



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

February 2020

Issue date: March 9, 2020

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **February 1, 2020 through February 29, 2020.**¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	IAB Investigations Resolved	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
February 2019	12	60		1	0	0
March 2019	14	57		1	0	0
April 2019	14	57		0	0	0
May 2019	10	56		2	0	0
June 2019	9	61		1	0	0
July 2019	11	61		0	0	0
August 2019	9	62		1	0	0
September 2019	13	53		1	0	0
October 2019	6	53	6	1	0	0
November 2019	10	59	2	1	0	0
December 2019	6	58	6	1	0	0
January 2020	8	53	13	2	0	0
February 2020	15	56	10*	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	10
Informal Complaints ⁷	3
Administrative Investigations	2
Inquiries ⁸	0
TOTAL	15

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	6
BART Police Department	4
TOTAL	10

* Two completed OIPA complaint investigations were removed from the list of open investigations in the IAB database having been presented to the BPCRB in closed session during their January 13, 2020 meeting.

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During February 2020, **5 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #20-05) (IA2020-011)	Officer #1: • Courtesy	OIPA notified BPD which Administratively Closed ¹⁰ the investigation.	35
2 (OIPA #20-07) (IA2020-015)	Officers #1-2: • Force • Arrest/Detention	OIPA notified BPD which initiated an investigation.	26
3 (OIPA #20-06) (IA2020-019)	Officer #1: • Arrest/Detention • Search or Seizure • Policy/Procedure	OIPA notified BPD which initiated an investigation.	33
4 (OIPA #20-10) (IA2020-020)	Officers #1-2: • Force	OIPA notified BPD which initiated an investigation.	18
5 (OIPA #20-11) (IA2020-022)	Officer #1: • Force • Arrest/Detention • Bias-Based Policing • Search or Seizure	OIPA notified BPD which initiated an investigation.	17

During February 2020, **4 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2020-013)	Officer #1: • Conduct Unbecoming an Officer • Courtesy	BPD initiated an investigation.	26
2 (IA2020-014)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	27
3 (IA2020-018)	Officers #1-2: • Policy/Procedure • Conduct Unbecoming an Officer	BPD initiated an investigation.	37
4 (IA2020-023)	Officers #1-2: • Bias-Based Policing	BPD initiated an investigation.	9

During February 2020, **1 Informal Complaint** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2020-016)	Employee #1: • Conduct Unbecoming	BPD initiated a Supervisor Referral. ¹¹	25

During February 2020, **2 Administrative Investigations** were initiated by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2020-017)	Officers #1-2: • Force	BPD initiated an investigation.	23
2 (IA2020-021)	Officers #1-2: • Performance of Duty • Policy/Procedure	BPD initiated an investigation.	18

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During January 2020, **2 Formal Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #20-03) (IA2020-010)	Officers #1-3: • Performance of Duty	BPD Reclassified as an Informal Complaint and Initiated an Investigation.	41
2 (OIPA #20-03) (IA2020-009)	Officer #1: • Performance of Duty	OIPA notified BPD which initiated an investigation.	38

During January 2020, **1 Informal Complaint** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
3 (IA2020-012)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	47

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During February 2020, **6 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2019-052)	One officer used unnecessary or excessive force during a contact and two officers were rude to complainant.	Officers #1-2: • Force – Unfounded Officer #1: • Conduct Unbecoming an Officer – Not Sustained Officer #2: • Conduct Unbecoming an Officer – Sustained	328	316
2 (IA2019-071)	Officer was dismissive about complainant's call for service and treated complainant improperly based on race or physical disability.	Officer #1: • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded •	273	244
3 (IA2019-078)	Officer treated complainant differently based on gender identity.	Officer #1: • Bias-Based Policing – Administratively Closed ¹²	252	234
4 (IA2019-087)	Officer provided insufficient information to complainant.	Officer #1: • Performance of Duty – Administratively Closed	223	206
5 (IA2019-128)	Officers were unprofessional and did not take appropriate law enforcement action and one officer improperly detained complainant.	Officers #1-2: • Performance of Duty – Administratively Closed • Conduct Unbecoming an Officer – Administratively Closed Officer #2: • Arrest/Detention – Administratively Closed	96	63
6 (IA2020-003)	Officer is engaged in criminal fraud.	Officer #1: • Criminal – Administratively Closed • Conduct Unbecoming an Officer – Administratively Closed	59	25

