

1 **RESOLUTION NO.**

2 **WHEREAS**, on February 23, 2023, City Council passed Ordinance No.
3 20230223-061, empowering the Office of Police Oversight (OPO) to act as an
4 investigator pursuant to Texas Local Government Code section 143.312 and
5 mandating that the office have “independent and unfettered access to APD
6 personnel, records, and processes” necessary to implement its mission; and

7 **WHEREAS**, two ballot propositions related to civilian oversight of police
8 in Austin were placed on the May 2023 ballot, and

9 **WHEREAS**, on May 6, 2023, approximately, 4 in 5 Austin voters
10 overwhelmingly approved Prop A and rejected Prop B; and

11 **WHEREAS**, despite deceptively similar names and captions, the content of
12 Prop A and Prop B were significantly different, and voters made a clear choice
13 between the two options; and

14 **WHEREAS**, Prop A amended City Code Chapter 2-15 to strengthen
15 oversight and increase transparency of police conduct and became effective May
16 16, 2023; and

17 **WHEREAS**, the revisions to City Code Chapter 2-15 passed by the voters
18 on May 6, 2023, mandate that the Office of Police Oversight “shall conduct, at
19 minimum, a preliminary investigation of every complaint, determine whether a full
20 investigation is warranted, and make recommendations”; and

21 **WHEREAS**, the revisions to City Code Chapter 2-15 passed by the voters’
22 mandate that the Office of Police Oversight “shall serve as a liaison between
23 complainants and the department during investigations,” and this role clearly
24 requires information sharing; and

25 **WHEREAS**, the revisions to City Code Chapter 2-15 passed by the voters’
26 mandate that the Office of Police Oversight “shall ... analyze all force incident
27 data and conduct random audits of body camera video and body camera usage”;
28 and

29 **WHEREAS**, the revisions to City Code Chapter 2-15 passed by the voters’
30 mandate that the Office of Police Oversight “shall act as a central depository for
31 documentation relevant to the mission of the office and make such information
32 available to the public, including but not limited to: complaint outcomes, officer
33 discipline, force incidents and lawsuits against the City”; and

34 **WHEREAS**, the City currently requires the Office of Police Oversight to
35 give all documentation to the police department and only access it through a shared
36 file system that the Austin Police Department (APD) Internal Affairs Division
37 controls, which impedes OPO functions and transparency; and

38 **WHEREAS**, Office of Police Oversight staff require CJIS Level 3
39 Certification training in order to ensure compliance with CJIS requirements for
40 those with direct and unfettered access to data systems maintained by APD; and

41 **WHEREAS**, the clear direction from the voters when voting for Prop A and
42 against Prop B was to increase transparency and provide for greater civilian
43 participation in the fact-finding process into police conduct; and

44 **WHEREAS**, City Council shares the voter’s goal of a more transparent
45 police department with greater civilian oversight in order to promote just and
46 accountable law enforcement worthy of the public’s trust; **NOW, THEREFORE**,

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

50 The City Council directs the City Manager to ensure that:

- 51 1. Staff of the Office of Police Oversight will be immediately enrolled,
52 no later than October 1, 2023, in the next available CJIS Level 3
53 certification course, which shall include online certification, and the
54 City Manager will report to Council by October 7, 2023, when all
55 staff have been enrolled and the date by which all staff will be so
56 certified; and
- 57 2. Upon completion of CJIS Level 3 certification the City shall
58 immediately grant to each individual certified independent and
59 unfettered access to all record sets to enable the office to conduct
60 independent preliminary investigations of all complaints and
61 recommend classification of complaints based on that investigation,
62 random audits of body camera footage and usage, and all other
63 functions necessary to carry out the mission of the Office; and
- 64 3. Immediately and without regard to CJIS certification, the Police Chief
65 shall provide to the Office of Police Oversight all public force
66 incident report data up to the most recent month including an
67 anonymized officer ID so that the Office of Police Oversight may
68 begin to conduct force incident data analysis in accordance with City
69 Code section 2-15-3(B)(11); and
- 70 4. Upon completion of CJIS Level 3 certification, the Police Chief shall
71 provide to the Office of Police Oversight direct and unfettered access
72 to the body camera footage system, in accordance with Occupations
73 Code section 1701.661, in order to enable thorough preliminary

74 reviews of complaints in accordance with City Code section 2-15-
75 3(B)(10).

76 **BE IT FURTHER RESOLVED:**

77 The City Council directs the City Manager to revise by October 1, 2023, all
78 internal policies with respect to the Office of Police Oversight in order to comply
79 with the amended City Code Chapter 2-15 and Ordinance No. 20230223-061
80 including the following specific policy changes:

- 81 1. The Office of Police Oversight will immediately begin to separately
82 create, maintain, and manage its own records, as defined by City Code
83 section 2-15-3 (B)(12), to facilitate mandatory reporting to Council
84 and the public about Office of Police Oversight activities, subject to
85 exceptions to disclosure authorized by the Texas Public Information
86 Act; and
- 87 2. The Office of Police Oversight will immediately begin to conduct a
88 preliminary investigation for all complaints, as defined by City Code
89 section 2-15-2(F), where the complainant provides enough
90 information to identify the incident in existing records (various
91 combinations of date, time, location, or identification of involved
92 persons), including, but not limited to review of body camera footage
93 and any available police reports and force incident reports subject to
94 CJIS certification requirements; and
- 95 3. The Office of Police Oversight shall immediately begin a preliminary
96 investigation of all complaints, including verbal and written
97 communications, made by any person or persons which allege the
98 following:

