

# Community Ombudsman Oversight Panel (CO-OP)

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November 24

# 2010

An overview of the Panel's audit of internal investigations within the Boston Police Department. This report looks at statistics and general observations gathered through review.

**Annual Report**

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**City of Boston**  
Community Ombudsman Oversight Panel

November 15, 2010

Dear Mayor Menino and Commissioner Davis:

The Community Ombudsman Oversight Panel (CO-OP) hereby submits our third Annual Report for your consideration and distribution. This report covers the operations of the panel for the period October 2, 2009 through the date of this letter.

Pursuant to the Mayor's Executive Order, our mission continues to be three-fold (1) to ensure that the City of Boston has a highly competent, fair and thorough process for the review of complaints of misconduct against Boston Police Officers; (2) to promote the professionalism of the Boston Police Department; and (3) to build trust and confidence within the Boston community. To this end, the CO-OP serves as an appeals body by reviewing complaints against police employees found to be "not sustained," "unfounded," or "exonerated" by the Police Department.

This report is intended to provide statistics regarding all of the cases received by the panel from the end of our last report, October 1, 2009, to the date of this letter. Prior annual reports also contained a description of significant outreach activities of the panel. Budget constraints curtailed most of those activities for the period covered by this report.

We welcome your comments and look forward to discussing the report with both you and with members of the community.

Respectfully submitted,  
Ruth Suber, Ombudsman  
John O'Brien, Ombudsman

## Executive Summary

A comprehensive overview of Internal Affairs Division (IAD) data for 2009 and portions of 2010 is provided along with charts and graphs which reveal trends in regard to the number, type and resolution of complaints against Boston Police personnel. The data is broken down according to whether the complaint was initiated by a citizen or by a member of the Boston Police Department. For example in 2009, there were 105 complaints filed by citizens. Improper use of non-lethal force and disrespectful treatment continued to be the most common violations that citizens alleged in 2009. The data also indicates that “non-conformance to laws” was the most common type of internal complaint. Furthermore, during 2009, nineteen (19%) percent of citizen complaint findings were sustained and seventy-three (73%) percent of internal investigation findings were sustained. The report provides data in regard to the racial make-up of the complainants. It also looks at the race of BPD personnel against whom complaints were made.

The report details the number of cases that were reviewed by the CO-OP, including the outcome and recommendations. (A more detailed summary of each reviewed case is contained in the section entitled *Summary of Current Community Ombudsman Oversight Panel Cases*.) The Panel reviewed thirteen (13) new cases in 2010. Ten (10) of those cases were a product of citizens appealing the fairness and/or thoroughness of the investigation by IAD. Three (3) cases were a result of random audit of cases pursuant to the Mayor’s Executive Order. Of the thirteen (13) cases reviewed, ten (10) cases were deemed to be fair and thorough.

