

AGENDA
BOARD OF PUBLIC SAFETY
Tuesday September 14, 2021
9:00 A.M.
Council Chambers

Municipal Building, 229 S. Second Street, Elkhart, IN 46516

<https://coei.webex.com/coei/j.php?MTID=m14e23d63e0c92c00d913464d43b43dec>

1-415-655-0001 Meeting number 2307 108 2198

Password Safety21

- 1. ROLL CALL**
- 2. APPROVE AGENDA**
- 3. APPROVE MINUTES: Regular Meeting August 24, 2021 and Special Meeting September 3, 2021**
- 4. TABLED ITEM**
 - MOU Between IAFF Local #338 and City of Elkhart**
- 5. POLICE DEPARTMENT**
 - Policy 1000 Recruitment and Selection**
 - Policy 1010 Personnel Complaints**
 - Policy 1028 Temporary Modified-Duty Assignments**
 - Medical Leave of Absence- Cpl. Nathan Lanzen, Lt. Carl Conway, Ptl. Matthew Lehner, Det. Susan Lambright, Cpl. Kristin Klimek**
- 6. FIRE DEPARTMENT**
 - August Month End Report**
- 7. COMMUNICATIONS CENTER**
 - August Month End Report**
- 8. BUILDING AND CODE ENFORCEMENT**
 - August Month End Report**
- 9. OTHER PUBLIC SAFETY MATTERS**
- 10. PUBLIC PARTICIPATION**
- 11. ADJOURNMENT**

BOARD OF PUBLIC SAFETY
Tuesday, August 24, 2021

Chairman Robert Woods called a regular meeting of the Board of Public Safety to order at 9:00 a.m., Tuesday, August 10, 2021. Robert started the meeting with a moment of silence out of respect for Mary Olson who recently passed away. Nancy Wilson called the role. Robert Woods, Anthony Coleman, Carol Loshbough, and Corinne Straight-Reed were present. Charlie Cross was absent. Elkhart Council liaison Arvis Dawson was present on WebEx.

1. APPROVE AGENDA

On motion by Carol Loshbough, seconded by Anthony Coleman and carried 4-0 the agenda was adopted as presented.

2. MINUTES of August 10, 2021

On motion by Carol Loshbough, seconded by Corinne Straight-Reed and carried 4-0, the minutes from August 10, 2021 were approved as presented.

3. TABLED ITEMS

MOU Between IAFF Local #338 and the City of Elkhart

No action was taken.

4. PUBLIC HEARING: Towing Complaint

Robert Woods opened the Public hearing that was advertised in the Elkhart Truth on August 13, 2021. No one from the public came forward to speak. Rose Rivera, City Attorney came forward to speak. She said, we are here today because we have a contract with towing companies and that contract spells out what fees are charged. We received a complaint, so we followed the procedure we have to follow when we receive a complaint. We got a committee together, and the committee recommended a written reprimand because there were certain fees being charged outside of the contract. However, it came to our attention that all of the towing companies were charging fees outside of the contract, some of which are mandated by the State in the sense that the State requires them to do searches after 72 hours which cost them money, sometimes \$50.00. They were all recouping the cost with an administrative fee. As a result, later in the agenda we are bringing a request to update the Towing Contract fees and amend it. In keeping with the procedure, we did recommend a written reprimand for falling outside of the contract, and for that reason, the public hearing was held today. Robert asked Rose if all of the companies were doing this, and one company has been brought to our attention. Rose responded we only received a complaint about one, but it did come to our attention through the process that every single company was charging an administrative fee. They were all charging them in different ways. Carol felt a reprimand was too harsh to one company since they all charge it. Rose clarified the Board has the choice to reprimand or not. Corinne said the fix is to correct the language in our agreement that reflects the administrative fee. Rose said yes, it has been five years and it is time to correct pricing. Robert asked if any of the towing companies wished to speak. The General Manager of Howard's Towing Tracey McWilliams came forward to speak. Carol asked her if she was following a procedure she had always followed? Tracey said yes m'am, and noted she used to work at two of the other towing companies and they did the same thing. Anthony said if we want to reprimand them, we should send letters to all of them and Carol agreed. A motion was made by Carol Loshbough and seconded by Anthony Coleman to send Howard's Towmaster a letter stating that they operated outside of

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Tuesday, August 24, 2021

the contract, and we will be amending it for future use. Corinne asked if we need a separate motion to send a letter to all of the towing companies? Carol agreed and changed her motion to say send a letter to all of the towing companies stating that they have been operating outside of the contract. Corinne seconded the amendment. Corinne said she appreciates that the grievant brought this to our attention and they are involved with the public process and with our City. Robert called for the vote on the amendment. The motion carried 4-0. Robert Woods closed the Public Hearing.

5. POLICE

Chief Seymore presented commendations to the Board. Cpl. Jared Davies was commended for organizing the Elkhart Police K9 Fun Run. Sgt. Dan Jones was commended for rendering aide to save an infant's life and for going above and beyond duty. Sgt. Ryan Huff was commended for rendering aide to save a victims' life and for going above and beyond duty. Cpl. Drew Neese was commended for administering Narcan and preventing a drug overdose. Cpl. Chris Lewis was commended for assisting Cpl. Neese with monitoring his airway, breathing, and pulse until the EFD Medics arrived to take over. Together, they prevented the drug overdose and will receive lifesaving awards. Chief Seymore said these officers demonstrate dedication and professionalism all officers should strive for. He congratulated all of them on a job well done.

6. FIRE

Chief Edgerton expressed deep condolences to the family and friends of Mary Olson. He said Mary took him under her wing long ago and he is deeply saddened by her passing. Carol thanked the Chief and his staff for taking such good care of her when the ambulance came twice for her. The Chief said no need to thank us, that is what we do.

The Rookie class took the bull by the horns and decided they were going to complete their training. They are graduating this Thursday at 6p.m. He invited the Board to come to Central Fire Station for the ceremony.

7. COMMUNICATIONS CENTER

Michelle Miller presented a conditional Offer of Employment for approval. On motion by Corinne Straight-Reed, seconded by Carol Loshbough and carried 4-0, Board approved a Conditional Offer of Employment for Hadley Bucks.

8. BUILDING AND CODE ENFORCEMENT

Henry Terrazas took a moment to acknowledge the team of the Building and Code Department, the Forestry Department, and the Street Department for the great job they did during the wicked storms that passed through Elkhart recently.

9. OTHER PUBLIC SAFETY MATTERS

On motion by Carol Loshbough, seconded by Anthony Coleman and carried 4-0, the Police Merit minutes were accepted and placed on file.

On motion by Corinne Straight-Reed, seconded by Carol Loshbough and carried 4-0, the Board of Safety approved the Amendment to the Towing Service Agreement. Rose Rivera explained the changes to the Board. Robert asked if any of the Towing Companies wanted to speak. No one came forward.

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10. GRIEVANCE: Firefighter Jacob Leighty

Robert took a 15-minute recess. Robert called the meeting to order.

Dustin Flagg President of IFF Local 338 gave the grievant's opening statement. City Attorney Rose Rivera gave management's opening statement.

Nancy Wilson swore in all persons who were testifying.

Dustin Flagg presented grievant's exhibits 1 and 2. Robert Woods accepted the exhibits. Dustin explained his exhibits. He did not call any witnesses for direct examination. He rested.

Attorney Rivera called her first witness Battalion Chief Brian Bemiller for direct examination. Dustin cross-examined Chief Bemiller.

Attorney Rivera called her second witness Chief David Cushwa for direct examination. Dustin Cross-examined Chief Cushwa.

The Chair Robert Woods called a 10-minute recess. Robert called the hearing back to order.

