

2007 Annual Report



OFFICE OF THE COMMUNITY OMBUDSMAN

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Executive Summary

This report is produced on a yearly basis and serves two primary purposes. It provides the residents of Boise and city officials with information about public feedback regarding the activities of city law enforcement agencies. These public reports also give the community and their elected representatives the opportunity to understand and evaluate the performance of the Office of the Community Ombudsman. The ombudsman and his staff are accountable to the Boise City Council, the elected representatives of the residents of Boise. We have an obligation to perform our duties as defined by ordinance in a professional, ethical and service-oriented manner.

The 2007 Annual Report is a comprehensive view of the Office of the Community Ombudsman. It discusses the history of the office, as well as highlights of the past year. It details the types of formal cases opened during the year and explains how we classify cases and allegations.

Since the majority of our work deals with confidential information, it is important to provide a way of making our work known to the public without compromising the integrity of our office or the independence it thrives on. The ombudsman position was created to build the public's trust in Boise City's law enforcement officers. This is to be accomplished through the independent investigation of officer-involved shootings, complaints and inquiries about police actions; as well as audits of internal investigations conducted by the police. Recognizing that no police department can operate effectively without the trust of those whom they serve, the Boise City Council empowered the community ombudsman to act independently in his investigations and to communicate his findings openly and directly to the public. By this means, the operations and actions of Boise's law enforcement agencies and their officers will be transparent to the community.

While the primary focus of media reports about the ombudsman's office has been on the investigation of complaints and officer-involved shootings, these activities form only part of the ombudsman's daily work. My staff and I spend a significant amount of time assisting people who either have questions about the actions of a Boise law enforcement officer or who are dissatisfied with the service they received from the police. We work to identify the issues and investigate the circumstances surrounding each reported incident. We locate those who may be able to shed light on the situation and work to facilitate a satisfactory resolution of the problem. Since its inception, the Office of the Community Ombudsman has resolved over a thousand inquiries. In 2007, we brought over 100 inquiries to a successful resolution. The majority of these inquiries were addressed through our Rapid Resolution process.

The Rapid Resolution process is a relatively new option for general inquiries that can be handled quickly and appropriately through the Boise Police Department (BPD). This option was developed in 2005 and evaluated in 2006. The Rapid Resolution process has been popular with those individuals who have had inquiries resolved with this method, as well as with BPD. The greatest benefit is that the Police Department is given the opportunity to directly address the public's questions and concerns. This gives the public a chance to give direct feedback to BPD and to have their inquiries quickly resolved. Our goal is to provide each person with complete answers to his or her questions. When it appears that an inquiry will be best addressed by BPD, we facilitate communication between the complainant and the involved BPD unit, ensuring that the complainant receives a complete and prompt reply. This new method is also a process improvement for our office, allowing me and my staff to focus time on more complex issues. A total of 76 Rapid Resolution Inquiries were addressed by BPD in 2007.

Although my staff and I spend many hours investigating complaints and critical incidents, we also spend time researching best practices of other agencies in order to make value-adding policy recommendations to the Police Department. The Office of the Community Ombudsman makes policy and training recommendations to BPD either after investigating a specific incident or after considerable research into an issue of critical concern. These recommendations are made public in both investigative reports and special policy reports.

This annual report also includes a section dedicated to the analysis of the eight (8) cases that produced the thirteen (13) sustained findings issued in 2007. This section includes a brief description of the complaint, the reason for the sustained finding issued by the ombudsman, and the response of the chief of police to each sustained finding.

In 2007, a total of 154 formal cases were opened with 145 of those cases involving the Boise Police Department. A section of case studies is included to demonstrate the wide variety of

cases received by the Office of the Community Ombudsman throughout the year. This section includes examples of Inquiries, Rapid Resolution Inquiries, Class I and Class II Complaints, and Critical Incidents.

Class I and Class II Complaint statistics from both BPD and the Office of the Community Ombudsman are compared and the results of our audits of BPD's internal investigations are included. Finally, this report includes an appendix with a synopsis of all cases opened in 2007.

The following are highlights from the cases handled by the Office of the Community Ombudsman during the year 2007.

- Over 235 people contacted the Office of the Community Ombudsman in 2007 resulting in 154 cases. Since its opening in 1999, the Office of the Community Ombudsman has handled over 3,000 contacts and has opened 2,115 cases.
- In 2007, a total of 145 of the 154 cases involved the Boise Police Department. Only four (4) of the cases involved the Boise Airport Police. There were no cases opened in connection with Boise City Parking Control or Boise City Code Enforcement. Five (5) cases were opened that were later closed when it was found that the incident involved agencies outside of the ombudsman's jurisdiction.
- 206 separate allegations, issues, and commendations were associated with the 154 cases opened in 2007.
- A total of 27 Complaints were opened in 2007. There are divided into 17 Class I Complaints and 10 Class II Complaints.
- Seven (7) Critical Incident cases were opened in 2007. Three (3) of these cases were closed before the end of the year after the ombudsman reviewed the investigation conducted by BPD and deemed that no further investigation was necessary.
- 76 Rapid Resolution Inquiries were assigned to BPD for them to resolve. Most of these Rapid Resolution Inquiries involved the Valley Patrol Division.
- The majority of cases opened in 2007 involved incidents that occurred in the downtown area of Boise. The majority of the complainants that contacted the Office of Community Ombudsman live in communities outside of Boise.
- A total of 78 findings were issued in 2007. This total includes 41 Exonerated, 17 Unfounded, and 13 Sustained findings.
- The chief of police agreed with 12 of the 13 Sustained findings issued by the ombudsman in 2007. Disciplinary or corrective action was taken for only three (3), while six (6) findings involved either an officer that was no longer employed by BPD or that could not be identified.
- The ombudsman issued one formal recommendation during 2007. This training recommendation involved a constitutional question about entry into a backyard without a search warrant, exigent circumstances, or consent. The chief adopted the ombudsman's recommendation and undertook a review of BPD's practice and training to ensure that all officers understand and follow case law on this subject.

Office of the Ombudsman

MESSAGE FROM THE OMBUDSMAN

It is my honor to present to you the 2007 Annual Report of the Office of the Community Ombudsman. I am confident that this report will give you greater insight into the works of the ombudsman's office. We also hope that this report generates feedback for our office, as well as public reflection on the value of the service we provide.



The 2007 Annual Report is a comprehensive view of the Office of the Community Ombudsman. It discusses the history of our office, as well as highlights of the past year. It details the types of formal cases opened during the year and explains how we classify cases and allegations. It also informs the community about the nature of the issues and concerns brought to our attention and the outcome of our in-depth investigations.

In 2007, we were pleased to present a new look for our website. We feel this new site is more user friendly and have already noticed an increase in contacts with our office via the website. This is a useful tool in today's society, allowing people access to our office at any time.

We have also become more efficient in tracking our data. This saves time and increases the consistency of our record keeping. Last year our annual report included a variety of new charts and graphs and this year's report includes a few more. We are pleased to be able to produce new ways of reflecting the work that we do to the public.

In the new year, we are looking forward to increasing our efficiency in providing service to the public. Although we strive to investigate and resolve complaints in a timely manner, our success is dependent on the availability of our small staff to thoroughly investigate matters. At times it becomes a juggling act with constant re-prioritization of cases. As we work on ways of improving our timeliness, we will continue performing our other duties of conducting thorough investigations, researching recommendations, conducting audits, and community outreach.

As we head into 2008 we look forward to continuing with our success while building on our efficiency.

Sincerely,

A handwritten signature in blue ink that reads "Pierce Murphy". The signature is written in a cursive, flowing style.

Pierce Murphy
Community Ombudsman

HISTORY

On July 20, 1999, the Boise City Council enacted the Ombudsman Ordinance which formally established the Office of the Community Ombudsman. This office exists to promote confidence in the professionalism and accountability of Boise City's police and law enforcement employees through unbiased investigation of complaints, independent review of police actions, thoughtful policy recommendations, and on-going public outreach. The Community Ombudsman provides information through radio, newspapers, television, and presentations at schools and community meetings. Complaints or commendations can be made to the Office of the Community Ombudsman in person, by telephone, facsimile, e-mail, or in writing.

The Community Ombudsman's office is independent from all other City departments and reports directly to the Boise City Council. City ordinance number 5930 was unanimously passed by the Boise City Council. This ordinance established Title 2, Chapter 22, of the Boise City Code to establish the Office of the Community Ombudsman specifying duties and responsibilities, requiring confidentiality of records, and authorizing mediation, recommendations, community outreach, and reporting. This ordinance was the result of extensive benchmarking of police oversight mechanisms throughout the United States and consultations with experienced practitioners and leading academics in the field.

MISSION AND GUIDING PRINCIPALS

Mission Statement:

The Office of the Community Ombudsman exists to promote confidence in the professionalism and accountability of Boise City's police and law enforcement employees through unbiased investigations of citizens complaints, independent review of police actions, thoughtful policy recommendations, and on-going public outreach.

The ombudsman's operating philosophy consists of four guiding principles under which we strive to achieve our mission:

- **We believe** in providing equal, fair, and impartial access to the services of the Office of the Community Ombudsman; without regard to age, race, sexual orientation, disability, gender, creed, color, nationality, or station in life.
- **We believe** in treating all individuals, regardless of their attitude or demeanor, with the same courtesy, tolerance, sensitivity, and dignity we would expect if placed in a similar situation.
- **We believe** in providing quality, timely, objective, and responsive service to those persons who request the assistance of the community ombudsman.
- **We believe** in the empowerment of people to solve problems, provide service, and satisfy the needs of the community, coupled with accountability and responsibility for their conduct.

STAFF

The Office of the Community Ombudsman has a small staff. It consists of the ombudsman, a deputy ombudsman, an investigative analyst, and an on-call investigator. We handle citizen complaints and appeals, resolve service quality inquiries, provide mediation, conduct community outreach, research best practices in police policies and training, and work to continuously improve our own processes. We are able to accomplish all of this because of the people we have on our staff. Each one is truly dedicated to serving the community with integrity and distinction.

*Pictured left to right:
Dennis Dunne, Investigator, Jennifer Butler,
Investigative Analyst, Pierce Murphy, Ombudsman,
and Phoebe Smith, Deputy Ombudsman.*



COMMUNITY OUTREACH

Part of the mission of the Office of the Community Ombudsman is to provide on-going public outreach. The ombudsman is available to speak to service clubs, professional organizations, neighborhood groups, and schools. These contacts with members of our community allow the ombudsman to listen to the concerns and opinions community members have about both Boise law enforcement agencies and the operations of the ombudsman's office. In addition, the ombudsman is able to educate the community about the ombudsman's office and promote community support for professional and accountable law enforcement in our city.

The ombudsman and his staff provide a real service to the community through the many questions we answer about the policies, procedures, and tactics of law enforcement. Even though our office receives an influx of contacts whenever there is extensive media coverage of police activities, it is not only high-profile situations that prompt people to call and ask for the ombudsman's help in understanding the details of police procedures and practices. Many of the contacts that we receive involve minor interactions between community members and Boise law enforcement officers. In every instance, the ombudsman and his staff either answer the question posed, or put the person in touch with a specific individual who can provide an answer. As public servants, and especially as members of the Office of the Community Ombudsman, we believe that it is our duty to provide the public with the information they want about law enforcement in our community.

In addition to the contacts with the community initiated by either the public contacting our office or the ombudsman speaking to organizations, our office provides brochures whenever possible and maintains a website that provides helpful information.

PRESENTATIONS

In 2007, the ombudsman and deputy ombudsman spent over 44 hours participating in community outreach activities. These activities included presentations to students at local schools, Boise State University Criminal Justice classes, BPD's Citizen Police Academy, Lion's Club, and orientations for new refugees with Mountain States Group and the Somali Bantu Community Association. The ombudsman attended a variety of community events and was active with the Ada County Human Rights Task Force, Idaho Commission on Hispanic Affairs, and Rotary.

EDUCATION AND DEVELOPMENT

As part of our commitment to ongoing education and training, the ombudsman and staff members attended the following conferences and workshops in 2007:

The ombudsman attended the Rotary International Convention in Salt Lake City in June, the National Association for Civilian Oversight of Law Enforcement conference in San Jose in September, and the Minority Summit for the Idaho Commission on Hispanic Affairs in Boise in October.

Besides the community outreach activities mentioned, the ombudsman served as the President for the National Association for Civilian Oversight of Law Enforcement (NACOLE). Mr. Murphy has served as an expert in discussions of creating a civilian oversight office in Spokane, Washington and appeared on CNN's *Anderson Cooper 360* to provide insight on two separate use of force cases making national headlines.

WEBSITE

The Office of the Community Ombudsman's website is an interactive site where the public can express their complaints, issues, or concerns regarding Boise City's law enforcement agencies. Our homepage provides links to the Ombudsman Ordinance, staff information, the complaint process, commendations, and related websites. On-line publications include PDF versions of the office's brochures, investigative reports, policy reports, and mid-year and annual reports. This site is a valuable resource in assisting the community to understand and evaluate our service.

At the beginning of 2007, the Office of the Community Ombudsman set a goal to provide an updated website to increase its functionality and efficiency. We are pleased to have met our goal by creating an attractive, informative, and user-friendly website.

BROCHURES

The Office of the Community Ombudsman has two brochures available to the public. Both brochures are available at the ombudsman's office, on our website, or by requesting that one be mailed to you.

Our primary brochure provides a brief introduction to our office, includes information on how to file a complaint or commendation, and contains a form to be completed and returned. This brochure is created as business reply mail and can be folded and mailed with no postage.

The second brochure was created as a joint project with the Boise Police Department. It is entitled, "What to Expect – Understanding the Law and Police Procedures." This brochure helps the reader know what to expect when interacting with a police officer, whether during a traffic stop, when reporting a crime, or during an arrest.

IN THE NEWS

The Office of the Community Ombudsman is often recognized for its success as a civilian oversight agency. As the concept of civilian oversight becomes more popular, cities throughout the United States turn to other agencies for implementation ideas and discussions on effective practices. This section presents examples of how Boise's own ombudsman has provided insight to other agencies around the U.S. in the past year.

SILICON VALLEY, CALIFORNIA

MetroActive Weekly

June 20-26, 2007

"Cop Rock: Why the debate over improving police oversight is missing the chance for real change"

By Raj Jayadev

...Pierce Murphy is the president of the National Association of Civilian Oversight of Law Enforcement, and the head of the Boise oversight system. It is a "monitor" mechanism, similar to an auditor. Murphy, who has been the head of the office since its birth in 1999, says that having investigative powers has been instrumental in building the public's trust in their office as well as in the police department. "The community has greater confidence in the eventual outcome of a complaint, because someone outside of law enforcement, or not beholden to, can investigate. For those who have that question 'Can they police themselves?' it answers it," he says.

When asked whether investigative powers are outside the purview of the auditor model, a claim held by the city manager and the SJPD, Murphy gives an example: "If you are the investigator of bank fraud, you don't have to be a banker, but you have to learn about banking." Murphy says while independent reviews and investigations "can be interpreted by some that the police cannot be trusted ... in final analysis, the question is what will engender trust and public confidence in the police agency and the veracity of the investigative process."...

AUGUSTA, MAINE

The Morning Sentinel

Blethen Maine Newspapers

July 16, 2007

"Review of Portland Police Department: New tactics lead to less complaints" By David Hench

...Last year's drop in complaints is generally a positive sign for police-community relations and not entirely unexpected, said Pierce Murphy, community ombudsman for the Boise Idaho Police Department and president of the National Association for Civilian Oversight of Law Enforcement.

"It tends to indicate that there have been improvements on the policing side and that the community has strengthened its trust in its police," Murphy said. "And that's ultimately the purpose of oversight -- not to catch officers doing

something wrong. It's to build mutual trust and support."...

... Boise, a community in many ways similar to Portland, also saw a sharp decline in complaints over time, especially immediately after the oversight agency was created in the wake of a series of police shootings. Murphy said community attitudes about police in general also have changed, especially after Sept. 11, 2001, terrorist attacks when the public celebrated the work and sacrifice of first responders. But Boise's ombudsman, Murphy, cautioned against gauging officers' conduct based solely on the number of complaints. In some communities, those numbers have been skewed by systematic obstacles to reporting complaints or by a department's system of classifying complaints so they don't require high scrutiny. ...

SPOKANE, WASHINGTON

The Spokesman Review

July 14, 2007

"Ombudsman 'in holding pattern' "

By Bill Morline and Karen Dorn Steele, staff writers

...The Spokane ombudsman proposal would be similar to an eight-year-old ombudsman system in Boise, which was created after a series of officer-involved shootings.

Boise ombudsman Pierce Murphy said if a situation like the Riverfront Park anarchists' arrests occurred in his town, the ombudsman's office and not the police chief would be called upon to investigate the actions of police. The ombudsman would be able to assess what occurred in the park and issue public findings as to whether the police acted correctly or overstepped their authority.

"Without a doubt I'd launch an investigation immediately," Murphy said.

Murphy wouldn't comment when asked if he thought it was appropriate for Kirkpatrick to defend the actions of her officers, even before the investigation of the incident is completed by the city attorney's office. ...

The Spokesman Review

July 18, 2007

"Our View—Who polices police?: Oversight will boost the department's public trust"

Editorial

...Some police officers fear that a new oversight system will mean the micromanagement of their every move. But that has not been the case in other cities such as Boise, where the office has helped restore credibility to the police department. The Boise office doesn't just explore allegations; it also pursues officer commendations. Plus, it serves as a credible source in educating the public on the policies and practices of the police department, which helps put officers' actions into context. ...

FORMAL CASE TYPES

There are six (6) types of formal cases opened by the Office of the Community Ombudsman. They are Critical Incident, Commendation, Complaint, Inquiry, Appeal, and Other Agency.

A Critical Incident is an event that involves the use of deadly force, or an event in which police actions result in death or serious bodily injury. City Code requires that the ombudsman be notified immediately whenever an employee of the Boise City Police Department is involved in a Critical Incident. When a Critical Incident occurs, the ombudsman has the authority to conduct his own independent administrative investigation into the incident.

The ombudsman opens a formal case every time a community member praises the actions of officers in a specific incident. This type of case is called a Commendation.

