

FINAL REPORT

BART Management Audit



Conducted by the
National Organization of Black Law Enforcement Executives (NOBLE)



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**NATIONAL ORGANIZATION OF
BLACK LAW ENFORCEMENT EXECUTIVES**

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January 1, 2010

Marcia deVaughn
Deputy General Manager
Bay Area Rapid Transit District
P.O. Box 12688
Oakland CA 94604-2688

Dear Ms. deVaughn,

On behalf of NOBLE National and the executive board, we thank you for selecting NOBLE to conduct an assessment of the Bay Area Rapid Transit District. As you will see from the final report, the assessment team performed an outstanding job! We received several phone calls and e-mails regarding the excellent performance by our team members during the community forums. We hope that these forums will provide the basis for future collaborations and cohesiveness between the community and BART Police Services.

I commend you and your staff for providing support during the process. We look forward to future collaborations with BART. If you require additional information/guidance, please contact NOBLE Executive Director Jessie Lee.

I wish you much success as BART moves forward to implementing the enhanced services and recommendations outlined in the report. Have a wonderful New Year!

Sincerely,

Ernest Green
NOBLE National President





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Oakland CA 94604-2688

Dear Ms. deVaughn,

Thank you for the opportunity to conduct an assessment of the Bay Area Rapid Transit District. Enclosed is the final audit report. It was a pleasure working with you and the staff of BART police services. The project was headed by Patrick Oliver, and the assessment team members and NOBLE National appreciated your guidance and support throughout the process.

We welcome the opportunity to work with BART in the future and hope that the recommendations we outlined throughout the report will assist you and the staff with enhancing operations and police services. If you require additional information, please do not hesitate to contact me at (703) 658-1529.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jessie Lee".

Jessie Lee
Executive Director



Biographies



**National Organization of Black Law Enforcement Executive
[NOBLE]**

BART PD Assessment Team Members

Louis Dekmar, Chief of LaGrange, Georgia Police Department. Graduate of the FBI Academy Session 142 and the FBI Law Enforcement Executive Development Seminars, 42nd Session. Former Chairman of Training Committee for the Georgia Association of Chief of Police. He has served as a federal monitor for the Civil Rights Division for the US Department of Justice. Chair, Commission on Accreditation for Law Enforcement Agencies, Past-President of the Georgia Association of Chiefs of Police, and former member of Georgia Peace Officer Standards and Training (POST). Governor Appointee, Georgia Board of Public Safety, Master of Public Administration, Georgia College and State University, and Bachelor of Science, University of Wyoming.

Douglas DeLeaver, Chief of Police (Retired) Maryland Transit Administration Police Force. Immediate Past President, National Organization of Black Law Enforcement Executives (NOBLE). Board Member for PULSE (People United Living in a Safe Environment). Graduate of the FBI National Academy. Bachelor of Arts Degree in Criminal Justice.

Wanda Dunham, Chief of Police, Metropolitan Atlanta Rapid Transit Authority. Adjunct professor of Homeland Security and Criminal Justice for Herzing University. P.O.S.T. Certified Instructor. Master of Arts, Public Administration, Columbus State University and Bachelor of Science, Criminal Justice, Jacksonville State University.

Hajir Nuriddin, Lieutenant, Bakersfield, California Police Department. Served as an instructor for the FBI International Law Enforcement Police Training Academy, Botswana, Africa. Graduate of the Harvard University, John F. Kennedy School Government, Senior Management institute for the Police Executive Research Forum, Boston, Massachusetts. Department of Justice Certified Diversity Instructor and P.O.S.T. certified in Diversity and Hostile Work Environment. Master of Arts, Public Administration, California State University, and Bachelor of Arts, Public Administration, California State University.

Patrick Oliver, Assistant Professor and Director of the Criminal Justice Program, Cedarville University, Ohio. Former Chief of Police for the following agencies: City of Fairborn, Ohio Police Department, City of Grandview Heights, Ohio, Division of Police, Cleveland Metropolitan Park District and Cleveland, Ohio Police Department. Masters Degree in Business Administration, Baldwin Wallace College, and Bachelor of Arts Degree in Criminal Justice, Baldwin Wallace College. Graduate of FBI's Law Enforcement Executive Development School and Certified Law Enforcement Executive (CLEE). Past President of Ohio Association of Chiefs of Police and served for 9 years as a commissioner with the Commission of Accreditation for Law Enforcement Agencies.



David Scott, Chief of Police, Southeastern Pennsylvania Transportation Authority (SEPTA) Police Department. Developed SEPTA's System Security and Emergency Preparedness Plan. Serves on the U.S. Attorney's Anti-Terrorism Advisory Council (ATAC). Serves on Pennsylvania Commission on Crime and Delinquency, Disproportionate Minority Committee. Master of Science, Criminal Justice, St. Joseph's University and Bachelor of Arts, Psychology, Cheyney University.

Robert Stewart, President and CEO, Bobcat Training and Consulting, Inc. (police management consulting firm). Former Chief of Police, Ormond Beach, Florida. Served as a consultant to review Use of Force and Civil Rights policies for law enforcement agencies. Graduate of the 144th Session of the FBI National Academy. Past Executive Director, National Organization of Black Law Enforcement Executives (NOBLE). Bachelor of Arts, Political Science, Howard University, Washington, DC.

Jimmy Wilson, formerly Chief of Police (retired), Suffolk, Virginia Police Department, Chief of Police, Canton, MS Police Department, Chief of Police, Jackson, MS Police Department, Deputy Chief of Police, Metropolitan Police Department of the District of Columbia. Served as a Management Consultant to examine Use of Deadly Force Study for the Louisville, Kentucky Police Department, and conducted a Management Audit for the Dallas Police Department. Instructor, International Law Enforcement Academy, Botswana, Africa-Criminal Investigations. Master of Science, Education, Virginia State University, Bachelor of Science, Administration of Justice, American University. Past President, NOBLE, Past President, Hampton Roads, Virginia Chiefs of Police Association.





Acknowledgments



ACKNOWLEDGEMENTS

The Assessment Team members would like to acknowledge the following members of the BART Police Department Management Team who made it possible to conduct this Management Audit. Their input and feedback on the quality and scope of police services made it possible to produce this report. We appreciate the BART PD employees and also the community members who participated with their input and feedback through the respective surveys. Thank you.

Chief Gary Gee	Lt. Kevin Franklin	Lt. Frank Lucarelli
Lt. Horace (Andy) Alkire	Sgt. Paul Garcia	Lt. William Schultz
Lt. Gary Cagaanan	Cmdr. William T. Gibson	Sgt. Keith Smith
Lt. John Conneely	Sgt. Glen Huff	Cmdr. Maria José White
Sgt. Marlon Dixon	Lt. Steven Langner	
Lt. Tyrone Forte	Lt. Aaron Ledford	



Introduction



INTRODUCTION

The **Bay Area Rapid Transit Police Department Management Audit** was conducted from June 18, 2009 to September 18, 2009. This audit reviews specific areas of the administration and operation of the BART Police Department and compared it with international law enforcement accreditation standards. These standards, which are contained in the Commission on Accreditation for Law Enforcement Agencies Standard Manual [CALEA], contain the only set of standards approved by the law enforcement profession. Therefore, it is appropriate to use these standards as the primary measure of professional excellence for a law enforcement agency.

Each of the recommendations made in this audit were justified based on established object measures of performance in the law enforcement profession. Therefore, each recommendation is justified based on one of the following four factors:

1. It is an international law enforcement standard;
2. It is an established recognized current best practice of the profession;
3. It is required to meet a legal mandate;
4. It is recommended based on a body of research; and/or
5. Agency-specific analysis. [Justification is based on agency analysis done in the study.]

The justifications provide the validation for why a recommendation is submitted to the agency for consideration. It is important to have an objective and factual justification as the basis for all operational and administrative recommendations.

In addition to each recommendation contained in this report, the agency is provided with the following additional information:

1. A brief overview of the current practice in the department regarding this issue; and
2. Some guidelines on how the strategy might be implemented.

Therefore, each recommendation in the report contains the following format:

1. The current department practice;
2. The commendation/recommendation being submitted;
3. The justification for the recommendation;
4. The guidelines for the implementation strategy; and
5. The Commission on Accreditation for Law Enforcement Agencies Standard number, if applicable.

The Fifth Edition Standards Manual for the Commission on Accreditation for Law Enforcement Agencies [CALEA] was the primary document used to make recommendations to the BART Police Department. In many cases, the wording used in making the recommendations is the identical wording in the standard because the recommendation in this



case is based on this particular source document and should be implemented exactly according to that standard statement.



HOW TO USE THE BART PD MANAGEMENT AUDIT

It is recommended that BART Police Department develop a strategic plan specific to the recommendations made in this audit report. Each recommendation should be placed in one of following four categories:

1. high priority;
2. medium priority;
3. low priority; or
4. unable or not interested in implementing.

A stakeholders group of individuals from the community, BART administration, police managers, line personnel, and civilian employees should be convened to rate each of the recommendations into one of the four categories. The agency should then develop its strategic plan to accomplish the high, medium, and low priorities based on their order of importance within 3 years.

- STEP 1 Identify a diverse management audit review stakeholders group.
- STEP 2 Have the management audit stakeholders group review the management audit.
- STEP 3 Rate each recommendation in the management audit and place in one of the four categories.
- STEP 4 Develop a strategic work plan to implement recommendations based on established priorities.
- STEP 5 Develop a follow-up feedback system to ensure accountability for staff responsible with timelines.



Profile



BART Police Management Audit

BART Profile

Bay Area Rapid Transit [BART] is a 104 mile rail system that serves four Bay Area counties: Alameda, Contra Cost, San Francisco, and San Mateo. It provides train service to people who travel between and within Bay Area cities, including San Francisco, Oakland, Berkeley, Fremont, Walnut Creek, Richmond, Concord, Pleasanton, and Millbrae. Average weekday ridership is 354,466 trips. BART has been in operation for 37 years.

BART Police Department Profile

The BART Police Department is comprised of 296 personnel, of which 206 are sworn peace officers. The BART PD is responsible for securing the heavy rail system, parking lots and facilities. The security for the bus system is handled by Alameda Sheriff's Department. The two departments work closely together and provide necessary back-up when needed. BART officers will often handle minor issues as long as it doesn't require a report. It is important to note that security for the bus system that interface with the BART system is handled jointly by the BART PD and local jurisdictions. Criminal investigations for crimes occurring on buses at BART stations are handled by the BART PD as the bus company contracts for policing do not include follow-up investigations.

The department has two labor associations which have collective bargaining rights. The police officers have a union and the supervisor's have a separate union to include the two police commanders. The only position in the department without bargaining rights is the chief of police.

Chief Gary Gee commands the department that is BART's sole law enforcement entity and provides the full range of police services. Chief Gee has approximately 42 years of Law Enforcement Experience; 36 of which are with the BART PD. Chief Gee was appointed Chief of the BART PD in December 2000.

The BART PD currently has fifteen (15) officer vacancies. The agency has a diverse workforce and continuing to seek qualified minority and/or female candidates to fill vacant positions.

The officers, supervisors, and even the commanders are on 10-hour shifts, they work four days on and three days off and every six months officers are allowed to pick their off days and shift preference based on seniority. The department is decentralized and officers are allowed to report to one of the field office locations. Lieutenants are responsible for each Zone and ensure that the officers at the decentralized location receive the necessary information.



Historical Organizational Structure

Under former Chief Taylor's administration: In 1993 the department was made up of a Chief, a Deputy Chief and two Captains. In the late 90's the department had a Chief and five Commanders, (four in the patrol division and one over Administrative Support). Chief Taylor retired and Chief Gee was appointed in 2000. In 2003, the organization changed to reflect a Chief, two Commanders and ten (10) Lieutenants. According to the recent (2009) Department Organizational Chart, the Department is still operating under this organizational structure.

The department is organized by function. Commander Maria White supervises the Support Services Bureau. The Support Services Bureau is comprised of Criminal Investigations, Revenue Protection, Personnel and Training, Timekeeping and Payroll, Procurement, Warrants, Police Records, Vehicle Management, Administrative Records, Crime Analysis, Evidence Control, Parking Enforcement Administration and Asset Management.

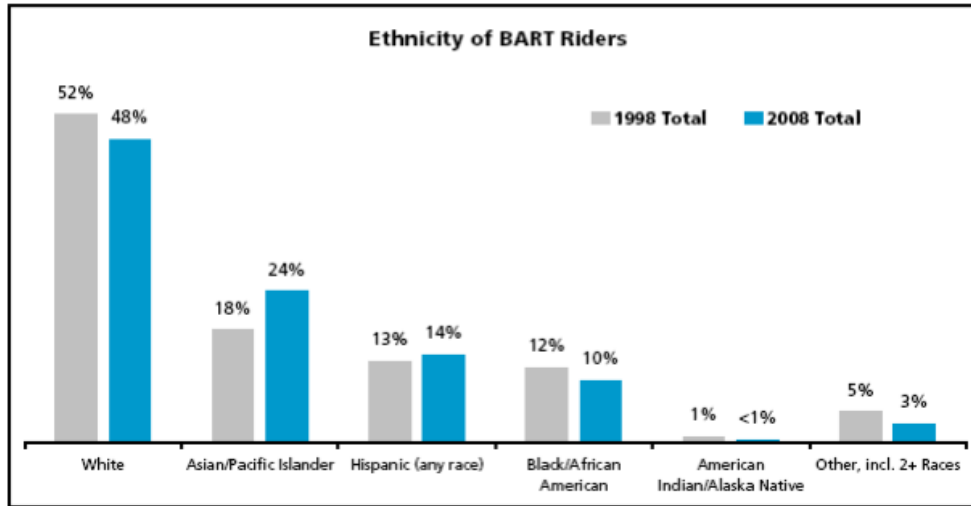
The Patrol Bureau is commanded by William T. Gibson and is comprised of Uniform patrol, K-9, Plain clothes Operations, Communications 911 Center, Parking Enforcement and Traffic Control, Community Policing, Joint Terrorism Task Force, and SWAT. The Patrol Bureau is decentralized into four geographical police zones, each with its own headquarters and field offices. Zone lieutenants are assigned the personnel, equipment, and resources to manage their respective police operations. The BART police facilities and field offices are in Oakland, Concord, Walnut Creek, Pittsburg, El Cerrito, Dublin/Pleasanton, Castro Valley, San Leandro, Hayward, San Francisco, Colma, and San Bruno where lieutenants, sergeants, Officers and Community Service Officers report for duty. In addition to their regular duties, the commanders and lieutenants take on additional responsibility to include special teams and administrative functions.



Ridership Demographics

Ethnicity

The ethnic composition of BART’s weekday customers has changed in the past ten years, as more report being Asian/Pacific Islander, while fewer report being White or Black/African American.



The 2008 ridership data shows that approximately 48% of BART riders are white, 24% Pacific Islander/Asian, 14% Hispanic, 10% Black and 3% other races (ridership data by county - see chart above).

The Demographics of Sworn Officers for the BART Police Department show that 48% of the Officers in the BART Police Department are White/Caucasian, 19% Black/African-American, 16% Hispanic, 16% Asian/Pacific Islanders, and 1% other. Of the total number of sworn Officers, 21 out of the 192 Officers are female.

2009 Sworn Officers BART Police

	Current Sworn Officers		Current Female Sworn Officers	
	#	%	#	%
Caucasian	92	48	8	38
African-American	36	19	7	33
Hispanic	30	16	4	19
Asian/Pacific Islanders	30	16	1	5
Other	4	1	1	5
TOTAL	192	100	21	100

2006 Sworn Officers BART Police

	Current Sworn Officers	Current Female Sworn Officers
TOTAL	176	21



Crime Trends

The BART Police Department has experienced a 9% decrease in calls for service during the past three years. Also, the Officer-on-View Incidents (self-initiated activity by BART Officers) has increased by 3%. The emergency response time goal for the BART Police Department is 4.00 minutes. The average response time is 3.89 minutes. Auto theft and auto burglary continues to be the most frequently occurring crimes both of which have experienced a dramatic increase. (Crime trend data for all Part I crimes for 2006-2008.)

Department Command Staff

The department leadership had five Commanders and four Lieutenants. The number of Commanders was decreased from five to two. The agency increased the number of Lieutenants from four to ten. The agency has previously indicated an interest in having Deputy Chief positions; however, this change has never been implemented.





BART Management Audit Executive Summary of Major Recommendations



BART Management Audit Executive Summary of Major Recommendations

The following are key recommendations and selected survey summary information that the NOBLE Study Team of consultants has concluded or collected from its work on the BART Police Management Audit.

1. ORGANIZATIONAL STATEMENTS [Pages 244-247]

The vision, mission, major goals and core values need to be re-established to provide the future direction for BART Police. It is time to recalibrate the metrics of performance.

2. POLICY & PROCEDURE MANUAL [Pages 237, 248]

The general orders manual needs a total revision in format, process, and content. This should be based on international law enforcement accreditation standards.

3. TRAINING [Pages 55-86]

BART PD needs to develop and implement a comprehensive pre-service, in-service, specialized and advanced training plan in alignment with the BART Police mission.

4. EMPLOYEE PERFORMANCE STANDARDS [Pages 235-260]

Additional supervision and accountability measures for employees needs to be established to ensure the mission and major goals of the agency are being achieved by effective employee performance in alignment with the mission and major goals.

5. PATROL PRIORITIES [Page 168]

Patrol visibility on the BART trains and the stations is major concern to your constituency and to the crime control strategy of BART. Officers must ride the trains throughout the district to achieve maximum visibility and access to BART customers. Officer presence at the stations and in the parking lots is also important. The recommend order of priority for officers is: A. visibility on trains; B. visibility at stations; C. visibility in parking lots.

6. PERSONNEL SELECTION [Pages 37-54]

The selection of personnel is the single most important factor in transforming the agency. A revision of the methods of personnel selection in hiring, promotion, and assignments consistent with achieving the BART Police mission would be beneficial.

7. COMMUNITY INVOLVEMENT [Page 182-187]

The BART Police department needs to develop and implement an on-going strategy for involving the community in assessing the quality and scope of police services. Developing a police advisory board, utilizing community surveys and involvement in community organizations are some of the methods which may be used to accomplish this objective.



8. CRIME CONTROL STRATEGY [Pages 251]

The department needs to develop and implement a crime control strategy which measures its effectiveness in preventing, reducing, and solving crime. This needs to be measured and evaluated month to month and from year to year to determine who, what, when, where, why and how crime is being addressed by BART Police.

9. FACILITIES MAINTENANCE [Pages 115-118]

The BART Police main office and some of its satellite facilities are in dire need of renovation or replacement. The quality of these facilities as an effective working environment serves as a disabling factor for all the employees working in them. It creates the perception that the BART administration does not value their contribution to the BART mission.

10. JOB SATISFACTION [Feedback to Audit Team]

BART Police employees appear to enjoy a high degree of satisfaction in working for a transit police agency. There appears to be a high degree of alignment in type of services provided or needed and the desire to do transit policing.

11. SHOULD BART HAVE A POLICE DEPARTMENT? [Page 180]

A transit police agency is highly beneficial to the communities it serves and BART. Its decentralized environment, the diverse and expansive needs at transit facilities, parking lots and on trains requires the service of a dedicated special purpose law enforcement agency. The following are key reasons why if BART should have a police agency is most effectively responded to in the affirmative:

- a. Better responsiveness to calls for service;
- b. Higher degree of safety to all patrons;
- c. Understanding the goals of administration;
- d. Cohesiveness of response to client needs;
- e. Developing and implementing counter-terrorism strategies;
- f. Intelligence information gathering and sharing;
- g. Officer presence on the trains;
- h. Establishing police-community relations;
- i. The level of community crime;
- j. The volume of commuter traffic;
- k. Fare evasion; and
- l. Parking lot safety.

12. PUBLIC INFORMATION OFFICER [Page 256]

The establishment of a public information officer (PIO) that works with the BART Administration PIO to more effectively respond to all media requests for information and to draft press releases on all BART Police matters.

13. PROMOTION [Pages 303-314]

BART PD needs to do a comprehensive revision of its management promotion process. This revision will include the addition of new promotional instruments and written policies which specify the qualifications for promotion. Additionally, BART should consider lateral entry for all management positions.



14. INTERNATIONAL LAW ENFORCEMENT ACCREDITATION [Page 237]

BART should pursue accreditation through the Commission on Accreditation for Law Enforcement Agencies. If the agency achieves accreditation and maintains accreditation every three years, BART Administration has the assurance that its police department is maintaining the highest performance standards in the law enforcement profession. Compliance with these standards is in the best interests of the communities it serves and the employees of BART PD.

15. DEPUTY CHIEF JOBS [Page 238]

The BART PD should establish the position of Deputy Chief. There should be two positions in this job category, one for Operations and the other for Administration. This job should not be in a collective bargaining unit. It should be established as a full-time salaried position. The Police Chief will have the discretion to rotate the individuals from Operations to Administration so that they have the ability to gain experience in both areas. Candidates selected for these positions should be part of the organization's succession plan.

16. ALL HAZARD PLAN TRAINING [Page 249]

The BART PD should provide training on its updated All Hazard Plan(s) for responding to critical incidents, such as natural and man-made disasters. This plan includes details for responding to civil disturbances, mass arrests, bomb threats, hostage/barricaded person situations, acts of terrorism, and other unusual incidents. The BART district's emergency plan serves as the police department all hazards' plan. It was last updated in May of 2008. Training with all police personnel and key stakeholders should be conducted on this updated plan.

17. RACIAL PROFILING [Pages 119-136]

The BART PD should collect data on all police officer contacts and citations or arrests to analyze to determine if biased-based policing might be occurring.

18. USE OF FORCE [Pages 199- 234]

The agency should incorporate the various policies which specify practices governing use of force into a single comprehensive policy to both reduce confusion and provide easy access to find guidance in this critical area.

The agency's members should receive annual use of deadly force training and biennial less-lethal force training. Training should include the legal justification for the use of force, with a provision for tracking and mandating attendance for those that do not attend regularly scheduled training. The removal of personnel from any position requiring a firearm should occur when they fail to attend and achieve firearms qualification until the member satisfies the agency qualification requirements. There also should be a provision for tracking and mandating attendance at make-up training for those that do not attend regularly scheduled training. The agency should develop a written use of force testing instrument.

The agency should develop a reporting system that ensures all incidents involving the application of force, including leg sweeps, elbow jabs, punches, kicks or other weaponless force, are well documented and the salient facts surrounding the event noted. Serious consideration should be given to developing a separate use of force report that is completed when an incident involves the application of force. Training in the proper documentation of use of force events is paramount.



A part of the use of force policy should include a response to the scene of any use of force incident by a supervisor requiring that the supervisor to conduct a documented review of the incident.

All officers and supervisory personnel should be trained on the importance of immediately notifying the communications center when a use of force incident occurs and the necessity of identifying and securing witnesses.

The process should include a charge requiring Internal Affairs to conduct an independent review of all use of force reports and to make a separate finding in addition to tracking and recording use of force events. Additionally, the Training function should receive a copy of reviews or analysis so they are in a position to identify training needs or policy issues.

The agency should consider modifying its policy to provide for an “outside” agency to conduct the criminal investigation anytime an application of force by an officer results in death or serious bodily injury.

The agency should conduct an annual analysis of all use of force events. A review of incidents of force may reveal patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications.

19. CIVILIAN OVERSIGHT [Pages 189–198]

BART should develop a model of civilian oversight which is most suitable to address the key concerns of the stakeholders regarding the issue of police accountability. Each model currently in use by law enforcement agencies across America have their strengths, weaknesses, and desired outcomes. An effective oversight model should be properly staffed and funded, have the ability to conduct an investigation, and make appropriate recommendations for discipline. A civilian oversight entity should have independence while establishing and maintaining credibility with the community while working in a collaborative manner with BART PD. The following are NOBLE’s major recommendations in the area of civilian oversight.

- a. All appeals should stop at the General Manager. The decision at that level is final. The Board of Directors is a policy making body of elected officials and should avoid issues of management oversight other than for the General Manager.
- b. The process of establishing an independent Citizen Oversight System for the BART Police Department should be developed at a pace sufficient for proper planning and should not be established solely because of the urgent and vocal demands of the community. The community may not like the end results because the system may be flawed as a result of establishing the policies, procedures and system too rapidly. The System must also be properly subsidized and carefully thought out and planned. The community should also be provided with monthly updates on the progress of the Civilian Oversight System.
- c. The Independent Police Auditor, members of the Citizen Board or Investigators should not be police officers or former law enforcement officers. When police officers are part of Citizen Boards they can inadvertently function as or be perceived as a “Police Commission or Panel of Review”. In fact, since recommendations shall be made about BART Police Officers’ behavior and conduct, respected psychologists



and sociologists might be considered to be members of the Citizen Board. For example, psychologists are trained to perform psychological research, testing and therapy. They can recognize aggressive, “hyper-vigilant” police officers. Sociologists study human social behavior. This shall be helpful when reviewing complex cases involving multiple complainants, witnesses and police officers.

- d. The BART Board of Directors should not appoint the Citizen Board directly. The Citizen Board should be free of politics and even the perception that they are influenced by politicians. The Board of Directors are politicians (or associated with politicians), appointment of Citizen Board members by politicians may appear impartial or biased. Citizen Board members can be interviewed and hired by NACOLE, the California Human Relations Commission or another independent organization. The BART Board of Directors should select Citizen Board members from a list provided by NACOLE.
- e. There must be a clear, dedicated funding source for the Citizen Oversight System. The source of funding should be determined now. A budget must also be established as well as an organizational structure.
- f. Regular and consistent training must be provided to Citizen Board members. This training shall include familiarization with POST, the BART system, Operational Directives (especially Positive Discipline Policy or Disciplinary Code), Contract Agreements, Grievance Procedures, Due Process Policies and Internal Affairs policies and procedures.
- g. Citizen Board members as well as the Auditor should have a relationship with local prosecutors (District Attorney) along with the Offices of the State Attorney General and the United States Attorney. Complainants’ allegations should be forwarded to the appropriate agency for action.
- h. Recommendations for Corrective Action: Independent investigative findings made by the Office of the Police Auditor shall include recommendations for corrective action, up to and including termination when warranted and shall include prior complaints and their dispositions. Discipline that is recommended shall be consistent with past practice and uniformly applied. Any discipline action initiated by the Bart Police Department will comply with the Positive Discipline System guidelines (e.g. Operational Directive #77), other appropriate guidelines and any labor agreements in effect. Every officer is entitled to Due Process. When the evidence does not support the allegations of misconduct, the Auditor shall recommend to the Citizen Board that the matter be dismissed. The Citizen Board shall have a simple vote to determine if the matter shall be dismissed. This process must be appropriately documented in writing and endorsed by the Auditor and each member of the Citizen Board. Proper notification must be made in writing to the complainant and the BART police officer regarding the disposition of the investigation.



If the complainant wishes to withdraw a complaint, the Auditor shall forward documentation to the Citizen Board that is endorsed by the complainant. These procedures must be clearly communicated to all parties including the community.

- i. Time limits should be indicated throughout the policy. For example, “In a confidential personnel meeting, the Auditor shall submit his/her investigative findings and recommendations in writing to the Citizen Board for review within 60 calendar days. Should the Citizen Board agree with the findings and recommendations, the report will be submitted to the Chief of Police for appropriate action within 10 calendar days. The Chief of Police shall implement the recommended action in accordance with the Positive Discipline guidelines, absent appeal.”

20. INTERNAL AFFAIRS [Pages 137-162]

BART PD needs a comprehensive revision of the Internal Affairs function. A written directive system should be developed and implemented which addresses the policies, procedures, and standards for conducting internal investigations. Additionally, the agency needs to develop and implement an early intervention system. This is a computerized record system with specific benchmarks to indicate when an employee may be experiencing job-related difficulties that facilitate the need for early intervention.

21. SWAT & TACTICAL TEAM [Page 80]

Our Review Team had questions about the establishment of a SWAT Team within the BART Police Department. We believe that the department, the General Manager, the Board of Directors, and the public should consider this issue.

While the unit seems to have its primary value and on-going function of the execution of high-risk warrants, its overall benefit needs to be evaluated against cost, value, and liability. Some jurisdictions within the BART district maintain SWAT and hostage negotiation capabilities, which may be available for assistance in responding to incidents within the BART system. Since the entire rail service area is contiguous with other jurisdictions with full service SWAT and hostage negotiation units, it might be beneficial and cost effective to establish MOU's with just the respective jurisdictions which have tactical teams. However, to have a SWAT Team available across all the respective jurisdictions with a counter-terrorism focus also has value. In a post-9/11 society, transit systems which have always been a high value community asset, have a greater degree of vulnerability.

Our sense is that Tactical Teams are more the norm for similarly situated departments and, with the elimination of the SWAT unit, more resources might be devoted to this functionality. We would think that more senior experienced officers be assigned this kind of duty. However, the threat of terrorism to a transit system increases the value of a transit police SWAT team. It is important to note that the BART Police Tactical Team is a crowd control team. The members of a BART Police Tactical Team are not selected, trained, or equipped to handle tactical incidents. **The agency should conduct its own analysis in this area to validate its decision.**



22. EARLY INTERVENTION [Pages 153-154]

The BART PD should develop and implement a computerized early intervention system. Early intervention is an effective strategy for preventing mitigating or solving potential employee problems. The concept is for management to identify, manage, or resolve employee problems in their early stages.

- a. Internal affairs case management software is available and should be employed to categorize investigations, officer behavior, discipline, developing trends and many others. In addition to serving as a repository for statistical data, periodic analysis can provide indicators that written policies may be deficient, deviant behavior may be prevalent, the number and kinds of disciplinary actions taken against an individual officer may be inordinate, or officers on the same shift or in the same unit may have developed a subculture contrary to the values of the department.
- b. The purpose of an early warning and intervention system is to track indicators that will identify patterns of officer conduct that fall outside of the norm. The indicators may show positive performance by an officer or it may show unsatisfactory behavior.
- c. This program will assist BART by identifying problem employees, identifying training needs, indicating the type of intervention required, and ultimately reducing misconduct.

23. DISCIPLINE [Pages 161-166]

The agency should consolidate the various discipline process general orders, directives, policies, and guidelines into a single agency discipline policy to avoid confusion in applying and interpreting the disciplinary system.

The agency should adopt a more traditional police discipline system, and centralize the Employee Development Record [EDR] files. This would simplify discipline records review by supervisors, managers, and Internal Affairs. Numerous affordable computer software programs are available that can simplify this process.

Purging disciplinary matters in 90-days to a year or less does not provide for the proper and deliberate monitoring of problem employee behaviors or performance. The agency should consider significant modifications to the agency disciplinary system as the current disciplinary process does not provide for an effective Early Warning or Early Intervention program.

24. BART PD EMPLOYEE SURVEY [Respondents: 109] [Pages 261-305]

The following is a general summary of the strongest responses received by BART PD employees to topics within the Employee Survey.

- a. The majority of employees indicated that their job motivation is low. [Question 1]
- b. Effective communication needs to be established by management with line personnel. [Question 2]
- c. The majority of employees' desire increased involvement in decisions that affect them. [Question 3]



- d. The majority of employees believe there is a greater need for appropriate job-related training for personnel. The employees the following areas as those they deem most important [Question 8]:
 - i. Investigative Skills
 - ii. Current Law Changes & Effects
 - iii. Computer / Software Use
 - iv. Use of Force and Defensive Tactics [tie]
- e. The vast majority of employees believe that the organization should establish new organizational statements. Specifically, the agency should develop a new Vision Statement, Mission Statement, Core Values, and major Goals. [Question 3H]
- f. The majority of employees believe that the agency should develop and implement effective crime control strategies. [Question 3 P]
- g. The majority of employees believe that better equipment is needed. [Question 3 T]
- h. The majority of employees believe that there should be improvement to the promotional process. [Question 3 S]
- i. The majority of employees believe that there is a need for a comprehensive and contemporary general orders manual. [Question 2 N]
- j. The majority of employees believe that there is a need for increased supervision and accountability. [Question 3 L]

25. COMMUNITY SURVEY OF BART PD [Respondents: 1214] [Pages 167-178]

The following is a general summary of the strongest responses received by community members to topics within the Community Survey.

- a. Respondents to the survey mostly indicated they ride 5 days a week. [Question 3]
- b. 48% of the respondents indicate they are satisfied with BART police services. 32% indicated they were neutral on this topic.
[Question 4]
- c. 59% of the respondent indicate that the relationship between BART police and the community is Fair or Better. [Question 5]
- d. BART patrons indicated that the police patrol priorities should be [Question 9]:
 - i. Trains
 - ii. Stations
 - iii. Parking Lots
 - iv. Streets near BART stations
- e. The majority of respondents [62%] indicate that police presence on the trains has



- stayed the same or decreased. [Question 11]
- f. The majority of respondents [54%] indicated that police presence at BART stations has stayed the same or increased. [Question 12]
 - g. The majority of respondents [71%] indicate that travel on a BART train is safe after dark. [Question 17]
 - h. The majority of respondents [60%] indicate that they feel safe in a BART station after dark. [Question 18]
 - i. The majority of respondents [58%] indicate that they feel unsafe in a BART parking lot after dark. [Question 19]
 - j. The majority of respondents [59%] indicate that they have some or great confidence in the BART PD to prevent crime. [Question 20]
 - i. The majority of respondents would rate the overall performance of the BART PD as from Fair to Good [70%]. [Question 21]



Chapter 1

Culture



BART Police Management Audit

Topical Area: Culture

Issue: Police Advisory Board

Current Application or Practice: The BART PD does not have a Police Advisory Board.

Commendation or Recommendation: The BART PD should develop and implement a Police Advisory Board. The Police Advisory Board will be a proactive group which provides input and feedback to the agency on the quality and scope of police services. This group of volunteers will provide non-binding input and feedback on all proposed significant initiatives of the police department. This will ensure that the police department has input, feedback, and public support for any significant initiative before it is established as an organizational policy, procedure, or practice.

Justification: It is a law enforcement best practice for agencies to have Police Advisory Boards to ensure that decisions made by the organization are customer-centered. Since this is the community as the recipient of police services, they can provide assistance in developing and implementing more effective policies, procedures, and practices.

Implementation Standards: The agency should identify approximately 11 to 15 individuals from diverse backgrounds and experiences to serve as members on a Police Advisory Board. These individuals should serve for staggered terms in which three members rotate on and off during the same year, either ending or beginning a three-year term. It is incumbent on the agency to develop a Police Advisory Board model that is compatible for a transit agency.



Public Perception Related to BART Police

Included in this report are interviews and surveys of community leaders, police employees, non-police employees, and customers. Details of the feedback from these individuals are located in Chapter 9 titled “Community Confidence” and Chapter 15 titled “BART PD Employee Survey.” Customers and the community members stated that the BART Police leadership is detached and they would like to see more police officers on the trains and in the stations. Overall, the BART system appears to be relatively safe, the perception of the system being unsafe prevailed. Transit systems all across the country deal with the perception of safety vs. the actual crime rate, however, transit agencies have to be proactive and institute crime prevention programs to reverse the perception.

Interview Comments Overview

- After the shooting, Officers stated that morale was at an all time low, lack of trust within the department; everybody was involved in playing the blame game, talk of a no confidence vote against the Chief by the Police Officers Association.
- Supervisors stated that officer inspections of uniforms and equipment are a little loose and may not actually be conducted at this time.
- The shooting has affected the command staff by them having to work longer hours and responds to more information requests from Board Members of BART.
- Officers were subjected to ridicule and taunting after the shooting.
- Community Service Officers are not being used correctly, they should be allowed to actually perform true community outreach functions as opposed to be used to generate revenue by writing parking tickets.
- The community/customers would like to see officers on the trains and in the stations as opposed to just riding by in the parking lots.
- Officers want more of a Command staff presence in the field. (Especially Lieutenants’ who they say they never see since they are always in their offices handling administrative tasks.
- More support from Command staff.
- The Lieutenants’ need to attend shift briefings. Feel that there is a disconnect with upper management.
- Need more training for all officers’ not just specialized officers.
- The business community feels Officers need to be more visible, interagency coordination between BART and Oakland Police Department, more community involvement, wants BART to know that they are a part of the community.
- BART PD needs better facilities including Police Headquarters. Officers feel BART Management and Board Members don’t care about them since they moved to the Lakeside facility and left them in a run-down building for a headquarters and police roll-call facilities in the stations are not much better.
- Officers in specialized units feel that rotating in and out of specialized positions every three years is counter-productive.
- The current organizational chart is ineffective and does not have any accountability. Want to go back to Zone responsibility to increase accountability.
- Very few female officers get promoted. Department has a bias against females.



- Lack of leadership and direction at the top of the department.
- The department lacks vision.
- There are no expectations for the department.
- Wants the department to clarify training standards.
- The department is in a steady decline.
- Executive staff needs to work to get more respect from line officers.
- BART PD should encourage independent thinkers.
- Establish standards for promotions.
- No standards in discipline. Officers who commit the exact same violation will get different disciplinary actions. One may receive a suspension, while the other may receive a written counseling.
- Management should support supervisors.
- The department is reactionary and not proactive.
- The departments need succession planning to make sure all have knowledge of different areas of the department.
- The department needs a Chaplaincy program or peer counselors.
- Officers come from neighboring departments because it's less work, more money, a liberal vacation time policy and no pressure to perform.
- No uniformity among officers' uniforms.
- Recruitment and retention is very good.
- They need an omnibus man (Just like the Oakland School District).
- BART can improve communications by publishing on the internet, newspaper and stations that this is how we are going to handle emergencies or disasters in the future, so that customers will know what to expect and what they need to do.
- Let the community be a part of assisting the department with establishing policies and procedures.
- The non-police employees state they do not see officers inside the stations; sometimes for as long as the entire shift. Sometimes they have gone an entire week without seeing an officer.
- Officers are not friendly or approachable. He indicated that officers told them they could not get too close because they may have to arrest them at some point.
- No officers in stations usually in parking lots only.
- When policies change, there is no communication to other front-line non-police employees.
- Police department has not trained other front line employees on anti-terrorism, awareness training or how to handle general emergencies.
- Officers are slow to respond to calls at the station or calls for assistance.
- Safety is a major issue for the non-police employees.



Chapter 2

Recruitment & Selection



BART Police Management Audit

Topical Area: Selection

Issue: Agency's Organization Statements & Signatory Documents

Current Application or Practice: BART PD should use the following signatory documents as a condition of hiring to confirm a candidate understands the key professional and organizational philosophies and policies.

Commendation or Recommendation: Require essential signatory documents be signed by police officer candidates as a condition of employment. This is to ensure that they are compatible with both the professional and organizational philosophies and policies. The following is a list of recommended signatory documents which should be utilized by the BART PD.

1. Organizational statements which consist of Core Values, Vision Statement, and Mission Statement;
2. The Law Enforcement Code of Ethics;
3. Canons of Law Enforcement Ethics; and
4. The Law Enforcement Oath of Honor.

Justification: The law enforcement best practice to have potential police recruits sign signatory documents that validate their commitment to both professional and organizational philosophies. **CALEA 1.1.2** *A written directive requires all personnel to abide by a code of canon of ethics adopted by the agency and mandates that ethics training be conducted for all personnel, at a minimum, biennially.*

Implementation Standards: The BART PD should take the professional Law Enforcement Code of Ethics and develop it into a signatory document to be signed by all prospective employees. It is also recommended that they utilize the currently adopted Canon of Law Enforcement Ethics and Oath of Honor as developed by the International Association of Chiefs of Police and create signatory documents for potential employees. The agency's current organizational statements should be developed into a signatory document to be signed by all prospective employees.



BART Police Management Audit

Topical Area: Recruitment & Selection

Issue: Recruitment & Selection Advisory Council

Current Association or Practice: BART PD does not have a Recruitment and Retention Advisory Council.

Commendation or Recommendation: The agency should establish a Recruitment and Retention Advisory Council whose members represent a cross section of private and public employees, community members, and stake-holders of those receiving BART PD law enforcement services.

Justification: *CALEA 31.1.1 Key stake-holders, subject matter experts, private and public organizations can yield a wealth of information concerning effective practices in the recruitment and retention of law enforcement officers. These individuals or groups are also a good source for marketing and sharing information regarding recruitment.*

Implementation Standards: The agency should establish a diverse regional Recruitment and Retention Advisory Council.



BART Police Management Audit

Topical Area: Recruitment

Issue: Intentional Recruiting from Private & Public Organizations

Current Practice: BART PD employees currently actively participate in its recruitment program and seek qualified individuals from both the private and public sectors. However, the agency is not intentional in recruiting from current effective employees in the private and public sales and service organizations.

Commendation or Recommendation: Intentionally recruit from private and public sales and service organizations. Qualified individuals from private and public sales and service organizations can possess several qualities that make someone an effective law enforcement officer. The following characteristics which make someone effective as a law enforcement officer are also found among effective sales and service employees:

1. Integrity. The candidate has a high moral character in all matters private and public.
2. Service orientation. The candidate has a desire and commitment of service to others above self.
3. Interpersonal relations. The candidate has the ability to interact effectively with people.
4. Team compatibility. The candidate has the ability to work with others in a supportive manner to achieve the goals of the group.
5. Performance-driven. The candidate has the desire and motivation to be successful in achieving individual and group goals.

Candidates from private and public sales and service organizations who possess these qualities should be actively recruited for law enforcement positions.

Justification: **CALEA 31.1.1** It is a law enforcement best practice to actively solicit the applications of qualified candidates who might not otherwise apply. This strategy can be highly effective if the agency has a flexible profile of the most effective candidates.

Implementation Standards: Identify private and public sales and service organizations from which to recruit qualified applicants based on effective job-related performance behavior.



BART Police Management Audit

Topical Area: Recruitment

Issue: Identification of Key Community & Business Leaders

Current Practice: BART PD does not intentionally identify key community and business leaders to develop relationships that will provide a potential pipeline of the most qualified candidates. Some networking is done unintentionally, but not in accordance with a specific plan to meet pre-established recruitment goals.

Commendation or Recommendation: Work to build strong partnerships with the community. Identify key community and business leaders to develop relationships that will provide a potential pipeline of the most qualified candidates. Suggested partnerships include the military, college and high school counselors, community-based organizations, student associations, public and private customer service organizations and other departments internal to the agency's jurisdiction. Build formal relationships between leaders in each organization and members of your recruitment team. Additionally, refer candidates that are not a good match for your agency to a more compatible organization, ideally a liaison agency for possible employment.

Justification: **CALEA 31.1.1** The law enforcement best practice to build formal partnerships within segments of the community that either contain potential law enforcement candidates or that can help identify potential law enforcement candidates.

Implementation Standards: Identify staff within the police department to develop a community partnership organization strictly to assist BART PD with the selection of potential law enforcement officers. These partners must understand the flexible profile of an ideal candidate in the police officer selection process.



BART Police Management Audit

Topical Area: Recruitment

Issue: Flexible Profile of an Effective Police Officer

Current Application or Practice: BART PD has not developed a flexible profile on an effective police officer candidate based on a job-task analysis and distributed it to all recruitment section and all officers.

Commendation or Recommendation: Develop a flexible profile of an effective police officer by identifying the “most viable candidates.” BART PD should identify the knowledge, skills, abilities, education, training, behaviors, and traits that make an effective officer. This identifies a target upon which selection is based.

Justification: **CALEA 31.1.2** It is a law enforcement best practice to do targeted selection before you can effectively recruit a law enforcement officer. The agency must know what it is looking for in quality candidates. Advertising alone is not effective recruitment. Successful recruitment must be efficient and effective. When efficient and effectiveness are combined, the most appropriate selection tools are used for a smaller candidate pool.

Implementation Standards: BART PD needs to develop a flexible profile which describes the most desirable attributes as identified in this recommendation.



BART Police Management Audit

Topical Area: Recruitment

Issue: On-Going Studies of Recruits

Current Application or Practice: The agency currently does not analyze where recruit candidates come from and why they want to work for BART PD.

Commendation or Recommendation: Continue to conduct on-going studies on where police recruit candidates come from and why they want to work for BART PD.

Justification: **CALEA 31.1.2** A law enforcement best practice to determine the geographic radius in which you are most likely to select law enforcement candidates. It is important to understand the organizational strength which draws recruits to your law enforcement agency. This is also important for the marketing plan and decision to brand your agency.

Implementation Standards: BART PD should develop and conduct a survey of all officers hired for the next three years to continue to analyze this information.



BART Police Management Audit

Topical Area: Recruitment

Issue: Analyze Recruitment Efforts

Current Practice: The BART PD is currently not analyzing their recruitment efforts based on the recommended benchmarks listed here. The department should analyze its recruitment efforts for future modification to increase its effectiveness and efficiency of future recruitment efforts.

Commendation or Recommendation: Analyze recruitment efforts. How much does your agency know about the success of past recruitment efforts and effective contemporary methods? Make an effort to better understand the agency, community, and the results of current and/or past recruitment efforts. Your research for example should provide an agency with information to aid in answering the following questions: Who is the ideal candidate? What job qualifications are compatible with the agency's needs? What advertising and other efforts are yielding the best results? What are the agency's demographics and how do they compare with the community served? What has attracted and kept existing staff? What were the geographical locations of current officers prior to being hired? Why do officers leave the agency? Are your pay and benefits compatible with similar agencies within the geographic area? How long does it take candidates to complete the selection process once begun? The answers to these and other relevant questions will impact recruitment planning, advertising, and strategies.

Justification: **CALEA 31.2.2** It a law enforcement best practice to analyze recruitment efforts to determine both the success of past recruitment efforts and identify effective contemporary methods.

Implementation Standards: BART PD should review the recommended benchmarks for analyzing the recruitment efforts and determine which of these can be effectively implemented.



BART Police Management Audit

Topical Area: Recruitment

Issue: Develop and Implement a Recruitment Plan

Current Practice: BART PD currently does not have a recruitment plan. It is recommended that the agency develop a recruitment plan to respond to all the issues identified during this review.

Commendation or Recommendation: Develop and implement a recruitment plan. The purpose of a recruitment plan is to capitalize on the strengths of an agency, identify potential opportunities, and identify and mitigate the weaknesses and threats, where possible, in order to position the agency to accomplish its recruitment goals. The recruitment plan should address the questions of who, what qualities, where, why and how your agency will achieve its recruitment goals. An agency should have recruitment goals and plans for a three to five year period. The question must be critically asked how important is recruitment, particularly in relation to identifying minority candidates? If important and a priority, then sufficient resources should be allocated. How many candidates will be hired? What diversity needs exist? How many recruiters will be needed to reach these goals? How much money will be allocated? Where are the use of resources most effective? How and to whom should you market? What local agencies and leaders can be partnered with to identify qualified candidates? An effective strategic recruitment plan will require the involvement of the entire agency and a thorough comprehensive analysis. Find ways to speed up the recruitment and testing process because the best candidates left in the hiring process too long will be hired elsewhere.

Secure the right screening tools to help identify the best candidates. Consider employing a “Pre-Qualifying Questionnaire” that will provide an opportunity for people to withdraw if they have disqualifiers in their background. Train evaluators in candidate selection. The selection process should be geared toward assessing candidate’s suitability for the agency if not for the position for which they have applied, then for referral elsewhere.

Justification: **CALEA 31.2.2** It is a law enforcement best practice for an agency to have a recruitment plan. This plan answers the following questions at a minimum:

1. What is the identification of recruitment goals and within what time span?
2. How important is recruitment?
3. How many people need to be hired annually?
4. What diversity needs exist?
5. How many recruiters will be needed to reach these goals?
6. What strategies will be used to effectively recruit candidates?



An effective recruitment plan will involve internal and external stakeholders in its development and implementation.

Implementation Standards: The agency needs to identify all key stakeholders regarding the development of a recruitment plan. An officer in the department should be identified to facilitate the accomplishment of this task.



BART Police Management Audit

Topical Area: Recruitment

Issue: Application Process for Out-of-Town Candidates

Current Practice: BART PD currently does not actively recruit police candidates from out-of-state or out of the region. Therefore there is not a process which is advertised or designed to be completed within two visits to BART PD.

Commendation or Recommendation: Do not require more than two round-trip visits to complete the entire application process for out-of-state police officer candidates.

Justification: CALEA 31.3.1 It is a law enforcement best practice for metropolitan law enforcement agencies to recruit qualified candidates out-of-state. If this methodology is advantageous, then agencies need to limit candidates' visits to not more than two round trips. Any additional trips become cost prohibitive to potential candidates.

Implementation Standards: BART PD should set up a selection process for out-of-state candidates not requiring more than two round trip visits.



BART Police Management Audit

Topical Area: Recruitment & Selection

Issue: Contact Maintained with Applicants

Current Application or Practice: BART PD does not have a written policy that indicates “Contact is maintained with applicants for all positions from initial application to final employment disposition.”

Commendation or Recommendation: Contact is maintained with applicants for all positions from initial application to final employment disposition.

Justification: CALEA 31.3.3 *Contact is maintained with applicants for all positions from initial application to final employment disposition.*
Recruitment and Retention Best Practices Update April 2006.

Implementation Standards: Applicants should be periodically informed of the status of their applications. Applicant contacts should be documented and logged. The agency should consider technological resources for maintaining contact with applicants.



BART Police Management Audit

Topical Area: Recruitment

Issue: Customer-Focused Hiring Philosophy

Current Application or Practice: BART PD currently is not intentional in providing candidates access to the recruiters and schedules meetings with them when appropriate. The department currently does not address the other recommendations identified here regarding a customer-focused hiring philosophy particularly completing the selection process within 90-120 days.

Commendation or Recommendation: Adopting a customer-focused hiring philosophy through personalizing the recruitment process by:

- Developing a database to facilitate tracking candidates through the process
- Assigning a recruiter to each candidate through the process and have the recruiter make regular contact by phone or email with the candidate
- Providing candidates access to the recruitment team
- Scheduling meetings when appropriate
- Mentoring candidates
- Surveying recruits after the process to obtain feedback to improve the process
- Ideally complete the entire selection process within 90- 120 days

Justification: **CALEA 31.3.3** It is a law enforcement best practice to both track recruit candidates throughout the selection process and have them completed in less than 90 days. A California survey of 850 police recruits indicated that two primary concerns were not having a personal contact with a recruiter or a specified time to complete the process.

Implementation Standards: The department should review the recommended benchmarks to determine which of these may be effectively implemented.



BART Police Management Audit

Topical Area: Selection

Issue: Behavioral-based Job Interview

Current Application or Practice: BART PD is currently not utilizing behavioral-based interview questions during the police officer job interview. The behavioral-based interview process ensures that questions are job-related and are scored according to pre-determined job-related dimensions.

Commendation or Recommendation: Conduct a Behavioral-based Job Interview

Behavioral-based oral interviews are recommended. Interview questions must be based on job-related knowledge, skills, abilities, behaviors, and traits. The following principles should be followed when conducting behavioral-based interviews.

1. Behavioral-based interviews function on the understanding that past performance is the best indicator of future performance.
2. The behavioral-based interview will compare the candidate's past performance with the criteria identified for job success, and assist in determining if a candidate has the requisite skills and abilities.
3. All interview questions must be job-related and valid.
4. Training is required for the individual developing job-related questions and participating in an oral interview board.
5. All persons evaluating the interviewee should be provided with information on properly evaluating the candidate's responses in comparison to effective job-related behaviors.
6. Behavioral-based interview questions should be modified or updated as knowledge, skills, abilities behaviors and traits for the job changes.
7. Prior to conducting an interview questions should be developed based on a job analysis and must be standardized for all candidates.

An essential purpose of any oral interview is to evaluate the candidate's suitability for the target job. This can only be done effectively if the interview questions are both job-related and reliable.

