



**POLICE DEPARTMENT
CITY OF BURLINGTON**

TO: CNA, attn. Project Director Julie Solomon, LSCSW, MBA
FROM: Acting Chief of Police Jon Murad
DATE: September 21, 2021
RE: Notes regarding a DRAFT of “A Functional and Operational Assessment of the Burlington Police Department”

I wish to express the Burlington Police Department’s appreciation for this robust draft report, “A Functional and Operational Assessment of the Burlington Police Department,” and its 151 recommendations. I also wish to express an apology for any materials that were not properly and promptly shared with CNA, particularly those associated with training and with our use-of-force reviews. We consider both our training and our force-review process to be exemplary and robust, and describe both more fully below. Our training already comports with many of the recommendations offered in CNA’s draft report. And with regard to use-of-force reporting, we have a thorough review process and also share every use of force with the public.

I also wish to express concern that a significant proportion of “Section 3: Police Oversight” dealt not with Burlington, Vermont, but with Burlington, North Carolina. I am confident that will be corrected in the final report.

Other notes, including observations about our traffic-stop data and the draft report’s staffing calculations—particularly the way the calculations are limited because our Valcour CAD/RMS system captures incomplete data—are discussed more fully below. What follows is a page-by-page engagement with the significant work in the CNA draft report.



p.iv - #3 – *“there does not currently appear to be a clear directive requiring BPD leadership to seek input from the Burlington public on directives”* – Respectfully, we believe this is inaccurate, inasmuch as the BPD can publish directives ONLY when approved by the independent, citizen-comprised [Police Commission](#). **The Police Commission approves directives in public meetings after opportunities for public comment.** Before getting to that point, stakeholders review and shape directives—primarily the police officers who will be the end users, but also, when applicable and appropriate, interest groups and system partners. The final approval goes to the Police Commission as the public’s representative and proxy, although even then there is room for additional public comment in open meetings.

p.iv - #4 – “Key training topics ... are either not covered, not required, or covered insufficiently” – We apologize for sending insufficient proof of BPD’s training, but hope that we have addressed that following our 9/17 meeting (e.g., through LEAPS files, etc.). As one example, **the BPD has provides and requires extensive anti-bias and cultural competency training** over the years. Deputy Chief of Administration Matt Sullivan offers the following summary of the bias training officers have received since 2005. Although some were special sessions attended by train-the-trainers or leadership, most were mandatory for all officers:

2005 Diversity and Cultural Awareness	2012 Cross-Cultural Interview & Conflict Resolution
2007 Arab & Muslim Cultural Awareness	2012 Cultural Diversity Awareness
2007 Bias Free Policing	2012 Multicultural Training
2007 Cultural Diversity Race	2012 Policing Diverse Communities
2007 Non-Bias Police Stops	2012 Race Data Collection
2007 Racial Data Collection	2013 Race Data Collection
2007 Transgender Issues	2013 Race Training
2007 Welcoming Community	2013 Making Whiteness Visible Workshop
2007 White Privilege	2012 Fair & Impartial Policing
2008 Community Engagement	2014 Intercultural Competency Training
2008 Cross-Cultural Communication	2014 Fair & Impartial Policing
2008 Cultural Competency	2015 Fair & Impartial Policing
2008 Race Data Collection	2015 Diversity Conference
2008 Transgender Training	2016 Fair & Impartial Dispatching
2009 Cultural Competence	2016 Race Data Training
2009 Diversity & Inclusion	2016 Working with Interpreters
2010 Bias-Free Policing	2016 Police Minority Relations
2010 Diversity Training	2016 Nepali Culture and Language
2010 Race Training	2016 Anti-Bias Training for Law Enforcement
2011 Bias-Free Policing	2018 Fair & Impartial Policing
2011 Diversity & Unity Retreat	2018 Implicit Bias Training
2011 Multicultural Competence	2019 Fair & Impartial Policing
2012 Community Policing	2019 Implicit Bias with CQ Strategies

Additionally, in 2019 the BPD sent a group of officers and non-sworn staff to Montgomery, Alabama, to visit the [National Memorial for Peace & Justice](#) (colloq., the Lynching Memorial), as well as the [Legacy Museum](#). The group received training from the institutions. Upon return, officers offered readouts and feedback that were shared among other employees.

Furthermore, insofar as restorative justice is concerned, we don’t just train on it, we practice it. Over the past two years, under Deputy Chief of Operations Wade Labrecque, **the BPD has**

drastically increased the rate of referral to alternative justice. BPD requires the following crimes to be automatically referred to alternative justice through our partners at the [Burlington Community Justice Center](#) (CJC): disorderly conduct (misdemeanor) (i.e., not aggravated DC); unlawful trespass (misdemeanor); retail theft (misdemeanor); unlawful mischief (misdemeanor); driving with license suspended (DLS); simple assault by physical menace; petit larceny from a motor vehicle or building. The BPD referred 36 subjects in 2019; since 2020, we have referred 189 subjects.

p.v - #3 – *“BPD should implement a traffic stop data system”* – The existing Valcour CAD/RMS system already captures the data the draft report suggests we capture. See the longer note below regarding p.51 R5.1.1.

p.v - #5 – *“BPD should investigate use of force incidents thoroughly”* – As described below, **the BPD has a thorough, multi-step review process for every use of force.** That review process now includes a monthly public accounting of every use-of-force incident.

