



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

August 2016

Issue date: September 12, 2016

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **August 1, 2016 through August 31, 2016.**¹

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
August 2015	19	75	2	0	0
September 2015	9	78	1	0	0
October 2015	14	79	2	0	0
November 2015	3	72	1	0	0
December 2015	16	78	1	0	0
January 2016	9	64	0	0	0
February 2016	14	63	0	0	0
March 2016	14	67	0	0	0
April 2016	10	63	0	0	0
May 2016	8	62	0	0	0
June 2016	17	68	0	0	0
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	6
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During August 2016, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Allegations ⁹	Action Taken	Days Elapsed Since Complaint Filed ¹⁰
1 (OIPA #16-28) (IA2016-073)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	39
2 (OIPA #16-27) (IA2016-079)	Officer #1: • Courtesy	OIPA notified BPD, which initiated an investigation.	19

During August 2016, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-074)	Officer #1: • Performance of Duty	BPD initiated an investigation.	26
2 (IA2016-076)	Officer #1: • Bias-Based Policing • Performance of Duty	BPD initiated an investigation.	21
3 (IA2016-077)	Officer #1: • Courtesy	BPD initiated an investigation.	21
4 (IA2016-078)	Officers #1-2: • Force	BPD initiated an investigation.	21
5 (IA2016-058)	Officer #1: • Force	BPD initiated an investigation.	30
6 (IA2016-080)	Officers #1-2: • Bias-Based Policing	BPD initiated an investigation.	19

During August 2016, **1 Informal Complaint** was received by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-075)	Officers #1-2: • Performance of Duty	BPD initiated an investigation.	26

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During August 2016, **9 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2014-166)	Officers improperly arrested complainants and used excessive force when doing so. One officer did not properly document a law enforcement contact.	Officers #1-3: <ul style="list-style-type: none"> • Force (Counts 1-2) – Unfounded • Force (Count 3) – Exonerated • Arrest/Detention – Exonerated Officer #1: <ul style="list-style-type: none"> • Force (Count 4) – Exonerated Officer #3: <ul style="list-style-type: none"> • Policy/Procedure – Not Sustained 	634	594*
2 (IA2015-081)	Officers used excessive force and made unprofessional comments when detaining complainant, and officers improperly handled complainant's personal property.	Officers #1-2: <ul style="list-style-type: none"> • Force – Unfounded • Conduct Unbecoming an Officer (Counts 1-2) – Unfounded 	406	373**
3 (IA2015-137)	Officers placed complainant in danger by failing to perform law enforcement duties.	Unknown Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure – Not Sustained 	258	246
4 (IA2016-005)	Employees improperly issued parking citations to complainant.	Employees #1-2: <ul style="list-style-type: none"> • Policy/Procedure – Not Sustained 	245	217
5 (IA2016-017)	Officers used excessive force when detaining complainant and did not properly document the law enforcement contact.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated • Policy/Procedure – Sustained 	232	199

6 (IA2016-019)	Officer physically intimidated and improperly detained complainant, and used excessive force during the detention.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Arrest/Detention – Exonerated • Conduct Unbecoming an Officer – Unfounded 	199	171
7 (IA2016-023)	Officer physically intimidated complainant.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Not Sustained 	193	165
8 (IA2016-028)	Employee improperly applied parking prohibitions, improperly threatened to cite complainant, and did not provide sufficient identification to complainant upon request.	Employee #1: <ul style="list-style-type: none"> • Policy/Procedure – Not Sustained • Conduct Unbecoming – Not Sustained • Courtesy – Not Sustained 	172	131
9 (IA2016-030)	Officer did not provide law enforcement services to complainant upon request and officer was rude and dismissive toward complainant. Officer also did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Unfounded • Policy/Procedure – Not Sustained • Conduct Unbecoming an Officer – Not Sustained 	166	125

*This investigation was tolled from December 18, 2014 to May 11, 2016 due to pending civil litigation.

**This investigation was tolled from October 11, 2015 to April 24, 2016 due to a subject officer's extended leave.

During August 2016, **3 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2015-132)	Officers improperly included complainant's personal information in a police report.	Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure – Supervisory Referral¹¹ 	293	260
2 (IA2016-052)	Officers did not contact outside law enforcement agency on behalf of complainant.	Officers #1-3: <ul style="list-style-type: none"> • Performance of Duty – Supervisory Referral 	101	61
3 (IA2016-061)	Officer lacked compassion toward complainant while taking a report.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisory Referral 	89	63

During August 2016, **2 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2015-123)	Officers did not properly document law enforcement contacts.	Officers #1-2: • Policy/Procedure (Count 1) – Sustained Officer #2: • Policy/Procedure (Count 2) – Sustained	321	295
2 (IA2016-016)	Employee transmitted departmental correspondence to unauthorized recipient.	Employee #1: • Policy/Procedure – Sustained	208	180

DISCIPLINE ISSUED DURING REPORTING PERIOD

During August 2016, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer used profanity during law enforcement contact.	Officer #1: • Courtesy	Officer #1: • Informal Counseling
2	Officer did not properly route a complaint of misconduct and another officer was condescending toward subject.	Officer #1: • Performance of Duty Officer #2: • Courtesy	Officer #1: • Letter of Discussion Officer #2: Informal Counseling
3	Officer did not properly document a law enforcement contact.	Officer #1: • Performance of Duty	Officer #1: • Written Reprimand

ADDITIONAL NOTES

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

Investigations Being Conducted	1
Complainant-Initiated Appeals	0
Investigations Being Monitored	8
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.

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 In any case that has not been completed, the listed allegations are preliminary in nature and may change as more information is gathered during the investigation.

¹⁰ In all cases where it appears in this report, unless otherwise noted, the number of days elapsed refers to the number of days between the date of the complaint, comment, etc., and the date of the report (as noted on the front page).

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