



Police Commission

**Tuesday, April 23, 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 use the link below to join the Webinar:

<https://zoom.us/j/96410980552?pwd=L2JFM0p4SWVoekVWb2ZURVVmb0hVZz09>

Or Telephone:

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Webinar ID: 964 1098 0552

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

2.1. Approve the Minutes from the Regular Commission Meeting on 03/26/24

3. Public Forum

3.1. The public is invited to address the Commission

4. Police Department Items

Subject

4.1. Chief's Report

Meeting

April 23, 2024 - Burlington Police Commission Regular Meeting - Tuesday, April 23, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401

Category

4. Police Department Items

Department

Police Department

Type Presentation

Recommended Action

Subject 4.2. Review draft copy of DD40

Meeting April 23, 2024 - Burlington Police Commission Regular Meeting - Tuesday, April 23, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401

Category 4. Police Department Items

Department Police Department

Type

Recommended Action

5. Use of Force Report

Subject 5.1. March Use of Force report

Meeting April 23, 2024 - Burlington Police Commission Regular Meeting - Tuesday, April 23, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401

Category 5. Use of Force Report

Department Police Department

Type

Recommended Action

Subject 5.2. April Use of Force Report

Meeting April 23, 2024 - Burlington Police Commission Regular Meeting - Tuesday, April 23, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401

Category 5. Use of Force Report

Department Police Department

Type

Recommended Action

6. Commissioner Comments

7. Commendations

8. Commission Buisness

8.1. City of Burlington Dog Task Force Report - Discussion

8.2. Police Commission Annual Report for 2023 (discussion and formation of subcommittee)

8.3. Continued discussion of recommendations to joint committee on charter change of police oversight

8.4. BWC camera policy discussion and approval

9. Adjournment

9.1. Motion to Adjourn

10. Informational and Non-Discrimination Statements

Subject	10.1. This agenda is available in alternative formats upon request. For more information on access, call Lori Olberg, Licensing, Voting and Records Coordinator (802-865-7136)(TTY 802-865-7142). Persons with disabilities who require assistance or special arrangements to participate are encouraged to contact 802-865-7000 (voice) or 802-865-7142 (TTY) at least 72 hours in advance so that proper arrangements can be made. This meeting will also air on Town Meeting TV the Wednesday after the meeting, starting at 8:00 pm and repeating at 1:00 am and 7:00 am the following day. 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	April 23, 2024 - Burlington Police Commission Regular Meeting - Tuesday, April 23, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
Category	10. Informational and Non-Discrimination Statements
Department	Council and Board
Type	



Police Commission

**Tuesday, March 26, 2024, 6:00 PM, Contois Auditorium, City Hall
and via Zoom**

MINUTES OF MEETING

DRAFT

MEMBERS PRESENT:

**Chair Shakuntala Rao
Commissioner Cox (Zoom)
Commissioner Jessica Oski
Commissioner Kevin Garrison (Zoom)
Commissioner Jack Keefe
Commissioner Carolyn Hanson**

OTHERS PRESENT:

**Chief Jon Murad
Shannon Trammell, Clerk**

1. Agenda

1.1. Call to Order

Chair Rao called the meeting to order at 6:04 pm.

1.2. Roll Call and Determination of Quorum

Commissioner Keefe arrived 6:05pm
Commissioner Comerford – absent

1.3. Additions or Modifications to Agenda

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

VOTING: Unanimous, motion carries.

2. Commission Actions

2.1. Approve the minutes from the Regular Commission Meeting on 2/27/2024

Motion made by Commissioner Oski, seconded by Commissioner Keefe, to approve the minutes from 2/27/2024 as posted.

Commissioner Hanson would like minutes to reflect she provided prior notification to the Commission that she would be out of the Country for the February meeting.

VOTING: Unanimous, motion carries.

3. Public Forum

3.1. The public is invited to address the Commission

Romeo vonHerman stated that he noticed changes happening slowly, going in the right direction, but there are still some deficiencies. He stated he is advocating for trust building process and remains concerned as a private citizen. He stated that from an equity standpoint, he appreciates those being recruited reflect the city's diversity. He stated he remains concerned on interactions and response times. He has noticed the Dept's PIO at the NPA meetings and would love to see additional steps made to build trust between the Department and the Community, and would like to see "ice breaking moments" with the community.

Keren Sita spoke that she supports cremee with a cop and stated that people should be able to name drop officers, that people should be close to the police officers and have that relationship. She stated she felt officers should be buddies with BHS students and that people need to see officers walking the streets.

Councilor Melo Grant stated that she sent an email to the Commission Chair requesting the 2023 Annual Report, if there was one done. At the most recent Public Safety Committee meeting, they reviewed the CNA Report and would like a status update on the tasks assigned to the Commission. She recognized the ongoing staffing issue the Commission is having and stated she would reach out to HR. Councilor Grant noted that she appreciated the note in the Chief's Report about the calls for service, but is still concerned drawing attention to an increase in calls without noting what the increase is from. She also stated she appreciated the note about Pittsburg PD in the Chief's Report. She stated that a focus on local solutions to build up morale should be made and that she is willing to raise funds for cremee with a cop and still would like an engagement plan. She also stated that the feedback on the recruitment ad was fantastic.

4. Police Department Items

4.1. Chief's Report

The Chief shared his report for the month of March and gave an overview of the eclipse plans.

4.2. Department Directive Revision Discussion for Approval

DD40 - External and Internal Complaints, Supervisors Reviews, Administrative Reviews, Internal

**Previously DD40 - Quality Control Process, Investigations, Discipline [\[CURRENT VERSION\]](#)
*hyperlinked.**

The Chief provided an overview of DD40 and the reason behind the update, stating largely that the current Directive doesn't capture how and what the Department currently does in regards to discipline. A lot of the rewrite was driven by recommendations from the CNA Report, but that he also took guidance from the current practice which is outlined in the August 2020 Agreement with the Police Commission, from the Executive Order by Mayor Weinberger, and from the BWC Policy with the Police Commission from August 2021. Complaints that are sent through the portal are received by the Police Commission at the same time as the Department is notified. He stated that this updated Directive incorporates all the agreements that have been made with the Police Commission and the CNA Report recommendations to DD40 with regard to "Internal Investigations and Citizen Complaints." He acknowledged that he was not expecting approval tonight, but hoped this would be a good working draft for feedback and comments to work upon.

Commissioner Oski mentioned that on Page 3, under "lower level infractions", D.2., might need clarification due to the revision made to DD01 recently regarding "improper care and maintenance of equipment" and thought adding a D.3. that aligns with DD01 might be needed.

Commissioner Oski also suggested that less stigmatized language should be used in addressing invalid complaints and the "mental health" component of that section.

Commissioner Keefe noted that CNA recommended an entire rewrite of DD40, and commended the team for doing just that. He stated a concern was that the CNA Report recommended that with the intake of the complaints, the Chief shouldn't be the "gatekeeper" of those. The Chief was not aware of the recommendation and Commissioner Keefe said he would email that clarification to the Chief. Commissioner Keefe did state he still had questions of the Role of the Commission when it comes to the Charter Change initiative. He also mentioned that the Police Commission needs to keep pace with the Department in doing investigations in a timely manner and recommended that updates and dispositions be given in email, not verbally, so there is not further delay waiting for monthly meetings or special meetings.

Commissioner Hanson stated that the document helps to clarify the process, which was needed. She also stated that perhaps the new process the charter change initiative has proposed goes after 9.e. on page 17; that if there is a disagreement with the Chief's disposition and the Police Commission's recommendation that currently, it would go to the Mayor and that perhaps the new initiative is meant to be inserted at this point. She also stated she was pleased that the transparency sections G & H were included on page 10, and was supportive of a 6 month report – creation of a statistical summary of complaints and dispositions and thought this was something that could be done.

The Chief shared the Vermont State Police's model and thought this could be done.

5. Commissioner Comments

5.1. Commission to provide comments or questions

Chair Rao congratulated the mayor-elect and stated she would be present at the swearing in on April 1st and that she would be asking the mayor-elect to direct resources to the

Commission for a staff assistant, as it is an important role to keep connected with the public and provides management of files, website, tracking, and meetings, etc.

Commissioner Hanson also congratulated the mayor-elect and urged that if there were any questions on the performance of the current Chief, that the Commission be consulted. That they have the closest view of the Chief's work and that it is important for stability of the Department.

6. Commission Business

6.1. February 2024 Use of Force Report

There were no requests to BWC for February.

There are some pending requests and an update on this was requested by Commissioner Keefe [see next item]

6.2. Update on Body Worn Camera Policy

Chair Rao provided that the revised agreement was forwarded to the BPOA, and were waiting for a response from the BPOA so that it can be brought forth for a vote and approval, and stated in the meantime, City Attorney's office said the BPD can release the requests made in January.

6.3. Commission Comments to the Charter Change Committee

Document posted for discussion.

6.3. BPOA Feedback

BPOA is invited to provide the Commission feedback

Detective Corrow provided feedback on the Commissioner's comments, stating that he thinks there is largely agreement, but that the Union still believes the independent panel should be made up of 5 people, not 3 and would like to see how that is incorporated into DD40. He also stated that they would like to see parameters of the experience requirement of the panel and thinks that 10 years of law enforcement experience is needed. They would like to see the parameters behind the "break the glass" requirement; that there needs to be that ability, but there needs to be parameters to do so. He would also like clarification on "where the buck stops" and what triggers the independent panel. He stated there is agreement that it needs to be non-political.

Commissioner Keefe stated he would also like to see clarity on the independent panel on the powers, duties, role and obligations of the panel and that he doesn't know how that aligns with the role of the Commission. He stated that the Police Commission needs to be purely objective and disagrees with the statement made by Commissioner Hanson in Commissioner Remarks.

Detective Corrow stated that he doesn't understand the independent panel and where the ability to appeal pushes that. He stated that the end-all-be-all shouldn't be the panel and that the Mayor should not have authority over individual officers. That is not the case in any other Department.

Commissioner Cox stated that the Mayor referral doesn't work and requested clarity if

the purpose of the panel is for those disagreements
To be sent to the panel? Which was answered with "that is our understanding."

6.3. Public Feedback

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

Romeo vonHerman stated he remains concerned by not having proper accountability and would love to see the panel. He stated he is concerned with the thought of 2 public oversight bodies over the Police Department. He also mentioned Title 6 issues and how those would be addressed.

7. Executive Session

7.1. Executive Session, as required.

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 Keefe

VOTING: Unanimous; motion carries

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

VOTING: Unanimous; motion carries

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.

8. Adjournment

8.1. Motion to Adjourn

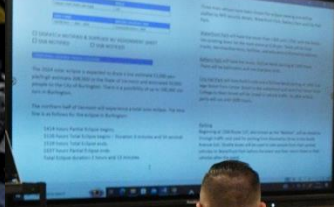


BURLINGTON POLICE CHIEF'S REPORT

April 2024



IT WAS “TOTALITY” AWESOME!





Apr 19, 2024 – all data preliminary & subject to change



ARSON AT SENATOR SANDERS'S OFFICE

On Friday April 5, 2024, a perpetrator set fire to the office vestibule of United States Senator Bernie Sanders on Church Street. The arsonist was recorded on security video spraying a liquid near the outer door of the office and then lighting the area with a handheld lighter. A blaze quickly began while the suspect fled via a staircase.

No one was injured in the fire, and the Senator was not in the office at the time, but members of his staff were. The fire caused significant damage to the vestibule, but, as with the arson the BPD experienced at our headquarters at One North Avenue in November 2023, the sprinklers resulted in even more property destruction.

Burlington detective Eric Kratochvil worked with our partners at the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to identify Shant Soghomonian, 35, also known as Michael Soghomonian. Police arrested him in Shelburne less than 48 hours after the crime.

On April 18 a federal grand jury returned an indictment Soghomonian with using fire to damage the offices of United States Senator Bernard Sanders. He is currently detained pending further proceedings. If convicted, Soghomonian faces a maximum possible penalty of not less than 5 years and not more than 20 years in prison and a fine of up to \$250,000.





25 YEARS OF SERVICE

Earlier this month we wished Corporal Taylor a happy retirement after 25 years of service with the Burlington Police Department.

Corporal Taylor joined the BPD in 1998; his last day was April 6, 2024. Throughout his career, Corporal Taylor served as a uniformed patrol officer, an airport officer, and a longtime firearms instructor. In May 2009, Corporal Taylor was one of four officers assigned to the first-ever fully staffed Street Crimes Unit deployment.

During his career, Corporal Taylor received a number of recognitions both internally from the BPD and externally from other law-enforcement partners and community members. Corporal Taylor was awarded the Lifesaving Award in 2002, a Certificate of Recognition for outstanding performance during a 2003 firearms training cycle, and a Letter of Commendation in 2009 from the BPD.

We sincerely thank Corporal Taylor for all the hard work, dedication, and contributions he has made over the years.





NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

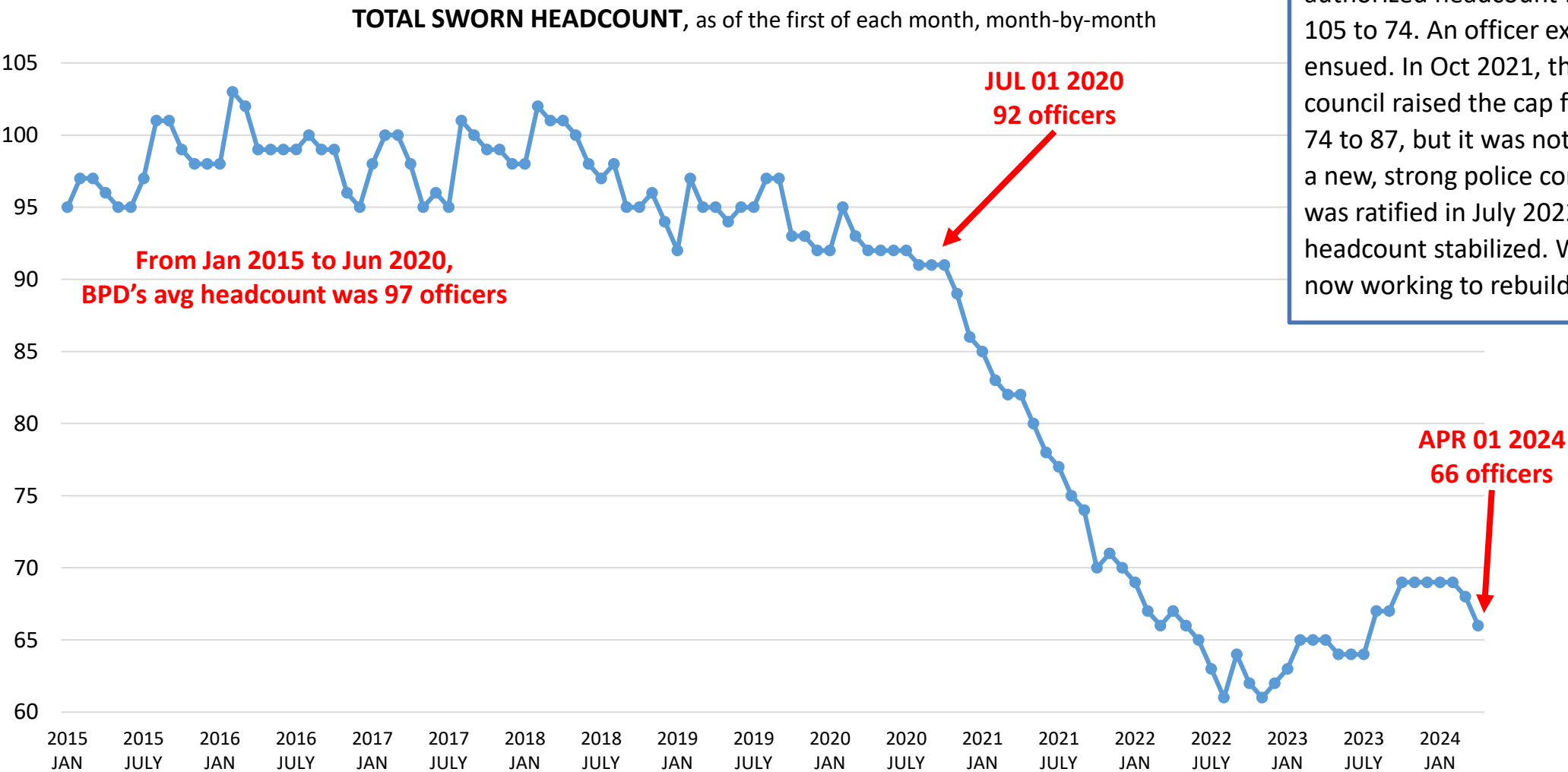
Every year during the second full week of April, telecommunications professionals within the public safety industry are recognized. Our ECS team, for Emergency Communications Specialists, are the first line of response and do stressful, rewarding work for our community.

Over the past few years, we weathered a staffing crisis in our Emergency Communications Center, or ECC. Both the BPD and the Burlington Fire Department are dispatched from the BPD ECC. Allotted 14 full-time dispatchers, the team had fallen to four at its low point. We've worked hard to rebuild and currently have 10 ECS employees, plus the Emergency Communications Manager, Larry Barbeau.





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.



65 TOTAL, 59 AVAILABLE

As of April 15 2024, we are authorized for 87 sworn officers. Of those 87, we have 65. Of those 65, 59 are able to be deployed as solo officers, or “effective.”

minus 6 injured, light, military, VPA, etc. = 59
minus 15 supervisors = 44
minus 10 detectives = 34
minus 7 airport officers = 27
minus 3 special assignments = 24

24

officers on Patrol

In addition to sworn patrol officers, we have 6 Community Service Officers (CSOs) and 6 Community Support Liaisons (CSLs).





PUBLIC SAFETY ROLES UNIQUE TO BPD

Public safety is more than police. When sworn-officer staffing began to fall, we created the 2021 Public Safety Continuity Plan. That plan augmented an existing non-sworn role:

- **Community Service Officers** (CSOs),

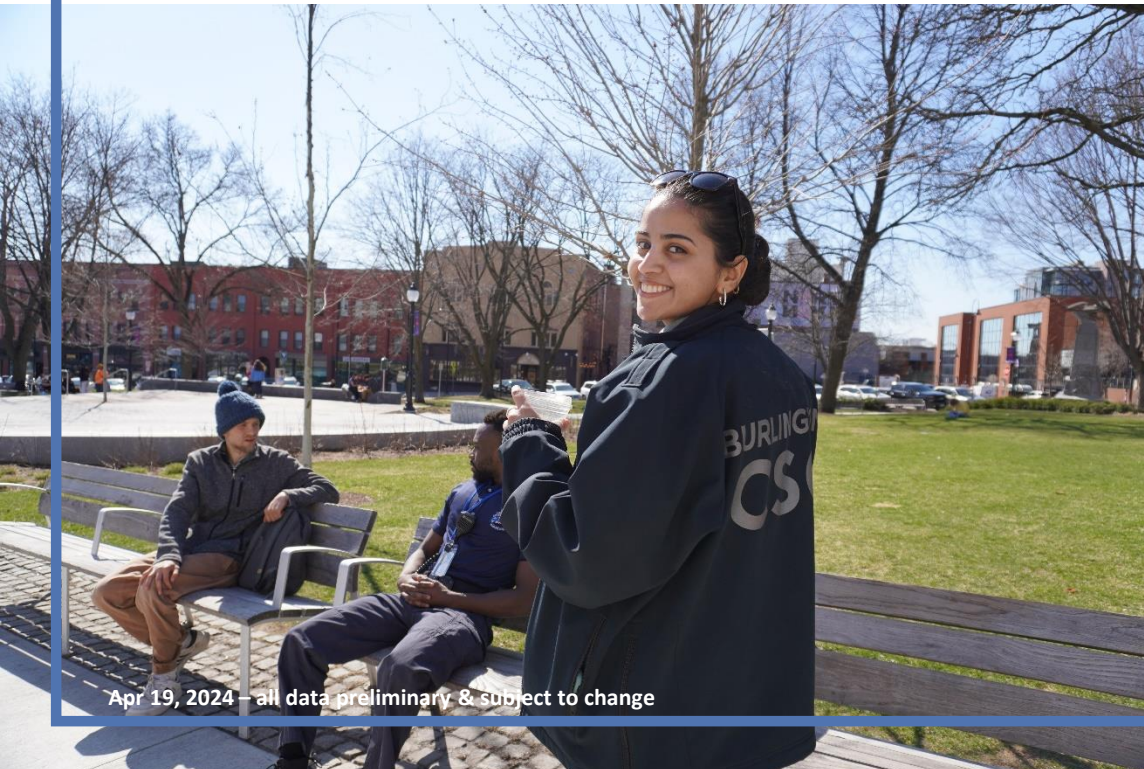
These are unarmed, unsworn officers who answer quality-of-life calls for service. BPD currently has six employees in the role, and **the budget allots us 11 CSOs and one CSM** (or Community Service Manager). The role is also a stepping stone to becoming a police officer.

**BPD
currently
has 6 CSOs
and 6 CSLs**

The 2021 Public Safety Continuity Plan also created:

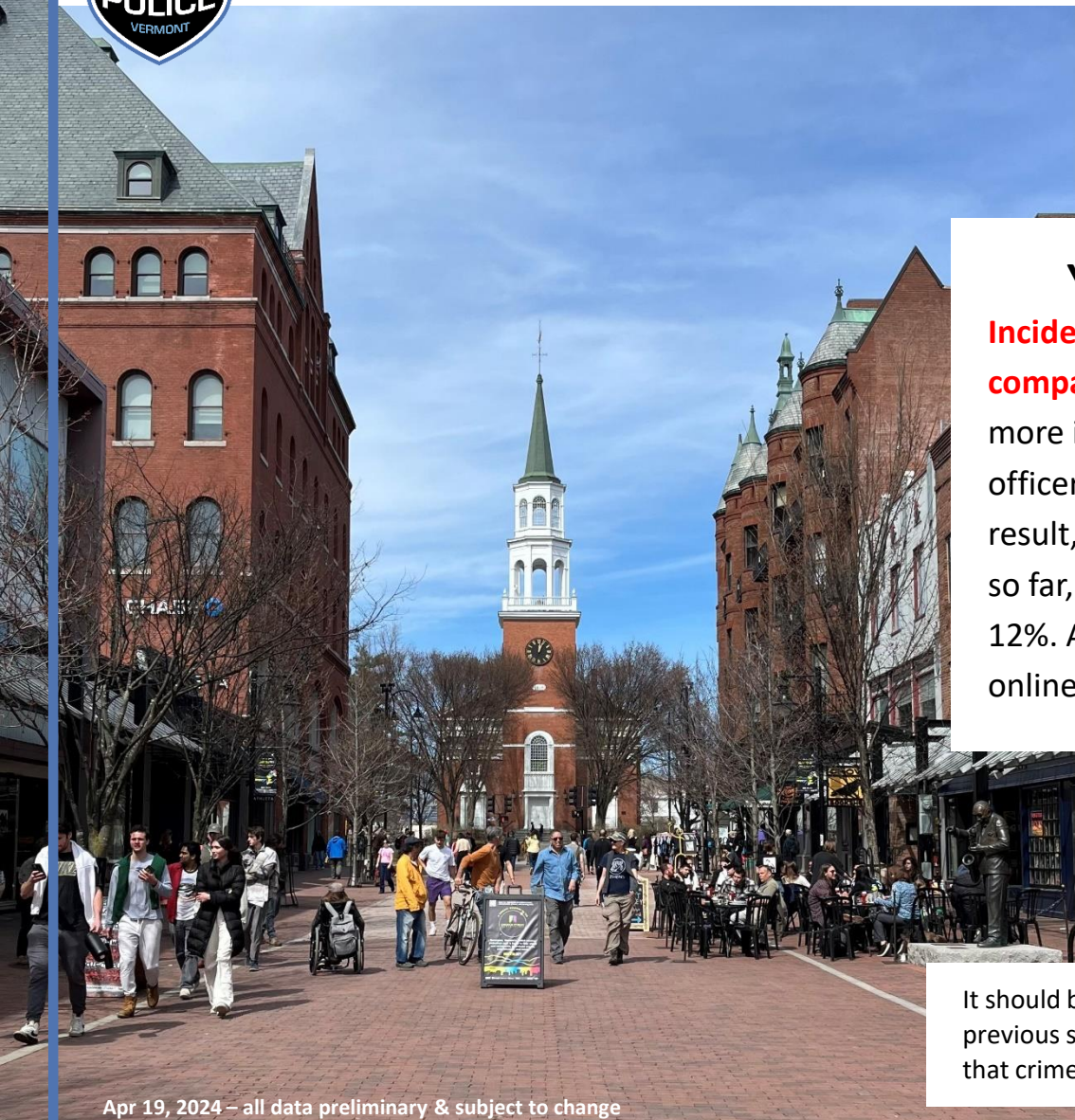
- **Community Support Liaisons** (CSLs)

These are embedded social workers with expertise in mental health, substance use disorder, and homelessness. BPD currently has five employees in the role, and **the budget allots us six CSLs and one CSS** (or Community Support Supervisor). The CSLs are the core of our new CAIP division (Crisis, Advocacy, Intervention Programs).





INCIDENT VOLUME



YEAR-TO-DATE 04/15

Incidents in 2024 are up 9% compared to 2023. BPD is addressing more incidents with fewer patrol officers—50% fewer, actually. As a result, of the 7,598 incidents in 2024 so far, 886 have been “stacked”—i.e., 12%. And 484 have been referred to online reporting, or 6%.

	YTD INCIDENTS (as of 04/15)	%Δ
2019	7,456	100%
2020	7,124	↓5%
2021	4,949	↓31%
2022	5,265	↑6%
2023	6,955	↑32%
2024	7,598	↑9%
	Δ 2019 to 2024:	↑2%

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			



SELECTED VALCOUR INCIDENTS, YTD AS OF APRIL 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	9	41	18	20	29	25	105	1	106	240	14	5	19	16	744
2020	12	39	27	16	36	13	171	3	133	263	33	3	21	18	612
2021	9	33	21	21	14	7	133	3	190	243	28	2	14	16	308
2022	17	34	53	25	27	12	144	3	205	260	31	7	9	55	208
2023	6	46	44	31	20	17	124	1	319	264	103	2	7	103	154
2024	18	44	46	21	14	7	131	5	309	244	67	2	9	55	355

* = 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”

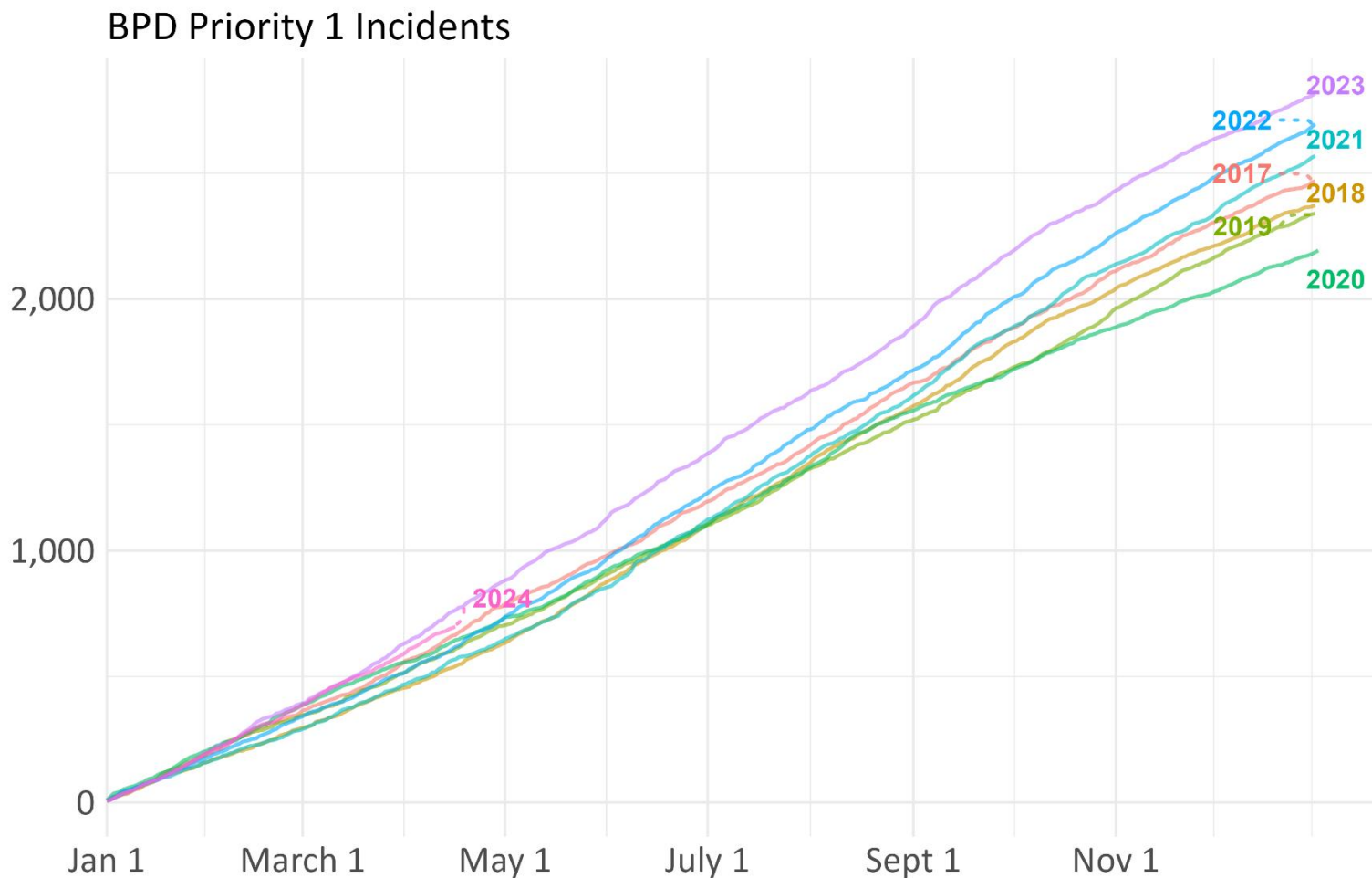
NOTE: All categories shown year-to-date, through April 15 of their respective year

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, which was the highest in nearly a decade.



