

OFFICE OF THE COMMUNITY OMBUDSMAN



2010
ANNUAL REPORT

January 1, 2010—December 31, 2010

OFFICE OF THE COMMUNITY OMBUDSMAN



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EXECUTIVE SUMMARY

This report is produced on a yearly basis and serves two primary purposes. First, it provides the residents of Boise and City officials with information about public feedback regarding the activities of City law enforcement agencies. Second, this report also gives 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 Mayor and Boise City Council. They have an obligation to perform their duties as defined by ordinance in a professional, ethical, and service-oriented manner.

The ombudsman position was created to maintain the public's trust in Boise City's law enforcement officers. This is to be accomplished through independent investigations 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 these means, the operations and actions of Boise's law enforcement agencies and their officers will be transparent to the community.

The 2010 Annual Report is a comprehensive view of the Office of the Community Ombudsman. It is divided into multiple sections to explain the various functions of the office and to provide a review of 2010. A summary of these sections follows.

OFFICE OF THE COMMUNITY OMBUDSMAN

This section discusses the history of the office, lists the values it stands by and provides highlights of the past year. In 2010, four on-call, part-time investigators were hired. They are introduced under "Meet the Staff". Also, two student volunteers from Boise State University's Criminal Justice program were selected to analyze findings issued by the ombudsman during the past seven years. The details and results of this intern project are described under "Projects and Updates."

OPERATIONS

This section offers insight into the workings of the Office of the Community Ombudsman. It includes information on how cases are managed and the how cases and allegations are classified.

YEAR END STATISTICS

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. The office spends a significant amount of time assisting people who either have questions about the actions of a Boise law enforcement officer or are dissatisfied with the service they received from the police.

The Office of the Community Ombudsman has eight (8) separate case classifications and 17 different allegation categories it uses for its cases. This section provides details about the 115 formal cases opened in 2010. It includes charts and graphs to present specific information regarding these cases.

CASE SUMMARIES

Since the Office of the Community Ombudsman deals with a significant amount of confidential information, it is important to provide a way of making its work known to the public without compromising the integrity of the office or the independence it thrives on. The ombudsman issues public reports for each of the Critical Incident and Complaint investigations conducted by the office. These reports are available on the internet. A sampling of case studies is included in this annual report to demonstrate the wide variety of cases received by the Office of the Community Ombudsman throughout the year. This section includes examples of the types of cases addressed in 2010.

FINDINGS

At the end of an investigation, the ombudsman issues a finding for each allegation. There are five (5) types of findings that can be issued based on the preponderance of the evidence. This section defines the types of findings and standard of proof used by the ombudsman, presents all findings issued in 2010, and analyzes those cases that produced the five (5) sustained findings issued in 2010. It includes a brief description of the complaint, the reason for the sustained finding issued by the ombudsman, and the response by the chief of police to each sustained finding.

RECOMMENDATIONS

In addition to the many hours spent investigating Complaints and Critical Incidents, the Office of the Community Ombudsman spends time researching best practices of other agencies in order to make value-adding policy recommendations. Over the years the ombudsman has issued over 77 policy or training recommendations. These recommendations are made public in both investigative reports and special policy reports. In 2010, two (2) recommendations were made to the chief of police. This section provides a summary of those recommendations.

AUDITS OF BPD INTERNAL AFFAIRS CASES

The Office of the Community Ombudsman is responsible for auditing internal investigations conducted by the Boise Police Department's Office of Internal Affairs (OIA). Each year, all Class I Complaints and at least half of the Class II Complaints investigated by OIA are audited. The ombudsman can make recommendations to the chief based on discoveries made during these audits. Results of the audits conducted during 2010 are presented in this section.

FIVE-YEAR REVIEW

This section includes charts and graphs to summarize and compare statistics from the past five years.

2010 CASE SYNOPSIS

The Appendix includes a synopsis for each case opened by the Office of the Community Ombudsman in 2010. These cases are divided by the eight (8) case types used by the office: Commendation, Inquiry, Rapid Resolution Inquiry, Appeal, Class I Complaints, Class II Complaints, Critical Incidents, and Other Agency.

2010 STATISTICAL HIGHLIGHTS

- Over 188 people contacted the Office of the Community Ombudsman in 2010, resulting in 115 cases opened. Since its inception in 1999, the Office of the Community Ombudsman has opened 2,501 cases.
- In 2010, a total of 110 of the 115 cases involved the Boise Police Department. There were no cases opened in connection with Boise City Code Enforcement, and only one (1) case involving Boise City Parking Control. Four (4) cases involved agencies outside of the ombudsman's jurisdiction.
- There were 139 separate allegations, issues, and commendations associated with the 115 cases opened in 2010.
- A total of 11 Complaints were made in 2010. They are divided into eight (8) Class I Complaints and three (3) Class II Complaints.
- One (1) Critical Incident case was opened in 2010.
- A total of 41 Rapid Resolution Inquiries were assigned to BPD for them to resolve. Most of those Rapid Resolution Inquiries involved the Valley Patrol Division.
- Most of the cases opened in 2010 involved incidents that occurred in the Valley area of Boise. The majority of the complainants who contacted the Office of the Community Ombudsman live in that same area.
- A total of 49 findings were issued in 2010. This total includes 13 exonerated, 28 unfounded, 3 not sustained, and 5 sustained findings.
- The chief of police did not agree with two (2) of the five (5) sustained findings issued by the ombudsman in 2010. However, disciplinary or corrective action was taken by the chief for the other three (3) cases.
- The ombudsman issued two (2) formal recommendations during 2010. Both recommendations were adopted by the chief of police.

MESSAGE FROM THE OMBUDSMAN



It is my honor to present to you the 2010 Annual Report of the Office of the Community Ombudsman. This annual report is a comprehensive view of the work our office does. 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.

Last year, we began a project of reviewing our policies, procedures, and processes in order to increase our efficiency in providing service to the public by conducting thorough investigations, researching recommendations, conducting audits, and community outreach. The work has been completed, and in 2010 we finalized new wording for the policy and regulations that govern our office.

This past year has been full of changes for our office. In January, we hired four part-time, on-call investigators as part of a new business model to rapidly complete investigations. Each one of these investigators have unique qualities and work experience that enhances our staff and will benefit our investigations. In March, we changed locations within City Hall. Our office is still on the 3rd floor, but now in Building II of City Hall. This move provided the perfect opportunity to clean, purge, and reorganize over 10 years worth of accumulation. In November, we began utilizing new software to track our cases. This software will allow us to have easier access to the Boise Police Department Office of Internal Affairs cases and introduces us to a new “paperless” world.

Another exciting thing that happened in 2010 was an Internship Project completed by two Boise State University students in the Criminal Justice Program. The results of the work they did have helped us evaluate the consistency of the findings I have issued. The matrix they created to track findings with allegations will be continued so that similar analysis can be done on future findings.

We implemented many changes in 2010. Hiring four part-time investigators has improved the timeliness of our investigations. We are sure the other changes we have implemented will increase the service we provide to our community as well.

Sincerely,

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

Pierce Murphy
Community Ombudsman

VISION



CITY OF BOISE

To make Boise the most livable city in the country.



OFFICE OF THE COMMUNITY OMBUDSMAN

We are a high-functioning team of skilled investigators and police policy experts working collaboratively to make Boise the most livable city in the country by seeking the truth, advocating for accountability, and promoting public confidence through positive change to police practices.

VALUES

RESPECT

We appreciate contributions from all team members and listen to everyone with openness.

INTEGRITY

We strive to maintain high standards in our personal and professional lives and are dedicated to being unbiased.

BOLDNESS

We are committed to seeking the truth, advocating accountability, and suggesting change where needed.

COMMITMENT

We are devoted to the City of Boise and the members of our community by promoting public confidence through positive change to police practices.

COLLABORATION

We use teamwork and value cooperation to achieve our goals.

RESPONSIBILITY

The community depends on us to initiate positive change and enhance the quality of service received from the Boise Police Department.

HISTORY

On July 20, 1999, the Boise City Council enacted the Ombudsman Ordinance which formally established the Office of the Community Ombudsman. The 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 Mayor and 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.

MEET THE STAFF

In January 2010, the Office of the Community Ombudsman implemented an innovative plan that has decreased our turn-around time for investigations while reducing our operating costs. Since our greatest expenditures are related to employee costs, we now employ only two full-time and five part-time, on-call employees. The ombudsman and the investigative analyst work full time managing cases and daily operations. The five part-time investigators are called in once a case has been assigned to them. They work exclusively on that one case until it is complete. Having multiple investigators has reduced our back log and prevented us from constantly being delayed with finalizing old cases while acting in a timely manner on new cases. Our employee costs have been reduced by hiring employees on an on-call, part-time basis. These investigators all offer unique backgrounds and their assorted areas of expertise is a great asset to our office. Each one of the employees of the Office of the Community Ombudsman is truly dedicated to serving the community with integrity and dedication.



PIERCE MURPHY, OMBUDSMAN

Mr. Murphy was appointed by the Mayor and the City Council on March 2, 1999, and began work on April 5, 1999. Mr. Murphy has extensive experience in human resource management, facilitation, mediation and investigation. Mr. Murphy earned a Master of Pastoral Studies degree in theology from Loyola University, New Orleans, Louisiana, a Master of Arts degree in Counseling Psychology from Gonzaga University in Spokane, Washington, and a Bachelor of Science degree in Commerce from Santa Clara University in Santa Clara, California. Mr. Murphy began his career in 1972, as a law enforcement officer with the City of Menlo Park in California. Following his graduate studies and from 1986, until 1994, Mr. Murphy maintained an active Human Resource Management consulting practice with clients throughout the United States, Europe, Asia and Latin America. In 1994, Mr. Murphy joined the Paper Division of the Boise Cascade Corporation as Manager of Human Resource Development. He and his family reside in Boise.



JENNIFER BUTLER, INVESTIGATIVE ANALYST

Ms. Butler joined the Office of the Community Ombudsman in July 2005. Ms. Butler has a degree in Education and has taught in Idaho and Nevada. She also taught overseas in the Federated States of Micronesia where she served as a School and Community Coordinator in the United States Peace Corps. Ms. Butler also has an extensive office environment background. Her skills are an integral part of the process of our daily operations. Ms. Butler conducts Intake Investigations and audits BPD internal personnel investigations.



DENNIS DUNNE, SENIOR INVESTIGATOR (ON-CALL)

Mr. Dunne began working in the Ombudsman's Office in 2005 as a volunteer. In late 2005, early 2006, he served for four months as acting deputy ombudsman. Mr. Dunne now serves as an investigator with the office on a part-time basis. He received a Bachelor of Arts in Political Science from the University of California at Davis and a Master in Public Administration from the College of Notre Dame in Belmont, California. He began his career in law enforcement in 1970, and retired in 2002, at a supervisory level. He has experience working in patrol, traffic, personnel administration, investigations, and training. Mr. Dunne also served as an in-service coordinator and instructor for the police academy, teaching Supervision, Field Training Officer, Background Investigation, and Driving and Force Options Simulator courses.



NAJUMA HENDERSON, INVESTIGATOR (ON-CALL)

Ms. Henderson came to the Ombudsman's Office in January 2010 with a law degree from Georgetown University and experience working for two different law enforcement oversight agencies in California. She worked as a civilian investigator for the Berkeley Police Review Commission and then for the Office of the Inspector General for the Los Angeles Police Commission.

VERNA KESSLER, INVESTIGATOR (ON-CALL)

Ms. Kessler retired from the Federal Bureau of Investigation (FBI) after over 20 years of service before coming to the Ombudsman's Office in January 2010. At the time of her retirement from the FBI, Ms. Kessler was working out of the Boise office. She is a Certified Public Accountant with a specialty in financial forensics. While at the FBI, Ms. Kessler investigated a wide variety of Federal crimes. However, her specialty was in white collar crimes and complex fraud cases.



DENNIS (GUS) MORGAN, INVESTIGATOR (ON-CALL)

Mr. Morgan spent over 27 years in the United States Secret Service. When he retired, Mr. Morgan was the Resident Agent in Charge of the Boise office of the Secret Service. He also served honorably in the U. S. Army, including a tour of duty in Vietnam where he commanded a POW interrogation team and served as a military advisor. Since retiring, Mr. Morgan has worked as a security advisor to private industry and a substitute teacher before coming to the Ombudsman's Office in January 2010.

JT, INVESTIGATOR (ON-CALL)

JT retired following 20 years of law enforcement service outside of Idaho. She worked in a variety of assignments, including patrol, training, crime analysis, community relations, and detectives. The last eleven years of JT's law enforcement career were spent investigating sex crimes and crimes against children. She began working for the Office of the Community Ombudsman in January 2010.



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 Boise law enforcement agencies as well as 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 they answer about the policies, procedures, and tactics of law enforcement. Even though the 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 are received 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, the staff believes that it is their duty to provide the public with the information they need and want about law enforcement in our community.

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

PRESENTATIONS

In 2010, the ombudsman spent over seven (7) hours participating in community outreach activities. These activities included presentations at the Mexican Consulate and to Criminal Justice classes at Boise State University.

BROCHURES

The Office of the Community Ombudsman has two brochures available to the public. The first brochure provides a brief introduction to the office, includes information on how to file a complaint or commendation, and contains a form to be completed and returned. 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."

WEBSITE

The Office of the Community Ombudsman's website provides links to the Ombudsman Ordinance, staff information, the complaint process, commendations, and related websites. It includes an electronic form for the public to express their complaints, issues, or concerns regarding Boise City's law enforcement agencies. Additionally, 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 in understanding and evaluating the available services.

BUENA VISTA AD

The Office of the Community Ombudsman took out an advertisement in the 2010 edition of the "Buena Vista: the Hispanic Yellow Pages of Idaho". This ad was a result of community feedback regarding concerns about the local Hispanic population not being aware of options to address police misconduct. This edition can be downloaded at www.buenavistaidaho.com



BEYOND BOISE

The Office of the Community Ombudsman was mentioned in a blog titled, "Police Oversight Agencies are Well-Suited to Address "Contempt of Cop" Arrests", written by Phil Eure.

In June 2010, the American Constitution Society (ACS) asked Mr. Eure, executive director of the District of Columbia's Office of Police Complaints, to guest blog on their website (www.acslaw.org). Mr. Eure's guest blog was a follow up to an Issue Brief, "Disorderly (mis)Conduct: The Problem with 'Contempt of Cop' Arrests", written by Christy Lopez.

In Mr. Eure's blog, he writes, "In recent years, a few external review agencies have released studies analyzing patterns of contempt of cop arrests. Lopez discusses my agency's disorderly conduct report and the Seattle police auditor's review of arrests for obstruction. In addition, Boise's Office of the Community Ombudsman collaborated on a report in 2007 with the police department to review how that city's public intoxication law was being enforced one year after implementation. In all three cases, the review agencies offered constructive guidance on how to improve future enforcement and prevent illegal arrests." The complete blog can be read at <http://bit.ly/NACOLEContemptOfCop>

PROJECTS AND UPDATES

JOINT POLICY STUDY

Each year, the Ombudsman's Office and the Boise Police Department conduct a joint policy study. The 2006 project examined the Taser policy, the 2007 study focused on the application and use of the Public Intoxication ordinance, and the 2008 project explored Code Three Policy Vehicle Operations. Foot pursuits was the chosen project for 2009 and was completed in 2010. These joint studies allow both agencies to collaborate on issues of high importance to the community and to the officers, with the level of importance being determined by one or more of the following factors (among others): officer safety, potential liability, public safety, best practices, etc.

INTERNSHIP PROJECT

Two interns were chosen to work on a project during 2010. These interns were students from the Boise State University Criminal Justice Program. The project involved analyzing the findings issued by the ombudsman during the past seven years. The interns used public reports to create a matrix of findings associated with various types of allegations. These allegation types and their findings were compared to analyze the consistency of findings issued and the rationale used to determine the findings.

Overview

For over ten years, the Office of the Ombudsman has investigated complaints and officer-involved shootings involving the Boise Police Department. During that time, well over 2,000 cases have been opened and hundreds of findings have been issued. Each finding represents a ruling by the ombudsman on whether or not the evidence discovered in an investigation proves or disproves a specific allegation of misconduct.

Goal

The goal of the Intern Project was to identify patterns of criteria used to support ombudsman findings for similar or related allegations. For example, in looking at the facts in all cases where the allegation was one of rudeness or unprofessional demeanor, what criteria did the ombudsman apply in distinguishing between behavior that violated policy and behavior that did not? These data and conclusions will be used to develop clear standards and criteria for use in the future.

Benefits

The Office of the Community Ombudsman strives to be fair and objective in fulfilling its duty to hold police employees accountable to follow applicable policies and law. In issuing hundreds of findings over a period of ten years, it was assumed that a pattern of criteria for similar allegations had developed. This project has helped to identify and articulate any such criteria. As a result, these criteria can be validated and/or modified in order to be applied in a consistent manner in the future.

