



CITY OF BOISE
Office of Police Oversight



2020 Annual Report

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Introduction

Each year the Office of Police Oversight (OPO) compiles a comprehensive report of its operations to include figures on the number of complaints and investigations opened. In the following sections of this report, we outline how the OPO operates and provides oversight of the Boise Police Department (BPD.)

Police Oversight in Boise

Our Story

In 1999, Boise instituted the Office of the Community Ombudsman after mounting demands from the community in the wake of several officer involved shootings that left eight people dead, including a Boise Police officer. ¹ The City established an independent office to investigate complaints of misconduct by Boise Police Officers.

The City performed a broad analysis of contemporary and effectual oversight mechanisms that were being employed across the United States and assembled them into one oversight program. Boise's oversight model combined the best aspects from two-prevailing oversight models, the investigative/Review and Monitor/Audit. This Oversight model gave authority to independently investigate and interview officers. It enabled the auditing of Internal Affairs investigations, accept appeals from BPD investigation findings and provide recommendations on policy. Furthermore, Oversight was empowered by City Code to unrestricted access to all City information, documents, and files in the performance of its duties. These mechanisms provide unique capabilities to provide meaningful and effectual oversight of the police department.

Boise's oversight model has been studied by municipalities looking to implement their own oversight programs or revamp outdated existing systems. It has been cited as a "model system" by police oversight experts. ² The OPO has consulted with out of state community advocates seeking to establish police oversight. The National Association of Oversight of Law Enforcement (NACOLE) has referred communities seeking to develop oversight to the OPO and researchers have sought out the OPO for inclusion in studies.

The City of Boise OPO is the only law enforcement citizen oversight body in the State of Idaho. In Idaho's Indian country, the Shoshone-Bannock Tribe established a Citizen Review Board.

Transformation from the Community Ombudsman to the Office of Police Oversight

Until 2013, the Ombudsman operated with full time staff initially three full time staff then eventually two fulltime staff. It has always operated with three on-call /part-time investigators. The office also utilized volunteers. In 2012, the Ombudsman position became vacant and a search began. In 2013 the administrative position became vacant before the Ombudsman position was

¹ Idaho Statesman (September 28, 2000)

² Idaho Statesman (September 15, 1999)

filled. A part-time investigator monitored the office. The physical office had been moved from the 3rd floor of City Hall to an office on the first floor within the Human Resources Department. This allowed the public to have direct access from a street entrance.

In 2015, the City hired a part-time Director. The City re-named the office to the Office of Police Oversight to clarify the purpose of the office. On day one, the Director screened calls, conducted intakes and investigations, met with members of the public, organizations, and media.

"You are honest, fair, objective and balanced. I thank you for looking out for all of our interests."

-Linda Dixon, Boise, Idaho

Over the past 5 years the OPO operations were re-organized and re-built as follows:

<p>Provided the Mayor a 30-day assessment of the prior Ombudsman's operations and recommended updates on:</p> <ul style="list-style-type: none"> - needed operation changes - facilities - workload - staffing - Outreach, and - Set goals <p>Established a reporting schedule for the Mayor's office</p> <p>Continued taking complaints and clear backlog investigations</p> <p>Responded to Critical Incidents</p> <p>Evaluated Ombudsman office operations, practices, and procedures</p> <p>Re-structured the organization to meet the OPO's philosophy of police oversight based on front-end and back-end oversight</p> <p>Reviewed BPD policies and procedures, provided recommendations</p> <p>Updated OPO file management system</p> <p>Archived outdated materials</p> <p>Completed the transformation from paper to paperless</p> <p>Interviewed and secured the return of three investigators</p> <p>Drafted new job description for Investigators, set expectations</p>	<p>Established and maintain a team culture</p> <p>Identified development opportunities, organizational skills assessment, and staffing needs</p> <p>Joined professional organizations³ for access to trainings, skill development, professional auditing practices, insight into changes in policing, policy, access to latest community recommendations, data, research, and forums focusing on reform and challenges</p> <p>Interviewed and established relationships with City partners</p> <ul style="list-style-type: none"> - HR -Legal -Risk Management (RM) - IT -Public Relations (PR) -Community Engagement (CE) -City Auditors (CA) -Facilities -Security <p>Scheduled re-occurring meetings with HR and RM</p> <p>Established relationships and a communication system with the Chief of Police and command staff including the Captain of OIA</p> <p>Engaged in dialogue, consulted with, and provided recommendations to the Chief and Captain of OIA on operational management issues</p>	<p>Refined auditing tools and practices to ensure the audit results were meaningful to the BPD OIA</p> <p>Created community outreach plans, connected to community members, and participated in relevant community events</p> <p>Collaborated with CE and PR on re-designing content for the OPO website</p> <p>Formed relationships in police, oversight and community organizations to study reforms, proposed laws, policies and community policing strategies and activities</p> <p>Responded to media requests</p> <p>Addressed workplace and security needs</p> <p>2016 added a temporary full-time employee to assist with re-organizing, backlog, and community service</p> <p>Managed turnover in investigations and Analyst in 2016 and 2017. Drafted new job description for the Analyst to address skills needed for the OPO operations. Permanent staff would remain part-time</p> <p>Responded to professional surveys to give feedback on police reform</p> <p>Most of the above actions continue</p>
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³ National Association of Citizen Oversight of Law Enforcement (NACOLE); Association of Local Governmental Auditors (ALGA); and Police Executive Forum

Some of these operational changes were intended to build an infrastructure to ensure that the organization would operate consistently even with turnover. This was put to the test at the end of 2018 and early 2019, when the Director temporarily accepted the assignment of Interim City Attorney. An investigator became the Interim Director and office continued to operate with little disruption.

