

## ANNUAL REPORT

Date: January 11, 2015

To: BART Board of Directors

From: BART Police Citizen Review Board  
Cydia A. Garrett, Chairperson

Subject: 2015 – Annual Summary Report to Board of Directors

This is the annual report from the BART Police Citizen’s Review Board (BPCRB) to the BART Board of Directors. The report covers calendar year 2015 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 the quarterly 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	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

Sharon Kidd was the Chairperson for the first half of the year and Cydia Garrett was elected Chairperson in July for the second half of the year. Les Mensinger was the Vice-Chairperson for the entire year.

Ken Jones’ appointment as the representative from District 8 expired in June and he was replaced by David Rizk.

During last year the Board of Directors acted on our recommendation to change our name from the Citizen Review Board to the BART Police Citizen Review 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](http://www.bart.gov/about/bod/meetings.aspx).

During the year the BPCRB 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 BPCRB 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 BPCRB. The general topic headings below describe the BPCRB activities that address these tasks:

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

The BPCRB did not receive any direct complaint this year. The Office of the Independent Police Auditor has received a number of complaints, some of which are being handled by the OIPA while others are being handled by BART PD Internal Affairs.

During 2015 the BPCRB met in closed session and made findings on 18 complaints that had been investigated by the OIPA. Each of these complaints included at least one allegation of Racial Profiling/Bias Based Policing or Excessive Force and many included both of these allegations.

In two of these cases the complainant was not cooperative and the OIPA was not able to complete a thorough investigation. Since the allegations could not be disproved in those two cases the BPCRB agreed with the OIPA's findings that they were Not Sustained.

In all of the other 16 cases the Racial Profiling/Biased Based Policing and/or Excessive Force allegations were either Exonerated or Unfounded. There were several of these 16 cases where the BPCRB agreed with the OIPA's sustained findings for other allegations related to officers failing to properly report a use of force incident and the failure to activate their Mobile Video Recorder.

#### **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:

- There were several updates regarding emergency access enforcement and the impact on those sleeping/lying in stations
- Station video recording capabilities
- Off boarding individuals during investigations of incidents on trains
- BART Watch Safety Application
- Standard procedures for the development and modification of department policies, guidance from the Lexipol contract policy advisors and input from employee associations and the BPCRB.

The BPCRB has found that Chief Rainey and his staff have been receptive to informal recommendations regarding policy and practices. The BPCRB has been pleased with the department's willingness to accept their input in the policy making process.

Late in 2014 the BPCRB initiated discussions on a proposed new general order on police interaction with transgender individuals. During 2015 several drafts of the order were completed by OIPA 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 BPCRB. After considering the proposal, the department issued the new order, one of the first such policies in the area.

During the August meeting Deputy Chief Janeth Glen-Davis, Lt. Lance Height and Supervisor Justin Morgan gave the BPCRB an 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.

During each of the last four meetings of the year the BPCRB had discussions of the BART Watch Smartphone Application and an article in the East Bay Express regarding the reporting classifications and the potential for biased reporting by members of the public. The BPCRB did not take any formal vote/action on this issue, however; members did give the department informal feedback regarding their concerns. Chief Rainey agreed to take the input into consideration and his staff was looking into possible changes in the application.

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

- The use of official business cards and a requirement that officers give their business cards to citizens upon request
- Allowing officers to view the Mobile Video Recordings prior to making statements in critical incidents and complaint investigations

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

- 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](http://mobilejusticeca.org)). This app is for recording videos of police/citizen encounters and then reporting and downloading the video to the ACLU

## **Reporting**

This is the seventeenth formal written report to the Board of Directors. All these reports have been prepared by member Doug Hambleton and approved by the full BPCRB.

**Monitor Study Recommendations**

N/A

**OTHER CRB ACTIVITIES****BART ACTIVITIES**

In September the BPCRB amended the Bylaws to add a procedure for determining which 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 prior funding or the least prior reimbursement for attending the conference.

Two BPCRB 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 BPCRB members to participate on a regular basis. During 2015, BPCRB members have served a total of 25 days interviewing non-sworn applicants, entry officer applicants, lateral officer applicants and promotional candidates.

**COMMUNITY OUTREACH**

BPCRB Members participated in over 20 community outreach events during the year. Sharon Kidd and Les Mensinger have been the most active in these outreach efforts.

**OTHER ACTIVITIES**

Sharon Kidd, and Les Mensinger, along with Mr. Smith and Investigator Bloom of the OIPA attended the National Association for Citizen Oversight of Law Enforcement (NACOLE) conference in Riverside on October 4-8, 2015.