Methodology

Using public reports released by the ombudsman, the interns analyzed all past findings issued by the ombudsman. Based on a standardized format, the interns gathered data from each report. This data was then analyzed to determine what, if any, patterns exist and how the facts of each case were applied to similar allegations. In consultation with the ombudsman and based on past findings issued by the ombudsman, the interns helped identify past criteria or standards for each type of allegation. These standards were included in a spreadsheet along with the allegation and its finding. These standards will be used by the ombudsman in establishing criteria for reaching future findings.

Conclusion

The interns created a comprehensive report along with spreadsheets divided by allegation types that listed relevant criteria that had been used in deciding what factors affected findings. Overall, the interns found the ombudsman to be consistent in his reasoning and decisions in regards to findings issued for allegations. There were only three examples where the interns felt there may have been some inconsistency. The interns also presented some general concerns they had. The greatest among these had to do with the application of the preponderance of the evidence standard. In a couple of situations, the interns felt that some benefit was given to the officers when findings of not sustained were issued.

One intern reported, "In general, I find that this office performs its duties consistently and an overwhelmingly sound basis exists for the rationale in its findings. [Our] report and corresponding spreadsheets do not signal that there are any major corrections needed in terms of consistency or fairness, but they should be useful in identifying the trends and criteria used for decision making as described in the goal statement."

As a result of this project, the Office of the Community Ombudsman has decided to maintain the spreadsheets created by the interns by adding new findings and their rationale as they are issued. By continuing to gather data on the standards for each finding issued, consistency and trends can easily be evaluated in the future.



Ombudsman Pierce Murphy and BSU Intern Tate Fegley.

OPERATIONS

FILING A FORMAL CASE

Any person may file a complaint, inquiry, or commendation with the Office of the Community Ombudsman concerning the operations, actions, or omissions of the Boise Police Department and any Boise City law enforcement and police personnel. Complaints previously filed with the Boise Police Department or applicable City department will not be accepted, except as an appeal. Only the person or persons who originally filed a complaint or allegation with the Boise City Police Department or other City department shall have standing to file an appeal with the Office of the Community Ombudsman if done within 30 calendar days after the date on which the person filing the appeal received notice of the finding or outcome of the original complaint or allegation.

TIMELINESS REQUIREMENTS

Complaints filed more than 90 calendar days after the incident giving rise to the complaint will not be accepted by the Office of the Community Ombudsman, except under one or more of the following conditions:

1. the complaint contains an allegation that, if proven to be true, would be either a criminal act or a serious violation of policy, or
2. the complainant provides evidence of involuntary incapacitation and/or circumstances that would reasonably have prevented the filing of such a complaint during the 90 calendar days following the incident, or
3. the Community Ombudsman determines that it is in the best interests of the City of Boise to accept the complaint, or
4. the Community Ombudsman is the complainant and his or her knowledge of the alleged violation is based on evidence discovered during the investigation of a different allegation made in a timely manner. In such cases, the Community Ombudsman shall have five business days from the date of discovery in which to file a complaint.

Inquiries filed more than 90 calendar days after the incident giving rise to the inquiry will not be accepted by the Office of the Community Ombudsman, except when the Community Ombudsman determines that accepting the inquiry would better serve the public interest.

Even though a formal case is opened, it may not always be investigated by the ombudsman. Although a case may not be opened due to the complainant not making contact with the Office of the Community Ombudsman within 90 days of the incident, occasionally a formal case number is assigned in order to provide a means of tracking the information received. This occurs primarily if a written statement is received from the complainant. In addition, it is sometimes necessary to perform a preliminary review of the information in order to determine if the criteria to waive the requirement is met.

In 2010, a total of 12 formal cases were opened in which the incident occurred over 90 days prior. Two cases were opened as RRI's and referred to the Police Department after it was agreed that BPD would be willing to address the issues raised by the complainants. Another case was classified as Other Agency when the complainant was referred elsewhere. The remaining nine (9) cases were classified as Inquiries. One case involved the ombudsman meeting with BPD to discuss the concerns raised by the Complainant. However, a total of six (6) of these inquiries were closed as being denied due to the 90-day rule and no further action was taken. No cases were opened where the time-limit requirement was waived in order for a complaint to be investigated.

2010 DENIED CASES	
Case Number	Days Elapsed
OMB 10/0020	735
OMB 10/0070	1330
OMB 10/0077	144
OMB10/0101	139
OMB10/0102	91
OMB10/0111	160

PROCESS AND WORK FLOW

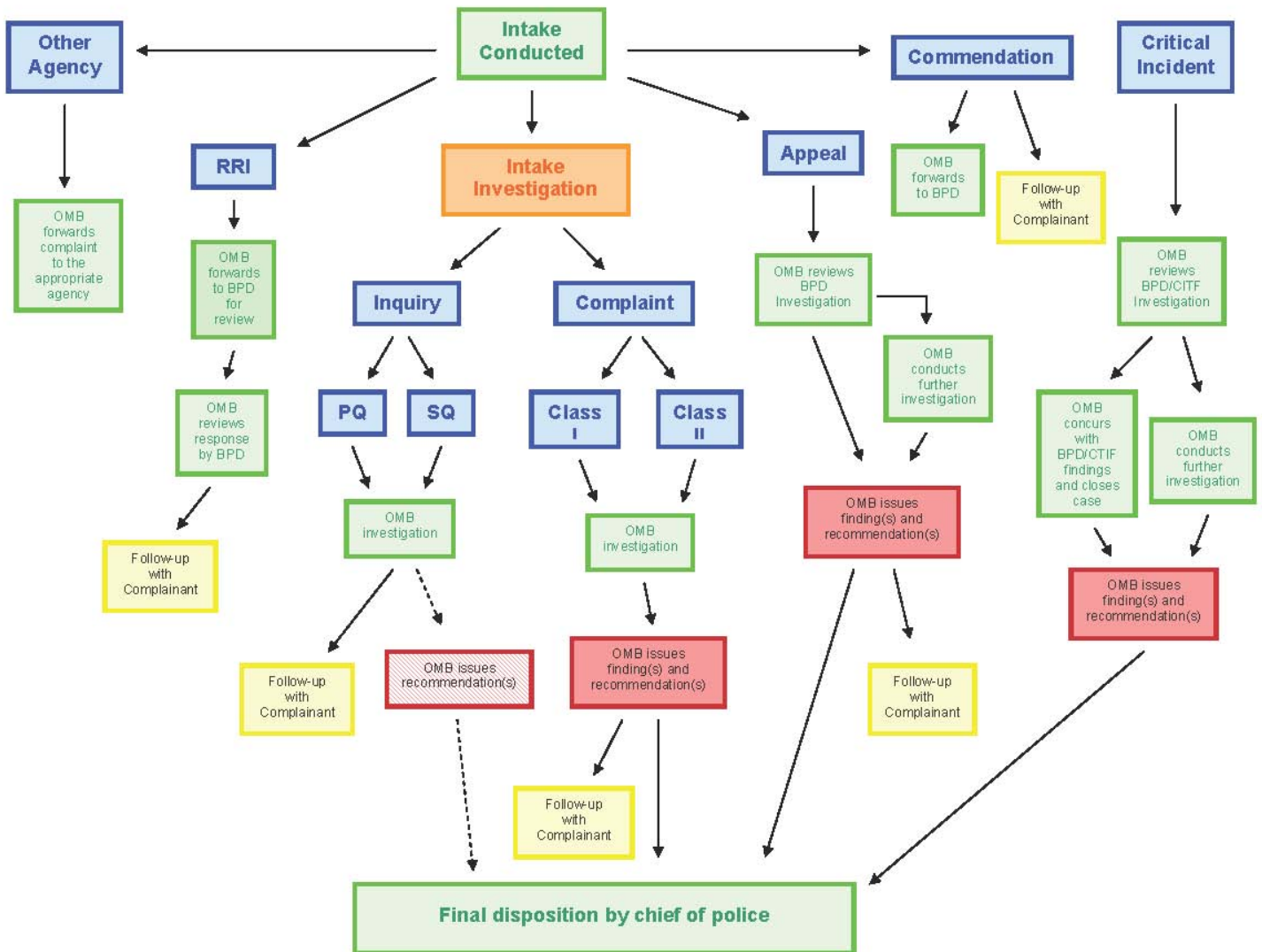
All cases are opened after an intake has been conducted. An intake is the process by which the Office of the Community Ombudsman receives a complaint, inquiry, or commendation. During this intake interview, the complainant is asked to provide detailed information about the incident which prompted the complainant to contact the Office of the Community Ombudsman. The person conducting the intake interview determines if the minimum criteria for filing is met. The complainant is asked questions that will help the ombudsman determine how to proceed.

After an intake is received, it is documented. The ombudsman determines if a formal case should be opened after reviewing a write-up of the intake interview. Some cases are classified right away, because it is clear when an intake results in a Commendation, Appeal, Other Agency, or Rapid Resolution Inquiry

(RRI). Critical Incident cases are unique because they are opened per set criterion and do not involve an intake. If a case classification is not defined, an Intake Investigation is opened.

An Intake Investigation is the method by which the ombudsman takes a preliminary look at readily available documentary evidence in order to classify a complaint or inquiry and determine what action to take. The Intake Investigation consists of a review of the intake interview, any evidence presented by the complainant, relevant police reports, dispatch information, and officer digital audio recordings.

Based on the Intake Investigation, an informal report is produced. This report outlines the situation, complaint or question, evidence reviewed, and observations. Based on this Intake Investigation report, the ombudsman determines how to proceed, and classifies the case as either a Class I or Class II Complaint or an Inquiry.

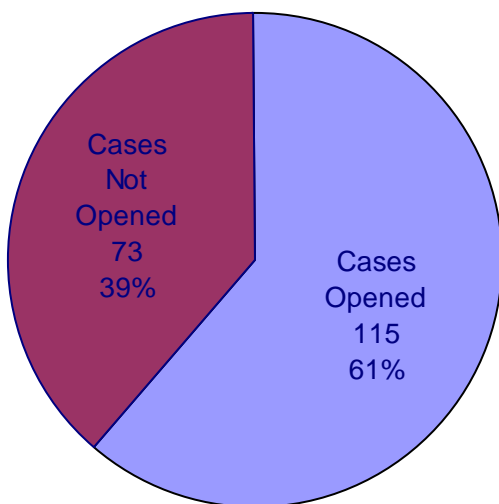


CONTACTS NOT RESULTING IN A FORMAL CASE

The Office of the Community Ombudsman receives numerous contacts throughout the year. Some of these contacts result in an immediate answer or a referral to another agency. However, other contacts require more time and consideration. Often these contacts do not meet the standards required to open a formal case. When this occurs, these contacts are documented with the reason they were not opened as a formal case. In 2010, there were 188 contacts. A total of 115 resulted in a formal case, while 73 did not. The various reasons why a case was not opened for those 73 contacts are shown below.

Reason Why Formal Case Was Not Opened	
Contact made in excess of 90 days after the incident	4
Complainant is not directly involved in incident	5
Complaint is outside of the ombudsman's authority	20
Complainant already contacted BPD	6
Questions answered/issue resolved during contact	7
No allegation of policy violation	13
No further action required	18
Total	73

Results of the 188 Documented Contacts Received in 2010



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 that they will 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 the office depends on. It also is unfair to an officer whose professional and personal reputation may be at stake. Evidence sufficient to form probable cause to believe that a complainant has knowingly made a false allegation regarding a Boise law enforcement officer will be forwarded to the prosecutor for consideration of criminal charges against the complainant.

Boise City Code § 6-01-13(B) False Reports makes it unlawful for anyone, "To knowingly give or cause to be given false information to any law enforcement officer or any state or local government agency or personnel." In 2010, the Office of the Community Ombudsman forwarded two (2) cases to the prosecutor for review. In both cases the prosecutor declined to file charges.

FALSE COMPLAINTS REFERRED IN 2010	
Case Number	Reason Charges Declined
OMB 09/0088	Lack of evidence to convince a jury beyond a reasonable doubt that the complainant knowingly provided false information.
OMB 10/0049	Too many versions of events available from multiple witnesses making it difficult to prove violation beyond a reasonable doubt.

ALLEGATIONS NOT MADE BY THE COMPLAINANT

When, in the course of a Community Ombudsman investigation, evidence of a possible violation of policy or procedure not previously included in the allegations listed in a complaint, inquiry, or appeal is discovered, the Community Ombudsman, at his or her discretion, may file a new complaint listing the possible violation as an allegation, or refer the matter to the appropriate department for disposition.

In 2010, a total of seven (7) cases were discovered to have evidence of a possible policy violation not alleged by the complainant. In each case, the ombudsman referred the matter to BPD's Office of Internal Affairs (OIA) for investigation.

2010 CASES WITH MATTERS REFERRED TO OIA	
Case Number	Reason
OMB 10/0019	Potential failure to record violation
OMB 10/0039	Potential failure to record violation
OMB10/0041	Two potential training issues identified
OMB10/0062	Potential failure to perform duty
OMB10/0063	Potential failure to record violation
OMB10/0068	Potential demeanor violation
OMB10/0071	Potential demeanor violation

CONCLUSION

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 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.

Please see the separate "Findings" and "Recommendations" sections of this report for additional information on the findings and recommendations issued by the ombudsman in 2010.

FINDINGS ISSUED IN 2010	
Exonerated	13
Not Sustained	3
Sustained	5
Unfounded	28
Total	49

FORMAL CASE TYPES

The Office of the Community Ombudsman classifies cases using eight (8) types of formal cases. The descriptions below explain how the decision is made to how a case is classified. A case may be temporarily classified as an Intake Investigation until a formal classification is made.

COMMENDATIONS

The ombudsman opens a formal case every time a community member takes the time to praise the actions of officers in a specific incident. This type of case is called a Commendation. The Office of the Community Ombudsman gladly takes these commendations and forwards them to the officer and chief of police.

APPEALS

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. 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.)

INQUIRIES

Inquiries constitute the largest percentage of formal cases. Inquiries are the name given to a question or 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. There are two (2) types of Inquiries: Policy Question and Service Quality.

RAPID RESOLUTION INQUIRIES

This type of Inquiry is referred to as "RRI" and was developed to quickly provide responses to inquiries. Due to the large percent of inquiries opened by the ombudsman and the time involved seeking an answer or mediating a resolution, the om-

budsman, with the cooperation of the police department, developed a process designed to resolve issues quickly by putting individuals in direct contact with first-line supervisors.

The rapid resolution process is initiated when an inquiry is filed by an individual and it is determined that the resolution could be expedited by involving the police directly. A formal case is opened and a division captain at BPD is contacted. The captains are requested to 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 complainant understands the process and is comfortable speaking with a BPD supervisor. Many people are eager 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 instead of using the RRI process.

Prior to 2010, Rapid Resolution Inquiries were counted as an allegation type under the Inquiry formal case type. Due to the success of the RRI process, the Office of the Community Ombudsman decided to track RRIs separately from other Inquiries and designated Rapid Resolution Inquiries as a separate formal case type.

CLASS I COMPLAINTS

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. 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.

A Class I Complaint includes more severe allegations along the lines of excessive force, violations of criminal law, or the abuse of authority. In the eight (8) Class I cases opened in 2010, 23 separate allegations were made. All of the Class I complaints involved the Boise Police Department.

CLASS II COMPLAINTS

Class II Complaints are less serious and involve complaints of inadequate service, discourtesy, improper procedure, and non-criminal conduct. They are tracked in the same manner as Class I Complaints.

When a person files either a Class I or a Class II Complaint, the ombudsman tracks each reported act of misconduct by each of the involved officers. Often, more than one officer is involved in the underlying incident. During the investigation, if additional misconduct is discovered, new allegations will be listed. Tracking allegations separately enables the ombudsman's office to report a finding for each complaint allegation and to track allegations by type and officer.

In 2010, there were three (3) Class II cases opened by the Office of the Community Ombudsman with three (3) separate allegations.

CRITICAL INCIDENTS

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. They 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 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.

OTHER AGENCY

Occasionally, the ombudsman receives complaints that are outside of his jurisdiction. Complainants who contact the Office of the Community Ombudsman are sometimes not clear about the ombudsman's jurisdiction. If, after the extent of the office's 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.

2010 CASE TYPE TOTALS	
Commendation	3
Appeal	1
Inquiry	54
Rapid Resolution Inquiry	41
Class I Complaint	8
Class II Complaint	3
Critical Incident	1
Other Agency	4

ALLEGATION TYPES

Each case tracks any allegations presented by the complainant. Additional allegations may be added as they are discovered in the course of an investigation. 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 two ways: Service Quality or Policy Question. Commendation, Rapid Resolution Inquiry, and Other Agency are allegation types as well as classifications for formal cases. The other allegations all classify the type of complaint alleged or the potential policy violation and are 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 covers 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 specifically 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 force used upon the individual, duration of the force, 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, officers must refrain from any unnecessary infliction of pain or suffering and may 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 when taken at face value.