## Internal Affairs Complaint Data

**Figure 1. IAD Complaints by Year and Type**

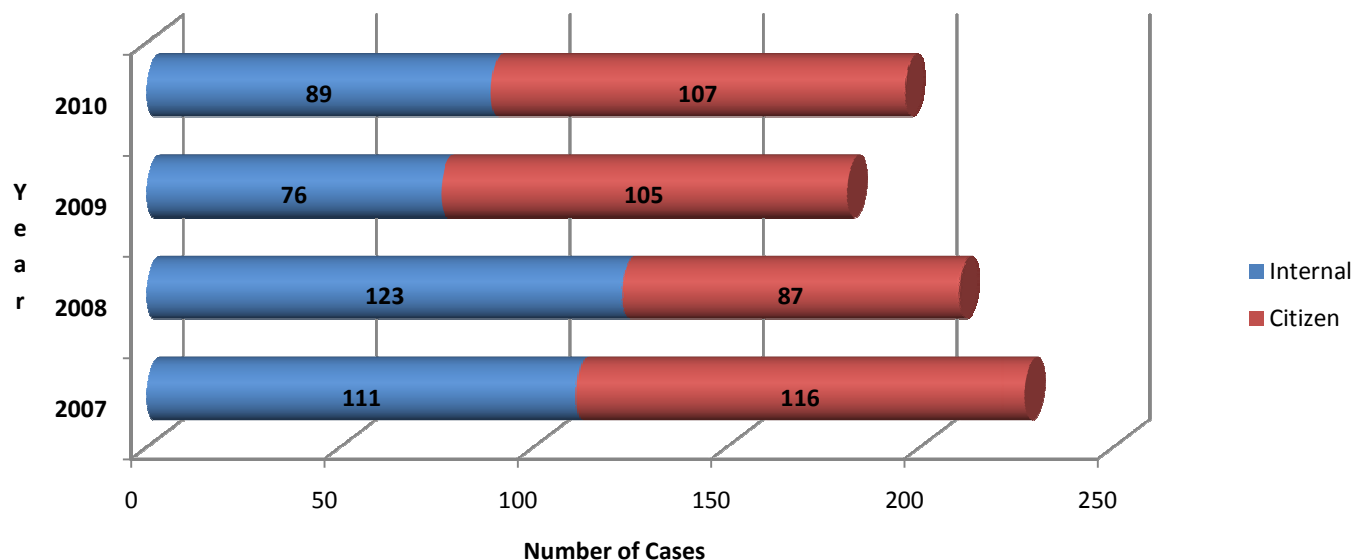


Figure 1 illustrates the number of complaints by type generated within the Internal Affairs Division for the years 2007 through October 1, 2010. Types include internal complaints, generated by complainants employed by the Boston Police Department whereas complainants not employed by the Boston Police Department generate citizen complaints.

**Figure 2. Top Allegations Filed by Citizens in 2009**

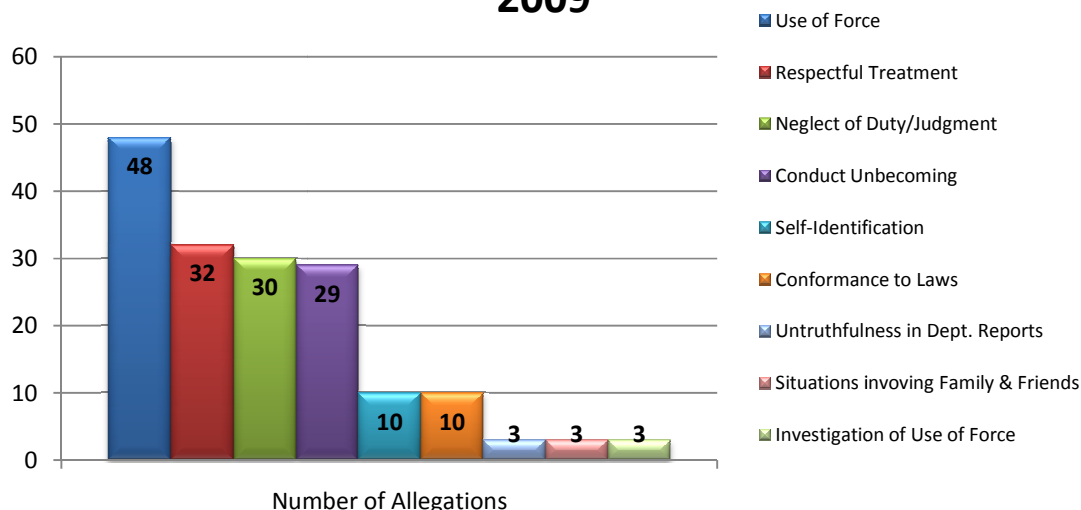


Figure 2 illustrates the top allegations filed by citizens during 2009; the most prolific allegation filed was Use of Force.