Attorney Rivera called her last witness Chief Edgerton for direct examination. Attorney Rivera entered Chief's Exhibits 1 & 2. Dustin cross examined Chief Edgerton.

Dustin Flagg presented the grievant's final argument. Attorney Rivera presented management's final argument.

The Board discussed the case. Upon conclusion of discussion the following motions were made:

Anthony Coleman made a motion to take it under advisement and adjourn the meeting. There was no second to his motion. The motion failed.

Carol Loshbough made a motion to uphold, grant the grievance to Jacob (Leighty) and add the caveat that we would hope the administration would work with the union to come to some kind of communicative agreement. Anthony Coleman seconded the motion. Carol made a motion to amend the motion to state the following: grant the grievant's desire to have their vacation time returned to them with the stipulation that the 24 hours taken be removed from the compensatory budget. Corinne Straight-Reed seconded the amendment. The Clerk called a roll call voice vote. All four members voted yes and the amendment carried 4-0. The Clerk called a roll call voice vote for the amended motion. Corinne Straight-Reed voted yes. Anthony Coleman votes yes. Carol Loshbough voted yes. Robert Woods voted no. The amended motion carried 3-1.

11. ADJOURNMENT

On motion by Carol Loshbough, seconded by Corinne Straight-Reed and carried 4-0, the Board of Public Safety meeting was adjourned at 10:53 p.m.

_____ Robert Woods, Chairman

Attest: _____ Nancy Wilson, Clerk of the Board

BOARD OF PUBLIC SAFETY
Friday, September 3, 2021

Robert Woods called a special-call meeting of the Board of Public Safety to order at 9:00 a.m., Friday, September 3, 2021. Dasha Slater called the role. Charlie Cross, Carol Loshbough, Robert Woods and Corinne Straight-Reed were present. Anthony Coleman was absent.

1. APPROVE AGENDA

On motion by Robert Woods, seconded by Corinne Straight-Reed and carried 4-0 the agenda was adopted as presented.

2. PROOF OF PUBLICATION for Special Meeting on September 3, 2021

On motion by Carol Loshbough, to confirm that there is proof of publication in the local newspaper (in the Elkhart Truth). Dasha Slater explained that the special-call meeting was published on the City of Elkhart's webpage and also on the Board outside of the Chambers.

3. POLICE

John Espar from City of Elkhart's Legal Department presented the Resolution and requested the Legal Department's interest to participate and perform a due diligence inquiry into the application of Scott Johnson for Disability benefits and report the same to the Safety Board for its consideration and presentation to the Local Pension Board. Chairman Robert Woods stated that this is the Council's first time being involved in a Disability hearing. Carol Loshbough questioned the Board having Voting privileges on the Local Pension Board. Board members' discussion begins about the Disability Local Pension Board. Carol Loshbough mentions an old case concerning the Local Pension Board. Robert Woods asks John Espar about the mental state and how they are being assessed.

Corinne Straight-Reed extends her gratitude to the Legal Department for bringing the Board of Safety into this matter. Carol Loshbough disagrees about who brought this issue to the Board of Safety's attention.

Dasha Slater reads Resolution No. 21-R- Johnson for the Board of Safety to vote. There is no resolution number assigned yet and Dasha Slater mentions this to the Board of Safety. Carol Loshbough ask Robert Woods, Chairman about assigning temporary resolution numbers. Corinne Straight-Reed moved to approve the temporarily numbering of both resolutions. Corinne Straight-Reed amends her motion to only include 21-R-Johnson resolution.

All board members voted in favor.

Corinne Straight-Reed moves to approve Resolution No. 21-R-Johnson. Dasha Slater takes voting roll call, all members approve.

Corinne reads the Resolution and motions to approve Resolution No. 21-R-Conway. Carol Loshbough seconds the motion.

Robert Woods moved to approve Resolution No. 21-R-Conway, all members vote in favor.

No executive session was needed for this special-call meeting.

4. ADJOURNMENT

On motion by Carol Loshbough, seconded by Corinne Straight-Reed and carried 4-0, the Board of Public Safety's special- call meeting was adjourned at 9:35 a.m.

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Friday, September 3, 2021

_____ Robert Woods, Chairman

Attest: _____ Nancy Wilson, Clerk of the Board

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Elkhart Police Department and that are promulgated and maintained by the Human Resources Department.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Elkhart Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 RECRUITMENT

The Service Captain should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.
- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities and the military.
- (e) Employee referral and recruitment incentive programs.
- (f) Consideration of shared or collaborative regional testing processes.

The Service Captain shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

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Recruitment and Selection

1000.4 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Polygraph, truth telling device, or voice stress analyzer (VSA) examination (when legally permissible)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment

1000.4.1 EXAMINER QUALIFICATIONS

Polygraph, truth telling device, or VSA examiners should have a certification on file with the Service Captain.

1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Elkhart Police Department.

1000.5.1 INVESTIGATOR TRAINING

Members who conduct background investigations should receive department-approved training in collecting the required information.

1000.5.2 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA (15 USC § 1681d).

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1000.5.3 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the Service Captain should not require candidates to provide passwords, account information or access to password-protected social media accounts.

The Service Captain should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate and validated.
- (c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, the Service Captain should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.4 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

1000.5.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule.

1000.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors

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- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law. Candidates will be evaluated based on merit, ability, competence and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

Validated, job-related and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Human Resources Department should maintain validated standards for all positions.

1000.7.1 STANDARDS FOR OFFICERS

Candidates shall meet minimum standards established by Indiana law, including the following (I.C. § 36-8-3.5-12; 250 IAC 2-3-1 et seq.):

- (a) Be a citizen of the United States.
- (b) Be at least 21 years of age, but less than the maximum age as established by law when applicable.
 1. Veterans are exempt from the maximum age restriction (I.C. § 36-8-4.7-5).
- (c) Have obtained a high school degree or a recognized equivalent.
- (d) Be free from any felony convictions or any other crime or series of crimes that would indicate to a reasonable person that the applicant is potentially dangerous, violent, or has the propensity to break the law.
- (e) Demonstrate successful completion of minimum agility and aptitude tests.
- (f) Be free from any physical, emotional, or mental condition that might adversely affect the exercise of police powers.
 1. Before a candidate may be selected as an officer, he/she shall be examined by a licensed medical doctor according to the requirements in I.C. § 36-8-8-19, which must include the following:
 - (a) A general medical history.
 - (b) A determination of the candidate's ability to perform the essential functions of the position of officer.
 2. Before a candidate may be selected as an officer, he/she must obtain a positive recommendation of emotional and mental fitness.
- (g) Be of good moral character as determined by a thorough background investigation and criminal history investigation.

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- (h) Possess a valid driver's license.
- (i) Be fingerprinted for both a state and federal criminal records check.
- (j) The Elkhart Police Department may establish additional standards for selection of a candidate for the position of officer pursuant to I.C. § 36-8-3.2-6.

1000.8 JOB DESCRIPTIONS

The Service Captain should ensure that a current job description is maintained for each position in the Department.

1000.9 PROBATIONARY PERIODS

In the absence of a collective bargaining agreement stating otherwise, a probationary period of at least 12 months should be required before employees are considered for permanent status. The probationary period should include periodic performance reviews and documentation upon the successful completion of the probationary period.

If an employee does not successfully complete probation, it is within the discretion of the Chief of Police to determine what actions will be taken.

1000.10 SELECTION PROCESS

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- (h) Polygraph, truth telling device, or voice stress analyzer (VSA) examination (when legally permissible)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)

?
Same as 1000.4 selection process minus (k)

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(j) Review board or selection committee assessment

(k) Entire employment file from law enforcement agencies that have employed, or currently employ, a law enforcement officer candidate, including findings and orders related to prior disciplinary action or internal investigations (I.C. § 36-8-2-2)

1000.10.1 EXAMINER QUALIFICATIONS

Polygraph, truth telling device, or VSA examiners should have a certification on file with the Service Captain.

