



CITY OF YPSILANTI
POLICE ADVISORY COMMISSION MEETING
January 28, 2021 @ 7:00 pm
Zoom Meeting
<https://us02web.zoom.us/j/89719751443>
One South Huron, Ypsilanti, MI 48197

Page

I. CALL TO ORDER

II. ROLL CALL

COMMISSIONERS:

Andy Fanta
Heather Berkovitz
Kathleen McCormick
Herman Humes
Gail Wolkoff
Renee Echols
Colleen Kennedy

STAFF LIASION:

Police Chief Tony DeGuisti

COUNCIL LIAISON:

Council Member Morgan

III. AGENDA APPROVAL

IV. PUBLIC COMMENT (3 MINUTES)

V. RESOLUTIONS/MOTIONS/DISCUSSIONS

- 3** A. Approval of the December 17, 2020 Meeting Minutes
 [POLICE ADVISORY COMMISSION - 17 Dec 2020 - Minutes](#)
- B. Election of Commission Officers
 1. Chair
 2. Vice-Chair
- C. Presentation of Ypsilanti Police Department monthly statistics - Chief DeGiusti
- 4** D. County Prosecutor Marijuana Charges/Expungement
 [Article](#)
- 5** E. County Prosecutor - Addressing Inequities in Justice System
 [Article](#)
- 6** F. New York Times - "The Way Cities Lost Oversight of their Police"
 [Article](#)
- 7** G. Washtenaw Legal News - "Pandemic Shows Students with Disabilities need more options".

[STUDENTS](#)

VI. PUBLIC COMMENT (3 MINUTES)

VII. COMMUNICATIONS

- A. David Fair Interview - WEMU
- B. Washtenaw County Prosecutor Eli Savit
[Redacted Savit Letter](#)
- C. EMU Ad hoc Committee on Police Oversight
[Report](#)

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VIII. NEXT MEETING DATE

- A. February 25, 2021

IX. ADJOURNMENT



MINUTES POLICE ADVISORY COMMISSION Meeting

7:00 PM - Thursday, December 17, 2020
Zoom Meeting

The POLICE ADVISORY COMMISSION of the City of Ypsilanti was called to order on Thursday, December 17, 2020, at 7:08 PM, in the Zoom Meeting, with the following members present:

I CALL TO ORDER

II ROLL CALL

COMMISSIONERS:

PRESENT: Andy Fanta, Heather Berkovitz, Kathleen McCormick, Herman Humes, Gail Wolkoff, Colleen Kennedy, Renee Echols

III AGENDA APPROVAL

The agenda was approved as submitted

Commissioner Kennedy moved, seconded by Commissioner McCormick

IV PUBLIC COMMENT (3 MINUTES)

V RESOLUTIONS/MOTIONS/DISCUSSIONS

- a) Approving the minutes of November 19, 2020
Commissioner Humes moved, seconded by Commissioner McCormick
Approved: Yes - 7; No - 0; Absent - 0
- b) Discussion Regarding Ypsilanti Police Department Procedures.
- c) Discussion of the Marilyn Moore Scholarship Info
- d) Discussion regarding a City Survey.

VI NEXT MEETING DATE

January 28, 2021

VII ADJOURNMENT

The meeting adjourned at 8:06 PM

Commissioner Echols moved, seconded by Commissioner Berkovitz

Thursday, January 21, 2021

Washtenaw County prosecutor will no longer charge marijuana or entheogenic plant cases; will support expungement of old criminal convictions

Ann Arbor – Washtenaw County Prosecutor Eli Savit—who took office Jan. 1—on Jan. 12 announced his office would no longer charge cases related to the use, possession, or small-scale distribution of marijuana or entheogenic plants (naturally occurring psychedelics). In addition, Savit announced his office would support the expungement of old criminal convictions arising from marijuana or entheogenic-plant offenses.

In a pair of policy directives, Savit emphasized the racially disproportionate consequences of the War on Drugs, as well as “pharmacological effects” of both substances.

“America’s long experiment with cannabis criminalization has failed,” the marijuana policy reads. “For nearly 100 years, cannabis has been functionally illegal in the United States—tethering countless Americans to the criminal justice system, and imposing severe collateral consequences.”

“The costs of cannabis criminalization, moreover, have not been borne equally,” the policy continues. “Instead, those costs have been borne disproportionately by Black and indigenous people of color.”

The policy notes Michigan has “positioned itself as a leader in the marijuana legalization movement.” In 2018, voters enacted Proposal 1, a ballot initiative that legalized the use and possession of small amounts of marijuana for recreational use. But the directive emphasizes Proposal 1 still “results in some arbitrariness”—since people can still face criminal consequences for possessing too much marijuana.

“Cannabis,” the policy continues “is as safe as alcohol. It

‘too much’ marijuana’ than it is to charge someone for having ‘too many’ bottles of wine.” Accordingly, the new directive provides “the Prosecutor’s Office will decline to file criminal charges for the use or possession of marijuana—whatever the amount at issue.”

The policy directive also notes that, unlike in other states, the legalization of marijuana in Michigan did not provide for automatic expungement of old marijuana-related records.

“Simply put,” the policy directive reads, “people should no longer bear the stigma of a criminal record for activity that is no longer a crime. Accordingly, the Washtenaw County Prosecutor’s Office will not contest any application for expungement where the underlying offense was for use, possession, cultivation, or distribution of marijuana.”

The entheogenic plant directive notes that in 2020, Ann Arbor’s City Council “unanimously adopted a resolution declaring the use, growth, possession, and distribution of entheogenic plants to be ‘the lowest law enforcement priority for the City of Ann Arbor.’” Given that entheogenic plants are “functionally decriminalized in Washtenaw County’s largest city,” the directive notes that “it would be capricious to continue pursuing entheogenic-related charges originating in other parts of the county.”

“More fundamentally,” the policy continues, “prosecuting entheogenic-plant use or possession is not in the interest of justice.” The policy notes that entheogenic plants are not generally addictive, do not present a significant risk of a fatal overdose, and are not associated with violent behavior.

would not contest the expungement of old entheogenic-plant-related convictions.

Under the directive, criminal charges may still be filed against large-scale enterprises who are distributing controlled substances in violation of health and safety standards, or who are distributing such substances to children. The Prosecutor’s Office will also continue to file charges for operating a motor vehicle under the influence of a controlled substance.

“For far too long, the War on Drugs has imposed severe and unjust criminal consequences on communities—particularly communities of color,” Savit said. “Today’s directives are a first step in moving past that troubling legacy.”

“Many of us know people who have used substances like marijuana or psychedelics without facing criminal consequences. We should no longer continue to perpetuate the cruel roulette wheel that imposes criminal consequences only on an unlucky few.”

“Equally important is that we allow those with old convictions to get their lives back on track. A criminal conviction can impact a person’s ability to get a job, obtain housing, or continue their education. For that reason, we will no longer be contesting expungement for marijuana or entheogenic-related offenses.”

The full policy directives are available to view at <https://www.washtenaw.org/DocumentCenter/View/19154/Cannabis-and-Marijuana-Policy> (cannabis and marijuana) and <https://www.washtenaw.org/DocumentCenter/View/19155/Entheogenic-Plants-Policy> (entheogenic plants). Savit

by James Leonard

“A punishment-oriented approach does not work,” declares Eli Savit, who takes office this month as Washtenaw County’s prosecuting attorney. “It has had devastating consequences for people, has led to tremendous racial inequities and socioeconomic inequities.

“My vision of justice is building a system that is truly rehabilitative and restorative,” he continues—one “that promotes public safety by preventing future harm, and also one which takes stock of the individual circumstances that bring people into the criminal legal system.”

Savit says he “started to think about the inequities and the unfairness of the justice system and the collateral consequences in earnest when I was an eighth-grade U.S. history teacher in New York City. I had kids there who were themselves up in the

The Pioneer High and U-M law grad says he was encouraged to run against seven-term incumbent Brian Mackie by local activists. “They had been seeking somebody to run for prosecutor and change our system from the inside.”

justice system, whose family members were dealing with substance abuse and were in and out of the jail, and the kids were in and out of school.”

Michelle Alexander’s 2010 book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* focused his thinking. It “brilliantly lays out the harm that the criminal justice system has perpetuated,” Savit says. “A felony conviction can impact your ability to get housing, to get jobs, to get public accommodations.”

The Pioneer High and U-M law grad says he was encouraged to run against seven-term incumbent Brian Mackie by local activists. “They had been seeking somebody to run for prosecutor and change our system from the inside,” he says. “For a very long time, folks had seen the devastating effects that our current criminal justice system has had on predominantly black communities.”

They discussed “what had been going wrong in our justice system in Washtenaw County”—and how to “come up with a plan to change that.”

After Savit launched his campaign, Mackie announced his retirement and threw his support to a former assistant. Savit, a onetime Pioneer basketball captain, charged ahead. Raising more than a quarter-million dollars and collecting endorsements from everybody from local politicians to Bernie Sanders and singer John Legend, he won more votes in Au-

PASSIONATE PROSECUTOR

Eli Savit wants to send many fewer people to prison. Here’s how he plans to do it.



Victoria Burton-Harris and Eli Savit both ran for prosecutor as reformers in last year’s Democratic primary. Burton-Harris lost in Wayne County but Savit won in Washtenaw—so he hired her as his chief assistant.

gust’s Democratic primary than his two opponents combined. Running unopposed in November, he got more votes than Joe Biden and Kamala Harris.

