

Audit Report

# Effectiveness of Citizen Police Oversight

June 2018



Citizen oversight did not create substantive change within the Austin Police Department, largely due to the effects of City procedures and police department practices. We identified five causes why oversight was not more effective, including:

- City procedures that prevented the Citizen Review Panel (CRP) from communicating directly with the Chief of Police,
- The City not maintaining a complete list of CRP recommendations,
- Delays between the dates an incident occurred and when it was reviewed by the CRP,
- Incomplete incident information that could affect the CRP's understanding of the issues, and,
- The Chief of Police not responding to all CRP recommendations which seems to have resulted in the CRP issuing repeat recommendations.

Additionally, information created by the Citizen Review Panel was not fully protected or retained because the City did not provide adequate resources and training to the panelists.

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# Objective

The objective of this audit was to determine whether the Austin Police Department implemented changes to policies and practices as recommended by the Citizen Review Panel.

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# Background

The Citizen Review Panel (CRP) was established in 2001 as part of a labor agreement between the City of Austin and the Austin Police Association.

The labor agreement<sup>1</sup> directed the CRP to review individual cases of officer conduct and make non-binding recommendations to the Chief of Police in a fair and objective manner. Through that process, the CRP acted as a means for Austin residents to provide oversight for certain police activities, with assistance from the Office of the Police Monitor and cooperation from the Austin Police Department (APD). Terms of the labor agreement allowed CRP panelists to review information that is typically restricted from public release per Texas state law, including detailed information regarding cases of alleged police misconduct and critical incidents.

The CRP was comprised of up to seven City Manager-appointed members<sup>2</sup> that met minimum qualifications and completed training requirements established in the labor agreement.<sup>3</sup>

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The CRP was able to review two types of cases: issues brought forward by complainants, and cases involving serious issues such as officer-involved shootings.

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The CRP was able to review two different categories of cases involving officer misconduct: cases brought forth by complainants and cases involving serious issues such as officer-involved shootings, patterns of misconduct, or the appearance of bias-based misconduct.

For each case, the CRP reviewed material in APD’s internal investigation file, including a presentation by APD Internal Affairs Division staff, and heard testimony from witnesses and the complainant (if available). Next, the CRP determined whether they wanted to issue a memo and whether that memo should contain recommendations directed to the Chief of Police.

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<sup>1</sup> See Appendix B for the full text of “Article 16: Citizen Oversight of the Austin Police Department,” from the most recent labor agreement approved by the City Council and the Austin Police Association.

<sup>2</sup> The actual number fluctuated due to vacancies.

<sup>3</sup> Eligible CRP applicants must not have a felony criminal conviction or indictment and must attend a multi-day training provided by APD focused on the Special Investigations Unit, officer involved shootings, response to resistance, the Police Training Academy, the Crisis Intervention Team, firearms training, Bomb and SWAT units, at least two ride-outs with an officer, and a presentation by the Austin Police Association.

Per the labor agreement, the CRP was limited in the type and content of recommendations it could issue, depending on the nature of each case. The CRP could issue recommendations for:

- Non-binding discipline (limited to critical incidents),
- Further investigation by the department,
- Review or change of policies by APD, and
- The Chief of Police or the City Manager to authorize an independent investigation, which would be conducted by an individual who was not an employee of the City or a member of the CRP.

Between October 1, 2013 and December 29, 2017, we identified that the CRP issued at least 28 memos that included 54 recommendations to the Chief of Police.<sup>4</sup> We identified 10 response memos issued by the Chief of Police addressing 17 recommendations (see Exhibit 1, below.) A summary of all identified recommendations and responses is included in Appendix A of this report.

### Exhibit 1: Overview of CRP Documents Found in Scope Period



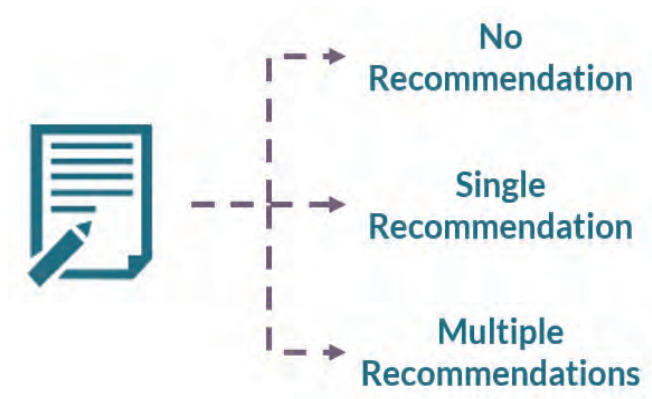
SOURCE: OCA analysis of APD and OPM records, 2018.

In our review, we noted that some memos from the CRP had no recommendations, and instead served to commend officer conduct. Other memos contained multiple recommendations.

Typically, recommendations were not obviously marked, but were incorporated into the body of the text. The audit team used its professional judgment when reviewing the memos to determine when the CRP issued a recommendation.

<sup>4</sup> We obtained copies of 27 of these memos. The remaining memo is referred to in a communication from the Police Monitor to APD. Although this communication summarizes the recommendation, no party was able to produce a copy of the actual CRP memo.

## Exhibit 2: CRP Memos May Have One, Multiple, or No Recommendations



SOURCE: OCA analysis of APD and OPM records, 2018.

Additionally, the audit team may not have had a full account of all memos issued during the scope of the audit, as noted in the findings section.

On December 13, 2017, City Council unanimously voted to not approve a new labor agreement negotiated between the City of Austin and the Austin Police Association. As a result, the previous agreement was allowed to expire at the end of the year. On January 23, 2018, the Interim City Manager issued a memo suspending the CRP from further operations, noting that it could no longer function due to the loss of access to confidential personnel file materials necessary to make informed recommendations.

In 2018, the City of Austin and the Austin Police Association restarted labor agreement negotiations.

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# What We Found

## Summary

We found that citizen oversight did not create substantive change within the Austin Police Department (APD), largely due to the effects of City procedures and police department practices. Additionally, information created by the Citizen Review Panel was not fully protected or retained because the City did not provide adequate resources and training to the panelists.

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## Finding 1

**Citizen oversight did not create substantive change within the Austin Police Department, largely due to the effects of City procedures and police department practices.**

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APD altered its policies or administered discipline in response to 15% of the CRP's recommendations, indicating that citizen oversight did not create substantive change.

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From October 2013 to December 2017, we found that APD changed some aspect of its policies or administered discipline in response to 15% (8/54) of the CRP's recommendations. Notably, APD management believes that its current practices conform with 54% (29/54) of the CRP's recommendations, but stated that those practices either remained unchanged or changed for reasons unrelated to the input provided by the CRP.

This rate of change indicates that APD and the CRP did not have a common understanding regarding APD's practices. In this finding, we discuss five causes why citizen oversight was not more effective:

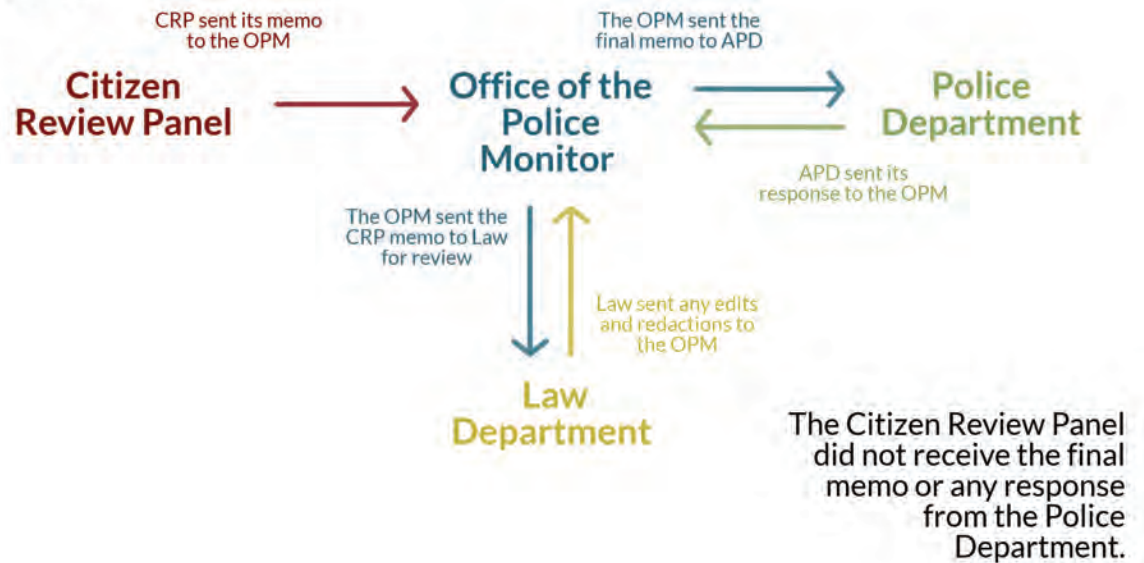
- City policies prevented the CRP from communicating directly with the Chief of Police, which may have affected the integrity of the oversight.
- The City did not establish clear responsibility for maintaining CRP recommendations, which resulted in an incomplete list of recommendations and limited the CRP's ability to identify trends or review past activities.
- There was generally a significant gap between the date an incident occurred and when the CRP heard an APD presentation of the case, which limited the CRP's ability to issue effective and timely recommendations.
- Incomplete or unavailable information at CRP meetings may have affected the CRP's understanding of an incident and affected their recommendations.
- The Chief of Police was not required to acknowledge receipt of, or respond to, recommendations issued by the CRP. Without APD feedback, the CRP issued similar recommendations without understanding why APD would or could not implement them, which limited the effectiveness of the oversight process.

**City policies prevented the CRP from communicating directly with the Chief of Police, which may have affected the integrity of the oversight.**

The Office of the Police Monitor's (OPM) standard operating procedures required the CRP to use the OPM as an intermediary when sending recommendations to APD. The designated process is depicted in Exhibit 3, below.

### Exhibit 3: Communications Process Among Entities Involved in Police Oversight

The Citizen Review Panel did not communicate directly with the Chief of Police.



