



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

July 2017

Issue date: August 17, 2017

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 BART Police Citizen Review Board (BPCRB). This report provides information for the period **July 1, 2017 through July 31, 2017**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0
October 2016	6	51	0	0	0
November 2016	13	55	1	0	0
December 2016	9	57	0	0	0
January 2017	6	52	0	0	0
February 2017	7	41	0	0	0
March 2017	9	43	0	0	0
April 2017	8	42	1	0	0
May 2017	13	47	1	0	0
June 2017	11	44	1	0	0
July 2017	13*	48	0	0	0

*Includes one case reopened by BPD, which remained open through the end of the period.

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	4
Administrative Investigations	2
TOTAL	13

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	5
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During July 2017, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-25) (IA2017-059)	Officers #1-2: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	38
2 (OIPA #17-26) (IA2017-058)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	31

During July 2017, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-053)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	43
2 (IA2017-055)	Officer #1: • Force • Conduct Unbecoming an Officer	BPD initiated an investigation.	46
3 (IA2017-061)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	27
4 (IA2016-081)	Officer #1: • Force	BPD reopened an investigation.	352
5 (IA2017-057)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	56

During July 2017, **4 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-054)	Employees #1-3: • Conduct Unbecoming	BPD initiated an investigation.	43
2 (IA2017-056)	Employee #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	35
3 (IA2017-063)	Officer #1: • Performance of Duty	BPD initiated an investigation.	21
4 (IA2017-064)	Employee #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	17

During July 2017, **2 Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-060)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer • Courtesy 	BPD initiated an investigation.	29
2 (IA2017-062)	Officer #1: <ul style="list-style-type: none"> • Racial Animus • Supervision • Workplace Discrimination/Harassment • Conduct Unbecoming an Officer 	BPD initiated an investigation.	21

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During July 2017, **3 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 (IA2016-117)	Officers intimidated complainant and treated complainant unfairly based on religious beliefs.	Officers #1-2: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded Officer #2: <ul style="list-style-type: none"> • Performance of Duty – Unfounded 	233	188
2 (IA2017-010)	Officers used excessive force on subject.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated 	188	153
3 (IA2017-023)	Officers used excessive force on complainant during arrest.	Officers #1-2: <ul style="list-style-type: none"> • Force (Counts 1-2) – Unfounded • Force (Count 3) – Exonerated • Arrest or Detention – Exonerated 	127	103

During July 2017, **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 (IA2017-047)	Officer lacked empathy toward possible victim of crime.	Officer #1: • Conduct Unbecoming an Officer – Supervisory Referral ⁹	70	24
2 (IA2017-046)	Officer harassed complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisory Referral	72	43
3 (IA2017-056)	Employee was rude to complainant.	Employee #1: • Conduct Unbecoming an Officer – Supervisory Referral	35	15

Also during the month of July 2017, BPD initially classified each of the following cases as an **Inquiry** and Administratively Closed the complaints: IA2017-038 (Complainant could not recall the underlying incident) and IA2017-051 (Complainant withdrew complaint after receiving clarifying information from BPD).

INVESTIGATIONS COMPLETED DURING A PRIOR REPORTING PERIOD

During June 2017, **1 Citizen Complaint (Formal)** was completed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-035)	Officer used excessive force on subject.	Officer #1: • Force (Count 1) – Unfounded • Force (Count 2) – Exonerated	292	222

DISCIPLINE ISSUED DURING REPORTING PERIOD

During July 2017, 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	Officers did not follow procedures when contacting subject and did not request or provide appropriate medical attention to subject. Officers improperly moved subject during the contact and did not properly document the contact.	Officers #1-2: • Policy/Procedure • Performance of Duty (Counts 1-2) Officer #2 • Performance of Duty (Count 3)	Officer #1: • Suspension Held in Abeyance Officer #2 • Written Reprimand

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	2
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	19
Investigations Reviewed During Current Month	22†

†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.

MONITORING INFORMATION

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 reflects additional information regarding monitored cases with detail not to exceed that which is allowable under state law. The majority of investigations reviewed by OIPA during the period did not raise any concerns or generate any recommendations for revisions or follow-up.

- As reported in the OIPA Monthly Report for June 2017, OIPA made recommendations for revisions to the investigative findings reached by BPD regarding Case #IA2016-081. In July, BPD agreed to change one investigative finding from Unfounded to Exonerated in connection with an allegation of excessive force.

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 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.

⁹ A Supervisory 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.