



## MEMORANDUM

TO: Mayor and City Council Members

FROM: Spencer Cronk, City Manager *sc*

DATE: November 2, 2018

SUBJECT: City of Austin Civilian Police Oversight

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The purpose of this memorandum is to inform City Council of the improved changes I will be making in the City of Austin's civilian police oversight office.

### **Background**

On March 22, 2018, the City Council passed Resolution 20180322-047, directing in part that the City Manager develop evidence-based best practices regarding police oversight and report back with any recommendations that would improve the effectiveness, transparency, and efficiency of our current system. In doing so, Council directed me to consult with various stakeholders including the Police Monitor of the Office of the Police Monitor, the Austin Police Department ("APD"), law enforcement accountability offices, interested community organizations and various boards and commissions. In June 2018, I created the Police Oversight Advisory Working Group ("Working Group") to research best practices and develop recommendations to improve the current oversight structure. The Working Group met over three months and held three community forums. Their [final report and recommendations](#) were submitted to me in October. I have incorporated many of the ideas and input I have received from the Police Monitor, the Working Group, and community feedback.

### **Establishing the City of Austin's Office of Police Oversight**

The City of Austin's police oversight office will be called the *Office of Police Oversight* to make the office easily identifiable to the public as the office responsible for handling of complaints on police misconduct, compliments, and concerns regarding APD officers.

At your November 15, 2018 meeting, Council will consider an [ordinance](#) that will create the Office of Police Oversight. The ordinance will establish the Office of Police Oversight as an administrative department that will report to the City Manager.

The scope of the Office of Police Oversight shall include:

- Creating a robust policy arm;
- Conducting a preliminary review of external complaints and make recommendations regarding potential APD policy violations and designated classification;
- Conducting random assessments of APD use of force reviews and body camera usage; and
- Establishing a regular and consistent cadence of public reporting on data regarding complaints, investigation outcomes, discipline, racial profiling and policy recommendations.

The Office of Police Oversight will also monitor Internal Affairs investigations and provide oversight of APD officer conduct issues through the monitoring and review of APD critical incidents, officer-involved shootings, in-custody deaths and uses of force resulting in serious bodily injury or death. Some of these duties will require changes to Texas Local Government Code Chapter 143, which can be negotiated with the Austin Police Association during the ongoing contract negotiations and included in a new Meet and Confer Agreement.

### **Roles and Responsibilities**

The Director of the Office of Police Oversight shall:

- Advise the City Manager on the processes and results of investigations involving officers, and any other activities of APD as directed by the City Manager;
- Advise the City Manager on the effectiveness and appropriateness of APD's policies and procedures concerning complaints of police officer misconduct, police officer training, use of force by police officers, and community relations;
- Receive complaints, including anonymous complaints, from the public concerning the conduct of police officers;
- Make recommendations to the Police Chief concerning discipline based on the investigation of complaints and department policies;
- Report annually to the Council on the results of its activities.

### **Cultural Values**

The Office of Police Oversight shall prioritize transparency in sharing information with the public, as permitted by law, accessibility to the complaint/compliment process, consistent and collaborative engagement with the community and encourage actions towards strengthening the level of trust between the community and APD.

### **Complaints/Compliments/Concerns**

The Director shall establish an easily accessible process for receiving complaints, compliments, and concerns in-person, by phone or online, regardless of language(s).

- The Director shall:
  - Accept all complaints, compliments, and concerns regardless of their source or whether they are sworn or anonymous (i.e. without a signed affidavit);
  - Provide a monthly update to individual complainants regarding the process during the pendency of an investigation;
  - Conduct a preliminary review of all external complaints, which shall include the review of police reports, body worn camera video, and vehicle dash camera video if applicable and available;

- Have access to police reports, body worn camera video, and vehicle dash camera video of external complaints of police misconduct;
- Provide a close-out meeting for all complainants, regardless of complaint outcome, including the sharing of as much information about investigations as is legally possible;
- Develop a mediation program in collaboration with the Austin Police Department in order to provide an alternative method to resolving minor complaints. Often the complaints stem from an interaction resulting in a misunderstanding or miscommunication. Mediation will provide a neutral location in order for both the officer and complainant to discuss their view points in an effort to build understanding between the two parties involved.

### **Community Engagement**

Community engagement and outreach shall be a priority of the Office of Police Oversight.

- The Director shall:
  - Train trusted community representatives to assist individuals with the Office of Police Oversight intake process;
  - Provide training to educate the legal community regarding oversight and the Office of Police Oversight intake process;
  - Develop relationships with nonprofit and community organizations to address barriers to interacting with Office of Police Oversight;
  - Provide information and training to overcome communication barriers.
  - Focus outreach on segments of the Austin community that are unable or have traditionally been unwilling to approach Office of Police Oversight;
  - Solicit feedback on Office of Police Oversight processes, pattern finding, and policy recommendations activities;
  - Hold town hall meetings to include Office of Police Oversight, APD, and city officials in various community locations;
  - Identify and act on proactive opportunities to build and improve trust between the police department and the community;
  - Educate the public by developing mechanisms to enhance police and community relations, educate law enforcement agencies, and work with law enforcement to continue to appropriately respond and inform the public.

