

Sec. 2-144. Citizen Review Board.

- (a) The City shall have a Citizen Review Board, hereafter referred to in this Section as the "Board." The Board shall consist of seven (7) members.
- (b) The following words, terms and phrases, when used in this Section, shall have the following meanings:
Deadly force shall mean force, the intended, natural and probable consequence of which is to produce death.
Exonerated shall mean that the incident occurred, but the behavior of the police officer or community service officer did not violate any applicable administrative policy or law.
Not involved shall mean that the police officer or community service officer was not involved in the incident.
Not sustained shall mean that there is insufficient evidence to prove or disprove the allegation.
Sustained shall mean that the allegation is supported by sufficient evidence establishing that a police officer or community service officer violated one (1) or more applicable administrative policies or laws.
Unfounded shall mean that sufficient evidence was present to establish that the allegation was false or not factual.
- (c) Those persons appointed to the Board shall attend and complete such training as may be developed by the City Manager, upon consultation with the Chief of Police.
- (d) Upon notice that an investigatory file is being forwarded to the Board for review pursuant to the provisions of Paragraph (f) below, the chairperson shall randomly select four (4) members of the Board to serve as the review subcommittee. A separate review subcommittee shall be selected for each separate review. Among the four (4) members selected to each review subcommittee, one (1) shall be designated and serve as a substitute and shall participate in the review process, but shall not participate in any recommendation vote of the subcommittee unless one (1) of the other three (3) members of the review subcommittee becomes unable to participate and vote. To the extent possible, a request to reconsider pursuant to Paragraph (f)(5) below shall be considered and, if appropriate, reviewed by the same subcommittee members who conducted the initial review.
- (e) The Board shall have the following functions:
- (1) At the request of the City Manager or the Chief of Police, to make recommendations to the City Manager or the Chief of Police concerning the interpretation of police policies and procedures.
 - (2) To review the following categories of internal investigations conducted by Police Services:
 - a. Investigations involving police officer or community service officer use of deadly force, whether or not the use of such force actually results in death;
 - b. Investigations initiated by the written complaint of any person involved in an incident occurring within one (1) year of submission of said complaint, when such person alleges that: (i) a police officer or community service officer used force or discharged a firearm in violation of administrative policy or applicable law, (ii) a police officer or community service officer committed a crime, or (iii) as a result of a police officer's or community service officer's act or failure to act, a person sustained severe injury or death or suffered a civil rights violation; and
 - c. Any other investigations as requested by the City Manager or the Chief of Police;
 - (3) To review any decision of the Chief of Police regarding the merits of any other investigation for which a review has not been conducted by the Board pursuant to Paragraph (2) of this Section, if review is requested in writing by a person involved in the investigated incident and such person alleges police officer or community service officer misconduct occurring within one (1) year of said request;
 - (4) To reconsider any review previously conducted by the Board if the Board determines that significant new information has become available which previously was not reasonably available to the Board, the complainant or to Police Services;
 - (5) Upon the request of any other public law enforcement entity operating within the City, to review the internal investigations of such entity if the matter being investigated occurred within the City;
 - (6) To make annual reports to the City Council and City Manager concerning the activities and recommendations of the Board; and
 - (7) To perform such functions as are committed to it by other ordinances or resolutions of the City.
- (f) The Board, through its review subcommittees, shall conduct its reviews in accordance with the following procedures:
- (1) *Investigations Involving Use of Deadly Force.*
 - a. Except as provided in Paragraph (10) of this Section, within forty-five (45) days of learning of an incident involving police officer or community service officer use of deadly force as specified in Subparagraph (e)(2)a. above, or within forty-five (45) days of its receipt of the written complaint of any person involved in an incident when such person alleges police officer or community service officer misconduct as specified in Subparagraph (e)(2)b. above, occurring within one (1) year of said complaint, Police Services shall conduct an administrative investigation, and forward the investigatory file to the Board for review.
 - b. This investigatory period may be extended by Police Services for not more than an additional thirty (30) days upon Police Services' written notice to the Board and the complainant, which notice shall state the reason for the delay. In the event that additional time is needed in which to complete the investigation, the Board may grant such additional time as it deems necessary upon

good cause shown.

- c. The review by the Board shall consist of examining the internal investigation file and, in the discretion of the Board, meeting with the complainant, witnesses and/or police investigators. The Board may also request that Police Services further investigate the matter.
- d. The Board shall complete its review within forty-five (45) days of submission of the investigatory file. This review period may be extended by the Board for not more than an additional thirty (30) days upon the Board's written notice to the complainant and Police Services, which notice shall state the reason for the delay.
- e. Upon completion of its review, the Board shall concurrently convey any observations or recommendations regarding the administrative investigation conducted by Police Services, and the findings reached by the investigating and reviewing officer(s), to the City Manager and the Chief of Police.
- f. The review shall be completed and any recommendations conveyed before the Chief of Police makes a decision regarding the merits of the administrative investigation or the complaint. The Chief of Police shall not make a decision regarding the merits of the investigation or the complaint until the Board has had the opportunity to convey the results of its review pursuant to the above time periods.
- g. The Chief of Police shall convey in writing their decision regarding the merits of the complaint to the complainant and the Board within thirty (30) days of receipt of the Board's recommendations.

