



New Bedford Police Department: Assessment of the Organized Crime Intelligence Bureau & Review of Internal Investigation Policies and Practices

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Introduction and Summary of Recommendations

Overview

The City of New Bedford (“City” or “New Bedford”) engaged 21CP Solutions (“21CP”) to assess: (1) the policies and practices of the Organized Crime Intelligence Bureau (OCIB) of the New Bedford Police Department (NBPD); and (2) the complaint and misconduct investigations, policies, and practices, commonly referred to in policing as “internal affairs,” of the NBPD’s Division of Professional Standards.

For the past three years, the City has engaged another law enforcement consultant to undertake a comprehensive review of NBPD’s operations, policies, and practices. The consultant issued a report in 2023 that set forth recommendations covering a wide range of subject areas. NBPD already has implemented many of the recommendations, while others called for follow up analysis to produce more actionable recommendations. This work is ongoing.

Two areas in which the consultant was expected to conduct a deeper analysis concerned the department’s policies and practices of its Division of Professional Standards and its handling of confidential informants. Earlier this year, the City reconsidered how this specific work should be done after a series of media reports alleged that officers had engaged in misconduct in connection with their handling of confidential informants, which the department had not promptly detected. To avoid questions about the independence of the review of internal affairs and informant practices, Mayor Jon Mitchell asked 21CP Solutions to take over those aspects of the consultant’s work.

21CP has conducted a comprehensive assessment of the Organized Crime Intelligence Bureau’s policies, procedures, and practices, including its use of confidential informants, as well as NBPD’s process for accepting complaints against the police department, its investigation of these complaints, any discipline NBPD ultimately imposed, and NBPD’s recordkeeping related to complaints, investigations, and discipline. This included:

- Review of applicable directives, general orders, and provisions of NBPD’s Rules and Regulations Manual;
- Research on applicable federal, state, and local laws and regulations, including requirements of the Massachusetts Peace Officer Standards and Training Commission (POST) and NBPD’s union contract;
- Review of a sample of OCIB incident and arrest reports;
- An audit of a sample of completed misconduct investigations;
- Interviews with key NBPD personnel; and
- Ride-alongs with OCIB detectives.

The assessment focused on whether OCIB policies and practices comport with national best practices, and whether NBPD is properly holding its members accountable, including uncovering misconduct within the Department and preventing recurrence of misconduct through adequate discipline and ongoing strengthening of policies, training, and supervision. The review also analyzed whether any gaps currently exist in OCIB’s and Professional Standard’s policies, procedures, and practices that need to be addressed. The assessment was not designed to investigate a particular incident or allegation of misconduct to determine whether it complied with NBPD’s policies in place at that time, whether it may have involved potential criminal acts, or whether the discipline imposed was appropriate. However, 21CP did consider the allegations of alleged misconduct in OCIB,

including those raised in media accounts, and includes recommendations to ensure that OCIB's policies and practices prevent future misconduct.

As described in Section I of this report, NBPD must consider and define OCIB's mission and take immediate steps to improve and strengthen OCIB's operational practices to align with that mission. This assessment found that NBPD needs to formalize and update OCIB's practices to manage the risks associated with a specialized unit and ensure it is meeting its mission, including OCIB's policies and procedures, training, supervision, and performance management and accountability. OCIB is inherently a high-risk unit for NBPD because of the nature of its enforcement work, but OCIB's current operating practices compound this risk because of its aggressive use of unmarked vehicles making pedestrian and vehicle stops, which typically result in increased pursuits, use of force, complaints, and danger to innocent bystanders. OCIB has a critical need for training that is targeted to its specific mission and helps minimize the risk in its enforcement tactics. While NBPD should continue to focus on strengthening OCIB's practices regarding the use of confidential informants, its use of informants is narrow in practice, occurring almost exclusively in developing legal justification for a vehicle stop or in the context of a controlled buy, as discussed in more detail in Section I.E below. The more pressing concern is ensuring that the overall operational practices for this high-risk unit comport with best practices. To do so, NBPD needs to strengthen its supervision and accountability mechanisms for OCIB, including changing its operational practices so that supervisors play an appropriate role in the field, as well as more extensive auditing of OCIB activities to ensure they comply with NBPD policies and expectations. Finally, as with all aspects of its policing services, NBPD should include OCIB's work in its community engagement process to ensure that its mission and operational practices align with community expectations.

Although OCIB needs improvement, we were encouraged by the engagement of NBPD leadership and personnel in this process. During our review, OCIB members expressed their commitment to doing their jobs well and their desire for more guidance and training. NBPD has a solid foundation on which to build an effective and accountable specialized unit that can provide tremendous value to the community, reduce crime, and improve public safety. The recommendations we provide below seek to build on that foundation and enable OCIB—and NBPD—to achieve its mission.

Section II of this report describes weaknesses uncovered in NBPD's internal affairs policies and practices. These weaknesses are found at multiple stages in the process, including the intake and classification of complaints, investigations of potential misconduct, documentation of the findings of the investigation, and the imposition of discipline. NBPD also needs to strengthen the structure of Professional Standards to ensure that misconduct is investigated efficiently and effectively, that potential criminal conduct is thoroughly investigated, and that discipline is imposed correctly. Importantly, from our review of current practices, we did not uncover evidence of deliberate decisions not to investigate potential misconduct or to discipline misconduct that was found, but instead we found evidence of weaknesses in the system that could allow misconduct to go undetected or undisciplined. Our overall recommendation for this section is that NBPD adopt a set of comprehensive policies and procedures for the Professional Standards Division,¹ align the Division's reporting structure with national best

¹ Although beyond the scope of this report, NBPD should assess its entire policies and procedures manual and update it to be consistent with best practices. We understand that NBPD has been working with another consultant to conduct a department-wide update of its policies for over a year to address any needed revisions. Revising policies is a complex process that requires analysis of changes in federal,

practices, and provide training to all members of the department on their duties under the new manual, especially command personnel.

Despite these problems, we were encouraged in our review to repeatedly find NBPD officers who were working diligently to investigate and eliminate misconduct. They are working within a system, however, that needs additional improvement to comport with national best practices. The frustration with the system affects everyone we spoke with, whether the officers in Professional Standards, the union representing rank-and-file officers, or the leadership of the department who firmly believe that there is a better way to conduct complaint and misconduct investigations. Good officers are the foundation of a good department, and this frustration can be channeled into building an effective internal affairs system if it is pointed in the right direction. We seek to provide that direction in our recommendations below.

Background

The New Bedford Police Department serves a city with a population of 101,318 spread over 20 square miles.² The City boasts a diverse population, with 55.6 percent identifying as White alone (not Hispanic or Latino), 24.5 percent identifying as Hispanic or Latino, 17.5 percent identifying as two or more races, 6 percent identifying as Black alone, and 1.5 percent identifying as Asian alone.³ “Ancestry data show that over a third of the City’s residents are of Portuguese decent.”⁴ Approximately 20% of the population is at or below the poverty line.⁵

NBPD is budgeted for 230 sworn officers. As of mid-April 2025, the actual count of sworn officers was 198. Of these, NBPD assigns 145 sworn members to patrol (73 percent of the sworn contingent) and 39 sworn members to either investigations or special operations (20 percent of sworn officers). NBPD has shrunk in size over time. In a 1997 study of NBPD, the Department had 276 officers overall, or 28 percent more officers than actual staffing as of April 2025.⁶

OCIB is part of the Criminal Investigation Division commanded by a Captain, who reports to an Assistant Deputy Chief for Administration. It is staffed with 8 detectives, one of whom is assigned full-time to a Drug Enforcement Administration (DEA) task force. Two sergeants and one lieutenant supervise the unit.

OCIB members, both supervisors and subordinates, work a standard 8-hour shift on a 4-days on – 2-days off “wheel”; this is the same as all patrol officers. OCIB members generally work from 1600 hours until 2400 hours,

state, and local law, as well as changes in technology and other operational practices. NBPD should ensure that it has a process in place to update its policies regularly.

² U.S. Census Bureau, “Quick Facts: New Bedford, MA,” July 1, 2024, available at <https://www.census.gov/quickfacts/fact/table/newbedfordcitymassachusetts/PST045223> (accessed June 5, 2025).

³ Id.

⁴ City of New Bedford Official Website, Office of Housing and Community Development, Population, available at <https://s3.amazonaws.com/newbedford-ma/wp-content/uploads/sites/34/20191219201416/Demographics-page-2-population.pdf> (accessed July 18, 2025).

⁵ Id.

⁶ First Security. 1997. The Plan for Renewal: An Action Plan for the New Bedford Police Department.

except when their workdays fall on the weekends, then they shift to a daytime schedule of 0900 to 1700 hours. OCIB also receives funding from a Shannon Grant⁷ that allows them to work 4 hours of overtime twice a week.

NBPD created the Professional Standards Division to manage and investigate complaints against officers by Directive 93-40 on July 30, 1993. This directive specified that the Division should be commanded by a captain, who would supervise three detectives. Directive 93-40 also states that the Training Unit would be included in Professional Standards. In practice, Professional Standards is led by a lieutenant overseeing two sergeants, and according to interviews, the Training Unit was never part of the Professional Standards Division. The lieutenant reports to the Deputy Chief for Investigative/Administrative Services.⁸

Professional Standards work is primarily guided by three policies: (1) the 1973 Rules and Regulations Manual;⁹ (2) the 1993 Directive 93-40; and (3) the 1995 General Order 3-03. As noted throughout this report, these policies are not entirely consistent with each other, and a number of the procedures they spell out are not currently followed by the Department. In 2020, the State of Massachusetts created the State's POST Commission with the express mission to "improve policing and enhance public confidence in law enforcement by implementing a fair process for mandatory certification, discipline, and training for all police officers in the Commonwealth."¹⁰ Massachusetts POST imposes significant new requirements on local police department internal affairs processes and also has the power to launch their own independent investigation of officers.¹¹ NBPD's dated policies for the Professional Standards Division do not account for all the changes required by the POST Commission since 2020.

The Division handles not only investigations of complaints against officers, but also complaints involving Animal Control and Dispatch, because both are contained within the Police Department.¹² Professional Standards also conducts audits of use of force reporting and body-worn camera usage to ensure compliance with NBPD policy.¹³

The Professional Standards Division's office is off-site from NBPD headquarters. The facilities are poor; all the other tenants have left the building, and the Department expects the building to be demolished soon. The City has promised to relocate Professional Standards to a different facility, but that has not yet occurred. The Division uses specific internal affairs software called LEA,¹⁴ which is currently adequate to meet the Division's needs.

⁷ Charles E. Shannon Community Safety Initiative, a State of Massachusetts funded grant. In 2024, \$231,200 was allocated to OCIB for crime suppression activity. NBPD reported 67 gang members/high impact players arrested because of this funding. [Site Brief Drafts 2024 \(All Sites\)](#).

⁸ See Directive 93-40.

⁹ See Section 516 "Receiving and Investigating Complaints against Members of the Department" and following.

¹⁰ [About POST – MA POST Commission](#)

¹¹ Massachusetts POST solicits citizen complaints directly through its website.

¹² Including these entities can impact statistics significantly: in 2023, for example, 14 dispatchers were found to have engaged in overtime fraud, Professional Standards investigation resulted in numerous suspensions and terminations.

¹³ See, e.g., NBPD G.O. 12-01; NBPD G.O. 422.13

¹⁴ [Police Software / Law Enforcement Software - Administrative, Internal Affairs Software - LEA Data Technologies](#)

I. Assessment and Recommendations Regarding the Organized Crime Intelligence Bureau

A. Mission of the Organized Crime Intelligence Bureau

Best practices emphasize the importance of defining the mission of any specialized unit.¹⁵ “A specialized unit’s mission should be specific, data-driven, and measurable. Articulating a clear definition will aid in assessing the unit’s performance and effectiveness.”¹⁶ Ideally, an agency defines a mission statement before forming a specialized unit, but even if the unit is already in place, a mission statement will:

- Establish the unit’s mission, roles, and responsibilities;
- Articulate how the specialized unit’s mission aligns with and furthers the overall agency mission;
- Specify a clear tactical mission using a data-driven approach; and
- Create a unit identity that aligns with the defined mission and considers how the unit is likely to be perceived by the public.¹⁷

Currently, OCIB has no explicit mission statement. As far back as 1997, OCIB was described as, “[p]rimarily an investigative operation, the Unit that uses proactive tactics such as a narcotics hotline, surveillance, confidential informants, and street check-outs of prostitutes and youth gangs to achieve its mandate to reduce drug dealing usage in New Bedford.”¹⁸ That remains essentially the case today. Based on our review and interviews, members of the unit understand their mission to be principally street-level narcotics enforcement, along with some gang intelligence and enforcement. They are working to arrest individuals in possession of controlled substances and drug dealers on the bottom rung of the chain. OCIB conducts this enforcement primarily in two ways: (1) vehicle and pedestrian stops of people suspected of drug activity; and (2) search warrants served on locations suspected of drug activity.

This understanding of OCIB’s mission is borne out by the data. According to the crime analysis reports NBPD provided to us, in 2024 OCIB made 1,611 total arrests. Of those:

- 586, or 36 percent, were related to drugs (e.g., possession, possession for distribution);
- 220, or 14 percent, were for conspiracy relating to drugs;
- 438, or 27 percent, were warrant arrests;
- 98, or 6 percent, were related to firearms (e.g., possession, possession by a felon);
- 74, or 5 percent, were for a variety of traffic charges;
- 15, or 1 percent, were for resisting arrest; and

¹⁵ See, e.g., National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, pp. 10-11.

¹⁶ Id. at 10.

¹⁷ Id. at 7-11.

¹⁸ First Security. 1997. The Plan for Renewal: An Action Plan for the New Bedford Police Department, p. 42.

- 7, or 0.4 percent, were for assault on a police officer.

In other words, 50 percent of the arrests made by OCIB in 2024 were either for drug possession, possession for distribution, or conspiracy to sell, demonstrating that OCIB's primary mission is low-level drug enforcement. Six percent of their arrests were related to firearms, which could show a connection with violent crime in New Bedford. The arrest data show that a small group of detectives is working aggressively on the street, making vehicle and pedestrian stops that are resulting in arrests and seizures of guns and drugs. From our review of NBPD's use of force and complaint data, only a small percentage (less than 2%) of OCIB's arrests result in violence or resisting arrest charges.

Although OCIB's arrest figures show significant numbers of drug arrests, the overall impact of OCIB's enforcement efforts on the crime picture in New Bedford is less clear. Assessing this impact is critical to determining and defining OCIB's mission going forward, including whether such a unit is necessary. NBPD should consider a variety of factors, such as crime trends, calls for service, repeat offenders, and impact on community members.¹⁹

Recommendation 1.1: NBPD should develop a clear mission statement for OCIB along with data-driven metrics for determining whether OCIB is meeting its mission

As best practices suggest, NBPD should conduct an assessment to determine whether OCIB is still serving an essential function for the Department to meet its overall mission.²⁰ This assessment should include the factors discussed above to develop a picture of OCIB's impact on crime in New Bedford, and it should also include consultation with other entities charged with reducing crime in New Bedford, such as the local district attorney's office and the courts. If NBPD determines that OCIB is still essential, then it should develop a mission statement for OCIB that clearly defines the roles, responsibilities, and priorities of the unit. NBPD should also make sure that the mission statement provides measurable goals, so that NBPD can continually assess whether OCIB is meeting mission.²¹ This assessment should include considering whether OCIB should be engaged in both narcotics and gang enforcement; although the gang unit was absorbed into the narcotics unit within OCIB, some members of the unit still perform some gang-related enforcement, and many of the gang issues in New Bedford are related to narcotics enforcement.

Although NBPD should conduct an assessment using data and input from stakeholders, there are a number of options for NBPD to consider, including:

1. Disband the unit and assign members to other, local drug task forces, such as the DEA task force or the State Police task force run from the local district attorney's office. This would place members of the department in other, established units with a similar mission but with a regional focus. This is not the preferred option. New Bedford would lose the constant, daily efforts of an active and professional group of detectives that is solely focused on their city. In contrast, the regional task forces conduct investigations in New Bedford, but it is only one

¹⁹ See, e.g., National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, pp. 7-10.

²⁰ Id.

²¹ Id.

city among many where they operate. NBPD would also lose knowledge of potential linkage between drug crimes and other crimes, such as gang-related criminal activity.

2. Re-configure the unit into two sections: the larger section would become a tactical street response unit to respond to hot-spots and neighborhood complaints, while the smaller section would comprise a major case squad. This second group would handle significant cases arising from search warrants and arrests made by the larger tactical unit and pursue them in a more sustained fashion, seeking to identify higher-level drug dealers or drug-dealing networks.
3. Maintain the current staffing and structure but refocus the mission and refine the tactics.²² NBPD would refocus OCIB as a crime impact team with responsibilities for a number of criminal investigative purposes, including narcotics investigations. As different types of crime arise as significant concerns, OCIB could bring a focused investigative approach, including officers highly trained in surveillance and tactical interdiction, as well as the ability to use confidential informants. For example, a recent homicide followed a string of car thefts and related drive-by shootings connected to local neighborhood gangs. A trained, equipped, and re-focused OCIB could be tasked to concentrate on violent crimes and weapons possessions by these groups, potentially heading off any retaliation and preventing further harm.

NBPD should assess the mission and role assigned to OCIB, which, as discussed more below, will drive the tactics that OCIB employs. Deploying a specialized unit in unmarked cars, most of whom are in plainclothes, to make proactive vehicle and pedestrian stops will generate more chases, police vehicle accidents, uses of force, and possibly citizen complaints, all of which can erode community trust.²³ OCIB members are making arrests and seizing guns and drugs, but the cost in community and organizational trust is less clear or understood. NBPD's assessment of OCIB will help determine whether it is necessary to meet NBPD's overall mission and, if so, help establish the mission going forward.

Recommendation 1.2: NBPD should rename OCIB to reflect its mission going forward

After NBPD conducts an assessment and establishes OCIB's mission going forward, NBPD should rename the unit to reflect that mission. While OCIB collects intelligence and shares that intelligence to some degree with the rest of the Department, intelligence collection, much less analysis, is not the heart of the unit's purpose. Similarly, most of the cases that OCIB investigates are not typical "organized crime." In law enforcement "bureau" also typically refers to a larger group of personnel and functions than OCIB currently contains or performs. The fact that OCIB is alternatively described as "narcotics," including on equipment worn by OCIB detectives, or the "gang unit,"

²² The LAPD crime suppression platoons were repurposed into crime impact teams with responsibility to bring surveillance and other investigative tactics to bear on a variety of violent crimes.

²³ The role and function of plainclothes officers has been questioned around the United States. See, e.g., "NYPD Disbands Plainclothes Units Involved in Many Shootings," NY Times, June 15, 2020; "Does a Uniform Keep Officers in Line? The Baltimore Chief Thinks So," NY Times, April 14, 2017.

which previously existed as part of OCIB but has been absorbed into the narcotics unit, increases the confusion. NBPB should give OCIB a new name that clearly communicates its mission and role within the agency.²⁴

B. Policies and Procedures

After determining a specialized unit's mission, agencies need to provide specific guidelines to the specialized unit to achieve its mission. "Law enforcement executives should establish written policies that govern all aspects of the specialized unit."²⁵ As the best practices guide produced by the National Policing Institute (NPI) with support and funding from the United States Department of Justice, Office of Community Oriented Policing Services notes, clear operating standards set forth in policy and procedure create expectations for the unit, minimize mission creep, and ensure that each member of the unit understands their role and how they will be held accountable.²⁶

Recommendation 2.1: NBPB should update its policies and procedures for OCIB consistent with best practices for specialized units

NBPB needs to revise and update its policies and procedures for OCIB to make them consistent with best practices for specialized units. The only policies or procedures for OCIB are found in Section 432 of NBPB's "Rules and Regulations Manual," which NBPB published in 1973. While the material in Section 432 is detailed, it is extremely out of date and does not guide OCIB's current operations and ensure that it accomplishes its mission. Once NBPB defines OCIB's mission, it should revise its policies and procedures for the unit to clarify the current team's organization, personnel, training, equipment, deployment, and review mechanisms. These procedures not only ensure that the unit and its members can be held accountable, but they also ensure that members know their responsibilities and can fulfill their mission, increasing job satisfaction and morale.

Recommendation 2.2: NBPB should update the Department's policies and procedures manual, as many of the general policies and procedures apply to OCIB and need to be revised for clarity and consistency with best practices

Many of NBPB's general orders, directives, and rules and regulations apply to OCIB practices, such as policies on stops, searches, arrests, evidence collection, deconfliction, and numerous other practices. Although a comprehensive review of all NBPB's policies and procedures is beyond the scope of this report, from our review of a subset of the policies and procedures applicable to OCIB, it is apparent that the Department's overall policies and procedures manual should be updated. OCIB officers need to have clear guidance on all aspects of their duties, including those that are general practices consistent with all members of the Department. These include, for example, NBPB's policies on stops, searches, arrests, and seizure of money, property, drugs, and other evidence. NBPB's current policies and procedures manual does not provide the necessary guidance to ensure OCIB's officers' compliance with policy and best practices. We understand that NBPB has been working with another consultant to conduct a department-wide update of its policies for over a year.

²⁴ See generally National Policing Institute. 2024. *Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability*. Washington, DC: Office of Community Oriented Policing Services, p. 25.

²⁵ *Id.* at 12.

²⁶ See, e.g., *id.*

Currently, NBPD policies and procedures are set forth through general orders, directives, and the Rules and Regulations Manual. The Rules and Regulations Manual, as noted above, was published in 1973 and is badly out of date, as are many of the directives and general orders. Some of NBPD's "directives" are not policy directives but instead are operational orders that are no longer applicable. For example, Directive 92-19a is an operational order that relates to a specific public event that took place in 1992 and no longer has any applicability to NBPD officers. Similarly, there are multiple formats and numbering schemes in use, making it difficult to locate applicable policies and procedures and leading to potential inconsistencies. Many policies, unsurprisingly given their age, do not reflect current best practices. Additionally, NBPD needs to ensure that its policies comply with regulations set forth by the Massachusetts Police Officer Standards and Training Commission, many of which have been promulgated in the last few years. NBPD general orders need to include these new requirements. In short, NBPD should comprehensively update and standardize its policies and procedures, and all out-of-date policies and procedures should be removed from the manual and archived.²⁷

Recommendation 2.3: NBPD should conduct routine audits to ensure that all members regularly review all applicable policies and procedures

In any law enforcement agency, policies and procedures need to be regularly updated to stay consistent with federal, state, and local law and community expectations. For example, when a court issues a new opinion interpreting the federal or state constitution in an area applicable to police practice, or a state or local legislature enacts a relevant new law, an agency must issue timely guidance to its officers to ensure that they comply with the new law or ruling. Agencies should have processes in place to verify that officers have reviewed the new guidance and will act consistently.

