

**FORT BEND COUNTY SHERIFF'S OFFICE
CIVIL SERVICE COMMISSION
RULES AND REGULATIONS**



MISSION STATEMENT

It is the mission of the Fort Bend County Sheriff's Office Civil Service Commission to effectively adopt, publish, and enforce rules regarding selection and classification of employees; competitive examinations; promotions, seniority, and tenure; layoffs and dismissals; disciplinary actions; grievance procedures; the rights of employees during an internal investigation; and other matters relating to the selection of employees and the procedural and substantive rights, advancement, benefits, and working conditions of employees.

***Policy Approved and Adopted By
Fort Bend County Sheriff's Office Civil Service Commission
As Revised: January 24, 2024 – Ver. 11.1***

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(i) AUTHORITY

I. STATUTE

A. Fort Bend County's Sheriff's Office Civil Service Commission (the "Commission" or the "commission") was created under the authority of the *Texas Local Government Code*, Chapter 158, Subchapter B, §158.032 which states: "A sheriff's department in a county with a population of more than 500,000 may, in accordance with this subchapter, create a civil service system."

B. *Texas Local Government Code*, §158.035(a) states "The commission shall adopt, publish, and enforce rules regarding:

1. selection and classification of employees;
2. competitive examinations;
3. promotions, seniority, and tenure;
4. layoffs and dismissals;
5. disciplinary actions;
6. grievance procedures;
7. the rights of employees during an internal investigation; and
8. other matters relating to the selection of employees and the procedural and substantive rights, advancement, benefits, and working conditions of employees."

C. *Texas Local Government Code*, §158.035(b) states "The commission may adopt or use as a guide any civil service law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this subchapter and is consistent with the needs and circumstances of the department."

D. A copy of *Texas Local Government Code*, Chapter 158, Subchapter B is included in this document as Exhibit B for review and reference.

II. CONFLICT OF LAW

Nothing in these rules shall be so construed as to be in conflict with the Constitution and the laws of the State of Texas or the Constitution and the laws of the United States of America.

(ii) HISTORY OF THE COMMISSION

I. PETITION

As required by §158.033(a), a petition was presented to the Fort Bend County Judge on September 1, 2011. The petition and signers were validated by the Fort Bend County Elections Office on September 6, 2011.

The petition was completed by 516 of the 718 Fort Bend County Sheriff's Office employees, or 71.9 percent.

II. ELECTION

As required by §158.033(b), the Fort Bend County Judge held a secret ballot election on October 11, 2011 under the direction of the Fort Bend County Elections Office.

In accordance with §158.033(d), the County Judge canvassed the votes and on October 12, 2011 declared the result of 565 "For" and 5 "Against" the creation of a sheriff's department civil service system. A total of 570 employees voted in the election; a turnout of 78.8 % of the total number of 723 employees in the sheriff's office.

As required by §158.034(a), a majority (99.1 %) – 565 of the 570 employees – voting at the election approved the creation of a sheriff's department civil service system. This resulted in the formal establishment of the Fort Bend County Sheriff's Office Civil Service Commission.

III. APPOINTMENT OF COMMISSIONERS

In accordance with §158.034(a) on November 22, 2011, the following individuals were appointed as the initial members of the Commission:

Appointing Authority	Individual Appointee
Fort Bend County Commissioners Court	Bobby Slavinski
Fort Bend County Sheriff	Otoniel Cantu, Ph.D.
Fort Bend County District Attorney	Earnest Taylor

In accordance with the procedure outlined in §158.034(b), Sheriff Milton Wright designated Earnest Taylor as the Chairman of the Commission on December 6, 2011.

The first formal meeting of the Fort Bend County Sheriff's Office Civil Service Commission was held on February 15, 2012.

In accordance with the procedure outlined in §158.034(c)(2), Commissioner Cantu was appointed for a term of one year, and Commissioners Taylor and Slavinski were each appointed for a term of two years. The terms of all three original Commissioners commenced on February 15, 2012.

The *Fort Bend County Sheriff's Office Civil Service Commission Rules and Regulations* were first approved by the Commission on March 21, 2012.

Upon taking office in January of 2013, Sheriff Troy Nehls designated Stephen Brady as his appointee to the Commission replacing Otoniel Cantu, Ph. D. whose term expired February 15, 2013. Commissioner Brady will serve a two year term commencing February 15, 2013.

On May 2, 2013, Sheriff Troy Nehls named Stephen Brady as Chairman of the Commission – the second Chairman in the Commission's history.

Effective February 15, 2014, District Attorney John Healey named Robert Gracia to replace Earnest Taylor whose term expired February 14, 2014. Also effective February 15, 2014, Commissioner's Court reappointed Bobby Slavinski as the Court's Civil Service Commissioner appointee for a new two-year term.

Effective February 15, 2015, Sheriff Troy Nehls named Lanny Hitchcock to replace Stephen Brady as Commissioner. Also effective February 15, 2015, Sheriff Troy Nehls named Robert Gracia to replace Stephen Brady as Chairman of the Commission – making Mr. Gracia the third Chairman in the Commission's history.

On February 2, 2016 Commissioner's Court approved Bobby Slavinski to a third two-year term, and District Attorney John Healey reappointed Robert Gracia as Commissioner. Both appointments were for a two-year term effective February 15, 2016. Robert Gracia continued as Chairman.

Sheriff Troy Nehls reappointed Lanny Hitchcock for a second term as Commissioner effective February 15, 2017.

On February 6, 2018 Commissioner's Court approved Bobby Slavinski to a fourth two-year term, and District Attorney John Healey reappointed Robert Gracia as

Commissioner for a third two-year term. Both appointments were effective February 15, 2018. Robert Gracia continued as Chairman.

Sheriff Troy Nehls reappointed Lanny Hitchcock for a third term as Commissioner effective February 15, 2019.

On January 23, 2020 District Attorney Brian Middleton reappointed Robert Gracia as Commissioner for a fourth two-year term, and on January 28, 2020 Commissioner's Court appointed Otoniel Cantu, PhD (an original member of the Commission in 2011) to replace Bobby Slavinski as their representative on the Commission. Both appointments were effective February 15, 2020. Robert Gracia continued as Chairman.

On January 1, 2021, newly elected Sheriff Eric Fagan took office. On January 14, 2021, Sheriff Fagan appointed Johnnie McFarland to a two-year term, to replace Lanny Hitchcock.

On January 25, 2022, Commissioners Court approved the reappointment of Otoniel Cantu, PhD, to a two year term effective February 15, 2022.

On February 15, 2022, District Attorney Brian Middleton reappointed Robert Gracia as Commissioner for a fifth two year term.

Currently, the members of the Commission are:

Appointing Authority	Individual Appointee	Term Expires
Fort Bend County Commissioners Court	Otoniel Cantu, PhD	February 15, 2024
Fort Bend County Sheriff	Johnnie McFarland	January 14, 2023
Fort Bend County District Attorney	Robert Gracia (Chairman)	February 15, 2024

(iii) CIVIL SERVICE COMMISSION ADMINISTRATION

I. APPOINTMENT

The Sheriff, Commissioners Court, and District Attorney shall each appoint one person to serve as a member of the Civil Service Commission that administers the system. [§158.034(a)]

The Sheriff shall designate one of the members as chairperson of the commission. [§158.034(b)]

II. POWERS OF THE COMMISSION

The commission shall adopt, publish, and enforce rules regarding:

- (1) selection and classification of employees;
- (2) competitive examinations;
- (3) promotions, seniority, and tenure;
- (4) layoffs and dismissals;
- (5) disciplinary actions;
- (6) grievance procedures;
- (7) the rights of employees during an internal investigation; and
- (8) other matters relating to the selection of employees and the procedural and substantive rights, advancement, benefits, and working conditions of employees. [§158.035(a)]

III. TERMS OF OFFICE

Each member of the commission is appointed for a term of two years. However, the initial members of the commission shall determine by lot which two of them will serve a term of two years and which one of them will serve a term of one year. [§158.034(c)] See Section ii(III).

IV. ELIGIBILITY

To be eligible for appointment to the commission, a person must:

- (1) be at least 25 years old; and

- (2) have resided in the county for the three years immediately preceding the date on which the person's term will begin.
[§158.034(e)]

V. REMOVAL FROM OFFICE, DEATH, OR RESIGNATION OF A COMMISSIONER

Under the broad power of Section 158.035(b), the Commission adopts the provisions of Chapter 87 of the Texas Local Government Code regarding removal of officers, except that no Commissioner of the Civil Service Commission shall file a petition to remove another Commissioner.

All Chairman and Commissioner appointees will serve for the duration of the appointed term unless the appointee voluntarily resigns, dies, or is removed from his or her position under the provisions of Chapter 87 of the Texas Local Government Code.

Failure of a Commissioner to attend three (3) consecutive regularly scheduled meetings of the Commission without notice or good cause shown shall be deemed a voluntary resignation.

The entity that appointed a member of the Commission whose position becomes vacant shall appoint a person to serve the unexpired part of the member's term as specified in Sec. 158.034(d).

A Commissioner serves until the Commissioner's successor has been appointed.

A Commissioner may be appointed to a successive term or terms.

VI. MEETINGS

Regular meetings of the Civil Service Commission are held as determined by the Commission. The meetings are open to the public and the time, date, and content of such are posted in accordance with the Open Meetings Law of the State of Texas.

VII. PUBLIC PARTICIPATION

The business of the Fort Bend County Sheriff's Office Civil Service Commission is conducted by and between the members of the Commission. While the general

public is invited to attend all meetings of the Commission, the public's participation therein is limited to that of observers unless a member (or members) of the public is requested to address the Commission on a particular issue (or issues) or unless the member (or members) of the public notifies the Civil Service Commission Coordinator in writing prior to the time the Commission convenes the meeting.

