

BYLAWS OF THE CITY OF GRAND RAPIDS
CIVILIAN APPEAL BOARD

Whereas, the City Commission has determined to establish a Civilian Appeal Board to act as a reviewing body for findings of fact made by the Grand Rapids Police Department, as provided in City Commission Policy 800-02, the following rules of procedure are hereby adopted by the Grand Rapids Police Department Civilian Appeal Board (Board).

ARTICLE 1 - DUTIES AND RESPONSIBILITIES

1.1 SUPPORT

The Board shall support and advocate for the goals and objectives as stated in City Commission Policy 800-02: To encourage compliance with rules and regulations concerning the conduct of police officers during interactions with citizens; to encourage individuals who believe they have been mistreated by police officers to use the internal complaint process of the Grand Rapids Police Department to have that officer's conduct reviewed; to create a process that fairly and evenhandedly evaluates and judges the conduct of everyone involved to determine whether or not a breach of departmental rules and regulations has occurred; and to afford the community a sense of confidence that the community itself is involved as necessary in reviewing the activities of its police officers.

1.2 DUTIES

The Board shall act as a reviewing body for findings of fact made by the Grand Rapids Police Department with respect to complaints made by individuals who believe that they have been mistreated by police officers through:

(a) the use of excessive force;

(b) falsification/lying;

(c) civil rights violations; and/or

(d) hostility, discourtesy or other conduct unbecoming an officer when such conduct is committed in a context of racial animosity or prejudice.

"Racial animosity or prejudice" is evidenced by derogatory conduct or discriminatory behavior which involves expressions of prejudice through words, gestures, or actions directed at an individual based upon that person's race, color, religion, gender, sexual orientation and/or national origin.

ARTICLE 2 - MEMBERSHIP

2.1 BOARD COMPOSITION

The Board shall be comprised of nine (9) members. Each City Commissioner shall nominate one member, and the Mayor shall nominate three (3) members. The Mayor's nominations shall be made so as to encourage that the members selected for the Board constitute a diverse representation of the community at large. The Board shall be composed of those nominees approved by the City Commission.

2.2 TERMS OF APPOINTMENT

Appointments to the Board shall be effective the first Monday in May for a term of two (2) years. No member shall serve on the Board more than three (3) consecutive full or partial terms or a total of six (6) years. Members must have their Oath of Office completed and notarized prior to serving as a voting member.

2.3 RESIDENCY REQUIRED

Residency within the City is a continuing qualification for office for those members appointed. Members shall be deemed to have vacated and resigned their office if they cease to be a resident of the City during their appointed term.

2.4 MEMBER RESIGNATION

A member may resign from the Board by providing a written resignation letter to the City Attorney's Office.

2.5 MID-TERM VACANCIES

Mid-term vacancies will be filled as they occur by the appropriate appointing authority for the remainder of the term of the member leaving the Board. No individual may be appointed to fill a vacancy by the appropriate appointing authority unless they would be able to serve out the entire term.

2.6 EXPIRED TERM MEMBERS

A board member holding over after his or term expires may continue to act until a successor is appointed and qualified. The Assistant City Attorney acting as staff liaison is responsible for acquiring that member's willingness to continue serving until a replacement is found.

2.7 MEMBER REMOVAL

Removal of a member from the Board is governed by the City of Grand Rapids Citizen Boards and Commissions Policy (City Commission Policy #300-06). Members of citizen boards and commissions are expected to attend meetings on a regular basis. Three consecutive absences, or five absences within one calendar year may constitute sufficient reason for the affected citizen board or commission to recommend to the Committee on Appointments removal of a member with such an attendance record. Boards meeting on an on call basis could make a similar recommendation when it is determined by staff and the board that the excessive absence of a member is detrimental to the function of the board.

The staff liaison and/or the Board itself has the option to recommend removal of a member be considered by the Committee on Appointments. The Board may direct the staff liaison to place the item on the agenda to be formally voted upon by the Committee on Appointments.

2.8 COMMITTEES

The Chair or Board may establish and appoint committees of the Board as deemed necessary. Membership on advisory committees may include members of the Board, provided a quorum is not present and such advisory committee is only capable of making recommendations to the Board.

2.9 CONFLICT OF INTEREST POLICY

Each member of the Board shall avoid conflicts of interest and shall be subject to the City of Grand Rapids Conflicts of Interest and Ethical Standards of Conduct Policy for Elected and Appointed Officials (City Commission Policy #100-06 including the Disclosure Requirement).

ARTICLE 3 – OFFICERS

3.1 SELECTION

At the first regular meeting of each calendar year, the Board shall select, from its membership, a Chairperson and a Vice Chairperson, who shall be eligible for re-election on an annual basis.

3.2 TENURE

The Chairperson and Vice Chairperson shall take office immediately following their selection and shall hold office for a term of 1 year or until their successors are selected and assume office.

3.3 CHAIRPERSON

The Chairperson shall review and advise staff on all meeting agenda, preside at all meetings, appoint committees, review and sign the Board's written decision on an appeal, and perform all other duties as requested by the Board.