SOURCE: Audit analysis of OPM procedures and CRP feedback, 2018.

When asked about this process, former panelists said that they:

- Did not typically see the final version of their memos and recommendations sent to APD,
- Were not formally notified when the OPM sent their memos and recommendations to APD, and
- Were not formally notified of the timing or content of any Chief of Police responses to their memos and recommendations.

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The CRP did not communicate directly with APD, or vice versa.

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In short, the CRP did not communicate directly with the Chief of Police, or vice versa. Two panelists referred to this communications process as a “black hole.” Also, the procedure established by the OPM does not appear to align with the intention of the most recent labor agreement between the City and the Austin Police Association, which explicitly states that the CRP may make written recommendations to the Chief of Police.

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The communications process created an opportunity for parties other than the CRP to edit their memos, without their knowledge.

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The OPM procedure creates an opportunity for entities other than the CRP to edit the content of the memos before they are sent to APD, which could compromise the integrity of the citizen oversight process. The labor agreement states that the Law Department should review information prior to public release, to make sure it complies with the agreement and applicable laws. In 2017, the OPM encouraged the Law Department to review and edit CRP memos prior to their submission to APD. The intent was to produce memos and recommendations that could be publicly released without redaction. This goal was shared by the OPM and the CRP.

However, panelists stated that in practice, it appeared that the Law Department was not only offering guidance on redactions, but may have also been revising the content of memos and affecting the messages the CRP was trying to convey to the Chief of Police. Panelists were particularly concerned with a memo developed in late 2017.

The audit team obtained a copy of an e-mail sent by a Law Department employee to the Interim Police Monitor. The CRP was not included in this communication.

Exhibit 4 shows a section of that e-mail where the Law Department employee discusses rewording the memo to change the tone to one that the Law Department employee felt was more appropriate, in addition to addressing redaction concerns. In this case, the panelist who drafted the memo said they eventually became aware of the edits. However, that panelist expressed concern that similar edits could have gone undetected in other CRP memos which would have affected the integrity of the CRP's work.

#### Exhibit 4: Discussion of Revisions to CRP Memo

However, I respect that you or the CRP are trying to word this as a recommendation on policy review or training so that you can convey the message to the Chief and the public. In honor of that and the contract, I reworded the memo so that it sounded more like a recommendation, did not read portions of the IAD memo, and was less of an attack on the chain of command who spoke at a Private Briefing. I believe this follows the intent of 143.089 confidentiality, fosters IAD and the chain of commands openness at private briefings, and yet still conveys the message to the Chief and the public. I believe this version also poses less risk of violating the contract and not being redacted in response to a public information (or open records) request.

SOURCE: E-mail provided to the OCA audit team, 2018.

In addition, at least two panelists expressed concerns that the Law Department seemed concerned with avoiding lawsuits and applied a narrow interpretation of what was allowed to be in CRP memos. The CRP evaluated police actions, including critical incidents resulting in the loss of life, and made recommendations where appropriate. To an outside observer, it may appear inappropriate for the City's Law Department to provide input on issues noted by the CRP while, at the same time, representing the legal interests of the City.

Public trust in the validity of the citizen oversight process is critical to its success. The City's own procedures could allow for the oversight body's recommendations to be changed without their knowledge. These concerns could have been alleviated if the CRP had been included when the final version of its memos and recommendations were sent to APD.

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We found no reasonable explanation for why the CRP was not notified when its memos were sent to the Chief of Police, or when the Chief of Police issued a response.

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We did not find a reasonable explanation for why the CRP was not included when OPM forwarded CRP recommendations to APD, or why the CRP was not formally notified when OPM received a response from the Chief of Police. An Interim Police Monitor noted being unaware that the CRP was not included in these communications until the panelists complained. Also, we learned that panelists were unable to review prior memos without travelling to the Police Monitor's physical office space.

While the labor agreement referred to communications between the CRP and the Chief of Police, it did not include administrative provisions defining how that should be achieved. Also, as noted, the City's procedures were not fully aligned with the intent detailed in the civilian oversight provisions.

**The City did not establish clear responsibility for maintaining CRP recommendations, which resulted in an incomplete list of recommendations and limited the CRP’s ability to identify trends or review past activities.**

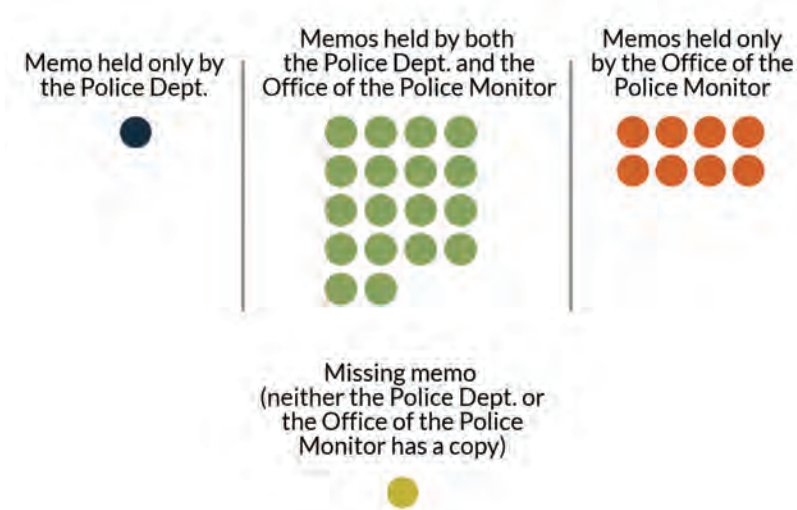
No complete collection of CRP memos or recommendations exists in the City. Of the 27 CRP memos that the audit team was able to obtain, 67% (18/27) were held by both the OPM and APD. Eight of the nine remaining memos were held only in OPM files. The remaining memo was held only in APD files. This indicates that APD had no permanent record of at least eight memos issued by the CRP. While it is possible that the missing memos were in the possession of a previous Chief of Police, they were not shared and archived with the other APD-held memos.

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The City did not have a complete collection of CRP memos or recommendations in a single location.

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### Exhibit 5: No Single City Department Held All the CRP Memos



SOURCE: Audit analysis of records from OPM and APD, 2018.

Also, we found references to a memo that neither the OPM nor APD were able to produce.<sup>5</sup> It is possible that other memos and related recommendations exist, but are missing.

The previous labor agreement did not assign responsibility for maintaining CRP records to any specific entity or department. However, City records retention schedules require that the OPM retain any recommendations issued by the CRP for certain time periods, depending on the nature of the incident. Also, while an internal OPM procedure specifies that these memos should be stored on a shared network drive, OPM staff stated that there is no central repository of records, and, therefore, no complete collection of CRP recommendations.

Additionally, OPM procedures state that any responses issued by APD be stored in a central location. However, staff stated that some responses were informally communicated between the Chief of Police and the Police Monitor. As a result, these responses were not always captured and preserved in a retrievable form.

<sup>5</sup> We did not find this memo in any other City department. Also, as noted in the Background section, we identified a total of 28 CRP memos, including this missing memo.



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Without a complete record of all CRP memos and APD responses, oversight groups are unable to identify recurring patterns or previous attempts at solving issues.

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As a result, the City did not ensure that a complete record of CRP memos, recommendations, and related responses was maintained. Without a complete record of these materials, those charged with citizen oversight are unable to easily identify recurring problems, patterns of behavior, or previous attempts at solving these issues. For example, the CRP had a responsibility to address patterns of misconduct on the part of either individual officers or APD as an organization. Without ready access to previous memos, this task would be difficult to perform, particularly for new panelists not familiar with the history of APD or CRP actions.

**There was generally a significant gap between the date an incident occurred and when the CRP heard an APD presentation of the case which limited the CRP's ability to issue effective and timely recommendations.**

The majority of CRP panelists that we spoke with reported that extended delays in the presentation of critical incidents reduced the effectiveness of potential recommendations.

The most recent labor agreement states that the purpose of citizen oversight is to assure “timely, fair, impartial, and objective administrative review of complaints against police officers, while protecting the individual rights of the officers.” The agreement gave the CRP the authority to review critical incidents, such as officer-involved shootings and to issue non-binding recommendations for discipline in these cases.

Per state law, the Chief of Police cannot issue discipline for events that occurred outside certain time frames. Generally, this time frame is 180 days, with exceptions for certain situations such as grand jury trials. If the CRP does not hear the cases within the administrative window to recommend discipline, the CRP is unable to fulfill the “timely” element of citizen oversight as described above.

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Cases were not presented to the CRP in a timely manner. We found that the CRP would have been able to recommend discipline in 28% of eligible cases, due to the time-frame restrictions for issuing discipline having expired.

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On at least four occasions (4/28 or 14%), the CRP wrote memos describing their inability to recommend discipline due to a delay in hearing the case. Our analysis indicates the CRP would only have been able to recommend discipline in 28% (5/18) of eligible cases, due to delays in presenting the cases to the CRP.

If the CRP is unable to issue actionable discipline recommendations, a critical part of the CRP's oversight duties are diminished. While the Chief of Police retains sole discretion in disciplinary decisions, a role of citizen oversight is to provide the Chief of Police with fair and objective input on the behavior of officers for consideration in those decisions.

In these cases, it was unclear why APD did not consistently present information to the CRP in a timely manner. Some presentations were held until after a grand jury had the chance to deliberate, but at least two incidents involving officer-involved shootings were presented to the CRP before the grand jury process was complete. If these cases were routinely presented in a timely manner, the Chief of Police would be able to fully consider the CRP's recommendations prior to making decisions about discipline.

More generally, untimely presentations compromised the effectiveness of the CRP's recommendations. For those memos, we calculated the average time from the date of an incident or complaint to the issuance of a CRP memo to be 386 days. As CRP panelists attested, recommendations are generally not timely or responsive when they are issued more than a year after the incident in question occurred. For example, issues noted by the CRP may have continued during that time or the CRP may have considered issues where policies and procedures had already been changed by APD.

