



Police Commission

**Tuesday, March 26, 2024, 6:00 PM, Contois Auditorium, City Hall
149 Church Street, 2nd Floor
Burlington, VT 05401**

PLEASE NOTE:

This meeting will be held on zoom and in-person in Contois Auditorium inside City Hall.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/87825390567>

Or Telephone:

+1 312 626 6799 US (Chicago)

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Webinar ID: 878 2539 0567

1. Agenda

1.1. Call to Order

1.2. Roll Call and Determination of Quorum

1.3. Additions or Modifications to Agenda

2. Commission Actions

Subject	2.1. Approve the minutes from the Regular Commission Meeting on 2/27/2024
Meeting	March 26, 2024 - Police Commission Meeting - Tuesday, March 26, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
Category	2. Commission Actions
Department	Police Department
Type	
Recommended Action	

3. Public Forum

3.1. The public is invited to address the Commission

4. Police Department Items

Subject	4.1. Chief's Report
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Meeting	March 26, 2024 - Police Commission Meeting - Tuesday, March 26, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
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Category	4. Police Department Items
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Department	Police Department
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Type	Information Presentation
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Recommended Action

Subject	4.2. Department Directive Revision Discussion for Approval DD40 - External and Internal Complaints, Supervisors Reviews, Administrative Reviews, Internal Investigations & Discipline [REVISED DRAFT] **attached
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Previously DD40 - Quality Control Process, Investigations,
Discipline [\[CURRENT VERSION\]](#) *hyperlinked.

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Category	4. Police Department Items
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Department	Police Department
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Type	
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Recommended Action

5. Commissioner Comments

Subject	5.1. Commission to provide comments or questions
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Meeting	March 26, 2024 - Police Commission Meeting - Tuesday, March 26, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
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Category	5. Commissioner Comments
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Department	Police Department
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Type

Recommended Action

6. Commission Business

6.1. February 2024 Use of Force Report

6.2. Update on Body Worn Camera Policy

6.3. Commission Comments to the Charter Change Committee

Document posted for discussion.

Subject

6.3. BPOA Feedback

BPOA is invited to provide the Commission feedback

Meeting

March 26, 2024 - Police Commission Meeting - Tuesday, March 26, 2024, 6:00 PM, **Contois Auditorium, City Hall**
149 Church Street, 2nd Floor
Burlington, VT 05401

Category

6. Commission Business

Department

Police Department

Type

Recommended Action

Subject

6.3. Public Feedback

The Commission will open the floor to allow for public comment on this item.

Meeting

March 26, 2024 - Police Commission Meeting - Tuesday, March 26, 2024, 6:00 PM, **Contois Auditorium, City Hall**
149 Church Street, 2nd Floor
Burlington, VT 05401

Category

6. Commission Business

Department

Police Department

Type

Recommended Action

7. Executive Session

7.1. Executive Session, as required.

8. Adjournment

8.1. Motion to Adjourn

9. Informational and Non-Discrimination Statements

Subject

9.1. This agenda is available in alternative formats upon request. For more information on access, call Shannon Trammell at (802) 540-2107. Persons with disabilities who require assistance or special arrangements to participate are encouraged to contact (802)540-2107 at least 72 hours in advance so that proper arrangements can be made. This meeting will also air on Town Meeting TV. The City of Burlington will not tolerate unlawful harassment or

discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information.

Meeting	March 26, 2024 - Police Commission Meeting - Tuesday, March 26, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
Category	9. Informational and Non-Discrimination Statements
Department	Council and Board
Type	



Police Commission

Tuesday, February 27, 2024, 6:00 PM, **REMOTE ONLY via Zoom**
MINUTES OF MEETING

DRAFT

MEMBERS PRESENT:

Co-Chair Shakuntala Rao
Co-Chair Mary Cox
Commissioner Jessica Oski
Commissioner Suzy Comerford
Commissioner Kevin Garrison
Commissioner Jack Keefe

OTHERS PRESENT:

Chief Jon Murad
Shannon Trammell, Clerk
Assistant City Attorney Hayley McClenahan
Attorney Anthony Iarrapino, Commission Counsel

1. Agenda

1.1. Call to Order

Co-Chair Rao called the meeting to order at 6:01pm.

1.2. Roll Call and Determination of Quorum

Quorum met. Commissioner Hanson absent.

1.2. Additions or Modifications to Agenda

Motion made by Commissioner Comerford, seconded by Commissioner Oski, to approve the agenda as posted.

VOTING: Unanimous, motion carries.

2. Commission Actions

Subject

**2.1. Approve the Minutes from the Regular Commission Meeting on
1/23/2024**

Motion made by Commissioner Oski, seconded by Commissioner Comerford to Approve the minutes from 1/23/2024 as posted.

VOTING: Unanimous, motion carries.

3. Public Forum

3.1. The public is invited to address the Commission

Councilor Melo Grant addressed the Commission, stating she would be showing up more frequently to aid in keeping the connection open between the City Council and the Police Commission, to make sure there isn't a gap in information. Councilor Grant made remarks on the posted Chief's Report, speaking specifically to pages 8, 11, 12, and 13. Co-Chair Rao thanked Councilor Grant for sharing the Gun Violence Task Force Report to the Commission.

4. Police Department Items

4.1. Chief's Report

The Chief shared his report for the Month of February to the Commission and answered questions from the Commissioners.

Co-Chair Cox – What is a baton round?

A.) a form of Less Lethal Impact Munition, specifically a foam cylinder round.

Co-Chair Rao – Regarding Decker Towers, what options are there for BHA to control of the situation being reported and seen in the neighborhood?

A.) Access control, short-term security services, sign-in sheets and gate/entrance access.

Commissioner Oski – speaking to the breakdown of sworn shifts, why the duplicate numbers per shift? And, do the numbers include those on injury or military leave?

A.) There are two sides of a shift, to insure 7 day coverage. One day a week, each shift overlaps a day to allow for training days, for example. On the current staffing proposals/projections, injury and military leave is accounted for, on the projections a year years out, it does not account for those on anticipated military or injury leave.

Commissioner Comerford made a suggestion that the public is feeling like they shouldn't call for police services because there aren't enough police officers and they aren't going to receive a response, and feels the Department should try and get other messaging out to the public besides informing them to call 9-1-1. She suggested a press release.

Subject

4.2. Department Directive Revision Approval

DD01 - Law Enforcement Role & Authority, Ethics, Organizational Structure & Department Rules.

Rule #19. Insert: "Failing to maintain custody and control of weapons, Criminal Justice Information Services (CJIS) systems, or encrypted technology may also constitute a violation of Rule 18 Neglect of Duty."

Motion made by Commissioner Oski, seconded by Commissioner Comerford, to accept the proposed language to DD01, Rule 19 and insert the following "Failing to maintain custody and control of weapons, Criminal Justice Information Services (CJIS) systems, or encrypted technology may also constitute a violation of Rule 18 Neglect of Duty."

VOTING: unanimous, motion carries.

5. Use of Force Reports

5.1. January 2024 Use of Force Report

5.2. Use of Force Report - February 1st through February 15th, 2024

Commissioner Keefe noted that his request for BWC review for the previous month was not honored and he had not received any of the requested videos, even though he provided clear justification and reasoning for the requested footage. He also requested an update from the Commission on the previous meetings that were had with the BPOA on the agreement, and wasn't sure the outcome of those meetings.

BPD stated it was waiting for the City Attorney to say whether the release of those requested videos was or wasn't to be made because of the negotiations that were being had with them and the BPOA on this subject.

Assistant City Attorney McClenahan stated that her understanding of where the determination landed was that it was left off that the Commission was going to take a pause on requesting footage during the negotiation process with the Union.

Commissioner Comerford noted that an important part of the Commission's mandate is the review of these videos, and that the reviews affect real people in the community.

6. Commendations

6.1. Commendations Received in February 2024

Co-Chair Rao read 3 commendations that were received by BPD.

7. Commission Business

7.1. Discussion on the draft copy of the Burlington Police Oversight Charter Change proposal by the City Council Joint Committee

In following with the proposal put forth at the January Commission meeting, the Commission agreed that it should publically discuss its position on the Charter Change proposal document and provide the opportunity for the public to give feedback on the document. The Commission will then give their feedback, discussion points, and suggestions to the Joint Committee. The Commission stated it is not interested in trying to write the Policy and that it would break down comments into topics for consideration to the Joint Committee.

7.2. BPC Review of Body Worn Camera (BWC) Footage Policy. Discussion on the counter proposal by the BPOA on the release of BWC to the Commission.

Discussion had by the Commission concluded with the following edits to the document provided by BPOA and submit back to them or consideration.

Policy – keep “with cause”

#1 – remove “with cause” and keep “based on the “totally of circumstances” Edit “articulated – to “expressed articulated”. Keep remaining edits.

Keep i,ii, iii

“b.” – change “lettering” and take out “no-cause” and add “except as outlined in Section 2 of this policy.”

#2 – remove header, and add “also” to “the BPC may “also” review...” to first sentence.

Motion made by Commissioner Oski, seconded by Commissioner Keefe, to approve in concept the changes made to BPC BWC Review as just outlined.

VOTING: unanimous, motion carries.

7.3. Announcement of vicious dog hearing, scheduled for Tuesday, March 5th.

Co-Chair Rao announced that a sub-committee of the Police Commission will meet virtually on Tuesday, March 5th at 5:30 for a vicious dog hearing. Pertinent documents for this hearing, including the complaint, are posted on Civic Clerk.

8. Executive Session, as needed.

8.1. Executive Session

Commissioner Oski moved for a special finding that premature general public knowledge of the Commission's

hearing of grievances would clearly place the state, municipality, other public body, or person involved at a substantial disadvantage., SECONDED by Commissioner Comerford

VOTING: Unanimous; motion carries

Commissioner Oski motioned to move into Executive Session based upon the special finding, pursuant to 1 VSA 313(a)(1), SECONDED by Commissioner Comerford

VOTING: Unanimous; motion carries

Co-Chair Rao then announced that the Commission would not move back into public session at the conclusion of the Executive Session and there would be no further public discussion.

9. Adjournment

9.1. Motion to Adjourn

The Commission adjourned from Executive Session with no further public discussion.



BURLINGTON POLICE CHIEF'S REPORT

March 2024



ECLIPSE – APRIL 08 2024

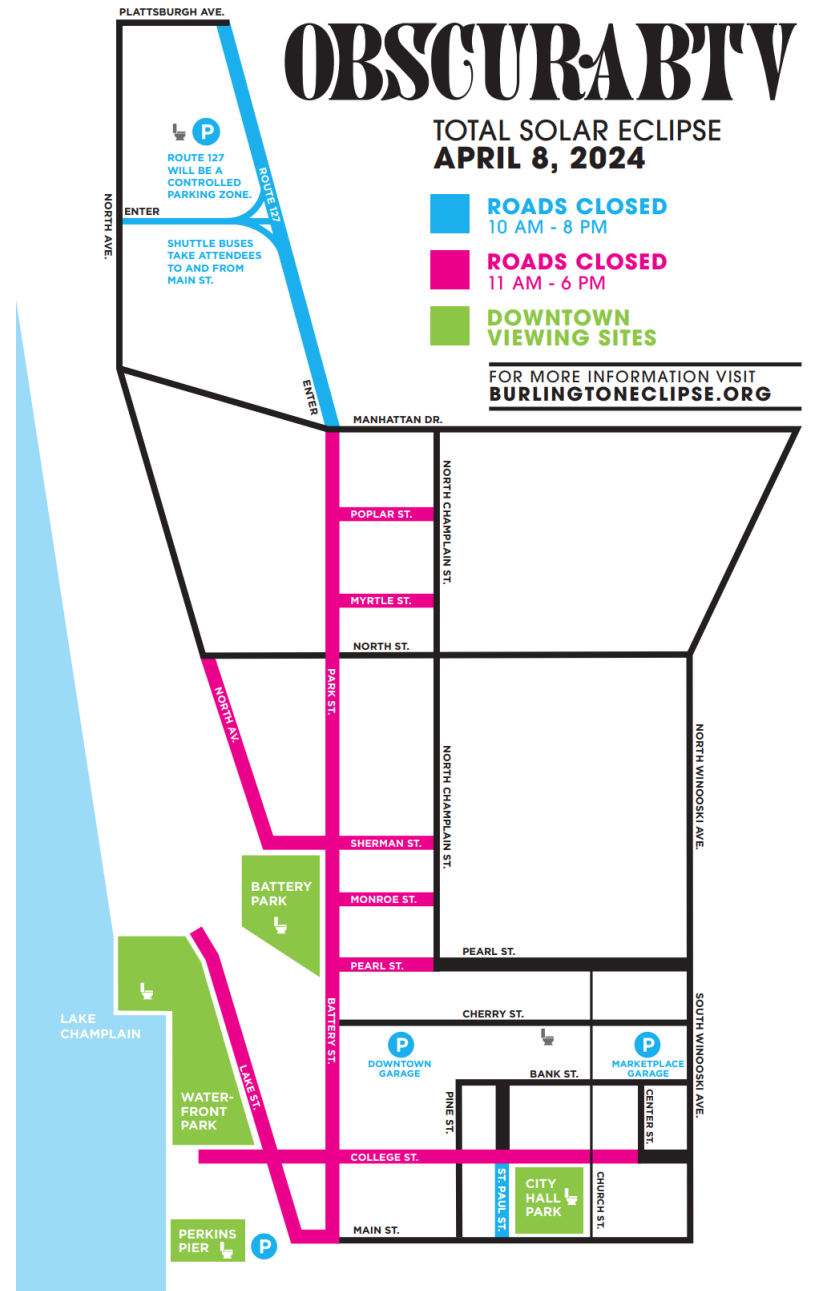
Our maximum staffing for the Eclipse Event is 40. This includes officers and professional employees and is equivalent to the number of BPD staff we had for the July 3rd Fireworks in 2023. (It should be noted that for that event we hired an additional five law-enforcement officers from neighboring agencies. We are unable to do this for the Eclipse because neighboring agencies are fully using their own personnel.)

Eight officers and five CSOs will be detailed to maintain a shuttle bus lane and street closures, shown opposite. The main route will extend from Main Street north along Battery Street and Park Street to Route 127. It will be closed to traffic other than emergency vehicles and shuttle busses, and Route 127 will be used for parking.

One supervisor and four officers will be on duty to address non-event calls for service. The remaining officers will be detailed for safety and security at the event sites and ERV staffing.

Our internal assessment is that if crowds in Burlington run from 25,000 to 50,000, we will be able to maintain the limited access lane but the rest of our roadway infrastructure will experience significant traffic, potentially at levels that will even affect emergency response.

