



**CITY OF YPSILANTI
POLICE ADVISORY COMMISSION MEETING
Thursday, June 27, 2019 @ 7:00 PM
Council Chambers
One South Huron, Ypsilanti, MI 48197**

Page

I. CALL TO ORDER

II. ROLL CALL

COMMISSIONERS:

Andy Fanta
Heather Freeling
Kathleen McCormick
Herman Humes
Gail Wolkoff

STAFF LIASION:

Police Chief Tony DeGuisti

III. AGENDA APPROVAL

IV. APPROVAL OF MINUTES

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- A. May 23, 2019
[DRAFT MINUTES 5-23-19](#)

V. PUBLIC COMMENT (3 MINUTES)

VI. RESOLUTIONS/MOTIONS/DISCUSSIONS

- A. Review of monthly statistical report - Chief DeGiusti
- B. Resolution No. 2019-001, Recognizing Commissioner Sue Melke.
[2019-001](#)

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- C. Finalize Commission Engagement Letter
[PAC Engagment Letter](#)
[2019 PAC Meeting Schedule](#)
[2020 PAC Meeting Schedule](#)

- D. Letter in response to the Nouri Complaint

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- E. Review Ann Arbor Police Supervisory Materials
[Ann Arbor Ordinance](#)

VII. OLD BUSINESS

VIII. PUBLIC COMMENT (3 MINUTES)

IX. NEXT MEETING DATE

A. July 25, 2019

X. ADJOURNMENT



**CITY OF YPSILANTI
POLICE ADVISORY COMMISSION
THURSDAY, MAY 23, 2019
7:00 P.M.
CITY HALL – COUNCIL CHAMBERS**

I. CALL TO ORDER:

The meeting was called to order at 7:11 p.m.

II. ROLL CALL:

COMMISSIONERS:

Andy Fanta	Present
Heather Freeling	Absent
Kathleen McCormick	Present
Susan Melke	Present
Herman Humes	Present
Gail Wolkoff	Present

STAFF LIASION:

Police Chief Tony DeGuisti

III. AGENDA APPROVAL

Commissioner McCormick moved, seconded by Commissioner Melke to approve the agenda.

On a voice vote, the motion carried, and the agenda was approved as submitted.

IV. APPROVAL OF MINUTES

— April 25, 2019

Commissioner McCormick moved, seconded by Commissioner Melke to approve the minutes.

On a voice vote, the motion carried, and the minutes were approved as submitted.

V. PUBLIC COMMENT

None

VI. RESOLUTIONS/MOTIONS/DISCUSSIONS

1. Review of monthly statistical report – Chief of Police

Chief DeGisuti presented the Police Department monthly report.

Commissioner Melke asked how the complaint was investigated if it did not enough information was provided on the complaint. Chief DeGiusti responded officers no the complainant.

Commissioner McCormick stated the Housing Commission employees are taking training on how to administer Narcam. Chief DeGiusti replied the Police Department has been carrying it for a number of years, and last year officers saved the lives of thirteen individuals. Commissioner Humes asked if the article is referencing all drugs, or simply opioids. Commissioner McCormick replied she believes the article is focusing on the opioid crisis. Commissioner Wolkoff stated the age demographics she works with there is an increased use in marijuana and ecstasy. Ms. McCormick added cocaine is all seeing a reemergence. Chief DeGiusti agreed, and explained the article has a link that discusses opioid prescriptions. Commissioner Fanta stated he and his colleagues have never believed marijuana use would ever lead to opioid use, and were surprised when marijuana use was decriminalized. He believes that marijuana will be found to be a miracle drug, and now the focus can go toward opioids.

2. Create list of stakeholders for the Commission to engage

Commissioner Fanta asked the Commission for their opinion of the letter he drafted, and explained he would like to include the 2020 dates.

The Commission engaged in determining the dates for the 2020 Police Advisory Commission.

The Commission engaged in edits to the letter.

Commissioner Fanta stated he will create a compiled list of Commission's suggestions and bring them to the June meeting.

Commissioner Humes moved, seconded by Commissioner Melke to approve the Commission Schedule for 2020.

Approved: Yes – 5; No – 0; Absent – 1 (Freeling)

3. Review Ann Arbor Police Supervisory Materials

Commissioner Fanta stated the Ann Arbor included a great deal in that the body would be composed of a diverse mix of the city's population. Commissioner Melke agreed. Mr. Fanta asked the Commission to individually forward him any potential updates to Ypsilanti's ordinance, and he will compile the list for discussion during next meeting.

4. Letter from City Attorney

Commissioner Fanta explained through his conversation with the City Attorney he understood the attorney's office could not provide opinion on youth members being allowed to vote on certain topics, unless specifics are given.

Commissioner Fanta stated there is not a member of Ward 3 on the Commission, and he would approach City Council to hopefully rectify that. Commissioner Melke suggested asking one of the applicants for the Ward 3 vacancy if they would like to be appointed to this body.

5. Alex Nouri Complaint

Commissioner McCormick asked if any of the Commissioners is familiar with Mr. Nouri. Commissioner Wolkoff responded that she is. Commissioner Melke replied she has met with Mr. Nouri. Ms. McCormick explained the Commission is unlikely to see Mr. Nouri, and will only hear from him through complaints. Chief DeGiusti added he tried to meet with him several times with little success. He explained the

