



# Police Oversight

**Second Annual Report**

**Independent Police Monitor**

**Joseph Lipari**

**January – December 2021**

**Panel Co-Chairs**

**Ariel Amaru and Daniel Leonard**

# | Contents

Letter from the Co-Chairs	2
Police Oversight Panel Members	5
Processes and Procedures	
Enabling Legislation	9
Development and Adoption of By-laws	11
Panel Member Training	13
Case Review Procedures	15
Quarterly Meetings with Police Chief	19
Panel Subcommittees	20
Annual Assessment of the Office of the Independent Police Monitor	22
Memorandum of Understanding	26
Policy & Training Recommendations	27
Complaint Data	29
Case Summaries	43
How to File a Complaint	81
Appendix	82



# | Letter from the Co-Chairs

Ariel Amaru and Daniel Leonard

In 2019, Zayd Atkinson was accosted by a member of the Boulder Police while he was caring for the property around his home. Emblematic of the deep, systematic prejudices in policing in the United States, community leaders rallied together to re-envision police oversight and discipline.

In 2020, communities across the country rallied for change after the wrongful execution of George Floyd and Breonna Taylor by police in their communities. Leaders in the Boulder community finalized Ordinance 8430, establishing the Office of the Independent Police Monitor and the Police Oversight Panel.

In 2021, we went work.

The city of Boulder's first Police Oversight Panel has worked with the Independent Monitor and the Police Department to build community oversight of the police. The panelists are everyday members of the Boulder Community. We work full-time jobs—as lawyers, social workers, businesspeople, students, teachers—and then volunteer our evenings and weekends for this work. We are united by the pressing need to bring accountability, insight, and oversight to policing.

Ordinance 8430 did not give empty lip service to diversity in selecting panelists. We are those marginalized by our community and our police force. We are people of color, women, LGTBQ, and people who have experienced homelessness or been previously incarcerated. Ordinance 8430 mandated our presence and empowered us to carry out this work. The conversation has frequently been contentious. The panel has stepped up to challenge systemic norms. The community has rallied to demand change. What is evident in this first year is that police oversight only works with real diversity in power and in the room.

Our primary achievement this year was establishing our bylaws to supplement Ordinance 8430. The process was lengthy. We worked through research, drafting, legal review, and public comment phases. We worked with every subsequent panel in our hearts and minds, knowing that even the smallest decisions would reverberate throughout the future. While we are proud of the bylaws approved in March 2022, we also leave them forever incomplete. Our guidance for the future is that these bylaws, and even Ordinance 8430, should be living documents that must change and grow with the community's needs.

As you will read in this report, we began to review community complaints and investigations into police conduct in early 2021. In this work, the panel has already proven its worth in perspective and advisement. We have initiated additional investigations into police conduct, recommended lasting policy changes, in



addition to recommending appropriate discipline and reform. At times, we have not agreed with the Police Department with the ultimate outcome on cases. At other times, we have changed police thinking and led outcomes with the department. We cannot all be satisfied in all of our disputes and will continue to work on processes for redress and remediation. Even so, we can take pride in the growing oversight of the department and our intent on producing the lasting change our community requires of us.

From our outset, we have intended to delve into the data, to examine our history, and use it to set policy for our future. Unfortunately, injustice was not keeping a good record of its activities. Previously, data and records of police activity and the use of force in our community have not undergone robust analysis or provided effective public transparency, making them insufficient to quickly meet our current needs for understanding and progress. This is systemic injustice.

This will take time to change, and to draw out the information we need. In 2021, the Office of the Police Monitor and the Police Oversight Panel published the first of these annual reports and turned a page with the Boulder Police Department. Our mission now is a complete, practical, publicly accessible collection of data on the use of force, community complaints, and all other salient data of police conduct. Our community demands this insight into our policing. We on this panel require it so that our future includes objective evaluation on our effectiveness in changing policing in our community.

In the coming year, we look forward to regular community engagement, a deeper look into police use of force with the Police Monitor, and the recruitment of new panel members.

Today's message to our community is that our work has only just begun.

# | Police Oversight Panel Members



## Taishya Adams

Taishya Adams is a servant leader focused on collective liberation and stewardship through community building, personal transformation, and systems change. Taishya has been a Boulder, Colorado resident since 2012 and currently serves as a commissioner to Colorado Parks and Wildlife. The commission is a citizen board, appointed by the Governor, which sets regulations and policies for Colorado's state parks and wildlife programs. Taishya is the Policy Director and Colorado Co-lead for Outdoor Afro. Outdoor Afro is a nationwide network that inspires Black American connections to nature and leadership. As Policy Director, Taishya engages with our leaders, networks, policymakers, and partners on education, health, and environmental policies affecting Black people, Black communities, and the planet. Previously, Taishya worked at American Institutes for Research as an Educational Equity Specialist leveraging policy, research, and practice to strengthen public education. Taishya also worked with the National Alliance for Public Charter Schools, the DC Public Charter School Board, and the Children Defense Fund Freedom Schools. Taishya is the founding Board President of New Legacy Charter School, a public charter high school and early learning center Colorado. Taishya also serves on the Colorado Natural Areas Council, the NOAA National Marine Sanctuaries, and the #Nature for All International Taskforce. Taishya holds a MA in International Education from George Washington University and a BA from Vassar College in Political Science and Film.



## Ariel Amaru

Ariel Amaru is a Boulder native who recently left corporate law to pursue a career in public policy. She received her law degree from the University of Colorado and her undergraduate degree from The George Washington University. Her undergraduate thesis on Black's women's experience of domestic violence won the outstanding undergraduate research of the year award. Ariel has

served on the advisory board for a racially conscious reading organization and volunteers regularly at a local domestic violence shelter.



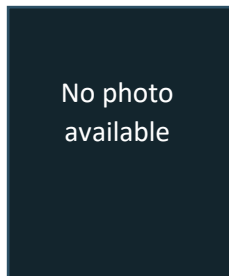
## Bwembya Chikolwa

Dr. Bwembya Chikolwa is Senior Manager of Property Tax at Lumen Technologies, Inc. He earned a Ph.D. in Real Estate Investment and Finance in 2008 and is currently pursuing a MS in Organizational Leadership at the University of Colorado, Boulder. Before moving to Boulder, Dr. Chikolwa practiced as a registered Property Valuer in both private and public sectors for over 12 years before joining academia. In 2007, he joined Queensland University of Technology in Brisbane, Australia, teaching and researching property investment and finance, and project and infrastructure finance.



## Suzy Gordon

Dr. Suzy Gordon is an occupational therapist who has worked extensively with vulnerable populations in all parts of Boulder County through their clinical career, working in both the fields of Home Health and Skilled Nursing. Suzy enjoys helping others through their work but felt a strong responsibility to pursue opportunities that would broaden their impact and strengthen people, families, and communities as a whole.



## Sarah Holt

Sarah Holt has significant experience in the corporate world participating in and leading Diversity, Equity, and Inclusion oversight councils – including developing data-based policies, training, and codes of conduct. As a Latinx member of the LGBTQ community, with a black child; and coming from a

family of military and police service, she has a unique intersectional view of policing. Sarah moved to Boulder County four years ago and is active in various community groups.



## Victor King

Victor King is a Recovery Coach Manager at Mental Health Partners. A longtime Boulder resident who brings a passion and experiential knowledge of recovery. He is a current member of the 2020-2021 Leadership Fellows of

Boulder County.



## Daniel Leonard

Daniel Leonard received his BFA, BA, and MBA from CU Boulder. He is the Assistant Director of Marketing at CU Boulder for CU Presents. Daniel also works with a local theatre company BETC. He believes the arts are essential

to a more empathetic and connected world.



## Hadasa Vilalobos

Hadasa Villalobos is a Quality Supervisor for a local food manufacturer where she specializes in policy and compliance. Born to Mexican immigrants in the Central Valley of California, she is a native Spanish

speaker familiar with both farming and inner-city communities.



## Martha Wilson

Martha Wilson is a proud, Black Latina, mother of five, and doctoral student in Public Administration. She has nearly 8 years of experience as a child welfare caseworker and switched sides of the courtroom as a clinical consultant with the Office of Respondent Parent Counsel to advocate on

behalf of parents after noticing the drastic racial disparities BIPOC families experience. Martha's



passion for cultural competence and social justice yields the tenacity to gain traction in appeals cases and support families through the Family Justice Initiative. Martha was a founding member of the Boulder County Equity Council and is the coordinator for Boulder Conversations About Race. On the weekends, Martha is an enhanced mental health crisis clinician with North Range Behavioral Health, sees clients in her private practice, or can be found at demonstrations and rallies engaging in community activism alongside her family. This might seem like a lot, but Martha makes room for what matters and is always game for some good trouble.

# | Enabling Legislation

[Ordinance 8430](#) was adopted by the City Council on November 10, 2020. The ordinance amends Title 2, Chapter 11 of the Boulder Revised Code, establishing the Office of the Independent Monitor and the Police Oversight Panel. The Council created the role of the police monitor to review the handling of complaints, to analyze trends in policing and recommend improvements to police practices, and to increase transparency around police oversight. The Police Oversight Panel was created by the Council to increase community involvement in police oversight and to ensure that historically excluded communities have a voice in police oversight.

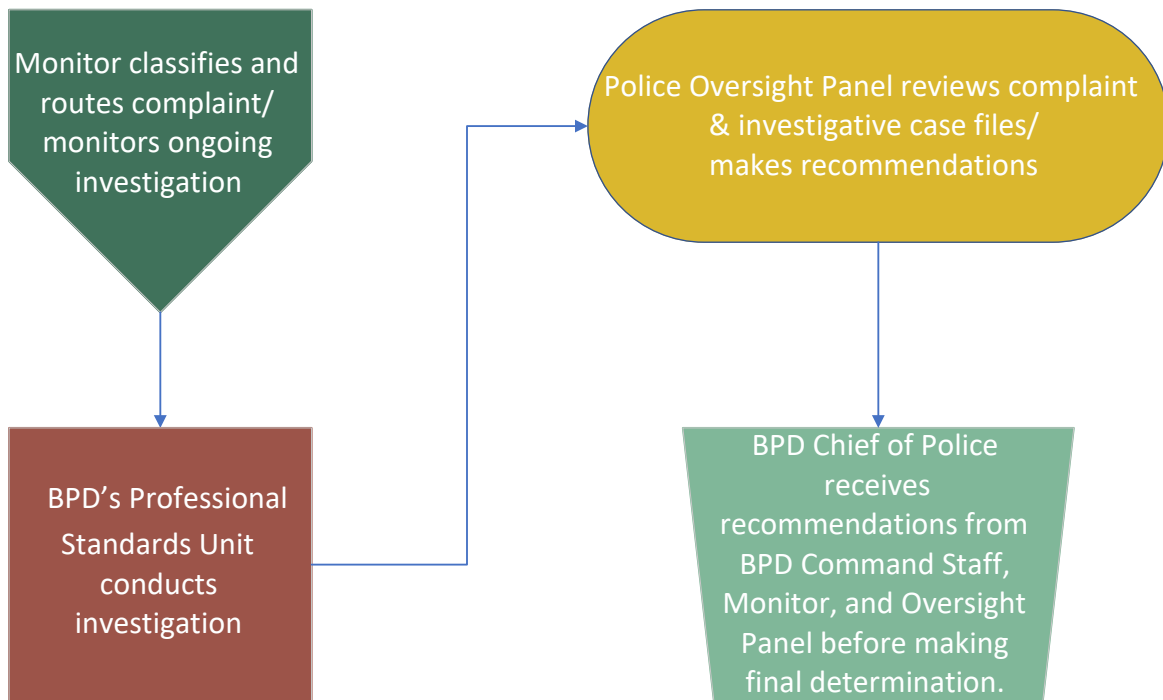
The ordinance establishes the Police Oversight Panel an independent entity supported by the Office of the Independent Police Monitor. The monitor assists the panel by providing summaries of complaints and complaint investigations, data on monthly statistics, analysis of local policing trends and access to national best practices. The monitor also organizes and facilitates the training of panel members. The role of the panel is to review completed internal complaint investigations, make recommendations on disposition and discipline for those complaints, and to make policy and training recommendations to the department. The panel may also identify analyses that they would like the monitor to conduct. The panel members also provide an oversight function with regard to the monitor by providing regular feedback to the monitor and to the city regarding the work of the monitor's office.

In establishing the Office of the Independent Police Monitor, the Council authorized the monitor to review all ongoing internal investigations in real time. The monitor has access to all complaint records, including body-worn camera footage, and may observe all interviews with subject officers, complainants, and witnesses. The monitor can make recommendations for additional investigation as well as disposition and disciplinary recommendations at the conclusion of the investigation. The monitor may make policy and training recommendations based on individual cases or trends in complaint allegations. The monitor is further authorized

to conduct analysis of department operations and outcomes to identify and recommend improvements to police policies and practices.

The diagram below demonstrates the route a case follows as it is classified by the monitor, investigated by BPD’s Professional Standards Unit, and reviewed by the panel. The Chief of Police makes the final disciplinary determination after receiving recommendations from the BPD command staff, the monitor, and the panel.

### Complaint and Disciplinary Process under Monitor – Panel Model



# | Development and Adoption of By-laws

In April 2021, the panel established a subcommittee to research by-laws of oversight bodies and begin drafting the panel's by-laws. The by-laws are intended to govern the panel's operations and procedures that are not detailed in Ordinance 8430. Panel members Suzy Gordon, Taishya Adams, and Hadasa Villalobos volunteered to be on the subcommittee while Martha Wilson and Daniel Leonard researched and drafted most of the by-laws. The monitor provided the panel and the subcommittee with a broad sample of by-laws from other police oversight bodies as a resource. The subcommittee and drafters examined the sample by-laws and identified elements that they felt were important to include and would be compatible with Boulder's oversight model.

Through the summer of 2021, panel members continued to meet to assemble and draft the bylaws. In the Fall of 2021, the panel began to collectively review and edit the draft by-laws at their regular monthly meetings and during additional special by-laws meetings. By November of 2021, the panel had completed the initial drafting of the by-laws and requested that a legal review of the by-laws be conducted by the Boulder City Attorney's Office (CAO). The panel met with attorneys from CAO in December of 2021 to discuss any suggestions and changes that were recommended by CAO to ensure that the by-laws were consistent with all local and state laws and procedures.

In early 2022, the panel continued the public process of editing and finalizing the draft by-laws. At their monthly meeting in February 2022, the panel announced that the drafting process was complete and that the draft by-laws would be posted for public comment from February 11 – March 2. A press release was issued, and local media informed the public that they could provide comments and feedback on the draft by-laws by visiting the Police Oversight Panel's website where the by-laws were posted along with a digital comment box for suggestions. All public comments were transmitted to the panel co-chairs and the monitor. The co-chairs provided the public comments to the entire panel for their review. At the panel's March 2022

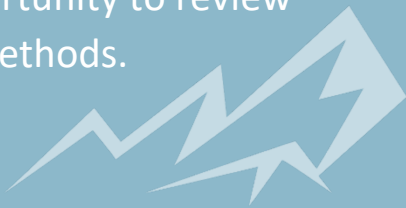
monthly meeting, the panel discussed the public comments on the by-laws and ultimately made no additional changes to the by-laws. The panel then voted unanimously to formally adopt the by-laws. The Police Oversight Panel's by-laws can be found on the panel's website at <https://bouldercolorado.gov/services/police-oversight>.

The panel is also developing guiding principles and a mission statement that will supplement the by-laws. These items will be offered for public comment prior to their adoption. The panel expects to complete the drafting of the guiding principles and mission statement in mid-2022.

# | Panel Member Training

The Police Oversight Panel was created in February 2021 and the monitor immediately initiated

Training provides panel members with an introduction to police policy and practices. It is also an opportunity to review content and methods.



a training program for the panel members in accordance with Ordinance 8430. The training was designed to introduce the panel members to the field of civilian oversight and to provide an opportunity to learn about critical elements of police policy and practices that would be relevant to the panel's ability to conduct thorough case reviews based on evidence and policy. The trainings also represent an opportunity for

the Police Oversight Panel members to evaluate the content and methods of BPD officer training.

The first four-hour training occurred on February 27, 2021. It consisted of two parts: part I covered the history of race, policing, and civilian oversight of law enforcement in the United States and was led by the monitor. Part II was led by the Commander of the BPD's Training Division and focused on how BPD trains its officers on values and ethics within the police department.

