

OFFICE OF THE COMMUNITY OMBUDSMAN

I. INTRODUCTION

The City of Boise City Council established the Office of the Community Ombudsman to investigate complaints of misconduct against Boise City law enforcement and police personnel. The Office of the Community Ombudsman is independent from all other City departments and reports directly to the Mayor. In addition to investigating misconduct, the Office of the Community Ombudsman seeks to ensure that police policies and practices reflect the needs of the community.

The Office of the Community Ombudsman is authorized and empowered by Title 2, Chapter 22 of the Boise City Code. The actions of the Community Ombudsman and all employees of the Office of the Community Ombudsman are governed by the policies of the City of Boise. The purpose of this regulation is to describe the processes related to the operations of the Office of the Community Ombudsman.

II. DEFINITIONS

For the purpose of this regulation the following definitions apply:

- A. An "appeal" shall be defined as an expression of disagreement with any finding or outcome arising from an investigation into a complaint, allegation, or inquiry filed previously with the Boise City Police Department or other Boise City law enforcement agency.
- B. A "business day" shall be defined as the days between and including Mondays to Friday, excluding Saturday, Sunday, and any day declared an official holiday by the City of Boise.
- C. A "commendation" shall be defined as the expression of praise, gratitude, or other similar sentiments concerning a specific act or series of acts by one or more law enforcement and/or police personnel.
- D. A "complaint" shall be defined as an allegation of conduct and/or omission by one or more Boise City law enforcement or police personnel which, if proven by a preponderance of the evidence, would be a violation of law and/or the policies or procedures of the City of Boise or any of its departments.
- E. A "conclusion of policy" shall be defined as a judgment by the Community Ombudsman, based on the factual findings from an investigation, as to whether or not a specific allegation of policy violation is sustained, exonerated, unfounded, not sustained, or no finding.
- F. "Confidential information" shall be defined as any and all information obtained by, provided to, and/or stored by the Office of the Community Ombudsman, regardless of the form in which it is obtained and/or stored, that is protected or restricted from disclosure by virtue of Federal law, State statute, City code,

City policy, or court order.

- G. A "critical incident" shall be defined as an event or incident in which law enforcement or police personnel are involved as a principal, victim, witness, or custodial employee, as defined below:
1. Use of deadly force (excluding animals).
  2. Use of force or any other police or law enforcement action that results in the death of one or more persons, or serious bodily injury requiring hospital admission.
  3. Vehicle pursuits, roadblocks, or intercepts resulting in the death of one or more persons, or serious bodily injury requiring hospital admission.
  4. Vehicular collisions resulting in the death of one or more persons, or serious bodily injury requiring hospital admission that occurred while a law enforcement or police personnel was operating a city vehicle (either on-duty or off-duty) or a private vehicle while on-duty.
- H. "Disclosure" shall mean any communication or transmission of information, regardless of the form in which the communication or transmission takes place; forms of communication or transmission include, but are not limited to: oral, written, electronic, encoded, internet, email, text message, wireless, telephonic, recorded, audio recording, video recording, etc.
- I. An "inquiry" shall be defined as an allegation, concern, question, or suggestion concerning police or law enforcement operations, policies, practices, or training that does not, on its face, suggest a provable violation of either policy or procedure.
- J. "Law enforcement or police personnel" shall be defined as:
1. Boise Police Department police officers (regardless of rank), employees (whether full-time or part-time), and volunteers
  2. Those Boise City employees specifically empowered to issue citations or summons for alleged criminal or civil offenses, excluding the Boise City Attorney and all employees of the Office of the Boise City Attorney.
- K. "May" indicates that the specified action is permitted, depending upon sound judgment.
- L. A "mediated inquiry" shall be defined as an inquiry that the Community Ombudsman has designated as being appropriate for resolution by means of mediation.
- M. An "ombudsman's inquiry" shall be defined as an inquiry for which the Community Ombudsman has retained responsibility for resolution of the inquiry other than by means of mediation.
- N. A "rapid resolution inquiry" shall be defined as an inquiry that the Community

Ombudsman has assigned for resolution to the department that is the subject of the inquiry.