Reviews of uses of force are thorough and involve a layered approach. First, each officer is required to complete his or her use-of-force report by the end of the shift unless explicitly granted a delay by a supervisor. Once the report is complete in Valcour, the officer flags the report as ready for approval. The report then lands in a reviewing officer’s work queue. Currently there are two use-of-force instructors and Deputy Chief of Administration Matt Sullivan who have access to these work queues. The use-of-force instructors either approve the report or return it to the officer for additional documentation. If there is a prima facie issue or concern, the use-of-force instructors will let the deputy chief know and the deputy chief will review the reports and Axon body-worn camera (BWC) video. Since September 2020, anytime the BPD uses force against a person of color, the Chief of Police notifies the Mayor and provides a summary in a timely manner. Additionally, since January 2021, I have introduced an additional layer of oversight and review in that Deputy Chief of Operations Wade Labrecque now completes a monthly summary report that describes all uses of force. These descriptions and demographic data are presented to the Police Commission in open public session, are broadcast on YouTube, and are [publicly published online](#). Police Commissioners have the ability to review BWC video of any use-of-force incident. Furthermore, it is my hope to be able to share BWC footage of all such incidents publicly sometime in the coming year, once we have hired a redaction specialist who was added to our FY22 budget. **To my knowledge, no other department in America pursues such a transparent practice around use of force.**

p.1 – *“the two most recent fatal shootings by the BPD in the last four years”* – The timeframe is inaccurate. The fatal shooting of Ralph “Phil” Grenon was a tragedy that caused BPD to totally revamp our emergency response, participate in the development of [ICAT with PERF](#), and create [our ERV platform](#) (for ICAT training, see the PERF/BPD training slides emailed on Friday 9/17).

That shooting took place in March 2016. Prior to that, the fatal shooting of Wayne Brunette, a man with mental illness who threatened officers with a shovel, took place in November 2013, eight years ago. It is worth noting that the BPD has handled more than a quarter million incidents since then, tens of thousands of them involving mental health issues. Prior to those incidents there had not been a fatal Burlington police shooting since the 1990s.

p.7 – F1.1, R1.1.1 – The ACLU and a local group called Migrant Justice wrote this directive, and the City Council approved it rather than the Police Commission, which complicates a rewrite. Ditto for R1.2.1

p.8 – R1.6.1 – Please clarify in the recommendation that the duty to intervene, duty of care, and duty to report are all in [the use-of-force policy DD05](#), but that the draft report is suggesting they also be [rules in DD01](#). (It's stated in the finding, but not the recommendation, and a casual reader looking only at the recommendations here, or in the matrix starting on page 111, may misunderstand.) Additionally, please note that a statewide use-of-force policy goes into effect on October 1, 2021, which will override our DD05. The [new Vermont state policy](#) is publicly available.

p.9 – R1.7.1 – Ditto to note re R1.6.1

p.9 – R1.9.1, R1.10.1, R1.11.1, and R.1.12.1 will be obviated by the new Vermont State use-of-force policy. See the link in R1.6.1, above.

p.11 – R1.17.1 – We concur with the need to rewrite the directive, which needs additional clarity. However, it should be noted that we do have specific investigators: only lieutenants or above can conduct Bureau of Internal Affairs investigations, and all five lieutenants either have or are scheduled for internal investigation training.

p.11 – R1.18.3 – Is it CNA's recommendation that this Internal Affairs section should be comprised of assigned officers? Where does this personnel allocation fit within the staffing recommendations in Table 17 on page 87? Ditto the "commander of internal affairs" position described in R1.19.1.

p.12 – F1.21 – [The "CPAT" program is associated with Burlington, NC](#), rather than Burlington, VT. This will be a note on Section 3: Police Oversight as well. It's very concerning to us that much of that section was based on the "CPAT." This concern about CPAT applies in whole or in part to Findings F3.1 through F3.4 and Recommendations R1.21.1, R3.1.1, R3.2.1, R3.3.1, R3.4.1, and R3.4.2. Insofar as Burlington's system is concerned, the independent, citizen-comprised and citizen-led [Burlington Police Commission's webpage](#) is found on the City of Burlington site. The document describing [the role of the Police Commission in complaints](#)

[against officers](#) is linked right at the top of the Police Commission page, and all materials shared with the Commission are publicly available on the Police Commission website or on [Boarddocs](#). Every Police Commission meeting can be [seen on YouTube](#).

p.14 – R1.24.2 – Regarding the difference between “citizen” and “civilian,” I disagree strongly and believe that the “officer/civilian” split is false and breeds a paramilitary *us vs them* mentality. The people we serve aren’t civilians, they’re neighbors. And although some jurisdictions may have a concern that “citizen” causes a different *us vs them* divide based on nationality or immigration status, it’s not a pronounced problem here in Burlington. I am amenable to some third term, like “neighbors,” but not “civilian.”

