



Community Ombudsman Oversight Panel

Annual Report

A summary of the Panel's review of internal investigations within the Boston Police Department.

This report outlines the Panel's activities for the 2016 and 2015 reporting period.

Panel Members:

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City of Boston
Community Ombudsman Oversight Panel

July 2018

Dear Mayor Walsh & Commissioner Evans,

We are happy to share with you our Annual Report of cases referred to the CO-OP in 2016 and 2015. None of the work of the panel is possible without the dependable support of Nicole O'Connor and the tireless efforts of Lisa Kenneally our BPD liaison. We also want to thank and give overdue recognition to Superintendent Frank Mancini for his steadfast leadership of the Bureau of Professional Standards throughout the years. We truly appreciate him and the professionalism of his staff.

Ombudsmen Doherty (Quinlan) and Mayes are both saddened by the impending departure of colleague Natashia Tidwell. She was simply outstanding in her dedication to the CO-OP and the community it serves over many years. She will be hard to replace but we wish her the best in her professional endeavors.

We thank you, Mayor Walsh, for your leadership in issuing your June 2017 Executive Order expanding our duties and responsibilities and certainly welcome the increased workload and additional ombudsmen to meet the challenge ahead. The nation in many ways looks to how Boston leads as it works with all who live and work in the City.

We also want to recognize Commissioner Evans' diligent and steadfast efforts to institute the Body Camera Pilot Program. His partnership with the Social Justice Task Force, various community stakeholders, and the city council in implementing the program illustrates a spirit of true collaboration. To his credit, Commissioner Evans has made it clear that cameras are but a tool in a robust community policing program - not a replacement. We affirm his commitment to true community policing in Boston.

Respectfully submitted,

Natashia Tidwell, Ombudsman

Regina Quinlan Doherty, Ombudsman

J. Larry Mayes, Ombudsman

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Executive Summary

This Annual Report details the Panel’s work on cases referred to the CO-OP in 2016 & 2015 and all other matters completed. As explained further within the data section of this report, the CO-OP receives cases in one of two ways: via direct appeal from the complainant or through a random audit process. In 2016 and 2015, a total of 547 Internal Affairs Division (IAD) cases were eligible for appeal, meaning that the investigation resulting in a finding of “Unfounded,” “Exonerated,” or “Not Sustained.” Complainants in 48 of those cases utilized the direct appeal process and had their cases referred to the CO-OP for review. The CO-OP also receives 1 out of every 10 of those matters in which the complainant chose not appeal, despite having the option to do so. In 2016 and 2015, 55 cases were referred to the CO-OP through this random audit process.

In summary, the CO-OP completed reviews of 70 of the cases referred in 2016 and 2015 as well as 1 additional matter previously referred. Of the 70 new matters reviewed, the CO-OP determined that 52 investigations were fairly and thoroughly conducted and that 18 investigations were either Not Fair, Not Thorough, or both. Thirty-three cases still await review. Additional information about the type and number of individual allegations referred to the CO-OP can be found in the “Case Data” section of this report. A brief summary of each reviewed case, including those referred in previous years but completed during this reporting period, is located in the “Summary of CO-OP Cases” section.

Going forward, we anticipate several changes to our internal processes and workload as reflected in Mayor Walsh’s 2017 Executive Order which amended and supplemented former Mayor Menino’s 2007 Executive Order establishing the CO-OP. We are pleased that Mayor Walsh adopted many of the recommendations we offered in our 2015 report, “Civilian Review and Police Oversight in Boston.” In addition to increasing the number of cases referred to the CO-OP through the random audit process (from 10% of appeal eligible cases to 20%), the 2017 Executive Order expands the number of Panel members (from three to five) and the scope of matters for which CO-OP review is appropriate. Most notably, the 2017 Executive Order authorizes the CO-OP to review allegations of serious misconduct, including use of force cases resulting in death or serious bodily injury and allegations that a subject officer’s conduct was motivated by discriminatory intent, even if those cases are not referred to the CO-OP through the traditional two avenues. Finally, the 2017 Executive Order empowers the Police Commissioner to establish a Complaint Mediation Program which we hope will provide the community an effective avenue for timely and satisfactory resolution of certain categories of civilian complaints.

The Appendix contains supporting documents and other related information:

- A. CO-OP Brochure**
- B. CO-OP Appeal Form**
- C. Mayor Martin J. Walsh’s 2017 Executive Order**
- D. CO-OP Recommendation Report**

History, Purpose and Process

The Community Ombudsman Oversight Panel was established by Executive Order, issued by Mayor Thomas M. Menino in March 2007. The CO-OP is charged with reviewing internal affairs investigations of alleged

misconduct by members of the Boston Police Department. Matters are referred to the CO-OP through direct appeal by complainants or via a random audit process. Additionally, the Chief of the Bureau of Professional Standards and the BPD Legal Advisor may refer cases to the CO-OP where there exists allegations of serious misconduct or the use of force resulting in significant bodily injury.

History

In 2004, Kathleen M. O'Toole, then Boston's Police Commissioner, pledged to establish a Boston Police conduct review board. The Department was spurred by the emergence of similar panels in other cities and by the death that year of an area college student who was killed by police firing pepper-pellet guns during crowd control operations following the Red Sox World Series victory. The initial appointments to the Community Ombudsman Oversight Panel were made after nearly two years of research on police review boards across the country. The original Panel began reviewing case files in October 2007. Appointees have terms of three years, which may be renewed at the Mayor's discretion.

Panel Composition

The Community Ombudsman Oversight Panel (CO-OP) was originally established by Executive Order, issued by Mayor Thomas M. Menino in March 2007.¹ Panel Members are selected because of their extensive knowledge and experience in law enforcement, the criminal justice system and/or the judicial process. Prior to reviewing cases the Panel receives training at the Boston Police Academy in order to become familiarized with BPD policies and practices in areas such as use of force, race and community relations, constitutional law, internal investigation and disciplinary processes, among others.

The first panel ("Hall Panel") comprised of David, Hall, former Dean and Professor, Northeastern University School of Law; John O'Brien, Dean, New England Law | Boston; and Ruth Suber, former member of the Massachusetts Parole Board, served from 2007 until the end of 2010. In 2011, three new CO-OP members were appointed ("Hart Panel"): Damon Hart, Vice President and Assistant General Counsel, Liberty Mutual Insurance; Richard Kelliher, Senior Fellow, Moakley Center for Public Management; and Natasha Tidwell, Counsel, Hogan Lovells, US LLP. The Hart Panel's appointment ended in July 2014.

Duties of the Panel

It is the responsibility of the panel to:

- Provide external oversight of certain Boston Police Internal Affairs investigations to assess whether those investigations meet the standards of Fair and Thorough as provided in the Executive Order;
- Receive appeals from aggrieved complainants;
- Participate in outreach to the community as to the Panel's purpose and procedures;
- Periodically review policies and procedures and provide a report to the Mayor and the Police Commissioner documenting cases reviewed; the outcome of the Panel's review for each case and the progress toward establishing a Complaint Mediation Program as envisioned in the 2007 Mayoral Executive Order.

Powers of the Panel

The Panel, when reviewing Internal Affairs cases:

- Reviews completed cases as presented by the Boston Police Department's Internal Affairs Division, without the power to subpoena. It cannot interview its own witnesses nor do its own independent investigation.

¹ In June 2017, Mayor Martin J. Walsh issued an Executive Order that expanded the CO-OP's composition, duties, and responsibilities.

- Access to all materials contained in the completed Internal Affairs files subject to review, except those documents protected from release by statute.
- Makes recommendations to the Chief, Bureau of Professional Standards (Chief, BPS) for further investigation or clarification and recommendations to the Police Commissioner regarding the reviewed cases.

Cases Reviewed by the Panel

The Panel reviews the following categories of cases:

- A. Not sustained, exonerated or unfounded cases involving allegations of serious misconduct and unjustified use of force. The following is the definition of serious misconduct cases developed by the Chief of BPS in cooperation with the Legal Advisor.
 1. Not sustained, exonerated, or unfounded cases involving an in-custody death or serious bodily injury that occurs while in Boston Police custody.
 2. Not sustained, exonerated or unfounded cases involving use of force by a Boston Police officer which results in death or serious bodily injury.
 3. Not sustained, exonerated or unfounded cases involving allegations of perjury by a police officer.
 4. Not sustained, exonerated or unfounded cases involving allegations that the actions of a Boston Police officer were motivated by a discriminatory intent. The allegation must include specific actions taken by the police officer that led the complainant to believe the action was discriminatory.
 5. Any other not sustained, exonerated or unfounded internal affairs case deemed appropriate for review by the Chief, Bureau of Professional Standards.
- B. A random sample of all not sustained, exonerated or unfounded complaints;
- C. Not sustained, exonerated or unfounded findings appealed to the Panel by complainants who allege that the investigation of their complaint was either not fair and/or thorough.

Panel Review Process

For cases in Category A or B above, the review process is as follows:

1. The Chief, BPS, and the Legal Advisor determine those cases to be reviewed pursuant to categories A and B above. To insure the integrity of the IAD process, the panel reviews approximately ten percent of all cases with a finding of not sustained, exonerated or unfounded.
2. The Executive Secretary to the Panel compiles the cases for review and presents them to the reviewing Ombudsman. The Executive Secretary assigns case numbers to the reviewed cases. The entire investigative file is provided to the reviewing Ombudsman; however, a staff attorney from the Legal Advisor's Office redacts the file to prevent the unauthorized release of privileged or protected information pursuant to Massachusetts General Laws (Criminal Offender Record information, information protected by the rape shield statute, etc.). The cases are assigned to panel members on a rotating basis based on the order in which they are received.
3. The Executive Secretary notifies the police officer(s) named in the reviewed cases that the case is under review by the Panel.
4. One Ombudsman reviews each case, and the reviewing Ombudsman either finds the investigation to be thorough and fair, or sends feedback to the Chief, BPS, requesting clarification or further investigation. The Chief, BPS, may send the case back to the investigator for review, or determine that the investigation as it stands is fair and thorough. The Ombudsman may then make a request to the Police Commissioner for final review and determination. The ultimate decision as to fairness and/or thoroughness of any internal investigation remains with the Police Commissioner, and he makes a determination as to the appropriate finding.
5. If the reviewing Ombudsman determines that a case was investigated fairly and thoroughly, he/she notifies the Police Commissioner, the Chief, BPS, the Legal Advisor and the named officer(s) of the determination.