NBPD should conduct routine audits to ensure that its members regularly review the policies and procedures that apply to their roles and responsibilities at NBPD. NBPD currently has the capability to conduct these audits, and it should now require that these audits are done as a routine part of its performance management. NBPD uses a software product called PowerDMS to manage its policies.²⁸ PowerDMS is an online repository of all agency policies that officers can access anywhere in the field. Once NBPD notifies officers that it has issued a new policy, the officers can access and review the policy through PowerDMS and then verify that they have received and read the policy. NBPD has access to this data to determine which officers have reviewed the policy. Currently, however, NBPD does not conduct routine audits of this data. NBPD should adopt a policy to routinely audit this data. The policy should include a schedule for regular internal audits by a designated internal team, as well as periodic external audits by a professional outside entity. The policy should also include a process of reminders for officers to review new or revised policies and a process for referral of an officer to a supervisor or the Professional Standards Division for regular failure to review assigned policies.

²⁷ As described below, NBPD uses PowerDMS to publish and store its policies. PowerDMS includes an archive function, and NBPD should use this to remove old policies and procedures.

²⁸ [Police Software Solutions | PowerDMS](#).

Recommendation 2.4: NBPB should post its policies to a public website

Increasingly, many agencies providing policing services post their policies to a public website to make them easily accessible to the public.²⁹ This transparency about departmental policies improves public trust, empowers the public to hold its police department accountable, and it also makes it easier for the public to have input on policy and ensure that its police department is policing consistent with the values of the local community. While certain policies and procedures are law enforcement sensitive, most are not and should be available to the public.

As noted, NBPB uses PowerDMS to manage its policies, which includes a function to facilitate the posting of policies on a public website. NBPB has chosen not to use this function. As NBPB revises and updates its policies and procedures manual, we recommend that NBPB make its policies available to the New Bedford community and engage the community in ongoing revisions to the policies.

Recommendation 2.5: NBPB should update its body-worn camera policy related to searches of premises

For a unit like OCIB, which principally performs narcotics enforcement, searches of premises, such as a house or business, will frequently result in the seizure of money, drugs, drug paraphernalia, and other property. When conducting a premises search, OCIB's current practice is to use their body-worn cameras to film the entire interior of the premises before the search starts. OCIB members then turn off their body-worn cameras for the search of the premises itself. This means that OCIB members' body-worn cameras are not activated for the actual seizure of any drugs, money, or other evidence found at the premises. The better practice, and the one we recommend, is that officers keep their body-worn cameras activated throughout the search, including during the discovery and inventory of any property and evidence seized during the search.³⁰ This provides clear evidence of the seizure for use during any criminal proceedings that follow, and it also protects against allegations that the officers did not properly report the money, drugs, or other property that was seized.

Recommendation 2.6: NBPB should update its policies and procedures related to the field testing of Controlled Dangerous Substances

Prior to the widescale spread of fentanyl, field testing of suspected Controlled Dangerous Substances (CDS) by law enforcement was straightforward. The extreme danger posed by exposure to fentanyl, even in small doses, has led agencies to adopt new field-testing methods. For example, researchers at the National Institute of Standards and Technology developed a method to conduct a chemical swipe of the outside of the package potentially containing drugs. Despite these new methods, some departments have eliminated all field testing out of concern for the health of their officers.

Currently, NBPB has no written policy on field testing seized CDS. In practice, however, OCIB tests CDS seized as part of a controlled buy or seized from a defendant that is likely to be indicted. OCIB generally does not test CDS seized incident to arrest. OCIB has a machine for testing, an MX908, which is a handheld mass spectrometer intended for drug identification. The DEA purchased the MX908 for NBPB as part of a grant. NBPB should

²⁹ See, e.g., Seattle Police Department Policy Manual, available at: <https://public.powerdms.com/Sea4550/tree>; Baltimore City Police Department Policies and Training Materials, available at: <https://www.baltimorepolice.org/policies>.

³⁰ See, e.g., Baltimore City Police Department, Policy 1401: Control of Property and Evidence (Draft dated 6 June 2025), at 86.2, available at: <https://www.baltimorepolice.org/transparency/bpd-policies/1401-control-property-and-evidence-o>.

research best practices for the field testing of drugs to protect the health and safety of its officers. At a minimum, NBPD should provide personal protective equipment for officers during field testing and should develop a written policy for the safe handling and field testing of CDS.³¹

Recommendation 2.7: NBPD should establish policies to deconflict its activities from those of surrounding law enforcement agencies

For specialized narcotics units like OCIB, coordination with other law enforcement agencies conducting investigations, potentially of similar targets or in a similar location, is essential to ensure officer safety. This process, known as “deconfliction,” generally takes two forms, event deconfliction and target deconfliction.

- Event deconfliction is the process of determining when law enforcement personnel are conducting an event near one another at the same time. Events include law enforcement actions such as undercover operations, surveillance, and execution of search warrants. When certain elements, such as time, date, and location, overlap between two or more events, a conflict results.
- Target deconfliction is the process of identifying independent investigations that have the same target, such as the same person, location, or vehicle. Identifying this overlap in targets and connecting investigators not only eliminates duplication of work and the possibility of one investigation compromising the other, but it can also strengthen investigations by facilitating the sharing of information among agencies investigating the same target.³²

There are three nationally recognized deconfliction systems—Case Explorer, SAFETNet, and RISSafe—which are integrated to ensure that deconfliction takes place.³³ The DEA’s High Intensity Drug Trafficking Areas (HIDTA) program uses SAFETNet, and the New England HIDTA provides services including deconfliction for the State of Massachusetts.

OCIB does not practice any target or event deconfliction, although NBPD is aware that a number of different law enforcement agencies are working narcotic cases inside New Bedford. OCIB does not provide any notification to the New England HIDTA regarding their investigative targets or when it is executing a search warrant at a specific location. NBPD’s failure to require deconfliction places investigations at risk of compromise and officers at significant risk of harm. NBPD should establish a policy requiring the use of the State deconfliction systems for both target and event deconfliction through the New England HIDTA program, and NBPD should require training on the new policy for all OCIB members.³⁴

³¹ For example, Orlando Police Department’s Policy and Policy for the Safe Handling and Field Testing of Unknown Narcotics (Fentanyl) can be found here: [1143.3-safe-handling-and-field-testing-of-unknown-narcotics-fentanyl.pdf](#)

³² For more information on deconfliction, see “Avoiding Agency Conflicts in the Field,” Kent Shaw; Spring 2017; available at: [cnoa_article.pdf](#).

³³ See <https://ncirc.bja.ojp.gov/event-deconfliction>.

³⁴ An example of a deconfliction policy is available here: <https://public.powerdms.com/NMSP/documents/3194073>. The Commission on Law Enforcement Accreditation (CALEA) also has a standard regarding the use of an event deconfliction system. See [EventDeconfliction_PoliceFoundation.pdf](#).

C. Personnel Selection

Selection of personnel for specialized units is critical to the success of the unit and its ability to accomplish its mission. In many agencies, the “typical applicants for specialized unit positions are proactive, ‘go-getter’ officers.”³⁵ Given this reality, “it is important that the selection process be rigorous enough to assess how well applicants balance proactivity with the clear boundaries of the goals and mission of the unit.”³⁶ Selection of supervisors in a specialized unit is particularly important. They must be capable of “reinforcing the mission, expectations, and culture” the agency has set for the unit while ensuring that it is both effective and accountable.³⁷

Recommendation 3.1: NBPd should strengthen the selection criteria for supervisors and detectives assigned to OCIB, including consideration of factors such as tenure and history of complaints and misconduct

NBPd needs to improve the criteria it uses to select both detectives and supervisors in OCIB. Staffing in OCIB is currently lower than it has been historically, with only eight detectives assigned and one of these assigned full-time to a local DEA task force. For detectives, NBPd has no requirement for a set number of years in patrol or a specialized assignment before being selected for OCIB. While permanent openings do not include a tenure requirement, the union contract requires that, if a permanent opening is posted and one officer with more than three years of service applies and several officers with less than 3 years apply, only the officer with more than three years of service would be eligible for the position.³⁸ OCIB also posts “temporary assignment” openings. These are limited duration assignments to OCIB, generally to fill a vacancy caused by illness/extended leave of a OCIB detective. The temporary openings do not have the same limitation under the union contract; a selection can be made from any of the officers that apply regardless of tenure.

Currently, the detectives assigned are generally junior in their tenure with the Department. Two of the detectives have been in the unit for less than one year, and the average tenure in OCIB is only 3.6 years, while the average tenure with the department is only 6.25 years. Supervisory staffing has remained stable, with two sergeants and one lieutenant assigned. NBPd assigned these supervisors to OCIB either immediately or shortly after being promoted to their current rank. For example, the lieutenant was promoted and immediately assigned to OCIB. One sergeant spent 14 months in patrol before assuming his current assignment, while the second sergeant spent four months in patrol as a sergeant. These are rapid assignments to a specialized supervisory position even if, as in the case of the lieutenant, he had previous experience as a sergeant in OCIB.

Given the independence that detectives and supervisors in OCIB have to perform their mission, the significant discretion they exercise in their investigative duties, and the impact misconduct by these officers can have on public

³⁵ National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, p. 21.

³⁶ Id.

³⁷ Id. at 18.

³⁸ See Agreement Between City of New Bedford and the New Bedford Police Union, Article 9, Paras. 2 and 4 (February 7, 2014) (Reapproved with changes to non-relevant paragraphs on March 19, 2018, and June 28, 2023).

trust, NBPB should consider strengthening the selection criteria.³⁹ NBPB should also consider implementing annual performance evaluations, which would be a typical source of information to examine before assignment to a specialized unit.

For these same reasons, NBPB should consider a candidate's complaint history, including how NBPB resolved the complaint and any discipline imposed.⁴⁰ Currently, NBPB does not require review of the candidate's internal affairs or complaint history. Instead, according to OCIB and Criminal Investigation Division (CID) supervisors, the key selection criteria is motivation: Is this an officer that is self-motivated and demonstrating that they are active in their current assignment? Best practices indicate that, because candidates seeking assignment to a specialized unit are often highly proactive, the selection process should balance that proactivity against a clear understanding of the boundaries of their role and a history of exercising their authority appropriately.⁴¹ For example, candidates with a history of sustained complaints should not be considered for a specialized assignment with a high degree of independence.

Recommendation 3.2: NBPB should strengthen its selection process for supervisors and detectives assigned to OCIB, and NBPB should negotiate an exception in its collective bargaining agreement to allow the Chief some discretion to select personnel for sensitive positions, including specialized units such as OCIB

Selecting officers for a specialized unit is a high leverage moment for an agency, as public perceptions of the unit are often closely tied to overall public perceptions of the legitimacy of the agency. Agencies should invest significant effort in this selection process to ensure that the officers selected fit the values of the agency.⁴² In addition to the selection criteria discussed above, components of the selection process could include practical scenario testing, conversations with personal references, and an interview that assesses orientation to the mission, team mentality, and communication skills.⁴³ Selecting supervisors is particularly critical, as they must be strong leaders capable of ensuring that the unit stays in alignment with the mission and the culture of the department.⁴⁴ NBPB should implement a fuller process for selecting supervisors and detectives for OCIB to be certain it addresses each of these components and enables OCIB to meet its mission effectively and accountably.

Due to the important mission specialized units perform, along with the impact of their performance on public perception, chiefs should have some discretion in the assignment of personnel to these units. In areas with strong unions, this may require seeking limited exceptions in collective bargaining agreements to permit chiefs to make these appointments. Here, for example, is the language from the contract between the Irvine Police Association and the City of Irvine:

The Chief of Police may designate up to three "at-will" positions from either existing or newly created specialty assignments. . . . The Chief of Police should designate these assignments "at-

³⁹ National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, p. 21.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* at 18-22.

⁴³ *Id.* at 21.

⁴⁴ *Id.* at 19.

will” at the time they are staffed and shall retain the right to convert the assignments to an appropriate rotation schedule at any time. If the Chief of Police deems that an immediate rotation is necessary, consideration will be given to the employee’s needs and commitments, however departmental need will be the overriding factor.⁴⁵

NBPD does not have analogous language in its collective bargaining agreement. NBPD’s Chief of Police should seek to negotiate a limited exception with the union to have greater discretion in selecting personnel for sensitive positions. While the union has an appropriate interest in ensuring that seniority is honored, there are a number of positions in the Department that the Chief should have discretion to assign individuals they deem most qualified.

D. Training

Effective training is essential to equipping a specialized unit to perform its mission for a law enforcement agency. As NPI’s best practices guide states:

Law enforcement executives should ensure that specialized unit members have the requisite training in skills, tools, and tactics to complete their mission. Agencies should fully invest in training to ensure that staff members understand the tasks that they are going to be performing before they begin their work. Although training can be a significant commitment of resources, the potential risk and liability of ill-trained specialized units demands it.⁴⁶

Recommendation 4.1: NBPD should provide OCIB members with training specific to its mission upon assignment to the unit and on a routine basis thereafter

All members of OCIB, including the detectives and supervisors, are in need of basic and advanced training. The specialized mission of the unit demands appropriate training, which they currently receive only on an adhoc basis, and much of the training is informal, “on-the-job” instruction. NBPD does not require newly assigned officers to attend specialized training before or shortly after their assignment. Indeed, neither detectives nor supervisors receive formal, routine training on narcotics investigation.

Although mission-specific training is limited, in April 2025, the Department was able to use seized drug money to provide an 8-hour training class on legal issues related to drug investigations. All OCIB members attended, and the training was relevant to OCIB’s mission. OCIB members were interested and engaged in the training, suggesting both the need to provide training and the officers’ desire to improve their investigative skills and legal understanding. Indeed, when we conducted an informal survey of OCIB members to determine the current culture of the unit, we repeatedly heard that OCIB detectives were interested in learning and working in specialized investigations and were hungry for more knowledge and training in their field.

⁴⁵ Memorandum of Understanding, City of Irvine and the Irvine Police Association, November 2022, at 66-67; available at [https://ballotpedia.org/Police_union_collective_bargaining_agreement_for_the_city_of_Irvine,_California_\(2022_-_2026\)](https://ballotpedia.org/Police_union_collective_bargaining_agreement_for_the_city_of_Irvine,_California_(2022_-_2026)).

⁴⁶ National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, p. 13.

Given that currently assigned personnel lack mission-specific training, NBPD should require all members of OCIB to attend a dedicated narcotics investigation class. Going forward, NBPD should provide new OCIB members with a dedicated course on narcotics investigation within 2 months of assignment. The Northeast Counterdrug Training Center (NCTC) routinely provides a 40-hour Basic Narcotics Investigation course,⁴⁷ and the California Narcotics Officers Association (CNOA) similarly provides a 40-hour Basic Narcotic Investigators School.⁴⁸ NBPD should also provide some OCIB members with training on investigative techniques for digital electronic equipment, such as cell phones and computers, as skills in these areas are now essential in modern narcotics investigations.⁴⁹ Digital forensics training will help link OCIB's efforts to those of other agencies who are conducting narcotics investigations in the surrounding area and help OCIB achieve greater coordination in its investigations.

Recommendation 4.2: NBPD should provide OCIB supervisors with formal training on how to manage a narcotics unit upon assignment to the unit and on a routine basis thereafter

OCIB supervisors also lack formal training in leading and managing a narcotics investigation unit. Only one of OCIB's supervisors has had formal training on how to manage a narcotics unit, and the one sergeant who has attended training only participated in an on-line class on supervision of a specialized unit. To remedy this lack of training, NBPD should require all OCIB supervisors to attend a course for supervisors of a drug/specialized unit task force. Going forward, NBPD should provide training to all supervisors upon assignment to OCIB and should provide refresher training regularly thereafter. NCTC provides a three-day class on Leading and Managing a Task Force Unit, which is no-cost for local law enforcement,⁵⁰ CNOA offers a 40-hour Narcotics/Specialized Unit Supervisors Course.⁵¹

Recommendation 4.3: NBPD should provide OCIB members with tactical training and equipment for high-risk operations, including warrant execution and vehicle stops and searches

Based on their current mission, OCIB members conduct significantly more search warrants than any other unit in the police department, as well as substantial numbers of vehicle stops and searches related to suspected drug dealing and distribution. These are high-risk operations and officers need to be appropriately trained and equipped to execute these operations or they risk harm to themselves, the targets, and the public.

For example, OCIB frequently conducts vehicle stops of targets shortly after the targets leave the location for which OCIB has obtained a search warrant. The goal is to eliminate the need for dynamic entry into the target location by stopping the target individual away from the location, thus making it safer for officers serving the warrant and other individuals present at the location. While this is a laudable goal, OCIB's tactical approach still involves significant risk. It requires an OCIB member to establish surveillance on the location while other members engage in normal street patrol in the area. When the target leaves the location, these other members are under pressure to stop and detain the person as quickly as possible, in part because Massachusetts law limits the distance from a search warrant location that an individual can be stopped, detained, and returned to the location.⁵²

⁴⁷ More information available at <https://nctc.counterdrug.org/training/course-descriptions/basic-narcotics-investigations/>.

⁴⁸ More information available at [California Narcotic Officers' Association | Basic Narcotic Investigators School](#).

⁴⁹ See, e.g., Cell Phone Investigation Techniques, [Cell Phone Investigation Techniques | NCTC](#)

⁵⁰ More information available at [Leading and Managing a Task Force Unit | NCTC](#).

⁵¹ More information available at [California Narcotic Officers' Association | Narcotic / Specialized Unit Supervisors Course](#).

⁵² See *Commonwealth v. Charros*, 443 Mass. 752 (2005).

If the team has moved any distance from the target location, it must drive quickly and aggressively to get into position to make the stop. The team then seizes the targets, handcuffs them, and takes their mobile phones so they cannot contact anyone at the target location. Ideally, the targets then provide the team with information about the target location, including who is currently present, whether there are weapons, and if they have keys to obtain access to the property. If the targets are uncooperative, however, the team still must return to the target location and serve the search warrant. The team may still have little information about the location and its risks, and it still may need to forcibly enter the building with all the risks that entails.

NBPD should identify and provide OCIB members with regular training on such high-risk operations, at least on a bi-annual basis given the numbers of stops and search warrants OCIB engages in each year. NBPD should also consider investing in additional equipment for these operations, including tactical shields, shoulder weapons, and surveillance equipment, which would make these operations more effective and less likely to result in harm.

E. Use of Confidential Informants

The use of confidential informants has long been a controversial law enforcement practice, but it is also one that the American criminal justice system has considered a powerful tool to fight crime. As the United States Supreme Court recognized back in 1966, the use of confidential informants, even when paid, is permissible in criminal investigations.⁵³ Nevertheless, courts have also noted that the “use of informants to investigate and prosecute persons engaged in clandestine criminal activity is fraught with peril.”⁵⁴ “It is also true, however, that our criminal justice system could not adequately function without information provided by informants.”⁵⁵

Without informants, law enforcement authorities would be unable to penetrate and destroy organized crime syndicates, drug trafficking cartels, bank frauds, telephone solicitation scams, public corruption, terrorist gangs, money launderers, espionage rings, and the likes.⁵⁶

Recognizing that using confidential informants provides substantial benefits in reducing certain crimes, protections must be in place to protect the integrity of the criminal justice system.

Because the government decides whether and when to use such witnesses, and what, if anything, to give them for their service, the government stands uniquely positioned to guard against perfidy. By its actions, the government can either contribute to or eliminate the problem. Accordingly, we expect prosecutors and investigators to take all reasonable measures to safeguard the system against treachery.⁵⁷

These protections include many of the subject areas addressed in this report, including policy, operations, supervision, and accountability.

⁵³ See *Hoffa v. United States*, 385 U.S. 293, 310-12 (1966) (“Courts have countenanced the use of informers from time immemorial.”) (quoting *United States v. Dennis*, 183 F.2d 201, 224 (2d Cir. 1950)).

⁵⁴ *United States v. Bernal-Obeso*, 989 F.2d 331, 333 (9th Cir. 1993).

⁵⁵ *Id.* at 334.

⁵⁶ *Id.* at 335.

⁵⁷ *Id.* at 334.

Although confidential informants may be used for a broad range of purposes, such as the covert recording of conversations to establish a criminal conspiracy, NBPD's use of confidential informants is narrow. NBPD does not use confidential informants to conduct covert recording.⁵⁸ Neither does NBPD generally use confidential informants to testify in court to establish criminal activity. Nor does NBPD use confidential informants to introduce undercover detectives to dealers, although this is commonplace in other police departments.

From our review of OCIB files, interviews with officers, and ride-alongs, OCIB uses confidential informants primarily in two circumstances. First, OCIB uses informants to provide information to officers sufficient to conduct a stop as permitted by the U.S. Supreme Court in *Terry v. Ohio*, 392 U.S. 1 (1968). Under *Terry*, the Constitution authorizes an officer to make a stop based on reasonable suspicion that a person has committed, is committing, or is about to commit a crime, and to conduct a frisk if the officer has a reasonable belief that the person "may be armed and presently dangerous."⁵⁹ OCIB officers are using information provided by confidential informants about a person, such as information that the person is in possession of drugs or a firearm, to develop reasonable suspicion and conduct a stop of that individual.

Second, OCIB uses confidential informants to conduct "controlled buys," which may provide officers with sufficient information to obtain a search warrant of a building. A "controlled buy" is routine tactic used by law enforcement to combat illegal drug dealing and typically proceeds as follows. An informant provides information to the police that drugs are being dealt from a particular location. The informant is then searched by the police to ensure that the informant does not have any drugs and money in their possession. The officers provide the informant with money for a drug buy—the "controlled buy." With officers keeping the informant under constant surveillance, the informant goes to the location, enters the building and makes a purchase of drugs, and then exits the location. As the informant leaves, detectives maintain surveillance to ensure that the informant neither stops at any other location nor meets with anyone. Detectives then meet the informant, retrieve the purchased narcotics, and search the informant again to be certain they have recovered all money or controlled substances in possession of the informant.

Following the controlled buy, the detectives debrief the informant for details about the person making the sales and other persons at the location. They then work independently of the informant to validate and clarify as much information as possible. Using the location information, they often search utility billing, property tax, and police records to look for the details of the persons at the suspect location. The detectives obtain photos of the individuals at the location and then confirm the identification of the individuals selling the drugs with the informant. All the information is then used to write a search warrant which is presented to a judge for signing and authorization. If a search warrant is obtained, the officers then serve the warrant and search the location for drugs or other contraband.

