



MEMORANDUM

TO: Mayor and Council Members
FROM: Elaine Hart, Interim City Manager
DATE: January 23, 2018
SUBJECT: Citizen Review Panel

Elaine Hart

In my December 29, 2017, memorandum concerning the Office of Police Monitor, I advised you that I was reviewing the ongoing role of the Citizens Review Panel (CRP) in light of the expiration of the meet and confer agreement between the City and the Austin Police Association (APA). This memorandum is to provide you with my plan for addressing the role of the CRP under the current status of labor relations at the Police Department.

Unlike the Office of Police Monitor, which is a City management support operation staffed with City employees, the CRP is a joint creation of the City and the APA through our meet and confer agreements dating back to 2001. The CRP members are not City employees. They are local volunteers who believe strongly in community oversight of police operations. The many CRP members who have served the City over the past 17 years have devoted very substantial amounts of their personal time and energy to providing meaningful community oversight of APD disciplinary practices; making thoughtful, well-informed recommendations to the Police Chief on policy issues from the community's perspective; and acting as a trusted liaison for citizens who raise issues about potential police misconduct. Our CRP is a unique institution among Texas cities, and has been one of our proudest accomplishments under the meet and confer agreement.

The critical component that makes the CRP work is its access to confidential material that is created and kept by APD's Internal Affairs Division (IAD) when it investigates alleged police officer misconduct. This information, called "g-file" material, is ordinarily confidential by operation of state civil service law (Chapter 143.089(g)) and can never be disclosed to anyone outside the City unless (1) the investigation is completed, and (2) the police officer receives a suspension (or more serious discipline) as a result of the investigation. As you know, the City and the APA have negotiated changes to the g-file confidentiality rule in our meet and confer agreements. These

changes allow the CRP to see the complete IAD investigation files on cases where a member of the public has complained about police misconduct; to question APD about the facts and circumstances of these cases; and even to receive confidential briefings from the investigating IAD officers about these cases, even if no disciplinary suspension was issued.

Access to g-file material is critical for the CRP to perform its responsibilities under the meet and confer agreement, which include its ability to make these important recommendations to the Police Chief:

- Further investigation of a case by the Department is warranted;
- Police Department policies warrant review and/or change;
- An independent, outside investigation of the case should be made; and
- The Chief should take a specific disciplinary action on a case (limited to certain serious cases, called “critical incidents”).

Without access to the g-file materials as provided in the meet and confer agreement, the CRP simply cannot fulfill these responsibilities.

With the expiration of the APD meet and confer agreement on December 29, the negotiated modifications to the g-file confidentiality rule likewise expired. Thus, the appointed CRP members can no longer access the g-file materials, ask questions about their contents, or receive the case briefings from IAD personnel. I stress that this is not a situation the Council or the City Manager can remedy unilaterally. Under the laws of Texas, the only way for the City to achieve any effective measure of public oversight for ongoing investigations of potential police misconduct is through a negotiated agreement with the APA that is ratified by both the Association and the Council.

In light of these factors, and pending future direction from the Council concerning labor relations at APD, I am suspending all further operations of the CRP at this time. In taking this action, I wish to acknowledge with deep gratitude the work of the current CRP members.¹ The City is indebted to each of them for their service, and I hope that we will soon be in a position to reinstate the CRP process and ask them to resume their important responsibilities.

Should you have any questions, please contact me or Assistant City Manager Rey Arellano.

¹ The current CRP members are: Kevin Cole, Sumit DasGupta, Alexis Gonzales, Dominic Gonzales, Robert Lauder, and Rebecca Webber.