If crowds exceed 50,000, we do not have confidence that we can maintain traffic flow anywhere in the city. Crowds in the 75,000+ range will, in all probability, create total gridlock in the city and larger crowds will potentially shut Interstate 89 as well as major arteries such as Route 7 and Route 2. ***At that point, even emergency-vehicle movement cannot be guaranteed in the city.***





SOME ADVICE FOR OUR ROADWAYS



Vermont Agency of Transportation
@AOTVermont

Vermonters, we're in the path of totality for the 4/8 solar eclipse! We expect a LOT of visitors. Help reduce traffic by encouraging family and friends who are visiting to stay longer, or help them find a way home via less-traveled roads. vermont.gov/eclipse #VTEclipse



4:00 PM · Mar 13, 2024 · 450 Views

Mar 22, 2024 – all data preliminary & subject to change



Vermont Agency of Transportation
@AOTVermont

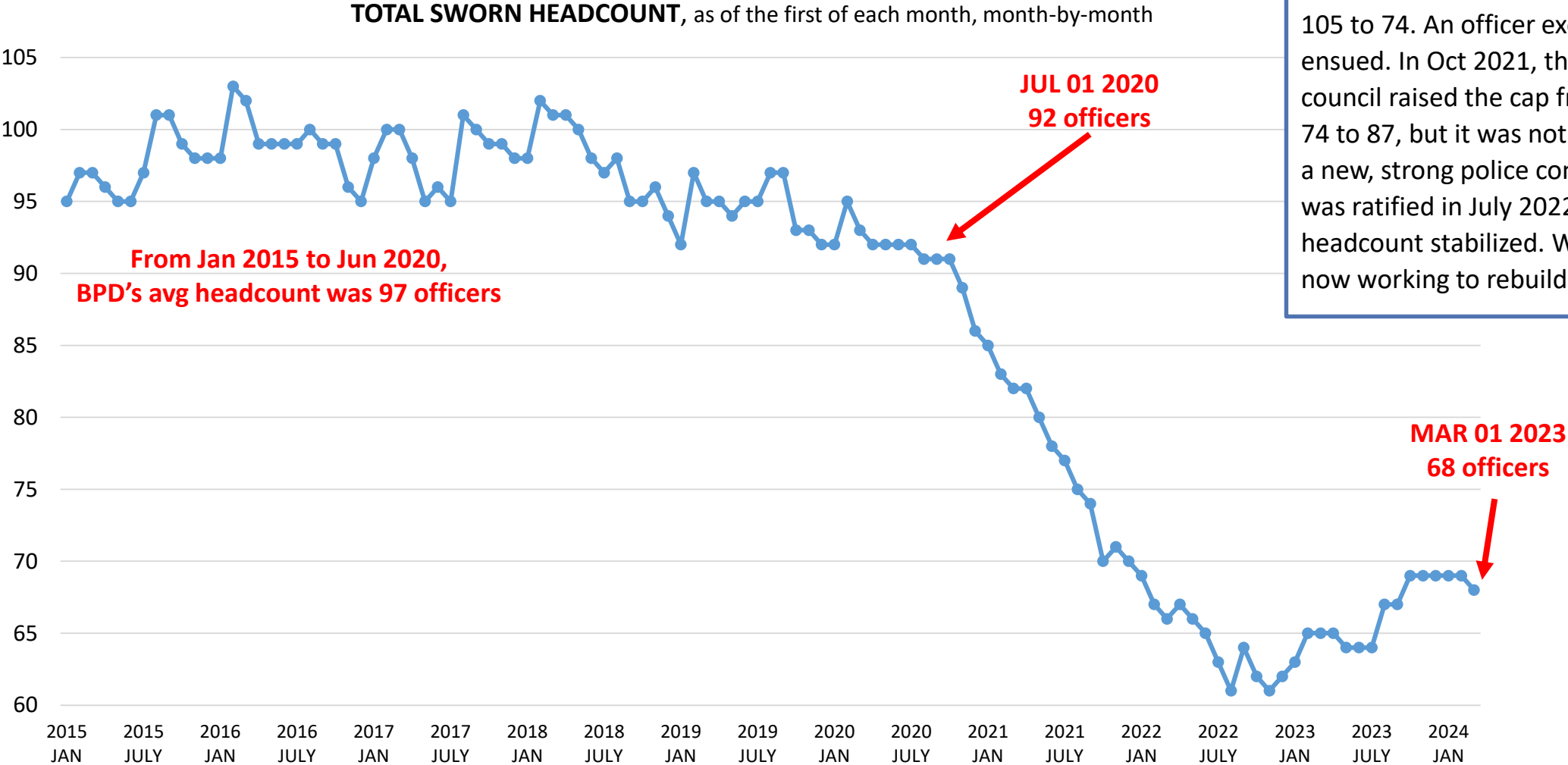
Vermont is a-buzz with planning and preparations for the solar eclipse on 4/8, which is expected to bring thousands of visitors. Please do not drive on 4/8 unless you must, and use local roads, not highways and interstates. Hunker down, Vermont! vermont.gov/eclipse #VTEclipse



4:00 PM · Mar 20, 2024 · 515 Views



BPD SWORN OFFICER HEADCOUNT, 2015-2024



In June 2020, the Burlington City Council voted to reduce, by attrition, the BPD's authorized headcount from 105 to 74. An officer exodus ensued. In Oct 2021, the council raised the cap from 74 to 87, but it was not until a new, strong police contract was ratified in July 2022 that headcount stabilized. We are now working to rebuild.



ADVERTISING

Our Recruitment team, Corporal Erwin and Coordinator Bajwa, got a full-page, centerfold ad placed in the most-read tabloid in New York City, a paper with the ninth largest circulation of any in the US. We've already had bites, and a visit from an interested NYC applicant.

Police Recruitment

JOINING THE FORCE

Want a meaningful job? Consider a career in policing

By TERRI ORMONT BLUMBERG

IDEALIS ad Mortem: Faithful unit March 2024 - all data preliminary & subject to change

women of the new Police Department live by as they protect our city ev

35

New York Post, Friday, March 8, 2024 nypost.com



START YOUR CAREER WITH US.
JOIN THE BURLINGTON POLICE DEPARTMENT TODAY.



Visit: bpdcareers.com
OR Contact Cpl.

Carolynne Erwin

- cerwin@bpdvt.org
- 802-540-2260



APPLY TODAY!

37

New York Post, Friday, March 8, 2024 nypost.com



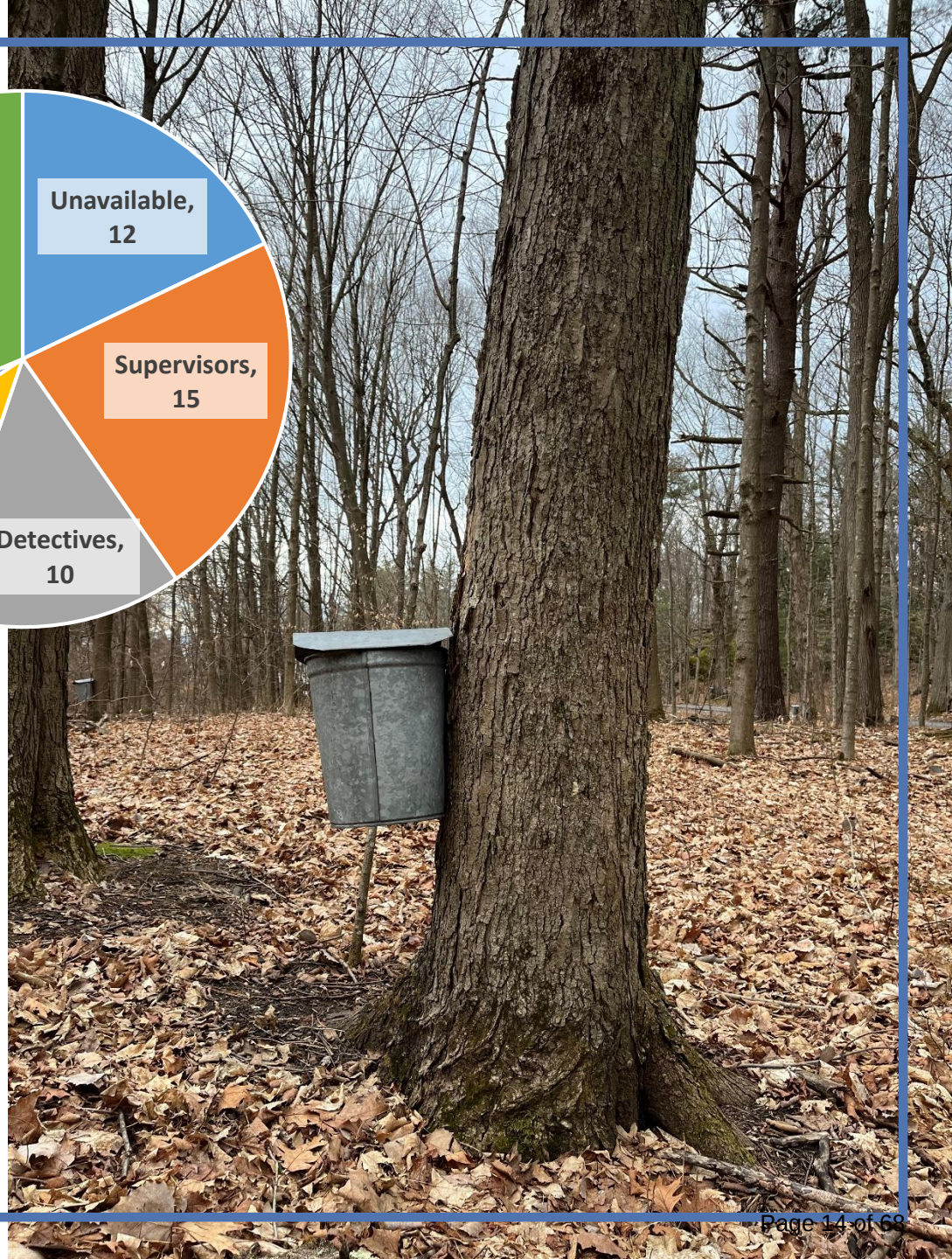
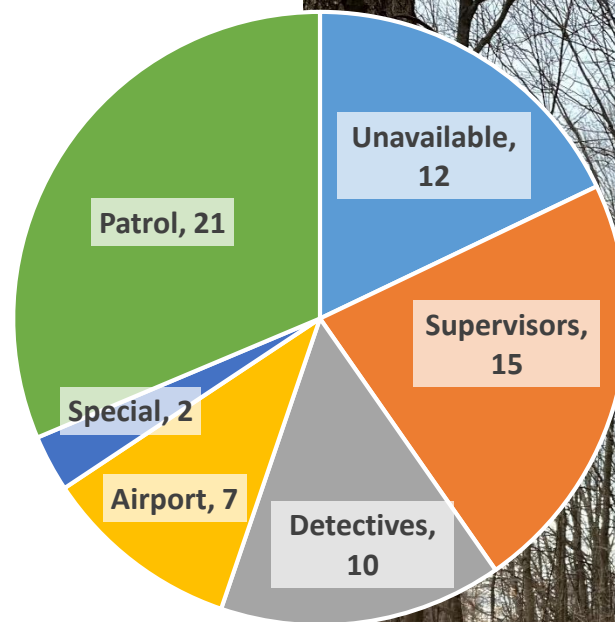
67 TOTAL, 55 AVAILABLE

As of March 15 2024, we are authorized for 87 sworn officers. Of those 87, we have 67. Of those 67, 55 are able to be deployed as solo officers, or “effective.”

minus 12 injured, light, military, FTO, etc. = 55
minus 15 supervisors = 40
minus 10 detectives = 30
minus 7 airport officers = 23
minus 2 special assignments = 21

21

officers on Patrol





INCIDENT VOLUME

YEAR-TO-DATE 03/15

Incidents in 2024 are up 21% compared to 2023. BPD is addressing more incidents with fewer patrol officers—50% fewer, actually. As a result, of the 5,450 incidents in 2024 so far, 671 have been “stacked”—i.e., 12%. And 398 have been referred to online reporting, or 7%.

	YTD INCIDENTS (as of 03/15)	%Δ
2019	5,245	100%
2020	5,352	↑2%
2021	3,239	↓40%
2022	3,602	↑11%
2023	4,524	↑26%
2024	5,450	↑21%
	Δ 2019 to 2024:	↑4%

It should be noted that not all incidents are crimes. They are more accurately “calls for service.” As shown on the previous slide, there are more than 100 categories of incident. The fact that incidents are up does not necessarily mean that crime is up; as the next slide shows, some categories of criminal incident are up and some are not.



THE PRIORITY RESPONSE PLAN

With staffing down and incident volume up, the BPD had to create the Priority Response Plan. It husbands resources while remaining true to our duty to prioritize our **NEIGHBORS' PHYSICAL SAFETY** and their sense of safety. **The Plan goes into effect when two or fewer sworn police officers are available for response; when that happens, Priority 2 and Priority 3 incidents get “stacked” and do not receive an in-person response.** When three or more officers are available, they are dispatched to all incidents regardless of Priority category.

Incidents labeled “CSO” or “CSL” initially receive a response from a CSO or CSL, rather than a sworn officer, unless the incident evolves in a way that changes its category or requires a sworn officer.

Incidents labeled “ONL” (for “Online Only”) are to be diverted to an online reporting function. Note that larcenies and retail thefts are NOT supposed to be online reports.

Additionally, during daytime weekday hours when DSB detectives are available, **DSB will handle untimely deaths.**

PRIORITY 1	High priority.
PRIORITY 2	Middle priority. (*) = situationally dependent; some may be Priority 1 or Priority 3.
PRIORITY 3	Low priority. Response may be delayed based on officer availability; may receive a CSO response.

911 Hangup		Cruelty to Animals	CSO	Illegal Dumping	CSO	Robbery	
Airport AOA Violation		Custodial Interference *		Impeding a Public Officer		Runaway	
Airport Duress Alarm		Disorderly Conduct *		Impersonation of a Police Officer *		Runaway Apprehension	
Airport PHASE		Disorderly Conduct by Elec Comm	ONL	Inciting a Felony		Search	
Alarm *		Disturbance		Intoxication	CSO	Search Warrant	
Alcohol Offense	CSO	DLS		Investigation - Cold Case		Service Coordination	CSL
Animal Problem	CSO	Domestic Assault - Felony		Juvenile Problem *		Sex Offender Registry Violation	
Arrest on Warrant		Domestic Assault - Misd		Kidnapping		Sexual Assault	
Arson		Domestic Disturbance		Larceny - from a Building		Sheltering/Aiding Runaway	
Assault - Aggravated		Drugs		Larceny - from a Motor Vehicle		SRO Activity	
Assault - Simple		Drugs - Possession		Larceny - Other		Stalking	
Assist - Agency		Drugs - Sale		Larceny from a Person		Stolen Vehicle	
Assist - Car Seat Inspection	CSO	DUI		Lewd and Lascivious Conduct		Subpoena Service	CSO
Assist - K9		Eluding Police		Lockdown Drill		Suicide - Attempted	
Assist - Motorist	CSO	Embezzlement	ONL	Mental Health Issue *		Suspicious Event *	
Assist - Other		Enabling Consumption by Minors		Minor in Possession of Alcohol		Theft of Rental Property	ONL
Assist - Public		Encampment Outreach	CSL	Missing Person		Theft of Service	ONL
Background Investigation		Encampment Policy	CSL	Motor Vehicle Complaint	CSO	Threats/Harassment *	
Bad Check	ONL	Escape		Neighbor Dispute	CSL	Traffic	
Bar / Liquor License Violation		Extortion	ONL	Noise	CSO	Trespass *	
Bomb Threat		False Info to Police		Obstruction of Justice		TRO/FRO Service	
Burglary *		False Pretenses	ONL	Operations		TRO/FRO Violation	
CHINS		False Public Alarms		Ordinance Violation - Other	CSO	Unlawful Restraint	
Community Outreach		False Swearing		Overdose		Untimely Death	DSB
Compliance Check		Fireworks	CSO	Parking	CSO	Use of Elec Comm to Lure a Child	
Computer Crime	ONL	Foot Patrol		Possession of Stolen Property		Uttering a Forged Instrument	ONL
Contributing to Delinquency of Minor		Forgery	ONL	Prescription Fraud	ONL	Vandalism	ONL
Counterfeiting	ONL	Found/Lost Property	CSO	Prohibited Acts		VIN verification	CSO
Crash - Fatality		Fraud	ONL	Property Damage	CSO	Violation of Conditions of Release *	
Crash - Injury to person(s)		Fugitive From Justice		Reckless Endangerment *		Voyeurism *	
Crash - LSA *		Graffiti Removal		Recovered Property	CSO	Weapons Offense	
Crash - Non-Investigated	CSO	Hindering Arrest		Resisting Arrest		Welfare Check *	
Crash - Property damage only	CSO	Homicide		Retail Theft			
Cruelty to a Child		Identity Theft	ONL	Roadway Hazard			



PITTSBURGH CURTAILS SERVICES

Pittsburgh, PA, has a population of 303,000 and covers 58 square miles. They currently have 740 officers and have declared a staffing and response emergency.

In Pittsburgh, the Police Chief is facing headcount reductions. The agency is down about 18% from their historic full authorization of 900 (i.e., they're down about 18% from their historic full count—For comparison, the BPD is down 35% from our historic full count. Our cities' respective officer:citizen ratios are, for authorized headcounts, 1:337 for Pittsburgh vs 1:419 for Burlington, and, for actual current headcounts, 1:410 vs 1:647.

The Pittsburgh chief wants to cut the agency's call volume from approximately 200,000 calls per year down to about 50,000. For perspective, 200,000 calls for Pittsburgh means that residents call about 6% less often, per resident, than in Burlington, with 31,000 calls for 45,000 residents.

Calls such as criminal mischief, theft, harassment, and burglary alarms will be handled by the telephone reporting unit or online reporting.

Between the hours of 3 a.m. and 7 a.m., there won't be a desk officer at any of Pittsburgh's six zone stations. On some overnight shifts, there will only be 22 officers to cover the entire city—a shocking 1:13,772 ratio. In Burlington, with one supervisor and two officers on most overnight shifts, the ratio is 1:15,000.