In 2018, HR determined that additional space would be required. In 2019, it was decided that the OPO would be moved to another space within City Hall. In early 2020, the OPO relocated to the current 1st floor office. The office continues to have its own direct street access for the public.

Throughout 2020, the OPO stayed in communication with influencers in the community, answered questions, spoke with the media providing information about oversight in Boise and in general. The Director attended in person gatherings and meeting prior to the Covid-19 shutdown. OPO provided feedback to community groups, community leaders and BPD Leadership. The OPO facilitated meetings for the OPO and between BPD command staff and members of the community. OPO spoke to community groups in presentation and in question and answer formats. We participated in numerous individual phone call. The Director spoke to and consulted with community leaders prior to and following protests.

The OPO followed the national movements immediately following the death of George Floyd. Even prior to 2020, the OPO was aware of demands for police reform and has monitored recommendations from national organizations, state legislators, local governments, communities, and the federal government.

The Team

The OPO is staffed by a multi-disciplinary team. Combined, the staff has over 100 years of experience in criminal justice, law, civil rights, law enforcement, investigations, internal affairs, first responder experience, human resources, policy analysis, policy development, leadership, and community engagement. Staff experience also includes detention, probation and parole, training, police oversight, prosecution, and

"It's about trust. When I receive a call from my community with a concern about the police, I know I can refer them to you. You will respect them and help them. If it is something you are not able to assist them with, you give them trustworthy advice and referrals."

-Liz Ell-Mummey, President – Native American Coalition of Boise (NACOB)

decertification of police. Each team member brings a diverse background, diverse set of skills and experiences to performing the work of the OPO.

Oversight's Influence on the Boise Police Department.

It has taken time to build trusted professional relationships within the BPD. The work has given OPO access, lines of communications, and built credibility which helps to give weight to recommendations given by the OPO to BPD leadership. Since 2015, the OPO has made recommendations on the following through front-end and back-end oversight. Front-end oversight is the examination of the department operations to

understand its culture, operations management, and systems. This is an opportunity to change systems, operations and culture that may be the root causes of citizen and department-initiated complaints. Front-end oversight allows for system wide changes. Back-end oversight refers to specific investigations of certain officers and their outcomes. Back-end oversight focuses on changing the behavior of one person and potential learning opportunities for supervisors.

Over the past five years, the OPO has consulted, advised, and made recommendations to BPD leadership. The following are examples, but is not an all-inclusive list:

- Current and new policy and procedures
 - Discussed vague language in policies, the pros, and cons of such policies
 - Reviewed and made recommendations on Body Worn Camera policy
 - Recommended clearer OIA investigation procedures
 - Requested BPD utilize chosen names when investigating crimes against members of the transgender community
 - Evaluated and made recommendations on the BPD response to 8 Can't Wait
 - Recommended update of social media policy and training to ensure officers are clear on the Departments policy on posting content that violates department policy, values, or principles
 - Advised the Chief and OIA of the possible conflict between BPD policies and procedures with a Presidential Executive Order and Homeland

"Natalie and the Office of Police Oversight has helped us to build upon our relationship with the Boise Police Department, connected us in the community with other leaders in diverse communities and with policymakers. The OPO have provided us with invaluable education pertaining to criminal justice in general. They have always been supportive of our organization and the community."

-Charles Taylor, President - Treasure Valley NAACP

- Security Memorandum on immigration enforcement.
 - Advised the Chief of Police about potential conflict of interest between proposed state legislation with BPD immigration policy.
- Recommended discipline and / or training based upon specific OPO investigations
- Recommended training
 - Implicit Bias, recommended resources, and collaborated with BPD command to develop and complete training
 - Recommended training based on trends identified from complaints such as investigations into traffic accidents
 - Identifying and investigating hate crimes
 - Met with the Chief and City Attorney's office pertaining to responding to U Visa requests
 - Recommended actions to ensure all officers are meeting their training requirements
- Culture change and development

- Recommended development of a clear vision
- Discussed morale issues, supervision, consistency, accountability, setting expectations, providing equitable support and opportunities for professional development
- Discussed creating a culture that encouraged the living of BPD ethics and values to meet their vision and mission
- Recommended repeated training on implicit bias and being intentional about awareness of bias in all actions of the Department and officers.
- Recommended commitment to diversity, equity, and inclusion for all employees, assisted with developing a strategy to write a Department policy
- Recommended improvements in communications
- Discussed and provided resources for intergenerational management
- Conducted interviews of Command staff to develop recommendations for skills and educational requirement for the Chief search and to gauge morale
- Officer Wellness
 - Made recommendations following OPO investigations or audits
 - Provide recommendations about succession planning within the department's wellness support group
 - Made recommendations on encouraging support systems for female police officers
- Community / relational policing, community engagement and cultural awareness
- Provided introductions to community contacts
- Provided information and education about community events and cultural celebrations
- Community liaison between BPD and community members and organizations
- Assisted the Chief with creating the Chief's Advisory Council and provided recommendations for membership
- Recruitment, hiring and termination practices
 - Evaluated hiring practice, identified potential obstacles, made suggestions to improve diversity within the department
 - Recommended additions to the process for selecting candidates that will be committed to BPD's values and identifying candidate with leadership skills or interest in a career path towards Command
 - Recommended recruitment strategies
 - Recommended review of hiring policies and the policy about marijuana use considering potential candidates may have resided in states where marijuana use is legal, discussed how current policies may impact recruitment and hiring
 - Recommended review of current hiring policies referencing tattoos. Society has changing attitudes towards tattoos so current policy may have a negative impact on recruitment and hiring
 - Provided BPD Command and HR with examples of other police department successful recruitment strategies
 - Recommended utilizing City HR and Legal expertise when making decisions about termination

