

AN ORDINANCE ESTABLISHING AN OFFICE OF POLICE ACCOUNTABILITY AND TRANSPARENCY

Be it ordained by the City Council of Boston, as follows:

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XII by inserting the following new section after existing Section 12-15:

12-16 OFFICE OF POLICE ACCOUNTABILITY AND TRANSPARENCY

12-16.1 Purpose

This Ordinance is to establish an Office of Police Accountability and Transparency in the City of Boston, that is independent of the Boston Police Department, to investigate complaints of police misconduct, ensure that the Boston Police Department's internal affairs review process is fair and thorough, and review Boston Police Department's existing and proposed policies and procedures. The purpose of the OPAT is to provide a single point of entry for individuals with concerns or complaints related to the Boston Police Department and its officers and sworn personnel to be heard and responded to, and to provide the staffing and legal authority necessary to support the work of the OPAT and its related advisory boards and panels to undertake independent investigation and review of policing in Boston.

12-16.2 Definitions

As used in this section the following terms shall have the meanings as indicated unless a different meaning appears from the context:

“BIPOC” shall refer to individuals and communities identifying as Black, Indigenous and People of Color.

“BPD” shall refer to the Boston Police Department.

“Commissioner” shall refer to any of the three (3) members of the OPAT Commission.

“CRB” shall refer to the member(s), individually and collectively, of the City of Boston's Civilian Review Board established by this ordinance.

“Executive Administration” shall refer to the division of the OPAT comprised of employees responsible for carrying out the work and policy directives of the OPAT.

“Executive Director” shall refer to the person appointed to oversee the Executive Administration of the OPAT, who shall have the powers of a department head and shall also serve as a member of the OPAT Commission.

“FIO” shall refer to Field Investigation and Observation data collected by the BPD during a stop and frisk, a consensual encounter with an individual, or an observation of an individual for intelligence purposes.

“Internal Affairs” shall refer to the division within BPD responsible for conducting internal investigations of officer conduct.

“IAOP” shall refer to the member(s), individually and collectively, of the City of Boston’s Internal Affairs Oversight Panel established by this ordinance.

“Police Commissioner” shall refer to the police commissioner in charge of the Boston Police Department.

“OPAT” shall refer collectively to the City of Boston office established by this ordinance encompassing the OPAT Commission, Executive Administration, Civilian Review Board, and the Internal Affairs Oversight Panel.

“OPAT Commission” shall refer to the Office of Police Accountability and Transparency Commission established by this ordinance.

“OPAT Staff” shall refer to the personnel, individually and collectively, of the Executive Administration.

“Ordinance” shall refer to this ordinance establishing the City of Boston Office of Police Accountability and Transparency.

12-16.3 Establishment of OPAT Commission.

There shall be in the City a commission known as the Office of Police Accountability and Transparency Commission, hereinafter referred to as the OPAT Commission. The OPAT Commission shall be comprised of three (3) Commissioners, each appointed by the Mayor as follows: one Commissioner shall be the person appointed by the Mayor as the Executive Director as set forth in Section 12-16.5; one Commissioner shall be the person appointed by the Mayor as the Chair of the Civilian Review Board as set forth in Section 12-16.8; and one Commissioner shall be the person appointed by the Mayor as the Chair of the Internal Affairs Oversight Panel as set forth in Section 12-16.12. The Commissioners shall each have knowledge and expertise relevant to aspects of police reform or accountability, as well as demonstrated knowledge of how demographic groups are impacted by use of force and field investigation. The Commissioner who is the Executive Director shall serve during their appointment to that role and the remaining Commissioners shall serve during their appointments as Chairs of the CRB or IAOP. The Mayor shall appoint annually a Commissioner as the Chairperson of the Commission.

The Commissioners shall be residents of Boston. The Commissioners shall be classified as special municipal employees for the purposes of Chapter 268A of the General Laws. The

Commissioners shall serve without compensation for their role on the Commission. Nothing in this paragraph shall preclude any Commissioner from being compensated for their role as Executive Director of the OPAT, or as a member of the CRB or IAOP.