- O. "Shall" indicates that the specified action is mandatory or required.
- P. "Will" indicates that the specified action is to be taken as conditions permit.
- Q. "Written Notice" and "Notice in Writing" shall include, but not be limited to: paper, facsimile transmission, email, as well as any and all other forms of electronic communication.

### III. FILING COMPLAINTS, INQUIRIES, APPEALS, AND COMMENDATIONS

#### A. Who May File

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.

The Community Ombudsman may, on his or her own initiative, open a complaint investigation, inquiry and/or commendation concerning the operations, actions, or omissions of the Boise Police Department and any Boise City law enforcement and police personnel, providing the Community Ombudsman has knowledge of evidence sufficient to form a reasonable basis for the complaint, inquiry, or commendation.

Complaints previously filed with the Boise Police Department or applicable City department will not be accepted, except on appeal as specified below.

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.

#### B. How to File

Complaints, inquiries, appeals, and commendations may be filed by any means, including, but not limited to the following: in person, in writing, by telephone, by facsimile, by email, or by other electronic means.

#### C. False Complaints

When the Community Ombudsman determines that the evidence available from the investigation of a complaint or appeal provides probable cause to believe that one or more persons knowingly provided false information concerning a charge or complaint to the Office of the Community Ombudsman in violation of either Idaho Code § 18-5413 or Boise City Code § 6-01-13, the Community Ombudsman may request a review of the evidence by the Boise City Attorney.

D. Additional 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 may, at his or her discretion, file a new complaint listing the possible violation as an allegation, or refer the matter to the appropriate department for disposition.

E. Timeliness Requirements for Filing

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.

Appeals filed more than 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 will not be accepted by the Office of the Community Ombudsman. If it can be proven that no notice of finding or outcome was given to the person or persons who originally filed the complaint or allegation in question, an appeal may be filed within one year of the date on which the investigation into the original complaint was closed.

Commendations filed more than one year after the incident giving rise to the Commendation will not be accepted by the Office of the Community Ombudsman.

IV. COOPERATION AND TRUTHFULNESS REQUIRED OF CITY EMPLOYEES

Boise City Code § 2-22-07(A) requires all City employees "as a condition of their

employment” to cooperate “fully and truthfully” with an ombudsman investigation. Prior to conducting any investigative interviews of City employees, the investigator shall give the employee a Memorandum of Administrative Privileges that clearly informs the employee of his or her obligation to truthfully and completely answer all questions asked by the investigator as a condition of employment.

City employees compelled to answer questions by the Community Ombudsman related to their employment have the protections set forth in *Garrity v. New Jersey*, 385 U.S. 493 (1967). This protection provides that compelled statements related to an officer or employee's job and job duties have immunity in any subsequent criminal prosecution of the statement maker.

A. Failure to Cooperate and False Statements by Employees

If the Community Ombudsman determines that the preponderance of the evidence available from the investigation of a complaint or appeal proves that, in violation of Boise City Code § 2-22-07(A), a City employee has either knowingly provided false information to, or failed to cooperate fully with the Office of the Community Ombudsman, the Community Ombudsman will contact the Chief of Police or appropriate department director and request that the employee be notified of his or her obligation to comply with the provisions of Boise City Code § 2-22-07(A).

If, after being so notified by the Chief of Police or appropriate department director of the obligation to cooperate, a City employee refuses and/or fails to cooperate fully and truthfully with an investigation being conducted by the Office of the Community Ombudsman, the Community Ombudsman will file with the Chief of Police or appropriate department director a formal complaint of misconduct against that employee.

V. ACCESS TO CITY RECORDS

Boise City Code provides the Office of the Community Ombudsman with, “full, unrestricted and complete access to any and all information, files, evidence or other material which the Community Ombudsman shall deem necessary in the performance of the duties specified and responsibilities set forth in this chapter.” § 2-22-06(B). As a result, all City employees, volunteers, contractors, and those persons operating on behalf of the City shall fully and without delay comply with all such requests made by the Community Ombudsman or his or her designee.

VI. INVESTIGATION OF COMPLAINTS AND APPEALS

The Community Ombudsman will retain jurisdiction over any complaint or appeal filed with the Office of the Community Ombudsman.

Following receipt of an allegation or concern, the Office of the Community Ombudsman may conduct a preliminary intake investigation to review readily available City records, along with information provided by the complainant, in order

to properly classify the matter as a complaint or an inquiry and determine the most appropriate means to investigate or resolve the matter. During this time, all time requirements pertaining to required notices will be tolled.