**Incomplete or unavailable information at CRP meetings may have affected the CRP's understanding of an incident and affected their recommendations.**

Multiple CRP panelists expressed dissatisfaction with the quality of the presentations and available information produced by APD's Internal Affairs Division during CRP meetings.

The labor agreement granted panelists the ability to review the entire Internal Affairs case file in person, at the Police Monitor's physical office space, for up to eight hours. However, most panelists reported that they rarely did this. Most panelists cited that the OPM office was not conveniently located and panelists with full-time jobs cited difficulty in conducting reviews during business hours.

At each CRP meeting, the City supplied tablets to panelists which contained information from the Internal Affairs case file. However, the tablets were limited in terms of storage, so the complete investigation file did not always fit on the tablet. Multiple panelists stated that, at times, videos of the incident under review were missing. Also, panelists stated that technical glitches during meetings would sometimes result in videos not being available for viewing. Panelists also stated that Internal Affairs would sometimes include relevant video in their presentations, but these files would be edited or condensed. In one of their issued memos, the CRP described a video as being "highly curated" and implied that it did not present an accurate representation of the incident in question.

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Panelists reported that videos of the incident under review were sometimes unavailable during the CRP meetings, and that APD sometimes presented videos that had been edited or condensed.

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APD management asserted that the full Internal Affairs case file was made available to panelists during CRP meetings via the tablets and an external hard drive. However, APD also noted that once the CRP began its deliberations, APD staff left the meeting and took the hard drive with them. In our discussion with the panelists, one made specific reference to the hard drive, but each asserted that case file information was sometimes incomplete at the meetings. It is possible that the departure of APD staff before the deliberation process was complete contributed to the panelists' impression that the available information was incomplete.

Panelists also stated that the Internal Affairs presenters were not always able to answer all of their questions. CRP panelists explained that the APD officer presenting a case was often not the actual investigating officer, due to turnover within Internal Affairs. Consequently, presenters could not always answer specific questions regarding content or process, such as why certain decisions were made in an investigation. Because the

labor agreement prohibited panelists from investigating the cases during meetings, panelists were also unable to ask witnesses or the complainant about the missing information. Also, a more tenured panelist noted that the quality of Internal Affairs presentations varied with changes in leadership at Internal Affairs.

Because the CRP was not subject to the Open Meetings Act, meeting minutes were not kept. We were unable to quantify the number of instances in which panelists felt that they did not have access to adequate information regarding the cases presented. However, not having full, accurate, and relevant information available during CRP meetings may have limited the panelists' ability to deliberate all the issues involved and issue fully informed memos and recommendations.

**The Chief of Police was not required to acknowledge receipt of, or respond to, recommendations issued by the CRP. Without APD feedback, the CRP issued similar recommendations without understanding why APD would or could not implement them, which limited the effectiveness of the oversight process.**

All APD responses were issued by a previous Chief of Police. We identified written responses to 31% (17/54) of the recommendations issued by the CRP. Most panelists noted that they generally did not see these written responses, but may have heard about them at the next meeting.

We did not identify any responses to the remaining memos and recommendations. However, as noted in earlier sections, it is possible that the Chief of Police either discussed responses informally with the Police Monitor or did not receive some of these recommendations at all. Also, the Chief of Police was not required to acknowledge, respond, or implement any of the CRP's recommendations, whether verbally or in writing. One panelist noted that the process may have been improved if CRP memos and APD responses were proactively made public by the City.

Panelists noted that APD executives rarely attended CRP meetings. As noted earlier, there was little direct communication between the CRP and the Chief of Police. This limited engagement seems to have impacted the effectiveness of the process. Also, it seems that clear and direct communication between these two parties could lead to a better and more effective oversight process. For example, if the Chief of Police disagrees with a recommendation or believes it cannot be implemented, an explanation would help inform the CRP when drafting future recommendations.

We found that this situation likely contributed to the CRP issuing similar recommendations across multiple memos. For example, in four separate incidents, the CRP stated its belief that APD had not interviewed all key witnesses and made a recommendation that APD change its policies to ensure that key witnesses be interviewed. However, APD management asserted to us that their approach has always been to interview all available witnesses. APD staff clarified that, in some cases, testimony may not be available to the CRP because it was sealed by a grand jury or the witness may have chosen not to cooperate.

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The limited responses by APD likely contributed to the CRP issuing the same recommendation multiple times, and reduced the effectiveness of the oversight process.

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Had the Chief of Police issued a written response in the first incident, explaining APD's approach,<sup>6</sup> the CRP would have a greater understanding for similar situations in the future. The CRP could have used that feedback to ask more probing questions to identify root causes and issue more specific recommendations in the other three incidents (or, perhaps, the issue would not have repeated multiple times).

Also, evidence suggests that increased communication between the CRP and APD would lead to more productive recommendations and Internal Affairs presentations. In a 2015 memo, the CRP noted that they had a discussion with the commander over Internal Affairs regarding the witness issue. That resulted in the CRP making a suggestion for Internal Affairs to summarize the witness list, document the attempts Internal Affairs made to contact a witness, and explain why Internal Affairs chose not to interview any listed witnesses. The suggestion tracks with APD's above explanations as to why certain witness testimony was not available, and the Chief of Police agreed with the suggestion in his response. However, a panelist noted that while APD began implementing this policy under that particular commander, implementation stopped when the commander was transferred out of Internal Affairs.

As another example of a seeming miscommunication related to repeated CRP recommendations and APD assertions regarding department policies, we noted that the CRP made three separate recommendations that APD apply a higher standard of scrutiny to certain types of complaints, including complaints made against APD management. APD management asserted to us that APD policy is to treat all employees equally when conducting investigations. As with the recommendations involving witnesses, an explanation of APD's position early on may have reduced the need for, or increased the effectiveness of, future recommendations.

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<sup>6</sup> The Chief of Police did respond to one of these recommendations, noting that additional witness supplements were reviewed and added to the file, but no new information was discovered. However, the response does not explain APD's process to the CRP, or why the witness interviews were not originally included. Also, as noted earlier, it is not clear if the CRP ever received this response.

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## Finding 2

Information created by the Citizen Review Panel was not fully protected or retained because the City did not provide adequate resources and training to panelists.

CRP panelists regularly used their personal or work e-mail accounts to exchange memo drafts. These drafts may have contained information otherwise protected by Texas Local Government Code Section 143.089(g).<sup>7</sup> Consequently, the City does not have control over records stored within those accounts which may be deleted or accessed by third parties.

The CRP is considered to be an associated entity of the City, rather than a board or commission. Consequently, it appears that the CRP was not included in the City Clerk's routine practice of providing training and City e-mail accounts to Council-appointed citizen boards and commissions.

Panelists asserted, and City Clerk staff confirmed, that panelists were not provided with City e-mail accounts. One panelist asserted that they raised the lack of City e-mail as a concern with OPM staff, but was told that it was not an issue because the CRP was not a board or commission. Panelists also informed us that they were not provided with any training related to records retention or public information requirements for their role on the CRP.

We confirmed that some panelists still have records related to CRP business in their personal or work e-mail accounts. Because panelists were not trained on how to maintain and secure government records, panelists may have inadvertently deleted or exposed information to third parties (such as their employer) that would normally be protected by state law or the labor agreement.

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<sup>7</sup> Section 143.089(g) refers to protecting the release of information contained in an officer's personnel file.

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## Additional Observation

**Without a labor agreement, the Office of the Police Monitor's ability to provide oversight is limited.**

Although the City of Austin is currently without the CRP, the City maintains a modified version of police oversight through the OPM. While the OPM continues to operate, staff have been advised that any records they create could now be subject to public release due to the expiration of the prior labor agreement. Accordingly, OPM staff have taken measures to not create any records, which has affected their ability to process complaints. According to OPM staff, all complaint intakes are now routed to and handled by APD's Internal Affairs Division, rather than by OPM employees.

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# Recommendations and Management Response

At the time of this report, the Citizen Review Panel is currently suspended from operations and the City is negotiating a new labor agreement with the Austin Police Association. We recommend that the City Manager pursue the below opportunities in the future.

1

To improve the effectiveness of citizen oversight of the Austin Police Department, the City Manager should pursue opportunities in future agreements with the Austin Police Association to ensure that:

- Clear responsibilities are established for the retention of any records produced by a City-designated citizen oversight body, and relevant policies are followed and enforced. Such responsibilities could include who maintains the records, where records should be stored, and how long records should be maintained.
- The Police Department present investigations to a City-designated citizen oversight body in a timely and comprehensive manner, such that the oversight body has adequate time to provide recommendations on discipline and complete access to the investigation case file both prior to, and during, deliberations of the body.
- The Chief of Police issues a timely, written response to any recommendation formally issued by a City-designated citizen oversight body. The response should be sent directly to the oversight body, include a statement on whether or not the Chief of Police agrees or disagrees with the recommendation, and include a clear explanation for the decision.

**Management Response:** Management agrees with the goals of this recommendation. Note that individual steps involving civilian oversight may become a subject of the current labor contract negotiations with Austin Police Association (APA). Recommended items within administrative control of the City Manager will be considered in conjunction with items subject to contract negotiations. Should a tentative agreement be reached between the City and APA, the agreement would be subject to Council approval.

**Proposed Implementation Plan:** The implementation plan will be determined should a labor contract with APA be approved by Council.

**Proposed Implementation Date:** The implementation date will be determined should a labor contract with APA be approved by Council.

2

When a new labor agreement is approved, the City Manager should ensure administrative procedures governing the citizen oversight process align with the labor agreement and ensure that there is direct communication between the City-designated citizen oversight body and the Chief of Police. Additionally, any final documents issued by a City-designated citizen oversight body should be issued by that body directly to the intended recipient.

**Management Response:** Management agrees with the goals of this recommendation. Administrative procedures will be consistent with requirements of the approved agreement and Local Government Code Section 143.089(g).

**Proposed Implementation Plan:** The implementation plan will be determined should a labor contract with APA be approved by Council.

**Proposed Implementation Date:** The implementation date will be determined should a labor contract with APA be approved by Council.