p.16 – R1.32.1 – We certainly need to revisit [DD21.02](#), and addressing what happens when both the alleged perpetrator and the victim are employees is a strong start. But suggesting we review Title IX, which permits a lack of due process and transparency, and by which a college or university can divert cases away from criminal justice in a manner that hides abuses and sex crimes, is a bad recommendation. In many instances, probable cause of criminal conduct would exist but for the Title IX curtain. In recent months, here in Burlington, such allegations have rocked our community, particularly allegations against UVM athletes.

p.16 – F1.34 – This finding says the directive “does not clearly address supervisory review” of BWC, but [DD14.1](#) addresses it quite precisely in Section IX. A. “BWC recordings shall not be audited to monitor Officer or personnel performance without cause.” This stems from an MOU with the BPOA. Adopting the BWC program as a condition of work—which the BPD did before any other agency in Vermont—was deemed to be bargainable.

p.16 – R1.36.1 – Is the minimum threshold of three-to-five detectives about staffing flexibility or a recommendation about what’s required for DSB efficacy?

p.18 – Training introduction – I am very chagrined by CNA’s observation that BPD was “unable to produce sufficient training plans, lesson plans, visual aids” etc. I apologize sincerely and deeply if we failed to provide this information, because failing to do so wholly undersells the terrific work we do on training. I was unaware of any outstanding requests that went unfilled and I regret if they were. To address this, I have sent evidence of our training’s scope and breadth, from extensive LEAPS documents to PowerPoints, lesson plans, and scenarios for scenario-based training. Hands down, the BPD is the best-trained police department in Vermont, going far beyond the minimums described by the [Vermont Criminal Justice Council](#).

p.19 – Findings and Recommendations introduction – In this section, the draft report notes that the materials presented by BPD did not appear sufficient to account for four hours of use-of-force training, but on the following page 20 in F1.43 the draft report notes “a significant

amount of training covering” use of force. This is an apparent disconnect. Regardless, we regularly and routinely conduct scenario-based training, classroom training, and field training on the matters the draft report describes, from ICAT to anti-bias training to crisis intervention to use-of-force training to deescalation.

p.20 – R1.43.3 – We offer frequent and routine anti-bias training, as discussed above in p.iv #4.

p.21 – R.1.43.5 – These are required trainings. Most are done annually, as shown in LEAPS.

p.21 – R1.43.7 – We acknowledge a record-keeping deficit, and are hopeful that the [Benchmark Analytics system](#) we are implementing will help us ameliorate it.

p.25 – Citizen Complaints introduction – The definitions of the dispositions are found in [DD40](#) and were also included in the “20210719 BPD BIAs – 2017-2021 YTD” spreadsheet I sent to CNA on 7/19. In my subsequent email on September 17, I provided a [public memo to the Charter Change Committee](#) of the City Council on November 25 2020 which offers additional clarity.

p.26 – F2.3.2 and R.2.3.1 – The document “[20200916 Discipline Review for Charter Change Committee](#),” which is listed in Appendix A, describes this distinction. We make the determination based on the potential seriousness of the complaint and whether, in early stages, there is or there is not a clear violation of law or BPD rules or a preponderance of the evidence that such a violation has occurred. The determination is made in conjunction with DD40, the BPOA CBA, and state law. The public document sent on Friday 9/17, “[20201125 Memo to Charter Change Committee re Complaint Spreadsheet](#),” provides additional clarity.

Insofar as clarifying that BPD accepts complaints from any source, [the City website for complaints](#) states that complaints can be made online, in person, or via phone. It also states that the written form is also available at: the Peace and Justice Center; the Community Justice Center; Migrant Justice; AALV; the Miller Center; Burlington High School; CEDO; the City Attorney's office; the Mayor's Office; Parks & Rec; and the Burlington Electric Dept. These parties will forward the complaint to the Chief of Police and the Police Commission. Every citizen complaint automatically goes to the Chair and Vice Chair of the Police Commission as well as to the Chief of Police.

p.26 – R2.4.1 – See above for the list of locations where citizens can get and submit complaints, and note they are also prominently available on the City website. Adding these to the directive if/when it is revised as per R1.3.1 is a good recommendation.

p.26 – F2.5 – The Police Commission and City recently approved a new BWC policy. It was sent to CNA on 9/17.

p.28 – R2.8.1 – Respectfully, this recommendation does not seem to make sense. Rule violations are defined in the negative, and DD01 notes that rules apply to situations in which no deviation is permitted. Citing the rules the officer followed would mean routinely listing all the rules—because officers are supposed to follow them. It’s the equivalent of suggesting that a speeding ticket list not only 23 VSA 1097, but all the Title 23 statutes the driver *wasn’t* violating.

p.29 – F2.11 – Under [Vermont’s Act 56](#), we send all BIA cases involving a termination or resignation to the state. Although we may not offer a final dispensation without an interview of the officer, we provide the substance of the case up to that point, including an articulation about the evidence around the charges. Vermont law-enforcement agencies consult the Act 56 file on in-state lateral hires.

p.30 – Police Oversight introduction, *“The authority of the Police Commission is not clearly outlined supporting the reach of their responsibilities.”* – The [Police Commission’s](#) authority is very clearly outlined, by the [Burlington City Charter](#) and in [a public document](#).