He’s already recruited a new chief assistant prosecutor: Victoria Burton-Harris, who ran for Wayne County prosecutor in the Democratic primary last summer and lost to sitting prosecutor Kym Worthy. “Victoria ran [on] a very similar platform as my own,” Savit says. “It’s great how much we complement each other working towards the same vision.”

Now they just have to deliver on their plans.

Savit says the activists’ core complaint was “the vast majority of people who were coming through the justice system—who were getting charged, receiving harsh and unforgiving sentences—were black people.”

“There has never been any justice in this country for black people in the criminal legal system,” says Burton-Harris, whose own critique of the criminal justice system stems from her “experience being a defense attorney and seeing it up close and personal.” That’s why “one of our first priorities is a racial equity project.

We want to see if more black folks are being charged than white for the same exact conduct. We’re going to be working with a statistician and researcher, and we’re going to be analyzing the data from our cases.

“Right up there with the racial equity project is to divert more and deflect more,” she continues. For most nonviolent crimes, “we’re not going to charge you for a certain amount of time—nine, twelve months, whatever—and we want you to instead complete a program. And we want to get to the heart of the issue, the root cause of why you committed this crime. Do you need stable housing? Do you need a stable job? Do you need mental health treatment?”

For people who complete the deflection program successfully, Burton-Harris says, charges will be eliminated without jail time “so you didn’t even have a temporary record. That is how you reduce mass incarceration.”

Savit says his “biggest and most overarching” disagreement with Mackie was his predecessor’s “formal and informal zero-tolerance policies for certain types of offenses.” Burton-Harris emails some examples: “high blood alcohol content charges and operating motor vehicles while intoxicated 2nd degree cannot be reduced nor can gun offenses. Once a felony firearm is on the complaint, APAs [assistant prosecuting attorneys] cannot dismiss it.”

“The problem with the zero-tolerance policies is that they prevent you from looking at the human stories that are at the center of every case,” says Savit. “You need to treat every case with the dignity that it deserves. That’s why we’re getting rid of them.”

They’ll still be “treading very carefully on domestic violence cases. We know that there are specific issues that are particular to domestic violence, including the coercive control that a person that perpetuates domestic violence has over the survivor, [so] we are largely keeping, for the time being, the domestic violence protocols in place.”

Renaming crime victims “survivors” is part of the change. “A victim is somebody that had something done to them,” says Savit. “It’s a more passive nomenclature.” He sees them instead as “incredibly strong people, and the work they’ve done to report their crime, make it through whatever they’ve experienced, [is] active and admirable.”

Savit also plans to review policies that put folks in jail for minor nonviolent offenses like possession of a controlled substance, passing a bad check, or driving with a suspended license.

“A significant percentage of the people who were jailed in Washtenaw County were picked up for driving with a suspended license,” Savit says. “Think about the reason that one’s license may be suspended in the first place. A lot of times it’s because they weren’t able to pay a traffic ticket. It’s functionally a crime of poverty.

“You pick them up, you put them in jail. Maybe you’re being held on bond, so that puts you deeper into debt,” Savit continues. “You plead guilty because you’re sort

January 2021 ANN ARBOR OBSERVER 19

"All the News
That's Fit to Print"

NYT-12-23-20

VOL. CLXX No. 58,916 +

FRONT PAGE

The Way Cities Lost Oversight Of Their Police

Unions Leverage Fears to Ease Punishment

This article is by Kim Barker, Michael H. Keller and Steve Eder.

It took Portland, Ore., almost \$1 million in legal fees, efforts by two mayors and a police chief, and years of battle with the police union to defend the firing of Officer Ron Frashour — only to have to bring him back. Today, the veteran white officer, who shot an unarmed Black man in the back a decade ago, is still on the force.

Sam Adams, the former mayor of Portland, said the frustrated disciplinary effort showed "how little control we had" over the police. "This was as bad a part of government as I'd ever seen. The government gets to kill someone and get away with it."

After the death of George Floyd at the hands of Minneapolis officers in May spurred huge protests and calls for a nationwide reset on law enforcement, police departments are facing new state laws, ballot proposals and procedures to rein in abusive officers. Portland and other cities have hired new chiefs and are strengthening civilian oversight. Some municipal leaders have responded faster than ever to high-profile allegations of misconduct: Since May, nearly 40 officers have been fired for use of force or racist behavior.

But any significant changes are likely to require dismantling deeply ingrained systems that shield officers from scrutiny, make it difficult to remove them and portend roadblocks for reform efforts, according to an examination by The New York Times. For this article, reporters reviewed hundreds of arbitration decisions, court cases and police contracts stretching back decades, and interviewed more than 150 former chiefs and officers, law enforcement experts and civilian oversight board members.

While the Black Lives Matter protests this year have aimed to address police violence against people of color, another wave of protests a half-century ago was

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THE NEW YORK TIMES

The Way Cities Lost Oversight Of Their Police

From Page A1

instruments of suppression for political officials or were accused of brutality in quelling unrest — felt vulnerable to citizen complaints.

Newly formed police unions leveraged fears of lawlessness and an era of high crime to win disciplinary constraints, often far beyond those of other public employees. Over 50 years, these protections, expanded in contracts and laws, have built a robust system for law enforcement officers. As a result, critics said, officers empowered to protect the public instead were protected from the public.

In many places, the union contract became the ultimate word. The contract overrode the city charter in Detroit. The contract can beat state law in Illinois. The contract, for years, has stalled a federal consent decree in Seattle.

Many police contracts and state laws allow officers to appeal disciplinary cases to an arbitrator or a review board, giving them final say. Arbitrators reinstate about half of the fired officers whose appeals they consider, according to separate reviews of samplings of cases by The Times and a law professor. Some arbitrators referred to termination as "economic capital punishment" or "economic murder."

Disciplinary cases often fall apart because of contractual or legal standards that departments must show a record of comparable discipline: A past decision not to fire makes it harder to fire anyone else.

Because many departments don't disclose disciplinary action for police misconduct and there is no public centralized record-keeping system, it is difficult to determine how many cases are pursued against officers, and the outcomes.

And police chiefs acknowledged that they don't always seek the discipline they think is warranted. That can lead to problem officers remaining on the streets. Rather than gamble on arbitration, some chiefs allow officers to quit or opt for financial settlements, which can enable them to move on to other cities.

cities nationwide. Detroit caught fire.

Black residents saw the almost all-white police force as an occupying army. Police cruisers armed with tear gas and machine guns patrolled Black neighborhoods. Many white officers considered Black people "a privileged minority" ready to use violence to overtake white residents, a 1967 survey found.

A police raid that July on an unlicensed bar sparked riots, largely between Black residents and police backed by federal troops. One Black officer said white officers targeted even him. "If officers shot at me, a fellow officer, what were they going to do to other people?" recalled Isaiah McKinnon, who would become police chief in the 1990s. All told, 43 people died.

The riots — among the worst in the nation's history — gave the city's fledgling police union leverage. The Detroit Police Officers Association was negotiating the country's first comprehensive police contract, seeking a raise and a new disciplinary process to replace one it considered arbitrary. In what became a blueprint for union negotiations across the country, police officers promised to restore order but demanded something in return.

"They were really grasping at anything that sounded like a persuasive argument for their target audience," said Samuel Walker of the University of Nebraska at Omaha, who studies police accountability. "Their audience was white voters who were afraid of crime."

Police unions were relatively new. After an executive order in 1962 allowed federal workers to collectively bargain, state and local governments followed suit for their workers. Longtime police social associations became unions. Some affiliated with national organizations like the Fraternal Order of Police; Detroit's and many others remained independent.

The police also felt threatened by recent Supreme Court decisions protecting criminal suspects. The Detroit union repeatedly condemned the court's 1966 Miranda decision, which required



DETROIT, 1967 A police raid that sparked riots. The riots — among the worst in the nation's history — gave the city's fledgling police union leverage. In what became a blueprint for

like Elmer Fudd negotiated for the City of Portland and the police union brought Perry Mason," said J.

Pandemic shows students with disabilities need more options

The end of November marked the 45th anniversary of watershed federal legislation now known as the Individuals with Disabilities Education Act. The law enshrined the idea that every child with disabilities is entitled to a meaningful education that is inclusive as possible. Even though time has changed many perceptions of what students with disabilities can achieve, progress toward fulfilling the vision has left many dissatisfied.

This year's experiences with pandemic learning have only mounted the frustrations. The sudden onset of COVID-19, with its many unknowns, chal-

lenged schools' ability to help students with special learning challenges. Many people, including the Onyx family in Oakland County, have pleaded for face-to-face educational opportunities as "indispensable." Both of their children need consistent access to aides and therapies that were suddenly denied to them when school buildings closed in the spring.

Similarly frustrating experiences in other states prompted a nationwide class-action lawsuit from parents who demand either in-person learning or direct funding to take care of their own emergency educational needs. A few states have provided the latter option. Texas and Ohio, for example, have provided direct education grants to families of disabled students.

Michigan is not yet among them, but there have been some improvements since the spring. This fall, about half of Michigan's school districts have offered in-person instruction to special-education students. Districts are somewhat less likely to offer that option to other learners, and many families need that opportunity.

For their sake, the goal cannot be simply to return special education to its pre-pandemic

reality. In 2018, Michigan was the only state to receive a critically low rating from the U.S. Department of Education for the quality of services delivered to students with disabilities. Michigan subsequently earned a reprieve from the threat of federal intervention, but the outlook for those who receive these services has not improved. Too many Michigan students with disabilities keep missing the mark in reading by a wide margin, while their success in math has actually trended down.