RAPID RESOLUTION INQUIRY

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.

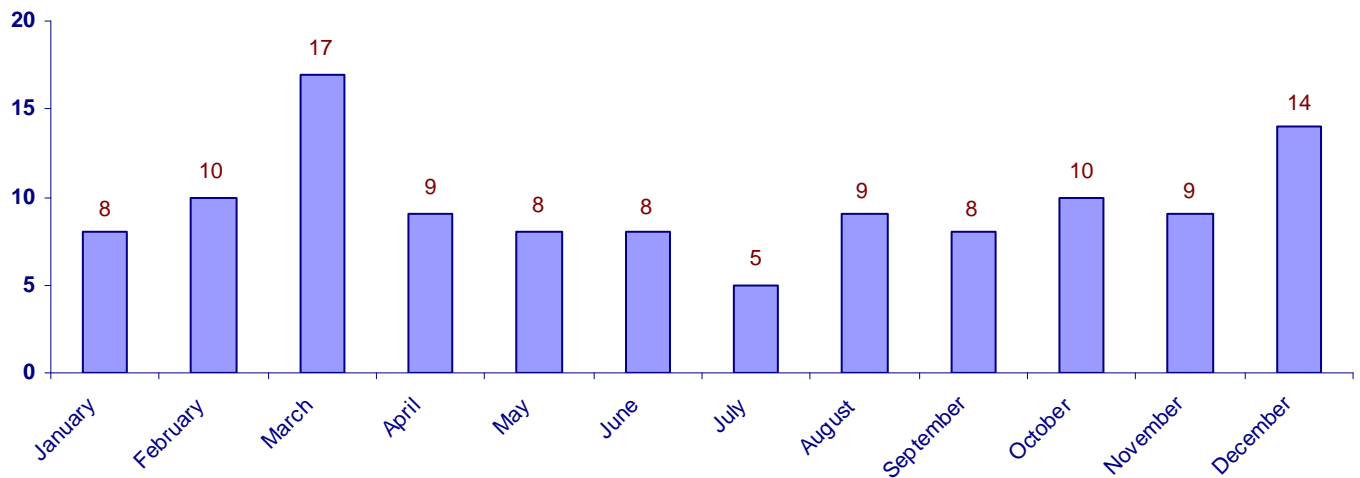
YEAR-END STATISTICS

2010 CASE TOTAL

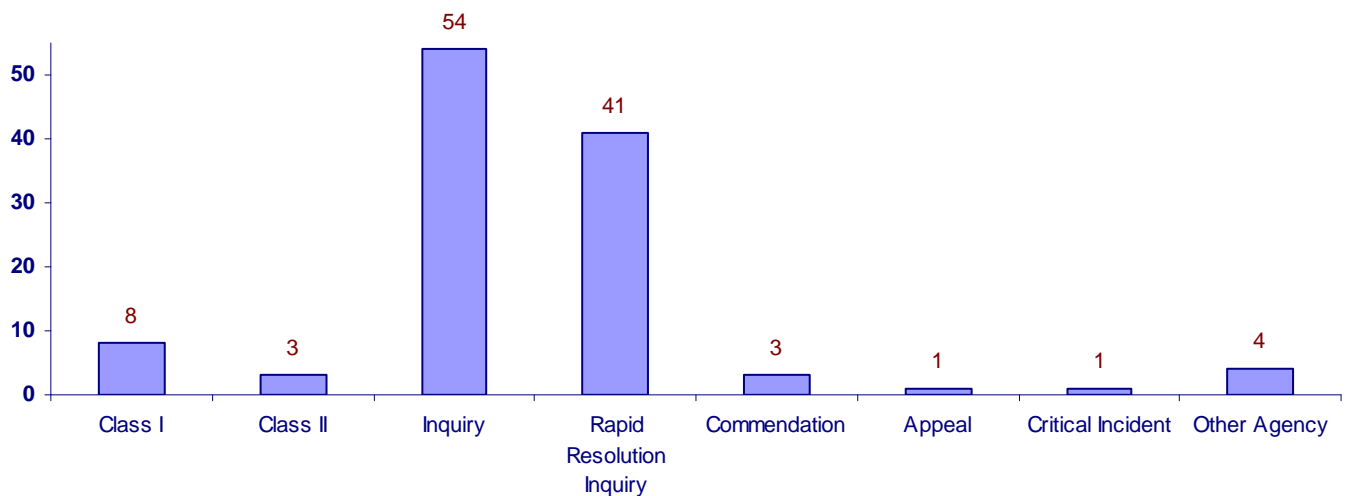
The Office of the Community Ombudsman opened 115 formal cases in 2010. By the end of 2010, work had been completed on all but eight (8) of the 2010 cases.

Investigative reports are made public when the ombudsman's office conducts an investigation into a Complaint, Critical Incident, or Appeal. In 2010, 18 investigative reports were issued. They include six (6) cases opened in 2009, but completed in 2010. These reports can be found on the website www.boiseombudsman.org under "Investigative Reports".

Total Cases Opened by Month
January 1, 2010 - December 31, 2010
Total = 115



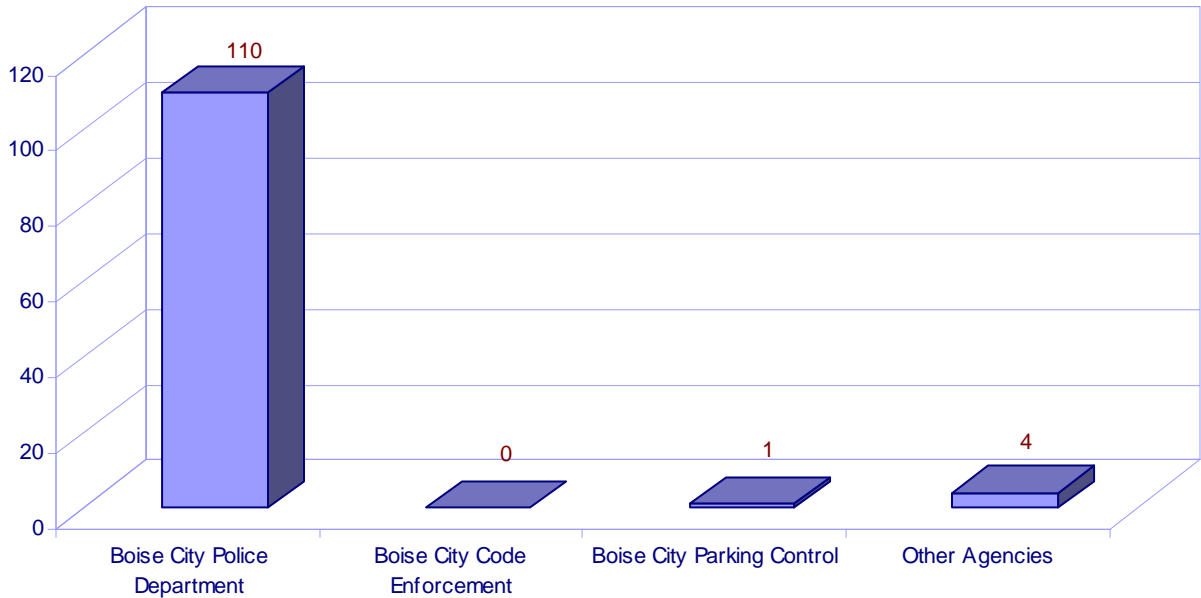
Classification of Formal Cases
All Jurisdictions
January 1, 2010 - December 31, 2010
Total = 115



FORMAL CASES BY JURISDICTION

Of the 115 cases opened in 2010, a total of 110 involved the Boise Police Department. No cases were opened involving Boise City Code Enforcement. One case involved Boise City Parking Control, and a total of four (4) cases were outside of the ombudsman's jurisdiction.

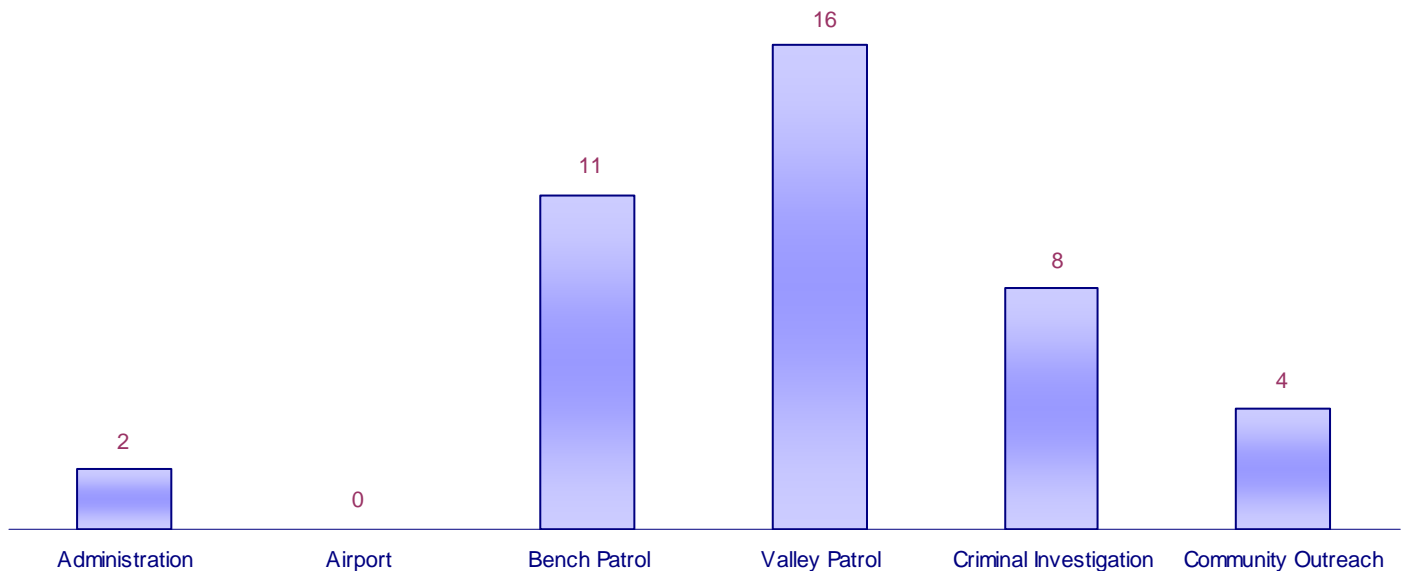
Formal Cases by Jurisdiction
January 1, 2010 - December 31, 2010
Total = 115



RAPID RESOLUTION INQUIRIES

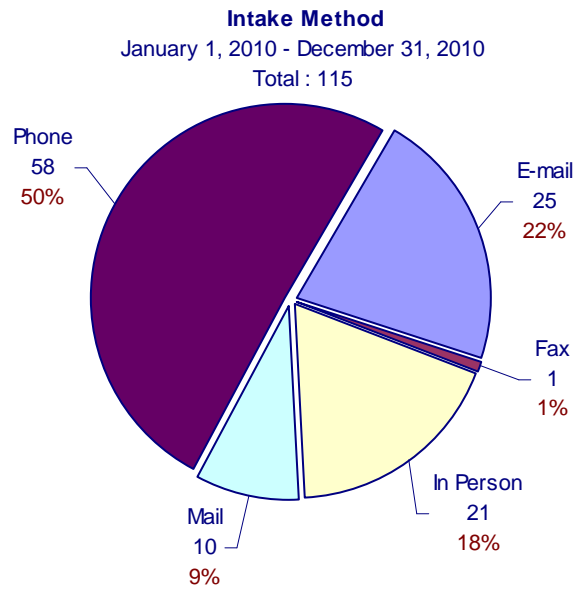
A total of 41 cases were handled by various divisions of BPD as Rapid Resolution Inquiries.

Rapid Resolution Inquiries by BPD Division
January 1, 2010 - December 31, 2010
Total = 41



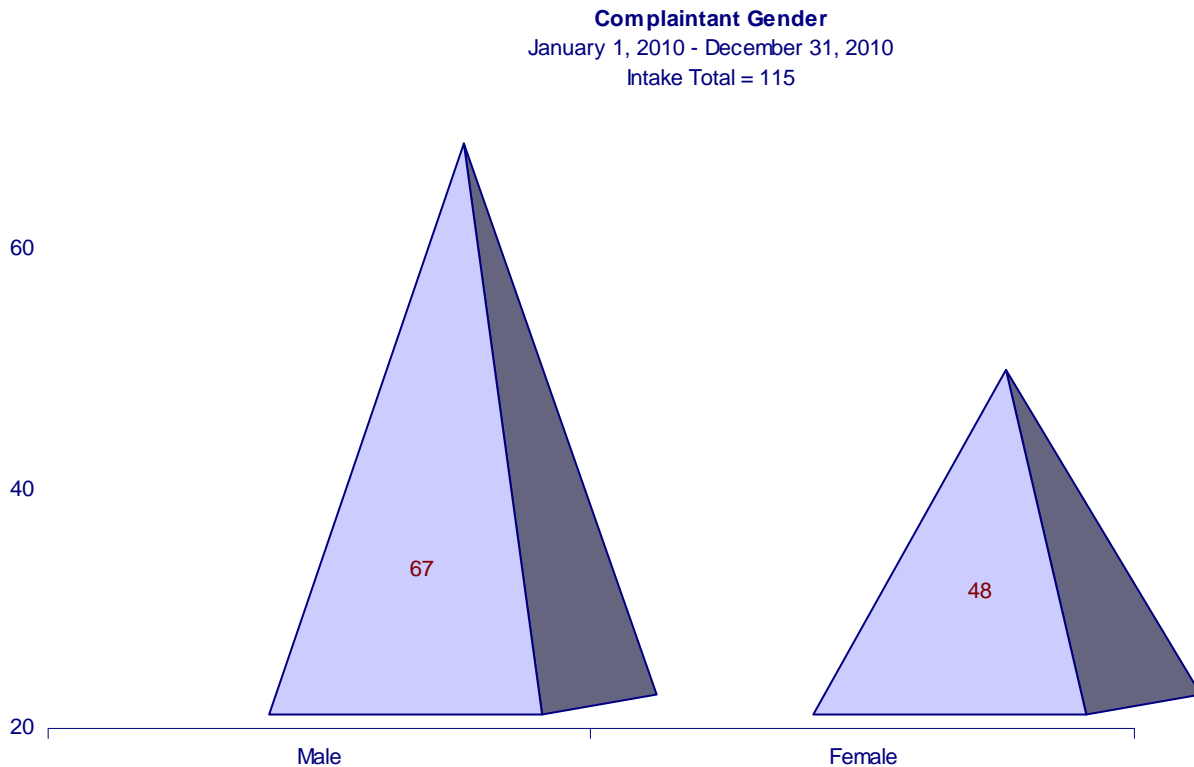
INTAKE METHOD

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



COMPLAINANT GENDER

Males account for 58% of the contacts that resulted in formal cases during 2010.



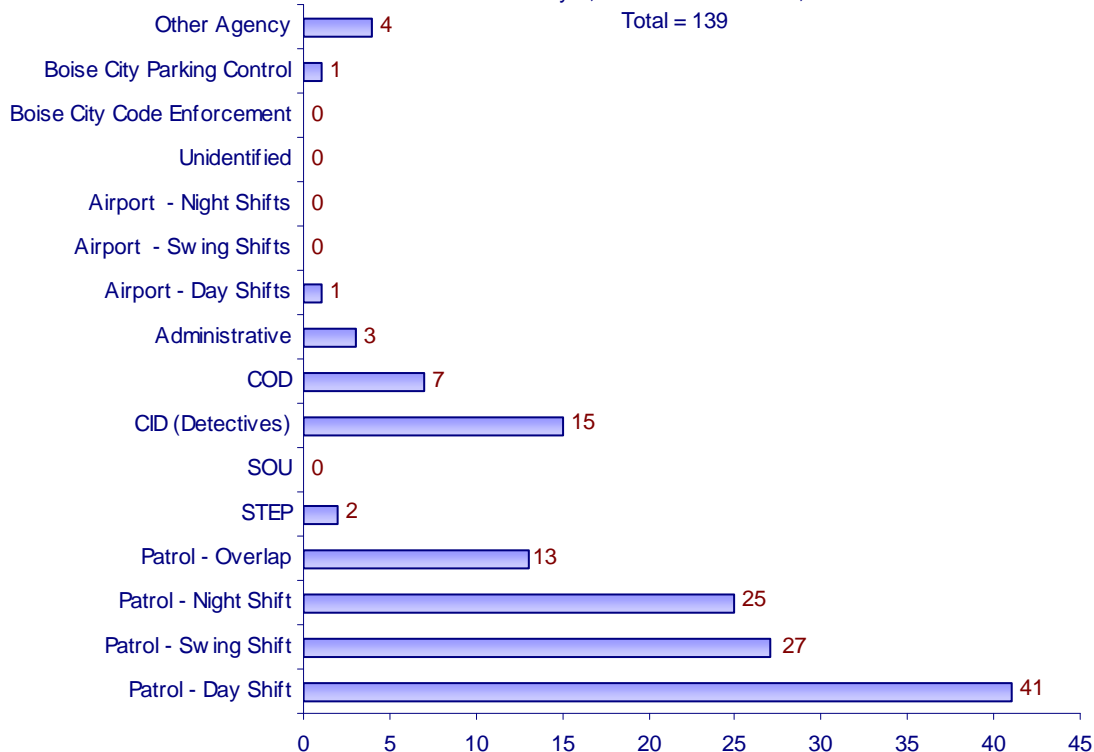
2010 ALLEGATION TOTALS

In 2010, a total of 139 allegations were included in the 115 cases opened. Each case tracks any allegations presented by the complainant. However, additional allegations may be added in the course of an investigation. Some cases contain more than one allegation for a particular officer and/or contain allegations for multiple officers. Allegations indicate the type of misconduct alleged in a Complaint or the type of Inquiry opened. Commendation and Other Agency are used as both allegation type and a classification for a formal case. In 2010, a total of 134 of the 139 allegations involved the Boise Police Department.