complaint is relatively old, it started in June of 2016. He stated Mr. Nouri lives in an apartment complex, which has certain pool rules that are loosely enforced. The incident described in the complaint involved a person in the pool wearing a tee-shirt, and apparently the rules do not allow a person to wear clothing. Mr. Nouri engaged in an argument with the individual and then began filming him, which caused the person to become upset. Mr. Nouri then became fearful and ran away from the person and tripped over a piece of lawn equipment and fell sustaining some injury. Mr. Nouri wanted the person to be prosecuted, or at least have the case forwarded to the Prosecutor's Office. The Prosecutor's Office denied the warrant making Mr. Nouri upset. He then made several calls to the Police Department and filed several FOIAs. Things began to snowball from there, and at some point during the next winter his car was left on the road with a plate that had been expired for three months. His car was then towed in order for the road to be plowed following a snow storm. The person who had Mr. Nouri's car towed did not know Mr. Nouri nor that he had filed any complaints, however, Mr. Nouri believed it was in retaliation for his complaints. This resulted in several other complaints being filed by Mr. Nouri. There then was another issue that occurred at his apartment's pool, again involving an African American family. The family had guests at the pool, which is against complex rules, and during the argument Mr. Nouri shoved a four year old to the ground. Mr. Nouri was then punched in the face for his shoving the four year old. Mr. Nouri insisted that the individual be prosecuted, the Prosecutor responded that in order to move forward Mr. Nouri would need to be prosecuted for assault. Chief DeGiusti stated he has tried to meet with Mr. Nouri at B-24s, a neutral location. Mr. Nouri engaged conversations regarding potentially bringing a witness or recording the meeting. Chief DeGiusti stated he took no issue with either of those things. He explained Mr. Nouri no longer wished to meet at B-24s he preferred to meet at a restaurant. Chief DeGiusti explained to Mr. Nouri he did not want to occupy a table at a restaurant if not ordering a meal. Mr. Nouri began to argue about where the meeting would be located and eventually Chief DeGiusti determined he would not meet with Mr. Nouri. Chief DeGiusti stated he investigated all Mr. Nouri's complaints and there were some that were substantiated, but only because Mr. Nouri pushed the employee to the point they said something inappropriate. The department provided punishment where necessary and Mr. Nouri was given a response, which was not to Mr. Nouri's satisfaction and complained to Council about Chief DeGiusti. Chief DeGiusti added Mr. Nouri caused such a scene at the Prosecutor's Office he has been trespassed, and now requires an appointment to go there. At some point the City Attorney's Office sent a cease and desist order to Mr. Nouri because it became harassment.

Commissioner Fanta believed the complaints were properly investigated by the Police Department. He asked if Commissioners that have the skillset would be willing to develop a template for handling complaint review. Commissioner Wolkoff stated after reviewing the complaint she began to think about what Mr. Nouri wants as a result of this complaint. She believes Mr. Nouri wants to be heard, and she is not certain if Mr. Nouri is a danger to himself or others. Chief DeGiusti responded there has been nothing to indicate Mr. Nouri is a danger to himself or others. Ms. Wolkoff stated Mr. Nouri is hovering on slander and the commission has to determine if there has been an injustice. She stated she wants Mr. Nouri to feel that he is being heard and that he is safe. She can understand not allowing him into buildings, but looking at it from his perspective it is horrible. Commissioner Melke agreed. Chief DeGiusti stated he is not certain the mission of this commission is to make a person feel safe, it is to examine to ensure that a complaint was handled properly. Chief DeGiusti stated if the Commission is satisfied the investigation was handled properly it has done its job. Commissioner Fanta agreed, but differentiated Mr. Nouri's activities from another person's activities. The troubling thing regarding Mr. Nouri's complaint is he does not seem interested in the feedback he received because it did not align with the outcome he wanted.

Commissioner Fanta asked what the letter sent to Mr. Nouri should contain. Commissioner Melke responded the letter should state "if there are issue in the future they should be brought the Commission's attention earlier". There is not much impact the Commission can have at this time.

Police Advisory Commission | Draft Minutes

Commissioner Humes stated this complaint is from prior to the creation of the Commission. He is not understanding why the Commission would be reviewing this complaint. Commissioner Melke responded because Mr. Nouri asked that it be reviewed. She added Mr. Nouri did not ask the Commission to do anything, he simply wants to be heard. Mr. Humes stated the letter should state "the Commission reviewed the complaint, and has only been in existence for one year. The charge of the Commission is to determine the complaint was investigated satisfactorily, and does not require any further action".

Commissioner McCormick asked if the action taken by the Police Department when investigated were performed satisfactorily. Commissioner Melke responded she has questions. Ms. McCormick responded what are the questions. Ms. Melke asked if it was necessary to have an officer approach the window along with the administrative staff. She asked if the intent was to intimidate Mr. Nouri. Chief DeGiusti responded no, and explained the former Records Clerk informed him Mr. Nouri intimidated her and asked for an officer to stand with her. Ms. Melke stated they were behind glass, and said it is an intimidation tactic. Ms. McCormick interjected it appears Mr. Nouri went to the Police Station with the intent of intimidating staff. She makes that determination based on previous experience with the complainant. Chief DeGiusti stated one of his charges is for his employees to be safe. If he is approached by an employee indicated they do not feel safe, he is going to do what he can to help them feel comfortable. Ms. Melke asked if there is a better way for that to be handled. Chief DeGiusti responded it was the Attorney's Office made that determination based on the disruptions Mr. Nouri created.

Commissioner Fanta responded he is uncomfortable second guessing the action of the Police Department. He asked if there is a policy the Commission could assist in creating when dealing with a difficult person. Commissioner Melke agreed, a protocol should be developed. She asked for that to be placed on a future agenda.

Commissioner Wolkoff stated it is clear Mr. Nouri does not feel safe.

Commissioner Melke stated some of the complaints were substantiated. Chief DeGiusti responded in the affirmative, and reviewed what they entailed. He added many were sustained because much of the time the complainant kept the person talking long enough that they became frustrated. Ms. Melke understood.

Commissioner Wolkoff asked if it would be advantageous to provide training to limit time on conversations, or disengage. Commissioner McCormick interjected if you are successful in getting him off the phone he would only call right back. He knows how to take a person to the edge.

Commissioner Melke asked if some officers are more trained in mental health. Chief DeGiusti responded everyone has basic mental health training.

Commissioner Melke stated the Commission response should be the complaint was examined, and the Commission determined there would not be further action taken. In the future please come forward with any issues in a timelier manner. Clerk Hellenga suggested the letter state "...if he has anything relevant to the task of this Commission". Commissioner Wolkoff suggested the letter strongly indicate Mr. Nouri has been heard.