The ombudsman also opens a case whenever a person complains about the actions of one or more officers. If the actions being described by a complainant are such that, were they true, they would constitute a violation of either police policy or law, the case is classified as a Complaint. Complaints are then classified as either a Class I or a Class II Complaint.

If, however, the police actions being complained about are not taken at face value, a violation of policy or law, the case is classified as an Inquiry. There are three (3) types of Inquiries: Policy Question, Service Quality, and Rapid Resolution.

In those instances when an individual complains directly to the police, an Appeal can be filed with the ombudsman within 30 days after the complainant has received a response from an investigation conducted by BPD. The ombudsman will review BPD's investigation, conduct further investigation if needed, and issue findings.

Complainants who contact the Office of the Community Ombudsman are sometimes not clear about the ombudsman's jurisdiction. If, after the extent of our authority is explained, the complainant requests that the ombudsman forward a complaint to the appropriate agency, an Other Agency case may be opened. In some cases, it is unclear which agency has been involved and the ombudsman makes every effort to help identify the agency. If a case is originally opened as a Complaint or an Inquiry and it is later discovered that BPD employees were not involved, the case is reclassified as Other Agency and the complainant is given the option to either contact the appropriate agency themselves or have the ombudsman forward the complaint.

COMPLAINTS ABOUT CONDUCT

Anyone may file a complaint about the conduct of Boise City law enforcement agencies with the Office of the Community Ombudsman. If you feel an employee of the Boise Police Department, Boise City Parking Enforcement, or Boise City Code Enforcement did not treat you properly or violated a policy, you

may contact our office with your concern. When you contact the Office of the Community Ombudsman, details of your complaint will be assigned to an investigator for investigation. After a thorough investigation, the ombudsman will issue a finding and you will be notified of the outcome.

FALSE COMPLAINTS

The Office of the Community Ombudsman relies upon the truthfulness and good intentions of those community members who choose to file a complaint about the actions of a Boise law enforcement officer. A reasonable amount of allowance is made for the fact that multiple witnesses to the same event will have different memories of the event. Every person's impression of what occurred is colored by individual perceptions, emotions, biases, and a host of other factors. The ombudsman does not expect that every officer and every citizen at the scene of an incident will have exactly the same memory of the event, nor will they all draw the same conclusions about the meaning and appropriateness of what took place.

We do insist that every person who files a complaint with the Office of the Community Ombudsman provides information that he or she believes to be true and accurate. Intentionally and knowingly providing false information in the filing of a complaint is a serious matter. It is a breach of trust. It compromises the integrity of the "community feedback" process we depend on. It also is unfair to an officer whose professional and personal reputation may be at stake. Evidence sufficient to form a reasonable belief that a complainant has knowingly made a false allegation of criminal conduct by a Boise law enforcement officer will be forwarded to the prosecutor for consideration of criminal charges against the complainant.

TIME LIMIT FOR FILING COMPLAINTS AND APPEALS

The policy and procedures of the ombudsman's office include a time limit for filing Complaints and Appeals. In the case of Complaints, when a violation of policy, procedure, or law is alleged, the complaint must be filed within 90 days of the occurrence of the incident that gave rise to the grievance. The ombudsman may grant an exception to this time limit when the initial evidence presented constitutes a violation so severe that criminal charges, termination, or serious disciplinary action could result if the allegation were to be sustained, or when the

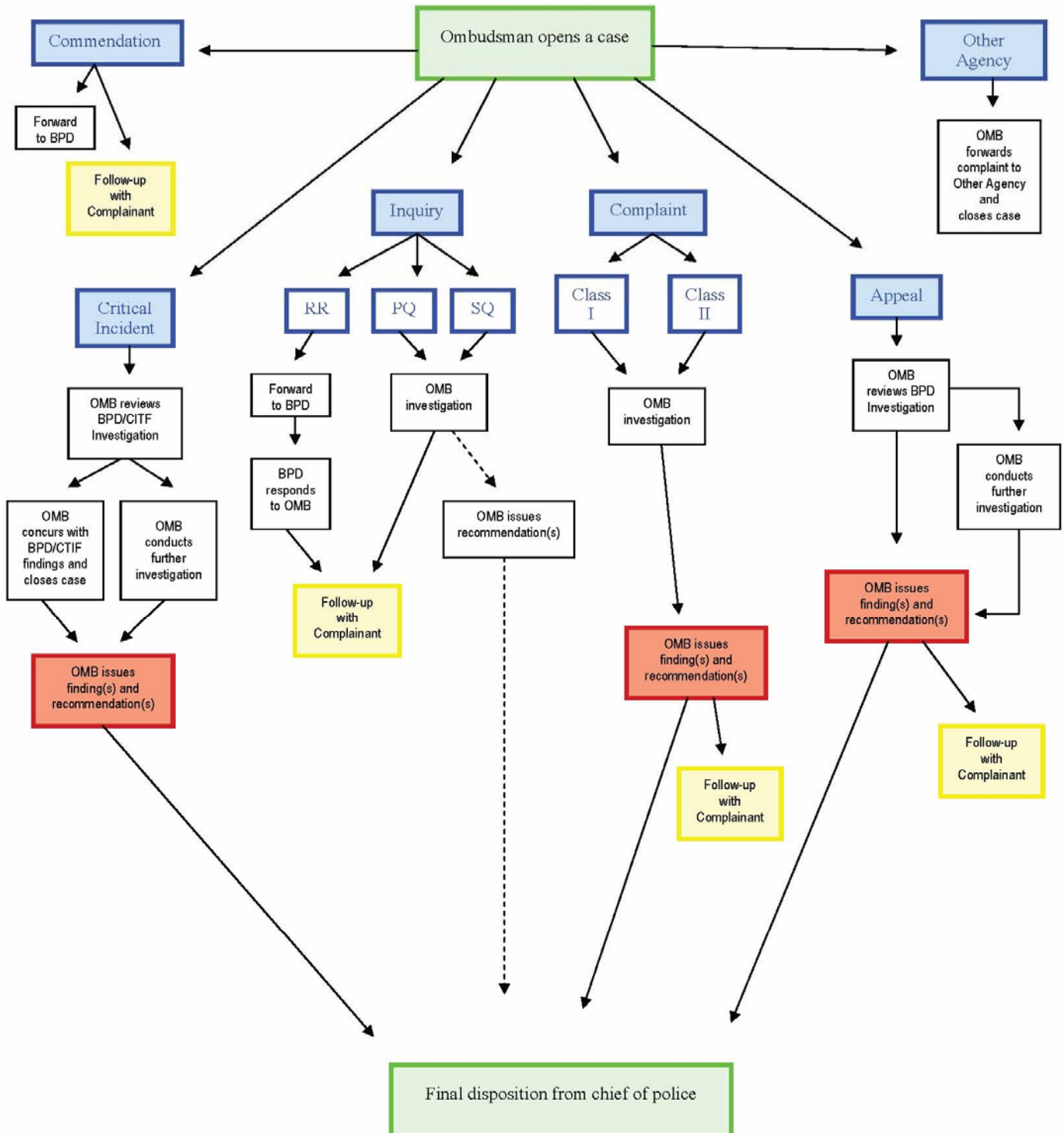
complainant was unable to file a complaint during the 90 days due to an involuntary incapacity (e.g., hospitalization, incarceration, etc.). Citizens must file Appeals with the ombudsman within 30 days of receiving notification of a finding issued by the chief of police for a complaint the citizen filed directly with the police department. The ombudsman may grant an exception to the Appeal time limit in cases where the complainant was unable to request an Appeal during the 30 days.

CASE MANAGEMENT

The following work flow chart shows the process by which each type of case is addressed. After an investigation, the ombudsman issues findings on all Critical Incidents, Complaints, and Appeals. Occasionally, recommendations may be issued as a result of the investigations. All complainant-initiated cases result in a follow-up with the complainant in which the results of the investigation are explained. Investigative reports for all

Critical Incidents and Complaints are available to the public. These reports are available on our website at www.boiseombudsman.org and include the findings issued by the ombudsman, as well as any recommendations. Most cases end with a final disposition from the chief of police or the appropriate department head.

WORK FLOW CHART



ALLEGATIONS

Each case tracks any allegations presented by the complainant. Some cases contain more than one allegation for a particular officer and/or contain allegations for multiple officers.

A total of 17 different allegation categories are recorded by the Office of the Community Ombudsman. Allegation categories are also used to classify items that are not a complaint per se. For example, if a commendation is received, the allegation is reported as an Officer Commendation. Inquiries are classified in one of three ways: Service Quality, Policy Question, or Rapid Resolution. Other Agency is also an allegation classification. The other allegations all classify the type of complaint alleged or the potential policy violation and will be issued a finding at the end of an investigation.

The following definitions are used to classify each of the following types of allegations:

RUDENESS/DEMEANOR

A Rudeness/Demeanor complaint is any allegation involving the behavior of an officer, in word or in deed, that can be considered rude, offensive, or disrespectful.

Officers are expected to conduct themselves in a civil and respectful manner. They shall not use profanity, uncomplimentary speech, or intentionally antagonize any person.

A Rudeness/Demeanor allegation does not include non-specific allegations of a general nature that may otherwise be classified as a Service Quality Inquiry.

PERFORMANCE OF DUTY

A Performance of Duty complaint includes any allegation involving the inefficiency of an officer in carrying out his or her duties.

Examples include inadequate service, failure to take a report, inadequate investigation, and any other non-criminal conduct. However, Performance of Duty does not include failure to take action, as required by law or policy, or failure to record an enforcement contact. These two allegations are addressed under Failure to Act and Failure to Record allegations.

An officer's competency is demonstrated by adequate knowledge of the application of laws required to be enforced, the willingness and ability to perform assigned tasks properly, conformance to the work standards established for the law enforcement officer's rank, grade, or position, and taking appropriate and timely action when a crime, disorder, or other situation requiring police action occurs.

A Performance of Duty complaint focuses on the inadequate or insufficient actions of an officer as contrasted by an Improper Conduct complaint which revolves around the excessive, unnecessary, or disproportionate action of an officer.

USE OF FORCE

A Use of Force complaint includes any allegation involving the unnecessary or unreasonable use of force or violence.

The criteria for determining a reasonable amount of force includes the severity of the crime, the nature and extent of the threat posed by the suspect, the degree to which the subject resists arrest or detention, attempts by the subject to evade arrest by flight, and other factors including: the nature and quality of intrusion upon the individual, duration of the intrusion, the severity of injuries inflicted, the officer's or subject's physical size or attributes, environmental considerations, reaction time, and the totality of circumstances.

In all circumstances, the officer shall refrain from any unnecessary infliction of pain or suffering and will never engage in cruel, degrading, or inhumane treatment of any person.

IMPROPER CONDUCT

An Improper Conduct complaint includes any allegation involving the extreme or unwarranted action of an officer in carrying out his or her duties.

This includes, but is not limited to, any acts or threats of violence, property damage, conduct unbecoming, cruelty, intimidation, or other actions which shock the conscience.

An Improper Conduct complaint differs from a Performance of Duty complaint by focusing on an allegation that an officer acted in an excessive, undue, severe, or conflicting manner; as opposed to the insufficient, derisory, or poor action of an officer.

ABUSE OF AUTHORITY

An Abuse of Authority complaint includes any alleged action by an officer that can be construed as an exploitation or misuse of the authority granted to the officer.

Examples include corruption, retaliatory arrest, biased policing, or use of one's position for personal gain and/or advantage.

OFFICER HARASSMENT

An Officer Harassment complaint includes any alleged actions by an officer that can be categorized as harassment in the form of intimidation, ridicule, or persecution.

It also includes any stalking or pestering in any form that may be considered retaliation against a person for reporting misconduct, harassment, or complaining about the alleged retaliating officer.

CRIMINAL CONDUCT

A Criminal Conduct complaint includes an allegation that an officer violated the law or has been charged with a crime.

VEHICLE OPERATION

A Vehicle Operation complaint is an allegation that includes unsafe driving, driving violations, or unauthorized Code 3 response.

Any employee-involved traffic collisions resulting in death or life-threatening bodily injury involving a law enforcement employee operating either a city vehicle or a private vehicle while on-duty do not fall under this allegation, but, rather, are classified as Critical Incidents.

CONSTITUTIONAL RIGHTS VIOLATION

A Constitutional Rights Violation complaint includes any allegations of a violation of rights included in the Constitution of the United States.

Examples include unlawful search, unlawful detention, failure to provide Miranda warning, and harassment designed to infringe upon those rights guaranteed by the Constitution and applicable federal and state laws.

Harassment not considered to be a Constitution Rights Violation but rather used for retaliation or intimidation is defined as an Officer Harassment allegation. Use of Force is also not included under a Constitutional Rights Violation complaint.

FAILURE TO ACT

A Failure to Act complaint includes any alleged failure to take action as required by law or policy.

A Failure to Act complaint is separate from a Performance of Duty complaint, in which the officer's actions are considered insufficient. It also does not include Failure to Record.

FAILURE TO RECORD

A Failure to Record complaint is an allegation of an officer's failure to audio record an enforcement contact as required by policy.

CRITICAL INCIDENT

Critical Incidents include any event in which deadly force is used and results in death or life-threatening bodily injury, as well as any event in which deadly force is intentionally used but minor or no bodily injury occurs.

Critical Incidents also include any vehicle pursuits, roadblocks, intercepts, or other police actions resulting in death or life-threatening bodily injury. Employee-involved traffic collisions resulting in death or life-threatening bodily injury any time while operating a city vehicle or a private vehicle while on-duty are also classified as Critical Incidents and are separate from Vehicle Operation allegations.

OFFICER COMMENDATION

An Officer Commendation is an acclamation providing recognition of an officer's exemplary conduct or meritorious actions, including attitude, accomplishments, or superior service.

POLICY QUESTION

A Policy Question Inquiry is any inquiry into the policy or procedures of the police department.

This includes questions about whether the actions or behavior of an officer were consistent with policy, procedure, or law.

However, allegations of specific actions or omissions that, if true, would be a violation of policy or law, are classified as a Complaint rather than an Inquiry and identified as some other type.

SERVICE QUALITY

A Service Quality Inquiry is any inquiry into the quality of service provided by an officer or the propriety of an officer's actions.

This includes, but is not limited to, any question of behavior or action taken by an officer in response to a request for service.

This type includes any behavior or action that can be questioned, but does not appear to be a violation of policy, taken at face value.

RAPID RESOLUTION

A Rapid Resolution Inquiry involves inquiries of a general nature sent to the police department for quick resolution.

It can include inquiries into the quality of service provided by an officer or the propriety of an officer's actions that does not appear to be a violation of policy. It can also include any questions about department policy or procedure that can be better answered by the police department.

OTHER AGENCY

Other Agency is used when a complaint or inquiry involves an agency outside of the ombudsman's jurisdiction.

2007 Formal Cases

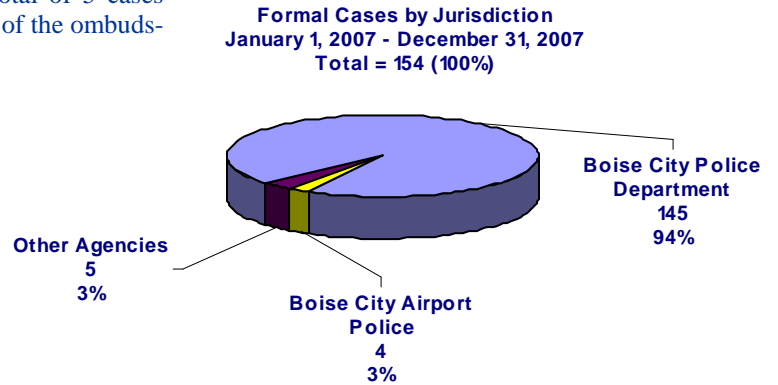
2007 CASE TOTAL

The Office of the Community Ombudsman opened 154 formal cases in 2007. We began the year with 20 cases from 2006 still open. At the end of 2007, we had completed work on all of the 2006 cases. In addition, we completed work on all but 21 of the 154 cases opened in 2007.

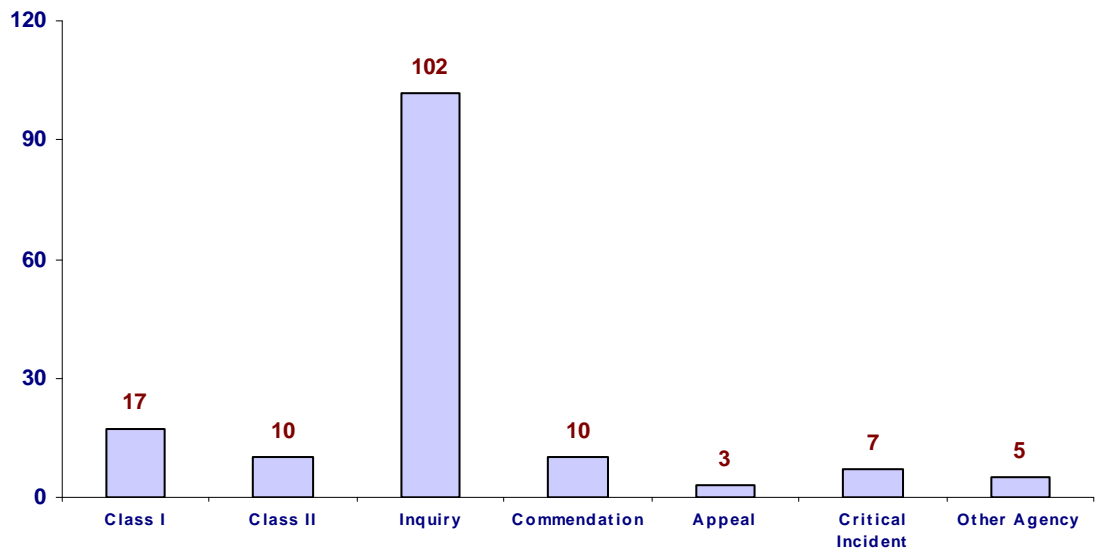
Investigative reports are made public when the ombudsman's office conducts an investigation into a Complaint, Critical Incident, or Appeal. In 2007, 26 investigative reports were issued. They include 10 cases opened in 2006. These reports can be found on our website under "Investigative Reports".

