TOWN BOARD WORK SESSION

July 26, 2021 - 5:30 PM
Town Board Chambers, 301 Walnut Street, Windsor, CO 80550 Please click this URL to join. https://windsorgov.zoom.us/j/81622204938
OR join by telephone at (888) 788-0099 or (877) 853-5247
Webinar ID: 816 2220 4938

GOAL of this Work Session is to have the Town Board receive information on topics of Town business from the Town Manager, Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.

Members of the Public in attendance are asked to be recognized by the Mayor before participating in any discussions of the Town Board

AGENDA

1. Meet The Board - B. Sorenson, HR Manager
2. Park Development Fee Study - E. Lucas, Director of Public Services
3. Police Body Cam Research Findings - A. Lopez, Administrative Commander
4. Continuation of "Regulation of Cats" discussion - R. Klimek, Police Chief
5. Future Meetings Agenda

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.

MEMORANDUM

Date: July 26, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Brad Sorenson, HR Manager
Re: Meet The Board
Item #: 1.

Background / Discussion:

Last Name	First Name	Title	DOH	Director
Vargas	Paula	Communications Coordinator	5/17/2021	Jessica Humphries
Schwindler	Terry	Business Development Spec.	TBD	Stacy Miller
Vallejo	Stephanie	HR Generalist	3/22/2021	Jessica Humphries
Cronquist	Jerod	Recreation Supervisor	3/25/2021	Eric Lucas

MEMORANDUM

Date: July 26, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Eric Lucas, Director of Public Services
Re: Park Development Fee Study
Item #: 2.

Background / Discussion:

In late 2020, the Parks, Recreation & Culture Department hired GreenPlay, a leading consultant in the field of parks and recreation to review the department's planned park and trail system buildout and determine if the development fees charged are appropriate to achieve the planned buildout.

At the work session, staff will review the attached draft and briefly cover the following areas:

- History
- Planned Park Buildout
- Study Methodology
  - Current Acreage / Trails
  - Future Acreage / Trails
  - Cost to Build
- Comparative Analysis
- Recommendation.

Staff is seeking Board feedback as we are nearly completed with the study. No action is needed at this time. It is our intention to discuss the proposed changes in October during budget discussions with the hope that any changes are adopted for 2022.

CC:

Tara Fotsch, Deputy Director of Park, Recreation & Culture

ATTACHMENTS:

- Draft Park Fee Study

TOWN OF
WINDSOR
COLORADO

Impact Fee Study
DRAFT
July 2021

TOWN OF
WINDSOR
COLORADO

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Executive Summary

The Town of Windsor, Colorado, Parks, Recreation and Culture Department contracted with GreenPlay, LLC in July 2020 to update its land dedication and park development fees policy. The intention was to update the policy ensuring that as the Town grows, development pays its share for the increased need for parks and trails. The Department's current master plan recommends review and changes to the policy to avoid a funding gap between the revenues realized from the current fees and the cost to provide additional parks and trails.

Prior to 2018, developers either dedicated land for parks or paid a fee-in-lieu (where land dedication may not make sense or where land may not be available). The Department discontinued use of fees-in-lieu as a practice in 2018 but retains a fund balance previously collected. The fee-in-lieu was $58,788 per acre. The policy was applied to residential development for neighborhood and community parks but not for recreation facilities, open space areas or trails. To provide the department with the greatest flexibility, fees-in-lieu of land dedication are recommended. Fees-in-lieu for vacant land can fluctuate based on market conditions and as a result, market value should be used to determine the fees-in-lieu.

The consultant team studied the development fees and used the actual acreage and miles of trails (2021) as the measure to determine future park needs that can be built using development fees. The acreage for developed parks owned by the Town (5.5 acres per 1,000 people) and trails (.99 miles per 1,000 people) was used to determine the level of growth and the subsequent development fees. **The study realized a potential fee for adoption is $6,255 per dwelling unit, an increase of $300 per dwelling unit from the current fee of $5,955.**

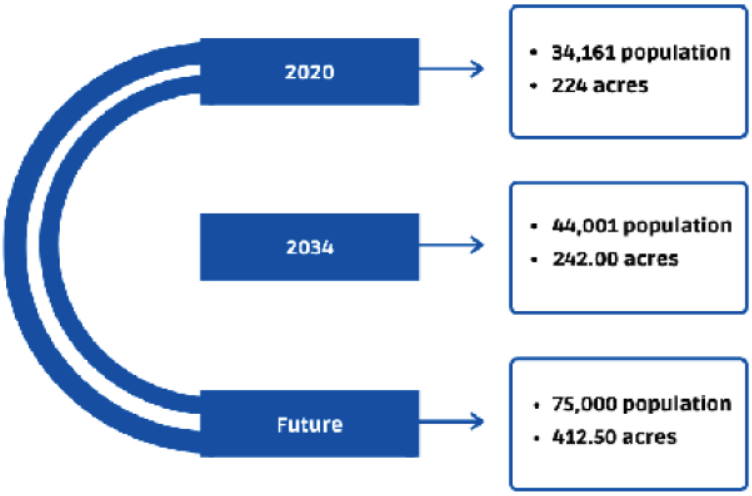
As the Town continues to grow and build parks, a consequence comes in the form of additional operating and maintenance costs. Policy makers for the Town prioritize "taking care of what they have" before growing the system and as a result, developed park acreage is not expected to keep up with population growth, especially as the town approaches 75,000 and beyond. In short, after studying the development fee methodology, the consultants anticipate a reduction in the level of service as population grows resulting in a denser use of parks. An important goal is to provide a parks system that meets residents needs but also can be efficiently and responsibly managed.

Requiring Growth to Pay for New Neighborhood and Community Parks

Windsor has adopted a standard of providing 5.5 acres of developed park space per 1,000 residents. As population grows, the number of parks and acreage, or the "Parks System" must grow proportionately to maintain a same high-quality level of service to the Town. However, as a result of costs associated with maintaining the parks, the Town anticipates adding less parks and a subsequent reduction in the level of service as population grows.

Given an estimated population in 2034 of 44,001 residents, and if the Town choses to remain at the current level of service, an additional 18 acres of developed park land will be required. An expected buildout of the Town is projected to reach a population of 75,000 residents. This more than doubles the current population and as a result, requires a system of 412.5 acres or an increase of 188.5 acres.

Town staff are aware of the potential growth and have already proposed 3 neighborhood parks, 2 community parks and have 3 undeveloped properties for future development to help fill the gap.



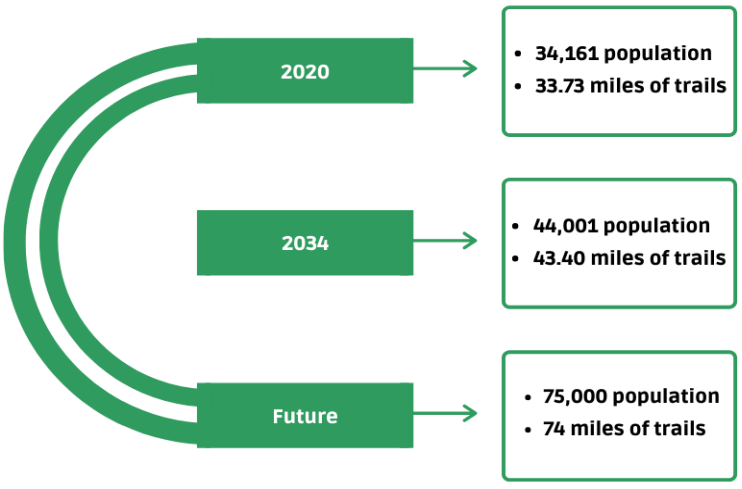
The current total cost to develop parks to the standard of 5.5 acres per 1,000 people at buildout is estimated at $65,476,800.

Requiring Growth to Pay for New Trails

While population has increased since publication of the 2020 Parks, Recreation and Culture Strategic Plan, the current LOS of .99 miles per 1,000 residents is used in the study calculations. Proposed trails include 70.38 miles (off street, hard surface) and 5.48 miles (off street, soft surface) of 75.86 proposed additional miles of trails. The current level of service calculation (miles of trails per 1,000 people) to accommodate a projected population of 75,000 at buildout, is an additional 40.32 miles of trails that may be funded with development fees, built as needed and based of needed connections.

The cost to build trails in Windsor is approximately $1,000,000 per mile and includes both acquisition or easements, design, and development.

It will cost the town $9,677,698 to build an additional 9.67 miles of trails by 2034. To complete the system of trails when the population reaches 75,000 residents, the total system of trails needed to remain at the current standard will be 74 miles or an additional 40.32 miles of trails at a cost of $40,323,745.



Development Fees – Current and Future

At the point of build-out, the system of parks and trails will cost approximately $105,800,545. Accounting for the current fund balance already received for this development ($14,894,786), an additional $90,905,759 will be needed to complete the entire system build out.

At that time, the population will require an additional 14,533 residential dwelling units which at the current development fee ($5,955.00) is expected to net $86,544,015. This will leave a shortfall of $4,361,744. To ensure the new homeowners pay for the additional growth, the fee would need to increase by $300 per dwelling unit or a total development fee of **$6,255 per dwelling unit.**

This fee should be amended in the future, to account for any grants or donations because development fees can only be collected to pay for net costs.

A development fee for open space areas is best addressed regionally. The Town is expecting to complete a trails and open space master plan and is encouraged to evaluate funding of open spaces since they typically serve a regional population.

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I. Introduction

The Town of Windsor requires developers to dedicate land and pay park development fees to provide high quality parks in the Town, ensuring that "future growth pays its way." As the Town grows, the parks and recreation service levels should remain consistent so that new residents are provided the same high quality of life and benefits from a robust parks and recreation system. This study looks at the current land dedication requirements and park development fees and recommends adjusting the current policy and cost factors to account for projected growth.

There are three basic options to pay for growth. Either (1) existing residents pay for new growth through taxes or fees, or (2) provide parks and recreation services at a lower level of service by absorbing growth into existing resources or (3), Development fees are added to building permits which developers, home builders and ultimately new homeowners pay for the impact of growth so that the growth pays its own way.

Option 1 unfairly assigns responsibility for growth. Option 2 creates a slippery slope, where the level of service, (often determined as a percentage of developed acreage per 1,000 residents) will decrease over time as new residential developments are added without contributing to the funding of additional new parks. This may lead to new residents either not using parks or needing to travel further distances because they may not have access nearby their homes. As well, this option may create greater density of use and a less comfortable experience (parking, overuse of sports fields, etc.). Option 3 allows growth to pay its own way in a more equitable manner. Growth is addressed through land dedicated by developers for parks while construction of the parks is paid though development fees, also known as impact or system development charges. Home builders typically include park development in the price of the homes, as they would other infrastructure costs.

The Town completed an update to its Parks, Trails and Culture Master Plan in 2016 which highlighted potential shortfalls between the costs associated with future growth and what developers provide through land dedication and development fees for neighborhood and community parks. Town staff recognize that consideration must be given to including trail needs in the policy to ensure that developers who are building new residential properties are also accounting for a proportionate share of the costs associated with providing trails.

Background

The Town of Windsor last completed a land dedication and development fee study in 2004, based in part on a 2003 Parks and Recreation Master Plan. The Town adopted a standard of 5.5 acres of neighborhood and community parks per 1,000 residents, based on its current level of service. When land dedication is not practical, the Town has the option of accepting a fee of $58,788 per acre (2020 figure that is adjusted annually).

The current land dedication requirement calculation is as follows:

dwelling units to be developed X 2.73 average residents per dwelling unit X .0055 acres

In 2004, the Town adopted two separate development fees – $3,769 per new dwelling unit for neighborhood parks and $1,273 per new dwelling unit for community parks. In 2018, the Town consolidated the

two funds into the Park, Open Space and Trails Development Fee to allow greater flexibility while ensuring the park inventory was manageable and affordable. The current fee is $5,955 per new dwelling unit and adjusted annually using an escalator to reflect current costs. No distinction was made between single and multi-family housing units or the size of the dwelling units nor was the fee increased to account for open space or trails development.

As the Town continues to grow and build parks, a consequence comes in the form of additional operating and maintenance costs. Policy makers for the Town's prioritize "taking care of what they have" before growing the system and as a result, developed park acreage is not expected to keep up with population growth, especially as the town approaches 75,000 and beyond. In short, after studying the development fee methodology, the consultants anticipate a reduction in the level of service resulting in a denser use of parks.

The Study Process

This study looked at a number of applicable documents to include the Department's 2020 Strategic Plan, the current methodology, proposed buildout of neighborhood and community parks and the Town's future plans for trails. Recognizing a need for a more formal open space and trails master plan in the future, this study relied upon staff's input on future trail opportunities.

In addition to calculating applicable development fees, this study also completed a cash flow analysis to determine the effectiveness of both current and future fees in meeting the growth needs for parks and trails in the Town.

The consultant team studied the development fees and used the standard for park acreage and actual miles of trails (2021) as the measure to determine future park needs that can be built using development fees. The acreage for developed parks (5.5 acres for 1,000 people) and trails (.99 miles per 1,000 people) were used to determine the level of growth and the subsequent development fees.

The following project vision was determined at the project Strategic Kickoff Meeting on August 12, 2020.

Project Vision

Table 1: Project Vision

PROJECT VISION

To provide an update to the Town's current methodology, policy, and development fees that recommend appropriate levels of land dedication and/or fees-in-lieu, to allow delivery of current levels of parks and recreation services recognizing future residential development in Windsor.

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Legal Authority for Land Dedication and Development Fees

Land dedication requirements to provide land for park use is authorized by Colorado statute (CRS 30-28-133) and indicates that developers must provide land areas for schools and parks when such are reasonably necessary to serve a proposed subdivision. In addition, instead of dedicating land, developers may "in lieu thereof, pay a sum of money not exceeding the fair market value of the sites.

Authorization for development fees to build usable parks, trails or open spaces are narrowly defined in Colorado Revised Statutes Title 29, Article 20, passed in 2001 that declares "local governments will be better able to properly plan for growth and serve new residents if they are authorized to impose impact fees as a condition of approval of development permits" (CRS 29-20-102) and therefore "a local government may impose an impact fee or other similar development charge to fund expenditure needed to serve new development" (CRS 29-20-104).

Impact Fee Standards

Specific to development fees, the Town has a responsibility to ensure that all fees collected are expended in a manner consistent with the following standards established by the American Planning Association in 1997:

- The imposition of a fee must be rationally linked (the "rational nexus") to an impact created by a particular development and the demonstrated need for related capital improvements pursuant to a capital improvement plan and program
- Some benefit must accrue to the development as a result of the payment of a fee
- The amount of the fee must be a proportionate fair share of the costs of the improvements made necessary by the development and must not exceed the cost of the improvements
- A fee cannot be imposed to address existing deficiencies except where they are exacerbated by new development
- Funds received under such a program must be segregated from the general fund and used solely for the purposes for which the fee is established
- The fees collected must be encumbered or expended within a reasonable time frame to ensure that needed improvements are implemented
- The fee assessed cannot exceed the cost of the improvements, and credits must be given for outside funding sources (such as federal and state grants, developer-initiated improvements for impacts related to new development, etc.) and local tax payments which fund capital improvements, for example
- The fee cannot be used to cover normal operation and maintenance or personnel costs, but must be used for capital improvements, or under some linkage programs, affordable housing, job training, childcare, etc.
- The fee established for specific capital improvements should be reviewed at least every two years to determine whether an adjustment is required, and similarly the capital improvement plan and budget should be reviewed at least every 5 to 8 years
- Provisions must be included in the ordinance to permit refunds for projects that are not constructed, since no impact will have manifested
- Impact fee payments are typically required to be made as a condition of approval of the development, either at the time the building or occupancy permit is issued

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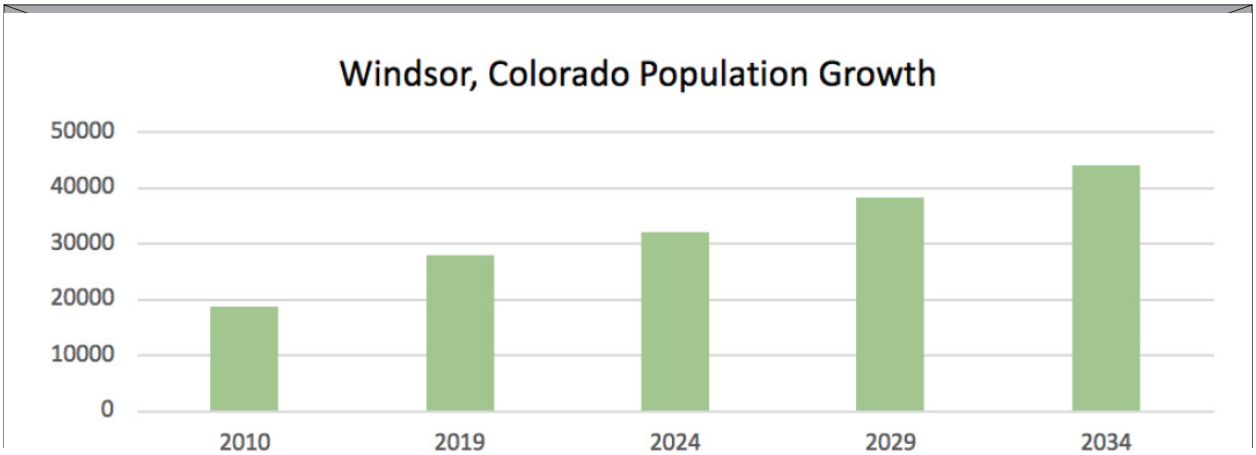
Residential Growth and Development in Windsor

As documented in the Town of Windsor's 2020 Parks, Recreation & Culture Strategic Plan, the Town experienced significant population growth between 2010 (18,672) and 2018 (28,054). This amounts to an almost 70% growth rate. In January 2020, the Town Demographer determined the population in Windsor to be 34,161. By 2034, the population is projected to be 44,001 (a 236% growth from 2010). The following population demographics will be used in the calculation and analysis of future park development fees.

