



City Council Public Safety Committee *Remote ONLY*** -
Tuesday, March 15, 2022 at 5:30 PM
3/15/2022**

Public Safety Committee

Tuesday, March 15, 2022

Virtual Meeting, Burlington, Vermont

FINAL MINUTES

Members Present: Councilor Paul, Councilor Stromberg, Councilor Hightower

Staff Present: Jared Pellerin (Assistant City Attorney), John Murad (Acting Chief of Police), Kerin Durfee (Director, Human Resources)

Meeting called to order at 5:34 p.m. by Councilor Paul

1. Agenda

1.01 Motion to adopt/amend agenda

Motion to adopt agenda as written.

Motion by Councilor Stromberg, Seconded by Councilor Hightower

Final Resolution: Motion Passes

Yes: Unanimous/ Councilor Paul, Councilor Stromberg, Councilor Stromberg

No:

2. Public Forum

2.01 Public Forum

Public forum was opened at 5:52 pm by Councilor Paul.



City Council Public Safety Committee *Remote ONLY*** -
Tuesday, March 15, 2022 at 5:30 PM
3/15/2022**

No one appeared to address the Committee during Public Forum. Councilor Paul mentioned that if anyone wishes to speak in the future, to please raise their hand so they could be recognized.

Public forum was closed at 5:54pm

3. Minutes

3.01 Approval of Minutes

A motion was made by Councilor Hightower to accept the minutes of the February 15, 2022 meeting of the Public Safety Committee as written. This motion was seconded by Councilor Stromberg.

Final Resolution: Motion Passes

Yes: Unanimous/ Councilor Paul, Councilor Stromberg, Councilor Hightower

Councilor Paul recognized that the March 8th meeting minutes were not posted to BoardDocs and asked that they be posted so the Committee could consider them at their next meeting. Assistant City Attorney Pellerin assured they would be posted.

4. Committee Discussion/Possible Action

4.01 Discussion on CNA Report and Next Steps

DISCUSSION:

Working group members present: Melo Grant, Jeff Nick, Oren Byrne, Jabu Gamache

The Committee discussed recommendations 4.1.1 – 5.2.2 and created a projected timeline for the recommendation to be implemented or carried out. The Committee also prescribed a conclusion to each recommendation regarding what the working group discussed and its ultimate disposition.





City Council Public Safety Committee *Remote ONLY*** -
Tuesday, March 15, 2022 at 5:30 PM
3/15/2022**

Section 4: Use of Force and Officer-Involved Shootings

4.1.1

BPD should break out "weaponless force" into multiple categories, based on best practices and peer agency review.

Complete

Significant movement has been made: we now have a document with additional information even though it doesn't have categories per se. Police Commission is satisfied with current reporting

4.2.1

BPD should investigate use of force incidents thoroughly, including reviewing BWC footage, to better understand the reason for these disparities for Black community members.

Q1

High priority. Need a change in policy to note that our use of force should be investigated (Acting Chief Disagrees). Police Commission thinks we should do more on understanding why Black people experience higher levels of force as well as higher uses of force. **Ask the department to create a review process to try to understand.** Importantly, **disparities (gender, racial, ability) should be added to the contract as a reason for clause to review (internally and externally) detailed use of force data.** Police commission needs ability to see use of force info (videos, depositions, etc) for court cases and BPD needs to use disparities as strategy in improving community relationships. **Need policy change to have open conversation and decision with PC on what UOF should be investigated**

4.2.2

Similar to the recommendation for traffic stops, BPD should consider the possibility that these disparities are driven by bias (implicit or explicit) and proactively address potential bias in officers' behavior or department practices by implementing training and reviewing BPD practices.

Q4

Various trainings have been done. More than the legal limit, some with just a few. Need to focus on PRACTICES as much as TRAINING. Asking BPD to come back to public safety and PC with practices that can be changed as well as trainings.

4.3.1

To the degree that multiple responding officers write accounts of the same incident, there should be policy and training instructing officers to independently write their own accounts of a UOF incident.

