



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: October 19, 2023

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8609 repealing and reenacting Chapter 2-11, “Police Oversight,” B.R.C. 1981, redefining the composition, duties and powers of the city organization related to civilian oversight of the police; and setting forth related details

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Farah Muscadin, Consultant – Farah Muscadin Consulting LLC
Teresa Taylor Tate, City Attorney
Erin Poe, Deputy City Attorney
Sherry Daun, Independent Police Monitor
Aimee Kane, Chief Equity Officer

EXECUTIVE SUMMARY

The purpose of this agenda item is to present to City Council Proposed Ordinance 8609 (**Attachment A**) which revises [Ordinance 8430](#) and associated [Ordinance 8543](#) relating to the City of Boulder’s Police Oversight mechanism.

In November 2020, the Boulder City Council approved an ordinance establishing the Police Oversight Panel (“Panel”) and the Office of the Independent Police Monitor. The Panel reviews completed investigations from the Professional Standards Unit, makes recommendations on disposition and discipline for complaints of police misconduct, and makes policy and training recommendations to the City’s Police Department. The Panel is

also charged with providing feedback to the Monitor and to the city manager regarding the work of the Independent Police Monitor’s Office.

In February of 2023, the city contracted with consultant, Farah Muscadin, former Director of the Office of Police Oversight for the City of Austin, on civilian police oversight as it revises its police oversight ordinance, panel training and training materials, and the role and responsibilities of the Independent Police Monitor. As part of her project, she is tasked with reviewing, facilitating and making recommendations regarding ordinance revisions.

Ms. Muscadin created a police oversight ordinance work group that met weekly from June 13, 2023, to August 29, 2023, to discuss and make recommendations for potential changes to the city’s ordinance. Members included a representative from the NAACP Boulder County, a representative from Centro Amistad, a previous police oversight panel member, two current police oversight panel members, one representative each from the Boulder Police Department and the City Attorney’s Office.

There are a significant number of proposed changes to the current ordinance; therefore, staff is requesting that the current police oversight Ordinance 8430 be repealed and reenacted with the Proposed Ordinance 8609.

KEY ISSUES IDENTIFIED

In discussions with current and former Panel members, city staff, community stakeholders and the police department it was evident that the purpose of the Panel was not clear, and the perspectives on its scope varied greatly. The police oversight ordinance work group aimed to clearly define the purpose of the Panel and address areas involving the selection process, Panel members terms and qualifications, relationship with the Independent Police Monitor, and required training. The proposed ordinance is based on the current ordinance but there are several proposed changes to provide clarification, additional language, and some rewrite of the current ordinance language.

STAFF RECOMMENDATION

Suggested Motion Language

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Ordinance 8609 repealing and reenacting Chapter 2-11, “Police Oversight,” B.R.C. 1981, redefining the composition, duties and powers of the city organization related to civilian oversight of the police; and setting forth related details

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Social** - Strengthening civilian police oversight model in order to facilitate trust between the community, the oversight model and the police department.

RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE

None.

POLICE OVERSIGHT PANEL FEEDBACK -

Police Oversight Panel members were asked to provide feedback on proposed ordinance changes and can be found in **Attachment B**.

PUBLIC FEEDBACK

During the first quarter of the year, Ms. Muscadin sought out community feedback to understand the landscape of police oversight in Boulder, its history, and community sentiment. She met with current and former Panel members, police oversight task force members, current and former council members, the chief of police, members of the police department, various city staff members, and many external stakeholders with a vested interest in Boulder's civilian police oversight system. The initial community feedback she received was summarized in a Memorandum dated April 14, 2023, to the city manager and chief equity officer. The Memorandum can be found in **Attachment C**.

On June 21, 2023, in collaboration with the city and the Panel's community engagement committee, an in-person community feedback session to solicit feedback on the current ordinance was held. We also obtained online feedback on the current ordinance through Be Heard Boulder. A summary of the community feedback from this event, a summary memorandum dated July 18, 2023, to the city manager, and the direct feedback, in a spreadsheet format, from Be Heard Boulder can be found in **Attachment D**.

Once the police oversight ordinance working group finalized its recommendations on the current ordinance, the city hosted additional public feedback sessions on the proposed changes through a virtual feedback session on September 18, 2023, and an additional in-person session on September 20, 2023. Additionally, feedback was also requested through Be Heard Boulder. The community feedback from those sessions and additional feedback emailed directly to Ms. Muscadin can be found in **Attachment E**.

BACKGROUND

As mentioned above, the police oversight ordinance was approved by the City Council in November 2020. Since the establishment of the Office of the Independent Monitor and the Police Oversight Panel, there have been some areas within the ordinance that needed to be revisited to provide greater clarity to the role, purview, and responsibilities of the Panel. It is not uncommon in civilian oversight to revisit areas within the statutory authority. This process of the review of the ordinance and collaboration with the community to update the

ordinance provided an opportunity to establish greater clarity about the role of the Panel, correct some areas, and level set expectations of their scope with the Boulder community.

During the May 11, 2023, public Panel meeting, the Panel voted to limit its operations to work on the revision of the ordinance and any pending reviews of complaints of alleged police misconduct. On June 22, 2023, City Council adopted Ordinance 8583 approving a [partial moratorium](#) of Panel duties through October 20, 2023.

On July 27, 2023, Ms. Muscadin provided an update on the progress of the police oversight ordinance work group during the [council study session](#). During the study session, council expressed the following points for further inquiry.

Council feedback: Looking to see if there is a way that the work group, Panel, or community could provide input into the training the panel receives. Specifically, the kind of training not necessarily who provides it.

Response:

- The proposed revisions recommend a new Section 2-11-14, that directly addresses Panel training.
 - It specifically delineates the training Panel members must receive prior to taking a vote and provides a timeframe for the training to be completed in three months.
 - It also delineates annual training the Panel must participate in.
 - The Panel training may be provided by, but is not limited to, the National Association for Civilian Oversight of Law Enforcement, a comparable professional organization, consultant, or subject matter expert.
- Support for Panel taking the training.

The city supports training for the Panel and providing the necessary resources so that it can conduct its work.

Council feedback: Consider changing the name of the Panel as oversight as the name could be misleading.

Response:

- The names selected for a civilian police oversight entity is primarily driven by community. The names vary with the use of terms like, Police, Citizen, Community, Review, Advisory, and Oversight. It also can be very unique to the specific community in terms of how other similarly situated volunteer board/panels are named. The primary goal of the name is to be easily identifiable to assist community in understanding what the entity is and their role.

Council feedback: A request was made for a comparative analysis of a few cities in terms of scope and size of their Panel.

Response: See **Attachment F**.

- An analysis of comparable cities to Boulder was conducted to review the size of the city, type of oversight structure, number of civilian board/panel members, name of the police oversight entity and the size of their police department.
- The scope and appointment process vary greatly among the cities. The average size of the volunteer panel/board is around 10.
- Civilian oversight is very unique to each community as it takes into consideration the value and culture of its community, specific local and state laws, and goals it wishes to achieve in its oversight structure. Though the civilian police oversight agencies may fall under a respective type of oversight, the implementation of the oversight vary greatly. It is truly unique to the respective community.

Council feedback: What is the process for disagreement on discipline.

Response:

- Section 2-11-9(e)(2) of the proposed ordinance includes language that establishes an after-action meeting that may be requested by the Panel or the chief of police. The language states where the meeting can be held, who may attend, and what can be discussed.
- The purpose of the after-action meeting is to provide an opportunity for mutual understanding when disagreements on serious discipline arise.

Council feedback: Cadence for evaluating the overall oversight system.

Response:

- Section 2-11-21 of the proposed ordinance provides the city manager the authority, with input from stakeholders, to evaluate the civilian police oversight structure every five years.

ANALYSIS

After receiving and reviewing community feedback and with the police oversight ordinance work group recommendations, it is recommended that the council pass on second reading Proposed Ordinance 8609 to address areas that have caused difficulty for the Panel to conduct its work effectively. The proposed updates will provide greater clarity for community, Panel, and the police department. It will provide refinement of the Panel's role

and responsibilities by expanding areas for improvement in accountability and transparency and level setting expectations of the community on Boulder's civilian police oversight system. A redlined draft of the proposed changes to the current ordinance 8430 can be found in **Attachment G**.

In summary, the Proposed Ordinance 8609 includes changes or additions in the following areas:

- Inclusion of a purpose statement that clearly explains and describes the purpose of Boulder's civilian police oversight system.
- Provides the authority to both the Monitor and Panel to review critical incidents and incidents of serious bodily injury.
- Clearly delineates the Panel's role in making recommendations on disposition, discipline, and policy.
- Provides for an after-action meeting to take place when the Panel and chief of police disagree on serious discipline.
- Changes the selection process for appointment by the city manager which shall include input from community on the selection process.
- Designates two specific positions on the Panel for students enrolled in an institution of higher education.
- Updates the Panel's required qualifications to include:
 - Ability to be fair-minded, objective, and impartial.
 - Ability to build working relationships and communicate effectively with diverse and multicultural groups.
 - Ability to relate to and understand community concerns.
 - A demonstrated commitment to serving the Boulder community.
- Changes Panel terms to a maximum of four-year terms - reduced from six years.
- Affords the city manager the authority to remove a Panel member for failure to perform required duties, violation of the City of Boulder code of ethics, violation of the NACOLE code of ethics, or violation of any signed confidentiality agreement.
- Sets the circumstances for automatic resignation of a Panel for failure to attend public Panel meetings and failure to perform case reviews.
- Provides for specific training that must be completed prior to Panel member taking a vote and ongoing training which must be provided by the city manager or monitor.
- Establishes the parameters for the relationship between the Monitor and Panel.
 - The Monitor and the Panel shall be established and operated as separate, complementary entities with different roles that are and shall remain independent of one another.
- Establishes the obligations of the chief of police to include:
 - Providing a written response to any formal correspondence from the Monitor or Panel.
 - Creating a written record when the police department declines to implement any changes recommended by the Panel.
- Evaluation of the civilian oversight system every five years.
- Includes language that allows the for the Monitor and Panel to request outside

counsel through the City Attorney's Office.

NEXT STEPS

The second reading and public hearing is scheduled for October 19, 2023.

ATTACHMENTS

A - Proposed Ordinance 8609

B - Police Oversight Panel Feedback on the proposed changes to the ordinance

C - Consultant Initial Community Feedback Memorandum

D - Community Feedback Session on June 21, 2023 and Be Heard Boulder Round 1 Feedback

E - Community Feedback on the proposed changes to the ordinance - September 2023

F - Comparative Analysis of Civilian Police Oversight Agencies

G - Redlined draft of the proposed changes to the current Ordinance 8430

ORDINANCE 8609

AN ORDINANCE REPEALING AND REENATING
CHAPTER 2-11, "POLICE OVERSIGHT," B.R.C. 1981,
REDEFINING THE COMPOSITION, DUTIES AND
POWERS OF THE CITY ORGANIZATION RELATED TO
CIVILIAN OVERSIGHT OF THE POLICE; AND SETTING
FORTH RELATED DETAILS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
COLORADO:

Section 1. Chapter 2-11, "Police Oversight," B.R.C. 1981, is hereby Repealed and
Reenacted as follows:

Chapter 11 - Police Oversight**2-11-1. - Legislative Intent.**

- (a) The City Council finds that the community would benefit from a civilian police oversight system to review the handling of complaints, review trends in policing and recommend improvements to police practices, engage with the public so that the needs of all members of the community are taken into account in connection with police oversight, and report to the community regularly regarding oversight of the Boulder Police Department.
- (b) It is intended that this section shall provide a system of oversight of the police complaint process that is responsive to the needs of the entire community and a means for continuous improvement of police practices in the city.
- (c) In order to improve community trust in the police department, the council intends to increase community involvement in police oversight and ensure that historically excluded communities have a voice in the oversight.

2-11-2. - Purpose.

To provide an effective independent civilian police oversight system that shall promote integrity and encourage systemic change and improvement in police services that the police department provides to the community. This police oversight system shall work to ensure the internal police accountability system functions properly; that behavioral, procedural, and policy deficiencies are identified and appropriately addressed; and, that complaints are investigated through an objective and fair process for all parties involved.

While safe-guarding confidentiality, the civilian police oversight system shall:

- (1) review complaints of potential violation(s) of police department policies, rules, and general orders; including, but not limited to, allegations of racial profiling, racially abusive treatment, and excessive use of force;
- (2) gather and utilize data to identify trends;
- (3) recommend corrective actions, training, and/or policy changes; and
- (4) report regularly to the Boulder City Council and the community

The essential community involvement component of the system shall be accomplished through the inclusion of a Police Oversight Panel, hereafter "Panel." The Panel shall be established to increase visibility for the public in the delivery of service by the police department. The Panel shall review the results of investigations conducted by the police department and provide recommendations for corrective or punitive action, including discipline, changes in policy, and training. The members of the Panel shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics and comply with all applicable state and federal laws regarding confidentiality.

2-11-3. - Definitions.

Chief of police or chief means the person designated by the city manager as the chief of police.

Complaint means an oral or written communication to the Office of Police Monitor or the Boulder Police Department alleging misconduct on the part of a police employee.

Conclusion of any criminal investigation means a criminal investigation is deemed concluded when the appropriate criminal prosecutor decides either to press charges or to not press charges.

Critical incident means a line-of-duty discharge of a firearm in an enforcement action, whether or not a person was injured, the use of less lethal weapons or defensive tactics that result in the death or grave injury of a person, the death or grave injury of a person as a result of other police actions, or the death of an in-custody person when the circumstances of the death are unknown or questionable.

Disposition means the final resolution of a misconduct allegation or critical incident investigation, as defined in Boulder Police Department G.O. 120.

Immediate family member means a person's spouse or domestic partner, a parent, step-parent, grandparent, child, stepchild, grandchild, sibling, half-sibling or step-sibling of the person or of the person's spouse or domestic partner.

Police employee means a city employee who reports directly or through others to the chief of police.

Preliminary investigation means an initial inquiry by the police monitor or the monitor's designee into the facts and circumstances of a complaint for purposes of deciding how to classify and route the complaint and to identify any potential witnesses or evidence for timely preservation.

1 *Professional standards unit* means the police employees designated by the chief of police
2 to investigate allegations of misconduct against police employees.

3 *Serious bodily injury* means bodily injury that, either at the time of the actual injury or at
4 a later time, involves a substantial risk of death; a substantial risk of serious permanent
5 disfigurement; a substantial risk of protracted loss or impairment of the function of any part or
6 organ of the body; or breaks, fractures, a penetrating knife or penetrating gunshot wound, or
7 burns of the second or third degree. As defined in Colo. Rev. Stat. § 18-1-901.

