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# Community Ombudsman Oversight Panel

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## Annual Report 2015

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A summary of the Panel's review of internal investigations within the Boston Police Department. This report outlines the Panel's activities and presents statistics for the 2015 reporting period.

### Panel Members:

J. Larry Mayes, Ombudsman  
Regina Quinlan, Ombudsman  
Natashia Tidwell, Ombudsman

*"With the support and leadership of Mayor Walsh, the Boston Police Department works every day to earn the trust of those we serve. We partner closely with the community to discuss critical issues and review our practices for continued improvement. We remain committed to being transparent and promoting integrity throughout the department. I appreciate the work of the CO-OP members and their thoughtful review and feedback."*

**Boston Police Commissioner William Evans**

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**City of Boston**  
Community Ombudsman Oversight Panel

April, 2016

Dear Mayor Walsh and Commissioner Evans,

We are pleased to submit the Community Ombudsman Oversight Panel (CO-OP) Annual Report for 2015. Since our appointment last April, we have endeavored to continue the work of previous panels in providing meaningful oversight of the internal affairs process. We wish to extend our thanks to Lisa Kenneally, our police department liaison, and Lisa Maki of the Law Department for providing us the timely support and information necessary to manage this work. We also appreciate the efforts of Superintendent Frank Mancini and the entire staff of the Internal Affairs Division. Lastly, Ombudsmen Quinlan and Mayes want to acknowledge the time our colleague Natasha Tidwell devoted to holding the CO-OP together during the transition from the previous panel to its present membership.

Late last year, in response to Mayor Walsh's request for input in improving the CO-OP's effectiveness, we submitted a series of recommendations for the Administration to consider. While we certainly foresee and understand the legitimate economic, socio-political constraints and interests that may compete with our recommendations, we believe in and fully support our position as a reasonable and effective step towards maintaining Boston's commitment to community-oriented policing. We hope to continue working with you both towards implementation of these or other measures designed to buttress the community's involvement in the internal affairs process.

During this past year, you have both demonstrated great leadership in response to critical incidents. By granting access to community leaders and media in the wake of recent critical incidents, you have provided context and valuable information to concerned residents. Through our work with your newly-instituted Social Justice Task Force, we have witnessed the benefits of this culture of transparency. We offer our gratitude for the opportunity to assist in those efforts and to serve the people of this great city.

Respectfully submitted,

Natasha Tidwell, Ombudsman

Regina Quinlan, Ombudsman

J. Larry Mayes, Ombudsman

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# Executive Summary

This is the first Annual Report of the newly constituted Community Ombudsman Oversight Panel (CO-OP), comprised of Natasha Tidwell, an attorney at Collora LLP, J. Larry Mayes, Vice President of Programs for Catholic Charities, and Judge Regina Quinlan (Ret.), of the Massachusetts Superior Court. Following their appointment last year, Ombudsmen Mayes and Quinlan introduced themselves to key members of the community and completed training at the Boston Police Academy in police practices and the internal affairs process. Mayor Walsh re-appointed Ombudsman Tidwell following the expiration of the previous panel's term.

This Annual Report details the Panel's work on cases referred to the CO-OP in 2014 and all other matters completed since April 2015. As explained further within the data section of this report, cases are brought to the CO-OP either on direct appeal from the complainant, or through a random audit process. In 2014, 152 internal affairs cases were eligible for appeal, meaning that the investigation resulted in a finding of "Unfounded," "Exonerated," or "Not Sustained." Of those, 32 cases (21%) were referred to the CO-OP - ten (10) through direct appeal and twenty-two (22) via the random audit process. During the period between the expiration of the previous panel's term and the appointment of new members, several cases were referred to the CO-OP via the random audit process but remained unassigned due to the CO-OP's uncertain future. Once the panel returned to full functionality, those matters were released and assigned.

In summary, the CO-OP completed reviews of thirty-two (32) of the cases referred in 2014 as well as four (4) additional matters previously referred. Of the thirty-two (32) new matters reviewed, the CO-OP determined that twenty-five (25) investigations were fairly and thoroughly conducted and that six (6) investigations were either Not Fair, Not Thorough, or both. One case is still awaiting review. Additional information about the type and number of individual allegations referred to the CO-OP in 2014 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.<sup>1</sup>

As in years past, the Case Data section of this report opens with a recap of the Internal Affairs Division's (IAD) work during the CO-OP reporting period. IAD provided this data for the purpose of lending context to the report on cases reviewed by the panel. However, the correlation between IAD's data and CO-OP case data is not entirely symmetrical. Matters referred to the CO-OP in 2014 may, but do not necessarily include allegations of misconduct from 2014. In fact, most of the cases referred to the CO-OP in 2014 stemmed from internal affairs complaints lodged in 2013 or before. The issue of timeliness and the potential impact of delays on the fairness and thoroughness of investigations is discussed in the "Case Timelines" section of this report.