Mar 22, 2024 – all data preliminary & subject to change



POLICE 1

911

Pittsburgh police will only respond to calls of in-progress emergencies as part of new staffing plan

Chief Larry Sciroto aims to reduce the bureau's call volume from 200,000 calls to 50,000 calls this year

March 12, 2024 12:55 PM



Photo/Pittsburgh Bureau of Police Facebook page

By Joanna Putman

Police1

PITTSBURGH —The Pittsburgh Bureau of Police has implemented a new response policy. Beginning March 11, officers will only respond to calls of



SELECTED VALCOUR INCIDENTS, YTD AS OF MARCH 15

	Assault - Agg	Assault - Simple	Burglary	Crash w Injury or Fatal	Disorderly Conduct	Domestic Assault*	Domestic Disturb	Gunfire	Larceny (all)**	Mental Health Issue	Overdose	Robbery	Sexual Assault	Stolen Vehicle	Traffic
2019	7	31	13	14	20	21	64	0	79	174	12	4	16	13	572
2020	11	31	16	13	25	7	116	1	95	187	24	3	16	11	578
2021	7	16	10	8	14	5	94	2	114	153	18	2	9	12	184
2022	11	21	43	15	18	9	102	1	125	199	17	4	5	31	164
2023	4	30	30	16	15	13	88	1	222	195	60	0	4	73	113
2024	10	31	37	17	12	5	91	3	233	169	45	2	7	40	262

* = combines incidents categorized as “Domestic Assault – Felony” and “Domestic Assault – Misdemeanor”

** = combines incidents categorized as “Larceny from a Person,” “Larceny – from a Building,” “Larceny – from Motor Vehicle,” and “Larceny – Other”

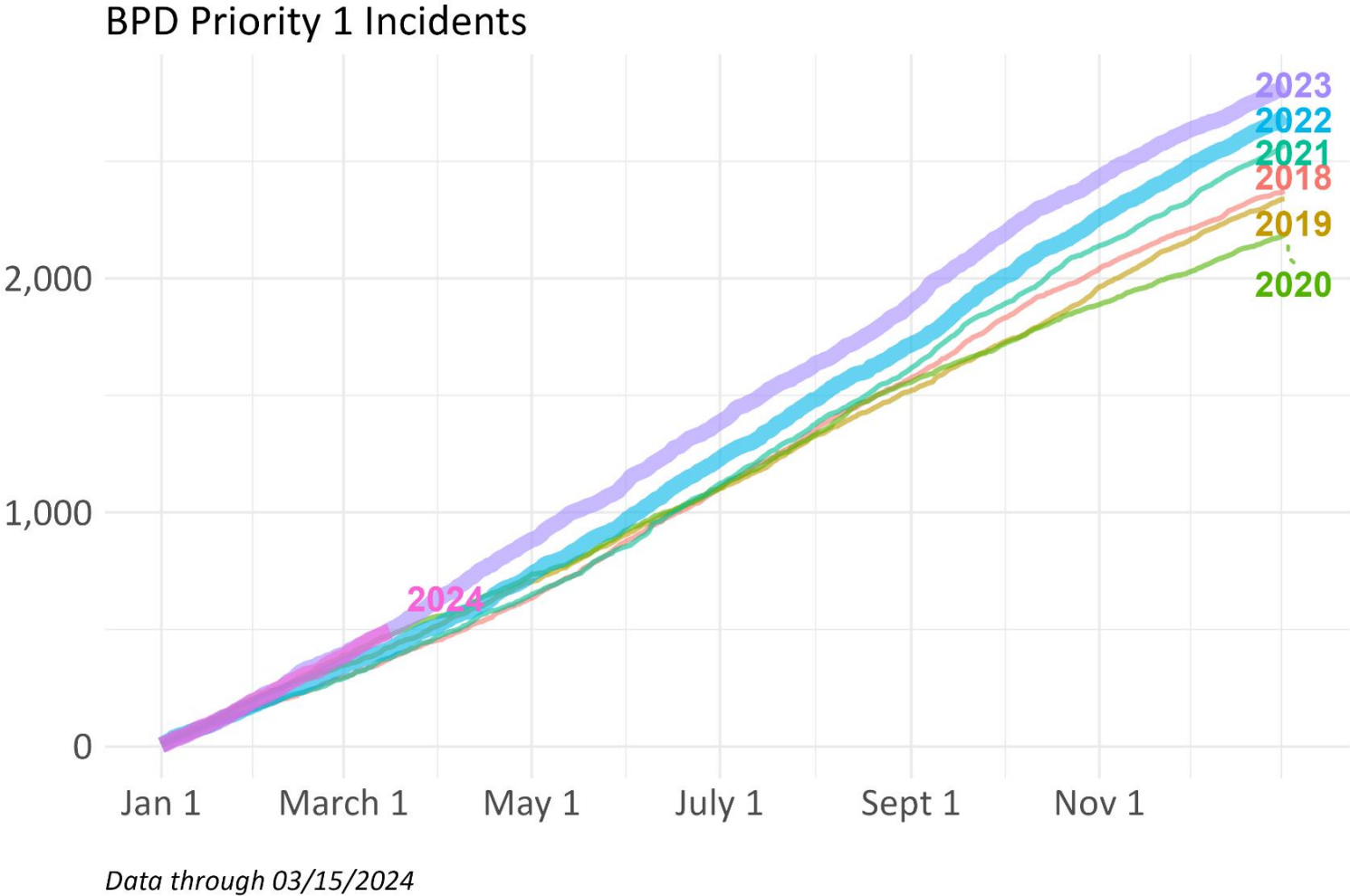
NOTE: All categories shown year-to-date, through March 15 of their respective year

NOTE: These data are derived from Valcour incidents. Valcour is the BPD’s computer-aided dispatch and records-management system. Incidents are initially categorized by dispatch according to the information provided by a caller; the category may be changed by the officer who responds to the scene and/or the detective who takes the case. Offense data and/or NIBRS data may differ.



PRIORITY 1 INCIDENTS

Priority 1 incidents have been climbing steadily over the past few years. Last year's total was significantly affected by the huge increase in overdose. So far 2024 is a bit lower than 2023.





DRUG UNIT WORK

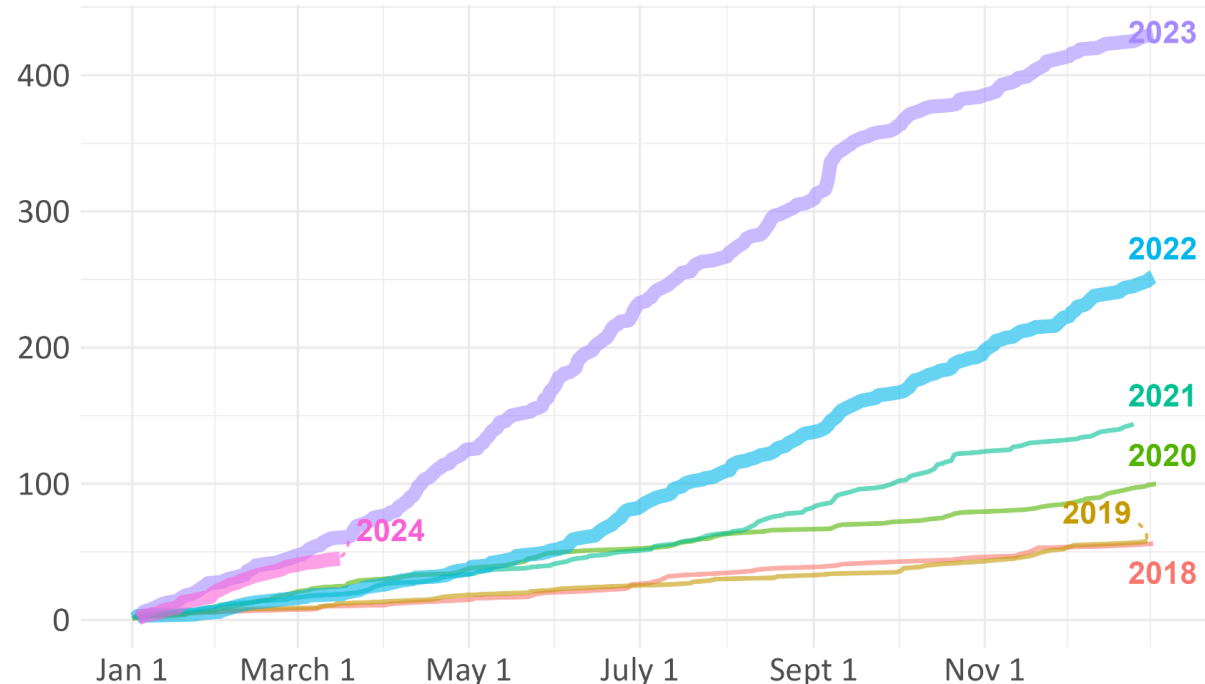
Enforcement against traffickers is a key component of addressing the drug problem. The Burlington Police Department's Drug Unit continues to disrupt and dismantle drug organizations operating in Burlington. Since late 2021, the Drug Unit's primary focus has been xylazine-laced opiates, when detectives first started hearing about "the new Philly dope." Labs identified xylazine, or "tranq," in early 2022.

Most of the organizations in Burlington connect to nearby "source cities" that supply our area with illegal drugs, Philadelphia being one. These organizations rely heavily on local community members for introductions to our city's drug scene and customer base. But it is typically out-of-state members of the organization who oversee trafficking in the Burlington area. This was true of recent BPD Drug Unit operations on [Saint Paul Street](#), on [Walnut Street](#), and on [North Champlain Street](#).

Cumulatively, we have seized tens of thousands of bags of fentanyl, usually mixed with xylazine, as well as crack cocaine, firearms, and cash.

Over the past few years there have also been more than a dozen federal convictions, thanks to the BPD's tremendous partnership with the DEA and the US Attorney's Office for the District of Vermont, including recent sentencing announcements for older drug-related cases involving [money laundering](#), [hundreds of thousands of dollars seized](#), and [multiple firearms recovered](#).

BPD Overdose Incidents



Data through 03/15/2024



THE BPD IS HIRING!

\$74,500
starting pay

\$100,000
top pay (when contract matures)

and a \$15,000
hiring bonus

- City retirement with 5-year vesting
- Shift differential, weekend, and holiday pay
- **full medical benefits** and wellness incentives
- Retirement after 20 years of service at 50% salary
- Retirement after 25 years of service at 75% salary
- 15-step pay scale for non-supervisory employees
- Overtime can be received as cash or vacation accrual
- **10-hour workday, 4-days-on/3-days-off schedule**
- **Weekends off every other month**
- Yearly education bonus
- Beards and tattoos permitted
- Various **specialty assignments** such as detectives, narcotics, K9, domestic violence prevention, airport
- **Applicant can be a non-U.S. citizen** if applicant is a permanent resident / green-card holder

www.bpdcareers.com



BURLINGTON POLICE DEPARTMENT DEPARTMENT DIRECTIVE

DD40 External and Internal Complaints, Supervisor Reviews, Administrative Reviews, Internal Investigations & Discipline

Reviewed and published March xx, 2024

PURPOSE: To ensure any person can bring forward complaints about the conduct of employees of the Burlington Police Department (BPD) whenever a person believes an employee has acted improperly. To establish a process that enables the BPD to initiate positive corrective action, re-training, or education, and, when appropriate, effective discipline for improper conduct. To guarantee that employees' due process rights are safeguarded while also protecting employees from unwarranted criticism for properly discharged duties. To support principles of fair and impartial policing within the BPD by delineating the role of the Board of Police Commissioners in reviewing complaints against employees.

POLICY: The Burlington Police Department has a well-established tradition of serving the community with integrity and professionalism. To maintain our proud tradition and continue improving the quality of the BPD's service, each and every employee must accept responsibility for maintaining high professional standards.

CONTENTS:

- I. Definitions
- II. External and Internal Complaints
- III. Supervisor Reviews, Administrative Reviews & Internal Investigations
- IV. Supervisory Authority
- V. Employee Rights and Obligations
- VI. Administrative Quality Control
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I. DEFINITIONS

- A. **Complaint.** Any allegation that a BPD employee has performed in an unsatisfactory manner. This includes allegations of corruption, or allegations that a BPD employee has violated the BPD's rules or directives, or the laws of the City of Burlington, the State of Vermont, or the United States of America.

1. External complaint. A complaint made against a BPD employee by a person who is not a BPD employee shall be considered an external complaint.
2. Internal complaint. A complaint made against a BPD employee by a person who is also a BPD employee shall be considered an internal complaint.
 - a. This includes performance-related complaints made by supervisors against subordinates that require a second supervisor to conduct a review. It does not include performance-related issues that a supervisor can address via verbal coaching or written performance counseling.
3. Invalid complaint. A complaint made against a BPD employee or filed with the BPD that is inapplicable to the BPD shall be considered an invalid complaint. Examples include complaints that refer to a different Burlington (e.g., Burlington, North Carolina, or Burlington, Ontario), complaints that are clearly related to a complainant's mental health and are indicative of delusion or fantasy, complaints that refer to employees of a different department of the City of Burlington, and complaints that describe a crime experienced by the complainant that does not involve a BPD employee (e.g., a person mistakenly uses the *Burlington Police Citizen Complaint Form* to report a stolen vehicle).

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- B. **Corruption.** Any activity or other conduct committed by a member of the BPD, whether on or off duty that, if substantiated, would constitute a crime.
- C. **Disciplinary action.** There is a continuum of responses to infractions. Disciplinary actions may include written reprimand, reassignment, demotion, unpaid suspension, and dismissal.
- D. **Effective internal affairs program.** As defined in 20 VSA § 2401, this means that the BPD does all of the following:
 1. Accepts complaints against its employees from any source.
 2. Assigns an investigator to determine whether an employee violated the law or any BPD rule or directive.
 3. Establishes a code of conduct that outlines expectations for employees and describes prohibited activity for employees.
 4. Provides due process rights and progressive discipline.
 5. Treats its accused employees fairly and decides employee discipline based on just cause, a set range of discipline for offenses, consideration of mitigating and aggravating circumstances, and due process rights.
 6. Provides for review of employee discipline by citizens outside the department.
- E. **Employee.** Any person employed by the Burlington Police Department, to include sworn officers, sworn supervisors, and sworn reserve officers and all non-sworn professional staff members, regardless of their bargaining union (or lack thereof).
- F. **Infractions.** There is a continuum of infractions, ranging from low-level infractions to criminal conduct that violates the laws of the State of Vermont or the United States of America.

1. Lower-level infractions of policy and procedure typically result in coaching, training, or counseling prior to imposing discipline. These types of infractions do not generally result in a formal Administrative Review or Internal Investigation. Examples of lower-level infractions could include but are not limited to:
 - a. Tardiness;
 - b. Misuse of sick time;
 - c. Late paperwork that does not adversely impact a case;
 - d. Improper care and maintenance of equipment;
 - e. Discourtesy;
 - f. On-duty cruiser operation in violation of 23 VSA, etc.
2. Mid-level infractions or repetitive lower-level infractions are generally handled at the lowest possible level beginning with a letter of reprimand or admonishment, and progressing into more substantial discipline such as suspension. Examples of mid-level infractions could include but are not limited to:
 - a. Repetitive lower-level issues;
 - b. Carelessness with firearms;
 - c. Accepting de minimis gratuities;
 - d. Low-level neglect of duty such as
 - i. Absences
 - ii. Falling asleep on a night shift;
 - e. More substantial courtesy matters; etc.
3. Higher-level infractions may result in more substantial discipline. These kinds of infractions could include but are not limited to things such as:
 - a. Veracity issues;
 - b. Harassment;
 - c. Excessive force;
 - d. Knowing associations with criminals or targets of investigation;
 - e. Abuse of authority;
 - f. Failure to follow orders;
 - g. Political activity restrictions;
 - h. Criminal conduct in violation of Vermont law or federal law.



- G. **Non-disciplinary action.** There is a continuum of responses to infractions. Non-disciplinary actions may include education, training or retraining, verbal coaching, written performance counseling, or referrals to professional counseling.
- H. **Other misconduct.** Any activity, improper behavior, or other conduct committed by a member of the BPD, whether on or off duty that, if substantiated, would impugn the integrity of the BPD in a way that would erode the trust and ability to assist witnesses, victims, or other members of the public.
- I. **Review.** All valid complaints will be reviewed. There are three levels of review, in ascending order of complexity and seriousness: supervisor review, Administrative Review, and Internal Investigation. See Section III.