1000.10.2 HIRING PREFERENCE

The Department will provide preference as required by I.C. § 36-8-10-10.4.

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- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment
 - (a) The Chief of Police should establish qualifications and prerequisites, devise and administer examinations, and prepare a list of applicants jointly with the approval of the merit board when required (I.C. § 36-8-10-10).
- (k) Entire employment file from law enforcement agencies that have employed, or currently employ, a law enforcement officer candidate, including findings and orders related to prior disciplinary action or internal investigations (I.C. § 36-8-2-2)

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1000.12 PROBATIONARY PERIODS

The Service Captain should coordinate with the Elkhart Human Resources Department to identify positions subject to probationary periods and procedures for (I.C. § 36-8-3.5-12):

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

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 1. Veterans are exempt from the maximum age restriction (I.C. § 36-8-4.7-5).
- (c) Have obtained a high school degree or a recognized equivalent.
- (d) Be free from any felony convictions or any other crime or series of crimes that would indicate to a reasonable person that the applicant is potentially dangerous, violent, or has the propensity to break the law.
- (e) Demonstrate successful completion of minimum agility and aptitude tests.
- (f) Be free from any physical, emotional, or mental condition that might adversely affect the exercise of police powers.
 1. Before a candidate may be selected as an officer, he/she shall be examined by a licensed medical doctor according to the requirements in I.C. § 36-8-8-19, which must include the following:
 - (a) A general medical history.
 - (b) A determination of the candidate's ability to perform the essential functions of the position of officer.
 2. Before a candidate may be selected as an officer, he/she must obtain a positive recommendation of emotional and mental fitness.
- (g) Be of good moral character as determined by a thorough background investigation and criminal history investigation.

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- (h) Possess a valid driver's license.
- (i) Be fingerprinted for both a state and federal criminal records check.
- (j) The Elkhart Police Department may establish additional standards for selection of a candidate for the position of officer pursuant to I.C. § 36-8-3.2-6.

1000.8 JOB DESCRIPTIONS

The Service Captain should ensure that a current job description is maintained for each position in the Department.

1000.9 PROBATIONARY PERIODS

In the absence of a collective bargaining agreement stating otherwise, a probationary period of at least 12 months should be required before employees are considered for permanent status. The probationary period should include periodic performance reviews and documentation upon the successful completion of the probationary period.

If an employee does not successfully complete probation, it is within the discretion of the Chief of Police to determine what actions will be taken.

1000.10 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Polygraph, truth telling device, or voice stress analyzer (VSA) examination (when legally permissible)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)

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- (j) Review board or selection committee assessment
- (k) Entire employment file from law enforcement agencies that have employed, or currently employ, a law enforcement officer candidate, including findings and orders related to prior disciplinary action or internal investigations (I.C. § 36-8-2-2)

1000.10.1 EXAMINER QUALIFICATIONS

Polygraph, truth telling device, or VSA examiners should have a certification on file with the Service Captain.

1000.10.2 HIRING PREFERENCE

The Department will provide preference as required by I.C. § 36-8-10-10.4.

1000.10 PROBATIONARY PERIODS

The Service Captain should coordinate with the Elkhart Human Resources Department to identify positions subject to probationary periods and procedures for (I.C. § 36-8-3.5-12):

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

1000.11 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

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- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment
 - (a) The Chief of Police should establish qualifications and prerequisites, devise and administer examinations, and prepare a list of applicants jointly with the approval of the merit board when required (I.C. § 36-8-10-10).
- (k) Entire employment file from law enforcement agencies that have employed, or currently employ, a law enforcement officer candidate, including findings and orders related to prior disciplinary action or internal investigations (I.C. § 36-8-2-2)

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Personnel Complaints

1010.1 PURPOSE AND SCOPE

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

1010.2 POLICY

The Elkhart Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state, and local laws; 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 misconduct without concern for reprisal or retaliation.

1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or 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 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.

1010.3.1 COMPLAINT CLASSIFICATIONS

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

Informal - A matter in which the Watch Commander is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Professional Standards, depending on the seriousness and complexity of the investigation.

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

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1010.3.2 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 member becoming aware of alleged misconduct 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.

1010.3.3 IDENTIFICATION OF DISCIPLINARY MEASURES

The Services Captain should ensure that the types of punitive measures that may be used against members in the event of disciplinary action (e.g., suspension, demotion, termination) are identified and made known to all members.

Counseling and/or remedial training may be used in lieu of punitive measures, if appropriate.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 ACCEPTANCE

All complainants will be promptly and courteously directed to a supervisor. A complaint may be filed orally, either in person, electronically or by telephone; or in written form. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall document the complaint in the complaint module in the RMS.

1010.5 DOCUMENTATION

Supervisors shall ensure that all complaints are documented in the proper complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

On an annual basis, the Department should audit the RMS Module and send an audit report to the Chief of Police or the authorized designee.

1010.6 INITIAL ASSESSMENT

Professional Standards will review all complaints and determine how the complaint was or will be handled. Complaints may be handled in the following manner:

- (a) Professional Standards can close out the complaint
- (b) Professional Standards can review the complaint then assign the complaint to the appropriate Division / Shift Lieutenant to investigate if needed
- (c) Professional Standards can conduct an administrative investigation.

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1010.7 ADMINISTRATIVE INQUIRY VS ADMINISTRATIVE STATEMENT OF FACT

An administrative inquiry is an informal investigation checking to see if a policy violation has occurred.

An administrative statement of fact is a formal investigation concerning clearly defined and easily recognizable facts and details about the alleged policy violation(s) that only requires a basic investigation and presentation of facts.

An administrative inquiry may start out and finish as an inquiry. During an inquiry if a policy violation is identified, the investigation status will be immediately changed to a statement of facts or an administrative investigation.

1010.8 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.8.1 SUPERVISOR RESPONSIBILITIES

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 complaint, documentation in the proper software system is completed.

1. The Watch Commander of the accused member shall be notified and take the appropriate action based on the nature of the complaint.

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 can orally report the matter to the member's Captain or the Chief of Police, or the supervisor can send an email or written document to Professional Standards, 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 in the complaint module and notify and the Watch Commander.

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

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(e) Administration or Professional Standards will contact Human Resources in addressing a complaint that relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination

(f) Informing the complainant of the investigator's name within three days after assignment.

(g) 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.

(h) Ensuring that the procedural rights of the accused member are followed.

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

(j) Professional Standards will notify the Chief of Police about the complaints

1010.8.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Professional Standards, the following applies to members covered by I.C. § 36-8-2.1-4 (I.C. § 36-8-2.1-5; I.C. § 36-8-2.1-11):

- (a) Interviews of a focus officer should be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she should be compensated.
- (b) Unless waived by the member, interviews of a focus officer shall be at the Elkhart Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
 1. Questions should be specific and directly related to the performance of duties or fitness for service as an officer.
- (d) Prior to any interview, a member should be informed of the nature of the investigation.
 - (a) The member should be informed of who will be in charge of the investigation, the identity of the interviewers, and any other person who will be present during the interview.
 - (b) A statement of rights should be presented to the member and signed by the member and the interviewer.
- (e) All interviews should be for a reasonable period, and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards, or other inducements be used to obtain answers.
- (g) Any member 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.

