



OIPA

Office of the Independent
Police Auditor

ANNUAL REPORT
2011 - 2012



BAY AREA RAPID TRANSIT DISTRICT



Office of the Independent Police Auditor
Annual Report 2011 – 2012

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MESSAGE FROM THE INDEPENDENT POLICE AUDITOR

I am pleased to present the first Annual Report of the Office of the Independent Police Auditor (OIPA), for the year 2011-2012.

In July of 2010, the BART Public Safety Accountability Act was approved by State of California Governor Arnold Schwarzenegger. This piece of legislation modified the Public Utilities Code to include authorization for the Bay Area Rapid Transit District (BART) Board of Directors to establish OIPA for the purpose of investigating complaints against district police personnel. More specifically, the legislation afforded OIPA the authority and responsibility to investigate those complaints of misconduct within the purview set by the Board of Directors (Board); to reach independent findings as to the validity of complaints; and to recommend appropriate disciplinary action for those complaints determined to have merit. (See Appendix A for the full text of the BART Public Safety Accountability Act.)

The legislation that allowed BART to create OIPA was crafted in the aftermath of the tragic shooting of Oscar Grant by former BART Police Department (BPD) officer Johannes Mehserle on January 1, 2009. That incident, which resulted in Mr. Grant's untimely death and a criminal conviction of involuntary manslaughter for Mr. Mehserle, became an unfortunate and drastic signifier of the need for effective and independent civilian oversight of police, both at BART specifically and within the field of law enforcement generally.

Equipped with its new authority to establish OIPA, the Board adopted the BART Citizen Oversight Model (Model). Adhering to the outlines of the BART Public Safety Accountability Act, the Model describes in detail OIPA's varied authorities and responsibilities. Among others, these include investigating allegations of misconduct made against BPD officers, reviewing BPD internal investigations, developing an alternative dispute resolution process to resolve certain complaints through less formal means, monitoring officer-involved shooting investigations, making policy recommendations, interacting with BPD employee unions, conducting outreach to the public, and issuing public reports (such as this one). The Model dictates that the Independent Police Auditor shall have "unfettered access" to police reports and police personnel records, and that all involved sworn personnel shall be compelled to cooperate during OIPA investigations. (See Appendix B for a copy of the Model that is in effect as of the time of submission of this report.)

The Model now serves as the foundation for civilian oversight of BPD. Since the beginning of my tenure with BART, I have worked to ensure that OIPA is in a position to fulfill its responsibilities under the Model. There have been many important accomplishments made thus far, but there is also more work yet to be done in order to carry out Model's mandates. This report highlights some of OIPA's accomplishments; it also addresses some of OIPA's foreseeable challenges. Additionally, as this is OIPA's first Annual Report, a portion of it describes some of OIPA's general working processes, as defined and guided by the Model.

During the course of my first year at BART, I have remarked from time to time that the civilian oversight system here is still in its infancy. As no system along the lines of this one previously existed here, everything that OIPA has done marks the first time that OIPA has done it, from creating a new complaint form and an informational brochure, to establishing a protocol for obtaining access to BPD Internal Affairs investigations, to selecting a specific format for a variety of

OIPA reports. Some of these things require more effort than others to accomplish, but all of them are brand new at BART insofar as they relate to the civilian oversight of law enforcement.

With this in mind, I must thank all those who have helped OIPA get things up and running throughout its first year. From the guidance of BART's Board of Directors, to the advice of my fellow Board Appointed Officers (and a considerable collection of members of their respective staffs), to the support of other civilian oversight professionals around the San Francisco Bay Area, OIPA appreciates the assistance it has received. It is just as important to note the high level of cooperation OIPA has received during its inaugural year from the BART Police Department. As indicated previously, the implementation of civilian oversight in its current form is a brand new concept for BPD, and it is to their credit that they have been receptive, communicative, and accommodating when called upon.

It is OIPA's mission to provide all members of the public with effective and independent oversight of the BART Police Department by conducting unbiased and thorough independent investigations and reviews of police department investigations, making policy recommendations to improve the performance of the police department, and maintaining continual communication with members of the public in the BART service area. Striving to carry out this mission, I am confident that we have made a strong start during our first year. We also recognize that there is much work yet to be done to carry out the mandates of the Model, however, and we look forward to continuing our growth and our ability to provide effective and independent oversight of BPD for all members of the public.

MARK P. SMITH
Independent Police Auditor
December 2012

OVERVIEW OF THE OFFICE OF THE INDEPENDENT POLICE AUDITOR 2011-2012

The Office of the Independent Police Auditor is located on the 14th Floor of the Kaiser Building at 300 Lakeside Drive, which is the same building as BART's headquarters. Its budget is designed to support three fulltime employees: an Independent Police Auditor, an Independent Police Investigator, and a Senior Administrative Analyst. All of OIPA's employees are civilians.

OIPA works closely with the BART Citizen Review Board (CRB), which is an advisory committee of the BART Board of Directors. The CRB is an eleven-member group of volunteers that, among other things, provides for increased public input into the oversight of the BART Police Department. Each of BART's nine directors appoints one member of the CRB. A tenth member is appointed jointly by all of the BART directors. And the eleventh member is appointed jointly by the two BPD employee unions.

As laid out in detail by the Model, OIPA bears a significant number of responsibilities within its role as overseer of the BART Police Department.

Some of the most substantive OIPA responsibilities are listed here and described in detail below:

- I. Receive complaints from victims of or witnesses to on-duty misconduct by officers
- II. Investigate those allegations that involve unnecessary or excessive use of force, racial profiling, sexual orientation bias, sexual harassment, the use of deadly force, and suspicious and wrongful deaths; reach an independent finding and recommend discipline where warranted
- III. Review BPD internal affairs investigations for completion
- IV. Establish an alternative dispute resolution process
- V. Conduct complainant-initiated appeals of BPD internal affairs findings
- VI. Respond to officer-involved shooting incidents and monitor the ensuing investigation
- VII. Draft recommendations regarding BPD procedures, practices, and training
- VIII. Develop a regular program of community outreach
- IX. Prepare monthly reports to the CRB
- X. Provide staff support to, and facilitate training for, the CRB

Receive and Investigate Complaints

Members of the public who are victims of, or witnesses to, misconduct on the part of a BPD officer can file a complaint with OIPA. Complaints can be initiated by phone, fax, mail, email, or an in-person visit. OIPA maintains a website where all of its contact information is available (www.bart.gov/policeauditor). It is important for OIPA that it is readily accessible to the public and that the process of filing a complaint is an easy one.