Data through 04/15/2024



TRAFFIC

The City of Burlington’s 2023 **Annual Report** is expected to be released in the coming month, and will provide a deep dive into data around the volume of incidents and offenses, traffic stops, arrests, and uses of force.

Traffic stops are down nearly 90% from the high a decade ago. Enforcement is an important tool to address unsafe driving behavior, but across the country, traffic stops have also been a source of concern with regard to disparities and stop outcomes.

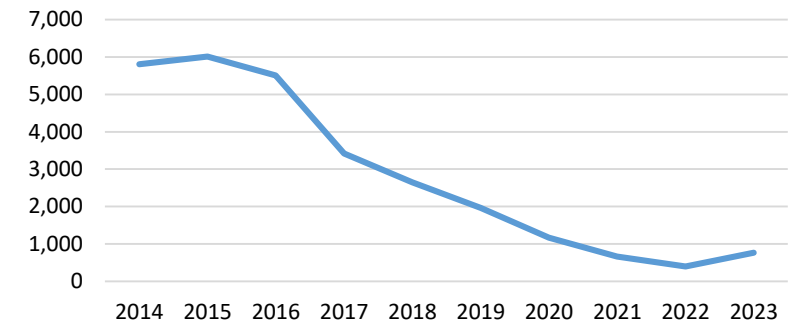
VEHICLE SEARCHES		
	WHITE	BLACK
2016	78	34
2017	49	22
2018	26	15
2019	7	0
2020	8	2
2021	1	3
2022	1	0
2023	1	0

In Burlington, vehicle searches presented a particular problem. Although black drivers made up less than 10% of the driving population, they were more likely to be subject to searches. Through internal emphasis and training, we significantly decreased the number of searches along with overall stops, and eliminated the disparity.

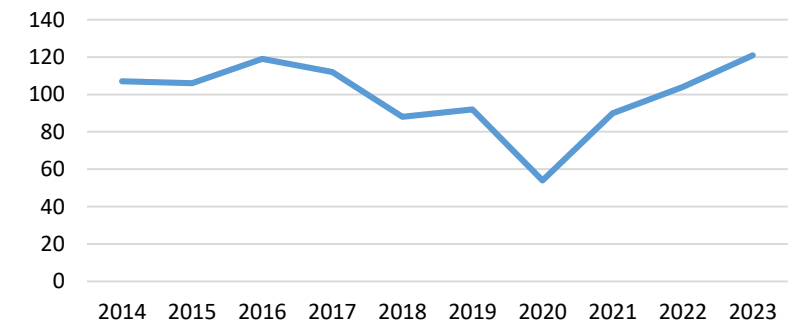
We also improved fairness by making sure that all drivers receive warnings at the same rate. In Burlington, all drivers receive warnings more than 80% of the time.

But we have seen **a potentially troubling increase in disparity in rates of stop**. The demographics of BPD traffic stops have historically been close to the demographics of crashes, which is the best way to determine a city’s driving population. In 2023 there was a notable deviation, shown at right. Chief Murad is concerned about it, and wants to be reflective and responsive to it. The BPD will examine all of 2023’s stops to ensure they met the Department of Justice’s standards for courteous, transparent stops.

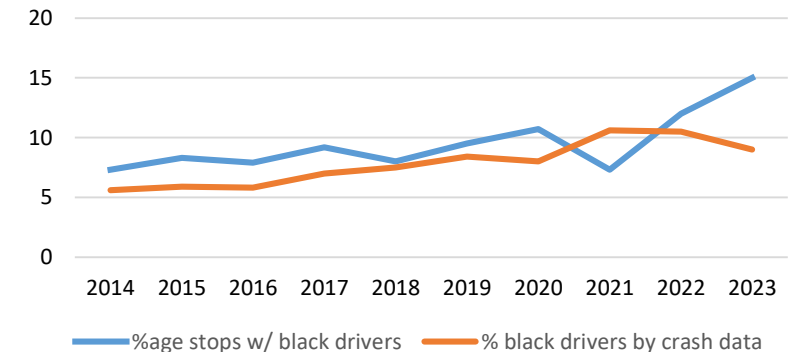
Traffic Stops



Fatal Crash & Crash w/ Injury



Black Drivers, Stops v Crash





USE OF FORCE

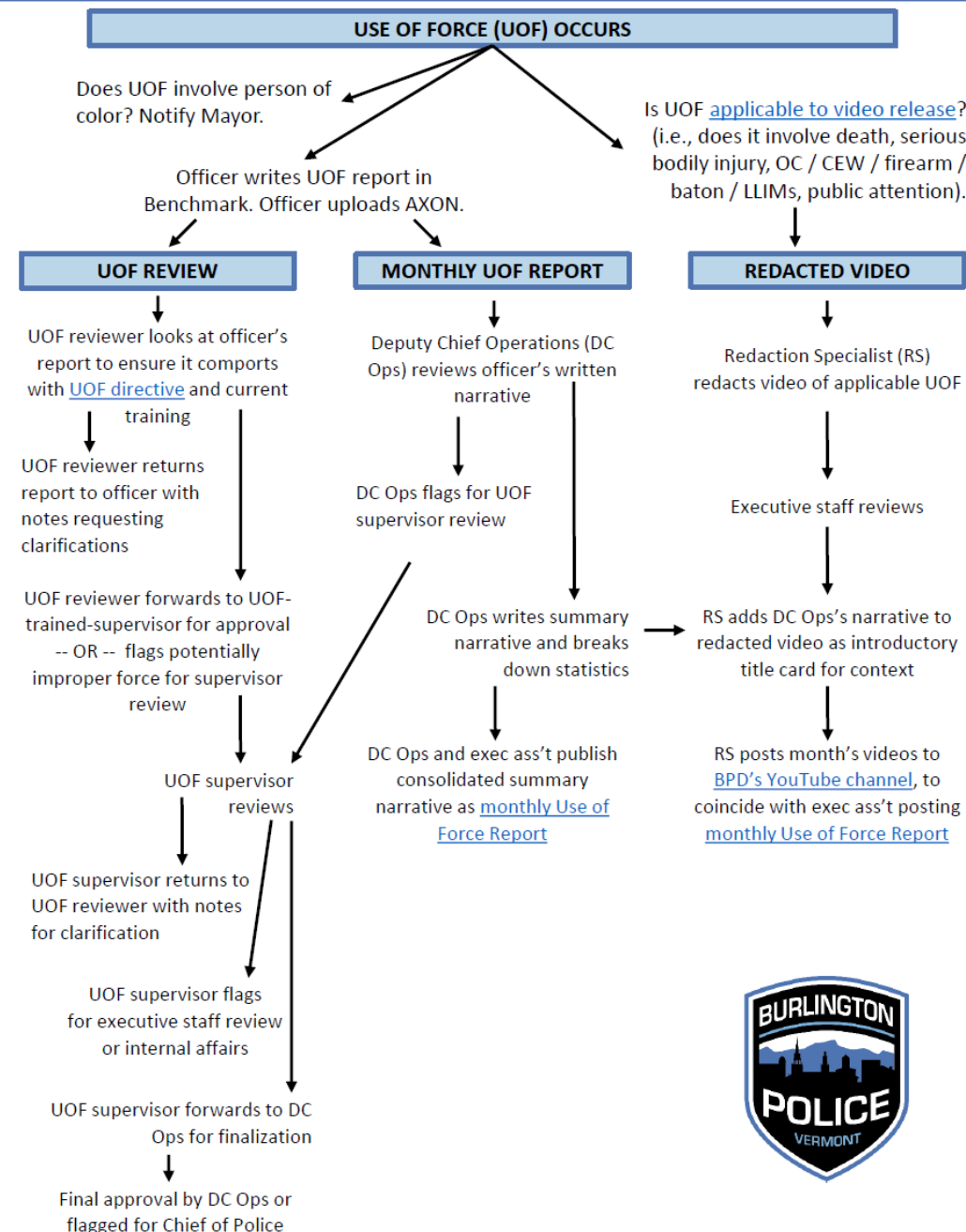
The 2023 Annual Report is also expected to show **an increase in the number of incidents of use of force**. Chief Murad is concerned about this increase, too, and will be reflective and responsive to it.

In Burlington, any action beyond compliant handcuffing is considered a use of force. The BPD examines EVERY SINGLE use of force, and makes descriptions of and data about ALL of them public via the

[Monthly Use-of-Force Reports](#)

No other police department in Vermont does this. The flowchart at right is available online, at the BPD's Transparency & Data page, under "[Use-of-Force Incidents & Info](#)." The online version contains hyperlinks to a variety of sources, like the Statewide Use-of-force Directive.

The Monthly Use-of-Force Reports capture approximately 248 incidents in which force was used in 2023. (This is a different count than the Annual Report, which counts person-incidents. If officers stop a stolen car with four occupants and order them out at gun point, it is one use-of-force incident but four person-incidents.) Nearly 25% of last year's uses of force can be [seen on YouTube](#), where the BPD posts any use of force that includes serious bodily injury or death; or that includes the use of tools like OC spray, conducted electrical weapons, or firearms (including merely pointing firearms); or that occasions significant public concern.





THE BPD IS HIRING!

\$72,248 to \$79,693
starting pay*

\$100,000
top pay

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

***depending on experience**

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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.

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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 Department Online Citizen Complaint Form* to report a stolen vehicle).
- 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
 - iii> Failing to maintain custody and control of weapons, Criminal Justice Information Services (CJIS) systems, or encrypted technology;
 - 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. Verbal or written complaints to the Mayor's Office, members of the City Council, and the Police Commission will be accepted without need for a written *Citizen's Complaint Form* or *Burlington Police Department Online Citizen Complaint Form*.

43. 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.

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 in Section (A) 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.

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 a 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 the review determines that a complaint may 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. Subject employees are not automatically informed of supervisor reviews unless an interview is required (see A.1, below), or the complaint is "sustained."
 - 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 will select 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.**

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. Additionally,, 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 Administrative Review of 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, if applicable, prosecution—shall proceed and conclude prior to the conclusion of the BPD’s Internal Investigation. The 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.
 - a. An officer-involved shooting that is determined to be lawful and justified by the Attorney General and/or State’s Attorney, and that does not result in any complaint, will transition from an Internal Investigation to a Use of Force Review.

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 interviews 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 name(s) of the complainant(s), if known.
 - cb. The date of receipt of the allegation.
 - de. The date of the alleged incident, if known.
 - ed. The type or nature of the allegation.
 - fe. The name(s) of the supervisor who conducted the review.
 - gf. The final disposition of each complaint.
 - hg. How the matter was closed out with the complainant.
 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 review.
- 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 Burlington. 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 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.

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 disciplinary action. Extenuating, mitigating, or aggravating 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:

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. ~~At the conclusion of any supervisor review that results in a "sustained" disposition~~
~~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. The employee will have the right to confront the evidence in the review and seek redress or reevaluation from the Chief of Police.
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. The employee will have the right to confront the evidence in the review and seek redress or reevaluation from the Chief of Police.

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 complaint that involves serious bodily injury to any participant, or that raises significant public concern.

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
- 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 judgment 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.
- 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. 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) may receive 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 receive 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 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.
- 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 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.

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 fourteen (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.

DESCRIPTION OF REVIEW PANEL MIGHT GO HERE, IF IT IS CREATED BY COUNCIL

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.

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 such conduct 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.

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 supervisor review, Administrative Review, or Internal Investigation 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 Investigation of the event/conduct.

3. Records relating to significant discipline that does not result in termination but that triggers a suspension of one week or more—including but not limited to cases involving 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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COMPLAINT RECEIVED;
INFORM COMMISSION

CITIZEN COMPLAINTS PROCESS

APPENDIX 2



[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.

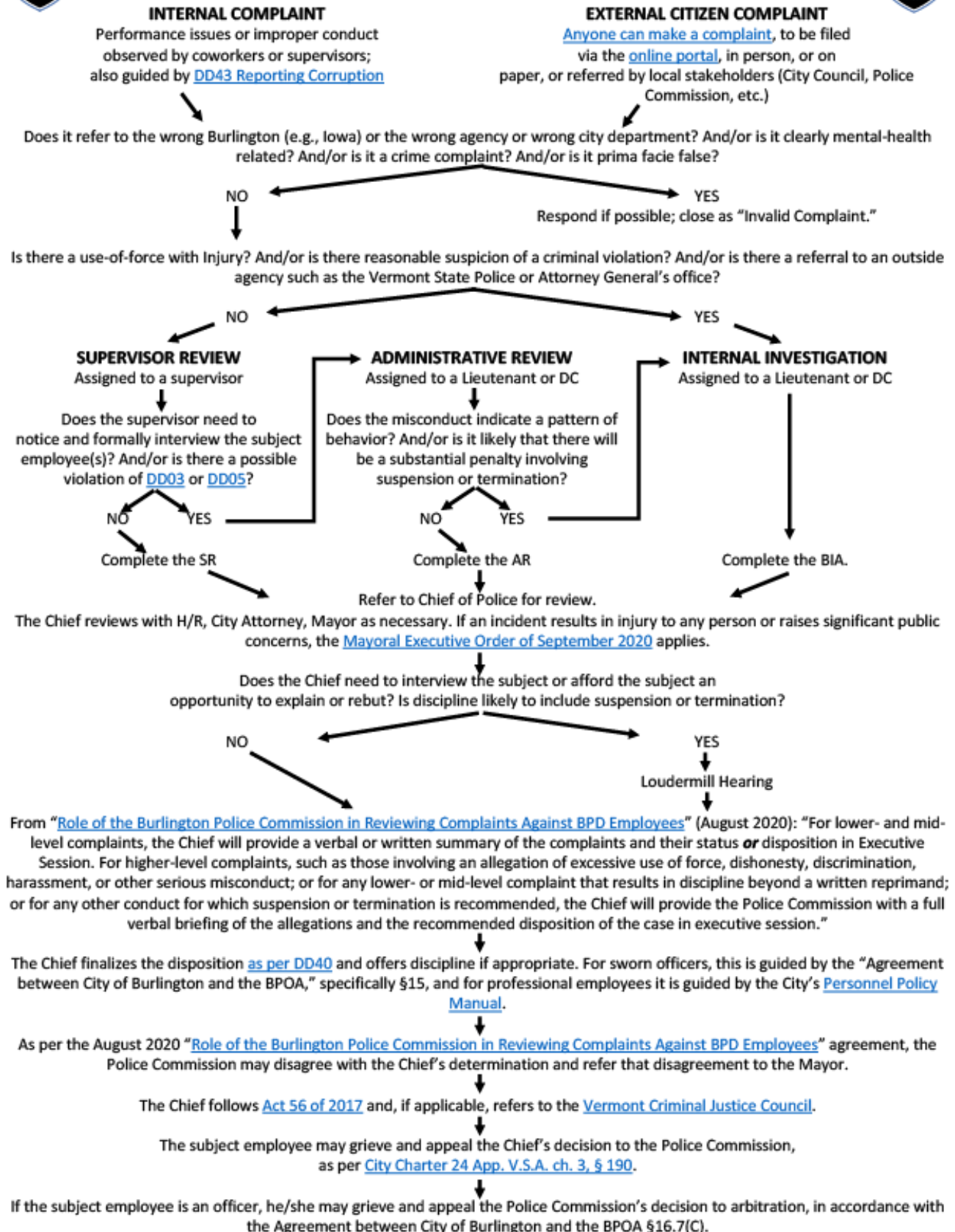
20 VSA § 2401?
CHIEF REPORTS TO VCJC

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.



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

March 01, 2024 – March 31, 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 3/01/24 – 3/31/24 – 2105

Total Number of UOF Incidents - 20

Total Uses of Force – 13

Percent of UOF Incidents vs. Total Incidents – 0.9%

Race/Gender of Arrestee/Subject in UOF Incidents

Black Male – 2

Black Female – 1

White Male – 10

White Female – 7

Incidents

1. 24BU004462

3/1/24

Officer Initiated

Call type – Mental Health

Charges – None

Synopsis

Officers received an emergency evaluation warrant from Vermont Superior Court for a female subject. Officers made contact with the female, who at the onset began yelling and screaming at the officers “No” and stating to the effect that she did not need to go to the hospital. The female was also moving away from officers at this time. An officer speaking with her attempted to de-escalate the interaction but it yielded no results. That officer, concerned the female would walk into traffic on South Winooski Avenue, took control of her right arm. The female began to resist, tensing her body and pulled her arm from the officer’s hands. A second officer had taken control of the female’s left arm and attempted to move her arm behind her back. The female subject pulled back against the officers’ control. The officer was finally able to move the female’s left arm behind her back. The first officer was able to move the female’s right arm



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behind her back. A third officer was able to take control of the female's hands and apply handcuffs.

Subject Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls

Officer 3 – Verbal commands/empty hand controls/handcuffing

Subject – taken into custody on EE warrant

White Female Age 44, 5'07", 150 lbs.

Subject – no injury

Officer – no injury

2. 24BU004532

3/2/24

Complainant/Officers Dispatched

Call type – Disturbance

Charges – None

Synopsis

Female caller stated to the effect that her ex-boyfriend had pulled a gun on her fiancé and gave a name, clothing description and direction of travel of the suspect. Officers arrived on scene and began to look for the suspect while an officer attempted to speak with the caller. An officer spotted two males, both wearing clothing similar to the description given walking, through City Hall Park. The officer reached the first male and recognized him, through prior police encounters, and realized he was not the suspect. An officer observed the second male turn down St. Paul Street and then run up the alley next to Pizzeria Veritas. Believing this was the suspect and they were reported to be armed with a firearm, the officer drew their firearm and pursued the male. As the officer turned the corner from the street into the alley they immediately observed the male walking back towards them. The officer pointed his firearm at the male and stated to the effect for them to stop. The male complied and placed his hands in the air. Officer spoke with the male and were able to identify the male and he was not the suspect they were looking for. The male was released. The female caller and her fiancé refused to meet on scene with the police and the officers had to continue their investigation by phone.

Subject Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/firearm pointed



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Subject – identified and released
Black male Age 38, 5'11", 180 lbs.

Subject – no injury
Officer – no injury

3. 24BU004542

3/2/24

Complainant/Officers Dispatched

Call type – Trespass

Charges – Unlawful Trespass/Disorderly Conduct/Resisting Arrest

Synopsis

Caller stated to the effect a male subject who was trespassed from the store was currently in the store. Officer arrived on scene and observed the male subject in the store. Officers made contact with the male and stated to the effect he was under arrest. Officers were able to compliantly handcuff the arrestee. As an officer attempted to search the arrestee before placing them into the police cruiser, the arrestee began to pull away from the officer, turn and face the two officers. One officer had to physically place the arrestee up against the cruiser to prevent him from moving around. The arrestee was also grabbing hold of the second officer's hands as they tried to control the arrestee. The arrestee was secured against the cruiser and the officer was able to complete their search. The arrestee was placed into the cruiser.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls

Arrestee – taken into custody, processed and lodged on bail
White male Age 46, 6'01", 200 lbs.

Arrestee – no injury
Officers – no injury

4. 24BU004711

3/5/24

Complainant/Officers Dispatched

Call type – Eluding Police

Charges – Eluding a Police Officer/Operating without Owners Consent



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Synopsis

A CSO observed a stolen motor vehicle parked, unoccupied in the parking lot of City Market on South Winooski Avenue. While officers were responding a male and female entered the vehicle. As two officers in the same cruiser arrived in the parking lot one of them observed the vehicle backing out of a parking spot. The officer driving activated their blue lights as the vehicle turned and faced the officers. The two officers exited the cruiser, remaining next to the cruiser. Both officers drew their firearms and pointed them at the male operator of the vehicle. One officer stated to the effect they were police and to stop the vehicle. The second officer also gave similar commands as the operator put the vehicle in reverse and drove backwards out of the parking lot. The two officers lost sight of the vehicle and occupants.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/Firearm pointed

Officer 2 – Verbal commands/Firearm pointed

Arrestee – fled scene not located

White male Age 39, 5'11", 155 lbs.

Arrestee – no injury

Officers – no injury

5. 24BU005192

3/12/24

Complainant/Officers Dispatched

Call type – Trespass

Charges – Unlawful trespass/Violation of Conditions of Release

Synopsis

Caller stated to the effect that a male who had a trespass for their store was in the store, then left and was trespassing now at the Feeding Chittenden Food Shelf. Officers arrived on scene, verified the male subject was trespassed and located the male subject*(same subject from #3 - 24BU004542) at the Food Shelf. An officer stated to the effect to the male subject he was under arrest for trespassing. The officer attempted to place the arrestee into handcuffs. The officer could feel the arrestee tense up his arms and stated to the effect to the arrestee to stop tensing up and pulling away. The arrestee did not stop and the officer observed the arrestee was making a fist with his left hand. The officer had to use physical force to control the arrestee's hands and place him into handcuffs. The arrestee continued to struggle and tense up as the officer walked him to the cruiser.



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Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls/empty hand controls/handcuffing

Arrestee – taken into custody and lodged on bail

White male Age 46, 6’01”, 200 lbs.

Arrestee – no injury

Officer – no injury

6. 24BU005259

3/13/24

Complainant/Officers Dispatched

Call type – Bank Robbery

Charges – None

Synopsis

A panic/hold up alarm was activated at the Community Bank on North Avenue. A bank employee called in and stated to the effect that a male had just attempted to rob the bank, gave a description and direction of travel of the suspect. An officer responding to the scene. The officer was canvassing nearby for the suspect and located a running vehicle with two occupants. The male operate appeared to match the description of the suspect. The officer approached the motor vehicle drawing his firearm. The officer gave verbal orders to the occupants to exit the vehicle and place their hands on their heads. Both subjects complied with the officers orders. The officer had their firearm pointed at the operator while he exited the vehicle. The officer then holstered his firearm and handcuffed the operator and explained why they were being detained. A witness was driven by the scene and advised the subject was not the suspect. The subject was released.

Subject Actions – Complainant

Officer Actions

Officer 1 – Verbal commands/firearm pointed/handcuffing

Subject – investigative detention and released

White male Age 41, 5’11”, 236 lbs.

Subject – no injury

Officer – no injury



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7. 24BU005292

3/13/24

Officer Initiated

Call type – Search Warrant

Charges – Larceny from a Building/Possession of Stolen Property

Synopsis

Officers served a search warrant on an apartment for property stolen from a neighboring apartment. An officer knocked on the door and explained why they were there showed a copy of the signed warrant. The suspect became very agitated and uncooperative. The officer explained to the effect if the suspect brought out the 2 items on the search warrant BPD would not have to enter the apartment. The suspect refused to comply and stated to the effect they did not have the property. The officers then stated to the effect the suspect would have to exit the apartment. The suspect finally exited the apartment and officers served the search warrant. The suspect continued to yell profanities at the officers. The suspect pushed by an officer and then struck the door with her hand. The officer stated to the effect that if she continued with this behavior she would be handcuffed. An officer, at the request of the suspect, retrieved her cane from her residence. The suspect then used the cane to strike the door to the residence. The officer took hold of the suspects arm to stop her and she then began to yell about a previous injury. The officer took into consideration her age and size and gave her another chance before placing her into handcuffs. The officer retrieved a stool for the suspect to sit on but she refused and continued to yell and walk around swinging her cane. Officers located the stolen items stated to the effect that she was under arrest. Two officers took hold of the arrestee's arms to attempt to place her into handcuffs but she began to scream about a previous injury. Due to the arrestees previous injury and physical limitations of the arrestee officers decided to issue a citation rather than a custodial arrest.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls

Officer 3 – Empty hand controls

Arrestee – Issued citation

Black Female Age 63, 5'05", 135 lbs.

Arrestee – no injury

Officer – no injury



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8. 24BU005300

3/13/24

Complainant/Officers Dispatched

Mental Health

Call type – Welfare Check

Charges – None

Synopsis

A caller stated to the effect that their sister was experiencing a mental health issue, had harmed herself, and was acting aggressive and breaking glass. Before physically responding officers were able to obtain an emergency evaluation order for the female. With the order, four officers responded to the residence. BFD was already on scene attempting to speak with the female. BFD briefed the officers that the female had barricaded herself in her room and possibly had a bag full of knives. Officers made a plan to enter the room and take the female into custody. The barricade the female had made against the door was not substantial and one officer was able to push open the door. Two officer entered to find the female seated facing away from the officers. An officer stated to the effect to the female they were the Burlington Police and that they would be placing her into handcuffs. The two officer each took hold of the females arms and were able to physically move them behind the female's back. The female resisted, yelling, trying to pull her arms and hands to her front, turning her body. One of the officer attempted to place her into handcuffs. The handcuffs became jammed. A third officer was able to retrieve a second pair of handcuffs and while controlling her hands place her into handcuffs. BFD entered the room to administer a sedative which agitated the female further and she began kicking at BFD personnel. A fourth officer entered the room and took hold of the female's legs to stop her from kicking. Officer continued control of the female while waiting for the sedative to take effect. The sedative had not effect. BFD administered a second dose which caused the female to become agitated again. Officer had to physically control her again. This time the sedative took effect and BFD was able to transport her to UVMMC ED.

Subjects Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Empty hand controls

Officer 3 – Empty hand controls/handcuffing

Officer 4 – Verbal direction/empty hand controls

Subject – taken into custody on EE warrant, transported by BFD to UVMMC ED

White Female Age 23, 5'02", 120 lbs.