- a. Each member of the public who appears before the Commission shall be limited to a maximum of three (3) minutes to make his/her remarks. Time for each speaker shall be maintained by the Civil Service Commission Coordinator or such other person designated by the Commission.
- b. Maximum discussion on any agenda item, regardless of the number of members of the public wishing to address the Commission shall be limited to thirty (30) minutes. In the event that more than six (6) members of the public wish to address the Commission on a particular agenda item (or items) no more than six (6) members of the public shall be recognized to speak and that number shall be divided equally between those members of the public wishing to speak for the agenda item (or items) and those members of the public wishing to speak against the agenda item (or items) with speakers selected in the order received by the Commission.
- c. In matters of exceptional interest to the Commission, the Commission may, by the majority vote of the members of the Commission in attendance at the meeting, shorten or lengthen the time allocated for comments from the public and/ or the amount of time allocated for all agenda items and/or a specific agenda item.

VIII. AGENDA ITEMS

Any employee may request that the Civil Service Commission consider a matter at its regular meeting. Such request must be submitted to the Commission in writing. The Commission will consider whether the request falls under its authority and may place the matter on the agenda for a future meeting. Any Commissioner may request that a matter be placed on the agenda for a future meeting. An employee who requests an agenda item will be notified by the Commission whether the request will be included on an agenda and, if so, of the date and time of the meeting for which the item is scheduled.

Agenda items relating to developing policies and procedures set forth in the Fort Bend County Sheriff's Office Policy Manual shall be submitted to the Sheriff in writing at least 30 days prior to a Civil Service Commission meeting. The Sheriff

may then make a recommendation on such policies and/or procedures to be considered by the Civil Service Commission.

Agenda items relating to changes, deletions, or additions to the Commission's Rules and Regulations shall be circulated to the Sheriff, the Fort Bend County Deputy Sheriff's Association, the Fort Bend County Attorney, and Fort Bend County Human Resources for review and comment (if any) at least two weeks in advance of the meeting date on which the item is to be considered.

IX. QUORUM

Two members of the Commission constitute a quorum.

X. COMPENSATION AND STAFF

The members of the commission serve without compensation, but the commissioner's court shall reimburse each member for actual and necessary expenses incurred in performing the member's duties. The commissioner's court shall provide the commission with adequate office space and sufficient funds to employ an adequate staff and to purchase necessary supplies and equipment. [§158.036]

The members of the commission shall appoint a coordinator. The coordinator shall have the power and it shall be his or her duty:

- A. To develop and recommend for action by the commission
 1. rules and regulations for the establishment and conduct of competitive exams
 2. such other rules necessary to provide for the efficient administration of the commission.
- B. To direct all promotional process with the Sheriff's Office as provided within Civil Service Commission Rules and Regulations.
- C. To develop and implement annual commission budget.
- D. To facilitate actions and proceedings of the commission.
- E. To keep all minutes and records of the commission.
- F. Prepares annual statistical summary regarding grievances filed.

XI. RULES OF ORDER

During meetings of the commission that do not address one or more specific grievances, the rules contained in *Robert's Rules of Order, Newly Revised (10th*

Edition) shall govern the Commission in all procedural matters to which they are applicable and which are not specifically dealt with in these rules.

The Commission is an administrative body, and particularly will not be bound by technical rules of evidence or procedure in its appeals hearings.

XII. SECURITY OF CIVIL SERVICE COMMISSION MATERIALS

All materials including but not limited to exams, Assessment Center questions, score sheets, answer sheets, results, grievances, hearings and rules and regulations shall be secured in the designated office of the commission, and shall be in the care and control of the commission coordinator.

XIII. PUBLICATION OF CIVIL SERVICE COMMISSION RULES AND REGULATIONS

The Fort Bend County Human Resources Department shall be responsible for maintaining and publishing the Commission's Rules and Regulations and any approved changes or amendments thereto.

(iv) RULES AND REGULATIONS

I. APPLICABILITY

The Civil Service Commission rules apply to all regular full time employees of the Sheriff's Office that are not specifically excluded (see II, below) as designated by the Sheriff. Employees in Part Time or Temporary status are not Classified Employees for purposes of the FBC Sheriff's Office Civil Service System.

II. EXEMPT EMPLOYEES

A. The Sheriff may designate as exempt from the civil service system:

- (1) the position of chief deputy;
- (2) four positions of major deputy;
- (3) one or more positions in the office of departmental legal counsel; and
- (4) additional positions in the department; provided, however, that the sheriff may not designate as exempt a total of more than 10 positions [§158.038(b)], and provided that the Sheriff may not designate as exempt any position in the deputy classification of lieutenant or below.

B. If the Sheriff designates a classified position as an exempt position, the Sheriff must notify the occupant and the Civil Service Commission of the designation in writing. If the position's occupant is a classified employee, they must accept or decline the position in writing to the Sheriff and the Civil Service Commission within ten (10) working days.

If the occupant does not accept the exempt position, he or she shall be transferred to a classified position at the same rank held by the employee immediately before being placed in the position now designated as exempt. The employee's new rate of pay and benefits will be commensurate with the pay and benefits of other classified employees of like rank and responsibility in his or her reassigned position.

In the event that no vacancy exists in the occupant's last held rank, a vacant position will be reclassified to the occupant's reassigned position until the employee is reinstated to a regular approved position in accordance with Section 3.02 – *RIF Reinstatement Lists*. The previous vacant position will then be reclassified back to the originally approved vacant position.

- A Sheriff-elect may make notices / designations on this topic and decide reassignment(s) in the calendar month prior to assuming office, except that the effective date of any action may only begin on the day the Sheriff-elect assumes office or a later date within the calendar month of assuming office.
- C. Except as otherwise lawfully restricted, the Sheriff may demote, suspend, dismiss or transfer any exempt employee for any reason or for no reason. Texas is an "Employment At-Will" state and employees have the right to terminate their employment at any time. The Sheriff retains the right to terminate the employment of any exempt employee at any time, with or without notice, for any legal reason or no reason. The County also retains the right to change any terms, conditions, benefits, or privileges of employment of exempt employees at any time without notice. No employment contract, either expressed or implied, shall exist between the County and any exempt employee for duration, either specified or non-specified.
- D. The Sheriff will provide the Commission with a written list – at all times current – of the names of employees who occupy exempt positions as designated by the Sheriff under the provisions of this Section.
- E. At the time a new Sheriff takes office, an employee holding an exempt position may be transferred to the nonexempt position held by the employee immediately before being promoted to an exempt position. A person who was not an officer in the department when appointed to an exempt position may be transferred only to an entry level position in accordance with the system's civil service rules. [§158.038(d)]

III. ACKNOWLEDGMENT

The Commission acknowledges the existence of rules, regulations, general orders, policies and procedures of the Fort Bend County Sheriff's Office as set forth in the *Fort Bend County Sheriff's Office Policy Manual* insofar as those provisions do not conflict with any established rules, procedures, policies or practices of the Commission.

Conversely, the Sheriff recognizes the authority, rules, regulations and procedures of the Commission. Furthermore, if the Sheriff wants to make changes to, or implement new rules, regulations, general orders, policies and procedures in the *Fort Bend County Sheriff's Office Policy Manual* which fall under the authority of the Commission, the Sheriff will submit the proposed changes or additions to the Civil Service Commission for review prior to implementation.

IV. ESTABLISHMENT

Those rules relating to the responsibilities of the Civil Service Commission are contained in the *Fort Bend County Sheriff's Office Policy Manual*. These rules have been approved by the Fort Bend County Civil Service Commission for Sheriff's Office Employees and are in effect until amended, revised or eliminated by the Commission.

V. AMENDMENT

Amendment to the rules may be made at any meeting of the Civil Service Commission. All rules and amendments shall become effective on the date of their approval by the Commission, unless the Commission specifies otherwise.

VI. NEPOTISM

Elected and appointed officials of the County, including but not limited to the Sheriff and the appointed members of the Civil Service Commission, are subject to the provisions of *Chapter 573, Degrees of Relationship; Nepotism Prohibitions, of the Texas Government Code*, and as such shall conduct all matters of the Sheriff's Office and Civil Service Commission in accordance with the provisions of Chapter 573.

CHAPTER 1
SELECTION AND CLASSIFICATION OF EMPLOYEES

1.00 -- ORGANIZATIONAL RELATIONSHIPS

The Commission desires that personnel in the various organizational positions perform and interact in a way which best contributes to the goals of the Sheriff's Office.

1.01 -- JOB DESCRIPTIONS

Job descriptions are kept and maintained in the Sheriff's Office Human Resources Department. The job descriptions serve to inform personnel and those interested in employment or reassignment what is generally expected of a person in a particular position. The minimum requirements for any position as stated in the job description shall be set by the Sheriff and approved by the Commission. If the Sheriff determines that changes to the minimum requirements are necessary, the proposed changes will be submitted by the Sheriff to the Commission for approval.

1.02 -- AUTHORITY

Authority is the legitimate power which is given to the Sheriff to manage the Office's personnel and other resources. The Sheriff delegates authority to other personnel as he/she believes will best serve the Office's goals.

1.03 -- PERSONNEL SELECTION

The Sheriff's Office is an equal opportunity, reasonable accommodation employer. It is the policy of the Office to fill vacant job positions with the persons who best meet the needs of the Office. The duties of the Sheriff as the enforcer of laws require his or her personnel to meet high ethical standards both on and off duty. Persons selected for employment must meet all applicable legal and administrative guidelines. They must understand that they will be employed in an organization that has a Civil Service Commission, which governs its employment policies and procedures. Part time and temporary positions, as well as up to ten (10) positions designated by the Sheriff [Section iv II A] are exempt from the policies and procedures of the Civil Service Commission and continue their employment at the will of the Sheriff. All employees must further understand that the Sheriff will promulgate his/her own policies and procedures which govern the standards of performance and conduct of the Sheriff's Office personnel.

