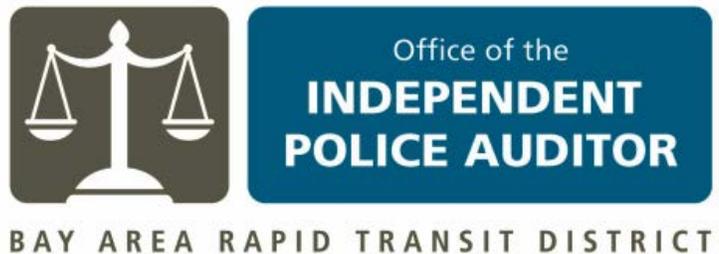


Office of the Independent Police Auditor

Monthly Report

January 2013



February 11, 2013

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the Citizen Review Board. This report provides information for the period January 1, 2013 through January 31, 2013.¹

Quantitative Report

	Number of Cases Filed ²	Number of Open Cases ³	Number of OIPA Investigations Concluded ⁴	Number of Cases Appealed to OIPA ⁵	Number of Cases Appealed by CRB ⁶
January 2012	6	58	0	0	0
February 2012	14	57	0	0	0
March 2012	7	61	0	1	0
April 2012	6	55	0	1	0
May 2012	10	54	0	0	0
June 2012	13	61	1	0	0
July 2012	7	58	0	0	0
August 2012	13	60	0	0	0
September 2012	8	57	1	0	0
October 2012	9	49	1	0	0
November 2012	17	57	0	0	0
December 2012	12	52*	2	0	0
January 2013	6	50	0	1	0

*This number was previously reported as 53. As detailed later in this report, a data entry error led to one case being counted as pending at the end of December when it was actually closed during that month.

Types of Cases Filed

Citizen Complaints	4
Administrative Investigations	1
Comments of Non-Complaint	1
TOTAL	6

Citizen Complaints Received per Department

OIPA	3
BART Police Department	1
TOTAL	4

Complaints/Investigations Initiated During Reporting Period

Actions Taken/# of Days Elapsed

During the month of January 2013, 3 Citizen Complaints were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Number of Days Elapsed Since Complaint Filed ⁷
1 (OIPA 13-01) (IA2013-002)	Performance of Duty	OIPA notified BART PD, which initiated an investigation	34
2 (OIPA 13-04) (IA2013-004)	Performance of Duty	OIPA notified BART PD, which initiated an investigation	26
3 (OIPA 13-05) (IA2013-005)*	Performance of Duty	OIPA notified BART PD, which initiated an investigation	19

*This complaint received by OIPA was later determined to be a Comment of Non-Complaint by the BART Police Department.

During the month of January 2013, 1 Citizen Complaint was received by the BART Police Department:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Number of Days Elapsed Since Complaint Filed
1 (IA2013-003)	Arrest or Detention; Courtesy	BART PD initiated an investigation	26

During the month of January 2013, 1 Administrative Investigation was initiated by the BART Police Department:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Number of Days Elapsed Since Investigation Initiated
1 (IA2013-006)	Workplace Discrimination/Harassment	BART PD initiated an investigation	14

During the month of January 2013, 1 Comment of Non-Complaint was received by the BART Police Department:

Comment # (IA Case #)	Nature of Comment	Action Taken	Number of Days Elapsed Since Comment Filed
1 (IA2013-001)	Courtesy	BART PD initiated an investigation	35

Complaints/Investigations Concluded During Reporting Period

Dispositions/# of Days Elapsed

During the month of January 2013, 6 Citizen Complaints were concluded by the BART Police Department:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Number of Days Elapsed Since Complaint Filed	Number of Days Taken to Complete Investigation
1 (IA2013-004)	<u>Police Officer #1</u> * • Performance of Duty	<u>Police Officer #1</u> • Performance of Duty – Service Review	26	14
2 (IA2012-072)	<u>Police Officer #1</u> • Conduct Unbecoming an Officer	<u>Police Officer #1</u> • Conduct Unbecoming an Officer – Unfounded	167	153
3 (IA2012-053)	<u>Police Officer #1</u> • Arrest/Detention • Conduct Unbecoming an Officer <u>Police Officer #2</u> • Arrest/Detention • Conduct Unbecoming an Officer	<u>Police Officer #1</u> • Arrest/Detention – Exonerated • Conduct Unbecoming an Officer – Not Sustained <u>Police Officer #2</u> • Arrest/Detention – Exonerated • Conduct Unbecoming an Officer – Not Sustained	227	203

