

ANNUAL REPORT

Date: February 9, 2015

To: BART Board of Directors

From: Citizen Review Board
Sharon Anne Kidd, Chairperson

Subject: 2014 – Annual Summary Report to Board of Directors

This is the third annual report from the Citizen’s Review Board (CRB) to the BART Board of Directors. The report covers calendar year 2014 and includes the most significant events that are also included in the previous four quarterly reports for the year. This report provides a summary rather than the full text from the prior reports. Please refer to those reports for more details.

Citizen Review Board Members:

Benjamin L. Douglas	District 1
Sukari Beshears	District 2
William White	District 3
Darren White	District 4
Douglas N. Hambleton	District 5
Les Mensinger(Vice-Chairperson)	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

Sharon Kidd was the Chairperson for the entire year. William White was the Vice-Chairperson from January to June. Les Mensinger was the Vice-Chairperson from July to December.

Peter Barnett, representing District 4, resigned from the board in March and was replaced by Darren White in June.

The position representing the BART Police Officers and Managers Associations has remained vacant for over a year and a half.

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.

During the year the CRB held twelve regular monthly meetings. 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.

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 CRB received one complaint from a young woman who made a presentation at one the meetings regarding her allegations of racial profiling and excessive force during her arrest by BART PD officers. The Office of the Independent Police Auditor (OIPA) is conducting an investigation that will be presented to the CRB. In addition, the Independent Auditor has received a number of complaints and appeals, some of which are being handled by the OIPA while others are being handled by BART PD Internal Affairs.

During 2014 the CRB met in closed session and made findings on four complaints/appeals that had been investigated by the OIPA. The CRB met with Chief Rainey in closed session to discuss the recommended discipline in one of these cases. As a result, the CRB modified their recommendation.

Recommendations on Procedures, Practices and Training

During the course of the year the Department presented the CRB with information on procedures, practices and training on the following topics:

- Progressive discipline procedures
- Fare evasion enforcement policy and practice
- Emergency access enforcement and the impact on those sleeping/lying in stations
- The Wrap restraint device
- BART Watch Safety Application

Chief Rainey and Lieutenant Haight asked for input on a revised Internal Affairs investigation policy. The CRB and staff had discussions over several meetings and Chief Rainey incorporated many of the CRB recommendations into the final policy.

The department also incorporated many of the CRB's recommendations into their revision of the General Order on the investigation of officer involved shootings.

The department revised the Early Warning System policy which is designed to identify officers with potential performance issues and correct them before they result in serious consequences and/or discipline. The CRB reviewed the revisions and Chief Rainey was receptive to making changes based on our input.

The CRB has found that Chief Rainey and his staff have been receptive to informal recommendations regarding policy and practices. In most cases the CRB formally voted to approve final revised policies or General Orders. The CRB has been pleased with the department's willingness to accept their input in the policy making process.

The Independent Auditor presented the CRB with policy recommendations regarding the following topics:

- Racial or Biased Based Profiling
- Use of Tasers
- Alternate dispute resolution process or mediation of complaints of misconduct

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

Auditor Smith also 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*.

Auditor Smith has also made arrangements for the following training which was presented by others during regular CRB meetings:

- In March, Stephanie Lewis from Alameda County Health Care Services Crisis Response Program and Mobile Crisis Team gave a presentation on mental health services.
- In September, Kimberly Cohn of Family Paths, Inc. did a training presentation on their mental health treatment and support services.
- In November, Byron Toma from the Office of the General Counsel made a presentation on parliamentary procedures.

The CRB reviewed the issue of records retention for complaint investigations, the provisions of the BART labor agreements and whether the police department was in compliance with the five year retention period prescribed by state law. The Office of the General Counsel determined that the BART PD was in compliance and the police department assured the CRB that records are being retained in the Internal Affairs files for the required period of time.

The CRB proposed the new general order on police interaction with transgender individuals. Starting in October and again in December, several drafts of an order completed by Investigator Bloom and another submitted by the Police Manager's Association have been reviewed by the CRB. A sub-committee is continuing to work with the OIPA and the Department on the proposal.

Starting in October, the CRB has been considering a proposal by Mr. Mensinger to develop an educational brochure for youth on their rights and obligations when interacting with law enforcement officers.

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.

In September the CRB received a report regarding the American Transportation Association's Peer Review of BART Police Department Special Teams. The CRB discussed the recommendation to develop an "All Hazards Response Team" instead of maintaining the current SWAT team. Chief Rainey told the CRB he was considering the recommendation and would be developing a response for future discussion with the CRB.

OTHER CRB ACTIVITIES

BART ACTIVITIES

Two CRB members have participated in the BART PD Recruitment and Retention Committee meetings.

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. During 2014, CRB members have served a total of 20 days interviewing non-sworn applicants, entry officer applicants, lateral officer applicants and promotional candidates.

COMMUNITY OUTREACH

CRB members have participated in some of the of the community forums that have been organized by the OIPA. Members also participated in many other community outreach events during the year. Altogether, CRB members have attended 20 community meetings/events. Chair Kidd and Vice-Chair Mensinger have been the most active in these outreach efforts.

OTHER ACTIVITIES

Five CRB members attended the funeral services for BART Sergeant Tommy Smith who died in the line of duty on January 21, 2014.

Sharon Kidd, and Les Mensinger, along with Mr. Smith and Ms. Grayson of the OIPA attended the National Association for Citizen Oversight of Law Enforcement (NACOLE) conference in Kansas City on September 14-18, 2014.