6. If, pursuant to the procedure defined above, the Police Commissioner makes a determination as to whether a case was investigated fairly and thoroughly, he notifies the reviewing Ombudsman, the Chief, BPS, the Legal Advisor and the named officer(s) of the determination.
7. The Executive Secretary maintains all files for the Panel. The files of the Panel are regarded as confidential and are examined only by Panel members, the Executive Secretary and Boston Police Department employees as designated by the Police Commissioner. The Panel is barred from duplicating documents provided by the Police Department. The files are not available for inspection by the public. The investigative files are returned to IAD within fourteen (14) days of the final determination.

For cases in category C above, the review process is as follows:

1. Upon final determination of a finding on an internal affairs case, notification is sent to the complainant by the Chief, BPS, of the Police Commissioner's finding. If the Police Commissioner's finding is not sustained, exonerated or unfounded, the complainant is informed of his/her ability to seek an appeal of this finding to the Community Ombudsman Oversight Panel. A complainant, who wishes to appeal, must do so in writing and may do so with the included Appeal Form within fourteen (14) days of the mailing date of the notice from IAD. If the appeal is sent via mail, the appeal must be postmarked within fourteen (14) days from the date the notice from IAD is mailed.

The appeal can be e-mailed to the following address COOP.bpd@cityofboston.gov.

Hand-delivered appeals must be received by close of business on the fourteenth day from the date on the notice from IAD.

Appeals may be hand delivered to:

Community Ombudsman Oversight Panel
c/o City of Boston Law Department
City Hall
Room 615
Boston, MA 02201

Appeals sent by mail must be postmarked by close of business on the fourteenth day from the date on the notice from IAD.

Appeals may be mailed to:

Community Ombudsman Oversight Panel
P.O. Box 190189
Roxbury, MA 02119

2. The Executive Secretary stamps the appeal upon receipt and assigns a case number to the appeal. The Executive Secretary notifies the police officer(s) named in the case of the appeal and provides a copy of the appeal to the Police Commissioner, the Chief, BPS, and the Legal Advisor. The Executive Secretary prepares the case for the Panel and assigns the appeal to one Ombudsman. The entire investigative file is provided to the reviewing Ombudsman; however, an attorney from the Legal Advisor's Office redacts the file in order to prevent the unauthorized release of privileged or protected information pursuant to the Massachusetts General Laws (Criminal Offender Record Information, information protected by the rape shield statute, etc.).
3. One Ombudsman reviews each case and either finds the investigation to be thorough and fair, or sends feedback to the Chief, BPS, requesting clarification or further investigation. The Chief, BPS, may send the case back to the investigator for review, or determine that the investigation as it stands is fair and thorough. The Ombudsman may then make a request to the Police Commissioner for final review and determination. The ultimate decision as to the fairness and/or thoroughness of any internal investigation remains with the Police Commissioner, and he makes a determination as to the appropriate finding.
4. If the reviewing Ombudsman determines that a case was investigated fairly and thoroughly, he/she notifies the Police Commissioner, the Chief, BPS, Legal Advisor and the named officer(s) of the determination.

5. If, pursuant to the procedure defined above, the Police Commissioner makes a determination as to whether a case was investigated fairly and thoroughly, he notifies the reviewing Ombudsman, the Chief, BPS, the Legal Advisor and the named officer(s) of the determination.
6. The Executive Secretary notifies the complainant of the determination by either the reviewing Ombudsman or the Police Commissioner. All notifications made to the complainant are sent by certified mail, return receipt requested.
7. The Executive Secretary maintains all files for the Panel. The files of the Panel, and the statements of appeal, are regarded as confidential and are examined only by Panel members, the Executive Secretary and Boston Police Department employees as designated by the Police Commissioner. The Panel is not authorized to duplicate documents provided by the Police Department. The files are not available for inspection by the public. The investigative files are returned to IAD within fourteen (14) days of the final determination.

Final Decision on Appeals

As stated earlier, the Boston Police Commissioner makes the final decision on appealed cases. Recommendations by the Ombudsmen and the Chief of the Bureau of Professional Standards are considered in addition to case file documents. The Police Commissioner's determination is final and no other appeal is available.

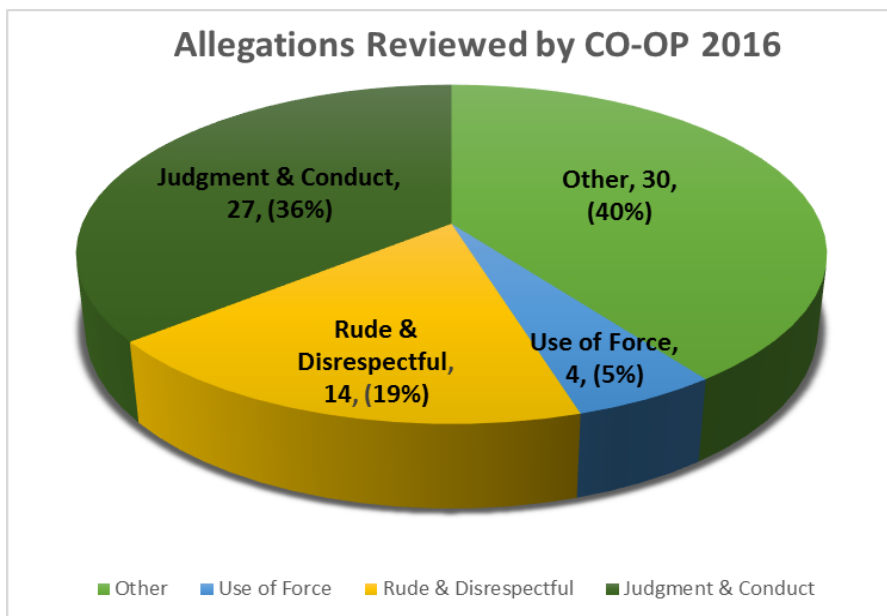
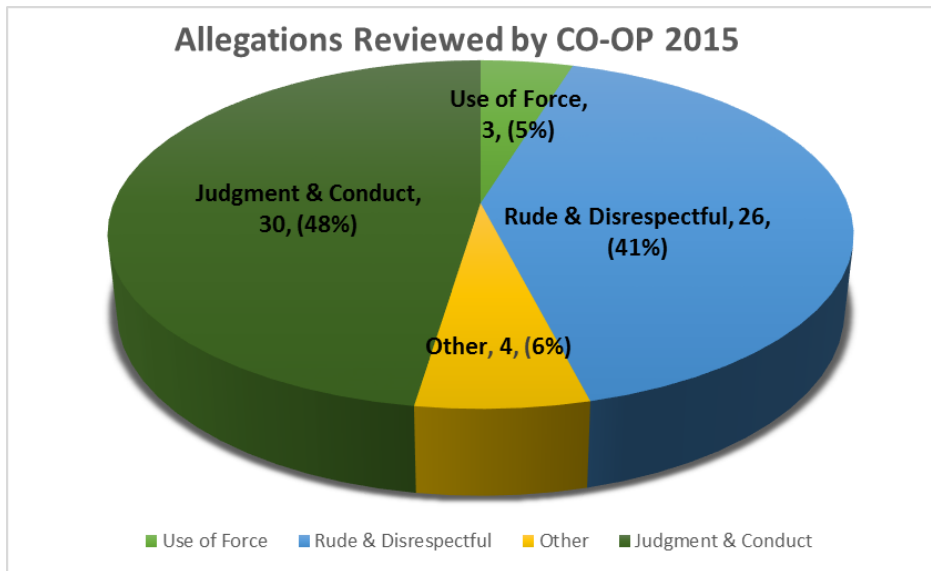
Given the time-consuming nature of reviewing an entire case file—especially a case containing several alleged violations—there is no specific time limit allotted for an appeal. Each Ombudsman may be assigned more than one case file for review at a time.

CO-OP Case Data

Cases are referred to the Community Ombudsman Oversight Panel (“CO-OP”) by direct appeal or through a random audit process. As previously noted, each allegation within a civilian complaint is treated separately. If IAD’s investigation of an allegation results in a finding of Not Sustained, Exonerated, or Unfounded, the complainant is notified of his/her right to appeal the finding to the CO-OP. In July of 2017, Mayor Walsh signed a new Executive Order in which the CO-OP would review two out of every ten cases instead of one out of every ten cases in which the complainant does not exercise his/her right to appeal an adverse finding. These cases are selected randomly.

As shown in Figure 1 the bulk of allegations reviewed by the CO-OP fell within three (3) main categories: Use of Force, Judgment and Conduct, and Rude and Disrespectful Treatment. These categories are described in further detail below. The graph illustrates that the CO-OP reviewed **138 (63 in 2015 and 75 in 2016)** separate allegations of misconduct. As with IAD cases generally, most CO-OP cases involve multiple allegations.

Figure 1



Allegations

Use of Force: This rule governs the guidelines for the appropriate use of non-lethal force by members of the Boston Police Department in the performance of their duties.

Judgment & Conduct: Conduct unbecoming an employee includes that which tends to indicate that the employee is unable or unfit to continue as a member of the Boston Police Department or tends to impair the operation of the Department or its employees. This includes any conduct or omission that is not in accordance with established and ordinary duties or procedures of the police department or which constitutes use of unreasonable judgment in the exercising of an employee's discretionary authority.