12-16.4 Powers and Duties of the Commission

The OPAT Commission shall have the power to:

- a. Create rules, regulations or procedures necessary to guide the conduct of investigations and making of findings and recommendations by the OPAT Staff, in keeping with all due process rights, applicable laws and statutes;
- b. By a two-thirds vote, subpoena witnesses and compel their testimony under oath, including but not limited to filing contempt proceedings with the Superior Court, compelling the discovery and production of documents, books, papers or evidence related to any matter under investigation by OPAT, and requiring the attendance during the examination of documentary material of any person having knowledge of the documentary material and taking testimony under oath or acknowledgment in respect of any such documentary material;
- c. Resolve differences that might arise between CRB and IAOP;
- d. In addition to business meetings necessary to fulfill other responsibilities of the OPAT Commission, it shall convene at minimum four (4) community meetings per year across the Boston neighborhoods for the purpose of informing and updating the community about the work of the OPAT, and being informed by the community on matters of police transparency, BPD policies and procedures, and other matters of policing in Boston;
 - i. At such meetings, the OPAT Commission shall provide a public report on OPAT activities for the quarter, without disclosing personally identifiable information, including but not limited to:
 1. The disposition of cases referred by OPAT to the CRB and IAOP;
 2. The disposition of CRB cases in which the CRB referred the matter to the Police Commissioner, what discipline, if any, was recommended by the CRB, and what discipline, if any, was implemented by the Police Commissioner;
 3. The number of complaints received, the type of misconduct alleged in those complaints, and the investigatory status of

those complaints;

4. The race, ethnicity, gender, sexual orientation [if known], and age of the complainants;
 5. Any practices or policy investigations ongoing or completed, as well as any policy recommendations made pursuant to OPAT's authority to investigate practices or patterns of behavior and BPD policies; and
 6. Efforts to promote OPAT's function, availability, and processes to the public.
- ii. The meetings shall include a public comment period, during which time members of the public may address the OPAT Commission regarding any issue relevant to OPAT's jurisdiction.
 - iii. The minutes of each public meeting will be posted online within a reasonable time following such meeting.
- e. The OPAT Commission shall meet with members of the City Council and the Mayor on a semi-annual basis, or more frequently at the request of the OPAT Commission, City Council, or the Mayor, to discuss all topics relevant to the jurisdiction of the OPAT. The minutes of each meeting will be posted online within a reasonable time following such meeting;
 - f. Adopt rules and regulations consistent with the laws of the Commonwealth to carry out the powers and duties of the OPAT Commission and Executive Administration; and
 - g. Act in any other manner consistent with this ordinance.

12-16.5 Executive Administration

There shall be within the OPAT Commission an administrative arm, to be known as the "Executive Administration" or "OPAT Staff," under the direction of an Executive Director. The Executive Director shall be appointed by the Mayor, which appointment shall function as an appointment to the Commission for the duration of their employment as the Executive Director. The Executive Director should be a member of the Massachusetts bar, but shall not practice law while serving their term. The Executive Director should have managerial experience and must reside in the City of Boston for their entire term.

The Executive Administration shall house staff necessary to carry out and support the work and purposes of the OPAT, including the Executive Director, a deputy director, and those technology professionals, investigators, analysts, law enforcement professionals, communications staff,

interpretative services specialists, community liaisons, and/or mediation professionals deemed necessary by the Executive Director and Commission. OPAT Staff shall perform all investigations required for the work of the CRB and IAOP.

No OPAT Staff shall be current members or employees of any law enforcement agency. To execute OPAT's substantive responsibilities, OPAT Staff will be employed as municipal employees.

12-16.6 Powers and Duties of the Executive Administration and Executive Director

The Executive Director shall have the powers of a department head, except for those powers explicitly conveyed to the OPAT Commission by this section, and shall be responsible for carrying out the policies and decisions of the Commission.

