



FERNDALE
POLICE DEPARTMENT

Police Conduct Complaints

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1.0 PURPOSE

All police conduct complaints, including those made anonymously, claiming misconduct by department personnel will be investigated fully. In order to retain the trust and confidence of the public, the people must know that the department will diligently investigate all complaints, and when there are findings of officer misconduct, then this department will take appropriate action. Any citizen who makes a complaint will be advised of the outcome, unless they choose not to be so informed (MLEAC 1.3.1 d).

2.0 POLICY

It is the policy of this department (MLEAC 1.3.1 c):

- to accept, document, review, and investigate all police conduct complaints alleging misconduct by department personnel, and;
- objectively determine whether the allegations are sustained, unfounded, exonerated, policy failure, or not sustained, and;
- take appropriate disciplinary action in cases where allegations are determined to be sustained. Cases determined to be unfounded, exonerated, not sustained, or a policy failure may be viewed as an opportunity to train or re-train.

2.1 False reports of officer misconduct can be damaging to the department and the community. If it is determined that a citizen falsely and maliciously made an unfounded complaint against an employee, appropriate investigation and action may be taken.

3.0 PROCEDURE FOR HANDLING POLICE CONDUCT COMPLAINTS

3.1 Employee Responsibilities (MLEAC 1.3.1 d)

3.1.1 Each employee of this agency is responsible for accepting and documenting police conduct complaints following the procedures prescribed herein.

3.1.2 An employee who interferes with, discourages, or delays the making of a police conduct complaint shall be subject to disciplinary action. No employee of this department will harass, verbally abuse, or otherwise threaten any citizen who files a complaint against an employee of this department.

3.1.3 All complaints shall be accepted in a courteous, understanding, and professional manner.

3.1.4 When a non-supervisory employee is approached or otherwise receives a complaint from a citizen regarding a department employee, the employee will promptly refer the complainant to the on-duty supervisor.

Article 50: Police Conduct Complaints

3.1.5 If a supervisor is not available, the employee will give the citizen information on how to contact a department supervisor. The employee will try to obtain the name and contact information of the complaining citizen and forward that information to the employee's immediate supervisor as soon as practical.

3.2 Supervisor Responsibilities

3.2.1 Police Conduct complaints shall be accepted by any supervisor of the department who is approached for such assistance.

3.2.1.1 A supervisor shall accept complaints reported by a third-party witness, or a third party that has credible information concerning misconduct by an employee.

3.2.2 The supervisor shall document the complaint in writing, using the approved Supervisors Intake Form.

3.2.3 The supervisor will provide the citizen with the police conduct complaint form. She/he will explain the method for completing the form and respond to any questions the citizen may have in completing the form.

3.2.4 Following the completion of the form, the supervisor will review the contents for completeness and will ask the citizen about any part of the complaint that is unclear or is incomplete. The supervisor will explain the steps of the internal investigation process.

3.2.5 In every case, where a citizen indicates physical inability or lack of minimum writing skills to complete the police conduct complaint form, it may be prepared for the citizen by the supervisor.

3.2.6 Should the citizen refuse to submit the complaint on the police conduct complaint form and/or sign it, or if the citizen wishes to remain anonymous, the supervisor shall note such refusal or anonymity on the form.

3.2.7 Citizens who are unable to speak and/or write in the English language should be encouraged to submit the forms in their native language.

3.2.8 All completed police conduct complaint forms will be given a sequential control number, preceded by "PCC" and the year, i.e. PCC-24-001. The numbers shall be assigned by the Chief or their designee.

3.2.9 The supervisor may attempt to resolve a complaint with an explanation and discussion with the complaining party. The supervisor may determine that minor corrective action or counseling with the officer(s) involved is sufficient to resolve the matter at the shift level. Where applicable, attempts to resolve complaints shall be noted on the Intake form. A supervisor who successfully resolves such a complaint shall document the complaint, how it was resolved, and forward a copy to the Chief or their designee.

