

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2888

Citizen Review Board
Monday, September 14, 2015

A regular meeting of the Citizen Review Board (CRB) was held on Monday September 14, 2015, convening at 4:00 p.m. in the BART Board Room, 344 20th Street, Oakland, California.

Members Present: Chairperson Cydia Garrett, Vice Chairperson Les Mensinger, Douglas Hambleton, George Perezvelez, Richard Knowles, David Rizk, William White, and Darren White

BART Staff: BART Police Department (BPD) Chief Kenton Rainey, BPD Lieutenant Lance Haight, Independent Police Auditor Mark P. Smith, and Independent Police Investigator Russell Bloom

Others Present: Director Robert Raburn

Agenda items discussed:

1. Call to Order.

The regular meeting was called to order at 4:04 p.m. by Ms. Garrett.

2. Call for Quorum.

Cydia Garrett, Les Mensinger, Doug Hambleton, George Perezvelez, Richard Knowles, David Rizk, William White, and Darren White were present, amounting to a quorum.

3. Pledge of Allegiance Recital.

The pledge of allegiance was recited.

4. Public Comment on Items 5 through 11 Only.

Ms. Christina Petricca addressed the CRB regarding Office of the Independent Police Auditor (OIPA) Case #14-77.

5. Chairperson's Report. For Discussion and Action.

a. Rescheduling of October CRB Regular Meeting.

(This was originally Item #6.)

The CRB discussed the fact that the October Regular Meeting was presently scheduled on a day that is a recognized holiday for some BPD employees. A motion to reschedule the October Regular Meeting from October 12, 2015 to October 19, 2015 was made by Mr. Hambleton and seconded by Mr. Mensinger. The motion passed unanimously.

Ms. Garrett discussed a recent community event on Race in America, which was organized by the Martin Luther King, Jr. Freedom Center and attended by Director Raburn, Ms. Kidd, and Mr. Smith. She also discussed a recent presentation made by Ms.

Kidd and Mr. Mensinger to the BART Board of Directors. Ms. Garrett also discussed her efforts to meet with the BART Police Officers Association and the BART Police Managers Association.

6. Approval of Minutes of Prior Board Meeting. For Discussion and Action.

(This was originally Item #5.)

A motion to approve the minutes of the prior CRB meeting was made by Mr. Mensinger and seconded by Mr. D. White. The motion passed with 7 votes in favor and 1 abstention.

7. Bylaw Amendment to Adopt Process for Allocation of Funds Designated for CRB Member Attendance at National Association for Civilian Oversight of Law Enforcement Annual Conference. For Discussion and Action.

Ms. Garrett introduced a proposed amendment to the CRB Bylaws, crafted by Mr. Hambleton and Mr. Douglas, to adopt a process for the allocation of funds that have been designated for CRB member attendance at the annual conference of the National Association for Civilian Oversight of Law Enforcement.

The CRB discussed changing the word “Oversite” to “Oversight” in Article XI, and adding the term “CRB” before the word “chairperson” in Article XI, Section 1 of the proposed amendment. A motion to adopt the amendment, with the two suggested edits, was made by Mr. Hambleton and seconded by Mr. Perezvelez. The motion passed unanimously.

8. East Bay Express Article dated August 5, 2015 on BART Watch Smartphone Application. For Discussion and Action.

Ms. Garrett discussed the potential to remove “Other” and “Disruptive Behavior” as categories for report types available to users of the BART Watch Smartphone Application. She suggested that this may minimize the perception of racial profiling and discrimination on the part of passengers that is cited by the East Bay Express Article dated August 5, 2015 addressing this issue. Chief Rainey answered questions and gave his input regarding this proposal.

No action taken.

9. Chief of Police’s Report. For Discussion and Action.

Chief Rainey discussed his involvement in recent and upcoming activities including conferences held by the Police Executive Research Forum, the National Organization of Black Law Enforcement Executives, and the National Alliance on Mental Illness, a lecture at the University of Southern California on Crisis Management, and a discussion with the Congressional Black Caucus. He also discussed recent crime data collected by BPD, training for BPD generally, and a critical incident involving BPD on September 1, 2015. Chief Rainey answered questions from the CRB.

a. Timelines for the Completion of Internal Affairs Investigations.

Chief Rainey discussed efforts and strategies to complete Internal Affairs investigations within 6 months. He discussed training and staffing relevant to such efforts, and he answered questions from the CRB.

b. Update on Department Staffing and Training.

Chief Rainey discussed training efforts for BPD, including the reinstatement of, and changes to, Advanced Officer Training. He also discussed current staffing levels at BPD.

