

# DRAFT

## OPTIONS FOR CITIZEN PARTICIPATION IN THE DISCIPLINARY PROCESS FOR INDEPENDENT POLICE AUDITOR INVESTIGATIONS<sup>1</sup>

### I. HYBRID

1. The Police Auditor shall investigate all complaints of allegations of police officer misconduct regarding abuse of power, racial profiling, sexual orientation bias, sexual harassment, the use of deadly force, suspicious and wrongful deaths. Independent investigative findings made by the Office of the Police Auditor shall include recommendations for corrective action, including discipline where warranted. In a private meeting, the Auditor shall submit his/her investigative findings and recommendations to the Citizen Board for concurrence. Should the Citizen Board agree with the findings and recommendations the report will be submitted to the Chief of Police for disciplinary action. The Chief of Police shall implement discipline.
2. Should the Chief of Police disagree with the findings and discipline recommendation of the Auditor and Citizen Board the Chief of Police, in a private meeting, may appeal to the General Manager. The Chief of Police will submit his/her disagreements and recommendations to the General Manager. In a private meeting, the General Manager shall make a decision and make his/her decision known to the Chief of Police, Citizen Board and the Auditor. The Chief of Police shall implement discipline.
3. Should the Citizen Board disagree with the Auditor's findings, by simple majority, in a private meeting, the Auditor and the Citizen Board should attempt to come to a consensus. If the Citizen Board and the Auditor fail to come to a consensus, by simple majority, the Citizen Board may appeal. All disagreement appeals regarding findings and recommendations for corrective and disciplinary actions, between the Citizen Board and the Auditor will be initially appealed to the Chief of Police, in a private meeting. The Citizen Board will submit their disagreements and recommendations to the Chief of Police, in a private meeting. The Auditor will submit his/her recommendation to the Chief of Police, in a private meeting. The Chief of Police shall make a decision on the matter and make his/her decision known to the Citizen Board and the Auditor, in a private meeting. The Chief of Police shall implement discipline.
4. If the Citizen Board disagrees with the Chief of Police's decision and it is reflected by simple majority of its members they may appeal to the General

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<sup>1</sup> The BART Police Department will continue to conduct its own internal affairs investigations of all citizen allegations of misconduct by Police Department personnel.

Manager, in a private meeting. The Citizen Board and the Auditor's recommendations will be submitted to the General Manager, in a private meeting. The General Manager will render a finding and report it to the Chief of Police and Citizen Board, in a private meeting. The Chief of Police shall implement discipline.

5. If the Citizen Board disagrees with the General Manager and it is reflected by a simple majority they may appeal to the BART Board of Directors. All reports will be submitted to the BART Board of Directors, who will render a decision in a closed session. All of the BART Board of Director's decisions will be reflected by simple majority of the BART Board of Director's present to vote and are final. In a closed session, the BART Board will notify the Citizen Board, General Manager and Chief of Police. The Chief of Police will implement discipline.
6. At least monthly, the Citizen Board shall receive reports from the Police Auditor on the number and types of cases filed, number of open cases, the disposition of and any action taken on cases, recommendations for corrective action, including discipline; the number of independent investigations concluded by the Office of the Independent Auditor; and, the number of cases being appealed either to the Office of Police Auditor by citizens or in the case of disagreements between the Chief of Police and the Auditor, Citizen Board to the General Manager or Citizen Board to the BART Board of Directors.
7. The Auditor shall have unfettered access to police reports and personnel records.
8. During an investigation all involved officers and witness officers are compelled to meet and cooperate with the Auditor in accordance with the Government Code 3300.
9. The Auditor shall be notified to be a part of any investigative scene walk through regarding an officer involved shooting, officer involved homicide or any officer killed in the line of duty.

## **II. AUDITOR/CITIZEN BOARD**

1. The Office of the Independent Police Auditor shall conduct independent investigations of all citizen allegations of misconduct involving unnecessary or excessive force, hate crimes, racial profiling and allegations of racially abusive treatment. The Auditor, at his or her discretion, may require additional investigation of any citizen complaint investigated by the BART Police Department. Independent investigative findings made by the Office of the Independent Police Auditor shall include recommendations for corrective action, including discipline, where warranted.

2. The Auditor shall review all recommendations for corrective action, including discipline, with the Citizen Board in private session, prior to submission to the Chief of Police for concurrence. The Citizen Board may recommend changes; however, the Auditor will make the final decision on all recommendations for corrective action, including discipline that are submitted to the Chief of Police, without further appeal by the Citizen Advisory Board.
3. All disagreements regarding recommendations for corrective action, including discipline, between the Chief of Police and the Independent Police Auditor will be appealed to the General Manager for final resolution.
4. The Auditor shall report at least monthly to the Citizen Board on the number and types of cases filed, the number of open cases, the disposition of and any action taken on cases, recommendations for corrective action, including discipline, and the number of cases being appealed either to the Office of the Independent Police Auditor by citizens or in the case of disagreements between the Chief of Police and the Auditor, appealed to the General Manager.
5. The Auditor shall have unfettered access to police reports and personnel records.
6. During an investigation all involved officers and witness officers are compelled to meet and cooperate with the Auditor in accordance with the Government Code 3300.
7. The Auditor shall be notified to be a part of any investigative scene walk through regarding an officer involved shooting, officer involved homicide or any officer killed in the line of duty.

### **III. AUDITOR/CITIZEN REVIEW BOARD**

1. The Office of the Independent Auditor shall conduct independent investigations of all citizen allegations of misconduct involving unnecessary or excessive force, hate crimes, racial profiling and allegations of racially abusive treatment. The Auditor, at his or her discretion, may require additional investigation of any citizen complaint investigated by the BART Police Department. Office of the Independent Police Auditor investigative findings shall include recommendations for corrective action, including discipline, where warranted.
2. For each independent investigation completed by Office of the Independent Police Auditor, a report shall be made to the Citizen Review Board in private session regarding the details of allegations; investigatory findings; and recommendations for corrective action, including discipline, if any. The Citizen Review Board may request the Auditor to conduct additional investigative work and shall determine the final recommendation for corrective action, including discipline that will be submitted to the Chief of Police.

3. Any disagreements between the recommendations of the Citizen Review Board and the Chief of Police will first be appealed to the General Manager and ultimately to the Board of Directors for final resolution.
4. The Auditor shall have unfettered access to police reports and personnel records.
5. During an investigation all involved officers and witness officers are compelled to meet and cooperate with the Auditor in accordance with the Government Code 3300.
6. The Auditor shall be notified to be a part of any investigative scene walk through regarding an officer involved shooting, officer involved homicide or any officer killed in the line of duty.