Justification: CALEA 32.1.2 In the human relations profession, behavioral-based interview questions are considered to be the most valid and reliable method for conducting job interviews. Due to the high degree of validity, these questions are able to withstand a potential challenge by a candidate.



Implementation Standards: Use a job-task analysis to develop behavioral-based job interview questions.



BART Police Management Audit

Topical Area: Selection

Issue: Writing Component

Current Application or Practice: BART PD currently does not evaluate a candidate's written communication as part of the police officer's selection process.

Commendation or Recommendation: Develop a writing exercise component as part of the application process to assess written communication skills. A written communication standard should be set.

Justification: CALEA 32.1.2 It is a law enforcement agency best practice to identify and select candidates with the best written communication skills. Since the law enforcement job is writing intensive, effective written communication skills are a pre-hire qualification. It is recommended that qualified candidates with the best written communication skills be selected.

Implementation Standards: BART PD should develop a written communication exercise for all law enforcement officer candidates and make it part of the selection process.



BART Police Management Audit

Topical Area: Recruitment

Issue: Orientation for Recruit's Family

Current Application or Practice: BART PD does not currently have family members of the police candidate complete an interview form. It should consider also inviting family members into the process. It is recommended that the department use any or all of the recommended ideas listed here to enhance the atmosphere of recruitment.

Commendation or Recommendation: Expose recruit's family to law enforcement culture/family orientation. Exposing candidates and family members to the agency can provide a sense of the agency's culture and family orientation. There are a variety of ways to do this, such as:

- Invite families to "Know Your BART Police" at neighborhood meetings
- Develop printed recruitment materials for distribution in various languages
- Stage an Open House for candidates and family members
- Allow family ride-a-long opportunities
- Allow job shadowing (such as watching dispatchers) for family members
- Have family attend an academy orientation
- Schedule department family-oriented meetings where officers, their spouses, and other family members share their experience and answer questions
- Include family in Swearing-In Ceremony (if not doing so already)
- Provide interpretive services at meetings where the candidate's family members do not speak English

These steps demonstrate the agency's interest in both the candidate and family members.

Justification: It is law enforcement best practice to involve family members of the police candidates into the process. This allows for a more personalized and, therefore, more effective recruitment and retention of potential candidates.

Implementation Standards: Determine how many of these ideas can be developed and implemented to expose the recruit's family to the law enforcement culture.





Chapter 3

Training



TRAINING

“Training has often been cited as one of the most important responsibilities in any law enforcement agency. Training serves three broad purposes. First, well-trained officers are generally better prepared to act decisively and correctly in a broad spectrum of situations. Second, training results in greater productivity and effectiveness. Third, training fosters cooperation and unity of purpose. Moreover, agencies are now being held legally accountable for the actions of their personnel and for failing to provide initial or remedial training.

Training programs should ensure that the needs of the agency are addressed and that there is accountability for all training provided. In particular, training should be consistent with the agency's mission and values as well as its goals and objectives. Agency training functions should be the responsibility of the training component, which should be accountable for developing and administering training programs. Program development should provide for input from several sources, including agency personnel in general, a training committee, the inspections function, and, most importantly, the agency's chief executive officer.”¹

External stakeholders should also be given substantial input and participation in the development and implementation of the Training Programs of the agency. The governing board, the ridership and the communities in and around BART facilities must play an active role in the establishment and development of training curricula.

Every well functioning law enforcement agency is founded on good up-to-date written policy. The agency training program reinforces policy by introducing it to all employees and periodically reminding each employee about policy changes and ensuring that, in high liability areas, employees are well versed and competent. Good supervision ensures that the practices of the agency are carried out in accordance with both policy and training, thereby establishing accountability.

Our examination of the BART Police Department Training looks at each phase of their training, ensuring that it meets California POST Requirements, conforms to national “best practices” and supports the mission and goals of the Bay Area Rapid Transit System and the BART Police Department.

We also reviewed the administration of the training function within the BART Police Department. This portion of the review looks specifically at the management of the training function, how choices are made about the training, the personnel devoted to the management of the training function and the record keeping and reporting requirements of the agency.

A few general comments concerning several issues relating to the training function are presented before we discuss specifics. These global issues are meant to be thought provoking.

¹ The Commission on Accreditation for Law Enforcement Agencies, Inc., Chapter 33.



Several of these issues are not addressed specifically in our review and may, in some cases, require further discussion and analysis prior to definitive decisions being made by the BART Board of Directors, The General Manager and the Police Chief. Some of these decisions will need airing before a larger audience that includes employees, riders and stakeholders. Some offer cost savings opportunities while others may require the expenditure of funds.

Overall, we find that the Field Training that the BART Police Department provides to be a very solid program that deserves praise. We do, however, also find several areas in need of significant assistance and re-direction.

Policy

While the written directive system is discussed in detail elsewhere in the report, its relationship to the training system deserves our attention.

Our reviewers found the directive system woefully out of date and inadequate for a modern law enforcement agency. Most general orders had not been updated in five years or more. Training curricula should match and reinforce policy. If policy is not regularly updated and made current, it is doubtful that training materials that are meant to reinforce those same policies and procedures will be accurate.

Recruit Training

At BART, every law enforcement officer is trained at one of the California POST academies and may enter service as a recruit officer or may enter laterally as a certified law enforcement officer with previous experience with another California agency.

As a part of the recruiting effort, a strategic plan should be developed that sets out specific hiring goals of the organization. There are dynamic issues related to the hiring of new employees without prior police service versus hiring those with experience at another law enforcement agency. There are good and valid reasons for preferences in the type of new employees brought into the organization and their placement in the agency.

Goals and plans for the recruiting of a new officer, versus an experienced officer, should not be a product of “casting a wide net” and hiring those that choose BART but ought to be based on the choices that best serve the BART Police Department, its mission, its goals and the future of the organization.



BART Police Management Audit

Topical Area: Training

Issue: Training Committee

Current Application or Practice: The agency currently has no established training committee that assists in the development and evaluation of training needs and serves as the focal point for input from all units of the department.

Recommendation: The agency does not have a representative group looking at the department's "big picture" as it relates to training and career development.

The department should establish a Training Committee and develop a written policy to outline the composition of the committee, the duties and responsibilities of the committee and its members, the meeting schedule for the committee and designate the chairperson of the committee.

Justification: **CALEA 33.1.1** *A written directive establishes a training committee in the agency and includes provisions for the following:*

- a. composition of the committee;*
- b. the process for selecting and replacing committee members;*
- c. the relationship of the training function to the committee;*
- d. authority and responsibilities of the committee; and*
- e. designation of the person or position to whom the committee reports*

Implementation Strategy: Develop a Training Committee that represents all of the major units of the agency. Charge the committee with establishing a prioritized listing of training programs and courses for the department.



BART Police Management Audit

Topical Area: Training

Issue: Training Attendance Requirements

Current Application or Practice: The agency currently issues training orders which are directed to specific employees or the department as a whole. The individual training orders provide advisories concerning attendance; documentation, make up training and notifications, etc. The department, however, has no established written directive detailing the standard provisions for these procedures. The current procedures are outlined in Operational Directive #5, “Reporting of Absences Due to Illness.”

Recommendation: The department should establish a written directive that governs training attendance requirements.

Justification: *CALEA 33.1.2 A written directive governs attendance requirements for employees assigned to authorized agency training programs.*

The directive should contain a comprehensive set of guidelines for employees to follow when attending authorized agency training for both internal and external training.

Implementation Strategy: Develop a written directive that includes provisions for employees attending applicable training programs. The policy for this procedure is significant enough to be in a permanent departmental policy. The reference to an Operational Directive that is titled, “Reporting of Absences Due to Illness” does not lend itself to ready reference to issues relating to authorized agency training.

We would recommend a comprehensive directive on training where all of these kinds of provisions were covered.



BART Police Management Audit

Topical Area: Training

Issue: Training Reimbursements

Current Application or Practice: The agency currently issues training orders which are directed to specific employees or the department as a whole. The individual training orders provide advisories concerning attendance; documentation, make up training and notifications, etc. The department, however, has no established written directive detailing the standard provisions for these procedures. The current procedures are outlined in Operational Directive #5, “Reporting of Absences Due to Illness.”

Commendation or Recommendation: The department should establish a written directive that governs reimbursement to employees attending applicable training programs.

Justification: *CALEA 33.1.3 A written directive governs agency reimbursements to employees attending training programs inside or outside the agency service area.*

The directive should describe the conditions under which reimbursement may be provided for mileage, meals, housing, fees, books, or materials for training programs conducted in or outside the agency's service area

Implementation Strategy: Develop a written directive that includes provisions for reimbursements to employees attending applicable training programs. The policy for this procedure is significant enough to be in a permanent departmental policy. The reference to a Operational Directive that is titled, “Reporting of Absences Due to Illness” does not lend itself to ready reference to issues relating to reimbursement for outside training.

We would recommend a comprehensive directive on Training where all of these kinds of provisions were covered.



BART Police Management Audit

Topical Area: Training

Issue: Lesson Plans

Current Application or Practice: The BART Police Department has recently begun to regularly submit lesson plans to California POST for certification. Prior to this, lesson plans were not routinely or regularly submitted to POST and were taught as “in-house” courses.

Recommendation: Courses that are developed within the BART Police Department should routinely be sent to POST for certification.

Justification: **CALEA 33.1.4** *The agency requires lesson plans for all training courses conducted by the agency, to include:*

- a. a statement of performance and job-related objectives;*
- b. the content of the training and specification of the appropriate instructional techniques;*
- c. a process for approval of lesson plans; and*
- d. identification of any tests used in the training process.*

The development of lesson plans should ensure that the subject to be covered in training is addressed completely and accurately and is properly sequenced with other training materials. Lesson plans establish the purpose of the instruction, set forth the performance objectives, relate the training to critical job tasks, and identify ethical considerations related to the topic.

Consideration should be given to the relevance of training courses to the organization's mission and values.

The lesson plans should also include references, teaching techniques (lecture, group discussion, panel, seminars, debate), relationships to job tasks, responsibilities of the participants for the material taught, and plans for evaluation of the participants.

Implementation Strategy: We were told that the process for submitting lesson plans to POST was manual and very cumbersome. Therefore, the Department typically developed new lesson plans and delivered them without POST Certification. Now that the process has been automated and can be completed online, the majority of the courses developed by BART Police staff should qualify for POST certification and the training records documented in each individual's POST Profile on the Electronic Data Interchange (EDI) System.



BART Police Management Audit

Topical Area: Training

Issue: Remedial Training

Current Application or Practice: The BART Police Department has no directive specifically outlining policies and procedures for the delivery of remedial training nor methods for objectively assessing the need in its employees.

Recommendation: Develop and publish a directive establishing agency policy concerning remedial training.

Justification: *CALEA 33.1.5 A written directive establishes agency policy concerning remedial training.*

The directive should include the circumstances and criteria used to determine the need for remedial instruction, the timetables under which remedial training is provided, and the consequences of participation or nonparticipation by the affected personnel. The directive should recognize the uses of remedial instruction in other than recruit training and should comment on the relationship between the inspections and training functions.

Implementation Strategy: We have noted the need for a Training Committee. This item should be included in those being considered by the Committee. This is an issue that is often overlooked by many departments but is certainly addressed by the most progressive. While the recommendation calls for a specific directive to address remedial training, the issue could just as easily be addressed in a comprehensive directive devoted to all or most of the Department's Training agenda.



BART Police Management Audit

Topical Area: Training

Issue: Written policy describing procedures for documenting training and recording the trainee's participation in the training program.

Current Application or Practice: While training orders specify the guidelines to be followed by the instructor, supervisor or participant following training attendance, no directive exists which outlines these policies and the procedures that should be followed for each of the possible training scenarios that an employee might encounter.

Recommendation: Develop and publish a directive establishing agency policy concerning the documentation remedial training.

Justification: *CALEA 33.1.6 A written directive requires the agency to update records of employees following their participation in training programs.*

Commentary: As personnel complete training programs, the date of the training, the types of training received, any certificates received, attendance, and test scores should be recorded for each trainee.

Implementation Strategy: As we have mentioned in several other recommendations, a comprehensive directive that speaks to the policies and procedures associated with both internal and external training needs to be established. There should be a central and easy to find reference for most, if not all, of the agency and individual guidelines associated with the training function.



BART Police Management Audit

Topical Area: Training

Issue: Updating Training Records

Current Application or Practice: The current system of updating individual training records is wholly inadequate. Records are recorded in three separate databases. The POST EDI system is the most reliable and accurate but much of the Department's training over the past few years was not POST Certified.

The "G Drive," which is a partitioned drive in the Department's intranet, is devoted to roll call training conducted by field supervisors. This is often video based training. Supervisors list each employee who participated in the training in the drive.

The TMS System is a public safety training software program. Records must be individually entered. At the BART Police Department, these records are incomplete and data entry is backlogged largely due to the difficulty associated with entering records. The system is slow and difficult to work with.

Recommendation: The agency needs to undertake an evaluation and analysis of the Training Record system.

Every instructor/monitor should complete a roster of attendees and have each participant sign the roster which will certify completion of the instruction. The form should be sent to Training where the information should be entered into each participant's training record and the sign-in sheet stored in accordance with records retention standards.

Justification: **CALEA 33.1.7** *The agency maintains records of each training class it conducts to include, at a minimum:*

- a. course content (lesson plans);*
- b. names of agency attendees; and*
- c. performance of individual attendees as measured by tests, if administered*

The intent of the standard is to ensure that the agency documents the nature of the instruction, the identity of those attending the sessions, and the performance of the attendees. The standard would be satisfied in part by maintaining on file the lesson plans used by the course instructors



Implementation Strategy: At a minimum, we would suggest that the TMS be replaced with a commercial database that could be designed and maintained by the BART Police Department. We support the effort to place more training records in the EDI system but recognize that the department must also maintain a separate database for its training that is not POST certified. We would also suggest that the department only maintain one in-house repository rather than two.



BART Police Management Audit

Topical Area: Training

Issue: Relationship with outside training facilities and academies.

Current Application or Practice: Much of the BART PD's training takes place at outside academies and the guidelines for attendance, transportation, payments, allowances and time are contained in training orders and, to some degree, in Operational Directive #5, "Reporting of Absences Due to Illness."

Recommendation: Consolidate the policies and procedures relating to training in one directive.

Justification: **CALEA 33.2.4** *If agency personnel are trained in an outside academy, a written directive governs the training to be received by agency personnel regarding agency policies, procedures, rules, and regulations.*

In addition to the training and skills taught at an outside academy, the agency should provide instructions in policies and procedures that are specific to the agency. The written directive may provide for such training at the outside facility or after the personnel return to the agency following completion of training

Implementation Strategy: These provisions should be incorporated into a comprehensive directive covering specific guidelines for the department's training program.



BART Police Management Audit

Topical Area: Training

Issue: Field Training

Current Application or Practice: The BART Police Department requires that every new officer successfully complete their Field Training Program.

Commendation: Despite the ability to waive the field training requirement for lateral entry officers, the BART Police Department puts each new officer through the entire program.

Justification: **CALEA 33.4.3** *A written directive establishes a field training program for all newly sworn officers with a curriculum based on tasks of the most frequent assignments with provisions for the following:*

- a. field training of at least four weeks for trainees, during and/or after the required classroom training;*
- b. a selection process for field training officers;*
- c. supervision of field training officers;*
- d. liaison with the academy staff, if applicable;*
- e. training and in-service training of field training officers;*
- f. rotation of recruit field assignments;*
- g. guidelines for the evaluation of recruits by field training officers; and*
- h. reporting responsibilities of field training officers.*

The goal of field training is to provide recruit trainees with "on street" experiences following the completion of classroom training as required in recruit training. A minimum four-week period permits time for rotation of recruits among the various training activities and objectives with which they may be familiar. In some cases, field training may be presented at intervals as part of a logically coherent classroom training program. Here, training is managed by providing classroom training followed by a short segment in the field to provide the trainee with "on street" experience in those curricular areas just covered in the classroom.

California POST Administrative Manual

Section B – Regulations

B-6d



1004. Field Training Program

(a) Program Requirements: Any department which employs peace officers and/or Level I Reserve peace officers shall have a POST-approved Field Training Program. Requests for approval of a department's Field Training Program shall be submitted on POST form 2-229 (Rev. 04/02), signed by the department head attesting to the adherence of the following program requirements:

- (1) The Field Training Program shall be delivered over a minimum of 10 weeks and based upon the structured learning content as specified in PAM Section D-13.
- (2) A trainee shall have successfully completed the Regular Basic Course before participating in the Field Training Program.

(b) Program Exemption: A department may request an exemption of the Field Training Program requirement if:

- (1) the department does not provide general law enforcement uniformed patrol services;
or
- (2) the department hires only lateral entry officers possessing a POST Basic Certificate and who have either:
 - (A) completed a POST-approved Field Training Program, or
 - (B) one year previous experience performing general law enforcement uniformed patrol duties. Requests for an exemption shall be made on POST form 2-229 (Rev. 04/02), signed by the department head, along with written documentation attesting to the department's qualification(s) for an exemption. In the event that a department no longer meets the exemption criteria, a request for POST-approval of the department's Field Training Program shall be made as outlined in PAM Section D-13.
- (3) The Field Training Program shall have a Field Training Supervisor/Administrator/Coordinator (SAC) who:
 - (A) has been awarded or is eligible for the award of a POST Supervisory Certificate **or**
 - (B) has been appointed by the department head (or his/her designate).
 - (C) meets the training requirement specified in 1004(c) below.
- (4) The Field Training Program shall have Field Training Officers (FTOs) who:
 - (A) have been awarded a POST Basic Certificate (not Specialized);
 - (B) have a minimum of one year general law enforcement uniformed patrol experience; and,
 - (C) have been selected based upon a department-specific selection process; and,
 - (D) meets the training requirements specified in 1004(d) below.
- (5) Trainees shall be supervised depending upon their assignment
 - (A) A trainee assigned to general law enforcement uniformed patrol duties shall be under the direct and immediate supervision (physical presence) of a qualified Field Training Officer (as described in (4) above).
 - (B) A trainee temporarily assigned to non-enforcement, specialized function(s) for the purpose of specialized training or orientation (i.e., complaint/dispatcher, records, jail, investigations) is not required to be in the immediate presence of a qualified Field Training Officer while performing the specialized function(s).
- (6) Trainee performance shall be:



- (A) documented daily through journaling, daily training notes, or Daily Observation Reports (DORs) and shall be reviewed with the trainee by the Field Training Officer; and,
- (B) monitored by a Field Training Program SAC, or designee, by review and signing of the DORs **or**, by completing and/or signing weekly written summaries of performance. (e.g., Supervisor’s Weekly Report, Coaching and Training Reports) that are reviewed with the trainee.

Implementation Strategy: Every officer who enters into service with the BART Police Department must be certified in the Field Training Program. Typically, agencies modify their FTO program for “laterals” who are certified experienced officers and are coming into the organization from other law enforcement agencies. The officers are all California POST certified and their training records are in compliance with POST requirements.

Most agencies conduct the modified FTO course for officers who are hired laterally but do not require them to complete FTO Program. This is noteworthy and commendable. While there might be a financial savings in the decision to shorten the field training experience, it doesn’t equate to the effect that this program can have in the socializing every new employee to the organization.



BART Police Management Audit

Topical Area: Training

Issue: In-Service Training

Current Application or Practice: The department is in full compliance with the state mandate to provide a minimum of twenty-four (24) hours within every two year period of service. The department is in the process of establishing a Training Plan.

Recommendation: Expand the list of courses in the Training Plan to include more courses in communication, verbal judo, human diversity, handling emotionally disturbed persons, community policing, etc.

Justification: California POST Manual
Commission Procedure D – 2
Continuing Professional Training and Perishable Skills

Purpose

2-1. Continuing Professional Training (CPT), Advanced Officer Course, and Perishable Skills/Communications: This Commission procedure provides the recommended CPT topics, Advanced Officer Course requirements, and alternative methods for satisfying the CPT requirement, and content and instructional methodology requirements for Perishable Skills.

CPT Topics and Advanced Officer Course Requirements

2-2. Recommended CPT Topics and Advanced Officer Requirements: The Commission recommends the following topics be considered for CPT, but not required, for officers assigned to enforcement duties:

- New Laws
- Recent Court Decisions and/or Search and Seizure Refresher
- Officer Survival Techniques
- New Concepts, Procedures, Technology
- Discretionary Decision Making (Practical Field Problems)
- Civil Liability-Causing Subjects
- Ethics

The Advanced Officer Courses shall consist of time blocks of not less than two hours each, regardless of the subject matter, with an overall minimum of no less than 24 hours. The



maximum time period for presenting an Advanced Officer Course is 180 days. Completion of an Advanced Officer Course satisfies the Continuing Professional Training requirement.

2-3. Non-POST Certified Courses. The successful completion of the following non-POST-certified courses satisfies the CPT requirement:

Course and Hours Presenter

FBI National Academy (236) Federal Bureau of Investigation
FBI National Executive Institute (120) Federal Bureau of Investigation
Dignitary Protection Service (48) United States Secret Service
Traffic Accident Reconstruction 1 (40) Northwestern Traffic Institute
Traffic Accident Reconstruction 2 (80) Northwestern Traffic Institute
National Sheriff's Institute (80) National Sheriffs Association
Post-Blast Investigative Techniques (69) Federal Law Enforcement Training Center
Hazardous Devices School, AL (200) Federal Bureau of Investigation
Special Weapons and Tactics (24 minimum) Entities of the United States Armed Forces
Senior Management Institute for Police (90) Police Executive Research Forum (PERF)
Anti-Terrorism Course Federal or State Agency
Weapons of Mass Destruction Course Federal or State Agency

Implementation Strategy:

The department recently published a Training Plan for each position within the organization. It is thorough and could form the basis of a career development plan for each member.

A review of the proscribed courses, based on the community policing philosophy of the department should reflect more communication, human diversity, customer service and other similar courses. The curriculum is virtually devoid of these topics. NOBLE believes that BART would place a high priority on the kinds of training that would prepare employees for the diverse community in which they serve.

There would appear to be a high emphasis on tactical courses and while they are important and no amount of tactical training can ever be considered to be enough, there needs to be a balance between them and "soft skills" training which prepares the officer for non confrontational encounters and those which assist in the community engagement process.



BART Police Management Audit

Topical Area: Training

Issue: In-Service, Shift Briefing, and Advanced Training

Current Application or Practice: This training is being conducted in accordance with POST and BART Police Department policy but no written directive outlines the procedures.

Recommendation: Develop and publish a written directive that outlines the policy and procedures concerning in-service, shift briefing and advanced training.

Justification: **CALEA 33.5.1** *A written directive requires all sworn personnel to complete an annual retraining program, including legal updates.*

The agency should ensure that personnel are kept up to date with new laws, technological improvements, and revisions in agency policy, procedures, rules, and regulations. The mandatory retraining may also be designed to provide supervisory, management, or specialized training to participants. Retraining may be used to supplement promotional training, training prior to assignment to a specialized component, or executive development training for higher-ranking officers. The agency should ensure that information included in retraining is included on promotional examinations.

The program should be structured to motivate experienced officers and to further the professionalism of the agency. The training should include a review of the following topics: agency policy, procedures, and rules and regulations, with emphasis on changes; leadership; ethics and integrity, taking into consideration cultural influences, policy compliance, and doing what is correct rather than what is not illegal; statutory or case law affecting law enforcement operations, with emphasis on changes; the functions of agencies in the local criminal justice system; exercise of discretion in the decision to invoke the criminal justice process; interrogation and interviewing techniques; agency policy on the use of force, including the use of deadly force; emergency medical services; the performance evaluation system; emergency fire suppression techniques; new or innovative investigative or technological techniques or methods, if any; hazardous materials incidents; contingency plans, if any, including those relating to special operations and critical incidents; crime prevention policies and procedures; collection and preservation of evidence; report writing and records system procedures and requirements; and victim/witness rights, policies, and procedures.

California POST Administrative Manual
Chapter D



Continuing Professional Training (CPT) (Required). CPT is required for certain peace officer and dispatcher personnel who are employed by POST participating departments. The purpose of CPT is to maintain, update, expand, and/or enhance an individual's knowledge and/or skills. CPT is training that exceeds the training required to meet or re-qualify in entry-level minimum standards.

(1) Requirement: Every peace officer (other than a Level III Reserve Peace Officer), every Public Safety Dispatcher, and every Public Safety Dispatch Supervisor shall satisfactorily complete the CPT requirement of 24 or more hours of POST-qualifying training during every two-year CPT cycle, based on the statewide CPT Anniversary Date. Effective January 1, 2009, certain peace officers in specific duty assignments must satisfy a portion of the CPT requirement by completing Perishable Skills and Communications Training.

Implementation Strategy: The BART Police Department is in full compliance with the California POST requirements for all of the aforementioned training including supervisors, managers, executives and dispatchers but has no written directive of its own outlining these requirements and the manner in which the requirements will be satisfied by the organization. As we have noted elsewhere, the modern forward thinking police department has up to date written policy outlining the manner in which the department carries out the training mandates of the state. It also assigns responsibilities to both field and administrative staff who have duties related to the training function.



BART Police Management Audit

Topical Area: Training

Issue: Shift/Roll Call Training

Current Application or Practice: Much of the BART shift level training is conducted by field supervisors and consists largely of both POST mandatory and non-mandatory courses that are presented by DVD. No Operational Directive outlines the policies and procedures to be followed for the delivery and record keeping associated with this kind of training.

Recommendation: Develop and publish a written directive describing the policies, procedures and purposes of shift/roll call training.

Justification: *CALEA 33.5.2 A written directive governs shift briefing training.*

Shift briefing training is a technique that may supplement all other training. Shift briefing training may be a useful element of agency training, if it is well managed and supervised. The goal of this training should be to keep officers up to date between formal retraining sessions. Agencies which do not have formal shift briefings, e.g., resident state troopers, deputy sheriffs, may accomplish the purpose of shift briefing training through other methods, to include in-car computers and other electronic means. To be useful to the agency, the shift briefing training program should be well structured and reflect the needs of the agency while being flexible enough to fit into a shift briefing setting. The written directive should include: planning for shift briefing training; techniques used in shift briefing training; relationships with the academy; instructional methods; instructional personnel; evaluation of shift briefing training; scheduling of training; and role of supervisors and officers.

Implementation Strategy: Much of the information concerning shift/roll call training is published in Training Orders. A significant portion of the material in the Training Orders is repetitive and redundant. Much of this information could be placed in a standing order with other similar training related policies and procedures .



BART Police Management Audit

Topical Area: Training

Issue: Specialized Training

Current Application or Practice: No Operational Directive outlines the department's policies and procedures relating to specialized assignments and the requisite pre- and/or post-assignment training associated with the specialized position.

Recommendation: Develop and publish a written directive describing the policies, procedures relating to specialized assignments and any pre- or post-training required for the position.

Justification: **CALEA 33.6.1** *A written directive identifies the assignments for which specialized training is required, and includes the following:*
a. description of the required training; and
b. retraining requirements, if any.

The agency should identify all of the functions for which both pre- and post-assignment specialized training is required. Specialized training includes supervised on-the-job training provided by the agency, training mandated by governmental authority such as training for certification as a breathalyzer operator, and training deemed necessary by the agency for the development and enhancement of the skills, knowledge, and abilities particular to the specialization, such as motorcycle units or marine patrol.

Persons responsible for crime scene processing should receive specialized criminalistics training commensurate with their duties and responsibilities. For example, DNA evidence should be collected only by persons appropriately trained.

The supervision and management of specialized functions includes responsibility for ensuring that persons assigned to the function receive adequate training and support services.

Implementation Strategy: While it is desirable to have this information in a directive devoted to training, it might very well be placed in an Operational Order devoted to specialized assignments.



BART Police Management Audit

Topical Area: Training

Issue: SWAT Team Training

Current Application or Practice: The SWAT Team units of the BART Police Department participate in regular and frequent training but no Operational Directive outlines the frequency of training and the requirements for membership.

Recommendation: Develop and publish a written directive that documents the training requirements for all SWAT Team units.

Justification: *CALEA 33.6.2 If the agency participates in a tactical team, the agency requires that all personnel assigned to the team engage in training and readiness exercises.*

The purpose of this standard is to ensure that SWAT Team members have ample opportunity to practice their special skills and develop their abilities to function effectively as a team. This is necessary because many skills are perishable and should be exercised to build and maintain proficiency. Operational simulations should be included in the training program, and if the agency also has a separate hostage negotiation team, its personnel should be required to train periodically with the tactical team. All SWAT Team training must be documented and the records retained.

Implementation Strategy: While we certainly endorse the establishment of appropriate written directives relating to all of the training areas that we reviewed, we also had questions concerning the SWAT Team units.



BART Police Management Audit

Topical Area: Training

Issue: Non Sworn Employee Training

Current Application or Practice: No Operational Directive outlines the department's policies and procedures concerning non sworn employee pre- and post-hiring training.

Recommendation: Develop and publish a directive devoted to the training requirements for non sworn employees.

Justification: **CALEA 33.7.1** *A written directive requires all newly appointed civilian personnel to receive information regarding:*

- a. the agency role, purpose, goals, policies, and procedures;*
- b. working conditions and regulations; and*
- c. responsibilities and rights of employees.*

CALEA 33.7.2 *A written directive identifies the civilian positions for which pre-service and in-service training is required.*

The agency personnel should receive initial and on-going training commensurate with their responsibilities. Such training should stress not only the skills necessary to perform technical aspects of their jobs but also the importance of the link they provide between citizen and agency, which often shapes a citizen's opinion of the agency

Implementation Strategy: While most of our discussion has centered around the publication of directives relating to the training of sworn personnel, non sworn employee training should similarly be placed into a permanent document within the directive system. Non sworn training is significantly different that it should probably be placed in its own order.

Dispatcher training might be addressed in a separate directive devoted to their unique positions, entry level and in-service training requirements.



BART Police Management Audit

Topical Area: Training

Issue: Career Development

Current Application or Practice: We saw no career development plan or program.

Recommendation: Using the Training Plan as a foundation, establish a career development plan and publish a written directive outlining the policies and procedures associated with the plan. This plan should help employees of the BART PD in either their vertical or horizontal career plan development aspiration goals.

Justification: *CALEA 33.8.1 A written directive establishes training requirements for all personnel conducting career development activities.*

Personnel, such as supervisors and counselors, who are assigned to conduct career development activities should undergo a period of orientation that should provide increased knowledge and skills in at least the following areas: general counseling techniques; techniques for assessing skills, knowledge, and abilities; salary, benefits, and training opportunities of the agency; educational opportunities and incentive programs; awareness of the cultural background of ethnic groups in the program; record-keeping techniques; career development programs of other jurisdictions; and availability of outside resources.

CALEA 33.8.2 *The agency provides job related training to all newly promoted personnel.* Such training should be commensurate with their new duties and should take place either prior to promotion or within the first year following promotion.

CALEA 33.8.3 *A written directive describes the agency's career development program.* The agency should assist employees in planning their career paths through the utilization of formal schooling opportunities and law enforcement related training courses to improve their skills, knowledge, and abilities

Implementation Strategy: An important building block of a sustained effort to modernize a progressive police department is the development of its members so that they are prepared to assume positions of responsible leadership. For this effort to be successful, the management of the organization must make it an important part of the performance evaluation and training programs.



Secondary Recommendations

Our reviewers had a number of observations that did not lend themselves to specific recommendations but, most often, suggestions about some areas that deserve additional thought or study.

Defensive Tactics

The BART Police Department recently assigned a Lieutenant to oversee the Defective Tactics for the agency. This is a step in the right direction. There has been an absence of defensive tactics training over recent years. While there appears to have been a significant effort devoted to firearms training, virtually no defensive tactics training has been conducted by the department. A comprehensive and meaningful defensive tactics program should devote sixteen (16) to twenty-four ((24) hours each year to ensuring that every sworn employee is familiar and comfortable with all of the weapons that they routinely carry and with the tactics associated with the use of force as outlined in the organizations policies and state law.

Training

We are not sure why a lieutenant is not designated as the Training Director or Officer. Most of the important administrative functions of the BART Police Department are assigned to Lieutenants. Training is not. Several other functional areas that are not as important and vital to the success of the organization are assigned to lieutenants for oversight. Some thinking should be devoted to the civilianization of the Training Program for the BART Police Department. Since training, as it is currently constituted, is a clearinghouse for the administration of training courses and conducts the clerical support to maintain training records, we see no reason that the entire unit could not be civilianized and the current members assigned to field duties.

Supervisory Training

BART Police supervisors and managers all appear to have been exposed to both basic and advanced training programs offered within the POST certified courses. We would note, however, that supervisors don't appear to have much experience in designing specific patrol strategies for officers within their respective commands. It appeared to our reviewers that officers, while given general information about the focus of their work, i.e. "attention to specific stations, parking lots or other areas of concern, there were not routine directed patrol activities that were assigned to specific officers for specified periods of time that were then monitored, evaluated and analyzed for their impact on crime, safety or community and rider concerns.

Executive Training

The department has had a number of members attend California POST sponsored executive development classes. Many have attended the FBI National Academy. The Department should be commended for its commitment to develop current and future managers of the organization in command and management positions.

Community Policing

The department, on its web site, has a decidedly tactical bearing. The SWAT and K-9 units are showcased and the community based deployment scheme is barely mentioned. The appearance



gives the impression that department places a higher priority on its Tactical Team than the interaction with community it serves and its ridership.

The assignment of Zone lieutenants would give the impression of a certain geographic accountability but, in reality, the lieutenants are typically watch commanders and do not engage with specific communities and the local police who have the concurrent jurisdiction.

There are several assignment schemes that would place more emphasis on greater geographic accountability. We would envision specific field managers assigned permanently to zones. They would design the crime prevention and crime reduction activities of their subordinates and would maintain close working relationships with the local police and the communities that live near their respective stations.

The current alignment does not lend itself to geographic accountability or organizational accountability.

SWAT

Our Review Team had questions about the establishment of a SWAT Team within the BART Police Department. We believe that the department, the General Manager, the Board of Directors, and the public should consider this issue.

While the unit seems to have its primary value and on-going function of the execution of high-risk warrants, its overall benefit needs to be evaluated against cost, value, and liability. Since the entire rail service area is contiguous with other jurisdictions with full service SWAT and hostage negotiation units, it might be beneficial and cost effective to establish MOU's with the specific jurisdictions that maintain SWAT and hostage negotiation capabilities. However, to have a SWAT team available across all the respective jurisdictions with a counter-terrorism focus also has value. In a post-9/11 society, transit systems which have always been a high value community asset, have a greater degree of vulnerability.

Tactical Unit

Our sense is that Tactical Teams are more the norm for similarly situated departments and, with the elimination of the SWAT unit, more resources might be devoted to this functionality. We would think that more senior experienced officers be assigned this kind of duty. However, the threat of terrorism to a transit system increases the value of a transit police SWAT team. **The agency should conduct its own analysis in this area to validate its decision.**

We believe that the BART Police Tactical Unit is primarily focused on crowd control and management, but that they might operate off of a more flexible platform and perform general emergency duty that would include evacuations, derailments, power outages, etc.

The San Francisco side of the BART jurisdiction is typically patrolled by officers who ride the trains in pairs. On the Oakland side, deployment of officers patrol trains either as solo-officers or two-officer teams depending on location and time of day. It would seem that the officers on patrol in vehicles almost always operate in a reactive mode. These officers usually respond to assistance calls. This kind of work is best performed by officers with years of experience who



are trained to handle volatile situations and who understand disengagement tactics and who have demonstrated restraint in their use of force and have demonstrated their ability to de-escalate tense and dangerous situations.

Revenue Protection

While this area was not one of our specific areas of study, we could not overlook certain issues that arose during our visit. Unfortunately, in the development of the BART System, there were no provisions developed for the collection of funds from the stations during non peak hours or, preferably, when stations were closed to the public by a “money train” which is a method seen in several other similarly situated departments.

The idea of having money collected “internally” after stations are closed and then having the money funds moved by rail to the collection point by rail strikes us as the most efficient, cost-effective and secure method of moving cash within the system.

The collection point was never built to accommodate the acceptance of revenue by train and therefore is probably unusable for this method of transport.

We also raised the question of having sworn police officers accompany the collection personnel in their rounds giving the system employees who are fully empowered to take any and all police action in an emergency.

We have drawn no conclusions about the area of revenue collection and protection but suggest that further study be undertaken to assess the ability to substantially upgrade and improve this function.

We would certainly suggest that future construction or renovation to existing rail facilities might present an opportunity to substantially improve the ability to move revenue in a more secure and efficient manner.

Fare Evasion

There would appear to be a lack of clear direction on how officers should approach and handle cases of fare evasion.

There really does need to be a generally accepted direction from BART PD administration on the manner in which BART Police should approach and handle cases of fare evasion, especially at high crime and densely populated stations where the possibility for less serious infractions turning into volatile situations because of the participation and interference by bystanders and onlookers who may feel empathy toward young minority males being “hassled” or “rousted” by police officers.

We heard a significant number of complaints from our citizen group meetings concerning the practice of some officers who routinely conduct stops, frisks and field interviews of young minority men who have not trespassed or committed any infraction or law and who, because of



their attire or demeanor are targeted by BART police officers for special attention and questioning.

The organization should, at a minimum, monitor the number of stops and arrests for fare evasion, disorderly conduct, loitering and other order maintenance charges, by officer, to detect patterns of conduct and behavior that are contrary to the mission of the department and the rail service.

Visibility

We have a number of questions about the visibility of BART Police Department Personnel on BART property and on BART trains. Our observations and information that we received from community meeting participants have led us to believe that the department should create more opportunities for the public to see BART Officers and possibly CSO's in a more visible way. As we looked at other similarly situated transit police agencies, we generally more aggressive efforts to ensure that officers rode trains and were visible to riders, especially during rush hour and late evening hours.

A review of the July-September 2008 Passenger Environment Survey (PES) conducted by the BART Marketing and Research Department outlined survey results for the four quarters of FY 2008 and the first quarter of FY 2009 as well as goals for FY 2009.

The PES measured the following three (3) categories that relate to the BART Police Department:

System Total – Weekdays & Weekends Combined

▪	BART Police Personnel in Stations						
	FY 2008	Q1	Q2	Q3	Q4	FY 2009 Goal	FY 2009 Q1
		16%	15%	13%	17%	19%	15%
▪	BART Police Personnel in Parking Lots/Garages						
	FY 2008	Q1	Q2	Q3	Q4	FY 2009 Goal	FY 2009 Q1
		6%	6%	8%	5%	15%	5%
▪	BART Police Personnel on Trains						
	FY 2008	Q1	Q2	Q3	Q4	FY 2009 Goal	FY 2009 Q1
		2%	4%	1%	3%	7%	2%

1st Quarter FY09 – Weekdays & Weekends Combined

▪	BART Police Personnel in Stations					
	System	Zone-1	Zone-2	Zone-3	Zone-4	FY 09 Goal
	15%	23%	19%	11%	9%	19%
▪	BART Police Personnel in Parking Lots/Garages					
	System	Zone-1	Zone-2	Zone-3	Zone-4	FY 09 Goal
	5%	10%	4%	5%	3%	15%
▪	BART Police Personnel on Trains					
	System	Zone-1	Zone-2	Zone-3	Zone-4	FY 09 Goal
	2%	3%	0%	4%	1%	7%

Summary Results Table

FY08Q1	FY08Q2	FY08Q3	FY08Q4	FY09Q1
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Stations	16%	15%	13%	17%	15%
Pkg. Lots/Garages	6%	6%	8%	5%	5%
On Trains	2%	4%	1%	3%	2%

The only finding pertaining to the BART Police listed as “Favorable” among Statistically Significant Trends was an increase in Police Presence in Zone 3 of 4% (0% in FY08 Q4 – 4% in FY09 Q1)

The percentages of BART Police Personnel present in each of these categories are extremely low and in most cases they do not come close to the projected goals. It would appear, from our review, that no concerted effort was mounted to get better results.



BART Police Management Audit

Topical Area: Training

Issue: Post-training Academy

Current Application or Practice: BART PD has a two-week orientation for new officers after they graduate from the basic academy. This should be transition to a post-training academy. The orientation program follows graduation from the basic training academy. There is some familiarization with BART for new basic academy graduates.

Commendations or Recommendation: Utilize a formal in-depth post-training academy. The post-training academy provides an opportunity to transition new recruits from the basic training academy to the field training officers program. The focus is on familiarization with key people within the region and key resources that recruits will interface with. It is an opportunity to provide an orientation to the administration of BART. A tour can be given of all the BART buildings and respective departments. Recruits could have the opportunity to visit all of the BART police stations and facilities and meet members of the command staff. Recruits may be provided an opportunity to shadow dispatchers in the communications center. Each recruit may also have the opportunity to spend time with their manager and all police managers for BART and visit all key geographical locations within the BART district.

The post-training academy should be designed to provide any information which is not ideally suited for the basic training academy, but would be advantageous to understand prior to beginning field training.

Justification: **CALEA 33.2.1** It's a law enforcement best practice to have a post-training academy. This post-training academy addresses issues which help prepare the police recruit to begin the field training officers program.

Implementation Standards: Design and implement a 40-hour minimum post training academy which addresses key issues not well-suited for either the basic training academy or the field officers training program. The focus of this post training academy should be in the following key areas:

1. Meeting key individuals in the organization;
2. Becoming familiar with key facilities within the 4 counties;
3. Familiarization with the key geographical areas of the counties; and



4. Briefings on any information or specialized topic not addressed in the basic-training academy.

NOTE: This may be formalized by each patrol area as they receive new graduates from the basic academy.



BART Police Management Audit

Topical Area: Training

Issue: Leadership Development

Current Application or Practice: The BART Police Department does not have a formal leadership development program in place.

Recommendation: The BART Police Department should implement a leadership succession plan to assist in the development of supervisors' decision-making and leadership skills as it relates to preventing racial profiling.

Justification: *CALEA 33.8.3 A written directive describes the agency's career development program. The agency should assist employees in planning their career paths through the utilization of formal schooling opportunities and law enforcement related training course to improve their skills, knowledge and abilities.*

Implementation Strategy: The Chief of Police should develop a leadership development succession plan, which would include police supervision, management education, seminars and conference opportunities to enhance the skills and professional knowledge of the law enforcement officers.

This will also enhance the department's professionalism and introduce officers to the latest and up-to-date information on effective police strategies among law enforcement agencies nationwide on preventing racial profiling.



Chapter 4

Equipment



BART Police Management Audit

Topical Area: Equipment (Regional Anti-terrorism and Integrated Law Enforcement System, Computer Aided-Dispatch and Records Management Systems)

Issues (Per Professional Services Agreement): To assess if BART Police Department is best **equipped** to promote customer service, public trust and effective policing in the diverse communities in which BART operates and with which BART's Police Department interacts.

Are facilities and **equipment** adequate to meet the Department's responsibilities?

Review departmental policies, procedures, practices and tactics regarding **equipment selection** and determine if they are comprehensive and current (reflecting best practices), comply with legal requirements, and are effective.

Current Application or Practice:

Does the BART Police Department address this issue by following policy and standard practice?

A review of *A Business Case for Implementing the Regional Anti-Terrorism and Integrated Law Enforcement System (RAILS), April 2009* that was authored by BART Police Department consultant (Cit Com) was referenced by NOBLE consultants. Reference is made to the RAILS "Business Case" document. The RAILS "Business Case" findings was used to justify the procurement and acquisition of a new integrated Computer-Aided-Dispatch (CAD) and Records Management System (RMS).

There is overwhelming evidence that procurement of a new system(s) was justified.

The BART Police Department started an initiative in late 2007 to upgrade and improve law enforcement technology and the security infrastructure in order to address crime and terrorism. The acquisition of modern technology systems shall improve public trust and promote customer service.

Phase I encompasses the construction of a new BART Police communications center (Integrated Security Response Center-ISRC).

Phase II entails the acquisition and implementation of the Regional Anti-terrorism and Integrated Law Enforcement System (RAILS). RAILS shall feature a new Computer-Aided-Dispatch (CAD), Records Management System (RMS) and Mobile Data Systems (MDS).



The RAILS Mission Statement is:

To acquire, install and maintain a regional anti-terrorism and law enforcement technology solution that ascribes to national standards and industry best practices, and which enhances our ability to prevent terrorism and crime alike, while forging a partnership with the criminal justice community to exchange timely and relevant data.

The new communications center went “live” August 8, 2009. BART Police personnel have relocated to the new facility. However, Phase II of this project shall not be fully completed until the summer of 2010. The Department is currently in transition. In reference to the new CAD/RMS, the Department is still in the process of developing the technical specifications for the Request For Purchase (RFP). The RFP should go out October 2009. BART policies and industry standards were adhered to regarding the procurement process for acquisition of equipment for the new communications center and the new CAD/RMS.

The old CAD/RMS (Alliance by Cyrun) did not meet the Department’s minimum business and technical requirements.

Commendation or Recommendation:

It is important to implement RAILS because the various systems and equipment located in the old center were not integrated. For example, in a fully-integrated environment, when an alarm is activated, the CAD system should automatically initiate calls for service. The CAD should automatically activate the CCTV camera closest to the alarm point.

Combining Automatic Vehicle Locator AVL systems, CAD, alarms and CCTV systems permits expeditious responses once an alarm is activated. The existing CD/RMS does not permit this because the equipment does not interface with other components.

Deficient CAD/RMS

Also, the current CAD/RMS that are products of Alliance by Cyrun appear to have some deficiencies. For example, the systems:

- Are incapable of hosting a regional law enforcement and anti-terrorism sharing system.
- The core database is currently incompatible with the United States Department of Justice (DOJ) Global Justice Extensible Markup Language (GJXML) data model which is a national standard for integrated justice information sharing. However, Cyrun will complete their database built upon DOJ GJXML in the near future.
- Lacks adequate security features allowing appropriate personnel to determine who may have modified or deleted records.
- Are not compliant with Federal Bureau of Investigation’s (FBI) Criminal Justice Information Systems.

The BART Police Department and the consultants made a prudent decision to replace the Cyrun Alliance CAD/RMS with a new system. BART appropriately considered the alternatives of either upgrading, replacing, or doing nothing at all. BART and the consultants derived at their decision by considering the following alternatives:



- Product functionality to be yielded by the alternative
- Cost of the alternative
- The time necessary to implement the alternative

There is no doubt that the decision to replace the old system(s) as opposed to upgrading was the proper decision. Doing nothing at all was not appropriate and would have definitely been a significant disadvantage to the Department and BART.

The RAILS (including CAD/RMS) implementation shall occur in 2010 and 2011. The various phases include:

- CAD Installation, Training, Testing, Acceptance
- Mobile Installation, Training, Testing, Acceptance
- RMS Installation, Training, Testing, Acceptance
- Regional Participation

As outlined in the RAILS “Business Case” document, the CAD/RMS/Mobile features are necessary and appropriate to have a modern, technologically advanced system. These features consist of but are not limited to:

- Use of Graphical User Interface (GUI) and “Windows” Technologies
- Flexible Search Capabilities
- Ad-hoc Reporting Capabilities
- “Super” Query Capabilities
- Receive priority call updates automatically
- Integration of Commercial and Departmental Electronic References
- Electronic Routing of Documents
- Security
- Data Entry Interface Flexibility
- Streamline Data Entry
- Validation and Edits
- Consolidated Workstation Access
- Open System Architecture
- Loosely Coupled Interfaces
- Redundant Processing Systems
- System Availability
- Data Conversion
- Interfaces
 - CLETS/DOJ/NCIC
 - CCTV
 - Alarm System
 - Access Control Systems
 - DMV photo database
 - Train Control System
 - GIS/Mapping
 - Automatic Officer/Vehicle Locator
 - CAL ID/CAL Gangs



Specific Records Management and Mobile Features:

- Comprehensive and Integrated RMS Modules
- Master Name File
- Master Vehicle Index (MVI)
- Incident and Crime Reports
- Property and Evidence
- Training
- Automatic Field Reporting
- Field Interviews
- Case Management
- Crime Analysis
- Officer Notification

New Dispatch Center

To correct these weakness of having a small, ineffective communications center, BART has appropriately completed a 2,100 square-foot innovative communications center in the Joseph P. Bort Metro Center. Besides being seismically hardened to meet the American Institute of Steel Construction seismic design standards, the new center is equipped with:

- The latest environmental controls
- Ten ergonomically-engineered workstations
- CCTV monitors that can be viewed from any dispatch location
- Dedicated equipment room that includes CCTV hardware, alarms, access control, two-way radio, train locator systems, 911 systems and criminal databases

CALEA standards appear to have been met regarding the following areas in the new communications center. There is:

- Limited access to unauthorized personnel
- Equipment is protected
- There is limited but some back-up resources (a back-up communications center should be considered)
- To a degree, security is provided for transmission lines, antennas, and power sources

Monthly Technology and Process Meetings

The BART Police Department's CAD/RMS Administrator appropriately conducts monthly project management meetings to discuss and address pertinent issues regarding this project. NOBLE has concluded that this practice is necessary and beneficial to the overall success of these capital projects. Police department personnel (sworn and civilian), BART's Information Technology Department, consultants and other appropriate staff attend the meetings. However, it is important that appropriate representatives consistently participate in these meetings. BART Police command staff and BART administrators must reinforce this issue with all stakeholders involved in this project.

A member of the study team attended one of these meetings on Thursday, July 9, 2009. Some topics of discussion included:

- Completed Projects
- Current Projects



- Alliance Equipment Module
- Communications Center Move
- Citrix Upgrade

Complaints about Training and Support (Enhancing Professional Skills)

Regardless how sophisticated a CAD/RMS system the BART Police Department has, support and training must be provided or these systems will not be fully utilized to their fullest potential. This is at a detriment to the Department and a waste of resources, time and money.

For example, several employees who did not want to be identified indicated the BART Police Department has not adequately trained personnel to operate Mobile Data Terminals or Systems.

It is also clear that some personnel assigned to the communications center are not fully trained to take advantage of all the user functions available to them. Many applications and functions are not used. Additionally, all dispatchers and supervisors should receive training and be certified by credible organizations such as the Association of Police Communications Officers (APCO). BART Police dispatchers must also receive annual in-service training and re-certifications.

It is very important that all command staff personnel embrace new technologies. However, they must also ensure that such systems are fully utilized and that all employees are properly trained. This does not appear to be the case after interviewing a number of police supervisors, police officers and civilians.

There must also be sufficient staff assigned to the BART Police Department with degrees and certifications in Information Technology or related disciplines. Using police supervisors or other police personnel and civilians with little formal training and education is not sufficient. A Technology and Support Unit (or something similar) specifically assigned to the BART Police Department should be considered. The supervisor or commander of this unit should be accessible to or report directly to the Chief of Police. It is also critical that this individual have a close working relationship with BART's Information Technology Department and/or consultants.

Justification: Research on the topic which supports policy procedure or practice. The Audit Team research of the issues and related criminal justice documents supports these recommendations.

The NOBLE Audit Team has referred to:

1. The Law Enforcement Information Technology Standards Council (LEITSC) that developed national standards relating to CAD/RMS.
2. A Project Manager's Guide to: RMS/CAD System Software (LEITSC), Bureau of Justice Assistance
3. A Project Manager's Guide to: RMS/CAD System Software Acquisition (LEITSC), Bureau of Justice Assistance
4. Association of Police Communications Officer (APCO) standards
5. Global Justice Extensive Markup Language Standards (GJXML)



6. Various magazines and periodicals
7. Agency-specific analysis

Implementation Strategy: BART should work to correct the list of identified deficiencies in the RMS/CAD areas.

