

MEMORANDUM

To: City Council members

From: East Lansing Independent Police Oversight Commission

Subject: ELIPOC's response to proposed amendments to Ord. 1533

Date: October 2, 2025

The East Lansing Independent Police Oversight Commission (ELIPOC) has identified proposed amendments to Ordinance 1533 that would result in loss of capacity for ELIPOC to provide effective and meaningful independent oversight of policing in East Lansing.

ELIPOC recognizes that some of these changes are required by the collective bargaining agreement (CBA) between the City of East Lansing and the Non-Supervisory Police Officers Union. The City Council approved this tentative agreement on April 8, 2025.

ELIPOC expects that the Council will approve amendments that truly are required to make the ordinance conform to the CBA. To consider whether proposed amendments are required by the CBA, ELIPOC reviewed the list prepared by the City's labor attorney and given to ELIPOC on Sept. 24, 2025, that links sections of the CBA to the amendments to Ordinance 1533. The CBA's article XXXII about ELIPOC is mostly about review of complaint investigations and is relevant to sections of the ordinance on that topic. Some citations refer to text in the CBA that is not relevant, particularly regarding sections of the ordinance on topics other than complaint review. Some other citations do not justify the specific language in the amendment. Furthermore, no citations from the CBA are provided for some amendments.

ELIPOC urges the Council to reject amendments that are not required by the CBA that will weaken the Commission, especially by stripping the Commission's ability to investigate, reducing information it may obtain, increasing the time it must wait to obtain information, and reducing the transparency of its oversight work. Underlined section numbers are in Ordinance 1533; bold text shows section numbers in the CBA.

Proposed amendments that the Commission asks the Council not to approve or to modify are listed in this memo. In addition, ELIPOC asks the Council to consider five amendments at the end of this memo that would increase the effectiveness of the Commission's oversight.

A separate document, "ELIPOC's proposed amendments to Ordinance 1533," provides draft amendments to relevant sections of the ordinance. They are written as subsidiary motions to a possible main motion to approve the amendments attached to the Council's meeting on Aug. 12, 2025.

1: Eliminate ELIPOC's ability to investigate anything other than complaints

ELIPOC's ability to do investigations – defined in Ord. 1533 as “searching for and collecting information and records, regardless whether a complaint is involved or contemplated” – is deleted in proposed amendments to nine sections of the ordinance. The sections are: 2-476 Commission Duties, 2-481 Budget, 2-478 Panel of investigators, 2-485 Response to Resistance Incident Summaries, 2-486 Encounters with People Experiencing Homelessness, 2-486a Encounters with Individuals in Crisis, 2-486b Encounters with Juveniles, 2-490a Redactions, and 2-491 Investigation Resources and Personnel.

The City's labor attorney cited two CBA sections linked to each of the above sections of the ordinance. However, they contain no rationale for deleting the Commission's ability to investigate a variety of types of incidents involving the East Lansing Police Department (ELPD) and topics about policing.

The first CBA section, **Article XXV DISCIPLINE AND INTERNAL INVESTIGATION section 25.5**, is entirely about ELPD's internal investigations of complaints, not about investigations by the Commission.

The second CBA section is **Article XXXII, section 32.1**. It states, in part:

Civilian Oversight. The parties recognize that the City has established an advisory civilian oversight commission (“the oversight body”) for the East Lansing Police Department... The Chief of Police shall retain all management rights and authority over internal investigations and discipline of employees covered by this Agreement.

As with Section 25.5, the only reference to investigations in Section 32.1 is to ELPD's internal investigations.

Rules about ELPD internal investigations have no bearing on investigations by ELIPOC. The only thing Commission investigations and ELPD internal investigations have in common is the word “investigation.” The definitions of “internal investigation” in **CBA Article XXXII INDEPENDENT POLICE OVERSIGHT Definitions** and “investigation” by the commission in Ord. 1533 Sec. 2-473 are entirely different.

ELIPOC urges that the deletions of investigations be removed in all the above sections.

2: Prolong the deadline for ELIPOC to receive requested information or records

Section 2-490c Information Requests subsection E. sets a deadline for the Police Department to provide information requested by ELIPOC. The deadline in the current ordinance is 21 days. This deadline is comparable to that in the Michigan Freedom of Information Act, which requires a reply within five business days and the possibility of an extension of an additional 10 business days. The proposed amendment makes the deadline considerably longer, and the reference to “no more than 30 days after the information becomes available” is undefined and unclear. The

labor attorney provides no citation from the CBA that would require this change. The topic of a timeline for information requests is not covered in the CBA.