FORMAL CASES BY JURISDICTION

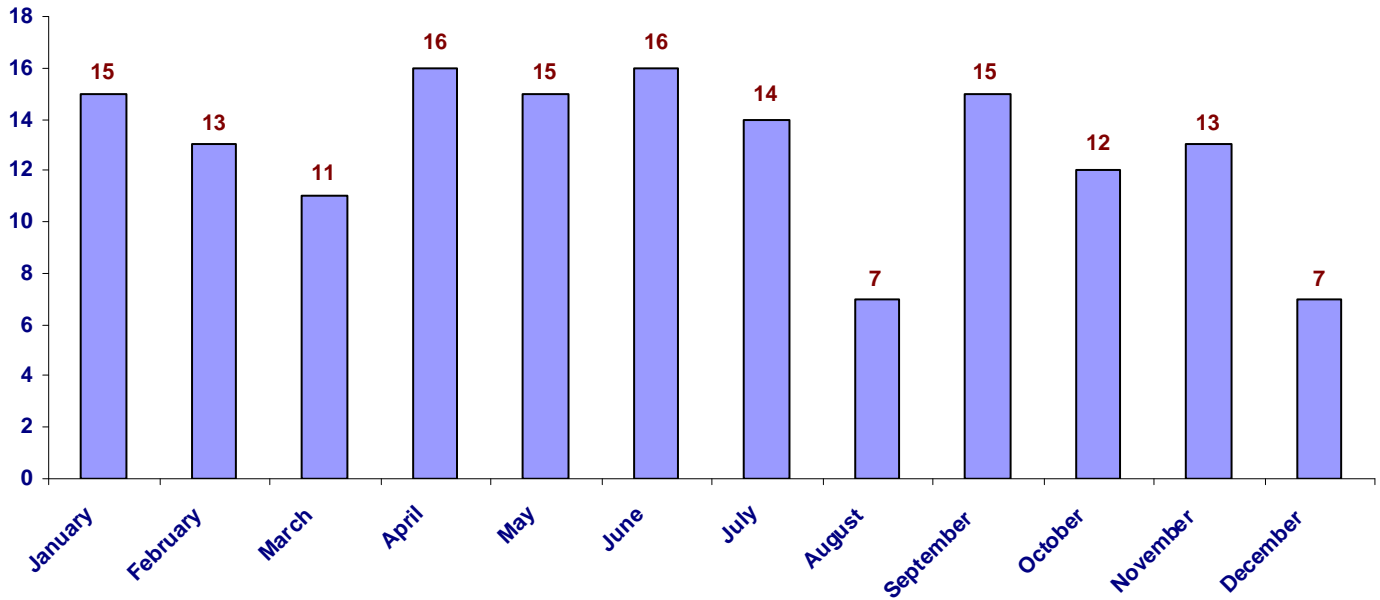
Of the 154 cases opened in 2007, 145 involved the Boise Police Department. Only 4 cases involved the Boise City Airport Police. No cases were opened involving Boise City Code Enforcement or Boise City Parking Control. A total of 5 cases were other agencies outside of the ombudsman's jurisdiction.



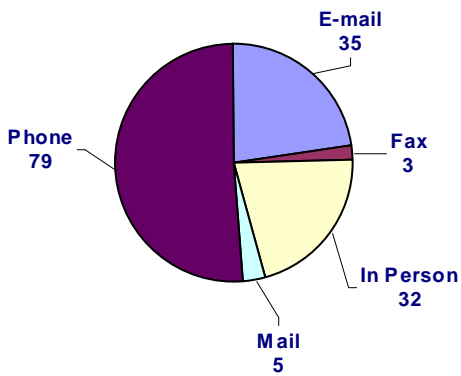
Classification of Formal Cases
All Jurisdictions
January 1, 2007 - December 31, 2007
Total = 154



Total Cases by Month
 January 1, 2007 - December 31, 2007
 Total = 154



Intake Method
 January 1, 2007 - December 31, 2007
 Total :154



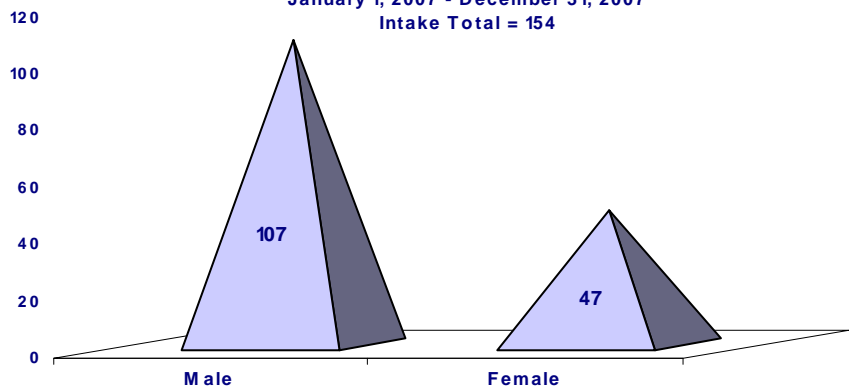
INTAKE METHOD

The Office of the Community Ombudsman can be contacted in a variety of ways. The vast majority of contacts which resulted in a formal case were made by phone.

COMPLAINANT GENDER

Males account for 69% of the contacts that resulted in formal cases during 2007.

Complainant Gender
 January 1, 2007 - December 31, 2007
 Intake Total = 154

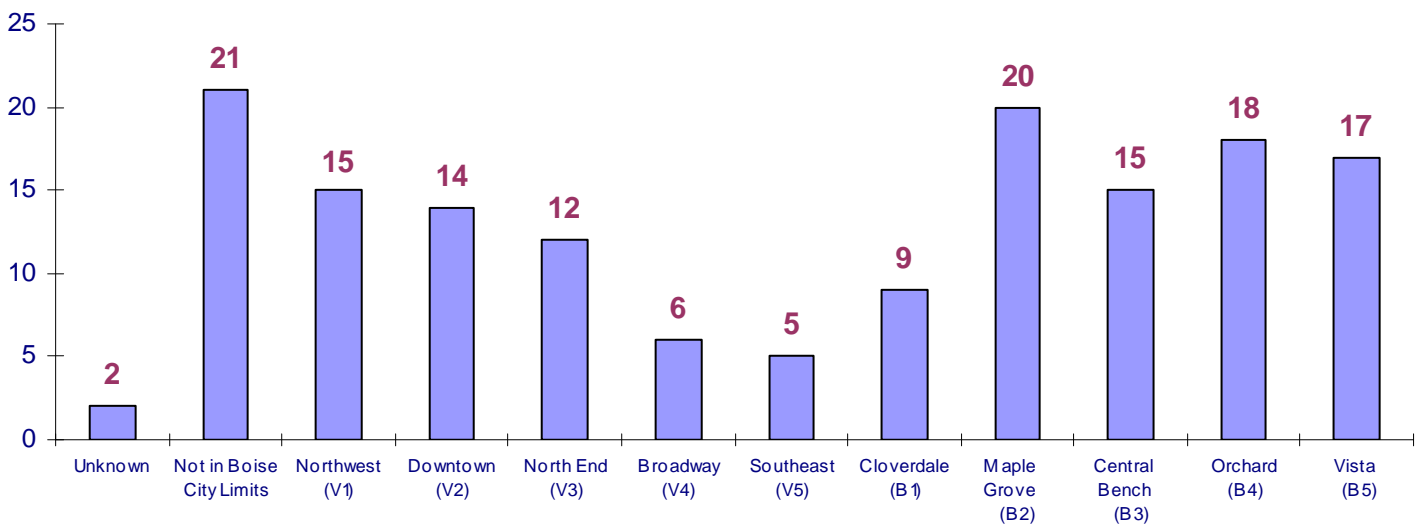


REPORTING DISTRICTS

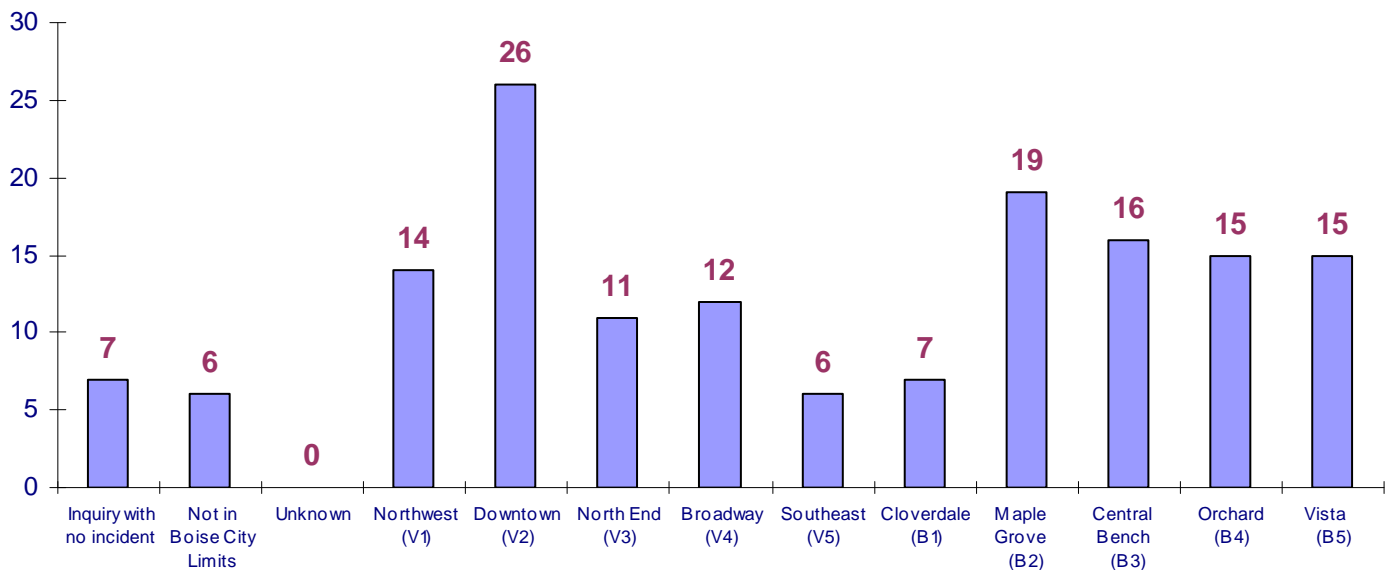
The reporting districts for the City of Boise are divided by BPD's two patrol divisions: Valley and Bench. These two patrol divisions consist of multiple districts. The Boise River provides the dividing line between the two areas. Each area is divided by groups. The Valley area is divided into five groups: Northwest, Downtown, North End, Broadway, and Southeast. The Bench area is also divided into five groups: Cloverdale, Maple Grove, Central Bench, Orchard, and Vista. The police department uses these Reporting Districts for tracking crime statistics.

Each case uses these districts in two ways. The location where the incident took place is tracked by reporting district, as well as, the residence of the complainant. This data shows trends and highlights specific areas of Boise in which incidents that result in a formal case occur. It is also helpful in showing which area of Boise the majority of our complainants live. This data can be useful in identifying areas of town that may benefit from future outreach programs by the Office of the Community Ombudsman.

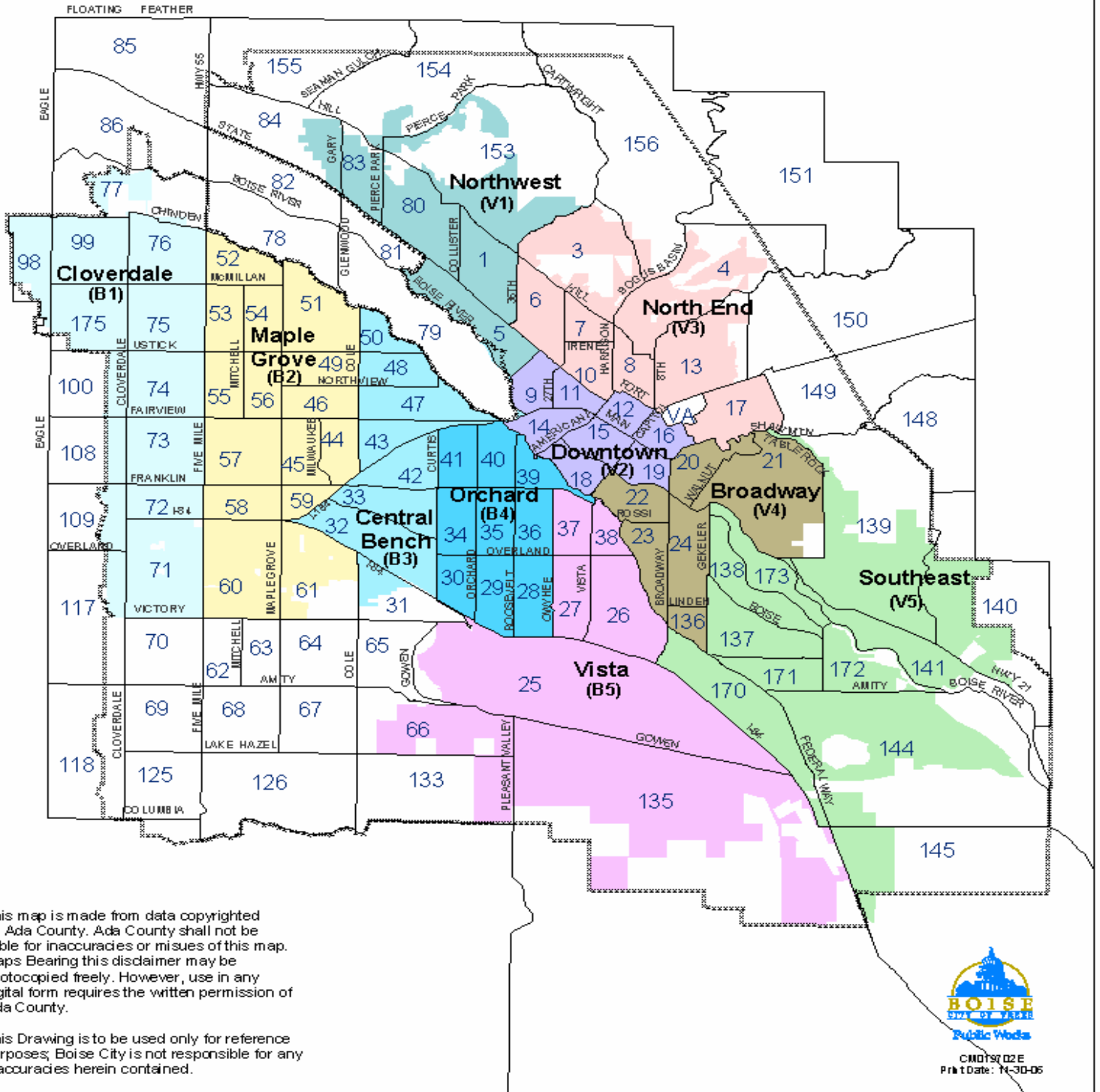
**Reporting District
Complainant Residence**
January 1, 2007 - December 31, 2007
Total = 154



**Reporting District
Incident Location**
January 1, 2007 - December 31, 2007
Total = 154



Boise City Police Reporting Districts



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This Drawing is to be used only for reference purposes; Boise City is not responsible for any inaccuracies herein contained.



CNDTS/02 E
Print Date: 11-30-05

CLASSIFICATION OF CASES OPENED IN 2007

In 2007, there were a total of 154 formal cases opened by the Office of the Community Ombudsman. These cases include Commendations, Inquiries, Appeals, Critical Incidents, and Complaints. The Appendix at the end of this report includes a synopsis of each case opened in 2007.

COMMENDATION

Commendations are assigned a formal case number when a person takes the time to praise the actions of officers in a specific incident. The Office of the Community Ombudsman gladly takes these commendations and forwards them to the officer and chief of police.

In 2007, ten (10) Commendations were filed with the Office of the Community Ombudsman. The commendations acknowledged 15 separate officers. All commendations were sent to the involved officers and their supervisors for acknowledgement. Commendations can be viewed on our website.

2003	2004	2005	2006	2007
8	8	9	5	10
Commendation Total 5-Year Comparison				

APPEAL

Appeals may be filed if a person is not satisfied with the findings issued by the Boise Police Department. Upon receipt of an Appeal, the ombudsman reviews the internal investigation conducted by BPD and determines whether or not the investigation was complete and thorough. The ombudsman may issue a finding based on the strength of the department's own internal investigation or he may conduct an additional investigation and then issue a finding.

Individuals must file Appeals with the ombudsman within 30 days of receiving notification of a finding issued by the chief of police for a complaint the person filed directly with the Police Department. The ombudsman may grant an exception to the appeal time limit in cases where the complainant was unable to request an appeal during the 30 days due to an involuntary incapacity (e.g., hospitalization, incarceration, etc.)

In 2007, three (3) Appeals were filed with the Office of the Community Ombudsman. These cases involved both the Boise Police Department and the Boise Airport Police and were filed after the complainant was unsatisfied with the findings issued by the Office of Internal Affairs.

2003	2004	2005	2006	2007
1	0	4	3	3
Appeal Total 5-Year Comparison				

OTHER AGENCY

Occasionally the ombudsman receives complaints that are outside of his jurisdiction. If the ombudsman discovers that he does not have jurisdiction over a complaint, either the complainant is directed to contact the correct agency or the ombudsman forwards the complaint to the appropriate agency. If the ombudsman forwards the complaint, a case is opened and it is classified as Other Agency. Five (5) Other Agency cases were opened in 2007.

2003	2004	2005	2006	2007
12	13	15	5	5
Other Agency Total 5-Year Comparison				

INQUIRY

Inquiries constitute the largest percentage of formal cases. Inquiries are the name given to a complaint that does not, on its face, contain an allegation of policy or law violation. Nonetheless, the person contacting the ombudsman is questioning the actions of a Boise law enforcement officer or agency. As such, the ombudsman is obligated to look into the circumstances underlying the expressed concern or question. If possible, a satisfactory resolution of the problem is sought. The ombudsman often acts as a mediator between the person and the involved Boise City law enforcement agency.

In 2007, the Office of the Community Ombudsman opened 102 Inquiries. 78 of these Inquiries were classified as Rapid Resolution Inquiries and were forwarded to BPD. The remaining Inquiries were classified as either Policy Questions (9) or Service Quality (15) and were handled by the ombudsman. Only three Inquiries involved the Airport Police. This report includes examples of some of the Inquiries received in 2007 that were addressed by the ombudsman or resolved by BPD as a Rapid Resolution.

