



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

January 2017

Issue date: February 13, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **January 1, 2017 through January 31, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
January 2016	9	64	0	0	0
February 2016	14	63	0	0	0
March 2016	14	67	0	0	0
April 2016	10	63	0	0	0
May 2016	8	62	0	0	0
June 2016	17	68	0	0	0
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	6
TOTAL	6

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During January 2017, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-001)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	28
2 (IA2017-002)	Officer #1: • Arrest or Detention • Conduct Unbecoming an Officer	BPD initiated an investigation.	26
3 (IA2017-003)	Officer #1: • Force	BPD initiated an investigation.	19
4 (IA2017-004)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	20
5 (IA2017-005)	Officer #1: • Performance of Duty	BPD initiated an investigation.	27
6 (IA2017-006)	Officers #1-2: • Arrest or Detention Officer #2: • Policy/Procedure	BPD initiated an investigation.	18

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During January 2017, **4 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-040)	Officer unlawfully detained complainant and did so on the basis of race.	Officer #1: • Bias-Based Policing – Unfounded	263	222
2 (IA2016-058)	Officer used excessive force and generally mistreated complainant.	Officer #1: • Force (Counts 1-2) – Not Sustained • Force (Count 3) – Exonerated • Conduct Unbecoming an Officer – Unfounded	247	215

3 (IA2016-077)	Officer unlawfully detained complainant on the basis of race and was discourteous, aggressive, and loud during the contact.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Not Sustained • Arrest/Detention – Exonerated • Conduct Unbecoming an Officer – Not Sustained • Courtesy – Not Sustained 	175	145
4 (IA2016-082)	An officer drove his BPD vehicle dangerously.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisory Referral⁹ 	193	179

During January 2017, **2 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Complete Investigation
1 (IA2016-011)	Employees did not properly route a call for service.	Employee #1: <ul style="list-style-type: none"> • Performance of Duty – Sustained Employee #2: <ul style="list-style-type: none"> • Performance of Duty – Not Sustained 	375	334
2 (IA2016-042)	Officer battered a domestic partner.	Officer #1: <ul style="list-style-type: none"> • Criminal (Counts 1-5) – Not Sustained 	292	260

During January 2017, **1 Informal Complaint** was addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-097)	BPD Employee made a false complaint regarding the conduct of a BART employee.	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Supervisory Referral 	104	72

Also during the month of January 2017, BPD classified each of the following cases as an **Inquiry** and **Administratively Closed** the complaints¹⁰: IA2016-031 (Investigation revealed that no complaint was lodged), IA2016-069 (Complainant discontinued contact with Internal Affairs and no corroboration of incident was contained in BPD records), and IA2016-098 (Complainant withdrew complaint regarding parking citation).

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIOD

During December 2016, **1 Informal Complaint** was concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-092)	Officer recklessly drove BPD vehicle.	Officer #1: <ul style="list-style-type: none"> Conduct Unbecoming an Officer – Supervisory Referral 	124	51

DISCIPLINE ISSUED DURING REPORTING PERIOD

During January 2017, 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 unsatisfactorily recorded details of a use of force in a written report.	Officer #1: <ul style="list-style-type: none"> Performance of Duty 	Officer #1: <ul style="list-style-type: none"> Written Reprimand

ADDITIONAL NOTES

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

Investigations Being Conducted	2
Complainant-Initiated Appeals	0
Investigations Being Monitored	17
Investigations Reviewed During Current Month	22†

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

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

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

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

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

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

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

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

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

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

¹⁰ Administrative Closure refers to 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.



Office of the
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POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

February 2017

Issue date: March 13, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **February 1, 2017 through February 28, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
February 2016	14	63	0	0	0
March 2016	14	67	0	0	0
April 2016	10	63	0	0	0
May 2016	8	62	0	0	0
June 2016	17	68	0	0	0
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7*	41	0	0	0

*This number includes 1 case that was initiated in a prior period but not previously reported. It is therefore included in this report.

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	5
TOTAL	5

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During February 2017, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-007)	Employee #1: • Courtesy	BPD initiated an investigation.	35
2 (IA2017-008)	Officers #1-2: • Force	BPD initiated an investigation.	26
3 (IA2017-010)	Officer #1: • Force	BPD initiated an investigation.	31
4 (IA2017-011)	Officer #1: • Force	BPD initiated an investigation.	25
5 (IA2017-012)	Officer #1: • Force • Arrest/Detention • Conduct Unbecoming an Officer	BPD initiated an investigation.	15

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During December 2017, **1 Citizen Complaint (Formal)** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-120)	Officers #1-2: • Force	BPD initiated an investigation.	80

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During February 2017, **11 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-041)	Employee was rude to complainant and did not sufficiently assist complainant.	Employee #1: • Performance of Duty – Unfounded • Courtesy – Not Sustained	320	299

2 (IA2016-047)	Officers did not properly respond to a report of criminal conduct and one officer improperly admonished complainant and did not properly document a report of criminal conduct.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Sustained • Policy/Procedure – Sustained • Conduct Unbecoming an Officer – Not Sustained Officer #2 <ul style="list-style-type: none"> • Performance of Duty – Not Sustained 	308	287
3 (IA2016-051)	Officers used excessive force during arrest of complainant.	Officers #1-4 (Count 1): <ul style="list-style-type: none"> • Force – Exonerated Officers #1-4 (Counts 2-4) <ul style="list-style-type: none"> • Force – Unfounded 	284	257
4 (IA2016-064)*	Officers used excessive force during arrest of complainant.	Officers #1-2: <ul style="list-style-type: none"> • Force – Unfounded 	269	248
5 (IA2016-067)	Officers used excessive force during arrest of subject.	Officers #1-2: <ul style="list-style-type: none"> • Force (Count 1) – Unfounded • Force (Count 2) – Exonerated 	247	213
6 (IA2016-068)	Officers improperly arrested complainant and used excessive force during the arrest.	Officers #1-2: <ul style="list-style-type: none"> • Force (Counts 1-2) – Unfounded • Force (Count 3) – Exonerated • Arrest/Detention – Exonerated Officer #2: <ul style="list-style-type: none"> • Force (Count 4) – Unfounded 	244	230
7 (IA2016-081)	Officer used excessive force against complainant.	Officer #1: <ul style="list-style-type: none"> • Force (Count 1) – Unfounded • Force (Count 2) – Exonerated 	195	168
8 (IA2016-093)	Unknown officer(s) improperly and publicly mischaracterized complainant's conduct.	Unknown BPD Officer(s): <ul style="list-style-type: none"> • Performance of Duty – Exonerated 	195	168
9 (IA2016-108)	Officer and employee acted in a threatening manner toward complainant and complainant's spouse.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisory Referral⁹ Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Supervisory Referral 	116	78

10 (IA2017-007)	Employee was disrespectful and argumentative toward complainant.	Employee #1: • Courtesy – Supervisory Referral	35	19
11 (IA2016-027)	Officer did not follow specific orders and did not properly document law enforcement activity.	Officer #1: • Insubordination – Not Sustained • Performance of Duty – Sustained • Policy/Procedure – Sustained	352	332

*As OIPA also completed an investigation into this complaint prior to this reporting period, it will only be counted as closed once in calculating the “Number of Open Cases” in the Quantitative Report on Page 2.