**Figure 2.1 Top Allegations Filed by BPD Personnel in 2009**

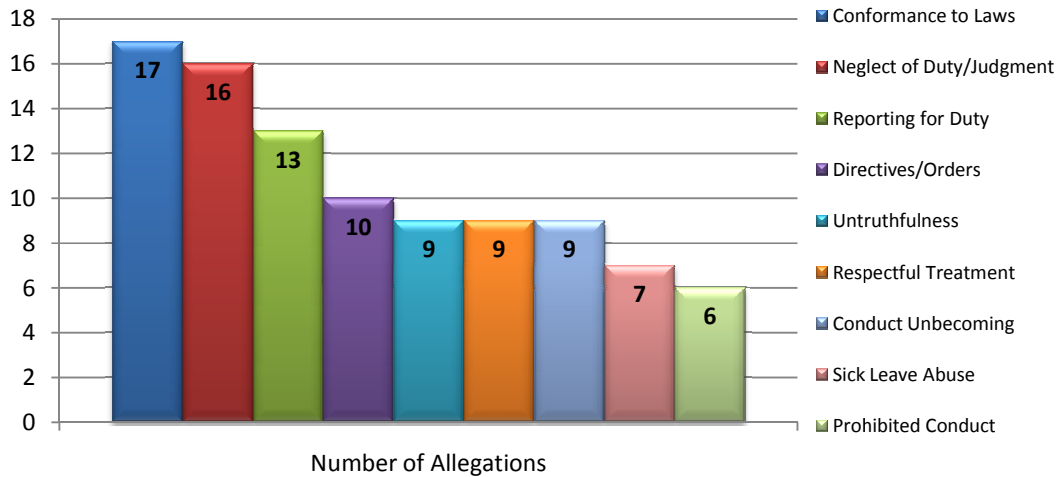


Figure 2.1 demonstrates the top allegations filed internally by Boston Police personnel, with Conformance to Laws ranking as the most complained of violation.

**Figure 3. IAD Findings by Year and Type**

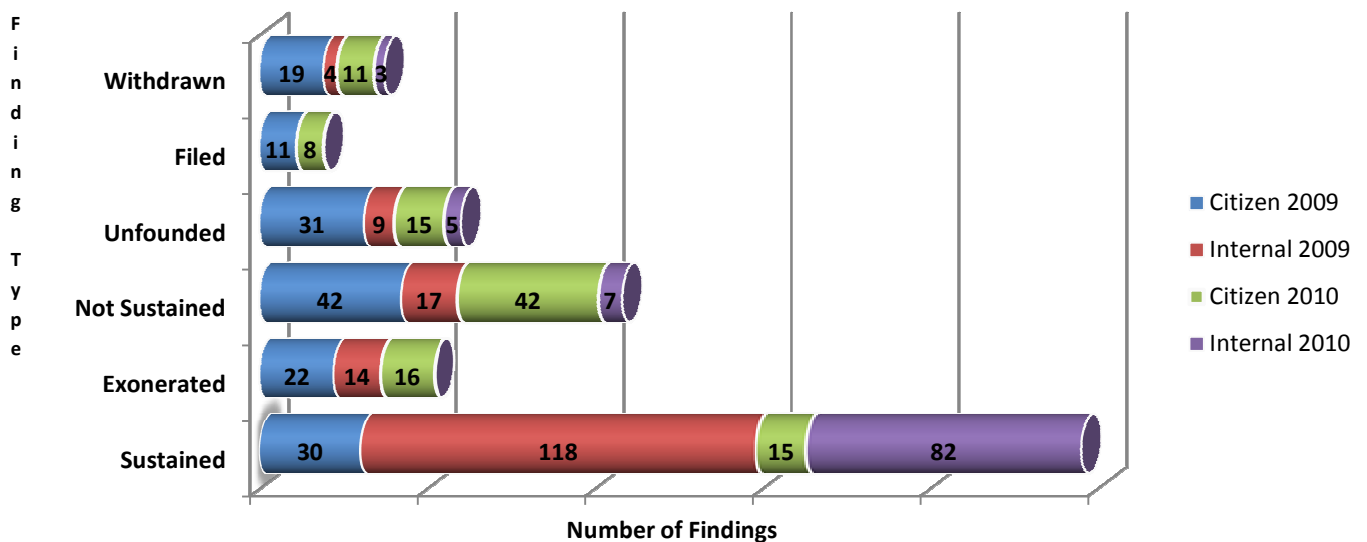


Figure 3 illustrates the number of findings published by IAD. The chart distinguishes who generated the complaint (citizen vs. internal) and demonstrates the finding types for the years 2009 through October 1, 2010. A sustained finding may result in discipline against an employee.

