



OFFICE OF THE INDEPENDENT
POLICE AUDITOR

BAY AREA RAPID TRANSIT

MONTHLY REPORT

November 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 **November 1, 2024 through November 30, 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
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	19	3	0	0
August 2024	7	112	18	1	0	0
September 2024	8	113	7	1	0	1
October 2024	14	115	12	2	0	0
November 2024	5	118	2	0	1	1

TYPES OF CASES FILED

Citizen Complaints (Formal)	4
Informal Complaints ⁷	0
Administrative Investigations	1
Inquiries ⁸	0
TOTAL	5

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	0
BART Police Department	5
TOTAL	5

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During November 2024, **4 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-107)	Officer #1: • Policy/Procedure (Report Writing) • Conduct Unbecoming Officer #2: • Force • Policy/Procedure (Report Writing) Officer #3: • Policy/Procedure (Report Writing)	BPD initiated an investigation.	73
2 (IA2024-108)	Officer • Force • Policy/Procedure	BPD initiated an investigation.	68
3 (IA2024-109)	Officer: • Policy/Procedure	BPD initiated an investigation.	59
4 (IA2024-110)	Officer #1: • Force Officer #2: • Force • Conduct Unbecoming	BPD initiated an investigation.	56

During November 2024, **1 Administrative Investigation** was opened by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-111)	Officer: • Force • Policy/Procedure	BPD initiated an investigation and contracted with a third party to conduct the Officer-Involved Shooting investigation.	56

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During November 2024, **2 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-110)	Officer used excessive force by tasing an arrestee.	Officer: • Force – Exonerated	409	356
2 (IA2023-112)	Officer used excessive by grabbing and pulling the complainant of their skateboard.	Officer #1: • Force – Exonerated	401	348

DISCIPLINE ISSUED DURING REPORTING PERIOD

During November 2024, BPD did not issue any officer discipline.

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	14
Complainant-Initiated Appeals	2
BPD-Initiated Appeals	0
Investigations Being Monitored	37
Investigations Reviewed During Current Month	7†

†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.

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.¹⁰ 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.

As mentioned in the monthly reports from July – October 2024, OIPA identified issues related to BPD's Internal Affairs investigations. While OIPA did not recommend revisions or follow-up investigations, OIPA made key findings and recommendations to improve internal and external accountability, build public trust, and ensure equitable treatment for complainants and officers.

Key Findings for the Reporting Period July – November 2024

OIPA conducted a thorough review of BPD's handling of police misconduct allegations from July through November 2024. The review uncovered issues related to case management, investigative findings, timeliness, and disciplinary processes, summarized below:

Timeliness of Investigations

1. Last-Minute Closures:

- Investigations were frequently completed mere days or less than a month before statutory deadlines, raising concerns about thoroughness and quality

2. Missed Deadlines:

- Cases closed after the statute of limitations had expired rendered issuance of discipline impossible, regardless of the investigative findings. For example, in August, BPD closed a total of seventeen complaint cases including ten that were past the one-year statute of limitations to discipline the subject officers. In September, BPD closed three of the six cases it concluded after the time limit expired.

3. Propriety of Resolution Methods and Reclassification of Complaints:

- Some cases lacked clear rational or sufficient documentation of a justification for: (1) resolving complaints by administrative closure or supervisor referral; or (2) reclassifying investigations from formal complaints to an inquiry, leaving decisions open to scrutiny.

Case Management and Recordkeeping

1. Inconsistent Allegation Recording:

- Allegations were not accurately recorded in the IPro case management system, with some cases closed without ensuring allegations matched records.

- BPD did not always document whether BPD notified subject officers of complaints filed against them, representing a lapse in transparency and potentially a denial of procedural justice for subject officers.

2. Misclassification of Allegations:

- Allegations were sometimes inconsistently classified between case files and final investigation reports, undermining the investigative process and generating inaccurate data.

Investigative Findings

• Misapplication of Findings:

- Findings did not align with evidence in several cases. For instance: A handcuffing incident was deemed “unfounded” despite evidence confirming the occurrence of the handcuffing.

• Lack of Clarity:

- In September, BPD findings sometimes lacked clarity, and some allegations were dismissed without sufficient evidence or reasoning. Procedural gaps were evident in some investigations and in some instances, the evidentiary analysis was incomplete. Additionally, BPD misclassified an officer as a witness despite potential policy violations, highlighting broader concerns about BPD’s internal accountability practices.

Disciplinary Process Errors

• Retention Period Misstated in Notifications:

- Notifications to subject officers repeatedly misstated the retention period for disciplinary records, a recurring issue despite prior discussions with BPD leadership. BPD inaccurately notified subject officers that the discipline documentation would remain in their employee files for the requisite period starting from the date BPD completed its investigation.
- In 2023, inconsistent communication about the retention period had been an issue, which OIPA and BPD had resolved (see OIPA’s July 2023, Monthly Report, p. 8). In 2023, Chief Kevin Franklin agreed with OIPA’s recommendation that the retention period for BPD disciplinary records should begin when BPD issued the discipline, not when BPD completed its investigation or when the underlying incident occurred.

Recommendations for the Reporting Period July – November 2024

By implementing these recommendations, BPD can improve internal and external accountability, build public trust, and ensure equitable treatment for officers and complainants alike. OIPA remains committed to monitoring progress and advocating for meaningful reform.

To address the identified issues and trends, BPD should implement the following:

1. Expedite Investigations

- Complete investigations earlier to allow sufficient time for oversight review before statutory deadlines.
- Collaborate with the OIPA to facilitate earlier case reviews improve the accuracy of investigative outcomes and strengthen oversight.

2. Ensure Accurate and Timely Recordkeeping

- Implement mandatory training on proper and effective allegation documentation and case management system usage.
- Establish protocols for promptly notifying subject officers of complaints.
- Align IAPro records with investigation reports and log all allegations consistently.

3. Enhance Investigative Training and Oversight

- Develop comprehensive training for investigators on proper findings classifications and definitions.
- Introduce regular internal audits to ensure consistency between findings and documented evidence.
- Mandate clear explanations for dropped allegations or reclassified findings in reports.

4. Establish Safeguards Against Deadline Rushing

- Implement a case tracking system to flag cases nearing statutory deadlines and ensure that the Internal Affairs Unit is properly staffed and managed.
- Regularly review and address bottlenecks in investigative processes to prevent last-minute rushes.

5. Clarify and Enforce Disciplinary Processes

- Reinforce accurate communication of disciplinary retention timelines through updated notification templates.
- Conduct quarterly reviews to ensure compliance with disciplinary policy agreements.
- Reissue instructions to BPD supervisors and Internal Affairs personnel.

6. Formalize Reviews of OIPA-Generated Investigations

- Establish a structured review process to identify why OIPA-detected misconduct was not detected by BPD personnel.
- Address systemic gaps in evidence collection and misconduct detection.

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 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.