8 *Sworn police officer* means a police employee who is also certified and employed as a
9 peace officer under the laws of this state.

10 **2-11-4. - Office of Police Monitor.**

11 (a) The Office of Police Monitor, hereafter “Monitor’s Office,” shall be established to
12 provide an independent location to lodge complaints involving police employees, monitor
13 internal investigations to ensure objective, thorough and high-quality investigations, and
14 develop recommendations to improve police services and policies.

15 (b) The Monitor’s Office shall be headed by a professional police monitor who is hired by
16 and accountable to the city manager. The Monitor’s Office shall not be physically located
17 in the same building as the police department.

18 (c) Any findings, recommendations, and actions taken shall reflect the police monitor’s
19 independent judgment. No person shall use their political or administrative position to
20 attempt to unduly influence or undermine the independence of the police monitor, or their
21 staff or agent, in the performance of their duties and responsibilities.

22 (d) The city manager shall include in his or her recommended budget an allocation sufficient
23 for the police monitor and the Monitor’s Office to carry out the duties and responsibilities
24 specified in this chapter.

25 **2-11-5. - Office of Police Monitor – Powers and Duties.**

1 (a) The police monitor, hereafter “monitor” is the administrative head of the Monitor’s
2 Office and shall:

- 3 (1) Oversee the operations of the Monitor’s Office, establish program priorities and
4 objectives, and manage the implementation and evaluation of work programs.
- 5 (2) Develop and maintain operating procedures for the Monitor’s Office, including
6 protocols for handling complaints and monitoring investigations.
- 7 (3) Act as liaison and provide staff support to the Panel.
- 8 (4) Have the authority to refer incidents of potential police misconduct of public
9 concern or other incidents of potential police misconduct to the Panel.
- 10 (5) Receive and process complaints concerning police employees; monitor the
11 complaint investigation; and, ensure best practices are followed by the
12 professional standards unit.

- 1 (6) Have the authority to review critical incidents and incidents of serious bodily injury
- 2 resulting from the actions of a sworn police officer(s).
- 3 (7) Perform a quality assurance function with the goal of identifying systemic changes
- 4 that shall improve police services to the community. These activities include:
- 5 (A) analyzing complaint trends and recommending changes to police policy,
- 6 practices, and training; and
- 7 (B) reviewing and reporting trends in completed police employee disciplinary
- 8 decisions.
- 9 (8) Have the necessary access and authority to review police data and records for the
- 10 purpose of conducting systemic audits of police functions that impact the quality
- 11 of the services provided by police to the community. The monitor shall publicly
- 12 report on the results of any audits or monitored audits in a manner consistent with
- 13 all applicable confidentiality requirements. All audit reports and findings shall be
- 14 shared with the Panel.
- 15 (9) Provide status reports to the Panel and community and provide recommendations
- 16 relevant to police policies and practices to the chief of police and city manager.
- 17 (10) Develop and present to the Panel and City Council periodic public reports
- 18 describing the activities of the Monitor's Office, its findings and
- 19 recommendations, the police department's response to its recommendations, and
- any other information pertinent to assessing the performance of the Monitor's
- Office.
- (11) Provide the community with any other reports deemed necessary.
- (b) The monitor shall receive timely notification of critical incidents to enable them to
- report to the scene of critical incidents. The monitor, Panel, and chief of police shall
- sign a memorandum of understanding outlining the protocols for summoning the
- monitor to a critical incident for purposes of first-hand observation. The protocols
- developed by the monitor, the Panel, and the chief of police shall identify the specific
- types of critical incidents for which the monitor shall be notified of and to which the
- monitor shall respond.
- (c) All final case adjudication and employee discipline decisions shall be made by the
- chief of police. The monitor may develop adjudication recommendations and may
- recommend the level of discipline for police employees.

2-11-6. - Complaint Processing by the Police Monitor's Office.

- (a) Complaint Intake.
- (1) Any person may lodge a complaint with the Monitor's Office about the conduct
- of or services provided by a police employee.
- (2) The Monitor's Office is the intake center for complaints about police employees.
- The monitor shall make available to the public several alternative means of filing
- a complaint, including, but not limited to, in person, on-line, or by telephone.
- Complainants may choose to lodge complaints either directly to the police
- department or through the Monitor's Office. Complaints filed with the police

department shall be forwarded to the Monitor's Office within twenty-four hours of receipt. The Monitor's Office shall document all contacts and complaints received from any source.

- (3) If the Monitor's Office receives a complaint that alleges that a person incurred damages as the result of alleged police conduct, a copy of the complaint shall be forwarded to the city attorney.
- (4) If a complaint is received that alleges criminal conduct on the part of a police employee, the police monitor shall forward the complaint and any associated information to the chief of police and the Boulder District Attorney's Office.

(b) Complaint Investigations.

- (1) Except as provided in subparagraph (2), below, administrative investigations of complaints filed with or forwarded to the Monitor's Office shall not commence until after the monitor has received, classified, and routed the complaint. The investigation shall commence as soon as possible after classification, but in any event no later than fourteen calendar days after the Monitor's Office receives the complaint.
- (2) Subparagraph (1), above, shall not preclude preliminary investigations by the Monitor's Office, or a police supervisor's attempt to address possible misconduct by a police employee with or without the filing of a complaint.
- (3) If the chief of police determines that all or a part of an administrative investigation should be postponed in order to avoid jeopardizing a criminal investigation or prosecution, the chief of police shall request the monitor's agreement on postponement. If the monitor and chief of police are unable to agree on a postponement, then they shall present, in writing, their respective positions to the city manager, who shall then decide whether all or part of an administrative investigation shall be postponed.
- (4) The monitor shall actively observe internal investigations to ensure a thorough, objective, and timely investigation, and is authorized to:
 - (A) Be present and observe complainant, employee, and witness interviews.
 - (B) Recommend additional investigation and best practices to the professional standards unit. In the event the professional standards unit rejects a recommendation from the monitor pursuant to this subsection, the monitor may request, in writing, the chief of police accept the recommendation. The chief of police shall respond in writing. If the chief of police declines, the monitor may ask the city manager, in writing, to require the chief of police to accept the recommendation. The written decision of the city manager shall be final and shall be made available to the police oversight panel. In no event may a police employee be subject to discipline for acting pursuant to the city manager's final decision.
- (5) The monitor shall have access to all police data including demographics of complainants and officers.
- (6) The monitor shall not be involved in any criminal investigations but shall be kept

apprised of the status of such investigations involving police employees. The monitor shall have access to the case file relevant to the administrative portion of such investigations.

- (7) All case files shall be provided to the monitor upon conclusion of the investigation for review and a determination that an investigation was thorough and complete. Once an investigation is deemed complete by the monitor, the involved employee's immediate supervisor shall develop a case adjudication recommendation that shall be forwarded through the chain of command to the chief of police for final adjudication and to the monitor for review. If the monitor disagrees with any recommendation, the monitor's disagreements and comments shall be documented and forwarded to the chief of police prior to final adjudication by the chief of police. The chain of command and monitor shall use best efforts to complete this process in a timely manner and without unreasonably delaying the final adjudication of a case.
- (8) The Monitor's Office shall make every reasonable effort to notify the complainant that an investigation has been conducted, summarize the monitor's assessment of the investigation, and provide an opportunity for the complainant to comment or ask questions about the process.
- (9) The monitor shall maintain an on-going status report on the work of the Monitor's Office and case investigations and shall share it with the police oversight panel.

(c) Access to Records and Materials.

- (1) Except to the extent that state or federal law provides to the contrary, or where information resides on a restricted database governed by a contract that does not allow access beyond certain law enforcement employees:
 - (A) The monitor shall have complete and unrestricted access to all complaints, investigative records and information obtained or developed by the professional standards unit related to an administrative investigation of a complaint, whether the information exists in electronic format or hard copy, including information stored on the professional standards unit database;
 - (B) The monitor shall be provided any other information identified by the monitor that is relevant to a complaint; and
 - (C) The identity of any individual involved in an event giving rise to a complaint shall not be withheld from the monitor. Notwithstanding the foregoing, complainants may file anonymously.
- (2) The chief of police and monitor shall develop cooperative interdepartmental procedures and any necessary infrastructure to coordinate the flow of information and communication between the Monitor's Office and the Boulder Police Department.

- (d) Nothing in this chapter shall preclude the city from engaging an independent investigator for a particular complaint.

2-11-7. - Panel Scope.

The Panel shall have the authority to review complaints of alleged police misconduct, review critical incidents, review incidents involving serious bodily injury, and recommend disciplinary actions concerning investigations completed by the Boulder Police Department. The Panel has the authority to evaluate policing practices, policies, procedures, and outcomes in Boulder, to make and issue reports to the public, and to provide actionable recommendations to the city manager, City Council, and chief of police.

2-11-8. - Panel Meetings.

- (a) The Panel shall hold a regular monthly meeting which shall be open to the public.
- (b) At each monthly meeting, the monitor shall provide a report to the Panel consistent with the provisions of this chapter.
- (c) The Panel shall meet in closed session when discussing or reviewing case files and documentation of open or closed complaint investigations.
- (d) The Panel shall keep minutes of its public meetings, and those minutes shall include:
 - (1) the date, time, and location of each meeting;
 - (2) the members present and absent;
 - (3) a summary of the discussion on matters proposed, deliberated, or decided; and
 - (4) a record of any votes taken.

2-11-9. - Panel Duties and Responsibilities.

- (a) The Panel shall elect annually, from among its membership, two co-chairs who shall be responsible for:
 - (1) facilitating and leading each Panel meeting;
 - (2) communicating the needs of the Panel to the monitor;
 - (3) engaging with the public and assisting with outreach efforts;
 - (4) ensuring the Panel's annual report is completed and published in a timely manner;
 - (5) helping to maintain Panel members' participation and morale; and
 - (6) establishing necessary subcommittees to carry out the work of the Panel.
- (b) Complaints from members of the public.

Any person may file a complaint or allegation, including an anonymous complaint, of wrongdoing against any police department employee with the Panel. Upon receipt of a complaint or allegation, the Panel shall immediately send the complaint or allegation to the monitor.
- (c) Complaint Review.

- (1) In collaboration with the monitor, the Panel shall establish policies, procedures, and operating principles for the Panel.
 - (2) The Panel may review the completed professional standards unit investigations prior to the chief's final determination and provide disposition, disciplinary, and policy recommendations to the chief.
 - (3) The Panel shall decide whether to accept a case for review.
 - (4) All materials concerning the completed investigations of cases the Panel has selected to review shall be made available to members for their confidential review.
 - (5) The Panel shall, at one of its regularly scheduled meetings, report on such completed case(s), which may include comments on the handling of the complaint, the fairness and thoroughness of the investigation and the reasonableness of the adjudication.
 - (6) The comments and any related policy or procedural issues identified by the Panel during its case review shall be provided to the monitor for further consideration.
 - (7) If the Panel concludes that an investigation is incomplete, the Panel may request the monitor to recommend additional investigation by the professional standards unit.
- (d) Disposition Recommendations.
- (1) The Panel may submit written disposition recommendations of a complaint to the chief of police prior to the chief's final decision.
 - (2) In the event the Panel and chief of police disagree on a disposition of complaint, the Panel may submit a written objection to the chief.
 - (3) Panel objections may be made public in a manner consistent with all applicable confidentiality requirements.
- (e) Discipline Recommendations.
- (1) The Panel may submit a written discipline recommendation to the chief of police prior to the chief's final decision.
 - (2) In the event of sustained allegation(s) of police misconduct where the Panel and the chief disagree on potential discipline of transfer, demotion, suspension or termination, the Panel or the chief, may request an after-action meeting at the Penfield Tate II Municipal Building or an otherwise agreed location. The after-action meeting may include Panel members that conducted the case review, a Panel co-chair, the chief of police, police department chief of staff, professional standards unit sergeant, and the monitor. The purpose of the meeting shall be to discuss the complaint, investigation, the outcome, and the rationale for the discipline decision. The meeting shall be held within a reasonable time after the final decision on discipline is made.
- (f) Policy Recommendations.

- (1) The Panel shall develop and review recommendations as to the policies, procedures, and practices of the police department in consultation with the monitor.
 - (2) The Panel may provide input on police department policies and procedures that reflect community values.
 - (3) The goal of Panel recommendations shall be to improve the professionalism, safety record, effectiveness, and accountability of police department employees.
 - (4) The Panel may make recommendations to the chief of police, city manager, and City Council, as appropriate.
- (g) The Panel shall have the authority to review critical incidents and incidents of serious bodily injury resulting from the actions of a sworn police officer(s).
- (h) Community Engagement.
- (1) The Panel may provide a forum to gather community concerns about incident-specific police actions and may receive and forward complaint information to the monitor for processing.
 - (2) In collaboration with the monitor, the Panel may conduct education and outreach activities to inform the community about the process for filing complaints and commendations about police employees. The Panel and monitor shall work together to develop and disseminate information regarding the police complaint intake and review process.
- (i) The Panel may authorize public statements on behalf of the Panel regarding the role and processes of the Panel when an urgency to respond to an inquiry is presented.

2-11-10. - Panel Appointment Process.

- (a) The Panel shall be composed of eleven members appointed by the city manager, of which two positions are specifically designated for students currently enrolled in an institution of higher education.
- (b) The city manager shall seek community input for the creation of the Panel member selection process. This process, which shall be guided by principles of inclusion and transparency, may be used for the selection and recruitment of subsequent applicants seeking appointment to the Panel when vacancies arise. The process developed for Panel member selection shall actively promote public awareness of the Panel, its vacancies, and the Panel's role and responsibilities.
- (c) The city manager may form an advisory committee to assist in the Panel selection process.
 - (1) The city manager shall strive to include individuals on the advisory committee with a demonstrated commitment to the Boulder community, individuals with the ability relate to and understand community concerns, those who can

effectively collaborate, engage with the public, maintain transparency throughout the selection, and possess working knowledge or understanding of social justice issues.

- (2) To amplify the voice of those most impacted by interactions with law enforcement, the city manager shall strive to include a person with a disability, individuals who are multilingual, a person who has experienced incarceration, a person identifying as LGBTQ+, a person experiencing homelessness or having such lived experience, people identifying as a person of color, specifically African American, Latine, Asian and/or Indigenous in the development of the selection process and/or the selection process for Panel members.
- (3) The city manager shall also include current and former Panel members and the monitor in the selection process.
- (4) Prior to the commencement of the Panel selection process, the advisory committee or those involved in the development of the selection process shall participate in a training on the fundamentals of civilian police oversight and an overview of the Boulder civilian police oversight system.

