



Police Commission

Tuesday, May 28, 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:

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

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

Subject	2.1. Approve meeting minutes of the 04.23.24 Burlington Police Commission meeting
Meeting	May 28, 2024 - Burlington Police Commission Meeting - Tuesday, May 28, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
Category	2. Commission Actions
Department	Other
Type	
Recommended Action	

3. Public Forum

3.1. The public is invited to address the Commission

4. Police Department Items

Subject	4.1. Chief's Report
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Meeting	May 28, 2024 - Burlington Police Commission Meeting - Tuesday, May 28, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
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Category	4. Police Department Items
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Department	Police Department
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Type	
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Recommended Action	
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Subject	4.2. Review and Discussion on DD40
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Meeting	May 28, 2024 - Burlington Police Commission Meeting - Tuesday, May 28, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
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Category	4. Police Department Items
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Department	Police Department
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Type	
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Recommended Action	
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5. Use of Force Report

Subject	5.1. April UOF Report
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Meeting	May 28, 2024 - Burlington Police Commission Meeting - Tuesday, May 28, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
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Category	5. Use of Force Report
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Department	Police Department
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Type	
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Recommended Action	
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Subject	5.2. May UOF Report through 05.21.
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Meeting	May 28, 2024 - Burlington Police Commission Meeting - Tuesday, May 28, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
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Category	5. Use of Force Report
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Department	Police Department
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Type	
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Recommended Action	
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6. Commissioner Comments

7. Commendations

Subject	7.1. Commendation recognizing BPD Officers Hartnett and Huynh, for their assistance in a training at the Police Accademy.
Meeting	May 28, 2024 - Burlington Police Commission Meeting - Tuesday, May 28, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
Category	7. Commendations
Department	Other
Type	
Recommended Action	

8. Executive Session

8.1. Executive Session

9. Commission Business

10. Adjournment

10.1. Motion to Adjourn

11. Informational and Non-Discrimination Statements

Subject	11.1. 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	May 28, 2024 - Burlington Police Commission Meeting - Tuesday, May 28, 2024, 6:00 PM, Contois Auditorium, City Hall 149 Church Street, 2nd Floor Burlington, VT 05401
Category	11. Informational and Non-Discrimination Statements
Department	Council and Board
Type	



BURLINGTON POLICE COMMISSION
CONTOIS AUDITORIUM, CITY HALL 149 CHURCH STREET, 2ND FLOOR
BURLINGTON, VT 05401
MINUTES OF MEETING
April 23, 2024

DRAFT

1. Agenda

1.1. Call to Order

Chair Rao called the meeting to order at 06:24 pm due to technical difficulties.

1.2. Roll Call and Determination of Quorum

Five Commissioners were present, constituting a Quorum.

1.3. Additions or Modifications to Agenda

Motion made to approve minutes made by Commissioner Oski, seconded by Commissioner Susan Comeford.

VOTING: Unanimous, motion carries.

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

New North End Resident: Shared a story of visiting Branson, Missouri and speaking with a bartender about the bartender's experience getting sober post an arrest and subsequent stay in rehab. The speaker finished sharing their experience talking with this bartender's story by stating that "I know some people think that you're exhibiting kindness or harm, reduction if you don't arrest people for committing certain crimes like low level drug dealers drug users and shoplifters, but I see just the opposite. The kind of thing you can do is arrest them and get them into rehab."

Counselor Grant: Began by addressing statements shared by the NNE resident who spoke first in a public forum by stating that while they agree that, dependent on the circumstances of an individual, if they are committing crimes, they should be arrested, and the importance of then offering services to those individuals. Saying " We need to be sure. That we have sufficient resources to support and to help people who want to be in recovery. While the wait times have gone down, there are still wait times." So when we have individuals in our community, who could be ready to take that step toward recovery it is important that they would not have the resources available to them.

Councilor Grant, shared concerns that the commission had not submitted an annual report for the previous year, and suggested that this year the commission submit a report covering both years. Counselor Grant also shared that the Public Safety Committee was looking for updates on CNA items that were assigned to the commission with a due date of May of last year. Councilor Grant also, shared an understanding of the work of the commission from while she served as a member of it, while also highlighting a desire that there

should be a representation of the central district on the Police Commission.

DRAFT

4. Police Department Items

Chief Murad, presented the Chief's report highlighting ongoing efforts and updates in department operations and outreach initiatives.

4.1. Chief's Report

4.2. Review draft copy of DD40

5. Use of Force Report

5.1. March Use of Force report

5.2. April Use of Force Report

6. Commissioner Comments

7. Commendations

8. Commission Business

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

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.



BURLINGTON POLICE CHIEF'S REPORT

May 2024





2023 AWARDS

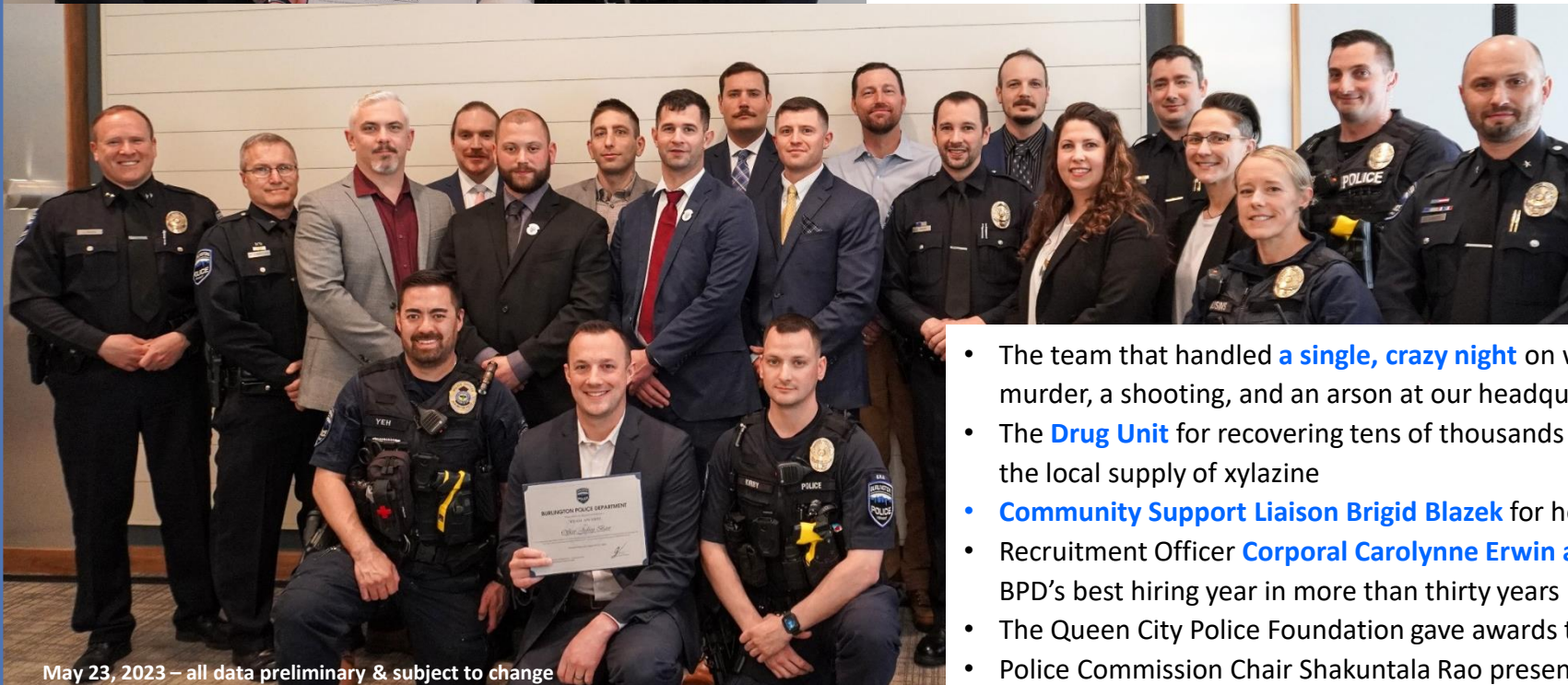


**Queen City
Police Foundation**
BURLINGTON, VERMONT

hosted the BPD at our annual awards ceremony, recognizing extraordinary

conduct in 2023, attended by employees, family members, awardees, Mayor Emma Mulvaney-Stanak, and others. Among the award recipients:

