

# Public Safety, Courts & Civil Service (PSCCS) Meeting

October 15, 2020

11:00 AM

WebEx Meeting

Access information provided to Internal Staff

## Public Participant Dialing Instructions

Dial Access Number: 1-877-820-7831

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Council Member Allison Hiltz, Chair  
Council Member Curtis Gardner, Vice Chair  
Council Member Angela Lawson, Member

Assure a safe community for people

1. Approval of Draft Minutes Council Member Hiltz
  - August 27, 2020 Minutes
  - September 10, 2020 Minutes
  - September 17, 2020 Minutes
2. Consent Items *(These items have no presentation unless requested by the Committee)*
  - a. Use of Force Follow-Up
3. Community Police Task Force Update (10) Councilmember Johnston
4. Inservice Training (20) Division Chief Dudley
5. Human Trafficking Update (20) Agent Faith Goodrich
6. Colorado Metropolitan Certification Board (10) Deputy Chief Andersen
7. Whistle Blower Policy (15) HR Director Giordano
8. SB 217 Overview (20) Dep City Attorney Rodgers
9. Miscellaneous Matters for Consideration
10. Confirm Next Meeting Council Member Hiltz  
November 19, 2020, at 11am on WebEx

**PUBLIC SAFETY, COURTS & CIVIL SERVICE MEETING  
AUGUST 27, 2020**

Members Present: Council Member Allison Hiltz, Chair  
Council Member Curtis Gardner, Vice Chair  
Council Member Angela Lawson, Member  
Mayor Pro Tem Nicole Johnston  
Council Member Juan Marciano

Others Present: J. Batchelor, V. Wilson, C. McCoy, C. Andersen, D. Giordano, D. Wilson, D. Parker,  
I. Evans, J. Bergeron, J. Puscian, J. Twombly, J. Campbell, J. Heckman, J. Schneebeck,  
L. Condrey, M. Cain, M. Chapman, M. Fassio, M. Moore, M. Pitrusu, N. Rodgers, R.  
Moody, R. Payan, R. Weber, S. Day, S. Wright, Y. Emeson, Z. DeBoyes

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**REVIEW/APPROVAL OF MINUTES**

August 13, 2020 minutes approved.

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**ANNOUNCEMENTS**

None.

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**CONSENT ITEMS**

None.

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**COMMUNITY POLICE TASK FORCE UPDATE**

Summary of Issue and Discussion

Mayor Pro Tem Johnston provided an updated on the Community Police Task Force. The Task Force meets the second and fourth Tuesday of every month virtually, starting at 6:30pm. This last week Deputy City Manager Jason Batchelor presented an overview of the city manager and council form of government and how decisions are made. Chief Vanessa Wilson gave an overview of the department and the different initiatives underway. She was very open to questions from the Committee members about Internal Affairs, investigations, and community-police relations. Overall, it was a very productive meeting.

The next meeting is scheduled for Tuesday, September 8. The Task Force will be focusing on hearing from the community about concerns that they may have with operations or practices and potential solutions. They think it’s very important to frame the concerns with some potential solutions. There was robust community outreach from city communications and a sub-committee was formed with the purpose of reaching out the community.

Outcome

Information Only

Follow-up Action

None.

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**CRISIS RESPONSE MODELS**

Summary of Issue and Discussion

City Manager Jim Twombly provided this update to the Committee. There have been discussions taking

place to discuss crisis response models and the possibility of putting together a pilot program that would mirror the CAHOOTS program. CAHOOTS has been used in Eugene, Oregon for about 30 years. Staff is also looking at the program used in Dallas, Texas called RIGHT Care. Both models focus more on mental health responses than a police response. Representatives from AFR, Falck, AuMHC, Dasher, and APD have been involved in the conversations. A team will be putting together a proposal for the pilot to perhaps start in early 2021. APD has been using the Crisis Response Team (CRT) model for a couple years and this could possibly be an expansion of that program. The goal of the proposal would be to have a low-cost or no-cost pilot program. A review of impacts on dispatch, police, fire, and EMS would take place as well.

CM Hiltz added that she is very excited about this. She and CM Twombly attended a session about this at a conference they were both at last Fall, looking specifically at this program. She asks about this process often with regards to funding and staffing. It is known that having a police officer present at these kinds of calls can escalate a situation. This doesn't mean that police will never respond to a mental health call, it just means they will not be the default co-response. If there is a situation where police response is still necessary, such as a weapon being used on someone or a physical assault, police will still be present. This will not remove that option. Denver has had roughly 400 calls through their pilot program, and they have not needed a police escort once. She believes that to be indicative of how good the program is but also clinicians deal with people in the middle of a mental health crisis every day in a multitude of settings and they do it without a police escort. Officers often say they can't be everything to everyone or that they aren't social workers, so this is just taking a different approach that puts the emphasis on mental health and takes out the criminalization. She cited that studies show people with a mental illness are 16 times more likely to be killed by police than by other suspects. In 2015, 25% of police shootings involved people in emotional or mental crisis. These stats should be considered when talking about why something like this is important. She is looking forward to this and will be brought back to this committee when more details such as vehicles and staffing are worked out.

City Manager Twombly noted that it's important that additional training within the dispatch center be part of this program to differentiate when it would be appropriate to send clinicians, paramedics or even EMTs, as opposed to a police response. Being able to make that distinction in dispatch will be key to having a successful program.

#### Outcome

Information Only.

#### Follow-up Action

None.

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### **POLICE POLICY REVIEW INVESTIGATOR**

#### Summary of Issue and Discussion

City Manager Jim Twombly provided this update to the committee. This item comes from the fact two investigations were announced almost simultaneously. One, that the City is undertaking for a thorough look at the police department, how policing is done and the different aspects of police-community interactions. The second is from the Colorado Attorney General's (AG's) office for a patterns and practice investigation into the police department. This investigation was authorized under Senate Bill 20-217. Patterns and Practice investigations are something that the US Department of Justice (DOJ) has conducted across the country in cities where there were concerns about police patterns and practices where individuals were deprived of their civil or constitutional rights. The AG's investigation will look similar to what the DOJ has done in the past. Approach and timing discussions have taken place with the AG's office. They will start with the Elijah McClain incident and expand from there. They will look to see if there have been any patterns or practice violations and would provide recommendations on changes to police practices. The City's investigation

will focus on police directives, polices, and how they are carried out in practice. They will also look at hiring, training, discipline, etc. In light of the recent incidents nationally and locally, provide suggestions on steps that can be taken to reform the police department in order to rebuild trust with the community and improve practices. An example of ways to improve practices is the proposed plan to improve response to mental health calls. There won't be much, if any, overlap between the two investigations.

CM Gardner asked for clarification on the AG's investigation. It was said they would start with the Elijah McClain incident looking for possible violations of law and would expand upon that if they do find any. He asked if that is separate from their investigation into if criminal violations should be filed. City Manager Twombly confirmed this was correct. CM Gardner asked if the 21CP review would be done concurrently to all the other investigations. He's concerned about the leadership in police and the amount of investigations taking place. City Manager Twombly noted there is a special investigator assigned to look into the Elijah McClain incident from a criminal perspective and in talking about patterns and practices investigation it sounded like they would be focusing on the criminal investigation first and then the patterns and practices investigation would lag for some period of time behind the Elijah McClain incident review. The City's contract with 21CP has just been signed and a kickoff meeting will be happening soon. The investigation would hopefully begin soon after. CM Gardner noted there wasn't a timeline provided in the 21CP scope of work. He would like to know what the timeline is for the various deliverables or if it is just open-ended. City Manager Twombly noted that the time-table and chronology discussion would take place at the kick-off meeting. CM Gardner asked which budget the investigation would be paid from. City Manager Twombly advised it would be coming out of the non-departmental budget.

City Manager Twombly added that there has been discussion internally about setting up a police auditor position. In light of some of the questions recently about policing and following policies, he thinks it would be good to have an auditor dedicated to working in police department. The city has an Internal Audit Office staffed by three auditors on an ongoing basis they review high-risk areas such as property and evidence and Vice and Narcotics and review the management of evidence and money. This year they have been working on an audit of the body-worn cameras. The auditors reviewed national best practices, how other departments manage having them, and also looking at guidance from national research bodies. He would like to have an auditor dedicated within the department for accountability and transparency that could shine a light on some of the ways policies and directives are being implemented. Other agencies, like Denver, have the internal auditor embedded in their Office of Independent Monitor. City of Austin and City of Atlanta both have an ongoing auditor function as well. This type of look into the department and its practices will be helpful in rebuilding trust.

CM Lawson asked who the three auditors currently report to. City Manager Twombly responded that the lead auditor reports directly to him. CM Lawson asked if the auditor assigned to police would report directly to him as well. He confirmed that would be correct. CM Lawson noted that when he contacted her about this, she had some concerns. One of the concerns is that the auditor will be reporting directly to him. She wants to know how good the information will be and if council will be getting the real report. She commented that he has been involved in a lot of the police business lately. The other concern is that Mayor Pro Tem Johnston has set up the Community Police Task Force and he seems to be setting this up outside of the Task Force process. What is the point of having the task force to provide their input if he's not going to get their input. Mayor Pro Tem Johnston added that the Task Force purview is pretty narrow. Eventually, the goal of the Task Force is to create an independent entity over, at least, high-profile cases but what the city manager is doing is separate, and outside, the formal charge of the Task Force. CM Lawson thanked her for the clarification and reiterated her concerns about the auditor reporting directly to the city manager. She would like to know why Deputy City Manager Jason Batchelor isn't getting involved as the person who oversees the police department and why council seems to only hear from City Manager Twombly. City Manager Twombly noted that his interest in having an auditor in the police department on a fulltime basis is to get

information out and improve the department. The department does report to a deputy city manager, but he is ultimately responsible for the police department and he has every intention of helping to restore the integrity and community trust of the police department. He would have no interest in trying to cover up or hide anything from the mayor, council, or the public. CM Lawson added that she isn't saying he's covering up anything, but she is saying that her concerns are on the things that have been done, he has his hands in a lot of police issues, she would like to hear from Jason Batchelor since he is over the police. She didn't say he's covering up anything and she doesn't appreciate that being said. She has concerns with this particular auditor reporting directly to him based on some things that have been happening with the city manager and the police department. City Manager Twombly added that the committee is hearing from him about the police department because at this point in time he sees the police department as his highest priority.

CM Hiltz asked for staff to provide a synopsis of each investigation, which one will require council action, and which ones fall under the purview of the city manager under the Charter. Like CM Gardner brought up earlier, there's a concern that there's so much going on that the police are a little overwhelmed with focusing on all this. DCM Batchelor provided the list and synopsis of each investigation. Related to the Elijah McClain incident, there are three investigations. The AG's office has announced they are doing a criminal review of this incident and was ordered by the Governor at the end of June. The US Attorney and the DOJ Department of Civil Rights Division have announced they will be conducting a federal civil rights investigation, also announced at the end of June. The city manager has also announced an independent investigation with Jonathan Smith. Council has been reviewing that and discussing who will be on that team. That did go to a vote of Council on July 20. This review is administrative rather than criminal. There are two investigations related to general practice and comprehensive review of the department. The patterns and practice investigation were authorized under Colorado Statute recently adopted under Senate Bill 20-217. The city is cooperating fully with this investigation and will take place after the Elijah McClain review. The second comprehensive review is being conducted by 21CP at the request of city management. This is an administrative review practices, culture, and best practices. A kickoff meeting has not yet taken place and a timeline will be provided to council. There may be action items coming from this investigation that could require council action but that is to be determined. Anytime there are officer involved shootings or other things like that, there is a normal review process such as a review by the appropriate district attorney.

CM Hiltz asked if management is giving Chief Wilson the latitude to make and implement changes that she sees fit to make changes on now. There are some things that are known now that require changes and she would like to know if those can be made or if they will be held until investigations are completed. City Manager Twombly noted that there are ongoing discussions and there are things she does want to proceed on implementing and confirmed they would not be holding changes for the better while waiting for the outcome and recommendations of investigations. DCM Batchelor added that Chief Wilson has already implemented some changes, such as to the directives. Staff welcomes the discussions coming down from council and will incorporate those in the plans to continue to improve the department and rebuild trust.

CM Gardner asked for more information related to the scope of the internal auditor that would be assigned to police and how that would be decided. City Manager Twombly explained the auditors start with a risk assessment and these would be areas where performance and interaction with the community and where the highest risks are. This would be in conjunction with the police, city manager's office and Public Safety Committee. Prioritization of those audits would be based on the risk assessment. CM Gardner asked if the audit reports would come to public safety. City Manager Twombly confirmed this was correct. CM Lawson added that she really hopes race and excessive force is reviewed. If any policy is going to be done, that really needs to be looked at and included in the audit report. CM Hiltz agrees and added that anything that is being audited should just automatically start including demographics because that's something that is known but don't have in the data for each individual item being looked at.

Outcome

Information Only.

Follow-up Action

Staff will provide a list and synopsis of each investigation for backup in the next meeting as a consent item.

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**NO-KNOCK ORDINANCE**Summary of Issue and Discussion

CM Lawson explained she sponsored this ordinance as a ban on No-Knocks. With what is going on in society, and particularly related to the Breonna Taylor case where her ex-boyfriend was in jail and police went to her home on a No-Knock, resulting in her being shot and killed. This particular tool is not something that APD really needs to have based on the statistics received. Since 2018, there have been 10 No-Knock warrants served. Five were served as no-knocks and the other 5 were served as knock and announce. The ordinance isn't taking away the knock and announce, it is taking away the ability for the PD to ask for or use No-Knock warrants in general. She received some calls from concerned citizens that think she is taking away tools from the police department. That isn't what she is doing. It's important to implement policies that are proactive rather than waiting for something to happen and then react. She is planning to meet with the SWAT commander and hopes to find out why the 5 warrants were not served as No-Knocks and what was in those particular incidents that caused the officer to do a no-knock. The statistical information was not in this backup but hopes to get that added if this goes to Study Session. The no-knock and the knock and announce are warrants that require affidavits establishing probable cause suggested by the entry into the home. This ordinance is proposing that officers only be allowed to ask for knock and announce warrants.

CM Gardner asked who decides on the warrant type. Deputy City Attorney Nancy Rodgers explained when talking about a No-Knock warrant, the detective works with the DA because these would typically be a high-risk situation. The two would draft the affidavit for the judge explaining why they want to search the house and why they want to make entry without knocking. It's then up to the judge to sign off on the warrant. An officer could present a no-knock affidavit and the judge could change it or the scope as the judge sees fit. The judge is the ultimate decision maker on the warrant. CM Gardner asked if a no-knock warrant could be presented without it having gone through APD. N. Rodgers explained sometimes other agencies that are executing a warrant within Aurora's jurisdiction because it's tied to their case, they might have been involved in getting the warrant but typically they would take the lead in effectuating the warrant. Chief Wilson confirmed N. Rodgers is correct. An example would be a smaller agency that may not have a tactical team and it is in Aurora's jurisdiction. They are reviewed and taken seriously in addition to the judges' review. CM Gardner noted that the way he reads the ordinance is that APD cannot execute a warrant that doesn't require APD to announce themselves. If presented with a no-knock warrant, couldn't we just choose to knock. He's concerned that if presented with a no-knock warrant that APD couldn't execute it at all. N. Rodgers explained the intent of the ordinance is if APD was presented with a no-knock warrant and was asked to help then APD would have to come up with a knock and announce plan. A no-knock could be executed as a knock and announce because it's less restrictive. CM Gardner noted that he reads it a little bit differently but as long as that is what is written, then it's fine. CM Lawson asked if the ordinance could be made clearer. N. Rodgers explained there is room for amendments and added this is also policy guidance for APD and Chief Wilson can make it clear in policy. CM Gardner wanted clarity that if a no-knock warrant was presented that it could still be executed as a knock and announce. N. Rodgers confirmed that was true, it could be executed as a knock and announce.

Chief Wilson noted that this ordinance was concerning to her. The ability to use a no-knock warrant, when it's appropriate for officer safety, is important. CM Lawson added that she understands the officer safety perspective and added that it needs to be looked at from both sides. A knock and announce could still be executed. She doesn't know all the circumstances involved for each case in the data provided and that's why

she would still like to meet with the SWAT commander. She added that sometimes officers don't always know who is in the house and there could be innocent people, children, or victims. She's looking at being proactive and trying to reimagine the police department and find other tools that could be used. Chief Wilson looks forward to the discussion with CM Lawson and the SWAT commander prior to the item going to Study Session.

CM Marcano suggested some recitals to be added to the draft of the ordinance to make the intent clearer.

#### Outcome

Approved to move forward to Study Session.

#### Follow-up Action

None.

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### **EMPLOYEE PSYCH/ WELLNESS SERVICES**

#### Summary of Issue and Discussion

Sergeant Mike Pitrusu presented this item to the committee. The Employee Support and Wellness Unit was put in place approximately four years ago and is staffed by one sergeant and one officer. They are responsible for creating programs and identifying resources to create resiliency from hire to retire. It's proactive and reactive response to what all members may face. The foundation of the program is the Peer Support Team. It's made up of about 40 sworn and non-sworn members. There is oversight from clinicians and Brower Psychological. Another program is the Lethal Response Team. This team is comprised of members with critical incident experience and those people are there to provide support and resources for other officers that are involved in critical incidents. This includes oversight of the post-critical incident reintegration program. The next part is the Psychological Services. They oversee a very robust psychological services contract from two vendors that both have clinicians that have experience with police and other first responders. The clinicians understand the inner-working of police departments, know the base lines, and understand the cultures and are able to provide services more directly focused on those things. The contract covers not only the members, but their families as well. The last part is the Chaplain program staffed by four volunteer chaplains. In addition to attending department events, they also spend many hours each month riding along with officers and going out into the community. In addition to all of the above, the ESWU also provides family events, reintegration programs, individualized care plans, increased recruit training, officer/supervisor training, wellness check-ins, on-going resiliency programs, "resilient officer" forums, liaison with city HR for FMLA, any member on other than full duty status, and financial counseling. Programs in development include Pre-retirement education and support, and on-site physical therapy clinic. The reintegration program was designed to streamline many processes that were already in policy to house it under ESWU. The goal is to promote a healthy return to duty. An extended absence from duty could include being involved in a critical incident, military leave, extended absence from enforcement duties, or any extended absence as identified by the Chief of Police. Each reintegration is an individualized plan that focuses on psychological health, physical skills, and job transition. Critical incident reintegration is for incidents involving deadly force, resulting in death or serious bodily injury, a member that has suffered significant injury, or any incident deemed by the Chief of Police. A critical incident will result in a response from the Lethal Response Team, administrative leave for a minimum of 5 days, mandated visit with psychological services clinician within 72-hours, non-enforcement detail for at least 30 days, reintegration program/individualized plan, event debriefing, and administrative review for return to full duty.

