

I. Civilian Oversight of the Austin Police Department

A. Policy

The City of Austin and the Austin Police Association have agreed that a role and process for civilian oversight of the Austin Police Department is desirable and will enhance effective law enforcement in the community. To achieve that goal, an Austin Police Monitor shall be hired by the City Manager and an Austin Police Review Panel shall be appointed by the City Manager with input from the community and the Austin City Council. The Office of the Police Monitor shall be the main location for accepting complaints by citizens against employees of the Austin Police Department.

B. The Austin Police Monitor

1. Qualifications

The following qualifications are mandatory for all applicants.

- a. A doctorate of jurisprudence degree.
- b. Practiced as a lawyer for at least eight (8) years.
- c. Familiarity with criminal law and experience in public sector labor/employment law (preferably police and firefighter), State Civil Service Law, and Civil Rights Law.
- d. Member in good standing with the State Bar of Texas. Although membership in the State Bar of Texas is a mandatory qualification, the Police Monitor's duties do not include providing legal advice by virtue of Article V, Section 6 of the City Charter.
- e. Possess strong interpersonal and supervisory skills.
- f. In the past five (5) years, have had no full-time employment with or other representation of the Austin Police Department.
- g. demonstrate objectivity towards police and community interests.

The following qualifications are desirable:

- a. Mediation training, with some mediation experience,
- b. Indications of community involvement and public service,
- c. Administrative and management skills,
- d. Excellent communication skills and the ability to interact with citizens, police officers and the community, and
- e. Some trial or appellate experience.

2. The Police Monitor's Office

The Police Monitor would be a full-time position, hired by a consensus process with input from the community and the City Council. The Police Monitor would report directly to the City Manager and is an at-will employee subject to removal by the City Manager. The Police Monitor is ultimately responsible for the work product generated by his staff or the Review Panel. The Police Monitor's budget, described more specifically below, should not compete with or be contained within the Austin Police Department's budget.

The Police Monitor will have the following staff:

- a. An Assistant Monitor,
- b. A community liaison.
- c. Sufficient administrative staff to process complaints.

The Police Monitor's Office will be centrally located in order to make the Police Monitor accessible to all citizens and to all police officers and to underscore the value and importance of the Police Monitor's Office. The Monitor's Office will be staffed at a minimum Monday through Friday, from 10:00 a.m. to 6:30 p.m.

3. Duties and responsibilities of the Police Monitor

The Police Monitor will have the following duties and responsibilities:

The Police Monitor and his staff shall adhere to the confidentiality provisions of the Oversight Process as set forth in Section G.

- a. The Police Monitor's Office would be the main location for accepting complaints filed by members of the public against police officers. The Monitor's Office will not accept or investigate anonymous complaints; however, possible violations of law or policy that are brought to the Monitor's attention that do not result in a written complaint may be forwarded by the Monitor to the Chief of Police who shall decide what action, if any, will be taken. Complaints filed by police officers and non-sworn APD employees will be filed through the employee's chain of command or through the Internal Affairs Division with a copy provided to the Police Monitor's Office. The complaining employee may request that the Monitor be present during his interview that is conducted by the Internal Affairs Division.
- b. When a complaint is filed, the Police Monitor's Office will ensure all pertinent data is collected and entered into a computer database for future analysis. The Monitor's duties will not only entail the direct supervision and management of the Monitor's Office, he will also be able to actually participate in the investigatory process as set forth herein, particularly when the complaint is of a serious nature.
- c. The Police Monitor or a member of her staff will conduct an initial interview with the complainant explaining the oversight and investigative processes and may also use this forum to explain police policies and procedures to the complainant. The Monitor may advise the complainant that there does not appear to be a violation of policy or law; however, the complainant may elect to continue with the complaint process if he so

desires.

d. Once the initial briefing by the Monitor is completed, if the citizen wishes to continue the process, the Monitor may accompany the complainant to the Internal Affairs Intake Office where a Detective interviews the complainant in the presence of the Monitor or any other member of the intake staff, and obtains a sworn statement. The sworn statement is forwarded to the Internal Affairs Division for investigation. A copy of the statement is maintained in the Monitor's Office.