To that end, OIPA created a complaint intake form. (See Appendix C for the OIPA Complaint Form.) The form is not required in order to initiate a complaint, but completing one can help guide any complainant toward providing the information that will be most crucial at the start of an investigation. OIPA complaint forms are available for download on the OIPA website and they are being distributed to all stations throughout the BART system. They can also be provided in Spanish, Chinese, Korean, and Vietnamese upon request. Additionally, OIPA created an office email account

(oipa@bart.gov) to make it easy for people to submit a complaint from their home computers or smart phones.

Along with these efforts, OIPA continuously looks for ways to enhance its accessibility to the public. Looking forward, OIPA is hopeful that it can develop an online complaint form, where a person could fill in the information that is requested and instantaneously send it to our office. This would offer complainants another fast and easy option for initiating a complaint.

Upon receiving a complaint, it is OIPA's duty to ensure that a timely, thorough, and fair investigation is conducted. OIPA also notifies BPD of all complaints it receives, in accordance with the Model. For those complaints that OIPA receives regarding excessive force, racial profiling, sexual orientation bias, sexual harassment, the use of deadly force, and suspicious and wrongful deaths, OIPA has the authority and the responsibility to conduct an investigation. For complaints that do not involve these allegations, OIPA refers all of the information it has gathered to BPD Internal Affairs for appropriate action.

At present, OIPA utilizes a detailed spreadsheet to record all of the complaints it receives, as well as various other non-complaint contacts from the public. The current method is reliable and simple; however, OIPA plans to employ a more versatile method of tracking contacts through the use of software that will allow for more comprehensive data tracking and analysis. This is a project that OIPA seeks to undertake in the coming year.

Although every allegation of misconduct is unique, OIPA strives for consistency in its investigative process. All OIPA investigations can be roughly broken down into four major areas: Intake, Evidence Gathering, Conclusion and Findings, and Submission for Review.

Intake

As discussed previously, it is important for OIPA to be readily accessible to any individual who wishes to file a complaint. A unique case number is immediately assigned to each OIPA complaint for easy and accurate reference in the future.¹ OIPA initially seeks to obtain an audio-recorded statement from the complainant in order to get the fullest account of the allegation being raised. Audio-recorded statements can provide the most accurate and complete record of an interview (as opposed to a hand-written account of an interview, for instance). To this end, OIPA has equipped its investigative staff with mobile voice recorders that can be used anywhere in the field during an interview, whether of a complainant, a witness, or an involved police officer.²

Evidence Gathering

Using the information gained during the Intake phase, OIPA's investigation then seeks to obtain any and all relevant evidence that might help prove or disprove the allegation being raised. Witnesses to the alleged conduct are identified and interviewed; documentary

¹ This includes complaints that do not involve allegations that OIPA independently investigates. OIPA must be able to track those complaints as well in order to verify that they have been handled appropriately by BPD.

² OIPA seeks to audio record all of its interviews, as well as live phone calls and even voicemail messages whenever possible. One instance where OIPA might not audio-record a statement is when a complainant or witness requests not to be recorded. In such cases, OIPA seeks to audio-record the interviewee's request, for future reference.

evidence is obtained, including video, police reports, medical records, and dispatch audio; physical evidence may be sought, such as a piece of clothing or an item of equipment from an officer; and the officers involved in the alleged misconduct are identified and interviewed. The order of these investigative steps is determined by the needs of each individual investigation. However, OIPA directs its focus to the most time-sensitive evidentiary issues first, such as video that might be overwritten or a piece of clothing that might be laundered.

In order to be as effective as possible in this phase of an investigation, OIPA is equipped with the tools necessary to gather evidence quickly and accurately. One example is a digital camera that the investigative staff is now equipped with. The camera can be used to document a particular scene where misconduct allegedly happened or the effects of an injury to someone who complains of excessive force. OIPA has also worked closely with BPD to ensure access to certain catalogued reports, such as arrest reports, through BPD's online reporting system. As a result of this access, OIPA can independently retrieve such reports when it needs them without needing to request them through BPD.

It is often the case that one of the most time-sensitive pieces of evidence in an investigation is video evidence. Due to the nature of video and the capacity limitations of storing it in high volume, recorded video is commonly overwritten after some period of time, particularly when it is from a closed circuit camera such as a security or surveillance camera. The BART District has a relatively high volume of such cameras, making evidence retrieval ability from these units a high priority. Early in its existence, OIPA met with various members of BART staff to learn about the parameters of its closed circuit video system and to discuss retention periods and retrieval protocols. More recently, OIPA has worked with staff to obtain and install equipment that will allow us to independently retrieve video when called for from the digital cameras within the existing video system.³

OIPA considers all of these items parts of its "investigative toolkit" – a collection of hardware and software as well as a base of relevant knowledge and experience that we can draw upon to make sure we are equipped to perform thorough, complete, independent investigations. We will continuously add to this toolkit over time as we identify new resources that can be of use to us in our investigations.

Conclusion and Findings

Once all of the evidentiary leads have been followed during the course of an investigation, OIPA weighs the relevant evidence it has gathered and reaches a conclusion, based on that evidence, as to whether the alleged misconduct did or did not occur. Specifically, OIPA will reach one of four conclusions regarding each allegation of misconduct it investigates:

Sustained:	Evidence showed that the alleged misconduct did occur
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³ Due to the security-sensitive nature of this project, OIPA communicated with BPD before moving forward with it. Any retrieval of video through this equipment is automatically logged by time and username for record-keeping purposes and usage auditing.

Not Sustained:	Insufficient evidence was available to determine whether the alleged misconduct did or did not occur
Unfounded:	Evidence showed that the alleged misconduct did not occur
Exonerated:	Evidence showed that the incident occurred as alleged, but that the conduct of the involved officer was proper

In accordance with the Model, when a finding of Sustained is reached, OIPA will also recommend corrective action for the involved officer, up to and including termination.

Submission for Review

All investigative findings from OIPA are submitted directly to the Citizen Review Board for its review. The next course of action with regard to a set of investigative findings is dictated by the CRB's agreement or disagreement with those findings. The precise possibilities are laid out in the Model, Chapter 1-04(B)(ii-v). What follows here is a summarized explanation.

If the CRB agrees with the findings of OIPA, the findings are submitted to the BPD Chief of Police (Chief). The Chief will implement the recommended action, absent appeal. If the Chief disagrees with the findings of OIPA (agreed to by the CRB), he or she may appeal to the BART General Manager. The General Manager will decide the final outcome, and the Chief will implement the General Manager's decision.

If the CRB disagrees with the findings of OIPA, the two sides will attempt to come to a consensus. If they do, then the process continues on as previously described. If no consensus can be reached, the CRB may appeal to the Chief. The Chief will decide the outcome and will implement discipline or dismissal, absent appeal. If the CRB disagrees with the Chief's decision, they may appeal to the General Manager. The General Manager will then decide the final outcome, and the Chief will implement that decision.