Rude & Disrespectful Treatment: The police department requires that employees shall, on all occasions, be civil and respectful, courteous and considerate toward their supervisors, their subordinates and all other members of the Boston Police Department and the general public. No employee shall use epithets or terms that tend to denigrate any person(s) due to their race, color, creed or sexual orientation except when necessary in police reports or in testimony.

Other: All remaining allegations made against Boston Police personnel including allegations of Neglect of Duty and failure to follow existing rules for Self-Identification.

CO-OP Recommendations

When a Panel member completes his/her review of an appeal, the complainant is notified in writing of the Panel member's recommendation. The Panel issues one of four findings in each appeal:

Fair and Thorough (FT): The IAD investigation was found to be thorough and without bias toward either party.

Fair but Not Thorough (FBNT): The IAD investigation was found to be Not Thorough, that is, further investigative steps that may have had a potential impact on the outcome of the case should have been completed but were not. However, the case was conducted without bias toward either party.

Not Fair but Thorough (NFBT): Aspects of the investigation were found to be unfairly biased but the investigation, as a whole, was thorough.

Not Fair and Not Thorough (NFNT): The IAD investigation was found to be unfairly biased and additional investigative steps that may have impacted the outcome of the case were not taken.

Summary of CO-OP Cases

Case #:	14-23R	Type: Random
Summary:	Complainant alleged that officer used an excessive amount of force to effect arrest.	
Violation(s):	Use of Non-Lethal Force (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-01A	Type: Appeal
Summary:	Complainant was arrested after assaulting a family member and alleged that the officer never spoke to her to get her version of events.	
Violation(s):	Neglect of Duty/Unreasonable Judge (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-02A	Type: Appeal
Summary:	Complainant alleged that officers took him into custody and were negligent in handling his personal property.	
Violation(s):	Neglect of Duty/Unreasonable Judgment (Not Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-03A	Type: Appeal
Summary:	Complainant alleged that the officer was disrespectful in his treatment towards him.	
Violation(s):	Respectful Treatment (Unfounded)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-04A	Type: Appeal
Summary:	Complainant alleged that the officer was untruthful. The allegation stems from a previous IAD investigation and subsequent lawsuit filed against the City of Boston.	
Violation(s):	Untruthfulness (Not Sustained) Duty Supervisor (Sustained) Examination for Visible Injury (Sustained) Investigation of Use of Force (Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	

Case #:	15-05A	Type: Appeal
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Summary: Complainant alleged that the officer was disrespectful, arrogant and did not want to do his job.

Violation(s): Respectful Treatment (Unfounded)

Recommendation: Fair But Not Thorough

Response: Pending IA Response

Status: Pending

Case #:	15-06A	Type: Appeal
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Summary: Complainant alleged that Boston Police and other law enforcement officials, including the State Police, have engaged in a pattern of harassment and over-enforcement of traffic laws against taxi-cab drivers.

Violation(s): Respectful Treatment (Not Sustained)
Abuse of Power (Not Sustained)

Recommendation: Fair and Thorough

Status: Closed

Case #:	15-07R	Type: Random
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Summary: Complainant alleged that while being directed in traffic, the officer was overheard making a remark expressing a personal dislike of homosexuals.

Violation(s): Respectful Treatment (Not Sustained)

Recommendation: Fair and Thorough

Status: Closed

Case #:	15-08R	Type: Random
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Summary: Complainant alleged that during a telephone conversation with an officer, the officer neglected his duty by failing to file a report.

Violation(s): Neglect of Duty/Unreasonable Judgment (Exonerated)

Recommendation: Fair and Thorough

Status: Closed

Case #:	15-09R	Type: Random
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Summary: Complainant alleged that a squad car passed by as the complainant attempted to get the officer's attention.

Violation(s): Neglect of Duty/Unreasonable Judgment (Not Sustained)

Recommendation: Fair and Thorough

Status: Closed

Case #:	15-10R	Type: Random
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Summary: Complainant alleged that the officer was rude during the process of issuing citation and alleged that the citation was issued unjustly.

Violation(s): Conduct Unbecoming (Unfounded)
Neglect of Duty/Unreasonable Judgment (Exonerated)

Recommendation: Fair and Thorough

Status: Closed

Case #:	15-11R	Type: Random
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Summary: The complainant alleged that he was issued a citation and the officer was unnecessarily aggressive refusing to identify himself when requested.

Violation(s): Respectful Treatment (Exonerated)
Neglect of Duty/Unreasonable Judgment (Exonerated)
Self-Identification (Not Sustained)

Recommendation: Fair But Not Thorough

Response: Pending IA Response

Status: Pending

Case #:	15-12A	Type: Appeal
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Summary: Complainant alleged that an officer performing a detail was disrespectful and issued a citation in retaliation for asking for his badge number.

Violation(s): Respectful Treatment (Not Sustained)
Neglect of Duty/Unreasonable Judgment (Unfounded)

Recommendation: Fair and Thorough

Status: Closed

Case #:	15-13A	Type: Appeal
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Summary: Complainant alleged that the officer filed false police reports and perjured himself.

Violation(s): Neglect of Duty/Unreasonable Judgment (Unfounded)

Recommendation: Fair and Thorough

Status: Closed

Case #:	15-14A	Type: Appeal
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Summary: The complainant alleged that during a telephone call the officer was rude and disrespectful.

Violation(s): Respectful Treatment (Not Sustained)

Recommendation: Not Fair But Thorough

Response: Pending IA Response

Status: Pending

Case #: 15-15A **Type: Appeal**

Summary: The complainant alleged that his business had been unfairly targeted.

Violation(s): Neglect of Duty/Unreasonable Judgment (Exonerated)

Recommendation: Fair and Thorough

Status: Closed

Case #: 15-16A **Type: Appeal**

Summary: Complainants alleged that while they were being arrested, the officer used unnecessary force.

Violation(s): Use of Force (Not Sustained)
Respectful Treatment (Not Sustained)
Duty Supervisor (Sustained)
Prisoner Inspection (Sustained)

Recommendation: Fair and Thorough

Status: Closed

Case #: 15-17A **Type: Appeal**

Summary: The complainant alleged that the front desk officer at the district was rude and unprofessional and that the police report was inaccurate.

Violation(s): Respectful Treatment (Not Sustained)
Neglect of Duty/Unreasonable Judgment (Not Sustained)

Recommendation: Not Fair Not Thorough

Response: Pending IA Response

Status: Pending

Case #: 15-18A **Type: Appeal**

Summary: Complainant alleged that he was wrongfully held in protective custody.

Violation(s): Neglect of Duty/Unreasonable Judgment (Exonerated)

Recommendation: Fair and Thorough

Status: Closed

Case #: 15-19A **Type: Appeal**

Summary: Complainant alleged that he was pulled over and illegally searched.

Violation(s): Neglect of Duty/Unreasonable Judgment (Exonerated)

Recommendation: Not Fair Not Thorough

Response: Pending IA Response

Status: Pending

Case #:	15-20R	Type: Random
Summary:	Complainant alleged a parking ticket was wrongly issued to a friend's vehicle in retaliation for a prior complaint.	
Violation(s):	Conduct Unbecoming (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-21R	Type: Random
Summary:	Complainant alleged that his arrest was a result of being targeted by the officer.	
Violation(s):	Neglect of Duty/Unreasonable Judgment (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-22R	Type: Random
Summary:	Complainant alleged that after calling 911, he was told that no officer would be sent to the scene because there were no injuries.	
Violation(s):	Call intake handling procedure (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-23R	Type: Random
Summary:	Complainant alleged that the officer was disrespectful and has a bias toward him.	
Violation(s):	Respectful Treatment (Not Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-24R	Type: Random
Summary:	Complainant alleged that he was falsely arrested.	
Violation(s):	Neglect of Duty/Unreasonable Judgment (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-25R	Type: Random
Summary:	Complainant alleged that he was falsely arrested.	
Violation(s):	Neglect of Duty/Unreasonable Judgment (Exonerated)	
Recommendation:	Fair But Not Thorough	
Response:	Pending IA Response	
Status:	Pending	

Case #:	15-26R	Type: Random
Summary:	Complainant alleged that the officers used profanity and refused to give their names or badge numbers upon request.	
Violation(s):	Respectful Treatment (Not Sustained) Self-Identification (Not Sustained)	
Recommendation:	Not Fair Not Thorough	
Status:	Pending	
Case #:	15-27R	Type: Random
Summary:	Complainant alleged that the officer posted comments online about the complainant.	
Violation(s):	Conduct Unbecoming (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-28R	Type: Random
Summary:	Complainant alleged that officers refused the complaint's request to see a warrant and would not provide their names/badge numbers.	
Violation(s):	Respectful Treatment (Not Sustained) Self-Identification (Not Sustained)	
Recommendation:	Not Fair Not Thorough	
Response:	Pending IA Response	
Status:	Pending	
Case #:	15-29R	Type: Random
Summary:	Complainant alleged that the officer neglected to assist him when he was assaulted.	
Violation(s):	Neglect of Duty/Unreasonable Judgment (Unfounded)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-30R	Type: Random
Summary:	Complainant alleged that an officer arrived at her home to take a report and was unprofessional.	
Violation(s):	Respectful Treatment (Not Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	

Case #:	15-31R	Type: Random
Summary:	Complainant alleged that the officer was disrespectfully and threatened him with arrest.	
Violation(s):	Respectful Treatment (Not Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-32R	Type:
Summary:	Complainant alleged that he was falsely arrested for disturbing the peace.	
Violation(s):	Neglect of Duty/Unreasonable Judgment (Unfounded)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-33R	Type: Random
Summary:	Complainant alleged that the 911 operator was very rude.	
Violation(s):	Respectful Treatment (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-35R	Type: Random
Summary:	Complainant alleged that the officer was disrespectful and was asked three times for his badge number.	
Violation(s):	Respectful Treatment (Not Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-36R	Type: Random
Summary:	Complainant alleged that she called 911 for a noise complaint and that the responding officer was disrespectful towards her.	
Violation(s):	Respectful Treatment (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-38A	Type: Appeal
Summary:	Complainant alleged that she suffered injuries as a result of officer acting negligently and wrongfully.	
Violation(s):	Use of Force (Not Sustained) Neglect of Duty/Unreasonable Judgment (Unfounded) Respectful Treatment (Not Sustained)	
Recommendation:	Not Fair Not Thorough	