1.04 -- EMPLOYMENT

Any person desiring employment with the Sheriff's Office must first complete the application process (1.05).

1.05 -- APPLICATION PROCESS

Applicable procedures for each position are identified in the job description for that position under a list of qualifications. The Sheriff's Office Human Resources Office maintains current job descriptions on all positions. The application and selection process is spelled out in General Order 04-01 of the Sheriff's Office Policy and Procedure manual. It may include written examination, typing skills exam, physical conditioning examination, medical examination, interviews, oral examination, psychological fitness examination and background/polygraph examination. All of the above may not apply to selecting applicants for all positions.

1.06 -- SUCCESSFUL COMPLETION REQUIRED

Applicants must successfully complete each step of the application process before proceeding to the next step. Applications are obtained from and submitted to the Sheriff's Office – Human Resources Office prior to 3:00 p.m. on the last day of a posting. Applicants who have not successfully completed a step in the application process shall be informed of their failure within a reasonable time.

1.07 -- MEDICAL EXAMINATION

Applicants for all peace/detention/telecommunications officer and non-officer positions must be examined by a licensed physician and be declared in writing to be physically sound and free from any conditions which may impair the individual's ability to perform the essential functions of the job with or without a reasonable accommodation. Applicants must also be free from any trace of drug dependency or illegal drug use, which shall be determined by medical testing.

1.08 -- PSYCHOLOGICAL EXAMINATION

Peace/detention/telecommunications officer applicants must be examined by a

Sheriff's Office approved licensed psychologist or psychiatrist and be declared in writing to be in satisfactory psychological and emotional health to be a peace/detention/telecommunications officer.

1.09 -- RESIDENCY REQUIREMENTS

Peace/detention/telecommunications officers must be citizens of the United States of America. Non-sworn personnel must be able to demonstrate United States citizenship or provide appropriate documentation to establish that they are legally entitled to reside and work in the United States.

1.10 -- MISREPRESENTATIONS

Any misrepresentation or omission of facts or failure to report requested data on the application or during the application process shall be just cause for rejection from the application process, or for termination of employment, regardless of when such misrepresentation or omission of fact(s) is discovered.

1.11 -- ELIGIBILITY LIST

Successful applicants will be placed on a list, from which selection for employment will be made. Candidates listed may be moved on, or removed from the list.

1.12 -- EMPLOYMENT OFFERS

Offers for employment are conditioned on satisfactory completion of the medical examination (1.07), psychological examination (1.08), and background investigation/polygraph exam. Employment is offered by the Sheriff's Office Human Resources Section only upon approval by the Sheriff.

1.13 -- SPECIAL PROVISIONS FOR REINSTATEMENT AND REHIRE

- I. The Sheriff's Office will follow the rehire procedures stated in County Policy 406 [Transfers, Separations, and Subsequent Rehires] (as applicable). In addition, the Sheriff or his/her designee will determine if a new background investigation or updated background investigation is needed before consideration of a rehire. An employee rehired is subject to Rule 1.15 (Placement Probationary Periods) based upon their rehire date. Except in the case of a reinstatement ordered by the Commission following an appeal

hearing (see 1.13 II, below), the Sheriff or his/her designee determines whether an individual is eligible for rehire and may require a prospective rehire to submit to testing processes required of an entry level employee prior to an employment decision.

- II. An employee who has been terminated and successfully appeals the termination through the Commission appeals process may be reinstated or rehired at the discretion of the Commission.

After careful examination of the facts surrounding the termination, the Commission may choose to "reinststate" the employee with back pay and back benefits as of a designated past date. The employee shall recover all lost compensation, benefits, seniority, and the like as of the designated date just as if the termination had never occurred.

However, under some circumstances, the Commission may choose to "rehire" the employee allowing him/her to return to employment with no back pay or benefits. In this case, the employee shall be treated in a manner consistent with the provisions of Section 406 of the *Fort Bend County Employee Information Manual* regarding rehires.

- III. In rehire cases there must be an open budgeted position available at the time of the rehire (no Reduction in Force provision allowed). In reinstatement cases where the position of the reinstated employee is occupied, the Sheriff's Office may utilize steps including but not limited to those found in the Reduction in Force process of these Rules (Chapter 3) to place the reinstated employee consistent with the appeal ruling.

1.14 -- CATEGORIES OF EMPLOYEES

The Fort Bend County Sheriff's Office Civil Service Commission adopts all rules established that pertain to categories of employees by the Commissioners Court of Fort Bend County and cited in *Fort Bend County Employee Information Manual*, Policy 401, Categories of Employment, to the extent it is not inconsistent with the Civil Service Rules and Regulations Manual.

1.15 – PLACEMENT PROBATIONARY PERIODS

- A. The purpose of a placement probationary period is to test the capability and willingness of a newly hired, demoted, or promoted employee to perform and to provide a set period of time in which to train the employee in the skills and knowledge necessary to perform newly assigned duties.

- B. The probationary period shall be six months from date of hire for positions not requiring a TCOLE license or certification. Positions requiring TCOLE licensing and/or certification, (including peace officers, detention officers and telecommunications officers), shall serve a probationary period of 12 months from the date of hire, transfer, promotion, or date of successful completion of any initial required training or certification, whichever is later. Time spent as a temporary or part-time employee and time spent on a leave of absence for any reason does not count toward fulfillment of the probation requirement.
- C. A probationary employee's immediate supervisor will periodically evaluate the employee's job performance and aid and instruct the employee in any areas requiring improvement.
- D. The Sheriff may extend an employee's placement probationary period, prior to its expiration, if there are deficiencies in the employee's performance which could, in the opinion of the Sheriff, be cured with further training or additional time. In no event may the probationary period be extended for more than six additional months.

1.16 -- FAILURE TO COMPLETE PROBATION

New hires are considered employees at will for the duration of the applicable placement probationary period and may be terminated at any time with or without cause. Such employees shall have no right to appeal any termination or other disciplinary action. Employees on placement probation due to demotion or promotion who fail to perform as expected in the new position shall be subject to the provisions of Chapter 2.04 or Chapter 4.09 as applicable.

CHAPTER 2 COMPETITIVE PROMOTIONAL PROCESS

2.00 ELIGIBILITY CRITERIA

It is the desire of the Sheriff's Office to provide career enrichment opportunities to all employees. It is also desired to recognize those employees who have maintained demonstrated job proficiency and whose experience enhances the accomplishment of Office goals.

All positions covered by the Civil Service Commission above entry level which require TCOLE licensing or certification shall be filled by competitive means. It is the intention of the Fort Bend County Sheriff's Office to select for promotion from a list of eligible candidates who have met the stringent requirements for promotion as outlined in this chapter.

To participate in the competitive process for promotion, the following minimum criteria must be met:

- A. Applicants for promotion to the next highest rank must meet the minimum job requirements listed in the job description, including certification, training, and licensing no later than five (5) working days prior to the date on which the examination is administered.
- B. Applicants for promotion must not currently be on placement or disciplinary probation unless requested in writing by the Sheriff and approved by the Commission.
- C. Applicants for promotion to the next highest rank must have completed at least twenty-four (24) months of cumulative service within the past thirty (30) months as an employee of the Fort Bend County Sheriff's Office, no later than five (5) working days prior to the date on which the written examination is administered.
- D. If requested in writing by the Sheriff and approved by the Commission, exceptions to the service criteria in 2.00 (C) may be made, including for individuals not currently employed by Fort Bend County Sheriff's Office, provided they possess equivalent experience with another agency. External candidates must first satisfactorily complete the new hire application, testing, and screening requirements as outlined in Chapter 1 (as applicable). Provisions of Sheriff's Office General Order 04-01 on this topic apply to processes under Rule 2.01 (B).

- E. Candidates desiring to participate in the promotional process must notify their supervisor and the Civil Service Commission in writing prior to the scheduled competitive examinations. It is the responsibility of the candidate to ensure his or her eligibility requirements have been met in accordance with the Civil Service Commission's Rules and Regulations. Candidates are advised to retain a copy of the *written notice to participate* that acknowledges the date it was received by either their supervisor or the Civil Service Commission.
- F. Disputes regarding the eligibility of a candidate to participate in the promotion process will be addressed by the Commission. The decision of the Commission is final.

2.01 COMPETITIVE PROCESS

2.01 (A) COMPETITIVE PROCESS FOR THE POSITIONS OF SERGEANT, LIEUTENANT, AND CAPTAIN

The promotional eligibility list will be an aggregate of each candidates' written examination, Assessment Center score, experience, and education.

