



OFFICE OF THE INDEPENDENT
POLICE AUDITOR

BAY AREA RAPID TRANSIT

MONTHLY REPORT

January 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 **January 1, 2024 through January 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
January 2023	6	87	5	0	0	0
February 2023	12	91	9	1	0	0
March 2023	10	98	4	1	0	0
April 2023	12	99	10	1	0	0
May 2023	10	101	6	1	1	0
June 2023	7	103	6	1	2	0
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

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	2
BART Police Department	3
TOTAL	5

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During January 2024, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #24-02) (IA2024-003)	Officers #1-2: <ul style="list-style-type: none"> • Arrest/Detention • Conduct Unbecoming an Officer 	OIPA notified BPD which initiated an investigation.	129
2 (OIPA #24-04) (IA2024-005)	Officers #1-2: <ul style="list-style-type: none"> • Force • Arrest/Detention • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	104

During January 2024, **3 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-001)	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer Officer #2: <ul style="list-style-type: none"> • Bias-Based Policing • Performance of Duty 	BPD initiated an investigation.	132
2 (IA2024-002)	Officers #1-5: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	130

Also, on January 12, 2024, BPD received complaint #IA2024-004 alleging that an officer was texting while driving and BPD addressed the matter via a Supervisor Referral.¹⁰

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During January 2024, **1 Citizen Complaint** 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 #22-36) (IA2023-039)	Officers improperly detained complainant based on complainant's race, extended the detention for an unreasonable duration, and one officer escalated the contact by being confrontational and antagonizing complainant. Two officers failed to properly activate body worn cameras.	<p>Officers #1-3:</p> <ul style="list-style-type: none"> • Arrest/Detention – Exonerated <p>Officers #1&3:</p> <ul style="list-style-type: none"> • Bias-Based Policing – Exonerated <p>Officers #2&3:</p> <ul style="list-style-type: none"> • Policy/Procedure (Body Worn Camera) – Sustained <p>Officer #3:</p> <ul style="list-style-type: none"> • Courtesy – Not Sustained 	368	275

During January 2024, **9 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-004)	Officer did not properly handle a call for service.	<p>Officer #1:</p> <ul style="list-style-type: none"> • Performance of Duty – Exonerated 	472	350

2 (IA2023-007)	Officers used excessive force.	Officers 1-4: • Force – Exonerated	462	353
	Officer used excessive force.	Officer #1: • Force – Exonerated	461	357
4 (IA2023-011)	Officers used excessive force.	Officer #1-3: • Force – Exonerated	454	346
	Officer improperly detained complainant and used excessive force during the detention.	Officer #1: • Force – Exonerated • Arrest/Detention – Exonerated	456	348
5 (IA2023-012)	Officer followed complainant's vehicle.	Officer #1: • Conduct Unbecoming an Officer – BPD initiated a Supervisor Referral ¹¹	452	347
	Officers stole complainant's property from vehicle after arresting complainant.	Officers #1-3: • Conduct Unbecoming an Officer – Unfounded Officers #2-3: • Policy/Procedure (Security of Vehicles and Property) – Not Sustained	441	337
6 (IA2023-014)	Officer used excessive force.	Officer #1: • Force – Exonerated	456	348
	Officer was operating a vehicle in an unsafe manner.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	122	15
7 (IA2023-017)				
8 (IA2023-027)				
9 (IA2024-004)				

DISCIPLINE ISSUED DURING REPORTING PERIOD

During December 2023, 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.	Officers #1&2: • Policy/Procedure (Body Worn Camera) – Sustained	Officer #1: • Letter of Discussion ¹² Officer #2: • Oral Counseling ¹³

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	5
Complainant-Initiated Appeals	3
BPD-Initiated Appeals	0
Investigations Being Monitored	23
Investigations Reviewed During Current Month	17†

†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.¹⁴ 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. The investigations reviewed by OIPA during this period did not generate any recommendations for revisions or additional investigation.

*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).

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 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.

¹¹ 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.

¹² 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).

¹³ 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.

¹⁴ 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

MONTHLY REPORT

February 2024

Issue date: June 10, 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 **February 1, 2024 through February 29, 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
February 2023	12	91	9	1	0	0
March 2023	10	98	4	1	0	0
April 2023	12	99	10	1	0	0
May 2023	10	101	6	1	1	0
June 2023	7	103	6	1	2	0
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

TYPES OF CASES FILED

Citizen Complaints (Formal)	12
Informal Complaints ⁷	0
Administrative Investigations	0
Inquiries ⁸	0
TOTAL	12

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	2
BART Police Department	10
TOTAL	12

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During February 2024, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #24-05) (IA2024-009)	Officers #1-3: • Policy/Procedure Officers #1-2: • Bias-Based Policing • Force Officer #3: • Performance of Duty	OIPA initiated an investigation.	124
2 (OIPA #24-06) (IA2024-012)	Officer #1: • Arrest/Detention • Policy/Procedure	OIPA notified BPD which initiated an investigation.	116

During February 2024, **10 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-006)	Officers #1-2: • Bias-Based Policing	BPD initiated an investigation.	128
2 (IA2024-007)	Officer #1: • Force	BPD initiated an investigation.	126
3 (IA2024-008)	Officer #1: • Force	BPD initiated an investigation.	126
4 (IA2024-010)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	114
5 (IA2024-011)	Officers #1-2: • Bias-Based Policing • Force	BPD initiated an investigation.	107

6 (IA2024-013)	Officers #1-4: • Force	BPD initiated an investigation.	103
7 (IA2024-014)	Officers #1-2: • Bias-Based Policing • Force	BPD initiated an investigation.	102
8 (IA2024-015)	Officers #1-4: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	102
9 (IA2024-018)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	104
10 (IA2024-028)	Officer #1: • Force • Conduct Unbecoming an Officer	BPD initiated an investigation.	28

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During February 2024, **1 Citizen Complaint** 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 #23-16) (IA2023-039)	Supervisor improperly allowed an employee to apply for selection to a special assignment.	Officer #1: • Policy/Procedure (Favoritism) – Exonerated • Policy/Procedure (Application of Minimum Qualifications)	398	272

During February 2024, **6 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA 2022-087)	Officer was aggressive and unprofessional toward complainant during a consensual contact.	Officer #1: • Conduct Unbecoming an Officer – Not Sustained	585	475*
2 (IA 2023-010)	Officers used excessive force.	Officers #1-2: • Force – Exonerated	483	353
3 (IA 2023-015)	Officer used excessive force.	Officer #1: • Force – Exonerated	474	350
4 (IA 2023-018)	Officers used excessive force.	Officer #1-3: • Force – Exonerated	469	364
5 (IA 2023-020)	Employee was discourteous and refused to provide identifying information upon request.	Employee #1: • Conduct Unbecoming an Officer – Not Sustained	463	335
6 (IA 2023-100)	Officers followed complainant's vehicle.	Officer #1: • Conduct Unbecoming an Officer – Not Sustained Officer #2: • Force – Exonerated	477	368

* Per the IA report, this investigation was tolled from February 21, 2023 to November 12, 2023 due to an officer's absence (264 days).