The second four-hour training day focused on the most fundamental components of police encounters: stop and arrest procedures and the laws and policies on search and seizure. The module on stop and arrest procedures was facilitated by an attorney for BPD, while the presentation on search and seizure policy was led by the Boulder County's District Attorney's Chief Trial Deputy. This training occurred on April 24, 2021.

On May 22, 2021, the panel attended a four-hour training session on Use of Force. The training was delivered by members of the BPD Training Division and focused on the fundamental aspects of use of force training. Panel members were introduced to the ICAT model (Integrating, Communications, Assessment and Tactics) employed by BPD. The trainers explained the importance of distinguishing between various levels of resistance (passive, active, assaultive) and appropriate force options in response. This training also introduced the panel members to the legal framework that governs and structures police use of force in the United States.

The panel's next four-hour training occurred on July 24, 2021 and introduced the panel members to Boulder's Crisis Intervention and Response Team (CIRT) as well as BPD's Homeless Outreach Team (HOT). The director of CIRT discussed the evolution and accessibility of mental health services in Boulder and explained how the CIRT clinicians respond with police officers to provide crisis intervention services when police are called to respond to an individual experiencing a mental or behavioral crisis. An officer from the HOT discussed with the panel members the day-to-day work by HOT officers and the various challenges that Boulder's unhoused community face.


On August 28, 2021, the BPD Training Division provided a scenario-based training for the panel members that offered an opportunity for the panel members to observe the dynamics of use of force encounters and the application of appropriate force options in response to escalating levels of subject resistance.

In early 2022, the Police Oversight Panel established a Governance subcommittee to, among other things, guide the development of on-going training for panel members. Going forward, refresher training for existing panel members and onboarding training for new panel members will continue and remain a regular part of panel members' duties.

# | Case Review Procedures

To promote both the efficient and thorough review of cases, the panel decided to create

Full case file reviews began in August 2021 under the authority granted by Chapter 2-11 of the Boulder Revised Code.



smaller ad-hoc committees composed of no less than three panel members to conduct the full case file reviews. Prior to selecting a case file for review, the entire panel receives a summary of each case that includes a synopsis of the complaint and investigation. At the panel's regular monthly meetings, the panel members vote on each case to determine for which cases they will conduct a full case file review. The panel members

then volunteer for which case reviews they would like to be assigned to review. The monitor then provides the case review committee members with the entire case file to review and schedules the committee's case review discussion in coordination with the committee members.

During the review discussion, the committee members collectively examine the evidence and relevant policy and make a decision on their recommendation to the Chief of Police on the case disposition (sustain, exonerate, not sustain, unfounded). If they sustain the allegation(s), the committee then applies the BPD's disciplinary matrix to determine a disciplinary recommendation. The committee communicates their recommendations and any additional observations to the monitor, who then drafts a finding letter to the Chief of Police based on the panel's conclusions and recommendations. The monitor then provides the draft finding letter to the committee members. The committee members review the finding letter, determine if they want to make any adjustments to the drafting of the letter, and then approve the letter. The monitor then transmits the finding letter to the BPD on behalf of the review committee.



The panel has developed the following procedures for reviewing case files. These procedures are in the panel's by-laws.

### **Redacted Screening Process**

When the monitor provides the initial case summaries to the panel, all names and personal identifiers are redacted. This is a preliminary measure intentionally designed to ensure contemplative thought regarding the substantive nature of the complaint as well as prevention of any potential for name recognition or power differential dynamics that may trigger a positive and/or negative bias associated with any of the parties.

### **Case Review Voting**

During an open session, if a quorum of the panel is present, the panel will vote on whether to move forward with a full case file review. An affirmative vote of the majority of the panelists present at the meeting results in a complaint being assigned for review by at least three panelists. If further discussion is needed pertaining to the deliberation or voting process that contains sensitive information, a motion will be made, seconded, and approved by a majority of present panelists for a closed session, at a future time. The monitor will inform the complainant of the panels determination of whether to conduct a full case file review within 72 hours of that determination.

### **Identification Restoration**

Once complaints are accepted or rejected for further review, their identifiers will be restored within a closed session, so panelists can gauge and/or inform fellow panelists whether a conflict of interest exists as defined in [Title 2, Chapter 7 of the Boulder Revised Code](#). If a conflict of interest is present with any parties listed in the complaint, panelists will recuse themselves. Once it is determined that no conflict of interest exists, panel members volunteer for or are assigned to specific cases to review.

### **Unaccepted Case Reviews**

Complaints that are not accepted for further review by the panel will be logged internally by the monitor within 72 hours and have their case number and rule violation recorded in subsequent public reporting. The monitor will capture the vote tally for a complaint's rejection to maintain public transparency. Rejection factors will be developed by the panel. The Governance Committee may suggest amendments to the rejection factors to be approved or rejected by the panel. The monitor will also inform the complainant whether or not their complaint was selected for a full case file review within 72 hours.

### **Preparing for Full Case File Review of Complaints**

The monitor informs the panelists that a case is ready for review and requests that panelists volunteer to join a full case file review. No full case file review of a complaint shall be completed with fewer than three panelists. If three panelists do not volunteer, the co-chairs and/or monitor appoint panelists to case reviews. The monitor assists in the production of all confidential case file materials to committee members in accordance with Ordinance 8430.

### **Disposition and Recommendations**

The panel's recommended disposition and disciplinary recommendations will include an analysis of the complaint's validity, the PSU review, and a recommendation of appropriate next steps of corrective and/or disciplinary actions. The monitor documents the panel's analysis and recommendations and transmits them to the Chief of Police after the panel's case review committee approves the language.

If the panel determines that an investigation is incomplete, the panel shall direct the monitor to recommend additional investigation by the Professional Standards Unit, in accordance with Ordinance 8430.

### **Communication of Final Decision**

The monitor will notify the complainant of the outcome via email, phone call, or postal mail if the complainant provided their contact information and preference. A summary of the panel's analysis, findings, and recommendations will be included in the panel's annual public report to the city manager and chief of police, in accordance with Ordinance 8430.

### **Corrective Action Provision**

If the panel's review of a case file leads the panel to conclude that an allegation should be sustained, the panel will recommend corrective action consistent with the department's disciplinary matrix and may also include recommendations for changes to systems or training. The disciplinary recommendations by the panel's case review committees include all options in the BPD's disciplinary matrix, including suspension and/or termination of employment. In some instances, an egregious violation may also have legal implications, subjecting the police officer and/or police department to civil or criminal penalties, fines or other sanctions such as mandatory reporting to Internal Affairs, the Federal Bureau of Investigations, and/ or the Department of Justice.

# | Quarterly Meetings with Police Chief

In the summer of 2021, the Police Oversight Panel began meeting with Boulder Police Chief

These meetings are an opportunity for panel members to pose questions to the Chief of Police and discuss any concerns related to the police oversight process.



Maris Herold. The first introductory meeting occurred on June 24, 2021, at Boulder Police headquarters. The second meeting between the panel members and the Chief occurred on February 23, 2022. This meeting was conducted virtually and was open to the public.

In early 2022, the Police Oversight Panel requested quarterly meetings with the chief of police, who agreed. Quarterly meetings of

the panel members and chief of police have been scheduled for the following dates and will continue to be open to the public:

- June 6, 2022
- August 24, 2022
- November 23, 2022

Meeting times and directions for how members of the public can observe the meeting will be posted in advance on the panel's website, <https://bouldercolorado.gov/police-oversight-panel>.

# | Panel Subcommittees

In the Police Oversight Panel's by-laws, the panel established the following subcommittees.

## **Governance Committee**

**Hadasa Villalobos (chair), Martha Wilson, and Daniel Leonard**

The Governance Committee is responsible for evaluating and presenting any potential amendments to the panel for approval. Additionally, the Governance Committee is responsible for ensuring compliance of the panel to these Bylaws and Ordinance 8430. The Governance Committee will work with the monitor to lead the creation and implementation of training and development of the panel to effectively carry out its duties and responsibilities. The panel will further develop their own agendas, duties, and responsibilities in this section through the Governance Committee.

## **Community Engagement and Communications Committee**

**Taishya Adams (co-chair), Victor King (co-chair), Ariel Amaru, Daniel Leonard, Sarah Holt**

The Community Outreach and Communications Committee will work with the monitor develop and lead the panel's communications and engagement with the community. The panel will further develop their own agendas, duties, and responsibilities in this section through the Community Outreach and Communications Committee. This committee will work with the City of Boulder's Communications and Engagement Department to facilitate the release of any public statements by the Police Oversight Panel.

## **Legacy Review Committee**

**Martha Wilson (chair), Hadasa Villalobos, Bwembya Chikolwa**

This committee will consider whether to actively reinforce or to reimagine policies with reflective hindsight, noting that the historical definition of the word legacy signifies items that are handed down from one period of time to another, and are specifically designed to take the

time and space to dialogue, process, and put forward remedies to cauterize the intergenerational trauma that still exists from overt racism and covert white supremacy that continues to be perpetrated within and by many systems. The panel acknowledges and respects that it cannot go back and change the decisions or outcome of a prior investigation, but the panel can and should embrace opportunities to provide ethical and multicultural insight into past practices that actively hold the potential of harm to negatively impact Boulder community members today. The Legacy Review Committee can request data captured or maintained by the Boulder Police Department and City to conduct analysis and review of past or current trends to make policy recommendations. The Legacy Review Committee may meet with past Ordinance 8430 drafters or partnering advocacy groups specific to the population to conduct this work. Any research or insights will be presented to the panel in a public meeting for recommended policy changes.

# | Annual Assessment: Office of the Independent Police Monitor

Ordinance 8430, which created the Police Oversight Panel, requires the panel to provide feedback on the performance of the Office of the Independent Monitor and the monitor, as an individual, once a year. This assessment is to be published as part of the annual report.

The Office of the Police Monitor was established to provide an independent body to lodge complaints involving police employees, monitor internal investigations to ensure objectivity, and develop recommendations to improve police services and policies. The monitor also acts as a liaison to the police department and provides staff support to the panel.

The most important aspect of a monitor fulfilling this duty is an emphasis on independence, objectivity, and comprehensive investigation.

## **2021 Assessment**

The panel evaluated the work of Independent Police Monitor Joseph Lipari, using the following four criteria:

1. Fair and independent monitoring of the Boulder police department in 2021;
2. Effective assistance to the panel in 2021;
3. Organization and facilitation of panel trainings in 2021;
4. Appropriate handling of matters of concern between the panel, the city, the public and police department with objectivity and fairness in 2021.

The panel also looked ahead to 2022, with a focus on how the monitor can improve performance in each of these four criteria in the coming year.

With a rank scoring of each category with 1 being failing to meet expectations, and 5 being exceeding expectations, Mr. Lipari ranked above 3 in each criteria, which demonstrates the monitor's general competency in fulfilling his duties.

### **Fair and Independent Monitoring of the Boulder Police Department in 2021**

Overall, panel members provided feedback that Mr. Lipari has generally met expectations in his monitoring duties, but panelists acknowledged that their expectations of what this role looked like were newly formed, since, for many of panelists, this is their first exposure to police monitoring of any kind. Panelists would also like to learn more about Mr. Lipari's day-to-day work as monitor.

### **Effective Assistance to the Panel in 2021**

Panelists felt split on Mr. Lipari's assistance to the panel and seem to have differing views of what his role consisted of. Some Panelists feel that Mr. Lipari carried too large of an administrative workload for the panel, while other panelists feel that he should take on more administrative functions. Overall, panelists were united in the assessment that Mr. Lipari is always readily available, empathetic, and eager to help.

### **Organization and Facilitation of Panel Trainings in 2021.**

Mr. Lipari very effectively organized and facilitated panel trainings in 2021. He organized trainings well in advance and always had a training agenda. Panelists especially appreciated the in-person trainings.

### **Appropriate Handling of Matters of Concern between the Panel, the City, the Public and Police Department with Objectivity and Fairness in 2021.**

The panel noted that this is likely the most difficult aspect of Mr. Lipari's job and assessed this as an area of needed improvement. While it is helpful for the monitor to provide context about generally accepted police practices, it is important that community members understand that it is the monitor's and panel's essential roles to question the approach officers or the department



use. If this critical eye is not applied consistently, the community may lose faith in the independence of this process.

One of the needs of the panel is the issuance of public statements through city communications channels. In this past year, in one instance in particular, the panel felt Mr. Lipari could have handled the issuance of a public statement with more adeptness and clarity around logistics in order to meet the panel's expressed needs.

Panelists also noted that in the past year Mr. Lipari has faced several incredibly challenging situations, including personal attacks, with extreme decorum. His grace and general professionalism are appreciated by the panel.

**What specific recommendations and expectations do you have for the monitor in 2022 to fairly and independently monitor the Boulder Police Department?**

Panel members had several suggestions for Mr. Lipari in this category, including emphasizing the importance of the panel and monitor's independence from the police department. While the two entities should remain cordial, objectivity must always be prioritized.

**What specific recommendations and expectations do you have for the monitor in 2022 to provide effective assistance to the panel?**

Panelists noted that meetings have been flowing better as of late and would like to continue to see this. This is likely a result of planning between Mr. Lipari and the co-chairs. Panelists would like to see consistent organization, time efficiency, and accountability as overall themes for the panel. Mr. Lipari can assist with this by making clear the boundaries of his role as monitor versus responsibilities that fall to the panel itself.

**What specific recommendations and expectations do you have for the monitor in 2022 to organize and facilitate panel trainings?**

Panelists would like training in 2022 to be marked by collaboration between panelists and the monitor, with shared authority on exploration and questions that the panel seeks to understand. One specific area of interest articulated was media training for panel members. Finally, the creation of an affinity space after a particularly intense or difficult training would be helpful.

**What specific recommendations and expectations do you have for the monitor in 2022 to appropriately handle matters of concern between the panel, the city, the public, and the Police Department with objectivity and fairness?**

Panelists would like to see the monitor emphasize his objectivity and independence at all stages of his work. A focus on diplomacy, patience, and serving as an effective liaison are qualities that the panel values. The panel and Mr. Lipari will work together to ensure a shared language is developed for objective and neutral case summaries. Further, in challenging situations, Panelists would like Mr. Lipari to call upon the co-chairs to assist, and to engage his supervisor more so that he is supported in his work.

# | Memorandum of Understanding

## Notifications to the Monitor of Critical Incidents

Ordinance 8430 directs the Independent Police Monitor, the Police Oversight Panel, and the Boulder Police Department to enter into a memorandum of understanding (MOU) that outlines the protocols for notifying the monitor that a critical incident involving Boulder police officers has occurred. During the Fall of 2021, the monitor worked with the BPD command staff and legal counsel to draft language for the MOU. The draft MOU was then shared with the Police Oversight Panel, which formally approved the MOU at their December 2021 meeting. The MOU was signed by all parties and became departmental policy in January 2022.

The purpose of the notification is to allow the monitor to respond and examine a scene which could become the subject of an administrative investigation or complaint. The MOU defines “critical incidents” as all in-custody deaths; any intentional discharge of a firearm by an officer at a person; any unintentional discharge of a firearm, while on- duty or off-duty, irrespective of injuries to suspects, officers, or third parties; use of lethal force on a domestic animal in self-defense or defense of others; and any civil disturbances (either planned or spontaneous).

As stipulated in the MOU, a staff duty officer or their designee will notify the monitor that a critical incident has occurred, and the monitor will respond. Once all investigative steps have been completed by on-scene authorities, the monitor will be permitted onto the scene to take notes. In the occurrence of a civil disturbance, the monitor will remain in neutral territory while observing.

The MOU is included in this report as Appendix A.

# | Policy & Training Recommendations

The Police Oversight Panel is authorized to issue policy and training recommendations based on either their review of completed investigations or an analysis of patterns and trends. In the course of reviewing complaint investigations in 2021, the panel or a panel review committee provided the following recommendations. The Boulder Police Department's responses are included below each recommendation.

1. ***BPD should reexamine their training on use of force as it relates to juveniles with a focus on behavioral and developmental conditions that may interfere with a juvenile's ability and/or willingness to comply with authorities.*** The panel recommended that BPD focus on identifying alternate options for officers who are required to detain juveniles, individuals of a small stature, and children who are at risk or in crisis. (Case #MI2021-040)

**BPD Response:** "Boulder PD is currently reviewing Use of Force Policies and Procedures from other law enforcement agencies and organizations in order to identify best practices in this area. Once identified, these will be examined for adoption by Boulder PD."