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## Recommendations and Management Response

3

To ensure the integrity of the citizen oversight process, the City Manager should proactively release memos issued by a City-designated citizen oversight body to the public, as well as any responses produced by the Austin Police Department.

**Management Response:** Management agrees with the goal of this recommendation. The memos will be released consistent with requirements of the approved agreement and Local Government Code Section 143.089(g).

**Proposed Implementation Plan:** The implementation plan will be determined should a labor contract with APA be approved by Council.

**Proposed Implementation Date:** The implementation date will be determined should a labor contract with APA be approved by Council.

4

To ensure that City information is protected and retained, the City Manager should ensure that representatives of a City-designated citizen oversight body are provided with appropriate resources. This may include providing the representatives with City e-mail accounts and training related to their duties, consistent with the City Clerk's established processes for Council-appointed boards and commissions.

**Management Response:** Management concurs in this recommendation.

**Proposed Implementation Plan:** The implementation plan will be determined should a labor contract with APA be approved by Council.

**Proposed Implementation Date:** The implementation date will be determined should a labor contract with APA be approved by Council.



# Appendix A

## Summary of Citizen Review Panel (CRP) Recommendations and APD Responses

Row #	CRP Memo #	CRP Memo Date	Type of Incident	Summary of Recommendation Issued by CRP	APD Chief Provided Written Response	Summary of APD Response/Changes	Recommendation Implementation Status
1	2013-0780	10/25/2013	Officer-Involved Shooting	The involved officer should be indefinitely suspended.	No	N/A	N/A (No discipline could be implemented because officer retired under investigation)
2	2013-0219	7/30/2014	Officer-Involved Shooting	The involved officer should receive a written reprimand and be re-trained regarding evaluation of exigency of call, safe/courteous approach onto private property, and effective disarming techniques.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
3	2013-0219	7/30/2014	Officer-Involved Shooting	Internal Affairs should interview all witnesses to a shooting.	No	APD believes current practices conform to recommendation	No change
4	2012-1089	8/29/2014	Officer-Involved Shooting	APD should develop more detailed procedures to supplement the "Firearms Discharge Situations - Moving Vehicles Policy"	No	APD believes current practices conform to recommendation	Implemented, but not in response to CRP recommendation
5	2012-1089	8/29/2014	Officer-Involved Shooting	APD should increase the amount and quality of training APD officers receive related to policy 202.1.3 ("Firearms Discharge Situations - Moving Vehicles")	No	APD believes current practices conform to recommendation	No change
6	2012-1089	8/29/2014	Officer-Involved Shooting	If APD cannot document efforts to improve training on 202.1.3 ("Firearms Discharge - Moving Vehicle"), APD should release a six month and a year-long plan to explain how training will be modified to meet "these needs."	No	N/A	N/A (This was an alternative recommendation if APD did not want to implement another option)
7	2014-0212	5/7/2015	Officer-Involved Shooting	The Chief of Police should submit officer-involved shooting cases to the CRP in a timely manner.	No	APD believes current practices conform to recommendation	No change
8	2014-0212	5/7/2015	Officer-Involved Shooting	Internal Affairs should conduct a further investigation that involves either interviewing the subject or including their sworn deposition testimony in the investigation file, plus the sworn testimony of an officer and a specific witness.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation

Row #	CRP Memo #	CRP Memo Date	Type of Incident	Summary of Recommendation Issued by CRP	APD Chief Provided Written Response	Summary of APD Response/Changes	Recommendation Implementation Status
9	2013-1128	8/19/2015	Officer-Involved Shooting	APD should review whether officers have sufficient access to ballistic shields.	Yes	APD believes current practices conform to recommendation	Implemented
10	2013-1128	8/19/2015	Officer-Involved Shooting	APD should review training procedures for dispatch personnel.	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
11	2014-0199	8/19/2015	Complaint to OPM	APD should consider the policies regarding the assessment and review of response to resistance policy related to reporting and supervisor obligations, especially in the context of large public events.	Yes	APD believes current practices conform to recommendation	Implemented, but not in response to CRP recommendation
12	2013-0408	8/20/2015	Officer-Involved Shooting	Officers who expect to use AR-15s during policing should undergo a rigorous training.	Yes	APD believes current practices conform to recommendation	Implemented
13	2013-0408	8/20/2015	Officer-Involved Shooting	The involved officer should undergo training on how to interact with the mentally ill population and how to approach a situation while waiting for SWAT.	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
14	2013-0408	8/20/2015	Officer-Involved Shooting	APD should have a "more in-depth academy and in-service training around how to recognize a situation where specialty units may be needed, the resources available to APD officers, and how to attain those specialized assets."	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
15	2014-0662	8/20/2015	In-Custody Death	APD should consider whether there was a lapse in proper maintenance regarding ammunition and equipment.	Yes	APD believes current practices conform to recommendation	Implemented
16	2014-0775	8/20/2015	Complaint to OPM	The Chief of Police should order that "additional investigative follow up is needed," and order that the complaint be re-classified and thoroughly investigated.	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
17	2015-0085	12/18/2015	Officer-Involved Shooting	APD should review/revise all policies regarding provision of first aid to injured persons to "ensure that APD treats all people equally."	No	APD believes current practices conform to recommendation	No change

Row #	CRP Memo #	CRP Memo Date	Type of Incident	Summary of Recommendation Issued by CRP	APD Chief Provided Written Response	Summary of APD Response/Changes	Recommendation Implementation Status
18	2015-0085	12/18/2015	Officer-Involved Shooting	APD should review and/or revise department policies regarding use of mental health officers, specifically related to when they are dispatched.	No	APD believes current practices conform to recommendation	No change
19	2015-0085	12/18/2015	Officer-Involved Shooting	APD should review and/or revise policies regarding supervision at the scene of an incident with multiple officers.	No	APD believes current practices conform to recommendation	No change
20	2015-0085	12/18/2015	Officer-Involved Shooting	Officers involved in incident should receive corrective counseling.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
21	2015-0286	12/18/2015	Complaint to OPM	Complaints against Field Training Officers about incidents that occur when the Field Training Officer is working with a trainee officer should be "more highly scrutinized" by the chain of command.	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
22	2015-0286	12/18/2015	Complaint to OPM	APD should review and/or revise policies regarding Field Training Officers, and should particularly consider whether officers with only two years of patrol experience have sufficient experience to train new officers.	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
23	2015-0286	12/18/2015	Complaint to OPM	Counseling to Field Training Officers and trainees should be used "more frequently" so that "trainers' unprofessional behavior is corrected and not duplicated by trainees."	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
24	2015-0185	2/9/2016	Complaint to OPM	APD command should consider whether the "repetitive use of force required to address the needs and demands of the homeless, Downtown Austin businesses, the hordes of intoxicated individuals, the unruly crowds, and the activists may cause [Downtown Area Command] officers to, perhaps unknowingly and unintentionally, use an ever increasing amount of force."	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
25	2015-0185	2/9/2016	Complaint to OPM	APD should consider whether other staffing models and crowd management tools, such as shorter tours for officers working downtown and softer crowd control techniques, would better serve Austin.	Yes	APD believes current practices conform to recommendation	No change

Row #	CRP Memo #	CRP Memo Date	Type of Incident	Summary of Recommendation Issued by CRP	APD Chief Provided Written Response	Summary of APD Response/Changes	Recommendation Implementation Status
26	2015-0185	2/9/2016	Complaint to OPM	APD should review and/or revise procedures regarding the staffing of the downtown area due to the "obvious antagonism between some of the accused officers and [an activist] ... The situation seems ripe for a blowup and should be addressed."	Yes	APD believes current practices conform to recommendation	No change
27	2015-0130	2/12/2016	In-Custody Death	APD should develop a policy to ensure relevant civilian witnesses are interviewed if an action becomes the subject of a criminal or internal affairs investigation.	No	APD believes current practices conform to recommendation	No change
28	2015-0464	2/12/2016	Officer-Involved Shooting	APD should identify more effective means of de-escalating situations.	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
29	2015-0464	2/12/2016	Officer-Involved Shooting	APD should review a "way to apply measured use of force based on the situation at hand and to balance it with methods that aid in de-escalating situations."	Yes	APD disagreed with recommendation	N/A - Disagreed with recommendation
30	2015-0464	2/12/2016	Officer-Involved Shooting	Internal Affairs should interview key witnesses on the scene, such as emergency responders.	Yes	APD believes current practices conform to recommendation	No change
31	2016-0115	3/18/2016	Officer-Involved Shooting	APD should enhance policies and procedures to emphasize de-escalation before resorting to the use of force and, in particular, deadly force.	No	APD believes current practices conform to recommendation	Implemented
32	2016-0115	3/18/2016	Officer-Involved Shooting	APD should use psychologists and other professionals to provide training to officers on de-escalation methods.	No	APD contracted with new vendor for "train the trainer" classes and four members of APD's training department attended training; APD believes current practices conform to recommendation	Implemented
33	2016-0115	3/18/2016	Officer-Involved Shooting	APD should institute a task force to evaluate its policies and procedures and training regarding de-escalation, and this task force should include not only senior APD officers but also senior officers from other police departments, academicians, and civilian residents of Austin.	No	APD worked with various organizations to draft updated policy; APD believes current practices conform to recommendation	Implemented

Row #	CRP Memo #	CRP Memo Date	Type of Incident	Summary of Recommendation Issued by CRP	APD Chief Provided Written Response	Summary of APD Response/Changes	Recommendation Implementation Status
34	2016-0115	3/18/2016	Officer-Involved Shooting	APD officers should be required to request/use Mental Health Officers on cases like this.	No	APD believes current practices conform to recommendation	No change
35	2016-0115	3/18/2016	Officer-Involved Shooting	APD should change the standard dispatch response from "do you need police, fire, or EMS" to include an option for mental health assistance.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
36	2016-0115	3/18/2016	Officer-Involved Shooting	APD should reassign certain training officers based on testimony provided to the Special Investigation Unit, as "their mind-set will likely propagate to new recruits that de-escalation need not be part of the tool-kit of new officers."	No	Officer was reassigned	Implemented
37	2016-0115	3/18/2016	Officer-Involved Shooting	Officer involved in the incident should be indefinitely suspended for multiple violations of policy.	No	Officer was disciplined	Implemented
38	2015-0599	7/19/2016	Officer-Involved Shooting	APD should review and revise its civilian rider program to consider how much experience an officer should have before having a civilian ride along, and that APD should consider whether there should be restrictions on ride-along passengers based on relationships to the officer.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
39	2015-0599	7/19/2016	Officer-Involved Shooting	APD should define, develop, and train more effective methods to de-escalate situations.	No	APD believes current practices conform to recommendation	No change
40	2015-0599	7/19/2016	Officer-Involved Shooting	APD should review and revise its policies and practices for incidents with known individuals who have had prior involvement with APD crisis intervention officers or mental health services, so that appropriate mental health intervention can be used.	No	APD believes current practices conform to recommendation	No change