Commendation or Recommendation: Many of the issues regarding the weaknesses of the old CAD/RMS and the inadequate communications center have been or are being addressed as a result of RAILS. However, the NOBLE consultants make the following recommendations:

1. The BART Police Department and BART's Information Technology (IT) Department must improve communication when completing future capital projects. It is important that each group is included from the onset through the completion of these projects. For various reasons, collaboration and inclusiveness appeared not to have occurred during the preliminary phases of this project. It is important that the Commander of Support Services and/or the Chief provide leadership and ensure that all personnel understand the importance of communication and technology.
2. The BART Police Department should form its own Information Technology and Support Unit. These individuals should have formal education (degrees) and prior experience in IT. Assigning police supervisors or civilians with limited IT experience or education to technical functions is inadequate. Although BART has an Information Technology Department, it would be an asset to have IT trained personnel assigned directly to the Police Department. Preferably with law enforcement experience or a civilian that is intricately familiar with operations in the Department. Appropriate grants, including funding derived from Stimulus and Homeland Security grants should be explored to determine the feasibility of this recommendation. This process should begin as soon as possible. The commander or administrator of this unit should have direct access to the Chief of Police to demonstrate the importance of technology and to get direct feedback from the Chief. This individual should also be high enough in rank to make command decisions at meetings.
3. Training on RAILS and other related systems must be provided to all appropriate BART Police Department employees. The training must be ongoing and not just during the implementation phases. The Information Technology and Support Unit can facilitate the training and ensure that all members of the department are competent when using equipment. They can keep records of in-service training and coordinate this with a Training Unit. The BART Police Department should have its own Training Unit (refer to Training Consultant).
4. All personnel assigned to the communications center should also be APCO (Association of Police Communications Officers) certified and receive re-certifications annually. The Department must dedicate the time and resources in order to make this happen as soon as possible. The communications center supervisor can also become a certified APCO trainer. He/She can be responsible for re-certifications.
5. Mobile Data Terminals (MDT) should be installed in all appropriate BART Police vehicles. However, it is vitally important that all patrol officers and other appropriate personnel be trained to use the MDTs. Presently, a limited number of officers know



how to use the MDTs. The MDTs can also have wireless interfaces so that officers approaching stations that have CCTV can see what is going on before they enter. Using Internet Protocol or a Local Area Network may be an option.

6. Also, the Department does not appear to have a clear policy or written procedures for the use of MDTs or other similar technologies. For example, there was no policy that prohibited the unauthorized introduction of software programs or files or the manipulation or alteration of current software running on the Department's mobile, desktop or handheld computers. A written policy should be written according to CALEA standards.
7. It is also important to develop a back-up communications center and computer system (CAD/RMS). Although alternative power sources do exist in the new communications center, it should be tested monthly. Although a new communications center has just been completed, it is necessary to have redundancy. This should also be included in a Continuity of Operations Plan (COOP). The CAD/RMS Administrator, appropriate police personnel, the consultants and the Project Team for RAILS should discuss this issue immediately. The "scope of work" may have to be changed in order to accommodate this recommendation. Consideration should also be given to having a formal Memorandum of Understanding with another police department or public safety agency to use their Mobile Command Center.
8. The Department should also consider using hand-held computers to facilitate completion of reports and streamlining the data entry process. Patrol officers can have the ability to enter data directly in incident reports that can be downloaded into the RMS. However, when officers input data themselves, there is little chance that the reports can be misinterpreted by dispatchers who presently enter data into the CAD/RMS. It is also imperative that BART Patrol Officers document when they are riding trains, checking platforms, stations, mezzanines, stairs and concourses. The reliance on mobile patrols is too great. BART Officers must have increased presence on the transit system to facilitate interaction with the community. Being isolated in patrol vehicles creates a culture of "us against them" mentality. Handheld computers can be used to facilitate the process of completing "electronic" patrol logs to ensure foot beat officers are effectively patrolling trains, stations and platforms. Going "paperless" is also good for the environment.
9. The Department should consider implementing the Compstat process and using new RAILS technology. For example, crime mapping, crime analysis and other reports generated by the new RMS can be used during the Compstat process. Compstat meetings with police command staff and police personnel should be conducted on a weekly basis.
10. The Department should also consider having a liaison with the Northern California Regional Intelligence Center located in San Francisco. This technological advanced facility can interface the BART Police Department's RMS/CAD and Radio Communications System with other local, state and federal agencies throughout the region.



BART Police Management Audit

Topical Area: (Equipment) Radio Communications System

General Issues: (Per Professional Services Agreement)

To assess if BART Police Department is best equipped to promote customer service, public trust and effective policing in the diverse communities in which BART operates and with which BART's Police Department interacts.

In addition to compliance with POST training requirements, determine the adequacy of training regarding the use of equipment.

Are facilities and **equipment** adequate to meet the Department's responsibilities?

Review departmental policies, procedures, practices and tactics regarding **equipment selection** and determine if they are comprehensive and current (reflecting best practices), comply with legal requirements, and are effective.

Current Application or Practice:

The BART Police Department and the entire District uses and operates on an 800 MHz, 10 channel Enhanced Digital Access Communications System (EDACS) simulcast trunked radio system that is manufactured by M/A-Com. It also operates on the National Public Safety Planning, Advisory Committee (NPSPAC) frequencies.

This above ground trunked system is used for voice communications between Operations Control Center and trains, BART Police dispatchers and police officers, maintenance workers and for administrative purposes. It is the primary radio system used throughout BART. The existing network consists of 31 UHF Base Stations, not including sites that only receive radio transmissions.

In underground areas of the BART system, the trunked radio signals are propagated by a Distributed Amplifier Cable System. There are "dead spots" in some areas of the system.

The radio system is designed to provide clear communications from portable radios with area coverage reliability of 95% or better. In various locations, radio signal penetration into distant facilities and stations is insufficient. The use of a Bi-directional Radio Amplifier (BDA) system within distant structures can eliminate this condition.

The radio system is designed to cover five Bay Area Counties and approximately 100 miles of track. Only one main half-duplex simulcasts channel is shared by more than 250 BART Police employees.



The entire transit system is controlled by 22 position radio/telephone consoles. Four of the consoles were dedicated to the BART Police. However, the BART Police communications center recently (August 8, 2009) relocated from a small, ineffective communications center, to a new facility that has appropriately 2,100 square-feet. Besides being seismically hardened to meet the American Institute of Steel Construction seismic design standards, the new center is equipped with:

- The latest environmental controls
- Ten ergonomically-engineered workstations
- CCTV monitors that can be viewed from any dispatch location
- Dedicated equipment room that includes CCTV hardware, alarms, access control, two-way radio, train locator systems, 911 systems and criminal

However, as a result of expectations to expand the BART system, modifications are expected to be made to the radio network in the future. The Regional High Level (RHL) Radio System is a part of the BART Radio network. The RHL system is used for voice communications between Operations Control Center and trains when a portion of the BART trunked system has malfunctioned or out of service, or when BART Police officers roam beyond coverage of the BART trunked system. It is a secondary and redundant radio communication medium that exists throughout the BART District, that generally extends to the borders of the counties having BART facilities and infrastructure.

The BART RHL Radio System only works well in certain areas because of interference from Nextel radio sites. The 800 MHz rebanding project should improve radio communications.

The Federal Communications Commission (FCC) has required many public safety radio communications systems to modify their radio frequencies to prevent interference problems. The affected radio communications operations encompasses the 800 MHz band because Nextel and other cellular-type commercial radio service (CMRS) providers operate adjacent to public safety and other private wireless radio systems. The close proximity of the CMRS and non-CMRS has led to dangerous interference during a significant number of public safety operations. The FCC's solution is to reband 800 MHz to separate public safety channels in order to further remove them away from CMRS channels. Many public safety 800 MHz systems will have to change frequencies in the band. Nextel shall cover all the costs of the rebanding efforts. Each public safety agency has to negotiate with Nextel on how best to resolve this problem in details. This issue may take some time until it is resolved at BART and other public safety agencies in the Bay area.

Oakland Police Department Radio Communications

In regards to Interoperability, the Oakland Police Department can interface by switching to talk groups used by the BART Police Department. Oakland Police Officers can talk directly with the BART communications center. However, when using BART's task groups, Oakland Police cannot talk directly to Oakland Police dispatchers. However, Oakland Police Officers appear to need more training to find the BART Police Department talk groups on their portable radios. This is important for underground communications. Oakland however, only has two underground stations. San Francisco has many more.



San Francisco Police Radio Communications

Two mutual aid channels have been installed in BART's underground tunnels to permit interoperability with San Francisco Police Department. When San Francisco Police responds to an underground BART station, they can switch their portable radios to a mutual aid channel. Then BART can patch the San Francisco Officers to their communications center. San Francisco Officers have not been trained to switch their radios to the mutual aid channel.

Also, San Francisco consistently fails to contact BART informing them that their officers are in stations making apprehensions, possibly in the track area. San Francisco Officers may also fail to notify their own communications center that they are in BART stations.

Oakland Fire Department Radio Communications

BART has provided portable radios to fire departments adjacent to the transit system. The portable radios provided to the Oakland Fire Department works underground and new talk groups have been recently added. However, Oakland fire fighters using these radios can only speak directly with BART's communications center from underground. A BART portable radio would have to be placed in Oakland's communication center to permit direct communications from an underground station.

San Francisco Fire Department Radio Communications

When the San Francisco Fire Department arrives at a BART station, they switch their portable radios to the mutual aid channel prior to going into the underground stations. Their communications center also contacts BART by telephone. At this time, BART initiates a "patch" from their console, enabling underground radio communications over the mutual aid channel. The San Francisco Fire Department has trained to follow this protocol.

The BART Police Department also maintains interoperability with other police departments and public safety agencies to various degrees throughout the region.

Commendation or Recommendation: What is currently being done effectively or what needs to be done to meet a standard of performance?

1. Basic Radio Communications

The basic radio communications system does satisfy the immediate information needs of the BART Police Department routinely and during emergencies according to **CALEA** standards (81). However, there are some problems that cannot be overlooked. Although the communications center has relocated August 2009 into a new modern, secure facility, there are still some issues that need to be resolved operationally. For example, it is apparent that some officers need additional training on radio protocol. They do not call in or out of service for example.



2. More Talk Groups and Channels

Although the police are only provided with channels, it has not created enormous problems to date. However, consideration should be given to providing the Department with additional channels and talk groups for emergencies and redundancy.

3. P25 Radios

BART Police Department is considering using a P25 compliant radio system. These radios can communicate in analog mode with legacy radios or digital. P25 radios also allow for a reasonable amount of interoperability and shall improve communications in BART's service area with other public safety agencies.

4. FCC Licenses Reviewed

BART does maintain current FCC licenses and has access to the regulatory rules and regulations. According to CALEA standards (81.2.1), the BART Police Department provides 24-hour, toll-free voice and TDD telephone access. Passengers and the general public can contact BART Police communications center at all times for information or assistance required during an emergency. However, the licenses should be reviewed annually by legal staff to ensure that compliance is still be maintained and regulations have not changed.

5. Maintaining Two-Way Radio Communications

The Department also maintains continuous two-way communication capability between the communications center and officers on duty (81.2.2).

6. Poor Written Policy for Obtaining Information

Based on CALEA standards (81.2.3), a BART's written directive does establish procedures for obtaining and recording relevant information of each request for service or self-initiated activity. For example, BART Police General Orders, 1.014, Communications Section states, "The Communications Section is responsible for the operation of a variety of communications equipment which receives and transmits police-related messages. It is here that initial calls for police service are received, evaluated and channeled for appropriate action. This section is also responsible for the computer inputting or cases reported and subsequent action taken."

7. More Robust Policy Needed

The Department also must develop a more robust written policy establishing procedures for communications between field personnel and the communications center (CALEA 81.2.4). Although a new policy, Communications Section, Standard Operating Procedures, December 12, 2007 adequately addresses operations in the communications center, more emphasis must be given to field operations.

8. Access to Resources

Communications personnel do have immediate access to at least the following departmental resources based on CALEA standards:

- Officer in charge
- Duty roster of all personnel
- Residential telephone number of every agency member
- Visual maps detailing the agency's service area



- Officer status indicators

9. Improved Communications Directives Required Based off CALEA - APCO

A review of the entire section 81 of the CALEA standards indicate that written directives should be established regarding Communications in the BART Police Department. The Chief of Police should review and develop these standards immediately. An entire Communications Manual should be completed based on CALEA and APCO standards

10. Purchase Interoperability System

The Department should consider purchasing a Radio Interoperability System or ACU 1000 to facilitate communications with outside agencies.

11. Train and Certify Communications Center Personnel

All Communications Center personnel, including supervisors should be APCO certified and receive annual in-service training by a certified instructor.

12. Obtain Memorandums of Understanding with San Francisco and Oakland

In order to facilitate interoperability initiatives and emergency response by outside agencies on the BART system, formal written Memorandums of Understanding should be developed. These MOUs should also compel each agency to train personnel to switch radios to mutual aid channels and to contact BART when responding to incidents on the transit system.

Justification: The Audit Team's agency-specific analysis, CALEA standards, and criminal justice research are the basis of these recommendations.

Implementation Strategy: In order to establish additional talk groups and acquire additional channels, an internal evaluation and survey should be conducted. Future growth of BART and not just the police department should be considered. Other BART departments share the 800 MHz system.

The Department should seek funding sources to subsidize the procurement of P25 radios. A consortium of public safety agencies may be able to facilitate this process.

The Chief of Police should mandate that a separate comprehensive Communications Manual with directives applicable to the new communications center and a modern police force be enacted or develop. The current directives are too old and are also insufficient. The CALEA and APCO standards should be adhered to.



BART Police Management Audit

Topical Area: (Equipment) Procurement

Issues: General Issues (Per Professional Services Agreement):

To assess if BART Police Department is best **equipped** to promote customer service, public trust and effective policing in the diverse communities in which BART operates and with which BART's Police Department interacts.

In addition to compliance with POST training requirements, determine the adequacy of training regarding the use of equipment.

Are facilities and **equipment** adequate to meet the Department's responsibilities?

Review departmental policies, procedures, practices and tactics regarding **equipment selection** and determine if they are comprehensive and current (reflecting best practices), comply with legal requirements, and are effective.

Current Application or Practice:

Procurement Procedures

The BART Police Department follows standard procurement procedures to purchase equipment and other items. This process is facilitated by a Civilian Supervisor who also oversees Budget Coordination, Crime Analysis and Vehicle Procurement.

The Department uses at least 2 procurement manuals. According to the BART's procurement guidelines (Bizzi Guide), before completing a Purchase Requisition, the product must be clearly defined. Reviewing previously purchased documents, obtaining assistance from suppliers and contacting the Procurement Department is also recommended.

The Department is also expected to put together a Purchase Requisition Package (PR Package) that contains other important documents that describes to Procurement what is needed. These documents include:

- Purchase Requisition
 - Describes the item(s) to be purchased, the quantity, the estimated cost, delivery requirements and other information.
- PR Worksheet
 - Prompts the Department for information to assist Procurement in determining the procurement process and method best suited for your purchase.
- Technical Specifications



- Describes in detail the physical characteristics, standards, and functional performance requirements of an item.
- Sole Source Justification
 - In the event an item can only be obtained from one supplier, a written justification must be prepared and submitted with the signature-concurrence by the Department's management.
- Contract Notification Form 0866
 - By Memorandum of Understanding, BART must provide notification to the Service Employee International Union, Local 790 of the District's intention to contract for services when they may be similar to the work performed by members of SEIU, Local 790.
- Cost Estimates
 - The estimated cost of the procurement usually dictates the procurement process and methods used.
- Drug and Alcohol Prevention/Testing
 - This form is required for the District to comply with Department of Transportation (DOT) regulations regarding the Drug and Alcohol Prevention Program

All purchases over \$100,000. must receive approval from the BART Board of Directors. BART also uses the bidding process.

Go Card

BART Police and other Departments use Go Cards for purchases under \$2500. According to the Procurement Manual, Chapter 5 Supplement: Small Purchases Under The Micro-Purchase Threshold, "The State of California has awarded a contract for statewide commercial credit card services to US Bank (Contractor). The contract was intended to provide, at the request of state ordering agencies, statewide commercial purchase cards and associated services to state employees for the purpose of paying for purchases made for official state purposes.

The policy continues, "In 1995 the State made these services available to any of its political subdivisions of which BART as a public utility district qualifies for participation in the program. On July 1, 1996, the District commenced its program and issued these procedures.

Vehicle Procurement

According to the non-revenue fleet inventory list, the BART Police Department currently has 81 vehicles in-service and 2 out of service. The age of the fleet ranges from 1996 (1 Jeep Cherokee with 76,000 miles) to 2009 (1 Dodge Charger with 11,716 miles). The majority of the police fleet consists primarily of Police Ford Interceptors (50). The entire fleet consists of:

- Ford Interceptors (50)
- Dodge Chargers (4)
- Ford Taurus (2)
- Ford Escape Hybrid (5)
- Ford Escape (7)
- Ford Ranger (3)



- Dodge Ram 2500(4)
- Dodge Dakota (2)
- GMC C5500 Utility (1)
- Ford Van (1)
- Ford Club Wagon (1)
- Jeep Cherokee SE (1)

The police fleet is in relatively good condition with the highest mile vehicle having 123,411 miles (Interceptor - 2004). The largest amount of vehicles by age is the Interceptor - 2006 (21 sedans). The majority of the police fleet is “police packaged”.

Each Department at BART is allocated a certain number of vehicles. Generally speaking, BART Police vehicles are replaced once they reach the 100,00 mile mark. Five vehicles had over 100,00 miles. Only a certain amount of vehicles are purchased each year.

BARTs Maintenance and Engineering Department is primarily responsible for procurement of the police fleet. That department completes the specifications with the input from police personnel. Equipment for the police fleet is purchased from an outside vendor. The bidding process is adhered to when purchasing new vehicles. At times, police vehicles are also purchased using a State contract.

Commendation or Recommendation:

1. What is currently being done effectively or what needs to be done to meet a standard of performance?

Although BART has a policy that dictates procedures for procurement, the BART Police does not have a specific policy as is recommended by CALEA. However, the CALEA standards appear to be met in the BART policy. CALEA standards:

1. Specifications for items requiring standardized purchases
2. Bidding procedures
3. Criteria for the selection of vendors and bidders

There is a formal procedure for controlling requisitioning and purchasing of the Department’s supplies and equipment. However, BART’s Procurement Department provides little assistance during much of this process. Personnel who were interviewed indicated they often have to maneuver through the procurement process because the Procurement Department has inadequate staffing levels, appears to be disorganized and is non-responsive. BART Police indicated that they have little formal training in the procurement process and this leads to a high level of frustration when little assistance is provided. According to one BART Police official, if BART Police personnel do not get directly involved with the procurement process, requisitions and other important documents often remain on desks in BART’s Procurement Department resulting in significant delays. Little guidance is provided by the Procurement Department. This is the most significant concern for police personnel. Procurement training sessions should also be given to police personnel.



Although the “Go Card” is a great asset and process, and facilitates the procurement process significantly, not enough money is allocated towards the non-material budget to rent firearms ranges for example.

According to CALEA standards, vehicles used in routine or general patrol service, whether conspicuously marked or unmarked, must be equipped with operational emergency lights and a siren. Conspicuously marked patrol cars are readily identified as law enforcement agency vehicles from every view and from a long distance, even at night. The BART Police Department appears to have met this standard as observed by this consultant.

CALEA also indicates that a written directive specifies the equipment to be included in every patrol vehicle and establishes a system to ensure replenishment of supplies for operational readiness. Although there is a written directive (#1 - Vehicle Equipment Inventory and Operation of Department Vehicles), it is outdated (October 20, 1999). This is a significant and consistent problem that the Operational Directives have not been revised or updated at least every two years. The policy should indicate a wider variety of equipment that should be in each vehicle. For example, first-aid kits, equipment against transmission of blood-borne pathogens and reflective cones were not listed in the policy.

Presently BART must pay every time prisoners are held at many local and county facilities. For example, BART pays the City of Berkley \$190 per day to hold prisoners. BART pays the Hayward Police Department \$200 per day. Booking fees are also assessed and BART is billed. Combined with the fact that BART also pays for leasing firearms ranges and having blood drawn for DUI cases, maintaining contracts and keeping records regarding such transactions can be confusing especially when BART personnel have little or no training in the Procurement process. Reasonable alternatives should be discussed with BART’s Procurement Department to alleviate the costs and also to provide assistance.

Justification: The Audit Team’s agency-specific analysis, CALEA standards, and criminal justice research are the basis of these recommendations.

Implementation Strategy: (How should each recommendation be implemented by the agency?) Who (component), what, when and where should be addressed as appropriate.



BART Police Management Audit

Topical Area: Equipment (Lethal and Non-Lethal Weapons)

General Issues: (Per Professional Services Agreement):

To assess if BART Police Department is best **equipped** to promote customer service, public trust and effective policing in the diverse communities in which BART operates and with which BART's Police Department interacts.

In addition to compliance with POST training requirements, determine the adequacy of training regarding the use of lethal and less lethal force **equipment/weapons (Overlaps with Training)**

Are facilities and **equipment** adequate to meet the Department's responsibilities?

Review departmental policies, procedures, practices and tactics regarding **equipment selection** and determine if they are comprehensive and current (reflecting best practices), comply with legal requirements, and are effective.

Current Application or Practice: To identify the type(s) of lethal and non-lethal equipment/weapons the Bay Area Rapid Transit (BART) Police Department use and to determine if this is appropriate. The consultant shall also address issues relevant in the General Issues section.

Lethal

Issued Pistol: Uniform patrol officers are typically issued the Sig Sauer 40 Cal, Model # P226R with a 4 1/2 inch barrel. Officers with smaller hands or assigned to the detective unit have the option to carry models #P229R or #P239R (4 inch barrel). The Sig Sauer pistols are "**double-action**" only. The issued departmental **ammunition** for the Sig Sauer is the Federal, HST, 180 Grain, Nickel, Hollow Point. **Practice ammunition** consist of whatever is available that is full metal jacket and 180 Grain. Officers are issued **3 magazines** that hold 12 rounds.

Pistols: BART Officers are permitted to purchase their own "on-duty" pistols (other than Sig Sauer). However, officers are required to qualify at the range with these pistols. The department does not reimburse officers for pistol purchases. The **most popular "on-duty" weapon appears to be Glock (Models #22 & #35)**. Other popular weapons include the **Colt (Model #1911), Springfield (Model XD) and the STI**. BART Officers are also permitted to carry a "**back-up**" weapon but must qualify annually with pistols they carry.

Non-Lethal Weapons: All BART Officers are trained with the **Tasers (Model #X-26)**. However, the officer has the option to carry a Taser. Tasers are communal and exchanged



during the change of shifts. Officers can wear the factory ordered holster for the Taser or purchase their own holster. The holsters are not triple or double retention.

Non-Lethal weapons are those control devices/instruments authorized for use in the control of violent or potentially violent subjects when less forceful means have been ruled inadequate. Non-lethal force may be administered by members using the following control devices and/or instruments:

- Pepper Spray or Chemical Gas
- Police Batons
- Taser
- Specialty Impact Munitions (SIMS)
- K-9

1. **Pepper Spray or Chemical Gas:** MK-6, MK-4, First Defense for all police officers?
2. **40mm Launcher:** Defense Technologies 40mm exact impact round deployed by Patrol and SWAT personnel who are properly trained and qualified with the device.
3. **Police Baton:** Straight, side-handle, collapsible, and short-batons are authorized.
4. **Taser:** All BART Officers are trained with the Tasers (Model #X-26). However, the officer has the option to carry a Taser. Tasers are communal and exchanged at the end of each shift. Officers can wear the factory ordered holsters for the Taser or purchase their own holster. The holsters are not triple or double retention.

Radio Patrol Cars: All Radio Patrol Cars are equipped with **Remington 870 Breaching Shotguns.**

SWAT Firearms: Members of SWAT are typically assigned to Zones and work with other patrol officers. They wear patrol uniforms unless deployed. Weapons that SWAT officers carry include: **Colt AR-15 Long Rifle; Sniper Remington 700; H & K MP - 5 Sub Machine Gun; 40 ML Chem Launchers - Def Tec; Remington 870 Breaching Shotgun.**

Commendation or Recommendation:

What is currently being done effectively or what needs to be done to meet a standard of performance?

1. Sig Sauer - Good Selection

The standard issued Sig Sauer P226R 40 caliber 4 ½ inch barrel is a good choice of firearm because it works well in the mass transit environment. This is primarily because there is less ricochet possibilities and the 40 caliber has more stopping power than a 9 millimeter firearm. By using the hollow point ammunition, it increases the effectiveness of the firearm. It also aids in the ability to incapacitate the subject with less possibility of causing harm to the public.

Having the options to carry Sig Sauer models P229R and P239R is a good choice for officers who have smaller hand grips or for plainclothes or detectives who need these firearms for better concealment. The ammunition that is used (Federal, HST, 180 Grain, Nickel, Hollow Point) is an acceptable choice. The double action feature is also acceptable and a standard feature on most firearms.



2. Standardization Required

According to **CALEA** standards, the agency (BART Police Department) should determine the specifications and authorize all personal equipment and apparel, not issued by the agency, used/worn by uniformed personnel to ensure uniformity and prevent use of unauthorized or substandard items (41.3.4). **CALEA** also indicates the agency develop a written directive that requires only weapons and ammunition authorized by the agency be used by agency personnel in the performance of their responsibilities. The directive shall apply to weapons and ammunition carried both on and off duty... (1.3.9).

However, the reviewers do not concur with the practice of BART Officers being permitted to purchase their own "on-duty" pistols (other than Sig Sauer). Although, officers are required to qualify at the range with these pistols, the practice of purchasing their own pistols creates many problems. The Department should be able to establish appropriate equipment and firearms standards for the department for the safety of the officers and the general public. It is difficult for the department to regulate/standardize training, the ammunition that is being used and the quality of the firearm selected.

Departmental standards for equipment and firearms must be established to maintain order, continuity and compliance with departmental policy and industry practices that lessen the likelihood for liability. This decision should not be relegated to front line police officers, bargaining units or influences from external agencies. Permitting officers to carry firearms that are not departmental issued increases liability while on and off duty.

Standardization also permits exchange of firearms and equipment during exigent, or emergency incidents. Officers will be familiar with using the firearms of other officers if their weapons malfunction or become inaccessible.

As a result of industry best practices, particularly amongst transit police departments, standardization of equipment and firearms is acceptable. As a result of analysis and interviews conducted of the BART Police Department, standardization is prudent and beneficial.

3. No Back-up Firearms

We also do not recommend that officers be permitted to carry back-up weapons for the above stated reasons. This also creates an additional firearm that must be serviced, inspected, maintained and documented. A standard firearm should be armored and inspected on a regular basis by a certified department armorer.

4. Triple Retention Holsters Recommended

Officers have the option to wear triple retention, double retention or single retention holsters. The type of holster worn is also contingent on the type of pistol carried. *However, it is recommended that officers carry triple retention holsters which will provide improved safety for officers and the general public. Officers should have no problems drawing from the holster after proper training and practice. The triple retention feature will give officers added safety and will be a conscious reminder when firearms are being drawn. Retention holsters are being utilized throughout the industry on a widespread basis.*



5. Consider Desolving SWAT Unit and Weapons

Members of SWAT are typically assigned to Zones and work with other patrol officers. They are rarely deployed. An evaluation of the viability and usefulness of a SWAT unit should be assessed. Weapons that SWAT officers carry include: Colt AR-15 Long Rifle; Sniper Remington 700; H & K MP - 5 Sub Machine Gun; 40 ML Chem Launchers - Def Tec; Remington 870 **Shotguns**. These are all weapons that can be utilized by SWAT in high risk tactical situations. However, BART officers are rarely deployed in this manner.

6. Shotguns for Radio Patrol Cars

Not all Radio Patrol Cars are equipped with shotguns, they are optional equipment for properly trained and qualified officers may carry.

7. Purchase Firearm Simulator

*The study team strongly recommends that the Department purchase a **Firearms Simulator (FATS)** or other similar technology. This develops the opportunity to develop shoot/don't shoot skills. Simulators can also be used for Non-Lethal weapons. **BART Operational Directive #68, Authorized Firearms, Training and Qualification (revised July, 1996)**, clearly indicates guidelines for the use of a simulator. However, the BART Police Department does not have a simulator at this time.*

8. Outdate Operational Directives

More importantly, Directive #68 is outdated and must be revised. For example, this directive indicates that the issued department firearm is the Beretta Model 92FS (9mm) or Model 96F (.40 S & W), 5 inch barrel, double action semi-automatic pistol shall be the issued weapon for sworn members, and employees authorized to carry firearms on duty. When in fact today, uniform patrol officers are typically issued the Sig Sauer 40 Cal, Model # P226R with a 4 1/2 inch barrel.

Also, Directive #68 indicates the authorized weapons include: Beretta, Glock, Heckler and Koch, Sig Sauer, Smith and Wesson, and other modern semi-automatic pistols. For the above mentioned reasons, this policy is too flexible.

9. Laxed Firearms Requalification

The study team also recommends that oversight be given regarding the re-qualification of police officers. Some officers are reportedly not re-qualifying when returning back to work after being on long term sick or injured on duty leave. Some police administrators also have not been to the firearms range for extended periods of time. Consideration should be given to increase firearms requalification annually (4 hours, 3 times per year). Annual "active shooter" training and critical incident response should be part of firearms requalification.

Non-Lethal

Non-Lethal weapons are those control devices/instruments authorized for use in the control of violent or potentially violent subjects when less forceful means have been ruled inadequate.

Non-lethal force may be administered by members using the following control devices/instruments:



- Pepper Spray
- Chemical Gas
- Police Batons
- Taser
- Specialty Impact Munitions (SIMS)
- K-9
- Pepper Spray (O.C.) MK -6, MK -4or Chemical Gas**
- 40mm Launcher:** Defense Technologies 40mm exact impact round deployed by Patrol and SWAT personnel who are properly trained and qualified with the device.
- Police Baton:** Straight, side-handle, collapsible, and short-batons are authorized.

10. Pepper Spray, Chem Launchers, and Baton Recommendations

*The study team concurs with the use of **Pepper Spray (O.C.)**. Use of other forms of chemical agents or non-lethal weapons with the exception of the taser and expandable baton is acceptable. However, using other types of devices that also permit officers to purchase their own presents problems with monitoring, inspecting, maintenance and training. Ultimately it increases the department's liability and jeopardize the safety of the officer and the public. NOBLE recommends that the Department uses the **ASP or the monadhock** auto lock baton because these batons are commonly used by various departments throughout the country and is National Institute of Justice approved. The use of **40 ML Chem Launchers** does not appear practical. BART Police Officers would have little if no opportunity to deploy this weapon.*

11. Taser Recommendations

All BART Officers are trained with the Tasers (Model #X-26). However, the officer has the option to carry a Taser. Tasers are communal and exchanged at the end of each shift. Officers can wear the factory ordered holsters for the Taser or purchase their own holster. The holsters are not triple or double retention. The taser that the Department presently uses is approved by the National Institute of Justice. *The study team approves the use of this Taser. NOBLE approves the new taser Operational Directive/Policy 309 that was updated April 2009 (Electronic Control Device - Taser). This policy indicates the taser can be carried in a holster, opposite side from the duty weapon with no portion of the TASER crossing the midline of the officer's belt when it is holstered.*

- a. When carried in this manner, the officer shall use a support hand draw or a dominant hand cross body draw. *However, The study team recommends that this section also indicates that the Taser is in an opposing grip away position when using the dominant hand cross body draw.*
- b. A drop leg holster worn on the support hand side only. *The study team concurs with this procedure.*
- c. On the duty weapon side, only if the TASER is in an opposing grip away position from the duty weapon requiring a cross body support hand draw. *The study team does not concur. The Taser MUST not be carried on the duty weapon side under any circumstances.*

An officer may purchase his/her own departmentally approved yellow TASER® X26 for duty use. It must be inspected by a department TASER armorer and meet with departmental standards before it can be carried for duty. If the TASER armorer approves the TASER for duty use, the



armorer who inspects the TASER will complete a memo to document the inspection, serial number and approval of the TASER. The memo will be maintained in the officer's personnel file. Maintenance of this TASER is the responsibility of the owner. *The study team does not endorse officers purchasing their own TASER under any circumstances. This opens the Department up to unnecessary liability. The TASER also should not be communal. Each officer should be issued their own TASER. It is not necessary that all members of the department have a TASER. Supervisors, Field Training Officers or special units (Tactical Teams and K-9 Teams) can be issued TASERS.*

12. Lead-less Practice Ammunition

All practice ammunition should be lead-less because have less lead exposure during firearms prequalification or practice. The firearms instructor should be responsible for ensuring that this ammunition is procured. The practice of procuring lead-less ammunition should occur immediately because of issues relating to over exposure.

Justification: Justification for the previous recommendations are based on the following:

- CALEA standards
- National Institute of Justice Standards
- Research on the topic
- Agency-specific analysis

Standards Used:

- CALEA standards
- National Institute of Justice Standards
- Research on the topic
- Agency-specific analysis

Implementation Strategy:

- Standardization of firearms and equipment selection should be dictated by revised policy and oversight of the Support Services Section or appropriate police administrator. This also entails the requirement that back-up weapons not be carried. The Chief of Police is authorized to change policy. This should occur immediately.
- The department should also change policy that indicates all uniform patrol officers must use triple retention holsters. This should also be implemented immediately.
- The Chief of Police should consider abolishing the SWAT Unit after evaluation. This evaluation should include a review of how many times the unit was deployed during the last two calendar years (2007 and 2008) and if the special weapons were used. This evaluation should take place immediately.
- The Chief of Police should abolish the use of the shotgun and change the policy. This should also occur immediately.
- A Firearms Simulator should be purchased. Grants or funding may be available. The Capital Grants Department (or appropriate department) at BART should facilitate this process. The Chief should consider purchasing a system out of his operating budget. It is possible that other police departments would share the costs.



- A review of all police directives should occur annually. The Chief of Police is ultimately responsible for revising the directives. He can delegate the responsibility to the appropriate commander and approve the revisions. BART's Legal Department should also review important directives including Use of Force and other policies involving lethal and non-lethal weapons. This should occur immediately.
- Policies regarding Batons and Tasers should be revised based on the aforementioned recommendations. This should also occur immediately.
- Lead-less ammunition can be purchased through the procurement process. This should also be done immediately by the Civilian Supervisor.

POLICE RADIO COMMUNICATIONS

Current issue or Practice: An inspection was conducted of the BART Communication's Center. The radio room is currently situated at the Lake Merritt (Police Headquarters) location. The space is small and insufficient for the operations of a full service police department, which has a minimum staff of four dispatchers in the center at any given time. The department uses an 800 MHz Commuter-Aided Dispatch System. However, in order to have continuous two-way communications, Officers use their cell phones to contact communications center when the radio system is down. Currently, treasury employees (non-sworn), Community Service Officers as well as police Officers are allowed to access the communications center. The treasury attendants come in and out to sign for the keys to the Ticket Vending Machines. The communications center does not accept or deliver emergency messages, that responsibility is currently handled through the BART Information line. The Communication Center personnel keeps residential telephone numbers of every Officer on a rolodex; which was not current during my visit, however this same information is also kept on the computer which is updated by Human Resources. The duty roster of all police personnel is sent in prior to every shift however; the duty roster for the on-call detective was out of date by two months. The communications center also stated they currently do not have tactical dispatching plans.

Recommendations/Implementation Strategy: During this assessment, the Communications Center was in the process of relocating to a new location across the street from Police Headquarters'. The center was going to be a lot larger and would be able to comfortably accommodate all staff required for the efficiency of operations. The policy and procedures of the Police communications' center need to be reviewed and rewritten to address several serious issues involving items such as:

- 1) Access control: Communication Center houses sensitive information such as criminal and driver's histories for suspects etc., and should be kept in a secured environment; having personnel in and out to include Officers, if they have no valid reason to be inside the center should be restricted as well. The communications center should not be a place to hang out while waiting on a call. The treasury personnel that are allowed into the communications center to sign keys in and out for the Ticket Vending Machines should possibly identify another area inside of the Lake Merritt location.
- 2) Review Policies and Procedures for the Communication Center to ensure that they are on par with other communications centers of size and function. Issues such as updating



Officers contact information are important. The agency needs to develop their own individual system to collect, maintain and update the commuter system. Having Human Resources to update employee information for police employees may not be the most effective way to ensure that if an emergency arises and Officers are required to be called in, there should be no doubt that the information is timely and accurate. Also, develop tactical dispatching plans to be used in emergency situations which would require the sole use of a channel in ongoing crimes in progress or officer needs help calls.

Justification: *CALEA 81.3.1 Security measures for the communications center are in place to limit access to the communications center to authorized personnel. Protective measures may include locating the center and equipment in areas providing maximum security, installing bullet resistant glass in areas of public access, and restricting access to the communications center.*

CALEA 81.2.5 *Communications personnel have immediate access to at least the following departmental resources: (c) residential telephone number of every agency member (g) tactical dispatching plans.*

CALEA 81.2.11 *A written directive specifies criteria for accepting and delivering emergency messages. Delivering emergency messages is a legitimate law enforcement function. However, guidelines should be established to define the types of messages to be accepted and delivered. APTA Security Peer Assessment, May 1994 pg. 8 para.6, prior recommendation: The current communications system along with Dispatching practices and procedures need to be evaluated.*





Chapter 5

Facilities



FACILITIES

The purpose of this report is to identify those areas of the BART Police Department which meet or need improvement.

Lake Merritt (LMA) is the headquarters for BART Police Department however, the facility is woefully inadequate is currently being demolished. Even though the department has other satellite locations in better condition, LMA is the Headquarters. It should be a show place and the face of the BART Police Department.

The district has established space standards that have never been applied to the police at LMA. The Commanders' offices are small; also the clerk's area is very small.

The locker rooms (male and female) need to be cleaned. The floors are dirty, the lockers dusty and the walls require cleaning.

There is only one "holding area", the cell is adjacent to the area where personnel must go for supplies and to write police reports. There is not enough space to interview more than one subject at a time. The walls are thin, so there is no privacy or confidentiality.

The entrance at 9th and Madison is frequently used for urination and defecation by the general public. The stairwells and hallways leading into the lieutenant's office smells like urine.

Trying to make conference calls or any other calls is challenging, because the sound of trains passing by every few minutes.

Major Substations:

- Castro Valley
- El Cerrito Del Norte
- Powell Street San Francisco
- San Bruno
- Bayfair (Personnel & Training Background)
- Balboa Park
- Daly City

Remote Substations:

- Hayward
- Dublin Pleasanton
- Concord
- Walnut Creek
- Pittsburg/Baypoint
- Milbrae



Tour of Facilities

During a tour of the locker rooms, a sign was posted in the women's shower "Parts needed to fix the shower" and was dated August 2005. The refrigerator in the men's eating area was dirty and I touched the handle and the door fell off, articles of food appeared to have been there for months with mold and other unknown things growing in there.

These officers stated that no one cleans their locker rooms and they only come in to change and go out on patrol. An inspection of the facilities at least once a week would be helpful.

The entire building is being renovated and, sitting in the offices, you can hear the trains running every 15 minutes.

The department has indicated its desire to move to another facility.

When interviewed, some managers stated that the agency had been trying to move for the last couple of years with a lack of success. Managers spoke very respectful and straight forward. A camera was used to take pictures for this report of the police department main office, its satellite facilities and substations (a disk is available for review of the facilities).

On visits to several stations that BART Officers are assigned to Castro Valley, which is a new station, was in excellent condition, and then traveled to the Dublin station which had a bathroom which was converted to a 10x10 office. Several officers that were there were asked to leave so pictures could be taken, not everyone could fit in the office at the same time. There were no windows in this room and no peep hole in the door. The staff made it clear in several different ways that there is certainly room for improvement at the BART Police main office and some of its substations. The office at Powell Street was clean and well organized.

It would be helpful if the police department conducted an inspection of the all the BART Police facilities to determine what the needs are at each facility and its deficiencies. They should create an inspection sheet to determine what the needs are for each facility along with the deficiencies of each location. These then would be prioritized by a rating system to be provided to BART administration.

The Police Department must continue to make improvement to its facilities and structures even when management fails to meet its needs. Lighting around the facilities is almost nonexistent. There is no signage at the Headquarters building stating that the BART Police are there. The employees want a place to call their own and it would boost their morale and get the customer and public support.

BART must ensure that adequate fencing and lighting exist around all customer parking lots. The exact amount of property under the jurisdiction of BART Police Officers needs to be clearly established, thereby creating a Police perimeter. Police substation need to be accessible to the public and must be constructed and or upgraded to provide adequate space and location flexibility to facilitate the de-centralization process.



Media Relations

The BART police department has been trying for years to have its own media person to speak for the police and to this date that has not happened. The general manager stated that four individuals have been identified to speak for the department, but the media department continues to take the lead role when the police are involved.

The importance of employing a public information officer within the BART Police department cannot be overstated. They have individuals who have excellent communication skills and a positive attitude. Customers riding the system would look at this as a step forward seeing a uniformed officer as the face of BART when dealing with media print and television. A police public information officer could send a message that the police are on top of any concerns that the riding public may have.

Transit agencies are in the forefront and need to portray a positive image as the first line of safety if a problem should arise.

Recommendations

The BART Police department should be moved to a more professional building with adequate space to accommodate its headquarters staff and clerical personnel.

The substations should be renovated and new furniture would improve the looks of the substations.

The media department should have a member of the police department assigned to its staff to respond to police and related requests.



BART Police Management Audit

Topical Area: Facilities

Issue: Space needs for the BART Headquarters and its sub-stations

Current Application or Practice: The agencies headquarters is inadequate and insufficient to support the workload and service demands of the BART PD.

Commendation or Recommendation: The Police department must push for a new police facility to house the command and clerical staff. Roll call is being held in a small room with no window or air vents. The facility lacks adequate room for the staff which must utilize it.

Justification: This recommendation is based on the study team's review and critique of the facilities.

Implementation Strategy: Develop and implement a written plan to address the immediate needs of the department for safety reasons.



BART Police Management Audit

Topical Area: Facilities

Issue: Satellite Facilities

Current Application or Practice: BART satellite facilities have been subject to deferred maintenance and are in need of renovation.

Commendation or Recommendation: The BART satellite facilities are in dire need of renovation, replacement, or rebuilding. The low quality of these facilities as an effective working environment serves as a disabling factor for all the employees working in them. It also creates the perception that the BART administration does not value their contribution to the BART mission.

Justification: The justification for this recommendation is based on the input and feedback from both the NOBLE Study Team and BART PD employees.

Implementation Standards: BART administration should develop a capital improvement plan in which it will articulate in a written document how the current condition of each satellite facility will be addressed.



Chapter 6

Racial Profiling



A. Biased-Based Racial Profiling

NOBLE reviewers met with several members of the BART Police Department including the Chief of Police, members of the command staff and a cross-section of BART Police Department supervisors as well as officers and non-sworn personnel from within the department. No conclusion could be reached to determine if in fact racial profiling is being sanctioned and /or being used by members of the BART Police Department due to the following factors:

The BART Police Department was unable to provide data which captures and identifies all police contacts; time, date, location, vehicle, pedestrian, consensual, or non-consensual. The limited data provided indicates a disproportionate number of traffic contacts with African-Americans and Hispanic-Americans; however, comparing only race data severely limits the opportunity to calculate the multiple correlations between and among factors associated with traffic stops and field interrogations.

The BART Police Department has a varied and transit ridership that is solely identified by survey studies.

The BART Police Department has a varied and transit demographic service area: San Mateo County, San Francisco County, Alameda County and Contra Costa County. The racial make-up of each county served may differ from the violator population due to geographic areas, times of day and variations in police deployment.

These factors make it virtually impossible to accurately measure, analyze and assess if the practice of racial profiling is occurring. However, based on the information obtained during this review it would serve in the best interest of the organization to reassess and adopt certain measures in the following recommended areas to prevent the real or perceived practice of racial profiling.

The following information was obtained during this review.



BART Police Management Audit

Topical Area: Racial Profiling

Issue: Failure to have a Racial Profiling Policy

Current Application or Practice: The BART Police Department does not currently have a racial profiling policy in effect for the department to adhere to, nor in the history of the department have they had one. Command staff currently advises officers to adhere to the California Penal Code 13519.4 (f) “*A law enforcement officer shall not engage in racial profiling.*” BART Police Department advises that they are currently in the process of establishing a policy and have contracted the services of “Lexipol” Inc., a nationally recognized policy developer for law enforcement agencies. This process has been ongoing for the past two years. The BART PD training plan includes delivery of instructor-led racial profile and cultural diversity training.

Commendation or Recommendation: Establish and implement a racial profiling policy that is known and adhered to by all members of the police department. A mere understanding of culture differences is not enough to prevent the practice of racial profiling. There must be specific guidelines in writing and applicable to the organization and communities they serve. The BPD should continue to utilize “Lexipol” guidelines for policy development however, command staff should implement hard timelines to ensure the development and implementation of the policy is completed.

Justification: **CALEA 1.2.9** *The agency has a written directive governing bias-based profiling and at a minimum, includes the following provisions:*

- a. a prohibition against bias-based profiling in traffic contacts, field contacts, and in asset search and forfeiture efforts;*
- b. training agency enforcement personnel in bias-based profiling issues including legal aspects;*
- c. corrective measures if bias-based profiling occurs; and*
- d. a documented annual administrative review of agency practice including citizen concerns.*

Profiling in itself, can be a useful tool to assist law enforcement officers in carrying out their duties. Bias based profiling however is the selection of individuals based solely on a common trait of a group. This includes but is not limited to race, ethnic background, gender, sexual orientation, religion, economic status, cultural group, or any other identifiable group.



Law enforcement agencies should not condone the use of any bias based profiling in its enforcement programs as it may lead to allegation of violation of the constitution rights of the citizens we serve, undermine legitimate law enforcement efforts, and may lead to claims of civil rights violations. Additionally, bias based profiling alienates citizens, fosters distrust of law enforcement by the community, invites media scrutiny, legislative action, and judicial intervention.

Law enforcement personnel should focus on a person's conduct or other specific suspect information. They must have reasonable suspicion supported by specific articulated facts that the person contacted regarding their identification, activity or location has been, is, or is about to commit a crime, is currently presenting a threat to the safety of themselves or others.

Annually, the agency should include profiling related training that should include field contacts, traffic stops, search issues, asset seizure and forfeiture, interview technique, cultural diversity, discrimination and community support.

Implementation Strategy: The Chief of Police and command staff should immediately develop and implement a racial profiling policy to be adhered to by all personnel.



BART Police Management Audit

Topical Area: Racial Profiling

Issue: Failure to conduct internal review of policies.

Current Application or Practice: The BART Police Department does not conduct an annual review of policy and procedures to insure they are effective and addressing the concerns of citizens. A majority of the BART Police Department policies are outdated, dating back to the 1970's and 1980's. Information from interviews suggests the organization is very reactive and only attempts to make policy changes after critical incidents.

Recommendation: The Chief of Police should conduct annual internal reviews of the policies and procedures to determine if policy or procedural changes need to be made when applicable. This type of audit should be a part of the organizations ongoing effort to ensure they are meeting the needs of the community and preventing the practice of racial profiling. Methods that may be utilized include; the news media, radio, service or civic presentations, the internet, as well as governing board meetings. Additionally, information should be made available in languages reflective of the communities they serve.

Justification: **CALEA 1.2.9** (a) (b) *The agency has a written directive governing bias-based profiling and at a minimum, includes the following provisions:*

- a. a prohibition against bias-based profiling in traffic contacts, field contacts, searches, and in asset search and forfeiture efforts;*
- b. corrective measures if bias-based profiling occurs; and*

Implementation Strategy: The Chief of Police should direct an audit of the organizations' mission and value statements, code of ethics and all policies, procedures and practices to ensure they consistently reflect the goals and objectives of the BART Police Department. Once the policy is implemented the Chief of Police should inform the public.



BART Police Management Audit

Topical Area: Racial Profiling

Issue: Fare Evasion Enforcement Policy

Current Application or Practice: Officers of the BART Police Department do not have any written guidelines for enforcing fare violators. Officers are allowed to use sole discretion in determining if a citizen is committing fare evasion. BART PD should develop a written directive which establishes a protocol for handling fare evasion. This protocol should ensure that officers do not violate the civil rights of any community members.

Recommendation: To protect officers from unwarranted accusations of racial profiling and misconduct the BART Police Department should establish policy and procedure for the enforcement of fare evasion.

Justification: **CALEA 1.2.9 (a) (c)** *The agency has a written directive governing bias-based profiling and at a minimum, includes the following provisions:*

- a. a prohibition against bias-based profiling in traffic contacts, field contacts, and in asset search and forfeiture efforts;*
- c. corrective measures if bias-based profiling occurs; and*

Implementation Strategy: The Chief of Police should develop and implement a written directive addressing protocol on effective citizen contacts for fare evasion.



BART Police Management Audit

Topical Area: Racial Profiling

Issue: P.O.S.T. Mandated Training

Current Application or Practice: All BART Police Department personnel have not received training on racial profiling. Entry level officers hired by the BART Police Department attend various P.O.S.T Basic Academies in the San Francisco region. After completion of the Basic Academy, there is no additional training on Cultural Diversity.

In March 2004, BART Police Department sworn personnel received P.O.S.T mandated five-hour training on racial profiling. The training was conducted by P.O.S.T. certified instructors from within the BART Police Department. Officers hired after 2004 did not receive any training on the prevention of racial profiling with the exception of the P.O.S.T. DVD refresher training.

On a letter dated April 4, 2008, the P.O.S.T. commission indicated the BART Police Department was in compliance with P.O.S.T. guidelines for the selection and training of peace officers and dispatchers for the year 2008.

Recommendation: All officers of the BART Police Department should receive training on racial profiling. They should continue to adhere to P.O.S.T. requirements by ensuring all sworn personnel receive racial profiling training. They should also commit to additional related training, remembering P.O.S.T. mandated training is a starting point, not the end state. The training should be inclusive of field contacts, traffic stops, search issues, asset seizure and forfeiture, interview techniques, discrimination and community support. The training must be clear in what constitutes probable cause to stop and detain individuals, so there is no question in the officers mind as to what tactics used are acceptable or not.

Justification: CA. PENAL CODE 13519.4(g) *Every law enforcement officer in this state shall participate in expanded training as prescribed and certified by the Commission on Peace Officers Standards and Training.*

CALEA 1.2.9 (b)

b. training agency enforcement personnel in bias based profiling issues including legal aspects;

Annually the agency should include profiling related training that should include field contacts, traffic stops, search issues, asset seizure and forfeiture, interview technique, cultural diversity, discrimination, and community support.



California (P.O.S.T) Administrative Manual requires the following training be adhered to:

Part I- Initial * 5 Hours (Included in Basic Course after January 1, 2004)

- Why are we here
- Racial Profiling Defined
- Legal Considerations
- History of Civil Rights
- Impact of Racial Profiling
- Community Considerations
- Ethical Considerations

Part II - Refresher ** 2 hours (To be completed every 5 years after initial training)

Implementation Strategy: The BART Police Department should contract P.O.S.T. certified law enforcement professionals to conduct instructor led training sessions on racial profiling as well as diversity training to all sworn staff.



BART Police Management Audit

Topical Area: Racial Profiling

Issue: P.O.S.T. DVD Training

Current Application or Practice: In May 2008, BART Police Department sworn personnel received a two- hour P.O.S.T. mandated refresher training course on racial profiling in DVD format. Although this method is an acceptable training tool used by P.O.S.T., based on interviews, it is a useless and ineffective training method within the organization. There is no effective accountability method in place to ensure officers view the DVD's. Officers hired after May 2008 do not receive any training on racial profiling.

