

**The following changes (deleted matter in strikeout and new matter underlined) have been petitioned by Burlington voters:**

1. *“Shall the Charter of the City of Burlington, Acts of 1949, No. 298 as amended, be further amended to provide for an independent office with the power to investigate and an independent board with the power to hear and decide complaints and impose discipline regarding a police officer’s actions or inactions through the amendment of Article 64 Appointment of Police Officers, Section 189 and Article 65 Removal or Suspension, Section 190 as follows:*

**189 Members of force to be retained as long as they remain competent.**

The members of said regular police force now serving, or who shall hereafter be appointed thereto, shall, after the expiration of the one-year probationary period above provided, and so long as they shall remain competent, efficient and capable in the performance of their respective duties be retained as such, subject to the rules and regulations adopted under Section 184 of this Charter and provided that any member may be removed for cause as hereinafter provided. Any non-probationary member may be disciplined or removed if found to have become incompetent, inefficient or incapable from any cause, is or has been negligent or derelict in their official duty, is guilty of any misconduct in their private or official life, or for any other just cause.

**ARTICLE 65. REMOVAL OR SUSPENSION INDEPENDENT COMMUNITY CONTROL BOARD**

**190 Chief may remove. Composition, jurisdiction, powers, and duties**

- (a) ~~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 reduction 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 charge 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 police chief.~~

- (b) ~~Whenever it shall appear to the mayor that the chief has become incompetent, inefficient, or incapable from any cause, 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 mayor by a responsible person, the mayor may suspend the chief from duty pending a hearing thereon by the city council. The city council shall forth with notify the chief of the charges preferred by them, or of the complaints or charges presented by such responsible person in writing, and shall thereupon proceed to consider and investigate the same. It shall appoint a time and place for the hearing of such complaints and charges so made, shall give the chief reasonable notice of the same, not less than 48 hours, and the city council shall have the power to subpoena witnesses and to administer the oath to such witnesses.~~
- (c) ~~If, upon hearing, the city council shall find such complaints or charges to be well founded, it may dismiss the chief from the force, demote him or her in rank, or suspend him or her without pay for a period not to exceed 60 days. The procedures outlined in this section shall control in the event of any conflict with section 129 of this Charter as pertains to the removal of the chief.~~
- (d) ~~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.~~

**(a) Board Established.**

A community police department control board consisting of no less than seven (7) members and no more than 9 members is established. The board shall be an independent department of the city. A quorum of the board shall be four (4) members, and when a quorum exists a valid majority is the majority of those present and voting. Members shall be entitled to fair compensation for their time spent working on the board through a stipend that shall be no less than that set by the city's livable wage ordinance in effect at the time.

**(b) Board Members Term, Qualifications and Selection.**

(1) Term. Board members shall serve a term of three (3) years and shall be eligible to serve for no more than three (3) terms. Notwithstanding this term, members shall serve until their replacement has been qualified and appointed.

(2) Diversity and Qualifications. This board is intended to serve the public and community interest and, in particular and consistent with its jurisdiction, allow for the real redress of harms to those persons who have been historically harmed by police misconduct and those who have been underserved by public safety systems.

(A) Diversity.

The Board shall have a diverse composition, and to the extent possible, have members that represent a diversity of age, race, socioeconomic status, gender, geographic residence, legal immigration status, and professional and lived experience. This shall, to the extent possible, include members who are Black, Indigenous, or other people of color, members who have lived experience with houselessness, mental health conditions, sex work, domestic violence, substance use disorder and/or arrest or conviction records, members who have experience working with an organization that supports Black, Indigenous, or other People of Color, and members who are affiliated with an organization in the field of civil rights, mental health, youth advocacy, LGBTQ advocacy or alcohol and other substance use. Individual members may represent more than one of the categories listed above.

**(B) Qualifications.**

(i) No member shall have ever been employed by a law enforcement agency. All previous employment and relevant relationships shall be disclosed at the earliest practicable time.