For more than two decades, many Michigan students with disabilities have had access to a tax-funded alternative in the form of charter public schools. While these options represent an improvement for some students, critics fabricate inaccurate claims about them. A September report from the Michigan Civil Rights Commission asserted that charter public schools don't have to follow state special education laws, though the state education department clearly explains otherwise.

Some critics more subtly insinuate that charters quietly but systematically dissuade enrollments from students with disabilities. Last year, 10.9% of charter public school students

qualified for an Individualized Education Program due to special learning needs, compared with a rate of 12.7% in district schools. That gap is slightly smaller than it was in 2015.

Both then and now, local funding policies in the state's most populous county continue to account for most of the disparity.

The Wayne County Regional Educational Service Agency, the ISD that covers Detroit Public Schools and 32 other districts, operates center-based programs for students with "more severe impairments." These programs, housed only in conventional districts, receive access to millions in Act 18 local millage funding. While these options represent an improvement for some students, critics fabricate inaccurate claims about them. A September report from the Michigan Civil Rights Commission asserted that charter public schools don't have to follow state special education laws, though the state education department clearly explains otherwise.

Some critics more subtly insinuate that charters quietly but systematically dissuade enrollments from students with disabilities. Last year, 10.9% of charter public school students

11.2%.

Fixing some local funding arrangements would help charter schools serve even more students who need an IEP. Yet for parents, having options within the public education system is often not enough. To get their children needed services, some, desperate and persistent, have been left with the recourse of lengthy and costly legal action, or switching to private education or intensive individual tutoring. Such expensive options are neither ideal nor practical for most families, as they cannot afford to forego access to tax-funded resources to help their children.

Our education system's experience with the pandemic highlights the paramount importance of flexibility. No single option helps everyone, especially among students who have special learning needs. Nearly half a century after the establishment of a breakthrough federal law, it's time to reimagine how Michigan can raise the bar for all students with disabilities by freeing up dollars to restructure the system around student and parent priorities.

Ben DeGrow is the Mackinac Center's director of education policy.





**City of Ypsilanti
Police Advisory Commission**

Commissioners: Andrew Fanta

Chair

Kathleen McCormick

Vice Chair

Heather Berkovitz

Rene Eckles

Herman Humes

Colleen Kennedy

Gail Wolkoff

Staff Liaison: Police Chief Tony DeGuisti

January 26, 2021
Mr. Eli Savit
Prosecuting attorney
Washtenaw County
POB 8645
200 North Main Street
Ann Arbor MI 48104

Re Police Advisory Commission Meeting

Dear Mr. Savit:

Initially, congratulations on your election. I join with my fellow commissioners in welcoming you to this important office. We look forward to your leadership.

The Ypsilanti Police Advisory Commission (Y-PAC) would like to extend an opportunity for you to address the commission at one of our meetings. To this end I have enclosed a schedule of our monthly meeting for 2021. We meet monthly, and if you would be kind enough to respond as soon as your schedule permits. I would be grateful and would place you on the agenda as an early item in recognition of your busy schedule.

We are an advisory group not a supervisory commission. Our mandate is to work closely with both the community and the police in establishing a close community relationship. As you may well know under the leadership of our Chief of Police Tony DeGuisti we are moving to a community based policing program.

Enclosed you will find our monthly meeting schedule. All meetings are by zoom until further notice. I enclose both the email for my law practice as well as my cell phone number (no voice mail) where you can send a text.

With Respect, [REDACTED]

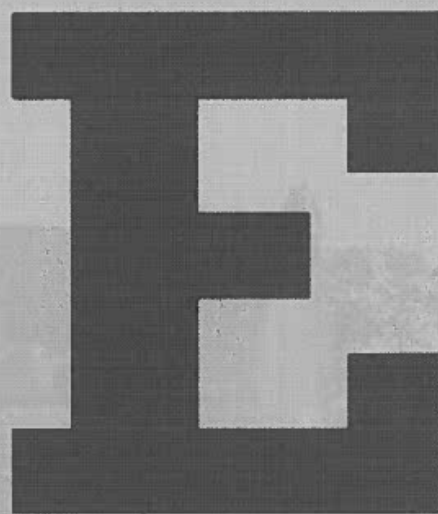
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Final Report of the EMU Faculty Senate Ad Hoc Committee on Police Oversight

December 2, 2020



EASTERN

MICHIGAN UNIVERSITY

Dr. Marilyn Corsianos, Co-Chair
Dr. Kevin Karpiak, Co-Chair
Dr. Peter Blackmer
Dr. D. Robert Okopny

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Executive Summary

In September 2020, in response to growing national concerns on the state of policing and racial equality in the United States, the Faculty Senate of Eastern Michigan passed the “Resolution to Create the Ad Hoc Committee to Assess Community Police Oversight”, which found the current state of civilian oversight at Eastern Michigan University to be out of step with national trends in best practice for an inclusive and racially just community. To address this situation, the Resolution further called for the creation of an Ad Hoc Committee which would have as its charge to document current challenges to the full functional success of the Public Safety Oversight Commission as it currently exists and to outline national trends in best practice for addressing these challenges. It was explicitly included that this latter charge “may include recommendations for the process whereby public safety at EMU can be aligned with national best practices.”¹ This is the final report of that Ad Hoc Committee.

To carry out its charge, the Ad Hoc Committee conducted research on the history, functions, and operations of the PSOC, alongside an analysis of national best practices in civilian oversight as outlined by the National Association for Civilian Oversight of Law Enforcement (NACOLE)². Research methods used to analyze the PSOC included a review of available documents, a survey³ of past and present members, and focus groups with past and present members. Particular attention was given to examining member participation and experience in PSOC, the complaint review process, PSOC structure and jurisdictions, and member evaluations of the PSOC performance.

The Ad Hoc Committee’s research resulted in a number of notable findings. For example, it found that, while PSOC has generally been in compliance with Michigan State Law, with a few notable points in need of clarification, it has been most recently in violation of its own ratified bylaws, especially those regarding the frequency of meetings and the election of representatives. Additionally, the Ad Hoc Committee found several of the PSOC’s powers as defined by the bylaws have gone underutilized and effectively defunct. For example, the power to conduct hearings during the complaint review process was seemingly unknown to several PSOC members. Most importantly, the Ad Hoc Committee found the narrow charter of the PSOC to be out of step with national guidelines for police oversight bodies, especially such standards for transparency and community inclusion.

Based on these findings, the Ad Hoc Committee recommends that immediate steps be taken to align the PSOC with its own bylaws and resolve outstanding legal questions about its composition and operations. The Ad Hoc Committee further recommends a series of actions aimed at expanding the scope and proactive vision of the PSOC-- particularly in its efforts at transparency, community outreach and inclusion--so as to be better aligned with national best practices for civilian oversight of law enforcement. Taken together, the Ad Hoc Committee believes that such actions would enable EMU, through the organ of PSOC, to foster a truly participatory dialog about the nature of public safety.

¹ Resolution to Create the Ad-Hoc Committee to Assess Community Police Oversight (9/9/2020)

² See especially, National Association for Civilian Oversight of Law Enforcement. 2020. “Thirteen Principles for Effective Oversight.” Washington, D.C.

³ See the [Appendix](#)

Background

Committee Charge

On September 9th, 2020 the Eastern Michigan University Faculty Senate passed a resolution to create an Ad Hoc Committee to Assess Community Police Oversight⁴ wherein it was resolved that:

“in order to help align public safety at Eastern Michigan University with contemporary best practices, Faculty Senate will solicit up to five volunteers for an ad hoc committee charged with (1) documenting current challenges to the full functional success of the Public Safety Oversight Commission as it currently exists; (2) Outlining national trends in best practice for addressing these challenges. This latter may include recommendations for the process whereby public safety at EMU can be aligned with national best practices⁵.”

It was further resolved that “the Ad Hoc Committee bring to the Faculty Senate a report listing its findings and recommendations by December 2, 2020.”⁶ At the September 23rd meeting of the EMU Faculty Senate, Dr. Marilyn Corsianos was appointed by the Senate to the Committee and the appointments of Drs. Blackmer, Karpiak and Okopny were confirmed⁷.

Methods & Evidence

The committee created a 47-question survey organized into three main sections: “Demographic information”, “Experience with the complaints process”, and “General Experience and Evaluation”⁸. In addition, the survey included a recommendation to participate in one of a series of Focus Group conversations. Due to a lack of an institutional archive of past committee members, invitations were sent out to only those past committee members that could be identified via the Ad Hoc Committee Members’ personal records⁹. Focus Group meetings of approximately one hour each were held between Nov. 10-17, 2020. These were designed to further develop and provide extended detail to responses from the initial survey. Focus Group conversations were structured around three general topics: “Participation in the PSOC,” “Complaint Review Process,” and “Evaluation”¹⁰. Finally, the Ad Hoc Committee made use of documentary evidence, largely consisting of the past and current bylaws of the PSOC¹¹.

⁴ See the [Sept. 9, 2020 Minutes](#) of the EMU faculty Senate

⁵ [Resolution to Create the Ad-Hoc Committee to Assess Community Police Oversight \(9/9/2020\)](#)

⁶ [Ibid](#)

⁷ See the [Sept. 23, 2020 Minutes](#) of the EMU Faculty Senate

⁸ See the [Appendix](#)

⁹ In total, the Ad Hoc Committee sent out invitations to 34 current and former PSOC members.