The OPAT Staff, under the direction of the Executive Director, shall have the power and duty to:

- a. Support and carry out the overall operations of the OPAT;
- b. Provide all necessary staff support to the CRB and IAOP to support and facilitate the work of each;
- c. Receive, review, investigate, and make recommendations regarding civilian complaints concerning BPD officer conduct;
- d. Receive, review, investigate, and make recommendations regarding completed Internal Affairs Division investigations concerning BPD officer conduct;
- e. Create racial equity assessment tools to periodically evaluate current and proposed BPD policies and procedures;
- f. In coordination with the CRB, review and make recommendations to revise or modify existing and proposed BPD policies and procedures;
- g. In coordination with the CRB, review, investigate, and make recommendations with regard to allegations of disparate treatment by BPD in recruiting, hiring, promotion, discipline and termination of members of BPD;
- h. In coordination with the CRB, review instances where a BIPOC officer is disciplined or terminated;
- i. In coordination with the CRB, evaluate alternatives to the civil service examination process;

- j. In coordination with the IAOP, review policies and procedures relevant to the integrity of the complaint and internal affairs process;
- k. Review and analyze FIO data, to identify significant trends, including racial disparities, and areas of concern or success within BPD practices, and publish any findings on a semi-annual basis;
- l. Review and analyze BPD statistics, as listed in Section 12-16.16, to identify significant trends, including racial disparities, and areas of concern or success within BPD practices, and publish any findings on a semi-annual basis;
- m. Track and report on the progress of BPD reform goals;
- n. Coordinate with BPD staff to review and provide recommendations related to the selection and implementation of grants;
- o. Conduct independent investigations into any matter or issue related to OPAT's mission;
- p. Forward any resulting recommendations to the Police Commissioner for review;
- q. Issue publications and results of investigations, including facilitating reporting of information and recommendations from the CRB and IAOP; and
- r. Create and maintain a publicly available website to publish findings and reports of the Executive Administration, CRB, and IAOP, and to communicate information related to police transparency and accountability to the public.

The foregoing powers and duties of the OPAT Staff may be exercised in support of the CRB and IAOP as appropriate, consistent with any regulations or procedures promulgated by the OPAT Commission.

12-16.7 OPAT Staff Receipt, Investigation and Review of Complaints

OPAT Staff will receive and review complaints and, at the behest of CRB or IAOP, where such complaints present matters appropriate for investigation or for review of Internal Affairs decisions, OPAT Staff will perform the investigatory work necessary for the CRB and the IAOP to resolve civilian complaint and internal affairs issues, respectively. As part of this responsibility, OPAT Staff will draft reports summarizing the findings of its investigations and present its findings to the requesting unit. OPAT Staff will conduct such intake, review, investigation, and recommendation as required by this subsection and by procedures and

regulations promulgated by the OPAT Commission.

- a. *Receiving Complaints.* OPAT Staff shall maintain a system for receiving all complaints concerning the conduct of BPD officers and employees, the results of BPD Internal Affairs investigations, or other issues related to the BPD. OPAT shall accept complaints by mail and in-person at its office, and where feasible shall designate other locations such as libraries and youth centers, where complaints may be filed, and shall also create a process for electronic submission of complaints via a secure online portal. OPAT Staff shall ensure that the complaint process is consistent with the City's Language and Communications Access Ordinance and any City language access plan.

OPAT Staff will record the date that each complaint was received, assign an identifying case number, confirm receipt of the complaint to the complainant, and provide a copy of the complaint to the Police Commissioner, the Chief of the Bureau of Professional Standards at BPD, and the BPD Legal Advisor. OPAT Staff may redact the complaint and any accompanying documents to prevent the unauthorized release of privileged or protected information pursuant to Massachusetts General Laws.

- b. *Complaint Screening and Assignment.* OPAT Staff shall review and classify each complaint and recommend one of the following outcomes:
 - i. Dismissal;
 - ii. Referral for Mediation;
 - iii. Out of Scope Designation;
 - iv. Referral to CRB; or
 - v. Referral to IAOP.

OPAT Staff shall notify the complainant should the complaint be recommended for dismissal or out of scope designation, including reasons why and information about alternative resources. The receipt shall be delivered in the language in which the initial complaint was written.

Where a complainant or the BPD Police-Community Mediation Program declines mediation, or such mediation fails to provide a mediated solution, OPAT Staff will recommend one of the remaining outcomes. If OPAT Staff recommend a complaint for referral to either the CRB or IAOP, such complaint will be promptly referred to the said body, subject to the CRB or IAOP disagreeing that the complaint is appropriate for its review or investigation. OPAT Staff shall provide the OPAT Commission with a record of all recommendations for dismissal or an out of scope designation, and the OPAT Commission may direct

an alternate designation for any such complaint.

