



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

January 2019

Issue date: February 11, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **January 1, 2019 through January 31, 2019**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	12
Informal Complaints ⁷	2
Administrative Investigations	1
TOTAL	15

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	10
TOTAL	12

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During January 2019, **2 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-02) (IA2019-012)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	13
	Officers #1-3: • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	34
2 (OIPA #19-01) (IA2019-005)	Officers #1-2: • Search or Seizure		
	Officer #2: • Arrest or Detention		
	Officer #3 • Performance of Duty		

During January 2019, **10 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-001)	Officer #1: • Force	BPD initiated an investigation.	40
	Officers #1-3: • Conduct Unbecoming an Officer	BPD initiated an investigation.	35
2 (IA2019-003)	Officer #2: • Performance of Duty		
	Officer #3: • Force • Reporting Misconduct		
3 (IA2019-004)	Unknown Officers #1-4: • Force	BPD initiated an investigation.	35
4 (IA2019-006)	Officer #1: • Performance of Duty	BPD initiated an investigation.	27

5 (IA2019-007)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	35
6 (IA2019-008)	Unknown Officer #1: • Force	BPD initiated an investigation.	24
7 (IA2019-009)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	19
8 (IA2019-011)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	38
9 (IA2019-013)	Officer #1: • Performance of Duty • Policy/Procedure	BPD initiated an investigation.	13
10 (IA2019-014)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	11

During January 2019, **2 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-002)	Officers #1-2: • Performance of Duty	BPD initiated a Supervisor Referral. ⁹	38
2 (IA2019-010)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	30

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During December 2018, **1 Administrative Investigation** was initiated by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-113)	Officer #1: • Force • Policy/Procedure • Axon Camera • Conduct Unbecoming an Officer	BPD initiated an investigation.	47

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During January 2019, **1 Citizen Complaint Investigation** was concluded by OIPA:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (OIPA #18-17) (IA2018-033)	One officer improperly detained a subject, two officers did not properly document a law enforcement contact, and four officers used excessive force during an arrest.	Officers #1-4: • Force – Exonerated Officer #3: • Arrest or Detention – Sustained Officers #3-4: • AXON Camera Violation – Sustained	294	260

During January 2019, **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 (IA2018-016)	Officers improperly cited complainant for fare evasion.	Officers #1-4: • No allegations listed – Handled as Service Review	350	310
2 (IA2018-039)	Officer targeted a subject for law enforcement action base on subject's race.	Officer #1: • Bias-Based Policing – Unfounded	272	257
3 (IA2018-046)	Officers improperly detained complainant based on complainant's race and inappropriately inquired regarding his parole status.	Officer #1: • Bias-Based Policing – Not Sustained • Conduct Unbecoming an Officer – Exonerated Officer #2: • No allegations listed	247	236

During January 2019, **7 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-051)	Employee did not properly respond to call for service.	Employee #1: • Courtesy – Supervisor Referral	228	216
2 (IA2018-052)	Officer treated complainant dismissively during phone conversation.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	224	212
3 (IA2018-053)	Employee blocked complainant from using a parking spot.	Unknown Employee #1: • Courtesy – Supervisor Referral	241	214
4 (IA2018-080)	Employee refused to provide identification upon request.	Employees #1-2: • Conduct Unbecoming – Supervisor Referral	147	135
5 (IA2018-087)	Employees were rude.	Unknown Employee #1: • Conduct Unbecoming – Supervisor Referral	125	98
6 (IA2018-097)	Officer was rude to complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	96	62
7 (IA2019-010)	Officer recklessly operated patrol vehicle.	Unknown Employee #1: • Courtesy – Supervisor Referral	30	18

Also during the month of January 2019, BPD classified IA2018-071 as an **Inquiry** and administratively closed the complaint after making the determination that the complainant was satisfied with the dismissal of an improperly issued parking citation.¹⁰

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIODS

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

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-073)	Officer rudely gestured with a flashlight and yelled at a subject.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisor Referral 	172	133

DISCIPLINE ISSUED DURING REPORTING PERIOD

During January 2019, 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	One officer used excessive force, improperly reported the force, and spoke disparagingly about the subject of the force. One officer did not properly review the use of force.	Officer #1: <ul style="list-style-type: none"> • Force • Performance of Duty • Conduct Unbecoming an Officer Officer #2: <ul style="list-style-type: none"> • Performance of Duty 	Officer #1: <ul style="list-style-type: none"> • Written Reprimand Officer #2: <ul style="list-style-type: none"> • Oral Counseling
2	Officer operated a motor vehicle while intoxicated.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer • Policy/Procedure (AXON Camera) 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion
3	Officer used profanity toward multiple subjects and did not properly document law enforcement contacts.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion
4	Officer did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion
5	Officer did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) 	Officer #1: <ul style="list-style-type: none"> • Written Reprimand
6	Officer improperly accessed database.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure 	Officer #1: <ul style="list-style-type: none"> • Written Reprimand

7	Officers did not properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (AXON Camera)	Officers #1-2: • Letter of Discussion
8	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion

ADDITIONAL NOTES

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

Investigations Being Conducted	7
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	20
Investigations Reviewed During Current Month	17 [†]

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

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

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

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

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

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

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

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

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

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

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

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



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

February 2019

Issue date: March 11, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **February 1, 2019 through February 28, 2019.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0
February 2019	12	60	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	6
Informal Complaints ⁷	6
Administrative Investigations	0
TOTAL	12

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	1
BART Police Department	5
TOTAL	6

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During February 2019, **1 Citizen Complaint** was received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-06) (IA2019-017)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	33

During February 2019, **4 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-020)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	19
2 (IA2019-021)	Officers #1-2: • Force	BPD initiated an investigation.	28
3 (IA2019-024)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	22
4 (IA2019-025)	Officer #1: • Force • Conduct Unbecoming an Officer	BPD initiated an investigation.	18

During February 2019, **6 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-016)	Officers #1-2: • Performance of Duty	BPD initiated a Supervisor Referral. ⁹	34
2 (IA2019-018)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	31
3 (IA2019-022)	Employee #1: • Conduct Unbecoming	BPD initiated a Supervisor Referral.	25
4 (IA2019-023)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	19
5 (IA2019-026)	Unknown Employees: • Performance of Duty	BPD initiated a Service Review ¹⁰	13
6 (IA2019-027)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	13

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During January 2019, **1 Citizen Complaint (Formal)** was initiated by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-019)	Officers #1-2: <ul style="list-style-type: none"> • Force Officer #2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	52

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During February 2019, **1 Citizen Complaint Investigation** was concluded by OIPA:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (OIPA #18-37) (IA2018-077)	Officers did not respond appropriately to a request for assistance and did so based on race.	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Performance of Duty – Exonerated 	185	151

During February 2019, **8 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-024)	Officer and employee did not provide identification to complainant upon request.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Sustained 	332	321