Review BART Police Department Internal Affairs Investigations

In addition to conducting its own investigations, OIPA is charged with reviewing BPD's Internal Affairs investigations to determine if they are complete, thorough, objective, and fair. In order to do this, OIPA has worked closely with Internal Affairs over the past year to establish the necessary access to their investigations. Specifically, OIPA obtained its own level of access to the investigation database utilized by Internal Affairs. This access allows for the review of not only all Citizen Complaint investigations, but also of "Comments of Non-Complaint"⁴ and Administrative Investigations.⁵

⁴ As defined by BPD, Comments of Non-Complaint are comments "on the actions of a department employee, where the reporting party expressly states that they do not want to make a complaint." (BART Police Department Policy Manual, Policy 1020.1.1(e)).

⁵ Administrative Investigations are those generated internally by BPD, as opposed to by a complainant or other external reporting party.

Furthermore, this access allows OIPA to review each investigation at any point throughout its life cycle, from the time it is first entered into the database through its completion. OIPA can therefore monitor investigations as they progress and develop, potentially spotting issues that arise along the way. In June 2012, OIPA's Independent Police Investigator attended training hosted by the creator of the software that BPD utilizes for its Internal Affairs investigation database; such training helps put OIPA in position to conduct its review function as effectively as possible.

OIPA has developed a practice that meets its responsibility of reviewing Internal Affairs investigations in a few different ways. First, OIPA actively monitors all complaints that it refers to BPD Internal Affairs for investigation. Second, OIPA frequently checks for new complaints as Internal Affairs adds them into the database, even though they did not initially come through this office. Third, OIPA inspects in much greater detail any investigation that it deems to be of heightened concern. Such investigations may involve, for instance, particularly serious or egregious allegations of misconduct; or they may have arisen from a particularly high-profile incident.

OIPA believes that this approach to reviews of BPD Internal Affairs investigations is both thorough and effective. Going forward, we seek to also make it more formalized. We are developing a standardized process for documenting completed reviews and identifying any relevant observations we have made. We also seek to better include OIPA's significant and important review efforts in our periodic reporting to the Citizen Review Board.

Establish an Alternative Dispute Resolution Process

It is often the case that an effective alternative dispute resolution (ADR) process, such as mediation, can lead to the optimal outcome of an incident involving alleged misconduct for both the complainant and the involved officer. In many instances, it is the lack of effective communication and common understanding between a complainant and an officer that can be the most proximate cause for the initiation of a complaint. For example, when an individual does not understand why an officer has given a particular command, or when an officer does not understand why an individual has reacted in a certain way, the potential for a negative interaction (and the subsequent filing of a complaint) rises.

An effective ADR process has the potential to affect precisely this phenomenon in a positive way. By maximizing the chance that each opposing party will listen to the other's point of view, it is often possible for both sides to gain a new understanding of each other and of why the conflict between them might have arisen in the first place. In this sense, particularly in cases where miscommunication and a lack of common understanding are present, OIPA feels that ADR can be an extremely valuable tool with regard to the BART Police Department.

Establishing an ADR process that is tailored to best fit BART is one of the primary objectives for OIPA in the upcoming year. A crucial step toward ensuring that such a process will indeed be effective at implementation is obtaining buy-in from all of the relevant stakeholders as the process is still being developed. In other words, as OIPA crafts the format for an effective ADR process, continual meetings will necessarily need to take place with all of the relevant stakeholders on this issue including the CRB, BPD command staff, and the two BPD employee unions. It is anticipated that the total time required to finalize this process will be fairly substantial; but it is this measured approach that will allow both BPD and the community to reap the rewards of a well-designed process that has included input from a variety of important sources.

Conduct Complainant-Initiated Appeals of BPD Internal Affairs Findings

In addition to the various other investigation reviews it performs, OIPA acts as a route of appeal for complainants who are dissatisfied with the findings they have received at the conclusion of a BPD Internal Affairs investigation. Upon receiving a request for such an appeal, OIPA reviews the investigation that was conducted and determines whether further investigation is warranted.

After the review is complete (as well as any other further investigation, if warranted) OIPA reaches an independent finding as to the facts. Like findings from cases that were initially investigated by OIPA, these independent findings may contain recommendations for corrective action, up to and including termination. Also in line with the procedures for OIPA investigations, all such findings are submitted directly to the CRB for its review and agreement or disagreement.

Respond to Officer-Involved Shooting Incidents and Monitor the Ensuing Investigation

Few law enforcement-related incidents spark the concern of a community as quickly and deeply as an officer-involved shooting (OIS), particularly when it results in death or serious bodily injury. Investigations into these incidents, which have the potential to be exceptionally complex, must therefore be carried out with the utmost integrity, and they must be of the highest quality. For these reasons, it is important that OIPA has the authority and responsibility to respond to the scene of an OIS resulting in death or serious bodily injury, and the authority and responsibility to monitor the entirety of the subsequent BPD investigation.

OIPA provides an independent set of eyes that are able to look into BPD's investigative process, highlight any concerns as they occur, and reassure the community that a civilian entity is carefully monitoring the police department's investigation. We have the authority to observe BPD's interviews of employees and witnesses, and we can submit questions to be asked by the interviewer.

Immediately after an OIS involving BPD officers on July 3, 2011, OIPA began to monitor the ensuing BPD investigation. Specifically, OIPA worked with BPD investigators to obtain a mirror image of all the evidence that they had collected. Furthermore, OIPA participated in interviews of both the involved officers and some witnesses to the incident. The cooperation from BPD allowed OIPA to perform its monitoring role effectively in this instance.

While acknowledging that cooperation in this instance was not an issue, OIPA sees a definite need to formalize the arrangement between this office and BPD in the aftermath of an OIS for any future such incidents that might occur. Developing a memorandum of agreement between the two departments could prove crucial in the event that questions arise regarding the level of access OIPA is granted at a scene (when evidence is most "fresh" and has not yet been touched or processed); whether, when, and from whom OIPA will receive a walkthrough of the scene; what should happen when OIPA raises a concern about a particular aspect of the ongoing investigation; etc. OIPA is in the early stages of drafting such an agreement and looks forward to progressing toward finalization in the upcoming year.

Draft Recommendations Regarding BPD Procedures, Practices, and Training

Over the course of its first year, OIPA has spent significant effort familiarizing itself with BPD's procedures, practices, and training. From selected reviews of policies in the manual to participation in BPD training modules that include "shoot/don't shoot" scenarios, emergency vehicle operations, ethical use of force scenarios, TASER utilization, and racial profiling, OIPA has worked to put itself in a position to most effectively recommend appropriate revisions or updates.