The Appendix contains supporting documents and other related information:

- A. CO-OP Brochure**
- B. CO-OP Appeal Form**
- C. Mayor Thomas M. Menino's 2007 Executive Order**

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<sup>1</sup> In 2015, fifty-five (55) cases were referred to the CO-OP. Those matters are not reflected in this Annual 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

Pursuant to Mayor Menino's Executive Order, 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, Collora 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.
- 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



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.

# Internal Affairs Complaint Data

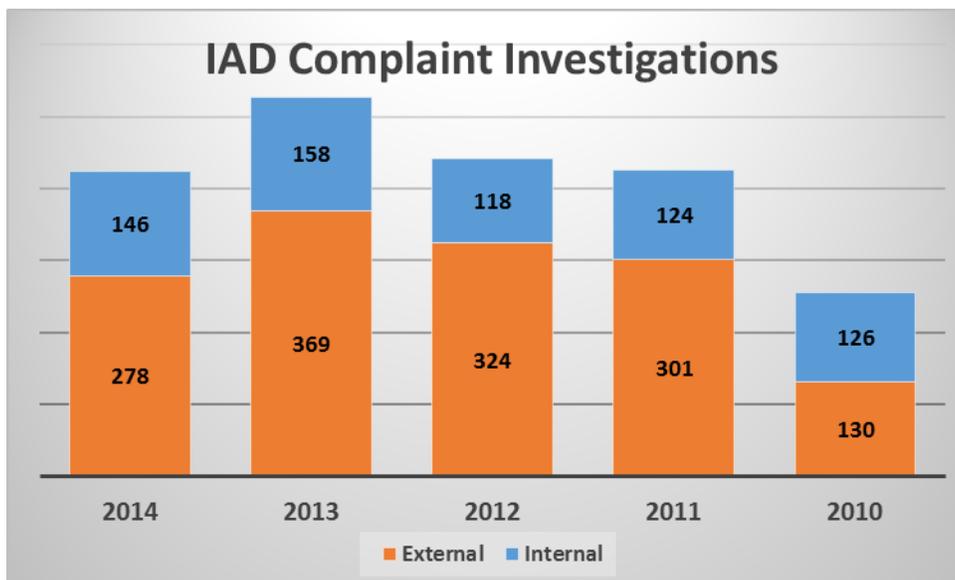
The following section details complaint data furnished to the CO-OP by the Bureau of Professional Standards (“BPS”) in the fall of 2015. This data is presented for background purposes. Further explanation beyond the illustrations shown here can be provided by the BPS, which oversees the Internal Affairs Division.

## Investigations

The graph (see Figure 1) illustrates the number of complaint investigations generated within the Internal Affairs Division for the years 2010 through 2014.

Complaints are generally categorized by source. External complaints are those initiated by citizens unaffiliated with the Boston Police Department, while internal complaint investigations stem from allegations of misconduct brought by departmental employees. The CO-OP reviews findings from external complaint investigations.

Figure 1



## External Complaint Allegations

Upon receipt of a citizen complaint, BPS categorizes the complaint into one or more allegations based on the nature of the alleged misconduct. A single complaint investigation may encompass several allegations. Figure 2 depicts the five most common allegations of misconduct lodged against BPD personnel through the external complaint process in 2014. Respectful Treatment was the most complained-of allegation, followed by Neglect of Duty/Unreasonable Judgment, Use of Force, Conduct Unbecoming and Conformance to Laws.

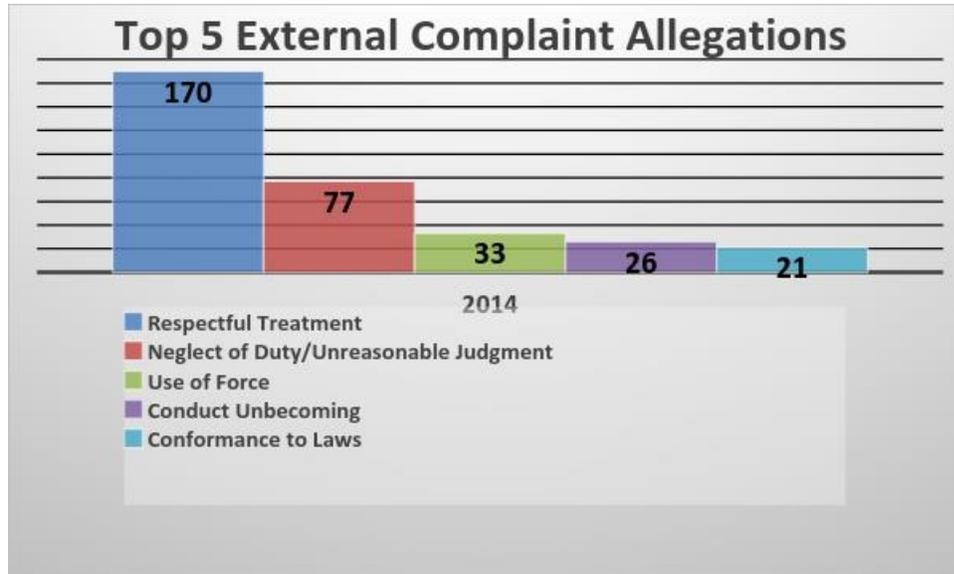


Figure 2

For comparative purposes, Figure 3 illustrates the five most common allegations of misconduct lodged against BPD personnel through the external complaint process in 2013.



