



Memorandum

TO: Bert Lumbreras, City Manager

FROM: Chase Stapp, Chief of Police

DATE: September 13, 2017

SUBJECT: Citizen Advisory and Oversight Bodies

I am providing this report memorandum in order to be responsive to recent inquiries and requests for information regarding various models of citizen advisory and oversight bodies currently in use in Texas and to share contemporary recommendations made by the International Association of Chiefs of Police. Additionally, I hope to provide information that might serve to guide recommendations about how we may adopt a locally focused model in San Marcos, which could serve our unique local needs and increase communication between the Department and the community at large.

Research of Contemporary Models and Literature

The October 2015 issue of *The Police Chief* magazine featured an article titled “Citizen Advisory Boards in Contemporary Practice: A Practical Approach in Policing” co-authored by John G. Reece, PhD, Colorado Mesa University and Judy Macy, Chief of Police, Fruita, Colorado, Police Department. *The Police Chief* is the monthly publication of the International Association of Chiefs of Police. The article made several introductory observations regarding the concept of citizen police advisory bodies, most notably:

- Citizen participation promotes trust in government operations
- Conflict can arise between the types of citizen involvement and traditional principles of public administration theory and practices
- The final report of the President’s Task Force on 21st Century Policing specifically recommended the use of civilian advisory boards and community outreach programs
- Implementation must be thoughtful and purposeful with a focus on the situation needing to be addressed

The article next illuminated several factors related to the ideal role of advisory bodies, noting that these panels should seek to:

- Develop alternative solutions and new ideas through comprehensive interaction

- Provide informed recommendation on public policies and practices through research and personal experience
- Not serve as a policy-making body
- Serve for specific policy or project recommendations, strategic planning, or review of personnel practices

The article provided concrete examples of advisory bodies that were created in two jurisdictions. The first provided very little useful information. The second example summarized the program in use in the city of Fruita, Colorado. In Fruita, the Citizen Police Advisory Panel was developed following several controversial police actions, which eroded trust in the police in Fruita. The panel was initially granted investigatory authority with limited powers related to conducting complaint investigations. The panel also served as the central citizen complaint repository and review body while making recommendations to the Chief and City Council. Ultimately, this model proved problematic in Fruita due at least in part to the panel members lacking the training and skills needed to investigate complaints adequately. The article also cited confidentiality issues as being problematic. In order to address these concerns, the model was reorganized in 2005 to serve as an advisory group to the Police Chief and City Council on matters relating to policy, procedures, standards, and applicant hiring. The panel is still operating successfully in Fruita.

In closing, the article makes several recommendations for cities and agencies considering the adoption of some sort of police advisory body, most notably:

- The central tenet should be to build trust and two-way communication between the police and the community
- Advisory bodies should be limited in scope and purpose
- Agencies should first define the scope and purpose of their program based upon the unique issues or situations needing to be addressed
- The agency head should retain some authority over board appointments
- The advisory body should be culturally and geographically diverse
- Agencies should utilize the talents of the academic community in the role of facilitator – being concerned with process not content. This member should advise about problem analysis and group decision making
- Agencies must understand that boards/panels add complexity and can remove efficiency from the decision making process but can pay dividends toward earning social capital

I have also extensively studied the current programs in place in Austin and San Antonio both because of their proximity to San Marcos and because these cities have been cited in some of the recent feedback received by your office. The programs in use in both Austin and San Antonio were created within the confines of their meet and confer and collective bargaining processes respectively. This was necessary because, in both cities, members of the oversight panels are allowed access to detailed information about police complaints, which would normally not be allowed by law. I also noted that the limited function of these panels (complaint review and recommendation) would likely not

provide much activity for a similar body empaneled in San Marcos due to the relative infrequency of complaints that would rise to the level of such a panel here.

The Office of the Police Monitor (OPM), a City department that exists separately from the Austin Police Department, oversees the Austin Citizen Review Panel. The OPM serves as the central repository for citizen complaints against Austin Police Officers but does not independently investigate these complaints. Upon receiving and recording a complaint, OPM staff forwards the same to the Internal Affairs Division (IAD) of the Police Department. The IAD then investigates the complaint and makes recommendations to the Chief of Police. The OPM empanels the Citizen Review Panel to review completed investigations and the Chief's recommendations in only two instances: 1. The complaining citizen has requested a review by OPM and 2. In the event one of the following situations exists: A critical incident, an apparent pattern of behavior, a department-wide misconduct issue, serious official misconduct, bias-based misconduct, or the appearance of issues needing to be addressed by policy, procedure, or training recommendations to be made by the panel. In the event the panel is convened to review an administrative investigation, the action the panel may take is only advisory in nature. Ultimately, the Chief of Police makes the final decision about findings and recommended discipline. The panel may choose between one of the following recommendations to the Chief:

- Further investigation is needed
- Department policies warrant review and/or change
- Independent investigation is warranted
- In the event that the panel agrees with the Chief's findings, they may make non-binding recommendation on discipline. This is limited to cases defined as critical incidents

One fact of note regarding Austin's process is that 5 of the 9 meetings scheduled for 2017 have been cancelled due to lack of an agenda.

