



## MEMORANDUM

TO: Mayor and Council Members

FROM: Rey Arellano, Assistant City Manager

DATE: July 9, 2020

SUBJECT: Processing Complaints from the May 2020 Protests

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On June 4, 2020, Council met in a special called meeting to hear staff briefings on the protests that occurred during the weekend of May 29 – 31, 2020. The purpose of this memorandum is to provide follow-up information and a timeline for processing the complaints related to the May protests. The City has received notices of formal complaints and claims through the Office of Police Oversight (OPO), the Austin Police Department (APD), and the Claims group in the Law Department.

### Number of Formal Complaints and Categorization

As of the writing of this memorandum, OPO reviewed over 1,000 complaints and has submitted 275 notices of formal complaint from the public to the Internal Affairs Division (IAD). The Law Department has received seven claims related to personal injury or property damage. As the internal reviews continue, OPO or APD IAD staff may identify additional incidents that warrant processing as a separate complaint.

The complaints have been categorized as follows in order to facilitate processing:

- Complaints on officers involved with Justin Howell
- Complaints on officers involved with Brad Ayala
- Complaints on officers involved with Saraneka Martin
- General Use of Force
- Equipment and Tactics
- Specifically Named Officers
- Policy Recommendations
- Gun Pointed at Press
- Lack of De-escalation
- Complaints that require additional information

## Processing the Complaints

### Office of Police Oversight

Director Farah Muscadin has hired a separate team of three complaint specialists and administrative support led by Mia Demers, Public Safety Compliance Program Manager, to handle the May protest complaints. In addition, OPO is in the process of evaluating candidates to serve on the Community Police Review Commission (CPRC). Based on the timeline of selecting, onboarding and training the new CPRC members, the CPRC may be ready to perform its role in reviewing and making recommendations to the Police Chief for the protest-related complaints.

### Austin Police Department

APD will be preparing an After Action Report (AAR) that will address the events that occurred May 29<sup>th</sup>, 30<sup>th</sup>, and 31<sup>st</sup>, including the protest-related complaints. As part of this after action review, APD has created a Joint Investigative Task Force (JITF) comprised of four distinct teams to address the various areas of the AAR:

- An Internal Affairs team, led by Commander Jerry Bauzon, will address the complaints received by the Office of Police Oversight and APD's IAD. These complaints are related to police activity during the protests.
- The second team, led by Commander Pat Connor, will address all Level One Response to Resistance<sup>1</sup> handled by the Special Investigations Unit.
- A third team, led by Commander Jay Bryant, will identify and review all response to resistance incidents during the timeframe, May 29<sup>th</sup> through the 31<sup>st</sup>.
- Lastly, the team led by Commander Kurtis Krause who oversees Emergency Management, will address the overall AAR.

For the claims received by the Law Department, staff will process them and communicate directly with the lawyers who have filed the claims on behalf of the individuals who were injured.