Q2

Should be an explicit policy to have people not discuss what happened AFTER the scene until the reports are written (i.e. on independent memory)

4.3.2





City Council Public Safety Committee *Remote ONLY*** -
Tuesday, March 15, 2022 at 5:30 PM
3/15/2022**

The BPD should change its requirements regarding UOF narratives in the following ways:

- Ensure they include a precise description of the actions and statements of the subject that warranted the use of force.
- Ensure that efforts are made and documented to obtain a subject account of the incident and have an accountability system in place for this.
- Ensure that all officers who use force or witness force also write their own distinct reports and have an accountability system in place for this.
- Ensure that officers include in their reports any efforts at de-escalation, and if no such efforts were made, include an explanation for why this was not feasible. In addition, there should be fields identifying tangible de-escalation strategies included in the report and evaluated. Including tangible de-escalation strategies not only assists officers in understanding what is meant by de-escalation, but also provides a guide for supervisors to utilize when reviewing BWC footage and coaching officers. If this is not in place, often the term "de-escalation" becomes a diluted "check-the-box" term. Tangible de-escalation strategies include the following:
 - o Tone of voice (command vs. engagement)
 - o Introduce yourself, and ask the subject what name they would like to be called
 - o Physical stance (open vs. closed, authority vs. engagement)
 - o Eye contact (remove sunglasses, etc.)
 - o Turn down radio and siren whenever it is safe to do so to limit distractions
 - o Reduce onlookers or individuals who may be escalating the situation whenever possible
 - o Physically distance from the subject
 - o Use cover to buy time (both officer cover and physical barriers)
 - o Request specialized units whenever it makes sense, including social work response
 - o Request another on-scene officer to take over if there is no indication of de-escalation or engagement by the current officer in charge
- Ensure that officers include in their narrative any knowledge of a mental health component and whether or how that affected their response. The narrative should provide a searchable field that BPD can use to easily identify use of force incidents involving a mental health component. In addition, the narrative should capture attempts to call for a specialized response, obtain information on treatment providers, and learn whether there is a person the subject trusts (case manager, family member, etc.) who can be called to support them.
- Describe or photograph any injury to the subject because of any use of force, and if there was no injury, articulate such in the narrative

Q2

BPD to create a checklist / new template with all of these bullets as part of the report. The exception may be a subject who has recently had UOF on them - both for practical and right to remain silent implications. Should err on the side of having a bystander account when possible. We also allow UOF subject account if the officers involved or their supervisor thinks it is a good idea for community engagement or restorative justice.

4.4.1

Policy should direct a review and approval process for all use of force incidents, which should include all the components identified above.

4.5.1



City Council Public Safety Committee *Remote ONLY*** -
Tuesday, March 15, 2022 at 5:30 PM
3/15/2022**

Written statements from every officer on the scene of an OIS should be required before leaving the shift during which it occurred. Every officer involved should be interviewed by BIA before leaving the shift during which it occurred; these interviews should be at minimum audio recorded and preferably video recorded.

4.6.1

The BIA policy should direct who will conduct the interviews and collect written statements. A BIA supervisor should review and approve all statements and interviews and recommend whether additional clarifying statements or interviews are required. The BIA commander should review and approve all statements and interviews. Reports are usually reviewed and acknowledged almost immediately, with direction for additional work if necessary, and then approved upon completed work.

4.7.1

Best practice is a definitive use of force policy with a use of force continuum. This continuum would be utilized to identify the level of force used. If this is associated with a code, as it appears to be with BPD, a corresponding chart that translates the code should be included.

4.7.2

In addition, tangible strategies for de-escalation should be assessed both in BWC footage and in required paperwork. For instance, one should assess verbal de-escalation vs. commands, the officer's tone of voice, the officer's body stance, whether the officer slowed things down, whether the officer created distance from the individual, whether the officer called for backup, and whether the officer used physical barriers to provide cover to buy more time. A common formula is that distance plus cover equals time, and time provides opportunities to slow things down, call in additional resources, and deploy more de-escalation strategies. This was not documented in either case.

