

Office of the Independent Police Auditor

Monthly Report

January 2016



February 8, 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. This report provides information for the period January 1, 2016 through January 31, 2016.¹

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 BPCRB ⁶
January 2015	11	87	2	0	0
February 2015	9	78	3	0	0
March 2015	11	67	0	0	1
April 2015	13	68	2	0	0
May 2015	11	70	3	0	0
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

*This number includes 1 case that was initiated in a prior reporting period but not previously reported on. It is therefore included in this report.

Types of Cases Filed

Citizen Complaints (Formal)	7
Informal Complaints ⁷	0
Administrative Investigations	2
TOTAL	9

Citizen Complaints Received per Department⁸

OIPA	1
BART Police Department	6
TOTAL	7

Complaints/Investigations Initiated During Reporting Period

Actions Taken/# of Days Elapsed

During the month of January 2016, 1 **Citizen Complaint** was received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Allegations ⁹	Action Taken	Number of Days Elapsed Since Complaint Filed ¹⁰
1 (OIPA #16-04) (IA2016-006)	<u>Officers #1-3</u> • Performance of Duty	OIPA notified BPD, which initiated an investigation.	25

During the month of January 2016, 5 **Citizen Complaints (Formal)** were received by the BART Police Department (BPD):

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Number of Days Elapsed Since Complaint Filed
1 (IA2015-140)	<u>Officer #1</u> • Performance of Duty <u>Officer #2</u> • Force	BPD initiated an investigation.	32
2 (IA2016-001)	<u>Officer #1</u> • Conduct Unbecoming an Officer	BPD initiated an investigation.	36
3 (IA2016-002)	<u>Officers #1-4</u> • Force • Bias-Based Policing	BPD initiated an investigation.	32
4 (IA2016-004)	<u>Employee #1</u> • Policy/Procedure	BPD initiated an investigation.	30
5 (IA2016-005)	<u>Employees #1-2</u> • Performance of Duty	BPD initiated an investigation.	28

During the month of January 2016, 2 **Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Number of Days Elapsed Since Investigation Initiated
1 (IA2016-003)	<u>Officer #1</u> • Criminal (Misdemeanor) • Conduct Unbecoming an Officer	BPD initiated an investigation.	30
1 (IA2016-007)	<u>Officer #1</u> • Policy/Procedure	BPD initiated an investigation.	21

Complaints/Investigations Initiated During Previous Reporting Periods

Actions Taken/# of Days Elapsed

During the month of December 2015, 1 **Citizen Complaint (Formal)** was received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Number of Days Elapsed Since Complaint Filed
1 (IA2015-141)	<u>Officer #1</u> • Force	BPD initiated an investigation.	43

Complaints/Investigations Concluded During Reporting Period

Dispositions/# of Days Elapsed

During the month of January 2016, 17 **Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Allegations	Disposition	Number of Days Elapsed Since Complaint Filed	Number of Days Taken to Complete Investigation
1 (IA2015-017)	Officers used excessive force during detention of complainant, one officer improperly searched complainant, and one officer did not properly supervise other officers.	<u>Officers #1-2</u> • Force – Exonerated <u>Officer #2</u> • Policy/Procedure – Sustained <u>Officer #3</u> • Supervision – Sustained	333	298
2 (IA2015-019)	Officer was rude to subject, used excessive force during contact, and did so on the basis of subject's race.	<u>Officer #1</u> • Force – Exonerated • Bias-Based Policing – Not Sustained • Courtesy – Not Sustained	330	304

<p>3 (IA2015-035)</p>	<p>Officer improperly arrested complainant, officers used excessive force when taking complainant into custody, and two officers did not properly document the contact.</p>	<p><u>Officers #1-5</u></p> <ul style="list-style-type: none"> • Force – Unfounded <p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Arrest or Detention – Exonerated <p><u>Officers #1-2</u></p> <ul style="list-style-type: none"> • Policy/Procedure – Sustained 	<p>310</p>	<p>284</p>
<p>4 (IA2015-037)</p>	<p>Officer did not appropriately respond to complainant’s call for service, did not allow complainant to retain anonymity, and did not properly document the contact.</p>	<p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Performance of Duty – Unfounded • Policy/Procedure (Count 1) – Exonerated • Policy/Procedure (Count 2) – Sustained 	<p>285</p>	<p>251</p>
<p>5 (IA2015-040)</p>	<p>Complainant’s vehicle was improperly towed from BART property.</p>	<p><u>BART Police Department</u></p> <ul style="list-style-type: none"> • Policy/Procedure – Exonerated 	<p>282</p>	<p>247</p>
<p>6 (IA2015-047)</p>	<p>Officer improperly detained and arrested complainant, and officers used excessive force while doing so.</p>	<p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Force (Count 1) – Unfounded • Force (Count 2) – Sustained • Arrest or Detention – Sustained <p><u>Officer #2</u></p> <ul style="list-style-type: none"> • Force – Exonerated 	<p>281</p>	<p>247</p>
<p>7 (IA2015-054)</p>	<p>Officer improperly contacted complainant without justification, and did so on the basis of race. Officer also did not accommodate complainant’s disability, and did not properly document the contact.</p>	<p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Bias-Based Policing – Not Sustained • Arrest or Detention – Not Sustained • Conduct Unbecoming an Officer – Not Sustained • Policy/Procedure – Sustained 	<p>239</p>	<p>205</p>

8 (IA2015-056)	Officer was rude to complainant	<u>Unknown BPD Officer #1</u> • Conduct Unbecoming an Officer – Not Sustained	238	214
9 (IA2015-058)	Officer used unnecessary force during contact with two complainants, made inappropriate comments, and inappropriately touched one complainant.	<u>Officer #1</u> • Force (Counts 1-2) – Unfounded • Conduct Unbecoming an Officer (Counts 1-4) – Unfounded	245	211
10 (IA2015-063)	Officer video recorded complainant, laughed at complainant, and did so on the basis of race.	<u>Unknown BPD Officer #1</u> • Workplace Discrimination/Harassment – Not Sustained • Conduct Unbecoming an Officer – Not Sustained	223	188
11 (IA2015-068)	Officers used excessive force during contact with complainant.	<u>Officers #1-4</u> • Force – Unfounded	223	189
12 (IA2015-074)	Officer used excessive force during contact with subject, incorrectly applied handcuffs to subject causing pain, and did not properly document the contact.	<u>Officer #1</u> • Force (Count 1) – Exonerated • Force (Count 2) – Unfounded • Policy/Procedure – Sustained	215	201
13 (IA2015-077)	Officer contacted only one member of a group of subjects, and selected subject for contact on the basis of race.	<u>Officer #1</u> • Bias-Based Policing – Unfounded	217	183

<p>14 (IA2015-078)</p>	<p>Officers did not take appropriate law enforcement action, and one officer was discourteous to a witness.</p>	<p><u>Officers #1-3</u></p> <ul style="list-style-type: none"> • Policy/Procedure (Count 1) – Exonerated <p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Performance of Duty – Unfounded <p><u>Officer #2</u></p> <ul style="list-style-type: none"> • Performance of Duty (Count 1) – Unfounded • Performance of Duty (Count 2) – Sustained • Courtesy – Not Sustained <p><u>Officer #3</u></p> <ul style="list-style-type: none"> • Performance of Duty – Sustained 	<p>193</p>	<p>169</p>
<p>15 (IA2015-103)</p>	<p>Officer did not provide translation services for a subject with limited English language proficiency.</p>	<p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Performance of Duty – Supervisory Referral¹¹ 	<p>139</p>	<p>120</p>
<p>16 (IA2015-073)</p>	<p>Officers improperly detained subject, treated subject discourteously, improperly checked for the existence of outstanding warrants, and did so on the basis of race.</p>	<p><u>Officers #1-2</u></p> <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Policy/Procedure – Exonerated • Courtesy – Unfounded <p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Arrest or Detention – Exonerated <p><u>Officer #2</u></p> <ul style="list-style-type: none"> • Arrest or Detention – Unfounded 	<p>213</p>	<p>203</p>
<p>17 (IA2015-059)</p>	<p>Officers used unnecessary force, and improperly searched complainant.</p>	<p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Force – Unfounded <p><u>Officer #2</u></p> <ul style="list-style-type: none"> • Search or Seizure – Exonerated 	<p>230</p>	<p>195</p>