Allegations/Commendations/Inquiries by Case Classification
January 1, 2010 - December 31, 2010

Allegation Type	Class I	Class II	Inquiry	RRI	Commendation	Appeal	Critical Incident	Other Agency	Total
Rudeness/Demeanor		1							1
Performance of Duty	3	1					1		5
Use of Force	18					1			19
Improper Conduct									0
Abuse of Authority	1								1
Officer Harassment									0
Criminal Conduct									0
Vehicle Operation	1	1							2
Constitutional Rights Violation									0
Failure to Act									0
Failure to Record									0
Officer Commendation					5				5
Critical Incident									0
Policy Questions			31						31
Service Quality			28						28
Rapid Resolution				43					43
Other Agencies								4	4
Total	23	3	59	43	5	1	1	4	139

Commendations/Allegations/Inquiries by Division
January 1, 2010 - December 31, 2010

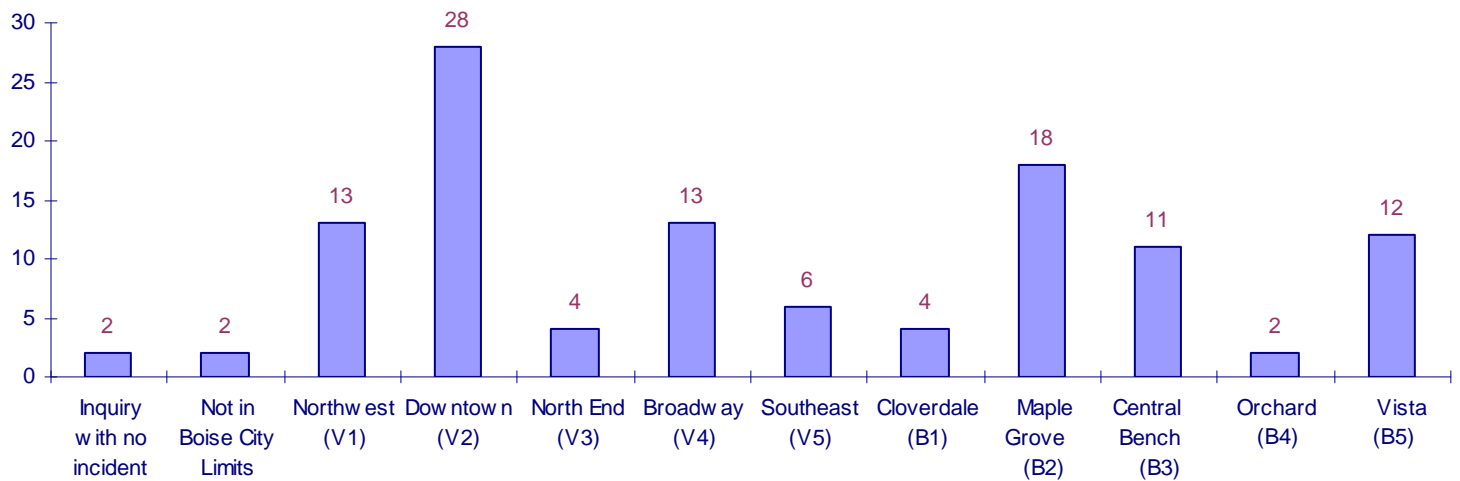


REPORTING DISTRICTS

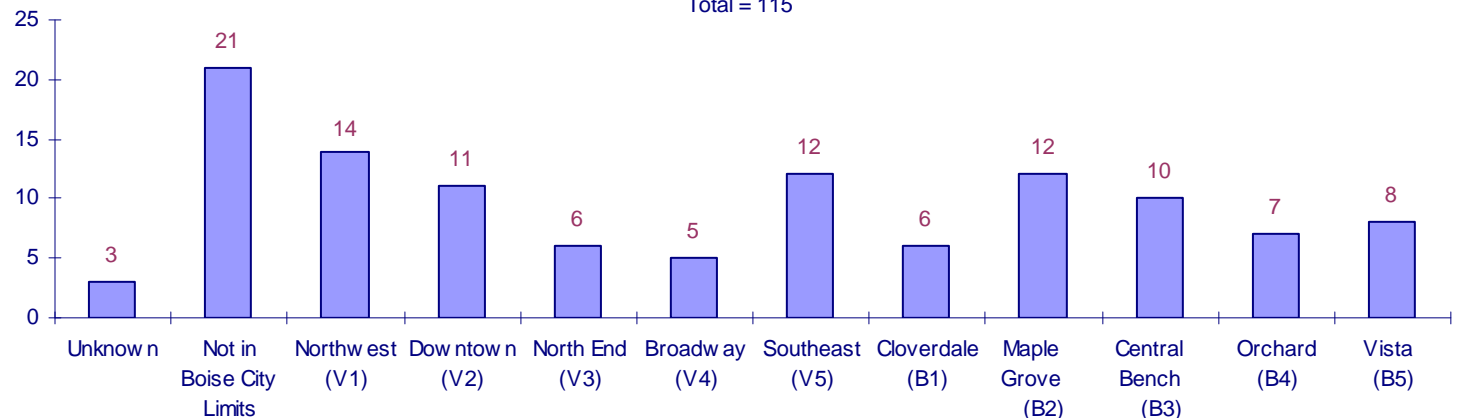
The police department separates the City into Reporting Districts for tracking crime statistics. These reporting districts are divided by BPD's two patrol divisions: Valley and Bench. These two patrol divisions consist of multiple districts. The Boise River provides the dividing line between the two 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 Office of the Community Ombudsman uses these reporting districts in two ways. The location where an 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 the City that may benefit from future outreach programs by the Office of the Community Ombudsman.

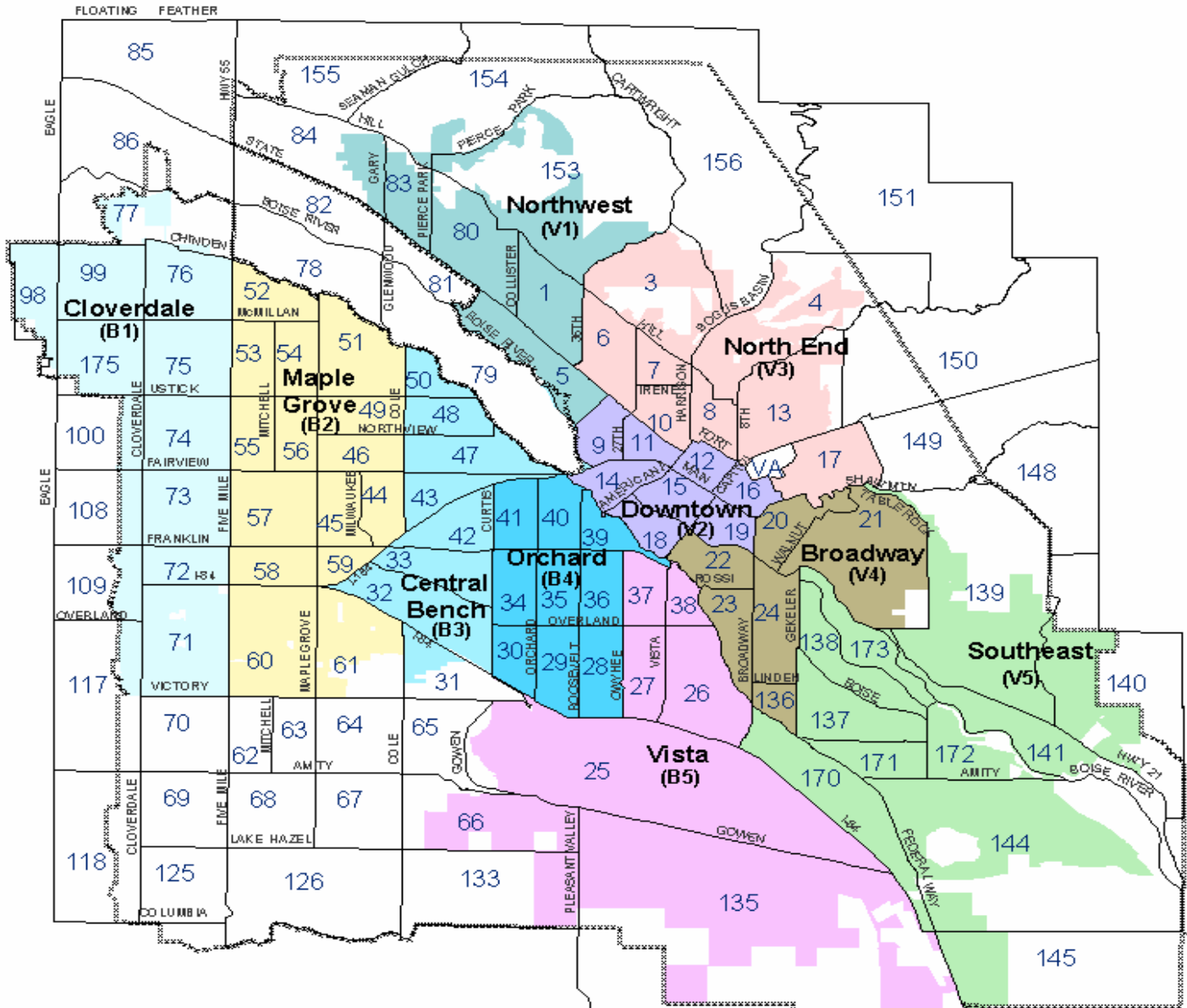
Incident Location
Reporting District
January 1, 2010 - December 31, 2010
Total = 115



Complainant Residence
Reporting District
January 1, 2010 - December 31, 2010
Total = 115



Boise City Police Reporting Districts



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CMDT9/02E
 Print Date: 11-30-05

CASE SUMMARIES

The following are summaries of some of the cases closed in 2010. They demonstrate the variety of issues that are addressed by the Office of the Community Ombudsman. Public reports are not issued for Inquires, cases in which no policy violations are alleged; however, complete investigative reports for Critical Incidents and Complaints can be found at www.boiseombudsman.org by the corresponding case number under “2010 Investigative Reports”.

APPEAL

OMB10/0079

The Complainant filed an Appeal with the Office of the Community Ombudsman in response to the result of an investigation by the Boise Police Department’s (BPD) Office of Internal Affairs into his allegations that he was punched and kicked by an officer. The ombudsman reviewed the investigation conducted by BPD. As a result, he determined that no further investigation was warranted and upheld the finding of unfounded issued by BPD for the allegation that the officer used excessive force.

CRITICAL INCIDENT

OMB10/0055

While attempting to capture the driver of a car who had fled on foot following a short vehicle pursuit, a Boise Police Department (BPD) officer unintentionally fired one round from his BPD-issued handgun. The driver was struck in the right arm by the bullet. The resulting gunshot wound was not life-threatening and required only emergency room medical treatment. Following a criminal investigation by the Ada County Critical Incident Task Force (CITF) and a decision by the Ada County Prosecutor not to file any charges against the BPD officer, the Office of the Community Ombudsman conducted an independent investigation of the shooting, as authorized by Boise City Code.

As a result of this investigation, the ombudsman decided BPD policy §11.03.02 Performance of Duty governed the actions of the officer at the time of the shooting, rather than policy §1.01.02 Authorization (for the use of force). The deciding factor in determining which section of policy governed the officer’s actions was that, at that time the shot was fired, the officer had no intention of using his handgun against the driver. The officer was holding the gun in his hand because he had failed to bring a holster with him and had no way to secure the gun while he grabbed the driver. The officer was not intentionally

pointing the gun at the driver, nor was he using the gun to defend himself or deter the driver from attacking. Since the officer was not using his handgun as a means to threaten the use of force or apply it, the discharge of the weapon could not properly be viewed as a use of deadly force as defined by BPD policy. Rather, it must be viewed as an unintended act resulting from the officer’s prior decisions and actions. As a result, the ombudsman issued a sustained finding because the officer was responsible for firing his handgun and did so in violation of BPD policy regarding duty performance.

INQUIRY

OMB10/0052

After the Complainant was involved in a collision while riding his motorcycle, the police were called to the scene. A Boise Police Department (BPD) officer called for a tow truck to remove the Complainant’s motorcycle, but then made the tow truck operator wait for an extended period of time before the operator was allowed to remove the motorcycle. This resulted in a larger than normal tow bill because of the time the tow operator had to wait. The Complainant wanted BPD to pay attention to the impact of having a tow operator wait around.

The ombudsman reviewed the incident, including examining the police report and the Dispatch records that show when the officer requested the tow. The tow truck was requested shortly after the officer arrived on scene, and approximately 2 minutes later a crime scene investigator (CSI) was requested to respond to take photos of the scene, the motorcycle, and the vehicle that struck the Complainant. The CSI arrived on scene approximately 20 minutes later and completed work about 20 minutes after that. It was reasonable for the officer to request a tow as soon as the need for one had been determined. The actual response time of a tow rig is unpredictable and not in the control of the police. Given their duty to clear the roadway as soon as the investigation allows, it makes sense for the police to have a tow rig on its way as soon as possible.

The ombudsman concluded that the issue in this instance is whether or not it’s reasonable for the tow company to charge for time spent waiting for the police to give them permission to clear the vehicle, not whether the officer should have timed his request better.

OMB10/0060

The Complainant contacted the ombudsman with concerns about the service she received from the Boise Police Department (BPD) regarding issues involving a missing person. The ombudsman facilitated a process of communication and mediation between the Complainant and representatives from BPD in order to address the Complainant's questions and concerns. Several ideas for improving police service in similar cases were discussed during mediation. One concrete idea was for BPD to create a pamphlet of resources for the families of missing persons that would include an explanation of the process the police follow in such cases. The ombudsman and chief of police agree that this mediation was of mutual benefit to all involved.

RAPID RESOLUTION INQUIRY

OMB10/0007

A local business owner contacted the ombudsman after being disappointed in the lack of follow through by Boise Police Department (BPD) officers after a break-in at one of her businesses. The owner explained that she had received a call from a security company advising her of an alarm trigger at her business. She drove directly to her business and met up with officers already at the scene. The officers advised the owner they had searched the area and that it was a false alarm. However, the next morning the owner discovered that her business had been broken into and robbed. Although pleased with the timeliness of their response, the owner believes the officers did not do their job. She feels that she should not have had to make sure that the officers checked all doors and ask them if they were thorough. The owner was open to speaking directly to the officer's supervisor about her experience. A Rapid Resolution Inquiry was opened and routed to BPD.

The officers' supervisor contacted the owner and explained that although the officers did a perimeter check, they did not go inside her business. He apologized for the poor investigation and explained that it was not BPD's usual response to alarm calls for service. The supervisor counseled the officers on conducting an interior check of a building when possible. He also discussed the standard procedure for alarm calls with them and provided a reminder for all officers during shift briefings.

OMB10/0054

A man contacted the Office of the Community Ombudsman after receiving a citation for jay-walking. The man felt a Boise Police Department (BPD) officer gave him a citation out of anger because the officer felt disrespected that the man openly jay-walked in front of the officer. The man also believed that the officer's demeanor caused the Complainant to become defensive and that the officer's attitude perpetuated a tense encounter. The man was agreeable to speaking directly to the officer's supervisor. A Rapid Resolution Inquiry was opened and routed to BPD.

The officer's supervisor reviewed the incident by listening to the officer's audio recording of the encounter and speaking to

the officer and the man. Ultimately, the supervisor found that the officer's demeanor did not comply with BPD's standards and consequently BPD opened a Class II Complaint and issued a sustained finding against the officer.

OMB10/0075

Two Boise Police Department (BPD) officers responded to an incident involving a woman's neighbor that required them to take a tactical position in the woman's backyard. The woman contacted the ombudsman with concerns regarding the officers' presence in her backyard. One of her concerns was that the officers could be heard laughing and seemed to be joking with each other. She felt this behavior was unprofessional for the situation. The woman was open to have her questions answered and her concerns addressed by the officers' supervisor. A Rapid Resolution Inquiry was opened and routed to BPD.