Figure 3

## IAD Findings

When the Internal Affairs Division (“IAD”) completes an external complaint investigation, it sends the complainant an official “Notice of Findings.”

External allegations of misconduct are classified as follows:

Sustained: The investigation revealed, by a preponderance of the evidence, that the conduct alleged in the complaint occurred. If it is a criminal case, it is presented to proper prosecuting authorities.

Exonerated: The investigation revealed that the conduct alleged in the complaint did occur, but the investigator determined that said conduct was reasonable, lawful, and proper.

Not Sustained: There was insufficient evidence to prove or disprove, by a preponderance of the evidence, that the conduct alleged in the complaint occurred.

Unfounded: The investigation revealed that the allegations in the complaint did not occur.

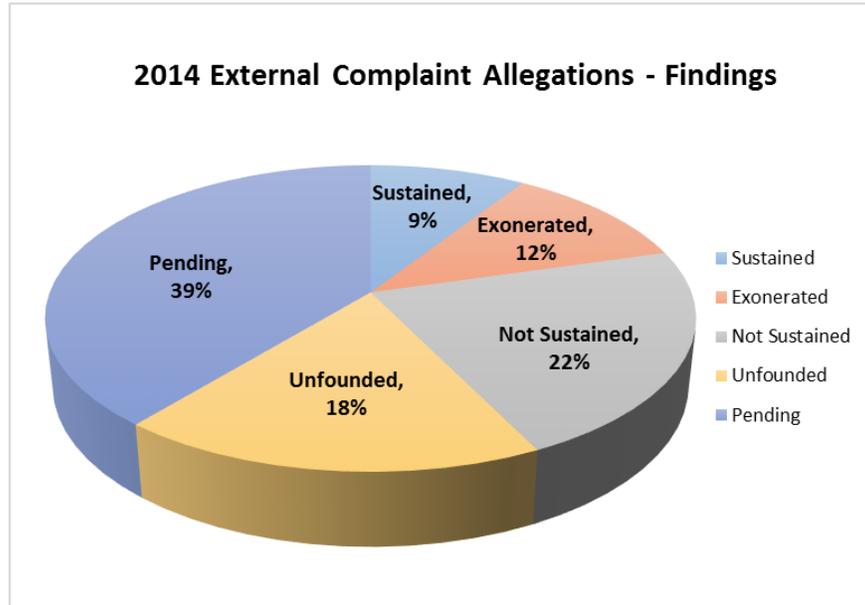
Pending: The complaint is currently under investigation.

Each allegation within a complaint investigation is addressed separately. If the investigation of any allegation results in a finding of Exonerated, Not Sustained or Unfounded, the Notice of Finding is accompanied by a CO-OP brochure and appeal form explaining the complainant’s right to appeal IAD’s finding. The complainant also has a right to appeal a so-called split-finding, i.e., an investigation in which some, but not all, of the allegations are sustained.

## External Complaint Allegations – Findings

Figure 4 shows the results of IAD’s investigation of external allegations of misconduct lodged in 2014. Because a single complaint may encompass multiple allegations, Figure 4 does not reflect the actual number of cases investigated by IAD in 2014. In all, nine (9%) percent or 32 allegations were sustained while fifty-two (52%) percent or 182 allegations resulted in a finding of Not Sustained, Exonerated, or Unfounded. The remaining thirty-nine (39%) percent or 137 allegations of misconduct are still pending and awaiting an outcome.

Figure 4



For comparative purposes, Figure 5 illustrates the findings in external complaint allegations from 2013 as detailed in the 2014 Annual Report. Last year, IAD reported that nine (9%) percent or 37 allegations were sustained while twenty-nine (29%) percent or 109 allegations resulted in a finding of Not Sustained, Exonerated, or Unfounded. The remaining sixty-two (62%) percent or 236 allegations were still pending and awaiting an outcome at the time of 2014 Annual Report.

Figure 5



## 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. The CO-OP also reviews 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. In all, thirty-two (32) cases were referred to the CO-OP in 2014, ten (10) through direct appeal and twenty-two (22) via the random audit process.

As shown in Figure 6 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 thirty-two (32) cases referred to the CO-OP in 2014 encompassed forty-three (43) separate allegations of misconduct. As with IAD cases generally, most CO-OP cases involve multiple allegations.