DISCIPLINE ISSUED DURING REPORTING PERIOD

During February 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: • Oral Counseling ¹⁰

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	5
Complainant-Initiated Appeals	3
BPD-Initiated Appeals	0
Investigations Being Monitored	23
Investigations Reviewed During Current Month	17†

†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.¹¹ 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. The investigations reviewed by OIPA during this period did generate some recommendations for revisions or additional investigation and these items will be compiled and included in a subsequent monthly report and will include responses from BPD.

† 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).

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 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.

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

MONTHLY REPORT

March 2024

Issue date: June 10, 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 **March 1, 2024 through March 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
March 2023	10	98	4	1	0	0
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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	12	116	9	2	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	12
Informal Complaints ⁷	0
Administrative Investigations	0
Inquiries ⁸	0
TOTAL	12

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	3
BART Police Department	9
TOTAL	12

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During March 2024, **3 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #24-13) (N/A)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure • Workplace Discrimination • Performance of Duty • Conduct Unbecoming an Officer • Workplace Harassment 	OIPA initiated an investigation.	76
2 (OIPA #24-15) (IA2024-030)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	74
3 (OIPA #24-12) (IA2024-021)	Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure (Body Worn Camera) • Arrest/Detention • Force • Policy/Procedure (Report Writing) • Policy/Procedure (Improper Citation) 	OIPA notified BPD which initiated an investigation.	76

During March 2024, **9 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-016)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	101
2 (IA2024-017)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer • Bias-Based Policing • Arrest/Detention 	BPD initiated an investigation.	101
3 (IA2024-019)	Officers #1-2: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	94

4 (IA2024-020)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	87
5 (IA2024-022)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	83
6 (IA2024-023)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	84
7 (IA2024-024)	Officers #1-2: • Force	BPD initiated an investigation.	84
8 (IA2024-025)	Officer #1: • Policy/Procedure • Performance of Duty • Conduct Unbecoming an Officer	BPD initiated an investigation.	80
9 (IA2024-030)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	76

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During March 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
<p>1 (OIPA #23-14) (IA2023-036 & IA2023-037)*</p>	<p>Officers improperly detained complainant, improperly enforced fare evasion laws, discriminated against complainant, used unnecessary force, and failed to provide a business card upon request.</p>	<p>Officers #1-3: <ul style="list-style-type: none"> • Arrest/Detention – Exonerated • Force – Unfounded • Courtesy – Unfounded <p>Officers #2-3: <ul style="list-style-type: none"> • Bias-Based Policing – Exonerated <p>Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (Failure to Provide Business Card) – Exonerated • Policy/Procedure (Failure to Provide Name) – Unfounded </p> </p></p>	<p>424</p>	<p>328</p>

* These two IA complaint investigations were consolidated, and IA deferred both investigations to OIPA at the request of the complainant.

During March 2024, **5 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-019)	Officer unlawfully arrested complainant and conducted an illegal search.	Officer #1: <ul style="list-style-type: none"> • Arrest/Detention – Exonerated • Search/Seizure – Exonerated 	460	372
2 (IA2023-023)	Employee refused to provide service to complainant based on complainant's race.	Employee #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Performance of Duty – Unfounded 	455	353
3 (IA2023-026)	Officers failed to provide assistance to complainant due to complainant's race and subject's race.	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty – Exonerated Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded Officer #2: <ul style="list-style-type: none"> • Bias-Based Policing – Not Sustained 	441	358
4 (IA2023-031)	Officers failed to properly address a fare evasion and failed to properly document enforcement activities.	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty – Sustained • Policy/Procedure (Body Worn Camera) – Sustained 	441	364
5 (IA2023-038)	Employee cited complainant for illegal parking and harassed complainant because of complainant's race.	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded • Bias-Based Policing – Unfounded 	413	337

During March 2024, **2 Administrative Investigations** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2020-017)	Officer-Involved Shooting investigation.	Officers #1-2: • Force – Exonerated	1577	1490†
2 (IA2023-035)	Officers used excessive force.	Officers 1-2: • Force – Exonerated	441	347

DISCIPLINE ISSUED DURING REPORTING PERIOD

During March 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 ¹⁰ •
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (Body Worn Camera)	Officer #1: • Letter of Discussion
3	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (Body Worn Camera)	Officer #1: • Written Reprimand ¹¹

†Per the IA report, this investigation was tolled from January 7, 2021 to May 8, 2023 due to civil litigation (851 days).

‡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).

4	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (Body Worn Camera)	Officer #1: • Letter of Discussion ¹²
5	Officers did not properly respond to a fare evader and did not properly document a law enforcement contact.	Officers #1-2: • Performance of Duty • Policy/Procedure (Body Worn Camera)	Officer #1: • Oral Counseling ¹³

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	8
Complainant-Initiated Appeals	3
BPD-Initiated Appeals	0
Investigations Being Monitored	28
Investigations Reviewed During Current Month	17†

†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.¹⁴ 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. The investigations reviewed by OIPA during this period did generate some recommendations for revisions or additional investigation and these items will be compiled and included in a subsequent monthly report and will include responses from BPD.

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 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).

¹¹ Written Reprimand (first level of formal discipline): If there have been no re-occurrences at the end of the time frames as determined by the collective bargaining agreement (up to 3 years), the immediate supervisor shall meet with the employee and advise him/her that the progressive discipline has become inactive and has been removed from the employee's personnel files.

¹² 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).

¹³ 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.