Figure 1: Windsor, Colorado Population Growth 2010-2034



The population growth from 2020 to 2034 represents a significant increase of 9,840 residents which requires additional developed neighborhood and community park space, regional parks and open space, and trails.

II. Land Dedication Requirements

Land dedication and development fees cannot legally exceed growth and therefore, it's important to look at capacity related to growth.

Land Dedication for Neighborhood and Community Parks – Available Capacity

The current level of service is documented in the Town's 2020 Parks, Recreation and Culture Strategic Plan and is made up of neighborhood parks, community parks, regional parks, open space and undeveloped land as follows:

Table 2: 2020 Level of Service in Windsor, CO

Level of service for neighborhood and community parks

Neighborhood parks	57.80 acres	1.69 acres per 1,000 population
Community parks	136.30 acres	3.97 acres per 1,000 population
HOA/District Parks	43.00 acres	1.25 acres per 1,000 population
Total	237.10 acres	6.91 acres per 1,000 population

Level of service for regional parks, and open space and undeveloped parks and trails

Regional parks	452.60 acres	13.24 acres per 1,000 population
Open Space	159.60 acres	4.67 acres per 1,000 population
Undeveloped Parks	98.90 acres	2.89 acres per 1,000 population
Trails	33.73 miles	.99 miles per 1,000 population
Total		27.71 acres & .99 miles of trails per 1,000 population

For planning purposes, staff estimate a maximum population for the Town will reach 75,000 resulting in a need for 14,533 new dwelling units based on 2.81 residents per household in Windsor. Current and future capacity is expressed as excess or shortfall of park acreage.

Table 3: Current Capacity For Neighborhood And Community Parks

Current Neighborhood, Community and HOA/District Park Inventory Versus Standard					
Current number of acres	Estimated 2020 population	Current acres per 1,000 people	Town standard in acres per 1,000 people	Excess (shortfall) of acres per 1,000 People	Excess (shortfall) of total acres
237.1	34,161	6.91	5.50	1.41	48.30

For planning purposes, staff estimate a maximum population for the Town will reach 75,000 resulting in a need for 14,533 new dwelling units based on 2.81 residents per household in Windsor. Current and future capacity is expressed as excess or shortfall of park acreage.

Table 4: Future Capacity For Neighborhood And Community Parks

Future Neighborhood, Community and HOA/District Park Inventory Versus Standard						
Current number of acres	Estimated population at build-out	Estimated acres needed based on estimated population and current standard	Estimated acres per 1,000 people if no additional park space is added	Town standard in acres per 1,000 people	Excess (shortfall) of acres per 1,000 people (based on 5.5 acres per 1,000 people)	Excess (shortfall) of total acres
237.1	75,000	412.50	3.16	5.50	(2.34)	(175.4)

Table 3 demonstrates that the Town currently has some capacity to absorb growth. Table 4 shows that the Town will fall short of the standard in the future and has insufficient capacity for neighborhood and community parks. At the time of build out, the actual acres per 1,000 residents will erode to 3.16 without adding additional developed park space.

Land Dedication for Trails – Available Capacity

Table 5: Current Capacity For Trails

Current Trail Inventory Versus Standard					
Current number of miles of trails	Estimated 2020 population	Current trails in miles per 1,000 people	Town standard in miles per 1,000 people	Excess (shortfall) of acres per 1,000 people	Excess (shortfall) of total miles of trails
33.73	34,161	.99	.99	0	0 miles

Table 6: Future Capacity For Trails

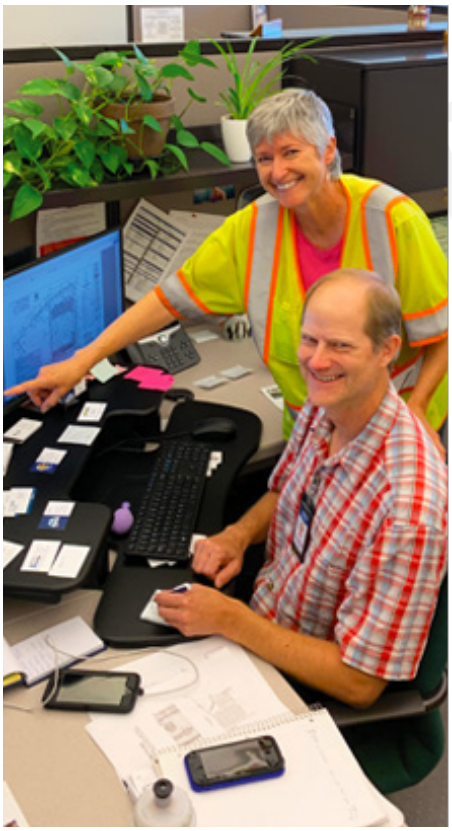
Future Trails Inventory Versus Standard						
Current number of miles of trails	Estimated population at build-out of the system	Estimated additional miles needed based at build-out	Estimated miles per 1,000 residents if no additional trail miles are added	Town standard in miles per 1,000 people	Excess (shortfall) of miles per 1,000 people	Excess (shortfall) of total miles of trails
33.73	75,000	40.32	.45	.99	(.54)	(40.32)

Trails will also fall short, when population reaches 75,000 with the standard eroding to .45 miles per 1,000 residents unless additional trail miles are added.

Fees-in-Lieu of Land Dedication

Prior to 2018, developers either dedicated land for parks or paid a fee-in-lieu (where land dedication may not make sense or where land may not be available). The Department discontinued use of fees-in-lieu as a practice in 2018 but retains a fund balance previously collected. The fee-in-lieu was $58,788 per acre. The policy was applied to residential development for neighborhood and community parks but not for recreation facilities, open space areas or trails. To provide the department with the greatest flexibility, fees-in-lieu of land dedication are recommended.

Since land prices can vary wildly based on location and negotiation, it is recommended that fees-in-lieu be established at market rate for land. A comparative analysis was completed for this study that looked at Golden, CO, Parker, CO, Castle Rock, CO, Longmont, CO, Coppell, TX and Austin, TX. All except Longmont (who does not collect a fee-in-lieu) use market rates to determine fees-in-lieu.



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III. Determining Development Fees That Pay for Growth of the Parks System

Costs Associated with Developing Neighborhood and Community Park Space

Development fees must be based on reasonable costs associated with the development of land into usable parks or trails. This is estimated at between $350,000 and $450,000 depending on the type of park and amenities. Utilizing Town estimates for construction, estimated cost per acre to develop park space in 2020 is $400,000 per acre for a neighborhood park and $350,000 per acre for a community park.

Table 7: Cost To Develop Proposed Parks

Proposed Park	Acres of Park Land	Cost for Improvements	Cost per acre for improvements
Jacoby Farm Neighborhood Park	1.90	$1,327,950	$698,921
Wayne Miller Neighborhood Park	6.00	$2,655,900	$442,650
Harmony Ridge Neighborhood Park	4.00	$1,327,950	$331,987
Labue Community Park	29.00	$9,450,000	$325,862
Tacincala Community Park	56.70	$18,900,000	$333,333
Oxbow Property/Community Park	19.00	$6,650,000	$350,000
BROE Property	65.0	$22,750,000	$350,000
Kyger Pit Property	60.0	$21,000,000	$350,000

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Calculating Development Fees for Parks

The calculation of the park, and trails development fee requires that each component be determined separately, and then reported collectively. This is due to differences in benefits derived from each type of park as well as differences in each park type's level of service. Fee calculations are completed below based on proposed park development. Fees calculated based on population growth without regard to existing funds received or actual development costs are also presented for reference.

Requiring Growth to Pay for New Neighborhood and Community Parks

Windsor has adopted a standard of providing 5.5 acres of developed park space per 1,000 residents. As population grows, the number of parks and acreage, or the "Parks System" must grow proportionately to maintain a same high-quality level of service to the Town. However, as a result of costs associated with maintaining the parks, the Town anticipates adding less parks and a subsequent reduction in the level of service as population grows.

Given an estimated population in 2034 of 44,001 residents, and if the Town choses to remain at the current level of service, an additional 18 acres of developed park land will be required. An expected buildout of the Town is projected to reach a population of 75,000 residents. This more than doubles the current population and as a result, requires a system of 412.5 acres or an increase of 188.5 acres.

Town staff are aware of the potential growth and have already proposed 3 neighborhood parks, 3 community parks and have 2 undeveloped properties for future development to help fill the gap.

Table 8: Current and Proposed Additional Park Acreage

Current developed parks	181.0 acres
HOA and Metro District Parks	43.0 acres
Jacoby Farm Neighborhood Park	1.9 acres
Wayne Miller Neighborhood Park	6.0 acres
Harmony Ridge Neighborhood Park	4.0 acres
Labue Community Parks	29.0 acres
Tacincala Community Park	56.7 acres
Oxbow Property/Community Park	19.0 acres
BROE Property	65.0 acres
Kyger Pit Property	60.0 acres
Total	465.6 acres

The current total cost to develop parks to the standard of 5.5 acres per 1,000 people at buildout is estimated at $65,476,800. The total cost for all proposed parks exceeds the 5.5 acre standard by $18,585,000 and is shown below for clarification purposes.

Table 9: Development Costs Associated with Additional Park Acreage

Harmony Ridge	$ 1,327,950
Wayne Miller	$ 2,655,900
Jacoby Farm	$ 1,327,950
Labue Community Park	$9,450,000
Tacincala Community park	$18,900,000
Oxbow Property (Community Park)	$6,650,000
BROE Property (Community Park)	$22,750,000
Kyger Pit Property (Community Park)	$21,000,000
Development Fee Cap at 412.5 acres within standard	($18.585.000)
	=========
Total cost for development	$65,476,800

Requiring Growth to Pay for New Trails

While population has increased since publication of the 2020 Parks, Recreation and Culture Strategic Plan, the current LOS of .99 miles per 1,000 residents is used in the study calculations. Proposed trails include 70.38 miles (off street, hard surface) and 5.48 miles (off street, soft surface) of 75.86 proposed additional miles of trails. The current level of service calculation (miles of trails per 1,000 people) to accommodate a projected population of 75,000 at buildout, is an additional 40.32 miles of trails. The 75.86 miles of proposed trails exceeds the maximum miles (based on the current LOS of .99 miles per 1,000 population). 40.32 miles of trails may be funded with development fees, built as needed and based of needed connections.

The cost to build trails in Windsor is approximately $1,000,000 per mile and includes both acquisition or easements, design, and development.

It will cost the town $9,677,698 to build an additional 9.67 miles of trails by 2034. To complete the system of trails when the population reaches 75,000 residents, the total system of trails needed to remain at the current standard will be 74 miles or an additional 40.32 miles of trails at a cost of $40,323,745.

Fee Calculations For Parks and Trail Development

Neighborhood Parks
An estimated cost for park construction is based on $400,000 per acre of neighborhood park development. The fee calculation is as follows:

1. Windsor has 57.8 acres in its 15 neighborhood parks.
2. The average size of a neighborhood park is 3.85 acres.
3. The current cost to develop an acre of neighborhood park is estimated to be $400,000 per acre.
4. The cost of improvements for a typical neighborhood park in Windsor is = $1,540,000 ($400,000 X 3.85).
5. One park serves 2,277.4 people based on 2020 population being served by 15 neighborhood parks in the system.
6. It costs $1,540,000/2,277.4 or $676.20 per person to develop a new neighborhood park.
7. A fee per dwelling unit is calculated for neighborhood parks - $676.20 X 2.81 persons per household (PPH) = $1,900.12.

Note that residents per household in the Town of Windsor has grown from 2.73 to 2.81. In the US Census Update, July 1, 2019, the number of people per household was increased to 2.81. For the purposes of calculating development fees, the increase in household size suggests less homes per population are needed, increasing the fee per household to cover the costs for park development.

Community Parks
An estimated cost for park construction is based on $350,000 per acre of community park development derived from staff estimates of planned projects. The fee is calculated as follows:

1. Windsor has 179.3 acres in its 7 community parks.
2. The average size of a community park is 25.61 acres.
3. The current cost to develop an acre of community park is $350,000.

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4. The cost of improvements for a typical community park in Windsor is $8,963,500 ($350,000 X 25.61).
5. One park serves 4,880.14 persons based on 2020 population being served by 7 community parks in the system.
6. It costs $8,963,500/4880.14 or $1,836.73 per person for a community park.
7. A fee per dwelling unit is calculated for community parks - $1,836.73 x 2.81 PPH = $5,161.21.

Costs Associated with Building Trails

The cost to acquire, plan, design, and construct in Windsor and the surrounding areas is generally $1,000,000 for one mile of trail. This of course can vary significantly, based on the cost of concrete, cost of land or easements, drainage issues, the need for structural elements like bridge crossings, wetland mitigation or other elements.

The recently completed 1.12 mile Kyger to River Bluff's Trail in Windsor cost $900,000 at $803,571 per one mile of trail. In close proximity to Windsor in Arapahoe County, the Harvest Trail (a 1.2-mile trail project with 10' wide concrete trail, which included extensive landscaping, retaining walls and landscape maintenance contract) cost $1.4 million. Two pedestrian bridges were also included in the project at an additional cost of $400,000. The cost was $1,166,000 per one mile of trail ($1,500,000 per one mile of trail including the bridges).

The average of the two projects is $949,470 (excluding the two bridges). In general, it is determined that a typical trail project in the Windsor area costs $1,000,000 per one mile of trail.

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Calculating Development Fees for Trails

1. Windsor has 33.73 miles of trails
2. The average length of a trail is 2.24 miles
3. The current cost to develop one mile of trail is $1,000,000
4. The cost for improvements for a typical trail project in Windsor is $2,240,000 for 2.24 miles of trail, ($1,000,000 X 2.24)
5. One trail serves 2,274 persons based on 2020 population being served by 15 trails
6. It costs $2,240,000/2,274 or $985 per person for a typical 2.24 mile trail in Windsor
7. A fee per dwelling unit is calculated for trails - $985 x 2.81 PPH = $2,467.85

Total Development Fees Based on Current Level of Service

Neighborhood and community parks	$7,061.33 per dwelling unit
Trails	$2,467.85 per dwelling unit
Total	$9,829.18 per dwelling unit

Since fees cannot be collected in excess of the costs associated with planned development, the fee of $6,255 per dwelling unit (based on proposed costs) should be considered.

IV. Comparative Analysis to Similar Communities

Background

Windsor, Colorado's land dedication requirements, fees-in-lieu of land dedication and park development fees are intended to expand park capacity and recreation service delivery in line with residential growth. The intent of this analysis is to compare the methodology and policies to understand if there are better ways for Windsor to set and implement its policies.

This evaluation should be considered conservatively and not necessarily as a basis for decision making. Each municipality is unique and offers different levels of service based on demographics, needs, and desires and as a result, impacts from growth may be significantly different between jurisdictions.

For the purpose of this analysis parkland dedication and park development fee comparisons should be done separately and independently. While parkland dedication or fees in lieu of dedication are mechanisms to acquire parkland, park development fees are intended to provide funding for development of those spaces. A key part of this analysis intentionally attempts to clarify the distinction between the authority for collecting fees and the acceptable use of those fees.

Methodology

This comparative analysis looked at six agencies - four in Colorado (Golden, Parker, Castle Rock and Longmont) and two in Texas (Coppell, and Austin). Coppell was chosen because it was recently named a finalist for the 2020 National Recreation and Parks Association's prestigious Gold Medal award, demonstrating excellence in the field and Austin was chosen for its long standing as a national leader in the Parks and Recreation field. Austin also provides a larger agency perspective.
The parkland dedication and park development fee policies were taken from each municipality's municipal codes, confirmed for accuracy by each municipality.

Findings

Comparison of mandatory land dedication or fees-in-lieu of land dedication, park development fees, the escalator used to adjust those fees for inflation and the acceptable use of the fees is summarized as follows:

Mandatory Land Dedication
Consistent with legal requirements in both Colorado and Texas, the actual amount of land to be dedicated cannot be greater than the current level of service (LOS) for parks and recreation services. The LOS may change over time, allowing a municipality to increase their parkland dedication requirement. Currently, Windsor requires developers to provide 5.5 acres of parkland per 1000 new residents or .0055 acres per new resident.