During the month of January 2016, 3 **Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Number of Days Elapsed Since Complaint Filed	Number of Days Taken to Address Complaint
1 (IA2015-136)	Officer operated a vehicle in an unsafe manner.	<u>Officer #1</u> • Conduct Unbecoming an Officer – Supervisory Referral	41	30
2 (IA2015-138)	Officer intimidated subject during questioning.	<u>Officer #1</u> • Policy/Procedure – Supervisory Referral • Conduct Unbecoming an Officer – Supervisory Referral	39	13
3 (IA2015-139)	Officer did not promptly return a phone call from complainant.	<u>Officer #1</u> • Performance of Duty – Supervisory Referral	41	15

During the month of January 2016, 2 **Administrative Investigations** were completed by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Number of Days Elapsed Since Investigation Initiated	Number of Days Taken to Complete Investigation
1 (IA2015-057)	Officer did not properly report a use of force.	<u>Officer #1</u> • Policy/Procedure – Sustained	236	210
2 (IA2015-061)	Employee was engaged in unauthorized employment outside of BPD.	<u>Employee #1</u> • Policy/Procedure – Not Sustained	234	208

Complaints/Investigations Concluded During Previous Reporting Periods

Dispositions/# of Days Elapsed

During the month of December 2015, 1 **Citizen Complaint (Formal)** was concluded by BPD:

Complaint # (IA Case #)	Nature of Allegations	Disposition	Number of Days Elapsed Since Complaint Filed	Number of Days Taken to Complete Investigation
1 (IA2014-155)	Officers unjustifiably interfered with a child custody exchange, and two officers used unnecessary force while doing so.	<u>Officers #1-2</u> • Force – Unfounded <u>Officers #1-4</u> • Arrest/Detention (Count 1) – Exonerated <u>Officers #1-2</u> • Arrest/Detention (Count 2) – Unfounded <u>Officer #1</u> • Performance of Duty (Count 1) – Exonerated <u>Officer #2</u> • Performance of Duty (Count 1) – Unfounded <u>Officers #1-4</u> • Performance of Duty (Count 2)– Exonerated <u>Officers #1-2</u> • Policy/Procedure (Count 1) – Unfounded <u>Officers #1-3</u> • Policy/Procedure (Count 2) – Unfounded	423	257/367*

*BPD completed an initial report in August 2015, and generated an Addendum to address additional allegations, which was completed in December 2015.

Discipline Issued During Reporting Period

Sustained Allegations/Resulting Action Taken by BPD

During the month of January 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 engaged in a verbal altercation with coworker.	<u>Employee #1</u> • Policy/Procedure	<u>Employee #1</u> Written Reprimand

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 conversation 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	0
Complainant-Initiated Appeals	0
Investigations Being Monitored	11
Investigations Reviewed During Current Month	28*

*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 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 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.

Office of the Independent Police Auditor

Monthly Report

February 2016



March 14, 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. This report provides information for the period February 1, 2016 through February 29, 2016.¹

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 BPCRB ⁶
February 2015	9	78	3	0	0
March 2015	11	67	0	0	1
April 2015	13	68	2	0	0
May 2015	11	70	3	0	0
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

*This number includes 6 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)	9
Informal Complaints ⁷	0
Administrative Investigations	5
TOTAL	14

Citizen Complaints Received per Department⁸

OIPA	1
BART Police Department	8
TOTAL	9

Complaints/Investigations Initiated During Reporting Period

Actions Taken/# of Days Elapsed

During the month of February 2016, 1 **Citizen Complaint** was received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Allegations ⁹	Action Taken	Number of Days Elapsed Since Complaint Filed ¹⁰
1 (OIPA #16-09) (IA2016-018)	<u>Employee #1</u> • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	20

During the month of February 2016, 2 **Citizen Complaints (Formal)** were received by the BART Police Department (BPD):

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Number of Days Elapsed Since Complaint Filed
1 (IA2016-012)	<u>Officer #1</u> • Conduct Unbecoming an Officer	BPD initiated an investigation.	36
2 (IA2016-019)	<u>Officer #1</u> • Force	BPD initiated an investigation.	17

During the month of February 2016, 3 **Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Number of Days Elapsed Since Investigation Initiated
1 (IA2016-010)	<u>Officer #1</u> • Truthfulness • Conduct Unbecoming an Officer • Policy/Procedure	BPD initiated an investigation.	40
2 (IA2016-011)	<u>Employee #1</u> • Performance of Duty	BPD initiated an investigation.	39
3 (IA2016-016)	<u>Employee #1</u> • Policy/Procedure	BPD initiated an investigation.	26

Complaints/Investigations Initiated During Previous Reporting Periods

Actions Taken/# of Days Elapsed

During the month of January 2016, 5 **Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Number of Days Elapsed Since Complaint Filed
1 (IA2016-008)	<u>Officers #1-2</u> • Performance of Duty	BPD initiated an investigation.	46
2 (IA2016-013)	<u>Officer #1</u> • Conduct Unbecoming an Officer	BPD initiated an investigation.	49
3 (IA2016-014)	<u>Officers #1-2</u> • Bias-Based Policing • Force <u>Officer #3</u> • Performance of Duty	BPD initiated an investigation.	47
4 (IA2016-015)	<u>Officers #1-2</u> • Force <u>Officer #2</u> • Policy/Procedure	BPD initiated an investigation.	43
5 (IA2016-017)	<u>Officers #1-2</u> • Force	BPD initiated an investigation	50

During the month of January 2016, 1 **Administrative Investigation** was received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Number of Days Elapsed Since Complaint Filed
1 (IA2016-009)	<u>Officer #1</u> • Truthfulness • Conduct Unbecoming an Officer • Policy/Procedure	BPD initiated an investigation.	43

Complaints/Investigations Concluded During Reporting Period

Dispositions/# of Days Elapsed

During the month of February 2016, 11 **Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Allegations	Disposition	Number of Days Elapsed Since Complaint Filed	Number of Days Taken to Complete Investigation
1 (IA2015-072)	Officer used excessive force during contact with complainant, and did so on the basis on race.	<u>Officer #1</u> <ul style="list-style-type: none"> • Force – Exonerated • Bias-Based Policing – Unfounded 	246	206
2 (IA2015-076)	Officers did not maintain physical separation of complainant and potential assailant, did not maintain detention of potential assailant for a sufficient period of time, and one officer was rude to complainant.	<u>Officers #1-2</u> <ul style="list-style-type: none"> • Performance of Duty (Count 1) – Not Sustained • Performance of Duty (Count 2) – Unfounded <u>Officer #2</u> <ul style="list-style-type: none"> • Courtesy – Unfounded 	250	210
3 (IA2015-082)	BPD engaged in ongoing harassment of complainant.	<u>Unknown BPD Officers</u> <ul style="list-style-type: none"> • Inquiry – Administratively Closed 	220	180
4 (IA2015-087)	Officer improperly cited complainant for a traffic violation, and officer was untruthful during courtroom testimony regarding the issuance of the citation.	<u>Officer #1</u> <ul style="list-style-type: none"> • Arrest or Detention – Exonerated • Truthfulness – Not Sustained 	213	173