**Figure 4. Involved-Employee Race**

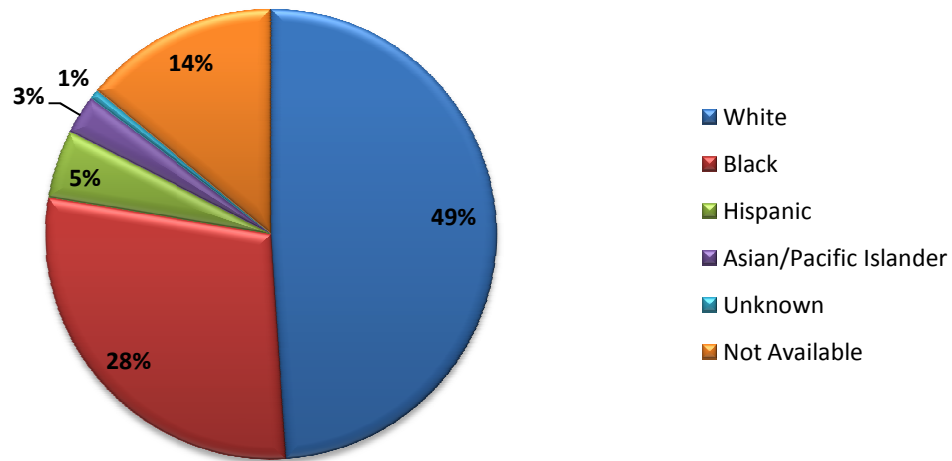


Figure 4 shows that in 2009, White officers were involved in about half, forty-nine (49%) percent of all complaints filed by citizens, followed by Black officers with twenty-eight (28%) percent, then Hispanic with five (5%) percent and Asian/Pacific Islander with three (3%) percent. In fifteen (15%) percent of complaints, the race of the officer was either unknown or unavailable.