- A. Notification as to location, date, and time for the written examination process shall be made available to all personnel through distribution or bulletin board posting. An alternative or make-up exam date may be scheduled for those not available to test at the scheduled time for good cause shown (e.g. military leave obligations).
- B. Written examinations will consist of questions formulated to test the applicant in overall and job specific knowledge. Depending on the position involved, questions may include, but are not limited to: Criminal Law, Traffic Law, Law Enforcement Practices and Procedures, Civil Law as Applicable, Texas Jail Standards, Departmental Policies and Procedures, Supervisory and Managerial Philosophies and Current Events. A list of the relevant study materials and sources will be published by the Civil Service Commission Coordinator. Test construction shall be not less than fifty (50) questions, nor more than two hundred (200) questions.
- C. The Test Review Committee consisting of any combination of Chiefs and/ or Majors will review all questions, answers, and content of the written test before the test is administered for clarity, accuracy, and relevance; and recommend any needed revisions

- D. The Civil Service Commission Coordinator shall proctor the written exam and ensure that all candidates meet the minimum qualifications as set forth in Section 2.00 A through F above. The Sheriff's Office shall provide the Coordinator with each candidate's calculated longevity, verification that the applicant is not on placement/disciplinary probation, and college/certification points as defined in Section 2.01 (O) (c) and Section 2.01 (O) (d) below.
- E. Written examinations will be administered at least ten (10) days prior to the Assessment Center and a minimum score of 70% is required to be eligible to proceed to the Assessment Center. A sufficient number of proctors will be provided by the Fort Bend County Sheriff's Office to assist the Civil Service Coordinator in proctor duties. The Fort Bend County Sheriff's Office shall provide the additional proctors..
- F. A candidate may file an appeal regarding any question on the exam. To do so, he or she must first answer the question. Upon completion of the exam the candidate must submit his or her appeal to the Civil Service Commission Coordinator in writing. The applicant appealing the test question will remain anonymous to the Test Review Committee members. Such questions will then be reviewed by any Test Review Committee members(s) after the exam, but before the test scores are posted. Should a change be approved, it will be made for all those testing.
- G. Upon request by the candidate, the Civil Service Coordinator will schedule a meeting with the candidate and provide a copy of the test and copy of the candidate's answer sheet. The keyed response shall also be provided, as well as the source, by page number from the reading material to support the keyed response. No electronic devices will be permitted in the meeting with the coordinator. From the beginning of the review the candidate will be given 5 business days to go to that location and meet with the coordinator to continue the review. The candidate will have 10 business days from the beginning date of review to file any grievance and or ask questions.
- H. All candidates who score at least a 70% will advance to the Assessment Center process. The qualifying candidates will be provided with the date and time of their Assessment Center. The eligibility list will be posted via bulletin board or distributed by other means.
- I. The Civil Service Coordinator shall record with audio equipment the Assessment Center testing.
- J. The content of the Assessment Center will reflect the requirements of the

position and will consist of questions formulated to test the applicant in overall and job specific knowledge. Depending on the position involved, questions may include, but are not limited to, basic job related knowledge, situational reasoning scenarios, human relations situation scenarios, career initiative, and employment history. Additionally, the applicant may be asked to write a short essay to be scored by the Assessment Center. The Sheriff's Office will develop a rubric to score the written essay.

- K. The Assessment Center will consist of three (3) members and one (1) alternate. Scoring for all candidates shall be by the exact same members, and all Assessment Center members must be present to score each candidate. A fourth member shall serve as an alternate who will also score each candidate. Only in the event of an unforeseen circumstance requiring an Assessment Center member to leave will the fourth Assessment Center member's scores be used to evaluate candidates
- L. The Civil Service Commission Coordinator will provide a list of four (4) qualified individuals to serve on the Assessment Center. The Chief Deputy of the Sheriff's Office will review the list of potential Assessment Center Members and approve or deny any nominee. When a nominee is disapproved, the Civil Service Commission Coordinator will submit another candidate name until four (4) candidates are approved. Assessment Center members must meet the following qualifications :
 - a) Must be licensed and certified peace officers
 - b) Must hold the same or higher rank than the position being assessed.
 - c) May not have been employed previously as an employee of the Fort Bend County Sheriff's Office
 - d) May not be a relative, as defined by *Section 606, Nepotism of the Fort Bend County Employee Information Manual*, of any candidate to appear before the Assessment Center.
 - e) All Assessment Center Members will be individuals from a law enforcement agency outside the Fort Bend County Sheriff's Office.
- M. The recording and score sheets will be retained in the Civil Service Commission office for a period of at least 2 years.
- N. Performance indicators shall be developed for each question or scenario to accurately score candidate responses. When Reviewers complete their scoring, consensus must be reached among the Reviewers as to the final score provided to a candidate for each exercise. If consensus is not reached, final scores must be within 2 points of each Reviewer to comprise the final score for each candidate. Anchor points exist for objective scoring and score sheets shall be retained in the Civil Service Commission Office for a

period of at least 2 years. Candidates must score at least an "Average" score based on the Likert Scale to be eligible to be placed on the promotional eligibility list for the position to which they are competing.

- O. An eligibility list will be established on the basis of the following scoring:
 - a. Maximum of 100 percentage points from written examination
 - b. Maximum of 100 percentage points from Assessment Center
 - c. Maximum of 10 points for longevity
 - i. Longevity points will be awarded one (1) point per year up to ten (10) years of full time paid service at the Fort Bend County Sheriff's Office based on the employee's seniority (see Exhibit A, Definitions).
 - d. Maximum of eight (8) points will be awarded for the highest level of Education OR TCOLE certification, whichever is higher. Certificates and degrees must be in the personnel file five (5) working days immediately preceding the date on which the written examination is administered.
 - i. TCOLE Intermediate Certification, 2 points.
 - ii. TCOLE Advanced Certification, 4 points.
 - iii. TCOLE Master Certification, 5 points.
 - iv. Associates Degree, 2 points.
 - v. Bachelor's Degree, 4 points.
 - vi. Master's Degree, 6 points.
 - vii. Doctorate Degree, 8 points.

P. Total maximum score allowable for promotional competition:

1. Written Test	100 percentage points
2. Assessment Center	100 percentage points
3. Longevity	10 points
4. Education/Certification	<u>8 points</u>
5. Total	218 points

Q. In the event of a tie on the final score, the employee's seniority (see Exhibit A – Definitions) with the Sheriff's Office will be used to determine order.

2.01 (B) COMPETITIVE PROCESS FOR THE POSITIONS OTHER THAN SERGEANT, LIEUTENANT, AND CAPTAIN

The process and standards established in Sheriff's Office General Order #04-01 will be followed for the promotion into positions other than Sergeant, Lieutenant, and Captain.

2.01 (C) POSITIONS OF CHIEF DEPUTY AND MAJOR

The positions of Chief Deputy and Major are appointed at the sole discretion of the Sheriff

2.02 ELIGIBILITY LISTS

- A. Results – No later than (3) working days following the completion of the process, the Civil Service Commission will certify and post competitive examination results. Individual scores will be available for the candidate’s review at the Civil Service Commission Office.
- B. The eligibility lists established from the above process will be in effect for one year following the date it is certified and posted. Said list will be posted with those eligible for a promotion ranked in descending numerically scored order.
- C. When a position becomes available or is approved by Commissioner’s Court, the Sheriff’s Office shall within thirty days (30) days, designate the #1 candidate or exercise the Rule of Three, from the eligibility list to fill the available or approved position. (See Exhibit A, Definitions, Rule of Three)..
- D. Candidates may be removed from the eligibility list for any of the following reasons:
 - a. Promotion
 - b. Employee declines the promotion
 - c. A sustained disciplinary action of Suspension, Demotion, or Disciplinary Probation
 - d. Termination or resignation
 - e. Rule of Three

2.03 OTHER POSITIONS PROMOTIONAL PROCESS

It is the desire of the Sheriff’s Office to provide career enrichment opportunities to all employees, including those in positions which do not require TCOLE licensing or certification. Promotions within these positions shall be based on appropriate criteria. The Civil Service Commission shall review and approve the promotional process and selected candidate(s) for such positions.

2.04 DEMOTION TO PREVIOUS RANK

Individuals promoted to a higher rank or position shall serve a placement probationary period (see Chapter 1.15). Failure to successfully perform at the promoted level during the probationary period, as determined by the Sheriff or his or her designee, will result in demotion to the previously held rank (see Chapter 4.09). Demoted employees shall have the rights of appeal as addressed in Chapter 5.

CHAPTER 3 LAYOFFS AND DISMISSALS

3.00 -- REDUCTION IN FORCE (LAYOFFS)

A reduction in force (RIF) is a decrease in the number of employees authorized, or decrease in the number of employees in a specific classification resulting from a discontinuance of service, organizational changes, functional reassignments of tasks, or change in funds authorized; and, is not to be considered a disciplinary action.

Changes in position authorization required in a reduction in force will be determined by Commissioner's Court and will be initiated by the ordered reduction of budgeted funds, or the reduction of authorized positions by the deletion of budgeted positions by position number in a specific division.

Whenever possible, part-time and temporary positions will be eliminated prior to the elimination of any full-time positions within the Sheriff's Office. Employees occupying positions to be deleted due to a reduction in force in one County division or office may be referred for reassignment to other position openings for which they are qualified in the same or other division/offices. This action will be coordinated through Fort Bend County Human Resources and the Fort Bend County Sheriff's Office Personnel Division.

3.01 -- ORDER OF LAYOFF OR REDUCTION

Employees in the classified service shall be laid off or reduced in rank on the basis of inverse order of seniority. Where seniority is equal, the employee of lower rank shall be placed on the list ahead of the employee with higher rank.

The Commission shall construct the RIF Order List based on a careful examination of seniority. For purposes of determining layoff rankings, seniority shall be equal to the number of years, months and days of continuous service in a full time position with the Fort Bend County Sheriff's Office. Periods of absence for military leave, Family Medical Leave Act leave, and Workers Compensation leave, shall not be considered a break in service and will be counted as continued service when calculating seniority. Periods of leave without pay for any other purpose, including but not limited to voluntary and involuntary leaves of absence and suspension, shall not be included in the calculation of months of continuous service. Reemployment within 90 days of a termination of employment with the Sheriff's Office shall not be considered a break in continuous service, but the period of absence shall not be counted as days of service. Any employee laid off shall, after

timely reinstatement, regain seniority possessed at the time of layoff.

To accomplish a RIF within a promotional rank, employees will be reduced in rank to the next lower rank, which may result in layoffs in the lower rank, until the RIF is accomplished, except that a reduced in rank employee cannot bump a person with greater seniority in the lower rank. Any employee who refuses to accept a reduction in rank during a RIF shall be considered to have resigned employment and shall not be eligible for placement on a RIF Reinstatement List.