Commissioner Wolkoff proposed the Chair person send the letter for the Commission.

VII. OLD BUSINESS:

Chief DeGiusti stated on the weekend of June 8th the Police and Fire Department will be holding a Public Safety Open House. The Interrupters group will also be out knocking on doors. Educate

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Youth will also be holding an end of the year celebration for the young community members. He stated on June 9th the 'Wear the Orange' event will be held. It is not an antigun rally it is an antigun violence. Also that day, from noon until 5:00 p.m. an ice cream social will be held to honor Council Member Murdock.

Commissioner Wolkoff stated she was informed many of the guns on the street are a result of people leaving them in their cars, and then having them stolen. Chief DeGiusti responded in the affirmative. Ms. Wolkoff asked if the Police Department would be willing to come and take a gun from a youth without arresting them. Chief DeGiusti responded there is a gun buyback program. Commissioner McCormick interjected the public believes that to be a setup, and added if people want to get rid of guns they toss them in the river. Chief DeGiusti stated if a gun is turned in it must be reported to the ATF, but there are other possibilities.

VIII. PUBLIC COMMENT:

None

IX. NEXT MEETING DATE:

— June 27, 2019

X. ADJOURNMENT:

Commissioner Melke moved, seconded by Commissioner Humes to adjourn the meeting.

On a voice vote, the motion carried, and the meeting adjourned at 8:47 p.m.



Resolution No. 2019-001
June 27, 2019

RESOLVED BY THE POLICE ADVISORY COMMISSION OF THE CITY OF YPSILANTI:

WHEREAS, Ms. Sue Melke was a long time resident of the City of Ypsilanti; and

WHEREAS, Ms. Melke displayed an unwavering commitment to the City of Ypsilanti, its residents, their concerns, issues, welfare; and

WHEREAS, her commitment to the City of Ypsilanti involved her regular attendance at City Council, City Boards, Commission, and Task Force meetings over the years; and

WHEREAS, Ms. Melke also acted as an advocate for the less fortunate citizens of the City of Ypsilanti, by sharing their issues, concerns and ultimately giving voice to them with local officials; and

WHEREAS, as a member of Y-PAC (Ypsilanti Police Advisory Commission), with her fellow Commissioners, she sought to make the Commission a relevant, timely, and important component of modern local government.

THEREFORE BE IT RESOLVED, that we the undersigned members of the Ypsilanti Police Advisory Commission hereby publicly express our collective admiration for her passion for our city, her volunteer work for the city, and as her valued membership on the Ypsilanti Police Advisory Commission.

AND FURTHER BE IT RESOLVED that an original copy be delivered to the Mayor and City Council after passage by the Commission.

Andy Fanta, Chair
Police Advisory Commission

Kathleen McCormick, Vice Chair
Police Advisory Commission

Heather Freeling
Police Advisory Commission

Herman Humes
Police Advisory Commission

Gail Wolkoff
Police Advisory Commission

I do hereby certify that the above resolution is a true and correct copy of Resolution 2019-001 as passed by the Ypsilanti Police Advisory Commission, at their meeting held on June 27, 2019.

Andrew Hellenga, City Clerk



City of Ypsilanti

Police Advisory
Commission

Dear:

The purpose of the Police Advisory Commission may be summarized as strengthening and enhancing the relationship between the community of the City of Ypsilanti and its Police Department. The Commission seeks to act as a localized point of information to the public.

In addition to reviewing statistical data and evaluation complaints, the Commission creates a forum to listen to the concerns of citizens.

The Commission values you and your group's input. A schedule of Commission meeting dates through 2020 are enclosed with this letter. All meetings will be held in City Council Chambers in City Hall, unless otherwise published, and begin at 7:00 p.m.

Please join the Commission in creating a community in which all feel safe and welcome.

Please post and/or calendar our meeting dates for your group/organization(s) meetings.

Enclosed:
2019 & 2020 Police Advisory Commission Schedules



City of Ypsilanti
POLICE ADVISORY COMMISSION
One South Huron Street
Ypsilanti, Michigan 48197

2019 Calendar of Meetings

The regular meetings of the City of Ypsilanti **Police Advisory Commission** for 2019 will generally be held on the **fourth Thursday** of each month, at 7:00 p.m. in the City Hall Council Chambers (first floor) at One South Huron Street, Ypsilanti, Michigan. Dates for 2019 **Commission** meetings are as follows:

January 24
February 28
March 28
April 25
May 23
June 27
July 25
August 22
September 26
October 24
November 28
December 26

The City of Ypsilanti encourages persons with disabilities to participate and will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired, Limited English Proficiency (LEP) services, and audios of printed materials being considered at the meeting. Individuals requiring auxiliary aids or services should provide two (2) days' notice to the City, and contact the City by writing or calling the following:

City Clerk's Office
One South Huron Street
Ypsilanti, Michigan 48197-5420
(734) 483-1100

All persons are welcome to attend. For further information on the Police Advisory Commission, contact the Office of the Chief of Police at 505 W. Michigan, or 734-483-8590, or <http://cityofypsilanti.com/671/Police-Advisory-Commission>



City of Ypsilanti
POLICE ADVISORY COMMISSION
One South Huron Street
Ypsilanti, Michigan 48197

2020 Calendar of Meetings

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ANN ARBOR CITY APPROVAL NOTICE

ORDINANCE NO. ORD-18-30

INDEPENDENT COMMUNITY POLICE OVERSIGHT COMMISSION

AN ORDINANCE TO REPLACE PREVIOUSLY REPEALED SECTIONS 1:210 THROUGH 1:220 OF CHAPTER 8, TITLE I OF THE CODE OF THE CITY OF ANN ARBOR WITH NEW SECTIONS 1:210 THROUGH 1:220 OF CHAPTER 8, TITLE I OF THE CODE OF THE CITY OF ANN ARBOR (INDEPENDENT COMMUNITY POLICE OVERSIGHT COMMISSION)

The City of Ann Arbor ordains:

Section 1. That previously repealed sections 1:210 through 1:220 of Chapter 8, Title I of the Code of the City of Ann Arbor be replaced with new sections 1:210 through 1:220 of Chapter 8, Title I of the Code of the City of Ann Arbor to read as follows:

1:210. - Independent Community Police Oversight Commission.