- Leadership Development
 - Identified leadership development needs and necessary factors to encourage officers to move up the ranks including salary issues, training, support, encouragement and building confidence
 - Encouraged a culture supporting continuing education for officers
 - Recommended Succession planning
 - Identified need for consistent leadership development and management training
 - Provided feedback to Command Staff about coaching, role models, mentoring and sponsoring
 - Reminded newly promoted leadership about the important of modeling good police practices and the importance of accountability
- Provided feedback on blue team investigations resulting from audits, OPO appeals and investigations.
- Participated in Police Chief search and hiring process

Covid-19 OPO office hours changed with new health mandates and city guidelines. The OPO website was updated to reflect any change in office hours as guidelines changed. However, OPO staff were available during regular business hours via telephone, mail and on-line. The OPO finds that most contacts, even prior to COVID, were completed 1) via phone, 2) on-line and 3) walk-ins.

The OPO has found these contact methods have been accessible even by the most vulnerable in our community including those experiencing homelessness, people admitted to local hospitals and senior citizens. Out-of-state complaining parties have also been able to access the office.

Upon receiving a complaint, the OPO may conduct an initial review of the matter to determine the next steps and the appropriate classification. Often, matters brought to the OPO can be resolved through discussions whereby, the OPO provides context and education on policing operations.

Many matters brought to the OPO do not allege a specific allegation of misconduct but, may pertain to general department operations or, enforcement processes. Because of this, the OPO initially classifies most matters as *Inquiry's* until a preliminary review of the matter supports upgrading the *inquiry* to a *Complaint* and formal investigation.

There are times when a complaining party does not wish to file a formal complaint but wishes to make the OPO aware of their concerns. The Director may raise these issues in scheduled meetings with the Chief and Captain of Internal Affairs to make BPD aware of community concerns.

Complaint Process

By City ordinance, the OPO accepts complaints from the community pertaining to the activities of the BPD and any of its officers or civilian employees under defined timeliness requirements. Complaints may be submitted in person, over the telephone, via mail, email and on-line through the City's website. During

2020 Operational Summary

OPO Welcomes a New Investigator

In 2020, the OPO welcomed James Bovet to serve as an investigator filling a vacancy. James brings 30 years of law enforcement experience. He has held positions that included Chief of Police services for the contract city of Santee, California and served two rural communities as a substation commander. His career included positions of training officer, detective, sergeant, lieutenant, and captain. James spent more than half of his career as an investigator and supervising investigative units. He holds an Associate's of Science degree in Computer Information Science and a Bachelor of Science in Criminal Justice. James' addition to the OPO staff will continue OPO's commitment to serving the citizens of Boise by providing functional expertise and knowledge of contemporary policing and investigative techniques.

Community Engagement & Oversight During COVID-19

In 2020, the OPO joined other City departments in reducing in-person operations. However, the OPO continued to receive complaints and other communications from the community. The primary methods of contact with the OPO occurred via telephone and through the OPO's on-line reporting system.

Throughout the pandemic, the OPO continued to investigate concerns and perform the oversight functions of the office remotely. OPO staff who required the use of in-office systems were limited to one person in the office at a time and were expected to maintain social distancing and wear PPE. To

the extent possible, all meetings and interviews that would normally take place in-person were handled via on-line meeting platforms.

The Director and Investigators continued to be called out to critical incidents. The Director met with the BPD Chief in person and virtually based on scheduling. All meetings with Internal Affairs were virtual. Investigators conducted witness interviews both in person and virtually. Safety protocols were diligently followed.

We support Natalie and the Office of Police Oversight model because we have never seen an oversight model that has the kind of access you have in the Boise Police Department."

-Jeanette Williams - NAACP Tri-State Conference of Idaho, Nevada, and



Photo by Daren Oswald, Idaho Statesmen, May 31, 2020. BPD officers stand watch at a demonstration outside of the Capitol.

The OPO provided BPD leadership with recommendations to ensure officers were stewards of the community, acting within policy and the law. Additionally, OPO communicated with community influencers to help educate people on the laws governing the BPD operations. The OPO provided information to BPD leadership with the concerns of community members and influencers during demonstrations. Our goal is that if the BPD is called upon to provide police services for future demonstrations, that all participants will have the ability to exercise their rights while staying safe and that BPD will create a safe environment for all stakeholders.

COVID-19 and its Effect on Policing, Oversight and the Greater Community

Policing During the Pandemic

In March of 2020, Idaho, like other states, reported COVID-19 case. The City of Boise implemented mandates to reduce the spread

of the disease. This included internal protocols for City employees. Initially, the BPD instituted

several operational changes⁴ that affected the way officers performed law enforcement duties and responded to calls for service. Among these changes was a temporary moratorium on sending officers to non-violent calls for service and other matters that could be handled over the telephone. Otherwise, officers still responded to all other calls for service. Despite the new COVID call protocols, BPD call responses initially experienced a decrease in response time during the pandemic with only minor increases in May and August. However, throughout the pandemic, the BPD's average response time to calls was 5.87 minutes and the department remained capable to respond swiftly to emergency calls for service despite experiencing staffing issues due to the virus.

