



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

May 2017

Issue date: June 12, 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 **May 1, 2017 through May 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
May 2016	8	62	0	0	0
June 2016	17	68	0	0	0
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

TYPES OF CASES FILED

Citizen Complaints (Formal)	12
Informal Complaints ⁷	1
Administrative Investigations	0
TOTAL	13

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	4
BART Police Department	8
TOTAL	12

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During May 2017, **4 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #17-17) (IA2017-031)	Officer #1: • Performance of Duty • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	42
2 (OIPA #17-20) (IA2017-032)	Officers #1-2: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	35
3 (OIPA #17-21) (IA2017-035)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	32
4 (OIPA #17-22) (IA2017-037)	Officers #1-2: • Performance of Duty • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	27

During May 2017, **8 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-029)	Officers #1-2: • Conduct Unbecoming an Officer Officer #2: • Arrest or Detention	BPD initiated an investigation.	42
2 (IA2017-030)	BART Police Department: • Performance of Duty	BPD initiated an investigation.	26
3 (IA2017-033)	Officers #1-2: • Force • Conduct Unbecoming an Officer	BPD initiated an investigation.	38
4 (IA2017-034)	Officers #1-9: • Conduct Unbecoming an Officer	BPD initiated an investigation.	37
5 (IA2017-036)	Officers #1-2: • Arrest or Detention • Conduct Unbecoming an Officer	BPD initiated an investigation.	28
6 (IA2017-038)	Employee #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	25

7 (IA2017-039)	Officers #1-2: • Force Officer #2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	20
8 (IA2017-040)	Officers #1-2: • Force	BPD initiated an investigation.	25

During May 2017, **1 Informal Complaint** was received by BPD:

Investigation # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2017-041)	Employee #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	12

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During May 2017, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #16-31)	Officers improperly detained and intimidated complainant, and did so on the basis of complainant's race and/or disability	Officers #1-3: • Conduct Unbecoming an Officer – Unfounded Officers #1-2 • Bias-Based Policing – Unfounded • Arrest or Detention – Exonerated	214	173

During May 2017, **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 (IA2016-094)	Officers used excessive force during arrest of subject.	Officers #1-3: • Force (Count 1) – Unfounded • Force (Count 2) – Exonerated	237	210

2 (IA2016-095)	Officers contacted subject because of subject's race and one officer did not properly document the contact.	Officers #1-2: • Force – Unfounded Officer #2 • Bias-Based Policing – Unfounded	230	190
3 (IA2016-102)	Officers used excessive force during arrest of complainant and did so on the basis of complainant's race.	Officers #1-4: • Bias-Based Policing – Unfounded • Force – Exonerated	216	176
4 (IA2016-106)	Officer used excessive force during arrest of subject and did so on the basis of subject's race.	Officer #1: • Bias-Based Policing – Unfounded • Force – Unfounded	208	168
5 (IA2017-002)	Officer locked complainant inside a restroom.	Officer #1: • Conduct Unbecoming an Officer – Unfounded	145	111
6 (IA2017-018)	Officer improperly detained complainant, did not properly enforce the law, and was overly collegial with a suspect.	Officer #1: • Performance of Duty – Unfounded • Arrest/Detention – Unfounded • Conduct Unbecoming an Officer – Unfounded	87	66

During May 2017, **1 Administrative Investigation** was concluded by BPD:

Investigation # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2016-086)	Officer improperly traded shifts with another officer.	Officer #1: • Policy/Procedure – Administratively Closed ⁹	263	223

DISCIPLINE ISSUED DURING REPORTING PERIOD

During May 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	Officer did not take proper law enforcement action and did not properly document the contact.	Officer #1: • Performance of Duty • Policy/Procedure	Officer #1: • Retired Prior to Discipline
2	Officer did not provide required medical clearance for subject.	Officer #1: • Supervision	Officer #1: • Retired Prior to Discipline

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 in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	1
Complainant-Initiated Appeals	0
Investigations Being Monitored	10
Investigations Reviewed During Current Month	26 [†]

[†]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 Administrative Closure refers to 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.