Q3

Prioritize deescalation

4.8.1

Reports must include pertinent information supporting the OIS. For example, whether the suspect was armed (and if so, with what?), whether the suspect made moves that caused officers to fear for their lives or the lives of others, whether the officers had reliable information that the suspect had access to firearms, and whether other dangers were present. As a best practice, all officers on scene should provide statements and interviews that are then included in the investigative file. The shooting officer should not be the only officer providing information. Every officer on scene must be interviewed and must be given a timeline for providing a written statement.





City Council Public Safety Committee *Remote ONLY*** -
Tuesday, March 15, 2022 at 5:30 PM
3/15/2022**

4.9.1

The Department must develop new policies or update existing policies affected by OIS, including at minimum the following:

- Use of Force (including use of force review procedures)
- Officer Involved Shooting
- Officer Involved Death (including crashes, in-custody deaths, etc.)
- Internal Affairs (including how UOF, OIS, or officer involved crashes and criminal misconduct are administratively investigated)
- Responding to Individuals with Diminished Capacity (this should be renamed something like "Recognizing and Responding to Individuals Experiencing a Mental or Behavioral Health Crisis")
- Conflict of Interest (to ensure every investigation is conducted fairly)

Police Commission and Acting Chief disagree on if the PC has received sufficient data on Use of Force Data. Acting Chief says that they have never failed to share footage. CA's office says that state law says that some things cannot be shared with a nonsworn officer. PC says that even beyond this situation, PC didn't have representation from CA's office so maybe not an issue anymore.

4.9.2

BPD should prioritize the review (including community review), revision, or development of relevant department policies, train on these policies, and provide updated training for UOF.

Q5

Again, disagree that this is only a training issue. BPD to create review and analysis and contemplate changes in policy in addition to

4.9.3

OIS internal/administrative investigations should be investigated the same way in every instance to eliminate the question of favoritism or bias. The policy should include direction on conflicts of interest (friends or relatives investigating a family member or a friend) and confidentiality. There should be no question the IA will investigate every OIS.

Section 5: Patrol Operations, Deployments, and Traffic Stops

5.1.1





City Council Public Safety Committee *Remote ONLY*** -
Tuesday, March 15, 2022 at 5:30 PM
3/15/2022**

BPD should implement a traffic stop data system that captures, in addition to the current information, the following:

- Reason for stop
- Stop start and end time
- Reason for each ticket and warning
- Passenger information
- Officer special assignment or task force
- Open comment field for officer explanations and brief description of the stop

BDP reports that the department's record management system contains this information; however, this information was not provided to the assessment team.

Q0

This work is being captured

5.2.1

BPD should conduct further analysis and review BWC footage to understand these disparities in traffic stop rates and outcomes and address them to reduce disparities.

Q0

BPD to continue to monitor stops, ticketing, and searches to ensure lack of disparity achieved in later years of CNA's overall data pool continue to be the case in later years while also meeting public safety goals with 87% drop in traffic stops (2016 to 2021)

5.2.2

BPD should consider the possibility that these disparities are driven by bias (implicit or explicit) and proactively address potential bias in officers' behavior or department practices by implementing training and reviewing BPD practices.

Q0

Move forward with review and try to keep current statistics

** Please see BPD CNA Assessment Recommendation Matrix **

1. Any Other Business

Councilor Paul asked that the Committee and working group gather their comments and recommendations to sections 6, 7, and 9 and provide them to Thomas Musinski in the City Attorney's Office by Monday the 21th of March so that they can be added to the master list and redistributed for the meeting on the 22nd. The meeting on the 22nd will start at 5pm to



City Council Public Safety Committee *Remote ONLY*** -
Tuesday, March 15, 2022 at 5:30 PM
3/15/2022**

accommodate the Police Commission meeting that is to take place that evening as well.

1. Adjournment

Motion to Adjourn by Councilor Stromberg Seconded by Councilor Paul

Final Resolution: Motion Passes

Yes: Unanimous/ Councilor Paul, Councilor Stromberg. Councilor Hightower

No:

The meeting was adjourned at 7:24pm