3.4 VICE CHAIRPERSON

The Vice Chairperson shall act in the capacity of Chairperson upon his or her absence. In the event the office of the Chairperson becomes vacant, the Vice Chairperson shall succeed to this office for the unexpired term and the Board shall select a successor to the office of Vice Chairperson for the unexpired term. City staff shall act as Recording Secretary.

3.5 CHAIRPERSON PRO TEM

In the event both the Chairperson and the Vice Chairperson are absent from a meeting, the longest serving board member shall act in the capacity of Chairperson for the duration of that meeting.

ARTICLE 4 – MEETINGS

4.1 MEETING REQUIREMENTS

The Board will meet as necessary to consider the matters referred to it in a timely fashion.

4.2 REGULAR MEETINGS

Regular board meetings shall be determined at the December meeting of the current year by a majority vote of the Board. When the regular meeting day falls on a legal holiday, the Board may select a suitable alternate date in the same month.

4.3 SPECIAL MEETINGS

Special meetings shall be called at the request of the Chairperson or by majority vote of the members of the Board.

4.4 PUBLIC MEETINGS

All regular and special meetings, including all meeting minutes, shall be open to the public. All meetings of the Board shall be subject to the Michigan Open Meetings Act.

4.5 PARLIAMENTARY PROCEDURE

Parliamentary procedure in board meetings shall be governed by *Robert's Rules of Order* (newly revised), except where state statute, these bylaws, or local ordinance directs otherwise.

4.6 QUORUM

A majority of the total number of members then appointed shall constitute a quorum for the transaction of business and the taking of official action.

Whenever a quorum is not present at a regular or special meeting, those present may adjourn the meeting to another day or hold the meeting for the purpose of receiving information reports or presentations not requiring action by the Board.

4.7 PUBLIC COMMENTS

Comments from the public shall be limited to 3 minutes and persons may speak only once on any given topic. Notwithstanding the above, at the discretion of the Chairperson, a person may be permitted to speak at any time on any matter for any length of time deemed appropriate by the Chair (even for periods longer than otherwise permitted by these rules) when the Chair determines that the Board may benefit from such presentation. Speakers must address the Chairperson and must speak from the audience.

4.8 MOTIONS

Motions shall be repeated by the appointed City staff member acting as Recording Secretary if requested to do so by a member of the Board. The name of the maker and supporter of a motion shall be recorded in the minutes of the meeting.

4.9 VOTING

Voting shall be by voice and shall be recorded by yeas and nays. Roll call votes will be recorded only upon request by a member of the Board. A majority vote of those members present shall be necessary to approve any motion, resolution or recommendation except for the amendment of these bylaws which shall require a two-thirds majority.

4.10 BOARD ACTION

Action by the Board on any matter on which a public hearing is held shall not be taken until the public hearing has been concluded.

ARTICLE 5 – ORDER OF BUSINESS

5.1 AGENDA

The Chairperson shall consult with staff on the preparation of an agenda prior to each meeting.

5.2 ORDER OF BUSINESS

The order of business for all regular meetings shall be handled in the following order:

1. Meeting Called to Order.
2. Roll Call.
3. Approval of Agenda.
4. Approval of Minutes.
5. Correspondence.
6. Reports.
7. Old Business.
8. New Business.
9. Agenda Items for Next Meeting.
10. Date and Time of Next Meeting.
11. Public Comment
12. Adjournment.

ARTICLE 6 – APPEAL PROCESS

6.1 INTERNAL AFFAIRS INVESTIGATION

Individuals with complaints alleging that they have been mistreated by police officers through the use of excessive force; falsification/lying; civil rights violations; or through hostility, discourtesy or other conduct unbecoming an officer when such conduct is committed in a context of racial animosity or

prejudice will be referred to the Internal Affairs Unit of the Grand Rapids Police Department. The Staff of the Internal Affairs Unit, with the assistance of an Assistant City Attorney, will conduct an investigation and prepare a proposed "Complaint Disposition Report" containing a summary of the facts regarding the complaint and a conclusion regarding whether the police officer(s) violated Grand Rapids Police Department Rules or Regulations. The Complaint Disposition Report, when approved by the Chief of Police, will be provided to the police officer(s) involved, the City Manager, the City Attorney, and the Labor Relations Division of the Human Resources Department. A copy of the Complaint Disposition Report will also be mailed to the complainant(s) at their last known address together with information advising the complainant regarding their right to appeal the conclusion reached in the Complaint Disposition Report to the Civilian Appeal Board.

6.2 COMPLAINT DISPOSITION

The dispositions of complaint investigations are classified as follows:

1. UNFOUNDED:

The investigation conclusively proved that the act or acts complained of did not occur. This finding also applies when the act(s) may have occurred, however, the named employee(s) were not involved.

2. EXONERATED

The act, which provided the basis for the complaint or allegation, occurred; however, the investigation revealed that it was justified, lawful, and proper.