2. ***BPD should consider providing more clarity in its Rules and Regulations around what specifically constitutes a prohibited neck or chokehold restraint.*** BPD's general orders prohibit the use of neck and chokehold restraints, but a panel case review committee raised the concern that such restraints were not clearly defined in the BPD General Orders manual and thus difficult to interpret and implement for the purposes of disciplinary review. (Case #MI2021-040)

**BPD Response:** "Boulder PD is in the process of updating General Order 225. Use of Force. The section prohibiting neck and chokehold restraints is an area that would benefit from more clarity. The updated version will be made available to the panel."

3. ***The panel recommended that BPD remind officers and detectives to ensure all individuals alleging sexual assault be provided with contact information for the department's victim's advocate services.*** While this is already the intended departmental policy and practice, a case review committee concluded that such a reminder would be beneficial to victims to ensure they feel comfortable accessing available resources. (Case #MI2021-046)

**BPD Response:** "Mandatory training was sent out to officers and detectives, reminding them to provide contact information for the Victim's Advocate services in specific situations, including to victims of sexual assault, pursuant to BPD policy."

4. ***BPD should provide a training reminder to officers on the importance of confirming the service of a protection order before applying for an arrest warrant for a violation of a protection order.*** Before arresting someone for a violation of a protection order or applying for an arrest warrant for a protection order violation, officers must verify that the restrained party was personally served with the protection order or received actual notice of the existence and substance of such order. (Case #MI2021-047)

**BPD Response:** "Mandatory training was sent out to officers and detectives, reminding them that, prior to arresting someone for a violation of a Civil Protection Order or applying for an arrest warrant for a Civil Protection Order violation, to confirm that the restrained party has been personally served or notified of the existence and substance of such order."

"The Boulder Police Department appreciates the effort put forth by the Police Oversight Panel, and the accompanying recommendations. We value the input and feedback they have provided to us and for all the work they conducted in 2021."

# | Complaint Data

January 1 – December 31, 2021

Fifty-eight complaints were filed involving 88 separate allegations. Fifty-six complaints were classified as Misconduct, and two complaints were classified as Serious Misconduct. Of the 88

In 2021, 58 complaints were filed involving 88 separate allegations and of those 16 allegations were sustained. This represents a sustain rate of 18%.



allegations, 16 were Sustained. This represents a sustain rate of 18%. One complaint from late 2021 remains in progress.

## **Rule 1: Compliance with Values, Rules, and General Orders**

Forty-eight complaints included an allegation of a Rule 1 violation. Rule 1 Compliance with Values, Rules, and General Orders

includes all BPD policies and procedures that are not specifically listed in Rules 2-10. In the 2021 complaints, this included: Report Writing, Customer Service, Investigative Response and Accountability, Incident Reporting, Testimony, Taking Photos of Stopped Individuals, Pursuit Policy, Miranda Warning, Body Worn Camera Policy, Mask Policy, Consensual Searches, Vehicle Inspection, Negligent Taser Discharge, Emergency Mental Illness Response, Radio Usage, Domestic Violence Response, Impounding, Supervision and Information Provided (provision of a business card or name/contact information). Thirteen Rule 1 allegations were sustained.

## **Rule 2: Conformance with Laws**

One complaint included an allegation of violating Rule 2 Conformance with Laws. This case involves a non-sworn member of the BPD and is in progress as of the date of this publication.

### **Rule 3: Truthfulness**

Two complaints included an allegation of violating Rule 3 Truthfulness. No allegations were sustained.

### **Rule 4: Respect for Others**

Seven complaints included an allegation of violating Rule 4 Respect for Others. No allegations were sustained.

### **Rule 5: Police Authority and Public Trust**

Seventeen complaints included an allegation of violating Rule 5 Police Authority and Public Trust. One allegation was sustained.

### **Rule 6: Use of Force**

Eight complaints included a total of ten allegations of a violation of Rule 6 Use of Force. No allegations were sustained. One case that included a Use of Force violation was recommended to be sustained by the Police Oversight Panel but was not sustained by the BPD.

### **Rule 7: Adherence to Orders**

Zero complaints included an allegation of violating Rule 7 Adherence to Orders.

### **Rule 8: Conduct**

One complaint included an allegation of violating Rule 8 Conduct. The complaint was Sustained.

### **Rule 9: Cooperation in Investigations**

Zero complaints included an allegation of violating Rule 9 Cooperation in Investigations.

### **Rule 10: Security of Police Information**

One complaint included an allegation of violating Rule 10 Security of Police Information. This allegation was sustained.

## **Community Inquiries**

In 2021, 17 submissions were classified as Community Inquiries by the monitor. A Community Inquiry is defined by BPD as an allegation or concern regarding department policies, procedures, protocols or actions and complaints regarding employee actions that were within policy and law.



# Complaints, Allegations and Outcomes

January 1 – December 31, 2021

Month	Number of Complaints Filed	Allegation Types*	Outcomes
January	9	Rule 4 Respect for Others	Not Sustained
		Rule 5 Police Authority and Public Trust	Not Sustained
		Rule 6 Use of Force (3)***	Exonerated
		Rule 6 Use of Force	Exonerated
		Rule 6 Use of Force	Exonerated
		Rule 4 Respect for Others	Not Sustained
		Rule 1 (Report Writing) **	Exonerated
		Rule 1 (Testimony)	Exonerated
		Rule 6 Use of Force	Not Sustained
		Rule 1 (Pursuit Policy) (2)	Sustained
		Rule 1 (Pursuit Policy)	Sustained
		Rule 1 (Miranda Warning)	Not Sustained
		Rule 4 Respect for Others	Not Sustained
		Rule 8 Conduct	Sustained
February	5	Rule 1 (Investigative Accountability/Process) (5)	Not Sustained
		Rule 1 (Criminal Process)	Not Sustained
		Rule 1 (Customer Service Value)	Not Sustained
		Rule 5 Police Authority and Public Trust (2)	Not Sustained
		Rule 5 Police Authority and Public Trust (2)	Exonerated
		Rule 5 Police Authority and Public Trust	Exonerated
		Rule 1 (Body Camera Policy)	Sustained
		Rule 1 (Mask Policy)	Not Sustained
March	5	Rule 1 (Negligent Taser Discharge)	Sustained
		Rule 3 Truthfulness	Exonerated
		Rule 5 Police Authority and Public Trust	Exonerated
		Rule 1 (Supervision)	Unfounded
		Rule 5 Police Authority and Public Trust (2)	Not Sustained
		Rule 1 (Incident Reporting)	Not Sustained

		Rule 5 Police Authority and Public Trust	Not Sustained
		Rule 3 Truthfulness	Not Sustained
		Rule 5 Police Authority and Public Trust	Not Sustained
		Rule 1 (Incident Reporting)	Not Sustained
		Rule 6 Use of Force	Unfounded
April	2	Withdrawn	Unfounded
		Rule 4 Respect for Others	Not Sustained
		Rule 1 (Investigative Accountability)	Exonerated
May	5	Rule 4 Respect for Others	Not Sustained
		Rule 1 (Taking Photographs of Stopped Individuals)	Exonerated
		Rule 1 (Customer Service Value)	Not Sustained
		Rule 4 Respect for Others	Unfounded
		Rule 4 Respect for Others	Not Sustained
		Rule 1 (Report Writing)	Not Sustained
June	9	Rule 1 (Emergency Mental Illness Response) (2)	Exonerated
		Rule 1 (Customer Service Value) (2)	Exonerated
		Rule 1 (Customer Service Value)	Exonerated
		Rule 1 (Report Writing)	Exonerated
		Rule 5 Police Authority and Public Trust	Exonerated
		Rule 1 (Customer Service Value)	Not Sustained
		Rule 1 (Domestic Violence Response)	Exonerated
		Rule 5 Police Authority and Public Trust	Exonerated
		Rule 1 (Customer Service Value)	Exonerated
		Rule 1 (Customer Service Value)	Exonerated
July	5	Rule 5 Police Authority and Public Trust	Exonerated
		Rule 1 (Information Provided)	Sustained
		Rule 5 Police Authority and Public Trust	Sustained
		Rule 10 Security of Police Information	Sustained
		Rule 6 Use of Force	Exonerated
		Rule 1 (Customer Service Value)	Not Sustained
		Rule 1 (Customer Service Value)	Exonerated
August	2	Rule 1 (Radio Usage)	Sustained
		Rule 5 Police Authority and Public Trust	Exonerated
September	3	Rule 2 Conformance with Laws	In Progress
		Rule 1 (Report Writing)	Sustained
		Rule 1 (Domestic Violence Response)	Sustained
October	2	Rule 1 (Domestic Violence Response)	Exonerated

		Rule 1 (Investigative Accountability)	Sustained
November	7	Rule 1 (Report Writing)	Sustained
		Rule 6 Use of Force	Exonerated
		Rule 1 (Consensual Searches)	Sustained
		Rule 1 (Vehicle Inspection)	Not Sustained
		Rule 1 (Customer Service Value)	Exonerated
		Rule 1 (Reporting Guidelines)	Sustained
		Rule 5 Police Authority and Public Trust	Not Sustained
		Rule 1 (Customer Service Value)	Exonerated
		December	2
Rule 1 (Impounding Motor Vehicles and Bicycles)	Exonerated		

*\*Each complaint can contain more than one allegation.*

*\*\*Rule 1 allegations can include a variety of violations of the General Order manual. Therefore, the specific type of allegation is provided in parentheses for the Rule 1 allegations.*

*\*\*\*When the same allegation was made against multiple officers during the same incident, the number of subject officers is noted in parentheses.*

## Definition of Findings

**Exonerated:** The incident occurred, but member actions were justified, lawful and proper.

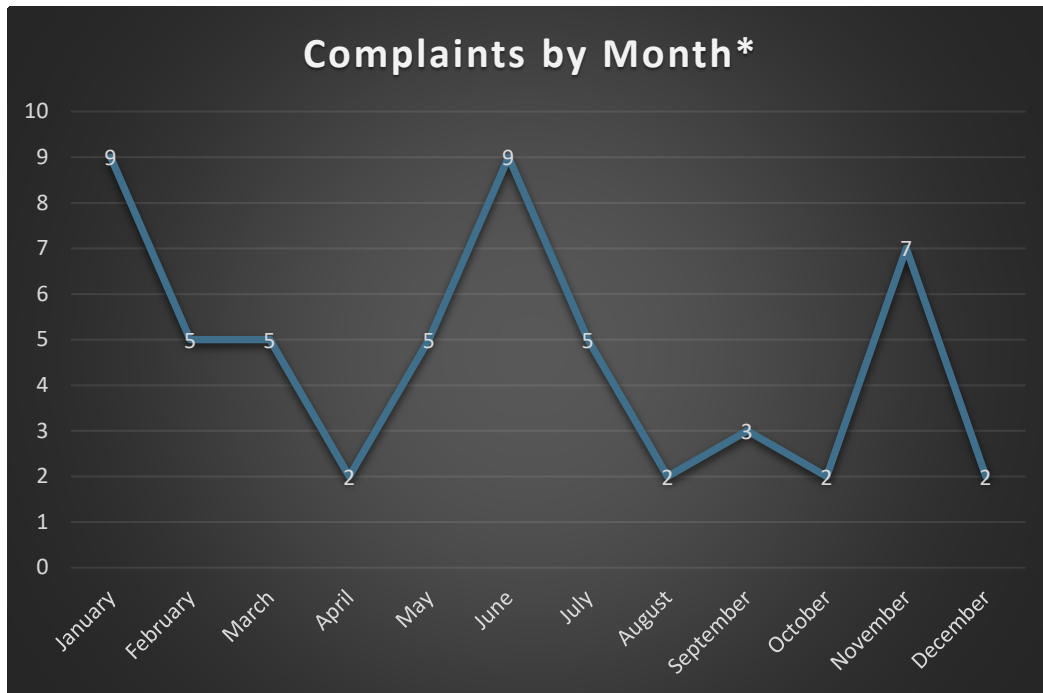
**Unfounded:** The complainant admits to false allegation; the charges were found to be false; the member was not involved in the incident; or the complainant has voluntarily withdrawn the complaint prior to the conclusion of an investigation and the department elects not to continue the investigation.

**Not Sustained:** An allegation is not supported by a preponderance of the evidence.

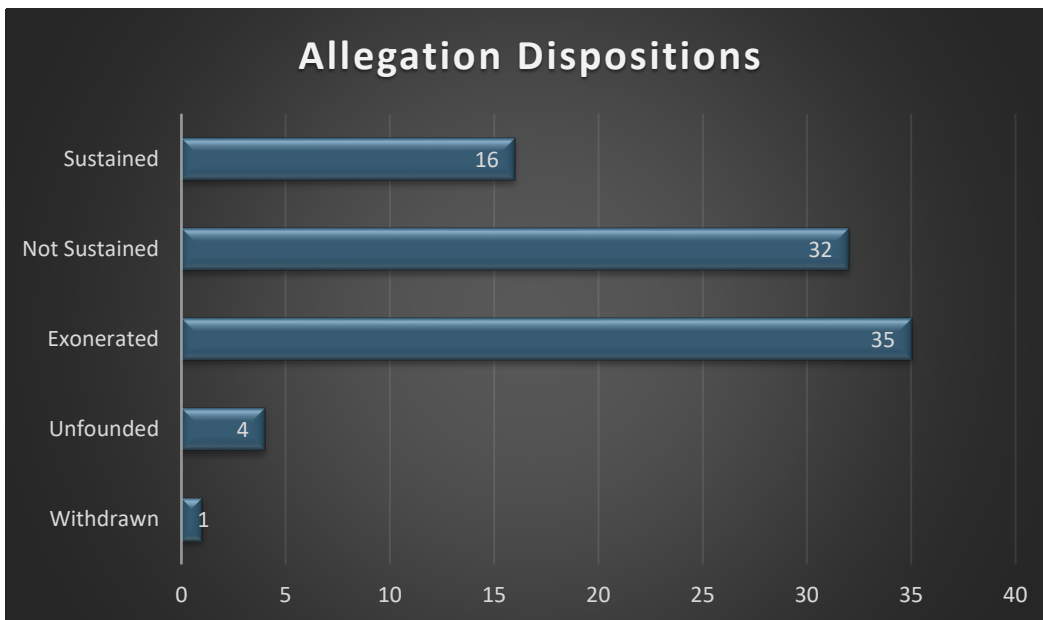
**Sustained:** An allegation is supported by a preponderance of the evidence.

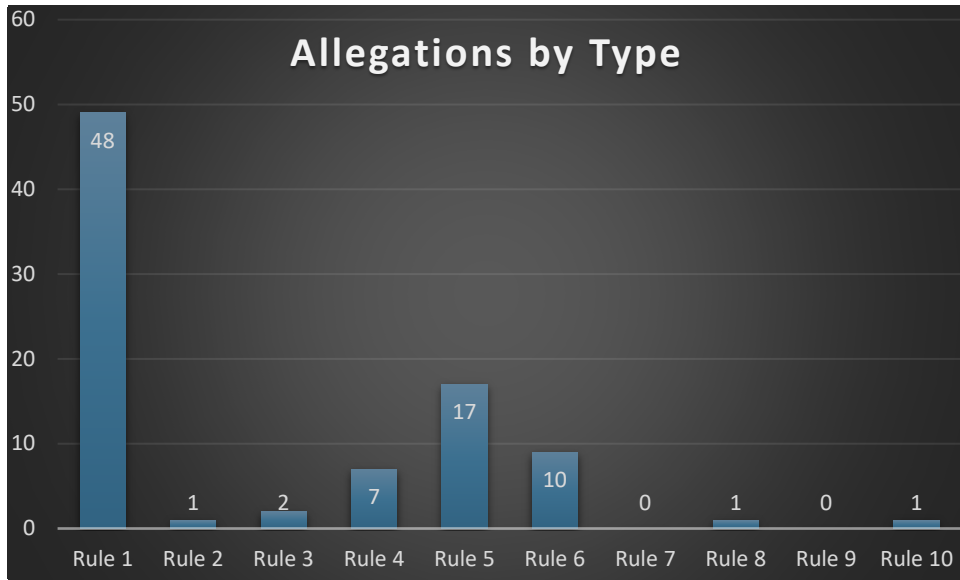
# Data Analysis & Allegation Types

January 1 – December 31, 2021



\*Each complaint can contain multiple allegations.