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1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the member 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, implications).
 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation, or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses.
1. Upon request, the member should be provided with a written transcript of the recorded interview, at no cost.
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
1. Unrepresented members shall be provided with reasonable time to obtain representation.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be compelled to submit to a polygraph or truth-telling device examination, nor shall any refusal to submit to such examination be mentioned in any investigation.
- (l) No member shall be required to disclose information about the possession of property, income, debts, or personal expenditures unless the information is obtained through legal process or indicates a conflict of interest that affects the member's official performance of duties (I.C. § 36-8-2.1-11).
- (m) Notice should be provided to members before the effective date of an adverse action as provided in I.C. § 36-8-2.1-9.

1010.8.3 ADMINISTRATIVE INVESTIGATION FORMAT

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

Introduction - Include the identity of the members, 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.

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Alleged Officer / Allegations – A list of each focus officer and the alleged policy violation for each officer.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements.

Other evidence related to each allegation should also be detailed in this section.

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

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

1010.8.4 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 members. 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 member.

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

Policy failure – When there is no policy which addresses the officer's conduct, or the policy needs to be re-evaluated or re-written.

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.

1010.8.5 COMPLETION OF INVESTIGATIONS

(a) Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within 45 days from the date of discovery by an individual authorized to initiate an investigation.

(b) Once the investigation is completed, Professional Standards will be notified.

- (a) If the complaint can be closed "Exonerated" or "Unfounded", Professional Standards will document it in the complaint module. Professional Standards will close the complaint in the proper software system.

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- (b) If any corrective actions / discipline is needed (anything more than a counseling), the completed investigation will be forwarded to the focus officer's Division Captain, who will convene the Captain's Board.
- (a) Any counseling will be documented in the proper software system by the counseling officer.

1010.8.6 EXTENSIONS

When an investigator or supervisor determines additional time is necessary to complete the investigation, a written request to extend the investigation beyond 45 days should be submitted to the Chief of Police for approval and the focus officer shall be notified.

1010.8.7 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant, accused member and Chief of Police with periodic updates on the status of the investigation at the start, completion, every 45 days and upon the request of the complainant, focus officer and the Chief of Police.

1010.9 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.

1010.10 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 member to administrative leave. Any member 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.

1010.11 CRIMINAL INVESTIGATION

Where a member 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.

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

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

The Elkhart Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.12 CAPTAIN'S BOARD

(a) The Division Captain of the focus officer will convene a three panel Captain's Board.

1. The board will be comprised of:
 - a. The focus officer's Division Captain
 - b. Two additional Captains
 - c. If three Captains are unavailable, the Chief of Police shall designate the Assistant Chief of Police or another lieutenant who is not involved in the investigation, to be on the Captain's Board.
 - d. The focus officer any of the below options to address the Captain's Review Board:
 1. The focus officer may choose not to appear before the Captain's Review Board and make no statement to the Captain's Review Board.
 2. The focus officer may submit a letter to his/her Captain or Professional Standards, which will be forwarded to the Captain's Review Board.
 3. The focus officer may appear in person in front of the Captain's Review Board.
 - e. If the focus officer chooses to appear before the Captain's Review Board, it will be on a voluntary basis. The board may or may not choose to ask questions of the focus officer. If any questions are asked of the focus officer, he/she may choose to answer or not answer any or all of the questions asked.
 - f. The Captain's Board will notify the focus officer of the date and time of the Captain's Board.

(b) The Captain's Board will review the investigation and any other relevant materials. At a minimum, the Captain's Board will make two (2) recommendations, one for the status of the investigation and one for discipline. Only after it is determined that discipline is needed, the Captain's Board may then review the member's personnel file before any recommendation for discipline is decided.

(c) The Captain's Board will fill out the Captain's Board Recommendation Form, providing a written recommendations to the Chief of Police.

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1. Recommendations by the Captain's board:

a. The status of the case

i. Not sustained

ii. Exonerated

iii. Unfounded

iv. Sustained

v. Policy Failure

b. For any discipline (if needed)

c. For policy changes (if needed)

(c) The Captain's Board will forward the completed investigation and the Captain's Board Recommendation Form to the Chief of Police.

1010.12.1 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Captain for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

(a) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.

Once the member has completed his/her response, or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1010.12.2 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES TIMELINES

The chain of command review should be completed within 30 days after the investigation is complete.

The Chief of Police should review the investigation and recommendation for disciplinary action as soon as practicable and propose the appropriate disciplinary action within 14 days of receiving the investigation and recommendations.

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1010.12.3 EXTENSION OF POST-INVESTIGATION PROCEDURE TIMELINES

When any member in the chain of command determines additional time is necessary to complete his/her review, a written request to extend the time for review and recommendation should be submitted to the Chief of Police for approval by the requesting member of the Captain's Board.

1010.12.4 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee should ensure that the complainant is provided written notification of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

1010.13 LEVELS OF DISCIPLINE

The following are the levels of discipline / corrective action from least to the greatest:

1. Counseling – talking to the officer and documentation in the employee module in the RMS.
2. Verbal Reprimand – after a review from the Captain's board, a verbal reprimand that is documented for tracking purposes.
3. Written reprimand – a written reprimand from the Chief of Police.
4. Corrective training – additional training to correct deficiencies.
5. Reassignment – a changing of job duties or position.
6. Suspension – loss of work without pay.
7. Demotion – loss of rank.
8. Termination - loss of employment.

1010.14 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral statement to the Chief of Police, prior to any discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) 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 conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.

1010.15 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member 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.

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1010.16 POST-DISCIPLINE APPEAL RIGHTS

In the event that the merit commission decides to dismiss, demote, or suspend an employee for a period exceeding 10 days, the employee may appeal to the circuit or superior court of the county in which the unit is located as provided in I.C. § 36-8-3.5-18.

1010.17 FRINGE BENEFITS

If the discipline issued is dismissal, the employee shall be provided written notice as to the status of his/her fringe and retirement benefits after dismissal.

1010.18 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members 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.

1010.19 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

1010.20 NOTIFICATION OF THE LAW ENFORCEMENT TRAINING BOARD

The Chief of Police or the authorized designee shall notify the Law Enforcement Training Board (LETB) of the final determination of discipline of an officer in the following circumstances (I.C. § 5-2-1-12.5):

1. Conviction of a felony or a finding of not guilty for a felony by reason of mental disease or defect.
2. Conviction of a misdemeanor under circumstances that would cause a reasonable belief that the officer is dangerous, violent, or has a demonstrated propensity to violate the law.
3. Falsification of qualifications for employment as an officer.
4. Participation in criminal conduct that was uncharged.

The notification shall occur within 30 days of the imposition of the discipline.

If an officer resigns or retires during an administrative investigation of any of the above grounds for discipline, the Chief of Police or the authorized designee shall notify the LETB within 30 days of the resignation or retirement (I.C. § 5-2-1-12.5).

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

1010.3.3 IDENTIFICATION OF DISCIPLINARY MEASURES

The Services Captain should ensure that the types of punitive measures that may be used against members in the event of disciplinary action (e.g., suspension, demotion, termination) are identified and made known to all members.

Counseling and/or remedial training may be used in lieu of punitive measures, if appropriate.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 ACCEPTANCE

All complainants will be promptly and courteously directed to a supervisor. A complaint may be filed orally, either in person, [electronically](#) or by telephone; or in written form. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall document the complaint in the complaint module in the RMS.

1010.5 DOCUMENTATION

Supervisors shall ensure that all I complaints are documented in [the proper complaint form](#) **RMS**. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

On an annual basis, the Department should audit the RMS Module and send an audit report to the Chief of Police or the authorized designee.

1010.6 INITIAL ASSESSMENT

Professional Standards will review all complaints and determine how the complaint [was or](#) will be handled. Complaints may be handled in the following manner:

- (a) Professional Standards can close out the complaint
- (b) Professional Standards can [review](#) **assign** the complaint [then assign the complaint](#) to the appropriate Division / Shift Lieutenant to investigate [if needed](#) :
- (c) Professional Standards can conduct an administrative investigation.