(2) *Investigations Not Previously Reviewed.*

- a. Except as provided in Paragraph (10) of this Section, within forty-five (45) days of its receipt of a written complaint alleging police officer or community service officer misconduct as specified in Paragraph (e)(3) above, occurring within one (1) year of said complaint, made by a person involved in the incident, Police Services shall conduct and complete an administrative investigation, the results of which shall be provided in writing to the complainant in the form of a finding of "not involved," "unfounded," "exonerated," "not sustained" or "sustained."
- b. This investigatory period may be extended by Police Services for not more than an additional thirty (30) days upon Police Services' written notice to the complainant, which notice shall state the reason for the delay. In the event that additional time is needed in which to complete the investigation, the Board may grant such additional time as it deems necessary upon good cause shown.
- c. The complainant may request that the Board review the findings of Police Services if the complainant files a written request for review at Police Services or the City Manager's Office within fifteen (15) days of the complainant's receipt of the written findings.
- d. Upon receipt of a timely request for review, Police Services shall forward the investigatory file to the Board for review. The review by the Board shall consist of examining the internal investigation file and, in the discretion of the Board, meeting with the complainant, witnesses and/or police investigators. The Board may also request that Police Services further investigate the matter.
- e. The Board shall complete its review within forty-five (45) days of submission of the investigatory file. This review period may be extended by the Board for not more than an additional thirty (30) days upon the Board's written notice to the complainant and Police Services, which notice shall state the reason for the delay.
- f. Upon completion of its review, the Board shall concurrently convey any observations or recommendations regarding the administrative investigation conducted by Police Services, and the findings reached by the investigating and reviewing officer(s), to the City Manager and the Chief of Police.
- g. The Chief of Police shall, within thirty (30) days of receipt of the Board's recommendation, affirm or modify the Chief's prior findings, or adopt new findings, which shall be provided in writing to the complainant and the Board in the form of a finding of "not involved," "unfounded," "exonerated," "not sustained" or "sustained."

(3) *Investigations Requested by City Manager for Chief of Police.*

- a. Upon the receipt of a request to review an investigation pursuant to Subparagraph (e)(2)c. above, the Board's review shall consist of examining the internal investigation file and, in the discretion of the Board, meeting with the complainant, witnesses and/or police investigators. The Board may also request that Police Services further investigate the matter.
- b. The Board shall complete its review within forty-five (45) days of submission of the investigatory file. This review period may be extended by the Board for not more than an additional thirty (30) days upon the Board's written notice to Police Services, which notice shall state the reason for the delay.
- c. Upon completion of its review, the Board shall concurrently convey any observations or recommendations regarding the administrative investigation conducted by Police Services, and the findings reached by the investigating and reviewing officer(s), to the City Manager and the Chief of Police.

(4) *Investigations Conducted by Other Public Law Enforcement Agency.*

- a. Upon the receipt of a request to review an investigation pursuant to Paragraph (e)(5) above, the Board's review shall consist of examining the internal investigation file and, in the discretion of the Board, meeting with the complainant, witnesses and/or law enforcement investigators. The Board may also request that the referring law enforcement entity further investigate the matter.
 - b. The Board shall complete its review within forty-five (45) days of submission of the investigatory file. This review period may be extended by the Board for not more than an additional thirty (30) days upon the Board's written notice to the referring law enforcement entity, which notice shall state the reason for the delay.
 - c. Upon completion of its review, the Board shall concurrently convey any observations or recommendations regarding the administrative investigation conducted by the referring law enforcement entity, and the findings reached by the investigating and reviewing officer(s), to the City Manager and the referring law enforcement entity.
- (5) *Request to Review Previous Board Action Due to Significant New Information.*
- a. A request to reconsider any review previously conducted by the Board must contain a detailed written description of the significant new information which has become available and an explanation as to why such information was not reasonably available to the Board, the complainant or Police Services at the prior review. If the Board agrees to reconsider the review, Police Services shall forward the investigatory file to the Board for review.
 - b. The review by the Board shall consist of considering the new information, examining the internal investigation file and, in the discretion of the Board, meeting with the complainant, witnesses and/or police investigators. The Board may also request that Police Services further investigate the matter.
 - c. The Board shall complete its reconsideration within forty-five (45) days of submission of the investigatory file. This reconsideration period may be extended by the Board for not more than an additional thirty (30) days upon the Board's written notice to the complainant and Police Services, which notice shall state the reason for the delay.
 - d. Upon completion of its review, the Board shall concurrently convey any observations or recommendations regarding the administrative investigation conducted by Police Services, and the findings reached by the investigating and reviewing officer(s), to the City Manager and the Chief of Police.
 - e. The Chief of Police shall, within thirty (30) days of receipt of the Board's recommendation, affirm or modify the Chief's prior findings, or adopt new findings, which shall be provided in writing to the complainant and the Board in the form of a finding of "not involved," "unfounded," "exonerated," "not sustained" "or sustained."
- (6) *Complaint Filing Procedure.*
- a. A complainant may file a written complaint at Police Services, the City Manager's Office or at a Board meeting. Upon receipt of a written complaint at a location other than Police Services, the Board or receiving officer shall forward the complaint to Police Services as soon as reasonably practical.
 - b. In the event that a complainant is unable to complete any written complaint or request form, the Board, a citizen liaison, the City Manager's Office or Police Services shall, upon the complainant's verbal request, assist the complainant in reducing the complaint or request to writing. However, all complaint or request forms must be signed by the complainant.
- (7) *Board Member Obligations and Review Procedures.*
- a. The Board and each of its members shall, to the extent required by law, maintain the confidentiality of all internal investigation files and all information and evidence received which are related to personnel matters of the City or of the referring law enforcement entity.
 - b. However, the Board shall allow public inspection of its observations and recommendations that are general in nature, that do not directly identify a specific employee and that do not recommend or comment upon discipline to be considered for an employee.
 - c. Pursuant to § 2-72(b)(2), the review subcommittees shall meet in executive session for the purpose of receiving and considering evidence relating to internal investigations conducted by Police Services unless the police officer(s) or community service officer(s) against whom the complaint is filed request that the matter be considered in open session.
 1. If such a request is made, the subcommittee shall determine the extent to which consideration and discussion of evidence will occur in open session.
 2. In making this determination, the subcommittee shall consider the extent to which the consideration and discussion will directly concern personnel matters of the officer(s), the need to maintain the confidentiality of information in circumstances where the public dissemination of the information would do substantial injury to the public interest and any other constraints upon public dissemination imposed by law.
 - d. All other meetings or portions of meetings shall be open to the public at all times, except as authorized by § 2-72(a).
- (8) In the event that the Chief of Police is directly involved in the use of deadly force as specified in