Rule 1 General Order	Number of Allegations
Customer Service Value	12
Investigative Accountability/Process	8
Report Writing	5
Domestic Violence Response	3
Vehicle Pursuit	3
Emergency Mental Health Response	2
Arrest Standards	1
Criminal Process	1
Vehicle Inspection	1
Miranda Advisement	1
Consensual Search	1
Court Testimony	1
Mask Policy	1
CEW Use	1
Required Activation of Body Worn Camera	1
Supervisory Review	1
Photographing Stopped Individual	1
Radio Usage	1
Impounding Motor Vehicle	1
Providing Identifying Information	1
Communications/Incident Reporting	1

# | Boulder Police Department Rules

## **Rule 1. Compliance with Values, Rules, and General Orders**

Except as otherwise approved by the Chief of Police, members of the department perform their duties in accordance with city and department rules, policies, and procedures, and conduct themselves within the framework of the department's values.

## **Rule 2. Conformance with Laws**

Members obey the laws of the United States of America and of any state or local jurisdiction. Employees have a duty to report any custodial arrest, criminal summons or receipt of a restraining/protection order they are served to an on-duty supervisor. A conviction for violation of law is prima facie evidence of a violation of this rule.

## **Rule 3. Truthfulness**

Members are truthful in matters associated with or related to department business or responsibilities, except as recognized for legitimate investigative purposes.

## **Rule 4. Respect for Others**

Members treat others with fairness and respect.

## **Rule 5. Police Authority and Public Trust**

Members are entrusted to effectively, helpfully, and non-abusively use the authority and public trust vested in them. Members do not take any police action which they know, or reasonably should know, is not in accordance with the law, and always use their position and credentials appropriately. Members appropriately utilize city equipment, resources, and public monies.

## **Rule 6. Use of Force**

Members only use a level of force that is lawful and reasonable under given circumstances.

## **Rule 7. Adherence to Orders**

Members obey lawful orders and directives.

## **Rule 8. Conduct**

Members use reasonable judgment and refrain from conduct which reflects unfavorably on the department. This type of conduct includes that which:

- causes embarrassment to the department or its members or compromises the department's reputation;
- reflects discredit upon the individual as a member of the department; or
- tends to impair the operation, effectiveness, credibility, or efficiency of the department or its members.

## **Rule 9. Cooperation in Investigations**

Members assist and cooperate with any department-authorized investigation.

## **Rule 10. Security of Police Information**

Members treat the official business of the department as confidential. Members do not:

- access, disseminate, or remove any official report or record for other than authorized purposes;
- communicate any information which may jeopardize an investigation, arrest, police action, or prosecution, or which may aid a person to escape, destroy, or remove evidence; or
- communicate any information which may endanger the safety or well-being of others or jeopardize the operation of the department.

In addition to the ten rules above, violation of the following department values can be the basis for a complaint:

### ***Customer Service***

We are dedicated to exceeding the expectations of our community and our co-workers by demonstrating consistent and professional service with a solution-oriented approach.

### ***Respect***

We champion diversity and welcome individual perspectives, backgrounds, and opinions. We are open-minded and treat all individuals with respect and dignity.

### ***Integrity***

We are stewards of the public's trust and are committed to service that is transparent and consistent with city regulations and policies. We are honorable, follow through on our commitments and accept responsibility.

### ***Collaboration***

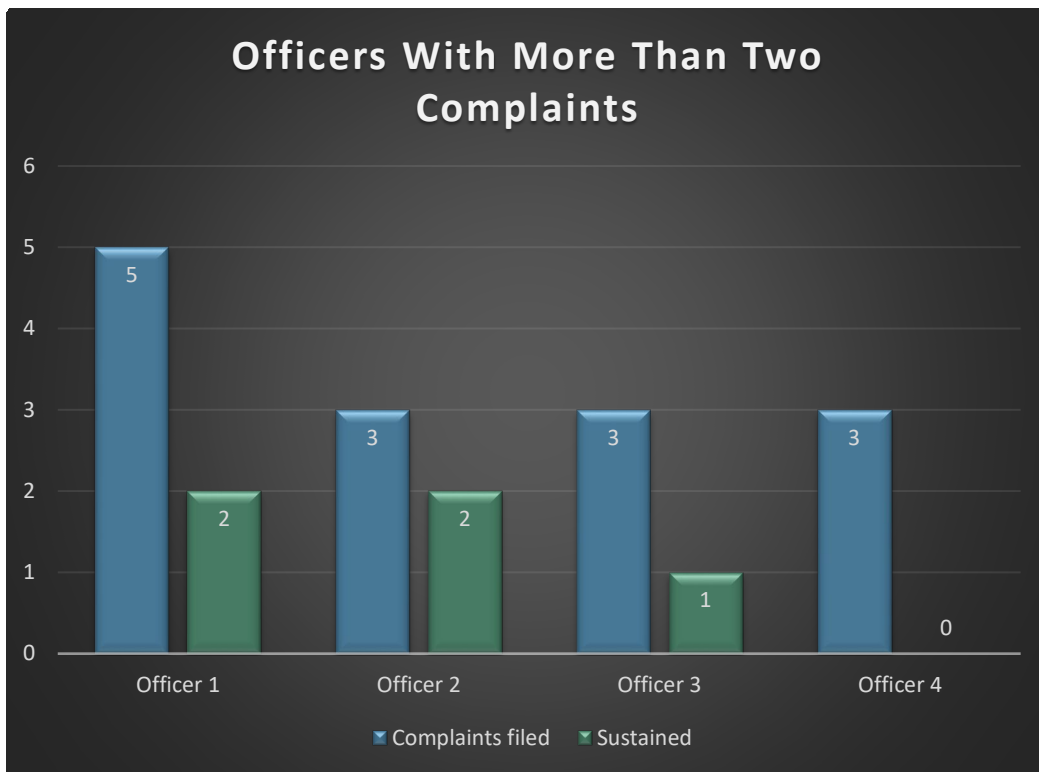
We are committed to organizational success and celebrate our shared dedication to public service. We believe community collaboration and the sum of our individual contributions leads to great results.

### ***Innovation***

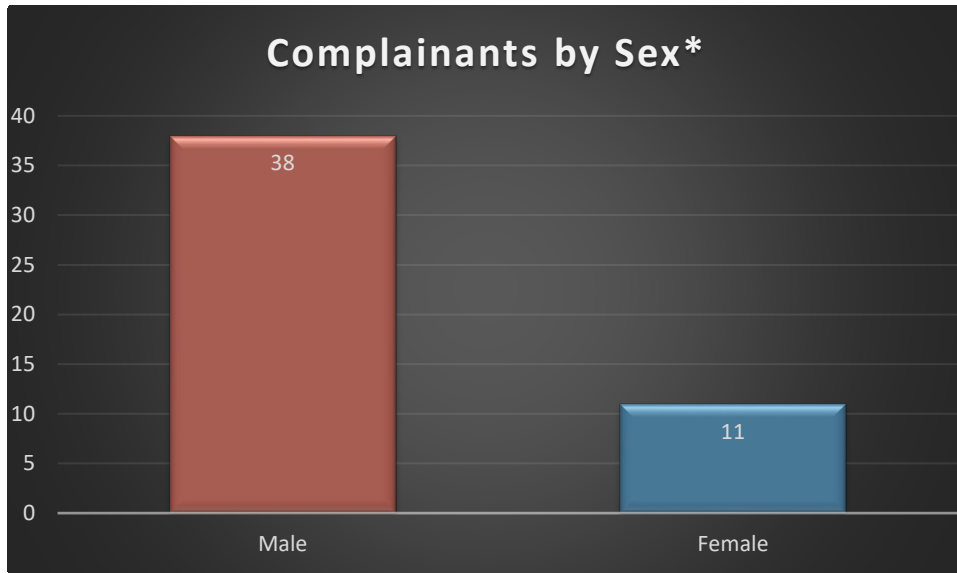
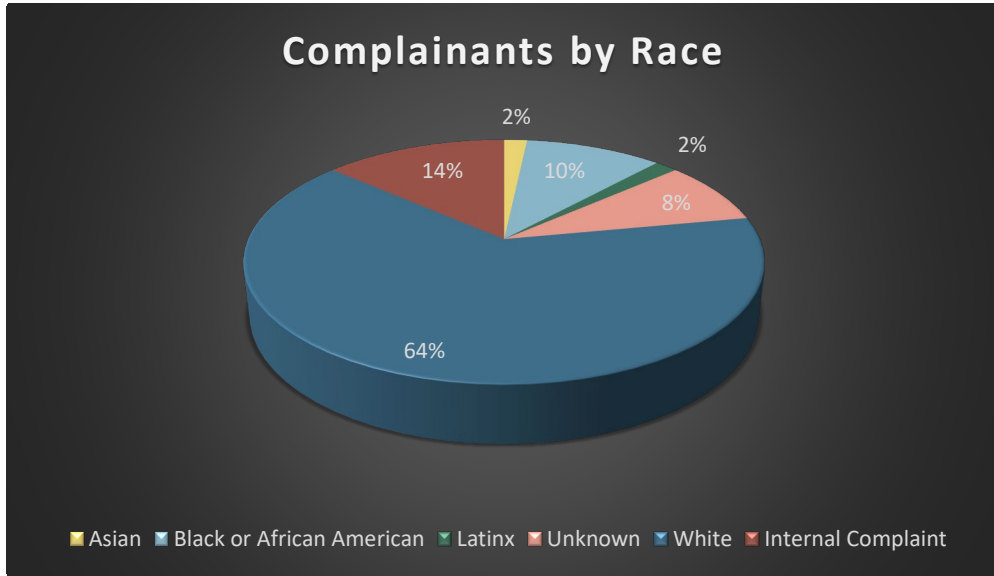
We promote a forward-thinking environment that supports creativity, calculated risks and continuous improvement. We embrace change and learn from others in order to deliver leading edge service.



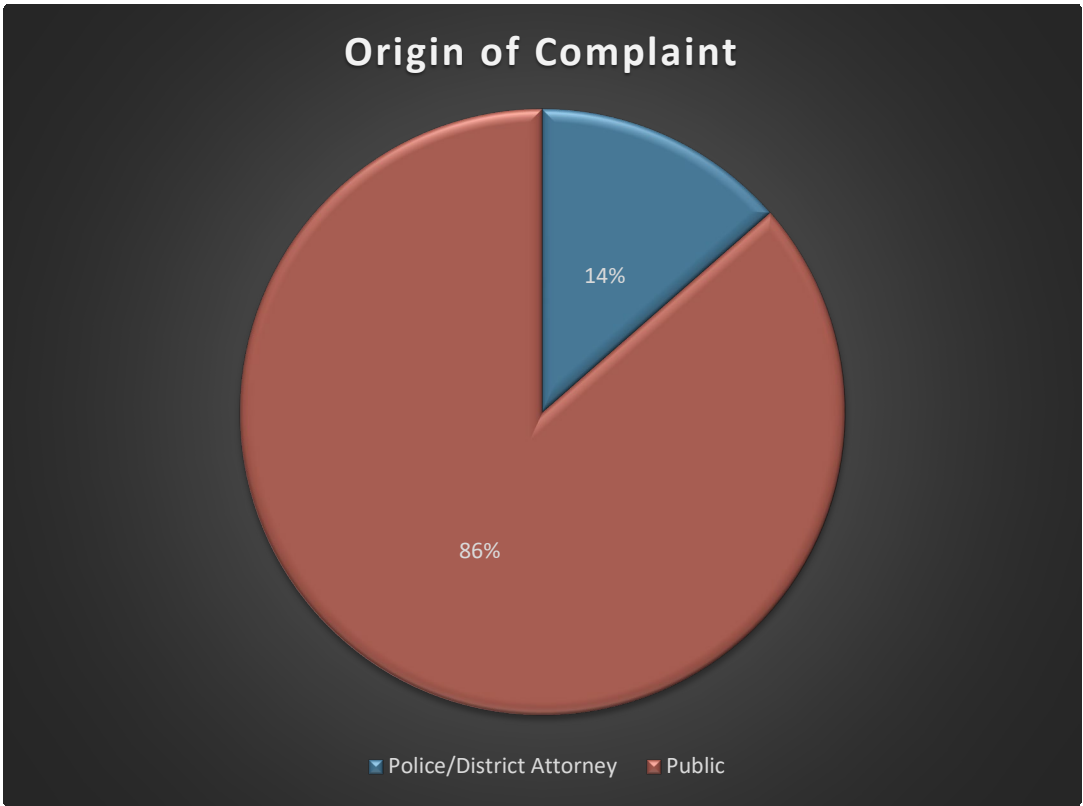
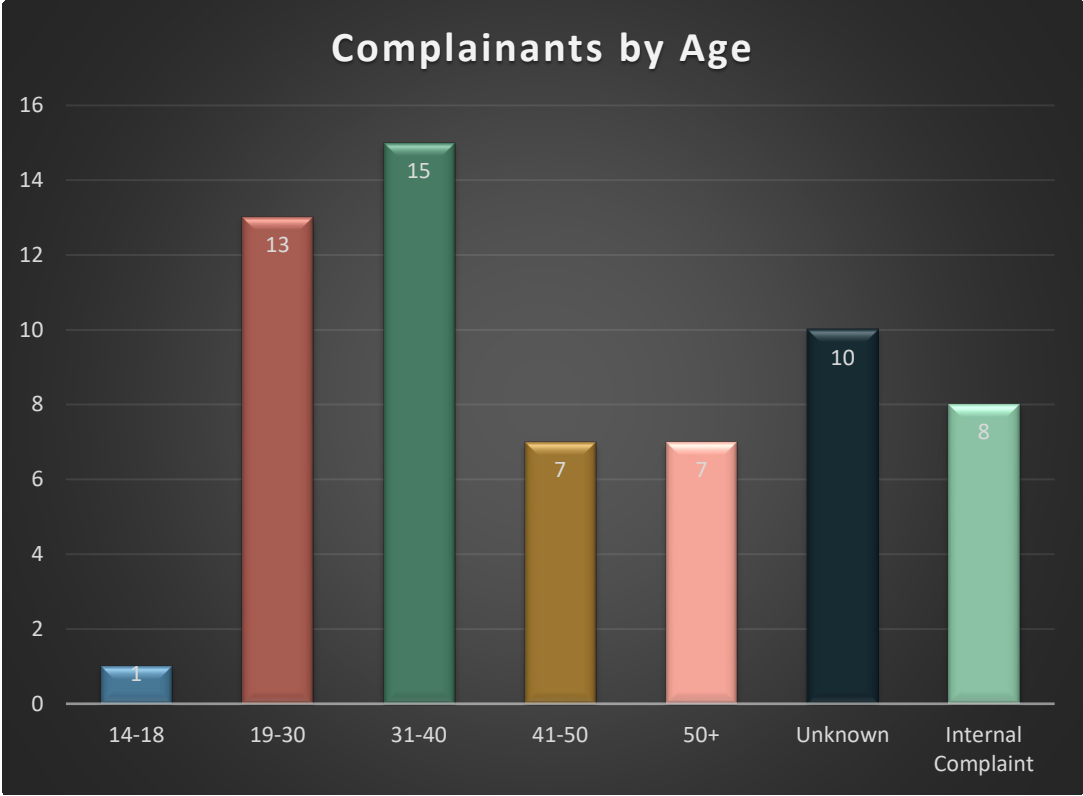
# Complaints and Personnel



# Race, Sex, Age and Origin of Complaints



*\*For the purposes of this graph, self-identification on complaint forms as well as demographic indicators from police documents were used. No complainants self-identified or were identified in police documents as non-binary. Only external complaints received by members of the public are included in the graph. Internal complaints filed by members of the police department or DA's office are not included in the graph.*



# | Case Summaries

All complaints filed between January 1, 2021 – December 31, 2021

Note: The Police Oversight Panel began reviewing cases in August 2021. Beginning with case #MI2021-038, the panel's determination is noted in the case heading.

## Misconduct Cases

**Case #:** MI2021-001

**Allegation:** Rule 1 (Pursuit Policy) (2)

**Outcome:** Sustained

**Case Summary:** Two officers engaged in a vehicle pursuit of a suspected stolen vehicle. During the pursuit, a commander directed the officers to terminate the pursuit. The officers did so, but a deputy chief filed an internal complaint to review whether the officer's initial decision to engage in a vehicle pursuit was within policy. Upon further investigation, the officers were found to have violated the department's pursuit policy which prohibits pursuing a vehicle where the only crime is auto theft. The allegations of violating General Order 218 were sustained against both officers. Both officers received verbal counseling documented in a performance note.