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1010.7 ADMINISTRATIVE INQUIRY VS ADMINISTRATIVE STATEMENT OF FACT

An administrative inquiry is an informal investigation checking to see if a policy violation has occurred.

An administrative statement of fact is a formal investigation concerning clearly defined and easily recognizable facts and details about the alleged policy violation(s) that only requires a basic investigation and presentation of facts . ~~An administrative allegation is a formal investigation concerning facts and details about the alleged policy violation(s).~~

An administrative inquiry may start out and finish as an inquiry. During an inquiry if a policy violation is identified, the investigation status will be immediately changed to an statement of facts or an administrative investigation. ~~allegation.~~

~~Example -- In an inquiry, the employee may be interviewed without the Garrity Admonition. During the interview the employee makes an admission of a policy violation. The interview will be immediately terminated. A subsequent interview will be scheduled along with a notification letter and a Garrity Admonition form.~~

1010.8 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.8.1 SUPERVISOR RESPONSIBILITIES

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 complaint, documentation in the proper software system RMS is completed.

1. The Watch Commander of the accused member shall be notified and take the appropriate action based on the nature of the complaint.

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 can orally report the matter to the member's Captain or the Chief of Police, or the supervisor can send an email or written document to Professional Standards, 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 in the complaint module and notify and the Watch Commander.

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

(e) Administration or Professional Standards will contact Human Resources in addressing a complaint that relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination

~~Promptly contacting the Watch Commander and Human Resources Department for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination.~~

(f) Informing the complainant of the investigator's name within three days after assignment.

(g) 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.

(h) Ensuring that the procedural rights of the accused member are followed.

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

(j) Professional Standards will notify the Chief of Police about the complaints

~~(a) The investigator will get with Professional Standards to address what policies and/or statutes were violated, and any Garrity concerns, if needed:~~

~~———1. Investigations can start at shift level, be re-evaluated, and sent to Professional Standards for investigation, if needed.~~

~~(b) Whether conducted by a supervisor or a member of Professional Standards, the following applies to employees:~~

~~Police Officers under investigation shall be advised in accordance with the agreement with the Fraternal Order of Police, Lodge #52 and the City of Elkhart Indiana:~~

~~Section 1. As used in this Article, "police officer" shall mean all persons who are sworn members of the Elkhart Police Department and police trainees:~~

~~Section 2. There is hereby created a police officer's Bill of Rights which applies to all police officers and police trainees who become full-time paid members of the Elkhart Police Department both prior to and after the effective date of this Agreement:~~

~~Section 3. Except when on duty or when acting in his/her official capacity, no police officer shall be prohibited from engaging in political activities:~~

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~~Section 4. Every police officer shall have the right to bring civil suit against any person, group of persons, or any organization or corporation or the heads of such organization or corporation as outlined by applicable law.~~

~~Section 5. Whenever a Police Officer is under investigation or subjected to interrogation by members of his/her department for any reason which could lead to disciplinary action, demotion, dismissal, or criminal charges, such investigation or interrogation shall be conducted according to the following procedure:~~

~~A. The officer shall immediately be notified in writing of the nature of the charges being investigated in all non-criminal investigations. (No notice is required regarding a criminal investigation until such time as the officer under investigation is asked to provide information verbally or in writing.)~~

~~B. The investigation shall be conducted at a reasonable hour, preferably at a time when the police officer is on duty unless in the judgment of the investigative officer the seriousness of the investigation is of such a degree that an immediate investigation is required. Under no circumstances shall an officer conducting an investigation request or order any reports, documents, or any other information to be divulged or disclosed by the officer under investigation unless and until such time as the officer under investigation is so notified that he or she is under investigation.~~

~~C. The investigation shall take place either at the office of command of the investigating officer(s) or at any City-operated office as designated by the investigating officer(s).~~

~~D. Prior to any interrogation or request for information of the police officer of the Elkhart Police Department who is the subject of said criminal investigation, a written Miranda Warning will be read. Refusal to waive his/her rights under the Miranda Warning shall not constitute a violation of any rules and regulation of the Elkhart Police Department and no retaliatory action will take place.~~

~~E. When so required pursuant to paragraphs A and D of this Article, the police officer under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer(s) and all persons present during the interrogation.~~

~~F. The police officer under investigation shall be informed of the nature of the investigation prior to any interrogation.~~

~~G. Interrogation sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as reasonably necessary.~~

~~H. The interrogation of a police officer shall be recorded upon the request of either party.~~

~~I. Questions posed to a police officer under administrative investigation shall specifically, directly, and narrowly relate to the performance of the police officer's official duties or his/her fitness for serving as a police officer. Under no circumstances shall the police officer being investigated be required to waive his/her immunity with respect to the use of the police officer's answers or the fruits thereof in a criminal prosecution.~~

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~~J. At the request of any police officer under interrogation, he/she shall have the right to be represented by counsel or any other representative not party to the investigation may be present at all times during such interrogation:~~

~~K. No Polygraph examinations or voice stress analysis shall be required:~~

~~L. The police officer shall be informed of the identity of any and all complainant(s) when notification is given:~~

~~M. The result of any investigation, whether favorable, unfavorable, or case closed without decision shall be communicated to the officer under investigation in writing as soon as practical once a determination is made by the investigating body:~~

~~Section 6. No police officer shall be required, for purposes of assignment or other personnel action, to disclose any item of his/her property, income, assets, source of income, debts, or personal or domestic expenditures (including those of any member of his/her family or household), unless such information is obtained under proper legal procedures or tends to indicate a conflict of interest with respect to the performance of his/her official duties. This section shall not prevent inquiries made by authorized agents of a tax-collecting agency in accordance with acceptable and legally established procedures:~~

~~Section 7. No dismissal, transfer, reassignment, or other personnel action which might result in loss of pay or benefits or other punitive measure resulting in monetary loss shall be taken against a police officer unless such police officer is notified in writing of such action and the reasons therefore prior to the effective date of such action:~~

~~Section 8. No police officer shall be discharged, disciplined, demoted, or denied promotion, transfer or reassignment, or otherwise be discriminated against in regard to his/her employment, or be threatened with any such treatment, by reason of his/her exercise of the rights granted in this Police Officer's Bill of Rights:~~

~~B. The officer can be required to answer all questions specifically, narrowly and directly related to the performance of his official duties. Refusal to comply with an order to answer such questions is a violation of departmental rules that may subject the officer to further discipline up to, and including dismissal:~~

~~C. Any admissions made during the interview may only be used in subsequent administrative proceedings, and shall not be used against the officer in subsequent criminal proceedings:~~

~~D. The officer's representative is limited to acting as an observer of the interview, except where the interview focuses on or leads to evidence of potential criminal activity by the officer. In that case, an officer's legal representative may advise and confer with the officer during the interview:~~

~~E. When employees are notified that they have become the subject of an internal affairs investigation, the department shall issue the employee a confidential written statement of the allegation(s) and the employee's rights (under Garrity) and responsibilities relative to the investigation procedures:~~

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1010.8.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Professional Standards, the following applies to members covered by I.C. § 36-8-2.1-4 (I.C. § 36-8-2.1-5; I.C. § 36-8-2.1-11):

