

RESOLUTION NO.

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

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

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

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

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

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

WHEREAS, the revisions to City Code Chapter 2-15 passed by the voters’ mandate that the Office of Police Oversight “shall serve as a liaison between complainants and the department during investigations,” and this role clearly 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 Certification
39 training in order to ensure compliance with CJIS requirements for those with direct
40 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,**

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

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

1. Staff of the Office of Police Oversight will be enrolled, no later than October 1, 2023, in the next available CJIS Level 3 certification course or equivalent CJIS certification that allows for direct and unfettered access to the body camera footage system, which shall include online certification, and the City Manager will report to Council by October 7, 2023, when all staff have been enrolled and the date by which all staff will be so certified; and
2. Upon completion of CJIS certification the City shall immediately grant to each individual certified independent and unfettered access to all record sets to enable the office to conduct independent preliminary investigations of all complaints and recommend classification of complaints based on that investigation, random audits of body camera footage and usage, and all other functions necessary to carry out the mission of the Office; and
3. Immediately and without regard to CJIS certification, the Police Chief shall provide to the Office of Police Oversight all public force incident report data up to the most recent month including an anonymized officer ID so that the Office of Police Oversight may begin to conduct force incident data analysis in accordance with City Code section 2-15-3(B)(11); and
4. Upon completion of CJIS certification, the Police Chief shall provide to the Office of Police Oversight direct and unfettered access to the body camera footage system, in accordance with Occupations Code section 1701.661, in order to enable thorough preliminary reviews of complaints in accordance with City Code section 2-15-3(B)(10).

BE IT FURTHER RESOLVED:

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

1. The Office of Police Oversight will immediately begin to separately create, maintain, and manage its own records, as defined by City Code section 2-15-3 (B)(12), to facilitate mandatory reporting to Council and the public about Office of Police Oversight activities, subject to exceptions to disclosure authorized by the Texas Public Information Act; and
2. The Office of Police Oversight will immediately begin to conduct a preliminary investigation for all complaints, as defined by City Code section 2-15-2(F), where the complainant provides enough information to identify the incident in existing records (various combinations of date, time, location, or identification of involved persons), including, but not limited to review of body camera footage and any available police reports and force incident reports subject to CJIS certification requirements; and
3. The Office of Police Oversight shall immediately begin a preliminary investigation of all complaints, including verbal and written communications, made by any person or persons which allege that an officer acted improperly and may have violated any law, policy, rule or agreement governing the actions of any police officer while in the employ of APD.
4. No further requirements may be imposed on complaints or complainants prior to the completion of a preliminary investigation

and written notice of further actions which will or may be taken as a result; and

5. The Office of Police Oversight will post the following data concerning all complaints, as defined by City Code section 2-15-2(F) to its website since April 1, 2023:

1. Type of complaint,
2. Alleged policy violation,
3. Nature of misconduct,
4. Anonymized demographic information about the complainant, including, but not limited to race, ethnicity, age, gender identity, if provided, and
5. Sector complaint originated; and

6. The Office of Police Oversight will post all disciplinary actions, as defined by City Code section 2-15-2 (J), to the extent allowed by Texas Local Government Code Ch. 143, to its website since April 1, 2023; and

7. The Office of Police Oversight shall conduct all preliminary investigations of all complaints consistent with City Code section 2-15-3 B (10) and will forward a copy of the complaint and all related materials to the Police Department once the Office of Police Oversight has determined that further action related to the complaint is required by APD; and

8. The Office of Police Oversight shall conduct its preliminary investigation in a timely manner to ensure the Police Chief's deadlines to impose discipline are met.

9. All complaints deemed worthy of a full investigation by either the Office of Police Oversight or appropriate personnel within APD, shall

128 receive a full investigation, including an interview of the subject
129 officer(s), in accordance with Local Government Code section
130 143.312. If the Office of Police Oversight believes the complaint
131 merits an investigation including an interview of the subject officer(s),
132 the Office of Police Oversight shall reach out to the complainant and
133 provide the process for filing a sworn affidavit in order to facilitate an
134 interview of the subject officer(s); and

135 10. In accordance with Local Government Code section 143.312,
136 anonymous complaints deemed worthy of a full investigation by
137 either the Office of Police Oversight or appropriate personnel within
138 APD, shall be affirmed and certified that the complaint was received
139 anonymously by the staff who received the complaint, in order to
140 facilitate a full investigation, including an interview of the subject
141 officers(s); and

142 11. Complaints that cannot be verified, do not merit further investigation,
143 or where an affidavit is required by law and not provided by the
144 complainant shall be forwarded to APD for information, and the data
145 concerning complaints will remain on the Office of Police Oversight
146 website for data and reporting purposes; and

147 12. The Office of Police Oversight maintains the discretion to participate
148 in investigations to the extent deemed necessary by the Director with
149 the right to question officers, interview additional witnesses and
150 review all documentation for every case; and

151 13. The Office of Police Oversight will immediately begin acting as a
152 liaison with complainants regarding their complaints with the ability
153 to provide updates about the status of their complaint, including
154 information regarding any OPO recommendations pertaining to the

complaint, and provide access to body worn camera footage in coordination with APD and in accordance with Occupations Code section 1701.661.

BE IT FURTHER RESOLVED:

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

BE IT FURTHER RESOLVED:

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

BE IT FURTHER RESOLVED:

The City Manager is directed to post and conduct a quarterly community engagement meeting, in accordance with City Code section 2-15-3 (B)(15), which shall include reports of the following information provided to those in attendance and posted on the Office of Police Oversight website:

1. The total number of:
 - a. commendations, complaints (as defined by City Code section 2-15-2(F)) or concerns (by these categories) filed with the Office of Police Oversight about police conduct each month;
 - b. complaints accompanied by a sworn affidavit for each month;

- 177 c. complaints preliminarily reviewed by the Office of Police Oversight
178 each month (where simply reading the complaint does not constitute
179 preliminary review);
180 d. complaints recommended for a full investigation by Internal Affairs
181 each month;
182 e. complaints investigated by Internal Affairs) each month;
183 f. number and type of recommendations made to the Police Chief with
184 respect to the classification of complaint (A, B, C, D or other) and the
185 level of investigation it should receive, including the number the
186 Office of Police Oversight determined could not or need not be further
187 investigated;
188 g. recommendations made to the Police Chief with respect to discipline;
189 and
190 h. commendations, complaints, or concerns (by these categories) filed
191 with the Office of Police Oversight anonymously each month.
192 2. Any policy change or change to the general orders.
193 3. The quarterly “Police Oversight Implementation Workgroup” meetings shall
194 be conducted starting in November 2023.
195 4. The meetings shall include Q&A questions in regard to the complaint
196 process.
197 5. The community engagement meetings may be conducted by the Community
198 Police Review Commission upon meetings resuming to full active status.
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202 **ADOPTED:** _____, 2023 **ATTEST:** _____

203 Myrna Rios
204 City Clerk
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