3.2.9.1 If the complaint is regarding an outside entity or a legal action (arrest/citation), the complainant may be referred by the supervisor to the appropriate organization. During these incidents a police conduct complaint investigation shall not be completed or a number created.

3.2.10 Any police conduct complaints that are not resolved at the shift level shall proceed to have an investigation conducted. The supervisor shall then notify the Chief of the need for further action.

Article 50: Police Conduct Complaints

3.2.11 In the event the supervisor receiving a police conduct complaint considers it to be of a very serious nature or an emergency circumstance, the Chief or Captain shall be notified immediately.

3.2.12 In any serious case or emergency circumstance, supervisory employees have the authority to immediately relieve an employee of active-duty status pending further investigation of the incident. The supervisory employee will take custody of a sworn employee's identification card, badges, and duty weapon upon removal from active duty unless directed to do otherwise by the Chief of Police or their designee. This initial suspension from duty will be with pay (MLEAC 1.3.1 e).

3.2.13 Investigation of any police conduct complaint shall be completed within 45 days of receipt of the complaint. In the event that the investigation is not complete within 45 days the investigator shall provide the Chief of Police or their designee with a status update.

3.2.14 Upon the completion of any police conduct complaint investigation, a letter will be sent to the complainant by the investigator in charge advising them of the complaint disposition (MLEAC 1.3.1 d).

3.2.15 See investigative workflow on **Addendum A**.

3.3 Online Submissions (MLEAC 1.3.1 d)

3.3.1 Police Conduct Complaint forms are available at the City of Ferndale website and the City of Ferndale Police Department website. All online submission will go directly to the Chief of Police for review and disseminated to the appropriate supervisor for initial investigation.

4.0 Citizen Police and Review Board Appeal and or Referral Process

4.1 Following the investigation, the complainant may appeal the disposition to the Citizen Police Review Board.

4.1.1 The appeal must be filed within 21 days of the disposition notification. The appeal may be filed in writing, by mail, facsimile, or email to the Ferndale City Manager. The City manager shall forward the appeal to the board, and a review shall be conducted following the Policies and Procedures of the Advisory Board Operations. 4.1.2 See **Addendum B**.

