



The Honorable Miro Weinberger, Mayor  
The City of Burlington, VT  
City Hall  
149 Church Street  
Burlington, VT 05401

September 21, 2021

RE: Draft Report on Functional and Operational Assessment of the Burlington Police Department

Dear Mayor Weinberger:

We appreciate the detailed feedback provided in support of the completion of our operational and functional assessment of the Burlington Police Department (BPD). Our project team shares the same goal to ensure our final report is as accurate, comprehensive, and as actionable as possible. Below we provide responses to your request for clarity for all elements outlined in your letter dated September 17, 2021.

In this response we first highlight the items we agree to clarify by the contract end date (9/30/21). Notably, there are several requests we flag that will require additional review of documents not made available to us during the data collection phase or that require new and expanded analysis to be completed. We have provided a detailed estimated time and budget to complete the additional analyses, document review and interviews to accomplish these requests.

This response does not include review of the letter received from Chief Murad dated 9/21/21. We will review the Chief's clarifications and revise the estimated budget and timeline below to account for any new review of documents and analysis.

#### **Clarifications to complete by September 30, 2021**

- The Burlington Police Commission is only addressed in one finding (finding 3.6) while "CPAT" is mentioned in the report 17 times, including in at least 4 separate findings.
  - *CNA Response: We apologize for the oversight, will remove all references to CPAT, and revise any recommendations or findings based on this.*
- It is unclear in the language of the draft if CNA understands that I vetoed the proposed "Independent Community Control Board" earlier this year and that that veto was sustained by the Council.
  - *CNA Response: The project team did review the Independent Community Control Board. We will state this was vetoed by yourself and council sustained. We will also add this to our document review list in Appendix A.*
- Page 51 – There is a disconnect regarding one element of Burlington's traffic stop practices

that should be addressed:

- o The CNA report discusses a lack of data on duration of traffic stops in several places, including finding 5.1.1 that “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...” However, the City’s own [Annual BPD Data report](#) (last presented to the Police Commission in May 2021) analyzes the duration of traffic stops.
- o *CNA Response: Data concerning the duration of traffic stops was not included in the traffic stop data shared with the CNA project team during our analysis. If BPD can share the data with us we can remove the bullet point that states “stop start and end time” from finding 5.1.1.*
- Page iv – item 7 – “Considering the operational efficiencies recommended in this report, BPD requires between 76 and 83 sworn officers to provide sufficient police services to the City.” In our discussion, CNA made clear that 76 to 83 deployable officers are required to police Burlington, and that the number of deployable officers is always lower than the “authorized cap” for a variety of reasons, including but not limited to; the long period of time it usually takes to fill any officer vacancies, accommodating officers medical and military leave, and accommodating new recruits who are in training. You indicated in our meeting that this could be clarified in the report. To inform this discussion over the last year, BPD has done a historical analysis showing that the City’s number of officers is, on average, between 5 and 6 officers lower than the authorized cap suggesting that the cap would need to be set at approximately 82 to 89 officers to achieve the recommended range. It would be helpful if CNA could review this analysis and advise specifically on this topic.
  - o *CNA Response: Our project team will clarify our recommendation on this topic. We will include a statement that our analysis did not include a review of the authorized cap.*

Page 1, paragraph 3 - Your language makes it seem like the Mayor’s FY21 Budget reduced the officer head count to 74. It did not – the budget I submitted would have maintained officer target staffing between 85 and 90 pending the completion of the operational and functional assessment. The Council, as is their prerogative, made amendments to the CNA budget resolution to achieve the 74 officer cap – I would respectfully request that you remove reference to my name from this paragraph (or otherwise edit so that it is accurate).

- o *CNA Response: We will clarify this was the City Council’s amendment.*

- Pages 8-9 – Finding 1.6 and Finding 1.7 – I will take this to mean that Burlington officers have no “duty to intervene” which is contrary to the [reforms I initiated in 2020](#) following the murder of George Floyd. After reading closely, I believe you are making the point that our policy has this language, but our rules do not – I request that you review and clarify Finding 1.6.
  - o *CNA Response: We will clarify the language in the identified findings and associated recommendations.*
- Page 16 – Recommendation 1.36.1 - As discussed, it is difficult to understand why this recommendation suggests negotiating 3-5 detectives when on page 76 Recommendation 7.3.1 recommends an 8-officer detective team.
  - o *CNA Response: We will provide an explanation in the recommendations noted.*

- Page 81 – Your recommendation for the airport assumes that we can meet our lawful responsibilities with half the officers currently assigned there by lowering the staffing to the level in the airport contract. My understanding of this issue is that the minimum number of officers at the Airport is driven by federal regulations and the number of gates at the airport, not by the CBA contract. I would ask you to further review this issue and clarify your finding.
  - *CNA Response: We will review and make any necessary edits to reflect federal regulations and clarify the finding. In order to accomplish this and make the contract deadline, we request the City share with us by end of day 9/22/21 the BIA point of contact to more quickly collect the information needed to review this finding.*
  