All throughout the COVID pandemic in 2020, BPD officers continued to respond to reports of crimes and public safety matters that placed officers at risk of exposure to the virus. Officers and BPD professional staff were required to utilize face coverings while at work and engaged with others. However, COVID mandates included exceptions for police officers who were engaged in enforcement duties to not wear a mask for specific safety reasons. Masks can obstruct the vision of an officer wearing eyeglasses or cause labored breathing during physical incidents that would put officers, and potentially the public, at risks if safety exceptions for officers were not allowed. However, wearing a mask by officers in all other situations was required by the department.

BPD Response to Demonstrations

The battle with COVID in 2020 forced Boise City officials to convene and make decisions regarding a coordinated community-wide response to the spread of the virus. Some of the decisions made were opposed by certain community members and organizations. Subsequently, there were community demonstrations in Boise requiring BPD officers to be present and keep the peace. BPD officers are sworn to the preservation of individual rights afforded by the Constitutions of the State of Idaho and the United States. When policing a public demonstration or political rally, officers protect people so they may safely exercise their rights.

The OPO received several inquiries into the BPD's handling of alleged law violations committed by persons during some of the demonstrations at city hall, the state capitol, health district offices and at private residences of officials. Some inquires questioned why officers did not make arrests or, why it seemed BPD was not enforcing certain COVID mandates. Police officers cannot make arrests for misdemeanor crimes not committed in their presence as defined by state law⁵. BPD followed up on complaints of crimes with investigations that eventually substantiated that some alleged misdemeanors were committed by certain individuals during public demonstrations. Some of these demonstrators were charged by the city attorney's office for committing misdemeanor crimes because of BPD's follow up investigations.

⁴ <https://www.cityofboise.org/government/data->

⁵ State of Idaho v Clarke, No. 45062 (Idaho June 12, 2019)

Police Reform and the BPD

Nationally, there has been a growing trend in communities for the police to reform their policies, procedures, tactics, and culture in the wake of significant uses of force and Department of Justice (DOJ) investigations. In the wake of the death of George Floyd in Minnesota, communities across the nation have re-evaluated their law enforcement operations amid calls for better accountability of police officers and departments.

This year, the OPO conducted an extensive study of the reforms instituted in the consent agreements enacted between the DOJ and several large cities in the U.S. to gain a better understanding of the specific *patterns and practices* uncovered by the DOJ into allegations of civil rights violations. What the OPO found was that many of the reforms in these consent agreements have long been standard practices in Boise. Such things as requiring officers to record interactions with the persons. Vehicle pursuits for minor offense were eliminated. Independent review and investigation of officer-involved shootings and other significant uses of force have long been employed by the BPD. OPO is committed to audit the systems of Use of Force Reviews to ensure BPD is using the most effective process of review to ensure outcomes are meaningful for training and / or development of officers.

In pursuit of improving service delivery and meeting the needs of the community, the BPD conducted a review of its policies and procedures and made changes that follow recommendations such as, a moratorium on the use of *lateral vascular restraint (LVR)* and

restraint techniques involving the head and neck of a non-compliant person. BPD returned military equipment that was given to the City as part of the Federal "1033 Program."⁶

Many communities have considered the use of mental healthcare specialists to respond to calls of individuals experiencing mental health crisis. BPD has had a mental health coordinator in place for some time. The officer and the specialist work together as the Behavior Health Response Team responding to calls to assist individuals experiencing mental health challenges. BPD has approval to hire a second mental health specialist in 2021 to create another team. The specialists have input in training to assist officers with understanding mental health conditions and how to approach and de-escalate situations.

Going forward, the BPD has committed itself to improving transparency of its operations and has launched new portals and dashboards on its website in support of those efforts. Some national reform demands have called for openness of the disciplinary process for officers accused of wrongdoing. In discussions with the BPD, the department leadership has expressed willingness to be more transparent. However, state law limits what information may be released to the public regarding certain employment records of police officers. Nonetheless, these examples demonstrate that BPD has adopted many police reforms that many communities have yet to implement and continue to be willing to evaluate their practices and procedures.

⁶ KTVB October 12, 2020

OPO Investigation Cases

The following sections explain the cases opened by the OPO in 2020. Included, is discussion on classifying complaint categories, allegations and findings issued.

Cases Opened

In 2020, the OPO opened 61 investigations into matters involving both, citizen concerns and those matters the Director deemed appropriate for investigation. The OPO classified these cases as follows:

Case Types	#
Appeals	2
Commendations	2
Complaints	0
Critical Incidents	2
Information Only	17
Inquiries	38
Total	61

Table 1 - Case classifications of investigations opened by the OPO in 2020.

2020 OPO CASE TYPES

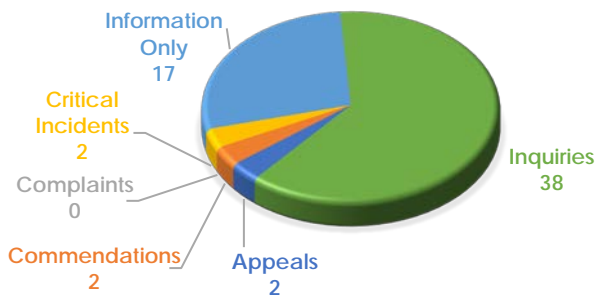


Figure 1 - Distribution of case classifications opened by the OPO in 2020.

The OPO's 61 cases in 2020 were an increase over the previous year but, on par with other past numbers.

Total OMB & OPO Cases by Year							
	2014	2015	2016	2017	2018	2019	2020
Appeals	6	2	0	3	0	2	2
Commendation	2	2	1	3	1	0	2
Complaints	6	4	11	2	2	0	0
Critical Incidents	0	4	5	3	2	1	2
Information Only	N/	21	18	27	28	33	17
Inquiries	35	23	20	19	27	11	38
Total	49	56	55	57	60	47	61

Table 2 - Distribution of cases opened by the OMB and OPO by year.