Three of the municipalities (Parker, Castle Rock, Austin) defined a requirement as a number of acres per 1000 population. Three of the cities, Longmont, Golden and Coppell collected a fee but calculated it using a different standard than acres per 1000 population. Golden requires 5% of the acreage of a project to be dedicated, although since the city is somewhat built out, they don't always collect it. The City of Coppell collects a fee based on one acre per 100 dwelling units. Longmont collects a fee based on needs

expressed in their comprehensive plan. Important to note is that, unlike Windsor and the others that base growth only on residential development, Castle Rock and Longmont require land dedication based also on commercial and industrial development.

Among those that define a level of service (LOS) as a standard of acres per 1000 population to establish both a minimum amount of land dedication and its value for fees-in-lieu. Windsor's standard of 5.5 acres per 1000 was the smallest, slightly below their current level of service for neighborhood and community parks of 5.68. An additional level of service for open space of 4.67 acres per 1000 and land currently banked for future development (2.89 acres per 1000), may provide opportunity to adjust land dedication requirements. Coppell, Texas did not use an acres per population standard, but rather a fee per dwelling unit. Interestingly, the fees are consistent for both single and multi-family dwelling units (DU).

Table 10: Levels of Services Comparisons

Windsor, CO	**5.5 acres per 1000 population**
Parker, CO	7.5 acres per 1000 population
Castle Rock, CO	8.0 acres per 1000 population
Longmont, CO	Standard based on comprehensive plan
Austin, TX	9.4 acres per 1000
Golden, CO	5% of development acreage
Coppell, TX	1 acre per 100 dwelling units

Fees-in-lieu of Land Dedication

When parkland is not available or practical, municipalities often collect an equivalent fee-in-lieu, to be determined by the individual town or city council. Of the six municipalities, five collected a fee based on reasonable fair market costs associated to the required acreage to be dedicated. Longmont does not offer a fee in lieu option to developers. In Windsor's case, a set fee per acre was established in the town's 2020 fee schedule.

Table 11: Fee-in-lieu in comparable cities

Windsor, CO	**$58,788 per acre fee of land only (Discontinued practice in 2018)**
Golden, CO	Fair market value of land only. Mechanism is in place but seldom used
Parker, CO	Fair market value and includes full development costs
Castle Rock, CO	Fair market value of land only
Longmont, CO	No fee-in-lieu is collected
Coppell, TX	Fair market value of land only
Austin, TX	Fair market value of land only

Park Development Fees

Park development fees, sometimes called impact or system development charges, varied widely among the municipalities. Golden, for example, does not collect a fee but may use proceeds from a fee-in-lieu for development, while Parker assigns responsibility for the building of park assets directly to the developers. Castle Rock and Longmont both base their fees on the kind of dwelling unit, (single or multi-family residence) and Longmont levies a dedicated fee for recreation facilities. Both Coppell and Austin levy development fees per dwelling unit but are significantly lower than Windsor.

Table 12: Park Development Fee in Comparable Cities/Towns

Windsor, CO	**$5,955 per dwelling unit**
Golden, CO	Included within the 5% Parkland Dedication Fee if a fee-in-lieu is collected
Parker, CO	Developers assume all responsibility for parks development
Castle Rock, CO	Fees range based on the size of residence from $5,221 to $10,263 for single family/ $4,268 for multi-family
Longmont, CO	Single family dwelling unit is $5,911.74, multi-family dwelling unit is $2,939.14. Fees for recreation facilities are based on the SF of the dwelling unit ranging from $582.58 (<800 SF) to $1,489.63 (>4000 SF)
Coppell, TX	$1,285 per dwelling unit
Austin, TX	$391-$834 per dwelling unit

Escalator Used to Maintain Accurate Costs

Park development fees are set at a moment in time, based on costs associated with building parks, trails, and open spaces. To adjust fees to keep up with inflation, Windsor uses the most recently available two-year moving average of the annual Colorado Construction Cost Index. In the Town's current formula, the denominator of which is the same index for a period one (1) year earlier than the numerator. Fees are adjusted annually.

Table 13: Escalators Used by Comparable Communities

Windsor, CO	**The Colorado Construction Cost Index by the Colorado Department of Transportation**
Golden, CO	There are no park development fees defined so no escalator is needed
Parker, CO	There are no park development fees defined so no escalator is needed
Castle Rock, CO	The Denver Construction Cost Index, published by the Engineering News Record
Longmont, CO	The Denver Construction Cost Index, published by the Engineering News Record
Coppell, TX	The fees are adjusted based upon results of required impact fee update studies
Austin, TX	The amount of the development fee is established in the City's annual fee schedule based on a recommendation by the Parks and Recreation Director

Acceptable Use of Park Development Fees

The Town of Windsor may use all fees collected for the acquisition of parkland, construction of community parks, acquisition of easements for trails, trail development, and acquisition of open space and development of such. The use of fees is limited to parks and is not available to support recreation facilities. In comparison, the benchmarked municipalities are different in their approaches. Golden, CO does not charge a fee but can utilize parkland dedication fees-in-lieu for park improvements. Parker, CO requires the developers to provide fully built out parks as part of their land dedication requirements. The acceptable use of funds is shown in ***Table 14***.

Table 14: Use of Park Development Fees by Comparable Communities

Use of Park Development Fees						
Municipality	Acquisition of Parkland	Neighborhood Parks	Community Parks	Open Space	Trails	Recreation Facilities
Windsor, CO	YES	YES	YES	YES	YES	NO
Golden, CO	YES	YES	YES	YES	YES	NO
Parker, CO	NO	YES	YES	YES	YES	YES
Castle Rock, CO	NO	YES	YES	NO	NO	NO
Longmont, CO	YES	YES	YES	YES	YES	YES
Coppell, TX	YES	YES	NO	NO	NO	NO
Austin, TX	YES	YES	YES	YES	YES	YES

V. Cash Flow Analysis Based on Growth and Demand

Park Acreage Needed to Maintain Current Levels of Service for Parks

Windsor has adopted a standard of providing 5.5 acres of developed park space per 1,000 residents. As population grows, the number of parks and acreage, or the "Parks System" must grow proportionately to maintain a same high-quality level of service to the Town. However, as a result of costs associated with maintaining the parks, the Town anticipates adding less parks and a subsequent reduction in the level of service as population grows.

Given an estimated population in 2034 of 44,001 residents, and if the Town choses to remain at the current level of service, an additional 18 acres of developed park land will be required. An expected buildout of the Town is projected to reach a population of 75,000 residents. This more than doubles the current population and as a result, requires a system of 412.5 acres or an increase of 188.5 acres. Town staff are aware of the potential growth and have already proposed 3 neighborhood parks, 2 community parks and have 3 undeveloped properties for future development to help fill the gap.

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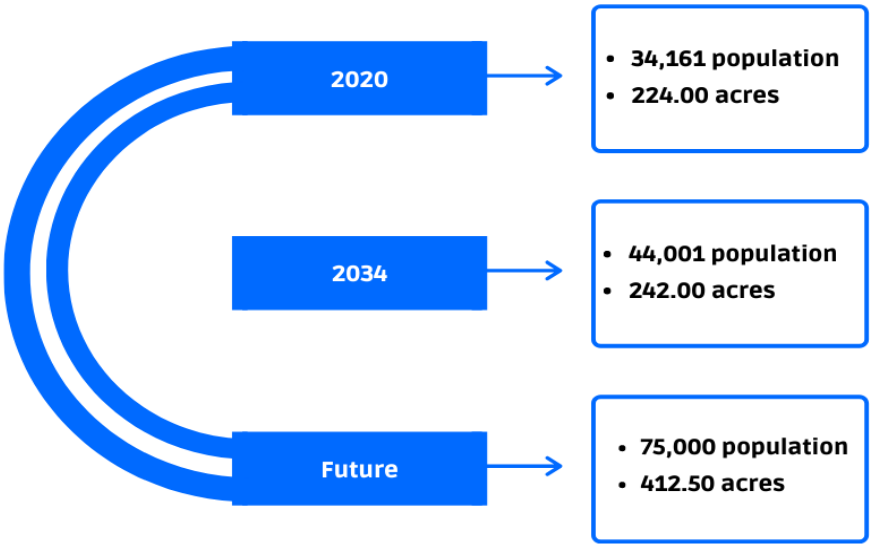

Table 15: Proposed Current and Additional Park Acreage

Current	181.0 acres
HOA and Metro District Parks	43.0 acres
Jacoby Farm Neighborhood Park	1.9 acres
Wayne Miller Neighborhood Park	6.0 acres
Harmony Ridge Neighborhood Park	4.0 acres
Labue Community Parks	29.0 acres
Tacincala Community Park	56.7 acres
Oxbow Property/Community Park	19.0 acres
BROE Property	65.0 acres
Kyger Pit Property	60.0 acres
Total	465.6 acres

The current cost to buildout this system is estimated at $65,311,800. The Town, as of March, 2021, has already received $14,894,786 toward this development.

Miles of Trails Needed to Reach the Level of Service Standard

While population has increased since publication of the 2020 Parks, Recreation and Culture Strategic Plan, the current LOS of .99 miles per 1,000 residents is used in the study calculations. Proposed trails include 70.38 miles (off street, hard surface) and 5.48 miles (off street, soft surface) of 75.86 proposed additional miles of trails. The current level of service calculation (miles of trails per 1,000 people) to accommodate a projected population of 75,000 at buildout, is an additional 40.32 miles of trails. The 75.86 miles of proposed trails exceeds the maximum miles (based on the current LOS of .99 miles per 1,000 population). 40.32 miles of trails may be funded with development fees, built as needed and based of needed connections.

The cost to build trails in Windsor is approximately $1,000,000 per mile and includes both acquisition or easements, design, and development.

It will cost the town $9,677,698 to build and additional 9.67 miles of trails by 2034. To complete the system of trails when the population reaches 75,000 residents, the total system of trails needed to remain at the current standard will be 74 miles or an additional 40.32 miles of trails at a cost of $40,323,745.

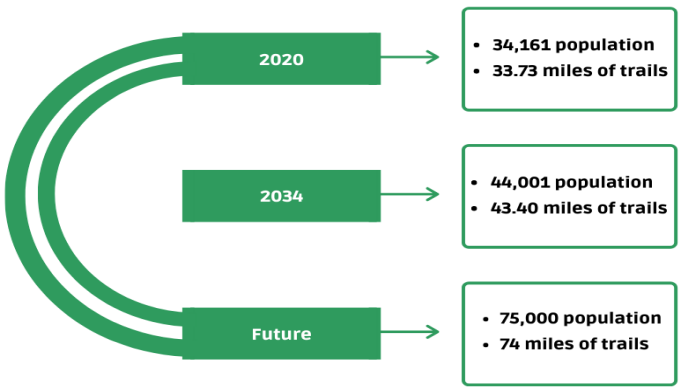

Table 16: Cash Flow – Existing Fee

Cash flow with existing fee of $5,955						
	Population	Available Funding from Current Develop-ment Fees	Previous Fund Balance/ Funding Gap	Costs Associated with Maintaining LOS Standard for Neighborhood and Community Parks	Costs Associ-ated with Maintaining LOS Standard for Trails	Fund Balance
2021	34,161	$0.00	$14,894,786	$0.00	$0.00	$14,894,786
2034	44,001	$20,853,096	$14,894,786	$15,714,432	$9,677,699	$10,355,751
2060	75,000	$65,693,610	$10,355,751	$49,762,368	$30,646,046	$(4,359,053)

Table 17: Cash Flow – Projected Fee

Cash flow with potential fee of $6,255						
	Population	Available Funding from Pro-posed Devel-opment Fees	Previous Fund Bal-ance	Costs Associated with Main-taining LOS Standard for Neighbor-hood and Community Parks	Costs Associated with Main-taining LOS Standard for Trails	Fund Bal-ance
2020	34,161	$0	$14,894,786	$0.00	$0.00	$14,894,786
2034	44,001	$21,903393	$14,894,786	$15,714,432	$9,677,699	$11,406,048
2060	75,000	$69,002,366	$11,406,048	$49,762,368	$30,646,046	$0.00

Recommendations

Recommend a policy that adopts a park development fee to offset the calculated cost of $6,255 per new dwelling unit.

Maintain current escalator policy for development fees using the Colorado Construction Cost Index (timely free service that appears both accurate and easy to track historical data).

Implement a fee-in-lieu policy for land dedication where land is not available or where it is not practical to accept land. The fee should be based on market rate, in the same manner as the other comparable municipalities in the study.

MEMORANDUM

Date: July 26, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Aaron Lopez, Administrative Commander
Re: Presentation regarding findings of police body camera program research
Item #: 3.

Background / Discussion:

In 2020, Governor Jared Polis singed SB 20-217, a police accountability measure designed to increase transparency and accountability among law enforcement agencies, state-wide. The legislation contained a wide range of requirements for law enforcement agencies, including the implementation of body camera programs. Although a body cam program existed as part of the Police Department (WPD) strategic plan, the legislation resulted in the program becoming an unfunded mandate.
In order to comply with this mandate in the most effective manner possible, WPD formed a research committee to test and identify products to meet mandated needs.

Financial Impact:

Approximately $172,100 - $229,600, annually.

Relationship to Strategic Plan:

Excellence in service, community safety, legislative compliance.

Recommendation:

None at this time. The findings of this research are being presented only as information. Further recommendation will be made as part of the budgetary process.

ATTACHMENTS:

- Memo
- Presentation and Supporting Materials

MEMORANDUM

Date: July 26, 2021
To: Mayor and Town Board
From: Rick Klimek, Chief of Police
Re: Police Body Camera Program Research Findings

Background / Discussion

In 2020, Governor Jared Polis singed SB 20-217, a police accountability measure designed to increase transparency and accountability among law enforcement agencies, state-wide. The legislation contained a wide range of requirements for law enforcement agencies, including the implementation of body camera programs. Although a body cam program existed as part of the Police Department (WPD) strategic plan, the legislation resulted in the program becoming an unfunded mandate.

In order to comply with this mandate in the most effective manner possible, WPD formed a research committee to test and identify products to meet mandated needs.

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Approximately $172,100 - $229,600, annually.

Relationship to Strategic Plan

Excellence in service, community safety, legislative compliance.

Recommendation

None at this time. The findings of this research are being presented only as information. Further recommendation will be made as part of the budgetary process.

Attachments

Attachment consisting of Power Point presentation, data spreadsheets pertaining to research, copy of SB 20-217.

Windsor Police Department

Body Worn Camera Research and Evaluation

July 26, 2021

PURPOSE

- STRATEGIC PLAN
  - Employ emerging technologies and innovative trends to more efficiently and effectively serve our community
- SB 20-217 SIGNED INTO LAW
  - Mandates every sworn officer is equipped with bod worn camera by July 2023

RESEARCH AND EVALUATION COMMITTEE

- Commander Aaron Lopez
- Sergeant Jared Paul
- Ryan Phelps, IT Systems Administrator
- Ian Erickson, IT Analyst
- Gwen McFadden, IT Analyst
- Carol Putnam, Police Records Specialist
- Amanda Griffin, Police Property and Evidence Tech

GOALS

ACQUIRE KNOWLEDGE BASE OF VENDORS AND AVAILABLE PRODUCTS

TEST VENDOR PRODUCTS

OBTAIN FEEDBACK FROM END USERS

COMPILE DATA

PROCURE FULLY VETTED, FIRST-RATE PRODUCT

VENDORS

- AXON
- COPTRAX
- DIGITAL ALLY
- MOTOROLA

METHODOLOGY, EVALUATION CRITERIA, AND SCORING

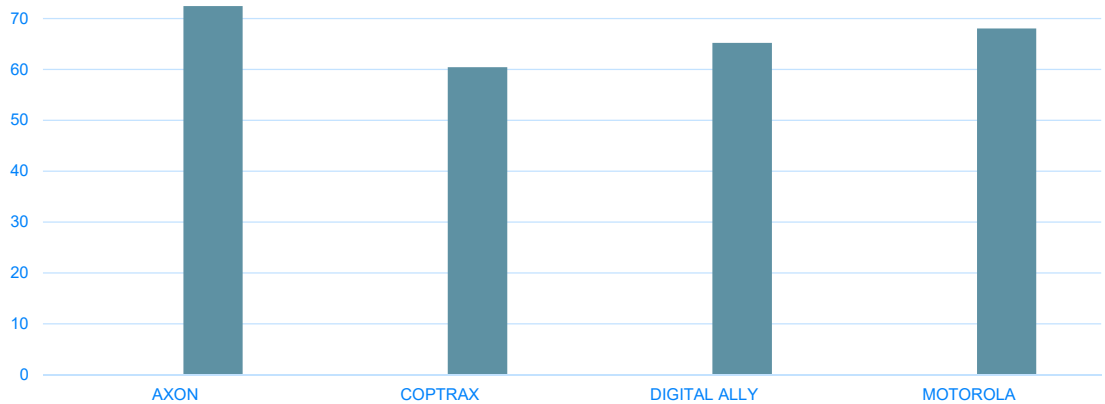
- QUESTIONNAIRE
  - Possible Points 36.2
  - Weight 2
- PRESENTATION
  - Possible Points 5
  - Weight 1
- REFERENCES
  - Possible Points 5
  - Weight 2
- FIELD TESTING
  - Possible Points 10
  - Weight 5

QUESTIONNAIRE

- Forty six questions regarding product standards and capabilities
- Sample questions:
  - Does unit have built in GPS to capture location data of recording?
  - Are videos exported in universal format?
  - What are device mounting options?