- The **Emergency Response Unit (ERU) and Crisis Negotiation Unit (CNU)** and their 28 deployments, including murder investigations, shooting investigations, armed suspects, and high-risk warrants. When the public needs help, they call 9-1-1. When cops need help, they call CNU and ERU
- Retired **Sergeant Simon Bombard** for saving fellow officer Brock Marvin's life from a knife-wielding attacker



May 23, 2023 – all data preliminary & subject to change

- Neighbor and **community partner Asah Lauren** who created the Facebook pages: "BTV Stolen Bike Report and Recovery" and "BTV Stolen Vehicle Report and Recovery"
- **Detective Eric Kratochvil** for exemplary investigatory work and his community leadership of the Junior Milers and CHCB
- The team that closed the terrible **shooting of three young Palestinian men**
- The team that handled **a single, crazy night** on which we experienced a gunfire incident, a double murder, a shooting, and an arson at our headquarters
- The **Drug Unit** for recovering tens of thousands of bags of fentanyl and disrupting the Philly Crew and the local supply of xylazine
- **Community Support Liaison Brigid Blazek** for her work with an undocumented refugee
- Recruitment Officer **Corporal Carolynne Erwin** and Recruitment Coordinator **Anhad Bajwa** for the BPD's best hiring year in more than thirty years
- The Queen City Police Foundation gave awards to **Dave Hartnett** and **Jay Fayette**
- Police Commission Chair Shakuntala Rao presented an award to **Executive Manager Shannon Trammell**





MARKETPLACE SAFETY

On May 7, business partners from the Church Street Marketplace invited the BPD to meet and discuss issues on the Marketplace, including police presence, retail theft, and disorderly behaviors. Loss-prevention associates from Athleta hosted the event, which was attended by a number of representatives from stores on Church Street and in the downtown. Chief Murad, Deputy Chiefs LaBarge and Labrecque, Executive Manager Trammell, Corporal Erwin and Recruitment Coordinator Bajwa, and PIO Timm and Redaction Specialist Chen attended from the BPD.





POLICE UNITY TOUR



May 24, 2024 – all data preliminary & subject to change



The Police Unity Tour is a four-day bicycle ride from New Jersey to the National Law Enforcement Officers Memorial in Washington, DC, to raise public awareness about law enforcement officers who have died in the line of duty. Thousands of officers participate each year, and have raised more than \$33 million for the National Law Enforcement Officers Memorial Fund. This year Corporal Kevin Wilson, a nineteen-year veteran of the BPD, rode one of the escort motorcycles.



POLICE MEMORIAL WEEK



In 1962, President Kennedy proclaimed May 15 as National Peace Officers Memorial Day and the week in which it falls as National Police Week. Since the BPD's founding in 1865, three officers have died in the line of duty. While we hope never to see another, we also vow never to forget.

Three of our officers attended the candlelight ceremony at the National Law Enforcement Officers Memorial in Washington, DC.



MARATHON



Some 4,500 runners came to Burlington for this year's Vermont City Marathon. It was a gorgeous day, perfect for a run (even if going 26.2 miles is just plain crazy!).

The BPD had dozens of posts along the route, with more than a third of our officers assigned to the event, as well as CSOs, CSLs, ID technicians and more. We enjoyed terrific assistance, as always, from other law-enforcement agencies like the Vermont State Police and Vermont Fish & Wildlife.

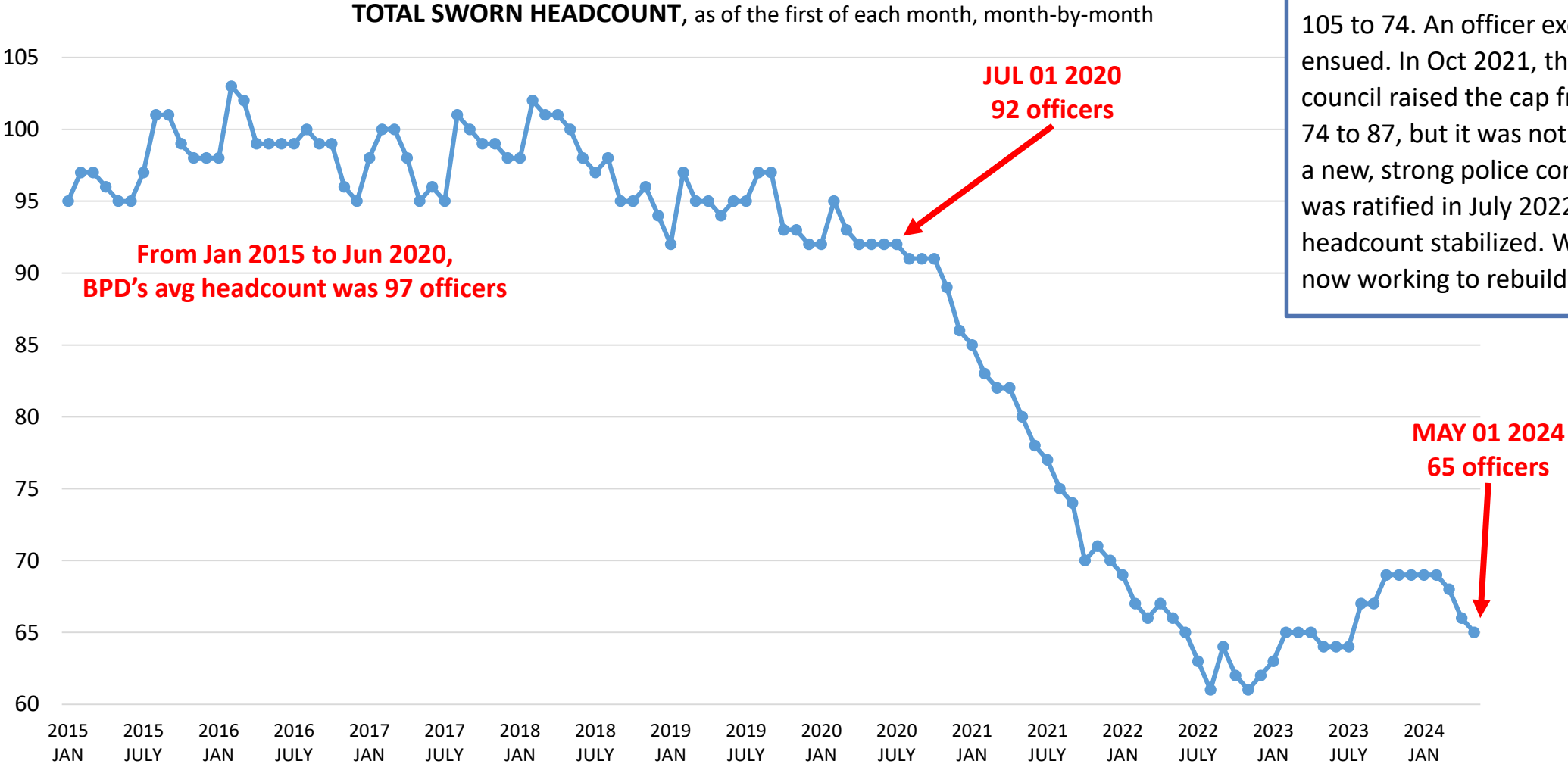
Lieutenant Rich Weinisch and Corporal Carolynne Erwin were the event coordinators for BPD, preparing months in advance with Run Vermont and a host of other partners, like BFD, DPW, Green Mountain Transit, and others. Corporal Erwin has had a key organizational role for more than a decade of marathons.



May 24, 2024 – all data preliminary & subject to change



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.