5.0 RECORD KEEPING

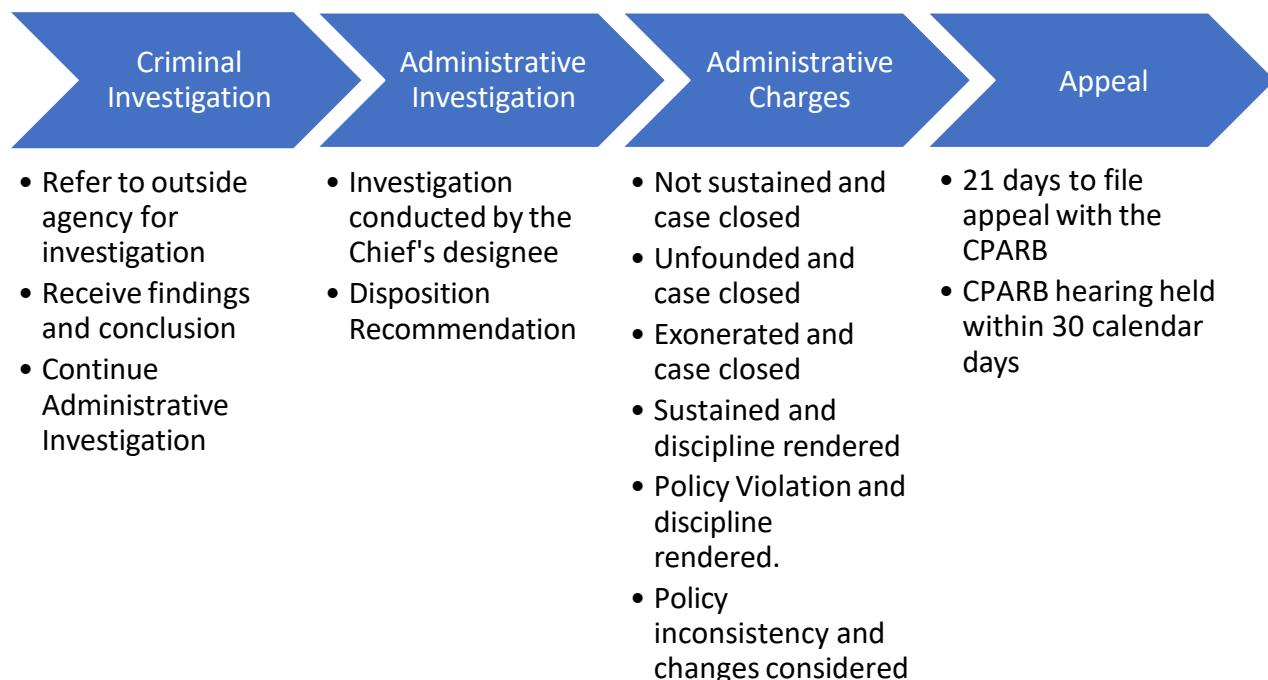
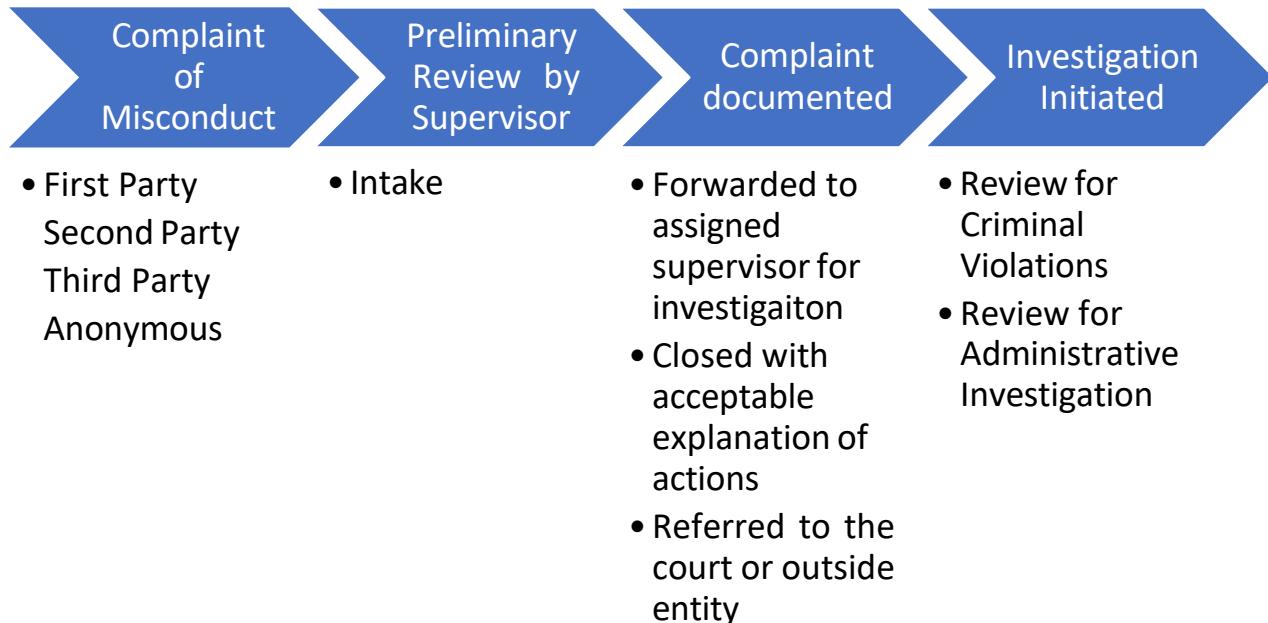
If hard copies of documents, pictures, recordings, etc. are kept they shall be kept in a file folder to be turned over to the Chief at the conclusion of the investigation of any alleged employee misconduct. The Chief or their designee shall maintain all records of an investigation securely in their office in a designated location. An electronic copy of all documentation, pictures, tapes, recordings etc. that can be stored on a computer shall also be retained in secure drive or file in accordance with department record keeping procedures currently in effect (MLEAC 1.3.1 f).