QUESTIONNAIRE RESULTS

Total Possible Points 72.4

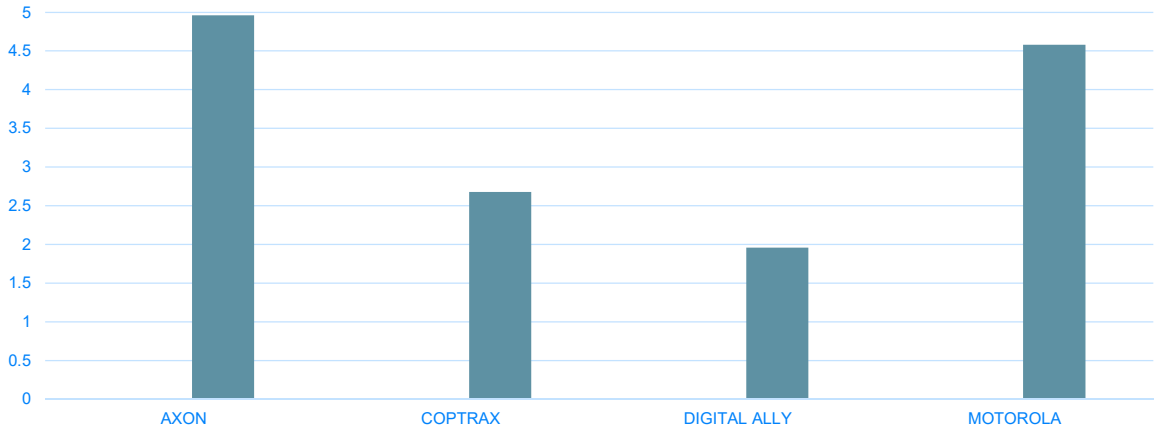


PRESENTATION

- Vendors were invited to present on key points of the submitted written response
- Provided one hour for presentation and questions/answers

PRESENTATION RESULTS

Total Possible Points 5



FIELD TESTING

- Each product was tested for a two week period
- Eight officers across all shifts were equipped with the body camera product
- Evaluation and scoring completed by:
  - Each participating officer
  - Support Staff
    - Information Technology
    - Property and Evidence

OFFICER FIELD TESTING

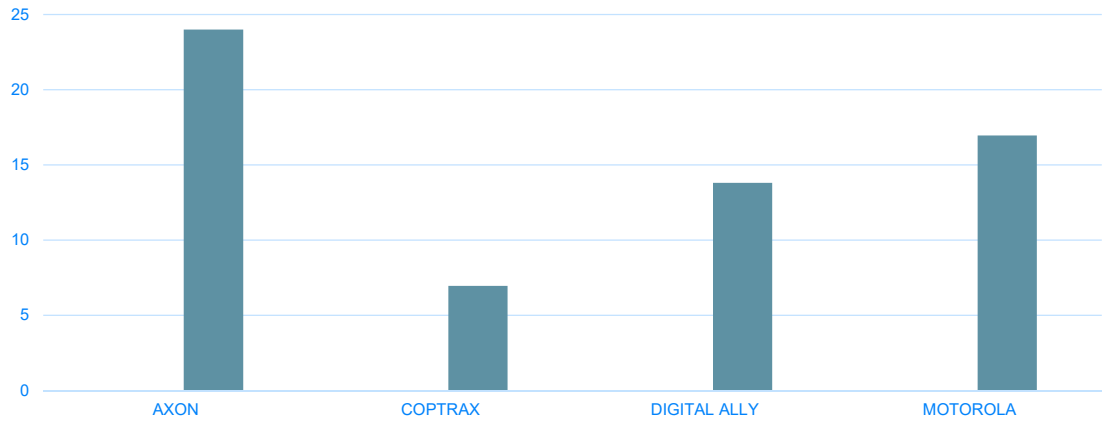
- Testing
  - Utilize camera during every law enforcement contact
  - Upload video(s)
  - Tag/Identify/Categorize video(s)
- Evaluation Criteria
  - Camera mounting/wear
  - Camera functionality/ease of use
  - Battery life
  - Software functionality
  - Playback quality

EXAMPLE VIDEO - MOTOROLA

EXAMPLE VIDEO - AXON

OFFICER FIELD TESTING RESULTS

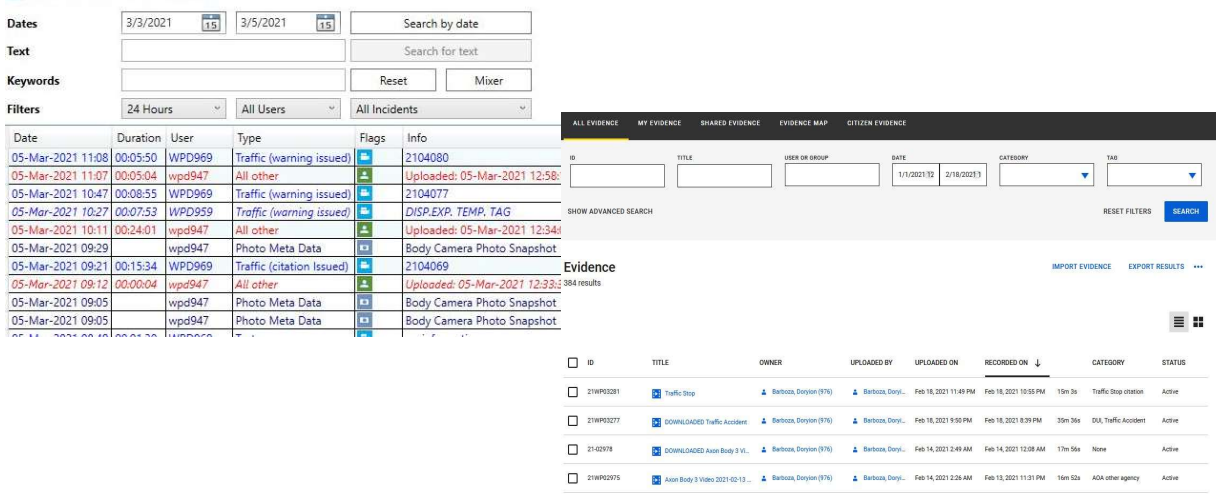
Total Possible Points 25



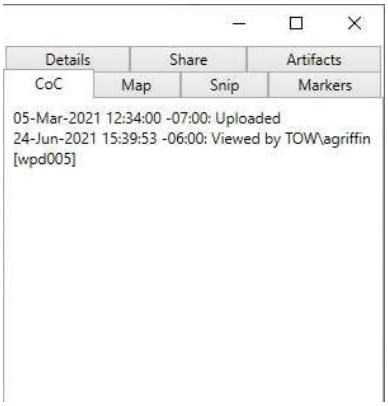
SUPPORT STAFF FIELD TESTING

- Testing
  - Provide deployment assistance and quick start training
  - Download video(s)
  - Conduct redaction(s)
- Evaluation Criteria
  - Software functionality/ease of use
  - Download/export functionality
  - Redaction
  - Audit tracking
  - Vendor Support

EXAMPLE DASHBOARD VIEW

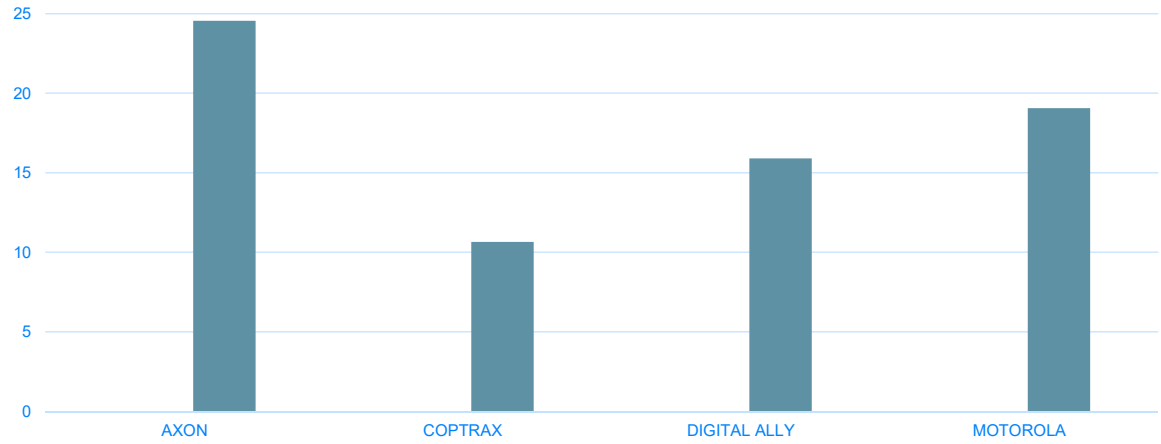


EXAMPLE AUDIT LOG



SUPPORT STAFF FIELD TESTING RESULTS

Total Possible Points 25

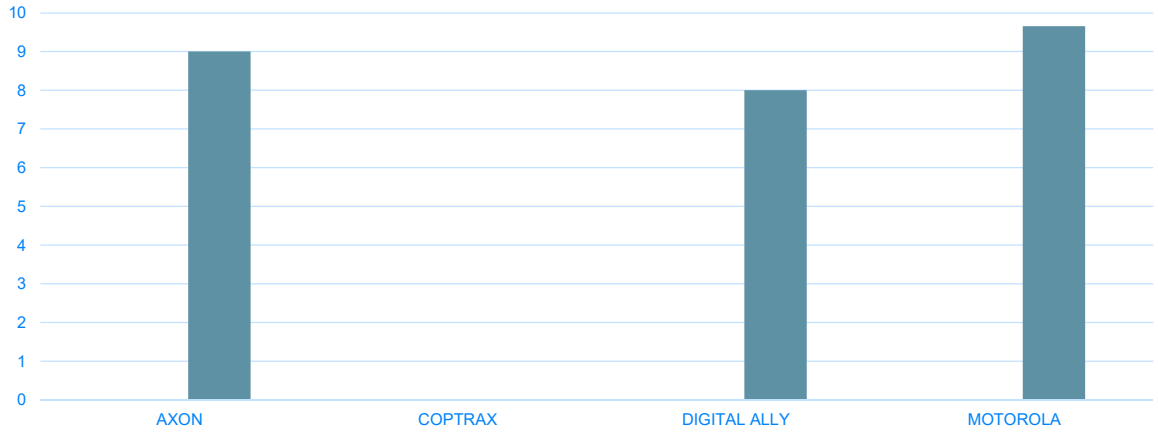


REFERENCES

- Vendors were requested to provide three law enforcement agency references they currently work with or have worked with in the past
- Each reference was contacted and requested to provide feedback

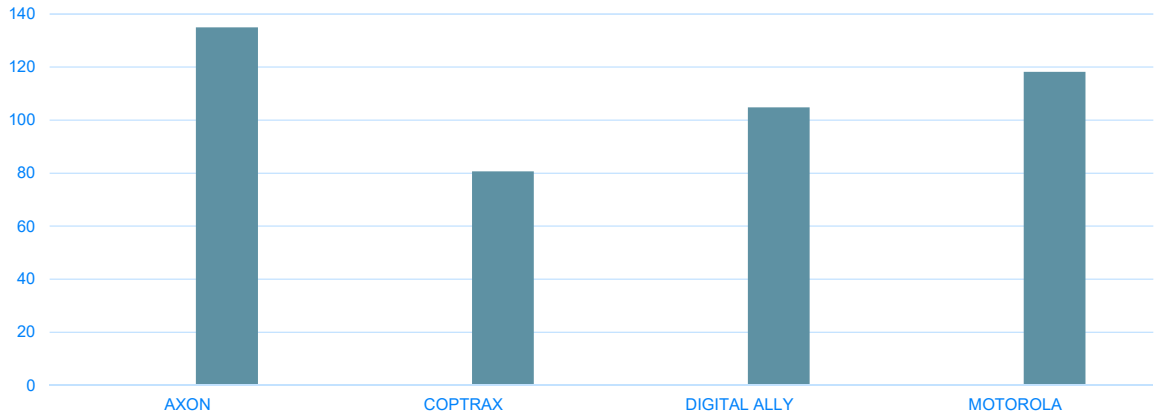
REFERENCES RESULTS

Total Possible Points 10



OVERALL SCORING RESULTS

Total Possible Points 137.4



COMMITTEE RECOMMENDATION

AXON

REPUTABLE RELIABLE EASY TO USE FUNCTIONAL SECURE

QUESTIONNAIRE SCORING	WEIGHT	AXON		DIGITAL ALLY		COPTRAX		MOTOROLA	
		SCORE NO - 0 YES - 5	TOTAL	SCORE NO - 0 YES - 5	TOTAL	SCORE NO - 0 YES - 5	TOTAL	SCORE NO - 0 YES - 5	TOTAL
Does unit have built in GPS to capture location data of recording?	4	5	0.8	5	0.8	5	0.8	5	0.8
Are vidoes automatically tagged with date/time/location?	5	5	1	5	1	5	1	5	1
Does solution offer a user friendly/simple classification system?	4	5	0.8	5	0.8	5	0.8	5	0.8
Are video and audio synchronized?	5	5	1	5	1	5	1	5	1
Does solution provide CJIS compliant data management?	5	5	1	5	1	5	1	5	1
Does solution provide cloud-based data management and storage?	3	5	0.6	5	0.6	5	0.6	5	0.6
Does solution have ability to share video evidence with approved outside users via email, hyperlink, login to evidence management?	3	5	0.6	5	0.6	5	0.6	5	0.6
Does solution provide seamless integration of dash cam and body cam functionality and video management?	3	5	0.6	5	0.6	5	0.6	5	0.6
Does solution allow for permissions/role based video management access/funtions?	5	5	1	5	1	5	1	5	1
Does solution maintain audit trail showing users that have recordings available, uploaded, downloaded, viewed, copied, exported, deleted video? What is retention schedule of audit trail and chain of custody? Can audit trail be exported with/without video?	5	5	1	5	1	5	1	5	1
Does solution offer capability to temporarily freeze user access?	3	5	0.6	5	0.6	5	0.6	5	0.6
Is solution capable of retaining file integrity and authenticity?	5	5	1	5	1	5	1	5	1
What redaction tools does the solution offer?	4	5	0.8	5	0.8	5	0.8	5	0.8
Are the videos exported in a universal format?	5	5	1	5	1	5	1	5	1
Are video files recorded and/or viewed in blocks of time or one seamless video?	3	5	0.6	0	0	0	0	5	0.6
Are there search functionalities?	5	5	1	5	1	5	1	5	1
Can video be viewed with and without data overlay? (date/time/location/officer/speed/lights,etc)	3	5	0.6	5	0.6	5	0.6	5	0.6
What is battery standby time; battery life recording time and parameters	5	5	1	0	0	0	0	5	1
How is unit recharged?	4	5	0.8	5	0.8	5	0.8	5	0.8
How fast does battery recharge?	4	5	0.8	5	0.8	5	0.8	5	0.8
What is the devices' storage capacity?	3	5	0.6	5	0.6	5	0.6	5	0.6
How/when do videos upload?	5	5	1	5	1	0	0	5	1
What is the prerecord time?	5	5	1	5	1	5	1	5	1
What is recording notification indicator(s)?	2	5	0.4	5	0.4	5	0.4	5	0.4
What is the field of view?	4	5	0.8	5	0.8	5	0.8	5	0.8
What is the low light recording capability?	5	5	1	5	1	5	1	5	1
What is the maximum resolution frame rate?	3	5	0.6	5	0.6	5	0.6	5	0.6
What file format and video compression is used	3	5	0.6	5	0.6	5	0.6	5	0.6
How sensitive is the microphone?	5	5	1	0	0	5	1	5	1
How durable is the device?	4	5	0.8	5	0.8	5	0.8	5	0.8
Does device have GPS? What is the functionality?	2	5	0.4	5	0.4	5	0.4	5	0.4
Does device take stillshots?	2	5	0.4	0	0	5	0.4	0	0
What is devices' automatic recording trigger(s)?	5	5	1	5	1	0	0	5	1
What are device mounting options?	5	5	1	5	1	5	1	5	1
What wireless technology does device utilize?	5	5	1	5	1	0	0	5	1
How are upgrades/updates completed?	3	5	0.6	5	0.6	5	0.6	5	0.6
What is ability to interface with third party software? Blue Team Incident Management, eForce, Central Square	2	5	0.4	5	0.4	0	0	5	0.4
What is your distater recovery plan?	5	5	1	5	1	5	1	5	1
Does solution store 3rd party data?	2	5	0.4	5	0.4	5	0.4	5	0.4
Does solution allow classification and retention based on classification?	5	5	1	5	1	5	1	5	1
Does solution offer single sign on or integration with existing authentication?	3	5	0.6	5	0.6	5	0.6	5	0.6
Does solution offer two factor authentication	3	5	0.6	0	0	5	0.6	5	0.6
Does solution offer data analytics, reporting functions, ad-hoc?	4	5	0.8	5	0.8	5	0.8	0	0
Does The vendor certify in writing that all officers, employees and subcontractors involved in the project are registered with the Colorado Bureau of Investigation CJIS Vendor Management Program.	5	5	1	5	1	0	0	0	0
What is your techinical support?	5	5	1	5	1	5	1	5	1
Is there a dedicated account manager?	3	5	0.6	5	0.6	5	0.6	5	0.6
TOTAL			**36.2**		**32.6**		**30.2**		**34**