Recommendation: The BART Police Department should stop conducting racial profiling training in DVD format and initiate instructor led training.

Justification: CALEA 1.2.9 (b) *The agency has a written directive governing bias based profiling and, at minimum, includes the following provisions:*

b. training agency enforcement personnel in bias based profiling issues including legal aspects;

Annually the agency should include racial profiling related training that should include field contacts, traffic stops, search issues, asset seizure and forfeiture, interview techniques cultural diversity, discrimination, and community support

Implementation Strategy: Stop all DVD training on racial profiling. Contract law enforcement professionals to conduct the initial training and subsequently have senior staff conduct annual in-service training once trained.



BART Police Management Audit

Topical Area: Racial Profiling

Issue: In-Service Training to Prevent Biased-based Policing

Current Application or Practice: The BART Police Department does not have a written directive regarding in-service briefing training. Officers lack additional training on field contacts.

Recommendation: The BART Police Department should develop a written directive governing shift briefing training to keep officers up-to-date on current policies and law enforcement strategies to prevent racial profiling. Annually, the agency should include racial profiling related training that should include field contacts, traffic stops, search issues, asset seizure and forfeiture, interview techniques cultural diversity, discrimination, and community support. They should also initiate additional shift briefing training on subject matters relating to cultural diversity, interview techniques, proper filed contacts, asset seizure, and forfeiture.

Justification: **CALEA 33.5.2** *A written directive governs shift briefing training. Shift briefing training is a technique that may supplement all other training. Shift briefing training may be a useful element of agency training, if it is well managed and supervised. The goal of this training should be to keep officers up to date between formal retraining sessions. Agencies which do not have formal shift briefings, e.g., resident state troopers, deputy sheriffs, may accomplish the purpose of shift briefing training through other methods, to include in-car computers and other electronic means. To be useful to the agency, the shift briefing training program should be well structured and reflect the needs of the agency while being flexible enough to fit into a shift briefing setting. The written directive should include: planning for shift briefing training; techniques used in shift briefing training; relationships with the academy; instructional methods; instructional personnel; evaluation of shift briefing training; scheduling of training; and role of supervisors and officers.*

CALEA 1.2.9 9(b) *The agency has a written directive governing bias based profiling and at minimum, includes the following provisions:*

b. training agency enforcement personnel in bias based profiling issues including legal aspects;

Implementation Strategy: The Chief of Police should develop and implement a written directive requiring shift briefing training. It should include planning for shift brief training;



parameters for the use of shift briefing; compatibility with the training plan; evaluation for shift briefing training; scheduling of training; and the role of supervisors and officers.



BART Police Management Audit

Topical Area: Racial Profiling

Issue: Early Intervention System

Current Application or Practice: The BART Police Department does not have a process in place to monitor officers' activities in the field. Command staff members do not monitor officers' daily activities.

Recommendation: The BART Police Department should develop and implement an Early Intervention (EI) management system to obtain information of potential patterns of at-risk conduct involving all sworn officers. The system will allow supervisors to monitor and determine information relating to the actions of individual officers, supervisors, and specific units or divisions of the department such as:

- High number of citizen complaints
- High number of use of force incidents
- High number of resisting an officer arrest
- Large number of arrests that are not filed with the District Attorney as a result of improper detention and/or searches

Justification: U.S. Department of Justice. Community Oriented Policing Services: Early Intervention (EI) Systems for Law Enforcement Agencies: A Planning and Management Guide, August 2003 Walker, Sam Department of Criminal Justice University of Nebraska at Omaha
"Early Intervention (EI) systems are an effective mechanism for enhancing accountability within law enforcement agencies. pg. i

"An EI system also has the potential for considerable impact on the department as a whole. The system defines standards of conduct and provides a database for measuring officer performance and identifying substandard" pg.14

CALEA 1.2.9 (c) *The agency has a written directive governing bias based profiling and at minimum, includes the following provisions:*

- c. corrective measures if bias-based profiling occurs;*

Strategy for Implementation: The Chief of Police should develop policy and implement an (EI) system as soon as practical.



BART Police Management Audit

Topical Area: Racial Profiling

Issue: Data Collection

Current Application or Practice: The BART Police Department does not collect sufficient data to assess and monitor officer contacts. The current data only captures a total number of traffic stops; inclusive of arrests, victims, and suspects. This data should be clarified to determine the time, date, specific location and circumstances and results surrounding each contact. Pedestrian and bicyclist contacts should be captured as well.

Examination of the traffic stop data from January 2006 to January 2008 indicate a high proportionate number of African-Americans and Hispanic-Americans stopped, with the highest contacts occurring in Zones 1 & 3 (Alameda County). Blacks and Hispanics represent 64% of all traffic stops. Although these numbers are not indicative of racial profiling, the failure of the BART Police Department to capture specific data surrounding the contacts could add to the negative impact in both the African-American and Hispanic-American communities. The BART Police Department received two formal complaints of racial profiling in 2007 and 2008. Each complaint was not sustained due to insufficient evidence. One citizen alleged he was stopped because he was Hispanic, the other alleged he was stopped because he was poor. Both contacts occurred in Zone Area 1. *Please note that the chart below indicates a significant decrease in the number of traffic stops when comparing 2008 to 2006.*

Traffic Contacts

Note: All contacts are a result of arrests, suspects, victims, etc.

Source: BART PD Staff

Race	2006		2007		2008		TOTAL
	Male	Female	Male	Female	Male	Female	
American Indian	14	0	6	0	0	0	20
Asian Or East Indian	7	11	36	0	2	0	56
Black	1079	475	828	389	371	147	3289
Chinese	27	16	16	6	0	0	65
Filipino	11	4	18	0	3	11	47
Hispanic/Latin/Mexican	908	204	1053	334	420	104	3023
Japanese	0	4	0	0	0	8	12
Other	206	57	161	116	105	39	684
Other Asian	110	63	90	81	61	44	449
Pacific Islander	36	6	0	3	12	11	68
Samoan	0	0	19	0	14	14	47
Vietnamese	3	0	0	3	0	0	6
White	451	263	506	383	186	174	1963
Unknown	9	11	70	2	6	0	98
TOTAL:	2861	1114	2803	1317	1180	552	9827



Demographics: Demographic composition of BART’s service area

Population Zones*	Alameda (Zone1-3)	Contra Costa (Zone 2)	San Francisco (Zone 4)	San Mateo (Zone 4)
White	56%	72%	58%	67%
American Indian/Alaskan	.7%	.8%	.6%	.5%
Black	14%	10%	7%	3%
Asian	25%	14%	31%	24%
Hispanic	22%	23%	14%	23%

Source U.S. Census Bureau: State and County Quick Facts. Data derived from Population Estimates, 2008. **These are the exact figures from the U.S. Census Bureau. For whatever reason, they do not represent 100%.**

*The Zones identified by BART Police staff are only indicative of counties served by BART **not** demographic % of ridership.

2006 – 2008 Traffic Contacts in Beats

2006	BEATS																TOTAL
	Zone 1			Zone 2						Zone 3				Zone 4			
	10	11	13	20	21	22	25	26	27	30	31	32	35	42	43	45	
American Indian	0	8	0	0	6	0	0	0	0	0	0	0	0	0	0	0	14
Asian Or East Indian	0	0	0	3	0	0	0	0	4	0	0	0	0	8	0	3	18
Black	727	140	70	69	89	0	0	18	29	198	118	29	30	25	9	3	1554
Chinese	0	0	0	0	0	0	0	0	0	0	0	0	0	0	43	0	43
Filipino	0	0	0	0	4	0	0	0	0	0	0	0	0	0	8	3	15
Hispanic/Latin/Mexican	327	57	14	12	102	6	6	26	63	126	168	18	116	43	19	9	1112
Japanese	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4
Other	54	11	6	3	13	3	0	7	0	48	47	35	17	3	6	10	263
Other Asian	39	8	0	0	9	0	0	7	8	9	17	15	0	20	30	11	173
Pacific Islander	17	0	0	0	0	0	0	0	0	5	0	0	15	5	0	0	42
Samoan	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Vietnamese	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
White	122	52	34	39	87	9	9	8	18	63	73	10	49	78	24	39	714
Unknown	12	2	0	3	0	0	0	0	3	0	0	0	0	0	0	0	20
TOTALS	1305	278	124	129	310	18	15	66	125	449	423	107	227	182	139	78	3975



2007	BEATS																TOTAL
	Zone 1			Zone 2					Zone 3				Zone 4				
	10	11	13	20	21	22	25	26	27	30	31	32	35	42	43	45	
American Indian	0	0	0	3	3	0	0	0	0	0	0	0	0	0	0	0	6
Asian Or East Indian	0	0	0	0	0	0	0	0	0	0	0	36	0	0	0	0	36
Black	288	136	92	51	185	16	0	17	81	143	132	13	27	24	0	12	1217
Chinese	0	6	0	0	0	0	0	0	0	16	0	0	0	0	0	0	22
Filipino	0	0	0	0	0	0	0	0	0	0	0	0	0	14	4	0	18
Hispanic/Latin//Mexican	225	37	49	9	183	6	40	68	47	166	222	45	14	93	153	30	1387
Japanese	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	11	10	4	0	46	3	9	3	0	10	21	6	20	20	88	26	277
Other Asian	15	0	0	3	3	6	0	0	0	47	26	0	28	12	21	10	171
Pacific Islander	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	3
Samoaan	0	0	0	0	0	0	0	0	0	19	0	0	0	0	0	0	19
Vietnamese	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	0	3
White	132	18	28	10	47	17	46	132	109	105	40	50	42	16	50	47	889
Unknown	0	0	0	0	72	0	0	0	0	0	0	0	0	0	0	0	72
TOTALS:	671	207	173	76	539	48	95	220	237	506	441	150	134	179	319	125	4120

2008	BEATS																TOTAL
	Zone 1			Zone 2					Zone 3				Zone 4				
	10	11	13	20	21	22	25	26	27	30	31	32	35	42	43	45	
American Indian	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Asian Or East Indian	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	2
Black	133	72	36	19	48	0	7	47	8	45	63	9	0	31	0	0	518
Chinese	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Filipino	6	0	0	0	0	0	0	0	0	0	0	0	0	8	0	0	14
Hispanic/Latin//Mexican	56	19	5	6	62	0	0	69	11	75	68	13	18	83	21	18	524
Japanese	0	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	8
Other	12	0	3	5	12	0	4	8	6	0	10	11	15	46	8	4	144
Other Asian	6	6	0	0	0	0	0	0	0	13	15	0	2	48	11	4	105
Pacific Islander	23	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	23
Samoaan	0	0	0	0	0	0	0	28	0	0	0	0	0	0	0	0	28
Vietnamese	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
White	28	6	3	0	13	0	55	94	4	11	28	32	40	39	7	0	360
Unknown	0	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6
TOTALS:	264	109	47	30	143	0	66	246	29	146	184	65	75	255	47	26	1732

2006-2008 Traffic Contacts in Beats

Source: BART Police Dept. Staff July 2009

Demographics:

Demographic composition of the BART Police Department

BART Police Dept.	Total#	Asian%	Black %	Hispanic %	White%	American Indian/Native American %	Total %
Officers	150	18	17	17	47	1	100
Mgrs.	48	14	17	14	54		100
Other	75	21	12	9	59		100
Overall	273	17%	16%	11%	53%	1	100%

Source: Estimated Numbers from BART Police Department July 11, 2009



Recommendation: The BART Police Department should expand their current data collection method to record the following types of contacts:

- Traffic Stops
- Pedestrian stops
- Consensual Stops
- Non Consensual Stops

Data from that contact should include the following:

- Race, Age, & Gender
- Date, Time and Location
- If there was a search, whether it was a consent search or a probable cause
- Whether a custody arrest took place
- If traffic related, was a citation issued

The initiation of a more detailed data collection method would allow the BART Police Department to more accurately assess the use of available resources as well as respond to the concerns of bias-based policing in a more intelligence-led method. The statistical data gathered would also provide BART Police Department with more comparative data on officer contacts against ethnicity and gender of offenders. This information allows for an administrative review and is the first step toward effective management.

Justification: U.S. Department of Justice “A Resource Guide on Racial Profiling Data Collection Systems: Promising Practices and Lessons Learned.” *Reno, August 2000*
“by documenting all stops can a law enforcement organization gain information about the nature and scope of the alleged problem.” pg. 43

Implementation Strategy: The Chief of Police should expand data collection methods to be inclusive of all officer contacts. Detailed data collection will allow the BART Police Department to measure the effectiveness of the organization. The data collection process should therefore be made permanent.



BART Police Management Audit

Topical Area: Racial Profiling

Issue: Community Outreach

Current application or Practice: The BART Police Department does not currently have any community outreach programs in place. We were informed that in May 2009, a youth outreach program was implemented, however officers of the department state it was only implemented to give the appearance of an outreach effort and has since been dropped. Command staff advised the program is still in effect, but meetings had been postponed due to union-management matters.

On July 30, 2009, we received an email from Command staff advising the BART Police Department was in the process of partnering with the Oakland Police Department Neighborhood Crime Prevention Council to address neighborhood problems and concerns in the community. The status of this partnership is unknown.

Commendation or Recommendation: The Chief of Police should develop a directive regarding the development of community outreach programs. Programs the Chief of Police should consider:

- **Community Liaison Group** -- A group of 10-15 community members that meet monthly with the Chief of Police and command staff to offer advice on policy development and implementation.
- **Focus Group** -- A group of citizens who work together to discuss specific community concerns such as barriers to the citizen complaint process and police accountability.
- **Community Forum** -- A meeting that is open to the public where citizens can voice and hear concerns relating to matters of public safety. These can be held on a quarterly basis and should involve a wide-range of community stakeholders, such as faith-based organizations, concerned citizens, the District Attorney's Office and BART Police Department Command Staff.
- **Task Force** -- A group of citizens selected to develop action plans that can strengthen the relationship between the public and the police.
- **Community Policing Programs** -- On-going programs available to that public that promote a sense of ownership and mutual accountability.

Justification: CALEA 45.2.1 *The community involvement function provides the following, at a minimum:*



- a. establishing a liaison with existing organizations or establishing community groups where they are needed;*
- b. assisting in the development of community involvement policies;*
- c. publicizing organizational objectives, community problems, and successes;*
- d. conveying information from citizens' organizations to the organization;*
- e. improving practices bearing on police community interaction; and*
- f. developing problem oriented or community policy strategies, if any.*

Implementation Strategy: The Chief of Police should implement a community outreach program that is reflective of the needs of the communities served. Meetings should take place on regular basis or when deemed necessary by the Chief of Police. The Chief of Police should also make a concerted effort to partner with surrounding police agencies in engaging the community.



Chapter 7

Internal Affairs



INTRODUCTION

The National Organization of Black Law Enforcement Executives Management Audit Team conducted a study of the internal affairs function. The team conducted research and review of topics such as police internal affairs investigations, patterns and practices, best practices, police ethics, and police administration. Some of the source materials included, but were not limited to BART Police General Orders/Operational Directive (policy and procedures), San Francisco Bay Area Rapid Transit District System Security Program Plan, The Standards Manual of the Law Enforcement Agency Accreditation Program, archived articles from local newspapers, federal consent decree report orders, internal investigative reports, manual and electronic logs and files, and other internal directives and documents. Many hours were devoted to conducting more than 30 interviews with employees at all levels of the BART Police organization in person and by telephone as well as a small number of employees not assigned to the police department to study this area.

Although information shared by those interviewed ranged from community service to opinions regarding the executive leadership of the department, the focus of the review was in the areas of internal affairs, discipline, and inspectional services. While the policy concerning the disciplinary process comports with national standards, there is no discernible effort by BART to conduct staff inspections.

Individual police employees are responsible for protecting the integrity of the department by ensuring their own ethical behavior. They must act in concert with the internal affairs function to maintain the professional standards of the department by reporting police misconduct and cooperating with every effort to eradicate wrongdoing and corruption.

BART PD has a dedicated office for the purpose of fulfilling the internal affairs function. In accordance with national standards, the investigator (sergeant) is assigned reports directly by the chief of police. The investigator examines allegations of serious misconduct and delegates less serious administrative violations to line supervisors.



BART Police Management Audit

Topical Area: Internal Affairs

Issue: Public Trust

The notion of public trust dates back to the beginning concept of a democratic society when citizens started to entrust government officials with certain authority to act on their behalf. As government officials, police officers have been granted specific powers to act on behalf of the community to maintain an orderly society by protecting life and property, preserving the peace and arresting those who violate the law. Police have a social contract with the community they are sworn to serve. This social contract requires that the police act objectively, impartially, and professionally with members of the community as their part of the contract. Failing to do so means that police officers violate their part of the contract and no longer have the privilege to serve the community.

Current Application or Practice: Based on interviews with several ranks from within the police department, supervisors, officers to community members indicate there is a perception of eroding the public trust of BART PD. Most fixed responsibility with the executive leadership of the department citing benign neglect and community members citing the policing culture of the department as decaying from within. The fact that the department's policies and procedures were allowed to become antiquated with few updates over a period of more than 20 years helped to create this perspective.

Commendation or Recommendation:

1. BART Police reported only 13 internal affairs cases were received and investigated for 2008. The department's authorized number of sworn personnel was 206. Considering the total population on both sides of the San Francisco Bay served by BART, the number of sworn police officers and the number of calls for service, 13 is a questionably small number of complaints. Although there is no empirical data available, information obtained from members of the department through interviews suggests that complaints against police officers are discouraged and not documented. Strict guide lines should be developed and all personnel should be held accountable for receiving any complaints against police officers, documenting the complaint, and notifying a supervisor.
2. Executive oversight of the internal affairs function within BART Police appears to be lacking or ineffective, at best. Several internal sources made the following comments regarding executive oversight: There are no checks and balance in the investigative process; the department fails to track use of force incidents; policies need to be tightened



to include tracking. Recently, the structure of the Internal Affairs Office was changed with the assignment of a second sergeant and placing a lieutenant in charge. This action should increase accountability and effectiveness. However, it still will not address the issue of lack of executive oversight.

3. Achieving transparency and attaining public trust are goals that must be pursued. The publication of accurate annual internal affairs statistical data is one way to share information and build public confidence.
4. BART Police must be transformed into a verifiable policing culture of fairness, openness, problem-solving and community engagement.
5. BART Police has a 24-hour toll-free telephone number for civilians to call and make a complaint or compliment or otherwise provide feedback regarding officers' performance. The number is posted on the BART Police website along with a downloadable brochure outlining the procedures to file a complaint.
6. BART Police should indicate in its written policy that complaints may be originated in person, from the toll free line, mail, email, third parties, or any other source.
7. Complainants should be notified by mail to acknowledge receipt of their complaint, and when the investigation is completed, notified of the findings in writing. State law prohibits the disclosure of specific disciplinary actions.

Justification:

1. Observations, independent research on internal affairs, review of federal consent decrees, and law enforcement best practices
2. BART Police Operational Directive Number 31, which states, in part, “. . . The Chief of Police will also be responsible for reviewing the complaint.”

Implementation Strategy:

The commitment to build public trust must be lead by the executive leadership of the department. BART Police should adopt and strictly adhere to the principles in the below Police Oath of Honor established by the International Association of Chiefs of Police:

*On my honor,
I will never betray my badge,
my integrity, my character,
or the public trust.
I will always have
the courage to hold myself
and others accountable for our actions.
I will always uphold the constitution,
my community, and the agency I serve.*



This oath should be a signatory document signed by all police officers. The recommendations made should be implemented as stated.



BART Police Management Audit

Topical Area: Internal Affairs

Issue: Trust and Accountability

BART Police can build public trust by developing and enforcing strict ethical standards, promoting and implementing sound police practices, holding each employee accountable from top to bottom, addressing any perceived weaknesses within the agency, and establishing a formidable partnership with the community.

Current Application or Practice: During interviews, rank and file officers acknowledged the absence of a meaningful relationship with the communities they serve. They must recognize the importance of working with the community to address law enforcement concerns throughout BART properties. They also must commit themselves to total recognition of the neighborhoods, business communities, and visitors to the area as constituents and move forward as partners through community engagement.

While BART Police, in general, seems to have a superficial relationship with the community, individual members claim to have been self-taught in developing external relationships. Officers state they are assigned to various duties that require constant contact with the public. They rely on their own personalities and people skills to make their tasks enjoyable and achievable. Formal training in customer service and community involvement for the entire police department could improve their image and help to establish a meaningful relationship with external customers.

Commendation or Recommendation:

1. The executive leadership of the police department must be held to a higher standard. The office should have strict accountability to the Executive Director and the communities served by BART through regular interaction with community leaders, civic groups, business associations, faith based organizations and other viable groups.
2. According to policy, BART Police is required to accept and investigate all citizens' complaints. Some officers stated certain cases were investigated and others were disregarded. Some indicated that complaints in certain instances were discouraged. In order to be accepted as a partner, BART Police must accept and investigate all complaints against police officers and the agency and be prepared to take the appropriate actions against officers found in violation of departmental policies. This will magnify BART's image in the community, as well as, reassure citizens that they have a voice and their message is important. This will further signify that BART is committed to quality



police service and is determined to meet the challenge of changing undesirable police behavior.

3. Performance evaluations are used to monitor behavior and activities of employees. Supervisors are responsible for observing employees and recording their performance during a given rating cycle. Many officers were interviewed and none acknowledged receiving performance evaluations in recent memory. Two supervisors stated they have not been evaluated for more than 4 years and have not evaluated their subordinates for extended periods. BART Police should contact the Human Resources Department and establish a viable employee performance evaluation system that supervisors will be required to use. BART Police should conduct employee evaluations at least once annually.
4. Supervisors should use performance evaluations to encourage positive behavior and to correct unacceptable behavior by ensuring that appropriate actions are taken.

Justification:

1. **CALEA 45.2.1** The community involvement function provides the following, at a minimum:
 - a. Establishing liaison with existing community organizations or establishing community groups where they are needed;
 - b. Assisting in the development of community involvement policies for the agency;
 - c. Publicizing agency objectives, community problems, and successes;
 - d. Conveying information transmitted from citizens; organizations to the agency;
 - e. Improving agency practices bearing on police community interaction; and
 - f. Developing problem oriented or community policing strategies, if any.
2. **CALEA 52.1.1** A written directive requires all complaints against the agency or its employees be investigated, to include anonymous complaints.
3. **CALEA 35.1.1** A written directive defines the agency's performance evaluation system and includes, at a minimum:
 - a. Measurement definitions;
 - b. Procedures for use of forms;
 - c. Rater responsibilities; and
 - d. Rater training.

Implementation Strategy:

1. The Office of the Chief of Police, in conjunction with the Training Coordinator, should move immediately to secure customer service training and community involvement training from qualified outside educators.



2. The current BART Police policy requires the investigation of all complaints, including those filed anonymously. The Office of the Chief of Police is the reviewing authority and must ensure the receipt and proper investigation of all complaints through closer supervision of the internal affairs function.
3. BART Police should contact the BART Human Resources Department for immediate assistance with establishing a viable performance evaluation system. Raters must be trained to perform a proper rating and all employees being rated should be trained to understand the performance evaluation system.



BART Police Management Audit

Topical Area: Internal Affairs

Issue: Community Access to the Complaint Process

Current Application or Practice: The BART Police Department currently has little or no outreach program. The Internal Affairs Office produced a tri-fold brochure containing procedures on how to file a complaint against a police officer, but the form is not easily accessible. The brochure can be downloaded from the BART Police website or it can be obtained from the Office of Internal Affairs. It is not available through any other source.

Commendation or Recommendation:

1. Internal Affairs has a 24-hour toll-free telephone number. Continue to market this number.
2. The BART Police mailing address, internet address, and toll-free telephone number should be visible and available at all train stations, police facilities, public libraries and other locations around BART properties.
3. Forms for citizens to compliment police officers for positive performance of duty should be developed and made available to the public.
4. Other informational materials and posters describing the complaint process should be developed and made available in English and Spanish.
5. On duty officers should be required to carry complaint forms in their vehicles and make the forms available to citizens who wish to file complaints immediately.
6. BART Police should develop a community outreach program to inform the public about the BART Police Department and internal affairs functions and procedures, including the methods for reporting civilian complaints and complimenting officers.
7. BART Police should develop a procedure to monitor telephone lines, including regular reviews of recorded telephone lines to ensure that callers are being treated with courtesy and respect, all necessary information about each complaint is being obtained, and that complainants are not being discouraged from making complaints against police officers.
8. An effective tool for supervisors to monitor officers' performance is to conduct audit trails. This can be accomplished through random sample mailings of questionnaires and telephonic follow-ups to persons who requested assistance from BART Police officers.

Justification: Observations, independent research on internal affairs, review of federal consent decrees, and law enforcement best practices



Implementation Strategy: Recently, two supervisors were assigned to the internal affairs function to complement the supervisor already assigned. All three can serve as an informal committee for the immediate development and implementation of the above recommendations.



BART Police Management Audit

Topical Area: Internal Affairs

Issue: General Order/Operational Directive (Policy and Procedures)

Current Application or Practice: BART Police has a written “Citizens Allegations of Misconduct against BART Police Personnel” policy that is outdated.

Interviews with command level personnel indicate a private company was hired to update and rewrite BART Police policy and procedures. An internal committee was established to provide input and coordinate the updates. The following information is provided regarding the current policies:

1. Many of the current policies under which BART Police operates were issued more than 20 years ago without updates. The Citizens’ Complaint policy was issued in 1980 and last updated in 1997.
2. Complete and updated policy manuals are not made available to all employees, therefore, holding employees accountable is difficult, at best.
3. Officers should be required to report any and all instances of conduct by other officers resulting in use of force or a threat of force, violations of individuals’ rights, making false statements, any other violations of administrative policy, federal or state laws or local ordinances. Officers should report such misconduct to a supervisor immediately.
4. Policy and procedures lacking in specificity tend to allow too much discretion and does not provide the necessary direction to hold individuals accountable. The Citizens’ Complaint policy is general as it relates to the internal affairs function. The policy should include more detailed duties of the office.
5. All policies should be thorough and reviewed by legal counsel for compliance with federal and state laws and local ordinances.
6. Policy should clearly identify which complaints will be investigated by Internal Affairs and which will be delegated to line supervisors.

Commendation or Recommendation:

1. Several jurisdictions in the State of California have chosen to employ a private company to update and rewrite their police policy and procedures. BART has chosen this process as well. The success of this project will depend largely upon the knowledge and dedication of BART personnel assigned to the internal committee which provides input and coordinates the updates.
2. Upon completion of the policy and procedures, BART should maintain a sufficient supply of policy manuals to distribute to each employee whose duties are affected by the policy and procedures document. Each employee who receives a copy should be required



to sign a statement acknowledging receipt of the document and the time and date received. The statement should also include language which states, “I understand that I am responsible for reading and understanding the contents of this manual within 30 days after I receive it.”

3. In-service classes should be conducted by supervisors to review and reinforce the contents of the policy manual.
4. BART should consider immediate enrollment in the Commission on Accreditation for Law Enforcement Agencies (CALEA) accreditation process to ensure that the department operates in conformance with national law enforcement standards and restore the public trust in the agency.

Justification:

1. Observations, independent research on internal affairs, review of federal consent decrees, and law enforcement best practices
2. CALEA 52.2.1 A written directive specifies:
 - a. The type of complaints to be investigated by line supervisors; and
 - the type of complaints that require investigation by the internal affairs function.

Implementation Strategy: The listed recommendations in this area should be prioritized by BART PD management and implemented.



BART Police Management Audit

Topical Area: Internal Affairs

Issue: Investigative Procedures

Current Application or Practice: Although many of the key provisions of an effective internal affairs policy are contained in the BART Police policy, the policy is outdated and in desperate need of revision. Moreover, some of the most important sections of the policy are not being followed.

Commendation or Recommendation:

1. Citizens must be permitted to initiate complaints or provide feedback on an officer's performance of duty. The information, including anonymous complaints, should be received in person, by telephone, mail, email, fax, or any other medium. Each complaint should be thoroughly investigated. The practice of not giving some complaints a formal investigation and classifying them as "inquiries" has become formalized within the BART Police Department. This practice should be discontinued. A policy mandate should require that these complaints are documented and investigated.
2. Confidentiality is crucial to the success of the internal affairs function. All allegations of misconduct should be documented and the files should be maintained in a secure area. The BART Internal Affairs office is located on the hallway near the police roll call room. Officers performing routine administrative tasks in the station are in a position to observe persons who enter the office. The office that houses the Internal Affairs Unit is also occupied by two other persons who perform duties not related to internal affairs and 3 field training officer work stations. The confidentiality of the office is, therefore, breached in many ways. The internal affairs function should be relocated to a site away from police headquarters to allow citizens who wish to remain anonymous to come to the office and discuss their concerns without fear of retaliation. Officers who enter the Internal Affairs office should be able to enter without being concerned about being ostracized by other officers.
3. Independent interviews with at least 3 sources indicate BART Police is in compliance with the records retention schedule required by California law for internal affairs investigations.
4. BART Police developed a brochure containing the procedures for citizens to file complaints against police officers. The brochure is posted on the BART Police website.



and contains a 1-877 toll free telephone number. However, the form is not easily accessible. To find it, a person would have to navigate 3 computer screens by going to the BART Police home page, then to “frequently asked questions”, and a small “download” icon contained in a sentence. During interviews, several police supervisors and officers were asked about the brochure. Only one person acknowledged ever seeing the brochure. The brochures should be maintained at all police facilities, train stations, at public libraries, in all patrol cars, and other places immediately accessible to the public. The procedures and 1-877 toll free number should be publicized in area news papers, radio, television and other appropriate media.

5. BART Police compiles limited statistical data regarding the internal affairs function. Elaborate tracking systems should be designed to track investigations by category, date, disposition, officer’s name, and complainant’s name. Appropriate summaries of statistical data should be kept and made available to the public using local media, the website and upon request by any citizen. During one interview, an officer was able to relate the number of internal affairs cases investigated in 2008. When asked how he obtained the information he stated he filed a request under the provisions of the Freedom of Information Act. He further stated he did not attempt to obtain the information directly from the department by simply asking.
6. BART Police policy provides that citizen’s complaints may be investigated by Internal Affairs or a supervisor in the chain of command. However, it is not clear as to which cases should be assigned to whom. An effective internal affairs policy should make that distinction.
7. The current practice is to notify the executive leadership of the department on some internal affairs investigations. It is not clear as to which cases are sent to that level and when. The policy should be clear by listing procedures to notify the executive leadership of the department of complaints against officers or the department.
8. A 30 day period is set for the completion of internal affairs investigations. However, if the case is not completed during the required time, the investigator must notify the complainant and may continue the investigation. The complainant should receive verification, in writing, that his/her complaint has been received for investigation and should be provided periodic status updates. The complainant also should be notified, in writing, of the results upon conclusion of the investigation. California law does not permit publicizing specific details regarding disciplinary actions against an employee.
9. Police officers are entitled to certain rights and responsibilities when they become the subject of an internal affairs investigation. In addition to observing these rights, the Internal Affairs Office should issue the officer a written notice that he/she is the target of an investigation. If notifying the officer would likely jeopardize the investigation, the investigator is not obligated to make the notification.



10. A specific policy should be developed listing the procedures or prohibition for obtaining medical or laboratory examinations, photographs, participation in a line up, financial disclosure statements and polygraph examinations.
11. At the conclusion of internal affairs investigations, BART uses one of the following dispositions to close the investigation:

Exonerated- Action complained about did occur but was lawful, justified and proper.

Not Sustained- There is insufficient information/evidence to prove or disprove the allegation.

Sustained- The allegation is supported by sufficient information/evidence.

Unfounded- The allegation is false; alleged act did not occur; employee or BART Police Department was not involved.

No Finding- The complaining party or witness fails to cooperate after the investigation has commenced; the complainant withdraws the complaint; or the complainant is no longer available.

Special Considerations

1. BART PD uses a finding of the complaint pertains to an established policy which was properly handled or performed by an employee. “Policy Complaint” should be eliminated, as the definition is essentially the same as “Exonerated”.
2. “No Finding” should be eliminated as a disposition, as it does not comport with national standards. Moreover, it creates opportunities for the improper dismissal of investigations.
3. When the complainant or victim in an alleged misconduct investigation withdraws the complaint or becomes unavailable for whatever reason to give a statement or provide additional information regarding the investigation, the investigator should not be permitted to close the case without further investigation. The investigation should continue to determine whether or not the allegation can be proved or disproved.
4. When the complaint is exonerated or unfounded, and however the current policy or tactics is not completely effective, a recommendation of policy and training should be made.

Justification:

CALEA 52.1-52.2.8 The internal affairs function is important for the maintenance of professional conduct in law enforcement. Agencies having an internal affairs function consistent



with these standards will have the capability to respond appropriately to allegations of misfeasance, malfeasance, and nonfeasance by employees, and to complaints about the agency's response to community needs, thereby instilling public confidence in the agency.

Implementation Strategy: Recently, two supervisors were assigned to the internal affairs function to complement the supervisor already assigned. All three can serve as an informal committee for the immediate update and revision of the internal affairs policy to ensure that it conforms to national standards. The executive leadership of the department must assume the responsibility for ensuring that the new policy is developed and implemented in its entirety and enforced.



BART Police Management Audit

Topical Area: Internal Affairs

Issue: Early Warning and Intervention Applicable to Internal Affairs

Current Application or Practice: The BART Police Department does not have a system of early warning and intervention to identify potential employees' problems and address their issues by providing early intervention.

Commendation or Recommendation: BART PD should develop and implement a computerized early intervention system. Early intervention is an effective strategy for preventing mitigating or solving potential employee problems. The concept is for management to identify, manage, or resolve employee problems in their early stages.

1. Internal affairs case management software is available and should be employed to categorize investigations, officer behavior, discipline, developing trends and many others. In addition to serving as a repository for statistical data, periodic analysis can provide indicators that written policies may be deficient, deviant behavior may be prevalent, the number and kinds of disciplinary actions taken against an individual officer may be inordinate, or officers on the same shift or in the same unit may have developed a subculture contrary to the values of the department.
2. The purpose of an early warning and intervention system is to track indicators that will identify patterns of officer conduct that fall outside of the norm. The indicators may show positive performance by an officer or it may show unsatisfactory behavior.
3. This program will assist BART by identifying problem employees, identifying training needs, indicating the type of intervention required, and ultimately reducing misconduct.
4. BART would benefit by employing an early warning and intervention system which is a data-based police management tool designed to identify police officers who exhibit problem behavior, as indicated by high rates of citizen complaints, use of force incidents, and other evidence.
5. An essential part of this system is the maintenance of complete and accurate training records including the name of the course attended by officers, the beginning and completion dates, and the location where each member was trained.



6. The early warning and intervention system should also assist in identifying members of the department who are performing at an exemplary level but have gone unnoticed. Through documentation of citizens' commendations and departmental citation, these members can be observed and considered for awards, monetary incentives or promotion for sustained superior performance.
7. A critical component of early warning and intervention systems is to identify police officers who may be having problems on the job or personal problems and make appropriate counseling or training available to them.
8. Supervisors should rely on timely and accurate data to maintain a proper perspective on the talents available within the BART Police Department. A mandate for regular review of information on individuals by supervisors is necessary for accountability and the identification of members or units that require intervention to prevent misconduct.
9. These systems are also used to identify and correct inappropriate behavior through individualized strategies that may include additional training, re-assignment to another division or shift, or some other action to ensure that the officer's actions do not become a liability for the department.
10. Early warning and intervention systems also monitor officers who have been the subject of interventions to determine whether the intervention was successful.

Justification: Observations, independent research on internal affairs, review of federal consent decrees and law enforcement best practices

Implementation Strategy: There are several versions of user-friendly software available through various vendors for internal affairs case management and early warning and intervention systems. BART's direct contact with a vendor of its choice can result in the selection of the most appropriate programs, proper software installation, and training on how to enter data, access information, and conduct proper analysis.



BART Police Management Audit

Topical Area: Internal Affairs

Issue: Training

Current Application or Practice: The internal affairs investigator for the department has a firm foundation with internal affairs investigations training, officer-involved shootings and several other classes related to administrative investigations, but not advanced internal affairs investigation. Recruits are not given any training regarding internal affairs.

Commendation or Recommendation:

1. Employees receive basic internal affairs training and attend officer-involved shooting training when they are promoted to rank of sergeant or are assigned as a detective. Additional training for anyone who conducts administrative investigations should include the following: misconduct investigation techniques; interviewing skills; observation skills; report writing; criminal law and procedure; court procedures; rules of evidence; and disciplinary and administrative procedures.
2. To reduce violations of administrative policies and internal affairs investigations, BART Police should train all recruits in professionalism communications, customer service, cultural diversity; integrity and ethics; civilian complaint procedures; and to cooperate in administrative investigations. Mandatory in-service training on these topics should be conducted annually.
3. The Internal Affairs Office should also provide training on internal affairs to recruits at the police academy and to others at in-service training. The Internal Affairs Office should also establish a system to share generic information regarding officer misconduct to the Training Coordinator to assist in evaluating written policies and the effectiveness of training.
4. All supervisors should receive mandatory leadership training that will address effective supervisory techniques to detect misconduct and problem employees.
5. BART Police should track all training information, including course title, dates of attendance, and location. All training records should be up-to-date at all times and maintained electronically.



6. Training is the foundation for sound police practices and should be evaluated and tracked in the field. Community policing should be a high priority training program for BART Police. Officers should receive the highest caliber of community policing training from outside experts.
7. Field supervisors should spend most of their time in the field responding to calls, assisting officers, and providing training on-scene. They should meet with communities along with patrol officers at least once each quarter.
8. Training officers should be among the best trained officers in the department. Additional training should be identified and compared with national standards.

Justification: Observations, independent research on internal affairs, review of federal consent decrees, and law enforcement best practices.

Implementation Strategy: The Office of the Chief of Police and Training Officer should jointly identify and arrange outside training by highly qualified educators immediately.

1. The Training Officer should maintain an up-to-date electronic file immediately.
2. The Training Officer can conduct research and help facilitate the training recommendations in a priority sequence.



BART Police Management Audit

Topical Area: Discipline

Issue: Disciplinary Procedures

Current Application or Practice: BART has a well documented disciplinary process that is codified in its Operational Directives System. This directive, in conjunction with other departmental policies, provides required actions of training, rewarding employees, counseling, and punitive actions in the interest of discipline.

Commendation or Recommendation: BART Police adopt a traditional discipline approach which supports the concept of progressive discipline and contain the required elements of basic law enforcement disciplinary procedures. The policy is linked to Employee Relations Guidelines #21 and the Labor Agreement. Progressive discipline should be used except when exceptions based on the seriousness of the offense justify it.

The agency should develop a written directive which establishes:

- a. procedures and criteria for using training as a function of discipline;
- b. procedures and criteria for using counseling as a function of discipline; and
- c. procedures and criteria for taking punitive actions in the interest of discipline.

Justification: CALEA 26.1.4 requires a written directive which establishes a disciplinary system.

Implementation Strategy: Develop and implement a Discipline Policy that addresses all three discipline areas.



BART Police Management Audit

Topical Area: Inspectional Services

Issue: According to information obtained during interviews and from a review of department documents, BART Police does not have a unit or person dedicated to staff inspections. The function appears to be non-existent in the department.

Current Application or Practice: There are no requirements in the BART Police policy and procedures for staff inspections. The policy mentions the responsibility of police personnel to participate in a uniform inspection when required by the chief of police and the duty of officers to inventory police vehicles. The San Francisco Bay Area Rapid Transit District System Security Program Plan (SSPP) addresses the inspection of facilities and equipment.

Commendation or Recommendation: Develop a written directive that establishes the staff inspection function. Limited line inspections are occurring. However, all BART supervisors should routinely inspect uniforms, equipment, and facilities and initiate the appropriate actions for proper maintenance, upkeep, repairs, and replacement.

1. The department's efficiency and effectiveness should be assessed through the inspections process and the results should be used to improve the department.
2. A formalized system should be implemented to evaluate the quality of BART Police operations by ensuring that departmental goals are established, pursued, and achieved.
3. BART Police can evaluate and improve its performance by comparing the current level with previously established goals, objectives, policies procedures, and rules and regulations.
4. The department should establish a process to effectively compare what is required by BART Police to what is actually being done.
5. BART Police staff inspections should be used to monitor the effectiveness of specialized units such as Investigations, S.W.A.T., Special Investigations, Internal Affairs, Communications, etc.
6. The data derived from staff inspections can be analyzed and used to make decisions regarding allocation of resources, deployment of personnel, training needs, and modifications to departmental and individual unit goals and objectives.

Develop a written directive requiring line inspections within the agency and address the following:

- a. procedures to be used in conducting line inspections;
- b. frequency of inspection;



- c. responsibilities of the supervisor in each organizational component for both the conduct of inspections and correction of conditions discovered by the inspection;
- d. criteria to identify those inspections that require a written report; and
- e. follow-up procedures to ensure corrective action has been taken.

A written directive requires a staff inspection function, and includes provisions for:

- a. identity of the persons conducting the staff inspection;
- b. procedures to be used in conducting staff inspections;
- c. submission of a written report that identifies deficiencies and makes recommendations for their improvement and/or correction, and identifies positive aspects of the area being inspected;
- d. follow-up written report for noted deficiencies that cannot be immediately corrected; and
- e. a staff-inspection to be conducted within all organizational components at least once every three years.

Justification: CALEA 53.1.1 A written directive requires line inspections within the agency.

Implementation Strategy: BART Police may require outside assistance to implement this strategy beginning with training to help the agency understand the inspectional services function. Personnel from area police departments may be able to come to the department to assist with setting up the office and establishing the inspectional services function. BART Police may consider assigning one person to this function on a full-time basis to the operational efficiency and administrative precision that it desires.





Chapter 8

Discipline



BART Police Management Audit

Topical Area: Early Warning and Disciplinary System

Issue: Employee Accountability

Current Application or Practice: The Agency and district have several written directives that govern the Disciplinary Process:

- Positive Discipline Guidelines
Employee (BART District) Relations Guidelines #21
Date of Issue: February 23, 1999
- Discipline Procedures
General Order No. VI
Date of Issue: October 14, 1985
- Police Managers Procedure
Positive Discipline
Procedure NO. 3
Date of Issue: 01-21-85
- Positive Discipline Guidelines
Operational Directive NO. 77I
Date of Issue: February 2, 1987
Amended: February 2, 1987, October 6, 1992, June 4, 1997

During interviews, command staff explained the “BART District-wide” Positive Discipline process. The formal steps include:

1. Oral Reminder;
2. Written Reminder; and
3. Decision Making Leave.

These disciplinary actions are documented on a BART District form that is filed in an employee's personnel file. Any manager can review the file to determine if an employee is on any type of discipline and act accordingly for any current issues. The deactivation for those steps of positive discipline ranges from six to 12 months depending on the level of discipline. After that point, a manager will not have any record of the discipline action taken by the supervisor. The pre-disciplinary step of formal counseling is documented on a different form, but this form is not filed in the employee's personnel file. Instead, the manager in an employee's employee development record (EDR) files a formal counseling. These EDR files are decentralized and kept in the Zone where an employee works. As employees move from location to location, or are temporarily assigned to a location, the file may or may not move with the employee and it becomes difficult for a manager to track the comments in the EDR file. At one time, the EDR files were centrally located, but when the Police Department de-centralized operations, the EDR



files were also de-centralized. The formal counseling entries in an EDR file are only active for 90 days and then removed. Again, this practice hampers the agency's ability to track employee performance and behavior. The fact that an employee has been counseled regarding performance or behavior is relevant to subsequent decisions about the employee and a document establishing such a fact should not be removed from the employee's performance and discipline records until a significant period of time passes and no further similar conduct is present.

In discussions regarding the Agency's discipline process, many characterized the process as laced with "favoritism and lacking the appearance of objectivity." Agency supervisors and middle managers frequently described the culture as lacking accountability. One supervisor gave this example as the impression most officers have of the current discipline process, "Write me up...nothing will happen and it will be out of my file in nine months." The lack of discipline and accountability is the reason officers do not routinely ride the BART system; rather, they ride in patrol cars. A supervisor explained, officers are "not required to ride and so they don't." He further explained if riding the system is required, 30% - 40% of an officer's duty time could be spent riding the system with no impact to service, but officers do not ride the system because they "don't want to."

A command staff member described the current disciplinary system as moderately effective, indicating a traditional police discipline system would be more effective in creating accountability. Another supervisor described the disciplinary system as poor with no consequence. A supervisor stated it was common for officers, when assigned tasks they do not want to complete, to spontaneously state, "I'm sick" and depart work. In other cases, officers indicate they have to leave work to care for a sick spouse or child, and immediately take sick leave to avoid an assignment not to their liking.

Some members noted that discipline was weak to poor prior to the fatal shooting, but since the January 1, 2009 incident, discipline has changed and "tightened-up some."

A command staff member described the "Positive Discipline" policy and process as largely misunderstood and not fully executed in a manner that creates accountability. An overwhelming number of supervisors and a significant number of line personnel characterized the current disciplinary system as ineffective and recommended a more traditional police disciplinary system.

Line officers, in discussing the Agency's disciplinary system, typically referred to it as "petty" with serious violations overlooked depending on who was involved in the behavior. According to senior and ranking members, minor policy violations are frequently overlooked and "don't get dealt with" and those violations develop into major performance and behavior issues. Minority members commonly perceive the disciplinary system as unfair. The quotes below reflect the general tone of those interviewed regarding the Agency disciplinary process, rank and file alike:

- "Lax, fly by the seat of your pants, and a lot of uncertainty. Things here don't get addressed."
- "A lot of discretion in application...it doesn't seem to correct behavior."
- "Females and minorities are not treated fairly...if you challenge a policy there is a fear of retribution."



- “It’s difficult to try and fire someone here. It is wishy-washy...supervisors can’t act with confidence because you don’t know when the rules will apply.”
- “Discipline here is you either get fired or nothing gets done...it is worthless when trying to correct behavior.”
- Lack of discipline has resulted in a police department with no performance objectives, no measurements or standards of performance, or accountability.”
- “When new policies are distributed they are not reviewed with supervisors, consequently the intent is not always clear leading to inconsistent application of the policy and discipline issues.”

Ranking members were critical of the “over-decentralization” of the Agency which allows officers to report alone for duty in the outer areas of the transit system. Consequently, it makes active supervision, discipline, training, and employee accountability difficult in many instances. The Agency does not have an Early Warning System (EWS) or Early Intervention Program policy or written directive.

Commendation or Recommendation: The Agency should consolidate the various discipline process general orders, directives, policies, and guidelines into a single Agency discipline policy to avoid confusion in applying and interpreting the disciplinary system. An example is the paragraph in the Police Managers Procedure NO. 3 (p.1), which lists seven entry designations for discipline, but Operational Directive NO. 77 (p.3) list five.

The agency should adopt a more traditional police discipline system, and centralize the EDR files. This would simplify discipline records review by supervisors, managers, and Internal Affairs. Numerous affordable computer software programs are available that can simplify this process.

Purging disciplinary matters in 90-days to a year or less does not provide for the proper and deliberate monitoring of problem employee behaviors or performance. The agency should consider significant modifications to the agency disciplinary system as the current disciplinary process does not provide for an effective Early Warning or Early Intervention program.

A comprehensive Personnel Early Warning System is an essential component of good discipline in a well-managed law enforcement Agency. The early identification of potential problem employees and a menu of remedial actions can increase Agency accountability and offer employees a better opportunity to meet the Agency’s values and mission statement. The lack of an early warning system and the failure to hold supervisors accountable for policy violations creates a custom and practice that predictably will permit or encourage an environment for inappropriate behavior to exist. *“An Early Warning (EW) System is a data-based management tool designed to identify officers whose performance is problematic and to provide those officers counseling or training designed to help improve their performance. Officers are identified on the basis of official performance data such as citizen complaints, use of force reports, and involvement in civil litigation, and other indicators. EW systems are recommended by a wide range of organizations. A January 2001 report by the U.S. Justice Department on Principles for Promoting Police Integrity included EW systems among its*



recommended "best practices." The Commission on Accreditation for Law Enforcement Agencies (CALEA)...adopted a new standard (35.1.15) mandating EW systems for...agencies. The International Association of Chiefs of Police (IACP) recommended EW systems in a report on controlling corruption. The report pointed out that an EW system is not just a system to focus on problem officers but as a "proactive management tool useful for identifying a wide range of problems," including for example, "inappropriate supervisory instructions to officers" and other management issues. In 1981 the U.S. Civil Rights Commission was the first official body to recommend EW systems as a response to the phenomenon of the problem officer." (Cultural Diversity and the Police Samuel Walker)

A Personnel Early Warning System includes options and reviews available through use of force reporting, the disciplinary system, employee assistance program, and Internal Affairs.

The first and second levels of supervision are crucial elements to a successful Personnel Early Warning System and their responsibilities emphasized in the Agency's procedures.

Justification: CALEA 35.1.9 *A written directive establishes a Personnel Early Warning System to identify Agency employees who may require Agency intervention efforts. The system shall include procedures for:*

- a. Provisions to initiate a review based on current patterns of collected material;*
- b. Agency reporting requirements of conduct and behavior;*
- c. Documented annual evaluation of the system;*
- d. The role of first and second level supervision;*
- e. Remedial action; and*
- f. Some type of employee assistance such as a formal Employee Assistance Program, peer counseling, etc.*

- IACP National Law Enforcement Policy Center, Early Warning System, Model Policy, March 2002.
- Cultural Diversity and the Police, Samuel Walker, University of Omaha, and Bureau of Justice Assistance, 2001.
- International Association of Chiefs of Police (IACP), Early Warning System Model Policy, March 2002.
- U.S. Department of Justice, Office of Community Oriented Policing, Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide, 2003.
- National Institute of Justice, Research in Brief, July 2001, Early Warning Systems: Responding to the Problem Officer, Samuel Walker, Geoffrey Alpert, and Dennis J. Kenney.
- U.S. Department of Justice, Civil Rights Division, Special Litigation Section, Website: Conduct of Law Enforcement Agencies Settlements and Court Decisions.
- Consent Decree: United States of America v. City of Steubenville (Ohio) Police Department, September 1997.



- FBI Law Enforcement Bulletin, July 2005, *Early detection of the problem officer*, Dino DeCrescenzo.

Implementation Strategy: Consolidate discipline policies into a single Agency written directive. Modify the disciplinary process to capture the element necessary for an effective Early Warning System. Conduct training for all supervisors on the policy and the proper assessment of elements in the EWS, as well as, the options for addressing behavior or performance related issues identified through the EWS. Train Internal Affairs personnel in identifying threshold behaviors or performance indicators and detail the system that is to be followed when initiate Agency intervention processes.



Chapter 9

Community Confidence



BART Police Management Audit

BART Police Community Survey

~ RESULTS ~

[Respondents: 1214]

SUMMARY

The following is a general summary of the strongest responses received by community members to topics within the Community Survey.

