

# REPORT TO MAYOR JON MITCHELL

## RECOMMENDATIONS TO REVISE USE OF FORCE POLICIES

Since July, the New Bedford Commission on NBPB Use Force Policies has pursued a narrowly defined charge to review and offer recommendations to the department's three Use of Force policies:

- *12-01 Use of Deadly Force*
- *12-02 Use of Less-Lethal Force*
- *12-03 Electronic Control Weapons*

Contained in this report are two documents as an outcome of that charge:

- **Policy Recommendations**
- **Related Recommendations, Observations, and Concerns**

### Summary of Recommendations

The Commission considers that the recommendations contained in this report represent a step forward in overall police reform in New Bedford. Several of the recommendations included may be considered nuances and minor adjustments to the policies, but there are a number of significant revisions, some of which include:

- Substantive guidance on de-escalation strategies;
- Duty of an officer to intervene when witnessing abuse and violation of use of force policies;
- Duty of an officer to report witnessed abuse and violation of use of force policies;
- Training and demonstrated proficiency on NBPB Use of Force policies;
- Training on implicit bias, cultural competency, mental illness, and developmental problems;
- Annual analysis and summary of use of force instances made available to the public.

The Commission attempted to honor the scope of its charge and confine its recommendations specifically to the content of the Use of Force Policies. However, it became clear that there are other matters directly impacted by the Use of Force policies. The Commission was compelled to address these considerations, since they do bear significant relevance to the Use of Force policies. Those recommendations, observations and concerns are included as a separate document in this report.

### The Process

Meeting in closed sessions on a weekly basis, the Commission thoroughly reviewed the policies with an eye toward eliminating or correcting provisions of the policies to limit possibilities for abusive use of force by police. During its deliberations the Commission worked to achieve consensus for all recommendations.

Overall, the existing policies were already closely aligned to those of the *8 Can't Wait* recommendations with the exceptions of "duty to intervene" and "de-escalation" language.

Keeping this in mind, the Commission embarked on extensive research of policies from many different departments. It recognized and adopted language to meet the need of strengthening the emphasis on “duty to intervene” and “de-escalation” components for all three policies.

When it came to language on “choke holds” the commission recommended we move beyond that language and include “strangle hold” and other neck control techniques to be clear and precise.

In developing the policy recommendations, the Commission focused on verbal communications skills and more reporting to ensure transparency.

Once the Commission had compiled its initial list of recommendations, it scheduled its first public hearing.

The Commission held its first public hearing via Zoom on August 19 with 102 in attendance. The purpose of the hearing was to solicit input and insights from the public and any recommendations they had for the revision of the policies. This first hearing proved to be relatively non-productive for a variety of reasons, not the least of which was attributable to the lack of adequate preparation. In retrospect, the Commission recognized that the hearing may have been more productive had the Commission shared its initial draft of recommendations prior to the hearing. In preparation for the hearing, the Commission had only provided a link to the three policies online for the public’s review but had not presented its initial draft of recommendations for public review.

Adding to the problem was the public’s preference for debate on the current social climate vs. providing feedback to the policies. Some of the public’s concerns were the composition of the Commission and the opaqueness of Commission’s process of deliberation. Underlying those criticisms was the reiteration of dissatisfaction with the City’s response to the death of Malcolm Gracia. No recommendations specific to the policies were offered during the two-hour meeting.

A second hearing took place December 3 via Zoom with 63 attending. For this second hearing the Commission posted its draft recommendations to the policies, as well a clear description of the purpose and limitations of the hearing. However, some attendees maintained there was a lack of transparency to the work of the Commission and they were not being afforded an opportunity for input, despite the fact that this was precisely the purpose of the hearing...to provide an opportunity for community input.

Subsequent to the second public hearing, the Commission reconvened and discussed the feedback provided at the hearings and finalized its report and recommendations to be submitted to Mayor Jon Mitchell. The recommendations contained herein represent the consensus of the Commissioners.

### **Closing Remarks**

The recommendations put forth by the Commission reflect reasonable attempts to provide further guidance to police officers in the conduct of their duties and an effort to enhance transparency and accountability in policing. The recommendations are also now entirely consistent with the “8 Can’t Wait” agenda, a campaign designed to reduce excessive police use of force.

The Commission stresses that revision of the Use of Force policies is a necessary and appropriate step to ensure that the New Bedford Police Department continues to operate in a manner that places the

highest value on the life and safety of its officers and the public. However necessary, the revision of Use of Force policies alone is insufficient to effect substantive police reform. Additional strategies and initiatives should be explored to ensure transformation of policing in New Bedford.

The effort to respond to the charge of reviewing and making recommendations for revision to the Use of Force policies was no simple task. In the end very few explicit recommendations to the policies were offered by members of the public. Most comments were directed toward criticizing and delegitimizing the Commission and its work and casting doubt about the true motives and intentions of the Mayor with respect to transforming policing in New Bedford.

In spite of the lack of specific recommendations from the public, some very clear sentiments were expressed by a segment of the public attending the hearings. Attendees vocalizing these sentiments generally expressed dissatisfaction with what they perceived as a lack of transparency that contributed to a lack of opportunity for public input as they viewed it. In addition, with regard to some of the attending public, there seems to be significant doubt about the commitment of the Mayor to genuinely address police transformation. They seemed concerned that establishing the Commission is all that will be done with regard to police transformation.

How this Commission's report is handled and whether additional measures are undertaken for police reform will have significant impact on the community's assessment of the good faith effort of the Mayor and the City to effect police transformation. Members of the Commission would welcome a meeting with the Mayor early in 2021.

Submitted by:

Commissioner Brian Gomes

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