Allegations of a violation of the City's Equal Employment Opportunity policy and regulation will be forwarded to the Department of Human Resources for processing and resolution.

The Community Ombudsman may, in the interest of justice, suspend the investigation of a complaint or appeal until the adjudication of any criminal case arising from the incident giving rise to the complaint or appeal. During any such period of suspension, all time requirements pertaining to required notices and/or the completion of investigations will be tolled.

Reasonable efforts will be made to locate and interview persons thought to have information material to the investigation of a complaint or appeal.

All investigative interviews shall be audio recorded, including intake interviews and those conducted over the telephone. Notice of such recording will be given at the beginning of each interview.

Reasonable efforts will be made to conduct interviews at a time and place convenient for the person being interviewed, providing that such accommodation does not interfere with the timeliness, confidentiality, or integrity of the investigation. Unless the payment of overtime has been authorized by the appropriate department head, interviews of law enforcement and police personnel will take place during the employee's regularly scheduled work hours.

A. Timeliness of Completion

Complaint and appeal investigations will be completed in a timely manner. Specific timeliness targets shall be set by the Community Ombudsman in consultation with the Mayor. Actual performance relative to the specified timeliness targets shall be included in the Mayor's annual performance evaluation (GACR) of the Community Ombudsman.

B. Representation During Investigative Interviews

Persons being interviewed, including but not limited to law enforcement and police personnel, will be permitted to have a representative or attorney of their choice with them during any interview, provided that such representative or attorney does not interfere with or unreasonably delay the interview. Persons believed to have been involved in or a witness to the incident giving rise to the complaint or appeal may not act as a representative for another person during an investigative interview.

C. Alleged Criminal Acts by Law Enforcement and Police Personnel

If, in the course of investigating a complaint or appeal, the Community Ombudsman determines that there is a reasonable basis to believe that a City employee may have committed a criminal act, whether or not the alleged criminal act was included as an allegation in the complaint or appeal, the Community Ombudsman shall consult with assigned legal counsel and determine whether or not the matter should be referred to the appropriate prosecuting attorney for consideration of criminal charges or criminal investigation.

When the Community Ombudsman refers a complaint or appeal to a prosecuting attorney for consideration of criminal charges, the Community Ombudsman shall suspend the investigation of said complaint or appeal until such time as the Office of the Community Ombudsman is notified of a charging decision by the prosecuting attorney. During the time in which a complaint investigation is suspended, law enforcement and police personnel shall not be interviewed by the Office of the Community Ombudsman in connection with that specific complaint investigation.

When the Community Ombudsman refers a complaint or appeal to a prosecuting attorney for consideration of criminal charges, any timeliness requirements specified for the investigation of complaints and appeals shall be tolled until such time as the Office of the Community Ombudsman is notified of a charging decision by the prosecuting attorney.

D. Standard of Proof for Complaints and Appeals

Findings of fact and conclusions of policy shall be based on the preponderance of the evidence made available through the investigation.

E. Conclusions of Policy for Complaints and Appeals

Only the Community Ombudsman has the authority to make a conclusion of policy with respect to a complaint or appeal filed with the Office of the Community Ombudsman.

The Community Ombudsman shall issue one of the following conclusions of policy for each allegation investigated as a result of a complaint or appeal:

1. 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.
2. Unfounded: A specific act or omission was not committed by the law enforcement or police personnel.
3. Sustained: A specific act or omission was committed by the law enforcement or police personnel in violation of policy or procedure.
4. 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.

5. 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.

F. Required Notices for Complaints and Appeals

The following notices shall be given to any person who files a complaint or appeal with the Office of the Community Ombudsman:

1. Notification (orally, by phone, electronically, or in writing) at the time of intake that knowingly providing false information to the Office of the Community Ombudsman is a violation of law and may result in a misdemeanor criminal charge.
2. Notification (orally, by phone, electronically, or in writing) of the acceptance of the complaint or appeal at such time as the complaint or appeal is accepted by the Office of the Community Ombudsman.
3. Contact (orally, by phone, electronically, or in writing) by the assigned investigator at least every 30 calendar days for as long as a complaint or appeal remains under investigation to inform the person of the status of the complaint, inquiry, or appeal.
4. Notification in writing as to any findings or other outcomes within seven business days of when a complaint or appeal is closed for any reason by the Office of the Community Ombudsman.