OIPA is already, in fact, producing such recommendations and including them with the findings that result from an OIPA investigation into alleged misconduct. In other words, when OIPA reaches a finding regarding a particular allegation of misconduct, it must judge an officer's actions against what is required of that officer by BPD policy. In conducting this analysis, OIPA simultaneously has the chance to call attention to any aspects of the relevant policy that it thinks can be improved upon. Such a recommendation for improvement was incorporated into an OIPA investigation that was completed shortly after OIPA's first year of operation.

These recommendations for improved policies are forwarded to the CRB for its own review, as well as to BPD itself for its consideration. This, however, is only one way in which OIPA can bring forth meaningful suggestions for change to BPD policy. One of OIPA's goals for the upcoming year is to begin conducting more systematic and formalized policy reviews, independent of whether any investigation is being undertaken related to those policies. OIPA has preliminarily identified some potential areas it believes can be addressed, and we look forward to drafting formalized recommendations for presentation to the CRB in the near future.

Develop a Regular Program of Community Outreach

An unending commitment to community outreach is one of the most important responsibilities OIPA is charged with. The civilian oversight system at BART is in place essentially to provide a service to the public – to help ensure that BART's police officers are being held to the appropriate standard of law enforcement performance and to help ensure that they are being held accountable if they should fall short of that standard. This service cannot be an effective one if it operates in a vacuum without input, feedback, and participation from those it is meant to serve.

Early in its existence, OIPA made efforts to meet with a variety of different groups around the Bay Area in hopes of laying the foundation for open and effective channels of communication going forward. These include community groups who have a stake in law enforcement oversight, neighboring oversight agencies, and other professionals who, through their work, have close ties to a part of the local community. We appreciate every opportunity to meet with community groups or other organizations that have an interest in effective oversight of the BART Police Department, and we look forward to many more of these meetings in the future. Some of the groups that OIPA has met with so far are:

- Members of the Oscar Grant Foundation
- National Lawyers Guild, San Francisco Chapter
- People United for a Better Life in Oakland (PUEBLO)
- City and County of San Francisco Office of Citizen Complaints
- Staff of the Richmond Police Commission
- American Civil Liberties Union of Northern California

Safety 1st
City of Oakland Citizens' Police Review Board
City of San Jose Office of the Independent Police Auditor
Alameda County Public Defender
Contra Costa County Public Defender
San Francisco Public Defender

In addition to these and other individual meetings, OIPA has engaged the community through participation in numerous different events including community cleanup efforts near a BART station, National Night Out programs, and the 54th Annual Oakland Citywide Revival hosted by the Baptist Ministers Union of Oakland and Vicinity. Furthermore, OIPA has found it valuable to maintain a close connection to the National Association for the Civilian Oversight of Law Enforcement (NACOLE), which is a national not-for-profit association of law enforcement oversight organizations and professionals that seeks to advance fair and professional policing.⁶ OIPA continues to benefit from the input and perspective of practitioners at the national level in addition to those closer to the Bay Area.

One important aspect of effective outreach is taking the time to educate the community about what civilian oversight of law enforcement is, and how it works specifically at BART. To that end, OIPA has explored a variety of informative materials that we could use as tools to let people know the most crucial information about our office. The first of these tools is the OIPA brochure. (See Appendix D for a mockup of the OIPA Brochure.) The brochure contains easy-to-locate contact information for OIPA, as well as sections on OIPA's authorities, responsibilities, and mission. Additionally, the brochure contains a section to tell people what they can expect once they have filed a complaint with our office. OIPA is in the process of circulating its brochures throughout the BART District, as well as to surrounding areas such as local businesses or government offices. Notably, BPD Internal Affairs has begun forwarding OIPA's brochure in the course of their routine communication with complainants.

OIPA seeks to keep its connection with the public strong. To that end, OIPA has embarked upon a series of community forums around the BART District to inform people about what the civilian oversight system at BART is and how it works, identify how the system can potentially be of benefit to them, and gather important feedback regarding any questions, concerns, or suggestions that they might have. The first of these forums took place in March 2012 and resulted in a deeply thoughtful dialogue between the attendees, OIPA, and members of the CRB. OIPA's community forums are open to anyone who would like to attend.

OIPA has also sought to ensure that all communities that make up BART are aware that they have full access to the services that we can provide. We made a presentation to the BART Limited English Proficiency Advisory Committee, and we have met on multiple occasions with the BART Accessibility Task Force (BATF). As a result of collaborative efforts with some members of BATF, we improved signage outside the OIPA office at BART headquarters to make it more readily accessible to those with a visual impairment. OIPA will continue to seek opportunities to focus its outreach efforts on all of the varied groups that make up the entire BART community.

⁶ The Model explicitly requires OIPA's adherence to NACOLE's Code of Ethics.

In addition to its strong commitment to conducting outreach throughout the BART community, OIPA also believes it is important to engage in outreach to the employees of the BART Police Department. It is just as important to be upfront and clear about how the oversight process works with BPD as it is with the public. It is also important to allow officers to ask questions about the process. In consideration of this, OIPA has visited numerous lineups⁷ at various reporting locations throughout the BART District to make a brief presentation to officers, and we look forward to continuing these visits.

Prepare Monthly Reports to the Citizen Review Board

Throughout the past year, OIPA has completed a series of monthly reports to the CRB, as dictated by the Model. OIPA utilizes its access into the BPD Internal Affairs case database to independently pull together information on all of the relevant BPD cases that have been opened or closed in a given month; we then include information from our own case-tracking database as well. A good deal of collaboration with BPD is regularly required to ensure that the BPD data being reported on is accurate and represented correctly within these reports. OIPA presents completed reports to the CRB at their regularly-scheduled monthly public meetings.

As OIPA is committed to transparency, we also sought and received the necessary tools to post these periodic reports online, on the OIPA webpage, subsequent to their submission to the CRB. In the future, OIPA intends to examine ways to enhance these reports, including more descriptive information on various cases and making the reports as “user-friendly” to the public as possible while still meeting the reporting requirements set by the Model and complying with applicable law.

Provide Staff Support to, and Facilitate Training for, the Citizen Review Board

In addition to these important periodic reports, OIPA continues to meet its responsibility of providing staff support to the CRB. With regard to training, OIPA’s first step was to ensure that all CRB members received the BPD policy manual so that they could begin the crucial job of familiarizing themselves with the policies they would be judging individual officers against. Since then, OIPA has arranged for CRB training on a number of relevant topics including state law regarding open meetings, parliamentary procedure, and the form of OIPA’s investigative reports. OIPA has also obtained a license for the CRB to access the California Peace Officers Legal Sourcebook (CPOLS), which organizes a collection of laws and regulations that are commonly relevant in law enforcement operations and that the BPD also relies upon when legal questions arise. OIPA is a participant at the CRB’s Training Subcommittee meetings and continues its commitment to fulfilling the training desires identified by the CRB as well as the training necessities that we identify ourselves.

