

Date: May 11, 2015
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 January, February and March, 2015.

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
Richard Knowles	BART Police Officers and Managers Associations

After being vacant for well over a year, the board position representing the Police Officers Association and the Police Managers Association was filled by Richard Knowles. He attended his first meeting in March.

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. 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.

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 related to 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. At the beginning of the quarter the OIPA had 13 open cases to be investigated and then presented to the CRB. A backlog of cases had developed last year due to staffing issues. During this quarter the OIPA presented six cases for consideration by the CRB, making progress on the reducing the backlog.

During the regular meeting in December, the CRB met in closed session and voted to accept the OIPA's recommendations regarding the finding in complaint #13-89. The CRB met in closed session again on this case during the January meeting to reconsider the case. After a lengthy discussion the CRB made no changes to the earlier decision.

The CRB met in closed session in February and considered three different complaint investigations:

In case #14-02 the CRB voted unanimously to approve the OIPA **exonerated** finding that the officer's actions were lawful and within policy with the exception that one officer failed to activate his body camera and that finding was **sustained**.

In case #14-16 the majority of the CRB members agreed with the OIPA's finding that the two allegations were **not sustained**.

In case # 14-21 the CRB unanimously agreed with the OIPA's finding that all ten of the allegations were **unfounded**.

The CRB met in closed session in March to consider three additional complaint investigations.

In case #14-27 there were allegations of racial profiling/bias and conduct unbecoming an officer. Unfortunately the complaining parties did not cooperate with the investigation and the OIPA was unable to conduct a thorough investigation. Since the allegations could not be disproven, the CRB agreed with the OIPA's **not sustained** finding.

Case #14-28 involved four allegations of misconduct. The CRB agreed with the OIPA's findings that the allegations of racial profiling/bias based profiling and unbecoming conduct were **unfounded**. For the allegation of improper arrest or detention the CRB disagreed with the OIPA's **exonerated** finding and voted instead for **not sustained**. The CRB agreed with the OIPA's findings that the courtesy allegation was **sustained**. The CRB also recommended a slightly different level of discipline.

In case #14-37, the CRB agreed with the OIPA investigation findings that the incident did not involve BART officers.

Recommendations on Procedures, Practices and Training

In January, Chief Rainey made a presentation on BPD Policy #460 covering the Critical Asset Patrol Program, which is funded by the Department of Homeland Security.

Also in January, the CRB discussed making a proposal to the Board of Directors that the CRB be given additional responsibilities to review Internal Affairs cases and selected incidents from BPD activity logs. A subcommittee is working on a formal proposal to be considered by the CRB before being forwarded to the Directors.

In February, the BPD gave the CRB an update on station emergency access requirements and the enforcement of the sleeping/lying prohibition.

In October of last year the CRB started discussions on a proposed new general order on police interaction with transgender individuals. Several drafts of the order were completed by Investigator Bloom and another was submitted by the Police Manager's Association. Work continued on the policy and a final proposed order was approved by the CRB during the March meeting. The CRB is waiting for final action on this proposal by the BPD. Once enacted, it will be one of the first such policies in the area.

Reporting

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

Monitor Study Recommendations

N/A

OTHER CRB ACTIVITIES

BART ACTIVITIES

Les Mensinger attended the BART PD Recruitment and Retention committee meetings on January 16th and February 6th.

On January 21st, Ben Douglas and Les Mensinger attended the memorial and badge retirement ceremony for Detective Sergeant Tommy Smith at the Leshner Center in Walnut Creek.

Ken Jones, Sharon Kidd and Les Mensinger attended the BART Board Meeting on January 22nd.

Training

On January 15th, Les Mensinger attended the all-day training session – “Winning the Battle: The Pain Behind the Badge” at the South San Francisco Convention Center.

On March 4th, Ken Jones, Sharon Kidd, Les Mensinger and Darren White attended the NACOLE Northern California Regional Forum. This event, organized by the OIPA, brought together civilian oversight representatives from throughout the Bay Area.

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:

- Les Mensinger – Officer oral boards on January 23rd and January 30th
- Ken Jones – Officer oral board on February 23rd
- Sharon Kidd – Officer oral board on March 6th
- Les Mensinger – Dispatcher oral boards on March 16th and 17th

COMMUNITY OUTREACH

On January 1st Sharon Kidd spoke at the vigil commemorating the 6th anniversary of the shooting death of Oscar Grant.

Sukari Beshears and Sharon Kidd attended the Save Our Sons - Black Lives Matter event on January 19th at the Covenant Worship Center in Berkeley.

Sharon Kidd and Darren White attended the Alameda County Positive Youth Justice Initiative on February 18th at the West Oakland Youth Center, in Oakland.

On February 27th, Sharon Kidd attended a lecture titled “Ferguson, Police Violence & Human Rights” sponsored by the SF State School of Public Affairs and Civic Engagement.

On March 7th, Ken Jones, Sharon Kidd & Les Mensinger participated in the San Francisco Chinese New Year parade.