

Date: November 9, 2015
To: BART Board of Directors
From: Citizen Review Board
Cydia A. Garrett, 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 July, August and September, 2015.

Citizen Review Board Members:

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|----------------------------------|------------------------------------------------|
| 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 | District 7 |
| David W. Rizk | District 8 |
| George Perezvelez | District 9 |
| Cydia A. Garrett (Chairperson) | Public-At-Large |
| Richard Knowles | BART Police Officers and Managers Associations |

Cydia Garrett was elected Chairperson in July and Les Mensinger was re-elected as Vice-Chair. David W. Rizk was appointed as the CRB representative for District 8 and attended his first meeting on August 10th.

Former CRB member Ken Jones, representing District 8, attended the August meeting and was recognized for his 4-years of service on the board.

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. During the quarter four case investigations were presented to the CRB for consideration. The CRB made finding/recommendation in all of these cases.

In July the CRB met in closed session to consider two cases.

- In case #14-74 the CRB and voted unanimously to accept the OIPA's Unfounded and Exonerated findings.
- After the OIPA presentation, case #14-77 was tabled so that the CRB could receive input from the Office of the General Counsel. This case involved allegations against a police officer and a police dispatcher. Some members of the CRB were concerned regarding our jurisdiction over internal BART employee complaints as well as the handling of complaints against non-sworn police employees.

In August the CRB met in closed session to consider two cases.

- In case #14-77, continued from the prior month, the CRB again tabled the case pending the receipt of the input from the Office of the General Counsel.
- In case #15-06, the CRB voted unanimously to approve the OIPA's findings of Not Sustained, Unfounded and Exonerated.

In September the CRB met in closed session to consider two cases.

- Case #14-77 had been continued from prior meetings pending a response from the Office of the General Counsel. The CRB received two memos from Staff Attorney Byron Toma that clarified that BART employees may file complaints with the OIPA against police employees and that non-sworn police employees may be subject to complaints. Having resolved those issues, the CRB then considered this case filed by a station agent against an officer and a dispatcher. The CRB voted unanimously to agree with the OIPA's findings that most of the allegations were either Unfounded or Exonerated. With split votes, the CRB agreed with the OIPA's Sustained findings and minor discipline recommendations on two of the allegations.
- In case #15-17, the CRB voted to accept the OIPA's Unfounded and Exonerated findings.

Recommendations on Procedures, Practices and Training

During the August meeting Deputy Chief Janeth Glen-Davis, Lt. Lance Height and Supervisor Justin Morgan gave the CRB and update on the Mobile Video Recorder Program. They reported on a change in policy that expands the required recording of interactions with suspects beyond the initial contact to include searching, processing, transportation and booking. This policy change was based in part on input from CRB members during prior meetings.

In August, Deputy Chief Glen-Davis also made a presentation regarding off boarding individuals during investigations of incidents on trains.

In September the CRB had a discussion of a recent East Bay Express article regarding the BART Watch smartphone application and the potential for biased reporting by members of the public.

Reporting

Chair Cydia Garrett Vice-Chair Les Mensinger and Past-Chair Sharon Kidd attended the Board of Directors meeting on September 10, 2015 and made an oral presentation on the CRB's activities. Mr. Mensinger made a presentation regarding the CRB's request to change their name to the BART Police Citizen Review Board.

Monitor Study Recommendations

N/A

OTHER CRB ACTIVITIES

BART ACTIVITIES

In September the CRB amended the Bylaws to add a procedure for determining which CRB members will receive District funding to attend the annual conference of the National Association for Citizen Oversight of Law Enforcement (NACOLE). The new procedure provides that funding priority will be given to those members who have received either no funding or the least prior reimbursement for attending the conference.

Training

During the CRB meeting on July 13th, two representatives from the East Bay Chapter of the American Civil Liberties Union (ACLU) made a presentation on their Mobile Justice application for smart phones (mobilejusticeca.org). This app is for recording videos of police/citizen encounters and then reporting and downloading the video to the ACLU.

On July 8th, Les Mensinger attended an all-day training session on Search Warrants presented by the California Narcotics Officers Association and the Rancho Santiago Community College District.

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 – entry officer orals on July 17th
- Les Mensinger – sergeant promotional orals on July 21st and 22nd.
- Sharon Kidd – dispatcher orals on August 6th
- Sharon Kidd – Internal Affairs Sergeant interviews on August 14th
- Les Mensinger – lateral officer orals on Sept. 4th

Sharon Kidd also assisted the City of Oakland's Citizen Police Review Board on July 16th by helping rate applicants written supplemental responses for their Policy Analyst recruitment.

COMMUNITY OUTREACH AND OTHER ACTIVITIES

On July 30th, Sharon Kidd attended the funeral services at Oracle Arena for Hayward Police Sgt. Scott Lunger who was killed in the line of duty on July 22, 2015.

On August 4th, National Night Out, Sharon Kidd attended the event at the MacArthur Station and Les Mensinger attended the event at the Fremont Station.

On August 5th, Doug Hambleton attended the Alameda County 100 Club barbeque dinner event at the Alameda County Fairgrounds.

On August 7th, Sharon Kidd attended a Community Forum on Racial Justice at the Brookins AME Church in Oakland.

On August 18th Congresswoman Barbara Lee hosted a youth-led discussion on Race in America at the Brookins AME Church in Oakland. Sharon Kidd attended in person and Cydia Garrett watched via an on-line connection.

On August 29th, Sharon Kidd attended a forum on Race, Equity and Gentrification sponsored by the Berkeley NAACP at the South Berkeley Senior Center.

On September 2nd, Sharon Kidd attended an event in Sacramento regarding Assembly Bill #953 on racial and identity profiling.

On September 11th, Doug Hambleton attended a talk by UC Santa Barbara Professor Geoff Raymond on reducing conflict during police/citizen encounters.

During the weekend of September 11-13 Doug Hambleton was an observer at the Urban Shield full scale tactical and disaster exercise sponsored by the Alameda County Sheriff's Office.