⁵⁸ Similarly, neither OCIB nor NBPD more generally has a practice of using Cooperating Witnesses ("CWs"). CWs are similar to Confidential Informants ("CIs"), in that some law enforcement agencies use both CWs and CIs to covertly record or monitor conversations with suspects, but the identity of a CW is generally made known to a suspect when they are charged with a crime, while the identity of a CI continues to be kept confidential. NBPD does not generally use CWs, and its use of CIs is narrow as described above.

⁵⁹ *Terry v. Ohio*, 392 U.S. 1, 30 (1968).

OCIB uses controlled buys to execute a significant number of search warrants every year. For example, OCIB's 2023 data shows 66 search warrants with the following results:

	S/W	Arrest	Summons	Fentanyl	Crack	Cocaine	Marijuana	Money	Guns
Totals	66	706	77	823 gm	2,355 gm	684 gm	39 lbs	\$179,579.00	27

OCIB's 706 arrests from these search warrants represent 45 percent of OCIB's total arrests for the year, and the warrants resulted in significant seizures of narcotics, funds related to narcotics, and guns. From our review, these search warrants were all based on controlled buys of narcotics by confidential informants.

While OCIB's use of confidential informants only takes place in these limited circumstances, NBPB should still evaluate and strengthen its overall informants practices to ensure that they are consistent with best practices, including its policies and procedures, operational practices, and auditing and accountability mechanisms. NBPB should also consider more frequent use of alternate means when conducting these types of investigations, such as increased use of surveillance. NBPB should invest in additional surveillance equipment, such as more sophisticated surveillance cameras, and improvements in surveillance vehicles, such as radio microphones triggered by a foot switch to make surveillance less obvious.

Recommendation 5.1: NBPB should continue to strengthen its policies and procedures regarding the use of confidential informants

NBPB adopted a new policy governing its use of confidential informants on December 12, 2024. This new policy, Policy No. 603, replaced Policy No. 5-02, which was issued on December 22, 2016. The new policy includes several specific protections designed to prevent misconduct in NBPB's use of confidential informants, including:

- requirements that officers register all confidential informants before use, including in the exact scenarios in which NBPB uses confidential informants, making it clear to officers that informants must be registered;⁶⁰
- an approval process before using a confidential informant, including supervisor notification, an agreement signed by the informant, and a criminal history check and photograph;
- an absolute prohibition on the use of confidential informants under the age of 13, while youth ages 13 to 18 may only be used when strict requirements are met, including an in-person meeting with the youth's parents, parental approval of the youth's use as confidential informant, and personal approval by the chief of police;
- rules for relationship between the informant and the "handler"—the officer supervising the informant;
- guidelines for when an informant is no longer suitable to serve in that capacity, including sections on criminal activity by the informant;
- the procedure for making a controlled buy;⁶¹

⁶⁰ While Policy 603.3.5(a) says that an officer "using the services of a confidential informant may register the informant", Policy 603.3.5(b) makes clear that NBPB members must register an informant in all the circumstances in which NBPB currently uses informants as described above (and it also includes circumstances in which NBPB does not currently use informants, such as introductions of undercover detectives to targets).

⁶¹ This detailed procedure is more of a training or tactical checklist than a policy. We recommend removing it from the policy and making it a separate standard operating procedure.

- the process for paying informants; and
- instructions on recordkeeping related to the use of confidential informants.

The 2024 version of NBPD’s policy is robust and detailed. We recommend that NBPD add additional requirements and protections to the policy to ensure that its policy provides sufficient guidance to officers and comports with best practices.

Recommendation 5.1.1: NBPD should revise its policy to require an OCIB supervisor to meet with each confidential informant when the informant is registered

Best practices indicate that supervisors should meet with a confidential informant before approving the informant’s use by the agency.⁶² As described above, NBPD’s policy includes an extensive approval process to determine the suitability of a potential confidential informant before the informant is registered and activated for use. This process includes the submission of the approval package to a supervisor, but it does not currently require the supervisor to meet the proposed informant. NBPD should revise the policy to require an in-person meeting between an OCIB supervisor and the proposed informant. This meeting ensures that the OCIB supervisor can confirm the informant’s existence and verify the suitability of the informant through an in-person assessment.

Recommendation 5.1.2: NBPD should revise its policy to require a comprehensive debriefing of the proposed informant before approval

To determine whether a potential confidential informant is suitable, law enforcement agencies should conduct a thorough debriefing of the proposed informant before registration and activation. The debriefing should include detailed information about informant’s background to probe for relationships or circumstances that may make the person particularly suitable—or unsuitable—to serve as a confidential informant.⁶³ Most importantly, however, the proposed informant should be questioned about their involvement with drugs, whether they have served as an informant in the past, and who is their current source of supply. Detailed questions about the informant’s source of supply will help to gauge their potential usefulness to OCIB, and they will also provide information about the drug trade in New Bedford. NBPD should revise its policy to require this debriefing.⁶⁴

Recommendation 5.1.3: NBPD should revise its policy to strengthen the criteria to become a confidential informant, including specific criteria excluding a person from serving as a confidential informant

Many potential confidential informants have events in their past that may make them unsuitable for use by an agency. NBPD’s policy currently includes guidance for the handling officer about circumstances that could make a potential confidential informant unsuitable, such as when the proposed informant is currently subject to an arrest

⁶² See, e.g., Chatham-Savannah Counter-Narcotics Team G.O. No. OPS-011 Informants (Effective Date June 12, 2009; revision date January 5, 2023) (“At the time of the initial debriefing, the controlling agent’s first line supervisor is required to meet with the CI”); see also Houston Police Department, Narcotics Division Operation Review, 2019, p. 56 (“Supervisors will also verify the veracity of all confidential informants’ information, especially any information leading to the issuance of a search or arrest warrant.”).

⁶³ See International Association of Chiefs of Police, National Law Enforcement Policy Center, Concepts & Issues Paper on Confidential Informants, December 2020, p. 3, available at: https://www.theiacp.org/sites/default/files/2021-02/Confidential%20Informants_All%20Documents.pdf.

⁶⁴ A sample list of questions that OCIB could consider to create a template for debriefing potential confidential informants can be provided upon request.

warrant or otherwise a fugitive, or has a criminal history of perjury. However, the policy does not mandate that officers obtain approval from their supervisors when these circumstances are present. Other agencies prohibit the use of a confidential informant in these circumstances, absent written approval from a supervisor.⁶⁵ Given the seriousness of these circumstances and their impact on the reliability and trustworthiness of the proposed confidential informant, NBPd should adopt the same approach and only permit the use of confidential informants in these circumstances with supervisory approval. Supervisors should only authorize the use of confidential informants in these circumstances when there is a compelling public safety interest in doing so, and they should require additional verification of the informant's information. Supervisors should also document their decision, with reasoning and the additional verification required, in writing.

Recommendation 5.1.4: NBPd should revise its policy to clarify the rules regarding criminal activity by a confidential informant

One of the perils of using a confidential informant is that, to be useful to an agency, a confidential informant must be, at least to some degree, involved in criminal activity.⁶⁶ NBPd's informant policy addresses criminal activity by a confidential informant, but the rules it sets forth should be clarified to provide greater guidance to OCIB detectives and supervisors.

Criminal activity by a confidential informant generally falls into two categories: authorized and unauthorized. Authorized criminal activity by a confidential informant is criminal activity that is known to the law enforcement agency and explicitly approved by the agency in advance of the criminal activity taking place. A controlled buy is an example of authorized criminal activity.⁶⁷ Unauthorized criminal activity by a confidential informant is criminal activity that may become known to an agency but is not approved in advance. Low-level drug usage by a confidential informant in a narcotics investigation could be an example of unauthorized criminal activity, but it could also include much higher-level criminal activity, such as involvement in a shooting or conspiracy related to drug trafficking. While clear policy guidance for both authorized and unauthorized criminal activity is essential, unauthorized criminal activity is the more complicated category. Confidential informants are often involved in some criminal activity to have access to information about a criminal organization and need to have credibility within that organization so they are not suspected of informing, but law enforcement agencies must be careful not to appear as if they are approving unauthorized criminal activity or tolerating high-level crimes.

NBPd's policy does not provide sufficient guidance to OCIB detectives and supervisors on criminal activity by confidential informants. For authorized criminal activity, the policy should include a clear process for obtaining authorization, including that the authorization must be given in advance. Authorization for low-level criminal activity, such as a controlled buy, must be given by the commanding officer of OCIB, while higher-level criminal activity must be authorized both by the commanding officer and by the prosecutor's office.⁶⁸ The policy should prohibit confidential informants from committing crimes beyond those authorized by NBPd, and it should make

⁶⁵ See, e.g., The Attorney General's Guidelines Regarding the Use of FBI Confidential Human Sources, December 23, 2020, pp. 20-21.

⁶⁶ See International Association of Chiefs of Police, National Law Enforcement Policy Center, Concepts & Issues Paper on Confidential Informants, December 2020, p. 8, available at: https://www.theiacp.org/sites/default/files/2021-02/Confidential%20Informants_All%20Documents.pdf.

⁶⁷ See *id.*

⁶⁸ See, e.g., United States Department of Justice Office of the Inspector General, § III.C and D, Special Report, September 2005.

clear that informants will receive no special consideration for crimes outside of the limited exception of those that are authorized in advance.⁶⁹

Unauthorized criminal activity requires more process. NBPD's current policy simply states that "criminal activity by informants shall not be condoned,"⁷⁰ but it does not state what should occur if NBPD learns that unauthorized criminal activity has occurred. This is not an abstract issue for OCIB.⁷¹ In an audit of ten confidential informant files conducted in April 2025 by NBPD's Professional Standards Division, seven of the ten informants had new criminal charges filed against them since OCIB had registered them as confidential informants. Notably, these criminal charges were not included in the files themselves, but the Professional Standards Division discovered them by running a criminal history check on the informants. Some of these criminal charges are significant, including violent crimes such as domestic violence and assault and battery, as well as higher-level drug crimes such as distribution. NBPD's policy should provide a process for evaluating a confidential informant once unauthorized criminal activity is discovered, criteria for weighing the seriousness of the criminal activity against the utility of the confidential informant in current criminal investigations, and direction on what should occur based on the newly discovered criminal activity. If NBPD determines that the unauthorized criminal activity was sufficiently low-level that it should be retroactively authorized and NBPD should continue to use the informant, this decision should be made in writing with approval from the OCIB commanding officer and the prosecutor's office. If, on the other hand, the unauthorized criminal activity is serious, the policy should set forth the process for deactivating the confidential informant and terminating funding. NBPD should revise its informant policy to provide this clear guidance on criminal activity by confidential informants. NBPD could, for example, develop guidelines that require that if an informant engages in a felony crime of violence, the informant must be deactivated. The guidelines could also permit an informant involved in misdemeanor property crimes or traffic violations to continue their paid work for NBPD, while precluding any efforts by NBPD to obtain leniency for the informant for these crimes or violations.

Recommendation 5.1.5: NBPD should revise its policy to provide clearer criteria for deactivating a confidential informant

Related to the topic of criminal activity by a confidential informant, but not entirely overlapping with it, is the concept of deactivating a confidential informant. An agency can deactivate a confidential informant because of criminal activity, but there are also other reasons for doing so. NBPD's 2024 policy discusses deactivating a confidential informant, but it does not provide sufficient guidance to OCIB supervisors on when this should occur. As discussed above, NBPD's process for deactivating a confidential informant based on unauthorized criminal activity needs to be strengthened. NBPD also needs to provide more clarity on other situations that should require deactivation. For example, the policy provides that "an informant once registered may be designated 'inactive' upon a period of time where the Commanding Officer of OCIB deems their production stale."⁷² The policy does

⁶⁹ See *id.*

⁷⁰ Policy 603.4(b).

⁷¹ The issue of informants engaging in unauthorized criminal conduct is neither new nor uniquely a New Bedford Police Department problem. The United States Department of Justice's 2005 report on the FBI use of confidential informants found that "10 percent of the [Federal Bureau of Investigation's] informant files contained evidence that the informant was committing unauthorized crimes about which the government knew." United States Department of Justice Office of the Inspector General, Special Report, September 2005.

⁷² NBPD, 603.3.5(e).

not provide guidance on how to determine that the confidential informant's production is "stale"⁷³ and the informant should no longer be considered active by the agency. Similarly, the policy provides several factors to assess the ongoing suitability of the confidential informant and requires that a supervisor must determine whether the informant will continue to be used. It does not provide guidance, however, on how these factors should be weighed or any brightline rules on when an informant should be deactivated, such as for dishonesty or other indicia of unreliability that undermine the informant's usefulness. As with unauthorized criminal activity, NBPd should revise the policy to provide a clear process and criteria for deactivating a confidential informant.

Recommendation 5.1.6: NBPd should revise its policy to provide a process and criteria for reactivation of a confidential informant

As noted above, confidential informants can be deactivated for several reasons, some of which may be sufficient to permanently bar the informant from serving as a confidential informant in the future. Many confidential informants, however, may be deactivated for benign reasons, such as no longer having relevant criminal intelligence to share with law enforcement. Agencies seeking to reactivate a confidential informant should have a clear process for doing so, including an updated suitability review, background investigation that includes a criminal history check, completion of paperwork required to be a confidential informant, and interview with and be approved by a supervisor. NBPd should update its policy to provide a clear process for reactivation of a confidential informant that includes ensuring that the reactivated informant satisfies all criteria necessary to be a confidential informant, including explicit evaluation of the reason for deactivating the informant previously. NBPd should require documentation of each step and evaluation in this process so that the reactivation decision can be audited and verified.

Recommendation 5.1.7: NBPd should revise its policy to clearly prohibit personal and social relationships with confidential informants

The relationship between the confidential informant and their agency handler presents risks for the law enforcement agency. As the handler and informant work toward a common law enforcement objective, the lines of authority can become blurred and the relationship can become casual, resulting in "a relaxation of the formal boundaries that must exist between the handler and the [informant]."⁷⁴ Because of these risks, agencies' policies must clearly prohibit handlers from "establish[ing] social relationships or becom[ing] personally involved with [confidential informants] beyond that which is required in the performance of duty."⁷⁵

NBPd's 2024 policy contains some prohibitions on personal and social relationships and some guidelines on the relationship between the handler and informant, but these prohibitions should be strengthened and made more concrete. The current rules are often written in general terms, such as "[a]lthough officers should seek to build rapport with informants, officers must avoid forming personal or social relationships with them."⁷⁶ NBPd should include more direct prohibitions in the policy, such as:

⁷³ Information that is "stale" typically refers to whether the information is sufficient to support probable cause.

⁷⁴ International Association of Chiefs of Police, National Law Enforcement Policy Center, Concepts & Issues Paper on Confidential Informants, December 2020, p. 8, available at: https://www.theiacp.org/sites/default/files/2021-02/Confidential%20Informants_All%20Documents.pdf.

⁷⁵ *Id.*

⁷⁶ Policy 603.4 (d) 4.

- An informant cannot be a relative or friend of an OCIB detective
- An informant will not be provided personal telephone numbers of any law enforcement personnel, especially OCIB detectives
- An informant will not be told anything personal by an OCIB detective⁷⁷

NBPD should consider adding a requirement that officers handling an informant keep a log of all conversations with confidential informants to ensure that officers abide by these restrictions.⁷⁸

The NBPD policy also currently includes an express prohibition on officers becoming “intimately involved with an informant,” and it also includes rules for meeting with confidential informants, including when more than one officer should be present.⁷⁹ These prohibitions are critical, because as the U.S. Department of Justice stated in a recent report on the Worcester, Massachusetts, Police Department, “[p]olice tactics that rise to the level of ‘outrageous government conduct’—like engaging in sexual contact in the name of enforcing the law—violate the Fourteenth Amendment’s Due Process Clause.”⁸⁰ NBPD should consider requiring two officers to be present for meetings with an informant whenever feasible.⁸¹ As the International Association of Chiefs of Police’s National Law Enforcement Policy Center notes:

Two-officer meetings are essential when there is the potential for an inappropriate relationship between a [confidential informant] and handler In all instances where the potential for an inappropriate sexual or romantic relationship between a [confidential informant] and the handler exists, meetings with at least two officers is highly recommended. While many situational factors should be considered, it is recommended that at least one of the officers be the same gender as the [confidential informant]. This will help protect officers in claims of sexual improprieties against the handler from the [confidential informant].⁸²

NBPD should revise its policy to provide clearer direction for its officers on personal and social relationships with confidential informants, and to protect officers and informants from claims of impropriety.

⁷⁷ See, e.g., Chatham-Savannah Counter-Narcotics Team G.O. No. OPS-011 Informants (Effective Date June 12, 2009; revision date January 5, 2023) (“At the time of the initial debriefing, the controlling agent’s first line supervisor is required to meet with the CI”).

⁷⁸ See, e.g., Houston Police Department, Narcotics Division Operation Review, 2019, p. 56 (“All operational conversations with a confidential informant will be annotated in a log. Operational conversations consist of dialogues (verbal, text messages, e-mails, or any other form of electronic communication) in which a confidential informant provides information to a case agent.”).

⁷⁹ NBPD Policy 603.4 (a) through (h).

⁸⁰ U.S. Department of Justice, “Investigation of the Worcester Police Department and the City of Worcester, Massachusetts,” December 9, 2024, p. 16 (citing *United States v. Therrien*, 847 F.3d 9, 14 (1st Cir. 2017)), available at <https://www.justice.gov/crt/media/1378896/dl>.

⁸¹ International Association of Chiefs of Police, National Law Enforcement Policy Center, Concepts & Issues Paper on Confidential Informants, December 2020, p. 9 (“Whenever possible, the handler should be accompanied by another officer when meeting with a CI.”), available at: https://www.theiacp.org/sites/default/files/2021-02/Confidential%20Informants_All%20Documents.pdf.

⁸² *Id.* at 9.

Recommendation 5.1.8: NBPD should revise its policies and procedures to require that information about all confidential informants be entered into NBPD's records management system so that OCIB is notified if an informant is arrested or otherwise has police contact

Modern police records management systems can confidentially store information about informants and send confidential notifications to designated contacts at the law enforcement agency when an informant has had an interaction with a law enforcement agency, including arrest. NBPD's new records management system has this capability, but NBPD has not yet activated this feature. NBPD should update its policies and procedures to activate this feature, including requiring that the required information about a confidential informant be included in the system, and that an OCIB supervisor be notified if an informant has an interaction with law enforcement. As described above, based on this information, NBPD should then determine whether the informant should be deactivated.

Additionally, NBPD's new records management system has the capability to perform cross-agency checks, meaning that officers can use it to determine whether an informant has had interactions with other agencies that opt into this feature, and the feature also allows for automatic alerts as described above. According to information we received from NBPD, all police departments in Bristol and Plymouth counties currently use this feature. NBPD should also activate this feature to strengthen its coordination with neighboring agencies and improve information about its informants.

Recommendation 5.2: NBPD should improve its operational practices related to the use of confidential informants

NBPD should not only update its policies and procedures governing the use of confidential informants, but it should also strengthen its operational practices related to informants. Some improvements to NBPD's operational practices should take place after the recommendations to policies and procedures described above are in place, while others are independent of those recommendations and may be implemented in parallel with the implementation of those changes.

Recommendation 5.2.1: NBPD should conduct a comprehensive review of all current confidential informants and then evaluate whether the informants should be deactivated or reactivated based on the policies and procedures recommended above

From our review, NBPD's current list of confidential informants includes hundreds of individuals who are either dead, inactive, or affirmatively deactivated, while the current list of "active" informants, which also numbers in the hundreds, also appears to be outdated and likely includes many individuals who have not actively served as a confidential informant in many years. Nearly all these individuals became informants for NBPD before the new confidential informants policy was promulgated in December 2024, and none of the current informants would have gone through the more robust process described above before being registered.

Following the additional revisions to its policies and procedures described above, NBPD should develop a plan to reevaluate all current confidential informants using the revised policies and procedures. At least some of these informants are likely involved in current, ongoing investigations, so NBPD should consider a phased approach that first removes all inactive and unsuitable confidential informants, and then prioritizes the remaining confidential

informants based on factors such as the sensitivity and stage of the current investigation in which the informant is involved, the risks that the informant may pose to the agency based on their history, and the vulnerability of the informant.

Recommendation 5.2.2: NBPD should update its recordkeeping software and practices related to confidential informants

Best practices suggest that comprehensive recordkeeping practices related to an agency's use of confidential informants is essential to ensure that the agency protects against the risks posed by their use.⁸³ NBPD's 2024 informant policy addresses recordkeeping.⁸⁴ NBPD's practices around recordkeeping, however, involve a series of Excel spreadsheets that depend on OCIB officers to keep them current. From our review, these spreadsheets often contain outdated information and may not always be internally consistent. NBPD should eliminate the use of these spreadsheets and utilize modern confidential informant management software. NBPD's new record management system has the capability to add a confidential informant module that would integrate into the agency's overall system, allowing for greater access and auditing capabilities. Alternatively, NBPD could purchase stand-alone confidential informant management software; this option would likely be simpler and faster in the short term but could lead to long-term inefficiencies. NBPD should consider which option will work best for OCIB and the overall agency.

The current spreadsheets also keep all registered confidential informants, both active and deactivated, on the same list. For the deactivated informants, the list does not include information on why the informant has been deactivated. As NBPD brings new confidential informant software online, it should ensure that the new system allows it to keep separate lists of active informants and informants it has determined to be unreliable, including the rationale for this determination.⁸⁵

Recommendation 5.2.3: NBPD should improve its practices related to the use of confidential informant funds

NBPD needs to strengthen its practices regarding the use of confidential informant funds to ensure that all funds are used appropriately. As with confidential informants generally, NBPD's current system uses Excel spreadsheets, which makes tracking and auditing the use of confidential informant funds difficult. NBPD should ensure that any new software package includes the ability to track informant funds.

From our review, the total amount NBPD expended on confidential informants over a ten-year period from January 2015 to April 2025 is \$194,029.00, or \$19,402.90 per year. This is a modest amount for a city the size of New Bedford and for the number of arrests being made by OCIB. Analysis of the expenditures suggests that OCIB is spending relatively small sums of money at any one time for confidential informants to purchase drugs in a

⁸³ See International Association of Chiefs of Police, National Law Enforcement Policy Center, Concepts & Issues Paper on Confidential Informants, December 2020, p.11-12 (describing the elements of an adequate confidential informant file management system), available at: https://www.theiacp.org/sites/default/files/2021-02/Confidential%20Informants_All%20Documents.pdf.

⁸⁴ See NBPD G.O. 603.5

⁸⁵ See, e.g., Massachusetts State Police, GO INV-02; see also International Association of Chiefs of Police, National Law Enforcement Policy Center, Concepts & Issues Paper on Confidential Informants, December 2020, p.11-12 (describing the elements of an adequate confidential informant file management system), available at: https://www.theiacp.org/sites/default/files/2021-02/Confidential%20Informants_All%20Documents.pdf.

controlled buy or to pay confidential informants for information about criminal activity. Since 2015 there are a total of 2,285 entries capturing expenditures, and of that total, only 79 entries capture expenditures that exceeded \$250. Over 70 percent of the expenditures were for less than \$100. Based on these figures, confidential informants are not making a living off payments from the NBPD.

