



## INTRA - OFFICE MEMORANDUM

**TO:** Undersheriff Ivan Middlemiss

**FROM:** Commander Larry Kastner *LK*

**DATE:** September 4, 1998

**SUBJECT:** Internal Affairs Investigation 98-35

***FINDING: SUSTAINED***

***RECOMMENDATION: WRITTEN REPRIMAND***

I have reviewed the information contained in this investigation and have come to a different conclusion than either Lt. Washburn or Captain Kissell. I believe that Sgt. Claspell is responsible for overpaying deputies of the El Paso County Sheriff's Office. He knew the procedure he was instructed to follow, by then Lt. Elder, was contrary to the policy of the Office. Sgt. Claspell choose to follow those instructions. He knew this was wrong and ignored the correct procedure. The fact that a superior officer directed Sgt. Claspell to conduct business in this manner contrary to our policy does not, in my mind, absolve him of all responsibility. At a minimum I expect a subordinate to question the direction given to him if it is in conflict with policy. If the deviation of policy is not reconciled, the employee has an obligation to move to the next level in the chain of command. This improper record keeping continued from July of 1996 to March of 1998. Lt. Washburn discovered the error and took steps to correct it. Sgt. Claspell had ample time to reexamine this unique method of paying overtime and question the methods used only by this unit.

I realize this view could be missinterrupted by some; leaving the door open to the belief that questioning legitimate orders is an acceptable practice. We certainly do not want employees going up the chain of command each time they disagree with the direction they are given. However, the defense "I was just following orders" does not withstand the simple test of "doing the right thing."

In reviewing Sgt. Claspell's Internal Affairs record I note there are two sustained charges of Supervisor Responsibility. Overall he has been an asset to this organization and for that reason I feel he should be given the benefit of the doubt with respect to the level of discipline imposed in this case. For that reason I am recommending a written reprimand.

LRK/lk