**Figure 4.1 Complainant Race**

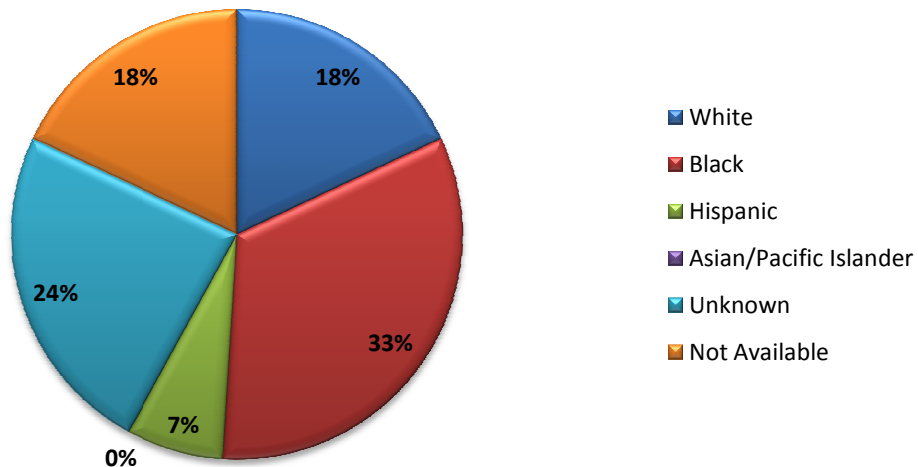


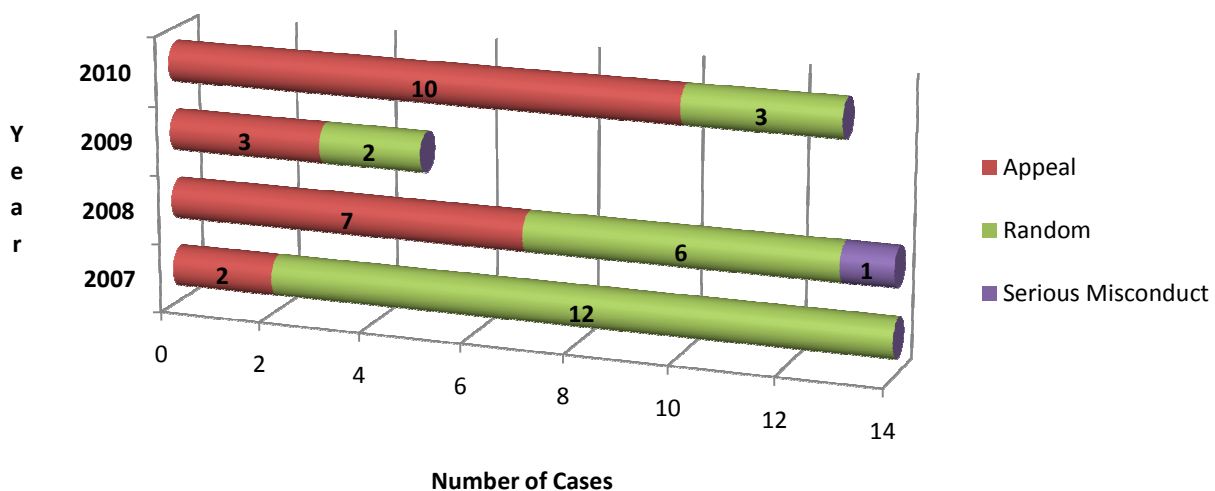
Figure 4.1 shows that in 2009, thirty-three (33%) percent of complaints were filed by Black citizens, followed by White citizens with twenty-four (24%) percent, and Hispanic with seven (7%) percent. The race of thirty-six (36%) percent of complainants was either unknown or unavailable.

## CO-OP Cases and Recommendations

The Community Ombudsman Oversight Panel, also known as CO-OP, first began its review of Internal Investigation cases in October of 2007, tasked by Mayor Menino to review a random sample of all not sustained, exonerated or unfounded complaints. Further, the CO-OP reviews cases appealed by complainants within fourteen (14) days of receipt of their Internal Investigations Notice of Finding.

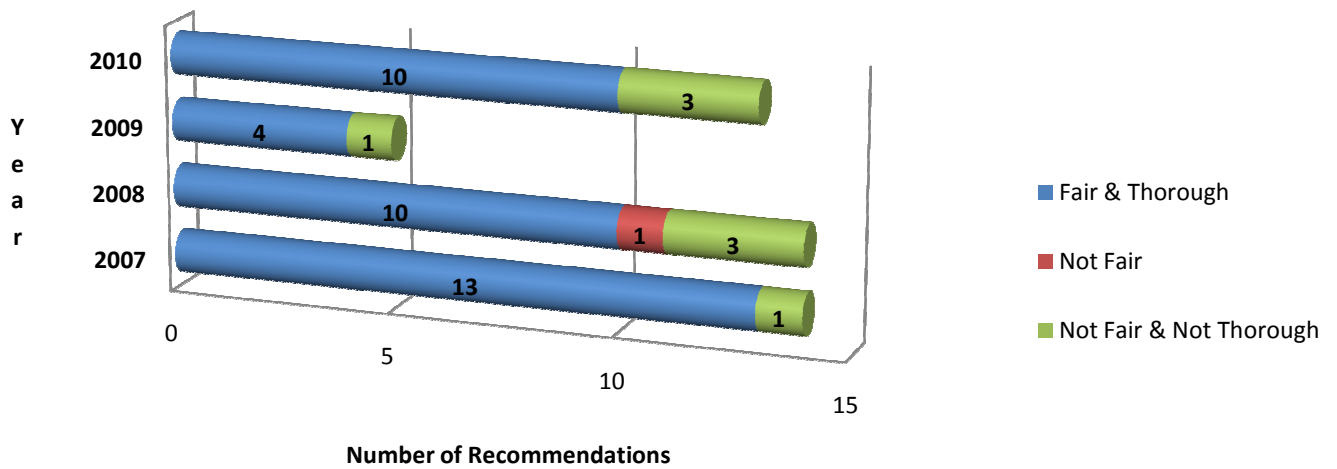
Finally, the Chief of the Bureau of Professional Standards may send the CO-OP any discretionary case he deems appropriate for review due to the serious nature of the misconduct alleged. A serious misconduct case may be a not sustained, exonerated or unfounded case that involved an allegation of serious misconduct, of discriminatory intent or of unjustified use of force, which resulted in death or serious bodily injury.