- a. Respondents to the survey most indicated they ride 5 days a week. [Question 3]
- b. 48% of the respondents indicate they are satisfied with BART police services. [Question 4]
- c. 59% of the respondent indicate that the relationship between BART police and the community is Fair or Better. [Question 5]
- d. BART patrons indicated that the police patrol priorities should be [Question 9]:
 - i. Trains
 - ii. Stations
 - iii. Parking Lots
 - iv. Streets near BART stations
- e. The majority of respondents [62%] indicate that police presence on the trains has stayed the same or decreased. [Question 11]
- f. The majority of respondents [54%] indicated that police presence at BART stations has stayed the same or increased. [Question 12]
- g. The majority of respondents [71%] indicate that travel on a BART train is safe after dark. [Question 17]
- h. The majority of respondents [60%] indicate that they feel safe in a BART station after dark. [Question 18]
- i. The majority of respondents [58%] indicate that they feel unsafe in a BART parking lot after dark. [Question 19]
- j. The majority of respondents [59%] indicate that they have some or great confidence in the BART PD to prevent crime. [Question 20]
- i. The majority of respondents would rate the overall performance of the BART PD as from Fair to Good [70%]. [Question 21]



1. Do you live in the San Francisco Bay Area? [No answer: 4]

	YES	NO
Random Sample	95%	5%
Open Participation	94%	6%
Combined	94%	6%

2. Have you ridden BART within the last three years? [No answer: 6]

	YES	NO
Random Sample	100%	0%
Open Participation	99%	1%
Combined	99%	1%

3. How frequently do you currently ride BART? [No answer: 3]

	6-7 days a wk	5 days a wk	3-4 days a wk	1-2 days a wk	1-3 days a month	less than once a month	less than once/yr or never	don't know
Random Sample	15%	45%	15%	9%	10%	4%	0%	1%
Open Participation	10%	41%	13%	10%	13%	11%	2%	1%
Combined	11%	42%	13%	10%	12%	9%	2%	0%

4. Overall, how satisfied are you with BART police services? [No answer: 8]

	VERY SATISFIED	SOMEWHAT SATISFIED	NEUTRAL	SOMEWHAT DISSATISFIED	VERY DISSATISFIED
Random Sample	18%	26%	40%	10%	6%
Open Participation	29%	20%	29%	10%	12%
Combined	26%	22%	32%	10%	10%

5. How would you rate the relationship between the BART Police Department and the community? [No answer: 3]

	EXCELLENT	GOOD	ONLY FAIR	POOR	DON'T KNOW
Random Sample	5%	28%	24%	19%	24%
Open Participation	14%	23%	22%	26%	14%
Combined	11%	25%	23%	24%	17%

[Question #6 - purposely dropped]



7. Have you or anyone in your household had contact with any BART police officer for any reason in the last year? [No answer: 7]

	YES	NO	DON'T KNOW
Random Sample	23%	74%	3%
Open Participation	34%	64%	2%
Combined	30%	67%	3%

8. If yes, what was the nature of the contact? [check one of more] [No answer: 0]

	REPORT CRIME	OBTAIN INFO	TRAFFIC STOP	ASSISTED BY OFCR	INVOLVED IN INCIDENT	WITNESS TO CRIME
Random Sample	12%	21%	1%	3%	3%	6%
Open Participation	16%	20%	1%	12%	4%	5%
Combined	15%	20%	1%	10%	3%	5%
	ARRESTED	VICTIM OF CRIME	QUESTIONED BY POLICE	REC'D CITATION TICKET	OTHER	DON'T KNOW REMEMBER
Random Sample	0%	4%	4%	11%	25%	10%
Open Participation	0%	4%	5%	5%	22%	7%
Combined	0%	4%	5%	6%	23%	7%

9. In your opinion, what should be the policing priorities of the BART Police Department?

Patrolling streets near BART stations [No answer: 104]

PRIORITIES:	1	2	3	4
Random Sample	8%	7%	13%	72%
Open Participation	5%	6%	10%	80%
Combined	5%	6%	11%	77%

Patrolling BART stations [No answer: 58]

PRIORITIES:	1	2	3	4
Random Sample	40%	40%	17%	3%
Open Participation	39%	41%	17%	2%
Combined	40%	41%	17%	2%

Patrolling on BART trains [No answer: 63]

PRIORITIES:	1	2	3	4
Random Sample	49%	26%	18%	8%
Open Participation	49%	31%	13%	7%
Combined	49%	30%	14%	7%



Patrolling BART parking lots [No answer: 63]

PRIORITIES:	1	2	3	4
Random Sample	14%	26%	49%	11%
Open Participation	14%	22%	57%	8%
Combined	14%	23%	54%	9%

10. Please indicate how much you agree or disagree with the following statements.

BART police treat members of the community fairly. [No answer: 8]

	Agree strongly	Agree somewhat	Neutral	Disagree somewhat	Disagree strongly	Don't know
Random Sample	18%	22%	26%	10%	7%	17%
Open Participation	28%	19%	20%	11%	12%	11%
Combined	25%	20%	22%	10%	10%	13%

BART police are courteous. [No answer: 17]

	Agree strongly	Agree somewhat	Neutral	Disagree somewhat	Disagree strongly	Don't know
Random Sample	23%	31%	22%	10%	4%	10%
Open Participation	32%	22%	18%	9%	10%	10%
Combined	29%	25%	19%	9%	8%	10%

BART police handle themselves professionally. [No answer: 7]

	AGREE STRONGLY	AGREE SOMEWHAT	NEUTRAL	DISAGREE SOMEWHAT	DISAGREE STRONGLY	DON'T KNOW
Random Sample	23%	31%	23%	9%	4%	10%
Open Participation	33%	22%	15%	10%	12%	8%
Combined	30%	25%	18%	10%	10%	9%

BART police are actively on the lookout for crime. [No answer: 7]

	AGREE STRONGLY	AGREE SOMEWHAT	NEUTRAL	DISAGREE SOMEWHAT	DISAGREE STRONGLY	DON'T KNOW
Random Sample	20%	26%	19%	12%	8%	15%
Open Participation	24%	19%	21%	12%	11%	13%
Combined	23%	21%	20%	12%	10%	14%



11. In the past year, has BART police presence on the trains increased, decreased or stayed the same? [No answer: 4]

	INCREASED	DECREASED	STAYED THE SAME	DON'T KNOW
Random Sample	9%	21%	42%	28%
Open Participation	9%	20%	40%	30%
Combined	9%	21%	41%	30%

12. In the past year, has BART police presence at BART stations increased, decreased or stayed the same? [No answer: 5]

	INCREASED	DECREASED	STAYED THE SAME	DON'T KNOW
Random Sample	18%	14%	42%	26%
Open Participation	19%	13%	41%	27%
Combined	19%	13%	41%	27%

13. In the past year, do you think crime near the BART station where you live has increased, decreased or stayed the same? [No answer: 15]

	INCREASED	DECREASED	STAYED THE SAME	DON'T KNOW
Random Sample	19%	6%	39%	36%
Open Participation	24%	5%	37%	34%
Combined	23%	5%	38%	34%

14. Do you believe there is a crime problem on a BART train, station, or parking lot that has not been addressed by BART police? [No answer: 7]

	YES	NO	DON'T KNOW
Random Sample	25%	22%	52%
Open Participation	30%	32%	38%
Combined	28%	29%	43%

15. How satisfied are you with the response time of BART police officers to a crime in progress? [No answer: 14]

	VERY SATISFIED	SOMEWHAT SATISFIED	NEUTRAL	SOMEWHAT DISSATISFIED	VERY DISSATISFIED	DON'T KNOW
Random Sample	7%	11%	17%	5%	4%	55%
Open Participation	13%	11%	16%	4%	7%	50%
Combined	11%	11%	16%	4%	6%	52%



16. How satisfied are you with the BART Police Department's efforts to reduce crime?

[No answer: 9]

	VERY SATISFIED	SOMEWHAT SATISFIED	NEUTRAL	SOMEWHAT DISSATISFIED	VERY DISSATISFIED	DON'T KNOW
Random Sample	6%	16%	29%	11%	7%	31%
Open Participation	12%	16%	22%	13%	11%	26%
Combined	10%	16%	24%	12%	10%	27%

17. How safe or unsafe would you feel riding a BART train after dark? [No answer: 6]

	VERY SAFE	SAFE	UNSAFE	VERY UNSAFE	DON'T KNOW
Random Sample	13%	62%	21%	3%	2%
Open Participation	13%	56%	21%	6%	2%
Combined	13%	58%	21%	5%	2%

18. How safe or unsafe would you feel in a BART station after dark? [No answer: 7]

	VERY SAFE	SAFE	UNSAFE	VERY UNSAFE	DON'T KNOW
Random Sample	7%	57%	28%	6%	2%
Open Participation	10%	49%	28%	10%	3%
Combined	9%	51%	28%	9%	3%

19. How safe or unsafe would you feel in a BART parking lot after dark? [No answer: 6]

	VERY SAFE	SAFE	UNSAFE	VERY UNSAFE	DON'T KNOW
Random Sample	2%	30%	41%	18%	10%
Open Participation	5%	30%	36%	22%	7%
Combined	4%	30%	37%	21%	8%

20. How much confidence do you have in the ability of the BART Police Department to prevent crime? [No answer: 4]

	GREAT DEAL OF CONFIDENCE	SOME CONFIDENCE	LITTLE CONFIDENCE	NO CONFIDENCE AT ALL	DON'T KNOW
Random Sample	7%	53%	24%	7%	9%
Open Participation	14%	44%	24%	11%	6%
Combined	12%	47%	24%	10%	7%



21. How would you rate the overall performance of the BART Police Department?

[No answer: 5]

	EXCELLENT	GOOD	ONLY FAIR	POOR	DON'T KNOW
Random Sample	6%	38%	30%	13%	14%
Open Participation	14%	33%	24%	19%	11%
Combined	11%	34%	25%	17%	12%

22. What is your current marital status? [No answer: 11]

	SINGLE	MARRIED	WIDOWED	SEPARATED	DIVORCED	MEMBER OF UNMARRIED COUPLE	NEVER MARRIED
Random Sample	35%	43%	1%	1%	6%	12%	1%
Open Participation	36%	45%	1%	1%	7%	8%	2%
Combined	36%	44%	1%	1%	6%	9%	2%

23. What is your age? [No answer: 15]

	<18	18-24	25-34	35-44	45-54	55-64	65 +
Random Sample	0%	7%	27%	22%	19%	17%	6%
Open Participation	1%	7%	26%	23%	22%	16%	5%
Combined	1%	7%	26%	23%	21%	17%	5%

24a. Are you Spanish, Hispanic or Latino? [No answer: 26]

	YES	NO
Random Sample	13%	87%
Open Participation	10%	90%
Combined	11%	89%

24b. What is your race or ethnic identification? [Respondent could check one or more]

[Answers: 1223]

	WHITE	BLACK OR AFRICAN AMERICAN	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	OTHER
Random Sample	58%	9%	18%	3%	13%
Open Participation	66%	11%	12%	3%	9%
Combined	63%	10%	14%	3%	10%



25. What is the highest level of school you have completed? [No answer: 10]

	LESS THAN HIGH SCHOOL	HIGH SCHL GED	TRADE/TECH SCHOOL	SOME COLLEGE	COLLEGE DEGREE	GRADUATE DEGREE	DON'T KNOW
Random Sample	0%	2%	2%	23%	37%	36%	0%
Open Participation	1%	3%	1%	20%	47%	27%	0%
Combined	1%	3%	2%	21%	44%	30%	0%

26. Please indicate your gender. [No answer: 22]

	MALE	FEMALE
Random Sample	48%	52%
Open Participation	49%	51%
Combined	49%	51%

27. What county do you live in?

	Alameda	Contra Costa	Marin	Napa	San Francisco	San Joaquin
Random Sample	49%	22%	1%	0%	17%	0%
Open Participation	44%	27%	0%			
Combined	45%	26%	0%			
	San Matco	Santa Clara	Solano	Sonoma	Other	
Random Sample	6%	1%	1%	0%	2%	
Open Participation						
Combined						



BART Police Management Audit
Feedback from Community Meetings
June 22 & 23, 2009

1. Look at “Big Picture” [e.g. Manchurian candidates] - officers being trained for deadly activities.
2. How deep is BART’s investigation on officers [e.g. prior misconducts].
3. How are BART officers selected? The quality is suspect.
4. Issues of cover-up on police fatal shooting.
5. Poor crowd control tactics used by BART officers.
6. BART Police are “out of control”.
7. Why would officers say: “We did nothing wrong” during the fatal shooting?
8. Intimidation by BART PD in use of dogs against the public.
9. Can NOBLE train officers on human diversity?
10. Inappropriate touching by BART personnel of community members.
11. Intimidation and retaliation toward those who complain of incidents by BART PD.
12. Feels like she gets a run-around when complaints are made against BART PD.
13. No accountability when BART errs.
14. Concern re: officers who are repeat offenders.
15. Investigate Police Chief GEE.
16. Cultural sensitivity training for BART officers is needed.
17. Psychological backgrounds of officers are needed.
18. BART: Internal Affairs attempts to discourage reporting to protect officer’s record.
19. BART PD does not have proper training for control of crowds.
20. BART PD officers need to have more integrity.
21. Officers involved in the shooting should be fired.
22. Taser positioning needs to be proper.
23. Citizens Review Board needs to be overseen by citizens.



24. Understand the process of the fatal shooting investigation and resulting issues and criminal process.
25. The complaint and oversight process involving BART PD needs to be revised.
26. Do not use the BART website for PD complaints.
27. The improper use of taser weapons as toys by BART PD.
28. BART did not take an affirmative action after the shooting with the officers.
29. BART PD does not need weapons.
30. Does BART need a police force?
31. There are now three fatal BART police shootings of blacks that are unjustified.
32. BART Officers should be screened for hearing capabilities to understand the public.
33. Ensure that the public's complaints are being heard.
34. How the complaints are made and being processed needs to be reviewed.
35. Training of BART officers needs to be improved.
36. Hiring of BART police officers [quality of] needs to be improved.
37. The quality of Use of Force training and reporting needs improvement.
38. The integrity of BART officers concerning their activities is questionable.
39. BART Officers need to be involved with community members outside of their community.
40. Psychological fitness for duty of BART police officers is important.
41. BART needs to get more Community input.
42. BART police officers need to receive customer service training - they disrespect the Community.
43. Officers involved in the questionable police shooting should not be assigned as defensive tactics instructors.
44. The BART PD should be disarmed.
45. What role will racial profiling play in the BART PD Study?
46. A black police organization should investigate the BART police shootings.
47. The use of a para-military law enforcement agency for a transit system is not needed.
48. There is a lack of the perception of safety around BART police officers.



49. The tactical wing of BART PD should be eliminated.
50. At best, make BART PD officers just fare inspectors.
51. Give BART PD officers CPR & First Aid training if they are using tasers.
52. BART police officers should stop intimidating people. They need to be people-friendly.
53. How long and when are complaints investigated, and who does it?
54. BART PD should not have changed their police patches to just police after this incident.
55. Greater responsibility should be given to the local jurisdictions regarding BART enforcement.
56. BART PD unlawfully detains and harasses youths.
57. BART PD needs oversight and accountability for its action.
58. Have complaint forms at each BART station so that they can be privately completed.
59. Place BART PD officers' photos on the website.
60. The BART Board needs to be full-time to oversee the Police Department.
61. BART PD should not have a militarized approach, but focus on Service and Community problems.



Chapter 10

Context Background



BART Police Management Audit

Topical Area: Community Context

Issue: Should BART have a Police department

Current Application or Practice: BART currently has a full service transit police department which provides patrol services in a four-county area. The January 1, 2009, fatal BART police shooting was the precipitating incident which raised the question of whether BART should have a transit police department. The NOBLE Study Team has analyzed this question and provide the following written response.

Recommendation: It is recommended that BART continue to maintain a transit police agency. A transit police agency is highly beneficial because of BART's decentralized environment and high commuter traffic in the communities it serves. A public transportation system has a high degree of vulnerability in our post-9/11 society. Safety and security has a high priority for the ridership of BART. The following is a list of the key reasons in answer to whether BART should have a police agency is most effectively responded to in the affirmative:

- a. Better responsiveness to calls for service;
- b. Higher degree of safety to all patrons;
- c. Understanding the goals of administration;
- d. Cohesiveness of response to client needs;
- e. Developing and implementing counter-terrorism strategies;
- f. Intelligence information gathering and sharing;
- g. Officer presence on the trains;
- h. Establishing police-community relations;
- i. The level of community crime;
- j. The volume of commuter traffic;
- k. Fare evasion and cashier stations; and
- l. Parking lot safety.



Justification: The NOBLE Audit Team’s analysis of BART Police Department confirms the validity of maintaining a transit police agency. BART is a large decentralized transit system serving a high volume of patrons. Due to the high volume of people and assets, a special purpose transit agency is the most effective way to prevent, reduce, and solve crime.

Implementation Standards: Continue to maintain a transit police agency.



COMMUNITY OUTREACH

Current Application or Practice: An extensive review of the departments programs, organizational charts, non-police and non-employee, Police Command staff and community interviews; it was apparent that although the BART Police Department participates in programs such as the Fruitvale Village Business meeting, the Joint Homeless Outreach program and the Youth Outreach Programs with the Martin Luther King Freedom Center (the department attended one dinner with a second dinner being planned), there does not appear to be a structured Community Outreach program. Although, there was no mention of any community outreach on the department's Organizational chart; in discussing this issue with several police employees it was discovered that the official Community Coordinator was the Commander of the Patrol Bureau. There needs to be a coordinated community outreach plan.

From the research conducted, the BART Police Officers individually participate and initiate community events but it appears the department as a whole, has not put enough emphasis on community programs until after the January 1, 2009, shooting incident at Fruitvale Station; which gives the impression that the department did not care about the community prior to the incident and now the department wants the community to accept their involvement; but the perception is that it's possibly too little too late, which has created a lack of trust regarding the sincerity on behalf of the department from the public of which it serves.

Recommendations/Implementation Strategy: The department needs to establish a coordinated Community Outreach Program with a clear champion. Law Enforcement Agencies (including transit agencies) have really effective Community Programs that the department should research and implement immediately in order to re-establish their presence and build community trust. Some examples of worthwhile programs that have served other agencies well are the Citizens Police Academy; a program designed to invite the public into your agency to provide a behind the scenes look at the department. Citizens attend a 10- week program and when the course is completed, the graduate can be used by the department in non-Law Enforcement duties as volunteers (filing, answering telephones etc.). SALT (Seniors and Law Enforcement Together) is a program to address the needs of your senior citizens community who utilize the transportation system. Seniors are given regular tips on how to ride the transit system without becoming a victim, where to sit on the trains and buses, should they take the elevator when it's just them and one other person? Seniors are advised of new scams that may be focused on them, new crime prevention strategies and monthly crime alerts on crimes occurring in their area. Another program is School Career Day events, fingerprinting kids at the local department stores on a Saturday and participating in the National Night out on Crime events, are all ways to build partnerships with the communities in which they serve. There are many more examples that this assessor can provide but without knowing the specific challenges of this department and any restriction the agency may have, this assessor would have to advise the Agency to assess their needs and then reach out to those areas that may require the more immediate attention first and then expand their programs as needed.



Justification: CALEA 45.1.1 (b) *The agency's crime prevention function provides for targeting programs to address community perceptions or misperceptions of crime.*

CALEA 45.2.1 *The community involvement function provides the following, at a minimum; (a) establishing liaison with existing community organizations or establishing community groups where they are needed. (b) assisting in the development of community involvement policies for the agency; (c) publicizing agency objectives, community problems, and successes; (d) conveying information transmitted from citizens' organizations to the agency; (e) improving agency practices bearing on police community interaction; and (f) developing problem oriented or community policing strategies, if any.*

CRIME PREVENTION

Current Application or Practice: The department needs to develop Crime Prevention Programs for stations, trains, and parking lots. Employees and customers expressed concern over the lack of police presence at the stations. Station Agents in particular advised they felt police should get out of their cars and actually come inside the station especially those stations identified as high crime areas.

Recommendations/Implementation Strategy: Automobile burglaries and bicycle theft appear to be some of the greatest crime challenges for the department at this time. The department should try alternative patrol strategies such as reinstating the bicycle patrol unit (it is the Audit Team's understanding that the department had an active bicycle patrol unit approximately 6-7 years ago) or segways; both provide a greater police presence and the customers are more likely to approach an officer who's outside of a police vehicle. Also, informational flyers may be given to customers alerting them of crime in the area.

The Community Service Officer (CSO) positions utilization is key to parking lot patrol and enforcement. According to the CSO job description created February 1, 2006, by definition states, "provides technical assistance to police personnel involved in safety and community service activities throughout the District." Their duties as outlined on page 2, # 5 states CSO's are to "assist in crime prevention presentations; advise patrons and community organizations on crime prevention programs and #6 states conduct surveys and inspections; conducts research studies, compiles statistics and analyzes data."

The department has approximately thirty CSO's within the department at this time. A consultant met and interviewed several CSO's, they were very professional. Crime prevention and community involvement should be done primarily by BART PD officers. Involvement of the community in the prevention, reduction, and solving of crime is an effective use of BART PD officers.



Justification: CALEA 45.1.1 *The agency's crime prevention function provides for the following: (a) targeting programs by crime type and geographic area on the basis of crime data; (b) targeting programs to address community perceptions or misperceptions of crime; (c) and conducting a documented evaluation of crime prevention programs, at least once every three years.*

APTA Security Peer Assessment, May 1994 (pg. 7, para. 4) from previous recommendation. *"BART should review its crime trend indicators for the purposes of identifying those stations which are situated in potentially hazardous environments."*

CRIME PERCEPTION AND POLICE VISIBILITY

Current Application or Practice: The perception of Crime and Police Visibility remains an issue for the BART Police Department. This issue was one of the findings of the 1994 Peer review from APTA. The recommendation made was as follows: "Strategies need to be developed to impress upon the riding public the idea that police Officers are available and hold customer safety and security as their highest priority". They went on to say, "BART police Officers can increase their visibility through programs of heightened interaction with both the riding public and transportation personnel. These interactions will maximize the "felt presence" of BART police Officers, and will help send a strong message relating to transit crime deterrence/prevention".

Recommendations/Implementation Strategy: The BART Police Department underwent a peer review by the American Public Transit Association in May 1994. In reviewing their findings, it was evident that some of the observations made during the peer review were some of the same issues facing the department today, fifteen years later.

Some of the recommendations will be the same as stated earlier in this assessment regarding Crime Prevention strategies. Other more specific recommendations would be to develop clearly defined goals for the department, letting the employees and the customers know what they can expect while using the system. Establish a communications network with internal non-sworn employees within the authority and include them in major policy change discussions. Establish a Public Information Office within the Police Department, to become the face of the Police not the authority and is knowledgeable of what is going on and knows how much information to release and the appropriate time to release it. Having a Uniformed Police PIO will help the department get the word out to the public what BART Police is doing to make sure their safety is their first priority. This person can also send positive messages to customers and potential customers concerning new community programs or crime prevention initiatives which will contribute to the overall Public perception that BART is indeed a safe and secure transit agency. Host a Meet BART Police Day once a month at a different station so that customers can interact with Police officials of all ranks and know that their concerns are being heard and quickly addressed. The BART Police should develop a survey instrument that specifically addresses issues related to the performance of the transit police department, so that the department will be able to monitor and



gauge the needs of the customers. Once the results of the surveys are received a written summary should be provided to the Chief of Police.

The Audit Team would advise that the surveys be taken seriously. The results should be shared with the internal police command staff at the weekly supervisors meeting. These supervisors should be instructed to pass the information down to the Patrol Officers to ensure that they are made aware of the issues identified by the customers and seek the officers input on ways in which to change the behavior or improve the perception.

But just as important, they must provide immediate feedback to the customer that has the problem to assure them that their issue has been addressed immediately to garner support and trust. Develop relationships with other Law Enforcement jurisdictions for information sharing and to inform them on what BART Officers do (they may not know). Sponsor joint training classes at your agency to invite others into your agency. Develop a system of accountability for your Officers to ensure that department goals are being met. (i.e. Compstat models). If goals are not met, there should be consequences (disciplinary actions, re-training etc.) Train Patrol is one if not the most important function of a transit police Officer. It is the single most effective way to increase the sense of Officer Presence and it is what most customers say they can't have enough of. The department needs to establish a train patrol strategy to ensure that Officers are riding trains on a regular basis. It was pretty apparent during my on-site visits and the numerous interviews conducted, the desire to have Officers riding BART trains was a constant theme among non-sworn employees and the riding public.

Justification: **CALEA 45.1.1** *The agency's crime prevention function provides for the following: (a) targeting programs by crime type and geographic area on the basis of crime data; (b) targeting programs to address community perceptions or misperceptions of crime; (c) and conducting a documented evaluation of crime prevention programs, at least once every three years.*

CALEA 45.2.1 *The community involvement function provides the following, at a minimum; (a) establishing liaison with existing community organizations or establishing community groups where they are needed. (b) Assisting in the development of community involvement policies for the agency; (c) publicizing agency objectives, community problems, and successes; (d) conveying information transmitted from citizens' organizations to the agency; (e) improving agency practices bearing on police community interaction; and (f) developing problem oriented or community policing strategies, if any.*

CALEA 41.1.1 *The agency has a written directive which describes: (d) assignment to service areas. A uniform procedure helps to ensure impartiality in the process of assigning Officers to shifts and service areas. However, agency management should retain the final authority to assign Officers (i.e. train patrol) in order to provide effective coverage, ensure accountability, and achieve organizational goals and objectives.*

APTA Security Peer Assessment, May 1994 (pg. 4, para.2-3) the previous recommendation,



“Strategies need to be developed to impress upon the riding public the idea that police Officers are available and hold customer safety and security as their highest priority.”

“BART police Officers can increase their visibility through programs of heightened interaction with both the riding public and transportation personnel. These interactions will maximize the “felt presence” of BART police Officers, and will help send a strong message to transit crime deterrence/prevention.”

APTA Security Peer Assessment, May 1994 (pg. 4, para. 5) the previous recommendation, *“the importance of employing a public information Officer within the BART Police Department cannot not be overstated.”*

APTA Security Peer Assessment, May 1994 (pg. 8, para . 2) the previous recommendation, *“Crime prevention/Awareness training currently given to police Officers and transportation personnel needs to be re-evaluated and critiqued.”*

APTA Security Peer Assessment, May 1994 (pg. 7, para.6-7) the previous recommendation, *“Transportation personnel and BART employees in general, need to be fully informed about police activities and successes, as well as, crime prevention and techniques, in order for them to realize and promote BART’s security program. The relationship between police and transportation personnel appears to be unclear, and thus needs to be strengthened and personalized. A mutual respect and productive interface needs to be developed.”*

Employee Interaction/E ngagement

In order to have an effective external community outreach program, the agency must invest time in the Officers who serve within the BART Police Department.

Current Application or Practice: There is limited fact to face interaction with the Police Chief and Command Officers with the line personnel. The Officers stated that the Chief should have at least addressed the troops after the shooting incident to reassure them that he was supportive of them and that despite this one incident that he knew that they were doing a good job. Officers desire more interaction with the Chief and the Commanders that work under him.

Recommendations/Implementation Strategy: The department needs to develop clear communications plans for Officer interaction. Ranking command staff officers need to periodically attend shift briefings or hold town hall meetings for officers. The Chief needs to have more interaction with the troops; face-to-face when possible but when he can’t be there in person he could tape a video from him to the Officers keeping them informed on what’s going on within the department. The Officers expressed a sense of detachment from the Lieutenants and above, especially the Chief. The need for Lieutenants to once again attend shift briefing is paramount. Sergeants are asked to brief Officers with limited to no updated information passed down from the pass along log that was completed by the previous shift’s Sergeant.



Justification: CALEA 12.1.4 *A written directive establishes procedures for communication, coordination, and cooperation among all agency functions and personnel.*

CALEA 41.1.2 *A written directive describes the agency's method for shift briefing. The APTA Peer Review Assessment, May 1994. Pg. 3 1st paragraph, " In discussions with police personnel at various levels, the panel was able to ascertain that Officers at the patrol level felt that there was a problem with radio communications and "communications" in general with other operations units within BART, especially in terms of their understanding of what BART police's capabilities and mission were."*

PATROL ZONE CONCEPT

Current Application or Practice: As part of the Patrol Zone concept, initiated by the BART Police Department prior to 2000 under the leadership of Chief Taylor. This recommendation came from the APTA peer review panel in 1994 stating that BART should "create police substations in the community that must always stay "open" to the public in order to provide information, assistance etc." They went on to recommend that "additional Officers, dispatchers and support staff will be required by the zone responsibility concept" (pg. 8-9). Based on this assessors review, the Patrol Zone concept as it is today is ineffective. In order for this concept to work, the items outlined above should have been in place. By not putting the necessary resources in place, the efficiency has been severely hampered. Also, it is a disservice to the community who wants to utilize the services of police Officers at one of these substations that say very visually "Police", they can't get any assistance and are simply instructed to call a number for help because there is no one there. Transit policing is a specialized type of policing where customer service is a paramount to what they do and it's what customers expect from transit Officers on a daily basis.

Recommendation/Implementation Strategy: It is recommended that the agency to reevaluate the Police Substation concept to see if this is still a viable option for the department. If it isn't, then that needs to be communicated to the public to advise them that due to whatever the circumstances are, the Police Substations will no longer be staffed and advertise alternate contacts methods for reaching the Police. Having the Police substations in the communities and not staffed creates a premises liability situation by presenting a false sense of security for your customers.

Justification: APTA peer review panel in 1994 stated that BART should "create police substations in the community that must always stay "open" to the public in order to provide information, assistance etc." They went on to recommend that "additional Officers, dispatchers and support staff will be required by the zone responsibility concept" (pg. 8-9)

CALEA 41.1.1 *The agency has a written directive which describes: (d) assignment to service areas. A uniform procedure helps to ensure impartiality in the process of assigning Officers to*



shifts and service areas. However, agency management should retain the final authority to assign Officers (i.e. train patrol) in order to provide effective coverage, ensure accountability, and achieve organizational goals and objectives.

ORGANIZATIONAL STRUCTURE

Current Application or Practice: The Organizational structure of the BART Police Department is ineffective. When the department gave up three Commander Positions after Chief Gee was appointed Chief in 2000 and the decision to have only two Commanders and ten Lieutenants was not a good one. The span of control for the Commanders is too large, especially for the Field Operations Commander. There is no way humanly possible for one Commander to effectively command nine Lieutenants with all of his other responsibilities. The span of control for Commander should be 3-5 subordinates at most.

Therefore, due to the lack of oversight provided by the Commander who is stretched too thin, the Lieutenants who are also stretched thin due to all of the extra administrative duties they are responsible for in order to fill the gaps from the loss of the three Commanders; results in a lack of accountability throughout the department. The administrative duties include processing Officer's time, which creates a lack of supervision of the Sergeants in the field and limited attendance at shift briefing. Also, this leads to a lack of productivity which hampers the efficiency of the operations division. The true victims then become the Officers and customers in which they serve.

Recommendation/Implementation Strategy: The agency needs to review the entire organizational structure to lessen the span of control for the Commanders and create additional positions to lessen the amount of headquarters administrative responsibility and allow the Lieutenants to go back to their zones and provide hands on instruction and guidance to the Officers in the field; when that happens, Officer productivity will go up and crime will usually go down. During the interviews with staff, we received a lot of really good feedback and a few recommendations from staff regarding the organizational structure. Additionally, prior to finalizing a revised organizational chart; the agency should ask for and then consider suggestions from other command staff. Unless there is an adjustment to the span of control, the agency will not have the accountability for the officers under their command. This change will create a more efficient, safe and secure system.

Justification: **CALEA 11.3.2** *A written directive states that supervisory are accountable for the activities of employees under their immediate control.*

Agency-specific analysis by interviews and research, it was apparent that this organizational chart is not the most efficient for the BART Police Department.



Chapter 11

Civilian Oversight



BART Police Management Audit

Topical Area: Civilian Oversight

Issue: Civilian Review Board

NOBLE MAJOR RECOMMENDATIONS

1. All appeals should stop at the General Manager. The decision at that level is final. The Board of Directors is a policy making body of elected officials and should avoid issues of management oversight other than for the General Manager.
2. The process of establishing an independent Citizen Oversight System for the BART Police Department should be developed at a pace sufficient for proper planning and should not be established solely because of the urgent and vocal demands of the community. The community may not like the end results because the system may be flawed as a result of establishing the policies, procedures and system too rapidly. The System must also be properly subsidized and carefully thought out and planned. The community should also be provided with monthly updates on the progress of the Civilian Oversight System.
3. The Independent Police Auditor, members of the Citizen Board or Investigators should not be police officers or former law enforcement officers. They should not be former police investigators. When police officers are part of Citizen Boards they can inadvertently function as or be perceived as a “Police Commission or Panel of Review”. In fact, since recommendations shall be made about BART Police Officers’ behavior and conduct, respected psychologists and sociologists might be considered to be members of the Citizen Board. For example, psychologists are trained to perform psychological research, testing and therapy. They can recognize aggressive, “hyper-vigilant” police officers. Sociologists study human social behavior. This shall be helpful when reviewing complex cases involving multiple complainants, witnesses and police officers.
4. The BART Board of Directors should not appoint the Citizen Board directly. The Citizen Board should be free of politics and even the perception that they are influenced by politicians. If Board of Directors are politicians (or associated with politicians), appointment of Citizen Board members by politicians may appear impartial. Citizen Board members can be interviewed and hired by NACOLE, the California Human Relations Commission or another independent organization that they recommend. Minimum qualifications for the Independent Police Auditor, Citizen Board members and Investigators should be established. The BART Board of Directors should select Citizen Board members from a list provided by NACOLE.



5. There must be a clear, dedicated funding source for the Citizen Oversight System. The source of funding should be determined now. A budget must also be established as well as an organizational structure.
6. Regular and consistent training must be provided to Citizen Board members. This training shall include familiarization with POST, the BART system, Operational Directives (especially Positive Discipline Policy or Disciplinary Code), Contract Agreements, Grievance Procedures, Due Process Policies and Internal Affairs policies and procedures.
7. Citizen Board members as well as the Auditor should have a relationship with local prosecutors (District Attorney) along with the Offices of the State Attorney General and the United States Attorney. Complainants allegations should be forwarded to the appropriate agency for action.
8. Recommendations for Corrective Action: Independent investigative findings made by the Office of the Police Auditor shall include recommendations for corrective action, up to and including termination where warranted and shall include prior complaints and their disposition. Discipline that is recommended shall be consistent with past practice and uniformly applied. Any discipline action initiated by the Bart Police Department will comply with the Positive Discipline System guidelines (e.g. Operational Directive #77), other appropriate guidelines and any labor agreements in effect. Every officer is entitled to Due Process. When the evidence does not support the allegations of misconduct, the Auditor shall recommend to the Citizen Board that the matter be dismissed. The Citizen Board shall have a simple vote to determine if the matter shall be dismissed. This process must be appropriately documented in writing and endorsed by the Auditor and each member of the Citizen Board. Proper notification must be made in writing to the complainant and the BART police officer regarding the disposition of the investigation.

If the complainant wishes to withdraw a complaint, the Auditor shall forward documentation to the Citizen Board that is endorsed by the complainant. These procedures must be clearly communicated to all parties including the community.

9. Time limits should be indicated throughout the policy. For example, “In a confidential personnel meeting, the Auditor shall submit his/her investigative findings and recommendations in writing to the Citizen Board for review within 60 calendar days. Should the Citizen Board agree with the findings and recommendations, the report will be submitted to the Chief of Police for appropriate action within 10 calendar days. The Chief of Police shall implement the recommended action in accordance with the Positive Discipline guidelines, absent appeal.”

Current Application or Practice:

BART has developed a committee to determine the feasibility of establishing the appropriate type of citizen oversight system (Civilian Review Board) at BART to ensure that the internal



police accountability processes, methods and procedures (the Internal Affairs Investigations system) functions objectively, properly and without bias. The type of oversight established must enhance the professionalism of the BART Police Department and be responsive to the **community** they are sworn to protect and serve.

Regardless of the type of oversight selected there must be assurances that the process will hold the police responsible by investigating and hearing citizen complaints. The citizen oversight system **MUST** ensure that citizens, patrons and riders who use BART have alternatives to address their grievances and complaints. This shall give the community more confidence in the system.

There is not a current citizen oversight system (Civilian Review Board) application or practice. However, according to the BART Police Department's General Orders #1.021 their Internal Affairs Section *is* responsible for providing a prompt unbiased and expedient investigation of complaints regarding the conduct of Department employees. The organizational structure indicates one sergeant assigned to the Internal Affairs Unit currently conducts Internal Affairs Investigations. He reports directly to the Office of the Chief.

The BART Police Department does not currently have a process to ensure adequate oversight and accountability of their Internal Affairs process and assurances that the results of investigations for misconduct were properly investigated. A Civilian Review Board may be established for this reason alone. This is a BART internal decision based on operational, political, and community-related issues and concerns.

The department's current organizational structure relative to Internal Affairs and the current manner in which investigations are conducted are also inadequate. However, the Topical Area of Internal Affairs is being reviewed separately by the Audit Team.

In view of the fact that independent oversight has not been established it is difficult to get objective recommendations to make systemic changes and improve the overall services, operations and accountability of the BART Police Department. **Problems that may be identified as a result of a lack of oversight include:**

- Policy and procedural deficiencies may not be systematically addressed or identified which can contribute to a culture that promotes racial profiling and allegations of racial abuse.
- Complaints against police may not be investigated in a complete, equitable and unbiased manner.
- There may not be analysis of the collective investigations conducted regarding misconduct.
- Data is not utilized to identify trends that can serve as an "early warning system" of officers who exhibit a pattern of receiving allegations of misconduct or identification of other trends to help mitigate systemic problems.
- Data may not be utilized to access disciplinary recommendations, dispositions and trends
- Data may not be used to access if corrective action and training are appropriately recommended or used.



Therefore, if these issues critical to the mission of the BART Police Department and BART, then the appropriate form of civilian oversight should be established.

Recommendation: Models of citizen oversight.

BART should select the model of Civilian Oversight or hybrid of models that is most suitable to address the key concerns of police accountability.

There are a variety of Citizen or Civilian Oversight models. Each can improve policing to various degrees and facilitate trust between communities and law enforcement. The overall purpose of each model is to provide firm, consistent reviews and/or investigations in order to have adequate law enforcement services and improved management.

However, each model has inherent advantages and disadvantages. Critical problems regarding the oversight process can occur. However, there are recommended ways to avoid them.

Auditor and Ombudsman

Description

This model is best described as *an individual* who is responsible for conducting oversight. This person can have several titles such as Auditor, Monitor, Inspector General and Ombudsman. This model is independent from law enforcement or police functions. An individual reviews Internal Affairs (IA) investigations and complaints against police involving misconduct. If for example, the IA investigation is unsatisfactory or deficient, the Auditor may request further investigation or conduct an independent investigation. The Auditor may also carry out investigations not generated by complaints.

Function

Auditors identify, scrutinize or monitor and in some cases investigate complaints. They also make determinations/conclusions and develop findings or recommendations. They may conduct periodic audits to determine the efficacy of processes and procedures within the IA Division/Unit.

Strengths

The obvious strengths of this model is the Auditor's ability to function with more suppleness or flexibility than a board. The Auditor may have an extensive mission as opposed to just monitoring and investigating complaints against police conducted by IA. However, it is imperative that the Auditor have the authority to **compel evidence** from the law enforcement agency. Adequate funding, resources and facilities must also be made available to carry out his/her duties.

Weaknesses



The Auditor model relies on the ability, skills and dedication of one individual. Consistency and continuity of the quality of work may become problematic. The public may desire more than one person to participate in oversight to show objectivity and collaboration.

Critical Issues

Critical issues that must be taken under consideration are the extent of the authority and powers of the Auditor. There may also be concerns that the individual is not controlled or subject to control by the police department. Adequate and appropriate outreach to the community must also be addressed. The Auditor must be accessible and have the ability to listen to all parties and collect all evidence before analysis is conducted. He/she should be respectful, but also not timid.

Commission/Board (Non-Investigatory Powers)

Description

The responsibilities of this variation of Commission/Board reviews Internal Affairs investigations and determines if they were conducted adequately. Members assigned to this type of citizen oversight document if they agree or disagree with the findings of the investigation. They may recommend additional investigations or policy proposals and play a role in officer discipline recommendations.

Function

This Commission/Board determines if IA investigations were conducted appropriately and adequately. They may direct the police department to take corrective or disciplinary action or to improve the quality of IA investigations. Policy recommendations are often made. Auditors identify, scrutinize or monitor and in some cases investigate complaints. They also make determinations/conclusions and develop findings or recommendations.

Strengths

This model typically produces findings more expeditiously than the investigative model, and can provide more community and citizens' input than the Auditor model. To maintain its integrity, members on these Commission/Boards need to have sufficient knowledge, ability and training to identify and discern problems that often encompass complex IA investigations.

Weaknesses

There is a considerable amount of labor and time required of volunteers. If the IA process is inadequate, and the Board is not competent, unskilled and/or trained, they may not recognize problems in the investigations.

As a result of working with IA investigations, this model is more vulnerable to being co-opted, although every model is subjected to this risk.



Critical Issues

Consistent with critical issues of Auditors, what must be taken under consideration are the extent of the authority and powers of Commission/Boards. There may also be concerns that the Boards are not controlled or subject to control by the police department. Adequate and appropriate outreach to the community must also be addressed.

The Board must be accessible and have the ability to listen to all parties and collect all evidence before analysis is conducted. The Board should be respectful but also not timid.

Just as important, they must not be permitted to become ineffective by internal conflicts amongst Board members that can result in splintering and divisiveness.

Commission/Board (Investigatory Powers)

Description

This model has the capability to investigate complaints. The Board makes findings and as a result, makes recommendations to law enforcement administrators regarding discipline and/or policy.

Function

It is important that this type of Board produce an investigation with findings that include specific recommendations regarding discipline and/or policy. Appropriate information regarding the results should be provided to the complainant, citizen(s) and/or the public. It is very important to provide fair, unbiased and consistent *external* investigation to facilitate law enforcement agencies to provide more efficient, equitable law enforcement services.

Strengths

This model can provide public confidence and give complainants and the community a greater sense of inclusion and a sense that the decisions or findings are made outside the police department or law enforcement agency.

In addition this Board must as with all others, should maintain its integrity. Members and staff must have sufficient training, knowledge and ability to conduct competent, effective investigations. In addition, it needs:

- Ability to compel evidence (subpoena) and influence officers to testify
- Funding available to fully investigate
- Accessible and open public hearings
- Due process for police officers

Weaknesses

Again, there is a considerable amount of time and labor require of volunteers. If Board members are inadequately trained or skilled, their investigations may be poorly conducted resulting in



substandard investigations that can cause the community, law enforcement agency or police department unwarranted problems. This process can also be adversarial if members become divisive.

Predictable Challenges of all Oversight Models

Regardless of the type of external model being used, it can increase the antagonism and suspicion of police managers and officers. So it is important to have some cooperation from within the law enforcement agency. You do not want to make it extremely challenging for Citizen Oversight members to investigate or to have police officials ignore or underestimate recommendations regarding policy or discipline.

Initially, external monitoring and oversight could face opposition from police officials, including the rank and file personnel unless the oversight process is “toothless”. If the process is credible, reliable and compelling that empowers the Board to investigate and police officers who were involved in misconduct are held accountable, opposition may include:

- Impeding funding
- Denigration of the Auditor, Board Members or staff
- Claims that police issues are too complicated for the public to comprehend
- Law suits from unions or employee groups to stop it
- Attempts to place supporters or sympathizers of police on Boards or let membership/appointments decline so quorums are not possible
- Pressure to impede the process or dissemination of information that should be open to the public

The community may expect:

- The oversight process to be up and running expeditiously

In order to reduce the opposition of individuals who may also resist “anything new” and disappointment of the community that the process is not moving fast enough, they must be informed that establishing Citizen Oversight requires time, planning and coordination in order to be successful.

If the process is recognized as “fair”, the community satisfaction and law enforcement acceptance will develop.

Three (3) Critical Mistakes for Civilians involved in Oversight to Avoid:

- Failure to be adequately prepared and informed about the relevant case details as well as legislation and governing policies
- Significant involvement or identification with the community or the complainant
- Significant involvement or identification with the police or law enforcement agency



Critical Factors that Work:

According to the National Association for Civilian Oversight of Law Enforcement (NACOLE), some of the critical factors that really make oversight work effectively in many communities is oversight:

- That is independent
- That selects people with integrity who will go where the facts lead them
- That supplies its participants and administrators with adequate budgets, training and time
- That expects them to listen intently and to address detailed issues with fairness, patience and compassion for all the parties

Appointment of Non-Police Personnel

Former or incumbent police officers should not be a part of Civilian Review Boards. The appropriate role of former police officers is sitting on Police or Review Commissions.

Additional Roles of Civilian Oversight

To promote community awareness regarding citizens’ or complainants to file complaints and to disseminate information about where to file a complaint

To make concrete recommendations about police policies and procedures but also to recommend specific training and improvement

Hold regular monthly meetings that are open to the public so they can voice general criticisms and make recommendation to review or reform police policy or practices

Ensure that an “Early Warning System” is developed to help identify “problem officers”

To publish regular or annual reports indicating the number and types of complaints that have been substantiated or unsubstantiated along with other important information and statistics

To avail a summary report of all the complaints and dispositions

To forge a relationship with local prosecutors and others involved in the criminal justice system

To obviously make contact with the civilian regarding the filing of a complaint, if a police of misconduct is made known

To protect officers from frivolous, petty or vengeful complaints and ensure that officers are given due process

Justification: The standards of performance in this area are primarily based on the benchmarks identified by the National Association for Civilian Oversight of Law Enforcement [NACOLE].

Implementation Standards and Considerations:

Options for Citizen Participation in the Disciplinary Process for Independent Police Auditor Investigations

The Police Auditor format outlined in the aforementioned proposal appears to meet the needs of the community and BART. It is imperative that the community and BART police officers believe that the system is fair and equitable.



The obvious strengths of this model are the Auditor's ability to function with more suppleness or flexibility than a board. The Auditor may have an extensive mission as opposed to just monitoring and investigating complaints against police conducted by Internal Affairs. However, it is imperative that the Auditor have the authority to **compel evidence** from the law enforcement agency. Adequate funding, resources and facilities must also be made available to carry out his/her duties. These options appear to be covered in BART's proposal.

The Auditor should not be a former or incumbent police officer.

BART's proposal includes all of the following and key elements:

- To promote community awareness regarding citizens' or complainants to file complaints and to disseminate information about where to file a complaint

- To make concrete recommendations about police policies and procedures but also to recommend specific training and improvement

- Hold regular monthly meetings that are open to the public so they can voice general criticisms and make recommendation to review or reform police policy or practices

- Ensure that an "Early Warning System" is developed to help identify "problem officers"

- To publish regular or annual reports indicating the number and types of complaints that have been substantiated or unsubstantiated along with other important information and statistics

- To avail a summary report of all the complaints and dispositions

- To forge a relationship with local prosecutors and others involved in the criminal justice system

- To obviously make contact with the civilian regarding the filing of a complaint, if a police of misconduct is made known

- To protect officers from frivolous, petty or vengeful complaints and ensure that officers are given due process

Many of the recommendations made by BART in the proposal are also consistent with the National Association for Civilian Oversight of Law Enforcement Officers.



Chapter 12

Use of Force



BART Police Management Audit

Topical Area: Use of Force

Issue: Legal Requirements for the Use of Force

Current Application or Practice: The agency has several written use of force directives that provide for only that level of force that is reasonable in any given situation:

1. Lethal Force/Incidents Resulting In Death or Great Bodily Injury
Operational Directive No. 74
Date of Issue: March 18, 1986 Revised: January 29, 1999
2. Use of Lethal Force
Operational Directive No.75
Date of Issue: Aug. 25, 2006
3. Use of Considerable Physical Force
General Order No. III, section: 3.321
Update: '84
4. Arrest Control Devices
Directive No. 73
Date of Issue: January 28, 1986 Revised: October 16, 2000

A review of the agency's use of force policies with members assigned to training and internal affairs and interviews with sworn personnel, describes an agency practice that requires, but does not always ensure, that all sworn personnel participate in firearms in-service training and qualify with their duty weapon two times a year. Officers, sergeants and lieutenants repeatedly described the agency as having no accountability system when officers miss mandatory training or firearms qualification. Even though training is required by policy, a review of firearms training records reveals that some sworn personnel, particularly the firearms records of ranking members do not reflect or document officers' annual firearms qualification training. Agency line supervisors characterized the entire department's training process as "seat of your pants," and in-service training as a "huge hole in the agency" with the possible exception of the tactical team and SWAT Unit.

There is no written examination as a part of the firearms qualification process regarding the legal requirements applicable to the use of force, but the agency does consistently review the deadly force policy during firearms qualification. Personnel related that a similar review of the less lethal weapon's policy does not routinely occur, and they indicated that it may have last been reviewed with some officers in 2004. Agency personnel indicate, and a review of policy substantiates, that the agency does not specifically address weaponless use of force incidents in their operational directives; General Order NO. III section 3.321 "Use of Considerable Physical Force" is defined as resulting in apparent physical injury, "whether the person receives or refuses



medical treatment.” However, only one agency member who was interviewed was familiar with that General Order. Additionally, the elements of reasonable force, as articulated in *Graham v. Connor*, are absent in General Order 3.320, “Use of Force.” The *Graham* standard does appear in the agency’s Use of Deadly Force policy. Newly employed sworn members receive a copy of all use of force policies as a part of their new officer orientation, according to training personnel.

Commendation or Recommendation: There are several separate use of force policies and written directives addressing the various weapons authorized by the agency. The policies should be captured in a single use of force directive to avoid confusion and to ensure a consistent response by agency members when a use of force event occurs. The agency’s use of force policy training process should ensure that all sworn members receive annual training addressing the legal justification for the use of force. There also should be a provision for tracking and mandating attendance at make-up training for those that do not attend regularly scheduled training. The agency should develop a written use of force testing instrument and ensure that all covered personnel perform satisfactorily on the examination as a part of their annual use of force training. Further, the agency should modify all of its policies regarding the application of force and capture the elements of reasonableness detailed by the US Supreme Court in the case of *Graham v. Connor*.

Justification: **CALEA 1.3.1** *A written directive states personnel will use only the force reasonable to accomplish lawful objectives.*

- IACP National Law Enforcement Policy Center, Use of Force Model Policy, February 2006

Implementation Strategy: Develop and implement a written test addressing the legal justification for the use of force and modify all policies involving the use of force to conform to the fundamentals discussed in *Graham v. Connor*. Conduct an analysis of the use of force incidents by the agency and modify policy and training as dictated by the results of that review.



BART Police Management Audit

Topical Area: Use of Force

Issue: Legal Definitions for the Use of Force

Current Application or Practice: The agency has a written use of force directive that provides for definitions of conditional terms or similarly used terms:

- Use of Lethal Force
Operational Directive No. 75
Date of Issue: Aug. 25, 2006

The definitions are clearly found in the deadly force policy but are not clearly defined in the less-lethal or weaponless policy.

Commendation or Recommendation: Complete a comprehensive use of force policy review and identify all definitions and conditional terms for weaponless and less-lethal force. Generate a single policy describing those terms. The agency's use of force training process does not ensure that all sworn members receive annual firearms training or a review of the use of force policy. Although required by the agency, a review of firearms training records reveal that some sworn personnel, particularly the firearms records of ranking members do not reflect or document their annual firearms qualification training or policy review. Additionally, for those that do attend firearms training, the agency does not require an annual written test covering the legal justification for the use of force. The agency should develop a written use of force testing instrument and ensure that all covered personnel perform satisfactorily on the examination as a part of the annual firearms training.

Justification: **CALEA 1.3.2** *A written directive states that an officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury.*

Definitions of conditional terms, such as those for reasonable belief, serious physical injury, or similarly used terms that are used to qualify the directive shall be included.