e. The Police Monitor will have access via real-time computer database network with all APD disciplinary files on its network except for those files that are made confidential by a law other than Chapter 143 of the Texas Local Government Code. ___

f. The Police Monitor will have unfettered access to the Internal Affairs investigative process, except as provided herein. However, information obtained from an ongoing criminal investigation will not be made available to the complainant, to the accused employee, or to the Panel members. The Police Monitor may inquire of the Commander of the Internal Affairs Division or the Assistant Chief of Staff the status of any open case. The Monitor may request to review any closed case that resulted in a final disciplinary action that has been closed for three (3) years or less from the date of the request under the following circumstances: ___

1. In order to determine whether a specific officer has exhibited a pattern of misconduct when there is a pending complaint alleging similar misconduct;
2. For the purpose of reviewing the Department's policies and procedures in order to make policy recommendations to the Chief of Police.

g. The Police Monitor will have access to all interviews scheduled by APD. APD will notify the Police Monitor when all interviews are scheduled so that the Police Monitor may be present at the Police Monitor's discretion. The Monitor shall have no direct, independent contact with any witness (other than the complainant) or the accused employee. The Monitor shall not collect evidence or information relevant to any complaint other than the original written complaint. The Monitor may request that the Internal Affairs Division contact a certain witness or collect certain evidence. Any relevant information that the Monitor becomes aware of shall be forwarded immediately to the Commander of the Internal Affairs Division or his/her designee. The Internal Affairs Division is solely responsible for investigating a complaint except when an independent investigation is authorized pursuant to this Oversight process. ___

h. The Police Monitor, while being present at each such interview, may not ask questions or otherwise interfere with the APD disciplinary process. The Police Monitor may take the APD Investigator aside and request additional information at the conclusion of the interview. Whether or not such information is sought in the witness interview is to be determined by the APD investigator. The Commander of the Internal Affairs Division, or his/her designee, has the authority to prohibit the Monitor's presence at an interview when it is determined that the Monitor actions/conduct are interfering with the interview. In the event that the Police Monitor is prohibited from an interview, the incident will be documented in writing and all pertinent information will be immediately forwarded to the Chief of Police.

i. For critical incidents, the Police Monitor will be on the "automatic ring-down" list, so that the Monitor may be present at the critical incident and any follow-up to the incident. The Police Monitor may monitor such situations, but may not interfere with the investigation, talk to the officer(s) involved, take witness statements, or obtain evidence in

any form. While at the scene of a critical incident, the Monitor and his staff shall not advise or encourage any person to file a complaint. The Monitor may review all critical incidents.

- j. The Police Monitor will be notified in cases of death or serious bodily injury involving an APD officer or employee. The definition of “serious bodily injury” found in Texas Penal Code §1.07(a)(46) will apply.
- k. If any charges are not sustained by the Department, then the Police Monitor or the Assistant Monitor, as described in the complaint process below, shall hold a Monitor’s Conference to provide the complainant with an opportunity to sit down with a person who is outside the APD and go over all of the details of the investigation of the complaint. The Police Monitor may also use this forum to explain police policies and procedures to the complainant. The complainant may also provide the Police Monitor with additional information about their complaint including possible witnesses
- l. The Police Monitor shall serve as the non-voting chairperson of the Police Review Panel and preside at the Police Review Panel meetings.
- m. The Police Monitor shall publish reports, which include full and detailed statistics, to the public every six (6) months. The Monitor’s Report will not make reference to a particular officer or complainant by name, nor will it contain information that is confidential or privileged under State, Federal, or common law.
- n. The Police Monitor will monitor any independent investigation that is conducted and must first determine whether such investigation is
necessary. (See conditions for independent investigation below.)
- o. The Police Monitor will make policy recommendations to the Chief of Police, and to the Austin City Council through the City Manager as part of the Police Monitor’s reporting function.
- p. The Police Monitor will interact with the community and keep the community informed about the work of the Police Monitor’s Office. In this regard, the Police Monitor may publish newsletters and make public appearances. The Monitor’s public comments/ publications, will not make reference to a particular officer or complainant by name, nor will he discuss information contained in the file that is confidential or privileged under State, Federal, or common law with anyone other than members of the Review Panel, the Chief of Police or his designee, the Internal Affairs Division, the City Manager or his Designee, the City of Austin Law Department. The Police Monitor will fulfill all responsibilities and duties as described below under Complaint Process.
- q. The Police Monitor shall be bound to the same extent as the APD and the City of Austin in respecting an officer’s rights under the Texas Constitution and the Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution, including not revealing any information in violation of the protections provided by the doctrine set forth in *Garrity v. New Jersey*, 385 U.S. 493 (1967), and *Spevack v. Klein*, 385 U.S. 511 (1967) in order to avoid tainting a criminal prosecution.
- r. When convened, the Police Monitor will be permitted to attend the Disciplinary Review Board. Neither the Police Monitor nor the Internal Affairs Representative(s) will be permitted to remain in the room when the chain of command discusses the appropriate discipline, if any, that is to be imposed.
- t. In the event that the Police Monitor, a member of his staff, or a member of the Review Panel, has a conflict of interest with a particular case, the individual with whom the conflict exists must recuse himself from involvement in that case. If the individual