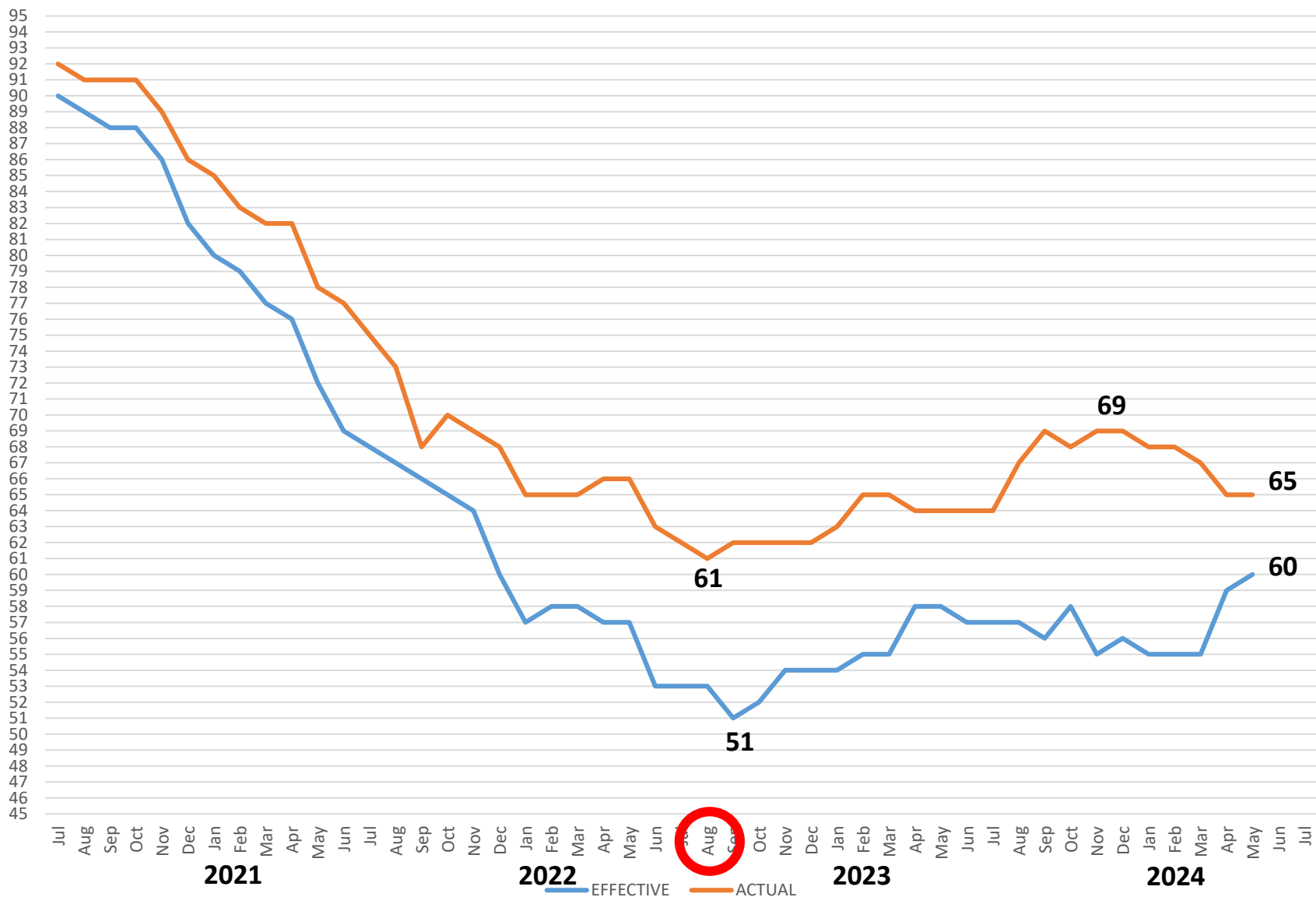
ACTUAL vs EFFECTIVE HEADCOUNT

Note: this chart uses snapshots as of the 15th of each month, and may differ slightly from the chart on the previous slide, which uses the 1st of each month

Total sworn-officer headcount always includes some officers who are not available for solo-officer deployment. These may be officers who are in the Vermont Police Academy, or who are on administrative assignment owing to a long-term injury, or who are expending a large block of accrued leave before retiring (aka, on “terminal leave”). The number of officers who can be immediately deployed as solo officers in the field is our “effective headcount.”

Effective headcount used to mirror total headcount closely, but that gap has grown and also varied more widely as we have lost officers and then worked hard to rebuild.

Our actual headcount hit a low of 61 in August 2022, the same month that the City Council approved a strong new contract. Effective headcount hit its low of 51 a month later. Since then we have worked to regrow. Effective headcount is the highest it has been since December 2021.





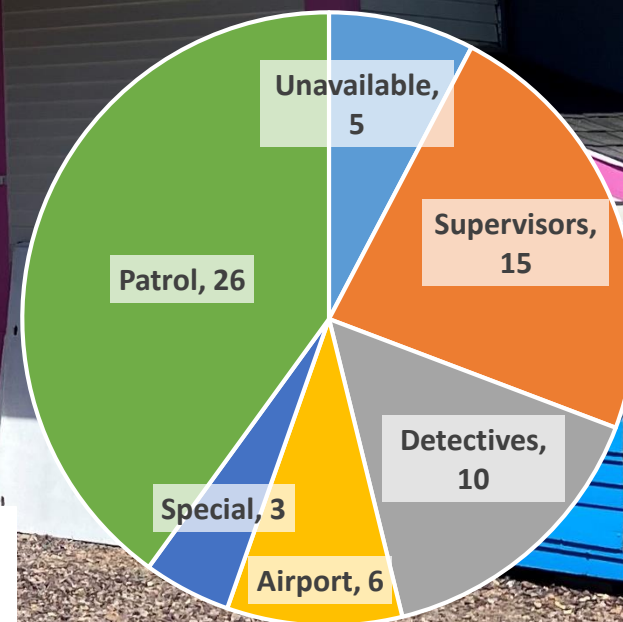
65 TOTAL, 60 EFFECTIVE

minus 5 injured, light, military, VPA, etc. = 60
minus 15 supervisors = 45
minus 10 detectives = 35
minus 6 airport officers = 29
minus 3 special assignments = 26

26

officers on Patrol

As of May 15 2024, we are authorized for 87 sworn officers. Of those 87, we have 65. Of those 65, 60 are able to be deployed as solo officers, or “effective.”



We also have 7 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 seven 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 officers. Four of our current officers started out as CSOs.

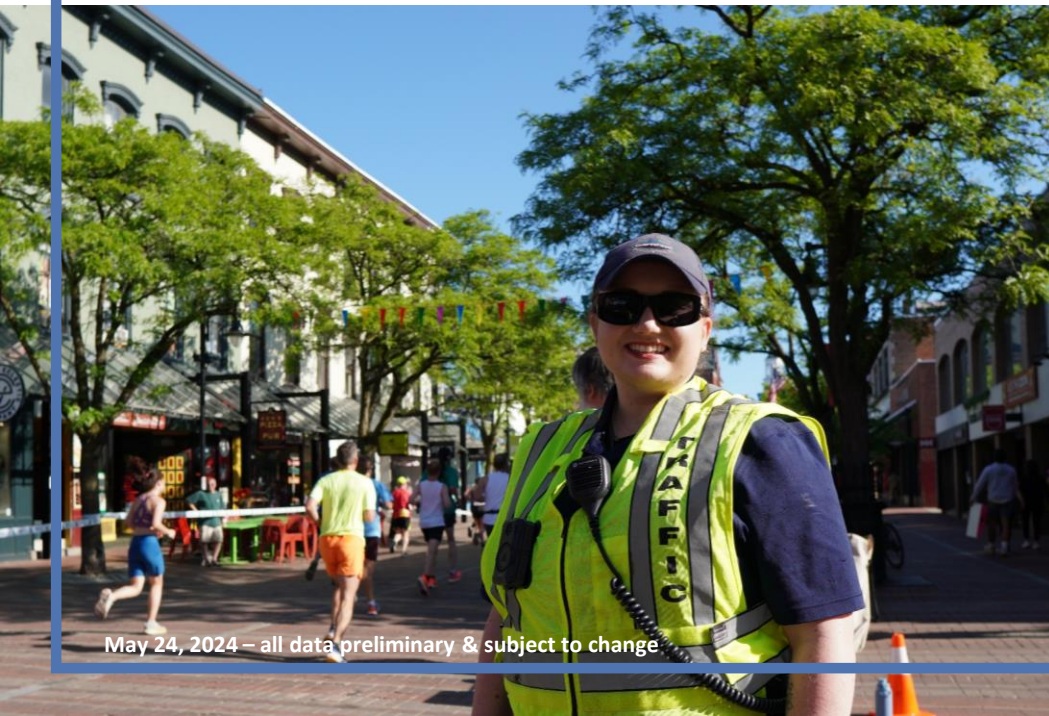
**BPD
currently
has 7 CSOs
and 5 CSLs**



The 2021 Public Safety Continuity Plan also created a brand new social-service role:

- **Community Support Liaisons** (CSLs)

These are embedded social workers with expertise in mental health, substance use disorder, and homelessness. **BPD currently has five CSLs**, of six allotted. There is also one CSS (or Community Support Supervisor). The CSLs are the core of our new **CAIP division (Crisis, Advocacy, Intervention Programs)**. Additionally, one former CSL recently finished field training as a sworn officer.



