

RESOLUTION NO. 20191205-066

WHEREAS, the City of Austin is committed to undoing its racist past and combatting and denouncing racism in present-day Austin; and

WHEREAS, the City of Austin acknowledges that the history of bigotry and discrimination has contributed to racially disparate outcomes in policing and policy; and

WHEREAS, the Center for Policing Equity found in 2016 that the Austin Police Department (APD) was more likely to use force in communities where more African-Americans and Latinos live, and when force was used, APD was more likely to use more severe force in communities where African-Americans and Latinos live, even after controlling for factors such as community crime and poverty rates; and

WHEREAS, the APD's state-mandated racial profiling reports consistently show that Black and Latino drivers are more than twice as likely to be searched as their white counterparts during traffic stops despite similar "hit rates", including in 2018 where 6% of traffic stops of white drivers resulted in a police searches compared to 14% for Latino drivers and 17% for Black drivers; and

WHEREAS, APD data provided per Council Resolution No. 20180614-073 (one of the Freedom City Resolutions) showed that in 2017 APD police officers made discretionary arrests of Black people at more than twice the rate of either white or Latino residents; and

WHEREAS, that same 2017 data also showed Black and Latino residents accounted for just under 75% of those discretionary arrests for driving with an invalid license, although the two groups combine to make up less than 45% of Austin's population; and

WHEREAS, that same 2017 data also showed that one out of three discretionary arrests for misdemeanor marijuana possession involved a Black resident even though less than one in ten Austinites is Black, though usage rates of marijuana are similar across racial groups; and

WHEREAS, per the quarterly report for Council Resolution No. 20180614-073, issued by APD on May 3, 2019, Black people still comprised 32% of persons arrested by APD for offenses eligible for citation, which, proportionally, amounts to more than three times Austin's Black population; and

WHEREAS, an anonymous whistle-blower has recently accused an Assistant Chief of the Austin Police Department of using racist epithets and derogatory terms, including "negro" and "nigger," to refer to specific Black elected officials and sworn officers of the Austin Police Department; and

WHEREAS, following the public release of the anonymous complaint and subsequent resignation of the Assistant Chief named in the complaint, the City Manager announced on November 7, 2019 a third-party investigation into the allegations that the

use of racial slurs and epithets lasted over a period of many years with the knowledge of other leadership at APD; and

WHEREAS, the Mayor's Task Force on Institutional Racism and Systemic Inequity recommends that the City of Austin create protocols to ensure the cultural competency of all personnel, and that the City of Austin's law enforcement agencies engage in continuous diversity and inclusion training, with special attention to implicit bias training; and

WHEREAS, in 2018, the Office of Police Oversight was created to augment accountability and transparency at APD, and that the department could benefit from expanded access and resources; and

WHEREAS, the Austin Police Department presented a training plan during the City of Austin FY2019-20 budget deliberations indicating its intention to graduate almost 200 new cadets in Academy classes scheduled to start in February 2020; and

WHEREAS, attrition rates in recent cadet classes exceeded expectations in at least the last five cadet classes, reaching as high as 49%, suggesting that there exist issues with recruitment and cadet preparedness; and

WHEREAS, while assessment center panels were recommended as a method to counter the potential bias in written exams for promotion of APD officers, there are concerns that the system does not accomplish this goal and in fact may have the opposite impact; and

WHEREAS, patterns and specific incidents of discrimination and bigotry in the Austin Police Department erode the public trust, which is necessary to effectively enforce the law, solve crimes, and maintain public safety, and so the Council finds it imperative to understand the full extent of bigotry and systemic racism and discrimination within APD, and consider reforms to APD's policies, protocols, and training curriculum; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The Council supports the investigation initiated by the City Manager into the allegations against a former APD Assistant Chief. The City Manager is directed to provide an update and publicize resulting findings to Council by January 23, 2020.

BE IT FURTHER RESOLVED:

Effective on January 23, 2020, the City Manager is directed to initiate a comprehensive, multi-pronged investigation and evaluation of the extent to which forms of bigotry and discrimination are present in the protocols, practices, and behaviors of the officers of the Austin Police Department. To the extent to which they are present, this investigation and evaluation shall document the impacts these individual and systemic biases have had on hiring, professional ranking, and treatment of personnel within APD, as well as police interactions with people of color and other marginalized groups in Austin.