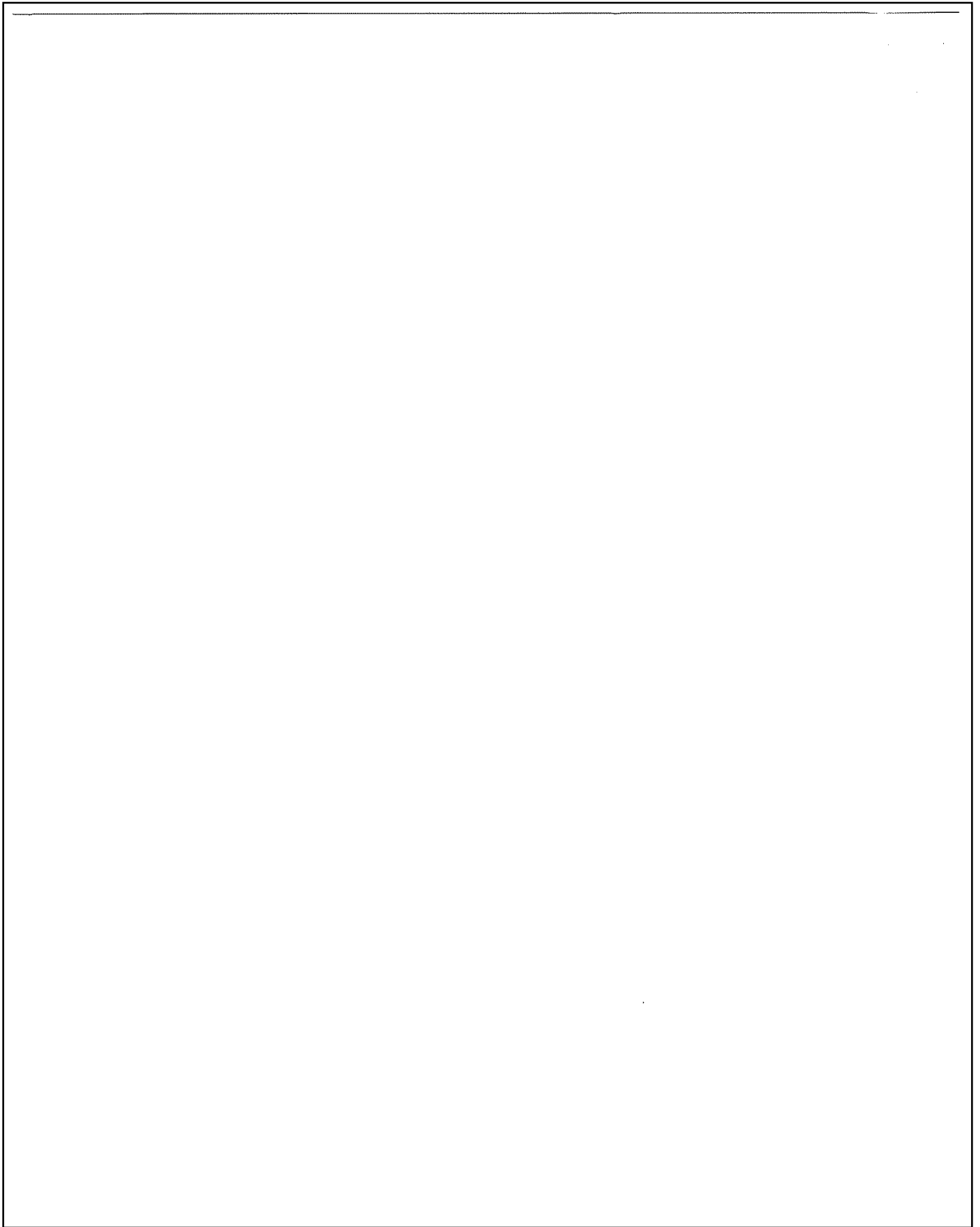
There is hereby created an Independent Community Police Oversight Commission. Historically, across the nation, policing has been used as a mechanism for social control by means including racial bias, disparities in police use of force, and the impacts of officer-involved shootings and other violent encounters with law enforcement officers. This fact, combined with ongoing racial discrimination in America today, creates distrust and tension between marginalized populations and law enforcement.

The City of Ann Arbor and the Ann Arbor Police Department are committed to building trust and positive relationships with all segments of the community. The City cannot achieve this end without addressing our national history of using the police as a tool to reinforce systems of racial inequity. The formation of the Independent Community Police Oversight Commission is a necessary step in reframing the relationship that the residents of Ann Arbor have with the police and an investment in the smart, equitable, community-oriented policing that the Ann Arbor Police Department strives for and that our community deserves.

1:211. - Same—Definitions.

For purposes of the Ordinance, the following terms shall have the following defined meanings:

- (1) *Commission* means the Independent Community Police Oversight Commission.
- (2) *Department* means the City of Ann Arbor Police Department.



(3) *Ordinance* means the City ordinance that created the Commission, as amended.

(4) *Police-related Policy* means any policy or practice of the Department and any other policy or practice of the City or any of its agencies to the extent that it governs or otherwise bears on the work of the Department.

1:212. - Same—Purpose.

