



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

June 2016

Issue date: July 11, 2016

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 **June 1, 2016 through June 30, 2016**.¹

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
June 2015	17	75	0	0	0
July 2015	14	73	1	0	0
August 2015	19	75	2	0	0
September 2015	9	78	1	0	0
October 2015	14	79	2	0	0
November 2015	3	72	1	0	0
December 2015	16	78	1	0	0
January 2016	9	64	0	0	0
February 2016	14	63	0	0	0
March 2016	14	67	0	0	0
April 2016	10	63	0	0	0
May 2016	8	62	0	0	0
June 2016	17*	68	0	0	0

*This number includes 3 cases that were initiated in a prior reporting period but not previously reported. They are therefore included in this report.

TYPES OF CASES FILED

Citizen Complaints (Formal)	11
Informal Complaints ⁷	4
Administrative Investigations	2
TOTAL	17

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	3
BART Police Department	8
TOTAL	11

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During June 2016, **3 Citizen Complaints** were received by OIPA:

Investigation # (OIPA Case #) (IA Case #)	Nature of Allegations ⁹	Action Taken	Days Elapsed Since Complaint Filed ¹⁰
1 (OIPA #16-22) (IA2016-057)	Officer #1: • Performance of Duty	OIPA notified BPD, which categorized the complaint as an Inquiry.	33
2 (OIPA #16-23) (IA2016-060)	Employee #1: • Performance of Duty	OIPA notified BPD, which categorized the complaint as an Inquiry.	31
3 (OIPA #16-25) (IA2016-064)	Officers #1-2: • Force	OIPA initiated an investigation and notified BPD, which also initiated an investigation.	24

During June 2016, **7 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-051)	Officers #1-4: • Force	BPD initiated an investigation.	39
2 (IA2016-052)	Officers #1-3: • Performance of Duty	BPD initiated an investigation.	38
3 (IA2016-054)	Employee #1: • Performance of Duty	BPD initiated an investigation.	31
4 (IA2016-055)	Officers #1-3: • Force	BPD initiated an investigation.	33
5 (IA2016-058)	Officer #1: • Force	BPD initiated an investigation.	30
6 (IA2016-063)	Officers #1-2: • Force	BPD initiated an investigation.	19
	Officer #2: • Bias-Based Policing • Conduct Unbecoming an Officer		
7 (IA2016-065)	Officer #1: • Force	BPD initiated an investigation.	11
	Officer #2: • Conduct Unbecoming an Officer		

During June 2016, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-056)	Employee #1: • Truthfulness	BPD initiated an investigation.	31

During June 2016, **3 Informal Complaints** were received by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-053)	Unknown BPD Officer: • Force	BPD initiated an investigation.	36
2 (IA2016-059)	Officer #1: • Performance of Duty	BPD initiated an investigation.	26
3 (IA2016-061)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	26

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PREVIOUS REPORTING PERIOD

During May 2016, **1 Informal Complaint** was received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-062)	Employee #1: • Policy/Procedure	BPD categorized the complaint as an Inquiry.	33

During October 2015, **1 Citizen Complaint** was received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2015-145)	Officer #1: • Force Officer #2: • Policy/Procedure	BPD initiated an investigation.	271

During October 2015, **1 Administrative Investigation** was initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2015-146)	Officer #1: • Force	BPD initiated an investigation.	279

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During June 2016, **10 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2015-095)	Officer improperly detained subject.	Officer #1: • Arrest or Detention – Exonerated	444	413**
2 (IA2015-122)	Officer did not properly investigate a crime on the basis of race.	Officer #1: • Bias-Based Policing – Unfounded • Performance of Duty – Unfounded	236	201
3 (IA2015-125)	One officer used excessive force, yelled and made threats, attempted to confiscate property, and made unprofessional comments based on race. Two officers inappropriately laughed and joked, and two officers did not properly supervise subordinate officers.	Officers #1-2: • Conduct Unbecoming an Officer (Count 1) – Unfounded Officer #3: • Supervision – Sustained Officer #4: • Supervision – Not Sustained Officer #5: • Force – Exonerated • Bias-Based Policing – Not Sustained • Conduct Unbecoming an Officer (Count 2) – Not Sustained • Conduct Unbecoming an Officer (Counts 3-4) – Sustained	269	238