<p>4 (IA2012-036)</p>	<p><u>Police Officer #1</u></p> <ul style="list-style-type: none"> • Procedure <p><u>Police Officer #2</u></p> <ul style="list-style-type: none"> • Procedure 	<p><u>Police Officer #1</u></p> <ul style="list-style-type: none"> • Procedure – Exonerated <p><u>Police Officer #2</u></p> <ul style="list-style-type: none"> • Procedure – Exonerated 	<p>279</p>	<p>259</p>
<p>5 (IA2012-033)</p>	<p><u>Police Officer #1</u></p> <ul style="list-style-type: none"> • Bias Based Policing • Conduct Unbecoming an Officer <p><u>Police Officer #2</u></p> <ul style="list-style-type: none"> • Bias Based Policing • Conduct Unbecoming an Officer 	<p><u>Police Officer #1</u></p> <ul style="list-style-type: none"> • Bias Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded <p><u>Police Officer #2</u></p> <ul style="list-style-type: none"> • Bias Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded 	<p>285</p>	<p>245</p>
<p>6 (IA2012-026)</p>	<p><u>Police Officer #1</u></p> <ul style="list-style-type: none"> • Arrest/Detention • Performance of Duty <p><u>Police Officer #2</u></p> <ul style="list-style-type: none"> • Arrest/Detention • Performance of Duty <p><u>Police Officer #3</u></p> <ul style="list-style-type: none"> • Arrest/Detention • Performance of Duty 	<p><u>Police Officer #1</u></p> <ul style="list-style-type: none"> • Arrest/Detention – Exonerated • Performance of Duty – Unfounded <p><u>Police Officer #2</u></p> <ul style="list-style-type: none"> • Arrest/Detention – Exonerated • Performance of Duty – Unfounded <p><u>Police Officer #3</u></p> <ul style="list-style-type: none"> • Arrest/Detention – Exonerated • Performance of Duty – Unfounded 	<p>315</p>	<p>282</p>

*This complaint was determined to pertain to BART PD generally, and not to any specific officer. The listing of “Police Officer #1” is being used here for consistency in reporting format only.

During the month of January 2013, 1 Administrative Investigation was concluded by the BART Police Department:

Investigation # (IA Case #)	Nature of Investigation	Disposition	Number of Days Elapsed Since Investigation Initiated	Number of Days Taken to Complete Investigation
1 (IA2012-042)	<u>Police Officer #1</u> • Force	<u>Police Officer #1</u> • Force – Not Sustained	255	222

During the month of January 2013, 1 Comment of Non-Complaint was addressed by the BART Police Department:

Comment # (IA Case #)	Nature of Comment	Disposition	Number of Days Elapsed Since Comment Filed	Number of Days Taken to Address Comment
1 (IA2013-001)	Courtesy	Supervisory Referral ⁸	35	17

Complaints/Investigations Concluded During Previous Reporting Period

Dispositions/# of Days Elapsed

Due to a data entry error with regard to a closing date, 1 Comment of Non-Complaint was addressed by the BART Police Department in December 2012 but was not reported on during that month:

Comment # (IA Case #)	Nature of Comment	Disposition	Number of Days Elapsed Since Comment Filed	Number of Days Taken to Address Comment
1 (IA2012-118)	Conduct Unbecoming an Officer	Supervisory Referral	49	4

In accordance with the BART Citizen Oversight Model, OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint

investigations conducted by the BART Police Department. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conversation with the BART Police Department’s Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following is a snapshot of some of the pending cases that OIPA is involved in as of the close of this reporting period.

Investigations Being Conducted	0
Complainant-Initiated Appeals	1
Investigations Being Monitored	18
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.

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 Citizen Board are customarily directed to the OIPA for further action, such complaints are included in the Quantitative Report above; the OIPA is not aware of additional complaints about the BART Police Department received 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 what the BART Police Department manual defines as “Comments of Non-Complaint;” these are comments “on the actions of a department employee, where the reporting party expressly states that they do not want to make a complaint.” (BART Police Department Policy Manual, Policy 1020.1.1(e)).

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), Comments of Non-Complaint, 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 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. The 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 Citizen Review Board after receiving and reviewing the findings issued by the 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 In all cases where it appears in this report, unless otherwise noted, the number of days elapsed refers to the number of days between the date of the complaint, comment, etc., and the date of the report (as noted on the front page).

⁸ In defining a “Supervisory Referral,” the BART Police Department Manual indicates that an assigned supervisor will address the issue informally with the involved employee and document the content of the conversation in a memorandum to the Internal Affairs Section.