- (a) Interviews of an focus officer ~~accused-member~~ should be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she should be compensated.
- (b) Unless waived by the member, interviews of an focus officer ~~accused-member~~ shall be at the Elkhart Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
 - 1. Questions should be specific and directly related to the performance of duties or fitness for service as an officer.
- (d) Prior to any interview, a member should be informed of the nature of the investigation.
 - (a) The member should be informed of who will be in charge of the investigation, the identity of the interviewers, and any other person who will be present during the interview.
 - (b) A statement of rights should be presented to the member and signed by the member and the interviewer.
 - (c) ~~A copy of the complaint, in a noncriminal case, should be provided to the~~
- (e) All interviews should be for a reasonable period, and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards, or other inducements be used to obtain answers.
- (g) Any member 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.
 - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the member 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, implications).
 - 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation, or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses. ~~The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview should be provided to the member prior to any subsequent interview.~~

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1. Upon request, the member should be provided with a written transcript of the recorded interview, at no cost.
 - (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 1. Unrepresented members shall be provided with reasonable time to obtain representation.
 - (j) All members shall provide complete and truthful responses to questions posed during interviews.
 - (k) No member may be compelled to submit to a polygraph or truth-telling device examination, nor shall any refusal to submit to such examination be mentioned in any investigation.
 - (l) No member shall be required to disclose information about the possession of property, income, debts, or personal expenditures unless the information is obtained through legal process or indicates a conflict of interest that affects the member's official performance of duties (I.C. § 36-8-2.1-11).
 - (m) Notice should be provided to members before the effective date of an adverse action as provided in I.C. § 36-8-2.1-9.

1010.8.3 ADMINISTRATIVE INVESTIGATION FORMAT

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

Introduction - Include the identity of the members, 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.

Alleged Officer / Allegations – A list of each focus officer and the alleged policy violation for each officer.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements.

Other evidence related to each allegation should also be detailed in this section.

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

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

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1010.8.4 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 members. 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 member.

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

Policy failure – When there is no policy which addresses the officer's conduct, or the policy needs to be re-evaluated or re-written.

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.

~~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.~~

1010.8.5 COMPLETION OF INVESTIGATIONS

(a) Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within ~~30~~ 45 days from the date of discovery by an individual authorized to initiate an investigation.

(b) Once the investigation is completed, Professional Standards will be notified.

(a) If the complaint can be closed "Exonerated" or "Unfounded", Professional Standards will document it in the complaint module. Professional Standards will close the complaint in the proper software system ~~RMS~~.

(b) If any corrective actions / discipline is needed (anything more than a counseling), the completed investigation will be forwarded to the focus officer's Division Captain, who will convene the Captain's Board.

(a) Any counseling will be documented in the ~~Employee-Module in the~~ proper software system ~~RMS~~ by the counseling officer.

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1010.8.6 EXTENSIONS

When an investigator or supervisor determines additional time is necessary to complete the investigation, a written request to extend the investigation beyond ~~45~~ 30 days should be submitted to the Chief of Police for approval and the focus officer shall be notified.

1010.8.7 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant, accused member and Chief of Police with periodic updates on the status of the investigation at the start, completion, every 45 days and upon the request of the complainant, focus officer and the Chief of Police.
~~every 14 days.~~

1010.9 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.

1010.10 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 member to administrative leave. Any member 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.

1010.11 CRIMINAL INVESTIGATION

Where a member 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 member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

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

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The Elkhart Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.12 CAPTAINS BOARD

(a) The Division Captain of the focus officer will convene a three panel Captain's Board.

1. The board will be comprised of:

- a. The Focus officer's Division Captain
- b. Two additional Captains
- c. If three Captains are unavailable, the Chief of Police shall designate the Assistant

Chief of Police, or another lieutenant who was not involved in the investigation, to be on the Captain's Board.

d. The focus officer any of the below options to address the Captain's Review Board:

1. The focus officer may choose not to appear before the Captain's Review Board and make no statement to the Captain's Review Board.

2. The focus officer may submit a letter to his/her Captain or Professional Standards, which will be forwarded to the Captain's Review Board.

3. The focus officer may appear in person in front of the Captain's Review Board.

e. If the focus officer chooses to appear before the Captain's Review Board, it will be on a voluntary basis. The board may or may not choose to ask questions of the focus officer. If any questions are asked of the focus officer, he/she may choose to answer or not answer any or all of the questions asked.

f. The Captain's Board will notify the focus officer of the date and time of the Captain's Board.

(b) The Captain's Board will review the investigation and any other relevant materials. At a minimum, the Captain's Board will make two (2) recommendations, one for the status of the investigation and one for discipline. Only after it is determined that discipline is needed, the Captain's Board may then review the member's personnel file before any recommendation for discipline is decided.

(c) The Captain's Board will fill out the Captain's Board Recommendation Form, providing a written recommendations to the Chief of Police.

1. Recommendations by the Captain's board:

- a. The status of the case
 - i. Not sustained
 - ii. Exonerated

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- iii. Unfounded
 - iv. Sustained
 - v. Policy Failure
- b. For any discipline (if needed)
 - c. For policy changes (if needed)

(c) The Captain's Board will forward the completed investigation and the Captain's Board Recommendation Form to the Chief of Police.

1010.12.1 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Captain for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) ~~Access to all of the materials considered by the~~ ~~in recommending the proposed discipline.~~
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
 - 2. ~~If the member elects to respond orally, the presentation shall be recorded by the~~ ~~Upon request, the member shall be provided with a copy of the recording.~~

Once the member has completed his/her response, or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1010.12.2 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES TIMELINES

The chain of command review should be completed within ~~30~~ ~~14~~ days after the investigation is complete.

The Chief of Police should review the investigation and recommendation for disciplinary action as soon as practicable and propose the appropriate disciplinary action within ~~14~~ ~~7~~ days of receiving the investigation and recommendations.

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1010.12.3 EXTENSION OF POST-INVESTIGATION PROCEDURE TIMELINES

When any member in the chain of command determines additional time is necessary to complete his/her review, a written request to extend the time for review and recommendation should be submitted to the Chief of Police for approval by the requesting member of the Captain's Board.

1010.12.4 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee should ensure that the complainant is provided written notification of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

1010.13 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized personal should ensure that the complainant is provided written notification of the disposition (i.e sustained, exonerated, unfounded) of the complaint.

1010.14 LEVELS OF DISCIPLINE

The following are the levels of discipline / corrective action from least to the greatest

1. Counseling – talking to the officer and documentation in the employee module in the RMS
2. Verbal Reprimand – after a review from the Captain's board, a verbal reprimand that is documented for tracking purposes.
3. Written reprimand – a written reprimand from the Chief of Police
4. Corrective training – additional training to correct deficiencies
5. Reassignment – a changing of job duties or position
6. Suspension – loss of work without pay
7. Demotion – loss of rank
8. Termination - loss of employment

1010.15 PRE_DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral statement to the Chief of Police, prior to of any discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) 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 conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.

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1010.16 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member 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.

1010.17 POST-DISCIPLINE APPEAL RIGHTS

In the event that the merit commission decides to dismiss, demote, or suspend an employee for a period exceeding 10 days, the employee may appeal to the circuit or superior court of the county in which the unit is located as provided in I.C. § 36-8-3.5-18.

1010.18 FRINGE BENEFITS

If the discipline issued is dismissal, the employee shall be provided written notice as to the status of his/her fringe and retirement benefits after dismissal.

1010.19 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members 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.

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

1010.20 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

1010.21 NOTIFICATION OF THE LAW ENFORCEMENT TRAINING BOARD

The Chief of Police or the authorized designee shall notify the Law Enforcement Training Board (LETB) of the final determination of discipline of an officer in the following circumstances (I.C. § 5-2-1-12.5):

1. Conviction of a felony or a finding of not guilty for a felony by reason of mental disease or defect.
2. Conviction of a misdemeanor under circumstances that would cause a reasonable belief that the officer is dangerous, violent, or has a demonstrated propensity to violate the law.
3. Falsification of qualifications for employment as an officer.
4. Participation in criminal conduct that was uncharged.