The San Antonio Police Department utilizes a panel called the Chief's Advisory Action Board (CAAB.) The CAAB is actually comprised of two sub-panels; the Citizen's Advisory Action Board and the Police Advisory Action Board, the first of which is comprised of citizen members from outside the department and the second of which is comprised of 7 sworn members of the department, one from each of the ranks. Members of the Chief's staff manage the CAAB, which solely handles serious complaints. First-line supervisors handle lower level complaints such as discourtesy or uniform appearance issues. Only complaints related to the use of force which results in bodily injury and complaints related to unlawful searches or seizures are reviewed by the joint citizen-police CAAB. The Police Advisory Action Board handles all other complaints. The process during the individual hearings is relatively straightforward. Each case begins with a presentation of the case investigation summary being presented by the Internal Affairs Investigator. The accused officer and the complaining party may address the board, but these appearances are optional. An officer's failure to address the board may not be considered as any degree of admission of fault. After considering all of the

available information in each case, the board makes a recommendation as to their findings by way of secret written ballot. In the event that the majority of the board recommends a finding of “sustained”, the board will then make a recommendation as to what it feels would be appropriate discipline or corrective action. All such recommendations are advisory in nature only. The Chief of Police makes the final decision in regards to both findings and discipline. The board meets bi-weekly, and there have been a few occasions this year wherein the meeting was cancelled for lack of an agenda.

Local Processes and Recommendations

As noted in the article taken from *The Police Chief* magazine, citizen advisory groups can be a valuable tool in improving communication between the police and the community and in enhancing trust. In a city the size of San Marcos, such an advisory panel could, and should, be used to discuss a broader set of topics than just police complaints and discipline. In cities the size of Austin and San Antonio, it is not uncommon to see a public safety commission empaneled in addition to a citizen police advisory body. In a city our size, I believe a single body could serve to advise the Chief on a wide array of issues impacting the city, its neighborhoods, and the police department. To focus a discussion of how we might make use of such a body locally, I would like to provide some background information about local processes we have in place.

Our processes for handling complaints and discipline are codified in the department’s general orders and follow the requirements of Chapter 143 of the Texas Local Government Code. Allegations of misconduct are classified as either Class I or Class II complaints. Class I complaints are serious allegations such as dishonesty, illegal search or seizure, racial profiling, criminal conduct, or unlawful use of force. Class II complaints, which are the less serious variety, include complaints of behavior such as discourtesy, failure to take appropriate action, or uniform standards complaints. The employee’s immediate supervisor handles Class II complaints. Class I complaints are handled by a supervisor, generally a Commander, outside of the employee’s direct chain of command while serious Class I complaints are handled by the department’s Administration Division Commander. All complaints, regardless of class, are documented in the department’s tracking database. In the case of Class I complaints, the Chief is the ultimate decision maker regarding findings and discipline but confers with the employee’s chain of command regarding both decisions.

In addition to the complaint investigation process, the department also has in place certain proactive measures designed to detect problematic behavior before it becomes an issue. All patrol supervisors conduct quarterly random reviews of both body camera and in-car videos of personnel assigned to their shift. Additionally, department policy requires supervisory review of all instances wherein a person is charged with resisting arrest, is subdued via the use of the Taser, or is involved in a pursuit. More important even than these processes is the culture of ethical behavior, which we have strived to build and maintain. The true test of how healthy this culture is lies in how it responds to examples of employees acting outside of its expectations. Over the past several years, we have demonstrated a distinct ability to identify, report, and adjudicate deviant behavior

within the department. During the 7 years of serving the department either as an Assistant Chief or as the Chief, we have had six officers leave due to termination or resignation in lieu of termination. In every one of those cases, the complaint that began the internal investigation originated from within the agency. In a few of those cases, the complaints came from the lowest levels of the organization.

In September of 2016, I empaneled the Chief's Advisory Panel, the first group of its type at the department in more than 20 years. The stated purpose of this panel is to improve the overall organizational effectiveness of the San Marcos Police Department by providing a supplemental and valuable source of information about department operations directly to the Chief of Police. The panel consists of 12 members of the department who serve at the operational level in their various divisions. My intention in creating this panel was to learn from its operation in hopes of later modifying its composition to include community members. I believe we are ready to make this move, and my vision for a local advisory group is similar to the below:

Composition:

7 to 9 members to include: 3 to 4 community members, 3 to 4 department employees, and 1 faculty member from Texas State University to serve as a facilitator

Potential areas of concern:

- Policy review and recommendations
- Departmental training reports
- Community and neighborhood concerns
- Employee complaint summary reports

Recommended requirements for citizen participation:

- San Marcos Citizen's Police Academy graduate
- Ride-along required
- No conviction for felony or crime of moral turpitude
- Prior history of community/city engagement preferred

A panel of this type would possess several benefits. First, I believe a panel organized and tasked in this manner would not require any modification of the Texas Local Government Code through the meet and confer process since the discussion in relation to the complaints includes only summary information. Additionally, by allowing the panel purview over a more broad range of topics, I believe we could make the best use of the advisory body and could potentially see greater impact toward our stated goals.

In closing, I believe that we are facing an opportunity to take yet another step into the modern community police era and potentially empanel a group that could be very effective in helping the department further its goals of being a model of 21st Century

Policing. I look forward to sharing any information I can as we continue the discussion about this topic.