OIPA has also worked well with BPD in efforts to arrange other valuable CRB training in a wide variety of areas that include ride-alongs with officers, a presentation on the operation of the BPD Office of Internal Affairs, a presentation on BPD’s use of Lexipol (a policy manual service that is utilized by BPD), and a two-day course covering law enforcement topics such as “shoot/don’t shoot” scenario-based training, the laws of arrest, crisis intervention, racial profiling, the use of force, and canine enforcement.

⁷ Among other things, lineups are opportunities for small groups of officers to gather at the start of a work shift to receive relevant updates and patrol instructions from a supervisor.

OIPA maintains all meeting records of the CRB, including regular meetings and standing subcommittee meetings. OIPA works with the CRB Chairperson and Vice-Chairperson to create the agendas for the regular meetings, and we prepare minutes of those meetings for review and approval by the CRB. OIPA audio-records all such meetings digitally; doing so makes preservation easy and also provides useful options in the future such as transcription and distribution to anyone who might request to review the recordings. After obtaining the required access and training, OIPA now posts the CRB agendas and approved meeting minutes online on the CRB's own webpage.

2011-2012 BY THE NUMBERS

The Model dictates that this report shall include a breakdown of cases filed over the course of the last year, including complaints about the police received by OIPA, BPD, or any other District departments. The following tables and charts are designed to satisfy the specific reporting requirements as stated in Chapter 1-04(J) of the Model, as well as provide some additional insights into the types of complaints initiated and investigations completed during 2011-2012.

It is important to note that the nature of the data being reported is one that lends itself to occasional change. For example, a case that was initially labeled as a Citizen Complaint during the month it was received (and initially reported as such) might later be determined to be a Comment of Non-Complaint⁸ during a subsequent month. The data reported in the table on this page is aggregated from OIPA's monthly reports filed with the CRB and generally reflects cases *as they were initially received*; it therefore might not reflect some changes that have taken place since. Importantly, OIPA has met with BPD Internal Affairs each month since OIPA started its periodic reporting in October 2011;⁹ at these meetings we took the opportunity to reconcile every case and discuss any changes to cases, such as the one in the example above, so that no case is unaccounted for and that every change made is justified.

Total Number of Cases Filed; Number of Pending Cases at Month-End

	Number of Cases Filed ^{10,11}	Number of Open Cases ¹²
June 27, 2011 – October 31, 2011	32	53
November 2011	11	60
December 2011	4	56
January 2012	6	58
February 2012	14	57
March 2012	7	61
April 2012	6	55
May 2012	10	54
June 2012	13	61
TOTALS	103	

⁸ See Note 4 above for a definition of "Comments of Non-Complaint."

⁹ October 2011 was the fourth full month of OIPA operation and was the first month in which OIPA crafted a periodic report on complaint activity. In that month, however, OIPA reported on data dating back to the first day of OIPA operation.

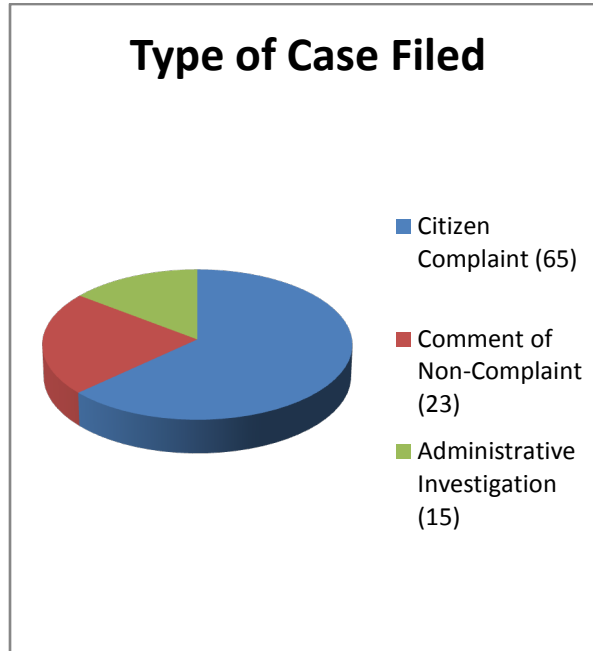
¹⁰ This number includes all Citizen Complaints filed against members of BPD, whether filed with OIPA or BPD, as well as Comments of Non-Complaint filed with BPD and Administrative Investigations initiated internally by BART Police Department members. The total includes complaints against all BPD personnel, whether sworn or civilian.

¹¹ This number refers to individual cases, each of which could potentially have more than one allegation of misconduct subject to investigation, and each of which could also potentially involve more than one accused BPD employee.

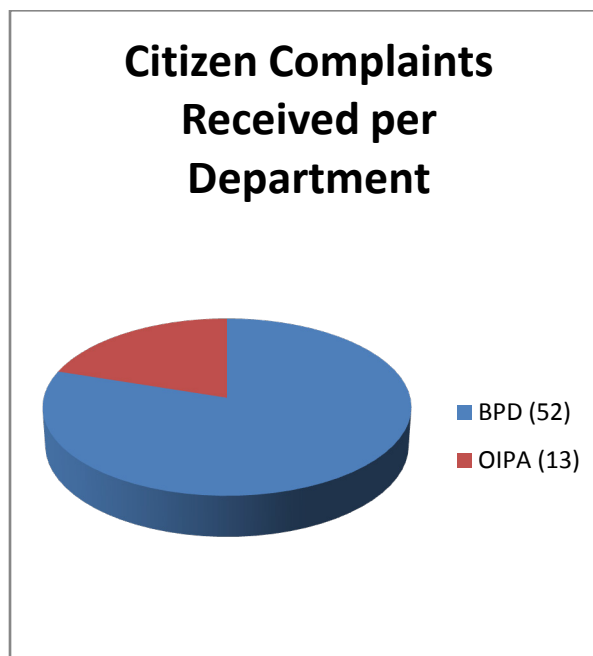
¹² This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, BPD, or both), Comments of Non-Complaint, and Administrative Investigations.

Types of Cases Filed/Citizen Complaints Received per Department

Out of the 103 cases alleging misconduct against BPD employees that were filed during the 2011-2012 reporting period, 65 were Citizen Complaints, 23 were received by BPD as Comments of Non-Complaint, and 15 were Administrative Investigations internally initiated by BPD.

