



Chief Jon Murad
Burlington Police Department
Antonio B. Pomerleau Building
One North Avenue
Burlington, VT 05401

September 29, 2021

RE: Response to “Notes regarding a DRAFT Functional and Operational Assessment of the Burlington Police Department”

Dear Chief Murad:

We appreciate the detailed review of the draft report and feedback provided in support of the completion of our operational and functional assessment of the Burlington Police Department (BPD). Below we provide responses to your notes outlined in your letter dated September 21, 2021. In this response we highlight the items we will clarify in the final report to be delivered to the City by 9/30/21. There are several notes we flag that will require additional review of documents not made available to the CNA team during the data collection phase or that require new and expanded analysis beyond the current contract budget and timeline to adequately review and make recommendations. There are other notes indicating that the CNA team disagrees with your comments and stands by our findings and recommendations based on our collective years of expertise. These will not change in our final report.

Below, we have listed verbatim each of your comments (in bold) along with the CNA response (in italics.)

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.**

CNA Response: CNA maintains our recommendation that the policy review process needs to be revamped and formalized to include stakeholder and public feedback at all stages of the development process, not just during public comment at the end. The City Council and Police Commission, along with the BPD should reconsider the overall process of developing researching, and writing directives, while seeking public and key stakeholder input at multiple stages to maintain a reliable, transparent, comprehensive, and consistent process. CNA did not find any formal, consistent and reliable process for public review not only by key community stakeholders but also including a public posting that provides an opportunity for the public to review, make comments and provide feedback.

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

p.v Sullivan offers the following summary of the bias training officers have received since 2005.....”

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 provided on 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. In addition, the referral to alternative justice initiatives was not provided to us in the contract document and analysis period, nor referenced in any of the BPD interviews conducted. CNA would be happy to review additional policy and data on this matter, but will require additional time and funding.

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

CNA Response: Data on the reason for stop, stop start and end time, reason for each ticket and warning, passenger information, officer special assignment or task force assignment at the time of the stop, and an open comment field for officer explanations and brief description of the stop was not included in the traffic stop data shared with the CNA project team during our analysis. We made a similar request for this data to Mayor Weinberger in a letter dated 9/21/2021. We will add a statement in the report noting BDP has reported this information is captured in the Valcour system but was not provided to us during the data collection period.

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....

CNA Response: Use of Force narratives that were randomly selected and reviewed, along with randomly selected BIA files, and the use of force tracking form did not support this described process. Findings and recommendations on this matter cannot be altered without an extended contract and budget to do a "deeper dive" into the process identified in the letter dated 9/21/2021.

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, aman 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.

CNA Response- We will correct this information in the report.

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

CNA Response: CNA maintains our recommendation that the policy review process needs to be revamped and formalized to include stakeholder and public feedback. Please see response provided previously under “p.iv - #3” above. The City Council and Police Commission, along with the BPD should reconsider the overall process of writing directives, while seeking public and key stakeholder input at multiple stages to maintain a reliable, transparent, comprehensive, and consistent process.

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.

CNA Response: We will clarify this in our recommendation.

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

CNA response: We will add a statement that the New Vermont State use of force policy will usurp the Use of Force policies when it becomes effective October 1st, 2021.

P. 10 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.

CNA Response: Thank you for the information. After consultation with law enforcement experts our recommendation does not change.

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.

CNA response: This recommendation remains as is. It is the Chief’s responsibility to develop an Internal

Affairs implementation plan, determine the staffing needs for it, and phase it in over time.

p. 11 – 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](#).

CNA Response: We apologize for the oversight, will remove all references to CPAT, and revise any recommendations or findings based on this. The Mayor noted in his letter to CNA 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.

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.”

CNA Response: CNA will replace the wording throughout our final report with “community members”.

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.

CNA response: CNA will remove reference to Title IX.

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.

CNA Response: CNA will update the language in the findings to include the restrictions of the BPOA.

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?

CNA response: CNA will provide clarification.

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.

CNA Response: CNA's assessment was completed based on the documents and training materials we received from BPD during the document request phase of the project. We can add a clarifying statement that the recommendations are based on the data provided to us during the data collection period of the assessment. 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..

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.

CNA Response: We will review the DD40 and the “20210719 BPD BIAs – 2017-2021 YTD” spreadsheet and revise the introduction if appropriate.

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.

CNA Response: After consultation with law enforcement experts our recommendation does not change.

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

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.

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.

CNA Response: After consultation with law enforcement experts our recommendation does not change. The first sentence of our recommendation states “if a case does not cite a rules violation, the department likely believes that no violation exists”. This means that if the complaint is unfounded or exonerated, the department should document the proper procedure followed or the rules that the officer properly followed to demonstrate that they acted appropriately, and no violation existed. This is more to support the officers’ actions. This will promote transparency and trust if the department explains in its investigation all the things the officer did right.