During February 2020, **3 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2020-007)	Officer was discourteous to complainant and refused to summon a supervisor as requested.	Officer #1: • Courtesy – Supervisor Referral	41	6
2 (IA2020-012)	Officer spoke to subject using an unprofessional tone of voice.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	47	21
3 (IA2019-131)	Officer refused to provide identification to complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	86	54

During February 2020, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2019-050)	Officer did not properly investigate reported criminal activity.	Officer #1: • Performance of Duty – Sustained • Conduct Unbecoming an Officer – Sustained • Policy/Procedure – Sustained	346	313

DISCIPLINE ISSUED DURING REPORTING PERIOD

During February 2020, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
2	Officer did not meet Departmental expectations during a law enforcement contact.	Officer #1: • Performance of Duty	Officer #1: • Non-Documented

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

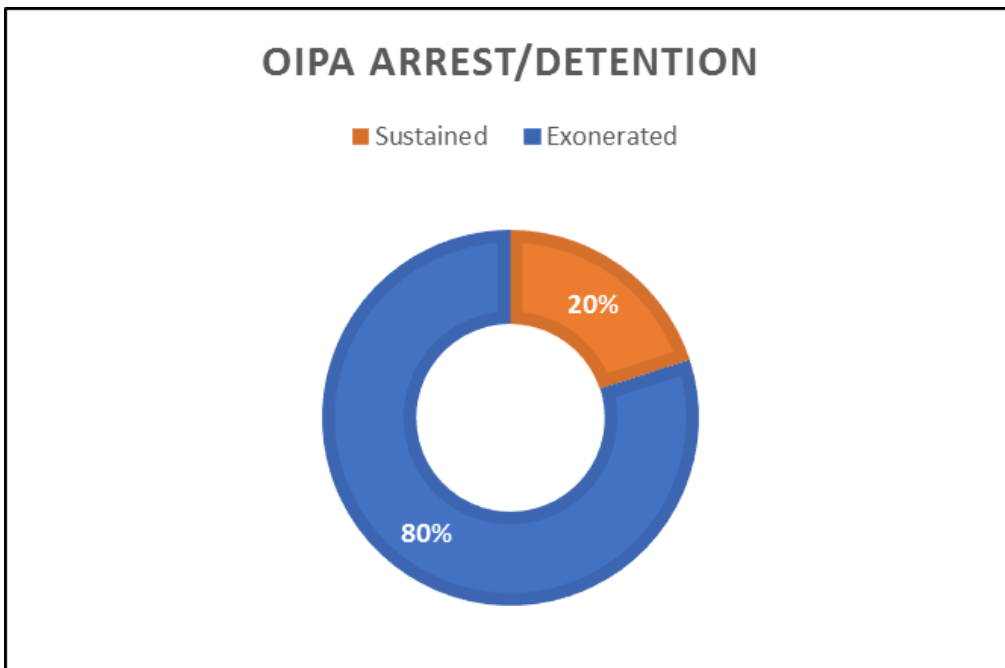
Investigations Being Conducted	11
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	47
Investigations Reviewed During Current Month	15†

†This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹³

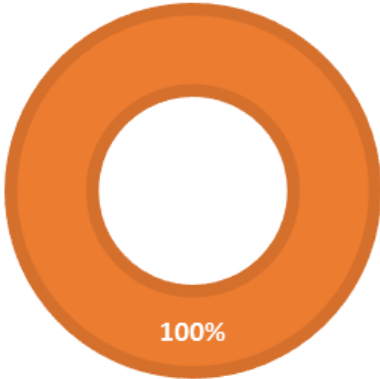
2019 INVESTIGATIVE FINDINGS – OIPA

Investigative findings for complaints completed by OIPA between January 1, 2019 and December 31, 2019.