<p>5 (IA2015-098)</p>	<p>Officers improperly arrested complainant, and did not advise complainant of applicable Constitutional rights, and officers improperly handcuffed complainant.</p>	<p><u>Officers #1-3</u></p> <ul style="list-style-type: none"> • Arrest or Detention – Exonerated <p><u>Officers #1-2</u></p> <ul style="list-style-type: none"> • Policy/Procedure (Count 1) – Exonerated • Policy/Procedure (Count 2) – Unfounded <p><u>Officer #3</u></p> <ul style="list-style-type: none"> • Policy/Procedure (Count 2) – Exonerated 	<p>196</p>	<p>172</p>
<p>6 (IA2015-101)</p>	<p>Officers were rude and unprofessional toward complainant, did not provide complainant with requested documentation, and one officer did not properly document the contact.</p>	<p><u>Officers #1-2</u></p> <ul style="list-style-type: none"> • Performance of Duty – Exonerated • Courtesy – Unfounded <p><u>Officer #2</u></p> <ul style="list-style-type: none"> • Policy/Procedure – Exonerated 	<p>225</p>	<p>199</p>
<p>7 (IA2015-112)</p>	<p>Officer improperly cited complainant and was rude and intimidating toward complainant.</p>	<p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Arrest or Detention – Exonerated • Courtesy – Unfounded 	<p>152</p>	<p>127</p>
<p>8 (IA2015-118)</p>	<p>Officer improperly declined to provide a police report to complainant.</p>	<p><u>Officer #1</u></p> <ul style="list-style-type: none"> • Performance of Duty – Not Sustained 	<p>132</p>	<p>114</p>
<p>9 (IA2015-075)</p>	<p>Officers did not sufficiently investigate a criminal complaint, one officer acted unprofessionally, and one officer was intimidating toward complainant.</p>	<p><u>Officers #1-2</u></p> <ul style="list-style-type: none"> • Performance of Duty – Exonerated <p><u>Officers #2-3</u></p> <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded 	<p>235</p>	<p>211</p>

10 (IA2015-109)	Officers used excessive force during contact with subject, and did so on the basis of race.	<u>Officers #1-2</u> <ul style="list-style-type: none"> • Force – Exonerated • Bias-Based Policing – Unfounded 	235	195
11 (IA2015-140)	Officer used excessive force during contact with complainant, and one officer did not properly receive and process an allegation of misconduct.	<u>Officer #1</u> <ul style="list-style-type: none"> • Force – Not Sustained <u>Officer #2</u> <ul style="list-style-type: none"> • Performance of Duty – Sustained 	399	359

During the month of February 2016, 1 **Informal Complaint** was addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Number of Days Elapsed Since Complaint Filed	Number of Days Taken to Address Complaint
1 (IA2015-083)	Officer improperly arrested complainant and fabricated details regarding complainant's conduct.	<u>Officers #1-2</u> <ul style="list-style-type: none"> • Arrest or Detention – Supervisory Referral¹¹ • Performance of Duty – Supervisory Referral 	220	188

During the month of February 2016, 1 **Administrative Investigation** was completed by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Number of Days Elapsed Since Investigation Initiated	Number of Days Taken to Complete Investigation
1 (IA2015-052)	Officer used excessive force during arrest of subject, and officer was inappropriately aggressive and unprofessional during contact.	<u>Officer #1</u> <ul style="list-style-type: none"> • Force (Count 1) – Not Sustained • Force (Count 2) – Sustained • Conduct Unbecoming an Officer – Sustained 	299	259

During the month of February 2016, 1 **Administrative Investigation** was re-opened and amended by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Number of Days Elapsed Since Complaint Filed	Number of Days Taken to Address Complaint
1 (IA2014-165)*	Employee plagiarized the written work of another employee.	<u>Employee #1</u> • Conduct Unbecoming – Not Sustained**	441	423

*BPD completed an investigative report in August 2015, and subsequently generated an addendum in February 2016 which addressed a revision to the investigative findings.

**This allegation was previously Sustained.

During the month of February 2016, 1 **Formal Complaint** was re-opened and amended by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Number of Days Elapsed Since Complaint Filed	Number of Days Taken to Address Complaint
1 (IA2015-047)*	Officer improperly detained and arrested complainant, and officers used excessive force while doing so. One officer did not properly document the contact.	<u>Officer #1</u> • Force – Exonerated <u>Officer #2</u> • Force (Count 1) – Sustained • Force (Count 2) – Unfounded • Arrest or Detention – Sustained • Policy/Procedure – Sustained	316	292

*BPD completed an initial report in January 2016, and subsequently generated a revised report to address additional allegations.

Discipline Issued During Reporting Period

Sustained Allegations/Resulting Action Taken by BPD

During the month of February 2016, BART PD 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	One officer improperly searched complainant, and one officer did not properly supervise other officers.	<u>Officer #1</u> • Policy/Procedure <u>Officer #2</u> • Supervision	<u>Officer #1</u> Letter of Discussion <u>Officer #2</u> Oral Counseling
2	Officer did not properly report a use of force.	<u>Officer #1</u> • Policy/Procedure	<u>Officer #1</u> Oral Counseling
3	Officer did not properly receive and process an allegation of misconduct.	<u>Officer #1</u> • Performance of Duty	<u>Officer #1</u> 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 conversation 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	0
Complainant-Initiated Appeals	0
Investigations Being Monitored	11
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 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 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

March 2016

Issue date: April 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 **March 1, 2016 through March 31, 2016.**¹

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
March 2015	11	67	0	0	1
April 2015	13	68	2	0	0
May 2015	11	70	3	0	0
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

TYPES OF CASES FILED

Citizen Complaints (Formal)	13
Informal Complaints ⁷	0
Administrative Investigations	1
TOTAL	14

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	1
BART Police Department	12
TOTAL	13

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During March 2016, **1 Citizen Complaint** was received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Allegations ⁹	Action Taken	Days Elapsed Since Complaint Filed ¹⁰
1 (OIPA #16-13) (IA2016-028)	Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming • Policy/Procedure 	OIPA notified the BART Police Department (BPD), which initiated an investigation.	18

During March 2016, **12 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-020)	Officer #1: <ul style="list-style-type: none"> • Performance of Duty • Courtesy 	BPD initiated an investigation.	40
2 (IA2016-021)	Employee #1: <ul style="list-style-type: none"> • Performance of Duty • Courtesy • Policy/Procedure 	BPD initiated an investigation.	34
3 (IA2016-022)	Officer #1: <ul style="list-style-type: none"> • Arrest or Detention • Policy/Procedure 	BPD initiated an investigation.	31
4 (IA2016-023)	Officer #1: <ul style="list-style-type: none"> • Courtesy 	BPD initiated an investigation.	39
5 (IA2016-024)	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer Officer #2: <ul style="list-style-type: none"> • Bias-Based Policing • Policy/Procedure 	BPD initiated an investigation.	31
6 (IA2016-025)	Officer #1: <ul style="list-style-type: none"> • Courtesy 	BPD initiated an investigation.	25
7 (IA2016-027)	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure 	BPD initiated an investigation.	20
8 (IA2016-029)	Officer #1: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	15
9 (IA2016-030)	Officer #1: <ul style="list-style-type: none"> • Performance of Duty • Conduct Unbecoming an Officer • Courtesy 	BPD initiated an investigation.	12
10 (IA2016-031)	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer • Courtesy 	BPD initiated an investigation.	17

11 (IA2016-032)	Employee #1: • Criminal (Misdemeanor)	BPD initiated an investigation.	18
12 (IA2016-033)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	12

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

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2016-026)	Officer #1: • Policy/Procedure	BPD initiated an investigation.	22