¹⁰ See the [Appendix](#) for a list of Focus Group questions and the Focus Group Protocol established by the Ad Hoc Committee

¹¹ See the [Appendix](#) for these various versions of PSOC bylaws.

Changes to PSOC in Interim

In the interim between the establishment of the Ad Hoc Committee and the publication of this report, EMU administration has taken several initiatives geared towards reinvigorating Administration support for the PSOC. These have included:

- On October 8th, 2020 University Communications circulating an email inviting the EMU community to participate in a general election of PSOC nominees¹². This was the first such open call to participate in such an election.
- On October 16, 2020 Legal Counsel emailed the newly elected PSOC members and called for an organizational meeting to elect a Chairperson and a Secretary, and to suggest that the PSOC review its own guidelines particularly as they related to the election of PSOC members. He further added that the “current PSOC guidelines create undesirable issues as it relates to timing, and selection of student nomination, that made this election a bit difficult to carry out.” Members were also notified that EMU Legal Affairs holds an ex officio member position on the PSOC and that they “generally participate” but “don’t deliberate with the Committee” and that they don’t vote. Members were further informed that the PSOC Guidelines require a DPS employee to serve as an ex officio member. A copy of the PSOC guidelines/bylaws was attached.
- On November 6, 2020, President Smith emailed the newly elected members of PSOC, honoring them for their commitment and reasserting the importance of their work. President Smith also informed the committee that EMU’S Associate General Counsel, Jeff Ammons, in addition to one DPS employee, would serve on PSOC as an ex-officio member, and that Mr. Ammons would be a helpful resource to the committee. This was the first such documented instance of such administrative support.
- On November 9, 2020 PSOC met for its first organizational meeting with the newly elected PSOC members, Legal Counsel Jeff Ammons, DPS Police Chief Bob Heighes, and EMU Police Lieutenant Douglas Wing.
- On November 12, 2020 Chief of Staff informed the Chair of the PSOC committee that a PSOC website was created, as well as a dedicated email account for PSOC (EMU_PSOC@emich.edu), and that the campus community would soon be notified about the PSOC election results and the role of the PSOC. On November 18, the Chief of Staff informed the Chair of the PSOC that the email to the campus community had been delayed due to the new pandemic orders from the State that forced the administration to devote time to COVID response and mitigation but provided a draft message that had been prepared and asked for input.
- On November 19, 2020 the Chair of the PSOC inquired about the location of the PSOC website since it could not be located under EMU’s Public Safety website.

¹² See the [Appendix](#) for email documentation pertaining to this section

The Chief of Staff informed the Chair that the website was under EMU's Legal Affairs website but agreed to also add it to the DPS website.

- On November 20th, 2020 University Communications circulated an email to the broader campus community announcing the elected members of the PSOC, pointing to the newly created website, and offering some context and background for PSOC and its work. On November 30, 2020 Chief of Staff informed the Chair of PSOC that the DPS website had been updated to include a direct link to the PSOC website.

Findings and Recommendations

The Ad Hoc Committee has provided findings and made recommendations according to two distinct standards: one vis-a-vis the minimum requirements as outlined under Michigan law¹³ and standing PSOC bylaws¹⁴; the other vis-a-vis professional best practice as outlined by the National Association for Civilian Oversight of Law Enforcement (NACOLE)¹⁵.

Minimum Standards

Minimum Legal Standards under Michigan Law

The Ad Hoc Committee understands the most relevant applicable state law to be the "Public Safety Officers Act 120 of 1990", or MCL 390.1511 Public safety officers; powers and authority; determination; public safety department oversight committee. Sec. 1¹⁶, which gives public 4-year institutions of higher education the authority to "grant the public safety officers of the institution the same powers and authority as are granted by law to peace and police officers to enable the public safety officers to enforce state law and the ordinances and regulations of the institution of higher education". A key prerequisite of this authority is outlined in subsection 3 of the Act, which reads:

"The governing board of control of an institution of higher education shall not grant the powers and authority described in subsection (1) to the public safety officers of the institution unless, before those powers and authority are granted, the governing board provides for the establishment of a public safety department oversight committee. The committee shall be composed of individuals nominated and elected by the faculty, students, and staff of the institution. The committee shall include 2 students, 2 members of the faculty, and 2 members of the staff. The committee shall receive and address grievances by persons against the public

¹³ Most especially the "Public Safety Officers Act 120 of 1990", MCL 390.1511 Public safety officers; powers and authority; determination; public safety department oversight committee. Sec. 1.

¹⁴ See the Appendix for past and current versions of PSOC bylaws

¹⁵ See especially, National Association for Civilian Oversight of Law Enforcement. 2020. "Thirteen Principles for Effective Oversight." Washington, D.C.

¹⁶ [http://www.legislature.mi.gov/\(S\(320gqmmzkpj20i3ymrli3h2c\)\)/mileg.aspx?page=shortlinkdisplay&docname=mcl-390-1511](http://www.legislature.mi.gov/(S(320gqmmzkpj20i3ymrli3h2c))/mileg.aspx?page=shortlinkdisplay&docname=mcl-390-1511)

safety officers or the public safety department of the institution. The committee may recommend to the institution that disciplinary measures be taken by the institution against a public safety officer who is found responsible for misconduct in office."

Findings and Recommendations vis-a-vis the Legal Requirement Standard

Using this standard, the Ad Hoc Committee finds the past practice of EMU's PSOC to be generally in accordance with Michigan State Law. For each of the years for which we have been able to acquire records¹⁷, there appears to have been an official PSOC body with formal membership consisting minimally of 2 students, 2 staff and 2 faculty. In addition, these members appear to have been generally nominated to the body by democratically elected bodies such as the Faculty Senate, Staff unions, and Student Government.

However, several key questions require further clarification: First, it remains unclear to the Ad Hoc committee whether the term "elected" in MCL 390.1511 refers to a general and open election process for the entire body, or whether nominations coming from otherwise recognized bodies are sufficient. The PSOC Guidelines provide contradictory information regarding this process. Second, the law seems unclear as to whether additional members may be elected to the body, for example in the form of "alternates". Third, the jurisdiction and authority of the PSOC remains, in the opinion of the Ad Hoc Committee, partially opaque. This is especially the case when the activities of EMUPD off campus are taken into account. For example, it is not clear whether members of the broader Ypsilanti community, though potentially subject to EMUPD authority even when off campus, may place a complaint with PSOC nor what form of representation they are legally allowed within the body.

- **Recommendation:** The Ad Hoc Committee recommends Legal Counsel seek clarification and duly circulate resolutions to the following questions:
 - Does MCL 390.1511 refer to an open election or can duly nominated individuals from named bodies be sufficient?
 - What is the legal status of "alternates" under both Michigan law and the PSOC bylaws?
 - What is the clearly stated jurisdiction and authority of PSOC, especially in relation to off campus activities and individuals?

PSOC Bylaws Standard

The Ad Hoc Committee also evaluated the practices of the PSOC relative to its own bylaws. One challenge in this regard was that those bylaws have not been made publicly available. On July 9, 2020, before the creation of the ad hoc committee, Dr. Karpiak placed a request with legal counsel for a copy of the current PSOC bylaws. On July 15, 2020, after being cleared by

¹⁷ However, it is worth noting that these records are partial and incomplete. See the section [Public Reporting and Transparency](#) below for further recommendations on this matter

The Freedom of Information Act ("FOIA") Office of Eastern Michigan University, the current bylaws, being adopted on Jan 13, 2016, were released in an email to him¹⁸. The Ad Hoc Committee, during the course of its evaluation, was able to obtain additional copies of PSOC bylaws dating to 1996 and 2015¹⁹.

One relevant component of the bylaws adopted Jan 13, 2016 pertains to the minimally required occurrence of an annual organizational meeting. The bylaws state that:

The first meeting of the committee each academic year will be an organizational meeting. It will be called by the University Attorney as soon after the beginning of the Fall semester as practicable. At this meeting the officers of the Committee shall be elected and other such organizational matters as necessary shall be decided. Any pending business shall also be brought forth, as necessary.

In addition, the bylaws stipulate in great detail the process by which various organizations within the EMU community can nominate members, and that those nominations are to be confirmed via a campus-wide vote. For example, the bylaws state that:

Each election cycle, each unit above shall designate a single nominee and a single alternate. Then, the campus community shall elect two committee members from among the Student Unit nominees; two from among the Faculty Unit nominees; and two from among the Staff Unit nominees. EMU's Legal Affairs Office shall collect all nominations, administer the campus-wide election, and tally the votes. All nominations shall be submitted no later than November 1 in any given year.

Findings and Recommendations vis-a-vis the PSOC Bylaws

In evaluation of these materials, two sets of concerns were raised by the Ad Hoc Committee: one set having to do with their concordance with Michigan State Law, the other set of concerns pertaining to recent practice relative to PSOC bylaws²⁰. As for the first of these concerns, regarding the concordance of PSOC bylaws with Michigan State Law, the Ad Hoc Committee found that, although there appears to have been some past discordance, current PSOC bylaws do not appear to violate state law either in spirit or letter. For example, while the bylaws enacted on June 28, 1996 appear to violate the rules set forth in MCL 390.1511 as to the body's composition, this problem appears to have been corrected by at least the revision approved on Dec. 9, 2015.

The Ad Hoc Committee found more concerning the disjunct between recent practice and existing bylaws. For example, the Ad Hoc Committee found that, in apparent violation of its bylaws, the PSOC has not consistently met the minimally required annual organizational

¹⁸ See the [Appendix](#) for both a copy of this request and the current bylaws

¹⁹ See the [Appendix](#).