Implementation Strategy: Develop and implement a written test addressing the legal justification for the use of force and a process for ensuring all members receive annual training on the policy. This will reinforce the importance of the use of deadly force policy and provide officers with guidance in the use of force in life-and-death situations and prevent unnecessary



loss of life. Further, the agency should develop and emphasize and increase the use of judgment based use of force scenarios.



BART Police Management Audit

Topical Area: Use of Force

Issue: Legal Definitions for the Use of Force

Current Application or Practice: The agency has a written use of force directive that prohibits the discharge of “warning” shots:

- Lethal Force/Incidents Resulting In Death or Great Bodily Injury
Operational Directive No. 75
Date of Issue: Aug. 25, 2006

Commendation or Recommendation: The agency policy is consistent with accepted police practices.

Justification: **CALEA 1.3.3** *A written directive governs the discharge of “warning” shots. The agency’s policy addresses this standard.*

Implementation Strategy: The agency should continue the current practice.



BART Police Management Audit

Topical Area: Use of Force

Issue: Authorization of Less Lethal Weapons

Current Application or Practice: The agency has several written directives that govern and authorize the use of less lethal weapons during this review period:

- Carotid Control Hold
Operational Directive No. 89
Date of Issue: March 18, 1987
- Processing and Handling Arrestees
Operational Directive No. 44
Date of Issue: June 7, 1982 Revised: May 12, 1999
- Policy on Applying Handcuffs and Leg Restraints
Special Order No. 06-03
Date of Issue: 3/3/06
- Taser Less-Lethal Weapon Policy
Bulletin No. 08-70
Date of Issue: 09-19-08
- Electronic Control Devices-TASER
Operational Directive/Policy 309
Updated: April 7, 2009
- Arrest Control Devices
Directive No. 73
Date of Issue: January 28, 1986 Revised: October 16, 2000

The agency authorizes the following “Arrest Control Devices” by policy:

1. Chemical Agents;
2. Police Impact Weapons;
3. Carotid Control;
4. Taser;
5. Specialty Impact Munitions (SIMS); and
6. K-9.

The use of Chemical Agents and Impact Weapons are detailed in a policy revised in 2000. In August 1987, the policy governing the use of the Carotid Control Hold was issued. The Taser policy was issued on September 19, 2008 and was updated and re-issued on April 7, 2009. Most personnel advised that the use of force policy, initial taser and revised taser policies were issued during training. However, if a member did not attend training, that member would not receive the policy. This lapse includes any supervisors who were responsible for ensuring policy



compliance, but had not yet received the taser training. Personnel were questioned regarding the less lethal weapons that they carried and the training requirements associated with their use, some personnel stated that they had not received copies of the policy for less lethal weapons. Others stated they had received copies of the policies, but only during the initial training, which ranged from four to 20 years previously. A review of the mandatory training list for sworn personnel for 2006, 2007, and 2008 revealed no mandatory training for all sworn personnel for OC Spray, Impact Weapons or the Carotid Control Hold.

The quotes below reflect the general tone of those interviewed regarding the agency's training for less-lethal weapons, for both rank and file:

- "The department does not provide continual re-training or in-service training for less lethal weapons."
- "No training on the carotid hold since police academy training in 1991, there may have been an agency policy review and a refresher of the carotid hold eight years ago, but I am not certain."
- "OC training in 1991 during the academy, no refresher or policy review since."
- "Some defensive tactics with the taser training in 2008, but prior to that, the agency had not provided any defensive tactics training for at least five years."
- "There was no policy review of weaponless tactics policy during the taser training and I can't recall ever receiving a policy review of that topic."
- "Received weaponless tactics training in 2009, and over three years ago before that time."

According to agency members, officers assigned generally to patrol or detective duties have not been re-trained on OC Spray, Impact Weapons (i.e., baton, ASP,) or the Carotid Control Hold since they were initially trained when the weapons were issued, except for 45 minutes of baton training in conjunction with the Taser training in December 2008.

Commendation or Recommendation: The agency should incorporate the various policies governing use of force into a single comprehensive policy to both reduce confusion and provide easy to find guidance in this critical area. The agency's less-lethal weapons' directives, except for the TASER policy, do not reflect an update or a review or revise date that demonstrates the policies have been critically evaluated in some time, in the case of the Carotid Control Hold over two decades and almost nine years for Arrest Control Devices. The agency should conduct a documented and comprehensive review of policies surrounding this high liability area and ensure the policy comports with the agency's current practice. An analysis of use of force incidents should be undertaken; the findings could prove beneficial and instructive during a policy review of less-lethal weapons.

Justification: **CALEA 1.3.4** *A written directive governs the use of authorized less lethal weapons by agency personnel.*



Implementation Strategy: Initiate a documented review of all policies detailing the authorization of less lethal weapons, with representatives from management, training, internal affairs and line officers. Generate a comprehensive policy for use of force related issues and conduct judgment based or scenario training on the revised policy. Develop and administer a written examination reflecting the important training aspects of the less-lethal training. Incorporate the justification for the use of force as detailed in *Graham v. Connor*.



BART Police Management Audit

Topical Area: Use of Force

Issue: Authority to Secure Prompt Medical Aid for Affected Subjects Involved in a Use of Force Incident.

Current Application or Practice: The agency has several written directives that govern and authorize a response and evaluation by qualified medical personnel as soon as practical for a person affected by a use of force event:

- Electronic Control Devices-TASER
Operational Directive/Policy 309
Updated: April 7, 2009
- Lethal Force/Incidents Resulting In Death or Great Bodily Injury
Operational Directive No. 75
Date of Issue: August 25, 2006
- Carotid Control Hold
Operational Directive No. 89
Date of Issue: March 18, 1987
- Arrest Control Devices
Directive NO. 73
Date of Issue: January 28, 1986 Revised: October 16, 2000

Each of the nearly two dozen sworn personnel who were interviewed was familiar with the policy requirement of securing medical care when specific types of force options are employed. This is in despite the fact that not all policies required the same protocol. The most recent version of the taser directive mandates that the primary officer include in the police report the names of individuals who provided medical care on the scene and the names of medical personnel who removed the probes; the policy governing the use of batons and OC spray does not require that level of detail.

The following randomly selected custodial reports were requested and reviewed for compliance with the agency's medical aid requirement when the taser or OC spray is employed:

OC Spray:

- BART Police Department Report # 0810-3022
- BART Police Department Report # 0809-2467
- BART Police Department Report # 0808-2093
- BART Police Department Report # 0808-1488
- BART Police Department Report # 0806-2532
- BART Police Department Report # 0802-0405
- BART Police Department Report # 0802-0131



BART Police Department Report # 0712-0086
BART Police Department Report # 0712-0489

Taser:

BART Police Department Report # 0904-0430
BART Police Department Report # 0902-0097
BART Police Department Report # 0812-3338
BART Police Department Report # 0812-2064
BART Police Department Report # 0901-0024
BART Police Department Report # 0904-0234
BART Police Department Report # 0905-1431
BART Police Department Report # 0904-3095
BART Police Department Report # 0902-0070
BART Police Department Report # 0902-0883

The assessment of the randomly selected reports reflecting an incident where OC spray or a Taser was employed revealed that in all 19 incidents reviewed, medical assistance was documented in the police report. However, taser-related incidents occurring after the April 7, 2009 policy revision, which requires the police report to contain the names of personnel providing medical care, and the names of medical personnel who removed the probes, were not within policy in one of the two incidents reviewed after the policy revision. Agency personnel merely documented that medical treatment was provided. In each report, supervisor approval is evident whether the nature of the medical documentation complied with policy or not.

Commendation or Recommendation: The intent of this standard is to minimize the severity of obvious injuries and non-visible trauma commonly associated with weapons or hand-to-hand tactics. Such tactics may include neck holds, hard punches to the head, heart, or other vital organs, or restricting respiratory function. The agency practice is consistent with accepted practice as it relates to the medical requirement when less-lethal and lethal force is employed. The medical treatment requirements relating to weaponless tactics are less consistent. The agency should combine its use of force policies into a single policy and require a single uniform police report documenting medical treatment. Additionally, supervisors should be held accountable for ensuring policy compliance relating to the medical treatment documentation in a use of force event.

Justification: *CALEA 1.3.5 A written directive specifies procedures for ensuring the provision of appropriate medical aid after use of lethal or less lethal weapons, and other use of force incidents as defined by the agency.*

Implementation Strategy: Issue a single updated policy that addresses all use of force issues and conduct training on the revised policy. Perform periodic and random reviews of arrest reports for policy compliance relating to the medical response documentation and initiate



corrective or disciplinary action against supervisors who approve reports without the appropriate documentation.



BART Police Management Audit

Topical Area: Use of Force

Issue: Requirement for Use of Force Reporting

Current Application or Practice: The agency has at least six written directives that govern and define the reporting requirements involving agency personnel and their application of force:

- Lethal Force/Incidents Resulting In Death or Great Bodily Injury
Operational Directive NO. 74
Date of Issue: March 18, 1986 Revised: January 29, 1999
- Electronic Control Devices-TASER
Operational Directive/Policy 309
Updated: April 7, 2009
- Carotid Control Hold
Operational Directive NO. 89
Date of Issue: March 18, 1987
- Use of Lethal Force
Operational Directive NO. 75
Date of Issue: 08/25/06
- Use of Considerable Physical Force
General Order NO. III, section: 3.321
Update: '84
- Arrest Control Devices
Directive NO. 73
Date of Issue: January 28, 1986 Revised: October 16, 2000

The agency policies relating to a use of force by discharging a firearm, resulting in death or serious bodily injury, do not provide for an outside agency to conduct the criminal investigation of the shooting. Rather, the agency charges Internal Affairs with the Administrative Investigation and the Detective Section with the criminal investigation.

A policy compliance assessment was conducted with Internal Affairs, regarding the agency's adherence to Operational Directive NO. 74 "Lethal Force/Incidents Resulting in Death or Great Bodily Harm" issued March 18, 1986 and revised January 29, 1999, immediately subsequent to, the fatal BART shooting incident January 1, 2009. The matter continues to be the object of an outside administrative internal investigation and a criminal prosecution; consequently, the facts leading up to and surrounding the shooting incident were not discussed. The review focused on the agency's response to the incident and whether that response was consistent with the policy in effect at the time of the shooting. The examination consisted of a point-by-point review of all action steps dictated by policy when a deadly force incident occurs. Personnel familiar with the



case file, and with access to the documents necessary for the evaluation, provided the agency response to this inquiry, which noted the following areas as out of compliance with the agency policy governing deadly force events:

1. Paragraph IV. Section F. Reporting Procedures (2.) Discharging Firearms
“...the employee who discharged the firearm shall submit a written memo documenting the incident to chief of police via the chain of command...prior to the end of his/her assigned shift.”

According to Internal Affairs personnel, no memorandum was submitted by the involved officer to the chief of police.

2. Paragraph IV. Section F. Reporting Procedures (2.) Discharging Firearms
“A brief statement will be taken from the involved officer at the crime scene to determine crime scene perimeters...”

According to Internal Affairs, no statement was taken from the involved officer at the scene; rather he was allowed to go home without providing any statement. He subsequently resigned and refused to provide any type of statement to the agency.

3. Paragraph V. Procedure For Incidents Involving Police Employees Resulting in Death or Serious Bodily Injury (A.) Notification
“Whenever an employee is involved in an incident resulting in death...the following notifications shall be made: 1. Bart Police Communications Section;”

According to Internal Affairs, the BART Communications Section was not immediately notified of an officer-involved shooting. Agency records indicate at 0210 hrs, BART Communications received a radio transmission requesting a medical response for a subject with a gunshot wound. At 0223 hrs, BART Communications received a telephone call advising them that the shooting was officer-involved.

4. Paragraph V. Procedure for Incidents Involving Police Employees Resulting in Death or Serious Bodily Injury (C.) Criminal Investigation, 2. Methodology
“(1) The scene should be secured immediately. This responsibility includes...the identification and sequestration of witnesses.”

According to Internal Affairs, no witnesses who were on the train when the shooting incident occurred were sequestered, nor were any arrangements immediately made to halt the train and identify witnesses.

5. Paragraph V. Procedure For Incidents Involving Police Employees Resulting in Death or Serious Bodily Injury (D.) Administration Investigation, 2. Methodology
“a. During the administrative investigation...Unless intoxicant testing was part of the criminal investigation, intoxicant testing will be conducted as a part of the administrative investigation.”
“Interview statements...toxicology test results...shall not be revealed to criminal investigators without approval from the district attorney’s office and the Chief of Police.”



According to Internal Affairs, the Administrative Services Commander supervising the criminal investigation, ordered the officer involved in the shooting to take a breath and urine test after he refused to provide one voluntarily. The results of those tests were included in the criminal investigation, contrary to policy if the District Attorney and Chief of Police had not granted approval.

Generally, agency members interviewed were critical of the agency practice as it related to the manner in which the agency responded to the January 1, 2009, fatal shooting. Specifically, they criticized the failure of officers and the supervisor at the scene to immediately transmit a radio broadcast that there was an officer-involved shooting and the failure to stop the train and identify and separate witnesses. An officer commented that he worked the next station up from the Fruitvale shooting scene and witnesses coming off the train told him an officer shot a subject at the Fruitvale station. The officer thought the train passengers were joking. Officers characterized the shooting incident as a breakdown in communication at the scene and voiced frustration that still, almost six months after the incident, there has not been a departmental de-briefing regarding the incident. Employees continue to obtain their information about the shooting from media. A supervisor stated that the entire incident, from the failure to stop the train with the witnesses to the failure to notify other on-duty officers that there had been a police involved shooting, was a “failure of policy and communication.”

The use of force policies that address the reporting requirements of less lethal weapons lack consistency in style and detail. The use of a taser mandates nine elements to be addressed in the “police” report. The application of the carotid control hold requires the reporting officer to document the event in the “crime” report and details several elements that are to be reported. Use of considerable physical force requires an “inter-office memorandum” submitted to the Bureau Commander. The policy addressing the use of impact weapons, OC spray, carotid control hold, or SIMS mandates documentation in the body of the “police” report and contains an additional requirement to check “other” and state “use of force.” An assessment of the various policies reveals that the agency’s practice does not include a standard uniform use of force report.

Numerous personnel report that officers are not trained in how to document and what variables should be noted in a use of force report. According to training and internal affairs personnel, all use of force incidents involving a firearm or less lethal weapon must be documented in the incident report by the primary officer. The agency does not have a separate use of force or response to aggression or resistance report. Officers are not required to document in a use of force report leg sweeps, elbow jabs, punches, kicks or other weaponless force.

In an interview with a sergeant responsible for conducting use of force reviews, the sergeant indicated that in the area of weaponless use of force, the current policy did not require a use of force report or a supervisor review. The supervisor indicated that, while he would be notified from time to time, it would depend on the officer. Likewise on other shifts it would depend on the officer and the supervisor if there was any use of force documentation for weaponless force. Several members interviewed indicated that, on occasion in cases where the on-duty supervisor was notified of a use of force event, a sergeant would not respond but would call the officer on a cell phone and obtain a briefing regarding the use of force incident. The member indicated that the agency does not provide training to sergeants or lieutenants on what is required of them in a



use of force review. Similarly, there is no defined format for conducting the review. Each supervisor “does it their own way.” According to most personnel interviewed, the agency does not formally train its officers about what information is required in a use of force report.

However, several officers indicated some training was done and believed that a use of force template detailing the reporting requirements was provided by the agency. Another supervisor stated that weaponless physical force is not defined by policy and is not tracked as a use of force event; an officer applying weaponless force is not required to report it and supervisors are not required to respond to the scene of the incident. Personnel routinely stated that less lethal use of force response incidents require a supervisor response only if it involves baton, OC, carotid hold or taser. All other incidents are up to the individual officer. A supervisor stated this matter was brought to management’s attention, specifically that “hands on” force reporting is discretionary and it is not documented or tracked, but there was no policy change or management engagement on the issue.

Commendation or Recommendation: The purpose of establishing a clear and consistent use of force or response to resistance reporting system within an agency is to provide effective review and analysis of use of force events. The agency should develop a reporting system that ensures all incidents involving the application of force, including leg sweeps, elbow jabs, punches, kicks or other weaponless force, are well documented and the salient facts surrounding the event noted. Serious consideration should be given to developing a separate use of force report that is completed when an incident involves the application of force; training in the proper documentation of use of force events is paramount. Sound and consistent reporting of use of force incidents will help identify trends, improve training and employee safety, and provide timely information for the agency when addressing use of force issues with the public. Early and accurate reporting helps establish and maintain agency credibility.

The use of force report should detail the necessary reporting elements to document use of force or response to resistance incidents, based on severity or other established criteria. A use of force report ensures information is captured consistently in a manner that lends itself to review and analysis. Elements of a use of force report should include:

1. Reporting officer
2. Date, Time, Location
3. Type of call
4. Number and names of all involved officers
5. Charge
6. Officer injury and suspect injury
7. Type and nature of force
8. Medical treatment and names of treating personnel
9. Drug and alcohol involvement
10. Photographs
11. Names of witnesses
12. Video or audio evidence

In deciding the threshold of when to generate a use of force or response to resistance report and



how extensive the report needs to be, the agency should conduct a needs assessment. The assessment should examine all incidents involving employees who have caused, or are alleged to have caused death or injury to another, have accidentally or intentionally discharged a firearm, or have applied weaponless force upon another to the extent it is likely to cause or lead to unforeseen injury, claim of injury, or allegations of excessive force, e.g., the use of neck holds, four point restraints (commonly referred to as the “hog-tie” restraint), punches, or kicks. The agency should also require that each officer involved or witnessing a use of force event generate a supplemental report detailing their involvement and observations.

If physically able, the primary employee involved should always be required to write a report detailing their involvement before the conclusion of the tour of duty on which the incident occurs. If physically unable, then a verbal report should be obtained and committed to writing as soon as practical. Written procedures should state by whom, when, and how the report will be submitted.

The agency should consider modifying its policy to provide for an “outside” agency to conduct the criminal investigation anytime an application of force by an officer results in death or serious bodily injury. Additionally, all officers and supervisory personnel should be trained on the importance of immediately notifying the communications center when a use of force incident occurs and the necessity of identifying and securing witnesses.

A part of the use of force policy should include a response to the scene of any incident by a supervisor requiring that the supervisor conduct a documented review of the incident, including by:

1. Interviewing the officer applying force
2. Interviewing other involved officers
3. Interviewing any third party witnesses
4. Interviewing the suspect
5. Photographing the suspect
6. Photographing any injuries to the officer
7. Photographing any damage to the involved officers’ uniform
8. Ensure appropriate evidence is secured and documented, i.e., taser cartridge, firearm, spent rounds
9. Determining if any video or audio tape recording of the incident is available and making arrangements to secure it as evidence
10. Making an independent determination as to whether the use of force was within policy

In requiring a supervisor’s response to all use of force incidents, the agency creates a culture of accountability and communicates that these events are taken seriously by the agency, which will reduce the likelihood of the improper application of force by its members.

Remarkably, for at least a decade the agency has required personnel to document in a report the pointing of a firearm at a subject. The 9th Circuit (*Robinson*) decided in 2002 that the pointing of a firearm was a seizure and hence a use of force. This is sound policy and the agency should be recognized for requiring this use of force reporting requirement.



Justification: CALEA 1.3.6 *A written report is submitted whenever an employee:*

- a. discharges a firearm, for other than training or recreational purposes;*
- b. takes an action that results in, or is alleged to have resulted in, injury or death of another person;*
- c. applies force through the use of lethal or less lethal weapons; or*
- d. applies weaponless physical force at a level as defined by the agency.*

·*Robinson v. Solano County*, 278 F.3d 1007 (9th Cir. 2002)

·IACP National Law Enforcement Policy Center, Reporting Use of Force, Model Policy, February 1997

Implementation Strategy: Issue a single use of force policy, which includes all agency authorized weapons and tactics related to the use of force. Develop and issue a use of force report form that captures consistently the use of force elements identified as critical by the agency, after conducting a thorough needs assessment. Conduct training for all sworn personnel on the policy and the proper completion of the use of force report.



BART Police Management Audit

Topical Area: Use of Force

Issue: Requirement for Administrative Review of Use of Force Reporting

Current Application or Practice: The agency has six written directives that discuss and define the reporting review requirements when there is an application of force:

- Lethal Force/Incidents Resulting In Death or Great Bodily Injury
Operational Directive NO. 74
Date of Issue: March 18, 1986 Revised: January 29, 1999
- Electronic Control Devices-TASER
Operational Directive/Policy 309
Updated: April 7, 2009
- Carotid Control Hold
Operational Directive NO. 89
Date of Issue: March 18, 1987
- Use of Lethal Force
Operational Directive NO. 75
Date of Issue: 08/25/06
- Use of Considerable Physical Force
General Order NO. III, section: 3.321
Update: '84
- Arrest Control Devices
Directive NO. 73
Date of Issue: January 28, 1986 Revised: October 16, 2000

The agency's policies authorize various types of use of force, including both lethal and less-lethal. Each has a reporting and review requirement that differ based on the nature of the force used by a member. In the use of the carotid control hold, the supervisor is required to "record a determination concerning the justification of the application of force." However, in a circumstance where there is a use of considerable physical force the officer is to "immediately call a higher ranking officer to the scene," with no policy guidance provided as to requirements of that supervisor upon arrival at the scene or a supervisor reporting requirement. The officer applying the considerable physical force is required to submit an "inter-officer memorandum" to his bureau commander, but no findings as to whether the force was justified is required or any process of review is discussed in the policy. The use of considerable physical force is not required by policy to be tracked by Internal Affairs.

The recently re-issued Taser policy requires a supervisor to respond to the scene when there is a Taser deployment and to "make a recommendation on whether the use of the Taser was justified



or not.” That requirement was put into place several months after the initial Taser policy was issued because the policy did not mandate a supervisor response or review. The supervisor review is then submitted up the chain of command for the bureau commander to make a finding on whether the Taser use was justified. Those findings are forwarded to Internal Affairs for tracking and auditing purposes.

According to several supervisors, the agency contracted with Lexipol as the vendor to provide written directive update support to the agency. Agency members indicate that Lexipol presents the agency with policies that generally address and conform to the law and accepted police practice. BART PD has indicated that it established a Lexipol committee, which modifies existing policies and creates new policies to match the needs of the department. In one instance, the failure to perform a critical review resulted in the initial Taser policy being disseminated without any mandate of a supervisor response and reporting requirement when a Taser is deployed, and without requiring that the Taser deployment and use of force report be forwarded to Internal Affairs for tracking purposes.

In the directive that deals with arrest control devices, the supervisor must review the use of force and make a “recommendation on whether the use of force was justified or not.” The report is then required to be forwarded to the bureau commander who makes a determination if the action was justified or not. It is next forwarded to the police chief for “final disposition.” The report is also required to be submitted to Internal Affairs for tracking. As a matter of policy, Internal Affairs does not conduct an independent review of a use of force incident unless specifically directed by a higher authority.

In instances of lethal force, the agency provides for detailed review and investigation, bifurcating its response by conducting a separate criminal and administrative investigation. However, supervisors indicate that the agency provides no specific training to supervisors about their responsibilities in a less lethal use of force incident.

During a review of the Internal Affairs tracking and review mechanism for use of force events with several supervisors, the process was characterized as flawed. Personnel explained there are no systems, and that not all use of force incidents are forwarded to Internal Affairs. “Some do get to IA and some don’t.” The use of force review process is conducted by the officer’s sergeant and lieutenant, and then forwarded to the bureau commander before being sent to Internal Affairs for filing and recording. The policy indicates that the use of force report is also submitted to the police chief for final disposition; in practice, however, that does not occur. Internal Affairs conducts no review of use of force incidents unless directed to do so by the Chief of Police. It was explained that since the agency issued Tasers, there has been a separate “drop down” field in the electronic reporting system to assist in tracking those incidents in the reporting system. Other use of force events are not documented in a separate field or drop box. Additionally, Operational Directive No. 73 “Arrest Control Devices” was issued in 1986 and revised in 2000, when the agency’s reporting system was “a hard paper process.” During a discussion regarding policies, a supervisor referred to the current agency situation as one of “dueling policies,” and advised that its policies routinely do not speak to officers’ current practice. This was the case for the agency which adopted an electronic reporting system in 2004 but did not modify its use of force policies to ensure that all electronically-generated use of force reports would be forwarded to Internal



Affairs, in contrast to the “hard paper process” detailed in the policy which did have such a requirement.

An audit of randomly selected reports containing a use of force incident revealed a practice that lacked a consistent review protocol. The following reports were assessed for policy compliance:

- BART Police Department Report # 0903-2649
- BART Police Department Report # 0903-0259
- BART Police Department Report # 0612-2444
- BART Police Department Report # 0609-1104
- BART Police Department Report # 0602-3506
- BART Police Department Report # 0701-3608
- BART Police Department Report # 0808-1488
- BART Police Department Report # 0701-0917
- BART Police Department Report # 0805-2635
- BART Police Department Report # 0810-3000
- BART Police Department Report # 0703-3796
- BART Police Department Report # 0804-2432

In some instances, a sergeant composed a multi-paragraph memorandum detailing findings and noting a copy was submitted to Internal Affairs. In others, such in report# 0701-0917 the reviewing supervisor wrote in large red letters “Within Policy Per O.D. #74” and made what appeared to be “eyes” from the initials in O.D.(Operational Directive). This doodling suggests seriousness in conducting this review was absent. In other reports, the sergeant noted on the front of the incident report in ink “in Compliance with Taser Policy” and initialed and dated it. Both supervisor reviews appeared to be based solely on the incident report generated by the primary officer, and reflected a lieutenant endorsement, one with a “within policy” comment, the other with no comment by the reviewing lieutenant. Another set of initials with no date or clear finding was noted, contrary to Policy No. 73 (E.) (F.) Bureau Commanders Review; and, the findings of the Bureau Commander will be in writing and forwarded to the Chief of Police for final disposition. The written findings by the Bureau Commander and the final disposition by the Chief of Police were absent. Though it appears the Police Chief’s initials may have been on the majority of the reports, the agency practice is not consistent with policy.

Supervisors upon promotion do not receive training as it relates to conducting a use of force review, “they’re expected to know the policy,” according to several supervisors. It is evident from the evaluation of randomly-selected reports containing a use force event that the agency has no standard or approved format for a supervisor use of force review.

A review of the re-issued TASER Policy and the following eight randomly selected reports was conducted:

- BART Police Department Report # 0904-0430
- BART Police Department Report # 0902-0097
- BART Police Department Report # 0812-3338
- BART Police Department Report # 0812-2064
- BART Police Department Report # 0901-0024
- BART Police Department Report # 0904-0234



BART Police Department Report # 0905-1431
BART Police Department Report # 0904-3095

Each reported reflected Taser incidents involving the discharge of probes. Each disclosed that the processing and tracking of the Taser cartridge, which is received into evidence, was not always consistent with policy and the practice varied with the approving supervisor. The written directive requires an officer upon discharging a Taser and its probes to receipt the cartridge into evidence. A review of the evidence form submitted with the cartridge noted an absence of cartridge identification number on the evidence submittal form, making chain of custody for a particular Taser cartridge disputable. In one case the cartridge was not submitted as required. Additionally, supervisors complained during interviews that there is a failure by command staff to follow-up on "Command Staff Notes" which have the affect of policy. Matters will be decided in the meetings, such as requiring all use of force reports to be submitted through the chain of command to Internal Affairs. After several days the former practice of not sending the use of force reports resumed with no consequence to any agency member.

Supervisors stated that Staff Inspections are not routinely completed by the agency to ensure the various agency entities are in compliance with the agency policy.

Supervisor's training for the proper review and documentation of a use of force event is absent. Agency members assigned to Personnel and Training advised they do not receive a copy of any use of force incident reports or a use of force analysis or review to identify training or policy needs.

An annual log of use of force events was provided by the Internal Affairs Unit. Personnel in that unit indicated, however, that there is no assurance all use of force events are forwarded to Internal Affairs because of a lack of agency accountability. The Internal Affairs Use of Force Log or Force Options Log is a tracking of use of force involving firearms for 2006, and firearms, OC spray, baton, and k9 for 2007 and 2008, and firearms, OC spray, baton, K9, and Taser for 2009. No provision for documenting or noting the use of weaponless force was noted on any of the reports. However, under the category of "NOTES" in the 2009 report was three incidents of "Physical Force" indicated. Prior to 2007 Internal Affairs generated a "Firearms Report."

Commendation or Recommendation: A single use of force policy, including a standard reporting and review process for each incident involving a use of less-lethal and weaponless force should be employed by the agency. The review should consist of an articulation of the facts as understood by the reviewing authority and a finding that is significantly detailed.

The process should include a charge requiring Internal Affairs to conduct an independent review of the use of force reports and to make a separate finding in addition to tracking and recording use of force events. Additionally, the Training function should receive a copy of reviews or analysis so they are in a position to identify training needs or policy issues.



Weaponless use of force reporting and review should include instances where the application of leg sweeps, elbow jabs, punches, kicks or other weaponless force, are well documented and the salient facts surrounding the event noted and reviewed as in any other use of force event.

The agency should critically review, adapt, and assign staff to implement all policies received from Lexipol and ensure each written directive contain the necessary agency policy requirements, particularly in high liability areas such as use of force.

Justification: **CALEA 1.3.7** *The agency has a written procedure for an administrative review of each use of force report.*

·IACP National Law Enforcement Policy Center, Reporting Use of Force, Model Policy, February 1997

Implementation Strategy: Issue a single use of force policy, which includes all agency authorized weapons and tactics related to the use of force, and develop a standard use of force review process that details the responsibilities of each member, including the responding and reviewing supervisor. Ensure supervisors receive comprehensive training in conducting use of force reviews and provide for review of use of force reports by Internal Affairs for policy compliance. Initiate corrective or disciplinary action when non-compliance performance is identified as appropriate.



BART Police Management Audit

Topical Area: Use of Force

Issue: Administrative Leave in Use of Force Events Where Death or Serious Injury Result.

Current Application or Practice: The agency has a written directive that provides for administrative leave when an employee is involved in an incident where lethal force is applied and results in death or great bodily injury:

- Lethal Force/Incidents Resulting In Death or Great Bodily Injury
Operational Directive NO. 74
Date of Issue: March 18, 1986 Revised: January 29, 1999

Commendation: The agency policy is consistent with accepted police practices.

Justification: **CALEA 1.3.8** *A written directive requires that any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury, be removed from line-duty assignment, pending an administrative review.*

Implementation Strategy: Continue the current practice.



BART Police Management Audit

Topical Area: Use of Force

Issue: Use of Force Training

Current Application or Practice: The Agency has at least six written directives that govern and define the training requirements of Agency personnel prior to utilizing a particular type of lethal and less-lethal force:

- Lethal Force/Incidents Resulting In Death or Great Bodily Injury
Operational Directive NO. 74
Date of Issue: March 18, 1986 Revised: January 29, 1999
- Electronic Control Devices-TASER
Operational Directive/Policy 309
Updated: April 7, 2009
- Carotid Control Hold
Operational Directive No. 89
Date of Issue: March 18, 1987
- Use of Lethal Force
Operational Directive No. 75
Date of Issue: 08/25/06
- Use of Considerable Physical Force
General Order No. III, section: 3.321
Update: '84
- Arrest Control Devices
Directive No. 73
Date of Issue: January 28, 1986 Revised: October 16, 2000

The Agency requires successful completion of the prescribed firearms course and qualification, which according to personnel, consists of two firearms qualifications a year for 2006, 2007, and 2008. Additionally a review of the lethal force policy is completed annually.

No training requirement is included in the "Considerable Physical Force" policy. The Agency's training requirements for OC spray mandate the successful completion of a supplemental departmental-approved course. Department members may carry the baton after proper training and certification. Only personnel trained as prescribed by the Agency may use Specialty Impact Munitions Systems (SIMs). The Carotid Control Hold requires an officer to have successfully completed a department approved course of instruction in its application, followed by "periodic training thereafter." Taser training requirements mandate that Agency members successfully complete the department approved training prior to issuance of a Taser, or being authorized to purchase a Taser.



Interviews with Training Staff regarding the training that sworn personnel receive in the use of deadly force and less-lethal weapons revealed that the present training record-keeping process is a combination of several systems that have been developed over several years. These include Training Management Software (TMS), officers' folders containing paper certificates of individual officers receiving training when and where the certificates are provided to the Training Unit. According to Training Staff, paper certificates are not always submitted to the Training Unit. The Agency is also able to access training records for POST certified training on the California POST Electronic Data Interchange (EDI). If no records for an individual officer were located after searching each of the described records systems, the Agency would have to search dozens of boxes of paper training records for the documented training, if such documentation is available. The Agency has maintained a "Range Log" for all firearms training, since 2006. The range log is on a computer database; prior to 2006 the range log was a paper record. Training Staff communicated frustration with the TMS program because it is not utilized to its full potential and because only one person has been trained to operate the system. When requested to produce several records from the TMS system for review, Training Staff struggled to access some information. They explained that records regarding high liability training prior to 1999 would be difficult to provide, as recordkeeping was not a priority. The training records between 1999 and 2003 are generally accessible; but from 2003 through 2006, there are significant gaps in the training records. Recordkeeping since 2007 "should be accurate" according to Training Section personnel. The Training Section participated in a review of firearms records, documenting deadly force training for 2006, 2007, and 2008.

The Training Staff advised that Agency members receive firearms proficiency training twice a year. At each of those in-service training sessions, there is a review of policy completed with attendees and attendance records are generated. Lesson plans are on file with the Agency, but no written examination is required governing the Agency's use of deadly force policy. Line supervisors and command staff members interviewed regarding the Agency's deadly force training practice generally indicated that deadly force training is conducted two times a year, and that the use of deadly force policy is reviewed at that time. Members advised that the Agency provides no "advance tactics training" and that the training which does occur is "catch as catch can." This characterization excludes firearms training which is provided twice a year, with several members indicating they received such training four times a year, along with a policy review at each training session. The firearms' training is not scenario-based.

Members who served as supervisors for years reported they had never received a notice of "missed training" for an employee who was accountable to them. The same can be said about an employee that "failed to show" for firearms qualification. The Agency lacks a "flagging" system for those who miss range or any other critical task training. A lieutenant noted that when he was promoted to lieutenant, he was surprised by the amount of "command staff" members (lieutenants and above), who failed to attend range. The practice requires the range master to schedule separate dates on the range for command staff to receive firearms qualification training. When he arrived on that "Command Staff" firearms training date, he was the only one there for the full day. He said when he initially arrived, he inquired of the range master where the other command staff members were and the range master responded, "Yeah, don't be surprised, you may be the only one." It was the lieutenant's assessment that command staff personnel lacked



accountability. Another command staff member commented that the Agency does not have a process at the command level to get any command staff member missing firearms qualification back to the range to complete the required qualification training.

The Patrol Division Commander, when provided with randomly-selected training records of officers who missed training on mandatory topics, indicated he would conduct a review and respond. The email response from the Patrol Commander essentially indicates that one officer was off on industrial injury leave for a year (January 29, 2006 through January 31, 2007). Upon returning, he “signed into a remote reporting location and his Sergeant failed to ensure that he watched the required training DVDs. His Lieutenant has counseled the Sergeant and the officer is currently making up missed training for 2007 and 2008.” The response regarding the second officer’s records advised that the officer “has almost completed making up all of her missed training. Her sergeant was also counseled to be diligent in ensuring that all direct reports complete the required training.”

Training Staff advised that in instances of high liability training, or any training, no notification occurs through the chain of command detailing who failed to attend or to qualify with a firearm. The current process requires that, where an officer no-shows or fails a training requirement, the training sergeant should notify the individual officers and patrol sergeant. The patrol sergeant addresses and documents the action taken. No other notification occurs through the chain of command and the Training Section does not receive a follow-up as to the action taken by the patrol sergeant against the employee. Training personnel indicate the present procedure creates an environment where, conceivably, a sworn member could be working despite the fact that he had not qualified with a firearm for a year or more. A review of the Agency’s firearms records revealed multiple individuals with no record of firearms training during one or more of the periods reviewed (2006, 2007, and 2008). The review also revealed that most line personnel participate in firearms training, but supervisors indicate that some detectives do not routinely qualify as required by the Agency. There is no compulsory attendance at the qualifications according to personnel, particularly as it relates to command staff members. The assessment of numerous agency personnel is that there is no accountability system in place to ensure all members complete required training.

Line officers randomly selected and interviewed regarding the Agency’s use of force policies and training related they qualify with their firearm every six months. There is a deadly force policy review, but no written test given during the deadly force in-service training. Sworn personnel and supervisors alike consistently indicated that the Agency does not provide a sufficient level of less-lethal or weaponless training and many indicated that it had been a decade or more since that type of training had been provided, prior to the Taser training in 2008. The Taser training consisted of five-hours of Taser training and five-hours of defensive tactics and baton training, a total of ten-hours. The exception to this was for sworn personnel assigned to SWAT, or the Tactical Team or those selected for SIMs training, where some additional weaponless tactics were trained and the policies reviewed. The Agency provides no re-certification training for OC spray, Carotid Control Hold or Baton, despite the requirement in the policy governing the Carotid Control Hold that periodic training occur. Members indicated that it had been anywhere from three years to over 20 years since they had training involving OC spray



or the Carotid Control Hold, unless they had been recently hired and received it during the Field Training Officer program or from their former Agency if they had been laterally hired.

During interviews with the Training Staff regarding in-service training and specialized training conducted prior to January 1, 2009, indicates that the Agency did not have documented Agency-wide defensive tactics training for at least three years prior to the Taser training and baton training in late 2008. Individual officers assigned to SWAT or the Tactical Team reportedly participated in defensive tactics and weapons training, as did “new hires.” Although the majority of the team members were involved in this training, no attendance records or class rosters and no training records for individual officers exist for less-lethal training. Training personnel indicated that comprehensive records are available for firearms training qualification and include attendance and the firing course curriculum.

Training Staff indicated that the Agency has not had a POST certified instructor for several years. Consequently, the Agency’s internal training was not eligible for POST credit. According to Training personnel, California POST mandates that agencies have a certified instructor, lesson plans, and a roster of attendees in order for the training to be eligible for POST certification. However, the department did not submit that required documentation until late 2008. According to personnel, the Agency had one POST certified course in the last five years that was unrelated to firearms. “Everything in training is done on the fly,” commented a sworn officer. The Training Section reports that it does not receive a copy of the use of force reports or an annual analysis of incidents involving the use of force for their review.

Sworn personnel advised they received initial training on OC spray, ASP, and the Carotid Control Hold at the academy or initially by the Agency, but only received in-service training on the Baton in December 2008, during the Taser training. Personnel repeatedly stated the only re-occurring in-service training they have had regarding use of force involves firearms and the recently acquired Tasers. When questioned regarding remedial training, personnel advised the Agency did provide in-service remedial training during firearms qualification for the weak shooters, for both duty weapon and rifle. During the interviews, a member commented, “We are finally getting the attention we’ve wanted; except for firearms we are weak in all other training.”

Commendation or Recommendation: The Agency has several separate use of force policies and individual written directives for the various weapons authorized by the department. Combine the various policies into a single use force directive detailing the Agency’s training requirement for each authorized force mechanism. The Agency’s use of deadly force policy training process should ensure that all sworn members receive annual training addressing the legal justification for the use of deadly force, with a provision for tracking and mandating attendance for those that do not attend regularly scheduled training. Remove personnel from any position requiring a firearm when they fail to attend and achieve firearms qualification, until the member satisfies the Agency qualification requirements. The Agency should develop a written use of force testing instrument and ensure that all covered personnel perform satisfactorily on the examination as a part of the annual use of force training. Further, the Agency should modify all policies regarding the application of force and capture the elements of reasonableness detailed by



the US Supreme Court in the case of *Graham v. Connor*. The Agency makes sound use of remedial training for firearms training.

Establish biennial, in-service use of force refresher training. It need not be as formal as entry-level or recruit training. Accomplish less-lethal use of force retraining through a combination of methods. For example, conduct training during shift briefing sessions, which include reviewing legal updates on use of force issues, or conducting written or skills based tests on use of force and less-lethal weapons during annual firearms qualifications courses. Establish proficiency levels with input from certified weapons instructors or others in the Agency that can validate the criteria. Demonstrated proficiency with less-lethal weapons may consist of the same criteria used at entry level, or abbreviate or extend the training, based on the Agency's experience with the weapon or technique in the field. Requiring a written test on the salient points of less-lethal force will further ensure and demonstrate a comprehensive understanding of the Agency's policies.

Unless applied properly, Carotid Control Hold and other similar compliance techniques that rely on cutting off the flow of oxygen to the brain have the potential to cause serious injury or death. Therefore, the Agency, when authorizing the use of such techniques must make certain that its personnel properly receive in-service training in the use of these techniques to minimize the possibility of injury. In addition to the initial training, the Agency must require biennial refresher training to maintain the skills required for proper application of these tactics.

"Training, re-training, and training again. Department policies are ineffective unless they are intellectually and practically processed by the field supervisors who communicate them to the police officers and enforce them. Training is paramount to our mission of accountability."
(Gruber)

Justification:

CALEA 1.3.10 *A written directive requires that only Agency personnel demonstrating proficiency in the use of Agency-authorized weapons be approved to carry such weapons.*

CALEA 1.3.11 *At least annually, all Agency personnel authorized to carry weapons are required to receive in-service training on the Agency's use of force policies and demonstrate proficiency with all approved lethal weapons and electronic controlled weapons that the employee is authorized to use. In-service training for other less-lethal weapons and weaponless control techniques shall occur at least biennially. In addition:*

- a. Proficiency training must be monitored by a certified weapons or tactics instructor;*
- b. Training and proficiency must be documented; and*
- c. The Agency must have procedures for remedial training for those employees who are unable to qualify with an authorized weapon prior to resuming official duties.*

CALEA 1.3.12 *A written directive requires that all Agency personnel authorized to carry lethal and less-lethal weapons be issued copies of and be instructed in the policies described in standards 1.3.1 through 1.3.5 before being authorized to carry a weapon. The issuance and instruction shall be documented.*

- IACP Use of Force Model Policy, February 2006



- *Charles A. Gruber, "A Chief's Role in Prioritizing Civil Rights," The Police Chief, November 2004, vol. 71, no. 11.*

Implementation Strategy: Develop and implement a single policy that describes the training requirements of all weapons and tactics authorized by the Agency. Develop and require a written test addressing the legal justification for the use of force for both deadly and less-lethal encounters. Provide training in the documentation of use of force events with an emphasis on the elements contained in *Graham v. Connor*. Create and implement processes for reviewing and identifying personnel that are absent from high liability training, particularly firearms qualification and less-lethal weapons training and take appropriate disciplinary or corrective action.



BART Police Management Audit

Topical Area: Use of Force

Issue: Analysis of Use of Force Reports

Current Application or Practice: The Agency has no policy or practice requiring an analysis of use of force reports. Presently, weaponless uses of force incidents are not required to be reported and therefore are rarely forwarded to Internal Affairs for tracking. This makes an accurate analysis difficult. Supervisors and Internal Affairs personnel report inconsistencies in the distribution of use of force reports in those incidents that are required to be forwarded to Internal Affairs; this breakdown would also tend to frustrate an accurate analysis of use of force events. Supervisors said that no information or analysis is shared with them involving use of force incidents.

During a discussion with Internal Affairs regarding their tracking mechanism for use of force events, personnel characterized it as “flawed.” Agency members explained there is no system to ensure accurate reporting and not all use of force incidents are forwarded to Internal Affairs. One supervisor stated, “Some do get to IA and some don’t.” when referring to the disposition of use of force reports. Internal Affairs several years ago developed a spreadsheet for use of force events, but weaponless use of force events are not carried as a category. In those rare instances when weaponless use of force events are reported to Internal Affairs, those incidents are scored under the category of “NOTES” and with the sole annotation, “physical force.” Training Section personnel related that they do not receive a copy of the use of force reports or an annual analysis of incidents involving the use of force.

Commendation or Recommendation: The Agency should conduct an annual analysis of all use of force events. Few issues outweigh the concern raised in a community when it is perceived that members of a law enforcement Agency use inappropriate levels of force. A community rightfully expects that its law enforcement Agency will apply weapons and tactics that are only utilized in conformance with sound policies, procedures, and training. An analysis of use of force events will aid in ensuring these community expectations are met. Annually, the analysis should be reviewed with the Training Section and supervisors. A review of incidents of force may reveal patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications.

Justification:

CALEA 1.3.13 *The Agency conducts a documented annual analysis of those reports required by standard 1.3.6.*



CALEA 1.3.6 *A written report is submitted whenever an employee:*

- a. Discharges a firearm, for other than training or recreational purposes;*
- b. Takes an action that results in, or is alleged to have resulted in, injury or death of another person;*
- c. Applies force through the use of lethal or less lethal weapons; or,*
- d. Applies weaponless physical force at a level as defined by the Agency.*

Implementation Strategy: Issue a written directive that requires all use of force events to be reported on a specific use of force report form that will capture functional information lending itself to a useful and effective analysis; conduct an analysis annually. Distribute the annual analysis to the Training Section and review the analysis with all supervisors.



BART Police Management Audit

Topical Area: Use of Force

Issue: Authorization of Restraining Devices (Handcuffing and Leg Restraints)

Current Application or Practice: The Agency has two written directives that govern and authorize the use of handcuffs and leg restraints:

- Policy on Applying Handcuffs and Leg Restraints
- Special Order NO. 06-03
Date of Issue: 3/3/06
- Processing and Handling Arrestees
- Operational Directive NO. 44
Date of Issue: June 7, 1982 Revised: May 12, 1999

Policy requires all detainees and arrestees be handcuffed to the rear, with the handcuffs double-locked and checked for tightness. It allows detainees and arrestees to be handcuffed to the front under limited circumstances. A report is required documenting the handcuffing of an arrestee or detainee.

Policies governing the use of handcuffs and leg restraints were requested and Agency members initially advised that the department did not have a policy for “hog-tying, leg restraints or handcuffing.” It was stated that as a matter of Agency practice, hobbling was permissible and hog-tying was not. Other members indicated hog-tying was practiced, but no policy existed. Personnel related hobbles and hog-tying are allowed by the Agency but did not recall if there is a policy, indicating they are rarely used. The following day an Agency member presented Special Order No. 06-03, dated 3/3/06 “Policy on Applying Handcuffs and Leg Restraints.” The policy described the appropriate use of leg restraints and indicated it was in effect until Operational Directive No. 44 is revised. An employee advised he found the special order on a clipboard in the zone one sergeant’s office. When questioned, a member of the unit responsible for the Field Training Program (FTO) advised he did not believe the new hires (officers employed recently and participating in the agency’s FTO program) receive Special Order No. 06-03 because it is not a part of the manual. A copy of Operational Directive No. 44, “Processing and Handling Arrestees” was also provided. No revision to the policy in the last three years to include the change generated in Special Order No. 06-03 had occurred. During a dozen interviews or more, sworn personnel were asked if the Agency had a handcuffing policy. Almost universally, personnel indicated they were not familiar with the handcuffing policy or had knowledge if the Agency had one. Most advised the Agency custom was to double lock, check for tightness, and document the handcuffing event in an incident report. During at least one interview, it was indicated a report was not generated for detainees that were handcuffed (investigative detention) but not charged.



The following randomly selected custodial reports were requested and reviewed for compliance with the Agency's restraint policies:

BART Police Department Report # 0904-2065
BART Police Department Report # 0902-1014
BART Police Department Report # 0806-1311
BART Police Department Report # 0805-3351
BART Police Department Report # 0801-3156
BART Police Department Report # 0801-0246
BART Police Department Report # 0603-1609
BART Police Department Report # 0602-0108
BART Police Department Report # 0601-3552
BART Police Department Report # 0512-3925

The audit reflected that six of the ten incident reports documenting a custodial arrest did not comply with Special Order NO. 06-03, Applying Handcuffs and Leg Restraints, Date of Issue: 3/3/06, because the reporting officer failed to document the handcuffing of the suspect as required by policy. Policy requires documentation in the incident report indicating that the officer checked the handcuff for tightness and double-locking. In each report, supervisor approval was noted whether handcuffing compliance documentation was evident or not.

Commendation or Recommendation: The Agency's restraint directives were unknown to the majority of the members interviewed, supervisors and officers alike. It is necessary for officers to know when and how detainees are to be restrained and when, where, and how particular restraining devices are to be employed, including special and prohibited methods such as hog-tying. Members should be aware that some techniques have been found to contribute to serious physical injury or death, e.g., "positional asphyxia" and should be prohibited. Most members knew the custom of documenting the use of the handcuffs, and checking and noting for tightness and ensuring the handcuffs were double-locked noting those processes in the arrest report. Many had little operational knowledge regarding the use of leg restraints. The Agency had a compliance level of 40%, as it related to noting the required policy elements of handcuffing in the arrest report. Further, there is an absence of active supervision as it relates to reporting and documenting specific handcuffing policy elements, indicating a significant training or discipline need by the Agency for this high liability area.

Restraining devices also may be harmful to sick, injured, or elderly detainees, depending upon the nature of the sickness or injury. The written directive should be specific in defining circumstances when restraining devices would and would not be necessary and the extent of the officer's discretion in their application. The present policy requires handcuffing in every arrest situation. Consideration should be given to modifying the policy and provide for instances where handcuffing would not be warranted, requiring the arresting officer in those circumstances to document the basis for not handcuffing an arrestee or detainee.

Insofar as members acknowledge the use of handcuffs during investigative detention, the agency's restraint policy addressing that police action should be included. The 9th Circuit Court



of Appeals discussed the legal implications of that issue in *Ward v. Darryl Gates* and provides policy guidance.

Justification: **CALEA 70.2.1** *A written directive describes restraining devices and methods to be used during detainee transports with exceptions noted.*

- *Ward v. Darryl Gates et.al*, 52 Fed.Appx.341 (9th Cir.2002).

Implementation Strategy: Issue a single updated directive and conduct scenario-based training on the revised policy. Conduct periodic and random reviews of arrest reports for policy compliance relating to the documentation of the required handcuffing elements. Initiate corrective or disciplinary action against supervisors approving reports without the appropriate handcuffing documentation.





Chapter 13

Management Control



BART Police Management Audit

Topical Area: Management Control

Issue: Staffing Requirements

Current Application or Practice: The BART PD currently does not have a mandatory staffing requirement during special days or events.

Commendation or Recommendation: BART PD should require that 80% of its manpower work during special events or occasions when there will be heavy usage of the transit systems, train stations, or parking lots. Occasions such as New Year's Eve and Halloween are examples of when the maximum amount of manpower should be required to work in order that there is a sufficient staffing level to prevent and reduce crime and maintain social order.

Justification: It is a law enforcement best practice to dictate a high staffing level by law enforcement agencies during special days or events.

Implementation Standards: The BART PD should create a written directive that mandates 80% of the manpower is required to work during special days or events as declared by BART Management.



BART Police Management Audit

Topical Area: Management Control

Issue: CALEA Accreditation

Current Application or Practice: BART PD is currently not internationally accredited with the Commission on Accreditation for Law Enforcement Agencies [CALEA].

Commendation or Recommendation: It is recommended that BART PD should pursue becoming internationally accredited through CALEA.

Justification: Becoming internationally accredited through CALEA is quality control for BART Administration. If the agency achieves accreditation and maintains accreditation every three years, BART Administration knows that it's maintaining performance standards in the best interest of the community and the employees of the BART PD.

Implementation Standards: BART PD should file an application with CALEA to pursue accreditation. The accreditation must be achieved within three years of the application date.



BART Police Management Audit

Topical Area: Management Control

Issue: Deputy Chief Job

Current Application or Practice: The number two managers within the BART PD are commanders and they are both members of a collective bargaining unit.