- c. *Investigation.* Where a complaint is referred to the CRB or IAOP for review, OPAT Staff shall assemble all materials and perform the investigatory work necessary for such review. OPAT Staff shall draft reports summarizing investigatory findings and present its findings to the CRB or IAOP. Subject to any regulations or policies of the OPAT Commission, OPAT Staff may provide such information to the CRB and IAOP along with the initial referral of a complaint, but subject to either body's ability to seek additional clarification and investigation.
 - i. OPAT Staff shall have the power to investigate, present findings, and recommend action regarding complaints by members of the public against uniformed and sworn personnel of the BPD that allege misconduct. OPAT Staff will perform the necessary investigative functions to resolve concerns and complaints about matters related to civilian concerns and complaints for the CRB and Boston Police internal affairs for the IAOP.
 - ii. OPAT Staff may request that the OPAT Commission issue a subpoena for any testimony or records, documents, papers, books or other evidence related to any matter under investigation, where the OPAT Staff determines that it is otherwise unable to obtain such information necessary to an investigation.
 - iii. OPAT Staff shall have access to all materials contained in the completed internal affairs files subject to review and any documents appended to civilian complaints, except those documents protected from release by statute.
 - iv. All investigative materials and reports assembled by OPAT Staff shall be treated by the OPAT Staff as confidential and available only to OPAT Staff subject only to provisions for information sharing established by regulation of the OPAT Commission and the Massachusetts Public Records Law.
- d. Upon concluding its investigation, OPAT will draft a report summarizing the findings of its investigation. OPAT will present its proposed findings to the CRB following the conclusion of its investigation of civilian complaints and the IAOP following the conclusion of its investigation of internal affairs cases.
- e. Upon the conclusion of any complaint investigation or review of an Internal Affairs investigation, the OPAT shall communicate all findings or recommendations of the OPAT, CRB, or IAOP to the Police Commissioner.

- f. *Limitations on Investigatory Power.* No OPAT investigation shall interfere with any criminal investigation. Where an investigation by OPAT Staff may interfere with a criminal investigation, OPAT will seek to avoid such interference by, among other things, staying its investigation until such time as it will not interfere with other authorities or courts with jurisdiction over the matter. Any person appearing before the Commission or OPAT Staff who avails themselves of constitutional guarantees, or any other right provided by law or by a collective bargaining agreement, shall not be punished in any way for availing themselves of such rights.
- g. *Timeline for Concluding Investigations.* OPAT Staff shall establish a target timeline for OPAT's review of complaints, including those reviewed in cooperation with the CRB or IAOP, and shall make the timeline status of each case available online. If OPAT is unable to adhere to its timeline for review, the Executive Director must notify the individuals involved in the complaint.

12-16.8 Civilian Review Board

There shall be within the OPAT a board, to be known as the "Civilian Review Board" or "CRB" charged with reviewing and investigating certain complaints against the Boston Police Department and its employees. The CRB will consist of nine (9) members who shall be residents of Boston. The Mayor will appoint members based on recommendations from the City Council and Boston community. The Mayor will appoint three (3) members from three (3) nominees per seat submitted by the City Council. The Mayor will appoint six (6) members from a pool of applicants recommended by civil rights advocacy groups, youth organizations, neighborhood associations, and those with past experience and knowledge of law enforcement. At least one member of the Board shall be a youth delegate, aged 18-21, to represent the voices and lived experiences of young people. Board members must not be current members of law enforcement. The Mayor shall annually designate one member of the CRB to serve as Chair, which designation shall serve as an appointment to the OPAT Commission. The Chair shall have knowledge and expertise relevant to aspects of police reform or accountability, as well as demonstrated knowledge of how demographic groups are impacted by use of force and field investigation. No person shall be designated as Chair for more than two (2) years consecutively.

CRB members shall each serve a term of three (3) years, provided however that of the members first appointed, three (3) shall be appointed for a term of one (1) year, three (3) shall be appointed to a term of two (2) years, and three (3) shall be appointed for a term of three (3) years. Thereafter, the Mayor shall appoint each successor for a term of three (3) years. Any vacancy occurring otherwise than by the expiration of a term shall be filled for the unexpired term in the same manner as the position was originally filled. CRB members shall not serve more than two (2) consecutive three (3)-year terms.