The following notices shall be given to law enforcement and police personnel against whom a complaint or appeal has been made:

1. A written notice shall be sent by the Office of the Community Ombudsman to any law enforcement or police personnel against whom an allegation is made in a complaint or appeal. Such notice will be sent within five business days from the latter of the following: the day on which the complaint or appeal was received by the Office of the Community Ombudsman, the day on which the intake investigation was completed, or the day on which the identity is established of the law enforcement or police personnel against whom a complaint or appeal has been made.
  - a) When the Community Ombudsman requests a criminal investigation in connection with a complaint or appeal, this notice may be delayed in the interest of justice.
  - b) Subject to what is known at that time, this notice will include summary information about the allegation(s) and incident so that the law enforcement or police personnel can prepare for subsequent interviews or requests for information from the Office of the Community Ombudsman.
2. For as long as a complaint or appeal remains under investigation, the law enforcement or police personnel shall be contacted by the assigned investigator (orally, by phone, electronically, or in writing) at least every

- 30 calendar days and informed of the status of the investigation.
3. Notice of scheduled interviews shall be provided (written or electronic) as far in advance of the interview as is reasonably possible.
4. Within five business days of when a complaint or appeal is closed for any reason by the Office of the Community Ombudsman, the law enforcement or police personnel shall be notified in writing as to any findings or other outcomes.
5. All required notices sent to law enforcement or police personnel shall be copied to the department director and/or designee.

#### G. Personnel Performance Evaluation Reports For Complaints And Appeals

Following the issuance of conclusions of policy in connection with a complaint or appeal, the Office of the Community Ombudsman shall provide the Chief of Police or appropriate department director with a Personnel Performance Evaluation Report that contains the following information:

1. summary of investigation and evidence
2. findings of fact
3. evaluation of law enforcement or police personnel performance
4. conclusions of policy
5. recommendations for personnel action
6. recommendations, if any, for modification of policy, procedure, or training

#### H. Closing Of Complaints and Appeals

Complaints and appeals will be considered to be closed on the day that the Office of the Community Ombudsman transmits the Personnel Performance Evaluation Report of that complaint or appeal to the department director and/or designee.

### VII. INVESTIGATION OF CRITICAL INCIDENTS

The Office of the Community Ombudsman may, at the discretion of the Community Ombudsman, conduct an independent investigation into a critical incident and the acts or omissions of the involved law enforcement and police personnel.

The Office of the Community Ombudsman will not interview or question any law enforcement or police personnel known to have witnessed or been directly involved in a critical incident until the completion of any criminal investigation into the critical incident.

The Community Ombudsman may, in the interest of justice, suspend a critical incident investigation until the adjudication of any criminal prosecution arising from the critical incident. During the period of suspension, the timeliness requirements specified above for critical incident investigations will be tolled.

All critical incident investigative interviews shall be audio recorded, including those conducted over the telephone. Notice of such recording will be given at the

beginning of each interview.

Reasonable efforts will be made to conduct interviews at a time and place convenient for the person being interviewed, providing that such accommodation does not interfere with the timeliness, confidentiality or integrity of the investigation. Unless otherwise authorized by the appropriate department director, interviews of law enforcement and police personnel will take place during the employee's regularly scheduled work hours.

A. Timeliness of Completion

Critical incident investigations will be completed in a timely manner. Specific timeliness targets shall be set by the Community Ombudsman in consultation with the Mayor. Actual performance relative to the specified timeliness targets shall be included in the Mayor's annual performance evaluation (GACR) of the Community Ombudsman.

B. Representation During Investigative Interviews

Persons being interviewed, including but not limited to law enforcement and police personnel, will be permitted to have a representative or attorney of their choice with them during any interview, provided that such representative or attorney does not interfere with or delay the interview. Persons believed to have been involved in or a witness to the incident giving rise to the critical incident may not act as a representative for another person during an investigative interview.