refuses to recuse himself, the City Manager will decide the issue.

4. Duties and Responsibilities of the Police Monitor's Staff

a. Assistant Monitor (1) – Qualifications/Responsibilities

1. Law degree from an accredited college or university,
2. Familiarity with criminal law and three (3) years experience in public sector labor/employment law (preferably police and firefighter), State Civil Service Law, and Civil Rights Law.
3. Ability to compile, organize, evaluate and summarize statistical data, and
4. No prior association with the APD.

—b. Community Liaison Person (1). -

c. Administrative Assistant (1)

d. Complaint Intake Personnel (3)
(Qualifications and training to be determined)

5. Police Monitor's Office Budget

- a. Recommended annual budget: \$619,000 (see attached schedule). The City Manager has the authority to review and recommend adjustments to the Monitor's Budget and staffing, as he deems appropriate.

C. The Austin Police Review Panel

1. Appointment and Qualifications

The Austin Police Review Panel will be comprised of seven (7) volunteer members appointed by the City Manager with input from the City Council and the community. There will be a citywide open nominations period before each selection so that any person in Austin may suggest names for the Police Review Panel. The Police Monitor's Office will also solicit interest from individuals and educate people about the duties of the Police Review Panel. Panel members must have been a resident of the City of Austin for at least two (2) years prior to their appointment.

In making appointments to the Panel, the City Manager shall attempt to reflect the social, geographic, and economic diversity of the City of Austin.

Each panel member shall serve for two (2) years on evenly staggered terms. Four of the first panel members shall serve for three (3) years in order to establish staggered terms. No member may serve for more than two full consecutive terms. Panel members are subject to removal by the City Manager for just cause, including but not limited to breaching the confidentiality provisions of the Oversight process or when a panel member fails to attend scheduled meetings.

Panel members must not have a felony criminal conviction, received deferred adjudication for a felony, or be under felony indictment when they are appointed. A felony conviction, felony indictment, or felony deferred adjudication, after appointment, shall be a basis for removal from the Review Panel.

Training will be required in order to serve on the panel. The training requirements are as follows:

- a. A two to three (2-3) day training tailored from parts of the Austin Police Academy,
- b. At least one three (3) hour ride along in each of Austin's six (6) police sectors, and
- c. Meeting with selected community groups and persons who have an interest in police oversight.
- d. Eight (8) hours of training provided by the Internal Affairs Division.
- e. Members of the Review Panel are subject to the confidentiality and penalty provisions of the Oversight Process as set forth in Section G.

2. Review Panel Access to APD Files

A. When the Chief of Police, or his designee, makes a final classification of "not sustained" with respect to the specific allegation(s) of misconduct upon which the citizen's complaint is based, and the case has been referred to the Review Panel for review, the Review Panel shall have access to APD Internal Affairs' files as follows:

1. Prior to the public meeting, the Monitor will brief the Review Panel in private concerning the facts and circumstances of the specific case(s) that are to be reviewed.
2. A member of the bargaining agent's Board of Directors, as well as a representative of the Internal Affairs Division, will be present during the Monitor's briefing. These representatives will not participate in the briefing and are present only as observers.
3. Panel members may ask questions and obtain specific facts, details and information, which the Monitor shall provide from the IA investigative file.
4. During any Panel briefing, the Police Monitor should exercise his discretion and omit information that he deems to be irrelevant to the citizen's complaint, as well as information of a highly personal nature that would constitute an unwarranted invasion of an individual's common law personal privacy interests.
5. Once the briefing is completed, the bargaining agent's representative and the IA representative will leave the room while the Monitor and the Review Panel discuss the case(s). The IA representative will take the IA file(s) with him.