Furthermore, we dispute the assertion that we do not adequately require public engagement on directives. **The BPD includes public input on all directives: the Police Commission must approve every directive, and that approval occurs in public meetings after opportunities for public comment.** Before getting to that point, stakeholders review and shape directives—primarily the police officers who will be the end users, but also, when applicable and appropriate, interest groups and system partners. The final approval goes to the Police Commission as the public’s representative, and they debate it in open session (barring matters of tactics, etc., that would require executive session).

p.30 – Findings and Recommendations – To reiterate, we are concerned by the inclusion of [“CPAT.”](#) The citizen-led [Burlington Police Commission’s webpage](#) is on the City of Burlington site. The document describing [the role of the Police Commission in complaints against officers](#) is linked right at the top of the Police Commission page (and was also sent to CNA via email on 9/17), and all materials shared with the Commission are publicly available on [Boarddocs](#). Every Police Commission meeting is available on YouTube.

p.36 – *Disproportionality index* – The math on this index was striking. [The BPD has been transparent and forthright about disparities](#) encountered in arrests/citations and uses of force, all of which can be found on our [Open Data Dashboard](#), the City’s [Open Data Portal](#), and a variety of [BPD reports](#). Burlington included examinations of both arrests/citations and uses of force in the [2020 Annual Report](#). As the CNA draft report notes, Black community members are involved in use-of-force incidents 1.29 times more frequently than their involvements in arrests. Our challenge is trying to determine why. Since the year began, and since the Police

Commission has been able to review [every use of force](#), we have not found evidence of the biases that these disparities seem to imply. We must also explore factors other than police reactions to behavior.

p.38 – R4.2.1 – As is described in p.v #5, above, we investigate uses of force thoroughly. Furthermore, [we report all uses of force publicly](#), and I’m not sure any other police department does so to the same extent. Going forward, it is our intention to provide BWC footage of each incident as well (we cannot do this until we have hired a redaction specialist).

p.39 – F4.4 – To the extent that the CNA team could not complete particular reviews because the BPD did not properly share information, we apologize. But the statement that we lack a clear review process is inaccurate. Again, I refer to p.v #5 above.

p.40 – Officer-involved shootings – We don’t conduct these investigations; the Vermont State Police do. In general, we cannot proceed with an internal investigation until after the VSP investigation and criminal trial, if any, concludes.

p.42 – R4.9.2 – The new [Vermont State use-of-force policy](#) will obviate this recommendation.

p.47 – Traffic stops introduction: *“Black drivers make up 9 percent...”* – The best practice is to use crash data to determine driving population demographics, not census data. According to crash data, our stops are proportional to the number of black drivers.

p.48 – Traffic stops introduction: *“...the ticketing rate for Black drivers is statistically significantly higher...”* – This assertion does not factor for suspended licenses. Our annual Traffic Reports have clearly explained this phenomenon. Black drivers are substantially more likely to have suspended licenses, which takes discretion about whether to offer a warning or issue a ticket out of the police officer’s hands. In 2019, 12.2% of Black drivers stopped had no license, versus 3.4% of white drivers. In 2020, 8.5% of Black drivers stopped had no license, versus 3.2% of white drivers. YTD in 2021, 5% of Black drivers stopped had no license, versus 2.6% of white drivers. See the [2020 Annual Report](#), the [2019 Traffic Enforcement Report](#), and versions from [2018](#) and [2017](#), as well.

p.50 – Traffic stops introduction: *“...considering the race of searched drivers...”* – In 2019, there were zero Black drivers searched. In 2020, there was one. In YTD 2021, there have been zero Black drivers searched. When discussing numbers this low, using rate is inappropriate. See page 17 of the [2020 Annual Report](#). Additionally, in YTD 2021, there have been fewer than 600 total stops. Of white drivers stopped, 23% have been ticketed; of Black drivers stopped, 17% have been ticketed. **The BPD does not have a disparity issue with traffic.** We did have one, a

noticeable one in some categories, and it has been eliminated. Discussing the past five years as a bloc unfairly and misleadingly ignores this progress.

p.51 – R5.1.1 – Valcour captures all the data described here, and state law requires most of those fields.

p.55 – Table 7 – It is interesting to note the very small proportion of mental health calls, which are < 3% of incidents.

p.58 – Staffing and Workload Analysis – I was gratified to see *“BPD is presently understaffed for its volume of calls for service.”*

p.59 et seq. – The Rule of 60 – We have deep concerns about the fact that time for paperwork has not been factored in. It’s true that this time is not captured by Valcour. At the end of this document, and attached as a supplement, we note that a previous assessment (Rutherford Ruotolo Consulting) included a formula that incorporated paperwork into a workload calculation for the purposes of a staffing estimate.