**Case #** MI2021-002

**Allegation:** Rule 1 (Pursuit Policy)

**Outcome:** Sustained

**Case Summary:** An officer engaged in a vehicle pursuit after conducting a stop of a suspicious driver who fled the scene. There was no evidence a felony had been committed; therefore, the pursuit was in violation of General Order 218. A deputy chief filed the internal complaint. The allegation against the officer was sustained and the officer received verbal counseling documented in a performance note.

**Case #:** MI2021-003

**Allegation:** Rule 4 Respect for Others

**Outcome:** Not Sustained

**Allegation:** Rule 5 Police Authority and Public Trust

**Outcome:** Not Sustained

**Case Summary:** An officer was working an overtime assignment at an Apple store. The assignment was to be a visual presence while store employees spoke with customers. [Due to COVID regulations, the store had a new protocol in place where customers had to register for a time slot to speak with customer service. Private security was on scene to implement the protocol.] An individual was at the store and became upset that he could not immediately speak with customer service. As private security attempted to provide a store phone to the individual to talk with customer service, the individual offered his ID to the security guard to hold while he used the store phone. The BPD officer accepted the ID instead of the security guard. The officer ran the individual's name to check if there were any notes regarding dangerous behavior. As the officer ran the individual's name over the radio, the individual realized this was happening and became upset. The individual asked the officer why they were running his name and called the officer a "b--ch." The officer responded that they needed to document the individual's information for Stop Data purposes. The individual continued to yell at the officer and asked for the ID back. The officer returned the ID within ten seconds of this request. As the individual continued to yell at the officer, the officer replied sarcastically, "You seem very nice," and disengaged from the contact. A friend of the individual complained that the officer ran the identification "illegally." However, officers are allowed to run an individual's name through law enforcement databases for a legitimate law enforcement purpose. The officer was engaged in an on-duty contact with an individual that was upset and yelling in public. The investigation found that the officer had a reasonable and legitimate public safety concern while interacting with the individual. Thus, the allegation of violating Rule 5: Police Authority and Public Trust was not sustained. During the course of the investigation, the officer acknowledged that they became frustrated with the individual and the response of, "You seem very nice," was not the best approach. However, the investigation concluded that the response did not rise to the level of a violation of Rule 4: Respect for Others and was deemed not sustained.

**Case #:** MI2021-004

**Allegation:** Rule 6 Use of Force

**Outcome:** Exonerated

**Case Summary:** Boulder Community Health security contacted police and asked for assistance in removing a man who had been discharged and was sleeping in the lobby. An officer responded and contacted the man in question. The officer began to escort the man outside. At the entryway, the man hesitated to leave, and the officer grabbed his arm and directed him outside. After the man tried to walk back into the hospital multiple times, the officer applied a light push on the man's chest, to stop him from re-entering. The officer maintained his composure throughout the contact and continued to ask the man to leave. The man said he wanted to file a victim report and to speak with a sergeant. While speaking with the sergeant, the man indicated that he wanted the officer fired and he wanted one billion dollars in compensation. The officer's actions were within policy, and he was exonerated on the allegation of excessive force

**Case #:** MI2021-005

**Allegation:** Rule 6 Use of Force

**Outcome:** Exonerated

**Case Summary:** On January 25, 2021, an intoxicated individual was transported by ambulance (with a police officer in the ambulance for security) to Boulder Community Hospital for medical attention. Upon arrival at the hospital, an officer learned that the individual had previously assaulted one of the ambulance crew. As an officer encountered the individual, the individual cursed at the officer and asked to call a relative. As the officer attempted to retrieve the individual's phone from property to allow the individual to make a call, the individual continued to swear at the officer and threatened to strike the officer. The individual then stood up and walked toward the officer. The officer told the individual to step back and pushed the individual in the chest. The individual continued to advance on the officer and the officer pushed the individual again with one hand. The individual advanced again on the officer and the officer then pushed the individual in the chest with two hands, causing the individual to fall backwards on his buttocks. The individual's head made slight contact with a cabinet while falling. The

individual complained to a supervisor that an officer pushed the individual down causing a “cracked pelvis” and the individual claimed to have vomited blood. [The individual received medical attention and was approved for release shortly after.] Body-worn camera-footage was reviewed and was consistent with the officer’s account of the incident. The officer’s use of force was appropriate and within policy. The officer was exonerated of the allegation of excessive force.

**Case #:** MI2021-006

**Allegation:** Rule 1 (Miranda Warning)

**Outcome:** Not Sustained

**Allegation:** Rule 4 Respect for Others

**Outcome:** Not Sustained

**Allegation:** Rule 8 Conduct

**Outcome:** Sustained

**Case Summary:** An Assistant District Attorney notified a police commander of a deficient Miranda warning and inappropriate comment by an officer during the handling of a case. Video of the arrest was reviewed which confirmed that the officer’s delivery of the Miranda warning was deficient. That allegation was deemed to be a training/experience issue by the department and not misconduct (not sustained). The officer received verbal counseling and remedial Miranda Advisement training. The ADA also provided an email exchange in which the officer made a remark to the ADA regarding the arrestee’s immigration status. The investigation found that the officer’s remark was inappropriate and violated the department’s rule on conduct. However, an allegation of failure to demonstrate respect for others was not sustained because body-worn camera footage showed that the officer was professional and considerate while interacting with the arrestee. The officer received a performance note for the inappropriate remark in the email to the ADA.

**Case #:** MI2021-007

**Allegation:** Rule 1 Investigative Accountability/Process (5)

**Outcome:** Not Sustained

**Allegation:** Rule 1 Criminal Process

**Outcome:** Not Sustained

**Allegation:** Rule 1 Customer Service Value

**Outcome:** Not Sustained

**Allegation:** Rule 5 Police Authority and Public Trust (2)

**Outcome:** Not Sustained

**Case Summary:** An individual filed a complaint regarding the manner in which a detective and sergeant conducted an investigation involving a child custody dispute. The complainant made the following allegations: the detective did not respond to attempts to communicate, the complainant was unable to obtain a police report, the detective may have been involved in a reward posted on social media by one party to the dispute, that an officer failed to charge one party with a Violation of a Temporary Protection Order, that the detective violated the state's Address Confidentiality Program (ACP) guidelines, and that the detective inaccurately told one party that the other party was authorized to contact them based on a misreading of an order issued in another county. The investigation found the following. Phone and email records demonstrated that the detective had been in regular contact with the complainant from 2019 – 2021. The District Attorney's Office declined to charge the accused party and no supplemental police report was written. The detective was aware of the social media posts but had no role in offering a reward. An investigator consulted with the District Attorney's Office and charged one party with harassment instead of a violation of the protection order because an arrest for the violation of the protection order would have caused the children to be turned over to social services and placed in foster care. The detective requested the true address of the complainant to establish jurisdiction to investigate but did not enter the true address into any public reports. Lastly, the detective told the complainant that the legal situation was complicated but did not say that the other party was authorized to violate the court order. All allegations of violating department rules and violating police authority and public trust were not sustained.

**Case #MI2021-008**

**Allegation:** Rule 1 (Report Writing)

**Outcome:** Exonerated

**Allegation:** Rule 1 (Testimony)

**Outcome:** Exonerated

**Allegation:** Rule 6 Use of Force

**Outcome:** Not Sustained

**Case Summary:** An individual filed a complaint in January 2021 regarding an interaction that occurred in November 2019. An officer was dispatched to a traffic accident and suspected alcohol use of one of the drivers. When the officer went to acquire the second driver's documents, the individual suspected of alcohol consumption began to reposition their vehicle



and appeared to be driving away. The individual stopped the vehicle but was now further away down the street. An uninvolved vehicle stopped near the vehicle that had been repositioned. In the darkness and heavy snow fall, the officer was unsure what was occurring and briefly drew their firearm. The officer reassessed and then holstered the firearm. The investigation proceeded and the individual was ultimately arrested for DUI. The individual complained that the officer unnecessarily pointed the firearm, testified falsely under oath in court, and was inaccurate in a written report. The investigation found that the officer's decision to briefly unholster the firearm was not a violation and was thus not sustained. The allegations of false testimony and inaccurate report writing were in response to the officer stating "no" on the stand when asked if the officer had drawn the firearm and in regard to whether the officer read the individual Colorado's Express Consent Law as required. After testifying in court, the officer reviewed the body-worn camera footage from the incident and realized that they had in fact briefly drawn their firearm. The officer immediately contacted the district attorney's office to inform the prosecutor of the error. Body camera footage showed the officer attempted to read the Express Consent Law to the individual while in a disciplinary cell at the jail, but the individual turned around and walked away despite the officer asking, "you don't want to hear it?" The investigation concluded that the officer did not intentionally make a false statement on the stand and that, while the officer's report could have been written more clearly, the officer was not inaccurate in writing the report. The officer was exonerated on the allegations of violating the department's general orders for testifying and report writing.

**Case #:** MI2021-010

**Allegation:** Rule 1 (Negligent Taser Discharge)

**Outcome:** Sustained

**Case Summary:** An internal complaint was registered against an officer for negligent discharge of a Taser. While on meal break in the Police Department's kitchen area, two officers were joking around, and one accidentally deployed a Taser on the other. The officer who discharged the Taser immediately reported the incident to a supervisor. A violation of Rule 1 Compliance with General Orders was sustained against the officer and a 12-month letter of reprimand was placed on the officer's record.

**Case #:** MI2021-011

**Allegation:** Rule 6 Use of Force (3)

**Outcome:** Exonerated

**Case Summary:** An individual was stopped by police while pulling into their driveway after neighbors called 911 to report the individual driving erratically. A sergeant first encountered the individual and explained why they were being stopped. The sergeant asked the individual to step to the back of the car, but the individual refused. The individual further refused to hand an ID to the sergeant and stated that they were going to go inside the house. The sergeant and two other officers grabbed the individual by the arms and said that was not allowed at that point. The individual pulled their arms away and attempted to free themselves. The officers then brought the individual to the ground using a straight arm bar takedown. The individual continued to resist by kicking and moving their body. Officers directed the individual to place their arms behind their back, but they did not. The sergeant placed one knee near the individual's shoulder blade while handcuffing. Officers were able to apply handcuffs successfully and then rolled the individual on their side in the recovery position. The officers did not use any strikes or blows to restrain the individual. Once handcuffed, the individual yelled that they had a disability and that the officers were violating their rights [the individual would later indicate that they suffer from PTSD]. The individual filed a complaint alleging officers used excessive force, failed to wear a face covering, and violated the Americans with Disabilities Act by not providing appropriate accommodations. While interviewing the individual for this investigation, it was also alleged that officers laughed at the individual during the arrest. The investigation found that the force used to arrest the individual was reasonable and within policy. Body camera footage was reviewed and confirmed that all officers on scene were wearing appropriate face coverings in accordance with the Public Health Order. The individual did not inform officers of any disability until after being handcuffed. At that point the individual was already in the recovery position. Medical care was immediately requested by officers and provided to the individual. Regarding the allegation that officers laughed at the individual, extensive body camera footage was reviewed, and it was discovered that several officers did slightly laugh when the individual yelled their respective races at each officer as the individual

was being wheeled away on the medical pram ["White, white, white, white, white, brown!"] In response, a few officers chuckled and nodded in agreement. The laughter did not appear malicious nor intended to demean the individual in any way. Officers were exonerated of all allegations.

**Case #:** MI2021-012

**Allegation:** Rule 5 Police Authority and Public Trust (2)      **Outcome:** Exonerated

**Case Summary:** An individual filed a complaint alleging an officer entered their home illegally and unnecessarily forwarded a report to Health and Human Services (HHS). The incident occurred in December 2020 and was captured on officer body-worn cameras. Police were dispatched to a domestic altercation in which neighbors had reported sounds of fighting that sounded physical and that a child was at the location where screams could be heard. An officer arrived and could hear a male and female voice yelling at each other. The officer knocked on the door, turned the handle, and opened the unlocked door while announcing police presence. A female came to the door and told the officer to leave. The officer briefly placed their foot on the door to assess the situation, then allowed the female to close the door. The female exited the location a short time later and told the officer that she is fine. A sergeant responded to the scene to explain why exigent circumstances allowed the officer to enter the home. The responding officer requested that the report be sent to HHS and it was. The investigation found that the officer acted consistent with Colorado law and department policy in responding to the incident. The officer was exonerated of the allegation of violating police authority and public trust.

**Case #:** MI2021-013

**Allegation:** Rule 5 Police Authority and Public Trust (2)      **Outcome:** Exonerated

**Allegation:** Rule 1 (Body Camera policy)      **Outcome:** Sustained

**Case Summary:** An individual filed a complaint against an officer for sending a copy of a domestic violence incident report to Health and Human Services (HHS). The individual alleged that the officer advised a property manager to make a complaint against the individual to HHS

and that the act of sending the report to HHS was a malicious act by the officer. The investigation found that the officer responded to a call of a domestic dispute in progress and contacted the individuals in question. The couple did not wish to speak to police, but the female party assured the officer that she was okay. The officer disengaged. This portion of the interaction was captured by police dash camera. The officer then spoke with another officer who had responded to a prior call involving the same couple to gather more information. The officer then contacted the property manager who expressed concern for the welfare of the couple's child and asked what could be done to bring the situation to the attention of someone who could help. The officer indicated that this information would be forwarded to HHS because the officer was also concerned for the child's welfare. The investigation found that the officer did not violate policy or law by making the referral to HHS and the officer was exonerated of the allegation of violating police authority and public trust. The responding officer failed to bring their body-worn camera to the encounter (it was the officer's first call of their shift) so the interaction with the property manager did not get captured on video or audio. The officer immediately reported their failure to bring the body worn camera to their supervisor and returned to the police department to retrieve the body-worn camera to be used for the rest of the shift. The department sustained a violation of the body-worn camera policy and directed the officer to review the policy, which the officer did.

**Case #:** MI2021-014

**Allegation:** Rule 1 (Supervision)

**Outcome:** Unfounded

**Case Summary:** An individual filed a complaint against a supervisor for failing to properly investigate and discipline an officer after the individual had filed a complaint against the officer in 2016. [The officer in question is no longer employed by the Boulder Police Department.] The complainant claimed that the department ignored the prior complaint about the officer and allowed the officer to continue to harass people, leading to a confrontation with another individual in 2019. The complainant also claimed that the officer "stalked" the individual for several days after their initial encounter in 2016. A review was conducted of the supervisor's

investigation of the 2016 complaint. The investigation and documentation of that complaint were thorough and complete. The investigation concluded that the allegation was unfounded.

**Case #:** MI2021-015

**Allegation:** Rule 5 Police Authority and Public Trust

**Outcome:** Exonerated

**Case Summary:** An individual filed a complaint against an officer in reference to a DUI stop that occurred in January of 2016. The complainant alleged that he passed the roadside sobriety test, but the officer inaccurately claimed the individual failed it. The individual ultimately tested positive for cannabis, but negative for alcohol. The individual further claimed that the officer was discriminatory in making the stop because the individual's first name can be pronounced to sound similar to an ethnic reference and/or slang term for drunk. The investigation found that the officer had justification to conduct the stop and made no reference to the individual's name. The officer was exonerated of the allegation.

**Case #:** MI2021-016

**Allegation:** Rule 1 (G.O. 200-3 Arrest Standards)

**Outcome:** Not Sustained

**Allegation:** Rule 5 Police Authority and Public Trust

**Outcome:** Not Sustained

**Allegation:** Rule 1 (G.O. 405-2 Investigative Accountability)

**Outcome:** Not Sustained

**Case Summary:** A complaint was filed alleging that an officer failed to charge an individual with a violation of a Temporary Protection Order (TPO), told the offender to remove harassing social media posts instead of collecting the posts as evidence, and failed to respond to email correspondence during a two-week period. The investigation found that the officer conducted a competent investigation of the criminal allegations, completed the appropriate police reports, and consulted with the department's legal advisor concerning the appropriate charges. The officer issued a summons for harassment which the DA's office declined to prosecute due to lack of evidence to support the charges. The officer did not return the complainants emails while he was on vacation for two weeks but did repeatedly correspond with the complainant throughout the investigation. The allegations against the officer were not sustained.