Commendation or Recommendation: It is recommended that the BART PD add the job of Deputy Chief with two positions. One position will be a Deputy Chief for Operations and the other for a Deputy Chief of Administration. The Deputy Chief's job should be outside the police union. This should be a salaried job in which the Police Chief will have the discretion to rotate the individuals from Operations to Administration so that they have the ability to gain experience in both areas. The candidates selected for this job should be a part of the organization's succession plan. These executive police managers should not be in a collective bargaining unit.

Justification: It is a law enforcement best practice not to have managers in a collective bargaining unit. This creates the potential for actual or perceived conflict of interest when making management decisions. This also creates a higher level of accountability of the Deputy Chiefs to the Police Chief. This also enables the Chief to either promote from within or publicly advertise the Deputy Chief job. This recommended structure is a law enforcement best practice.

Implementation Standards: BART should modify its policy so that it can develop a new structure in which the number two managers in the police department are not members of a collective bargaining unit while having the ability to hire externally.



BART Police Management Audit

Topical Area: Management Control

Issue: Daily Supervision & Accountability

Current Application or Practice: The BART PD currently does not use a daily activity log or some other instrument to determine the work load and activities of its officers.

Commendation or Recommendation: The BART PD should establish a system of daily accountability for all employees to ensure the Mission major goals of the agency and performance standards are being achieved. A daily activity report might be used to critique the officers' work load and activity during a shift.

Justification: It is a law enforcement best practice for an agency to set performance standards and goals for each of its employees. These performance standards and goals are consistent with the agency's Vision and Mission.

Implementation Standards: BART PD needs to develop or identify an instrument to evaluate daily performance of its employees. This instrument will be reviewed by managers on a daily basis to provide feedback on job performance.



BART Police Management Audit

Topical Area: Management Control

Issue: Span of Control

Current Application or Practice: The BART Police Department is currently decentralized in four zones; however there is a lack of adequate supervision to assist in the oversight of police officers. The span of control for the first-line supervisors is geographically too broad. It reduces the supervisors' capability to respond to the officers on scene and provide appropriate supervision. Currently, the supervisors are not able to physically meet with officers at the beginning and ending of all shifts to give direction and guidance, or simply inform them of who they report to. Officers are regularly offered overtime assignments to provide adequate staffing levels.

Recommendation: The BART Police Department should decrease the geographic span of control for first-line supervisors or increase the number of first-line supervisors to allow for adequate supervision of patrol shifts. The BART Police Department should also reassess its current shift schedules to minimize holding officers past their assigned shifts, as this may result in the increase of officer stress, fatigue and performance degradation, thus possibly impacting the officer's performance while contacting citizens in the community.

Justification: CALEA 11.2.1 *Each employee is accountable to only one supervisor at any given time.*

Agencies with decentralized strategies or community oriented policing may deploy supervisors geographically rather than temporally. Employees should have a clear understanding of this reporting relationship and accessibility to a supervisor.

Implementation Strategy: The Chief of Police should reassess the organizational structure of the department to ensure adequate supervision and staffing levels for all geographic service areas.



BART Police Management Audit

Topical Area: Management Control

Issue: Line Inspections

Current Application or Practice: The BART Police Department currently does not have any accountability measures in place to monitor officer activities or hold them accountable for their actions. Information from interviews suggests when accountability efforts are attempted they are discouraged by command staff. Most officers interviewed stated they have proactive time available but are not given direction or guidance.

Recommendation: All BART Police Department supervisors should develop and adopt audit mechanisms (line inspections) for calls for service, activity reports and relevant police reports to uncover possible police misconduct. They should also conduct random sampling of in-car videotapes, (if applicable) radio transmissions, and in-car computers (MDT's). Officers who fail to comply should be held accountable.

Justification: **CALEA 1.2.9 (c)** *The agency has a written directive governing bias based profiling and at minimum, includes the following provisions:*

c. corrective measures if bias-based profiling occurs; and

CALEA 53.1.1 (c) *A written directive requires line inspections within the agency and includes provision for the following at a minimum:*

a. procedures to be used in conducting line inspections;

b. frequency of inspections

c. responsibilities of the supervisor in each organizational component for both the conduct of inspections and correction of conditions discovered by the inspection;

d. criteria to identify those inspections that require a written report ;

e. a follow-up procedure to ensure corrective action has been taken.

Line inspections should be a primary responsibility of supervisors and managers at every level of the agency and should provide a mechanism for achieving accountability within the agency.

Implementation Strategy: The Chief of Police should implement a written directive requiring supervisor to conduct line inspection on officers' activity and reports and to hold them accountable to policy and procedures.





Chapter 14

Operations



BART Police Management Audit

Topical Area: Operations

Issue: Mission Statement

Current Application or Practice: BART PD currently does have a Mission Statement, but it needs to be updated.

Commendation or Recommendation: The Chief of the BART PD should facilitate a stakeholders group to develop a Mission Statement that describes the organization’s function and purpose and how that purpose will be achieved. A Mission Statement should be updated at least every five years.

Justification: A Mission Statement is an international accreditation standard. [CALEA]

Implementation Standards: A Mission Statement for an organization should clearly address the question. “What are our organization’s primary assignments in striving toward our vision?” The Mission Statement should meet, at a minimum, the following principle elements . . .

1. Who we are;
2. What we do;
3. Who we do it for; and
4. How we do it.



BART Police Management Audit

Topical Area: Operations

Issue: Vision Statement

Current Application or Practice: BART PD currently does not have a Vision Statement.

Commendation or Recommendation: The Chief of the BART PD should develop a Vision Statement that describes where the department is headed within the next three to five year period. A Vision Statement establishes a foundation for the organization's Mission Statement and major goals.

Justification: A Vision Statement is an international accreditation standard.

Implementation Standards: A Vision Statement should answer the question, "What do we want this organization to be like three to five years from now?" A Vision Statement should include the following principle elements . . .

1. Be clear;
2. Be expressed in present tense; and
3. Use visionary terms to spawn excitement.



BART Police Management Audit

Topical Area: Operations

Issue: Core Values

Current Application or Practice: The BART PD has established organizational Core Values. These Core Values issued by the previous Chief in 2000 and should be updated.

Commendation or Recommendation: The BART PD should revise their Core Values which identify the conduct and the character exhibited at every member of the organization while achieving the Mission.

Justification: Core Values are the conduct and character exhibited by every member of the organization while achieving the Mission. Core Values describe . . .

1. Character;
2. Conduct; and
3. Behaviors.

The development and implementation is a law enforcement best practice.

Implementation Standards: The agency should develop a set of written Core Values involving a group of key stake-holders to articulate conduct and behaviors which the agency wants to establish as having a priority for their members. For example, the agency may develop Core Values such as “integrity” or “service”. Each core value should be defined.



BART Police Management Audit

Topical Area: Operations

Issue: Goals

Current Application or Practice: BART PD currently does not have a multiyear “strategic” plan for the department.

Commendation or Recommendation: BART PD should develop a multiyear plan which includes the following:

- a. long-term goals and operational objectives;
- b. anticipated workload and population trends;
- c. anticipated personnel levels;
- d. anticipated capital improvements and equipment needs; and
- e. provisions for review and revision as needed.

Justification: It’s a law enforcement best practice for an agency to have a Multiyear plan.

Implementation Standards: The BART PD should take a comprehensive approach involving a group of key stake-holders to articulate the major goals which should be achieved consistent with the organizational mission. Goals should specifically answer the question, “*What do we have to do to accomplish our Mission while striving toward our Vision?*” Each of the following issues identified above should be addressed.



BART Police Management Audit

Topical Area: Operations

Issue: Developing a Written Directive System

Current Application or Practice: The BART PD does not currently have an approved written directive system that indicates how and by what position on the table of organization policies and procedures are developed and implemented.

Commendation or Recommendation: BART PD should develop a written directive system that indicates how policies and procedures are developed and implemented. The agency should establish procedures for review of proposed or revised policies, procedures, rules, and regulations prior to their promulgation to ensure they do not contradict other existing agency directives or applicable law.

Justification: BART PD must have a formal written system for the issuance of written directives. However, the agency should make it clear what level of authority is required to issue each type of directive, e.g., only the Chief may issue rules and regulations, division commanders may issue standard operating procedures. The agency should also make it clear that a written directive pertaining to a subordinate component may not contradict a directive issued by a higher level authority, e.g., a division procedures manual may not contradict an agency-wide regulation. Every written directive should be reviewed annually by the issuing authority to determine if changes should be made because of changed circumstances or occurrences during the previous year. This is an international accreditation standard.

Implementation Standards: The agency should develop a written directive that indicates how policies and procedures are developed and implemented.



BART Police Management Audit

Topical Area: Operations

Issue: All Hazard Plan

Current Application or Practice: BART PD currently has a written All Hazard Plan for responding to civil disturbances, mass arrests, bomb threats, hostage/barricaded person situations, acts of terrorism, and other unusual incidents. The BART district's emergency plan serves as the police department all hazards' plan. It was last updated in May of 2008.

Commendation or Recommendation: The BART PD should provide training on its updated All Hazard Plan(s) for responding to critical incidents, such as natural and man-made disasters. This plan includes details for responding to civil disturbances, mass arrests, bomb threats, hostage/barricaded person situations, acts of terrorism, and other unusual incidents. The BART district's emergency plan serves as the police department all hazards' plan. It was last updated in May of 2008. Training with all police personnel and key stakeholders should be conducted and documented on this updated plan on an annual basis.

Justification: CALEA 46.1.9 It is an international accreditation standard for all law enforcement agencies *to provide for documented annual training on the agency's All Hazard Plan for affected agency personnel.*

Implementation Standards: The BART PD should conduct annual training on its All Hazard Plan for affected agency personnel.



BART Police Management Audit

Topical Area: Operations

Issue: Records Management System-Comp Stat

Current Application or Practice: The BART Police Department does not have a records management system in place to measure and capture police contacts or track crime patterns and trends. Failure to capture this data makes it impossible for the BART Police Department to monitor officer activity or determine where to deploy available resources.

Recommendation: The BART Police Department should enhance their record management system to be able to capture sufficient data to effectively capture officer contact and track crime. A “Comp-Stat” process (a crime –mapping system) should then be implemented to track crime by statistical data. It would assist in the establishment of an accountability process to measuring the effectiveness of:

- Accountability Systems
- Accurate and timely crime intelligence
- Deployment methods
- Effective Tactics
- Follow up Measures

Justification: **CALEA 15.3.1** A written directive establishes crime analysis procedures to include, at a minimum:

- a. identifying documents from which crime analysis data elements are extracted;
- b. disseminating analysis finding; and
- c. briefing the agency’s chief executive officer on crime patterns or trends.

Implementation Strategy: The Chief of Police should develop and implement a written directive for the implementation of an enhanced records management system and the utilization of a “Comp-Stat” process. The Chief of Police and command staff would analyze the crime data on a weekly basis.

Effective and validated deployment of resources driven by statistical data will assist in the department in preventing, reducing, and solving crime.



BART Police Management Audit

Topical Area: Operations

Issue: Crime Analysis

Current Application or Practice: The BART PD does currently collect crime data. However, the department needs to take the next step and analyze this data on a regular basis, ideally weekly, for the purpose of developing strategies and tactics for the purpose of preventing, reducing, and solving crime.

Commendation or Recommendation: The BART PD should have a written directive establishes crime analysis procedures to include, at a minimum:

- a. identifying documents from which crime analysis data elements are extracted;
- b. disseminating analysis findings; and
- c. briefing the agency's chief executive officer on crime patterns or trends.

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analyses of data from field interrogations and arrests. Also, crime analysis can be useful to the agency's long-range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

Justification: Effective law enforcement agencies collect and analyze crime data for the purpose of developing strategies to prevent, reduce, and solve crime. This is an international accreditation standard. [CALEA]

Implementation Standards: The agency should use a computerized information system that produces weekly reports by specific geographical areas which are provided to all managers of the police department. Managers will then be held accountable to develop strategies and tactics which include community involvement to prevent, reduce, and solve crime. A statistical analysis will be done every month to determine the effectiveness of strategies and tactics.



BART Police Management Audit

Topical Area: Vehicle Pursuits

Issue: Procedures for Conducting Vehicle Pursuits

Current Application or Practice: The Agency has at least two written directives that govern vehicle pursuits and the Agency training requirements for that critical task:

- Emergency-Vehicle Response and Pursuit Policy
Operational Directive No. 22
Year Issued: 2007
- Pursuit Policy Training Requirement
Bulletin No. 07-15
Date of Issue: 05/08/07

The policy addresses most of the important components of a police pursuit directive. Interviews with personnel demonstrated that the expectations of the Agency are generally well known to all personnel. Absent in the policy was Agency guidance related to the most recent US Supreme Court decision involving vehicle pursuits, *Scott v. Harris* 550 U.S. 372 (2007). The United States Supreme Court ruled in *Scott v. Harris*² that “a police officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death.” The Agency policy reflects a higher legal burden, “no police unit should attempt...ramming...unless it appears reasonably certain that failure to do so will result in death or serious injury.” The Agency policy authorizes the Precision Immobilization Technique (PIT) for those trained on the maneuver, but personnel in the Training Section advised no one in the Agency has been trained to employ the PIT.

The Agency places heavy emphasis on POST DVD training, but no discussions with personnel occur before, during, or after viewing the DVD, questions are not answered, and “benchmarks” consistent with Agency policy are not reinforced. Some members advised the pursuit policy was reviewed during simulator training. Personnel indicate they receive pursuit training every two years; however police pursuit training was not required by the Agency until 2007. Pursuit policy training was also not provided to lieutenants in ensuring their responsibilities were executed pursuant to the written directive, according to ranking members. There was a recent review of a “Lexipol” pursuit policy, but it focused only on operational aspects of the directive.

Agency policy provides for “Administrative Review,” which includes a review by the bureau commander of the watch commander’s critique, and the completion of “CHP 187A Pursuit Report and pursuit critique...” The copies of these reports are required to be submitted to Internal Affairs and maintained. The Agency does not conduct an analysis of vehicle pursuits.



Internal Affairs related that pursuit reports are not routinely submitted to their unit. Contrary to policy, personnel in that unit recall only receiving one pursuit report and that was a part of a directed internal investigation.

The following reports were selected for review with Internal Affairs for compliance with the Agency's policy:

- BART Police Department Report # 0804-2796
- BART Police Department Report # 0806-2650
- BART Police Department Report # 0810-1309
- BART Police Department Report # 0711-1147
- BART Police Department Report # 0704-3600
- BART Police Department Report # 0703-3244
- BART Police Department Report # 0705-3474
- BART Police Department Report # 0606-1034
- BART Police Department Report # 0610-1470
- BART Police Department Report # 0611-1534

Only one report complied with Agency policy, and that report was the focus of an Administrative Investigation with a sustained finding against a member for a policy violation. Nine of the pursuit reports did not have an Administrative Review and two of the nine did not include a completed CHP 187A, as required by policy and California law.

In an interview with the Patrol Bureau Commander he acknowledged that there had not been compliance with the Administrative Review requirement of the policy and said it would be addressed. On July 4, 2009, an email received from the Patrol Commander contained the minutes to the Command Staff meeting for 6/30/09 and included this entry:

"The department has not been diligent in adhering to the vehicle pursuit policy. Pursuit reports are not being forwarded via the chain of command to the executive level. The new Lexipol pursuit policy indicates reports are to be forwarded via the chain of command to the Chief and to internal affairs. Sergeants shall complete a separate vehicle pursuit form to accompany the report."

Commendation or Recommendation: Combine the Agency pursuit related policies into a single written directive. A review of the most recent US Supreme Court decision involving vehicle pursuits, *Scott v. Harris* 550 U.S. 372 (2007), should occur with serious consideration given to modifying the language in the Agency policy to mirror the court decision. In that case, the court ruled that "a police officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death." The Agency policy authorizes the Precision Immobilization Technique (PIT) for those trained on the maneuver. However, the Agency does not train the PIT. Research demonstrates that the PIT is significantly safer and more predictable than the ramming of a vehicle and the Agency is encouraged to train its members in its execution. Otherwise, remove the reference to the PIT from the policy.



The agency's training in pursuit should be frequent and robust. Training on the pursuit policy entails frequent discussion and review of the police pursuit policy and procedures during shift briefings, in addition to annual in-service training sessions, including a written test. A particular concern, relating to pursuit training for this Agency, includes the California State Code 17004.7 (b) (1) (d) "Public Immunity" which makes as a condition for immunity from a lawsuit the adoption of a pursuit policy and annual training. Based on the response from Agency members, and the recordkeeping of training by the agency, in addition to the lack of follow-up by the agency when training is missed by those on extended leave or otherwise do not attend, this area should be a priority for detailed review and corrective action by the Agency.

California State Code 17004.7 (12) also requires an "Administrative Review" if the agency is going to enjoy the cloak of immunity for causes arising from a vehicular pursuit. Admittedly, the agency had not been complying with their pursuit policy in this regard. The agency immediately addressed the matter at the Command Staff Meeting when it came to their attention, but more must be done. A process of training for all personnel responsible for conducting reviews or reports to conform to the law and agency policy should be immediately implemented. Likewise, training should be conducted for all personnel in the proper completion of CHP 187A.

Internal Affairs should receive a copy of all reports generated in the course of a pursuit and conduct an independent review, ensuring the completeness of all appropriate forms. In addition, Internal Affairs should make a factual determination and finding as to whether the pursuit was in compliance with the Agency policy. An annual analysis conducted by Internal Affairs of all Agency vehicular pursuits and distributed to supervisors and the Training Section. The proper review of the use of force analysis by the Training Section will afford opportunities to identify training deficits or policy failures.

Finally, the Agency should develop a process of staff inspections or audits to ensure the Agency policies are in compliance. Nine out of ten pursuit reports randomly selected and reviewed reflected a violation of policy. A staff inspections process will identify these violations and provide internal opportunities for correction.

Justification: **CALEA 41.2.2** A written directive governs pursuit of motor vehicles, to include:

- a. evaluating the circumstances;
- b. officer's responsibilities;
- c. designating secondary unit's responsibilities;
- d. specifying roles and restrictions pertinent to marked, unmarked, or other types of police vehicle involvement in the pursuit;
- e. assigning dispatcher's responsibilities;
- f. describing supervisor's responsibilities;
- g. specifying when to terminate pursuit;
- h. engaging in inter and intra-jurisdictional pursuits involving personnel from the Agency and/or other jurisdictions;
- i. requiring a written report and an administrative review of each pursuit; and
- j. conducting an annual, documented analysis of those reports.



- California State Code 17004.7
- Law Enforcement Pursuits in Georgia: Review and Recommendations, July 2006
Georgia Association of chiefs of Police Amicus Curiae Brief, *Scott v. Harris*
- IACP Vehicular Pursuit Model Policy, October 1996
- *Scott v. Harris*, 550 U.S. 372 (2007)

Implementation Strategy: Issue a single updated policy that includes all elements necessary to address and provide guidance to personnel in the critical area of police vehicle pursuits. Provide training for all members, including comprehensive training to ranking members charged with supervision and review of pursuits. Conduct an annual analysis of all pursuits and review the findings with all personnel, particularly the Training Section.



BART Police Management Audit

Topical Area: Operations

Issue: Public Information Officer (PIO)

Current Application or Practice: The BART Police Department currently does not have a Public Information Officer (PIO) to communicate directly to the community on behalf of the police department.

Recommendation: The BART Police Department should create the position of a Public Information Officer (PIO) in order to have a representative from the police department communicate directly with the community under the authority of the BART Media Relations Office. This will help to facilitate providing accurate and timely information from a policing perspective.

Justification: **CALEA 54.1.1** The public information function shall include, at a minimum:

- a. assisting media personnel in covering news stories at the scenes of incident;
- b. preparing and distributing agency media release;
- c. arranging for, and assisting at media conference;
- d. coordinating and authorizing the release of information about victims, witnesses and suspects;
- e. coordinating and authorizing the release of information concerning confidential agency investigations and operations; and
- f. developing procedures for releasing information when other public service agencies are involved in a mutual effort.

Implementation Strategy: The Chief of Police should select a public information officer (PIO) to assist the department in communicating directly to the community on police related incidents.

In order for effective and positive communication to occur within the BART PD, it is critical to have leadership at all levels of the organization that are committed to being the stimulus for change. The BART PD PIO should work in collaboration with the BART Administration Media Relations Office. There should also be training and mentoring regarding media relations. A media relations policy should be established and consistent with the above recommendations.



BART Police Management Audit

Topical Area: Operations

Issue: Community Engagement

Current application or Practice: The BART Police Department does not require officers in the field to be responsible for any proactive policing efforts in the community. Observations of officers on patrol did not make a concerted effort to engage members of the community on the platforms during available proactive time. Although this may not be reflective of the entire force, it's important for officers to engage citizens in a positive environment when possible.

Recommendation: The BART Police Department officers should focus more time on being visible on the platforms and riding the trains during proactive time. This will give officers the opportunity to engage members of the community in a positive manner when applicable.

Justification: CALEA 45.2.1 (e) (f) The community involvement function provides the following, at a minimum:

- e. improving practices bearing on police community interaction; and
- f. developing problem oriented or community policy strategies, if any.

Implementation Strategy: The Chief of Police should develop and implement policy requiring officers to spend proactive time on the platforms and trains.



BART Police Management Audit

Topical Area: Dealing with Persons Suffering from Mental Illness

Issue: Training and Policy - Mental Illness/Inebriated

Current Application or Practice: The Agency has at least two written directives that govern legal requirements of Agency personnel for the uniform handling of persons that suffer from a mental disorder or are inebriated.

- 5150 W&I and 5170 W&I
Operational Directive NO. 64
Date of Issue: September 18, 1984
Revised: April 22, 1998
- Application for Emergency Psychiatric Detention
5150 W&I Report Form #0329
Operational Directive NO. 19
Section 11

The agency policies provide direction in satisfying the legal procedures, and completing the forms and reports necessary for taking a subject suffering from a mental disorder into custody. The written directive details the authority, reporting requirements, and transportation of the subject.

During interviews with personnel, the agency was described uniformly as lacking any policy on how to handle and deal with the mentally ill, aside from completing reports necessary for a commitment process. Similar characterizations were made relating to training. A few members recalled some training in dealing with the mentally ill. One said about five years ago a block of training was offered by the Agency, but could not recollect any significant aspect of the training. Another indicated the Agency provided a 90-minute training DVD in dealing with individuals with mental illness, but related the Agency has no policy regarding the handling of mental subjects, except how to process the commitment paperwork. The member did note that use of force with the mentally ill had to be reasonable. Another recalled POST DVD training, but could not recall any details of the training or when it occurred. Several personnel recalled a block of instruction in the police academy some years ago and indicated the training primarily focused on completing the forms for taking a mental subject into custody. When asked about Agency training or policy relating to dealing with the mentally ill, the following statements captured the tenor of the comments made by most personnel:

- “No policy, no training, despite the fact that we often deal with the mentally ill.”
- “No scenario based training in handling the mentally ill and we have so many.”
- “We need policy and training and should bring in an expert, all we do is shoot them off and they come back.”



- “Not certain if there is a policy, there is no training on dealing with the mentally ill.”

According to the Agency’s Crime Analyst, Agency personnel handled the following number of incidents involving mental subjects:

- 2006 432
- 2007 357
- 2008 373

During interviews with personnel, it was evident that the Agency’s practice, as it relates to dealing with the mentally ill, does not provide for a policy. Further, the Agency does not have significant training that recognizes that individuals that suffer from mental illness may require a different response by personnel, depending on the circumstances.

Commendation or Recommendation: The Agency should develop a policy for Agency members in addressing subjects that suffer from mental illness. The International Association of Chiefs of Police describes in its 1997 model policy, “Dealing With The Mentally ILL,” the importance of addressing this vital task and high risk encounter:

“Dealing with individuals in enforcement and related contexts who are known or suspected to be mentally ill carries the potential for violence, requires an officer to make difficult judgments about the mental state and intent of the individual, and requires special police skills and abilities to effectively and legally deal with the person so as to avoid unnecessary violence and potential civil litigation. Given the unpredictable and sometimes violent nature of the mentally ill, officers should never compromise or jeopardize their safety or the safety of others when dealing with individuals displaying symptoms of mental illness. In the context of enforcement and related activities, officers shall be guided by this state’s law regarding the detention of the mentally ill. Officers shall use this policy to assist them in defining whether a person’s behavior is indicative of mental illness and dealing with the mentally ill in a constructive and humane manner.”

The Agency, in developing its mental illness policy, must ensure to address the following areas:

1. Recognizing Abnormal Behavior;
2. Determining Danger;
3. Dealing with the Mentally ILL; and
4. Taking Custody or Making Referrals.

An additional compelling consideration for clear policy, initial training, and on-going in-service training for Agency personnel when dealing with the mentally ill is the litany of court cases that have established a duty for an Agency to train its personnel in this critical area. Officers must take into account, and alter their tactics where they can safely do so, when a subject suffering from mental illness becomes known to the police prior to, or during, the encounter. In *City of Canton, Ohio v. Harris*, the court articulated the standard of “deliberate indifference” for those jurisdictions that fail to provide reasonable training to their police personnel in critical tasks. Dealing with the mentally ill is a critical task, a task that the Agency is involved in hundreds of time a year.



In denying the Agency summary judgment in *Herrera v. Las Vega Metropolitan Police Department*, the court concluded:

“...Officer’s...statements that a mentally ill person should be treated as any other person, regardless of the situation, [in the use of force context] indicates that the police department’s training dealing with the mentally ill falls well below the reasonable standard of contemporary care.”

Almost two decades ago, in the case of *Quezada v. County of Bernalillo*, a federal appeals court overturned a \$1.24 million award against a deputy for violating the decedent's federal civil rights in the shooting death of a suicidal woman. *The court did uphold, however, the county's liability under state law for negligent failure to train or supervise deputies on how to deal with potential suicides, and an award against the deputy for acting negligently under the circumstances.*

Justification: **CALEA 41.2.7** The Agency has a written directive regarding the interaction of Agency personnel with persons suspected of suffering from mental illness that addresses:

- a. guidelines for the recognition of persons suffering from mental illness
- b. procedures for accessing available community mental health resources; c. specific guidelines for sworn officers to follow in dealing with persons they suspect are mentally ill during contacts on the street, as well as during interviews and interrogations;
- d. documented entry level training of Agency personnel; and
- e. documented refresher training at least every three years.

- IACP National Law Enforcement Policy Center, *DEALING WITH THE MENTALLY ILL*, Model Policy, April 1997
- Herrera v. Las Vega Metropolitan Police Department*, 298 F. Supp 2d 1043 (Dist. Nevada 2004)
- Quezada v. Co. of Bernalillo*, 944 F.2d 710 (10th Cir. 1991)
- *City of Canton, Ohio v. Harris*, 489 U.S. 378
- Jack Ryan, JD. “The Law and Best Practices of Successful Police Operations, Twelve (12) High Risk Critical Tasks that Impact law enforcement operations and create exposure to liability litigation.” Indianapolis, ID: PATC publishing, 2007.

Implementation Strategy: Develop an Agency directive in collaboration with mental health professionals, who can also train or assist the Agency with training. Training should include access to the court system and applicable case law. A training review and update of the policy occurs at least every three years.



Chapter 15

BART PD Employee Survey





BART Police Department Employee Survey

SUMMARY

The following is a general summary of the strongest responses received by BART PD employees to topics within the Employee Survey.

- a. The majority of employees indicated that their job motivation is low. [Question 1]
- b. Effective communication needs to be established by management with line personnel. [Question 2]
- c. The majority of employees desire increased involvement in decisions that affect them. [Question 3]
- d. The majority of employees believe there is a greater need for appropriate job-related training for personnel. The employees the following areas as those they deem most important [Question 8]:
 - i. Investigative Skills
 - ii. Current Law Changes & Effects
 - iii. Computer / Software Use
 - iv. Use of Force and Defensive Tactics [tie]
- e. The vast majority of employees believe that the organization should establish new organizational statements. Specifically, the agency should develop a new Vision Statement, Mission Statement, Core Values, and major Goals. [Question 3H]
- f. The majority of employees believe that the agency should develop and implement effective crime control strategies. [Question 3 P]
- g. The majority of employees believe that better equipment is needed. [Question 3 T]
- h. The majority of employees believe that there should be improvement to the promotional process. [Question 3 S]
- i. The majority of employees believe that there is a need for a comprehensive and contemporary general orders manual. [Question 2 N]



j. The majority of employees believe that there is a need for increased supervision and accountability. [Question 3 L]



~ Final Results ~
[109 Respondents]

1. How would you rate your current morale [job motivation] level?

VERY HIGH	3
SOMEWHAT HIGH	15
NEUTRAL	15
SOMEWHAT LOW	23
VERY LOW	50
NO RESPONSE	3

2. In your opinion, how effective is the department in doing the following in the last three years? *[Respondent circles the response that most closely reflects their thoughts.]*

		VERY EFFECTIVE	SOMEWHAT EFFECTIVE	SLIGHTLY EFFECTIVE	NOT AT ALL	NO RESPONSE
A.	Responding to employee ideas & suggestions	3	18	39	49	
B.	Listening to employee ideas & suggestions	3	19	35	52	
C.	Communicating important information through appropriate channels	3	25	32	49	
D.	Treating employees fairly & consistently	10	25	34	40	
E.	Recognizing the need to improve working conditions	1	10	36	62	
F.	Praising employees for work well done	7	23	31	48	
G.	Providing constructive criticism for work not so well done	6	26	35	42	
H.	Providing appropriate training	1	9	45	53	1
I.	Providing information and helpful work evaluations	2	20	43	44	
J.	Involving employees in decisions that impact them	2	15	26	65	1
K.	Involving employees in research and planning	2	8	29	70	
L.	Promoting our work plan and product to the public	0	10	23	75	1
M.	Holding officers accountable for their performance	5	20	47	37	
N.	Having a comprehensive and contemporary general orders manual	4	19	37	49	



3. How important is it to you that the department strives to accomplish the following goals in the next few years? *[Respondent circles the response that most closely reflects their thoughts.]*

		VERY IMPORTANT	SOMEWHAT IMPORTANT	SLIGHTLY IMPORTANT	NOT AT ALL	NO RESPONSE
A.	Technology improvements	67	25	15	2	
B.	Increase support staff	42	35	24	7	1
C.	Increase number of sworn officers	47	41	16	5	
D.	Increase racial / ethnic / gender diversity within the department	29	25	24	30	1
E.	Increase community partnerships	36	37	25	11	
F.	Broaden and enhance current training offerings	75	21	11	2	
G.	Improve the FTO program	65	23	11	9	1
H.	Pursue a Department Statement of Vision, Mission, Major Goals, & Core Values	50	25	28	5	1
I.	Solicitation of community input on police operations	18	28	34	29	
J.	Review & rate training programs for effectiveness and applicability	52	38	14	5	
K.	Improve police facilities	93	7	3	5	1
L.	Increase supervision and accountability	57	31	14	7	
M.	Develop positive working relationships with each other	65	32	9	3	
N.	Work toward international accreditation	30	32	25	20	2
O.	Provide visibility of officers on trains	48	34	17	9	1
P.	Provide for a more effective crime control strategy	55	35	12	6	1
Q.	Provide a Community Advisory Committee	14	19	34	42	
R.	Augment enforcement efforts with training/education/prevention programs for ridership	37	43	21	8	
S.	Improve the promotional process	51	27	23	7	1
T.	Improve police equipment	77	22	6	3	1

4. If you are a sworn officer, during the course of an average work week, how many hours do you spend engaged in preventative police work [i.e.: making informal contacts with patrons] identifying potential problems and attempting to address them voluntarily “park, talk, & walk”?

0	2
1-3	17
4-6	11



7-9	6
10-15	14
16-20	9
21+	19
NOT APPLICABLE	22
NO RESPONSE	9

5. How supportive are the patrons of the BART Police Department?

VERY SUPPORTIVE	15
MODERATELY SUPPORTIVE	59
NOT VERY SUPPORTIVE	32
NOT AT ALL	0
NO RESPONSE	3

6. How do you like the new patches for the BART Police Department?

VERY MUCH	34
SOMEWHAT	29
NOT MUCH	17
NOT AT ALL	27
NO RESPONSE	2



7. Please rate the following statements with regards to BART Police Department.

[Respondent checks off that which most closely reflects their thoughts.]

		VERY EFFECTIVE	SOMEWHAT EFFECTIVE	SLIGHTLY EFFECTIVE	NOT AT ALL	NO RESPONSE
A.	The current level of accountability that everyone is held to within the department is acceptable.	2	24	36	46	1
B.	If we are asked to ride the trains, it will detract from our ability to fight serious crime.	8	19	24	52	6
C.	An officer assigned to a fixed area with discretion and ability for crime prevention and problem solving is advantageous.	32	46	18	7	6
D.	Officers are more effective if they “look beyond the call” to get to the root of the problem.	54	33	11	4	7
E.	Communications between officers on different shifts and support services is adequate.	9	22	42	31	5
F.	Police employees consistently provide quality service and information to our “customers.”	23	42	32	8	4
G.	Officers should be expected to initiate activity during shifts rather than await assignments and calls.	50	31	15	8	5

8. Which of the following trainings would you like to see implemented or expanded? Responses in order of importance to employees. *[Respondents checked ALL that applied.]*

Investigative Skills	85
Current Law Changes & Effects	73
Computer / Software Use	72
Use of Force	70
Defense Tactics / Custody	70
Physical Fitness	68
Supervisory / Management Training	65
Interpersonal Communications	57
Trial Court Skills	46
Frequency of Qualifications [Updates]	44
Customer Service	42
Foreign Languages	34
EMT / Medical	33
Crime Analysis	33



Other suggestions: [*# represents # of times idea was suggested*]

11550 H & S	2
Advanced Officer Skills	
Community Policing	
Crowd Control	
Dealing with Internal Affairs	
Dealing with Mentally Ill Persons	
Diversity	2
DOA/Arrival Training	
Driving	
Drug Recognition	
DUI Investigations	2
Finances Training [more]	
Gang Awareness	
High Risk Ops	
Intelligence	
Interview & Interrogation	
Report Writing	
Stops: High Risk, Pedestrian/Vehicle, Traffic	
Tactics	
Terrorism Awareness	
Training [Live, not DVD]	



9. What do you think are the current policing priorities of the BART Police Department?

TOP THREE in priority . . . 1 = Stations
 2 = Parking Lots
 3 = Trains

	1	2	3
Patrolling streets near BART stations.	3	3	10
Patrolling BART stations.	69	27	11
Patrolling on BART trains.	16	36	44
Patrolling BART parking lots.	18	41	38
No response: 3			



WRITTEN RESPONSES . . .

10a. What should BPD <u>START</u> doing?	
1	<ul style="list-style-type: none"> · First, we need to decide if we're going to be a PD [and accept all the problems, challenges, and standards that come with it] or transit security. I don't care, but a decision needs to be made. · Our dept. is divided. There is no focus or strategic plan for our future. · There has been no expressed Vision for our organization - and I've been here over 10 years. · Our dept. needs to develop 4 or 5 targeted goals for our Officers. These goals need to be clearly communicated with every member. Follow-thru will be needed. But that will require work and I do not know who is willing to see this through. · We have been allowed to do as we see fit on a daily basis without being held accountable or receiving timely feedback. We're afraid of looking people in the eye and giving them constructive criticism. · We must have clearly expressed expectations up and down the chain of command and honest accountability [not nitpicky stuff]. · High standards breeds higher performance, higher professionalism and organization pride. It only requires "want to."
2	<ul style="list-style-type: none"> · BPD needs a disciplinary Policy that is more like other depts. At the least, we need a suspension Policy and/or a Pay Step Reduction option.
3	<ul style="list-style-type: none"> · Police work. · Educating the public about the PD. · Make office become proactive. · Having more Officers on trains. · Boost morale. · Hold people accountable.
4	<ul style="list-style-type: none"> · Commit to discipline based on performance, not on personality. Those who are subject to discipline are protected by friends on command. · Commit to promotion based on performance, not personal relationship. · Commit to regular ongoing training in all learning domains. · Use training to increase the Officers' capabilities, performance, & morale. A step system with increasing challenge between steps. · Outreach and training with and for local Police agencies. · Outreach to civil groups, e.g., National Night Out. · Outreach to PAL. · Broadcasting outstanding cases and good Police work by BPD/positive public relations. ·



<p>5</p>	<ul style="list-style-type: none"> · Training: our training is a disgrace. This is my third Police agency and both my previous depts. were much smaller. But training was always a priority at those agencies. · Public education: public needs to be made aware that we are Police Officers and we have authority. Also, Bart-specific violations need to be posted in stations and trains as violations of the law, not as “BART Rules.” Eating on a train is against the law, but patrons are under the impression it is a “Rule.” Better signage would help.
<p>6</p>	<p>Hire more minorities with life experience. Also hire candidates that live within BART areas and understand the communities around the BART areas. They should start promoting more minorities also.</p>
<p>7</p>	<ul style="list-style-type: none"> · Communicate more effectively; top-down, down-up, and laterally. · Develop short, middle and long range goals for dept. and the Officers. “Where are we going and how will we get there.” Keep the rank and file involved. · Restructure beat alignment to provide for increased Officer Safety [2-person cars]. Increase information distribution. Have actual roll calls/line ups with staff, not over the telephone. Assign more cops on trains! · The Richmond line should be separated from the C line. A SGT/LT should be available to respond in a timely fashion on each line. · I think the downtown SF stations [EMS to 24th] should be separated from the stations south of the mission. · Spread LTs throughout the system based on needs and crime trends. · Have Officers develop a personal career plan with dept. and personal career goals. Assign training based on employees pre-set goals and dept. needs. Offer training opportunities dept. wide. · Stop using shotguns. Train all Officers for active shooter response and provide smaller frame sub-machine guns, similar to MP5s. · Develop a communication pipeline between filing detectives and the investigating Officers. Allow detectives the opportunity to provide feedback and filing status on all cases submitted to the DA. This will help Officers understand what the DA is looking for and eventually we will be able to provide a better filing packaged to the DA. · Develop and FTO program that meets POST standards and schedule monthly FTO team meetings to provide updates on trainees and training methods. · Look at alternative scheduling. · More training on perishable skills.
<p>8</p>	<ul style="list-style-type: none"> · Recruit a new Chief outside BART.
<p>9</p>	<p>NO response</p>



<p>10</p>	<ul style="list-style-type: none"> · Hire a chief that cares about providing quality Police services [smoke and mirrors do not count]. · Reinstate Officer stats [there is no accountability]. · Cut down on the use of overtime. · Train, train, train. · Legitimize promotional process. · Revamp FTO program [blow it up and start over if necessary]. · Rotate out those in special assignments that are not qualified for the positions [and should have never been selected]. · Promote women [they are considered second class citizens here]. · Establish a real mission statement, goals and objectives and base the dept.'s hiring, training, procedures, and actions around them. · Develop a policing philosophy - everyone does their own thing because there is no direction. · Develop a culture in which Officers care about and are concerned about people's civil right. · Develop a culture in which providing service to our customers is the guiding light. · Develop employees for upward mobility. · Have payroll clerks handle the payroll instead of LTs and SGTs. · Move, replace or remodel most existing Police facilities · Develop specific strategies to minimize robberies [which can be one step away from a homicide]. · Put canines into patrol beat deployment. Also determine if unit should continue. · Hire more Officers. · Emphasize [and mandate as necessary] train Patrol. · Implement procedures where two-person train Patrol beats do not constantly patrol together. Officers can be in the same station or be on the same train but if they are not joined at the hip, they would double the area being patrolled and they would double their visibility. · Engage our communities. · Develop crime prevention strategies and reach out to our customers and local businesses and groups. · Require that personnel understand and follow the chain of command Take the threat of terrorism seriously.
<p>11</p>	<ul style="list-style-type: none"> · The dept. needs to start holding employees accountable for their performance. · There has been so much favoritism taking place by the Chief of Police for so many years that it will take a true change agent to come in here and begin making this PD an organization where employees are proud to work. · A new leader will need to come in here and represent us proudly to the community.
<p>12</p>	<ul style="list-style-type: none"> · Direction - we need a vision and goals - leadership. · Training. · Accountability. · Set expectations and standards. · Rules & regulations will help [updated rules, please]. · A search for a new chief and commander.



<p>13</p>	<ul style="list-style-type: none"> · Holding people accountable for their actions. · Provide better leadership. · Act more like a PD. · Stand up to the BART Board of Directors - educate them about Police work and how things should be handled within a PD.
<p>14</p>	<ul style="list-style-type: none"> · Training. · Improve Police facilities. · Formal community-oriented policing Officer <u>AND</u> program. · Re-design the entire Officer evaluation [performance] · Demonstrate leadership: top down · A 4/10 plan w/2 teams: T/F/S off & S/M/T off to facilitate more qualified people to promote. Many don't promote due to poor days off & impacted time with family.
<p>15</p>	<p>NO response</p>
<p>16</p>	<ul style="list-style-type: none"> · Monthly training is important to at least get Officers on the same agenda. It would be effective to feed ideas off each other. Patrol techniques, input, etc. Constant training days with real hands-on skills, not DVDs or hand-outs. · FTO program needs improvement. I feel the constant rotation of FTOs every two weeks creates confusion too many training ideas. FTO feels like an evaluation, not training.
<p>17</p>	<ul style="list-style-type: none"> · The dept. should listen to the rank and file about changes. The rank and file voted overwhelmingly to change the badge, but the Chief ignored us. · The idea of going to cheaper, more comfortable utility-type uniforms was also turned down by the Chief. · The dept. should promote more qualified minority candidates to the rank of SGT or above. · Outside entities should do promotions and not the Chief. · The dept. should advocate for a new Police station/headquarters. · It should also start by not accepting substandard working conditions for its employees. · They should also create a train team that rides trains daily. · Paying its Officers and competitive wage.
<p>18</p>	<ul style="list-style-type: none"> · Hold supervisors responsible for approving reports and all personnel accountable for their actions.
<p>19</p>	<ul style="list-style-type: none"> · Be fair and hold Managers accountable.
<p>20</p>	<ul style="list-style-type: none"> · Planning and research. · The <u>District</u> should start realizing they have a PD and provide better working conditions.



<p>21</p>	<ul style="list-style-type: none"> · Looking professional: Start with the pride taken in your work environment. Currently, we are working in a building that is being torn down over us. We do not have adequate seating in the briefing and the seating we have is sub-standard, the table in on its last leg, literally, there is no designated area for report writing or interviewing of suspects or victims. · Bringing a victim into this environment makes me feel ashamed, ashamed I wear a badge and uniform that shows professionalism, but I work in an environment that is anything but. · The lunch room is both ant and roach owned, there is one small refrigerator of which when opened the door falls off, and then there is a second refrigerator of which partially works. One microwave does not work at all and the second is low power. · Then the area in which I change my attire has a non-working shower and only one outlet which are over burdened with several extensions to assist in keeping equipment charged. · Then there is the lack of proper ventilation in the entire building in the summer it is too hot and the winter it is too cold. · I believe if several of these items were addressed Officers would start their shift in a better mood, moral would 'Lift and it might be a start to better days.
<p>22</p>	<ul style="list-style-type: none"> · Form a community policing division that will build relationships with the community, and address citizens' concerns.
<p>23</p>	<ul style="list-style-type: none"> · Get back to the business of policing.
<p>24</p>	<p>NO response</p>
<p>25</p>	<ul style="list-style-type: none"> · The BART PD should start standing up for its members. · There are a lot of good Officers and supervisors within the dept. But no one in the upper ranks have stood up and defended or stated such. · Yes there may be a need for a lot of changes but Officers can only work with what is given or offered to them. · That night of New Years was tragic and should not have happened, but no one went there looking to shoot Oscar Grant.
<p>26</p>	<p>NO response</p>
<p>27</p>	<ul style="list-style-type: none"> · More training for Officers, not the DVD training. · Other than firearms and now defensive tactics, we don't get squat, which is criminal for a PD in this area.
<p>28</p>	<ul style="list-style-type: none"> · Add more Officers.



29	<ul style="list-style-type: none"> · It starts with ownership. · The dept. lacks leadership by example. · Chief is out of touch with the real needs of this dept. · Training is poor and lacking. · Morale is low to a point of Officers wonder why they are here. · I think Officers will begin to apply elsewhere in the coming months if change is not in place.
30	<ul style="list-style-type: none"> · More training.
31	<ul style="list-style-type: none"> · Put away the “old boys’ club” mentality. · Team work to unity of all workers. · Cease hidden racism and favoritism, but open new lines of how to communicate. · Find out each person’s job function in BPD and other depts.; strengths, weaknesses, past abilities, and use to improve dept. · Have liaison committee to know everyone’s job, function as to improve, relate, and better BART with each other and patrons. · Have suggestion box overseen by BART board and Police. · Improve moral by respecting all given positions. In a company, the workers are as good as the character, not just the ability of their leaders. The lowest frontline worker is just as important to know his talents as the rest.
32	<ul style="list-style-type: none"> · More training · Listen to Patrol Officers
33	<ul style="list-style-type: none"> · Supporting the actions and decisions of the Officers. · Promoting “intelligent” personnel to the positions of SGT & LT.
34	<ul style="list-style-type: none"> · More training is essential, we have taken a first step. · [Continue to] Seek community involvement
35	NO response
36	<ul style="list-style-type: none"> · Ride trains more.
37	<ul style="list-style-type: none"> · Recognizing personnel who have gone above and beyond the call of duty - sworn AND non-sworn. · Keeping ALL informed of what’s going on within dept. · Promoting people based on merit and work history. · Reinstate graveyard CSO positions and add more special assignments for CSOs. · There are many tasks that can be done by non-sworn freeing up sworn Officers. · They need to start holding people accountable for their work. If they are not qualified or able, then retrain or let the employee go. · CSOs need to be given tools to perform their jobs such as bullet-proof vests and vehicles for all in the field. · Change CSO uniform - allow employees who work in hot areas, shorts!



<p>38</p>	<ul style="list-style-type: none"> · The dept. is thin at the upper ranks. · Commanders are spread too thin. · We need to put more uniform and plain clothes Officers on trains and in stations. · The District needs to listen to our needs better. · Dept. also needs more administrative personnel. · Better vehicles. · Better facilities. · More Officers so we can train more without using so much overtime. · Add a Deputy Chief of two and more Commanders and LTs. · We are way understaffed to be effective.
<p>39</p>	<ul style="list-style-type: none"> · Make Officers/CSOs accountable. · Get them out of the back rooms and office. · Zone LTs should talk with and support their Officers - encourage proactive activity. · Kick those Officers in the ass that need to be motivated. · The dead wood drags down new and young Officers. · Act like Command Staff - lead the charge.
<p>40</p>	<ul style="list-style-type: none"> · The BART PD needs to start acting and functioning like a large modern PD, which it is. · The Police administration needs to start taking responsibility for their actions and promote an attitude of proactive, progressive Policing that produces an efficient professional PD. · The Dept. needs to start supporting the Officers that go out every day and attempt to do the best job they can with the tools their provided. · The Police administration needs to understand their job, lead from the front, and be competent in their positions so they can properly run this PD which would facilitate improvement in so many other areas that are lacking or running inefficiently.
<p>41</p>	<ul style="list-style-type: none"> · Promote qualified personnel. · Cross-training. · Add CSOs to graveyard shift. · TBAs should get last pick on line-up. · Change CSO uniform. · Listen - Listen - Listen · Assign CSO overtime. · Keep vehicles in better condition.
<p>42</p>	<ul style="list-style-type: none"> · Promote based on experience rather than cronyism. · Hold the CSOs accountable. Have them write citations rather than sit in an office playing on the internet. · Clean up and provide decent offices for direct reports. · Stop assuming that an Officer is guilty even before you have heard his/her side of a complaint. · Make more special assignments and make the testing fair. · Send Management to training to learn how to manage.



43	<ul style="list-style-type: none"> · Updating operational directives and general orders to reflect current administration policy and current case law. · Implement advanced Officer training similar to other depts. · Improve direct report working conditions to include holding facilities and report writing locations. · Make SGTs a part of the BPOA and make LTs and Commanders at will employees. · Hire a Chief from outside the dept.
44	<ul style="list-style-type: none"> · Engage in a community policing program · Model it policies and procedures after the CALEA accreditation standards. · Holding Management accountable for effective supervision. · Consistently train its Officers.
45	<ul style="list-style-type: none"> · Be a more cohesive dept. · More communication from the top to bottom.
46	<ul style="list-style-type: none"> · Provide employees with crowd control/management training. · Training environments should be stressful to simulate real life. · Use a Public Information Officer [PIO] for press releases. · Encourage supervisors to provide line-up training. · Holding Managers accountable. · More community outreach.
47	<ul style="list-style-type: none"> · Holding supervisors responsible for mistakes or lack of supervision. · Hold responsible for not doing their job in all capacity and being lazy. Hold them accountable. · Stand up to the board and make them understand we are a PD
48	<ul style="list-style-type: none"> · Bart PD should have a media person dedicated to giving us a more positive view of our dept. to the public.
49	<ul style="list-style-type: none"> · Start a process of STANDARDIZATION. This process will require the same equipment software, training, and expectations for all. The few exceptions would require written approval. · Start its own IT dept. to handle the funds and purchase and manage the 150 or so computers used by BART PD. · Start a policy requiring 72-hour response to all communications. This would be the maximum wait for a response call.



<p>50</p>	<ul style="list-style-type: none"> · BART PD should start having accountability from the top down. · Revise policies, which have not been changed in over twenty years. · Provide better training and encourage more educated Officers. · Have a higher work ethic and standards, no more should people be allowed or told to do nothing! · Encourage partnerships with the communities we serve. This includes working closely with allied agencies, local community groups, and organizations. · Having better communication.
<p>51</p>	<ul style="list-style-type: none"> · Taking training suggestions seriously. · Adopt/implement a patrol strategy that maximizes uniformed visibility on <u>trains</u> in addition to vehicle patrols. · Start supporting troops [Patrol] and listen to their ideas instead of implementing policies without knowledge. · Provide strong, competent leadership and direction; one that is not slow to react. · Identify problems, weaknesses, and immediately address them.
<p>52</p>	<ul style="list-style-type: none"> · You need a Chief and top Management that stops working on the petty and prioritizes what really counts. · The top of this organization hasn't done any real Police work in over 20 years and it shows. · There is no consistent decision-making and the Chief and Commanders show absolutely no regard for their subordinates. · This place is nothing but high paying welfare for Managers who were inept to being with!
<p>53</p>	<ul style="list-style-type: none"> · Encourage offices to be more proactive in doing Police work. · Supervisors need to communicate more with Officers and have an "open door policy." · Find ways to boost morale. · Support Officer's decisions.
<p>54</p>	<ul style="list-style-type: none"> · Dedicated training days like in the past. · More train Patrol on trains. · Special problems unit increased manpower. · Dedicate administrative personnel for time-keeping. · LTs reviewing policy ongoing basis · Request coliseum event staffing come out of fare gate revenue or station operation budgets - O.T. · Cross train Supervisors at other Police depts. · For critical incidents, Officer involved shooting, preliminary handing of a shooting scene, i.e.: dedicated ride-alongs with BAP OPD.
<p>55</p>	<ul style="list-style-type: none"> · Mission Statement - what are our goals, where are we going to be in 5-10-15-20 years from now as how are we preparing. · Let's go back to being a PD instead of just carrying a name. · Let's go back to policing - fighting crime, protecting our riders and our neighborhood.