(ii) Members shall be residents of the city of Burlington, regardless of legal immigration status, at the time their board service begins. Members who move outside of the city may remain on the Board for the duration of their term, provided that they still reside in Chittenden County, but may not be reappointed if they reside outside the city at the end of their term.

(3) Selection. Annually, the City Council with Mayor Presiding will choose a set of seven community-based organizations that have an interest in civil rights, immigrant rights, disability rights/mental health, racial equity and social justice, and that also have an interest in the safety of the city and criminal justice reform. Three (3) organizations, to the extent possible, should be Black-led or majority Black membership. Each organization shall appoint a representative to an appointment committee. The committee shall appoint qualified persons to be members of the board. The Director of the Racial Equity Inclusion & Belonging Office, or their designee, and one City Councilor, appointed by the City Council President, shall also be on the appointment committee. This appointment committee shall be considered a public body that is subject to the Open Meeting Law and the Access to Public Records Act. The City Attorney shall convene the first meeting of the committee and shall act as committee staff. The committee shall make appointments based on a selection process that is open to the public with regard to applications, nominations, and selection.

(4) Initial Board. The initial board shall be selected so that no more than half of the members shall serve a three-year term, and the remainder shall serve a four-year term; thereafter, each member shall serve a three year term.

(5) Vacancies. Any vacancy during a term shall not be filled unless the membership of the board drops to five members. The process for filling the seat shall be the same as that for the appointment of members.

**(c) Jurisdiction.**

(1) Board investigations and adjudication of misconduct. The board has the jurisdiction to discipline or remove a member of the police force, including the chief, as it deems appropriate, including the right to order a reduction in rank or suspension without pay for a specified period, pursuant to section 189, this section, and all applicable rules and regulations related thereto. This jurisdiction includes the right to review and make findings on any incident or complaint against a police officer, including the chief, on complaints of excessive force, abuse of authority, unlawful arrests/stops/searches, other unlawful acts, discourtesy/disrespect, offensive language, theft, discrimination, or untruthfulness by police officers. Any other incident or complaint shall be heard at the discretion of the board. The board shall conduct investigations of alleged police misconduct into those complaints, and in those cases hold hearings and issue final decisions with regard to police officer discipline and removal pursuant to section 189. The procedures outlined in this section shall control in the event of any conflict with section 129 of this Charter as pertains to the removal of the chief.

(2) Department investigation and adjudication of complaints.

(A) In those cases that are not taken up by the board, the investigation shall be conducted by the police department. In such cases, the chief shall investigate and, after appropriate notice and hearing, may take disciplinary action, including but not limited to dismissal, reduction in rank, or suspension without pay for a specified time period. 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.

(B) 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.

(C) Any decision made by the department pursuant to (A) or (B) above shall be submitted to the board for review and approval. If the board disagrees with the department's decision, it shall vacate the decision and refer the complaint to the investigative office for processing in the same manner as complaints heard by the board.

(3) Administrative suspension. Pending any investigation, the chief, in their discretion, may suspend an officer from duty pending the applicable legal process. The board shall have such authority in the case of the chief, based on the nature of the alleged offense. This suspension may be with or without pay.

(4) Retention of records. Officer performance records and or investigatory/disciplinary records, being relevant to the adjudication of complaints shall be retained by the department for a period of seventy-five years, notwithstanding any record retention policy to the contrary.

(5) Hiring. The board shall also have input into the hiring of the police chief and the hiring criteria for police officers.

**(d) Powers and Duties**

The board shall have the following powers and duties:

(1) To establish rules and regulations for its operation, subject to approval by the city council;

(2) To meet and hold hearings. Disciplinary hearings held by the board at which evidence is taken shall be open to the public, unless otherwise limited by the rule of the board.

(3) To hire employees or consultants, including legal representation.

(4) To administer oaths and take the testimony of any person under oath in connection with the jurisdiction of the board.