ELIPOC urges retaining the original subsection E.

3: Eliminate all information from complaint tracking reports

Section 2-491e of the current ordinance specifies what information is to be provided to the Commission when a complaint is filed and in a quarterly report of pending complaints. ELIPOC has been receiving the complaint form and any attachments with only minor redactions soon after each complaint is filed. The proposed amendments deny the Commission this information and replace it with only a four-digit number assigned to each complaint that is filed.

The citations cited for eliminating most of Section 2-491e are **Articles XXXII Independent Police Oversight Sec. 32.2 and 32.3 of the CBA**. **Sec. 32.2** discusses ELIPOC's authority to review and examine complaints and the timing of that review, which is not relevant to complaint tracking. **Sec. 32.3** does not identify any information about complaints that should be withheld from the Commission. The reverse is actually the case: Sec. 32.3 says the Commission *may receive* information that is confidential. [emphasis added] It states:

The parties recognize that the oversight body may receive information regarding employees covered by this Agreement in performing the complaint review contemplated by Action [32.2]. Except where expressly compelled by law the oversight body shall treat such information as confidential.

Subsections a, b, and c identify types of information Commission members must keep confidential. Indeed, there is no need to keep information about a complaint from the Commission because the CBA provides detailed guidelines for commissioners to keep such information confidential.

On the other hand, there are serious drawbacks to withholding from the Commission information about complaints that have been filed. If a member of the community comes to the commission and discusses an incident that has occurred, Commission members would not know whether a complaint has been filed about that incident and whether they might be removed from the Commission for discussing it (as provided in section 2-474). Commissioners should not be punished for discussing information they do not know is off limits, particularly when provisions are already in place to sanction knowingly revealing confidential information. Nor should commissioners need to hold off indefinitely discussing a complaint that they have heard about from the public in the event that a person files a complaint and then withdraws it. These are both very real possibilities.

ELIPOC urges the Council not to delete information the Commission will receive about complaints in section 2-491e.

4: Reducing Commission access to information by expanding definition of confidential information

Four sections of Ord. 1533 address the issue of “confidential information”: 2-473 Definitions, 2-480 Free Speech, Sec. 2-490a. Redactions, and 2-490c Information Requests. Amendments that have been proposed to these sections are likely to significantly reduce information that the Commission will be able to receive.

The citations from the CBA provided by the labor attorney about these proposed amendments are to **Article XXXII Sections 32.2 and 32.3**. As discussed above in point 3, **Sec. 32.2** discusses ELIPOC’s authority to review and examine complaints and the timing of that review, not confidentiality of information. **Sec. 32.3**, which is quoted in point 3, (1) describes exclusively the Commission’s review of complaints – not any of its other functions – and (2) acknowledges that the Commission may receive confidential information and provides guidelines for keeping that information confidential.

A proposed amendment weakens the definition of “confidential information” in Sec. 2-473 to include only “mandatory” but not “permissible” (or “discretionary”) exemptions as defined in the Freedom of Information Act 1976 PA 442, as amended, MCL 15.243 (1). Section 2-490c applies this definition to information requested by the Commission from the Police Department. We note, however, that, in 2-490 Confidential Information subsection C, there is no proposal to delete the rule that the City will not invoke any discretionary exemptions defined in FOIA when information is requested *from records of the Commission*. No rationale is given for different rules being applied for information requested by ELIPOC from the Police Department and information requested from ELIPOC.

ELIPOC urges the Council not to change the definition of “confidential information in Sec. 2-473 and the use of that definition in Sec. 2-490c Information Requests.

ELIPOC also urges the Council not to adopt the amendment to Sec. 2-490a. Redactions that replaces as a criterion for redaction of “information that the department cannot by law release, or the department can demonstrate a compelling reason not to release the information” with the much weaker “... the records contain information that the Police Department or other department believes should be kept confidential.”

5: Removal of names and demographic data from ELPD public reports to the Commission

Section 2-473 Definitions includes this new definition: “Demographic data means the officer’s rank and years of service.” In addition, four sections of Ordinance 1533 mandate that ELPD make public reports to ELIPOC that include name and demographic data: 2-485 Response to

Resistance Incident Summaries, 2-486 Encounters with People Experiencing Homelessness, 2-486a Encounters with Individuals in Crisis, and 2-486b Encounters with Juveniles.