3. NOT SUSTAINED

The investigation failed to disclose sufficient evidence to clearly prove the allegation made in the complaint or to conclusively disprove such allegation.

4. SUSTAINED

The investigation disclosed sufficient evidence to clearly prove the allegation made in the complaint. Violation of policy and/or procedure did occur and appropriate administrative action will be taken.

6.2 FILING AN APPEAL

If the Complaint Disposition Report concludes that the complaint is not sustained, was unfounded or that the officer is exonerated, the complainant may appeal to the Board by filing a written request for review with the City Attorney's Office within fourteen (14) calendar days after the date of mailing of the Complaint Disposition Report.

6.3 REVIEW BY BOARD

If a timely appeal is filed, the Board will review the conclusions contained in the Complaint Disposition Report and the evidence secured by the Grand Rapids Police Department during the investigation. Representatives of the Grand Rapids Police Department and the City Attorney's Office will be present during the review process to provide information regarding the scope of the investigation and to answer legal questions.

6.4 BOARD ACCESS TO CONFIDENTIAL MATERIAL

A full and complete review of an appeal requires the Board to have access to information and material that may be private, sensitive, confidential, or otherwise protected by state or federal law. Board members are prohibited from divulging confidential information to any person not authorized to obtain such information and shall take care to protect such information in the member's possession from inadvertent disclosure.

6.5 REMAND FOR FURTHER INVESTIGATION

The Board is not authorized to engage in separate investigations, to interview witnesses, or to hold evidentiary hearings, but it may remand the case to the Labor Relations Division to conduct supplementary interviews with the complainant, the officer(s), and witnesses in the event that it considers the record to be inadequate to complete its review. The Labor Relations Division will provide a written report to the Board summarizing the actions taken and information received during the supplemental investigation.

6.6 WRITTEN DECISION ON APPEAL

At the conclusion of its deliberations, the Board will prepare a written decision affirming, reversing or modifying the conclusions contained in the Complaint Disposition Report. If the Board reverses or modifies the conclusions in the Complaint Disposition Report, the written decision must contain sufficient detail to explain the reason for the reversal or modification.

6.7 FINAL DISPOSITION OF AN APPEAL

The Internal Affairs Complaint Disposition Report as affirmed, modified or reversed by the decision of the Board will constitute the City's final disposition regarding the complaint. If the decision of the Board concludes that the police officer(s) violated Grand Rapids Police Department Rules or Regulations, the City Manager will determine the disciplinary or other action to be taken.

ARTICLE 7 MISCELLANEOUS

7.1 GARRITY STATEMENTS

Pursuant to an agreement between the City and the Grand Rapids Police Officers Association (GRPOA), *Garrity* statements¹, which are statements made by a police officer acquired during an Internal Affairs investigation by the Police Department concerning a complaint, will be available for disclosure to board members under the strict confidential circumstances as delineated below:

- 1 Board members may review *Garrity* statements of police officers involved in the citizen's complaint at a scheduled time immediately preceding the actual board meeting time. If a board member is unavailable for that specified time, the member may request an earlier appointment time to review such statements.
- 2 Such review of the *Garrity* statements shall occur on city premises in an office location designated by the City. A City representative will be present when the board members are reviewing the documents.
- 3 Board members will not be permitted to duplicate or remove the documents outside of the designated area. All documents provided will be retained by the designated City representative present during the review.
- 4 Prior to allowing the board members access to the *Garrity* statements, they will be advised of the strict confidentiality terms under which they are being permitted to review the documents.
- 5 If a board member is unable to review the *Garrity* statements in advance (as provided for in this agreement), the member may request during their meeting that the member have the opportunity to do so subsequent to the meeting before making a decision on an appealed case. The member will be allowed to review statements under the same terms set out in the preceding sections.
- 6 In the event the City or GRPOA determine an abuse or misuse of this disclosure privilege to the Board has occurred, the parties shall meet to discuss the issue and determine the appropriate remedy which may include reporting the breach to the City Manager and/or the City Commission or revoking the board member's privilege. However, the GRPOA shall retain the unilateral right to revoke the board member's privilege granted under this letter of understanding if it determines a breach has occurred.

¹ *Garrity v New Jersey*, 385 U.S. 493 (1967).

7.2 AMENDING RULES

The Board has the power and authority to make, alter, amend, or repeal these bylaws by a two-thirds vote of the membership at any regular or special meeting, provided that notice of intention to make, alter, amend or repeal the bylaws in whole or in part has been given at the next preceding regular or special meeting.

7.3 ANNUAL REPORT

The Board shall make an annual written report to the City Commission concerning its operations during the prior year.

I hereby certify that the above bylaws were adopted by motion of the Grand Rapids Police Department Civilian Appeal Board on the day of 8/16/ 2017.

[Signature], Chairperson
Grand Rapids Police Department Civilian Appeal Board

Vote of Civilian Appeals Board: Yeas: 7 Nays: 0 Absent: 2