- 99 a. that an officer acted improperly,
100 b. may have violated any law, policy, rule, or agreement
101 governing the actions of any police officer, and
102 c. while in the employment of the Austin Police
103 Department; and
- 104 4. No further requirements may be imposed on complaints or
105 complainants prior to the completion of a preliminary investigation
106 and written notice of further actions which will or may be taken as a
107 result; and
- 108 5. The Office of Police Oversight will post all complaints and
109 disciplinary actions to its website since April 1, 2023, and
110 immediately begin to post all complaints, as defined by City Code
111 section 2-15-2(F), and disciplinary actions filed with the Office on its
112 website, redacting all individually identifying information of both
113 complainants, officers and witnesses as was its practice prior to April
114 2023; and
- 115 6. The Office of Police Oversight will only forward any complaint it
116 receives to the Police Department after the Office of Police Oversight
117 has posted a redacted version of the complaint on its website,
118 conducted a preliminary investigation of the complaint, and
119 determined that further action related to the complaint is required by
120 APD; and
- 121 7. All complaints deemed worthy of a full investigation by either the
122 Office of Police Oversight or appropriate personnel within APD, shall
123 receive a full investigation, including an interview of the subject
124 officer(s), in accordance with Local Government Code section
125 143.312. If the Office of Police Oversight believes the complaint

126 merits an investigation including an interview of the subject officer(s),
127 the Office of Police Oversight shall reach out to the complainant and
128 provide the process for filing a sworn affidavit in order to facilitate an
129 interview of the subject officer(s); and

- 130 8. In accordance with Local Government Code section 143.312,
131 anonymous complaints deemed worthy of a full investigation by
132 either the Office of Police Oversight or appropriate personnel within
133 APD, shall be affirmed and certified that the complaint was received
134 anonymously by the staff who received the complaint, in order to
135 facilitate a full investigation, including an interview of the subject
136 officers(s); and
- 137 9. Complaints that cannot be verified, do not merit further investigation,
138 or where an affidavit is required by law and not provided by the
139 complainant shall be forwarded to APD for information, and the
140 redacted version will remain on the Office of Police Oversight website
141 for data and reporting purposes; and
- 142 10. The Office of Police Oversight maintains the discretion to participate
143 in investigations to the extent deemed necessary by the Director with
144 the right to question officers, interview additional witnesses and
145 review all documentation for every case; and
- 146 11. The Office of Police Oversight will immediately begin acting as a
147 liaison with complainants regarding their complaints with the ability
148 to provide updates about the status of their complaint, access to body
149 worn camera footage in accordance with Occupations Code section
150 1701.661 and information regarding any OPO recommendations
151 pertaining to the complaint.

152 **BE IT FURTHER RESOLVED:**

153 Upon completion of an Internal Affairs investigation, the Office of Police
154 Oversight shall make a recommendation to the Police Chief related to officer
155 discipline and receive a response within 30 days, which shall be made public if
156 allowed by state law.

157 **BE IT FURTHER RESOLVED:**

158 The City Manager is directed to report the findings of the Office of Police
159 Oversight: 2022 Annual Report and hiring updates to the Public Safety Committee
160 of Council on October 16, 2023.

161 **BE IT FURTHER RESOLVED:**

162 The City Manager is directed to conduct a monthly check-in with interested
163 members of the public, which shall be posted as a “Police Oversight
164 Implementation Workgroup” public meeting, and which shall include reports of the
165 following information provided to those in attendance and posted on the Office of
166 Police Oversight website:

- 167 1. The total number of:
- 168 a. commendations, complaints (as defined by City Code section 2-15-
169 2(F)) or concerns (by these categories) filed with the Office of Police
170 Oversight about police conduct each month;
 - 171 b. complaints accompanied by a sworn affidavit for each month;
 - 172 c. complaints preliminarily reviewed by the Office of Police Oversight
173 each month (where simply reading the complaint does not constitute
174 preliminary review);
 - 175 d. complaints recommended for a full investigation by Internal Affairs
176 each month;

- 177 e. complaints investigated by Internal Affairs) each month;
- 178 f. number and type of recommendations made to the Police Chief with
- 179 respect to the classification of complaint (A, B, C, D or other) and the
- 180 level of investigation it should receive, including the number the
- 181 Office of Police Oversight determined could not or need not be further
- 182 investigated;
- 183 g. recommendations made to the Police Chief with respect to discipline;
- 184 and
- 185 h. commendations, complaints, or concerns (by these categories) filed
- 186 with the Office of Police Oversight anonymously each month.
- 187 2. Any policy change or change to the general orders.
- 188 3. The monthly “Police Oversight Implementation Workgroup” meetings shall
- 189 be conducted starting in November 2023.

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193 **ADOPTED:** _____, 2023 **ATTEST:** _____

194 Myrna Rios
195 City Clerk
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