2003	2004	2005	2006	2007
208	193	156	152	102
Inquiry Total 5-Year Comparison				

RAPID RESOLUTION INQUIRIES

Due to the large percent of inquiries opened by the ombudsman and the time involved seeking an answer or mediating a resolution, a process improvement was sought to provide a response in a shorter amount of time. In April 2005, the ombudsman, with the cooperation of the police department, developed a new process designed to resolve issues quickly by putting individuals in direct contact with first-line supervisors. This process improvement has reduced the average time to resolve an issue

from weeks to just a few days.

The rapid resolution process is initiated when an inquiry is filed by an individual. After reviewing the inquiry, the ombudsman decides if the resolution could be expedited by involving the police directly. A formal case is then opened and a division captain at BPD is contacted. The captains are requested to either contact the person themselves, or delegate the contact to the appropriate supervisor in order to provide a “rapid resolution”. This process allows a supervisor to find out quickly what happened and resolve any questions or concerns directly with the individual.

The captain is obligated to contact the ombudsman once the Inquiry has been resolved. After receiving an explanation of the outcome, the ombudsman follows up with the individual. If for any reason the individual is not happy with the contact by the supervisor, or if they still have questions, the individual has 30 days in which to contact the ombudsman with their concerns.

The Office of the Community Ombudsman takes special care in making sure that the complainants understand the process and are comfortable in speaking with a BPD supervisor. Many people have been eager to have the opportunity to speak directly to someone in BPD. Very few have indicated that they would feel uncomfortable speaking to someone from the police department. However, when such a preference is made known, the ombudsman will look into the Inquiry.

Out of the 102 Inquiries received in 2007, a total of 78 were resolved using the Rapid Resolution process. Of those cases, 76 involved BPD and 2 involved the Airport Police.

Admin	Airport	Bench Patrol	Valley Patrol	CID	COD
5	2	20	22	16	13
2007 RRI by BPD Division					

CRITICAL INCIDENTS

Critical Incidents are specifically addressed in the City ordinance that governs the Office of the Community Ombudsman. It requires that the ombudsman be notified immediately whenever an employee of the Boise Police Department or the Boise Airport Police Department is involved in a Critical Incident. When a Critical Incident occurs, the ombudsman is required to act as an observer to any criminal, civil, or administrative investigation conducted by or on behalf of the police department. In addition, the ombudsman has the authority to conduct his own independent administrative investigation into the critical incident.

Critical Incidents are defined by Boise City ordinance in the following manner:

- Use of force or any other department action that results in death or serious bodily injury (Serious bodily injury is an

injury that results in the subject being admitted to a hospital.),

- or Use of Deadly Force where only minor bodily injuries occur,
- or Intentional use of Deadly Force but no injury occurs (excluding animals),
- or Vehicle pursuits, roadblocks or intercepts resulting in death or serious bodily injury,
- or when a Boise Police employee is involved in a traffic accident resulting in death or serious bodily injury, while operating either a city or a private vehicle while on City business.

2003	2004	2005	2006	2007
6	3	8	3	7
Critical Incidents Total 5-Year Comparison				

COMPLAINTS

Complaints are divided into two different classes, Class I and Class II. This distinction is related to the severity of the misconduct being alleged. In practice, all complaints receive a thorough and objective investigation and little or no practical distinction is made between the two different classes of complaints.

When a violation of policy, procedure, or law is alleged, the complaint must be filed within 90 days of the occurrence of the incident that gave rise to the complaint. The ombudsman may grant an exception to this time limit when the initial evidence presented constitutes a violation so severe that criminal charges, termination or serious disciplinary action could result if the allegation were to be sustained, or when the complainant was unable to file a Complaint during the 90 days due to an involuntary incapacity (e.g., hospitalization, incarceration, etc.).

Class I	Class II	Total
17	10	27
2007 Complaints		

CLASS I COMPLAINTS

When a person files a Class I Complaint with the Office of the Community Ombudsman, it is often the case that more than one officer was involved in the underlying incident. The ombudsman tracks each reported act of misconduct by each of the involved officers. During the investigation, if additional misconduct is discovered, new allegations will be listed. This enables the ombudsman's office to report a finding for each complaint allegation and to track allegations by type and by officer. In the 17 Class I cases opened in 2007, 44 separate allegations were made. All of the Class I complaints involved the Boise Police Department.

2003	2004	2005	2006	2007
14	8	11	12	17
Class I Complaints 5-Year Comparison				

CLASS II COMPLAINTS

Class II Complaints are tracked in the same manner as Class I Complaints. When a person files a Class II Complaint, the ombudsman tracks each reported act of misconduct by each of the involved officers.

In 2007, there were 10 Class II cases opened by the Office of the Community Ombudsman with 17 separate allegations. The Boise Police Department was involved in all of these cases.

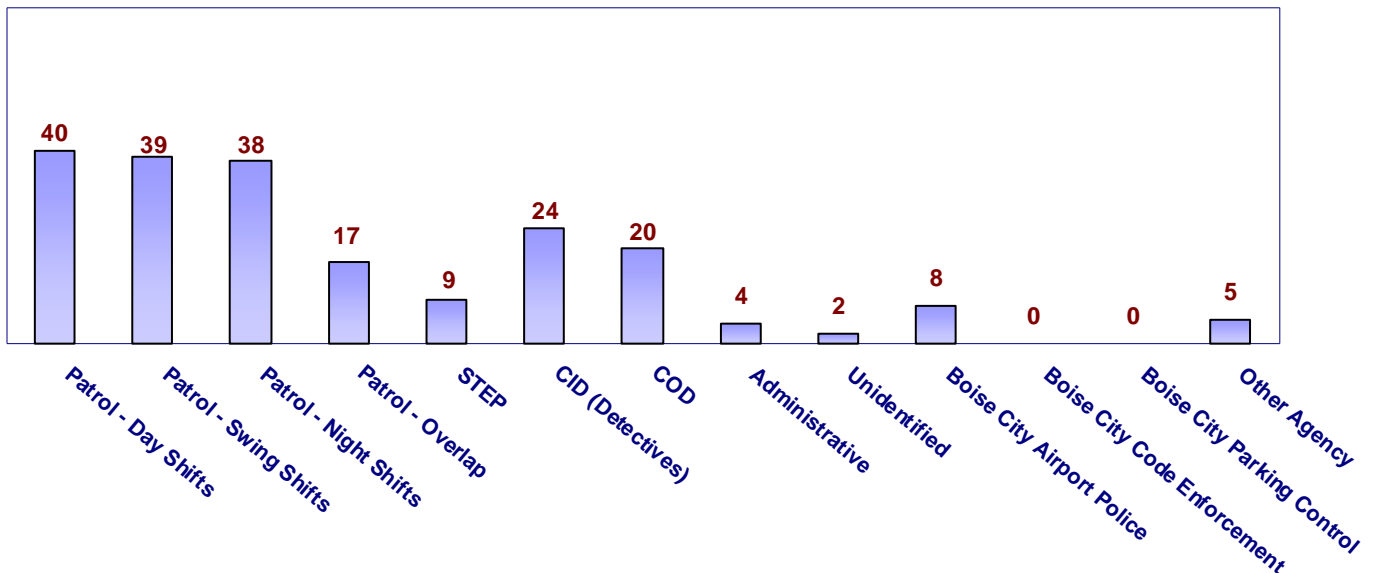
2003	2004	2005	2006	2007
12	14	7	15	10
Class II Complaints 5-Year Comparison				

2007 ALLEGATION TOTAL

In 2007, 206 allegations were included in the 154 cases opened. Each case tracks any allegations presented by the complainant. Some of these cases contain more than one allegation for a particular officer and/or contain allegations for multiple officers.

Allegations indicate the type of misconduct alleged or type of Inquiry. Commendations and Other Agencies are tracked both by allegations type as well as formal case classifications.

Commendations/Allegations/Inquiries by Division
All Agencies
January 1, 2007 - December 31, 2007
Total = 206

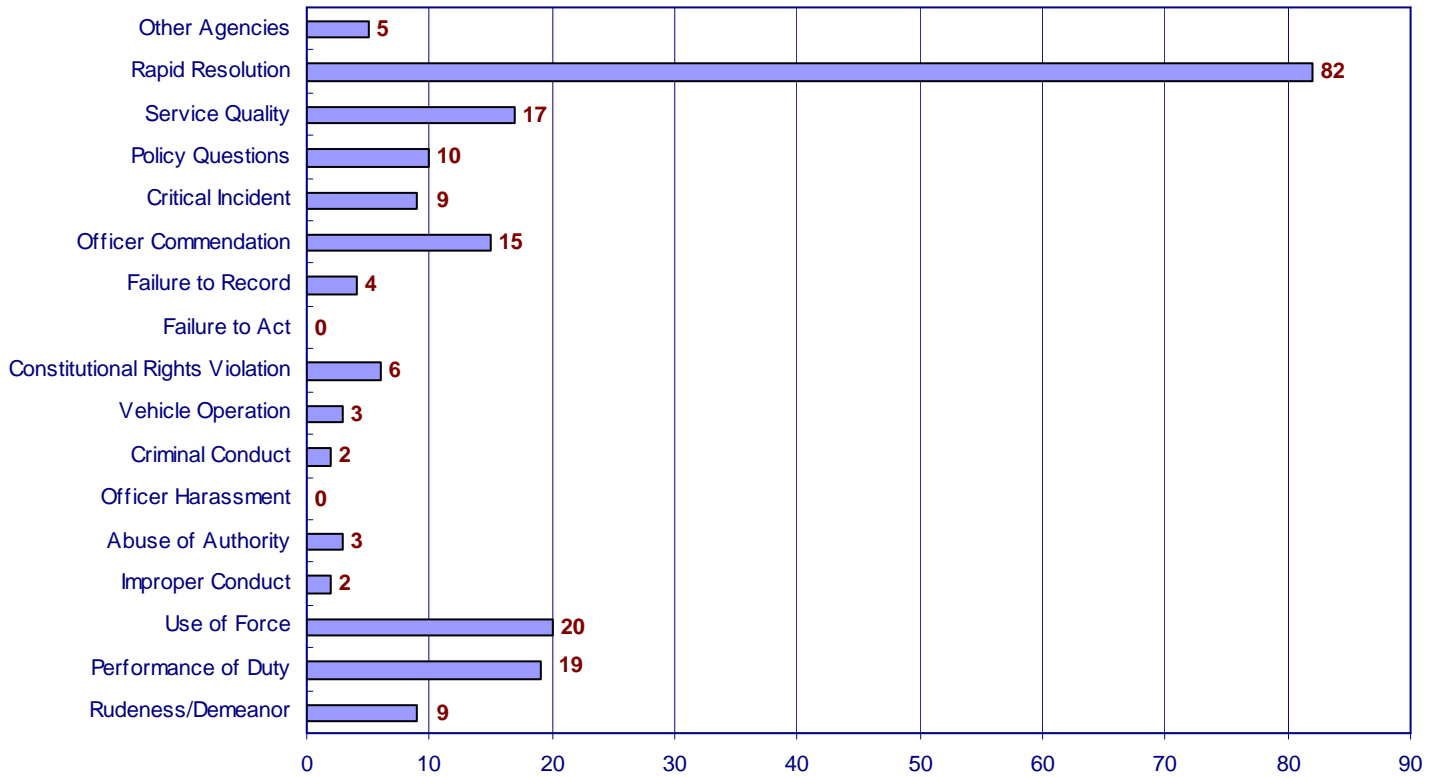


Nature of Commendations/Allegations/Inquiries

All Jurisdictions

January 1, 2007 - December 31, 2007

Total = 206



Commendations/Allegations/Inquiries by Case Classification

All Agencies

January 1, 2007 - December 31, 2007

Total = 206

ALLEGATION TYPE	Class I	Class II	Inquiry	Commendation	Appeal	Critical Incident	Other Agency	
Other Agencies							5	5
Rapid Resolution			82					82
Service Quality			17					17
Policy Questions			10					10
Critical Incident						9		9
Officer Commendation				15				15
Failure to Record	2	1			1			4
Failure to Act								0
Constitutional Rights Violation	6							6
Vehicle Operation		3						3
Criminal Conduct	2							2
Officer Harassment								0
Abuse of Authority	2	1						3
Improper Conduct	2							2
Use of Force	18				2			20
Performance of Duty	7	8			4			19
Rudeness/Demeanor	5	4						9
ALLEGATION TOTAL	44	17	109	15	7	9	5	206

2007 CASE STUDIES

The following demonstrate the variety of cases that are received by the Office of the Community Ombudsman. Public reports are not issued for Inquiries, cases in which no policy violations are alleged; however, complete investigative reports for Critical Incidents and Complaints can be found on our website by the corresponding case number under “2007 Investigative Reports”.

Inquiry # 1 OMB 07/0004

A man contacted the ombudsman alleging that, when he was pulled over and issued a traffic citation, a BPD officer placed his hand on his gun and unfastened the snap on his holster. The driver stated that, when he made a comment to the officer about not drawing his gun, the officer made a comment similar to, “I don’t need my gun to take you out.” The driver requested that the ombudsman look into the incident. He wanted to have the officer cited for not using a turn signal prior to changing lanes in order to conduct the traffic stop. He also wanted the officer charged for threatening the life of an adult in front of a minor, as his juvenile child was present when the officer placed his hand on his gun and suggested it was not needed to cause harm to the driver. The ombudsman read the police report and listened to the audio recording of the traffic stop. When his review of the incident was complete, he contacted the driver and addressed his questions.

It was explained that Idaho Statute § 49-623 specifically exempts the driver of an authorized police vehicle from certain basic driving rules when, “in the pursuit of an actual or suspected violator of the law.” The audio recording and police report confirm that the officer had identified the driver as a violator prior to the traffic stop and therefore would have been exempt from signaling his lane change, had he failed to do so. There was no way to verify the assertion that the officer un-snapped his holster. However, it is likely that the officer had his hand on or near the handle of his handgun at some point during the traffic stop. This would not be a violation of any policy; in fact, officers are trained, for their own safety, to ensure that their hand is near their weapon when approaching a vehicle during a traffic stop. Finally, the ombudsman explained that the simple statement made by the officer did not constitute a threat. It was a statement of opinion and could just as easily be interpreted as intending to remove any doubt about whether a firearm might be used.

Inquiry # 2 OMB 07/0063

The owner of a local hotel contacted the ombudsman with concerns about a citation that she was issued and requested a review of BPD procedures. The owner was cited for petit theft after a hotel guest called the police to report that the owner would not release his personal items. The owner had locked the guest out of his hotel room, forcing him to contact her. This was done after the guest had broken a window and failed to check out on time. The owner explained to the guest that she planned to hold his personal items until the bill for the broken window and the charge for the additional night was paid in full. When police arrived, the owner refused to release the guest’s items, citing a provision of Idaho Code that provides hotel operators with means to insure that payment is received.

The ombudsman spoke with the Boise City Legal Department regarding Idaho Hotel Law and discussed any misunderstandings of BPD’s role in responding to such instances. It was discovered that the citation issued to the hotel owner was dismissed by the City Prosecutor and that a criminal complaint was not filed. Also, BPD researched the matter and will be conducting on-going training and education to its officers concerning Idaho State laws concerning hotelkeepers and disputes over unpaid bills with guests.

Inquiry # 3 OMB 07/0101

A woman submitted an email to the ombudsman via the website, www.boiseombudsman.org. She described an incident in which she had been arrested and complained of bruises on her wrists and arm and numbness in her right hand and fingers. She indicated the reason for contacting the ombudsman was to seek payment for her medical bills due to the numbness and bruising caused by the handcuffs during her arrest.

The woman was contacted by phone and Boise City’s tort claim process was explained to her. She was provided the website address where she could obtain a copy of the claim form as well as the phone number for the City Clerk’s Office. The woman appreciated the explanation.

Inquiry # 4 OMB 07/0134

When a man was pulled over by a BPD officer for a faulty turn signal, he told the officer that he thought it was odd that the officer would run a warrant check on his name and ask him if he had ever been in any type of trouble. The man described the officer’s reaction to this simple comment as confrontational. He also felt that the officer was being vindictive by issuing him a citation. The man requested that the ombudsman listen to the officer’s audio recording of the traffic stop and determine if he was being rude or antagonistic toward the officer. The man indicated that, if he was, he would gladly apologize; otherwise he hoped the officer would be able to accept responsibility for his poor behavior.

After listening to the audio recording, the ombudsman discovered that the event had occurred in the manner described. The man was not offensive or discourteous, asked only a few questions, and shared an opinion. The ombudsman felt that the officer’s demeanor and tone of voice were less than optimal. Although his demeanor did not rise to the level of a policy violation warranting discipline, the ombudsman felt that some follow-up was necessary. The matter was referred to BPD in order for the officer’s supervisor to provide him with the appropriate counseling and direction.

Rapid Resolution Inquiry #1 OMB 07/0023

A woman was sitting in her backyard with her husband when they noticed two strange men carrying a large item obtained from their neighbor’s backyard down an alley. The woman’s husband questioned the men. Then men told him to mind his own business. The woman called the police to report a possible theft. The police responded and made contact with the men.

The woman called the Office of the Community Ombudsman wanting to know what happened as a result of the call she made to the police. She felt the responding officers should have followed up with her after the incident.

The matter was referred to a BPD captain, who identified the responding officers and asked their supervisor to contact the woman and explain the outcome of her call. The supervisor and the woman discussed the incident. She explained her concern that the officers did not return to talk to her after completing their investigation. The supervisor thanked the woman for her feedback, indicating that BPD was continually working to improve their customer service, and provided the feedback to the responding officers.

Rapid Resolution Inquiry #2 OMB 07/0058

At a gas station, a man pulled up to a gas pump. Immediately in front of him was a pickup truck parked facing his vehicle. The driver of the pickup truck was behind the pickup filling containers with gas. Since the pickup was taking up so much room, the man had to pull very close to the pickup in order for the gas hose to reach his vehicle. The driver of the pickup accused the man of hitting the parked pickup when he pulled up to the gas pump. The man argued with the pickup driver stating that, although he had come close, his vehicle did not collide with the pickup. The man then backed up and left the gas station. Later, an officer arrived at his residence with a citation for leaving the scene of an accident. The man contacted the Office of the Community Ombudsman questioning the legitimacy of a citation issued for an incident that occurred on private property.

