteran status,
- (14) Genetic information, or
- (15) Any other legally protected characteristic.

6.8.02 The Sheriff's Office will not tolerate discrimination or harassment of any kind. Retaliation against any individual who has reported harassment or discrimination will also not be tolerated and will result in disciplinary action.

6.8.03 All employees, supervisors, department heads, elected officials, and individuals visiting or doing business with the Sheriff's Office are subject to this policy.

6.8.04 Definitions

Discrimination: Making employment decisions based on any of the protected characteristics listed in 6.8.01.

Harassment: Behavior that is severe or pervasive and interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment and which is based on any of the protected characteristics listed in 6.8.01.

(1) Examples of Harassment include, but are not limited to:

- a. Unwanted physical contact;
- b. Use of inappropriate jokes, comments, innuendos, pictures, or posters; and
- c. Obscene or harassing telephone calls, e-mails, letters, notes or other forms of communication.

Sexual Harassment: Verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made implicitly or explicitly a term or condition of an individual's employment;

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.

(4) Examples of Sexual Harassment include, but are not limited to:

- a. Unwelcome sexual advances;
- b. Demands/threats for sexual favors or actions;
- c. Posting, distributing, or displaying sexual pictures or objects;
- d. Suggestive gestures, sounds or stares;
- e. Unwelcome physical contact;
- f. Sending/forwarding inappropriate e-mails of a sexual or offensive nature;
- g. Inappropriate jokes, comments, or innuendos of sexual nature;
- h. Obscene or harassing telephone calls, e-mails, letters, notes or other forms communication; and
- i. Pornographic, sexually explicit, or otherwise obscene material in the workplace.

Retaliation: To harass or take employment action against an employee or applicant because they filed a charge of discrimination or harassment, complained about discrimination or harassment on the job, or participated in an employment (discrimination or harassment) proceeding (such as an investigation or lawsuit).

(1) Examples of Retaliation include, but are not limited to:

- a. Hiring, firing, layoffs;
- b. Demotion;
- c. Denying promotion;
- d. Reducing pay;
- e. Altering job assignments without a reasonable basis;

- f. Denying training opportunities; and
- g. Denying or reducing fringe benefits.

6.8.05 Procedure

The Sheriff's Office is committed to enforcing this policy. Individuals found to have committed harassment will be subject to the full range of sanctions, up to and including termination of their employment. Intentionally making a false accusation of harassment is also prohibited.

Retaliation against an individual, who complains in good faith of discrimination or harassment, or for cooperating in the investigation of said complaint in good faith under this policy, is strictly prohibited. If an employee has been retaliated against, the employee is encouraged to report the retaliation immediately to Human Resources or the Sheriff's Office Internal Affairs Unit. Those found to have engaged in retaliation will be disciplined accordingly.

A. Employee Responsibilities:

(1) All employees are expected to conduct themselves in a manner consistent with this policy. County employees are responsible for promoting respect in the workplace, for being familiar with this policy, and for refraining from conduct that violates this policy.

(2) Employees who believe they have been subject to or have witnessed discrimination/harassment shall report, as soon as possible, their concerns to one of the following:

- a. The employee's immediate supervisor;
- b. The next level of supervision above their immediate supervisor if:
 - i. The employee believes their supervisor is party to the harassing behavior;
 - ii. The employee believes their supervisor is indifferent to obvious harassing behavior;
 - iii. The employee fears retaliation or reprisal from their supervisor for reporting harassing behavior.
- c. The County's Chief Human Resources Officer or designee.
- d. The Sheriff's Office Internal Affairs Unit.
- e. Nothing in this policy prohibits an employee from filing externally with the Texas Workforce Commission Opportunity Commission (EEOC) or the Civil Division of the Texas Workforce Commission (TWC). If the employee elects to report through this avenue directly, the employee is encouraged to provide notice to the Human Resources Department within 24 hours of filing said report or complaint to facilitate prompt action if necessary.

(3) Employees shall cooperate with the Discrimination/Harassment Review Committee, Contracted Reviewing Third Party or the Sheriff's Office Internal Affairs Unit in the conduct of any investigation.

B. Supervisor Responsibilities:

- (1) All supervisors have a duty or obligation to conduct themselves in a professional manner and refrain from any behavior which may create discrimination or a hostile environment.
- (2) Supervisors are further obligated to report any reports of discrimination or harassment, or those which they witness themselves.
- (3) Any supervisor who receives a report of discrimination or harassment shall immediately notify the Sheriff's Office Internal Affairs Unit on a Personnel Incident Report (PIR) form.
- (4) The supervisor shall document any information as a result of the report, and must forward all information relating to the complaint to the Chief Human Resources Officer and the Sheriff's Office Internal Affairs Unit.
- (5) All complaints shall be handled with discretion and no person shall be penalized or subject to retaliation for filing a complaint of discrimination or harassment.
- (6) The Sheriff remains at all times responsible for maintaining a non-hostile workplace including protecting employees from harassment/discrimination by vendors, visitors, and members of the public.