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During March 2016, **6 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 (IA2015-080)	One officer spoke aggressively to victims of a possible crime, one officer did not properly investigate a possible crime, and one officer did not contact complainant in a timely manner.	Officer #1: • Courtesy – Supervisory Referral ¹¹ Officers #2-3: • Performance of Duty – Supervisory Referral	259	226
2 (IA2015-097)	Officer did not conduct a proper investigation.	Officer #1: • Performance of Duty – Sustained	220	195
3 (IA2015-115)	Officer did not take law enforcement action.	Unknown BPD Officer: • Performance of Duty – Not Sustained	173	148
4 (IA2015-116)	Officer did not generate a thorough and accurate report and was rude to complainant's spouse.	Officer #1: • Performance of Duty – Sustained • Conduct Unbecoming an Officer – Not Sustained	166	138

5 (IA2015-124)	Employee improperly requested identification, threatened to cite, bullied, and verbally assailed complainant's spouse.	Employee #1: • Courtesy – Not Sustained	131	98
6 (IA2015-126)	Officer improperly cited, harassed, and was rude to subject.	Officers #1: • Arrest or Detention – Exonerated • Conduct Unbecoming an Officer – Unfounded	187	162

During March 2016, **2 Administrative Investigations** were completed by BPD:

Complaint # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2015-085)	Officer did not properly report missing equipment.	Officer #1: • Policy/Procedure – Sustained	248	215
2 (IA2015-026)	Officer harassed, bullied, discriminated against, and made inappropriate comments to another officer.	Officer #1: • Conduct Unbecoming an Officer (Count 1) – Sustained • Conduct Unbecoming an Officer (Counts 2-4) – Not Sustained • Workplace Discrimination / Harassment (Counts 1-3) – Not Sustained • Workplace Discrimination / Harassment (Counts 4-5) – Unfounded	382	354

Also during the month of March 2016, BPD classified IA2015-096 as an **Inquiry** and administratively closed the complaint after making the determination that the misconduct alleged did not involve any BPD employees.¹²

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIODS

During February 2016, **1 Citizen Complaint (Formal)** was completed by BPD:

Complaint # (IA Case #)	Nature of Allegations	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2016-008)	Officers #1-2: • Performance of Duty – Supervisory referral	74	9

DISCIPLINE ISSUED DURING REPORTING PERIOD

During March 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 offended and embarrassed another officer.	Officer #1: • Conduct Unbecoming an Officer	Officer #1: • Oral Counseling
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling
3	Officers did not take reasonable action to detain a subject.	Officers #1-2: • Performance of Duty	Officer #1: • Letter of Discussion Officer #2: • Written Reprimand
4	Officer did not conduct a proper investigation.	Officer #1: • Performance of Duty	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	0
Complainant-Initiated Appeals	0
Investigations Being Monitored	7
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 not 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 cover 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.

¹² 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

April 2016

Issue date: May 9, 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 **April 1, 2016 through April 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
April 2015	13	68	2	0	0
May 2015	11	70	3	0	0
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

²This number includes 2 cases that were initiated in a prior reporting period but not previously reported on. They are therefore included in this report.

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	1
Administrative Investigations	2
TOTAL	10

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	7
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

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

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-034)	Officer #1: • Bias-Based Policing • Courtesy	BPD initiated an investigation.	35
2 (IA2016-035)	Officer #1: • Bias-Based Policing • Courtesy	BPD initiated an investigation.	28
3 (IA2016-036)	Employee #1: • Courtesy	BPD initiated an investigation.	25
4 (IA2016-038)	BART Police Department: • Performance of Duty	BPD initiated an investigation.	41
5 (IA2016-039)	Officer #1: • Courtesy	BPD initiated an investigation.	19
6 (IA2016-040)	Officer #1: • Policy/Procedure Officer #2: • Force • Arrest/Detention • Conduct Unbecoming an Officer	BPD initiated an investigation.	311*
7 (IA2016-041)	Employee #1: • Conduct Unbecoming • Courtesy	BPD initiated an investigation.	12

*This complaint was initiated in July 2015 and was not forwarded to BPD Internal Affairs for investigation at that time. The complaint was discovered by Internal Affairs during a routine review of cases involving use of force.

During April 2016, **2 Administrative Investigations** were initiated by BPD:

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2016-042)	Officer #1: • Criminal • Conduct Unbecoming an Officer	BPD initiated an investigation.	12
2 (IA2016-043)	Officer #1: • Policy/Procedure • Courtesy	BPD initiated an investigation.	11

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

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2016-037)	Officer #1: • Courtesy	BPD initiated an investigation.	24

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During April 2016, 11 **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 (IA2015-079)	Officers used excessive force and did so on the basis of race. One officer made a false statement in a written report and did not properly document the law enforcement contact.	Officer #1: • Force – Unfounded • Bias-Based Policing – Unfounded Officer #2: • Force – Unfounded • Bias-Based Policing – Unfounded • Policy/Procedure – Sustained • Truthfulness – Not Sustained	285	252
2 (IA2015-094)	Two officers improperly arrested complainant and three officers used excessive force during the arrest.	Officer #1: • Force – Not Sustained Officers #1-2: • Arrest/Detention (Counts 1-2) – Unfounded Officers #2-3: • Force – Unfounded	233	219
3 (IA2015-100)	Officer used excessive force when detaining complainant.	Officer #1: • Force (Count 1) – Sustained • Force (Count 2) – Not Sustained • Force (Count 3) – Exonerated	245	207

4 (IA2015-104)	Officer contacted complainant on the basis of race and harassed complainant. Two officers did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Not Sustained • Conduct Unbecoming an Officer – Not Sustained • Courtesy – Not Sustained Officer #2: <ul style="list-style-type: none"> • Policy/Procedure (Count 1) – Sustained Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure (Count 2) – Sustained 	224	191
5 (IA2015-108)	Officers improperly arrested subject.	Officer #1: <ul style="list-style-type: none"> • Arrest or Detention – Exonerated Officer #2: <ul style="list-style-type: none"> • Arrest or Detention – Exonerated 	215	177
6 (IA2015-119)	Employee improperly cited complainant for illegal parking.	BART Police Department: <ul style="list-style-type: none"> • Performance of Duty – Service Review⁹ 	203	165
7 (IA2015-120)	Officer polluted the environment and was rude and intimidating toward complainant.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure – Exonerated • Conduct Unbecoming an Officer – Not Sustained 	178	140
8 (IA2015-121)	Officer insufficiently investigated criminal activity and did so on the basis of race.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Unfounded • Performance of Duty – Unfounded 	193	158
9 (IA2015-131)	Officer used excessive force against complainant.	Officer #1: <ul style="list-style-type: none"> • Force – Unfounded 	223	185
10 (IA2015-134)	Officers maintain insufficient presence at a particular station and employees do not sufficiently enforce parking regulations.	BART Police Department: <ul style="list-style-type: none"> • Performance of Duty – Service Review 	152	138

Also during the month of April 2016, BPD classified IA2015-127 as an **Inquiry** and **Administratively Closed** the complaint after the complainant would not provide information necessary to investigate the allegation.¹⁰

During April 2016, **3 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2016-006)	Officers did not properly investigate a crime and appeared inattentive.	Officers #1-3: <ul style="list-style-type: none"> • Performance of Duty – Service Review • Conduct Unbecoming an Officer – Service Review 	116	88
2 (IA2016-020)	Officer did not properly document a traffic accident and was rude and unprofessional toward complainant.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Supervisory Referral • Courtesy – Supervisory Referral¹¹ 	68	39
3 (IA2016-033)	Officer was condescending and uncompassionate toward complainant.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisory Referral 	382	354

DISCIPLINE ISSUED DURING REPORTING PERIOD

During April 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 used excessive force and lacked self-control.	Officer #1: <ul style="list-style-type: none"> • Force • Conduct Unbecoming an Officer 	Officer #1: <ul style="list-style-type: none"> • 3-day Suspension Held in Abeyance
2	Officer submitted an inaccurate written report.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure 	Officer #1: <ul style="list-style-type: none"> • Oral Counseling
3	Officer did not properly report missing equipment.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure 	Officer #1: <ul style="list-style-type: none"> • Oral Counseling

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	0
Complainant-Initiated Appeals	0
Investigations Being Monitored	6
Investigations Reviewed During Current Month	21*

*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 not 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 Service Review refers to an instance when a citizen/patron raises a concern pertaining to a global practice throughout the Department such as Department policies, procedures and/or tactics. When appropriate, a Service Review may be conducted by Internal Affairs or by a designated review committee, who in turn will make recommended changes to the Chief of Police for approval.