**Case #:** MI2021-017

**Allegation:** Rule 4 Respect for Others

**Outcome:** Not Sustained

**Case Summary:** An individual filed a complaint against an officer regarding an interaction that occurred several years after a prior interaction. During the first interaction that occurred several years ago, the individual was investigated for potentially having committed a crime but was not charged or arrested. The individual had filed a complaint against the officer regarding that interaction. In January 2021, the individual was walking down the street and saw the same officer driving by. According to the complainant, the individual stated to the officer, "Oh, I know you...You're the fella who roughed me up in my alley three years ago." The officer responded, "I never roughed you up." The next part of the exchange was captured on body-worn camera. The officer stated, "You're lucky, you should have gone to jail, but I released you." The complainant and a witness responded that the officer was a bully and was traumatizing them. The officer then said to have a good evening and disengaged. The investigation concluded that the officer's comment, "You're lucky, you should have gone to jail, but I released you" was a statement of the officer's perception of the probable cause the officer believed existed in the prior interaction and not an attempt to threaten or intimidate the individual. The department concluded that while it was not necessary for the officer to share this comment, it did not rise to the level of a violation of Rule 4 Respect for Others. The allegation was deemed Not Sustained

**Case #:** MI2021-018

**Allegation:** Rule 1 (Communications/Incident Reporting)

**Outcome:** Not Sustained

**Allegation:** Rule 3 Truthfulness

**Outcome:** Not Sustained

**Allegation:** Rule 5 Police Authority and Public Trust (2)

**Outcome:** Not Sustained

**Case Summary:** During the King Soopers shooting on March 22, 2021, an individual called 911 three times making remarks that led dispatchers to believe the individual may be involved as a second active shooter. On the short calls to 911, the individual asked if it was true someone killed one of their "pigs" and laughed, then laughed while remarking on officers being "finished off," and said officers got what they deserved for harassing journalists. Dispatchers could hear sounds from the scene of King Soopers in the background, so they initially believed the

individual may be somewhere in the store. [The individual was not at the store, but a live stream of the incident from Facebook was playing in the background.] A police negotiator contacted the individual by phone while SWAT operators were dispatched to the individual's apartment. In the process, the individual's name and address were aired over the police radio. News media responded to the location as well as police. After some negotiation with the individual by phone and in person, officers realized the individual was not involved in the shooting and left the location. The individual filed a complaint with a host of allegations and demands for investigation and charging of reporters, officers, and anyone who posted the individual's information on social media. During the interview, the individual raised complaints about previous encounters with other officers. The complainant believed that multiple police agencies were colluding with the media to harass the individual and violate the individual's parole status. The investigation found no violations of policy by BPD personnel. All allegations were not sustained.

**Case #:** MI2021-019

**Outcome:** This complaint was officially withdrawn by the complainant on April 21, 2021 and is classified as Unfounded.

**Case #:** MI2021-020

**Allegation:** Rule 4 Respect for Others

**Outcome:** Exonerated

**Case Summary:** An anonymous individual completed the on-line complaint form. The text of the complaint directed the reader to a Twitter video and alleged that an officer intentionally misgendered a transgender woman and referred to her as "a man in a dress."

As a part of this investigation, the officer's BWC footage from the encounter was reviewed. The officer does initially refer to a bearded individual on a bike, as a "gentleman in a dress," as he attempts to apologize to the crowd for referring to the individual as a man. Several minutes later, in an interaction that was not captured by bystanders or posted to social media, the officer approaches the same transgender person and apologizes for referring to her as a man. She accepts the apology and says, "that's alright, I don't usually have this" (the beard). The individual and the officer then have a respectful conversation about city policy towards

encampments. The officer has since developed a good rapport with the individual and they have spoken on the phone productively several times since this encounter. The individual was interviewed as a part of this investigation. The investigation found that the officer's use of male pronouns was an unintentional error and not meant to demean or disrespect the individual. The officer was exonerated of the allegation of failing to respect others.

**Case #:** MI2021-021

**Allegation:** Rule 1 (G.O. 405-2 Investigative Accountability)    **Outcome:** Exonerated

**Case Summary:** An individual filed a complaint against an officer for arresting her instead of the father of her child, who she claimed had physically assaulted her. The individual was arrested for Violation of a Protection Order, 1st Degree Criminal Trespass, and Domestic Violence for pushing passed the man to enter his apartment to confront him and his new girlfriend. She claimed the man pushed her out of the residence which left red marks on her stomach. Upon investigating, the officer concluded that the female, not the male, had violated the law. The officer did not realize the order of protection had been lifted, although it had. Therefore, the charge for violating the protection order was in error. However, she was also charged with 1st Degree Criminal Trespass and Domestic Violence. The complainant reports that she tried to show the officer documents that indicate the protection order had been lifted, but that he did not want to see it and said she could show it to a judge. The officer consulted with the District Attorney's office to determine the appropriate charges. The officers' actions were determined to be in compliance with state law and department policies and the officer was exonerated.

**Case #:** MI2021-022

**Allegation:** Rule 3 Truthfulness

**Outcome:** Exonerated

**Case Summary:** An individual filed several complaints against an officer stemming from their interaction in June 2017. The officer was off duty at the time and driving home. The individual was on a skateboard and made contact with the officer's vehicle. Words were exchanged, a foot pursuit ensued, and the officer ultimately arrested the individual for striking the officer's personal vehicle with a skateboard and for brandishing a knife towards the officer after the



officer chased him. The individual disputed several elements of the officer's written report on the incident and accused the officer of being untruthful. In the report, the officer wrote that the individual was standing on the median of the street prior to their interaction; the individual claimed he was actually jumping over that median at a high speed on a skateboard. The officer also wrote that the individual swung his skateboard at the officer's vehicle striking and damaging the rear passenger side panel; the individual claimed that he did not swing his skateboard at the vehicle but rather that he crashed into the front passenger side of the vehicle. Lastly, the individual disputed the officer's claim that the officer announced that he was a law enforcement officer during the foot chase from the car; the individual claimed that the officer only identified himself as an officer after the individual drew a knife to conduct what the individual described as a citizen's arrest. Photos of the damaged vehicle show a dent in the rear passenger-side panel consistent with the officer's description of events. A witness contradicted an element of the complainant's description, the complainant acknowledged having memory problems, and the District Attorney's office found the officer's account to be credible. The officer was exonerated of the allegation of untruthfulness.

**Case #:** MI2021-023

**Allegation:** Rule 4 Respect for Others

**Outcome:** Not Sustained

**Case Summary:** An individual called to make a complaint against an animal control officer for being authoritative and rude to her on the phone. She alleged that the officer interrupted her and treated her like she was "stupid." An investigation was conducted and based on witness testimony the animal control officer was found to have not been rude or inappropriate but was direct in his demeanor and tone. He attempted to provide helpful solutions to the problem she was having with squirrels in the neighborhood. The allegation was not sustained.

**Case #:** MI2021-024

**Allegation:** Rule 1 (G.O. 305-3 Taking Photographs of Stopped Individuals)

**Outcome:** Exonerated

**Case Summary:** An individual filed a complaint regarding an interaction with an officer. He claimed the officer was harassing him and talked to him about trespassing while he was sitting in his vehicle on a public street. The complainant stated that no one ever told him to leave the premises. The officer was dispatched to a clinic for a male individual that had been reportedly acting strangely and they did not want him back on the property. BWC footage of the officer's interaction with the complainant showed the officer advising the individual that he is not allowed back on the clinic's property unless he has business there. The individual was in his vehicle and refused to lower the window or open the doors. The officer spoke at an elevated volume so the individual could hear him through the window. The officer took a photo of the individual through the window. As the officer attempted to leave, the individual exited his vehicle and began filming the officer and continued to exchange words with the officer, who ultimately disengaged from contact. The officer was exonerated.

**Case #:** MI2021-025

**Allegation:** Rule 6 Use of Force

**Outcome:** Unfounded

**Case Summary:** An individual who was found trespassing overnight at a business was being escorted out of the establishment by officers when the individual suddenly began screaming. While screaming, the individual inadvertently spit on an officer who was escorting him. The officer stated, "stop spitting." The officer was holding a sleeping bag in his right hand and with that hand while still gripping the sleeping bag, forcefully redirected the individual's face away and downward causing the individual to bend at the waist and go to the ground. In the process, the individual suffered a cut lip. It was not clear from the BWC footage if the cut lip was caused by the officer's hand holding the sleeping bag or if the individual struck his lip on his knee when the officer bent him over to stop him from spitting. The BWC footage demonstrates that the officer did not punch the individual with a closed fist, but rather pushed his face away with his hand while holding a sleeping bag. The allegation of excessive force was deemed unfounded.

**Case #:** MI2021-026

**Allegation:** Rule 1 (Customer Service Value)

**Outcome:** Not Sustained

**Case Summary:** An individual called the non-emergency dispatch line to report verbal abuse by the employee of a local convenience store. The dispatcher who took the call asked for the caller's name and he indicated he wanted to remain anonymous. The dispatcher then said "Ok, well I appreciate your call, thank you" and hung up. The individual reported this interaction to a supervisor. An investigation found that the dispatcher documented the interaction in the CAD system, maintained a polite tone throughout the call, asked appropriate questions, and disconnected after all applicable information was gathered and there was a break in the conversation. The allegation was not sustained against the dispatcher.

**Case #:** MI2021-027

**Allegation:** Rule 4 Respect for Others

**Outcome:** Not Sustained

**Allegation:** Rule 1 (G.O. 201-1 Report Writing)

**Outcome:** Not Sustained

**Case Summary:** An individual alleged that an Accident Report Specialist (non-police officer) was overly aggressive with him and not interested in listening to his side of the story. He stated that another ARS had put the incorrect information into the report regarding his statements surrounding his GPS navigations system. BWC footage was reviewed, and the ARS remained calm and patient, but did use the word "bullshit" when trying to explain why he did not believe one driver's version of events. The investigation found that the officer's use of language was inadvisable but did not rise to the level of a violation of Rule 4 Respect for Others. The other ARS was found to have written an accurate report. The complainant was later allowed to complete a supplemental statement for the report. The allegations were not sustained.

**Case #:** MI2021-028

**Allegation:** Rule 1 (Customer Service Value)

**Outcome:** Exonerated

**Case Summary:** A complainant alleged that an officer who responded to a peeping-tom call did not investigate adequately and called her and hung up quickly before she could answer so that he could immediately call back and only have to leave a message. Body worn camera footage was reviewed. The officers questioned one individual in a nearby parking lot where the caller claimed the individual was. The man had no flashlight as alleged by the caller. The officers ran

his plate and driver's license, and he was cleared. An officer then called the original reporting party one time and left a message saying to call back if there were any questions. The officers did not violate policy and conducted an adequate investigation based on the information provided. The officer was exonerated.

**Case #:** MI2021-029

**Allegation:** Rule 1 (G.O. 315 Emergency Mental Illness Response) (2)

**Outcome:** Exonerated

**Case Summary:** A Boulder Community Health charge nurse filed a complaint against officers regarding a suicidal female the officers dropped off in front of the hospital, not giving staff any information. The nurse was concerned that the woman could have harmed herself while outside the hospital and that hospital staff would have to complete the M1 (mental health) hold paperwork. The woman did walk inside and tell the staff she was suicidal and received treatment. Body worn camera footage was reviewed. The officers made contact with the suicidal individual at a hotel. She made suicidal statements directly to the officers and wished to voluntarily seek treatment. The officers asked if she wanted to go the crisis center, but she adamantly refused and clearly stated that she wanted to go to the hospital. The officers explained that it would be a voluntary transport and she agreed. The officers helped her pack her belongings and check out of the hotel. They transported her to BCH and took her to the front door. They gave the individual her belongs and asked if she needed anything else. She said she did not. The officers then left the scene. General Order 315-2 allows officers to provide transportation to the hospital for a mental health evaluation. The Crisis Intervention Response Team (CIRT) supervisor was consulted and advised that it would have been inappropriate for officers to complete an M1 hold on someone seeking voluntary treatment. The officers were exonerated of any policy violations. However, the department reviewed their policy and determined that it would be a better practice for officers to either notify the receiving agency or to physically walk the suicidal individual into the hospital and have informed all officers of this through training.

**Case #:** MI2021-030

**Allegation:** Rule 1 (Customer Service Value)

**Outcome:** Exonerated

**Case Summary:** A complainant alleged that an officer who responded to a call for service regarding a threatening individual in an apartment complex parking lot did not conduct an adequate investigation and did not call to follow up with the reporting party. Body worn camera footage, CAD log, radio traffic, and an officer's cell phone log show that the officers did search the area for the suspect and called the reporting party's phone and left a voicemail. The officer was exonerated on the allegation.

**Case #**MI2021-031

**Allegation:** Rule 1 (Customer Service Value) (2)

**Outcome:** Exonerated (2)

**Case Summary:** An individual complained that officers "rewarded bullying" by not charging an individual who menaced him at a homeless shelter. Body worn camera footage was reviewed. Officers responded to a man who claimed another individual at the shelter stood over him and called him names. The officers spoke with the other individual and learned that the complaining party had been insulting the other man's partner, so he cursed at him while shouting at him to stop insulting his partner. No claims of weapons or threats of violence were made. The officers questioned both parties and shelter staff thoroughly before deciding that no crime had been committed. The officers suggested to staff to move one of the individuals, so their beds were not near each other if possible. The staff agreed with that assessment. The officers remained professional throughout the encounter and were exonerated of the allegation.

**Case #:** MI2021-032

**Allegation:** Rule 4 Respect for Others

**Outcome:** Unfounded

**Case Summary:** An officer was attending to the victim of a bike accident who was struck by a vehicle. An individual yelled towards the officer and asked why he didn't stop a truck that almost hit him. The officer explained he was in the middle of dealing with something else. The individual continued to yell at the officer. The complainant reported that the officer laughed at him. Body worn camera footage was reviewed and showed that individuals involved in the

accident did audibly laugh at the man, but the officer did not laugh. The allegation was determined to be unfounded.

**Case #MI2021-033**

**Allegation:** Rule 1 (G.O. 201-1 Report Writing)                      **Outcome:** Exonerated

**Allegation:** Rule 5 Police Authority and Public Trust              **Outcome:** Exonerated

**Case Summary:** A complainant alleges that he felt "gas-lighted" by an officer regarding several reports he made to police and had questions about why he was placed in handcuffs. The encounter involved a warrant that was issued with the wrong name. Officers believed the complainant had violated a protection order filed by a neighbor after a dispute at an apartment complex. Officers handcuffed the individual while arresting him, only to then realize that the name on the warrant was (incorrectly) issued in the name of the man's brother - a clerical error by the prosecutors or courts which invalidated the warrant. The officers released the man and informed him that once the protection order was corrected, he would be in violation if he contacted the other party. The complainant believed an officer was retaliating against him for previously having called the police several times. The investigation found the officer operated reasonably and did not violate policy.

**Case #: MI2021-034**

**Allegation:** Rule 1 (Customer Service Value)                      **Outcome:** Exonerated

**Case Summary:** An individual who is the partner of a sex assault victim complained that the detective on the case was unprofessional and did not fight for justice. Specifically, they allege that the officer was at times not responsive and implied that there were more important cases than theirs. An investigation was conducted and all recorded phone and email correspondence between the detective and the victim were reviewed. The detective was found to have responded promptly and to have indicated that the work on the case had been delayed temporarily because of a homicide. The detective was found to be courteous and engaged during the interview of the victim. The case was submitted to the Sexual Assault Review Team and the District Attorney declined prosecution. The detective was exonerated on the allegation.

**Case #:** MI2021-035

**Allegation:** Rule 1 (Customer Service Value)

**Outcome:** Not Sustained

**Case Summary:** An individual complained that he did not get a call back about a traffic accident, that officers failed to obtain necessary information, and that when he called to complain about this, a sergeant told him that information that had been relayed to her indicated he was not hit and that he misidentified the vehicle he said hit him by providing the wrong plate number. An investigation found that the sergeant had been updated on the case by other officers, but it would have been more appropriate for the sergeant to forward the caller to the Traffic Unit to answer to caller's concerns. The allegation of violating the department's value of customer service was not sustained.

**Case #:** MI2021-036

**Allegation:** Rule 1 (G.O. 313 Domestic Violence Response)

**Outcome:** Exonerated

**Case Summary:** An individual complained that a detective failed to arrest her boyfriend on an allegation of a violation of a protection order. The associated police report indicates that the District Attorney's office declined to file charges. The detective was exonerated on the allegation.

