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OFFICE OF THE MAYOR
MARTIN J. WALSH

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BOSTON, MA

EXECUTIVE ORDER

June 7, 2017

Establishing a Community Ombudsman Oversight Panel and Complaint Mediation Program

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

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

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

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

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

ARTICLE I. PANEL MEMBERSHIP.

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

ARTICLE II. PANEL MEMBER COMPENSATION.

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

ARTICLE III. PANEL MEMBER TRAINING.

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

ARTICLE IV. DUTIES OF THE PANEL.

The panel will:

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

ARTICLE V. POWERS OF THE PANEL.

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

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

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

ARTICLE VI. CASES REVIEWED BY THE PANEL.

The panel will review the following categories of cases:

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

ARTICLE VII. PANEL REVIEW PROCESS.

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

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

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

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

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

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

Appeals may be mailed or hand delivered to:

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

OR

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

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

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

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


ARTICLE VIII. COMPLAINT MEDIATION PROGRAM.

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

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

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

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



Martin J. Walsh
Mayor of Boston

Dated: 6-7-2017