Dennis M. Emmi
Chief of Police

Addendum A

Complaint of Misconduct



Article 50: Police Conduct Complaints

Addendum B

THE CITY OF FERNDALE

CITIZENS POLICE ADVISORY AND REVIEW BOARD

POLICIES AND PROCEDURES OF OPERATION

I. CREATION

Pursuant to the administrative authority granted by the Ferndale City Charter, the City Manager creates the Citizens Police Advisory and Review Board

II. PURPOSE

- A. The purpose of the Citizens Police Advisory and Review Board is to foster open communication between police leadership and the community, provide greater transparency for police conduct complaints and use of force reports and the processes that follow, and to improve and strengthen police-community relations through enhanced transparency, review of police conduct, and opportunities for community input on police policy.

Legal acknowledgements: The City shall follow the law enforcement body-worn camera privacy act, MCL 780.311, et al., and the Freedom of Information Act, MCL 15.231., et al. in considering whether body camera video and other video which may be relevant and material and reviewed in connection with an investigation.

III. ORGANIZATION AND MEMBERSHIP

A. Membership and Terms

1. There will be five (5) members appointed to the Citizens Police Advisory and Review Board by the Mayor, subject to confirmation by the City Council. Members of the board shall serve a three (3) year term. No member shall serve on the board for more than three (3) consecutive full terms. The initial appointments shall require one of the initial members to be appointed to serve a two (2) year term and two (2) of the members to serve a three (3) year term to facilitate staggered replacement of members. The initial chairperson shall be appointed by the Mayor, subject to confirmation by the Council. Thereafter, the board shall annually appoint a chairperson. The chairperson and any two members of the board may schedule a meeting of the board with no less than seven (7) days' notice to all members of the board, the police chief, and city manager. The board shall meet not less than quarterly and as needed to review police conduct complaints and use of force reports and to discuss with the police chief or his or he designee the police department's community policing. The police chief or his or her designee shall attend meetings of the board. The composition of the Board shall be as follows.

Article 50: Police Conduct Complaints

Addendum B

2. Board composition should include members with relevant skills and experiences, including but not limited to members from segments of the community who are vulnerable and tend to have negative interactions with police and members who have experience with mediation, mental health or social work, antiracism or equity, restorative or transformative justice, law enforcement, or criminal justice.

B. Membership Qualifiers

1. U.S. Citizen or legal U.S. Resident
2. Full-~~◆~~one resident of the City of Ferndale
3. Willingness to spend approximately four or five hours a calendar quarter reviewing cases and attending meetings.
4. Willingness to make a three-year commitment.
5. Willingness to attend an orientation session.

C. Membership Disqualifiers

1. Serving a sentence for a criminal conviction
2. An announced candidate for a political office in the city
3. A city employee

D. Membership Selection Process

1. Candidates interested in serving on the board shall submit an application along with a letter of interest including a statement of their background, reason for consideration, and other information deemed appropriate for consideration.
2. The City Manager may schedule an interview with selected candidates to assist him/her in finalizing the membership recommendation list for the Mayor.
3. The mayor will make the final selection of members appointed to the board.

E. Staff Support

1. The City Manager will assign a staff member to assist the board and act as a liaison, but who shall not participate in deliberations of the board.
2. The Police Chief or his/her designee shall attend all appeal hearings but shall not participate in the deliberations of the board.
3. The City attorney shall be available to act as the legal advisor to the board, but in the event of an ethical conflict shall be recused and separate legal counsel will be arranged for the board.