4 (IA2015-128)	Officer made unprofessional and discourteous comments, intentionally suppressed constitutional rights, and did so on the basis of race. Officer did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Not Sustained • Policy/Procedure – Sustained • Courtesy – Sustained • Conduct Unbecoming an Officer – Unfounded 	210	196
5 (IA2015-129)	Officer did not properly investigate a crime.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Sustained 	210	177
6 (IA2015-142)	Officer improperly arrested subject and used excessive force while doing so. Two officers were discourteous toward complainant, and one officer did not properly route a complaint of misconduct.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure – Sustained Officer #2: <ul style="list-style-type: none"> • Courtesy – Sustained Officer #3: <ul style="list-style-type: none"> • Force – Not Sustained • Arrest or Detention – Exonerated • Courtesy – Unfounded 	374	362†
7 (IA2016-004)	Employee improperly issued two parking citations and intentionally damaged complainant's vehicle.	Employee #1: <ul style="list-style-type: none"> • Policy/Procedure – Exonerated • Conduct Unbecoming an Officer – Not Sustained 	184	149
8 (IA2016-036)	Employee was rude to complainant.	Employee #1: <ul style="list-style-type: none"> • Courtesy – Supervisory Referral¹ 	88	63
9 (IA2016-048)	Employee improperly issued a parking citation.	Employee #1: <ul style="list-style-type: none"> • Performance of Duty – Supervisory Referral 	59	42
10 (IA2016-050)	Officer improperly contacted subject, burped on subject, and forced subject to remove shoes	Unknown BPD Officer: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisory Referral 	67	30

**The statute of limitations with regard to this investigation was tolled from October 11, 2015, until April 24, 2016 because the subject officer was on leave during the course of the investigation.

†This incident occurred on July 3, 2015 and was not made known to BPD's Office of Internal Affairs until April 23, 2016.

During June 2016, **1 Administrative Investigation** was concluded by BPD:

Complaint # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2015-143)	Officer improperly applied BPD policy, did not properly document a law enforcement contact, and spoke discourteously to subject.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure – Not Sustained • Courtesy – Sustained 	385	360

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIOD

During April 2016, **1 Administrative Investigation** was concluded by BPD:

Complaint # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2015-060)	Officer engaged in criminal conduct, compromised a criminal investigation, acted inappropriately during a courtroom proceeding, and made false assertions to investigators.	Officer #1: <ul style="list-style-type: none"> • Criminal (Counts 1-2) – Sustained • Compromising a Criminal Case (Counts 1-2) – Sustained • Truthfulness (Counts 1-3) – Sustained • Policy/Procedure – Sustained • Conduct Unbecoming an Officer (Counts 1-3) – Sustained 	385	308***

***The statute of limitations with regard to this investigation was tolled from July 6, 2015 until October 14, 2015 because the subject officer was on leave during the course of the investigation.

During May 2016, **2 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2016-037)	Officer was dismissive toward complainant.	Officer #1: • Courtesy – Supervisory Referral	87	34
2 (IA2016-044)	Officers improperly arrested complainant.	Officers #1-2: • Arrest/Detention – Supervisory Referral	88	56

DISCIPLINE ISSUED DURING REPORTING PERIOD

During June 2016, 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 spoke discourteously to subject.	Officer #1: • Courtesy	Officer #1: • Informal Counseling

DISCIPLINE ISSUED DURING PREVIOUS REPORTING PERIOD

During May 2016, 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	Employee verbally berated complainant.	Employee #1: • Courtesy	Officer #1: • Letter of Discussion

ADDITIONAL NOTES

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 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 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	1
Complainant-Initiated Appeals	0
Investigations Being Monitored	11
Investigations Reviewed During Current Month	23 ^{††}

^{††}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 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 In any case that has not been completed, the listed allegations are preliminary in nature and may change as more information is gathered during the investigation.

¹⁰ 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).

¹¹ 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.