Case Status

Of the 61 case files opened by the OPO in 2020, the OPO closed 43, and 18 remained open and being investigated. The following is the distribution of cases currently open and being investigated by the OPO:

2020 OPO CASE STATUS

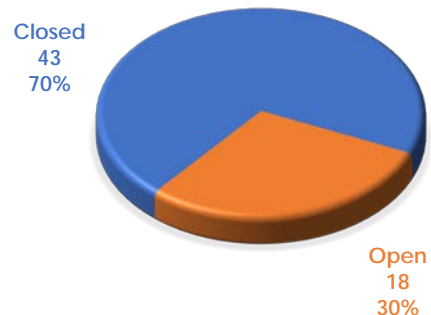


Figure 2 - Distribution of case statuses of investigations opened by the OPO in 2020.

Case Complaint Categories

For statistical purposes, the OPO will assign a category for a citizen request opened that pertains to a grievance or allegations of

misconduct. This allows the OPO to compare figures to those produced by the BPD OIA for analysis and reporting because the OPO and BPD OIA classify *Complaints* differently as noted in the *Investigation & Classification Processes* section of this report and subsequent sections. The following is the distribution of the complaint categories assigned to cases opened by the OPO in 2020:

Case Complaint Categories	#
Duty Performance	26
Demeanor & Rudeness	6
Conduct Unbecoming	2
Unbiased Policing	2
Criminal Conduct	1
Constitutional Rights Violation	0
Driving Violations	0
Use of Force	0
Failure to Record	0
Workplace Harassment	0

Table 3 - Complaint categories of OPO files opened in 2020.



Figure 3 - Distribution of complaint categories for files opened by the OPO in 2020.

Allegations

Of the case files opened by the OPO in 2020, the OPO identified 48 separate *allegations* pertaining to policy & procedure. It should be

noted that the number of allegations investigated often outnumbers case files opened and categories assigned. This happens because multiple allegations may be assigned to officers [or, employees] involved in the same incident.

For example, if a complaint is received alleging that six separate officers were rude during a citizen contact, six separate allegations pertaining to *Demeanor & Rudeness* [BPDPM § 11.008] would be identified and investigated, resulting in six separate findings for each allegation, all within in the same case. Therefore, the case file would be classified as pertaining to *Demeanor & Rudeness*, with six allegations of misconduct under *Demeanor & Rudeness* [BPDPM § 11.008]. This is exemplified in the figures for *Unbiased Policing*. The OPO opened two cases categorized as pertaining to *Unbiased Policing* that resulted in the identification of five (5) separate allegations as depicted below:

Allegations	#
Conduct Unbecoming	2
Conformance to Laws	2
Detainees and Prisoners Requiring Medical Treatment	1
Field Search Incident to Arrest	2
Officer's Duty Requirements	4
Performance of Duty	18
Relationships with Others & Demeanor	13
Report Accuracy	1
Unbiased Policing	5
Total	48

Table 4 - Allegations identified in the cases opened by the OPO in 2020.

2020 OPO ALLEGATIONS

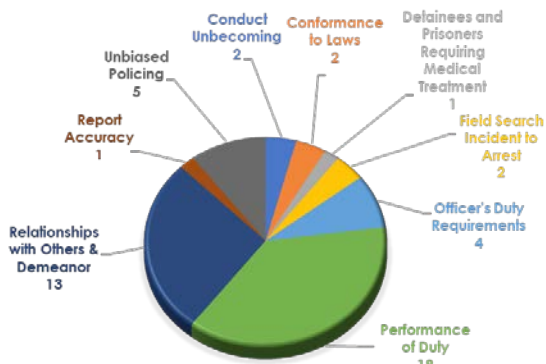


Figure 4 - Distribution of allegations within the cases opened by the OPO in 2020.

It should be noted that allegations alone should not be construed to be reflective of actual officer performance. Many allegations levied against officers are not sustained after investigation, following trends identified in many scholarly research studies.⁷

This raises the obvious question; does something account for this, such as flawed or biased investigations?

The OPO exists as a check and balance to the BPD and conducts regular and systematic audits of police internal investigations to ensure that BPD appropriately followed policies and the law. More on this will be discussed in the section covering *Audits* in this report. However, it should also be noted research has identified that external civilian oversight has been shown to be an effective accountability measure for departments in holding all officers accountable for misconduct.⁸

Aside from the *Performance of Duty* category, the most prevalent issue reported to the OPO in 2020 pertained to *Demeanor & Rudeness*.

⁷ See (Terill & Ingram, 2016)

⁸ Research conducted by Terill & Ingram (2016) identified that "cities where the police internal affairs unit served as the investigatory entity, but had their outcome decisions (i.e., dispositions) reviewed by an

Again, this follows trends found in research literature as ranking among the most frequently received complaints of the police.⁹

Complaints & Inquiries

All Inquiries in 2020 closed by the OPO remained as such after the preliminary investigation. The OPO did not progress any matters to a formal *Complaint*. The majority of concerns brought to the OPO were resolved through discussions and informational conversations with concerned citizens whereby, the OPO was able to answer questions and educate the public on policing practices and criminal justice system issues. The OPO investigates each matter that specifically allege misconduct, and, for the matters received in 2020, the OPO did not sustain any allegation(s) or upgrade them to formal *Complaints*.