3.02 – RIF REINSTATEMENT LISTS

The names of employees laid off or reduced in rank in accordance with this rule shall be entered on a RIF Reinstatement List in the inverse order of their lay off or reduction of rank.

A background investigation need not be conducted on a reinstated employee. Pre-placement drug and alcohol testing and a medical examination may be required in accordance with Fort Bend County Policy and TCOLE requirements.

Any new certifications or promotions in the affected class will come from the appropriate RIF Reinstatement List, if any, without regard to the current promotion eligibility list until the RIF Reinstatement List is depleted.

Any employee refusing reinstatement to the classified service or promotion to previous rank shall be dropped from the reinstatement list.

3.03 -- RESIGNATIONS

An employee who desires to resign in good standing with the Sheriff's Office shall submit his/her written resignation to his/her supervisor and the Sheriff's Personnel Division and, except for good cause shown, give at least two (2) weeks' notice of his/her intention to leave the organization.

3.04 -- DISMISSAL

Classified employees may be dismissed from employment if the Sheriff, or his/her designee, determines just cause exists for the termination. Employees may also be dismissed from employment if the employee has a physical or mental disability, illness, injury, or impairment, and will continue to be unable to perform the essential functions of their position, with or without reasonable accommodation,

for an extended period of time. Such termination may not be made if it is in violation of any applicable federal, state, and/or local laws governing leave and disability (e.g. FMLA, ADA, and/or Worker's Compensation)."

Employees who are dismissed from the Sheriff's Office may appeal the dismissal as set forth in Chapter 5, Grievances, except that employees on placement probationary status shall have no right of appeal (1.15).

CHAPTER 4
DISCIPLINARY ACTIONS AND DEMOTIONS

4.00 -- DISCIPLINARY ACTIONS AND CORRECTIVE/DEVELOPMENTAL MEASURES

The Commission desires to encourage progress toward the accomplishment of Office goals, and policy purposes, and to encourage compliance with Office rules. Disciplinary actions are sometimes necessary to correct actions or omissions which are inconsistent with the goals, policies, and rules. Hereafter such actions or omissions are referred to as violations.

The procedures related to this policy are provided to guide supervisors in determining if a violation has occurred, and in the recommendation or selection of disciplinary action necessary to deter repeated violations and maintain the integrity and community respect for the Office.

4.01 -- DETERMINATION OF VIOLATIONS

Violations include any action or inaction which unnecessarily inhibits the accomplishment of (or progress toward) an Office goal, or policy purpose, or which violates a General Order. The determination of a violation is usually made by an employee's immediate supervisor. Prior to making such determination, the supervisor shall be careful to consider all reasonably attainable information and avoid letting his/her personal feelings (positive or negative) about the subordinate interfere with his/her judgment.

4.02 -- SUSPECTED CRIMINAL ACTS

An employee who is arrested or involved in a situation requiring inquiry from law enforcement authorities for alleged criminal activity shall notify his/her immediate supervisor within 24 hours of the incident and provide the facts related to the incident.

Once notified, the supervisor shall immediately notify the Sheriff or his/her designee, and is governed by his/her instructions. Prior to the Sheriff's or his/her designee's presence, the legal rights of such suspected employee should be ensured as any other criminal suspect.

4.03 -- ALTERNATIVE DISCIPLINARY ACTIONS AND CORRECTIVE/ DEVELOPMENTAL MEASURES

Alternative actions include:

1. Counseling or training
2. Oral reprimand
3. Coaching report
4. Written reprimand
5. Relief from duty (pending other recommendation)
6. Suspension without pay
7. Additional probation of position for up to one year
8. Demotion
9. Dismissal
10. Criminal charges

Once a supervisor has determined that his/her subordinate is responsible for a violation, and recommends action other than counseling or training, oral reprimand or coaching report, he/she reports the violation and recommendation to the Sheriff or his/her designee orally or in writing. Discipline is generally administered in progressive order; however, nothing in this policy limits the Sheriff's Office from assessing the disciplinary action which is deemed appropriate at the time of the violation.

4.04 -- REVIEW OF RECOMMENDED ACTION

The Sheriff or his/her designee reviews all recommendations, and decides what disciplinary action, if any, shall be taken.

4.05 -- EMERGENCY ACTIONS

A supervisor may relieve a subordinate from duty, when he/she believes that employee's continued presence is dangerous to himself/herself, or others, or that his/her presence constitutes interference with the effective operations of the Office, or in order to complete an appropriate investigation of an alleged violation. For example, an employee who is thought to be intoxicated or under the influence of illegal substances shall be immediately relieved of duty pending the outcome of a drug or alcohol test. The employee may be relieved with or without pay depending on the circumstances. Extreme care is exercised in making this decision, and the supervisor taking such action must immediately notify his/her supervisor.

4.06 -- CORRECTIVE/DEVELOPMENTAL MEASURES

Counseling or training (written or oral) is the most preferred means of correcting and developing behavior, and is used when a supervisor believes such action is adequate to fulfill the purposes expressed in 4.00.

Oral reprimands involve training but are more sternly administered to emphasize the seriousness of the violation and/or need for future avoidance of the violation.

Disciplinary Probation of position may be imposed by the Chief Deputy or Sheriff for up to twelve months for violation of rules or failure to perform up to standards due to a lack of skill, ability or dedication to duty. Time spent on a leave of absence for any reason will not be included in the calculation of probationary time. The terms and conditions of the disciplinary probation will be communicated in writing to the employee. Employees may not engage in outside law enforcement employment while on disciplinary suspension (General Order 41.V.D)

A classified employee who is placed on disciplinary probation shall still be considered a classified employee subject to the Rules and Regulations of the Civil Service Commission. An employee on disciplinary probation may be subject to dismissal for further violation of policy or failure to perform up to standards, but shall have rights of grievance and appeal as detailed in Chapter 5.

4.07 -- DISCIPLINARY ACTIONS

Written reprimands are used when the lieutenant/supervisor believes a corrective measure will be inadequate to accomplish the purposes of 4.00. The recommendation of a written reprimand should include the proposed written reprimand, and is sent to the next higher organizational level for approval.

Recommendations for suspension without pay are made for one or more days based on what the recommending supervisor believes will accomplish the purpose of 4.00. The Chief Deputy reviews such recommendations, and decides to uphold, modify or deny them. If he/she agrees with the recommendation to suspend, he/she may modify it to include more or less days; he/she then sets the time when the suspension should occur in a manner which will best serve the Office, and informs all concerned personnel. If the Chief Deputy denies the recommendation, he/she notifies the supervisor and the employee.

Recommendations for demotion are made by a lieutenant/supervisor when he/she believes this action is necessary to accomplish the purpose expressed in 4.00. The Chief Deputy, if he/she concurs with the recommendation, sets an effective date

for demotion and informs concerned parties. Persons demoted may be placed in the last rank held or any lesser included rank that was created after he/she promoted past it per Chapter 2 of this manual.

Recommendations for dismissal are made by a lieutenant/supervisor when he/she believes this action is necessary to accomplish the purpose expressed in 4.00. The Chief Deputy, if he/she concurs with the recommendation, sets an effective date for termination, and informs concerned parties.

Criminal charges are filed as directed by the Sheriff after reporting and handling in accordance with 4.02.

Supervisors, including the Sheriff, may intervene at any time on matters under disciplinary review within that supervisor's chain of command.

All disciplinary actions are forwarded to the Personnel Division to be included in the personnel file. Only the Sheriff has the authority to remove documentation of disciplinary actions from an employee's personnel file.

4.08 -- APPEALS

An employee's right to file a grievance of a disciplinary action is addressed in Chapter 5.

4.09 -- DEMOTIONS

Definition – A demotion is the official movement or unofficial relegation of an employee from his/her present position to a position with a lower grade (one with a lower starting salary or range), or to a lower step within a grade, typically resulting from:

- 1) the inability of the employee to fulfill the functions of the job;
- 2) the employee's request for such change (voluntary demotion);
- 3) disciplinary action;
- 4) reduction in force; or
- 5) significant changes as a result of organizational or program changes over which the Sheriff has no control, i.e. reorganizations.

Compensation –

Employees that are demoted may or may not also receive a salary reduction.

Voluntary Demotion –

Any classified employee may voluntarily request a demotion to any funded vacant position with a lower salary for which the employee meets the minimum qualifications, upon the written request of the employee and the written approval of the Sheriff or his/her designee. The Sheriff may only approve such requests if the request is voluntary in nature, and if no other classified employee is adversely affected by the request. "Adversely affected" in this context does not include the denial of a promotional opportunity.

If the demotion is approved, the demoting employee will be allowed placement priority over other employees who may wish to promote into the open position.

The demoting employee's salary in the new position will be determined by the County's Human Resources Department's guidelines.

Should an approved voluntary demotion be from one division to another, the employee shall start a new placement probationary period, as directed in Section 1.13 (VI) and Section 1.15 (B). If an employee is in a probation period at the time of demotion, a new probationary period will commence at the time the employee is placed in the new, lower classified position.

If an employee is rejected during probation following a voluntary demotion, the employee shall have no reinstatement rights to the position in the department from which the employee voluntarily demoted.

Reduction in Force –

Reduction in budget, changes in program emphasis, or lack of work may cause a reduction in force. Employees that are affected by Reduction in Force may be considered for a demotion in lieu of layoff. Such employees may or may not receive a reduction in salary. Reductions in Force are discussed in Chapter 3.

Involuntary Demotion –

Details regarding recommendations for demotion are contained in Section 4.07.