May 24, 2024 – all data preliminary & subject to change



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			



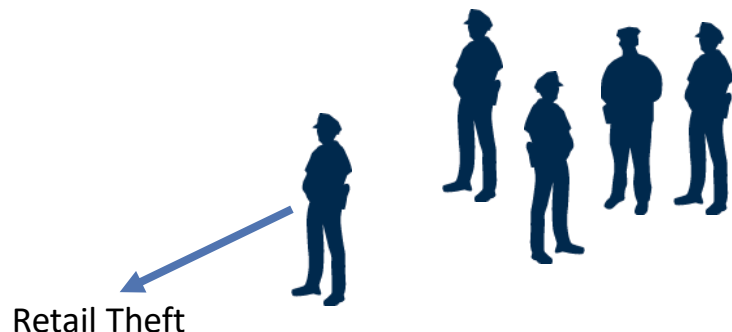
HOW THE PRIORITY RESPONSE PLAN WORKS

When only two or fewer officers are available, the Priority Response Plan goes into effect.

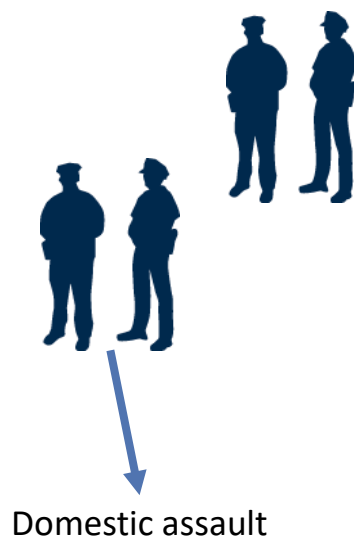
1. In this example, there are five non-supervisory officers assigned to the day shift. They respond to every call for service in the order the calls come in.



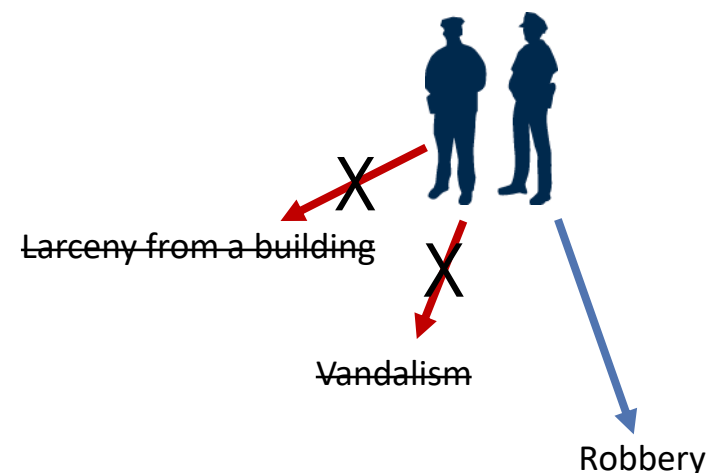
2. Dispatch receives a call about a retail theft, which is a Priority 3 call for service. Officer 1 responds, leaving Officers 2, 3, 4, and 5 available.



3. Officers 2 and 3 are dispatched to a Domestic Assault call, which, like most Priority 1 incidents, requires a two-officer response. Now only Officers 4 and 5 remain. At this point, the Priority Response Plan goes into effect.



4. Officers 4 and 5 have to remain available in case of a Priority 1 life-safety incident like a robbery. If anything other than a Priority 1 comes in—a report of vandalism or a larceny, for example, which are Priority 3 calls—the call will be “stacked” until more than two officers are once again available.





INCIDENT VOLUME

YEAR-TO-DATE 05/15

Incidents in 2024 are up 6% compared to 2023. BPD is addressing more incidents than at any point in half a decade, with fewer patrol officers than in 2018—50% fewer, in fact. As a result, of the 10,008 incidents in 2024 so far, 1,162 have been “stacked”—i.e., 12%. And 622 have been referred to online reporting, or 6%.

	YTD INCIDENTS (as of 05/15)	%Δ
2019	9,670	
2020	8,786	↓9%
2021	6,619	↓25%
2022	7,226	↑9%
2023	9,461	↑31%
2024	10,008	↑6%
	Δ 2019 to 2024:	↑4%

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



SELECTED VALCOUR INCIDENTS, YTD AS OF MAY 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	13	52	23	25	46	27	143	2	148	295	19	8	24	19	850
2020	14	45	33	18	41	18	225	5	217	339	40	5	24	19	633
2021	12	43	28	27	22	12	168	3	262	307	37	3	22	24	390
2022	23	50	64	34	36	16	191	7	317	361	43	9	18	88	229
2023	10	61	58	48	28	21	163	3	439	347	148	2	11	126	184
2024	20	52	58	26	19	9	172	5	393	310	100	3	13	64	409

* = 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 May 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.



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

www.bpdcareers.com



BURLINGTON POLICE DEPARTMENT DEPARTMENT DIRECTIVE

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

Reviewed and published March xx, 2024

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

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

CONTENTS:

- I. Definitions
- II. External and Internal Complaints
- III. Supervisor Reviews, Administrative Reviews & Internal Investigations
- IV. Supervisory Authority
- V. Employee Rights and Obligations
- VI. Administrative Quality Control
- VII. Authority and Actions of the Chief of Police
- VIII. Discipline
- IX. Board of Police Commissioners
- X. Act 56
- XI. Appeals
- XII. Dismissal
- XIII. Retention of Records
- XIV. Additional Sources & References

Appendix 1 - 6

DRAFT

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

###

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

###



**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.

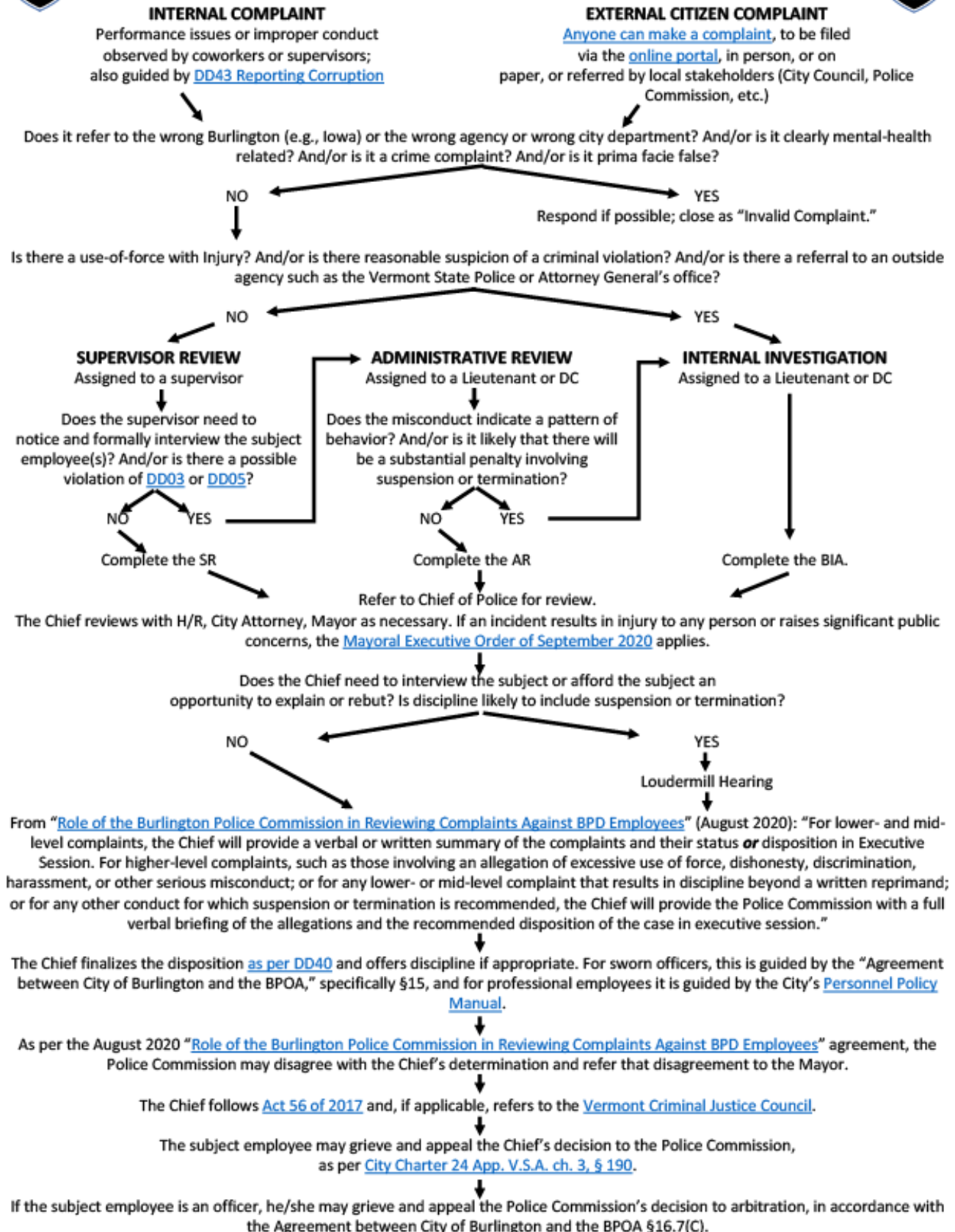
20 VSA § 2401?
CHIEF REPORTS TO VCJC

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

April 01, 2024 – April 30, 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 – 4/30/24 – Total Number of UOF Incidents - 2248