The officers' supervisor spoke to the officers about their actions the night of the incident. The supervisor then spoke to the woman to answer her questions about the officers' tactical position in her backyard. He also addressed her concerns about the officers' unprofessional behavior. The officers had been in position in the Complainant's backyard for over an hour and were not being overly noisy or boisterous, however at one point they were laughing. While the officers' behavior did not rise to the level of a policy violation, the supervisor did counsel them on their behavior and the importance of being more cognizant of how the public may perceive their actions.

OMB10/0087

A woman contacted the ombudsman after learning from her house sitter and neighbors that a Boise Police Department (BPD) car was seen parked on her property near her residence while the woman and her husband were out of town. The woman was also told by her landscaper that he had been questioned by an officer and told to leave the property. The woman wanted to know why a BPD car would drive down a private driveway and park on her property without attempting to notify the residents. She also questioned why an officer would question her landscaper and tell him to leave her property.

A BPD supervisor contacted the woman as part of the Rapid Resolution Inquiry process. He explained that the police had been looking for a dangerous criminal known to be in the area. Although BPD normally notifies residents when they have the time and ability, this was an exceptional situation that did not allow for it. Officers were hard-pressed to set a perimeter that was over a mile long and didn't have time to contact all residents in the perimeter. A GeoNotify was set for the area, but it did not include the woman's property. Her property was chosen for its vantage point, not because the residents were in any danger. A BPD Sniper made contact with her landscaper who was preparing to mow her lawn. In order to be effective, the officer needed the area to be as quiet as possible so he could hear the radio and his surroundings. The woman was satisfied with the supervisor's explanations of the situation and the supervisor agreed that BPD should notify residences of police activity in their neighborhood if the situation allows.

CLASS I COMPLAINT

OMB09/0126

The Complainant, one of two suspicious subjects in the area of a public parking structure, was contacted by two Boise Police Department (BPD) officers. When asked if he had any weapons on him, the Complainant stated that he had knives in his backpack, but denied having any weapons on his person. He consented to a search of his backpack which produced two knives. One of the officers then conducted a pat-down search of the Complainant. The officer felt a bulge in the Complainant's right front pocket and asked the Complainant what the item was. In response, the Complainant pulled his right arm away from the officer's grasp and began turning to face the officer. The Complainant was taken to the ground, handcuffed, and booked into jail on misdemeanor Resisting and Obstructing charges. The Complainant claimed minor injuries to his right forearm as a result of being pushed to the ground.

The Complainant alleged that the officer pushed him to the ground and handcuffed him without necessity or cause. The Complainant claimed that he only stumbled a little while the officer was searching him and did not resist or do anything that warranted having force used on him.

The evidence shows that the officer's use of force came immediately after the Complainant pulled his right hand out of the officer's grasp and began to rotate his upper body to the right and towards the officer. These actions by the Complainant resulted in the Complainant's right elbow moving rapidly towards the officer's face. The officer perceived the Complainant's actions as the possible beginning of an act of aggression and feared that he was about to be struck in the face by the Complainant's elbow. In response, the officer used soft empty hand control to protect himself by pushing the Complainant to the ground. A finding of exonerated was issued for this allegation.

OMB10/0003

A BPD officer was contacted by a friend of his who is the owner of a local business. His friend said that he had recently terminated an employee who had been acting bizarrely. He expressed a concern that this employee might try to retaliate for losing his job and asked the officer to do what he could to protect his safety, as well as the safety of his family and the other employees at the business. Based solely on the information provided to him by his friend, the officer caused a confidential intelligence bulletin to be sent via email to BPD officers, as well as to the other law enforcement agencies in Ada County.

The Complainant, an attorney representing the terminated employee, alleged that the officer failed to take reasonable and prudent steps to verify the accuracy of the information concerning the employee that had been provided to the officer. The Complainant further alleged that, based on the unverified assertions of the officer's friend, the officer sent, or caused to be sent, an "officer safety" bulletin to law enforcement officers that contained false and/or misleading information concerning the terminated employee; information that could potentially

harm the employee's reputation and good name. Finally, the Complainant alleged that the existence of a long-standing friendship between the officer and his friend created a conflict of interest such that the officer should not have involved himself in the process of creating and disseminating any such bulletin to law enforcement.

Although the officer's actions may not have been ideal, they were not unreasonable. Based on their friendship, the officer considered it unnecessary to seek validation or confirmation of the information his friend gave him. The officer was motivated by a sincere and reasonable desire to safeguard the safety of any officers who might respond to either the business or his friend's home. Since the officer's actions were not governed by any Department procedure, process, or practice it was found that the officer did not fail to conform to an established work standard for his role as a police officer. For these reasons, the officer's acts and omissions concerning the creation and dissemination of the bulletin concerning the terminated employee do not violate BPD policy and a finding of exonerated was issued. This also led the ombudsman to issue a policy recommendation.

OMB09/0088

A member of the public reported that a possible drunk driver was driving on the sidewalk and stopping in the middle of the roadway. The caller provided a complete description of the vehicle driven, including its license plate number. A Boise Police Department (BPD) officer saw the vehicle being driven without headlights and stopped the vehicle. The driver and sole occupant was the Complainant. The officer noted signs of intoxication during his initial contact with the Complainant, so a second officer was dispatched to assist. The Complainant was determined to be under the influence and was subsequently arrested and handcuffed. By this time, additional officers had arrived to assist.

The Complainant alleged that two male officers used excessive force by roughly forcing the Complainant to her knees for no reason and then roughly pulling her to her feet, immediately after she was handcuffed. She also alleged that an unknown male officer used his hand to touch her bare leg and pubic area immediately after she was handcuffed and forced onto her knees. Additionally, the Complainant alleged that two or more male officers, along with two or more female officers, used excessive force to hold the Complainant down while her blood was being drawn at the Ada County Jail.

The investigation revealed that the Complainant was handcuffed without incident and was not forced to the ground at any time. She was placed on the ground to be hobbled, but this took place some minutes after she was handcuffed and placed in a patrol car. In addition, the evidence clearly shows that the hobbling took place in a grassy area and that the Complainant was not roughly forced to the ground. Four findings of unfounded were issued to the four male officers that were present.

The preponderance of the evidence shows that no officer touched the Complainant inappropriately on her bare leg or in

her pubic area. The evidence also supports the conclusion that none of the BPD officers present at this traffic stop and DUI investigation conducted a “pat search” of the Complainant. Such a physical search was unnecessary since the Complainant’s attire was such that any officer could visually confirm that the Complainant was not armed. For these reasons, four findings of unfounded were issued in connection with the Complainant’s allegation of inappropriate touching.

The evidence supports the conclusion that, once the Complainant was secured in the jail restraint chair, two BPD officers, along with one Ada County Sheriff’s Office detention deputy, used soft empty-hand control force to stabilize and control the Complainant during the blood draw. The officers had the lawful authority to control the Complainant’s movements during the evidentiary blood draw. For these reasons, findings of exonerated were issued to the two officers and findings of unfounded issued to the three officers that were not present.

Evidence from this investigation clearly demonstrated that material facts alleged by the Complainant were not true. Boise City Code § 6-01-13(B) False Reports makes it unlawful for anyone, “To knowingly give or cause to be given false information to any law enforcement officer or any state or local government agency or personnel.” In light of this, evidence from this investigation was reviewed by the Office of the Boise City Attorney. Upon review, the Office of the Boise City Attorney declined to file charges citing a lack of evidence to convince a jury beyond a reasonable doubt that the Complainant knowingly provided false information to the Office of the Community Ombudsman.

OMB09/0116

The Complainant was arrested by an officer for Disturbing the Peace. This took place in the Boise downtown area during the early morning hours in the summer of 2009. Shortly after the arrest, another officer transported the Complainant to jail and booked him on the charges of Disturbing the Peace and Resisting and Obstructing an Officer. A friend of the Complainant who was present during the incident used her cell phone to create a digital video recording of the Complainant’s arrest.

The Complainant made three allegations. He alleged that the first officer struck him on the left side of his face and knocked him to the ground and that this happened despite the fact that the Complainant was not resisting arrest. He also alleged that the officer’s official report included a false description of the force he used to take the Complainant into custody. Finally, the Complainant alleged that one of the officers removed a cell phone and a roll of U.S. currency from the Complainant’s person and that these items were not turned over to the jail staff when he was booked into the Ada County Jail.

The evidence from the investigation showed that the only force used by the officer was soft empty-hand control. He pushed the Complainant against the wall and pulled both of the Complainant’s hands behind his (the Complainant’s) back. After trying unsuccessfully to counteract the Complainant’s resistance and

get the Complainant’s left arm close enough so that it could be handcuffed to the Complaint’s right hand, the officer used his left hand to grab the Complainant’s neck, pull him back and away from the wall, twist him to the right, and apply a straight arm-bar takedown to bring the Complainant to the ground. Once the Complaint was on the ground, the officer completed the task of handcuffing the Complainant. A finding of exonerated was issued for the Complainant’s allegation that the officer used excessive and unnecessary force.

The officer’s testimony during his interview concerning his actions was consistent with both the video recording and his police report. What, at first glance appeared to be a strike by the officer, was actually a grab used to pull the Complainant back a few feet so that he could be taken to the ground without endangering another officer and a subject who were located between the Complainant and a brick outcropping. The straight arm-bar takedown described in the officer’s report took place immediately after this. A finding of unfounded was issued for the allegation that the officer’s official report contained information that the officer knew or should have known to be false and/or inaccurate.

Neither officer recalled taking any cash or telephone from the Complainant during their separate pat-down searches. In addition, no reference to the discovery of such items can be heard on any of the related recordings reviewed in the course of this investigation. It is of note that the Complainant admitted that his telephone could have fallen off his belt earlier in the evening and that he waited nearly 90 days following his arrest to claim that he was missing a cell phone and cash. A finding of unfounded was issued to both officers in regards to this allegation.

OMB10/0001

Early one winter morning in 2010, the Complainant was involved in a dispute with two neighbors. Multiple officers from the Boise Police Department (BPD) responded after calls were placed to 911 reporting the disturbance, as well as the fact that the Complainant had boasted that he was armed with a handgun. Officers spoke to the involved individuals and a couple of witnesses. The Complainant was ultimately arrested for Battery on one of his neighbors.

The Complainant alleged that one of the officers used excessive force, without necessity or cause, by twice slamming the Complainant against a car while conducting a pat-down search for weapons. The Complainant also alleged that later, when he was merely holding up his cell phone in order to play an audio recording, a second officer, along with other unknown officers, used excessive force by punching him in the back and taking him to the ground without necessity or cause.

Taking all the evidence into consideration, it seemed more likely than not that the Complainant was moving and not holding still as the officer commenced his pat-down search of the Complainant. Since the pat-down search of the Complainant was lawful, the officer was authorized under BPD policy to use

reasonable and necessary force to control the Complainant's movements during the search. For this reason a finding of exonerated was issued.

The evidence in this case established that the second officer used no force on the Complainant, other than to swat away the Complainant's hand and cell phone to avoid being struck by the phone. For this reason, a finding of unfounded was issued in connection with this allegation by the Complainant.

Finally, it was determined that three other officers used some degree of force to take the Complainant to the ground. These officers believed that the Complainant might be assaulting one of them by thrusting his phone toward them. The officers had the authority to control the Complainant's movements to keep him from striking an officer. Three findings of exonerated were issued for these officers' use of force.

OMB10/0049

A Boise Police Department (BPD) officer used his emergency lights in an attempt to pull over a vehicle. The driver did not immediately pull over, but eventually stopped in a trailer park. Two other officers arrived to provide assistance shortly after the first officer made contact with the driver of the vehicle. The driver was subsequently arrested for a variety of charges, including aggravated assault on the primary officer. The driver made a total of seven (7) allegations of excessive force against the three officers, five allegations against the primary officer and one each against the two assisting officers.

After careful review, the preponderance of the evidence shows that the only force used by the assist officers was soft empty-hand control as they assisted the primary officer in controlling and handcuffing the driver. Neither officer "jumped" on the driver as alleged. Therefore, findings of unfounded were issued for these two allegations.

Four of the five allegations against the primary officer were also resolved with findings of unfounded because the preponderance of evidence supported the conclusion that the allegations did not occur. The allegation that the officer used a Lateral Vascular Neck Restraint (LVNR) resulted in a finding of exonerated. The officer began to apply the LVNR, but did not apply compression or progress beyond the first stage of the technique. Ultimately, the weight of the evidence, including the testimony of several witnesses and some short video clips provided by one of the witnesses, supported the conclusion that the driver resisted the lawful efforts by the officer to place him under arrest and that the force used was permitted by BPD policy.

Upon the conclusion of this complaint investigation, it was clear that, more likely than not, false allegations were made. The ombudsman followed the established practice of the Office of the Community Ombudsman and forwarded the evidence to the Prosecutor for consideration of a misdemeanor charge for knowingly providing false information to a public official. The Prosecutor declined to file this charge, citing the many different

versions of the events available from multiple witnesses and, hence, the difficulty in proving the violation to a jury beyond a reasonable doubt.

OMB10/0057

The Complainant was at one time involved in a romantic relationship with a woman. Following the end of that relationship, the woman left the state and stopped communication with the Complainant, although the Complainant made repeated attempts to contact the woman without success.

Upon returning to Idaho, the woman went to the Ada County Sheriff's Office building to file a report regarding harassing phone calls from the Complainant. A Boise Police Department (BPD) officer was at the building to pick up unrelated court documents and took the call for service. The officer met with the woman and then contacted the Complainant by telephone. The officer spoke to the Complainant regarding the woman's feeling of being harassed by the Complainant's phone calls and suggested to the Complainant that he have no further contact with the woman.

The Complainant contacted the Office of the Ombudsman alleging that the officer had a personal relationship with a friend of the woman. He based his assertion on the belief that he had once seen the officer off-duty at this friend's residence. The Complainant further alleged that this friend claimed to know a police officer and had previously threatened to have that officer take some unspecified action designed to prevent the Complainant from having further contact with the woman. Finally, the Complainant alleged that, as a personal favor to this friend, the officer inappropriately used the position as a BPD officer to call the Complainant and tell him to stop having contact with the woman.

The preponderance of the evidence does not support the Complainant's belief that the officer and the woman's friend had any sort of prior relationship with each other. Both the officer and the friend deny the existence of any relationship. They both state categorically that they have never met and do not know each other. The friend recalls telling the Complainant at some point that he knows people in law enforcement, but denies saying that he could get an officer to do him a favor in order to dissuade the Complainant from having further contact with the woman.

In addition to denying knowing the friend, the officer states that the first time the officer met the woman was at the Ada County Sheriff's Office building in response to the woman's request for assistance by an officer.

Given the weight of the available evidence, the ombudsman issued a finding of unfounded in connection with the allegation that the officer violated policy by using an official position "for personal gain, personal favor, or personal influence."

OMB10/0074

Three Boise Police Department (BPD) officers responded to a call of a family fight inside of a residence. Upon making contact with the Complainant and his wife at the residence, the officers conducted a brief investigation. No arrests were made, no citations were issued, and no police report was written.

The Complainant alleged that one of the two male officers unlawfully entered the Complainant's house without a warrant, consent, or exigent circumstances. He also alleged that a female officer and one of the two male officers used force on him that was unreasonable and unnecessary.

The evidence clearly supports the factual conclusion that the first male officer used no force on the Complainant. Similarly, the evidence shows that the female officer only pulled on the Complainant's shirt sleeve to guide him away from the house. This action was an escort, not a use of force. As a result, findings of unfounded have been used for the allegations of excessive force made against both officers.

The only force used on the Complainant was by the second male officer. He used soft, empty-hand control to grab the Complainant's wrists, pull him away from the house, and push down on his shoulder while telling him to sit down. This use of force was minimal and reasonable given the totality of the circumstances. For this reason, a finding of exonerated was issued for the allegation that this officer used excessive force.

The evidence proves that the second male officer did not enter the Complainant's house. Therefore, a finding of unfounded was issued in connection with that allegation. The same evidence clearly shows that the first male officer did enter the Complainant's house by taking one or two steps inside the entryway. This officer was not acting under the authority of either a search warrant or an arrest warrant, nor did he have consent to enter. While this officer did not have a warrant or consent, he entered with the purpose of determining whether or not anyone inside the house was in danger. There was an objective basis for his concern that violence may have just taken place inside the house. It was not unreasonable for him to conclude that he needed to enter the house and check on the welfare of the Complainant's wife and child. For this reason, a finding of exonerated was issued for the allegation that this officer entered the Complainant's house without lawful authority to do so.

OMB10/0062

Officers from the Boise Police Department (BPD) were dispatched to two separate calls for service at an apartment complex. Both calls resulted in officers making contact with the Complainant at his apartment. About 40 minutes after the last contact, the Complainant called 911 and reported that a BPD officer had injured his face by slamming a door into it. The Complainant also made a request to speak with a BPD supervisor in order to file a complaint about an officer injuring him with the door. Several minutes later, the Complainant called 911 again and requested paramedics for his facial injuries. Ada

County Paramedics, Boise Fire, and BPD were all dispatched to this call.