NBPD's primary use of the funds, as noted, is for two interconnected purposes: paying an informant for making a buy of narcotics and the money to make the buy. Many agencies physically copy the funds before making the purchase in a controlled buy to ensure accurate documentation of the serial numbers. When an arrest or search is subsequently made, the funds can be easily linked to the confidential informant's purchase of controlled substances.⁸⁶ NBPD does not currently follow this practice. NBPD should update its practices to include this step, which will improve its tracking of informant funds and make it easier to prove cases at trial.

NBPD should also improve its recordkeeping practices regarding the purposes for which confidential informant funds are expended. In NBPD's current system, some of the categories are combined, obscuring the purpose for which the money was expended. For example, NBPD's spreadsheet has both "buy" and "info" categories, but it also has a "buy/info" category, making it impossible to determine the precise use of those funds. NBPD should eliminate the use of combined categories to ensure that all expenditure of funds is accounted for appropriately.

Finally, NBPD uses funds from money seized related to drug investigations arrests to fund costs related to OCIB, including funding for confidential informants. OCIB uses funds from a State Asset Seizure account, which has specific rules for how the funds may be used. Using the funds from the State Asset Seizure account for confidential informants and drug purchases as part of an investigation are approved uses of the funds under State law.⁸⁷ OCIB has also used these funds for other purposes, including training, tinting car windows, holsters, and raincoats. These expenditures appear valid and consistent with State law, but the language of the State law is less clear on these types of purchases. NBPD should seek an official opinion from the City Solicitor to ensure that these purchases are permissible. OCIB should also make these purchases out of a separate account maintained for that purpose and separate from the funds used to either pay informants or purchase controlled substances.

Recommendation 5.2.4: OCIB should improve its coordination and information sharing with other law enforcement agencies on narcotics investigations

OCIB needs to improve its coordination with neighboring, state, and federal law enforcement agencies on narcotics investigations. In many agencies, after a search warrant resulted in a significant seizure of drugs, the narcotics unit would seek to work up the supply chain to arrest higher-level drug dealers and traffickers. Generally, OCIB officers do not do so: they make the controlled buy, get a search warrant, execute the search warrant, charge the eligible suspects and move onto the next case. From our review of OCIB files, we found opportunities for OCIB detectives to pursue leads and information that could have led to linkages with other drug dealers or the source of supply for the dealer, but OCIB did not appear to follow up on those leads. OCIB often learns of telephone numbers linked to drug dealing and distribution. OCIB should provide these numbers to the Regional Information Sharing Systems (RISS) Program, especially the RISS Master Telephone Index.⁸⁸

⁸⁶ See, e.g., *Practical Narcotics Investigations: For the Uniformed Officer to the Experienced Detective*, James Henning (2005).

⁸⁷ Mass. Gen. Laws ch. 94C, § 47.

⁸⁸ See [RISS Master Telephone Index \(MTI\) – Regional Information Sharing Systems](#).

OCIB could also have provided information it obtained to the regional counterdrug intelligence centers, such as HIDTA, to better coordinate its efforts with other agencies and target more significant drug dealers and traffickers. OCIB should also seek to coordinate with state and federal partners through the United States Department of Justice's Organized Crime Drug Enforcement Task Forces (OCDETF).⁸⁹ OCDETF is the lead element for the federal government in implementing a nationwide strategy that combines priority targeting, coordination, intelligence sharing, and directing resources to attack criminal organizations. For member entities, OCDETF can bring funding and resources. The OCDETF Fusion Center is central to this strategy, serving as "a central data warehouse for drug intelligence, financial intelligence, and related investigative information, and is designed to conduct cross-agency integration and analysis of such data" to help produce investigative leads and support drug investigations.⁹⁰ OCIB should seek to better integrate its efforts to combat the illegal use and distribution of narcotics with OCDETF, HIDTA, and other law enforcement agencies to improve the quality of arrests and have a more significant impact on the drug trade in New Bedford.

Recommendation 5.3: NBPd should strengthen its audit and accountability practices related to the use of confidential informants

As discussed above, the use of confidential informants presents significant risks for an agency. Inappropriate use of confidential informants can undermine criminal investigations and prosecutions and erode community confidence in the police department. Regular audits of a unit using confidential informants helps manage this risk and ensure that the unit is complying with an agency's policies, procedures, and training.⁹¹

NBPd's current policies require some auditing of OCIB's use of confidential informants, but these auditing practices need to be expanded and made more rigorous. For example, NBPd's policy currently requires the OCIB supervisor to document the reason why an informant has been deactivated, but in our review of these files, they do not contain sufficient detail to understand the reason for deactivation. NBPd should set up routine audits to verify compliance with all aspects of the confidential informants policy. This should include, for example, verifying that suitability assessments have been completed, that a criminal history check has been run and updated on a routine basis, that supervisors have met with the proposed informant and approved their use, and that informants with unauthorized criminal activity have been reassessed and a determination made about their continued use.

Recommendation 5.3.1: NBPd should review each informant annually and determine whether the informant should remain active

Best practices suggest that an agency should review every active informant annually, including an updated criminal history check and a meeting with the informant, handler, and supervisor. This review should ensure that the informant is still providing value to the agency, and that the risks posed to or by the informant do not outweigh their continued use.

NBPd's current policy does not require an annual review of every informant. Rather, it mandates an "audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per

⁸⁹ See [Organized Crime Drug Enforcement Task Forces | Organized Crime Drug Enforcement Task Forces](#)

⁹⁰ [Strategy to Combat Transnational Organized Crime: Enhance Intelligence and Information Sharing | The White House](#).

⁹¹ See National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, pp. 31-32.

year.”⁹² These audits should include an evaluation of the stops and search warrants made based on the information provided by the confidential informant to evaluate whether the information provided by the informant is reliable. For example, if a significant percentage of the stops performed based on information provided by a confidential informant do not result in contraband, NBPD should be aware that the informant is not providing reliable information. Based on these audits, NBPD should discontinue use of unreliable informants and document the informant’s lack of reliability in the deactivation file. NBPD should revise its policy to require an annual review of each confidential informant that incorporates audits of the informant files and train its officers and supervisors on how to conduct these reviews.

Recommendation 5.3.2: NBPD should improve the financial audits of confidential informant funds

Currently, NBPD’s Professional Standards Division is required to audit OCIB’s use of confidential informant funds every three months. While this is laudable, traditionally this audit only accounts for the total amount of the funds, rather than auditing the purposes for which the funds have been spent. NBPD should expand the scope of the required audits beyond simply accounting for the funds and assess whether the funds are being used for authorized purposes as set forth in NBPD policy. NBPD should also consider whether this audit could be better conducted by fiscal professionals, rather than by the Professional Standards Division. The audit of the funds, even if the scope is increased as recommended here, does not involve the disclosure or review of any confidential information such as informant or suspect names. With only three people assigned to Professional Standards, shifting the financial audit responsibility to fiscal professionals may alleviate some of the burdens on Professional Standards and increase the efficiency of the audit.

F. Operations

As discussed previously, OCIB primarily conducts narcotics enforcement using two strategies: (1) directed patrol in neighborhoods of interest that result in vehicle and pedestrian stops of people suspected of drug activity; and (2) controlled buy operations that result in search warrants served on locations suspected of drug activity.

We describe controlled buy and search warrant operations in more detail in the Use of Confidential Informants section of this report. For directed patrol, OCIB supervisors generally select locations and targets, setting up directed patrols or surveillance in areas of known drug dealing or locations where they have received a specific tip or complaint from their confidential phone line or email address. OCIB supervisors go to the location and conduct surveillance, while OCIB detectives patrol in the same general area. The detectives make pedestrian and traffic stops in a proactive manner; one detective is driving the cruiser while the passenger detective runs license plates and watches for known vehicles or vehicles with traffic violations. The supervisors, from their surveillance positions, frequently call out license plate numbers, which the detectives run and broadcast the results to the team. At the same time, detectives engage with confidential informants by phone or text, seeking out criminal activity that is going on at that time in that location. When the supervisors observe what they believe to be criminal activity, they call in the detectives, who make contact with the suspicious individuals, either through a vehicle or pedestrian stop.

⁹² NBPD 603.5 (d).

From our interactions with and survey of OCIB members, it is apparent that they enjoy working on a dedicated team that is engaged in proactive investigations and not simply responding to radio calls. They raised concerns, however, about feeling pressured to make arrests or “numbers,” whether related to narcotics or otherwise. When we questioned them about this pressure, officers could not point to a specific source or overt direction to make arrests but made clear that it was their perception that they must do so. From our review, OCIB is an active unit: over the last three years, the seven OCIB detectives averaged at least 1,500 arrests a year, or approximately 214 arrests per detective who is working, in general, 244 days a year. While members of OCIB should expect to be active, including making stops and arrests and conducting investigations, NBPd should monitor the culture of OCIB to ensure that inappropriate pressure to make stops or arrests is not being exerted and, as discussed below, should audit OCIB’s activities to ensure that all stops, searches, and arrests are legally predicated.⁹³

Although many aspects of OCIB’s operations are addressed in our recommendations on mission, policy, training, use of confidential informants, and supervision and accountability, some aspects are best addressed through describing OCIB’s operations in practice, although they impact issues such as policy, training, and supervision. These areas include OCIB’s coordination with uniformed patrol, use of an encrypted frequency, use of tips, and storage of evidence.

Recommendation 6.1: NBPd should increase coordination between OCIB and Uniformed Patrol

NBPd needs to improve the coordination between OCIB and the Patrol Division to increase both OCIB’s and Patrol’s effectiveness and efficiency in their separate roles. From our observations, there is almost a complete absence of coordination between OCIB and NBPd’s uniformed patrol officers.⁹⁴ OCIB does not generally respond to routine radio calls. Similarly, Patrol officers generally do not notify OCIB if they are dispatched to a call involving narcotics or if they make a narcotics arrest during their routine patrol duties. For the most part, OCIB operates on a secondary, encrypted radio frequency that does not have a dispatcher assigned, is not recorded, and is not monitored in NBPd’s communications center. Absent reprogramming of the Patrol Division’s radios, OCIB’s encrypted frequency cannot be monitored by patrol officers. As a result, OCIB operates almost completely out of sight and out of sync with the uniformed patrol division. Patrol personnel have no idea where OCIB is working except when the uniformed officers happen to spot OCIB personnel operating on the street, or when the OCIB personnel find themselves in need of support and request backup over the regular radio frequency. In our discussions with patrol officers, this gap in coordination is known and widely recognized. In fact, they explain that they only know what OCIB is doing when they suddenly “pop” up on the patrol channel requesting assistance or announcing a vehicle or foot pursuit.

For example, we reviewed one high-risk incident in which OCIB communicated almost exclusively on OCIB’s encrypted channel, and therefore Patrol was largely unaware of the incident. In the incident, based on a tip from a confidential informant that a suspect was armed, as well as additional information that the suspect had outstanding

⁹³ OCIB detectives also raised concerns that they are not treated equally to other detectives assigned to specialized assignments. Detectives assigned to Major Crimes, the other half of CID, are issued take home cars, receive a 3% detective differential, and work a steady 5-2 schedule. These concerns are beyond this scope of this report.

⁹⁴ In NBPd’s 1997 General Order on Search Warrants, there is a section that mandates that “all officers are required to coordinate all drug-connected activities” through OCIB. G.O. 1-04, 2. From our observations, this requirement is not being followed, and it serves as another example of NBPd’s outdated policies that need to be comprehensively updated.

arrest warrants and was driving on a suspended license, OCIB attempted to stop the suspect's vehicle. OCIB attempted to contain the suspect vehicle using unmarked police cars. When the suspect refused to exit the car, one OCIB officer broke the driver's window with a flashlight. The suspect then used his vehicle to crash into the two OCIB vehicles attempting to contain the vehicle and escaped. OCIB initially pursued the vehicle but eventually called off the pursuit because the suspect's driving was unsafe. OCIB only notified Patrol on NBPD's primary frequency after OCIB lost sight of the suspect's vehicle during the pursuit. This incident took place outside of knowledge of most of the police working at that time, despite involving an allegedly armed suspect, a use of force, a collision, a pursuit, and an eventual escape.

Not only is there a lack of coordination between OCIB and Patrol, but there is also a cultural split. Some OCIB personnel view patrol officers as not proactive, somewhat lazy, and ineffective. For their part, some patrol officers view OCIB members with some suspicion and a sense that they are a pampered, preferred unit. Regardless of the accuracy of these perceptions, the distrust between OCIB and Patrol reduces effective coordination and undermines NBPD's overall ability to accomplish its mission. Subcultures within an agency, particularly those within specialized units, can weaken accountability and erode public perception of the agency.⁹⁵

NBPD should take numerous steps to increase the coordination between OCIB and Patrol, including:

- OCIB should notify Patrol Division, at least at the supervisory level, about when and where they are operating.
- A Patrol Division supervisor should be able to monitor OCIB's secondary, encrypted frequency to ensure coordination.
- OCIB should switch to NBPD's primary frequency before conducting a stop (vehicle or pedestrian), search, arrest; executing a search warrant; or initiating a pursuit.
- OCIB supervisors should regularly attend Patrol Division rollcalls and provide information about the crimes, locations, and individuals OCIB is targeting in its enforcement activities.
- Patrol Division should notify OCIB of all narcotics-related stops and arrests; OCIB should determine when it should respond to and assist Patrol Division with those stops and arrests.
- OCIB should interview people arrested by the Patrol Division for narcotics-related offenses to develop information about drug trafficking in New Bedford.
- OCIB should analyze NBPD's dispatch data on calls related to narcotics to inform its deployment and investigations.

To increase coordination, NBPD will need to revise its policies and procedures for OCIB and Patrol and train its officers, including supervisors and dispatchers, on the new coordination requirements.

⁹⁵ See, e.g., National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, pp. 23-24.

Recommendation 6.2: NBPD should immediately begin recording all transmissions on OCIB's secondary, encrypted frequency

As discussed above, OCIB currently conducts most of its operations exclusively on a secondary, encrypted frequency, and OCIB's transmissions on this frequency are not recorded. Failing to record these transmissions leads to several potential concerns, including incomplete records of the basis for a stop, search, arrest, pursuit, or other activity that may be essential to bring a prosecution or defend against a civil lawsuit, and inadequate documentation of activities to ensure adequate supervision and investigate misconduct. While these transmissions may include law enforcement sensitive information, including the identities or sensitive information about confidential informants, NBPD should record these transmissions to increase its ability to support successful prosecutions and improve its internal supervision and accountability mechanisms. If the transmission contains sensitive information, NBPD should develop a process to redact this information before production; many new applications allow for these redactions to be done automatically and reduce the burdens on the department. NBPD should also develop a policy limiting the distribution of these recordings within the department to those officers who have a need to know for an investigation or some other law enforcement purpose.

Recommendation 6.3: NBPD should improve its practices to receive and use tips it receives from the public

Tips from the public can provide critical information that is essential to law enforcement investigations and the reduction of crime. Recognizing this, law enforcement agencies have greatly expanded the ways in which the public can provide information, particularly as the use of cell phones, social media, and other applications have changed the way information is shared. Many departments now use and publicize software applications for mobile devices, which allow for anonymous bi-directional communication between the agency and the tipster. These applications generally track tips and allow information about the result of police action related to the tip to be added and tracked as well. Many of the applications also provide direct integration into crime mapping software, enabling mapping and analysis of tips and identification of crime hot spots.

NBPD currently uses antiquated systems to receive and track tips from the public, including a phone line and web submission. Unless the person leaves contact information, NBPD cannot follow up with tipster about the information provided. If the tips are related to OCIB's mission, OCIB enters the information on an Excel spreadsheet. OCIB receives a significant number of tips; for example, in a three-week period in April 2025, OCIB received more than 10 tips about drug activity. These tips are an important source of information that can increase OCIB's efficacy, and they also provide a critical gateway for the public to confidentially request police response to a neighborhood drug problem.

NBPD should consider investing in a modern tip application that allows for agency branding and bi-directional communication with the tipster. The application should also integrate with NBPD's other records management to enable crime mapping, trend analysis, and tracking of outcomes that can be used by both OCIB and the Patrol Division. If NBPD invests in such an application, it should then develop appropriate marketing for the application. Even if NBPD chooses not to invest in such an application, NBPD should ensure that the current spreadsheet captures the outcomes and use of the tip information, and it should also develop a way to routinely share appropriate information with the Patrol Division for investigation.

Recommendation 6.4: NBPD should take immediate action to properly dispose of all controlled substances no longer needed as evidence and to provide training on best practices for property and evidence management

NBPD recognizes that its current evidence storage practices need significant improvement, and it is in the process of building a new evidence room. Nevertheless, NBPD needs to take immediate action to alleviate the current situation. NBPD's current evidence room contains a massive quantity of seized controlled substances dating back to 1989. These pose significant risks to the agency, including health hazards and opportunities for theft, both internal and external. As a rule, controlled substances that are not needed for a court case should be disposed of as quickly as possible. NBPD's accumulation of out-of-date narcotics has reached a critical stage and needs to be addressed. Additionally, NBPD continues to use sworn police officers as evidence custodians, even while the agency is short on sworn personnel.

While destroying and disposing of such evidence takes some time, including in many cases the involvement of the prosecutor's office and the court and coordination with the Massachusetts State Police, NBPD needs to move with urgency to purge old controlled substances evidence. NBPD should conduct an immediate review of all narcotics evidence it is currently storing to determine which evidence is appropriate for disposal and then work with the State Police to destroy it. The Massachusetts State Police issued a new Standard Operating Procedure on March 1, 2025, which could expedite the process for certain categories of controlled substances by removing the requirement for a court order.⁹⁶ Given the state of its evidence storage, NBPD may wish to consider having the International Association for Property and Evidence (IAPE)⁹⁷ conduct a full audit of its property and evidence rooms to ensure that it complies with best practices. At a minimum, NBPD should train a selection of its senior managers in IAPE's online course in best practices for property and evidence management. NBPD should also consider shifting its staffing to civilian evidence clerks if permitted by State law, so that it may deploy its sworn personnel to activities in which they are required.

G. Supervision and Accountability

Effective supervision and accountability mechanisms are essential to ensuring that a specialized unit is meeting its mission and avoiding developing practices that are inconsistent with law, policy, and agency and community expectations. Specialized units "are often engaged in potentially high-risk and high-liability work," necessitating "the need for strict discipline and planning to mitigate risks and ensure officer and public safety."⁹⁸ Some aspects of NBPD's accountability structures for OCIB are discussed at length in our separate report on NBPD's Professional Standards Division. In this section, we focus on other aspects of effective supervision and accountability, including line-level supervision, performance management, and audits.⁹⁹

⁹⁶ See 2025-ECS-02B, page 4 of 24.

⁹⁷ [What Is IAPE? - IAPE - International Association for Property and Evidence](#)

⁹⁸ National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, p. 19.

⁹⁹ While beyond the scope of this report, during our review we also noted that, in our view, NBPD has delegated too many decisions to the Chief of Police for an agency of its size. NBPD is a medium-sized department with over 200 employees and multiple levels of supervision—Assistant Chief, Assistant Deputy Chiefs, captains, lieutenants, and sergeants. Yet repeatedly, throughout the policies and practices of the Department, multiple decisions bypass all the other supervisors and land on the

Recommendation 7.1: NBPd should improve supervision of OCIB detectives

Supervisors in a specialized unit such as OCIB play a critical role; they are “responsible for reinforcing the mission, expectations, and culture that the department has created.”¹⁰⁰ First-line supervisors—typically sergeants—are essential to effective supervision, making sure that unit operations are aligned with agency policies and practices. This supervision should include active supervision out in the field with their officers, providing clear directions, particularly in high-risk and high-stress situations.¹⁰¹

OCIB has some pieces in place to provide effective supervision. The span of control—the number of officers per supervisor—is small, with three supervisors in the unit and only seven detectives. These supervisors are also out in the field with the detectives, so the opportunity to provide active supervision is present.

NBPd needs to improve first-line supervision of OCIB operations in at least two respects, however. First, OCIB supervisors are often hesitant to provide supervision of high-risk incidents as they unfold in the field. This is a result of how OCIB currently assigns its vehicles during operations. Supervisors are assigned to “surveillance cars,” non-descript vehicles of various makes and models with neither emergency equipment (lights and siren) nor radios mounted in them. OCIB lieutenants and sergeants, dressed in street clothes, drive these cars. OCIB detectives, dressed in civilian clothes with body armor and standard police equipment visibly marked “police,” operate standard unmarked police vehicles with emergency equipment and installed radios.¹⁰²

One unintended consequence of these vehicle assignments is that OCIB supervisors are reluctant to join a detective at the same location where the detective has stopped a suspect, because joining the detective would expose the undercover car and reveal them as police vehicles. Thus, if the supervisors need to join the detectives, they park several blocks away, out of sight, and then walk to the location. In practical terms, this means that, in certain tactical or critical incidents, the supervisors are not physically present. The Captain in charge of the Criminal Investigation Division, who previously served as the lieutenant in charge of OCIB, is acutely aware of this issue and has raised this issue with his subordinate supervisors, stressing the need for supervisors to exit their cars and engage with the detectives. Nevertheless, this lack of supervision persists.

NBPd could consider taking two actions to address this issue:

- The OCIB lieutenant and sergeants should prioritize supervision of the unit, while OCIB detectives should typically be tasked with surveillance and target selection and assigned to the surveillance vehicles.

desk of the Chief. There are multiple aspects of a modern municipal police department that need decisions daily, even hourly. NBPd’s policies need to reflect the reality of multiple layers of authority and responsibility and allow for more dispersed decision making.

¹⁰⁰ National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, p. 18.

¹⁰¹ *Id.* at 19; *see also id.* at 30 (“Participants consistently stressed the importance of having sergeants (or equivalent) in the field with officers to observe the work of specialized units and to supervise actively and directly.”).

¹⁰² When they are in the field, OCIB supervisors conduct surveillance and call over the radio for detectives in the standard unmarked vehicles to conduct stops of suspicious people or vehicles, with the detectives completing the reports about the incident. This is atypical, and it may not result in complete documentation about the reason for the stop.

- At least one of the OCIB supervisors should operate in civilian clothes clearly marked “police” in an unmarked vehicle with emergency lights and sirens to enable the supervisor to deploy immediately to any OCIB tactical event and provide active, onsite supervision.