From Deputy Chief Sullivan:

The Rule of 60 is an interesting and valuable way to measure staffing, but CNA measured “workload” using “total service time” as measured by the Valcour CAD system. This is not an accurate measurement of “workload” as the majority of time an officer spends on an incident is for paperwork not time on scene. Unfortunately, the total time spent working on an incident is not captured by Valcour and BPD cannot provide this metric to CNA. Therefore, the analysis of when the saturation index is exceeded is not accurate, as it presumes the rest of the officer’s time is available to engage in proactive or discretionary policing when this is not the case. Because of Valcour’s limitations, the draft report could not provide an accurate representation of officer workload. This skews the analysis with regard to what is an adequate staffing number.

One example of this is an officer who responds to a domestic assault. This requires more than one officer to respond and may require at least a half an hour on scene: deescalating the situation, conducting field interviews, and, if probable cause exists, making an arrest. If an arrest is made, the arresting officer returns to headquarters with the arrestee. Depending on the nature of the domestic, another officer may be occupied with the victim, photographing injuries, creating a safety plan, performing a lethality screening, contacting a court clerk for an emergency restraining order, and/or connecting the victim with services such as Hope Works. This process may take a few hours. The arresting officer is responsible for completing his or her affidavit and entering all biographical data into Valcour as well as entering all [NIBRS data](#). Affidavits in Vermont are not simple

recitation of the elements of the crime, but very detailed documents as required by the judiciary. The arresting officer has to upload all witness and victim statements into Valcour, as well as photos and any other electronic evidence. Physical evidence must be tagged. The arresting officer has to call the State's Attorney's office and brief them on the case. If the State's Attorney's office approves, the officer must then call a judge, describe to the judge what happened and receive lodging or release instructions. The arresting officer has to fingerprint and photograph the arrestee and if the arrestee is ordered lodged by the judge, the officer must then transport the arrestee to corrections. If the arrestee is male, he must be taken to Northwest State Correctional Facility in Swanton, meaning a round trip of approximately an hour and a half. Upon return, the arresting officer must tag his or her Axon videos and create the case packet for submission to records and the court.

All of the above may take several hours to complete. An officer may spend 500% more time on paperwork than on the scene of the incident. Because of all of the above and because CNA gauged workload by the metrics of the difference of time on scene (10-23) to time cleared (10-8) this may give an extremely inaccurate account of officer workload. There are some cases where this metric is accurate, but in almost all cases where there is no arrest, officers complete paperwork *after* they have cleared the scene. This is especially true of cases that involve after-the-fact investigation by Patrol rather than DSB. An officer may have to return to a location or victim multiple times, none of which is captured by Valcour, even if the officer tells dispatch he or she is once again on the original "card," or incident number. Additionally, the majority of arrests are made on citation or invitation to appear in court, meaning a minimum of intrusion for the alleged offender—the officer gives simple paper to the offender, who is then free to go, but the officer now has much more plentiful paperwork that must be completed afterwards. Officers do not put that time into Valcour; they "go 10-8," meaning they tell dispatch they're once again available for calls. We don't want them unavailable for paperwork reasons, because we would constantly get to a point at which no officers would be available. But because Valcour can't track it, an accurate workload is not captured. Rather than showing inefficiencies or leading to a conclusion that "there were ample resources available on patrol" (p.64), we're being hoist on the petard of our own efficiency and the steps we took to make do with more adequate resources (prior to defunding by attrition).

p.61 – bottom of the page: *"In total, there were 96,265 CFS provided for analysis."* – What is the timeframe for this? Is it calls multiplied by the number of responding officers?

p.68 – In the penultimate sentence of the second graf beneath "Schedule and staffing" it states that "The Teams overlap on Mondays," but this is only true of the Day Shifts. The Evening Shifts

overlap on Friday to maximize presence on the busiest night for bar closing and for college parties, while the Midnight Shifts overlap on Thursday (into Friday morning).

p.69 – F7.1 – The schedule may be inefficient, but there are significant benefits, particularly with regard to providing training time. The extensive amount of [training required by State law](#) and desired by our agency’s internal expectations and those of our constituents—as well as the significant amount recommended throughout CNA’s draft report—has to be accomplished at some point. A schedule with no overlaps significantly inhibits this. (The draft report partially acknowledges this in the third graf on p.72, but I feel it would be appropriate here, as well.) Furthermore, in July the BPOA sent CNA the results of its internal survey, which noted that, of five factors keeping officers at the BPD—the schedule, the officer’s current position, salaries/wages, friends, and the profession—the [schedule was the highest-ranked factor](#). In considering a radically different schedule, that survey deserves mention.

p.71 – Table 11 – It is a function of how Valcour data isn’t always sufficient for the CFS analysis that this table cannot properly account for bar closing. This 0200 hours phenomenon does not occasion calls for service, per se, but does require robust officer presence. Even over the past four months, the inability to place as many pairs of boots on the ground as we have previously has had an impact on perceptions of disorder as well as the incidence of violent crime. (This includes two gunfire incidents.) Prior to defunding, six to eight officers would routinely be on the ground at Church & Main for weekend bar closing; now it’s two, and often none.

p.73 – Table 13 – Edit as discussed on 9/17.