Row #	CRP Memo #	CRP Memo Date	Type of Incident	Summary of Recommendation Issued by CRP	APD Chief Provided Written Response	Summary of APD Response/Changes	Recommendation Implementation Status
41	2015-0599	7/19/2016	Officer-Involved Shooting	APD and the 911 communications center should develop or revise its mental health protocols checklist such that it would “require dispatchers and patrol officers to immediately call for an [Mental Health Officer], [Crisis Intervention Team member], and/or EMS when it is determined” that an emotionally disturbed person is involved in the incident.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
42	2015-0599	7/19/2016	Officer-Involved Shooting	APD should review and revise policies and protocols that deal with communications and coordination among responding officers when multiple officers respond to the same call for service.	No	APD believes current practices conform to recommendation	No change
43	2015-0599	7/19/2016	Officer-Involved Shooting	If a corporal is handling supervisory duties (no shift sergeant on duty), the corporal should not have more than one shift to supervise.	No	APD believes current practices conform to recommendation	No change
44	2015-0599	7/19/2016	Officer-Involved Shooting	If a corporal is handling supervisory duties (no shift sergeant on duty), area command and watch command should be more closely monitoring that shift.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
45	2015-0599	7/19/2016	Officer-Involved Shooting	The involved officer should be considered for reprimand for tactical decisions (possibly placing them in the line of fire) and taking unilateral action.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
46	2015-0600	8/12/2016	Officer-Involved Shooting	APD should “refrain from taking action which deprives the CRP of its right and ability to review officer-involved shooting cases and make disciplinary recommendation of temporary or indefinite suspensions to [APD] while [APD] has the authority to impose discipline.” Additionally, APD should seek an Attorney General extension of the 180-day disciplinary deadline only when it has suspended the officer without pay.	No	APD believes current practices conform to recommendation	No change

Row #	CRP Memo #	CRP Memo Date	Type of Incident	Summary of Recommendation Issued by CRP	APD Chief Provided Written Response	Summary of APD Response/Changes	Recommendation Implementation Status
47	2015-1042	11/17/2016	Complaint to OPM	APD should review and revise APD policy with regards to classification of Class D complaints, especially those involving allegations of excessive force.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
48	2015-1042	11/17/2016	Complaint to OPM	Excessive force complaints should be reviewed by supervisors outside of the complained-of-officers' chains of command.	No	APD believes current practices conform to recommendation	Implemented, but not in response to CRP recommendation
49	2016-0784	11/29/2016	Complaint to OPM	The involved officer should not have been exonerated.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
50	2016-0784	11/29/2016	Complaint to OPM	APD should review department policy with regards to complaints against APD commanders to ensure those investigations conform to standards applied to rank and file officers.	No	APD believes current practices conform to recommendation	No change
51	2016-0103	4/27/2017	Complaint to OPM	APD should review and/or revise its policies regarding officer personal conduct and report writing to apply to incidents when they are arresting, detaining, or transporting to jail a person who is threatening them.	No	APD believes current practices conform to recommendation	No change
52	2017-0066	12/22/2017	Complaint to OPM	APD should institute a new policy mandating annual refresher training on searches so that they can "confidently conduct legal searches that will stand up in court."	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
53	2017-0066	12/22/2017	Complaint to OPM	APD should institute a new policy to add more questions regarding the Fourth Amendment and what constitutes a legal search to the supervisory exams.	No	APD disagreed with recommendation	N/A - Disagreed with recommendation
54	2016-1436	12/27/2017	Complaint to OPM	APD should consider a new policy that "mandates training every 6 months on search and seizure for all frontline officers."	No	APD disagreed with recommendation	N/A - Disagreed with recommendation

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# Appendix B

## Excerpt of Most Recent Labor Agreement

On the following pages, we excerpt the section addressing citizen oversight from the most recent labor agreement between the City of Austin and the Austin Police Association. This section (Article 16) covers the duties, powers, and responsibilities of the Citizen Review Panel, as well as the Office of the Police Monitor.

As discussed in the report, this version of the labor agreement was in effect from October 1, 2013 through December 29, 2018.

35	
36	
37	
38	<b>ARTICLE 16</b>
39	<b>CITIZEN OVERSIGHT OF</b>
40	<b>THE AUSTIN POLICE DEPARTMENT</b>
41	
42	<b>Section 1. Citizen Oversight</b>
43	
44	a) Citizen Oversight means the process which incorporates citizen input into the
45	administrative review of conduct of APD Officers and the review of the Austin Police
46	Department's policies and procedures. The City of Austin may provide for Citizen Oversight of
	35



1 the Austin Police Department. Citizen Oversight may include an Office of the Police Monitor  
2 and a Citizen Review Panel. The CITY agrees that there will be no parallel process created in  
3 addition to the one contemplated by these provisions.

4  
5 b) The purpose of Citizen Oversight is:

6  
7 (1) To assure timely, fair, impartial, and objective administrative review of complaints  
8 against police officers, while protecting the individual rights of officers and citizens;

9  
10 (2) To provide an independent and objective review of the policies and procedures of  
11 the Austin Police Department; and

12  
13 (3) To provide a primary, but not exclusive, location for accepting administrative  
14 complaints of officer misconduct.

15  
16 c) Except as otherwise provided by this AGREEMENT, the Chief of Police retains all  
17 management rights and authority over the process of administrative investigation of alleged  
18 misconduct by APD Officers that could result in disciplinary action.

19  
20 d) Except as specifically permitted in this Article, the Citizen Oversight process, regardless  
21 of its name or structure, shall not be used or permitted to gather evidence, contact or interview  
22 witnesses, or otherwise independently investigate a complaint of misconduct by an Officer.  
23 There shall be no legal or administrative requirement, including but not limited to subpoena  
24 power or an order from the City Manager or the Department, that an Officer appear before or  
25 present evidence to any individual, panel, committee, group, or forum of any type involved in  
26 Citizen Oversight. This provision has no application to any Independent Investigation  
27 authorized by the Chief of Police or the City Manager, regardless of whether the Independent  
28 Investigation was recommended by a Panel or Police Monitor, or to any hearing of an appeal of  
29 disciplinary action pursuant to this AGREEMENT and/or Chapter 143 of the Texas Local  
30 Government Code. Police Officers remain subject to orders or subpoenas to appear and provide  
31 testimony or evidence in such investigations or hearings.

32  
33 **Section 2. Definitions**

34  
35 In this Article:

36  
37 a) “Critical Incident” means:

38  
39 (1) An alleged use of force or other action by an Austin Police Officer that directly  
40 results in serious bodily injury or death (The definition of “serious bodily injury” found in the  
41 Texas Penal Code, Section 1.07(a)(46) will apply.);

42  
43 (2) A death in custody; or

44  
45 (3) An officer involved shooting.

46

1           b) “Independent Investigation” means an administrative investigation or inquiry of alleged  
2 or potential misconduct by an Officer, authorized by the Chief of Police or City Manager and  
3 conducted by a person(s) who is not:

- 4
- 5           (1) An employee of the City of Austin;
  - 6
  - 7           (2) An employee of the Office of the Police Monitor; or
  - 8
  - 9           (3) A volunteer member of the Panel.
- 10

11           An “Independent Investigation” does not include attorney-client work product or privileged  
12 material related to the defense of claims or suits against the City of Austin.

13

14           c) “Complaint” means an affidavit setting forth allegations or facts that may form the basis  
15 of future allegations of misconduct against an officer and which serves as the basis for initiating  
16 an investigation.

17

18           d) “Complainant” means a person, including an Officer, claiming to be a witness to or the  
19 victim of misconduct by an Officer. “Complainant” does not include the Department designee in  
20 the case of an administrative referral.

21

### 22 **Section 3. The Office of the Police Monitor (“OPM”)**

23

#### 24 a) Access to Confidential Information

25

26           The Police Monitor will have unfettered access to the Internal Affairs investigation  
27 process, except as provided herein. The Police Monitor may inquire of the Commander of the  
28 Internal Affairs Division or the Chief of Police, or the Chief’s designee, as to the status of any  
29 pending IAD investigation.

30

#### 31 b) Complaint Intake

32

33           (1) The OPM shall not gather evidence, contact or interview witnesses (except the  
34 complainant as provided herein), or otherwise independently investigate a complaint or other  
35 information of police misconduct. The OPM shall not have the authority to subpoena witnesses.  
36 There shall be no administrative requirement, including but not limited to an order from the City  
37 Manager or the Department, that an Officer appear or present evidence to the Police Monitor.  
38 The OPM is authorized to accept complaints of Officer misconduct as provided in this Section.

39

40           (2) The OPM may obtain the following information in connection with the filing of a  
41 complaint of officer misconduct:

42

- 43           (a) The complainant’s personal information;
- 44           (b) The nature of the complaint;
- 45           (c) Witness information;
- 46           (d) The incident location, date, and time; and

1 (e) The APD officer(s) involved.

2

3 (3) The OPM shall digitally audio record the taking of the information provided in  
4 subsection (b)(2). The OPM will promptly forward the completed complaint and audio  
5 recording to IAD. A complaint by a complainant who is not a Police Officer shall not be  
6 accepted unless the complainant verifies the complaint in writing before a public officer who is  
7 authorized by law to take statements under oath. A complainant may be subsequently  
8 interviewed by the IAD investigator for purposes of clarification or to obtain additional  
9 information relevant to the investigation.