During February 2017, **3 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Complete Investigation
1 (IA2016-045)	Officer was hostile and rude to complainant.	Officer #1: • Conduct Unbecoming an Officer – Not Sustained	312	291
2 (IA2016-113)	Employee acted unprofessionally on the telephone.	Employee #1: • Conduct Unbecoming – Supervisory Referral • Courtesy – Supervisory Referral	103	71
3 (IA2016-056)	Employee omitted relevant information during background investigation process.	Employee #1: • Omission of Background Information (Counts 1-2) – Sustained	276	256

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

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-115)	Employee did not appropriately respond to complainant’s call for service.	Employee #1: • Performance of Duty – Supervisory Referral	81	58

Also during the month of February 2017, BPD classified the following cases as an **Inquiry** and **Administratively Closed** the complaints¹⁰: IA2016-120 (Complainant withdrew complaint) and IA2016-060 (Complaint did not involve any BPD personnel). BPD also closed case IA2017-001 after investigation revealed that the complaint was based on imaginary occurrences.

DISCIPLINE ISSUED DURING REPORTING PERIOD

During February 2017, 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 follow specific orders and did not properly document law enforcement activity.	Officer #1: • Performance of Duty • Policy/Procedure	Officer #1: • Oral Counseling
2	Employee did not promptly request medical assistance for subject.	Employee #1: • Performance of Duty	Employee #1: • Two-week suspension held in abeyance
2	Officer did not properly forward a complaint.	Officer #1: • Performance of Duty	Officer #1: • Informal Counseling

ADDITIONAL NOTES

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

Investigations Being Conducted	2
Complainant-Initiated Appeals	0
Investigations Being Monitored	15
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.

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

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

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

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

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

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

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

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

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

¹⁰ Administrative Closure refers to 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

March 2017

Issue date: April 10, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **March 1, 2017 through March 31, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
March 2016	14	67	0	0	0
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July 2016	7	68	0	0	0
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9*	43	0	0	0

*This number includes 2 cases that were initiated in a prior period but not previously reported. They are therefore included in this report.

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	3
BART Police Department	5
TOTAL	8**

**Because OIPA and BPD received separate complaints about a single incident, the total number of complaints received is higher than the total number of formal complaints filed for the period.

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During March 2017, **3 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-06) (IA2017-015)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	OIPA initiated an investigation and notified BPD, which also initiated an investigation.	27
2 (OIPA #17-08) (IA2017-018)	Officer #1: • Arrest or Detention • Performance of Duty • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	24
3 (OIPA #17-09) (IA2017-016)	Officer #1: • Force	OIPA initiated an investigation and notified BPD, which also initiated an investigation having received a separate complaint regarding the same incident.	25

During March 2017, **4 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-013)	Officers #1-2: • Arrest or Detention Officer #2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	28
2 (IA2017-014)	Officer #1: • Force (Counts 1-3) • Arrest or Detention • Conduct Unbecoming an Officer	BPD initiated an investigation.	32
3 (IA2017-016)	Officer #1: • Force	BPD initiated an investigation.	25
4 (IA2017-017)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	27

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

Complaint # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-020)	Officer #1: • Courtesy	BPD initiated an investigation.	19

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During January 2017, **1 Citizen Complaint (Formal)** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-019)	Officers #1-2: • Force	BPD initiated an investigation.	92

During October 2016, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2016-119)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	161

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During March 2017, **4 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-049)	Officer was rude to complainant.	Unknown BPD Officer #1: • Conduct Unbecoming an Officer – Not Sustained	329	293
2 (IA2016-078)	Officers used excessive force during arrest of complainant.	Officers #1-2: • Force (Counts 1-2) – Exonerated • Arrest or Detention – Exonerated	231	195
3 (IA2016-083)	Officers used excessive force during arrest of complainant.	Officers #1-2 (Count 1): • Force – Exonerated Officers #1-2 (Count 2) • Force – Unfounded	216	180

4 (IA2016-090)	Officer did not properly investigate a report of criminal activity, did not properly document a law enforcement contact, was not responsive to complainant's concerns, and did not provide appropriate medical attention for complainant.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty (Count 1) – Sustained • Performance of Duty (Count 2) – Not Sustained • Policy/Procedure – Sustained • Conduct Unbecoming an Officer – Sustained 	195	159
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During March 2017, **2 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-004)	Officer selectively enforced law against complainant.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Supervisory Referral⁹ 	76	37
2 (IA2017-009)	Officer harassed and was rude to complainant.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisory Referral 	61	22

Also during the month of March 2017, BPD classified the following case as an **Informal Complaint** and **Administratively Closed** the complaint¹⁰: IA2016-053 (Investigation did not result in identification of a subject officer and there was no record of the contact).

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued by BPD during March 2017.

ADDITIONAL NOTES

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

Investigations Being Conducted	2
Complainant-Initiated Appeals	0
Investigations Being Monitored	18
Investigations Reviewed During Current Month	19 [†]

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

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

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

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

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

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

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

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

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

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

¹⁰ Administrative Closure refers to 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

April 2017

Issue date: May 8, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **April 1, 2017 through April 30, 2017.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
April 2016	10	63	0	0	0
May 2016	8	62	0	0	0
June 2016	17	68	0	0	0
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	1
BART Police Department	6
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During April 2017, 1 **Citizen Complaint** was received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-16) (IA2017-028)	Officers #1-2: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	11

During April 2017, 6 **Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-021)	Officers #1-2: • Force • Performance of Duty Officer #3: • Performance of Duty	BPD initiated an investigation.	33
2 (IA2017-023)	Officers #1-2: • Force	BPD initiated an investigation.	26
3 (IA2017-024)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	18
4 (IA2017-025)	Officer #1: • Force	BPD initiated an investigation.	13
5 (IA2017-026)	Officer #1: • Force	BPD initiated an investigation.	14
6 (IA2017-027)	Officers #1-2: • Bias-Based Policing	BPD initiated an investigation.	10

During April 2017, 1 **Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2016-022)	Officer #1: • Force Officer #2 • Performance of Duty Officer #3 • Policy/Procedure	BPD initiated an investigation.	65

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During April 2017, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #16-29)	Officers did not properly investigate a criminal case and were biased against the complainant.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure – Sustained Officers #1-2 <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Performance of Duty – Exonerated 	196	182

