



HARVARD Kennedy School

*Program in Criminal Justice
Policy and Management*

An Assessment of the Community Ombudsman Oversight Panel

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- The many individual complainants who took the time to complete the research surveys and to offer their honest feedback on the Boston Police Department complaints and appeals processes. These responses formed the crux of this study, providing us with a unique picture of why eligible complainants are not filing appeals.

EXECUTIVE SUMMARY

In March 2007, Boston Mayor Thomas Menino created the Community Ombudsman Oversight Panel (CO-OP) by Executive Order. The CO-OP serves as an appeals body to review complaints against police officers found to be “not sustained,” “unfounded,” or “exonerated” by the Boston Police Department. As of September 2008, approximately one year after the CO-OP began operating, only 7 out of 116 complainants eligible to appeal had appealed the finding. The Office of the Mayor of Boston commissioned this study by the Harvard Kennedy School Program in Criminal Justice Policy and Management to investigate why so few complainants submit appeals through the CO-OP.

Harvard researchers undertook a 3-month mail and phone survey study between November 2008 and February 2009, receiving completed surveys from 25% of the pool of eligible appellants. They also analyzed demographic data on all complainants provided by the Boston Police Department. Most complainants were young (18-34 year old) black males. The majority of subject officers were white male police officers with an average of 12 years work experience with the Boston Police Department.

Data analyses indicated that there were several different reasons why complainants did not appeal. Some survey respondents indicated that they filed a complaint only to have it on record, and were not concerned with the formal decision. Many survey respondents were unfamiliar with the appeals process and the CO-OP and had mistaken impressions about the agency reviewing appeals. Other respondents pointed to a negative or discouraging experience filing a complaint with Internal Affairs, and the sentiment that their complaints were not taken seriously as reasons they did not choose to file appeals. In general, responses expressed support for mediation as an option for complaint resolution.

This report makes several recommendations to the CO-OP and the City of Boston based on survey findings. The data support an increased outreach by the CO-OP to potential appellants; a clarification of the appeals process in written promotional materials; a simplification of the appeals process; and an extension of the deadline for submitting appeals. As well, survey responses suggest that complainant likelihood of submitting appeals would be increased by greater transparency in the complaint filing process, better complainant experience with Internal Affairs, and more frequent communication and contact with Internal Affairs and the CO-OP.

TABLE OF CONTENTS

Background.....1
 Study Purpose and Limitations

Demographic Data Analysis.....5
 Dataset
 Demographics of Complainants
 Demographics of Subject Officers
 Allegations
 Characteristics of Appellants

Empirical Research: Survey Study.....13
 Background
 Research Methods
 Structure of the Survey
 Summary of the Results

Analysis: Why Didn't Eligible Complainants File Appeals?21
 I. People Who Will Not Appeal
 II. Correcting Misunderstandings and Improving Information
 III. Addressing the Atmosphere of Distrust and Dissatisfaction
 Surrounding the Complaints Process
 Mediation

Conclusion.....27

Appendices
 A. Pre-letter
 B. Survey
 C. Follow-up Letter
 D. Glossary

BACKGROUND

The Community Ombudsman Oversight Panel (CO-OP) is a three-person independent civilian board established in 2007 by the Office of the Mayor of Boston to review Boston Police Department Internal Investigations cases appealed by complainants.¹ The purpose of the CO-OP is to ensure that the Boston Police Department internal affairs process is fair and thorough, to promote the professionalism of the Boston Police Department, and to build trust and confidence within the community. Cases eligible for appeal to the CO-OP include those with a finding of “not sustained,” “exonerated,” or “unfounded.”²

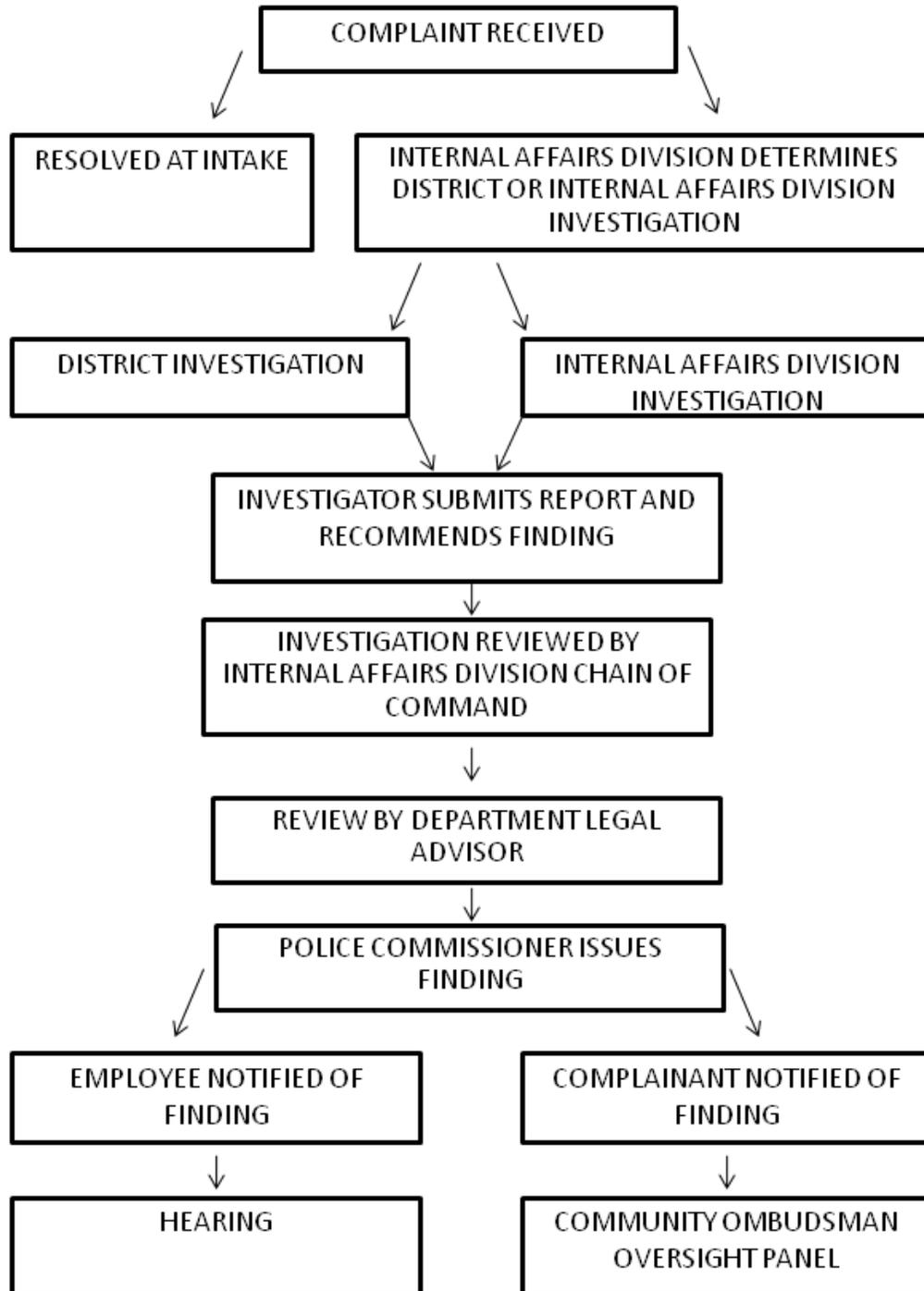
People who feel wrongfully treated by Boston police officers or who are otherwise dissatisfied with police conduct can file formal complaints with the Internal Affairs division of the Boston Police Department, which falls within the Bureau of Professional Standards and Development (BPSD). After Internal Affairs investigates the matter, the BPSD sends the complainant a letter outlining its finding (sustained, not sustained, unfounded, or exonerated). In all cases where the finding is something other than sustained, complainants are advised in the finding letter of their eligibility to appeal. Included with this finding notification letter is a CO-OP brochure that provides information on the appeals process for those who are dissatisfied with the finding. The process allows complainants to file appeals by mailing or hand-delivering an appeal to the CO-OP office. If a complainant elects to appeal, his or her case is then assigned to an Ombudsman, who reviews the entire Internal Investigations case file to assess the fairness and thoroughness of the Internal Affairs Division investigation. The Ombudsman’s review and any recommendation for further review is returned to the Boston Police Commissioner, who determines if the Internal Affairs division’s finding will stand or if further investigation is necessary. Since the inception of the CO-OP, fewer appeals than anticipated by the City and Police Department Administrations were filed.

¹ Community Ombudsman Oversight Panel. (2008). *City of Boston Community Ombudsman Oversight Panel* [Brochure]. Boston, MA. Available at: http://www.cityofboston.gov/police/co-op/pdfs/CO-OP_Broch.pdf.

² Office of the Mayor of the City of Boston (March 14, 2007). *Executive Order: Establishing a Community Ombudsman Oversight Panel and Complaint Mediation Program*. Boston, MA: Mayor Thomas M. Menino. Available at: http://www.cityofboston.gov/police/co-op/pdfs/exec_order.pdf.

BOSTON POLICE DEPARTMENT COMPLAINT RESOLUTION PROCEDURE

Modified from Bureau of Professional Standards and Development, *Commendation/Complaint Resolution Procedure [Brochure]*, Boston Police Department.



Study Purpose and Limitations

The Office of the Mayor of Boston commissioned this study to understand why so few people submit appeals to the CO-OP. The research was divided into two studies: a demographic analysis of eligible appellants and subject officers, and a survey study that reached out to all eligible appellants. This report will explore the demographic data, introduce the survey study and provide a summary of the results, and conclude with a set of recommendations for how the CO-OP might increase appeals based on the data analyses.

The scope of this research did not include an analysis of the complaints procedure itself or how the Boston Police Department might make it easier for people to submit complaints. However, as a foundation for the current study, it is worth noting that the Boston Police Department receives far fewer complaints per capita and per sworn officer than two other cities with civilian complaint oversight panels, New York City and Washington, DC.

In 2007, in New York City and Washington, DC, the police and its independent oversight body received 91 (NY) and 75 (DC) complaints per 100,000 residents, while the Boston Police Department, with no independent body to receive complaints, received only 16 complaints per 100,000 residents. Similarly, in 2007, New York City received 15 complaints for every 100 sworn officers and Washington, DC received 11 complaints for every 100 sworn officers, but the Boston Police Department received only 6 complaints for every 100 sworn officers. We have no way to know to what extent the lower numbers in Boston reflect differences in police behavior or the complaint process.

Complaints per 100,000 Residents³

Year	Boston	New York City	Washington, D.C.
AVERAGE	18	82	62
2003	21	68	63
2004	17	76	45
2005	18	83	56
2006	20	93	71
2007	16	91	75

³ Population data for Boston, New York City, and Washington, DC were located through the US Census Bureau Population Division, in *Table 1: Annual Estimates of the Population for Counties: April 1, 2000 to July 1, 2007 (CO-EST2007-01)*; New York City complaints data were located on the New York City Civilian Complaint Review Board website, accessible at <http://www.nyc.gov/html/ccrb/html/reports.html>, and sworn officer data was found in the yearly Mayor's Performance Reports, accessible at http://www.nyc.gov/html/ops/downloads/pdf/_mmr/nypd.pdf; complaints and sworn officer figures for Boston and Washington, DC were provided by their respective police department communications departments.