The investigation should begin with an immediate focus on patterns of prejudiced behavior and institutionalized bigotry in the following high-priority areas:

1. Officer and supervisor communications, including all public posts on social media platforms that are available to the investigator, City email, and text messages and instant message communications on City devices within the last 5 years; and
2. Recruitment practices and protocols, efforts to ensure ethnic and gender diversity and inclusion in recruitment, and assessment of academic resources available to cadets.

Investigation of these high-priority areas of focus should result in an interim report that includes analysis of expressed behavior and patterns, and any immediate recommendations for reform presented publicly to the Council no later than December 7, 2020.

Investigation into and analysis of the following areas of focus should begin concurrently:

3. APD's compliance with state and federal law with regard to racial and sex discrimination in employment;
4. The basis for the weighting of assessment center panel scores in the professional ranking and promotion of APD officers, including the degree to which the use of assessment centers counters potential bias or disparate impact in the promotion process, if at all, and best practices for the transparency and use of assessment

centers in ranking, and the appropriate weights for promotion consideration at each officer level;

5. All use-of-force incident reports from June 2019 to November 2019, analyzing them by location, any resulting charges, the outcome of each incident, and demographic information including race, ethnicity, and language spoken of all persons involved;
6. Aggregate data on every recorded interaction from June 2019 to November 2019 with any member of the public, including type of interaction and its outcome (search, arrest with charges, citation with charges) and an evaluation on whether there are racial and/or ethnic or other disparities in searches, arrests, charges and citations;
7. Complaints made against officers and executives accused of bias and/or discrimination, including complaints that did not result in disciplinary action and the reason that no disciplinary action was taken in each case, for the last 10 years; and
8. Incidents leading to lawsuits for alleged police misconduct, and analysis of the outcomes and subsequent settlements of those lawsuits, including the amount of each settlement, over the last 10 years.

The evaluating entity will issue a final report no later than December 6, 2021, that details any patterns of systemic racism, racist behavior, and other forms of

discrimination found in all the above areas of focus, to include recommendations to remedy and prevent patterns of bias, remedy and prevent patterns of bias, including but not limited to:

- An actionable plan, measurable benchmarks, and appropriate timeline for eliminating racial disparities in APD stops, searches, arrests, and use-of-force incidents;
- A framework for regularly recurring reporting to the Public Safety Commission and Council on APD's progress towards achieving the fair administration of justice, an indicator in the Council-adopted five-year strategic plan;
- Reporting to the Public Safety Commission and Council on the plan to address and remedy any weaknesses and threats for APD as may be identified in the Equity Office's equity assessment tool;
- Continuing education for active APD personnel as part of the required biennial recertification process on topics including implicit bias, racial and ethnic bias, gender bias, de-escalation, the history of policing and its intersection with race in our community, cultural competency, and other topics as recommended by the Equity Office and Office of Police Oversight;
- Reputable leadership training that would benefit APD organizational culture;
- Establishing clear, published standards as it relates to the qualifications required for appointment to Assistant Chief as consistent with state law;

- Creating measurable benchmarks for enhancing diversity at all levels of the department;
- Improving background checks and screening of incoming cadets as well as active officers being considered for promotion as it relates to topics such as explicit and implicit bias, racism, homophobia, gender bias and other forms of discrimination; and
- Creating a regular reporting structure to Council detailing cadet academy class sizes, attrition rates and demographics as well as active officer attrition rates and demographics.

The report to Council should include options for a mechanism to incorporate the aforementioned recommendations and accountability metrics into the performance standards for the APD executive team.

The City Manager is directed to work with and incorporate results from any relevant work that has been conducted or is being conducted by the Equity Office, the Office of Police Oversight, and the Innovation Office as it relates to APD.

BE IT FURTHER RESOLVED:

The independent investigation and examination shall be conducted by an independent third party with substantial experience in the evaluation and investigation of police misconduct, bias, and claims in employment law and Title VII violations, as

well as in assessing systemic conditions that engender civil rights violations, including both organizational decision-making and greater policy-making rules and patterns.