During April 2017, **4 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-046)	Officer did not properly forward an investigative file to District Attorney.	Unknown BPD Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Sustained 	346	326
2 (IA2016-080)	Officers contacted subject because of subject's race and one officer did not properly document the contact.	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded Officer #2 <ul style="list-style-type: none"> • Policy/Procedure – Not Sustained 	257	222
3 (IA2016-087)	One officer used excessive force during arrest of complainant and did not properly document the contact. One officer did not request proper medical attention or medical clearance.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Policy/Procedure – Exonerated Officer #2 <ul style="list-style-type: none"> • Supervision – Unfounded 	228	208

4 (IA2016-091)	Officer did not properly investigate a report of criminal activity, did not properly document a law enforcement contact, was not responsive to complainant's concerns, and did not provide appropriate medical attention for complainant.	Officers #1-2: • Policy/Procedure – Unfounded Officer #2: • Conduct Unbecoming an Officer – Not Sustained	215	180
5 (IA2016-096)	Department did not sufficiently enforce restraining order.	<u>BART Police Department</u> • Service Review ⁹	215	156
6 (IA2016-110)	Officer operated department vehicle unsafely.	Officer #1: • Policy/Procedure – Not Unfounded	154	119
7 (IA2017-005)	Officer did not appropriately respond to a call for service.	<u>BART Police Department</u> • Service Review	111	91

During April 2017, **1 Informal Complaint** was addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-020)	Off-duty officer was rude and confrontational.	Officer #1: • Performance of Duty – Supervisory Referral ¹⁰	47	15

During April 2017, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2016-072)	Officers did not follow procedures when contacting subject and did not request or provide appropriate medical attention to subject. Officers improperly moved subject during the contact did not properly document the contact.	Officers #1-2: • Policy/Procedure – Sustained • Performance of Duty (Counts 1-2) – Sustained Officer #2 • Performance of Duty (Count 3) – Sustained	281	261

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued by BPD during April 2017.

ADDITIONAL NOTES

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

Investigations Being Conducted	1
Complainant-Initiated Appeals	0
Investigations Being Monitored	15
Investigations Reviewed During Current Month	22 [†]

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

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

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

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

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

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

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

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

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

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

⁹ A Service Review refers to an instance when a citizen/patron raises a concern pertaining to a global practice throughout the Department such as Department policies, procedures and/or tactics. When appropriate, a Service Review may be conducted by Internal Affairs or by a designated review committee, who in turn will make recommended changes to the Chief of Police for approval.

¹⁰ A Supervisory Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

May 2017

Issue date: June 12, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **May 1, 2017 through May 31, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
May 2016	8	62	0	0	0
June 2016	17	68	0	0	0
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	12
Informal Complaints ⁷	1
Administrative Investigations	0
TOTAL	13

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	4
BART Police Department	8
TOTAL	12

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During May 2017, **4 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-17) (IA2017-031)	Officer #1: • Performance of Duty • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	42
2 (OIPA #17-20) (IA2017-032)	Officers #1-2: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	35
3 (OIPA #17-21) (IA2017-035)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	32
4 (OIPA #17-22) (IA2017-037)	Officers #1-2: • Performance of Duty • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	27

During May 2017, **8 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-029)	Officers #1-2: • Conduct Unbecoming an Officer Officer #2: • Arrest or Detention	BPD initiated an investigation.	42
2 (IA2017-030)	BART Police Department: • Performance of Duty	BPD initiated an investigation.	26
3 (IA2017-033)	Officers #1-2: • Force • Conduct Unbecoming an Officer	BPD initiated an investigation.	38
4 (IA2017-034)	Officers #1-9: • Conduct Unbecoming an Officer	BPD initiated an investigation.	37
5 (IA2017-036)	Officers #1-2: • Arrest or Detention • Conduct Unbecoming an Officer	BPD initiated an investigation.	28
6 (IA2017-038)	Employee #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	25

7 (IA2017-039)	Officers #1-2: • Force Officer #2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	20
8 (IA2017-040)	Officers #1-2: • Force	BPD initiated an investigation.	25

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

Investigation # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-041)	Employee #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	12

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During May 2017, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #16-31)	Officers improperly detained and intimidated complainant, and did so on the basis of complainant's race and/or disability	Officers #1-3: • Conduct Unbecoming an Officer – Unfounded Officers #1-2 • Bias-Based Policing – Unfounded • Arrest or Detention – Exonerated	214	173

During May 2017, **6 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-094)	Officers used excessive force during arrest of subject.	Officers #1-3: • Force (Count 1) – Unfounded • Force (Count 2) – Exonerated	237	210

2 (IA2016-095)	Officers contacted subject because of subject's race and one officer did not properly document the contact.	Officers #1-2: • Force – Unfounded Officer #2 • Bias-Based Policing – Unfounded	230	190
3 (IA2016-102)	Officers used excessive force during arrest of complainant and did so on the basis of complainant's race.	Officers #1-4: • Bias-Based Policing – Unfounded • Force – Exonerated	216	176
4 (IA2016-106)	Officer used excessive force during arrest of subject and did so on the basis of subject's race.	Officer #1: • Bias-Based Policing – Unfounded • Force – Unfounded	208	168
5 (IA2017-002)	Officer locked complainant inside a restroom.	Officer #1: • Conduct Unbecoming an Officer – Unfounded	145	111
6 (IA2017-018)	Officer improperly detained complainant, did not properly enforce the law, and was overly collegial with a suspect.	Officer #1: • Performance of Duty – Unfounded • Arrest/Detention – Unfounded • Conduct Unbecoming an Officer – Unfounded	87	66

During May 2017, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2016-086)	Officer improperly traded shifts with another officer.	Officer #1: • Policy/Procedure – Administratively Closed ⁹	263	223

DISCIPLINE ISSUED DURING REPORTING PERIOD

During May 2017, 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 take proper law enforcement action and did not properly document the contact.	Officer #1: • Performance of Duty • Policy/Procedure	Officer #1: • Retired Prior to Discipline
2	Officer did not provide required medical clearance for subject.	Officer #1: • Supervision	Officer #1: • Retired Prior to Discipline

ADDITIONAL NOTES

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

Investigations Being Conducted	1
Complainant-Initiated Appeals	0
Investigations Being Monitored	10
Investigations Reviewed During Current Month	26 [†]

[†]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.

