

**TOWN OF GRANBY**

**Board of Trustees**

MEETING DATE: JULY 14, 2020

**Consent Agenda**

**Resolution or Ordinance**

**Citizen Requests**

**Public Hearing**

**Committee/Staff Reports:**

**TOWN CLERK**

**FINANCE DIRECTOR**

**BUILDINGS AND STREETS**

**ECONOMIC DEVELOPMENT**

**PUBLIC SAFETY**

**RECREATION**

**WATER DEPARTMENTS**

**MAYOR**

**TOWN MANAGER**

**TOWN ATTORNEY**

**Other**

**Executive Session**

**Workshop**

TIME OF AGENDA ITEM: 8:30 PM

**Agenda Request No. 12**

**MEETING TO BE HELD AT:**

**Town Hall, Zero Jasper Avenue**

**Granby, CO 80446**

(12) DISCUSSION ITEM - COLORADO SB20-217  
8:30 PM

**SUMMARY OF THE IMPACTS OF SB 20-217  
ON MUNICIPALITIES, LOCAL LAW ENFORCEMENT AGENCIES, AND  
INDIVIDUAL PEACE OFFICERS**

*(This summary reflects the final version of the bill as adopted on June 13, 2020)*

1. **Expanded Criminal Liability for Peace Officers (*effective September 1, 2020 except where noted*)**
  - a. **Deadly force.** Narrows the circumstances in which peace officers are justified when resorting to the use of deadly force in general, including. 18-1-707(1), (4), (4.5)
  - b. **“Fleeing felon.”** Specific restrictions are provided for the circumstances in which deadly force can be used to apprehend a suspected felon. 18-1-707(3). (*Effective immediately.*)
  - c. **Chokeholds.** Prohibits officers from using chokeholds under any circumstances, including carotid holds, 18-1-707(2.5) (*Effective immediately*)
  - d. **Failure to intervene/report.** Now a Class 1 misdemeanor for a peace officer to fail to intervene or fail to report when fellow officer engages in excessive force, 18-1-802(1.5)
  - e. **Acting as a peace officer without certification.** New criminal liability for willful and wanton performance of duties as a peace officer without proper P.O.S.T. certification. 24-31-307(3)
  
2. **Expanded Civil Liability for Peace Officers and Municipalities (*Effective immediately*)**
  - a. **Officer liability for damages and injunctive relief for violations of any right secured by Art. II of the Colorado Constitution.** Applies to any act by a certified peace officer causing a violation of Art. II, not just use of force cases. No cap on damages; no statutory immunities; no defense of qualified immunity. 13-21-131 (1) and (2).
  - b. **Failing to Intervene.** Identifies “failing to intervene” as a distinct theory under which an officer can be civilly liable for damages
  - c. **Obligation to pay attorney fees to prevailing plaintiff.** Broader exposure to attorney fees than currently exists in federal Sec. 1983 cases. 13-21-131 (3).
  - d. **Obligation for municipality to indemnify officer for damages and attorney fees.** Generally requires the municipality to pay for any damages and

settlements assessed against individual officers employed by the municipality, with two exceptions:

- i. Exception for bad faith acts by the peace officer. Municipality can require the officer to pay a maximum of \$25,000 for any claim or settlement when the officer acted in bad faith.
  - ii. Municipality is relieved of any indemnification obligation if the officer is convicted of a criminal violation for the acts or omissions giving rise to the civil claim. 13-21-131(4)
- e. **Inference of officer misconduct.** If officer fails to activate or tampers with body camera during the incident giving rise to the civil claim, misconduct is inferred. 24-31-902(1)(a)(III)
- f. **Pattern and practice liability.** New authority is vested in the Colorado Attorney General to bring a civil action against a municipality based on a pattern and practice of constitutional violations by any “agent” of the municipality, not just peace officers. 24-31-101, 24-31-111

### 3. Mandatory Employment Disciplinary Sanctions for Peace Officers

- a. **Body Cameras.** Mandatory discipline for failure to activate or tamper with a body camera, 24-31-902(1)(a)(IV)(A)
- b. **Failure to Intervene.** Mandatory discipline for failure to intervene in any use of forces that results in death or serious bodily injury, up to and including termination. 18-8-802(1.5)(f)