An Assessment of the Community Ombudsman Oversight Panel

Complaints per 100 Sworn Officers

Year	Boston	New York City	Washington, D.C.
AVERAGE	6.4	13.2	9.5
2003	6.9	10.9	9.7
2004	6.1	12.3	6.9
2005	6.2	13.5	8.6
2006	7.2	15.0	10.9
2007	5.6	14.5	11.3

DEMOGRAPHIC DATA ANALYSIS

Dataset

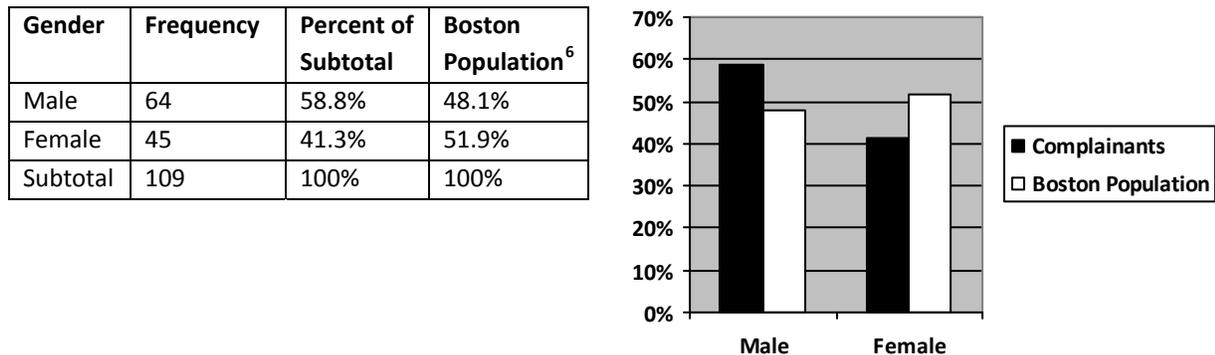
The Boston Police Department provided researchers with administrative data on all eligible appellants, including the demographic characteristics of the police officers who were the subjects of the complaints (age, gender, race, rank, and years with the Boston Police Department), the dates when complaints were filed and finding notification letters were mailed, the specific complaints that were entered and the corresponding finding, and available demographic information for complainants and appellants (age, gender, race, and mailing address).

There were a total of 92 separate cases in which a complaint was submitted and not appealed. A case is defined as a filing by one or more complainants describing the *same* incident; it may allege one or more rule violations and name one or more subject officers. After thorough analysis, we identified a total of 109 eligible appellants who did not file appeals and 137 unique subject officers.

Demographics of Complainants

From the data supplied by the Boston Police Department, there were 109 complainants eligible to appeal who did not appeal, none of whom filed more than one complaint.⁴ On average, there were 1.17 complainants per case. The modal complainant was a 31-year old black male. Almost one-third of complainants were from Dorchester (N=31) and three complainants were from out-of-state.⁵ As shown in *Figure 1*, men filed more complaints than did women. The percentage of male complainants was higher than the percentage of male Bostonians.

Figure 1 Gender of Complainants Compared to Boston Demographics



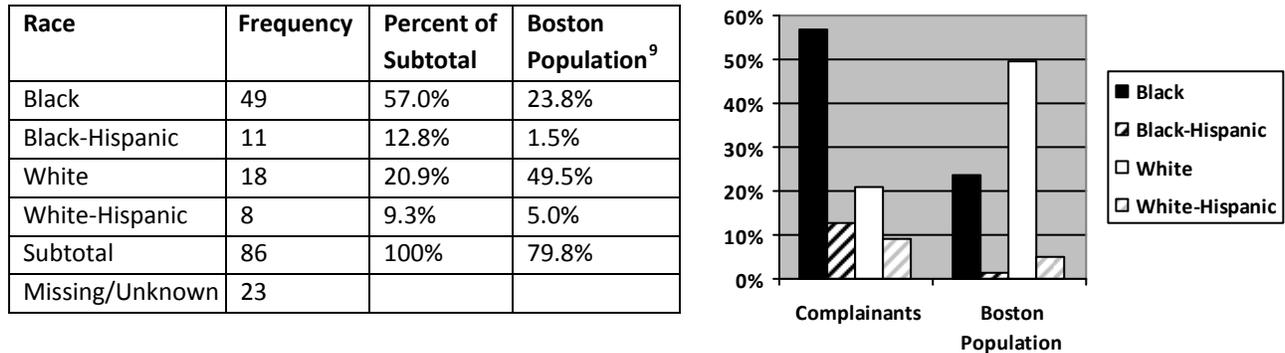
⁴ One complaint was filed jointly by a married couple, who were counted as 2 separate eligible appellants.

⁵ This information was taken from the mailing addresses given by complainants to the Boston Police Department when they filed their complaint.

⁶ US Census Bureau (2000). *American FactFinder fact sheet: Boston, MA*. Retrieved March 4, 2009, from <http://factfinder.census.gov>.

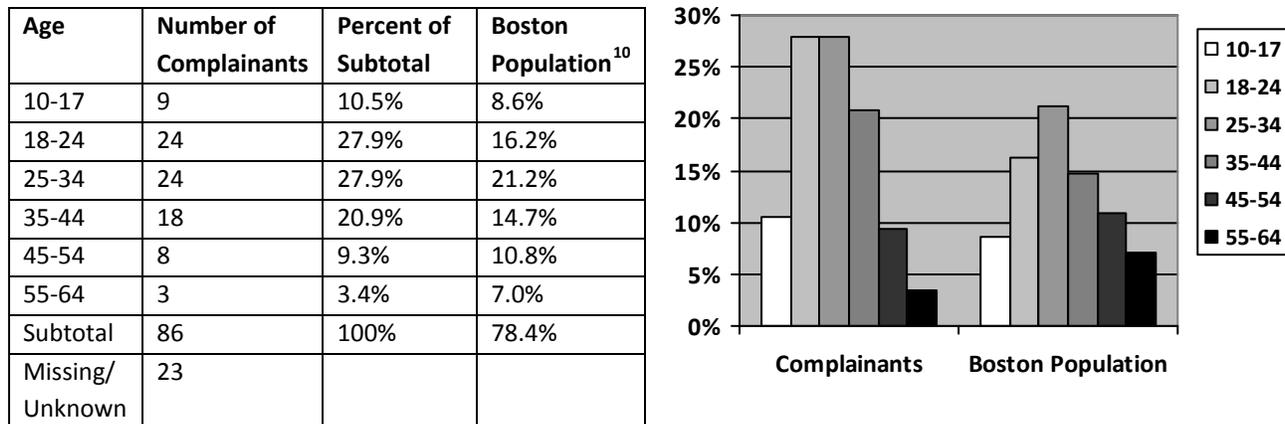
There was a discrepancy in the racial distributions of complainants relative to the Boston population. Blacks, Black-Hispanics, and White-Hispanics were all overrepresented as complainants. Whites were underrepresented as complainants relative to their representation in the Boston city population.⁷

Figure 2 Race of Complainants Compared to Boston Demographics⁸



Complainants tended to be young adults – the median age of complainants was 29 years and the mean was 31 years. Over half of complainants – 56% – were between the ages of 18 and 34. By means of comparison, only 37% of Boston residents are between 18 and 34 years old.

Figure 3 Age of Complainants Compared to Boston Demographics



⁷ As noted by the New York City Civilian Complaint Review Board, using raw population data “is frequently questioned as a reliable benchmark for measuring discrepancies” because it “does not necessarily reflect the racial makeup of the population of civilians who have contact” with officers (New York City Civilian Complaint Review Board (January-December 2007). *Status Report* (Vol. XV, No.2), p.10. Available at: http://www.ci.nyc.ny.us/html/ccrb/pdf/ccrbann2007_A.pdf).

⁸ Respondents who self-identified as Black (N=46) or Black/Non-Hispanic (N=3) were grouped together; respondents who self-identified as White (N=15) or White/Non-Hispanic (N=3) were grouped together.

⁹ US Census Bureau (2000). *American FactFinder Table P4: Boston, MA*. Retrieved March 4, 2009, from <http://factfinder.census.gov>.

¹⁰ US Census Bureau (2000). *American FactFinder Table P12: Boston, MA*. Retrieved March 4, 2009, from <http://factfinder.census.gov>.

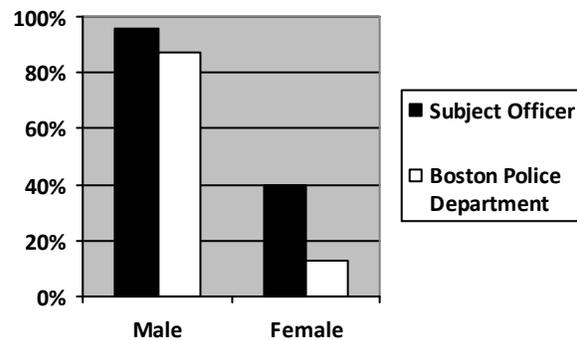
Demographics of Subject Officers

Demographic data for subject officers included gender, age, years of experience, rank, and race. There were 137 unique subject officers in the dataset after duplicate listings were removed.¹¹ Six officers were named in two separate complaint cases, and one officer was named in three separate complaint cases. On average, each complainant charged 1.4 officers per case.

The single largest category of subject officers was non-Hispanic white male police officers (N=48). Only 4% of subject officers were female. As shown in *Figure 5*, males were overrepresented and females underrepresented as subject officers, relative to their representation in the Boston Police Department.¹²

Figure 4 Gender of Subject Officers Compared to Boston Police Department Demographics

Gender	Frequency	Percent of Subtotal	Boston Police Population ¹³
Male	119	96.0%	87%
Female	5	4.0%	13%
Subtotal	124	100%	100%
Missing/Unknown	13		



Subject officers were on average 39 years old at the time the complaint was filed, and 74% of officers were between the ages of 30 and 49. On average, subject officers had 12 years work experience with the department. Forty percent of subject officers had fewer than 10 years of experience; 40% of subject officers had between 10 and 19 years of experience; and 20% of subject officers had over 20 years of experience. The vast majority of subject officers were police officers (76%) but the officers about whom citizens complained included a substantial number of detectives (10%) and sergeants (7%).

¹¹ In total, 166 officers were named in complaints; sometimes officers were named in only one complaint incident, sometimes they were named by two or more complainants for the same incident, and sometimes they were named by two or more complainants for separate incidents.

¹² Boston Police Department, *Boston Police Department Strength by Race and Ethnicity as of 02/17/09* (Table). Boston, MA.

¹³ Boston Police Department, *Boston Police Department Strength by Race and Ethnicity as of 02/17/09* (Table). Boston, MA.

Age of Subject Officers

Age	Frequency	Percent of Subtotal
20-29	14	11.4%
30-39	57	46.3%
40-49	34	27.6%
50-59	17	13.8%
Over 60	1	0.8%
Subtotal	123	100%
Missing/Unknown	14	

Figure 5 Subject Officer Years of Experience



Years of Experience	Frequency	Percent of Subtotal
0-4	22	17.9%
5-9	26	21.1%
10-14	31	25.2%
15-19	21	17.1%
20-24	17	13.8%
25 and more	6	4.9%
Subtotal	123	100%
Missing/Unknown	14	

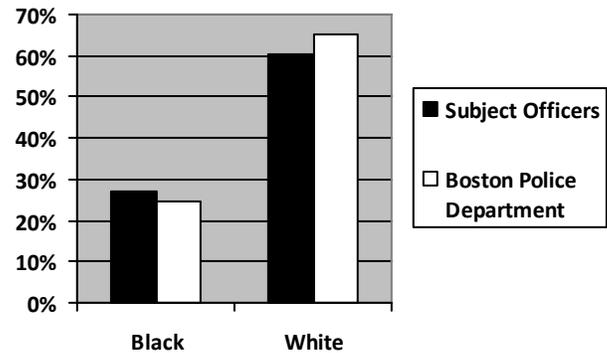
Rank of Subject Officers

Rank	Frequency	Percent of Subtotal	Boston Police Department Sworn Population ¹⁴
Civilian Clerk	1	0.8%	N/A
Police Officer	94	75.8%	69.4%
Detective	12	9.7%	12.7%
Sergeant	9	7.3%	7.9%
Sergeant Detective	6	4.8%	4.8%
Lieutenant	2	1.6%	2.3%
Subtotal	124	100%	97.1%
Missing/Unknown	13		

The majority of subject officers were white (61%), followed by black (27%) and white-Hispanic (11%). In comparison to Boston Police Department demographics, black officers were overrepresented and white officers underrepresented in complaints. Data were not available for white-Hispanic or black-Hispanic officers.