p.78 – Chittenden Unit for Special Investigations – This section understates CUSI’s workload and efficacy. In 2019, CUSI investigated approximately 350 incidents. CUSI tracks these incidents in a different system than Valcour because CUSI is a task force of different agencies. CUSI tracks incidents per fiscal year rather than by calendar year and in FY19 CUSI investigated 349 incidents (245 child, 104 adult). This was consistent with FY18 during which CUSI investigated 337 incidents (222 child, 115 adult). In 2019 CUSI had 164 cases that were prosecuted. The unit averages approximately 100 investigations that are declined prosecution by the State’s Attorney, although this stems more from the circumstances of the incidents and the delicacies of these horrible crimes than from an inability to investigate thoroughly. (CUSI investigates many incidents and closes cases appropriately where there is no violation of law.) Typical resolutions for CUSI cases are arrest with prosecution, declined by the State’s Attorney, or the victim withdraws from the incident. The BPD created CUSI, and the BPD has provided the CUSI supervisor since that creation approximately two decades ago.

p.79 – R.7.8.1 – This should acknowledge that the number of personnel BPD contributes to CUSI is determined by the percentage of CUSI’s caseload that comes from Burlington, and if we fail to make that contribution the City must pay a monetary penalty equivalent to the staffing.

p.80 – R7.10.1 – We have already eliminated the Community Affairs Officer position.

p.81 – Airport: *“This appears to be overreach by the department and an attempt to obtain work that is the responsibility of other entities...”* – This is inaccurate. Federal law dictates our personnel allotment: [49 CFR 1542.215](#) and [49 CFR 1542.217](#) mandate that each airport operator is supported by “law enforcement personnel in the number and manner adequate to support its security program.” Furthermore, 49 CFR 1542.217 defines law enforcement as being “armed with a firearm and authorized to use it” and have the ability to make felony arrests. Section (c) (1) states “meet the training standard for law enforcement officers prescribed by either the State or local jurisdiction in which the airport is located for law enforcement officers performing comparable functions.”

Burlington *could* contract with another law-enforcement agency like the Chittenden County Sheriff’s Department to provide law enforcement services, so long as the Sheriff can supply Level III certified officers. But although the airport is outside of Burlington’s boundaries, it is a City property and the City’s control of it is a core assumption. Furthermore, it is BPD’s belief that a mix of sheriff’s deputies and BPD officers would create chain-of-command confusion and accountability issues. Finally, the BPD has an MOU with the TSA and the airport that states BPD will provide an officer for each screening checkpoint while open. The airport has two screening checkpoints, therefore two officers are required on any given shift except when the gates are closed. This MOU further references the requirements of SD 1542-06-01G that requires one officer per checkpoint unless there are more than six lanes open in which case more officers per checkpoint may be required. The airport is also unusual in that it has both civilian and military sides. The military depends on BPD to maintain the civilian side as [a secure airfield](#).

p.81 – Airport: *“...contractually mandated minimum of four officers.”* – It’s true that the CBA says that a minimum of four officers must be assigned to the airport, but this is a distinction similar to what the CNA draft report has proposed (I believe) for the DSB assignment: it’s a contractual minimum that does not meet the workload minimum.

p.81 – R7.11.1 – Regarding the financial relationship with the airport, the airport will pay the City more than \$1 million in FY22, effectively covering all of BPD’s costs for stationing the federally required number of officers.

p.81 – Community Service Officer (CSO) – I am gratified that the draft report supports our [Public Safety Continuity Plan](#) and commends us for the recommendations about CSOs.

p.82 – final graf – I am gratified that the draft report supports our [Priority Response Plan](#) and commends us for the approach. We also note the draft report’s support for unilaterally eliminating response to all Priority 3 calls for service. It is almost inevitable that we will have to do this in the coming months as headcount continues to fall.

p.85 – Traffic enforcement: *“Routine, or random, motor vehicle stops should be discontinued.”* – We have already done so, as the 80+% decrease in traffic stops since 2016 demonstrates. This has been purposeful and has essentially eliminated racial disparities in stops.

p.86 – Suspicious event – Having worked in New York during the height of the “stop, question, and frisk” era, and having been part of the executive staff under Bill Bratton that drove down such encounters by 96%, with no attendant diminishment of public safety, I am particularly attuned to the dangers of SQF. But this Burlington “call type,” or incident category, of “suspicious event” has nothing to do with stops. It is assigned by dispatchers as a catch-all for calls that do not fit into the other 129 categories available in Valcour. Despite the word *suspicious*, these calls generally have nothing to do with reasonable suspicion and Terry stops. Within the past 12 months, we implemented an Incident Code for “Field Detention” in order to track potential instances of reasonable-suspicion stops. Since January 1 of 2021, there have been six incidents. Those are fully documented in Valcour with the data points the draft report lists at the bottom of page 86.

p.90 – Co-responder model – This co-responder model is a key component of the [Public Safety Continuity Plan](#) we created and presented to the City Council.

p.95 – R8.3.1 – Our training, from Patrol Procedures to ICAT to our Emergency Response Unit, is suffused throughout with scenario-based training, and has been for many years.