**Figure 5. CO-OP Cases by Year and Type**



In 2007 (see Figure 5), fourteen (14) cases were assigned, twelve (12) of which were part of a random audit and two (2) of which were appealed by complainants. In 2008, the CO-OP reviewed fourteen (14) more cases, seven (7) of which were appeals, six (6) random, and one (1) serious misconduct. In 2009, the CO-OP reviewed five (5) cases, three (3) of which were appeals and two (2) random. The CO-OP received ten (10) appeals in the first half of 2010 and three (3) random cases amounting to a half-year total of thirteen (13) cases.

**Figure 6. CO-OP Recommendations by Year and Type**



Of the forty-six (46) total cases reviewed since the CO-OP's inception, eighty (80%) percent were found to be fair and thorough investigations. Twenty (20%) percent were 'Other' findings, either Not Fair or Not Thorough or both. (See Figure 6) Of those 'Other' findings, seventy-five (75%) percent are pending further review and re-investigation. The remaining twenty-five (25%) percent are closed. (See *Summary of Current Community Ombudsman Oversight Panel Cases.*)



## Summary of Current Community Ombudsman Oversight Panel Cases

Below are detailed summaries of cases, which are still pending or have been completed since last year's Annual Report of October 1, 2009.

### Cases Pending

<b>Case #:</b>	<b>07-03R</b>	<b>Type: Random</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant witnessed officers fighting with a man they were trying to arrest in front of the Roxy Nightclub. Complainant alleged that officers threw suspect against his car causing damage to his mirror and fender. Complainant stated when he attempted to inform officers of damage; he was pushed to the ground and sprayed with mace.

**Violation(s):** 302-4 Excessive Force

#### **Preliminary**

**Recommendation: Not Fair and Not Thorough**

#### **Additional**

**Tasks:** Addendum Report from original Investigator was forwarded to Suber on 4.10.08 as a response to Information Inquiry submitted by Suber. Suber concluded case was still not fair and not thorough and recommended that more effort should have been put into case to question possible personnel involved. Case should have remained open until complainant was re-located after moving out of reported residence. Case was then reassigned to a new investigator for additional investigative tasks and reports to be completed in order to address Ombudsman's points of concern.

#### **Supplemental**

**Recommendation: TBD**

<b>Case #:</b>	<b>08-07A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged that two police officers physically and verbally abused him during his arrest.

**Violation(s):** 304-2 Use of Non-Lethal Force, 102-9 Respectful Treatment

#### **Preliminary**

**Recommendation: Fair and Thorough** for Use of Non-Lethal Force Allegations. **Not Fair and Thorough** for Respectful Treatment Allegations. Ombudsman believed that IAD's assessment was not fair and that further investigation with witnesses would prove useful.

#### **Additional**

**Tasks:** IAD Investigator currently reviewing case and will write addendum report.

**Supplemental  
Recommendation: TBD**

<b>Case #:</b>	<b>08-11R</b>	<b>Type: Random</b>	<b>Ombudsman:</b>	<b>Hall</b>
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**Summary:** Complainant alleged that in an encounter with two police officers Downtown, one was disrespectful and both failed to properly identify themselves upon request.

**Violation(s):** 102-9 Respectful Treatment, 102-20 Identification upon Request

**Preliminary**

**Recommendation: Not Fair and Thorough.** Evidence supporting investigator conclusions is not clear and convincing.

**Additional**

**Tasks:** IAD Investigator currently reviewing case and will write addendum report.

**Supplemental  
Recommendation: TBD**

<b>Case #:</b>	<b>09-05A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged that during the issuance of a parking ticket, the officer verbally assaulted and threatened him and would not identify himself upon the complainant's request.