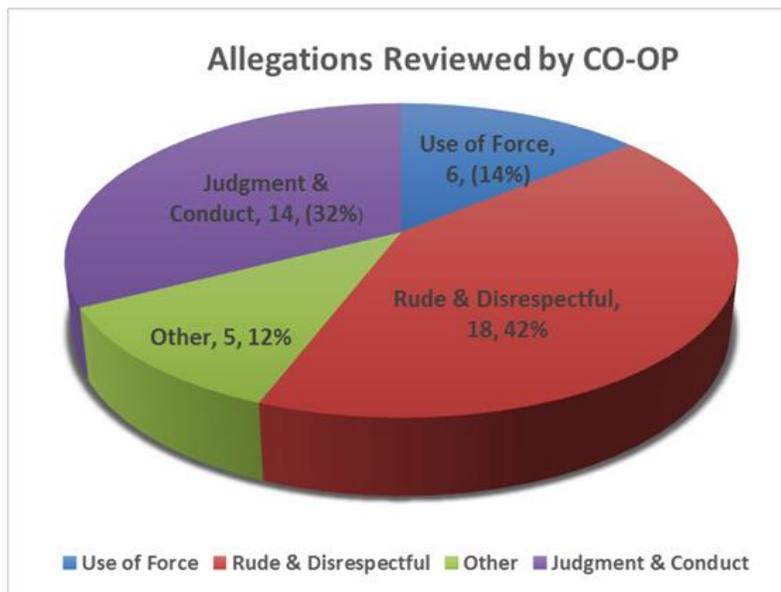


Figure 6

### 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:** The IAD investigation was found to be thorough and without bias toward either party.

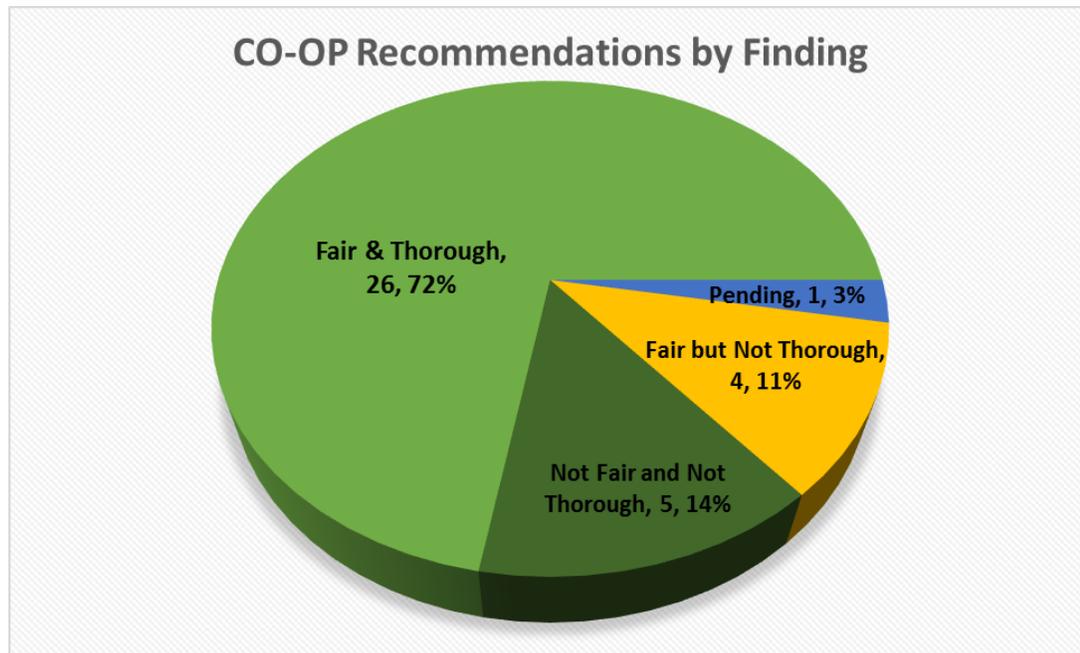
**Fair but Not Thorough:** The IAD investigation was found to be Not Thorough, that is, further investigative steps that may have had a potential impact on the outcome of the case should have been completed but were not. However, the case was conducted without bias toward either party.

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

**Not Fair and Not Thorough:** 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.

Figure 7 summarizes the CO-OP's recommendations in the 32 matters referred to the Panel in 2014 as well as the 4 previously pending matters that were resolved during this past year. In all, 26 IAD investigations (72%) were found to be fair and thorough while 9 IAD investigations were found to be other than fair and thorough (25%). There is 1 investigation (3%) still under review by an Ombudsman. Further details regarding these cases can be found in the, "Summary of CO-OP Cases" section of this report.