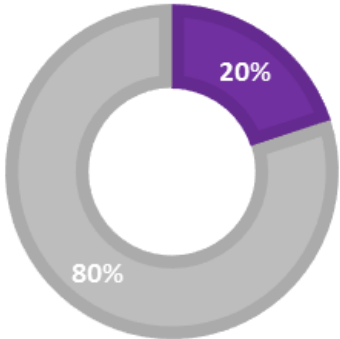
OIPA AXON CAMERA

■ Sustained



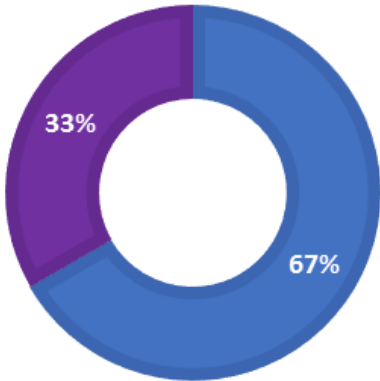
OIPA RACIAL PROFILING/BIAS-BASED POLICING

■ Not-Sustained ■ Unfounded



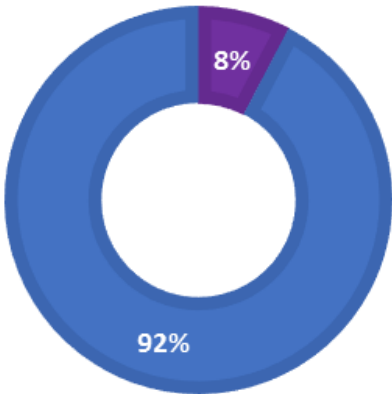
OIPA CONDUCT UNBECOMING

■ Exonerated ■ Not-Sustained



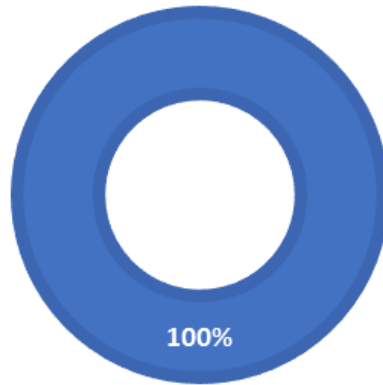
OIPA FORCE

■ Not-Sustained ■ Exonerated