B. When the Review Panel seeks to review a case that has been administratively closed for no more than three (3) years from the date of request, and the case to be reviewed fits the criteria set forth in Section B, Subsection 3(f) of this document, the Review Panel shall have access to the file as set forth in Section C, Subsection 2(A).

C. When the Review Panel seeks to review a case involving an allegation of a civil rights violation, or when the actions of an APD employee has resulted in serious bodily injury or death to a member of the public, the process set forth in Section C, Subsection 2(A) shall apply. When the case has been administratively closed for no more than three (3) years from the date of the request, the criteria set forth in Section B, Subsection 3(f) of this document shall determine whether the case shall be subject to review.

3. Meetings

The Police Review Panel shall meet monthly, or at the request of the Police Monitor, to allow for compliance with the 180-day rule. The Review Panel is not a governmental body by virtue of its purely advisory role and is not subject to the Open Meetings Act. The Review Panel will review and discuss all APD files in private. The Review Panel shall accept input from the public on any case presented to it. Those portions of the meeting during which public input is accepted shall be open to the public and recorded by video and cassette tape. All policy recommendations to the Chief of Police adopted by the Police Review Panel shall be made available to the public to the extent permitted by law.

The Police Monitor, in consultation with the Police Review Panel, shall post the time and place of the Review Panel meetings. Members of the community who have signed up within one (1) hour after the start of the meeting will be permitted to address the Review Panel. However, in instances in which a complaint is brought before the panel the following shall be the procedure:

- a. The Police Monitor shall present the information gathered to the Review Panel.
- b. The Review Panel and the Police Monitor shall not be provided with documents contained within an IA file that are made confidential by a law other than Chapter 143 of the Texas Local Government Code, such as records concerning juveniles, sexual assault victims, and individuals who have tested positive for HIV.[\[1\]](#)
- c. The review of a complaint that is brought before the panel shall not be conducted as a hearing or trial. In addition to the items discussed below, such meetings are for the purpose of allowing the complainant to personally address the Police Review Panel.
- d. The complainant will be allowed to speak. The rules that apply to citizen communications with the City Council shall apply to the Review Panel.
- e. The respondent will be invited, but not required, to attend and speak.
- f. Witnesses may be heard and other information presented if the panel permits and

only if such information has been presented to the

Police Monitor during the Monitor's Conference and APD Internal Affairs has had the opportunity to review the information as well.

- g. The Police Monitor shall present to the Police Review Panel the information obtained from the IAD investigation, except that any information which constitutes a waiver of the officer's rights under the Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution, including any information protected by the doctrine set forth in *Garrity v. New Jersey*, 385 U.S. 493 (1967), and *Spevack v. Klein*, 385 U.S. 511 (1967), shall be presented in private only. Any statement, information, or evidence that is obtained from the accused employee as a condition of employment will only be reviewed or discussed by the Review Panel in private.
- h. The Police Monitor, in consultation with the Police Review Panel, shall set the time limits for such proceedings.
- i. After receiving public input, if any, the Review Panel will discuss cases presented to it by the Monitor or a member of the community in private. The Review Panel's recommendations shall be reduced to writing.
- j. At the conclusion of the presentation of a specific case and upon the vote of five (5) members of the Review Panel, the Panel may recommend to the Chief of Police that further investigation, or an independent investigation, is warranted. The Chief of Police may accept or reject either recommendation. If the Chief of Police rejects the recommendation, the City Manager may also consider the recommendation as set forth in Section F of this document.
- k. The Review Panel is not permitted to provide a copy of the Internal Affairs file, or any part thereof, to any person, including the Complainant or the officer involved.

The Police Review Panel members shall be subject to the same attendance rules as any other City of Austin appointed committee.

Panel members shall not be compensated for their service.