2-11-11. - Panel Composition.

- (a) The eleven-member panel shall include two student representatives positions and nine regular members. One student representative must be currently enrolled as an undergraduate in an institution of higher education within the city of Boulder. The other student representative may be a resident of Boulder and currently enrolled in an institution of higher education.
- (b) The membership of the Panel shall seek to exceed the diversity of the Boulder community, including the ethnic, racial, and socioeconomic status as well as the diverse professional backgrounds, lived experience, and expertise of the residents of Boulder.

2-11-12. - Panel Members Qualifications and Disqualifications.

- (a) The city manager shall consider the following qualifications when appointing members of the Panel:
 - (1) Strong ties to the city of Boulder. This may include, but is not limited to, residency, employment in the city, or having children enrolled in schools located in the city.
 - (2) The ability to build working relationships and communicate effectively with diverse and multicultural groups.
 - (3) The ability to relate to and understand the community's concerns.
 - (4) A commitment to the purposes of this ordinance.
 - (5) The ability to be fair-minded, objective, and impartial.
 - (6) The ability to effectively collaborate, engage with the public, and maintain transparency during their tenure on the Panel.
 - (7) A demonstrated commitment to serving the Boulder community.

(b) Panel member qualifications may include:

- (1) Value equity, diversity and inclusion.
- (2) Solid understanding of relevant laws and regulations.
- (3) Experience or understanding of conflict resolution and mediation.
- (4) Members serving on the Panel are not required to be U.S. citizens.

(c) The following factors shall disqualify an individual from appointment to the Panel:

- (1) Current employment in a law enforcement capacity, either sworn or non-sworn.
- (2) Current or former employment with the Boulder Police Department.
- (3) Being related to or an immediate family member of any current or former police department employee.
- (4) Status as a current city employee or being an immediate family member of a current city employee.

2-11-13. - Panel Terms, Vacancies, Alternates, and Removal.

(a) Five appointees shall serve a three-year term, four appointees shall serve a two-year term, and the two student members shall serve one-year terms. Panel members that serve a three-year term may be reappointed for an additional one year term. Panel members, other than the two student members, with a two-year term may be reappointed for an additional two-year term. Upon appointment, Panel members shall draw numbers to determine which shall be a two-year appointment and which shall be a three-year appointment. Panel members may serve for a maximum of two consecutive terms, for a total of four years. Student Panel members may serve a maximum of two consecutive one-year terms, for a total of two years.

(b) In the event of a Panel vacancy, when an alternate is not available and a successor has not been named, that Panel member may remain on the Panel until their successor is named. Any vacancy occasioned by resignation, death or removal of a member shall be filled within 60 days with an eligible alternate from the appointed pool to fill the unexpired term.

(c) In addition to the eleven members selected, up to five eligible alternates may be appointed by the city manager. The eligible alternates shall represent a pool from which new Panel members can be placed on the Panel when a vacancy occurs. The eligible alternate pool may also include students.

- (1) At the direction of the city manager, the monitor may use their discretion to place an alternate from the appointed pool of eligible alternates to the Panel when a vacancy occurs.
- (2) When there is one remaining alternate in the pool, the city manager may commence a selection process for new alternate Panel members.

(d) The city manager may remove a Panel member, for failure to perform required duties, violation of the City of Boulder code of ethics, violation of the NACOLE code of ethics, or violation of any signed confidentiality agreement.

(e) Automatic Resignation.

(1) The unexcused absence of a Panel member from three consecutive regularly scheduled monthly Panel meetings in a twelve-month period without a leave of absence approved by a majority of the Panel shall constitute an automatic resignation from the Panel.

(2) Upon completion of required Panel training, the failure to participate in two assigned case reviews in a twelve-month period without prior notification to the Panel co-chairs or the monitor shall constitute an automatic resignation from the Panel.

2-11-14. - Panel Training.

(a) Prior to voting on any matter before the Panel (but no later than three months after appointment to the Panel), Panel members shall participate in the following training:

(1) Legal and ethical obligations of members of a public body appointed by the city manager.

(2) Police department policies and training, including, but not limited to, professional standards unit investigation and processes, defensive tactical training, crisis intervention training, and de-escalation training.

(3) Relevant privacy rules and city policies and procedures involving liability, employee discipline, and other matters related to police operations, including:

(A) Boulder Police Department and city administrative systems, processes, structures, and operations.

(B) The history of civilian police oversight.

(C) City of Boulder police oversight ordinance, and process for complaint intake, review, and investigations.

(b) On an annual basis the Panel shall participate in the following training:

(1) Participation in at least one four-hour ride-along in-car session or one two-hour walk-along session with police department patrol operations.

(2) The city manager and the monitor shall provide Panel members with additional training, which may include, but not be limited to, relevant training by subject matter experts on mental health, trauma-informed policing, civil rights and constitutional law, race and systemic racism, community organizing and outreach, mediation, investigation, and policing practices, policies, and administration.

(3) Panel member training may be provided by, but is not limited to, the NACOLE, or a comparable professional organization, consultant, or subject matter expert.

- 1 (c) The city manager may excuse or grant an extension to a Panel member for completion of
2 the required training.

3 **2-11-15. - Panel Data Analysis, Review, and Reporting.**

- 4 (a) The Panel may:

- 5 (1) Review trends and statistics of complaints against sworn police officers and
6 civilian police employees and may develop recommendations to improve
7 the complaint intake and handling process.
8 (2) Recommend that the monitor seek an audit of police department policies,
9 practices, or procedures.
10 (3) When audits are conducted the Panel may review the subsequent written findings
11 or reports and provide feedback or recommendations.
12 (4) Review and evaluate reports issued and data collected by the police department
13 related to policing practices, policies, procedures, and outcomes.
14 (5) Review and evaluate periodic reports from the chief of police regarding
15 implementation of recommendations made by the Panel.
16 (6) The Panel may prepare and present an annual report to the public, city
17 manager, city council, and the chief of police that:
18 (A) summarizes the Panel's activities during the preceding year;
19 (B) provides the concerns expressed by residents and community members;
20 (C) provides the assessment of police department investigative and
21 disciplinary processes;
22 (D) lists recommendations for ways that the police department can improve its
23 relationships with community members;
24 (E) lists recommendations for changes to police department policies, rules,
25 training, and complaint process;
(F) provides the findings, discipline, and policy recommendations consistent
with all applicable confidentiality requirements.
(7) In addition to the annual report, the Panel may furnish additional reports,
which shall be available to the public and which may include patterns relating
to complaints and other related matters that may come from the Panel's review
of police department policies, procedures, and other pertinent data analysis.

21 **2-11-16. - Panel access to police department records.**

22 Except to the extent that state or federal law provides to the contrary, or where information
23 resides on a restricted database governed by a contract that does not allow access beyond certain
law enforcement employees:

- 24 (a) The Panel shall have access to the Boulder Police Department's policies and any data
25 captured or maintained by the department to facilitate the Panel's analysis and
understanding of department operations. The Panel may request the monitor to conduct

specific analyses of department data, policies, or practices.

- (b) The Panel shall have complete and unrestricted access to complaints, investigative records and information obtained or developed by the professional standards unit related to an administrative investigation of a complaint, whether the information exists in electronic format or hard copy, including information stored on the professional standards unit database.
- (c) The Panel shall be provided with any other information identified by the monitor that is relevant to a complaint or is necessary for the Panel to perform its required duties to ensure the investigation conducted was fair and thorough.

2-11-17. - Interrelationship between the Panel and the Monitor.

- (a) The monitor and the Panel shall be established and operated as separate, complementary entities with different roles that are and shall remain independent of one another.
- (b) The monitor shall serve as a liaison to the Panel. The Monitor's Office shall provide administrative support to the Panel. The monitor shall serve as a subject matter expert to the Panel as needed and requested.
- (c) The monitor shall notify the complainant and involved police employee(s) of their decision on whether to accept a case for review and shall inform the complainant of its conclusions and recommendations on a case. The members of the Panel may be copied on the correspondence sent to the complainant.
- (d) On a no less than monthly basis, the Panel shall receive reports from the monitor in a manner consistent with all applicable confidentiality requirements, including the number and types of cases filed, number of open cases, the disposition of and any action taken on cases, recommendations for corrective/punitive action, including discipline and dismissals, and the number of independent investigations.
 - (1) Monitor reports to the Panel shall include all complaints received.
 - (2) Monitor reports shall include the degree to which the monitor's and the Panel's disciplinary recommendations were implemented by the police department.
- (e) The Panel and monitor shall coordinate community outreach activities and communication with the public. The monitor and the Panel shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with members of the public. The monitor shall seek to educate the public about the responsibilities and services of the monitor and functions of the Panel.
- (f) The monitor shall assist the Panel in collaboration with the police department to develop written standard operating procedures to detail the complaint intake, review, investigation, disposition, and discipline processes, and critical and other incidents processes.

- (g) The monitor shall assist the Panel in utilizing city resources for the design and public release of the Panel's annual report and other reports.

2-11-18. - Confidentiality of Records and Information.

- (a) The monitor and Panel members shall comply with all state and federal laws requiring confidentiality of law enforcement records, information, and confidential personnel records, and respect the privacy of all individuals involved.
- (b) All Panel members shall sign a confidentiality agreement which prohibits them from publicly discussing or releasing any information or materials reviewed in closed session.
- (c) The monitor, their staff, the Panel, all consultants, and experts hired by the monitor shall treat all documents and information regarding specific investigations of officers as confidential except to the extent needed to carry out their duties.

2-11-19. - Ethical Obligations.

- (a) The monitor and Panel members shall be deemed public officials subject to the Code of Conduct set forth in Chapter 7, "Code of Conduct," B.R.C. 1981.
- (b) The members of the Panel shall adhere to Chapter 7, "Code of Conduct," B.R.C. 1981, provisions and the NACOLE code of ethics.
- (c) A Panel member shall remove themselves from any participation in a matter if their impartiality might reasonably be questioned, or if they have personal knowledge of any facts regarding an incident under review.

2-11-20. - Obligations of the chief of police.

- (a) The chief of police may appoint a sworn police officer to serve as a liaison to the Panel. As a liaison, they may attend the public Panel meetings and serve as a resource to the Panel on questions regarding the police department's training, policies and procedures, and questions pertaining to complaints investigated by the professional standards unit.
- (b) At the discretion of the city manager, the chief of police shall:
- (1) Provide a written response in a timely manner to formal written correspondence from the Panel, including, but not limited to, disposition, policy, and discipline recommendations.
 - (2) Create a written record, in a timely manner, when the police department declines to implement any changes recommended by the Panel. The written record shall include the rationale for declining to implement the recommendation of the Panel and be made available to the City Council, city manager, and community.

- (c) At the discretion of the city manager, the chief of police shall provide a written response in a timely manner to formal written correspondence from the monitor, including, but not limited to, audits, disposition, policy, and discipline recommendations.

2-11-21. - Oversight System Evaluation.

The city manager, with input from the Panel, monitor, police department, City Council, and the community may schedule an evaluation of the civilian police oversight structure every five years to determine whether a need exists to make changes and/or otherwise make adjustments to the system to improve its continued performance. These evaluations shall in no way be intended to eliminate the monitor or Panel oversight structure.

2-11-22. - Outside Counsel.

Upon request of the monitor or Panel, outside counsel may be retained by the city attorney to provide legal advice in the event the city attorney determines that the City Attorney's Office does not have adequate expertise to handle any given matter, does not have adequate personnel to advise on a matter, or has an actual conflict of interest. The city attorney has authority to seek and retain outside counsel to support the monitor and/or Panel.

2-11-23. - Liability.

It is the intent that Panel members be free from personal liability for acts taken within the course and scope of carrying out their official duties and functions. The city shall therefore defend and indemnify members to the maximum extent permitted under the Colorado Governmental Immunity Act and other applicable laws.

~~Chapter 11 Police Oversight~~

~~2-11-1. -- Legislative Intent.~~

- ~~(a) The council finds that the current system of reviewing complaints against the police does not meet the needs of the community.~~
- ~~(b) The council finds that the community would benefit from the hiring of a civilian police monitor to review the handling of complaints, to review trends in policing and recommend improvements to police practices, to engage with the public so that the needs of all members of the community are taken into account in connection with police oversight, and to report to the public regularly regarding oversight of the police department.~~
- ~~(c) In order to improve community trust in the police department, the council intends to increase community involvement in police oversight and ensure that historically excluded communities have a voice in that oversight.~~
- ~~(d) It is intended that this section will provide a system of oversight of the police complaint process that is responsive to the needs of the entire community and a means for continuous improvement of police practices in the City.~~

~~2-11-2. Definitions.~~

~~*Chief of police* means the person designated by the city manager as the chief of police.~~

~~*Complaint* means an oral or written communication to the Office of the Police Monitor or the Boulder Police Department alleging misconduct on the part of a police employee.~~

~~*Conclusion of any criminal investigation* means a criminal investigation is deemed concluded when the appropriate criminal prosecutor decides either to press charges or to not press charges.~~

~~*Immediate family member* means a person's spouse or domestic partner, a parent, step-parent, grandparent, child, stepchild, grandchild, sibling, half-sibling or step-sibling of the person or of the person's spouse or domestic partner.~~

~~*Police employee* means a city employee who reports directly or through others to the chief of police.~~

~~*Preliminary investigation* means an initial inquiry by the police monitor or the monitor's designee into the facts and circumstances of a complaint for purposes of deciding how to classify and route the complaint and to identify any potential witnesses or evidence for timely preservation.~~

~~*Professional standards unit* means the police employees designated by the chief of police to investigate allegations of misconduct against police employees.~~

~~*Sworn police officer* means a police employee who is also certified and employed as a peace officer under the laws of this state.~~

~~2-11-3. Office of Police Monitor.~~

~~(a) — The Office of the Police Monitor, hereafter "Monitor's Office," shall be established to provide an independent location to lodge complaints involving police employees, monitor internal investigations to ensure objective, thorough and high-quality investigations, and develop recommendations to improve police services and policies.~~

~~(b) — The Monitor's Office shall be headed by a professional police monitor who is hired by and accountable to the city manager. The Monitor's Office shall not be physically located in the same building as the police department.~~

~~(c) — Any findings, recommendations and actions taken shall reflect the police monitor's independent judgment. No person shall use their political or administrative position to attempt to unduly influence or undermine the independence of the police monitor, or their staff or agent, in the performance of their duties and responsibilities.~~

~~(d) — The city manager shall include in their recommended budget an allocation sufficient for the police monitor and the Monitor's Office to carry out their duties and responsibilities.~~

~~2-11-4. Office of Police Monitor Powers and Duties.~~

~~(a) — The police monitor is the administrative head of the Monitor's Office and shall:~~

~~(1) — Oversee the operations of the Monitor's Office, establish program priorities and objectives, and manage the implementation and evaluation of work programs.~~

~~(2) — Develop and maintain operating procedures for the Monitor's Office, including protocols for handling complaints and monitoring investigations.~~

- ~~(3) — Act as liaison and provide staff support to the police oversight panel.~~
- ~~(4) — Receive and process complaints concerning police employees; monitor the complaint investigation; and ensure best practices are followed by the professional standards unit.~~
- ~~(5) — Perform a quality assurance function with the goal of identifying systemic changes that will improve police services to the community. These activities include:

 - ~~(A) — Analyzing complaint trends and recommending changes to police policy, practices and training; and~~
 - ~~(B) — Review and report trends in completed police employee disciplinary decisions.~~~~
- ~~(6) — Provide status reports to the police oversight panel and community and provide recommendations relevant to police policies and practices to the chief of police and city manager.~~
- ~~(7) — Develop and present to the police oversight panel and city council periodic public reports describing the activities of the Monitor's Office, its findings and recommendations, the police department's response to its recommendations, and any other information pertinent to assessing the performance of the Monitor's Office.~~
- ~~(8) — Provide the community with any other reports deemed necessary.~~
- ~~(b) — The monitor shall receive timely notification of critical incidents to enable them to report to the scene of critical incidents. The monitor, oversight panel and chief of police shall sign a memorandum of understanding outlining the protocols for summoning the police monitor to the incident for purposes of first hand observation. The protocols developed by the monitor, the oversight panel, and the chief of police shall identify the specific types of critical incidents for which the monitor will be notified and to which the monitor will respond.~~
- ~~(c) — All final case adjudication and employee discipline decisions shall be made by the chief of police. The police monitor may develop adjudication recommendations and may recommend the level of discipline for police employees.~~

~~2-11-5. — Complaint Processing by the Police Monitor's Office.~~

- ~~(a) — Complaint intake.