The Commission has all of the following purposes:

- (1) To improve and strengthen police-community relations.
- (2) To create an environment which allows for better communication, understanding, and relations between the Department and the community.
- (3) To provide the community with a role in recommending policies and practices that ensure a high quality of police services, and to give the community a voice in influencing the selection of leadership for the Department.
- (4) To provide oversight of the Department with regard to the provision of police services, with the goal that the entire community – meaning everyone who lives, works, studies in, or visits Ann Arbor – may live safely and experience equitable treatment in any interactions with the police.
- (5) To work with the Department to encourage the respectful treatment of all persons, and without undue use of force. This concern is of special significance with respect to segments of the community that are vulnerable and have been marginalized, such as persons of color, immigrants, low-income people, victims of domestic violence, those who suffer from mental illness, and transgender persons.
- (6) To provide a process for outside review of particular incidents to evaluate the police response in the incident as well as the sufficiency of any police investigation related to the incident and to recommend any changes in police policies or practices.

1:213. - Same—Nature of the Commission.

The Commission is created by the City with the authority stated under City Charter Sections 5.17(a) and (b). The Commission will exercise its authority and judgment independent of City administration under the Ordinance. The Commission shall provide advice, through reports and recommendations, to the Police Chief, the City Administrator, and the City Council with respect to matters concerning the Department consistent with

the authority in Section 5.17(a) of the City Charter. The Commission shall take other actions as are prescribed by the City Council pursuant to Section 5.17(b) of the City Charter. The creation and operation of the Commission shall not impair the authority and responsibility of the Police Chief, the City Administrator, and the Council, as provided in the City Charter. Reports, recommendations, conclusions, and findings produced by or for the Commission are not binding, factually or legally, on the City or any part thereof, including the Department, the City Administrator, the City Attorney, and the City Council.

1:214. - Same—Composition of the Commission

- (1) *Membership.* The Commission shall consist of 11 voting members, one of which shall be a youth member, to be appointed by one or more of the City Council liaisons to the Human Rights Commission or liaisons to the Commission with the approval of the City Council. In making appointments of members to the Commission, City Council liaisons to the Human Rights Commission and the Commission shall appoint persons who, insofar as possible, represent the City's diverse population – especially those who tend to have significant negative interactions with the police and are committed to improving police and community relations. Persons who are current employees of the City or who have been employed by the City, including active or former Police officers, within five years of nomination shall not be eligible for appointment.
- (2) *Initial Recruitment Process.* To recruit applications community-wide for initial membership on the Commission, the Ann Arbor Human Rights Commission will do publicity and outreach to organizations that represent diverse populations. The Human Rights Commission, in conjunction with diverse representatives of the community, will plan multiple ways to inform the community about the Commission and the role and expectations of Commission members and its advisors. An application form shall be posted online and hard copies shall be made available in City Hall. Translation services shall be made available to applicants as necessary. Applicants may also choose to apply by interview completed by Human Rights Commission. Failure to apply shall not disqualify a person from being eligible for appointment. The Mayor, City, and other community organizations may also solicit recommendations for nominations from the community.
- (3) *Diversity of Membership.* The Commission, community organizations, and City Council shall endeavor to ensure that (a) the overall membership of the Commission reflects the City's diverse population, including income level, race, ethnicity, age, gender, sexual orientation, and experience; (b) segments of the community that are vulnerable and have been marginalized, and that tend to have significant negative interactions with the police, are amply represented; and (c) the Commission includes members with a variety of skills, expertise, and life

experiences bearing on the work of the Commission, such as people who work or have worked in the fields of mediation, conflict resolution, mental health, housing, homelessness, anti-racist and equity reform, and transformative justice, and people who have had significant experience with the police, law enforcement, and the criminal justice system.

- (4) *Terms.* Terms for voting members shall be three years, other than any youth member whose term shall be one year. Terms shall be staggered so that approximately one third of the voting members' terms expire each year.
- (5) *Term Limit.* No person serving on the Commission continuously for six years shall be eligible for reappointment, until the lapse of three years.
- (6) *City Council Liaisons.* The City Council will designate two of its members to serve as liaisons to the Commission. They will sit with the Commission as nonvoting members but otherwise may participate fully in meetings of the Commission.
- (7) *Filling Vacancies.* If a seat on the Commission becomes vacant, it shall be filled in accordance with Section 12.14(b) of the City Charter.

1:215. - Same—Incident Review

- (1) *Incident Review.* The Commission shall have the authority to review and examine the actions of the Department with respect to individual incidents after the Department has acted. The review extends to both the conduct of the police officers involved in the incident and to those police officers who examine the incident for disciplinary or other purposes. The Commission's review and examination shall not precede or be concurrent with Department actions, but shall occur after the Department and City have completed all proceedings related to the incident or action under review, including investigative, criminal, disciplinary, complaint, and other proceedings.
- (2) *Filing a Complaint.*
 - (a) Any individual, whether or not involved in the incident in question and without respect to citizenship or residence, may file a complaint with the Commission or the Department. The Commission shall not inquire about any complainant's immigration status or gender identity.
 - (b) The complaint may be filed in person, by telephone, by e-mail, or by mail. The complaint should contain information about the alleged incident, including location, date and involved police officers, if known. Any complaints received

by the City that are addressed to the Commission, should be promptly forwarded to the Commission.

- (c) The complainant may choose to file the complaint anonymously. If filed anonymously, the Commission shall not attempt to determine the identity of the complainant, and shall attempt to communicate with the complainant only if it can do so without learning the complainant's identity. If a complaint is made without revealing the identity of the complainant, the Commission shall treat the complaint as being filed anonymously. A complainant who files anonymously may decide at a later time to reveal the complainant's identity. The fact that a complainant's identity is known to a Commission member shall not prevent the complainant from filing the complaint anonymously.
- (d) The Commission may also initiate its own review of the Department's complaint disposition in a particular incident or the Department's response to an incident. The Commission's review shall not precede or be concurrent with Department actions, but shall occur after the Department and City have completed all proceedings related to the complaint disposition under review, including investigative, criminal, disciplinary, complaint, and other proceedings.
- (e) There is no time limit for filing a complaint or for initiation of review of an incident. The Commission will exercise appropriate caution in reviewing an incident that is not recent, but it shall act on the recognition that no matter how old an incident is it may hold lessons for the future.
- (f) A person who wishes to transmit information to the Commission or City, but does not wish to file a complaint or contact the Commission or City directly, may contact a community liaison designated by the Commission under the Ordinance.