Note: The Boise Police Oversight Model is unique in that the OPO has direct access to police reports, videos, and internal investigations. Most current oversight models throughout the country require subpoenas for oversight investigators to acquire such documents. The Boise model greatly streamlines the OPO investigations into citizen complaints, and as a result, investigations are more thorough. Body worn cameras have long been a tool used by BPD officers for the past three years. The cameras are used during their contacts with the public. In addition, complaining parties often provide video giving OPO investigators a different viewpoint of a situation. The reviewing of video from police and citizens enhances an investigator's ability to determine if misconduct or a law violation

external civilian oversight agency, were significantly more likely to sustain complaints" (p. 150).

⁹ See (Terill & Ingram, 2016); (Dugan & Breda, 1991); (Hickman, Piquero, & Greene, 2000); (Lersch & Mieczkowski, 1996)

occurred by a police officer. Using updated technology has improved investigations as compared to the practices in the past where, besides witness statements, OPO did not have direct access to relevant documents and audio was our only insight into police and individual interactions.

Critical Incidents

The OPO opened two investigations of *Critical Incidents* involving BPD officers in 2020. Both incidents were associated with uses of force by officers assigned to the Patrol Division. One incident was an officer-involved shooting that resulted in the death of the subject. The other was an incident involving the pursuit of an armed subject who was fleeing police that resulted in a vehicle collision where the subject was ultimately transported to the hospital with injuries. Both investigations remain open by the BPD OIA and the OPO.

Note: Though, *Critical Incident* investigations conducted by the BPD OIA and OPO may not involve allegation(s) of misconduct against the officers involved at their outset, the investigations may [or, may not] yield

additional allegations of misconduct or policy violations as the investigations progress.

Investigation Findings & Dispositions

Of the matters investigated and closed by the OPO in 2020, the OPO did not sustain any allegations or find any violations of policy by police officers.

Note: This does not mean that no misconduct occurred within the department. It does however reflect the cases that were investigated by the OPO did not find any wrongdoing. As the OPO conducts audits of the OIA. We are aware when policy and procedure violations are found via internal investigations of citizen complaints or department-initiated investigations.

Although OPO may not find a violation of policy or a complaining party may not wish to file a formal complaint, the OPO monitors whether similar complaints are filed or reported. The Director will then discuss any trending issues with the OIA Captain and/or the Chief to determine whether additional investigations should occur or whether training should be implemented to avoid any foreseeable policy violations by officers.

2020 Audits (Internal Investigation Reviews)

The following sections detail the review of OIA case files by the OPO in 2020 along with discussion on the audit results, processes used, and trends identified. The review of internal investigations conducted by the BPD is a requirement per City ordinance and a fundamental component of the OPO's oversight strategy. The purpose of the audits is to ensure that the investigations are conducted pursuant to the policies and procedures of the department and the City of Boise, and to ensure that they are complete, thorough, fair and objective.¹⁰ A summary report of the audits completed is posted on the City's OPO webpage.

Cases Audited

The OPO reviewed a total of 133 investigation case files opened by OIA in 2020.

2020 OIA Investigation Case Files Reviewed by the OPO		
	Opened by the OIA	Reviewed by the OPO
A.I.R.'s	87	8
Citizen Complaints	38	38
Department Initiated Cases	53	53
Eluding-Without Pursuit Reviews	44	5
Firearms Discharge Reports	17	4
Information Only Cases	2	1
Inquiries	42	6
SOG After Action Reports	15	3
Taser Red Dot-Compliance Gained Reviews	1	1
Use of Force Reviews	78	6
Vehicle Accident Investigations	32	5
Vehicle Pursuit Reviews	5	3
Total Cases Audited		133

Table 5 - OIA investigation case files reviewed by the OPO in 2020.

Audit Results

Issues Identified in the Audits of OIA Case Files	
	Issues Identified
Policy & Procedure	2
Complete	0
Thorough	0
Fair & Objective	0
Total	2

Table 6 - Issues identified in the review of internal investigation case files by the OPO in 2020.

¹⁰ As Directed by Boise City Code 2-10-04 (B).

Within the 133 internal investigation case files reviewed, the OPO only identified two issues pertaining to *Policy & Procedure*. Both individual issues involved investigations that transpired past the 30-day time limit for investigations as directed by BPD policy 12.028 without an approved extension in the case file. However, both of these investigations were completed by the assigned investigators within the 30-day time limit, they simply were not forwarded to the OIA by the chain of command until just after the 30-day deadline and are, therefore, minor infringements on the policy.¹¹

The OPO found no other issues within any of the internal investigations reviewed in 2020 and found that all of the investigations reviewed were *Complete, Thorough, Fair and Objective*.

Trends Identified by the Audits

Of the nearly 450 internal investigation case files opened by the BPD in 2020,

very few issues were identified by the OPO.

The OPO has observed that the BPD has started a practice of reviewing the activities of officers who have been disciplined for gross misconduct to ensure that other previously unidentified acts of misconduct are identified and investigated. The OPO noted that several of these reviews have identified possible misconduct previously unknown to the department to which, the Chief has directed they be fully investigated and have findings issued, even though the subject officer may no longer be employed by the department.

The OPO supports the BPD in ensuring accountability of problem officers and understands the importance of this practice as a measure to improve supervision within the department.

¹¹ OPO Audits of OIA20-0040 & OIA20-0098.

Appendix

Investigation & Classification Processes

The following sections describe the processes used by the OPO to investigate matters. They include the processes involved with accepting complaints and the methodology used by the OPO to classify matters. The information is useful to understand the subsequent sections of this report.