Total Uses of Force – 30

Percent of UOF Incidents vs. Total Incidents – .7%

Race/Gender of Arrestee/Subject in UOF Incidents

Black Male – 4

Black Female – 1

White Male – 9

White Female – 5

Asian Male – 1

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 stating 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 checked with dispatch and learned the boyfriend 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 the victim answered the door and stated that the suspect had jumped out a back window. 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



POLICE DEPARTMENT
CITY OF BURLINGTON

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 run 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 the suspect for him 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 that 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



POLICE DEPARTMENT
CITY OF BURLINGTON

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. 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 Actions – Compliant

Officer Actions

Officer 1 – Firearm displayed

Officer 2 – Verbal commands/firearm pointed/handcuffing

Officer 3 – Firearm displayed



POLICE DEPARTMENT
CITY OF BURLINGTON

Officer 4 – Verbal direction/firearm pointed

Subjects – investigative detention and released

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



POLICE DEPARTMENT
CITY OF BURLINGTON

5. 24BU007843

4/19/24

Complainant/Officers Dispatched

Call type – Search Warrant

Charges – Narcotic sales

Synopsis

Officers conducted search warrant at a residence. Two officer conducting the search warrant pointed their firearms at subject. An officer gave the subject verbal commands stating to the effect for the subject to place their hands on their head and face away from officers. The subject complied and was compliantly handcuffed.

Arrestees Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/firearm pointed

Officer 2 – Firearm pointed

Arrestee – taken into custody

White male Age 40, 5'10", 185 lbs.

Arrestee – no injury

Officer – no injury

6. 24BU007944

4/20/24

Complainant/Officers Dispatched

Call type – Mental Health

Charges – None

Synopsis

The female subject called 911 stated to the effect they heard a shot and hung up. BPD was able to locate the residence the call had come from and officers responded. Upon arrival officer made contact with the female caller. Officers observed the interior of the female's apartment had been severely damaged and there were a multitude of safety concerns. Officer observed a fire extinguisher had been discharged making it hard to breathe in the apartment, smoke detectors destroyed, a bathroom ceiling fan ripped down, broken glass in the shower and knives scattered around the apartment. The female was stating there were subjects in the walls and would then starting yelling at the walls and ceilings. The female stated she had not eaten in four to five days as she believed that "Bill" was poisoning her food. The female then



POLICE DEPARTMENT
CITY OF BURLINGTON

pointed at cracks in the walls staging that was where "Bill" was. The female also produced two raw deer hearts from her purse and waved them around. First Call was called to the scene to evaluate. Officer were concerned for the female and for the other residents in the apartment building. Officer asked her numerous times to voluntarily go up to UVMMC ED but she refused. Officer took the female into protective custody. Two officers took hold of the female's arms. The female tensed up and tried to pull away. The two officers were able to bring her arms behind her back where a third officer handcuffed her and had her sit on her couch. When BFD arrived the female refused to walk to the stretcher and two officers had to pick up the female and carry her to the stretcher and place her onto it.

Subjects Actions – Active Resistance/Passive Resistance

Officer Actions

Officer 1 – Empty hand controls

Officer 2 – Empty hand controls

Officer 3 – Empty hand controls/handcuffing

Subject – transported by BFD

White Female Age 37, 5'08", 168 lbs.

Subject – no injury

Officer – no injury

7. 24BU008014

4/21/24

Officer Initiated

Call type – Arrest on Warrant

Charges – Arrest on Warrant

Synopsis

An officer on patrol observed a female subject they believed to be wanted. The officer went out with the female and explained why they were being stopped and that they were being detained. A check confirmed that the female had an active arrest warrant with bail for her arrest. The officer observed the arrestee was becoming upset and began to back up. The officer stated to the effect if the arrestee ran there would be additional charges of resisting arrest but as of now she just had the warrant. The arrestee ran from the officer. After a brief pursuit the officer caught up to the arrestee and brought her to the ground. The officer stated to the effect that she was under arrest and to put her arms behind her back. The officer attempted to bring the arrestee's arms behind her back getting her right arm placed there but the arrestee resisted the officer's initial attempts to bring her left arm behind her back. The



POLICE DEPARTMENT
CITY OF BURLINGTON

officer was able to gain control of the arrestee's left arm and bring it behind her back and place her in handcuffs.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal direction advised/empty hand controls/handcuffing

Arrestee – taken into custody, processed and lodged on bail

Black female Age 28, 5'01", 118 lbs.

Arrestee – no injury

Officer – no injury

8. 24BU008031

4/21/24

Officer Initiated

Call type – Eluding Police

Charges – Eluding Police

Synopsis

An officer on patrol observed a motor vehicle traveling at a high rate of speed northbound on Shelburne Rd cross into the oncoming lane of southbound traffic near the shopping plaza. The officer activated their blue lights and attempted to stop the vehicle. The vehicle fled at a high rate of speed and continued northbound. The officer pursued for a short period of time but the pursuit was called off due to public safety concerns. A short time later a call was received in dispatch concerning a vehicle that had crashed. Officers arrived on scene and observed it was the vehicle that fled from police earlier. A high risk motor vehicle stop was conducted. A female exited the vehicle when commanded to. Both officers had their firearms pointed at her. The female complied with orders and was handcuffed and taken into custody. The female stated that the operator had fled the scene.

Subjects Actions – Compliant

Officer Actions

Officer 1 – Verbal commands/firearm pointed

Officer 2 – Verbal commands/firearm pointed

Subject – investigative detention and released.

White female Age 41, 5'02", 125 lbs.

Subject – no injury



POLICE DEPARTMENT
CITY OF BURLINGTON

Officers – no injury

9. 24BU008129

4/22/24

Complainant/Officers Dispatched

Call type – Aggravated Assault

Charges – Aggravated Assault/Violation of Conditions of Release/Arrest on Warrant X2

Synopsis

BFD called stating to the effect that three males were fighting and one had pulled out a machete. BFD gave a description of the male subject with the machete. Simultaneously an officer that was on foot patrol observed a male with a machete engaged with another male. The unarmed male ran from the male with the machete. The male with the machete then turned and began to walk towards the officer. The officer drew their firearm and pointed it the male armed with the machete. The officer stated to the effect three times for the male to drop the machete. The male initially refused to drop the stating to the effect verbally he would not drop it and finally complied on the third command and dropped the machete. The male was compliantly handcuffed and detained. Officers later learned through their investigation the male being detained had taken the machete away from the suspect.

Subject Actions – Non compliant

Officer Actions

Officer 1 – Verbal commands/Firearm pointed

Subject – investigative detention

White male Age 44, 5'10", 160 lbs.

Subject – no injury

Officer – no injury

10. 24BU008163

4/23/24

Officer Initiated

Call type – Drug sales

Charges – Narcotic Sales

Synopsis

Officer had located a male wanted for narcotic sales. Officer responded to the area where the male was located in his vehicle. The male was known to carry firearms. Three officer approached the vehicle with their firearms out and pointed at the male. An officer gave verbal



POLICE DEPARTMENT
CITY OF BURLINGTON

directions to the male who complied with orders. The arrestee was safely removed from the vehicle and handcuffed.