II. EXTERNAL AND INTERNAL COMPLAINTS

A. **All complaints accepted.** Allegations that a BPD employee has committed an infraction may be initiated from outside or inside the BPD. Every such allegation will be accepted by the BPD. All complaints must be reported to the Chief of Police.

1. The most common manner in which complaints are lodged is via the City of Burlington's website, on the Police Department page, under the tab "Citizen Complaints and Compliments," where users can access the *Burlington Police Department Online Citizen Complaint Form*. This is an online, fillable e-form. The independent Board of Police Commissioners automatically receives all online complaints.
2. Written copies of the *Citizen's Complaint Form*, which can be completed by a complainant, are also available at the City website. A copy of the form is included in the appendix of this directive. Additionally, forms are available at:
 - a. City offices: such as the Mayor's office, the Community Justice Center, CEDO, the City Attorney's office, the Miller Center, Parks & Recreation, and the Burlington Electric Department.
 - b. Non-governmental locations: such as the Peace and Justice Center, Migrant Justice, AALV, and Burlington High School.
3. Complainants will be asked to provide a preliminary category describing the nature of their allegations, selecting from:
 - a. Force. A complaint alleging that a BPD officer used force that was not objectively reasonable. Excessive force is force that is not objectively reasonable from the perspective of a reasonable officer in the same circumstances. ***Excessive force will not be tolerated.***
 - b. Abuse of authority. A complaint alleging that an officer took actions for a purpose other than to accomplish a lawful law-enforcement objective, including unauthorized searches or seizures of persons, houses, papers, and effects or inappropriate entry onto private property. Abuse of authority includes racial profiling or other biased policing, as described in *DD03 Fair and Impartial Policing*, Section IX E.
 - c. Courtesy. A complaint alleging that a BPD employee acted in a rude or unprofessional manner, used rude or offensive gestures or profane language.
 - d. Offensive language. A complaint alleging that a BPD employee used language that was degrading on the basis of ethnicity, race, sex, sexual orientation, or any other protected class as described in 13 VSA § 1455.
 - e. Other department violation. A complaint alleging a violation that does not fit into the above categories.

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B. **Citizen allegations.** These are external complaints. Anyone can lodge a complaint against a BPD employee.

1. Complaints in writing. Any person can use the online *Burlington Police Department Online Citizen Complaint Form* or complete a written *Citizen's Complaint Form*. Any person making a complaint can choose to remain anonymous. If the person provides

contact information, a BPD supervisor will confirm the receipt of the complaint within two business days.

2. **Verbal complaints.** Any person can make a verbal complaint. If the person verbally makes a complaint to a non-supervisory employee, the employee will listen and record basic facts. If the employee has a body-worn camera, the employee will activate it. The employee will then direct the person to a supervisor for additional documentation and/or to the variety of reporting methods described above. If the person elects not to document the complaint with a supervisor, the employee who received the complaint will share the basic facts with the Officer in Charge (OIC) prior to the end of the shift. The OIC will fill out a copy of the *Citizen's Complaint Form* with as much information as is available and inform the Deputy Chief of Administration and the Chief of Police.

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- C. **Employee allegations.** These are internal complaints. Any employee can lodge a complaint against another employee. The employee may use the online *Burlington Police Department Online Citizen Complaint Form* or complete a written *Citizen's Complaint Form*. More frequently, the employee may verbally transmit the complaint to any BPD supervisor. The supervisor will notify the Chief of Police, via the chain of command.

1. **The Human Resources Department.** The employee may also make the complaint to the City of Burlington Human Resources department. If the employee belongs to a union, the employee may also make the complaint to a representative of that union.
2. **Reporting corruption.** If the complaint alleges corruption, employees must follow the reporting procedures described in *DD43 Reporting of Corruption and other Misconduct*.
3. **Other reporting venues.** Nothing described herein shall prevent an employee from reporting criminality to an appropriate law-enforcement entity other than the BPD, such as the Vermont State Police, the Office of the Chittenden County State's Attorney, the Office of the Vermont Attorney General, the United States Attorney's Office for the District of Vermont, or federal law-enforcement agencies such as the Federal Bureau of Investigation.

- D. **The Board of Police Commissioners.** All *Burlington Police Department Online Citizen Complaint Forms* are automatically forwarded to the Burlington Police Commission via email. For any written *Citizen's Complaint Form* received by the BPD or filled out by an OIC, the Deputy Chief of Administration will transmit it to the Police Commission within five business days of receipt.

- E. **Minor misunderstandings.** An exception to the BPD's citizen complaint policy applies to minor misunderstandings on the part of a complainant, which can be quickly resolved with an explanation of state law and/or BPD policy. Such minor misunderstandings may be resolved by the line supervisor and should be documented on either the Shift Report or via an e-mail to the Deputy Chief of Administration and the Chief of Police. If the complaining citizen is not satisfied with this resolution, the line supervisor will assist the citizen in completing a *Citizen's Complaint Form*.

F. **Review or investigation.** Upon receiving an online complaint, a written *Citizen's Complaint Form*, or a supervisor's notification of an internal complaint, the Chief of Police will determine whether a supervisor review, an Administrative Review, or an Internal Investigation is appropriate. The Chief of Police will forward all relevant information to the Deputy Chief of Administration, who will assign a supervisor to conduct the appropriate review or investigation.

1. If a complaint appears to involve possible criminal conduct, the Chief of Police will refer it to the Vermont State Police for investigation and/or consult with the Chittenden County State's Attorney's Office to determine appropriate next steps.

III. SUPERVISOR REVIEWS, ADMINISTRATIVE REVIEWS & INTERNAL INVESTIGATIONS

It is a standard supervisory responsibility that a first-line supervisor should examine subordinate conduct for the purpose of performance counseling and coaching. External or internal complaints require more substantial review. All valid complaints will be reviewed. There are three levels of review, listed below, from least to most complex. All reviews begin from the allegations in the written complaint, if one is available, or statements made by the complainant. All reviews examine available Department reports and records, such as recordings from the Emergency Communications Center, Valcour incident narratives, or body-worn camera video. All reviews result in an overview and recommendation for the Chief of Police.

A. **Supervisor review.** The Deputy Chief of Administration will select a supervisor to conduct a review of the complaint. The supervisor shall have no interest in or attachment to the issue or employee(s) being reviewed.

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1. If the assigned supervisor determines that it is necessary to conduct a formal, noticed interview of any BPD employee, the assigned supervisor will so inform the Deputy Chief of Administration, who will transition the supervisor review into an Administrative Review.
2. If the assigned supervisor determines that there is a possible violation of *DD03 Fair and Impartial Policing* or *DD05 Statewide Policy on Police Use of Force*, the assigned supervisor will so inform the Deputy Chief of Administration, who will transition the supervisor review into an administrative review.

B. **Administrative Review.** The Deputy Chief of Administration will select a supervisor in the rank of lieutenant or above to conduct an Administrative Review. The supervisor shall have no interest in or attachment to the issue or employee(s) being reviewed.

1. If the assigned supervisor determines that it is necessary to conduct a formal, noticed interview of any BPD employee, as subject or witness, the supervisor will provide a formal notice to the employee. Immediately prior to beginning the administrative interview, the supervisor will provide a Garrity warning. Templates of the notice and the Garrity warning are included in the appendix of this directive.

2. If the assigned supervisor determines that the review indicates a pattern of misconduct beyond the specific allegation, the assigned supervisor will so inform the Deputy Chief of Administration, who will transition the Administrative Review into an Internal Investigation.
3. If the assigned supervisor determines that the review, if it proves the allegation(s), could lead to a substantial penalty involving suspension, demotion, or termination, the assigned supervisor will so inform the Deputy Chief of Administration, who will transition the Administrative Review into an Internal Investigation.

C. **Internal Investigation.** The Deputy Chief of Administration selects a supervisor in the rank of lieutenant or above who has attended an accredited Internal Affairs Investigator course to conduct an Internal Investigation. The supervisor shall have no interest in or attachment to the issue or employee(s) being investigated.

1. If the assigned supervisor determines that it is necessary to conduct a formal, noticed interview of any BPD employee, as subject or witness, the supervisor will provide a formal notice to the employee. Immediately prior to beginning the administrative interview, the supervisor will provide a Garrity warning. Templates of the notice and the Garrity warning are included in the appendix of this directive.
2. If the assigned supervisor develops reasonable suspicion that the incident under investigation involves a crime, the assigned supervisor will immediately notify the Deputy Chief of Administration, who will report it to the Chief of Police. In consultation with the Burlington City Attorney, the Chief of Police will determine whether to continue the Internal Investigation or refer it to another agency, such as the Vermont State Police.

IV. SUPERVISORY AUTHORITY

All supervisory personnel, to include sergeants, lieutenants, the Executive Manager, the Assistant Director of Crisis, Advocacy, Intervention Programs (CAIP), and deputy chiefs, have the authority to take the following disciplinary actions against a subordinate:

- A. **Issue verbal reprimands.**
- B. **Issue written reprimands.**
- C. **Temporarily place an employee on administrative leave.** Any supervisor can order a subordinate to take temporary administrative leave. Upon observing or learning about misconduct that, in the supervisor's estimation, renders the employee incompetent or incapable, the supervisor can place the subordinate on paid administrative leave for the duration of the shift on which the conduct was revealed.
 1. Such leave can only extend to the next shift for which the Chief of Police or a deputy chief (or, if applicable, the Assistant Director of CAIP) is available.
- D. **Recommend further disciplinary action to the Chief of Police.**

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V. EMPLOYEE RIGHTS AND OBLIGATIONS

The rights and obligations of employees who are under investigation and subject to interrogation for any reason that could reasonably lead to disciplinary action are set forth in the collective bargaining agreements, specifically the *Agreement between the City of Burlington and the Burlington Police Officers' Association* (hereafter the BPOA CBA) and the *Agreement between the City of Burlington and Local 1343 of the American Federation of State, County, and Municipal Employees* (hereafter the AFSCME CBA). **The procedure outlined in the BPOA CBA contract shall be followed for all Internal Investigations.** This procedure shall be used for any BPD employee, sworn or unsworn, regardless of the involved employee's position or role. Additionall, for all BPD employees, the following shall also apply:

- A. **Notice.** For any Administrative Review or Internal Investigation in which an employee is to be administratively interviewed, the employee will be informed in writing prior to the interview. The notice will inform the employee whether he or she is a subject or witness. The notice will include the rules or directives that are alleged to have been violated. The notice will name the assigned investigator, if available. The notice will include referral for employee wellness services. At the time of the administrative interview, a Garrity warning will be provided to the employee. Templates of the notice and the Garrity warning are included in the appendix of this directive.
- B. **Scope of interviews.** All interviews shall be limited in scope to activities, circumstances, events, conduct, or acts that pertain to the incident that is the subject of the investigation.
1. **Truthfulness.** As stated in *DD01 Law Enforcement Role & Authority, Ethics, Department Rules*, Rule 26, employees shall truthfully answer all questions specifically directed to the scope of employment and operations of the BPD, to include questions asked during the course of an Internal Investigation.
- C. **Prohibitions.** No employee shall be compelled to take a polygraph, participate in a photo or live line-up, disclose financial records, or submit to medical or laboratory examinations during the course of an internal investigation.
- D. **Prompt process.** Administrative Reviews and Internal Investigations shall be completed and findings shall be issued promptly, normally within thirty days. The time required may vary from case to case based on the nature of the allegation(s) and the complexity of the investigation. If additional time is necessary to complete the investigation, the Chief of Police may authorize an extension of up to sixty days, for a maximum time limit of ninety days from receipt of the complaint to the issuance of findings.
1. **Criminal investigations.** For any Internal Investigation into a matter that also involves a criminal investigation into the matter, such as an officer-involved shooting or lethal force incident as described in *DD05 Statewide Policy on Police Use of Force* Appendix A, the criminal investigation—and, is applicable, prosecution—shall proceed and conclude prior to the conclusion of the BPD's Internal Investigation. The

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ninety-day time limit shall not include the time required for the criminal investigation or prosecution. The BPD shall not interview an employee prior to the employee's being interviewed by the criminal investigators.

VI. ADMINISTRATIVE QUALITY CONTROL

The Chief of Police shall accept all complaints. The Deputy Chief of Administration shall oversee the processing of external and internal complaints, and the execution of supervisor reviews, Administrative Reviews, and Internal Investigations.

- A. **Complaint tracking.** On a regular basis, the Deputy Chief of Administration shall report the status of all complaints and reviews directly to the Chief of Police. On a regular basis, the Deputy Chief will also communicate with a designated member of the Board of Police Commissioners. Furthermore, the Deputy Chief will provide status updates or resolutions to the Board of Police Commissioners in executive session at each monthly meeting.
- B. **Procedures.** Upon receiving a complaint from the Chief of Police, the Deputy Chief of Administration will select a supervisor to conduct the review.
 1. The supervisor conducting the review shall have freedom of movement and authority to examine all BPD reports and records, including audio and video records, regarding infractions of Departmental policy, procedure, or rules and regulations. A supervisor conducting noticed administrative shall have the authority to question any BPD employee regarding infractions of BPD or City training, directives, or practices.
 2. No retaliatory measures shall be taken against any employee who has properly conducted a review, unless in the process the law is broken and/or misconduct occurs.
 3. Upon completion of reviews, the Deputy Chief of Administration will forward all findings to the Chief of Police.
- C. **Complaint records to be confidential.** The Deputy Chief of Administration shall maintain a complete record of complaints. These records shall be maintained separate from all other BPD records and shall be strictly confidential.
- D. **Record of complaints.** The Deputy Chief of Administration, or his/her designee, will maintain a written record of each complaint.
 1. That written record will at a minimum include:
 - a. The name(s) of the employee(s) involved.
 - b. The date of receipt of the allegation.
 - c. The date of the alleged incident, if known.
 - d. The type or nature of the allegation.
 - e. The name(s) of the supervisor who conducted the review.
 - f. The final disposition of each complaint.
 - g. How the matter was closed out with the complainant.

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2. In addition, if the complaint involves an allegation of excessive use of force, or an allegation of dishonesty or other serious misconduct, the written record will include:
 - a. A description of all action taken in response to the complaint.
 - b. An inventory of all witnesses, documents, evidence, or other information obtained or consulted in the course of the investigation.
- E. **Supervisor responsibility.** Supervisors are responsible for the prompt investigation of all alleged acts of misconduct or other breaches of discipline by employees they supervise. At a minimum, such allegations compel the supervisor to elevate the allegations through the chain of command.
- F. **Communication with the complainant.** The Deputy Chief of Administration shall ensure the following with regards to maintaining contact with the original complainant:
 1. The Deputy Chief of Administration will advise the complainant when the complaint is received.
 2. When reasonable, the Deputy Chief of Administration will periodically inform the complainant as to the status of the complaint, including its resolution.
- G. **Statistical summary.** On an ongoing basis, the Deputy Chief of Administration shall compile a statistical summary of all complaints investigated. This summary shall include the number of supervisor reviews, Administrative Reviews, and Internal Investigations and the category of disposition of each. This summary shall be made available to agency employees and the Board of Police Commissioners upon request. If a trend indicating the need for training is detected, the Deputy Chief of Administration shall make appropriate recommendations to the Training Unit and the Chief of Police. Additionally, each instance in which a complaint is received is an opportunity to examine practices, procedures, and conduct. Each should be examined and alterations to policy, practice, or operations incorporated swiftly as necessary.
- H. **Public transparency.** Every six months, the BPD will release a summary of all Administrative Reviews and Internal Investigations that have been completed since the last release. The summary will be anonymized, but will contain the category of the complaint, a description of the complaint (including the sex and race of involved persons), and the findings, disposition, and discipline levied, if applicable.