 - ~~(1) — Any person may lodge a complaint with the Monitor's Office about the conduct of, or services provided by, a police employee.~~
 - ~~(2) — The Monitor's Office is the intake center for community complaints about police employees. The police monitor shall make available to the public several alternative means of filing a complaint, including but not limited to in person, on-line, or by telephone. Complainants may choose to lodge complaints either directly to the police department or through the Monitor's Office. Complaints filed with the police department shall be forwarded to the Monitor's Office within 24 hours of receipt. The Monitor's Office shall document all contacts and complaints received from any source.~~~~

- (3) ~~If the Monitor's office receives a complaint that alleges that a person incurred damages as the result of alleged police conduct, a copy of the complaint shall be forwarded to the city attorney.~~
- (4) ~~If a complaint is received that alleges criminal conduct on the part of the police employee, the police monitor shall forward the complaint and any associated information to the chief of police and the District Attorney's Office.~~
- (b) ~~Complaint Investigations.~~
- (1) ~~Except as provided in Paragraph (2) of this subsection, administrative investigations of complaints filed with or forwarded to the Monitor's Office shall not commence until after the monitor has received, classified and routed the complaint. The investigation shall commence as soon as possible after classification, but in any event no later than 14 calendar days after the Monitor's Office receives the complaint.~~
- (2) ~~Paragraph (1) of this subsection shall not preclude preliminary investigations by the Monitor's Office, or a police supervisor's attempt to address possible misconduct by a police employee with or without the filing of a complaint.~~
- (3) ~~If the chief of police determines that all or a part of an administrative investigation should be postponed in order to avoid jeopardizing a criminal investigation or prosecution, the chief of police shall request the monitor's agreement on postponement. If the monitor and chief of police are unable to agree on the postponement, then they shall present in writing their respective positions to the city manager, who shall then decide whether all or part of an administrative investigation will be postponed.~~
- (4) ~~The police monitor shall actively observe internal investigations to ensure a thorough, objective, and timely investigation, and is authorized to:~~
- (A) ~~Be present and observe complainant, employee and witness interviews.~~
- (B) ~~Recommend additional investigation and best practices to the professional standards unit. In the event the professional standards unit rejects a recommendation from the monitor pursuant to this subsection, the monitor may request in writing the chief of police to accept the recommendation. The chief of police shall respond in writing. If the chief of police declines, the monitor may ask the city manager in writing to require the chief of police to accept the recommendation. The written decision of the city manager shall be final and shall be made available to the police oversight panel. In no event may a police employee be subject to discipline for acting pursuant to the city manager's final decision.~~
- (5) ~~The police monitor shall have access to all police data including demographics of complainants and officers.~~
- (6) ~~The police monitor will not be involved in any criminal investigations but shall be kept apprised of the status of such investigations involving police employees. The police monitor shall have access to the case file relevant to the administrative portion of such investigations.~~
- (7) ~~All case files shall be provided to the police monitor upon conclusion of the investigation for review and a determination that the investigation was thorough and complete. Once the investigation is deemed complete by the monitor, the involved employee's immediate supervisor will develop a case adjudication~~

1 recommendation that will be forwarded through the chain of command to the
 2 chief of police for final adjudication and to the monitor for review. If the police
 3 monitor disagrees with any recommendation, their disagreements and comments
 4 will be documented and forwarded to the chief of police prior to final adjudication
 5 by the chief of police. The chain of command and police monitor will use their
 6 best efforts to complete this process in a timely manner and without unreasonably
 7 delaying the final adjudication of the case.

8 (8) ~~The Monitor's Office will make every reasonable effort to notify the complainant~~
 9 ~~that an investigation has been conducted, summarize the monitor's assessment of~~
 10 ~~the investigation, and provide an opportunity for the complainant to comment or~~
 11 ~~ask questions about the process.~~

12 (9) ~~The police monitor shall maintain an on-going status report on the work of the~~
 13 ~~Monitor's Office and case investigations and shall share it with the police~~
 14 ~~oversight panel.~~

15 (c) ~~Access to Records and Materials.~~

16 (1) ~~Except to the extent that state or federal law provides to the contrary, or where~~
 17 ~~information resides on a restricted database governed by a contract that does not~~
 18 ~~allow access beyond certain law enforcement employees:~~

19 (A) ~~The monitor shall have complete and unrestricted access to all complaints,~~
 20 ~~investigative records and information obtained or developed by~~
 21 ~~professional standards unit related to an administrative investigation of a~~
 22 ~~complaint, whether the information exists in electronic format or hard~~
 23 ~~copy, including information stored on the professional standards unit~~
 24 ~~database;~~

25 (B) ~~The monitor shall be provided any other information identified by the~~
 26 ~~monitor that is relevant to a complaint; and~~

27 (C) ~~The identity of any individual involved in an event giving rise to a~~
 28 ~~complaint shall not be withheld from the monitor. Notwithstanding the~~
 29 ~~foregoing, complainants may file anonymously.~~

30 (2) ~~The chief of police and police monitor shall develop cooperative~~
 31 ~~interdepartmental procedures and any necessary infrastructure to coordinate the~~
 32 ~~flow of information and communication between the Monitor's Office and the~~
 33 ~~police department.~~

34 (d) ~~Nothing in this chapter shall preclude the City from engaging an independent investigator~~
 35 ~~for a particular complaint.~~

36 **~~2-11-6. Police Oversight Panel Qualifications and Appointments.~~**

37 (a) ~~Qualifications.~~

38 (1) ~~Members of the police oversight panel shall be nominated by a selection~~
 39 ~~committee. The initial selection committee shall be composed of members of the~~
 40 ~~implementation team not interested in being on the police oversight panel and~~
 41 ~~representatives from two local non-profit organizations selected by the~~
 42 ~~implementation team. Later selection committees shall be composed of two~~
 43 ~~members of the police oversight panel and representatives from two local non-~~
 44 ~~profits selected by the police oversight panel. In no event shall the monitor be~~

- involved in the process of selecting the selection committee or the police oversight panel.
- (2) ~~The non-profit organizations participating in the selection process must be organizations that serve the Boulder community, serve a population that has significant contact or a difficult relationship with law enforcement, and serve a historically excluded community.~~
 - (3) ~~Prior to the selection of nominees, the monitor shall inform the public of the commencement of the selection process and the selection committee shall actively promote public awareness of the selection process and may solicit interest through social media and personal networks to attract qualified applicants.~~
 - (4) ~~The monitor shall provide the public with both a physical address and an email address where interested applicants can submit their indication of interest.~~
 - (5) ~~Interviews conducted by the selection panel shall be open to the public for observation. Selection panel deliberations shall be confidential.~~
 - (6) ~~The selection committee shall select eleven panel members by majority vote. Two panel positions shall be reserved for persons currently enrolled as students in an institute of higher education, with different terms of office as set forth in subsection (b) of this section.~~
 - (7) ~~In addition to the eleven members selected, the selection committee shall select four alternates who will represent a pool from which new panel members can be appointed when there is an unexpected vacancy on the panel. Alternates will draw numbers to determine the order that they will join the panel if needed.~~
 - (8) ~~When a panel vacancy occurs, if no alternates are available, the selection committee will reconvene to fill the vacancy. Each time the selection committee reconvenes to select new or alternate panel members, a public announcement shall be made inviting applicants to submit their notice of interest.~~
 - (9) ~~Members of the police oversight panel shall be volunteers who, immediately prior to appointment, shall demonstrate:~~
 - (A) ~~Strong ties to the City of Boulder. This may include, but is not limited to, residency, employment in the city, or having children enrolled in schools located in the city;~~
 - (B) ~~An absence of any real or perceived bias, prejudice or conflict of interest;~~
 - (C) ~~An ability to build working relationships and communicate effectively with diverse groups; and~~
 - (D) ~~A commitment to the purposes of this chapter.~~
 - (10) ~~The nomination committee will strive to include people identifying as a person of color, notably African American, Latinx, Asian and/or Indigenous, as at least half of the members of the police oversight panel. Preference will be given to individuals who are multilingual. In addition, the selection committee will strive to include a person with a disability, a person experiencing homelessness or having such lived experience, a person identifying as LGBTQ+, and a person who has experienced incarceration.~~
 - (11) ~~Members of the police oversight panel shall neither be a current city employee nor an immediate family member of a current city employee.~~
 - (12) ~~Police oversight panel members shall participate in a training program to be developed by the police monitor.~~

(13) ~~It is the intent that police oversight panel members be free from personal liability for acts taken within the course and scope of carrying out their official duties and functions. The city will therefore defend and indemnify members to the maximum extent permitted under the Colorado Governmental Immunity Act and other applicable law.~~

(14) ~~Current members of the professional standards review panel and the police oversight task force are eligible to serve on the police oversight panel.~~

(15) ~~The selection committee will provide council with a written summary explaining why each applicant was selected. A motion to approve the proposed candidates shall be placed on the council's consent agenda. council members may choose to exercise the call-up option to discuss a proposed candidate's appointment. Council will approve or reject the appointments by majority vote.~~

(16) ~~All police oversight panel members shall sign a confidentiality agreement which prohibits them from publicly discussing or releasing any information or materials reviewed in closed session.~~

(b) ~~Terms and Vacancies:~~

(1) ~~All terms shall be three years, except for the two student members who shall serve one year terms. Panel members may serve for a maximum of two consecutive terms.~~

(2) ~~In the event of a panel vacancy, when an alternate is not available and a successor has not been named, that panel member may remain in office until their successor is named.~~

(c) ~~Reserved.~~

(d) ~~Removal from the oversight panel.~~

(1) ~~Members can be removed by a majority vote of the oversight panel for failure to perform duties or violation of any signed confidentiality agreement.~~

(2) ~~The member's removal shall then be approved or rejected by a majority vote of the council.~~

~~2-11-7. Police Oversight Panel Powers and Duties.~~

(a) ~~In collaboration with the police monitor, the police oversight panel shall establish policies, procedures and operating principles for the police oversight panel.~~

(b) ~~The police oversight panel may review the completed professional standards unit investigations prior to the chief's final determination and provide disciplinary and disposition recommendations to the chief.~~

(1) ~~The police oversight panel shall develop criteria to decide whether to accept a case for review.~~

(2) ~~All materials concerning the completed investigations of cases the police oversight panel has selected to review shall be made available to members for their confidential review.~~

(3) ~~The police oversight panel shall, at one of its regularly scheduled meetings, report on such completed case(s), which may include comments on the handling of the complaint, the fairness and thoroughness of the investigation and the reasonableness of the adjudication. Panelist may discuss information about the nature of the allegations and evidentiary analysis in order to explain their~~

recommendations so long as the information discussed does not infringe on confidential or protected information such as identities of involved parties. Panelists shall not discuss at public meetings the identity of involved BPD personnel, witnesses, and victims, or locator information that might tend to identify the event. Should questions arise about the appropriate balance between transparency and confidentiality, POP members will consult with the monitor and/or city attorney.

(4) — The comments and any related policy or procedural issues identified by the police oversight panel in the course of its case review shall be provided to the police monitor for further consideration.

(5) — If the panel concludes that an investigation is incomplete, the panel shall direct the monitor to recommend additional investigation by the professional standards unit.

(c) — The police oversight panel shall notify the complainant and involved police employee(s) of its decisions on whether to accept a case for review and shall inform the complainant of its conclusions and recommendations on the case.

(d) — The police oversight panel shall review trends and statistics of complaints against sworn police officers and civilian police employees and may develop recommendations to improve the complaint intake and handling process.

(e) — The police oversight panel shall have access to the Boulder Police Department's policies and any data captured or maintained by the department to facilitate the panel's analysis and understanding of department operations. The panel may direct the monitor to conduct specific analyses of department data, policies, or practices.

(f) — The police oversight panel shall evaluate the work of the Monitor's Office. In that regard the police oversight panel:

(1) — Shall establish criteria by which to evaluate the work of the police monitor; the panel's review of the monitor will be ongoing and will include quarterly meetings between the panel co-chairs and the monitor to convey priorities and feedback on the monitor's work;

(2) — Shall review, comment on, and assist in maintaining policies, procedures and operating principles for the Monitor's Office and the police oversight panel;

(3) — Shall monitor status reports from the police monitor; and

(4) — May conduct periodic evaluations of the complaint intake and handling system to identify process improvements and/or ensure complaints are being treated fairly and with due diligence.