C. Vendors, Visitors and Members of the Public Responsibilities:

- (1) Visitors, vendors and members of the public shall not be permitted by the Sheriff to discriminate against or harass Sheriff's Office employees.
- (2) Visitors, vendors and members of the public who are found to have violated this policy may be prohibited from further dealing with specific employees within the Sheriff's Office depending on the circumstances.
- (3) At a minimum, in cases involving vendors, notification to the company will be made addressing the harassing behavior.

6.8.06 Investigations by the Human Resources Department⁴

A. Once a complaint has been received by the Human Resources Department, the County Chief Human Resources Officer, or designee, will determine if the complaint states a claim, that if found true, would be a violation under this policy.

- (1) If the complainant does not state a claim that would be a violation under this policy, the Chief Human Resources Officer, or designee will notify the complainant of that determination and provide resolution as appropriate. Such notifications shall be sent within seven (7) days of the determination made by the Chief Human

⁴ All reference to days within this section shall be business days. County holidays will not be considered business days.

Resources Officer or designee.

(2) If the complainant does state a claim that would be a violation under this policy the Chief Human Resources Officer, or designee, will notify the complainant of that determination with seven (7) days of the determination being made.

a. Thereafter, the Chief Human Resources Officer will launch an investigation of the complaint utilizing an external provider to investigate.

b. Investigations shall be launched by the external provider within seven (7) days of the determination made by the Chief Human Resources Officer.

c. Depending on the nature of the claim, alleged harasser(s) may be removed from the worksite or placed on administrative leave (ADC) pending the outcome of the investigation.

(3) All determinations made by the Chief Human Resources Officer, or designee, will be reviewed with the County Attorney's Office prior to notices being sent.

B. External Contracted Investigations

(1) Via the County Attorney's Office, the HR liaison shall refer the matter to the external provider.

(2) Once it has been determined that no internal conflicts exist between the external provider and the parties involved in the assigned complaint, the external provider shall coordinate their investigation plan with the HR liaison prior to the commencement of the investigation.

(3) Once the external provider and the HR liaison have determined the investigation plan, the HR liaison will schedule interview meetings with applicable parties. Interviews may be audio recorded to ensure accuracy of the interview.

(4) The external provider will conduct in-person interviews at its location, or another discrete location to thoroughly investigate and gather all facts pertaining to the complainant's allegations.

(5) At the conclusion of the investigation, the external provider will report the investigation outcome to the HR liaison via a final investigation report.

(6) Once the final report is received by the HR liaison, HR will proceed to notify the parties of the conclusion of the employment investigation.

(7) All investigation shall be completed in a prompt and thorough manner.

C. Internal HR Investigations

In the event the external provider is unable to assist within an investigation, the complaint shall be investigated internally by the designated HR liaison with the County's HR Department utilizing the same process as the External Contracted investigations found in Section 6.8.06 B of this policy.

D. Discipline

Any Sheriff's Office employee who is found, after appropriate investigation, to have engaged in discriminatory or harassing behavior prohibited by this policy will be subject to appropriate disciplinary action, up to and including termination.

6.8.07 Sheriff's Office Internal Affairs Unit Investigations

Once a complaint has been received by the Sheriff's Office Internal Affairs Unit, the Sheriff's Office Internal Affairs Unit will conduct an investigation in accordance with Sheriff's Office policy and procedures.

6.8.08 Training

- A. Every non-supervisory employee must attend the County's "Discrimination and Sexual Harassment Prevention Training for Employees" upon hire and every year thereafter during the course of their employment with the County. While non-supervisory employees have the option of completing the training online via the county's intranet, it is required that in-person trainings are completed at least every other training to ensure a thorough understanding.
- B. Every supervisor must attend the County's "Discrimination and Sexual Harassment Prevention Training for Supervisors" upon hire and every year thereafter during the course of their employment with the County. Supervisors do not have the option of completing the training online and must attend an in-person training each time the training is due.
- C. Schedules for both online and in-person trainings can be found within the County's intranet page found at <http://intranet/hr/training.htm>.
- D. Training records will be kept on file in the Human Resources Department.

Copies of the proposed changes may be picked up in the Human Resources Office of the El Paso County Sheriff's Office at:

Sheriff's Headquarters
3850 Justice Road

Thank you!