4. Duties and Responsibilities of the Police Review Panel

The duties and responsibilities of the Police Review Panel are as follows:

- a. To become educated in police policies and procedures and to become aware of the needs and interests of the community and police officers.
- b. To serve as a review board as designed and described in the Complaint and Review Process as follows:

i. Consultation with Citizen Review Panel

The Police Monitor shall consult with the Citizen Review Panel in formulating any policy recommendations to the Chief of Police. The Monitor shall assist the Review Panel by coordinating Panel meetings, promptly notifying Panel members as to complaints ready for Panel Review, and briefing the Panel on the cases to be reviewed. In addition to all complaints involving death or serious bodily injury, the Monitor at his discretion may request that the Panel review additional complaints. The Monitor should apply the following criteria in selecting these additional complaints for review by the Review Panel:

- (1) the appearance of a pattern of serious misconduct by the officer involved,
- (2) the appearance of a pattern of department-wide misconduct,
- (3) the appearance of serious official misconduct by one or more members of the Department,
- (4) the appearance of racially motivated misconduct, or
- (5) the appearance of issue(s) to be addressed by policy recommendations.

ii. Review Panel Process.

a. After classification of a complaint by the Chief of Police involving death or serious bodily injury, or after classification of a complaint by the Chief of Police selected by the Police Monitor for review pursuant to Section C, Subsection 2(A) or Section C, Subsection 4(b)(i), members of the Citizen Review Panel may review the IA file as set forth in Section C, Subsection 2(A).

c. To work in conjunction with the Police Monitor to make public policy recommendations to the Chief of Police if warranted.

d. To request an independent investigation in appropriate cases and only upon the conditions set forth in the Complaint Process.

e. To serve as a link between APD and the community it serves.

f. Panel members who have access to APD files shall adhere to the confidentiality provisions concerning those records as set forth in Section G. The Police Review Panel shall respect an officer's rights under the Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution, including not revealing any information in violation of the protections provided by the doctrine set forth in *Garrity v. New Jersey*, 385 U.S. 493 (1967).

D. Complaint Process

The Austin Police Monitor's Office will be the main location for accepting complaints from members

of the community. The office will have bilingual brochures, 'user friendly' complaint forms, APD public information and information compiled by the Monitor's Office and the Police Review Panel.

The outline below describes the Complaint Process:

1. All complaints filed by civilians with the Police Monitor's Office will be accepted.
2. The Police Monitor or a member of her staff will conduct an initial interview with the complainant explaining the oversight and investigative processes. The Monitor may advise the complainant that there does not appear to be a violation of policy or law; however, the complainant may elect to continue with the complaint process if he so desires.
3. Once the initial briefing by the Monitor is completed, if the citizen wishes to continue the process on the same day, the Monitor may accompany the complainant to the Internal Affairs Intake Office where a Detective interviews the complainant and obtains a sworn statement. The sworn statement is forwarded to the Internal Affairs Division for investigation. A copy of the complaint is maintained by the Monitor's Office. If the citizen does not wish to speak with an Internal Affairs Detective on the same day, the Monitor may accompany the complainant to the Internal Affairs Division when the interview is actually conducted.
4. The Police Monitor shall input the complaint into the database and forward the information to IAD for an investigation.
5. Monitor's Office monitors the APD investigation and decision process.
6. Upon completion of the IAD investigation, and not less than seven (7) days prior to any decision by the Chief of Police, a complete copy of the IAD investigation shall be delivered to the Police Monitor. If the complete IAD investigation is not delivered to the Monitor seven (7) days prior to any decision by the Chief of Police, it shall be furnished immediately upon request. Within seven (7) days after receiving his copy of the investigation, the Police Monitor may request a meeting with the APD Chief of Staff to discuss the IAD recommendations as well as the quality of the investigation. If the Police Monitor disagrees with IAD recommendations or the quality of the investigation, he may request a meeting with the APD Chief of Staff. The Chief of Staff may order that the investigation be reviewed/reopened. If the Chief of Staff disagrees with the Monitor's recommendations, a copy of the investigation is provided to the involved officer's chain of command for review. After the Chain of Command has had the opportunity to review the case, the Monitor is provided with another opportunity to meet with the Chief of Staff and the involved employee's Assistant Chief of Police to discuss the findings. If the Police Monitor is still not satisfied with the explanation, the Monitor can request a meeting with the Chief of Police. -
7. After the Monitor has had the opportunity to discuss the IAD recommendations with the Chief of Staff and the officer's Assistant Chief of Police,