C. Alleged Criminal Acts by Law Enforcement and Police Personnel

If, in the course of investigating a critical incident, the Community Ombudsman discovers evidence not previously reported in a criminal investigation and, as a result, determines that there is a reasonable basis to believe that a City employee may have committed a criminal act, the Community Ombudsman shall consult with assigned legal counsel and determine whether or not the matter should be referred to the appropriate prosecuting attorney for consideration of criminal charges or criminal investigation.

When the Community Ombudsman refers a critical incident to a prosecuting attorney for consideration of criminal charges, the Community Ombudsman shall suspend the investigation of said critical incident until such time as the Office of the Community Ombudsman is notified of a charging decision by the prosecuting attorney. During the time in which a critical incident investigation is suspended, law enforcement and police personnel shall not be interviewed by the Office of the Community Ombudsman.

When the Community Ombudsman refers a critical incident to a prosecuting attorney for consideration of criminal charges, any timeliness requirements specified for the investigation of critical incidents shall be tolled until such time as

the Office of the Community Ombudsman is notified of a charging decision by the prosecuting attorney.

D. Standard of Proof for Critical Incidents

Findings of fact and conclusions of policy shall be based on the preponderance of the evidence made available through the investigation.

E. Conclusions of Policy for Critical Incidents

Only the Community Ombudsman has the authority to make a conclusion of policy with respect to the investigation of a critical incident by the Office of the Community Ombudsman.

The following conclusions of policy may be used by the Community Ombudsman in connection with the investigation of a critical incident by the Office of the Community Ombudsman:

1. 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.
2. Unfounded: A specific act or omission was not committed by the law enforcement or police personnel.
3. Sustained: A specific act or omission was committed by the law enforcement or police personnel in violation of policy or procedure.
4. 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.

F. Required Notices for Critical Incidents

The following notices shall be given to those law enforcement and police personnel directly involved, other than as a witness, in a critical incident:

1. A written notice of investigation shall be sent by the Office of the Community Ombudsman within five business days from the date of the incident or the day on which the identity is known of the involved law enforcement or police personnel, whichever is later. Based on what is known at that time, this notice will include enough information about the incident and the specific act(s) or omission(s) under review so that the law enforcement or police personnel can adequately prepare for any subsequent interview or requests for information from the Office of the Community Ombudsman.
2. For as long as a critical incident investigation remains open, the law enforcement or police personnel shall be contacted by the assigned investigator (orally, by phone, electronically, or in writing) at least every 60 calendar days and informed of the status of the investigation.

3. Notice of scheduled interviews shall be provided (written or electronic) as far in advance of the interview as is reasonably possible.
4. Within five business days of when a critical incident investigation is closed for any reason by the Office of the Community Ombudsman, the law enforcement or police personnel shall be notified in writing as to any findings or other outcomes.
5. All required notices sent to law enforcement and police personnel shall be copied to the department director and/or designee.

#### G. Personnel Performance Evaluation Report For Critical Incidents

The Office of the Community Ombudsman shall provide the Chief of Police or appropriate department head with a Personnel Performance Evaluation Report that contains the following information:

1. report of investigation
2. findings of fact
3. evaluation of law enforcement or police personnel performance
4. conclusions of policy
5. recommendations for personnel action
6. recommendations, if any, for modification of policy, procedure, or training

#### H. Completion of Critical Incident Investigations

A critical incident investigation will be considered complete on the day that the Office of the Community Ombudsman transmits the Personnel Performance Evaluation Report of that critical incident to the department director and/or designee.

### VIII. INQUIRIES

The Community Ombudsman may, at his or her discretion, retain responsibility for the resolution of an inquiry or assign it to the appropriate department.

#### A. Rapid Resolution Inquiry

If the Community Ombudsman assigns responsibility for the resolution of an inquiry to another department, the Community Ombudsman shall request that the assigned department resolve a rapid resolution inquiry within ten calendar days and notify the Office of the Community Ombudsman of such resolution.

If the Community Ombudsman assigns responsibility for the resolution of an inquiry to another department, the Office of the Community Ombudsman shall inform the person who filed the inquiry of such an assignment.

Once the Office of the Community Ombudsman is informed by the assigned department that a rapid resolution inquiry has been resolved, the Office of the Community Ombudsman shall, within five business days, notify the person who

filed the inquiry that the inquiry has been closed. The person who filed the inquiry shall have 30 calendar days following notice that the inquiry has been closed in which to request a review by the Community Ombudsman.