CM Hiltz asked if officers complete surveys for on-going feedback to make sure ESWU is meeting their needs. Sgt. Pitrusu explained ESWU presents at Inservice each year and it's an opportunity for them to talk about programs and also to get feedback to address what's going on in the department and what the needs

are. There is an open line of communication so the clinicians can share concerns brought up with ESWU and look at additional programs or resources. They also work closely with HR representatives to develop programs for all employees. CM Hiltz asked if the feedback is anonymized or is provided as aggregate data. Sgt. Pitrusu confirmed that was true and added that they have seen the culture change significantly over the last four years when it comes to people reaching out for assistance. There has been an increase in psychological services of about 800% in the last four years. CM Hiltz asked if there was an integration of identifying officers that may be identified as needing assistance. Sgt. Pitrusu explained he is included on the alerts for the early intervention system (PEIS) for all the department members. He goes through each of those, looks at what may have set them off, and then reaches out to the supervisor to set up a meeting to discuss mitigation and possible resources. CM Hiltz asked what the per person breakdown or how many dollars are allocated per person. She added that the police budget is much more robust than AFR. They are on a lot of the same calls and is concerned AFR isn't being provided the same level of support.

### Outcome

Information Only

### Follow-up Action

Staff will provide a breakdown of the APD psychological services budget for backup in the next meeting as a consent item.

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## **ARRESTABLE OFFENSES, TRAFFIC STOPS, AND NON-VIOLENT CRIMES**

### Summary of Issue and Discussion

Division Chief Darin Parker presented this item to the committee. Council Member Gardner provided the specific questions and police staff provided the specific responses. Question 1: Does APD have a matrix around which offenses are arrestable? If so, does the Chief have the ability to change? Per Colorado Revised Statute (CRS) 16-3-102, A peace officer may arrest a person when: They have a warrant commanding that such person be arrested; or any crime has been or is being committed by such person in their presence; or they have probable cause to believe that an offense was committed and has probable cause to believe that the offense committed by the person to be arrested. Within the statutory authority, APD is guided by departmental policy as found in Directives 6.1.1 Arrest Without a Warrant and 6.1.2 Release of Adults Arrested Without a Warrant. These directives also contain procedural guidance about if the officer determines probable cause does not exist. It directs summonses are preferred for misdemeanors or petty offenses, and that there is no discretion related to domestic violence cases. CRS 18-6-803.6 mandates an arrest in domestic violence situations. Directive 6.1.3 Release of Juveniles Arrested Without a Warrant outlines that juveniles will not be detained for status offenses such as runaway, curfew, possession of alcohol underage, etc., unless the individual is flagged as a "No More Summons" or SHODI.

Question 2: What subjectivity does an officer have to issues a citation/summons rather than arrest. Directive 6.3 Release or Jailing of Arrested Persons provides guidance on discretion. The officer must evaluate the circumstances, consider available resources and rely on his/her training, department procedures, statutory law and supervision in making the appropriate decision. The decision will be the least restrictive that still accomplishes the intent of the law, is in accordance with department policy, and does not compromise the officer's safety. Directives 6.3.1 Pretrial Release of Arrested Persons and 6.3.2 Considerations for Prisoners Incarceration provided additional guidance on subjectivity and discretion as far as releasing detained persons related to misdemeanor and traffic charges and considerations when determining when to write a summons or transport to jail. Directive 6.9.1 Enforcement Guidelines (Domestic Violence) reiterates CRS 18-6-803.6.

Question 3: During routine patrol, are officers allowed to approach an individual without reason? The short answer is, yes. This would be a consensual contact; however, the officer does not have the authority to detain



a person absent reasonable suspicion, probable cause, or a warrant. In other words, the person is free to walk away and/or ignore the officer. Statutory definitions of reasonable suspicion and probable cause were provided.

Question 4: Do we have secondary traffic offenses where an officer won't stop a driver for only that offense? There are two examples, seat belts and cell phone use. Within seat belt statute, there is also a child restraint violation which is a primary violation. Related to cell phone misuse, the officer would have to articulate that the cell phone was a contributing factor to the reason the officer made the stop.

Question 5: What training do officers receive in actions to take during a traffic stop? Officers receive 28 total hours of classroom or demonstration training related to traffic stops and contacts.

Question 6: Do we have statistics as to traffic stops (by offense) that later turn into searches and additional charges, broken down by offense and race? Traffic stops are categorized as calls for service even though they are self-initiated typically. There is not a searchable field for race or to know whether a search was conducted. Traffic stops that result in physical arrests and criminal summonses can likely be found based on the case number associated with the call for service. Crime Analyst Ruth Eisner pulled the data for August 1, 2019 and found there were 1,200 calls for service, of which 77 were traffic stops and five resulted in cases being generated. R. Eisner can only say with certainty that those five arrests resulted in a search. Outcomes of traffic stops can be a summons or citation and neither require a search. Staff is unable to relate calls for service to the resulting traffic ticket in order to acquire demographics on the person being ticketed.

CM Gardner asked what some things would be that an officer would look for when determining whether or not to conduct a search after a traffic stop. D. Parker explained an officer conducting a "routine" traffic stop and is gathering the required information and sees plainly visible drug paraphernalia, or a weapon, or anything that are beyond what you might expect at a routine stop. That could result in additional questions from the officer to the driver or other occupants specific to what they are seeing. CM Gardner asked for the directives to be included in the backup at the next meeting. He referenced the last paragraph on the last slide that reads, "To create an automated process to efficiently obtain race and offense data will take a significant amount of time to establish. The results will not always indicate if a person was searched. Additionally, race and offense information will only be known for physical arrests and criminal summonses." He asked if that is not able to be tracked at this time or if it isn't being implemented at this time. R. Eisner explained the biggest challenge staff would face is that there are currently two programs used. One manages the calls for service and the other manages the results of the calls for service. It would be difficult to bring those two programs together technologically in order to relate calls for service to the outcome. Also, if a traffic stop results in a traffic summons, there's not guarantee a search occurred and there is no place to indicate it occurred. CM Gardner strongly recommends that there be a way to capture and track this data. He believes 21CP will be interested in this data as well. It's important to know if there are certain types of offenses that result in searches at a higher rate or certain demographic categories that result in search at a higher rate. We have policies and directives, but they need to be implemented and wonders if there is a disconnect. He understands the main function of police is law enforcement and not collecting data but it's difficult for him to identify or understand trends without the data being available. D. Parker explained SB 217 has some provisions that will require demographic data be complied and staff is currently working on how to do that with the current software. Staff is also aware of other products that do it better but some of those decisions are budgetary issues. R. Eisner suggests that the data for physical arrests could be used and shouldn't be discarded. Relevant information can be garnered from what is known. CM Hiltz referenced the slide about consensual contact. She would argue that most people do not feel like they have the option to freely walk away from an officer, especially the communities of color and specifically the black community. She won't speak on behalf of communities she isn't a part of but that is her understanding. Choosing who they speak to could have inherent racially biased intent. In choosing to talk to someone you could then find probable

cause. If they are choosing to speak to people of certain demographics and finding probable cause then that will have a disparate outcome on the backend. She is shocked searches aren't tracked because the data provided for this presentation doesn't begin to touch on people that were searched for whatever reason and she's willing to bet, based on the racially biased data and statistics seen in other parts of the department that we are able to track that people of color are searched more often than their white counterparts. The problem is not people who were arrested but rather who the officers are choosing to search in the first place. If there is a program that captures that, she would like to know what it is and how much it costs.

CM Lawson understands the data provided was for actual arrests and notes each person listed is a person of color. She would like to know what the probable cause was to contact each of those people. It's very concerning looking at the data seeing only black and Hispanic. She's hoping to get some system or software to track the data. If there is going to be any changes to policy, you should be able to look at what is happening in terms of implicit bias and how officers are looking at people of color, specifically black people. This happens to people that she knows all the time in Aurora that's why she's so passionate about it. What is it about black people that makes them so suspicious? The data is important to determine how they will make these changes.

Chief Wilson added that she's taking all the comments from all the council members seriously and staff is looking at software that can help track the data to see if there are trends and patterns and going back to City Manager Twombly's desire to have everything looked at and made available to public, she believes all of these issues are important. Implicit training is important, and conversations are taking place to get that moving forward. She hears everyone and is resolved to doing better.

#### Outcome

Information Only

#### Follow-up Action

Staff will provide the cited directives in the backup for the next meeting.

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#### **MISCELLANEOUS ITEMS FOR CONSIDERATION**

None.

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#### **NEXT MEETING AGENDA ITEMS**

The next meeting is confirmed for September 10. The topics are all related to militarization and chemicals. Follow-up items for consent include Use of Force, Traffic Stop Directives, Internal Investigations list and purview, MVT, per person budget on the mental health item. Other consent items include asset forfeiture and uses of funds. Next meeting agenda items Federal Grant Program for Military Equipment, two proposals on the federal grant program, presentation on non-lethal demos, and an ordinance for ban on pepper spray/chemicals.

September 17 agenda items include Community Task Force Update, Civil Service Hiring Process, Civil Service Police and Fire Turnover Report, Police Recruitment, and Safer Aurora

Meeting adjourned at 1:10pm

APPROVED: \_\_\_\_\_

Allison Hiltz, Chair

**PUBLIC SAFETY, COURTS & CIVIL SERVICE MEETING  
SEPTEMBER 10, 2020**

Members Present: Council Member Allison Hiltz, Chair  
Council Member Curtis Gardner, Vice Chair  
Council Member Angela Lawson, Member  
Mayor Pro Tem Nicole Johnston  
Council Member Alison Coombs  
Council Member Crystal Murillo  
Council Member Francoise Bergan  
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Others Present: J. Batchelor, D. Parker, A. Robnett, C. Hills, C. Andersen, D. Giordano, D. Wilson, F. Gray, I. Evans, J. Lanigan, J. Lopez, J. Campbell, J. Heckman, J. Schneebeck, K. Flynn, M. Fassio, M. Cain, M. Chapman, M. Moore, N. Rodgers, R. Joshua, R. McGregor, S. Montalvo, S. Day, S. Stowell, S. Redfearn, T. Buneta, V. Wilson, W. Lippman, Z. DeBoyes

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**REVIEW/APPROVAL OF MINUTES**

None.

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**ANNOUNCEMENTS**

None.

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**CONSENT ITEMS**

Arrestable Offenses, Traffic Stops and Non-Violent Crimes Follow-up  
There was no discussion on this item.

Internal Investigations Follow-up  
There was no discussion on this item.

Motor Vehicle Theft Follow-up  
There was no discussion on this item.

Mental Health Budget Follow-up  
There was no discussion on this item.

2021 Gray and Black Marijuana Grant  
There was no discussion on this item. Staff will present this item at the next Study Session.

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**FEDERAL GRANT PROGRAM FOR MILITARY EQUIPMENT**

Summary of Issue and Discussion

Police Business Services Manager John Schneebeck presented this item to the committee. The question from the committee was related to the type of equipment purchased with 1033 funds. The program’s history began in 1990 and 1991 when congress authorized the transfer of excess Department of Defense (DoD) property to federal, state, and local law enforcement agencies. Congress later passed the NDAA for fiscal year 1997, which allows law enforcement agencies to acquire property for bona fide law enforcement purposes,

particularly those associated with counter-drug and counter-terrorism activities. Controlled property are military items provided as a loan and includes items that have been de-militarized. The property is then returned when it is no longer needed for proper disposition. Non-Controlled Property are common items that would be sold to the general public, such as office equipment. After one year, it becomes property of the law enforcement agency and is not subject to the annual inventory requirements. Prohibited equipment are items that inherently contain weaponry such as tanks, fighting vehicles, armed drones, weapons and ammunition, military uniforms and explosives. The Governor-appointed state coordinators approve and certify law enforcement agencies in their state. Once in the program, a law enforcement agency can review available inventory online and make requests for property through the state coordinator. An agency submits requests to the state coordinator that justifies how the property will be used for bona fide law enforcement purposes. Requests that are approved by the state coordinator are routed for further review. Staff reviews the type of excess property being requested, quantities available, and justification before items are released. Requests may be denied for insufficient justification, if an agency is in a punitive status (i.e. restricted or suspended), or has limitations imposed on them by the Department of Justice, Law Enforcement Support Office (LESO) or the state coordinator. President Obama's Executive Order 13688 in October 2015 required agencies to receive approval from their relevant local governing body to request and obtain controlled property. This was codified into Federal law as of the 2016 National Defense Authorization Act (NDAA). The statute requires that agencies obtain authorization of the relevant local governing authority such as city council or mayor, and that they adopt publicly available protocols for the appropriate use of controlled property, the supervision of such use, and the evaluation of the effectiveness of such use, including auditing and accountability policies. Program compliance includes an annual inventory, onsite inventory every two years, and the state controller conducts state-level compliance reviews of at least 5% of the law enforcement agencies that have property obtained through this program. The Aurora Police Department has the following items purchased through the 1033 program: one Mine Resistant, Ambush Protected Armored vehicles (MRAP), 126 M16 5.56mm rifles, 25 M14 7.62mm rifles, and 58 sight scopes. Items purchased with grant and seizure funds was also provided. Seizure funds are an asset forfeiture that goes through the courts. APD is a receiving agency of seizure funds based on participation in a particular case. APD purchases with seizure and grant funds from 2013-2020 was provided. The BEAR armored vehicle was donated in 2015 by UASI and is used as a regional asset. Federal asset inventory older than 2013 was provided.

#### Outcome

Information Only

#### Follow-up Action

None.

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### **1033 PROHIBITION ORDINANCE**

#### Summary of Issue and Discussion

CM Marcano explained that he brought this ordinance forward to take steps to show a gesture of good faith to restore community faith in the institution of policing in Aurora. He believes council should be doing what they can while striking a balance between officer safety and community safety. The second goal is to address the city's participation in the failed war on drugs and how that continues to criminalize or over-police of color or low-income communities in Aurora. He would like to discuss alternatives to that subject.

City Attorney Nancy Rodgers summarized the ordinance by explaining the ordinance is comprised of three components. The first would be a change to the procurement code in the city code that would prohibit all city departments from procuring specific items through the 1033 program. The items tracked are armored vehicles, weaponized personal carriers, aircraft, any weaponized aircraft of vehicles, 40mm firearms or ammunition, 5.56mm firearms or ammunition, and 7.62mm firearms and ammunition, bayonets, camouflage

uniforms, and grenades or launchers. This ordinance also prohibits any city department from procuring these items through partners. The second part of the ordinance requires that any procurement in the 1033 program be made with specific authorization by the city manager. Assuming it is not on the list of prohibited items, city departments can still acquire items with specific authorization from the city manager. The last section of the ordinance is that there would be a divestiture of any items the city has now that are on the prohibited list. The time frame for divestiture was left blank and open for discussion with the committee.

CM Lawson asked why the decision was made to have the city manager be the level of authorization required instead of council. She noted that she is uncomfortable with that. CM Marcano explained he considered the option of having council be the deciders or if that should fall on the city manager. He considers this to be an executive function since it deals with procurement as opposed to legislation. He would be open to changing this part of the ordinance if that is what the committee or other council members would like to see done.

CM Gardner referred back to information provided in the previous presentation that identified President Obama's Executive Order 13688, which requires the local governing body (in this case, city council) will have to give authorization prior to procurements within the 1033 program. His understanding is that it cannot be delegated to the city manager and requires action of the governing body. CM Marcano asked if the extent of the description would not extend to the city manager but rather only the elected officials. N. Rodgers explained this is an area open to interpretation and dependent upon who is in the Executive Branch for the federal government. There have been instances where it has been explained to the federal government that Aurora is a city manager form of government, which means the city manager is the administrative head rather than city council. CM Marcano asked if the committee would prefer changing the ordinance to require authorization by council rather than the city manager. CM Coombs would like it to be a city council decision versus a city management decision and expressed concern about timeliness of decisions. CM Lawson added that if something like this came up there would be a timeframe to get it done and it could be done in the time needed. She believes the proper course would be to have council make the decisions. If it just went to the city manager, she would be concerned where his decision-making is coming from. CM Hiltz agrees this should go to council. She added that she is confused by the list of prohibited items because there are items that are not on the list that if used would give the perception of militarization. Most of the items on the list are offensive but there are defensive things that could also fall under the appearance of militarization. She would prefer the 1033 program be banned or get full council approval for anything that would be procured through it. She noted the same requirements for grants. She doesn't think this ordinance, as written, goes far enough. She asked if the department could just purchase the items separately if they aren't received through the 1033 program. Staff confirmed such purchases would go through the normal procurement process and would need to be budgeted in the general fund. CM Hiltz added that it doesn't appear APD is receiving very many things from the 1033 program but there's nothing that requires council approval for the purchase of any of these items from their budget. She would like to see more involvement on the procurement generally. She has concerns that this ordinance would not have the intended impact.

CM Marcano explained that the specificity of the ordinance was done based on research through the Marshall Project and documents the ACLU put together on this topic. He looked at what was inventoried and agrees it hasn't been utilized in some time and that is why he included the divestment portion. With regards to the aesthetics and the militarized appearance, it was less of a concern more than the function and he did intentionally target offensive items rather than defensive or supportive items. He believes useful items could be procured through this program such as a tanker to put out oil and gas fires or aircraft fires, cold weather gear, office supplies, or other items that would provide a cost savings. The goal of the ordinance was to prohibit the acquisition of weapons of war because we don't live in a war zone and that message needs to be relayed to the residents and find alternatives for the gear and how it's deployed. He is open to amendments and would encourage discussion so it can be moved forward.

CM Gardner is not in favor of moving it forward in it's current form. CM Lawson also thinks some changes need to be made and is not in favor of moving it forward. CM Hiltz doesn't think it goes far enough and doesn't defer to council so, for those reasons, she is not in favor of moving it forward as it is. It can be discussed in the future after changes have been made.

#### Outcome

The Committee did not support moving this ordinance forward to Study Session.

#### Follow-up Action

The committee will send recommended amendments to CM Marcano and he will work on the draft.

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### **1033 PROCUREMENT PROGRAM REQUIREMENT ORDINANCE**

#### Summary of Issue and Discussion

CM Gardner sponsored this ordinance. He explained that this ordinance isn't specific to the 1033 program. It does list a few other programs such as the State Homeland Security program, Urban Area Security initiative, as well as, seized asset forfeiture funds. His goal is to have accountability to the elected body to approve these things. He believes there is legitimate arguments or discussions that can be had into whether or not the items are appropriate to have in the city, if they are procured, and how they will be deployed. The programs are listed, and procurements are defined as grants, gifts, transfer of title, loans, leases, or any other possession or holding. The equipment that could be procured under these programs would have to be approved by council before moving forward with the procurement.