Case #:	15-38A con't	Type: Appeal
Response:	Pending IA Response	
Status:	Pending	
Case #:	15-39A	Type: Appeal
Summary:	Complainant alleged that the officer was disrespectful and inappropriate.	
Violation(s):	Respectful Treatment (Unfounded)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-42A	Type: Appeal
Summary:	Complainant alleged his vehicle was stopped by officers and the officers were unprofessional.	
Violation(s):	Neglect of Duty/Unreasonable Judgment (Exonerated) Respectful Treatment (Not Sustained)	
Recommendation:	Not Fair Not Thorough	
Response:	Pending IA Response	
Status:	Pending	
Case #:	15-44A	Type: Appeal
Summary:	Complainant alleged that the officer was disrespectful, rude and judgmental toward her.	
Violation(s):	Respectful Treatment (Unfounded)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-46R	Type: Random
Summary:	Complainant alleged that the officer did not render assistance to someone who was being attacked and that the officer ignored her request for his name and badge number	
Violation(s):	Self-Identification (Not Sustained) Neglect of Duty/Unreasonable Judgment (Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	
Case #:	15-47R	Type: Random
Summary:	Complainant alleged that she observed an officer slam a person against a barrier and take him away.	
Violation(s):	Use of Force (Not Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	

Case #:	15-48R	Type: Random
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Summary: Complainant alleged that an officer placed her in a headlock while pushing her.

Violation(s): Conformance to Laws, 2 Counts (Not Sustained)
Conduct Unbecoming (Not Sustained)
Alcohol Off-Duty (Not Sustained)

Recommendation: Fair and Thorough

Status: Closed

Case #:	15-49R	Type: Random
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Summary: Complainant alleged that the officer was untruthful during an interview.

Violation(s): Untruthfulness in Department Report (Unfounded)

Recommendation: Not Fair But Thorough

Response: Pending IA Response

Status: Pending

Case #:	15-50R	Type: Random
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Summary: Complainant alleged that she went to a district station to file a report, the officer refused to identify himself and was disrespectful.

Violation(s): Respectful Treatment (Not Sustained)
Self-Identification (Sustained)

Recommendation: Not Fair But Thorough

Response: Pending IA Response

Status: Pending

Case #:	15-52R	Type: Random
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Summary: Complainant alleged that the officer was unprofessional when denying her the opportunity to submit an additional report about an incident that had occurred earlier.

Violation(s): Respectful Treatment (Not Sustained)

Recommendation: Not Fair But Thorough

Response: Pending IA Response

Status: Pending

Case #:	15-53R	Type: Random
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Summary: Complainant alleged that the officer was disrespectful during a traffic stop.

Violation(s): Respectful Treatment (Not Sustained)

Recommendation: Fair and Thorough

Status: Closed

Case #:	15-55R	Type: Random
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Summary: Complainant alleged that while filing a report at district station, she was not given a sufficient amount of attention by the officer and that the officer was unprofessional.

Violation(s): Respectful Treatment (Exonerated)

Recommendation: Fair and Thorough

Status: Closed

Case #:	16-01A	Type: Appeal
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Summary: Complainant alleged that he was arrested and attacked by an officer and that the incident report did not reflect the events as they occurred.

Violation(s): Use of Force, (Not Sustained)
Abuse of Process, (Unfounded)

Recommendation: Fair and Thorough

Status: Closed

Case #:	16-02A	Type: Appeal
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Summary: Complainant alleged that the officer acted in a rude and ignorant manner.

Violation(s): Respectful Treatment, (Exonerated)

Recommendation: Fair and Thorough

Status: Complete

Case #:	16-04A	Type: Appeal
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Summary: Complainant stated he was stopped, detained illegally, was treated disrespectfully and was given a citation for a violation he did not commit.

Violation(s): Respectful Treatment (3 Counts), (Not Sustained)
Neglect of Duty/Unreasonable Judgment, (Sustained)

Recommendation: Not Fair But Thorough

Status: Pending IA Response

Case #:	16-05A	Type: Appeal
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Summary: Complainant alleged the officer refused to remove an illegally parked car that was blocking a driveway and was rude.

Violation(s): Neglect of Duty/Unreasonable Judgment, (Exonerated)
Respectful Treatment, (Unfounded)

Recommendation: Fair and Thorough

Status: Closed

Case #:	16-07A	Type: Appeal
Summary:	Complainant alleged that the Officer refused to write an incident report for her.	
Violation(s):	Leaves of Absence, (Exonerated) Conduct Unbecoming, 3 counts, (Exonerated) Directives/Orders, 3 counts, (Exonerated & Unfounded) Police Service, (Exonerated) Conformance to Laws, 9 counts, (Unfounded) Public Integrity Policy, 3 counts, (Exonerated & Unfounded) Cannon One, 3 counts, (Exonerated) Cannon Two, 3 counts, (Exonerated & Unfounded) Cannon Four, 3 counts, (Exonerated) Cannon Five, 3 counts, (Exonerated & Unfounded) Cannon Six, 3 counts, (Exonerated & Unfounded) Cannon Seven, 3 counts, (Exonerated & Unfounded) Cannon Ten, 3 counts, (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	

Case #:	16-10R	Type: Random
Summary:	Complainant alleged that the 911 call taker was rude and then hung up.	
Violation(s):	Respectful Treatment, (Unfounded)	
Recommendation:	Fair and Thorough	
Status:	Closed	

Case #:	16-13R	Type: Random
Summary:	Complainant alleged that officers were not investigating an incident of fraud that was reported.	
Violation(s):	Neglect of Duty/Unreasonable Judgment, (Exonerated)	
Recommendation:	Fair and Thorough	
Status:	Closed	

Case #:	16-16A	Type: Appeal
Summary:	Complainant alleged that officers were rude and did not follow up on an investigation of a complaint that took place.	
Violation(s):	Neglect of Duty/Unreasonable Judgment, (Unfounded) Respectful Treatment, (Not Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	

Case #:	16-17A	Type: Appeal
Summary:	Complainant alleged that officers were unjustified in detaining and later arresting him.	
Violation(s):	Neglect of Duty/Unreasonable Judgment, (Exonerated)	

Case #: 16-17A con't **Type: Appeal**

Recommendation: Fair But Not Thorough

Status: Pending IA Response

Case #: 16-19A **Type: Appeal**

Summary: Complainant alleged that officers came to his house and assaulted him.

Violation(s): Use of Force, (Exonerated & Unfounded)

Recommendation: Fair and Thorough

Status: Closed

Case #: 16-22R **Type: Random**

Summary: Complainant alleged that the officer wrote an inaccurate police report pertaining to an incident that occurred.

Violation(s): Neglect of Duty/Unreasonable Judgment, (Unfounded)

Recommendation: Fair and Thorough

Status: Closed

Case #: 16-25R **Type: Random**

Summary: Complainant alleged that the officer threatened to arrest her.

Violation(s): Respectful Treatment, (Unfounded)

Recommendation: Fair and Thorough

Status: Closed

Case #: 16-28R **Type: Random**

Summary: Complainant alleged that facts were omitted from an incident.

Violation(s): Neglect of Duty/Unreasonable Judgment, (Exonerated)

Recommendation: Fair and Thorough

Status: Closed

Case #: 16-31A **Type: Appeal**

Summary: Complainant alleged that the officer chased, assaulted, improperly arrested him and failed to accurately document the incident.

Violation(s): Use of Force, (Exonerated)
Conduct Unbecoming, (Unfounded)
Conformance to Laws, (Unfounded)
Neglect of Duty/Unreasonable Judgment, 2 counts, (Unfounded)
Situations Involving Off-Duty Boston Police Officers, 3 counts, (Sustained)
Self-Identification, (Sustained)
Respectful Treatment, (Sustained)

Recommendation: Fair and Thorough

Status: Closed

Case #:	16-32A	Type: Appeal
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Summary: Complainant alleged that she was treated disrespectfully and was not provided the assistance she deserved.

Violation(s): Neglect of Duty/Unreasonable Judgment, (Unfounded)
Respectful Treatment, (Unfounded)

Recommendation: Not Fair But Thorough

Status: Pending IA Response

Case #:	16-33A	Type: Appeal
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Summary: Complainant alleged that the officer was disrespectful when he stopped his vehicle for no reason and illegally detained him.

Violation(s): Respectful Treatment, (Not Sustained)
Unreasonable Judgment Bias, (Not Sustained)

Recommendation: Fair and Thorough

Status: Closed

Case #:	16-34A	Type: Appeal
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Summary: Complainant alleged that the officer was disrespectful in his questioning when he stopped her vehicle and issued a citation.

Violation(s): Respectful Treatment, (Exonerated)

Recommendation: Fair and Thorough

Status: Closed

Case #:	16-36A	Type: Appeal
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Summary: Complainant alleged that the officer did not properly identify himself and used excessive force.

Violation(s): Self-Identification, (Unfounded)
Use of Force, (Exonerated)

Recommendation: Fair and Thorough

Status: Closed

Case #:	16-40R	Type: Random
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Summary: Complainant alleged that the officer was rude and intimidating during a traffic stop.