Figure 6 Race of Subject Officers Compared to Boston Police Department Demographics

Race	Frequency	Percent of Subtotal	Boston Police Department Population ¹⁵
Black	33	26.6%	24.4%
Black-Hispanic	2	1.6%	Not available
White	75	60.5%	65.3%
White-Hispanic	14	11.3%	Not available
Subtotal	124	100%	89.7%
Missing/Unknown	13		



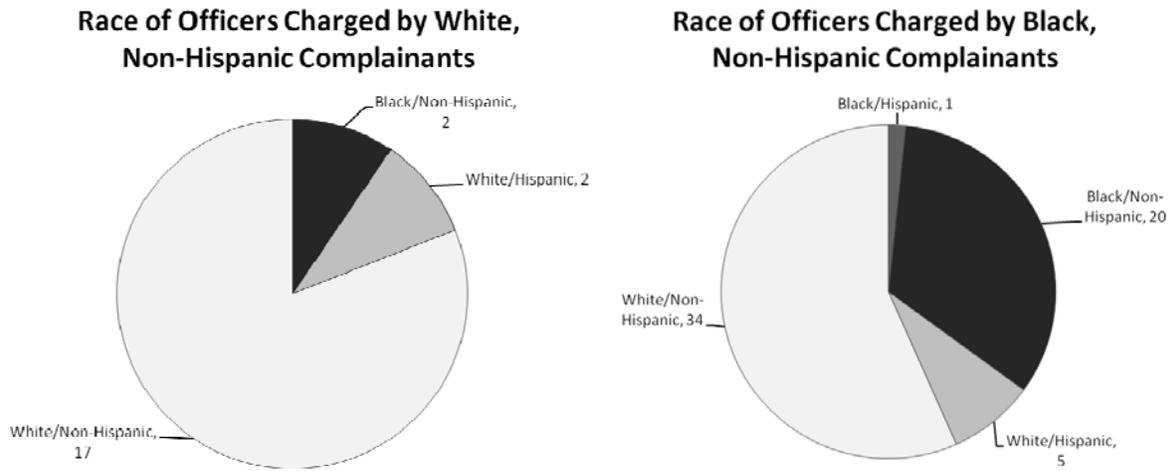
Interactions between Officer and Complainant Race

While there were more complaints filed against white officers than any other racial group of officers, the race of subject officers largely matched the race of the corresponding complainants. Black, non-Hispanic complainants were more likely to file complaints against black, non-Hispanic officers than were white, non-Hispanic complainants. White, non-Hispanic complainants were more likely to file complaints against white, non-Hispanic officers.

¹⁴ Boston Police Department, *Boston Police Department Strength by Race and Ethnicity as of 02/17/09* (Table). Boston, MA.

¹⁵ Boston Police Department, *Boston Police Department Strength by Race and Ethnicity as of 02/17/09* (Table). Boston, MA.

Figure 7 Race of Officers Charged by Black and White Non-Hispanic Complainants



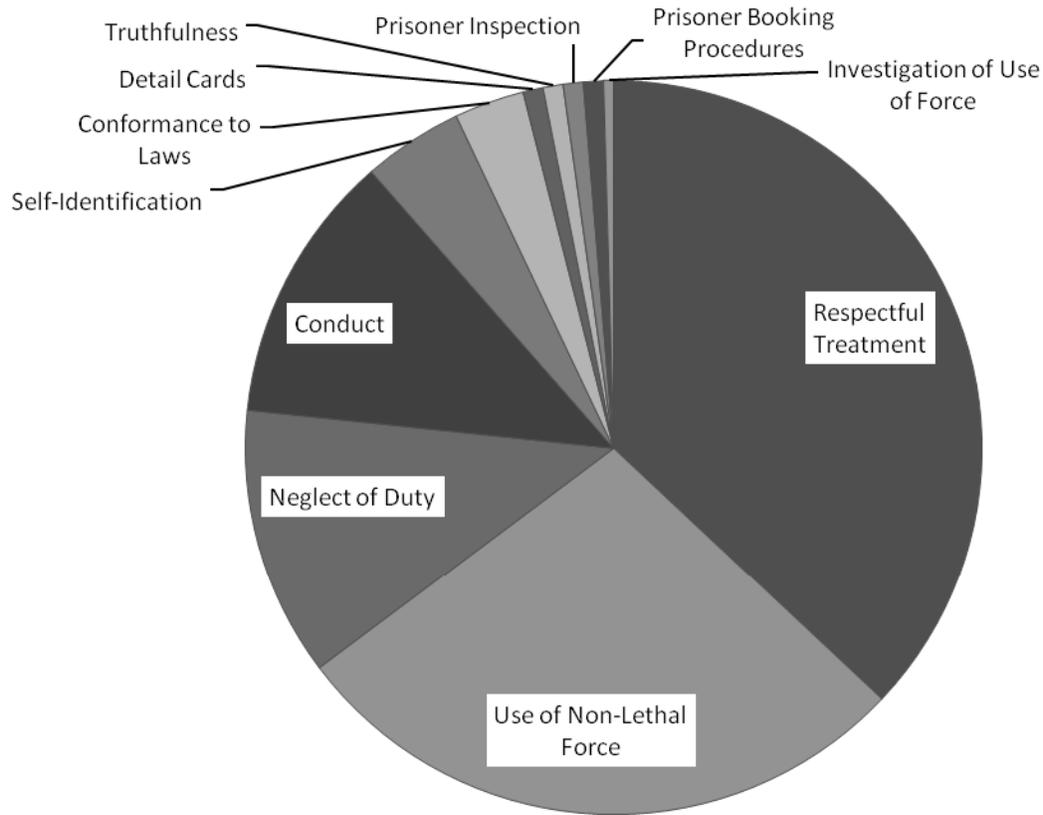
Race of Subject Officer	Race of Complainant			
	Black/ Non-Hispanic	Black/Hispanic	White/ Non-Hispanic	White/Hispanic
Black/Hispanic	1	-	-	-
Black/Non-Hispanic	20	4	2	2
White/Hispanic	5	-	2	-
White/Non-Hispanic	34	5	17	3
Subtotal	60	9	21	6

Allegations

Overall, there were 166 complaints filed, and on average, there were 1.4 allegations per complaint. When all individual allegations were combined, there were a total of 227 allegations (refer to *Appendix D* for definitions).¹⁶ The single largest category of allegations, as classified by the Boston Police Department, related to (lack of) respectful treatment (37%); almost one-third of the allegations were for use of non-lethal force (28%). Conduct unbecoming an officer and neglect of duty also accounted for a sizeable number of allegations (12%, respectively).

¹⁶ Data includes allegations by all complainants, including appellants.

Figure 8 Allegations by Type



Type of Allegation	Frequency	Percent
Respectful Treatment	84	37.0%
Use of Non-Lethal Force	63	27.8%
Conduct	27	11.9%
Neglect of Duty	27	11.9%
Self-Identification	10	4.4%
Conformance to Laws	7	3.1%
Truthfulness	2	0.9%
Detail Cards	2	0.9%
Prisoner Inspection	2	0.9%
Prisoner Booking Procedures	2	0.9%
Investigation of Use of Force	1	0.4%
Total Allegations	227	100%

Subject officers in about 20% of allegations were exonerated; 40% of allegations were not sustained; and 40% were unfounded. Officers named in use of non-lethal force allegations were exonerated over half the time, while respectful treatment allegations were more likely to be not sustained. Allegations of neglect of duty and of conduct unbecoming of an officer were most often judged to be unfounded.

White officers were more likely than white-Hispanic or black officers to be the subjects of Use of Non-Lethal Force allegations; white-Hispanic officers were more likely to be the subjects of Respectful Treatment allegations; and black officers were more likely to be the subjects of Self-Identification allegations.

Race of Subject Officer by Type of Allegation

Allegation	Race of Subject Officer			
	Black	Black-Hispanic	White	White-Hispanic
Conduct	13.5%	50.0%	10.1%	14.8%
Conformance to Laws	5.8%	-	0.8%	11.1%
Detail Cards	-	-	0.8%	3.7%
Investigation of Use of Force	-	-	0.8%	-
Neglect of Duty	11.5%	-	15.5%	3.7%
Prisoner Booking Procedures	-	-	0.8%	3.7%
Prisoner Inspection	-	-	1.6%	-
Respectful Treatment	36.5%	50.0%	34.1%	44.4%
Self-Identification	11.5%	-	3.1%	-
Truthfulness	-	-	1.6%	-
Use of Non-Lethal Force	21.2%	-	31.0%	18.5%
Total n	52	2	129	27

Characteristics of Appellants

After analyzing data on the complaints, two differences stood out between the pool of all those eligible to appeal and those who did appeal: average complainant age and timeliness of case review. In comparing the small number of those who did appeal (n=7) and those who did not exercise their right to appeal, appellants tended to be older – the mean age of appellants was 40 years, compared to 31 years for non-appellants.¹⁷ For non-appellants, the average length of time between when a complaint was filed and when a notification letter was mailed was just under 10 months. In those cases where the citizen did appeal, notification letters were received on average in 6 months.

For the seven individuals who did file appeals to the CO-OP, the average length of time between the mailing of a notification letter and the receipt of an appeal was 15 days.¹⁸ This is one day past the CO-OP deadline of 14 days for submitting appeals.

¹⁷ It is expected that with greater power, the difference in age between appellants and complainants would be statistically significant.

¹⁸ Information on appeal receipt date was only available for six of the seven appellants.

EMPIRICAL RESEARCH: SURVEY STUDY

Background

In the summer of 2008, the Office of the Mayor of Boston commissioned a study by the Harvard Kennedy School Program in Criminal Justice Policy and Management to understand why so few complainants submit appeals to the CO-OP. This section describes the three-month empirical research study: the survey process and the findings.

As of September 22, 2008, there were 116 complainants who had filed complaints against Boston Police Officers, which were found to be not sustained, unfounded, or exonerated and therefore eligible for appeal.¹⁹ Only 7 of the eligible complainants, however, submitted appeals. The purpose of this study was to understand why the vast majority of complainants – 109 out of 116 – did not submit appeals by surveying them about their familiarity and experience with the appeals process.

Research Methods

A combined mail and phone survey design was selected in order to obtain the largest sample size possible. While written survey studies provide participants with the time to give thoughtful responses to survey questions, they typically have low response rates. As a result, the mail survey design was supplemented with a phone survey, which generally allows for better sample access and returns higher response rates.