¹⁰ 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.

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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

May 2016

Issue date: June 13, 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 **May 1, 2016 through May 31, 2016**.¹

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
May 2015	11	70	3	0	0
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

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	0
Administrative Investigations	1
TOTAL	8

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	5
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During May 2016, 2 **Citizen Complaints** were received by OIPA:

Investigation # (IA Case #)	Nature of Allegations ⁹	Action Taken	Days Elapsed Since Complaint Filed ¹⁰
1 (OIPA #16-21) (IA2016-043)	Officer #1: • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	13
2 (OIPA #16-20) (IA2016-046)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	17

During May 2016, 5 **Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-040)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	18
2 (IA2016-047)	Officer #1: • Performance of Duty • Conduct Unbecoming an Officer	BPD initiated an investigation.	35
3 (IA2016-048)	Employee #1: • Performance of Duty	BPD initiated an investigation.	31
4 (IA2016-049)	Officer #1: • Courtesy • Conduct Unbecoming an Officer	BPD initiated an investigation.	28
5 (IA2016-050)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	39

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

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2016-045)	Officer #1: • Courtesy	BPD initiated an investigation.	39

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During May 2016, **7 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 (IA2015-090)	Officers did not provide subject with appropriate medical attention, two officers did not properly investigate a crime and removed money from subject's wallet, one officer was rude to medical staff, and one officer did not properly document the law enforcement contact.	<p>Officers #1-2:</p> <ul style="list-style-type: none"> • Conduct Unbecoming an Officer (Count 1) – Unfounded • Performance of Duty (Count 1) – Exonerated <p>Officer #1:</p> <ul style="list-style-type: none"> • Performance of Duty (Count 2) – Sustained • Conduct Unbecoming an Officer (Count 2) – Sustained <p>Officer #2:</p> <ul style="list-style-type: none"> • Performance of Duty (Count 2) – Unfounded <p>Officer #3:</p> <ul style="list-style-type: none"> • Supervision – Sustained • Policy/Procedure – Sustained 	298	274
2 (IA2015-106)	Two officers improperly arrested subject and used excessive force during the arrest. Too many officers were involved in effecting the arrest.	<p>Officers #1-2:</p> <ul style="list-style-type: none"> • Arrest/Detention – Exonerated <p>Officer #1:</p> <ul style="list-style-type: none"> • Force – Unfounded <p>Officer #2:</p> <ul style="list-style-type: none"> • Force – Not Sustained <p>BART Police Department:</p> <ul style="list-style-type: none"> • Policy/Procedure – Exonerated 	251	219
3 (IA2015-110)	Employee used a vehicle to intentionally cut off complainant, and employee verbally berated complainant.	<p>Employee #1:</p> <ul style="list-style-type: none"> • Conduct Unbecoming – Not Sustained • Courtesy – Sustained 	248	206

4 (IA2015-114)	Officer did not properly investigate a crime.	Officer #1: • Performance of Duty – Unfounded	234	206
5 (IA2015-129)	Officer did not properly investigate a crime.	Officer #1: • Performance of Duty – Sustained	210	177
6 (IA2015-130)	Officer improperly arrested complainant.	Officer #1: • Arrest/Detention – Exonerated	203	165

Also during the month of May 2016, BPD classified IA2016-013 as an **Inquiry** and **Administratively Closed** the complaint after the complainant would not provide information necessary to investigate the allegation.¹¹

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 ¹²	59	34
2 (IA2016-044)	Officer improperly arrested complainant.	Officers #1-2: • Arrest/Detention – Supervisory Referral	60	33

DISCIPLINE ISSUED DURING 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	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (Counts 1-2)	Officer #1: • Oral Counseling
2	Officer did not properly investigate a crime.	Officer #1: • Performance of Duty	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	0
Complainant-Initiated Appeals	0
Investigations Being Monitored	8
Investigations Reviewed During Current Month	19*

*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 not 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 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.

¹² 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.



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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

July 2016

Issue date: August 12, 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 **July 1, 2016 through July 31, 2016.**¹

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
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
July 2016	7	68	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	5
Informal Complaints ⁷	1
Administrative Investigations	1
TOTAL	7

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	5
TOTAL	5

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During July 2016, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations ⁹	Action Taken	Days Elapsed Since Complaint Filed ¹⁰
1 (IA2016-066)	Employee #1: <ul style="list-style-type: none"> • Arrest/Detention • Policy/Procedure • Conduct Unbecoming 	BPD initiated an investigation.	37
2 (IA2016-067)	Officers #1-2: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	34
3 (IA2016-068)	Officers #1-2: <ul style="list-style-type: none"> • Force • Arrest/Detention 	BPD initiated an investigation.	31
4 (IA2016-069)	Unknown BPD Officer: <ul style="list-style-type: none"> • Bias-Based Policing 	BPD initiated an investigation.	24
5 (IA2016-071)	Officers #1-4: <ul style="list-style-type: none"> • Force • Bias-Based Policing • Arrest/Detention • Conduct Unbecoming an Officer 	BPD initiated an investigation.	14

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

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-072)	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty • Policy/Procedure 	BPD initiated an investigation.	12

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

Complaint # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-070)	Employee #1: <ul style="list-style-type: none"> • Policy/Procedure 	Supervisory Referral ¹¹	36

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During July 2016, **4 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 (IA2015-141)	Officer used excessive force when detaining complainant and did so on the basis of race. Officer also violated complainant's privacy and did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Force (Counts 1-2) – Unfounded • Bias-Based Policing – Unfounded • Arrest/Detention – Sustained • Conduct Unbecoming an Officer – Unfounded 	229	207
2 (IA2016-014)	Officers used excessive force when detaining complainant and did so on the basis of race. One officer did not properly process a citizen complaint.	Officers #1-2: <ul style="list-style-type: none"> • Force – Exonerated • Bias-Based Policing – Unfounded Officer #3: <ul style="list-style-type: none"> • Policy/Procedure – Sustained 	198	176
3 (IA2016-018)	Employee intentionally and fraudulently issued parking citations.	Employee #1: <ul style="list-style-type: none"> • Policy/Procedure – Unfounded • Conduct Unbecoming – Unfounded 	170	147
4 (IA2016-022)	Officer improperly arrested and searched complainant and inappropriately touched complainant during search. Officer also damaged complainant's property and stole complainant's cash.	Officer #1: <ul style="list-style-type: none"> • Arrest/Detention – Exonerated • Search/Seizure – Exonerated • Conduct Unbecoming an Officer (Counts 1-2) – Unfounded 	154	123

During July 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 (IA2016-043)	Officer verbally harassed and unreasonably delayed complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisory Referral	73	44
2 (IA2016-070)	Employee improperly cited complainant.	Officers #1-2: • Policy/Procedure – Supervisory Referral	31	14

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIOD

During June 2016, **1 Citizen Complaint (Formal)** was concluded by BPD:

Complaint # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-039)	Officer harassed, intimidated, and spoke condescendingly to complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisory Referral	114	50

DISCIPLINE ISSUED DURING REPORTING PERIOD

During July 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 did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling

DISCIPLINE ISSUED DURING PREVIOUS 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 did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling
3	Officer did not properly supervise subordinate officer.	Officer #1: • Policy/Procedure	Officer #1: • Letter of Discussion
4	Officer did not properly supervise subordinate officer and did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure • Supervision	Officer #1: • Oral Counseling
5	Officer was discourteous and did not provide appropriate medical care for subject.	Officer #1: • Performance of Duty • Conduct Unbecoming an Officer	Officer #1: • Oral Counseling

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	10
Investigations Reviewed During Current Month	20 [†]

[†]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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

August 2016

Issue date: September 12, 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 **August 1, 2016 through August 31, 2016.**¹

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
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
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	8
Informal Complaints ⁷	1
Administrative Investigations	0
TOTAL	9

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	6
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During August 2016, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Allegations ⁹	Action Taken	Days Elapsed Since Complaint Filed ¹⁰
1 (OIPA #16-28) (IA2016-073)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	39
2 (OIPA #16-27) (IA2016-079)	Officer #1: • Courtesy	OIPA notified BPD, which initiated an investigation.	19

During August 2016, **6 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-074)	Officer #1: • Performance of Duty	BPD initiated an investigation.	26
2 (IA2016-076)	Officer #1: • Bias-Based Policing • Performance of Duty	BPD initiated an investigation.	21
3 (IA2016-077)	Officer #1: • Courtesy	BPD initiated an investigation.	21
4 (IA2016-078)	Officers #1-2: • Force	BPD initiated an investigation.	21
5 (IA2016-058)	Officer #1: • Force	BPD initiated an investigation.	30
6 (IA2016-080)	Officers #1-2: • Bias-Based Policing	BPD initiated an investigation.	19

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

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-075)	Officers #1-2: • Performance of Duty	BPD initiated an investigation.	26

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During August 2016, **9 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 (IA2014-166)	Officers improperly arrested complainants and used excessive force when doing so. One officer did not properly document a law enforcement contact.	Officers #1-3: • Force (Counts 1-2) – Unfounded • Force (Count 3) – Exonerated • Arrest/Detention – Exonerated Officer #1: • Force (Count 4) – Exonerated Officer #3: • Policy/Procedure – Not Sustained	634	594*
2 (IA2015-081)	Officers used excessive force and made unprofessional comments when detaining complainant, and officers improperly handled complainant's personal property.	Officers #1-2: • Force – Unfounded • Conduct Unbecoming an Officer (Counts 1-2) – Unfounded	406	373**
3 (IA2015-137)	Officers placed complainant in danger by failing to perform law enforcement duties.	Unknown Officers #1-2: • Policy/Procedure – Not Sustained	258	246
4 (IA2016-005)	Employees improperly issued parking citations to complainant.	Employees #1-2: • Policy/Procedure – Not Sustained	245	217
5 (IA2016-017)	Officers used excessive force when detaining complainant and did not properly document the law enforcement contact.	Officers #1-2: • Force – Exonerated • Policy/Procedure – Sustained	232	199

6 (IA2016-019)	Officer physically intimidated and improperly detained complainant, and used excessive force during the detention.	Officer #1: <ul style="list-style-type: none"> • Force – Exonerated • Arrest/Detention – Exonerated • Conduct Unbecoming an Officer – Unfounded 	199	171
7 (IA2016-023)	Officer physically intimidated complainant.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Not Sustained 	193	165
8 (IA2016-028)	Employee improperly applied parking prohibitions, improperly threatened to cite complainant, and did not provide sufficient identification to complainant upon request.	Employee #1: <ul style="list-style-type: none"> • Policy/Procedure – Not Sustained • Conduct Unbecoming – Not Sustained • Courtesy – Not Sustained 	172	131
9 (IA2016-030)	Officer did not provide law enforcement services to complainant upon request and officer was rude and dismissive toward complainant. Officer also did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Unfounded • Policy/Procedure – Not Sustained • Conduct Unbecoming an Officer – Not Sustained 	166	125

*This investigation was tolled from December 18, 2014 to May 11, 2016 due to pending civil litigation.

**This investigation was tolled from October 11, 2015 to April 24, 2016 due to a subject officer's extended leave.

During August 2016, **3 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2015-132)	Officers improperly included complainant's personal information in a police report.	Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure – Supervisory Referral¹¹ 	293	260
2 (IA2016-052)	Officers did not contact outside law enforcement agency on behalf of complainant.	Officers #1-3: <ul style="list-style-type: none"> • Performance of Duty – Supervisory Referral 	101	61
3 (IA2016-061)	Officer lacked compassion toward complainant while taking a report.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisory Referral 	89	63

During August 2016, **2 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2015-123)	Officers did not properly document law enforcement contacts.	Officers #1-2: • Policy/Procedure (Count 1) – Sustained Officer #2: • Policy/Procedure (Count 2) – Sustained	321	295
2 (IA2016-016)	Employee transmitted departmental correspondence to unauthorized recipient.	Employee #1: • Policy/Procedure – Sustained	208	180

DISCIPLINE ISSUED DURING REPORTING PERIOD

During August 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 used profanity during law enforcement contact.	Officer #1: • Courtesy	Officer #1: • Informal Counseling
2	Officer did not properly route a complaint of misconduct and another officer was condescending toward subject.	Officer #1: • Performance of Duty Officer #2: • Courtesy	Officer #1: • Letter of Discussion Officer #2: Informal Counseling
3	Officer did not properly document a law enforcement contact.	Officer #1: • Performance of Duty	Officer #1: • Written Reprimand

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	8
Investigations Reviewed During Current Month	25 [†]

[†]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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

September 2016

Issue date: October 17, 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 **September 1, 2016 through September 30, 2016**.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
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
July 2016	7	68	0	0	0
August 2016	9	61	0	0	0
September 2016	9	57	0	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	4
Informal Complaints ⁷	4
Administrative Investigations	1
TOTAL	9

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	8
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During September 2016, **4 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-082)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	43
2 (IA2016-083)	Officers #1-2: • Force	BPD initiated an investigation.	41
3 (IA2016-087)	Officers #1-2: • Force	BPD initiated an investigation.	25
4 (IA2016-090)	Officer #1: • Performance of Duty • Policy/Procedure • Conduct Unbecoming an Officer	BPD initiated an investigation.	20

During September 2016, **4 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-084)	Officer #1: • Performance of Duty	BPD initiated an investigation.	43
2 (IA2016-085)	Officers #1-2: • Performance of Duty	BPD initiated an investigation.	33
3 (IA2016-088)	Officer #1: • Policy/Procedure	BPD initiated an investigation.	25
4 (IA2016-089)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	24

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

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2016-086)	Officer #1: • Policy/Procedure	BPD initiated an investigation.	25

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During September 2016, **8 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 (IA2014-036)	Officer used excessive force and did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Force – Not Sustained • Performance of Duty – Sustained • Policy/Procedure – Not Sustained 	761	720*
2 (IA2015-145)	One officer used excessive force during an arrest and another officer did not properly route a complaint of excessive force.	Officer #1: <ul style="list-style-type: none"> • Force – Unfounded Officer #2: <ul style="list-style-type: none"> • Policy/Procedure – Sustained 	369	338
3 (IA2016-001)	Officer publicized unauthorized images including BPD insignia and posted potentially offensive images on social media.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure – Sustained • Conduct Unbecoming an Officer – Sustained 	288	242
4 (IA2016-015)	Officers used excessive force during an arrest and one officer did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Force – Unfounded Officer #2: <ul style="list-style-type: none"> • Force – Exonerated • Policy/Procedure – Exonerated 	260	221
5 (IA2016-025)	Officer acted unprofessionally during interaction with complainant.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Unfounded 	214	173
6 (IA2016-032)	Employee cursed at complainant and intentionally damaged complainant's vehicle.	Employee #1: <ul style="list-style-type: none"> • Courtesy – Not Sustained • Conduct Unbecoming – Unfounded 	207	174
7 (IA2016-035)	Officer contacted complainant based on complainant's race and made demeaning comments.	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing – Not Sustained • Conduct Unbecoming an Officer – Sustained 	189	164
8 (IA2016-038)	BPD did not appropriately respond to a report of abandoned items on a train.	BART Police Department: <ul style="list-style-type: none"> • Service Review⁹ 	172	131

*This investigation was tolled from September 17, 2014 to April 28, 2016 due to pending civil litigation.