Second, OCIB detectives do not currently have an “assigned supervisor” to whom they report. Instead, detectives can go to either sergeant with questions or to request specific supervisory approval. This model can lead to inconsistent supervision and “forum shopping” as it is known in the law; the idea that a party will select the court—or in this case the supervisor—that it believes will be most sympathetic to its desired outcome. NBPB should change its practice to require each sergeant in OCIB to have specific detectives assigned to them. This is a standard best practice in law enforcement supervision known as “unity of command.”¹⁰³ The same supervisor should be supervising, mentoring, and guiding the same officer for an extended period.

Recommendation 7.2: NBPB should develop performance metrics for OCIB to evaluate its ability to meet its mission and engage in active performance management of OCIB as part of its overall effort to develop performance metrics and a CompStat program for the department

Best practices stress the importance of developing performance metrics and engaging in routine performance management of specialized units to measure whether the unit is achieving the agency’s intended goals. Performance management is “a systematic effort to improve performance through an ongoing process of establishing outcomes, setting standards of performance, and then collecting and analyzing data about the performance to make improvements.”¹⁰⁴ To establish performance metrics, agencies should examine “a broad range of outcomes related to the mission of the specialized unit.”¹⁰⁵ For a narcotics unit, these could include reports of drug dealing, arrests, drugs (and money, firearms) seized, cases prosecuted, use of force incidents, complaints, pursuits, vehicle accidents, overtime, community outreach events, and community sentiment.¹⁰⁶

Once NBPB has settled on OCIB’s mission as discussed above, NBPB needs to develop performance metrics to evaluate with OCIB is meeting its mission. Using these metrics, NBPB leadership and OCIB supervisors will then need to engage in ongoing, active performance management of OCIB’s operations. Some metrics, such as arrests and complaints, should be available on close to a real-time basis, enabling supervisors to immediately evaluate performance and correct course if necessary, while other metrics, such as community sentiment or trends in outcomes, should be evaluated on a regular basis periodically to provide overall direction to the unit. We understand that NBPB is working with another consulting firm to update performance metrics and a CompStat program for the department, and we recommend that OCIB operations be included in that process.

¹⁰³ See Joseph F. Iannone et al., *Supervision of Police Personnel* 22 (8th ed. Pearson 2014) (“This principle requires that every employee should be under the direct command of but one superior.”); see also Settlement Agreement, *United States v. Seattle*, 2:12-cv-01282, ¶ 154.

¹⁰⁴ National Policing Institute. 2024. *Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability*. Washington, DC: Office of Community Oriented Policing Services, p. 29 (citing Shane, Jon M. “Performance Management in Police Agencies: A Conceptual Framework.” *Policing: An International Journal of Police Strategies & Management* 33, no.1 (2010): 6–29).

¹⁰⁵ National Policing Institute. 2024. *Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability*. Washington, DC: Office of Community Oriented Policing Services, p. 28.

¹⁰⁶ *Cf. id.*

Recommendation 7.3: NBPd should consider how to best audit OCIB's activities to ensure that they are consistent with law, policy, and agency and community expectations

Closely related to the topic of performance metrics and management is that of audits, which are used to inform police leaders “about the economy, efficiency, and effectiveness of [a specialized unit’s] operations.”¹⁰⁷ As NPI best practices guide noted:

The auditing process plays an important role in maintaining accountability and managing performance. Units that have more individualized discretion should be closely monitored and regularly audited to ensure that unit objectives align with the department’s mission. These regular audits of units will also help leadership understand what goals are being met and can guide the next steps in deciding those units’ future.¹⁰⁸

The guide also stresses the importance of having an outside unit perform the audit, rather than unit supervisors, and discussed the opportunity that body-worn cameras present to aid auditors in assessing a unit’s conformity with policy and training.¹⁰⁹

As a mid-sized agency, NBPd should consider how to best audit OCIB’s activities to ensure that it is acting consistently with the department’s policies and expectations. NBPd has some auditing capabilities, and it is already performing some audits of OCIB, including a limited audit of body-worn camera footage by the Professional Standards Division. NBPd should assess its resources to determine what auditing it should provide internally, including whether the Professional Standards Division is the correct unit to be conducting audits of body-worn camera footage, or if this audit is better conducted by a unit such as Training. NBPd should also consider whether it should audit other OCIB activities, such as stops, frisks, searches, arrests, seizures of drugs, money, and firearms, search warrant service, and, as noted above, its use of confidential informants. Routine auditing not only ensures that officers are following agency policies, but it also ensures that officers are current on the information and training necessary to perform their duties effectively.

H. Community Engagement

Although specialized units can play a critical role in fighting crime within a community, it is critical for a law enforcement agency to engage with its community about the public safety problem it is seeking to solve through the formation or ongoing mission of a specialized unit.¹¹⁰ Community members may not perceive the work of the specialized unit as the solution to the public safety problem, eroding community confidence in the unit—and in the leadership of the agency, if they are not responsive to community feedback.¹¹¹ If an agency chooses to form a specialized unit, the agency should engage its community “about the perceived need for the unit, the decision to create it, its planned mission, and planned measures to ensure its accountability.”¹¹² Following creation of the unit,

¹⁰⁷ National Policing Institute. 2024. Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability. Washington, DC: Office of Community Oriented Policing Services, p. 31.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ See generally *id.* at 37-39.

¹¹¹ *Id.*

¹¹² *Id.* at 38.

community engagement must continue, providing the community with information about the unit's operations, including information such as the performance metrics discussed above.¹¹³ This allows not only agency leadership to assess the success of the unit, but it provides transparency to the public about the unit's performance that allows the public to assess the success of the unit for itself. Agency leadership should remain open to community feedback and continue to refine the mission, policies, and operations of the unit to ensure that they are accomplishing agency goals and meeting community expectations.¹¹⁴

Recommendation 8.1: NBPD should engage its community about the mission of OCIB as part of its overall community engagement and policing strategy

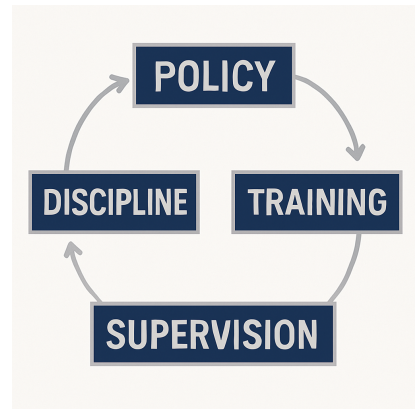
NBPD should include OCIB's work in its overall community engagement process to ensure that its mission and operational practices align with community expectations. Effective community policing involves engagement with the community on all aspects of a law enforcement agency's work, including the use of specialized units. As it meets with diverse groups within the broader New Bedford community, NBPD should include specific engagement about OCIB's mission, approach, operational practices, and accountability measures, to ensure that the community is knowledgeable about OCIB's work and can provide input. This engagement process helps ensure that OCIB is fulfilling its mission and meeting community and agency expectations.

¹¹³ *Id.*

¹¹⁴ *Id.*

II. Assessment and Recommendations Regarding the Professional Standards Division

Internal affairs serves a critical function within a police department, ensuring that the behavior of its sworn and civilian employees meets department standards. It fits within the broader management of a department: the department establishes expectations through policy; it trains employees on the requirements of those policies; it provides supervision to ensure that the policies and training are followed; and, when they are not, the department has an internal system to investigate the failure and hold the responsible parties accountable through discipline.



NBPD's internal affairs system has weaknesses that undermine its ability to consistently ensure that instances of potential violation of NBPD's standards are fully investigated and that officers are held accountable through appropriate discipline. As noted below, NBPD should strengthen its internal affairs system, including the Professional Standards Division, to align with national best practices, including the Division's placement within the organization, as well as its intake, classification, investigation, findings, and disciplinary policies and practices.

A. Organizational Structure

Recommendation 1.1: The Professional Standards Division should be led by a supervisor who reports directly to the Chief of Police

Consistent with national best practices, the Professional Standards Division should be commanded by a supervisor who reports directly to the Chief of Police. When NBPD created the Division to manage and investigate complaints against officers in July 1993, the policy creating the Division specified that it should be supervised by a captain. That policy is still in effect, but the Division has never been supervised by a captain, and it continues to be supervised by a lieutenant at this time.

NBPD policies require the supervisor of Professional Standards to "report to the Deputy Chief for Investigative/Administrative Services."¹¹⁵ This is contrary to national best practices. Numerous publications emphasize the importance of the head of internal affairs reporting directly to the chief of police. In its Standards and Guidelines for Internal Affairs, the United States Department of Justice's Office of Community Oriented Policing Services ("COPS Office") recommends that internal affairs "...typically report to the agency head ... and thus have certain independence."¹¹⁶ Later in that same report, the COPS Office recommends that the "head of Internal Affairs should preferably report directly to the agency head. If a direct reporting relationship is not feasible, the Internal affairs commanding officer should nonetheless have prompt, unrestricted, and confidential access to all agency executives, including the agency head."¹¹⁷ Other leading experts recommend similarly:

¹¹⁵ Directive 93-40.

¹¹⁶ U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 31 (2009).

¹¹⁷ U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 51 (2009).

“Internal affairs units ... need to have a chain-of-command that places them directly under the chief of police because these investigations have significant ramifications on the chief, the organization, and the community.”¹¹⁸ NBPd should change its policy to make the supervisor of Professional Standards a direct report to the chief of police.

Recommendation 1.2: NBPd should evaluate the Professional Standards Division’s staffing levels after implementing the other recommendations outlined in this report

Over the past three years, the two detective sergeants in Professional Standards have investigated 59% of the complaints received by the NBPd, averaging 33 cases per year. This is in addition to their other duties, including auditing all NBPd’s use of force and NBPd officers’ compliance with the agency’s body-worn camera policies. The other recommendations in this report could have a significant impact on the Professional Standards Division’s workload; some recommendations may reduce that workload, while others may increase it. After implementing the other recommendations in this report, NBPd should evaluate whether the staffing requirements set forth in its organizational chart are appropriate.

Recommendation 1.3: The Professional Standards Division should be the sole repository of all internal investigation files, which should be kept in a secure location with a full digital backup

Maintaining a complete and accurate set of internal investigation files is essential for any law enforcement agency. Doing so ensures that all misconduct is tracked and discipline can be imposed consistently, and if necessary, progressively, over time. Complete and accurate files assist the agency in performing any mandatory reporting requirements, such as to the Massachusetts POST Commission, and protect the agency in civil lawsuits.

At NBPd, the primary official repository for internal investigations is the Division of Professional Standards. The Professional Standards Division, however, does not maintain a comprehensive record of each case. Instead, once an investigation is completed, Professional Standards copies the investigation and submits the original to the Chief’s Office for a final decision. The original, including any records of the Chief’s decision,¹¹⁹ is not returned to Professional Standards but is instead stored in the Chief’s Office. NBPd should discontinue keeping records in the Chief’s Office and instead require that the Professional Standards Division maintain all records of internal investigations.

NBPd also needs to improve the security of its recordkeeping practices for internal investigation files. Neither the files kept in the Chief’s Office, nor those in the Professional Standards Division, are sufficiently secure. The documents retained in the Chief’s Office are in standard filing cabinets in the normal office space without special security precautions. In Professional Standards, the documents are kept in manila files in metal filing cabinets that are in the sole interview room in the Professional Standards facility. If there is digital material, such as a thumb drive, which is part of the investigation, Professional Standards staff store this material in a separate section of the

¹¹⁸ Jeffrey J. Noble and Geoffrey P. Alpert, *Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight* 12 (2008). See also U.S. Dep’t of Justice, Office of Cmty. Oriented Policing Servs., *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* 24 (2009) (“The chief of police must send a clear message about the importance of Internal Affairs by having those personnel report directly to the chief.”).

¹¹⁹ The Chief’s disciplinary decision is recorded in LEA, NBPd’s internal affairs software, and the Professional Standards Division has access to that decision, but the Division often does not receive the physical file back from the Chief’s Office.

same office; they are not stored with the case file. Keeping the Professional Standards Division files in the interview room is a security risk, as it is likely that, at times, non-Professional Standards staff will be in the room unattended.¹²⁰ We recommend that NBPD conduct a full physical security audit of the areas in which internal investigation files are stored. At a minimum, NBPD should upgrade its physical security, keeping all internal investigation files in locked file cabinets to which only Professional Standards Division staff have access, and installing video surveillance of the file location.

Although the Professional Standards Division uses a specific internal affairs software, LEA, that software does not contain the actual case files. Instead, it functions as a database that captures key information about each case and can easily be searched. The Professional Standards Division only maintains digital copies of internal investigation files on an ad hoc basis: any digital copies of the cases exist only because an individual investigator in Professional Standards scanned all the documents and retained them in their individual digital files. NBPD's failure to maintain a complete digital file also presents a security risk. Professional Standards should develop a policy to ensure that digital files of all internal investigations are maintained, and that these files are kept in a secure location in NBPD's systems.

B. Intake of Complaints

The first aspect of any internal affairs system is the intake of complaints. Complaints can be made by parties external to the police department, such as a victim of alleged police misconduct, a community member who alleges witnessing misconduct, a prosecutor or judge who observes potential misconduct, or an attorney for the city based on allegations made in civil litigation. Complaints can also be made by other employees internal to the police department, whether by other officers, superiors, or civilian employees of the department. For example, an internal complaint could be filed by a sergeant alleging that an officer the sergeant supervised failed to carry out an assigned task.

NBPD's Professional Standards Division uses these two categories, consistent with the practices of most other police departments. Based on the last three years of data, although the majority of complaints NBPD receives are external, NBPD also receives a significant number of complaints from internal sources:

Year	Total Complaints	Total Internal Complaints	Percentage of Complaints Internal	Total External Complaints	Percentage of Complaints External
2022	46	19	41%	27	59%
2023	62	21	34%	41	66%
2024	61	35	57%	26	43%

¹²⁰ The current office space does not provide for alternative storage other than the interview room and reinforces the need for new office space.

Consistent with national best practices and Massachusetts POST Commission requirements, NBPD's General Order 3-03 "Complaint Review Policy"¹²¹, which covers the initial intake of complaints generally, accepts complaints broadly and from multiple sources: letters, telephone, in-person, and anonymously.¹²² Similarly, the Massachusetts's POST Commission has defined complaints as "any credible report, written or oral, evidencing or alleging the misconduct of an officer from a member of the public, personnel at the agency, or any other source."¹²³ As the COPS Office's Standards and Guidelines for Internal Affairs explains:

The widest possible net should be thrown open at intake to receive all complaints from all possible sources of complaint. While the procedures for investigation and resolution of these complaints may differ depending upon their nature, it is a recommended practice to take in all complaints. Moreover, complaints as a whole provide the agency with insight as to how it is perceived by the public. Law enforcement is not doing its job if the public as a whole or in part believes the police are not effective, ethical, or respectful.¹²⁴

The message regarding the taking of complaints should be simple: take them all. Make it easy to complain.

Recommendation 2.1: NBPD should make the filing of complaints more accessible, both in person and online

NBPD's policy accepts complaints broadly and from multiple sources, including by letter, telephone, and in-person, as well as anonymous complaints. In practice, however, NBPD makes it difficult for people external to the department to determine how to file a complaint. As noted above, the Professional Standards Division's office is in poor facilities that are uninviting to the public. NBPD should look for an opportunity to move the Professional Standards Division to a more accessible and inviting location. To its credit, NBPD does accept complaints at other locations, including headquarters and patrol stations, even if Professional Standard's offices are difficult to locate.

Similarly, the location on the NBPD's website where a person can submit a complaint is difficult to locate. To find it, a person must know to click on the "Forms and Resources" link and then locate the "Police Complaint Form" on the following page. In contrast, most police departments include a link directly on their landing page that clearly identifies itself as the way to file a complaint. The Boston Police Department, for example, includes a dropdown menu on its landing page that states "How do I...Make a Complaint/Submit a Recognition." NBPD should update its website to create a link on its landing page that is clearly identified as the means to file a complaint.¹²⁵ Additionally, the complaint form on the website differs from NBPD's paper Complaint Control Form. NBPD should revise its online and paper forms to ensure that each includes all required information.

¹²¹ The title of this general order needs to be redrafted as the policy is broader than a "review" of complaints.

¹²² NBPD G.O. 3-03, 1.

¹²³ 555 CMR 1.01 (1)

¹²⁴ U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 13 (2009). This is almost always an element of consent decree agreements imposed by the US Department of Justice as well. See, e.g., Consent Decree between the United States and the City of Los Angeles, Paragraph 74.

¹²⁵ We also recommend that NBPD revise its online form to make it easy for a member of the public to submit a commendation of an officer. NBPD currently includes this on their website, but like the complaint form, it is difficult to locate. We recommend combining the link with the one that allows for the filing of a complaint as the Boston Police Department link is described above. Fall River Police Department similarly provides a link to both forms.

Recommendation 2.2: NBPD should eliminate any additional hurdles to filing a complaint

NBPD General Order 3-03 places undue and onerous restrictions on the filing of complaints that may discourage people from filing them because of the time required to complete a complaint or out of fear of potential retaliation. The Order requires completion of the Department's Complaint Control Form, including "require[ing] the complainant . . . to reduce the complaint to writing, and sign it...."¹²⁶ The requirement to sign the complaint conflicts with NBPD's own policy, which permits people to file complaints anonymously.¹²⁷ It also conflicts with the Standards and Guidelines for Internal Affairs issues by the COPS Office, which state that:

The point is to make it as simple as reasonably possible for anyone, including an arrestee, to present a complaint without unnecessary burden. The public has a reasonable expectation that an agency presented with a complaint will act in good faith to accept it.¹²⁸

NBPD should eliminate any requirement to reduce the complaint to writing or for the complainant to sign the form. Instead, the NBPD employee receiving the complaint should record the complaint they receive from an external party as fully as possible on NBPD's Complaint Control Form and submit the form to Professional Standards.

Recommendation 2.3: NBPD should ensure that all complaints of misconduct, even those not explicitly alleged as a complaint, are forwarded to the Professional Standards Division for appropriate classification and investigation

Police departments frequently are made aware of a factual situation that mandates an investigation into potential police misconduct even where no one has expressly made a complaint. These situations may arise through media reports of potential misconduct, civil litigation against an officer, evidence received in a criminal proceeding involving an officer, whether as an alleged perpetrator or witness, or other means. For example, NBPD leadership learned of allegations of serious misconduct by its employees from news reports about the allegations.¹²⁹ Similarly, NBPD leadership learned from a news story that a district court judge found a NBPD officer had been untruthful in an affidavit.

National best practices dictate that each of these situations be treated as a complaint and fully investigated for potential misconduct. The COPS Office's Standards and Guidelines for Internal Affairs, for example, recommends that all

Public proceedings or filings in which declarations under oath reveal allegations of misconduct against an agency's employee should be considered sources of complaints when the allegations

¹²⁶ NBPD G.O. 3-03, 2 B.

¹²⁷ See NBPD G.O. 3-03, 1.

¹²⁸ U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 14 (2009).

¹²⁹ See "For The Record", New Bedford Police Department, [For the Record – New Bedford Police Department](#) ("The police department learned of the allegation against Lopez on February 22, 2023 from media reports.").

are brought to the attention of a member of the agency responsible for the intake of complaints.¹³⁰

The Standards and Guidelines for Internal Affairs also recommends that “[a]ny civil lawsuit or civil claim filed against a municipality, agency, or law enforcement personnel for misconduct on duty or off duty under color of authority should be handled as a complaint.”¹³¹ Indeed, the Massachusetts POST Commission mandates that it be given notice “of any claim against any agency officer . . . in a civil action that relates to the member’s service in law enforcement.”¹³²

Although NBPD has opened some misconduct investigations based on media reports, NBPD needs to ensure that these requirements are set forth in policy and taking place in practice. In our review, we found that the City Solicitor receives notice of claims filed in civil litigation and, if the complaint is against the Police Department, a copy is sent to the Office of the Chief of Police. We found no evidence that such cases were then referred to Professional Standards for investigation. We likewise found no evidence that there is an established process with the federal and local prosecutor’s offices to notify NBPD and Professional Standards of potential misconduct by NBPD employees during criminal proceedings. NBPD should establish formal procedures with the City Solicitor’s Office and the federal and local prosecutors’ offices to be notified of any allegations of potential misconduct by NBPD employees. NBPD should also require the Professional Standards Division to investigate allegations of potential misconduct raised in media reports.

Recommendation 2.4: NBPD should clarify its policies to require any member of the department who becomes aware of potential misconduct to notify an uninvolved supervisor immediately

NBPD’s primary policy setting forth requirements for reporting misconduct, General Order 3-03, does not specify what a member is required to do when they become aware of potential misconduct. NBPD’s Rules and Regulation Manual, however, includes an express requirement for members to report misconduct by another member.

501.10 Reporting Violations by Another Member

Upon observing or otherwise becoming aware of a violation by another member of the department of the department’s rules, regulations, policies and procedures, a member shall report such violation to his Commanding Officer.¹³³

Positively, while General Order 3-03 does not specify the duty to report potential misconduct, it does mandate that a commanding officer who is notified about potential misconduct complete and submit a complaint control form.

NBPD should revise its policies to make sure they are internally consistent and provide clear guidance to employees on their duty to report potential misconduct. The policy should clarify that, if the member’s commanding officer is involved in the incident in which the potential misconduct arises, the member should notify

¹³⁰ U.S. Dep’t of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 14 (2009).

¹³¹ *Id.*; see also “Ramifications of Internal Investigations,” Police Chief Magazine, April 1996, p. 40 (dealing with civil litigation against police departments).

¹³² 555 CMR 12.04, 1(d).

¹³³ NBPD Rules and Regulation Manual, Section 510.10.

an uninvolved supervisor.¹³⁴ This ensures that any preliminary investigation that follows is not tainted by a potential conflict of interest.

To comply with best practices,¹³⁵ NBPB's policies should require:

- That any officer who becomes aware of misconduct or of a person wishing to complain of misconduct must immediately contact an uninvolved supervisor;
- That the supervisor must respond to the scene and meet with the complainant; and
- That the supervisor must document the complaint and conduct a preliminary investigation into the allegations of the complaint.¹³⁶

Recommendation 2.5: NBPB's policies should mandate that the Division of Professional Standards initiate a complaint and open an investigation of any potential misconduct it becomes aware of or uncovers during an investigation

During our assessment, we learned that the Division of Professional Standards is prohibited by past practice from initiating a complaint on their own. This is inconsistent with best practices and prevents full tracking, investigation, and adjudication of all potential misconduct within NBPB.