VII. AUTHORITY AND ACTIONS OF THE CHIEF OF POLICE

The Chief of Police derives authority from the Municipal Charter of the City of Burien. Specifically, in 24 App. VSA ch. 3, § 183 (a), the charter states:

Whenever it shall appear to the Chief that any member of said force has become incompetent, inefficient, or incapable from any cause, or is or has been negligent or derelict in his or her official duty, or is guilty of any misconduct in his or her private or official life, or whenever any well-grounded complaints or charges to such effect are made in writing to the Chief by a responsible person against such

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member, the Chief may investigate and, after appropriate notice and hearing, dismiss such member from the force, order a demotion in rank, or suspend the member without pay for a specified time period in excess of 14 days. In connection with any possible dismissal, demotion, or suspension for more than 14 days, the Chief's notice to the member shall be given at least 48 hours prior to any hearing and shall include a description of the charges being considered. In connection therewith, the Chief shall have the power to subpoena witnesses and to administer the oath to such witnesses. The Board of Police Commissioners shall hear any appeal filed in a timely manner with respect to such actions of the Police Chief. The time of filing an appeal and the nature of the appellate process shall be as determined by such Board of Regulation. Following its consideration of any such appeal, the Board may affirm, modify, or vacate the decision made by the Chief of Police.

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Furthermore, 24 App. VSA ch. 3, § 183 (d) states:

The Chief may, without notice or hearing for any infraction, violation, or disobedience of any of the rules and regulations of the Police Department that may seem to the Chief sufficient, suspend from duty without pay any member of the police force for a period not to exceed 14 days.

By practice and by this directive, the Chief of Police shall accept all complaints, direct that complaints be reviewed, assess those reviews, issue findings based on the reviews, and, as appropriate, levy non-disciplinary action or disciplinary action.

- A. **Totality of circumstance.** It is not practical, nor possible, to establish a firm and set penalty and corrective measure for every conceivable situation necessitating the taking of disciplinary action. Extenuating or mitigating circumstances and other factors will govern the severity of disciplinary action.
- B. **Administrative leave.** Unlike suspension without pay, administrative leave is an employment status that continues to remunerate the employee at his or her normal base compensation. As described in the *City of Burlington Comprehensive Personnel Policy Manual*, in Section 6.17, the Chief of Police can place a BPD employee on paid administrative leave from duty at any time that the Chief believes it is in the best interests of the BPD or of the employee that the employee be placed on a leave from his or her duties. Examples of reasons for a paid administrative leave include but are not limited to: the need to conduct an Internal Investigation; the need for criminal charges to be pursued; the need to curtail the subject employee's access to Criminal Justice Information Systems (CJIS) while under investigation. Furthermore, paid administrative leave may be warranted if, in the judgment of the Chief of Police, the employee's continued presence at work is detrimental to the efficiency of the BPD, the wellbeing or morale of other BPD employees, or the best interests of the public.
- C. **Findings.** The Chief of Police shall:

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1. Assess every review to determine the appropriate disposition.
2. Make a finding, using the following categories of disposition:
 - a. Unfounded. The act or acts described in the complaint did not occur or did not involve BPD employees.
 - b. Exonerated. The act or acts described in the complaint did occur, but were justified, lawful, and proper.
 - c. Non-sustained. The review failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.
 - d. Sustained. The review disclosed sufficient evidence to prove the allegations made in the complaint.
 - e. Non-involved. The review established that the individual named in the complaint is not involved in the alleged incident.
3. The Chief of Police or his/her designee shall make reasonable efforts to notify the complainant, in writing, of the outcome of the review.
4. In the event of a “sustained” disposition following a supervisor review, the Chief of Police or Deputy Chief of Administration will notify the subject employee, in writing, of the disposition.
5. At the conclusion of any Administrative Review or Internal Investigation, the Chief of Police or Deputy Chief of Administration will notify the subject employee, in writing, of the disposition.

D. **Loudermill hearing.** Upon issuing a “sustained” disposition for an Internal Investigation for which the discipline is likely to include suspension, demotion, or dismissal, the Chief of Police will afford the subject employee with a Loudermill hearing. In keeping with *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), this is a hearing that allows the employee to explain or justify his or her conduct, or rebut evidence, or provide a counternarrative to the case. The Chief will deliver a Loudermill notice to the employee and set a hearing within a reasonable time. The notice will include a specific description of the charges, an explanation of the BPD’s evidence, and a preliminary disciplinary proposal. The hearing permits the subject employee to confront the allegations, correct any errors in the Internal Investigation, and address the type or level of discipline being considered.

E. **Deliberation.** When considering a disposition and possible discipline for Administrative Reviews or Internal Investigations, the Chief of Police shall consult with the Mayor, and/or the City Attorney, and/or the Director of Human Resources as necessary. Such consultation is required for any case that involves serious bodily injury to any participant, or that raises significant public concern.

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VIII. DISCIPLINE

After issuing findings, the Chief of Police shall determine appropriate discipline. In certain instances, described below in IX C 2, the Chief of Police must share a *recommendation* for discipline with the Police Commission prior to *finalizing* that discipline. The BPD strives to engage in progressive and corrective discipline. Whenever it is necessary to discipline an

employee, it shall be done fairly and in such a manner as not to embarrass the employee in front of the public or fellow employees.

- A. **Continuum of response.** Outcomes of reviews or investigations may result in a continuum of responses that includes education and training, performance counseling, corrective action, or discipline. The continuum includes but is not limited to (responses may include more than one of the items in the continuum in some instances):

1. Verbal performance counseling or coaching
2. Training/re-training
3. Written performance notation/ Coaching Report
4. Written counseling/"Performance File Entry"
5. Referral to professional counseling, such as the Employee Assistance Program
6. Written reprimand—the first level of "discipline"
7. Reassignment
8. Suspension or forfeiture of pay
9. Demotion
10. Dismissal

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- B. **Training and corrective discipline.** The BPD recognizes and encourages the use of training as an effective method of improving employee productivity, morale, and adherence to policies. The BPD agrees with the tenets of progressive and corrective discipline, where appropriate.
- C. **Severity of discipline.** The severity of a disciplinary action shall be commensurate with the cause of the action. The specific types of disciplinary measures to be taken against an employee are defined in the applicable collective bargaining agreement or the City's Personnel Policy.
- D. **Verbal counseling.** The BPD encourages supervisors to verbally counsel and coach employees for minor transgressions, when appropriate. Counseling shall not be considered a disciplinary measure and may not need to be documented. There may be occasions, however, when a supervisor will document an informal verbal counseling in the employee's performance file. This notation is not discipline. It is merely a record of the issue made available to other supervisors should there be additional transgressions of this same nature. The documentation will be on the BPD's triplicate form entitled "Employee Performance Entry." One copy is provided to the employee, one copy is sent to the Deputy Chief of Administration, and one copy remains in the performance file until it is removed. Any action taken beyond informal employee counseling and that documentation shall be considered a disciplinary action and must be consistent with the provisions of this directive and the applicable contract or policy.
- E. **Purpose of disciplinary decisions.** It is critical that a system of discipline be established that contributes to minimizing abuse of police authority and promotes the BPD's reputation for professionalism. Each employee must understand and be guided by the BPD's standards. It is recognized and understood that employees will make errors in

judgement from time to time in carrying out their responsibilities. While each error in judgment offers an opportunity for the BPD and the employee to learn, it is also understood some errors will have greater consequences than others for the public, the BPD, and the employee. The BPD has an obligation to make its expectations as clear as possible to its employees. The BPD has an equal obligation to make the consequences for failing to meet those expectations clear.

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F. Factors in disciplinary decisions. Described here are the factors that will be considered in the disciplinary decision process for alleged breaches of policy or rules.

1. **Employee motivation.** The BPD exists to serve the public. One factor in examining an employee's conduct will be whether or not the employee was acting in the public interest. An employee who violates a policy or procedure in an effort to accomplish a legitimate police purpose, and who demonstrates an understanding of the broader public interest inherent in the situation, will be given more positive consideration in the determination of consequences than one who was motivated by personal interest. From time to time it may be difficult to distinguish between public and personal interest. As an example, arresting a dangerous criminal is in the public's interest. However, violating the criminal's Constitutional rights in order to do so is not in the public's interest. The greater public interest is for the BPD to carry out its responsibilities while protecting the public's Constitutional guarantees. But if an employee attempts to devise an innovative, nontraditional solution for a persistent crime or service problem and unintentionally runs afoul of minor procedures, the desire to encourage creativity may carry significant weight in determining any discipline that might result.
2. **Degree of harm.** The degree of harm that an error causes is also an aspect in deciding the consequences of an employee's conduct. Harm can be measured in a variety of ways. It can be measured in terms of the monetary cost to the department and community. For example, an error that causes significant damage to a vehicle could be examined in light of the repair costs. Harm can also be measured in terms of the personal injury the error causes, such as the consequences of an unnecessary use of force. Another way in which harm can be measured is the impact of the error on public confidence. An employee who engages in criminal conduct could affect the public confidence in the BPD if the consequences do not send a clear, compelling message that the conduct will not be tolerated.
3. **Employee experience.** The level of experience of employees is a factor. A relatively new employee (or an experienced employee in an unfamiliar assignment) will be given consideration when judgment errors are made. Conversely, an employee who makes a judgment error that would not be expected of one who has a significant amount of experience may expect more serious sanctions.
4. **Intentional and unintentional errors.** Errors can be classified as intentional or unintentional.
 - a. An unintentional error is an action or decision that turns out to be wrong, but based upon the information available at the time it was taken, seemed to be in compliance with policy and the most appropriate course. Unintentional errors also include those momentary lapses of judgment or acts of carelessness that

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result in minimal harm. Employees will be held accountable for these errors but the consequences will be more corrective than punitive unless the same errors persist.

- b. An intentional error is an action or a decision that an employee makes that is known (or should be known) to be in conflict with law, established training or procedures, rules, or policy. Generally, intentional errors will be treated more seriously and carry greater consequences than unintentional errors. Within the framework of intentional errors there are certain behaviors that are entirely inconsistent with the responsibilities of the police profession. These include lying, theft, physical abuse of citizens, and other equally serious breaches of the trust placed in members of the police profession. The nature of the police responsibility requires that police officers be truthful. It is recognized, however, that it is sometimes difficult to determine if one is being untruthful. An employee will face discharge from the BPD when it is clear that the employee is intentionally engaging in an effort to be untruthful. It is also a serious breach to have engaged in theft, physical abuse of citizens, or other criminal behavior.

5. Employee's past record. To the extent allowed by law and policy, an employee's past record will be taken into consideration in determining the consequences of a failure to meet the BPD's expectations. An employee who repeatedly makes errors can expect the consequences of this behavior to become progressively more punitive. An employee whose past record reflects hard work and dedication to the community and BPD will be given due consideration in the determination of any disciplinary action.

- G. **Fair and consistent.** There are often circumstances that may have contributed to errors of judgment or poor decisions that need to be considered when determining the appropriate consequences for conduct found to be improper. Disciplinary action must be imposed in a consistent and fair manner. Consistency is defined as holding everyone equally accountable for unacceptable conduct. Fairness is defined as understanding the circumstances that contributed to the conduct while applying the consequences in a way that reflects this understanding. In order to ensure that employees are treated in a consistent and fair manner, the application of consequences for conduct that is not in keeping with the BPD's expectations will be based upon a balanced consideration of factors. Following the careful consideration of all applicable factors in any disciplinary review, every effort will be made to determine the consequences that consistently and fairly fit each specific incident.

IX. BOARD OF POLICE COMMISSIONERS

By charter, the Board of Police Commissioners is the appellate body for BPD employees who grieve discipline and is the approval body for changes, modifications, or additions to the BPD's rules and regulations. By directive, the Board of Police Commissioners also has a robust monitoring role. The Police Commission shall receive copies of all external and internal complaints made against BPD employees. Complaints filed online will be immediately transmitted to the Police Commission via email forwarding, and written complaints will be

transmitted to the Police Commission by the Deputy Chief of Administration within five business days of receipt.

- A. **Status updates.** The Chief of Police and Deputy Chief of Administration will provide status updates about complaints against employees at the first Police Commission meeting following receipt of the complaint, unless the matter is of such urgency that a special meeting is required. To preserve employee privacy, complaints shall only be discussed in executive session.

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- B. **Records and video.** At the request of any member of the Police Commission who has completed a fingerprint-supported background check and required CJIS training, the Chief of Police will make the written record of any completed supervisor review, Administrative Review, or Internal Investigation available. The material may not be shared with a Police Commissioner who has not met the CJIS requirements. The material is not for public disclosure, and will only be discussed in executive session.

1. Statements made in administrative interviews by employees who are the subject of a review can only be shared with the Police Commission when it acts as an appellate body, as per the BPOA CBA, and will be redacted prior unless being used in an appeal.
2. Police Commissioners have AXON accounts through which they can watch body-worn-camera footage of any incident that is the subject of a complaint, unless the incident is otherwise controlled by an outside law-enforcement entity or the Vermont Judiciary, particularly the Family Division. Random audit of body-worn-camera footage is prohibited.
3. If a complaint has been referred by the BPD to an outside entity such as the Vermont State Police or Chittenden County State's Attorney's Office for investigation of possible criminal conduct, the materials will be made available to the Police Commission if the outside entity approves and determines that the materials may be disclosed to the Police Commission without adversely affecting any possible prosecution.

- C. **Summaries.** Upon issuing findings and/or determining a disposition and resolving a complaint, the Chief of Police will summarize the findings and disposition or recommended disposition for the Police Commission in executive session.

1. For lower- and mid-level complaints, the Chief of Police will provide a verbal or written summary of the complaints and their status or disposition in executive session.
2. For higher-level complaints, such as those involving an allegation of excessive use of force, dishonesty, discrimination, harassment, or other serious misconduct; or for any lower- or mid-level complaint that is likely to result in discipline beyond a written reprimand; or for any other conduct for which suspension or termination is recommended, the Chief of Police will provide the Police Commission with a full verbal briefing of the allegations and the recommended disposition of the case in executive session.

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D. Police Commission response. After receipt of the summary described above, the Police Commission may:

1. Accept the Chief's summary and recommended action in full or in part;
2. Request additional information;
3. Request that the Chief reconsider the action and/or make a recommendation to the Chief about the investigation, process, disposition (including recommending a range of sanctions for the misconduct), or other aspect of the matter; or
4. Postpone action to a later date, but no later than 14 days from the date of initial receipt of the summary, and then select from D 1, 2, or 3 above.

E. Chief of Police response. The Chief of Police may accept or reject the Police Commission's recommendations. If the Chief rejects the Police Commission's recommendations, the Chief shall explain to the Police Commission why the recommendations were not accepted.

1. If a majority of the Police Commission disagrees with the Chief's decision, the Police Commission Chair shall report this to the Mayor. Police Commission members should take care to avoid unauthorized disclosure of confidential information. To that end, any Commissioner may consult with the City Attorney's Office to obtain advice related to, among other things, the use and disclosure of confidential information.

F. Misconduct by the Chief of Police. Whenever the Police Commission becomes aware of allegations of misconduct by the Chief of Police, or if the Police Commission has concerns about the performance of the Chief of Police, the Chairperson of the Police Commission shall report this to the Mayor in a timely manner. In the event that the Chief of Police has engaged in misconduct pursuant to 20 VSA § 2401, also known as Act 56, the Chairperson of the Police Commission shall report this to the Chairperson of the Vermont Criminal Justice Council.

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X. ACT 56

Conduct that falls within the categories of "Category A conduct," "Category B conduct," or "Category C conduct," as defined in 20 VSA § 2401, also known as "Act 56," must be treated in accordance with that statute. The Chief of Police will report it appropriately to the Vermont Criminal Justice Council.

XI. APPEALS

Any appeal relative to disciplinary action shall be handled by the Board of Police Commissioners, according the Municipal Charter of the City of Burlington, 24 App. VSA ch. 3, § 190 (a): "The Board of Police Commissioners shall hear any appeal filed in a timely manner with respect to such actions of the Police Chief. The time of filing an appeal and the nature of the appellate process shall be as determined by such Board of Regulation. Following its

consideration of any such appeal, the Board may affirm, modify, or vacate the decision made by the Chief of Police.”

XII. DISMISSAL

All dismissals shall be in accordance with the City Charter. If employee misconduct results in dismissal of a non-probationary employee, it shall be the responsibility of the Chief of Police or his/her designee to provide the information regarding the dismissal to the affected employee, including: the effective date; reason; status of benefits; and information regarding the content of the employee’s personnel file as it relates to the dismissal.