CM Hiltz asked what would happen if another program is created months from now. Would an amendment to the ordinance need to be done? CM Gardner explained that was discussed with staff and decided not to bind themselves from any future programs. A better approach would be to do a new ordinance or amend this one.

#### Outcome

Committee supported moving this forward to the next available Study Session.

#### Follow-up Action

None.

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### **NON-LETHAL DEMOS**

#### Summary of Issue and Discussion

A pre-recorded video showing non-lethal tools used by the police department was presented to the committee for this item.

CM Lawson asked what kind of impact the sponge round would have on the body. She's concerned that if one of those struck her, she would likely be laid out from it. Chief Wilson explained they are used on people being aggressive, throwing Molotov cocktails, rocks, bottles, etc. They are targeting for that unlawful behavior. It would not be comfortable but is less than lethal. They hope they don't have to use them, but they are used when defending officers or others in a crowd.

CM Bergan found the video to be helpful to understand the devices used. She would like to know the rationale used to determine when to use the different devices available, non-lethal versus less lethal. Chief Wilson explained the situations being discussed are related to protests that are being seen across the country. There have been a lot of violent encounters involving counter-protesters where police need to protect the protesters and/or property as well as protecting officers. The tools shown are used to give officers distance. As Chief, she needs to look out for the community, the peaceful demonstrators, and the officers. The gas

canisters are used to throw into a crowd after dispersal orders have been given and time allowed for people to leave. They would be used after it has been determined it's dangerous for them to remain in the area due to the activity officers are seeing. Specifically, for the aggressive attacks, they have seen mortar-sized fireworks being thrown at officers, sharpened rebar being thrown at officers, rocks, water bottles filled with unknown substances. This is really an officer safety issue that they are able to defend themselves from a distance and take out the agitators that are sometimes mixed in with the peaceful demonstrators. They cannot be allowed to continue to assault officers or others in the crowd. If they don't intervene, she isn't sure what the solution would be for the community. CM Bergan asked if she, as a citizen, could carry pepper spray. Chief Wilson confirmed she could, and it can be purchased in many common stores. CM Bergan knows many people carry pepper spray for their protection. Chief Wilson added that she is very concerned about this ordinance banning the use of these less lethal options and she doesn't know what the answer will be. There was 300K of property damage to the courthouse and she didn't send officers out to be hit with fireworks or be assaulted without having the ability, and the backing of council and the city to be able to respond in an appropriate manner. As seen in the video demonstration, the OC spray, the tear gas, and even the foam rounds are all things where the effects dissipate quickly, and it keeps officers from having to use lethal force. Molotov cocktails, fireworks and lasers are being used against the officers and have the potential to cause lasting, bodily damage. It's a very dangerous situation in our country right now and officers need to have the tools available to engage from a distance and do it safely for everyone involved.

CM Lawson asked what would be the alternative if these tools were not available, would it just be guns. Chief Wilson explained it would leave officers with having to go in and use force such as with batons that can break bones. She can't expect her officers to sit and be set on fire with Molotov cocktails so lethal force would be used at that point.

CM Marcano explained the reason for this presentation is a prelude to the next item which is the ordinance he is proposing for the banning of the use of chemical agents. He wants it to be clear that the ban would not be on pepper spray but rather on foggers which are different in how they are used. He shares her concerns about taking way less lethal options especially for situations where people use fireworks to attack officers. He does not condone that behavior and that is not a peaceful protest. Part of what is being addressed is the residential use based on the incident that occurred in his apartment complex. But there is precedence around property damage that has resulted from the use of these munitions and aggressive SWAT activity. His concern is on the collateral damage with the gases used and that there are ethical reasons studies cannot be done to determine health issues caused by the gases

CM Bergan asked the Chief to explain the difference between a SWAT call and protest in regard to the devices used. Deputy Chief Darin Parker explained it is two different applications and two different purposes. Speaking to the use of SWAT applications such as a barricade, the situation would be highly regulated, there would be a captain on scene that would authorize the deployment of gas into a structure. The intent would be to drive the person out of the building and into custody. That would be after basically everything else has been tried and failed or is impractical. Typically, after several hours of negotiation and de-escalation. They have walked away in certain circumstances after weighing the potential charges and the safety of the public. Situations that would call for the use would be if the individual was armed and poses a threat to the public. Chief Wilson provided examples of situations where the use of such tools such as the BEAR and gas would be used to end the standoff and rescue others that may be in danger. CM Bergan surmised that situations such as these are rare and in life-threatening situations, but gas is not used on crowds. Chief Wilson explained gas would be used on crowds to disperse after orders have been given and time has been provided for them to leave.

CM Lawson noted this is ultimately up to the Chief and command to make the decisions of when to use and when not to use certain tools based on the situation at hand. You can take away all the tools you want but at

the end of the day it's going to be the decision-making that matters.

Outcome

Information Only.

Follow-up Action

None.

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**CHEMICAL AGENT BAN PROPOSAL**

Summary of Issue and Discussion

CM Marcano explained that the ordinance he is proposing has two parts; the first is about the use of tear gas generally as a tool, the second deals with foggers specifically for the delivery of pepper spray. The tear gas component, the smoke canisters were effective in dispersing the crowds and the use of tear gas has come into question. Foggers are included because some of his constituents were on the receiving end of a fogger with pepper spray who were caught in the cone of fire while complying with orders. When discussing that item, the response from police was that collateral damage happens. He believes this should not be an acceptable answer because it further undermines trust and legitimacy issues. The first part of the ordinance dealing with tear gas is to address the non-targeted nature of the tool. His concern is the use in residential settings, especially in multi-family settings where it might have bad ventilation or design flaws that might allow the substance to permeate into other units. There is also the property damage issue with the use of gases by SWAT. Due to ethical barriers to conduct testing, there are unverified side effects of the gases such as interrupting menstrual cycles and induce miscarriages in women. There isn't hard data to back those claims but anywhere in the world that the gases are used in a large scale, there are reports of these things happening. He has concerns with the side effects and safety of these as tools.

CM Gardner referred to section C (2) of the ordinance and the reference to protests and demonstrations. He would like to know how that would be defined. His concern is that the ordinance would prohibit the use of these tools at protests and demonstrations, but it doesn't define what that means. N. Rodgers explained Senate Bill 20-217 also uses this language that is not defined. This would be a tactical determination by a law enforcement agency to deem the situation a protest or riotous activity and can modify their tactics appropriately. It is not defined anywhere and would be left to the leadership of the department at the time. Chief Wilson added that there was a special council session held after the violin vigil where she took responsibility for not doing a good job at communicating to those that were there for the vigil, as well as, staff trying to deal with the people knocking down fences and throwing rocks. There were people there for a vigil but there was also lawless behavior taking place. Many announcements were given, she regrets that anyone was caught up as "collateral damage" and hopes to avoid that in the future.

CM Marcano acknowledges that Chief Wilson makes a great point and notes that the 1033 ordinance he proposed specifically allowed the procurement of shields. He asked how officers are trained to use shields for crowd control situations, if at all. Chief Wilson explained officers do not train with shields outside of using them in a SWAT situation. They do not train to use them in protest situations. Different departments do use them for this purpose, but she wants to avoid close contact with the people that are protesting. The shields aren't always going to protect the officers from things such as Molotov cocktails.

CM Lawson asked for clarification about the subsections in part C of the ordinance. CM Marcano explained subsection 1 captures the general use of tear gas. Subsection 2 specifically talks about OC Foggers and the delivery mechanism. Smaller, individual OC cannisters that are a direct stream can still be used. CM Lawson asked for clarification on his stance on these items, that he is not totally against them. CM Marcano confirmed he is not against the use of pepper spray. He would rather pepper spray be used over a foam round.



CM Lawson noted that the verbiage seems to contradict his summary. CM Marcano added that if the drafting of the ordinance is the issue, he would entertain changes. CM Hiltz agrees with the points CM Lawson has made about separating out the differences. She would like to say that if it was decided to not use pepper spray that the default would be to another de-escalated less-lethal option, but she doesn't foresee that being the reality. She thinks the attitude would be a lot more cavalier and the default would tilt towards more lethal options. Which is not the intended impact they want as a result of the ordinance. She questions why this is being presented as an ordinance as opposed to a resolution. Typically, a resolution is a statement directing city manager or a chief to make these changes. The ordinance is directing the city manager to create policies. She would like to see this more as a resolution because council would be directing the creation of a policy via city management and the police chief, which is more in line with a resolution. CM Marcano explained the ordinance would give it sticking power and makes it more difficult to change in the future and that's why he decided to go with a resolution. CM Lawson explained she is struggling with C subsections 1 and 2 and how to define those. Because this ordinance is generalized, it may be better as a resolution. CM Marcano asked for clarification about if the issues are with the drafting or the substance of the ordinance. CM Lawson explained that this particular situation is going to be dependent on the discretion and what's happening at the time for the chief to decide what tactics will be used.

CM Hiltz noted that she does not support the use of pepper spray for crowd control purposes. She is concerned about what the alternative options would be and there could be more potential for harm. What if people show up with AR-15's and start shooting rounds in the air and what the options would be? What if there is a demonstration at an apartment complex and families can't get out, is the option to start shooting off fire rounds and weapons? She doesn't know what alternative would be better to this one and doesn't trust that the default option would be to use something less lethal in these situations. She thinks they would see a more cavalier attitude from the officers who would then escalate and say they had to use more lethal options because they didn't have the less lethal option available. She thinks there would be more potential harm coming from that. She referred to legislation passed in Columbus, Ohio that has something similar where they banned the use of pepper spray for things like crowd control but does allow the use in limited circumstances and violence. Violence would then need to be defined. She's hesitant to take a way a tool completely because there may be an instance where it would be preferred. She would like to have a conversation with Chief Wilson to discuss when is and isn't an appropriate time to use it. She understands the need to use these as tools even though she may not agree with it. More of the conversation needs to be when things are and are not appropriate to use and what is violence considered to be. She foresees other protests and demonstrations that might have a completely different level of what they would consider to be very violent and they wouldn't have any options because if you get to the point where it's chaos, officers probably won't go in with clubs, they will probably start firing off rounds from far away. The conversation they should also be having is when and why, not just if.

Chief Wilson wanted to note that many of the agitators used shields to redirect the foggers and spray used causing it to affect the peaceful demonstrators at the violin vigil. Agitators have also pick up the canisters and throw them back at the police or pick up rocks and throw them at officers. She considers all of this to be violence. Officers are human beings and they should be able to respond and protect themselves from any attack. She knows reform needs to happen, but a message needs to be sent to the officers that the community and council supports them in defending themselves and the community.

CM Coombs noted that a lot has come up about extremely violent protests and she thinks that there is a question about whether or not the local police departments should be responsible for extremely violent and highly escalated protests. In the past, this would have been a situation for the National Guard. She would hope that there would be conversations taking place about alternatives to sending out Aurora's police officers if people started showing up en masse with rifles. She thinks a conversation needs to be had about what the limits are for what the local police department should be handling in these situations. These conversations

should include regional partners. She agrees officers and people in general should be able to defend themselves against violence. It's concerning that there is an expectation that the police will become cavalier and therefore, more violent. CM Hiltz noted that is a fair point. She doesn't expect them to do it, but she sees it happening. She thinks there should be a conversation around who it is that should be responding to violence situations and would like to know what a timeline would be for a National Guard response. If the pepper spray isn't an option and there is a threat, they are going to resort to the tools that are available. The conversation should be around when such things as pepper spray should be used, when a baton should be used, or when should a gun be drawn. Chief Wilson appreciates the sentiment from CM Coombs that it isn't expected that the officers will become cavalier. She doesn't expect nor does she believe that would occur because they took an oath to serve and protect this community. It is their job to stand up and protect the community, to save lives and keep the city from burning to the ground while they wait for the National Guard to deploy, and they take that job very seriously. There is a large majority of the community that is upset about what has happened to the courthouse and the surrounding of the police station. Officers are not afraid to stand up and take care of these situations. She asks that council not limit the use of the tools needed for officers to protect themselves and the community.

CM Bergan shares the concerns of CM Hiltz about what the alternatives would be if these tools were taken away. She thinks it could lead to more escalation or more violence. Officers don't use pepper spray without first giving a lawful order and that's part of policy. She has concern that this would be law by ordinance and certainly given direction to times and circumstances is an important discussion, but she doesn't want to take tools away that would put them in harm or prevent them from protecting innocent victims.

CM Marcano would like the department to focus more on the use of shields because they are inherently defensive items. If the protestors have shields and the police have shields, then there won't be anything being thrown at them that they could throw back. If both parties show up with defense in mind and the intent of separating violent people from non-violent people and to securing a location is not necessarily going to lead to escalation. But if people are showing up with rifles and firing rounds in the air then he wouldn't want local police out there because it's essentially a paramilitary faceoff and that's when he would want the National Guard to respond. Officer's rules of engagement are different than the National Guard and he doesn't want officers to get in a combat situation.

CM Marcano would be willing to split to two paragraphs to make the intent more clear. He would be open to conversations about pepper spray in more detail. His concern with that is he doesn't want to completely remove that option. When using a weapon, the target and beyond should be known. That same mentality should be used when using a substance for crowd control. This is an issue that is causing an increased loss of legitimacy for the agency and intensifying the current political climate. His goal is to de-escalate, and he feels it is incumbent upon them to do that.

CM Hiltz would like to see this come back as a resolution and then have the definition of what violence would look like or what the limited situations could be, referring back to the previous conversations. CM Lawson has some issues with the ordinance, and she agrees with looking at making this a resolution. Section C does need to be split out. CM Gardner feels this leaves too many questions and items undefined. The better approach is to work with the police chief to implement the policy changes that they would like to see more work needs to be done. There is a lot more to the topic than what is covered. He thinks they could come up with something that protects the residents, allows them to have their 1<sup>st</sup> Amendment Rights, protects people from collateral damage and allows officers to do their job effectively. Chief Wilson added that she believes Senate Bill 20-217 already outlines very well when police can use non-lethal force and deadly force. She is concerned with this moving forward as an ordinance and law. She would be willing to talk about resolutions and have council speak with SWAT, go on ride-alongs, and see exactly what the officers are dealing with.

Submitted through Chat from Francoise Bergan to everyone: National guard requires Governor to order.  
12:43 PM

Outcome

The Committee did not support moving this ordinance forward to Study Session.

Follow-up Action

This item will be brought back to the committee with the changes suggested.

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**MISCELLANEOUS ITEMS FOR CONSIDERATION**

None.

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**NEXT MEETING AGENDA ITEMS**

September 17 is confirmed for the next meeting. Agenda items will include Task Force Update, Civil Service Hiring Process, Recruitment, and Body Worn Camera Audit.

Meetings will resume the regular schedule of one meeting per month beginning in October. The October agenda include Discipline Matrix, Discipline Annual Report, Ongoing Education and Training, Human Trafficking, Officer Misconduct/Internal Reporting, Colorado Metro Certification Board, and How APD deals with Children.

The discussion from today will be put on the November meeting schedule.

CM Lawson has questions regarding the Human Trafficking item. Chief Wilson will follow-up with her after the meeting.

Meeting adjourned at 1:00pm

APPROVED: \_\_\_\_\_  
Allison Hiltz, Chair

**PUBLIC SAFETY, COURTS & CIVIL SERVICE MEETING  
SEPTEMBER 17, 2020**

Members Present: Council Member Allison Hiltz, Chair  
Council Member Curtis Gardner, Vice Chair  
Council Member Angela Lawson, Member  
Council Member Juan Marcano  
Council Member Marsha Berzins

Others Present: J. Batchelor, M. Cain, A. McDonald, C. Hills, C. Juul, C. McCoy, C. Andersen, D. Parker, D. Giordano, D. Miranda, D. Wilson, I. Evans, J. Twombly, J. Campbell, J. Heckman, J. Schneebeck, M. Fassio, M. Sears, M. Chapman, M. Moore, M. Crawford, M. Iovine, N. Freed, N. Wicklund, Pamela, S. Day, S. Stowell, S. Redfearn, T. Buneta, V. Wilson, Z. DeBoyes

**REVIEW/APPROVAL OF MINUTES**

None.

**ANNOUNCEMENTS**

None.

**CONSENT ITEMS**

None.

CM Lawson would like staff to provide the stats on the demographics related to use of force information that was requested at an earlier meeting. The information was expected to be added as a consent item but have not yet been provided. She would like a status update on that request. Chief Wilson apologized if follow-up from staff had not yet taken place and the information would be provided as requested. CM Hiltz advised the item can be added to the agenda as a consent item once the requested information is received.

**COMMUNITY POLICE TASK FORCE UPDATE**

Summary of Issue and Discussion

Deputy City Manager Jason Batchelor provided an update to the committee. The Task Force held a public meeting on September 8 and received a lot of good feedback. The audio from that meeting has been made available for the public to access. There is a meeting scheduled for next week and they will continue with their education efforts and getting the information they asked for.

Outcome

Information Only

Follow-up Action

None.

**INTERNAL AUDIT – BODY WORN CAMERAS**

Summary of Issue and Discussion

City Manager Jim Twombly explained that when body worn cameras came out as a practical way of recording incidents, it was seen as a cure-all and something that would capture everything that happens. Departments rushed out and provided cameras to officers. There has been quite a lot written in the last few

years that it hasn't been the cure-all that was expected. Noted issues include position of the officer, lighting, malfunctions, department policies, etc. That did resonate with him in terms of putting together an audit plan for the internal auditors to look at best practices, policies, and how it's working in the field. With the Elijah McClain incidents and the cameras falling off and not recording some of the actual action, it became a high priority to him that this be reviewed as part of the 2020 audit.

Michelle Crawford provided the audit findings to the committee. The body worn camera program started in 2016 and APD is currently going through the purchasing process for a new body worn camera vendor. The objective of the audit was how well does the APD comply with policies, laws, and best practices related to the use of body worn cameras. They concluded that APD complies with some, but not all, policies and best practices. APD agreed with all the recommendations, their full responses are included in the audit report after each recommendation. Internal Audit will track the implementation of all recommendations. The graphic on page 21 of the audit shows the breakdowns of districts and units. Internal Audit sampled 139 of 97,725 total videos in the files. The video population covered January 1 through March 31, 2020 and used videos still available in the system as of April 28, 2020. The sample included all video categorizations; they did not exclude or focus on any specific video category. They compared current APD directives against various best practices and laws from certain sources including the new Colorado Senate Bill, the International Association of Chiefs of Police (IACP), the Police Executive Research Forum (PERF), Community Orientated Policing Services (COPS) in the Department of Justice, the Bureau of Justice Assistance, and the Commission on Accreditation for Law Enforcement Agencies (CALEA).