(3) *Complaint Procedure.*

- (a) Upon receipt of a complaint, the Commission will review the complaint and timely provide a copy of the complaint to the Department's Professional Standards Section. To the extent the complaint or inquiry concerns conduct of the Police Chief, the matter shall be referred to the City Administrator. If a complaint does not allege officer misconduct, but relates only to Police-related policy, the Commission may review the complaint in accordance with section 1:216 without immediate referral to the department.
- (b) Upon referral, if a complainant expresses to the Commission that the

complainant is not seeking discipline of the police officer, that information shall be communicated to the Department's Professional Standards Section Lieutenant. The Department should consider the complainant's request when taking any remedial action.

- (c) The Police Chief will provide status updates regarding the investigation to the Commission. The Commission may serve as a point of contact for the complainant throughout the investigation and review process, and provide the complainant updates as to the progress.
- (d) A complainant may be accompanied or assisted throughout the investigation or review process by an advocate, attorney, or other representative of the complainant's choosing.
- (e) Upon closure of its internal investigation of a complaint referred by the Commission, the Police Chief shall issue a report to the Commission in accordance with the Ordinance.
- (f) A complainant and any involved police officer will have the option of appearing before the Commission, or the members of the Commission designated to act on the complaint, during the Commission's review of the incident.
- (g) Relevant to the complaint, the Commission may review the actions of the Department and any involved police officer and take appropriate action, including, but not limited to:
 - i. Gathering information from the complainant, willing third parties, and publicly available sources;
 - ii. Questioning the Police Chief, Deputy Police Chief, or Professional Standards Section Lieutenant about the investigation;
 - iii. Informally mediating the matter by facilitating sessions in which persons involved in the incident and others with an interest in it (including representatives of the Department) can participate on a voluntary basis, the aim being to achieve fuller mutual understanding without recrimination. Upon mutual agreement of all necessary parties, the City and Commission may establish a dispute resolution process where complaints are resolved without going through the Department's disciplinary process; and
 - iv. Using information learned to make policy recommendations to the Department and City.

(h) The Commission shall develop a system for classifying complaints received by the Commission by the type of misconduct alleged, and in its annual report, the Commission shall state the number of complaints received by the Commission in the past reporting period alleging each type of misconduct.

(4) *Protection Against Retaliation and Intimidation.* Retaliation, actual or threatened, or any form of intimidation against any complainant for filing a complaint, or against a witness, or other person involved for participating in the incident review process; or conduct that could reasonably be perceived as retaliatory, threatening, or intimidating by a City employee against anyone for their involvement in the complaint or incident review process (a) is expressly prohibited as a matter of City policy; (b) shall be regarded as a separate and distinct incident, regardless of any action taken with respect to the underlying incident; and (c) may result in discipline, up to and including termination of employment. When the Department informs a police officer of a complaint in accordance with the collective bargaining agreement, the Department shall reference these provisions regarding retaliation and intimidation.

(5) *Report by Police Chief.*

(a) Upon closure of its internal investigation of a complaint referred by the Commission, the Police Chief will report to the Commission in writing, stating the Police Chief's determinations as to:

- i. the facts of the incident;
- ii. whether there was any inappropriate conduct by the police;
- iii. any discipline that has been or will be imposed; and
- iv. any changes in Department policies or procedures that ought to be made as a result of the incident.

(b) The Police Chief shall make the report within 30 days of the complaint disposition, provided that if ongoing disciplinary or criminal proceedings or investigations preclude the Police Chief from making the report in that time, then the Police Chief shall make the report within 14 days after conclusion of those proceedings. In extenuating circumstances, explained in writing by the Police Chief, these time limits may be extended, but only for a reasonable time.

(6) *Access to Complaint Files.* Except to the extent provided for by federal or state law, the City Charter, a collective bargaining agreement, or a legally recognized privilege, the Department will make available to the Commission or those

Commission members designated to act on complaints, all documents related to the incident, including statements by the police officers involved, all video evidence, and descriptions of any tangible evidence, provided that, if the Police Chief believes that some information or materials related to the incident should not be produced because of law, collective bargaining agreement, or privacy concerns, the Police Chief shall describe the information and materials withheld and state with particularity the reason why they should not be produced. Documents and other materials shall be redacted only to the extent justifiable in the particular case.

(7) *Disputes Concerning Production.* Any disputes concerning the production of information and materials may be resolved through a request to the City Administrator or via mutually agreed upon alternative dispute resolution process.

(8) *Information Gathering by the Commission.*

(a) *Opportunity to Meet with the Commission.* The Commission will give any person (including the complainant, assuming the complaint has not been filed anonymously, and any police officers involved in the incident) who has information bearing on the incident an opportunity to provide that information in person in a meeting with the Commission or its members or representatives. The Commission shall be sensitive to the needs of the complainant as to when the complainant shall have the opportunity of having this meeting.

(b) *Commission Requests to Third Persons; Investigators.* If the Commission believes that third persons, such as bystanders, have information material to its review, the Commission may request that such persons provide that information. To the extent permitted under Section 1:219 of the Ordinance, the Commission may use the services of an investigator in conducting its review.

(c) *Information Managers.* Except to the extent provided for by federal or state law, the City Charter, a collective bargaining agreement, or a legally recognized privilege, the Department will make available to two or three designated Commission members (called "Information Managers"), all records, data, and other requested information relevant to the complaint. The Information Managers shall not disclose confidential information or records and shall be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure. The Information Managers will work with the Police Chief, City Attorney, City Administrator, City information technology managers, and others to set up a process that offers a secure way for records to be accessed.