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XIII. RETENTION OF RECORDS

- A. **Performance file entries.** Entries in performance files may be used for progressive discipline for a maximum of two (2) years from the date of entry. Those are generally non-disciplinary matters such as short notations of verbal counseling or training; performance plans; letters of counseling or coaching; or other non-disciplinary documents.
- B. **Disciplinary entries in the personnel file.** Absent additional discipline being imposed during the time frames noted below, the following timelines are established for relevance in establishing progressive discipline:
 1. Letters of reprimand and any other discipline short of suspension are relevant for a maximum of two (2) years from the date of the initiation of any internal inquiry of the event/conduct.
 2. Disciplinary actions resulting in a suspension are relevant for a maximum of four (4) years from the date of the initiation of any internal inquiry of the event/conduct.
 3. Records relating to significant discipline which does not result in termination but triggers a suspension of one week or more, including but not limited to sexual harassment; harassment based on any protected category defined in 21 V.S.A. 495, significant issues related to response to resistance/use of force, any criminal activity, and veracity may be retained permanently.

XIV. ADDITIONAL SOURCES & REFERENCES

Agreement between the City of Burlington and the Burlington Police Officers’ Association

Agreement between the City of Burlington and Local 1343 of the American Federation of State, County, and Municipal Employees

Comprehensive Personnel Policy Manual for the City of Burlington and the Burlington Electric Department

Reviewed and adopted by the Burlington Police Commission on March XX, 2024.

Jon Murad, Chief of Police

xx March, 2024
Effective Date

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APPENDIX

Appendix 1. Citizen's Complaint Form

Appendix 2. Citizen Complaints Process

Appendix 3. Citizen Complaints, Supervisor Reviews, Administrative Reviews & Internal
Investigations Flow Chart

Appendix 4. Notice of Administrative Review / Internal Investigation

Appendix 5. Notice of Administrative Interview / "Garrity Warning"

Appendix 6. Role of the Burlington Police Commission in Reviewing Complaints Against BPD
Employees, August 2020

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**POLICE DEPARTMENT
CITY OF BURLINGTON**

APPENDIX 1

CITIZEN COMPLAINT PROCESS

The Burlington Police Department (BPD) and City of Burlington Police Commission (the “Police Commission”) are dedicated to ensuring the public safety of all persons in the confines of our City. To that end, we are committed to earning and maintaining the public trust. This commitment led us to develop a process to address complaints from community members about how BPD accomplishes its mission of public safety.

As part of the process, we encourage community members to report allegations of improper conduct on the part of BPD’s sworn officers and non-sworn staff. These complaints, which are vital to ensuring BPD’s legitimacy and effectiveness, will be reviewed and investigated in a prompt, open, and expedient fashion that includes review by the Police Commission, a group of citizen volunteers.

Any person may make a complaint by submitting the attached form in person or by mail to the BPD (One North Avenue, Burlington, VT 05401). If you prefer, you may submit the form to a City Councilor, <https://www.burlingtonvt.gov/CityCouncil>, the Mayor’s Office, <https://www.burlingtonvt.gov/Mayor>, or in person to the Executive Manager, Shannon Trammell, at One North Avenue, strammell@bpdvt.org, or (802) 540-2107.

We encourage you to keep a copy of the completed complaint form for your reference. If you submit the form in person, we would be happy to make a photocopy for you at that time. When you submit the form, your complaint will be assigned a reference number so that you may track your complaint. You will also be notified of the disposition of your case when the investigation is complete. If you choose to remain anonymous, we will not be able to follow up with you regarding your submission

Please feel free to contact Shannon Trammell in the office of the Chief of Police, at strammell@bpdvt.org or (802) 540-2107, during normal business hours if you have any questions regarding this complaint process.

Sincerely,

Jon Murad
Chief of Police
Burlington, Vermont

Shakuntala Rao, Co-Chair
Mary Cox, Co-Chair
City of Burlington Police Commission

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POLICE DEPARTMENT
CITY OF BURLINGTON

APPENDIX 1

CITIZEN'S COMPLAINT FORM

You are not required to provide your name or any identifying information. However, please be aware that the complaint investigator's ability to thoroughly investigate a complaint could be impeded if the investigator has no means to follow up with a complainant. If you wish to remain anonymous, please consider providing an anonymous email address below. Please select your reporting preference.

ANONYMOUS? _____ (leave contact info blank) INCLUDE MY CONTACT INFORMATION: _____

YOUR NAME: FIRST _____ LAST _____

MAILING ADDRESS: _____

PRIMARY PHONE #: _____ SECONDARY PHONE #: _____

EMAIL ADDRESS: _____

DATE OF BIRTH: _____

The Burlington Police Commission is collecting information on the age, race/ethnicity and gender of complainants in order to better understand the needs and experiences of community members. Please complete as much information as you feel comfortable providing.

AGE: _____

GENDER: ☐ Female ☐ Male ☐ Non-binary/third gender ☐ Transgender
☐ Prefer not to say ☐ Prefer to self-describe: _____

RACE/ETHNICITY: ☐ Asian/Pacific Islander ☐ Black/African American
☐ Hispanic ☐ Native American ☐ White/Caucasian ☐ Other: _____

DO YOU HAVE A DISABILITY? Yes No

INCIDENT DETAILS

DID THE INCIDENT INVOLVE A BURLINGTON, VT POLICE OFFICER? ☐ Yes ☐ No

DATE OF INCIDENT: _____ TIME OF INCIDENT: _____

LOCATION OF INCIDENT: _____

Enter the address or nearest intersection where the incident took place.

OFFICER(S) INVOLVED (Enter the name(s) and/or badge number(s) of officer(s) involved. If unknown, enter physical descriptions):

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**POLICE DEPARTMENT
CITY OF BURLINGTON**

APPENDIX 1

DESCRIPTION OF INCIDENT: Please describe the incident in detail. Use additional paper if necessary.

DESCRIBE ANY PHYSICAL INJURIES OR TRAUMA SUSTAINED DURING THE INCIDENT:

WERE ANY INJURIES OR TRAUMA CAUSED BY POLICE ACTION? If so, please describe.

WITNESSES TO INCIDENT:

NAME: _____ ADDRESS: _____ PHONE _____

NAME: _____ ADDRESS: _____ PHONE _____

NAME: _____ ADDRESS: _____ PHONE _____

AUDIO/VIDEO RECORDINGS. Are you aware of any audio or video recordings that may have captured the incident? If so, please provide details. _____

SIGNATURE: _____ DATE: _____

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APPENDIX 2



CITIZEN COMPLAINTS PROCESS

COMPLAINT RECEIVED;
INFORM COMMISSION

[Article 65 §190](#) of the Burlington City Charter vests disciplinary authority for members of the police department in the Chief of Police. When the Burlington Police Department receives a [citizen complaint](#) about an employee's conduct, [Department Directive DD40](#) states the Chief of Police shall cause that complaint to be investigated as soon as practical. By [policy agreement](#), the Chief will report to the independent Burlington Police Commission on all complaints.

INJURY TO PERSON?
PUBLIC CONCERN?
INFORM MAYOR

According to [Mayoral Executive Order](#), when a police officer uses force that results in injury to any person or that raises significant public concern, the Chief of Police will formally review the situation with the Mayor and seek the Mayor's concurrence with the Chief's disciplinary determinations. The Chief must obtain the Mayor's concurrence or other final recommendation before reviewing the case with the Police Commission and must share the Mayor's views with the Commission.

SERIOUS COMPLAINT?
VERBAL BRIEF TO
COMMISSION

For higher-level complaints, such as those involving an allegation of excessive use of force, dishonesty, discrimination, harassment, or other serious misconduct; or for any lower- or mid-level complaint that results in discipline beyond a written reprimand; or for any other conduct for which suspension or termination is recommended, the Chief will provide the Police Commission with a full verbal briefing of the allegations, the Mayor's views (if applicable), and the Chief's recommended disposition of the case in executive session.

COMMISSION ASSESSES
CHIEF'S DISPOSITION

After receipt of the verbal briefing, the Police Commission may:

- accept the Chief's report and recommended action in full or in part;
- request additional information;
- request that the Chief reconsider the action and/or make a recommendation to the Chief about the investigation, process, disposition, or other aspect of the matter, or
- postpone action to a later date, but no later than 14 days from the date of initial receipt of the report

CHIEF FINALIZES
DISPOSITION

The Chief may accept or reject the Police Commission's recommendations, but must explain any rejection. If a majority of the Police Commission disagrees with the Chief's decision, the Police Commission Chair shall report this to the Mayor.

20 VSA § 2401?
CHIEF REPORTS TO VCJC

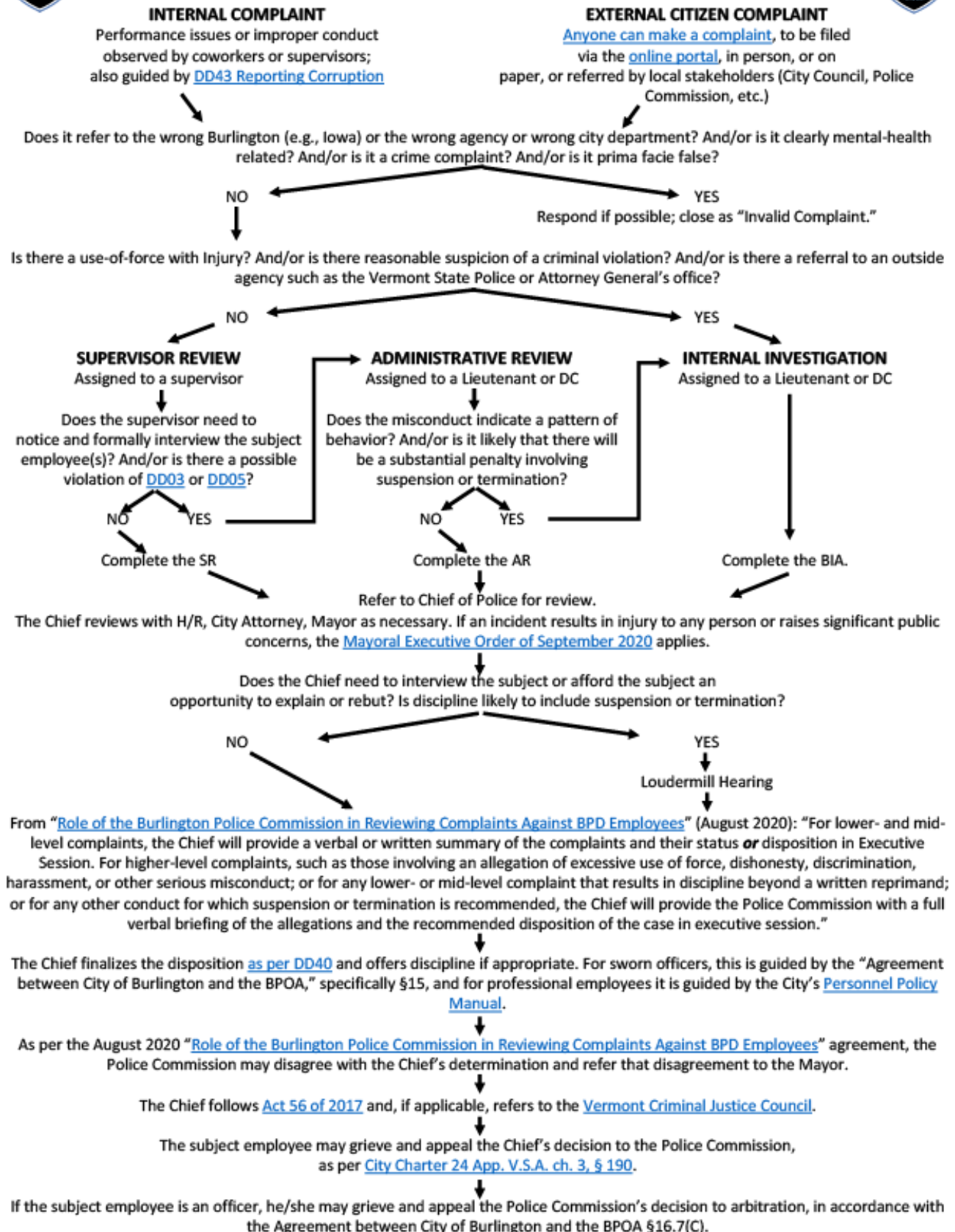
As per the Vermont Criminal Justice Council and Vermont's Act 56, if the conduct alleged in the complaint meets the definitions of Category A, Category B, or Category C conduct in 20 VSA §2401, the Chief will comply with the duty to report described in 20 VSA §2403.

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CITIZEN COMPLAINTS, SUPERVISOR REVIEWS, ADMINISTRATIVE REVIEWS & INTERNAL INVESTIGATIONS

APPENDIX 3



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**POLICE DEPARTMENT
CITY OF BURLINGTON**

APPENDIX 4

**NOTICE OF ADMINISTRATIVE REVIEW / INTERNAL INVESTIGATION
CONFIDENTIAL – DELIVERED BY HAND**

TO: [employee name]
 FROM: [supervisor name]
 DATE: [date]
 RE: Administrative Review #XX of 202X —or— Internal Investigation #XX of 202X

You are hereby notified that you are a [WITNESS] or [SUBJECT] in an Administrative Review or Internal Investigation. The allegations are as follows:

*Allegation of a possible violation of [Rule XX – Name of Rule]
 Allegation of a possible violation of [Rule XX – Name of Rule]*

The investigator anticipated to be assigned to this is:

[name of assigned supervisor]

Additional orders and instructions related to this investigation include:

Any retaliation of hostile treatment toward any employee involved in this matter will be grounds for serious additional discipline, up to and including dismissal.

The Department would like to take this opportunity to remind you of the services available to all employees during times of increased stress or need via the Employee Assistance Program (EAP) or the Vermont Center for Responder Wellness (VCRW). Both are confidential services. The EAP program can be reached by calling 1-800-287-2173; Sonny Provetto at the VCRW can be reached at (802) 377-5137.

I acknowledge receipt of this memorandum: _____

Signature of supervisor making notification / date: _____

Please note that personnel subject to internal investigation have the right to have an attorney or other responsible representative of their choice present during their interview.

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**BURLINGTON POLICE DEPARTMENT
ADMINISTRATIVE INTERVIEW NOTIFICATION
Garrity Warning**

APPENDIX 5

Employee to be interviewed: _____

Is the employee a WITNESS or SUBJECT ? circle one

Location and date of interview: _____

Before asking any questions, I am advising you of the Burlington Police Department's Administrative Review / Internal Investigation policy and your responsibility as an employee of the BPD.

An Administrative Review or Internal Investigation is about a violation of the Burlington Police Department's Rules and directives, not a criminal matter.

The purpose of this administrative interview is to ask for responses that will help in determining whether disciplinary action is warranted. The answers furnished may be used in disciplinary proceedings that could result in administrative action against you and any other employee of the Burlington Police Department, including reprimand, demotion, suspension, or dismissal.

All questions about the performance of official duties, including workplace conduct, must be answered completely and truthfully. Disciplinary action, including dismissal, may be undertaken if you refuse to answer completely and truthfully. See Department Directive 01 Rule 16 *Conduct Unbecoming* and Rule 26 *Truthfulness*.

Although this review is not about a criminal matter, you have a right to remain silent regarding any issues that may implicate you in a crime. Doing so will end the administrative interview and the matter at hand will be referred to a criminal investigation. No answers given or any information gained in this administrative interview may be admissible against you in any criminal proceeding.

You may have the presence of an attorney or anyone of your choice on a consulting basis—including, if applicable, a representative of your union. However, there will be no interference with the administrative interview by any party.

This administrative interview will be recorded. You are entitled to a copy of the recording.

Do you understand what I have said? _____

Do you understand that by not answering my questions you would be violating Department Directive 01 Rule 16 *Conduct Unbecoming*, i.e. the failure to cooperate with an Internal Investigation? _____

Acknowledgement of Administrative Inquiry Procedures:

I have had the above statement of the Administrative Interview Procedures read to me. I fully understand my responsibilities as an employee of the Burlington Police Department.

SIGNATURE: _____ **DATE:** _____ **TIME:** _____

INVESTIGATOR'S SIGNATURE: _____ **DATE:** _____ **BADGE #** _____

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BURLINGTON POLICE COMMISSION POLICY
Role of the Burlington Police Commission in Reviewing Complaints Against BPD Employees
Adopted August 25, 2020

APPENDIX 6

Purpose: The purpose of this policy is to support principles of fair and impartial policing within the City of Burlington Police Department by adopting a procedure that defines the role of the Burlington Police Commission in reviewing complaints against agency members.