B. Ombudsman's Inquiry

Ombudsman's inquiries will be resolved in a timely manner.

Upon resolution of an inquiry, the Office of the Community Ombudsman shall, within five business days, notify the person who filed the inquiry that the inquiry has been closed.

C. Mediated Inquiry

The Community Ombudsman may, at his or her discretion, choose to resolve an inquiry by means of mediation.

Mediated inquiries will be resolved in a timely manner.

Mediation shall require the voluntary participation of the person who filed the inquiry and at least one representative from the department that is the subject of the inquiry.

The goals of mediation will be improved communication, mutual understanding, reduction of conflict, and, if necessary and possible, a mutually satisfactory resolution of any dispute.

IX. COMMENDATIONS

Within five business days of receiving a commendation, the Office of the Community Ombudsman shall send a written summary of the commendation to those law enforcement and police personnel identified by the person filing the commendation. A copy of this written summary of commendation shall be sent to the department director and/or designee.

X. REVIEW OF INTERNAL INVESTIGATIONS

The Office of the Community Ombudsman shall regularly review the internal investigations conducted by the Boise Police Department. The purpose of these reviews will be to determine if the internal investigations being conducted according to the policies and procedures established for such investigations, and that they are complete, thorough, objective, and fair.

The Office of the Community Ombudsman shall review all complaint investigations, including those initiated from within the department itself.

The Office of the Community Ombudsman shall review no fewer than 10% of all other internal investigations, including, but not limited to, those that deal with:

- A. use of force
- B. canine bites
- C. vehicular pursuits
- D. use of "vehicle forced-stop methods"
- E. foot pursuits
- F. employee vehicular collisions
- G. citizen inquiries

XI. POLICY, PROCEDURE, AND TRAINING RECOMMENDATIONS

The Office of the Community Ombudsman shall develop specific recommendations as to the policies, procedures, practices, and training of law enforcement and police personnel. These recommendations may arise from the investigation of complaints, inquiries, appeals, or critical incidents by the Office of the Community Ombudsman. The Community Ombudsman may also develop such recommendations as a result of his or her own initiative, or at the request of the Mayor, City Council, Chief of Police or other department director.

Only the Community Ombudsman has the authority, on behalf of the Office of the Community Ombudsman, to make recommendations concerning police or law enforcement policy, procedure, or training.

The Office of the Community Ombudsman will provide the Chief of Police or appropriate department director with an advance copy of any policy, procedure, or training recommendation at least five (5) business days before any public release of such recommendations.

The Office of the Community Ombudsman will give the Chief of Police or appropriate department head the opportunity, during the five (5) business day review period, to provide a written response to any policy, procedure, or training recommendation for inclusion with the Community Ombudsman's public release of any such recommendation.

XII. CONFIDENTIAL INFORMATION

The Community Ombudsman and all members of the Community Ombudsman's staff (employees, contractors, and volunteers) shall obey all local, state, and federal laws regarding confidentiality, and shall make every reasonable effort to safeguard the privacy interests of others and the confidentiality of information provided to the Office of the Community Ombudsman (BCC § 2-22-05 Confidentiality of Records and Information).

The Office of the Community Ombudsman will only release confidential information, materials, and reports related to complaints, appeals, inquiries, and critical incidents to the following persons or under the following circumstances:

- A. the relevant department director and/or designee, or

- B. the Mayor of Boise, or
- C. the Boise City Council sitting in executive session, or
- D. in the interest of justice to a law enforcement officer or public prosecutor, or
- E. upon receipt of a valid order from a court with jurisdiction, or
- F. when there is a credible threat of imminent bodily harm to one or more persons and it is reasonable to conclude that disclosure is the only reasonable way to prevent such harm from occurring, or
- G. in cases of suspected or reported child abuse as required under Idaho State statute, or
- H. as otherwise required by law, or
- I. with the express, written permission of the person who provided the confidential information.

Upon receipt of a subpoena ordering the Community Ombudsman, or any person acting under the authority of the Community Ombudsman, to give testimony and/or to produce any record or other item in the custody of the Community Ombudsman, the Community Ombudsman will consult with assigned legal counsel. Reasonable efforts will be made to protect the confidentiality of privileged or otherwise protected information while still complying with the requirements of the subpoena.