Figure 7



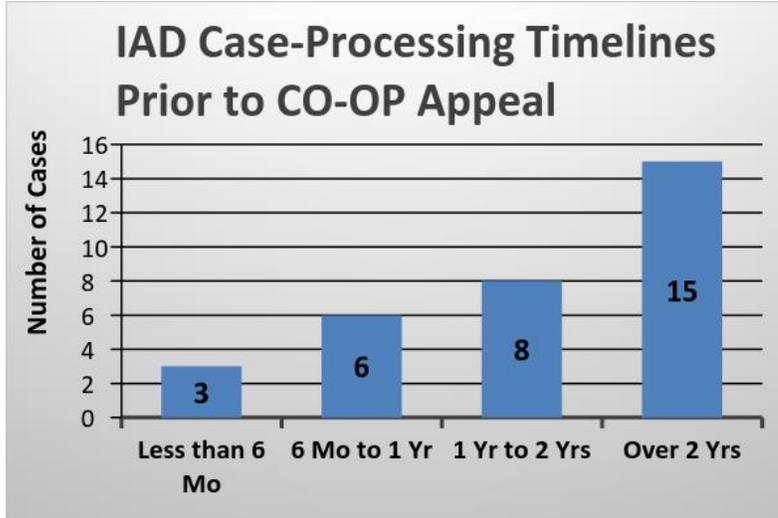
## Case Timelines

In recognition of our view that the timeliness of internal affairs investigations is an important customer service benchmark, each year we examine the time periods involved in the processing of complaints prior to appeal (measured from date of IAD complaint intake to the date of issuance of a Notice of Finding to the complainant). Our reasons for doing so are two-fold. First, there exists a real possibility that a protracted investigatory period will impact the fairness and thoroughness of an investigation. As time goes on, witnesses may become difficult to locate, memories fade, and valuable evidence, such as surveillance footage, can cease to exist.

Even when a delay in completion does not impact the fairness or thoroughness of an investigation, it can impact the complainant's confidence in the internal affairs process. In recent years, the police department adopted the CO-OP's recommendation that IAD implement a process by which complainants would receive periodic updates of an investigation's status. However, there does not appear to be a consistent manner in which the policy is honored making it difficult to assess what, if any, impact the change has had on citizen perceptions of the IAD process. These issues are addressed in further detail in the CO-OP's December 2015 report to Mayor Walsh on the status and future of civilian oversight in the City of Boston.

The graph below (Figure 8) illustrates that significant delays persist in IAD complaint processing. Of the cases referred to the CO-OP in 2014, 47% of the underlying investigations took more than 2 years to complete. This continues a troubling pattern of sharp increases in case processing timelines from previous years. In the 2013 reporting period, roughly 30% of the internal affairs investigations referred to the CO-OP took more than 2 years to complete. In 2012, it was less than 20%.

Figure 8



## Summary of CO-OP Cases

<b>Case #:</b>	10-06A	<b>Type:</b> Appeal
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**Summary:** Complainant alleged that officers exercised unreasonable judgment, based on her race, in service of arrest warrant at her home. Complainant also alleged that the officers used excessive force in effecting her son's arrest.

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

**Recommendation:** Not Fair and Not Thorough based, in part, on Ombudsman's view that investigation should have included review of officers' decision to serve juvenile arrest warrant in time and manner in which it was done rather than focusing solely on complainant's excessive force complaint.

**Response:** IAD disagreed with the CO-OP recommendation and no supplemental investigation was conducted. Pursuant to the Executive Order, the CO-OP forwarded the matter to Commissioner Evans for final decision. A supplemental investigation was conducted that included a review of the officers' work assignments prior to serving the warrant and an assessment of the seriousness of the warrant offenses. After reviewing this additional information, Commissioner Evans determined that the officers' actions were reasonable, fair, and proper and that the supplemental investigation was fairly and thoroughly conducted.

**Status:** Closed

<b>Case #:</b>	13-07R	<b>Type:</b> Random
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**Summary:** Complainant alleges that during a road-rage incident with an off-duty police officer, the officer threatened complainant with his service firearm and was verbally abusive.

**Violation(s):** Unreasonable Judgment (Not Sustained)

**Recommendation:** Fair but Not Thorough based on investigator's failure to interview percipient witness and to assess officer's judgment in leaving the scene prior to the arrival of police from neighboring jurisdiction.

**Response:** IAD concurred in the Not Thorough finding and conducted supplemental investigation that included witness interview and review of subject officer's judgment.

**Status:** Closed

<b>Case #:</b>	13-08R	<b>Type:</b> Random
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**Summary:** Complainant alleges that during a motor vehicle stop, several plainclothes officers pulled her juvenile son from her car and searched him. The officers then left the scene without identifying themselves or stating the reason for the stop.