A BPD supervisor contacted the man after researching the details of the incident. A police officer responded to the gas station after the driver of the pickup reported the collision. The officer noted there was slight damage to the pickup and concluded that a collision had taken place. In general, police officers can not issue citations for most violations on private property. Leaving the scene of an accident is an exception. The officer did not issue the citation simply because the driver of the pickup requested him to do so. There was damage to the calling party's vehicle and a collision investigation had been made impossible because the man left the scene.

Rapid Resolution Inquiry #3 OMB 07/0085

A woman contacted the Office of the Community Ombudsman wanting to know why a Boise Police officer was routinely directing traffic in front of a local church. The woman indicated that the officer stops traffic on a busy road in order to direct vehicles out of the church's parking lot and onto the street. She stated that this occurs every Sunday and interferes with her making it on time to her own church. The woman wondered about the legality of the officer directing traffic. She questioned who was paying for the services rendered by the officer. She didn't feel that it would be fair for taxpayers to pay for an officer to favor a church and its parishioners while other taxpayers have to sit in traffic waiting for the parking lot to empty. She also wondered about the separation of church and state and if a church would be able to pay for such service.

A supervisor from BPD contacted the woman to explain the situation. He told her that BPD was working under a contract

with the church to provide traffic control. All associated costs were covered by the church. The supervisor explained that the woman would need to continue her dialogue with the church to determine if a compromise could be reached.

Rapid Resolution Inquiry #4 OMB 07/0096

A resident contacted the ombudsman indicating that he did not understand the process regarding the auctioning of vehicles that are impounded by BPD. He felt that there were people who needed economical vehicles and questioned why they are not able to obtain the vehicles from the police impound yards at little or no cost. The resident indicated that he felt the police should not be lining their own pockets by selling vehicles to dealers who were just going to turn around and sell the vehicles for even more money. The inquiry was opened as a Rapid Resolution and forwarded to BPD to respond.

A BPD supervisor explained to the resident that BPD does auction vehicles from time to time. The auctions consist mostly of police vehicles that have met the City's requirement for retirement (usually 8 years or 80,000 miles). The vehicles are auctioned off to offset the cost of buying new vehicles. This revenue stream is required so the Police Department can continue to provide service to the citizens of Boise while staying within an allotted budget.

Class I Complaint #1 OMB 07/0005

The complainant was downtown with a number of people who were either standing in or walking across the street. The officers gave orders for people to get out of the street and one or more of the officers pushed, shoved, or escorted some individuals toward the sidewalk. At some point the officers encountered the complainant and her companions who also were in the street. The complainant was arrested for Resisting and Obstructing and booked into the Ada County Jail.

The complainant alleged that immediately prior to her arrest, a BPD officer used unnecessary and unreasonable force by pushing and shoving several individuals from behind without warning. She further alleged that a second BPD officer pushed her down and forced her into the back of a police car in a use of force that was unnecessary. Finally, the complainant alleged that while she was at the jail waiting to be booked, a third BPD officer made an antagonistic and hurtful statement to her.

There is no dispute that the first officer touched two or more subjects as he was ordering them to get out of the street. There were no known injuries associated with his use of force. The officer had the lawful authority to order people to get out of the street. In fact, it could be argued that he had a duty to do so, given the danger to pedestrians and motorists alike. The officer was authorized by BPD policy to use force, so as long as the amount of force employed was, "reasonable and necessary to protect life, affect a lawful arrest, and/or gain control in any lawful circumstance." The officer's soft, empty-hand tactics were the least amount of force available to him and a finding of exonerated was issued for the allegation against him.

The investigation did reveal that the second officer did, in fact, push the complainant on the head and force her to sit down on the rear seat of a police car. Based on the evidence of the audio

recording made by the officer and testimony of other officers present it is clear that the complainant failed to follow the officer's command that she sit down in the police car. It was evident that she was afforded an opportunity to sit down on her own before the officer used his hands to push her down onto the seat. The officer's hand provided the least amount of force available to him to gain the complainant's compliance with his lawful order that she sit down in the police car. A finding of exonerated was issued in regards to the allegation.

The identity of the officer who allegedly made a hurtful comment to the complainant could not be determined and a finding of no finding was issued in connection to the allegation.

Class I Complaint #2 OMB 07/0048

The complainant attended a concert at the Taco Bell Arena along with his wife and friends. During the concert, the complainant went outside the perimeter gate. When he tried to come back inside, he found the gate locked. When he climbed over the fence, a security guard escorted him back outside since no reentry was allowed. However, the complainant climbed the gate again. This time the security guard called for assistance from BPD and two officers arrived on scene. One of the officers deployed a Taser at the complainant, but it was not effective and the complainant ran from the officers and away from the arena. A few minutes later the complainant appeared on the other side of the arena where he was arrested by BPD officers and taken into custody for Trespassing and Resisting and Obstructing officers. The complainant alleged that a BPD officer used excessive force during his arrest, specifically the use of the Taser.

The complainant attempted to return to the Taco Bell Arena after having left the grounds. He was told by security officers that he could not reenter the arena and that he was subject to arrest for trespassing. A BPD officer also told the complainant that he had to leave the arena and that failing to leave would result in his arrest for trespassing. That officer and the two who assisted him reported that the complainant took an "aggressive" posture and moved toward one of the officers. In response, the officer deployed his Taser. When the complainant returned to another arena entrance he was arrested for trespassing. He attempted to pull away from this arrest and was subdued using a Lateral Vascular Neck Restraint. The preponderance of evidence shows that the complainant failed to follow officers' repeated commands, displayed a belligerent demeanor, and took aggressive action toward an officer. For these reasons a finding of exonerated was issued in connection with the complainant's allegation of excessive force.

Class I Complaint #3 OMB 07/0034

The complainant alleged that BPD officers used more force than was necessary on him. He alleged that, while he was on the ground, a BPD officer hit him around his face and head and another officer bent his leg so far back that his knee was damaged. The complainant suffered bruises to his nose and inner lip. He also suffered a knee strain with possible soft tissue damage.

It was clear that the complainant had been injured. But the fact that the complainant suffered injuries did not, by itself, prove

that officers used excessive force.

The complainant was socializing and having drinks with friends at downtown bars when he became involved in an altercation that drew the attention of two police officers. Eight additional officers arrived at the scene to assist in helping keep the large and unruly crowd under control. The first two officers were able to take the complainant to the ground and handcuff him after a struggle. As the officers helped him to stand up, the complainant started kicking his legs. One of the officers forced the complainant back to a prone position in order to hobble him. The complainant stiffened and did not comply with the officers' commands to release his legs. One officer delivered knee strikes to the complainant's left leg. After the knee strikes the officers were able to flex the left leg back. The complainant then refused to bend his right knee. Another officer tased him one time on his upper right leg, after which the officers were able to bend back the complainant's right knee and place him in hobbles. The complainant was arrested for Public Intoxication and Resisting and Obstructing officers. He was transported first to the jail and then to the emergency room at a local hospital, where he was examined, treated, and returned to jail.

In making a determination on the necessity of using force and the reasonableness of the force used, one must look at the situation from the point of view of a reasonable officer under the presented circumstances. The complainant was a large and physically powerful man. He appeared to have been in a physical altercation with a friend or bystander immediately before his confrontation with the police. He apparently had the intent to charge one of the officers and resisted being handcuffed. He tried to kick the officers and used the motion of his body to resist them. The officers were in danger of being injured.

It was critical that the complainant's legs, once flexed to the point that the hobbles could be applied, not be released. Releasing them would have given the complainant the opportunity to kick the officers, throw them off, or otherwise hurt or incapacitate them. If, during the course of the struggle, the officers bent the complainant's right leg back far enough to cause a soft tissue injury, their use of force was reasonable and necessary in order to get the complainant hobbled and to protect them from injury. For these reasons, findings of exonerated were issued for each of the three involved officers with respect to their actions.

Class I Complaint #4 OMB 07/0055

The Office of the Community Ombudsman received a call from a woman who would not give her name or contact information. She alleged that she just witnessed a male BPD officer slam a young adult male's head into the side of a phone booth without apparent cause or necessity. She provided the location of the specific convenience store where the incident took place. In addition to a description of the two officers, she furnished the number of one of the police cars parked nearby. An inquiry was opened to determine the identities of the officers and the young man involved. Once the identity of the young man was determined, he was contacted.

A Class I Complaint was opened after the young man alleged that an officer pushed the front of his head into the frame of a

phone booth in front of the convenience store. The complainant stated that he was cooperative with both officers and there was no reason for one of them to push his head into the phone booth.

The officers were dispatched to a call received from the complainant's mother stating that her son had just left their residence after punching the walls and breaking things. While one of the officers contacted the mother by cell phone, the other searched the area and located the son (the complainant) at a nearby convenience store. Both officers approached the complainant. The officer who had spoken to the complainant's mother had been given information indicating that her son may have committed a misdemeanor. This information clearly authorized the officer to detain the complainant for a reasonable amount of time while he and the other officer investigated the possible crime reported by the mother.

The officer described the complainant as defiant and potentially uncooperative in his expression and posture as the officer got out of his car. He also reported that the complainant "recoiled" when he touched him; tensing his body and beginning to pull away. The officer feared that the complainant might attempt to resist, become physically aggressive, or produce a weapon from underneath his baggy clothing. For those reasons, the officer began to conduct a pat down search.

The officer used his hands and his body weight to control the complainant's hands and body immediately before and during the pat down search. To stabilize the complainant, the officer placed his hand on the back of the complainant's head and pinned him against the side of the phone booth. At some point the complainant's forehead struck the phone booth. There is no evidence to suggest the officer meant to push the complainant's head into the phone booth as the pat down search was being conducted. The complainant's forehead striking the phone booth appears to have been the result of an accident due to movement by both the officer and the complainant, as well as their close proximity to the phone booth. A finding of exonerated was issued in connection with the allegation of excessive force.

The complainant did not object to the officer's brief "frisk" of his outer clothing. This was neither part of his complaint, nor part of the objection of the woman who called shortly after the incident. Nonetheless, since the officer's use of force came about as he began to frisk the complainant; an examination into the officer's decision to conduct a pat down search was conducted.

BPD policy requires that officers have "reasonable suspicion" that a person is armed and dangerous in order to conduct a pat down search. The officer was unable to offer any information or factors specific to the complainant that directly pointed to the presence of a weapon, other than the association he made between the complainant's baggy clothing and the clothing often worn by gang members who are sometimes armed. Because the officer had information that alerted him to the possibility of aggression and resistance from the complainant, it was reasonable to use caution around him. It was not so reasonable to suspect that he was armed. Had contraband or evidence of a

crime been found as a result of this pat down search, its admissibility in court may have been in doubt. The ombudsman made BPD aware of the questions raised in this investigation and suggested that they review legal training provided to their officers on the topic.

Class I Complaint #5 OMB 07/0054

An investigation was conducted after the complainant alleged possible violations of the policies regarding Performance of Duty and False Reporting. The complainant alleged that he was arrested without probable cause. He also alleged that a BPD officer incorrectly reported that the complainant made derogatory statements to the officers before he was arrested. The complainant maintained that he made the statements after he arrived at the jail.

A review of the officers' audio recording of the incident suggests that the complainant made derogatory statements at the scene. The officers' statements, together with the complainant's words on the audio recording, show by a preponderance of the evidence that the officer made no false representation of facts in his police report. The officer was exonerated for the allegation of False Reporting.

Even though the complainant's statements to the officers were not a basis for charging the complainant with disturbing the peace, the complainant did engage in actions that appeared to be an attempt to prevent the officers from effecting a lawful arrest of another individual. This action, combined with the odor of alcohol and the complainant's red eyes, provided probable cause for the complainant to be placed under arrest for public intoxication, a misdemeanor that was committed in the officer's presence. The arresting officer was exonerated for the allegation made against him.

Class I Complaint #6 OMB 07/0082

The complainant alleged that paramedics and police officers assaulted him, kidnapped him, and held him prisoner. He explained that he was exiting a building when the paramedics and police rushed in to the foyer. He described the police officers pinning him to the wall and telling him that he would be arrested if he did not undergo medical testing. The complainant also had bruises that he alleged were caused by the incident.

The ombudsman investigated the allegations of the use of unreasonable and unnecessary force. The investigation found no evidence to support the complainant's claims. The preponderance of the evidence indicates that the complainant was highly intoxicated and passed out in the elevator of an apartment building where he does not live. After a report was made to Ada County Dispatch regarding an unconscious person in the elevator, a fire engine team responded to the scene. EMS personnel arrived shortly after the firefighters. The police arrived approximately 15 minutes later, after the firefighters requested police assistance because of their concern that the complainant might become violent. As the firefighters roused the complainant he became belligerent and used vulgar language toward the emergency responders.

There is no evidence that any kind of tussle occurred and there are no facts to support a claim that the officers used force

against the complainant. There is no evidence to support the complainant's claims that the police officers pinned him against the wall and told him they would arrest him if he refused to undergo medical testing. Therefore, findings of unfounded were issued to both officers who responded to the scene.

Class II Complaint #1 OMB 07/0039

An officer observed three individuals, including the complainant and two other subjects, consuming what he believed to be alcohol along the Boise River in violation of Boise City Code. While two of the individuals were drinking from cans, the complainant possessed a glass container, another violation of City Code. The two individuals drinking from cans were each issued a citation for open container, and one also received a citation for littering, because he had tossed his container into the rocks along the river. Both admitted their involvement in the violations and cooperated by removing the cans from the area. The complainant, however, admitted nothing and his bottle was not recovered. He was arrested and booked into the Ada County Jail.

The complainant alleged that the officer violated his Fifth Amendment right against self-incrimination during his arrest for possession of an open container of alcohol, possession of a glass container, and littering while on the Boise Greenbelt.

The officer asked the complainant questions that would certainly have the tendency of eliciting an incriminating response. However, Miranda only applies if the complainant was asked these questions after he was in custody. It was not clearly apparent, based on the preponderance of the evidence, that the complainant was in custody for the purposes of Miranda. Therefore, the ombudsman issued a finding of not sustained.

The disparate treatment of the complainant and the other two individuals was also reviewed. All three were suspected of the same type of criminal activity. The complainant was arrested and booked into jail, while the other two were cited and released at the scene. The difference appears to have occurred because the other two individuals admitted to their crimes while the complainant denied his. The officer even offered to release the complainant on a citation if he would retrieve the discarded bottle. There is no clear evidence that the officer used the arrest of the complainant to punish him, which would be a violation of policy. It appears that the officer was using his discretion to book rather than release the complainant on citation. Therefore, a finding of not sustained was issued concerning the alleged violation of Guidelines for Issuing Citations.

Class II Complaint #2 OMB 07/0042

Two Boise Police officers went to a downtown bar and spoke with two employees, the kitchen manager and the bartender. The two employees reported the substance of that conversation to the bar owner who felt the comments attributed to the officers were threatening and inappropriate. The bar owner contacted the Office of the Community Ombudsman alleging that the officers threatened to shut down the business if the bar did not change its closing time. It was alleged that the officers blamed the business for violence and other problems in the area.

The conversation between the bar employees and officers was not recorded. Such recording is not required by policy in these circumstances. The officers had contacted the employees at the bar with the intention of getting and imparting information. They wanted to know what changes were being made to the business. They were especially concerned about incidents of violence in the immediate area of the business and the downtown area in general. It appears that there was some miscommunication between the involved parties, as is often the case when people are coming from two different points of view. The officers were attempting to convey their concerns about the impact of the bar on their ability to provide police service. They wanted the bar to close at 2:00 a.m. for what they believed were legitimate police concerns. They felt that the bar manager with whom they were speaking was in agreement with them, although perhaps for different reasons.

Community Policing is about the police working with the community to solve problems. That is what the officers were attempting to do in this case. It was an attempt to better serve the community by addressing a perceived problem. Obviously there were communication problems and some of those involved did not fully understand police practices. It is also apparent that the officers may not have realized how the bar owner would react to their statements.

There was no indication that the officers threatened to harass the bar or take illegal action against the owner. They were not profane; nor does it appear that they were intentionally antagonizing the two employees with whom they spoke. Therefore, the ombudsman issued findings of exonerated in connection to the allegation made by the complainant. The ombudsman also suggested that BPD consider establishing a forum for bar owners and managers to meet regularly with police command staff, supervisors, and officers who serve on the bar team. It is hoped that better communication, understanding, and problem solving would result.

Class II Complaint #3 OMB 07/0060

A BPD officer conducted a traffic stop on a vehicle in downtown Boise. The driver of the vehicle failed a series of field sobriety tests administered by the officer and was placed under arrest for suspicion of Driving Under the Influence (DUI). The driver was transported to the Ada County Jail.

The driver contacted the Office of the Community Ombudsman alleging that the officer failed in the performance of his duty by demanding that the driver submit to a blood test instead of a Breathalyzer test. The driver also claimed that the officer intentionally took a long time performing the various tasks associated with the initial traffic stop and his subsequent arrest.

With regards to the driver's allegation that the officer intentionally slowed down the arrest and booking process after the driver asked him to hurry up, the evidence clearly shows that the opposite is true. The officer's audio recording undeniably shows that the driver's persistent, loud vocalizations made it difficult for the officer to do his job.

The allegation that the officer did not allow the driver to take a Breathalyzer test is also not true. The officer's audio recording

indicates that the officer tried twice to complete the Breathalyzer process, but the driver blocked progress by shouting and refusing to follow the officer's simple directions. Each time the driver's behavior interrupted the Breathalyzer testing process, the officer offered the opportunity to have a blood test instead. When a person is arrested for DUI, Idaho Statutes require the arresting officer to offer one of three evidentiary tests to determine the arrestee's blood alcohol content. The three tests are blood, breath, or urine. The officer can choose which one of the three tests to offer. The arresting officer is not required to offer the arrestee a breath test. BPD policy also does not require its officers to offer a DUI arrestee a breath test instead of one of the other two tests.

Based on all the above, the ombudsman issued a finding of unfounded in regards to the allegation concerning the officer's duty performance.