Policy:

1. When a complaint is received by the Burlington Police Department about the conduct of an employee of the Burlington Police Department, the Chief of Police shall cause that complaint to be investigated as soon as practical by an individual or individuals with no interest in or attachment to the issue or officer(s) being investigated. When a complaint is received by members of the Burlington Police Commission, the member of the Burlington Police Commission should encourage the person making the complaint to submit it via the Burlington City website or should personally take the complaint, attempting to capture all the information otherwise contained in the Citizen's Complaint Form. [See Appendix A]
 - a. All complaints, whether generated externally or internally, are referred to as Citizen's Complaints.
 - b. All Citizen's Complaints are documented on a spreadsheet maintained by the Deputy Chief of Administration, or designee.
 - c. Lower-level and some mid-level complaints that are able to be resolved quickly and at first level of supervision, remain as Citizen's Complaints.
 - d. Some mid-level complaints may be escalated to an Administrative Review (AR). An AR is designed to determine if a complaint needs to be elevated to a Bureau of Internal Affairs investigation or if it is able to be handled without a robust personnel investigation.
 - e. Higher-level complaints will either be an Administrative Review or will be escalated to a Bureau of Internal Affairs investigation.
 - f. Lower-level, mid-level, and higher-level complaints will be categorized consistent with the Burlington Police Officers' Association Contract, Article XV, section 15.2. [See Appendix B]
2. The Deputy Chief of Administration, or his/her designee, will maintain a written record of each complaint. That written record will at a minimum include:
 - The name(s) of the employee(s) involved.
 - The date of receipt of the allegation.
 - The date of the alleged incident, if known.
 - The type or nature of the allegation.

APPENDIX 6

- The name(s) of the person(s) who investigated.
- The final disposition of each complaint.
- How the matter was closed out with the complainant.

In addition, if the complaint involves an allegation of excessive use of force, or an allegation of dishonesty or other serious misconduct, the written record will include:

- All action taken in response to the complaint.
 - Identification of all witnesses, documents, evidence, or other information obtained or consulted in the course of the investigation.
3. The written record of each complaint will be considered confidential. Each Commissioner shall have access to the written records of all complaints upon request to the Chief, subject to the Vermont Public Records Act, and the Burlington Police Officers' Association agreement. Further information may be available to the Commissioner receiving the records upon the completion of a fingerprint-supported background check and the execution of a confidentiality agreement.
 4. The Chief will report to the Police Commission on all complaints against members of the department as follows:
 - Updates about complaints against employees will be shared with the Commission in Executive Session at the first meeting following receipt of the complaint, unless the matter is of such urgency that a special meeting is required. Status updates on the progress of complaints under investigation will be provided to the Commission, as appropriate, and further detail and access to reports/video/etc shall be provided to the Police Commission in Executive Session at the first meeting after the investigation has been completed.
 - For lower- and mid-level complaints, the Chief will provide a verbal or written summary of the complaints and their status or disposition in Executive Session.
 - For higher-level complaints, such as those involving an allegation of excessive use of force, dishonesty, discrimination, harassment, or other serious misconduct; or for any lower- or mid-level complaint that results in discipline beyond a written reprimand; or for any other conduct for which suspension or termination is recommended, the Chief will provide the Police Commission with a full verbal briefing of the allegations and the recommended disposition of the case in executive session.
 - The Chief of Police, or his/her designee, will report to the Police Commission in Executive Session on a monthly basis regarding any Use-of-Force incidents. The update shall include demographic data about the officer(s) and subject(s) such as gender, age, and race, and also provide a description of incident.

APPENDIX 6

- At the request of any member of the Police Commission, the Chief ~~will make the~~ written record available for Executive Session review by the Police Commission, as well as any audio or video footage, written materials, evidence, or other information related to the allegation.
 - The Chief of Police, in consultation with the States Attorney's Office, will make the determination of if a complaint needs to be referred outside the Department for investigation of possible criminal conduct. If the complaint has been referred outside of the Department for investigation of possible criminal conduct, the materials will be made available to the Police Commission in Executive Session once a determination has been made that the materials may be disclosed to the Police Commission without adversely affecting any possible prosecution.
5. After receipt of the report described above, the Police Commission may:
- accept the Chief's report and recommended action in full or in part;
 - request additional information;
 - request that the Chief reconsider the action and/or make a recommendation to the Chief about the investigation, process, disposition (including recommending a range of sanctions for the misconduct), or other aspect of the matter, or
 - postpone action to a later date, but no later than 14 days from the date of initial receipt of the report.
6. The Chief may accept or reject the Police Commission's recommendations. If the Chief rejects the Police Commission's recommendations, the Chief shall explain to the Police Commission why the recommendations were not accepted. If a majority of the Police Commission disagrees with the Chief's decision, the Police Commission Chair shall report this to the Mayor. Police Commission members should take care to avoid unauthorized disclosure of confidential information. To that end, any Commissioner may consult with the City Attorney's Office to obtain advice related to, among other things, the use and disclosure of confidential information.
7. The Chief of Police is responsible for reporting any misconduct of Burlington Police Department employees that falls under 20 VSA 2401 to the Vermont Criminal Justice Training Council.
8. Whenever the Police Commission becomes aware of allegations of misconduct by the Chief of Police, or if the Police Commission has concerns about the performance of the Chief of Police, the Police Commission Chair shall report this to the Mayor in a timely manner. In the event that the Chief of Police has engaged in misconduct pursuant to 20 VSA 2401, the Police Commission Chair shall report this to the Chair of the Vermont Criminal Justice Training Council.

APPENDIX 6

9. The Police Commission shall report to the Burlington City Council twice each year regarding this policy. The report shall include a redacted summary of the number, type, and disposition of complaints reported to the Police Commission.

END APPENDIX



POLICE DEPARTMENT
CITY OF BURLINGTON

USE of Force Report

February 01, 2024 – February 29, 2024

Please note definitions below when reading this report

- **General** - considering or including the main features or elements of something, and disregarding exceptions
- **“Stated to the effect”** is used throughout this report to show the general idea of what someone said instead of their actual words.
- **Synopsis** - a brief or general summary of something.

Total Number of Incidents for 2/01/24 – 2/29/24 – 2005

Total Number of UOF Incidents - 16

Total Uses of Force – 40

Percent of UOF Incidents vs. Total Incidents – .79%

Race/Gender of Arrestee/Subject in UOF Incidents

Black Male – 5

Black Female – 0

White Male – 10

White Female – 8

Asian Male –1

Incidents

1. 24BU002609

2/04/24

Complainant/Officers Dispatched

MENTAL HEALTH ISSUE

Call type – Disturbance

Charges – Disorderly Conduct/Interference with Law Enforcement

Synopsis

A caller stated to the effect that a female subject was gesturing wildly and screaming at pedestrians. A second witness stated to the effect the female subject had raised a fist towards a pedestrian and caused them to cross the street to get away from her. Officers arrived on scene and located the female subject. An officer spoke with her attempting to find out what was wrong. The female stated to the effect she had pain all over her body, specifically her foot. The officer stated to the effect they were willing give her a ride to the ED to help her. The female refused the offer, ranting about the hospital not helping her, and turned her back on the officer to speak and gesture at vehicles passing by. The female then started to walk away. The officer



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CITY OF BURLINGTON

stated to the effect that she was being detained to which the female stated to the effect that no, no I'm not and ran from the officers. Two officer chased after the female. One officer took of her backpack stopping her. The second officer took hold of her left arm while the first officer, after removing her backpack, took hold of her right arm. The first officer stated to the effect to the female that she was under arrest. The two officers had to physically maneuver the arrestee against a wall to assist in getting control of her. An officer stated to the effect for the arrestee to stop resisting. The arrestee continued to actively resist, pulling her arms away, spin around and thrash her body. This continued after officers had maneuvered the arrestee to the cruiser and were searching her. The arrestee was transported to UVMMC ED by BFD at her request, with two officers riding in the ambulance, as the arrestee continued to thrash around on the stretcher.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls/handcuffing

Officer 2 – Verbal commands/empty hand controls

Arrestee – taken into custody/brought to UVMMC ED for evaluation/issued citation

White Female Age 40, 5'07", 150 lbs.

Arrestee – no injury from UOF

Officers – no injury

2. 24BU002804

2/07/24

Officer Initiated

Call type – Search Warrant

Charges – Narcotic Distribution

Synopsis

While serving a search warrant at a residence an officer was approaching a vehicle that was parked near the residence. The officer had their firearm out and encountered a female subject in the driver's seat. The officer stated to the effect for the female to show her hands. The female subject complied and the officer had her exit the vehicle with her hands in the officer's view. The female complied and exited the vehicle. The officer holstered their firearm and compliantly handcuffed the female. The female was detained and then taken into custody.

Arrestees Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/firearm pointed/handcuffing



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CITY OF BURLINGTON

Arrestee – taken into custody
White Female Age 46, 5’06”, 208 lbs.

Arrestee – no injury
Officer – no injury

3. 24BU003178

2/11/24

Complainant/Officers Dispatched

Call type – Trespass

Charges – Unlawful Trespass

Synopsis

Property manager called stating to the effect there was a male subject sleeping in a vacant apartment and would be there to trespass them. Officers arrived, observed the male subject through a window and made their way to the open door of the apartment. An officer drew his firearm and from the doorway pointed it at the male and stated to the effect for them to stand up, interlace his hands on his head and face the closest wall. The male complied and was compliantly handcuffed and taken into custody.

Arrestees Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/firearm pointed

Arrestee – taken into custody/processed and released on citation
White male Age 35, 5’10”, 170 lbs.

Arrestee – no injury
Officer – no injury

4. 24BU003232

2/12/24

Complainant/Officers Dispatched

Call type – Simple Assault

Charges – Simple Assault/Violation of Court Orders

Synopsis

A caller stated to the effect that there was a fight between a male and female, the woman appeared to be punching and kicking the male. Officer arrived on scene and located the male



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and female who were now separated. After investigating the incident an officer had probable cause to arrest the female for simple assault and violation of court conditions. The officer stated to the effect to the female that she was under arrest. The officers allowed the female to finish her cigarette if she walked to the cruiser. The arrestee at first complied but then stopped walking. One officer took hold of her right arm as she attempted to sit on the ground and the second officer took hold of her left arm. The officers then escorted the arrestee to a wall to keep her standing upright and to attempt to place her into handcuffs. The arrestee would not move her hands to her back and continued to tense up her arms. Both officers had to physically place the arrestee's hands behind her back. The officers were able to place the arrestee into handcuffs. While searching the arrestee, she attempted to kick one of the officers.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls/handcuffing

Officer 2 – Verbal commands/empty hand controls

Arrestee – taken into custody

White male Age 40, 5'04", 125 lbs.

Arrestee – no injury

Officer – no injury

5. 24BU003241

2/12/24

Complainant/Officers Dispatched

Call type – Recovered Stolen Property

Charges – Operating without Owners Consent/Possession of Stolen Property/Arrest on Warrant

Synopsis

The caller had stated to the effect that a female was overdosing and male had walked away from the vehicle. Officer arrived on scene but learned that the male had returned, gotten into the vehicle and left. The vehicle description matched a reported stolen vehicle. An officer checking the area located the vehicle parked on N Winooski Ave. A high risk motor vehicle stop was conducted with three officers. All three officers had their firearms out and pointed at the male and female located in the vehicle. One officer called out the driver, who complied and placed the male in handcuffs. The officer then called out the female passenger, who initially did not comply, a third officer gave commands to the female who then complied. As the female backed up the third officer took hold of her hands. The female was compliantly handcuffed. The male was arrested for possession of stolen property and operating without owners consent. The female was arrested on multiple confirmed warrants.



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Arrestees Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/Firearm Pointed/handcuffing

Officer 2 – Firearm pointed/empty hand controls

Officer 3 – Verbal commands/Firearm pointed/empty hand controls

Arrestee – male taken into custody/processed and released on citation. Female – taken into custody and lodged on bail warrant.

White male Age 61, 5'07", 170 lbs.

White Female Age 26, 5"00, 100 lbs.

Arrestees – no injury

Officers – no injury

6. 24BU003308

2/13/24

Officer initiated

Call type – Eluding Police

Charges – Attempting to Elude a Police officer/Operating without Owners Consent/Possession of Stolen Property

Synopsis

An officer was canvassing an area of downtown attempting to locate a stolen vehicle that had fled from him. When the vehicle fled he had observed two subjects in the vehicle. The officer observed the vehicle and pulled up nearby and observed two males next to the vehicle. Due to the extreme disregard for human life the officer had observed the operator of the vehicle exhibited while fleeing earlier the officer feared for their safety when confronting the subjects. The officer exited his vehicle and drew his firearm, pointing it at a male subject on the driver's side. The two males immediately stated that the people he was looking for had fled from the vehicle behind a nearby residence. The officer was able to discern the males were telling the truth and holstered his firearm.

Subjects Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/firearm pointed

Subject – spoke with officer not detained

Black male Age 44, 6'03", 245 lbs.



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Subject – no injury

Officer – no injury

7. 24BU003402

2/14/24

Complainant/Officers Dispatched

Call type – Recovered Property Aggravated Operation without Owners Consent

Charges – Aggravated Operation without Owners Consent

Synopsis

Officers were dispatched to the area College St and Willard St for a stolen vehicle that had been spotted. Officers learned of another possible area and an officer went to that area to canvass for the vehicle. That officer located the vehicle in a parking lot occupied by three subjects. The officer called several more units and a high risk motor vehicle stop was conducted. One officer had their firearm out and pointed at the male operator when they were called out of the vehicle and taken into custody. A second officer had their firearm and officer kept his firearm out but did not point it at the two female passengers as they were called out and placed into handcuffs. A third officer had their firearm out and pointed at the final female occupant, while giving verbal commands to the female subject. Once the female was near the officer, the officer holstered their weapon and took control of the female's right arm and walked her to a secured area and compliantly handcuffed her.

Arrestees Actions – Compliant

Officer Actions

Officer 1 – Verbal Direction Advised /Firearm pointed/Firearm displayed/handcuffing

Officer 2 – Fire arm displayed

Officer 3 – Verbal commands/Firearm pointed/empty hand controls/handcuffing

Arrestee – taken into custody

White male Age 40, 5'04", 125 lbs.

Subject – investigative detention and released

White Female Age 40, 5'09", 160 lbs.

White Female Age 42, 5'05", 225 lbs.

Arrestee – no injury

Subjects – no injury

Officer – no injury



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8. 24BU003506

2/16/24

Complainant/Officers Dispatched

Call type – Domestic Assault

Charges – Aggravated Domestic Assault

Synopsis

A caller stated to the effect that his parents were hitting each other, with yelling and screaming in the background. A second caller stated to the effect to hurry up and that his father is slapping and punching his mother. Officer arrived on scene and separated the male and the female. An officer was standing by with the male subject. The male subject appeared distraught to the officer. The male would not remain still and seated and the officer was concerned the male would enter the hallway where the female was. The officer took hold of the males arm and moved it behind his back and compliantly handcuffed the male and detained him. The male was later arrested for aggravated domestic assault.

Arrestees Actions – compliant

Officer Actions

Officer 1 – Verbal commands/empty hand controls/handcuffing

Arrestee – investigative detention

Black male Age 30, 5'08", 141 lbs.

Arrestee – no injury

Officer – no injury

9. 24BU003584

2/17/24

Complainant/Officers Dispatched

Call type – Trespass

Charges – Violations of Conditions of Release/Interference with Law Enforcement/resisting arrest

Synopsis

An Officer was flagged down outside of an apartment building. The subject stated to the effect that there were 7 people trespassing inside. The officer called he was being flagged down and officers began to respond to his location. The officer entered the building and after checking several floors observed a male subject whom he is familiar with and that South Burlington Police Department was looking for in relation to a stolen vehicle. The officer attempted to detain the male who immediately fled on foot. An officer arriving on scene heard the first



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officer's radio transmission about making contact with the male subject and attempted to locate the officer on the apartment floor above him. This officer was also familiar with the male subject as he fled from this officer before during a separate incident. The second officer located the first officer and observed the male subject running down the hallway and pursued the male as well. The male subject entered a stairwell and the first officer was able to take hold of the male and they landed on the stairs going up. When going onto the stairs the first officer's legs became trapped under the male's legs. The first officer also lost his glasses thus preventing him from seeing the subject as clearly as before. The first officer attempted to gain control of the male's arm while trying to extricate his legs from under the male. The second officer stated to the effect numerous times during the incident to stop resisting and that he was being detained. The male continued to actively resist the officer's attempts to gain control of his arms and place him into handcuffs. The second officer deployed his OC. The male still continued to fight against the officers and the first officer had an OC exposure that had started to trigger an asthma attack. The second officer was able to bring the male to the landing below. The first officer reengaged despite the breathing difficulty they were experiencing. The two officers were able to gain a margin of control over the male who still continued to actively resist the two officers. This encounter had lasted over three minutes at this time. A third officer arrived and with their assistance the second officer was able to place a handcuff on the male's right wrist and then the left wrist. The second officer stated to the effect that the male was under arrest. BFD was called for the first officer and for the arrestee.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls/OC deployed/handcuffing

Officer 3 – Verbal commands/empty hand controls

Arrestee – taken into custody and lodged

Black male Age 32, 5'09", 160 lbs.