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

<b>Case #:</b>	<b>13-08R cont.</b>	<b>Type: Random</b>
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Excessive Force (Unfounded)

**Recommendation:** Not Fair and Not Thorough based, in part, on Ombudsman’s view that the investigation failed to adequately address complainant’s claims of racial profiling and unfairly assessed subject officer’s characterization of complainant as “an embarrassment,” as necessary and proper under the circumstances.

**Response:** IAD concurred in the CO-OP recommendation that the investigation was not thoroughly conducted. Following a supplemental investigation that included additional interviews with the subject officers and a review of complainant’s racial bias claim, IAD disagreed with the CO-OP’s recommendation that the investigation was unfair. IAD amended the allegation of Respectful Treatment from Not Sustained to Exonerated, based on its view that the officer was establishing “command control” and attempting to “de-escalate the situation” when he called complainant “an embarrassment.” Pursuant to the Executive Order, the CO-OP forwarded the matter to Commissioner Evans for final decision on the issue of fairness. Commissioner Evans determined that Exonerated was not an appropriate finding for the allegation of Respectful Treatment and reinstated the Not Sustained finding.

**Status:** Closed

<b>Case #:</b>	<b>13-10A</b>	<b>Type: Appeal</b>
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**Summary:** Complainant alleges that members of the investigations unit failed to diligently investigate her case based on her race and social status. Complainant also alleged that an investigator made inappropriate sexually charged remarks to her.

**Violation(s):** Neglect of Duty/Bias (Unfounded)  
Conduct Unbecoming (Not Sustained)

**Recommendation:** Ombudsman initially determined that the investigation was fair, but not thorough, based on failure to adequately review complainant’s sexual harassment claim.

**Response:** IAD concurred and conducted a supplemental investigation of Conduct Unbecoming that resulted in a finding of Not Sustained against the subject officer.

**Status:** Closed

<b>Case #:</b>	<b>14-01R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that the detective investigating an assault and battery case in which her son was the victim failed to return her phone calls in a timely manner.

**Violation(s):** Neglect of Duty (Unfounded)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-02R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that the subject officer approached him, instructed him to “freeze,” and searched him without probable cause or reasonable suspicion. Complainant was subsequently released. Complainant further alleged that, upon returning to his car, the subject officer followed Complainant, conducted a motor vehicle stop, and issued Complainant a motor vehicle citation.

**Violation(s):** Unreasonable Judgment (Not Sustained)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-03R</b>	<b>Type: Random</b>
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**Summary:** After receiving a motor vehicle citation in the mail, Complainant alleged that she was improperly cited and contended that she was home at the time of the alleged violation.

**Violation(s):** Unreasonable Judgment (Not Sustained).

**Recommendation:** Fair and Thorough.

**Status:** Closed

<b>Case #:</b>	<b>14-04R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that the subject officer handcuffed and pushed him to the ground without cause as Complainant attempted to obtain an employment application from a job applicant trailer.

**Violation(s):** Unreasonable Judgment (Exonerated)  
Use of Non-Lethal Force (Exonerated)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-05R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that he and his brother were wrongfully ejected from Fenway Park and that the responding officers verbally abused him and refused to identify themselves.

**Violation(s):** Respectful Treatment (Unfounded)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-06A</b>	<b>Type: Appeal</b>
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**Summary:** Complainant alleged that she is the victim of an ongoing pattern of harassment and unlawful surveillance by unknown members of the Boston Police Department.

**Violation(s):** Respectful Treatment (Unfounded)

<b>Case #:</b>	<b>14-06A cont.</b>	<b>Type: Appeal</b>
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**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-07A</b>	<b>Type: Appeal</b>
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**Summary:** Complainant alleged that after being unlawfully detained following a motor vehicle stop, he was subjected to excessive force by several officers when he drove to the police station to file a complaint.

**Violation(s):** Use of Non-Lethal Force (Exonerated)  
Respectful Treatment (Exonerated)  
Investigation of Use of Force (Not Sustained)  
Neglect of Duty/Unreasonable Judgment (Sustained)

**Recommendation:** Not Fair and Not Thorough based, in part, on the Ombudsman's view that the investigation failed to adequately address the proportionately of the force used against complainant and the role the subject officer's 4th Amendment violation played in the resulting events. The Ombudsman also noted that no Use of Force investigation was conducted at the scene despite the complainant's visible injuries.

**Response:** IAD concurred in the CO-OP's recommendation that the investigation was Not Thorough. IAD conducted a supplemental investigation that included a review of the role the subject officer's 4<sup>th</sup> Amendment violation played in the resulting events and the proportionality of the force used against Complainant. IAD determined that the officers' actions were reasonable under the circumstances. The supplemental investigation also resulted in a finding of Sustained against the on-duty supervisor for failure to conduct a Use of Force investigation upon notification of Complainant's visible injuries.

**Status:** Closed

<b>Case #:</b>	<b>14-08A</b>	<b>Type: Appeal</b>
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**Summary:** Complainant alleged that she called the district station to report an assault on her son and that the officer who answered her call refused to take the assault and battery report over the phone.