Subject – no injury



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Officer – no injury

9. 24BU005330

3/14/24

Complainant/Officers Dispatched

Call type – Assault

Charges – Aggravated Assault/Resting Arrest/Simple Assault/Unlawful Mischief/Disorderly conduct

Synopsis

Caller stated to the effect that her neighbor was attacking her husband and throwing things at him. The first officer on scene briefly spoke with the caller who pointed out that the male suspect had gone behind a fence between adjacent properties. The officer located a large hole in the fence and stated to the effect ordering the suspect to come out but received no reply. The officer went through the hole into the next backyard and observed the suspect crouched in a corner by the corner of a building. The officer stated to the effect for the suspect to stand up. The suspect stated to the effect for the officer to shut the fuck up. The officer slowly approached the suspect and observed a metal tool next to the suspect, this turned out to be pruning shears. The officer stated to the effect ordering the male to stand up and place his hands behind his back. The suspect immediately grabbed some papers and the tool, stood up and stated to the effect that he was not putting his hands behind his back. The officer immediately began to back up to create distance. The suspect with the tool in hand began to advance towards the officer. The officer stated to the effect for the suspect to put the shears down. The officer fearing for his safety drew his CEW and fired the CEW. The officer did not have time to give a warning as the suspect was rapidly approaching him. The two probes struck the suspect and the suspect went to the ground. Two other officers arrived in the backyard, went to the suspect on the ground and attempted to take him into custody. The suspect actively resisted the officers, refusing to put his hands behind his back and tensing up his arms. The suspect got onto his knees and the two officers had to push the suspect back into the prone position. The first officer holstered his CEW and took out his handcuffs and assisted the officers. The second officer was able to place the suspect's right hand behind his back, the third officer had control of the suspect's legs and the first officer brought the suspect's left hand behind his back and was able to place the suspect into custody. BFD was called and attempted to evaluate the arrestee but the arrestee refused services.

Arrestees Actions – Assaultive/Active Resistance

Officer Actions

Officer 1 – Verbal commands/CEW deployed/empty hand controls/handcuffing

Officer 2 – Empty hand controls

Officer 3 – Verbal direction/Empty hand controls



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Arrestee – taken into custody and lodged with bail.
White male Age 62, 5’08”, 150 lbs.

Arrestee – no injury
Officers – no injury

10. 24BU005702

3/14/24

Complainant/Officers Dispatched

Call type – Assault

Charges – Simple Assault/Arrest on a Warrant X2/Violation of conditions of Release/False Information to a Police Officer/Resisting arrest

Synopsis

Caller stated to the effect that her friend had just been assaulted by and gave the suspects name. The caller then put the victim on the phone and they were able to give a direction the suspect had left in. An officer was able to locate the suspect and go out with the male. The male identified himself with name that turned out to be false. The officer had run the suspects name and the suspect had two active warrants. The officer explained this to the suspect and stated to the effect that the suspect was under arrest for the warrants. The suspect turned around and allowed the officer to remove his backpack. The arrestee then placed his hands behind his back and when the officer took hold of his hands the arrestee tensed his arms up and tried to turn into the officer. The officer stated to the effect to stop resisting. While holding onto the arrestee’s wrists the officer used his shoulder to push arrestee up against a bus and hold him there. A second officer arrived on scene and was able to compliantly handcuff the arrestee.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Arrestee – taken into custody and lodged on the warrants
White male Age 62, 5’0”, 170 lbs.

Arrestee – no injury
Officer – no injury



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11. 24BU005785

3/20/24

Complainant/Officers Dispatched

Call type – Aggravated Assault

Charges – Aggravated Assault/Disorderly Conduct

Synopsis

Caller/Arrestee was original caller stating the effect her neighbor was having mental health issues and needed to be removed from the apartment building. When officers arrived on scene the caller/arrestee refused to meet with officers. A short time later a call was received from the neighbor the arrestee had referred to in her call. The caller stated the arrestee was at his door pounding on it, screaming to the effect that she was going to kill him. Officer arrived on scene and spoke with the male. Officer learned from their investigation that the arrestee had been in possession of a large knife when she was kicking on the neighbor's door threatening to slit his throat. The officer then made contact with the arrestee who invited officers into her apartment. The officer's observed the arrestee was extremely intoxicated. The arrestee was cooperative initially but became increasingly more agitated and yelling at officers. Officers observed the arrestee began to clench her jaw and ball up her fists. An officer raised his hand to gain her attention while trying to de-escalate her. The arrestee then grabbed the officer's raised hand. The officer pulled his hand away and took control of her right arm while the two other officers took hold of the arrestee's left arm. The officers were able to move the arrestee's hands behind her back and mover her against a wall for support. The arrestee was then handcuffed. While escorting the arrestee out to the police cruiser she intentionally went limp and refused to move. Officers had to physically move her to the cruiser.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal direction/empty hand controls

Officer 2 – Verbal commands/empty hand controls/handcuffing

Officer 3 – empty hand controls

Arrestee – taken into custody ad lodged on bail

White Female Age 54, 5'05", 175 lbs.

Arrestee – no injury

Officers – no injury



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12. 24BU005802

3/21/24

Officer Initiated

Call type – Violation of Conditions of Release

Charges –

Synopsis

An officer on patrol observed a female whom he knew had court ordered conditions to not be with a male subject. The female was with the male subject at this time. The officer went out with the female and stated to the effect she was being detained while the officer confirmed the conditions. The female began to immediately argue with the officer stating to the effect that she was not being detained. The officer confirmed the conditions and stated to the effect for her to place her hands behind her back. The arrestee refused to comply. The officer took hold of her left arm and a second officer took hold of her right arm. The arrestee immediately tensed her arms and tried to pull away from the officers. The officer moved the arrestee towards a wall to gain better control. Once near the wall the arrestee violently pulled free from one officer's grip. The second officer then brought the arrestee to the ground in a controlled manner with the second officer assisting. Once on the ground the officers were able to roll the arrestee in a prone position and each officer took an arm. A third officer on scene controlled the arrestee legs. The second officer was able to place a handcuff on the arrestee's left hand while the first officer brought her right hand to the small of her back where the second officer was able to place her hand in a handcuff. Officers then sat her up and then brought her to a standing position and escorted her to the police cruiser. AT BPD the arrestee refused to exit the cruiser and the first officer had to take hold of the arrestees arm and pull her out of the cruiser. The officer then physically escorted the arrestee who continued to push back against the officer as the entered into the processing area. Once in the processing area the arrestee continued to resist stating to the effect to the officers that was not going to stop fighting with them. The arrestee spun, screaming and attempted to head-butt the officer holding onto her arm. The officer was able to avoid being struck. The arrestee posted one of her legs on a bench as if to push herself off and into the officer again. The officer was able to physically stop the arrestee from posting her leg. The third officer had the arrestee sit down onto the bench.

Arrestees Actions – Active Resistance/Assaultive

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls

Arrestee – taken into custody, transported to court.

White male Age 43, 5'08", 188 lbs.



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Arrestee – no injury – transported by BFD to UVMHC ED for panic attack/seen and cleared by staff.

Officers – no injury

13. 24BU005805

3/21/24

Complainant/Officers Dispatched

Call type – Agency Assist

Charges – Federal arrest warrant

Synopsis

Officers assisted the US Marshalls in taking a male subject into custody on for federal charges. The officer observed the subject walking with another male on the street. The officer exited his marked unit and pointed his firearm at the wanted male. The officer stated to the effect for the male subject to get onto the ground. The male subject complied, getting onto the ground in a prone position. A second officer compliantly hand cuffed the arrestee.

Arrestees Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/Firearm pointed

Arrestee – turned over to US Marshalls

Black male Age 47, 5'06", 150 lbs.

Arrestee – no injury

Officer – no injury

14. 24BU005851

3/22/24

Complainant/Officers Dispatched

Call type – Disturbance

Charges – Arrest on Warrant

Synopsis

Caller stated to the effect that his roommate's husband had broken through his bedroom door and tried to attack him. Officer arrived on scene and spoke with parties on scene. During their investigation they learned that the female roommate had an active arrest warrant. The officer stated to the effect to the female she had a warrant and was under arrest. The arrestee, who was lying in bed, stated to the effect they had to go to the bathroom. The arrestee got up and defecated on the floor, sat on the floor and refused to get up. The officer had to physically pick



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the female up from the floor. The officer then had to physically place the arrestee's hands behind her back where a second officer compliantly handcuffed the female.

Arrestees Actions – Passive Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Arrestee – taken into custody and transported to corrections on warrant

White Female Age 47, 5'05", 155 lbs.

Arrestee – no injury

Officer – no injury

15. 24BU005940

3/23/24

Complainant/Officers Dispatched

Call type – Simple Assault

Charges – Simple Assault/Interference with Law Enforcement/Unlawful Trespass

Synopsis

An employee from COTS called stating to the effect a female there was threatening to assault other clients. They did not want the female permanently trespassed but wanted her to leave for the day. Four officers arrived on scene and recognized the female from an incident approximately an hour and a half earlier. The female had been aggressive and verbally abusive when she was asked to leave by BPD an apartment complex she was not a resident of. Officers on scene stated to the effect multiple times that she had to leave for the rest of the day per management. The female ignored the officer's requests. An officer then stated to the effect to the female she was under arrest for unlawful trespass. Two officers took hold of the arrestee's arms and attempted to bring her hands behind her back. The arrestee actively resisted the officer's attempts by tensing her arms and pulling away from them. A third officer was able to bring the arrestee to the ground in a controlled manner. While on the ground the arrestee began to violently kick her legs out. An officer was kicked in the face as he attempted to gain control of the arrestee's legs. The third officer who brought the arrestee to the ground was able to roll her into a prone position. The officer who was struck in the face was able to gaining control of the arrestee's leg. The two other officers were able to bring the arrestee's arms behind her back and place her in handcuffs.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls



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Officer 2 – Verbal commands/empty hand controls

Officer 3 – Empty hand controls/handcuffing

Arrestee – taken into custody and lodged on bail

White Female Age 39, 5'08", 150 lbs.

Arrestee – no injury

Officer – injury to mouth and nose

16. 24BU005948

3/23/24

Complainant/Officers Dispatched

MENTAL HEALTH

Call type – Attempted suicide

Charges – None

Synopsis

Caller stated to the effect that a male had a knife and was threatening self harm. Officer arrived on scene. After formulating a plan officers made entry using a shield. Due to the presence of a knife, one officer had a firearm out as officer called the male subject to them. The officer initially pointed his firearm at the male when he appeared. Officer stated to the male to show his hands to which they complied. The officer observed their hands to be empty they holstered their firearm. When officer made contact with the male they observed him to be highly intoxicated. The male was taken into protective custody and transported by BFD to UVMMC ED.

Subjects Actions – compliant

Officer Actions

Officer 1 –Firearm pointed

Subject – taken into protective custody and transported by BFD to UVMMC ED

White male Age 44, 6'04", 200 lbs.

Subject – no injury

Officer – no injury



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17. 24BU005965

3/24/24

Complainant/Officers Dispatched

MENTAL HEALTH

Call type – Disturbance

Charges –

Synopsis

A caller stated to the effect that a male was acting aggressively and making threat towards censor security. Officer arrived on scene and were informed by security the name of the male subject. BPD was currently looking for the male to take him into custody on an Emergency Evaluation warrant. Two officers made contact with the male in a hallway. The male identified himself to them but then tried to push pass the officers. One officer took control of the male's left arm and the other officer took control of the male's right arm. The two officers physically moved the male's arms behind his back and a third officer compliantly handcuffed the male. The male refused to walk and the officers had to physically move him forward and hold him up. At the elevator the male began to actively resist, kicking, trying to wrap his leg around one of the officer's leg, striking his own head on the walls. The officers brought the male into a kneeling position to stop him from striking his head and kicking. BFD was contacted to bring a stretcher to safely transport the male from the building. Once BFD arrived the officers had to physically place the male on the stretcher and maintain control of him until BFD personnel secured him onto the stretcher.

Subjects Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls

Subject – taken into custody on EE warrant and transported to UVMHC ED
White male Age 46, 5'09", 180 lbs.

Arrestee – no injury

Officer – no injury

18. 24BU006155

3/26/24

Complainant/Officers Dispatched

Call type – Disturbance

Charges – Arrest on Warrant



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Synopsis

BFD called requesting BPD officers for a combative patient. BFD was able to get compliance from the male and he was transported to UVMMC ED by BFD. Officer then learned the male had active warrant for arrest. Once the male was cleared by UVMMC ED staff officers made contact with the male in an ER room and stated to the effect he had a warrant, was under arrest and to place his hands behind his back. The arrestee stated to the effect fuck you to the officers. One officer took hold of the arrestee's left arm and the second officer took hold of the arrestee's right arm. The arrestee then pulled his right arm free, turned and pointed his right finger into the face of the second officer. The second officer then took hold of the arrestee's right arm with both her hands and moved the arrestee's right arm behind his back. The first officer placed the arrestee's left arm behind his back and the second officer placed handcuffs on the arrestee. While being searched the arrestee continued to actively resist pulling out of the second officers grasps and trying to elbow the officer who was searching him.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls/handcuffing

Arrestee – taken into custody and lodged on arrest warrant

White male Age 59, 5'10", 190 lbs.

Arrestee – no injury

Officers – no injury

19. 24BU006379

3/29/24

Officer Initiated

Call type – Operations

Charges – Interference with Law Enforcement

Synopsis

Officers served a search warrant on a residence looking for firearms for an NJ case. Officers knocked on the door to the apartment and made multiple announcements stating to the effect they were the police and they had a search warrant. There was no answer. Officer made entry into the apartment. Upon entry the officer heard the female subject from somewhere in the residence. Officer tried to call the female to them but she refused to comply. Due to the presence of firearms in the residence officer had their firearms out. Officer moved slowly into the residence and made contact with the female at a bedroom door. The officer stated to the effect for the female to place her hands on her head. The female responded by making



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repeated shoot me shoot me statements. After trying to negotiate with the female she attempted to move into the bedroom. An officer grasped the female's right arm and pulled her from the doorway. A second officer took hold of her left arm. The officers moved the female's arms behind her back and placed her into handcuffs.

Arrestees Actions – Passive resistance/Active resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal direction/firearm displayed/empty hand controls/handcuffing

Officer 3 – Firearm displayed/Verbal direction

Arrestee – taken into custody, processed and released on citation

White Female Age 47, 5'08", 140 lbs.

Arrestee – no injury

Officers – no injury

20. 24BU006503

3/31/24

Complainant/Officers Dispatched

MENTAL HEALTH

Call type – Trespass

Charges – Unlawful Trespass/Unlawful Mischief/Interference with Law Enforcement

Synopsis

Caller stated to the effect a female was running around the church creating disturbance, yelling, refusing to leave and interfering with a baptism taking place. Four officers arrived on scene and were directed to a closet in the rear of the church where the female had locked herself inside. An officer began to negotiate with the female through the door. The female was stating to the effect help me father help me. The officer spoke with the female for approximately 10 minutes with the female stating to the effect she wanted help but would not comply with officers trying to get her help. Officers had BFD stage nearby. Officers he heard the sound of breaking glass. Using a key an officer was able to unlock the door and open it slightly. The officer observed the female laying on the floor with broken glass around her. The officer opened the door further and observed the female to reach for a large cross on a long pole. Three officer entered and attempted to control the female. One officer took hold of the females left arm with both hands. A second officer attempted to take hold of her right arm which was underneath her but could not. The officer then took hold of the off the cross which she now had grasped in her hands with the pole extend between her legs as she lay on the floor. The officer was successful in breaking the females grasp on the cross and removed it. The third officer pulled the female's



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CITY OF BURLINGTON**

right arm out from under her after a struggle and moved it behind her back. The first officer was able to move the female's left arm behind her back and place the female into handcuffs. The female then began to kick her legs and the first officer took hold of her legs and gained control of them to stop her from kicking. A fourth officer was able to apply leg shackles. BFD was called into the room and with the officers help she was moved onto a stretcher and secured. An officer rode up in the back of the ambulance with BFD to the UVMMC ED.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal dialogue/empty hand controls/handcuffing

Officer 2 – Empty hand controls

Officer 3 –Empty hand controls

Officer 4 – Empty hand controls/leg shackles

Arrestee – taken into custody and transported to UVMMC ED

White Female Age 31, 5'08", 180 lbs.

Arrestee – no injury

Officer – no injury

USE of Force Report
April 01, 2024 – April 15, 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 4/01/24 – 4/15/24 – 1059

Total Number of UOF Incidents - 4

Total Uses of Force –7

Percent of UOF Incidents vs. Total Incidents – .4%

Race/Gender of Arrestee/Subject in UOF Incidents

Black Male – 2

Black Female – 0

White Male – 3

White Female – 3

Incidents

1. 24BU006543

4/1/24

Complainant/Officers Dispatched

Call type – Domestic Disturbance

Charges – Arrest on Warrant/Interference with Law Enforcement

Synopsis

A female called stating to the effect her friend had just called her and stated her boyfriend would not let her leave her residence. The caller also stated to the effect that there was a temporary restraining order in effect against the boyfriend. Officer ran the boyfriends name and learned they had 2 active arrest warrants. Officers responded to the victim’s residence and attempted to make contact with the victim. The officers observed the suspect pull back a curtain and look out a window, then shut the curtain. Officers went back to the door and this time the victim answered the door and stated that the suspect had jumped out the back window. The first officer on scene was told the suspect had jumped from a window in the back. An officer ran to the back and observed the suspect jumping a fence. The officer pursued the suspect on foot stating to the effect to the suspect to stop. An officer responding heard the direction of travel of the fleeing suspect and went to the general area the suspect was in. A short time later the officer heard rustling noise a short distance from his location and ran towards the sound. The officer knew from previous law enforcement contact that the suspect has been known to carry a firearm. The officer observed the suspect ran out from behind a

residence. The officer drew and pointed his firearm at the suspect and stated to the effect loud, clear and definitive verbal commands to get on the ground and put his arms out to the side. The suspect complied. An off-duty officer from a neighboring agency that had been nearby approached the officer and provided cover for the officer. The officer holstered his weapon and was able to physically move the arrestee's arms behind his back in the prone position and place him into handcuffs.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/Firearm pointed/empty hand controls/handcuffing

Arrestee – taken into custody and taken to court on warrants

White male Age 38, 5'10", 145 lbs.

Arrestee – no injury

Officer – no injury

2. 24BU07279

4/11/24

Officer Initiated

Call type – Municipal Ordinance Violation

Charges – Vermont Municipal Ticket issued

Synopsis

An officer walking on the Church Street Market Place observed a male subject smoking a tobacco product on the Market Place, which is a City Ordinance Violation. The officer spoke with the male stated to the effect they could not smoke on the Market Place and to put the tobacco product out. The male stated to the effect that he did not care and continued to walk away. The officer stated to the effect for the male to stop and asked who he was. The male refused to tell the officer his name and continued to walk. The officer stated to the effect that he had to stop and identify himself due to his ordinance violation or the officer would have to stop him. The male continued to walk away. The officer had to approach the male and physically take hold of his arms to stop him. The male tensed up and stated to the effect yelling he had done nothing. The officer took hold of the male's right arm and wrist and walked him to a set of steps and had the male sit down. The male then identified himself and was issued a Vermont Municipal Ticket for smoking on the Church Street Market Place. The male then requested to speak with Street Outreach. The officer contacted Street Outreach for the male.

Subject Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Subject – issued Vermont Municipal Ticket

White male Age 47, 6'00", 220 lbs.

Subject – no injury

Officer – no injury

3. 24BU07332

4/12/24

Officer Initiated

Call type – Operations

Charges – Drug Sales/Arrest on Warrant

Synopsis

Officer conducted a narcotic search warrant on three separate apartments within one building. An officer had his firearm displayed while entering the first apartment where a male subject observed the firearm. A second officer entering the apartment encountered a female subject and their firearm was pointed at her as the officer stated to the effect for her to place her hands on her head to which she complied and was compliantly handcuffed and detained. The second officer was clearing a second apartment and encountered a male subject on the second floor of the apartment and had to handcuff that male. A third officer was outside of an apartment window and two female subjects observed the officer's firearm displayed. A fourth officer was searching the second apartment and pointed his firearm at a female subject on a bed. The officer stated to the effect for the female to stand up and to show her hands. The female complied. While the female was doing this a male subject entered the room from the hallway with his hands on his head facing away from the officer. The officer pointed his firearm at the male subject and stated to the effect for the male to stop. The male complied. Officers entered and compliantly handcuffed the female and male subjects.

Subjects Actions – Compliant

Officer Actions

Officer 1 – Firearm displayed

Officer 2 – Verbal commands/firearm pointed/handcuffing

Officer 3 – Firearm displayed

Officer 4 – Verbal direction/firearm pointed

Subjects – detained

Black male, Age 44, 5'11", 140 lbs.

Black male, Age 43, 6'05", 267 lbs.

White female Age 48, 5'03", 190 lbs.

White female Age 52, 5'04", 140 lbs.

White female Age 39, 5'07", 230 lbs.

Subjects – no injury

Officers – no injury

4. 24BU07395

4/13/24

Complainant/Officers Dispatched

Call type – Intoxication

Charges – None

Synopsis

A caller stated to the effect their 17 year old son was either intoxicated or on drugs and was acting erratically. They stated to the effect that he was swearing, threatening and lunging at them. An officer arrived on scene and spoke with a female who directed him to the rear of the residence. The officer observed the male subject swinging his fists at the subject's father. The officer entered through a door and stated to the effect for the male subject to stop. The male subject turned and began to swing his fists at the officer. The officer was able to deflect the punches and take hold of the male subject's wrists and cross the male subjects arms. The officer pulled the male out onto the patio area and stated to the effect to get on the ground. The male lost his balance and the officer who still had hold of the male's hands was able to bring him onto the ground in a controlled manner. The officer was then able to bring the males hands behind his back and place him into handcuffs.

Subject Actions – Assaultive

Officer Actions

Officer 1 – Verbal commands/empty hand controls/handcuffing

Subject – taken into protective custody, transported by BFD to UVMHC ED due to intoxication
White male Age 17, 5'07", 124 lbs.

Subject – no injury

Officer – no injury

12/13/23

City of Burlington, VT

2021-2023 Dog Task Force

Executive Summary

The Dog Task Force was created in 2021 by a City Council resolution to address the growing number of dogs in Burlington and a perceived increase in conflicts. The Task Force included a broad representation of stakeholders. It met from 2022-2023 to carry out the tasks outlined in the resolution. This report includes details of the work of the Task Force, recommendations and rationale.



Key recommendations:

- 1) Modernize and update the city ordinances that relate to animals.
- 2) Improve the licensing process and dramatically increase the number of animals licensed in the city. Allocate a portion of the license revenues for programs and activities that support healthy and happy dogs and cats within the City.
- 3) Require cats to be licensed and prohibit at-large cats, with certain exceptions
- 4) Improve the reporting, compliance and enforcement of animal-related ordinances by creating the position of Animal Control Officer at the Police Department and adding professional experts to the Animal Control Committee.
- 5) Establish a policy for off-leash dogs that includes the management and creation of fenced and unfenced off-leash dog areas at a limited number of locations; and recommend BPRW conduct a pilot project to test unfenced off-leash areas for dogs.

-
- 6) Create and expand an annual calendar of education outreach, activities and parks-based events to reduce issues and conflicts around domestic animals while celebrating the joy they bring to Burlington’s residents.

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Fig. 1. A map showing that dog registrations appear to be evenly spread across the city, indicating both that dogs are located all over the city and that the low licensing numbers are pervasive and not restricted to any specific areas.

Findings and Recommendations

Ordinance Updates

Recommendation: Modernize and update the city ordinances that relate to animals

The City of Burlington ordinances related to animals (Chapter 5 “Animals and Fowl”) have not been updated on a regular basis, in some cases for 26 years. As a result, many of the ordinances are outdated with regard to current terminology and regulatory practices. The Task Force ordinance subcommittee conducted a comprehensive review of the ordinances and compiled a list of recommendations.

The recommendations, as follow, fall primarily into four categories: updates to language, improvements to animal shelter policy, licenses and other recommendations to improve the welfare of dogs and cats, and measures to strengthen enforcement. Please note that in the course of the review of Chapter 5, the Task Force has made recommendations that fall outside the four corners of the Resolution, such as revisions to the regulation of exotic animals, and these recommendations, while not noted below, are included in Appendix C. The Task Force requests that the City consider these additional recommendations as well in order to ensure that the ordinances better reflect current societal views of animals.

Language:

- Retitle Chapter 5 “Animals”
- Retitle Article II “Dogs and Cats”
- Replace the term “pound” with “animal shelter” throughout
- Replace the term “owner” with “guardian” throughout
- Replace the term “pet” with “companion animal” throughout
- Replace the term “vicious” with “dangerous” throughout
- Replace “it” with “they” when used in reference to an animal throughout

Animal shelter:

- Provide an animal shelter for all species of companion animals in need
- Remove option for animal shelter to sell or give away unredeemed animals, and restrict options to offer for adoption or transfer to cooperating animal shelter

Dogs and cats:

- Require that dogs and cats wear identification
- Require that cats be licensed
- Increase license fees and review the fee structure at least every 5 years
- Dedicate license fees to education and other services pertinent to improved welfare of resident dogs and cats
- Prohibit at-large cats

Enforcement:

- Provide a dedicated, certified animal control officer with investigative resources
- Increase fine for violations of Chapter 5 and include restorative justice as a supplemental option for offenders
- Require impoundment of any animal suspected of being a stray
- Increase impoundment fee
- Require boarding fee to reflect actual expenses
- Increase fine for cruelty to animals
- Add a licensed veterinarian and a certified animal behavior professional to the animal control committee
- Allow any person to use reasonable force to remove an animal whose health or safety is at risk from a motor vehicle if designated officials are unavailable
- Prohibit any person from leaving the scene of an accident for which they have reason to believe that they have caused the injury or death of an animal

Appendix C includes a copy of Articles I, II, and III of Chapter 5 and Section 22-13 of Chapter 22 as well as a detailed discussion of the bases for the recommendations.

Licensing Programs and Policy Updates

Recommendation: Improve the licensing process and dramatically increase the number of animals licensed in the city. Allocate a portion of the license revenues for programs and activities that support healthy and happy dogs and cats within the City.

The Task Force found that Burlington was under licensing dogs compared to neighboring communities. Licensing is an important means of monitoring the overall health of the City's dogs with respect to rabies, and thus reducing transmission of this virus. Rabies, once symptoms appear, is fatal to humans and animals. In addition, treatment is expensive, painful and occurs over multiple visits. Further, licensing facilitates returning animals to their guardians quickly and efficiently, which reduces stress on the animals and saves City resources for other needs.

The Task Force performed a detailed review of licensing data and trends and found that licensing rates in Burlington are very low compared to neighboring cities with smaller populations. The 2022 rate of licensing in Burlington is estimated at 11%. The practices of the neighboring community of South Burlington, which has an estimated 35% licensing rate for dogs, were compared with Burlington's practices.

In the course of the Task Forces research, it was apparent that there are no dedicated funds for the development of parks resources for animals and their guardians. With some effort to improve licensing numbers, revenue increases for the city could be significant enough to fund additional programs and activities that support healthy and happy dogs and cats within the City. Examples of these programs are listed below.

The Task Force overwhelmingly recognized the importance of improving and expanding licensing within Burlington. The Task Force recommends that the City's licensing programs be strengthened and expanded as follows:

Improve licensing compliance

- Expand outreach and awareness to increase the number of animals licensed
- Educate the community about how the licensing funds are used, and the benefits of licensing (e.g. community health - rabies vaccination ensured)
 - This information should be provided when an animal is licensed
- Require cats to be licensed (see next recommendation)
- Expand the consequences for not licensing dogs and cats
 - Increase penalties (see Appendix C, Chapter 5 Article III)

-
- Work with landlords and housing associations to encourage licensing requirements in lease/HOA agreements. Less funding for resident companion animal programs
 - Require at-large animals be licensed before they are returned to their guardian
 - Require animal control officers to verify licenses when responding to incidents and record that information in the incident report
 - Grant the police real-time access to licensing information to increase the ease of rabies verification in the event of a bite.

Use the resulting increase in licensing revenues to create a special fund

The fund would support:

- Annual licensing efforts
- Development of a streamlined process to share licensing data
- Improved incident reporting and data tracking and improved responsiveness from police
- Additional companion animal programs and education
- Low-cost spay/neuter services
- Additional park facilities for animals

Appendix D includes detailed research and discussion of the bases for these recommendations.

Cats: Licensing and Prohibition of At-Large Cats

Recommendation: Require cats to be licensed and prohibit at-large cats.

The Task Force recommends that the City of Burlington require cats be licensed for their own welfare and that of other animals, to aid in identification for animal control purposes, and to better ensure public safety.