The Boston Police Department provided Harvard researchers with the names, mailing addresses, and phone numbers of all complainants eligible to appeal as of September 22, 2008. Over a period of two months, researchers sent self-administered mail surveys to all eligible appellants.²⁰ A preletter was sent to respondents one week before the actual survey, alerting them that the survey was coming and informing them of its purpose (see *Appendix A*). The second mailing, the survey package, included an explanatory letter, a consent form (for complainants under 18 years of age), a six-page survey, a stamped envelope, and a stamped postcard with a unique identifier (see *Appendix B*). Each unique postcard identifier corresponded to one address, allowing researchers to target follow-up mailings to individuals who had not yet responded and to avoid repeated inquiries for those who had responded. The third and final mailing consisted of the survey and a follow-up letter (see *Appendix C*).

Of the 109 surveys sent to potential appellants, one-third were returned due to invalid mailing addresses; some were returned more than six weeks after they had been sent out.²¹ Fourteen completed surveys were received in this initial phase.

¹⁹ The CO-OP began operations in July 2007.

²⁰ Surveys were erroneously mailed to the seven complainants who had filed appeals. These responses were not included in the analysis contained in this report.

²¹ One survey was mailed to a witness, whose name was included on the Boston Police Department's list of eligible appellants.

In an effort to increase the sample size, researchers followed up by phone to complainants who had not responded to the mail survey.²² In the phone call follow-up phase, which took place in January and February of 2009, thirteen complainants chose to complete the survey over the phone. At the completion of the data collection phase, the total sample size was 27 complainants, for a 25% response rate. This response rate is comparable to other recent studies of complainants employing a mailed survey research design.²³

Structure of the Survey

The questions in the survey addressed the complainants' past experience with the complaints process, understanding of the forms and procedures, and attitudes toward and familiarity with the Boston Police Department and CO-OP (see *Appendix B* for a full copy of the survey). The survey contained five sections. The first section consisted of basic procedural questions about the appeals process. The second section instructed respondents to indicate the importance of a series of factors in influencing their decision *not* to file an appeal, and also whether they would be more likely to file an appeal given procedural changes to the appeals process. The third section addressed familiarity with who conducts reviews of complaints and appeals and where they can be filed. It also included two open-ended questions about what others have said about their experience with the CO-OP, and attitudes toward a complaint mediation program. The fourth section addressed complainants' perceptions of the fairness and impartiality of the CO-OP and the Internal Affairs division of the Boston Police Department in their decisions. The final section consisted of standard demographic and historical questions.

SUMMARY OF THE RESULTS

Sample Demographics

A total of 27 complainants (56% male) completed the survey by mail or by phone, representing one-quarter of the total eligible complainant population. Survey respondents were on average 38 years old and were well-educated: 81% of respondents had completed some college, college, or postgraduate studies. Close to two-thirds of respondents self-identified as Black (63%), while one-third indicated they were White (30%). One participant self-identified as Hispanic, and another as "Other." Most surveyed complainants were single (48%) or married (33%), with the remainder being separated, divorced, or widowed. Two respondents had served in the Armed Forces. Nearly all respondents derived their primary income from work (85%).

²² Valid phone numbers (provided by the Boston Police Department) were not available for all 100 complainants who did not return postcards indicating they had completed the survey. In total, only 18 complainants were successfully contacted by phone, of whom 13 completed the survey. Three individuals declined participation; one person started and then withdrew from the survey; and one individual requested to be mailed a second copy of the survey. At least two complainants were incarcerated at the time of the study.

²³ For example, see Bartels, E.C. & Silverman, E.B. (2005). An exploratory study of the New York City, Civilian Complaint Review Board mediation program. *Policing: An International Journal of Police Strategies & Management*, 28, 619-630; Strudwick, K. (2003). Is independence the only answer to complainants' satisfaction of the police complaints process? A perspective from the United Kingdom, *Police Practice and Research*, 4, 35-46; Waters, I. & Brown, K. (2000). Police complaints and complainants' experiences. *British Journal of Criminology*, 40, 617-638.

The demographics of the sample were similar to those of the total complainant population by gender and race, but survey respondents were slightly older than the average complainant (38 years old, compared to 31 years old).

Complaint History

One-third of respondents reported having prior experience with the Boston Police Department Internal Affairs Division complaint process: five had previously filed one complaint, three had filed two complaints, and one declined to offer a number. Only one complainant had filed a complaint which he or she knew to be sustained.

Impressions and expectations of the complaints investigation process

Most survey respondents expressed a general dissatisfaction with the complaints investigation process. Reasons for dissatisfaction included both procedural concerns and lack of confidence and trust in the process. Half of the respondents believed that the Boston Police Department did not investigate their complaint professionally (n=13). Two-thirds claimed that the investigation was not completed in a timely manner (n=18) and that their complaint was not taken seriously (n=17). The majority of surveyed complainants expected a formal decision (n=22), although for many the police investigation was more important to them than the rendering of a formal decision (n=17). Many of the complainants listed creating a record of officer misconduct – not the ultimate finding or discipline – as reasons why the police investigation was more important: “It would go on his record. I would know that they’re doing their job.” Other comments reflected a hope to decrease future misconduct by the subject officer: “In my case the officer had a history of misconduct and I thought the more complaints filed, the better the chance of an investigation”; “by conducting an investigation it sends a message of importance to the officer(s) involved that they cannot get away with misconduct because they are police officers.”

The six complainants who responded that the formal decision was more important selected this option because of a lack of trust in the Boston Police Department and the fairness of the Internal Affairs investigation: “because I know that the police won’t be fair”; “because their police department works together”; “at least it indicates that there was an investigation.” One participant felt that the formal decision was “more effective,” while another stated that a formal decision would allow him to “appeal the decision if [he] believed it was wrong.”

Understanding of Appeals Process

Survey results suggest that the CO-OP appeals process is not well understood by Boston Police Department complainants. Responses indicate that the directions for appealing, which are included with the findings notification letter from the original complaint, do not provide clear instruction on how to undertake the process.

One-quarter of respondents (n=7) reported that they did *not* receive the notification letter informing them of the finding of their complaint, which is accompanied by the CO-OP brochure. Of the 20 respondents that *did* report receiving the finding or notification letter, two-thirds (n=13) indicated that they understood the explanation of the finding given in the letter.

Forty percent of respondents could not identify the outcome of their last complaint: 30% did not understand or were unsure of the outcome of their last complaint and 7% reported that they had not heard back.

However, fewer than half of the people who reported receiving a finding notification letter (n=8) – and less than half of all survey respondents (n=12) – reported knowing they could file an appeal. Seven respondents said that they had received information on how to file an appeal, and **only 4 respondents said that they understood how to file an appeal**. Six respondents reported that they “somewhat” understood how to file an appeal.

When prompted for an explanation of why they did not know how to appeal, most respondents said that they “never received information on it,” “did not see anywhere on the letter that said I could appeal,” or believed they “didn’t receive instructions.” The comments indicate confusion about the process (“I didn’t know who to go to to file an appeal”; “assumed internal affairs conducted appeals”; “was never told that I could appeal when I left the room”) and a lack of awareness of the existence of an appeals process. One person who *was* aware of the appeals process said he heard about it “through classes in criminal justice.”

One of the respondents reported having asked the Boston Police Department for help filing an appeal; however, none of the complainants surveyed indicated that they had contacted the CO-OP for assistance.

Survey comments indicated that some citizens have mistaken impressions about the appeals process. For example, one respondent wrote that he “had no intention of paying a \$75 filing fee,” even though there is no cost to file an appeal. One-quarter of respondents (n=7) reported that the Boston Police Department discouraged them from filing an appeal: “I was discouraged from the day I was putting the complaint by the lieutenant from the Boston headquarters. He was not helpful at all”; “I was told that they wouldn’t honor it [my complaint] because they’re always right.” In general, responses suggest an overall sense of frustration with the complaints process: “I was filing a complaint against an officer to an officer. I could tell by the guy’s face that he didn’t want to hear it. It was like he was reading from a script...just going through the motions.” A few respondents felt rushed to submit an appeal (n=4).

One-quarter of survey respondents (n=7) were afraid that there might be negative consequences if they filed an appeal. Fears included retaliation by police through arrest and harassment (“they might retaliate”; “[I might] be arrested or [there might be] some kind of vendetta against me”; “[the police might] pull me over”); and “not being taken seriously”. Other perceived disincentives included additional paperwork, fees, and time off work. One respondent who was not afraid of negative consequences explained that she “was confident in [her] case and not easily intimidated.”

Impressions of the appeals process

The two most important factors in respondents' decisions not to file an appeal were not having enough confidence in the police ("very" or "extremely important" n=21) and not having enough information on how to appeal ("very" or "extremely important" n=15).

It was "not at all important" to most respondents that the incident took place too long ago to be worth appealing (n=14; "very" or "extremely important" n=5), that they missed the appeal deadline (n=16; "extremely important" n=7), that the complaint was not serious enough (n=14; "very" or "extremely important" n=5), that they were satisfied with the finding (n=16; "very" or "extremely important" n=5), that they were discouraged by the Boston Police Department (n=16; "very" or "extremely important" n=5), or that appealing might get them into more trouble (n=16; "very" or "extremely important" n=5).

Responses were mixed for items addressing lack of confidence in the CO-OP ("not at all important" n=11; "slightly" or "moderately important" n=6; "very" or "extremely important" n=6), that it took too much time and effort to appeal ("not at all important" n=6; "slightly" or "moderately important" n=7; "very" or "extremely important" n=11), and that the finding was not important ("not at all important" n=11; "moderately important" n=3; "very" or "extremely important" n=10).

Other factors that survey respondents indicated were "extremely" important in their decision not to appeal were that:

- their complaints were "not taken seriously"
- they "lost faith"
- they "didn't care"
- "it took too long for the department to get back"
- there were "fees and time" associated with the appeals process
- there was confusion about the process

Factors which could increase the number of appeals

Almost all respondents agreed that they would have been more likely to appeal if they had **more confidence in the fairness of the appeals process (81%, n=22)**. The majority of respondents felt that having a less complicated appeals process would have made them more likely to appeal (n=19); 9 respondents would have been "significantly" more likely to appeal. Similarly, most respondents said that they would have been more likely to appeal if they had been given more information on how to appeal (n=19), and 12 respondents said they would have been "significantly" more likely to have appealed. Sixty percent of respondents (n=16) said that having more time to appeal would have made them more likely to appeal (thirty percent would have been "significantly" more likely to appeal).

Procedural factors which survey respondents believed would make them more likely to file an appeal included having stamps, envelopes, or a way to deliver the appeal (n=10); and being able to file an appeal online (n=17), by phone (n=16), or by email (n=12). Sixty percent of surveyed complainants responded that they would be more likely to file an appeal if the incident were more serious (n=16). At

least for those in this sample, language does not appear to be a barrier to the appeals process. Respondents indicated that they would be “not at all more likely” to file appeals if the information were available in a language other than English (n=26).²⁴

Impressions of the Boston Police Department and CO-OP roles in the appeals process

The majority of participants had misperceptions of the appeals process and the role of the Boston Police Department and CO-OP in appeals investigations. Most surveyed complainants believed that police officers (n=10) or the Internal Affairs department (n=17) handle appeals. Only one-quarter of respondents (n=7) correctly identified the CO-OP as the agency reviewing appeals. Accordingly, many respondents believed that appeals should be sent to a Boston police station (n=13) or to the Mayor’s office (n=9). Almost half of respondents (n=12) selected the CO-OP as the appropriate destination for appeals, although only two respondents did so exclusively.