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The notification shall occur within 30 days of the imposition of the discipline.

If an officer resigns or retires during an administrative investigation of any of the above grounds for discipline, the Chief of Police or the authorized designee shall notify the LETB within 30 days of the resignation or retirement (I.C. § 5-2-1-12.5).

Temporary Modified-Duty Assignments

1028.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules or current collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

1028.2 POLICY

Subject to operational considerations, the Elkhart Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

1028.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Indiana Civil Rights Act shall be treated equally, without regard to any preference for a work-related injury.

No position in the Elkhart Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle or engaging in outside employment, or may otherwise limit them in employing their law enforcement officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

1028.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Employees seeking a temporary modified-duty assignment should submit a written request to their Captains or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Captain will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Human Resources Department or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Captain, with notice to the Chief of Police.

1028.5 DRESS

Any member that is assigned to temporary modified duty assignment must wear appropriate clothing and present a professional look. A collared shirt and clean pants must be worn, no t-shirts, holes in pants or flip flop will be worn.

1028.6 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Captain.

1028.6.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but are not limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.

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- (d) Submitting a written status report to the Captain that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

1028.6.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified-duty.

The responsibilities of supervisors shall include, but are not limited to:

- (a) Periodically apprising the Captain of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Captain and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

1028.7 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

1028.8 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)).

1028.8.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

1028.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Temporary Modified-Duty Assignments

1028.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules or current collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

1028.2 POLICY

Subject to operational considerations, the Elkhart Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

1028.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Indiana Civil Rights Act shall be treated equally, without regard to any preference for a work-related injury.

No position in the Elkhart Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle or engaging in outside employment, or may otherwise limit them in employing their law enforcement officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

1028.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

Elkhart Police Department

Policy Manual

Temporary Modified-Duty Assignments

Employees seeking a temporary modified-duty assignment should submit a written request to their Captains or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Captain will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Human Resources Department or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Captain, with notice to the Chief of Police.

1028.5 DRESS

Any member that is assigned to temporary modified duty assignment must wear appropriate clothing and present a professional look. A collared shirt and clean pants must be worn, no t-shirts, holes in pants or flip flop will be worn.

1028.6 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Captain.

1028.6.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but are not limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.

Elkhart Police Department

Policy Manual

Temporary Modified-Duty Assignments

- (d) Submitting a written status report to the Captain that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

1028.6.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified-duty.

The responsibilities of supervisors shall include, but are not limited to:

- (a) Periodically apprising the Captain of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Captain and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

1028.7 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

1028.8 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)).

1028.8.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

1028.9 ~~PROBATIONARY EMPLOYEES~~

~~Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified-duty.~~

1028.10 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification,

Elkhart Police Department
Policy Manual

Temporary Modified-Duty Assignments

training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Rod Roberson
Mayor

Kris Seymore
Chief



Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

August 25, 2021

Board of Public Safety
Municipal Building
229 S. 2nd Street
Elkhart, IN 46516

RE: Cpl. Nathan Lanzen #395 - Medical Leave of Absence

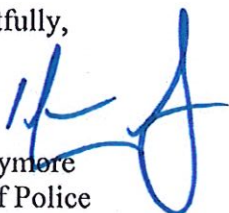
Dear Board Members:

According to Article XIII, Section 2 of the Police Officer Collective Bargaining Agreement it states that:

"If the Board of Public Safety finds that an officer who has been employed by the Police Department for longer than one (1) year is injured, ill, or disabled from any cause and is physically unfit to perform his regular duties during the period of such disability, then the Board of Public Safety shall grant a leave of absence with pay up to a maximum period of one-hundred-eighty (180) days commencing from the date of such injury, illness, or disability and said days shall run consecutively. The officer shall be required to use up to three (3) paid sick days prior to receiving extended leave for any non-line-of-duty injury."

Corporal Nathan Lanzen has requested a medical leave of absence with pay effective August 20, 2021 through November 20, 2021.

Respectfully,


Kris Seymore
Chief of Police

Cc: Payroll
Personnel File

Rod Roberson
Mayor

Kris Seymore
Chief



Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

August 25, 2021

Board of Public Safety
Municipal Building
229 S. 2nd Street
Elkhart, IN 46516

RE: Lt. Carl Conway #322 - Medical Leave of Absence

Dear Board Members:

According to Article XIII, Section 2 of the Police Officer Collective Bargaining Agreement it states that:

“If the Board of Public Safety finds that an officer who has been employed by the Police Department for longer than one (1) year is injured, ill, or disabled from any cause and is physically unfit to perform his regular duties during the period of such disability, then the Board of Public Safety shall grant a leave of absence with pay up to a maximum period of one-hundred-eighty (180) days commencing from the date of such injury, illness, or disability and said days shall run consecutively. The officer shall be required to use up to three (3) paid sick days prior to receiving extended leave for any non-line-of-duty injury.”

Lieutenant Carl Conway has requested a medical leave of absence with pay effective June 2, 2021, at this time his return date is unknown.

Respectfully,

Kris Seymore
Chief of Police

A handwritten signature in blue ink, appearing to be "Kris Seymore", is written over the printed name and title.

Cc: Payroll
Personnel File

Rod Roberson
Mayor

Kris Seymore
Chief



Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

August 25, 2021

Board of Public Safety
Municipal Building
229 S. 2nd Street
Elkhart, IN 46516

RE: Ptl. Matthew Lehner #475 - Medical Leave of Absence

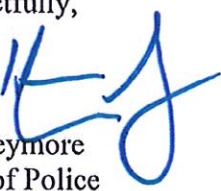
Dear Board Members:

According to Article XIII, Section 2 of the Police Officer Collective Bargaining Agreement it states that:

“If the Board of Public Safety finds that an officer who has been employed by the Police Department for longer than one (1) year is injured, ill, or disabled from any cause and is physically unfit to perform his regular duties during the period of such disability, then the Board of Public Safety shall grant a leave of absence with pay up to a maximum period of one-hundred-eighty (180) days commencing from the date of such injury, illness, or disability and said days shall run consecutively. The officer shall be required to use up to three (3) paid sick days prior to receiving extended leave for any non-line-of-duty injury.”

Ptl. Matthew Lehner has requested a medical leave of absence with pay that will begin on September 28 2021 and run through November 23, 2021.

Respectfully,


Kris Seymore
Chief of Police

Cc: Payroll
Personnel File

Rod Roberson
Mayor

Kris Seymore
Chief



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175 Waterfall Dr.
Elkhart, IN 46516

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August 26, 2021

Board of Public Safety
Municipal Building
229 S. 2nd Street
Elkhart, IN 46516

RE: Det. Susan Lambright #307 - Medical Leave of Absence

Dear Board Members:

According to Article XIII, Section 2 of the Police Officer Collective Bargaining Agreement it states that:

“If the Board of Public Safety finds that an officer who has been employed by the Police Department for longer than one (1) year is injured, ill, or disabled from any cause and is physically unfit to perform his regular duties during the period of such disability, then the Board of Public Safety shall grant a leave of absence with pay up to a maximum period of one-hundred-eighty (180) days commencing from the date of such injury, illness, or disability and said days shall run consecutively. The officer shall be required to use up to three (3) paid sick days prior to receiving extended leave for any non-line-of-duty injury.”

Detective Susan Lambright has requested a medical leave of absence with pay effective August 17, 2021 through 10/1/2021, and intermittent thereafter, 2-3 days per week through February 2022.

Respectfully,

Kris Seymore
Chief of Police

A handwritten signature in blue ink, appearing to be "Kris Seymore", is written over the printed name and title.