**Violation(s):** Respectful Treatment (Unfounded)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-09A</b>	<b>Type: Appeal</b>
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**Summary:** Complainants alleged that their son was subjected to excessive force while in Boston Police custody.

**Violation(s):** Unreasonable Judgment (Exonerated)  
Use of Non-Lethal Force (Not Sustained)

<b>Case #:</b>	<b>14-09A cont.</b>	<b>Type: Appeal</b>
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**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-10A</b>	<b>Type: Appeal</b>
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**Summary:** Complainant alleged that an officer made disparaging remarks about her home and spoke to her in a disrespectful manner when he responded to a 911 call at her home.

**Violation(s):** Respectful Treatment (Unfounded)

**Recommendation:** Not Fair and Not Thorough based, in part, on Ombudsman's view that the investigator failed to address whether the officer disparaged the complainant and failed to interview the complainant's teenage son who witnessed the interaction between the subject officer and the complainant.

**Response:** IAD concurred in the Not Thorough recommendation and agreed that the complainant's son should have been interviewed. IAD re-interviewed the subject officer who claimed not to remember making disparaging remarks about complainant's home. IAD amended the complaint finding from Unfounded to Not Sustained.

**Status:** Closed

<b>Case #:</b>	<b>14-11A</b>	<b>Type: Appeal</b>
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**Summary:** Complainant alleged that officers and detectives have failed to properly document and investigate a series of incidents between her and her neighbor.

**Violation(s):** Neglect of Duty (Unfounded)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-12A</b>	<b>Type: Appeal</b>
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**Summary:** Complainant alleged that the subject officer responded in a belligerent and disrespectful manner to her request for permission to drive onto a shut-down parade route.

**Violation(s):** Respectful Treatment (Unfounded)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-13A</b>	<b>Type: Appeal</b>
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**Summary:** Complainant alleged that the officer made an anti-Semitic remark to him during a call for service at his home.

<b>Case #:</b>	<b>14-13A cont.</b>	<b>Type: Appeal</b>
<b>Violation(s):</b>	Respectful Treatment (Exonerated)	
<b>Recommendation:</b>	Not Fair and Not Thorough based, in part, on Ombudsman's view that the investigator should have investigated dispatcher's and subject officer's use of mobile data terminals to mock complainant.	
<b>Response:</b>	IAD concurred in CO-OP recommendation and initiated a supplemental investigation. The supplemental investigation included a review of the MDT entries and interviews of the dispatcher and the subject officer. The supplemental investigation resulted in findings of Sustained against the dispatcher for Neglect of Duty and an amended finding of Not Sustained against the subject officer for Respectful Treatment.	
<b>Status:</b>	Closed	

<b>Case #:</b>	<b>14-14A</b>	<b>Type: Appeal</b>
<b>Summary:</b>	Complainant alleged that the subject officer failed to properly investigate a motor vehicle accident involving her and another driver. The subject officer displayed bias towards the other driver and refused to take Complainant's statement. .	
<b>Violation(s):</b>	Neglect of Duty (Unfounded)	
<b>Recommendation:</b>	Fair and Thorough	
<b>Status:</b>	Closed	

<b>Case #:</b>	<b>14-15A</b>	<b>Type: Appeal</b>
<b>Summary:</b>	Complainant alleged that when she went to the local district station to file a report alleging identity theft, an unknown supervisor refused to permit the reporting officer to put the suspect's name in the report.	
<b>Violation(s):</b>	Neglect of Duty/Unreasonable Judgment (Exonerated)	
<b>Recommendation:</b>	Fair, but Not Thorough	
<b>Status:</b>	Pending. Ombudsman submitted recommendation, awaiting response from IAD.	

<b>Case #:</b>	<b>14-16R</b>	<b>Type: Random</b>
<b>Summary:</b>	Complainant alleged that after his bicycle was struck by a police motorcycle emblazoned "Special Operations," officers in the area failed to provide any assistance.	
<b>Violation(s):</b>	Neglect of Duty/Unreasonable Judgment (Not Sustained)	
<b>Recommendation:</b>	Fair and Thorough	
<b>Status:</b>	Closed	

<b>Case #:</b>	<b>14-17R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that, during a road-rage incident with an off-duty officer, he was physically and verbally assaulted. The officer then issued complainant a citation.

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

**Recommendation:** Fair and Thorough. Complainant failed to respond to several interview requests.

**Status:** Closed

<b>Case #:</b>	<b>14-18R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that the subject officer behaved in a disrespectful, inappropriate and unprofessional manner during a motor vehicle stop.

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

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-19R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that he was subjected to disrespectful treatment when he called the police department hours after the Marathon bombing to suggest potential avenues of investigation.

**Violation(s):** Respectful Treatment (Not Sustained) based on failure to identify subject officer

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-20R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that an officer made derogatory statements to him while the officer was directing traffic.