Violation(s): Respectful Treatment, (Not Sustained)

Recommendation: Fair and Thorough

Status: Closed

Case #:	16-42R	Type: Random
Summary:	Complainant alleged that the Officers searched an apartment without showing the proper documentation.	
Violation(s):	Abuse of Process, (Unfounded)	
Recommendation:	Fair and Thorough	
Status:	Closed	

Case #:	16-43R	Type: Random
Summary:	Complainant alleged that officers were rude and aggressive toward her while she was stopped in a bike lane.	
Violation(s):	Respectful Treatment, 2 counts, (Not Sustained)	
Recommendation:	Fair and Thorough	
Status:	Closed	

Case #:	16-45A	Type: Appeal
Summary:	Complainant alleged that the officer threatened to write citations to her patrons.	
Violation(s):	Neglect of Duty, (Unfounded) Respectful Treatment, 2 counts, (Unfounded & Exonerated)	
Recommendation:	Not Fair But Thorough	
Status:	Pending IAD Response	

Case #:	16-48A	Type: Appeal
Summary:	Complainant alleged that when she went into a district station to file a report for an assault she witnessed, the Officer was rude, disrespectful and very unprofessional.	
Violation(s):	Respectful Treatment, (Not Sustained)	
Recommendation:	Fair But Not Thorough	
Status:	Pending IAD Response	

Appendices



How do I contact the Community Ombudsman Oversight Panel?

If you want further information, you can contact the CO-OP in writing:

By mail:
The Community Ombudsman Oversight Panel
P.O. Box 190189
Roxbury, MA 02119

By email:
COOP.bpd@cityofboston.gov

Or by phone:
617-594-9216

“Such oversight will serve to promote the professionalism of the Boston Police Department.”

Excerpt from Mayor Thomas M. Menino’s Executive Order

What else should I know?

The entire process is confidential. Personal information will not be released. Your appeal and any correspondence will be filed and kept secure.



Mayor Martin J. Walsh

City of Boston Community Ombudsman Oversight Panel

“It is in the best interest of the City of Boston and the Boston Police Department to have an oversight mechanism to build trust and confidence within the community.”

Excerpt from Mayor Thomas M. Menino’s Executive Order

City of Boston Community Ombudsman Oversight Panel

P.O. Box 190189
Roxbury, MA 02119
Phone: 617-594-9216

All CO-OP Forms and Publications are available **online** at the address listed below:

Website Address:
www.cityofboston.gov/LAW/CO-OP



What is the CO-OP?

The Community Ombudsman Oversight Panel, or CO-OP, is a three person independent civilian board appointed by the Mayor that is empowered to review Boston Police Internal Investigations cases appealed by complainants.

What cases are eligible for appeal?

Cases eligible for appeal include those with a finding of not sustained, exonerated or unfounded that you feel were not fairly and/or thoroughly investigated.

How do I file an appeal?

You, or your legal representative, can file an appeal once you have received the Notice of Finding from the Boston Police Internal Investigations Unit. You must file your appeal in writing or using a CO-OP Appeal Form (which is sent with your Notice or available for download online) within fourteen (14) calendar days of the date on the Notice of Finding. You may also reference the Appeal Form which accompanies your Notice. This has the *Date Due* listed on it for your convenience. If your appeal is sent via mail, the appeal must be postmarked within fourteen (14) calendar days of the date on the Notice of Finding.

Please mail appeals to:

Community Ombudsman Oversight Panel
P.O. Box 190189
Roxbury, MA 02119

How long will this appeal take?

There is no specific time limit allotted for an appeal. It will take time for the Ombudsman to review the entire case file, especially when a case contains multiple violations. Ombudsmen will be assigned more than one CO-OP case file for review at a time.

What training does the Panel receive?

Each of the Ombudsmen has extensive knowledge and experience in law enforcement, the criminal justice system and/or the judicial process. However, prior to reviewing any Boston Police Department Internal Investigation case, the Panel members receive training at the Boston Police Academy to better their understanding of how police officers are trained while in the Academy. Topics discussed at this training include Constitutional Law, Race and Community Relations, and Use of Force, among others. A second day of training is given by the Department to educate the Panel members on the Internal Affairs Investigation process, the disciplinary process and other related topics.

Will the Panel review cases other than civilian complaints?

The Panel will review a random sample of not sustained, exonerated or unfounded cases that *have not* been appealed by complainants. This external oversight of cases will help ensure that current Internal Investigation practices are fair, thorough and complete even when an appeal is not filed. Not sustained, exonerated, or unfounded cases involving allegations of serious misconduct or unjustified use of force will also be reviewed by the Panel at the discretion of the Department.

If your appeal is hand-delivered, it must be delivered to the address below by the close of business of the fourteenth (14th) day from the date on the Notice of Finding.

Please hand deliver appeals to:

Community Ombudsman Oversight Panel
City of Boston Law Department
Boston City Hall
Room 615
Boston, MA 02201

You may also email your appeal to:

COOP.bpd@cityofboston.gov

Please reference the IAD Case # in the subject line.

What is the process of appeal?

When an appeal is received within the allotted time-frame, it is assigned to an Ombudsman. The Ombudsman will then review the entire Internal Investigations case file and make a recommendation. Once a final decision has been made, the CO-OP will notify you by mail.

Please refer to the Mayor's Executive Order for more detailed information online at:
www.cityofboston.gov/LAW/CO-OP

How much does it cost?

There is no fee to file an appeal.

Who makes the final decision?

The Boston Police Commissioner makes the final decision on an appealed case. Recommendations by the Ombudsman and the Chief of the Bureau of Professional Standards are considered in addition to case file documents. The Police Commissioner's determination is final and no further appeal is available.

Community Ombudsman Oversight Panel Appeal Form

Instructions: Please sign this form to file your appeal in writing. The area below is provided should you wish to list additional comments. There is **no fee due** to file this appeal. **This form must be postmarked by the date listed below** (which is 14 calendar days from the date listed on your notice). Please mail this appeal to:

**City of Boston
Community Ombudsman Oversight Panel
P.O. Box 190189
Roxbury, MA 02119**

You may also file your appeal via email to COOP.bpd@cityofboston.gov. **Your email appeal must be sent by 5:00PM on the due date listed below.** Just please include the information listed below in your email.

DATE DUE:

NAME:

IAD CASE #:

To the Community Ombudsman Oversight Panel:

I would like to appeal the above listed Boston Police Department Internal Affairs Case.

SIGNATURE _____

DATE _____

If you would like, please include additional comments:



CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR
MARTIN J. WALSH

RECEIVED
CITY CLERK'S OFFICE

2017 JUN -7 P 2:43

BOSTON, MA

EXECUTIVE ORDER

June 7, 2017

Establishing a Community Ombudsman Oversight Panel and Complaint Mediation Program

WHEREAS, civilian oversight and review of internal investigations have become a standard practice for many law enforcement agencies;

WHEREAS, it is in the best interest of the City of Boston and the Boston Police Department to have an oversight mechanism to build trust and confidence within the community;

WHEREAS, such oversight will serve to promote the professionalism of the Boston Police Department, and to enhance community relations; and

WHEREAS, such oversight will be established to demonstrate that the Boston Police Department internal affairs process is fair and thorough;

NOW, THEREFORE, pursuant to the authority vested in me as chief executive officer of the City of Boston, St. 1948, c. 452 §11, and every other power hereto enabling, I hereby order and direct the establishment of the Community Ombudsman Oversight Panel and Complaint Mediation Program.

ARTICLE I. PANEL MEMBERSHIP.

The Panel will be composed of either three or five members appointed by the Mayor, and each will serve a term of three years with terms to be staggered to establish continuity within the Panel. Terms of each ombudsman may be renewed at the Mayor's discretion. Each ombudsman will have extensive knowledge and experience in law enforcement, the criminal justice system and/or the judicial process.

ARTICLE II. PANEL MEMBER COMPENSATION.

Each ombudsman will be paid one hundred dollars (\$100.00) per hour for his/her service, not to exceed fifty thousand dollars (\$50,000) per year.

ARTICLE III. PANEL MEMBER TRAINING.

Ombudsman will attend a preliminary training session prior to beginning their review of internal affairs cases. This training will be formulated by designees of the Boston Police Commissioner, and approved by the Mayor. The training will include, but is not limited to, the internal affairs process, Boston Police Department Rules and Regulations, constitutional law, and general police procedures.

ARTICLE IV. DUTIES OF THE PANEL.

The panel will:

- A. Provide external oversight of Boston Police internal affairs investigations for thoroughness and fairness;
- B. Receive appeals from aggrieved complainants;
- C. Participate in outreach to the community as to the Panel's purpose and procedures;
- D. Periodically review policies and procedures and provide a report to the Mayor and the Police Commissioner on the integrity of the complaint and internal affairs process;
- E. Produce an annual report to the Mayor and the Police Commissioner documenting cases reviewed, the outcome of the Panel's review for each case, and the Complaint Mediation Program's participation level and effectiveness.

ARTICLE V. POWERS OF THE PANEL.

The panel will have the following powers when reviewing internal affairs cases:

- A. To review completed cases as presented by the Boston Police Department's Internal Affairs Division ("IAD"). The panel will not have subpoena power, it cannot interview witnesses, or do its own independent investigations;
- B. To have access to all materials contained in the completed internal affairs files subject to review, except those documents protected from release by statute;

- C. To make recommendations to the Chief, Bureau of Internal Investigations ("BII"), for further investigation or clarification; and
- D. To make recommendations to the Police Commissioner regarding the reviewed cases.

ARTICLE VI. CASES REVIEWED BY THE PANEL.

The panel will review the following categories of cases:

- A. Not sustained, exonerated, or unfounded cases involving allegations of serious misconduct including but not limited to:
 - a. In-custody death or serious bodily injury while in BPD Custody;
 - b. Use of force cases resulting in death or serious bodily injury;
 - c. Allegations of perjury by a police officer;
 - d. Allegations that the conduct of an officer was motivated by discriminatory intent;
 - e. Any other case deemed appropriate for review by the Police Commissioner or the Chief of the Bureau of Professional Standards;
- B. A random sample of all not sustained, exonerated or unfounded complaints; and
- C. Not sustained, exonerated, or unfounded findings appealed to the panel by complainants who allege that the investigation of their complaint was either not fair and/or not thorough.

