

# BURLINGTON POLICE DEPARTMENT



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July 3, 2020

Dear Alamance Agents for Change:

Thank you for your correspondence dated June 17, 2020 and June 21, 2020. We appreciate your willingness to engage in dialogue and found your revised information helpful. Responses related to the Burlington Police Department are listed below in blue:

**1. Sensitivity training for all members of law enforcement/police officers.**

*The current curriculum for the Basic Law Enforcement Training Academy (BLET) already includes substantial curriculum as you suggest. In addition, the annual required training for the recertification of police officers requires similar training. Per state requirements, the Standards and Training Commission creates a Juvenile Minority Sensitivity Training (JMST) two hour block every year.*

*Additionally, the BPD is committed to several on-going learning opportunities for our staff. We have continued to send staff to the local Racial Equity Institute (REI) classes and to date have graduated more than 25 students. We recently obtained a state grant that will allow us to send more staff in the coming two years and we will also fund this training for other participants in the judicial system to include Division of Juvenile Justice Court Counselors, local Judges, and school social workers.*

*The City is committed to supporting, encouraging, and promoting ongoing learning opportunities regarding race and implicit bias.*

*The BPD meets 100% of the applicable standards currently in place for the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).*

*As for funding, the department advocates for a robust training budget allocation annually that can allow this. It would be helpful if your group publicly embraced funding for cutting edge training, to include scenario-based training, rather than some of the new rhetoric popular today to "defund" the police.*

**2. Enact the Open Records Act ensuring misconduct information and disciplinary histories are reported, documented and not shielded from the public.**

*This is a legislative issue decided by North Carolina General Assembly. The department is supportive of a change to move in this direction to*

*alter the current legal protections on the privacy of police misconduct files. It will be important for us to find a proper balance for privacy of individuals and the public's right to know.*

**3. Removal of all members of law enforcement with any history of racial, sexual, and/or homophobic misconduct; demonstrated xenophobia, transphobia or other discriminations.**

*The department currently employs no such persons.*

*The department conducts extensive background investigations, in full compliance with the regulations set forth by the NC Standards and Training Commission. The requirements include a background investigation, polygraph examination and psychological examination (written testing and seated interview). Refer to question #4 for information about due process required for investigations and dismissal for cause.*

*Additionally, the department recognized in 2018 the need to create a policy to govern contacts with and searches of persons identifying as transgendered. The draft policy was vetted with area community members, Elon University staff, and the ACLU and synced up with national best practices to established guidelines for the appropriate, safe, and dignified interactions with transgender individuals by members of the Burlington Police Department. We were the first known agency in the state of NC to establish such a policy and have shared it with many others as a best practice.*

**4. Immediate removal for membership in hate groups (e.g., ACTBAC, Ku Klux Klan/KKK), Proud Boys, etc.) or use of language that incites racial or gender violence.**

*The BPD operates under a system of due process for all employees. We accept a wide array of complaints from members of the public to include third party complaints and anonymous complaints. Any complaints related to conduct indicated in this statement would be thoroughly investigated and discipline up to and including termination would result should the complaint be sustained in the investigation.*

**5. Ban the use of hog ties, knee holds, and choke/carotid holds as an acceptable practice for police officers, with disciplinary action and reporting if policy violated.**

*The BPD has already acted to ban chokeholds. The department has never instructed or allowed hog tying. We are unsure what a "knee hold" might be. The department follows all industry best practices for use of force, declare the sanctity of all life as paramount to our operations, and requires that all use of force actions be proportional and*

*compliant with existing case law under Graham v. Connor. Lastly, the department properly reviews every single use of force, regardless of the existence of a complaint from the arrestee or the public.*

**6. Require officers stop, or attempt to stop, another officer when force is being inappropriately applied or is no longer required with disciplinary action and reporting if policy violated.**

*This is well established policy and culture within the BPD. It applies in a number of ethical situations including the commission of a crime, inappropriate uses of force, constitutional rights violation or an illegal search. The department provides additional training in the Field Training Program for new officers and on-going training for tenured officers.*

**7. Ban no-knock warrants with disciplinary action and reporting if policy violated.**

*The department will not create an outright ban on no knock warrants. There is a time and place for these tactics, and the department will preserve this right within the policies of the BPD. However, BPD has not used a no knock warrant in many years.*

*We will assume that you wish for us to have practices in place to ensure that search warrant services are undertaken at the correct residence in order to reduce the likelihood of a mistaken identity type shooting. The protocols in place to confirm the correct address prior to warrant service are far more important in the effort to reduce police shootings. Additionally, the overuse of SWAT teams to serve low level drug warrants are an additional risk to the public.*

*The BPD made an error in 2014 and served a search warrant at the wrong house. We have since changed our policy and practice on search warrants and have a much stricter practice for address confirmation. We have experienced no additional errors since that date. Also, BPD does not use the SWAT team to make what is called "dynamic entry" for drug warrants. The sanctity of life prevails in the equation the department uses to enforce drug laws.*

**8. The Use of Force Continuum for any police department in the county must ensure that there are at least 6 levels of steps, with clear rules on de-escalation to include: verbal warning before discharging a weapon, chemical or otherwise; banning shooting at moving vehicles.**

