

# ANNUAL REPORT OF THE BOARD OF POLICE COMMISSIONERS TO THE BURLINGTON CITY COUNCIL

**JULY 2, 2019 - JUNE 23, 2020**

## Commission Members, Attendance Record and Number of Meetings

Per Burlington City Charter, 24 App. V.S.A. ch. 3, § 183, “The Board of Police Commissioners (“BPC”) shall consist of seven legal voters of said City, to be appointed by the City Council with Mayor presiding . . .” The attendance record and members of the board, including non voting youth commissioner, from 7/2/19 - 6/21/20 was as followed:

	Ward	Term
Michelle Asch, Chair*	4	6/30/20
Jabulani Gamache, Chair**	5	6/30/22
Randall Harp	3	6/30/21
Shireen Hart, Vice Chair	7	6/30/22
Mark Hughes	1	6/30/22
Nyree Miles	4	6/30/20
Yuol Herjok Yuol		6/30/22
Youth Commission Landon Nipper		
* Chair 7/2/19 - 6/2/20		
** Chair 6/2/20 - Present		

	Asch	Gamache	Harp	Hart	Hughes	Miles	Yuol	YC Nipper
7/2/19	x	x	x	x	x	x	x	x
7/30/19		x	x	x	x	x	x	x
8/27/19	x	x	x	x	x		x	x
9/24/19	x	x	x	x	x	x	x	x
10/22/19	x	x	x	x			x	

	Asch	Gamache	Harp	Hart	Hughes	Miles	Yuol	YC Nipper
12/10/19	x	x	x	x		x	x	
1/7/20*	x	x	x	x	x	x		x
1/14/20*	x	x	x	x	x			x
1/28/20	x	x	x	x	x	x		x
2/18/20	x	x	x	x	x			x
5/7/20*	x	x	x		x		x	x
6/2/20	x	x	x	x	x	x	x	x
6/9/20*	x	x	x	x	x	x	x	x
6/10/20*	x	x	x	x	x	x	x	x
6/16/20*	x	x	x	x	x	x	x	x
6/23/20	x	x	x	x	x	x	x	x
# in attenda nce	15	16	16	15	14	11	12	14
* special sessions								

## Mission and Vision of the Police Commission

A simple question without a simple answer. The commission’s mission statement is to ensure *“the Burlington Police Department (“BPD”) polices with the citizens of Burlington to achieve a safe, healthy, and self-reliant community (BPC Annual Report ’18/’19)”*. While I still believe in this statement, the events of the last few months have exposed to the public what has been known amongst us on the BPC; the limitations of the commissions power. The BPC right now is primarily an advisory and transparency board. Our powers thus being the ability to provide advice and bring to light information pertinent the community. In addition, the BPC reviews and approves of all department directives, and *“is the sole and final authority relating to the approval, revision, issuance, or purging of any departmental rule, regulation, or directive governing employees of the Burlington Police Department”* (DD01, p. 5). We also have limited authority with regard to BPD employee grievances, per the current Burlington Police Officers Association (“BPOA”) contract agreement with the City of Burlington. I believe the BPC could offer more in the way of oversight than what we already do. We are blessed on this commission with an array of diverse, passionate, intelligent, deeply caring

citizens of Burlington who are volunteering their time in hopes of making Burlington better for all of us. That then begs the question, what kind of powers / oversight model should we gain / evolve to? It is my belief, at the very least, that the City Council should look into the possibility of a city charter change that invests disciplinary powers to the BPC. Currently the city charter states that firing, demotions, and suspensions (with or without pay) of BPD officer is of the sole authority of the Chief of Police (24 App. V.S.A. ch. 3, § 190).

## **Directives, Policy, and Other Projects Addressed by the BPC**

BPC reviewed, amended, updated and approved a number of BPD directives and policies over the past year. The most significant one being our Use of Force policy:

- DD05.01 (UoF Guidelines)
- DD05.02 (Definitions, Factors in Choosing a UoF Option, UoF Options, Excited Delirium, and Duty of Care)
- DD05.02 Appendix 01 (Less Lethal Impact Munitions, LLIMs)
- DD05.02 Appendix 02 (Firearms)
- DD05.03 (Lethal Force)
- DD05.04 (Conducted Electrical Weapons, CEWs)

The report from the Special Committee on Reviewing Police Policies recommended the following updates to DD05 (the previous UoF directive before it was separated into its 6 parts):