Critical Incident # 1 OMB 07/0040

An officer-involved shooting inside a store located on Federal Way, occurred in April and was still under investigation by the Office of the Community Ombudsman as of December 31, 2007.

Critical Incident # 2 OMB 07/0049

A vehicle pursuit by the Boise Police Department resulted in a collision by the pursued subject in April. The subject sustained serious injuries that required hospitalization. The ombudsman reviewed the investigation conducted by the Office of Internal Affairs and agreed with its completeness and the findings of the investigation. No further investigation by the ombudsman was necessary.

Critical Incident # 3 OMB 07/0086

In June, a shooting suspect sustained injuries from a K9 bite that required hospitalization. After review of the investigation conducted by BPD, the ombudsman decided that no further investigation was necessary.

Critical Incident # 4 OMB 07/0095

A BPD officer was responding to an emergency when his vehicle collided with another vehicle near Capitol and Myrtle, in July. The driver of the other vehicle had to be hospitalized for injuries received from the collision. The ombudsman reviewed the completed investigation by the Office of Internal Affairs and determined it to be thorough, objective, and complete. No further investigation by the ombudsman was deemed necessary.

Critical Incident # 5 OMB 07/0111

In September, a BPD officer was in pursuit of a bank robbery suspect and performed a PIT maneuver to stop his vehicle. Prior to being taken into custody, the suspect died of an apparent self-inflicted gunshot wound. As of December 31, 2007, the incident was still under investigation.

Critical Incident # 6 OMB 07/0130

During an attempt to arrest a subject for an outstanding warrant in October, a Taser was deployed. The Taser probes connected with the back of the subject's head, requiring hospitalization of the subject. This case was still being investigated by the om-

budsman as of December 31, 2007.

Critical Incident # 7 OMB 07/0143

During a vehicle pursuit in November, the subject's vehicle collided with a cement pole. The subject was admitted to the hospital for injuries sustained in the collision. This investigation was still active as of December 31, 2007.

OIA AND OMB COMBINED BPD COMPLAINT STATISTICS

The Office of Internal Affairs (OIA), of the Boise Police Department, also receives complaints from citizens about the actions of Boise Police employees. These complaints are divided into Class I or Class II Complaints.

The following charts show the Class I and Class II Complaint totals for both OIA and the Office of the Community Ombudsman (OMB) in 2007 and the Complaint totals for both OIA and OMB over the past five years.

2007 Complaint Type: OIA vs. OMB			
	Class I	Class II	Total
OMB	17	10	27
OIA	12	15	27
Type Total	29	25	54

OIA vs. OMB Complaint Total: 5 Year Comparison					
	2003	2004	2005	2006	2007
OMB Total	22	21	16	26	27
OIA Total	74	67	33	42	27
Total	96	88	49	68	54

ANALYSIS OF CLOSED CASES

Beginning with its inception in 1999, and ending December 31, 2007, the Office of the Community Ombudsman has opened 2,115 formal cases. 2,094 of those cases have been closed, leaving only 21 cases remaining open as the year 2008 began. Those 21 cases were opened in 2007 and still under investigation as the new year began.

The Office of the Community Ombudsman strives to thoroughly investigate each case in a timely manner. The total time spent on a case is tracked as Investigative Hours. The number of days a case remains open is also tracked. The days elapsed in a case is the number of days from when a case was opened to when it was closed.

MEAN

The arithmetic average. The sum of all values divided by the number of values.

MEDIAN

The value in the middle of a set of values having equal values before and after the median.

MODE

The value that occurs the most often in a set of numbers.

Year	Total Cases Opened	CASES CLOSED BY YEAR									Total Cases Closed	Cases Open As Of 01/01/08
		1999	2000	2001	2002	2003	2004	2005	2006	2007		
1999	50	33	17								50	0
2000	366		305	60	1						366	0
2001	374			346	28						374	0
2002	266				248	16	2				266	0
2003	261					223	37	1			261	0
2004	239						212	26	1		239	0
2005	210							192	18		210	0
2006	195								175	20	175	0
2007	154									133	153	21
TOTAL	2115	33	322	406	277	239	251	219	194	153	2094	21

INVESTIGATIVE HOURS BY YEAR										
Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	
Total Cases Closed	33	322	406	277	239	251	219	194	153	
HOURS	Lowest	Investigative hours were not tracked in the years 1999 and 2000.		Investigative hours would not be accurate due to year 2000 case closed during these years.		1	1	1	1	1
	Highest					259	332	106	532	134
	Mode					1	2	2	2	2
	Median					3	4	3	3	3
	Mean					8	9	8	13	12
	Total					1929	2203	1762	2504	1754

A total of 60 cases that were opened in the year 2000 were closed in 2001; and 1 case opened in 2000 was closed in 2002. That case had been opened for a total of 476 days, and would be impossible to determine how many investigative hours were involved in it.

DAYS ELAPSED BY YEAR										
Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	
Total Cases Closed	33	322	406	277	239	251	219	194	153	
DAYS ELAPSED	Lowest	1	1	1	1	1	1	1	1	1
	Highest	69	196	535	479	424	542	441	570	366
	Mode	1	1	1	1	1	1	1	1	1
	Median	7	15	19	14	15	23	15	14	15
	Mean	17	35	49	42	40	76	46	43	58

Findings

TYPES OF FINDINGS

Following the completion of an investigation, the ombudsman issues a finding for each specific allegation of wrongdoing in cases that were classified as either a Class I or Class II complaint. The ombudsman also issues a finding for each officer involved in a Critical Incident. Following are the five types of findings the ombudsman can issue after conducting an investigation.

EXONERATED

The acts that provided the basis for the complaint or allegation did occur, but were justified, lawful, and proper.

UNFOUNDED

The investigation conclusively proved that the act or acts complained of did not occur. This finding also applies when individual officer(s) or employee(s) named were not involved in the act or in acts that may have occurred.

SUSTAINED

The investigation disclosed sufficient evidence to clearly prove the allegation(s) made.

NOT SUSTAINED

The investigation failed to discover sufficient evidence to clearly prove or disprove the allegation(s) made.

NO FINDING

The investigation cannot proceed because the complainant failed to disclose promised information to further the investigation; or the complainant wished to withdraw the complaint; or the complainant is no longer available for clarification. This finding may also be used when the information provided is not sufficient to determine the identity of the officer(s) or employee(s) involved.

STANDARDS OF PROOF

By Phoebe Smith, Deputy Ombudsman

In determining whether an officer has violated police department policy, the ombudsman uses a preponderance of the evidence standard. A preponderance of the evidence means that it is more probable than not that a violation occurred. It means that evidence supporting the finding of a violation, when weighed against the opposing evidence, has more convincing force. In other words, there is a greater probability that the truth lies on the side of a breach of policy having happened.

The evidence to support the finding must, of course, be credible. The evidence relied upon must also be substantial and competent. Substantial and competent evidence is evidence that a reasonable mind might accept as adequate to support a conclusion. If the evidence does not show more than a possibility that something occurred, then the preponderance of the evidence standard has not been met and a finding of a policy violation will not be made.

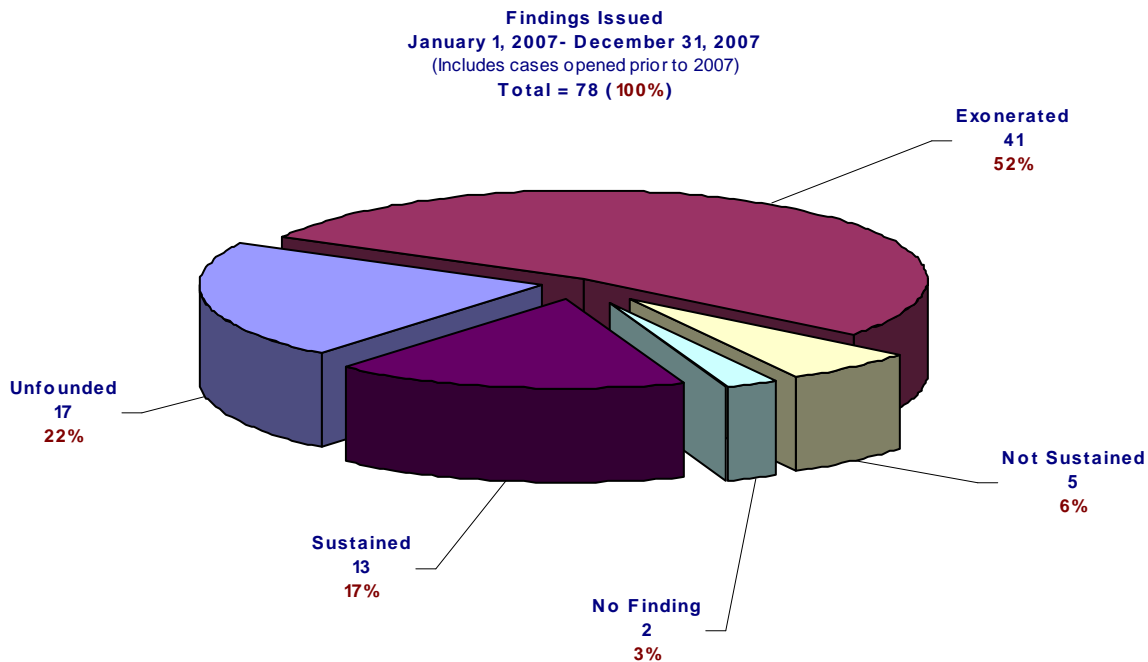
The “preponderance of the evidence” standard can be compared to other standards used in civil, criminal, and administrative matters. The highest degree of proof is “beyond a reasonable doubt.” Reasonable doubt is not merely possible doubt, because everything related to human affairs is open to some possible or imaginary doubt. Instead, reasonable doubt means that a person cannot say he or she has an abiding conviction of the truth of the matter. The next level of proof requires that a proposition be proven by clear and convincing evidence, which is generally understood to be “evidence indicating that the thing to be proved is highly probable or reasonably certain.”

The preponderance of the evidence standard is a mid-level standard that is generally used in civil matters. Following it, there is a much lower standard used to review some administrative decisions in which the reviewing entity asks whether there is a modicum of evidence to support the decision. This inquiry asks not whether the evidence is credible or whether the evidence in support outweighs the evidence in opposition; rather it asks whether there is any evidence in the record that could support the conclusion reached by the governing entity. While these three other standards do not apply to the findings made by the ombudsman, an explanation of the standards gives a sense of the nature and level of proof required before the ombudsman will find that an officer violated police policy.

FINDINGS ISSUED IN 2007

In 2007, the ombudsman issued 78 findings. These findings include cases opened in 2007, as well as cases opened in the previous year that were still under investigation when the year began. Seventy-four percent of these findings were either Exonerated or Unfounded, which means the ombudsman found no wrongdoing on the part of the employee. Seventeen percent of those findings were Sustained. A Sustained finding means that the preponderance of the evidence indicated that the employee

violated a department policy or procedure. Six percent of the findings were Not Sustained, indicating that no clear determination could be made based on the available evidence. The remaining 3% resulted in a No-finding, which means that no clear determination could be made due to insufficient information, or that the complainant withdrew the complaint before the investigation had been completed. All findings issued in 2007 involved the Boise Police Department.



Findings by Allegation
January 1, 2007- December 31, 2007
(Includes cases opened prior to 2007)
Total = 78 (100%)

	Exonerated	Unfounded	Sustained	Not Sustained	No Finding	Total
Rudeness/Demeanor	3	1	1		1	6
Performance of Duty	14	4	1	2		21
Use of Force	18	9			1	28
Improper Conduct	1	2	5			8
Abuse of Authority			1			1
Officer Harassment						0
Criminal Conduct			1			1
Vehicle Operation		1	1	3		5
Constitutional Rights Violation	2					2
Failure to Act						0
Failure to Record			3			3
Officer Commendation						0
Critical Incident	3					3
	41	17	13	5	2	78

ANALYSIS OF SUSTAINED FINDINGS

The ombudsman issues a sustained finding whenever the preponderance of the evidence from an investigation proves that a violation of policy or procedure has occurred. In 2007, the ombudsman issued thirteen (13) sustained findings. These findings arose out of eight (8) separate cases involving complaints about the actions of Boise law enforcement officers. All cases involved the Boise Police Department. Two (2) of the cases were opened in 2006, but the investigations were not completed and findings issued until 2007.

Following is a brief description of each complaint, the reason for the sustained findings issued by the ombudsman, and the response of the chief of police to each sustained finding. For more information regarding these complaints please visit our website: www.boiseombudsman.org. A complete investigative report for each case can be found under "2007 Investigative Reports".

Case # OMB 06/0096

An employee of a company that specializes in providing traffic control for road construction projects and special events alleged that a BPD officer operated his motorcycle in an unsafe manner. The complainant had been setting up traffic cones in order to close two lanes of Capitol Boulevard. The complainant stepped out in front of a company truck to set an eighteen-pound traffic cone on a white traffic line. At the same time, a BPD officer was driving his motorcycle in the space between the traffic and the closed lane. The officer hit the traffic cone, which landed some distance away. The complainant stated that the motorcycle grazed his chest and hit his hand. The complainant contacted the ombudsman with allegations of unsafe driving and failure to stop (hit and run). The ombudsman opened a Class II Complaint with the allegation of a policy violation regarding Employee-Involved Vehicle Collisions.

The investigation found that the complainant was on the roadway and did not look for oncoming traffic, although he had an obligation to look before stepping in front of moving traffic. Also, the officer was legally operating his motorcycle on the roadway. However, since policy requires that BPD employees operate department vehicles in a safe and prudent manner, this issue was examined closely.

There is nothing in Idaho law that prohibits a motorcyclist from driving in the unoccupied road space in the same lane as other traffic. The officer's action of driving in this space at the time of the collision was legal.

Although it would have been preferable conduct for the officer to stop and make sure there was no injury, his decision not to stop met the requirements of the statute because there neither was, nor appeared to be property damage and/or a physical injury. Weighing all the facts in the balance, the preponderance of evidence indicates that the officer did not leave the scene of an accident in which an injury occurred.

Idaho Code requires that drivers exercise due care to avoid colliding with a pedestrian. One requirement is that a driver gives an audible signal to provide warning to a pedestrian to avoid a

collision. The officer gave no audible signal as he approached a road crew that was working around a large company truck with flashing lights.

The road crew indicated its presence by the use of amber and white caution lights mounted above the cab of a large pick-up truck. The lights were on and visible. The road crew also had an arrow board, which was turned on, mounted in a trailer behind the truck. It is without question that the caution lights indicated a possibility that there would be road crew workers in or around the truck. The officer did not exhibit due regard for the possibility that there could be road crew workers in an area where caution lights were flashing. For this reason, the ombudsman issued a finding that the alleged violation be sustained.

The chief concurred with the sustained finding, but no disciplinary action was taken.

Case # OMB 06/0084

The ombudsman opened a Class I Complaint after the complainant alleged policy violations of Relationships with Others and Demeanor, Confidentiality, and the Law Enforcement Code of Conduct and Code of Ethics.

The complainant explained that he and his wife own a land parcel that abuts their neighbor's parcel. The neighbor is supposed to receive irrigation water through an underground line that runs across the complainant's property. The neighbor stopped receiving irrigation water and believed that the irrigation line was blocked as it ran through the complainant's property. A dispute arose between the complainant and the neighbor concerning who's responsibility it was to repair the line. The neighbor contacted a BPD officer with her explanation of the disagreement.

The BPD officer left a note for the complainant's wife asking her to contact him regarding a complaint made by a neighbor concerning a possible break in the irrigation line that obstructed the flow of water to the neighbor's property. The complainant contacted the officer by phone and the matter was not resolved during the phone conversation. The complainant (who is a member of the active military) stated that the officer later left a message for the complainant threatening to initiate criminal charges and to contact the complainant's commanding officer. An audio recording of this message was provided to the ombudsman.

The complainant alleged that the officer contacted his commanding officer and approximately one month later had criminal charges brought against the complainant's wife for denying the neighbor the right to enter the property to repair a break in the line. However, this criminal case was later dismissed when it was shown that the irrigation line was blocked on another neighbor's property.

During the course of the investigation, it was discovered that the officer did not have an audio recording of his telephone contacts with the complainant and his wife, as required by BPD

policy.

The statute under which charges were brought against the complainant's wife does not address providing access for repairs. Consequently, the investigation also included an inquiry into whether the officer violated the Performance of Duty section of BPD policy through an inappropriate application of the law.

The preponderance of evidence in the complaint investigation showed that the officer threatened to contact the complainant's commanding officer and threatened to issue a warrant for the complainant's arrest. The officer then followed through with his threat by contacting the complainant's commanding officer and sharing investigative information in order to cause disciplinary action to be taken against the complainant. The officer also caused criminal charges to be filed against the complainant's wife in retaliation for the complainant having argued with him. Three findings of sustained were issued regarding the officer's failure to treat persons in a respectful manner, his breach of confidentiality, and the retaliatory actions he took against the complainant.

In addition to the allegations alleged by the complainant, two more policy violations were discovered during the course of the investigation with resulted in sustained findings. These sustained findings were issued regarding the officer's failure to record an enforcement contact and for his inadequate knowledge of applicable laws, due to the officer's actions of enforcing a statute that did not apply to the facts of the case.

The chief concurred with the sustained findings. Because the officer was no longer an employee of BPD, no disciplinary action was taken.

Case # OMB 07/0067

A Class II Complaint was opened after the complainant contacted the Office of the Community Ombudsman alleging that an officer was driving inappropriately and unsafely. The complainant alleged that the officer, who was driving a patrol vehicle, passed another vehicle on the right on River Street and made a left turn from River Street onto Capitol Boulevard without yielding to a passenger vehicle in the westbound lane waiting to exit Julia Davis Park.

Because the complainant presented credible statements and because the officer had no recollection of the day in question, the preponderance of the evidence showed that the officer turned in front of oncoming traffic that had the right-of-way. His actions created an immediate hazard; and he violated policy by failing to operate his vehicle in a safe and prudent manner. A finding of sustained was issued against the officer.

The chief concurred with the sustained finding, but no disciplinary action was taken.