Arrestees Actions – Compliant

Officer Actions

Officer 1 – Verbal direction ordered/Firearm pointed

Officer 2 – Firearm pointed

Officer 3 – Verbal direction ordered/Firearm pointed/handcuffing

Arrestee – taken into custody, processed and lodged on bail

Black male Age 42, 5'11", 120 lbs.

Arrestee – no injury

Officers – no injury

11. 24BU008213

4/23/24

Complainant/Officers Dispatched

Call type – Burglary

Charges – Violation of Conditions of Release/Unlawful Mischief/Disorderly Conduct

Synopsis

Dispatch received multiple 911 calls regarding a disturbance at a residence, with a male breaking windows and involved in a verbal argument with the resident. Officer arrived on scene and located the male suspect. The male suspect was bleeding from a deep laceration to his arm. Officer called for BFD. One officer who knew the suspect attempted to speak with him but the suspect stated to the effect he would kill the officer. The suspect then crossed a courtyard and began to threaten bystanders there stating to the effect that he would kill them. Officers had to physically stand between the suspect and the bystanders. Based on the officer observations of the suspect and the fact he was still bleeding officer told the suspect he was going into handcuffs. One officer took hold of the suspect's right arm and brought him behind his back. A second officer advised stating to the effect for the suspect to get on the ground, and with the first officer's assistance guided the suspect onto the ground. Once on the ground the second officer placed the suspect into handcuffs. BFD began to assess the lacerations.

Arrestees Actions – Compliant

Officer Actions

Officer 1 – Verbal direction/empty hand controls

Officer 2 – Verbal commands/empty hand controls/handcuffing



POLICE DEPARTMENT
CITY OF BURLINGTON

Arrestee – taken into custody, treated at UVMMC ED released, lodged.
Black male Age 44, 5'11", 140 lbs.

Arrestee – no injury from UOF/injured prior to officers UOF
Officers – no injury

12. 24BU008415

4/26/24

Officer initiated

Call type – Arrest on Warrant

Charges – Arrest on Warrant X4

Synopsis

An officer on routine patrol observed a pickup truck in an area known for narcotic sales. The officer observed the vehicle park and a male whom had previous police contact with exited the vehicle. The officer went out with the male in a consensual encounter. The officer stated to the effect to the male that he believed he might have a warrant for his arrest. The male began to move away from the officer and finally took off running from the officer. The officer was able to confirm the male had 4 warrants for his arrest. A perimeter was set up and calls came into dispatch concerning a male running through backyards in the area. The officer who originally went out with the wanted male observed the male run into a parking lot and behind a parked vehicle. The officer drew their firearm and pointed at the male as they emerged from behind the vehicle. The officer stated numerous times to the effect for the male to lay down on the ground. The male finally complied and lay on the ground and was compliantly handcuffed.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/Firearm pointed

Arrestee – taken into custody and lodged on warrants

White Male Age 31, 5'07", 150 lbs.

Arrestee – no injury by UOF/had lacerations on hands and face from fleeing through backyards.
Officer – no injury.



POLICE DEPARTMENT
CITY OF BURLINGTON

13. 24BU008423

4/26/24

Complainant/Officers Dispatched

Call type – Trespass

Charges – Unlawful Trespass

Synopsis

Library staff called and stated that a male they had trespassed earlier had returned, intoxicated, and was refusing to leave the library property. An officer arrived on scene and observed the male subject on the property laying on the grass. The officer learned that the male had threatened to stab the security guard who had trespassed him earlier. The officer approached the male who was feigning sleep and stated to the effect to wake up. The male did not move. The officer stated to the effect to the male if he need assistance. The male stated to the effect yup but did not move. The officer placed his hand under the males head and the other hand on the male's right arm and attempted to assist him in sitting up. The male became immediately animated flailing his arms. The officer remembering the male's threat to stab the security guard took control of both the male's wrists with his hands. A second officer arrived on scene and the first officer pinned the male's right arm to the ground and gave the other arm to the arriving officer. The officer stated to the effect for the male to bring his arms behind his back and released the males arm. The male relaxed their arm but did not comply with the officer. The office ordered the male to roll over onto his stomach. The male did not comply. The officer attempted to sit the male up and the male used this momentum to continue to roll forward, pulling his hands towards his chest. The first officer was able to take hold of the male's right arm and bring it towards the males back and roll the male onto his stomach. The male tucked their left hand up to their chest and under their body. The second officer had to physically pull out the male's left hand and arm and place it behind his back. The officer was then able to handcuff the male.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Empty hand controls

Arrestee – taken into custody, released on citation

White male Age 37, 5'07", 175 lbs.

Arrestee – no injury

Officer – no injury



POLICE DEPARTMENT
CITY OF BURLINGTON

14. 24BU008434

4/26/24

Complainant/Officers Dispatched

Call type – Welfare Check

Charges – None

Synopsis

Caller stated to the effect that a male was standing in front of a bus pulling their pants down. Officer arrived on scene and observed the suspect, seated on a stoop, was the male from the UOF #13. The officers went out with the male again and called BFD to assess the male. The male stood up and attempted to walk away. An officer stated to the effect he was not free to leave. The male continued to try and walk past the officer. The officer placed his hands out to stop the male from walking forward. The male still continued to leave and the officer took hold of the male's left arm and the second officer took hold of this right arm to which the male began to pull and push his arm to break the officers grip. The male did this several times with the officers re-establishing his grip only to have the male break it. The male then pulled his arm to his chest to prevent the officer from taking hold of it and then trying to walk away. The first officer took hold of the male's right arm and stated to the effect for the male to put his hands behind his back. The male stated to the effect no and drove his shoulder into the officer. The male then grabbed the officer's right arm and pulled it towards his mouth in an attempt to bite it. Fearing they would be bit the officer then brought the male to the ground and told the male to bring his hands behind his back. The male complied and was handcuffed.

Subject Actions – Active Resistance/Assaultive

Officer Actions

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

Officer 2 – Empty hand controls

Subject – taken into protective custody and transported by BFD to UVMMC ED
White male Age 37, 5'07", 175 lbs.

Subject – no injury

Officer – no injury

15. 24BU008437

4/26/24

Complainant/Officers Dispatched

Call type – Lewd and Lascivious Conduct



POLICE DEPARTMENT
CITY OF BURLINGTON

Charges – Sexual Offense/Interference with Law Enforcement

Synopsis

Caller stated a male pulled his pants down, urinated and then began masturbating. Two officers arrived on scene and based on their investigation had probable cause to arrest the male subject. The first officer was out with the suspect and stated to the effect to them to place their arms behind their back. The suspect then attempted to walk away from the officer. The officer took hold of the arrestee's arms to prevent him from doing so. The arrestee tried to pull their arms to their chest. The officer stated to the effect for the male to stop pulling but the arrestee continued to pull. The officer brought the arrestee to the ground in a controlled manner. The second officer arrived and took hold of the arrestee's right arm and moved it behind the arrestee's back. The first officer was able to bring the arrestee's left arm behind his back and place both hands into handcuffs.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls/handcuffing

Officer 2 – Empty hand controls

Arrestee – taken into custody, processed and released on conditions by judge
Asian male Age 35, 5'06", 135 lbs.

Arrestee – no injury

Officer – no injury

16. 24BU008721

4/30/24

Complainant/Officers Dispatched

Call type – Arrest on Warrant

Charges – Arrest on Warrant

Synopsis

Two officers were assisting with a male when dispatch advised the male had an active warrant for their arrest. One officer stated to the effect to the male that they had an arrest warrant. The arrestee attempted to walk away. Both officers took hold of the arrestee's arms to prevent this from happening. Both officer had to use physical force to move the arrestee's arms behind his back. Once the arrestee's arms where there an officer applied handcuffs.

Arrestees Actions – Active Resistance



POLICE DEPARTMENT
CITY OF BURLINGTON

Officer Actions

Officer 1 – Empty hand controls

Officer 2 – Verbal commands/empty hand controls/handcuffing

Arrestee – taken into custody on the warrants

White male Age 34, 5'06", 170 lbs.