Only one respondent had heard of the CO-OP prior to receiving the research survey, and the respondent identified the complaint finding notification letter as the source of this information. It should be noted that this individual had a postgraduate education and identified both the CO-OP and the Boston Police Internal Affairs as the agencies responsible for reviewing appeals.

No respondents had heard of any cases appealed through the CO-OP through the media, neighborhood networks, or other means.

Mediation

Complainants were asked about their willingness to engage in mediation with the subject officer and a neutral third party as an option for complaint resolution. Over 60 percent of respondents (n=17) indicated that they would have pursued mediation, if it were available.

Reasons for an interest in mediation include: the desire for an apology from police officers and a commitment from the officers to not repeat the mistake (“because I would have told the officer...that he owed me an apology and should never repeat that against someone else”); a confrontation with the subject officer; the opportunity to explain why the officer’s actions were wrong (to “make him see the severity of the situation”; “to let him know how I felt about the whole thing”) and the opportunity for a “neutral” chance to “get a fair understanding so the third person could hear both sides.”

Arguments for not wanting to pursue mediation include: a belief that mediation eliminated disciplinary follow-through by the police department (“because the officer needed to be punished so that he wouldn’t harass anyone else. Talking to him resolves nothing); the feeling that mediation would be unsuccessful (“because of the nature of the complaint I wouldn’t have thought the mediation would make a difference”; “though I would love to talk to [the subject officer] this cannot be resolved through

²⁴ It should be noted that all complainants contacted spoke English and had likely filed a complaint in English; the complaint form online is only available in English. If non-English speakers are not accommodated at the beginning of the complaints process, it may create a barrier for those wanting to file complaints.

conversation”); lack of importance of the finding (“I think my complaint was symbolic and I didn’t actually care to see it through”); discomfort upon being confronted by the subject officer (“I would probably feel intimidated and wouldn’t want to be in communication”; “because I wouldn’t want to be next to the person who assaulted me”; “I do not want to speak to [the police officer] unless there is an apology beforehand”); and fear of retaliation (“I don’t want a confrontation on a later date”).

Perception of fairness of complaints/appeals investigations

The majority of survey respondents believed that the Boston Police Internal Affairs Department was either very unfair/very biased or somewhat unfair/somewhat biased in general (n=16) and in the handling of their specific complaint (n=18). Most respondents had no opinion or a neutral opinion on the fairness of the CO-OP in its investigation of appeals (n=16) or thought it would be very fair/unbiased (n=9). Similarly, most respondents had no opinion or a neutral opinion on whether the CO-OP would be fair in its treatment of their individual complaints (n=14) or thought it would be very fair/unbiased (n=7).

Likelihood of filing another complaint

The majority of survey respondents would complain again (n=22), although reasons for doing so varied:

- **Out of principle:** “Any time they [the police] do something wrong I’ll file a complaint”; “I was treated unjustly and the BPD should be made aware of the overzealous tactics of its officers. Whether they choose to take action is on them”; “everyone should be held accountable for their actions.”
- **To exercise a right:** “It is my right to complain and recommend solutions”; “because people have rights.”
- **Lack of options:** “It’s the only thing I can do.”
- **To have it on record:** “If only to have it on record that the actions of a police officer were wrong. Whether or not it [my complaint] was taken seriously”; “when I feel like something is wrong I will file. That way it will be on record.”
- **Impact on officer behavior:** “So they wouldn’t do what they did before.”
- **Hope that they will be heard:** “Because if you keep poking at something, keep knocking, someone’s bound to answer”; “hoping one day something happens”; “there could be better chance that this (or the 2nd, 3rd, or whatever) time the investigation may have a different outcome. Never give up!”

There were three main reasons why some respondents indicated they would *not* file another complaint. Many comments reflected a sense of **disappointment and disillusionment** with the complaints system, or confirmation of suspected bias: it “did not get anything done”; “it was pointless... It was a waste of time”; “I thought it was not going to be fair anyway.”

Several respondents pointed to **feelings of intimidation, discouragement, and partiality by officers in Internal Affairs** as the reason they would not complain again: “...when you call a supervisor to make a report...the supervisor either call[s] you a liar or act[s] like they would help you or take care of the matter themselves and they don’t report it to the proper authority”; “because the headquarter people

from internal affairs are very cricked an crooked – they don't care neither, they asked why you wait so long if it was so serious. Well, people gets scared cause you become an enemy to all police officers...I have no trust and faith in any police now..."; "there is no neutral party to help me understand the complaint process or my right to appeal. I do not believe the investigator police will be impartial, and would be biased against blacks, low income, ex-offender, addicts and other disenfranchised or disabled persons."

Some respondents were also less inclined to complain again because they felt their **complaints were not taken seriously**. One respondent who indicated he would not complain again wrote, "I really didn't think [my complaint] was taken seriously by the dept [police department]. It also took a long time before anyone contacted me." A second respondent said he would complain again even though his "case was not taken seriously."

Analysis: Why didn't eligible complainants file appeals?

There was no single reason why eligible complainants did not file appeals, but there were several different themes that emerged: people who would not appeal regardless of changes made to the appeal process; people who would be more likely to appeal given more and better information about the CO-OP; and people who would be more likely to appeal if they had more confidence in the fairness of the complaints system.

I. People Who Will Not Appeal

Some people were not interested in appealing – they “didn’t care” to appeal or just wanted to have their complaint on record. For example, one survey respondent wrote that the reason he did not appeal was that: “I didn’t look into it. I didn’t receive information. I didn’t mean for it to be followed up. I just wanted it known.” Thirty percent of survey respondents said that it was “extremely important” in their decision not to appeal that the finding of their complaint did not matter. About 75% of survey respondents said that the police investigation, for them, was more important than the formal decision they received (and which they could appeal).

II. Correcting Misunderstandings and Improving Information

Some people did not appeal because they were unaware that they could file an appeal, or they had mistaken impressions about the agency reviewing appeals. Over 60% of survey respondents believed Internal Affairs reviewed appeals. It is also notable that 80% of survey respondents said that would be more likely to appeal if they had more confidence in the fairness of the appeals process (although it should be noted that most respondents did not know they could file an appeal). The CO-OP can address these concerns by:

1. Increasing the CO-OP’s outreach to potential appellants. The CO-OP brochure is currently sent to eligible complainants by mail along with the finding notification letter. At least one-third of the mailing addresses given by complainants at the time of their complaint were no longer valid at the time of the survey, and 25% of survey respondents reported never receiving the notification letter telling them that the finding on their complaint was not sustained, unfounded, or exonerated (or the brochure informing of their right to appeal this finding).

The CO-OP can work with Internal Affairs to increase awareness and understanding of the CO-OP by:

- collecting email addresses, cell phone numbers, and secondary addresses, if available, *at the time the complaint is filed*

- distributing a brochure about the CO-OP to every complainant *at the time the complaint is filed*²⁵
- posting a copy of the CO-OP brochure on the Boston Police Department website conspicuously next to the complaint form
- informing all eligible complainants by phone or email of their right to appeal

2. Clarifying the Appeals process by using language that is easier to understand. Most survey respondents, even those that received the finding notification letter along with the CO-OP brochure, mistakenly identified Internal Affairs as the agency reviewing appeals. This misunderstanding is significant because many survey respondents “do not believe the investigator police will be impartial.” It might be helpful if the CO-OP revised its brochure, identifying very clearly that the CO-OP reviews appeals, emphasizing that neither the CO-OP nor its panel are connected or affiliated with Internal Affairs or the police department, and explaining in simple steps how a person can file an appeal (nowhere on the brochure does it indicate exactly what information should be included in an appeal, or what is an appeal). In addition, since 25% of respondents feared negative repercussions from the police upon filing an appeal, it may alleviate their concerns to specify in the CO-OP brochure that the Internal Affairs department would *not* be made aware of appeals filed by complainants, and that there will be no negative consequences or “filing fees” for anyone who appeals.

It was also striking that 40% of survey respondents did not understand the notification letter’s explanation of the finding of the complaint. It would be beneficial to the Appeals process if the finding notification letter could also be reworded with simpler language and better definitions of what it means when a complaint is found not sustained, unfounded, or exonerated. Additionally, as noted in the 2008 CO-OP Annual Report, the finding notification letter should explain logically and fully how a finding decision was reached.²⁶ If complainants do not understand that the complaint was not found in their favor, then they have no reason to appeal; if they do not understand why the complaint was not found in their favor, then they would not know why they are appealing. By increasing the transparency of the process, complainants will not only have better information which they can use to appeal, but they may also see the complaints system, and by extension the police, as more legitimate.

3. Making the process of filing an appeal less burdensome for the complainant. The majority of surveyed complainants – 70% – said that they would have been more likely to appeal given a less complicated appeals process. Many survey respondents indicated they would be significantly more likely to file an appeal if it could be done electronically or by phone. It should be noted that while the 2008 CO-OP Annual Report indicates that appeals may be submitted by e-mail, this information is not

²⁵ Copies of the CO-OP brochure are readily available at all Boston Police Department stations, as well as at the Clerk’s Office and at the Law Department, both located at City Hall.

²⁶ The finding notification letter “does not provide any rationale or summary of the findings upon which the decision was based. Therefore the citizen does not have a clear understanding of why their complaint was denied or whether they should appeal the decision.” (Community Ombudsman Oversight Panel (July 31, 2008). *Annual Report*, p. 30-31. Available at: http://www.cityofboston.gov/police/co-op/pdfs/CO-OP_Annual_Report_2008.pdf).

included in the CO-OP brochure or in the Mayor's Executive Order establishing the CO-OP.²⁷ It would be beneficial to continue to provide complainants with several methods for filing appeals as well as to present procedural information on the appeals process clearly and consistently.

The method by which complainants file complaints could be used as an indication of how they would prefer to file appeals. For example, the New York City Civilian Complaint Review Board (CCRB) has found that complaints filed by phone in 2007 represented 87% of all complaints received. An additional 7% of complaints were received by e-mail, internet, or fax. Only 2% were received by letter.²⁸

4. Extending the appeal deadline. It was "extremely important" to 25% of survey respondents in their decision not to file an appeal that they missed the appeal deadline, and half of respondents said that they would have been more likely to appeal given additional time. The analysis of the population of appellants provided by the Boston Police Department showed that people who did appeal returned appeals close to or after the 14 day deadline. In addition, our survey experience suggests that mail may take several weeks to get through the return process – far longer than the appeal filing timelines allow. Since late appeals were still accepted by the CO-OP, it seems logical that the deadline be extended. This would acknowledge the situational pressures that might be facing complainants during the appeal window – for example, one complainant wrote that among the reasons that she did not appeal was that she "was on maternity leave with a newborn when given the opportunity to appeal."

III. Addressing the Atmosphere of Distrust and Dissatisfaction Surrounding the Complaints Process

"Based in large part on comments from various individuals at community meetings and from community leaders, it became clear to the [CO-OP] panel that there is a strong perception that citizens do not have easy access to filing complaints in supportive and non-intimidating environments. Whether this perception is accurate or not, it creates an atmosphere of distrust that requires serious attention."²⁹

-CO-OP 2008 Annual Report

A third reason people did not appeal is that they "lost faith" in a complaints system in which their complaints were "not taken seriously." Most complainants had a *negative* experience with the complaints process. Over 25% of all complainants said that an important factor in their decision not to appeal was that they were "discouraged" by the Boston Police Internal Affairs Department and that appealing might get them into more trouble. Half of respondents said that the Boston Police Department did not investigate their complaint professionally. Most surveyed complainants thought that Internal Affairs was biased toward the police and did not trust the process because they "know that

²⁷ The CO-OP brochure and the Mayor's Executive Order establishing the CO-OP state that appeals may be mailed or hand-delivered to the CO-OP.