²⁰ In many instances, the Ad Hoc Committee found current PSOC bylaws to be in discordance with national best practice standards. For more discussion of these, see the section entitled [Standards under National Association for Civilian Oversight of Law Enforcement \(NACOLE\) principles of effective oversight](#), below.

meeting outlined in its bylaws²¹. It is also the Ad Hoc Committee's finding that recent practice has not followed the guidelines pertaining to the nomination and election of PSOC members. The Ad Hoc Committee's concerns are inclusive of the election occurring during the Fall 2020 semester, as neither the nomination process nor the general election appear to have been held in accordance with PSOC guidelines.

- **Recommendation:** The Ad Hoc Committee recommends that PSOC's working bylaws be shared publicly via the newly created PSOC website. This recommendation may extend to an archive of previous working bylaws²².
- **Recommendation:** The Ad Hoc Committee recommends PSOC institute a regular meeting schedule, at the very minimum to meet the requirements of the existing bylaws. Ideally this meeting schedule would be shared publicly via the University calendar. This may include changing its bylaws to establish more frequent and regular meetings beyond the one required meeting per year, and regardless of complaints investigations.
- **Recommendation:** The PSOC should also conduct yearly reviews of its policies, priorities, and procedures, taking into consideration evaluations from complainants and assessing their adherence to Procedural Justice principles.
- **Recommendation:** The Ad Hoc Committee recommends earlier, more proactive, more consistent, and more widespread communication about the nomination and election process for PSOC members. This should include direct communication to the nominating bodies as well as broad publicity through University communications, including both email and social media²³.

Standards under National Association for Civilian Oversight of Law Enforcement (NACOLE) principles of effective oversight

The Faculty Senate resolution which commissioned this Ad Hoc committee begins by noting that

"...recent movements have centered the call to re-imagine, re-invest and re-structure public safety in all its forms, including university-based police departments. National examples of these include the #8Can'tWait²⁴ campaign, statements from professional organizations,²⁵ policy recommendations such as "Changing the Law to Change Policing:

²¹ This deficit was corrected during the course of the Ad Hoc Committee's investigation.

²² For a further discussion of Ad Hoc Committee recommendation for transparency and institutional record keeping, see the below section entitled Public Reporting and Transparency.

²³ For more recommendations for how contractually identified partners may be more fully incorporated into the work of PSOC, see the below sections entitled Sustained Stakeholder Support, Community Involvement, and Community Outreach.

²⁴ "#8Can'tWait: A project of Campaign Zero" <https://8cantwait.org/>

²⁵ See especially the National Association for Civilian Oversight of Law Enforcement's (NOCLE) "Civilian Oversight of Law Enforcement Necessary for Meaningful Reform" (June 2, 2020)

First Steps,²⁶ and Congressional bills such as the "People's Justice Guarantee"²⁷. On the State level, these have included recent proposals for reform from the Department of Attorney General,²⁸ the Office of the Governor,²⁹ and Michigan Senate³⁰. Locally, this has included calls from governmental bodies³¹ and community organizations³² as well as our own academic Departments³³."

We have taken this statement to highlight the need to go beyond current legal minimum standards in public safety to ensure broad participation and transparency in a way that assures the safety, well-being and consent of all members of the EMU community. Furthermore, the stipulation that the Ad Hoc Committee's duties may include "Outlining national trends in best practice for addressing these challenges... [including] recommendations for the process whereby public safety at EMU can be aligned with national best practices" led us to search for established standards that could provide a groundwork for such assessment. The National Association for Civilian Oversight of Law Enforcement (NACOLE), the largest professional association and certification board for civilian police oversight practitioners, suggests 13 principles for effective oversight³⁴. It is therefore useful to evaluate the ad hoc committee's findings in relation to these principles.

Independence

According to a 2020 report from NACOLE³⁵,

https://d3n8a8pro7vnm.cloudfront.net/nacole/pages/1/attachments/original/1591134883/NACOLE_Floyd_Press_Release_FINAL_20200602.pdf?1591134883

²⁶ "Changing the Law to Change Policing: First Steps" (Note especially the recommendations at the "local level" aimed at municipalities include "accountability systems")

https://law.yale.edu/sites/default/files/area/center/justice/document/change_to_change_final.pdf

²⁷ "Rep. Pressley Launches A Bold, Progressive Criminal Legal Reform Resolution: The People's Justice Guarantee" (November 14, 2019) <https://pressley.house.gov/media/press-releases/rep-pressley-launches-bold-progressive-criminal-legal-reform-resolution-people>

²⁸ "Nessel Announces First Seven Proposals for Police Reform in Michigan" (June 16, 2020)

https://www.michigan.gov/ag/0,4534,7-359-92297_99936-531996--,00.html

²⁹ "Governor Whitmer Expands Law Enforcement Commission to Include Civil Rights Director, Community Leaders" (June 12, 2020) <https://www.michigan.gov/whitmer/0,9309,7-387-90499-531785--,00.html>

³⁰ "Irwin on Senate passage of bill to improve police officer training" (June 4, 2020)

<https://senatedems.com/irwin/news/2020/06/04/irwin-on-senate-passage-of-bill-to-improve-police-officer-training/>

³¹ "Ypsilanti City Council hosts public forum on police reform" *Eastern Echo* June 20, 2020

<http://www.easternecho.com/article/2020/06/ypsilanti-city-council-hosts-public-forum-on-police-reform>

"Ann Arbor council prepares for possible battle with union over police reform" *MLive.com* July 7, 2020

<https://www.mlive.com/news/ann-arbor/2020/07/ann-arbor-council-prepares-for-possible-battle-with-union-over-police-reform.html>

³² "Local leaders discuss what's next for racial justice in Washtenaw County" by Sarah Rigg of *On the Ground Ypsilanti* <https://www.seconddwavemedia.com/concentrate/features/racialjusticewashtenaw.aspx>

³³ Cf. Department of Sociology, Anthropology & Criminology Statement on Police Brutality, June 2020

³⁴ Angelis, Joseph De, Richard Rosenthal, and Brian Buchner. 2016. "Civilian Oversight of Law Enforcement: Assessing the Evidence." Washington, DC.

³⁵ National Association for Civilian Oversight of Law Enforcement. 2020. "Thirteen Principles for Effective Oversight." Washington, D.C.

“One of the most important and defining concepts of civilian oversight of law enforcement is independence. In its broadest sense, it refers to an absence of real or perceived influence from law enforcement, political actors, and other special interests looking to affect the operations of the civilian oversight agency. In order to maintain legitimacy, an agency must be able to demonstrate the extent and impact of its independence from the overseen law enforcement agency — especially in the face of high-profile issues or incidents.”

The Ad Hoc Committee found that, while generally PSOC members reported a sense of independence in the complaints-review process, there were reported incidents in which EMUPD has, in the past, influenced the activities, priorities and recommendations of PSOC. This has included attempts to *a priori* establish the parameters of the investigative process and potential disciplinary recommendations.

- **Recommendation:** The Ad Hoc Committee recommends that PSOC should consistently emphasize and enforce the bylaw stipulation whereby non-committee members (including *ex officio* members) should be present only by invitation and should not be present during the review process or be allowed to comment on recommendations before they are submitted.
- **Recommendation:** The Ad Hoc Committee recommends that PSOC and the Office of the President (to which it reports) should work collaboratively to develop ways to strengthen the operational independence of PSOC, emphasizing the need to be a topic of continued consideration and vigilance. This conversation should include discussion of PSOC's relation to EMU Legal counsel, including clarification of each body's roles and responsibilities during each stage of an escalating complaint (up to, and including lawsuits, etc.)
- **Recommendation:** The Ad Hoc Committee recommends that PSOC should organize the content and frequency of its meetings so as to allow time for setting its own independently generated proactive priorities.

Clearly Defined and Adequate Jurisdiction and Authority

NACOLE suggests that,

“An oversight agency's jurisdiction and scope of authority are crucial to its success and effectiveness. While expectations regarding civilian oversight can vary significantly, having adequate jurisdiction and authority are fundamental in achieving organizational goals and ensuring the oversight agency can be responsive to communities.... An agency that is not given sufficient authority and jurisdiction to perform its mission simply cannot be effective. While there is no “best” oversight model for all contexts, stakeholders must ensure that the level of authority an oversight agency has in relation to its core oversight functions permits the

agency to successfully perform its duties to the greatest degree possible and without limitation³⁶.

The Ad Hoc Committee found that, with a few important exceptions, the Jurisdiction and Authority of PSOC has been **relatively well defined**. The most notable of these exceptions is the fact that the power to conduct hearings during the complaint review process was seemingly unknown to several PSOC members. This is an important aspect of oversight powers, necessary for the adequate execution of its authority.

Among the remaining questions includes those pertaining to the participation of and responsibilities to community members not formally affiliated with EMU. This raises special concern for matters of determining who can file complaints with the PSOC as well as whose voices can be heard in their policies and decisions³⁷.

In addition to the above challenges, the Ad Hoc Committee finds that the Jurisdiction and Authority of PSOC has been narrowly defined, focusing exclusively on reacting to complaints forwarded to it by EMUPD, in such a way as to be **inadequately aligned with national best practices**, as represented in the NACOLE principles discussed in this report.