Burlington would not be the first to do so, as both South Burlington and Shelburne require cats to be licensed. The many benefits of licensing are enumerated in Appendix C under the [discussion of Article II, sections 5-16 and 5-14](#), and include improving the health of cats

and reducing the number of cats who are lost with no way to identify the guardian. Increased revenues from licensing could also help support better responsiveness to cat-related incidents, as well as support affordable spay/neuter options for low-income residents.

The Task Force also recommends that the City prohibit at-large cats, that is cats that are off-premise and not restrained by their guardian. Free roaming cats are more likely to experience disease and both accidental and intentional injuries as well as fatalities, and thus have shorter life spans (this is reflected in City data where 50 percent of reports about cats pertained to cats who had been found deceased, and of those, 75% were found in roadways). Cats permitted to roam off-premises can easily become nuisances on both public and private property and are classified as such in some neighboring municipal ordinances. Further, free-roaming cats are well documented in the scientific literature as immensely destructive to wildlife, particularly birds.

- Implement ordinance recommendation regarding licensing cats and prohibiting at-large cats as per the Ordinance Update recommendation

For a more detailed discussion, see Appendix C, Article II, Discussion.

Reporting, Enforcement & Compliance

Recommendation: Improve the reporting, compliance and enforcement of animal-related ordinances by creating the position of Animal Control Officer at the Police Department and adding professional experts to the Animal Control Committee.

The Task Force reviewed reporting, compliance and enforcement of dog related ordinances.

This included reviewing reporting mechanisms, social media, Front Porch Forum, and police department data for incidents such as off-leash dogs, aggressive dogs, attacks by dogs, as well as responses by the Burlington Police Department (BPD). Data obtained from the BPD likely reflects only a small portion of the actual incidents that involve animals in the community. Because residents may be aware of the narrow scope of the Department's

work on these issues, as detailed below, it can be assumed that many residents do not bother to report animal incidents and thus there is no record created.

Currently the City's Community Service Officers (CSO) respond to dog and rabies vector related calls for service. Incidents that are called in are responded to and are documented in incident reports. Depending upon the follow-up required, incidents may be responded to over several shifts. CSOs have many other responsibilities besides responding to animal incidents. If there is a higher priority incident such as a car accident, their attention may be focused on those. Additionally CSOs' responsibilities are limited to responding to dog-related reports and to reports about rabies vectors. Therefore concerns about cats or other animal types besides dogs are referred to other organizations such as the Humane Society of Chittenden County or to a wildlife removal service.

The Task Force recognizes the work that the CSOs perform everyday, but strongly recommends that a part- to full time animal control officer be hired by the City.

An animal control officer (ACO) also responds to incidents, but in addition proactively enforces ordinances (such as leash laws) and oversees the overall health and safety of animals within the City. An ACO would have specific and ongoing training and certification in the handling and welfare of animals, be able to perform inspections on and monitor facilities that shelter animals, educate the public on how to care for animals, and investigate trends and repeat problems or animals, conduct in-depth investigations and overall be a point person and resource for the Burlington community.

To improve compliance and enforcement of ordinances, the Task Force recommends the following:

- Create a position at the Police Department of Animal Control Officer
- Ensure personnel that are involved in animal welfare & enforcement of the Animals Ordinances have proper training and access to updated licensing information
- Increase education to improve community awareness on how to report incidents effectively
- Expand online incident reporting categories to include animal issues and ensure issues are assigned to responsive entities within City operations

-
- Recommend adding licensed veterinarian and certified animal behavior professional to animal control committee
 - Improve organization and categorization of data as it relates to incident reporting/tracking

See [Appendix I](#) for a summary of animal incidents reported to police and how they were typically addressed/resolved, per the report data available.

Off Leash Areas

Recommendation: Establish a policy for off-leash dogs that includes the management and creation of fenced and unfenced off-leash dog areas at a limited number of locations; and recommend BPRW conduct a pilot project to test unfenced off-leash areas for dogs.

Currently, it is against City ordinances to allow a dog off leash anywhere in the city, except in two fenced-in dog parks and one unfenced beach area. Areas in which dogs may be off-leash comprise a total of 3.5 out of the 520 acres of City Parks (less than 1% of all park land). Many Burlington dog guardians allow their dogs off leash indiscriminately on Burlington's trails and in parks and the City's enforcement of current leash laws is weak to non-existent. The committee researched potential locations, looked at programs in jurisdictions throughout the US for best practices and conducted a City-wide survey. There is a strong desire from dog guardians to have easy access to off-leash areas.

Our parks are a limited resource, and while more areas could be fenced in for dogs, this would exclude regular park goers from this valuable space.

The Off-Leash Areas recommendations, as follow, satisfy the need to create space in our urban environments where dogs may play freely and the desire not to fence off all of our parks for dogs, while providing a mechanism to better regulate and manage spaces where dogs are off-leash. By providing sufficient sanctioned off-leash spaces for dogs to play, explore, and run, the City may focus on the enforcement of regulations requiring dogs be on a leash otherwise within the City's system of parks and recreation paths, protecting all users and our urban wildlife.

The Task Force recommends increasing designated off-leash spaces while simultaneously increasing the enforcement of leash laws in the rest of the city. The goal is to ensure healthy and safe access to appropriate outdoor space for dogs across the City and to support enforcement of inappropriate spaces where dogs should not be off leash.

- Update the City ordinances with a new [Section 7 of Appendix D](#) which will add one fenced off-leash dog area to Oakledge, formalize the two existing off-leash fenced dog areas, and provide the parks department with regulations and the ability to enforce these regulations.
- Establish an [Off-Leash Dog Policy](#) with oversight by the Parks Commission
- Create a pilot program of off-leash dog areas, as drafted in the [Off-Leash Dog Policy](#) in Appendix F

The list of pilot areas in the [Off-Leash Dog Policy](#) came from a review of prior committee work (see Appendix K), current parks programming and usage, and survey results (Appendix I). Considerable thought was given to how to avoid clashes, including the following:

- Clear signage indicating designated off-leash areas & rules for using these spaces.
- A landing page on Burlington Parks Recreation Waterfront (BPRW) website showing where dogs can and can't go, and where they must be kept on-leash.

Education Campaign

Recommendation: Create and expand an annual calendar of education outreach, activities and parks-based events to reduce issues and conflicts around domestic animals while celebrating the joy they bring to Burlington's residents.

The Burlington Dog Task Force worked with the Parks & Recreation Department to support the education campaigns and events, including:

- ❖ Barking contribution to noise pollution, and solutions to unwanted barking, posted on 2/16/2023
- ❖ On leash in natural areas, posted on 5/18/22

- ❖ Scoop the Poop campaign, posted on 4/1/22
- ❖ Dog License education, posted 3/22/23
- ❖ Wag the Waterfront event

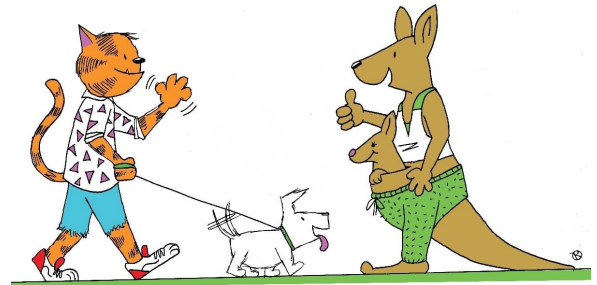
The Burlington Dog Task Force has created a draft calendar with suggested educational posts for social media and Front Porch Forum, as well as sample campaigns, as included in [Appendix H](#). Additional educational ideas included the following:

- ❖ “Having a dog in Burlington” literature handed out when a license is first issued
- ❖ More signage similar to what BPRW posted on the bike path during the summer of 2023 (see image on the right).
- ❖ Recommend that a web page on the city’s website is developed that goes over everything to do with dogs and cats: rules, how and why to license, off leash rules, off leash areas. Then this site can be referenced and linked to. (signs have QR codes leading to this page)
- ❖ How/when to report issues
- ❖ Impact of outdoor cats on wildlife
- ❖ Low cost spay/neuter options

The Task Force recommends the following educational steps be taken by the City:

- Follow an annual calendar of automatic social media posts/news releases (see appendix for content subjects)
- Hold annual programs in parks such as the recent “Wag the Waterfront”.
- Provide behavioral learning opportunities to animals and their companions

Be Friendly Keep Dogs on a Short Leash



-
- Provide resources for new arrivals (either new residents of Burlington who have dogs, or current residents who get a new dog) on on and off leash areas, regulations, general “good neighbor” guidelines and wellness resources
 - Install signage on guidelines for behavior of dogs in designated off-leash areas
 - Distribute education/information/tips annually on the cards that accompany dog license tags
 - Develop a curriculum for the community justice center, should a restorative justice approach be adopted for resolving violations of dog policies & ordinances

Appendices

Appendix A: Council Resolution

On March 30, 2021 the New North End City Councilors (Barlow, Carpenter, and Dieng), South End City Councilor Shannon, and Parks, Recreation and Waterfront Director Wight hosted an informative and constructive meeting with city residents to better understand pet issues beyond complaints shared on social media. This led to a Burlington City Council resolution on June 28 to create a Burlington Dog Task Force to address these issues. Dog Task Force members were officially appointed on November 17, 2021 by the PAC and the first meeting of the Task Force convened on January 27, 2022. The original resolution is copied below.

The scope of work included a mix of actions for implementation and policy recommendations.

HRB/Resolutions 2021/BURLINGTON PARKS ARTS AND CULTURE COMMITTEE TO CREATE A DOG TASK FORCE 7/8/2021

CITY OF BURLINGTON

In the year Two Thousand Twenty-one

Resolved by the City Council of the City of Burlington, as follows:

BURLINGTON PARKS ARTS AND CULTURE COMMITTEE TO CREATE A DOG TASK FORCE

That WHEREAS, According to the City Charter, a dog is defined as the following: Dogs shall include both male and female of the canine species. Dog shall also mean any animal which is considered to be a wolf-hybrid as defined in 20 V.S.A. § 3541(6).

WHEREAS, Dogs are considered an integral part of our society, playing different roles and providing services in the daily lives of humans, such as for accessibility, companionship, exercise, security and more.

WHEREAS, Under the Americans with Disabilities Act (ADA), a service animal is a dog that has been individually trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

WHEREAS, According to the American Society for the Prevention of Animal Cruelty (ASPCA), dog adoptions are up 700% nationally during the pandemic.

WHEREAS, According to the City of Burlington Parks, Recreation and Waterfront website, "The State of Vermont has one of the highest rates of pet ownership around the nation, the City of Burlington has made possible for community members to share their experiences in many different locations in the greater Burlington Area."

WHEREAS, The City of Burlington issued 755 dog licenses and collected over \$23,000 in dog license revenue for the 2020 fiscal year.

WHEREAS, The City of Burlington via the Department of Parks, Recreation and Waterfront has made a substantial investment in the renovation of the Starr Farm Dog Park located in the New North End.

WHEREAS, Over the past few months, residents of the New North End alongside other residents of the city have shared via social media (Front Porch Forum, Facebook) a growing number of incidents involving dogs or dog owners. The incidents were reported by both dog owners, former dog owners or nondog owners.

WHEREAS, Most of those incidents are similar in nature; some are unique incidents that resulted in a decreased quality of life and have caused tensions between neighbors. Those incidents include but are not limited to the following:

- Off leash dogs in city parks, natural areas or beaches
- Dogs attacking people or other dogs
- Dog feces not being picked up
- Policies not being enforced
- Unlicensed dogs
- Dog barking contributing to noise pollution

WHEREAS, Several other issues involving other types of pets in the city were also shared by community members.

WHEREAS, On Tuesday, March 30th the New North End City Councilors, Barlow, Carpenter and Dieng, hosted an informative and constructive community meeting alongside South End District City Councilor Shannon and Parks, Recreation and Waterfront Director Wight in order to better understand the pet issue beyond the complaints shared on social media.

WHEREAS, The Community meeting was well attended and received by the community. The attendance ranged from people of the South End, Old North End and New North End. Most attendees were dog owners or former dog owners as well as non-dog owners, nature lovers, dog park volunteers and professionals working with pets.

WHEREAS, Residents who attended the community meeting brainstormed ideas and best practices related to these issues and are willing to formally help the city in an ongoing way.

WHEREAS, The Burlington City Council, via a resolution, respectfully tasked the Parks, Arts and Culture Committee to make a recommendation via a resolution by June 28th to the Council regarding the creation of a Burlington Dog Task Force to address the issues raised in this resolution and possibly other issues.

WHEREAS, The Parks, Arts and Culture Committee, in consultation with the Director of Parks, Recreation and Waterfront and the Starr Farm Dog Park Volunteer Coordinator, developed the following recommendations for a nine (9) member task force and their scope of work.

NOW THEREFORE BE IT RESOLVED, The nine-member Dog Task Force shall be composed of the following members:

- 1) Starr Farm Dog Park Volunteer Coordinator
- 2) Representative of a dog shelter, dog rescue group or other dog group to be appointed by PACC
- 3) Dog trainer to be appointed by PACC
- 4) Veterinarian or animal health professional to be appointed by PACC

-
- 5) Burlington Police Department Community Resource Office representative to be designated by the Chief of Police
 - 6) Burlington Parks, Recreation and Waterfront representative (staff with land use or event planning expertise) to be designated by the BPRW director
 - 7) At large Burlington community member who is a non-dog owner to be appointed by PACC
 - 8) At large Burlington community member who is a dog owner to be appointed by PACC
 - 9) A representative of the Parks Commission to be appointed by the Parks Commission Chair

BE IT FURTHER RESOLVED, Parks Director will create an application for task force membership.

Applications will be received by the Clerk/Treasurer's Office until August 31, 2021. PACC appointed members shall be selected by the Parks, Arts and Culture Committee at their September meeting

BE IT FURTHER RESOLVED, The Parks, Art and Culture Committee recommends the following:

- A. That the Dog Task Force members elect a Chair as their first order of business in their first meeting; and the Director of Burlington Parks and Recreations and Waterfront to identify an administrative staff to the taskforce
- B. That the following be within the Dog Task Force's scope of work:
 - 1) Review current city programs and policies including other dog task force work.
 - 2) Conduct an Education Campaign:
 - a) Off leash dogs in city parks, natural areas or beaches
 - b) Dogs attacking people or other dogs
 - c) Dog feces not being picked up
 - d) Dog barking contributing to noise pollution
 - 3) Review licensing rules and make recommendations
 - a) Review licensing fees and make recommendations
 - b) Explore modernizing license fee applications

-
- c) Consider the question of licensing of outdoor cats
 - 4) Review compliance and policy enforcement and make recommendations
 - 5) Plan Pet/Dog Events, Activities and Celebrations, i.e., National Pet Day or National Dog Day Celebration
 - 6) Review current funding allocated to our municipal dog/pet resources and make recommendations
 - 7) Provide quarterly updates to the Parks, Arts, and Culture Committee
 - 8) Generate a final report to be presented to the City Council by April 29, 2022

Appendix B: Committee Members & Staff Participants

The full Task Force met monthly, with subcommittees and working groups collaborating in additional meetings as-needed.

Table 1. Appointed Members and City Staff

Appointed Members	City Staff
Jake Schumann, Chair through 10/24/2022 (Position 1)	Cindi Wight, BPRW Director
Lori Kettler (Position 2)	Meghan O'Daniel, BPRW Staff
Maria Karunungan, Chair 10/24/2022 forward (Position 3)	
Nina Hurley (Position 4)	
Dominic Tenan (Position 5, Reassigned) Yusuf Abdi (Position 5, Reassigned) Thomas Young (Position 5)	
Alec Kaeding (Position 6)	
Ilona Blanchard (Position 7)	
Ute Montensen (Resigned, Position 8) Joanne Kalisz (Replaced, Position 8)	
Abbey Duke (Position 9)	

Appendix C: Proposed Amendments to City Ordinances

Proposed Amendments to Article I of Chapter 5

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

ARTICLE I. IN GENERAL

5-1 ~~Pound established~~ Animal shelter provided.

There shall be ~~established~~ provided by the city council ~~a pound an animal shelter for the impounding of all beasts~~ all domestic and exotic animals in need ~~liable to be impounded.~~

(Ord. of 6-23-97)

5-2 Appointment of ~~poundkeepers; compensation~~ animal shelter personnel.

It shall be the duty of the mayor to appoint such ~~poundkeepers~~ persons as may be required to ~~take care of and keep such pound as may be~~ manage and maintain the animal shelter that is established pursuant to section 5-1. Their compensation shall be the same as provided by the laws of this state for ~~poundkeepers in towns.~~

(Ord. of 6-23-97)

Cross reference—Duties of officers of the city, § [2-4](#).

5-2a Appointment of animal control officer

It shall be the duty of the mayor to appoint an enforcement officer(s), in accordance with section 122 of the city charter, who shall be a member of the Burlington Police Department. Such enforcement officer(s) shall be a certified animal control officer.

5-3 Animal bites.

It shall be the duty of every person bitten, or his or her parent or guardian, and the attending physicians to report to the ~~city health officer~~ animal control officer, who shall report to the city health officer, within twenty-four (24) hours the name, address and telephone number of the ~~owner~~ guardian or keeper of the animal ~~which~~ who bit the person and the complete circumstances, to the extent known.

5-4 Nuisance animals.

(a) No ~~owner guardian~~, keeper or other person having control shall permit an animal to be a nuisance animal. For the purposes of this section, nuisance animal means any animal or animals ~~which~~ who:

- (1) ~~Molests Attacks~~ or harasses passersby or passing vehicles, or otherwise creates a public safety hazard;
- (2) Attacks other animals, including but not limited to wildlife;
- (3) Damages property other than that of their ~~its owner guardian~~;
- (4) Defecates off the premises of the animal's ~~owner guardian~~, and the ~~owner guardian~~, or other individual in control of the animal, fails to remove such deposit immediately;
- (5) Roams off the premises of the guardian while not under control of the guardian, or the guardian's agent, by leash or other similar means of physical restraint at all times; or
- (5 ~~6~~) Barks, whines, howls, cries, or makes a noise commonly made by such animals in an excessive and continuous fashion so as to disturb the peace and quiet of any other person.

(b) Any dog or cat found to be a nuisance animal by an animal control officer shall be impounded if the guardian, or the guardian's agent, is not present and cannot be located immediately.

(Ord. of 6-23-97; Ord. of 10-23-06, eff. 11-22-06)

5-5 Exotic animals.

~~(a) Purpose and findings: The purpose of this section is to enhance the public safety of persons who are present on the district known as the Church Street Marketplace (the Marketplace) and in the city's parks by regulating the presence of "exotic" animals on the Marketplace and in the city's parks. The council finds that such pets can pose a threat to the public health, safety, and welfare if present on the Marketplace and in city parks. Such pets are unlicensed and are not typically leashed, as is required of domestic dogs.~~

~~(b) Definitions: "Exotic pet" means all animals except domestic dogs, domestic cats and the European ferret (*Mustela putorius furo*).~~

~~(c) General prohibition: No person shall have an exotic pet or permit their exotic pet to be on or about the Marketplace or within a city park unless expressly approved by the Marketplace Director or Parks Department respectively or exempted under the terms of this section.~~

(d) Exemptions: A person may have or permit an exotic pet to be on or about the Marketplace or within a city park when done to transport the pet directly from a pet store in the vicinity of the Marketplace or city park after purchase of such pet or to return such pet to said pet store. The person must retain a receipt for the purchase of such pet and shall display the receipt upon demand from any animal control officer, law enforcement officer, or other person duly authorized to enforce animal control ordinances.

(a) Purpose and findings: The city recognizes that the keeping of exotic animals raises animal welfare concerns and public health and safety concerns not commonly associated with domesticated animals. This section is intended to prevent mistreatment of exotic animals, reduce the risk of harm to the public from contact with exotic animals as well as accidents and other incidents involving such animals, and reduce the public health risk associated with diseases and pathogens carried by such animals.

(b) Definitions: "Exotic animal" means all animals except domestic dogs, domestic cats, domestic mice, domestic rats, domestic rabbits, gerbils, hamsters, guinea pigs, the European ferret, and livestock as defined by Title 6, section 791 of the Vermont Statutes.

(c) Prohibition: The offer for sale, sale, purchase, possession, or public display of any exotic animal within the corporate limits of the city is prohibited.

(d) Exemptions: Any exotic animal possessed on the date of the enactment of this ordinance is exempted from the prohibition on possession set forth in subsection (c) upon registration of the animal with the Board of Health. The exemption applies only to the individual animal so registered, and does not apply to any animal of the same species subsequently acquired. The prohibition set forth in subsection (c) shall not apply to registered 501(c)(3) organizations whose primary purpose is education, animal rescue, or animal rehabilitation.

(Ord. of 10-27-03, eff. 12-3-03)

~~5-6 Use of non-domesticated animals for public display prohibited.~~

(a) Purpose. This section is intended to assist in the prevention of the mistreatment of non-domesticated animals used in any public display, to reduce risk of harm to the public from accidents and incidents involving such animals, and to reduce the public health risk associated with diseases and pathogens carried by such animals.

(b) Definitions:

(1) Non-domesticated animals are defined as *Felidae* (all wild cats and hybrids thereof), *Ursidae* (all bears), *Proboscideae* (all elephants), and Non-human Primates and *Prosimians*.

(2) Public display shall mean the exhibition, presentation or showing of live non-domesticated animals to the general public regardless of whether for profit, on a not for profit basis or without charge.

~~(c) — *Prohibition.* The public display of live non-domesticated animals within the corporate limits of the city is prohibited.~~

(Ord. of 9-7-04; eff. 10-13-04)

5-7 6—5-12 Reserved.

Discussion

Section 5-1

The current language of section 5-1 requires the city to provide an animal shelter that accepts “all beasts liable to be impounded.” It is the Task Force’s understanding that the city has previously contracted only for the impoundment of dogs in need. The Task Force recommends that the city provide a shelter for all domesticated and exotic animal residents in need.

Section 5-2a

Section 5-2a is a new section that requires the appointment of a dedicated, certified animal control officer, or officers, within the Burlington Police Department (“BPD”).

Currently, limited animal control functions are performed by the community service officers at the BPD. Community service officers are not required to have experience or training specific to animal control functions, such as animal handling, care, and welfare.¹ The Task Force recommends that the city retain an officer, or officers, whose sole duty is to respond to animal-related issues and to expand the program so that the city’s animals and citizens are better served in this regard. To achieve that goal, the Task Force recommends that animal control officers obtain certification in animal control and be required to participate in continuing education courses, through a national professional training program.

¹ See City of Burlington, Community Service Officer Job Description, <https://www.governmentjobs.com/careers/burlingtonvt/jobs/3045625/community-service-officer..>

The National Animal Care and Control Association (“NACA”) recognizes the difficulty in determining the optimum number of animal control officers for any particular locality.² The calculation is affected by a number of factors such as the number of calls for service, officer safety, citizen safety, types of services provided, population density and diversity, and coverage area.³

Assessment of the number of officers required to address the animal control needs in Burlington is further complicated by the fact that calls for service may not accurately reflect the need for an animal control officer. For example, residents may be aware that the BPD does not respond to calls regarding free-roaming cats and, as a result, they do not place such calls for service.

Studies and other evidence suggest that most cities with a population similar to that of Burlington (approximately 44,000 residents) employ or contract with at least one animal control officer.⁴

In Vermont, an online search reveals that many smaller and less diverse municipalities have at least one animal control officer who may be part- or full-time, employed, contracted, or in a few instances a volunteer. A partial list includes Barre, Bolton, Brattleboro, Castleton, East Montpelier (2 officers), Fairfax, Guilford, Hartland, Highgate, Hyde Park (2 officers), Newfane, Putney, Randolph, Readsboro, Rockingham, Sharon, Shelburne, Shaftsbury, Waterbury, and Windham.

Section 5-4

Section 5-4 expands the definition of “nuisance animals” to include free-roaming animals. It also authorizes law enforcement to impound a “nuisance animal” if the animal’s guardian, or the guardian’s agent, is not present or readily located, and it requires impoundment of free-roaming animals under such conditions.

²National Animal Care and Control Association, “Determining Field Staffing Needs,” <https://www.nacanet.org/determining-field-staffing-needs/>.

³ *Id.*

⁴ For example, a study conducted by NACA found the average ratio of field animal control officers to citizens was one officer for every 16,000 to 18,000 persons. https://www.sheltertrak.com/downloads/kern/kcac_audit/4.pdf. Private online discussion groups for animal control officers across the country suggest similar statistics. Printouts on file with the author.

Section 5-5

Section 5-5 replaces the ban on exotic animals on Church Street Marketplace and in city parks with a city-wide ban on the offer for sale, sale, purchase, possession, or public display of exotic animals, with a grandfather clause for animals currently possessed, and exceptions for certain 501(c)(3) organizations.

The Task Force recognizes that the proposed amendment falls outside the scope of its mandate but wishes to take this opportunity to point out that societal views on the keeping of exotic animals have changed markedly in the last decade as we have learned more about these animals. It is now well accepted that the complex needs of exotic animals cannot be met in captivity, even by the most well-meaning guardians,⁵ and that the exotic animal trade itself is a source of much suffering.⁶

The environmental impact of the exotic pet trade can be severe as well, often having a devastating effect on wild populations of the species traded. For example, it is estimated that every year 21% of the wild population of African Grey parrots, a popular “pet” and an endangered species, are poached.⁷

Exotic pets released into the wild when their novelty wears off, or when they become too expensive or too difficult to handle, can wreak havoc on native flora and fauna. Perhaps the most well-known examples of this problem are the Burmese pythons and green iguanas in Florida.⁸ Vermont is not immune to invasive species, and it is projected that as the climate continues to warm some invasive species, such as red-eared slider turtles commonly sold in local pet stores, will survive and establish breeding populations in the state.⁹

⁵Exotic animals, even those bred in captivity, still possess innate social and physical needs, and require mental stimulation that cannot be provided in private homes. See, Progressive Animal Welfare Society, “Exotic Pets,” <https://www.paws.org/resources/exotic-animals/>.

⁶ E.g., World Animal Protection, “7 Reasons Why You Shouldn’t Keep Wild Animals as Exotic Pets,” <https://www.worldanimalprotection.ca/news/7-reasons-why-you-shouldnt-keep-wildlife-pets>; Born Free U.S., “The Dangers of Keeping Exotic Pets,” <https://www.bornfreeusa.org/campaigns/animals-in-captivity/the-dangers-of-keeping-exotic-pets/>.

⁷ *Id.*, World Animal Protection.

⁸ Florida Fish and Wildlife Commission, “Burmese Python,” <https://myfwc.com/wildlifehabitats/profiles/reptiles/snakes/burmese-python/>; Florida Fish and Wildlife Commission, “Green Iguana,” <https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/>.

⁹ Vermont Reptile & Amphibian Atlas, “Pond Slider,” <https://www.vtherpatlas.org/herp-species-in-vermont/trachemys-scripta/>.

Aside from the animal welfare and environmental concerns, many species of exotic animals carry zoonotic diseases, and there are frequent reports of injuries and deaths from exotic animals kept as “pets,” who can retain their wild instincts even after decades of captive breeding.¹⁰

All states prohibit or restrict the possession of certain exotic animals, and the latter often involves a permit, license, or registration requirement.¹¹ Vermont allows unrestricted possession of many exotic animals, such as certain species of pythons and boas, but requires a permit to possess other species, such as anacondas and black widow spiders.¹²

As the private “ownership” of exotic animals has increased, a growing number of counties and municipalities across the nation have enacted ordinances to prohibit or further restrict the presence of exotic animals in their communities, for the safety of residents and the welfare of the animals.¹³ For example, Rainsville Alabama’s Responsible Pet Ownership Ordinance prohibits the keeping of any non-domesticated, wild animal.¹⁴ Richmond Virginia has a comprehensive ban on the ownership, breeding, purchase, sale, offer for purchase or sale, keeping or maintenance of all exotic or wild warm-blood animals, venomous reptiles and amphibians, and members of the crocodilian family, with exceptions for a limited number of identified species who are in captivity and have never seen the wild, or who have been domestically bred or legally imported.¹⁵

⁹ *E.g.*, Bruno B. Chomel, Albino Belotto, and François-Xavier Meslin, “Wildlife, Exotic Pets, and Emerging Zoonoses,” *Emerg Infect Dis*, v.13(1); 2007 Jan., available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2725831/>, last accessed Sept. 23, 2023.