Demotion to Previous Rank –

An employee who is promoted to a position in another department and does not pass the placement probationary period on the new job, may be demoted to their old grade, position and salary, if such opening is available, with the approval of the Sheriff or his/her designee.

Appeal of Demotions –

An employee's right to file a grievance of a demotion is addressed in Chapter 5. Employees who do not accept exempt positions and are transferred to a position in accordance with Section iv (II) have no right of appeal regarding that event.

CHAPTER 5 GRIEVANCE PROCEDURES

5.00 -- GRIEVANCES

It is the policy of the Fort Bend County Sheriff's Office that grievances are dealt with directly, quickly and fairly. It is recognized that occasions or events may occur when an employee believes, rightly or wrongly, that a condition of employment or decision affecting him/her is unjust or inequitable. It is important to employee morale and the maintenance of Office teamwork that these complaints be resolved.

5.01 – GRIEVANCE OF DISCIPLINARY ACTIONS

An employee who wishes to dispute a Written Reprimand or lesser corrective measure may file an intra-office grievance of the action. This procedure is discussed in Section 5.05. Those grievances may not be appealed to the Civil Service Commission.

A classified employee who is demoted, suspended, or terminated may file a grievance of the action, in writing, directly with the Sheriff within ten (10) working days of being notified of the action. The Sheriff will have twenty (20) working days to respond in writing to any grievances below that of a termination. In the case of a termination, the Sheriff will have thirty (30) working days to provide a written answer to the employee. If a written response is not received within the allotted time, then the decision is assumed to have been affirmed by the Sheriff. A classified employee who, under final decision of the Sheriff, is demoted, suspended, or terminated, may appeal this decision to the Civil Service Commission and request an appeals hearing.

Exempt employees [see Section (iv) II] and new hires who have not yet completed the initial placement probationary period are not classified employees of the Civil Service Commission, and do not have the right to file a grievance with the Civil Service Commission.

5.02 – APPEAL OF SHERIFF'S DECISION TO THE COMMISSION

The purpose of a Commission appeal is to provide an employee with further recourse to a disciplinary action of termination, suspension, or demotion. The Commission Chairperson or his/her designee will chair the appeals hearing proceedings.

Employees who are not on placement probationary status (Section 1.15) have the right to appeal the Sheriff's final decision relating to a disciplinary action of suspension, demotion or dismissal as provided in Article 158.035 of the Texas Local Government Code. A notice in writing stating the reason for the appeal must be received by the Commission within ten (10) working days after the employee receives written notice of the Sheriff's decision.

The grievance shall include the following information:

- Grievant name, address and phone number
- Cause for grievance
- Desired relief requested
- Copies of any grievances and responses received from grievant chain of command.

Upon receipt of the written notice by the Commission's designee, the Commission has thirty (30) working days to conduct any further investigation or to determine if a hearing is warranted and to make such decision known, in writing, to the employee. If a hearing is granted, the Commission will conduct a hearing within six months of receipt of the appeal unless waived for good cause as determined by the Commission, and such hearing on the merits or a hearing on why the matter should not be dismissed with prejudice will occur within six months of the waiver. Further, upon Motion made by either party or the Commission, the Commission may order a special ruling that matters not involving specific evidence can be set and heard by the Commission prior to the hearing. The time limits about exchange of witnesses or documents do not apply to such hearings.

The employee or Sheriff may be represented by counsel or a person of their choice before the Commission.

During the hearing, the Sheriff will present his/her case first, including but not limited to witness testimony, documentation, and evidence. The employee then presents his/her case. Then the Sheriff may present a rebuttal. The Commission may then question either side for further clarification. All testimony is sworn testimony.

At least ten (10) working days before the hearing, the employee and the Sheriff shall exchange lists of witnesses to be called and documents and evidence to be offered. Upon request by either party the Commission may shorten this time upon showing of good cause. No witness may be heard and no documents received into evidence unless they are on the exchanged lists. Upon showing of good cause for not timely listing the offered evidence, the Commission may decide to allow additional evidence.

All hearings are recorded and/or transcribed.

The Commission shall render a final decision in writing to the employee and the Sheriff within five (5) working days after the end of the hearing.

The Commission may uphold the disciplinary action of the Sheriff; modify the disciplinary action as it may deem appropriate; or grant the relief requested by the appeal. In no case shall the Commission increase the severity of the disciplinary action.

Issues of back pay and benefits are dealt with in Rule 1.13.

5.03 -- USE OF SUBPOENAS

The Civil Service Commission has the authority to compel any witness to appear and give testimony at an appeals resolution hearing.

The employee and/or the Sheriff may request that a subpoena be issued for any individual who has material facts or other relevant information which would have a bearing on the outcome of the grievance. The party requesting that subpoena issue shall be responsible for providing the name, current home or business address, and telephone number(s) for each potential witness. Once issued, either party is entitled to rely on the subpoena to compel attendance of an individual listed thereon. Subpoenas will be issued in accordance with the Texas Rules of Civil Procedure and be obtained at the District Court level.

If a witness shall fail to appear, the Commission or either party may request attachment to issue against the non-compliant witness. The party requesting attachment shall be responsible for seeing to the procedural aspects of its issuance. An attachment shall be obtained at the District Court level and executed in accordance with the Texas Rules of Civil Procedure.

If the party requesting the subpoena requires the presence of one or more witnesses who do not have relevant information about the occurrence that gave rise to the disciplinary action and grievance, the Civil Service Commission, on its own motion or a motion of the other party, may assess all costs of the subpoenas, including payroll costs, caused by requiring the presence of a witness who does not have information relevant to the occurrence against the party requesting the subpoena.

No costs may be assessed for any witness who, in the opinion of the Civil Service Commission, provides relevant information or who appears without a subpoena.

5.04 -- APPEALS BEYOND THE COMMISSION

An employee who, under the final decision of the Commission, is demoted, suspended, or removed from a position, may appeal the decision by filing a petition in a district court of Fort Bend County, no later than the thirtieth (30th) calendar day after the day the decision is issued. An appeal under this system is tried de novo.

5.05 – INTRA-OFFICE GRIEVANCES

Grievances concerning a Written Reprimand or other corrective action, or the administration of policies, procedures, rules, regulations, and operations of the Sheriff's Office, may be addressed with an employee's chain of supervisory command.

An employee must present any grievance in writing to his/her supervisor within ten (10) working days of the action or inaction giving rise to the grievance, unless both parties agree in writing to waive such deadlines or for good cause shown to the Commission.

If the grievance is not satisfactorily resolved, or if the grievance involves the complaining party's supervisor, the employee must present the grievance in writing directly to the next higher authority within ten (10) working days of having received a response from the previous level of supervision. Supervisors receiving such grievances must use all reasonably available information to evaluate the allegation and then inform the complaining party in writing of their decision regarding resolution of the grievance within ten (10) working days.

Personnel who are not satisfied at this point, but who have not yet reached the Division Captain, may continue carrying their grievance to the next higher level of supervision. In each case the appeal must be submitted in writing within ten (10) working days after the response of the previous level of supervision. Supervisors receiving such complaints must use all reasonably available information to evaluate the allegation and then inform the complaining party in writing of their decision regarding resolution of the grievance within ten (10) working days.

Grievances not resolved to the satisfaction of the complaining party at the Captain level may be appealed to the Major of their Division. If not resolved, the complaining party may then appeal in writing, within ten (10) working days, to the Chief Deputy. If a grievance reaches the level of Chief Deputy, the Chief has fifteen (15) working days to answer the grievance in writing to the Sheriff. The Sheriff will have twenty (20) working days to respond.

If an employee does not receive a timely response at any step in the grievance process, the employee may proceed with the next level of appeal.

5.06 – CONSIDERATION BY THE COMMISSION

Intra-office grievances that are not resolved at the Sheriff's level to the satisfaction of the employee may be submitted to the Commission for consideration on an upcoming agenda, if the issue is within the authority of the Commission. Agenda items shall be submitted in accordance with Section iii VIII, *Agenda Items*.

CHAPTER 6
OTHER MATTERS RELATING TO SELECTION OF EMPLOYEES AND
THE PROCEDURAL AND SUBSTANTIVE RIGHTS, ADVANCEMENT,
BENEFITS AND WORKING CONDITIONS OF EMPLOYEES

6.00 -- CONDUCTING INVESTIGATIONS OF CITIZEN COMPLAINTS

In accordance with Sections 614.021 – 614.023 of the Local Government Code concerning investigation of Citizen Complaints against certain employees of the Sheriff's Office, employees will be provided copy of a written, signed complaint within a reasonable time frame, and before any disciplinary action will be taken. Further, indefinite suspension or termination based on the complaint may only be imposed if the complaint was investigated and there is evidence to prove the allegation of misconduct.

If a criminal act or omission is alleged, the employee will be advised of his/her legal rights as any other criminal suspect would be advised, and is permitted to obtain legal counsel prior to answering any questions if the Sheriff intends to file criminal charges.

6.01 – EMPLOYEE RIGHTS DURING AN INTERNAL INVESTIGATION

Internal investigations will be conducted by the Internal Affairs Division of the Sheriff's Office in accordance with General Order 36 of the FBC Sheriff's Office Policy Manual.

1. For purposes of this rule:
 - a. "Complainant" means a person who reports or files a formal complaint of unprofessional conduct on the part of an employee of the Fort Bend County Sheriff's Office. This does not include the Internal Affairs Investigator [6.01 (1) (d)] assigned to the case.
 - b. "Complaint" means any allegation, notification or other report which initiates an Internal Affairs investigation.
 - c. "Investigation" means an Internal Affairs investigation conducted by the Fort Bend County Sheriff's Office of an allegation of unprofessional conduct by a Sheriff's Office employee, which could result in the imposition of disciplinary action. As used herein, such meaning specifically excludes any investigation of criminal activity.