REFERENCE SCORING								
		AXON		**DIGITAL ALLY**		**COPTRAX**		**MOTOROLA**
		SCORE 0-5 POOR ACCEPTABLE GOOD		SCORE 0-5 POOR ACCEPTABLE GOOD		SCORE 0-5 POOR ACCEPTABLE GOOD		SCORE 0-5 POOR ACCEPTABLE GOOD
REFERENCE 1		4.5		4		0		4.5
REFERENCE 2		4		4		0		5
REFERENCE 3		5		NO RESPONSE		0		5
TOTAL AVERAGE		**4.5**		**4**		**0**		**4.833333333**

PRESENTATION SCORING								
		AXON		**DIGITAL ALLY**		**COPTRAX**		**MOTOROLA**
		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS
EVALUATOR 1 Cmdr. Lopez, Admin		5		3		1.75		4.75
EVALUATOR 2 Sgt. Paul, Patrol		5		3.25		4.5		NA
EVALUATOR 3 Amanda Griffin, P/E		5		3		2.5		5
EVALUATOR 4 Carol Putnam		5		1.75		3.25		4.5
EVALUATOR 5 Ryan Phelps, IT		4.75		2.75		2		4
EVALUATOR 6 Gwen McFadden, IT		5		NA		2		4.5
EVALUATOR 7 Ian Erickson, IT		5		NA		2.75		4.75
TOTAL AVERAGE		**4.964285714**		**2.75**		**2.678571429**		**4.583333333**

OFFICER EVALUATION								
		AXON		**DIGITAL ALLY**		**COPTRAX**		**MOTOROLA**
		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS
JENSEN		4.60		3.06		NA		NA
RAWLINGS		4.70		3.06		2.47		3.40
STEINGART		5.00		3.20		NA		NA
BAKER		5.00		2.80		0.4		3.20
ALLEN		4.30		3.07		2.21		3.53
SALINAS		5.00		2.20		3.07		4.07
SHUMAR		4.90		2.00		NA		NA
ARNOLD-WHITE		4.90		3.50		NA		NA
COLYN		NA		NA		0.53		4.43
PERRY		NA		NA		0		2.87
RICE		NA		NA		1.80		2.80
ROSSON		NA		NA		0.67		2.80
TOTAL AVERAGE		**4.80**		**2.86**		**1.39**		**3.39**

SUPPORT STAFF EVALUATION								
		AXON		**DIGITAL ALLY**		**COPTRAX**		**MOTOROLA**
		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS		SCORE 0-5 UNSATISFACTORY EXCEEDS EXPECTATIONS
IT MCFADDEN		5		3.5		2.25		4.25
IT ERICKSON		NA		NA		2		NA
IT PHELPS		4.75		3.25		2.5		3.5
PROPERTY/EVIDENCE		5		2.78		1.78		3.67
TOTAL AVERAGE		**4.916666667**		**3.176666667**		**2.1325**		**3.806666667**

OVERALL SCORING			AXON			DIGITAL ALLY			COPTRAX			MOTOROLA	
	WEIGHT		SCORE	TOTAL		SCORE	TOTAL		SCORE	TOTAL		SCORE	TOTAL
QUESTIONAIRE (36.2)	2		36.2	72.4		32.6	65.2		30.2	60.4		34	68
REFERENCES (5)	2		4.5	9		4	8		0	0		4.83	9.66
PRESENTATION (5)	1		4.96	4.96		1.96	1.96		2.68	2.68		4.58	4.58
OFFICER EVALUATION (5)	5		4.8	24		2.76	13.8		1.39	6.95		3.39	16.95
SUPPORT STAFF EVALUATION (5)	5		4.91	24.55		3.18	15.9		2.13	10.65		3.81	19.05
TOTAL SCORE				**134.91**			**104.86**			**80.68**			**118.24**
HIGHEST SCORE POSS 137.4													

SENATE BILL 20-217

BY SENATOR(S) Garcia and Fields, Fenberg, Williams A., Gonzales, Moreno, Rodriguez, Bridges, Danielson, Donovan, Foote, Ginal, Hansen, Lee, Pettersen, Story, Todd, Winter, Zenzinger, Coram, Crowder, Hill, Holbert, Priola, Tate;
also REPRESENTATIVE(S) Herod and Gonzales-Gutierrez, Garnett, Buckner, Coleman, Exum, Jackson, Melton, Benavidez, Buentello, Caraveo, Duran, Jaquez Lewis, Tipper, Valdez A., Valdez D., Arndt, Becker, Bird, Cutter, Esgar, Froelich, Gray, Hooton, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, McLachlan, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Titone, Weissman, Woodrow, Young, Landgraf.

CONCERNING MEASURES TO ENHANCE LAW ENFORCEMENT INTEGRITY, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that the provisions of Senate Bill 20-217, enacted at the second regular session of the seventy-second general assembly, are matters of statewide concern.

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.

SECTION 2. In Colorado Revised Statutes, **add** part 9 to article 31 of title 24 as follows:

PART 9
LAW ENFORCEMENT INTEGRITY

24-31-901. Definitions. AS USED IN THIS PART 9, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CONTACTS" MEANS AN INTERACTION WITH AN INDIVIDUAL, WHETHER OR NOT THE PERSON IS IN A MOTOR VEHICLE, INITIATED BY A PEACE OFFICER, WHETHER CONSENSUAL OR NONCONSENSUAL, FOR THE PURPOSE OF ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS OF THE LAW. "CONTACTS" DO NOT INCLUDE ROUTINE INTERACTIONS WITH THE PUBLIC AT THE POINT OF ENTRY OR EXIT FROM A CONTROLLED AREA.

(2) "DEMOGRAPHIC INFORMATION" MEANS RACE, ETHNICITY, SEX, AND APPROXIMATE AGE.

(3) "PEACE OFFICER" MEANS ANY PERSON EMPLOYED BY A POLITICAL SUBDIVISION OF THE STATE REQUIRED TO BE CERTIFIED BY THE P.O.S.T. BOARD PURSUANT TO SECTION 16-2.5-102, A COLORADO STATE PATROL OFFICER AS DESCRIBED IN SECTION 16-2.5-114, AND ANY NONCERTIFIED DEPUTY SHERIFF AS DESCRIBED IN SECTION 16-2.5-103 (2).

(4) "PHYSICAL FORCE" MEANS THE APPLICATION OF PHYSICAL TECHNIQUES OR TACTICS, CHEMICAL AGENTS, OR WEAPONS TO ANOTHER PERSON.

(5) "SERIOUS BODILY INJURY" HAS THE SAME MEANING AS IN SECTION 18-1-901 (3)(p).

(6) "TAMPER" MEANS TO INTENTIONALLY DAMAGE, DISABLE, DISLODGE, OR OBSTRUCT THE SIGHT OR SOUND OR OTHERWISE IMPAIR FUNCTIONALITY OF THE BODY-WORN CAMERA OR TO INTENTIONALLY DAMAGE, DELETE, OR FAIL TO UPLOAD SOME OR ALL PORTIONS OF THE VIDEO AND AUDIO.

24-31-902. Incident recordings - release - tampering - fine. (1) (a) (I) BY JULY 1, 2023, ALL LOCAL LAW ENFORCEMENT AGENCIES IN

THE STATE AND THE COLORADO STATE PATROL SHALL PROVIDE BODY-WORN CAMERAS FOR EACH PEACE OFFICER OF THE LAW ENFORCEMENT AGENCY WHO INTERACTS WITH MEMBERS OF THE PUBLIC. LAW ENFORCEMENT AGENCIES MAY SEEK FUNDING PURSUANT TO SECTION 24-33.5-519.

(II) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(II)(B) OR (1)(a)(II)(C) OF THIS SECTION, A PEACE OFFICER SHALL WEAR AND ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA, IF THE PEACE OFFICER'S VEHICLE IS EQUIPPED WITH A DASH CAMERA, WHEN RESPONDING TO A CALL FOR SERVICE OR DURING ANY INTERACTION WITH THE PUBLIC INITIATED BY THE PEACE OFFICER, WHETHER CONSENSUAL OR NONCONSENSUAL, FOR THE PURPOSE OF ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS OF THE LAW.

(B) A PEACE OFFICER MAY TURN OFF A BODY-WORN CAMERA TO AVOID RECORDING PERSONAL INFORMATION THAT IS NOT CASE RELATED; WHEN WORKING ON AN UNRELATED ASSIGNMENT; WHEN THERE IS A LONG BREAK IN THE INCIDENT OR CONTACT THAT IS NOT RELATED TO THE INITIAL INCIDENT; AND IN ADMINISTRATIVE, TACTICAL, AND MANAGEMENT DISCUSSIONS.

(C) A PEACE OFFICER DOES NOT NEED TO WEAR OR ACTIVATE A BODY-WORN CAMERA IF THE PEACE OFFICER IS WORKING UNDERCOVER.

(D) THE PROVISIONS OF THIS SUBSECTION (1)(a)(II) DO NOT APPLY TO JAIL PEACE OFFICERS OR STAFF OF A LOCAL LAW ENFORCEMENT AGENCY IF THE JAIL HAS VIDEO CAMERAS; EXCEPT THAT THIS SUBSECTION (1)(a)(II) APPLIES TO JAIL PEACE OFFICERS WHEN PERFORMING A TASK THAT REQUIRES AN ANTICIPATED USE OF FORCE, INCLUDING CELL EXTRACTIONS AND RESTRAINT CHAIRS. THE PROVISIONS OF THIS SUBSECTION (1)(a)(II) ALSO DO NOT APPLY TO THE CIVILIAN OR ADMINISTRATIVE STAFF OF THE COLORADO STATE PATROL OR A LOCAL LAW ENFORCEMENT AGENCY, THE EXECUTIVE DETAIL OF THE COLORADO STATE PATROL, AND PEACE OFFICERS WORKING IN A COURTROOM.

(III) IF A PEACE OFFICER FAILS TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA AS REQUIRED BY THIS SECTION OR TAMPERS WITH BODY-WORN- OR DASH-CAMERA FOOTAGE OR OPERATION WHEN REQUIRED TO ACTIVATE THE CAMERA, THERE IS A PERMISSIVE INFERENCE IN ANY INVESTIGATION OR LEGAL PROCEEDING, EXCLUDING CRIMINAL PROCEEDINGS

AGAINST THE PEACE OFFICER, THAT THE MISSING FOOTAGE WOULD HAVE REFLECTED MISCONDUCT BY THE PEACE OFFICER. IF A PEACE OFFICER FAILS TO ACTIVATE OR REACTIVATE HIS OR HER BODY-WORN CAMERA AS REQUIRED BY THIS SECTION OR TAMPERS WITH BODY-WORN OR DASH CAMERA FOOTAGE OR OPERATION WHEN REQUIRED TO ACTIVATE THE CAMERA, ANY STATEMENTS SOUGHT TO BE INTRODUCED IN A PROSECUTION THROUGH THE PEACE OFFICER RELATED TO THE INCIDENT THAT WERE NOT RECORDED DUE TO THE PEACE OFFICER'S FAILURE TO ACTIVATE OR REACTIVATE THE BODY-WORN CAMERA AS REQUIRED BY THIS SECTION OR IF THE STATEMENT WAS NOT RECORDED BY OTHER MEANS CREATES A REBUTTABLE PRESUMPTION OF INADMISSIBILITY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SUBSECTION (1)(a)(III) DOES NOT APPLY IF THE BODY-WORN CAMERA WAS NOT ACTIVATED DUE TO A MALFUNCTION OF THE BODY-WORN CAMERA AND THE PEACE OFFICER WAS NOT AWARE OF THE MALFUNCTION, OR WAS UNABLE TO RECTIFY IT, PRIOR TO THE INCIDENT, PROVIDED THAT THE LAW ENFORCEMENT AGENCY'S DOCUMENTATION SHOWS THE PEACE OFFICER CHECKED THE FUNCTIONALITY OF THE BODY-WORN CAMERA AT THE BEGINNING OF HIS OR HER SHIFT.

(IV) (A) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER THE LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR A FINAL DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA OR TAMPERED WITH ANY BODY-WORN OR DASH CAMERA, EXCEPT AS PERMITTED IN THIS SECTION, THE PEACE OFFICER'S EMPLOYER SHALL IMPOSE DISCIPLINE UP TO AND INCLUDING TERMINATION, TO THE EXTENT PERMITTED BY APPLICABLE CONSTITUTIONAL AND STATUTORY PERSONNEL LAWS AND CASE LAW.

(B) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER THE LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR A FINAL DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA OR TAMPERED WITH ANY BODY-WORN OR DASH CAMERA, EXCEPT AS PERMITTED IN THIS SECTION, WITH THE INTENT TO CONCEAL UNLAWFUL OR INAPPROPRIATE ACTIONS OR OBSTRUCT JUSTICE, THE P.O.S.T. BOARD SHALL SUSPEND THE PEACE OFFICER'S CERTIFICATION FOR A PERIOD OF NOT LESS THAN ONE YEAR AND THE SUSPENSION MAY ONLY BE LIFTED WITHIN THE PERIOD OF THE SUSPENSION IF THE PEACE OFFICER IS EXONERATED BY A COURT.

(C) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER THE LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR A FINAL DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA OR TAMPERED WITH ANY BODY-WORN OR DASH CAMERA, EXCEPT AS PERMITTED IN THIS SECTION, WITH THE INTENT TO CONCEAL UNLAWFUL OR INAPPROPRIATE ACTIONS, OR OBSTRUCT JUSTICE, IN AN INCIDENT RESULTING IN A CIVILIAN DEATH, THE P.O.S.T. BOARD SHALL PERMANENTLY REVOKE THE PEACE OFFICER'S CERTIFICATION AND THE REVOCATION MAY ONLY BE OVERTURNED IF THE PEACE OFFICER IS EXONERATED BY A COURT.

(b) A LOCAL LAW ENFORCEMENT AGENCY AND THE COLORADO STATE PATROL SHALL ESTABLISH AND FOLLOW A RETENTION SCHEDULE FOR BODY-WORN CAMERA RECORDINGS IN COMPLIANCE WITH COLORADO STATE ARCHIVES RULES AND DIRECTION.

(2) (a) FOR ALL INCIDENTS IN WHICH THERE IS A COMPLAINT OF PEACE OFFICER MISCONDUCT BY ANOTHER PEACE OFFICER, A CIVILIAN, OR NONPROFIT ORGANIZATION, THROUGH NOTICE TO THE LAW ENFORCEMENT AGENCY INVOLVED IN THE ALLEGED MISCONDUCT, THE LOCAL LAW ENFORCEMENT AGENCY OR THE COLORADO STATE PATROL SHALL RELEASE ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE INCIDENT, INCLUDING THOSE FROM BODY-WORN CAMERAS, DASH CAMERAS, OR OTHERWISE COLLECTED THROUGH INVESTIGATION, TO THE PUBLIC WITHIN TWENTY-ONE DAYS AFTER THE LOCAL LAW ENFORCEMENT AGENCY OR THE COLORADO STATE PATROL RECEIVED THE COMPLAINT OF MISCONDUCT.

(b) (I) ALL VIDEO AND AUDIO RECORDINGS DEPICTING A DEATH MUST BE PROVIDED UPON REQUEST TO THE VICTIM'S SPOUSE, PARENT, LEGAL GUARDIAN, CHILD, SIBLING, GRANDPARENT, GRANDCHILD, SIGNIFICANT OTHER, OR OTHER LAWFUL REPRESENTATIVE, AND SUCH PERSON SHALL BE NOTIFIED OF HIS OR HER RIGHT, PURSUANT TO SECTION 24-4.1-302.5 (1)(j.8), TO RECEIVE AND REVIEW THE RECORDING AT LEAST SEVENTY-TWO HOURS PRIOR TO PUBLIC DISCLOSURE. A PERSON SEVENTEEN YEARS OF AGE AND UNDER IS CONSIDERED INCAPACITATED, UNLESS LEGALLY EMANCIPATED.