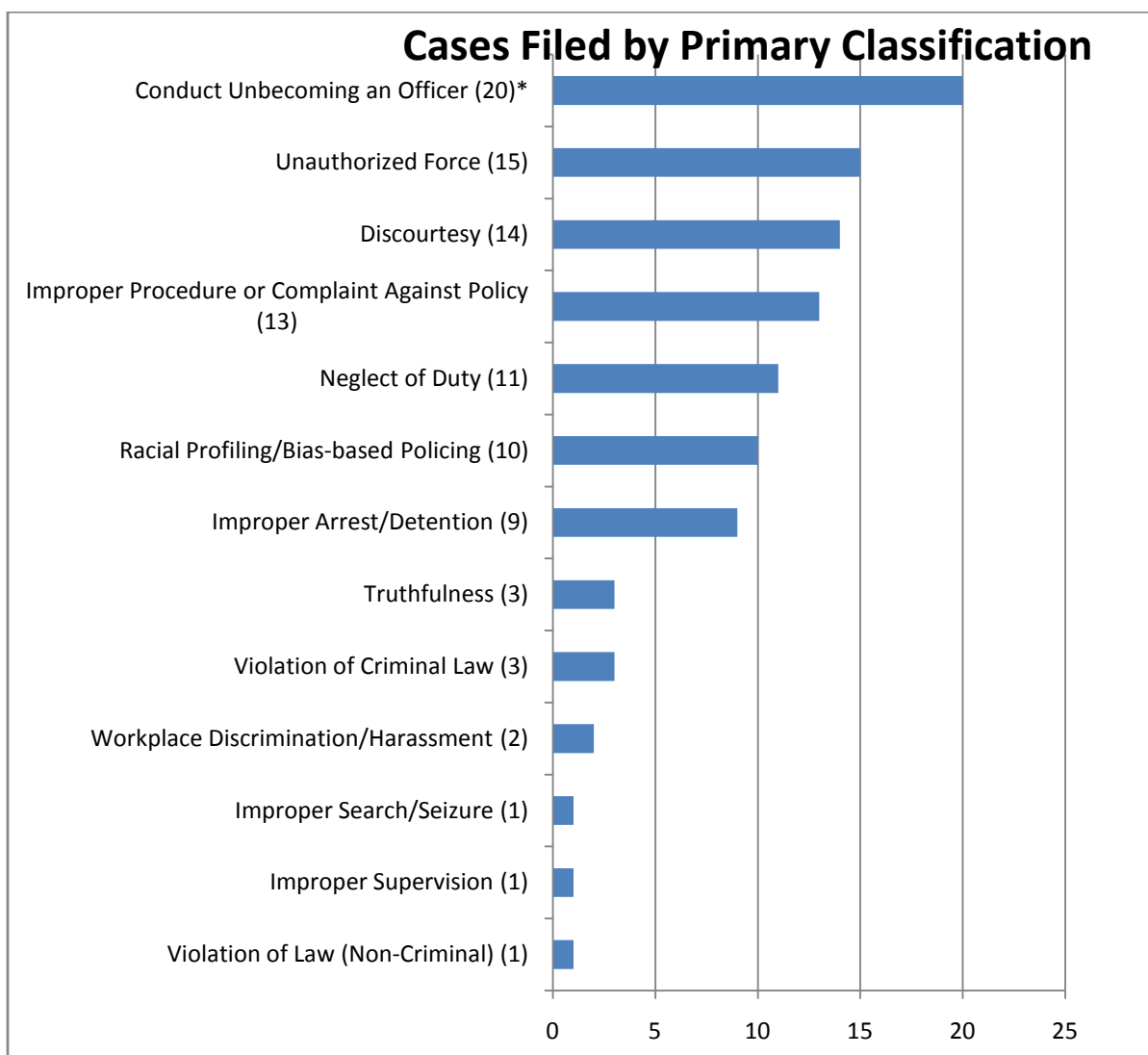


Of the 65 Citizen Complaints that were filed, 13 (or 20%) of them were filed with OIPA.



Complaints of misconduct are classified by the specific allegations they have raised. As complaints commonly include multiple types of allegations, they are also given a primary classification; the primary classification is generally the most serious type of misconduct that has been alleged. Following is a breakdown of the 103 cases alleging misconduct that were filed during the 2011-2012 reporting period, separated by primary classification.

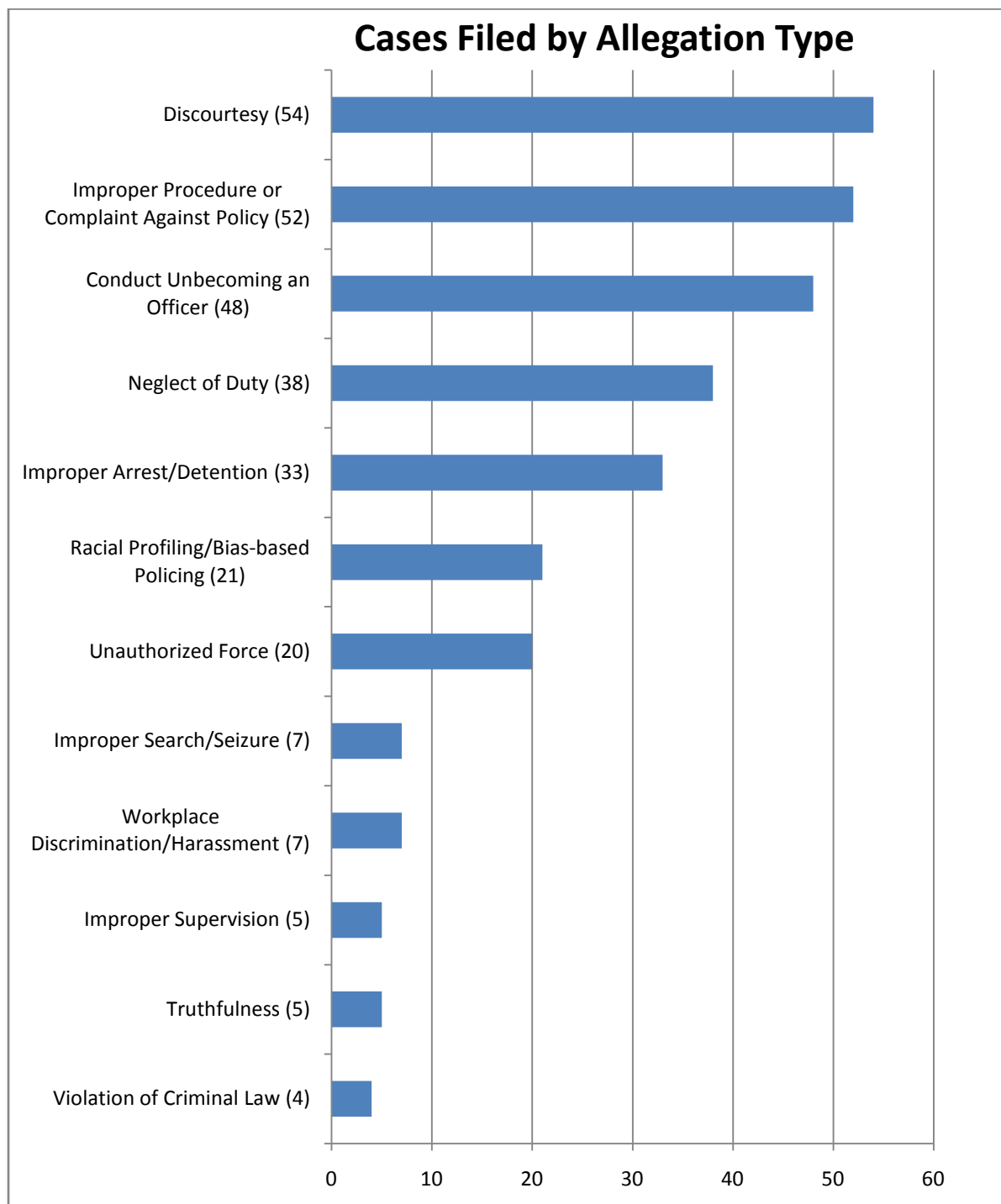
Note that classifications can sometimes change over the course of an investigation for a variety of reasons. For example, as investigators uncover more information about a complaint, they may learn that more serious allegations than those initially raised are involved. Additionally, it is important to note that for cases that have been both initiated and completed within the current reporting period, the primary classification is determined by the findings of the case instead of the initial allegations that were raised (i.e. – the most serious *Sustained* allegation would become the primary overall classification).¹³