(9) *Incident Reports by the Commission.*

- (a) *Issuance of Reports.* When the Commission has completed its review of an incident, it shall issue a report to the Police Chief, the City Administrator, and the City Attorney. Except in cases filed anonymously, the Commission shall also issue its report to the complainant, and, in most cases, it shall issue its report to the public. The Commission may also issue an interim report at any time it deems appropriate, provided that the Commission shall not issue any report to the complainant or to the public before completion of all investigative, criminal, disciplinary, complaint and other proceedings related to the incident.
- (b) *Contents of Report.* The Commission's final report with respect to an incident shall state its conclusions, including (a) whether under the facts and circumstances there was any inappropriate conduct by the police; (b) what the response of the Department and, if appropriate, of the City, should be or should have been; and (c) any changes in policies or procedures that ought to be made as a result of the incident.
- (c) *Confidential Information.* The Commission shall take care not to disclose confidential information (including, where applicable, the name of the complainant) in a report. The Commission's reports shall ordinarily avoid identifying police officers by name.
- (d) *Response to Report.* If the Commission's final report recommends action by the Police Chief or the City Administrator, the Police Chief or City Administrator shall respond to the Commission in writing, and shall endeavor to respond within 30 days or a reasonable timeframe, stating with particularity (a) the extent to which the City accepts the recommendations, (b) the actions, if any, that the City has taken or will take in acting on the recommendations, and (c) to the extent that the City does not accept the recommendations, the reasons why.
- (e) *Discussion of Report.* If a complainant wishes, the Commission shall afford the complainant an opportunity to discuss the report with the Commission in an open meeting, or with members of the Commission, within 30 days of the time the report is issued to the complainant. Similarly, if an involved police officer wishes, the officer shall have an opportunity to discuss the Commission's report with the Commission in an open meeting or with members of the Commission. Following these meetings, the Commission may, if it deems it appropriate, issue a supplemental report.
- (f) The Commission may question the Police Chief, Deputy Police Chief, or Professional Standards Section Lieutenant about the Commission's final report

and the City Administrator or Police Chief's response.

1:216 – Same—Reports and Recommendations Concerning Policies, Practices, and Compliance.

(1) *General.* The Commission is charged with the responsibilities of examining and assessing, according to such priorities as it may determine, all Police-related Policies and the degree of compliance with them, and of making reports with recommendations for improvements, including new policies as well as revisions to existing ones. Such reports and recommendations may concern any matter related to the Commission's purposes, including:

- (a) Recruitment, hiring, promotion, and union relations;
- (b) Training (including both initial training of new personnel and retraining) and education of police personnel, including without limitation on matters such as de-escalation, implicit bias, multicultural respect, and the use of force;
- (c) Procedures for handling complaints and determining discipline;
- (d) Public education, communications, and outreach efforts by the Department;
- (e) Non-law enforcement approaches that may reduce the demand and need for police interventions;
- (f) Mental health crises;
- (g) Use-of-force policy;
- (h) Arrest procedures;
- (i) Data collection and usages;
- (j) Surveillance;
- (k) Response to protests;
- (l) Budget needs and allocation; and
- (m) Strategic planning.

(2) *Access to Information and Materials.*

(a) *General.* To enable the Commission to perform its functions under this section 1:216, it is critical that the Commission have broad access to relevant information and materials that state or reflect Police-related Policies.

(b) *On Request by the Commission.* The Department or the City Administrator shall, except to the extent provided for by federal or state law, the City Charter, a collective bargaining agreement, or legally recognized privilege, or to the extent it poses a threat to the safety of the public or a police officer, provide the Commission with all relevant information and materials that the Commission

requests. If the Department or City Administrator believes that some requested information or materials, though relevant, should not be produced under this subsection, they shall describe the information and materials withheld and state with particularity the reason why it should not be produced.

- (c) *Without Need for Request.* The Department shall report to the Commission every three months (a) any developments bearing on the Department's performance of its functions, including any significant changes in policies or procedures (including without limitation in training or discipline), staffing, or budgetary needs, (b) any external complaints filed with the Department, including the substance of the complaint and the process and substance of the Department's response to it, and (c) data on field operations disaggregated by race to the maximum extent feasible.

(3) *Issuance of Reports.*

- (a) *Special Reports.* The Commission may issue a special report at any time it deems appropriate concerning any Police-related Policy, unless such report would interfere with an ongoing investigative, disciplinary, criminal, complaint, or other proceeding. Such a report may assess the degree of compliance with any Police-related Policy, and it may make recommendations for improvements. Such recommendations shall be addressed, as appropriate, to the Department, the City Administrator, the City Attorney, the head of any City agency, or the City Council.
- (b) *Annual Report.* The Commission shall issue an annual report. This report shall (i) summarize the Commission's activities over the past year, (ii) state aggregate data on the number and types of complaints received and the geographic areas where complaint incidents occurred, (iii) state, to the extent known, aggregate demographic data on complainants, (iv) summarize recommendations made by the Commission and responses by the City and officials, including the extent to which the recommendations were accepted and implemented, to its reports, (v) summarize the Commission's requests for information and the responses to such requests by the City and officials, and (vi) describe the Commission's goals for the following year. The annual report may also make recommendations for improvements in Police-related Policies and compliance. If the Commission believes that amendments to the Ordinance would help make it more effective, it shall make appropriate recommendations. During its first two years, the Commission shall also issue a mid-year report, stating the same information, for the reporting period, as prescribed above for annual reports. The Commission shall adopt an annual work plan, which shall include a description of the basis for any funds that the Commission requests

be included in the City budget for Commission purposes. The work plan must be submitted to the City Administrator for consideration in accordance with the timelines for the City's budgeting process. The work plan may be included as part of the Commission's annual report.

- (c) *Public Reports; Confidentiality.* Reports shall ordinarily be issued to the public, but the Commission shall take care not to make public release of information that should remain confidential by reason of law, collective bargaining agreement, or overriding public policy, or that has been provided to the Commission in confidence.
- (d) *Response to Recommendations.* If a report issued under Section 1:216 makes recommendations to the Department or the City Administrator, the Police Chief or City Administrator respond to the Commission in writing, and shall endeavor to respond within 30 days or a reasonable timeframe, stating with particularity (a) the extent to which the City accepts the recommendations, (b) the actions, if any, that the City has taken on the recommendations, and (c) to the extent that the City does not accept the recommendations, the reasons why. Except to the extent necessary to protect confidential information, the response and discussion shall be public.
- (e) The Commission may question the Police Chief, Deputy Police Chief, or Professional Standards Section Lieutenant about the City Administrator or Police Chief's response to the recommendations.