(g) — The police oversight panel may provide a forum to gather community concerns about incident-specific police actions and may receive and forward complaint information to the Monitor's Office for processing.

~~2-11-8. Police Oversight Panel—Officers, Meetings, and Procedures.~~

(a) — The police oversight panel shall annually elect from among its membership two co-chairs. The co-chairs shall be responsible for:

(1) — Facilitating and leading each panel meeting;

(2) — Communicating the needs of the oversight panel to the monitor;

(3) — Engaging with the community and assisting with outreach efforts;

- (4) — Ensuring the oversight panel's annual report is completed and published in a timely manner;
- (5) — Helping to maintain panel members' participation and morale; and
- (6) — Establish subcommittees to carry out the work of the panel.
- (b) — The police chief shall name a police employee to serve as a non-voting member of the police oversight panel. The police monitor shall also be a non-voting member of the police oversight panel.
- (c) — Meetings of the police oversight panel shall be open to the public. To facilitate the transparency of the police department, the monitor and the police oversight panel's activities, the police monitor will develop and present aggregate data on the number and types of cases under investigation by the police department each month, the number and types of cases closed each month by the police department, the number of closed cases reviewed by the police oversight panel, and any direction given by the panel to the monitor regarding additional analysis and reporting. The monitor will also report any final disciplinary dispositions determined by the chief each month and any recommendations made by the monitor. The monitor may include general case details, but shall not disclose the identity of involved BPD personnel, witnesses, and victims, or locator information that might tend to identify the event.
- (d) — The police oversight panel will meet in closed session when discussing or reviewing the details or case files of open or closed complaint investigations.
- (e) — A member of the police oversight panel shall remove themselves from any participation in a matter if their impartiality might reasonably be questioned, or if they have personal knowledge of any facts regarding the incident under review. Members of the police oversight panel shall be deemed public officials subject to the Code of Conduct set forth in Title 2, Chapter 7 of this Code.
- (f) — The police oversight panel shall prepare and present annual public reports to the city manager and chief of police that:
- (1) — Summarizes the police oversight panel's activities, findings and recommendations;
 - (2) — Assesses the performance of the police monitor; and
 - (3) — Evaluates the work of the Monitor's Office, including whether the Monitor's Office is functioning as intended.
- (g) — In collaboration with the Monitor's Office, the police oversight panel may conduct education and outreach activities to inform the community about the process for filing complaints and commendations about police employees. The police oversight panel and police monitor shall work together to develop and disseminate information and forms regarding the police complaint handling and review system.

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the City and covers matters of local concern.

Section 3. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 5th day of October 2023.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 19th day of October
2023.

Aaron Brockett,
Mayor

Attest:

City Clerk

Pages 1 - 13 includes feedback specifically from Daniel Leonard, Panel Co - Chair

On the whole, it's my opinion that these updates are a significant step forward for the ordinance. What I offer are a series of suggestions of considerations and context that I—as the panel's longest-serving co chair and original member of the subcommittee to draft the panel bylaws—find to be critical to the health and function of our oversight process where further progress should be made with this opportunity.

In particular, I applaud the sections increasing accountability of panelists and city employees. I am grateful to the working group and respectfully offer these suggestions with the caveat of my limited understanding of their discussions and considerations and the offer of my raw experience.

My suggestions on 2-11-2 (panel structure and resources) and 2-11-10-c (selection process) are non-negotiable in my support of changes to the ordinance, and therefore at this time, I do not support the ordinance text as proposed.—Daniel Leonard

2-11-2 Purpose and structure of the panel

Problem: City attorneys advised the panel that it is the city's only legal entity defined as a "panel" and, therefore, separate from the "boards" and "commissions" described elsewhere in city law. The ordinance requires elaboration about the resources, services, and protections the city (i.e., the city manager) must provide the panel to fulfill its legal obligations.

Suggestion: Include—as it is for the monitor in 2-11-4-c—something like: "The city manager shall include in their recommended budget and the management and assignment of city employees an allocation of resources sufficient for the panel to carry out its duties and responsibilities."

Clarification: The provision in 2-11-5-a-3 that the monitor should provide "staff support" to the panel has proven inadequate, as the monitor has no authority over the other employees and departmental budgets in the city that are required to fulfill the panel's obligations. This perspective should be critically applied throughout the ordinance to read the real limitations of the monitor's ability to facilitate/provide the necessary support to the panel and the legal need for the city manager to do so as a pathway of recourse and accountability.

Additionally, the monitor and the panel are now defined in these proposed changes as separate bodies (where, in the original ordinance, the monitor was a non-voting member of the panel).

This is intended to create complementary but potentially conflicting balances of power in the bigger picture of oversight. Consequently, the monitor will frequently be an inappropriate liaison for the panel, if at the very least, because they would be perceived as carrying a conflict of interest on any number of matters on which the panel and monitor are not aligned.

Experience: The panel has not been able to fulfill all of its obligations—culminating most notably in the 2023 moratorium—over the last three years, denied resources, services, and protections including but not limited to those afforded to other boards and commissions by the city. Many of these experiences are detailed throughout this feedback, where most applicable. *Example:* The panel has various obligations to communicate on behalf of the city; however, the panel was repeatedly denied services from and access to the communications department as “no one was assigned to support the panel.” In part, panelists have had to manage all of the panel’s media relations, right down to paying out of pocket for news subscriptions to read articles covering panel business.

2-11-5-a-11 Monitor providing reports to the community

Problem: “The police monitor...shall: Provide the community with any other reports deemed necessary.” Who/what are the entities with the power to ask this of the monitor?

Experience: It has been interpreted by members of the community that the monitor is required to provide them with requested reports and by members of the panel (as community volunteers and representatives) to do so as well.

Suggestion: I would suggest “...deemed necessary by the Monitor, City Manager, or Panel;” replace “shall” with “may;” or remove “any.” Regardless, the monitor must know who they are obligated to in this line and avoid an inundation of requests or legal actions to provide “any” report.

2-11-5-b The memorandum of understanding

Problem: “The Monitor, Panel and Chief of Police shall sign a memorandum of understanding.” Using “panel” here led to confusion when we completed the memorandum. It specifies “chief of police,” not “BPD,” and “monitor,” not “monitor’s office,” so it implies the full “panel” has to sign it/approve it.

Suggestion: Just recommend changing “Panel” to “Panel Co-Chairs” for efficiency and simplicity.

2-11-7 Panel Scope

Suggestion: For clarity, and given past pressure on the panel's scope to include any and all historical investigations, I would recommend reiterating the timing limitation defined in 2-11-9-c-2 in this introduction.

2-11-8 Panel meetings, communication and shared responsibilities

Problem: As community volunteers, the panel (particularly the co-chairs) have been forced by city staff to regularly meet, take phone calls, review documentation, and answer emails during their regular work hours to fulfill our legal and ethical obligations. Panelists could be and have been cut out of critical decisions and input opportunities due to untimely communications and meetings.

Experience: *Example:* Official public meetings of the co-chairs have been canceled or "moved to email" by city employees after they were unavailable to meet when the co-chairs were available outside of their regular work hours. *Example:* The panel was provided a draft of these proposed ordinance changes at noon on 9/13, just six hours before the panel's feedback session, and only allowing for 1.5 hours outside of the average work day to review the document (this is why City Council is receiving our feedback piecemeal, this way, and why there was no affirming vote by the panel on the ordinance changes).

Suggestion: A new section needs to be included, "The city manager will ensure that panelists, as community volunteers, will not be required to leave or alter their regular employment schedules to attend meetings, respond to communications, or otherwise fully participate in panel business."

Clarification: This does refer to the need for emergency communications and meetings. This is to underline that city employees need to work as proactively as they do for other boards, commissions and the city council to facilitate community work effectively and appropriately with community members and to close a loophole that would allow city employees to cut the panel out from matters under its authority and scope.

2-11-8-d Panel meetings and admin support for meetings

Problem: This may be redundant to the Colorado Open Meetings Law requirement to record minutes. However, this proposed addition obligates the panel to take minutes/provide

administrative support that city employees would otherwise provide boards and commissions. It is inappropriate to ask community volunteers to conduct job responsibilities regularly assigned to city employees, and it is counter to the purpose of this ordinance that a panelist should be regularly detracted from their work to do so.

Experience: This has been an ongoing problem, where city employees routinely pressure panelists to conduct administrative work or refuse to conduct administrative work, and the panel has no other options other than to do so, bound as we are by the law.

Suggestion: Clarify that minute-taking and the administrative responsibilities related to panel meetings will be completed by a city employee designated by the city manager.

Clarification: The city manager has expressed discontent with providing city employees to serve and attend the sub-committee meetings of the panel to at least fulfill OML obligations. Sub-committees, however, are protected and affirmed by this ordinance (2-11-9) and, therefore, require adequate resources from the city to conduct their business.

Clarification: In this instance, we have also seen that the monitor lacked authority and resources as a liaison to assign the necessary administrative resources. It has also meant regular detractions from the monitor's critical work to perform administrative functions, so the legal obligation to fulfill this need should fall to the city manager.

2-11-9-a-2 Panel co-chairs

Problem: As we've experienced over the last three years, communicating the needs of the panel through the monitor and the monitor's authority over the needed resources was spectacularly ineffective at critical moments throughout the work.

Suggestion: A provision should be included to ensure the co-chairs have additional points of contact within the city should the monitor be unable or fail to provide or pass along the needs of the panel to the necessary parties and to prepare for instances where the panel and monitor may (within the boundaries of their full legal authority) not be in agreement.

2-11-9-a-4 / 2-11-17-g Panel's annual report

Problem: The co-chairs have no legal authority over city staff or a budget to "ensure" any report is completed or published.

Experience: In 2023, the city manager's office (before the panel's vote on a moratorium) informed the panel co-chairs that there would be no annual report and no resources would be provided to complete one. With no recourse, the co-chairs could not fulfill this legal obligation under the law.

Suggestion: See my notes on 2-11-2 on the city manager's obligation to provide resources. Also, adjust 2-11-17-g to "The monitor shall assist the Panel in utilizing city resources for the **composition**, design and public release of the Panel's annual report and other reports."

2-11-9 Inclusion of January 2023 amendments

Problem: It appears to me that the emergency amendments made by the city council in January 2023 may not have been carried over in the ordinance updates.

Suggestion: If the amendments were intentionally removed, then I suggest at least including this amendment from the city attorney: "Panelists may discuss information about the nature of the allegations and evidentiary analysis in order to explain their recommendations so long as the information discussed does not infringe on confidential or protected information such as identities of involved parties. Panelists shall not discuss at public meetings the identity of involved BPD personnel, witnesses, and victims, or locator information that might tend to identify the event. Should questions arise about the appropriate balance between transparency and confidentiality, POP members will consult with the Monitor and/or City Attorney."

2-11-9-c-1 - Panel policies, procedures and principles

Problem: This line is couched under "complaint review" but extends beyond those operations. The panel also needs general authority to write/maintain its bylaws.

Suggestion: Pull this line out and make it 2-11-9-a (before the co-chairs section), as it was in the original ordinance.

2-11-9-c-5 - Reporting on cases

Problem: With the proposed removal of the monitor as a non-voting panel member, the monitor is no longer included under "panel" when delivering the monthly reports, which is how the panel has been successfully and sustainably operating. It is also important that the panel retain its

power of reporting if and when (under their legal authority) they may need to step in for or represent a disagreement with the monitor.

Suggestion: “The Panel shall, at one of its regularly scheduled meetings, report on **or delegate to the Monitor reporting on** such completed case(s), which...”

2-11-10-a - Panel student appointments

Problem/Experience: The panel and city have yet to maintain a composition of two student seats. This is because a member’s status as a “student” can change quickly and off-cycle of the panel’s terms (graduation, quitting a degree, taking a gap year, etc.), in addition to all the other factors that might influence any member to leave the panel. Further, appointing a reserve of alternate students to buffer this cycle is challenging, as students graduate/leave their degrees before they can be appointed from the alternate pool. In practice, we determined that we would have to restart the selection process every 4-6 months to fulfill the mandate based on composition. This inefficiency can be eased while still achieving student representation.

Suggestion: The student seats may benefit from a deeper exploration. However, for feasibility, at least, the city manager should be mandated to prioritize student appointments but not obligated to maintain a composition of two students on the panel. So (1) “If a seat becomes available on the panel, and there are fewer than 2 currently enrolled students serving on the panel, then the City Manager shall appoint a currently enrolled student to the seat,” and (2) in all references, define the student seats as “members who were a currently enrolled student at the time of their initial appointment to the panel.”

2-11-10-b and c - Panel Appointment Process

Problem: Allowing the monitor to forgo forming an advisory committee (“The city manager may form an advisory committee to assist in the selection process”) undermines the principles and attributes outlined in 2-11-10-c to provide effective community input in selecting panelists. As written, this proposed change to the selection process gives the city manager unacceptable control over who serves on the panel if the manager is obligated only to “seek community input” without any obligation to respond to, act on, or collaborate with that input, and no defining attributes about how much or little of the community they must “seek” input from or indications of what kind of community representative should be consulted.

Problem: So far, the city manager’s office has failed to effectively implement or provide support to the panel, resulting in a series of crises and failings that ultimately led to the panel’s vote to

suspend all business and avoid further damage to the base oversight initiative. Drastically expanding the city manager's power and control over community oversight to reduce the community's power, all without any added accountability checks in the law on the city manager's office, is a suspect solution to this situation.

Problem 2: In the original ordinance, community engagement and authority had inherent transparency because, to my understanding, the city council and the panel's selection committee were subject to Colorado's Open Meetings Law as city officials. As a city employee, the city manager is not subject to OML, and so, under these proposed changes, could accidentally or intentionally significantly reduce transparency in the selection process.

Problem 3: This opens the door to more activist panels. Instead of having to convince six elected officials during a public forum through a paper trail of public documentation to put an activist on the panel, now activists just need to convince one person.

Problem 4: Policing is one of our community's most politically divisive issues. Removing the authority from a community committee and the elected city council to the city manager threatens to deeply politicize the city manager's office, impacting issues well beyond policing on which the community would otherwise find unity.

Problem 5: The panel is criticized for its suitability and credibility in providing community representative oversight of BPD. Appointed by community members and elected officials, this criticism has struggled to gain traction. However, should panelists become the city manager's appointments, I believe the perception of panelists will be tied to the city manager's political and internal agenda, and the panel would lose credibility with the community.

Problem 6: As the panel was taught in training, the strength of this particular model of oversight is in three tiers: (1) The monitor's office, city employees appointed by the city manager (2) the PSU, BPD employees appointed by the chief of police (3) the panel, community volunteers selected by the community and appointed by elected officials. To hand the panel appointments over to the city manager upsets this balance and weakens oversight generally.