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

**Recommendation:** Fair, but Not Thorough

**Status:** Pending

<b>Case #:</b>	<b>14-21R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that the officer mistakenly targeted his residence as an after-hours establishment; alleging that on several occasions the officer has come to his home and broken up family gatherings.

**Violation(s):** Unreasonable Judgment (Exonerated)  
Respectful Treatment (Unfounded)

<b>Case #:</b>	<b>14-21R cont.</b>	<b>Type: Random</b>
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**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-22R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that he was involved in a road rage incident with an overly-aggressive off-duty officer. Following the incident, the subject officer wrongfully filed a criminal complaint against complainant alleging an Assault by Means of a Dangerous Weapon.

**Violation(s):** Unreasonable Judgment (Sustained)  
Unreasonable Judgment (Not Sustained)  
Respectful Treatment (Not Sustained)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-23R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that officer used an excessive amount of force to effect arrest.

**Violation(s):** Use of Non-Lethal Force (Exonerated)

**Recommendation:** Pending

**Status:** Pending

<b>Case #:</b>	<b>14-24R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that the subject officer acted unprofessionally in directing her to stop her car and in subsequently issuing her a traffic citation.

**Violation(s):** Respectful Treatment (Unfounded)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-25R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that when he attempted to question a detail officer about road closures in his neighborhood on July Fourth, the officer responded in a rude and disrespectful manner.

**Violation(s):** Respectful Treatment (Unfounded)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-26R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that he was physically abused by 5-6 officers after he spit on a Police officer while in custody.

**Violation(s):** Use of Non-Lethal Force (Exonerated & Unfounded)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-27R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that the subject officer pulled him over, asked the Complainant to step out of the vehicle and to place his belongings on the passenger seat of the car. Complainant alleged that when he got back into his vehicle, his belongings were missing.

**Violation(s):** Neglect of Duty (Unfounded)  
Conformance to Laws (Not Sustained & Unfounded)

**Recommendation:** Fair But Not Thorough

**Status:** Pending IAD review

<b>Case #:</b>	<b>14-28R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that an officer made sexually suggestive comments to her and her friend during a motor vehicle stop and followed her car for several miles after the stop.

**Violation(s):** Respectful Treatment (Not Sustained)  
Conformance to Laws (Not Sustained)  
Conduct Unbecoming (Sustained)  
Neglect of Duty/Unreasonable Judgment (Sustained)  
Traffic Enforcement (Sustained)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-29R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that he was stopped by an officer who directed foul language at him and refused to identify himself when requested.

**Violation(s):** Respectful Treatment (Unfounded)  
Self-Identification (Unfounded)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-30R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that the officer who responded to an altercation in which Complainant was involved was disrespectful and did not take the time to find out what exactly what happened.

**Violation(s):** Use of Non-Lethal Force (Not Sustained)  
Respectful Treatment (Not Sustained)  
Abuse of Process (Unfounded)  
Self-Identification (Sustained)  
Sick & Injured Persons (Sustained)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-31R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that a detail officer neglected his duty by fraternizing with a female passerby unprofessionally.

**Violation(s):** Conduct Unbecoming (Exonerated)

**Recommendation:** Fair and Thorough

**Status:** Closed

<b>Case #:</b>	<b>14-32R</b>	<b>Type: Random</b>
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**Summary:** Complainant alleged that the subject officer acted in a rude and unprofessional manner while responding to Complainant's 911 call.

**Violation(s):** Respectful Treatment (Exonerated)

**Recommendation:** Fair and Thorough

**Status:** Closed

## 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](http://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

If your appeal is hand-delivered, it must be delivered to the address below by the close of business of the fourteenth (14<sup>th</sup>) 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](mailto: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](http://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.

## 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.

# Community Ombudsman Oversight Panel Appeal Form

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**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](mailto: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 #:**

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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:

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CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR  
THOMAS M. MENINO

## **EXECUTIVE ORDER**

March 14, 2007

### **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 three members appointed by the Mayor, and each will serve a term of three years. This term 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.

Ombudsmen 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 out reach 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 investigation;
- 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 and justified use of force;

- 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 IV, the process will be follows:
  - 1. The Chief, BII, and the Legal Advisor shall determine those cases to be reviewed pursuant to categories A and B of Section IV. The Panel will review approximately ten percent (10 %) of all cases with a finding of either not sustained, exonerated, or unfounded.
  - 2. 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.).
  - 3. The Executive Secretary shall notify the police officer(s) named in the reviewed cases that the case is under review by the Panel.
  - 4. 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.
  - 5. If the reviewing ombudsman determines that a case was investigated fairly and thorough, 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 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 this 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 the address 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

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 Offender 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 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 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 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 directives.

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.



Thomas M. Menino  
Thomas M. Menino  
Mayor of Boston

Dated: 3/14/07