The Complainant contacted the Office of the Community Ombudsman and alleged that a BPD officer had intentionally slammed a door into the Complainant's face, causing injuries to his face. He further alleged that the officer's action was unreasonable and unnecessary, in that the Complainant was simply and non-violently asserting his right to remain in his apartment and decline further contact with the police unless they had a warrant.

The preponderance of the evidence proves that there were injuries to the Complainant's face when the paramedics arrived at his apartment. However, there is insufficient evidence to either prove or disprove the allegation that these injuries were a result of the Complainant's face being struck by his front door while the police were there. As a result, a finding of not sustained was made for the allegation of excessive force.

BPD policy creates a clear obligation for employees and supervisors to follow-up on allegations of misconduct. Despite a clear record that the Complainant had expressed the desire to make a complaint, combined with the presence of visible injuries, it appears that no complaint was documented by an officer or supervisor that night. Given the possibility that BPD supervisors and/or employees may have failed to perform their duty with respect to handling the Complainant's allegation, the ombudsman referred this matter to BPD for further investigation and appropriate disposition.

OMB10/0004

A Boise Police Department (BPD) officer was responding Code Three (lights and siren) to a call of an armed robbery that had just occurred in downtown Boise. It was the middle of a weekday afternoon and the marked patrol car being operated by the officer was traveling along a two-way (one lane in each direction) roadway with on-street parking on both sides of the street. As the patrol car passed through an intersection that was controlled by a traffic signal, a collision occurred involving the patrol car and a car being driven by the teenage son of the Complainant. No injuries were reported, but both vehicles sustained damage.

The Complainant alleged that the officer was operating the patrol car in an unsafe manner, thus causing the collision. Specifically, the Complainant alleged that the patrol car was traveling at an unsafe speed as it entered the intersection on a red light.

The preponderance of the evidence shows that the signal for the officer was showing red and the signal for the Complainant's son was showing green as they both entered the intersection. The officer was responding to an emergency call and was authorized to operate the patrol car in a Code Three manner.

Along with the authority to go through a red signal, the officer had the responsibility to exercise due regard for the safety of

others. While approaching the intersection, the officer's view of the middle lane was partially blocked and the officer could not be certain that there was not a moving vehicle between the two stopped ones. BPD officers are trained to slow down before they enter an intersection while responding Code Three. They should slow down enough to make certain that traffic in all directions has stopped or is yielding before driving through the intersection. It is possible that the officer slowed the patrol car as it approached the intersection. The patrol car certainly did not stop. Two different experts using the same crash reconstruction data estimated the patrol car's speed at the time of impact. Even the lowest speed in this range (25 mph) did not give the officer sufficient opportunity to stop the patrol car in the event that there was a moving vehicle in the center lane between the two stopped cars, as it turned out there was. For these reasons, the ombudsman issued a finding of sustained in regards to the allegation that the officer violated BPD policy § 3.02.02C Authorized Actions during Emergency Response.

CLASS II COMPLAINT

OMB10/0009

In the course of investigating a complaint made against an officer, digital audio recordings made by several involved Boise Police Department (BPD) officers were reviewed. The recordings contained a statement made by an officer to a member of the public, which, on its face, sounded crude and derogatory. As a result, the ombudsman initiated a separate complaint investigation as the statement in question had not been complained about in the original investigation.

The officer offered, as a justification for his use of this term, the explanation that he was merely attempting to gain the person's attention so as to de-escalate the situation. There is no doubt that the person was intoxicated, highly agitated, and belligerent in his speech towards police officers. He also kept interrupting the officer's attempts to explain to him the circumstances that had led to the need for police involvement. It is fair to say that the officer was having difficulty getting the person's attention and that it was appropriate for the officer to do something to try and de-escalate things. Nonetheless, calling the person an obviously offensive name was not permitted by BPD policy, even if the officer's motive was well-intentioned. For this reason, a sustained finding was issued for the allegation that the officer failed to treat a member of the public in a civil and respectful manner.

OMB09/0044

In the course of investigating what appeared to be a case of felony hit-and-run and a possible aggravated battery between a vehicle and bicycle, a Boise Police Department (BPD) officer made contact by phone with the registered owner of the vehicle whose license plate number had been obtained by a witness. With the assistance of the registered owner, the officer was able to inspect the vehicle and speak with the registered owner's girlfriend, who had control of the vehicle at that time.

The Complainant, who is the registered owner of the vehicle, contacted the Office of the Community Ombudsman and filed a complaint about the actions of the officer. The Complainant, who is an attorney licensed to practice in the State of Idaho, alleged that the officer threatened to arrest the Complainant's girlfriend because she had invoked her rights under the Fifth Amendment to the United States Constitution, declining to answer any questions put to her by the officer. The Complainant further alleged that the officer threatened to arrest him for advising his girlfriend, as her attorney, not to answer any of the officer's questions. The Complainant asserted that both threats were an abuse of power by the officer.

The preponderance of the evidence neither confirms nor refutes the allegation that the officer's threat was in retaliation for the Complainant's girlfriend's refusal to answer the officer's questions. Similarly, there is no preponderance of the evidence to either support or refute the allegation that the officer suggested to the Complainant that he, too, was being considered for arrest for having advised his girlfriend not to answer the officer's questions.

For these reasons, the allegation made by the Complainant against the officer could neither be unfounded nor sustained. As a result, a finding of not sustained was issued.

OMB09/0112

A man called 911 to report that he had just been the victim of a battery. The caller named the Complainant as the suspect in the battery. When a Boise Police Department (BPD) officer responded, he saw that the man was injured and took a battery report from him. After taking the report from the injured man, the officer contacted the Complainant by phone. The officer then went to the Complainant's residence to make direct contact with him. The officer arrested the Complainant for misdemeanor battery and transported him to jail.

The Complainant alleged that the officer used more force than was necessary when he arrested him. Specifically, the Complainant alleged that, as he reached to stop his cell phone from vibrating in his pocket, the officer grabbed his arm and twisted it high behind his (the Complainant's) back, causing pain. The Complainant said that this twisting of his arm behind his back was unnecessary since he was not resisting the officer and was no threat.

The officer believed he had probable cause to arrest the Complainant for a battery that had just occurred. This gave him lawful authority to use reasonable and necessary force to control the Complainant's movements and take him into custody. In addition, the Complainant was moving his hands towards his pockets, something that the officer had already told him not to do. Given that the officer had not yet searched the Complainant for the presence of any weapons, and that the victim had reported that the Complainant was armed with a set of brass knuckles, it was reasonable for the officer to take immediate action to prevent the Complainant from reaching into his pockets. While it is not possible to say exactly what the officer did

with the Complainant's arm as he pulled it behind his back and put on the handcuffs, the preponderance of the evidence supports the conclusion that the force used was minor and fleeting. Therefore, a finding of exonerated for the allegation of excessive force was issued.

OMB09/0115

The Complainant alleged that during a traffic stop, a Boise Police Department (BPD) officer was rude and demeaning to him and that the officer failed to create an audio recording of her entire enforcement contact with him. He also alleged that the officer forwarded his name to the Idaho Transportation Department (ITD), requiring him to have a medical evaluation to determine if he was competent to operate a motor vehicle, without cause and for the purpose of retaliation.

The ombudsman found that the officer violated BPD policy § 11.01.07 Relationships with Others and Demeanor in her contact with the Complainant and issued a finding of sustained. With regard to the Complainant's allegation that the officer made the referral to ITD in retaliation and without cause, no evidence was found to support this conclusion. Therefore, a finding of unfounded in regards to this allegation was issued.

Although the officer was required to audio record this enforcement contact, no such recording was made. The ombudsman could not find a preponderance of the evidence to either prove or disprove the conclusion that the officer had sufficient opportunity to solve the technical problem she was having with her new recorder. Therefore, a finding of not sustained for the allegation that she violated BPD policy by not recording her contact with the Complainant was issued.

The investigation revealed that the officer prevented the Complainant from driving his vehicle away from the scene of the traffic stop once he was no longer being detained. As a result, a training recommendation was issued by the ombudsman.

OMB10/0030

The Complainant alleged that while a Boise Police Department (BPD) officer was driving a BPD vehicle he violated her juvenile son's right of way in a crosswalk and bumped him with the front push bumper of the police car.

The officer brought his vehicle to a stop at a crosswalk for a red light. As he waited for an opportunity to turn right, he looked to his right and then to his left. Meanwhile, the pedestrian light turned from red to white allowing the Complainant's son to cross the street using the crosswalk in front of the officer. While the light for his direction of travel was still red, the officer began to make his right turn and drove the car into the crosswalk. He did not look to the right a second time before beginning his right turn and driving into the crosswalk. As the officer proceeded into the crosswalk, the Complainant's son was directly in front of the officer's police car.

Based on the available evidence, the ombudsman was unable to

determine whether or not the front push bumper of the police car actually made contact with the Complainant's son. The Complainant's son was not injured, nor was the officer driving recklessly. Although this may be considered a minor driving mistake, BPD police sets a high standard for its employees while operating Department vehicles. Consequently, the ombudsman issued a finding of sustained.

OMB10/0076

A man and a woman were living together in a domestic relationship. One night, after they both had been drinking, they got into an argument and separated into different parts of the residence. A short time later, another disagreement ensued between the couple. In the course of this second argument, the man held down the woman, who was lying with her back on the couch. The woman pushed the man off of her and then proceeded to hit and scratch him. The man called Dispatch and requested police assistance. A Boise Police Department (BPD) officer responded. After an investigation, the officer arrested the woman and charged her with Domestic Battery.

The Complainant, the attorney for the woman, filed a complaint with the Office of the Community Ombudsman. The Complainant alleged that the officer failed to conduct a thorough and objective investigation of the incident that ultimately led to the arrest of his client.

The preponderance of the evidence in this complaint investigation supports the conclusion that the officer contacted and interviewed both persons involved in the incident. Each party had ample opportunity to give the officer his or her side of the story. The officer then accurately documented what both parties had told him. The officer used the Domestic Violence Supplement Form to document the visible injuries to both the woman and the man, but only the man's injuries were photographed. Notwithstanding the fact that taking photos of the woman might have improved the quality of his investigation, the preponderance of the evidence does not support the conclusion that the officer failed to conduct an adequate misdemeanor investigation.

BPD's "pro-arrest" policy concerning reports of domestic violence requires that an officer take "appropriate enforcement action" once he or she determines that there is "probable cause for an arrest for domestic assault or battery". There is little doubt that the statements and visible evidence presented to the officer provided him with probable cause to make an arrest (enforcement action). It is also clear that the couple had been violent towards each other. In such cases, the policy directs an officer to determine which of the two was the "predominant aggressor". The officer, after completing his investigation, determined that the woman was the predominant aggressor. This determination by the officer was not unreasonable, given the information and evidence known to him at the time.

Based on all of the above, the ombudsman issued a finding of unfounded with respect to the allegation that the officer violated BPD policy by failing to perform his duty as required.

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

A specific act or omission of the law enforcement or police personnel was justified, lawful, and proper. This finding may also be used when an act or omission was not proper or justified, but resulted from a lack of policy or training.

UNFOUNDED

A specific act or omission was not committed by the law enforcement or police personnel.

SUSTAINED

A specific act or omission was committed by the law enforcement or police personnel in violation of policy or procedure.

NOT SUSTAINED

The investigation failed to discover sufficient evidence to clearly prove or disprove that a law enforcement or police personnel committed a specific act or omission in violation of policy or procedure.

NO FINDING

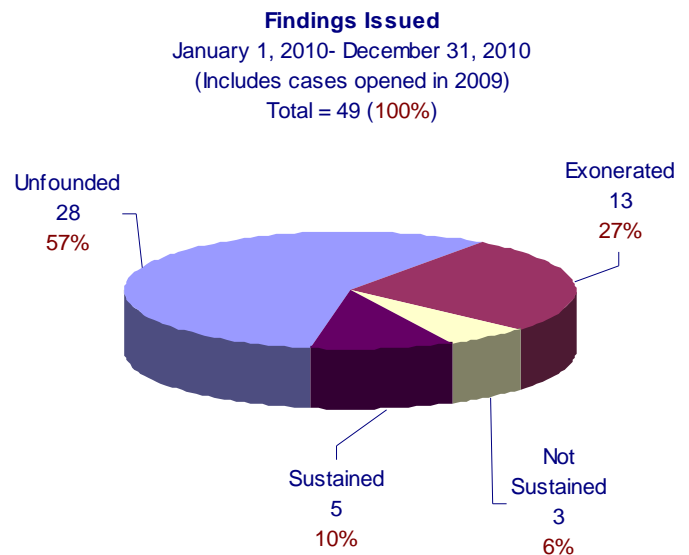
The investigation cannot proceed, because the complainant failed to disclose promised information to further the investigation, the complainant wishes to withdraw the complaint, or the complainant is no longer available for clarification. This finding may also be used when the information provided is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

STANDARD OF PROOF

The Office of the Community Ombudsman uses the preponderance of the evidence standard, or the 51% rule, when determining whether a department policy has been violated by an officer or employee. This standard is not as high as proof beyond a reasonable doubt. However, it means that it is more probable than not that the violation in question occurred.

FINDINGS ISSUED IN 2010

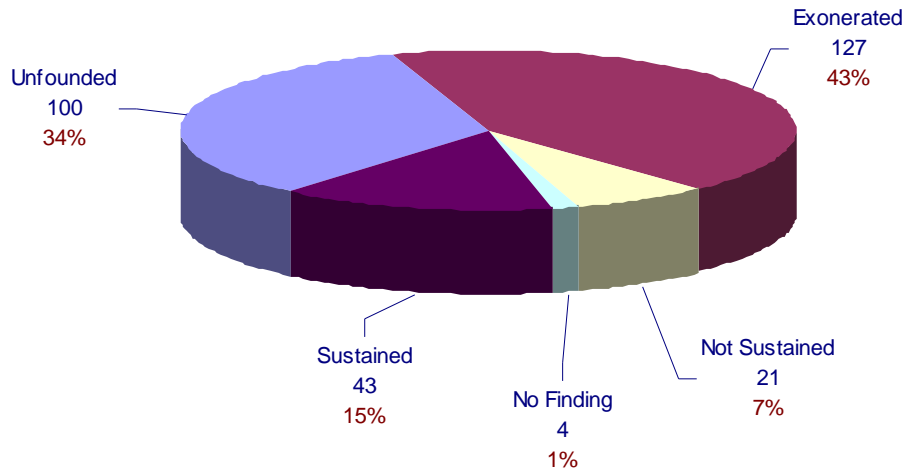
In 2010, the ombudsman issued 49 findings. These findings include cases opened in 2010, as well as cases opened in 2009 that were still under investigation when the new year began. Eighty-four percent (84%) of these findings were either exonerated or unfounded, which means the ombudsman found no wrongdoing on the part of the employee. Ten percent (10%) 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 (6%) of the findings were not sustained, indicating that no clear determination could be made based on the available evidence. All findings issued in 2010 involved the Boise Police Department.



Findings Issued by Allegations
 January 1, 2010- December 31, 2010
 (Includes cases opened in 2009)
 Total = 49

	Exonerated	Unfounded	Sustained	Not Sustained	No Finding	
Rudeness/Demeanor			2			2
Performance of Duty	2	4	1	1		8
Use of Force	11	17		1		29
Improper Conduct		4				4
Abuse of Authority		2				2
Officer Harassment						0
Criminal Conduct		1				1
Vehicle Operation			2			2
Constitutional Rights Violation						0
Failure to Act						0
Failure to Record				1		1
Officer Commendation						0
Critical Incident						0
	13	28	5	3	0	49

Overall Findings
Five Year Comparison
 2006 - 2010
 Total = 295 (100%)



CASE SUMMARIES OF 2010 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 2010, the ombudsman issued five (5) sustained findings in five (5) separate cases involving complaints about the actions of Boise law enforcement employees. Four (4) of the five (5) cases were opened in 2010. All cases involved the Boise Police Department.

The 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 the website: www.boiseombudsman.org. A complete investigative report for each case can be found under "2010 Investigative Reports".

OMB 09/0115

The Complainant expressed three specific allegations against a Boise Police Department (BPD) officer occurring during a traffic stop. One allegation was that the officer was rude and demeaning to him, specifically that the officer accused him of being untruthful, having an uncooperative attitude, and acting like he was better than others.

Audio recordings of the traffic stop revealed comments made by the officer that, taken in total, were uncivil and disrespectful. As a result, the ombudsman found that the officer violated BPD policy § 11.01.07 Relationships with Others and Demeanor in her contact with the Complainant and issued a finding of sustained.

The chief did not concur with the ombudsman's sustained finding.