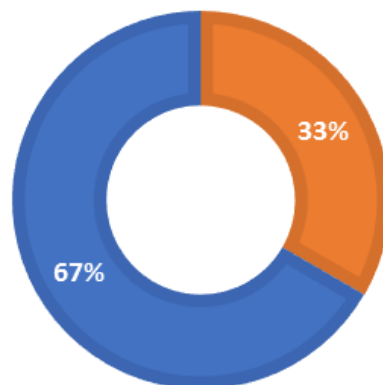
OIPA PERFORMANCE OF DUTY

■ Exonerated



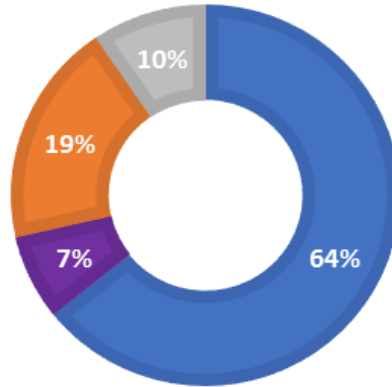
OIPA POLICY/PROCEDURE

■ Sustained ■ Exonerated



OIPA TOTAL FINDINGS

■ Exonerated
 ■ Not-Sustained
 ■ Sustained
 ■ Unfounded



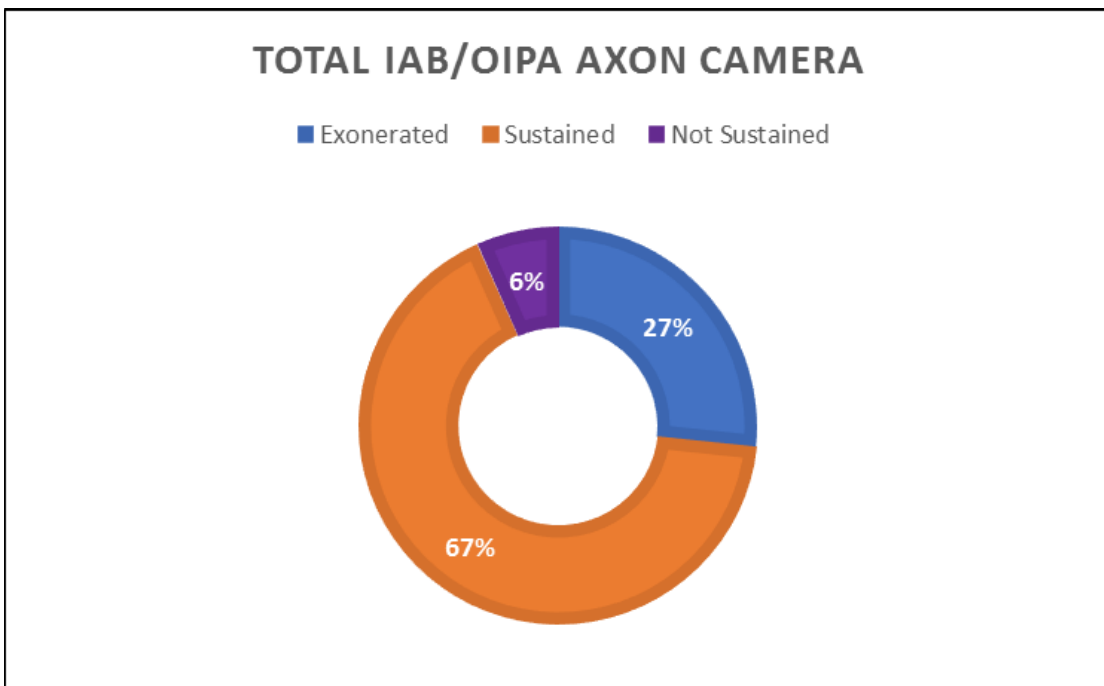
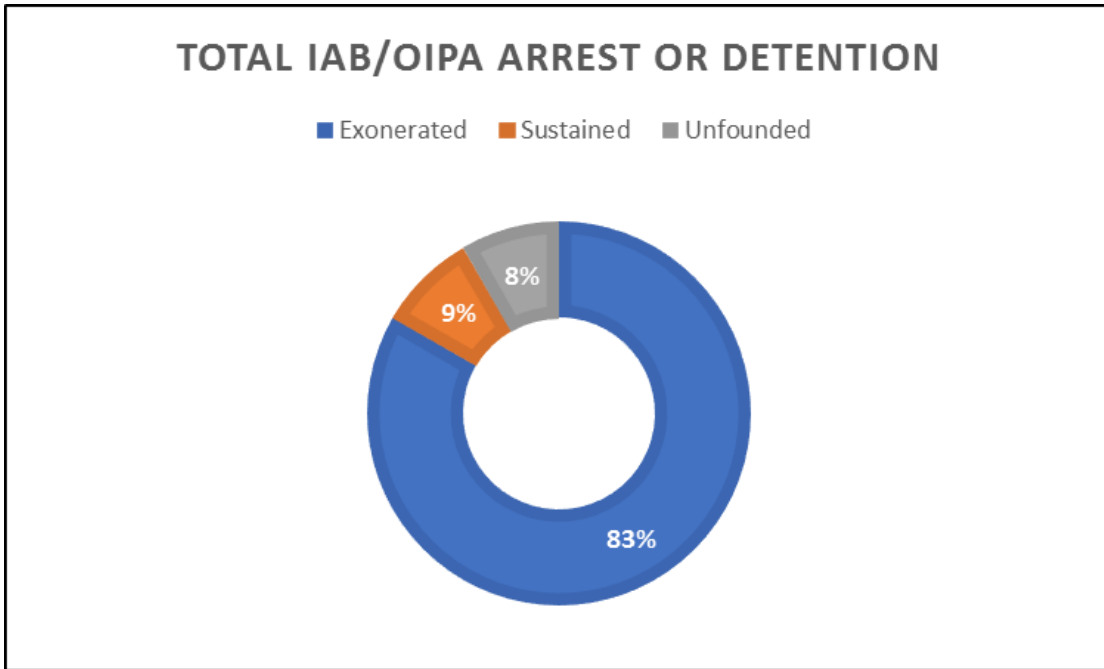
2019 Office of the Independent Police Auditor Investigative Findings