Page 10 of the report shows a graphic that shows a summary of the comparisons of the directives to the best practices and laws. There are areas where the directives fully complied, partially complied, and where there was no compliance at all. Key areas of partial and no compliance were provided. The policy does not address restrictions or guidance for officers reviewing video when there's been a critical incident. Best practice recommends the policy addresses whether or not an officer can view their video before making a statement. The policy does not address redaction. The current Senate Bill allows for redactions if there's specified privacy interests at stake. Best practice addresses how to handle redaction including documenting the reasons why. The policy allows officers 72 hours to download videos while best practice is the same day download. The policy addresses aspects of activations but it does not address informing people they are being recorded, which is a best practice. The policy addresses when cameras can be deactivated, which includes general conversations with peers or supervisors. The new Senate Bill included language around deactivating cameras for management discussions. Best practices include that, once activated, the camera remains in recording mode until the conclusion of the event. Their recommendation is that APD update the body worn camera directive to reflect the best practices listed in the report.

A summarization of the test work, involving watching body worn camera videos and verifying compliance with aspects of the different directives. Ninety-six percent of officers activated their cameras at the beginning of the incident following policy. Officers complied with deactivation policies about 89% of the time in the videos they reviewed. They recommend that APD comply with their directive around deactivation and they develop procedures to monitor compliance with deactivation. Interrupted footage refers to the deactivation and reactivation of the camera during an incident. Directive 16.4.5 includes, the members should record the reason verbally prior to deactivating the equipment. Reasons for articulating this deactivation include general conversations with peers or supervisors, time spent removed/disengaged from the scene and there is no contact or incident related value in what could be captured by the camera, or private conversations unrelated to the contact or incident. In policy review, best practice is that cameras remain recording until the conclusion of the incident. Their review focused on whether or not the officer verbalized the reason for stopping the camera. They did not assess whether the reason given for stopping the camera was within policy. They found that 79 of the videos (57%) included interrupted footage and in 77% of those videos the officers did not verbalize the reason for interrupting the recording. The non-compliance was across all districts and most

units. Their recommendation is that APD comply with directives, develop procedures to monitor for compliance, and take appropriate action to address any future department-wide non-compliance identified during reviews. APD should update its training to reflect expectations and that cameras will be on for the entirety of the event with limited exceptions. The directive also includes that supervisors may periodically review video footage. The current system cannot document supervisor reviews within the system. Their analysis of body worn camera video access showed that 99% of the videos they reviewed did not have a supervisor access them. A survey was issued to APD supervisors to gather more information about the review of footage. Eighty-six percent of those that responded indicated that they do review body worn camera video, but those reviews were because of complaints or uses of force and not for compliance with the directive. They recommend that APD assign responsibility for monitoring department-wide compliance of the directives to an appropriate unit. APD should develop a structured approach for supervisor reviews.

APD began using the clip-lock system in 2020 to help the body worn camera system stay attached. Cameras stayed on in 99% of the videos reviewed. There are no requirements for officers to report cameras being detached. They recommend that APD develop procedures for officers to report their cameras being detached along with any details to Electronic Support Section (ESS). ESS should compile that information and report it to management quarterly. APD lacks procedures to verify officers are utilizing their cameras as required. Using computer aided dispatch (CAD) data, they reviewed 25 calls for service and then searched for the body worn camera videos. Sixteen calls had associated videos. Eight calls did not have contact with a party and did not require camera use. One call did require contact with the party but did not have associated video. They recommend that APD develop procedures to monitor compliance with the utilization of cameras. Options could include randomly selecting CAD calls to review the existence of videos, or when reviewing videos with multiple officers, ensuring that all officers have videos of the incident. APD lacks procedures for monitoring proper video categorization. Their review identified several events with multiple categorizations or events that included unrelated videos. They recommend that APD evaluates future body worn camera systems for the ability to identify or flag videos in the system where the event has multiple categorizations. They also recommend that APD develop procedures to review videos periodically for proper categorization. This is important because retention relies on proper categorization of videos. In 97% of the videos Internal Audit reviewed, the footage was clear and unobstructed. There are no recommendations for this area.

In closing, there are some areas where APD is doing well but there are some areas where improvements are needed. Updating the policies for stronger guidance and clarity, developing procedures, and monitoring for compliance in these areas would help to address them.

CM Hiltz noted that it would be important to have officers begin reporting detached cameras sooner rather than later and asked how easy it would be to make that a requirement and implement it. Chief Wilson thanked Michelle Crawford for the work put in the report. She explained that officers were told to contact ESS if there were issues with retention of their cameras. She agrees that it should be made into a policy and get that information out immediately. She will have Division Chief Marcus Dudley begin working on that.

#### Outcome

Information Only.

#### Follow-up Action

None.

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### **POLICE RECRUITING UPDATE**

#### Summary of Issue and Discussion

Officer Nicole Wicklund presented this item to the committee. She is one of two full time recruiters for

APD. The mission of the Recruiting Unit is to proactively reach out to, locate, and recruit the most qualified men and women that will: (a) promote the Aurora Police Department's ethics, morals, and values; (b) revere the laws that Department members are sworn to uphold; (c) embrace the ideals of community-based policing; and (d) mirror the diversity within the City of Aurora. The Recruiting Unit goals are To recruit the most qualified men and women available; men and women who possess the following traits: integrity, courage, compassion, loyalty, and leadership; and who espouse the Aurora Police Department's ethics, morals, and values; revere the laws that Department members are sworn to uphold; and embrace the ideals of community based policing; and mirror the diversity within the City of Aurora. Continue to develop innovative recruiting plans that will assist in recruiting the best police officer candidates. Exhibit professionalism at all times when dealing with potential police officer applicants, the public, and all members of the Department. Develop plans as necessary to retain police personnel already employed by the Aurora Police Department as a means of meeting personnel requirements. Duties and responsibilities include recruitment, auxiliary recruitment and training, community engagement, and correspondence with applicants, budget management, advertisement management, advertisement technology, seminar administration, and officer referral program. The Recruiting Unit budget is \$27,500 annually. The bulk of the budget includes advertisement locally and nationally. The city has provided supplemental funds for the last couple years. A change for 2020 was the advertisement component. Prior to COVID they had already put advertising into effect. The age group of people being recruited is more technologically advanced than in years past. The recruiters have found applicants prefer the ability to text a recruiter directly over receiving letters or cards. Since 2018, the recruiters have coordinated and implemented the "so you want to be a cop?" seminar as a mandatory step in the hiring process for entry level applicants. The seminar is run year-round, twice a month. This allows the recruiters to meet the applicants face-to-face and outline what the job entails, what the expectations are, and one-on-one dialogue. They have found the program to be very successful. When talking about recruiting officers they are referring to entry level officers and lateral officers. Entry level officers are the bulk of the recruiting efforts and the hiring process is normally run year-round. The Civil Service Commission oversees the hiring for entry level applicants. The application window for 2020 has closed and applicants are being told to submit a job interest card which will notify them when the application window opens again. Lateral Officers are those that have previous law enforcement experience. APD is currently hiring for the lateral program through December 2020 to fill the June 2021 Lateral Academy. The lateral group is separate from the basic group, but the classes run concurrently with the basic academy as an expedited, 8-week academy.

Gender and Ethnicity statistics of the complete applicant pool for the 2020-1B and 2020-2B classes were provided. Additionally, surveys were completed for those classes related to how they heard about the position. Class 2020-1B had 934 applicants. Of those, 231 identified as female, 715 identified as male, and 18 chose not to respond. The ethnicity breakdown is 5 American Indian/Native Alaskan, 27 Asian, 84 African American, 208 Hispanic, 7 Native Hawaiian, 5 Other, 585 Caucasian, and 14 chose not to respond. Class 2020-2B had 1,259 applicants. Of those, 242 identified as female, 1000 identified as male, and 13 chose not to respond. The ethnicity breakdown is 10 American Indian/Native Alaskan, 36 Asian, 152 African American, 283 Hispanic, 12 Native Hawaiian, 15 Other not listed, 737 Caucasian, and 20 chose not to identify. As of August 30, 2020, APD will run three academies for 2021. Two of those will be filled by 20 basic recruits and one will be filled by 20 lateral recruits. Additional academies proposed include 2, 20 basic recruit classes.

The most recent entry level applicant window ran from February 10, 2020 through July 26, 2020. They received 1,396 applications. Of those, 261 identified as female, 1126 identified as male, 1 identified as non-binary, and 7 chose not to respond. The ethnicity breakdown is 13 American Indian/Alaskan Native, 41 Asian, 182 African American, 318 Hispanic, 12 Native Hawaiian, 13 Other not listed, 807 Caucasian, and 9 chose not to do respond. These applicants are currently in the physical fitness stage. This group will be used to fill the March and April Academies for 2021. The recruiters attended 60 recruiting events in 2017, 71 recruiting events in 2018, more than 80 events in 2019. They were on track to attend all previous recruiting

events for 2020 but COVID required that all advertising efforts be moved to online platforms. Twenty percent of the last group was driven from Indeed.com. As stated earlier, APD is not accepting applications at this time however, there is a lot of interested parties contacting the recruiters daily, both locally and nationally.

CM Hiltz will provide her questions in the backup. She noted that she had a call with recruiting a while ago and now that the application process has closed, she would like to look at how to collect data around why people are dropping out of the process, their perception was of the department coming and going out. She thinks right now, APD doesn't have a good reputation nationally. She's received feedback from people around the country that APD can do what they want, and she would like to know if that is affecting the applicant pool. She would like to continue the conversation with the Civil Service Commission.

Chief Wilson thanked the recruiters for this presentation and their work. She said that they're doing a great job talking about the fact that the APD is willing to look at reforms and improve their image. She applauds the people that are willing to come to APD knowing they are going to be part of the change.

#### Outcome

Information Only.

#### Follow-up Action

Due to time, the committee will submit their questions to be included in future backup.

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### **CIVIL SERVICE HIRING PROCESS**

#### Summary of Issue and Discussion

Civil Service Commission Supervisor Matt Cain presented this item to the committee. He explained that the Civil Service Commission is comprised of 5 Commissioners but there is currently one vacancy. There are 4 staff members and 12 contract background investigators.

An overview of 2020 shows they filled 2 entry level police academies with a combined total of 82 recruits and one entry level fire academy with 12 recruits. By the end of 2020, they will have administered 7 fire and police promotional processes with a total of 148 candidates. Also, by the end of 2020, the Commission will have conducted five discipline appeal hearings for police and fire.

In 2016, the US Department of Justice and the Equal Employment Opportunity Commission published a report on advancing diversity in law enforcement. There are three areas that they identified as how diversity can be affected in an organization. They are through recruitment, hiring, and retention. Recruitment is assigned to each respective department. By Charter, up to 50% of an academy can be made up of lateral recruits, which is overseen by the respective department. The Civil Service Commission conducts the entry level hiring for police and fire. Retention is the last part noted in the report. Recruits are in a probationary period for 18-24 months. After probation ends, Firefighters and Police Officers have Civil Service rights.

Civil Service Commission Analyst Heather Dearman explained the fire and police entry level hiring process. Applications are accepted online through the Neogov database. There is an automatic screening and anyone that answers yes to questions about drug use or criminal violations will automatically disqualify them from the process. There were 8,082 applications received for the last 5 police and fire processes that were screened for minimum qualifications. The demographic breakdown of those applicants was provided. Anyone who meets the minimum qualifications are invited to take the Ergometric Video-Based Exam. Statistics indicate 85.2% of the 8,082 applicants were invited to complete the Ergometric Video-Based Exam. The APD made and validated the video exam used for police. The video exam is scenario based and multiple choice. A reading and writing test is also administered for police applicants. Prior law enforcement or fire experience



is not needed to take the test. Police applicants also have to pass a fitness test and attend the “so you want to be a cop” seminar. Fire applications only need to pass the video exam. Preference points are provided on top of a passing score. Preference points are given for military experience, having a second language, and being police or fire explorer alumni. Police applicants also get preference points for being POST certified. Once the points are added to the video exam score a perspective employment list is generated that is then divided into bands. If there are 50 slots in each band, a random drawing is implemented to randomly place the applicants in their respective bands. That number is just used to process the applicants through the background process. They exhaust the lists for police applicants every time. For fire, they usually only make it through band A or band B. Those that are selected move on to submit a personal history statement, a job suitability test, polygraph exam, and meet with a background investigator. The background investigators provide a summary on each applicant for the Civil Service Commission to review and determine who will be given a job offer.

CM Hiltz asked if someone could be disqualified at the job suitability or polygraph stage of the process. M. Cain explained the polygraph exam is not pass or fail. However, the job suitability is pass or fail. CM Hiltz noted that numbers provided don't include totals or percentages. She broke them down and found that, in the police department, a white applicant is 385% more likely to get hired than a black applicant within those who meet the qualifications. She is going to focus on the difference of white applicants versus black applicants, because it is the widest, but notes a gap from those who are qualified to those who are admitted when looking at Hispanic or Latino applicants. She notes that 9.1% of total police applicants are black but only 2.7% make it to the academy which is 1.1% of the black applicants. And of the 180 qualified black applicants in the last five academies, only five have made it to the academy. At every step in the process a white applicants' odds for getting into the academy increases and every non-white pool decreases. Going back to the use of force data requested by CM Lawson, it shows 53% of use of forces are on black people versus the 16% of the population of Aurora. She believes it's clear there are racist outcomes. She noted that AFR is doing better but a white applicant is 58% more likely to be hired and of the 70 qualified black candidates only three have made it into the academy. For comparison purposes, 3% of all applicants make it to the police academy, 3.5% of all applicants made it to the fire academy, and Harvard's acceptance rate is almost 5%. She notes that we have a serious problem and are seeing the impact on how the laws are being enforced and what is being seen within the department. She is purposely focusing on police because of their ability to take away someone's freedom and their life with the tools they have at their disposal. She notes that it's clear there is a systemic racism issue and regardless of what the reason is, the outcomes are so disproportionate that something needs to be done. She advises staff and the Commission to do what needs to be done to address the issue. She wouldn't be surprised if the city couldn't be sued for this. To be this starkly broken down infuriates her. She doesn't see it being intentional, but someone should be asking why there are such disproportionate outputs.

CM Lawson thanked CM Hiltz for addressing this issue. She noted it was 47% of the population and 16% excessive force. She looked at how many people of color have applied, specifically African Americans and then at the end of the process there is only one. She asked if most of the disqualification happens in the background process. She can't believe there are that many applicants but then it drops to very few people of color that are considered for the academy. She's astounded by the data. CM Hiltz noted that it looks like there is a significant drop at the job suitability and interview portion. CM Lawson asked if races are determined in the application process and she wonders how it would look if the race was unknown. M. Cain explained the Commissions also shared her passion and concerns with trying to find diverse applicants for police and fire academies. Any reference to race or gender is redacted when the Commissioners reviews the applicant summaries. He noted that the column for applicants to submit their race as “other” has seen an increase recently so rather than try to place them into a specific category they leave them as submitted. That column should be noted when looking at the diversity category. CM Lawson added that the numbers are still bad to her and she's astounded by the people of color who are even getting considered or a formal job offer.

Something is not right with this and she will evaluate it more. Even with the other column, the numbers are still very low when compared to the Caucasian category. CM Hiltz explained that her calculations were on each separate demographic and white applicant odds increase at every single step of the process and even the 2 or more group goes down. It's not trending in the right direction and doesn't hold steady. When looking at the job suitability portion you see the significant drop and it goes from 34.4% down to 11.9% for African American applicants.

CM Gardner noted that his understanding is that the Civil Service Commission did not submit any proposed cuts to their budget and believes it is the only department in the city that didn't cut their budget for next year. He would like to know what the justification for that was. M. Cain explained that the proposed budget for 2021 is 15% less than the 2020 budget. CM Gardner added that the information provided to Council was that the Civil Service Commission could not meet and therefore did not submit proposed cuts for 2021. M. Cain confirmed specific cuts were not provided and explained much of the budget is based on volume of applicants that need to go through the hiring process and hiring needs of the departments. Last year was a total of 82 academy hires and projected for 2021 is 55. Although, that could change if more academies are added. He added the other source of variance of the Commissions budget is the number of discipline appeals and that has been increasing as well. CM Gardner noted that he asked for information back in January on the DOJ investigation and why the oral board process changed, and he still has not received it. He would like that to be provided. DCM Batchelor explained the next presentation should cover his request.

H. Dearman added that the Civil Service Commission is always very conscious of diversity and with the things that changed with the DOJ and the different ways that police and fire departments wants to change things, everyone always has such as an open mind because they want to hire the people that represent Aurora. They want to work with council and want to fix this as well. She notes that the hiring process is part of it but each piece needs to be looked at such as recruiting, to hiring, to what's going on in the Academy. She's looking forward to working with the new Commissioners and Chief Wilson. CM Hiltz pointed out this their own data and is limited to their own outcomes. She added that she doesn't think that anyone on the committee thinks that this is an individual person issue. But within this system there is systemic racism and it's evident in the output and wholly contained in the process because of the disproportionate drop between those who make it to the academy and those who meet the minimum qualifications. We see candidates of color significantly drop and white candidates' odds increase at every step. She once participated in a polygraph and one of the questions was if she knew anyone who was incarcerated. So if it's known that, for example, black men are more likely to be arrested for the same thing a white man wouldn't be arrested for and is therefore more likely to be incarcerated, then if you ask a black candidate that, they may have a higher instance of saying yes they do know someone who is incarcerated and that has nothing to do with that individual person other than that is the reality of the situation of how policing is disproportionately impacting the black community. She has questions about the questions that are being asked of the candidates and if there are certain phrases that seem to be race blind but have some stereotypical connotation toward a certain race, or not. The outputs are what they are, and the numbers don't lie so we have a problem. The questions is, how are we going to fix it. If this Civil Service isn't willing or able to fix or address this on their own, she thinks there is a council that is willing to explore other options on how to do better. As far as she is concerned this has to be addressed and we have to do better. This is a problem and we've known it's a problem and now we have the numbers and data to show that it's a problem and we're seeing the impact that it's having on the policing applications with what we've been seeing the last year, especially in race-based policing. CM Lawson added that this put the whole picture together for her and she's very disappointed and this does need to be fixed. She thanks CM Hiltz for bring up all the points. M. Cain added that the Commissioners do take into context an applicants' background when they review their files and the summary of their background. There are four different commissioners with different standards, and they discuss each applicant in depth and look at each applicant in the context of their experiences in their lives. It's reassuring to him that there are four commissioners that take their appointment by council very seriously. The

Commission is part of the hiring piece the other part is the lateral hiring as well and that is under each respective department. He appreciated the opportunity to present to the committee.

Outcome

Information Only.

Follow-up Action

None.