Chief Rainey discussed recommendations from community and governmental organizations on improving policing and BPD's position with regard to those recommendations. He answered questions from the CRB.

No action taken.

10. Independent Police Auditor's Report. For Discussion and Action.

Mr. Smith discussed OIPA's participation in recent community events including a presentation to the REACH Ashland Youth Center and attendance at the community event on Race in America, which was organized by the Martin Luther King, Jr. Freedom Center. He also discussed OIPA's response to a critical incident involving BPD on September 1, 2015. Mr. Smith notified the CRB that OIPA's monthly report for August could not presently be completed due to the unavailability of data in the wake of a recent substantial information technology failure. Mr. Smith answered questions from the CRB.

a. Timelines for the Completion of Investigations.

Mr. Smith discussed OIPA's goals with regard to its timely completion of investigations, how OIPA's investigations fit in amongst its other responsibilities, and how OIPA has fared in meeting its goals over time.

No action taken.

The CRB convened in closed session at 5:35 p.m. to address the next item on the agenda.

11. Closed Session.

a. To Consider Public Employee Discipline/Dismissal/Release in Office of the Independent Police Auditor Case #14-77 (Continued from August 10, 2015 meeting). Govt. Code §54957

With regard to the first subject employee under consideration:

A motion to agree with the investigative findings and recommendations reached by OIPA on the first allegation was made by Ms. Garrett and seconded by Mr. Perezvelez; the motion passed unanimously. A motion to agree with the investigative findings and recommendations reached by OIPA on the second allegation was made by Ms. Garrett and seconded by Mr. D. White; the motion passed with 7 votes in favor and 1 vote against. A motion to agree with the investigative findings and recommendations reached by OIPA on the third allegation was made by Ms. Garrett and seconded by Mr. Rizk; the motion passed unanimously. A motion to agree

with the investigative findings and recommendations reached by OIPA on the fourth allegation was made by Ms. Garrett and seconded by Mr. Mensinger; the motion passed unanimously.

With regard to the second subject employee under consideration:

A motion to agree with the investigative findings and recommendations reached by OIPA on the first allegation was made by Ms. Garrett and seconded by Mr. D. White; the motion passed unanimously. A motion to agree with the investigative findings and recommendations reached by OIPA on the second allegation was made by Ms. Garrett and seconded by Mr. Mensinger; the motion failed with 4 votes in favor and 4 votes against. A second motion to agree with the investigative findings and recommendations reached by OIPA on the second allegation was made by Mr. Rizk and seconded by Mr. D. White; the motion passed with 5 votes in favor and 3 votes against.

b. To Consider Public Employee Discipline/Dismissal/Release in Office of the Independent Police Auditor Case #15-17. Govt. Code §54957

A motion to agree with the investigative findings and recommendations reached by OIPA on the first allegation was made by Mr. Perezvelez and seconded by Mr. Mensinger; the motion passed unanimously. A motion to disagree with the investigative findings and recommendations reached by OIPA on the second allegation was made by Mr. Hambleton and seconded by Mr. Knowles; the motion failed with 3 votes in favor, 3 votes against, and 1 abstention. A motion to agree with the investigative findings and recommendations reached by OIPA on the second allegation was made by Mr. W. White and seconded by Mr. Rizk; the motion passed with 6 votes in favor and 1 abstention. A motion to agree with the investigative findings and recommendations reached by OIPA on the third allegation was made by Mr. Perezvelez and seconded by Mr. Mensinger; the motion passed unanimously.

During the closed session, a motion to extend the meeting until 6:15 p.m. was made by Ms. Garrett and seconded by Mr. Mensinger. The motion passed unanimously. A motion to extend the meeting until 6:30 p.m. was made by Ms. Garrett and seconded by Mr. Mensinger. The motion passed with 7 votes in favor and 1 vote against. A motion to extend the meeting until 7:00 p.m. was made by Mr. Perezvelez and seconded by Mr. Hambleton. The motion passed with 7 votes in favor and 1 vote against.

During the closed session, Mr. D. White exited the meeting.

The CRB reconvened in open session, and Ms. Garrett announced the votes taken during the closed session with regard to agenda items 11a and 11b.

Mr. Rizk exited the meeting.

12. General Discussion and Public Comment. Limited to 3 minutes per speaker.
There was no public comment.

13. Adjournment.
A motion to adjourn the meeting was made by Mr. Perezvelez and seconded by Mr. Mensinger. The motion passed unanimously.

The meeting was adjourned at approximately 6:52 p.m.