(II) (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ANY VIDEO THAT RAISES SUBSTANTIAL PRIVACY CONCERNS FOR CRIMINAL DEFENDANTS, VICTIMS, WITNESSES, JUVENILES, OR INFORMANTS, INCLUDING

VIDEO DEPICTING NUDITY; A SEXUAL ASSAULT; A MEDICAL EMERGENCY; PRIVATE MEDICAL INFORMATION; A MENTAL HEALTH CRISIS; A VICTIM INTERVIEW; A MINOR, INCLUDING ANY IMAGES OR INFORMATION THAT MIGHT UNDERMINE THE REQUIREMENT TO KEEP CERTAIN JUVENILE RECORDS CONFIDENTIAL; ANY PERSONAL INFORMATION OTHER THAN THE NAME OF ANY PERSON NOT ARRESTED, CITED, CHARGED, OR ISSUED A WRITTEN WARNING, INCLUDING A GOVERNMENT-ISSUED IDENTIFICATION NUMBER, DATE OF BIRTH, ADDRESS, OR FINANCIAL INFORMATION; SIGNIFICANTLY EXPLICIT AND GRUESOME BODILY INJURY, UNLESS THE INJURY WAS CAUSED BY A PEACE OFFICER; OR THE INTERIOR OF A HOME OR TREATMENT FACILITY, SHALL BE REDACTED OR BLURRED TO PROTECT THE SUBSTANTIAL PRIVACY INTEREST WHILE STILL ALLOWING PUBLIC RELEASE. UNREDACTED FOOTAGE SHALL NOT BE RELEASED WITHOUT THE WRITTEN AUTHORIZATION OF THE VICTIM OR, IF THE VICTIM IS DECEASED OR INCAPACITATED, THE WRITTEN AUTHORIZATION OF THE VICTIM'S NEXT OF KIN. A PERSON SEVENTEEN YEARS OF AGE AND UNDER IS CONSIDERED INCAPACITATED, UNLESS LEGALLY EMANCIPATED.

(B) IF REDACTION OR BLURRING IS INSUFFICIENT TO PROTECT THE SUBSTANTIAL PRIVACY INTEREST, THE LOCAL LAW ENFORCEMENT AGENCY OR THE COLORADO STATE PATROL SHALL, UPON REQUEST, RELEASE THE VIDEO TO THE VICTIM OR, IF THE VICTIM IS DECEASED OR INCAPACITATED, TO THE VICTIM'S SPOUSE, PARENT, LEGAL GUARDIAN, CHILD, SIBLING, GRANDPARENT, GRANDCHILD, SIGNIFICANT OTHER, OR OTHER LAWFUL REPRESENTATIVE WITHIN TWENTY DAYS AFTER RECEIPT OF THE COMPLAINT OF MISCONDUCT. IN CASES IN WHICH THE RECORDING IS NOT RELEASED TO THE PUBLIC PURSUANT TO THIS SUBSECTION (2)(b)(II)(B), THE LOCAL LAW ENFORCEMENT AGENCY SHALL NOTIFY THE PERSON WHOSE PRIVACY INTEREST IS IMPLICATED, IF CONTACT INFORMATION IS KNOWN, WITHIN TWENTY DAYS AFTER RECEIPT OF THE COMPLAINT OF MISCONDUCT, AND INFORM THE PERSON OF HIS OR HER RIGHT TO WAIVE THE PRIVACY INTEREST.

(C) A WITNESS, VICTIM, OR CRIMINAL DEFENDANT MAY WAIVE IN WRITING THE INDIVIDUAL PRIVACY INTEREST THAT MAY BE IMPLICATED BY PUBLIC RELEASE. UPON RECEIPT OF A WRITTEN WAIVER OF THE APPLICABLE PRIVACY INTEREST, ACCOMPANIED BY A REQUEST FOR RELEASE, THE LAW ENFORCEMENT AGENCY MAY NOT REDACT OR WITHHOLD RELEASE TO PROTECT THAT PRIVACY INTEREST. THE HEARING SHALL BE CONSIDERED A CRITICAL STAGE PURSUANT TO SECTION 24-4.1-302 AND GIVES VICTIMS THE RIGHT TO BE HEARD PURSUANT TO 24-4.1-302.5.

(III) ANY VIDEO THAT WOULD SUBSTANTIALLY INTERFERE WITH OR JEOPARDIZE AN ACTIVE OR ONGOING INVESTIGATION MAY BE WITHHELD FROM THE PUBLIC; EXCEPT THAT THE VIDEO SHALL BE RELEASED NO LATER THAN FORTY-FIVE DAYS FROM THE DATE OF THE ALLEGATION OF MISCONDUCT. IN ALL CASES WHEN RELEASE OF A VIDEO IS DELAYED IN RELIANCE ON THIS SUBSECTION (2)(b)(III), THE PROSECUTING ATTORNEY SHALL PREPARE A WRITTEN EXPLANATION OF THE INTERFERENCE OR JEOPARDY THAT JUSTIFIES THE DELAYED RELEASE, CONTEMPORANEOUS WITH THE REFUSAL TO RELEASE THE VIDEO. UPON RELEASE OF THE VIDEO, THE PROSECUTING ATTORNEY SHALL RELEASE THE WRITTEN EXPLANATION TO THE PUBLIC.

(c) IF CRIMINAL CHARGES HAVE BEEN FILED AGAINST ANY PARTY TO THE INCIDENT, THAT PARTY MUST FILE ANY CONSTITUTIONAL OBJECTION TO RELEASE OF THE RECORDING IN THE PENDING CRIMINAL CASE BEFORE THE TWENTY-ONE-DAY PERIOD EXPIRES. ONLY IN CASES IN WHICH THERE IS A PENDING CRIMINAL INVESTIGATION OR PROSECUTION OF A PARTY TO THE INCIDENT, THE TWENTY-ONE-DAY PERIOD SHALL BEGIN FROM THE DATE OF APPOINTMENT OF COUNSEL, THE FILING OF AN ENTRY OF APPEARANCE BY COUNSEL, OR THE ELECTION TO PROCEED PRO SE BY THE DEFENDANT IN THE CRIMINAL PROSECUTION MADE ON THE RECORD BEFORE A JUDGE. IF THE DEFENDANT ELECTS TO PROCEED PRO SE IN THE CRIMINAL CASE, THE COURT SHALL ADVISE THE DEFENDANT OF THE TWENTY-ONE-DAY DEADLINE FOR THE DEFENDANT TO FILE ANY CONSTITUTIONAL OBJECTION TO RELEASE OF THE RECORDING IN THE PENDING CRIMINAL CASE AS PART OF THE COURT'S ADVISEMENT. THE COURT SHALL HOLD A HEARING ON ANY OBJECTION NO LATER THAN SEVEN DAYS AFTER IT IS FILED AND ISSUE A RULING NO LATER THAN THREE DAYS AFTER THE HEARING.

24-31-903. Division of criminal justice report. (1) BEGINNING JULY 1, 2023, THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL CREATE AN ANNUAL REPORT INCLUDING ALL OF THE INFORMATION THAT IS REPORTED TO THE DIVISION PURSUANT TO SUBSECTION (2) OF THIS SECTION, AGGREGATED AND BROKEN DOWN BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS PEACE OFFICERS, ALONG WITH THE UNDERLYING DATA.

(2) BEGINNING JANUARY 1, 2023, THE COLORADO STATE PATROL AND EACH LOCAL LAW ENFORCEMENT AGENCY THAT EMPLOYS PEACE OFFICERS SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE:

(a) ALL USE OF FORCE BY ITS PEACE OFFICERS THAT RESULTS IN DEATH OR SERIOUS BODILY INJURY, INCLUDING:

(I) THE DATE, TIME, AND LOCATION OF THE USE OF FORCE;

(II) THE PERCEIVED DEMOGRAPHIC INFORMATION OF THE PERSON CONTACTED, PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER MAKING THE CONTACT AND OTHER AVAILABLE DATA;

(III) THE NAMES OF ALL PEACE OFFICERS WHO WERE AT THE SCENE, IDENTIFIED BY WHETHER THE PEACE OFFICER WAS INVOLVED IN THE USE OF FORCE OR NOT; EXCEPT THAT THE IDENTITY OF OTHER PEACE OFFICERS AT THE SCENE NOT DIRECTLY INVOLVED IN THE USE OF FORCE SHALL BE IDENTIFIED BY THE OFFICER'S IDENTIFICATION NUMBER ISSUED BY THE P.O.S.T. BOARD UNLESS THE PEACE OFFICER IS CHARGED CRIMINALLY OR IS A DEFENDANT TO A CIVIL SUIT AS A RESULT ARISING FROM THE USE OF FORCE;

(IV) THE TYPE OF FORCE USED, THE SEVERITY AND NATURE OF THE INJURY, WHETHER THE PEACE OFFICER SUFFERED PHYSICAL INJURY, AND THE SEVERITY OF THE PEACE OFFICER'S INJURY;

(V) WHETHER THE PEACE OFFICER WAS ON DUTY AT THE TIME OF THE USE OF FORCE;

(VI) WHETHER A PEACE OFFICER UNHOLSTERED A WEAPON DURING THE INCIDENT;

(VII) WHETHER A PEACE OFFICER DISCHARGED A FIREARM DURING THE INCIDENT;

(VIII) WHETHER THE USE OF FORCE RESULTED IN A LAW ENFORCEMENT AGENCY INVESTIGATION AND THE RESULT OF THE INVESTIGATION; AND

(IX) WHETHER THE USE OF FORCE RESULTED IN A CITIZEN COMPLAINT AND THE RESOLUTION OF THAT COMPLAINT;

(b) ALL INSTANCES WHEN A PEACE OFFICER RESIGNED WHILE UNDER

INVESTIGATION FOR VIOLATING DEPARTMENT POLICY;

(c) ALL DATA RELATING TO CONTACTS CONDUCTED BY ITS PEACE OFFICERS, INCLUDING:

(I) THE PERCEIVED DEMOGRAPHIC INFORMATION OF THE PERSON CONTACTED PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER MAKING THE CONTACT AND OTHER AVAILABLE DATA;

(II) WHETHER THE CONTACT WAS A TRAFFIC STOP;

(III) THE TIME, DATE, AND LOCATION OF THE CONTACT;

(IV) THE DURATION OF THE CONTACT;

(V) THE REASON FOR THE CONTACT;

(VI) THE SUSPECTED CRIME;

(VII) THE RESULT OF THE CONTACT, SUCH AS:

(A) NO ACTION, WARNING, CITATION, PROPERTY SEIZURE, OR ARREST;

(B) IF A WARNING OR CITATION WAS ISSUED, THE WARNING PROVIDED OR VIOLATION CITED;

(C) IF AN ARREST WAS MADE, THE OFFENSE CHARGED;

(D) IF THE CONTACT WAS A TRAFFIC STOP, THE INFORMATION COLLECTED, WHICH IS LIMITED TO THE DRIVER;

(VIII) THE ACTIONS TAKEN BY THE PEACE OFFICER DURING THE CONTACT, INCLUDING BUT NOT LIMITED TO WHETHER:

(A) THE PEACE OFFICER ASKED FOR CONSENT TO SEARCH THE PERSON, AND, IF SO, WHETHER CONSENT WAS PROVIDED;

(B) THE PEACE OFFICER SEARCHED THE PERSON OR ANY PROPERTY,

AND, IF SO, THE BASIS FOR THE SEARCH AND THE TYPE OF CONTRABAND OR EVIDENCE DISCOVERED, IF ANY;

(C) THE PEACE OFFICER SEIZED ANY PROPERTY AND, IF SO, THE TYPE OF PROPERTY THAT WAS SEIZED AND THE BASIS FOR SEIZING THE PROPERTY;

(D) A PEACE OFFICER UNHOLSTERED A WEAPON DURING THE CONTACT; AND

(E) A PEACE OFFICER DISCHARGED A FIREARM DURING THE CONTACT;

(d) ALL INSTANCES OF UNANNOUNCED ENTRY INTO A RESIDENCE, WITH OR WITHOUT A WARRANT, INCLUDING:

(I) THE DATE, TIME, AND LOCATION OF THE USE OF UNANNOUNCED ENTRY;

(II) THE PERCEIVED DEMOGRAPHIC INFORMATION OF THE SUBJECT OF THE UNANNOUNCED ENTRY, PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER MAKING THE ENTRY AND OTHER AVAILABLE DATA;

(III) WHETHER A PEACE OFFICER UNHOLSTERED A WEAPON DURING THE UNANNOUNCED ENTRY; AND

(IV) WHETHER A PEACE OFFICER DISCHARGED A FIREARM DURING THE UNANNOUNCED ENTRY.

(3) THE COLORADO STATE PATROL AND LOCAL LAW ENFORCEMENT AGENCIES SHALL NOT REPORT THE NAME, ADDRESS, SOCIAL SECURITY NUMBER, OR OTHER UNIQUE PERSONAL IDENTIFYING INFORMATION OF THE SUBJECT OF THE USE OF FORCE, VICTIM OF THE OFFICIAL MISCONDUCT, OR PERSONS CONTACTED, SEARCHED, OR SUBJECTED TO A PROPERTY SEIZURE. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DATA REPORTED PURSUANT TO THIS SECTION IS AVAILABLE TO THE PUBLIC PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(4) THE DIVISION OF CRIMINAL JUSTICE SHALL MAINTAIN A STATEWIDE DATABASE WITH DATA COLLECTED PURSUANT TO THIS SECTION, IN A SEARCHABLE FORMAT, AND PUBLISH THE DATABASE ON ITS WEBSITE.

(5) THE COLORADO STATE PATROL AND ANY LOCAL LAW ENFORCEMENT AGENCY THAT FAILS TO MEET ITS REPORTING REQUIREMENTS PURSUANT TO THIS SECTION IS SUBJECT TO THE SUSPENSION OF ITS FUNDING BY ITS APPROPRIATING AUTHORITY.

24-31-904. Revoke peace officer certification after conviction. NOTWITHSTANDING ANY PROVISION OF LAW, IF ANY PEACE OFFICER IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A CRIME INVOLVING THE UNLAWFUL USE OR THREATENED USE OF PHYSICAL FORCE, A CRIME INVOLVING THE FAILURE TO INTERVENE IN THE USE OF UNLAWFUL FORCE, OR IS FOUND CIVILLY LIABLE FOR THE USE OF UNLAWFUL PHYSICAL FORCE, OR IS FOUND CIVILLY LIABLE FOR FAILURE TO INTERVENE IN THE USE OF UNLAWFUL FORCE, THE P.O.S.T. BOARD SHALL PERMANENTLY REVOKE THE PEACE OFFICER'S CERTIFICATION. THE P.O.S.T. BOARD SHALL NOT, UNDER ANY CIRCUMSTANCES, REINSTATE THE PEACE OFFICER'S CERTIFICATION OR GRANT NEW CERTIFICATION TO THE PEACE OFFICER UNLESS THE PEACE OFFICER IS EXONERATED BY A COURT. THE P.O.S.T. BOARD SHALL RECORD EACH DECERTIFIED PEACE OFFICER IN THE DATABASE CREATED PURSUANT TO SECTION 24-31-303 (1)(r).

24-31-905. Prohibited law enforcement action in response to protests. (1) IN RESPONSE TO A PROTEST OR DEMONSTRATION, A LAW ENFORCEMENT AGENCY AND ANY PERSON ACTING ON BEHALF OF THE LAW ENFORCEMENT AGENCY SHALL NOT:

(a) DISCHARGE KINETIC IMPACT PROJECTILES AND ALL OTHER NON- OR LESS-LETHAL PROJECTILES IN A MANNER THAT TARGETS THE HEAD, PELVIS, OR BACK;

(b) DISCHARGE KINETIC IMPACT PROJECTILES INDISCRIMINATELY INTO A CROWD; OR

(c) USE CHEMICAL AGENTS OR IRRITANTS, INCLUDING PEPPER SPRAY AND TEAR GAS, PRIOR TO ISSUING AN ORDER TO DISPERSE IN A SUFFICIENT MANNER TO ENSURE THE ORDER IS HEARD AND REPEATED IF NECESSARY, FOLLOWED BY SUFFICIENT TIME AND SPACE TO ALLOW COMPLIANCE WITH THE ORDER.

SECTION 3. In Colorado Revised Statutes, **add** 13-21-131 as follows:

13-21-131. Civil action for deprivation of rights - definition. (1) A PEACE OFFICER, AS DEFINED IN SECTION 24-31-901 (3), EMPLOYED BY A LOCAL GOVERNMENT WHO, UNDER COLOR OF LAW, SUBJECTS OR CAUSES TO BE SUBJECTED, INCLUDING FAILING TO INTERVENE, ANY OTHER PERSON TO THE DEPRIVATION OF ANY INDIVIDUAL RIGHTS THAT CREATE BINDING OBLIGATIONS ON GOVERNMENT ACTORS SECURED BY THE BILL OF RIGHTS, ARTICLE II OF THE STATE CONSTITUTION, IS LIABLE TO THE INJURED PARTY FOR LEGAL OR EQUITABLE RELIEF OR ANY OTHER APPROPRIATE RELIEF.

(2) (a) STATUTORY IMMUNITIES AND STATUTORY LIMITATIONS ON LIABILITY, DAMAGES, OR ATTORNEY FEES DO NOT APPLY TO CLAIMS BROUGHT PURSUANT TO THIS SECTION. THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, DOES NOT APPLY TO CLAIMS BROUGHT PURSUANT TO THIS SECTION.