and after the Disciplinary Review Board (DRB), if any, has taken place, the Monitor will advise the complainant in writing as to which charges, if any, the Department has decided will not be sustained. If the complainant is not satisfied with the recommendations, the Monitor may meet with the complainant to discuss the investigation. Furthermore, the Complainant shall not be given any information which constitutes a waiver of the officer's rights under the Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution, including any information protected by the doctrine set forth in *Garrity v. New Jersey*, 385 U.S. 493 (1967), and *Spevack v. Klein*, 385 U.S. 511 (1967).
8. The Monitor's Conference is to be tape-recorded. A copy of the tape is to be provided

to the City Manager, the Chief of Police, or the Review Panel upon request. At the conclusion of the conference, the complainant may request that the Monitor refer his case to the Review Panel, or the Monitor may refer the case to the Review Panel on his own volition. If the Monitor decides to refer a case to the Review Panel, he must notify the Chief of Police in writing within five (5) days of that decision. The written notice to the Chief of Police must give a detailed explanation of the grounds for referring the case to the Review Panel.-

9. The IAD file, or any part thereof, is a confidential document and the Monitor shall not provide or furnish a copy of the file, or any part of the file, to anyone other than the Review Panel members. The Monitor may not provide a copy or any part of the Internal Affairs investigation to the complainant or the officer involved.
10. The final classification of a complaint is within the sole discretion of the Chief of Police.

E. APD Disciplinary Process

1. The Chief's decision to discipline or not to discipline an officer, as well as the appropriate discipline, is within the sole discretion of the Chief of Police.
2. The Police Monitor shall send a letter of explanation to the Complainant.
3. If the Chief of Police sustains the complaint and issues discipline to the officer, the Officer may pursue any appeal provided by law or contract.
4. If the Chief of Police does not sustain the complaint, the complainant can pursue the following:
 - a. Appeal the decision to the Monitor,
 - b. If appealed, a Monitor's Conference is conducted with the Complainant,
 - c. If the Complainant is not satisfied at the conclusion of the Monitor's Conference, the Complainant may request to be heard at a meeting of the Police Review Panel,
 - d. Upon review by the Police Review Panel, the Panel can:
 1. Recommend to the Chief of Police that IAD conduct further investigation,
 2. Request that the Chief of Police reconsider the decision,
 3. Make a policy or procedure recommendation to the Chief, and/or
 4. Request an independent investigation, if the conditions for such investigation are met (See Section F).
5. Affirm the Department's recommendation(s).

F. Independent Investigation

An independent investigation shall be conducted only if the following conditions are met:

- a. Five (5) of the seven Panel Members vote to recommend an independent

investigation, AND

b. The complaint involves an alleged use of excessive force which resulted in serious bodily injury, a civil rights allegation that the officer violated clearly established law of which a reasonably prudent police officer would or should have known, a death in-custody, or an officer involved shooting, AND

c. The Police Monitor concurs with the request for an independent investigation, AND EITHER:

1. The Chief of Police accepts the recommendation for an independent investigation, OR
2. The City Manager accepts the recommendation for an independent investigation.

d. An independent investigation shall be conducted by a law firm selected from an established list of eight (8) agreed upon by the City Manager and the Police Monitor. The lawfirm retained by the City shall conduct a factual investigation only, and shall not provide legal advice. The life of the list is two (2) years after which time the list shall be reviewed. Once the list has been established, the selection process shall be on a rotating basis. To be eligible, a law firm must:

1. Have no pending litigation or claims against the City of Austin or any of its employees.
2. Have familiarity with criminal law and experience in the areas of civil law, employment/labor law, State Civil Service Law, and civil rights.
3. Report directly to the Police Monitor.
4. Adhere to the confidentiality provisions set forth in Section G.
5. Adhere to the requirements of Chapter 143 of the Texas Local Government Code, the Texas and Federal Constitutions, the Laws of the State of Texas, and the provisions of the Meet & Confer Contract between the City of Austin and the Austin Police Association or its successor.
6. Follow the established Standard Operating Procedures for Independent Investigations. (To be drafted).