²⁸ New York City Civilian Complaint Review Board (January-December 2007). *Status Report* (Vol. XV, No.2). Available at: http://www.ci.nyc.ny.us/html/ccrb/pdf/ccrbann2007_A.pdf.

²⁹ Community Ombudsman Oversight Panel (July 31, 2008). *Annual Report*, p. 31. Available at: http://www.cityofboston.gov/police/co-op/pdfs/CO-OP_Annual_Report_2008.pdf.

the police won't be fair." One respondent wrote, "I believe the officers involved in the case and the Boston Police Officer were solely interested in doing whatever they want and getting away with it and protecting their own." A second respondent wrote:

"...filing a complaint served me no other purpose other than a pursuit of justice. Both myself and the other involved identified the police officer who harassed us verbally and physically yet the complaint was dismissed...I have no faith in IA or the corrupt BPD."

Nearly **one-fifth of the complainants who responded to the survey said they would not file a complaint again in the future** – "because they [Internal Affairs] didn't take the first complaint seriously." Since many respondents believed that the Internal Affairs department handled appeals, complainants who were not satisfied with the complaints process might be less inclined to continue participation in the system by filing an appeal.

There is more work to be done for the CO-OP to realize the goals of its mission statement: "to demonstrate that the Boston Police internal affairs process is fair and thorough, to promote the professionalism of the Boston Police Department, and to build trust and confidence within the Boston community."

To increase confidence in the appeals system in the long run – and to prevent the attrition of numbers of incoming complaints – the challenge of widespread dissatisfaction with the Boston Police Department in general and low confidence in the impartiality of Internal Affairs must be addressed. It should be noted, on the brighter side, that all complainants, despite the negative interaction with a Boston police officer that motivated them to complain, must have some faith in the Internal Affairs department to file a complaint in the first place.

While this is a complex issue, the CO-OP and the Boston Police Internal Affairs department can take steps to reduce sentiments expressed by complainants, thereby increasing future complainants' propensity to file appeals. To increase **transparency in the complaint filing process** – which should increase complainants' feelings of legitimate and fair treatment – Internal Affairs can explain the entire complaint and appeal process at the time the complaint is filed. Complainants will be able to make more informed decisions if they are provided with a detailed explanation of the complaints process: for example, how a complaint is investigated, including the criteria for a finding of sustained, as opposed to not sustained, unfounded, or exonerated. At the same time, they could be presented with the option of mediation as an alternative process (if available), and be introduced to the appeals process. As well, the production of an approximate timeline for the entire process would aid in complainants' understanding of how their complaint will be handled from filing to finding. These details should be offered in a variety of ways and not limited to conversation. The use of print and electronic media to convey this information is important.

Comments about officer behavior suggest that complainant satisfaction with the complaints process would significantly increase with a more neutral complaint intake system, with adequate process

information given to complainants but with no editorializing on the merits of filing. If it is not possible to have a civilian receive complaints, then training for officers who take complaints, and certainly those in Internal Affairs, might be in order. Officers handling complaints should be taught to be sensitive to complainants' feelings and fears. Reports that officers are "reading from a script" do not instill confidence or an appreciation for the seriousness of a complaint. Finally, Internal Affairs complaint intake officers and materials (print and electronic media) should clearly and accurately describe the process of filing complaints and appeal filing procedures to avoid misperceptions and disincentives (ex. "\$75 filing fee").

In addition, the CO-OP or Internal Affairs can **increase contact with complainants**. On average, finding notification letters were sent to complainants 10 months after the original complaint was filed – compared to 6 months for complainants who appealed. Two-thirds of surveyed respondents felt that the Internal Affairs investigation was not completed in a timely manner – it "took a long time before anyone contacted me." At least one respondent felt that an extremely important factor in her decision not to appeal was that "it took too long for the department to get back." Another said that one of three reasons she did not file an appeal was that "the outcome was reached in 6 months after the incident occurred." The CO-OP may elect to follow-up by phone with all complainants within a week after the complaint file date, to let them know that the complaint was received and to introduce the CO-OP and the appeal process. They could also use this opportunity to clarify to complainants that it may be months or even a year before they receive a finding on their complaint.

Assuming Internal Affairs cannot reduce the case closure time, another way to mitigate this concern at minimal cost to the Boston Police Department is to send letters out to complainants at regular intervals (for example, every month) letting them know that their complaint remains under investigation. Keeping in regular contact will be beneficial to complainants, who will feel as if their complaint is being taken more seriously, and who might gain more confidence in the complaints process as a result. Internal Affairs can also provide complainants with the name and phone number of a Boston Police Department Officer or CO-OP member to contact if their address or phone number changes. This could reduce or eliminate the problem of finding notification letters never reaching complainants because of old mailing addresses.

Mediation

While over half of survey respondents were in favor of mediation as an option for complaint resolution, it seemed that respondent willingness to engage in mediation was heavily dependent on the nature of the complaint and the complainant's interaction with the subject officer. Some complainants indicated they would be extremely uncomfortable interacting with the subject officer and would certainly decline mediation; some complainants suggested that mediation alone was not sufficient, and they wanted the officer to be disciplined. Mediation therefore might work well for some types of allegations and for some investigations, but it cannot replace an investigation for all types of allegations.

The Boston Police Department might consider offering mediation as an opt-in elective for complainants, to ensure that complainants who are intimidated to meet with the subject officers do not feel obligated

to do so. After a successful mediation complainants could opt-out of pursuing an investigation. This might reduce the Internal Affairs workload and increase complainant satisfaction with the complaints process.

The New York City CCRB offers mediation as an option for complaints in which no property is injured or damaged and when there are no civilian arrests. In 2007, the CCRB successfully mediated 97 complaints. They report that mediation can be successful: “officers have a better sense of what caused a civilian to file a complaint, and civilians have a better sense of what officers do and why they do it. Oftentimes, mediation builds trust and respect between a civilian and an officer, which in turn can lead to more positive relations in the community in general.”³⁰ Additionally, a 2008 study by the CCRB found that officers who participate in mediation are less likely than officers who do not to receive future complaints.

One difficulty the CCRB has faced is that complainants who agree to mediate a case may not show up to mediation sessions. As a result, more than half of the cases eligible for mediation were not successfully mediated.

³⁰ New York City Civilian Complaint Review Board (January-December 2007). *Status Report* (Vol. XV, No.2), p.16. Available at: http://www.ci.nyc.ny.us/html/ccrb/pdf/ccrbann2007_A.pdf.

Conclusion

The results of this three-month research study indicate that there is no simple explanation for why eligible appellants are not filing appeals. Survey responses suggest that a major barrier for many complainants is that they did not understand how to file an appeal; only one respondent had heard of the CO-OP prior to the survey. Others had mistaken impressions about the appeals process, including the belief that Internal Affairs handled appeals. A serious challenge facing the CO-OP is that the majority of survey respondents had a negative experience filing a complaint with the Boston Police Department, which led to fears and low confidence in the rest of the complaints review process, extending to appeals. The research also suggests that mediation may be a successful means of alternative complaint resolution for some complainants, but not all.

Some of the recommendations in this report will be easily and inexpensively implemented; others will require long-term attention. However, all modifications proposed in this report can help not only to raise the number of appellants, but also to increase community trust and confidence in Internal Affairs and the Boston Police Department, and to improve satisfaction with the complaint process.

APPENDED MATERIALS



HARVARD Kennedy School
JOHN F. KENNEDY SCHOOL OF GOVERNMENT

79 John F. Kennedy Street
Cambridge, MA 02138
phone: 617.495.5188

November 5, 2008

Dear _____:

In a few days, you will receive in the mail a request to complete a brief anonymous questionnaire for a research study conducted by Harvard University researchers.

The questionnaire deals with the Community Ombudsman Oversight Panel (CO-OP). The CO-OP is an independent civilian board appointed by the Mayor. The CO-OP reviews Boston Police Internal Investigations cases which are appealed by complainants (individuals who filed complaints to the Police Department).

You are receiving this letter because records indicate that you submitted a complaint to the Boston Police Department. You were eligible to appeal the finding, but the CO-OP did not receive an appeal from you.

Please note, this research is NOT being conducted by the Mayor's Office, the CO-OP, or the Boston Police Department. All of your responses will be kept strictly confidential – no-one outside of Harvard University will see them – and your responses are anonymous. It will not be possible for us to connect your questionnaire to your address or to your name.

The questionnaire that you will receive includes a few short questions asking you about your experience and understanding of the process of submitting an appeal through the CO-OP. Your participation will help Harvard researchers understand why some people **do not** submit appeals through the CO-OP, and will help us make recommendations to improve the appeals process.

Your participation and completion of the questionnaire is voluntary, but will help tremendously – your response will make a difference. If you would like more information about the study, please contact Christine Cole at 617-495-5188 between 9am and 5pm. We will be more than happy to answer any of your questions.

Thank you for your time. Your assistance will help make this study successful.

Sincerely,

Christine M. Cole
Harvard University



HARVARD Kennedy School
JOHN F. KENNEDY SCHOOL OF GOVERNMENT

79 John F. Kennedy Street
Cambridge, MA 02138
phone: 617.495.5188

November 10, 2008

Dear _____:

We are asking for your help completing a short anonymous questionnaire for a research study conducted by Harvard University researchers.

This questionnaire deals with the Community Ombudsman Oversight Panel (CO-OP). The CO-OP is an independent civilian board appointed by the Mayor. It reviews Boston Police Internal Investigations cases which are appealed by complainants (individuals who submitted complaints to the Police Department).

You are receiving this letter because records indicate that you submitted a complaint to the Boston Police Department and were eligible to appeal the finding, but the CO-OP did not receive your appeal.

Please note, this research is NOT being conducted by the Mayor's Office, the CO-OP, or the Boston Police Department.

Attached, you will find the questionnaire. **All of your answers will be kept strictly confidential – no-one outside of Harvard University will see them – and your responses are anonymous. It will not be possible for us to connect your questionnaire to your address or to your name.**

The questionnaire consists of a few short questions asking you about your experience and familiarity with the process of submitting an appeal through the CO-OP. There are also a few personal questions, which will be used only for background information and statistical purposes. Please complete the questionnaire at your earliest convenience, and return it in the stamped envelope provided.

You will also find a stamped postcard enclosed in this package. When you complete the survey, please mail the postcard separately. When we receive the postcard, we will remove your address from our list of survey participants (so that you will not receive any future mailings from us regarding this survey), but it will not be possible for us to connect your survey to the postcard, to your address, or to your name, which ensures your anonymity.

Your participation will help Harvard researchers understand why some people do not submit appeals through the CO-OP, in order to make recommendations to improve the Appeals process at the CO-OP. Your completion of the

questionnaire is voluntary, but will help tremendously – your response will make a difference. If you would like more information about the study, please contact Christine Cole at 617-495-5188 between 9am and 5pm. We will be more than happy to answer any of your questions.

Thank you again for your contribution to this study.

Sincerely,

Christine M. Cole
Harvard University

Confidentiality Statement and Research Description

Please carefully consider this information about your participation in the research.

Purpose of the research:

The purpose of the inquiry is to understand experiences with the appeals process for complaints filed against officers in the Boston Police Department through the Community Ombudsman Oversight Panel or Civilian Review Board (hereafter referred to as the CO-OP).