¹⁰ *E.g.*, People for the Ethical Treatment of Animals, “Reptile Incidents,” <https://www.peta.org/wp-content/uploads/2022/06/reptile-incidents-factsheet.pdf>.

¹¹ Findlaw, “Exotic Animal Laws by State,” <https://www.findlaw.com/injury/torts-and-personal-injuries/exotic-animal-laws-by-state.html>.

¹² Vermont Fish and Wildlife Department, “Unrestricted Wild Animal List” and “Restricted Wild Animal List,” https://vtfishandwildlife.com/sites/fishandwildlife/files/documents/Learn%20More/Living%20with%20Wildlife/Importation/Unrestricted_Wild_Animal_List.pdf.

¹³ See Humane Society of the United States, “Where the Wild Things Shouldn’t Be,” <https://humanepro.org/magazine/articles/where-wild-things-shouldnt-be>.

¹⁴ City Of Rainsville, Alabama, “Non-Domesticated, Wild Animals,” Ord. No. 5-23-13-A, sec. 10, <http://www.rainsvillealabama.com/ordinances/Ordinance-5-23-13-A-amendment.pdf>.

¹⁵ City of Richmond, Virginia, Ord. No. 2023-130 - Amended 20230626, https://library.municode.com/va/richmond/ordinances/code_of_ordinances?nodeId=1228386.

The Task Force recommends that the city consider the proposed revisions to section 5-5 for the reasons stated herein.

Section 5-6

Section 5-5, if adopted, makes the prohibition on public display of certain non-domesticated animals in section 5-6 duplicative and thus unnecessary.

Proposed Amendments to Article II of Chapter 5

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

ARTICLE II. DOGS AND CATS¹

5-13 Definitions.

The following definitions shall apply to this article:

"At-large" shall mean not under the control of the ~~owner~~ guardian, a member of the guardian's immediate family, or the guardian's agent or another individual either by leash, ~~cord, chain~~ or other similar means of physical restraint.

"Dog" shall include both male and female of the canine species. Dog shall also mean any animal ~~which~~ who is considered to be a wolf-hybrid as defined in 20 V.S.A. § 3541(6).

"Cat" shall include both male and female of the feline species.

"Enforcement official" when used herein shall mean any animal control officer, police officer, ~~poundkeeper~~ shelter manager, urban park ranger or other individual specifically designated by the city council to enforce the provisions of this chapter.

~~"Owner~~ Guardian" shall include any person or persons, firm, association or corporation owning, keeping or harboring a dog or cat.

~~"Vicious Dangerous dog"~~ shall mean a dog ~~which that~~ attacks or bites a person or other ~~domestic pet~~ companion animal while the dog is off the premises of the ~~owner~~ guardian or keeper, and the person or ~~pet~~ companion animal attacked or bitten requires medical attention. ~~Vicious Dangerous dog~~ complaints shall be investigated pursuant to section 5-27(b).

(Ord. of 6-23-97; Ord. of 4-17-00; Ord. of 4-17-23(1))

5-14 Identification required.

Identification that includes the name and contact information for the guardian of the dog or cat shall be securely attached to a collar or harness and worn at all times.

5-14 15 At-large prohibited.

(a) *Prohibition.* Except as exempted below, no person shall permit a dog or cat for whom they are the guardian ~~him or her~~ or who is ~~under his or her~~ their control to be at-large as defined in section 5-13 or to trespass upon the property of another, public or private.

(b) *Public Safety.* Should an at-large dog or cat be deemed to pose an imminent public safety risk, said animal may be killed by the Police Department or their designee. Such an act shall occur where other reasonable means to control the animal have been unsuccessful or deemed not practicable under the circumstances.

(c) *Exemptions.* A dog or cat ~~may be~~ is not at-large if ~~it is~~ they are:

- (1) On the premises of the dog's or cat's ~~owner~~ guardian;
- (2) On the premises of the person under whose control the dog or cat is under; or
- (3) On the premises of another person as long as that person has given permission for the dog or cat to be at-large;
- (4) A dog is not at-large if they are in a designated off-leash dog area managed and regulated by the board of parks and recreation commissioners.

(Ord. of 6-23-97; Ord. of 4-17-00; Ord. of 9-10-12(1))

5-~~15~~16 License and rabies vaccination required.

(a) *Licensing.* Every ~~owner or keeper~~ guardian of a dog or cat more than six (6) months old who has resided in the city for more than 90 days, shall be required to ~~annually~~ register and license the animal, in the manner prescribed by the city, with the city clerk's office and to do so annually provided that no guardian shall be required to register a dog or cat more than once in any calendar year. The license shall expire on the first day of April next after its issuance. Upon issuance of such license and payment of the license fee as required in section [5-17](#) of this chapter, each ~~dog owner~~ guardian shall receive a ~~dog~~ license tag.

(b) *Rabies vaccination.* Proof of a current rabies vaccination, as required by state law, shall be required for the licensing of any animal.

(c) *Fixture of tag.* The ~~dog~~ license tag issued to any person as provided herein shall be securely attached to a collar or harness on such licensed dog or cat and worn at all times.

(Ord. of 6-23-97; Ord. of 8-14-00; Ord. of 6-4-07, eff. 7-4-07)

State law reference—Control of rabies [20](#) V.S.A. § [3801](#) et seq.; immunization required, [20](#) V.S.A. § 4003.

5-~~16~~17 License fees.

(a) In addition to the license fee and any penalty fee required by state law, the municipal fee for each license required by this article shall be ~~twenty dollars (\$20.00) for each neutered/spayed dog and forty dollars (\$40.00) for each non-neutered/non-spayed dog~~ recommended by the city clerk's office and approved by the city council, provided that the fee for an intact dog or cat shall be greater than that for a neutered or spayed dog or cat. The fees established under this section shall be reviewed not less than every five years.

(b) The municipal fees collected under this section shall be used for education and other services pertinent to the improved welfare of dogs and cats who reside in the city.

~~(b)~~ (c) The ~~owner or keeper~~ guardian of a neutered/spayed dog that serves as the person's service animal under the Americans with Disabilities Act may request waiver of the municipal license fee (but not the state fee) by providing to the city clerk's office adequate responses to the following questions in writing:

- Is the dog a service animal required because of a disability?
- What work or task has the dog been trained to perform?

(Ord. of 6-23-97; Ord. of 6-25-01; Ord. of 6-4-07, eff. 7-4-07; Ord. of 2-16-21)

State law reference—Similar provisions, 20 V.S.A. § 3581.

5-1718 Removal of dog waste required.

The ~~owner, keeper~~ guardian or person in control of any dog or cat shall be responsible for the removal of any defecation deposited by such dog or cat on any public or private property.

(Ord. of 6-23-97)

5-1819—5-23 Reserved.

Discussion

The title of Article II is revised to reflect the recommended addition of cats to specified sections of the Article.

Section 5-13

Section 5-13 adds a definition of “cat” and updates the definition of “guardian” accordingly.

Section 5-14

Section 5-14 is a new section that requires dogs and cats to wear identification that includes the name and contact information for the guardian. This requirement serves to protect companion animals, and benefits animal control efforts and public safety as well.

Rhode Island summarizes the benefits of such an ordinance in the preamble to a state law that requires identification for cats.¹⁶ Specifically, the Rhode Island legislature determined that:

- (1) Cat identification would provide cats protection under the law, equal to that afforded dogs, by establishing ownership which, in turn, would encourage cat owners to take full responsibility for their pets' welfare.
- (2) [Already required in Vermont] Cat identification would protect cats, as dogs are now protected, by establishing minimum holding periods for cats released to and/or impounded by municipal animal control facilities and private animal shelters.
- (3) A program to require cat identification should facilitate the return of lost, owned cats.
- (4) Cat identification would provide a method to help distinguish between owned and unowned cat populations thus assisting animal control officers and animal shelters in carrying out their mission.
- (5) Cat identification would advance the reduction of the untold suffering of cats at-large in our state by helping to insure the quick return of injured and sick animals to their owners.
- (6) Passage of this bill would reduce the number of unowned cats and increase education to owners as to the need for sterilization of cats, thereby reducing unwanted litters, eliminating cat over-population problems, and reducing the costs to cities and towns for euthanizing at-large or unowned cats.
- (7) Cat identification would help support public health and safety in the control of rabies.¹⁷

These same public purposes are advanced when dogs are required to wear identification.

Section 5-15

Section 5-15 as currently written prohibits at-large dogs. The proposed amendment includes cats in this prohibition. The Task Force recognizes that this recommendation falls outside the scope of its mandate but considers the amendment necessary for the welfare of cats, the protection of wildlife, and public safety. The American Veterinary Medical Association ("AVMA") provides a Model Dog and Cat Control Ordinance that requires all dogs and cats "be kept under restraint" for these very reasons.¹⁸ A number of municipalities

¹⁶ R.I. Gen. Laws § 4-22-1.

¹⁷ *Id.*

¹⁸ American Veterinary Medical Association, "Model Dog and Cat Control Ordinance," sec. V(a), <https://www.avma.org/sites/default/files/resources/Model-Dog-Cat-Control-Ord-Policy.pdf>; American Veterinary Medical Association, "Free-roaming, owned cats," <https://www.avma.org/resources-tools/avma-policies/free-roaming-owned-cats>.

in Vermont, for example South Burlington, Shelburne, and Stowe, have followed the AVMA's lead and prohibit at-large cats and/or include at-large cats in the definition of "nuisance animal," and impose fines and/or permit their impoundment.¹⁹

The Welfare of Cats: As the AVMA and other authorities recognize, free-roaming cats are likely to have a reduced life span and may be exposed to injury, suffering, and death from vehicles, attacks from other animals, disease, cruel acts by humans, poisons, traps, and weather extremes.²⁰ Burlington's resident cats have not escaped these harms.²¹

The Protection of Wildlife: The American Bird Conservancy succinctly summarizes the detrimental and deadly impact of free-roaming cats on native species of wildlife:

Outdoor domestic cats are a recognized threat to global biodiversity. Cats have contributed to the extinction of 63 species of birds, mammals, and reptiles in the wild and continue to adversely impact a wide variety of other species, including those at risk of extinction, such as Piping Plover ...The ecological dangers are so critical that the International Union for Conservation of Nature (IUCN) lists domestic cats as one of the world's worst non-native invasive species.²²

In the United States, it is estimated that outdoor cats kill approximately 2.4 billion birds every year, earning the distinction of the number-one direct, human-caused threat to birds.²³ Between 6.9 to 20.7 billion small mammals are killed by cats each year, and researchers

¹⁹ South Burlington, Vermont, "Care & Control of Dogs & Cats Ordinance," Town Ordinance, Vol. 1, pg. 159-165, sec. 3, https://cms6.revize.com/revize/southburlington/document_center/city%20regulations/Care_and_Control_of_Dogs_and_Cats_Ordinance.pdf; Town of Shelburne, "An Ordinance for the Care and Control of Animals," Town Ordinance, Vol. 1, pg. 3-32, sec. 2(g) and sec. 4(a), <https://www.shelburnevt.org/DocumentCenter/View/103/Animal-Control-Ordinance>; Town of Stowe, Vermont, "Animal Control Ordinance," Municipal Code, Chapter 2, Article III, https://www.townofstowevt.org/vertical/Sites/%7B97FA91EA-60A3-4AC6-8466-F386C5AE9012%7D/uploads/Animal_Control_Ordinance_Final_2015_SIGNED.pdf.

²⁰ E.g. AVMA, "Free-roaming, owned cats," *supra*, n. 1.

²¹ E.g., New England Cable News, "Boy Cited After Allegedly Hanging Cat From Tree in Burlington, Vermont," Nov. 17, 2016, <https://www.necn.com/news/local/vermont/boy-cited-after-allegedly-hanging-cat-from-tree-in-burlington-vermont/41056/>; Burlington Vermont Police Department Incident Reports document an instance in which a cat was injured in a leghold trap and left to stagger off and suffer after their release.

²² American Bird Conservancy, "Indoor Cats," <https://abcbirds.org/program/cats-indoors/cats-and-birds/> (also providing links to scientific literature on the issue); see also, Wildlife Center of Virginia, "Untamed - The Case for Indoor Cats," <https://vermont.pbslearningmedia.org/resource/case-for-indoor-cats-video/untamed-the-wildlife-center-of-virginia/> (also addressing the welfare of cats, zoonotic diseases, and ways to transition free-roaming cats to the indoors).

²³ *Id.*, American Bird Conservancy.

believe that between 258 to 822 million reptiles and 95 to 299 million amphibians may suffer the same fate.²⁴

Burlington is an environmentally conscious community, and the Task Force suggests that a prohibition on free-roaming cats is simply good environmental stewardship.

Public Safety: The scientific literature documents that free-roaming cats pose a significant threat to public health because they can carry and transmit a number of zoonotic viruses, bacteria, and parasites, such as rabies and toxoplasmosis.²⁵ Notably, according to Peter Marra, a professor of biology and the environment at Georgetown University, “[d]ogs used to be the primary way humans picked up rabies from domestic animals ... [b]ut we started licensing dogs and requiring leash laws and rabies vaccines. Now, dogs are not the problem at all—it’s primarily cats.”²⁶

The Task Force recommends that the city prohibit free-roaming cats for the reasons stated herein.

Section 5-16

Section 5-16 extends the requirement for a license to cats. Such requirements have been shown to improve the welfare of cats, increase public safety, and enhance the quality of life in their communities, much like the identification requirements discussed above.

Municipalities across the country have implemented cat-licensing requirements, including jurisdictions in Vermont such as South Burlington and Shelburne.²⁷

The Task Force recommends that the city require licenses for cats for the reasons stated herein.

Section 5-17

²⁴ Smithsonian Magazine, “Feral Cats Kill Billions of Small Critters Each Year,” Jan. 29, 2013, <https://www.smithsonianmag.com/science-nature/feral-cats-kill-billions-of-small-critters-each-year-7814590/#:~:text=Based%20upon%20data%20taken%20from,needed%20to%20verify%20those%20extrapolations>

²⁵ E.g., R. W. Gerhold and D. A. Jessup, “Zoonotic Diseases Associated with Free-Roaming Cats,” *Zoonosis and Public Health*, 2012, <https://abcbirds.org/wp-content/uploads/2015/07/Gerhold-and-Jessup-2012-Zoonotic-diseases-and-free-roaming-cats.pdf>.

²⁶ Kristine Liao, “Outdoor cats are deadly—and not just for birds and squirrels,” *Popular Science*, May 31, 2022, <https://www.popsci.com/environment/outdoor-cats-spread-diseases/>.

²⁷ South Burlington Town Ordinance, *supra* n. 4, sec. 4(A); Town of Shelburne Ordinance, *supra* n. 4, sec. 12(a).

Section 5-17 requires fees for dog and cat licenses to be reviewed no less frequently than every five years, and for the revenue to be used for education and other services pertinent to the improved welfare of dogs and cats who reside in the city. Anecdotal evidence suggests that more residents will comply with the licensing requirement if the fees are used to provide companion animal-related services.

Adequate low-cost spay/neuter options

There is consensus among those knowledgeable about companion animal overpopulation that communities must take the important step to provide adequate safe, affordable, voluntary spay/neuter programs that are readily accessible to the community, and that focus on education and incentives to encourage participation by those sectors of the community most in need of the service.²⁸

The Humane Society of Chittenden County's (HSCC) Community Pet Clinic provides a low-cost spay and neuter service and administers a fund to assist residents who cannot afford the service.²⁹ Task Force member Nina Hurley, who serves on the HSCC's Board of Directors, advises that the clinic is at capacity. The Task Force recommends that the City consult with the HSCC to assess whether the City should provide support to the clinic and/or establish an additional, independent spay/neuter program.

²⁸ See, e.g., American Society for the Prevention of Cruelty to Animals, "Position Statement on Mandatory Spay/Neuter Laws," <https://www.asPCA.org/about-us/asPCA-policy-and-position-statements/position-statement-mandatory-spayneuter-laws#:~:text=ASPCA%20Position,means%20to%20reduce%20shelter%20intake>.

²⁹ Humane Society of Chittenden County, "Spay-Neuter at the Community Pet Clinic," <https://www.hscvt.org/SNClinic>.

Proposed Amendments to Article III of Chapter 5

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

ARTICLE III. ENFORCEMENT AND IMPOUNDMENT

5-24 Penalties.

An offense of any provision of this chapter by any person shall be deemed a civil ordinance violation and shall be punishable by the following penalties:

- (1) *First offense.* A first offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than ~~one~~ two hundred dollars (\$~~1~~ 200.00) and no more than ~~one~~ two hundred fifty dollars (\$~~1~~ 250.00). The waiver fine shall be ~~one~~ two hundred dollars (\$~~1~~ 200.00).
- (2) *Second offense.* A second offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than ~~one~~ two hundred fifty dollars (\$~~1~~ 250.00) and no more than ~~two~~ three hundred fifty dollars (\$~~2~~ 350.00). The waiver fine shall be ~~one~~ two hundred fifty dollars (\$~~1~~ 250.00).
- (3) *Third and subsequent offenses.* A third or subsequent offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than ~~two~~ three hundred fifty dollars (\$~~2~~ 350.00) and no more than ~~five~~ six hundred dollars (\$~~5~~ 600.00). The waiver fine shall be ~~two~~ three hundred fifty dollars (\$~~2~~ 50.00).

In addition to the penalties provided in this section,;

- (1) Any person found in violation of this chapter may be subject to a restorative justice process with the Burlington Community Justice Center at the discretion of the animal control committee.
- (2) ~~a~~Any animal found in violation of this chapter may be impounded as provided in section 5-25 of this chapter.

(Ord. of 6-23-97; Ord. of 6-4-07, eff. 7-4-07)

5-25 Impoundment.

(a) *Authority to impound.* ~~Dogs~~ Any animal in violation of any provision of this chapter or suspected of being diseased or injured may be taken by the enforcement officer and impounded in the city ~~pound~~ animal shelter and there confined in a humane manner, except that any animal suspected of being a stray shall be impounded. ~~The enforcement officer may, in lieu of boarding and when in the public interest and consistent with the public safety, allow an impounded dog to remain confined in the custody of its owner on the owner's recognizance that the dog shall remain confined to the owner's property, follow the terms of impoundment set by the enforcement officer and shall not be in violation of any provision of this chapter.~~

Confinement in lieu of boarding shall continue until such time as the violation or condition authorizing impoundment has been abated.

(b) *Impoundment fees.* Any ~~dog~~ animal impounded under the provisions of this chapter shall be released only on payment of a ~~seventy-five~~ one hundred dollars (\$~~75~~100.00) impoundment fee.

(c) *Boarding fee.* In addition to the impoundment fee charged herein there shall be an additional charge of ~~ten dollars (\$10.00)~~ actual expenses per day for board for each day the period that the ~~dog~~ animal is impounded, except that if an animal is claimed up to three (3) hours after impoundment, the owner will be responsible for one half (1/2) day's boarding fee. If an animal is claimed within two (2) hours of opening business hours on the following business day, the owner will not be charged for that day's boarding fee.

(d) *City clerk to collect fees before releasing ~~dog~~ animal.* It shall be the duty of the city clerk to collect all impound and boarding fees before releasing an ~~dog~~ animal.

(e) *Unlicensed dogs and cats to be licensed before release.* If an impounded dog or cat is unlicensed, in addition to the impoundment and boarding fees set forth herein, the dog or cat shall not be released without the payment of the license fee required by section 5-17, except that if the impounded dog or cat has not had its proper vaccinations to be registered a ~~forty-five~~ one hundred dollar (\$~~45~~100.00) cash deposit shall be posted with the city clerk or ~~his~~ or her their designated agent(s) until proof of registration is presented. A dog or cat released under cash deposit shall be registered within two (2) working days after its release. If the dog or cat is not registered within the time period set forth herein, the cash deposit shall be forfeited and the ~~owner~~ guardian of the animal shall be subject to additional penalties under the provisions of 20 V.S.A. Chapter 193

(f) *Disposition of unredeemed ~~dogs~~ animals.* If any impounded ~~dog~~ animal with a current and effective license established by proof of a dog license tag, is not redeemed within (7) days of its impoundment, ~~it the animal~~ shall be ~~sold or given away~~ offered for adoption at the city animal shelter or transferred to a cooperating animal shelter as defined in 20 V.S.A. § 3901. If any impounded dog without a current and effective license established by proof of a dog license tag, is not redeemed within (5) days of its impoundment, it shall be sold or given away. Any proceeds from the sale of any impounded dog shall first be allocated to taxes, fees and other charges related to the impoundment. Any balance then remaining shall be paid to the owner if any is found. If proceeds from the sale of the unredeemed dog do not cover the costs associated with the impoundment, the balance of sums owed under this chapter may be collected in a civil action brought under this section. If any unredeemed ~~dog~~ animal is not sold ~~or given away~~ adopted because of disease, temperament or other cause, it shall be destroyed in a humane way euthanized. The impoundment period may be waived by the poundkeeper director of the animal shelter in the case of a severely injured animal whose ~~owner~~ guardian cannot be located or is unwilling to claim the animal.

(g) *Interference with impoundment.* Any person who interferes with the impounding of an ~~dog~~ animal under provisions of this article or releases, or who attempts to release, an impounded ~~dog~~ animal contrary to this article shall be in violation of this chapter.

(h) *Notice of impoundment.* Within twenty-four (24) hours of the impoundment of any ~~dog animal~~ under this chapter, the enforcement officer shall make every reasonable attempt to notify the ~~owner guardian~~ of the impounded ~~dog animal~~ of such impoundment. Such notice shall include either personal contact with the ~~owner guardian~~ or a written notice posted at the dwelling house of the ~~owner guardian~~.

(Ord. of 6-23-97; Ord. of 6-4-07, eff. 7-4-07)

State law reference—Notice by impounder, [20 V.S.A. § 3413](#).

5-26 Cruelty.

Any person who shall torture, torment or cruelly neglect to provide with necessary sustenance or shelter, or shall cruelly beat or needlessly mutilate or illegally kill any animal, or any person who shall cause any animal to be tortured, tormented, or fight with other animals, or deprived of necessary sustenance or to be cruelly beaten or needlessly mutilated or illegally killed shall be guilty of a misdemeanor offense and shall be punishable by a fine of from ~~one three~~ hundred dollars (\$~~1300.00~~) to ~~five six~~ hundred dollars (\$~~5600.00~~).

(Ord. of 6-23-97)

5-27 Animal control committee.

(a) *Animal control committee established.* For purposes of this section, an animal control committee is established. The animal control committee will be a subcommittee of the Burlington Police Commission and shall consist of three (3) commission members, one (1) licensed veterinarian, and (1) certified animal behavior professional to be appointed on an as needed basis by the chair of the Burlington Police Commission. The designated animal control officer shall be the prosecuting officer for any violation brought before the committee.

(b) *~~Vicious Dangerous dogs.~~* Upon written complaint by a city resident that a dog is alleged to be ~~vicious dangerous~~ as defined in section [5-13\(e\)](#), the animal control committee may hold a hearing on the facts of the complaint and, if the dog is found to be ~~vicious dangerous~~, make such order as necessary to protect the public. Such order may include, but is not limited to, any of the following: confinement in a secure enclosure or other similar restriction, muzzling adoption, or ~~destruction in a humane manner euthanasia~~. In addition, the animal control committee may revoke the privilege of any ~~owner guardian~~ to keep, harbor or have custody of any animals while in the city and that no new privileges be granted.

(c) *Repeated impoundment.* In the event that any dog shall be impounded three (3) or more times in a twelve-month period, the animal control committee may, at the request of an enforcement officer, or in their discretion, hold a hearing after which they may make such order as is necessary to protect the public. Such order may include, but is not limited to, any of the following: confinement in a secure enclosure or other similar restriction, muzzling adoption, or ~~destruction in a humane manner euthanasia~~. In addition, the animal control committee may revoke the privilege of any ~~owner guardian~~ to keep, harbor or have custody of any animals while in the city and that no new privileges be granted.

(d) *Penalty for violation of orders.* Any person who violates any provision of any order of the animal control committee shall be guilty of a misdemeanor offense and shall be punishable by a fine of from ~~one~~ three hundred dollars (\$~~1300.00~~) to ~~five~~ six hundred dollars (\$~~500.00~~).

(Ord. of 6-23-97; Ord. of 8-14-00)

5-28 Confinement of animals in vehicles.

(a) A person shall not leave an animal unattended in a standing or parked motor vehicle in a manner that would endanger the health or safety of the animal.

(b) Any ~~humane~~ animal control officer, law enforcement officer, or member of a fire and rescue service may use reasonable force to remove any such animal from a motor vehicle. The officer may not be subject to criminal or civil liability for any damage resulting from actions taken under subsection (a) of this section. If the aforementioned officers are unavailable, a person who forcibly enters a motor vehicle for actions taken under subsection (a) of this section shall not be subject to criminal or civil liability for damage resulting from the forcible entry if the person: (1) determines the motor vehicle is locked or there is otherwise no reasonable method for the animal to exit the vehicle; (2) reasonably and in good faith believes that forcible entry into the motor vehicle is necessary because the animal is in imminent danger of harm; (3) notifies a humane officer, law enforcement officer, or member of a fire and rescue service prior to forcibly entering the vehicle; (4) remains with the animal in a safe location reasonably close to the motor vehicle until a humane officer, law enforcement officer, or member of a fire and rescue service arrives; (5) places a notice on the vehicle that the authorities have been notified and specifying the location of the animal; and (6) uses no more force to enter the vehicle and remove the animal than necessary under the circumstances. ~~The An~~ officer shall deliver the animal to a humane society, veterinarian or ~~the city town or municipal pound~~ animal shelter. If the ~~owner~~ guardian of the animal cannot be found, the officer shall place a written notice in the vehicle, bearing the name of the officer and the ~~department and~~ address where the animal may be claimed. The ~~owner~~ guardian shall be liable for reasonable expenses associated with the removal, delivery, boarding and disposition of the animal and a lien may be placed on the animal for these expenses. (c) A violation of this section shall be a civil violation subject to the penalties imposed by Section [5-24](#).

5-29 Abandonment of injured animal

(a) A person shall not leave the scene of an accident in which such person has reason to believe that they have caused the injury or death of a domestic animal. Such person shall immediately contact an enforcement officer, and make a reasonable effort to immediately contact the guardian of the animal. If the animal is injured wildlife, the person shall contact a humane officer or a licensed wildlife rehabilitator for assistance.

(b) A violation of this section shall be a civil violation subject to the penalties imposed by Section 5-24.

Discussion

Section 5-24

Section 5-24 increases penalties for civil violations of the Chapter 5 and adds restorative justice measures as permissible additional penalties.

Section 5-25

Section 5-25(a) extends the authority to impound to any animal in violation of the chapter or suspected of being diseased or injured, and requires impoundment of any animal suspected of being a stray.

Section 5-25(b) increases the impoundment fee.

Section 5-25(c) replaces the specified boarding fee with the requirement that the fee reflect actual expenses.

Section 5-25(d) extends the city clerk's authority to collect impoundment and boarding fees regardless of the species involved.

Section 5-25(e) requires unlicensed cats, as well as dogs, to be licensed before release.

Section 5-25(f) removes the authority to sell or give away unredeemed animals and replaces it with the authority to offer these animals for adoption through a shelter.

Sections 5-25(g) and (h) extend the prohibition on interference with impoundment and the requirement for notice of impoundment to all animals regardless of species.

Section 5-26

Section 5-26 increases the fines for cruelty to animals.

Section 5-27

Section 5-27(a) adds a licensed veterinarian and a certified animal behavior professional to the animal control committee to be appointed to serve on an as-needed basis. This will ensure that the committee has access to the expertise needed to properly resolve the cases that come before it, such as dangerous dog hearings.

Section 5-27(d) increases the penalty for violations of an order of the animal control committee.