- The updated UoF policy should clearly articulate and provide officers clear guidance on the BPD's general philosophy about use of force, including that de-escalation should always be prioritized whenever it is safe and feasible to do so, and that officers should always be expected to use the lowest level of force appropriate to achieve officers' legal objectives; (Now in DD05.01)
- The updated UoF policy should emphasize that all uses of force should be proportional; (Now in DD05.01)
- The updated UoF policy should articulate that officer behavior can escalate the level of force needed to respond to a situation, and should sanction such officer behavior when unnecessary or unreasonable; (Now in DD05.01)
- The updated UoF policy should articulate that officers have an affirmative duty to intervene if they witness the use of excessive force; (Now in DD05.01)

- The updated UoF policy should articulate that officers have an affirmative duty to care for persons in their custody (Now in DD05.01 and DD05.02)

[**How do I properly cite these bullets? I pulled them from the Special Committee report verbatim.**]

Other department directives that were updated and worked on included:

- DD2.01 (Shift Assignments, Areas, Supervision, Notifications, and Facility Inspections)
- DD2.02 (Grooming Standards, Uniforms, Equipment, Inspections, and Use of Tobacco Products)
- DD42.1 (City Access Cards and Facility Access)

### **On-Going Directives, Policy, and Projects by the BPC**

The BPC has reviewed and edited the *Role of the BPC in Reviewing Complaints Against Police Officers* and is ready to vote on it but are awaiting on the City Attorney's Office to follow up on some issues regarding confidentiality before adoption. The need to update the policy arose from the lack of clarity/guidance on multiple issues. The updated version provides this clarity, some highlights being:

- Protocol in reporting citizens complaints to the BPC
- Protocol in regards to complaints against the Chief of Police
- Explicitly stating that the Chief of Police is responsible for reporting any misconduct of BPD employees that falls under 20 VSA 2401 to the Vermont Criminal Justice Training Council

Our vote has been tabled until the City Attorney can review it.

We have been waiting on and have since received a social media policy from the city's Human Resources that encompasses all city employees. We will review it at our upcoming meeting to identify whether or not BPD needs an additional social media policy that further restricts their ability to use social media.

## **Challenges and Difficulties Encountered by the Commission**

Upon looking at the previous years' Board of Police Commissioners (BPC) report, the same main problem that troubled the BPC then still stands now. What is the exact purpose of the commission? Our titles as commissioners, combined with the public's misunderstanding of the limits of our power, creates confusion and apathy towards the BPC. The public seems to believe that we make police budgets and mete out discipline to officers when they violate department policy. None of that is true. We have no direct power over the police budget. We do not have the power to discipline officers when they violate department policy. We observe the process of discipline, make recommendations, ask for further information (when necessary), and voice concern when we feel our recommendations are being ignored. We are able to craft, shape, and amend BPD policy, so long as it is not in direct conflict with the BPOA contract with the city. We are also the appellate process when officers want to appeal their discipline, though this function of the Commission has yet to be utilized while any of us has been serving on the BPC. Arguably, our most important job is elevating the voices of those that have been wronged, mistreated, and ignored by the BPD.

It is my belief that the purpose of the BPC should be ensuring accountability, fostering trust, and helping the BPD move forward. Despite the limits of our powers, we have some capacity to achieve and maintain the first point. The second point is directly affected by the first point and will take some time to repair and foster. While the third point we absolutely can execute in our current set up.

Our proximity to the BPD allows us access that the general public does not have. We are able to observe the processes involved in the discipline of BPD employees and how it does and does not work. Again, I would advocate for the City Council to look into a charter change that would invest disciplinary powers to the BPC. This would significantly help in accountability, which in turn would aid in the trust in the department. Currently, trust in the department is at an all time low, due in no small part to the recent high profile use of force incidents coupled with the resignation of former Chief del Pozo. The hiring of the next Chief is and will be paramount in rebuilding trust between the BPD and the community. It is my hope that the BPC will have a seat at the table to spotlight and elevate community wants and needs in the next Chief. The BPC listens and tries to tackle issues that are brought to our attention in regards to policing in Burlington. While this is good and expected of us, we should not only be tackling issues that are brought to our attention. We should all be thinking about and trying to find ways that improve and move the BPD forward.

This next year is going to be a significant one for the city of Burlington. The current civil rights movement, the Covid pandemic, and the demoralizing state of world affairs weighs heavily on all of us. We cannot be scared of the tasks at hand and need to move forward to seize the opportunity at hand if we want to ensure the vision of a just community that we envision for our city.

[I think this ending is kind of weak, but I'm struggling with writing an ending, would happily rewrite]

Respectfully submitted,

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Michelle Asch, Former Chair

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Jabulani Gamache, Chair  
Author

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Randall Harp

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Shireen Hart, VC

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Mark Hughes

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Nyree Miles

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Yuol Herjok Yuol

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Youth Commissioner  
Landon Nipper