



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

February 2017

Issue date: March 13, 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 **February 1, 2017 through February 28, 2017**.¹

The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Division.

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
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
January 2017	6	52	0	0	0
February 2017	7*	41	0	0	0

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

TYPES OF CASES FILED

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

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	0
BART Police Department	5
TOTAL	5

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During February 2017, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2017-007)	Employee #1: • Courtesy	BPD initiated an investigation.	35
2 (IA2017-008)	Officers #1-2: • Force	BPD initiated an investigation.	26
3 (IA2017-010)	Officer #1: • Force	BPD initiated an investigation.	31
4 (IA2017-011)	Officer #1: • Force	BPD initiated an investigation.	25
5 (IA2017-012)	Officer #1: • Force • Arrest/Detention • Conduct Unbecoming an Officer	BPD initiated an investigation.	15

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During December 2017, **1 Citizen Complaint (Formal)** was received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2016-120)	Officers #1-2: • Force	BPD initiated an investigation.	80

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During February 2017, **11 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-041)	Employee was rude to complainant and did not sufficiently assist complainant.	Employee #1: • Performance of Duty – Unfounded • Courtesy – Not Sustained	320	299

2 (IA2016-047)	Officers did not properly respond to a report of criminal conduct and one officer improperly admonished complainant and did not properly document a report of criminal conduct.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty – Sustained • Policy/Procedure – Sustained • Conduct Unbecoming an Officer – Not Sustained Officer #2 <ul style="list-style-type: none"> • Performance of Duty – Not Sustained 	308	287
3 (IA2016-051)	Officers used excessive force during arrest of complainant.	Officers #1-4 (Count 1): <ul style="list-style-type: none"> • Force – Exonerated Officers #1-4 (Counts 2-4) <ul style="list-style-type: none"> • Force – Unfounded 	284	257
4 (IA2016-064)*	Officers used excessive force during arrest of complainant.	Officers #1-2: <ul style="list-style-type: none"> • Force – Unfounded 	269	248
5 (IA2016-067)	Officers used excessive force during arrest of subject.	Officers #1-2: <ul style="list-style-type: none"> • Force (Count 1) – Unfounded • Force (Count 2) – Exonerated 	247	213
6 (IA2016-068)	Officers improperly arrested complainant and used excessive force during the arrest.	Officers #1-2: <ul style="list-style-type: none"> • Force (Counts 1-2) – Unfounded • Force (Count 3) – Exonerated • Arrest/Detention – Exonerated Officer #2: <ul style="list-style-type: none"> • Force (Count 4) – Unfounded 	244	230
7 (IA2016-081)	Officer used excessive force against complainant.	Officer #1: <ul style="list-style-type: none"> • Force (Count 1) – Unfounded • Force (Count 2) – Exonerated 	195	168
8 (IA2016-093)	Unknown officer(s) improperly and publicly mischaracterized complainant's conduct.	Unknown BPD Officer(s): <ul style="list-style-type: none"> • Performance of Duty – Exonerated 	195	168
9 (IA2016-108)	Officer and employee acted in a threatening manner toward complainant and complainant's spouse.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisory Referral⁹ Employee #1: <ul style="list-style-type: none"> • Conduct Unbecoming – Supervisory Referral 	116	78

10 (IA2017-007)	Employee was disrespectful and argumentative toward complainant.	Employee #1: • Courtesy – Supervisory Referral	35	19
11 (IA2016-027)	Officer did not follow specific orders and did not properly document law enforcement activity.	Officer #1: • Insubordination – Not Sustained • Performance of Duty – Sustained • Policy/Procedure – Sustained	352	332

*As OIPA also completed an investigation into this complaint prior to this reporting period, it will only be counted as closed once in calculating the “Number of Open Cases” in the Quantitative Report on Page 2.

During February 2017, **3 Administrative Investigations** were concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Complete Investigation
1 (IA2016-045)	Officer was hostile and rude to complainant.	Officer #1: • Conduct Unbecoming an Officer – Not Sustained	312	291
2 (IA2016-113)	Employee acted unprofessionally on the telephone.	Employee #1: • Conduct Unbecoming – Supervisory Referral • Courtesy – Supervisory Referral	103	71
3 (IA2016-056)	Employee omitted relevant information during background investigation process.	Employee #1: • Omission of Background Information (Counts 1-2) – Sustained	276	256

During February 2017, **1 Informal Complaint** was addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2016-115)	Employee did not appropriately respond to complainant’s call for service.	Employee #1: • Performance of Duty – Supervisory Referral	81	58

Also during the month of February 2017, BPD classified the following cases as an **Inquiry** and **Administratively Closed** the complaints¹⁰: IA2016-120 (Complainant withdrew complaint) and IA2016-060 (Complaint did not involve any BPD personnel). BPD also closed case IA2017-001 after investigation revealed that the complaint was based on imaginary occurrences.

DISCIPLINE ISSUED DURING REPORTING PERIOD

During February 2017, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	Officer did not follow specific orders and did not properly document law enforcement activity.	Officer #1: • Performance of Duty • Policy/Procedure	Officer #1: • Oral Counseling
2	Employee did not promptly request medical assistance for subject.	Employee #1: • Performance of Duty	Employee #1: • Two-week suspension held in abeyance
2	Officer did not properly forward a complaint.	Officer #1: • Performance of Duty	Officer #1: • Informal 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	15
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 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.