- **Recommendation:** The Ad Hoc Committee recommends that PSOC seek clarification with Legal Counsel clarifying its responsibilities, jurisdiction and authority in relation to community members not formally associated with EMU.
- **Recommendation:** The Ad Hoc Committee recommends that PSOC explore ways its jurisdiction and authority might be expanded so as to be more adequately aligned with national best practices. This may include changing its bylaws to establish more frequent and regular meetings regardless of specific or pending complaints, so as to allow PSOC to set its own priorities, facilitate intra-committee communication, allow outreach, make space for identifying patterns, and address other of the NACOLE principles discussed in this report.

Unfettered Access to Records and Facilities

NACOLE recommends that,

"Unfettered access to the subject law enforcement agency's records is vitally important for effective civilian oversight.... The ability to review all records relevant to an investigation or other matters within the scope of a civilian oversight agency's authority in a timely manner is essential to providing effective, informed, and fact-driven oversight. Similarly, agencies performing correctional oversight must have unfettered access to facilities and staff. Without timely and reliable access to

³⁶ Ibid.

³⁷ For more discussion of these challenges and Ad Hoc Committee recommendations pertaining to them, see the section entitled Community Involvement

department records, information, and facilities, oversight practitioners and volunteers cannot make decisions that meaningfully address areas of concern³⁸."

The Ad Hoc Committee found that in the majority of instances PSOC members were satisfied in their access to evidence they considered necessary to make their final decision. However, there have been instances in which PSOC members voiced a desire for additional information which they were denied. This has included information regarding past disciplinary records, personnel records relating to internally identified "problem behaviors", and employment histories of affected employees, as well as direct access to individuals involved in standing complaints. Additionally, the Ad Hoc Committee found that the ultimate source of such roadblocks remains unclear, perhaps stemming from multiple legally mandated restrictions, including: Federal law, Michigan state law, and EMU labor agreements with the Police Officers Association of Michigan.

- **Recommendation:** The Ad Hoc Committee recommends that the President's Office work alongside EMUPD and University Legal Counsel in order to formally assure PSOC's unfettered access to all records and data legally possible.
- **Recommendation:** The Ad Hoc Committee recommends that PSOC, in collaboration with the Office of the President and Legal Counsel, explore ways to make such information available when PSOC deems it necessary to the adequate completion of its charge. This could include, as warranted, advising the EMU Collective Bargaining Team of its importance as a point of concern in its next contract negotiation with the Police Officers Association of Michigan. It may also include encouraging the Office of the President and its State Legislative team to explore the possibility of amending provisions in state law that block such access.

Access to Law Enforcement Executives and Internal Affairs Staff

NACOLE's guidelines suggest that

"The effectiveness of civilian oversight can hinge on an agency's ability to effectively communicate with law enforcement officials regarding matters of concern identified throughout the course of the oversight agency's work. Sustained dialogue and communication between law enforcement and oversight stakeholders promotes cooperation and ensures that those involved can develop mutual understanding and support for each other's role in promoting greater accountability. Legislation establishing civilian oversight should require that law enforcement agencies provide timely, written, and public responses detailing why a particular recommendation was either accepted or rejected.... These responses are crucial to informing the public of how, if, and why or why not issues identified by the civilian oversight agency will be addressed³⁹."

³⁸ National Association for Civilian Oversight of Law Enforcement. 2020. "Thirteen Principles for Effective Oversight." Washington, D.C.

³⁹ Ibid

The Ad Hoc Committee found that, although PSOC bylaws allow for the body to request the presence of affected parties, in practice access to law enforcement staff has been inconsistent over the course of PSOC's operation, in large part dependent on the decisions of the EMUPD. It also found that communication of and justification for final decisions have not been adequately circulated.

- **Recommendation:** The Ad Hoc Committee recommends that terms of access be made explicit and regularized, with priority given to making as available as possible under labor agreements and applicable law, including such law as pertaining to individual privacy.
- **Recommendation:** The Ad Hoc Committee recommends that it be made standard practice to communicate final decisions of the President, along with their justification to all PSOC members and affected parties.

Full Cooperation

NACOLE's guidelines suggest that

"In addition to having access to relevant records and department executives, effective civilian oversight requires the full cooperation of all officers and department staff throughout the course of its work. Full cooperation is necessary for conducting thorough investigations and obtaining sufficient information for any work performed by the civilian oversight agency. The conditions of such cooperation must respect due process rights and an individual's constitutional right against self-incrimination. Cooperation with civilian oversight should be a condition of employment for all officers and staff within the agency's jurisdiction⁴⁰."

The EMU Ad Hoc Committee found little evidence for concern pertaining to cooperation. However, while the Ad Hoc Committee applauds recent efforts on the part of EMU administration to support the work of PSOC⁴¹, it finds that such efforts draw a stark contrast with previous practice which did not maintain lines of regular communication nor take steps to proactively inform the EMU community about the existence of PSOC and its mission.

- **Recommendation:** The Ad Hoc Committee recommends continued exploration of ways that the President's Office can support the overall mission of the PSOC. Such opportunities may be more easily identified through establishing more regularized avenues of communication, through which PSOC goals, priorities, and needs may be conveyed.

Sustained Stakeholder Support

NACOLE's guidelines suggest that

⁴⁰ Ibid

⁴¹ See especially the section entitled Changes to PSOC in Interim

"Ongoing engagement with and support from stakeholders regarding local public safety and law enforcement-related issues is an important component of effectiveness. An otherwise well-designed civilian oversight mechanism can be undermined over time by a lack of meaningful support from those who can contribute to an agency's success.... While establishing and supporting civilian oversight may be politically expedient in times of crisis, successful oversight requires the sustained support and interest of stakeholders who value independence, accountability, and transparency.... An agency's ability to maintain this support may be a function of its outreach to those stakeholders. Maintaining productive relationships, even in times where disagreement and conflict may be unavoidable, will be crucial to future problem-solving, cooperation, and collaboration on key issues"⁴².

The Ad Hoc Committee found the largest challenge to sustained stakeholder support to be the general problems of recruitment and outreach⁴³. For example, knowledge of and participation in annual elections to PSOC has been irregular across the University. Among the stakeholders identified in MCL 390.1511 and PSOC bylaws, the Ad Hoc Committee found the sustained support of student stakeholders to be especially problematic. The Ad Hoc committee further found that the challenge of sustained student support to be largely a structural one, stemming less from student abilities or enthusiasm than from a relative lack of support for their functional inclusion.

- **Recommendation:** The Ad Hoc Committee recommends the President's Office, Legal Counsel and PSOC work together in order to develop practices whereby recruitment to the PSOC is made more transparent and broadly understood. This should include wider communication about the existence of the PSOC, its purpose, and the responsibilities attached to participation.
- **Recommendation:** The Ad Hoc Committee recommends efforts to communicate to each prescribed stake holding body (Faculty, Staff, and Students) the need for, and duties of, elected alternates.
- **Recommendation:** The Ad Hoc Committee recommends that the President's Office, in cooperation with PSOC and Student Government, explore ways to invest in, support, and enable sustained student participation.

Adequate Funding and Operational Resources

NACOLE's guidelines suggest that

"Allocating sufficient resources to civilian oversight is a crucial determinant to effectiveness.... To ensure that work is being performed thoroughly, timely, and at

⁴² National Association for Civilian Oversight of Law Enforcement. 2020. "Thirteen Principles for Effective Oversight." Washington, D.C.

⁴³ See the sections entitled Community Outreach and Public Reporting and Transparency for a further discussion and recommendations on this issue.

a high level of competency, adequate resources are necessary. Political stakeholders must ensure that their support for civilian oversight includes a sustained commitment to provide adequate and necessary resources. Providing adequate funding can signal a commitment to reform that may lead to greater cooperation by law enforcement executives and unions.... Similarly, civilian oversight agencies must have the resources to retain experienced professional staff, provide staff and volunteer board or commission members with adequate training on a regular basis, perform community outreach, and disseminate public reports and other outreach materials in order to be effective⁴⁴."

The Ad Hoc Committee found that PSOC participants generally reported adequate funding and resources for past activities. However, as noted, the Ad Hoc committee finds these activities to have been so narrowly defined as to be inadequately aligned with national best practices. For example, there have been no efforts at offering training in or guidelines for civilian oversight of law enforcement for PSOC members. To address such problems, this report envisions an expanded scope and charter for the PSOC. One result of this expansion is likely to be a significant increase in the workload of PSOC participants. While the Ad Hoc Committee does not find this increased workload to be itself problematic, it does highlight the need to consider additional ways to support the work of faculty, staff and students on PSOC.

- **Recommendation:** The Ad Hoc Committee recommends the President's Office work together with members of the PSOC in order to re-evaluate the required funding and operational resources necessary to assure the continued success of PSOC.
- **Recommendation:** The Ad Hoc Committee recommends the allocation of resources to support, at minimum, basic training in the responsibilities and challenges of civilian oversight of law enforcement for members of the PSOC, such as that offered by the National Association for Civilian Oversight of Law Enforcement (NACOLE).

Public Reporting and Transparency

NACOLE's guidelines suggest that

"An independent entity bringing transparency to a historically opaque process is a fundamental goal and component of civilian oversight. Civilian oversight provides a unique opportunity for the public to learn about misconduct complaints and other areas of the law enforcement agency that serves the community. As such, issuing regular public reports is critical to an agency's credibility.... A civilian oversight agency should, at a minimum, issue one written report to the public each year.... Reports should be written in an accessible manner that allows the public to clearly understand the agency's authority, purpose, procedures, and accomplishments. In addition, they should include as much information related to the agency's mandate and operations as can be disclosed by law, including patterns and trends in

⁴⁴ National Association for Civilian Oversight of Law Enforcement. 2020. "Thirteen Principles for Effective Oversight." Washington, D.C.

complaints or discipline, the agency's recommendations and activities for the year, and issues that may be of concern to the public. Sufficiently resourced oversight agencies should seek to produce more frequent reports and, where appropriate, issue special reports on specific matters such as the findings of a particular policy review, audit, or investigation⁴⁵."