Arrestee – no injury

Officer – no injury



POLICE DEPARTMENT
CITY OF BURLINGTON

USE of Force Report

May 01, 2024 – May 21, 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 5/01/24 – 5/21/24 – 1767

Total Number of UOF Incidents - 10

Total Uses of Force – 24

Percent of UOF Incidents vs. Total Incidents – .5%

Race/Gender of Arrestee/Subject in UOF Incidents

Black Male – 4

Black Female – 0

White Male – 4

White Female – 2

Incidents

1. 24BU009122

5/05/24

Complainant/Officers Dispatched

Call type – Disturbance

Charges – Disorderly Conduct

Synopsis

Caller on 911 stated to the effect they observed two males fighting then they both ran away. A second caller stated to the effect they found blood on a door and on the ground near where the males were fighting. Officers arrived, located two suspects, one suspect that had blood on him. As the officers spoke with him he became upset with them investigating the incident. As they spoke with this suspect the second suspect walked up and attempted to re-engage the first suspect. Another officer arrived on scene and attempted to speak with the first suspect but the suspect continued to be belligerent and postured up to the officer. The officer stated to the effect to the suspect that they were going to be detained in handcuffs. A second officer moved behind the suspect and took hold of their arms and attempted bring them behind his back. The suspect actively resisted the officer, pulling away from him and the officer began to transition



POLICE DEPARTMENT
CITY OF BURLINGTON

the suspect to the ground. The suspect then complied, the officer kept the suspect standing and placed them into handcuffs.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Empty hand controls/handcuffing

Arrestee – detained, brought to UVMHC ED for injuries that occurred in the fight with second suspect

Black male Age 40, 5'07", 175 lbs.

Arrestee – no injury from UOF

Officer – no injury

2. 24BU009319

5/07/24

Complainant/Officers Dispatched

Call type – Simple Assault

Charges – Simple Assault

Synopsis

Caller stated to the effect that a male had confronted her as she was writing a ticket to a vehicle in a private parking lot that she worked for. The caller then stated that the male attempted to get into her vehicle, then male began arguing with another male in the lot and it appeared they were going to fight. Officer arrived on scene and went out with the male suspect. After conducting an investigation the officer advised the male he was under arrest and why. The arrestee folded their arms and refused to place them behind their back. An officer took hold of the arrestee's right arm and had to physically move it behind the arrestee's back. The second officer took hold of the arrestee's left arm with both hands and physically moved it behind the arrestees back and applied handcuffs.

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, released on citation

White male Age 52, 5'06", 215 lbs.

Arrestee – no injury



POLICE DEPARTMENT
CITY OF BURLINGTON

Officer – no injury

3. 24BU009320

5/07/24

Complainant/Officers Dispatched

Call type – Mental Health

Charges – None

Synopsis

Caller stated to the effect that her brother was experiencing a mental health issue and was in an altercation with their mother. The caller stated to the effect that she was concerned he would injure his mother. The first officer arriving on scene observed the male subject running from the scene and approached the male stating to the effect to the male to stop. A second officer arriving observed the first officer out with the male subject and approached them. The second officer observed the male subject grabbing at the gear on the first officer vest. The second officer tried to intervene and distract the male subject. The male subject was yelling and cursing at the two officers and began to try to grab both officers equipment on their vests. The two officers each took hold of the male's arms to gain control of him and prevent him from grabbing their equipment. A third officer arrived and was able to place the male subject into handcuffs. Officer contacted BFD and they arrived scene to evaluate the male. The male agreed to go to UVMHC ED with BFD.

Subject Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls

Officer 3 – Handcuffing

Subject – spoke with BFD and was brought to UVMHC ED by them
White male Age 38, 5'09", 175 lbs.

Subject – no injury

Officer – no injury

4. 24BU009540

5/10/24

Officer initiated

Call type – Operations

Charges – Felony Drug Sales



POLICE DEPARTMENT
CITY OF BURLINGTON

Synopsis

Officers were actively looking to arrest a male for felony drug sales. The male was arrested in the past and was in possession of a firearm at the time of that arrest. Two officers observed the arrestee outside of a business on Pearl Street. The two officers approached the arrestee. Due to the history of carrying a firearm, one officer drew their firearm, pointed it the arrestee, and stated to the effect to the arrestee to get on the ground. The arrestee complied. A second officer compliantly handcuffed the arrestee.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/Firearm pointed

Arrestee – taken into custody

Black male Age 25, 5'08", 150 lbs.

Arrestee – no injury

Officer – no injury

5. 24BU009573

5/10/24

Complainant/Officers Dispatched

Call type – Intoxication

Charges – Arrest on Warrant

Synopsis

Caller stated to the effect that there was a male in Battery Park unresponsive and not moving. The caller stated to the effect that they had tried to move the male with no response. Officer arrived with BFD and located the male. The male was awake but could not stand without assistance nor listen to simple commands. Officers learned the male had a warrant for his arrest. Two officers attempted to place the arrestee's hands behind his back but he actively resisted, pulling his hands to his chest. One officer took control of the arrestee's right arm and the second officer took control of his left arm. Both officers had to physically move the arrestee's arms behind his back. The second officer was able to place arrestee into handcuffs. The arrestee was transported to UVMCC ED by BFD due to their level of intoxication. Upon release from UVMCC ED, they were lodged on the warrant.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls



POLICE DEPARTMENT
CITY OF BURLINGTON

Officer 2 – Verbal commands/empty hand controls/handcuffing

Arrestee – taken to UVMMC ED, released and lodged on warrant.
Black male Age 38, 6'00", 168 lbs.

Arrestee – no injury
Officer – no injury

6. 24BU009750

5/12/24

Complainant/Officers Dispatched

Call type – Agency Assist/Mental Health

Charges – None

Synopsis

Officers had an Emergency Evaluation warrant to take a female into custody. Officer were called to the Church Street Market Place for the female causing a disturbance. Three officer located the female and one approached her and stated to the effect to her that there was a warrant and they would be transporting her to the hospital. The female stated to the effect to the officers that they would not be taking her there. The officer continued to try to de-escalate the female but she attempted to leave the area. The first officer took control over the female's left arm and the second took control of her right arm. The female immediately dropped her weight to the ground. The female then resisted the officer's attempts to stand her up. A third officer assisted in physically lifting her onto her feet and held her while the first officer placed her into handcuffs. The female physically resisted walking over to the police cruiser and officers had to physically move her to the cruiser. Once at the cruiser the female refused to get in and an officer had to physically pull her into the cruiser. The female was then transported to UVMMC ED on the EE warrant.

Subjects Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls/handcuffing
Officer 2 – Verbal commands/empty hand controls
Officer 3 – Empty hand controls

Subject – taken into custody on EE warrant
White Female Age 44, 5'07", 150 lbs.

Subject – no injury
Officers – no injury



POLICE DEPARTMENT
CITY OF BURLINGTON

7. 24BU009991

5/15/24

Officer Initiated

Call type – Arrest on a Warrant

Charges – Violation of Conditions of Release/Arrest on Warrant

Synopsis

An officer was speaking consensually with the operator of a motor vehicle he had just observed a female, whom they recognized from previous law enforcement contact, go up to the window of said vehicle and then depart. The officer checked with dispatch for warrants for the female and that revealed an active warrant for her arrest and conditions of release from court with a curfew that she was also currently violating. The officer stated to the effect to the female that she had a warrant and was under arrest. The officer allowed the arrestee to hand over her possessions to a friend and smoke a cigarette. The arrestee began to stretch out the time that was given them and then began to state to the effect that she was going to do what she wanted. A second officer had arrived on scene by this time. The first officer took control of the arrestee's arms and placed her into handcuffs. As the first officer searched the arrestee, the second officer had to hold onto her right arm. The arrestee began to squirm and pull away from the second officer causing the officer to have to physically hold her in place. After being searched, the first officer opened the door to the back of the cruiser. The arrestee immediately dropped her weight and the second officer had to physically pick her back and order her into the vehicle. The arrestee refused to get in and pushed her body weight back against the second officer. The officer had to physically move the arrestee into the vehicle. Once seated in the vehicle with the arrestee's legs were still out of the cruiser and she refused to move them in. The second officer had to physically move both legs into the back of the cruiser.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls/handcuffing

Officer 2 – Verbal commands/empty hand controls

Arrestee – taken into custody and lodged on arrest warrant

White female Age 35, 5'02", 135 lbs.