- Your text indicates that you are not aware of the financial arrangement of the airport. I can advise you that BIA is budgeted to pay the City \$1,079,650 in FY'22 with the intent of effectively covering all of the costs, including indirect costs, that the City/BPD incurs as a result of the current staffing arrangement. I request that you update recommendation 7.11.1 on page 81 to reflect this knowledge.
  - *CNA Response: We will revise to state the Mayor's office reports BIA is budgeted to pay the City \$1,079,650 in FY'22.*

### **Requests requiring review of new documents, data, and information**

- Pages 26-27, Finding 2.5 – It is accurate that during 2018-2019, there was a period in which the release of body-worn-camera footage on some important incidents was delayed because of a lack of body-worn-camera footage release policy and guidance. Considerable effort, however, has been made by the City Attorney's office and the BPD to address this situation and my understanding is that in 2021, after months of review, the Police Commission approved a policy for the release of body-worn camera footage. It does not appear from Recommendation 2.5.2 that CNA has reviewed the new policy or how CNA assesses the quality of this new policy.
  - *CNA Response: It is CNA's understanding that the new policy is still in draft form and has not yet been enacted. Upon quick review of the draft policy, it indicates the commission will review it again in October 2021, which is after the end date of the CNA contract. However, the project team would be happy to conduct a thorough review and provide independent recommendations that can help inform the final policy but cannot complete that review in the time remaining on the current contract.*
  
- There is no assessment of the Executive Order that I issued on Police Oversight in the fall of 2020 which acts within the limitations of the City charter, and the operational assessment does not address the role the Mayor or City Council should have in Police Oversight going forward.
  - *CNA Response: You noted in your letter that "Our City has been actively working on and debating Police Oversight since at least 2015 but has found little consensus on the issue. All stakeholders are hoping that the CNA report will provide a much needed independent perspective on this issue that will help us achieve the consensus that has so far eluded us."*

*A thorough analysis of Police Oversight in Burlington was not identified as a priority in the original scope of work. Consequently, a "deep dive" on this topic was not completed. CNA has subject matter experts who can accomplish this and develop comprehensive recommendations, but we will need a contract extension and budget to perform this additional work.*

- Page 46 – CNA’s graph and text notes that the BPD has dramatically reduced – by policy – the number of traffic stops that it makes from 2015 to 2020. Part of this effort was also a major focus on reducing racial disparities in traffic stops which were identified in 2015 as a significant problem. However, figure 6 on page 49 lumps traffic outcome data from 2015-2020 altogether. As a result, it is not possible to see if the BPD’s efforts to reduce disparities made any progress in years 2017-2020 as overall stops were being reduced dramatically. There has been local debate about whether the data shows reduced disparities or not in recent years – it would be helpful to the community for CNA to weigh in on this important question.
  - *CNA response: Correct, we only conducted our analysis at the aggregate level and agree it would be beneficial to run analysis each year to identify trends. It would be a more robust approach to run discontinuity analysis on the data to achieve your request. Our subject matter expert estimates 40 hours total to complete the analysis, draft the narrative response and make any recommended changes based on the findings.*

### **Other Questions and Requests for Clarity**

- Pages 18-21 – The training section makes no mention of a number of significant training efforts that took place during the years 2016 to 2019 including:
  - the BPD was one of a handful of agencies that worked with PERF to develop and train officers on ICAT: Integrating Communications, Assessment, and Tactics, a program that gives first responding police officers the tools, skills, and options they need to successfully and safely defuse a range of critical incidents.
  - the BPD purchased an Emergency Response Vehicle equipped with non-lethal materials and has trained officers in the use of the vehicle and equipment
  - Anti-bias training – the BPD brought in, on multiple occasions, a well-respected national trainer and sent officers to the National Memorial for Peace and Justice to build racial sensitivity among officers.

It is unclear from the current draft of the report whether CNA’s review included these programs and what recommendations CNA has about the quality and continuation of these programs.

- *CNA response: The additional training information identified was not provided to us when we requested all training documents and supporting materials from BPD in the document and training request period, nor were the PowerPoint slide decks, lesson plans and other training information the Chief provided to us last Friday, 9/17/21 via email. CNA is happy to review these additional materials, draft findings, and then redraft the training section to include any revised findings and recommendations, but will require additional time and resources in order to do so.*

### **Cost Estimate**

Below is an estimated budget to perform the scope of services associated with new requests for review and analysis of documents and data, which assumes a period of performance of October 1, 2021 to November 30, 2021. This timeframe includes the approximate two-week period CNA requires to have the final report go through our independent editing process. Notably this estimate does not account for the clarifications requested in the letter to our project team from Chief Murad on 9/21/21.

CNA Center for Justice Research and Innovation  
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Sincerely,

9/21/2021

**X** Brittany C. Cunningham

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