1:217 – Same—Community Relations.

- (1) *Building Community Relations.* For the Department to be able to perform its vital function in a way that is both effective and equitable to all segments of the community, especially those segments of the community that are vulnerable and marginalized, it is crucial that there be increased understanding of the needs of those particular community groups by the Department. The Commission shall be proactive in discharging its responsibilities of fostering better communications and understanding between the Department and community, and of ensuring that its complaint procedure is known to the community as open and accessible to the public. The Commission may take any action not prohibited by law that, in its discretion, it believes will help it do so. Such actions may include, without limitation, convening advisory boards, host listening sessions, discussion circles, and educational sessions with community groups and with the community at large, with or without police participation, based on the preferences of each community group. In conducting these actions, the Commission:

- (a) shall seek input from a broad representation of the aforementioned community groups, including but not limited to youth of color; adults of color, particularly black men; persons living with mental illness; formerly incarcerated persons; persons who have had adverse interactions with the Department; persons living with persistent economic hardship; transgendered persons; and persons with immigrant status;
- (b) shall consider whether information that it learns from these actions suggests that it should make any recommendations as to changes in practices and policies bearing on the City's exercise of the policing function;
- (c) Shall, through the youth liaison, work with the youth commission member and either an existing or Commission-created youth council to incorporate a youth perspective into the Commission's decisions and recommendations, organize events that are youth-oriented, and secure the participation of youth in other events as appropriate;
- (d) may coordinate with other councils that the Commission convenes to organize events oriented to the groups that such councils represent; and
- (e) may secure such professional and expert assistance as it deems appropriate to the extent allowed under Section 1:219 of the Ordinance.

(2) *Community Liaisons.* The Commission may identify one or more persons in the community who may serve as a liaison for persons who wish to provide suggestions, concerns, complaints, or other information related to the Commission's purpose, but who do not wish to contact the Commission or City directly, or participate in the complaint process set forth in the Ordinance. In identifying community liaisons, the Commission shall take reasonable steps to ensure that the liaisons will:

- (a) Be publicly available to any person wishing to provide information;
- (b) Be available to provide the Commission with regular updates regarding all information received related to their role as a community liaison;
- (c) To the best of their ability, accurately report the information received; and
- (d) Understanding that the information the liaison provides to the Commission is likely to be a public record, protect the identity or confidential information of a person who provides information, unless the person expressly authorizes otherwise.

The Commission may evaluate whether and to what extent any of the information received from a community liaison warrants further review, discussion, or response by the Commission, bearing in mind that the Commission likely will not have

access to first-hand information.

1:218. Consultation on Leadership.

When there is a vacancy in the position of Police Chief, the City Administrator shall, early in the process of recruiting a new Police Chief, consult with and seek advice and recommendations from the Commission as to both the recruitment process to be used and the desired qualifications for the position. Finalists for the position shall meet with the Commission or its members and with the public. The City Administrator shall consult with the Commission before making a final recommendation to the City Council. The Commission may state to the City Council whether or not it agrees with the recommendation and give reasons why. The City Administrator may choose to use a similar procedure in hiring other senior leadership of the Department.

1:219. – Same—Operations and Support

- (1) *Committees and Assignments.* The Commission may create and form special purpose task forces and subcommittees to carry out the business of the Commission, provided that any report prepared by these groups that the Commission wishes to issue must be presented to and adopted by the Commission as a whole.
- (2) *Facilities and Staff Support.* The City shall provide the Commission with suitable facilities for the conduct of its meetings and other business. The City shall also provide the Commission with the services of an administrative liaison consistent with other City boards and commissions. The City Administrator, Police Chief, and City Attorney shall provide staff liaisons to the Commission with appropriate expertise to support the Commission. Within the Commission's designated budget, the Commission may seek additional professional services, to the extent the contract for those services is approved in accordance with City procurement procedures. The Commission shall have the opportunity to provide input regarding selection of such contractors, including legal counsel, and to make recommendations regarding proposed contractors and legal counsel. The City Administrator shall ensure that such contracts are properly entered into, in compliance with the City Charter and City hiring and procurement policies, and maintained (with respect to such matters as payment, tax withholding and reporting, and record-keeping for freedom-of-information purposes). The City Administrator shall ensure that the commission has access to the contracted services in order to fulfill the purpose of the contract.
- (3) *Counsel.* The Commission may request outside counsel and the City Council may retain outside counsel to assist the Commission pursuant to the City Charter. The

counsel, contract terms, and the scope of services to be performed must be approved in accordance with City procurement procedures. The scope of services may provide that outside counsel provide advice on a specific matter or on an ongoing basis for matters within the scope of the contract and the approved contract amount.

(4) *Training and Orientation Programs.* Within the Commission's approved budget, each member of the Commission shall be required to engage in training on topics as the Commission may prescribe such as implicit bias, trauma-informed care, history of policing, multicultural respect, power analysis, Department policies and procedures, restorative practices, and social service resources.

(5) *Confidentiality Statement.* Each member of the Commission, and every person who renders services to the Commission, shall sign a statement promising to maintain and protect the status of confidential information.

1:220. – Same—Dispute Resolution.

Any disputes concerning the Ordinance may be resolved through a request to the City Administrator or via a third-party mediator hired in accordance with Section 1:219 of the Ordinance.

Section 2. That this ordinance shall take effect immediately upon legal publication.

As Amended by Ann Arbor City Council at First Reading on October 1, 2018.

As Amended and Adopted by Ann Arbor City Council at Second Reading on October 15, 2018.

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of October 15, 2018.

Jacqueline Beaudry, Ann Arbor City Clerk
Christopher Taylor, Mayor

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