OMB10/0004

A Boise Police Department (BPD) officer was responding Code Three (lights and siren) to a call of an armed robbery when the patrol car being operated by the officer passed through an intersection that was controlled by a traffic signal. A collision occurred involving the patrol car and a car driven by the teenage son of the Complainant. No injuries were reported, but both vehicles sustained damage. It was alleged that the officer caused the collision as a result of operating the patrol car in an unsafe manner. Specifically, the Complainant alleged that the patrol car was traveling at an unsafe speed as it entered the intersection on a red light

The preponderance of the evidence shows that the signal for the officer was showing red and the signal for the Complainant's son was showing green as they both entered the intersection. Although the officer was responding to an emergency call and was authorized to operate the patrol car in a Code Three manner, the officer had the responsibility of exercising due regard for the safety of others. It was determined that the officer was

driving the car at a speed that did not give the officer sufficient opportunity to stop the patrol car in the event that there was a moving vehicle entering the intersection. For these reasons, the ombudsman issued a finding of sustained in regards to the allegation that the officer violated BPD policy § 3.02.02C Authorized Actions during Emergency Response.

The chief upheld the sustained finding and took appropriate personnel action.

OMB10/0009

In the course of investigating an unrelated complaint, digital audio recordings made by involved Boise Police Department (BPD) officers were reviewed. The recordings contained a statement made by an officer to a member of the public, which, on its face, sounded crude and derogatory. As a result, the ombudsman initiated a separate complaint investigation as the statement in question had not been complained about in the original investigation.

The officer offered, as a justification for his use of this term, the explanation that he was merely attempting to gain the person's attention so as to de-escalate the situation. Nonetheless, calling the person an obviously offensive name was not permitted by BPD policy. For this reason, a sustained finding was issued for BPD policy § 11.01.07 Relationships with Others and Demeanor.

The chief upheld the sustained finding and took appropriate personnel action.

OMB10/0030

The Complainant alleged that while a Boise Police Department (BPD) officer was driving a BPD vehicle he violated her juvenile son's right of way in a crosswalk and bumped him with the front push bumper of the police car.

Based on the available evidence, the ombudsman was unable to determine whether or not the front push bumper of the police car actually made contact with the Complainant's son. The Complainant's son was not injured, nor was the officer driving recklessly. Although this may be considered a minor driving mistake, BPD police sets a high standard for its employees while operating Department vehicles. Consequently, the ombudsman issued a finding of sustained for the allegation that the officer violated BPD policy § 7.06.02 Guidelines for Use (of a Department vehicle).

The chief did not concur with the ombudsman's sustained finding, believing the act did not rise to the level of a policy violation.

OMB10/0055

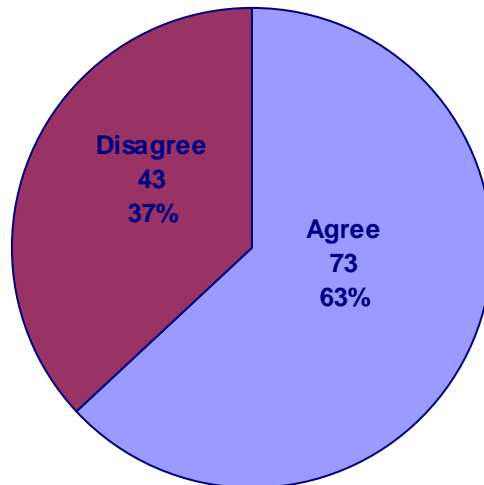
A Boise Police Department (BPD) officer unintentionally fired one round from his BPD-issued handgun. The bullet struck a male subject in the right arm causing a non-life threatening gunshot wound that required only emergency room medical treatment. Since the discharge of the weapon was an unintended act resulting from the officer’s prior decisions and actions, the ombudsman decided BPD policy §11.03.02 Performance of Duty governed the actions of the officer at the time of the shooting, rather than policy §1.01.02 Authorization (for the use of force). As a result of this investigation, the ombudsman issued a sustained finding because the officer was responsible for firing his handgun and that he did so in violation of BPD policy regarding duty performance.

The chief upheld the sustained finding and took appropriate personnel action.

BPD RESPONSE TO SUSTAINED FINDINGS

Since its inception, the Office of the Community Ombudsman has issued 116 sustained findings in connection with allegations involving the Boise Police Department. Over the years, the chief of police has concurred with sixty-three percent (63%) the sustained findings issued by the ombudsman.

BPD Chief Response to the 116 Sustained Findings Issued by the Ombudsman between 2000-2010



BPD Chief Response to Sustained Findings Issued by the Ombudsman 2000—2010

YEAR	2000		2001		2002		2003		2004		2005		2006		2007		2008		2009		2010	
	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO
Did the Chief concur with the Sustained Finding?	7	4	15	7	6	7	3	3	13	2	1	6	4	6	12	1	8	4	1	1	3	2
Did the Chief take disciplinary or corrective action?	7	4	15	7	6	7	3	3	13	2	1	6	3	7	3	10	4	8	2	0	3	2
Total Sustained Findings	11		22		13		6		15		7		10		13		12		2		5	

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 77 recommendations. Multiple considerations are often suggested with each recommendation. 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 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 to police management for consideration, and provided to the public for their information. They can be found in their entirety under “Policy Reports” on the website: www.boiseombudsman.org.

2010 OMB RECOMMENDATIONS

In 2010, the ombudsman made two (2) recommendations:

OMB09/0115

During an ombudsman investigation of allegations against a Boise Police Department (BPD) officer, it was discovered that the officer prevented the Complainant from driving his vehicle away from the scene of a traffic stop once the officer completed the DUI investigation and the Complainant was no longer being detained.

A check with BPD and the Office of the Boise City Attorney revealed that no specific training on this issue has been given to officers. As a result, BPD officers have not specifically been told whether or not they may prevent a licensed driver from driving away once his or her detention is over and there is no lawful reason to arrest or further detain the motorist. Given that this issue has not been clearly addressed by BPD through either policy or training, the ombudsman issued a training recommendation.

Training Recommendation:

That BPD work with the Office of the City Attorney to conduct further research and provide appropriate training to officers with respect to what an officer can lawfully do when a traffic stop or other detention has ended without an arrest and the officer has safety concerns with respect to the subject driving away from the scene.

Response: Adopted

OMB10/0003

The ombudsman conducted an investigation into an allegation that a Boise Police Department (BPD) officer failed to take reasonable and prudent steps to verify the authenticity of information before sending out a confidential intelligence “officer safety” bulletin. The investigation revealed that the officer’s actions were not governed by any Department procedure, process, or practice. As a result, the ombudsman issued a policy recommendation.

Policy Recommendation:

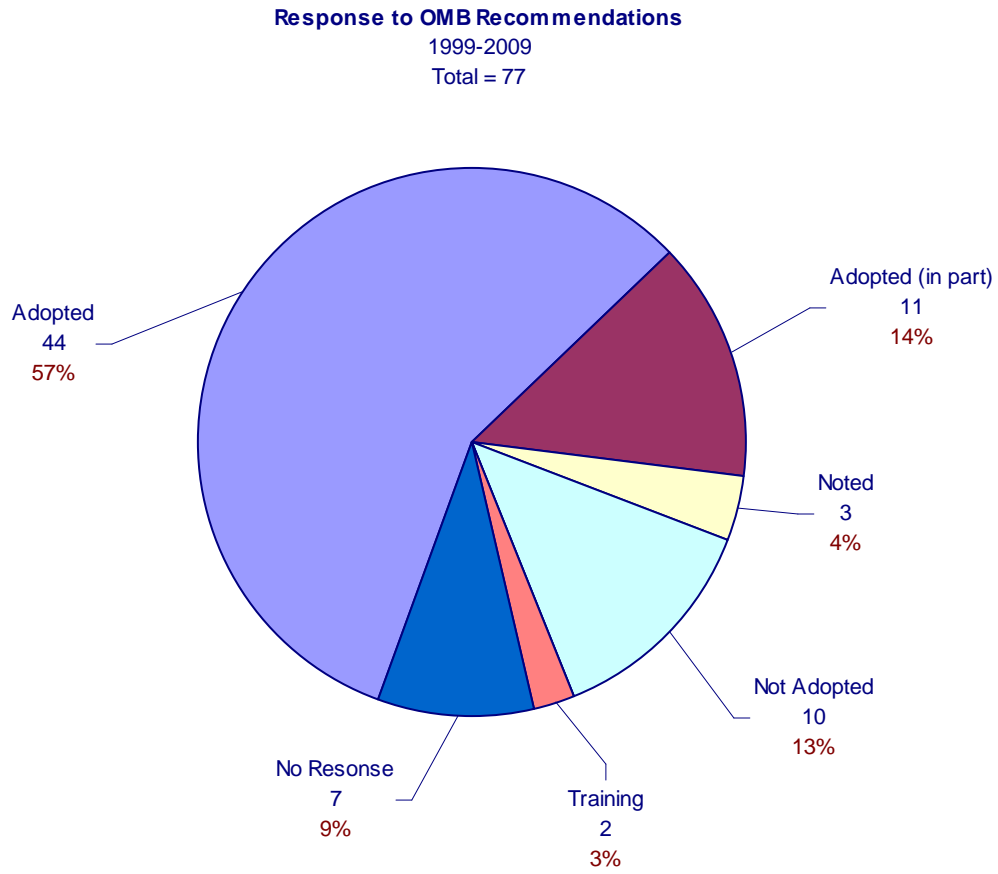
That BPD develop and implement a standard operating procedure for all personnel to follow before information is disseminated concerning a person or persons for whom a warrant has not been issued or when probable cause to arrest has not been established. The procedure should be constructed so that reasonable steps are taken to verify information and to strike the proper balance between BPD’s community care-taking function and an individual’s legitimate expectations of privacy and the preservation of his or her good name.

Response: Adopted

Ombudsman Recommendations by Year	
1999	2
2000	14
2001	3
2002	7
2003	6
2004	15
2005	5
2006	12
2007	1
2008	4
2009	6
2010	2
Total	77

RESPONSE TO OMB RECOMMENDATIONS

Over the past ten years the ombudsman has issued over 77 recommendations. Seventy-one percent (71%) of all those recommendations have been adopted or adopted in part.



AUDITS OF BPD INTERNAL AFFAIRS CASES

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 mostly 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 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 all completed BPD Class I and 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.

Last year, the Office of the Community Ombudsman created and implemented a new system of communicating with OIA when minor discrepancies or procedural errors were discovered during the course of an audit. An Informal Audit Memo was created to replace the formal meeting in which these discrepancies were previously identified. By creating this memo, information could be disseminated quickly and conveniently, and any necessary resolution was able to be addressed in a timely manner.

2010 AUDIT RESULTS

In 2010, the Boise Police Department's Office of Internal Affairs (OIA) completed and closed 10 Class I Complaints and 71 Class II Complaints. A total of 96 cases were audited by the Office of the Community Ombudsman. This total includes the 81 (100%) Class I and Class II Complaints closed in 2010. The fifteen additional cases consisted of six Inquiries, five Rapid Resolution Inquiries, two Vehicle Accidents, one Arrest and Release, and one Administrative Incident Review.

A total of 50 (61%) of the 81 Class I and Class II Complaint cases audited contained 67 minor procedural errors. Given the absence of any material deficiency, those procedural and documentary errors were brought to the attention of OIA using an Informal Audit Memo.

Of the 81 Class I and Class II Complaint cases, eight cases (10%) contained material issues. If not resolved, these could result in the cases not passing audit.

Three Class I Complaint cases had material issues that required a discussion with OIA. All issues were resolved and these cases passed audit.

Five Class II Complaints had material issues that required a discussion with OIA. These cases passed audit once the issues were resolved.

Audits of OIA Class I and Class II Complaint Investigations

January 1, 2010—December 31, 2010

Case Type	Cases Completed by OIA	Cases Audited by OMB
CLASS I	10	10 (100%)
CLASS II	71	71 (100%)

OIA & OMB COMBINED BPD COMPLAINTS

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

The following charts show the total Class I and Class II Complaints opened in both OIA and the Office of the Community Ombudsman (OMB) in 2010 and the Complaint totals for both OIA and OMB over the past five years.

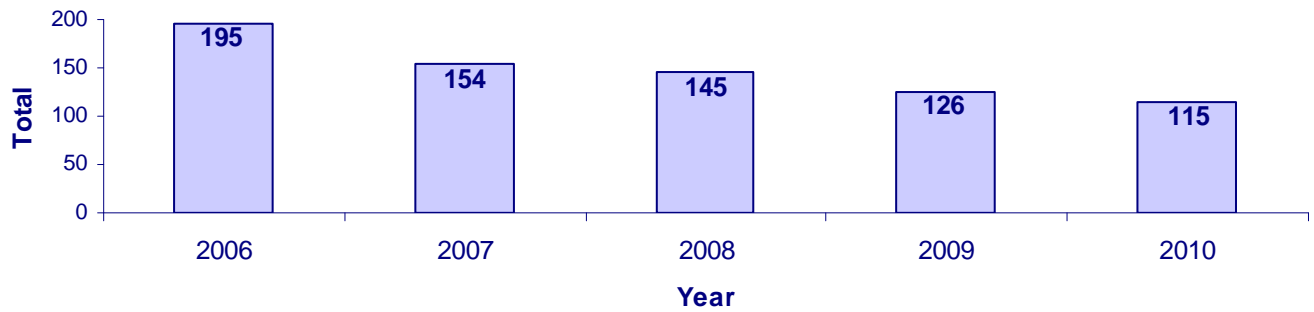
OIA & OMB 2010 Complaint Type			
Type	Class I	Class II	Total
OMB	8	3	11
OIA	7	24	31
Type Total	15	27	42

OIA & OMB Complaint Total: 5 Year Comparison					
Year	2006	2007	2008	2009	2010
OMB	26	27	17	16	11
OIA	42	27	34	29	31
Total	68	54	51	45	42



FIVE-YEAR REVIEW

Total OMB Cases by Year



INTAKE METHOD OF FORMAL CASES

TYPE	2006	2007	2008	2009	2010	TOTAL	%
E-mail	29	35	21	24	25	134	18
Fax	0	3	0	1	1	5	1
In Person	19	32	20	21	21	113	15
Mail	10	5	10	9	10	44	6
Phone	137	79	94	71	58	439	60
TOTAL	195	154	145	126	115	735	100%

COMPLAINANT GENDER OF FORMAL CASES

TYPE	2006	2007	2008	2009	2010	TOTAL	%
Male	110	107	87	73	67	444	60
Female	85	47	54	52	48	286	39
Unknown	0	0	4	1	0	5	1
TOTAL	195	154	145	126	115	735	100%

OMB CLASSIFICATION OF FORMAL CASES							
TYPE	2006	2007	2008	2009	2010	TOTAL	%
Class I	12	17	7	8	8	52	7
Class II	13	10	9	8	3	43	6
Inquiry	61	24	48	46	54	233	32
RRI	93	78	65	53	41	330	45
Commendation	5	10	7	4	3	29	4
Appeal	3	3	2	0	1	9	1
Critical Incident	3	7	1	2	1	14	2
Other Agency	5	5	6	5	4	25	3
TOTAL	195	154	145	126	115	735	100%

ALLEGATION TYPE TOTALS BY YEAR							
TYPE	2006	2007	2008	2009	2010	TOTAL	%
RD Rudeness/Demeanor	4	9	6	2	1	22	2.3
PD Performance of Duty	16	19	18	7	5	65	6.8
UF Use of Force	27	21	4	19	19	90	9.4
IC Improper Conduct	30	3	2	4	0	39	4.1
AA Abuse of Authority	0	2	0	2	1	5	0.5
OH Officer Harassment	0	0	1	0	0	1	0.1
CC Criminal Conduct	0	2	0	2	0	4	0.4
VO Vehicle Operation	5	3	2	2	2	14	1.5
CR Constitutional Rights Violation	1	6	3	0	0	10	1
FA Failure to Act	0	0	0	0	0	0	0
FR Failure to Record	1	4	0	1	0	6	0.6
OC Officer Commendation	8	15	13	5	5	46	4.8
CI Critical Incident	6	10	2	6	0	24	2.5
PQ Policy Question	22	10	22	22	31	107	11.2
SQ Service Quality	49	17	33	25	28	152	15.9
RR Rapid Resolution	97	82	69	56	43	347	36.3
OA Other Agency	5	5	6	5	4	25	2.6
TOTAL	271	208	181	158	139	957	100%

Year	Cases Opened	CASES CLOSED BY YEAR					Cases Closed	Cases Active as of 01/01/11
		2006 <i>includes 19 from 2005</i>	2007	2008	2009	2010		
2006	195	175	20	-	-	-	195	0
2007	154		133	20	1	-	154	0
2008	145			136	9	-	145	0
2009	126				120	6	126	0
2010	115					107	107	8
TOTAL	735	194	153	156	130	113	727	8

OVERALL FINDINGS							
Year	2006	2007	2008	2009	2010	Total	
Total Cases Closed	194	153	156	130	113	746	
FINDING	Exonerated	30 40%	41 52%	23 42%	20 55%	13 27%	127 43%
	Unfounded	30 40%	17 22%	13 23%	12 32%	28 57%	100 34%
	Sustained	11 14%	13 17%	12 21%	2 5%	5 10%	43 15%
	Not Sustained	2 3%	5 6%	8 14%	3 8%	3 6%	21 7%
	No Finding	2 3%	2 3%	0 0%	0 0%	0 0%	4 1%
	TOTAL	75	78	56	37	49	295

PERCENT OF CASES CLOSED BY DAYS ELAPSED						
Year	2006	2007	2008	2009	2010	
Total Cases Closed	194	153	156	130	113	
CASES CLOSED	Within 30 days	137 71%	102 67%	109 70%	76 59%	89 79%
	Within 31-60 days	17 9%	9 6%	12 8%	24 18%	6 5%
	Within 61-90 days	10 5%	8 5%	13 8%	8 6%	8 7%
	Over 90 days	30 15%	34 22%	22 14%	22 17%	10 9%

DAYS ELAPSED BY YEAR						
Year	2006	2007	2008	2009	2010	
Total Cases Closed	194	153	156	130	113	
DAYS ELAPSED	Lowest	1	1	1	1	1
	Highest	570	366	447	569	280
	Mode	1	1	1	1	1
	Median	14	15	14	27	13
	Mean	43	58	49	54	32

INVESTIGATIVE HOURS BY YEAR						
Year	2006	2007	2008	2009	2010	
Total Cases Closed	194	153	156	130	113	
HOURS	Lowest	1	1	1	1	1
	Highest	532	134	184	259	125
	Mode	2	2	2	2	2
	Median	3	3	3	3	3
	Mean	13	12	14	13	13
	Total	2504	1754	2166	1727	1435

Mode	<i>The value that occurs the most often in a set of numbers</i>
Median	<i>The value in the middle of a set of values, having equal values before and after the median</i>
Mean	<i>The arithmetic average, calculated by dividing the sum of all values by the number of values</i>

SYNOPSIS OF 2010 CASES

COMMENDATION

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0033	Resident commends officer for being thorough in an investigation while showing great compassion.	Ombudsman forwarded commendation to officer and chain of command.
OMB10/0091	Resident commends officer for his assistance and demeanor.	Ombudsman forwarded commendation to officer and chain of command.
OMB10/0098	Resident commends officers for their roles in recovering a stolen car.	Ombudsman forwarded commendations to officers and chain of command.