10

11 (4) Personnel from the OPM shall assist an individual in understanding the complaint  
12 process and the requirements for filing a complaint but shall not solicit or insist upon the filing of  
13 a complaint by any individual.

14

15 c) Access to Investigation Interviews

16

17 A representative from the OPM may attend an interview of the Officer who is the subject  
18 of the investigation or administrative inquiry, as well as all witness interviews. The OPM  
19 representative may directly question the Officer who is the subject of the investigation only if  
20 agreed to by the subject Officer or his/her representative and the IAD investigator. At the  
21 conclusion of or during a break in any interview, the OPM representative may take the IAD  
22 investigator aside and request that the investigator ask additional questions. Whether such  
23 information is sought in any witness interview is within the discretion of the IAD investigator.

24

25 d) Access to Dismissal Review Hearings

26

27 The Police Monitor may attend any Dismissal Review Hearing (or other administrative  
28 hearing conducted for the purpose of determining whether the Department shall take disciplinary  
29 action against an Officer for alleged misconduct). Neither the Police Monitor nor the Internal  
30 Affairs Representative(s) may remain in the Hearing while the chain of command and the Chief  
31 of Police or his/her designee discusses the final classification and/or appropriate discipline, if  
32 any, to be imposed. The final classification of an allegation of misconduct is within the sole  
33 discretion of the Chief of Police, subject to the Officer's right of appeal of any discipline  
34 imposed as provided by Chapter 143 of the Texas Local Government Code and this  
35 AGREEMENT.

36

37 e) Quarterly Meetings

38

39 On a quarterly basis, the Police Monitor, the Chief of Police, the Commander of the  
40 Internal Affairs Division, and the ASSOCIATION President shall meet to discuss any issues  
41 related to the citizen oversight process.

42

#### 43 **Section 4. Citizen Review Panel ("Panel")**

44

45 a) Function

46

1 The Panel shall serve to make recommendations to the Chief of Police as provided in this  
2 Article, and in addition to review individual cases of Officer conduct as authorized in this  
3 Article. Panel members shall perform their duties in a fair and objective manner.

4  
5 b) Qualifications

6  
7 To be eligible for appointment to the Panel, applicants must not have a felony criminal  
8 conviction, received deferred adjudication for a felony, or be under felony indictment. Prior to  
9 appointment, Panel members must submit to a criminal background investigation to determine  
10 their eligibility to serve on the Panel. A felony conviction, felony indictment, or felony deferred  
11 adjudication, after appointment, shall result in the immediate removal of the member from the  
12 Panel by the City Manager.

13  
14 c) Training

15  
16 Each member must complete the training prescribed herein prior to commencing their  
17 service on the Panel, except as specified herein. The required training shall include:

18  
19 (1) Attending a three to four (3-4) day training by APD tailored specifically for Panel  
20 members including, at a minimum, the following:

- 21  
22 a. Special Investigations Unit;  
23 b. Officer Involved Shootings;  
24 c. Response to resistance;  
25 d. The Police Training Academy;  
26 e. Crisis Intervention Team;  
27 f. Firearms, including FATS training;  
28 g. Bomb and SWAT;  
29 h. Ride-outs on at least two shifts (14 hours) in different parts of the City, one of  
30 which must include a Friday or Saturday night in Downtown Command from 11  
31 pm to 3 am. The Downtown Command ride-out must be completed within six  
32 months of selection as a Panelist, and  
33 i. A presentation by the Association.

34  
35 (2) Attending six (6) hours of training provided by the Internal Affairs Division.

36  
37 These training requirements are subject to change by unanimous agreement of the Chief of  
38 Police, the ASSOCIATION President, and the Police Monitor.

39  
40 d) Resign to Run

41  
42 Any person involved in the citizen oversight process as a Panel member, who files for  
43 public elective office shall immediately resign from their position in the citizen oversight  
44 process, and failing such resignation shall be immediately removed by the City Manager.

45  
46 e) Cases Subject to Review by Panel

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The Panel may review the following two categories of cases regarding officer conduct:

- (1) Review Requested by Complainant: Not later than thirty (30) calendar days after the Police Monitor forwards notice of the outcome of the investigation to the complainant, the complainant may request that the Police Monitor refer the complaint to the Panel. There is no limitation as to the type of case which may be referred to the Panel at the request of the complainant.
- (2) No Review Request by Complainant: Without a complainant’s request, only the following cases may be referred to the Panel:
  - a. A “Critical Incident” as defined in this Article;
  - b. The appearance of a pattern of serious misconduct by the Officer involved;
  - c. The appearance of a pattern of Department-wide misconduct;
  - d. The appearance of serious official misconduct by one or more members of the Department;
  - e. The appearance of bias based misconduct; or
  - f. The appearance of issue(s) to be addressed by policy, procedure, or training recommendations.

f) Nature of Proceedings

(1) The review of any case by the Panel shall not be conducted as a hearing or trial. Except for the receipt of public input/communications as provided by this Section or an Independent Investigation authorized by this Article, the Panel shall not gather evidence, contact or interview witnesses, or otherwise independently investigate a complaint. The Panel shall not have the authority to subpoena witnesses. There shall be no administrative requirement, including but not limited to an order from the City Manager or the Department, that a Police Officer appear or present evidence to the Panel. The Panel shall immediately forward any information or evidence of which it becomes aware to the Chief of Police through the Police Monitor.

(2) A quorum shall be established prior to beginning the review of any case by the Panel.

(3) Not less than five (5) business days prior to a Panel meeting, the OPM shall provide the Internal Affairs Division and the individual designated by the President of the ASSOCIATION as the Panel liaison, with a copy of the Panel meeting agenda. The Panel shall not take action upon or receive public input/communications concerning any case or issue not listed as an agenda item. Citizens wanting to address the Panel during the public

1 input/communications section of the meeting must complete a speaker sign-up card listing the  
2 agenda item they wish to address, and will be limited to addressing the topic identified. The  
3 Internal Affairs Division shall promptly notify any Officer who is the subject of a complaint  
4 listed as an agenda item as to the scheduled Panel meeting. Notice of special meetings shall be  
5 handled in a similar manner, unless circumstances require a shorter notice, in which case the  
6 notice shall be issued as soon as the special meeting is scheduled.

7  
8 (4) By virtue of its purely advisory role, the Panel is not a governmental body and is  
9 not subject to the Open Meetings Act. Those portions of the meeting during which public  
10 input/communication is accepted shall be open to the public and recorded by video and audio.

11  
12 g) Access to Confidential Information

13  
14 (1) Panel members shall have full access to all administrative investigative and  
15 disciplinary files necessary to perform their functions under this AGREEMENT. Panel members  
16 may ask questions and obtain specific facts, details and information from the Police Monitor,  
17 IAD, or the Chief's office. As part of such access, the Police Monitor shall make available to  
18 individual Panel members all IAD case files scheduled for review pursuant to subsection "f (3)"  
19 above. Individual Panel members may review the IAD case file for up to eight (8) hours, at the  
20 Police Monitor's office and in the presence of a member of the Monitor's staff. This review  
21 opportunity may occur before the Panel's private session and/or after the Panel's public session  
22 regarding such case. The Monitor's Office may hold a conference call with the Panel in which  
23 the Panel is given a preview of the general nature of the cases that will appear at the next Panel  
24 meeting. The focus of the discussion shall not be on the specific facts of any particular case.  
25 The purpose of this conference call is so that the Panel members may decide if they need to  
26 review the file prior to the meeting. The prohibitions and restrictions in Section 8 of this Article  
27 apply to any confidential information viewed by Panel members during this review opportunity.  
28 Panel members shall not copy or remove any portion of the file. The Police Monitor shall be  
29 responsible for security of the file.

30  
31 (2) In an effort to ensure the Panel has a more complete view of the types of cases the  
32 APD reviews, the Police Monitor shall meet with the Panel twice a year to provide them an  
33 overview of APD activity up to that point in the calendar year.

34  
35 h) Private Case Briefing Session

36  
37 (1) Prior to receiving any communication from the complainant or any other public  
38 input/communications, the Panel may meet in Private Session to be briefed concerning the facts  
39 of the particular case to be reviewed. The Police Monitor and/or the IAD representative shall  
40 present to the Panel the information obtained from the IAD investigation. The duties of the IAD  
41 representative may be performed by others, including the chain of command, training staff, and/  
42 or forensics. Members of the Panel may be provided with READ ONLY electronic access to all  
43 or part of the IAD files, or the physical files themselves, during these presentations.

44

1 (2) An APD Officer designated by the President of the ASSOCIATION and one  
2 individual from the Internal Affairs Division shall be present during the Panel Private Session  
3 case briefing, subject to the following provisions:  
4

5 a. The Association's Representative will not participate in the briefing and is  
6 present only as an observer, with the following exceptions:  
7

8 (i) The Association Representative may request that the Police Monitor allow  
9 the representative to present information relevant to a case before the  
10 Panel.  
11

12 (ii) A Panel member may request that the Association Representative present  
13 information relevant to a case before the Panel.  
14

15 (iii) Any information provided by the Association Representative shall be  
16 presented in a neutral manner.  
17

18 b. The Association Representative may not be involved in the case as a witness,  
19 investigator, relative, or officer in the chain of command.  
20

21 c. Information in the possession of the Association Representative as a result of  
22 participation in such briefing shall not be disclosed or revealed other than as  
23 necessary as a part of official Association business in monitoring and enforcing  
24 this AGREEMENT, or in the normal course of dispute resolution processes  
25 under this AGREEMENT.  
26

27 (3) During any private Panel briefing, the presenter should exercise discretion and omit  
28 information from the briefing that the Police Monitor deems to be irrelevant to the citizen's  
29 complaint, as well as information of a highly personal nature that would constitute an  
30 unwarranted invasion of an individual's personal privacy interests.  
31

32 (4) In addition to those individuals involved in briefing the Panel, and the Association  
33 Representative, the Assistant Police Monitor, the staff member from the Office of the Police  
34 Monitor that is assigned to the case, and a designated attorney from the City Attorney's Office  
35 may be present during the Private Case Briefing Session. No other individual may be present  
36 unless the Panel requests further information.  
37

38 i) Public Session and Comments  
39

40 After the Private Session, the Panel shall meet in Public Session to receive public  
41 input/communications. During the public session, the Police Monitor shall take precautions to  
42 prevent discussion of the facts of the particular case and to prevent the Public Session from being  
43 used as a forum to gather evidence, interview witnesses, or otherwise independently investigate a  
44 complaint. Any individual who indicates that he has new or additional evidence concerning the  
45 particular case shall be referred to the Chief of Police or his designee. The rules that apply to  
46 citizen communications with the City Council shall apply to the public session of the Panel

1 meetings. The Police Monitor, in consultation with the Panel, shall set the time limits for such  
2 proceedings, and shall be responsible to prevent discussion of matters not on the Session agenda.