During September 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 (IA2016-079)	Officers did not take sufficient action when complainant reported criminal activity and officer was not compassionate toward complainant.	Officers #1: • Courtesy – Supervisory Referral ¹⁰	54	17
2 (IA2016-084)	Officer ignored complainant's efforts to get the officer's attention.	Officer #1: • Performance of Duty – Supervisory Referral	43	14

During September 2016, **3 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Address Complaint
1 (IA2015-084)	Officer did not properly request or report absences from work.	Officer #1: • Policy/Procedure – Unfounded	469	444**
2 (IA2015-144)	Officer did not take appropriate law enforcement action after determining that subject was intoxicated and officer did not properly document a law enforcement contact.	Officer #1: • Performance of Duty – Sustained • Policy/Procedure – Sustained	410	376†
3 (IA2016-026)	Officer violated policy regarding safety practices by sleeping while on duty.	Officer #1: • Policy/Procedure (Counts 1-2) – Sustained	201	160

**This investigation was tolled from July 6, 2015 to August 4, 2016 due to extended leave of subject officer.
 †BPD Internal Affairs became aware of potential policy violations and initiated an investigation on May 7, 2016.

DISCIPLINE ISSUED DURING REPORTING PERIOD

During September 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 did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling

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	11
Investigations Reviewed During Current Month	27 ^{††}

^{††}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 A Service Review refers to an instance when a citizen/patron raises a concern pertaining to a global practice throughout the Department such as Department policies, procedures and/or tactics. When appropriate, a Service Review may be conducted by Internal Affairs or by a designated review committee, who in turn will make recommended changes to the Chief of Police for approval.

¹⁰ 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

October 2016

Issue date: November 14, 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 **October 1, 2016 through October 31, 2016.**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
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
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

TYPES OF CASES FILED

Citizen Complaints (Formal)	5
Informal Complaints ⁷	1
Administrative Investigations	0
TOTAL	6

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	1
BART Police Department	4
TOTAL	5

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During October 2016, **1 Citizen Complaint** was received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #16-29) (IA2016-093)	Officer #1: • Policy/Procedure	OIPA and BPD each initiated an investigation.	28

During October 2016, **4 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-091)	Officers #1-2: • Policy/Procedure • Conduct Unbecoming an Officer	BPD initiated an investigation.	40
2 (IA2016-094)	Officers #1-3: • Force	BPD initiated an investigation.	27
3 (IA2016-095)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	20
4 (IA2016-096)	BART Police Department: • Service Review ⁹	BPD initiated an investigation.	28

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

Complaint # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-092)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	33

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During October 2016, **4 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 (IA2015-133)	Officers used excessive force against complainant, mishandled complainant's property, and did not properly document a law enforcement contact.	Officers #1-2: • Force (Counts 1-2)– Unfounded • Performance of Duty – Sustained Officer #3: • Force (Count 1) – Exonerated • Force (Count 2) – Unfounded Officers #1-3: • Conduct Unbecoming an Officer – Unfounded Officer #1: • Policy/Procedure – Unfounded	328	288
2 (IA2016-012)	Officer insulted complainant.	Unknown Officer #1: • Courtesy – Not Sustained	281	240
3 (IA2016-021)	Employees did not properly route a call for service.	Employee #1: • Performance of Duty – Sustained Employee #2: • Performance of Duty – Not Sustained	251	209
4 (IA2016-024)	One officer was provocative and threatening toward complainant, treated complainant inappropriately on the basis of race, and did not properly document a law enforcement contact. One officer did not intervene to prevent the other officer from escalating the interaction.	Officer #1: • Bias-Based Policing – Unfounded • Policy/Procedure – Sustained Officers #1-2: • Conduct Unbecoming an Officer – Unfounded	248	229

During October 2016, **3 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-075)	Officers did not compassionately or attentively address a criminal suspect.	Officers #1-2: • Performance of Duty – Supervisory Referral ¹⁰	90	71
2 (IA2016-088)	Officer failed to yield to a pedestrian while driving.	Unknown BPD Officer: • Policy/Procedure – Supervisory Referral	53	28
3 (IA2016-073)	Employee was dismissive toward complainant on the phone and complainant's request for service was disregarded.	Employee #1: • Performance of Duty – Supervisory Referral • Conduct Unbecoming – Supervisory Referral	102	70

During October 2016, **5 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Complete Investigation
1 (IA2015-135)	Officer fired his duty weapon at subject, striking subject.	Officer #1: • Force – Exonerated	325	298
2 (IA2015-146)	Officer used excessive force against subject and one officer was unprofessional when verbally responding to subject.	Officer #1: • Force – Not Sustained Officer #1: • Courtesy – Sustained	405	364
3 (IA2016-007)	One officer did not properly fulfill a staffing requirement and was untruthful during a misconduct investigation, one officer did not properly supervise a subordinate officer, and three officers did not report another officer's unapproved absence.	Officer #1: • Policy/Procedure – Sustained • Performance of Duty – Sustained • Truthfulness – Not Sustained Officer #2: • Supervision – Not Sustained Officers #3-5: • Conduct Unbecoming an Officer – Not Sustained	301	280

4 (IA2016-009)	Officer did not properly fulfill a staffing requirement and was untruthful during a misconduct investigation.	Officer #1: • Policy/Procedure – Sustained • Truthfulness – Not Sustained	291	257
5 (IA2016-010)	Officer used excessive force against subject and one officer was unprofessional when verbally responding to subject.	Officer #1: • Force – Not Sustained Officer #1: • Courtesy – Sustained	405	364

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIOD

During June 2016, **2 Informal Complaints** were concluded by BPD:

Complaint # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2015-071)	Officer improperly excluded complainant for consideration of employment.	Officer #1: • Policy/Procedure – Not Sustained	515	369*
2 (IA2014-060)	Officer improperly accessed a law enforcement telecommunications system.	Officer #1: • Policy/Procedure – Not Sustained	975	829**

*The external agency contracted to conduct the investigation did not timely convey results to BART.

**Investigation was conducted by an external agency and the subject officer waived the statutory requirement for completion of the investigation within one year pursuant to Government Code §3304(d)(2).

DISCIPLINE ISSUED DURING REPORTING PERIOD

During October 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 did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling
2	Officer did not properly document a law enforcement contact on three occasions, made unprofessional comments to a complainant, and was discourteous to another complainant.	Officer #1: • Policy/Procedure (Counts 1-3) • Conduct Unbecoming an Officer • Courtesy	Officer #1: • 3-Day Suspension
3	Officer slept while on duty and violated BPD safety standards.	Officer #1: • Policy/Procedure (Counts 1-2)	Officer #1: • 3-Day Suspension
4	Officer did not properly document a law enforcement contact on 15 occasions.	Officer #1: • Policy/Procedure (Counts 1-15)	Officer #1: • Written Reprimand
5	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling
6	Officer did not properly route an allegation of misconduct.	Officer #1: • Policy/Procedure	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 in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	0
Complainant-Initiated Appeals	0
Investigations Being Monitored	13
Investigations Reviewed During Current Month	28†

†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 A Service Review refers to an instance when a citizen/patron raises a concern pertaining to a global practice throughout the Department such as Department policies, procedures and/or tactics. When appropriate, a Service Review may be conducted by Internal Affairs or by a designated review committee, who in turn will make recommended changes to the Chief of Police for approval.