- d. "Investigator" means an employee of the Fort Bend County Sheriff's Office who is assigned to conduct an investigation.
 - e. "Unprofessional conduct" means any act or omission of an employee which violates a federal, state, county, or municipal statute, regulation or ordinance, or which violates a court order, or which violates any of the policies, procedures, or rules of the Fort Bend County Sheriff's Office, including, but not limited to the Office Policy Manual, any Division Procedural Manual, and any applicable Office or Division memorandum.
2. An investigator may interview an employee who is the subject of an investigation only during the employee's assigned working hours unless the employee is compensated in accordance with the applicable County provision for overtime compensation. The Sheriff may not consider work missed by an employee during assigned working hours due to participation in an investigation in determining whether to impose a punitive action or determining the severity of a disciplinary action.
 3. An investigator may not interview an employee or conduct the investigation at the employee's home without the employee's permission.
 4. Neither the complainant, nor a person who is personally involved in the incident under investigation may conduct the investigation.
 5. The investigator in charge shall furnish the employee under investigation with a written statement of the nature of the complaint or allegation prior to any interview of said employee for scheduled interview. Unless good cause is shown, such written statement shall be given to the employee at least 24 hours before the interview is conducted. For interviews that occur shortly after the time of the incident or at the scene of the incident, the investigator in charge shall furnish the employee an oral statement of the nature of the complaint or allegation prior to the interview. In these cases a written statement must be provided within three (3) working days after the interview.
 6. During an interview, an investigator may not threaten an employee under investigation with punitive action. However, an investigator may inform the employee that his/her failure to truthfully answer questions directly related to the investigation or his/her failure to cooperate fully in the investigation may result in disciplinary action independent of any that may result from the incident under investigation.

6.02 -- INTRA-OFFICE TRANSFERS

It is the responsibility of the Sheriff and his or her designees to ensure the fulfillment of the Office's obligations to the public. This responsibility and the authority to schedule and assign personnel to fulfill that obligation shall not be abridged by this section. Transfer assignments shall be based on need, as well as considerations of diversity, liability, special skills, and to promote harmony within the Office. However, employees feeling that they have been capriciously or maliciously reassigned may address their concerns through the grievance procedures set out in these rules (Chapter 5, Grievances).

Procedures for filling vacancies will be submitted by the Division Heads to the Sheriff for approval and will outline a clearly defined method. The procedure will be posted with the notice of vacancy.

6.03 --EMPLOYEES AFFECTED BY THE ADDITION OR REMOVAL OF AN ENTIRE ACTIVITY OR FUNCTION

1. In the event an activity or function of the Sheriff's Office is removed or discontinued, such as through loss of a contract or grant funding, the classified employees assigned to that activity or function will be reassigned to other open classified positions of the same rank in the Sheriff's Office. Such reassignments may involve intra-divisional transfer. If there are no appropriate open positions available and a reduction in force is necessary, then the provisions of Chapter 3, Layoffs and Dismissals, will be used to accomplish the RIF within the Sheriff's Office.
2. The Sheriff may "loan" classified employees to other agencies, offices or departments to accomplish any lawful objective. Classified employees on loan shall remain under Civil Service and remain under the command of the Sheriff for the duration of such assignment or until removed under any other applicable laws for other purposes or causes.
3. In the event an Activity or Function including existing personnel is added to the Sheriff's Office, the newly acquired employees may become classified, subject to the following:
 - a.] The proposed employee must meet all FBCSO new-hire standards, including back-ground screening, for the proposed job.
 - b.] The proposed employee shall be subject to a placement probationary period as applicable to the position (See Section 1.15).

- c.] Time-in-grade credit for prior service outside or within FBCSO must be determined for each prospective assigned employee. This will be accomplished by the Civil Service Commission in open hearing. The Commission will interpret and apply the provisions of any Inter-local Agreement or Commissioner's Court formal action which may have been approved to effectuate or authorize the transfer of the Activity/Function.

6.04 – OTHER APPEAL EXCEPTIONS

Employees may not use loss of pay or benefits in a grievance or appeal unless they are able to show that:

- A. they have suffered a loss in their rate of pay in direct compensation received from Fort Bend County (this does not include consideration of any other type of compensation including, but not limited to, overtime pay or pay from any other source), and
- B. the loss is not part of an action approved by Commissioner's Court applied to a group of employees or all employees.

6.05 -- RATE OF PAY DETERMINATION

Unless the Civil Service Rules set a specific process to determine rate of pay in a particular situation, the rate of pay concerning all positions and situations will be implemented by the Sheriff or his/her designee in accordance with the Fort Bend County Human Resource guidelines.

EXHIBIT A

DEFINITIONS

Activity/Function - Any organizational component or working group having a definable mission which could be logically included into or removed out of the overall or general mission of the Sheriff's Office.

Adverse Action - An action taken by an Office in the form of a written reprimand; or to dismiss, suspend, or demote an employee.

Appeal - A request, in writing, by any employee, addressed to and filed with the Commission in the manner and within the time provided by these rules seeking an investigation, review, or hearing of the facts.

Capricious - With unfounded motivation; upon a whim; arbitrary; impulsive.

Civil Service Rule - A rule officially adopted by the Fort Bend County Civil Service Commission applicable to Sheriff's Office employees.

Civil Service Staff - County employee who provides administrative support to the Commission and functions as the administrative liaison for the Commission.

Classified Employee – A full-time employee of the Sheriff's Office who is not designated as exempt as outlined in the Texas Local Government Code and who has met all requirements of initial probation. [Section iv (II)]

Classified Position – A full-time position in the Sheriff's Office which is not designated as exempt as outlined in the Texas Local Government Code.

County Policy – Those policies as amended found in the Fort Bend County Employee Information Manual.

Demotion – A demotion is the official movement or unofficial relegation of an employee from his/her present position to a position with a lower grade (one with a lower starting salary or range), or to a lower step within a grade. (See Section 4.09)

Designee - One who is designated to substitute with the full power to act.

Dismissal - The act of terminating an employee.

Duty Assignment - Assignment to a post or position within the Sheriff's Office.

Eligible - Designates the status of a person whose name has been placed on an employment/promotional list for a given position as a result of testing.

Entry Level – All positions that do not require TCOLE licensing or certification as part of the Job Description. In addition, the following positions: TCO Trainee, TCO I, TCO II, Communications Shift Coordinator, Communications Development Coordinator, Detention Officer Trainee, Detention Officer Civilian, Detention Officer Civilian II, and Deputy Sheriff (this term includes Detention Deputy).

Examination - All tests related to various steps for employment and promotion.

Exempt Employee - An employee the Sheriff has designated as exempted from the provisions of the Civil Service Commission as outlined in the Texas Local Government Code. [Section iv (II)]

Field Training Officer (FTO) – An employee who is required to train new employees on a regular basis, has completed an academy field training officer course, and is on a list submitted to the commission as an active FTO.

Full-Time Employee – The definition of a full-time employee shall be consistent with Section 401, *Categories of Employment*, of the Fort Bend County Employee Information Manual.

Grievance - A request, in writing, by an employee addressed to and filed with the appropriate supervisor in the manner and within the time provided by these rules seeking an investigation, review, or hearing of facts.

Hearing – An administrative session held for the purpose of receiving evidence and reaching a decision with respect to matters or issues appropriately submitted to the Civil Service Commission for determination.

Part-Time Employee – The definition of a part-time employee shall be consistent with Section 401, *Categories of Employment*, of the Fort Bend County Employee Information Manual. Part-time employees are not Classified Employees for purposes of the FBC Civil Service.

Probation – A period of time during which an employee’s capability and willingness to perform is evaluated. There are two types of probationary status:

- Placement probation: the first 6 to 12 months of an employee’s assignment to a position either by hire, demotion, or promotion (1.15).
- Disciplinary probation: Up to a 12 month period of reassessment, review, retraining, or redirection of behavior, that may be imposed for violation of rules or failure to perform up to standards (see Section 4.06).

Promotion – An action that moves an employee from one position to another position that results in an increase in the employee’s direct compensation hourly rate of pay and is part of a promotional process approved by the Civil Service Commission.

Promotional Process – The procedures established by these Civil Service Rules and Regulations under Chapter 2, entitled “Competitive Promotional Process”.

Represented By - As referred to in 5.06, the selection of a living person to act on behalf of, speak for, and in all respects defend the position of an employee in the appeal hearing by the Civil Service Commission.

Rule of Three - It is the Sheriff’s executive prerogative to select a candidate from the next 3 candidates under consideration for promotion from the valid eligibility list. The Sheriff may select a candidate from the list of the next three eligible candidates, with his/her consideration given to what is in the best interests of the Sheriff’s Office. The Sheriff need not provide any explanation for this candidate selection the first time the Rule of Three is exercised from any promotional eligibility list. The Sheriff may bypass the first two candidates in favor of the third candidate. If the Sheriff exercises the Rule of Three and bypasses any candidate a second time from the same eligibility list, the Sheriff shall provide a justifiable reason to any candidate who is bypassed. Justifiable reasons include disciplinary actions or record, performance deficiencies, a request by a candidate, termination or resignation of a candidate, or other justifiable reason. A candidate who is bypassed a third time will be excluded from the current eligibility list.

Seniority - The number of years, months and days of continuous service in a full time position with the Fort Bend County Sheriff’s Office. The Sheriff or his/her designee has authority to define the required level of seniority for operational issues including but not limited to lateral transfers, shift/duty assignments, and shift/duty bids.

Service Date – The employee’s original date of full time service on file with the County’s Human Resources Department

Special Operations Team - A team requiring training, duties and responsibilities outside of an employee’s regular duties. The current recognized teams are: S.O.U, Honor Guard, S.R.T., Reserve Deputy Program, L.E.C.O.N., and I.C.S.