3  
4 j) Communication from Complainant and/or Officer

5  
6 (1) Public Session:

7  
8 Subject to the provisions of Subsection “h,” the Complainant shall be permitted to  
9 address the Panel in the Public Session. The Officer who is the subject of the complaint may, but  
10 is not required, attend and listen to the address by the complainant, and may also address the  
11 Panel.

12  
13 (2) Private Session:

14  
15 If the Complainant articulates relevant privacy or safety concerns, the Police Monitor  
16 may allow the complainant to address the Panel in a private session. The Officer who is the  
17 subject of the complaint may, but is not required, attend and listen to the address by the  
18 complainant, and may also address the Panel. If the complainant is anxious or intimidated by  
19 the presence of the Officer, the Panel shall videotape the complainant’s address to the Panel, and  
20 allow the Officer to view and respond to the taped statement outside the complainant’s presence.  
21 Other than the complainant and the responding police officer, only those persons authorized to  
22 attend the Panel Private case briefing may be present during this private Panel Session.

23  
24 k) Deliberations

25  
26 After receiving public input, if any, the Panel shall discuss the particular case under  
27 review in private session. The Police Monitor and/or the Assistant Police Monitor, the staff  
28 member from the Office of the Police Monitor that is assigned to the case, and a designated  
29 attorney from the City Attorney’s Office may be present during such discussion. No other  
30 individual may be present unless, the Panel requests further information; if the Panel does so, the  
31 Police Monitor or Assistant Police Monitor, and the IA Commander or Lieutenant, must also be  
32 present.

33  
34 l) Action and Recommendations

35  
36 (1) The Panel shall not take action or make recommendations not authorized by this  
37 Article. At the conclusion of the review process set forth above, the Panel, upon a majority vote  
38 of its total members, may make the following written recommendations to Chief of Police:

- 39  
40 a. Further investigation by the Department is warranted;  
41  
42 b. Department policies warrant review and/or change;  
43  
44 c. An “Independent Investigation” is warranted; or  
45  
46 d. A non-binding recommendation on discipline, limited to cases involving a



1 “critical incident” as defined in this Article.

2

3 (2) The final decision as to appropriate discipline is within the sole discretion of the  
4 Chief of Police, subject to the Officer’s right of appeal of any discipline imposed as provided by  
5 Chapter 143 of the Texas Local Government Code and this AGREEMENT. Neither the OPM  
6 employees nor individual members of the Panel shall publicly express agreement or  
7 disagreement with the final disciplinary decision of the Chief, other than as set forth in the  
8 written recommendation. A deliberate violation of this provision shall be subject to the dispute  
9 resolution process set forth in Section 7 of this Article, but a Panel member shall be permanently  
10 removed from the Panel upon a violation of this standard.

11

12 (3) Members must attend the meeting and hear the merits of the case in order to vote.  
13 The Panel’s recommendations shall be reduced to writing. The Panel’s written recommendations  
14 shall explain the Panel’s issues(s) or concern(s).

15

16 (4) The Police Monitor shall consult with the Panel in formulating any  
17 recommendations to the Chief of Police.

18

19 **Section 5. Independent Investigation**

20

21 a) The Chief of Police and the City Manager retain all management rights to authorize an  
22 Independent Investigation concerning police conduct.

23

24 b) If the Panel, pursuant to Section 4(l)(1)(c), recommends that an Independent  
25 Investigation is warranted, the Panel shall provide a public report setting forth the basis and  
26 concerns of the Panel supporting any recommendation for an Independent Investigation. In  
27 addition, the Panel shall provide a public report setting forth the Panel’s conclusions and  
28 recommendations after its review of any Independent Investigation.

29

30 **Section 6. Public Release of Information**

31

32 a) Documents Subject to and Timing of Public Release:

33

34 The provisions of Section 143.089(g) of the Texas Local Government Code are expressly  
35 modified to the extent necessary to permit public release of the following documents in  
36 the manner prescribed by this Section:

37

38 1) A Panel recommendation that Department policies warrant review and/or change, as  
39 authorized by Section 4(l)(1)(b). Unless made confidential by a law other than  
40 Section 143.089(g) of the Texas Local Government Code, such recommendations  
41 shall be subject to public release, in their entirety, upon delivery to the Chief of  
42 Police.

43

44 2) A Panel recommendation that further investigation by the Department is warranted, as  
45 authorized by Section 4(l)(1)(a). Unless made confidential by a law other than  
46 Section 143.089(g) of the Texas Local Government Code, such recommendations

1 shall be subject to public release, in their entirety, only after the Police Chief's final  
2 disciplinary decision as to the subject Officer(s), and only if the Police Chief imposes  
3 discipline.  
4

5 3) A Panel recommendation that an Independent Investigation is warranted, as  
6 authorized by Section 4(l)(1)(c). Unless made confidential by a law other than  
7 Section 143.089(g) of the Texas Local Government Code, such recommendations  
8 shall be subject to public release, in their entirety, only after the Police Chief's final  
9 disciplinary decision as to the subject Officer(s), regardless of whether discipline is  
10 imposed.  
11

12 4) A Panel report setting forth the basis and concerns of the Panel supporting any  
13 recommendation for an Independent Investigation, as authorized by Section 5(b).  
14 Unless made confidential by a law other than Section 143.089(g) of the Texas Local  
15 Government Code, such recommendations shall be subject to public release, in their  
16 entirety, only after the Police Chief's final disciplinary decision as to the subject  
17 Officer(s), regardless of whether discipline is imposed.  
18

19 5) A Panel report setting forth the Panel's conclusions and recommendations after its  
20 review of any Independent Investigation, as authorized by Section 5(b). Unless made  
21 confidential by a law other than Section 143.089(g) of the Texas Local Government  
22 Code, such recommendations shall be subject to public release, in their entirety, only  
23 after the Police Chief's final disciplinary decision as to the subject Officer(s),  
24 regardless of whether discipline is imposed.  
25

26 6) A panel recommendation on discipline in a case involving a critical incident, as  
27 authorized by Section 4(l)(1)(d). Unless made confidential by a law other than  
28 Section 143.089(g) of the Texas Local Government Code, such recommendations  
29 shall be subject to public release, in their entirety, only after the Police Chief's final  
30 disciplinary decision as to the subject Officer(s), regardless of whether discipline is  
31 imposed.  
32

33 7) The body of a final report (but not exhibits) prepared by an investigator who conducts  
34 an Independent Investigation authorized by the Chief of Police or City Manager  
35 concerning police conduct, whether or not recommended by the Panel. Unless made  
36 confidential by a law other than Section 143.089(g) of the Texas Local Government  
37 Code, the body of such report shall be subject to public release, in its entirety, only  
38 after the Police Chief's final disciplinary decision as to the subject Officer(s),  
39 regardless of whether discipline is imposed.  
40

41 It is expressly understood and agreed by the parties that any recommendation and/or  
42 report released pursuant to this Section may contain information which would otherwise  
43 be made confidential by Section 143.089(g) of the Texas Local Government Code.  
44

45 b) The public release of information authorized in this AGREEMENT will be reviewed by  
46 the City of Austin Law Department to insure compliance with this AGREEMENT and to

1 determine whether the release of such information may be prohibited by any other law.

2  
3 c) Unauthorized Release of Confidential Documents/Information:  
4

5 (1) Except as permitted by this AGREEMENT, employees of the OPM and members of  
6 the Panel shall not publicly comment on the specifics of pending complaints and investigations  
7 prior to a Panel decision. All public comments and communications by the OPM shall be factual  
8 and demonstrate impartiality to individual police officers, the Austin Police Department, the  
9 Austin Police Association, employees of the City of Austin, residents of the City of Austin, and  
10 community groups.  
11

12 (2) Should a person participating on a Panel make public statements which, to a  
13 reasonable observer, would be perceived to express or demonstrate a position, bias, or  
14 prejudice on the merits of a particular case that is under investigation or subject to review,  
15 prior to the completion of the citizen panel process for that case, such person will not be allowed  
16 to participate in the review, deliberation, or drafting of recommendations concerning that case.  
17 This provision does not prohibit the Panel or an individual Panel member from making generic,  
18 non-case related public statements about the Austin Police Department, or from providing  
19 information about the process, which does not appear to prejudice the merits, or demonstrate a  
20 bias on the case. In the event of a deliberate violation of this standard, the Panel member shall  
21 be permanently removed from the Panel as set forth below.  
22

23 (3) No public comment or communication (including but not limited to oral or written  
24 statements, reports, newsletters, or other materials made, released, published or distributed) by  
25 the OPM or Panel members will make reference to or identify an Officer by name, unless such  
26 release is then permitted by law, or the Officer's name has become public as a matter of fact by  
27 lawful or authorized means, or by the Officer's own release. Public comments or  
28 communications by the OPM and the Panel shall conform to state and federal law and this  
29 AGREEMENT regarding confidentiality, and shall not contain information that is confidential or  
30 privileged under this AGREEMENT or state, federal or common law.  
31

32 (4) All OPM written publications shall be provided to the APD and the APA  
33 simultaneously with distribution to the public.  
34