Clarification: Yes, our first selection process in 2022/23 was a challenge of community input and democratic control through the city council. I do not believe that grabbing power away from the community is a viable or ethical answer to the challenge. I encourage the city council to direct city employees to craft and offer solutions to improve the systems of community access and

empowerment, not reduce those systems just because it was hard the first time we tried it and without an adequate application of resources.

Critical Consideration: In the current panel and in-person community feedback sessions, the question was raised whether 2-11-10-c was written as “shall” or “may.” In both instances, the panel and community were misinformed that the word “shall” was used, subsequently shutting down conversation or feedback on the considerable concern over the use of the word “may” and the sentiment both groups tried to share that the city manager should be obligated to form the committee, i.e., “shall.”

Suggestion: “(c) The city manager **shall** form an advisory committee to assist in the selection process.”

Suggestion 2: Add 2-11-10-c-5 “The city manager will call for a final committee vote on each panelist before their appointment. The city manager will report the vote tallies to the city council, the chief of police, and the sitting panel.”

2-11-12-a-5

Problem: “Objective” is misapplied. No individual can be objective, but we can build objective systems through effective complements of subjective individuals. A criterion of objectivity could disqualify any individual and counter the diversity values of this ordinance to appoint individuals with subjective experiences and perspectives that improve the overall oversight process between the city, police and community.

Problem 2: Consolidating appointment power in the city manager opens the window for the city manager to reject any candidate based on their own implicit or explicit biases/subjectivity that skew their view of “objective.”

Suggestion: “The ability to be fair-minded, impartial, **and affirm the collective objectivity of the panel.**”

2-11-13-a - Panelist terms

Problem: The differing terms (2 and 3 years) were only included in the original ordinance to stagger panelists' departure and maintain consistent representation. The panel is now established, and the terms are staggered; continuing the practice is unnecessarily and wildly confusing.

Suggestion: “Appointees shall serve a three-year term. The two members appointed while currently enrolled as students shall serve one-year terms. Panel members may be reappointed for an additional one year, a maximum service of two years for members appointed while students and four years for all others.”

Clarification: This suggestion includes changes to the “student” member status recommended above.

2-11-13-c - Alternates

Problem: It is a conflict of interest and a radical divergence from the original intent of the ordinance for the monitor to appoint panelists to service in any way.

Experience: In 2023, the city manager asked the co-chairs to appoint members from the alternate pool to fill a vacancy. While not allowed by the ordinance at the time, I agree with that sentiment.

Suggestion: “**The co-chairs shall** use their discretion to place an alternate from the appointed pool of eligible alternates to the panel when a vacancy occurs.”

2-11-13-d - Removal of panelists

Problem: The panel must retain the power to manage its membership effectively.

Suggestion: “The city manager may remove a panel member for failure to perform required duties, violation of the City of Boulder code of ethics, violation of the NACOLE code of ethics, violation of any signed confidentiality agreement, **and on the recommendation of the co-chairs pursuant to any of these criteria.**”

2-11-13-e Automatic resignation

Problem: An automatic resignation is reasonable in theory but would be confusing and even damaging without a designated member of the city triggering the actions and communications required to complete a panelist’s resignation, in particular, cutting off their access to confidential information including email, remaining panelists, BPD, etc. Without designating someone to make the judgment call under the law’s criteria, the possibility could open for anyone to make the wrong judgment call.

Problem 2: Automatic resignation may set up a messy conflict between the city and a panelist, where room for judgment could better resolve the situation.

Experience: So far, all instances and problems of panel attendance have been effectively handled by the cochairs through the panel bylaws and without disrupting panel operations. Additionally, mistakes happen frequently in the communications between panelists and city employees. Those mistakes might inadvertently or unstrategically trigger this provision.

Suggestion: (e) **The city manager or co-chairs shall remove a panel member for:** (1) the unexcused absence of a panel member from three consecutive regularly scheduled monthly Panel meetings in a twelve-month period without a leave of absence approved by a majority of the Panel;-(2) upon completion of required Panel training, the **unexcused absence** from two assigned case reviews in a twelve-month period.

Suggestion 2: Define “unexcused absence,” including who can excuse a panelist from expected meetings.

2-11-14-a Panel training

Problem/Experience: Historically, panelists not participating in training has never been an issue of any panelist’s willingness. In every instance of training shortfalls, the city failed to provide training, including upon request by the panel. *Example:* Basic legal trainings on public meetings, internal communications, and city operations all were not offered to the panel until its second year of operation and only at the insistence of the panel co-chairs.

Suggestion: “Prior to voting on any matter before the Panel (but no later than three months after appointment to the Panel), **the city manager and monitor shall provide with reasonable convenience** and Panel members shall participate in the following training:”

Clarification: Other sections requiring the monitor to provide training do not go far enough in solving the problem as (1) they do not directly reference the timeliness of training, (2) the monitor serves as an excellent liaison and facilitator in many trainings, but they do not have authority over other areas of the city that would need to provide training to the panel, and (3) these trainings have to happen outside the regular work hours of city employees for the panel’s accessibility which is problematic for some employees, so the legal obligation to ensure those trainings happen needs to fall to the city manager. *Example:* Legal and communications trainings were both delayed to the detriment of panel work despite the monitor’s attempts to

schedule them due to city employees' other workloads and schedules, issues that have to be appropriately resolved/addressed by the city manager and were damaging to the monitor's relationship with those teams to pressure, or go "over their head" to the city manager. Legal training only occurred after the co-chairs involved the city manager.

2-11-14 - Additions to panel training

Problem: One of the most significant challenges over the last three years was that the monitor, city manager's office, and BPD did not fulfill the panel's requests for additional training.

Experience: Some critical problems over the last three years were tied partly to the training panelists knew were needed and requested but did not get. Including:

- Lisa Sweeney-Miran was removed from the panel based on bias / For months before this incident; the panel made repeated requests to BPD, the city manager's office, and the monitor to participate in or be provided with an abbreviated version of the city's bias training for employees.
- The police union is deeply frustrated with the panel / For years now, the panel has made repeated requests to BPD, the city manager's office, and the monitor to provide a meeting with the union leadership and/or training on the union.
- BPD has repeatedly voiced that the panel's disagreement on discipline and disposition was uninformed on the realities of the police collective bargaining agreement and arbitration / For years now, the panel has made repeated requests to BPD, the city manager's office, and the monitor to provide training on both arbitration and the collective bargaining agreement.
- The panel has regularly struggled to utilize city information and communications systems, resulting in missed meetings and other disruptions to the work / Panelists made repeated requests to the monitor and the city manager for technical training. However, instead, panelists have had to step in and try to train each other on how to use city systems, at times pressured to do so by city employees.

Suggestion: 2-11-14-d "The monitor and city manager's office shall make a reasonable effort to provide in a timely manner any training requested by a majority vote of the panel."

2-11-15-6 Panel Reporting

Problem: Transparency is essential and should not be optional.

Suggestion: "The Panel ***shall*** prepare and present annual reports to the public, city manager, city council and the chief of police that:"

Problem 2: This ordinance significantly centralized oversight authority and control on the city manager; checks on that power, performance evaluation, and accountability are critical to maintaining public trust.

Suggestion 2: 2-11-15-6-G “Evaluation of the city’s overall management and implementation of police oversight.”

2-11-17-c - Communications with complainants

Problem/Experience: The panel was notified at one point that the correspondence with a complainant about the completion of their case misconstrued the panel’s disposition to make it appear that the panel had affirmed BPD’s disposition on the case. The panel must know and verify what is communicated to the community about their decision-making and judgments.

Suggestion: Add “The monitor shall provide panelists that have reviewed a case with a copy of the notification sent to the complainant of conclusions and recommendations.

2-11-18-b - Discussion of case details

Problem: The panel needs to be able to discuss case details as appropriate to meet its expectations of transparency and community representation. At least, the panel needs no legal obstacle to engage publicly available information.

Experience: The panel was advised by legal counsel that this section (as written in the original ordinance and currently unchanged in the proposal) technically prohibits panelists from discussing any information disclosed in a review, including information released to the public. This issue was flagged by and with the city attorney in 2022 to be rectified.

Suggestion: “All Panel members shall sign a confidentiality agreement prohibiting them from releasing any information or materials reviewed in a closed session. **The panel may freely discuss information released to the public by the monitor or the police department.**”

2-11-19-c - Panelists removal from decision making

Problem: The broadness of “any facts” poses challenges and potential conflicts. (1) This might exclude a subject matter expert sitting on the panel from participating in an investigation (even in an advisory capacity) for which their knowledge and understanding of the facts would be

beneficial (2) in a significant/critical incident, it is likely that there would be media coverage that the panel could not avoid learning facts of the incident from.

Suggestion: “A member of the Panel shall remove themselves from any participation in a matter if their impartiality might reasonably be questioned. [cut the remainder]”.

2-11-20 - Obligations of the chief of police

Problem: A working relationship with BPD is essential, and a lack of engagement/representation between the panel and the department could deepen divides and mistrust.

Suggestion 1: The Chief of Police **shall** appoint a sworn police officer to serve as a liaison to the Panel.”

Suggestion 1b: 2-11-20-d “The Chief of Police shall make a reasonable effort to work with the monitor and the panel to facilitate appropriate opportunities for sworn officers to meet and engage with the panel regularly.”

Problem 2: Oversight begins and ends with the department. Officers are the most efficient and cost-effective way for the city to communicate how community members may file a complaint.

Suggestion 2: “The chief of police shall make reasonable effort to direct sworn officers and employees of the police department to communicate how community members may file a complaint.”

2-11-22 - Legal counsel

Problem: In the balance of oversight roles, the panel will, at times, not be aligned with the monitor, BPD or even the city manager on a legal matter. Before those situations escalate into the need for outside counsel, the panel needs assured access to a city attorney.

Suggestion: 2-11-22. - Counsel. Add, “The city manager will ensure the panel has direct access to the city attorney’s office to request and receive legal advice confidentially with the panel.”

ORDINANCE 8609

AN ORDINANCE REPEALING AND REENATING
CHAPTER 2-11, "POLICE OVERSIGHT," B.R.C. 1981,
REDEFINING THE COMPOSITION, DUTIES AND
POWERS OF THE CITY ORGANIZATION RELATED TO
CIVILIAN OVERSIGHT OF THE POLICE; AND SETTING
FORTH RELATED DETAILS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
COLORADO:

Section 1. Chapter 2-11, "Police Oversight," B.R.C. 1981, is hereby Repealed
and Reenacted as follows:

Chapter 11 - Police Oversight

2-11-1. - Legislative Intent.

- (a) The council finds that the community would benefit from a civilian police oversight system to review the handling of complaints, to review trends in policing and recommend improvements to police practices, to engage with the public so that the needs of all members of the community are taken into account in connection with police oversight, and to report to the public regularly regarding oversight of the police department.
- (b) It is intended that this section shall provide a system of oversight of the police complaint process that is responsive to the needs of the entire community and a means for continuous improvement of police practices in the city.
- (c) In order to improve community trust in the police department, the council intends to increase community involvement in police oversight and ensure that historically excluded communities have a voice in the oversight.

2-11-2. - Purpose.

To provide an effective independent civilian oversight system that shall promote integrity and encourage systemic change and improvement in the police services that the police

department provides to the public. This oversight system shall work to ensure the internal police accountability system functions properly; that behavioral, procedural, and policy deficiencies are identified and appropriately addressed; and that complaints are investigated through an objective and fair process for all parties involved.

While safe-guarding confidentiality, the civilian oversight system shall:

- (1) review complaints of potential violation(s) of police department policies, rules, and general orders; including but not limited to allegations of racial profiling, racially abusive treatment, and excessive use of force;
- (2) gather and utilize data to identify trends;
- (3) recommend corrective actions, training, and/or policy changes; and
- (4) report regularly to the Boulder City Council and the public.

The essential community involvement component of the system shall be accomplished through the inclusion of a Police Oversight Panel, hereafter "Panel". The Panel shall be established to increase visibility for the public into the delivery of service by the police department. The Panel shall review the results of investigations conducted by the police department and provide recommendations for corrective or punitive action, including discipline, changes in policy, and training. The members of the Panel shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics and comply with all applicable state and federal laws regarding confidentiality.

2-11-3. - Definitions.

Chief of police or chief means the person designated by the city manager as the chief of police.

Complaint means an oral or written communication to the Office of the Police Monitor or the Boulder Police Department alleging misconduct on the part of a police employee.

Conclusion of any criminal investigation means a criminal investigation is deemed concluded when the appropriate criminal prosecutor decides either to press charges or to not press charges.

Critical incident means a line-of-duty discharge of a firearm in an enforcement action, whether or not a person was injured, the use of less lethal weapons or defensive tactics that result in the death or grave injury of a person, the death or grave injury of a person as a result of other police actions or the death of an in-custody person when the circumstances of the death are unknown or questionable.

Disposition means the final resolution of a misconduct allegation or critical incident investigation, as defined in Boulder Police Department G.O. 120.

Immediate family member means a person's spouse or domestic partner, a parent, step-parent, grandparent, child, stepchild, grandchild, sibling, half-sibling or step-sibling of the person or of the person's spouse or domestic partner.

1 *Police employee* means a city employee who reports directly or through others to the
chief of police.

2 *Preliminary investigation* means an initial inquiry by the police monitor or the monitor's
3 designee into the facts and circumstances of a complaint for purposes of deciding how to classify
and route the complaint and to identify any potential witnesses or evidence for timely
4 preservation.

5 *Professional standards unit* means the police employees designated by the chief of police
to investigate allegations of misconduct against police employees.

6 *Serious bodily injury* means bodily injury that, either at the time of the actual injury or at
7 a later time, involves a substantial risk of death; a substantial risk of serious permanent
8 disfigurement; a substantial risk of protracted loss or impairment of the function of any part or
9 organ of the body; or breaks, fractures, a penetrating knife or penetrating gunshot wound, or
10 burns of the second or third degree. As defined in Colo. Rev. Stat. § 18-1-901

11 *Sworn police officer* means a police employee who is also certified and employed as a
peace officer under the laws of this state.