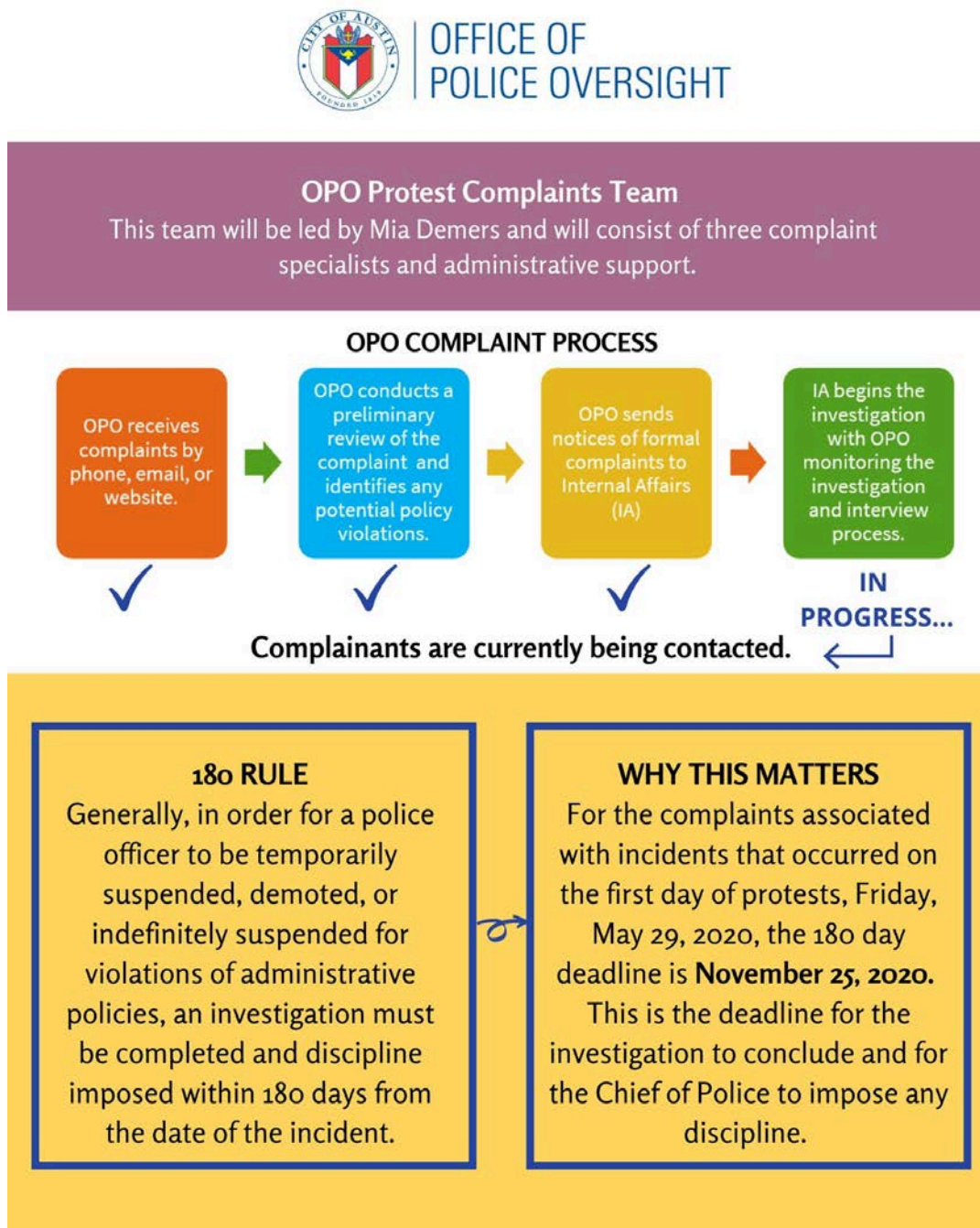
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<sup>1</sup> There are four levels of use of force in response to resistance; Level One is the highest use of force. APD General Order 211.2 defines the levels of response. APD General Orders can be found at: <http://www.austintexas.gov/page/apd-general-orders>

## Timeline

OPO and IAD teams have been reviewing video and other materials in order to prepare for interviews of witnesses and of the officers who have been associated with the complaint(s). Interviews are estimated to begin in mid-July.

The figure below provides a visual depiction of the OPO complaint process.



A critical milestone is specified by Texas Local Government Code Chapter §143.052(h), which states:

In the original written statement and charges and in any hearing conducted under this chapter, the [Police Chief] may not complain of an act that occurred earlier than the 180th day preceding the date the [Police Chief] suspends the ... police officer.

The 180<sup>th</sup> day after Friday, May 29, 2020 is November 25, 2020. Therefore, it is important that those cases where the Police Chief determines a suspension of one (1) or more days of suspension may be warranted be completed prior to November 25<sup>th</sup>.

APD General Order 902 outlines the required processes for the administrative investigations of the alleged employee misconduct. It also outlines the imposition of fair and equitable disciplinary action when misconduct is identified. The timeline for each investigation will vary based on the complexities of the cases while ensuring the case is conducted prior to the 180<sup>th</sup> day. Once IAD produces its investigative summary, the subject officer's chain of command reviews the case file to determine whether a policy violation may have occurred. If it appears there was a policy violation, the officer is notified of the alleged policy violation, and the Department schedules a disciplinary review meeting (requires ten calendar day notice) with the officer prior to the Chief's final decision. It is intended that CPRC recommendations be available for the Police Chief's consideration during the disciplinary review meetings, subject to the 180-day (deadline) limit.

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Both OPO and APD staffs are bringing resources to bear on completing investigations into the complaints from the May 2020 protests. OPO staff in particular will still be able to handle prior complaints as well as those received in the future. As an organization, we are committed to processing every complaint in a thorough and timely manner, particularly those complaints involving a use of force that resulted in serious bodily injury.

cc: Spencer Cronk, City Manager  
CMO Executive Team  
Chief Brian Manley, Police Chief  
Farah Muscadin, Police Oversight Director  
Anne Morgan, City Attorney