¹⁴ 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

MONTHLY REPORT

April 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 **April 1, 2024 through April 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
April 2023	12	99	10	1	0	0
May 2023	10	101	6	1	1	0
June 2023	7	103	6	1	2	0
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

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	0
Administrative Investigations	1
Inquiries ⁸	1
TOTAL	9

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	4
BART Police Department	5
TOTAL	9

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During April 2024, **3 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #24-19) (IA2024-027)	Officers #1-2: • Performance of Duty	OIPA initiated an investigation.	126
2 (OIPA #24-22) (IA2024-036)	Officer #1: • Conduct Unbecoming an Officer • Performance of Duty	OIPA initiated an investigation.	110
3 (OIPA #24-20) (IA2024-032)	Officer #1: • Conduct Unbecoming an Officer (Illegal Parking)	OIPA forwarded the complaint o BPD, who categorized the complaint as an Inquiry.	119

During April 2024, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-026)	Officer #1: • Conduct Unbecoming an Officer • Arrest/Detention	BPD initiated an investigation.	132
2 (IA2024-029)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	129
3 (IA2024-034)	Officers #1-2: • Force	BPD initiated an investigation.	115
4 (IA2024-033)	Officer #1: • Force	BPD initiated an investigation.	112
5 (IA2024-035)	Officers #1-2: • Force	BPD initiated an investigation.	104

During April 2024, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2024-031)	Officer #1: • Policy/Procedure (Retaliation) • Policy/Procedure (Rumors and Bullying) • Conduct Unbecoming an Officer	BPD initiated an investigation.	118

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During March 2024, **1 Citizen Appeal** was concluded by OIPA but not previously reported:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Appeal Received	Days Taken to Complete Review
1 (OIPA #22-16) (IA2022-020)	OIPA examined whether BPD properly resolved allegations that officers improperly ejected complainant from the system based on complainant's disability.	Officers #1-2: • Policy/Procedure – Exonerated (OIPA Concurred) • Bias-Based Policing – Unfounded (OIPA Concurred)	438	301

During April 2024, **6 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-021)	Fare Inspectors improperly removed complainant from a train.	Employees #1-2: • No findings*	516	392
2 (IA2023-032)	Officer detained complainant based on complainant's race used excessive force during the detention.	Officer #1: • Force – Exonerated • Bias-Based Policing – Unfounded	498	383
3 (IA2023-040)	Officers harassed complainant, one officer grabbed complainant's property, and one officer was overly aggressive.	Officers #1-3: • Force – Unfounded • Conduct Unbecoming an Officer – Unfounded	472	348

* The Chief of Police determined that this complaint should be categorized as a Service Review, yet Internal Affairs completed the investigation, noting that no subject employees were identified by the complainant and determining that there were no policy violations by any BPD employees. BPD also examined the policies and procedures related to the fare inspection process and identified an issue wherein passengers who use the mobile Clipper application cannot have their fare payment verified if the smartphone battery is depleted.

<p>4 (IA2023-041)</p>	<p>Officers improperly arrested subject, used excessive force during the arrest, and celebrated inappropriately during the contact.</p>	<p>Officers #1-3: <ul style="list-style-type: none"> • Force – Exonerated • Conduct Unbecoming an Officer – Unfounded <p>Officers #1-2 <ul style="list-style-type: none"> • Arrest/Detention – Exonerated </p> </p>	<p>472</p>	<p>361</p>
<p>5 (IA2023-042)</p>	<p>Officers improperly detained complainant and used excessive force during the detention.</p>	<p>Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated • Detention – Exonerated </p>	<p>469</p>	<p>358</p>
<p>6 (IA2023-043)</p>	<p>Officer used excessive force during a detention and another officer inappropriately touched the complainant during a search.</p>	<p>Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded <p>Officer #2: <ul style="list-style-type: none"> • Force – Exonerated </p> </p>	<p>469</p>	<p>358</p>

BPD also closed case # IA2024-032, after categorizing the complaint regarding an officer's illegal parking as an Inquiry.

During April 2024, **2 Administrative Investigations** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-025)	Officers provided insufficient protective equipment to other officers and one officer joked inappropriately about the distribution process.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Not Sustained • Conduct Unbecoming an Officer – Not Sustained Officer #2: <ul style="list-style-type: none"> • Performance of Duty – Exonerated 	506	396
2 (IA2023-055)	Officer misused sick leave and compensatory time off.	Officer 1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Sustained • Policy/Procedure – Sustained 	450	328

DISCIPLINE ISSUED DURING REPORTING PERIOD

During April 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: <ul style="list-style-type: none"> • Policy/Procedure (Body Worn Camera) 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion¹⁰
2	Officer did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (Body Worn Camera) 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion

†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).

3	Officer misused sick leave and compensatory time off.	Officer #1: • Policy/Procedure • Conduct Unbecoming an Officer	Officer #1: Written Reprimand ¹¹
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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	10
Complainant-Initiated Appeals	2
BPD-Initiated Appeals	0
Investigations Being Monitored	27
Investigations Reviewed During Current Month	21†

†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.¹² 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. The investigations reviewed by OIPA during this period did generate some recommendations for revisions or additional investigation and these items will be compiled and included in a subsequent monthly report and will include responses from BPD.

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 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).

¹¹ Written Reprimand (first level of formal discipline): If there have been no re-occurrences at the end of the time frames as determined by the collective bargaining agreement (up to 3 years), the immediate supervisor shall meet with the employee and advise him/her that the progressive discipline has become inactive and has been removed from the employee's personnel files.