Suspension - The period of time during which an employee, through appropriate disciplinary action, is forbidden to work.

Temporary Employee – The definition of temporary employee shall be

consistent with Section 401, *Categories of Employment*, of the Fort Bend County Employee Information Manual. Temporary employees are not Classified Employees for purposes of the FBC Civil Service.

Voluntary Demotion - An action based upon an employee's voluntary request to be demoted. (See Section 4.09)

Working Day - For purposes of counting days, a "working day" is any day, Monday through Friday, excluding County holidays, regardless of an employee's assigned work schedule.

Exhibit B

LOCAL GOVERNMENT CODE

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE B. COUNTY OFFICERS AND EMPLOYEES

CHAPTER 158. COUNTY CIVIL SERVICE

SUBCHAPTER B. SHERIFF'S DEPARTMENT CIVIL SERVICE SYSTEM IN CERTAIN COUNTIES

Sec. 158.031. DEFINITIONS. In this subchapter:

(1) "Commission" means a sheriff's department civil service commission.

(2) "Department" means a sheriff's department.

(3) "Employee" means an employee of a sheriff's department. The term includes a deputy sheriff.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.032. ELIGIBLE DEPARTMENTS. A sheriff's department in a county with a population of more than 500,000 may, in accordance with this subchapter, create a civil service system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1991, 72nd Leg., ch. 127, Sec. 1, eff.

Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 92, eff. Sept. 1, 1991.

Sec. 158.033. PETITION AND ELECTION. (a) If at least 20 percent of the employees of an eligible department under this subchapter sign a petition requesting an election under this section and present the petition to the county judge of the employing county, the judge shall order

a departmental election on the question of the creation of a sheriff's department civil service system.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "Creation of a sheriff's department civil service system."

(d) The county judge shall canvass the votes and declare the result.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.034. APPOINTMENT OF COMMISSION. (a) In a county with a population of less than 2.8 million, if a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff, commissioners court, and district attorney shall each appoint one person to serve as a member of the civil service commission that administers the system. In a county with a population of 2.8 million or more, if a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff, commissioners court, and district attorney shall each appoint two persons to serve as members of the civil service commission that administers the system, and the three appointing authorities shall appoint one member by joint action requiring the affirmative vote of each of the authorities.

(b) The sheriff shall designate one of the members as chairman of the commission.

(c) Each member of the commission is appointed for a term of two years. However, the initial members of the

commission in a county with a population of less than 2.8 million shall determine by lot which two of them will serve a term of two years and which one of them will serve a term of one year. In a county with a population of 2.8 million or more:

(1) the initial member appointed jointly under Subsection (a) serves a term of two years; and

(2) the initial members appointed by each individual appointing authority shall determine by lot which one of the two initial members appointed by the appointing authority will serve a term of two years and which initial member appointed by that authority will serve a term of one year.

(d) The entity that appointed a member of the commission whose position becomes vacant shall appoint a person to serve the unexpired part of the member's term.

(e) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; and

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 534, Sec. 1, eff. May 31, 1997.

Sec. 158.035. POWERS OF COMMISSION. (a) The commission shall adopt, publish, and enforce rules regarding:

(1) selection and classification of employees;

(2) competitive examinations;

(3) promotions, seniority, and tenure;

(4) layoffs and dismissals;

(5) disciplinary actions;

- (6) grievance procedures;
- (7) the rights of employees during an internal investigation; and
- (8) other matters relating to the selection of employees and the procedural and substantive rights, advancement, benefits, and working conditions of employees.

(b) The commission may adopt or use as a guide any civil service law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this subchapter and is consistent with the needs and circumstances of the department.

(c) In a county with a population of 2.8 million or more, a panel of three commissioners shall preside at the hearing and vote on the commission's final decision in any case involving termination, demotion, or recovery of back pay. A panel's decision is the final decision of the commission for purposes of Sections 158.0351 and 158.037. The commission shall adopt rules prescribing the commission's procedures for assigning members to a panel. A panel may not include more than one member who was appointed to the commission by the same individual appointing authority.

(d) In rendering a final decision regarding a disciplinary action by the department, the commission may only sustain, overturn, or reduce the disciplinary action. The commission may not enhance a disciplinary action by the department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1993, 73rd Leg., ch. 218, Sec. 1, eff.
Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 893, Sec. 1, eff.
Sept. 1, 1993; Acts 1997, 75th Leg., ch. 534, Sec. 2, eff.
May 31, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [432](#), Sec. 1, eff. September 1, 2009.

Sec. 158.0351. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT. (a) This section applies only to a county with a population of 2.8 million or more.

(b) If an employee is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the sheriff may temporarily suspend the person with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony indictment or misdemeanor complaint.

(c) The sheriff shall notify the suspended employee in writing that the person is being temporarily suspended for a specific period with or without pay and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.

(d) An employee indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the sheriff with a civil service rule violation directly related to the indictment or complaint may delay the civil service hearing for not more than 30 days after the date of the final disposition of the indictment or complaint.

(e) If the sheriff temporarily suspends an employee under this section and the employee is not found guilty as charged in the indictment or complaint in a court of competent jurisdiction, the employee may appeal to the commission for recovery of back pay. The commission may:

- (1) award all or part of the back pay, even if the employee is a deputy sheriff whose appointment as a deputy was revoked under Section 85.003(c); or
- (2) modify or uphold the decision by the sheriff.

(f) Acquittal or dismissal of an indictment or a complaint does not mean that an employee has not violated a civil service rule and does not negate the charges that may have been or may be brought against the employee by the sheriff.

(g) Conviction of a felony is cause for dismissal, and conviction of a Class A or B misdemeanor may be cause for disciplinary action or dismissal.

Added by Acts 1993, 73rd Leg., ch. 893, Sec. 2, eff. Sept. 1, 1993.

Sec. 158.0355. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chairman of the commission shall, on request of a person described by Subsection (b):

(1) administer oaths; and
(2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

(b) The affected employee, the county attorney, or a designee of the employee or the county attorney may request the chairman of the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers relevant to the case. The request must be made before the 10th day before the date a commission proceeding will be held.

(c) An oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(d) A response to a subpoena duces tecum under this section is considered to have been made under oath.

(e) A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An

offense under this section is a misdemeanor punishable by a fine up to \$1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

Added by Acts 2011, 82nd Leg., R.S., Ch. [851](#), Sec. 2, eff. June 17, 2011.

Sec. 158.036. COMPENSATION AND STAFF. The members of the commission serve without compensation, but the commissioners court shall reimburse each member for actual and necessary expenses incurred in performing the member's duties. The commissioners court shall provide the commission with adequate office space and sufficient funds to employ an adequate staff and to purchase necessary supplies and equipment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.037. APPEALS. (a) An employee who, on a final decision by the commission, is demoted, suspended, or removed from a position may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) An appeal under this section is under the substantial evidence rule, and the judgment of the district court is appealable as in other civil cases.

(c) If the district court renders judgment for the petitioner, the court may order reinstatement of the employee, payment of back pay, or other appropriate relief.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1997, 75th Leg., ch. 68, Sec. 3, eff. Sept. 1, 1997.

Sec. 158.0371. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. (a) The same standards described by Section 158.0121 apply to an appeal under Section 158.037.

(b) The procedures for review under Section 158.037 are the same as provided by Section 158.0122.

(c) The commission may require a party who appeals a decision under Section 158.037 to pay the cost of preparing the commission record in the same manner provided by Section 158.0123.

Added by Acts 1997, 75th Leg., ch. 68, Sec. 4, eff. Sept. 1, 1997.

Sec. 158.038. EXEMPTIONS. (a) A person who is an employee of a department on the date that a civil service system is adopted under this subchapter in the department may not be required to take a competitive examination or perform any other act under this subchapter to maintain the person's employment.

(b) The sheriff of a county with a population of 3.3 million or less may designate as exempt from the civil service system:

- (1) the position of chief deputy;
 - (2) four positions of major deputy;
 - (3) one or more positions in the office of departmental legal counsel; and
 - (4) additional positions in the department;
- provided, however, that the sheriff may not designate as exempt a total of more than 10 positions.

(c) The sheriff of a county with a population of more than 3.3 million may designate as exempt from the civil service system:

- (1) the position of chief deputy;
- (2) one or more positions in the office of departmental legal counsel; and

(3) additional positions in the department, not to exceed 25 in number, that have been determined by the civil service commission to be administrative or supervisory positions; provided, however, that the sheriff may not designate as exempt any position in the deputy classifications of captain or below. The designation of any such additional exempt position by the sheriff shall not diminish the number of positions within the deputy classifications of captain or below.

(d) At the time a new sheriff takes office, an employee holding an exempt position may be transferred to the nonexempt position held by the employee immediately before being promoted to an exempt position. A person who was not an officer in the department when appointed to an exempt position may be transferred only to an entry level position in accordance with the system's civil service rules.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 810, Sec. 1, eff. Aug. 26, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 71, eff. Sept. 1, 2001.

Sec. 158.039. DISSOLUTION OF SYSTEM. (a) If, after a civil service system under this subchapter has been in effect in a department for at least one year, 20 percent of the employees of the department petition the county judge to dissolve the system, the judge shall order a departmental election on the question of the dissolution of the department's civil service system.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition:
"Dissolution of the sheriff's department civil service system."

(d) The county judge shall canvass the votes and declare the result.

(e) If the proposition is approved by a majority of the employees voting at the election, the county judge shall declare the sheriff's department civil service system dissolved.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.040. EXCLUSIVITY. A civil service system created under this subchapter and in effect applies to the department to the exclusion of a civil service system in that county created under Subchapter A or another law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Source: <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.158.htm>

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