**Case #:** MI2021-037

**Allegation:** Rule 5 Police Authority and Public Trust

**Outcome:** Exonerated

**Case Summary:** An individual complained that the fiancé of his father-in-law/landlord is a sergeant with BPD and that the sergeant intervened in a domestic argument while off duty and not in uniform in Littleton, CO. The complainant alleges that the sergeant bullied him by repeatedly telling him to leave the home and threatened to call police if he did not leave. He alleges that the sergeant called his brother to come to the home to convince him to leave. The investigation found that the sergeant did not attempt to use police authority at any point and was attempting to defuse a volatile family disturbance. The sergeant was exonerated on the allegation.

**Case #:** MI2021-038

**Panel Action:** No case file review

**Allegation:** Rule 5 Police Authority and Public Trust

**Outcome:** Exonerated

**Case Summary:** A group of officers responded to an apartment complex for a domestic violence call. During the investigation, an officer had a separate interaction with an unrelated individual that the officer had previously encountered. On body worn camera footage, the officer is seen walking through the complex and then turns around and walks in the direction of the male complainant. While walking on the sidewalk, the officer could be heard stating, "Sup [complainant's name]", "How are you man?", "How are you doing buddy?", and "See you [complainant's name]". The male walks into his apartment and the officer continues walking on the sidewalk away from the area. The complainant stated that he has had numerous negative interactions with this officer in the past. The investigation found that the officer did not approach the individual's window or step onto his property. The officer did not scream or raise his voice and thus committed no violation. The officer was exonerated.

**Case #:** MI2021-039

**Panel Action:** No case file review

**Allegation:** Rule 1 (Customer Service Value)

**Outcome:** Not Sustained

**Case Summary:** A complaint was filed by an individual who broadcasts a YouTube channel that features him calling into police departments to ask for procedural or policy information and then asking the call takers for their names. He often berates the individual while recording them. A dispatcher received a call from the individual and attempted to take his information to pass along to a Sergeant to call him back. The caller refused to provide his information and accused the dispatcher of violating his first and fourth amendment rights. An investigation found that the dispatcher remained courteous and made several attempts to put the individual in touch with a sergeant. The caller told the dispatcher to "shut up" several times. The dispatcher politely disconnected the call after several attempts to fulfill the caller's request were rejected by the caller. The allegation against the dispatcher was not sustained.



**Case #:** MI2021-040

**Panel Action:** Full case file review conducted; panel recommended to Sustain one allegation of violating Rule 6 Use of Force and two counts of Rule 8 Conduct

**Allegation:** Rule 6 Use of Force

**Outcome:** Exonerated

**Case Summary:** Officers contacted a juvenile who was listed as a runaway. Officers spoke to the juvenile for an extended period as they attempted to figure out what to do. The officers determined that the best option was to bring the juvenile to the police department while they contacted his case worker or legal guardian. When the officers informed him of this, the juvenile backed away and would not go to the vehicle with the officers. Officers attempted verbal persuasion but were not successful. Officers then took hold of the juvenile's arms to escort him to a patrol vehicle. The juvenile physically resisted by trying to pull his arms away, thrusting his body from side to side, kicking and denting the back of a patrol vehicle, and by kicking one officer in the knee twice. The officers forced him to the ground and the young man bent his knees so that he ended up on the ground, bent over at the waist over his knees, while the lower parts of his legs were under him on the ground. At this point, an officer placed one knee on the back of the young man's upper shoulder area and neck to restrain him while the other officers placed handcuffs on him. The officer's knee remained on the back of the young man's neck for approximately nine seconds. Once the handcuffs were successfully applied, the officer immediately removed his knee, and the young man was lifted off the ground by the officers. The individual complained of neck, wrist, and head pain after the arrest. The officers offered medical attention and the young man was taken to the hospital where he was medically cleared prior to being transported to Juvenile Detention. The officers followed department protocol by informing a supervisor that the young man complained of pain and was taken to a hospital. The supervising officer followed protocols and responded to the hospital to initiate an investigation. The young man informed the supervisor that he wished to file a complaint.

In addition to the use of force, a Police Oversight Panel case review committee raised concerns about two verbal interactions the officer had after the arrest. In one exchange with the young man, the officer stated: "Now you got assault on a Peace Officer, good job." "Trying to act

tough in front of your friends?" "Everybody's laughing at you, dude." In another exchange in response to a bystander's question about why the young man is being taken into custody, the officer states, "Yeah, he's listed as a runaway and then he kicked me. That's assault on a Peace Officer, and he kicked the car so, yeah." The review committee recommended sustaining two counts of violating Rule 8 Conduct.

The panel review committee sustained the allegation of violating Rule 6 Use of Force for placing his knee on the back of the young man's neck. The review committee also sustained two counts of violating Rule 8 Conduct for the two verbal exchanges. The review committee recommended retraining and a one-year letter of reprimand for the subject officer. The police department's investigation found that because the young man was bent over on his knees and not laying prone on the ground, there was no restriction of air or blood flow and thus the use of force did not violate the department's prohibition on neck restraints and did not constitute excessive use of force. Thus, the department exonerated the officer on the use of force allegation. The department concluded that the officer's verbal interactions with the young man and the bystander were unnecessary but did not rise to the level of a violation. The department instructed a Professional Standards Unit sergeant to review the encounter with the subject officer with an emphasis on refraining from unnecessary communication with the subject or uninvolved bystanders.

In addition to the disciplinary recommendations, the Police Oversight Panel recommended that BPD should reexamine their training on use of force as it relates to juveniles and should consider providing more clarity in its General Orders around what specifically constitutes a prohibited neck or chokehold restraint (see panel's recommendations #1 and #2 in this report).

**Case #:** MI2021-041

**Panel Action:** No case file review

**Allegation:** Rule 1 (Customer Service Value)

**Outcome:** Exonerated

**Case Summary:** An individual complained that the police were harassing him by 1) arresting him for attempting to hit someone with a vehicle, 2) refusing to take a stolen vehicle report, and 3) giving his vehicle to another individual that he was in a feud with. The investigation revealed that there were witnesses to the attempted vehicular assault and the complainant is on video verbally authorizing a female friend to take his vehicle to his mother's house. The officer allows this, and the woman left with the vehicle. The vehicle ultimately went missing. An investigation was conducted and found that the officers conducted a fair, thorough, and impartial investigation of the events that led to the individual's arrest; that the individual did give permission for his vehicle to be taken by another individual; and that an officer completed a stolen vehicle report and followed up with involved parties to try to locate it. The officer was exonerated on the allegation.

**Case #:** MI2021-042

**Panel Action:** Full case file review conducted; panel recommended to Sustain

**Allegation:** Rule 1 (G.O. 205-2 (C) Radio Usage)

**Outcome:** Sustained

Case Summary: A supervisor in BPD's Communications Division submitted a complaint against an officer alleging repeated unprofessional behavior by the officer. The Communications supervisor supplied several examples of the officer's alleged unprofessional behavior, including: 1) complaining about an individual dispatcher to other officers in the report writing area; 2) calling a dispatcher working the primary law channel and "badgering" them regarding assignment to a priority incident while they were performing their duties on the radio; 3) when asked to stand-by on a Data channel, the officer would often call via telephone to make the request, duplicating the workload of dispatchers; 4) not breaking away from a non-emergency call when told to report to a higher priority incident; and 5) the officer make a sarcastic comment to a dispatcher who was handling a high priority call and could not immediately respond to his unrelated request.

G.O. 205-2 (c) states: "Members are professional on the air at all times. Unnecessary voice inflection, superfluous transmissions and attempts at humor are avoided. Anger, impatience or sarcasm heard in one's voice is never appropriate."

A review committee recommended to sustain the allegation and provide retraining through supervisory counseling. The allegation was sustained against the officer and the department imposed retraining through supervisory counseling.

**Case #:** MI2021-043

**Panel Action:** Full case file review conducted; panel recommended to Sustain

**Allegation:** Rule 1 (G.O. 201 Report Writing)

**Outcome:** Sustained

**Case Summary:** The Professional Standards Unit received an internal complaint from a Commander who believed a police report should have been taken by an officer detailing his response to a report of a suspicious incident at a school. The investigating supervisor concluded that the officer violated department policy by failing to document any of his actions or reason for not taking action in a written report. The supervising investigator also noted that the officer did not create any CAD (computer-aided dispatch) notes or advise a supervisor of the situation. The Police Oversight Panel recommended the allegation be sustained and the officer receive a one-year letter of reprimand. The department sustained the allegation and imposed a one-year letter of reprimand.

**Case #:** MI2021-044

**Panel Action:** No case file review

**Allegation:** Rule 5 Police Authority and Public Trust

**Outcome:** Exonerated

**Case Summary:** An individual filed a complaint regarding an interaction with an officer, alleging the following: 1) the officer refused to give the individual an investigation number; 2) the officer profiled the individual and his friends; and 3) the officer reached for his weapon when the individual asked the officer for his card.

The encounter began with a call to 911 that was classified as an in-progress Criminal Mischief. A caller reported a white male “transient...throwing trash all over and at the building.” Body camera footage showed that the officer requested the original 911 caller come to the location to identify the suspect. The complainant stated that this was “obvious profiling.” As another officer attempted to speak with him, the complainant became agitated and said, “...this is starting to piss me the f-ck off.” He then shouted, “F-ck off!” The second officer asked him to “chill” and the complainant shouted, “F-ck you!” He continued to shout and walked away. The complainant then shouted from across the street and demanded the officer’s card. As he was shouting, he walked towards the officers in what appears to be an aggressive manner. As he stepped towards the officer, he said, “I’m the cops now. Shoot me, Bro. F-cking pussy.” The officer said that he was not going to do that. The complainant then stood in a bladed stance, shifting his weight from foot to foot, in a manner similar to someone getting ready to fight or assault someone. He then said, “I dare you to shoot me. Give me your f-cking card and f-ck off, Bro. I’m not a threat. F-cking shoot me in the face. Profile me?” He continued to use profanity towards the officers.

In a calm voice, the officer attempted to say “Last week when we were on a call together...” but the complainant interrupted, shouting, “Shut the f-ck up and give me your card. I’m not here to talk to you.” The officer, who had his business card in his right hand, tossed it towards the complainant who responded, “F-cking throw shit, you little d-ck.” The officer then said, “Have a good day” as he walked away.

Regarding the allegation of profiling, the allegation was exonerated because the officer was dispatched to the location in response to a specific description and the officer encountered an individual that met the description at the location the officers were sent.

Regarding the allegation that the officer placed his hand on his gun, that is not visible in the body camera footage. However, the investigation concluded that the erratic and aggressive manner in which the complainant acted may have caused the officer to place his hand on the

butt of his holstered handgun, which according to policy would not be classified as a reportable use of force. There is no indication or allegation that the officer unholstered his gun at any point. The officer was exonerated on this allegation.

The PSU investigation noted that one area that could be addressed, even though the complainant did not include this in his formal complaint, is the manner in which the officer provided his card to the complainant. While the complainant's demeanor and verbal statements were threatening, the department concluded there were other options than tossing the card towards him, such as placing the card on a retaining wall and calling the complainant's attention to it. The department provided this advisement to the officer.

**Case #:** MI2021-045

**Panel Action:** Full case file review conducted; panel recommended to Sustain

**Allegation:** Rule 1 (G.O. 405-2 Investigative Accountability)                      **Outcome:** Sustained

**Case Summary:** An individual alleged that a detective failed to interview relevant witnesses despite being notified of the witnesses and being provided with their contact information. An investigation found that the detective did not perform in a satisfactory manner, to include interviewing witnesses, suspects, and taking extended amounts of time to review items of evidence. The Police Oversight Panel recommended that the allegation be sustained, and a one-day suspension be imposed. The department sustained the allegation against the detective and imposed a one-year letter of reprimand.

**Case #:** MI2021-046

**Panel Action:** Full case file review conducted; panel recommended to Exonerate

**Allegation:** Rule 1 (G.O. 313-3 (B) Domestic Violence Response)

**Outcome:** Exonerated

**Case Summary:** An individual complained that an officer issued an arrest warrant for her, but not against her ex-husband. The officer was provided with evidence of harassment (this charge included a domestic violence enhancement which is required when harassment occurs between two individuals in an intimate relationship). An investigation found that the officer had

sufficient probable cause to apply for the warrant and that such action was required under state law. The Police Oversight Panel recommended the officer be exonerated on the allegation, and that the department remind officers and detectives to ensure all individuals alleging sexual assault be provided with contact information for the department's victim's advocate services (see panel recommendation #3 in this report). The department exonerated the officer on the allegation.

**Case #:** MI2021-047

**Panel Action:** Full case file review conducted; panel recommended to Sustain

**Allegation:** Rule 1 (G.O. 313-3 (C) Domestic Violence Response)

**Outcome:** Sustained

**Case Summary:** On April 7, 2018, police received a report of an individual who violated a Temporary Protection Order by physically assaulting someone after already assaulting the individual in March 2018. The TPO was signed by a judge on April 4, but it was not served (delivered) until April 10. The officer who took the call authored an arrest warrant on April 7, prior to the TPO being served on the assaulting party. Therefore, the arrest warrant was technically invalid. The assaulting party was arrested on the invalid warrant in June 2018 and lodged in the Denver jail. The order violations charge was ultimately dismissed because the order was not delivered to the assaulting party prior to the second assault.

The arrested party complained of false imprisonment and fabrication of records. The monitor classified this complaint as an allegation of a violation of the department's policies on responding to domestic violence, which states: *"Before arresting for a protection order violation, it must be verified that the restrained party was personally served with the protection order or received actual notice of the existence and substance of such order. Restraining orders issued by non-Colorado courts are handled in accordance with Colorado law."* The Police Oversight Panel recommended the allegation be sustained. The department sustained the allegation against the officer. The subject officer left the BPD prior to this complaint being filed; thus, no discipline could be imposed. The Police Oversight Panel also recommended that BPD provide a training reminder to officers on the importance of confirming the service of a

protection order before applying for an arrest warrant for a violation of a protection order (see panel's recommendation #4 in this report).

**Case #:** MI2021-048

**Panel Action:** Full case file review conducted; panel recommended to Sustain

**Allegation:** Rule 1 (G.O. 201-1 (A) Report Writing)

**Outcome:** Sustained

**Case Summary:** The DA's office notified BPD that they had concerns about inconsistencies between an officer's written report and the officer's body-worn camera (BWC) footage. Statements in the officer's report about the observations of witnesses and victims did not precisely match what the witnesses said on the BWC. A judge raised concerns about the inaccuracies and released the individual, while the DA's office dismissed the charges.

The case involves an individual accused of indecent exposure and masturbating in public on the property of an elementary school. The inaccuracies relate to how much of the perpetrator's body (i.e., genitals) were visually observed by other members of the public. The officer's report implied that the witnesses could observe the individual's exposed genitals, but that did not happen. The witnesses stated that the individual was moaning loudly, and it appeared the individual was masturbating under his shirt in public view.

The monitor classified this as an allegation of a violation of G.O. 201-1 (A) Report Writing, which states: *"The following are the minimum requirements for all reports submitted by department members: A. The information obtained is accurately and objectively stated in a clear and concise manner."*

The Police Oversight Panel recommended to sustain the allegation and impose a one-day suspension. The department sustained the allegation on report writing and imposed a one-year letter of reprimand.



**Case #:** MI2021-049

**Allegation:** Rule 1 (G.O. 305-8 - Consensual Searches)

**Outcome:** Sustained

**Allegation:** Rule 1 (G.O. 206-5 - Vehicle Inspection)

**Outcome:** Not Sustained

**Case Summary:** An individual was arrested for prohibited use and possession of a weapon (firearm) while intoxicated. Police made contact as the individual was outside of their ex-partner's apartment while making repeated and harassing phone calls to the ex-partner. The individual filed a complaint stating that they have a concealed weapons permit and believe they were falsely arrested, and their vehicle was illegally searched. In addition, the complainant indicated that certain personal valuables were missing from the vehicle after it was impounded.

The search that resulted in the firearm being found in the vehicle began as an effort by an officer to retrieve the intoxicated individual's ID from inside the vehicle. The individual had already indicated that there were knives in the vehicle, so the officer could not allow the individual to go back into the vehicle to retrieve their ID. While the officer was attempting to retrieve the ID, the suspect's ex-partner called the officer and informed the officer that the individual carried a firearm in the vehicle. The officer then began a deeper search of the vehicle to find the gun. The officer did then find the gun and arrested the individual. The vehicle impound was handled by a separate officer. That officer did not document any personal valuables on the impound inventory.