(5) To issue subpoenas to compel testimony or access to or production of records, documents and other evidence or possible sources of evidence or the appearance of persons, provided that the subpoena is issued pursuant to an action under the jurisdiction of the board and there is reasonable cause to believe that those materials or the testimony of the person are material to the complaint. Subpoenas issued under this subdivision shall be accompanied with a notice that informs the person that the person has a right to contest the subpoena at a hearing before a quorum of the board, and subpoenas shall be enforced as provided in 3 V.S.A. §§ 809a and 809b.

(6) To discipline or remove a member of the police force, including the chief, and discipline may include a reduction in rank or suspension without pay for a specified period, pursuant to section 189, this section, and all applicable rules and regulations related thereto. Whenever it shall appear to the board that any member of said force has become incompetent, inefficient or incapable from any cause, or is or has been negligent or derelict in their official duty, or is guilty of any misconduct in their private or official life, or whenever any well-grounded complaints or charges to such effect are made in writing to the board by a responsible person against such member, the board may investigate and, after appropriate notice and hearing, dismiss such member from the force, order a reduction in rank, or suspend the member without pay for a specified time period that is deemed appropriate by the board. In connection with any possible dismissal, demotion, or suspension for more than 14 days, the board'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. The board 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 board sufficient, suspend from duty without pay any member of the police force for a period not to exceed 14 days. Any and all appeals of a decision by the board, including whether or not just cause exists to warrant discipline and/or the punishment imposed, shall not be subject to grievance and arbitration but shall

be made on the record established by the board to the Vermont Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure.

(7) To issue public reports on its work. The board shall issue quarterly reports that are publicly available in accessible formats on the number of complaints and the nature of the complaints. It shall also provide an annual report to the city council on all of its duties.

(8) To establish and maintain an investigative office.

(9) To attend and complete training sufficient to perform its duties.

**(e) Investigative Office.**

(1) If records are not provided or witnesses do not appear on request, the investigative office shall have the power to issue subpoenas to compel testimony or access to or production of records, documents and other evidence or possible sources of evidence or the appearance of persons, provided that the subpoena is issued pursuant to an action under the jurisdiction of the board and there is reasonable cause to believe that those materials or the testimony of the person are material to the complaint. Subpoenas issued under this subdivision shall be accompanied with a notice that informs the person that the person has a right to contest the subpoena at a hearing before a quorum of the board, and subpoenas shall be enforced as provided in 3 V.S.A. §§ 809a and 809b.

(2) The investigative office shall have, on request:

(A) Access to any and all records of the police department, subject to any legal limitations (e.g., expunged records) or legal confidentiality requirements;

(B) Full cooperation of the police department, its members, and relevant City staff (i.e., Human Resources, City Attorney, etc.);

(C) Unfettered access to police command and internal affairs personnel; and

(D) Access to all policies and data created or maintained by the police department.

(3) The investigative office shall have the authority to:

(A) Receive, investigate, and present to the board any complaint against a police officer. Once received, this process should be completed under normal circumstances within thirty days, but because 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 board may authorize an extension of up to sixty days;

(B) In any case that the investigative office or the board does not investigate, monitor any investigation being conducted by the police department with full access to interviews and any other pertinent materials;

(C) Be immediately notified so that an investigator may be sent to the scene of a police shooting or in-custody death;

(D) Be allowed to interview officers less than 48 hours after an incident where deadly force is used;

(E) Access crime scenes, subpoena witnesses and files; and

(F) Set penalties for and enforce against non-compliance with the lawful orders issued pursuant to the duties and powers of the office and board.

(G) Employ a director hired by and at the discretion of the board, and hire other staff or consultants as determined by its director and authorized by the city council, including independent legal counsel to advise the board.

(4) The investigative office shall:

(A) Have an appropriation adequate to conduct the work of the office;

(B) Issue public quarterly reports analyzing complaints, demographics of complainants, status and findings of investigations and actions taken as a result, as well as dispositions;

(C) Establish multiple in-person and online ways to submit, view and discuss complaints, including hearing from the chief or their designee or any other person with pertinent information and receiving recommendations deemed appropriate by that person;

(D) Provide complaint-related information and records to the public (without personally identifiable complainant information);

(E) Be housed in a separate location from the police department.