ARTICLE VII. PANEL REVIEW PROCESS.

- A. For cases in category A or B in Article VI, the process will be as follows:
 - 1. All cases falling into category A shall be automatically referred to the Panel for review within fourteen (14) days of a finding of not sustained, exonerated, or unfounded.
 - 2. Two out of every ten, or approximately twenty percent (20%) of all cases with a finding of either not sustained, exonerated, or unfounded will be referred to the Panel for review.
 - 3. The Executive Secretary to the panel will compile the cases for review, and present them to the reviewing ombudsman. The Executive Secretary shall assign case numbers to the reviewed cases. The entire investigative file will be provided to the reviewing ombudsman; however, the Executive Secretary shall redact the file in order to prevent the

unauthorized release of privileged or protected information pursuant to the Massachusetts General Laws (Criminal Offender Record Information, information protected by the rape shield statute, etc.).

4. The Executive Secretary shall notify the police officer(s) named in the reviewed cases that the case is under review by the panel.
5. One ombudsman will review each case, and the reviewing ombudsman will either find the investigation to be thorough and fair, or send feedback to the Chief, BII, requesting clarification or further investigation. The Chief, BII, may send the case back to the investigator for review, or determine that the investigation as it stands is fair and thorough. The ombudsman may then make a request to the Police Commissioner for final review and determination. The ultimate decision as to the fairness and/or thoroughness of any internal investigation remains with the Police Commissioner, and he will make a determination as to the appropriate finding.
6. If the reviewing ombudsman determines that a case was investigated fairly and thoroughly, he/she shall notify the Police Commissioner, the Chief, BII, Legal Advisor and the named officer(s) of the determination.
7. If, pursuant to the procedure defined above, the Police Commissioner makes a determination as to whether a case was investigated fairly and thoroughly, he shall notify the reviewing ombudsman, the Chief, BII, the Legal Advisor and the named officer(s) of the determination.
8. The Executive Secretary shall maintain all files for the panel. The files of the panel shall be regarded as confidential and shall be examined only by panel members, the Executive Secretary, and Boston Police Department employees as designated by the Police Commissioner. The panel shall not duplicate documents provided by the Police Department. The files shall not be available for inspection by the public. The investigative files shall be returned to IAD within fourteen (14) days of the final determination.

B. For cases in category C of Article VI, the process will be as follows:

1. Upon a final determination of a finding on an internal affairs case, notification shall be sent to the complainant by the Commander of IAD of the Police Commissioner's finding. If the Police Commissioner's finding is not sustained, exonerated, or unfounded, the complainant shall be informed of his/her ability to seek an appeal of his finding to the Community Ombudsman Oversight Panel.
2. A complainant who wishes to appeal must do so in writing within fourteen (14) days of the date of the notice from IAD is mailed. If the appeal is sent via mail, the appeal must be postmarked within fourteen (14) days from the

date the notice from IAD is mailed. If the appeal is hand-delivered, it must be delivered to one of the addresses listed below by the close of business of the fourteenth day as described above.

Appeals may be mailed or hand delivered to:

Executive Secretary, Community Ombudsman Oversight Panel
Bureau of Internal Investigations
Boston Police Department
One Schroeder Plaza
Boston, MA 02120

OR

City of Boston Law Department
Community Ombudsman Oversight Panel Appeals
One City Hall Plaza, Suite 615
Boston, MA 02201

3. The Executive Secretary shall date stamp the appeal upon receipt and shall assign a case number to the appeal. The Executive Secretary shall notify the police officer(s) named in the case of the appeal, and provide a copy of the appeal to the Police Commissioner, the Chief, BII and the Legal Advisor. The Executive Secretary shall prepare the case for the panel, and assign the appeal to one ombudsman. The entire investigative file will be provided to the reviewing ombudsman; however, the Executive Secretary shall redact the file in order to prevent the unauthorized release of privileged or protected information pursuant to the Massachusetts General Laws (Criminal Offense Record Information, information protected by the rape shield statute, etc.).
4. One ombudsman will review each case, and the reviewing ombudsman will either find the investigation to be thorough and fair, or send feedback back to the Chief, BII, requesting clarification or further investigation. The Chief, BII, may send the case back to the investigator for review, or determine that the investigation as it stands is fair and thorough. The ombudsman may then make a request to the Police Commissioner for final review and determination. The ultimate decision as to the fairness and/or thoroughness of any internal investigation remains with the Police Commissioner, and he will make a determination as to the appropriate finding.
5. If the reviewing ombudsman determines that a case was investigated fairly and thoroughly, he/she shall notify the Police Commissioner, the Chief, BII, Legal Advisor and the named officer(s) of the determination.
6. If, pursuant to the procedure defined above, the Police Commissioner

makes a determination as to whether a case was investigated fairly and thoroughly, he shall notify the reviewing ombudsman, the Chief, BII, the Legal Advisor and the named officer(s) of the determination.

7. The Executive Secretary shall notify the complainant of the determination by either the reviewing ombudsman or the Police Commissioner. All notifications made to the complainant shall be sent by certified mail, return receipt requested.
8. The Executive Secretary shall maintain all files for the panel. The files of the Panel, and the statements of appeal, shall be regarded as confidential and shall be examined only by panel members, the Executive Secretary, and Boston Police employees as designated by the Police Commissioner. The Panel shall not duplicate documents provided by the Police Department. The files shall not be available for inspection by the public. The investigative files shall be returned to IAD within fourteen (14) days of notification to the complainant of the final determination.


ARTICLE VIII. COMPLAINT MEDIATION PROGRAM.

The Police Commissioner may establish a Complaint Mediation Program. This program will serve as a voluntary alternative to the formal complaint process, and will be available to those officers and complainants involved in less serious incidents. The Police Commissioner, or his designee, will determine what complaints are appropriate for the Complaint Mediation Program.

The Executive Secretary will compile data regarding the program, its participation, and its effectiveness, and provide the information to the Community Ombudsman Oversight Panel upon request.

I order and direct that all Cabinet members, Department Heads and City of Boston employees take all necessary steps to implement the above directive.

I further order and direct that one copy of this Order be delivered to the Commissioner of Police of the City of Boston and that another be filed with the Clerk of the City of Boston.



Martin J. Walsh
Mayor of Boston

Dated: 6-7-2017

December 21, 2015

VIA ELECTRONIC MAIL

Mayor Martin J. Walsh
1 City Hall Square, Suite 500
Boston, MA 02201 - 2013

Dear Mayor Walsh,

Upon our appointment this past spring, your administration challenged us to assess the CO-OP's effectiveness as a civilian oversight mechanism and, if needed, to make recommendations for its improvement. Since that time, we have solicited input from criminal justice experts, practitioners, clergy, and other key stakeholders. Our outreach efforts also included going out into the community to gauge public sentiment about the police department generally and citizen complaint investigations specifically. Not surprisingly, we found that the City of Boston is not immune to the long-simmering frustration and mistrust of police highlighted by recent tragic events across the country. It became clear to us that the existing oversight model, alone, is incapable of enhancing community confidence in the internal affairs process. We believe that the need to expand the community's role in the citizen complaint process has never been more acute.

With that in mind, we evaluated national police review and accountability systems, best practices, and emerging trends. We debated thoughtfully, and oftentimes passionately, about how best to tailor those models to the City of Boston. The resulting recommendations represent what we believe is an appropriately measured first step. We do not anticipate nor do we advocate for the proposed model to be the final stop on this journey. Rather, our hope is that this is the start of a process aimed towards achieving a system of police accountability and transparency that best serves the City of Boston.

We thank you for inviting us to conduct this review and welcome the opportunity to speak with you in detail about our recommendations.

Respectfully submitted,



Judge Regina Quinlan (Ret.)

J. Larry Mayes

Natashia Tidwell, Esq.

cc: Daniel Koh, Chief of Staff, Office of the Mayor
William Evans, Police Commissioner
Eugene O'Flaherty, Corporation Counsel

Civilian Review and Police Oversight in Boston

Review and Recommendations

COMMUNITY OMBUDSMAN OVERSIGHT PANEL

December 21, 2015

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Acknowledgments

Our efforts were aided considerably by the support of several representatives of Boston's faith community, civil rights advocates, and other key stakeholders. We also benefited greatly from training and materials provided by the National Association of Civilian Oversight of Law Enforcement (NACOLE). We owe a tremendous debt of gratitude to Northeastern University's Institute on Race and Justice (IRJ), which undertook a similar yet far more comprehensive review in 2003. The resulting report, released in 2005, provided us with a solid foundation from which to build. We wish to thank IRJ's director, Jack McDevitt, and Brian Corr, Executive Secretary of the Cambridge Police Review & Advisory Board, for their time and insightful commentary. Zachary Eckert provided invaluable research assistance for this project.

Executive Summary

This memorandum offers our review of the City of Boston's oversight model and recommendations for the expansion of the community's role in the city's system of police accountability. While Boston is one of several major cities undergoing such an evaluation, it has a unique opportunity to implement meaningful changes without federal intervention and in the absence of a major incident. Unfortunately, for many jurisdictions, reform has come in the wake of tragedy. We commend Mayor Walsh for having the foresight to undertake this effort at an unprecedented time for policing in the United States.