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.

CNA Response: After consultation with law enforcement experts our finding and associated recommendations remains the same.

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](#).

CNA Response: The Mayor noted in his letter to CNA 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.

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).

CNA Response: CNA maintains our recommendation that the policy review process needs to be revamped and formalized to include stakeholder and public feedback. Please see response provided previously. The City Council and Police Commission, along with the BPD should reconsider the overall process of writing directives, while seeking public and key stakeholder input to maintain a reliable, transparent and consistent process.

p. 31 **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.

CNA Response: We apologize for the oversight, will remove all references to CPAT, and revise any recommendations or findings based on this. Please see response previously stated regarding police oversight.

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...

CNA Response: We will revise the text to refer to the dashboard.

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.

CNA Response: Please refer to our response on p.v. #5.

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.

CNA Response: After consultation with law enforcement experts, this recommendation remains.

Regardless of the Vermont State Police investigations, there should be no reason not to have IA complete an internal investigation, including if the officer leaves the department.

P. 41 R4.9.2 – The new [Vermont State use-of-force policy](#) will obviate this recommendation.

CNA Response: We can add the this note to the report.

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

CNA Response: If BPD has crash data readily available, this analysis can be run. However, this would require more time and funding beyond the current contract.

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.

CNA Response: We would be happy to run this analysis with stops involving suspended licenses omitted, with an additional contract and budget.

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.

CNA Response: The analysis as presented in the report is accurate, covering the 5-year period. CNA can adjust the analysis period however this would require additional resources and a contract extension. CNA will add the following notation to the final report: BPD reports breaking this data down by year, rather than as a 5-year block, would indicate no disparity issues with traffic. BPD reports that the 5-year block of data does not capture the significant progress that has been made during that time period. While this may be accurate, CNA was unable to confirm this statement it would require new analysis beyond the resources of the current contract.

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

CNA Response: Please see previous response.

p.58 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.

CNA Response: CNA understands the BPD may disagree with some of the analyses and recommendations provided in the staffing analysis section. We are confident in the methodology used, along with our findings and recommendations.

P61– 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?

CNA response: Page 61 states the time period which is 2019.

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).

CNA Response: We will update this in the report.

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.

CNA Response: CNA did not include reference to the BPOA survey in our report to ensure all findings and recommendations were based on objective data collection independent of BPD, BOPA, Police Commission, the Public Safety Committee and the City.

1– 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.

CNA Response: CNA understands the BPD may disagree with some of the analyses and recommendations provided in the staffing analysis section. We are confident in the methodology used, as well as in our findings and recommendations.

p.73 – Table 13

CNA Response: We will 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.

CNA Response: This data is informative, however does not change the analysis or the recommendations. CNA understands the BPD may disagree with some of the analyses and recommendations provided in the staffing analysis section. We are confident in the methodology used, as well as in our findings and recommendations.

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.

CNA Response: CNA understands the BPD may disagree with some of the analyses and recommendations provided in the staffing analysis section. We are confident in the methodology used, as well as in our findings and recommendations. CNA will however add the following NOTE: While CNA's recommendations do not change, BPD notes that the number of personnel BPD contributes to CUSI is determined by the percentage of CUSI's caseload that comes from Burlington and if BPD fails to make that contribution, the City must pay a monetary penalty equivalent to the staffing. CNA is unable to confirm this, but if accurate, this may be worth discussion between the

parties.

p.80 – 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.

CNA Response: CNA had an extensive conversation with BIA and will be updating this section based on information received.

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.

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. This will be captured in the newly revised BIA section of the final report.

p.85 – 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.

CNA Response: We will revise to remove this from the report.

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.

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. 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.

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

CNA Response: We will make a general notation that throughout the report CNA will use the term “commander”. While BPD utilizes different terms to reflect their command structure, it is common police terminology, and BPD understands the rank at which commander refers to.

Item #3 – The BPD does not have districts.

CNA Response: We will make the change to “area”.

p.99 – R8.8.1 – As noted regarding p.16 F1.34, audits are clearly prohibited in DD14.1.

CNA Response: The recommendation is based on national best practice and we stand by the statement the policy should require it.

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.

CNA Response: The recommendation is based on national best practice. We have noted in this section that Burlington would need to make changes to this recommendation to adjust/reflect its current practices.

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.

CNA Response: We will make the correction.

Thank you for your detailed review and feedback on the draft report.

Sincerely

Julie Solomon

Julie Solomon

Brittany Cunningham

Brittany C. Cunningham

CC:

Tyeastia Green

James R. "Chip" Coldren

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