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## **CIVIL SERVICE COMPARISONS**

Summary of Issue and Discussion

City Manager Jim Twombly explained he asked Human Resources to look into civil service commission in cities of comparable sizes around the country. He wanted to know if other cities had civil service commissions and if they did, how they operate. He's been kind of uncomfortable with the way civil service is laid out in the Charter and questioned if this was typical of other cities. Human Resources Director Dianna Giordano presented her findings to the committee. In 2009, the Department of Justice (DOJ) initiated an inquiry into allegations of possible discrimination in the cities hiring and promotional practices for police and fire. In response to that investigation from 2010 to 2013 the Civil Service Commission modified their process by replacing the testing consultant to Ergometrics in addition to replacing oral interviews with video-based testing for ranking. In 2013, the results of the inquiry from DOJ were provided and the allegations were unfounded. There were no findings of discriminatory practices. However, there were recommendations made such as redacting gender and race. It's a little concerning that while the changes were made the outcomes didn't quite achieve what they set out to accomplish. AFR and APD requested the reinstatement of oral boards and their involvement in the Civil Service hiring process in 2018. Currently the police nor fire departments have a voting participation in the selection process. The Civil Service Commission does allow police and fire representative to participate as non-voting members. Research was done on the following comparable cities: Colorado Springs, CO, Arlington, Tx, Tulsa, OK, Oklahoma City, OK, Wichita, KS, Tucson, AZ, Mesa, AZ, and Austin, TX. Police and Fire had conducted their own research in 2018 when preparing for the plea to the Civil Service Commission. APD researched 11 regional agencies. Four of which had a civil service commission and all of which conducted oral interviews. AFR researched 12 regional agencies. Four which had a civil service commission and all of which conducted oral interviews. HR researched the previously identified agencies. Of those, five have a civil service commission, seven had department or HR involvement and all involved in oral board. She also found that all eight agencies receive support or delegate activities to HR and the department. Meaning, HR and the department is highly involved in the recruiting activities for those with or without a civil service commission. This places the onus on the department and the city for the recruits that they hire. With the current structure there is no accountability into the city for those individuals that are selected. The benefits of having city or departmental input includes creating opportunities to analyze candidate suitability for the position, creates an opportunity for candidate and department to learn about each other, it's a chance for the department to explain challenges and rewards of the job, and reduces attrition in the academy. A structured interview process allows for the assessment of the candidates verbal skills, interpersonal skills, decision making, general situational reasoning responses to structured questions, and can be used as part of the pass/fail of the candidate or used for final ranking. She believes there should be some greater involvement either between the department and the city with the process.

In the civil service commissions of the cities that she looked at, most of those entities didn't make the final hiring decision. Typically, the civil service commission would certify the process, certify the testing methodology, they'd look at minimum qualifications, or if there were changes to the process, methodology, or consultants performing functions. They might certify the eligibility list in some cases and that would

basically certify the process that was used. In the absence of the commission, all of the hiring was overseen by the department and HR. In all instances the commission staff received support from HR. Most included oral interview board or process. Is there an opportunity to explore ways for more departmental involvement to enhance minority recruitment efforts. We're getting the applicants, but they are falling out of the process at a greater degree than would be expected. HR typically looks at the 4/5's Rule or 80% of largest population of candidates hired you should have a number equal to that or 80% of that in the other categories.

CM Hiltz noted that she's been hearing for three years that oral boards could not be done because of the DOJ but the allegations were unfounded in 2013. In addition to that, we are the only city that was looked at that doesn't have HR involvement, and this is where we're at. It makes her wonder what we're doing. CM Gardner has the same frustration because he's been asking the same questions about HR and oral boards. He's frustrated to find that Aurora is the outlier.

#### Outcome

Information Only.

#### Follow-up Action

Staff will provide the presentation to the committee.

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### **CIVIL SERVICE TURNOVER REPORT**

#### Summary of Issue and Discussion

Human Resources Director Dianna Giordano presented this item to the committee. Year to date data on turnover for Police and Fire was provided. Fire currently has a 2.8% turnover rate and trending for 4.8 for 2020. This will be a 2.3% decrease from 2019. Police currently has a 6.1% turnover rate and trending for 8.7%. This will be a 1.3% increase from 2019. That number could be even higher. Compared to other cities locally and nationally, Aurora is trending 9.5% of projected turnover. 2019 stats for public sector jobs in the State of Colorado were at 19.6%. The top three reasons for people leaving are other jobs, retirement, and pay. Events impacting turnover include COVID-19, social/racial unrest impacts on the police department, and transition to a new police chief, increased accountability, and other police department incidents and media coverage. About 20% of the sworn members of police are eligible for retirement, not that they will but it's something they are mindful of.

CM Hiltz asked if increased accountability was a reason officers were giving when they leave. D. Giordano explained it is more about inaccurate accountability or being shouldered with things the profession is being held accountable for, not necessarily an individual.

CM Gardner asked how the reasons for leaving are gathered. D. Giordano explained it's typically a form. Although, she knows Chief Gray tries to meet with people when they leave. CM Gardner would like to see the forms. The most common reason for the whole city is for another job. There's a reason they are getting another job and we need to find out why. D. Giordano noted they know this is an area they need to enhance as a retention strategy and something they will continue to work on.

CM Lawson would like to know if this information is available broken down by percentages. D. Giordano confirmed they do and can provide it to the committee.

#### Outcome

Information Only.

#### Follow-up Action

Staff will provide the turnover analysis percentages to the committee.

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**MISCELLANEOUS ITEMS FOR CONSIDERATION**

None.

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**NEXT MEETING AGENDA ITEMS**

Next meetings confirmed for October 15, November 19, and December 10. Agenda items were not discussed.

Meeting adjourned at 12:45pm

APPROVED: \_\_\_\_\_  
Allison Hiltz, Chair



## Public Safety, Courts and Civil Service Policy Committee Agenda Item Commentary

<b>Item Title:</b> Use of Force Statistics
<b>Item Initiator:</b> Danelle Carrel
<b>Staff Source:</b>
<b>Deputy City Manager Signature:</b>
<b>Outside Speaker:</b>
<b>Council Goal:</b> 1.0: Assure a safe community for people--2012: 1.0--Assure a safe community for peopl

### **ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

**HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

### **ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

CM Lawson requested additional information regarding Use of Force statistics outlining demographics and type of force used.

### **QUESTIONS FOR Committee**

### **EXHIBITS ATTACHED:**

2017-2020YTD force by type and race.pdf  
UoF Comp Doc for council.pdf

2017-2020 YTD Total Force by Tier, Type & Race		Subject Race
<b>Tier 1</b>		<b>1,656</b>
	<i>Baton use for leverage or push</i>	7
	Black	2
	Hawaiian/Pacific Islander	1
	Hispanic	2
	White	2
	<i>Hobble</i>	217
	Asian	1
	Black	110
	Hispanic	35
	Two or More Races	1
	White	70
	<i>Other</i>	2
	Black	1
	Hispanic	1
	<i>Other Restraints</i>	41
	Asian	2
	Black	22
	Hispanic	4
	White	13
	<i>Personal Weapons: Punches, strikes, etc.</i>	1
	Black	1
	<i>Tier 1 Control techniques</i>	1,388
	American Indian	5
	Arab	2
	Asian	18
	Black	640
	Hawaiian/Pacific Islander	2
	Hispanic	215
	Two or More Races	14
	White	492
<b>Tier 2</b>		<b>1,101</b>
	<i>12 Guage Sock Round</i>	13
	Black	2
	Hawaiian/Pacific Islander	1
	Hispanic	4
	Two or More Races	1
	White	5
	<i>Baton</i>	17
	Black	9
	Hawaiian/Pacific Islander	1
	Hispanic	2
	White	5
	<i>Carotid Control Hold</i>	9
	Black	7

Hispanic	2
<i>Hobble</i>	<b>40</b>
American Indian	1
Black	22
Hispanic	4
Two or More Races	1
White	12
<i>Other</i>	<b>33</b>
Asian	1
Black	7
Hispanic	9
White	16
<i>Other Launchable Munitions</i>	<b>23</b>
Black	7
Hispanic	9
White	7
<i>Other Restraints</i>	<b>6</b>
Black	3
Hispanic	1
White	2
<i>Pepper Spray (OC)</i>	<b>42</b>
American Indian	1
Black	20
Hispanic	8
White	13
<i>Personal Weapons: Punches, strikes, etc.</i>	<b>109</b>
American Indian	2
Black	49
Hawaiian/Pacific Islander	3
Hispanic	19
Two or More Races	1
White	35
<i>PIT Maneuver</i>	<b>23</b>
Black	9
Hispanic	8
White	6
<i>Police Canine</i>	<b>57</b>
Asian	1
Black	25
Hawaiian/Pacific Islander	1
Hispanic	13
Two or More Races	1
White	16



<i>Taser-Dart Probe</i>		356
American Indian		3
Asian		4
Black		185
Hawaiian/Pacific Islander		2
Hispanic		59
Two or More Races		3
Unknown		1
White		99
<i>Taser-Stun Gun</i>		92
Black		41
Hawaiian/Pacific Islander		1
Hispanic		17
White		33
<i>Tier 2: Control Techniques: Twist locks, takedowns, throws</i>		281
American Indian		1
Asian		2
Black		125
Hawaiian/Pacific Islander		1
Hispanic		50
Two or More Races		2
White		100
<b>Tier 3</b>		<b>41</b>
<i>12 Gauge Sock Round</i>		1
Hispanic		1
<i>Baton</i>		1
Black		1
<i>Carotid Control Hold</i>		3
Black		3
<i>Control techniques</i>		3
Black		3
<i>Deadly Force</i>		19
Black		6
Hispanic		5
White		8
<i>Hobble</i>		1
Black		1
<i>Other</i>		3
Black		1
Hispanic		1
White		1
<i>Other Launchable Munitions</i>		1
Hispanic		1
<i>Personal Weapons: Punches, strikes, etc.</i>		2
Black		1
White		1

	<i>Police Canine</i>	2
Hispanic		1
White		1
	<i>Taser-Dart Probe</i>	5
Black		3
White		2
<b>Grand Total</b>		<b>2,798</b>

2017-2020 YTD Total by Type & Race	Subject Race
<b>12 Guage Sock Round</b>	<b>14</b>
Black	2
Hawaiian/Pacific Islander	1
Hispanic	5
Two or More Races	1
White	5
<b>Baton</b>	<b>18</b>
Black	10
Hawaiian/Pacific Islander	1
Hispanic	2
White	5
<b>Baton use for leverage or push</b>	<b>7</b>
Black	2
Hawaiian/Pacific Islander	1
Hispanic	2
White	2
<b>Carotid Control Hold</b>	<b>12</b>
Black	10
Hispanic	2
<b>Control techniques (Tier 1 &amp; 2 techniques used in a Tier 3 incident)</b>	<b>3</b>
Black	3
<b>Deadly Force</b>	<b>19</b>
Black	6
Hispanic	5
White	8
<b>Hobble</b>	<b>258</b>
American Indian	1
Asian	1
Black	133
Hispanic	39
Two or More Races	2
White	82
<b>Other</b>	<b>38</b>
Asian	1
Black	9
Hispanic	11
White	17
<b>Other Launchable Munitions</b>	<b>24</b>
Black	7
Hispanic	10
White	7
<b>Other Restraints</b>	<b>47</b>
Asian	2
Black	25
Hispanic	5
White	15

<b>Pepper Spray (OC)</b>	<b>42</b>
American Indian	1
Black	20
Hispanic	8
White	13
<b>Personal Weapons: Punches, strikes, etc.</b>	<b>112</b>
American Indian	2
Black	51
Hawaiian/Pacific Islander	3
Hispanic	19
Two or More Races	1
White	36
<b>PIT Maneuver</b>	<b>23</b>
Black	9
Hispanic	8
White	6
<b>Police Canine</b>	<b>59</b>
Asian	1
Black	25
Hawaiian/Pacific Islander	1
Hispanic	14
Two or More Races	1
White	17
<b>Taser-Dart Probe</b>	<b>361</b>
American Indian	3
Asian	4
Black	188
Hawaiian/Pacific Islander	2
Hispanic	59
Two or More Races	3
Unknown	1
White	101
<b>Taser-Stun Gun</b>	<b>92</b>
Black	41
Hawaiian/Pacific Islander	1
Hispanic	17
White	33
<b>Tier 1 Control techniques</b>	<b>1,388</b>
American Indian	5
Arab	2
Asian	18
Black	640
Hawaiian/Pacific Islander	2
Hispanic	215
Two or More Races	14
White	492

<b>Tier 2: Control Techniques: Twist locks, takedowns, throws</b>	<b>281</b>
American Indian	1
Asian	2
Black	125
Hawaiian/Pacific Islander	1
Hispanic	50
Two or More Races	2
White	100
<b>Grand Total</b>	<b>2,798</b>

<b>2017-2020 YTD Total by Race</b>	
American Indian	13
Arab	2
Asian	29
Black	1,306
Hawaiian/Pacific Islander	13
Hispanic	471
Two or More Races	24
Unknown	1
White	939
<b>Grand Total</b>	<b>2,798</b>



Aurora Police Department

Office of the Chief of Police  
 15001 E. Alameda Parkway  
 Aurora, Colorado 80012303.739.6016

## 2017-2019 Colorado Police / Sheriff Department Use of Force Comparison Data

	2017									2018									2019																	
<b>Denver</b>	Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk		
	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U
	358	0		498	0		264	0		0	0	42	295	0		589	0		201	0		0	0	49	318	0		595	0		240	0		0	0	38
	1162									1134									1191																	
<b>CO Springs</b>	Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk		
	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U
	472	48		864	192		353	45		83	28	6	414	42		892	160		324	32		66	11	0	409	68		609	193		319	49		62	9	3
	2091									1941									2030																	
<b>Aurora</b>	Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk		
	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U
	240	80		193	52		130	21		16	3	0	348	59		199	60		114	27		20	2	0	336	72		222	54		100	16		24	7	1
	735									829									832																	
<b>Arvada</b>	Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk		
	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U
	0	0		0	0		0	0		0	0	89	0	0		0	0		0	0		0	0	61	0	0		0	0		0	0		0	0	72
	89									61									72																	
<b>Arapahoe</b>	Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk		
	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U
	709	216		1008	320		48	19		23	2	0	854	178		1386	443		267	38		13	0	0	363	154		577	380		164	28		12	38	0
	2345									3179									1716																	
<b>Fort Collins</b>	Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk			Black			White			Hispanic			Other/Unk		
	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U	M	F		M	F		M	F		M	F	U
	13	0		128	0		30	0		0	0	13	12	0		114	0		10	0		0	0	11	17	0		114	0		9	0		0	0	6
	184									147									146																	

*\*Footnotes*

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1. Data was extrapolated to this chart as it was given by the providing agency, not all the provided information requested is tracked by the other agencies.
2. Denver Police Department does not provide the stats for type of force used, just the totals. Denver Police Department also defines lower level use of force differently than Aurora, non-striking control with hands with no injury are not deemed a use of force. Denver Police Department provided generic use of force information that only tracked race breakdown and did not differentiate between male/female/unknown. All the data listed under Denver is listed in the male category due to spreadsheet layout.
3. Arapahoe County Sheriff's Office and Colorado Springs Police Department include "Pointing/Display of a Firearm," in their use of force documentation. Those numbers are highlighted and noted in the spreadsheet.
4. Arapahoe County Sheriff's Office included in 2017, 2018 and part of 2019, use of force data that included the detention facility. After August 2019, the data was modified to reflect only patrol operations. The number of uses of force incidents will be significantly lower for the year 2019 than 2017/2018.
5. Aurora Police Department includes in weaponless any control holds against resistance regardless of injury or no injury to anyone.
6. Fort Collins Police Department provided generic use of force information that only tracked race breakdown and did not differentiate between male/female/unknown. All the data listed under Fort Collins is listed in the male category due to spreadsheet layout.
7. Arvada Police Department were not able to break down the data race/gender, all the information is listed in the unknown/other column.



**Public Safety, Courts and Civil Service Policy Committee  
Agenda Item Commentary**

<b>Item Title:</b> Community Police Task Force Update
<b>Item Initiator:</b> Danelle Carrel
<b>Staff Source:</b>
<b>Deputy City Manager Signature:</b>
<b>Outside Speaker:</b>
<b>Council Goal:</b> 1.0: Assure a safe community for people--2012: 1.0--Assure a safe community for peopl

**ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

**HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

**ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

Monthly update on the progress of the Community Police Task Force.

**QUESTIONS FOR Committee**

**EXHIBITS ATTACHED:**





## Public Safety, Courts and Civil Service Policy Committee Agenda Item Commentary

<b>Item Title:</b> APD Ongoing Education and Training
<b>Item Initiator:</b> Danelle Carrel
<b>Staff Source:</b> Deputy Chief Darin Parker
<b>Deputy City Manager Signature:</b>
<b>Outside Speaker:</b>
<b>Council Goal:</b> 1.0: Assure a safe community for people--2012: 1.0--Assure a safe community for peopl

### **ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

**HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

### **ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

APD response to Council Member Gardner's request for information regarding the required annual training of officers.