*Among other things, this classification includes criminal infractions that do not rise to the level of a misdemeanor, such as a minor traffic violation.

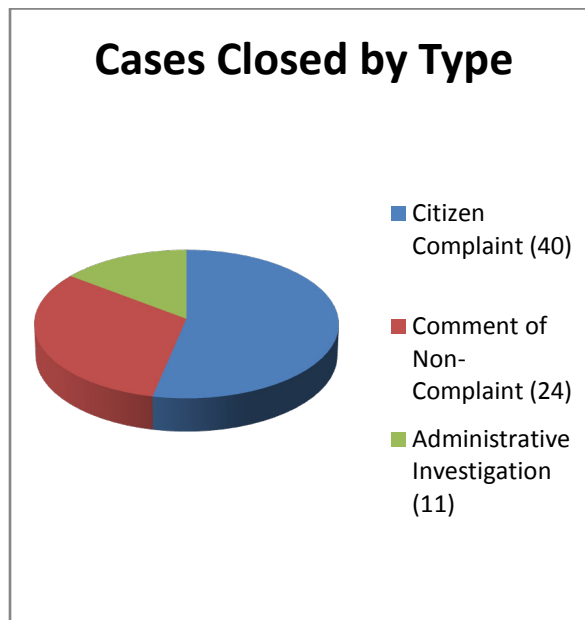
¹³ For more information on the hierarchy of findings, see Page 17 of this report.

Following is a breakdown of allegation types for the 103 cases alleging misconduct that were filed during the 2011-2012 reporting period. Each case may include multiple allegations and/or multiple involved officers, which is why the total number of allegation types is significantly greater than the total number of cases. Once again, allegations are commonly added to or removed from a case during the course of an investigation for a variety of reasons. Acknowledging this, some of the data presented here may reflect updated allegations that are different from the ones initially raised during the intake process.



Disposition of Cases Completed

During the 2011-2012 reporting period, 75 investigations were completed. 40 of these investigations were Citizen Complaints, 24 were Comments of Non-Complaint, and 11 were Administrative Investigations. It should be noted that the cases reported on here were completed by BPD; this is in part because OIPA's investigation caseload began at 0 at the start of this reporting period. By contrast, many of the BPD cases that were completed during this reporting period were initiated prior to the existence of OIPA.

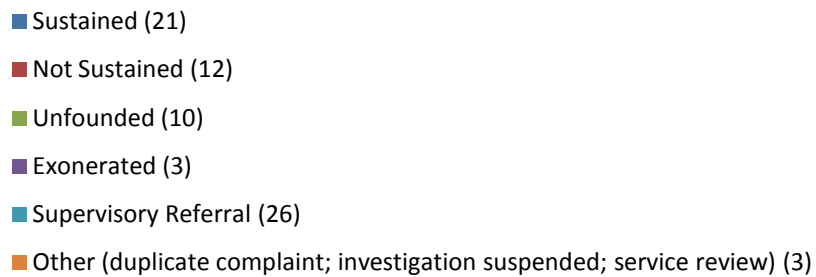
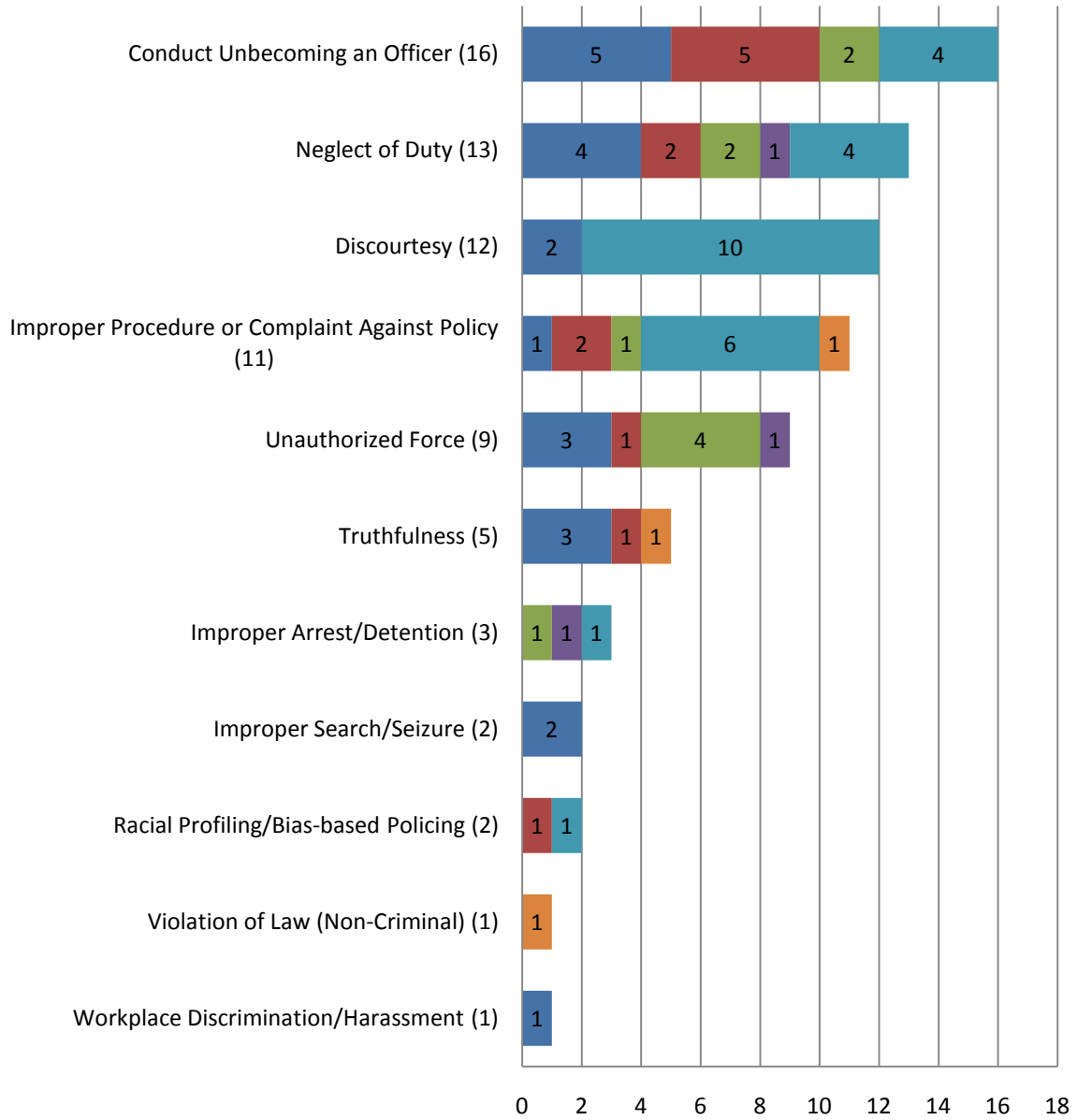