(b) QUALIFIED IMMUNITY IS NOT A DEFENSE TO LIABILITY PURSUANT TO THIS SECTION.

(3) IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION, A COURT SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO A PREVAILING PLAINTIFF. IN ACTIONS FOR INJUNCTIVE RELIEF, A COURT SHALL DEEM A PLAINTIFF TO HAVE PREVAILED IF THE PLAINTIFF'S SUIT WAS A SUBSTANTIAL FACTOR OR SIGNIFICANT CATALYST IN OBTAINING THE RESULTS SOUGHT BY THE LITIGATION. WHEN A JUDGMENT IS ENTERED IN FAVOR OF A DEFENDANT, THE COURT MAY AWARD REASONABLE COSTS AND ATTORNEY FEES TO THE DEFENDANT FOR DEFENDING ANY CLAIMS THE COURT FINDS FRIVOLOUS.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PEACE OFFICER'S EMPLOYER SHALL INDEMNIFY ITS PEACE OFFICERS FOR ANY LIABILITY INCURRED BY THE PEACE OFFICER AND FOR ANY JUDGMENT OR SETTLEMENT ENTERED AGAINST THE PEACE OFFICER FOR CLAIMS ARISING PURSUANT TO THIS SECTION; EXCEPT THAT, IF THE PEACE OFFICER'S EMPLOYER DETERMINES THAT THE OFFICER DID NOT ACT UPON A GOOD FAITH AND REASONABLE BELIEF THAT THE ACTION WAS LAWFUL, THEN THE PEACE OFFICER IS PERSONALLY LIABLE AND SHALL NOT BE INDEMNIFIED BY THE PEACE OFFICER'S EMPLOYER FOR FIVE PERCENT OF THE JUDGMENT OR SETTLEMENT OR TWENTY-FIVE THOUSAND DOLLARS, WHICHEVER IS LESS. NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, IF THE PEACE OFFICER'S PORTION OF THE JUDGMENT IS UNCOLLECTIBLE FROM THE PEACE OFFICER, THE PEACE OFFICER'S EMPLOYER OR INSURANCE SHALL

SATISFY THE FULL AMOUNT OF THE JUDGMENT OR SETTLEMENT. A PUBLIC ENTITY DOES NOT HAVE TO INDEMNIFY A PEACE OFFICER IF THE PEACE OFFICER WAS CONVICTED OF A CRIMINAL VIOLATION FOR THE CONDUCT FROM WHICH THE CLAIM ARISES.

(5) A CIVIL ACTION PURSUANT TO THIS SECTION MUST BE COMMENCED WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

SECTION 4. In Colorado Revised Statutes, 18-1-703, **amend** (1) introductory portion and (1)(b) as follows:

18-1-703. Use of physical force - special relationships. (1) The use of physical force upon another person ~~which~~ THAT would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(b) A superintendent or other authorized official of a jail, prison, or correctional institution may, in order to maintain order and discipline, use OBJECTIVELY reasonable and appropriate physical force when and to the extent that he OR SHE reasonably believes it necessary to maintain order and discipline, but he OR SHE may use deadly physical force only when he OR SHE OBJECTIVELY reasonably believes ~~it necessary to prevent death or serious bodily injury~~ THE INMATE POSES AN IMMEDIATE THREAT TO THE PERSON USING DEADLY FORCE OR ANOTHER PERSON.

SECTION 5. In Colorado Revised Statutes, 18-1-707, **repeal and reenact, with amendments,** (1), (2), (2.5), (3), and (4); and **add** (4.5) as follows:

18-1-707. Use of force by peace officers - definition. (1) PEACE OFFICERS, IN CARRYING OUT THEIR DUTIES, SHALL APPLY NONVIOLENT MEANS, WHEN POSSIBLE, BEFORE RESORTING TO THE USE OF PHYSICAL FORCE. A PEACE 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 SERIOUS BODILY INJURY OR DEATH TO THE PEACE OFFICER OR ANOTHER PERSON.

(2) WHEN PHYSICAL FORCE IS USED, A PEACE OFFICER SHALL:

(a) NOT USE DEADLY PHYSICAL FORCE TO APPREHEND A PERSON WHO

IS SUSPECTED OF ONLY A MINOR OR NONVIOLENT OFFENSE;

(b) USE ONLY A DEGREE OF FORCE CONSISTENT WITH THE MINIMIZATION OF INJURY TO OTHERS;

(c) ENSURE THAT ASSISTANCE AND MEDICAL AID ARE RENDERED TO ANY INJURED OR AFFECTED PERSONS AS SOON AS PRACTICABLE; AND

(d) ENSURE THAT ANY IDENTIFIED RELATIVES OR NEXT OF KIN OF PERSONS WHO HAVE SUSTAINED SERIOUS BODILY INJURY OR DEATH ARE NOTIFIED AS SOON AS PRACTICABLE.

(2.5) (a) A PEACE OFFICER IS PROHIBITED FROM USING A CHOKEHOLD UPON ANOTHER PERSON.

(b) (I) FOR THE PURPOSES OF THIS SUBSECTION (2.5), "CHOKEHOLD" MEANS 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.

(II) "CHOKEHOLD" 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.

(3) A PEACE OFFICER IS JUSTIFIED IN USING DEADLY PHYSICAL FORCE TO MAKE AN ARREST ONLY WHEN ALL OTHER MEANS OF APPREHENSION ARE UNREASONABLE GIVEN THE CIRCUMSTANCES AND:

(a) THE ARREST IS FOR A FELONY INVOLVING CONDUCT INCLUDING THE USE OR THREATENED USE OF DEADLY PHYSICAL FORCE;

(b) THE SUSPECT POSES AN IMMEDIATE THREAT TO THE PEACE OFFICER OR ANOTHER PERSON;

(c) THE FORCE EMPLOYED DOES NOT CREATE A SUBSTANTIAL RISK OF INJURY TO OTHER PERSONS.

(4) A PEACE OFFICER SHALL IDENTIFY HIMSELF OR HERSELF AS A PEACE OFFICER AND GIVE A CLEAR VERBAL WARNING OF HIS OR HER INTENT

TO USE FIREARMS OR OTHER DEADLY PHYSICAL FORCE, WITH SUFFICIENT TIME FOR THE WARNING TO BE OBSERVED, UNLESS TO DO SO WOULD UNDULY PLACE PEACE OFFICERS AT RISK OF INJURY, WOULD CREATE A RISK OF DEATH OR INJURY TO OTHER PERSONS.

(4.5) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, A PEACE OFFICER IS JUSTIFIED IN USING DEADLY FORCE IF THE PEACE OFFICER HAS AN OBJECTIVELY REASONABLE BELIEF THAT A LESSER DEGREE OF FORCE IS INADEQUATE AND THE PEACE OFFICER HAS OBJECTIVELY REASONABLE GROUNDS TO BELIEVE, AND DOES BELIEVE, THAT HE OR ANOTHER PERSON IS IN IMMINENT DANGER OF BEING KILLED OR OF RECEIVING SERIOUS BODILY INJURY.

SECTION 6. In Colorado Revised Statutes, 18-8-802, **add** (1.5) as follows:

18-8-802. Duty to report use of force by peace officers - duty to intervene. (1.5) (a) A PEACE OFFICER SHALL INTERVENE TO PREVENT OR STOP ANOTHER PEACE OFFICER FROM USING PHYSICAL FORCE THAT EXCEEDS THE DEGREE OF FORCE PERMITTED, IF ANY, BY SECTION 18-1-707, IN PURSUANCE OF THE OTHER PEACE OFFICER'S LAW ENFORCEMENT DUTIES IN CARRYING OUT AN ARREST OF ANY PERSON, PLACING ANY PERSON UNDER DETENTION, TAKING ANY PERSON INTO CUSTODY, BOOKING ANY PERSON, OR IN THE PROCESS OF CROWD CONTROL OR RIOT CONTROL, WITHOUT REGARD FOR CHAIN OF COMMAND.

(b) (I) A PEACE OFFICER WHO INTERVENES AS REQUIRED BY SUBSECTION (1.5) (a) OF THIS SECTION SHALL REPORT THE INTERVENTION TO HIS OR HER IMMEDIATE SUPERVISOR.

(II) AT A MINIMUM, THE REPORT REQUIRED BY THIS SUBSECTION (1.5)(b) MUST INCLUDE THE DATE, TIME, AND PLACE OF THE OCCURRENCE; THE IDENTITY, IF KNOWN, AND DESCRIPTION OF THE PARTICIPANTS; AND A DESCRIPTION OF THE INTERVENTION ACTIONS TAKEN. THIS REPORT SHALL BE MADE IN WRITING WITHIN TEN DAYS OF THE OCCURRENCE OF THE USE OF SUCH FORCE AND SHALL BE APPENDED TO ALL OTHER REPORTS OF THE INCIDENT.

(c) A MEMBER OF A LAW ENFORCEMENT AGENCY SHALL NOT DISCIPLINE OR RETALIATE IN ANY WAY AGAINST A PEACE OFFICER FOR

INTERVENING AS REQUIRED BY SUBSECTION (1.5) (a) OF THIS SECTION, OR FOR REPORTING UNCONSTITUTIONAL CONDUCT, OR FOR FAILING TO FOLLOW WHAT THE OFFICER REASONABLY BELIEVES IS AN UNCONSTITUTIONAL DIRECTIVE.

(d) ANY PEACE OFFICER WHO FAILS TO INTERVENE TO PREVENT THE USE OF UNLAWFUL FORCE AS PRESCRIBED IN THIS SUBSECTION (1.5) COMMITS A CLASS 1 MISDEMEANOR. NOTHING IN THIS SUBSECTION (1.5) SHALL PROHIBIT OR DISCOURAGE PROSECUTION OF ANY OTHER CRIMINAL OFFENSE RELATED TO FAILURE TO INTERVENE, INCLUDING A HIGHER CHARGE, IF SUPPORTED BY THE EVIDENCE.

(e) WHEN AN ADMINISTRATIVE LAW JUDGE OR INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER FAILED TO INTERVENE TO PREVENT THE USE OF UNLAWFUL PHYSICAL FORCE AS PRESCRIBED IN THIS SUBSECTION (1.5), THIS FINDING MUST BE PRESENTED TO THE DISTRICT ATTORNEY SO THAT HE OR SHE CAN DETERMINE WHETHER CHARGES SHOULD BE FILED PURSUANT TO SUBSECTION (1.5)(d) OF THIS SECTION. HOWEVER, NOTHING IN THIS SUBSECTION (1.5)(e) PROHIBITS THE DISTRICT ATTORNEY FROM CHARGING AN OFFICER WITH FAILURE TO INTERVENE BEFORE THE CONCLUSION OF ANY INTERNAL INVESTIGATION.

(f) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER THE LAW, WHEN AN ADMINISTRATIVE LAW JUDGE HEARING OFFICER, OR INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER FAILED TO INTERVENE AS REQUIRED BY SUBSECTION (1.5)(a) OF THIS SECTION IN AN INCIDENT RESULTING IN SERIOUS BODILY INJURY OR DEATH TO ANY PERSON, THE PEACE OFFICER'S EMPLOYER SHALL SUBJECT THE PEACE OFFICER TO DISCIPLINE, UP TO AND INCLUDING TERMINATION, TO THE EXTENT PERMITTED BY APPLICABLE CONSTITUTIONAL AND STATUTORY PERSONNEL LAWS AND CASE LAW, AND THE P.O.S.T. BOARD SHALL PERMANENTLY DECERTIFY THE PEACE OFFICER UPON RECEIPT OF NOTICE OF THE PEACE OFFICER'S DISCIPLINE. THE REVOCATION MAY ONLY BE OVERTURNED IF THE PEACE OFFICER IS EXONERATED BY A COURT.

(g) IN A CASE IN WHICH THE PROSECUTION CHARGES A PEACE OFFICER WITH OFFENSES RELATED TO AND BASED UPON THE USE OF EXCESSIVE FORCE BUT DOES NOT FILE CHARGES AGAINST ANY OTHER PEACE OFFICER OR OFFICERS WHO WERE AT THE SCENE DURING THE USE OF FORCE, THE DISTRICT ATTORNEY SHALL PREPARE A WRITTEN REPORT EXPLAINING

THE DISTRICT ATTORNEY'S BASIS FOR THE DECISION NOT TO CHARGE ANY OTHER PEACE OFFICER WITH ANY CRIMINAL CONDUCT AND SHALL PUBLICLY DISCLOSE THE REPORT TO THE PUBLIC; EXCEPT THAT IF DISCLOSURE OF THE REPORT WOULD SUBSTANTIALLY INTERFERE WITH OR JEOPARDIZE AN ONGOING CRIMINAL INVESTIGATION, THE DISTRICT ATTORNEY MAY DELAY PUBLIC DISCLOSURE FOR UP TO FORTY-FIVE DAYS. THE DISTRICT ATTORNEY SHALL POST THE WRITTEN REPORT ON ITS WEBSITE OR, IF IT DOES NOT HAVE A WEBSITE, MAKE IT PUBLICLY AVAILABLE UPON REQUEST. NOTHING IN THIS SECTION IS INTENDED TO PROHIBIT OR DISCOURAGE CRIMINAL PROSECUTION OF AN OFFICER WHO FAILED TO INTERVENE FOR CONDUCT IN WHICH THE FACTS SUPPORT A CRIMINAL CHARGE, INCLUDING UNDER A COMPLICITY THEORY, OR FOR AN INCHOATE OFFENSE.

SECTION 7. In Colorado Revised Statutes, 18-1-707, **add** (10) as follows:

18-1-707. Use of physical force in making an arrest or in preventing an escape - definitions -repeal. (10) (a) EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL TRAIN ITS PEACE OFFICERS ON THE PROVISIONS OF SUBSECTIONS (1) TO (4.5) OF THIS SECTION, SECTION 18-1-703 (1)(b), AND SECTION 18-8-802 (1.5) AS ENACTED IN SENATE BILL 20-217, ENACTED IN 2020, PRIOR TO THE PROVISIONS BECOMING EFFECTIVE ON SEPTEMBER 1, 2020.

(b) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JANUARY 1, 2021.

SECTION 8. In Colorado Revised Statutes, 20-1-114, **amend** (2) as follows:

20-1-114. Peace officer-involved death investigations - disclosure. (2) If the district attorney refers the matter under investigation to the grand jury, the district attorney shall release a statement at the time the matter is referred to the grand jury disclosing the general purpose of the grand jury's investigation. If no true bill is returned, the grand jury ~~may~~ SHALL issue AND PUBLISH a report. ~~pursuant to section 16-5-205.5, C.R.S.~~

SECTION 9. In Colorado Revised Statutes, 24-31-101, **add** (3) and (4) as follows:

24-31-101. Powers and duties of attorney general. (3) THE

ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO ENFORCE THE PROVISIONS OF SECTION 24-31-113.

(4) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO ENFORCE THE PROVISIONS OF SECTION 24-31-307 (2) OR A CRIMINAL ACTION TO ENFORCE THE PROVISIONS OF SECTION 24-31-307 (3).

SECTION 10. In Colorado Revised Statutes, 24-31-303, **amend** (1)(l), (1)(p), and (1)(q); and **add** (1)(r) as follows:

24-31-303. Duties - powers of the P.O.S.T. board. (1) The P.O.S.T. board has the following duties:

(l) To promulgate rules deemed necessary by the board concerning annual in-service training requirements for certified peace officers, including but not limited to evaluation of the training program and processes to ensure substantial compliance by law enforcement agencies, ~~and~~ departments, AND INDIVIDUAL PEACE OFFICERS;

(p) To develop a community outreach program that informs the public of the role and duties of the P.O.S.T. board; ~~and~~

(q) To develop a recruitment program that creates a diversified applicant pool for appointments to the P.O.S.T. board and the subject matter expertise committees; AND

(r) BEGINNING ON JANUARY 1, 2022, TO CREATE AND MAINTAIN A DATABASE CONTAINING INFORMATION RELATED TO A PEACE OFFICER'S:

(I) UNTRUTHFULNESS;

(II) REPEATED FAILURE TO FOLLOW P.O.S.T. BOARD TRAINING REQUIREMENTS;

(III) DECERTIFICATION BY THE P.O.S.T. BOARD; AND

(IV) TERMINATION FOR CAUSE.

SECTION 11. In Colorado Revised Statutes, 24-4.1-302, **add** (2)(w) as follows:

24-4.1-302. Definitions. As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(2) "Critical stages" means the following stages of the criminal justice process:

(w) A HEARING HELD PURSUANT TO SECTION 24-31-902 (2)(c).