35 (5) Any deliberate release of information that is made confidential by law or by this  
36 AGREEMENT shall result in the permanent removal of the offending member from the Panel.  
37 Any deliberate premature release of information before it may properly be released likewise will  
38 result in the permanent removal of the offending member from Panel.  
39

40 **Section 7. Dispute Resolution**  
41

42 a) Complaints concerning the conduct of OPM employees shall be filed with the Police  
43 Monitor, or if the complaint concerns the personal conduct of the Police Monitor, shall be filed  
44 with the City Manager. If not resolved at the first level, a fact finder shall be appointed to review  
45 relevant materials and take evidence to reach written findings of fact, which shall be expedited  
46 for final resolution within two weeks after appointment. The fact finder shall be appointed by

1 striking an AAA list, if the parties do not otherwise agree on a fact finder. Upon conclusion of  
2 the fact finding, and after review and evaluation of the fact finder's report, the Police Monitor (or  
3 City Manager if the complaint concerns the personal conduct of the Police Monitor) shall make a  
4 decision. The final decision shall be made by the City Manager.  
5

6 b) Complaints concerning the conduct of Panel members shall be filed with the City  
7 Manager. If a signed complaint is filed alleging specific comments by a Panel member that  
8 violate the standards in subparagraph 6(c) above, the Panel's consideration shall be postponed or  
9 the particular Panel member shall not participate, until the matter is finally resolved. A  
10 complaint may not be based on statements or conduct previously raised and found insufficient  
11 for disqualification. Only one of such Panel members may be temporarily disqualified under this  
12 provision on a particular case. The City Manager shall promptly determine the complaint. The  
13 ASSOCIATION may appeal from the decision of the City Manager through the expedited  
14 arbitration process in this AGREEMENT. If two (2) consecutive complaints are found  
15 insufficient on a particular Panel member, subsequent complaints on that Panel member shall not  
16 result in temporary removal, but upon final determination that there has been a violation, such  
17 member shall be subject to permanent removal. Nothing shall prevent the Chief from taking  
18 disciplinary action within the statutory time frame, under the provisions of Chapter 143, as  
19 modified by this AGREEMENT.  
20

21 **Section 8. Access to Section 143.089(g) Files**  
22

23 a) Information concerning the administrative review of complaints against Officers,  
24 including but not limited to Internal Affairs Division files and all contents thereof, are intended  
25 solely for the Department's use pursuant to Section 143.089(g) of the Texas Local Government  
26 Code (the 143.089(g) file). All records of the Police Monitor's Office that relate to individual  
27 case investigations and the APD 143.089(g) file, although same are not APD files or records,  
28 shall have the same statutory character in the hands of the Police Monitor, and shall not be  
29 disclosed by any person, unless otherwise authorized by law or this AGREEMENT. Public  
30 access to such information is strictly governed by this AGREEMENT and Texas law. To the  
31 extent necessary to perform their duties, individuals involved in the Citizen Oversight process  
32 are granted a right of access to the information contained within the 143.089(g) files of Officers  
33 to the extent authorized by this AGREEMENT.  
34

35 b) Individuals involved in the Citizen Oversight process shall not be provided with  
36 information contained within a personnel file, including the 143.089(g) file of an Officer, that is  
37 made confidential by a law other than Chapter 143 of the Texas Local Government Code, such  
38 as records concerning juveniles, sexual assault victims, and individuals who have tested positive  
39 for HIV. All persons who have access to IAD files or investigative information by virtue of this  
40 AGREEMENT shall not be provided with access to any records of criminal investigations by the  
41 APD unless those materials are a part of the IAD administrative investigation file.  
42

43 c) All individuals who have access by virtue of this AGREEMENT to IAD files or  
44 investigative information, including the information contained within the 143.089(g) files of  
45 Officers, shall be bound to the same extent as the Austin Police Department and the City of  
46 Austin to comply with the confidentiality provisions of this AGREEMENT, Chapter 143 of the

1 Texas Local Government Code, and the Texas Public Information Act. All such individuals  
2 shall further be bound to the same extent as the Austin Police Department and the City of Austin  
3 to respect the rights of individual Police Officers under the Texas Constitution and the Fourth,  
4 Fifth, and Fourteenth Amendments to the U.S. Constitution, including not revealing information  
5 contained in a compelled statement protected by the doctrine set forth in *Garrity v. New Jersey*,  
6 385 U.S. 493 (1967), and *Spevack v. Klein*, 385 U.S. 511 (1967).

7  
8 d) A breach of the confidentiality provisions of this AGREEMENT and/or Chapter 143 of  
9 the Texas Local Government Code by any individual involved in Citizen Oversight:

10 (1) Shall be a basis for removal from office;

11  
12 (2) May subject the individual to criminal prosecution for offenses including, but not  
13 limited to Abuse of Official Capacity, Official Oppression, Misuse of Official  
14 Information, or the Texas Public Information Act; and/or  
15

16 (3) May subject the individual to civil liability under applicable State and Federal law.  
17

18  
19 e) The confidentiality provisions of this AGREEMENT, Chapter 143 of the Texas Local  
20 Government Code, and the Texas Public Information Act, are continuous in nature. All  
21 individuals involved in Citizen Oversight are subject to these confidentiality provisions even  
22 after their association with the Oversight process has terminated.  
23

24 f) Following any review of an alleged violation of the confidentiality provisions of this  
25 AGREEMENT, the City Manager’s office will provide information about the outcome of that  
26 review to any Officer(s) directly affected by the alleged violation.  
27

28 **Section 9. Use of Evidence from the Citizen Oversight Process in Disciplinary Appeals**

29  
30 Opinions or recommendations from individuals involved in Citizen Oversight in a particular  
31 case may not be used by a party in connection with an appeal of any disciplinary action under the  
32 provisions of Chapter 143 of the Texas Local Government Code and this AGREEMENT. No  
33 party to an arbitration or Civil Service proceeding may use or subpoena any member of the  
34 Citizen Review Panel or the Police Monitor (unless the Police Monitor took the complaint in the  
35 relevant case) as a witness at an arbitration or Civil Service proceeding including, but not limited  
36 to live or deposition testimony, which concerns their duties or responsibilities in the oversight  
37 process or their opinions or recommendations in a particular case. This provision shall not  
38 prevent any testimony for evidentiary predicate.  
39

40 **Section 10. Partial Invalidation and Severance**

41  
42 In the event that a Court Order, Judgment, Texas Attorney General Opinion, or arbitration  
43 decision, which is final and non-appealable, or which is otherwise allowed to take effect, which  
44 order, judgment, opinion, or decision holds that the right of access to the information contained  
45 within the 143.089(g) files of Officers granted by this Article or the public dissemination of  
46 information pursuant to this Article, results in “public information” status under the Texas Public

1 Information Act of the information contained within the 143.089(g) files of an Officer, the  
2 provision or provisions resulting in such a change in the status of the 143.089(g) file shall be  
3 invalidated and severed from the balance of this AGREEMENT.  
4

5 **Section 11. Remedies**  
6

7 a) Benefit of the Bargain  
8

9 The CITY expressly retains its right and ability to proceed with the determination of whether  
10 or not police misconduct occurred and the authority of the Chief to impose disciplinary action.  
11 The ASSOCIATION recognizes the fact that such reservations are essential to this  
12 AGREEMENT. No dispute concerning the operation and function of the Police Monitor’s  
13 Office or the Panel shall impair or delay the process of the Chief’s investigation and  
14 determination of whether or not police misconduct occurred and the degree of discipline, if any,  
15 to impose. This includes internal dispute resolution procedures in this AGREEMENT, any  
16 grievance process or arbitration, and any litigation over such issues. In other words, any such  
17 dispute resolution processes may proceed, as set forth in this contract or by law, but the  
18 disciplinary process may likewise and simultaneously proceed to its conclusion without delay.  
19 The statutory time period for the Chief of Police to take disciplinary action against an Officer  
20 shall be tolled to the extent of any period in which a court order, injunction, or TRO, obtained by  
21 the Officer involved or the ASSOCIATION on behalf of the Officer, halts the Department’s  
22 investigative or disciplinary process. In no event will the actual time exceed 180 calendar days.  
23 The parties agree that the processes in this AGREEMENT, together with the remedies set forth  
24 and the procedural protections and rights extended to Officers in this AGREEMENT are  
25 adequate remedies at law for all disputes arising under this Article.  
26

27 b) Expedited Arbitration  
28

29 The parties have agreed to expedited arbitration for all unresolved grievances related to the  
30 application or interpretation of this Article in order to achieve immediate resolution and to avoid  
31 the need for court intervention in equity. Such arbitrations shall be conducted pursuant to the  
32 Expedited Labor Arbitration Procedures established by the American Arbitration Association  
33 (“AAA”), and in effect at the time of the dispute. To be appointed, the arbitrator must be  
34 available to hear the arbitration within thirty (30) calendar days of selection and a decision shall  
35 be made within one (1) week of the hearing. The parties agree to create a list of pre-approved  
36 arbitrators. Failing same, or in the absence of an available arbitrator from such pre-approved list,  
37 the arbitrator designated by the AAA shall be required to be licensed as an attorney in the State  
38 of Texas. The parties both agree that the arbitrator has the discretion to receive and hear issues  
39 and testimony by written submission or phone conference, but may also require live testimony  
40 where appropriate.  
41  
42  
43  
44  
45  
46

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## Scope

The scope of this audit included recommendations issued by the Citizen Review Panel between October 1, 2013 and December 29, 2017 (the time period covered by the most recent labor agreement).

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## Methodology

To accomplish our audit objectives, we performed the following steps:

- Interviewed all members of the most recent Citizen Review Panel, as well as personnel within the Office of the Police Monitor and the Austin Police Department,
- Analyzed all available memos written by the Citizen Review Panel during our scope period, as well as available written responses from the Austin Police Department, and
- Evaluated documentation submitted by the Austin Police Department to verify that the department had implemented certain changes recommended by the Citizen Review Panel.

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## Audit Standards

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve City services. We conduct performance audits to review aspects of a City service or program and provide recommendations for improvement.

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