Board members may be removed from office by the Mayor prior to the normal expiration of their term upon a finding by the City Council and Mayor of consistent failures to perform Board member duties or acting in contravention of the Board's purposes.

Each member will be paid one hundred dollars (\$100.00) per hour for their service, not to exceed fifty thousand dollars (\$50,000.00) per year. Members of the CRB are hereby designated special municipal employees.

12-16.9 Powers and Duties of Civilian Review Board

The Civilian Review Board shall have the power and duty to:

- a. Conduct an independent inquiry or investigation into, and make determinations regarding, complaints made against the Boston Police Department, as set forth in Section 12-16.10 below as appropriate for investigation and review by the CRB;
- b. Review complaints or matters not within the scope of review of the Internal Affairs Oversight Panel;
- c. At the CRB's discretion, review any instances where a BIPOC officer is disciplined or terminated and forward any resulting recommendations to the Police commissioner for review;
- d. At the CRB's discretion, review, investigate, and make recommendations with regard to allegations of disparate treatment by BPD in recruiting, hiring, promotion, discipline and termination of members of BPD;
- e. Periodically evaluate alternative options and/or improvements to the civil service examination process;
- f. Provide timely review of existing or proposed Boston Police Department policies and procedures and provide recommendations for the revisions of those policies and procedures to the Police Commissioner;
- g. Convene all Board members at least once per quarter, but more often at the discretion of the Board;
- h. Access to all materials relative to the complaint, except those documents protected from disclosure by law;
- i. Through OPAT Staff, investigate complaints and request information from any person who may have knowledge of the circumstances of the complaint or matter;
and
- j. Make recommendations to the Police Commissioner regarding reviewed complaints or other matters before the Board.

12-16.10 Complaints Appropriate for Review by the Civilian Review Board

The CRB will review and where appropriate conduct investigations into complaints against sworn and civilian members of the Boston Police Department.

- a. Complaints appropriate for review include, but are not limited to, the following:
 - 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 excessive use of force;
 - iv. Allegations of unlawful arrest or stop;
 - v. Allegations of perjury;
 - vi. Allegations of theft;
 - vii. Allegations of abuse of authority;
 - viii. Allegations that the conduct of an officer violated BPD policies regarding the respectful treatment of people, including the Bias Free Policing policy, and/or that was motivated by discriminatory intent, including, but not limited to, slurs relating to race, expression, sexual orientation, and disability; and
 - ix. Any other complaint deemed appropriate for review by the Board or referred to it for review by OPAT Staff.
- b. In no event shall the inquiry or investigation by the CRB interfere with any criminal investigation by any authority with jurisdiction. Where an investigation by the CRB may interfere with a criminal investigation, the CRB will seek to avoid such interference by, among other things, staying its investigation until such time as it will not interfere with other authorities or courts with jurisdiction over the matter.
- c. In any case where there is no complainant able to initiate a complaint, 2/3 of the nine (9) members of the CRB may vote to authorize an investigation or take such other action they deem appropriate.
- d. The CRB may in its discretion research and investigate issues related to the general mission of increasing transparency, improving training and enhancing accountability of policing in Boston and make recommendations accordingly.