Late last year, President Obama convened the Task Force on 21st Century Policing, a collection of police executives, academics, community leaders, and legal practitioners tasked with drafting a specific set of recommendations for "building trust and nurturing legitimacy on both sides of the police-citizen divide."¹ In its final report, the Task Force recognized the importance of civilian oversight to the fostering of trusting relationships. While stopping short of recommending a one-size-fits-all approach, the Task Force urged police departments to adopt procedural justice as a guiding principle when defining the appropriate form and structure of their oversight mechanisms.² As applied to citizen complaints, research indicates that a complainant is more likely to accept an outcome, even one that results in an adverse finding, if he or she believes that the process was procedurally just.³

Although the CO-OP's review of internal affairs investigations for fairness and thoroughness offers some measure of legitimacy, the number and type of cases referred falls far short of a representative sample. Further, the appeal structure renders the CO-OP ineffective in addressing and remediating those factors that tend most to erode trust in the process. Specifically, the existing structure denies the community a contemporaneous voice in the complaint resolution process, one that ensures investigations are conducted in a timely and procedurally just manner.

As described in further detail below, we offer two recommendations: 1) the establishment of a community-based office of citizen complaint intake and resolution; and 2) an increase in the number and nature of internal affairs and use of force investigations eligible for CO-OP review. We believe that these improvements, coupled with the implementation of the proposed Complaint Mediation Program, represent significant first steps towards restoring the community's trust in the police department's internal affairs process.

¹ See President's Task Force on 21st Century Policing, *Final Report of President's Task Force on 21st Century Policing*, 9 (2015)

² See *id.* at 26.

³ See *id.* at 9-11.

The History & Evolution of the Existing Oversight Model

In the early 1990's, Mayor Raymond L. Flynn convened a special committee, led by attorney James D. St. Clair, to review management and supervisory practices within the Boston Police Department in the wake of the Charles Stuart scandal. The St. Clair Committee's comprehensive review of the Internal Affairs Division (IAD) revealed "a wide range of problems,"⁴ including significant and unnecessary investigatory delays and a process that was "unfairly skewed" against complainants.⁵ As a result, the police department had lost the public's confidence in its ability to conduct investigations and hold individual officers accountable for misconduct. Among several key recommendations for regaining the public trust, the St. Clair Committee urged the City of Boston to create a model for community involvement in the complaint investigation process.⁶ Specifically, the St. Clair Committee recommended the establishment of a limited Community Appeals Board, comprised of police officers and community members, to ensure that IAD investigations were conducted in a thorough and timely manner.⁷

Since that time, competing models of civilian oversight and review have been proposed or implemented in Boston. In 2003, Police Commissioner Kathleen O'Toole partnered with Northeastern University's Institute on Race and Justice (IRJ) to assess the police department's existing complaint investigation process and to review national best practices for civilian oversight. In addition to providing a detailed history of the roots and evolution of civilian oversight in the United States, IRJ identified eight (8) U.S. cities that had adopted some form of community participation in the internal affairs process.⁸ IRJ then conducted an in-depth review of each jurisdiction through site visits, focus groups, and interviews with police officers and key community stakeholders. In its analysis of existing Boston Police department practices, IRJ developed a survey for citizens and officers who had utilized the complaint investigation process in recent years and solicited community input on both the citizen complaint and use of force review processes.⁹

In its 2005 report, IRJ noted both the strengths of the existing complaint investigation and use of force review systems and their significant challenges. It observed that among the chief

⁴ See James D. St. Clair et al, *Report of the Boston Police Department Management Review Committee* ("St. Clair Report"), January 14, 1992 at 99.

⁵ St. Clair Report at 128.

⁶ See St. Clair Report at 132. "Unfortunately, our review of IAD cases and our discussions with both police officers and community members convince us that [review by the Department's Legal Advisor] is insufficient to ensure fairness and completeness in resolving citizen complaints. Only by bringing community members into the process can IAD hope to regain credibility and restore the public's confidence that the Boston Police can be trusted to investigate themselves." *Id.*

⁷ See St. Clair Report at 131.

⁸ See Northeastern University Institute on Race and Justice, *Enhancing Citizen Participation in the Review of Complaints and Use of Force in the Boston Police Department* ("IRJ Report"), December 2005. The IRJ report includes a case study for each reviewed agency.

⁹ Prior to the release of IRJ's report, Commissioner O'Toole convened a committee, led by former United States Attorney Donald K. Stern, to review the police department's actions leading up to and immediately following the death of Victoria Snelgrove. Ms. Snelgrove, a 23-year old college student, died after being hit with a projectile fired from a BPD-issued FN303 less-lethal device outside Fenway Park in October 2004. The Stern Commission recommended that the police department establish a police-civilian board to review uses of force resulting in injury. Based on the Stern Commission's report, IRJ expanded the scope of its review to include an assessment of the need for external oversight of use of force investigations.

concerns raised by community members and focus group participants were the community's limited role in police oversight, a lack of transparency in the IAD process, and significant delays in completing investigations which led to the perception that complaints "disappeared into a black hole."¹⁰ IRJ issued three recommendations for improving the existing complaint resolution process: 1) establishment of a complaint mediation program; 2) increased community access to IAD including improvements to IAD's communications with complainants; and 3) expanded community involvement in police oversight.¹¹

IRJ's recommended approach to civilian oversight included the appointment of a Professional Ombudsperson to review all IAD and use of force investigations resulting in a finding of Not Sustained. Additionally, IRJ recommended that the Ombudsperson be empowered to designate for review all such cases rising above "a designated threshold of severity" to a panel comprised of community members and police personnel.¹² Two years later, Mayor Thomas M. Menino established the Community Ombudsman Oversight Panel (CO-OP), Boston's longest standing model of civilian oversight. While the CO-OP provides a mechanism for ensuring fairness and thoroughness in the IAD process, it lacks many of the components the IRJ identified as critical to restoring community confidence in the complaint investigation process.

First, the scope of cases referred to the CO-OP falls far short of IRJ's recommendation for the Professional Ombudsperson. Since 2011, the CO-OP has reviewed less than 20% of internal affairs investigations resulting in a finding of Not Sustained, Exonerated, or Unfounded - considerably less than IRJ's recommendation that all such matters be subject to review by the Professional Ombudsperson. Further, despite IRJ's recommendation that the Professional Ombudsperson be empowered to conduct a random review of sustained complaints, the CO-OP lacks the authority to review such cases. Finally, while the 2007 Executive Order provides that the CO-OP has the authority to review cases involving allegations of serious misconduct and justified use of force, the police department maintains sole discretionary authority in identifying matters for referral.¹³ To date, zero cases have been referred to the CO-OP under this provision.

Structurally, the CO-OP is ill-equipped to address two main criticisms of the IAD process, first identified by the St. Clair Commission, that still persist today: 1) delays in the investigatory process; and 2) perceived bias against complainants. One year after the CO-OP was established, the City commissioned the Harvard Kennedy School Program in Criminal Justice Policy and Management to study and investigate the low rate of citizen appeals to the CO-OP. At the time, only seven (7) of an eligible 116 complaint investigations had been appealed. Researchers formulated and undertook a 3-month mail and phone survey of eligible complainants, receiving responses from approximately 25%.¹⁴ When asked why they didn't appeal, two-thirds of the

¹⁰ See IRJ Report at 10.

¹¹ See IRJ Report at 12-13.

¹² See IRJ report at 14-15.

¹³ See Mayor Thomas M. Menino, *Executive Order Establishing a Community Ombudsman Oversight Panel and Complaint Mediation Program*, Article VI.A (March 2007).

¹⁴ See Harvard Kennedy School Program in Criminal Justice Policy and Management, *"An Assessment of the Community Ombudsman Oversight Panel*, ii. (April 2009).

respondents stated that their complaint was not investigated in a timely manner.¹⁵ It stands to reason that protracted and unexplained delays in completing an investigation would impact a complainant's willingness to file an appeal.

As detailed in numerous CO-OP annual reports, the issue of timeliness continues to plague internal affairs investigations. In soliciting community input for this report, we found timeliness to be the most complained-of aspect of the internal investigation process. A review of matters referred to the CO-OP since 2011 reveals that most appeals resulted from investigations spanning more than two years. In some instances, cases referred to the CO-OP via the random audit process lingered in IAD for up to four (4) years. While many of these delays were attributable to extenuating circumstances, some were merely the result of administrative logjams in the police department's chain of review structure. Because the appeal process is, by its nature, a post-investigatory review, the CO-OP has no contemporaneous role in complaint investigations. As such, there is no one outside the police department in a position to advocate on behalf of complainants seeking timely completion of investigations and better communication from IAD about the status of a complaint.

The police department must also confront the community's perception of bias in the internal investigation process. While the St. Clair Committee found actual and systemic issues of unfairness in complaint investigations, the police department has undertaken tremendous effort to eliminate those practices that tend to foster bias. Data collection methods and interview techniques have improved dramatically in the last 20 years. However, in the sampling of cases the CO-OP has reviewed since 2011, roughly 25% were deemed not fair, not thorough, or both. This number does not include so-called "he-said/he-said" matters, cases that typically result in "Not Sustained" findings despite the existence of circumstantial evidence that tends to support the complainant's version of events. Such findings, while technically "fair," lend credence to the community's belief that the scales are tipped in favor of the police.

Despite these structural and procedural shortcomings, the CO-OP has established and maintained a strong working relationship with the police department. The police department has adopted and instituted several of the CO-OP's recommendations for improvements to the internal affairs process and amendments/clarifications of departmental policies. On a number of occasions, IAD has reversed its findings based on the CO-OP's review of a complaint investigation. Community outreach, while sporadic, has also helped to legitimize the CO-OP's role in providing a measure of transparency to the internal affairs process. However, an external oversight model, no matter how strong, cannot repair the police department's fractured relationship with a sizable portion of its community. For that reason, we recommend that the City of Boston institute a community-based complaint resolution process.

¹⁵ Kennedy School Report at 15. Among the recommendations in the Kennedy School's report were increasing the CO-OP's outreach to potential appellants; clarifying the appeal process; streamlining the appeal process to make it less burdensome; and extending the deadline for filing appeals. Many of these have been adopted.