Section 5-28

Section 5-28 authorizes any person to use reasonable force to remove an animal from a vehicle when the health and safety of the animal is at risk, but only when a humane officer, law enforcement officer, or member of a fire and rescue service is unavailable. The Task Force views this amendment as necessary to address situations in which the animal may be in distress and officials are not immediately available. The language of the amendment tracks the language of the similar state law.

Section 5-29

Section 5-29 is a new section that requires a person who has injured or caused the death of an animal to remain at the scene and to contact an enforcement officer. It further requires such person to make a reasonable effort to contact the animal's guardian should it appear that the animal has a guardian, and to contact a humane officer or wildlife rehabilitator if the animal is injured wildlife.

Proposed Amendments to Section 22-13 of Chapter 22

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

Chapter 22 - Sec. 22-13. - Animals prohibited; exception

No domestic animals, except dogs and cats, shall be permitted in any park. Dogs shall be leashed or controlled by other similar means of physical restraint at all times, except in off-leash areas designated in the Off-Leash Dog Policy. Cats shall be leashed or confined in a carrier at all times.

Discussion

Section 22-13

If Chapter 5, Article II, section 5-15 is amended to prohibit at-large cats, as recommended, section 22-13 would provide an alternative means for guardians to provide an outdoor experience for the cats under their care.

Appendix D: Detailed Licensing Information

Licensing Program: The Task Force performed a detailed review of licensing data and trends and found that licensing rates in Burlington are low compared to neighboring cities with smaller populations. In 2022, for example, Shelburne was estimated to have a population of 7871, with 763 licensed dogs (9.68%) in FY2022. Burlington, by comparison, was estimated to have a population of 44,595 and 912 licensed dogs (2.04%) — a difference of 7.64%.

The Task Force also compared licensing trends over time in Burlington. In 2012, Burlington had 1255 dogs licensed, while in 2022 it was only 826 despite the fact that the population in Burlington has increased over that time, from 42671 to 44595³⁰.

The American Veterinary Medical Association (AVMA) tracks dog guardianship trends³¹ and estimates that 45% of US households have at least 1 dog, and the percentage owning at least one dog increased from 38% to 45% between 2016 and 2020 (and leveled off by 2022). Home ownership and household income impact the rate of dog guardianship and dog populations are essentially being influenced by the overall economy. With 17,174 households in Burlington between 2017-2021³², the number of dogs in Burlington may be estimated at 7728 using the national rate of 45%. This is likely to be a conservative estimate, as many Burlington homes have more than one dog.

The AVMA also indicates that cat guardianship is on the rise as well: “The percentage of households that own at least one cat increased slightly between 2016 and 2020, from 25% to 26%, and then increased to 29% in 2022.” Based on this, we estimate that there may be at least 4980 companion cats in Burlington (not including feral cat colonies).

If all estimated cats and dogs in Burlington were licensed, the revenues at current licensing fee of \$27 per dog would be \$276,996.51 per fiscal year. Assuming 100% is unattainable, we looked at how much could be raised if we made an effort to increase licensing numbers similar to area communities such as South Burlington.

³⁰ 2012 and 2022 population estimates for the City of Burlington, VT came from census.gov

³¹ <https://www.avma.org/news/pet-ownership-rate-stabilizes-spending-increases>

³² <https://www.census.gov/quickfacts/fact/table/burlingtoncityvermont/HSD410221#HSD410221>

Table 2. Comparison of FY2022 Actual Licensing Revenues in Burlington to Projected increased revenues from increasing licensing numbers, based on the estimated numbers of dogs and cats in Burlington.

	Projected revenues from successfully licensing 100% dogs and cats	Projected revenues from licensing 35% dogs 15% cats ("realistic")*	FY 2022 Revenues from Dog Licenses (11.8% dogs and 0% cats)	Projected Revenue increase ("realistic")
Dogs (7728)	\$ 208,664.10	\$ 74,180.09	\$ 24,624.00	\$ 49,556.09
Cats (3927)	\$ 68,332.41	\$ 20,614.62	\$ 0.00	\$ 20,614.6
Total \$	\$ 276,996.51	\$ 94,794.71	\$ 24,624.00	\$ 70,170.71

*South Burlington has an estimated 35% licensing rate for dogs and 15% licensing rate for cats

Below is more detailed information on licensing trends in neighboring cities from FY2018 – FY2022, showing how Burlington’s numbers have decreased compared to those of neighboring cities. We also show licensing numbers in comparison to population estimates and estimated numbers of dogs and cats, as well as detailed information on neighboring communities’ efforts to increase education/outreach concerning dog and cat licensing.

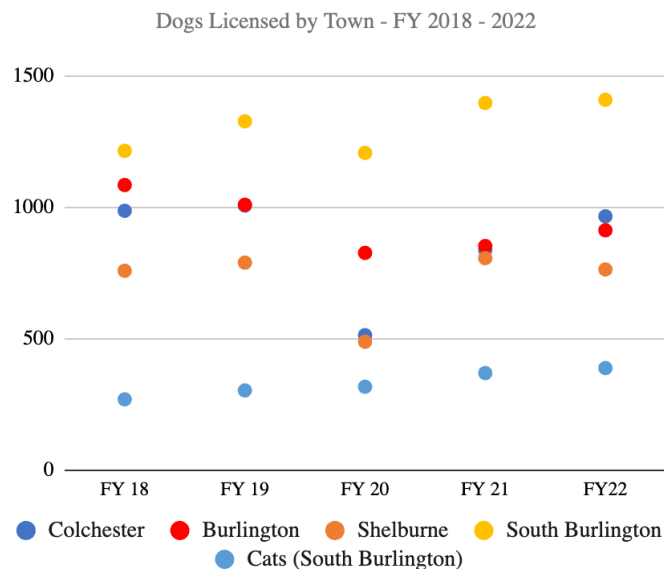


Fig. 2 Burlington’s licensing numbers have fallen while its population has increased.

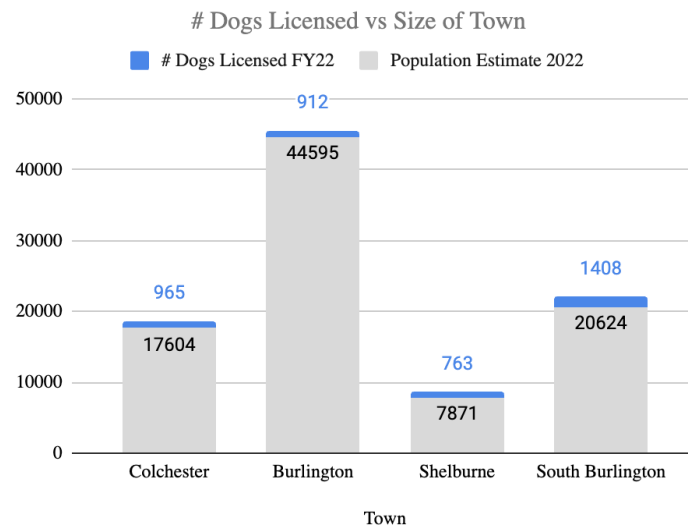


Fig. 3 Comparison of Licensing Numbers to Town Size. In FY 2022 Burlington had the lowest proportion of licenses (912) to its population (44,595), compared to neighboring towns. Shelburne had the highest (9.69%), followed by South Burlington (6.83%) and Colchester (5.48%).

Appendix E: Compliance, Reporting, and Enforcement Challenges

The Task Force recommends the City appoint a dedicated, certified animal control officer, or officers, within the Burlington Police Department (“BPD”). Burlington has not had an Animal Control Officer since 2008³³. Currently, limited animal control functions are performed by the community service officers (CSOs) at the BPD. CSOs are not required to have experience or training specific to animal control functions, such as animal handling, care, and welfare.³⁴ They are not tasked with handling cat-related incidents (except for removing deceased cats and checking for rabies vectors), and are not adequately able to address the increasing number of dog incidents. For example, residents who are bitten by an unfamiliar dog bear the burden of identifying the guardian of that dog in order to get any action from the police, even if that person fled the scene. Without investigative resources and training, CSOs are not positioned to be a resource to help those residents.

Another issue the Task Force found was in both a lack of accessibility to effective reporting, and an understanding of how and what to report:

- *Inaccessibility of reporting.*
 - *Phone limitation for in-progress incidents.* Reports are typically called into the Police Department. If any other means of reporting is used (contacting CSO email address (csobpdvt.org), See Click Fix, Burlington Police website’s online incident report form), the CSOs might not see these as quickly as they would if they are managed by Dispatch responding to a phone call. Thus reporting an emergent animal issue or incident is inaccessible to anyone who cannot use a phone (hearing impaired, Deaf, doesn’t have a phone, etc).
 - No clear category for animal-related incidents exists on the BPD website
 - No clear category for animal-related incidents exists on See Click Fix, which is commonly used by residents to enable other city departments to quickly resolve issues.
- *Reports not made by residents because*
 - Fear of getting neighbors in trouble

³³ Source: Shannon Trammell, executive manager, Burlington Police Dept

³⁴ See City of Burlington, Community Service Officer Job Description, <https://www.governmentjobs.com/careers/burlingtonvt/jobs/3045625/community-service-officer..>

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- Distrust that the police can help or can be a resource to help
 - Lack of awareness of where to complain
 - Knowledge that currently BPD is not fully empowered to address these problems to residents' satisfaction (for example, incidents involving free-roaming cats are not currently addressed by BPD).
 - *Hindrances to enforcement responsiveness.*
 - *Other (higher) priorities.* Other issues are prioritized for CSOs (e.g., car accidents), so even if the report is called in to be dispatched, they are still not always able to respond quickly. 62 reports were reported resolved with the response "gone on arrival"
 - *Not enough information.* Residents who do report issues don't always provide enough information or details for CSOs to be able to follow through and resolve the problem.
 - *Lack of investigative resources.* Residents who are bitten by an unfamiliar dog or cat bear the burden of identifying the guardian of that dog in order to get any action from the police, even if that person, cat or dog fled the scene. The Task Force learned from its BPD representative that BPD is not empowered to take the time and resources to find the guardian if the name and address are not known to the victim.
 - *Legal limitations.* Some problems or incidents that are reported by residents cannot be addressed by CSOs because the issue being reported (e.g., a welfare issue) may not actually comprise an ordinance violation, or because the individual responsible doesn't answer the door to respond to the CSO.

The Task Force recommends that the city retain an officer, or officers, whose sole duty is to respond to animal-related issues so that the city's animals and citizens are better served. The Task Force recommends that City animal control officers obtain certification in animal control and be required to participate in continuing education courses, through a national professional training program. In looking at available literature, Burlington is now of the size that it merits a full time animal control officer. The Task Force notes that some residents do not contact the Burlington Police Department as they may not be aware this is where complaints go, free-roaming cats are not addressed, and that people may not be

comfortable with calling the police with concerns about their neighbors or may be reluctant to report incidents. Please see additional [discussion under the ordinance for Section 5-2a](#)

In addition to the recommendation of a full-time animal control officer or officers, at times the City is not in compliance with the requirement to house stray companion animals due to space issues. Currently companion animals except birds, reptiles, and dogs are taken to the Humane Society of Chittenden County (HSCC). It is unclear if the City's current contractor for dogs, Lucky Puppies, will provide services in the future or have enough space in the future for the City's stray dogs. Because the HSCC and Lucky Puppies take in companion animals from other cities as well, space is an issue. The Task Force recommends that an animal shelter be within Burlington or close so that the shelter may be easily monitored and inspected by the Animal Control Officer.

The Task Force also recommends that the animal shelter follows the standards of care³⁵ set forth by the Association of Shelter Veterinarians. These standards include provisions of adequate shelter, population management, standards for animal handling, sanitation, prevention of pathogen spread, and attention to medical and behavioral health. Given that the City would be responsible for animals in its care, if the City does not have its own shelter it should still ensure that contracted providers follow these guidelines.

³⁵ [The Association of Shelter Veterinarians' Guidelines for Standards of Care in Animal Shelters - Second Edition - December 2022](https://jsmcah.org/index.php/jasv/issue/view/2): <https://jsmcah.org/index.php/jasv/issue/view/2>

Appendix F: Proposed Off-Leash Dog Ordinance and Off-Leash Dog Policy

Proposed Addition of Section 7 to City Ordinance Appendix D

In 2000 the City established a pilot program pertaining to off-leash dog areas that expired in 2003 with no apparent further action by the City.³⁶ The Task Force recommends that a new Section 7 of Appendix D be enacted to reflect current practices:

Appendix D

Sec. 7. - Off-leash dog opportunities

- (A) *Off-Leash Dog Policy.* The Parks, Recreation and Waterfront Department (PRW) shall maintain an Off-Leash Dog Policy (OLDP) as approved by the Parks Commission. The policy may be modified by PRW with the approval of the Parks Commission. The OLDP shall govern the establishment of off-leash dog opportunities, except that permanent fenced dog parks shall be established by ordinance. The OLDP shall govern operations of off-leash dog opportunities and share enforcement authority with the animal control officer(s) as enumerated in this section.
- (B) *Designation of Areas.* Areas shall be designated for the purpose of allowing dogs to be under control of the guardian or guardian's agent by means other than physical restraint. Opportunities shall include: fenced dog parks, water access, and field use on an hourly, seasonal, or year-round basis within reasonable walking distance of neighborhoods. Opportunities, where possible, shall be dispersed across the city. .
 - (1) Permanent off-leash fenced dog parks shall be located at:
 - (a) Oakledge Park
 - (b) Starr Farm Dog Park
 - (c) Urban Reserve
 - (2) Off-leash dogs are prohibited at the following parks. Dogs in these parks must be leashed at all times:
 - (a) Appletree Park
 - (b) Arms Park
 - (c) Baird Park
 - (d) Battery Park
 - (e) Bike path
 - (f) Champlain Street Park
 - (g) City Hall Park
 - (h) Dewey Park
 - (i) Ethan Allen Park

³⁶ City of Burlington, Vermont, Ord. of 9-23-02

<https://www.codepublishing.com/VT/Burlington/#!/BurlingtonAxD/BurlingtonAxD.html> (Pilot program. The rules of this section shall be in full force and effect for eighteen (18) months. The director of parks and recreation shall review the impacts of the designated off-leash areas and shall make a report to the city council after twelve (12) months of operation. Unless directed otherwise by the city council, these rules shall expire upon the end of the 18th month in which the rules were in effect.)

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- (j) Kieslich Park except for the portion known as "Texaco Beach"
 - (k) Lakeside Park
 - (l) Little Park
 - (m) MacKenzie Park
 - (n) North Beach
 - (o) Pomeroy Park
 - (p) Potvin Park
 - (q) Roosevelt Park
 - (r) Schifilliti Park
 - (s) Starr Farm Park except for the portion known as "Starr Farm Dog Park"
 - (t) Water Works Park
 - (u) Waterfront Park

(C) Public Information.

- (1) PRW shall provide information about off-leash dog opportunities to include maps, hours, and references to rules & policies with onsite signage and through its website.
- (2) PRW shall annually conduct a targeted campaign to educate the community about the City ordinances that pertain to off-leash dogs in general, and the the off-leash dog opportunities and associated rules and policies..
- (3) Funds to implement Section C shall be made available to PRW from the fees collected pursuant to Article II Section 5-17.

(D) General Rules for All Areas Designated as Off-Leash Dog Areas.

- (1) A person taking a dog into an off-leash area shall have the dog held on leash when entering and exiting the off-leash area.
- (2) A person taking a dog into an off-leash area shall maintain voice, hand, or leash control over the dog at all times while the dog is in the off-leash area. Such person shall have in their possession a leash at all times.
- (3) A person taking a dog into an off-leash area is responsible for all actions of the dog, shall keep the dog within their vision at all times, and shall remove the dog when their behavior is in violation of the City of Burlington Code of Ordinances, including but not limited to Appendix D Secion 7, or the PRW OLDP.
- (4) The following are prohibited in off-leash dog areas:
 - (a) Glass containers.
 - (b) Female dogs in heat.
 - (c) Excessive barking, howling, or other noise.
 - (d) Bullying of other dogs.
 - (e) Failure to remove feces; All feces shall be removed from the off-leash area and placed in the appropriate receptacle.
 - (f) Unlicensed dogs; All dogs shall be licensed and display valid license tags.
 - (g) Dangerous dogs as defined by Burlington Code of Ordinances, Article II, Section 5-13.
 - (h) More than 3 dogs per person.
 - (i) Children under 12 years of age unaccompanied by an adult.

(E) Enforcement.

- (1) In addition to the penalties provided for by ordinance, a person or dog that violates the rules of this section is subject to ejection from the off-leash area as defined in the OLDP.

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- (2) In addition to the penalties provided for by ordinance, a duly authorized enforcement officer may impound a dog for a violation of the rules of this section or for activities determined to be a nuisance.
 - (3) In addition to the penalties provided for by ordinance, all violations of Appendix D and the OLDP include a restorative justice process with the Burlington Community Justice Center.
- (F) *Administration.*
- (1) Commercial Use of Parks. The PRW may issue a permit and charge a fee to allow for commercial use of off-leash dog areas by professional trainers, and for-profit and not-for-profit animal organizations. Portions of the off-leash dog areas shall remain available for unencumbered use by the public as off-leash areas during these events. Fees collected by PRW for commercial use shall be used for the establishment, operations, or improvements of designated off-leash dog areas. Commercial use of off-leash dog areas without a permit shall result in a fine as set for in Chapter 22 section 23 of the Burlington Code of Ordinances. Commercial use of off-leash dog areas may be further defined or modified by the OLDP.

Proposed Off-Leash Dog Policy (OLDP)

The following text has been drafted by the Dog Task Force as a proposed Off-Leash Dog Policy to be reviewed by the Parks Commission, and once an official OLDP is established, to be revised by the Parks Commission as needed.

OFF-LEASH DOG POLICY

Purpose:

This policy incorporates by reference all rules set forth in Appendix D of the Burlington Code of Ordinances.

Areas of Policy:

- 1) *Designation of Areas and Times of Operations*
 - 2) *Additional Rules for Use of Off-Leash Fenced Dog Areas*
 - 3) *Rules for Commercial Use of Off-Leash Dog Areas*
 - 4) *Signage*
 - 5) *Public Outreach & Enforcement*
 - 6) *Operations*
-
- 1) *Designation of Areas and Times of Operations.*

The following areas are off-leash areas, as designated herein or on site:

 - a) *Fenced Dog Parks*
 - i) *Starr Farm Park (year-round).*

Times. The designated area may be used year-round from 8:00 a.m. to 8:00 p.m. or sunset, whichever is earlier.
 - ii) *Urban Reserve (year-round).*

Times. The designated area is open for off-leash use at any time.

iii) Oakledge Park (year-round)

Times. The designated area is open for off-leash use during the hours the parking lot is open for vehicle parking.

b) Off-Leash areas (not fenced)

i) North End of Leddy Beach (year-round). The area north of the northernmost entrance to Leddy Beach

Times. The designated area is open for off-leash use at any time.

ii) Oakledge Cove (year-round). The area of Oakledge Park known as Oakledge Cove

Times. The designated area is open for off-leash use at any time

iii) Northshore Natural Area (year-round).

Times. The designated is open for off-leash use at any time

iv) Blanchard Beach (seasonal). The area of Oakledge Park known as Blanchard Beach

Times. The designated area is open for off-leash use at any time between November - March

v) Texaco Beach (year-round). The beach area of Kieslich Park known as "Texaco" Beach.

Times. The designated area is open for off-leash use at any time

vi) Lower Calahan Park (year-round). The area of Calahan Park that is bounded on the east by the sledding hill, north by Locust Street, west by Pine Street, and south by the park/neighborhood boundary excluding programmed areas such as baseball fields, roads/walks, etc.

Times. The designated area is open for off-leash use from 6:00 a.m. to 8:00 a.m.

vii) Open Area of Schmanska Park (year-round). The multipurpose field of Schmanska Park extending from the basketball court to the tennis court.

Times. The designated area is open for off-leash use from 6:00 a.m. to 8:00 a.m.

viii) Open Area of Smalley Park (year-round). The multipurpose field excluding the programmed softball field.

Times. The designated area is open for off-leash use from 6:00 a.m. to 8:00 a.m.

ix) Gravel Path of the Urban Reserve The area of the Urban Reserve that is the maintenance access running parallel to the train tracks between the designated off-leash area signs on the northern and southern ends.

Times. The designated area is open for off-leash use at any time.

2) *Community Expectations for Use of Off-Leash Fenced Areas*

(1) In addition to the rules set forth in Appendix D, please observe the following guidelines:

(a) Do not allow dogs to dig holes, except in an area designated for digging by the Parks, Recreation and Waterfront Department (PRW). The person accompanying the dog shall fill in any hole created by the dog prior to exiting the area.

(b) Do not consume human food.

(c) Do not feed other people's dogs.

(2) All gates to the dog park must be closed after entering and exiting.

(3) The priority use for off-leash dog parks is off-leash dogs. Please ensure that children do not interfere with the activities of dogs in the park.

3) *Community Expectations for Use of Unfenced Off-Leash Areas*

In addition to the rules specified in Appendix D, please observe the following guidelines:

- (1) Ensure your dog is placed back on leash after leaving an off-leash dog area.
 - (2) Dog guardians should be respectful of other users using the space. This is a shared space, even during the times where dogs are allowed off-leash. The priority use for these areas is not necessarily dogs.
 - (3) Non-dog guardians should expect dogs may be running free in designated off-leash areas.
-
- ### 4) *Rules for Commercial Use of Off-Leash Fenced areas*
- a) Commercial users are required to be a *Park Program* participant.
 - b) Commercial users are responsible for creating any boundaries, with temporary fencing or by other temporary means, required to meet their needs and that of the other users.
 - c) Commercial users are limited to twelve days per year exclusive of commercial uses that do not restrict other uses of the area.
 - d) No more than one commercial user may use the same dog park concurrently.
 - e) Off-leash dogs will be permitted to access any areas of the off-leash area that are not separated by temporary or permanent fencing.
 - f) With the exception of extraordinary circumstances, no more than 33% of an off-leash dog area shall be permitted to be restricted for commercial use.
 - g) Commercial use shall not interfere with standard entrances and exits from the off-leash dog area.
 - h) If any PRW staff time is required for the event, commercial users of the park are responsible for all costs related to the staff time. PRW staff will only be made available with the approval of the PRW Director
 - i) Commercial users will be responsible for all costs related to set-up, operations, security, and cleanup for all events.
 - j) Standard PRW Department requirements for reserving parks apply.
-
- ### 5) *Public Outreach & Enforcement.*
- a) The PRW and the Police Department shall collaborate to educate and enforce the rules and policies applicable to off-leash dog areas, A person who violates any rules or policies applicable to off-leash dog areas on two (2) occasions within a twelve-month period shall be barred from taking any dog into the off-leash areas during the six (6) months subsequent to the second violation.
-
- ### 6) *Operations*
- a) The PRW shall maintain a volunteer group that provides guidance and support for off-leash areas
 - b) The PRW Director may, upon a finding of need at a particular off-leash area, close the area to off-leash use. The reopening of such area is at the discretion of the Director. The Director shall post a notice indicating that the area has been closed for off-leash use at the entrance to the area and at other locations in the area if needed to give notice to the public of the closing.

Appendix G: Off-Leash Detailed Findings & Recommendations

The Task Force reviewed work from previous committees ([see Appendix K](#)) as well as current practices, ordinances and policies. The group also did a city-wide survey to solicit public opinion on areas proposed by previous committees ([see Appendix I](#)). Prior efforts to create off-leash areas were left uncompleted, as Section 7 of Appendix D in the City Ordinances expired.³⁷

Table 3. Current and Proposed Off-Leash Areas for Dogs

	Current	Proposed
Off-Leash	3.5/520 acres Starr Farm Dog Park Waterfront Dog Park Texaco Beach	Add: • Sections of Neighborhood Parks (Smalley, Calahan, Schmanska) 6-8am • Sections of Natural Areas (Northshore, Urban Reserve) • Beaches (Blanchard, North Beach wintertime only; Oakledge Cove & section of Leddy Beach all year) Keep: • Starr Farm Dog Park, Waterfront Dog Park, Texaco Beach
On-Leash only (Neighborhood Park)	All Neighborhood Parks	Most Neighborhood Parks except for designated areas in Calahan, Schmanska, & Smalley Parks
On-Leash only (Conservation Area)	All Natural Areas	Same (all areas designated “Urban Wilds” - such as Arms Forest, Crescent Woods, Arthur Park, Ethan Allen Park, McKenzie Park, and Mount Cavalry Red Maple)
No Dogs Allowed	Cemeteries	Same (at the wish of Cemetery Commission)

[Interactive map showing proposed off-leash areas](#)

There is a strong desire from dog owners to have easy access to off-leash areas. More fenced in areas exclude non-dogs and their caretakers from spaces in our parks, and the City also lacks funds to build fenced in dog parks. Many communities have turned to unleashed dog areas to solve the issue of limited park spaces and the desire not to fence

³⁷ City of Burlington, Vermont, Ord. of 9-23-02

<https://www.codepublishing.com/VT/Burlington/#!/BurlingtonAxD/BurlingtonAxD.html> (Pilot program. The rules of this section shall be in full force and effect for eighteen (18) months. The director of parks and recreation shall review the impacts of the designated off-leash areas and shall make a report to the city council after twelve (12) months of operation. Unless directed otherwise by the city council, these rules shall expire upon the end of the 18th month in which the rules were in effect.)

these spaces, while providing a mechanism to better regulate and manage where dogs are off-leash and enforce regulations that they be on leash outside of off-leash areas. The question of creating unfenced off-leash dog areas elicits strong opinions both for and against.

Some neighboring cities have successfully created unfenced off-leash areas. South Burlington allows dogs to be under voice control at all parks and only requires leashes on South Burlington Recreation trails and at the following parks: Red Rocks, Vet Memorial, and Jaycee Park. Colchester's default policy is also off-leash, with dogs required on-leash only on sidewalks and the bike path. Winooski's policy is similar to Burlington's, where the default is on-leash only. But for similar reasons they are exploring the possibility of establishing another location or two where dogs can officially be allowed off-leash, then working to tighten up enforcement where it isn't allowed.

Some efforts were made to find alternative spaces to the park spaces overseen by Burlington Parks & Recreation.

- *Cemetery spaces.* The Task Force discussed the fact that some fenced in spaces in Burlington currently exist but are not available for dogs. The idea of using cemetery spaces as an urban solution is not new.³⁸ A proposal to work with the Cemetery Commission to consider the option of on-leash or off-leash use for dogs was unsuccessful. The Cemetery Commission heard the proposal, including the possibility of additional revenue and volunteer hands to maintain the cemeteries, but chose not to work with the Task Force to explore this concept.³⁹
- *Spaces outside Burlington.* At the suggestion of City Councilmember Sarah Carpenter,⁴⁰ the Task Force looked beyond Burlington to understand what off-leash spaces were available (for those with cars who can drive). As noted above, our neighboring



³⁸ For example, see the Cemetery Dogs program at the Congressional Cemetery in Washington, DC - one quarter of the cemetery's operating income derives from donations by dog walking members and covers the costs of grounds maintenance contracts. Source: <https://congressionalcemetery.org/dog-walking/>

³⁹ See Burlington, VT Cemetery Commission meeting minutes from their April 20, 2023 meeting: <https://burlingtonvt.portal.civicclerk.com/event/5294/files/7035>

⁴⁰ See Burlington, VT City Council meeting minutes from their March 27, 2023 meeting: <https://burlingtonvt.portal.civicclerk.com/event/2058/files/2159>

communities of South Burlington and Colchester have much less restrictive leash laws, allowing off-leash use in their parks unless specifically restricted. In addition, South Burlington, Essex, Milton and Shelburne have fenced dog parks.

- *Former Landfill in the Old North End.* The Task Force also discussed the former landfill area at the top of Manhattan Ave. This area is currently being used by some residents as an off-leash area for dogs, but due to continued monitoring of environmental considerations cannot be officially set up for dogs at this time.

After reviewing the prior task force work, the results of the Spring 2023 survey, and consulting with the Cemetery Commission and directors of parks in neighboring towns, the Task Force recommends the following areas to the Parks Commission for piloting. More specific details are in the drafted [Off-Leash Dog Policy](#).