Arrestee – no injury

Officer – no injury



POLICE DEPARTMENT
CITY OF BURLINGTON

8. 24BU010065

5/16/24

Officer Initiated

Call type – Suspicious Event

Charges – Operating without Owners Consent

Synopsis

An officer had probable cause to arrest the male subject for operating a vehicle without owner's consent and for possession of stolen property. The officer had sent out a name and picture of the suspect to BPD personnel. An officer on patrol observed the suspect on a bicycle and went out with him. The officer stated to the effect for the suspect to stop riding the bicycle but the suspect continued to ride away from the officer. A second officer stopped their cruiser on the street ahead of the suspect and the suspect then stopped. The first officer arrived, as did the investigating officer. The second officer left the scene. The investigating officer stated to the effect that the suspect was under arrest, to turn around and place his hands behind his back. The officer took hold of the arrestee's right arm and attempted to guide it behind the arrestee's back. The first officer took hold of the arrestee's left arm and attempted to do the same. The arrestee actively resisted by pulling his arms away and twisting. The arrestee managed to break the first officer's hold. The first officer was able to re-establish the hold on the arrestee's left arm and move it behind the arrestee's back. The investigating officer was able to physically move the arrestee's right arm behind the arrestee's back and attempted to place handcuffs on. A third officer arrived and was able to complete the handcuffing of the arrestee.

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 –

Black male Age 20, 5'09", 140 lbs.

Arrestee – no injury

Officer – no injury



POLICE DEPARTMENT
CITY OF BURLINGTON

9. 24BU010274

5/18/24

Complainant/Officers Dispatched

Call type – Simple Assault

Charges – Simple Assault on a Protected Professional X2/Disorderly Conduct

Synopsis

BFD called BPD to respond to male subject they were dealing with who was now becoming combative. BFD stated the male had left the area. BFD called back shortly stating the male had assaulted BFD personnel, spitting on them and threatening to punch them. Officers arrived on scene and began to canvass the area for the male subject, who is well known to emergency services. An officer located the male suspect on a nearby street. The officer went out with the suspect and engaged in a dialogue with him until a second officer arrived on scene. At this point, the officer stated to the effect to the male that he was under arrest. The officer took hold of the arrestee's right arm and attempted to move it behind the arrestee's back. The arrestee began to actively resist, pulling his arm forward. The officer had to physically hold the subjects arm behind his back. The second officer took hold of the arrestee's left arm and move it behind the arrestee's back. The arrestee actively resisted, stiffening his arm and attempting to pull it forward. The officer had to physically hold the arrestee's arm behind his back and apply handcuffs. As the officers moved the arrestee towards the cruiser, the arrestee continued to actively resist, trying to pull his arms out of the officers grasp. At the cruiser, the arrestee was being searched, the arrestee continued to resist, pushing his body up and away from the cruiser. The arrestee spat at the officer conducting the search. The arrestee's saliva struck the officer landing in the officer's mouth. The arrestee was brought to the ground in a controlled manner to finish the search. A third officer had to hold the arrestee's legs while the search was being completed. The arrestee was then stood back up and placed into a cruiser.

Arrestees Actions – Active Resistance

Officer Actions

Officer 1 – Verbal commands/empty hand controls

Officer 2 – Verbal commands/empty hand controls/handcuffing

Officer 3 – Empty hand controls

Arrestee – taken into custody and lodged on bail

White male Age 46, 6'01", 200 lbs.

Arrestee – no injury

Officer – contaminated by bodily fluids.



POLICE DEPARTMENT
CITY OF BURLINGTON

10. 24BU010517

5/21/24

Officer Initiated

Call type – Suspicious

Charges – Simple Assault on a Police Officer/Interference with Law Enforcement/Arrest on Warrant

Synopsis

An officer patrolling the parking lot at the Fletcher Free Library in the early hours of the morning observed a motor vehicle parked and idling, occupied by four subjects. The officer observed the four subjects hastily exit the vehicle and begin to walk away from the officer. Believing the vehicle might be stolen the officer specifically called out for the operator to stop. The male subject ran from the officer. The officer pursued the male, while stating to the effect to the male to stop and identifying himself as a Burlington Police Officer. The officer stated to the effect over his radio he was in a foot pursuit. After approximately 40 seconds, the officer caught up to the male as a BPD police cruiser had pulled up in the path of the male's flight causing them to slow down. The officer attempted bring the male to the ground but the size of the male prevented the lone officer from doing this. The officer attempted to gain control of one of the male's arms but the male pulled his arm to his chest preventing the officer from gaining control of his arm. The male began to fight with the officer as the second officer who exited their cruiser arrived. The second officer initially attempted to gain control of the male's right arm but he pulled it away. The second officer then took hold of the male's legs and the two officers were able to bring the male to the ground. The second officer took hold of the male's right arm and the male brought it up to his face. The second officer had to pull the male's right arm down and behind the males back. The male fought back trying to pull his arm forward. A third officer arrived and began to assist the first officer in placing the male into handcuffs. A fourth officer arrived on scene and took control of the males left arm. The second officer transitioned to the males left leg and physically pinned the leg to the ground. The first officer applied OC to their gloved hand and swiped in onto the male's face to try to gain compliance. The third officer took hold of the male's right arm and applied a handcuff. The fourth officer applied a separate handcuff. Then the two sets of handcuffs were daisy-chained together. The officers then tried to escort the arrestee to the cruiser but the arrestee refused to walk. The four officers had to physically carry the arrestee to the cruiser and set them on the ground. While seated on the ground the arrestee attempted to pass the handcuffs under his body to move his hands in front. The arrestee was placed in a prone position and the fourth officer took control of the arrestee's legs while the daisy-chained handcuffs were removed and one set of handcuffs were applied. Officer learned the arrestee had an active warrant and was currently on parole. The first officer had injuries to his hand and ankles. The arrestee stated had



**POLICE DEPARTMENT
CITY OF BURLINGTON**

jaw, back and finger pain. BFD was called to the scene and ultimately transported the arrestee to UVMHC ED for evaluation. The arrestee was evaluated, cleared and transported to BPD.

Arrestees Actions – Active Resistance/Assaultive

Officer Actions

Officer 1 – Verbal commands/empty hand controls/OC Deployed

Officer 2 – Verbal commands/empty hand controls

Officer 3 – Verbal direction/empty hand controls/handcuffing

Officer 4 – Empty hand controls/handcuffing

Arrestee – taken into custody and lodged on warrant

White male Age 41, 6'05", 327 lbs.

Arrestee – pain in jaw, back and finger – Evaluated by UVMHC ED and released

Officer –injury to hand and ankle

Timothy Williams

From: Trammell, Shannon <strammell@bpdvt.org>
Sent: Wednesday, May 15, 2024 8:58 AM
To: Shakuntal Rao
Cc: Timothy Williams; Jon Murad; Labrecque, Wade
Subject: FW: Commendable Action Ofc Padric Hartnett / Ofc Nho Huynh

Chair Rao,

Please find a commendation for two BPD Officers.

Best Regards,
Shannon



Shannon Trammell

Executive Manager

[Burlington Police Department](#) | [City of Burlington](#)

1 North Avenue | Burlington, VT 05401

Office: (802) 540-2107

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Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the [Vermont Public Records Act](#).

From: Michael Akerlind <Michael.Akerlind@colchesterpdt.org>
Sent: Sunday, May 5, 2024 7:16 PM
To: Byrne, Oren
Cc: Seller, Jacob M.
Subject: Commendable Action Ofc Padric Hartnett / Ofc Nho Huynh

Sgt. Byrne,

During the week of APR 29 - MAY 03 I was assigned to the Vermont Police Academy to assist with instruction of a Level II Use of Force & Tactics class. During this same time, your agency allowed Officer Padric Hartnett and Officer Nho Huynh to participate in training with the 117th Basic class as Training Assistants.

My class was under-staffed with certified instructors, having no more than four and sometimes only two for a group of 25 students. Ofc Hartnett, also a VCJC UOF&T Instructor, readily stepped in to help several times in between his duties as a TA. His assistance and knowledge of the subject was greatly appreciated by the students and the other instructors.

On Friday we were committed to the class for their final written proficiency testing. Again Ofc Hartnett assisted by evaluating a group of students and Ofc Huynh offered help and became a training partner during the test, since we had an uneven number. Both stayed into the afternoon, well beyond the time needed for their TA

responsibilities with the basic training class. If not for both of these officers, this testing process would have been much more difficult to complete.

Both Padric and Nho are exemplary in their personal commitment to the training of police officers in the State of Vermont, as well as demonstrating the Burlington Police Department's commitment to training safe and competent police officers.

Thank you again for the use of their time!

Stay Safe
Mike

Lt. Michael Akerlind
Colchester Police Department
835 Blakely Rd, Colchester VT 05446
Dispatch: (802)264-5555
Direct: (802)264-5551
Fax: (802)264-5561

On the Web: <https://colchestervt.gov/261/Police-Department>
Instagram: <https://www.instagram.com/colchesterpdvt/>
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