

APA Contract Grievance

To: Marc Ott, Austin City Manager

From: Detective Ken Casaday, Austin Police Association President

RE: Contract Grievance-Office of Police Monitor Improper Access to Disseminate Confidential Information

Date: April 5th, 2016

Pursuant to the Meet and Confer Agreement between the City of Austin (“City”) and the Austin Police Association (“APA”), (effective October 1, 2013, hereinafter referred to as the “Agreement”), I hereby give notice of and file the following Contract Grievance.

I. Violation of Article 16

On or around the week of February 29, 2016, Austin Police Department Officers Sean McWhorter and Jose Rodriguez, were informed that confidential information regarding them was released by Margo Frasier, the Austin Police Monitor, and ultimately ended up in the hands of a criminal defendant and local activist, Quianna Canada, founder of Troop Watcher.

It is believed that the information released by the Police Monitor, addressed matters that are confidential pursuant to Texas Local Government Code § 143.089 and the Agreement. It is believed that the Police Monitor was able to provide the confidential information due to her unfettered access to the Austin Police Department Internal Affairs records system. The Police Monitor unlawfully disclosed legally confidential information and potentially put the reputation and safety of the officers at risk.

Additionally, on or around March 18, 2016, the Austin Police Association was made aware of a memorandum issued by the Citizen Review Panel (“CRP”) regarding the officer involved shooting that occurred February 8, 2016. In this CRP memorandum the CRP improperly recommended the removal of a training officer who was not involved in the February 8, 2016 shooting.

Furthermore, the Chief and/or his designee, the Office of Police Monitor, and the Austin Police Association are not meeting regarding issues with the citizens review panel as required by the contract.

It is the APA's position that the conduct that occurred regarding the improper release of confidential information and the memorandum by the CRP are examples of an ongoing pattern and practice of behavior that violates the Meet and Confer Agreement. The APA has attempted to address this pattern of behavior informally to no avail and in doing so has not waived any remedies due to the contractual violations. Due to the continued violation of the terms of the Meet and Confer Agreement, the violation of the confidentiality provisions of the Local Government Code the APA is filing this grievance.

II. Applicable Meet and Confer Agreement Articles

Article 16-CITIZEN OVERSIGHT OF THE AUSTIN POLICE DEPARTMENT

See attached provision in its entirety.

III. Applicable Legal Provisions

Texas Local Government Code Sec. 143.089 PERSONNEL FILE.

(g) A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

IV. Relief Requested

1. Margo Frasier shall be removed as the Austin Police Monitor pursuant to the terms of the Meet and Confer Agreement.
2. The Office of the Police Monitor ("OPM") shall no longer have access to the Internal Affairs Division ("IAD") records system outside of the contractually agreed upon access to specific information as part the internal affairs process.
3. The Department will disclose all of the information released by the OPM to the APA and the effected Officers.
4. The APA and its legal representative shall have access to the current OPM records to determine what information has been provided and recorded by the OPM.

5. The APA will be given copies of all records provided to the OPM at the time those records are provided to the OPM.
6. The OPM and staff shall be trained on the confidentiality requirements of the Agreement and the Texas Local Government Code provisions.
7. The OPM, the Chief's office, the Commander of IAD, and the Austin Police Association shall meet regarding issues with the citizens review process.
8. Any memorandum issued by the CRP shall be delivered to the Austin Police Association two business days prior to being made public in order to ensure that improper information is removed and/or redacted.
9. The CRP members shall be admonished and reminded of their obligations and limitations under the Meet and Confer Agreement.

Respectfully submitted,

Detective Ken Casaday
President, APA