



Office of the Community Ombudsman 2011 Audit Summary

Audits of Boise Police Internal Investigation

City regulations governing the operation of the Office of the Community Ombudsman (OMB) require that we audit 100% of all complaints and at least 10% of “other” cases completed and closed by the Boise Police Department’s Office of Internal Affairs (OIA). In 2011, we met our complaint audit goal and exceeded our “other” case audit goal. A total of 359 cases were audited by the OMB. This total includes 100% of complaint cases and 24% of the 658 “other” case types.

We audited all 198 complaint cases closed by OIA in 2011. Of these, 91 were Citizen Complaints and 107 were Department Initiated Complaints. We also audited 161 of the “other” cases closed by OIA in 2011. Of these, 58 (24%) were Inquiries, 33 (54%) were Vehicle Accidents, 4 (57%) were Vehicle Pursuits, 29 (23%) were Use of Force, 13 (19%) were Risk Management, 2 (18%) were Firearm Discharge, 21 (14%) were Administrative Incident Reviews, and 1 (100%) was a Critical Incident.

Non-material Issues

A total of 49 (25%) of the 198 complaint cases audited contained 76 procedural errors. Given the absence of any material deficiencies, those procedural and documentary errors were brought to the attention of OIA using an Informal Audit Memo. When possible, the error was corrected. Additionally, 8 (4%) of those complaint cases contained minor database issues that were corrected when brought to the attention of OIA. 134 (68%) of the complaints audited had no issues.

One (1%) of the 161 “other” cases audited was missing evidence, while 12 (7%) of the “other” cases contained minor database issues that were corrected. 146 (91%) of the “other” cases audited had no issues.

The majority of the Non-material issues addressed can be associated with the understandable challenges BPD faced last year in implementing a new on-line system for reporting and tracking all internal investigations, not just those conducted by OIA. I would expect to see a gradual decrease in the number of such issues in 2012.

Material Issues

Of those 198 complaint cases, seven (3%) contained issues that required a meeting in order to discuss the material issues that were discovered. The issues were critical to the outcome of the investigation and would result in the case not passing audit if not remedied.

Of the 161 “other” cases, two (1%) Use of Force cases contained material issues that were

presented to OIA to be resolved.

As a result of these discussions, it was identified that OMB and OIA held different standards in determining if an allegation is considered to be exonerated or unfounded. For example, OIA may issue a finding of unfounded for an allegation of “excessive” force because it was determined that the force was not “excessive” as specifically alleged by the complainant, whereas OMB might issue a finding of exonerated because the force was acceptable and within policy. These same conditions can be applied to demeanor allegations in which a complainant alleges an officer is “rude” or “unprofessional”. OIA considers a finding of unfounded to be appropriate when the actions as alleged by the complainant are found to not be “excessive” or “rude” while OMB believes that the allegation should focus on the actual act that occurred, not the complainant’s judgment or opinion of the act. Ultimately, there was an understanding of the different standards applied to the allegations and policy conclusions of unfounded versus exonerated, and OMB accepted the findings of unfounded issued by OIA.

Following are the cases that contained material issues that required a discussion with OIA. These cases passed audit upon the issues being addressed or reviewed.

AUDITED CASE A

This was an excessive force complaint with a finding of unfounded. The finding was brought into question because the officers used force that resulted in injury of the complainant. The force was within policy so a finding of exonerated seemed more appropriate. In discussing the finding with OIA, the rationale for the finding was explained. OIA issued a finding of unfounded because the complainant only alleged that the force was excessive and OIA considered the force to not be excessive because it was reasonable and necessary. After speaking to OIA, the finding was upheld.

AUDITED CASE B

This was a use of force complaint investigation that was deemed to be incomplete due to a deficiency of interviewing involved officers. As a result of raising this issue, OIA reviewed the investigation and found it did lack required information. Consequently, the investigator and his Chain of Command were notified.

AUDITED CASE C

This was an officer demeanor complaint with a finding of not sustained. This finding was brought into question because the officer’s audio recording provided enough evidence to make an actual conclusion. OIA reviewed the investigation and changed the finding to unfounded.

AUDITED CASE D

This was a demeanor complaint with a finding of not sustained. This finding was brought into question because the officer’s audio recording provided enough evidence to make an actual conclusion. OIA reviewed the investigation and changed the finding to unfounded.

AUDITED CASE E

This was a demeanor complaint with a finding of unfounded. This finding was brought into question because the acts alleged did occur and a determination of whether or not it was within

policy could be made. The complainant alleged the officer was “rude” and felt the officer was “not professional” for rolling his eyes and telling the subject that he “made it up”. During an interview, the officer admitted to rolling his eyes and telling the subject, “it’s all in his head.” After speaking to OIA, the incident was reviewed and the finding was left as unfounded as it was found by OIA that the officer’s actions did not rise to the level of a policy violation.

AUDITED CASE F

This was a demeanor and force complaint investigation that was deemed to be not thorough and incomplete. OIA agreed the investigation lacked required information and notified the investigator and his Chain of Command.

AUDITED CASE G

This was a use of force investigation in which during an interview of the complainant he requested to file a complaint against the officer for the use of force. However, no complaint case was opened. After speaking to OIA, a complaint case was opened to capture the citizen complaint. Allegations and findings were added, but since a full investigation was already conducted by the ombudsman and due to the amount of time that had lapsed, no findings letter was sent to the complainant.

AUDITED CASE H

This was a use of force investigation in which during an interview of the complainant he requested to file a complaint against the officer for the use of force. However, no complaint case was opened. After speaking to OIA, a complaint case was opened to capture the citizen complaint. The use of force allegation and finding were listed as well as an allegation and finding for the involved officer’s failure to audio recording his contact with the complainant. A findings letter was sent to the complainant and a memorandum of findings sent to the officer.

Of the cases with Material issues, two cases (Audited Case B and Audited Case F) had issues that pointed to an incomplete investigation, not all possible officer witnesses had been interviewed. These instances appear to be isolated and not indicative of a systemic problem. The remaining cases with Material issues were not related to the quality, thoroughness or objectivity of the investigation conducted for each case.

In summary, it is my opinion that BPD continues to demonstrate a commitment to quality in its internal investigations and responds constructively to feedback provided by our audits.