The City Manager shall develop the scope of work and qualifications for the solicitation of the evaluating entity with input from the Joint Inclusion Committee, the Public Safety Commission, and community organizations that advocate for racial justice, equity, and criminal justice reform as allowable by the City's purchasing rules. The City Manager shall determine the appropriate funding sources when recommending the contract for Council approval.

The City Manager is also directed to collaborate with the Equity Office and the Office of Police Oversight in a joint oversight capacity regarding the selection and supervision of the independent investigating entity, to the extent allowed by the City's procurement policies.

BE IT FURTHER RESOLVED:

Separately from the independent third-party investigation that is to be completed no later than December 6, 2021, the City Manager shall initiate an audit of the Austin Police Department's training materials, course/section descriptions and duration, and description of any other procedures (e.g. detailed descriptions of scenarios) administered to cadet classes and to active officers related to training on communication strategies, cultural competency, acknowledging and addressing bias, use of force, de-escalation, search, proactive policing, mental health response, protocols for non-English speaking

persons, protocols for disabled persons, recognizing resistance and the rules and procedures that define resistance and their evaluation protocols, as well as the course/section content and duration of all other coursework required at the cadet academy and their evaluation protocols. The City Manager may work with and incorporate results from any review of APD hiring and training protocols that has been conducted or is being conducted by the APD's training specialist, the Equity Office, the Office of Police Oversight, and the Innovation Office.

The City Manager is directed to update or revise training materials for APD to the extent necessary to remedy any findings from the audit. This process should be as transparent as possible, ensuring that the public has access to view training materials on the topics of bias, racism, and cultural competency in policing. The audit is to be completed and reported to Council no later than June 1, 2020.

During this process, the City Manager will track and report on the following milestones:

- Training conducted at the Austin Police Academy related to reducing bias, increasing de-escalation, reducing racial disparities in use of force and severity of force, reducing racial disparities in discretionary searches, and improving communication with all individuals regardless of language, ethnicity, sexual orientation, gender identity or disability;

- Recruiting and retention and practices and procedures with a focus on whether those practices and procedures could be improved to retain ethnic and gender diversity in cadet classes, and whether those practices and procedures, including the use of disqualification codes for cadets, have a disparate effect or impact based on race, ethnicity, national origin, sex, religion, sexual orientation, or gender identity, etc.;
- Current training priorities based on hours on each topic and the overall balance of training with a focus on whether training should be re-balanced to reduce bias, increase use of de-escalation techniques, and improve culturally effective communication, and trauma-informed policing;
- Cadet training scenarios with a focus on reviewing whether the scenarios teach officers to use all strategies to de-escalate and communicate effectively in the situations statistically most likely to occur on their shifts;
- Identify police academies that have successfully revised training resulting in reduced force incidents and improved communication with diverse communities, including police Academies in Cambridge, Washington (Washington State Criminal Justice Training Commission) and Minneapolis, Minnesota and conduct site visits and review training reforms; and
- Improvements in training should be finalized with the input and participation of community groups representing those disproportionately affected by policing,

including those representing non-white residents and populations, non-English speaking residents and populations, LGTBQIA+ residents and populations, and residents and persons with disabilities.

Following the start of the cadet class scheduled to begin in February 2020, the City Manager shall ensure that no new cadet classes are to be initiated until this audit is completed, revisions to the curricula per the milestones above and new training materials, if necessary, are implemented, in order to resume cadet classes no later than September 2020. If the aforementioned revisions have not been implemented at least 30 days ahead of the start date for the anticipated June 2020 cadet class, the cadet class may be rescheduled as deemed appropriate by APD so long as the revisions have been implemented by the new start date. When classes resume, space will be made available for an independent party to audit classes and instruction.

BE IT FURTHER RESOLVED:

The City Manager shall issue biannual updates on the progress of the independent third-party investigation, to include relevant updates on the solicitation process and anticipated timelines for the investigation to proceed.

ADOPTED: December 5, 2019

ATTEST:



Jannette S. Goodall
City Clerk