Along with the related dimensions of Community Outreach and Community Involvement⁴⁶, the Ad Hoc Committee found the issue of Public Reporting and Transparency to be one of the areas in which the past practice of PSOC diverged most widely from current national standards of best practice. Up until quite recently, there was no easily accessible public vehicle describing the existence of PSOC, nor adequate opportunities for members of the public to be appraised of its activities and decisions⁴⁷. PSOC bylaws were not publicly disseminated nor easily accessible⁴⁸. Neither PSOC membership nor its activity have been described in any publicly oriented way, leaving the broader EMU community generally unaware of the PSOC's existence, responsibilities, and operations. Furthermore, the Ad Hoc committee finds this lack of public awareness to culminate in a situation where the broader EMU community may have concerns about the operations and the state of public safety on campus more generally.

- **Recommendation:** The Ad Hoc Committee recommends that the newly established website be further developed in order to accentuate the degree of public transparency and reporting associated with the PSOC. This should include: a copy of the most recently approved bylaws governing PSOC activities as well as a link to relevant state or even Federal law; a form via which individuals might submit a complaint directly to PSOC; a description or link to the PSOC meeting schedule; an archive of current and past annual reports (as described in the recommendation below). The PSOC should also work with IT Services to consider ways to increase the public profile of the PSOC within the EMU web ecosystem.
- **Recommendation:** The Ad Hoc Committee recommends the PSOC explore more robust mechanisms for assuring the long-term institutional memory and archive of PSOC activities. This should, as minimum, include records of all past PSOC members. It should also include an archive of past meeting minutes, even if they must exist under special protection due to concerns for confidentiality.
- **Recommendation:** The Ad Hoc Committee recommends that the PSOC publish annual reports detailing its membership and activities over the course of the year. The Ad Hoc committee recommends that this include aggregated data on the cases they've examined, with personally identifiable information removed.
- **Recommendation:** The Ad Hoc Committee recommends that PSOC develop a more frequent and regular meeting schedule and that this schedule be posted to the University

⁴⁵ Ibid

⁴⁶ See the sections [Community Outreach](#) and [Community Involvement](#) below.

⁴⁷ See the section [Changes to PSOC in Interim](#) for these most recent changes

⁴⁸ See especially the section [PSOC Bylaws Standard](#)

calendar for public access. The Ad Hoc committee also recommends that aspects of the PSOC activities not associated with confidentiality concerns be made open to the public and that at least some of those meetings have time reserved for public comment.

Policy and Patterns in Practice Analysis

NACOLE's guidelines suggest that

"Performing analyses of law enforcement policies and patterns in practice may be among the most critical functions a civilian oversight agency can perform.... Such analyses have great potential to advance the goals of effective civilian oversight by addressing systemic problems of law enforcement agencies and by formulating recommendations that will improve relations with communities. By performing data-driven and evidence-based analyses of specific issues, oversight agencies can pinpoint areas of concern and formulate recommendations for improvement. To hold the overseen law enforcement agency's executives accountable, timely, written responses to the oversight agency's recommendations should be required and made public⁴⁹."

The Ad Hoc Committee found no evidence of past PSOC activity devoted to either Policy or Patterns in Practice Analysis, which suggests a wide divergence from national standards of best practice in civilian oversight of law enforcement. The Ad Hoc Committee finds that this deficit is in large part because such analysis was not in the past considered within the scope of PSOC's charter, suggesting that this may need to be explicitly incorporated into PSOC bylaws if it is to be adequately addressed.

- **Recommendation:** The Ad Hoc Committee recommends that the PSOC consider revising existing bylaws so as to reflect a broader mandate. This revised mandate would incorporate a proactive approach to reviewing policies, patterns, etc. and making recommendations on them.
- **Recommendation:** The Ad Hoc Committee recommends that the PSOC regularly apportion meeting time for policy and patterns in practice evaluation as part of a more frequent and regular meeting schedule at least partially open to the public. In addition to allowing time for analyzing existing policy and for identifying patterns in practice, an expanded meeting schedule would allow PSOC to better set its own priorities⁵⁰, facilitate intra-committee communication⁵¹, and allow outreach⁵².

⁴⁹ National Association for Civilian Oversight of Law Enforcement. 2020. "Thirteen Principles for Effective Oversight." Washington, D.C.

⁵⁰ See the related recommendation in the section [Independence](#)

⁵¹ As, for example, outlined in recommendations in the [Full Cooperation and Public Reporting and Transparency](#) and [Sustained Stakeholder Support](#) sections

⁵² As detailed in the recommendations in the [Community Outreach](#) and [Community Involvement](#) sections

- **Recommendation:** The Ad Hoc Committee recommends that PSOC pay special attention to patterns in disciplinary outcomes within EMUPD, and that these should be included in its annual report as anonymized data published in aggregate form.
- **Recommendation:** The Ad Hoc Committee recommends that the PSOC work with EMUPD to develop early intervention mechanisms which incorporate PSOC findings on patterns in practice analysis in order to identify potential systemic problems.
- **Recommendation:** The Ad Hoc Committee recommends that the PSOC work alongside EMUPD to make publicly available (through either or both organization's website) EMUPD policies on use of force, de-escalation, training, sensitivity to racial & gender factors, and disciplinary procedures.
- **Recommendation:** The Ad Hoc Committee recommends that the PSOC work with EMUPD to publish data on police activity and employee demographics (race/ethnicity/gender/residency). This could be as part of an annual report or via another publishing mechanism such as the PSOC or EMUPD website.
- **Recommendation:** The Ad Hoc Committee recommends that the PSOC lead a broader community-engaged discussion on the types of data most useful for assessing and establishing trust in public safety, as well as how to best communicate and share it

Community Outreach

NACOLE's guidelines suggest that

"In many cases, civilian oversight is established amid community calls for greater accountability following a high-profile incident involving local law enforcement.... As an institution representing the interests of the local community, conducting outreach to the community and local stakeholders is essential to effective civilian oversight.... Outreach enables an oversight agency to build awareness of its existence, share reports and findings with the public, build relationships with stakeholders, recruit volunteers, solicit community input and involvement, facilitate learning and greater understanding, broker improved relationships, build coalitions, and develop a greater capacity for problem-solving.... These functions are crucial to an agency's transparency, credibility, responsiveness, accountability, and accessibility, and overall ability to successfully maintain public support and legitimacy⁵³."

The Ad Hoc Committee found that Community Outreach has been entirely absent from PSOC activities to date. While the Ad Hoc Committee finds this deficit to be the result of a narrowly defined mandate and not willful neglect, it further finds that this deficit has the potential to undermine public confidence in the PSOC and, more generally, public safety on campus. A chief problem in this regard is the relative lack of awareness, until perhaps very recently, of the

⁵³ National Association for Civilian Oversight of Law Enforcement. 2020. "Thirteen Principles for Effective Oversight." Washington, D.C.

PSOC and its activities. This relative lack of awareness, the Ad Hoc Committee finds, may leave community members with the impression that there are no mechanisms in place through which their concerns might be addressed, leaving them effectively estranged from participation in the broader EMU community.

- **Recommendation:** The Ad Hoc Committee recommends the PSOC explore ways to use the newly existing website as a portal to the broader community. This should include a set of static resources available to concerned individuals, as well as more dynamic and interactional content that can elicit broader engagement. The PSOC should consider whether a social media presence could enhance this dynamic content.
- **Recommendation:** The Ad Hoc Committee recommends the PSOC begin to incorporate outreach into its regular activities. This should include informational sessions open to the general public as well as workshops, seminars, or presentations hosted by specific community partners and stakeholders.
- **Recommendation:** The Ad Hoc Committee recommends that the PSOC regularly host listening sessions with various stakeholders at EMU and the broader Ypsilanti community in order to better understand community priorities and goals for public safety.

Community Involvement

NACOLE's guidelines suggest that

"Effective civilian oversight requires community involvement.... Community and stakeholder input regarding how civilian oversight should function and which accountability issues it should address will result in the creation of a "best fit" oversight system that can meet community needs and expectations. Without sufficient involvement of those most interested in and impacted by local issues regarding law enforcement, it is unlikely that civilian oversight will be able to successfully accomplish its goals⁵⁴."

The Ad Hoc Committee found that Community Involvement is largely absent from the operations of the PSOC given the narrowly defined mandate in which "community" consists largely of the few individuals elected as the legally mandated representatives to the body. However, national best practices indicate that community involvement should be conceived as a more far-reaching activity, extending beyond even the constituent bodies named in PSOC bylaws and Michigan state law to all those groups potentially affected by the practices of EMUPD. The Ad Hoc Committee further finds that, since the activities of EMUPD extend off campus, and since EMUPD is of a comparative size and resource base as Ypsilanti City PD, it potentially affects the broader Ypsilanti community in ways that are not yet fully understood. Finally, the Ad Hoc Committee finds this situation especially concerning given the potential that there be a significant portion of the broader community affected by EMUPD without significant formal input into its oversight body.