During the investigation of a complaint, internal affairs investigators at times uncover additional potential misconduct that was not part of the original allegations. Appropriate investigative protocol would require the investigators to open a new complaint file or add another accused employee to the existing complaint investigation. The newly discovered allegation of misconduct must be documented and investigated, and a recommendation must be made on whether it occurred and constituted a violation of departmental policy.¹³⁷

Our review of NBPB cases found that on some occasions, Professional Standards investigators identified new evidence of potential misconduct and new complaints were appropriately added, investigated, and adjudicated. In other cases, however, when new allegations of potential misconduct were identified, investigators took no additional action. NBPB should revise its policies to require that Professional Standards investigators document and investigate all potential misconduct they are aware of, including potential misconduct discovered during an investigation.

¹³⁴ See, e.g., Los Angeles Police Department, Policy Volume 3/813.5, 816.01; Complaint Investigations: A Guide for Supervisors, LAPD, 4th Edition, May 2015, pp. 4, 6; Baltimore Police Department, General Supervisor Training, "Receiving a Police Complaint," Slide 16 (available at <https://public.powerdms.com/BALTIMOREMD/documents/1044453>).

¹³⁵ See, e.g., U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 29 (2009); Complaint Investigations: A Guide for Supervisors, LAPD, 4th Edition, May 2015, p. 6; Jeffrey J. Noble and Geoffrey P. Alpert, Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight 44 (2008).

¹³⁶ Preliminary investigations will be addressed in greater detail below.

¹³⁷ Care must be taken not to lose focus on the primary allegation(s). For example, it is common during an investigation to uncover evidence of administration violations, such as the officer failing to inspect an assigned vehicle or to complete an unrelated report. If, however, other significant misconduct is uncovered, it must be documented, investigated, and addressed. See Jeffrey J. Noble and Geoffrey P. Alpert, Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight 89-90 (2008).

Recommendation 2.6: NBPB policy should provide a process for the informal resolution of complaints that do not arise to an allegation of misconduct, while ensuring that these complaints and their resolution are fully documented and audited

While some complaints about police conduct allege potential violations of law or police department policies, others are the result of misunderstandings about the role or actions of an officer during certain situations. Effective, community-oriented policing will address these misunderstandings immediately, as officers or supervisors explain their actions to community members and seek to build trust through their explanation and action. Nevertheless, any report of misconduct should be documented, even if it was resolved quickly on the scene and did not result in a formal complaint.

The Massachusetts POST Commission refers to such situations as the resolution of “minor matters.” POST allows a police department to resolve these minor matters without in-depth reporting, but it still requires that the department collect and retain—in case POST wants to examine it—information on the complainant, the officer, the conduct that led to the complaint, any related documents, and what steps the department took related to the complaint.¹³⁸

NBPB policies address the resolution of these “minor matters” to some degree, but they should be revised to fully meet the POST requirements. For example, General Order 3-03 directs the “commanding officer [to] attempt to resolve the complaint through an explanation of the applicable policies and procedures which governed the actions of the involved personnel,” and it still mandates the completion and submission of a complaint control form. The complaint control form should be revised, however, to document how the supervisor addressed the complaint and the resolution of the complaint. The documentation of the complaint allows the department to monitor the behavior of their officers and public perception of officer interactions. On the other hand, empowering supervisors to mediate and potentially resolve the complaint allows a supervisor to explain and potentially handle and resolve complaints immediately. The documentation of both—the complaint and the mediation—provides the department with the ability to audit the resolution of these “minor matters.”

We found examples of NBPB handling such “minor matters” appropriately, but NBPB did not fully document the interaction as required by the Massachusetts POST Commission. In one incident, an NBPB sergeant appropriately resolved a minor complaint, but he did not report the complaint to ensure it was fully documented and able to be audited. On April 8, 2025, an individual was arrested on the street with narcotics. He was processed and transported to jail. After his release, he returned to the police department and attempted to retrieve marijuana that he claimed had been taken from him at the time of arrest and, that he was told, would be held in safekeeping. When no property belonging to him was found, he made a complaint alleging that the arresting officers had stolen his marijuana. The on-duty booking sergeant met with the complainant. The sergeant then reviewed the body-worn camera footage of the arrest, which showed that the arresting officers had placed the man’s marijuana into the man’s personal vehicle and had not seized it. The sergeant notified the complainant and documented the matter in a supplemental report to the original crime. The sergeant handled the matter correctly in most respects: He listened to the complainant, investigated the matter, provided the correct information to the complainant, and documented the entire matter. He did not, however, document it as a complaint that was submitted to Professional

¹³⁸ 555 CMR 1.01 (1)(a)(3)(b).

Standards and could later be audited by POST. Had he done so, the complaint could have been opened and closed that same night, with full documentation of what had occurred.

NBPD policies should require that as soon as an uninvolved department supervisor becomes aware of alleged misconduct by a departmental employee, they shall generate a complaint. The creation of the complaint, with appropriate tracking numbers and timelines for investigation, will ensure that all allegations of misconduct are captured and addressed. The creation of the complaint and complaint tracking number does not inhibit the department's response to or resolution of the complaint. There will certainly be complaints that the department, almost immediately, can determine are frivolous or false. The logging of the complaint, the assignment of a number, and the appropriate closure procedure simply ensures that every complaint is taken, documented and resolved. Not all complaints require an investigation; some complaints can be legitimately handled through more informal means, but it is critical that the department track all complaints, especially considering the POST requirements.

Recommendation 2.7: NBPD policy should require that the Professional Standards Division be immediately notified of any allegations of potential criminal conduct by a member

Best practices dictate that a police department's internal affairs unit be immediately notified of any allegations of potential criminal conduct by a member of the department, including the arrest of any member of the department. For example, the Boston Police Department requires that the "Internal Affairs Division shall be notified immediately upon receipt of a complaint alleging . . . [t]he commission of a felony by a Department employee."¹³⁹ Similarly, the Los Angeles Sheriff's Department requires that, if an "[e]mployee is arrested and taken into custody or detained," an officer must "[i]mmediately notify the on-call Internal Affairs Bureau lieutenant."¹⁴⁰ The Massachusetts POST Commission also mandates that law enforcement agencies notify it upon the arrest of any officer.¹⁴¹

During our review of Professional Standards case files, we found cases where the Professional Standards was not notified of potential criminal conduct by an officer, and that showed a lack of coordination between the specialized internal affairs investigators and patrol.

In one case, for example, although NBPD initiated a criminal investigation of an officer, the Professional Standards Division was never notified and no coordination with the Division took place. In that case, officers were dispatched to a dispute between a woman and her former boyfriend. The female complainant stated that the man had pushed his way into her house, that he was armed with a pistol, and that he had removed a box containing a shotgun from her apartment. She provided the license plate number of the suspect's vehicle, which showed the vehicle was registered to a female NBPD police officer who happened to be working in patrol that same night. Later that same evening, the patrol supervisors called the female officer in to discuss the situation with her. She explained that she had heard her license plate broadcast on the radio, that she had lent her car earlier to her boyfriend, and that she had called him on his mobile phone but had not made contact. The two supervisors left her alone as they went to discuss the case. The subject officer came to them a few minutes later and explained that she had lied, that while the police were searching for the suspect/her boyfriend, she had contacted him by phone and met with him; and

¹³⁹ Boston Police Department, Rules and Procedures, Rule 109, Part II, Section 45(c).

¹⁴⁰ Los Angeles Sheriff's Department, 3-01/050.35.

¹⁴¹ 555 CMR 12.04(c).

that, at the time they met she was driving her assigned patrol car. She stated further that she took the handgun from him, put it in her backpack, and had it with her at the station. After recovering the weapon, the supervisors discussed the matter with an Assistant Deputy Chief, ultimately arresting the officer.

During this incident, which led to the arrest of an officer and an administrative case seeking termination, there was no contact or coordination with the Professional Standards Division.¹⁴² Patrol supervisors conducted the criminal investigation entirely on their own without notifying Professional Standards, inhibiting any required administrative investigation. Indeed, the first time members of the Professional Standards Division learned of the case was when they came back to work after the weekend. The failure to notify Professional Standards undermined Professional Standards ability to conduct a complete and thorough administrative investigation from the outset, and it resulted in NBPd failing to report this to the POST Commission within two days as required.¹⁴³ NBPd should revise its policies to ensure that the Professional Standards Division is notified immediately of any allegations of criminal misconduct by members of the department, so those allegations can be fully investigated administratively and proper reporting be made to the Massachusetts POST Commission.

C. Classification of Complaints

Following intake, the next step in the proper investigation of complaints is to ensure that they are properly classified for further investigation. As noted above, best practices dictate that all complaints should be sent to internal affairs immediately upon receipt. This ensures proper and consistent classification and determination of the appropriate entity for investigation.¹⁴⁴

Complaints are generally classified into two categories: criminal and administrative. A criminal investigation can lead to prosecution and penalties such as jail or prison, while an administrative investigation leads to internal discipline, corrective action, or termination of employment.¹⁴⁵ At times, and as discussed more fully below, a complaint can lead to both criminal and administrative investigations, which must be carefully coordinated to ensure that neither investigation is compromised.

Administrative complaints are often subclassified by the level of seriousness of the allegations, with more serious complaints being investigated by the department's internal affairs unit and minor violations of policy being investigated and resolved by the chain of command that supervises the officer. More serious complaints, if proven, result in more significant discipline up to and including termination, while minor violations typically result in counseling, retraining, or other minor discipline. These classification decisions must be made using clear, consistent criteria, documented, and regularly audited to ensure classifications are being made appropriately.

At times, certain complaints should be assigned to an outside entity for investigation, whether another law enforcement agency or private firm. These complaints usually involve allegations of significant misconduct, often broad in scope, or involving high-level members of the department. Public confidence in the results of the

¹⁴² We address proper coordination of criminal and administrative investigations more fully below.

¹⁴³ 555 CMR 12.04(c).

¹⁴⁴ See U.S. Dep't of Justice, Office of Cmty.Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 21 (2009).

¹⁴⁵ See generally *id.*

investigation mandates that it be performed by an outside entity, with transparency into the results of the investigation.

Recommendation 3.1: NBPD policies should be revised to ensure that all complaints are forwarded to the Professional Standards Division for appropriate classification before investigation

Contrary to best practices, NBPD's policies currently do not require all complaints to be sent to the Division of Professional Standards for classification. Instead, this role has been assigned to the Office of the Chief of Police:

Upon receipt of the complaint, the Chief of Police or his designee, will take steps to become familiar with the facts and circumstances of the complaint and cause an investigation to be conducted by forwarding the complaint to either the Division of Professional Standards, or the appropriate Division Commander. It shall be the responsibility of the Deputy Chief of Police to determine the appropriate venue for the investigation of a particular complaint.¹⁴⁶

Vesting this authority in the Chief's Office is problematic. If a complaint is made about the quality of an investigation or which entity was assigned to investigate, it opens the Chief's Office up to criticism that it steered the complaint to an entity that would result in less accountability and protect the involved officers. It also inhibits the consistent application of classification standards and reporting of complaint investigations, which should be the duty of the Division of Professional Standards. The Massachusetts POST Commission requires that it be notified within two days of the initiation of a complaint investigation.¹⁴⁷ If the complaint is not immediately forwarded to Professional Standards for proper intake, this required notification cannot occurring in a timely manner. Complaints should be immediately forwarded to Professional Standards for appropriate logging, complaint numbering, and classification. We also learned during our research and interviews that if a person submits a complaint online, this complaint goes to the Office of the Chief of Police only. All online complaints should also be routed directly to the Division of Professional Standards rather than the Chief.

This is not a merely theoretical problem. We found that some investigations of more serious allegations are occurring outside of Professional Standards and without its knowledge, or even the knowledge of the Office of the Chief. NBPD should revise its policies to ensure that all complaints are immediately directed to the Division of Professional Standards for appropriate classification and intake.

Recommendation 3.2: NBPD should revise its policies to ensure that the Division of Professional Standards applies a clear set of criteria for assigning complaint investigations

Once a complaint is received it should be the responsibility of Professional Standards to classify each complaint for the purpose of determining where, when, and how the complaint will be investigated. Currently, the decisions

¹⁴⁶ NBPD G.O. 3-03, 3.

¹⁴⁷ 555 CMR 1.01(1).

are being made by the Chief of Police or his immediate subordinates.¹⁴⁸ National best practices, however, recommend vesting this decision in internal affairs.¹⁴⁹

The Professional Standards Division should then apply a clear and consistent set of criteria to determine where a complaint should be investigated. Generally, allegations of more serious violations of NBPDP policy should be investigated by the Professional Standards Division, while allegations of minor infractions can be investigated by the officer's chain of command. NBPDP policy contains this distinction.¹⁵⁰ We recommend, however, that this section be revised to align with Massachusetts POST requirements and best practices. The POST guidelines provide a "non-exhaustive list" of cases that should be investigated by Professional Standards.¹⁵¹ The COPS Office's Standards and Guidelines for Internal Affairs provides similar guidance.¹⁵² Likewise, these criteria are often set forth in federal consent decrees that establish mandates for police departments and how they investigate police misconduct, and other police agencies have adopted these requirements to align with best practices, which can serve as guide for NBPDP.¹⁵³

Although rare, NBPDP policy should provide guidance on when a complaint should be assigned to a professional outside entity for investigation. NBPDP uses outside investigators on occasion, but this situation is not addressed in policy. NBPDP should revise its policies to address this situation specifically, in coordination with the City Solicitor's Office. If there is a specific complaint against the agency head, this decision should be made by City Solicitor.¹⁵⁴

Finally, NBPDP policy should address assignment of cases involving potential criminal misconduct. There are situations where alleged misconduct can be characterized as both criminal and administrative in nature. The most obvious examples are complaints of excessive or unnecessary force; these can be violations of a department's administrative policies regarding force, but they can also be criminal cases of assault. One case, for example, involved a use of force by a sergeant in the booking area. An NBPDP member filed a complaint anonymously about the use of force, resulting in the investigation. While Professional Standards was conducting an administrative investigation, the Chief of Police sent the video to the District Attorney's Office for their review to determine whether it was a crime. NBPDP has no standard process, however, for the criminal investigation of a dual nature complaint. This is inconsistent with best practices. As the COPS Office's Standards and Guidelines for Internal

¹⁴⁸ NBPDP G.O. 3-03, 3.

¹⁴⁹ See, e.g., U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 21 (2009); see also Employee Conduct: Investigations & Discipline, Charlotte-Mecklenburg Police Department, p. 17.

¹⁵⁰ NBPDP 3-03, 3 B & C.

¹⁵¹ Massachusetts POST Guidance to Law Enforcement Agencies and Prosecuting Offices Regarding 555 CMR 1.01(1), p. 3.

¹⁵² U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 31-32 (2009).

¹⁵³ See, e.g., Consent Decree between the United States and the City of Los Angeles, paragraphs 93 & 94; Employee Conduct: Investigations & Discipline, Charlotte-Mecklenburg Police Department, p. 17.

¹⁵⁴ U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 32 (2009) ("a complaint against the agency head should be investigated by expert investigators outside the agency").

Affairs recommends, NBPB should have “an explicitly codified protocol for the presentation of cases for potential prosecution.”¹⁵⁵

D. Investigation of Complaints

Proper investigation of all complaints of potential police misconduct is essential for maintaining public trust. Although all complaints should be investigated, the level of investigation depends on the seriousness and complexity of the case.¹⁵⁶ Internal Affairs, or in the case of NBPB, the Professional Standards Division, should be the entity that ensures that every investigation, whether handled by Professional Standards or some other entity, maintains the standards the Department and demonstrates that the Department is worthy of the public’s confidence.

As discussed in more detail below, proper investigations begin at the moment a complaint is made. They must be free of any conflicts of interest, follow rigorous investigative methods, and be carefully documented throughout the process. When potential criminal conduct is involved, the criminal and administrative investigations must be carefully coordinated to ensure that neither is undermined by the other.

Recommendation 4.1: NBPB should require an immediate preliminary investigation by an uninvolved supervisor to ensure that evidence is properly gathered and documented

Best practices specify that the first uninvolved supervisor to learn of the alleged misconduct conduct a preliminary investigation of the allegation. A preliminary investigation can be a powerful tool that allows the department to reach a different conclusion.

Nothing is more frustrating to a supervisor than to be assigned a complaint investigation only to find that the supervisor who originally took the complaint did nothing more than informally interview the complainant. Doctors often talk about the “Golden Hour,” the critical minutes following a traumatic injury in which a patient’s best hope for survival lies. A Golden Hour also exists for investigators. It is the critical time period following an incident in which the investigator has his/her best chance for solving the case. Supervisors who are tasked with taking a public complaint, especially one which is alleged to have just occurred, should recognize the “Golden Hour” concept and conduct a thorough, and diligent preliminary investigation.¹⁵⁷

The Los Angeles County Sheriff’s Department has long been a leader in this field, requiring their first-line supervisors—field sergeants—to conduct detailed preliminary investigations of civilian complaints, including the practice of video/audio taping the complainant in the preliminary interview.

NBPB currently does not require uninvolved supervisors to conduct a preliminary investigation when they receive a complaint, nor does NBPB provide guidance to supervisors on how such an investigation should be conducted. We recommend that NBPB revise its policies to include a requirement for a preliminary investigation and provide

¹⁵⁵ U.S. Dep’t of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 22 (2009).

¹⁵⁶ See *id.* at 27.

¹⁵⁷ Complaint Investigations: A Guide for Supervisors, LAPD, 4th Edition, V.2, p. 19.

clear guidance and training on how the supervisor should conduct those investigations. We can provide a proposed initial responder checklist used by LAPD¹⁵⁸ upon request.

Recommendation 4.2: NBPd should address “public safety statements” in policy and training

Public safety statements are essential to protecting the public and ensuring that officers’ rights are likewise protected. As the COPS Office’s Standards and Guidelines for Internal Affairs describes:

A Public Safety Statement is a statement made by an agency member involved in a lethal-force incident to a first-responder supervisor who was not involved in the incident, the purpose of which is to enable the supervisor to determine what immediate action is needed to find and protect injured persons, identify and apprehend the suspect, locate witnesses, protect the scene and its evidence, identify witnesses, and otherwise manage the emergency. Where the law permits, an agency employee is ordered to give the statement and is not permitted to await representation or refuse to make the statement. The first—or at least one of the first—uninvolved supervisor on scene orders the Public Safety Statements as soon as possible as part of his or her emergency management duties.¹⁵⁹

These statements, created by United States Supreme Court in *New York v. Quarles*, 467 U.S. 649 (1984), ensure that critical information about a lethal force incident is shared immediately without compromising an officer’s rights in a future investigation. Public safety statements aim to quickly determine whether any danger still exists to the public, the involved officers, or the involved subjects. These questions do not seek an officer’s perceptions about their use of lethal force to measure their reasonableness, which is the central issue in most criminal and administrative investigations of such an incident. In fact, the officer is not the focus of an investigation at this point at all. Instead, these are basic questions any officer would be expected to answer if they had knowledge that affected public safety.

Our interviews with NBPd members in the Criminal Investigation and Professional Standards Divisions revealed that they were unfamiliar with the requirements and usage of “public safety statements” in lethal force investigation. It is critical, however, that all supervisors understand public safety statements and how to take one when responding to lethal force incidents. We can provide examples of forms and policy language from the Seattle Police Department, Los Angeles Police Department, and Buffalo Police Department upon request. NBPd should consult with the district attorney’s office to ensure that any policy that addresses public safety statements is consistent with relevant legal requirements.

Recommendation 4.3: NBPd should require investigators assigned to complaint investigations to affirmatively assert that they have no conflicts of interest or bias that could impact the investigation

If an investigator of a complaint against an officer has, or is perceived to have, a conflict of interest in the investigation, it can both taint the investigation and undermine confidence in the police department. The most common conflict of interest in a police department is when a member is investigating a complaint against a co-

¹⁵⁸ *Id.* at 10.

¹⁵⁹ See U.S. Dep’t of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 43 (2009).

worker with whom the employee may have a significant relationship that could impact the investigation. A conflict can also arise if the investigator and subject officer were both involved in the underlying incident.

For these reasons, many agencies have adopted policies to address potential conflicts of interest and bias in misconduct investigations. The Massachusetts POST Commission has an express requirement that the investigator and the investigator supervisor be free of both conflicts and bias.¹⁶⁰ Some departments include a form that requires the assigned investigator to affirmatively state that they have no such conflicts and require their immediate supervisor to review and validate their assertions.¹⁶¹ Given the Massachusetts POST Commission requirements, we recommend that NBPD adopt a similar approach. This form should be used for both Professional Standards Division and Chain of Command, or “relegated,” investigations, as discussed in the next section. We can provide an example from the Oakland Police Department upon request.

Recommendation 4.4: NBPD should revise or adopt policies, procedures, and training to guide all Chain of Command investigations

As discussed above, most police agencies have policies and procedures in place that assign allegations of more serious misconduct to internal affairs, while allegations of minor misconduct are handled by the officer’s chain of command. In this sense, NBPD’s approach to investigations of police misconduct is typical; a small, centralized, specialist unit to investigate the more serious cases while other cases are relegated to the unit or division where the subject officer works. What NBPD lacks, however, are policies and guidance for the other divisions, most often patrol, to follow in conducting a relegated investigation.

NBPD should develop policies and forms that will guide all investigations relegated to the chain of command. Because Professional Standards should serve as the entry point for all complaints and should determine which unit or entity should investigate a complaint, they will be reviewing each complaint in detail and can provide a document with a basic overview of the investigative issues in the complaint to the assigned investigator. This is common in other departments, and we can provide a sample from the Oakland Police Department upon request.¹⁶² NBPD should also provide guidance on how to conduct the investigation. This is also common in other departments, and we can provide a sample investigative plan from Los Angeles Police Department upon request.¹⁶³

Critically, NBPD policy should require that all interviews conducted during investigations, whether led by Professional Standards or another departmental unit, are recorded. Currently, interviews during investigations conducted outside of Professional Standards are not recorded. The failure to record these interviews could undermine an investigation. For example, in the investigation of the “feast week” incident discussed above, which was performed by the Patrol Division, none of the interviews were recorded, although the investigation led to serious charges. Without recordings of the interviews, the evidence in the disciplinary proceedings is reduced to a credibility determination about the testimony of the accused officer and the patrol supervisors who conducted the investigation. This credibility determination would have been unnecessary had the interviews been recorded.

¹⁶⁰ 555 CMR 1.01(2)(b).

¹⁶¹ See, e.g., Oakland, CA, Police Department IAD Recusal Form.

¹⁶² Oakland, CA, Police Department, General Order M-03, Complaints Against Departmental Personnel; Oakland, CA, Police Department, Internal Affairs Division Policy 10-01, Internal Affairs Policy and Procedure Manual.

¹⁶³ Los Angeles Police Department, Complaint Investigations: A Guide for Supervisors, 4th Edition, V.2, “Planning Your Investigation” pp. 10, 16.