The CO-OP is a three person independent civilian board appointed by the Mayor that is empowered to review Boston Police Internal Investigations cases appealed by complainants.

Why you have been contacted:

You have been contacted because records indicate that you filed a complaint with the Boston Police Department that was found 'not sustained', 'unfounded', or 'exonerated', and that you did *not* appeal to the CO-OP to review your complaint.

What you will do in this research:

You will complete a questionnaire designed by researchers at the Harvard University Kennedy School of Government. The researchers are not affiliated with the Boston Police Department or the CO-OP.

Time Required:

Participation will take approximately 20 minutes of your time.

Risks:

There are no anticipated risks associated with participating in this study.

Benefits:

This study may serve as the foundation for future research or a report and as such, your anonymous comments may be included in a future proposal. If you wish to be kept informed about future research, you may send an email to Christine_cole@harvard.edu or telephone 617-495-7291.

Compensation:

There is no compensation provided for your participation.

Confidentiality:

Your participation is completely anonymous and your responses will be kept confidential. No identifying information will be provided to the research team, the Boston Police Department, or the CO-OP and no identifying information will be collected in the survey. Some of the insights gained from the survey may be shared with members of the Boston Police Department administration and the CO-OP, however no responses will be attributed to any specific participant.

Participation and Withdrawal:

Your participation in this study is completely voluntary and you may withdraw at any time.

Contact:

If you have any questions about this research, please contact Christine Cole, Executive Director, Harvard Kennedy School Program in Criminal Justice Policy and Management at christine_cole@harvard.edu or 617-495-7291. You may also contact Professor Anthony Braga, Lecturer and Senior Researcher, Program in Criminal Justice Policy and Management at anthony_braga@harvard.edu or 617-495-5188.

Whom to contact about your rights in this research or questions, concerns, suggestions, or complaints that are not being addressed by the research team:

Jane Calhoun, Harvard University Committee on the Use of Human Subjects in Research, 50 Church Street, Room 533, Cambridge, MA 02138. Phone: 617-495-5459. Email: jcalhoun@fas.harvard.edu

If you are under the age of 18, you must have a parent or legal guardian sign the following consent form before you participate in this survey:

Informed Consent for Minors to Participate in a Research Study

We are inviting your minor child to take part in a research study on the appeals process for complaints filed against officers in the Boston Police Department through the Community Ombudsman Oversight Panel or Civilian Review Board. Your child does not have to participate if he or she does not want to, or if you do not give your consent for him or her to participate. If you would like to consent to allow your child to take part in this study, please complete this form.

You are making a decision whether or not to have your child participate in this study. Your signature indicates that you have read the information provided above and have decided to allow your child to participate.

Signature of Parent/Guardian
or Legally Authorized Representative

Date

SECTION A:

The following 5 questions ask you about your expectations of the complaints investigation process.

Please circle your response:

- | | | | |
|--|----------------------|----|-----------------|
| 1. Do you believe that the Boston Police Department investigated your complaint <i>professionally</i> ? | YES | NO | SOMEWHAT |
| 2. Do you believe that the Boston Police Department investigated your complaint <i>in a timely manner</i> ? | YES | NO | SOMEWHAT |
| 3. Do you believe that your complaint <i>was taken seriously</i> by the Boston Police Department? | YES | NO | SOMEWHAT |
| 4. Did you expect the Boston Police Department to make a <i>formal decision</i> (ie. a finding of Sustained, Not sustained, Unfounded, or Exonerated) on your complaint? | YES | NO | |
| 5. What is more important to you, that the police department <i>conducts an investigation</i> – or the <i>formal decision</i> that you are given? Please explain. _____ | POLICE INVESTIGATION | | FORMAL DECISION |
-

SECTION B:

The following 10 questions ask you about your familiarity with the process of filing an appeal with the CO-OP (Community Ombudsman Oversight Panel). The CO-OP is an independent civilian board appointed by the Mayor that is empowered to review Boston Police Internal Investigations cases appealed by complainants.

Please circle your response:

- | | | | |
|---|-----|----|----------|
| 1. Did you receive a letter in the mail telling you the finding of your complaint (for example: a finding of unfounded, not sustained, exonerated, or sustained)? | YES | NO | |
| 2. Did you understand the letter’s explanation of the finding? | YES | NO | |
| 3. Did you know that you could file an appeal? | YES | NO | |
| 4. Did you receive information on how to file an appeal? | YES | NO | |
| 5. Did you understand how to file the appeal?
If you responded “No” or “Somewhat”, please explain: _____ | YES | NO | SOMEWHAT |
-
- | | | | |
|--|-----|----|----------|
| 6. Did you ask for help filing an appeal from anyone in the <i>Boston Police Department</i> ? | YES | NO | |
| 7. Did you ask for help filing an appeal from anyone in the <i>CO-OP</i> ? | YES | NO | |
| 8. Did you feel rushed to submit an appeal? | YES | NO | SOMEWHAT |
| 9. Were you discouraged at any point from submitting an appeal by a Boston Police Department official?
If you responded “Yes” or “Somewhat”, please explain: _____ | YES | NO | SOMEWHAT |

10. Were you concerned there might be negative consequences if you filed an appeal? YES NO

If you responded “Yes”, please explain what consequences you thought you might face: _____

SECTION C:

Records indicate that you did not file an appeal. We are trying to understand factors influencing your decision *not* to appeal – how important were each of the following in your decision not to appeal? Please circle your response (one per question):

	Not at all important	Slightly important	Moderately important	Very important	Extremely important
1. Not enough information on the process of how to appeal	1	2	3	4	5
2. Not enough confidence in the police – it “wouldn’t do any good” to appeal	1	2	3	4	5
3. Not enough confidence in the CO-OP – it “wouldn’t do any good” to appeal	1	2	3	4	5
4. It involved too much time and effort to appeal	1	2	3	4	5
5. The incident took place too long ago to be worth appealing	1	2	3	4	5
6. I missed the deadline for appealing	1	2	3	4	5
7. The complaint wasn’t serious enough to warrant the effort of appealing	1	2	3	4	5
8. It was not important to me how the Department responded to my complaint	1	2	3	4	5
9. I was satisfied with the finding on my complaint	1	2	3	4	5
10. A Boston Police Department official discouraged me from appealing	1	2	3	4	5
11. Appealing might get me in more trouble	1	2	3	4	5
12. Other – please specify: _____	1	2	3	4	5

Would you be *more likely* to file an appeal if:

	Not at all more likely	Slightly more likely	Moderately more likely	Significantly more likely
1. You had additional information on how to appeal	1	2	3	4
2. It was less complicated to appeal	1	2	3	4
3. The information was available in a different language (<i>If so, which language? _____</i>)	1	2	3	4
4. You were given more time to file the appeal	1	2	3	4
5. You had stamps, envelopes, or a way to deliver the appeal to the CO-OP	1	2	3	4
6. You could file an appeal by phone	1	2	3	4
7. You could file an appeal by email	1	2	3	4
8. You could file an appeal online	1	2	3	4
9. The incident was more serious	1	2	3	4
10. You had more confidence that the process would be fair	1	2	3	4

SECTION D:

The following questions address familiarity with and perceptions of the complaints and appeals process. Please check as many responses as apply.

1. Who do you believe reviews your case *if you submit an appeal*?

- Police officers
- Police internal affairs division
- Other: _____
- CO-OP
- Mayor's office
- I don't know

2. Where do you think you can send an appeal? (check all that apply)

- A Boston police station
- Online
- Other: _____
- CO-OP
- Mayor's office
- I don't know

3. Had you heard about the CO-OP, prior to receiving this survey? YES NO

If "yes", how did you hear about it?

- | | |
|--|---|
| <input type="checkbox"/> Friends or family | <input type="checkbox"/> CO-OP member |
| <input type="checkbox"/> Police department | <input type="checkbox"/> Brochure in the mail |
| <input type="checkbox"/> Police or City Hall website | <input type="checkbox"/> Media |
| <input type="checkbox"/> I don't know / I can't remember | |
| <input type="checkbox"/> Other: _____ | |

4. Have you heard about other cases that have been reviewed by the CO-OP? YES NO

If "yes", what have you heard?

5. Mediation is a conversation between a person who has filed a complaint and the police officer against whom the complaint was filed. The conversation is mediated by an external third party *not* employed by the Boston Police Department. If an option of mediation were available to you, would you have pursued it as an option for resolution of your complaint? YES NO

Why or why not?

SECTION E:

The following questions address your perceptions of the fairness of the investigation and review of complaints and appeals. Please circle your response (one per question):

	Very unfair / Very biased	Somewhat Unfair / Somewhat biased	Neutral	Somewhat fair / Somewhat unbiased	Very Fair / Unbiased	No Opinion
1. Do you think the Internal Affairs division of the Boston Police Department is fair in its investigation of complaints?	1	2	3	4	5	6
2. Do you think the Internal Affairs division of the Boston Police Department was fair in its investigation of <i>your complaint</i> ?	1	2	3	4	5	6
3. Do you think the CO-OP would be fair in its review of appeals?	1	2	3	4	5	6
4. Do you think the CO-OP would be biased toward police officers in its review of <i>your case</i> ?	1	2	3	4	5	6

SECTION F:

The following questions are demographic. Your responses will be used solely for statistical purposes and cannot be used to identify you.

What is your age? _____ years

What is your gender? Male Female

Racial/ethnic background (check all that apply)

- _____ Black or African-American
- _____ White or Caucasian
- _____ Haitian
- _____ Cape Verdean
- _____ Hispanic or Latino
- _____ Asian or Pacific Islander
- _____ Native American
- _____ Other: _____
- _____ Prefer not to respond

What is the highest level of education you have completed?

- _____ No formal schooling or less than high school
- _____ High school / GED
- _____ Technical school graduate
- _____ Some college
- _____ College graduate
- _____ Postgraduate

Have you served in the Armed Forces?

- _____ Yes _____ No

What is your marital status?

- _____ Single
- _____ Married
- _____ Separated
- _____ Divorced
- _____ Widow/Widower

What is your family's primary source of income?

- _____ Work
- _____ Savings or investments
- _____ Welfare or other public assistance
- _____ Disability or unemployment insurance
- _____ Retirement
- _____ Other (specify _____)

What has been the primary source of income for the past 6 months?

- Work
- Savings or investments
- Welfare or other public assistance
- Disability or unemployment insurance
- Retirement
- Other (specify _____)

What was the outcome of your most recent complaint submitted to the Boston Police Department? (check all that apply)

- My complaint was found "not sustained"
- My complaint was found "unfounded"
- My complaint was found "exonerated"
- On-going / have not heard back
- Not sure / did not understand

Have you filed other complaints with the Police Department before? YES NO

<p>If YES:</p> <p>How many complaints have you filed previously? _____</p> <p>How many were sustained? _____</p>

Would you file a complaint again? YES NO

Why or why not?



79 John F. Kennedy Street
Cambridge, MA 02138
phone: 617.495.5188

December 5, 2008

Dear _____:

A few weeks ago, a questionnaire was sent to you concerning your familiarity and experience with the Appeals process through the Community Ombudsman Oversight Panel (CO-OP). Please note, **this research is NOT conducted by the Mayor's Office, the CO-OP, or the Boston Police Department but by researchers from Harvard University.** We are writing to ask you for your assistance in completing it. For your convenience, a second copy is included here.