F. Member Responsibilities

Article 50: Police Conduct Complaints

Addendum B

1. Members shall maintain confidentiality with respect to records and information to which they have access, respecting the rights of privacy of complainants, witnesses, and public safety personnel.
2. Members shall excuse themselves from participating in the review of any complaint which they have personal, professional, or financial conflict of interest.
3. Members shall conduct themselves at all times in a manner that maintains public confidence in the fairness, impartiality and integrity of the appeal and review process, and shall refrain from making any prejudicial comments with respect to complainants or public safety officers.
4. Members shall participate in orientation and training programs.

IV. ORIENTATION FOR MEMBERS

Prior to serving, board members shall attend an orientation session on public safety policies, procedures, complaint process, police authority, use of force, labor rights, criminal process, and effects of the job on public safety employees; and other topics identified by the City Manager.

V. REMOVAL FROM BOARD

Under The City's Boards and Commissions general ordinance, ARTICLE 2-XIII BOARDS AND COMMISSIONS; GENERAL RULES, Sec 2-213 Removal of Members

Unless otherwise provided in any specific ordinance, state statute, or law, members of boards and commissions established by this article shall serve at the will of the council but may be removed by council for cause. Prior to consideration of any removal of a member from a board or commission, council shall provide notice to such member who may request a hearing before council and receive an explanation of the reason for their removal prior to consideration of any such removal. A member may request the council grant a leave of absence, not to exceed 90 days from a board or commission. Such a leave may be granted upon a majority vote of the council.

VI. ABSTENTION

- A. Should a member of the board become the focus of any criminal proceeding or otherwise have a conflict of interest in any matter before the board such that his/her ability to impartially participate in deliberations of the board may be compromised, the board member shall notify the City Manager and Chairperson of the board of the potential conflict of interest and shall be excused from such deliberations or other participation. Any potential conflict of interest coming to the attention of the Board shall be resolved by majority vote after consultation with the City attorney.
- B. A board member shall abstain from any consideration of a complaint if she or he has demonstrated personal bias or prejudice, or the appearance thereof, in the outcome of the

Article 50: Police Conduct Complaints

Addendum B

complaint. This does not include holding or manifesting any political or social attitude or belief that does not preclude objective consideration of a case on its merits. Examples of personal bias or prejudice include, but are not limited to:

1. Having a familial relationship, close friendship, or close working relationship with any party material to the complaint
2. Witnessing events material to the complaint
3. Being a party to the complaint
4. Holding a bias for or against a particular party is sufficient to impair the board member's impartiality.
5. Having a financial interest in the outcome of the complaint

VII. CONFIDENTIALITY

- A. In order to ensure the integrity of the appeal process, board members shall maintain complete confidentiality concerning all appeals pending before the board. No member shall discuss any pending appeal with anyone, including other board members, except at regularly scheduled meetings of the board. No board member shall undertake an independent investigation of any matter pending before the board. Documents examined during the appeal process shall be reviewed only during regularly scheduled meetings of the board and shall be returned to City staff at the conclusion of each board meeting. Board members shall not take, reproduce, or keep any record generated or examined during the pendency of any appeal without the express approval of the City Manager or the Police Chief. The release of board records to individuals who are not members of the board shall be governed by the Michigan Freedom of Information Act. Any request for release of records will be handled by the appropriate City staff.

VIII. COMPLAINT PROCESS

A. Filing a complaint

1. Any allegation that the conduct of a police officer while on duty constitutes a violation of law, a rule or general order shall be documented on a department-issued form as a Police Conduct Complaint (PCC) form and forwarded to the Chief of Police, for investigation and tracking purposes. A copy of all PCC forms shall be provided to the board and the City Manager.
2. A PCC may be filed in person, by mail, facsimile, or email with the police department, or the city manager. A PCC may be filed by the complainant, or complainant's designated representative, or by another individual, identified or anonymously, who witnessed the conduct. If a PCC is filed with the City Manager, the City Manager shall forward the PCC to the Police Chief. Regardless of how a PCC is received, the police department shall provide assistance to persons seeking to avail themselves of the PCC process including if a person wishes to report a PCC and is unable or unwilling to provide a completed PCC form, the police department shall assist the person with the PCC which shall be considered the initiation of the PCC process.