Notably, the Massachusetts POST Commission has recommended that these investigations be recorded.¹⁶⁴ NBPD has access to Axon’s video systems, which includes both body worn cameras—which are worn by Patrol division supervisors—and access to the Axon “Capture” application.¹⁶⁵ Given this access, NBPD already has the technology in place to record anyone interviewed in an internal investigation, and it should update its policies to require recording.

At the conclusion of each relegated investigation, NBPD should provide a checklist for the officer conducting the investigation and their immediate supervisors to review to ensure that each investigation is complete before returning it to Professional Standards. We can provide an exemplar from the Oakland Police Department upon request.¹⁶⁶ Finally, the Professional Standards Division should ensure that each investigation meets NBPD’s standards. As the COPS Office’s Standards and Guidelines for Internal Affairs notes, “No complaint investigation should be closed or otherwise terminated without the concurrence of the commander of Internal Affairs at minimum.”¹⁶⁷ NBPD should update its policies and procedures to provide guidance for all relegated investigations.

Recommendation 4.5: NBPD should use a chronological log to document each internal investigation

Best practices dictate that a chronological log be kept of each internal investigation, whether performed by internal affairs or some other departmental entity, to ensure that a record of the investigation is preserved and all aspects of the investigation are tracked.¹⁶⁸ Chronological logs are a well-known best practice in criminal investigations,¹⁶⁹ and they are also a recommended best practice in administrative investigations. Basically, the log contains the date, time, and narrative for each investigative step taken. Keeping a chronological log makes it easy to review and determine whether a case has been completely investigated. NBPD does not currently use chronological logs to document its internal investigations, and we recommend that it revise its policies and procedures to mandate this practice. We can provide a sample of the type of information that should be included in the chronological log from the Los Angeles Police Department upon request.¹⁷⁰

Recommendation 4.6: NBPD should provide training to all supervisors on how to frame the allegations in each complaint so that each allegation of potential misconduct is adequately investigated and results in a finding

When conducting a misconduct investigation, internal affairs must take what are often generalized allegations of misconduct made by a member of the public and frame them into specific allegations of potential violations of departmental policy. A complaint often includes multiple different potential violations of departmental policy,

¹⁶⁴ Massachusetts POST Guidance to Law Enforcement Agencies and Prosecuting Offices Regarding 555 CMR 1.00 and 6.00, p. 6 (describing audio recorded interviews as a ‘best practice’ and stating that “[r]ecording an interview ordinarily will be ‘feasible’ unless such a step would make it impossible, or extremely or unreasonably difficult, to obtain an interview of the individual”).

¹⁶⁵ This application allows for any phone to be used to audio/video record and to immediately be uploaded to the Axon evidence.com cloud storage location where it is securely stored and can easily be transcribed and footnoted.

¹⁶⁶ Oakland, CA, Police Department Internal Affairs Division Policy and Procedure Manual, 10-01.

¹⁶⁷ U.S. Dep’t of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 27 (2009).

¹⁶⁸ See, e.g., id. at 37-38.

¹⁶⁹ See, e.g., “The Los Angeles Police Department Murder Book,” National Resource and Technical Assistance Center for Improving Law Enforcement Investigations, p. 6.

¹⁷⁰ See “Complaint Investigations: A Guide for Supervisors,” LAPD, 4th Edition, May 2015, p. 18.

even though the complainant may have included information only about a single incident. Allegations are the backbone of an internal investigation and guide the investigator throughout the investigation. All allegations must be captured and individually listed along with the policy sections that may have been violated if the allegation is proven, and the allegations must be sufficiently detailed to allow for appropriate investigation. Allegations must be framed at the beginning of the investigation to guide it, revisited throughout the investigation as additional facts are uncovered, and then finally framed at the end of the investigation to ensure that all potential violations of policy are listed, have been investigated, and have a finding. If more than one employee is accused of the same misconduct, separate allegations should be framed for each. We can provide sample guidance on how to frame allegations upon request.

Our review found that NBPB investigators do not frame all allegations in a complaint, nor do they make findings for each specific allegation. For example, in one case, the NBPB investigator framed only a single allegation, even though the complaint alleged multiple potential violations. An arrestee complained that they had been improperly arrested, that while being transported in the patrol car the driver had deliberately slammed the brakes causing the arrestee to hit their head, that they had suffered financial losses from the improper arrest due to her daughter accessing her bank account and taking out money while the arrestee was in custody. The complaint investigator framed only a single allegation: “515.6, improperly performing duties as assigned.” On its face, however, the complaint indicates additional potential violations that should have been framed as allegations, such as improper arrest and excessive force.

Similarly, in another case, the investigator included only a narrative of the allegations from the complaint, without framing each potential policy violation separately:

The allegations include larceny offenses of opiate based prescription pain killers such as Percocet. In the majority of instances the complainants allege they were stopped while driving a motor vehicle, removed from the vehicle and both they and the vehicle were searched without cause. In the cases where Officer [redacted] found pills he kept the pills and allowed the complainant to leave with no legal action against them. Officer [redacted] used the CJIS Database for the purpose of identifying people through their license information and then using this information for his personal gain.

At a minimum, multiple separate allegations should have been specifically framed from this complaint for investigation, including theft, improper stops, improper searches (person and vehicle), and improper access to and use of the CJIS Database.

NBPB should provide additional guidance and training to all investigators who perform internal investigations to ensure that they understand how to frame allegations and use these allegations to guide the investigation and its findings.

Recommendation 4.7: NBPB should provide additional guidance and training to investigators of potential misconduct on how to make credibility assessments

Throughout misconduct investigations, internal affairs investigators must make credibility assessments about the victims, civilian witnesses, subject officers, and other involved officers to reach a conclusion about whether a policy

violation occurred. These assessments are crucial to the integrity of the investigation and public perception of a law enforcement agency's ability to engage in critical self-assessment and hold officers accountable for misconduct, particularly when making credibility determinations about the veracity of civilian witnesses versus officer witnesses. These assessments are complicated by the fact that complainants are often people being arrested or individuals with a prior criminal history or who have an extensive history with the police. Nonetheless, these factors cannot result in their accounts routinely being rejected and an officer's account given credence over them.

Best practices recommend that internal investigators use the civil jury instructions for the state where the police agency is located to guide their credibility assessments. Jury instructions specifically address the question of whether a particular witness has an interest in the outcome—something that often holds true both for the officer and the civilian witness/complainant. For example, the U.S. Department of Justice's consent decree with the Los Angeles Police Department Consent Decree provided that:

The Department shall continue to employ the following standards when it makes credibility determinations: use of standard California Jury Instructions to evaluate credibility; consideration of the accused officer's history of complaint investigations and disciplinary records concerning that officer, where relevant and appropriate; and consideration of the civilian's criminal history, where appropriate. There shall be no automatic preference of an officer's statement over the statement of any other witness including a complainant who is also a witness. There shall be no automatic judgment that there is insufficient information to make a credibility determination when the only or principal information about an incident is contained in conflicting statements made by the involved officer and the complainant. Absent other indicators of bias or untruthfulness, mere familial or social relationship with a victim or officer shall not render a witness' statement as biased or untruthful; however, the fact of such relationship may be noted.¹⁷¹

This provision specifies the use of the state jury instructions on credibility, but it also stresses that no automatic preference should be given to officers' statements over those of civilian witnesses.

Currently, NBPd does not provide any guidance in its manuals or directives to guide investigators as they make credibility assessments. Moreover, from our review, it appears that investigators are automatically giving officers higher credibility than civilian witnesses. In one case, for example, the investigator writes:

I do not believe that Officer [redacted] met this standard on July 1, 2018, however, through my observations of working with him I find the actions described by the witnesses in the case to be out of character with the Officer [redacted] I am familiar with. While I find the witnesses to be credible, and, I believe Officer [redacted] violated the aforementioned Rules & Regulations, I hope that this was just a one-time incident that is an aberration. Officer [redacted] is an excellent police officer who does great work.

While it appears that the investigator still found that the officer committed a policy violation, including subjective observations about the investigator's personal experiences with the officer is inconsistent with best practices. We found other examples where NBPd investigators are offering opinions about the credibility of witnesses based on

¹⁷¹ Consent Decree between the United States and the City of Los Angeles, Paragraph 84.

their subjective observations and beliefs, rather than focusing on discovering and documenting specific facts in their investigation.

We recommend that NBPD adopt specific standards for making credibility assessments. The Massachusetts Jury Instructions provide a good example of the standards that could be adopted:

You may consider a witness's appearance and demeanor on the witness stand, his frankness or lack of frankness in testifying, whether his testimony is reasonable or unreasonable, probable or improbable. You may take into account how good an opportunity he had to observe the facts about which he testifies, the degree of intelligence he shows, whether his memory seems accurate. You may also consider his motive for testifying, whether he displays any bias in testifying, and whether or not he has any interest in the outcome of the case.

Interested witnesses: the fact that a witness may have some interest in the outcome of this case doesn't mean that the witness isn't trying to tell you the truth as that witness recalls it or believes it to be. But the witness's interest is a factor that you may consider along with all the other factors.¹⁷²

Recommendation 4.8: NBPD should establish a criminal team made up of at least three detective supervisors from the Criminal Investigative Division to lead the criminal investigation when a complaint alleges both criminal and administrative violations

As noted above, complaints may include allegations of misconduct that are both criminal and administrative in nature. Larger police departments often have dedicated criminal investigators as part of their internal affairs units, but that does not appear viable for New Bedford. There is clearly a need, however, for the Department to have knowledgeable personnel available to conduct criminal investigations of police officers, and to be able to proceed with parallel investigations of complaints that allege both criminal and administrative violations. As stated in one Massachusetts specific internal affairs training:

A police department has a personnel problem to deal with:

- Waiting for a criminal investigation and prosecution to conclude may take years, during which time the officer is likely on paid administrative leave.
- The longer the internal investigation is delayed, the harder it may be to obtain information.
- The department's stakeholders may not understand a delay in determining whether an officer is unsuitable for employment.

¹⁷² Massachusetts Jury Instructions, Instruction 2.03, Credibility of Witnesses, pp.1-2 (Revised May 2024) (available at <https://www.mass.gov/doc/203-credibility-of-witnesses/download>).

- The criminal conviction standard of proof beyond a reasonable doubt is irrelevant to the lower threshold, preponderance of the evidence, applicable to the employment decision the department will make.¹⁷³

Currently, NBPD has no standard process for the criminal investigation of a dual nature complaint. There are several options for New Bedford to consider:

- 1) Create a criminal investigative team in Professional Standards. Based on personnel realities, this would be challenging;
- 2) Request that these cases be criminally investigated by the Massachusetts State Police investigators assigned to the District Attorney's Office; or
- 3) Select and train supervisors from NBPD Criminal Investigation Division (CID) who would serve this function on an as needed basis.

NBPD has the most control over the third option, which does not depend on additional hiring or agreement from the State Police. Using CID supervisors for the criminal investigation would allow for a parallel investigation of appropriate cases in a timely manner. We recommend that NBPD move forward with creating a team of supervisors within CID who are trained to handle the criminal investigation of dual nature complaints.

Recommendation 4.9: NBPD should establish policies and procedures for parallel criminal and administrative investigations, with training for the teams conducting each of these investigations, to ensure that neither investigation is tainted

Increasingly, best practices dictate that a law enforcement agency should proceed with an administrative investigation even while a criminal investigation of the same conduct is ongoing. This is now a common feature in consent decrees the U.S. Department of Justice enters into with police departments.¹⁷⁴ Holding an administrative investigation in abeyance, while appropriate in some circumstances based on the nature of the allegations and evidence, often results in long delays in the administrative investigation with a number of negative effects as described in the previous section.

Indeed, NBPD has suffered from exactly this type of situation in the past. For example, on June 21, 2018, NBPD received a 911 call reporting that an individual had forcibly boarded a fishing vessel and was attempting to search it. Responding officers found an off-duty New Bedford officer there claiming that he had information that drugs were on-board the vessel and he was attempting to locate them. Responding officers recognized that the officer did not have a warrant, that he was off-duty, and no other member of NBPD was aware of his actions, and parallel criminal and administrative investigations were launched. The administrative investigation concluded quickly, but the District Attorney's office did not notify the police department until December 20, 2019—1 year and 6 months after the initial incident—that they would not be pursuing criminal charges. During that time the involved officer was suspended with pay and had been involved in several other troubling events. The Department did not move

¹⁷³ John Sofis Scheft, Post-Complaint Internal Affairs Investigations, Law Enforcement Dimensions, p. 15 (2025).

¹⁷⁴ See, e.g., Consent Decree, United States v. Police Department of Baltimore City, Paragraph 359 (available at: <https://www.justice.gov/crt/case-document/file/925036/dl?inline>); Settlement Agreement, United States v. City of Seattle, Paragraph 167(h) (available at: https://www.justice.gov/sites/default/files/crt/legacy/2012/07/31/spd_consentdecree_7-27-12.pdf).

to take administrative action—in this case, termination—until after receiving the decision of the District Attorney. Although many departments wait to take final action on discipline until the prosecutor makes a decision on pursuing criminal charges, in the future NBPD should ensure that it requires regular consultation with the District Attorney so that administrative action is not unnecessarily delayed.

Indeed, while many criminal prosecutors would prefer that an agency hold the administrative investigation in abeyance, if care is exercised in the investigation, including any questioning of the subject officer and use of grand jury material, there is no legal prohibition against advancing the administrative investigation. Law enforcement agencies set up procedures to ensure that parallel criminal and administrative are both carefully coordinated and carefully segregated to ensure information is not inappropriately shared between the two investigations.¹⁷⁵ Given the complexity of parallel investigations, NBPD should develop policies and procedures for these investigations and ensure that Professional Standards Division personnel and CID investigators are trained on their requirements.

E. Investigative Findings and Recommendations

Following each investigation of misconduct, the law enforcement agency must reach findings on each of the allegations made in the complaint. These findings generally fall into four categories:

1. “Founded” or Sustained”: a finding that the allegations are true by a preponderance of the evidence and the conduct at issue is a violation of policy.
2. “Not Sustained”: a finding that the allegations can neither be proven or disproven based on a preponderance of the evidence produced in the investigation.
3. “Exonerated”: a finding that the conduct at issue occurred but did not violate the law enforcement agency’s policies.
4. “Unfounded”: a finding that that allegations are untrue or did not occur.¹⁷⁶

A law enforcement agency may use a category outside these four due to state law, collective bargaining, or other local requirements and interests of the agency, but these exceptions should be rare and must not be used to circumvent making a finding on each allegation in an investigation and holding an officer accountable for violations of agency policy.

There is considerable debate in the law enforcement community on who should recommend findings based on the facts found in the investigation. Some jurisdictions designate the investigator who conducted the investigation to make the recommended findings, because the investigator is closest to the facts and has considered how the facts relate to the standards set forth in agency policy. Other jurisdictions prefer that the investigator only reach

¹⁷⁵ See, e.g., Internal Operations and Training Manual, Baltimore City Police Department Public Integrity Bureau, September 2020 Edition, pp. 98-105 (available at: <https://www.baltimorepolice.org/sites/default/files/2021-09/PIB%20Internal%20Operations%20%26%20Training%20Manual.pdf>). Proper coordination of administrative and criminal investigation is especially critical in Massachusetts. Under Article 12 of the Massachusetts Constitution, a police officer who is ordered to answer questions in an internal affairs investigation is automatically granted transactional immunity. See *Carney v. City of Springfield*, 403 Mass. 604 (1988). Transactional immunity provides an officer complete protection from prosecution for conduct involved in the underlying factual circumstances, or “transaction,” if they are compelled, in any forum, to answer questions or testify about that conduct.

¹⁷⁶ See generally U.S. Dep’t of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 50 (2009); see also 555 CMR, 12.03 (5).

findings on the facts of the investigation and then reserve the decision on whether to recommend a finding of a policy violation to either the commanding officer of internal affairs or the commanding officer in the subject officer's chain of command. Regardless of this debate, there is widespread agreement that findings must be soundly based on the facts discovered in the investigation, and findings of policy violations must be consistently applied from one officer to the next to remove any suggestion that the findings were the result of personal favoritism or bias.

Recommendation 5.1: NBPD should only use the four generally accepted categories of findings in misconduct investigations and should eliminate the use of other findings or categories

The Massachusetts POST Commission mandates that Massachusetts law enforcement agencies use the four generally accepted categories of findings described above. Specifically, the POST Commission requires:

Each law enforcement agency shall use the following terms, as defined below, in addressing disciplinary matters involving officers:

- (a) Sustained: The investigation produced a preponderance of evidence to prove the allegation of an act that was determined to be misconduct;
- (b) Not Sustained: The investigation failed to produce a preponderance of evidence to either prove or disprove the allegation;
- (c) Exonerated: The allegation in fact did occur but the actions of the agency employee were legal, justified, proper, and in conformance with the law and the agency policy and procedure; and
- (d) Unfounded: The allegation concerned an act by an agency employee that did not occur.¹⁷⁷

POST adopted these categories in November 2024. The language of the POST Commission regulation does not expressly ban the use of any other finding.

Currently NBPD uses at least one additional finding that is not included in the POST Commission regulations—a final disposition of “filed”. This “disposition” is problematic because it undermines the consistent investigation of all potential misconduct and the imposition of discipline for proven misconduct.

NBPD G.O. 3-03 permits the use of the final disposition “filed” without any further definition in the policy: “The matter is placed on file without any disposition.”¹⁷⁸ NBPD used this disposition three times in 2024, four times in 2023, and four times in 2022. It appears that it is used, at times, to close cases where there is difficulty in locating a complainant or where there is a complaint made by the officer's conduct does not equal misconduct. More troubling, however, are cases where misconduct appears to have been found, but no discipline was imposed upon the officer. NBPD also appears to use the disposition “filed” in cases where the officer who is the subject of a complaint has left the department. From the cases we reviewed, NBPD does not finalize the investigation and reach a finding when the subject officer leaves the Department. This contravenes the Massachusetts POST Commission

¹⁷⁷ 555 CMR, 12.03(5).

¹⁷⁸ NBPD G.O. 3-03, 3 H.

regulations, which require that the department complete the investigation even after the officer has separated from the agency.¹⁷⁹ NBPD should eliminate the use of the “filed” disposition.

During the assessment, we also discovered files where a complaint was made, it was investigated, reviewed, and approved by various supervisors, but no formal disposition was ever recorded. NBPD should ensure that it has a formal disposition for each completed investigation consistent with the Massachusetts POST Commission regulations.

NBPD should only use one of the four specific findings sanctioned by the Massachusetts POST Commission in its misconduct investigations. For each case currently designated as “filed” or where a formal disposition was not recorded, NBPD should review the investigation and determine whether, given the length of time since the investigation was completed, an appropriate finding can be made for each allegation in the complaint. Even in circumstances where there are complaints that are difficult to investigate, NBPD may still be able to investigate and resolve these within the four categories defined by the Massachusetts POST Commission. If, for example, a complaint is created and the complainant or a critical witness fails to cooperate, the allegation may still be investigated and a conclusion reached that documents the non-cooperation of the complainant or witness, even if that results in a “not sustained” finding where the allegation can neither be proven or disproven.

Recommendation 5.2: NBPD should revise its policies to clarify who recommends a finding at the conclusion of a complaint investigation

As noted above, there is considerable disagreement over who should recommend a finding regarding a potential policy violation at the conclusion of a complaint investigation: the investigator, the commanding officer of internal affairs, the commanding officer of the subject officer’s unit, or even some other entity, such as a civilian board with the responsibility for determining charges. But there is no disagreement that there must be consistency in charging decisions.

From our review, NBPD’s policies and practices on who makes a recommended finding are inconsistent and contradictory. Under NBPD G.O. 3-03, the Division Commander over Professional Standards is charged with making recommendations on whether policy violations took place based on the findings of the investigation.¹⁸⁰ In apparent conflict with this policy, however, NBPD’s 1973 Rules and Regulations Manual, which is still in effect, requires that the “commanding officer of the accused ... will also submit his conclusion regarding whether or not the complaint is justified and recommended disciplinary action if any.”¹⁸¹ From our interviews and review of case files, NBPD’s actual practice differs from both of these policies: for investigations handled by Professional Standards, the investigating sergeant provides the initial recommendation; for Patrol or outside entity investigations, the investigating supervisor and the other supervisors in the chain of command each provide their own recommendation as to the finding but make no comment about penalty when the recommended finding is “sustained.” When the investigation is performed by the Professional Standards Division, the commanding officer

¹⁷⁹ See 555 CMR 1.01(5). Part of the problem might be with the Massachusetts POST Commission on-line portal. The portal includes a list, maintained by the Massachusetts POST Commission, of only current New Bedford Police Department employees. If the employee has resigned or gone to another department, NBPD can no longer enter data and an outcome regarding that employee.

¹⁸⁰ See NBPD G.O. 3-03, 3(G).

¹⁸¹ NBPD Rules & Regulation Manual, 516.4(c).

of the accused never sees the investigation or the recommended findings, and when the investigation is performed by another division or outside entity, the Professional Standards Division is not involved in the recommended findings until multiple supervisors have already reviewed the investigation and made a recommended finding.

NBPD should revise its policies to eliminate the apparent contradiction between G.O. 3-03 and the 1973 Rules and Regulations Manual. We recommend a model where the Division Commander over Professional Standards makes the recommended finding, but the commander does so in consultation with the officer's chain of command. If the officer's chain of command disagrees with the recommended finding, both the chain of command and the Division Commander over Professional Standards submit their recommended findings in writing to the Chief, and the Chief makes the final decision.

Once it revises its policies, NBPD should also provide training on the new policies to ensure that they are consistently followed in practice, and to eliminate the inconsistent approaches currently taken by the Professional Standards Division and other divisions or outside entities. Critically, the Professional Standards Division must be responsible for ensuring that recommended findings are consistent across officers and investigations.¹⁸² We can provide an example of a template that could be used to ensure consistent documentation of recommended findings upon request. The Professional Standards Division should also be responsible for presenting the recommended findings to the Chief at the conclusion of the investigation, following a consistent format. We can provide a template from the Los Angeles Police Department for such a presentation upon request.¹⁸³

We recommend that NBPD also eliminate the practice, currently in effect, of each of the individual supervisors in the subject officer's chain of command separately drafting memoranda summarizing the case and making a recommended finding. These separate summaries and recommended findings—and the inconsistencies between them that are intrinsic to such a practice—create opportunities for disciplinary decisions to be challenged on appeal and expose the Department to significant risk. NBPD should also end the practice of the Chief eliminating charges from or adding charges to the case without documenting the rationale for the decision. This can cause similar problems as the repeated memoranda from the chain of command, because the chief's rationale for either eliminating or adding charges is not clear and could open up the investigation or discipline to challenge. When a complaint is sustained, the Chief's Office typically prepares a memorandum that again summarizes the complaint, but it also includes the Chief's decision and rationale. From our review, this memorandum is prepared entirely in the Chief's Office and is not provided to the Professional Standards Division even after it is finalized, so it is never made a part the Professional Standards Division's investigation file. This undermines the Professional Standards Division's ability to ensure adequate reporting of all misconduct investigations to the Massachusetts POST Commission. NBPD should revise its policies to eliminate these practices.