¹² 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

MONTHLY REPORT

May 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 **May 1, 2024 through May 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
May 2023	10	101	6	1	1	0
June 2023	7	103	6	1	2	0
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

TYPES OF CASES FILED

Citizen Complaints (Formal)	16
Informal Complaints ⁷	0
Administrative Investigations	0
Inquiries ⁸	0
TOTAL	16

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	8
BART Police Department	8
TOTAL	16

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During May 2024, **8 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #24-17) (IA2024-037)	Officers #1-3: <ul style="list-style-type: none"> • Arrest/Detention • Force • Policy/Procedure • Performance of Duty 	OIPA initiated an investigation.	116
2 (OIPA #24-27) (IA2024-038)	Officers #1-2: <ul style="list-style-type: none"> • Force • Arrest/Detention 	OIPA initiated an investigation.	123
3 (OIPA #24-26) (IA2024-040)	Unknown Officer(s): <ul style="list-style-type: none"> • Policy/Procedure 	OIPA initiated an investigation.	110
4 (OIPA #24-23) (IA2024-048)	Officers #1-4: <ul style="list-style-type: none"> • Policy/Procedure • Arrest/Detention • Courtesy 	OIPA initiated an investigation.	111
5 (OIPA #24-31) (IA2024-051)	Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure • Bias-Based Policing • Force • Performance of Duty 	OIPA initiated an investigation.	101
6 (OIPA #24-30) (IA2024-044)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure 	OIPA forwarded the complaint to BPD, which initiated an investigation.	104
7 (OIPA #24-28) (IA2024-045)	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing • Force 	OIPA initiated an investigation.	108
8 (OIPA #24-25) (IA2024-041)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure 	OIPA forwarded the complaint to BPD, which initiated an investigation.	129

During May 2024, **8 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-039)	Officer #1: • Force	BPD initiated an investigation.	112
2 (IA2024-041)	Officer #1: • Policy/Procedure (Improper Citation) • Policy/Procedure (Axon Camera)	BPD initiated an investigation.	129
3 (IA2024-042)	Officer #1: • Force	BPD initiated an investigation.	129
4 (IA2024-043)	Officers #1-3: • Force	BPD initiated an investigation.	108
5 (IA2024-046)	Officer #1: • Conduct Unbecoming an Officer • Performance of Duty	BPD initiated an investigation.	102
6 (IA2024-047)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	101
7 (IA2024-049)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	102
8 (IA2024-050)	Officer #1: • Force	BPD initiated an investigation.	101

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During May 2024, **8 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-056)	Officer was rude to complainant.	Officer #1: • Conduct Unbecoming an Officer – Exonerated	441	324

<p>2 (IA2023-053)</p>	<p>Officer acted unprofessionally and detained complainant based on complainant's race. Another officer failed to provide a badge number upon request.</p>	<p>Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer (Identification Information) – Unfounded <p>Officer #2 <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer (Unprofessionalism) – Unfounded </p> </p>	<p>451</p>	<p>334</p>
<p>3 (IA2023-057)</p>	<p>Officer was disrespectful to complainant and threatened to issue a citation.</p>	<p>Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Not Sustained </p>	<p>459</p>	<p>355</p>
<p>4 (IA2023-048)</p>	<p>Officer was rude to complainant because of complainant's race and officer failed to properly document the contact.</p>	<p>Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded • Policy/Procedure (Axon Camera) – Not Sustained </p>	<p>478</p>	<p>370</p>
<p>5 (IA2023-047)</p>	<p>Officer used excessive or unnecessary force.</p>	<p>Officer #1: <ul style="list-style-type: none"> • Force – Administratively Closed¹⁰ </p>	<p>480</p>	<p>355</p>
<p>6 (IA2023-046)</p>	<p>Officer used excessive force during a detention and inappropriately touched the complainant during a search.</p>	<p>Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded • Force – Unfounded </p>	<p>482</p>	<p>357</p>
<p>7 (IA2023-028)</p>	<p>Officer used excessive force during a detention and inappropriately touched the complainant during a search.</p>	<p>Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded • Force – Unfounded </p>	<p>482</p>	<p>357</p>

<p>8 (IA 2023-009)</p>	<p>Officer was verbally abusive and aggressive, failed to provide identification upon request, and failed to properly document a law enforcement contact. Two other officers failed to properly document the contact.</p>	<p>Officer #1:</p> <ul style="list-style-type: none"> • Conduct Unbecoming an Officer (Count 1) – Sustained • Conduct Unbecoming an Officer (Count 2) – Not Sustained <p>Officers #1-2:</p> <ul style="list-style-type: none"> • Policy/Procedure (Axon Camera) – Sustained <p>Officer #3:</p> <ul style="list-style-type: none"> • Policy/Procedure (Axon Camera) – Not Sustained 	<p>579</p>	<p>457*</p>
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DISCIPLINE ISSUED DURING REPORTING PERIOD

During May 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	Officers did not properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (Body Worn Camera)	Officer #1: • Letter of Discussion ¹¹

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.

*IA determined that this investigation was tolled for 264 due to an officer’s unavailability.

†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).

Investigations Being Conducted	13
Complainant-Initiated Appeals	2
BPD-Initiated Appeals	0
Investigations Being Monitored	27
Investigations Reviewed During Current Month	25†

†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.¹² 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. The investigations reviewed by OIPA during this period did generate some recommendations for revisions or additional investigation and these items will be compiled and included in a subsequent 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 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

MONTHLY REPORT

June 2024

Issue date: September 9, 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 **June 1, 2024 through June 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
June 2023	7	103	6	1	2	0
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

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	5
BART Police Department	3
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During June 2024, **5 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #24-34) (IA2024-055)	Officers #1-3: <ul style="list-style-type: none"> • Bias-Based Policing • Force • Policy/Procedure • Performance of Duty 	OIPA initiated an investigation.	91
2 (OIPA #24-35) (IA2024-056)	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing • Policy/Procedure • Arrest/Detention 	OIPA initiated an investigation.	90
3 (OIPA #24-36) (IA2024-057)	Unknown Officer(s): <ul style="list-style-type: none"> • Policy/Procedure • Arrest/Detention 	OIPA initiated an investigation.	80
4 (OIPA #24-32) (IA2024-060)	Officers #1-3: <ul style="list-style-type: none"> • Performance of Duty • Arrest/Detention • Policy/Procedure Officers #1-2: <ul style="list-style-type: none"> • Force • Conduct Unbecoming an Officer 	BPD initiated an investigation.	77
5 (OIPA #24-29) (IA2024-064)	Unknown Officer(s): <ul style="list-style-type: none"> • Conduct Unbecoming an Officer • Performance of Duty • Policy Procedure 	OIPA forwarded the complaint to BPD, which initiated an investigation.	88

During June 2024, **3 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-052)	Officer #1: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	96

2 (IA2024-058)	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing • Policy/Procedure (Axon Camera) • Conduct Unbecoming an Officer • Policy/Procedure • Arrest/Detention 	BPD initiated an investigation.	77
3 (IA2024-059)	Officers #1-3: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	77

During May 2024, **2 Citizen Complaints (Formal)** were received by BPD but not previously reported:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-053)	Officer #1: <ul style="list-style-type: none"> • Truthfulness • Performance of Duty • Conduct Unbecoming an Officer • Policy/Procedure (Axon Camera) 	BPD initiated an investigation.	101
2 (IA2024-054)	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing • Policy/Procedure (Axon Camera) • Conduct Unbecoming an Officer • Policy/Procedure • Arrest/Detention 	BPD initiated an investigation.	77

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During June 2024, **1 Citizen Complaint** 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 #23-31) (IA2023-079)	Officers engaged in bullying, intimidating, and threatening behavior and spoke about other BART employees in a derogatory manner. One officer engaged in favoritism and released confidential, protected information.	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Sustained • Policy/Procedure (Rumors/Bullying) – Sustained Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (Release of Confidential Personnel Information) – Sustained • Workplace Discrimination / Harassment – Not Sustained • Favoritism – Exonerated • Supervision – Not Sustained 	392	296

During June 2024, **7 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-059)	Officers did not properly respond to a crime.	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty – Unfounded 	434	346

2 (IA2023-060)	Officers refused to provide requested assistance because of complainant's race.	Officers #1-2: • Bias-Based Policing – Unfounded • Performance of Duty – Exonerated	431	341
3 (IA2023-062)	Officers used excessive force and failed to provide medical attention.	Officers #1-5: • Performance of Duty – Unfounded Officers #1-2: • Force – Exonerated Officer #3: • Force – Not Sustained	413	331
4 (IA2023-063)	Officer was aggressive and intimidating and threatened physical harm.	Officer #1: • Force – Exonerated • Conduct Unbecoming an Officer – Exonerated	427	345
5 (IA2023-064)	Officers were physically and verbally aggressive.	Officers #1-3: • Force – Exonerated • Conduct Unbecoming an Officer – Unfounded	422	340
6 (IA2023-067)	Officers did not document the handcuffing of a Welfare Check subject.	Officer #1: • Policy/Procedure (Documentation) – Sustained	415	327
7 (IA2023-047)	Officers used excessive force.	Officers #1-2: • Force – Administratively Closed ¹⁰	482	357

DISCIPLINE ISSUED DURING REPORTING PERIOD

During June 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: • Oral Counseling ¹¹
2	Officer engaged in bullying, dissemination of rumors/gossip, and other generally unacceptable conduct including speaking disparagingly about BPD employees and others.	Officer #1: • Policy/Procedure (Rumors/Bullying) • Conduct Unbecoming an Officer	Officer #1: • Oral Counseling
3	Officer refused to provide identification upon request and failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (Body Worn Camera) • Conduct Unbecoming an Officer	Officer #1: • Written Reprimand 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	2
BPD-Initiated Appeals	0
Investigations Being Monitored	31
Investigations Reviewed During Current Month	22†

*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).

†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.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. The investigations reviewed by OIPA during this period did generate some recommendations for revisions or additional investigation and these items will be compiled and included in a subsequent 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 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.

¹² Written Reprimand (first level of formal discipline): If there have been no re-occurrences at the end of the time frames as determined by the collective bargaining agreement (up to 3 years), the immediate supervisor shall meet with the employee and advise him/her that the progressive discipline has become inactive and has been removed from the employee's personnel files.

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.



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: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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.



OFFICE OF THE INDEPENDENT
POLICE AUDITOR

BAY AREA RAPID TRANSIT

MONTHLY REPORT

August 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 **August 1, 2024 through August 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
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	19	3	0	0
August 2024	7	112	18	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	6
Informal Complaints ⁷	0
Administrative Investigations	1
Inquiries ⁸	0
TOTAL	7

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	0
BART Police Department	7
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During August 2024, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-071)	Officers #1 & #2: <ul style="list-style-type: none"> • Conduct Unbecoming • Bias-Based Policing • Force Officer #3: <ul style="list-style-type: none"> • Bias-Based Policing 	BPD initiated an investigation.	165
2 (IA2024-075)	Officers #1 & #2: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	147
3 (IA2024-078)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming Officer #2: <ul style="list-style-type: none"> • Performance of Duty 	BPD initiated an investigation.	146
4 (IA2024-080)	Officer #1: <ul style="list-style-type: none"> • Force Officer #2: <ul style="list-style-type: none"> • Conduct Unbecoming • Bias-Based Policing • Force • Policy/Procedure 	BPD initiated an investigation.	140
5 (IA2024-082)	Officer: <ul style="list-style-type: none"> • Conduct Unbecoming • Force • Policy/Procedure 	BPD initiated an investigation.	137
6 (IA2024-84)	Officer: <ul style="list-style-type: none"> • Truthfulness 	BPD initiated an investigation.	157

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

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-083)	Officer #1 & #2: <ul style="list-style-type: none">• Force• Performance of Duty• Body Worn Camera	BPD initiated an investigation.	141

During August 2024, **1 Administrative Investigation** was added by BPD but not previously reported:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-101)	Officer: <ul style="list-style-type: none">• Arrest or Detention• Search or Seizure	BPD initiated an investigation.	230

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During August 2024, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
<p>1 (OIPA #24-17) (IA2024-037)</p>	<p>Officers used excessive force, escalated the situation, did not advise the subject of the reason they were being detained or arrested; and commanded orders that the subject physically could not follow because officers had the subject pinned to the grounded.</p>	<p>Officer #1:</p> <ul style="list-style-type: none"> • Force - Exonerated • Policy/Procedure (de-escalation) – Sustained • Policy/Procedure (unreasonable commands & discourtesy – Unfounded <p>Officer #2:</p> <ul style="list-style-type: none"> • Force - Exonerated • Policy/Procedure (de-escalation) – Exonerated • Policy/Procedure (unreasonable commands & discourtesy – Unfounded <p>Officer #3:</p> <ul style="list-style-type: none"> • Force - Exonerated • Policy/Procedure (de-escalation) – Exonerated • Policy/Procedure (unreasonable commands & discourtesy – Unfounded 	<p>647</p>	<p>496</p>

During August 2024, **17 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA 2023-030)	Officers failed to properly perform fare evasion enforcement.	Officers #1-3: • Performance of Duty – Closed as an Inquiry	653	489
2 (IA 2023-033)	Officer was unprofessional during contact with a person aboard the train.	Officer: • Conduct Unbecoming – Administratively Closed ¹⁰	647	488
3 (IA 2023-044)	Officer improperly handled their K-9.	Officer: • Policy/Procedure – Closed as a Supervisory Referral	650	489
4 (IA 2023-049)	Officers illegally detained, used excessive force and threatened to kill the complainant.	Officer #1: • Detention – Exonerated • Force - Exonerated • Conduct Unbecoming – Unfounded Officer #2 • Detention – Exonerated • Force – Exonerated	599	440
5 (IA 2023-052)	Officer sexually assaulted complainant.	Officer: • Conduct Unbecoming – Administratively Closed	468	467
6 (IA 2023-054)	Officer used excessive force.	Officer: • Force – Exonerated	618	459

7 (IA2023-058)	Officer drove his vehicle recklessly, used excessive force, and was untruthful.	Officer: • Force – Exonerated • Conduct Unbecoming – Unfounded	627	468
8 (IA2023-077)	Officers were unnecessarily aggressive during a fare evasion enforcement.	Officers #1-3: • Conduct Unbecoming – Unfounded	523	358
9 (IA2023-080)	Officers unlawfully arrested and treated the complainant and their possessions unprofessionally.	Officer #1: • Arrest – Exonerated • Conduct Unbecoming – Unfounded Officer #2: • Conduct Unbecoming – Unfounded	516	357
10 (IA2023-081)	Officers used excessive force by choking the complainant.	Officers #1 & #2: • Force – Administratively Closed	550	389
11 (IA2023-082)	Officer used excessive force by using their Taser.	Officer: • Force – Exonerated	598	433
12 (IA2023-084)	Officer rear-ended complainant's vehicle.	Officer: • Conduct Unbecoming – Exonerated	515	371
13 (IA2023-089)	Officer made unprofessional comments.	Officer: • Conduct Unbecoming – Unfounded	500	335
14 (IA2023-090)	Officer acted in a racist manner toward complainant.	Officer: • Bias-Based Policing – Unfounded	497	332

<p>15 (IA2023-092)</p>	<p>Officers were biased against the complainant by treating the complainant as the suspect when the complainant was the victim of a crime. Officers also did not perform their duties properly.</p>	<p>Officer #1:</p> <ul style="list-style-type: none"> • Bias-Based Policing - Unfounded • Performance of Duty – Unfounded <p>Officers #2 & #3:</p> <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Performance of Duty – Exonerated 	<p>488</p>	<p>249</p>
<p>16 (IA2023-096)</p>	<p>Officers improperly detained, pointed their guns and were racially bias against the complainant.</p>	<p>Officer #1:</p> <ul style="list-style-type: none"> • Bias-Based Policing - Exonerated • Detention – Exonerated <p>Officer #2:</p> <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Force – Exonerated • Detention – Exonerated <p>Officer #3:</p> <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Detention – Exonerated • Policy and Procedure (Body Worn Camera) – Sustained 	<p>481</p>	<p>343</p>
<p>17 (IA2023-107)</p>	<p>Officer grabbed the complainant during a fare evasion enforcement.</p>	<p>Officer:</p> <ul style="list-style-type: none"> • Force – Administratively Closed 	<p>515</p>	<p>357</p>

DISCIPLINE ISSUED DURING REPORTING PERIOD

During August 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: • Policy/Procedure (Body Worn Camera)	Officer: • Letter of Discussion ¹¹
2	Officer did not properly document a law enforcement contact.	Officer: • Policy/Procedure (Body Worn Camera)	Officer: • Letter of Discussion
3	Officer did not properly document a law enforcement contact.	Officer: • Policy/Procedure (Body Worn Camera)	Officer: • Letter of Discussion
4	Officer did not properly document a law enforcement contact.	Officer: • Policy/Procedure (Body Worn Camera)	Officer: • Letter of Discussion
5	Officer did not properly document a law enforcement contact.	Officer: • Policy/Procedure (Body Worn Camera)	Officer: • Letter of Discussion

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	13
Complainant-Initiated Appeals	1
BPD-Initiated Appeals	0
Investigations Being Monitored	37
Investigations Reviewed During Current Month	31†

*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).

†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.¹² 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 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

MONTHLY REPORT

September 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 **September 1, 2024 through September 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
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	19	3	0	0
August 2024	7	112	18	1	0	0
September 2024	8	113	7	1	0	1

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	2
BART Police Department	6
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During September 2024, **2 Citizen Complaints (Formal)** were received by OIPA:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #24-42) (IA2024-086)	Officer #1: • Force Officer #2: • Force Officer #3: • Force • Conduct Unbecoming Officer #4: • Policy/Procedure	BPD initiated an investigation.	122
2 (OIPA#24-44) (IA2024-091)	Officer: • Performance of Duty	BPD initiated an investigation.	105

During September 2024, **5 Citizen Complaints (Formal)** were received by BPD:

IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-081)	Officer: • Force	BPD initiated an investigation.	130
2 (IA2024-085)	Officer • Bias-Based Policing • Conduct Unbecoming	BPD initiated an investigation.	125
3 (IA2024-087)	Officer: • Bias-Based Policing	BPD initiated an investigation.	111
4 (IA2024-089)	Officer: • Force • Conduct Unbecoming	BPD initiated an investigation.	116
5 (IA2024-090)	Officer: • Force	BPD initiated an investigation.	110

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

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-088)	Officer: <ul style="list-style-type: none"> • Truthfulness • Performance of Duty • Conduct Unbecoming 	BPD initiated an investigation.	111

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During September 2024, **1 Citizen Complaint** was concluded by OIPA:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2024-009)	Officers acted unprofessionally by antagonizing and treating the complainant aggressively during the complainant's arrest. Officers also racially profiled and improperly detained the complainant for fare evasion.	Officer #1: <ul style="list-style-type: none"> • Arrest/Detention – Exonerated • Unnecessary/ Excessive Force – Exonerated • Bias-Based Policing – Not-Sustained • Conduct Unbecoming – Sustained Officer #2: <ul style="list-style-type: none"> • Arrest/Detention – Exonerated • Unnecessary/ Excessive Force – Exonerated • Bias-Based Policing – Not-Sustained • Conduct Unbecoming – Exonerated 	343	205

During September 2024, **6 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-045)	Officer exhibited racist and bigoted behavior including alignment with Nazi organizations.	Officer: <ul style="list-style-type: none"> • Bias-Based Policing – Not Sustained • Conduct Unbecoming – Not Sustained • Racial Animus – Not Sustained 	614	498
2 (IA2023-049)	Officers illegally detained and used excessive force on the complainant. An officer also threatened to kill the complainant.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Detention – Exonerated • Conduct Unbecoming – Unfounded Officer #2: <ul style="list-style-type: none"> • Force – Exonerated • Detention – Exonerated 	601	440
3 (IA2023-088)	Officer had a hostile tone of voice, dismissive, and insensitive when they made an unprofessional comment.	Officer: <ul style="list-style-type: none"> • Conduct Unbecoming – Not Sustained 	503	377
4 (IA2023-093)	Officers used excessive force by punching and tasing the complainant during their arrest.	Officers #1 & #2: <ul style="list-style-type: none"> • Force – Exonerated 	486	364
5 (IA2023-094)	Officer was dismissive and rude when responding to the complainant's call for assistance.	Officer: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Courtesy – Unfounded • Performance of Duty – Exonerated 	486	355

6 (IA 2023-098)	Officers used excessive force on an individual and used profanity against the person during a detention.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated Officer #2: <ul style="list-style-type: none"> • Conduct Unbecoming – Not Sustained 	479	364
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DISCIPLINE ISSUED DURING REPORTING PERIOD

During September 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 activate their Body Worn Camera according to requirements of BPD policy.	Officer: <ul style="list-style-type: none"> • Policy/Procedure (Body Worn Camera) 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion¹⁰

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	13
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	37
Investigations Reviewed During Current Month	16†

†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.¹¹ 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 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).

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

MONTHLY REPORT

October 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 **October 1, 2024 through October 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
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	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

TYPES OF CASES FILED

Citizen Complaints (Formal)	12
Informal Complaints ⁷	0
Administrative Investigations	2
Inquiries ⁸	0
TOTAL	14

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	1
BART Police Department	11
TOTAL	12

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During October 2024, **1 Citizen Complaint** was received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #24-25) (IA2024-104)	Officers #1-2: <ul style="list-style-type: none"> • Force • Policy/Procedure 	OIPA initiated an investigation.	82

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

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-092)	Officer #1: <ul style="list-style-type: none"> • Arrest/Detention • Policy/Procedure (Refusal to Identify) 	BPD initiated an investigation.	101
2 (IA2024-093)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming 	BPD initiated an investigation.	96
3 (IA2024-094)	Officers #1-3: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	95
4 (IA2024-096)	Officers #1-2: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	93
5 (IA2024-097)	Officer #1: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	88
6 (IA2024-098)	Officer #1: <ul style="list-style-type: none"> • Force • Bias-Based Policing 	BPD initiated an investigation.	87
7 (IA2024-099)	Officer #1: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	84
8 (IA2024-100)	Officers #1-2: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	84
9 (IA2024-103)	Officer #1: <ul style="list-style-type: none"> • Performance of Duty 	BPD initiated an investigation.	82
10 (IA2024-105)	Officer #1: <ul style="list-style-type: none"> • Arrest/Detention • Conduct Unbecoming an Officer 	BPD initiated an investigation.	82

11 (IA2024-106)	Officer #1: • Policy/Procedure (Abuse of Sick Leave)	BPD initiated an investigation.	74
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During October 2024, **2 Administrative Investigations** were opened by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-102)	Officer #1: • Arrest/Detention • Force	BPD initiated an investigation.	83
2 (IA2024-095)	Officer #1: • Policy/Procedure	BPD initiated an investigation.	95

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During October 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 #24-06) (IA2024-012)	Officer rested hand on weapon while talking to civilians.	Officer #1: • Conduct Unbecoming an Officer – Administratively Closed	333	253
2 (OIPA #24-19) (IA2024-027)	Officers did not take appropriate law enforcement action.	Officers #1-2: • Performance of Duty – Administratively Closed	280	200

During October 2024, **6 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-022)	Officers improperly contacted the complainant and did so because of complainant's race, and 2 officers improperly applied the handcuffs while all officers were unprofessional during the contact.	Officers #1-4: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded Officer #1: <ul style="list-style-type: none"> • Arrest – Exonerated Officers #1&2: <ul style="list-style-type: none"> • Policy/Procedure (Handcuffing) – Unfounded 	671	577
2 (IA2023-099)	Officer used profanity during an interaction with another BART employee.	Officer #1: <ul style="list-style-type: none"> • Courtesy – Supervisor Referral.¹⁰ 	465	362
3 (IA2023-101)	Officer kicked complainant in the head during an attempt to “sweep” an out of service train.	Officer #1: <ul style="list-style-type: none"> • Force – Unfounded 	447	353
4 (IA2023-105)	Officers used excessive force during a fare evasion contact and detained complainant because of complainant's race.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Bias-Based Policing – Unfounded 	439	350
5 (IA2023-108)	Employee was disrespectful and unprofessional and threatened the complainant.	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Not Sustained 	420	331

6 (IA2023-111)	Employee solely requested proof of payment from Black passengers.	Employee #1: • Bias-Based Policing – Unfounded	449	366
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During October 2024, **3 Administrative Investigations** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-102)	Officer improperly detained subject and failed to properly document the contact.	Officer #1: • Detention – Not Sustained • Policy/Procedure (Documentation) – Sustained	446	351
2 (IA2023-106)	Officer misused sick leave.	Officer #1: • Policy/Procedure – Sustained	433	350
3 (IA2023-109)	Officer was discourteous to complainant while receiving a complaint.	Officer #1: • Courtesy – Supervisor Referral	439	344

BPD also characterized one complaint (IA2023-104) as an Informal Complaint and closed the matter via a Supervisor Referral.

DISCIPLINE ISSUED DURING REPORTING PERIOD

During October 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 activate their Body Worn Camera as required by BPD policy.	Officer: • Policy/Procedure (Body Worn Camera)	Officer #1: • Letter of Discussion ¹¹
2	Officer did not activate their Body Worn Camera as required by BPD policy.	Officer: • Policy/Procedure (Body Worn Camera)	Officer #1: • Letter of Discussion
3	Officer did not activate their Body Worn Camera as required by BPD policy.	Officer: • Policy/Procedure (Body Worn Camera)	Officer #1: • Letter of Discussion
4	Officer did not properly document a contact as required by BPD policy.	Officer: • Policy/Procedure (Documentation)	Officer #1: • Letter of Discussion

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	13
Complainant-Initiated Appeals	1
BPD-Initiated Appeals	0
Investigations Being Monitored	37
Investigations Reviewed During Current Month	29†

†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.¹² 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 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.

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 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

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.

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OFFICE OF THE INDEPENDENT
POLICE AUDITOR

BAY AREA RAPID TRANSIT

MONTHLY REPORT

December 2024

Issue date: February 10, 2025

This report is filed pursuant to the BART Civilian Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Civilian Review Board (BPCRB). This report provides information for the period **December 1, 2024 through December 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
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	0
October 2024	14	115	12	2	0	0
November 2024	5	118	2	0	1	1
December 2024	10	119	9	1	0	0

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	1
BART Police Department	7
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During December 2024, **1 Citizen Complaint (Formal)** were received by OIPA:

OIPA Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA 24-50) (IA2024-121)	Officer #1: <ul style="list-style-type: none"> • Arrest/Detention • Excessive/Unnecessary Use of Force • Conduct Unbecoming an Officer Officer #2: <ul style="list-style-type: none"> • Arrest/Detention • Excessive/Unnecessary Use of Force • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	53

During December 2024, **7 Citizen Complaints (Formal)** were received by BPD:

IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-112)	Officer: <ul style="list-style-type: none"> • Bias-Based Policing • Conduct Unbecoming 	BPD initiated an investigation.	69
2 (IA2024-113)	Officer: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	70
3 (IA2024-115)	Officer: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	62
4 (IA2024-116)	Officer: <ul style="list-style-type: none"> • Bias-Based Policing • Performance of Duty 	BPD initiated an investigation.	62
5 (IA2024-118)	Officer: <ul style="list-style-type: none"> • Bias-Based Policing • Performance of Duty • Conduct Unbecoming an Officer 	BPD initiated an investigation.	59
6 (IA2024-119)	Community Service Officer: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	55

7 (IA2024-120)	Officer: • Force	BPD initiated an investigation.	53
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During December 2024, **2 Administrative Investigation** was opened by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-114)	Officer: • Performance of Duty • Conduct Unbecoming an Officer • Policy/Procedure	BPD initiated an investigation.	66
2 (IA2024-117)	Officer: • Truthfulness • Policy/Procedure – Time Reporting	BPD initiated an investigation.	61

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During December 2024, **1 Citizen Complaint** was concluded by OIPA:

OIPA Complaint # IA Case #	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
(OIPA #24-07 IA2024-018)	Station Agent alleged a BPD Sergeant spoke to them in a threatening and intimidating way.	• Mediation	349	286

During December 2024, **8 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-050)	Officer used excessive force injuring the complainant's shoulder while handcuffing them during a detention.	Officer: • Force – Exonerated	613	544
2 (IA2023-113)	Officers used excessive when the complainant was banged against the wall and had their arms pulled and twisted by the officers during their arrest.	Officers #1 - #4: • Force – Exonerated	427	358
3 (IA2023-114)	Officers were unprofessional and aggressive toward the complainant during a contact.	Officers #1 & #2: • Conduct Unbecoming an Officer – Not Sustained	427	358
4 (IA2023-115)	Officers used excessive force by choking the complainant during a detention.	Officers #1 - #4: • Force – Exonerated	418	349
5 (IA2023-116)	Officers used excessive force by slamming the complainant to the ground and bending their wrist during an arrest.	Officers #1 & #2: • Force – Exonerated	416	347

6 (IA2023-117)	Officer used unnecessary force by pushing the complainant back as the complainant was a bystander to an arrest.	Officer: • Force – Exonerated	411	357
7 (IA2023-118)	Officers failed to secure the complainant’s property during an investigation.	Officers #1 - #3: • Performance of Duty – Exonerated	410	347
8 (IA2024-001)	Officers were dismissive of the complainant’s wanting to report a crime and the complainant being the victim.	Officer #1: • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Sustained Officer #2: • Bias-Based Policing – Unfounded	405	351

DISCIPLINE ISSUED DURING REPORTING PERIOD

During December 2024, BPD took the following actions in a case where one allegation of misconduct was sustained:

Case #	Nature of Sustained Allegation(s) *	Classification of Sustained Allegation(s)	Action Taken
1	Officer failed to properly assist a member of the public professionally in accordance with the expectations of the department and as required by BPD policy.	Officer: • Conduct Unbecoming an Officer (Professionalism)	Officer: • Oral Counseling ¹⁰

In accordance with the BART Civilian 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

*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).

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	16
Complainant-Initiated Appeals	2
BPD-Initiated Appeals	0
Investigations Being Monitored	37
Investigations Reviewed During Current Month	20†

†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.¹¹ 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.

Key Issues Identified for the Reporting Period December 2024

These findings highlight areas where processes could be improved to ensure thoroughness, timeliness, and adherence to policy.

1. Timeliness of Investigations

- **Last-Minute Closures:** BPD completed seven out of eight investigations just 9–20 days before the 3304 statute of limitations deadline to discipline officers.
- **Missed Deadline:** One case exceeded the 3304 statute of limitations deadline by over two months.

2. Thoroughness of Investigations

- **Force Analysis Deficiencies:** One case revealed insufficient analysis of a use-of-force incident. In another case, a potential de-escalation policy violation was not included in the analysis and finding of the investigation.

3. Disciplinary Retention Period:

- There are disciplinary process ambiguities in IA resulting in inconsistencies regarding the retention of officer discipline in their personnel files. Officer discipline should remain the officers’ personnel files from the date they receive notification of the discipline. During this reporting period, an officer was notified that the discipline they received would remain in their file for one year starting from the date that the IA investigator signed the report rather than the date that the officer was notified of the discipline.

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 Oral Counseling (third level of Informal Discipline): Oral Counseling is conducted by a supervisor with the employee. The employee’s misconduct shared with the employee, documented and kept in the employee’s personnel file up to one (1) year. Furthermore, Oral Counseling is the last level of Informal Discipline, if the employee fails to correct the behavior, there will be cause to move to the next level of the process to formal progressive discipline (BPOA Collective Bargaining Agreement).

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.