G. Confidentiality

Disciplinary files maintained by the Austin Police Department are confidential. The Police Monitor, his staff, and the Review Panel members, may not discuss or release the contents of those files with any person other than other members of the Review Panel, the Chief of Police or his designee, the Internal Affairs Division, the City Manager or his Designee, the City of Austin Law Department, and the accused employee (See Section H for employee access to the file).

1. A breach of this confidentiality agreement by the Monitor, a member of his staff, or a member of the Review Panel shall:
 - a. Be grounds for removal from office.
 - b. Subject the individual to criminal prosecution for offenses including but not limited to Abuse of Official Capacity, Official Oppression, and Misuse of Official Information.
 - c. Subject the individual to civil liability under applicable state and federal law.
2. When an employee believes that the Monitor, a member of his staff, or a member of the Review Panel has breached the confidentiality provisions of the Oversight Process, the employee may request that the appropriate prosecutorial agency (District or County Attorney's Office) review the matter. If the complaint is investigated, the District/County Attorney's Office will report its finding(s) to the City Manager, and when warranted, refer the matter to a Grand Jury for review. Upon conclusion of the review, the City Manager shall examine the findings to determine if removal from the Panel/Office is warranted.
3. The confidentiality provisions of the Oversight Process are continuous in nature. The Monitor, his staff, the Review Panel, and the law firms that conduct independent investigations are subject to these confidentiality provisions even after their association with the Oversight Process has terminated.

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H. Officer Access to Internal Affairs Files

1. Prior to the convening of a Disciplinary Review Board, the Officer and his representative will be permitted, upon request, to meet with the Police Monitor in order to be briefed on the findings of the IA investigation. This briefing shall be similar to the briefing that the Review Panel would receive prior to its public meetings. The Officer shall be permitted, upon request, to review witness statements contained in the IA file. A representative from the Internal Affairs Division shall be present during this briefing.
2. When the Review Panel has reviewed a case involving an allegation of a civil rights violation, or when the actions of an APD employee has resulted in serious bodily injury or death to a member of the public, the Officer and his representative shall be given an opportunity to meet with the IA investigator and review witness statements for a period of up to one (1) hour.
3. Neither the officer nor his representative will be permitted to make copies of any witness statements, nor will they be permitted to take notes of any kind (written, verbal, or computer generated) concerning those statements.

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I. Amendments to and Interpretation of the Oversight Process.

1. When amendments to the Oversight process, that do not affect an officer's substantive rights, are warranted, the unanimous approval of the Monitor, the Chief of Police or his designee, and a majority vote of the Board of Directors of the sole and exclusive bargaining agent for Austin Police Officers, is required. An amendment that does involve a change to a substantive right of an officer will be addressed through the Meet & Confer process.
 2. When an issue arises as to the interpretation or application of a provision of this Oversight Plan, the Monitor, the Chief of Police or his designee, and the President, or his designee of the bargaining agent for Austin Police Officers shall meet in an effort to resolve the dispute. If an agreement cannot be reached concerning the interpretation or application of the provision at issue, the matter shall be handled through the Grievance Process as set forth in the Meet & Confer Agreement.
 3. In the event that any portion of the Oversight process is challenged, set aside, or declared legally invalid, either party to this Agreement shall be entitled to reopen negotiations for the purpose of modifying this Agreement.
- J. Use of the Monitor or Review Panel's Recommendations and Files in the Arbitration Process
1. The Monitor and/or Panel's findings or recommendations in a particular case may not be used by a party in connection with an arbitration or Civil Service proceeding convened under the provisions of Chapter 143 of the Texas Local Government Code.
 2. Files and documents maintained or created by the Monitor and/or Review Panel are subject to the disclosure and confidentiality provisions of Chapter 143.089(g) of the Texas Local Government Code and the Public Information Act.
 3. No party to an arbitration or Civil Service proceeding may use or subpoena the Monitor, his staff, or a member of the Review Panel, as a witness at an arbitration or Civil Service proceeding, including but not limited to live testimony or deposition testimony, which concerns the members duties or responsibilities in the Oversight Process, or their findings or recommendations in a particular case.

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1. Privacy interests under the Texas and Federal Constitutions, as well as state and federal statutes, make certain types of highly personal information confidential.