Subparagraph (e)(2)a. above, or is the subject of a complaint of misconduct as specified in Subparagraph (e)(2)b. or Paragraph (e)(3) above, the City Manager shall fulfill, or shall designate another person to fulfill, the Police Chief's functions as specified in this Section.

(9) In computing any period of time prescribed by this Section, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a City-designated holiday, in which event the period of time runs until the end of the next day which is not a Saturday, a Sunday or a City-designated holiday.

(10) In the event that the actions of police officers or community service officers are being actively reviewed for consideration of criminal prosecution against said officers by the District Attorney's Office or other governmental entity which has the ability to bring criminal charges, Police Services may toll the running of any time limits for the completion of its administrative investigation until said prosecuting entity has announced that it has ceased its active review or made a charging decision, whichever first occurs. If Police Services determines that such tolling of the time limits should occur, it shall provide written notice to the Board and the complainant of its decision.

(11) *Option to Request City Council Independent Investigation.*

a. In conducting its review of an investigation pursuant to this Subsection (f), the review subcommittee may request that the City Council exercise its authority under Article 2, Section 5(e) of the City Charter to independently investigate the subject matter of the complaint and to compel by subpoena the attendance and testimony of witnesses and/or the production of any books or documents that the City Council believes may be necessary to fully investigate the matter, and/or to retain an independent investigator to obtain and provide the City Council with such additional investigative information that the City Council may deem necessary or helpful.

b. Such request to the City Council shall be in writing, with notice to the complainant and Police Services, and shall set forth the reasons why such independent investigation is necessary.

c. The request for the independent investigation described in this Subsection shall toll the running of any time limits for the completion of the subcommittee's review from the date of such request until the City Council either denies the request or completes its own investigation of the matter.

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Fort Collins Police Services Complaining parties rights & responsibilities in an administrative investigation

In an Internal Affairs Investigations, a complainant has the following rights and responsibilities. Individuals wishing to comment or complain about the conduct of Agency employees will be treated with respect and professionalism.

- The right to have one representative of the complainant's choice present while being interviewed during the investigation. The representative's role shall be restricted to that of an advisor to the complainant, and not as a participant in the questioning and/or investigation.
- Complainant interviews shall be scheduled at the mutual convenience of the Agency and the complainant, and not necessarily at the convenience of the complainant's representative, if any.
- Interviews shall be conducted at a reasonable hour, unless the seriousness of the investigation requires immediate action.
- The duration of the complainant's interview shall be for a reasonable period of time, and shall allow for reasonable personal necessities and rest periods.
- The complainant has the right to a copy of his or her statement.
- The complainant has the right to notification of the findings of a Level One or Level Two investigation.
- The investigation will include one of the following findings:
 - "**Sustained**": The allegation is supported by sufficient evidence establishing that the employee violated one or more Agency policy, procedure, or training.
 - "**Not sustained**": There is insufficient evidence to prove or disprove the allegation.
 - "**Exonerated**": The incident occurred, but the employee's behavior did not violate any Agency policy, procedure, or training.
 - "**Unfounded**": The allegation was false or not factual.
 - "**Not involved**": The employee was not involved in the incident.
- If the investigation has not been reviewed by the Citizen Review Board, the complainant has the right to request such review by filing a written request with the Chief of Police or the City Manager's Office within 15 calendar days of the complainant's receipt of the written findings.
- The Chief of Police makes the final decision on findings in administrative investigations.