How the OPO Completes Investigations

The OPO conducts independent investigations into matters brought to the OPO by members of the public and others in the City within the scope of the authority of the office. The Director may, at their own discretion, open an investigation into any other matters as appropriate. Generally, the OPO conducts independent investigations into the following matters:

- Complaints of misconduct brought forward by members of the public or, others within the City.
- General grievances or other concerns brought forward to the OPO.
- Critical Incidents and Officer-Involved Shootings.
- Appeals of the findings from internal investigations conducted by the BPD.

Upon receipt and acceptance of a complaint, concern or grievance, the OPO will assign an investigator who will coordinate the collection of all relevant evidentiary items including (but, not limited to) police reports, officer body-worn camera footage, witness statements and other items as appropriate.

The assigned investigator will generally identify any allegations in the course of a preliminary investigation and may resolve the matter through formal investigation or, resolution of complainant concerns through answering questions and addressing issues. It is the operational philosophy of the OPO to meet the

needs of the people who seek our services through informal means to the extent possible, while ensuring all matters are appropriately handled as may be warranted. Allegations of misconduct and other inquiries may also be forwarded to the BPD for investigation or rapid response resolution. For matters forwarded to the BPD, the Chief of Police will determine and administer employee/officer discipline as may be warranted and appropriate. BPD will then report back to the OPO about the outcome.

Upon completion of an investigation or resolution of complainant's concerns, the assigned investigator will complete a report describing their investigatory steps and conclusions and forward it to the Director for review. The Director may issue findings or, forward the investigation to the BPD for disciplinary action and/or make policy recommendations as appropriate.

The Director will publish a public synopsis of the complaint and the steps the OPO took to resolve the matter on the City's OPO Website. Furthermore, the OPO will communicate investigation findings to the person making the complaint. Disciplinary information associated with a complaint is protected by state law and will not be released to the public.

For *Appeals*, the OPO takes similar steps. However, the OPO will generally conduct an investigation into the original complaint made to the BPD and will conduct a review of the subsequent internal investigation. The Director may *affirm* the decision(s) and BPD

investigation findings or, may forward the matter to the Chief of Police for resolution along with any recommendations for discipline and/or changes to policy or procedure.

Complaint Acceptance

The OPO accepts complaints pertaining to the actions and activities of the officers and employees of the BPD as authorized and directed by Title 2, Chapter 10 of Boise City Code. There are timeliness requirements governing the acceptance of complaints and other matters that the OPO follows. For complaints, the OPO will generally accept a complaint up to 90-days from the date of the incident, with a few exceptions. For *Appeals*, the OPO will accept the submission from persons who originally filed the matter with the BPD for up to 30-days after receipt of BPD findings for an investigation, again, with a few exceptions.

Complaints received by the OPO are initially classified as *Inquiries* to allow the OPO to perform a preliminary investigation and to determine the jurisdiction of the matter. Often, during the preliminary investigation, the assigned OPO investigator may resolve a complainant's concerns through answering questions and education on policing practices and other criminal justice subjects. However, the OPO will open a file to document its handling of the matter and for statistical purposes. If during the preliminary investigation, the OPO finds sufficient grounds to believe that an officer or employee has committed a violation of department policy, procedure or law, the case will be upgraded from an *Inquiry* to a *Complaint* and the matter will continue to be fully investigated as a complaint.

Case Types

The OPO opens case files for complaints, general questions regarding BPD operations, Critical Incidents, commendations, and other matters. The following describes each case type.

Appeals: These cases are opened for appeals submitted to the OPO of the findings issued by the BPD for a complaint investigation whereby, the person who originally filed the complaint contests the findings issued by the department.

Complaints: These case files pertain to investigations where the subject officer(s) or employee(s) are alleged to have committed an act of misconduct. *Misconduct* is defined as an act, or omission by an employee that, if found to have occurred, is a violation of City or department policy, procedure, or law.

Commendations: These files are opened to document the commendation of officer(s), employee(s) or, the department as a whole. Commendations may be submitted by anyone to the OPO or, the OPO may issue a commendation on its own.

Critical Incidents: These case files are opened for investigations involving incidents or events involving an officer or employee of the BPD as a principal, victim, witness, or custodial employee, as defined below;¹²

- Use of Deadly Force (excluding animals).
- Use of force, or any other police or law enforcement action that results in the death of one or more persons, or serious bodily injury requiring hospital admission.
- Vehicle pursuits, roadblocks, or intercepts resulting in the death of one or more persons, or serious bodily injury requiring hospital admission.

¹² Defined by City Code 2-10-04 (H).

- Vehicular collisions resulting in the death of one or more persons, or serious bodily injury requiring hospital admission that occurred while a police officer of police personnel was operating a city vehicle (either on-duty or off-duty) or a private vehicle while on-duty.

Information Only: These cases pertain to matters where the OPO has received information submitted as a complaint, grievance or other inquiry by citizen that does not materialize into a *Complaint* or *Inquiry* after the OPO has researched the matter. Often these cases are classified for matters falling outside of the OPO's jurisdiction. Or, to document other significant submissions to the OPO, and other incidents, that are noteworthy of documenting for archiving purposes.

Inquiries: These cases are opened for matters not specifically alleging misconduct but may pertain to general grievances with department operations or performance. However, all grievances submitted to the OPO are initially classified as *Inquiries* to allow the OPO to perform a preliminary investigation into the matter for the purposes of determining the appropriate jurisdiction, identify the officer(s) and employee(s) involved and to properly classify the matter.