⁵⁴ Ibid

- **Recommendation:** The Ad Hoc Committee recommends that PSOC work together with the President's Office and EMUPD in order to build bridges to a large array of community partners. This should include, first and foremost, the EMU student body, but should also include the larger Ypsilanti community.
- **Recommendation:** The Ad Hoc Committee recommends that PSOC, in cooperation with the President's Office and EMUPD, should work to identify potential community partners. This may include, among others, the Ypsilanti Police Advisory Commission (PAC).
- **Recommendation:** The Ad Hoc Committee recommends that the bodies which nominate candidates for participation in PSOC incorporate criteria which give value to broader community connections when evaluating candidates.
- **Recommendation:** The Ad Hoc Committee recommends that PSOC create at least one *ex officio* position for a community partner not directly affiliated with EMU. PSOC can request that Legal Counsel clarify legal parameters in which such a community partner might participate in PSOC activities, however the Ad Hoc Committee notes that in other matters (such as for Humans Subjects Research Boards) such community liaisons are routine practice and even Federally mandated.
- **Recommendation:** The Ad Hoc Committee recommends that PSOC work with the Office of the President and the EMU Legislative team to work with state legislators in order to explore the possibility of amending the provision in Michigan law that fails to incorporate community partners in civilian oversight.

Confidentiality, Anonymity, and Protection from Retaliation

NACOLE's guidelines suggest that

"Effective civilian oversight must function with the same integrity, professionalism, and ethical standards it expects from and promotes for law enforcement. Stakeholders and the community must remain confident that civilian oversight will protect sensitive information as well as those who disclose it. An oversight agency cannot maintain credibility, legitimacy, and public trust if it does not or cannot respect confidentiality agreements, maintain the anonymity of those who wish to share information anonymously, and work towards creating an environment where those involved with or contacting the oversight agency can do so without fear of retaliation or retribution."⁵⁵

One significant limitation for our findings on this issue was that the Ad Hoc committee was not able to talk to any complainants nor were any records of participant satisfaction made available nor is it clear to date whether such comprehensive records exist. For this reason, it is hard to make conclusions about any potential issues or concerns. With this caveat in mind, the EMU

⁵⁵ Ibid

Ad Hoc Committee found no significant issues pertaining to Confidentiality, Anonymity and Protection from Retaliation. During the course of focus group conversations, there was significant caution voiced by PSOC members that the anonymity of participants be safeguarded. The Ad Hoc committee finds this an illustration of the seriousness and caution with which such issues have been handled by PSOC members. Our further finding is that caution is at least in part a result of EMU Legal Counsel's emphasis on this issue when debriefing PSOC members.

- **Recommendation:** There should be a mechanism early in the process, potentially on the initial complaint form, in which complainants might be able to express a concern over Confidentiality, Anonymity and Retaliation. The PSOC should then take all necessary steps to address that concern before the complaint review process begins.
- **Recommendation:** The PSOC and EMU need to invest in broader outreach and follow up with individuals who have issued a complaint reviewed by PSOC. This could include a follow-up survey or interview at the end of the process in which complainants are given an opportunity to speak to their concern over Confidentiality, Anonymity and Retaliation.
- **Recommendation:** The PSOC should include in its annual report anonymized data concerning such reports as well as the efforts it has taken to respond to concerns over Confidentiality, Anonymity and Retaliation.

Procedural Justice and Legitimacy

NACOLE's guidelines suggest that

"Procedural justice and legitimacy should serve as core principles guiding the work and processes of effective civilian oversight. Rooted in behavioral psychology, procedural justice typically centers on how authority is exercised. For entities whose authority is established by law, the recognition of their right to that authority and perceptions of how fairly that authority is exercised are crucial components of legitimacy.... Research has shown that procedurally-just interactions between law enforcement and the community positively impact the public's compliance with laws... and willingness to assist in crime control efforts.... The literature has also shown that officer perceptions of a procedurally-just work environment is associated with reduced misconduct and corruption, ...as well as greater endorsement of policing reforms, reduced mistrust and cynicism with the community, willingness to obey supervisors, and increased officer well-being.... Though the literature on procedural justice and civilian oversight is relatively sparse, there is research supporting the notion that procedurally just complaint processes — where complainants report being satisfied with the quality of communication and the process... increase complainant satisfaction⁵⁶."

The Ad Hoc Committee found insufficient evidence that the principles of procedural justice guide the current processes of the PSOC. There was little to no evidence that complainants, or for

⁵⁶ Ibid

that matter those whom complaints have been filed against, were incorporated as active participants working towards a resolution considered mutually just. As suggested by the recommendations of national best practice, the Ad Hoc Committee finds this omission may lead to a broad distrust or sense of illegitimacy in the process of oversight and review.

- **Recommendation:** The PSOC should make every possible effort to involve the complainant in the review process to ensure procedural justice and faith in the process. This involvement should include extending invitations to speak before the PSOC, as provided for in PSOC bylaws, as well as a clear explanation of the complaint review process at the time of complaint.
- **Recommendation:** The PSOC and EMU should invest in broader outreach and follow up with individuals who have participated in PSOC investigations. This could include a follow-up survey or interview at the end of the process.
- **Recommendation:** The PSOC should regularly review its bylaws and complaints review process to assess their adherence to Procedural Justice principles.

Committee Members

Dr. Peter Blackmer is Assistant Professor in the Department of Africology and African American Studies at Eastern Michigan University. His research interests include 20th Century African American history, grassroots social movements, urban politics, policing and state violence, and urban uprisings. He is a former research fellow with the Detroit Equity Action Lab in the Damon J. Keith Center for Civil Rights at Wayne State University Law School.

Dr. Marilyn Corsianos is Professor in the Department of Sociology, Anthropology and Criminology, and Women's & Gender Studies at Eastern Michigan University. Her research interests include institutions of social control, public and private policing, power and violence. She is committed to pursuing social change by identifying exclusionary practices in the production of knowledge and identifying more equitable policing systems. She is the author of *The Complexities of Police Corruption: Gender, Identity and Misconduct* (Rowman and Littlefield Press, 2012), the CHOICE Outstanding Academic Title *Policing and Gendered Justice* (University of Toronto Press, 2009), co-author (with Walter S. DeKeseredy) of *Pornography and Violence against Women* (Routledge, 2015), and, co-editor of *Interrogating Social Justice* (Canadian Scholars' Press, 2000). She has also authored numerous peer-reviewed articles and chapters and is currently working on a new book tentatively titled *The Harms of the US Criminal Legal System and the Case for Reform*. Dr. Corsianos has been invited by the Department of Justice to speak on gender and policing, served as an expert witness on police sexual misconduct at the Ontario Human Rights Tribunal, and, as a member of the Title IX Research Committee, was Co-investigator in the development of EMU's first campus climate survey on sexual violence. She is the recipient of prestigious awards including the Distinguished Scholar Award by the American Society of Criminology's Division on Women & Crime (2015), and EMU's Ronald W. Collins Distinguished Research Award (2014).

Dr. Kevin Karpiak is Associate Professor in the Department of Sociology, Anthropology and Criminology at Eastern Michigan University. He is the founder and Director of Southeastern Michigan Criminal Justice Policy Research Project (SMART) and co-editor of the Cornell University Press monograph series *Police/Worlds: studies in security, crime and governance*. He received his PhD in Cultural Anthropology from the University of California at Berkeley (2009), for which he conducted a multi-sited ethnography of French community policing reform that serves as the basis for his forthcoming book *The Police Against Itself: reassembling French liberalism "after the social"*. Since 2016 he has been conducting research on police oversight commissions in Washtenaw County, MI. He has authored numerous peer-reviewed articles & chapters as well as edited a special issue of the journal *Theoretical Criminology* and the volume *The Anthropology of Police* with Routledge press.

Dr. D. Robert Okopny, CIA, CMA, CFE and is an Internal Audit and Fraud Examination Professor at Eastern Michigan University. He has served on the Detroit Boards for the IIA (Past President) and ISACA for several years on various committees and provides guidance to the Directors for outreach to, and development of, future audit, IT and Fraud professionals. Bob teaches, researches, and provides professional services. His areas of expertise include Ethics, COSO Internal Control, Risk and Fraud. He has also taught CIA, CFP, CMA, and CPA Review

courses. Classes he has developed and taught, both at the graduate and undergraduate levels, include: Internal Audit, Fraud Examination, and International Accounting. Bob has also taught Management Accounting, External Auditing, Principles of Accounting for MBAs, Financial Accounting, Cost Accounting, Taxation, International Business Ethics, Advanced Cost Accounting, and Financial Statement Analysis. He also serves on the Global Ethics Committee of the IMA which is responsible for all aspects of ethics for the international organization. He is Advisor to the EMU IIA/ISACA/ACFE/IMA Student Chapter. He is Director of the IAEF Comprehensive Program. He has degrees in Economics (BS), Finance (MBA), MSA and PhD (Accounting). Bob previously worked for Ford (Finance) and Chrysler (International Internal Audit and Finance). Bob has given many professional presentations including many on Ethics, Risks, and Internal Controls.

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 - b. Adopted December 9, 2015
 - c. Adopted January 13, 2016
3. Email correspondence
 - a. July 9, 2020 email approving FOIA request
 - b. October 8th, 2020 email from University Communications inviting the EMU community to participate in a general election of PSOC nominees
 - c. October 16, 2020 email from Legal Counsel
 - d. November 6, 2020 Email from President Smith to the newly elected members of PSOC, honoring them for their commitment and reasserting the importance of their work.
 - e. November 12, 2020 email from Chief of Staff
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