**Violation(s):** 102-9 Respectful Treatment, 102-20 Self-Identification, 102-35 Conformance to Laws

**Preliminary**

**Recommendation: Not Fair and Not Thorough**

**Additional**

**Tasks:** IAD Investigator currently reviewing case and will write addendum report.

**Supplemental  
Recommendation: TBD**

<b>Case #:</b>	<b>10-03A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged that while at Causeway and Friend Streets, he was mistakenly subdued by an undercover police officer during a scalping sting operation and sustained visible injuries for which he did not seek medical attention.

**Violation(s):** 102-20 Self-Identification, 304-2 Use of Non-Lethal Force

**Preliminary**

**Recommendation: Not Fair and Not Thorough**

**Additional**

**Tasks:** IAD Investigator currently reviewing case and will write addendum report.

**Supplemental**

**Recommendation: TBD**

<b>Case #:</b>	<b>10-04A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>O'Brien</b>
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**Summary:** Complainant alleged that while broken down in her MBTA bus, waiting for the mechanics to assist her, an officer charged onto the bus and spoke to her offensively when inquiring the reason for the bus being stopped.

**Violation(s):** 102-9 Respectful Treatment

**Recommendation: Not Fair & Not Thorough**

**Additional**

**Tasks:** IAD Investigator currently reviewing case and will write addendum report.

**Supplemental**

**Recommendation: TBD**

<b>Case #:</b>	<b>10-06A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged that while officers were at her home to execute an arrest warrant for her son, they used excessive force during the apprehension.

**Violation(s):** 304-2 Use of Force

**Recommendation: Not Fair & Not Thorough**

**Additional**

**Tasks:** IAD Investigator currently reviewing case and will write addendum report.

**Supplemental**

**Recommendation: TBD**

## **Cases Completed As of 10.1.2009**

<b>Case #:</b>	<b>08-02S</b>	<b>Type: Serious Misconduct</b>	<b>Ombudsman:</b>	<b>Hall/Suber</b>
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**Summary:** Complainants alleged that one officer verbally and physically assaulted them. They also alleged that another officer yelled obscenities and made racial remarks.

**Violation(s):** 102-3 Conduct Unbecoming, 102-9 Respectful Treatment

### **Preliminary**

**Recommendation: Not Fair and Not Thorough**

### **Additional**

**Tasks:** Additional investigation completed with new allegations added to case. Addendum Investigative Report submitted to Hall on 4.28.09. Case reassigned to Suber when Hall resigned from Panel. Suber concurred with Hall despite additional investigation that case was not fair and not thorough. Remedial steps completed by investigator were not enough to render case fair and thorough because too much time had lapsed to get adequate additional useful witness information. Case closed.

### **Supplemental**

**Recommendation: Not Fair and Not Thorough**

<b>Case #: 08-04R</b>	<b>Type: Random</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged that while assisting in the dismissal of students from school to board the buses parked on School Street, officer who was stopped to allow students to board safely, exited his motor vehicle and harassed her because he could not proceed up the street.

**Violation(s):** 102-3 Conduct Unbecoming, 102-9 Respectful Treatment

**Recommendation: Fair and Thorough**

<b>Case #: 08-13A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged that in an encounter with the three police officers named in her complaint, she was assaulted physically by one officer and verbally abused by all three.

**Violation(s):** 102-9 Respectful Treatment (1 Count per Officer), 304-2 Use of Non-Lethal Force

**Preliminary**

**Recommendation:** **Fair and Thorough** (2 Counts Respectful Treatment and 1 Count Use of Non-Lethal Force). **Not Fair** (1 Count Respectful Treatment) Ombudsman does not agree with investigator assessment.

**Additional Tasks:** IAD Investigator reviewed case and wrote addendum report. Case submitted to Suber for re-consideration of current policy use of command language.

**Supplemental**

**Recommendation:** **Fair and Thorough** [General Investigation]. **Not Fair** [Respectful Treatment]. Ombudsman recommended that use of command language (specifically swearing) by any officer is not acceptable regardless of situation.

<b>Case #:</b>	<b>08-14A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Hall</b>
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**Summary:** Complainants alleged that during a motor vehicle stop, officer was physically and verbally abusive.

