



CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR
MARTIN J. WALSH

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BOSTON, MA

EXECUTIVE ORDER

November 12, 2020

Reconstituting the Community Ombudsman Oversight Panel as the Internal Affairs Oversight Panel

WHEREAS, historic data shows that Black, Indigenous, and People of Color (“BIPOC”) in the United States have been disproportionately subjected to police violence and misconduct, questionable and intrusive investigatory stops, and disparate treatment at the hands of law enforcement;

WHEREAS, on June 12, 2020, Mayor Martin Walsh signed the Reimagining Policing Pledge issued by the Obama Foundation’s My Brother’s Keeper Alliance as a commitment to review the Boston Police Department’s use of force policies, implement police reform and combat systemic racism in law enforcement;

WHEREAS, the Boston Police Reform Task Force (“Task Force”), an eleven (11) member group composed of community leaders, advocates, legal professionals and members of law enforcement, convened to review the Boston Police Department’s policies and procedures and presented its recommendations for action and police reform to the Mayor and Bostonians;

WHEREAS, as part of its recommendations, the Task Force recommended creation of an Office of Police Accountability and Transparency (“OPAT”), an independent office charged with the review and investigation of Boston Police Department internal affairs investigations, the review and investigation of civilian complaints involving the Boston Police Department and its employees, and subpoena power and investigatory authority to conduct its own independent investigation;

WHEREAS, to achieve the fundamental purpose of enforcing accountability and increasing the transparency of the Boston Police Department internal affairs process, the Task Force recommended reconstituting the Community Ombudsman Oversight Panel (“CO-OP”) as the Internal Affairs Oversight Panel (“IAOP” or “Panel”), to be supported by the OPAT;

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 IAOP.

ARTICLE I. PANEL MEMBERSHIP.

The Panel will consist of five members appointed by the Mayor to terms of three years, not to exceed two consecutive terms. Terms shall be staggered to ensure that at least two (2) members have eighteen (18) months of service. The Mayor will appoint members from a pool of applicants, preferably licensed attorneys, with experience in civil rights advocacy, youth advocacy and those with past experience and knowledge of law enforcement. The current members of the CO-OP shall be the initial members of the IAOP and shall serve the remainder of their current terms, with vacancies to be filled in accordance with this Order.

The Panel will be led by the Chair of the IAOP, who shall be appointed by the Mayor from among the members of the IAOP.

ARTICLE II. PANEL MEMBER COMPENSATION.

Each member will be paid one hundred dollars (\$100.00) per hour for his/her service, not to exceed fifty thousand dollars (\$50,000.00) per year.

ARTICLE III. PANEL MEMBER TRAINING.

Panel members will attend a preliminary training session prior to beginning their review of internal affairs cases. This training will be formulated by designees of the 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. Convene all Panel members at least once per quarter, but more often at the discretion of the Panel; and,
- F. 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 of the Boston Police Department's Internal Affairs Division ("IAD").
- B. To have access to all materials in the completed internal affairs files, except those documents protected from disclosure by law;
- C. To make recommendations for further investigation or clarification to the Chief of the Boston Police Department's Bureau of Professional Standards; and,
- D. To make recommendations to the Police Commissioner regarding reviewed cases.

ARTICLE VI. CASES REVIEWED BY THE PANEL.

The Panel will review the following categories of cases:

- A. All completed internal affairs cases at its discretion and without limitation to the nature of the allegation or the number of cases reviewed;
 - i. In exercising its discretion to review cases, the Panel will continue to review a random sample of not sustained, exonerated, or unfounded complaints.
- B. All completed internal affairs cases with not sustained, exonerated, or unfounded findings appealed to the Panel by complainants who allege that the investigation of their complaint was either unfair and/or not thorough.

ARTICLE VII. PANEL REVIEW PROCESS.

- A. For cases in category A of Article VI, the review process is as follows:

1. The following categories of cases will be automatically referred to the Panel for review within fourteen (14) days of a finding of not sustained, exonerated or unfounded:
 - i. In-custody death or serious bodily injury while in Boston Police Department custody;
 - ii. Use of force cases resulting in death or serious bodily injury;
 - iii. Allegations of perjury by a police officer;
 - iv. Allegations that the conduct of an officer was motivated by discriminatory intent;
 - v. Any other case deemed appropriate for review by the Police Commissioner or the Chief of the Bureau of Professional Standards.
2. The Panel, in its discretion, may request to review any case or group of cases, and in addition shall request that a random sample of cases be referred to it in whatever percentage of closed cases it shall designate, in its discretion from time to time.
3. The Executive Secretary to the Panel will receive and classify internal affairs cases, assign case numbers to the reviewed cases, and refer the case to the IAOP. The Executive Secretary will receive the entire investigative file and will redact the file to prevent the unauthorized release of privileged or protected information pursuant to Massachusetts General Laws.
4. The Executive Secretary will notify the officer(s) named in the reviewed complaint that the case is under review by the IAOP.
5. Following the review of an internal affairs investigation, the Panel will deliberate and make one of the following findings:
 - i. Agree with the internal affairs findings;
 - ii. Disagree with the internal affairs findings; or
 - iii. Refer the case to IAD for further investigation or action.
6. If the Panel agrees with the internal affairs findings, the Panel must submit its findings to the Police Commissioner, the Chief, Legal Advisor for the Boston Police Department, and the named officer(s).
7. If the Panel disagrees with the internal affairs findings, the case will be referred to the Police Commissioner.
8. If, pursuant to procedure defined above, the Police Commissioner determines that a case was investigated fairly and thoroughly, the Police Commissioner will notify the Panel, the Chief, Legal Advisor, and the named officer(s).