p.95 – CIT Training – As I stated during our 9/17 meeting, I have been eagerly seeking to implement CIT training for more than two years but cannot find a vendor.

p.97 – R8.4.3 – Regarding BPD Field Training Officers, we agree with the earlier recommendation that they deserve better compensation (see R1.39.1). All FTOs are required to go through a FTO course per the Vermont Criminal Justice Counsel (VCJC) and are certified in the [San Jose model](#). The VCJC requires them to recertify every two years. The VCJC will not issue a Level III certification to an officer who has completed the academy if the officer’s FTO is not certified.

p.97 – R.8.4.4 – There is no such rank as commander in the BPD.

p.99 – Item #3 – The BPD does not have districts.

p.100 – 40-hour CIT Training – Accomplishing this level of training at current coverage levels is difficult. Doing so without double days (e.g., if the Pitman schedule were to be adopted) is nearly impossible. Cost is not the issue; available staffing is.

p.101 – R8.8.1 – As noted regarding p.16 F1.34, audits are clearly prohibited in DD14.1.

p.103 – R8.9.1 – The recurring references to jail mark this as best practice language that is non-specific to Burlington. We do not interact with the Department of Corrections in this way.

p.109 – “*Creamy with a Cop*” – In Vermont it’s spelled “creemee” and it may be silly but getting it right is honestly a big deal to Vermonters.

p.109 – R9.1.2 – Community policing has been embedded in the BPD for more than two decades. The agency won awards for its innovations. The current schedule of four ten-hour shifts was explicitly designed with community policing in mind, as was a robust system of geographic areas, with consistently assigned officers and dedicated supervisors accountable for conditions and innovations for addressing those conditions. With our current staffing we have had to abandon area assignments and can only cover north and south. I believe the Pitman schedule recommended in Section 7 significantly conflicts with community policing, particularly when officers are removed from quality-of-life response. (In the coming months, if headcount drops into the 50s, we will likely have no choice but to drastically reduce quality-of-life regardless, but it will be to community policing’s detriment.)

p.146 – Conclusion of the draft report –

- We agree with the need to revise many directives.
- We believe that the BPD currently has a robust training curriculum, suffused with scenario-based training, and we regret that we did not adequately share it with CNA.
- We believe that, over the past four years, the data regarding traffic stops and the reduction of disparities is clear. As the draft report states, disparities are not automatically bias, but we need to be aware of potential bias in behavior or practice.
- The need to be aware of possible bias is particularly keen with regard to arrests and citations and uses of force, where clear disparities exist. One tool for that awareness is our [transparency around uses of force](#). Our Police Commission and everyday citizens are able to see those incidents, as well as [many other data tools for transparency](#), and join us in an attempt to discern whether patterns of behavior exist.
- We appreciate the guidance on continuing to formalize citizen complaint data.
- With regard to the Citizen Review Board recommendation, we look forward to a review of our local [Police Commission](#) rather than the [North Carolina CPAT](#).

- With regard to staffing recommendations and proposed shift changes, the contract negotiations set to begin at the end of the calendar year will inevitably center on new schedule structures—CNA’s final report will be a valuable contribution.
- We are working diligently to develop new capacities around responding to persons in crisis.

In sum, I would like to offer the BPD’s sincere appreciation for the voluminous work that went into CNA’s robust draft report, “A Functional and Operational Assessment of the Burlington Police Department,” and its 151 recommendations.

Respectfully and sincerely,



Jon Murad
Acting Chief of Police

Cc: Mayor Miro Weinberger

APPENDIX: Burlington Police Staffing Calculation, provided by Deputy Chief Sullivan

In 1990, Rutherford Ruotolo Consulting Consortium, Inc. performed an evaluation for the City of Burlington regarding the Burlington Police Department and the appropriate level of staffing. The study used a mathematical formula to calculate proper staffing.

The formula used is as follows:

- 1) Calls for Service, plus
- 2) Add percent for calls requiring multiple officer response (e.g. what percentage of calls require more than one officer?) multiply this number by
- 3) Average time spent on a call (in hours) (add time for completing paperwork per call)
- 4) Hours per year in calls for service is multiplied by 3 to buffer for preventative patrol (visibility, service needs, etc.) This is the total hours required per year.
- 5) Total hours are then divided by 3,650 (This is the total number of hours required to staff one post on one 10-hour shift for one year = $10 \times 365 = 3,650$)

Quotient equals the minimum number of patrol posts needed for a particular shift.

In 1990 the percentage of calls answered by shift was:

Dayshift	34.81%
Evening Shift	40.12%
Midnight shift	25.07%

For the sake of simplicity, I used the same percentage of call volume per shift in 2020, as it is most likely very similar.

One important aspect of this exercise is to recognize that call volume is very fluid and is currently under reported for several reasons. Some of these reasons include the airport officers do not start incidents for many of the tasks they complete. One example of this is gate alarms. Another example is that dispatch will sometimes stack a particular card with multiple incidents downtown. An example of this is fireworks complaints.