Allegation	Finding	#	Finding	#
Arrest/Detention	Sustained	1	Exonerated	27
Arrest/Detention	Exonerated	4	Not-Sustained	3
AXON Camera	Sustained	6	Sustained	8
Bias-Based Policing	Not-Sustained	1	Unfounded	4
Bias-Based Policing	Unfounded	4		
Conduct Unbecoming an Officer	Exonerated	2	Total	42
Conduct Unbecoming an Officer	Not-Sustained	1		
Force	Not-Sustained	1		
Force	Exonerated	12		
Performance of Duty	Exonerated	7		
Policy/Procedure - General Conduct	Sustained	1		
Policy/Procedure - General Conduct	Exonerated	2		
Total		42		

2019 INVESTIGATIVE FINDINGS – BPD INTERNAL AFFAIRS BUREAU (IAB) & OIPA

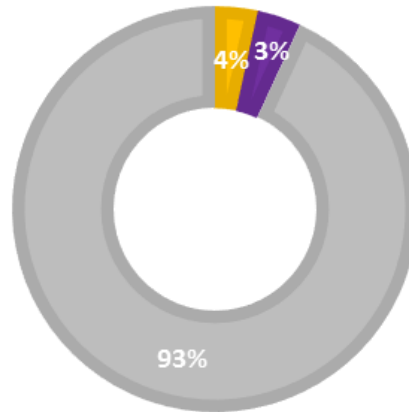
Investigative findings for complaints completed between January 1, 2019 and December 31, 2019.

These data are an aggregate of IAB's and OIPA's 2019 investigative findings.



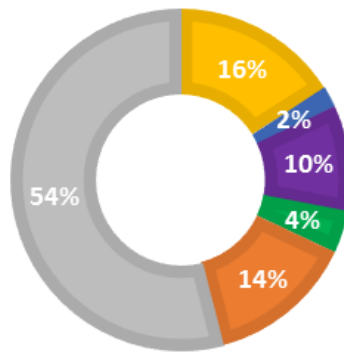
TOTAL IAB/OIPA BIAS-BASED POLICING

■ Administratively Closed ■ Not Sustained ■ Unfounded



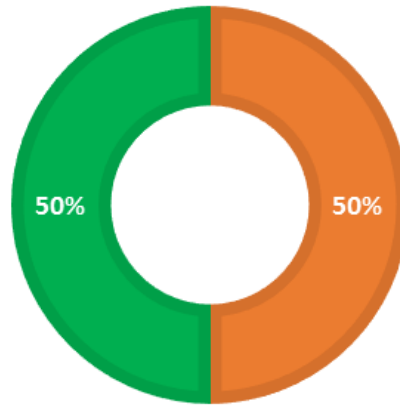
TOTAL IAB/OIPA CONDUCT UNBECOMING

■ Administratively Closed ■ Exonerated ■ Not Sustained
■ Supervisory Referral ■ Sustained ■ Unfounded