**Violation(s):** 102-9 Respectful Treatment, 304-2 Use of Non-Lethal Force

**Recommendation:** **Fair and Thorough**

<b>Case #:</b>	<b>09-03R</b>	<b>Type: Random</b>	<b>Ombudsman:</b>	<b>O'Brien</b>
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**Summary:** Complainant states officers stopped him and used excessive force.

**Violation(s):** 102-4 Judgment, 102-4 Neglect of Duty, 304-2 Use of Non-Lethal Force, 323 Field Interrogation & Observation Report

**Recommendation:** **Fair and Thorough**

<b>Case #:</b>	<b>09-04A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant states after he photographed a female detail officer, several officers responded, detained and assaulted him and subsequently forced him to delete the photographs.

**Violation(s):** 102-9 Respectful Treatment

**Recommendation:** **Fair and Thorough**

<b>Case #:</b>	<b>09-06R</b>	<b>Type: Random</b>	<b>Ombudsman:</b>	<b>O'Brien</b>
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**Summary:** Complainant states while driving upon the scene of a motor vehicle accident, complainant asked officer to move her vehicle so she could pass and officer yelled back at her to wait. Further, officer refused to identify herself upon request.

**Violation(s):** 102-20 Self Identification, 102-9 Respectful Treatment

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-01A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant states while police officers were in pursuit of one of her sons to place him under arrest, her other son, who is mentally disabled, was shoved down the porch stairs of her home.

**Violation(s):** 304-2 Use of Force

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-02A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>O'Brien</b>
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**Summary:** Complainant alleged that when stopped in his motor vehicle by police officers, he was illegally searched, physically abused and issued an unfair parking citation. He further alleged that the officers refused identification upon request.

**Violation(s):** 102-20 Self-Identification, 304-2 Use of Force, 102-4 Neglect of Duty

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-05A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant states he fled from police and was apprehended after a brief foot pursuit. He alleges that when they arrested him, he was punched numerous times in the face and was advised by other officers not to seek medical attention.

**Violation(s):** 304-2 Use of Force

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-07A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant states he believes he was racially profiled by an officer who conducted his motor vehicle stop and issued him a warning.

**Violation(s):** 102-4 Judgment

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-08A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged that she was treated disrespectfully during a motor vehicle stop for operating the wrong way on a one-way street. She further alleged that she was issued a citation for questioning the officer's interpretation of a one-way street and because she was African-American.

**Violation(s):** 102-9 Respectful Treatment

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-09A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged that a police lieutenant gave false testimony at the Entertainment Board stating that the complainant had stabbed someone during an incident at his tavern.

**Violation(s):** 102-3 Conduct, 102-23 Truthfulness

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-10R</b>	<b>Type: Random</b>	<b>Ombudsman:</b>	<b>O'Brien</b>
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**Summary:** The Complainant was granted an Abuse Prevention Order out of Probate and Family Court (Suffolk Division) against Officer. The Prevention Order stated that Officer was not to abuse or to contact the complainant.

**Violation(s):** 102-3 Conduct, 102-35 Conformance to Laws

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-11R</b>	<b>Type: Random</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged that while at Roxbury District Court he noticed officers speaking to his wife. When he told his wife not to speak to the officers, they grabbed him and escorted him out of the courthouse.

**Violation(s):** 102-4 Judgment

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-12R</b>	<b>Type: Random</b>	<b>Ombudsman:</b>	<b>Suber</b>
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**Summary:** Complainant alleged while being arrested for disorderly conduct, the unknown officers used excessive force and caused injury to his neck.

**Violation(s):** 304-2 Use of Force

**Recommendation:** Fair and Thorough

<b>Case #:</b>	<b>10-13A</b>	<b>Type: Appeal</b>	<b>Ombudsman:</b>	<b>O'Brien</b>
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**Summary:** Officers from District 3 responded to a radio call for a man with a gun. While at that address, they encountered the complainant who matched the description of the suspect. The complainant claimed that an unknown officer(s) pushed him from behind, causing him to fall over a railing and sustain injuries.

**Violation(s):** 304-2 Use of Force

**Recommendation:** Fair and Thorough