OTHER AGENCY

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0026	Complainant questions if BPD had any involvement in a visit from Probation and Parole.	Ombudsman discovered there was no record of any BPD involvement and provided complainant with appropriate contact information.
OMB10/0028	Subpoena duces tecum.	Information provided to the prosecutor.
OMB10/0095	Complainant is concerned that the Prosecutor's Office declined to prosecute.	Ombudsman referred complainant to the Prosecutor's Office.
OMB10/0105	Complainant raises concerns outside of the ombudsman's jurisdiction.	Ombudsman advised complainant to seek legal counsel.

APPEAL

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0079	Complainant appeals the BPD finding of unfounded in connection with his allegation of excessive force.	Ombudsman reviewed OIA investigation, determined no further investigation was warranted, and upheld the finding of Unfounded.

CRITICAL INCIDENT

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0055	Officer-involved shooting.	Ombudsman issued one (1) finding of Sustained for Duty Performance.

CLASS I COMPLAINT

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0001	Complainant alleges officer used unnecessary force during a pat-down search and when the Complainant was taken to the ground.	Ombudsman issued four (4) findings of Exonerated and one (1) finding of Unfounded.
OMB10/0003	Complainant alleges that a BPD officer had a conflict of interest and did not verify information before it was sent out to other law enforcement agencies.	Ombudsman issued one (1) finding of Exonerated.
OMB10/0004	Complainant alleges an officer was operating a patrol car in an unsafe manner causing a collision.	Ombudsman issued one (1) finding of Sustained.
OMB10/0049	Complainant alleges officer used excessive force on him by throwing him to the ground, causing him to sustain minor injuries, without reason or necessity at a time that he had both hands handcuffed behind his back and was offering no resistance and posing no threat to the officer.	The Ombudsman issued one (1) finding of Exonerated and six (6) findings of Unfounded. Complaint was reviewed for prosecution for filing a false complaint.
OMB10/0057	Complainant alleges that an officer used official position to contact him as a favor to a friend.	Ombudsman issued one (1) finding of Unfounded.
OMB10/0062	Complainant alleges that one or more officers slammed a door into his face without cause or justification.	Ombudsman issued one (1) finding of Not Sustained.
OMB10/0074	Complainant alleges officers used excessive force and entered his house illegally.	Ombudsman issued three (3) findings of Unfounded and two (2) findings of Exonerated.
OMB10/0100	Complainant alleges that two officers used excessive force and caused an injury to his face.	Case still active as of December 31, 2010.

CLASS II COMPLAINT

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0009	Complainant alleges use of defamatory terms by an officer.	Ombudsman issued one (1) finding of Sustained
OMB10/0030	Complainant alleges that a BPD officer bumped her son's leg with the push bumper on a BPD patrol car while the son was in a crosswalk walking with the pedestrian walk light.	Ombudsman issued one (1) finding of Sustained.
OMB10/0076	Complainant alleges incomplete and inadequate investigation into a domestic violence situation.	Ombudsman issued one (1) finding of Unfounded.

INQUIRY

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0002	Complainant has concerns with the way officers treated her.	Ombudsman reviewed the incident and found that the officers behaved appropriately and within policy.
OMB10/0005	Complainant would like the ombudsman and BPD to be aware of his concerns regarding the reason for a recent traffic stop.	Ombudsman communicated the complainant's concerns to BPD. No further action necessary.
OMB10/0008	Complainant has concerns regarding her contact with and subsequent arrest by a Boise Police officer.	Ombudsman reviewed incident and found no violation of policy.
OMB10/0010	Complainant is concerned with not being able to provide a statement upon her arrest.	Ombudsman reviewed incident, found no evidence of misconduct, and answered the complainant's questions.
OMB10/0011	Complainant questions the timeliness of an investigation and lack of follow up.	Police supervisor answered the complainant's questions concerning an active investigation.
OMB10/0014	Complainant thought he heard officers use profanity and a racial slur.	Ombudsman reviewed audio recordings and found that no such language was used.
OMB10/0015	Complainant raises concerns with search after a traffic stop.	Ombudsman reviewed incident and answered questions. No policy violation discovered
OMB10/0017	Complainant questions officers' actions.	Ombudsman reviewed incident and answered questions. No evidence of any policy violation by any involved officer.
OMB10/0019	Complainant feels an officer made unprofessional comments.	Ombudsman looked into the incident, answered the complainant's questions, and forwarded potential policy violation to OIA.
OMB10/0020	Complainant feels his Civil Rights were violated when he did not consent to a mental hold.	No action was taken due to the expiration of the 90 day limit for filing complaints.
OMB10/0022	Complainant thinks officer did not properly handle a report of a threat.	Ombudsman looked into the incident, answered the complainant's questions, and suggested that a BPD supervisor counsel the officer regarding service expectations.
OMB10/0023	Complainant has concerns regarding his arrest.	Ombudsman reviewed incident and answered the complainant's questions.
OMB10/0024	Complainant feels that an officer was rude and made her feel like a bad person.	Ombudsman reviewed incident, including audio recording of the incident, and addressed the complainant's concerns.
OMB10/0029	Complainant has questions regarding standard operating procedure when confiscating medications.	Ombudsman answered questions.
OMB10/0032	Complainant has questions regarding police activity in his neighborhood.	Ombudsman reviewed incident and answered complainant's questions.

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0034	Complainant has questions about the attitude and approach of BPD officers during their investigation of a collision.	Ombudsman reviewed incident and answered the complainant's questions.
OMB10/0035	Complainant has concerns regarding the use of force by a BPD officer during his adult son's arrest. The Complainant was not present during the arrest.	The investigation could not proceed due to a lack of cooperation by the complainant's son.
OMB10/0036	Complainant is concerned with how officers treated juveniles during a recent incident.	Ombudsman reviewed incident and answered questions. Complainant had been given misinformation about incident.
OMB10/0039	Complainant has concerns with an officer's attitude.	Ombudsman reviewed incident, advised complainant, and forwarded potential policy violation to OIA.
OMB10/0041	Complainant questions police response to his request for assistance.	Ombudsman reviewed incident, answered questions, and identified two possible training issues for BPD.
OMB10/0045	Complainant feels officer had a bad attitude and needs more training.	Ombudsman reviewed incident and found no violation of policy.
OMB10/0048	Complainant raises concerns about an officer driving Code 3.	Review of Dispatch records and contacts with two possible officers failed to identify the involved officer. No further investigation possible.
OMB10/0052	Complainant raises concerns with action taken by an officer following a collision.	Ombudsman reviewed incident, answered questions and determined the officer's actions were reasonable.
OMB10/0056	Complainant raises concerns with an officer's use of force.	Ombudsman reviewed the incident and answered the complainant's questions.
OMB10/0059	Complainant questions officer's use of a taser.	Complainant requested to withdraw complaint.
OMB10/0060	Complainant concerned with the service received from BPD.	Ombudsman facilitated a process of communication and mediation to answer questions and resolve the inquiry.
OMB10/0061	Complainant questions the reason he was pulled over and issued a citation.	Ombudsman reviewed the incident and answered questions.
OMB10/0063	Complainant questions a pat search and K9 sniff of his car during a traffic stop.	Ombudsman reviewed the officer's audio recordings and found that the complainant had given his consent to the search. Ombudsman answered questions and forwarded a potential policy violation to OIA.
OMB10/0064	Complainant questions if an officer used the signal changing device for a non-emergency purpose.	Ombudsman found that the officer was on his way to an emergency call at the time.
OMB10/0066	Complainant questions the circumstances surrounding her son's arrest and the officer's decision to arrest.	Ombudsman reviewed all audio and records of the arrest and answered the complainant's questions.

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0068	Complainant thinks an officer made false statements in a report.	Ombudsman determined that the statements were not made by a BPD officer, answered questions, and forwarded a potential policy violation to OIA.
OMB10/0069	Complainant wants to know why the officer would not investigate his report that he is receiving death threats via email.	Ombudsman reviewed all reports and audio and concluded that the officer acted reasonably since there was no crime or threat of a crime to investigate.
OMB10/0070	Complainant raises a concern over two incidents that took place "several years ago."	No action was taken due to the expiration of the 90 day limit for filing complaints.
OMB10/0071	Complainant felt that an officer did not adequately investigate an incident before making an arrest.	Ombudsman reviewed police reports and audio recordings and determined that a proper investigation had been conducted. Ombudsman answered questions and forwarded a potential policy violation to OIA.
OMB10/0073	Complainant raises concerns.	Ombudsman reviewed related documents and answered questions.
OMB10/0077	Complainant raises concerns with statements in a police report.	No action was taken due to the expiration of the 90 day limit for filing complaints.
OMB10/0078	Complainant has concerns about officer's use of deception to find his son.	Ombudsman answered questions.
OMB10/0080	Complainant questions how an officer handled an incident.	Ombudsman answered questions.
OMB10/0081	Complainant feels that a detective conducted an inadequate investigation.	Ombudsman reviewed incident, including related police reports, and answered questions.
OMB10/0082	Victim of a protection order violation complains about the overall process of report-taking, investigation, and prosecution of this offense.	Ombudsman requested OIA to review all related materials and is satisfied that all reasonable corrective action has been taken.
OMB10/0083	Complainant has questions regarding an officer's pat search.	Ombudsman reviewed incident and answered questions.
OMB10/0084	Complainant questions receiving Final Notice for payment for a parking fine when payment had already been processed.	Ombudsman answered questions.
OMB10/0094	Complainant alleges he was unlawfully arrested for violation of a protection order.	Ombudsman advised complainant that his arrest must be resolved by the criminal process before his complaint could be investigated.
OMB10/0096	Complainant raises concerns with an investigation.	Ombudsman reviewed incident and answered questions.
OMB10/0097	Complainant raises concerns with his arrest.	Ombudsman reviewed incident and answered questions.

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0099	Complainant raised concerns with an officer's actions.	Ombudsman reviewed incident and provided complainant's feedback to the officer.
OMB10/0101	Complainant alleges that an officer revealed information from a sealed juvenile court record to a third party without authorization.	No action was taken due to the expiration of the 90 day limit for filing complaints.
OMB10/0102	Complainant alleges an officer used excessive force during his arrest.	No action was taken due to the expiration of the 90 day limit for filing complaints.
OMB10/0103	Complainant has questions regarding interacting with police.	Ombudsman researched the questions and then met with the Complainant and his family to provide the answers.
OMB10/0107	Complainant raises concerns about an encounter with an officer and that officer left a police vehicle running unattended for long periods of time.	Complaint already under investigation by BPD.
OMB10/0109	Complainant had questions regarding the seizure of the car she was driving at the time she was stopped by the police.	Ombudsman researched the incident and answered the complainant's questions.
OMB10/0110	Complainant raises concerns regarding his arrest.	Case still active as of December 31, 2010.
OMB10/0111	Complainant raises concerns regarding arrest.	No action was taken due to the expiration of the 90 day limit for filing complaints.
OMB10/0112	Complainant raises concerns regarding reasons for a traffic stop.	Case still active as of December 31, 2010.

RAPID RESOLUTION INQUIRY

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0006	Complainant would like to have her personal property returned.	Ombudsman facilitated communication between BPD and complainant. BPD upgraded RRI to a Class I Complaint with a finding of Exonerated. OMB reviewed investigation and concurred with findings.
OMB10/0007	Complainant has concerns about the way officers investigated a possible burglary.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0012	Complainant questions the reason for case not meeting minimum criteria for prosecution.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0013	Complainant concerned with the lack of response by detective assigned to his burglary case.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0016	Complainant would like to speak to the officer investigating a recent battery report.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0018	Complainant questions the authority police had to enter her home.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0021	Complainant has questions concerning a missing person.	Ombudsman responded to complainant based on information from BPD.
OMB10/0025	Complainant questions authority of police to enter his bedroom when he was not at home.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0027	Complainant would like his report thoroughly investigated.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0031	Complainant questions reason for a traffic stop.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0037	Complainant felt officer was intimidating.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0038	Complainant has concerns about an officer's response to his report of a fight.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0040	Complainant has concerns with the level of service she has received by BPD.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0042	Complainant has concerns about an officer's follow-through on the report he took from her.	Ombudsman facilitated communication between BPD and complainant.

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0043	Complainant has concerns with the accuracy of a report.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0044	Complainant feels he was singled out when he received a parking citation.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0046	Complainant had concerns with an officer's demeanor while the officer was directing traffic.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0047	Complainant has concerns with how a traffic stop was handled.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0050	Complainant doesn't like how an officer is handling a case.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0051	Complainant does not feel an officer took her call seriously.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0053	Complainant unhappy with an officer's demeanor.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0054	Complainant has concerns regarding his interaction with an officer	Ombudsman facilitated communication between BPD and complainant.
OMB10/0058	Complainant requests dialogue between a local business and BPD to discuss a recent incident and to come up with a plan should something similar happen in the future.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0065	Complainant thinks officer's demeanor was too threatening and that they should have spoken with the developmentally disabled subject in a private area instead of the mailbox center of the apartment building.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0067	Complainant would like BPD to improve the service and responsiveness they provide to a local hotel.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0072	Complainant has concerns with the response by a BPD officer.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0075	Complainant has concerns with the actions and behaviors of two officers.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0085	Complainant has concerns about an encounter with police occurring in front of her juvenile children.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0086	Complainant raises concerns with an officer's attitude during a traffic stop.	Ombudsman facilitated communication between BPD and complainant.

CASE #	CASE SYNOPSIS	OUTCOME/ACTION TAKEN
OMB10/0087	Complainant has questions regarding police activity occurring on her property.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0088	Complainant has concerns with the service received from BPD employee.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0089	Complainant has concerns regarding an officer's attitude.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0090	Complainant would like to file a police report.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0092	Complainant has questions regarding a theft report.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0093	Complainant has questions regarding a fraud investigation.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0104	Complainant requests follow-up on information provided to BPD.	Case still active as of December 31, 2010.
OMB10/0106	Complainant raises concerns about officer's abruptness and unwillingness to educate him on the law.	Ombudsman facilitated communication between BPD and complainant.
OMB10/0108	Complainant feels BPD is not taking stalking reports seriously.	Case still active as of December 31, 2010.
OMB10/0113	Complainant raises concerns regarding police response to a child custody situation.	Case still active as of December 31, 2010.
OMB10/0114	Complainant raises concerns with investigation by BPD detectives.	Case still active as of December 31, 2010.
OMB10/0115	Complainant is unhappy with the level of service provided by a BPD officer when she reported a theft from her home.	Case still active as of December 31, 2010.