Recommendations

In addition to the reports cited within, we examined existing civilian oversight models in several jurisdictions, national best practices, and emerging trends. Ultimately, we determined that the City of Boston would best be served by an oversight model that keeps much of the existing Internal Affairs and CO-OP processes intact while adding a community-based civilian review component to complaint intake and resolution.

Establishment of City of Boston Community Office of Police Accountability (COPA)

We recommend that the City establish an independent community-based police complaint review body, the Community Office of Police Accountability (“COPA”). In its initial operating stages, the COPA should be headed by an **Executive Director** (“Director”), an attorney with significant related experience and a demonstrated history of working with individuals of diverse ethnic, cultural, and socioeconomic backgrounds. The Director will oversee the COPA’s budget and operations, supervise employees, liaison with the police department, and coordinate the activities of the COPA board members. We recommend that the Director have direct reporting authority to the Mayor.

The City should provide the Director with administrative support and sufficient budgetary flexibility to staff the COPA in a manner that ensures provision of services to the community in a timely and professional manner. Although hiring authority should rest with the Director, we recommend that the COPA staff include, at a minimum, the following: 1) an **Information Specialist** to enhance the COPA’s smart communication capabilities and to help streamline the complaint intake process between COPA and its various satellite intake centers; 2) an **Interpretive Services Specialist** to connect the COPA with Boston’s numerous diverse communities and ensure that language does not create a barrier to accessing COPA’s services; and 3) at least **seven (7) Complaint Analysts** with legal or similar training and experience to assist the Director in generating periodic public reports and to facilitate the process of communicating board decisions and inquiries to the police department. The City should also consider including a **Mediation Specialist** to coordinate and supervise the flow of COPA complaint investigations to the police department’s upcoming mediation program.

To maintain actual and perceived independence, the COPA must be located outside of the police department. The City should provide suitable office facilities for the Director and staff in a location convenient for the public. If the City determines that City Hall is the best location for the COPA, a process should be established that would permit complaints to be received in other city buildings such as libraries, youth centers, places of worship, etc.

Citizen Complaints: Filing, Intake, and Screening

Right now, an individual who wishes to lodge a complaint against a member of the Boston Police Department has one option. We recommend that, in addition to the existing methods for filing citizen complaints against BPD personnel, individuals be permitted to file complaints directly to the COPA, thereby creating two mechanisms for resolution of citizen complaints in Boston. The COPA will accept written complaints filed within 60 days of the alleged misconduct. However, the Director should maintain the discretion to extend the deadline for good cause. The COPA will distribute complaint forms in languages and formats accessible to

all citizens, educate the community on the importance of reporting complaints, and hold public meetings to hear general concerns about police services.

The Staff will conduct an initial screening of all citizen complaints received by the COPA and will classify the nature of the alleged misconduct. Subject to the Director's final approval, the Staff will recommend one of the following actions:

1. Dismissal – if the complaint is untimely, fails to allege misconduct, or is otherwise incapable of review.
2. Refer to Mediation – subject to the procedures detailed in the police department's complaint mediation program.
3. Screened Out – if the complaint alleges criminal conduct or misconduct by an employee of another agency.
4. Refer to Bureau of Professional Standards - the complaint warrants a full internal affairs investigation.

Investigation of Citizen Complaints

The COPA provides individuals with an alternate avenue for filing and resolving complaints against BPD personnel, but complaint investigations will continue to be handled by IAD. While a number of citizen complaint models we reviewed included an external investigation component, we recommend that the Bureau of Professional Standards (BPS) maintain jurisdiction over citizen complaint investigations. As part of our outreach efforts, we heard from many community members who advocated for the City to adopt a fully external investigation and review process with subpoena power vested in the external investigator. There exists, among many within the community, a deep and entrenched lack of trust in the police department and the internal affairs process. Although room for improvement exists,¹⁶ we believe that BPS does an admirable job of investigating citizen complaints given the volume of complaints it receives and the difficulties it faces in maintaining adequate staffing levels. As such, we adopt the position of the IRJ and recommend that IAD continue to investigate all citizen complaints regardless of source. However, we encourage the City to empower the Director, in consultation with the Mayor, to engage the services of an independent investigator in cases of significant magnitude.

While delays in completion of investigations remains a concern, we believe that removing investigatory authority from the police department is not the solution to the timeliness problem. After giving the questions of external investigations and subpoena power our full consideration, we ultimately share the IRJ's view that the drawbacks of vesting subpoena power in an external agency outweigh its potential benefits.¹⁷ We believe that the addition of a civilian review component to the existing complaint resolution process will be an important first step in restoring the community's trust in the police department. But it is only one step. Its ability to achieve its stated goals will depend on substantial cooperation from the police department to include a

¹⁶ Since 2011, roughly 25% of the internal affairs investigations referred to the CO-OP were found to be not fair, not thorough, or both. See [2014 CO-OP Annual Report](#).

¹⁷ The IRJ cited the potential for subpoena power to "make[] a difficult situation worse by setting up an adversarial process from the outset." See [IRJ Report](#) at 18. These concerns were echoed by other communities. During our review, we found that even amongst those boards authorized to subpoena witnesses and documents from the police department, the power is rarely used.

commitment to maintaining adequate staffing levels in IAD and the institution of and adherence to benchmarks for timely completion of investigations.

Resolution of Complaints

We recommend that the City establish a Police Review Board and appoint at least seven (7) but no more than eleven (11) members (“Board Members”), working under the auspices of the COPA, to review and resolve COPA complaints. The Board Members will only participate in the resolution of complaints filed with the COPA. Complaints filed with the police department will continue to be resolved by BPS unless the City determines that it is in the community’s best interest for the Police Review Board to consider and make recommendations on a particular matter. Board Members will be appointed by the Mayor in consultation with a cross-section of community stakeholders. The selection criteria for Board Members should include a record of community involvement, the passing of a criminal background check performed by an agency other than the Boston Police Department, and absence of any real or perceived conflict of interest. Board Members should be appointed to staggered multiple-year terms.¹⁸ Upon appointment, Board Members will undergo training formulated by the Mayor, the COPA Director, and the Police Commissioner’s designee(s).

Upon completion of an investigation of a COPA complaint, BPS will notify the Director and forward the entire investigatory file, including reports, transcripts, and recorded interviews to the COPA. To prevent undue influence on the Board Members’ decision-making process, BPS will not reveal its recommended finding to COPA nor will BPS notify the complainant or the subject officer of its recommended finding. The Director will notify the Board of the completed investigation and deliberation on the matter will be put on the agenda for the next COPA meeting. The Board Members will be notified at least fourteen (14) days in advance and will have the opportunity to review the case file prior to the full meeting. The complainant will also be notified of the investigation’s conclusion and will be given an opportunity to address the Board Members at the full meeting. The complainant need not address the Board nor be present at the full meeting in order for the Board to vote on the complaint’s resolution.

The COPA will hold public meetings each month. While the Director has sole responsibility for setting the agenda, each meeting will include an opportunity for public comment on issues relating to the police department. At the conclusion of the public portion of each meeting, the Board will retire to Executive Session. In Executive Session, a representative of BPS will present the facts of each investigation to the Board and respond to questions. The Board will deliberate and make one of the following findings:

1. Sustained – the investigation proves, by a preponderance of the evidence, that the complained of action did occur.
2. Not Sustained – the investigation cannot establish, by a preponderance of the evidence, that the complained of action occurred.
3. Exonerated – the investigation established that the complained of action did occur, but said action was reasonable, legal, and proper.

¹⁸ We debated the issue of whether Board Members should be paid or unpaid. In most of the jurisdictions we surveyed, service is voluntary. The sole exception, Denver, pays its Community Oversight Board members \$1200 per year along with reimbursement for reasonable expenses incurred from their work for the board. Ultimately, we decided that the compensation question was best left to the Mayor.

4. Unfounded – the investigation established, by clear and convincing evidence, that the complained of action did not occur.
5. Information Inquiry – additional information or investigatory steps are needed.

The Board, with assistance of Staff, will submit its recommended finding, in writing, to the head of BPS. If the Board's recommended finding differs from the BPS recommendation, the matter will be forwarded to the Police Commissioner for final determination. Once a final decision is reached, the COPA will notify the complainant via certified mail. BPS will notify the subject officer. Because the resolution process includes community review, we do not recommend a right of appeal for citizen complaints filed with the COPA.

Civilian Oversight

As detailed above, the COPA provides an alternate track for resolution of citizen complaints against BPD personnel. For those complaints filed with the police department rather than the COPA, we recommend that the CO-OP continue to accept appeals of complaint investigations resulting in findings of Not Sustained, Exonerated, or Unfounded. The CO-OP will continue to review these investigations for fairness and thoroughness. Despite the recent downturn in the number of complaints filed, we believe that a decline in the number of complaints is hardly indicative of citizen satisfaction. In fact, it can mean quite the opposite. As such, rigorous external oversight of completed investigations remains critically important.

In addition to those matters referred to the CO-OP via direct appeal, we recommend an increase in the number of cases referred through the random audit process. Currently, one in every ten complaint investigation resulting in a finding of Not Sustained, Exonerated, or Unfounded, where the complainant does not exercise his/her right to appeal, is referred to the CO-OP (10%). We recommend that the City expand that to two out of every ten investigations (20%). Finally, we recommend the random selection of one out of every ten internal affairs investigation resulting in a Sustained finding for referral to the CO-OP for review (10%).

Use of Force Investigations

Although BPS has reported a decline in the number of Use of Force complaints in recent years, cases involving force, particularly force resulting in death or serious bodily injury, remain the most controversial and most in need of transparency and community input. As previously discussed, the 2007 Executive Order designates to the CO-OP the authority to review all not-sustained, exonerated, unfounded use of force and serious misconduct cases but vests the police department with the authority to identify those cases for referral. We recommend that these cases become eligible for referral to the CO-OP via the random audit process.