2 (IA2018-037)	Employees were rude and unprofessional and did not provide assistance to complainant.	Employees #1-2: • Conduct Unbecoming – Unfounded Employee #1: • Performance of Duty – Unfounded Employee #2: • Performance of Duty – Sustained	314	297
3 (IA2018-042)	Employee grabbed complainant's property.	Employee #1: • Conduct Unbecoming – Administratively Closed	283	252
4 (IA2018-061)	Employee improperly cited complainant and refused to provide identification.	Employee #1: • Conduct Unbecoming – Unfounded • Performance of Duty – Exonerated	228	195
5 (IA2018-065)	Employee contacted complainant based on race and was rude to complainant.	Employee #1: • Bias-Based Policing – Unfounded • Conduct Unbecoming – Unfounded	216	184
6 (IA2018-083)	Employee pushed subject, blocked subject's path, argued with subject and challenged subject to fight.	Employee #1: • Conduct Unbecoming – Sustained • Force – Unfounded	161	150
7 (IA2018-101)	Employee failed to return complainant's fare card.	Employee #1: • Conduct Unbecoming – Administratively Closed	143	130
8 (IA2019-017)	Officer acted unprofessionally and was aggressive during a call for service.	Officers #1: • Performance of Duty – Supervisor Referral	33	14

During February 2019, **6 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-050)	Officers intentionally shamed crime victim.	Officers #1-2: • Conduct Unbecoming an Officer – Supervisor Referral	269	257
2 (IA2018-067)	Employee mocked and intentionally delayed complainant.	Employee #1: • Conduct Unbecoming – Administratively Closed	207	190

3 (IA2018-111)	Officer improperly detained subject.	Officer #1: • Arrest/Detention – Supervisor Referral	87	69
4 (IA2019-018)	Officer recklessly operated patrol vehicle.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	31	3
5 (IA2019-022)	Employee was rude to complainant and refused to provide identification.	Employee #1: • Conduct Unbecoming – Supervisor Referral	25	6
6 (IA2019-023)	Officer did not take appropriate enforcement action during a call for service.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	25	6

During February 2019, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-063)	Officer created a hostile work environment by making an inappropriate statement regarding race.	Officer #1: • Racial Animus – Sustained	214	197

Also during the month of February 2019, BPD classified #IA2019-028 as an **Inquiry** and forwarded the complaint to the Proof of Payment citation processing center for clerical corrections. Though not previously reported, BPD classified #IA2019-019 as an **Inquiry** in January 2019 after making a determination that the complainant no longer sought an investigation.¹¹

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIODS

During January 2019, **1 Informal Complaint** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-082)	Employee was rude to complainant.	Employee #1: • Conduct Unbecoming – Unfounded	164	124

During November 2018, **1 Informal Complaint** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-098)	Officers shone vehicle lights on complainant and laughed at complainant.	Unknown Officers #1-2: • Conduct Unbecoming an Officer – Supervisor Referral	124	17

DISCIPLINE ISSUED DURING REPORTING PERIOD

During February 2019, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer used excessive force and violated BPD policy regarding the proper use of the TASER.	Officer #1: • Force • Policy/Procedure	Officer #1: • Suspension Held in Abeyance

ADDITIONAL NOTES

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

Investigations Being Conducted	6
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	23
Investigations Reviewed During Current Month	25†

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

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹²

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

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

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

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

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

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

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

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

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

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

¹¹ 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.

¹² OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
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BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

March 2019

Issue date: April 8, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **March 1, 2019 through March 31, 2019.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0
February 2019	12	60	1	0	0
March 2019	14	57	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	5
Informal Complaints ⁷	4
Administrative Investigations	1
Inquiries ⁸	4
TOTAL	14

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	4
BART Police Department	1
TOTAL	5

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During March 2019, **4 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-10) (IA2019-034)	Officer #1: <ul style="list-style-type: none"> • Force • Policy/Procedure • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	26
2 (OIPA #19-11) (IA2019-036)	Officer #1: <ul style="list-style-type: none"> • Force • Policy/Procedure • Arrest or Detention 	OIPA initiated an investigation.	21
3 (OIPA #19-12) (IA2019-037)	Officer #1: <ul style="list-style-type: none"> • Performance of Duty 	OIPA notified BPD, which initiated an investigation.	21
4 (OIPA #19-13) (IA2019-041)	Officer #1: <ul style="list-style-type: none"> • Force • Policy/Procedure 	OIPA initiated an investigation.	13

During March 2019, **1 Citizen Complaint (Formal)** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-039)	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming 	BPD initiated an investigation.	17

During March 2019, **4 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-029)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated a Supervisor Referral. ¹⁰	31
2 (IA2019-030)	Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure 	BPD initiated a Supervisor Referral.	30
3 (IA2019-035)	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming 	BPD initiated a Supervisor Referral.	26
4 (IA2019-040)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated a Supervisor Referral.	12

During March 2019, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-042)	Officer #1: <ul style="list-style-type: none"> • Performance of Duty • Policy/Procedure • Conduct Unbecoming an Officer 	BPD initiated an investigation.	10

Also during the month of March 2019, BPD classified each of the following intakes as an **Inquiry** and administratively closed the complaints: #IA2019-031 (after determining that the complaint was based on a misunderstanding), #IA2019-032 (after determining that no BPD personnel were involved), #IA2019-033 (after the complainant withdrew the complaint).¹¹

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During March 2019, **1 Citizen Complaint (Formal)** was initiated by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-019)	Officers #1-2: <ul style="list-style-type: none"> • Force Officer #2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	52

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During March 2019, **1 Citizen Complaint Investigation** was concluded by OIPA:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (OIPA #18-38) (IA2018-084)*	One officer improperly detained a subject, used profane language, and failed to properly document a law enforcement contact, and two officers used excessive or unnecessary force during arrest.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated Officer #2: <ul style="list-style-type: none"> • Arrest/Detention – Exonerated • Conduct Unbecoming an Officer – Sustained • Policy/Procedure (AXON Camera) – Sustained 	192	158

* This case remains listed as open for the BPD Internal Affairs pending presentation of the OIPA investigative findings to the BART Police Citizen Review Board and transmission of findings to the BPD Chief.

During March 2019, **9 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-027)	One employee requested proof of payment based on complainant's race and one employee mocked a patron during a contact.	Employee #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Sustained 	353	320
2 (IA2018-035)	Officer detained complainant based on race, grabbed complainant, and was rude and unprofessional during the contact.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded 	343	308
3 (IA2018-044)	Officer failed to provide sufficient protection after being called for service and officer improperly inquired whether complainant was mentally disabled or intoxicated.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisor Referral 	304	286
4 (IA2018-054)	Officers threatened and intimidated complainant.	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Not Sustained 	272	253
5 (IA2018-064)	Officer used unnecessary force during a detention, used insulting language, and failed to properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Force – Unfounded • Courtesy – Sustained • Policy/Procedure (AXON Camera – Sustained 	241	210
6 (IA2018-066)	Officer observed complainant with heightened scrutiny because of complainant's race.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded 	241	213
7 (IA2018-079)	Officer was rude to complainant and improperly placed complainant on a psychiatric hold.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Exonerated • Conduct Unbecoming an Officer – Unfounded 	228	214

8 (IA2019-004)	Officers improperly detained complainant used excessive force, and damaged complainant's property.	Officers #1-4: • Conduct Unbecoming an Officer – Administratively Closed	91	72
9 (IA2019-011)	Employees improperly requested proof of payment from subject.	Employees #1-2: • Conduct Unbecoming an Officer – Unfounded	94	81