SECTION 12. In Colorado Revised Statutes, 24-4.1-302.5, **amend** (1)(d)(VII) and (1)(d)(VIII); and **add** (1)(d)(IX) and (1)(j.8) as follows:

24-4.1-302.5. Rights afforded to victims - definitions. (1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime has the following rights:

(d) The right to be heard at any court proceeding:

(VII) Involving a subpoena for records concerning the victim's medical history, mental health, education, or victim compensation, or any other records that are privileged pursuant to section 13-90-107; ~~C.R.S.; or~~

(VIII) Involving a petition for expungement as described in section 19-1-306; OR

(IX) INVOLVING A HEARING AS DESCRIBED IN SECTION 24-31-902 (2)(c).

(j.8) THE RIGHT, UPON REQUEST, TO OBTAIN ANY INCIDENT RECORDING AS DESCRIBED IN SECTION 24-31-902;

SECTION 13. In Colorado Revised Statutes, **add** 24-31-113 as follows:

24-31-113. Public integrity - patterns and practices. IT IS UNLAWFUL FOR ANY GOVERNMENTAL AUTHORITY, OR ANY AGENT THEREOF, OR ANY PERSON ACTING ON BEHALF OF A GOVERNMENTAL AUTHORITY, TO ENGAGE IN A PATTERN OR PRACTICE OF CONDUCT BY PEACE OFFICERS OR BY OFFICIALS OR EMPLOYEES OF ANY GOVERNMENTAL AGENCY THAT DEPRIVES PERSONS OF RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED OR PROTECTED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES OR THE STATE OF

COLORADO. WHENEVER THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE ATTORNEY GENERAL, FOR OR IN THE NAME OF THE STATE OF COLORADO, MAY IN A CIVIL ACTION OBTAIN ANY AND ALL APPROPRIATE RELIEF TO ELIMINATE THE PATTERN OR PRACTICE. BEFORE FILING SUIT, THE ATTORNEY GENERAL SHALL NOTIFY THE GOVERNMENT AUTHORITY OR ANY AGENT THEREOF, AND PROVIDE IT WITH THE FACTUAL BASIS THAT SUPPORTS HIS OR HER REASONABLE CAUSE TO BELIEVE A VIOLATION OCCURRED. UPON RECEIPT OF THE FACTUAL BASIS, THE GOVERNMENT AUTHORITY, OR ANY AGENT THEREOF, HAS SIXTY DAYS TO CHANGE OR ELIMINATE THE IDENTIFIED PATTERN OR PRACTICE. IF THE IDENTIFIED PATTERN OR PRACTICE IS NOT CHANGED OR ELIMINATED AFTER SIXTY DAYS, THE ATTORNEY GENERAL MAY FILE A CIVIL LAWSUIT.

SECTION 14. In Colorado Revised Statutes, 24-31-305, **add** (2.7) as follows:

24-31-305. Certification - issuance - renewal - revocation - rules - definition. (2.7) THE P.O.S.T. BOARD MAY REVOKE THE CERTIFICATION OF A PEACE OFFICER WHO FAILS TO SATISFACTORILY COMPLETE PEACE OFFICER TRAINING REQUIRED BY THE P.O.S.T. BOARD. PRIOR TO REVOKING THE PEACE OFFICER'S CERTIFICATION, THE P.O.S.T. BOARD SHALL NOTIFY THE PEACE OFFICER OF HIS OR HER FAILURE TO COMPLETE THE TRAINING REQUIRED BY THE P.O.S.T. BOARD AND GIVE THE PEACE OFFICER THIRTY CALENDAR DAYS TO SATISFACTORILY COMPLETE THE PEACE OFFICER TRAINING REQUIRED BY THE P.O.S.T. BOARD.

SECTION 15. In Colorado Revised Statutes, **amend** 24-31-307 as follows:

24-31-307. Enforcement. (1) The P.O.S.T. board shall have the power to ~~direct the attorney general to enforce the provisions of this part 3 through an action in district court for injunctive or other appropriate relief against~~ PROMULGATE RULES FOR ENFORCEMENT OF THIS PART 3.

(2) THE ATTORNEY GENERAL MAY ENFORCE THE PROVISIONS OF THIS PART 3 THROUGH AN ACTION IN DISTRICT COURT FOR INJUNCTIVE OR OTHER APPROPRIATE RELIEF AGAINST:

(a) Any individual undertaking or attempting to undertake any duties

as a peace officer or a reserve peace officer in this state in violation of this part 3; and

(b) Any agency permitting any individual to undertake or attempt to undertake any duties as a peace officer or a reserve peace officer in this state under the auspices of such agency in violation of this part 3.

(3) THE ATTORNEY GENERAL MAY BRING CRIMINAL CHARGES FOR VIOLATIONS OF THIS PART 3 IF VIOLATION IS WILLFUL OR WANTON, OR IMPOSE FINES, AS SET IN P.O.S.T. BOARD RULE, UPON ANY INDIVIDUAL OFFICER OR AGENCY FOR FAILURE TO COMPLY WITH THIS PART 3 OR ANY RULE PROMULGATED UNDER THIS PART 3.

~~(2)~~ (4) The attorney general shall be entitled to recover reasonable attorney fees and costs against the defendant in any enforcement action under this part 3, if the attorney general prevails.

SECTION 16. In Colorado Revised Statutes, 24-31-309, **amend** (4)(a); and **add** (3.5) as follows:

24-31-309. Profiling - officer identification - training. (3.5) A PEACE OFFICER SHALL HAVE A LEGAL BASIS FOR MAKING A CONTACT, WHETHER CONSENSUAL OR NONCONSENSUAL, FOR THE PURPOSE OF ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS OF THE LAW. AFTER MAKING A CONTACT, A PEACE OFFICER, AS DEFINED IN SECTION 24-31-901 (3), SHALL REPORT TO THE PEACE OFFICER'S EMPLOYING AGENCY:

(a) THE PERCEIVED DEMOGRAPHIC INFORMATION OF THE PERSON CONTACTED, PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER MAKING THE CONTACT AND OTHER AVAILABLE DATA;

(b) WHETHER THE CONTACT WAS A TRAFFIC STOP;

(c) THE TIME, DATE, AND LOCATION OF THE CONTACT;

(d) THE DURATION OF THE CONTACT;

(e) THE REASON FOR THE CONTACT;

(f) THE SUSPECTED CRIME;

(g) THE RESULT OF THE CONTACT, SUCH AS:

(I) NO ACTION, WARNING, CITATION, PROPERTY SEIZURE, OR ARREST;

(II) IF A WARNING OR CITATION WAS ISSUED, THE WARNING PROVIDED OR VIOLATION CITED;

(III) IF AN ARREST WAS MADE, THE OFFENSE CHARGED;

(IV) IF THE CONTACT WAS A TRAFFIC STOP, THE INFORMATION COLLECTED, WHICH IS LIMITED TO THE DRIVER;

(h) THE ACTIONS TAKEN BY THE PEACE OFFICER DURING THE CONTACT, INCLUDING BUT NOT LIMITED TO WHETHER:

(I) THE PEACE OFFICER ASKED FOR CONSENT TO SEARCH THE PERSON, VEHICLE, OR OTHER PROPERTY, AND, IF SO, WHETHER CONSENT WAS PROVIDED;

(II) THE PEACE OFFICER SEARCHED THE PERSON OR ANY PROPERTY, AND, IF SO, THE BASIS FOR THE SEARCH AND THE TYPE OF CONTRABAND OR EVIDENCE DISCOVERED, IF ANY;

(III) THE PEACE OFFICER SEIZED ANY PROPERTY, AND, IF SO, THE TYPE OF PROPERTY THAT WAS SEIZED AND THE BASIS FOR SEIZING THE PROPERTY;

(IV) A PEACE OFFICER UNHOLSTERED A WEAPON DURING THE CONTACT; AND

(V) A PEACE OFFICER DISCHARGED A FIREARM DURING THE CONTACT.

(4) (a) A peace officer certified pursuant to this part 3 shall provide, without being asked, ~~his or her~~ THE PEACE OFFICER'S business card to any person whom the peace officer has detained in a traffic stop but has not cited or arrested. The business card ~~shall~~ MUST include identifying information about the peace officer, including but not limited to the peace

officer's name, division, precinct, and badge or other identification number; ~~and~~ a telephone number that may be used, if necessary, to report any comments, positive or negative, regarding the traffic stop; AND INFORMATION ABOUT HOW TO FILE A COMPLAINT RELATED TO THE CONTACT. The identity of the reporting person and the report of any such comments that ~~constitutes~~ CONSTITUTE a complaint ~~shall~~ MUST initially be kept confidential by the receiving law enforcement agency, to the extent permitted by law. The receiving law enforcement agency shall be permitted to obtain some identifying information regarding the complaint to allow initial processing of the complaint. If it becomes necessary for the further processing of the complaint for the complainant to disclose ~~his or her~~ THE COMPLAINANT'S identity, the complainant shall do so or, at the option of the receiving law enforcement agency, the complaint may be dismissed.

SECTION 17. Appropriation. (1) For the 2020-21 state fiscal year, $617,478 is appropriated to the department of public safety for use by the Colorado state patrol. This appropriation is from the highway users tax fund created in section 43-4-201 (1)(a), C.R.S. To implement this act, the patrol may use this appropriation as follows:

(a) $50,288 for civilians, which amount is based on an assumption that the patrol will require an additional 1.0 FTE;

(b) $7,550 for operating expenses;

(c) $463,700 for information technology asset maintenance; and

(d) $95,940 for the purchase of legal services.

(2) For the 2020-21 state fiscal year, $95,940 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public safety under subsection (1)(d) of this section and is based on an assumption that the department of law will require an additional 0.5 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public safety.

SECTION 18. Effective date. This act takes effect upon passage; except that:

(1) Section 24-31-902, Colorado Revised Statutes, as enacted in section 2 of this act, takes effect July 1, 2023;

(2) Section 4 of this act takes effect September 1, 2020; and

(3) Section 5 of this act takes effect September 1, 2020; except that section 18-1-707 (2.5) and (3), Colorado Revised Statutes, as enacted in section 5 of this act, takes effect upon passage.

SECTION 19. Safety clause. The general assembly hereby finds,

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

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED June 19th, 2020 at 9:53 AM
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

MEMORANDUM

Date: July 26, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Rick Klimek, Police Chief; Kim Emil, Asst. Town Attorney
Re: Draft Cat Ordinance
Item #: 4.

Background / Discussion:

This is a followup on the brief discussion about the regulation of feral/stray cats in Town. We are presenting a draft ordinance for discussion.

Recommendation:

Give direction on draft ordinance.

CC:

Shane Hale

ATTACHMENTS:

- Draft Cat Ordinance

TOWN OF WINDSOR

ORDINANCE NO. 2021-xxxx

AN ORDINANCE CREATING ARTICLE XI, CHAPTER 7 OF THE *WINDSOR MUNICIPAL CODE* CONCERNING THE REGULATION OF DOMESTIC HOUSECATS IN THE TOWN OF WINDSOR

WHEREAS, the Town of Windsor is a home rule municipality with all powers conferred under Colorado law; and

WHEREAS, the Town has deemed it to be in the best interests of the public health, safety and welfare to bring the Windsor Municipal Code current by making necessary corrections, additions and amendments from time to time; and

WHEREAS, as the Town continues to grow, so have complaints about cats; and

WHEREAS, the Town's current code does not address any regulations of domestic housecats; and

WHEREAS, the Town Board finds the adoption of this Ordinance promotes the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

Section 1. Chapter 7 of the *Windsor Municipal Code* is hereby amended as follows:

ARTICLE XI – Domesticated Housecats

Sec. 7-11-10. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

Domestic cat means any domesticated member of the genus Felis, species catus, otherwise referred to as Felis catus, Felis domesticus, or house cat, or feral cat or stray cat.

Feral cat or stray cat means an un-owned, free-ranging domestic cat, whether wild, or socialized to interact with humans.

Owner means every person who is in possession of, feeding, watering or harboring any domestic cat, feral cat or stray cat, or who allows any such domestic cat, feral cat or stray cat to remain about his or her premises.

Rabies vaccination means the inoculation of a domestic cat with a live or killed rabies vaccine by a licensed veterinarian and conferring immunity for a period of not less than thirty-six (36) months.

Sec. 7-11-20. Public nuisance prohibited.

(a) It shall be unlawful for any owner or keeper to fail to exercise proper care and control of his or her domestic housecat to prevent it from becoming a public nuisance. For purposes of this section, a public nuisance includes a domestic housecat that is a safety or health hazard, which damages or destroys the property of another, or to feed, water or harbor more than four (4) domestic housecats per home, business or dwelling unit.

(b) The keeping by any person of domestic housecats in the Town not in strict compliance with this Article is declared to be a menace to the health and safety of the residents of the Town, is hereby declared to be a nuisance and is prohibited.

(c) The Town may pursue remedies pursuant to the applicable provisions of Article I of this Chapter with respect to any declared nuisance under this Article.

Sec. 7-11-30. Rabies vaccinations required.

All domestic housecats within the Town over the age of six (6) months shall be vaccinated by a licensed veterinarian, with a live or killed rabies vaccine. It shall be a violation of this Article for the owner of any domestic housecat over the age of six (6) months to allow any unvaccinated domestic housecat in the Town. If the domestic housecat is found in the Town without a current rabies vaccination tag affixed to its collar or harness, or if the owner is not able to provide proof of current rabies vaccination upon request, the owner of such domestic housecat shall be presumed to have violated the provisions of this Article.

Sec. 7-11-40. Powers of Community Service Officer.

The Community Service Officer shall be specifically empowered to perform any of those duties specifically set forth in this Article or as otherwise directed by the Chief of Police or the Town Manager.

Sec. 7-11-50. Trapping by Town authorized.

The Town is authorized to provide for the placement of, or to place approved humane live traps for the purposes of capturing domestic housecats where a nuisance has been declared under this Article.

Sec. 7-11-60. Poisoning prohibited.

It shall be unlawful for any person to poison any domestic housecat, or to distribute poison in any manner whatsoever with the intent of for the purpose of poisoning any such animal within the Town.

Sec. 7-11-70. Interference with Law Enforcement and/or Community Service Officers.

It shall be unlawful for any person to interfere with, molest, inure or prevent the law enforcement and/or community service officer in the discharge of his or her duties pursuant to this Article.

Sec. 7-11-80. Right of entry.

A law enforcement and/or community service officer are authorized to enter upon any premises in the Town for the purposes of enforcing the provisions of this Chapter and Article.

Introduced and passed on first reading and ordered published this [date], 2021**.**

TOWN OF WINDSOR, COLORADO

_____
Paul Rennemeyer, Mayor

ATTEST:

_____
Karen Frawley, Town Clerk

[Seal]

Passed on second reading, and ordered published this [date], 2021.

TOWN OF WINDSOR, COLORADO

_____
Paul Rennemeyer, Mayor

ATTEST:

_____
Karen Frawley, Town Clerk

[Seal]

DRAFT

MEMORANDUM

Date: July 26, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Karen Frawley, Town Clerk
Re: Future Meeting Agenda
Item #: 5.

ATTACHMENTS:

- Future Meeting Agenda

FUTURE TOWN BOARD MEETINGS

August 2, 2021 5:30 p.m.	Town Board Work Session Presentation of COGCC Rulemaking Changes COGCC Financial Assurances Rulemaking Boardwalk Park Issues Snow Plow Discussion
August 9, 2021 5:30 p.m.	Town Board Work Session Board – Manager – Attorney Monthly Meeting IGA with Greeley on Open Space Land
August 9, 2021 7:00 p.m.	Town Board Regular Meeting
August 16, 2021 5:30 p.m.	Town Board Work Session Poudre River Trail Corridor Authority Future Plans
August 23, 2021 5:30 p.m.	Town Board Work Session Personnel Preview
August 23, 2021 7:00 p.m.	Town Board Regular Meeting
August 30, 2021	Cancelled – 5th Monday
September 6, 2021	Cancelled – Labor Day Holiday
September 13, 2021 5:30 p.m.	Town Board Work Session Budget: Capital Improvement Plan
September 13, 2021 7:00 p.m.	Town Board Regular Meeting
September 20, 2021 5:30 p.m.	Town Board Work Session
September 27, 2021 5:30 p.m.	Town Board Work Session Budget: Capital Improvement Plant Follow-up Questions
September 27, 2021 7:00 p.m.	Town Board Regular Meeting
October 4, 2021 5:30 p.m.	Town Board Work Session
October 9, 2021 8:00 a.m – 2:00 p.m.	Town Board Operational Budget Retreat

October 11, 2021 5:30 p.m.	Town Board Work Session
October 11, 2021 7:00 p.m.	Town Board Regular Meeting
October 18, 2021 5:30 p.m.	Town Board Work Session Comprehensive Fee Update
October 25, 2021 5:30 p.m.	Town Board Work Session
October 25, 2021 7:00 p.m.	Town Board Regular Meeting

Future Work Session Topics

- Broadband Update
- DDA Entertainment District
- Telecom Code (Pending FCC Rules)
- Regional Water Treatment Plant Site
- Presentation by Carolyn Steffl regarding SB21-262 – Special District Transparency
- Proportional services and amenities for planned population
- Economic development/retail needs based on population levels (following retail assessment)
- Budget: Follow-up Budget Items – October 25th
- Comprehensive Fee Update (October)