12 **2-11-4. - Office of Police Monitor.**

- 13 (a) The Office of the Police Monitor, hereafter "Monitor's Office," shall be established to
provide an independent location to lodge complaints involving police employees, monitor
internal investigations to ensure objective, thorough and high-quality investigations, and
develop recommendations to improve police services and policies.
- 14 (b) The Monitor's Office shall be headed by a professional police monitor who is hired by
and accountable to the city manager. The Monitor's Office shall not be physically located
15 in the same building as the police department.
- 16 (c) Any findings, recommendations and actions taken shall reflect the police monitor's
independent judgment. No person shall use their political or administrative position to
17 attempt to unduly influence or undermine the independence of the police monitor, or their
staff or agent, in the performance of their duties and responsibilities.
- 18 (d) The city manager shall include in their recommended budget an allocation sufficient for
the police monitor and the Monitor's Office to carry out their duties and responsibilities.

19 **2-11-5. - Office of Police Monitor – Powers and Duties.**

- 20 (a) The police monitor, hereafter "monitor" is the administrative head of the Monitor's
Office and shall:
- 21 (1) Oversee the operations of the Monitor's Office, establish program priorities and
objectives, and manage the implementation and evaluation of work programs.

- 1 (2) Develop and maintain operating procedures for the Monitor's Office, including
2 protocols for handling complaints and monitoring investigations.
- 3 (3) Act as liaison and provide staff support to the Panel.
- 4 (4) Have the authority to refer incidents of potential police misconduct of public
5 concern or other incidents of potential police misconduct to the Panel.
- 6 (5) Receive and process complaints concerning police employees; monitor the
7 complaint investigation; and ensure best practices are followed by the
8 professional standards unit.
- 9 (6) Have the authority to review critical incidents and incidents of serious bodily injury
10 resulting from the actions of a sworn police officer(s).
- 11 (7) Perform a quality assurance function with the goal of identifying systemic changes
12 that shall improve police services to the community. These activities include:
13 (A) Analyzing complaint trends and recommending changes to police policy,
14 practices and training; and
15 (B) Review and report trends in completed police employee disciplinary
16 decisions.
- 17 (8) Have the necessary access and authority to review police data and records for the
18 purpose of conducting systemic audits of police functions that impact the quality
19 of the services provided by police to the public. The Monitor shall publicly report
20 on the results of any audits or monitored audits in a manner consistent with all
21 applicable confidentiality requirements. All audit reports and findings shall be
22 shared with the Panel.
- 23 (9) Provide status reports to the Panel and community and provide recommendations
24 relevant to police policies and practices to the chief of police and city manager.
- 25 (10) Develop and present to the Panel and city council periodic public reports
describing the activities of the Monitor's Office, its findings and
recommendations, the police department's response to its recommendations, and
any other information pertinent to assessing the performance of the Monitor's
Office.
- (11) Provide the community with any other reports deemed necessary.
- (b) The monitor shall receive timely notification of critical incidents to enable them to
report to the scene of critical incidents. The monitor, Panel and chief of police shall
sign a memorandum of understanding outlining the protocols for summoning the
monitor to the incident for purposes of first-hand observation. The protocols developed
by the monitor, the Panel, and the chief of police shall identify the specific types of
critical incidents for which the monitor shall be notified and to which the monitor shall
respond.
- (c) All final case adjudication and employee discipline decisions shall be made by the
chief of police. The monitor may develop adjudication recommendations and may
recommend the level of discipline for police employees.

2-11-6. - Complaint Processing by the Police Monitor's Office.

(a) Complaint intake.

- (1) Any person may lodge a complaint with the Monitor's Office about the conduct of, or services provided by, a police employee.
- (2) The Monitor's Office is the intake center for community complaints about police employees. The monitor shall make available to the public several alternative means of filing a complaint, including but not limited to in person, on-line, or by telephone. Complainants may choose to lodge complaints either directly to the police department or through the Monitor's Office. Complaints filed with the police department shall be forwarded to the Monitor's Office within twenty four hours of receipt. The Monitor's Office shall document all contacts and complaints received from any source.
- (3) If the Monitor's office receives a complaint that alleges that a person incurred damages as the result of alleged police conduct, a copy of the complaint shall be forwarded to the city attorney.
- (4) If a complaint is received that alleges criminal conduct on the part of the police employee, the police monitor shall forward the complaint and any associated information to the chief of police and the District Attorney's Office.

(b) Complaint Investigations.

- (1) Except as provided in paragraph (2) of this subsection, administrative investigations of complaints filed with or forwarded to the Monitor's Office shall not commence until after the monitor has received, classified and routed the complaint. The investigation shall commence as soon as possible after classification, but in any event no later than 14 calendar days after the Monitor's Office receives the complaint.
- (2) Paragraph (1) of this subsection shall not preclude preliminary investigations by the Monitor's Office, or a police supervisor's attempt to address possible misconduct by a police employee with or without the filing of a complaint.
- (3) If the chief of police determines that all or a part of an administrative investigation should be postponed in order to avoid jeopardizing a criminal investigation or prosecution, the chief of police shall request the monitor's agreement on postponement. If the monitor and chief of police are unable to agree on the postponement, then they shall present in writing their respective positions to the city manager, who shall then decide whether all or part of an administrative investigation shall be postponed.
- (4) The monitor shall actively observe internal investigations to ensure a thorough, objective, and timely investigation, and is authorized to:
 - (A) Be present and observe complainant, employee and witness interviews.
 - (B) Recommend additional investigation and best practices to the professional standards unit. In the event the professional standards unit rejects a

recommendation from the monitor pursuant to this subsection, the monitor may request in writing the chief of police to accept the recommendation. The chief of police shall respond in writing. If the chief of police declines, the monitor may ask the city manager in writing to require the chief of police to accept the recommendation. The written decision of the city manager shall be final and shall be made available to the police oversight panel. In no event may a police employee be subject to discipline for acting pursuant to the city manager's final decision.

- (5) The monitor shall have access to all police data including demographics of complainants and officers.
 - (6) The monitor shall not be involved in any criminal investigations but shall be kept apprised of the status of such investigations involving police employees. The monitor shall have access to the case file relevant to the administrative portion of such investigations.
 - (7) All case files shall be provided to the monitor upon conclusion of the investigation for review and a determination that the investigation was thorough and complete. Once the investigation is deemed complete by the monitor, the involved employee's immediate supervisor shall develop a case adjudication recommendation that shall be forwarded through the chain of command to the chief of police for final adjudication and to the monitor for review. If the monitor disagrees with any recommendation, their disagreements and comments shall be documented and forwarded to the chief of police prior to final adjudication by the chief of police. The chain of command and monitor shall use their best efforts to complete this process in a timely manner and without unreasonably delaying the final adjudication of the case.
 - (8) The Monitor's Office shall make every reasonable effort to notify the complainant that an investigation has been conducted, summarize the monitor's assessment of the investigation, and provide an opportunity for the complainant to comment or ask questions about the process.
 - (9) The monitor shall maintain an on-going status report on the work of the Monitor's Office and case investigations and shall share it with the police oversight panel.
- (c) Access to Records and Materials.
- (1) Except to the extent that state or federal law provides to the contrary, or where information resides on a restricted database governed by a contract that does not allow access beyond certain law enforcement employees:
 - (2) The monitor shall have complete and unrestricted access to all complaints, investigative records and information obtained or developed by professional standards unit related to an administrative investigation of a complaint, whether the information exists in electronic format or hard copy, including information stored on the professional standards unit database;

- 1 (3) The monitor shall be provided any other information identified by the monitor that
is relevant to a complaint; and
- 2 (4) The identity of any individual involved in an event giving rise to a complaint shall
3 not be withheld from the monitor. Notwithstanding the foregoing, complainants
may file anonymously.
- 4 (5) The chief of police and monitor shall develop cooperative interdepartmental
5 procedures and any necessary infrastructure to coordinate the flow of information
and communication between the Monitor's Office and the police department.
- 6 (d) Nothing in this chapter shall preclude the city from engaging an independent investigator
7 for a particular complaint.

8 **2-11-7. - Panel Scope.**

9 The Panel shall have the authority to review complaints of alleged police misconduct,
review critical incidents, review incidents involving serious bodily injury, and recommend
10 disciplinary actions concerning investigations completed by the Boulder Police Department. The
Panel has the authority to evaluate policing practices, policies, procedures, and outcomes in
11 Boulder, to make and issue reports to the public, and to provide actionable recommendations to
the city manager, the city council, and the chief of police.

12 **2-11-8. - Panel Meetings.**

- 13 (a) The Panel shall hold a regular monthly meeting which shall be open to the public.
- 14 (b) At the monthly meeting, The Monitor shall provide a public report to the Panel
15 consistent with the provisions of this Chapter.
- 16 (c) The Panel shall meet in closed session when discussing or reviewing the case files and
17 documentation of open or closed complaint investigations.
- 18 (d) The Panel shall keep minutes of its public meetings, and those minutes shall include:
- 19 (1) the date, time, and location of each meeting;
20 (2) the members present and absent;
(3) a summary of the discussion on matters proposed, deliberated, or decided;
21 (4) a record of any votes taken.

22 **2-11-9. - Panel Duties and Responsibilities.**

- 23 (a) The Panel shall elect annually from among its membership two co- chairs who shall be
responsible for:
- 24 (1) Facilitating and leading each panel meeting.

- 1 (2) Communicating the needs of the Panel to the Monitor.
- 2 (3) Engaging with the community and assisting with outreach efforts.
- 3 (4) Ensuring the oversight panel's annual report is completed and published in a
- 4 timely manner.
- 5 (5) Helping to maintain panel members' participation and morale; and
- 6 (6) Establish necessary subcommittees to carry out the work of the panel.
- 7
- 8 (b) Complaints from members of the public.
- 9 Any person may file a complaint or allegation, including an anonymous complaint, of
- 10 wrongdoing against any police department employee with the Panel. Upon receipt of a
- 11 complaint or allegation, the Panel shall immediately send the complaint or allegation to
- 12 the Monitor.
- 13
- 14 (c) Complaint Review.
- 15
- 16 (1) In collaboration with the monitor, the Panel shall establish policies, procedures
- 17 and operating principles for the Panel.
- 18 (2) The Panel may review the completed professional standards unit
- 19 investigations prior to the chief's final determination and provide
- 20 disposition, disciplinary, and policy recommendations to the chief.
- 21 (3) The Panel shall decide whether to accept a case for review.
- 22 (4) All materials concerning the completed investigations of cases the Panel has
- 23 selected to review shall be made available to members for their confidential
- 24 review.
- 25 (5) The Panel shall, at one of its regularly scheduled meetings, report on such
- completed case(s), which may include comments on the handling of the
- complaint, the fairness and thoroughness of the investigation and the
- reasonableness of the adjudication.
- (6) The comments and any related policy or procedural issues identified by the
- Panel during its case review shall be provided to the monitor for further
- consideration.
- (7) If the Panel concludes that an investigation is incomplete, the Panel may
- request the monitor to recommend additional investigation by the professional
- standards unit.
- (d) Disposition Recommendations.
- (1) The Panel may submit written disposition recommendations of a complaint to
- the chief of police prior to the chief's final decision.
- (2) In the event the Panel and chief of police disagree on a disposition of
- complaint, the panel may submit a written objection to the chief.
- (3) Panel objections may be made public in a manner consistent with all
- applicable confidentiality requirements.
- (e) Discipline Recommendations.

(1) The Panel may submit a written discipline recommendation to the chief of police prior to the chief's final decision.

(2) In the event of sustained allegation(s) of police misconduct where the Panel and the chief disagree on potential discipline of transfer, demotion, suspension or termination, the Panel or the chief, may request an after-action meeting at the Penfield Tate II Municipal Building or an otherwise agreed location. The after-action meeting may include panel members that conducted the case review of the complaint, a Panel co-chair, the chief of police, police department chief of staff, professional standards unit sergeant, and the monitor. The purpose of the meeting shall be to discuss the complaint, investigation, the outcome, and the rationale for the discipline decision. The meeting shall be held within a reasonable time after the final decision on discipline is made.

(f) Policy Recommendations.

(1) The Panel shall develop and review recommendations as to the policies, procedures, and practices of the police department in consultation with the monitor.

(2) The Panel may provide input on police department policies and procedures that reflect community values.

(3) The goal of the Panel recommendations shall be to improve the professionalism, safety record, effectiveness, and accountability of police department employees.

(4) The Panel may make recommendations to the chief of police, the city manager, and the city council, as appropriate.

(g) The Panel shall have the authority to review critical incidents and incidents of serious bodily injury resulting from the actions of sworn police officer(s).

(h) Community Engagement.

(1) The Panel may provide a forum to gather community concerns about incident-specific police actions and may receive and forward complaint information to the monitor for processing

(2) In collaboration with the Monitor, the Panel may conduct education and outreach activities to inform the community about the process for filing complaints and commendations about police employees. The Panel and Monitor shall work together to develop and disseminate information regarding the police complaint intake and review process.

(i) The Panel may authorize public statements on behalf of the Panel regarding the role and processes of the Panel when an urgency to respond to an inquiry is presented.

2-11-10. - Panel Appointment Process.

- 1
- 2 (a) The Panel shall be composed of eleven members appointed by the city manager, of which
- 3 two positions are specifically designated for students currently enrolled in an institution
- 4 of higher education.
- 5 (b) The city manager shall seek community input for the creation of the panel member
- 6 selection process. This process, which shall be guided by principles of inclusion and
- 7 transparency, may be used for the selection and recruitment of subsequent applicants
- 8 seeking appointment to the Panel when vacancies arise. The process developed for panel
- 9 member selection shall actively promote public awareness of the Panel, its vacancies, and
- 10 the Panel's role and responsibilities.
- 11 (c) The city manager may form an advisory committee to assist in the selection process.
- 12 (1) The city manager shall strive to include individuals on the advisory committee
- 13 with a demonstrated commitment to the Boulder community, individuals with
- 14 the ability relate to and understand community concerns, those who can
- 15 effectively collaborate, engage with the public, maintain transparency
- 16 throughout the selection, and possess working knowledge or understanding of
- 17 social justice issues.
- 18 (2) To amplify the voice of those most impacted by interactions with law
- 19 enforcement, the city manager shall strive to include a person with a disability,
- 20 individuals who are multilingual, a person who has experienced incarceration, a
- 21 person identifying as LGBTQ+, a person experiencing homelessness or having
- 22 such lived experience, people identifying as a person of color, specifically
- 23 African American, Latinx, Asian and/or Indigenous in the development of the
- 24 selection process and/or the selection process for the panel members.
- 25 (3) The city manager shall also include current and former panel members and the
- monitor in the selection process.
- (4) Prior to the commencement of the panel selection process, the advisory committee
- or those involved in the development of the selection process shall participate in a
- training on the fundamentals of civilian police oversight and an overview of the
- Boulder civilian oversight system.

2-11-11. - Panel Composition.