Cc: Payroll
Personnel File

Rod Roberson
Mayor

Kris Seymore
Chief



Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

September 8, 2021

Board of Public Safety
Municipal Building
229 S. 2nd Street
Elkhart, IN 46516

RE: Cpl. Kristin Klimek - Medical Leave of Absence Update

Dear Board Members:

According to Article XIII, Section 2 of the Police Officer Collective Bargaining Agreement it states that:

"If the Board of Public Safety finds that an officer who has been employed by the Police Department for longer than one (1) year is injured, ill, or disabled from any cause and is physically unfit to perform his regular duties during the period of such disability, then the Board of Public Safety shall grant a leave of absence with pay up to a maximum period of one-hundred-eighty (180) days commencing from the date of such injury, illness, or disability and said days shall run consecutively. The officer shall be required to use up to three (3) paid sick days prior to receiving extended leave for any non-line-of-duty injury."

Due to an unforeseen medical emergency, Cpl. Klimek was placed on medical leave on April 12, 2021. On October 6, 2021 Cpl. Klimek will be released to return to full duty; no restrictions

Thank you for your consideration in this matter.

Respectfully,

A handwritten signature in black ink, appearing to be "Kris Seymore".

Kris Seymore
Chief of Police

Cc: Payroll
Personnel File



2021
Fire Prevention Bureau Totals
August



Inspections	
Initial Inspections	43
Follow-up Inspections	31
Total Inspections	74
Fire Investigations	
Commercial	2
Residential	4
Vehicle	1
Other	0
Time Spent on Fire Investigations (hours)	
	175
Plan Reviews	8
Fire Safety Presentations	
	2
total # of students	140
Youth Firesetter Programs	0
Smoke Alarm Installs	5
CO Alarm Installs	5
Fire Extinguisher Class	
	0
total # of students	0
Public Records Requests	9
Meetings	11
PR Events/Health Fairs	
	5
Total # of People	428
Complaint Follow-ups	7
Fire Code/Historic Data Research (hours)	8.25
Total Scene Responses	22
Total Training Hours	98

Rod Roberson
Mayor

574.293.2175
Fax: 574.970.0561

Michelle Miller
Department Head



Elkhart City Communications
135 East Franklin Street
Elkhart, Indiana 46516

Date: September 2, 2021
To: Mayor Rod Roberson
Elkhart City Board of Public Safety
Common Council
From: Michelle E. Miller, Department Head
Elkhart Communications Center
Re: **August 2021 Month End Report**

We processed 11,365 incoming & outgoing emergency and non-emergency phone calls. This was an increase of 507 calls from August 2020. Below is a summary of the calls we handled in Communications.

CALL SOURCES	911 *This includes Landlines, Wireless, VoIP, TextTTY, and abandoned.* (as reported by ECats State reporting online)	Administrative (non-emergency)	TOTAL
	2,683	8,682	11,365
2020 TOTALS	2,367	8,491	10,858
2019 TOTALS	2,104	8,524	10,628

By shift, we entered 7,882 calls into the CAD, an increase of 516 calls from July 2020. Below is a breakdown of the call volume by shift.

	POLICE CALLS	FIRE CALLS	OTHER	TOTALS
Day Shift	2284	426	285	2995
Afternoon Shift	2441	415	391	3247
Midnight Shift	1300	182	158	1640
All Shifts	6025	1023	834	7,882
2020 TOTALS	5891	832	643	7,366
2019 TOTALS	6085	793	661	7,549

*Other Calls refers to calls made to communications that either required a response by other departments, such as Parks Dept., Street Dept., etc. This also includes calls that are dispatched out as attempts to locate, repossessions and/or private impounds.

OTHER BUSINESS

- For the month of July 2021 we handled 56 AUDIO REQUESTS for the Prosecutor’s Office and Police Dept. We provided 10 (FOIA) Public Records Requests to individuals.
- We continue to have 3 open positions at this time. One passed the CVSA on 9/2/2021. A 2nd is currently in the background investigation phase.

Call Summary

Elkhart City 911
 Communications Center
 135 E. Franklin St
 Elkhart, County
 Year: 2021
 Agency Affiliation: Police

Report Date: 14:19:45
 Report Date From: 08/01/2021
 Report Date To: 08/31/2021
 Period Group: Month
 Days Of Week: All
 Call Type: All
 Abandoned Filters: Include
 NSI Filters: NSI Included in 911 Totals
 Agency Affiliation: All

	August 2021	Total	County Average
911	Inbound	2,630	3,796
	Abandoned	47	365
	Abandoned %	1.75%	8.77%
	Unparsed	6	3
	Total	2,683	4,164
	Inbound	0	0
	Abandoned	0	0
	Outbound	0	0
	Unparsed	0	0
	Total	0	0
10-Digit Emergency	Inbound	6,406	5,027
	Abandoned	18	103
	Outbound	2,257	1,987
	Unparsed	1	6
	Total	8,682	7,123
Administrative	Avg Call Duration	84.9	91.0
	Total	11,365	11,289

Building Dept Monthly Report - 2021

August Inspections

		Commercial	Residential	Commercial Violations	Residential Violations	Commercial Abated	Residential Abated	Totals
Building Inspector	Building	55	54					109
	Electrical							0
	Mechanical							0
	Plumbing							0
	Fire							0
Mechanical Inspector	Building	1	2					3
	Electrical							0
	Mechanical	25	21					46
	Plumbing							0
	Fire	2	2					4
Plumbing Inspector	Building	2						2
	Electrical	1		1				1
	Mechanical	2	1	1				3
	Plumbing	31	13					44
	Fire	2	1					3
Electrical Inspector	Building							0
	Electrical	36	47					83
	Mechanical							0
	Plumbing							0
	Fire							0
Totals		157	141	2	0	0	0	298

Building Permits By Category

Building Permit Category	Number of Permits	Value	Average Value	Permit Fees
Residential New	3	\$880,000.00	\$293,333.33	\$1,128.00
Residential Alteration/Addition	64	\$691,625.00	\$10,806.64	\$2,987.00
Commercial New	5	\$4,665,499.00	\$933,099.80	\$4,363.00
Commercial Alteration/Addition	13	\$828,257.00	\$63,712.08	\$905.00
Manufactured House Set-up	0	\$0.00	n/a	\$0.00
Fire Suppression Systems	9	\$736,333.00	\$81,814.78	\$880.00
Storage Tank Install/Removal	0	\$0.00	n/a	\$0.00
Building Demolition/Move	6	\$118,413.00	\$19,735.50	\$240.00
Swimming Pool Install	0	\$0.00	n/a	\$0.00
Res/Com Accessory Structures	6	\$38,000.00	\$6,333.33	\$246.00
Canopies, Tents, Other.	2	\$2,500.00	No Value	\$80.00

Building Permits Issued	108	\$7,960,627.00	\$10,829.00
Electrical Permits Issued	66		\$3,600.00
Mechanical Permits Issued	54		\$5,975.00
Plumbing Permits Issued	29		\$1,650.00
Total Permits Issued	257		

Total Permit Fees Collected	\$22,054.00
------------------------------------	--------------------

Date: August, 2021

CODE OFFICER	INCIDENTS	ACTIVE	CLOSED	# OF TICKETS	FINE AMOUNT	NOTES
TRENT AVANCE	122	48	74	1	\$100.00	
BRUCE ANGLEMYER	128	48	80	0	\$0.00	
MAYFIELD TIMMONS	168	67	101	0	\$0.00	
KEN HUNT	152	52	100	0	\$0.00	
MONEY COLLECTED (UNSAFE FUND)						
Total	570	215	355	1	\$100.00	\$10,227.05