### **QUESTIONS FOR Committee**

### **EXHIBITS ATTACHED:**

2020 APD Inservice Schedule.pdf

# 2020 APD In-Service Schedule

## 2020 In-Service by Topic / Hours

Arrest Control	7.5
Firearms	10.0
EVOC	2.0
Less Lethal Force (TASER / OC)	0.5
Crowd Control	2.0
Anti-Bias Policing	1.0
ASHER	3.0
De-escalation ?	1.0
<b>Total In-Service Training Hours</b>	<b>27.0</b>

## Recurring Mandated Training - In-Service Based

Topic	Mandate	Frequency	Delivery
Use of Force Policies	CALEA 1.3.11a DM 7.2.10	Annually	ACT Practical
Weapon Proficiency - Lethal Handgun Practical / Marksmanship	CALEA 1.3.11b DM 7.2.9	Annually Policy	Firearms\Quals
Weapon Proficiency - Elec Taser	CALEA 1.3.11c DM 7.1.3 / 7.2.9	Annually	Instructor Led
Forced Stop Methods	CALEA 41.2.3	Annually	EVOC
Emergency Driving Tech	DM 7.2.10	Annually	EVOC
Less-Lethal Weapon Deployment Requirements	CALEA 1.3.11d DM 7.2.10	Annually	Instructor Led
Weaponless Control Techniques	CALEA 1.3.11e DM 7.1.3	Annually	ACT Practical
Neck Restraints Cartoid	CALEA 1.3.11f DM 7.2.10	Annually	ACT Practical
Ethics (POST)	CALEA 1.1.2 DM 7.2.10	Annually 1 Hour	LMS
Biased Based Profiling (POST)	CALEA 1.2.9 DM 8.32.7	Annually 1 Hour	Instructor Led
Legal Updates	CALEA 33.5.1 DM 7.2.10	Annually	LMS
All Hazard Plan (NIMS / ICS)	CALEA 46.1.9 DM 7.2.	Annually	LMS
Mental Illness Refresher	CALEA 41.2.7E DM 7.2.10	Annually	LMS
Temporary Detention Holding Cell Training	CALEA 71.2.1 DM 7.2.10	every 4yrs	LMS
Community Policing	POST	Annually 0.5	LMS
De-Escalation	POST	Annually 0.5	Instructor Led
Excited Delirium		Annually	Instructor Led

## 2020 Qualifications

Day	June 1-12, 2020
Night	Nov 30-Dec 11, 2020

## 2020 Make-Up In-Service Dates

1st	TBD
2nd	TBD
3rd	TBD

## Divisional Training

Cancelled per Chief Wilson

Time	1st April 6-May 7	2nd Aug 17-Sept 18	3rd Oct 26-Nov 30
0700	0700-0930 ACT CAPSTC Staff Weaponless CT (POST) Hobbles	0700-0930 ACT CAPSTC Staff	No In-Service 11/26 & 11/27
0730			
0800			
0830			
0900			
0930	0930-1000 Taser Practicals	0930-1030 ASHER Lecture CAPSTC	1100-1300 Driving CAPSTC Staff  (PIT & Pin)  1300-1530 ACT CAPSTC Staff  1530-1630 De-Escalation CAPSTC  1630-1730 Code 7 Lunch  1730-2100 Firearms Dim Light Range
1000	1000-1100 Anti-Biased CAPSTC Staff	1030-1230 ASHER Practicals CAPSTC Staff	
1030			
1100	1100-1200 Crowd Control Lecture Brukbacher	1230-1330 Code 7 Lunch	
1130			
1200	1200-1300 Crowd Control Practical Brukbacher	1330-1700 Firearms Range	
1230			
1300	1300-1400 Code 7 Lunch	No In-Service 7-Sep	
1330			
1400			
1430			
1500			
1530			
1600			
1630			
1700			
1730			
1800			
1830			
1900			
1930			
2000			
2030			
2030			
2100			



## Public Safety, Courts and Civil Service Policy Committee Agenda Item Commentary

<b>Item Title:</b> Human Trafficking for sexual exploitation and COVID
<b>Item Initiator:</b> Danelle Carrel
<b>Staff Source:</b> Agent Faith Goodrich
<b>Deputy City Manager Signature:</b>
<b>Outside Speaker:</b>
<b>Council Goal:</b> 1.0: Assure a safe community for people--2012: 1.0--Assure a safe community for peopl

### **ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

**HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

### **ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

There was a noticeable drop in ads related to Human Trafficking and sexual exploitation during the early months of COVID. Although we noted some Human Traffickers warning their victims to be safe in regards to the virus, we did not see any evidence of screening for symptoms. Ads are now back to their pre-COVID levels. Aurora Police Department continues to take and investigate reports of Human Trafficking for sexual exploitation.

### **QUESTIONS FOR Committee**

### **EXHIBITS ATTACHED:**

HT and COVID.pdf

# **Human trafficking for sexual exploitation during COVID-19**

Detective Faith Goodrich  
Aurora Police Department

- Alabama
- Alaska
- Arizona
- Arkansas
- California



## **backpage.com and affiliated websites have been seized**

as part of an enforcement action by the Federal Bureau of Investigation, the U.S. Postal Inspection Service, and the Internal Revenue Service Criminal Investigation Division, with analytical assistance from the Joint Regional Intelligence Center.

Other agencies participating in and supporting the enforcement action include the U.S. Attorney's Office for the District of Arizona, the U.S. Department of Justice's Child Exploitation and Obscenity Section, the U.S. Attorney's Office for the Central District of California, the office of the California Attorney General, and the office of the Texas Attorney General.

Additional information will be provided at around 6:00 pm EST on Friday, April 6, by the U.S. Department of Justice, and all media inquiries should be directed to the U.S. Department of Justice's Office of Public Affairs at 202-514-2007 and [press@usdoj.gov](mailto:press@usdoj.gov).

**April 6, 2018**

Worcester

Harrisburg

ALTHOUGH BACKPAGE WAS SHUTDOWN IN 2018 AND CRAIGSLIST STOPPED ALLOWING ESCORT POSTINGS, THERE ARE STILL MANY INTERNET SITES WHERE VICTIMS OF HUMAN TRAFFICKING ARE POSTED

**There was a large drop in ads in  
the Denver Metro area across all  
platforms from March to May**



**We've speculated that lack of air travel and large-scale community events decreased the human trafficking demand.**



**Notably, less economically stable victims of human trafficking have continued to post ads at the same rate, likely because of the economic pressures of COVID-19**





**Ads started coming back up to normal levels in June/July and are now at pre-COVID levels.**





- **Looking at communications from one large scale case that began in March**
- **The pimp did caution his victims to be selective and cautious when accepting dates because of COVID**
- **Did not observe any extra screening of potential sex buyers such as asking about fever or cough**

# Commercial Sexual Exploitation of Children



**30%**

of human trafficking victims  
are children

- Increase in survival sex cases
- Increase in out-of-state runaway cases

# Commercial Sexual Exploitation of Children



**30%**

of human trafficking victims  
are children

- Increase in tips from National Center for Missing and Exploited Children regarding child sexual abuse and physical child abuse

# HUMAN TRAFFICKING CASES

JANUARY – 1  
FEBRUARY – 0  
MARCH – 1  
APRIL – 0  
MAY – 3  
JUNE – 2  
JULY – 1  
AUGUST – 4  
SEPTEMBER – 0



**C** NEHT Hotline

COLORADO NETWORK TO END HUMAN TRAFFICKING

Colorado's 24/7

# HUMAN TRAFFICKING HOTLINE

# 1-866-455-5075

**Report Tips. Request Referrals. CALL NOW.**



in  
partnership  
with:





## Public Safety, Courts and Civil Service Policy Committee Agenda Item Commentary

<b>Item Title:</b> Restated Intergovernmental Agreement for Joint Professional Firefighter Certification
<b>Item Initiator:</b> Danelle Carrel
<b>Staff Source:</b> Deputy Chief Cindy Andersen 303-326-8980
<b>Deputy City Manager Signature:</b>
<b>Outside Speaker:</b>
<b>Council Goal:</b> 1.0: Assure a safe community for people--2012: 1.0--Assure a safe community for peopl

### **ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

### **HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Colorado Metropolitan Certification Board entered into the original IGA in January of 1996. This agreement allows for the certification of firefighters from the six metropolitan agencies (outlined in the IGA). The certification process is over seen by CMCB who is accountable to Pro Board; an nationally accredited certification agency. These standards meet or exceed the standards established by National Fire Protection Association.

### **ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

The attached Restated IGA for Joint Professional Firefighter Certification incorporates all previous addendum's and utilizes current language. This document has been reviewed and approved by the department designated legal representative.

### **QUESTIONS FOR Committee**

### **EXHIBITS ATTACHED:**

CMCB IGA Resolution FINAL.docx  
Restated Intergovernmental Agreement for Joint Professional Firefighter Certification (REVISED FINAL 7-22-20).pdf

RESOLUTION NO. R2020- \_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO APPROVE THE RESTATED INTERGOVERNMENTAL AGREEMENT FOR JOINT PROFESSIONAL FIREFIGHTER CERTIFICATION

WHEREAS, the City of Aurora provides fire and rescue services through its Aurora Fire Rescue; and

WHEREAS, the City of Aurora has participated in the Colorado Metropolitan Certification Board (“CMCB”) pursuant to an intergovernmental agreement entered into effective January 15, 1996, and subsequently amended in 2008, 2010, and 2014; and

WHEREAS, this Restated Intergovernmental Agreement for Joint Professional Firefighter Certification is intended to restate and replace the 1996 agreement and all subsequent amendments to the 1996 Agreement; and

WHEREAS, the CMCB is a cooperative mechanism by which Aurora Fire Rescue and neighboring municipal fire departments and fire protection districts combine resources to cooperate in the certification of professional firefighters; and

WHEREAS, firefighters employed by the City of Aurora receive professional firefighter certifications through the CMCB; and

WHEREAS, Aurora Fire Rescue wishes to continue its cooperation with other members of the CMCB to provide professional firefighter certification; and

WHEREAS, the City is authorized, pursuant to Article XIV of the Colorado Constitution and Section 29-1-201, *et seq.*, of the Colorado Revised Statutes, to cooperate and contract with any political subdivision of the State of Colorado, to provide any function, service or facility lawfully authorized to each of the contracting or cooperating units of government;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, THAT:

Section 1. The Restated Intergovernmental Agreement for Joint Professional Firefighter Certification between the City of Aurora, the City of Colorado Springs, the City and County of Denver, the Poudre Fire Authority, the South Metro Fire Protection District, and the West Metro Fire Protection District, regarding the provision of joint professional firefighter certifications is hereby approved.

Section 2. The Mayor and City Clerk are hereby authorized to execute the attached agreement in substantially the form presented at this meeting with such technical additions, deletions and variations as may be deemed necessary or appropriate by the City Attorney.

Section 3. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.



RESOLVED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
ISABELLE EVANS, Assistant City Attorney II

**RESTATED INTERGOVERNMENTAL AGREEMENT  
FOR  
JOINT PROFESSIONAL FIREFIGHTER CERTIFICATION**

This Restated Intergovernmental Agreement for Joint Professional Firefighter Certification (“Agreement”), effective this [REDACTED] day of [REDACTED], 2020 (“Effective Date”), is made by and between the City of Aurora, the City of Colorado Springs, the City and County of Denver, the Poudre Fire Authority, the South Metro Fire Rescue Fire Protection District, and the West Metro Fire Protection District (collectively the “Contracting Parties” and individually a “Contracting Party”).

1. **AUTHORITY:**

This Agreement is made under authority of Section 29-1-203(1) of the Colorado Revised Statutes (“C.R.S.”).

2. **PURPOSE:**

The purpose of this Agreement is to provide a mechanism for joint professional certification of firefighters employed by the Contracting Parties by combining the resources of the Contracting Parties as authorized by Section 29-1-203(1) C.R.S.; however, nothing herein is intended to create, and shall not be construed as creating, any separate entity as provided under Section 29-1-203(4) C.R.S.

3. **PRIOR INTERGOVERNMENTAL AGREEMENT, AS AMENDED, SUPERSEDED:**

The initial intergovernmental agreement between the original contracting parties was entered into effective January 15, 1996 (“1996 Agreement”), and subsequently amended in 2008, 2010, and 2014. This Agreement is intended to restate and replace the 1996 Agreement and all subsequent amendments to the 1996 Agreement. Upon the Effective Date, this Agreement shall fully supersede and replace the 1996 Agreement and all subsequent amendments thereto, and the 1996 Agreement and all subsequent amendments thereto shall be deemed null and void for all purposes as of the Effective Date.

4. **COLORADO METROPOLITAN CERTIFICATION BOARD:**

a. Contracting Parties and Board Representation.

- i. There is hereby created the Colorado Metropolitan Certification Board (“CMCB”).
- ii. The CMCB will consist of one Board member appointed by each Contracting Party (exclusive of any Contracting Party that withdraws or is involuntarily removed from this Agreement). The Board member shall be the Chief Training Officer or other employee of a Contracting Party who is appointed by its Fire

Chief. The Board member will serve at the pleasure of the appointing Contracting Party and may be replaced at any time by its Fire Chief. In the event a Board member is unable to perform his/her Board member duties due to absence, injury, illness or otherwise, the Contracting Party's Chief Training Officer shall submit to the CMCB another employee of the Contracting Party to serve as a proxy to the Board member.

- iii. Each Board member serving on the CMCB shall have one vote on all matters coming before the CMCB.
  - iv. Meetings of the CMCB shall only be conducted when a quorum of the Board members are participating. A "quorum" means more than one-half the number of Board members serving on the CMCB at the time of the meeting. A vacant Board member position will not be counted for purposes of determining if a quorum is present. A Board member who abstains from a vote will still be counted for purposes of determining if a quorum is present.
  - v. Action by the CMCB shall only be taken by affirmative majority vote. A "majority" means one more than half the Board members present at a meeting where a quorum of the Board members are present.
- b. CMCB Rules, Regulations and Policies. The CMCB shall establish written rules, regulations and policies (collectively, "Rules") for implementation and operation of the professional certification process, including an appeal process. The Rules shall be effective upon written approval by a majority of the CMCB. In the event there is a conflict between a Rule and this Agreement, this Agreement shall control.
- c. CMCB Staff.
- i. The Contracting Parties may, from time-to-time, designate one or more of the Contracting Parties to employ CMCB Staff on behalf of the Contracting Parties. Such designation shall only be effective upon the affirmative majority vote of the CMCB and the written consent of the Contracting Party(ies) that are being designated to employ one or more of the CMCB Staff. CMCB Staff shall include but not be limited to a full-time CMCB Director and a part-time CMCB Managing Evaluator ("Managing Evaluator"). The CMCB Director will dedicate at least 40 hours per workweek to the CMCB and its activities. The Managing Evaluator will dedicate 29 hours per workweek to the CMCB and its activities. A Contracting Party employing one or more of the CMCB Staff shall be responsible for ensuring the employee(s) is/are correctly classified and compensated under the federal Fair Labor Standards Act. A Contracting Party employing one or more of the CMCB Staff shall be responsible for compensating the employee(s) in accordance with the applicable rate schedules and benefits as determined from time to time by that Contracting Party.
  - ii. A Contracting Party employing one or more of the CMCB Staff shall provide Workers Compensation Coverage, tax withholding and payroll deductions, and

all other relevant human resource functions as are provided to other comparable employees of that Contracting Party. The CMCB's supervision of the CMCB Director will be provided through the CMCB Chairperson.

- iii. All liabilities, judgments, expenses, wages, benefits, and costs of the CMCB, whatsoever, shall be shared equally between the Contracting Parties. A Contracting Party employing one or more of the CMCB Staff shall establish specific budget codes through which CMCB funds will be maintained, and all expenses relating to CMCB Staff shall be drawn directly from the applicable CMCB budget codes. Once per quarter (March, June, September, and December) the CMCB Director shall calculate the actual expenses, and prepare an invoice to each Contracting Party for its share of the actual expenses.
  - iv. The duties of CMCB Staff shall be determined by the CMCB. The CMCB Director shall provide services only for the CMCB and shall not be used as an administrative backup for any Contracting Party. However, in the event the CMCB Director position becomes vacant, or in the absence of the CMCB Director, the Managing Evaluator shall provide backup services until the CMCB Director position is filled or the CMCB Director resumes his/her duties. The expenses of providing the backup services shall be shared between the Contracting Parties as provided for the CMCB Director in this Section.
  - v. The Contracting Parties agree that provision of CMCB Staff is an activity which, as recognized by Section 29-1-203 C.R.S., could be performed separately by each Contracting Party. Accordingly, the Contracting Parties agree that, for purposes of the Colorado Constitution, Article X, Section 20, any funds contributed, paid or otherwise provided by any Contracting Party to a Contracting Party employing one or more of the CMCB Staff are and remain solely an expenditure of that Contracting Party, and are not revenue or expenditures of the Contracting Party(ies) employing one or more of the CMCB Staff.
- d. CMCB Staff Office Space. The Contracting Parties may, from time-to-time, designate one or more Contracting Parties to provide office space for CMCB Staff on behalf of the Contracting Parties. Such designation shall only be effective upon the affirmative majority vote of the CMCB and the written consent of the Contracting Party(ies) that are being designated to provide office space for CMCB Staff. A Contracting Party providing office space for CMCB Staff shall receive a credit per quarter for the office space.
- e. IT/Finance Support. The Contracting Parties may, from time-to-time, designate one or more Contracting Parties to provide IT/Finance support on behalf of the Contracting Parties for the CMCB and its authorized activities. Such designation shall only be effective upon the affirmative majority vote of the CMCB and the written consent of the Contracting Party(ies) that are being designated to provide IT/Finance

support. A Contracting Party providing IT/Finance support shall receive a credit per quarter for the IT/Finance support.

5. TRAINING AND FACILITIES:

Each Contracting Party shall conduct its certification training and testing using its own facilities and equipment, except that, for economy of resources, the CMCB may from time to time designate joint training facilities and joint training equipment, with the consent of the Chief Training Officer(s) of the Contracting Party(ies) owning or controlling those facilities or equipment.

6. OWNERSHIP OF MATERIALS AND EQUIPMENT:

All testing materials developed or acquired under this Agreement shall be the joint property of the Contracting Parties to this Agreement. Any equipment acquired under this Agreement shall be approved by the CMCB prior to acquisition and payment for that equipment. The individual files of any firefighter tested pursuant to this Agreement shall be the sole property of the Contracting Party employing the firefighter. Nothing in this Agreement is intended, or shall be construed, to modify, waive or amend any provision of the Colorado Open Records Act, the Colorado Governmental Immunity Act, or any other State or Federal law.

7. LAW:

This Agreement is subject to and shall be interpreted under Colorado law and the applicable Charter, City Code, Ordinances, Rules, and Regulations of the Contracting Parties.

8. APPROPRIATION OF FUNDS:

In accordance with state and local law, performance of any Contracting Party's obligations under this Agreement is expressly subject to appropriation of funds by the Contracting Party's governing body and the availability of those funds under state and local spending limitations. The Contracting Parties acknowledge that: a) the Contracting Parties do not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years; and, b) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of any Contracting Party.

9. WORKER'S COMPENSATION INSURANCE:

Each Contracting Party shall provide during the period of this Agreement, Colorado Worker's Compensation Insurance for all personnel of the Contracting Party.

10. INTELLECTUAL PROPERTY RIGHTS:

The Contracting Parties agree that all products, item writings, designs, models, examples, or other work product produced or acquired pursuant to this Agreement shall be jointly owned by the Contracting Parties, and each Contracting Party shall have joint ownership of any intellectual property rights of such materials.

11. NON-DISCLOSURE OF CONFIDENTIAL COMMERCIAL DATA:

Confidential information provided to the Contracting Parties under this Agreement is subject to and shall be interpreted under Colorado law, including non-disclosure of confidential commercial data under Section 24-72-204(3)(a)(IV) C.R.S.

