Personnel Complaints

1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of employees of the Crystal Lake Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to a criminal investigation.

1020.2 POLICY

The Crystal Lake Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its employees.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report alleged misconduct without concern for reprisal or retaliation.

1020.2.1 CORRESPONDENCE WITH COMPLAINANTS

The assigned investigator will contact the complainant to confirm receipt of complaint and to discuss the content of the complaint. Periodic status reports will be provided to the complainant thereafter. The complainant will be notified of the results of the investigation when concluded.

1020.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or of federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1020.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Formal Investigation - The process of an investigation ordered by a commanding officer during which the questioning of an officer is intended to gather evidence of misconduct which may be the basis for filing charges seeking his or her removal, discharge or suspension in excess of three days (50 ILCS 725/2).

Informal Inquiry - A meeting by a supervisory or command personnel with an officer upon whom an allegation of misconduct has come to the attention of such supervisory or command personnel,

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the purpose of which meeting is to mediate a citizen complaint or discuss the facts to determine whether a formal investigation should be commenced.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after a diligent follow-up investigation. At the discretion of the assigned supervisor or the Special Investigations Authority, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1020.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

(a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.

(b) Any department employee becoming aware of alleged misconduct by another department employee shall immediately notify a supervisor.

(c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.

(d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

(e) Tort claims and lawsuits may generate a personnel complaint.

1020.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

All complaints will be courteously accepted by any department employee and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving employee shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1020.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

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1020.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief of Police or the authorized designee.

1020.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows:

1020.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action, or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

(a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.

1. The original complaint form will be directed to the Unit Commander of the accused employee, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Unit Commander or the Chief of Police, who will initiate appropriate action.

(b) Responding to all complainants in a courteous and professional manner.

(c) Resolving those personnel complaints that can be resolved immediately.

1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Unit Commander

(d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Unit Commander and Chief of Police are notified via the chain of command as soon as practicable.

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1. This notification is required when there are allegations of a failure to intervene, unreasonable uses of force, perjury, tampering with evidence, or other categories required under state law. The Chief of Police or the authorized designee should take steps to notify the Illinois Law Enforcement Training and Standards Board (ILETSB) within seven days of the [Department/Office] becoming aware of the allegations. After preliminary review by ILETSB, an investigation should be conducted, if necessary (50 ILCS 705/6.3).

(e) Promptly contacting the Human Resources Division and the Unit Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination.

(f) Forwarding unresolved personnel complaints to the Unit Commander, who will determine whether to contact the complainant or assign the complaint for investigation.

(g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.

(h) Investigating a complaint as follows:

1. Making reasonable efforts to obtain names, addresses, and telephone numbers of witnesses.

2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

(i) Ensuring that the procedural rights of the accused employees are followed.

(j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1020.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Special Investigations Authority, the following applies to employees covered by the Uniform Peace Officers' Disciplinary Act:

(a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated (50 ILCS 725/3.3).

(b) Unless waived by the employee, interviews of an accused employee shall be at the Crystal Lake Police Department or other reasonable and appropriate place (50 ILCS 725/3.1).

(c) The accused employee shall be informed in writing of the Interviewers and all persons who will be present on behalf of the Department during any interview. The officer under investigation shall inform the employer of any person who will be present on his/her behalf during any interrogation (50 ILCS 725/3.4).

(d) Prior to any interview, an employee should be informed in writing of the nature of the investigation (50 ILCS 725/3.2).

(e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated (50 ILCS 725/3.5).

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(f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.

(g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so (50 ILCS 725/3.6).

1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a Garrity advisement and after the investigator has consulted with the prosecuting attorney.Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations.This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, and implications).
2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

(h) The interviewer shall record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (50 ILCS 725/3.7).

(i) No employee shall be interviewed without first being advised in writing that admissions made in the course of the interview may be used as evidence of misconduct or as the basis for charges seeking suspension, removal or discharge. In addition, no employee shall be interviewed without first being advised in writing that he/she has the right to counsel of his/her choosing, and that counsel may be present to advise him/her at any stage of any interview (50 ILCS 725/3.8).

(j) The employee under investigation shall have the right to be represented by counsel of his/her choosing and may request counsel at any time before or during an interview. When a request for counsel is made, the interview shall not proceed until a reasonable time and opportunity are provided to the employee,to obtain counsel. If a collective bargaining agreement requires the presence of a representative of the collective bargaining unit during investigations, the representative shall be present during the interview, unless this requirement is waived by the employee being interviewed (50 ILCS 725/3.9). However, in order to maintain the integrity of each employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

(k) All employees shall provide complete and truthful responses to questions posed during interviews.

(l) No employee may be compelled to submit to a polygraph test, or any other test questioning by means of any chemical substance, except with the employee's express written consent. Refusal to submit to such tests shall not result in any disciplinary action nor shall such refusal be made part of his/her record (50 ILCS 725/3.11).

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(m) These provisions do not apply to any employee charged with violating any provisions of the Criminal Code of 2012, or any other federal, state or local criminal law (50 ILCS 725/5).

1020.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the employees, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion of Fact - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1020.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department employees. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

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1020.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation within 30 days following assignment to the investigator. The investigator may request extensions of the time period from the Chief of Police when extenuating circumstances exist. If the request for an extension is approved, a report on the status of the investigation will be submitted to the Chief every seven days. The complainant will be advised of the need for an extension in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

1020.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The employee conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1020.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1020.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

(a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.

(b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

(c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1020.9 ANNUAL STATISTICAL SUMMARY

Yearly, the Deputy Chief of Operations will submit to the Chief of Police an annual statistical summary, based upon records of the Special Investigations Authority.

The statistical summary will be released to the public by way of the police web site.

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1020.10 CRIMINAL INVESTIGATION

Where an employee is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a employee is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A employee accused of criminal conduct shall be provided with all rights afforded to a civilian. The employee should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Crystal Lake Police Department may release information concerning the arrest or detention of any employee, including an officer, that has not led to a conviction.

No disciplinary action should be taken until an independent administrative investigation is conducted.

1020.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

(a) The response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.

(c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.

(d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

(e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

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1020.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1020.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal pursuant to the personnel rules and applicable guidelines; pursuant to the collective bargaining agreement; if non-home rule, the procedures outlined in 65 ILCS 5/10-2.1-1; if civil service, the procedures outlined in 65 ILCS 5/10-1-1.

1020.14 PROBATIONARY EMPLOYEES AND OTHER EMPLOYEES

At will and probationary employees and employees other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

1020.15 RETENTION OF PERSONNEL INVESTIGATION FILES

Not withstanding any other provision of law to the contrary, all public records and non public records related to complaints, investigations, and adjudications of police misconduct shall be permanently retained and may not be destroyed. (50 ILCS 205/25).

1020.16 MANDATORY NOTIFICATION TO THE ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

The Chief of Police or the authorized designee shall notify the ILETSB when (50 ILCS 705/6.2; 50 ILCS 705/9.2):

(a) Any final determination of willful violation of Crystal Lake Police Department policy, official misconduct, or violation of law results in:

1. Discharge or dismissal.
2. A suspension of at least 10 days, or
3. An official investigation pursuant to Crystal Lake Police Department policy.

(b) An allegation of misconduct or regarding truthfulness as to a material fact, bias, or integrity is made.

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(c) An officer resigns during the course of an investigation and after being served notice of the investigation.

The notification shall occur within 10 days of a final decision and exhaustion of any appeal, or resignation, and shall provide information regarding the nature of the violation.

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