2020 will be an anomalous year with very low call volume due to the COVID health pandemic. Thus, 2020 call volume numbers will not be a good measure of call volume. Call volume has been trending downward over the last few years and there are several factors that play into this. Some of the factors are that the Burlington police Department has been very proactive in addressing certain issues in the city. One example of this is quality of life issues in the Hill section where call volume has been reduced by almost 50% from 2012 until now. This was achieved through a partnership with UVM where UVM funded additional officers for targeted enforcement in the Hill Section. What we found was there was an inverse relationship between

officer-initiated calls and citizen-initiated calls. As more officers patrolled the neighborhood officer-initiated calls increased and as these calls increased, citizen-initiated calls decreased because officers were addressing issues proactively. Also noteworthy is the fact that UVM provided enough funding to double regular patrol numbers for the whole city, yet these additional officers focused almost exclusively on the Hill Section with measurable positive results.

The 1990 study found call volume at that time was approximately 40,000 calls for service per year. Contemporary call volume is as follows:

2013	34,278
2014	36,275
2015	37,324
2016	37,131
2017	32,671
2018	29,684
2019	28,476

The average call volume over the last seven years, 2013 to 2019, is 33,691 calls for service.

Another reason for the drastic drop in call volume is that officers self-initiated traffic enforcement has drastically declined. This was in part a result of then-Chief del Pozo directing officers to engage in more education than enforcement. The result of this direction is demonstrated by the number of traffic stops BPD engaged in with a high of 6,141 stops in 2015 falling to 2,019 stops in 2019. Lack of proactive traffic enforcement has resulted in a decrease in call volume of more than 4,000 calls per year.

For the sake of calculation I will use the average call volume of 33,691 calls for service. This is a conservative estimate due to under reported numbers.

Calls per shift:

Days	11,728
Eves	13,517
Mids	8,446

The percentage of calls that require more than one officer response is approximately 50%.

Days	11,728 plus 5,864 (50%) = 17,592
Eves	13,517 plus 6,758.5 (50%) = 20,276
Mids	8,446 plus 4,223 (50%) = 12,669

Each call takes an approximate average of one hour per call. This equals 1 for 1. (In 1990 they used .75 hours per call, but the job and paperwork requirements have increased.) Then apply the buffer multiplier of three. This is the same multiplier used in the 1990 study.

Days 17,592 x 3 = 52,776 hours required

Eves 20,276 x 3 = 60,828 hours required

Mids 12,669 x 3 = 38,007 hours required

Then divide the hours required by 3,650 to establish the number of posts required. Keep in mind that posts does not necessarily equal a ratio of 1 post to 1 officer. A post may require more than one officer. Posts required:

Days 52,776 divide by 3,650 = 14.459 posts = 15

Eves 60,828 divide by 3,650 = 16.665 posts = 17

Mids 38,007 divide by 3,650 = 10.413 posts = 10

Posts do not directly equate to one officer (please see page 29 and 30 of the 1990 study for explanation). An availability factor is used to determine 2.09 officers are required per post. This was calculated from 3,650 officer hours per year per post divided by 1,740 hours available equals 2.09.

Factors	Average days off	Average Officer Hours
Days Off	156 x 10	1,560
Holidays	11 x 10	110
Floating Holidays	2 x 10	20
Vacation	10 x 10	100
Sick Time	10 x 10	100
Personal Leave	2 x 10	20
Totals	<u>191 x 10</u>	<u>1,910</u>

The average hours off is then subtracted from the officer hours per year (per post).

3,650 minus 1,910 equals 1,740 hours available per officer on average.

The 3,650 hours per year is then divided by the hours available to determine the availability factor.

3,650 divided by 1,740 equals 2.09

Thus it will take 2.09 officers to cover each post.

These are officer posts, not including supervisory requirements.

	0730-1730	1645-0245	2230-0830	Raw Score	Total
Post #1	2.09	2.09	2.09	6.27	6
Post #2	2.09	2.09	2.09	6.27	6
Post #3	2.09	2.09	2.09	6.27	6
Post #4	2.09	2.09	2.09	6.27	6
Post #5	2.09	2.09	2.09	6.27	6
Post #6	2.09	2.09	2.09	6.27	6
Post #7	2.09	2.09	2.09	6.27	6
Post #8	2.09	2.09	2.09	6.27	6
Post #9	2.09	2.09	2.09	6.27	6
Post #10	2.09	2.09	2.09	6.27	6
Post #11	2.09	2.09		4.18	4
Post #12	2.09	2.09		4.18	4
Post #13	2.09	2.09		4.18	4
Post #14	2.09	2.09		4.18	4
Post #15	2.09	2.09		4.18	4
Post #16		2.09			2
Post #17		2.09			2
				Total	84

This calculation determines 84 non-supervisory officers should be assigned to the Uniform Services Bureau to handle calls.

If 84 non-supervisory officers were assigned to USB, the shifts would have 15 assigned to each day shift, 17 to each evening shift, and ten assigned to each midnight shift. Compare this to the current 2021 fall tour: 30 total non-supervisory officers are assigned to USB. Seven are assigned to one dayshift and six are assigned to the other day shift, six are assigned to each evening shift, and two are assigned to one midnight shift and three to the other midnight shift.

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