Article 50: Police Conduct Complaints

Addendum B

3. An individual making a complaint shall fill out the department-issued PCC form, if possible. Although signing of the PCC form is requested, signing is not mandatory; the matter will be reviewed regardless of whether the PCC is signed.
4. A PCC may be withdrawn at any time; however, a withdrawal will not preclude the continuation of an investigation and the imposition of discipline if deemed appropriate by the Chief of Police.

B. Investigation of a Complaint

1. Investigation of a PCC is to be completed within 45 calendar days of receipt by the city. In the event the investigation is not completed within 45 calendar days, the complainant, board, and city manager shall be provided with a progress report from the police chief summarizing the status of the investigation. Periodic updates to the complainant, board and city manager shall continue every 45 calendar days until the investigation is complete. Investigation may be delayed in connection with any discipline and grievance provisions under any applicable collective bargaining agreement.

C. Findings and Disposition of Complaints

The Chief of Police shall review all PCC considering the following:

1. If the PCC is a criticism of operating policies or procedures of the police department and if a change is warranted or justified, the police chief shall develop and implement the necessary changes in accordance with police department policies and any applicable collective bargaining agreements.
2. Non-criminal policy violations shall be reviewed for discipline in accordance with police department policies and any applicable collective bargaining agreements.
3. If criminal conduct is identified by the police department, a report and referral, in addition to review for any discipline in accordance with police department policies and any applicable collective bargaining agreements, shall be submitted to the Oakland County Sheriff's department or Oakland County Prosecutor's office for review.

The Chief of Police makes the final determination of PCC complaints. Upon completion of the investigation, the complainant shall be notified of the determination within 10 calendar days of the date the police chief has completed the investigation along with the findings and result of the investigation, specifically whether the complaint was sustained. The notification will not include reference to discipline if any. This notification shall be done by certified mail, facsimile or email, with a copy to the board and city manager. The complainant shall be informed of his or her right to seek an appeal and review of the determination with the board.

IX. APPEAL PROCESS

A. Appeal of Determination of the Police Chief

Article 50: Police Conduct Complaints

Addendum B

Following a PCC investigation and determination by the police chief, the complainant may appeal the police chief's determination to the board. An appeal shall be filed with the office of the city manager within 21 calendar days of the date notification of the police chief's determination was sent to the complainant. An appeal may be filed in writing, by mailing, facsimile, or e-mail. The city manager shall refer the matter to the within five calendar days. For purposes of this section, the term 'complainant' shall mean a person who has filed a PCC, or a person who has submitted a PCC on behalf of another person. An appeal before the board will be scheduled and conducted within 30 calendar days from when an appeal is filed. An appeal by the board will consist of an examination of the file, including interview transcripts, police reports, and audio or video evidence, if any. To the greatest extent possible, identifying information of the police officer will be anonymized during the appeal. Personal information not germane to the appeal may be redacted from any document. The complainant may appear in person before the board during public comment, but the board shall not hear from other witnesses or from city employees other than the police chief or his or her designee. The board may request that the police chief appear before the board to answer questions related to the police chief's findings. The appeal hearing shall be open to the public unless subject to an appropriate exemption authorized by the Michigan Open Meetings Act. If the board finds that the investigation by the police chief is insufficient, the board may recommend that the city manager appoint an independent investigator to review the investigation.

B. Report and Decision

After the conclusion of its hearing, the board may adopt a recommendation to the city manager setting forth its findings and conclusions by a majority vote of the board. The board shall not have the authority to sustain or reverse the police chief's finding. The board's recommendation may contain such comments and criticisms of the police chief's finding as a majority of the board determined are warranted. The board may also recommend training related to the incident that, in the opinion of the majority of the board, would improve the relationship between the police department and the community. The recommendation should be provided to the city manager no later than 30 calendar days after the conclusion of the hearing with a copy to the police chief and the complainant. The city manager may request the board clarify any finding or recommendations, if necessary. The board's authority when considering an appeal shall be limited to reviewing the determination made by the police chief. The board shall have the authority to hear an appeal from any pcc finding in which the police chief has made a finding of exonerated, unfounded misconduct, or not sustained. The board shall not have the authority to impose discipline on any employee or to recommend that discipline be imposed or increased in a particular instance. The board's recommendation shall be available to the public but, to the greatest extent possible, identifying information of the police officer will be anonymized.