12. LIABILITY FOR FACILITIES, EQUIPMENT AND EMPLOYEES:

- a. No employee of a Contracting Party shall participate in any activity under this Agreement unless the employee is on duty within the meaning of the federal Fair Labor Standards Act. When a Contracting Party's employee attends training or otherwise participates in activities under this Agreement, that employee shall at all times remain exclusively under the direction of that Contracting Party, and that Contracting Party shall be responsible for all compensation and benefits, including Workers Compensation benefits, for that employee, and each Contracting Party shall handle all legal issues raised by or pertaining to its employee or personnel.
- b. When a Contracting Party's facility or equipment is utilized under this Agreement, that Contracting Party shall remain responsible for the facility or equipment and shall be responsible for any claims or damages resulting from the use of that facility or equipment, except that employees of any Contracting Party are deemed to be performing their duties for their own Contracting Party when utilizing another Contracting Party's facility or equipment, and shall be covered by their own Contracting Party's benefits in the event of injury or other claims or damage. In the event that a facility or equipment is damaged, the Contracting Party whose employee is responsible for the damage shall be responsible for the costs of that damage unless the damage is intentional, in which case the Contracting Party owning the facility or equipment may pursue all legal remedies against the person intentionally causing the damage.
- c. Subject to the limitations of subparagraph 12(b) above, in the event that a legal action for damages is brought against a Contracting Party as a result of its facility or equipment use under subparagraph 12(b) above, that Contracting Party may request reimbursement of any and all fees, costs or damages paid as a result of the legal action or settlement thereof, from the Contracting Party whose employee was responsible for the damages, and the employee's Contracting Party may reimburse those expenses subject to subparagraph 12(d) below. In the event that an insurance payment is made by a Contracting Party as a result of vehicle operation under

subparagraph 12(b) above, the Contracting Party that owns the vehicle may request reimbursement of any and all fees, costs or damages paid as a result of the legal action or settlement thereof, and the Contracting Party whose employee caused the damage may reimburse those expenses subject to subparagraph 12(d) below.

- d. Reimbursements under this Agreement shall be subject to appropriation of funds by the Contracting Party's governing body for that purpose, and nothing herein shall be construed as requiring appropriation of funds by any governing body. In addition, the Contracting Parties may, at their sole option, agree to pay any reimbursement, or any judgment of financial liability to a third party, resulting from operation of a facility or equipment, from special funds which the Contracting Parties may from time to time choose to appropriate for that purpose, on behalf of the liable Contracting Party.
- e. Nothing in this Agreement shall be construed to place the officers of any Contracting Party under the control or employment of another Contracting Party. Each Contracting Party remains responsible for all compensation, benefits, employment decisions, and worker's compensation liabilities, for its own personnel. Nothing in this Agreement is intended to create or grant to any third party or person any right or claim for damages or the right to bring or maintain any action at law, nor does any Contracting Party waive its immunities at law, including immunity granted under the Colorado Governmental Immunity Act.

### 13. ASSIGNMENT:

A Contracting Party's rights and responsibilities under this Agreement shall not be assigned or otherwise transferred without the prior written consent of all other Contracting Parties to this Agreement at the time of the potential assignment or transfer.

### 14. WITHDRAWAL OR REMOVAL FROM AGREEMENT; TERMINATION:

- a. Withdrawal from Agreement. A Contracting Party may withdrawal from this Agreement upon sixty (60) calendar days prior written notice to all other Contracting Parties at the time of such withdrawal. Upon withdrawal, the Contracting Party shall have no further right, title or interest in or to any equipment or materials under Section 6 (Ownership of Materials and Equipment) or intellectual property rights under Section 10 (Intellectual Property Rights) of this Agreement, except as permitted by Section 16.
- b. Removal. The CMCB may remove a Contracting Party as a party to this Agreement upon the occurrence of either of the following: i) the Contracting Party's breach of this Agreement ("Breach"); or ii) the Contracting Party's failure to pay in full at the required time all amounts owed under this Agreement ("Failure to Pay"). The procedure for such removal shall be as follows:
  - 1. *Super Majority Vote*. Removal shall require a Super Majority vote of the CMCB at a meeting during which the Contracting Party shall have the

opportunity to present relevant evidence in its defense, which relevancy shall be determined by the CMCB. “Super majority vote” means at least sixty-six percent (66%) of the Board members attending a CMCB meeting where a quorum of the Board members are present.

2. *Opportunity to Cure.* If the Board members vote to remove a Contracting Party as set forth above, the Contracting Party shall have thirty (30) calendar days to cure a Breach, or ten (10) calendar days to cure a Failure to Pay, as applicable.
  3. *Final Removal Vote.* At a meeting where a quorum of the Board members are participating, the CMCB shall determine whether the Contracting Party cured the violation within the applicable cure period. The CMCB may review such evidence as it determines is reasonable and necessary and shall thereafter vote on the matter. Whether the Contracting Party successfully cured the violation shall be determined by a majority vote of the Board members. If the meeting is to evaluate the cure of a Breach, this meeting shall be held not less than thirty (30) calendar days and not more than sixty (60) calendar days after a super majority vote of the Board members to remove the Contracting Party. If the meeting is to evaluate the cure of a Failure to Pay, this meeting shall be held not less than ten (10) calendar days nor more than thirty (30) calendar days after a super majority vote of the Board members to remove the Contracting Party. If the CMCB determines that the Contracting Party did not cure the violation, the Contracting Party shall be removed as a party to this Agreement.
  4. Upon removal, the terminated Contracting Party shall have no further right, title or interest in or to any equipment or materials under Section 6 (Ownership of Materials and Equipment) or intellectual property rights under Section 10 (Intellectual Property Rights) of this Agreement, except as permitted by Section 16. Removal of one or more Contracting Parties shall not cause termination of this Agreement.
- c. Termination. This Agreement may be terminated at any time by written agreement of all the Contracting Parties, or all of the Contracting Parties except one, who are a Contracting Party to this Agreement at the time of such termination. The Contracting Parties will use their best efforts to reach an equitable division of any equipment or materials jointly developed or acquired by the CMCB pursuant to this Agreement, and any associated intellectual property rights, or, if not divided, how given equipment or property will continue to be jointly owned, including any associated intellectual property rights.

#### 15. NEW CONTRACTING PARTIES:

- a. A governmental agency may become a Contracting Party to this Agreement upon the super majority vote of the CMCB consenting to the governmental agency becoming a Contracting Party. In addition to considering such addition factors as it deems appropriate, the CMCB shall find that the governmental agency:



- i. Is accredited by the Commission on Fire Accreditation International (CFAI) or has demonstrated it can obtain accreditation within one year of becoming a Contracting Party;
  - ii. Operates on, or has demonstrated that within one year of becoming a Contracting Party it will operate on, a common Learning Management System platform consistent with CMCB;
  - iii. Has a training facility/training site and equipment that conforms to NFPA 1402, as may be amended from time to time.
  - iv. Agrees to be bound by all terms and conditions of this Agreement upon becoming a Contracting Party.
- b. Upon the CMCB's consent pursuant to Section 15(a), above, the new Contracting Party shall sign a written document agreeing to become a Contracting Party, stating the effective date of such joinder, and that the new Contracting Party shall be subject to all of the terms and conditions of this Agreement as if the new Contracting Party had been an original Contracting Party to this Agreement. Upon the new Contracting Party's execution of such document, the document shall constitute a valid and binding amendment to this Agreement with no further action being required by the Contracting Parties.

#### 16. EXAMINATION OF RECORDS:

The Contracting Parties agree that any duly authorized representative of any Contracting Party shall, until five years following a Contracting Party's withdrawal from this Agreement, or the Termination of this Agreement, whichever shall occur first, have access to and the right to examine any directly pertinent books, documents, papers and records of each Contracting Party involving transactions related to this Agreement, except for any books, documents, papers and records that confidential or privileged under state or federal law.

#### 17. NO THIRD-PARTY BENEFICIARY:

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and any rules, regulations or policies promulgated pursuant to this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Contracting Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any third person or entity, including but not limited to contractors, subcontractors, subconsultants, suppliers, and persons seeking certification. It is the expressed intention of the Contracting Parties that any person or entity, other than the Contracting Parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

18. SEVERABILITY:

It is understood and agreed by the Contracting Parties that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Contracting Parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid. Further, the Contracting Parties agree and acknowledge that the activities contained in this Agreement are matters of local concern only, and that the Contracting Parties have mutually joined together for the performance of the matters of local concern, and that nothing in this Agreement shall be construed as making any of the local concerns covered herein matters of statewide concern.

19. INTEGRATION; AMENDMENT:

This is a completely integrated Agreement and contains the entire agreement between the Contracting Parties. Any prior written or oral agreements or representations regarding the subject matter of this Agreement shall be of no effect and shall not be binding on any Contracting Party. Further, the Contracting Parties acknowledge and agree that this is a negotiated text agreement, and that as such no term shall be construed against any Contracting Party as the author thereof. This Agreement shall only be amended in writing, with approval by the governing bodies of the Contracting Parties, and signatures of the authorized representative of each Contracting Party. Course of performance, no matter how long, shall not constitute an amendment to this Agreement.

20. EXECUTION:

This Agreement may be executed in counterparts and by facsimile or electronic PDF, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the governing bodies of the Contracting Parties have executed this Agreement on the dates indicated below:

[SIGNATURE PAGES IMMEDIATELY FOLLOW]

**FOR THE CITY OF AURORA:**

By: \_\_\_\_\_  
Mayor

This \_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Assistant City Attorney

Recommended and Approved for Aurora:

By: \_\_\_\_\_  
Deputy City Manager for Community Services

By: \_\_\_\_\_  
Fire Chief

**FOR THE CITY OF COLORADO SPRINGS:**

By: \_\_\_\_\_  
Mayor

This \_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

By: \_\_\_\_\_  
Deputy City Clerk

Approved as to Form:

By: \_\_\_\_\_  
City Attorney

**FOR THE CITY AND COUNTY OF DENVER:**

By: \_\_\_\_\_  
Fire Chief

This \_\_\_\_ day of \_\_\_\_\_, 2020.

Recommended and Approved for Denver:

By: \_\_\_\_\_  
Executive Director of Safety

By: \_\_\_\_\_  
Fire Chief

**FOR POUUDRE FIRE AUTHORITY:**

By: \_\_\_\_\_  
Board Chair

This \_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

By: \_\_\_\_\_  
Board Secretary

Approved as to Form:

By: \_\_\_\_\_  
General Counsel

**FOR SOUTH METRO FIRE RESCUE FIRE PROTECTION DISTRICT:**

By: \_\_\_\_\_  
Fire Chief

This \_\_\_ day of \_\_\_\_\_, 2020.

**FOR THE WEST METRO FIRE PROTECTION DISTRICT:**

By: \_\_\_\_\_  
Fire Chief

This \_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
District's Attorney





## Public Safety, Courts and Civil Service Policy Committee Agenda Item Commentary

<b>Item Title:</b> Whistle Blower Policy
<b>Item Initiator:</b> Danelle Carrel
<b>Staff Source:</b> Dianna Giordano, Human Resources Director
<b>Deputy City Manager Signature:</b>
<b>Outside Speaker:</b>
<b>Council Goal:</b> 1.0: Assure a safe community for people--2012: 1.0--Assure a safe community for peopl

### **ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

**HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

### **ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

An overview of the City's Anti-Retaliation policy will be covered that allows individuals the ability to report wrongdoing and ensure no adverse action or retaliation will occur. This will cover the types of activity protected, reporting mechanisms and discussion about the practices of the City to ensure this does not occur, which encompasses the "whistleblower" protections in municipal government.

### **QUESTIONS FOR Committee**

### **EXHIBITS ATTACHED:**

Human Resources Retaliation and Whistleblower Overview 10-20.pdf



CITY OF AURORA  
HUMAN RESOURCES DEPARTMENT  
PUBLIC SAFETY COMMITTEE  
OCTOBER – 2020

RETALIATION & WHISTLEBLOWER POLICY OVERVIEW

The City of Aurora prohibits retaliation and applies this prohibition to all employees including Career Service and Civil Service. The City's **Employee Manual Section 1.3 Anti-Retaliation Policy** guards all employees from adverse action, conditions of employment, career development or futures dealings with the City when the employee:

- Files a compliant or report of illegal harassment, discrimination, a violation or potential violation of a City policy or procedure that is reported in good faith; or
- Participates in a complaint or investigative inquiry

Employees are afforded multiple reporting mechanisms to report concerns of this nature to include reporting to their Supervisor, Manager, Department Director/Chief/Appointee, the Human Resources Department, Deputy City Manager or the City Manager directly. In addition, the City has an external reporting tool, Ethical Advocate, which allows for online or telephonic reporting with the ability to remain completely anonymous.

Further the City policy forbids supervisory or managerial personnel that are made aware of retaliation and fail to take remedial action and escalate the matter as appropriate.

Whistleblower laws are slightly different in that protections are commonly stated in Federal and State statutes and extend protections to individuals that report illegal or fraudulent activity to an internal or external enforcement authority. This would involve matters, such as misappropriating public funds, fraud, waste or abuse. While the City does not have specific criteria for "whistleblower" the "anti-retaliation" policies would apply.



## Public Safety, Courts and Civil Service Policy Committee Agenda Item Commentary

<b>Item Title:</b> SB 217 Overview
<b>Item Initiator:</b> Danelle Carrel
<b>Staff Source:</b> Deputy City Attorney Nancy Rodgers
<b>Deputy City Manager Signature:</b>
<b>Outside Speaker:</b>
<b>Council Goal:</b> 1.0: Assure a safe community for people--2012: 1.0--Assure a safe community for peopl

### **ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

**HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

### **ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

Staff will present a short summary on the provisions in SB 217, the law enforcement reform measure passed by the Colorado legislature this summer.

### **QUESTIONS FOR Committee**

Information only

### **EXHIBITS ATTACHED:**

2019a\_1119\_signed.pdf  
Summary of SB 217 (10-8-2020).pdf

# An Act

HOUSE BILL 19-1119

BY REPRESENTATIVE(S) Coleman, Herod, Exum, Benavidez, Gonzales-Gutierrez, Lontine, Duran, Galindo, Melton, Sirota, Snyder, Weissman;  
also SENATOR(S) Foote, Gonzales, Moreno.

CONCERNING PUBLIC DISCLOSURE OF A COMPLETED PEACE OFFICER  
INTERNAL INVESTIGATION FILE.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 24-72-303, **add** (4) and (5) as follows:

**24-72-303. Records of official actions required - open to inspection - applicability.** (4) (a) UPON COMPLETION OF AN INTERNAL INVESTIGATION, INCLUDING ANY APPEALS PROCESS, THAT EXAMINES THE IN-UNIFORM OR ON-DUTY CONDUCT OF A PEACE OFFICER, AS DESCRIBED IN PART 1 OF ARTICLE 2.5 OF TITLE 16, RELATED TO A SPECIFIC, IDENTIFIABLE INCIDENT OF ALLEGED MISCONDUCT INVOLVING A MEMBER OF THE PUBLIC, THE ENTIRE INVESTIGATION FILE, INCLUDING THE WITNESS INTERVIEWS, VIDEO AND AUDIO RECORDINGS, TRANSCRIPTS, DOCUMENTARY EVIDENCE, INVESTIGATIVE NOTES, AND FINAL DEPARTMENTAL DECISION IS OPEN FOR

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

PUBLIC INSPECTION UPON REQUEST; EXCEPT THAT THE CUSTODIAN MAY FIRST PROVIDE THE REQUESTER WITH A SUMMARY OF THE INVESTIGATION FILE AND IF, AFTER REVIEWING THE SUMMARY, THE REQUESTER REQUESTS ACCESS TO THE INVESTIGATION FILE, THE CUSTODIAN SHALL PROVIDE ACCESS TO THE ENTIRE INVESTIGATION FILE SUBJECT TO THE PROVISIONS OF SUBSECTIONS (4)(b), (4)(c), AND (4)(d) OF THIS SECTION.

(b) PRIOR TO PROVIDING ACCESS TO THE INTERNAL INVESTIGATION FILE PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, THE CUSTODIAN SHALL REDACT OR REMOVE THE FOLLOWING INFORMATION FROM THE DISCLOSED RECORDS:

(I) ANY PERSONAL IDENTIFYING INFORMATION AS DEFINED BY SECTION 6-1-713 (2)(b);

(II) ANY IDENTIFYING OR CONTACT INFORMATION RELATED TO CONFIDENTIAL INFORMANTS, WITNESSES, OR VICTIMS;

(III) THE HOME ADDRESS, PERSONAL PHONE NUMBER, AND PERSONAL E-MAIL ADDRESS OF A PEACE OFFICER;

(IV) ANY INFORMATION PROHIBITED FOR PUBLIC RELEASE BY STATE OR FEDERAL LAW; EXCEPT THAT INTERNAL INVESTIGATION RECORDS EXAMINING IN-UNIFORM OR ON-DUTY CONDUCT OF A PEACE OFFICER DURING AN ALLEGED INCIDENT OF OFFICE MISCONDUCT WHILE INTERACTING WITH A MEMBER OF THE PUBLIC DOES NOT FALL WITHIN THE DEFINITION OF "PERSONNEL FILES" IN SECTION 24-72-202 (4.5);

(V) ANY MEDICAL OR MENTAL HEALTH INFORMATION;

(VI) ANY IDENTIFYING INFORMATION RELATED TO A JUVENILE; AND

(VII) ANY NONFINAL DISCIPLINARY RECOMMENDATIONS.

(c)(I) IN ADDITION TO THE INFORMATION REQUIRED TO BE REDACTED PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION, PRIOR TO PROVIDING ACCESS TO THE INTERNAL INVESTIGATION FILE PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, THE CUSTODIAN MAY ALSO REDACT ONLY THE FOLLOWING FROM DISCLOSED RECORDS:

(A) ANY COMPELLED STATEMENTS MADE BY PEACE OFFICERS WHO ARE THE SUBJECT OF A CRIMINAL INVESTIGATION OR A FILED CRIMINAL CASE DIRECTLY RELATED TO CONDUCT UNDERLYING THE INTERNAL INVESTIGATION;

(B) ANY VIDEO INTERVIEWS IF AN OFFICIAL TRANSCRIPT OF THE INTERVIEW IS PRODUCED, UNLESS, AFTER RECEIVING THE TRANSCRIPT, THE REQUESTER REQUESTS THE VIDEO;

(C) ANY VIDEO OR PHOTOGRAPH THAT RAISES SUBSTANTIAL PRIVACY CONCERNS FOR CRIMINAL DEFENDANTS, VICTIMS, WITNESSES, OR INFORMANTS, INCLUDING VIDEO REFLECTING NUDITY, A MEDICAL EMERGENCY, A MENTAL HEALTH CRISIS, A VICTIM INTERVIEW, OR THE INTERIOR OF A HOME OR TREATMENT FACILITY. WHENEVER POSSIBLE, THE VIDEO SHOULD BE REDACTED OR BLURRED TO PROTECT THE PRIVACY INTEREST WHILE STILL ALLOWING PUBLIC RELEASE.

(D) THE IDENTITY OF OFFICERS WHO VOLUNTEERED INFORMATION RELATED TO THE INTERNAL INVESTIGATION BUT WHO ARE NOT A SUBJECT OF THE INTERNAL INVESTIGATION; AND

(E) SPECIFIC INFORMATION THAT WOULD REVEAL CONFIDENTIAL INTELLIGENCE INFORMATION, CONFIDENTIAL SECURITY PROCEDURES OF A LAW ENFORCEMENT AGENCY OR THAT, IF DISCLOSED, WOULD COMPROMISE THE SAFETY OF A PEACE OFFICER, WITNESS, OR INFORMANT. HOWEVER, NOTHING IN THIS SUBSECTION (4)(c)(I)(E) JUSTIFIES OR PERMITS THE REDACTION OR WITHHOLDING OF INFORMATION DESCRIBING OR DEPICTING USE OF FORCE BY A PEACE OFFICER ON A MEMBER OF THE PUBLIC.