Case # OMB 07/0069

The complainant contacted the Office of the Community Ombudsman to complain about a BPD officer parking his patrol car illegally in the baseball field parking lot at the Simplot Sports Complex. While leaving the park, the complainant accidentally backed his vehicle into the left front fender of the unoccupied

marked patrol car. The complainant alleged that, when he made contact with the officer, the officer yelled at him and escalated the situation. The complainant also claimed that the officer was hanging around the baseball fields for over an hour instead of doing police work.

A Class II Complaint was opened based on the allegations made by the complainant. In the course of the investigation, the ombudsman found no evidence that the officer was at the baseball fields to conduct personal business or for personal gain and issued a finding of unfounded. Another finding of unfounded was issued in regard to the officer parking his vehicle in a traffic lane. Although it would have been better if the officer had found some other place to park, his decision did not rise to the level of a policy violation, primarily because no parking ordinance applies to this parking lot and other vehicles present were parked in the same fashion. A third finding of unfounded was issued since there was no evidence to support the allegation that the officer intentionally antagonized the complainant.

It was discovered that there was no audio recording of the officer's contact with the complainant. Although evidence clearly supports the conclusion that the officer initiated no enforcement action and took reasonable steps to distance himself from the complainant, the contact did ultimately become confrontational. The ombudsman issued a sustained finding for the officer's failure to create an audio recording of his contact with the complainant, once that contact became confrontational, as required by policy.

The chief did not feel that the officer's failure to create an audio recording rose to the level of a violation of policy and issued a finding of exonerated.

Case # OMB 07/0087

An off duty officer was with his wife, child, and dog in a public park in a jurisdiction other than Boise. The dog was in the officer's pick-up truck, first in the bed of the truck and then in the cab. As the officer and his wife were sitting on the tailgate of their parked truck, they were contacted by a park staff member, informing them that dogs were not allowed in the park and that the dog needed to be taken out of the park. When the dog was not immediately removed from the park, the staff member asked another park staff member to contact the on-duty sheriff's deputy.

The deputy made contact with the officer and his wife and informed them that a county ordinance prohibited dogs from being in the park and that the dog needed to be removed. The officer repeatedly questioned the deputy's explanation of the law and claimed that the dog was not violating the law because it was inside the cab of the pickup truck. The deputy explained that the ordinance banned dogs from being inside the park boundaries, even inside a vehicle. He also suggested that the officer move his vehicle to a parking lot just outside the park and leave the dog there. The deputy obtained a partial copy of the ordinance and showed it to the officer, who continued to argue that the ordinance did not apply if the dog was inside the vehicle. Following the arrival of a second deputy and a threat to issue the officer a citation, the officer left the park with his dog. During the encounter with the deputy, the off duty officer

verbally identified himself as a BPD officer and gave the deputy his business card.

The deputy contacted the Office of the Community Ombudsman and a Class I Complaint was opened. The deputy alleged that the BPD officer's behavior in a public place was such that BPD was brought into disrepute, and that this behavior reflected discredit on the officer. The deputy further alleged that the officer violated a county ordinance by bringing a dog into the park, and that the officer failed to take the dog out of the park until threatened with a citation.

The preponderance of the evidence showed that the officer challenged the deputy's understanding of the ordinance and his authority to compel the officer to take the dog out of the park. In summary, the officer displayed a disregard for the law, as well as for the deputy's duty to enforce it. In the midst of this behavior, the officer verbally identified himself as a BPD officer. By doing so, the officer brought discredit on himself and, by extension, on BPD. As proof of such discredit, the officer's behavior and failure to comply resulted in a formal notice of trespass from the park. For these reasons, the ombudsman issued a sustained finding for the allegation that the officer violated the policy regarding Conduct Unbecoming an Employee.

The officer also entered a plea of guilty to a misdemeanor violation of a county ordinance which is *prima facie* evidence that the officer violated the laws of a local jurisdiction. Therefore, a finding of sustained was issued regarding the officers violation of the policy regarding Conformance to Laws.

The findings were upheld by the chief of police and the appropriate personnel action was taken.

Case # OMB 07/0092

As two officers were driving down an alley, they saw the complainant and another male in a parking lot behind an apartment building. The complainant had two beers on top of his truck and the other male was holding a can of beer in his hand. The officers stopped their patrol car and told the two men it was technically illegal to have an open container of alcohol in a parking lot with public access. The complainant told the police that he was on private property and was not breaking the law while the other man took his beer inside. The officers attempted to explain the law to the complainant; he in turn swore and insulted them. One of the officers placed the complainant under arrest for having an open container of alcohol in violation of Boise City Code.

The complainant contacted the Office of the Community Ombudsman alleging that he was arrested for reasons that were unrelated to the crime. The matter was originally opened as an Inquiry, but was reclassified to a Class II Complaint following a review of the officers' audio recordings.

The investigation examined whether the officer used a physical custody arrest as punishment for the complainant's negative attitude toward the officers. Though an officer has discretion to decide when to issue a citation and when to make an arrest for misdemeanor crimes, BPD policy establishes guidelines for how this discretion should be used.

The officers gave both men a warning. The first man was cordial, thanked the officers, and took his beer back into the apartments. He did not receive a citation. The complainant disagreed with the officers, argued with them, swore at them, and declined to answer their questions. He was arrested and taken to jail. Regardless of the many reasons the officers gave for having arrested the complainant, the preponderance of the evidence supported the conclusion that the complainant was arrested because he had a bad attitude. For that reason, a finding of sustained was issued against the officer for arresting the complainant.

The chief concurred with the sustained finding issued by the ombudsman and took appropriate personnel action.

Case # OMB 07/0011

The complainant contacted the Office of the Community Ombudsman alleging that two Boise Police officers used unreasonable and unnecessary force during his arrest. The complainant stated that one officer slammed his head into the ground while the other hit him on the back of the head and neck.

A Class I Complaint was opened in regards to the allegation of excessive force. In the course of the investigation, it was discovered that one of the officers used mild profanity while escorting the complainant to the patrol car following his arrest. It was also discovered that an unknown officer told the complainant to, "Shut [his] pie hole." Following these discoveries, an investigation into a possible violation of the policy Relationships with Others and Demeanor was also conducted.

Because the preponderance of the evidence could not prove that one of the officers used any force, a finding of no finding was issued to that officer. The other officer was exonerated because the evidence showed that he used reasonable and necessary force to gain control of the complainant who was actively resisting arrest. The mild profanity used by one of the officers may have been an undesirable choice, but the words were used in exasperation while trying to keep the complainant from harm. Since the officer's words were not used to treat the complainant in an uncivil or disrespectful manner, the officer was exonerated.

The identity of the officer that directed the complainant to stop talking by telling him to, "Shut [his] pie hole," could not be determined. That officer's statement was uncivil and disrespectful. For this reason, a sustained finding was entered against the unknown officer.

The chief upheld the sustained finding but determined that no disciplinary action could be taken since the offending officer could not be identified.

Case # OMB 07/0125

The complainant alleged that a BPD officer unlawfully arrested him under the direction of another officer. A Class I Complaint was opened. The investigation discovered that the complainant was arrested due to a miscommunication between the two BPD officers. The first officer asked the second officer to "address" the complainant. This can be heard clearly on the first officer's audio recording. However, the second officer, some distance

away, thought that the first officer said to “arrest” the complainant. A short time later, while still on scene, the mistake was discovered and the complainant was released. The mistaken arrest of the complainant was the result of a communications problem; neither officer acted with malice in arresting the complainant. Based on the preponderance of the evidence, findings of exonerated were issued for both officers.

However, it was also discovered that the officer who took the complainant into physical custody did not audio record his enforcement contact. Therefore, the ombudsman issued a sustained finding against this officer for his failure to record.

The chief agreed with the sustained finding but decided that no disciplinary action would be taken due to on-going mechanical problems with the digital recorder.

BPD CHIEF RESPONSE	BOISE POLICE DEPARTMENT SUSTAINED FINDINGS															
	2000		2001		2002		2003		2004		2005		2006		2007	
	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO
Did Chief concur with the Sustained finding?	7	4	15	7	6	7	3	3	13	2	1	6	4	6	12	1
Did the Chief take disciplinary or corrective action?	7	4	15	7	6	7	3	3	13	2	1	6	3	7	3	10
TOTAL SUSTAINED FINDINGS	11		22		13		6		15		7		10		13	

Recommendations

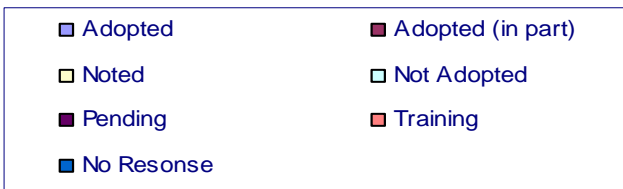
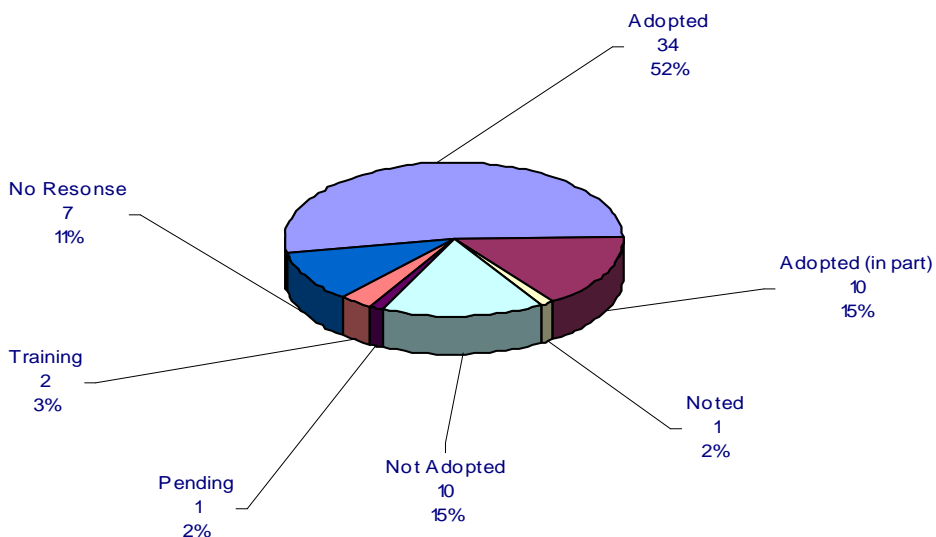
ANALYSIS OF RECOMMENDATIONS

The ombudsman has the authority to make recommendations that, “will have as their goal improved professionalism, safety, effectiveness, and accountability of the Boise City Police and law enforcement employees” (Boise City Code § 2-22-04 (E)). Since 1999, the ombudsman has issued over 60 recommendations in conjunction with 30 separate investigations. Multiple considerations are often suggested with each recommendation.

In addition to the recommendations made at the conclusion of an investigation, the ombudsman has issued three special reports. Those reports also included recommendations issued by the ombudsman after a thorough analysis of potential concerns. These special reports are addressed for police management to consider and provided to the public for their information. They can be found in their entirety under “Policy Reports” on our website: www.boiseombudsman.org.

Recommendations that are the result of an investigation are provided to the chief in advance, so that the chief’s written response can be included with the report as it is made public. In 2007, the ombudsman made one recommendation following a Class I Complaint investigation. This recommendation is described on the next page.

**BPD Decisions On All
Ombudsman Recommendations
Issued Between The Years 1999 -2007
(65 Total Recommendations)**



Legal Training Recommendation (OMB 07/0044)

Officers were attempting to locate a suspect of a possible child abduction, and perhaps more importantly, trying to ensure that the child was returned to a safe environment. The officers had learned that the suspect and child might be staying at the residence of an acquaintance. Officers arrived at the residence and planned to have two officers at the front door while a third officer went to the rear of the residence to prevent the possible escape of the suspect. Officers had not yet made contact at the front door when an officer attempted to open a side gate into the backyard. The officer reached over the gate to open the inside lock when he was confronted by the homeowner. The homeowner provided the officers with information that satisfied them that the suspect and child were not at the residence, nor had they been.

The homeowner filed a complaint with the Office of the Community Ombudsman alleging that officers violated his civil rights by jumping up on a locked gate in an attempt to gain access to his backyard or garage side door. The officers apparently did not have a search warrant and had not made contact at the front door prior to attempting to open the side gate. The ombudsman opened a Class I Complaint to investigate possible Performance of Duty violations. Research into US Supreme Court decisions regarding the curtilage of a residence was conducted, which, for Fourth Amendment purposes, is protected against unreasonable searches and seizures.

The ombudsman found that the homeowner’s backyard was within the curtilage of the residence and is protected by the Fourth Amendment. There were no exigent circumstance that would have excused the search without a warrant; no evidence likely to be destroyed, no violent crime, and no indication that the child was in immediate danger. In addition, the officers did not have consent to enter the backyard.

The officers clearly understood that they could not enter the homeowner’s residence to search for the suspect, but did not recognize that the same level of protection applied to the backyard of the residence.

No record could be found of any legal training given to the officers that specifically told them that entry into fenced backyards under these types of circumstances was not allowed. Additionally, the tactical training and practice of BPD has been to allow officers in similar situations to enter back yards so as to prevent the escape of suspects. The officer’s actions in entering the enclosed backyard were not appropriate. However, this office does not hold officers individually accountable when it is found that they were, in good faith, following the practices of their department. Therefore, the officers were exonerated for the allegations made against them, but a training recommendation was issued by the ombudsman.

BPD met with City Legal to get updated legal information regarding entry of fenced areas when conducting police business and has created department wide training to address this issue.

Recommendation: Backyard Entry

The ombudsman recommended that BPD review its practice and training as it applies to entry into backyards without a search warrant, exigent circumstances, or consent to ensure that all officers are aware of and follow the most recent court decision. He also recommended that BPD review its process for documenting all legal training provided to its employees.

Response: Adopted

BPD met with City Legal to get updated legal information regarding entry of fenced areas when conducting police business and has created department wide training to address this issue.

OMBUDSMAN RECOMMENDATIONS BY YEAR	
1999	2
2000	14
2001	3
2002	7
2003	6
2004	15
2005	5
2006	12
2007	1
TOTAL	65

ANALYSIS OF AUDITS OF BPD INTERNAL INVESTIGATIONS

The Office of the Community Ombudsman is mandated by Boise City Code and organizational policy to audit internal investigations conducted by the Boise Police Department (BPD). The purpose of these audits is to determine if BPD's internal investigations are full, fair, thorough, and complete.

The ombudsman's office currently audits two types of BPD internal cases. The first type are investigations into allegations of needless or excessive force, brutality, violations of criminal law, corruption, breach of civil rights, abuse of authority, false arrest, biased policing, or a pattern of lesser offenses. These cases are classified by BPD as "Class I" and a sustained finding of one or more allegations could result in discipline up to and including termination. The ombudsman's office audits all completed BPD Class I investigations.

The second type of internal investigation audited by the ombudsman's office are referred to as "Class II." Class II investigations are those that look into allegations of inadequate service, discourtesy, minor performance issues, improper procedure, or other less serious and non-criminal conduct. The ombudsman's office audits no fewer than half of all completed BPD Class II investigations.

Some internal investigations are initiated by the police department, rather than by a complaint from a member of the public. Known as "department-initiated investigations," they are also audited by the ombudsman's office. Audits of both department-initiated and community member complaint investigations are included in the statistics tracked by the ombudsman's office.

When the ombudsman's office has a question about a case it is auditing, or thinks there may be an issue with that case, it first addresses the issue with BPD's commander of the Office of Internal Affairs (OIA). It is the responsibility of OIA to manage and track all BPD internal investigations. If, after consultation with OIA, the ombudsman determines that there is still a material error or omission with an audited case, BPD is notified of the issue in writing. The ombudsman's office then receives a response from BPD detailing what, if any, action BPD has taken.

In 2007, the Office of Internal Affairs completed 20 Class I Complaints and 20 Class II Complaints. Audits were conducted on 20 (100%) of the Class I Complaints and 12 (60%) of the Class II Complaints. All of the audited internal investigations passed as being full, fair, thorough, and complete. However, some discrepancies were discovered and brought to the attention of OIA.

Class I Complaints

One case brought to light a question into the reasonableness of an officer's use of force. The matter was discussed with OIA. Ultimately, the use of force did not rise to a level of a policy violation. Feedback on how the situation was handled had been conveyed to the officer through his chain of command.

In another case no finding was included with an allegation. OIA explained that the issue was a minor performance issue that was dealt with at the division level. Although choosing to not list a finding is not advisable, it was agreed that it was OIA's right to decide how to address the issue as long as it was adequately addressed.

Two cases resulted in informal suggestions from the ombudsman. The first suggestion was that witness officers be advised of their obligations and protection under the "Garrity" ruling before conducting their interviews. The second suggestion had to do with the removal of an officer's name from an allegation with a finding of "No Finding". It was suggested that names of employees should not be removed from the database, as it weakens the value and power of the database.

Class II Complaints

Some documentation and administrative issues were addressed in two separate audits. In one case, the supervisor did not audio record the officer's interview. The other case involved the timeliness of paperwork submitted to OIA. Both of these issues were brought to the attention of OIA.

Appendix

APPEALS RECEIVED IN 2007

CASE #	SYNOPSIS	STATUS	OUTCOME/ACTION TAKEN
OMB07/0031	Complainant appeals OIA investigation and feels he should have been informed about a training scenario in advance.	Closed	After review, the ombudsman agreed with BPD that no policy was violated and recommended better planning of future training exercises.
OMB07/0078	Allegation of a violation of authorization for use of force.	Active	
OMB07/0129	Complainant appeals finding of OIA investigation.	Closed	Ombudsman reviewed OIA investigation and concurred with their findings.