56	<ul style="list-style-type: none"> · We should start working more closely with allied agencies to obtain a more complete view of crime trends.
57	<ul style="list-style-type: none"> · Develop a strong Mission Plan, implement it, and make decisions based on whether an action follows that Mission, move forward as a team. · Get more Officers on train Patrol. · Implement performance standards for all employees. Measure compliance to those standards.
58	NO response
59	NO response
60	<ul style="list-style-type: none"> · Have a Command Staff that provides leadership to dept., communicating to dept, District, and public. · Anticipating problems, rather than reacting.
61	<ul style="list-style-type: none"> · Police community relations. Inform the public of the qualifications, abilities of BART Police. · Look to outside agencies for assistance/advice when addressing new problems/events. · Allow a “Police affiliated” employee speak for the dept. · Cross train Officers with “SIMS” and rifles, more outside agency interaction - training.
62	<ul style="list-style-type: none"> · Change CSO uniforms, like 511 polo shirts, 511 pants. · Fix locker rooms, both men’s and women’s. · Better break room at Lake Merritt. · More CSO trainer.
63	<ul style="list-style-type: none"> · Command Staff be held accountable. · Providing better “work locations/facilities.” · Enhancing communication between Command Staff and Officers. · “Double-up” Officers in certain beats throughout the District.
64	<ul style="list-style-type: none"> · They should start updating/revamping the operational directives, increase training essential to the job, i.e.: defense tactics. · Start funding Police projects. · Make improvements to sub-par Police facilities, equipment [money is needed from the District!!!] · Management needs to get more organized and needs to communicate better, more often, more consistently. · Officers should be more visible and proactive if the District supports them and actively cares about preventive crime.



<p>65</p>	<ul style="list-style-type: none"> · Start using CSOs to full potential. · More supervisory check-ups on employees, daily meetings to obtain/share info [too many employees stay in office throughout shift, many sleep and never disciplined]. · Pay more attention to CSOs' ideas. [Many times, I feel like no one cares about us.] Police Officers act like CSOs annoy them. · More attention needed towards traffic enforcement at certain stations, especially large stations, i.e.: Dublin. · Train more CSOs how to tow vehicles. · More attention needed towards CSO FTO program. Program is really poor and lacks leadership. · Use CSOs at more special events if swing shifts were still available. [This would save money on OT Officers!] · Hire more CSOs!! Too many duties, too few CSOs.
<p>66</p>	<ul style="list-style-type: none"> · Communicate and stand up with the Officers. · Update policies vigorously.
<p>67</p>	<ul style="list-style-type: none"> · Promotion by merit, and not because of whom you know in the dept. lead.
<p>68</p>	<p>NO response</p>
<p>69</p>	<p>NO response</p>
<p>70</p>	<p>NO response</p>
<p>71</p>	<p>NO response</p>
<p>72</p>	<ul style="list-style-type: none"> · Start being more active in the communities around the BART stations. · Communicate more with neighboring agencies. · Start rewarding/acknowledging proactive work in the field. · Start backing Officers when they <u>do</u> work.
<p>73</p>	<ul style="list-style-type: none"> · Training Officers! · Value experience and good Police work. · Hold Officers <u>and</u> supervisors/managers accountable for actions, rewarding and punishing as appropriate. · Fire SGTs who are arrested for domestic violence. · Fire Officers who make derogatory statements.
<p>74</p>	<ul style="list-style-type: none"> · Should start letting SGTs supervise instead of running mail and BAP. · Get them out of the office and supervise. · SGTs are always doing busy work. · Not sure what LTs do, seems they should be doing what SGTs are doing. · It would appear to me that LTs dump work off onto SGTs they should be doing themselves.



<p>75</p>	<ul style="list-style-type: none"> · Dept. leaders need to start leading by example. · Reward proactive attempts. Encourage employees to do their job. Currently persons are not discouraged from sitting waiting for a call. No incentives or expectations to be proactive. Sentiment is if you are proactive you will be disciplined for it. · Make entire dept. accountable. Accountability is more than disciplining persons or conducting punitive I.A.s or seeking criminal charges against employees for training issues. · Demand District views us as an independent Dept. and ACT as independent from BART. · Have stronger leaders. Go outside the Dept. for them. · Have a plan, any plan. · Plan for the future, farther away than next week's schedule. Plan for expansion, facilities, personnel and equipment. We have missed opportunities in the past to acquire more space for the Dept.
<p>76</p>	<ul style="list-style-type: none"> · Praise Officers for a job well done and hold them accountable when they make a mistake. · This dept. has a really bad habit of passing trainees in the FTO program that have no business being this profession. · There are several cops who have had two or three badge #s and been to the academy equal amounts of times.
<p>77</p>	<ul style="list-style-type: none"> · Acting like the “real” Police versus well-paid security guards. · In this “customer is always right” type environment, it keeps Officers afraid to want to do anything proactive for fear they’d be the next example of being thrown under the bus to please the media and the Board, who know nothing about Police work, and want to please the public, they’re giving out the impression to the public that we, as Officers at BART, don’t know what we’re doing! · Man up and quit rolling over! R.I.P. Oscar Grant, but we can’t bring him back, so let’s move forward.
<p>78</p>	<ul style="list-style-type: none"> · It would be nice to see the BART PD start to act like an actual PD, not a security agency. · BART PD needs to be directed in a manner consistent with the surrounding Bay area depts. · From the Chief of Police to the least senior Officer, Officers need to be held accountable for their actions as well as their inactions. I believe this has to begin with the command level Officers who need to lead by example.
<p>79</p>	<p>NO response</p>
<p>80</p>	<ul style="list-style-type: none"> · BART PD should start becoming a progressive PD like neighboring PDs, i.e.: state of the art equipment, extensive training, patrolling techniques, and strategies.
<p>81</p>	<ul style="list-style-type: none"> · Have more train patrols. · Have adequate staffing for patrol.



<p>82</p>	<ul style="list-style-type: none"> · Get their own PIO · Participating in more multi-agency enforcement opportunities. Officers will gain more experience, increase liaison between allied agencies and gain public exposure for our PD. · Move training overall, not just firearms!
<p>83</p>	<ul style="list-style-type: none"> · Start becoming more like a PD. · Be accountable. · Take the role of a law enforcement agency as defined. · Diverge from other BART depts. not relating to public safety. · Engage more with the public - let them know [awareness] the crime does occur on BART and our role as a dept. provide the tools necessary [& training] for officers to do their job. · This includes better facilities, modern utilities [i.e.: uniforms, etc.] and equipment. · Basically, start being a PD.
<p>84</p>	<ul style="list-style-type: none"> · Improve morale. · Hire more laterals.
<p>85</p>	<ul style="list-style-type: none"> · The dept. should have their own Public Information Officer. · This would allow for clear and concise information to b given to the public. · The whole outcry from the NYE incident would have been a lot less had the BPD administrators or a POI given a public statement in a timely manner.
<p>86</p>	<ul style="list-style-type: none"> · Training that is more applicable to our patrol duties. · Changing our Police facilities for the better. · Putting technology in our vehicles that work. · Receiving better equipment from the District.
<p>87</p>	<ul style="list-style-type: none"> · Holding <u>everyone</u> to accountability for their actions. · Create a set of standards that Officers/everyone <u>AND</u> Management have to follow. · Managers need to learn how to effectively manage and make decisions; we need effective Managers, not ones that hide all days in offices! · The dept. needs to act like “1” dept., not 4 separate ones. · We need more supervision, no watch Commander on graveyard? · Between classes and meetings, no one is ever here. · Planning ahead - and looking to the future - research for updated/new ideas and technology for transit policing, communication needs to be improved.
<p>88</p>	<ul style="list-style-type: none"> · Begin a full and comprehensive training program. · Allow, promote, and encourage Patrol Officers to take advanced Officer training classes.
<p>89</p>	<ul style="list-style-type: none"> · BPD should start doing more “scenario” training in line-up so Officers can be mentally prepared for all events.



90	NO response
91	<ul style="list-style-type: none"> · Encourage proactive law enforcement. · Determine the dept.'s core values and all work together towards them. · Improve our police facilities and working conditions. · Demonstrate leadership at the upper levels.
92	NO response
93	<ul style="list-style-type: none"> · Start being more visible in stations and on trains. · Interact more with patrons instead of just answering calls or interacting only with co-workers. · Listen to its employees' requests and ideas.
94	<ul style="list-style-type: none"> · Using employees to full capacity. · Asking for input when changes affect classifications. · Promoting <u>qualified</u> individuals. · Allowing enforcement of <u>all</u> laws no matter if it affects friends.
95	NO response
96	<ul style="list-style-type: none"> · Be present at the opening and closing of each station.
97	NO response
98	<ul style="list-style-type: none"> · Identify and improve upon failure points in the organization, such as: communication, accountability, follow-up and training. · Recruit employees from other agencies.
99	<ul style="list-style-type: none"> · Be more proactive. · Use CSOs more.
100	<ul style="list-style-type: none"> · Become accountable and professional.
101	<ul style="list-style-type: none"> · Modernize the dept. · Promoting camaraderie. · Providing training.
102	<ul style="list-style-type: none"> · Hold everyone accountable, no playing favorites. · Get a "Police" spokesperson to effectively and adequately represent the PD. · Increase lines of communication so PD can be more cohesive, act like a team. · Chief should encourage comaradie and brotherhood amongst PD rather than try to segregate us.



<p>103</p>	<ul style="list-style-type: none"> · The dept. needs to be brought into the Year 2010. · We still act the same way we did in 1984. · Everything else can wait.
<p>104</p>	<ul style="list-style-type: none"> · More training [i.e.: Defense Tactics, Law updates]. · Report writing workshops. · Promote more minorities and women. · Be visible on trains. · More community involvement. · Have Officers speak to students in K-12.
<p>105</p>	<ul style="list-style-type: none"> · BART PD should start improving work conditions. · It is unacceptable that the main PD is in the basement of a condemned building, while it is being dismantled. · The dept. should also start expecting more from each Officer. · Hold Dispatchers accountable for professional radio traffic. · BART PD should also start having our own Public Information Officer. We should not have the BART public relations personnel speaking on our behalf. He knows nothing! · We need to start operating like a real PD!!
<p>106</p>	<ul style="list-style-type: none"> · Have a standard for measuring productivity amongst Officers and Managers, and developing a reward/discipline process that coincides with the standard. · Develop an outreach program with the community that address crime prevention, youth mentoring, and goodwill.
<p>107</p>	<ul style="list-style-type: none"> · More train Patrols. · Nobody I talk to don't even think we ride the trains. · More visibility.
<p>108</p>	<p>· The BART PD needs to begin to move on from the events of NYE. Although this will not happen for some time, it will continue to bring down morale. The District must realize that this event was not caused by the dept., its members, or based on hatred toward the community. Simply put, it was a tragic accident. That being said, there is always an expectation that change is needed in the wake of such a high profile case and I understand that some of these changes are needed and will allow our department to progress. The hard part of any change is fear of the unknown. I have felt that a review of our practices is good, but I am not convinced that the District plans to implement any positive changes for our dept. There is a real since that your recommendations will be looked at and the only ones that will be implemented will be the ones that punish the dept. Until the District realizes that they operate a REAL PD and give the resources necessary to provide the services required to run this dept., we will not be able to move ahead. It is obvious by the fact that the Board of Directors completely ignored NOBLE's recommendations regarding the Civilian oversight of the dept. that they will ignore all positive changes that you recommend as well.</p>



- | | |
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| 109 | <ul style="list-style-type: none">· Improve direct report facilities: report writing areas are dirty; equipment is in disrepair and/or old, filthy; prisoners are difficult to secure.· MDCs are poorly mounted in patrol cars and seldom perform 100% of the time.· Hold SGTs accountable for approving poorly written reports.· Create PIO [Police Information Officer], but does not have to be specific rank. |
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10b. What should BPD <u>STOP</u> doing?	
1	<ul style="list-style-type: none"> · We should stop issuing policy from Command Staff meeting notes. Currently, after the weekly Command Staff meeting, minute notes are sent out via email. Policy changes are made at these meetings and they are referenced in the notes. We're supposed to hold people accountable from meeting notes? Imagine disciplining a Police Officer based on policy changes from meeting notes. A professional Police organization issues Special Bulletins or revises/amends its policies and ensures that everybody has learned of the change, otherwise it's "Gotcha!" discipline. That reduces the credibility and integrity of the administration. · Also, we should do away with Positive Discipline. Progressive Discipline is a model that we should consider adopting.
2	<ul style="list-style-type: none"> · SGTs and LTs try to manage moderate and high priority calls from an office. If they don't want to drive to the scene, I do not want them making decisions for me from an Officer miles away.
3	<ul style="list-style-type: none"> · Being reactive.
4	<ul style="list-style-type: none"> · See 1st three comments in 10a. above.
5	<ul style="list-style-type: none"> · Ignoring problems: BART board members and Police administration ignore serious problems within system. We cannot be taken seriously by the public until the board and administration take us and our job seriously.
6	<ul style="list-style-type: none"> · Stop hiring predominately white Officers. The ratio is like 3-4 white Officers to 1 minority Officer. BART needs more diversity to match the diversity of the communities we serve.
7	<ul style="list-style-type: none"> · Stop using outdated policies. · Stop the SWAT program. · Stop requiring Officers to wear 100% wool uniforms. Provide uniform options based on weather and shifts.
8	<ul style="list-style-type: none"> · Emphasizing interactions as arrests.
9	<ul style="list-style-type: none"> · The BART PD should stop treating women and minorities unfairly. Specifically, women and African American Officers have been by-passed or not selected on promotional lists and field training Officer list on numerous occasions. The culture of this dept. is that certain groups with less experience have always been selected for positions over more qualified Officers. We currently have 2 African American FTOs and 3 women out of 20 positions.



<p>10</p>	<ul style="list-style-type: none"> · Suspend the SWAT and HNT teams and determine if units should continue · Eliminate cronyism/racism in special assignments, promotions, and training opportunities. · Stop acting as though this dept. is a highly trained, highly professional PD until it actually is. · Limit the unfettered use of recovery time. Establish more stringent guidelines and restrictions. · Stop teaching and encouraging the letter of the law and teach and encourage the spirit of the law [those committing minor infractions should not normally end up in jail]. · Stop projecting a superior attitude. We work for our customers and the taxpayers, not the other way around.
<p>11</p>	<ul style="list-style-type: none"> · The dept. needs to stop making so many promises to a select number of favored cronies of the current chief. This favoritism has permeated throughout a select group of staff and Officer levels that it has been the subject of jokes and ridicule for years. The District needs to let it be known now that all past favoritism by the chief will come to a grinding halt. The dept. also needs to make a significant investment in quality training programs that will enable our personnel to be prepared and confident in themselves and the work they perform.
<p>12</p>	<ul style="list-style-type: none"> · [Sitting on their hands doing nothing.] · Placing all resources training into the SWAT team which we only use once in a decade. · Remove a Lt & Sgt from the accounting dept. and transfer them to the Patrol Division where they would be useful. · Stop hiding from the incident on Jan. 1, 2009 and manage the situation. Develop a plan to deal with the incident. · Stop accepting below standards working conditions. Demand a professional environment.
<p>13</p>	<ul style="list-style-type: none"> · Showing favoritism · Stop trying to act like things don't happen - looks like you are trying to cover up things when you don't show leadership and respond when necessary · Pull your head out of the sand - look around at the problems and issues this PD is facing.
<p>14</p>	<ul style="list-style-type: none"> · Assigning Officers to special assignments just because they haven't had one. · Allowing Officers to have a different beat every day - especially in Oakland; there is no accountability of sense of ownership. · Shared men's/women's locker rooms.
<p>15</p>	<p>NO response</p>
<p>16</p>	<ul style="list-style-type: none"> · Training DVDs and handing reading material. This is not training.



17	<ul style="list-style-type: none"> · They need to stop lowering requirements for the hiring process. · The dept. should maintain the education requirements they had ten years ago. The education requirements have eroded over the years. · The dept. should stop promoting people to command level positions with little or no higher level education. · The dept. should disband the SWAT team. It trains all the time, but has never been used. It's a waste of resources. · The dept. should stop allowing the Chiefs to stay for over five years of time. Having only two Chiefs for the past 30 years caused a lot of stagnation in the dept.
18	<ul style="list-style-type: none"> · Having different standards for Management and non-ranking personnel. · Get rid of the me vs. them atmosphere.
19	<ul style="list-style-type: none"> · Favoritism.
20	<ul style="list-style-type: none"> · Promoting people who only want the job for more money.
21	<ul style="list-style-type: none"> · Stop barring our heads and pretending things will go away; there is no clicking our heels and going back to Kansas. · Management needs to admit when things have gone wrong and stop selling out the Officers. The Chief needs to LISTEN to and accept criticism from his Officers and learn how to be a Leader. Management needs to pat Officers on the back for jobs well down as well as discipline when matters call for it, the scale should never be one sided. · Our dept. needs to appoint a POI either of the LT level or Commander level who responds to major scenes and reports to the public what is necessary information and he or she should do this in UNIFORM. · I believe the zone Commanders should attend briefings on a daily basis to determine if problems have raised and to gain or deliver insight to Patrolmen/women. · I also think the Chief should attend at least one zone briefing a week for the same reasons listed.
22	<ul style="list-style-type: none"> · Stop the "isolation" mentality or ideology.
23	<ul style="list-style-type: none"> · Stop cow towing to the politics. · Stop doing useless surveys. · The rank and file has stopped complaining. Nothing gets accomplished.
24	<p>NO response</p>
25	<ul style="list-style-type: none"> · The BART PD should stop being a divided dept. and become one unit. · As it stands right now most of the members don't trust their superiors as it feels like most of them don't care and are looking to retirement. · The Officers feel like they are being left to bear whatever the public decides. No one is standing up for the Officers including the District. · Please note that, as Officers, we still come to work and serve the public regardless of how difficult it is to do our jobs right now. · Morale is low but we still manage to do what is expected of us.



26	NO response
27	NO response
28	· Letting the G.M. tell us what to do.
29	· BART PD should stop treating the Officers like security Officers.
30	NO response
31	<ul style="list-style-type: none"> · Favoritism. · Unfair treatment when problems are brought to attention that effect friendships. · Mindset of “Just being a CSO.” · Disunity that affects working relations such as labeling someone who stands for principles and is harassed and/or discredited among the depts. · Management not knowing each person’s abilities before working for BART that may improve and/or help the dept., not just the “favorites.” · Mindset changes toward each other’s positions. · Job positions should include character/moral check, not just abilities. · Outside person on job interview panel, not just the “regulars” who already decide who is chosen before interviews.
32	<ul style="list-style-type: none"> · Favoritism. · Race discrimination. · Judging Officers based on hearsay without first getting to know the individual
33	<ul style="list-style-type: none"> · Making the Officers second guess every action through Monday-morning-quarterbacking · Automatically taking the public’s version of events over the Officers’. · BAP: Officers should not have to punch a time clock.
34	· Stop making Officers clock in and out like they are on an assembly line. It’s a very time-consuming program for SGTs.
35	NO response
36	NO response
37	<ul style="list-style-type: none"> · Promoting people who have committed crimes. · Stop allowing unqualified personnel to continue on their job. · To be more intentional with evaluations and not status quo. · Stop allowing TBAs [aka probationary employees] to sign into selected beats; allow them to sign into what is left. · Much of the morale issues come from losing a position close to home after being on the job 10+ years to a new person. Seniority means nothing here.



<p>38</p>	<ul style="list-style-type: none"> · Letting other District depts. control our destiny. Let us control our vehicle inventory and Real Estate needs. District continues to take space from us. · Dept. needs to better staff our training unit. · Let LTs make their own schedule and work locations. · Get rid of BAP cards for cops. · Get rid of BAP.
<p>39</p>	<ul style="list-style-type: none"> · Rewarding Officers for doing nothing. · Support your Officers that are proactive and want to do the job. · If your Officers are “not making waves - they are standing still.”
<p>40</p>	<ul style="list-style-type: none"> · The Dept. needs to stop adhering to an ingrained mindset or culture of Isolationism and laziness which has been consistently caustic to the growth and progress of the Dept. Historically, the Dept. has rewarded Officers who do little or no work and penalize those that do till they either leave the dept. or become so inactive that they become dangerously incompetent in their ability to do their jobs. This attitude is so pervasive that many supervisors, who unfortunately have been raised in this system, actually order Officers not to work or make it very difficult for them to do so, I believe to prevent them from having to make decisions and, therefore, possibly exposing their own shortcomings. This also translates to doing little or no interaction with other Police agencies, organizations, community groups etc.
<p>41</p>	<ul style="list-style-type: none"> · Stop CSO from being in special assignments for over 3 - 5 years. · Stop showing favor. · Stop promoting unqualified people. · Stop giving Officers overtime that can be worked by CSOs [saves money too] · Driving out-dated cars.
<p>42</p>	<ul style="list-style-type: none"> · Knee jerk reactions to events that happen without warning. “Asking for helmets 4 hours into a riot??” <u>PLEASE</u> · Quit putting everyone on administrative leave. · What I have learned at BART is that it is better to “not do Police work.” Every time there is a conflict, the Officer is <u>always</u> blamed. · Hold SGTs, LTs accountable. Why isn’t the supervisor that was on the platform 1-01-09 on administrative leave? · Stop sending out DVDs as “training.” No one watches them. We just write down our names to keep you off our backs.
<p>43</p>	<ul style="list-style-type: none"> · Stop being afraid of change. · This dept. historically implements programs with little or no input from the persons [i.e.: Patrol Officers] that will be utilizing them the most.
<p>44</p>	<ul style="list-style-type: none"> · Employing a SWAT team - waste of money & training. Never deployed. · Employing K-9s - waste of money & training. Never deployed. · Ignoring community concerns.
<p>45</p>	<ul style="list-style-type: none"> · Close the gap between Command Staff and Patrol Officers.



46	<ul style="list-style-type: none"> · Stop using the BART public relations personnel for press releases. · Stop supervisors from discouraging proactive Police work and arrests.
47	<ul style="list-style-type: none"> · Letting the board walk all over the PD
48	<ul style="list-style-type: none"> · Public and the Board of Directors are attempting to do too much by creating an unprecedented Civilian Review Board. · This takes authority from the Chief and BART PD Management if the Civilian Review Board dictates punishment.
49	<ul style="list-style-type: none"> · Stop purchasing equipment that is not supportable and cannot be upgraded over time. · Any new equipment should have a clearly defined support system in place before purchase. The support can be contracted out or in-house with a trained administrator.
50	<ul style="list-style-type: none"> · Having knee jerk reactions promoting laziness.
51	<ul style="list-style-type: none"> · Stop sub-par performances from Management and Patrol. · Stop allowing BART District to run PD without experience [Police].
52	<ul style="list-style-type: none"> · Everything! · Throw it all out and start over with 50% less Managers! · These people don't even think like leaders of men and women whose job is <u>law enforcement</u>. · They couldn't lead me to a restroom!
53	<ul style="list-style-type: none"> · Supervisors need to stop micro-managing. · Being a reactive dept, i.e.: training issues post 1/01/09. · Numerous personal requests for training ad been denied prior 1/01/09.
54	<ul style="list-style-type: none"> · Having SGTs doing time-keeping, BAP · Having Patrol SGTs doing scheduling, sick calls, and overtime. · Zone loaning for overtime reduction which keeps zones at minimum.
55	<ul style="list-style-type: none"> · Stop promoting incompetent personnel with no Police experience. What have they done as Police Officers, how have they improved the dept. · Let's get back to work!
56	<ul style="list-style-type: none"> · Reacting to the political/career motives of the BART Board of Directors.
57	<ul style="list-style-type: none"> · Stop continuing with the BPA/BPMA. · On decisions that are the prerogative of Management.
58	NO response
59	NO response



60	<ul style="list-style-type: none"> · Knee jerk reactions to community emotional stories. · Stop being passive and hoping things will get better. Plan ahead and work to achieve goals.
61	<ul style="list-style-type: none"> · Allowing central to dictate control of train traffic when calls for service [Police] are requested. · Allowing dispatch to dictate responses. Insist on detailed information and visual training of locations of incident areas.
62	NO response
63	NO response
64	<ul style="list-style-type: none"> · Being afraid of working/doing our job because of a District who doesn't want us to be proactive. · A District who has no understanding is out of touch with Police work and today's crimes. · A District who would rather punish and turn a blind eye rather than seek to understand, who would rather sweep a problem under the rug rather than address the root of the problem. · A District who is lazy and money-hungry for its top Managers, rather than care for its employees and their needs and morale. · BART Police should stop being proactive because their own District does not support them.
65	<ul style="list-style-type: none"> · Allowing punishable offenses to occur, such as sleeping!! I see this way too often. · Being negative towards CSOs. We need more trust with the things we say and do. · Allowing employees to work in small/dirty offices.
66	<ul style="list-style-type: none"> · Stop the politicking.
67	<ul style="list-style-type: none"> · Stop promotion without merit.
68	NO response
69	NO response
70	NO response
71	<ul style="list-style-type: none"> · Stop hiring black groups to evaluate dept.



<p>72</p>	<ul style="list-style-type: none"> · Stop saying “Well, that’s what we’ve always done!” · Try and prevent crime <u>at</u> and <u>around</u> BART. · Be more proactive and less reactive. · Stop treating BART Police like a necessary evil. · Stop using SPU for petty thefts/waste of good resource. · Stop enforcing the mentality “Just make it look good.” · Stop letting a BART civilian employee speak on behalf of the PD when it comes to Police matters.
<p>73</p>	<ul style="list-style-type: none"> · Stop rewarding Officers who are on administrative leave with special assignments. · Promoting based on race/gender rather than qualifications. · Practicing favoritism with selection to special assignments, and having different informal duties for different people.
<p>74</p>	<ul style="list-style-type: none"> · Stop recognizing some Officers for job well done and overlooking others for the same work. · Double standard.
<p>75</p>	<ul style="list-style-type: none"> · Having Managers that can't even proof read NOBLE cover letter for grammatical errors. This simple thing does not inspire confidence. · Stop culture of laziness. And, not just from front line employees. · Allowing cars to acquire excessive mileage. Demand better service from shops. PD Managers should have oldest cars in the fleet. Then they would be more concerned about their condition. · Staff should come out from under their desks. Since January's incident staff "promised" to get out in the field. Where are they? · Stop waffling. Make a decision, any decision. Look how long it took to make a decision on taser holsters. · Outside traffic stop policy should be rescinded. If we are cops, we are cops off property too. Do SFPD, OPD, and other adjacent agencies tell their Officers they can't do work on BART property? I don't think so. Officers should be encouraged to work in and around BART stations. Why does BART mandate Officers to work the Fruitvale village but Officers on other beats will be disciplined for doing work off -property? · Stop having inadequate facilities. Examples: Fruitvale, Berkeley, and Dublin Offices. Equipment room and report writing corner at LMA, LMA and Dublin locker rooms. Why are our best facilities not owned by BART PD [Castro Valley and San Bruno]?
<p>76</p>	<ul style="list-style-type: none"> · Stop acting like crime doesn't exist. · We have a weak Command Staff that doesn't support their Officers when the “stuff” hits the fan. · Stop catering to the public more so than standing behind their Officers.



<p>77</p>	<ul style="list-style-type: none"> · Promotions should be given to the most qualified persons versus whoever is the most “liked” and unknown. · Special assignment interviews S/B conducted with enthusiasm and not as if they already know who they want. · Study material should be known up front versus only given to those who are friend with the SGT or those that have friends already in that position who share how to prepare for the interview. · Stop letting promotional lists expire without first exhausting it, then interviewing others for a new list. · Stop punishing all Officers for the unfortunate mistake of one Officer, one day, on split second!
<p>78</p>	<ul style="list-style-type: none"> · BART PD needs to stop thinking that there are no serious crimes committed on BART. · It also needs to stop being silently run and speared by BART. · The PD may be a BART entity; however, it is a PD none-the-less. · The PD needs to be run by a strong and competent Chief, not the BART Board of Directors. · Yes, the Board and General Manager run BART, but in actuality, none of those individuals know how to run a PD. · BART PD needs to stop promoting lazy and incompetent people.
<p>79</p>	<p>NO response</p>
<p>80</p>	<ul style="list-style-type: none"> · Stop ignoring SGTs’/Officers’ suggestions for improving the dept.
<p>81</p>	<ul style="list-style-type: none"> · Limiting outside traffic stops. Officers should be able to make outside traffic stops freely. · BART PD needs to stop the bickering of small issues among the dept.
<p>82</p>	<ul style="list-style-type: none"> · Hiding what our Police Officers actually encounter on a daily basis. · Educate the public on what we do, how we are trained, types of investigations that are handled by our dept. · Let the public know that “Yes, there is crime in BART.” · However, there are 200+ officers working very hard to investigate and combat crime to keep BART safe.
<p>83</p>	<ul style="list-style-type: none"> · Stop being afraid of being a law enforcement entity. · Stop blanketing the entire dept. for individual faults. · Stop hindering Officers for doing law enforcement tasks.
<p>84</p>	<ul style="list-style-type: none"> · Trying to fix things that are not broken! · Changes are made where they should not be made. · Ban the tasers.
<p>85</p>	<ul style="list-style-type: none"> · BPD should stop with the knee jerk reactions and start acting like a real PD.
<p>86</p>	<p>NO response</p>



87	<ul style="list-style-type: none"> · Making excuses - the model and structure this dept. has currently does not work, it needs to be revamped or changed completely. · Stop having two sets of rules, everyone should be held to the same standard. · Stop spreading rumors when you're LTs are participating openly in office gossip. It brings the integrity of the dept. down. · Stop ignoring the moral problem!
88	<ul style="list-style-type: none"> · Stop ignoring the fact that some Officers do zero proactivity. · Stop allowing the BART GM and Board of Directors to treat us as their own security force. · Management needs to realize that to be effective, we need to be an autonomous PD. [Yes, they sign the checks, but we are here to serve the public, not them.]
89	<ul style="list-style-type: none"> · Stop showing favoritism · Choose qualified persons in supervisory positions based on experience, knowledge, and specified qualifications for job.
90	NO response
91	<ul style="list-style-type: none"> · Discontinue the double standard regarding holding people accountable at the different rank levels. Officers are held accountable, Command Staff is not. · Giving out harsher discipline to those that are critical of the dept. and Command Staff.
92	NO response
93	<ul style="list-style-type: none"> · Stop implementing policy without consulting with the employees. · Stop asking employees doing a job a certain way to change without asking for input and specifics of that particular assignment.
94	<ul style="list-style-type: none"> · Allowing Board of Directors to run PD. · Allowing non-PDs within BART run Police enforcement programs [parking]. · Promoting favorites instead of qualified. · Making promises and not follow through.
95	NO response
96	NO response
97	NO response
98	<ul style="list-style-type: none"> · Ignoring organizational failures and disregarding valuable feedback from citizens, District, and dept. employees.
99	NO response
100	<ul style="list-style-type: none"> · Stop being a boys' club.



101	<ul style="list-style-type: none"> · Stop promoting people who are NOT qualified. · Command Staff should take responsibility.
102	<ul style="list-style-type: none"> · Playing favorites. · Disregarding employee input. · Being complacent about critical incidents.
103	<ul style="list-style-type: none"> · Sweating small issues, and ignoring large issues. · Promoting. · Stop promoting UNQUALIFIED Officers to Management.
104	<ul style="list-style-type: none"> · SWAT is a waste. · Take BAP out and build Officers' schedules like the Supervisors. They do not have to BAP is <u>not fair</u>. · Change the FTO program. · Stop promoting favorites - a lot of Managers are not promoted up on merit. · Stop the "knee jerk" responses from Management.
105	<ul style="list-style-type: none"> · Using the excuse "That's the BART way." · Stop promoting unqualified people. · BART PD should stop relying on the Board of Directors to control the dept. like puppets. · Stop allowing the BART public relations personnel to speak on our behalf. · Stop living on BAD. · We should not be subject to punching in and out due to the nature of our flexible scheduling and overtime.
106	<ul style="list-style-type: none"> · Stop accepting "status quo" mentality. · Stop having no accountability.
107	<ul style="list-style-type: none"> · The new shift schedule. · Special assignments should be five years in length, not the current three. The position usually requires training and I feel that, once you become comfortable, it's time to leave.
108	<ul style="list-style-type: none"> · BART PD must stop comparing itself to other municipal agencies and understand that our purpose is to serve the riders of the BART System. · We should be proud to be the best transit police agency in the country. · We need to emphasize that, with all of our employees from the day they start, we do something very different then what a city cop does and we should be proud of that.
109	<ul style="list-style-type: none"> · Holding back from communicating with the public by way of media releases, using District spokesperson to talk to the media about Police matters. · These often get exaggerated and information damaging to the criminal investigation is released.



10c. What should BPD <u>CONTINUE</u> doing?	
1	· As a result of the January 1 st incident, we're starting to receive more consistent training. That should continue.
2	· Continue to update and modernize their current policies.
3	· More training.
4	· Continue to hire exceptional people.
5	· Too much needs to change. Nothing we do should continue.
6	· It seems that the dept. is making an attempt to become a stronger voice in the community. There are steps that are taking place. However, those steps should move faster and more progressive.
7	· Firearms training. · Continue hiring laterals.
8	· Policing the transit system.
9	NO response
10	· Nothing - start over.
11	· The dept. needs to continue, actually, start making progress toward making substantial improvements in community relations. We need to begin repairing our reputation throughout the District so all communities can begin to see our dept. as a quality law enforcement organization.
12	· Developing a civilian oversight committee. · Continue dialog with the community.
13	· Continue to function as a working PD but in order to do this, you need accountability.
14	· Updating all policies & procedures · Learning how to be a <u>REAL</u> PD, not just a security organization.
15	NO response
16	· Continue wanting to improve. I feel that this survey is a step in the right direction.
17	· The dept. should continue to try and promote the need for BART Police. Continue to zone policing. Continue recruiting lateral Officers.



18	<ul style="list-style-type: none"> · Providing excellent service to the riding public on BART. · Continue hiring professional people.
19	<ul style="list-style-type: none"> · Improve training.
20	<ul style="list-style-type: none"> · Continue to provide a professional place. · Service to the patrons and people of the Bay area.
21	<ul style="list-style-type: none"> · I think we should continue to strive through the turmoil, as they say there is nowhere to go but up. I believe this dept. will once again be a dept. worthy of being called A PD.
22	<ul style="list-style-type: none"> · Establishing and maintaining relationships with stakeholders.
23	NO response
24	NO response
25	<ul style="list-style-type: none"> · The BART PD should continue to be a Good PD. · The Police Officers with in this dept. are very professional and knowledgeable. · They should continue to serve the public as best they can.
26	NO response
27	NO response
28	<ul style="list-style-type: none"> · Keep moving forward.
29	<ul style="list-style-type: none"> · BART PD should continue to operate as a PD, without fear of change, change is good!
30	NO response
31	<ul style="list-style-type: none"> · There are many good Officers, CSOs, and SGTs, the continued way of the older, “seasoned workers” with good character helping the new workers. · Many of the retired Officers and SGTs listened and helped new people coming in, and taught us how to do things, not just to “get mine!” It was like having a family of older brothers and sisters, not just about the job, but a true heart for the person’s well-being. · This must continue and bring some retirees back periodically to help teach and train the new, both in job ability, but even more in character, moral, and heart for fellow worker people. · This must be about unity, care, and improvement for all of BART and the patrons and community.
32	<ul style="list-style-type: none"> · Paying us well - that’s the only reason we work there.
33	<ul style="list-style-type: none"> · Hiring to fill open positions.



34	· Continue to strive for improvement excellence.
35	NO response
36	· Show presence at stations.
37	· Promoting our dept. as a “REAL” PD · Trying to serve our patrons as any other city would. · Getting new vehicles and proper tools for the job!
38	· Keep K-9 team · Special Problems Unit
39	· Offer their Officers a competitive wage and benefit package - comparable with area PDs.
40	· The Dept. should allow the Officers that do work to continue to do so as they provide the dept. with a much needed dose of professionalism. These Officers who continue to work in this environment put forth an excellent example to the public of what a Police Officer should look like, act like, and be like. They give the Dept. credibility and legitimacy and project a much needed positive image of the Dept. to the community that is often lacking.
41	· Trying to get it right.
42	· Nothing a BART ever changes. · You have a Chief that doesn't care. · You have a female Commander that is an idiot. · You have all of the Chief's “yes men” [the LTs]. · Then there are the SGTs. If they want to promote or get a special assignment, they know [or learn] to keep their mouths shut and not to stir up any problems. · No one has anyone's back. · Everyone is worried about getting in trouble · No one has a back bone.
43	· Training / Training / Training
44	· Staying within its jurisdiction when patrolling and enforcing laws.
45	· Promoting capable and knowledgeable SGTs and LTs, instead of the inept ones we have now.
46	· Provide patrons with a safe environment by highly visible patrols and proactive Police work.
47	NO response



48	<ul style="list-style-type: none"> · Continue to give the best service we can. · The majority of the Police force has been doing a really good job.
49	<ul style="list-style-type: none"> · BART has outstanding opportunities for change and promotion within the PD They offer special assignments with diverse training prospects. Also advancement is attainable. These should continue.
50	<ul style="list-style-type: none"> · Promoting change!!!
51	<ul style="list-style-type: none"> · Cannot think of anything. · The District [BART] has no confidence in this PD because Management is weak.
52	<ul style="list-style-type: none"> · If they continue to hire and promote people based on political correctness instead of aptitude, then there will be no hope of change. · BART District is locked into a mindset that prioritizes looking good [i.e.: political correct]; making sure we hire the right number of minorities, flunkies, and spineless kiss asses, so long as they will do what they're told instead what would be right.
53	<ul style="list-style-type: none"> · Advance with technology, i.e.: MDT, emails, addresses.
54	<ul style="list-style-type: none"> · Flex enforcements every other month or month, so each zone can do saturation patrolling of trouble spots, i.e.: zones send extra Officers to a zone to supplement reg. beats. · Proactive minor enforcements on trains direct report K-9s to downtown S.F. Oakland. · Increase minimum staffing in downtown Oakland and S.F. [S.F. beat structure has changed with increase rider ship].
55	<ul style="list-style-type: none"> · Continue improving the specialties units - SWAT, K-9, SPU
56	<ul style="list-style-type: none"> · Providing professional Police services to the BART patrons and general public.
57	<ul style="list-style-type: none"> · Develop future leaders from within the dept.
58	NO response
59	NO response
60	NO response
61	<ul style="list-style-type: none"> · Training. · Increase visibility.
62	NO response
63	<ul style="list-style-type: none"> · Foot patrol beats in downtown San Francisco.



64	<ul style="list-style-type: none"> · Keep vocalizing their wants, needs, and rights in an aging, outdated system, by a District who doesn't care about keeping their patrons safe or their Police adequately trained, informed, or paid.
65	<ul style="list-style-type: none"> · Continue Police presence and respond to calls as currently doing so.
66	<ul style="list-style-type: none"> · Praising the workers. · Meeting with the community.
67	<ul style="list-style-type: none"> · Promote more women and minorities which is not currently happening.
68	NO response
69	NO response
70	NO response
71	NO response
72	<ul style="list-style-type: none"> · Continuing being professional out in the field. · Continue increasing Officers so we can have more train Patrol units and undercover Officers. · Continue asking the BART District for a serviceable headquarter - it is embarrassing.
73	<ul style="list-style-type: none"> · Emphasizing positive interaction from Officers with patrons.
74	<ul style="list-style-type: none"> · Continue providing a safe place to transit for the public.
75	<ul style="list-style-type: none"> · BART PD should continue to allow BART to hire racially biased organizations to evaluate our Dept. and distribute improperly formatted surveys. · Examples: <ul style="list-style-type: none"> NOBLE by its very title [National Organization of BLACK Law Enforcement] is a racially biased organization. Question 2m: What is "Y"? Question 2n: What is "Y"? Question 6: Who cares about the patches? With all the issues this PD has, why did you pick the patches? The Chief runs the Dept. and he made the decision. I wish he would make more concrete decisions. Question 7: Your statements don't match your proposed answers and is difficult to interpret.
76	NO response
77	<ul style="list-style-type: none"> · Holding their heads up as Officers despite what the "Board" and public seems to think about us being non-trained, and "Security."



78	NO response
79	NO response
80	· BART should continue to make it convenient for Officers to take time off for families.
81	· They let Officers work freely. · Continue to strive for morale improvement. · SGTs are doing a good job.
82	· To be a progressive thinking PD. · Addressing crime trends, technology, equipment, etc.
83	NO response
84	· I don't know.
85	· BART PD should continue to give the high level of service to its patrons.
86	NO response
87	· Continue training. · Continue trying to get government grants for improvement.
88	NO response
89	· Allow Officers to watch POST DVDs during line-up. · Continue to upgrade the Lake Merritt Police facility. [Powell St. station is better than Lake Merritt, even Lake Merritt is our home base.]
90	NO response
91	NO response
92	NO response
93	· Continue to be as visible as possible. · Continue being proactive in regards to the BART community. · Continue to learn and seek more knowledge.
94	· BART is falling apart. · Major changes are needed. · There is very little that should be continued.
95	NO response



96	NO response
97	NO response
98	· Holding weekly staff meetings and monthly Managers' meetings.
99	NO response
100	· N/A - the place is a mess.
101	NO response
102	· Keep righting our wrongs.
103	· Who knows - I'm LOST on what a REAL dept. does.
104	· Change is necessary!!
105	NO response
106	· Continue to mentor and foster future leaders of the PD from <u>within</u> the dept. · They know what needs to be done.
107	· Should implement "old" schedule of work and shift assignments.
108	· Continue to do what we have for the last 37 years. · Provide the public with a safe means of traveling the Bay Area. · Continue to provide the customer service and exhibit the professionalism that has existed for the past four decades. · Continue to fight the District to get them to understand that public awareness is just as important as enforcement.
109	NO response



	Miscellaneous Comments
	#6 - Bad Question: Patches do not define a Police Officer or PD. Professionalism and work ethic does. We were asked for input although we did survey for new badges, but were denied our request.
74	<ul style="list-style-type: none"> • I for one am happy to work here. • I don't believe this dept. is full of bad apples. • I think we do a good job. • There are some who are detached from reality when it comes to law enforcement. • This job is hard and you are second-guessed at every turn. • Damned if you do, damned if you don't.
100	<ul style="list-style-type: none"> • Training: The BART Police Dept has never cared about training until they have come under scrutiny due to the Oscar Grant tragedy. • Promotions: Chief has always promoted his friends. They are known as the "FOGG" "Friends Of Gary Gee." Seven of the current 10 LTs are very good friends of the Chief and they are all incompetent. • Jan 2008 at a Managers' meeting, the Chief was informed that many new officers were violating rights and making very poor arrest and detentions along with using excessive force. The Chief did not ask one question, he never looked up because he was on his blackberry, he never addressed the issue. A year later Jan 2009, Oscar Grant was killed while other officers brandished their tasers without cause. • There are good competent Managers at BART but they have been silenced and marginalized by the Chief.
108	#6 - is one of the most ignorant questions I have ever seen asked on survey. Does that really give you any insight to this Department? How come you did not ask what color uniform you would prefer? Politics, it always is just politics.



Chapter 16

Promotion



BART Police Management Audit

Topical Area: Promotion

Issue: Management Promotional Process

Current Application or Practice: The BART PD currently does not use all of these elements for any management promotion. The written examination, written essay exercise, and oral interview are the current limits of the promotional process for any rank.

Commendation or Recommendation: It is recommended that the BART PD make the following changes for all management promotions within a bargaining unit and place them within a written directive:

1. Have a written examination which evaluates job knowledge;
2. Use a promotional assessment center to evaluate the candidate's potential to do the target Job;
3. Have a validated oral interview which evaluates the candidate's understanding of the job, the agency, and the job environment;
4. Require that the candidate's last performance evaluation, prior to being promoted, has the minimum overall job rating of "meets expectation;" and
5. The Chief should have a rule of three to five of the top candidates he may select after all the scores of the promotional process have been submitted.

Justification: This recommendation is based on a law enforcement best practice. When evaluating candidates for promotion, the minimum which should be considered is the candidate's job knowledge, job potential, and current job performance. These requirements for promotion ensure that candidates have comprehensive preparation prior to obtaining a promotion.

Implementation Standards: The BART PD should develop a written directive which mandates the above identified criteria for a promotion.



BART Police Management Audit

Topical Area: Promotion

Issues: Credit History of Recruits

Current Application or Practice: BART PD currently has a background investigation which includes a credit history of all applicants. This credit history is reviewed and the credit history affects the employment potential of the applicant to the degree it is supported by other background information.

Commendation or Recommendation: Review credit history of all police recruits more critically. The credit history of a police applicant should receive an extensive review by Police Management. The credit history itself can reveal a history of critical behaviors demonstrated by the applicant which are job-related. The credit history can demonstrate the following key behaviors which are critical to a law enforcement officer's performance.

1. Use of credit is related to high moral character. The demonstrated ability to make repayments of bills as promised within a timely manner.
2. Responsibility. The applicant demonstrated the ability to live within his financial means of support.
3. Commitment. Candidates demonstrate their ability to keep their commitment to ultimately pay all creditors.
4. Decision-making and judgment. Candidate demonstrates an ability to use credit judiciously and not become over-extended financially on non-essential items.

A critical review of an applicant's credit history helps an organization identify the best candidates within the candidate pool while also identifying those unsuitable for the job. *A candidate's credit history alone should not be the reason for disqualification.*

Justification: **CALEA 32.2.1** It is a law enforcement best practice to review the applicant's credit history as an instrument to evaluate job-related behaviors and traits to make a more effective hiring decision.

Implementation Standards: Develop and implement a credit history rating form which evaluates job-related behaviors based on the applicant's credit history.



BART Police Management Audit

Topical Area: Promotion

Issue: Agency's Role in the Promotion Process

Current Application or Practice: The agency currently does not have a written directive that defines the agency's role in the promotion process for sworn personnel.

Commendation or Recommendation: BART PD should develop a written directive that defines its role in the promotional process for sworn personnel.

Justification: **CALEA 34.1.1** *The agency should have a role in the development of the measurement instruments that are used in determining the knowledge, skills, and abilities of employees for positions. This directive should also indicate the role of the department and the role of Human Resources of BART administration. This is an international accreditation standard.*

Implementation Standards: Develop a written directive which indicates BART PD's role in the promotional process for sworn personnel. The agency should work collaboratively with administration in the promotional process.



BART Police Management Audit

Topical Area: Promotion

Issue: Identifiable Position the Authority & Responsibility for Administering the Agency's Role in Promotion

Current Application or Current Practice: The agency currently does not have a written directive that vests authority in an identifiable position the responsibility for administering the agency's role in the promotion process for sworn personnel.

Commendation or Recommendation: BART PD should develop a written directive that vests in an identifiable position the authority and responsibility for administering the agency's role in the promotion process for sworn personnel.

Justification: **CALEA 34.1.2** *The written directive should identify a person responsible for the administration of the promotional process and indicate what additional personnel share responsibility for the promotional process. This directive should indicate what organizational positions are responsible for which components of the promotional process.*

Implementation Standards: Develop a written directive using the CALEA standards manual as a guide.



BART Police Management Audit

Topical Area: Promotion

Issue: Promotion for Sworn Personnel

Current Application or Practice: The agency currently does not have a written directive which describes the procedures used for each element of the promotion process for sworn personnel, including those for:

- a. evaluating the promotional potential of candidates;
- b. administering written tests, if any;
- c. using assessment centers, if any;
- d. conducting oral interviews prior to appointment to probationary status;
- e. providing procedures for review and appeal of results for each promotional element by candidates;
- f. establishing procedures for reapplication, if any;
- g. determining promotional eligibility for vacancies where lateral entry is permitted, if any; and
- h. security of promotional materials.

Commendation or Recommendation: BART PD should develop a written directive that describes all elements and procedures used in each promotional process. This should be developed with input and feedback from all sworn personnel. Management should meet and confer with affected personnel and make the final decision after receiving feedback based on what's in the best interest of the agency.

Justification: **CALEA 34.1.3** *The sworn personnel of the agency should have a written document that describes the process for preparing for and obtaining a promotion. This process should be based on merit and be communicated in writing, in advance, to anyone aspiring to get promoted. This is an international accreditation standard.*

Implementation Standards: Develop a written directive addressing all the issues as identified from "a" to "h" as listed in the current application.



BART Police Management Audit

Topical Area: Promotion

Issue: Promotional Selection Process Requirements

Current Application or Practice: The agency currently uses a written examination and interview board for Sergeant and uses an interview board for the ranks above Sergeant for promotion. These two components at most of the promotional process do not provide sufficient screening to make merit-based promotions. Additional components should be added to the promotional process. Also, steps should be taken to ensure that the components currently used are job-related and nondiscriminatory.

Commendation or Recommendation: All elements used to evaluate candidates for sworn personnel for promotion are job-related and nondiscriminatory. The agency should consider adding an updated background check, evaluating performance appraisals, and an assessment center to the promotional process.

Justification: **CALEA 34.1.4** Multiple components will ensure there is a broad coverage of the candidate's knowledge, skills, and abilities to determine promotional potential. These additions are consistent with international accreditation standard.

Implementation Standards: Develop a written directive using the CALEA standards manual as a guide and conduct an updated job-task analysis to help develop additional promotional components.



BART Police Management Audit

Topical Area: Promotion

Issue: Criteria & Procedures for Development & Use of Eligibility Lists

Current Application or Practice: The agency currently does not have a written directive that establishes criteria and procedures for the development and use of eligibility lists, if any, for sworn positions.

Commendation or Recommendation: Develop a written directive that establishes criteria and procedures for the development and use of eligibility lists, if any, for sworn positions to include, at a minimum:

- a. the numerical weight, if any, assigned to each eligibility requirement;
- b. the system of ranking eligible candidates on the lists;
- c. time-in-grade and/or time-in-rank eligibility requirements, if any;
- d. the duration of the lists; and
- e. the system for selecting names from the lists.

Justification: **CALEA 34.1.6** *The use of this written directive articulates the specific requirements and eligibility for those being promoted following the promotional process. This is an international accreditation standard.*

Implementation Standards: Develop a written directive consistent with the recommendations identified.



BART Police Management Audit

Topical Area: Promotion

Issue: Lateral Entry Hiring

Current Application or Practice: The BART PD currently does lateral entry hiring for its police officer rank. It, however, does not do lateral entry hiring for its management ranks, i.e. Sergeant and above.

Commendation or Recommendation: It is recommended that BART modify its policy and procedures to permit lateral entry hires for all promotional ranks. It is more important to allow for lateral entry hiring at the Lieutenant's rank and above than for the Sergeant's rank. The primary reasons for allowing lateral entry hiring at the management's ranks are as follows:

1. The ability to hire talent for a particular rank that currently does not exist at your agency;
2. When internal and external candidates compete for management positions, the quality of the candidate pool improves;
3. When all promotional positions are filled from within, group think occurs over an extended period of time; and
4. Hiring management personnel with a different background and experience enhances the quality of organizational decision-making.

Justification: It is a law enforcement best practice for agencies to do lateral entry hiring at its management's ranks. This allows agencies to attract the best talent in the marketplace to its agency. The quality of the organization is reduced to the quality of the people.

Implementation Standards: It is recommended that BART modify its policy and procedures to permit lateral entry hires for all promotional ranks.



BART Police Management Audit

Topical Area: Promotion

Issue: Probationary Period for Sworn Personnel

Current Application or Practice: The agency does not have a written directive that requires at least a six-month probationary period for all sworn personnel who are promoted, with any exceptions defined.

Recommendation: Develop a written directive that requires at least a six-month probationary period for all sworn personnel who are promoted, with any exceptions defined.

Justification: **CALEA 34.1.7** *The promotional period provides time for the agency to evaluate the performance of newly promoted managers. This is an international accreditation standard.*

Implementation Standards: Develop a written directive consistent with the recommendations identified.