- 21 (a) The eleven-member panel shall include two student representative positions. One student
- 22 representative must be currently enrolled as an undergraduate in an institution of higher
- 23 education within the city of Boulder. The other student representative may be a resident
- 24 of Boulder and currently enrolled in an institution of higher education.
- 25 (b) The membership of the Panel shall seek to exceed the diversity of the Boulder
- community, including the ethnic, racial, and socioeconomic status as well as the

diverse professional backgrounds, lived experience, and expertise of the residents of Boulder.

2-11-12. – Panel Members Qualifications and Disqualifications.

- (a) The city manager shall consider the following qualifications when appointing members of the Panel:
- (1) Strong ties to the city of Boulder. This may include, but is not limited to, residency, employment in the city, or having children enrolled in schools located in the city.
 - (2) The ability to build working relationships and communicate effectively with diverse and multicultural groups.
 - (3) The ability to relate to and understand the community's concerns.
 - (4) A commitment to the purposes of this ordinance.
 - (5) The ability to be fair-minded, objective, and impartial.
 - (6) The ability to effectively collaborate, engage with the public, and maintain transparency, during their tenure on the Panel.
 - (7) A demonstrated commitment to serving the Boulder community.
- (b) Panel member qualifications may include:
- (1) Value equity, diversity and inclusion.
 - (2) Solid understanding of relevant laws and regulations.
 - (3) Experience or understanding of conflict resolution and mediation.
 - (4) Members serving on the Panel are not required to be U.S. citizens.
- (c) The following factors shall disqualify an individual from appointment to the Panel:
- (1) current employment in a law enforcement capacity, either sworn or non-sworn,
 - (2) current or former employment in the Boulder police department
 - (3) Being related to or an immediate family member of any current or former police department employee shall serve on the Panel.
 - (4) Status as a current City employee or being an immediate family member of a current City employee.

2-11-13. - Panel Terms, Vacancies, Alternates and Removal.

- (a) Five appointees shall serve a three-year term and four appointees shall serve a two-year term. The two student members shall serve one-year terms. Panel members that shall serve a three-year term may be reappointed for an additional one year. Panel members, other than the two student members, with a two-year term may be reappointed for an additional two-year term. Upon appointment, panel members shall draw numbers to determine which shall be a two- year appointment and which shall be a three-year appointment. Panel members may serve for a maximum of two consecutive terms, for a total of four years. Student panel members may serve a maximum of two consecutive one-year terms, for a total of two years.

- 1 (b) In the event of a Panel vacancy, when an alternate is not available and a successor has
2 not been named, that Panel member may remain on the panel until their successor is
3 named. Any vacancy occasioned by resignation, death or removal of a member shall be
4 filled within 60 days with an eligible alternate from the appointed pool to fill the
5 unexpired term.
- 6 (c) In addition to the eleven members selected, up to five eligible alternates may be
7 appointed by the city manager. The eligible alternates shall represent a pool from which
8 new panel members can be placed on the panel when a vacancy occurs. The eligible
9 alternates pool may also include students.
- 10 (1) At the direction of the city manager, the Monitor may use their discretion to
11 place an alternate from the appointed pool of eligible alternates to the panel
12 when a vacancy occurs.
- 13 (2) When there is one remaining alternate in the pool, the city manager may
14 commence a selection process for new panel members.
- 15 (d) The city manager may remove a panel member, for failure to perform required
16 duties, violation of the City of Boulder code of ethics, violation of the NACOLE
17 code of ethics, or violation of any signed confidentiality agreement.
- 18 (e) Automatic Resignation.
- 19 (1) The unexcused absence of a panel member from three consecutive regularly
20 scheduled monthly Panel meetings in a twelve-month period without a leave
21 of absence approved by a majority of the Panel shall constitute an automatic
22 resignation from the Panel.
- 23 (2) Upon completion of required Panel training, the failure to participate in two
24 assigned case reviews in a twelve-month period without prior notification to
25 the Panel Co-Chairs or the Monitor shall constitute an automatic resignation
from the Panel.

2-11-14. - Panel Training.

- 20 (a) Prior to voting on any matter before the Panel (but no later than three months after
21 appointment to the Panel), Panel members shall participate in the following training:
- 22 (1) Legal and ethical obligations of members of a public body appointed by the city
23 manager.
- 24 (2) Police department policies and training, including but not limited to professional
25 standards unit investigation and processes, defensive tactical training, crisis
intervention training, and de-escalation training.
- (3) Relevant privacy rules and City policies and procedures involving liability,
employee discipline, and other matters related to police operations; including:

- 1 (A) Police department and City administrative systems, processes, structures,
2 and operations.
- 3 (B) The history of civilian police oversight,
- 4 (C) City of Boulder police oversight ordinance, and process for complaint
5 intake, review, and investigations
- 6 (b) On an annual basis the Panel shall participate in the following training:
 - 7 (1) Participation in at least one 4 hour ride-along in-car session or 2 hour walk-along
8 session with police department patrol operations.
 - 9 (2) The city manager and the monitor shall provide the Panel members with
10 additional training, which may include but not be limited to relevant training by
11 subject matter experts on mental health, trauma-informed policing, civil rights and
12 constitutional law, race and systemic racism, community organizing and outreach,
13 mediation, investigation, and policing practices, policies, and administration.
 - 14 (3) The Panel training may be provided by, but is not limited to, the National
15 Association for Civilian Oversight of Law Enforcement, a comparable
16 professional organization, consultant, or subject matter expert.
- 17 (c) The city manager may excuse or grant an extension to a Panel member for completion of
18 the required training.

2-11-15. - Panel Data Analysis, Review and Reporting.

- 13 (a) The Panel may:
 - 14 (1) Review trends and statistics of complaints against sworn police officers and
15 civilian police employees and may develop recommendations to improve
16 the complaint intake and handling process.
 - 17 (2) Recommend that the monitor seek an audit of police department policies,
18 practices, or procedures.
 - 19 (3) When audits are conducted the Panel may review the subsequent written findings
20 or reports and provide feedback or recommendations.
 - 21 (4) Review and evaluate reports issued and data collected by the police department
22 related to policing practices, policies, procedures, and outcomes.
 - 23 (5) Review and evaluate periodic reports from the chief of police regarding
24 implementation of recommendations made by the Panel.
 - 25 (6) The Panel may prepare and present annual report to the public, city manager,
city council and the chief of police that:
 - (A) Summarizes the Panel's activities during the preceding year.
 - (B) Concerns expressed by residents and community members
 - (C) Assessment of police department investigative and disciplinary
processes,
 - (D) Recommendations for ways that the police department can improve its
relationships with community members,

- (E) Recommendations for changes to police department policies, rules, training, and complaint process,
- (F) Findings, discipline and policy recommendations consistent with all applicable confidentiality requirements
- (7) In addition to the annual report, the Panel may furnish additional reports, which shall be available to the public and which may include patterns relating to complaints and other related matters that may come from the Panel's review of police department policies, procedures and other pertinent data analysis.

2-11-16. - Panel access to police department records.

Except to the extent that state or federal law provides to the contrary, or where information resides on a restricted database governed by a contract that does not allow access beyond certain law enforcement employees.

- (a) The Panel shall have access to the Boulder Police Department's policies and any data captured or maintained by the department to facilitate the panel's analysis and understanding of department operations. The Panel may request the Monitor to conduct specific analyses of department data, policies, or practices.
- (b) The Panel shall have complete and unrestricted access to complaints, investigative records and information obtained or developed by the professional standards unit related to an administrative investigation of a complaint, whether the information exists in electronic format or hard copy, including information stored on the professional standards unit database.
- (c) The Panel shall be provided any other information identified by the monitor that is relevant to a complaint or is necessary for the Panel to perform their required duty to ensure the investigation conducted was fair and thorough.

2-11-17. - Interrelationship between the Panel and the Monitor.

- (a) The Monitor and the Panel shall be established and operated as separate, complementary entities with different roles that are and shall remain independent of one another.
- (b) The monitor shall serve as a liaison to the Panel. The Monitor's Office shall provide administrative support to the Panel. The monitor shall serve as a subject matter expert to the Panel as needed and requested.
- (c) The monitor shall notify the complainant and involved police employee(s) of its decisions on whether to accept a case for review and shall inform the complainant of its conclusions and recommendations on the case. The members of the Panel may be copied on the correspondence sent to the complainant.
- (d) On a no less than monthly basis, the Panel shall receive reports from the monitor in a manner consistent with all applicable confidentiality requirements, including the number

and types of cases filed, number of open cases, the disposition of and any action taken on cases, recommendations for corrective/punitive action, including discipline and dismissals, and the number of independent investigations.

- (1) Monitor reports to the Panel shall include all complaints received.
- (2) Monitor reports shall include the degree to which the monitor, and the Panel disciplinary recommendations were implemented by the police department.

(e) The Panel and monitor shall coordinate community outreach activities and communication with the public. The monitor and the Panel shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with members of the public. The monitor shall seek to educate the public about the responsibilities and services of the monitor and functions of the Panel.

(f) The monitor shall assist the Panel in collaboration with the police department written standing operating procedures to detail the complaint intake, review, investigation, disposition process, discipline, critical and other incidents processes.

(g) The monitor shall assist the Panel in utilizing city resources for the design and public release of the Panel's annual report and other reports.

2-11-18. - Confidentiality of Records and Information.

(a) The monitor and Panel members shall comply with all state and federal laws requiring confidentiality of law enforcement records, information, and confidential personnel records, and respect the privacy of all individuals involved.

(b) All Panel members shall sign a confidentiality agreement which prohibits them from publicly discussing or releasing any information or materials reviewed in closed session.

(c) The monitor, its staff, the Panel, all consultants and experts hired by the Monitor shall treat all documents and information regarding specific investigations or officers as confidential except to the extent needed to carry out their duties.

2-11-19. - Ethical Obligations.

(a) The monitor and members of the Panel shall be deemed public officials subject to the Code of Conduct set forth in Chapter 7, "Code of Conduct," B.R.C. 1981.

(b) The members of the Panel shall adhere to Chapter 7, "Code of Conduct," B.R.C. 1981, provisions and the National Association of Civilian Oversight of Law Enforcement (NACOLE) code of ethics.

- 1 (c) A member of the Panel shall remove themselves from any participation in a matter if
2 their impartiality might reasonably be questioned, or if they have personal knowledge
of any facts regarding the incident under review.

3 **2-11-20. - Obligations of the chief of police.**

- 4 (a) The Chief of Police may appoint a sworn police officer to serve as a liaison to the
5 Panel. As the liaison, they may attend the public Panel meetings and serve as a resource
6 to the Panel on questions regarding the police department, training, policies and
7 procedures and questions pertaining to complaints investigated by professional standards
8 unit.

- 9 (b) At the discretion of the city manager, the Chief of Police shall:

- 10 (1) Provide a written response in a timely manner to formal written correspondence
11 from the Panel, including but not limited to disposition, policy and discipline
12 recommendations.

- 13 (2) Create a written record, in a timely manner, when the police department declines
14 to implement any changes recommended by the Panel. The written record shall
15 include the rationale for declining to implement the recommendation of the Panel
16 and be made available to city council, the city manager, and the public.

- 17 (c) Provide a written response in a timely manner to formal written correspondence from the
18 monitor, including but not limited to audits, disposition, policy and discipline
19 recommendations.

20 **2-11-21. - Oversight System Evaluation.**

21 The city manager, with input from the Panel, monitor, police department, city council and
22 the public may schedule an evaluation of the civilian oversight structure every 5 years to
23 determine whether the need exists to make changes and/or otherwise make adjustments to the
24 system to improve its continued performance. These evaluations shall in no way be intended to
25 eliminate the monitor or Panel oversight structure.

2-11-22. - Outside Counsel.

Upon request of the monitor or Panel, outside counsel may be retained by the city
attorney to provide legal advice in the event the city attorney determines that the city attorney's
office does not have adequate expertise to handle any given matter, does not have adequate
personnel to advise on a matter or has an actual conflict of interest. The city attorney has
authority to seek and retain outside counsel to support the Monitor and/or Panel.

2-11-23. - Liability.

1 It is the intent that Panel members be free from personal liability for acts taken within
2 the course and scope of carrying out their official duties and functions. The city shall therefore
3 defend and indemnify members to the maximum extent permitted under the Colorado
4 Governmental Immunity Act and other applicable law.

5 Section 2. This ordinance is necessary to protect the public health, safety, and welfare of
6 the residents of the City and covers matters of local concern.

7 Section 3. The city council deems it appropriate that this ordinance be published by title
8 only and orders that copies of this ordinance be made available in the office of the city clerk for
9 public inspection and acquisition.

10 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
11 TITLE ONLY this 5th day of October 2023.

12
13
14 _____
15 Aaron Brockett,
16 Mayor

17 Attest:

18 _____
19 City Clerk

1 READ ON SECOND READING, PASSED AND ADOPTED this 19th day of October
2 2023.

3
4 _____
5 Aaron Brockett,
6 Mayor

7 Attest:

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9 City Clerk
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MEMORANDUM

TO: Nuria Rivera Vandermyde, City Manager
Aimee Kane, Equity Officer
FROM: Farah Muscadin, Consultant
RE: Police Oversight Panel Community Feedback
DATE: April 14, 2023

Over the last several weeks, I have had the opportunity to speak with several individuals very much interested in and invested in the success of the Police Oversight Panel. I have spoken to current and former members of the Boulder City Council, current and former Panel members, Police Oversight Task force members, Panel selection committee members, members of various community organizations/committees, the City Attorney's Office and the Boulder Police Department.

There were several themes that permeated my conversations. They include, a clear understanding of the scope and purpose of the Panel, the selection process for Panel members, increased public transparency of the Panel's work, and a process to handle disagreements on discipline between the Panel and Chief of Police, commonly referred to as the appeals process.

Scope of the Panel

There is general understanding that the Panel provides oversight over the Boulder Police Department, however, the specifics of the Panel's role and purview varied greatly. Some community members saw the Panel's role as solely reviewing and providing recommendations on police misconduct. On the other hand, other community members felt the Panel has or should have purview of the entire police department.

Insight

Both perspectives are accurate in theory but there is not a clear understanding on the purview of the panel in practice, meaning what community members believe the panel should do is not exactly aligned with what the panel actually does and can do. Clarification in the ordinance and significant community engagement with the emphasis on informing is recommended.

Panel Selection Process

Many community members felt that the selection process was difficult, overwhelming, and became too political. There were many questions about the process including the actual selection process, criteria for selection, transparency of the process, and the final decision by the City Council.

Insight