(II) IF A RECORD CONTAINS INFORMATION REDACTED PURSUANT TO THIS SUBSECTION (4)(c), THE APPLICANT MAY REQUEST A WRITTEN EXPLANATION OF THE REASONS FOR THE REDACTION.

(d) A WITNESS, VICTIM, OR CRIMINAL DEFENDANT MAY WAIVE IN WRITING THE INDIVIDUAL PRIVACY INTEREST THAT MAY BE IMPLICATED BY PUBLIC RELEASE. UPON RECEIPT OF SUCH A WRITTEN WAIVER, ACCOMPANIED BY A REQUEST FOR RELEASE OF THE RECORDS, THE CUSTODIAN SHALL NOT REDACT, REMOVE, OR WITHHOLD RECORDS TO PROTECT THE WAIVED PRIVACY INTEREST.

(e) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4)(a) OF THIS SECTION, THE CUSTODIAN OF AN INTERNAL INVESTIGATION FILE AS DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION MAY DENY INSPECTION OF THE FILE IF THERE IS AN ONGOING CRIMINAL INVESTIGATION OR CRIMINAL CASE AGAINST A PEACE OFFICER RELATED TO THE SUBJECT OF THE INTERNAL INVESTIGATION. THE INVESTIGATION FILE MUST BE OPEN FOR PUBLIC INSPECTION UPON THE DISMISSAL OF ALL CHARGES OR UPON A SENTENCE FOR A CONVICTION.

(f) ANY PERSON WHO HAS BEEN DENIED ACCESS TO ANY INFORMATION IN A COMPLETED INTERNAL AFFAIRS INVESTIGATION FILE MAY FILE AN APPLICATION IN THE DISTRICT COURT IN THE COUNTY WHERE THE RECORDS ARE LOCATED FOR AN ORDER DIRECTING THE CUSTODIAN THEREOF TO SHOW CAUSE WHY THE WITHHELD OR REDACTED INFORMATION SHOULD NOT BE MADE AVAILABLE TO THE APPLICANT. THE COURT SHALL SET THE HEARING ON THE ORDER TO SHOW CAUSE AT THE EARLIEST PRACTICAL TIME. IF THE COURT DETERMINES, BASED ON ITS INDEPENDENT JUDGMENT, APPLYING DE NOVO REVIEW, THAT ANY PORTION OR PORTIONS OF THE COMPLETED INTERNAL AFFAIRS INVESTIGATION FILE WERE IMPROPERLY WITHHELD PURSUANT TO THIS SECTION, THE COURT SHALL ORDER THE CUSTODIAN TO PROVIDE THE APPLICANT WITH A COPY OF THOSE PORTIONS THAT WERE IMPROPERLY WITHHELD.

(g) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (4)(a) AND (4)(e) OF THIS SECTION, THE CUSTODIAN OF AN INTERNAL INVESTIGATION FILE AS DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION MAY DENY INSPECTION OF THE FILE IF THE INSPECTION IS PROHIBITED BY RULES PROMULGATED BY THE COLORADO SUPREME COURT OR BY A COURT ORDER.

(h) THIS SUBSECTION (4) APPLIES TO INTERNAL INVESTIGATIONS INITIATED AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4).

(5) ANY COMPELLED STATEMENT BY A PEACE OFFICER, OR EVIDENCE DERIVED FROM THAT COMPELLED STATEMENT, MAY NOT BE USED AGAINST THAT OFFICER IN A CRIMINAL PROSECUTION.

**SECTION 2.** In Colorado Revised Statutes, 24-72-305, **amend** (5) as follows:

**24-72-305. Allowance or denial of inspection - grounds -**

**procedure - appeal.** (5) On the ground that disclosure would be contrary to the public interest, and unless otherwise provided by law, INCLUDING AS REQUIRED BY SECTION 24-72-303 (4), the custodian may deny access to records of investigations conducted by or of intelligence information or security procedures of any sheriff, district attorney, or police department or any criminal justice investigatory files compiled for any other law enforcement purpose.

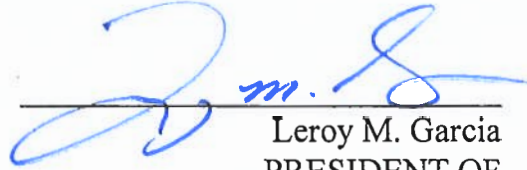
**SECTION 3. Safety clause.** The general assembly hereby finds,



determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



KC Becker  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

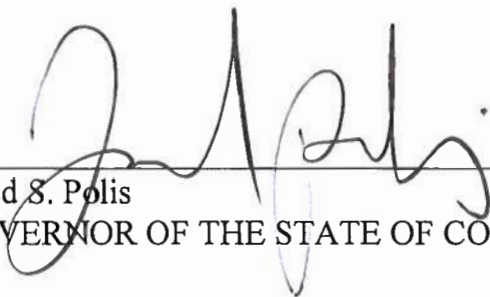


Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES



Cindi L. Markwell  
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THE SENATE

APPROVED APRIL 12<sup>m</sup>, 2019 AT 10:57A.M.  
(Date and Time)

  
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Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO

**SUMMARY OF SB 217**  
**Concerning Measures to Enhance Law Enforcement Integrity and,**  
**In Connection Therewith, Making an Appropriation**

Final bill version can be located here: [link](#)

Provisions are effective upon signing (6/19/2020) unless otherwise indicated in red.

**SECTION 1: Statewide Concern**

- The provisions of this bill are a matter of statewide concern

**SECTION 2: Law Enforcement Integrity (CRS 24-31-901)**

- Definitions -- there are 6 definitions including:
  - Contacts – interaction with an individual (traffic included) – consensual or not – initiated by an officer for the purpose of enforcing the law or investigation of possible violations of the law (does not include routine interactions with public at entry or exit from a controlled area)
  - Physical force – the application of physical techniques or tactics, chemical agents, or weapons to another person
  - Tamper – intentionally damage, disable, dislodge or obstruct the sight or sound or otherwise impact functionality of a BWC or to intentionally damage, delete, or fail to upload some or all portions of a video
- Body Worn Cameras (CRS 24-31-902(1)) - **Effective date for entire BWC part 7/1/2023**
  - BWC for all officers who interact with the public
  - Incident Recordings
    - Must wear and activate BWC and dash camera (if there is one) when contacting the public for enforcement or investigation
    - May turn off to in certain circumstances:
      - Avoid recording personal information that is not case related
      - When working on an unrelated assignment
      - When there is a long break in the incident/contact
      - In administrative, tactical and management discussions
    - Not required to wear/activate when undercover
  - Consequences for not recording
    - Permissive inference in any legal proceeding or investigation that missing footage would have reflected misconduct of the officer
      - Not applicable in criminal proceedings against the officer
    - Presumptive inadmissibility of unrecorded statements
    - Termination, POST suspension
      - If court, ALJ, hearing officer, or final finding in an IA finds that an officer *intentionally failed* to activate a BWC or tampered with any BWC, the officer’s employer shall impose discipline up to an including termination (to the extent permitted by law).
      - AND if court, ALJ, hearing officer, IA finding is there was also *intent to conceal* unlawful or inappropriate actions or obstruct justice, POST

- shall suspend certification for no less than 1 year (if citizen death, then permanent revocation)
- Disclosure of Video and Audio (CRS 24-31-902(2)) - **Effective date 7/1/2023**
  - If complaint received, then all unedited video and audio recordings of the incident of all types must be released to public within 21 days of the receipt of the complaint.
  - Following any death: upon request to the family (individuals listed) or lawful representative, disclosure at least 72 hours prior to public disclosure (family or lawful representative must be told of this right)
  - Required redaction
    - Any video that raises substantial privacy concerns for criminal defendants, victims, witnesses, juveniles, or informants shall be redacted or blurred to protect the privacy interest while still allowing release
    - Unredacted footage shall not be released with the written authorization of the victim or victim's next of kin (if person deceased)
    - If redaction is not possible, the video is release to the victim or victim's family/lawful rep within 21 days of a complaint of misconduct.
    - When recording is not released, the agency shall notify the person whose privacy interest is implicated, if possible, within 20 days after a receipt of a complaint and inform the person of their right to waive the privacy interest.
  - Can withhold video if it would substantially interfere or jeopardize active investigation, except video shall be released within 45 days of allegation of misconduct.
    - Prosecuting attorney must provide a written explanation
  - If criminal charges filed, the defending party must file any constitutional objections to the release before the 21 day period expires
    - 21 day period is calculated differently in this section.
- Division of Criminal Justice Report (CRS 24-31-903) - **Effective date - 1/1/2023 (Agencies' reporting requirement); 7/1/2023 (Division of Criminal Justice needs to create annual report)**
  - Content to be provided by agencies
    - All use of force that results in death/SBI with specific info (defined in bill)
    - Any resignations while under investigation by agency
    - All data related to contacts by the department's officers (see Section 16 below requiring officers to collect data about contacts)
    - All instances of unannounced entry into a residence with or without a warrant (date, time, location, perceived demographic, weapon use)
  - Statewide database published by DCJ
    - No name, address, SSN, or other unique PII of subject, victim, persons searched.
  - Suspension of funding as a consequence for failing to submit report
- Revoke POST certification after conviction/civil liability (CRS 24-31-904)
  - Conviction for unlawful use or threatened use of unlawful force, or is found civilly liable for the use of unlawful force means POST decertification
- Protest and Demonstrations (CRS 24-31-905)
  - No KIP or projectiles targeting head, pelvis or back
  - No indiscriminate discharge
  - No chemical agents or irritants, pepper spray/tear gas, prior to order to disperse and time/space to comply

**SECTION 3: New Civil Action for Deprivation of Rights (CRS 13-21-131)**

- An officer employed by local govt who under color of law, subjects another person to the deprivation of any individual rights secured by the Colo Constitution or a person who fails to intervene on such deprivation, is liable.
- No statutory immunities or limitations apply; CGIA does not apply
  - Qualified immunity is not a defense
- Prevailing plaintiff will be awarded fees and costs
  - Prevailing defendant will be awarded fees and costs for any claims the court finds frivolous
- Employer shall indemnify for any liability
  - EXCEPT, if employer determines the officer did not act upon good faith and reasonable belief that action was lawful, then officer personally liable and shall not be indemnified for 5% or \$25,000, whichever is less
    - If this is "uncollectible" by the officer, then the employer or employer's insurance shall pay.
  - EXCEPT, no indemnification required if officer is convicted of a criminal violation for the conduct.
- 2 year statute of limitations

**SECTION 4: Use of Force - special relationships (CRS 18-1-703)**

- **Effective 9/1/2020**
- Jail/prisons - added "objectively reasonable and appropriate" force to maintain order and discipline
- Jail/prisons - added "objectively reasonable and appropriate" deadly force only if the inmate poses an immediate threat to the person using deadly force

**SECTION 5: Use of Force by Officers (repeals current CRS 18-1-707 and reenacts it)**

- **Effective 9/1/2020 (except chokehold and use of deadly force)**
- Change in Statutory Use of Force – CRS 18-1-707
- Nonviolent means: Officers shall apply nonviolent means, when possible, before resorting to physical force.
  - New definition of physical force (see above): *the application of physical techniques or tactics, chemical agents, or weapons to another person*
- Physical Force
  - An officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of SBI or death to the officer or another person.
  - When physical force is used, an officer shall
    - NOT use deadly physical force to apprehend someone for a minor or nonviolent offense;
    - Use only a degree of force consistent with the minimization of injury to others;

- Ensure that assistance and medical aid are rendered as soon as practicable;  
AND
- Ensure that any identified relatives or next of kin of persons who have SBI or death are notified as soon as practicable.
- Officers may not use a chokehold. **Effective upon passage**
  - Defined as a method by which a person applies sufficient pressure to a person to make breathing difficult or impossible and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing or reduce intake of air.
  - Also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.
- Deadly Physical Force is justified. **Effective upon passage.**
  - To make an arrest only when all other means of apprehension are unreasonable given the circumstances; AND
  - The arrest is for a felony involving conduct including the use or threatened use of deadly physical force; AND
  - The suspect poses an immediate threat to the officer or another person; and
  - The force does not create a substantial risk of injury to other persons.
- Identification.
  - An officer shall ID him/herself and give a clear verbal warning of the intent to use a firearm or other deadly physical force with sufficient time for the warning to be observed, unless to do so would unduly place officers at risk of injury or would create a risk of death to other persons.
- Notwithstanding any of the above:
  - An officer is justified in using deadly force in the officer has an objectively reasonable belief that a lesser degree of force is inadequate, and the officer has objectively reasonable grounds to believe, and does believe, that the officer or another person is in imminent danger of being killed or receiving SBI.

**SECTION 6: Duty to Intervene; amends CRS 18-8-802 (duty to report use of force)**

- An officer shall intervene to prevent or stop another officer from using force in excess of what's allowed by CRS 18-1-707 in pursuance of the officer's duties in an arrest, custody, detention, booking, or crowd or riot control, without regard for chain of command
  - Following intervention, officer must report the intervention to supervisor
    - Report needs to be in writing
    - Report must be done within 10 days of the occurrence
    - Must include data, time, place, identify of participants and description
    - Intervention report must be appended to all other reports of the incident
  - No discipline or retaliation against those who intervene or reporting unconstitutional conduct or failing to follow what officer believes is an unconstitutional directive.
- Criminal Charges
  - Failure to intervene is a Class 1 misdemeanor.
  - If an ALJ or IA investigation finds that an officer failed to intervene, the finding must be presented to the DA so the DA can determine whether charges should be filed (if charges haven't already been filed related to the incident).

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- Discipline and POST Decertification
  - If ALJ, Judge, or IA investigation finds that officer failed to intervene, the employing agency shall subject the officer to discipline up to an included termination.
  - Also, the POST board shall permanently decertify the officer upon receipt of notice of the discipline.
- DA is required to explain if the DA charges an officer with excessive force why other officers on the scene haven't been charged with failure to intervene.

**SECTION 7: Use of Physical Force – Required Training – new CRS 18-1-707(10)**

- Department shall train its officers on the new use of force provisions (section 4, 5, and 6 above) prior to the provisions becoming effective September 1, 2020.

**SECTION 8: Peace officer-involved death investigations – disclosure, CRS 20-1-114**

- If the DA refers the matter to the grand jury, the DA shall release a statement disclosing the purpose of the grand jury's investigation. If no true bill is returned, the grand jury shall issue and publish a report (was "may" previously).

**SECTION 9: Powers of the Attorney General, CRS 24-31-101**

- May bring a civil action to enforce CRS 24-31-307(2) or criminal action to enforce CRS 24-31-307(3). Description of those new statutes below (re: POST Standards and Training)

**SECTION 10: Duties – powers of the POST board, CRS 24-31-303**

- To promulgate rules including those processes to ensure substantial compliance with in-service training requirements by individual peace officers
- New database, beginning on 1/1/2022 that contains info on an officer's
  - Untruthfulness
  - Repeated failure to following training requirements
  - Decertification by POST
  - Termination for cause.

**SECTION 11: Critical Stages of a Criminal Process, CRS 24-4.1-302 (Victims' Rights and Compensation Act)**

- Critical stage of a criminal justice process includes any hearing held pursuant to CRS 24-31-902(2)(c) (see below)

**SECTION 12: Rights Afforded to Victims, CRS 24-4.1-302.5**

- Victim's rights include the right
  - To obtain any incident recording described in CRS 24-31-902
  - to be heard in a hearing held pursuant to CRS 24-31-902(2)(c) (see below)
  - to request and obtain any incident recording described by CRS 24-31-902

**SECTION 13: AG's Civil Suit - Public Integrity – Pattern and Practices, new CRS 24-31-113**

- It is unlawful for any government authority or agent or any person acting on behalf of a government to engage in a pattern or practice of conduct by officers or by officials or employees of the agency that deprives persons of rights, privileges or immunities secured by the U.S. Constitution or the Colorado Constitution
- Whenever the state AG has reasonable cause to believe a violation of this section has occurred, the AG may bring a civil action to eliminate the pattern or practice
- Before filing suit, the AG shall notify the agency/government entity and give them 60 days to change or eliminate the pattern or practice. If not, then the AG may file suit.

**SECTION 14: POST Certification, Issuance, Renewal, Revocation, CRS 24-31-305(2.7)**

- POST may revoke an officer's certification who fails to complete, satisfactorily, the training required by the POST Board.
- Prior to revocation, officer will get notice and 30 days to complete the required training.

**SECTION 15: Enforcement by POST Board, AG charges for failure to willful ignore or not complete training; CRS 24-31-307**

- POST Board shall promulgate rules for part 3 (POST Standards and Trainings)
- AG may enforce the provisions of part 3 (POST Standards and Trainings) through an action in district court against:
  - Any officer in violation of part 3
  - Any agency permitting an officer to violate this part 3
- Criminal Charges: AG may bring criminal charges for violations of part 3 (POST Standards and Trainings) if violation is willful or wanton, or to impose fines, as set by POST, upon any individual or officer for failure to comply with part 3 or any rule promulgated under part 3.
- AG can recover attorney's fees and costs against the defendant in any enforcement action under this part 3, if the AG prevails.

**SECTION 16: Racial Profiling – Amendments to Current Law, CRS 24-31-309**

- Officers shall have a legal basis for making a contact (define as any encounter, consensual or non-consensual, for enforcement or investigative purpose)
  - Legal basis is not defined, but could include reasonable suspicion or probable cause, which are both current lawful basis for contacts.
- Required reporting: After making contact, officers must report to the Department:
  - Perceived demographic of the person
  - Whether or not it was a traffic stop
    - If traffic stop, the information is limited to the driver
  - Time, Date, Location
  - Reason
  - Suspected crime
  - Result of the contact (no action, warning, arrest, etc)

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- Actions taken by officer, including but not limited to consent to search, search, seizure, unholstered weapon, discharged firearm.
- Business Card requirement – now add info on filing a complaint
  - Adds to the current law (which requires, during a traffic stop, officer must give business card if they're no citation and arrest) that the officer provide information about how to file a complaint

**SECTION 17: Appropriations**

- Appropriations for state Dept. of Public Safety for CSP and to the AG (Dept of Law)

**SECTION 18: Effective Date**

- CRS 24-31-902 (BWC) - 7/1/2020
- Section 3 – 9/1/2020
- Section 4 – 9/1/2020 except CRS 18-1-707(2.5) (chokehold/carotid) and (3) (deadly force) take effect upon passage