



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

January 2018

Issue date: February 12, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **January 1, 2018 through January 31, 2018**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Division.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	5
Informal Complaints ⁷	0
Administrative Investigations	2
TOTAL	7

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	5
TOTAL	5

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During January 2018, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-002)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	39
2 (IA2018-003)	Officer #1: • Arrest or Detention • Conduct Unbecoming an Officer	BPD initiated an investigation.	40
3 (IA2018-004)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	31
4 (IA2018-005)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	31
5 (IA2018-007)	Officer #1: • Force	BPD initiated an investigation.	17

During January 2018, **2 Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-001)	Officer #1: • Force	BPD initiated an investigation.	40
2 (IA2018-006)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	32

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During January 2018, **3 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-055)	Officers improperly detained complainant and harassed and degraded complainant. One officer used excessive force during the detention and one officer did not properly document the contact.	Officer #1: • Force – Exonerated Officer #2: • Policy/Procedure – Not Sustained Officers #1-2: • Arrest or Detention – Exonerated • Conduct Unbecoming an Officer – Unfounded	225	200
2 (IA2017-094)	Officer was rude to complainant and initiated enforcement contact because of complainant's race.	Officer #1: • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded	119	93
3 (IA2017-099)	Officers improperly arrested complainant and used excessive force while doing so. Officers also did not advise complainant of rights, denied medical aid, and unlawfully took property from complainant.	Officers #1-2: • Force – Unfounded • Arrest or Detention – Exonerated • Performance of Duty (Count 1) – Exonerated • Performance of Duty (Count 2) – Unfounded • Conduct Unbecoming an Officer – Not Sustained	104	92

During January 2018, **4 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-087)	Officers denied assistance to complainant upon request.	Officers #1-3: • Performance of Duty – Supervisor Referral ⁹	137	110

2 (IA2017-109)	Officer unsafely operated motor vehicle near complainant.	Officer #1: • Policy/Procedure – Supervisor Referral	79	59
3 (IA2017-113)	Officer treated subject aggressively and used unnecessary and excessive force during enforcement contact.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	62	44
4 (IA2017-116)	Officers improperly detained and harassed subject.	Officers #1-2: • Arrest or Detention – Supervisor Referral • Conduct Unbecoming an Officer – Supervisor Referral	68	36

During January 2018, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2017-062)	Officer made inappropriate derogatory comments that also expressed racial bias and officer generated an unfair and inaccurate supervisory report.	Officer #1: • Racial Animus – Not Sustained • Conduct Unbecoming an Officer (Counts 1-2) – Unfounded	200	180

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING A PRIOR PERIOD

During October 2017, **1 Informal Complaint** was concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-085)	Officer improperly detained and cited complainant on the basis of race and verbally assailed complainant during the enforcement contact.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	145	36

DISCIPLINE ISSUED DURING REPORTING PERIOD

During January 2018, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer did not properly document law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling
2	Officers did not properly handle subject's property.	Officers #1-2: • Property	Officers #1-2: • Informal Counseling

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	3
Complainant-Initiated Appeals	1
BPD-Initiated Appeals	0
Investigations Being Monitored	19
Investigations Reviewed During Current Month	23 [†]

[†]This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹⁰

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

February 2018

Issue date: March 12, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **February 1, 2018 through February 28, 2018.**¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Division.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	8
Informal Complaints ⁷	1
Administrative Investigations	1
TOTAL	10

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	1
BART Police Department	7
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During February 2018, **1 Citizen Complaint (Formal)** was received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #18-03) (IA2018-011)	Officer #1: <ul style="list-style-type: none"> • Force • Bias-Based Policing • Arrest or Detention • Conduct Unbecoming an Officer 	OIPA notified BPD, which initiated an investigation.	27

During February 2018, **7 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-009)	Unknown Officers #1-3: <ul style="list-style-type: none"> • Bias-Based Policing 	BPD initiated an investigation.	32
2 (IA2018-010)	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	28
3 (IA2018-012)	Officer #2: <ul style="list-style-type: none"> • Performance of Duty 	BPD initiated an investigation.	26
4 (IA2018-014)	Officers #1-3: <ul style="list-style-type: none"> • Arrest or Detention • Performance of Duty 	BPD initiated an investigation.	20
5 (IA2018-015)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure • Performance of Duty 	BPD initiated an investigation.	20
6 (IA2018-016)	Unknown Officer #1: <ul style="list-style-type: none"> • Performance of Duty 	BPD initiated an investigation.	14
7 (IA2018-017)	Unknown Officer #2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	18

During February 2018, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-013)	Officer #1: <ul style="list-style-type: none"> • Force • Policy/Procedure Officer #2 <ul style="list-style-type: none"> • Performance of Duty 	BPD initiated an investigation.	30

During February 2017, **1 Informal Complaint** was received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-065)	Employee #1: <ul style="list-style-type: none"> • Policy/Procedure 	BPD initiated an investigation.	33

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During February 2018, **5 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-079)	Employee did not appropriately respond to a request for law enforcement assistance.	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Sustained 	185	160
2 (IA2017-083)	Officer was rude and unprofessional during contact with subject.	Unknown Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Not Sustained 	180	161
3 (IA2017-103)	Officer improperly contacted and harassed complainant and did not properly document the contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure – Not Sustained • Arrest or Detention – Not Sustained • Conduct Unbecoming an Officer – Not Sustained 	125	100
4 (IA2017-112)	Officer did not take appropriate law enforcement action in response to a call for service.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Supervisor Referral⁹ 	97	78

5 (IA2018-004)	Officers made rude and unprofessional comments to complainant.	Officers #1-4: • Conduct Unbecoming an Officer – Supervisor Referral	59	44
-------------------	--	---	----	----

During February 2018, **1 Informal Complaint** was addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-008)	Employee parked BPD vehicle blocking an accessibility ramp.	Employee #1: • Policy/Procedure – Supervisor Referral	33	20

During February 2018, **2 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2017-074)	Officer kicked subject's property and did not properly record a law enforcement contact.	Officer #1: • Conduct Unbecoming an Officer – Sustained • Policy/Procedure – Sustained	202	168
2 (IA2018-006)	Officer spoke discourteously to Employee and Employee hung up on Officer.	Employee #1: • Conduct Unbecoming – Supervisor Referral Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	200	180

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued during the month of February 2018.

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	2
Complainant-Initiated Appeals	1
BPD-Initiated Appeals	0
Investigations Being Monitored	16
Investigations Reviewed During Current Month	24†

† This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹⁰

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated

with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee.” (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into “Formal” and “Informal” classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisory Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

March 2018

Issue date: April 9, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **March 1, 2018 through March 31, 2018**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Division.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	6
Informal Complaints ⁷	0
Administrative Investigations	0
TOTAL	6

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	5
BART Police Department	1
TOTAL	6

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During March 2018, **4 Citizen Complaints (Formal)** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #18-06) (IA2018-019)	Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure • Courtesy Officer #2: <ul style="list-style-type: none"> • Bias-Based Policing 	OIPA notified BPD, which deferred investigation to OIPA.	35
2 (OIPA #18-07) (IA2018-020)	Officer #1: <ul style="list-style-type: none"> • Performance of Duty 	OIPA notified BPD, which initiated an investigation.	27
3 (OIPA #18-08) (IA2018-001)	Officer #1: <ul style="list-style-type: none"> • Force 	OIPA initiated an investigation.*	27
4 (OIPA #18-09) (IA2018-021)	Officer #1: <ul style="list-style-type: none"> • Courtesy 	OIPA notified BPD, which initiated an investigation.	30
5 (OIPA #18-10) (IA2018-022)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure • Conduct Unbecoming an Officer 	OIPA notified BPD, which initiated an investigation.	38

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During February 2018, **1 Citizen Complaint (Formal)** was received by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-018)	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing 	BPD initiated an investigation.	40

* As BPD has previously initiated an investigation regarding the same incident, this investigation will only be counted once in the number of open cases.

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During March 2018, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #17-35)	Officers and employee used unnecessary force during arrest of subject and two officers inappropriately applied a restraint device.	Officers #1-3: • Force – Exonerated Employee #1: • Force – Exonerated Officers #1-2: • Policy/Procedure – Exonerated	200	166

During March 2018, **2 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-084)	Officers used excessive force and inappropriate language during detention of subject.	Officers #1-4: • Force (Count 1) – Unfounded • Conduct Unbecoming an Officer – Unfounded Officer #2: • Force (Count 2) – Not Sustained	204	190
2 (IA2017-108)	Officers made complainant feel unsafe and embarrassed.	Officers #1-2: • Conduct Unbecoming an Officer – Unfounded	137	98

During March 2018, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Complete Investigation
1 (IA2017-106)	Officers used excessive force.	Officers #1-2: • Force – Exonerated	144	120

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING A PRIOR PERIOD

During January 2018, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Complete Investigation
1 (IA2017-060)	Officer used inappropriate language.	Officer #1: • Conduct Unbecoming an Officer – Sustained	264	183

DISCIPLINE ISSUED DURING REPORTING PERIOD

During March 2018, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer used inappropriate language.	Officer #1: • Conduct Unbecoming an Officer	Officer #1: • Written Reprimand
2	Officer kicked subject's property and did not properly document a law enforcement contact.	Officer #1: • Conduct Unbecoming an Officer • Policy/Procedure	Officer #1: • Written Reprimand
3	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Letter of Discussion
4	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Letter of Discussion
5	Officers did not properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure	Officer #1: • Letter of Discussion Officer #2: • Oral Counseling
6	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Letter of Discussion
7	Officers did not properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure	Officers #1-2: • Oral Counseling

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	4
Complainant-Initiated Appeals	2
BPD-Initiated Appeals	0
Investigations Being Monitored	10
Investigations Reviewed During Current Month	22†

† This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.⁹

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated

with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee.” (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into “Formal” and “Informal” classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

April 2018

Issue date: May 14, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **April 1, 2018 through April 30, 2018.**¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Division.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	11
Informal Complaints ⁷	0
Administrative Investigations	2
TOTAL	13

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	5
BART Police Department	6
TOTAL	11

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During April 2018, **5 Citizen Complaints (Formal)** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #18-15) (IA2018-028)	Officers #1-4: • Force • Courtesy	OIPA notified BPD, which deferred investigation to OIPA.	26
2 (OIPA #18-13) (IA2018-029)	Officers #1-2: • Courtesy	OIPA notified BPD, which initiated an investigation.	28
3 (OIPA #18-14) (IA2018-031)	Officers #1-2: • Conduct Unbecoming an Officer Officer #3: • Policy Complaint	OIPA notified BPD, which initiated an investigation.	27
4 (OIPA #18-16) (IA2018-032)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer • Performance of Duty	OIPA notified BPD, which deferred investigation to OIPA.	24
5 (OIPA #18-17) (IA2018-033)	Officers #1-4: • Force	OIPA notified BPD, which deferred investigation to OIPA.	21

During April 2018, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-023)	Officers #1-2: • Performance of Duty	BPD initiated an investigation.	39
2 (IA2018-024)	Officer #1: • Conduct Unbecoming an Officer Employee #1: • Performance of Duty	BPD initiated an investigation.	31
3 (IA2018-025)	Officer #1: • Force	BPD initiated an investigation.	33

4 (IA2018-027)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	24
5 (IA2018-034)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	33
6 (IA2018-035)	Officer #1: • Force • Bias-Based Policing	BPD initiated an investigation.	14

During April 2018, **2 Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-026)	Officer #1: • Criminal • Conduct Unbecoming an Officer	BPD initiated an investigation.	30
2 (IA2018-030)	Officer #1: • Conduct Unbecoming an Officer • Policy/Procedure	BPD initiated an investigation.	24

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued during the month of April 2018.

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	8
Complainant-Initiated Appeals	1
BPD-Initiated Appeals	0
Investigations Being Monitored	17
Investigations Reviewed During Current Month	18†

†This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.⁹

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the “Citizen Board, Office of the District Secretary, and other District departments.” As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA’s findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA’s investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department’s internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, “A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee.” (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into “Formal” and “Informal” classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

May 2018

Issue date: June 11, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **May 1, 2018 through May 31, 2018**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	5
Informal Complaints ⁷	0
Administrative Investigations	1
TOTAL	6

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	1
BART Police Department	4
TOTAL	5

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During May 2018, **1 Citizen Complaint (Formal)** was received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #18-20) (IA2018-038)	Officer #1: • Arrest or Detention	OIPA notified BPD, which initiated an investigation.	34

During May 2018, **4 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-036)	Officer #1: • Bias-Based Policing • Arrest or Detention • Conduct Unbecoming an Officer	BPD initiated an investigation.	41
2 (IA2018-037)	Employees #1-2: • Conduct Unbecoming	BPD initiated an investigation.	41
3 (IA2018-039)	Officer #1: • Conduct Unbecoming an officer	BPD initiated an investigation.	27
4 (IA2018-041)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	22

During May 2018, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-040)	Officer #1: • Policy/Procedure	BPD initiated an investigation.	26

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During May 2018, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #17-39)	Officer unlawfully detained subjects based on their race, and officer unnecessarily raised voice during detention.	Officer #1: • Bias-Based Policing – Unfounded • Arrest or Detention – Sustained • Courtesy – Sustained	236	204

During May 2018, **4 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-101)	Employees did not appropriately respond to a request for law enforcement assistance and did not provide complainant with identifying information upon request.	Employee #1: • Conduct Unbecoming – Not Sustained Employee #2: • Conduct Unbecoming – Sustained Employees #1-2: • Performance of Duty – Sustained	233	207
2 (IA2018-002)	Officer sexually assaulted complainant.	Unknown Officer #1: • Conduct Unbecoming an Officer – Unfounded	158	140
3 (IA2018-012)	Officer improperly arrested complainant and did not properly investigate the underlying incident.	Officer #1: • Arrest or Detention – Exonerated • Performance of Duty – Unfounded	117	99
4 (IA2018-014)	Officer did not take appropriate law enforcement action in response to a call for service and did not provide an escort as requested by complainant.	Officer #1: • Performance of Duty – Sustained • Conduct Unbecoming an Officer – Unfounded	111	93

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued during the month of May 2018.

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	7
Complainant-Initiated Appeals	1
BPD-Initiated Appeals	0
Investigations Being Monitored	11
Investigations Reviewed During Current Month	12 [†]

[†]This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.⁹

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated

with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee.” (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into “Formal” and “Informal” classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

June 2018

Issue date: July 9, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **June 1, 2018 through June 30, 2018**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	3
Administrative Investigations	0
TOTAL	10

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	7
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During June 2018, 7 **Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-042)	Employee #1: • Force • Performance of Duty	BPD initiated an investigation.	38
2 (IA2018-043)	Officers #1-2: • Force • Conduct Unbecoming Officer #2: • Bias-Based Policing	BPD initiated an investigation.	33
3 (IA2018-044)	Officer #1: • Conduct Unbecoming an officer	BPD initiated an investigation.	31
4 (IA2018-045)	Officer #1: • Arrest or Detention	BPD initiated an investigation.	31
5 (IA2018-046)	Officers #1-2: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	30
6 (IA2018-049)	Officers #1-3: • Conduct Unbecoming an Officer Officer #3: • Policy/Procedure	BPD initiated an investigation.	21
7 (IA2018-051)	Officer #1: • Policy/Procedure	BPD initiated an investigation.	11

During June 2018, 1 **Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-040)	Officer #1: • Policy/Procedure	BPD initiated an investigation.	26

During June 2018, 3 **Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-047)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	26
2 (IA2018-048)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	26
3 (IA2018-050)	Officers #1-2: • Conduct Unbecoming	BPD initiated an investigation.	24

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During June 2018, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #17-42)	Officer unlawfully detained subject based on race, and did not properly verify subject's age.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Arrest or Detention – Exonerated • Policy/Procedure – Exonerated 	235	215

During June 2018, **3 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-095)	Officer improperly detained complainant, two officers used excessive force during detention, one officer failed to adhere to provisions of the Americans with Disabilities Act, and one officer conducted an improper search.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Unfounded Officer #2: <ul style="list-style-type: none"> • Arrest or Detention – Exonerated Officer #3: <ul style="list-style-type: none"> • Search or Seizure – Exonerated 	233	207
2 (IA2017-102)	Officer harassed and intimidated complainant.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Not Sustained 	248	214
3 (IA2017-117)	Officer improperly arrested complainant and did not properly investigate the underlying incident.	Officer #1: <ul style="list-style-type: none"> • Arrest or Detention – Unfounded • Performance of Duty – Unfounded 	193	166

During June 2018, **1 Informal Complaint** was addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-048)	Employee operated a vehicle in an unsafe manner.	Employee #1: • Conduct Unbecoming – Supervisor Referral ⁹	26	6

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued during the month of June 2018.

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	6
Complainant-Initiated Appeals	1
BPD-Initiated Appeals	0
Investigations Being Monitored	17
Investigations Reviewed During Current Month	10†

†This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law.¹⁰ OIPA reviewed one BPD investigation during the reporting period which resulted in a request that BPD examine and investigate an additional allegation. BPD agreed to review and revise the investigative report to include the additional allegation.

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a

citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisory Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

July 2018

Issue date: August 13, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **July 1, 2018 through July 31, 2018**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	5
Informal Complaints ⁷	2
Administrative Investigations	1
TOTAL	8

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	3
BART Police Department	4
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During July 2018, **3 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #18-28) (IA2018-059)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	25
2 (OIPA #18-28) (IA2018-060)	BART Police Department: • Service Review	BPD initiated a Service Review.	21
3 (OIPA #18-30) (IA2018-061)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	18

During July 2018, **2 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-054)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	34
2 (IA2018-056)	Officer #1: • Courtesy	BPD initiated an investigation.	34

During July 2018, **2 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-052)	Employee #1: • Courtesy	BPD initiated an investigation.	42
2 (IA2018-055)	Employee #1: • Courtesy	BPD initiated an investigation.	35

During July 2018, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-057)	Officer #1: • Force • Policy/Procedure	BPD initiated an investigation.	27

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During July 2018, **8 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-081)	Officers harassed and were rude to complainant during a detention and one officer did not properly document the contact.	Officers #1-3: • Conduct Unbecoming an Officer – Unfounded Officer #1: • Policy/Procedure – Not Sustained	347	315
2 (IA2017-097)*	Officer unlawfully detained subjects based on their race, and officer unnecessarily raised voice during detention.	Officer #1: • Bias-Based Policing – Unfounded • Arrest/Detention – Sustained • Courtesy – Sustained	299	204
3 (IA2017-115)	Officers used excessive force during arrest and humiliated complainant.	Officers #1-6: • Force – Unfounded • Conduct Unbecoming an Officer – Not Sustained Officer #1: • Conduct Unbecoming an Officer (Count 2) – Exonerated	236	203
4 (IA2018-005)	Officer improperly detained subject on the basis of race and yelled at subject.	Officer #1: • Bias-Based Policing – Unfounded • Arrest/Detention – Unfounded • Conduct Unbecoming an Officer – Unfounded	213	180
5 (IA2018-007)	Officer used unnecessary and excessive force during arrest.	Officer #1: • Force – Unfounded	199	166
6 (IA2018-009)	Employees contacted complainant on the basis of race.	Employees #1-3: • Bias-Based Policing – Unfounded	213	180

*This investigation was deferred to and completed by OIPA in May 2018 (OIPA #17-39). BPD removed the item from its internal list of open complaints during this reporting period.

7 (IA2018-036)	Officer improperly detained complainant on the basis of race and made inappropriate comments to complainant.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Arrest/Detention – Exonerated • Conduct Unbecoming an Officer – Not Sustained 	104	71
8 (IA2018-056)	Officer was discourteous and disrespectful to complainant during phone conversation.	Officer #1: <ul style="list-style-type: none"> • Courtesy – Supervisor Referral⁹ 	34	10

During July 2018, **2 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-047)	Employee addressed complainant using incorrect pronoun.	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Supervisor Referral 	61	27
2 (IA2018-055)	Employee was discourteous during phone conversation.	Employee #1: <ul style="list-style-type: none"> • Courtesy – Supervisor Referral 	35	16

During July 2018, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2017-040)	Officer accessed BPD database for reasons not related to law enforcement duties.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure – Sustained 	89	56

During the month of July 2018, BPD classified the following case as an **Inquiry** and **Administratively Closed** the complaint: IA2018-058 (BPD determined that the alleged misconduct did not occur).

DISCIPLINE ISSUED DURING REPORTING PERIOD

During July 2018, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer unlawfully detained subjects and officer unnecessarily raised voice during detention.	Officer #1: <ul style="list-style-type: none"> • Arrest/Detention • Conduct Unbecoming an Officer 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	6
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	12
Investigations Reviewed During Current Month	19†

†This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹⁰

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

August 2018

Issue date: September 10, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **August 1, 2018 through August 31, 2018**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	5
Administrative Investigations	2
TOTAL	14

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	4
BART Police Department	3
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During August 2018, **4 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #18-31) (IA2018-062)	Officer #1: • Performance of Duty • Policy/Procedure	BPD initiated a Supervisor Referral. ⁹	35
2 (OIPA #18-32) (IA2018-066)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	31
3 (OIPA #18-30) (IA2018-071)	Employee #1: • Performance of Duty	BPD classified the complaint as an Inquiry.	23
4 (OIPA #18-35) (IA2018-072)	Officer #1: • Performance of Duty	BPD initiated an investigation.	18

During August 2018, **3 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-064)	Officer #1: • Force	BPD initiated an investigation.	31
2 (IA2018-065)	Employee #1: • Bias-Based Policing • Conduct Unbecoming	BPD initiated an investigation.	34
3 (IA2018-075)	Officers #1-3: • Performance of Duty	BPD initiated an investigation.	11

During August 2018, **5 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-067)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	25
2 (IA2018-068)	Officers #1-2: • Performance of Duty	BPD initiated a Supervisor Referral.	25
3 (IA2018-069)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	24

4 (IA2018-073)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	24
5 (IA2018-074)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	18

During August 2018, **2 Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-063)	Officer #1: • Bias-Based Policing • Racial Animus • Conduct Unbecoming an Officer	BPD initiated an investigation.	32
2 (IA2018-070)	Officer #1: • Conduct Unbecoming • Policy/Procedure • Supervision	BPD initiated an investigation.	20

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During August 2018, **1 Appeal** was concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #18-01)	Officer was rude to complainant and initiated enforcement contact because of complainant's race.	Officer #1: • Bias-Based Policing – Unfounded • Arrest or Detention – Exonerated • Policy/Procedure – Exonerated	241	201

During August 2018, **4 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-096)	Officers arrested subject based on race.	Officers #1-2: • Bias-Based Policing – Unfounded	322	292
2 (IA2017-105)	Officer unlawfully detained subject based on race and did not properly verify subject's age.	Officer #1: • Bias-Based Policing – Unfounded • Performance of Duty – Exonerated	298	268
3 (IA2017-110)	There were an insufficient number of officers present at the location of the call for service.	BART Police Department • Service Review ¹⁰	286	256
4 (IA2018-018)	Officer treated complainant poorly because of complainant's race.	Officer #1: • Bias-Based Policing – Not Sustained • Performance of Duty – Not Sustained • Conduct Unbecoming an Officer – Not Sustained	194	173

DISCIPLINE ISSUED DURING REPORTING PERIOD

During August 2018, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Letter of Discussion
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling
3	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Letter of Discussion
4	Officers did not properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure	Officer #1: • Letter of Discussion*
5	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Letter of Discussion†

*Discipline was issued to both officers in July 2018, but the Internal Affairs Bureau file was not updated until August.

†Discipline was issued to officer in July 2018, but the Internal Affairs Bureau file was not updated until August.

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	5
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	15
Investigations Reviewed During Current Month	13†

†This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹¹

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ A Service Review refers to an instance when a citizen/patron raises a concern pertaining to a global practice throughout the Department such as Department policies, procedures and/or tactics. When appropriate, a Service Review may be conducted by Internal Affairs or by a designated review committee, who in turn will make recommended changes to the Chief of Police for approval.

¹¹ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

September 2018

Issue date: October 15, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **September 1, 2018 through September 30, 2018**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	6
Informal Complaints ⁷	3
Administrative Investigations	0
TOTAL	9

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	3
BART Police Department	3
TOTAL	6

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During September 2018, **3 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #18-37) (IA2018-077)	Officer #1: • Performance of Duty	OIPA initiated an investigation	38
2 (OIPA #18-38) (IA2018-084)	Officers #1-2: • Force	OIPA initiated an investigation.	17
3 (OIPA #18-30) (IA2018-085)	Officer #1: • Force	OIPA initiated an investigation.	17

During September 2018, **2 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-080)	Employees #1-2: • Conduct Unbecoming	BPD initiated an investigation.	28
2 (IA2018-081)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	18

During September 2018, **3 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-076)	Officer #1: • Courtesy	BPD initiated a Supervisor Referral. ⁹	40
2 (IA2018-078)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	35
3 (IA2018-082)	Employee #1: • Conduct Unbecoming	BPD initiated a Supervisor Referral.	17

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During September 2018, **1 Citizen Complaint (Formal)** was received by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-079)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure • Conduct Unbecoming an Officer 	BPD initiated an investigation.	53

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During September 2018, **1 Complaint Investigation** was concluded by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #18-03) (IA2018-011)	Officer improperly detained complainant and was discourteous to complainant on the basis of race.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Arrest or Detention – Exonerated • Courtesy – Unfounded 	245	206

During September 2018, **2 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-020)	Officer did not properly investigate a reported crime and was dismissive toward complainant	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Exonerated • Courtesy – Not Sustained 	216	176
2 (IA2018-062)	Officer did not properly investigate a traffic accident and generated an inaccurate police report.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Supervisor Referral 	70	30

Also, during the month of September 2018, BPD initially classified the following case as an **Inquiry** and Administratively Closed the complaint: IA2018-021 (Evidence indicated that the subject was not a BPD officer or employee).

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued during the month of September 2018.

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	5
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	16
Investigations Reviewed During Current Month	15†

†This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹⁰

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal

from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

October 2018

Issue date: November 19, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **October 1, 2018 through October 31, 2018.**¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	8
Informal Complaints ⁷	2
Administrative Investigations	0
TOTAL	10

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	3
BART Police Department	5
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During October 2018, **3 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #18-40) (IA2018-090)	Officers #1-2: • Bias-Based Policing	OIPA initiated an investigation	33
2 (OIPA #18-41) (IA2018-092)	Officer #1: • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	28
3 (OIPA #18-42) (IA2018-093)	Officers #1-4: • Performance of Duty	OIPA initiated an investigation.	27

During October 2018, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-083)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	49
2 (IA2018-086)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral. ⁹	46
3 (IA2018-088)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	40
4 (IA2018-091)	Officers #1-2: • Force	BPD initiated an investigation.	31
5 (IA2018-094)	Officer #1: • Force	BPD initiated an investigation.	27

During October 2018, **2 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-087)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	41
2 (IA2018-089)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	33

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During October 2018, **1 Complaint Investigation** was concluded by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #18-06) (IA2018-019)	Officers improperly detained complainant and were discourteous to complainant and one officer initiated the detention because of race.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded Officers #1-2: <ul style="list-style-type: none"> • Arrest or Detention – Exonerated • Courtesy – Unfounded 	259	219

During October 2018, **4 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-093)	Officer used unnecessary or excessive force against complainant and did not comply with policy for use of TASER.	Officer #1: <ul style="list-style-type: none"> • Force – Sustained • Policy/Procedure – Sustained 	411	362
2 (IA2017-114)	Officer used unnecessary or excessive force against subject and improperly arrested subject on the basis of race and stole personal property from subject.	Officer #1: <ul style="list-style-type: none"> • Force – Unfounded • Bias-Based Policing – Unfounded • Arrest or Detention – Unfounded • Conduct Unbecoming an Officer – Unfounded 	342	303
3 (IA2018-029)	Officers verbally abused subject and took subject's cane before ejecting him from the system.	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Administratively Closed 	217	183
4 (IA2018-086)	Officer was rude to complainant.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisor Referral 	46	14

During October 2018, **3 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-069)	Officer denied complainant's assertion that a crime had occurred.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	94	74
2 (IA2018-076)	Officer was discourteous to complainant.	Officer #1: • Courtesy – Supervisor Referral	75	55
3 (IA2018-078)	Officer was discourteous to complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	70	36

During October 2018, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-013)	Officer used unnecessary or excessive force against subject, inaccurately documented the use of force, and made unprofessional comments during the contact. Supervisor improperly classified, investigated, and documented the use of force.	Officer #1: • Force – Sustained • Performance of Duty – Sustained • Conduct Unbecoming an Officer – Sustained Officer #2: • Performance of Duty – Sustained	282	249

DISCIPLINE ISSUED DURING REPORTING PERIOD

During October 2018, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Employees did not appropriately respond to a request for law enforcement assistance and did not provide complainant with identifying information upon request.	Employee #1: • Conduct Unbecoming Employee #2: • Performance of Duty	Employees #1-2: • Non-Documented
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officers #1-2: • Letter of Discussion

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	9
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	26
Investigations Reviewed During Current Month	13 [†]

[†]This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹⁰

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

November 2018

Issue date: December 10, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **November 1, 2018 through November 30, 2018**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	9
Informal Complaints ⁷	4
Administrative Investigations	0
TOTAL	13

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	7
TOTAL	9

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During November 2018, **2 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #18-44) (IA2018-095)	Officers #1-4: <ul style="list-style-type: none"> • Force • Arrest or Detention 	OIPA initiated an investigation	40
2 (OIPA #18-45) (IA2018-103)	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer • Policy/Procedure • Performance of Duty 	OIPA notified BPD, which initiated an investigation.	21

During November 2018, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-096)	Employee #1: <ul style="list-style-type: none"> • Courtesy 	BPD initiated an investigation.	40
2 (IA2018-099)	Officers #1-2: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	40
3 (IA2018-100)	Officers #1-4: <ul style="list-style-type: none"> • Force • Bias-Based Policing 	BPD initiated an investigation.	29
4 (IA2018-102)	Officer #1: <ul style="list-style-type: none"> • Force • Conduct Unbecoming an Officer • Policy/Procedure 	BPD initiated an investigation.	35
5 (IA2018-104)	Officer #1: <ul style="list-style-type: none"> • Force • Bias-Based Policing • Search or Seizure • Conduct Unbecoming an Officer 	BPD initiated an investigation.	20
6 (IA2018-105)	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing • Policy/Procedure (Count 1) Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (Count 2) Officer #2: <ul style="list-style-type: none"> • Force • Conduct Unbecoming an Officer 	BPD initiated an investigation.	13

During November 2018, **4 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-097)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral. ⁹	33
2 (IA2018-098)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	38
3 (IA2018-106)	Employee #1: • Conduct Unbecoming	BPD initiated a Supervisor Referral.	11
4 (IA2018-107)	Employee #1: • Performance of Duty	BPD initiated a Supervisor Referral.	10

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During October 2018, **1 Citizen Complaint (Informal)** was received by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-101)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	52

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During November 2018, **1 Complaint Investigation** was concluded by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #18-15) (IA2018-028)	Officers used excessive force during detention and arrest.	Officers #1-2: • Force – Exonerated	234	202

During November 2018, **6 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-003)	Officer harassed complainant and contacted complainant in retaliation for submission of a prior complaint against officer.	Officer #1: • Arrest or Detention – Exonerated • Conduct Unbecoming an Officer – Unfounded	341	314
2 (IA2018-017)	Officers accosted subject and acted outside the bounds of their authority.	Officers #1-2: • Conduct Unbecoming an Officer – Administratively Closed	291	267
3 (IA2018-023)	Officers improperly placed subject on mental health hold.	Officers #1-2: • Performance of Duty – Sustained	249	235
4 (IA2018-031)	Officers were rude and unprofessional and one officer improperly detained complainant.	Officers #1-2: • Conduct Unbecoming an Officer – Unfounded Officer #2: • Arrest or Detention – Exonerated	235	204
5 (IA2018-045)	Officer improperly detained complainant.	Officer #1: • Arrest or Detention – Exonerated	185	161
6 (IA2018-092)	Officer was rude and unprofessional.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	49	19

During November 2018, **2 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-059)	Employee was discourteous to complainant.	Employee #1: • Conduct Unbecoming an Officer – Supervisor Referral	144	131
2 (IA2018-089)	Employee was discourteous to complainant.	Employee #1: • Courtesy – Supervisor Referral	54	22

During November 2018, **3 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2017-111)	Officers used unnecessary or excessive force against subject.	Officers #1-2: • Force – Exonerated	395	363
2 (IA2018-026)	Officer was arrested for driving while intoxicated while off duty.	Officer #1: • Criminal Conduct – Sustained • Conduct Unbecoming an Officer – Sustained	240	202
3 (IA2018-057)	Officer used unnecessary or excessive force against subject and violated BPD policy regarding use of the baton.	Officer #1: • Force – Exonerated • Policy/Procedure – Exonerated	146	114

INVESTIGATIONS COMPLETED DURING A PRIOR REPORTING PERIOD

During October 2018, **1 Informal Complaint** was completed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
2 (IA2018-074)	Officer was rude to complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	109	63

DISCIPLINE ISSUED DURING REPORTING PERIOD

During November 2018, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion

3	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
4	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
5	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
6	Officers did not properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion Officer #2: • Oral Counseling

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD’s Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	9
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	25
Investigations Reviewed During Current Month	18†

†This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹⁰

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the “Citizen Board, Office of the District Secretary, and other District departments.” As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

December 2018

Issue date: January 14, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **December 1, 2018 through December 31, 2018**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
December 2017	9	34	1	0	0
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	4
Informal Complaints ⁷	1
Administrative Investigations	0
TOTAL	5

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	4
TOTAL	4

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During December 2018, **3 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-108)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	38
2 (IA2018-109)	Officer #1: • Performance of Duty • Policy/Procedure	BPD initiated an investigation.	34
3 (IA2018-111)	Officer #1: • Arrest or Detention	BPD initiated an investigation.	33

During December 2018, **1 Informal Complaint** was received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2018-112)	Employee #1: • Courtesy	BPD initiated a Supervisor Referral. ⁹	31

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During November 2018, **1 Citizen Complaint (Formal)** was received by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-110)	Officer #1: • Force • Bias-Based Policing	BPD initiated an investigation.	67

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During December 2018, **8 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-010)	Officers generated false reports, failed to respond to a call for service and were rude to complainant.	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty – Unfounded • Conduct Unbecoming an Officer – Unfounded 	336	314
2 (IA2018-015)	Officers harassed complainant, disregarded status of a service animal, failed to offer necessary assistance, and failed to properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Not Sustained • Policy/Procedure – Not Sustained • Performance of Duty – Not Sustained Unknown Officer #2 <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Not Sustained 	328	286
3 (IA2018-022)	Officer improperly accessed a law enforcement database and threatened complainant.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded • Policy/Procedure (Count 1) – Unfounded • Policy/Procedure (Count 2) – Sustained 	318	291
4 (IA2018-025)	Officer used excessive or unnecessary force during detention.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated 	278	251
5 (IA2018-034)	Officer harassed complainant and improperly requested proof of payment.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisor Referral 	278	247
6 (IA2018-038)	Officers failed to return complainant's property.	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded • Property – Unfounded 	251	224
7 (IA2018-041)	Officer used profane language.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Not Sustained 	239	212
8 (IA2017-118)	Officer used excessive force during arrest.	Officer #1: <ul style="list-style-type: none"> • Force – Unfounded 	396	354

During December 2018, **3 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-106)	Employee improperly cited complainant for parking.	Employee #1: • Conduct Unbecoming an Officer – Supervisor Referral	46	20
2 (IA2018-107)	Employee did not properly respond to call for service.	Employee #1: • Performance of Duty – Supervisor Referral	45	3
3 (IA2018-112)	Employee improperly cited complainant for proof of payment violation.	Employee #1: • Courtesy – Supervisor Referral	31	7

During December 2018, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-030)	Officer used profanity, failed to document a law enforcement contact and instructed another officer to not to activate a body camera.	Officers #1-2: • Conduct Unbecoming an Officer – Sustained • AXON Camera Violation – Sustained	269	227

DISCIPLINE ISSUED DURING REPORTING PERIOD

During December 2018, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer did not properly review a use of force.	Officer #1: • Performance of Duty	Officer #1: • Oral Counseling
2	Officer did not properly document a crime.	Officer #1: • Performance of Duty	Officer #1: • Written Reprimand

3	Officer improperly classified subject as mentally disabled.	Officer #1: • Performance of Duty	Officer #1: • Letter of Discussion
4	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
5	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Oral Counseling

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	7
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	22
Investigations Reviewed During Current Month	15 [†]

[†]This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹⁰

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.