*The BPD's use of force policy meets or exceeds all industry best practices, to include compliance with CALEA requirements. The*

*department does require, when feasible, a verbal warning prior to using force, to include deadly force.*

**9. Mandatory reporting to the FBI database for all use-of-force events resulting in death.**

*In 2018, the FBI migrated away from Uniform Crime Reporting (UCR) to the National Incident Based Reporting System (NIBRS). BPD was the first agency in NC to properly report NIBRS data and became fully compliant with all current regulations. The added reporting requirements for use of force events resulting in death are very narrow. The BPD has not experienced any incidents in 2019 or 2020 that would require reporting. The department is committed to properly reporting incidents that meet their requirements.*

**10. Recertification credentials will be denied for law enforcement members if determined that their use of excessive and/or deadly force was unwarranted by local, state, or federal guidelines.**

*As previously stated, the BPD operates under a system of due process for all employees. Complaints of excessive force are documented and investigated. Additionally, all uses of force are subjected to several layers of review. Should the internal review reveal excessive force, the matter would be similarly investigated. All uses of force resulting in death are reviewed at the highest level, including the District Attorney. In any circumstances where the department observes confirmed excessive force, the sustained complaint would result in discipline up to and including termination based on the totality of the circumstances.*

*Upon termination of any employee for cause, the BPD properly reports the circumstances to the NC Standards and Training Commission. Their action can then result in the revocation of credentials or other actions that would lead to the person being unemployable in North Carolina as a police officer.*

**11. Court ordered body camera footage to be released within 72 hours of a police-involved death or injury and ensure footage is used for accountability.**

*For cases of serious injury or death, the BPD is willing to seek a court order for the release of video recordings that narrowly depict the event along with sufficient recordings to frame the event. We will continue to ask the court for permission to redact content for the privacy of other individuals included on the recording.*

*Depending on the complexity of the event and the number of legal entities recorded, the 72-hour request may not be possible. These scenarios also require the involvement of attorneys, Judges, other*



agencies and other parties in order to remain in compliance with state law. Each step takes time. The department is willing to proceed with due haste while remaining in compliance with all applicable state and federal laws.

**12. Mandatory drug test for officers anytime there is a weapon including chemical weapons discharged (i.e., taser, gun, tear gas, pepper spray).**

The City of Burlington Personnel Ordinance and approved policies address drug testing of all employees within the parameters set by state law. There is currently no provision that would allow us to compel a mandatory drug test (without specific and articulable facts that would indicate impairment) in the situations you have indicated. Through the City's overarching process, the City does have the ability to compel such a test in the case of accidents including car crashes.

We are also able to identify "safety sensitive" positions to include police officers and telecommunicators. These employees are subject to random drug testing during their terms of employment with the City.

**13. Independent investigations of every law enforcement member involved shooting and independent autopsy for police-involved death.**

The BPD follows state law that allows the NC State Bureau of Investigation (SBI) to be called upon as an independent body to investigate law enforcement shootings or other police involved death cases. The SBI can be invited into the investigation by the family of the deceased or the seated District Attorney. It has been the BPD's practice to invite the SBI to conduct the investigation prior to the request of either of these other two entities.

Should the state create a different qualified investigative body for police related death investigations, the BPD would evaluate that option. At this point in time, the City has no plans to advocate for the creation of such a duplicative body.

**14. Recruitment and implementation of the county's Citizen Review Board to hold police departments accountable and to build public trust. Review Board will include an annual review of departmental policies and recommendations for community town hall topics.**

In the supplemental questions, you pointed to several cities that have existing review boards. The City is not aware of a suitably constructed model for a county wide body that would perform similar functions. The

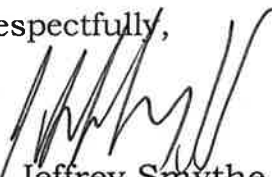
*City is willing to explore a county wide advisory board to provide input on police policy and training.*

*BPD actively seeks input, feedback, guidance, and advice from our community through our department strategic planning initiatives. These are robust and comprehensive community conversations that help shape the direction and practices of our agency. This input is meaningful and helps shape policy and protocols across the organization. There is an open-door policy on feedback and this approach can be seen in the two Community Police Academies hosted annually (English & Spanish) where the layers are peeled back to provide a clear and transparent look into the BPD.*

*Additionally, the City of Burlington's Charter is set up as the Council-Manager form of government. This structure provides for elected officials (Mayor and City Council Members) that set policy and direction for the City. The City Council selects and employs a City Manager that provides daily oversight and manages the day to day operations of the City (with delegation to various department heads, including the Police Chief). The City Manager provides supervision and oversight of the Police Chief. The City Council provides oversight and supervision of the City Manager. This results in two layers of oversight of the Police Department in the City's existing formal structure.*

Thank you again for your interest in the operation of the Burlington Police Department. We are hopeful that ongoing dialogue can be established with your group and the many other groups and individuals interested in making our community better. It is also the department's desire to create learning opportunities for all persons in our community, including persons of color who may have encounters with law enforcement. When individuals have a better understanding of the role of law enforcement in our community, we believe those encounters can have better and safer conclusions.

Respectfully,



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