¹⁰ 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

November 2016

Issue date: December 12, 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 **November 1, 2016 through November 30, 2016.**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
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
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

*This number includes 2 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	0
Administrative Investigations	2
TOTAL	13

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	9
TOTAL	11

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During November 2016, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #16-30) (IA2016-097)	Employee #1: • Conduct Unbecoming	OIPA notified BPD, which initiated an investigation.	41
2 (OIPA #16-31) (IA2016-101)	Officers #1-3: • Bias-Based Policing • Arrest or Detention • Conduct Unbecoming an Officer	OIPA initiated an investigation and notified BPD, which also initiated an investigation.	32

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

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-098)	Employee #1: • Policy/Procedure	BPD initiated an investigation.	40
2 (IA2016-102)	Officer #1: • Force	BPD initiated an investigation.	34
3 (IA2016-106)	Officer #1: • Bias-Based Policing	BPD initiated an investigation.	26
4 (IA2016-107)	Officers #1-2: • Force	BPD initiated an investigation.	22
5 (IA2016-108)	Officers #1-2: • Conduct Unbecoming an Officer	BPD initiated an investigation.	25
6 (IA2016-109)	Officers #1-3: • Performance of Duty Officer #2: • Policy/Procedure (Counts 1-2)	BPD initiated an investigation.	16
7 (IA2016-100)	Officer #1: • Bias-Based Policing	BPD categorized the complaint as an Inquiry.	39

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

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2016-104)	Officer #1: • Policy/Procedure	BPD initiated an investigation.	28

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PREVIOUS REPORTING PERIOD

During October 2016, **2 Formal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-099)	Officers #1-2: • Force	BPD initiated an investigation.	56
2 (IA2016-105)	Officers #1-6: • Force	BPD initiated an investigation.	44

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

Investigation # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-103)	Employee #1: • Performance of Duty	BPD initiated an investigation.	62

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During November 2016, **3 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 (IA2015-002)	Officers used excessive force during arrest of subject, and did so on the basis of subject's race. One officer did not properly route a complaint of excessive force.	Officers #1-4: • Force (Counts 1-2)– Unfounded • Bias-Based Policing – Not Sustained Officers #1-3: • Force (Count 3) – Exonerated • Force (Count 2) – Unfounded Officers #1-5: • Force (Count 4) – Not Sustained Officer #6: • Policy/Procedure – Sustained	340	305

2 (IA2016-074)	Officers left complainant stranded without transportation after a law enforcement contact.	Officers #1-2 Performance of Duty – Supervisory Referral ⁹	117	104
3 (IA2016-076)	Officer did not take appropriate law enforcement action and did so on the basis of race.	Officer #1: • Bias-Based Policing – Unfounded • Performance of Duty – Unfounded	112	99

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

Complaint # (IA Case #)	Nature of Complainant	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-089)	Officer mocked complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisory Referral	80	49
2 (IA2016-089)	Officers did not initiate a law enforcement contact with a subject who was smoking on a train.	Officers #1-2: • Performance of Duty – Supervisory Referral	89	55

Also during the month of November 2016, BPD classified each of the following cases as an **Inquiry** and **Administratively Closed** the complaints.¹⁰ IA2016-054 (No BPD personnel involved), IA2016-057 (Parking citation), IA2016-059 (Confirmed miscommunication), IA2016-100 (Complaint was based on misinformation and withdrawn).

DISCIPLINE ISSUED DURING REPORTING PERIOD

During November 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 did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling

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	2
Complainant-Initiated Appeals	0
Investigations Being Monitored	12
Investigations Reviewed During Current Month	24 [†]

[†]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 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.

¹⁰ 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.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

December 2016

Issue date: January 9, 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 **December 1, 2016 through December 31, 2016.**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
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
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

*This number includes 1 cases that was initiated in a prior reporting period but not previously reported. It is therefore included in this report.

TYPES OF CASES FILED

Citizen Complaints (Formal)	7
Informal Complaints ⁷	0
Administrative Investigations	2
TOTAL	9

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	5
TOTAL	7

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During December 2016, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (OIPA #16-33) (IA2016-112)	Officer #1: • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	25
2 (OIPA #16-34) (IA2016-115)	Employee #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	18

During December 2016, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-110)	Officer #1: • Policy/Procedure	BPD initiated an investigation.	35
2 (IA2016-111)	Officer #1: • Force	BPD initiated an investigation.	39
3 (IA2016-116)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	28
4 (IA2016-117)	Officers #1-3: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	13
5 (IA2016-118)	Officer #1: • Policy/Procedure Officers #1-4: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	12

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

Investigation # (IA Case #)	Nature of Investigation	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2016-114)	Officers #1-2: • Force • Policy/Procedure	BPD initiated an investigation.	28

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PREVIOUS REPORTING PERIOD

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

Investigation # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-113)	Employee #1: • Conduct Unbecoming	BPD initiated an investigation.	40

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During December 2016, **5 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 (IA2016-029)	Officer used excessive force during arrest of subject.	Officer #1: • Force – Exonerated	288	257*
2 (IA2016-034)	Officer incorrectly assumed complainant was a crime victim because of complainant's race, and was rude to complainant during contact.	Officer #1: • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Unfounded	280	266
3 (IA2016-055)	Officer used excessive force during arrest of complainant.	Officers #1-3: • Force (Counts 1-3) – Unfounded • Force (Count 4) – Exonerated	201	215
4 (IA2016-065)	One officer used excessive force during arrest of complainant and one officer balled his fists in a threatening manner.	Officer #1: • Force – Unfounded Officer #2: • Conduct Unbecoming an Officer – Unfounded	193	179

5 (IA2016-066)	Employee illegally detained complainant and was rude to complainant.	Employee #1: • Arrest or Detention – Unfounded • Courtesy – Not Sustained	187	154
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*This investigation was tolled from April 12, 2016 to September 8, 2016 due to extended leave of subject officer.

Also during the month of December 2016, BPD classified each of the following cases as an **Inquiry** and **Administratively Closed** the complaints⁹: IA2016-062 (Use of a parking permit determined to be authorized) and IA2016-116 (No BPD personnel involved).

DISCIPLINE ISSUED DURING REPORTING PERIOD

During December 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 violated policy and procedure regarding sick leave and truthfulness.	Officer #1: • Policy/Procedure	Officer #1: • 30-day suspension • Pay-step reduction for one year
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure	Officer #1: • Oral Counseling
3	Employee did not properly route a call for service.	Employee #1: • Performance of Duty	Employee #1: • Letter of Discussion
5	Officer did not properly route a complaint of misconduct.	Employee #1: • Performance of Duty	Employee #1: • Oral Counseling
6	Officer did not properly document a law enforcement contact.	Officer #1: • Performance of Duty	Officer #1: • Oral Counseling
7	Officer did not properly document a law enforcement contact.	Officer #1: • Performance of Duty	Officer #1: • Oral Counseling
8	Officer did not properly document a law enforcement contact.	Officer #1: • Performance of Duty	Officer #1: • Oral Counseling

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	2
Complainant-Initiated Appeals	0
Investigations Being Monitored	10
Investigations Reviewed During Current Month	19 [†]

[†]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.