Complaint Categories

For statistical and reporting purposes, the OPO and the BPD categorize the complaints it receives into a number of categories. For the purposes of efficiency in comparing data with the BPD, the OPO uses BPD's definitions for allegations for all complaint categories. All *allegations* fall into one of the following complaint categories as defined:

Conduct Unbecoming: The BPD defines *Conduct Unbecoming an Employee* as: "conduct which brings the Department into disrepute or reflects discredit upon the individual as a Department employee, or conduct which impairs the operation or

efficiency of the Department or any of its employees" (Boise Police Department, 2019).

Constitutional Rights Violation: BPD policy does not specify conduct that would be considered a violation of constitutional rights. However, all public officials, including the officers and employees of the BPD are bound to ensure that the rights afforded to the people by the Constitutions of the United States and the State of Idaho are not infringed. Furthermore, BPD directs its employees to follow the Law Enforcement Code of Ethics which states in part; "As a law enforcement officer, my fundamental duty is to serve the community; ...to respect the Constitutional rights of all to liberty, equality and justice" (Boise Police Department, 2019).

Criminal Conduct: Acts in violation of the law. BPD directs its employees; "Each employee shall obey all laws of the United States and of any state and local jurisdiction in which they are present. A conviction for the violation of any law shall be prima facie evidence of a violation of this section" (Boise Police Department, 2019).

Demeanor and Rudeness: BPD policy directs employees under the following guidance: "An employee shall treat all other persons in a civil and respectful manner. They shall not use profanity or uncomplimentary speech in the presence of employees of the public, prisoners, or other persons they have contact with nor shall they intentionally antagonize any person" (Boise Police Department, 2019).

Driving Violation: BPD policy directs employees in the use of department vehicles while on and off-duty. The department covers a wide range of topics related to vehicle operations. For a full accounting of these mandates, please review section 7 of the BPD Policy and

Procedure Manual. Though, all traffic infractions committed by an employee not covered by qualified immunity generally fall under this category. Traffic violations beyond an infraction would be classified under *Criminal Conduct*.

Duty Performance: BPD policy directs that "An employee shall perform their duties in a manner which will maintain the highest standards of efficiency in carrying out the Department's functions and objectives" (Boise Police Department, 2019).

Use of Force: BPD policy directs the use of force for its officers in Section 1 of their policy & procedure manual. Any allegation pertaining to the use or application of force in violation of policy would be classified under this category, including any issues related to reporting uses of force.

Failure to Record: Officers in the department are mandated by BPD policy to wear a body-worn camera or have a means to record interactions with members of the public that are considered investigative enforcement contacts, prisoner transports, persons complaining of officer conduct and any other time where the contact is anticipated to be confrontational in nature (Boise Police Department, 2019).

Workplace Harassment: Any conduct in violation of the City's Equal Employment Opportunity Commission (EEOC) policy would be classified under this category, including allegations of sexual harassment, discrimination, hostile work environment and any others falling within the provisions of the Title 7 of the Civil Rights Act of 1964.

Bias Policing: BPD policy describes *bias policing* as "any law enforcement activities that are discriminatory based on race, color, religion, gender, age, national origin, sexual orientation, gender identity,

disability or any other applicable legally protected status" (Boise Police Department, 2019).

A few notes on *Complaint Categories & Allegations*: It should be noted that the complaint categories used in this report are not specific allegations. That is, *allegations* pertain to a specific BPD or City policy or procedure. Multiple allegations fall into the individual complaint categories. For example, the specific allegations of *Truthfulness* [BPDPM § 12.004] and *Bribes, Discounts, Gratuities, Rewards & Gifts* [BPDPM § 11.023] are two distinctly separate allegations but fall under the *Conduct Unbecoming an Employee* complaint category. This is especially true for the *Performance of Duty* complaint category simply because, any allegation not falling under one of the other categories would be categorized under *Performance of Duty*. Therefore, *Performance of Duty* will generally be more represented than any other complaint category.

A note on allegations involving criminal activity: While investigating a complaint, should the OPO believe that criminal activity has occurred, the OPO must make a referral to the City Attorney's Office for review and referral for further prosecutorial review. The OPO does not perform criminal investigations but may conduct a parallel *administrative* investigation.

Classification of Findings

Upon the conclusion of an internal investigation, the OPO and the BPD may issue a finding for each allegation. The following findings are defined:

Sustained: The investigation disclosed sufficient evidence to clearly prove the allegation(s) made.

Not Sustained: The investigation failed to discover sufficient evidence to clearly prove or disprove the allegations made.

Unfounded: The investigation conclusively proved that the act or acts complained of did not occur. This finding also applies when individual officer(s) or employee(s) named were not involved in the act or in acts, which may have occurred.

Exonerated: The acts, which provided the basis for the complaint or allegation did occur, but were justified, lawful, and proper. This finding also may be used when the acts complained of did occur and

were not proper or justified but resulted from a lack of policy or training.

No Finding: The investigation cannot proceed because the complainant failed to disclose promised information to further the investigation; or the complainant wishes to withdraw the complaint; or the complainant is no longer available for clarification. This finding may also be used when the information provided is not sufficient to determine the identity of the officer(s) or employee(s) involved.

"The AAUW Boise Area Branch has reached out to Natalie Camacho Mendoza twice. On each occasion, she responded immediately and provided a service to our membership.

- 1. She spoke to our membership about her experience as a Latina living and working in Idaho, and her experience performing oversight of the Boise Police Department.*
- 2. She responded to an AAUW member's surprising experience with the Boise Police Department. Our member was pleased with the conversation.*

In what have been troubling times at a national level, we feel Natalie and the Office of Police Oversight is continuing to provide a very worthwhile service to the City of Boise."

-Branch Area President, American Association of University Women (AAUW)

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