¹⁸² See U.S. Dep't of Justice, Office of Cmty.Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 27 (2009) ("No complaint investigation should be closed or otherwise terminated without the concurrence of the commander of Internal Affairs at minimum. Internal Affairs should be the guarantor that every investigation undertaken by its agency of its own personnel fulfills its investigative mission. . . . Whenever it is necessary to delegate certain investigations to the field, Internal Affairs should monitor such investigations for quality and due diligence and take appropriate action if either is lacking. Internal Affairs should be empowered to remand investigations to the field for further work until Internal Affairs has determined that the investigative quality meets its standards.").

¹⁸³ LAPD Manual 3/825 Adjudicating the Complaint; Manual 3/831.10, Letter of Transmittal; LAPD Administrative Order 14.

F. Imposition of Discipline

When an internal investigation concludes with recommended finding of “sustained,” meaning that a violation of the department’s policies and procedures took place, the agency then must impose discipline on the officer. Except for termination, discipline is not about punishment, but it is instead about changing behavior and improving performance.¹⁸⁴ The question for the adjudicators—those within the agency charged with imposing discipline after finding a violation of policy—is what type of discipline will modify the employee’s behavior and improve their performance.

The proper administration of discipline depends on the balancing of numerous factors, many of which are specific to each situation and each employee. The adjudicator must consider fairness to the subject officer and any victims of the potential misconduct, consistency with past disciplinary decisions or the discipline of other officers involved in the incident, and the obligation to balance the needs of the organization, the employee, and the public trust. In some circumstances, an agency may conclude an internal investigation with a settlement agreement with the subject officer. When concluding an internal investigation by settlement, an agency still must ensure that the balance of factors involved in imposing discipline is achieved through the settlement process.

In most jurisdictions, the head of the law enforcement agency is the final authority on all disciplinary decisions for the agency. This empowers the chief to ensure that the behavior of all members of the agency is consistent with the department’s policies and procedures. In New Bedford and throughout the Commonwealth of MA, however, chiefs have limited power to impose discipline unless they are designated “appointing authority.” The Chief of Police in New Bedford is not the appointing authority, so the maximum suspension the Chief can impose is five days.¹⁸⁵ For any suspension greater than five days, or for a termination or a demotion of a supervisor, the chief recommends a finding and a penalty to the Mayor, who has the final decision-making authority. Even if the penalty is five days or less, the officer has the right to appeal the decision to the Mayor. If the officer appeals, the Mayor appoints a hearing officer—usually the Chief—and an informal hearing¹⁸⁶ is held. If the appealed penalty was five days or less, then the hearing is after the suspension is served; if the penalty is greater than 5 days, then the hearing precedes the imposition of the penalty. In practice, the Mayor typically supports the Chief’s decisions and recommendations on discipline.

Recommendation 6.1: NBPB should ensure that progressive discipline is imposed for repeated violations of policy of a similar nature

Progressive discipline is the concept that, when an officer engages in repeat misconduct, particularly repeated misconduct of a similar nature, the corrective action applied to that misconduct increases in severity for each

¹⁸⁴ Even when termination is imposed, the discipline is not about punishing the employee, but about the determination that the employee’s behavior is incapable of changing and performance cannot be improved, either because it is so repetitious or so egregious that the person is no longer fit to be a department employee.

¹⁸⁵ See Mass. Gen. Laws ch. 31, § 41. NBPB’s procedures when the Chief imposes discipline are informal and do not appear consistent with best practices. When the Chief sustains an allegation, the Chief’s Office sends a notice to the subject officer directing the officer to come to the Chief’s office for an appointment. The notice does not state that it is in reference to an internal affairs case, nor does it alert the officer that the Chief is intending to sustain the charges. At the appointment, the officer is not given the opportunity to contest either the finding or the penalty. Rather, the chief notifies the officer of the decision without additional process.

¹⁸⁶ No oaths are administered at the hearing, so the hearing is informal in the sense that no discipline can be imposed based on the officer’s statements during the hearing itself.

repeated violation. The theory behind progressive discipline is two-fold: (1) imposing less serious corrective action was insufficient to change the officer's behavior, so more serious corrective action should be taken; and (2) the officer is already on notice that the behavior did not align with departmental standards, so greater discipline is justified for a repeat offense. As discussed above, however, the primary goal of discipline, including progressive discipline, is not punishment, but to change the officer's behavior and improve performance.

Our review of NBPD's disciplinary system and files found that NBPD does not consistently impose progressive discipline. While NBPD does sustain complaints against officers and impose discipline, including terminating employees—four employees were terminated in 2024 alone—the most common discipline appears to be counseling. NBPD does not appear to focus on whether the employee's conduct has been malfeasance—the intentional commission of an act that is prohibited by policy—or misfeasance—performing an act an officer is permitted or required to in a way that is improper or negligent, but without any bad intent. We found no clear pattern of positive discipline, such as training, for cases involving misfeasance that would change behavior and improve officer performance.

Similarly, while we found some attempt at progressive discipline in our review of NBPD's disciplinary files, the imposition of progressive discipline was inconsistent at best. In one case, for example, an officer repeatedly engaged in similar violations related to neglect of duty. While the initial discipline suggests that it was intended to be progressive—a reprimand for the first violation, followed by a one-day suspension for the second violation—the discipline quickly becomes inconsistent, mixing reprimands with suspensions of various lengths with no clear pattern to the discipline imposed. The most recent discipline NBPD imposed was merely a two-day suspension, although it was the ninth violation of a similar nature over a period spanning 13 years. This is a clear case where an officer has continued to engage in misconduct of a similar nature over a lengthy period, but the penalties have neither adjusted to the repeated violations nor been successful in modifying the officer's behavior.

Another case involved a single officer with at least 23 different complaint investigations, many of which resulted in a sustained finding, and they were sustained for virtually the same conduct: rudeness. Just a small sampling of these cases raises serious questions about the adequacy of the discipline imposed.

- Sustained case from 2014. Sending department-wide email denigrating another officer. Counseling.
- Sustained case from 2015. Sending department-wide email denigrating a supervisor. Counseling.
- Sustained case from 2016. Sending department-wide email denigrating background/hiring process. Letter of reprimand.
- Sustained case from 2016. Sending department-wide email denigrating his ordered transfer. Three-day suspension.
- Sustained case from 2018. Rude comments to the public over the police car public address system. Three-day suspension.
- Sustained case from 2019. Rude comments to other members of the Department. Five-day suspension overturned at arbitration.
- Sustained case from 2020. Rudeness and insubordination. Settlement agreement with a loss of 40 hours of compensatory time.
- Sustained case from 2020. Rudeness and neglect of duty. Settlement agreement, counseling.

- Sustained case from 2023. Rudeness and violation of confidential informant policy. Counseling.
- Filed case from 2023. Complaint by the chief court officer of rudeness.
- Filed case from 2024. Rudeness.

The discipline NBPD applied to this officer's repeated misconduct was insufficient to change the officer's behavior, and NBPD should have altered the disciplinary approach toward this officer's behavior over time. Ultimately, if this officer could not or would not adjust his behavior to the departmental policies, he should have been terminated.

Recommendation 6.2: NBPD should adopt a disciplinary matrix or penalty guide to ensure that discipline is fair and consistent

Best practices suggest that law enforcement agencies should have a procedure or mechanism in place to ensure that discipline is fair and consistent over time and across officers. Some agencies have adopted disciplinary matrices and found them useful, while others have found a disciplinary matrix too rigid, resulting in discipline that does not match the policy violation that occurred. As the COPS Office's Standards and Guidelines for Internal Affairs notes:

A matrix best involves recommended ranges of discipline, allowing for the decision-maker to consider the totality of the circumstances, including aggravating and mitigating factors, in determining appropriate discipline.¹⁸⁷

Other agencies use a penalty guide or schedule, which can help to ensure consistency and promote the implementation of progressive discipline, without the rigidity of a disciplinary matrix. A penalty guide defines penalty range categories, such as a written reprimand through a four-day suspension, five through nine-day suspension, ten through fourteen-day suspension, and additional ranges up through termination. These penalty range categories are then matched to specific violations, with higher range categories for more serious or repeated violations. The ranges in the penalty schedule are guidelines only. The adjudicator may deviate from the penalty guide, but this should happen in exceptional circumstances and should be justified in writing.

We understand that NBPD is currently creating a disciplinary matrix.

Recommendation 6.3: NBPD should develop a formal process for settlement of disciplinary cases in coordination with the City Solicitor's Office, including the use of "last chance agreements"

At times, law enforcement agencies must use settlement agreements to resolve disputes about a disciplinary case brought by the subject of the disciplinary proceeding. While settlements are generally undesirable because they inhibit the agency's ability to impose discipline that matches the policy violation found during the investigation, they can still serve a valuable purpose when used appropriately. When there are problems of proof or procedural missteps in connection with either the investigation or the adjudication of the misconduct, employees are still held accountable in some form. Settlements can therefore assist in promoting an effective disciplinary system. Similarly, even if settlements involve less severe discipline than was originally recommended, to the extent that additional

¹⁸⁷ U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 53 (2009).

remedial measures such as training or counseling are included in the settlement, the agreement can still help fulfill one of the goals of the department's disciplinary system – to modify the employee's behavior.

From our review, NBPD has informally settled some disciplinary cases, although NBPD has not established a formal process for doing so. NBPD should develop written guidelines and a more structured process for settling cases when discipline is challenged. NBPD is under no obligation to enter settlement agreements in disciplinary cases, but when it does so, it should use a guide or checklist to ensure that the settlement is consistent to the extent possible with the Department disciplinary philosophy, in the Department's interest, and resolves all issues pending between the subject officer and the Department. The checklist could include, for example:

- Whether the settlement is consistent with past settlements in similar cases;
- Whether the settlement imposes sufficient discipline to achieve the Department's goals in modifying officer behavior;
- Whether there are any pending claims for damages against the City;
- Whether the employee has any pending lawsuits, appeals or grievances; and
- Whether the employee has any pending claims for Worker's Compensation, disability pension, or non-disability pension.

NBPD should also consider whether it wants to use settlements to provide officers with the opportunity for a "Last Chance Agreement." This agreement, which the accused is required to sign in connection with a proposed settlement (often in cases in which alcohol is a factor) requires the accused to adhere to a number of conditions, which may include attending Alcohol Anonymous meetings, abstaining from alcohol, and attending counseling. In addition, the employee also signs a resignation letter, and the Last Chance Agreement provides that should the employee fail to comply with any of the terms of the agreement, the letter of resignation will become effective immediately. NBPD should consider whether there is a need to adopt a similar practice.

G. Other Duties Assigned to the Professional Standards Division

By policy, NBPD has assigned the Professional Standards Division with additional tasks or functions that are unrelated to civilian complaints or internal investigations. These additional duties unduly burden the workload of Professional Standards staff, and the tasks may also be more appropriately assigned elsewhere in the Department.

Recommendation 7.1: NBPD should clarify the Professional Standards Division's role in reviewing and auditing use of force

Although NBPD's use of force policies and practices are outside the scope of this report, in its policies NBPD has charged the Professional Standards Division with specific duties with regard to use of force that we briefly outline here. We note, however, that in reviewing the Professional Standards Division's role regarding use of force, we found a number of deviations from best practices in NBPD's supervision, reporting, investigation, and review of use of force. NBPD should consider whether a comprehensive review of its use of force practices is necessary.

NBPD's policies describing the Professional Standards Division's role are inconsistent. Under both G.O. 12-01 and 12-02, the Professional Standards Division is charged with "ensuring that all Use of Force reports are complete and accurate and are reviewed by the appropriate chain of command for adherence to policy," and producing and forwarding "to the Chief of Police an annual analysis of all Use of Force Reports for indications of patterns or trends

that could indicate training needs, equipment upgrades and/or policy revisions.”¹⁸⁸ The Professional Standards Division’s first duty under these policies—to ensure that all use of force reports “are complete and accurate and are reviewed by the appropriate chain of command for adherence to policy”—is more complicated, however. As an initial matter, under NBPB G.O. 12-02, the Division of Professional Standards is charged with making “a determination whether the use of force was in compliance with department policy and procedure.”¹⁸⁹ Section 513 of the NBPB Rules and Regulations Manual, however, imposes this duty on the Division Commander of the involved officer, at least during an officer-involved shooting.¹⁹⁰ NBPB needs to clarify who is primarily responsible for determining whether a use of force complied with NBPB policy.

Best practices indicate that, in most instances, the initial and primary responsibility for deciding whether a use of force complied with agency policy should lie with uninvolved supervisors in the chain of command of the officer who used force.¹⁹¹ While some agencies elevate this decision for serious uses of force, the decision is not typically given to internal affairs.¹⁹² Instead, the initial decision is made by the chain of command, who refer to the matter to internal affairs if they find that the use of force violated agency policies and a misconduct investigation and potential discipline are warranted. Internal affairs then conducts the misconduct investigation and prepares the package for potential discipline as discussed in Sections 4 and 5 of this report. NBPB should clarify its policies to make the chain of command responsible for the initial decision on whether a use of force complied with NBPB policy.

In G.O. 12-01 and 12-02, NBPB also gives the Professional Standards Division an auditing role that is inconsistent with its role as the Department’s internal affairs unit. As the unit primarily responsible for investigating misconduct, it is problematic for that unit also to be conducting audits to determine whether the chain of command forwarded all potential misconduct to it for investigation. These audits would be more appropriate for a training unit to perform. Under Directive 93-40, the Professional Standards Division was supposed to include the training unit, but that merger never took place. NBPB should reassign these audits to another unit other than the Professional Standards Division, which currently only includes internal affairs.

Regardless of which unit is performing the audits, NBPB must put policies and procedures in place to ensure that the unit has adequate use of force reports to review. While use of force reporting and investigation is generally beyond the scope of this report, we note that NBPB does not appear to have a standard form for reporting use of force, and officers instead write a free-hand narrative describing the incident.¹⁹³ Moreover, NBPB’s General Order

¹⁸⁸ NBPB G.O. 12-01, XIIL; NBPB G.O. 12-02, XVI. NBPB G.O. 12-02 was modified earlier this year by NBPB G.O. 302.8, although those modifications are not relevant here.

¹⁸⁹ NBPB G.O. 12-02, XIV, D.

¹⁹⁰ NBPB Rules and Regulation Manual, Section 513.3 (“At the end of his report, the division commander will state whether or not the firing or use of the service weapon was justified.”).

¹⁹¹ See, e.g., Baltimore Police Department, Policy 725, Use of Force Reporting, Review, and Assessment (29 April 2024) (available at <https://www.baltimorepolice.org/transparency/bpd-policies/725-use-force-reporting-review-assessment>).

¹⁹² See, e.g., Id.; see also Baltimore Police Department, Policy 710, Level 3 Use of Force/Special Investigation Response Team (12 March 2024) (available at <https://www.baltimorepolice.org/transparency/bpd-policies/710-level-3-use-force-investigationsspecial-investigation-response-team>); Baltimore Police Department, Policy 724, Performance Review Board (14 December 2022) (available at <https://www.baltimorepolice.org/transparency/bpd-policies/724-performance-review-board-o>).

¹⁹³ This appears to violate Massachusetts POST Commission regulations. See 555 CMR 6.07, Use of Force Reporting (“Such policy shall mandate reporting ...and include the use of a standard use of force reporting form as approved by the Committee and the Commission and which shall be completed by any officer who uses force.”).

on less-lethal force, G.O. 12-02, does not include a requirement for an officer to notify a supervisor after force has been used, nor is the supervisor required to conduct an investigation of the use of force, including conducting interviews and collecting evidence.¹⁹⁴ Indeed, no one in the chain of command of the officer using force is required to opine as to whether the force used was within policy. Although it is currently the Professional Standards Division's duty to ensure that all use of force reports "are complete and accurate and are reviewed by the appropriate chain of command for adherence to policy," it is unclear how NBPD intends for the Division, or another unit if this duty is reassigned as we recommend, to fulfill this responsibility if force is inadequately reported and investigated. Critically, as noted above, NBPD should place the obligation to determine whether the use of force was within policy, at least for most routine force, on the officer's chain of command. The auditing unit should be reviewing that decision to ensure that it is consistent with NBPD standards.

The Professional Standards Division's second duty under G.O. 12-01 and 12-02, producing an annual analysis of all use of force reports, should also be reassigned for the same reasons. Currently, NBPD routes all use of force reports to Professional Standards, which maintains the reports in its files. NBPD should route these reports to another unit, such as training, to maintain and produce an annual report and analysis. We recommend that NBPD also consider whether additional units within NBPD, such as training and policy development, should be included in assessing whether use of force reports indicate a need for policy revisions, training, or equipment upgrades. While a "use of force review board" may be unnecessary for an agency the size of NBPD, the Department should nevertheless consider how to ensure that it engages in self-assessment and self-correction in its force practices.

Recommendation 7.2: NBPD should require supervisors investigating routine uses of force to conduct initial reviews of body-worn camera footage for the incident, rather than the Professional Standards Division

NBPD has recently deployed body-worn video cameras (BWC), and the Professional Standards Division is tasked with conducting audits of recordings in NBPD G.O. 422. These audits require Professional Standards supervisors to review three randomly selected recordings quarterly for each NBPD officer who has been issued a body-worn camera, including that the camera is properly maintained and functioning and that the officer is using the camera according to policy and activating it when appropriate.¹⁹⁵ The auditor is also required to identify any additional training or guidance needed by the officer based on the review.¹⁹⁶ As with the use of force audits and analysis, NBPD should reassign these audits to another unit, and initial reviews of BWC footage should be conducted by supervisors, rather than an auditing unit. NBPD could include audits by another unit to ensure the adequacy of supervisory review, but the primary responsibility should fall on supervisors to ensure their officers are following policy and training.

In addition, although we could find no order requiring this review, Professional Standards is also reviewing BWC video connected to a reported use of force. As the current recipient of all use of force reporting, when they receive use of force report, Professional Standards Division investigators are reviewing the related BWC video to ensure

¹⁹⁴ Cf. The International Association of Chiefs of Police, Model Policy "Reporting Use of Force," Section IV.C: Supervisory Responsibilities (updated March 2017) (requiring a supervisor to respond to the scene of a use of force and conduct an investigation).

¹⁹⁵ NBPD G.O. 422.13.4.

¹⁹⁶ *Id.*

the reporting and the video are consistent.¹⁹⁷ As noted earlier in this report, this function should generally be performed by the supervisor responding to and investigating routine uses of force.

III. Recommendation on Implementation

Implementation of the recommendations in this report will improve NBPD's alignment with best practices in the use of specialized units and handling complaints of misconduct. The Chief of Police, in consultation with the Mayor and City Solicitor, should develop a plan to implement the recommendations in this report. The plan should include a person designated to lead the implementation who reports directly to the Chief on the progress the department has achieved. The lead should also oversee an implementation team that includes both sworn and non-sworn members of NBPD and is representative of the different units within NBPD which are involved in implementation. The implementation plan should also require the development of actionable workplans that collectively include each recommendation in this report, with specific goals, strategies, and action items for each recommendation, timelines for implementation, measures of success, and designated owners of the overall workplan and each individual action within the plan. Development of an implementation plan with clear responsibilities and timelines will accelerate NBPD's progress and ensure that its practices align with best practices as quickly as possible.

IV. Conclusion

This report, while critical of current practices in many respects, represents a genuine opportunity for the New Bedford Police Department, city leadership, and the community they serve. Underlying all the recommendations in this report is a common focus on risk management. "Policing . . . involves inherently risk-laden tasks," risks that "are dangerous to both officers and community members. . . . The risk can be amplified for specialized units that are often directed to mitigate violent crime in communities."¹⁹⁸ Failure to confront these risks can result in "alienating the community, diminishing the effectiveness or legitimacy of the unit or the agency, violating people's constitutional rights, and endangering both officers and community members."¹⁹⁹ By undertaking this assessment, the City and NBPD leadership have committed to confronting these risks and taking steps to manage them as effectively as possible. This assessment and the recommendations it contains provide a roadmap for the City and

¹⁹⁷ In reviewing NBPD G.O. 422 to understand the Professional Standards Division's responsibilities, we noted that, according to NBPD G.O. 422.13.2(b), "officers or supervisors may review their BWC recording related to the incident prior to completing and submitting any required reports and/or being interviewed by the appropriate investigative unit." This is contrary to most recommended practices, which allow the viewing of BWC after the involved officers are interviewed. See, e.g., Police Executive Research Forum, *Critical Issues in Policing: Managing Officer-Involved Critical Incidents* 73 (2025); Baltimore Police Department, Policy 824, issued 23 June 2020. We recommend that NBPD revise its BWC policy to match contemporary best practices.

¹⁹⁸ National Policing Institute. 2024. *Considerations for Specialized Units: A Guide for State and Local Law Enforcement Agencies to Ensure Appropriateness, Effectiveness, and Accountability*. Washington, DC: Office of Community Oriented Policing Services, p. 32.

¹⁹⁹ *Id.*

NBPD to follow as they seek to strengthen NBPD's policies, practices, supervision, and accountability mechanisms and equip it to fight crime, reduce harm in the New Bedford community, and protect the public.

The good news is that this review found that most complaints are being recorded and investigated. Discipline is being imposed—and upheld by the courts and arbitrators—which shows that aspects of the current system work. But there is room for improvement, particularly in four key areas: (1) preliminary investigations must be conducted when complaints are first made; (2) the chain of command must be invested and involved in disciplinary and accountability decisions; (3) greater coordination must take place between Professional Standards and the rest of NBPD; and (4) complaints that are both criminal and administrative in nature must be addressed. We can provide a chart showing the recommended process for NBPD's internal affairs system upon request.

The use of specialized units, along with police accountability and the management of civilian complaints, are highly complex and emotionally charged areas of policing. Our mission, as given to us by the Mayor, was to conduct a thorough and critical assessment, and to recommend the adoption of best practices. This report does exactly that. For policing to be accepted and embraced by the community, it requires a police service that operates constitutionally, within the bounds of law and policy, and in a fully accountable manner. It must be willing to accept criticism and constantly engage in self-examination and, when necessary, self-correction, even if difficult or embarrassing. Good internal accountability systems promise the community that intentional wrongdoing by officers will be identified and never tolerated, while mistakes will be acknowledged and addressed. At the same time, officers, who operate daily in a sea of grey and are forced to make difficult decisions with limited information and little time to ponder, are assured fair treatment. The recommendations made here are intended to help the NBPD achieve that delicate balance.