Table 4. Recommended areas to pilot unfenced off-leash dog sections

Park	Time	Rationale
Smalley	6-8am	Significant requests from survey; limited use by youth in the mornings
Leddy Beach (north end)	All day	Slight in favor from survey, significant current use
Northshore	All day	Slight in favor from survey, significant current use
Calahan Park	6-8am	Slight in favor from survey, proposed area (lower field) is in a different location from the playground; significant current use
Schmanska Park	6-8am	Slight in favor, Recommended by 2013 task force, adds an area in the East end of Burlington, suggest morning only
Urban Reserve	All day	More in favor, off-leash connection to dog park and parking lot, will separate from bike path w/ clear signage on start/stop of off-leash areas
Blanchard Beach	November -March	Limited beach use in the winter.
North Beach	November -March	Limited beach use in the winter.
Oakledge Cove	All day	South end water access, helps curb existing off-leash use at Blanchard in the summer.

In addition to the above areas, the proposed fenced-in dog park in Oakledge Park was by far the most popular and most supported area with survey respondents. Future funding and significant planning would be needed to make this a reality.

Appendix H: Education Campaign

Part of the scope of the Task Force work mandated by the City Council resolution requested that Task Force members conduct an educational campaign around the following issues:

1. Off leash dogs in city parks, natural areas or beaches
2. Dogs attacking people or other dogs
3. Dog feces not being picked up
4. Dog barking contributing to noise pollution

All materials and research were developed using volunteer time and resources. Outreach was limited to available slots on the Parks Recreation and Waterfront (PRW) Front Porch Forum and social media accounts. The Task Force recommends some funding be allocated to educational outreach and that multiple city departments participate in the sharing of information on their social media accounts. The campaigns comprised of the following:

1. Leash Your Dog PSA for conservation reasons (wildlife, plants)⁴¹
2. Interview with Seven Days to address additional reasons for leashing your dogs (including prevent of attacks)⁴²
3. April Stools Day PSA to encourage residents to pick up their dogs' feces⁴³
4. Barking PSA to provide helpful tips to address barking and reduce noise pollution

The Task Force also explored the possibility of increasing licensing numbers through a limited social media drive,⁴⁴ and worked with the BPRW to create the Wag the Waterfront event.



⁴¹ As seen in PRW's Front Porch Forum post May 18, 2022:

https://frontporchforum.com/areas/22/issues/4452#post_2786297

⁴² Mullis, R. (Aug 9, 2023). One Burlingtonian's Journey to On-Leash Dog Ownership. Published in print as "Going to the Dogs | One Burlingtonian's journey to on-leash dog ownership" and online at

<https://www.sevendaysvt.com/arts-culture/one-burlingtonians-journey-to-on-leash-dog-ownership-38844346>

⁴³ As seen in PRW's Front Porch Forum Post April 1, 2022:

https://frontporchforum.com/areas/23/issues/5456#post_2747458

⁴⁴ Instagram reel created by task force members on volunteer time, and shared on PRW's Instagram account on March 21, 2023 to encourage residents to license their dogs and explain how to get their dogs licensed.

<https://www.facebook.com/reel/936523320687771>

Proposed Annual Education Calendar

A proposed calendar to continue providing education on various topics was developed and is shown below, followed by details on the various public service announcements as well as the Wag the Waterfront event.

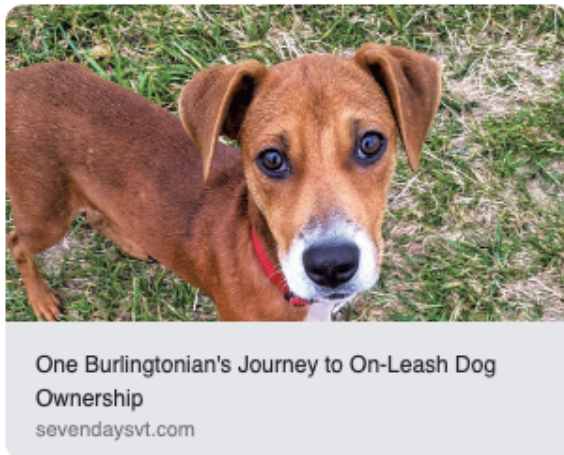
Legend:

PSA
Campaign/Drive
Event

JANUARY Barking PSA	FEBRUARY Repeat Spay/Neuter PSA (February is S/N Awareness Month) Campaign/Drive: Dog Licenses Due April 1	MARCH Licensing Campaign Continues
APRIL Off-Leash PSA (Conservation) Picking up Poop PSA	MAY Don't Leave Your Dog in the Car PSA Off-Leash Dog PSA (to avoid conflicts attacks)	JUNE Keep Your Dog Cool PSA Don't Leave Your Dog in the Car PSA (repeat July/Aug)
JULY Off-Leash Dog PSA (to avoid conflicts attacks) Dog Days Event <i>Church Street tie-in for pet friendly shopping areas or Burlington Farmer's Market on Pine St</i>	AUGUST Off-Leash Dog PSA (to avoid conflicts attacks)	SEPTEMBER Wag the Waterfront Event
OCTOBER Halloween Parade Event? <i>Dog Costume Contest?</i>	NOVEMBER <i>(a week after leaf pick up)</i> Poop Scoop PSA Even through winter need to scoop poop all year round	DECEMBER Spay/Neuter PSA

Leash Your Dog Outreach (7 Days Article)

Taskforce members Maria Karunuñgan and Abbey Duke were interviewed by journalist Rachel Mullis of Seven Days to weigh in on thoughts about off-leash dogs, resulting in the following publication in Seven Days:⁴⁵



The take-home message in the article was to encourage residents to leash their dogs for a variety of reasons, including respect and consideration for others' cultural and religious preferences, prevention of unwanted conflict between unfamiliar dogs with unknown sociability, and generally taking more responsibility for their dogs' behavior around others.

Wag the Waterfront Event September 2023

- PRW hosted on September 9, 2023 1-4pm⁴⁶
- Social media posts invited people to come⁴⁷
- The event featured the following:
 - Afternoon Yappy Hour in the dog park
 - Free professional caricatures & free professional photos



⁴⁵ Mullis, R. (Aug 9, 2023). One Burlingtonian's Journey to On-Leash Dog Ownership. Published in print as "Going to the Dogs | One Burlingtonian's journey to on-leash dog ownership" and online at <https://www.sevendaysvt.com/arts-culture/one-burlingtonians-journey-to-on-leash-dog-ownership-38844346>

⁴⁶ See <https://enjoyburlington.com/event/wag-the-waterfront/>

⁴⁷ See for example <https://www.instagram.com/p/Cw7iosEMae4/>

- Booths rented by local dog-related businesses (daycares, groomers, dog trainers, dog treat bakeries, etc).
- Events such as dog training demos, Paws & Poses yoga, and weight-pulling

Public Service Announcements Developed by the Task Force

The following public service announcements were developed by the Task Force for several educational campaigns. Most of these were shared on social media.

Excessive Barking PSA

The Task Force wrote a public service announcement to address the complaint of excessive barking.⁴⁸ The main points of this campaign were to help raise awareness about why excessive barking is bad (pointing to upset neighbors, welfare issues, & violation of city code). Tips from a professional trainer were provided, including the recommendation to consult with a veterinarian and professional trainer if struggles continued.

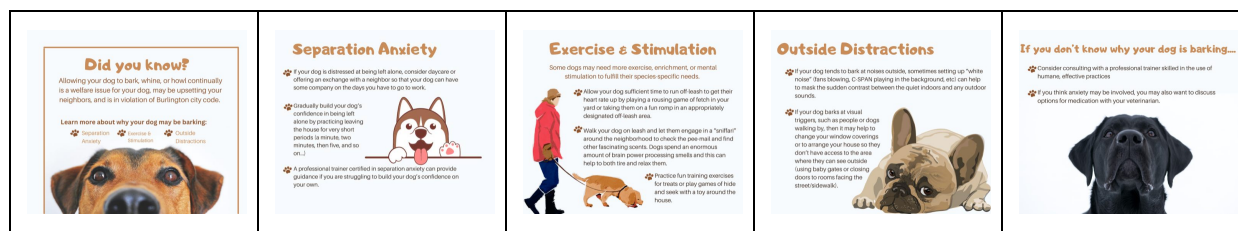


Fig. 4 Barking PSA Instagram slides

Leash Your Dog PSA

The Leash Your Dog PSA released in May 2022⁴⁹ contained the following text:

:: A MESSAGE FROM THE DOG TASK FORCE ::

Protect Nature - Leash Furry Companions in Vermont's Natural Areas

Spring is nature's time to restore and grow, and also nature's most fragile time. Burlington's natural areas are still in recovery from forest clearing hundreds of years ago and use this

⁴⁸ See for example the Facebook post on February 16, 2023:

<https://www.facebook.com/BTVParks/posts/pfbid04CsSzqckLeKfr2BHivHVsYssx3KDYdthXt4CysmTxeATD2FNqeig9Sh eDXinqKhpl>

⁴⁹ PRW's Front Porch Forum post May 18, 2022:

https://frontporchforum.com/areas/22/issues/4452#post_2786297

time to replace and regain strength. Spring flowers have delicate stems and depend on small ground insects, like ants, to help them expand their population.

Larger, similarly tender mammals like foxes are born now through August! For these animals, reproduction takes a lot of energy and kits, pups and their parents are weaker and especially vulnerable throughout this season.

Off-leash dogs (and their owners) unknowingly break tender wildflower stems and chase or even fatally maim baby animals, setting back the tiny steps that ecosystems take each spring towards restoration.

Please walk your dog on a leash on all trails and paths throughout City and Vermont parks. Obey on-leash postings to allow Vermont's forests to regain their species diversity and to save our wildlife. To learn more about spring wildflowers and to see the cutest red fox kit photo, please see our facebook page <https://www.facebook.com/BTVParks>.

Scoop the Poop PSA

The Scoop the Poop PSA ("April Stools Day") released in April 2022⁵⁰ contained the following text:

On behalf of the Burlington Dog Task Force Team, we'd like to remind everyone: Scoop Your Poop!

Pet waste should be picked up promptly because it...

- > is harmful for kids playing in the dirt
- > contaminates locally grown food
- > contaminates drinking water and swimming areas
- is gross!!!!

With the weather warming and snow finally melted, we want to encourage all dog owners to pick up their dog's poop! (and any poop you see from other dogs, even if they are not your own).

Pet waste is harmful for children playing in your local neighborhood as parasites from fecal matter can remain in the soil for years. Picking up poop can also go a long way to protecting local gardens especially if you are growing food for yourselves, and protect anyone working or playing in the dirt. In addition, please keep in mind our drinking water is affected as well! According to the Lake Champlain Committee, pet waste contributes up to one-third of bacterial pollution in waterways near developed areas. (source: <https://www.lakechamplaincommittee.org/learn/news/item/2200-stool-piles-and-counting/>) Bacteria from pet waste adds e-coli that can result in the closing of recreational swimming areas.

Help us protect our children's play areas, neighborhood gardens, and local swimming spots by picking up your dog's poop!

⁵⁰ PRW's Front Porch Forum Post April 1, 2022: https://frontporchforum.com/areas/23/issues/5456#post_2747458

Recommended Additional Areas of Educational Outreach

The Task Force recommends the following additional areas of education:

- Education on preventing dog attacks & conflicts with other dogs & people
- Resource for new arrivals (either new residents of Burlington who have dogs, or current residents who get a new dog)
- How/when to report incidents & what information is helpful
- Guidelines for behavior of dogs in designated off-leash areas
- Education/information that can be distributed on the cards that accompany dog license tags
- Curriculum for community justice center, should a restorative justice approach be adopted for resolving violations of dog policies & ordinances.
- Low-cost spay/neuter outreach

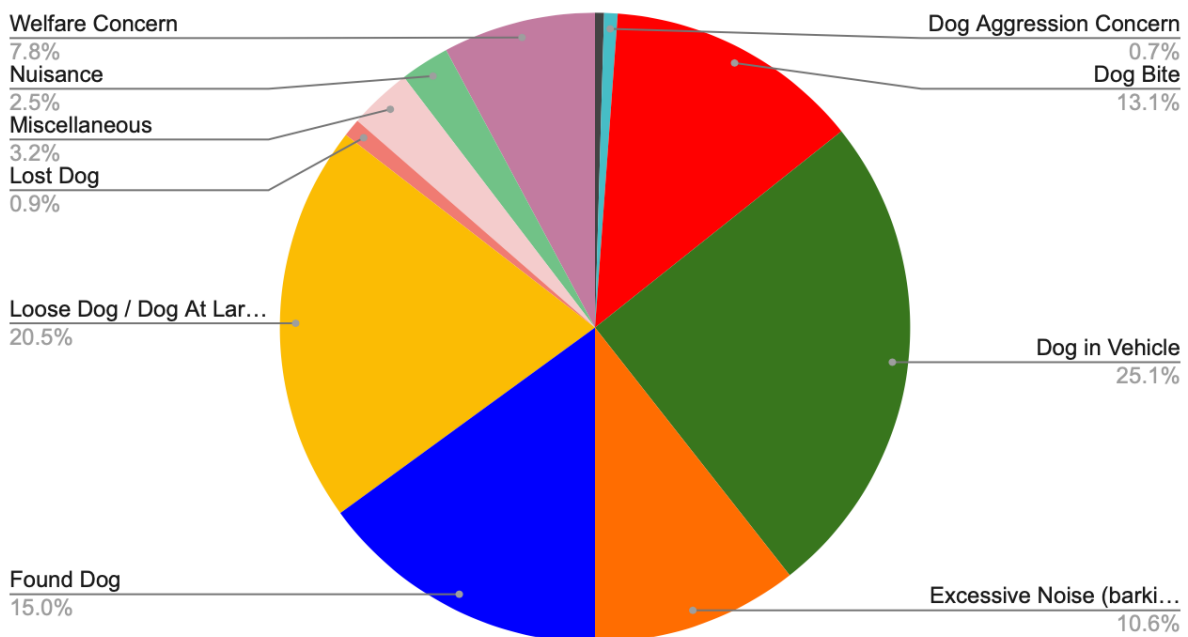
Appendix I: Data Summaries (Police Incident Reports, Off-Leash Survey)

The Task Force analyzed animal incident reports provided by the Burlington Police Department (BPD) and results of an off-leash survey conducted by the Department of Parks Recreation Waterfront (PRW).

2019 Dog and Cat Incident Reports Analysis

The Task Force analyzed data from 467 incidents involving companion animals (cats and dogs) that were reported in the calendar year 2019. The effort to summarize the data and analyze it was time-consuming, as the data were presented to the task force as individual PDF files with written details of each incident. To make sense of these written reports, a dataset was created by pulling the following variables from each report: date, time, incident number, origin of call, animal type, location of incident, incident details, and resolution. Incident details consisted of a summary of what was reported by the caller to dispatch. Resolution consisted of the responding officer's response and/or a more detailed description of the incident. The "Incident Type" variable in the data set was then broken down into dog-related or cat-related incidents, and assigned a category.

Dog Incidents in 2019

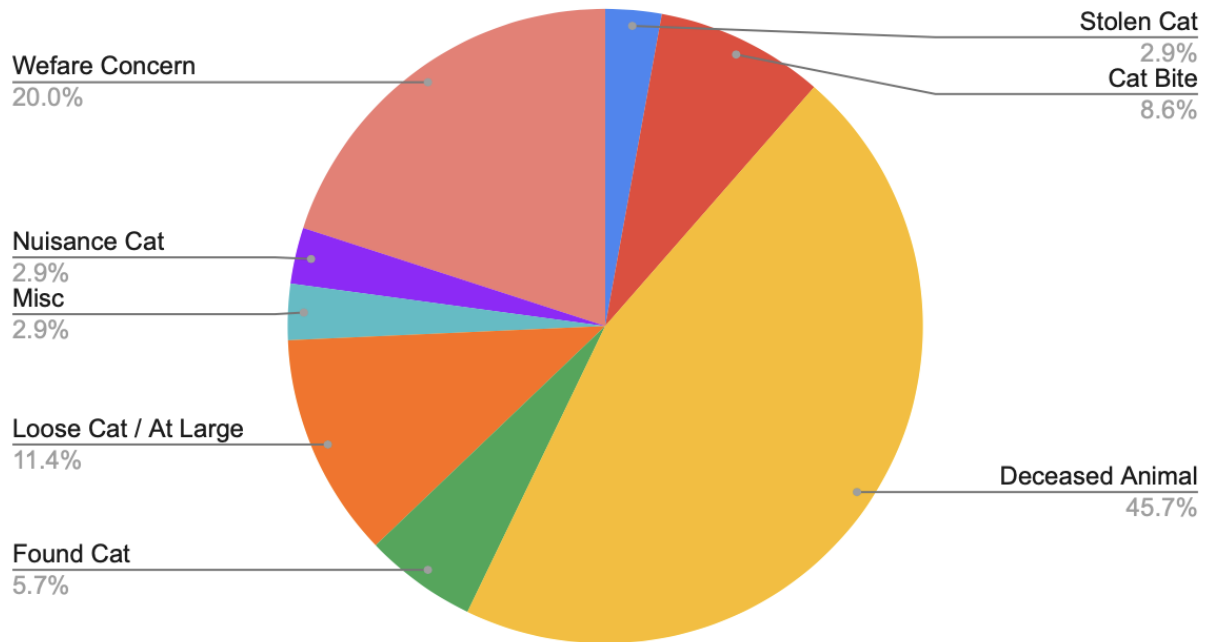


Dog-Related Incidents

Reported dog incidents were categorized as follows (in order by the number of incidents reported in 2019):

- *Dog in Vehicle*: Vehicle was gone on arrival (GOA), Dog did not appear to be in distress (guardian of vehicle not present or mentioned in the incident report), Dog did not appear to be in distress and the guardian returned to their vehicle and the officer was able to speak to the guardian about the dangers of leaving a dog in a car; or Dog was in distress. (109)
- *Loose Dog / Dog At Large*: (89)
- *Found Dog*: (65)
- *Dog Bite*: Dog bite to another dog, Dog bite to a person, Dog bite to both a dog/person, Dog bite to a cat, Dog bite to unknown person or animal. (57)
- *Excessive Noise*: Barking, whining, and/or howling (46)
- *Welfare Concern*: Issues related to an animal's well-being and safety including but not limited to possible animal neglect, animal abuse, and injured animals. (34)
- *Miscellaneous*: Examples are guardianship disputes, how to surrender an animal, requests for behavioral training assistance, and how to obtain care for an animal while the guardian is hospitalized. (14)
- *Nuisance*: (11)
- *Lost Dog*: (4)
- *Dog Aggression Concern*: (3)
- *Deceased Animal*: (2)

Animal Incidents: Cats 1/1/2019-12/31/2019



Cat-Related Incidents

- *Deceased Animal*: (15)
- *Welfare Concern*: (7) Issues related to an animal's well-being and safety including but not limited to possible animal neglect, animal abuse, and injured animals
- *Loose Cat / At Large*: (4)
- *Cat Bite*: (3)
- *Found Cat*: (2)
- *Miscellaneous*: Example: Request for behavioral training assistance. (1)

Cat Incident Reports. Almost half of police incident reports concerning domesticated cats involved the reporting of a deceased cat (45.7%). People reporting these incidents were concerned about cats and other cat related incidents included welfare concerns (20%), loose cats (11.4%), and found cats (5.7%). Cat bites made up 8.6% of all cat related incident reports. Because residents know that general issues with cats (cat welfare, lost cats, etc) are not handled by CSOs, the number of cat incidents is likely to be grossly underreported.

Spring 2023 Off-Leash Survey Analysis

Based on the work of the previous task force & work groups ([see Appendix K](#)), areas recommended for off-leash usage were reviewed by the committee based on current usage, and a proposal for areas to pilot was derived. This proposal was included in a survey to get feedback from the community. Based on feedback and information about current off-leash use by residents, the pilot areas were further revised. For example, Roosevelt and Schmanska were removed from consideration, based on quantitative survey opinions and written comments. Leddy Park Trails was also removed from consideration, in spite of quantitative results in favor of, due to important written considerations brought up by community members in the open comments portion.

Quantitative Survey Results

BURLINGTON PARKS OFF-LEASH SURVEY

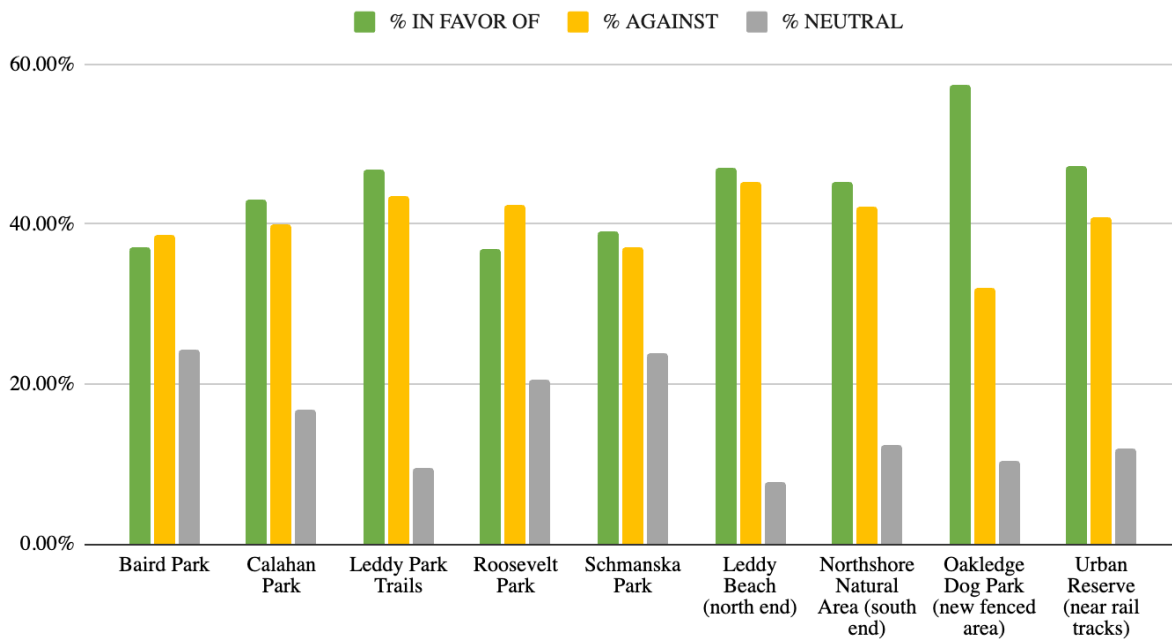


Fig. 5. Community members' opinions about proposed off-leash areas.

Table 4. Community members' opinions about proposed off-leash areas

LOCATION	IN FAVOR	AGAINST	NEUTRAL
Baird Park	353 (37.04%)	368 (38.61%)	232 (24.34%)
Calahan Park	422 (43.11%)	392 (40.04%)	165 (16.85%)
Leddy Park Trails	467 (46.93%)	433 (43.52%)	95 (9.55%)
Roosevelt Park	352 (36.9%)	405 (42.45%)	197 (20.65%)
Schmanska Park	369 (39.13%)	349 (37.01%)	225 (23.86%)
Leddy Beach (north end)	445 (46.99%)	429 (45.30%)	73 (7.71%)
Northshore Natural Area (south end)	414 (45.25%)	387 (42.30%)	114 (12.46%)
Oakledge Dog Park (new fenced area)	542 (57.48%)	303 (32.13%)	98 (10.39%)
Urban Reserve (near rail tracks)	433 (47.22%)	375 (40.89%)	109 (11.89%)

Qualitative Survey Results (Analysis/Coding of Written Comments)

In addition to the quantitative survey collected, the Task Force compiled 631 written comments from respondents providing additional opinions and suggestions regarding off-leash areas and dog parks (61% of respondents left one or more comments). Many comments focused on specific proposed locations, or suggested additional locations not included in the survey. Comments fell into the following categories or theme (in order by the number of comments received in the categories):

- *Appreciate off-leash areas as option:* Commenters felt there were not enough off-leash areas or appreciated the city was investigating additional off-leash spaces for dogs. (202)
- *Dog parks only:* Commenters felt off-leash areas should only be provided strictly in fenced-in dog parks designated for dogs, and that there should not be designated unfenced areas. (143)
- *Nuisance behavior / Environmental impact.* Commenters expressed concern over the negative impact of dogs in general - contributing to noise, annoying people, or trampling local plants/killing wildlife especially in conservation areas. (122)

-
- *Enforcement & Reporting:* Commenters asked for more accessible complaint forms, stronger consequences for existing ordinance infractions, or complained that they never saw enforcement happen, and this made them leery of offering off-leash areas. (121)
 - *Park-specific.* Commenters made a comment about a specific park, such as requesting we consider Smalley Park for off-leash. (100)
 - *Safety.* Commenters were concerned about aggressive dogs, or dogs jumping on/injuring people (small children were often mentioned). (67)
 - *Time/season complexity:* Commenters felt the initial survey's multiple sets of disparate times per individual park would lead to a lot of confusion and possibly be difficult to enforce. (39)
 - *Comments for other public land-owners.* Commenters suggested offering areas not governed by the city of Burlington as possibilities for off-leash. (38)
 - *Education:* Commenters asked for increased education around rules, requested more signage and clarity so that community members knew which rules applied in which parks and where. (25)
 - *Cultural impact.* Commenters expressed concern for individuals whose cultural or religious practices may be adversely affected by allowing off-leash dogs in unfenced spaces (this was especially common in reference to Roosevelt Park) (17)
 - *Neighborhood park concerns.* Commenters made suggestions for specific parks. (17)
 - *Tag / Permit Concept.* Commenters thought that some off-leash areas should be provided on a tag or permit basis. (16)
 - *Accessibility.* Commenters were concerned about more off-leash spaces being accessible to people who don't have cars and need to walk their dogs to an available off-leash area. (10)
 - *Comparison to other cities.* Commenters made positive or negative comparisons of Burlington to other cities (usually to complain that Burlington was not dog-friendly enough, but sometimes to complain that it was too dog-friendly). (8)
 - *No off-leash.* Commenters felt dogs should not be allowed off-leash anywhere in Burlington. (6)
 - *No additional comment.* 39% of respondents did not leave a comment

After reviewing the written comments and quantitative data, decisions were made to remove the following proposed off-leash areas from consideration by the Parks Commission as a pilot, for the reasons stated below:

- Leddy Trails (concerns about wildlife disruption)
- Roosevelt Park (concerns about aversive effect on neighborhood cultural practices)
- Baird Park (concerns about how close the proposed dog play area would be to the children's playground)

The survey also collected feedback from respondents on areas that had not been included, to see if there should be additional areas considered.

- Smalley Park came up frequently and as a result, Smalley was added to the list of pilot areas.
- Many commenters requested additional locations not under the purview of PRW to be made off-leash (for example, Red Rocks or Ethan Allan Homestead, both of which require dogs to be on-leash and are not part of PRW).

Appendix J: Task Force Progress Reports to City Council PACC Committee

The Task Force submitted progress reports to the [City Council PACC Committee](#) on the following dates.

2022-03-01

2023-02-23

2023-08-23

Appendix K: History of Prior Task Force Work

In 1998, the City chose to pilot five locations for off-leash areas. They included Starr Farm Park, Urban Reserve, Intervale, Schmanska and Oakledge Park. Two areas, Starr Farm and Urban Reserve, exist today as off-leash fenced parks. The language for the program still exists in the City Ordinances under Appendix D, section 7, Rules and Regulations of the Burlington Parks and Recreation Park. The section became no longer enforceable in approximately 2002 as the pilot ran out without any information that indicates that the City Council took action.

In 2011, the City Council created a work group to revise and formalize the pilot program started in 1998. After two years, the workgroup recommended that the South, Center and North end of the City all have options for dogs off-leash. They also specified four parks off-leash areas would not be permitted including Burlington Greenway, Battery Park, City Hall Park and Champlain Street Park. They suggested that Starr Farm and Urban Reserve fenced dog parks be listed in the ordinance and that the non-fenced areas be listed in a new off-leash dog policy rather than an ordinance. The off-leash dog policy would be approved by the Parks Commission and not through City Council.