### **Transparency**

- The Director shall establish a social media presence for purposes of visibility, community education, engagement, and participation;
- To the extent the law permits, recommendations on policy, discipline on critical incidents, and case classifications made by the Director shall be made public;
- The Office of Police Oversight shall facilitate a critical feedback loop between APD and the public related to APD policy;
- To the extent the law permits, the Office of Police Oversight summaries of investigations on critical incidents shall be made public;
- To the extent the law permits, the Chief of Police will make available to the public, body worn camera video and vehicle dash camera video of critical incidents when all criminal matters have been finally adjudicated and all related administrative investigations have

concluded. The Chief of Police will broadly consider the best interests of the community from a public safety perspective when determining the need to release body worn camera video or vehicle dash camera video for law enforcement purposes;

- The Office of Police Oversight website shall be updated and continuously maintained for the public to view the Director recommendations, subject to statutory requirements; quarterly data on complaints received, all previous annual reports, trend infographics with data around specific trends, data analysis to capture patterns, practices, and trends; and policy recommendations.

### **Investigations**

- The Office of Police Oversight will monitor Internal Affairs investigations and provide oversight through the monitoring and review of APD critical incidents, officer-involved shootings, in-custody deaths and incidents involving use of force resulting in serious bodily injury or death;
- To ensure that the Office of Police Oversight has adequate time to review the completed investigations, APD investigations of critical incidents and, when possible of external complaints, must be completed at least 30 days prior to any deadline limiting the imposition of discipline for the officer(s).

### **Discipline**

- APD shall provide a monthly report to the Office of Police Oversight on aggregate data on discipline regardless of outcome;
- The Chief of Police shall submit a public explanation, consistent with State statute, addressed to the City Manager for any disciplinary decisions that contradict the Director's recommendations on external complaints and critical incidents;
- A representative of Office of Police Oversight shall serve on the APD Force Review Board;
- APD shall permanently retain all records, consistent with state retention requirements, related to formal discipline as defined by state law for every officer, regardless of rank, for full consideration by the Chief of Police in future disciplinary and promotional decisions regarding that officer, to the extent allowed by law.

### **Staffing**

The Director of the Office of Police Oversight shall:

- Supervise and direct all activities of the office;
- Establish standards of professional conduct and a comprehensive training program for its own staff in order to evaluate whether internal investigations have been properly conducted and to make recommendations as to the sustaining of rule violations, the imposition of disciplinary, and changes in policy and training.

As the scope of the Office of Police Oversight expands, additional resources will be needed to meet the mission and goals of the office. This will include additional community outreach staff to establish a proactive, consistent, and continuous community engagement and outreach plan to inform the community about the office; educate the community on the complaint process and their rights; build relationships with community organizations and leaders; and work towards improving the relationship between the community and APD. Additional resources may include hiring outside counsel on an as needed basis.

### **Community Panel/Board**

Community participation is a critical component of police oversight. I support further discussions on a community panel/board and am prepared to fund consulting and other resources as appropriate in order to determine how best to incorporate community involvement that will complement the Office of Police Oversight's new roles and responsibilities. The community panel should include a diverse membership, representative of all the communities in Austin and have the ability to make policy-level recommendations to the Chief of Police. The Panel/Board should conduct reviews of discipline imposed on officers, training, review and identify patterns in the practices of APD, community relations, the complaint process, and any other issues of concern to the community.

### **Conclusion**

I would like to sincerely thank the members of the Police Oversight Advisory Working Group for their time, input, and dedication to improving our oversight system. The Working Group's final report was thoughtful and comprehensive and it provided the necessary insight to help shape the creation of this new office.

I would also like to extend my appreciation to all the Austinites that attended and gave their feedback at the Police Oversight Community Forums and on the SpeakUp Austin website. It was very important to me to hear from the larger community about what our oversight system should look like.

For sixteen years the Office of the Police Monitor has provided oversight of APD officer conduct and has been a service to this community. As civilian police oversight has evolved over time and expanded across the country, it should also do so here in the City of Austin. We have always been the leader in this area, by having the only civilian police oversight office in the State of Texas. Establishing the Office of Police Oversight and expanding its scope is an important step to improving and maintaining public trust in APD and oversight in our community.

cc: Executive Team

Brian Manley, Chief of Police

Farah Muscadin, Police Monitor

Deven Desai, Chief Labor Relations Officer