Arrestee – evaluated and released by UVMMC ED for right shoulder pain

First Officer – asthma attack evaluated at UVMMC ED

Second Officer – bruising/pain in knee

10. 24BU003612

2/18/24

Complainant/Officers Dispatched

Call type – Intoxication

Charges – None



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Synopsis

An officer was flagged down by a subject who stated they needed assistance with their intoxicated ex-girlfriend. The male and officer went over to the female who was laying on the ground. The female could not stand without assistance. BFD was called to evaluate her but she declined services. The male went to get his vehicle to transport the female home. While the male was gone the female tried to walk away, falling over several times while doing so. A second officer had to physically restrain her. It was determined that the female was incapacitated and that the male could not care for her as he did not have a car. The two officers had to physically place her on a stretcher for BFD. One officer had to ride up in the ambulance and physically hold the female on the stretcher as she attempted several times to sit up, kick and flail her arms.

Subject Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls

Subject – taken into protective custody and transported to UVMMC ED for treatment
White Female Age 21, 5'03", 130 lbs.

Subject– no injury

Officer – no injury

11. 24BU003639

2/18/24

Complainant/Officers Dispatched

Call type – Stolen Vehicle recovered

Charges – Operating without owners consent

Synopsis

Officers were called to a disturbance at a residence. While en-route officers were informed that a vehicle on scene had come back stolen from a VSP case. Once officers arrived on scene a high risk motor vehicle stop was conducted on the vehicle. The Officer had their firearms out and one officer pointed their firearm at 3 subjects as they were called from the vehicle. The two other officers firearms were displayed. All three subjects were compliant with verbal commands, compliantly handcuffed and detained. A loaded firearm was recovered from the pocket of a jacket of one of the subjects.

Subjects Actions – compliant



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Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/firearm displayed

Officer 3 – Firearm pointed

Subjects – investigative detention/released pending further investigation by VSP

White male Age 30, 5'07", 200 lbs.

White male Age 31, 6'00", 190 lbs.

White Female Age 31, 5'00" , 220 lbs.

Subjects – no injury

Officers – no injury

12. 24BU003684

2/19/24

Complainant/Officers Dispatched

Call type – Mental Health

Charges – Disorderly Conduct

Synopsis

A caller stated that a male, in pajama pants was attempting to cut off his pants with a knife. Street Outreach attempted to make contact with the male but he would not engage and ran out into traffic. Officers responded to the area and attempted to make contact with the male. The male refused to speak with officers and continued to flee from them. While the male was on Park Street walking north an officer deployed 5 less than lethal rounds, three which struck the male in the upper legs and buttocks, to stop the male's advance at officers on North Street. Officers were finally able to stop and contain the male on Park Street just south of North Street in the driveway between two residences. Using three teams of officers, supervisors were able to keep the male contained. BPD's crisis negotiators then began to speak with the male trying to have him drop the knife. The day was cold, windy and with wind chills below zero. After approximately 2 hours of negotiations officers were no closer to a resolution and the environmental conditions were creating a medical emergency for the male. The male was still clad from the waist down only in boxer shorts and shoes. He was visible shaking and appeared more disoriented both signs of hypothermia. BPD had BFD drive the ambulance closer and allowed the male to see it and BFD staff ready to help him if he dropped the knife. The male still refused to follow directions to drop the knife. Three teams of officers slowly closed the gap with one officer telling the male to drop the knife. The male did not comply. The male attempted to move north on the sidewalk towards North Street again. Less than lethal munitions were then deployed again with three striking the male in the leg to stop him. The



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male then threw the knife away from himself and officers. The male was then safely handcuffed and taken into custody.

Arrestees Actions – Armed with knife/non-compliant to negotiations.

Officer Actions – this only includes UOF not negotiators actions

Officer 1 – Firearm pointed

Officer 2 – Firearm pointed/CEW displayed

Officer 3 – Verbal direction advised/Firearm pointed

Officer 4 – LLM used/CEW displayed

Officer 5 – Firearm pointed/handcuff control

Officer 6 – LLM used

Officer 7 – LLM displayed

Arrestee – taken into custody and brought to UVMMC ED by BFD/citation for Disorderly Conduct

White male Age 38, 5'05", 140 lbs.

Arrestee – bruising from less than lethal rounds/ BFD and transported to UVMMC ED for hypothermia.

Officers – no injury

13. 24BU003808

2/21/24

Officer Initiated

Call type – Search Warrant

Charges – Narcotic Sales

Synopsis

Burlington Police officers conducted a search warrant at a residence. While clearing the residence the officers came into contact with five subjects. Officers pointed their firearms at the subjects and gave them verbal commands calling them back to the officers, officer took hold of the arrestee and subjects arms to assist in compliantly handcuffing them. Four subjects were detained and then released. One male subject was arrested.

Arrestees Action – Compliant

Subjects Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/firearm pointed/handcuffing

Officer 2 – Verbal Direction ordered/Firearm pointed



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Officer 3 – Verbal Direction ordered/Firearm pointed/handcuffing

Officer 4 – Verbal Direction ordered/Firearm pointed

Arrestee – taken into custody

Black male Age 28, 6'00", 165 lbs.

Subjects – Investigative detention and released

White male Age 39, 6'00", 165 lbs.

White male Age 38, 5'11", 160 lbs.

White male Age 43, 5'09", 160 lbs.

White female Age 43, 5'09", 160 lbs.

Arrestee – no injury

Subjects – no injury

Officer – no injury

14. 24BU004168

2/26/24

Complainant/Officers Dispatched

Call type – Trespass

Charges – Unlawful Trespass

Synopsis

Burlington Airport Operations called Burlington Airport Police to assist with a male who had been trespassed but was refusing to leave. Officers from downtown responded to assist the airport officer. The male suspect stated to the effect they wanted to get arrested and would resist. Three officers responded to the airport to assist. Upon arrival the airport officer again explained to the male subject, who was laying on the floor, that they had to leave or they would be arrested. The male subject refused to leave. An officer stated to the male they were under arrest and to stand up. The arrestee refused to stand up. Officers physically rolled the arrestee into a prone position and had to physically place their hands behind his back. An officer controlled the arrestee's legs as one of the officers placed the arrestee into handcuffs. The arrestee continued to refuse to stand and the four officers had to physically pick up the arrestee and place them into a wheelchair. Once outside at the cruiser the officers had physically pick the arrestee out of the wheelchair, place them on the ground to be searched and the pick them up and place them in the back of the police cruiser. Upon arrival at BPD the arrestee refused to exit the cruiser and three officers had to come and assist with physically removing the arrestee from the rear of the cruiser and carrying them into a holding cell. Once finished at BPD the arrestee refused to walk to the cruiser to be transported. Officer again had to carry the arrestee and place them into the cruiser. Once at court the arrestee refused again to walk on their own and had to be carried out of cruiser and placed into a wheelchair and



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brought before a judge. In all three officers at the airport and then 3 officers downtown had to physically move the arrestee.

Arrestees Actions – Passive Resistance

Officer Actions

Officer 1 – Verbal direction/empty hand controls/handcuffing

Officer 2 – Verbal direction/empty hand controls

Officer 3 – Empty hand controls

Officer 4 – Verbal commands/empty hand controls

Officer 5 – Empty hand controls

Officer 6 – Empty hand controls

Arrestee – taken into custody/processed/taken to court

Black male Age 32, 5'08", 154s lbs.

Arrestee – no injury

Officers – no injury

15. 24BU004315

2/28/24

Officer initiated

Call type – Disorderly Conduct

Charges – Disorderly Conduct

Synopsis

An officer on patrol in a marked police cruiser observed an apparently intoxicate male stumble into his cruiser while he was stopped at an intersection. The officer continued to observe the male walk into the roadway and cause motor vehicles to stop in order not to hit the male. The officer went out with the male and noted the male was slurring his words, had a strong odor of intoxicants emanating from his breath, watery bloodshot eyes and trouble standing. The officer attempted to place the male into custody for disorderly conduct and advised the male of this. A second officer was now on scene. When the male was advised he was being taken into custody he refused to place his hands behind his back and back away from officers. One officer took control of the arrestee's left arm and the other officer took control of his right arm. The officers were then able to physically place the arrestee's hands behind their back and one officer handcuffed them. While escorting the arrestee to the cruiser the arrestee began to plant their feet to prevent himself from walking. Officer had to physically move the arrestee to the police cruiser. Once at the cruiser the arrestee refused to get into the rear seat. The officer had to physically pick the arrestee up and place him into the rear seat.



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Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls/handcuffing

Officer 2 – Verbal commands/empty hand controls

Arrestee – taken into custody/transported to UVMHC ED for assessment/citation
Asian male Age 38, 5'06", 150lbs.

Arrestee – no injury

Officer – no injury

16. 24BU004411

2/29/24

Complainant/Officers Dispatched

Call type – Burglary

Charges – Burglary/Violation of Court Orders

Synopsis

A Burlington Parks and Recreation employee observed subjects in the North Beach Campground office at approximately 7 PM. Officers arrived on scene and observed signs of a forced entry into the campground office. Officers did not locate anyone in the office and began to search the area. Two officers located a male subject hiding on the backside of an embankment. The officers drew their firearms and pointed them at the male subject. One officer gave the male verbal commands to not move. The male complied both officers approached the male and one holstered his firearm and place the male into handcuffs. Through their investigation officers had probable cause to arrest the male subject for burglary.

Arrestees Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/firearm pointed/handcuffing

Officer 2 – Verbal commands/firearm pointed

Arrestee – taken into custody/released on condition issued by judge with court date
White male Age 34, 5'05", 155 lbs.

Arrestee – no injury

Officer – no injury

Recommendations/Suggestions to the Charter Change Committee on Police Oversight by Burlington Police Commissioners

1. Retaining Commission's appellate authority

Quoted from Commissioner Keefe: "Section 190 (a). Regarding the proposed deletion of the Commission's appellate authority, it should be kept in mind that when Resolution 7.09 was approved, it was contemplated that the Commission might serve as the independent disciplinary body and its appellate functions would raise due process concerns. These concerns no longer appear relevant.

It is now clear that the Commission will not function as the independent body as reflected in the proposed language contained in 185 (e). Notably, Det. Corrow confirmed that the BPOA explicitly negotiated to retain the Commission as the appeals body to hear officer's grievances against discipline handed down by the Chief in the terms of the last contract it negotiated with the city. He explained that the BPOA believed the Commission's hearing of grievances provided officers with an effective and efficient remedy. This was after the Commission began to review complaints of officer misconduct under the Complaint Policy the Commission approved in August 2020. Additionally, the Commission's independent legal counsel also conducted analysis and identified precedent indicating that the Commission's appellate function in hearing officers' grievances does not compromise due process.

It is also noted that Section 184 (d) provides that the Commission shall have the authority to receive and review all civilian and internal allegations of misconduct by members of the Police Department. Officer's grievances against discipline often arise from internal allegations of misconduct. Commission's hearing of these grievances is an important review function that, like reviewing civilian complaints of police misconduct, strengthens the Commission's monitoring role, helping to improve police performance and public safety. The adage "if it's not broke don't fix it" applies and it is recommended that amendments to the Charter do not eliminate the Commission's duty to hear officer's grievances."

Commissioner Rao, Cox and Garrison agree that the appellate authority of the Commission ought to be retained.

2. Use of a complaints monitor to help Commission with administrative work on all complaints (essentially the role of Commissioner Keefe); Commission retains the responsibilities of reviewing complaints.

Quote from Commissioner Hanson: "The charter change proposes that the independent panel would have the power to conduct an independent investigation. This change was made to reflect that the police commission does not want to have this power and I agree. The Commission is an all-volunteer board and does not have the resources and

background to hire and supervise an independent investigator. This is just as likely to be true of the independent panel. In order to decide if another investigator is necessary, the charter change committee needs to first understand what currently exists to investigate wrongdoing and I do not think this has been thoroughly explored. There are two areas that need to be reviewed and understood: I would like to review the department's internal affairs investigation policy and I am unable to find a directive about that on the BPD website of key directives. In order to develop transparency and trust, it is important for the public to understand how the department ensures how the investigation it undertakes is impartial and independent. It should explain when another agency will be asked to conduct an investigation and how the commission can request additional follow-up as needed."

Or

3. **Quoted from Commissioner Keefe: "Section 184 (d) (ii).** Regarding the Commission's authority to conduct investigations, Councilor Bergman clarified the Commission is not required to conduct investigations, just that it is authorized to do so. Councilor Travers likened the authority to "break glass in case of emergency." I believe providing the Commission with authority to respond to extraordinary events strengthens the Commission's oversight functions and could be effectively exercised by the Commission with guidance from the City Attorney's office and the Commission's independent counsel.

Additionally, Vermont state statute in Title 20: Internal Security and Public Safety Chapter 151: Vermont Criminal Justice Council § 2403. Law enforcement agencies; duty to report provides that:

"(a)(1) The executive officer of a law enforcement agency or the chair of the agency's civilian review board shall report to the Council within 10 business days if any of the following occur in regard to a law enforcement officer of the agency: ... (B) Category B. (i) The agency receives a credible complaint against the officer that alleges that the officer committed Category B conduct."

This includes allegations of Category B misconduct alleged against the Chief. The duty to report misconduct to the Vermont Criminal Justice Council is mandated by statute and does not provide discretion to the Commission. As such, it is recommended that the amendments contain language to the effect that matters of alleged misconduct of the Chief be addressed in conformity with Section 190 (b) of this Charter and relevant Vermont state statutes."

General Questions/Suggestions for the Joint Committee City Council.

1. **Commissioner Keefe: Section 184 (d).** The purpose and effect of the provision that higher level complaints may not be disposed until the Commission is notified of the proposed

disposition is not apparent. Does this mean that the Chief's disposition is not final unless the Commission agrees? Or if it does not, final disposition of the complaint rests with the independent body? It appears the answers to these questions depend on clarifying the powers and duties of the independent panel in disciplining officers.

2. **Commissioner Hanson:** The charter change encourages appointing members of historically-marginalized communities to better reflect the diversity of our community which is a great and important step. The charter change should also speak to the need for the commission to be non-political. As I understand it the city council tries to have geographic diversity, should the charter change encourage this? Some cities have provisions that police commissioners should not hold any political position, have lived in the community for a certain number of years or be a certain age for example.
3. **Commissioner Hanson:** Having a timeline for when the process will be resolved is important because Detective Corrow expressed concern about the stress that this places on officers. He also expressed that the officers would like the independent panel, if this idea moves forward, to have more than 3 people. He suggested 5 and that they be required to have at least 10 years experience for the LE members and 5 years for the HR representative. He also commented that officers did not think it was appropriate for the mayor to play a role in discipline, that is the chief's role, and could inject politics in the process. It is important that officers feel that any changes to the system provide fairness so that we do not adversely affect the department's critical recruitment efforts.
4. **Commissioner Cox:** The review panel would be a professional panel consisting of 3 members. Two of the members would be current or former police officers with a minimum of ten years policing experience. The third member would be an individual with professional experience in diversity, equity, and inclusion work and/or mental health policy or direct services. This panel would be appointed by [whom? Mayor, City Council?] for fixed terms of ?? years and members could only be removed for cause, as determined by [mayor, city council?]. Panel members would be entitled to per diem compensation for all hours worked in investigating complaints and reviewing discipline. The Panel would have subpoena power and an ample budget to retain investigators. Panel members need not be Burlington residents. Appropriate experience and temperament are more important. Would the Police Commission would be responsible for working with the Department to make any changes to Department policy or procedure suggested [mandated?] by the Special Panel."