CLASS I COMPLAINTS RECEIVED IN 2007

CASE #	SYNOPSIS	STATUS	OUTCOME/ACTION TAKEN
OMB07/0002	Alleged series of unconstitutional vehicle stops and searches over an 80-day period.	Active	
OMB07/0005	Complainant alleges that a male BPD officer roughly pushed two men she was with onto the sidewalk and then grabbed her. She alleges this was excessive and without provocation.	Closed	Ombudsman issued three findings, two of Exonerated and one of No Finding.
OMB07/0011	Allegation regarding Relationships with Others and Demeanor	Closed	Ombudsman issued two findings of Exonerated, one finding of No Finding, and one finding of Sustained .
OMB07/0013	Alleged excessive and unnecessary force.	Active	
OMB07/0034	Complainant alleges excessive use of force.	Closed	Ombudsman issued three findings of Exonerated.
OMB07/0044	Alleged violation of 4th Amendment right.	Closed	Ombudsman issued two findings of Exonerated.
OMB07/0048	Complainant alleges unnecessary use of force.	Closed	Ombudsman investigated the allegation and issued an exonerated finding
OMB07/0054	Complainant alleges officer arrested him without probable cause and made false statements in police report.	Closed	Ombudsman issued two findings of Exonerated.
OMB07/0055	Complainant alleges excessive force.	Closed	Ombudsman issued one finding of Exonerated.
OMB07/0065	Complainant alleges that the officer grabbed him for no reason.	Active	
OMB07/0074	Complainant alleges that a BPD employee improperly provided an applicant for a police officer position with confidential information regarding the questions to be asked in an oral board.	Active	
OMB07/0080	Complainant alleges aggravated assault by an off-duty police officer.	Active	
OMB07/0082	Complainant alleges excessive use of force.	Closed	Ombudsman issued two findings of Unfounded.
OMB07/0087	Allegation of Conduct Unbecoming an Employee.	Closed	Ombudsman issued two findings of Sustained.
OMB07/0110	Complainant alleges that a detective pulled him up by the hair twice and caused pain.	Active	
OMB07/0125	Complainant alleges unlawful arrest.	Closed	Ombudsman issued two findings of Exonerated and one finding of Sustained.
OMB07/0132	Complainant alleges excessive use of force.	Active	

CLASS II COMPLAINTS RECEIVED IN 2007

CASE #	SYNOPSIS	STATUS	OUTCOME/ACTION TAKEN
OMB07/0039	Complainant alleges officer violated his constitutional rights.	Closed	Ombudsman issued two findings of Not Sustained.
OMB07/0042	Complainant alleges that a BPD officer threatened to shut down his lawful business.	Closed	Ombudsman issued two findings of Exonerated.
OMB07/0060	Alleged improper administration of blood alcohol test.	Closed	Ombudsman investigated and issued a finding of Unfounded.
OMB07/0067	Complainant alleges that a BPD officer operated a marked police car in an unsafe manner.	Closed	Ombudsman issued one finding of Sustained
OMB07/0069	Allegation of violation of On-duty Time Restricted to Department Duties.	Closed	Ombudsman investigated and issued three findings of Unfounded and one Sustained.
OMB07/0088	Allegation of violation of Relationships with Others and Demeanor.	Active	
OMB07/0092	Allegation of violation of Guidelines for Issuing Citations.	Closed	Ombudsman issued one finding of Sustained.
OMB07/0121	Complainant alleges poor duty performance.	Active	
OMB07/0133	Complainant alleges unsafe driving during emergency response.	Active	
OMB07/0148	Complainant alleges inadequate investigation.	Active	

COMMENDATIONS RECEIVED IN 2007

CASE #	SYNOPSIS	STATUS	OUTCOME/ACTION TAKEN
OMB07/0003	Resident would like to commend officers for the way they handled a situation.	Closed	Ombudsman forwarded commendation to officers and chief of police.
OMB07/0019	Boise resident commends officers for their patience, understanding, and humanity.	Closed	Ombudsman forwarded commendation to officers and chief of police.
OMB07/0089	Officer is commended for rescuing three baby ducklings trapped in a storm drain.	Closed	Ombudsman forwarded commendation to officer and chief of police.
OMB07/0093	Resident wants to commend detective for giving 110% and thanks him for getting her children returned to her.	Closed	Ombudsman forwarded commendation to detective and chief of police.
OMB07/0119	Resident would like to commend a neighborhood contact officer for being a model police officer.	Closed	Ombudsman forwarded commendation to officer and chief of police.
OMB07/0136	Resident feels officer treated him with great respect and professionalism in exercising his duties. Would like to compliment the officer on his professionalism and demeanor.	Closed	Ombudsman forwarded commendation to officer and chief of police.
OMB07/0137	Resident would like to commend officers on the positive way in which they performed their jobs.	Closed	Ombudsman forwarded commendation to officers and chief of police.
OMB07/0139	Commends officer for speaking to him about the police department on his day off.	Closed	Ombudsman forwarded commendation to officers and chief of police.
OMB07/0140	Commends officer for the way he handled an ongoing traffic issue in a neighborhood.	Closed	Ombudsman forwarded commendation to officers and chief of police.
OMB07/0149	Veteran would like to thank officers and commend them for their compassion.	Active	

CRITICAL INCIDENTS RECEIVED IN 2007

CASE #	SYNOPSIS	STATUS	OUTCOME/ACTION TAKEN
OMB07/0040	Officer-involved shooting.	Active	
OMB07/0049	Vehicle pursuit resulting in serious injuries to pursued subject.	Closed	Ombudsman reviewed BPD investigation and agreed with completeness and findings. No further investigation by ombudsman.
OMB07/0086	K9 bite of shooting suspect results in injury requiring hospitalization.	Closed	Ombudsman reviewed BPD investigation. No further investigation necessary.
OMB07/0095	Emergency response resulting in vehicle collision and hospitalization of subject.	Closed	Ombudsman reviewed completed BPD investigation and determined it to be thorough, objective and complete.
OMB07/0111	Critical Incident investigation into an apparent self-inflicted gunshot death by a bank robbery suspect while officers were attempting to apprehend him.	Active	
OMB07/0130	Critical Incident requiring hospitalization after Taser deployment.	Active	
OMB07/0143	Vehicle pursuit resulting in injuries requiring hospitalization.	Active	

INQUIRIES RECEIVED IN 2007

CASE #	SYNOPSIS	STATUS	OUTCOME/ACTION TAKEN
OMB07/0001	Questions officer's investigation into car and bicycle collision.	Closed	Ombudsman reviewed incident and answered questions.
OMB07/0004	Complainant questions officers' actions.	Closed	Ombudsman reviewed police report and officer's belt recording and found no policy violation.
OMB07/0006	Complainant has questions regarding OIA investigation.	Closed	Inquiry closed after complainant requested ombudsman to not proceed with investigation.
OMB07/0007	Would like to speak to her neighborhood contact officer. Has made repeated attempts with no response.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0008	Complainant feels like he has been given the run-around and would like to speak to the detective assigned to the case	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0009	Complainant feels that no work is being done on a criminal case and that justice is not being served.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0010	Thinks police should have arrested man for pointing a gun at him and his child. Also thought officer did not treat him with respect.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0012	Questions officers' actions while serving a warrant on neighbor.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0014	Questions why an officer allegedly refused to take a report because the victim did not know the alleged criminal's date of birth.	Closed	Ombudsman facilitated communication between BPD and complainant. Questions answered and report taken by BPD.
OMB07/0015	Complainant questions SROs speaking to students without a parent or counsel present when a student requests to have either present. Also, feels a SRO would not speak to a student if a parent requests that they not do so, no matter what the issue.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0016	Complainant questions inaction of BPD on multiple police reports and absence of pertinent information on assault report.	Closed	Complainant withdrew inquiry and Ombudsman closed case.
OMB07/0017	Complainant alleges use of force by officers, but is not sure of their jurisdiction.	Closed	Ombudsman was unable to locate any record that BPD officers were involved.
OMB07/0018	Thinks officer did not issue citation in a civil matter. Also has several concerns regarding BPD and agreements with towing companies.	Closed	Ombudsman facilitated communication between BPD and complainant. Questions answered and new towing ordinance will require BPD to bid towing contracts.

OMB07/0020	Has questions regarding how BPD can assist with a landlord problem.	Closed	Ombudsman facilitated communication between BPD and complainant. Complainant advised to seek legal advice for civil situation.
OMB07/0021	Questions officers' actions after his arrest.	Closed	The ombudsman reviewed the incident and answered the citizen's questions.
OMB07/0022	Believes that he was pulled over without justification or probable cause and feels it was in violation of his Fourth Amendment rights.	Closed	Complainant did not respond to repeated requests for additional information. No further action.
OMB07/0023	Would like to know the resolution for the suspicious person she called 911 about and feels an officer should have followed up with her after the incident to explain what happened.	Closed	Ombudsman facilitated communication between BPD and complainant. Questions were answered and feedback provided to the officers.
OMB07/0024	Complainant questions why officer would not file a police report.	Closed	Ombudsman facilitated communication between BPD and complainant. Questions were answered. Insufficient evidence to file charges.
OMB07/0025	Complainant does not feel that officer reciprocated the respect that was shown to him.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0026	Complainant has concerns about the detective assigned to her case and would like to work with someone else.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0027	Complainant questions handling of robbery investigation.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0028	Complainant has questions regarding how traffic stop was handled.	Closed	Ombudsman facilitated communication between BPD and complainant. Questions were answered.
OMB07/0030	Complainant has questions on how officers are trained to stop people for probable cause. He is concerned that officers are stopping people and finding an excuse later.	Closed	Ombudsman facilitated communication between BPD and complainant. Complainant did not return numerous calls by BPD.
OMB07/0032	Complainant questions BPD policy allowing officers to question school students.	Closed	Ombudsman facilitated a series of conversations between BPD and the School District; changes made to legal training given to SROs.
OMB07/0033	Complainant questions the actions of officers responding to an incident, feeling that they left the impression that they would do nothing to protect him from his landlord.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0035	Complainant questions officer's actions.	Closed	Ombudsman facilitated communication between BPD and complainant. Complainant did not return numerous messages.
OMB07/0036	Complainant questions arrest and officers' investigation.	Closed	Not taken due to 90-day rule.

OMB07/0037	Complainant questions officer's actions.	Closed	Complaint outside of the ombudsman's jurisdiction.
OMB07/0038	Complainant questions arrest and officers' actions.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0041	Complainant has concerns about the police report and would like the detective assigned to the investigation to return her calls.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0043	Complainant questions officers' actions.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0045	Complainant request the ombudsman investigate alleged harassment by BPD.	Closed	Not taken due to 90-day rule.
OMB07/0046	Complainant questions BPD vehicle tow policy.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0047	Complainant questions actions of officers.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0050	Complainant has questions regarding an incident that occurred in an apartment complex he owns.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0051	Complainant questions why an assault suspect was not arrested.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0052	Complainant questions prioritization and process for handling reported assaults on children.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0053	Complainant has questions regarding an incident in which officers responded to the wrong address.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0056	Feels detective submitted a biased report in 2005.	Closed	Not taken due to 90-day rule.
OMB07/0057	Complainant has questions regarding a hit and run incident.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0058	Complainant questions whether citation is legitimate or not.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0062	Complainant has questions regarding an active criminal investigation.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0063	Complainant requests a review of procedures regarding enforcement action involving Idaho Hotel Laws.	Closed	Additional education provided to officers from City Legal.

OMB07/0064	Complainant alleges that officers assisted Probation and Parole officers in illegal entry, illegal search, endangerment of a child, and leaving home in disarray.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0066	Citizen has questions about traffic control at the site of a collision and wants to know why a sergeant told an officer to pull him over.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0068	The complainant alleges that an off-duty officer spit on his wife and at him from the apartment balcony above them.	Closed	Unable to verify that the involved person was a BPD employee.
OMB07/0070	Complainant would like to know if a police report was filed.	Closed	Ombudsman answered questions.
OMB07/0071	Complainant has questions regarding an active theft investigation.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0072	Complainant questions steps taken by police and prosecutor.	Closed	Ombudsman answered questions and provided information for correct contact.
OMB07/0073	Complainant would like to know how to proceed in getting stolen property back.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0075	Complainant has questions regarding police assistance in removing a homeless man from his property.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0076	Complainant would like supervisor to talk to an officer about being kinder in situations.	Closed	Complainant did not return multiple attempts to contact by BPD.
OMB07/0077	Would like a detective to call and provide an update on a robbery investigation.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0079	Complainant would like to know the status of an active criminal investigation.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0081	Complainant has concerns regarding communication between BPD and towing companies involving stolen vehicles.	Closed	Ombudsman facilitated communication between BPD and complainant. No policy violation, issue will be addressed in new tow ordinance
OMB07/0083	Complainant questions juvenile daughter's traffic citation.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0084	Complainant has questions regarding the status of an active criminal investigation.	Closed	Ombudsman facilitated communication between BPD and complainant. Case will be submitted for prosecutorial review after statement is received.

OMB07/0085	Complainant questions why an officer is controlling traffic from the parking lot of a large church onto a busy road.	Closed	Ombudsman facilitated communication between BPD and complainant. Contract exists between BPD and church to cover traffic control.
OMB07/0090	Complainant has questions regarding the status of an active theft investigation.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0091	Complainant would like to know if a police report has been filed and what the number is.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0094	Complainant has concerns and questions why a vehicle was towed from in front of a residence.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0096	Complainant has questions regarding the selling of impound vehicles.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0097	Complainant has questions regarding legality and police procedure concerning forcible entry into a residence.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0098	Complainant has concerns regarding police response and follow-up of an incident.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0099	Complainant has concerns about an officer's attitude.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0100	Complainant is concerned about the way an officer responded to a situation.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0101	Complainant had questions regarding receiving payment for medical bills due to an injury sustained during arrest.	Closed	Ombudsman answered questions and provided information on filing a tort claim.
OMB07/0102	Complainant feels officers should not conduct traffic stops on the Interstate during rush hour or between the hours of approximately 4:00 - 7:00 PM.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0103	Complainant has concerns regarding how an incident was handled.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0104	Complainant has concerns regarding how an incident was handled and questions why the other party did not receive a citation.	Closed	BPD supervisor made contact and attempted to answer the questions.
OMB07/0105	Thinks an officer is spending too much time in his neighborhood.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0106	Complainant has concerns regarding the handling of a criminal investigation.	Closed	Ombudsman facilitated communication with BPD. Supervisor answered questions regarding investigation.

OMB07/0108	Wants to know why the police came to the door of his elderly mother's house and left without explanation.	Closed	BPD supervisor called the Complainant to apologize and then reminded the officers of the value of communication.
OMB07/0109	Wants to know why an officer came to her door asking questions.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0112	Victim of a crime does not think the detective thoroughly investigated it and wants another detective to take the case.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0113	Thinks officer who pulled him over escalated the contact too quickly by having his hand on his gun and yelling at him when he started to get off his motorcycle.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0114	The Complainant has several questions regarding BPD response to a dispute with a car "booting" and tow operator and then a reported assault when the tow driver displayed a handgun.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0115	Complainant has questions involving police response to an incident.	Closed	Ombudsman answered questions.
OMB07/0116	Complainant has questions regarding officer response in neighborhood.	Closed	Ombudsman answered questions.
OMB07/0117	Complainant has concerns about an officer's attitude during an enforcement action.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0118	Complainant has concerns about recent parking enforcement and citations issued in neighborhood.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0120	Complainant has concerns with service provided by BPD.	Closed	Ombudsman discussed concerns. No further action to be taken.
OMB07/0122	Complainant has concerns regarding an interaction with an airport police officer.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0123	Complainant questions why a decision of no fault was made regarding a vehicle collision.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0124	Complainant feels like nothing is being done to stop harassment and wants to know what options exist.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0126	Complainant questions officer's truthfulness.	Closed	Ombudsman reviewed audio of incident and answered questions.
OMB07/0127	Complainant has questions regarding an officer's response to an incident.	Closed	Ombudsman facilitated communication between BPD and complainant.

OMB07/0128	Complainant has questions regarding parking enforcement in his neighborhood.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0131	Complainant has concerns about an interaction with police officers.	Closed	Attempts by BPD to contact Complainant were unsuccessful.
OMB07/0134	Complainant questions officer's attitude during a traffic stop.	Closed	Ombudsman reviewed and recommended supervisory intervention to improve officer's interpersonal skills.
OMB07/0135	Complainant has questions regarding a criminal investigation.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0141	Complainant has concerns about comments made by an officer.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0142	Complainant has questions regarding law enforcement during tailgating gatherings.	Closed	Ombudsman facilitated communication between BPD and complainant.
OMB07/0144	Complainant has concerns about an officer issuing citations in his neighborhood.	Closed	Ombudsman mediated a resolution between the Complainant and the Watch Commander.
OMB07/0145	Concerned about the speed with which patrol cars passed through an intersection.	Closed	Ombudsman facilitated communication between BPD and complainant. Officers reminded of responsibilities for safe driving during an emergency response.
OMB07/0146	Complainant is concerned that juvenile son is being profiled.	Closed	Ombudsman facilitated resolution between BPD and complainant.
OMB07/0147	Complainant questions why the curfew law was not enforced.	Closed	Ombudsman facilitated communication between BPD and complainant. Questions were answered.
OMB07/0150	Complainant felt officer was disrespectful and refused to take a report.	Active	
OMB07/0151	Complainant is concerned about officer's angry and intimidating demeanor.	Closed	Airport Police Commander spoke with both the Complainant and the officer; resolved.
OMB07/0152	Complainant questions the authority of a Boise Police Department employee.	Active	
OMB07/0153	Complainant has concerns about officers not taking action against a mentally challenged adult neighbor who injured a juvenile.	Active	
OMB07/0154	Questions why officers came to his house concerning a noise ordinance violation and told him that further violations could be charged as felonies or violations of federal law.	Active	

OTHER AGENCY INQUIRIES/COMPLAINTS RECEIVED IN 2007

CASE #	SYNOPSIS	STATUS	OUTCOME/ACTION TAKEN
OMB07/0029	Complainant cooperated as a confidential informant and feels that the detective used her to gather information to bust a drug dealer but did not follow through on promises.	Closed	Ombudsman advised complainant to contact appropriate agency.
OMB07/0059	Complainant alleges that report was inaccurate and incomplete.	Closed	Not BPD. Referred to ACSO.
OMB07/0061	Complainant feels that an accident that occurred at the ACSO jail was handled inappropriately.	Closed	Not BPD. Referred to ACSO.
OMB07/0107	Complainant has concern regarding Other Agency.	Closed	No response to Complainant.
OMB07/0138	Alleges a police officer from an agency outside of the ombudsman's jurisdiction is involved in a civil matter.	Closed	Not BPD. Complainant advised agency is outside of ombudsman's jurisdiction.