12-16.11 Civilian Review Board Process

- a. Any person may file a complaint with OPAT Staff concerning the conduct of sworn or civilian personnel of the BPD. Complaints must include a summary of the allegation(s), the name if known of the individuals being complained of, and the contact information of the complainant.
- b. Matters that are the subject of complaints the CRB reviews under Section 12-16.10 will be investigated through OPAT Staff in accordance with the protocols, rules and procedures adopted by the OPAT Commission. The CRB can adopt additional policies and procedures for its investigation and review consistent with any regulation of the OPAT Commission. Any such rules and procedures shall include the right to representation by counsel by the complainant and any BPD personnel, and shall not purport to eliminate any rights established by collective bargaining agreement or by law. Any such rules and procedures shall also allow complainants to be provided an interpreter if needed upon reasonable request or be accompanied by an interpreter of their choice.
- c. Following the investigation and review of a complaint, the CRB will deliberate and make one of the following findings:
 - i. Sustained;
 - ii. Not Sustained;
 - iii. Exonerated;
 - iv. Unfounded; or
 - v. Information Inquiry or Insufficient Evidence to Make a Finding.
- d. Any findings of the CRB will be made by a 2/3 vote of the full nine (9) member Board and voting will be conducted in public. All findings will be provided to the Mayor, the City Council, and the Police Commissioner within a period of three (3) business days from the date of the vote.
- e. If the CRB makes a Sustained finding, the Board shall also make disciplinary recommendations based on the Board's findings of fact and consistent with a matrix and guidelines. The discipline matrix and guidelines shall act as safeguards to ensure the consistent application of discipline and should include aggravating and mitigating factors. The discipline matrix and guidelines should be developed by the Police Commissioner. Should the Police Commissioner choose not to implement the disciplinary action recommended by the CRB, the Police Commissioner shall notify the CRB of the implemented disciplinary action and detail the reasons the recommendation was not accepted.

- f. All determination outcomes must be published without modification or approval of any city employee or other body.
- g. OPAT Staff will notify the complainant of the determination made by the CRB. All notifications made to the complainant must be sent by certified mail, return receipt requested.
- h. The CRB, consistent with any rules or regulations of the OPAT Commission, shall in conjunction with OPAT Staff establish a target timeline for the CRB's review of complaints and shall publicize the timeline status of each case. If the CRB is unable to adhere to the timeline for review set forth above, OPAT Staff shall provide timely notification of that fact to the individuals involved in the complaint.

12-16.12 Internal Affairs Oversight Panel

There shall be within the OPAT a board known as the "Internal Affairs Oversight Panel," or "IAOP," charged with reviewing completed investigations of the Boston Police Department's Internal Affairs Division. The IAOP will consist of five (5) members appointed by the Mayor to terms of three (3) years, not to exceed two (2) 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 Mayor will appoint two (2) members from three (3) nominees per seat submitted by the City Council. The current members of the IAOP established by executive order 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 ordinance. Members of the IAOP must be residents of Boston.

The Mayor shall annually designate one member of the IAOP to serve as Chair, which designation shall serve as an appointment to the OPAT Commission. The Chair shall have knowledge and expertise relevant to aspects of police reform or accountability, as well as demonstrated knowledge of how demographic groups are impacted by use of force and field investigation. No person shall be designated as Chair for more than two (2) years consecutively.

Panel members may be removed from office by the Mayor prior to the normal expiration of their term upon a finding by the City Council and Mayor of consistent failures to perform Panel member duties or acting in contravention of the Panel's purposes.

Each member will be paid one hundred dollars (\$100.00) per hour for their service, not to exceed fifty thousand dollars (\$50,000.00) per year. Members of the IAOP are hereby designated special municipal employees.

12-16.13 Powers and Duties of Internal Affairs Oversight Panel

The IAOP will have the following powers and duties:

- a. Provide external oversight of Boston Police internal affairs investigations for thoroughness and fairness;
- b. 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;
- c. Convene all IAOP members at least once per quarter, but more often at the discretion of the IAOP;
- d. Produce an annual report to the Mayor and the Police Commissioner documenting cases reviewed and the outcome of the IAOP's review for each case;
- e. To review completed cases of the Boston Police Department's Internal Affairs Division ("IAD");
- f. To have access to all materials in the completed internal affairs files, except those documents protected from disclosure by law;
- g. To make recommendations for further investigation or clarification to OPAT Staff or the Chief of the Boston Police Department's Bureau of Professional Standards; and
- h. To make recommendations to the Police Commissioner regarding reviewed cases.

12-16.14 Cases Appropriate for Review by the Internal Affairs Oversight Panel

The IAOP will review the following categories of cases:

- a. All completed internal affairs cases at its discretion, or by referral of the Police Commissioner or City Council, 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 shall 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 by complainants who allege that the investigation of their complaint was either unfair and/or not thorough.