We greatly appreciate your time in completing this questionnaire in order to make this research as accurate as possible – to best make recommendations to improve the CO-OP appeals process, we hope to get input from all people who were eligible to appeal, including you.

Please return the questionnaire in the stamped envelope provided. If you have any questions or comments, please call Christine Cole at 617-495-5188.

If you have already returned the questionnaire, we want to sincerely thank you for your help with this research. Your responses will help Harvard researchers better understand why some people do not submit appeals through the CO-OP, and will help us make recommendations to improve the Appeals process at the CO-OP.

Thank you again for assisting with this research project.

Sincerely,

Christine M. Cole
Harvard University

GLOSSARY

Internal Affairs Department Findings

A complaint may result in any of the following findings defined below:

SUSTAINED: Investigation disclosed sufficient evidence to support allegations in the complaint. If it is a criminal case, it is presented to proper prosecuting authorities.

NOT SUSTAINED: Insufficient evidence available to either prove or disprove the allegations in the complaint. The police officer is considered innocent until proven guilty.

UNFOUNDED: The complaint was not based on facts, as shown by the investigation, or the incident complained of did not occur.

EXONERATED: The action complained of did occur, but the investigation disclosed that the actions were reasonable, lawful, and proper.

Allegation Definitions

CONDUCT: Employees shall conduct themselves at all times, both on and off-duty, in such a manner as to reflect most favorably on the Department. Conduct unbecoming an employee shall include that which tends to indicate that the employee is unable or unfit to continue as a member of the Department, or tends to impair the operation of the Department or its employees.

CONFORMANCE TO LAWS: Employees shall obey all laws of the United States, of the Commonwealth of Massachusetts, all City of Boston ordinances and by-laws and any rule or regulation having the force of law of any board, officer, or commission having the power to make rules and regulations. An employee of the Department who commits any criminal act shall be subject to disciplinary action up to and including discharge from the Department. Each case shall be considered on its own merits, and the circumstances of each shall be fully reviewed before the final action is taken.

INVESTIGATION OF USE OF FORCE: This Department will thoroughly investigate every incident in which an officer strikes someone with any object or an incapacitating agent is used on a subject, or when a visible injury has occurred in the course of an arrest.

All such applications of force shall be immediately reported verbally to the involved member's patrol supervisor. By the end of the tour of duty, an officer who has used non-lethal force shall make out a written report describing the incident including the names of the officer and other persons concerned, the circumstances under which such force was used, the nature of any injury inflicted and the care given afterwards to the injured party. Prior to the end of the tour of duty, the Patrol Supervisor shall conduct a thorough investigation on the use of such non-lethal force and submit a report to the Commanding Officer. Such report shall include the Patrol Supervisor's findings and recommendations based upon the assessment of facts known, as to the justification for the use of force. A complete Patrol Supervisor's investigation shall consist of the following, where applicable:

1. Patrol Supervisor's investigative report;
2. A copy of the incident report, BPD Form 1.1;
3. Reports from the officer(s) alleged to have utilized non-lethal force;
4. Reports from all Department personnel that were present;
5. Reports on all interviews of civilian witnesses to the incident.

At the discretion of the involved member's Commanding Officer, further investigation of the incident may be undertaken. Once all the facts have been compiled and substantiated, the Commanding Officer shall submit a report of the incident through channels to the Police Commissioner within seven (7) days.

Once the Police Commissioner indicates that the report and the associated investigation is satisfactory, copies of every such report shall be forwarded to the Bureau of Professional Standards and Development, the Human Resources Division and the Training and Education Division. The Bureau of Professional Standards and Development and the Training & Education Division shall maintain a comprehensive file of all use of force reports. Further, the Bureau of Professional Standards and Development, acting on its own authority may, or

at the request of the Police Commissioner shall, investigate all incidents involving the use of non-lethal force that, based on the information at hand, indicate non-compliance with Department policy. The Bureau of Professional Standards and Development shall forward the results of all investigations undertaken to the Police Commissioner, who may accept it and act upon its recommendations, in total or in part, or return the report with a request for further information or clarification. In every case, the authority and responsibility for final departmental disposition of a Use of Non-Lethal Force incident rests solely with the Police Commissioner.

Note: Rule 304, issued by Special Order 94-37 on October 11, 1994, was amended by the issuance of Special Order 95-16, which made clear what constitutes a proper Patrol Supervisor's report (see section 7, para 3).

PRISONER BOOKING PROCEDURES: All persons taken to a station house under arrest shall be placed before a Booking Officer where they shall be booked under the direction of the Duty Supervisor or his designee. The Duty Supervisor's authority to designate officers to process prisoners does not relieve the Duty Supervisor of his responsibility for the booking process.

No person may be designated as a Booking Officer unless they have been trained in the use and operation of the Integrated Identification Imaging System. Arresting officers, regardless of whether or not they have been so trained, shall not serve as the Booking Officer for their own prisoner(s).

In addition, no person may operate an Integrated Identification Imaging System terminal unless they have been trained in their use and are properly logged onto the system. Duty Supervisors and designated Booking Officers shall ensure that they properly log on and off the system to prevent unauthorized persons from gaining access to it.

The Duty Supervisor will also designate a Boston Police Officer to conduct a search of the person and be responsible for the removal of all personal property from the prisoner. The searching officer will ensure that all items, such as belts, neckties, boots, shoes and laces, or any article which might be used for suicidal purposes are taken from the prisoner, whether during an original booking or a prisoner being received from another police facility, whether or not previously booked.

The Booking Officer shall book, photograph and fingerprint all arrested persons using the Integrated Identification Imaging System. In so doing, the Booking Officer shall:

A. Properly complete the computerized Booking Sheet. (All appropriate spaces on the Booking Sheet shall be completed.)

B. Ensure that they properly photograph any visible scars, marks, tattoos, injuries or amputations of all prisoners being booked.

C. Ensure that the prisoner's personal property is properly inventoried.

Ensure that all money and other property taken from a prisoner shall be placed in a Prisoner's Property Envelope and that the property is safeguarded in accordance with Department policy and procedures. (Refer to Section 7 of this rule.)

The legitimate purposes of an inventory (custodial) search are: (1) the safeguarding of the prisoner's property, (2) the protection of police officers from charges of theft, (3) the ascertainment of or the verification of the identity of a prisoner and (4) the keeping out of the cells anything dangerous to the prisoner, other prisoners, visitors, and police officers. While conducting an inventory (custodial) search, a police officer may open a closed container and examine its contents solely to meet the legitimate purposes of the inventory (custodial) search stated above. Documents or other records may be read or otherwise examined only to the extent necessary for such inventory purposes, including identity checking, and ensuring the arrestee's physical well-being.

In the case of large sums of money or property of unusually high value coming into the custody of the Department, the District Commander shall take whatever precautions necessary to safeguard that money or property.

D. Ensure the removal from the prisoner(s) of belts, neckties, boots, shoes, and any other property which may be used for suicidal purposes.

E. Check the state's on-line suicide list prior to transmitting an arrested person's booking information to the Identification Unit for verification.

F. Upon completion of the booking process, transmit the booking information to the Identification Unit for acceptance, verification and confirmation. Prisoners shall then be eligible for bail in accordance with the restrictions stated below in Section 7, Booking Verification, "Bail Considerations".

G. When a prisoner is being surrendered to another facility, the Juvenile Pre-Arrestment Facility or another law enforcement agency, the prisoner's property shall be handed over to the officer responsible for transporting the prisoner accompanied by a Prisoner Transportation Sheet and a Booking Sheet for each prisoner so transferred. The transporting officer shall acknowledge receipt of the prisoner's property by signing the arrest sheet above the signature of the prisoner.

The transporting officer shall deliver the prisoner's property and the above forms to the person in charge at the receiving District or agency who shall care for the prisoner's property in accordance with the provisions of this rule. In the case of the Juvenile Detention Facility, the Transporting Officer should deliver the property to the Duty Supervisor or the person in charge of that facility.

PRISONER INSPECTION: The Duty Supervisor or the Director of the Juvenile Pre-Arrestment Facility shall visit, or cause to be visited, all persons in their custody at least once every fifteen minutes, and shall ensure that each visit is recorded in the Prisoner Inspection Record.

NEGLECT OF DUTY: This includes any conduct or omission which is not in accordance with established and ordinary duties or procedures as to such employees or which constitutes use of unreasonable judgment in the exercising of any discretion granted to an employee.

RESPECTFUL TREATMENT: Employees shall, on all occasions, be civil and respectful, courteous and considerate toward their supervisors, their subordinates and all other members of the Department and the general public. No employee shall use epithets or terms that tend to denigrate any person(s) due to their race, color, creed or sexual orientation except when necessary in police reports or in testimony.

SELF IDENTIFICATION: General Law, Chapter 41, Section 98D, requires every officer to carry his identification card with photograph and exhibit this card upon a lawful request for purposes of identification. Any officer, acting in his official capacity, shall give his name, rank and badge number, in a civil manner to any person who may inquire unless he is engaged in an undercover police operation and his physical safety or the police operation would be jeopardized by his making such identification.

DETAIL CARDS: Police Officers shall be personally responsible for submitting detail cards which accurately reflect the actual hours worked and shall not accept payment for hours not worked except where the "Four Hour Minimum" rule applies. Detail Cards must be submitted on a timely basis and for all details, including the cash details allowed by this rule. In the event that payment for the detail is made by other than a City of Boston payroll check, the detail card shall clearly indicate the method of payment.

DEPARTMENTAL REPORTS - TRUTHFULNESS: Employees shall submit all necessary reports on time and in accordance with established Departmental procedures. Reports submitted by employees shall be truthful and complete. No employee shall knowingly enter, or cause to be entered, any inaccurate, false or improper information.

USE OF NON-LETHAL FORCE: For the purpose of this Rule the following definitions will apply:

1. Reasonable Amount of Force is the least amount of force that will permit officers to subdue or arrest a subject while still maintaining a high level of safety for themselves and the public.
2. Non-Lethal Force is that amount of force that will generally not result in serious bodily injury or death.
3. Prudence is cautious, discreet, or shrewd action having due regard for the rights of citizens while maintaining an awareness of the responsibilities of a police officer.
4. Reasonableness means within reason, moderate and/or fair action suitable to the confrontation. The final decision as to the prudence and reasonableness of a police action will be determined on a case by case basis by those members of the Department called upon to judge the propriety of a fellow officer's action. Such judgments may not conflict with the expressed provisions of this or any other rule or order.

The policy of the Boston Police Department is to use only that amount of force that is reasonably necessary to overcome resistance in making an arrest or subduing an attacker. The right to use non-lethal force is extended to police officers as an alternative in those situations where the potential for serious injury to an officer or civilian exists, but where the application of lethal force would be extreme.

The availability of a variety of non-lethal weapons is necessary to provide the police officer with a sufficient number of alternatives when presented with a physical confrontation. However, since such force will not likely result in serious injury and the close public scrutiny that accompanies the use of deadly force, this availability

may also increase the possibility for overzealous and inappropriate use of force. Therefore, application of non-lethal force will generally be limited to defensive situations where (1) an officer or other person is attacked, or (2) an officer is met with physical resistance while making an arrest. An officer may also use non-lethal force if, in the process of making an arrest, the officer is met with passive resistance, i.e., an individual who refuses to get out of an automobile, or a protester who is illegally occupying a particular place. Such force should be limited to the absolute minimum required to move the subject. An officer who encounters resistance should be assisted by any other officers present. Two or more officers may effect an arrest, without the use of force which one officer cannot complete without resorting to the use of force.