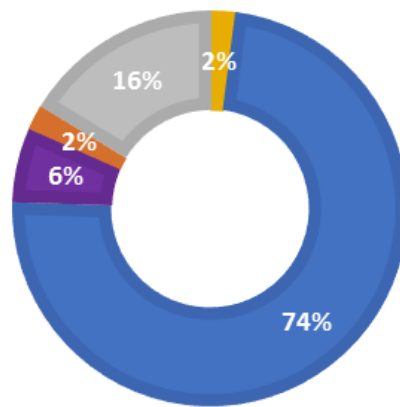
TOTAL IAB/OIPA COURTESY

■ Sustained ■ Supervisory Referral



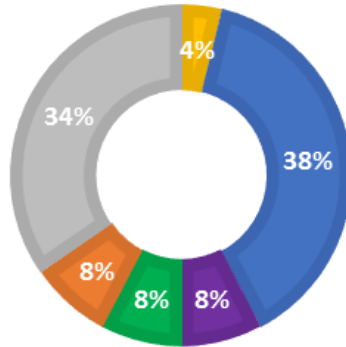
TOTAL IAB/OIPA FORCE

■ Administratively Closed ■ Exonerated ■ Not Sustained ■ Sustained ■ Unfounded



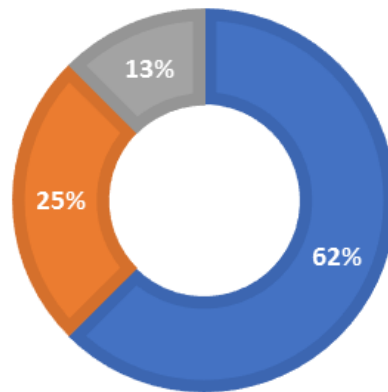
TOTAL IAB/OIPA PERFORMANCE OF DUTY

■ Administratively Closed ■ Exonerated ■ Not Sustained
■ Supervisory Referral ■ Sustained ■ Unfounded



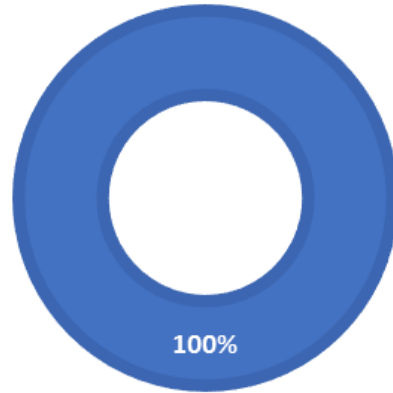
TOTAL IAB/OIPA POLICY/PROCEDURE

■ Exonerated ■ Sustained ■ Not Sustained



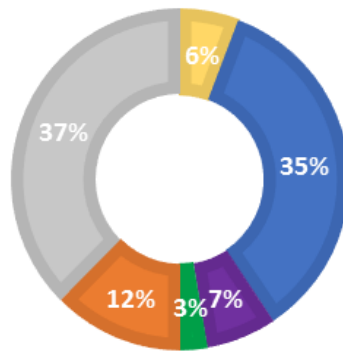
TOTAL IAB/OIPA SEARCH OR SEIZURE

■ Exonerated



TOTAL IAB/OIPA TOTAL FINDINGS

■ Administratively Closed ■ Exonerated ■ Not Sustained
■ Supervisory Referral ■ Sustained ■ Unfounded



2019 Internal Affairs Bureau Formal Complaints & Administrative Investigations

Allegation	Finding	#	Findings	#
Arrest or Detention	Exonerated	10	Administratively Closed	11
Arrest or Detention	Sustained	1	Exonerated	67
Arrest or Detention	Unfounded	1	Not Sustained	13
Axon Camera	Exonerated	4	Supervisory Referral	5
Axon Camera	Sustained	10	Sustained	24
Axon Camera	Not Sustained	1	Unfounded	72
			Total	192
Bias-Based Policing	Administratively Closed	1		
Bias-Based Policing	Not Sustained	1		
Bias-Based Policing	Unfounded	27		
Conduct Unbecoming an Officer	Administratively Closed	8		
Conduct Unbecoming an Officer	Exonerated	1		
Conduct Unbecoming an Officer	Not Sustained	5		
Conduct Unbecoming an Officer	Supervisory Referral	2		
Conduct Unbecoming an Officer	Sustained	7		
Conduct Unbecoming an Officer	Unfounded	27		
Courtesy	Sustained	1		
Courtesy	Supervisory Referral	1		
Force	Administratively Closed	1		
Force	Exonerated	36		
Force	Not Sustained	3		
Force	Sustained	1		
Force	Unfounded	8		
Performance of Duty	Administratively Closed	1		
Performance of Duty	Exonerated	10		
Performance of Duty	Not Sustained	2		
Performance of Duty	Supervisory Referral	2		
Performance of Duty	Sustained	2		
Performance of Duty	Unfounded	9		
Policy/Procedure	Exonerated	5		
Policy/Procedure	Sustained	2		
Policy/Procedure	Not Sustained	1		
Search or Seizure	Exonerated	1		
Total		192		

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the “Citizen Board, Office of the District Secretary, and other District departments.” As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA’s findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA’s investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department’s internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, “A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee.” (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ It is important to note that OIPA does not separate citizen complaints it receives into “Formal” and “Informal” classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

¹⁰ Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however, the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹¹ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹² Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however, the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹³ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.