During March 2019, **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 (IA2019-002)	Officers and employee did not respond appropriately to a call for service	Officers #1-2: • Performance of Duty – Supervisor Referral Employee #1: • Performance of Duty – Supervisor Referral	91	59
2 (IA2019-029)	Officer inappropriately invaded complainant's personal space.	Officer #1: • Conduct Unbecoming an Officer – Administratively Closed	31	1
3 (IA2019-030)	Officers recklessly operated patrol vehicle.	Officers #1-2: • Policy/Procedure – Supervisor Referral	30	22
4 (IA2019-018)	Officer recklessly operated patrol vehicle.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	31	3
5 (IA2019-022)	Employee was rude to complainant and refused to provide identification.	Employee #1: • Conduct Unbecoming – Supervisor Referral	25	6
6 (IA2019-023)	Officer did not take appropriate enforcement action during a call for service.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	25	6

During February 2019, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-063)	Officer created a hostile work environment by making an inappropriate statement regarding race.	Officer #1: • Racial Animus – Sustained	214	197

Also during the month of March 2019, BPD classified case #IA2019-028, received in February 2019, as an **Inquiry** and Administratively Closed the investigation:

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIODS

During February 2019, **1 Citizen Complaint (Formal)** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2016-071)	Officers improperly detained subjects, used excessive force during an arrest, and did so based on race. Officers failed to identify themselves as requested.	Officers #1-4: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Arrest or Detention – Exonerated • Conduct Unbecoming an Officer – Unfounded Officer #1: <ul style="list-style-type: none"> • Force – Exonerated Officer #2: <ul style="list-style-type: none"> • Force – Sustained 	983	944 [†]

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

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2019-027)	Officer was verbally aggressive during a contact.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisor Referral 	41	2

[†] This investigation was tolled for an extended period of time pending litigation (642 days from January 18, 2017 through October 22, 2018).

DISCIPLINE ISSUED DURING REPORTING PERIOD

During March 2019, 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 failed to provide identification upon request.	Employee #1: • Conduct Unbecoming	Employee #1: • Oral Counseling
2	Officers failed to properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (AXON Camera) Officer #2: • Arrest or Detention	Officer #1: • Written Reprimand Officer #2: • Non-Documented
3	Employee did not respond appropriately to a call for service.	Employee #1: • Performance of Duty	Employee #1: • Non-Documented
4	Officers failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Employee #1: • Letter of Discussion

ADDITIONAL NOTES

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

Investigations Being Conducted	8
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	26
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.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹²

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

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

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

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

¹¹ 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.

¹² OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

April 2019

Issue date: May 13, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **April 1, 2019 through April 30, 2019.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0
February 2019	12	60	1	0	0
March 2019	14	57	1	0	0
April 2019	14	57	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	4
Administrative Investigations	0
Inquiries ⁸	3
TOTAL	14

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	4
BART Police Department	3
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During April 2019, **4 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-15) (IA2019-054)	Officers #1-2: <ul style="list-style-type: none"> • Force • Policy/Procedure • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	26
2 (OIPA #19-16) (IA2019-055)	Employee #1: <ul style="list-style-type: none"> • Performance of Duty 	OIPA notified BPD, which initiated an investigation.	22
3 (OIPA #19-12) (IA2019-057)	Officers #1-4: <ul style="list-style-type: none"> • Bias-Based Policing • Arrest/Detention • Policy/Procedure • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	21
4 (OIPA #19-14) (IA2019-045)	Undetermined Number of Officers: <ul style="list-style-type: none"> • Arrest/Detention • Conduct Unbecoming an Officer 	OIPA notified BPD, which categorized complaint as Informal.	40

During April 2019, **2 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-052)	Officers #1-2: <ul style="list-style-type: none"> • Force • Conduct Unbecoming an Officer 	BPD initiated an investigation.	27
2 (IA2019-053)	Employee #1: <ul style="list-style-type: none"> • Bias-Based Policing 	BPD initiated an investigation.	26

During April 2019, **4 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-047)	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming 	BPD initiated a Supervisor Referral. ¹⁰	34
2 (IA2019-049)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated a Supervisor Referral.	31

3 (IA2019-051)	Officers #1-2: • Courtesy	BPD initiated a Supervisor Referral.	28
4 (IA2019-056)	Employee #1: • Courtesy		
	Unknown Officers #1-3: • Performance of Duty • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	13

Also during the month of April 2019, BPD classified each of the following intakes as an **Inquiry**: #IA2019-033 (after the complainant was contacted by a BPD supervisor and concerns were addressed), #IA2019-048 (Complaint was based on a misunderstanding of applicable law/rule), #IA2019-050 (No complaint was articulated).¹¹

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During February 2019, **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 (IA2019-043)	Officers #1-2: • Force	BPD initiated an investigation.	89

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During April 2019, **6 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-072)	Officer provided inaccurate information to complainant regarding BPD video retrieval capabilities.	Officer #1: • Performance of Duty – Administratively Closed	263	221

2 (IA2018-084)*	One officer improperly detained a subject, used profane language, and failed to properly document a law enforcement contact, and two officers used excessive or unnecessary force during arrest.	Officers #1-2: • Force – Exonerated Officer #2: • Arrest/Detention – Exonerated • Conduct Unbecoming an Officer – Sustained • Policy/Procedure (AXON Camera) – Sustained	227	158
3 (IA2018-088)	Officer harassed complainant by issuing numerous unwarranted parking citations.	Officer #1 • Policy/Procedure – Sustained	215	187
4 (IA2018-094)	Officer used excessive force during arrest.	Officer #1 • Force – Unfounded	202	174
5 (IA2018-096)	Employee was unprofessional and improperly issued a citation to complainant.	Employee #1: • Conduct Unbecoming – Administratively Closed	194	152
6 (IA2018-102)	Officer poked complainant and swatted at complainant's property. Officer also failed to activate body-worn camera.	Officer #1: • Conduct Unbecoming an Officer – Not Sustained • Policy/Procedure (AXON Camera) – Sustained	189	175

During April 2019, **4 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2019-030)	Officers operated a patrol vehicle in an unsafe manner.	Officers #1-2: • Policy/Procedure – Supervisor Referral	65	24
2 (IA2019-035)	Officer operated a patrol vehicle in an unsafe manner.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	61	35

* This case was deferred to OIPA by BPD and was investigated and completed in March 2019. It remained pending for Internal Affairs prior to presentation of the report to the BART Police Citizen Review Board at its March 2019 regular meeting.

3 (IA2019-040)	Officer was rude, threatening, demeaning, and unprofessional during a law enforcement contact.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	47	9
4 (IA2019-047)	Employee did not take appropriate enforcement action during a call for service.	Employee #1: • Conduct Unbecoming – Supervisor Referral	34	8

During April 2019, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-070)	Officer was dishonest and prevented another officer from properly performing duties.	Officer #1: • Conduct Unbecoming an Officer – Unfounded	265	226

Also during the month of April 2019, BPD classified case #IA2019-026 (BPD Internal Audit of evidence handling) as a **Service Review**¹², and each of #IA2019-044 (Officer improperly handled subject's pet) and #IA2019-046 (Customer was unsatisfied with proof of payment efforts) as an **Inquiry** and Administratively Closed the investigations.

