

Date: August 11, 2014  
To: BART Board of Directors  
From: Citizen Review Board  
Sharon Anne Kidd, Chairperson  
Subject: Quarterly Report to Board of Directors

This quarterly report from the Citizen’s Review Board (CRB) to the BART Board of Directors covers the CRB’s most significant activities for April, May and June, 2014.

**Citizen Review Board Members:**

Benjamin L. Douglas	District 1
Sukari Beshears	District 2
William White(Vice-Chairperson)	District 3
Daren White	District 4
Douglas N. Hambleton	District 5
Les Mensinger	District 6
Sharon Anne Kidd (Chairperson)	District 7
Ken Jones	District 8
George Perezvelez	District 9
Cydia A. Garrett	Public-At-Large
Vacant	BART Police Officers and Managers Associations

Darren White was selected to fill the vacancy for District 4, and his selection was ratified by Board of Directors on June 26<sup>th</sup>. The Board also reappointed members Benjamin Douglas, William White, Douglas Hambleton, Sharon Kidd, George Perezvelez and Cydia Garrett to additional 2-year terms. The Police Officers and Managers Associations representative position has been vacant for an extended period of time.

**Meetings:**

The CRB normally meets in the district boardroom at 4 pm on the second Monday of the month. Meeting agendas and minutes are posted on the district website and can be found at [www.bart.gov/about/bod/meetings.aspx](http://www.bart.gov/about/bod/meetings.aspx). The regular agenda items include monthly oral reports by BART Chief of Police Kenton Rainey and Independent Police Auditor Mark Smith. Mr. Smith also presents the CRB with a written monthly report, which can be found on the Auditor’s webpage at [www.bart.gov/policeauditor](http://www.bart.gov/policeauditor).

**Primary Duties and Responsibilities**

The Citizen Oversight Model lists several primary duties and responsibilities for the CRB. The general topic headings below describe the CRB activities that address these tasks.

### **Receiving complaints, reviewing investigative reports and making recommendations for corrective action.**

The independent Auditor has received a number of complaints and appeals, which are being investigated. During the regular meeting in May, the CRB met in closed session to review a complaint investigation that had been completed by the Office of the Independent Auditor. By a vote of 8 to 1 the CRB agreed with Auditor Smith's findings and discipline recommendations. Most of the allegations, including allegations of excessive force, were determined to be unfounded. Allegations were sustained against two officers who had failed to activate their video cameras during the incident. The video from the one officer and two sergeants that had activated their cameras was very informative and helped disprove many of the allegations of misconduct. During the regular meeting on June 9<sup>th</sup>, the CRB met with Chief Rainey in closed session and gave him feedback regarding the discipline in the case from the prior month.

Also in May, a young woman spoke to the CRB and made allegations of excessive force and racial profiling. She was referred to Auditor Smith who initiated an investigation.

### **Recommendations on Procedures, Practices and Training**

The April CRB meeting was spent on a number of policy issues. Chief Rainey gave a presentation on Fare Evasion policies and enforcement. Auditor Smith provided the CRB with a detailed training session on Federal case law regarding use of force issues, including two landmark Supreme Court cases, *Tennessee v Garner* and *Graham v Conner*.

The CRB then took up the issue of the Department's proposed revisions to PDB policy #310 on the Investigation of Officer Involved Shootings. The CRB voted to endorse the policy revisions with a request for some minor grammar changes.

Starting in late 2013, Chief Rainey and Lieutenant Haight had initiated discussions with the CRB regarding their proposed revisions to BPD policy #1020 on the Internal Investigation of Allegations of Misconduct. CRB members, Auditor Smith and the Police Officers Association have made several suggestions regarding the policies and the department made a number of revisions to the policies based on that input. In April a CRB member made one additional request for a change in the policy, adding language specifying a goal of completing investigations in 6 months. The Department agreed to make this change and the CRB then voted to endorse the proposed police revision.

During the May meeting the CRB reviewed Auditor Smith's proposed revisions to BPD policy #309 on Tasers.

During the June meeting a representative from the BART Labor Relations Department made a presentation on progressive discipline procedures.

Also in June, Auditor Smith provided the CRB with training of the legal standards for law enforcement consensual contacts and detentions based upon reasonable suspicion.

## **Reporting**

This is the ninth formal written report to the Board of Directors.

## **Monitor Study Recommendations**

In May the CRB discussed the NOBLE report and the follow-up study by Police Management Solutions Inc. It was the consensus of the members that the CRB should continue to work on the issue of community engagement.

Also in May there was a presentation by Meredith Smith of the UCLA Center for Policing Equity on their research into racial profiling and the BART PD enforcement of fare evasion violations.

## **OTHER CRB ACTIVITIES**

### **BART ACTIVITIES**

#### **Training**

N/A

#### **Participation in Oral Boards**

One of the recommendations from the NOBLE report was that BART PD include citizens in their entry level and promotional oral boards. The Department has adopted this recommendation and has invited CRB members to participate on a regular basis. CRB members served on oral panels as follows:

- Sharon Kidd and Les Mensinger – Lateral Officer oral board on May 16<sup>th</sup>.
- Sharon Kidd and Les Mensinger – Entry Level Officer oral board on June 5<sup>th</sup>.
- Ken Jones – Community Service Officer oral board on June 18<sup>th</sup> and 19<sup>th</sup>.

## **COMMUNITY OUTREACH**

Sharon Kidd and Les Mensinger spoke regarding the CRB at an Oakland Neighborhood Crime Prevention Council meeting on June 18<sup>th</sup> at the Eastmont Mall police substation. Director Raburn also attended along with Auditor Smith who gave an overview of the OIPA Office.

Sharon Kidd attended the Equal Rights Advocates 40th Anniversary Luncheon on Tuesday, June 17, 2014. Anita Hill was the keynote speaker and Attorney General Kamala Harris was present.

## **OTHER ACTIVITIES**

On April 25<sup>th</sup> CRB member William White attended a luncheon hosted by the San Francisco Bay Area Chapter of the National Organization of Black Law Enforcement Executives (NOBLE) where Chief Rainey was given an award.

On May 18<sup>th</sup> Sharon Kidd, Ken Jones and Les Mensinger met as a subcommittee to discuss possible changes in the BART Citizen Review Model.

CRB member Les Mensinger attended an 8 hour Drug Endangered Children training session on May 20, 2014 in San Jose. The class was presented by the Drug Endangered Children Training and Advocacy Center and hosted by the Santa Clara County DA's Office and the California Narcotics Officers Association.