C. Non-Appeal Review

Article 50: Police Conduct Complaints

Addendum B

The board, after being provided a copy of the police chief's determination, may, in the event there is no appeal of determination of the police chief by the complainant, upon written notice by at least three members of the board to the city manager's office, schedule a meeting of the board to consider whether to have a meeting to discuss with the police chief the determination and report and findings. At such meetings the police chief shall explain the results of the investigation and the determination regarding the pcc, and the board may provide comments and suggestions regarding the determination other than with regard to disciplinary action. Any suggestions to the police chief shall be by resolution of the board and a copy of the resolution shall be provided to the city manager.

X. USE OF FORCE REPORT REVIEW

The citizens police review board shall review all police department use of force reports (use of force may also be referred to as response to resistance by the police department). The use of force report review includes not only when force is used but shall include when force is shown. A show of force is defined as a gesture with a lethal and/or less-lethal weapon directed at a person as a means to coerce or gain compliance. Use of force is defined as the attempt to establish control through physical means, in the presence of resistance, given the totality of the circumstances. The citizens police review board may provide comments and recommendations to the police chief and city manager regarding department use of force policies.

The police chief shall provide the board with copies of use of force reports within thirty calendar days after the completion of the police department's investigation of the use of force incident. When the board is provided a use of force report from the department, the board shall, within 30 calendar days, schedule a meeting to review the use of force report. At the board meeting, the police chief, or his or her designee, shall attend to provide information and assistance to the board in understanding the police department's use of force in the particular circumstance. The board may provide comments and recommendations to the police chief by resolution with a copy to be provided to the city manager.

XI. OTHER ROLES AND DUTIES OF THE BOARD

A. Annual Report

The board, or a board representative, will annually report to city manager concerning the number and types of inquiries and PCC reported and concluded through the PCC process, and to assess the thoroughness, accountability, effectiveness, accessibility and responsiveness of the police department. In the absence of an appeal, the board may inquire about any determination by the police chief of a PCC regardless of the finding by the police chief. The board shall be provided: copies of all PCC, with personal information redacted, within 30 calendar days of their receipt by the police department; updated monthly progress reports by the police chief or his or her designee of all active PCC investigations; and board may make recommendations to the city manager, in the annual report, for improvements to policies and procedures in the PCC process.

Article 50: Police Conduct Complaints

Addendum B

B. Communications

The board should assist the police department in communicating with the community regarding community policing, and the board's activity shall be available on the police department and city websites. The board should conduct well-publicized meetings that are open to the public for the Chief of Police and community to engage in activities or discussions that foster communication, education, and understanding between the police department and community, and make recommendations to the city manager about policing matters.

C. Conduct racial impact assessments of current police department policies

D. Monitor implementation and accreditation of the 21st Century Community Policing Model and related community policing programs adopted by the police department and City Council

E. Review multijurisdictional cooperative law enforcement agreements for consistency with the City of Ferndale's values.

XII. COMMUNITY OUTREACH

A major goal of the board is to have an interactive role within the Ferndale community. Specifically, the board is committed to outreach activities that influence behaviors, attitudes and actions with the goal of improving the relationship between the Ferndale Police Department and the community. To achieve this, the board is empowered to:

1. Create a brochure explaining the Citizens Police Advisory and Review Board procedures and the rights of complainants shall be developed by the Board and Ferndale Police Department
2. The content of the brochure and PCC complaint form shall also be available on the City of Ferndale website and social media outlets.
3. The board is empowered to hold meetings, at least annually, and additionally as needed, with community leaders.