### XIII. RELEASE OF INFORMATION TO THE PUBLIC

Only the Community Ombudsman has the authority, on behalf of the Office of the Community Ombudsman, to release information to the public concerning a specific complaint, appeal, inquiry, commendation, critical incident, review of internal investigation, or recommendation.

#### A. Semi-annual Report of Operations

The Community Ombudsman shall file semi-annual reports of operations with the City Clerk for transmittal to the Mayor and City Council.

#### B. Summary Reports of Investigation

The Office of the Community Ombudsman may release to the public a summary report for any complaint, appeal, or critical incident investigated by the Office of the Community Ombudsman. Summary reports will include a description of the incident under investigation, the allegations made or actions under review, the steps taken in the course of the investigation, the findings of fact resulting from the investigation, the conclusions of policy issued by the Community Ombudsman and an explanation of the rationale behind them, and any recommendations for change to policy, procedure or training made by the Community Ombudsman.

Summary reports of complaint, appeal, or critical incident investigations shall not include specific privileged or confidential information, nor shall such reports contain the names of any person, other than those of the Community Ombudsman and the employees of the Office of the Community Ombudsman. Reasonable efforts will be made to exclude from public reports any information

that would lead to the identification of individuals anonymously referred to in such reports by those without independent knowledge about the incident or the people involved. Prior release of names or other identifying information by third parties shall not foreclose or otherwise restrict the ability of the Office of the Community Ombudsman to release to the public a summary report of a complaint, appeal, or critical incident.

C. Department Opportunity to Review a Public Report and Provide a Written Response

For complaints and appeals in which no recommendations for change to policy, procedure, or training are made by the Community Ombudsman, the Office of Community Ombudsman shall provide the Chief of Police or appropriate department director with a copy of a public summary report of a complaint or appeal investigation at least 48 hours before it is released to the public. When recommendations for change to policy, procedure, or training are made by the Community Ombudsman, the Office of Community Ombudsman shall provide the Chief of Police or appropriate department director with a copy of a public summary report of a complaint or appeal investigation at least five business days before it is released to the public.

In the case of a critical incident investigation, regardless of whether or not recommendations for change to policy, procedure, or training are made by the Community Ombudsman, the Office of Community Ombudsman shall provide the Chief of Police or appropriate department director with a copy of a public summary report of a critical incident investigation at least five business days before it is released to the public.

Along with its own public summary report of a complaint, appeal, or critical incident investigation, the Office of the Community Ombudsman will publish any written response provided to it by the Chief of Police or appropriate department director, provided that said written response is provided to the Office of the Community Ombudsman in a timely manner.

D. Requests to Examine or Copy a Public Record

Public records requests filed with the Office of the Community Ombudsman shall be processed promptly and in accordance with Boise City policy. Within the requirements and limits set by local, state, and federal laws, every effort will be made to comply as fully as possible with public records requests. Legal review of all such public records requests is required, except in the case of previously released public reports.

XIV. LEGAL SERVICES FOR THE OFFICE OF THE COMMUNITY OMBUDSMAN

A. Primary Legal Advisor

The Office of the Boise City Attorney will provide the Community Ombudsman

and any City employee acting under his or her authority with all required legal services, representation and advice necessary for the performance of his or her duties, except in the case of an actual, potential or perceived conflict of interest.

B. Conflict Legal Advisor

If the Community Ombudsman and the City Attorney concur that the Office of the City Attorney has an actual, potential or perceived conflict of interest with respect to a specific matter, the City Attorney will refer said matter to the outside attorney under contract to provide legal services to the Office of the Community Ombudsman.

If the Community Ombudsman and the City Attorney are not in agreement with regard to the presence of an actual, potential or perceived conflict of interest, they may consult the Mayor who will make a decision on whether to refer the matter to the outside attorney under contract to provide legal services to the Office of the Community Ombudsman.

XV. COMMUNITY OUTREACH

The Community Ombudsman shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with the citizens of Boise City.

In completing this task, the Community Ombudsman may use any media, forums, strategies, and venues he/she deems appropriate and efficient to inform members of the public and to encourage them to communicate with the Community Ombudsman.