DISCIPLINE ISSUED DURING REPORTING PERIOD

During April 2019, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer used profane language and failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (General Conduct) • Policy/Procedure (AXON Camera)	Officer #1: • Non-Documented
2	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion

ADDITIONAL NOTES

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

complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	10
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	22
Investigations Reviewed During Current Month	18†

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

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹³

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 OIPA previously completed cases that have been re-opened during the current reporting period.

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into “Formal” and “Informal” classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

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

¹¹ 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.

¹² 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.

¹³ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

May 2019

Issue date: June 10, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **May 1, 2019 through May 31, 2019.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0
February 2019	12	60	1	0	0
March 2019	14	57	1	0	0
April 2019	14	57	0	0	0
May 2019	10	56	2	0	0

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	2
BART Police Department	6
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During May 2019, **1 Citizen Complaint** was received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-19) (IA2019-060)	Officers #1-2: <ul style="list-style-type: none"> • Force • Arrest or Detention • Policy/Procedure (AXON Camera) • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	35

During May 2019, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-058)	Employees #1-2: <ul style="list-style-type: none"> • Performance of Duty • Conduct Unbecoming an Officer 	BPD initiated an investigation.	38
2 (IA2019-061)	Officer #1: <ul style="list-style-type: none"> • Force • Arrest or Detention 	BPD initiated an investigation.	30
3 (IA2019-062)	Officer #1: <ul style="list-style-type: none"> • Force • Arrest or Detention 	BPD initiated an investigation.	25
4 (IA2019-064)	Officer #1: <ul style="list-style-type: none"> • Performance of Duty 	BPD initiated an investigation.	19
5 (IA2019-065)	Employee #1: <ul style="list-style-type: none"> • Bias-Based Policing 	BPD initiated an investigation.	18
6 (IA2019-066)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	33

During May 2019, **2 Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-063)	Officer #1: <ul style="list-style-type: none"> • Force • Conduct Unbecoming an Officer 	BPD initiated an investigation.	25
2 (IA2019-067)	Officer #1: <ul style="list-style-type: none"> • Force • Conduct Unbecoming an Officer 	BPD initiated an investigation.	25

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During April 2019, **1 Citizen Complaint** was received by OIPA but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-19) (IA2019-059)	Unknown Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	60

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During May 2019, **2 Citizen Complaints (Formal)** were concluded by OIPA:

Complaint # (IA Case #)	Nature of Complaint ¹⁰	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #18-16) (IA2018-032)*	Officer did not properly investigate a reported crime, treated complainant like a suspect, and did so on the basis of complainant's race and/or religion	Officer #1: • Bias-Based Policing – Not Sustained • Performance of Duty – Exonerated • Conduct Unbecoming an Officer – Exonerated	416	406**
2 (OIPA #18-39) (IA2018-085)	One officer improperly detained a subject, one officer inappropriately prevented complainant from assisting detainee, and both officers used excessive force during detention and arrest.	Officer #1: • Conduct Unbecoming an Officer – Exonerated Officer #2: • Arrest or Detention – Exonerated Officers #1-2: • Force – Exonerated	255	222

*This case was deferred to OIPA by BPD and was investigated and completed in May 2019. It remains pending for Internal Affairs prior to presentation of the report to the BART Police Citizen Review Board in closed session at its June 2019 regular meeting.

**The subject officer was on Industrial Injury Leave from BPD from the time the complaint was filed until retirement and was unable to participate in an OIPA interview during the Industrial Injury Leave. The one-year statute of limitations for completing this investigation was tolled for the entire duration of the Leave pursuant to California Government Code §3304 2(E).

During May 2019, **9 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-049)	Officers were rude and unprofessional, failed to identify themselves, did not properly address reported criminal activity, and did not properly document a law enforcement contact.	Officers #1-3: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded • Performance of Duty – Unfounded • Policy/Procedure (AXON Camera) – Exonerated 	357	332
2 (IA2018-075)	Officers did not properly document a law enforcement contact after telling complainant they would do so.	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty – Unfounded 	284	273
3 (IA2018-091)	One officer improperly applied ammonia inhalant, one officer improperly searched complainant, and three officers used excessive force during the contact.	Officer #1 <ul style="list-style-type: none"> • Policy/Procedure – Exonerated Officer #2: <ul style="list-style-type: none"> • Search or Seizure – Exonerated Officers #1-3: <ul style="list-style-type: none"> • Force – Unfounded 	234	201
4 (IA2018-099)	Officers contacted complainant on the basis of complainant's race and used excessive force during arrest.	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Force – Exonerated 	234	223
5 (IA2018-103)	Officer did not protect victim of alleged crime by arresting subject and improperly deducted funds from subject's fare media card. Two officers did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Sustained • Conduct Unbecoming an Officer – Not Sustained Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) – Sustained 	203	192
6 (IA2018-104)	Officer harassed subject, used unnecessary force during a detention, and did so on the basis of the subject's race.	Unknown Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Administratively Closed¹¹ • Force – Administratively Closed • Conduct Unbecoming an Officer – Administratively Closed 	202	191

7 (IA2019-009)	Employee improperly contacted complainant because of complainant's race.	Employee #1: • Bias-Based Policing – Unfounded	138	103
8 (IA2019-020)	Employee improperly contacted complainant because of complainant's race and stood intimidatingly over complainant during contact.	Employee #1: • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded	110	76
9 (IA2019-048)	Officers improperly instructed complainant to stop video recording a law enforcement contact.	Officers #1-2: • Policy/Procedure (Conduct) – Administratively Closed	65	34

During May 2019, **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 (IA2019-049)	Officer improperly grabbed complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisory Referral	59	29

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIODS

During April 2019, **1 Informal Complaint** was addressed by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2019-051)	Two employees used profanity during a personal conversation which was overheard by complainant and one officer improperly defended the conduct of the two employees.	Employees #1-2: • Conduct Unbecoming – Supervisor Referral Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	56	1

DISCIPLINE ISSUED DURING REPORTING PERIOD

During May 2019, 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 to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
2	Officers failed to properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (AXON Camera)	Officers #1-2: • Letter of Discussion
3	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
4	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion

ADDITIONAL NOTES

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

Investigations Being Conducted	8
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	19
Investigations Reviewed During Current Month	20†

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

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹²

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

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

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

¹⁰ The Nature of Complaint section is intended to reflect as accurately as possible the specific allegations of misconduct or policy violations as conveyed by the complainant. The Nature of Complaint is not intended to indicate that the subject officer did, in fact, engage in the alleged conduct.

¹¹ Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹² OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

June 2019

Issue date: July 8, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1 -05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **June 1, 2019 through June 30, 2019**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0
February 2019	12	60	1	0	0
March 2019	14	57	1	0	0
April 2019	14	57	0	0	0
May 2019	10	56	2	0	0
June 2019	9	61	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	2
Administrative Investigations	0
Inquiries ⁸	0
TOTAL	9

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	1
BART Police Department	6
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During June 2019, **1 Citizen Complaint** was received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-21) (IA2019-070)	Officer #1: • Performance of Duty	OIPA notified BPD which initiated an investigation.	32

During June 2019, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-068)	Officer #1: • Bias-Based Policing • Force	BPD initiated an investigation.	35
2 (IA2019-069)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	34
3 (IA2019-071)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	27
4 (IA2019-072)	Officers #1-2: • Force • Policy/Procedure Officer #2: • Bias-Based Policing • Courtesy	BPD initiated an investigation.	32
5 (IA2019-073)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	24
6 (IA2019-074)	Officers #1-2: • Force	BPD initiated an investigation.	13

During June 2019, **2 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-075)	Employee #1: • Conduct Unbecoming	BPD initiated a Supervisor Referral. ¹⁰	12
2 (IA2019-076)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	12

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During June 2019, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (IA Case #)	Nature of Complaint ¹¹	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #18-40) (IA2018-090)*	Officers improperly contacted complainant based on complainant's race and one officer made a rude comment during the detention.	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Policy/Procedure – Exonerated Officer #2: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) – Sustained 	264	247

During June 2019, **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 (IA2018-110)	Officer contacted complainant based on complainant's race and used excessive force during the contact.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Bias-Based Policing – Unfounded 	242	209
2 (IA2019-059)	Officer did not take appropriate law enforcement action.	Unknown Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Administratively Closed¹² 	88	70
3 (IA2018-105)	Officers improperly contacted complainant based on race and one officer used excessive force during the contact.	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded Officer #2: <ul style="list-style-type: none"> • Force – Exonerated 	223	195
4 (IA2019-058)	Officers contacted complainant on the basis of complainant's race and used excessive force during arrest.	Employee #1: <ul style="list-style-type: none"> • Performance of Duty – Supervisor Referral Employee #2: <ul style="list-style-type: none"> • Conduct Unbecoming – Supervisor referral 	66	34

*This case was deferred to OIPA by BPD and was investigated and completed in June 2019. It remains pending for Internal Affairs prior to presentation of the report to the BART Police Citizen Review Board in closed session at its July 2019 regular meeting.

DISCIPLINE ISSUED DURING REPORTING PERIOD

During June 2019, 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 to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
2	Officers failed to properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (AXON Camera)	Officers #1-2: • Letter of Discussion
3	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Supervisor Addressed Through Training
4	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion

ADDITIONAL NOTES

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

Investigations Being Conducted	9
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	19
Investigations Reviewed During Current Month	13 [†]

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

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹³

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

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

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

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

¹¹ The Nature of Complaint section is intended to reflect as accurately as possible the specific allegations of misconduct or policy violations as conveyed by the complainant. The Nature of Complaint is not intended to indicate that the subject officer did, in fact, engage in the alleged conduct.

¹² Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹³ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

July 2019

Issue date: September 9, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **July 1, 2019 through July 31, 2019**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0
February 2019	12	60	1	0	0
March 2019	14	57	1	0	0
April 2019	14	57	0	0	0
May 2019	10	56	2	0	0
June 2019	9	61	1	0	0
July 2019	11	61	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	2*
Administrative Investigations	2
Inquiries ⁸	1
TOTAL	12

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	1
BART Police Department	6
TOTAL	7

* One Formal Complaint was received by OIPA and was reclassified as an Informal Complaint by BPD after discussion with the complainant.

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During July 2019, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-078)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	69
2 (IA2019-080)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	70
3 (IA2019-082)	Officer #1: • Force	BPD initiated an investigation.	66
4 (IA2019-084)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	48
5 (IA2019-087)	Officer #1: • Performance of Duty	BPD initiated an investigation.	41
6 (IA2019-088)	Officer #1: • Courtesy	BPD initiated an investigation.	41

During July 2019, **1 Informal Complaint** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-085)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral. ¹⁰	47

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During June 2019, **1 Citizen Complaint (Formal)** was received by OIPA but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-23) (IA2019-081)	Officer #1: • Performance of Duty	OIPA notified BPD which initiated an investigation.	76

During June 2019, **1 Informal Complaint** was received by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-083)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	74

During June 2019, **1 Administrative Investigation** was initiated by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-079)	Officer #1: <ul style="list-style-type: none"> • Force • Arrest or Detention • Conduct Unbecoming an Officer • Policy/Procedure (Documentation) • Policy/Procedure (TASER) 	BPD initiated an investigation.	74

During May 2019, **1 Administrative Investigation** was initiated by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-077)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) 	BPD initiated an investigation.	116

Also, during the month of July 2019, BPD classified the following OIPA intake as an **Inquiry** and administratively closed the complaint: #IA2019-086 (after the complainant withdrew the complaint).¹¹

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During July 2019, **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 (IA2018-081)	Officer acted unprofessionally and failed to conduct a thorough investigation related to a call for service.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded • Performance of Duty – Unfounded 	347	299

2 (IA2018-090) [†]	Officers improperly contacted complainant based on complainant's race and one officer made a rude comment during the detention.	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Policy/Procedure – Exonerated Officer #2: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) – Sustained 	327	247
3 (IA2018-108)	Employee improperly contacted complainant based on race.	Employee #1: <ul style="list-style-type: none"> • Bias-Based Policing – Administratively Closed¹² 	276	217
4 (IA2019-006)	Officer failed to conduct a thorough investigation.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Not Sustained 	237	188
5 (IA2019-055)	Employee failed to provide sufficient assistance during a call for service.	Employee #1: <ul style="list-style-type: none"> • Performance of Duty – Administratively Closed 	141	92

During July 2019, **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 (IA2019-075)	Employee was rude and disrespectful to complainant.	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Supervisor Referral 	75	6
2 (IA2019-076)	Officers were rude to arrestee and to bystanders during a law enforcement contact.	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Supervisor Referral 	75	5
3 (IA2019-085)	Officer grabbed complainant unnecessarily.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisor Referral 	47	3

*This investigation was deferred to OIPA and was and completed in June 2019 (OIPA Case #18-40). It remained pending for Internal Affairs (IA) prior to presentation of the report by OIPA to the BART Police Citizen Review Board in closed session at its July 2019 regular meeting and has now been marked as completed by IA.

During July 2019, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-113)	Officer used unnecessary or excessive force, failed to document all TASER activations, failed to activate body camera in a timely manner, and used inappropriate language during a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Conduct Unbecoming an Officer – Sustained • Policy/Procedure (TASER) – Not Sustained • Policy/Procedure (AXON Camera) – Not Sustained 	257	203

Also, during the month of July 2019, BPD classified the following each of the following cases as an **Inquiry** and administratively closed the complaints: #IA2019-015 (after a misunderstanding was clarified) and #IA2019-038 (after IA investigators provided additional contextual information which caused the complainant to withdraw the complaint).

DISCIPLINE ISSUED DURING REPORTING PERIOD

During July 2019, 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 to properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) 	Officer #1: <ul style="list-style-type: none"> • Non-documented
2	Officer failed to properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) 	Offices #1: <ul style="list-style-type: none"> • Letter of Discussion

ADDITIONAL NOTES

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

Investigations Being Conducted	9
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	21
Investigations Reviewed During Current Month	11†

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

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹³

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 OIPA previously completed cases that have been re-opened during the current reporting period.

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

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

¹¹ 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.

¹² Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however, the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹³ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

August 2019

Issue date: September 9, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **August 1, 2019 through August 31, 2019.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0
February 2019	12	60	1	0	0
March 2019	14	57	1	0	0
April 2019	14	57	0	0	0
May 2019	10	56	2	0	0
June 2019	9	61	1	0	0
July 2019	11	61	0	0	0
August 2019	9	62	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	2
Informal Complaints ⁷	5
Administrative Investigations	2
Inquiries ⁸	0
TOTAL	9

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	1
BART Police Department	1
TOTAL	2

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During August 2019, **1 Citizen Complaint** was received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-31) (IA2019-089)	Officers #1-2: <ul style="list-style-type: none"> • Force • Arrest/Detention Officer #2: <ul style="list-style-type: none"> • Courtesy 	OIPA notified BPD which initiated an investigation.	27

During August 2019, **1 Citizen Complaint (Formal)** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-095)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure 	BPD initiated an investigation.	31

During August 2019, **5 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-092)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated a Supervisor Referral. ¹⁰	24
2 (IA2019-093)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated a Supervisor Referral.	24
3 (IA2019-094)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated a Supervisor Referral.	20
4 (IA2019-096)	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	19
5 (IA2019-097)	Employee #1: <ul style="list-style-type: none"> • Performance of Duty 	BPD initiated a Supervisor Referral.	13

During August 2019, **2 Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-090)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure 	BPD initiated an investigation.	29
2 (IA2019-091)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	25

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During August 2019, **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 #18-01) (IA2018-093)	Officers failed to take appropriate action in response to a call for service.	Officers #1-4: • Performance of Duty – Exonerated	321	286

During August 2019, **7 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-109)	Officer failed to provide sufficient assistance and failed to complete a police report.	Officer #1: • Policy/Procedure (Report Preparation) – Exonerated • Performance of Duty – Not Sustained	272	234
2 (IA2019-001)	Officer used excessive force during arrest.	Officer #1: • Force – Exonerated	250	225
3 (IA2019-003)	Officers improperly treated complainant as a criminal suspect and failed to thoroughly investigate the call for service. One officer struck complainant with a car door.	Officers #1-2: • Conduct Unbecoming an Officer – Unfounded Officer #1: • Performance of Duty – Unfounded Officer #2: • Force – Unfounded	245	207
4 (IA2019-005)	Officers improperly detained, arrested and searched complainant and falsified reports.	Officers #1-3: • Conduct Unbecoming an Officer – Administratively Closed ¹¹ Officers #1-2: • Search or Seizure – Administratively Closed Officer #2: • Arrest or Detention – Administratively Closed Officer #3 • Performance of Duty – Administratively Closed	244	219

5 (IA2019-007)	Officer spoke disrespectfully to a transgender person.	Officer #1: • Conduct Unbecoming an Officer – Unfounded	245	232
6 (IA2019-013)	Officer failed to provide medical attention and did not take appropriate law enforcement action.	Officer #1: • Performance of Duty – Unfounded	223	210
7 (IA2019-095)	Officer improperly discharged a firearm and struck a dog.	Officer #1: • Policy/Procedure – Administratively Closed	31	17

DISCIPLINE ISSUED DURING REPORTING PERIOD

During August 2019, 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 to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Oral Counseling
2	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	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	8
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	22
Investigations Reviewed During Current Month	13†

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

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information

regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹²

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

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

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into “Formal” and “Informal” classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

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

¹¹ Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however, the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹² OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

September 2019

Issue date: October 21, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **September 1, 2019 through September 30, 2019.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0
February 2019	12	60	1	0	0
March 2019	14	57	1	0	0
April 2019	14	57	0	0	0
May 2019	10	56	2	0	0
June 2019	9	61	1	0	0
July 2019	11	61	0	0	0
August 2019	9	62	1	0	0
September 2019	13	53	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	6
Informal Complaints ⁷	5
Administrative Investigations	0
Inquiries ⁸	2
TOTAL	13

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	3
BART Police Department	3
TOTAL	6

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During September 2019, **3 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-36) (IA2019-104)	Officer #1: • Courtesy	OIPA notified BPD which initiated a Supervisor Referral. ¹⁰	39
2 (OIPA #19-38) (IA2019-105)	Officer #1: • Courtesy	OIPA notified BPD which initiated a Supervisor Referral.	45
3 (OIPA #19-40) (IA2019-108)	Officers #1-2: • Force • Arrest/Detention • Policy/Procedure	OIPA initiated an investigation.	31

During September 2019, **2 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-098)	Officer #1: • Policy/Procedure (Handcuffing) • Force (2 counts) • Force (Reporting) • Performance of Duty • Policy/Procedure (AXON Camera) Officer #2: • Policy/Procedure (AXON Camera) Officer #3: • Performance of Duty Officer #4: • Force	BPD initiated an investigation.	48
2 (IA2019-101)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	50

During September 2019, **4 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-100)	Officer #1: • Courtesy	BPD initiated a Supervisor Referral.	50
2 (IA2019-107)	Employee #1: • Performance of Duty	BPD initiated an investigation.	39
3 (IA2019-109)	Officer #1: • Performance of Duty	BPD initiated an investigation.	32
4 (IA2019-110)	Officer #1: • Courtesy	BPD initiated an investigation.	26

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During August 2019, **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 (IA2019-099)	Officer #1: • Force • Arrest/Detention • Policy/Procedure	BPD initiated an investigation.	52

During August 2019, **1 Informal Complaint** was received by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-102)	Officer #1: • Courtesy	BPD initiated a Supervisor Referral.	52

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During September 2019, **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 #18-44) (IA2018-095)	Officers improperly detained and arrested a subject and used excessive force during the arrest.	Officers #1-4: • Force – Exonerated • Officer #1-2: • Arrest/Detention – Exonerated	355	307

During September 2019, **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 (IA2019-008)	Officers used unnecessary or excessive force during a contact.	Officers #1-3: • Force – Administratively Closed ¹¹	276	231
2 (IA2019-012)	Officer did not take appropriate action during a call for service.	Officer #1: • Performance of Duty – Administratively Closed	265	220
3 (IA2019-014)	Officer improperly contacted complainant based on race and mental and physical disabilities.	Officer #1: • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded	263	230
4 (IA2019-019)	Officers used excessive force during a law enforcement contact.	Officers #1-2: • Force (Count 1) – Exonerated • Force (Count 2) – Not Sustained	276	235
5 (IA2019-039)	Employee was rude, unprofessional, and disrespectful to complainant.	Officer #1: • Conduct Unbecoming an Officer – Administratively Closed	213	189
6 (IA2019-043)	Officers used unnecessary or excessive force during a law enforcement contact.	Officer #1: • Conduct Unbecoming an Officer – Exonerated	250	205
7 (IA2019-066)	Officer inappropriately touched complainant during a law enforcement contact.	Officer #1: • Conduct Unbecoming an Officer – Administratively Closed	166	132
8 (IA2019-084)	Officer was rude and unprofessional during a call for service.	Officer #1: • Conduct Unbecoming an Officer – Administratively Closed	90	49

During September 2019, **5 Informal Complaints** were concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2019-064)	Officer refused to generate a police report upon request, was rude to complainant and refused to provide identification to complainant.	Officer #1: • Performance of Duty – Supervisor Referral	152	119
2 (IA2019-096)	Officers refused to communicate with partner transit and law enforcement agencies despite request by complainant.	Officers #1-2: • Conduct Unbecoming an Officer – Supervisor Referral	61	21
3 (IA2019-100)	Officer refused to generate a police report upon request, was rude to complainant and refused to provide identification to complainant.	Officer #1: • Performance of Duty – Supervisor Referral	50	17
4 (IA2019-102)	Employee provided insufficient and unprofessional customer service during fare evasion contact.	Employee #1: • Courtesy – Supervisor Referral	52	6
5 (IA2019-104)	Officer did not appear to want to be of assistance to complainant during a call for service.	Officer #1: • Courtesy – Supervisor Referral	47	8

During September 2019, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2019-091)	Supervisor was rude to subordinate officer.	Officer #1: • Courtesy – Supervisor Referral	67	20

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIODS

During August 2019, **1 Citizen Complaint (Formal)** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-100)	Officers used excessive force during an arrest, failed to use de-escalation tactics, and did so based on race. One officer threatened to improperly cite and arrest a bystander.	<p>Officers #1-4:</p> <ul style="list-style-type: none"> • Force – Exonerated • Bias-Based Policing – Unfounded <p>Officer #1:</p> <ul style="list-style-type: none"> • Arrest or Detention – Unfounded <p>Officer #4:</p> <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded <p>Officer #5:</p> <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded 	344	291

During August 2019, **3 Informal Complaints** were concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2019-092)	Officer did not properly interact with a disabled person and was dismissive to complainant.	<p>Officer #1:</p> <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisor Referral 	66	7
2 (IA2019-094)	Employee expressed amusement and laughed about a subject's cognitive impairment.	<p>Employee #1:</p> <ul style="list-style-type: none"> • Conduct Unbecoming – Supervisor Referral 	61	8
3 (IA2019-097)	Employee improperly issued citation to complainant without issuing a warning.	<p>Employee #1:</p> <ul style="list-style-type: none"> • Performance of Duty – Supervisor Referral 	55	2

Also during the months of August and September 2019, BPD classified each of the following complaints as an **Inquiry** and administratively closed the complaints: #IA2019-106 (after determining that no BPD personnel were involved), #IA2019-103 (after determining that the complaint was appropriate for routing through the citation appeal process), and #IA2019-045 (after determining that no allegation of misconduct was articulated).¹²

DISCIPLINE ISSUED DURING REPORTING PERIOD

During September 2019, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer used excessive force during an arrest.	Officer #1: • Force	Officer #1: • Oral Counseling
2	Officer created a hostile work environment by making a comment that targeted a specific race.	Officer #1: • Racial Animus	Officer #1: • Suspension Held in Abeyance
3	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
4	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
5	Officer improperly ejected complainant from BART property and two officers failed to properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (AXON Camera) Officer #2: • Performance of Duty	Officer #1: • Letter of Discussion Officer #2: • Letter of Discussion
6	Officer used profanity during arrest.	Officer #1: • Conduct Unbecoming an Officer	Officer #1: • Non-Documented
7	Officers failed to properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (AXON Camera)	Officers #1-2: • Letter of Discussion
8	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Oral Counseling

ADDITIONAL NOTES

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

Investigations Being Conducted	8
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	24
Investigations Reviewed During Current Month	29†

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

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹³

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 OIPA previously completed cases that have been re-opened during the current reporting period.

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

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

¹¹ Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however, the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹² 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.

¹³ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

October 2019

Issue date: November 18, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **October 1, 2019 through October 31, 2019.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	IAB Investigations Resolved*	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
October 2018	10	69		1	0	0
November 2018	13	69		1	0	0
December 2018	5	62		0	0	0
January 2019	15	64		1	0	0
February 2019	12	60		1	0	0
March 2019	14	57		1	0	0
April 2019	14	57		0	0	0
May 2019	10	56		2	0	0
June 2019	9	61		1	0	0
July 2019	11	61		0	0	0
August 2019	9	62		1	0	0
September 2019	13	53		1	0	0
October 2019	6	53	6	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	5
Informal Complaints ⁷	1
Administrative Investigations	0
Inquiries ⁸	0
TOTAL	6

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	4
BART Police Department	1
TOTAL	5

* OIPA added a new data column to the Monthly Report which will be populated going forward.

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During October 2019, **4 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-41) (IA2019-111)	Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure • Conduct Unbecoming an Officer Officer #1: <ul style="list-style-type: none"> • Force • Arrest or Detention Officer #2: <ul style="list-style-type: none"> • Supervision 	OIPA initiated an investigation.	47
2 (OIPA #19-42) (IA2019-112)	Officers #1-4: <ul style="list-style-type: none"> • Policy/Procedure Officers #1-3 <ul style="list-style-type: none"> • Force Officers #1-2 <ul style="list-style-type: none"> • Conduct Unbecoming an Officer Officer #4: <ul style="list-style-type: none"> • Supervision 	OIPA initiated an investigation.	45
3 (OIPA #19-43) (IA2019-113)	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing • Conduct Unbecoming an Officer • Policy/Procedure (AXON Camera) 	OIPA notified BPD which initiated an investigation.	35
4 (OIPA #19-44) (IA2019-114)	Officers #1-2: <ul style="list-style-type: none"> • Untruthfulness • Policy/Procedure • Courtesy 	OIPA notified BPD which initiated an investigation.	35

During October 2019, **1 Citizen Complaint (Formal)** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-116)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	34

During October 2019, **1 Informal Complaint** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-115)	Officer #1: <ul style="list-style-type: none"> • Courtesy 	BPD initiated a Supervisor Referral. ¹⁰	32

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During October 2019, **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 #19-10) (IA2019-034)†	Officer used excessive force during a contact and inappropriately threatened to use additional force. Two officers failed to properly document a law enforcement contact.	Officers #1: <ul style="list-style-type: none"> • Force – Not Sustained • Conduct Unbecoming an Officer – Not Sustained Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) – Sustained 	250	218

During October 2019, **2 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2019-021)	Officers used unnecessary or excessive force during a contact.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated 	280	240
2 (IA2019-114)	Officers were rude to complainant, improperly ejected complainant from a train, and were untruthful.	Officers #1-2: <ul style="list-style-type: none"> • Untruthfulness – Administratively Closed¹¹ • Policy/Procedure – Administratively Closed • Courtesy – Administratively Closed 	35	8
3 (IA2019-016)	Officers used excessive force and failed to provide appropriate medical care.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated • Performance of Duty – Exonerated 	286	246

† This complaint remains on the list of open investigations in the IAB database pending presentation of the OIPA investigative report to the BART Police Citizen Review Board in closed session.

During October 2019, **2 Informal Complaints** were concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2019-110)	Officer was confrontational during a law enforcement contact and would not listen to complainant.	Officer #1: • Courtesy – Supervisor Referral	54	34
2 (IA2019-115)	Officer was rude and unprofessional to complainant.	Officer #1: • Courtesy – Supervisor Referral	32	7

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIODS

During September 2019, **1 Informal Complaint** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-093)	Employee was traveling at unsafe speeds in a Department vehicle.	Unknown Officer #1: • Policy/Procedure – Supervisor Referral	94	47

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued by BPD during October 2019.

ADDITIONAL NOTES

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

Investigations Being Conducted	8
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	39
Investigations Reviewed During Current Month	20†

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

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹²

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

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

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into “Formal” and “Informal” classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

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

¹¹ Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however, the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹² OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

November 2019

Issue date: December 9, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **November 1, 2019 through November 30, 2019.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	IAB Investigations Resolved*	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
November 2018	13	69		1	0	0
December 2018	5	62		0	0	0
January 2019	15	64		1	0	0
February 2019	12	60		1	0	0
March 2019	14	57		1	0	0
April 2019	14	57		0	0	0
May 2019	10	56		2	0	0
June 2019	9	61		1	0	0
July 2019	11	61		0	0	0
August 2019	9	62		1	0	0
September 2019	13	53		1	0	0
October 2019	6	53	6	1	0	0
November 2019	10	59	2	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	6
Informal Complaints ⁷	2
Administrative Investigations	0
Inquiries ⁸	2
TOTAL	10

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	6
BART Police Department	0
TOTAL	6

¹OIPA added a new data column to the October 2019 Monthly Report which will be populated going forward.

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During November 2019, **4 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-49) (IA2019-117)	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing • Arrest or Detention • Conduct Unbecoming an Officer 	OIPA notified BPD which initiated an investigation.	35
2 (OIPA #19-50) (IA2019-119)	Officers #1-3: <ul style="list-style-type: none"> • Bias-Based Policing • Force • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	34
3 (OIPA #19-51) (IA2019-120)	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing • Arrest or Detention • Force • Conduct Unbecoming an Officer • Policy/Procedure (AXON Camera) 	OIPA initiated an investigation.	31
4 (OIPA #19-52) (IA2019-125)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (Database Misuse) • Performance of Duty • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	26

During November 2019, **2 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-118)	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated a Supervisor Referral. ¹⁰	35
2 (IA2019-122)	Employees #1-3: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated a Supervisor Referral.	28

Also during the month of November 2019, BPD received and classified #IA2019-123 as an **Inquiry**.

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During October 2019, **2 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-46) (IA2019-124)	Officers #1-3: <ul style="list-style-type: none"> • Arrest or Detention • Conduct Unbecoming an Officer 	OIPA initiated an investigation.	46
2 (OIPA #19-48) (IA2019-121)	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	OIPA notified BPD which initiated an investigation.	39

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During November 2019, **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 #19-11) (IA2019-036) [†]	Officer improperly detained complainant, used excessive force during the contact, improperly handled complainant's property, and failed to properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Arrest or Detention – Exonerated • Conduct Unbecoming an Officer – Sustained • Policy/Procedure (AXON Camera) – Exonerated • Policy/Procedure (Property) – Exonerated 	266	254

[†] This complaint remains on the list of open investigations in the IAB database pending presentation of the OIPA investigative report to the BART Police Citizen Review Board in closed session.

During November 2019, **2 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2019-061)	Officer used unnecessary or excessive force during a contact.	Officer #1: • Force – Unfounded	212	191
2 (IA2019-121)	Officers improperly inquired about subject's immigration status.	Officers #1-2: • Conduct Unbecoming an Officer – Administratively Closed ¹¹	39	22

Also during the month of November 2019, BPD received and classified #IA2019-126 as an **Inquiry** which was administratively closed after the complainant withdrew the complaint.

DISCIPLINE ISSUED DURING REPORTING PERIOD

During November 2019, 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 to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Retired Prior to Issuance of Discipline
2	Officer failed to properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion Officer #2: • Oral Counseling
3	Officer failed to properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion

ADDITIONAL NOTES

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

Investigations Being Conducted	9
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	40
Investigations Reviewed During Current Month	12 [†]

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

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹²

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 OIPA previously completed cases that have been re-opened during the current reporting period.

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

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

¹¹ Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however, the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹² OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

December 2019

Issue date: January 13, 2020

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **December 1, 2019 through December 31, 2019.**¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	IAB Investigations Resolved*	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
December 2018	5	62		0	0	0
January 2019	15	64		1	0	0
February 2019	12	60		1	0	0
March 2019	14	57		1	0	0
April 2019	14	57		0	0	0
May 2019	10	56		2	0	0
June 2019	9	61		1	0	0
July 2019	11	61		0	0	0
August 2019	9	62		1	0	0
September 2019	13	53		1	0	0
October 2019	6	53	6	1	0	0
November 2019	10	59	2	1	0	0
December 2019	6	58	6	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	1
Informal Complaints ⁷	3
Administrative Investigations	2
Inquiries ⁸	0
TOTAL	6

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	1
BART Police Department	0
TOTAL	1

¹OIPA added a new data column to the October 2019 Monthly Report which will be populated going forward.

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During December 2019, **1 Citizen Complaint** was received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-54) (IA2019-128)	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty • Conduct Unbecoming an Officer Officer #2: <ul style="list-style-type: none"> • Arrest or Detention 	OIPA notified BPD which initiated an investigation.	40

During December 2019, **2 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-127)	Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure 	BPD initiated a Supervisor Referral. ¹⁰	40
2 (IA2019-131)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated a Supervisor Referral.	30

During December 2019, **2 Administrative Investigations** were initiated by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-132)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer 	BPD initiated an investigation.	13
2 (IA2019-129)	Employee #1: <ul style="list-style-type: none"> • Policy/Procedure 	BPD initiated an investigation.	31

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During October 2019, **1 Informal Complaint** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-130)	Employee #1: <ul style="list-style-type: none"> • Courtesy 	BPD initiated an investigation.	74

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During December 2019, **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 #19-11) (IA2019-036) [†]	Officer improperly detained complainant, used excessive force during the contact, improperly handled complainant's property, and failed to properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Arrest or Detention – Exonerated • Performance of Duty – Sustained • Policy/Procedure (AXON Camera) – Exonerated • Policy/Procedure (Property) – Exonerated 	301	254

During December 2019, **3 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2017-040)	Officer used unnecessary or excessive force during a contact.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated 	970	937 [‡]
2 (IA2019-024)	Officer harassed complainant and engaged in improper sexual relations.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer (Count 1) – Sustained • Conduct Unbecoming an Officer (Counts 2-3) – Not Sustained 	330	290
3 (IA2019-062)	Officers used unnecessary or excessive force during a contact.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated 	242	217

[†] This complaint remains on the list of open investigations in the IAB database pending presentation of the OIPA investigative report to the BPCRB in closed session. OIPA's investigative findings and disciplinary recommendations were delivered to the BPCRB in closed session at their regular meeting in November 2019, but the report was required to be presented again in December 2019 due to a lack of quorum during the closed session. In the intervening period, OIPA determined that the sustained allegation was more appropriately defined as Performance of Duty than Conduct Unbecoming an Officer, and the report was revised to reflect that determination.

[‡] This case was tolled pending civil litigation for 801 days from July 28, 2017 to October 7, 2019 and was completed within the statutory time limit imposed by Government Code §3304.

During December 2019, **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 (IA2019-105)	Officer was rude to complainant.	Officer #1: • Courtesy – Supervisor Referral	129	115
2 (IA2019-127)	Officers improperly parked patrol vehicle.	Unknown Officers #1-2: • Policy/Procedure – Supervisor Referral	40	1
3 (IA2019-118)	Officers were rude and confrontational when communicating with complainant.	Officers #1-2: • Conduct Unbecoming an Officer – Supervisor Referral	70	26

DISCIPLINE ISSUED DURING REPORTING PERIOD

No discipline was issued by BPD during December 2019.

ADDITIONAL NOTES

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

Investigations Being Conducted	9
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	41
Investigations Reviewed During Current Month	10†

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

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

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

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

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

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

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