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

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

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

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

reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

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

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

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

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

⁹ Administrative Closure refers to 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

June 2017

Issue date: July 10, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **June 1, 2017 through June 30, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
June 2016	17	68	0	0	0
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	8
Informal Complaints ⁷	2
Administrative Investigations	1
TOTAL	11

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	8
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During June 2017, **8 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-042)	Officer #1: • Force • Conduct Unbecoming an Officer	BPD initiated an investigation.	39
2 (IA2017-043)	Officer #1: • Performance of Duty	BPD initiated an investigation.	38
3 (IA2017-044)	Officers #1-2: • Force	BPD initiated an investigation.	39
4 (IA2017-045)	Officers #1-2: • Arrest or Detention	BPD initiated an investigation.	35
5 (IA2017-048)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	25
6 (IA2017-049)	Officers #1-2: • Force	BPD initiated an investigation.	30
7 (IA2017-050)	Unknown BPD Officer #1: • Conduct Unbecoming an Officer	BPD categorized the complaint as an Inquiry.	15
8 (IA2017-051)	Employee #1: • Conduct Unbecoming an Officer	BPD categorized the complaint as an Inquiry.	25

During June 2017, **2 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-046)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	34
2 (IA2017-047)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	32

During June 2017, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-057)	Employee #1: • Workplace Discrimination/Harassment • Conduct Unbecoming an Officer	BPD initiated an investigation.	18

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During June 2017, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #17-06)	Officer acted unprofessionally and discourteously because of complainant's race.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Courtesy – Unfounded 	90	85

During June 2017, **10 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-101)	Officers intimidated complainant and mocked complainant based on disability.	Officers #1-3: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Arrest or Detention – Exonerated • Conduct Unbecoming an Officer – Unfounded 	242	218
2 (IA2016-107)	Officers used excessive force on complainant and improperly applied handcuffs, causing pain.	Officers #1-2: <ul style="list-style-type: none"> • Force – Unfounded • Policy/Procedure – Unfounded 	232	205
3 (IA2016-111)	Officer used excessive force during arrest of subject, verbally threatened subject and unnecessarily pointed Taser at subject.	Officer #1: <ul style="list-style-type: none"> • Force (Count 1) – Exonerated • Force (Counts 2-5) – Unfounded • Conduct Unbecoming an Officer (Count 1) – Exonerated • Conduct Unbecoming an Officer (Count 2) – Unfounded 	221	176
4 (IA2016-112)	Officer improperly ejected complainant from premises, threatened to arrest complainant, and threatened to steal complainant's property.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer (Count 1) – Unfounded • Conduct Unbecoming an Officer (Count 2) – Not Sustained 	207	175

5 (IA2016-118)	Officer contacted complainant based on race and officers took complainant's money and property.	Officers #1-4: • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded	194	167
6 (IA2017-003)	Officers used excessive force while detaining complainant.	Officers #1-2: • Force (Count 1) – Exonerated Officer #2: • Force (Count 2) – Unfounded	166	134
7 (IA2017-015)	Officer threatened complainant and mistreated complainant based on race.	Officer #1: • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded	118	94
8 (IA2017-024)	Officers did not properly investigate complainant's call for service.	Officers #1-2: • Conduct Unbecoming an Officer – Supervisory Referral ⁹	81	43
9 (IA2017-035)	Officers did not properly investigate complainant's call for service.	Officers #1-2: • Performance of Duty – Supervisory Referral	61	49
10 (IA2017-037)	Officers used personal phones while on duty.	Officers #1-2: • Conduct Unbecoming an Officer – Administratively Closed ¹⁰	55	16

During June 2017, **2 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2016-104)	Officer violated District substance abuse policy and reported for duty while impaired.	Officer #1: • Policy/Procedure (Count 1) – Sustained • Policy/Procedure (Count 2) – Not Sustained	238	211
2 (IA2016-119)	Officer was arrested for driving under the influence.	Officer #1: • Criminal Conduct – Sustained • Conduct Unbecoming an Officer – Sustained	252	225

During June 2017, **1 Informal Complaint** was addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-041)	Employee was rude to complainant on the phone.	Employee #1: • Conduct Unbecoming an Officer – Supervisory Referral	40	14

Also during the month of June 2017, BPD initially classified the following case as an **Inquiry** and Administratively Closed the complaint: IA2017-050 (No misconduct was alleged by the complainant).

DISCIPLINE ISSUED DURING REPORTING PERIOD

During June 2017, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Supervisor Addressed Through Training

ADDITIONAL NOTES

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

Investigations Being Conducted	1
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	1
Investigations Being Monitored	20
Investigations Reviewed During Current Month	24†

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

The Model provides that should the Chief of Police disagree with the investigative findings and recommendations of OIPA and the BPCRB, the Chief of Police may appeal to the BART General Manager (GM) in a confidential personnel meeting. The GM shall then make a final decision, which the Chief shall implement. The chart above will henceforth reflect BPD-initiated appeals.

- In June 2017, the findings and recommendations reached in November 2016 by OIPA with which the BPCRB agreed regarding OIPA Case #16-25 were overturned pursuant to this appeal process.

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

- OIPA made recommendations for revisions to the investigative findings reached by BPD regarding Case #IA2016-081. Discussions regarding the recommendations and the response by BPD are ongoing as of the finalization of this Monthly Report.
- OIPA recommendations regarding improved review by BPD of all available documents and regarding timely correspondence with complainants were well-received by BPD regarding Case #IA2017-018. No follow-up was recommended or required by OIPA.
- Regarding Case #IA2015-119, OIPA suggested that a plain reading of the initial complaint should have resulted in a specific allegation of misconduct instead of being adjudicated solely as a Service Review. No follow-up was recommended or required by OIPA.
- OIPA suggested that minimal additional investigation would have been appropriate in Case #IA2015-080 to further explore and explain a minor discrepancy about the timing of BPD contact with the complainant. No follow-up was recommended or required by OIPA.

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

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

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

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

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

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

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

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

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

¹⁰ Administrative Closure refers to 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

July 2017

Issue date: August 17, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **July 1, 2017 through July 31, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13*	48	0	0	0

*Includes one case reopened by BPD, which remained open through the end of the period.

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	4
Administrative Investigations	2
TOTAL	13

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	5
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During July 2017, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-25) (IA2017-059)	Officers #1-2: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	38
2 (OIPA #17-26) (IA2017-058)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	31

During July 2017, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-053)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	43
2 (IA2017-055)	Officer #1: • Force • Conduct Unbecoming an Officer	BPD initiated an investigation.	46
3 (IA2017-061)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	27
4 (IA2016-081)	Officer #1: • Force	BPD reopened an investigation.	352
5 (IA2017-057)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	56

During July 2017, **4 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-054)	Employees #1-3: • Conduct Unbecoming	BPD initiated an investigation.	43
2 (IA2017-056)	Employee #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	35
3 (IA2017-063)	Officer #1: • Performance of Duty	BPD initiated an investigation.	21
4 (IA2017-064)	Employee #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	17

During July 2017, **2 Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-060)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer • Courtesy 	BPD initiated an investigation.	29
2 (IA2017-062)	Officer #1: <ul style="list-style-type: none"> • Racial Animus • Supervision • Workplace Discrimination/Harassment • Conduct Unbecoming an Officer 	BPD initiated an investigation.	21

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During July 2017, **3 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-117)	Officers intimidated complainant and treated complainant unfairly based on religious beliefs.	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded Officer #2: <ul style="list-style-type: none"> • Performance of Duty – Unfounded 	233	188
2 (IA2017-010)	Officers used excessive force on subject.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated 	188	153
3 (IA2017-023)	Officers used excessive force on complainant during arrest.	Officers #1-2: <ul style="list-style-type: none"> • Force (Counts 1-2) – Unfounded • Force (Count 3) – Exonerated • Arrest or Detention – Exonerated 	127	103

During July 2017, **3 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-047)	Officer lacked empathy toward possible victim of crime.	Officer #1: • Conduct Unbecoming an Officer – Supervisory Referral ⁹	70	24
2 (IA2017-046)	Officer harassed complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisory Referral	72	43
3 (IA2017-056)	Employee was rude to complainant.	Employee #1: • Conduct Unbecoming an Officer – Supervisory Referral	35	15

Also during the month of July 2017, BPD initially classified each of the following cases as an **Inquiry** and Administratively Closed the complaints: IA2017-038 (Complainant could not recall the underlying incident) and IA2017-051 (Complainant withdrew complaint after receiving clarifying information from BPD).

INVESTIGATIONS COMPLETED DURING A PRIOR REPORTING PERIOD

During June 2017, **1 Citizen Complaint (Formal)** was completed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-035)	Officer used excessive force on subject.	Officer #1: • Force (Count 1) – Unfounded • Force (Count 2) – Exonerated	292	222

DISCIPLINE ISSUED DURING REPORTING PERIOD

During July 2017, 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 follow procedures when contacting subject and did not request or provide appropriate medical attention to subject. Officers improperly moved subject during the contact and did not properly document the contact.	Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure • Performance of Duty (Counts 1-2) Officer #2 <ul style="list-style-type: none"> • Performance of Duty (Count 3) 	Officer #1: <ul style="list-style-type: none"> • Suspension Held in Abeyance Officer #2 <ul style="list-style-type: none"> • Written Reprimand

ADDITIONAL NOTES

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

Investigations Being Conducted	2
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	19
Investigations Reviewed During Current Month	22†

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

MONITORING INFORMATION

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

- As reported in the OIPA Monthly Report for June 2017, OIPA made recommendations for revisions to the investigative findings reached by BPD regarding Case #IA2016-081. In July, BPD agreed to change one investigative finding from Unfounded to Exonerated in connection with an allegation of excessive force.

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

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

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

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

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

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

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

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

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



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

August 2017

Issue date: September 18, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **August 1, 2017 through August 31, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	8
Informal Complaints ⁷	3
Administrative Investigations	1
TOTAL	12

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	6
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During August 2017, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-29) (IA2017-066)	Officer #1: • Bias-Based Policing	OIPA notified BPD, which initiated an investigation.	47
2 (OIPA #17-32) (IA2017-070)	Employee #1: • Performance of Duty	OIPA notified BPD, which categorized the complaint as a Service Review.	38

During August 2017, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-068)	Officer #1: • Performance of Duty	BPD initiated an investigation.	47
2 (IA2017-069)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	39
3 (IA2017-071)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	41
4 (IA2016-073)	Officers #1-2: • Bias-Based Policing	BPD initiated an investigation.	32
5 (IA2017-075)	Officers #1-2: • Force	BPD initiated an investigation.	32
6 (IA2017-076)	Officers #1-2: • Force	BPD initiated an investigation.	24

During August 2017, **3 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-065)	Officer #1: • Arrest or Detention	BPD initiated an investigation.	26
2 (IA2017-067)	Employee #1: • Performance of Duty	BPD initiated an investigation.	46
3 (IA2017-072)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	27

During August 2017, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-074)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure • Conduct Unbecoming an Officer 	BPD initiated an investigation.	27

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During August 2017, **21 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-063)	Officers used excessive force and unreasonably seized complainant's property, and one officer did so because of complainant's race.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded Officer #2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Search/Seizure – Exonerated 	453	427*
2 (IA2016-081)	Officer used excessive force on complainant.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated 	384	344
3 (IA2016-109)	Officers did not properly respond to and document a call for service.	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty – Not Sustained Officer #3: <ul style="list-style-type: none"> • Performance of Duty – Sustained • Policy/Procedure – Sustained 	296	254
4 (IA2017-008)	Officers used excessive force on complainant.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated 	296	254
5 (IA2017-011)	Officer used excessive force on complainant and did not properly document the contact.	Officer #1: <ul style="list-style-type: none"> • Force – Not Sustained • Policy/Procedure – Not Sustained 	214	172

6 (IA2017-012)	Officer escalated tension by unnecessarily summoning additional officers to the scene of a contact, and officer lied to supervisor about details of the contact.	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer (Count 1) – Exonerated • Conduct Unbecoming an Officer (Count 2) – Unfounded 	204	159
7 (IA2017-013)	Officers unlawfully detained complainant and stole complainant's property. One officer whispered false accusations of criminal conduct about complainant.	Officers #1-2: <ul style="list-style-type: none"> • Arrest or Detention – Exonerated • Conduct Unbecoming an Officer (Count 1) – Unfounded Officer #2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer (Count 2) – Unfounded 	189	154
8 (IA2017-014)	Officer unlawfully detained complainant, used excessive force, and groped complainant during the detention.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Arrest or Detention – Exonerated • Conduct Unbecoming an Officer – Unfounded 	193	148
9 (IA2017-016)	Officer used excessive force during arrest of subject.	Officer #1: <ul style="list-style-type: none"> • Force (Counts 1-2) – Exonerated • Force (Count 3) – Unfounded 	186	144
10 (IA2017-019)	Officers used excessive force during an arrest.	Officer #1: <ul style="list-style-type: none"> • Force (Counts 1-2) – Unfounded Officer #2: <ul style="list-style-type: none"> • Force (Counts 1-2) – Unfounded • Force (Counts 3-6) – Exonerated 	253	207
11 (IA2017-021)	Officers did not properly investigate a call for service and two officers used excessive force against complainant.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated Officers #1-3: <ul style="list-style-type: none"> • Performance of Duty – Exonerated 	166	131
12 (IA2017-025)	Officer unlawfully detained complainant and used excessive force when doing so.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Arrest or Detention – Exonerated 	146	118
13 (IA2017-026)	Officer used excessive force on complainant.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated 	147	100

14 (IA2017-027)	Officers detained complainant because of complainant's race.	Officers #1-2: • Bias-Based Policing – Unfounded	143	115
15 (IA2017-028)	Officer did not properly respond to a request for assistance.	Officer #1: • Performance of Duty – Sustained	147	100
16 (IA2017-030)	Department did not provide sufficient supervision to deter criminal activity.	BART Police Department • Service Review ⁹	138	110
17 (IA2017-033)	Officers used excessive force against complainant and one officer did not properly investigate suspected criminal activity.	Officers #1-2: • Force – Exonerated Officer #2: • Performance of Duty – Unfounded	136	91
18 (IA2017-034)	Officers planned to rape complainant.	Officers #1-3: • Conduct Unbecoming an Officer – Unfounded	135	100
19 (IA2017-042)	Officer bullied complainant and used unnecessary force.	Officer #1: • Force – Unfounded • Conduct Unbecoming an Officer – Unfounded	109	83
20 (IA2017-058)	Officer provided conflicting testimony during an administrative proceeding.	Officer #1: • Performance of Duty – Unfounded	63	35

*This investigation (IA2016-063) was tolled from December 28, 2016 to August 21, 2017 pending litigation.

During August 2017, 3 **Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2016-103)	Employees did not convey relevant information to an outside law enforcement agency.	Employees #1-2: • Performance of Duty – Sustained	342	300
2 (IA2016-114)	Officers used excessive force and did not properly report the use of force.	Officers #1-2: • Force – Unfounded • Policy/Procedure – No Finding [†]	280	234
3 (IA2017-022)	Officer used excessive force.	Officer #1: • Force – Exonerated	198	172

[†]The disposition of one allegation in IA2016-114 was not reported by BPD prior to the finalization of this report.

Also during the month of August 2017, BPD classified each of the following cases as an **Inquiry** and Administratively Closed the complaints: IA2017-043 (Complainant withdrew complaint after receiving clarifying information from the Office of the General Manager); IA2017-054 (Complainant did not provide sufficient information for investigation by BPD).

DISCIPLINE ISSUED DURING REPORTING PERIOD

During August 2017, 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 failed random alcohol screening.	Officer #1: • Policy/Procedure	Officer #1: • Informal Counseling

ADDITIONAL NOTES

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

Investigations Being Conducted	2
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	22
Investigations Reviewed During Current Month	34 ^{††}

^{††}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.

MONITORING INFORMATION

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

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

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

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

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

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

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

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

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

⁹ A Service Review refers to an instance when a citizen/patron raises a concern pertaining to a global practice throughout the Department such as Department policies, procedures and/or tactics. When appropriate, a Service Review may be conducted by Internal Affairs or by a designated review committee, who in turn will make recommended changes to the Chief of Police for approval.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

September 2017

Issue date: October 16, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **September 1, 2017 through September 30, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	10
Informal Complaints ⁷	2
Administrative Investigations	0
TOTAL	12

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	4
BART Police Department	6
TOTAL	10

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During September 2017, **4 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-33) (IA2017-082)	Employee #1: • Conduct Unbecoming	OIPA notified BPD, which initiated an investigation.	39
2 (OIPA #17-34) (IA2017-085)	Officer #1: • Bias-Based Policing • Conduct Unbecoming	OIPA notified BPD, which initiated an investigation.	26
3 (OIPA #17-35) (IA2017-086)	Officers #1-3: • Force	OIPA notified BPD, which initiated an investigation.	25
4 (OIPA #17-36) (IA2017-087)	Officers #1-2: • Conduct Unbecoming	OIPA notified BPD, which initiated an investigation.	18

During September 2017, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-077)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	40
2 (IA2017-079)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	38
3 (IA2017-083)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	33
4 (IA2017-084)	Officer #1: • Force	BPD initiated an investigation.	28
5 (IA2017-088)	Officer #1: • Performance of Duty	BPD initiated an investigation.	17

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

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-080)	Officers #1-2: • Arrest or Detention • Search or Seizure	BPD initiated an investigation.	34

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During August 2017, **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 (IA2017-078)	Officer #1: • Force	BPD initiated an investigation.	48
2 (IA2017-081)	Officers #1-3: • Conduct Unbecoming an Officer	BPD initiated an investigation.	46

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During September 2017, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #17-09)	Officer improperly detained and arrested subject, and used excessive force during the arrest.	Officer #1: • Force – Exonerated • Arrest or Detention – Exonerated	214	196

During September 2017, **8 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-006)	Officers improperly detained complainant and improperly applied handcuffs during the detention.	Officers #1-2: • Arrest or Detention – Exonerated • Handcuffing – Exonerated	263	224
2 (IA2017-032)	Officers used excessive force during arrest.	Officers #1-2: • Force – Exonerated	161	93
3 (IA2017-049)	Officers used excessive force during arrest of complainant.	Officers #1-2: • Force – Exonerated	128	90

4 (IA2017-053)	Officer improperly contacted complainant based on race and was rude to complainant.	Officer #1: • Bias-Based Policing – Not Sustained • Conduct Unbecoming an Officer – Unfounded	103	82
5 (IA2017-061)	Employee improperly contacted complainant based on race and yelled at complainant.	Employee #1: • Bias-Based Policing – Unfounded • Conduct Unbecoming – Not Sustained	87	54
6 (IA2017-068)	Officers did not appropriately enforce the law.	BART Police Department: • Service Review ⁹	75	42
7 (IA2017-075)	Officers used excessive force during arrest of subject.	Officers #1-2: • Force – Exonerated	60	27
8 (IA2017-076)	Officers used excessive force during arrest and were disrespectful to complainant.	Officers #1-3: • Force – Exonerated Officers #1-4 • Conduct Unbecoming an Officer – Unfounded	52	21

During September 2017, **5 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-031)	Officer was rude to complainant and did not appropriately respond to the call for service.	Officer #1: • Performance of Duty – Supervisory Referral ¹⁰ • Conduct Unbecoming an Officer – Supervisory Referral	168	132
2 (IA2017-063)	Officer did not take appropriate law enforcement action.	Officer #1: • Performance of Duty – Supervisory Referral	81	37
3 (IA2017-065)	Officer improperly detained complainant.	Officer #1: • Arrest or Detention – Supervisory Referral	74	42
4 (IA2017-067)	Employee did not appropriately respond to the call for service.	Employee #1: • Conduct Unbecoming – Supervisory Referral	74	41
5 (IA2017-082)	Employee was unprofessional and discourteous.	Employee #1: • Conduct Unbecoming – Supervisory Referral	39	19

INVESTIGATIONS COMPLETED DURING A PRIOR REPORTING PERIOD

During August 2017, **2 Citizen Complaints (Formal)** were completed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-017)	Officer improperly detained complainant and embarrassed complainant.	Officer #1: • Conduct Unbecoming an Officer – Administratively Closed ¹¹	216	168
2 (IA2017-039)	Officers used excessive force during arrest of complainant.	Officers #1-2: • Force – Exonerated	146	98

During August 2017, **1 Informal Complaint** was addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-064)	Employee was unprofessional and did not return complainant's phone calls.	Employee #1: • Conduct Unbecoming – Supervisory Referral	77	23

DISCIPLINE ISSUED DURING REPORTING PERIOD

During September 2017, 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	Employee did not convey relevant information to an outside law enforcement agency.	Employee #1: • Performance of Duty	Employee #1: • Informal Counseling

ADDITIONAL NOTES

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

Investigations Being Conducted	3
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	29
Investigations Reviewed During Current Month	31 [†]

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

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

- After review of all investigations closed by BPD in September 2017, OIPA referred 6 cases to the Chief of Police for review, comment, and further discussion.

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

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

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

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

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

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

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

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

⁹ A Service Review refers to an instance when a citizen/patron raises a concern pertaining to a global practice throughout the Department such as Department policies, procedures and/or tactics. When appropriate, a Service Review may be conducted by Internal Affairs or by a designated review committee, who in turn will make recommended changes to the Chief of Police for approval.

¹⁰ A Supervisory Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹¹ Administrative Closure refers to 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

October 2017

Issue date: November 13, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **October 1, 2017 through October 31, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	8
Informal Complaints ⁷	3
Administrative Investigations	0
TOTAL	11

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	8
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During October 2017, **7 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-091)	Officers #1-2: • Arrest or Detention	BPD initiated an investigation.	41
2 (IA2017-093)	Officer #1: • Force	BPD initiated an investigation.	40
3 (IA2017-094)	Officer #1: • Bias-Based Policing • Performance of Duty • Conduct Unbecoming an Officer	BPD initiated an investigation.	28
4 (IA2017-095)	Officers #1-4: • Bias-Based Policing • Arrest or Detention	BPD initiated an investigation.	28
5 (IA2017-096)	Officers #1-2: • Bias-Based Policing	BPD initiated an investigation.	21
6 (IA2017-097)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	26
7 (IA2017-099)	Officers #1-2: • Performance of Duty	BPD initiated an investigation.	13

During October 2017, **3 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-090)	Officer #1: • Performance of Duty	BPD initiated an investigation.	41
2 (IA2017-092)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	38
3 (IA2017-098)	Unknown BPD Officer: • Policy/Procedure	BPD initiated an investigation.	14

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During July 2017, **1 Citizen Complaint (Formal)** was received by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-089)	Officers #1-2: • Performance of Duty	BPD categorized the complaint as a Service Review ⁹ .	126

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During October 2017, **6 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-029)	Officer improperly arrested complainant, disrespected complainant, insufficiently investigated the call for service, and did not properly document the contact.	Officer #1: • Arrest or Detention – Exonerated • Policy/Procedure – Exonerated • Performance of Duty – Unfounded • Conduct Unbecoming an Officer – Not Sustained	196	155
2 (IA2017-070)	Dispatcher did not respond appropriately to complainant's call for service.	Employee #1: • Performance of Duty – Service Review	94	60
3 (IA2017-071)	Employee struck complainant's vehicle using hand, causing damage to vehicle.	Employee #1: • Conduct Unbecoming – Unfounded	97	62
4 (IA2017-077)	Officers intentionally used patrol car to prevent complainant from parking.	Officers #1-2: • Conduct Unbecoming – Administratively Closed ¹⁰	68	33
5 (IA2017-078)	Officer used excessive force during detention of complainant.	Officer #1: • Force – Exonerated	76	45
6 (IA2017-088)	Officer did not properly respond to a call for service.	Officer #1: • Performance of Duty – Supervisory Referral	45	11

During October 2017, **2 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-072)	Employee was rude to complainant and did not appropriately respond to a call for service.	Employee #1: • Conduct Unbecoming – Supervisory Referral ¹¹	83	51
2 (IA2017-092)	Officer was driving erratically and made menacing gestures to complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisory Referral	38	20

INVESTIGATIONS COMPLETED DURING A PRIOR REPORTING PERIOD

During September 2017, **1 Informal Complaint** was addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-080)	Officers improperly detained complainant and conducted an illegal search.	Officers #1-2: • Arrest or Detention – Supervisory Referral • Search or Seizure – Supervisory Referral	62	14

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued by BPD during October 2017.

ADDITIONAL NOTES

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

Investigations Being Conducted	3
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	29
Investigations Reviewed During Current Month	31 [†]

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

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

- In September 2017, OIPA referred 6 Internal Affairs cases for review, comment, and further discussion with BPD. Discussions between OIPA and BPD in October 2017 regarding those cases addressed OIPA concerns regarding the thorough identification and investigation of complaint allegations, including the consistent recording of complaint data. OIPA and BPD expect to engage in increased real-time communication regarding complaint investigations being conducted by Internal Affairs, and an effective data collection plan is in place.

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)).

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⁹ A Service Review refers to an instance when a citizen/patron raises a concern pertaining to a global practice throughout the Department such as Department policies, procedures and/or tactics. When appropriate, a Service Review may be conducted by Internal Affairs or by a designated review committee, who in turn will make recommended changes to the Chief of Police for approval.

¹⁰ Administrative Closure refers to 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 A Supervisory Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

November 2017

Issue date: December 11, 2017

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **November 1, 2017 through November 30, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	8
Informal Complaints ⁷	2
Administrative Investigations	1
TOTAL	11

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	3
BART Police Department	5
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During November 2017, **3 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-40) (IA2017-100)	Employee #1: • Performance of Duty • Conduct Unbecoming	OIPA notified BPD, which initiated an investigation.	39
2 (OIPA #17-41) (IA2017-104)	Officer #1: • Performance of Duty	OIPA notified BPD, which classified the case as an Inquiry and Administratively Closed the complaint. ⁹	32
3 (OIPA #17-42) (IA2017-105)	Officer #1: • Bias-Based Policing • Performance of Duty	OIPA and BPD each initiated an investigation.	25

During November 2017, **4 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-102)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	38
2 (IA2017-103)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	34
3 (IA2017-108)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	18
4 (IA2017-017)	Officer #1: • Arrest or Detention • Policy/Procedure	BPD reopened an investigation.	272

During November 2017, **2 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-107)	Officer #1: • Policy/Procedure • Conduct Unbecoming an Officer	BPD initiated an investigation.	28
2 (IA2017-109)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	16

During November 2017, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-106)	Officers #1-2: • Force	BPD initiated an investigation.	25

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During October 2017, **1 Citizen Complaint (Formal)** was received by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-101)	Employee #1: • Policy/Procedure • Conduct Unbecoming	BPD initiated an investigation.	51

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During November 2017, **5 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-036)	Officers improperly arrested complainant and used excessive force while doing so, discarded complainant's property, and did not properly account for other personal items belonging to complainant.	Officers #1-2: • Force – Exonerated • Arrest/Detention – Exonerated • Policy/Procedure (Count 1) – Sustained • Policy/Procedure (Count 2) – Not Sustained • Policy/Procedure (Count 3) – Administratively Closed	210	170
2 (IA2017-073)	Officers improperly detained complainant on the basis of race.	Officers #1-2: • Bias-Based Policing – Unfounded • Arrest/Detention – Exonerated	116	104
3 (IA2017-057)	Officers contacted complainant based on race and accused complainant of being unable to read.	Officers #1-2: • Bias-Based Policing – Administratively Closed	172	159

4 (IA2017-044)	Officers used excessive force during detention of subject.	Officers #1-5: <ul style="list-style-type: none"> • Force – Exonerated • Performance of Duty – Unfounded • Conduct Unbecoming – Unfounded 	193	181
5 (IA2017-059)	Officers did not take appropriate law enforcement action.	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty – Sustained 	153	113

Also during the month of November 2017, BPD classified the following case as an **Inquiry** and Administratively Closed the complaint: IA2017-104 (Complainant withdrew the complaint).

INVESTIGATIONS COMPLETED DURING A PRIOR REPORTING PERIOD

During October 2017, **4 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-066)	Officer contacted complainant based on race, was rude to complainant, and did not properly document the contact.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Not Sustained • Policy/Procedure – Sustained 	129	75
2 (IA2017-069)	Officer made inappropriate comments to complainant.	Unknown BPD Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Administratively Closed 	123	70
3 (IA2017-089)	Officers did not take appropriate law enforcement action.	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty – Service Review¹⁰ 	154	101
4 (IA2017-086)	Officers and employee used excessive force during detention of subject.	Officers #1-4: <ul style="list-style-type: none"> • Force – Exonerated Employee #1: <ul style="list-style-type: none"> • Force – Exonerated 	81	29

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

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-098)	Officer failed to obey traffic laws.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure – Supervisory Referral¹¹ 	42	1

During October 2017, **1 Administrative Investigation** was addressed by BPD:

Investigation # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-052)	Employee made unprofessional remarks.	Employee #1: • Conduct Unbecoming – Sustained	172	126

DISCIPLINE ISSUED DURING REPORTING PERIOD

During November 2017, 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 take appropriate law enforcement action and did not properly document the contact.	Officer #1: • Performance of Duty • Policy/Procedure	Officer #1: • Written Reprimand • Oral Counseling
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Supervisor Addressed Through Training

DISCIPLINE ISSUED DURING A PRIOR PERIOD BUT NOT PREVIOUSLY REPORTED

During May 2016, 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 engaged in fraudulent and criminal conduct, was untruthful, and acted inappropriately in a court of law.	Officer #1: • Criminal (Counts 1-2) • Compromising a Criminal Case (Counts 1-2) • Conduct Unbecoming an Officer (Counts 1-3) • Truthfulness (Counts 1-3) • Policy Procedure	Officer #1: • Resigned Prior to Discipline

ADDITIONAL NOTES

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

Investigations Being Conducted	2
Complainant-Initiated Appeals	1
BPD-Initiated Appeals	0
Investigations Being Monitored	22
Investigations Reviewed During Current Month	39 [†]

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

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

- In November 2017, BPD Internal Affairs administratively closed one investigation in which two officers were alleged to have engaged in bias-based policing during a fare evasion enforcement contact. The Administrative Closure eliminated the data points which would reflect the fact that two BPD officers were the subjects of the complaint, and the process additionally eliminated the searchable data points reflecting that the Department received this allegation of bias-based policing. OIPA is of the opinion that each allegation should be recorded and a finding should be reached by IA based on the available evidence.

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

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

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

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

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

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

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

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

⁹ Administrative Closure refers to 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.

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

¹¹ A Supervisory Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

December 2017

Issue date: January 8, 2018

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **December 1, 2017 through December 31, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13	48	0	0	0
August 2017	12	35	0	0	0
September 2017	12	31	1	0	0
October 2017	11	33	0	0	0
November 2017	11	32	0	1	0
December 2017	9	34	1	0	0

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	6
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During December 2017, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-45) (IA2017-112)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	34
2 (OIPA #17-46) (IA2017-117)	Officer #1: • Arrest or Detention • Performance of Duty	OIPA notified BPD, which initiated an investigation.	11

During December 2017, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-113)	Officer #1: • Force • Conduct Unbecoming an Officer	BPD initiated an investigation.	27
2 (IA2017-114)	Officer #1: • Force • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	26
3 (IA2017-115)	Officer #1: • Force • Policy/Procedure	BPD initiated an investigation.	19
4 (IA2017-116)	Officer #1: • Arrest or Detention	BPD initiated an investigation.	33
5 (IA2017-118)	Officer #1: • Force	BPD initiated an investigation.	14

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During November 2017, **1 Citizen Complaint** was received by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-110)	BART Police Department: • Service Review ⁹	BPD initiated a Service Review.	41

During November 2017, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-111)	Officers #1-2: • Force	BPD initiated an investigation.	59

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During December 2017, **2 Citizen Complaints** were concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #17-29)	Officer improperly detained complainant based on race, was rude to complainant, did not properly document the contact, and did not properly manage email communications related to complaint investigation.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing/Racial Profiling – Not Sustained • Arrest or Detention – Unfounded • Policy/Procedure (Count 1) – Exonerated • Policy/Procedure (Count 2) – Sustained • Courtesy – Sustained 	159	126
2 (OIPA #17-34)	Officer improperly detained complainant based on race and spoke harshly to complainant.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing/Racial Profiling – Unfounded • Arrest or Detention – Exonerated • Courtesy – Exonerated 	110	100

During December 2017, **5 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-017)	Officer improperly detained complainant and did not properly document the contact.	Officer #1: <ul style="list-style-type: none"> • Arrest/Detention – Not Sustained • Policy/Procedure – Not Sustained 	300	268*

* This investigation was Administratively Closed in August 2017, but was reopened, formally investigated, and re-closed during this reporting period.

2 (IA2017-045)	Officers improperly detained complainant based on race or economic status and officers did not properly document the contact.	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Policy/Procedure – Sustained 	217	199
3 (IA2017-048)	Officer encouraged harassment and targeting of subjects based on race and officer used derogatory language to describe subjects.	Officer #1: <ul style="list-style-type: none"> • Racial Animus – Not Sustained • Conduct Unbecoming an Officer – Sustained 	207	190
4 (IA2017-091)	Officers improperly detained and arrested complainant and caused complainant to be charged for medical costs.	Officers #1-5: <ul style="list-style-type: none"> • Arrest or Detention – Exonerated • Policy/Procedure – Administratively Closed¹⁰ 	97	63
5 (IA2017-100)	Employee improperly issued citations to complainant and retaliated against complainant by creating a health hazard.	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Unfounded 	153	113

During December 2017, **2 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-090)	Officer improperly interviewed complainant in the presence of others.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Administratively Closed 	97	63
2 (IA2017-107)	Officer inappropriately identified complainant as a Reporting Party.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisory Referral¹¹ 	56	18

DISCIPLINE ISSUED DURING REPORTING PERIOD

During December 2017, 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 process subject's property after arrest.	Officer #1: • Policy/Procedure	Officer #1: • Informal Counseling
2	Officers did not take appropriate law enforcement action.	Officers #1-2: • Performance of Duty	Officers #1-2: • Informal Counseling

ADDITIONAL NOTES

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

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