9. The Executive Secretary will maintain all case files for the Panel. The case files will be regarded as confidential and will be reviewed only by the Panel, and Boston Police Department employees as designated by the Police Commissioner. The case files will not be duplicated or 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 B of Article VI, the review process is as follows:

1. Notification of the final determination of an internal affairs case will be sent to the complainant by the Commander of IAD. If the Police Commissioner's finding is not sustained, exonerated, or unfounded, the complainant will be informed of their ability to file an appeal of the finding with the IAOP.
2. A complainant seeking to file an appeal with IAOP must do so in writing within fourteen (14) days of the date the notification of the finding from IAD is mailed. If the appeal is sent via mail, the appeal must be postmarked within fourteen (14) days from the notification of the finding from IAD is mailed. If the appeal is hand-delivered, it must be delivered to one of the addresses listed below by close of business on the fourteenth day as described above.

Appeals may be mailed or hand delivered to:

Executive Director
[insert address of OPAT office when created]
Boston, MA

OR, in acting capacity until such time as an OPAT office is created

City of Boston Law Department
Internal Affairs Oversight Panel Appeals
One City Hall Plaza, Room 615
Boston, MA 02201

3. The Executive Secretary will date stamp the appeal on receipt, assign a case number to the appeal, classify the internal affairs case, and refer the case to the IAOP. The Executive Secretary will notify the named officer(s) and provide a copy of the appeal to the Police Commissioner, the Chief and the Legal Advisor. The Executive Secretary will receive the entire investigative file and will redact the file to prevent the unauthorized release of privileged or protected information pursuant to Massachusetts General Laws.
4. Following the review of an internal affairs investigation, the Panel will deliberate and make one of the following findings:

- i. Agree with the internal affairs findings;
 - ii. Disagree with the internal affairs findings; or
 - iii. Refer the case to IAD for further investigation or action.
5. If the Panel agrees with the internal affairs findings, the Panel must submit its findings to the Police Commissioner, the Chief, Legal Advisor for the Boston Police Department, and the named officer(s).
6. If the Panel disagrees with the internal affairs findings, the appeal will be referred to the Police Commissioner.
7. If, pursuant to procedure defined above, the Police Commissioner determines that a case was investigated fairly and thoroughly, the Police Commissioner will notify the Panel, the Chief, Legal Advisor, and named officer(s).
8. The Executive Secretary will notify the complainant of the determination made by the Panel or the Police Commissioner. All notifications made to the complainant must be sent by certified mail, return receipt requested.
9. The Executive Secretary will maintain all case files for the Panel. The case files will be regarded as confidential and will be reviewed only by the Panel, and Boston Police Department employees as designated by the Police Commissioner. The case files will not be duplicated or available for inspection by the public. The Executive Secretary must return all case files to IAD within fourteen (14) days of the final determination.

ARTICLE VIII. TIMELINE FOR REVIEW OF CASES.

- A. After completing its preliminary training, including but not limited to the internal affairs process and general police procedures, the Panel shall establish a target timeline for the Board's own review of complaints and shall publicize the timeline status of each case via the Boston Police Department's electronic Dashboard upon its creation.
- B. The individuals involved in the internal affairs case will receive notification from the Executive Secretary. The notification will include, *inter alia*, the classification level of the internal affairs case, the date received by the Executive Secretary, and a ticket or identification number.
- C. If the Panel is unable to adhere to the timeline for review set forth above, the Executive Secretary must notify the individuals involved in the internal affairs matter.

ARTICLE IX. COMPLAINT MEDIATION PROGRAM.

The Boston Police Department has implemented the Police-Community Mediation Program. This program serves 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, determines which 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 IAOP on request.

ARTICLE X. EXECUTIVE SECRETARY TO BE REPLACED BY OPAT EXECUTIVE DIRECTOR.

In the event that the City creates the OPAT, all duties set forth in this Order to be performed by the Executive Secretary will transfer to the OPAT Executive Director.

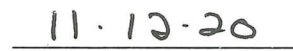
I order and direct that all Cabinet members, Department Heads and City of Boston employees take all necessary steps to implement the above directive.

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

This Order shall take effect on November 12, 2020.



Martin J. Walsh
Mayor of Boston



Dated: