



OFFICE OF THE INDEPENDENT
POLICE AUDITOR

BAY AREA RAPID TRANSIT

MONTHLY REPORT

July 2024

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 **July 1, 2024 through July 31, 2024.**¹ *(The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau (IA)).*

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	Investigations Resolved	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
July 2023	18	106	7	1	0	0
August 2023	18	114	8	1	0	0
September 2023	11	115	11	1	0	0
October 2023	4	106	14	2	0	0
November 2023	6	109	3	0	0	0
December 2023	9	114	4	0	0	0
January 2024	5	107	10	1	0	0
February 2024	12	118	7	1	0	0
March 2024	11	116	9	2	0	0
April 2024	9	115	9	1	0	0
May 2024	16	123	8	0	0	0
June 2024	8	123	8	1	0	0
July 2024	14	121	18	2	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	11
Informal Complaints ⁷	0
Administrative Investigations	0
Inquiries ⁸	0
TOTAL	11

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	0
BART Police Department	11
TOTAL	11

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During July 2024, 11 Citizen Complaints (Formal) were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-061)	Officer #1: • Force	BPD initiated an investigation.	192
2 (IA2024-063)	Officer #1: • Force	BPD initiated an investigation.	182
3 (IA2024-066)	Officers #1-4: • Force	BPD initiated an investigation.	196
4 (IA2024-067)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	179
5 (IA2024-068)	Officers #1-3: • Force • Conduct Unbecoming an Officer Officer #3: • Detention • Search/Seizure	BPD initiated an investigation.	173
6 (IA2024-069)	Employee #1: • Courtesy	BPD initiated an investigation.	171
7 (IA2024-070)	Officer #1: • Force • Conduct Unbecoming an Officer	BPD initiated an investigation.	169
8 (IA2024-074)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	167
9 (IA2024-076)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	182
10 (IA2024-077)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	167
11 (IA2024-079)	Officer #1: • Force	BPD initiated an investigation.	167

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During July 2024, **2 Citizen Complaints** were concluded by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #23-36) (IA2023-103)	BPD supervisors did not properly follow procedures in connection with a disciplinary matter and subjected the complainant to workplace discrimination and harassment.	Officers #1-3: • Policy/Procedure – Exonerated • Workplace Discrimination / Harassment – Exonerated	556	362
2 (OIPA #24-04) (IA2024-005)	Officers used excessive force, improperly extended the duration of a detention, and failed to summon BPD Crisis Intervention Specialists.	Officers #1-3: • Policy/Procedure (Count 1) – Exonerated • Policy/Procedure (Count 2) – Exonerated • Force – Exonerated	348	152

During July 2024, **16 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-061)	Officer intimidated and harassed complainant.	Officer #1: • Conduct Unbecoming an Officer – Administratively Closed ¹⁰	556	364
2 (IA2023-065)	One officer improperly detained complainant and two officers racially profiled the complainant and used excessive force.	Officers #1-2: • Bias-Based Policing – Unfounded Officer #1: • Force – Exonerated • Detention – Unfounded Officer #2: • Force – Unfounded	547	358
3 (IA2023-066)	Officers improperly detained and searched complainant and used excessive force during the detention.	Officers #1-4: • Arrest – Exonerated • Force – Exonerated • Search – Unfounded	539	351
4 (IA2023-068)	Two officers failed to properly investigate a reported crime and one officer was discourteous during an interaction.	Officer #1: • Courtesy – Administratively Closed • Performance of Duty – Administratively Closed	540	362

<p>5 (IA2023-069)</p>	<p>Officer used excessive force during a detention, and three officers improperly searched a subject, and sexually assaulted the subject during the search.</p>	<p>Officers #1-4: <ul style="list-style-type: none"> • Force – Administratively Closed • Conduct Unbecoming an Officer – Administratively Closed </p>	<p>539</p>	<p>347</p>
<p>6 (IA2023-071)</p>	<p>Officers did not take appropriate action and escalated a conflict.</p>	<p>Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded </p>	<p>535</p>	<p>356</p>
<p>7 (IA2023-072)</p>	<p>Employee was rude to complainant and did not respond appropriately to a request for service.</p>	<p>Employee #1: <ul style="list-style-type: none"> • Performance of Duty – Administratively Closed </p>	<p>535</p>	<p>362</p>
<p>8 (IA2023-073)</p>	<p>One officer contacted complainant because of complainant's race and three officers used excessive force.</p>	<p>Officers #1-3: <ul style="list-style-type: none"> • Force – Exonerated <p>Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded </p> </p>	<p>539</p>	<p>372</p>
<p>9 (IA2023-074)</p>	<p>Officer used unnecessary force during a fare evasion enforcement contact.</p>	<p>Officer #1: <ul style="list-style-type: none"> • Force – Exonerated </p>	<p>538</p>	<p>350</p>
<p>10 (IA2023-075)</p>	<p>Officer used excessive force after a detention for fare evasion and the officer damaged complainant's property during the use of force.</p>	<p>Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Conduct Unbecoming an Officer – Unfounded </p>	<p>534</p>	<p>368</p>

11 (IA2023-076)	Officers used unnecessary force after handcuffing complainant in connection with a detention for fare evasion.	Officers #1-3: • Force – Exonerated	532	344
12 (IA2023-078)	Officer was aggressive toward complainant.	Officer #1: • Conduct Unbecoming an Officer – Administratively Closed	522	334
13 (IA2023-083)	Officer used excessive force during a detention for fare evasion.	Officer #1: • Force – Administratively Closed	516	331
14 (IA2023-085)	Officer used excessive force during a Proof of Payment contact and did so because of complainant's race and a supervisor failed to properly address a failed body-worn camera activation.	Officer #1: • Bias-Based Policing – Unfounded • Force – Exonerated • Policy/Procedure (AXON Camera) – Sustained Officer #2: • Performance of Duty (Supervision) – Exonerated	514	335
15 (IA2023-086)	Officer used excessive force during a detention for fare evasion.	Officers #1-3: • Force – Exonerated	531	346

16. (IA2024-062) BPD IA also characterized the complaint as an Inquiry in connection with questions about the activities of the BPD Fare Inspectors and the removal of a minor from a train.

DISCIPLINE ISSUED DURING REPORTING PERIOD

During July 2024, 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 (Body Worn Camera)	Officer #1: • Letter of Discussion ¹¹
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (Body Worn Camera)	Officer #1: Letter of Discussion
3	Officers did not properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (Body Worn Camera)	Officers #1-2: Letter of Discussion
4	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (Documentation)	Officer #1: Oral Counseling ¹²

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and 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	17
Complainant-Initiated Appeals	1
BPD-Initiated Appeals	0
Investigations Being Monitored	33
Investigations Reviewed During Current Month	33†

†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.

*Some details regarding the nature of sustained allegations may be withheld to avoid unintentionally breaching mandatory confidentiality requirements. In some instances, the relative infrequency of the alleged misconduct may tend to allow for identification of the subject officer in violation of the applicable CA Penal Code section (832.7).

ISSUES DETECTED

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD.¹³ The OIPA Monthly Report will reflect information regarding monitored cases, investigations, and contacts with detail not to exceed that which is allowable under state law. OIPA found several issues with BPD investigations during the reporting period which have been summarized and included in the November 2024 Monthly Report.

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 BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ 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.

¹⁰ Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however, the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹¹ Letter of Discussion (second level of pre-discipline): A letter of discussion may be the next step of the process of the informal process. It is a written memorandum to the employee making the employee aware of the unacceptable behavior. A letter of discussion is pre-disciplinary, however, if the employee fails to correct the behavior, there will be cause to move to the next level of the process or to move to formal progressive discipline. An employee who may be issued a letter of discussion is entitled to appropriate representation. (BPD Policy Manual).

¹² Oral Counseling (third level of pre-discipline): An oral counseling may be the next step of the informal process. It is documented in a memorandum to the employee entitled "Oral Counseling." Prior to issuance, the supervisor should discuss the performance or infraction in detail with the employee. The purpose of the discussion is for the employee to be made aware of the unacceptable behavior. An employee who is covered by a collective bargaining agreement and who may be issued an Oral Counseling is entitled to appropriate association representation. An Oral Counseling is pre-disciplinary, however, if the employee fails to correct the behavior, there will be cause to move to progressive discipline.

¹³ 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.