12-16.15 IAOP Review Process

- a. For cases in category a of Section 12-16.14, the intake process is as follows:
 - i. The following categories of cases will be automatically referred by IAD for review within fourteen (14) days of a finding of not sustained, exonerated or unfounded:
 - A. In-custody death or serious bodily injury while in Boston Police Department custody;
 - B. Use of force cases resulting in death or serious bodily injury;
 - C. Allegations of excessive use of force;
 - D. Allegations of unlawful arrest or stop;
 - E. Allegations of perjury;
 - F. Allegations of theft;
 - G. Allegations of abuse of authority;
 - H. Allegations that the conduct of an officer violated BPD policies regarding the respectful treatment of people, including the Bias Free Policing policy, and/or that was motivated by discriminatory intent, including, but not limited to, slurs relating to race, expression, sexual orientation, and disability; and
 - I. Any other case deemed appropriate for review by the Police Commissioner or the Chief of the Bureau of Professional Standards.
 - ii. The IAOP, 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.
 - iii. The individuals involved in the internal affairs case will receive notification that will include, *inter alia*, the date received by OPAT Staff, an identification number, and information regarding the time track to which the case is assigned.

b. For cases in category b of Section 12-16.14, the review process is as follows:

- i. 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, along with information about how and where to file.
- ii. A complainant seeking to file an appeal to the IAOP must file an appeal with OPAT Staff 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.
- iii. The individuals involved in the internal affairs case will receive notification that will include, *inter alia*, the date received by OPAT Staff, an identification number, and information regarding the time track to which the case is assigned.

c. For all cases, once received by the IAOP, the review process is as follows:

- i. Following the review of an internal affairs investigation, the Panel will deliberate and make one of the following findings:
 - A. Agree with the internal affairs findings;
 - B. Disagree with the internal affairs findings; or
 - C. Refer the case to IAD for further investigation or action.
- ii. Any findings and conclusions of the IAOP will be made by a majority vote of the full five (5) member Panel. Said findings will be provided to the Mayor, the City Council, and the Police Commissioner within a period of ten (10) business days from the date of the vote.
- iii. If the Panel agrees with the internal affairs findings, the Panel must submit its findings to the Police Commissioner, the Chief of the Bureau of Professional Standards, the Legal Advisor for the Boston Police Department, and the named officer(s).
- iv. If the Panel disagrees with the internal affairs findings, the appeal will be referred to the Police Commissioner.

- v. 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, the Legal Advisor, and the named officer(s).
- vi. OPAT Staff 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.
- vii. OPAT Staff will maintain all case files for the IAOP. The case files will be treated as confidential and will be reviewed only by OPAT Staff and the IAOP. Except as required by law, such case files will not be duplicated or available for inspection by the public, and OPAT Staff must return all case files to IAD within fourteen (14) days of the final determination.
- viii. The IAOP, consistent with any rules or regulations of the OPAT Commission, shall in conjunction with OPAT Staff establish a target timeline for the IAOP's review of appeals and shall publicize the timeline status of each case. If the IAOP is unable to adhere to the timeline for review set forth above, OPAT Staff shall provide timely notification of that fact to the individuals involved in the complaint.

12-16.16 Communication

- a. *Semi-Annual Reports.* The OPAT will publish semi-annual reports and make the reports available to the public on its website. The semi-annual reports will include: OPAT's findings of its reviews and analyses of FIO data and BPD statistics; findings related to disparate treatment, discipline or termination of BIPOC officers, in conjunction with the CRB; summary and results of reviews of BPD policies and procedures; summary and results of evaluations of alternatives to the civil service examination process; summary and results of reviews of grant selection and implementation; citizen complaint determinations, in conjunction with the CRB; and the results of reviews of completed Internal Affairs investigations, in conjunction with the IAOP.
- b. *Annual Report.* The Executive Director shall also make an annual report to the Mayor and Police Commissioner documenting the work of the OPAT, CRB, and IAOP for the year. This report shall be filed with the City Council.
- c. *Public Reporting of Complaints.* Information about complaints received by OPAT shall be published on a monthly basis and in a disaggregated manner to protect personally identifiable information, including:

- i. The number of complaints it receives;
 - ii. The race, ethnicity, gender, sexual orientation [if known] and age of the complainants;
 - iii. The precincts and neighborhoods in which the misconduct is alleged to have taken place;
 - iv. The basic facts of complaints (with personally identifiable information redacted);
 - v. The disposition of each complaint;
 - vi. The recommended discipline, if any, for each complaint;
 - vii. The discipline issued, if any, for each complaint; and
 - viii. Any other information the Board shall determine is relevant or appropriate to carry out its duties and responsibilities.
- d. *Public reporting of BPD Statistics.* OPAT shall request from the BPD and publish on a monthly basis, in accordance with all applicable governing laws, rules and regulations, the following:
- i. The number of stops made by BPD officers during the previous period, including such disaggregated data that OPAT Commission may deem relevant;
 - ii. The number of use of force incidents by the BPD during the previous period, including such disaggregated data that the OPAT Commission may deem relevant;
 - iii. The number of arrests made during the previous period, including such disaggregated data that the OPAT Commission may deem relevant; and
 - iv. The amount of money the City of Boston expended in settlements or judgments to resolve tort, civil rights, or other legal claims filed against the BPD, as well as the basic facts associated with those claims to the extent permitted by law or not otherwise restricted from disclosure.
- e. *OPAT Website.* OPAT will create and maintain a publicly accessible website to publish its semi-annual and annual reports, OPAT's rules and procedures, case timelines, progress on various BPD reform goals, reporting of complaint information, reporting of BPD statistics, meeting minutes, and any other information at the discretion of the Executive Director. Information published on OPAT's website shall be made available in compliance with the City's Language and Communications Access Ordinance and in an electronic format not only accessible via a computer.

12-16.17 Training

- a. *BPD Training of CRB and IAOP.* Upon appointment to the CRB or IAOP, each Board member shall attend a three (3) to four (4) day training by the BPD, tailored specifically for each entity, that shall include the following, but not be limited to: all policies, protocols, and practices for arrests, bookings, special investigation units, internal affairs, officer-involved shootings, use of force policies, training policies and Academy, crisis

intervention teams, firearms, explosives, and SWAT. Upon appointment, CRB and IAOP members shall also attend: (a) training provided by outside legal counsel including but not limited to, the Massachusetts Attorney General's office, Suffolk County District Attorney's Office, and/or a relevant bar association on the issues of abusive language, false arrest, false imprisonment, harassment, use of excessive force, serious bodily injury, police-involved firearm discharge investigations and police-involved shooting fatality investigations; (b) training in civilian oversight through the National Association for Civilian Oversight of Law Enforcement (NACOLE) or equivalent programs that meet NACOLE's recommended training for board and commission members; and (c) any additional training the OPAT Commission determines to be relevant.

- b. *Additional Training.* Each CRB and IAOP member and OPAT staff will undergo annual training necessary to fulfill the responsibilities set forth herein, including, but not limited to: specific allegations and complaints that are the subject of OPAT's oversight responsibilities; unconscious bias, anti-racist and racial equity training including Boston-specific historical context; community organization and outreach; and other relevant diversity and inclusion initiatives.
- c. *BPD Manual; Board Procedures.* All BPD police officers and BPD staff will receive an explanation of OPAT's existence, purpose, and procedures, which will be included in a bulletin or manual of rules and procedures. Such explanation will be included in a training program whether in connection with existing training programs or in an additional program to be created by BPD in partnership with the OPAT Commission.

12-16.18 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 Director shall designate an employee to serve as a liaison to the Police-Community Mediation Program. Whenever OPAT Staff determines that referral for mediation is an appropriate course of action for any complaint filed with it, the designated liaison shall contact both complainant and the Police-Community Mediation Program in order to inform them of the opportunity to mediate and facilitate the initiation of mediation at the election of the complainant. Where a complainant elects not to participate in mediation, OPAT Staff shall recommend dismissal, out of scope designation, referral to IAOP, or referral to CRB.

Nothing in the preceding paragraph shall prevent the OPAT from establishing a voluntary mediation program to mediate resolutions of complaints.

12-16.19 Severability

If any provision of this ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance, which shall remain in full force and effect.

SECTION 2. The provisions of this ordinance shall take effect on the first day of the fiscal year beginning after the passage of this ordinance, or thirty days after the approval of any supplementary appropriation for the funding of the OPAT in an earlier fiscal year.

In City Council DEC 16 2020
Passed
Alex Amato ASST. City Clerk
Approved
[Signature] Mayor