A panel committee conducted a full case file review and recommended that both allegations be sustained against the officers. The panel committee recommended re-training for both officers through supervisory counseling. The Chief of Police came to the determination of "Sustained" for the allegation against Officer #1 of violating G.O. 305-8 Consensual Searches because the officer did not clearly indicate that the search for the ID was voluntary and could be declined. The Chief of Police issued re-training for Officer #1 through supervisory counseling, consistent with the panel committee's recommendation. The Chief of Police came to a determination of "Not Sustained" for the allegation against Officer #2 of violating G.O. 206-5 Vehicle Inspection. The Chief concluded that Officer #2 had conducted a sufficient examination of the vehicle prior to impounding. No retraining was issued for Officer #2.

**Case #:** MI2021-050

**Panel Action:** No case file review

**Allegation:** Rule 1 (Customer Service Value)

**Outcome:** Exonerated

**Case Summary:** An officer responded to a call from a man who requested assistance after a verbal argument with his wife and stepson. A protection order against the man for domestic violence had recently expired and he wanted to move back into the apartment that he shared with his wife. The caller indicated that he was told by his landlord that since he was still on the lease, he could call the police to have his wife and stepson removed from the premise. When the responding officer arrived, he informed the caller that Boulder police do not remove people from homes and that only the Sheriff's Office does civil evictions. The officer told the caller that it would be a good idea to stay the night somewhere else to avoid further disturbances. Ultimately, the caller agreed to leave for the night and took with him one of the children shared with his wife.

The caller has complained that he did not like the way the officer provided him with "legal advice" and felt that he was not being seen as the complainant (against his wife) even though he was the person who called for police assistance. He also raised a concern that his wife received preferential treatment by the officer because Boulder officers eat at the restaurant where she works. Lastly, he claimed that the officer told him he could not return to the apartment.

The internal investigation conducted by the officer's supervisor found that the caller's complaint about the officer providing "legal advice" was based on the officer explaining the eviction process. In an interview with his supervisor, the officer stated that he had been to the restaurant in question but not for some time. He stated he did not recognize the complainant's wife as a restaurant employee and that even if he had, it would not have changed his actions on scene. The officer's body worn camera footage contradicts the complainants claim that the officer told him he could not return to the address. On a recording of a follow up conversation

with the complainant, the subject officer is heard multiple times telling the man that he is allowed to return to the address. The officer was exonerated on the allegations.

**Case #:** MI2021-051

**Panel Action:** Full case file review conducted; panel recommended to Not Sustain

**Allegation:** Rule 5 Police Authority and Public Trust                      **Outcome:** Not Sustained

**Case Summary:** A complaint was received from a caller alleging that his First Amendment Rights were violated in June of 2018 because he was made to leave the location where he was exercising these rights (the Pearl Street Mall) under threat of arrest. He reported that an officer issued him a summons for Harassment, (the charge was later dropped by the DA) and told him that he had to leave the area. Additionally, the complainant said that the person whom he was accused of harassing was allowed to continue asking people to sign a political petition. No body worn camera footage is available because it was purged according to the city's regular retention schedule policies prior to the complaint being filed.

The violation summons indicated the reporting party told the officer that two males were following him after confronting him about his campaigning and soliciting signatures. Both individuals admitted to the officer that they were following the reporting party and said they were mistaken in believing that they were within their constitutional rights to do so as part of their free speech. The reporting party requested the individuals be issued a summons, and both individuals signed the summons. The complainant in this case is one of the individuals who received the summons.

The DA's office indicated that the narrative on the back of the tickets clearly supported probable cause to believe the defendants violated the harassment statute. However, the DA's office concluded that the incident involved political activity by the suspects and victim that implicated the First Amendment and did not appear to rise to the level of a prosecutable crime. The DA stated that dismissal was appropriate when "examining the facts in light of the First Amendment and proof beyond a reasonable doubt standard."

The allegation was classified as Rule 5 Police Authority and Public Trust based on the issuance of the summonses. The Police Oversight Panel recommended the allegation be not sustained. The department deemed the complaint Not Sustained.

**Case #:** MI2021-052

**Panel Action:** No case file review

**Allegation:** Rule 1 (Customer Service Value)

**Outcome:** Exonerated

**Case Summary:** A landlord that owns a mobile home in Boulder but lives in California filed a complaint against responding officers for allegedly failing to stop a break in at the mobile home she owned and rented out. The tenant had recently died, and his two children were clearing out his property from the mobile home. The landlord had requested that while the children were clearing out the apartment that officers remain on scene. Officers arrived and confirmed that the people were the children of the deceased and had legal authority to remove his property. The landlord demanded that the officers remain on scene until the children were finished. The officer realized that the children would be there for several hours and that it was not necessary for him to stay there the entire time as no crime was being committed, despite the landlord's insistence. Several days after the incident, the landlord complained that she was not updated on the situation. There were three officers involved in the response or who had spoken to her on the phone. Of the three officers involved, the monitor lodged the complaint against the officer who was responsible for following up with her. During the investigation, the complainant indicated that she did not want to file a complaint against that officer. However, she was still unhappy with the outcome and did not formally withdraw her complaint. The investigation found that the officer did not violate any department policy and the officer was exonerated on the allegation.

**Case #:** MI2021-053

**Panel Action:** Full case file review conducted; panel recommended to Sustain

**Allegation:** Rule 1 (G.O. 201-2 Reporting Guidelines)

**Outcome:** Sustained

### **Case Summary:**

An officer responded to an elementary school after receiving a call from school administrators concerning a report of menacing by a student with special needs. The officer determined that the student could not be held culpable due to his diminished mental capacity and that the school administration had handled the issue properly. The officer did not complete an incident report and only documented his actions with CAD (computer aided dispatch) notes.

One month later, the school district had additional issues with the student, and they requested a copy of the report from the first incident. After reading the notes the officer added to the CAD report, it became apparent that what the reporting party told the officer was contrary to what the officer put in his call notes.

Boulder Police Department policy reads as follows:

#### *201-2 Reporting Guidelines*

*Any criminal or non-criminal incident may require a police report. In many cases, the investigating officer uses his/her discretion to determine the proper documentation of an incident. If an officer has a reasonable belief that a crime occurred, the incident is documented as a crime report. A report must be taken in the following circumstances:*

*B. Any crime that constitutes a class one misdemeanor or felony, even if the victim does not want to prosecute.*

*L. Incidents for which a recording of the circumstances is beneficial to explain action taken or lack of action taken.*

The officer did not complete an incident report documenting this incident. The notes he did add to the CAD system contradict what he was told by the reporting party, as documented in the body-worn camera footage. The investigation found that the officer violated General Order 201, Report Writing. The Police Oversight Panel recommended to sustain the allegation against the officer and to provide training through supervisory counseling. The department sustained the allegation, documented a performance note, and conducted verbal counseling.

**Case #:** MI2021-054

**Panel Action:** No case file review

**Allegation:** Rule 6 Use of Force

**Outcome:** Exonerated

**Case Summary:** After smashing windows at a business, an individual experiencing a mental/emotional health crisis was placed into custody. While at the hospital being treated for minor abrasions sustained while breaking the window, the individual complained that an officer had kicked him in the face knocking out a tooth. He later changed the account to say that the officer swiped his cheek with a mis-aimed kick. Hospital staff indicated they did not observe any injuries to his mouth, teeth, or cheek. Body worn camera footage was reviewed and demonstrated that the individual was not in fact kicked in the face by an officer. While handcuffed and seated next to the broken window and surrounded by glass shards, the individual bent over to try to eat a muffin that he had taken out of the business. The muffin was in a package of four. As the individual bent over to take a bite out of a muffin, an officer using the side of his foot pushed the package of muffins away from the individual so that they were out of reach. [This appears reasonable as there could have been glass in the muffins and the muffins were becoming an object of distraction for the individual in crisis.] The individual immediately gets upset and asked why the officer did that. It is clear from the video that the officer's foot did not make any contact with the individual. The officer was exonerated on the allegation.

**Case #:** MI2021-055

**Panel Action:** No case file review

**Allegation:** Rule 1 (G.O. 206-2 Impounding Motor Vehicles and Bicycles)

**Outcome:** Exonerated

**Case Summary:** An individual complained that his vehicle, which had previously been stolen from an address in Longmont and was recovered in Boulder, was towed by an officer who found the vehicle and identified it as stolen. This resulted in the individual incurring towing fees (\$130). He believes that the officer should have provided him with the opportunity to take custody of the vehicle himself, even if that meant getting a ticket for an expired registration.

The municipal code (chapter 7-7-2) and department policy (GO 206-2) authorize officers to have stolen vehicles towed. There is no requirement to allow victims of auto theft to personally retrieve their recovered vehicles. An audio recording of the officer's conversation with the wife of the man who filed the complaint indicated that the officer did inform the wife that the vehicle would be towed per city policy. The officer was exonerated on the allegation.

**Case #:** MI2021-056

**Panel Action:** Full case file review conducted; panel recommended to Exonerate

**Allegation:** Rule 6 Use of Force

**Outcome:** Exonerated

**Case Summary:** This complaint originally began as a routine supervisory review of a use of force incident. At the time of the incident in November, a sergeant conducted the supervisory review in which the individual made statements complaining about being injured during his arrest. In December 2021, the PSU sergeant reviewing the Use of Force determined that the individual's statement possibly constituted a formal complaint. The PSU sergeant placed a follow up call to the individual who confirmed that he did wish to file a formal complaint.

For the incident in question, two officers responded to a call regarding a man violating a protection order. During the investigation, the officers developed sufficient probable cause to arrest the individual for violation of the protection order (the victim had a video of him shouting obscenities at her from outside her residence). Officers went to make contact with the individual at his nearby residence. Body worn camera footage indicates that when an officer told him he was under arrest and to put his hands behind his back, the individual verbally and physically resisted by telling the officers "F-ck you" and stiffening his arms as an officer attempted to place him into handcuffs. An officer pulled the individual down by his wrist to get him on the ground and finish handcuffing him. The individual later complained that an officer threw him on the ground on his shoulder and slammed his face on the ground. He indicated his shoulder and neck hurt on the right side. The Police Oversight Panel reviewed the case and recommended that the officer be exonerated on the allegation. The department exonerated the officer on the allegation.

## Serious Misconduct Cases

**Case #:** SM2021-001

**Panel Action:** Full case file review conducted; panel recommended to Sustain

**Allegation:** Rule 1 (G.O. 200-5 Information Provided) **Outcome:** Sustained

**Allegation:** Rule 5 Police Authority and Public Trust **Outcome:** Sustained

**Allegation:** Rule 10 Security of Police Information **Outcome:** Sustained

**Case Summary:** An officer engaged with an unhoused group of people in Central Park. The officer approached an individual with an open beer can, directed him to dump out the contents, issued the individual a trespassing violation and told him to leave the park for the day. While issuing the ticket, the individual became argumentative and insulting towards the officer. The officer twice thanked the individual in front of others for providing information to police the prior week and then failed to provide the individual with a business card upon request. The complainant has alleged that the officer intentionally "outed" him as a police informant in front of others. Officers are also not empowered to "trespass" individuals from public space (Rule 5 allegation).

The monitor classified this complaint as an allegation of serious misconduct. The investigation found that the officer violated multiple department policies including failure to provide a business card, violation of police authority, and violation of security of police information. The Police Oversight Panel recommended that the allegations be sustained and that the officer be suspended for two days, be reassigned out of the district, removal of the officer's status as a training officer, and receive retraining on the city's trespassing laws and department policy on providing business cards. The department sustained all of the allegations and imposed a one-day suspension, reassignment out of the district, removal of the officer's status as a training officer, and retraining on the city's trespassing laws and department policy on providing business cards.

**Case #:** SM2021-002

**Panel Action:** Full case file review selected, panel to review at the conclusion of any criminal proceedings.

**Allegation:** Rule 2 Conformance with Laws **Outcome:** In Progress



**Case Summary:** This case involves a non-sworn member of the department and is unrelated to the individual's employment with BPD. It remains in progress and will be included in a quarterly report at the conclusion of any criminal proceedings.

# | How to File a Complaint

A complaint can be accepted in writing, over the phone, or via email.

In 2021, the monitor worked with BPD's Professional Standards Unit and Information Technology officer to build a new on-line complaint form. The new form prompts complainants

A complaint can be filed with the Office of the Independent Police Monitor or the Boulder Police Department's Professional Standards Unit.

to provide a more thorough and detailed account of their complaint, includes space for a preferred name, and contains the ability to include the complainant's gender identity. Complaints filed through the new online form are immediately transmitted to both the Independent Police Monitor (IPM) and BPD's Professional Standards Unit (PSU). The new form also allows complainants to file a complaint anonymously.

Complaints received are immediately reviewed by the IPM for classification and then routed back to PSU for investigation. Complainants may file a complaint with either the IPM or PSU. The classification and investigative process are the same whether the complaint is filed with the IPM or with PSU. The monitor reviews all complaint investigations, observes the interview process, makes investigative recommendations during the course of PSU's investigation, and serves as an information resource for complainants.

To file a complaint online visit <https://bouldercolorado.gov/police-commendation-and-complaint-form>.

Independent Police Monitor, Joey Lipari  
Phone: 720-376-3980  
Email: [liparij@bouldercolorado.gov](mailto:liparij@bouldercolorado.gov).

Boulder Police Department Professional Standards Unit  
Phone: 303-441-1802  
Email: [PSU@bouldercolorado.gov](mailto:PSU@bouldercolorado.gov)

# Appendix

**MEMORANDUM OF UNDERSTANDING (MOU)  
FOR  
NOTIFICATION OF CRITICAL INCIDENTS  
BETWEEN  
BOULDER POLICE DEPARTMENT (BPD)  
AND  
OFFICE OF THE INDEPENDENT POLICE MONITOR  
AND  
POLICE OVERSIGHT PANEL**

This MOU is entered into by the signed participants who subsequently agree to the terms of this MOU.

**I. Purpose.** This MOU will formalize the requirements for notifying the Independent Police Monitor (“the monitor”) of critical incidents as mandated by 2-11-4 (b) of Ordinance 8430 (“the ordinance”). The ordinance states, *“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.”* The purpose for the monitor’s response to the scene is to ensure that the monitor has an opportunity to examine a scene which could become the subject of an administrative investigation or complaint.

**II. Types of critical incidents for which the monitor will be notified and respond.** The monitor shall be notified of:

- all in-custody deaths;
- any intentional discharge of a firearm by an officer at a person;
- any unintentional discharge of a firearm, while on-duty or off-duty, irrespective of injuries to suspects, officers, or third parties;
- use of lethal force on a domestic animal in self-defense or defense of others; and
- any civil disturbances (either planned or spontaneous).

A civil disturbance is defined in BPD G.O. 223 as, *“a gathering that constitutes a breach of the peace or an assembly of persons where there is a threat of collective violence, destruction of property or other unlawful acts.”*

**III. Procedure.** The Staff Duty Officer or their designee is responsible for notifying the monitor of critical incidents as defined above. The Staff Duty Officer or their designee shall notify the monitor of such occurrences only after all required internal department notifications have been made and only after all necessary department resources have been deployed. Once notified, the monitor shall confirm the notification has been received and respond.

**IV. Duties.** When all investigative steps for the scene controlled by BPD have been completed, but prior to releasing the scene back to the responsible party, the BPD on-scene supervisor shall permit access to the monitor. The monitor shall be escorted by BPD personnel while in the scene. The monitor shall be permitted to take notes while observing the scene but may not take any photographs or record any video of the scene. In the occurrence of a civil disturbance, the monitor will remain in neutral territory while observing.

V. Terms. This agreement shall become effective upon the signature of the monitor, the panel co-chairs, the police chief, and the city manager and continue indefinitely unless and until the monitor, panel and police chief mutually agree to alter this agreement.

Dated this 6 day of January, 2022.

Maris Herold  
Name

Maris Herold, Police Chief  
Boulder Police

Joseph Lipari  
Name

Joseph Lipari, Independent Police Monitor  
City of Boulder

Ariel Amaru  
Name

Ariel Amaru, Co-chair  
Boulder Police Oversight Panel

Daniel Leonard  
Daniel Leonard (Feb 1, 2022 15:45 MST)  
Name

Daniel Leonard, Co-chair  
Boulder Police Oversight Panel

Approved by:

Nuria Rivera-Vandermyde  
Nuria Rivera-Vandermyde  
City Manager

Approved as to Form:

Erin Poe  
City Attorney's Office

Signature:

Email: amarua@bouldercolorado.gov

Signature:

Email: leonardd@bouldercolorado.gov