### 4. Loss of P.O.S.T. Certification for Peace Officers

- a. **Body camera violations.** Mandatory suspension of certification for one year for failing to activate or tampering with a body camera, 24-31-902(1)(a)(IV)(B)
- b. **Criminal or civil liability for unlawful use of force.** Permanent revocation and disqualification from certification, 24-31-904.
- c. **Failure to intervene.** Permanent revocation and disqualification from certification for officer’s failure to intervene in any use of forces that results in death or serious bodily injury, up to and including termination. 18-8-802(1.5)(f)
- d. **Failure to complete training.** New express authority for P.O.S.T. board to revoke certification for officers who fail to complete mandatory training. 24-31-305(2.7)

## 5. Operational Mandates for Law Enforcement Agencies and Individual Officers

### a. Body cameras (*effective July 1, 2023*)

- i. All law enforcement agencies must deploy, 24-31-902 (1)(a)(I)
- ii. Requirements for when officers must wear and turn on camera (or not), 24-31-902 (1)(a)(II)
- iii. Negative inference of “misconduct” in civil actions when officer fails to activate or tampers with a camera, 24-31-902(1)(a)(III)
- iv. Suppression of statements in criminal actions when officer fails to activate or tampers with a camera, 24-31-902(1)(a)(III).
- v. Law enforcement must promulgate retention schedule for video, 24-31-902(1)(b).
- vi. 21-day public release requirement for video when there has been a complaint of misconduct by officer, 24-31-902(2)(a)
  1. Exception for active investigations, 24-31-902(2)(b)(III)
  2. Exception when defendant in a criminal action objects, 24-31-902(2)(c)
  3. Requirement to share video with family members in death cases 72 hours in advance of public release, 24-31-902(2)(b)(I)
  4. Mandatory video redactions and other measure to protect privacy interests, 24-31-902(2)(b)(II)

- b. ***Protests and demonstrations.*** Restrictions on circumstances in which “kinetic impact projectiles,” tear gas and pepper spray may be deployed by law enforcement agencies and individual officers, 24-31-905.
- c. ***Prohibition against retaliation.*** No member of a law enforcement agency may retaliate against an officer who intervenes to prevent unlawful use of force or who reports such use of force. 18-8-802(1)(c)
- d. ***Duty to report results of internal investigation to district attorney.*** Any result of an internal investigation finding an officer failed to intervene to prevent an unlawful use of force by another officer must be reported to the district attorney. 18-8-802 (1)(e)
- e. ***Mandatory training by September 1.*** Every law enforcement agency is required to train police officers on new criminal use of force standards by September 1, 2020. 18-1-707(10).
- f. ***Justification for “contacts.”*** Existing statute on “profiling” amended to require that there be a “legal basis” for any “contact . . . for the purpose of enforcing the law or investigating possible violations of the law.” 24-31-309(3.5)
- g. ***New requirements for officer business cards.*** Existing statute on “profiling” amended to require that the officer’s business card include additional information on how to file a complaint against the officer. 24-31-309(3.5)

## 6. Documentation and Reporting Mandates

- a. **Use of force cases (*effective January 1, 2023*)** Mandatory reporting by law enforcement agencies to the Colorado Division of Criminal Justice of demographic and other information in all use of force cases involving death or serious bodily injury, 24-91-103(2)(a)
- b. **Officer resignations (*effective January 1, 2023*)** Mandatory reporting by law enforcement agencies to the Colorado Division of Criminal Justice of any resignation occurring while officer was being investigate for any policy violation, 24-91-103(2)(b)
- c. **Incidents of unannounced entry (*effective January 1, 2023*)** Mandatory reporting by law enforcement agencies to the Colorado Division of Criminal Justice of any instance of unannounced entry into a residence without a warrant, with demographic and other information about the entry. 24-91-103(2)(d)
- d. **Information related to all officer-initiated “contacts”**
  - i. Mandatory reporting by law enforcement agencies to the Colorado Division of Criminal Justice of demographic and other information related to officer-initiated contacts with a member of the public. 24-91-103(2)(c). (*Effective January 1, 2023*)
  - ii. Mandatory internal reporting by individual officers to their own employing agency of demographic and other information related to officer-initiated contacts with a member of the public. 24-31-309(3.5)