The labor attorney gave no citation from the CBA requiring the new definition in Sec. 2-473. Rather, her comment reads: “Current ELPD practice.” This involves circular reasoning. ELPD started to eliminate officers’ names, race, and gender from its public reports – beginning with the Response to Resistance report for the month of April – right after the Council approved the CBA on April 8, 2025. Although the Chief said this was because of the CBA, neither she nor the labor attorney provided any explanation based on the CBA. Five months later, in her list of citations from the CBA to the ordinance amendments, the labor attorney said the reason is “current ELPD practice” rather than something in the CBA, which the Chief gave as the cause of ELPD’s change in practice.

At its meeting on August 6, 2025, ELIPOC unanimously passed a motion requesting that names and demographic data be reinserted in these reports and included in future reports. The Commission pointed out that the CBA contains no provisions about any of the public reports ELPD provides to ELIPOC under the terms of Ordinance 1533.

The comment by the labor attorney to the other proposed amendments about demographic data in sections 2-485, 2-486, 2-486a, and 2-486b states: “ALJ Decision.” This comment provides no specific references or explanation. The decision by the Michigan Employment Relations Commission (MERC) Administrative Law Judge (ALJ) determined what subjects were mandatory subjects of bargaining by the City and the CCLP union. Based on that ALJ decision, the two parties reached agreement on a CBA, and it is that document to which the Council needs to make Ordinance 1533 conform.

Furthermore, “officer’s rank and years of service” conflicts with the normal meaning of “demographic data” In addition, “demographic data” in sections 2-485, 2-486, 2-486a, and 2-486b, refers not only to police officers but also to people who are not police officers, for whom the definition “officer’s rank and years of service” is nonsensical.

ELIPOC urges the Council not to add the problematic definition of demographic data and not to delete officers’ names and demographic information in its public reports to the Commission.

6: Prohibit commissioners from publicly discussing the names or identities of all ELPD employees

A new unnumbered section on Confidentiality has been proposed to be added at the end of the ordinance. Subsections A, B, and C use some text from **Article XXXII Independent Police Oversight Sec. 32.3 of the CBA**, as cited by the labor attorney. Subsection A of the new ordinance section states: “The Commission and its members shall not publicly discuss, publish, release, or divulge the names or identities of any Police Department employee.” This text extends the prohibition against publicly discussing names and identities of certain officers from

“any employee covered by this Agreement” (in Section 32.3 b.) to “any Police Department employee” and removes the context of consideration of a complaint investigation to the entire role of commissioners. This is absurd for a body providing oversight of the police department. Likewise, the proposed amendment applies the provisions in Subsections B. and C. too broadly.

ELIPOC urges the Council to delete all of the proposed new unnumbered section and insert the narrower language of the CBA in Section 2-493 Commission review of complaints.

7: Create solution for providing completed complaint investigation report to the public

In July and August, ELPD sent the Commission completed investigation reports on two complaints. This was the first experience with implementing Section 2-493 Commission Review of Complaints since the Council adopted the CBA.

At two consecutive meetings, the Commission asked Chief Jennifer Brown to provide a second version of the investigation reports that could be made available to the public because the CBA suggested there could be new types of information in these reports that the Commission needed to keep confidential. The Commission argued that it did not have the training or capacity to redact reports in a way that would protect its members from unintentionally revealing or divulging information they must keep confidential at the risk of being removed from the Commission.

After a third request by email for a second redacted version of these reports, Chief Brown wrote in an email on Sept. 25, 2025, “The ordinance as currently written allows ELIPOC to release the investigative record of the complaint being reviewed “upon request.” I have asked our Records Supervisor to redact the two complaints should you get a request.” Brown sent the new redacted versions to the Commission on Sept. 30, 2025.

ELIPOC urges the Council to amend Sec. 2-493 to require the Police Department to provide a second version of the investigation record that can be released to the public and give this version to the Commission. This report shall contain demographic data about both the police officers and members of the public involved in the incident.

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Amendments proposed by ELIPOC to strengthen Ordinance 1533

In Sec. 2-474 Commission Members subsection F.: Expand number of possible members of ELIPOC that are not residents of East Lansing from two to three.

In Sec. 2-485 Response to Resistance Incident Summaries: Retain the term “use of force” in the first sentence rather than changing that phrase to “response to resistance.”

In Sec. 2-492 Police Department Investigation Findings, subsection A.: Add to end of the “Sustained” finding “and stating the policy(s) that were violated.”

In Sec. 2-493 Commission Review of Complaints, subsection B. iii: Add deadline of five (5) working days for the Police Department to provide answers to ELIPOC’s questions about a complaint investigation.

In Sec. 2-493 B. iv, add deadline of 21 days to the Police Department’s response to the Commission’s recommendations on policy or training unless the Police Department and the Commission agree to a different schedule.