The suggested off-leash areas from the 2011-2013 report included Leddy Park, Oakledge Park, Calahan Park, Schmanska Park, Waterfront Park (in addition to the fenced area), and Roosevelt Park. It was a mix of year-round and seasonal and any time of day to specified times of day. The Parks, Recreation & Waterfront (BPRW) department started a Parks

Comprehensive Plan process around the time of the final report. With that process starting, the decision was made to pause the off-leash work to see what came out of the comprehensive plan. It did not get picked back up again following the release of the 2015 Comprehensive Plan.

In 2019, the current BPRW Director started to move forward with the work from 2011-2013 meeting with PACC and the Parks Commission. The suggestion was made by the Parks Commission to survey the community as quite a bit of time had passed from the 2011-2013 work. Before sending out the survey, the pandemic hit and once again, the project stalled.

R

Fiscal Year 2022 Annual Report of the Board of Police
Commissioners to the Burlington City Council

August 24, 2022

Respectfully submitted:

Jabulani Gamache, Co-Chair

Stephanie Seguino, Co-Chair

Shireen Hart, Vice Chair

Susan Comerford

Kevin Garrison

Melo Grant

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FY22 Annual Report of the Board of Police Commissioners to the Burlington City Council

I. Introduction

The Board of Police Commissioners for the City of Burlington (the “Commission”) is a body of community members mandated to monitor and provide citizen oversight of policing as it impacts safety and dignity of community members and police officers. During Fiscal Year (FY) 22, the Commission focused its efforts in the following areas: a) defining and codifying its oversight mandate in a city ordinance; b) revising and strengthening Burlington Police Department’s (BPD’s) policies and Department Directives (DDs) to effectively implement recommendations contained in the CNA report *Functional and Operational Assessment of the Burlington Police Department*, particularly those related to racial bias (implicit or explicit) and police interaction with persons with diminished capacities; c) preparing resolutions to improve quality of policing and add diversity to the police force; and d) promoting greater transparency in the Commission’s processing of citizen’s complaints and reviewing BPD’s use of force.

This report details the work and efforts of the Commission for FY22. Along with the activities detailed in the report, the Commission carried out its routine monthly tasks which include welcoming public comment, receiving a monthly report from the Acting Chief of Police, evaluating complaints, and reviewing monthly Use of Force incidents. In FY22, the Commission also presided over one BPOA grievance hearing.

II. Police Commission Activities in FY22

A. Policies and Directives

The Commission finalized one policy this year and continued its work reviewing and several others.

- *Body-worn Camera Footage Release Policy*, approved unanimously on August 24, 2001. See the complete language of this policy, as adopted [here](#).
- *Role of the Burlington Police Commission in Reviewing Complaints Against BPD Employees*, adopted August 25, 2020, under ongoing review. The current policy is [here](#):
- The Commission began the review of the two BDP Directives shown below, which has included input from Disability Rights Vermont and BDP. The Commission expects to present proposed revisions to these Directives in FY23. The links to these directives as currently written are below:
 - [DD13.02 – Interacting with Persons with Disabilities](#)
 - [DD13.03 – Interacting with Persons with Diminished Capacities](#)

B. Resolutions

The Commission passed several resolutions/motions related to policing that included recommendations to the City Council, Mayor, and BPD.

1. In September 2021, the Commission unanimously passed a resolution urging the Mayor's office and City Council to mount a mental health summit. This was based on the analysis of incident data showing that mental health calls are one of the most frequent calls for service, and one that police are least prepared to respond to. The number of these calls has almost doubled from 2012 (about 450 such calls) to almost 950 calls in 2021-22. The Commission therefore advocates for the development of a comprehensive and coordinated system of care and safety so that appropriate resources are applied to every call, recognizing not all calls need only police officers and in fact, some may be better handled by others with more mental health training. The full motion can be found in the Appendix.

Response: The City REIB Office and CSL Lacey Smith, in conjunction with United Way, have scheduled this summit to be held August 23-24, 2022.

2. In November 2021, the Commission unanimously passed a motion to advise the BPD to develop the skills and focus to increase the diversity of BPD so that its composition reflects that of the community. The motion also called for the creation of a group of community advisors to participate in the networking effort to assure a diverse set of applicants. The full motion can be found in the appendix.

Response: The motion requested a written response from the Acting Police Chief on these recommendations. Nine months later, the Commission has not received that response. The recommended group of community advisors was also not formed.

3. In March 2022, the Commission adopted a resolution urging the City Council to fund two additional Community Service Liaison positions and a public information officer. The resolution can be found in the appendix.

Response: That recommendation was adopted by the City Council in July 2022.

C. Reports

1. The City Council passed a motion in the fall of 2021 that significantly altered the role of the Police Commission in police oversight. Based on that resolution, the City Attorney developed a draft ordinance. The City Council sought the Commission's input on the draft ordinance. The Commission provided extensive comments, noting where the draft ordinance deviated substantially from the City Council resolution that had been approved by the Mayor. The Commission's memorandum to the City Council (approved by the Commission, April 2022) can be found in the appendix.
2. The Burlington Police Commission receives a data report each year from the City's Innovation Office on the previous year's traffic stops, arrests, use of force, with analysis to identify racial disparities. Upon receiving this report, the Commission issues an assessment of the data report, summarizing key findings and making recommendations to BPD, based on those findings. The City's data report can be found [here](#). The Commission's assessment of the annual data report (approved in June 2022 by the Commission) is [here](#).

In its summary and assessment of the annual data report, the Commission noted several key findings:

- A 24% decline in police-involved incidents from 2019 to 2021, continuing a 6-year decline in incidents, which have fallen by 42% since 2015.
- A modest decline in offenses (which are law violations recorded by officers) from 2019 to 2021, and a 31% decline since 2012.

- A 91% increase in mental health incidents since 2012 (one of the most frequent types of calls for service) and a 72% increase in overdoses since the start of pandemic state of emergency.
- A 13% decline in violent offenses from 2019 to 2021, continuing a 9-year trend of a decreasing number of violent offenses. The Commission noted that this positive trend must be tempered by the great concern caused by the increase in gunfire incidents in 2021, extending now into 2022.
- A 9.7% increase in Priority 1 incidents (the most serious type of incident) since 2019, although such incidents have fallen 1.6% since 2015.
- A 9% decline in uses of force since 2019.

The Commission registered its concern over missing data, especially related to race, a problem that is easily rectified with appropriate supervisory oversight. Accurate data is critical to civilian oversight of law enforcement. Accurate collection of data is also crucial to addressing longstanding racial disparities. In addition to the problem of missing data, while noting improvement in some areas, the Commission registered several concerns about the data provided in the FY22 data report. Of particular concern are the continued and wide racial disparities in arrests, use of force, and searches (the number of searches is very small and therefore those results should be viewed with caution). With regard to use of force, there were notable disparities for non-violent offenses but not for violent offenses.

The Commission made two recommendations to Acting Chief Murad, based on this report:

1. The Commission requested a robust plan for monitoring data entry and a process for requesting officers to supply missing data, such that missing race data is eliminated by next year.

Response: The Acting Police Chief has not responded to the request for a plan to eliminate missing data.

2. The Commission requested that the City and Burlington Police Department engage the services of the Center for Policing Equity to assist in a review of incident level data to understand the situations that lead to racial disparities in use of force and to identify mechanisms to reduce unjustified disparities.

Response: The Acting Police Chief and the Mayor have declined to engage the services of the Center for Policing Equity. This is of particular concern, given that the CNA report also identified the problem of racial disparities in traffic stops and use of force and recommended that the BPD engage in a deeper analysis to understand the sources of such disparities and address racial bias in policing.

D. Training and Education

The Commission has included an informational component in most of its monthly meetings to enhance the Commission's, the public's, and BPD's knowledge and understanding of public safety issues in our community. In FY22, the sessions shown in Table 1 were included in the monthly meetings.

Table 1. Police Commission Educational Sessions

Date	Speaker	Topic
July 27, 2021	Shay Totten and Robyn McGuire	Mental Health First and the CAHOOTS Campaign for BTV
August 24, 2021	Chittenden County State's Attorney Sarah George	Alternatives to Arrest
	Dr. Neil Gross, Professor of Sociology, Colby College, and former police officer	Policies to reduce racial disparities in policing
September 28, 2021	Sonny Provetto, Vermont Center for Responder Wellness, CARES program (Careers, Assistance, Resources, Education and Support)	Police mental health
October 26, 2021	Brian Corr, NACOLE Board Member and Director of Civilian Oversight for Cambridge, MA	Trauma-informed practices in policing
	BPD Sgt. Mike Beliveau	BPD Narcotics Operations
December 14, 2021	BPD Sgt. Mike Beliveau	Police training on de-escalation
	Eric Goldmann, Community Service Liaison (CSL)	Training as Howard Center outreach worker and as CSL with BPD
January 25, 2022	Heather Simmons, Executive Director, Vermont Criminal Justice Council	Policing reform in Vermont
February 22, 2022	Chief Norma Hardy, Brattleboro Police Department	Policing reform
March 22, 2022	BPD Community Support Liaison Supervisor Lacey Smith	Role of CSLs and need for additional staff
May 24, 2022	Dr. Jonno Larsen, City Data Analyst	2021 Annual Data Report on traffic stops, arrests, and use of force

E. Operational Changes

The Commission completed National Association for Civilian Oversight of Law Enforcement (NACOLE) training in May/June 2021. This yielded a variety of ideas and recommendations for operational changes to improve the independent oversight of the Commission. To follow up on those recommendations, in FY22, the Commission:

- Secured independent legal counsel to support its work independently reviewing complaints and discipline cases.
- Moved all in-person meetings to Burlington City Hall from BPD in order to foster community access and an appreciation of the Commission's independent role in oversight.
- Started monthly meetings with the Mayor to discuss ongoing concerns and topics.
- Received funding for a part-time staff person to support the increased workload and administrative responsibilities of the Commission.

NACOLE also recommended that BPD engage in a training on the role of civilian oversight so that police officers better understand the role of the Commission and its role in also addressing concerns raised by police officers. The Commission recommended this training for BPD.

Response: The Acting Chief has declined to schedule such a training.

F. Joint Committee/City Council Public Safety Review Committee

The Joint Committee of the City Council's Public Safety Committee and the Commission was dissolved after delivery of the CNA consultant report in September 2021. The Public Safety Committee then convened a committee in December 2021, which included 2 members from the Police Commission, to review the CNA recommendations. A spreadsheet was created to prioritize the recommendations, assign responsibility for each recommendation, note the status, and lay out a timeline for implementing the recommendations. Not all CNA's recommendations were accepted by the BPD because the Acting Chief felt some items were already implemented or were not necessary. The review committee will continue to encourage the BPD to move ahead with all recommendations, in particular adopting CNA's recommendations on working to better understand racial disparities in policing. The CNA report can be found [here](#), with recommendations located at the end of the report.

III. Summary of FY22 Complaints

The Police Commission's authority with regard to reviewing BPD investigations into complaints and the disposition of those complaints has continued to evolve since July 2020.

The Commission's role is to review and provide feedback on the BPD's investigations into complaints to ensure they are competently and fairly carried out. The Commission evaluates the circumstances of the complaint and makes recommendations to the Acting Chief as to the disposition of the complaint. These recommendations may include changes to directives and policies as well as discipline (which can include training and education).

Table 2 shows the Acting Chief's disposition of complaints and identifies the number of complaints in which the Commission disagreed with that disposition. In total, there were 55 complaints in FY22. There were three complaints for which the Acting Chief's disposition differed from the Commission's recommendation. There were a large number of complaints that were determined to be unfounded. This may happen when, for example, complaints are related to parking issues or are complaints against non-Burlington police individuals.

The response to complaints may fall into any of several categories:

- Unfounded - The investigation indicates that the act or acts complained of did not occur or failed to involve police personnel.
- Exonerated - The acts reported did occur, but were justified, lawful, and proper.
- Non-sustained - The investigation fails to disclose sufficient evidence to prove clearly or disprove the allegations made in the complaint.
- Sustained - The investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint.

Table 2. Summary of FY22 Citizen Complaints

Summary by type	No. of complaints	Share of total complaints	Acting Chief's Disposition of Complaints					No. of Complaints Commission Recommendation Differed from Acting Chief's
			Unfounded	Exonerated	Sustained	Not sustained	Pending	
Abuse of authority – racial profiling or other biased policing, unauthorized	10	18%	4	3	3			1
Discourtesy – rude or unprofessional manner, rude or offensive gestures, or general profanity	12	22%	4	4	2		2	1
Force – whether extent and/or use of force was justified	2	4%	1				1	
Neglect of duty	2	4%			1	1		
Other Department violation – other violation that is breach of Department Directives not fitting into above categories	25	45%	13	4	5	2	1	1
*Non-Burlington police	4	7%	4					
Total	55	100%	26	11	11	3	4	3

Note: *Several complaints are mistakenly sent to the Commission and BPD when they were in fact intended for Burlington's in other states or Canada.

IV. Commission Goals, FY23 and Beyond

The Commission has identified the following goals to advance its work in civilian oversight.

1. *Address racial disparities:* The Commission will continue to advocate for the BPD and City to partner with the Center for Policing Equity to address racial disparities in policing, as recommended by CNA.
2. *Policy revisions.* Per CNA recommendations, the Commission will revise the following policies:
 - DD01: Law Enforcement Role & Authority, Ethics, Organizational Structure, & Department Rules.
 - DD11: Victim Witness Assistance
 - DD13: Interacting with Persons with Limited English Proficiency and Diminished Mental Capacities
 - DD14: Digital Imaging, Audio & Video
 - DD40: Quality Control, Internal Investigations, & Discipline
 - DD43: Reporting Corruption and Misconduct

The Commission's goal is to revise at least half of these directives in FY23.

3. *Community conversations.* In FY23, The Commission will work toward greater engagement with all communities within the larger Burlington community as we strive to implement the community's vision for public engagement as identified in the Talitha report which can be found [here](#). This will include organizing Commissioner attendance at NPA meetings and working with the Commission's staff person to develop a social media presence and website.
4. *Strengthen Commission administrative systems.* The Commission now has a part-time staff person and will work to strengthen and streamline the Commission's administrative systems.
5. *Revise and streamline complaint process.* The Commission will complete the revision of the complaint process in FY23.
6. *New policy development:* The Commission has set a goal of developing policies in two new areas:
 - Press release policy
 - A policy change to require officers to issue citations rather than arrest suspects in certain non-threatening circumstances. The latter is in response to a use of force incident that elicited a complaint investigated by the Commission in FY22.

APPENDIX

1. Resolution Urging Mayor's Office and City Council to Sponsor Mental Health Summit

Adopted September 2021.

Incidents involving mental health comprise a significant and growing challenge for the City of Burlington. These have severely impacted the Burlington Police Department, which has seen a doubling of mental health-related calls since 2012. Moreover, this year alone, the BPD has already recorded 645 incidents that are mental health-related. Although many and perhaps most of these incidents do not involve intentional criminal conduct, they can easily lead to criminal charges and an expectation that mental health needs will be met through the legal system rather than the mental healthcare system.

Officers are clear that they do not have the training to be the front-line health care responders. The problem is much larger and increasingly more serious than can be addressed by police response alone. Burlington is in immediate need of an effective system of care—that is, a collaborative network of providers that can efficiently and comprehensively respond to mental health needs.

In light of the need for a comprehensive response to a growing social and health need, if not crisis, the Burlington Police Commission urges the Mayor and the City Council to convene a mental health summit, with a goal of developing and funding a system of care. The summit should include all the relevant parties to inform how such a system would be structured. The goal of such a summit is not merely to talk about the problem. A tangible outcome should be the establishment of coordination amongst relevant parties, with regular meetings to review data and progress in developing protocols to meet mental health needs. The following are examples of the organizations and people to be included in this summit:

- Mental Health First Burlington
- National Alliance of Mental Illness VT (NAMI VT)
- Northeast Family Institute (NFI)
- United Way
- Federation of Families for Children's Mental Health
- Howard Center
- Pathways Vermont
- First Call
- Burlington Police Department
- Burlington Police Commission
- Burlington Fire Department
- Burlington City Council Public Safety Committee
- Chittenden County State's Attorney office
- Chittenden County Public Defender's Office
- REIB office
- Representatives from the BIPOC and LGBTQ communities
- Representatives from the new American community (AALV, Somali Bantu organization, Bhutanese community organizations, etc.)
- Vermont Family Network
- UVM Medical Center
- Vermont Department of Mental Health
- UVM Dean of College of Education and Social Services
- The Center for Responder Wellness

We urge this summit to be organized within the next three months and no later than December 2021. In our role as commissioners, we see the impact of mental health on policing, and the holes in our services. We emphasize the need for action is urgent.

2. Resolution Urging City Council to Fund Two Additional CSLs and a Public Information Officer

Adopted March 2022.

Currently, the three existing CSLs are limited in the hours of coverage. They work between the hours of 7:30 to 6pm, 7 days a week. Their services have been in high demand. From October 1, 2021 through March 16, 2022, they responded to a total of 390 calls, and were primary responders on the majority of these. The addition of two CSLs would allow CSLs to expand their availability into the evening during which time there is need for their services but insufficient personnel to cover those calls. If they are not available for such calls, the response defaults to another entity, including BPD, whose staffing is already overstretched.

The Commission also urges the City Council to support funding for a Public Information Officer for the Burlington Police Department (BPD). This is also a recommendation from CNA, who note that increased communication between the BPD and the community can help to increase transparency and build trust with the community.

3. Commission Memorandum to City Attorney and City Council President on Draft Public Safety Ordinance

To: Karen Paul, City Council President
Dan Richardson, City Attorney

From: Jabulani Gamache and Stephanie Seguino, Co-Chairs, Burlington Police Commission

Date: April 22, 2022

Re: Burlington Police Commission Comments on Draft Ordinance on Police Commission Authority

The Burlington Police Commission (BPC) appreciates the opportunity to provide comments on the draft ordinance on BPC authority, developed in response to the City's Resolution on "Police Oversight and Accountability Authorities to Police Commission to Alter the Police Disciplinary System" (adopted 10/18/21 and signed by the Mayor 11/23/21; hereafter the "Resolution").

The Commission's detailed comments are in red in the draft ordinance. In light of our review, the Commission recommends the draft ordinance be revised and requests that the revision be resubmitted to the Commission for review and additional comment.

In addition to the detailed comments, the Commission's general comments on this draft are:

1. The ordinance should not be so detailed as to curtail the necessary flexibility of the Commission to develop and revise its own processes and procedures. Rather, broad strokes of authority should be identified in the ordinance, leaving the details to be outlined in individual policies developed by the Commission itself within the parameters of its delegated authority.
2. As a global comment on the substance of the Ordinance, the Commission reminds all stakeholders that Vermont law as interpreted by our Supreme Court and as reflected in the Charter, "envision[s] a police department created by town government, the operations of which are directed by a chief, *but which is concurrently and ultimately subject to the authority of town government.*" Turnley v. Town of Vernon, 2012 VT 69, ¶ 18 (interpreting the balance of power, under 24 V.S.A. § 1931, between a police chief and the town's legislative body (emphasis added.)). The Burlington Charter §§ 3-184, 3-185, as currently written, also reflects concurrent authority shared between the City Council and the police chief. But consistent with Vermont statute, that concurrent authority is *ultimately* exercised by the City Council, which can in turn delegate its authority to the Commission. Specifically, Section 3-

185 makes clear that the “direction and control of the entire police force” is vested in the chief of police “except as...otherwise provided” in the Charter. That exception is significant because the Charter also empowers the City Council to delegate what the Supreme Court characterized as its “ultimate” authority over police department operations to the Commission. Charter § 3-184 (“The Board of Police Commissioners *shall have such authority and responsibility relating to the management of the Police Department, its services, and facilities* as may be delegated from time to time by resolution of the City Council.”). The ordinance must more fully reflect the law, under which ultimate authority over the operations of the police department reside with the City Council and, as delegated, with the Commission. Simply put, neither Vermont law nor the Charter support a notion that the chief’s authority relating to the management of the Police Department, its services, and facilities, is superior to that of the Commission acting under delegation from the City Council.

3. The ordinance’s insertion of the city attorney into the work of the Commission creates a conflict of interest in many circumstances, undermining the independence that is critical to the Commission’s oversight role. The ordinance should reflect that the Commission, where necessary, relies on conflict counsel for guidance.
4. The ordinance should support transparency to the full extent permitted by the law.
5. The Resolution appropriates funds for the Commission’s work and expressly authorizes the Commission to “conduct investigations.” That authority is enough for the Commission to conduct investigations, although future appropriations from the City will be necessary to ensure that delegated authority can be exercised meaningfully by the Commission.
6. In numerous places, this ordinance interposes itself in ways that contradicts existing legislation. The City Council sets policy which it delegates to the Commission. In that regard, this ordinance does not include several key components of the Resolution that addresses the authority of the commission. These should be incorporated:
 - a. The Commission is given the authority to retain outside legal counsel to support independent review of complaints.
 - b. The Commission is given authority to investigate the Chief or another appropriate authority and requires that any report of findings be returned to the commission.
 - c. The Commission may speak publicly about citizen complaints in accordance with personnel policies and confidentiality requirements.
 - d. The Commission is allocated a budget for legal services and investigations.
 - e. The Resolution mandates that, under the ordinance, the Commission “will have full and unfettered access to the Department’s documentation of the incident, including officer affidavits, all witness statements, other investigative documents, and all videos.” The Resolution, as well as best practices identified by NACOLE and other experts in the field, recognize that this level of Commission access is essential to the Commission’s fulfillment of its mission under the Charter and State law.
 - f. The Commission is fully and indefinitely authorized, under the Resolution and without need of further legislation such as the Ordinance, to initiate audits, reviews, and evaluations of policies, directives, or data in regard to discipline, racial disparities, or other Commission priorities. The Ordinance should recognize this authority verbatim, and must refrain from adding qualifications or restrictions on to it.

4. [Burlington Police Commission Summary of and Comments on 2021 Annual Report on Traffic Stops, Arrests, and Uses of Force, June 2022](#)

At the Burlington Police Commission’s May meeting, Jonathan Larson, City Data Analyst presented an annual report on traffic stops, arrests, and use of force. The report includes information on racial disparities in policing. Overall, the Commission was very satisfied with the report and appreciates the quality of the analysis and the clarity of the report.

The Commission highlights the following findings in the report.

- There was a 24% decline in police-involved incidents from 2019 to 2021. This continues a 6-year decline in incidents, which have fallen by 42% since 2015.
- The most frequent type of incidents are the following (with the share of all incidents in parentheses): 1) suspicious event (9%), 2) welfare check (5%), 3) assistance to other agencies (4.5%), 4) assistance to public (4.5%), 5) mental health issue (4.4%).
- Several incident types have seen significant increases since 2012, however. Mental health incidents, one of the most frequent types of call for service, have increased 91% over this time period, and welfare checks are up 47% since 2012. Also, overdoses are up 72% from the start of pandemic state of emergency.
- The most urgent type of incident (Priority 1 incidents) rose 9.7% since 2019. Priority 1 incidents, however, have fallen 1.6% since 2015.
- The most frequent types of Priority 1 incidents in 2021 in descending order (with the share of all Priority 1 incidents in parentheses) were: 1) domestic disturbance (23%), 2) 911 hang-ups (19%), 3) serving protection orders (15%), 4) simple assault (6%), 4) overdose (5.6%).
- While the number of **incidents** represents police services rendered, **offenses** indicate the number of law violations recorded by officers. Offenses are also down modestly from 2019 to 2021. Further, they have fallen 31% since 2012.
- The number of violent offenses fell 13% from 2019 to 2021. This continues a 9-year trend of a decreasing number of violent offenses which have fallen 28% since 2012. This positive trend must be tempered by the great concern caused by the increase in gunfire incidents in 2021, extending now into 2022.
- The number of arrests fell 38% from 2019 to 2021.
- As a result of focus and change in departmental policy, overall traffic stops continue to decrease, helping address historical racial disparities in stop rates. While this is good news, the Commission cautions that this is one year of data of a rather small sample size. The Commission hopes to see evidence that disparities in stops becomes a trend over time.
- The total number of uses of force declined 9% since 2019, and by almost half since 2012.
- Despite these positive trends, racial disparities remain in several areas and are of great concern to the Commission:
 - **Traffic Stops:**
 - Black drivers were 4 times more likely to have no action taken subsequent to a traffic stop than white drivers. This may be evidence of black drivers more likely to be stopped based on pretext than white drivers.
 - Black and Asian drivers were 4 times more likely to be arrested subsequent to a traffic stop than white drivers. More generally, the black share of arrests is vastly
 - Racial disparities in search rates continue. There were 7 vehicle searches in 2021, of which only 1 was of a white driver. Moreover, no contraband was found in any of the searches with the exception of search of the white driver.
 - **Arrests:**
 - Black people comprise 6.2% of Burlington's population but are 21% of arrestees. They are thus almost 3 and a half times more likely to be arrested than would be expected, given their share of the population.
 - When an arrest is made, a person may be cited (receive a notice to appear in court and be released), or be lodged (that is, taken into custody). Black people are thus almost twice as likely to be lodged as white people, and are half as likely to be referred to the Community Justice Center (an alternative to arrest).
 - **Use of Force:**
 - Despite decreasing uses of force over time since 2012, the percentage of incidents where the subject is black has consistently increased. In 2019, 26% of use-of-force subjects were black, while blacks comprise just 6.2% of Burlington's population. By 2021, that figure rose to 36%. That is, in 2021, black people were subjects of use-of-force at a rate that was almost 6 times greater than would be expected, given their population share.

While noting improvement in several areas, the Commission has several concerns about the data provided in this year's report:

1. Missing data continue to be a problem that is especially worrisome when it concerns race data. The Commission would like to see a robust plan for monitoring data entry and a process for requesting officers to supply missing data, such that missing race data is eliminated by next year.
2. Commissioners noted that black-white racial disparities in use-of-force suggest that Burlington police officers see black people as inherently threatening or dangerous. This is especially evident in incidents involving non-violent offenses, where black subjects are much more likely to have a gun pointed at them than similarly situated white subjects. The Commission has requested that the City and Burlington Police Department engage the services of the Center for Policing Equity to assist in a review of incident level data to understand the situation that lead to racial disparities in use of force and mechanisms to reduce disparities.

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."

Response from Detective Corrow at the Commission:

General agreement with the suggestions being made by various Commissioners. Added comments were:

1. The review panel is to consist of 5 members with at least one with experience in labor/management issues; and
2. To include a fixed and quick timeline for resolution/decision regarding discipline.

Burlington Police Commission

Body-Worn Camera Footage Review Policy

Proposed Draft 030624

Policy. Pursuant to authority granted by City Council and the Burlington City Charter, it is the policy of the Burlington Police Commission (BPC) to review any or all body worn camera (BWC) footage related to incidents of Burlington Police Officers' use of force or other body worn camera footage for the purposes detailed in this policy.

Authority. The BPC has been granted broad authority "to initiate audits, reviews, and evaluations of policies, directives, or data; in regard to discipline, racial disparities, or other Commission priorities." City Council Resolution 7.09, signed by the Mayor in November 2021

BPC Review of Body Worn Camera Footage.

1. The BPC may review BWC Use-of Force or other footage **based on the "totality of circumstances"** for the express **articulated** purpose(s) of gathering information related to:
 - i. improving organizational culture and helping to develop a modern police force which is diverse, transparent, and accountable, and
 - ii. enhancing police transparency and preserving and expanding the public's trust.
 - iii. evaluating how key policies and directives, such as DD.05 Use of Force Police, DD.03 Fair and Impartial Policing, and DD.13.02 Interacting with Persons with Diminished Capacities, among others, are working in the field.
2. The BPC may review BWC footage for the purpose of personnel performance-focused review only in situations of citizen complaints, public controversy or media reporting, and situations in which weapons are discharged or in which an Officer or civilian are injured.
3. Except as provided under section 2 of this policy, auditing of BWC Use of Force or other footage specifically to monitor Officer or personnel performance is prohibited.

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