Following is a breakdown of the 75 cases completed during the 2011-2012 reporting period separated by primary classification and primary finding. As with classifications, primary findings are generally assigned to a case according to a hierarchy and depend upon which finding has been reached for each allegation included in a case. If any allegation in the case has been *Sustained*, that will dictate the overall finding as *Sustained* regardless of the findings of all other allegations. *This means that a case may be deemed Sustained solely on the basis of an allegation other than the most egregious one.* The same is true if any allegation has been deemed *Not Sustained* (absent any *Sustained* allegations, of course).

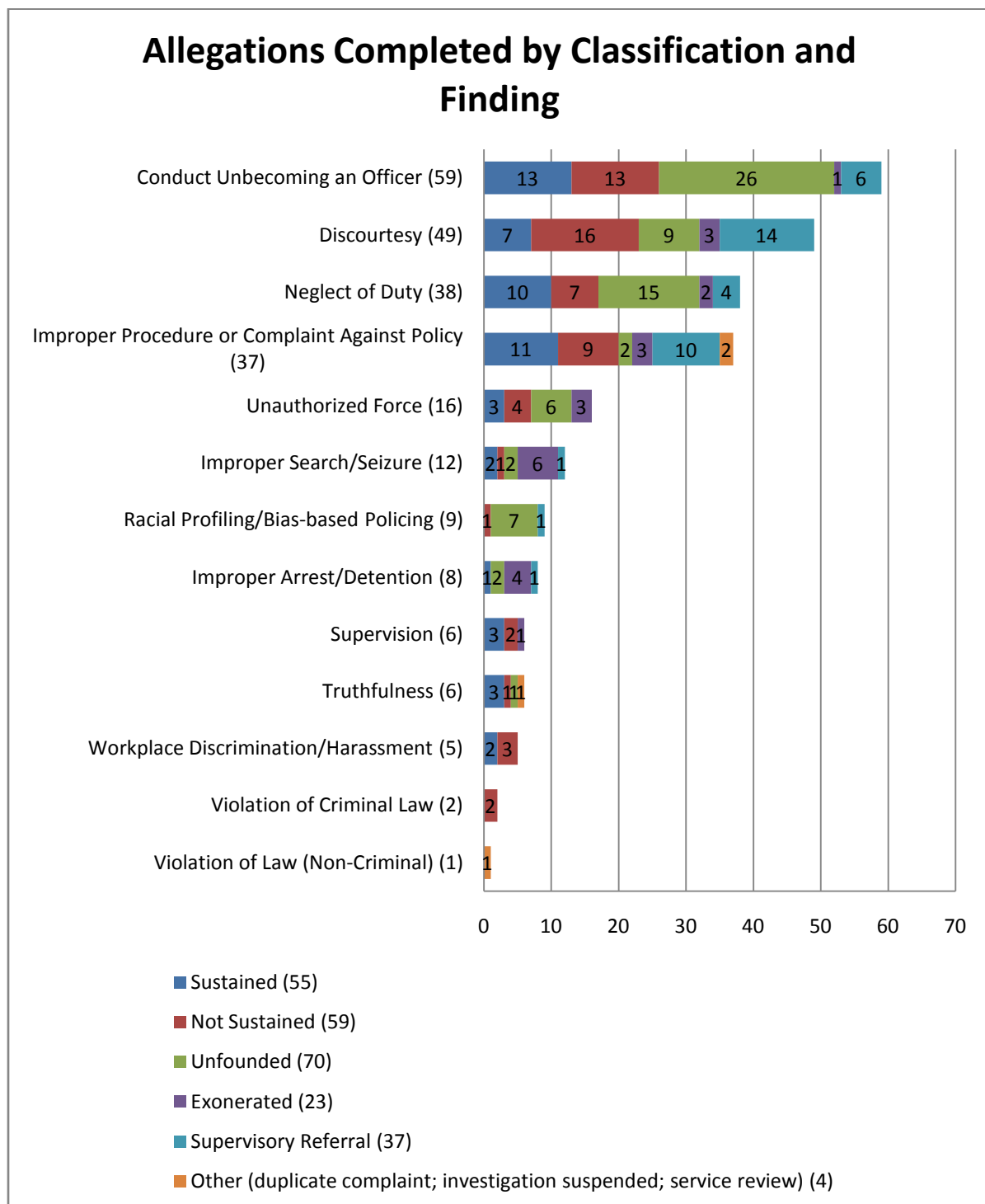
If all allegations in a case are adjudicated as *Unfounded* and/or *Exonerated*, then the primary finding will be the one linked to the most egregious allegation. One of the exceptions to this hierarchy involves cases with a primary finding of Supervisory Referral,¹⁴ which is a finding used for almost all Comments of Non-Complaint and may occasionally be used for other types of complaints as well. It is again important to note that for cases that have been both initiated and completed within the current reporting period, the primary classification is identified by the most serious type of misconduct that has been adjudicated as *Sustained*, irrespective of the most serious type that was initially alleged.

¹⁴ In defining a "Supervisory Referral," the BART Police Department Manual indicates that an assigned supervisor will address the issue informally with the involved employee and document the content of the conversation in a memorandum to the Internal Affairs Section.

Cases Closed by Primary Classification and Primary Finding



As mentioned previously, each closed case may include multiple different allegations of misconduct, each of which receives its own finding; furthermore, there may be only one category of misconduct alleged in a case, but it could be alleged against multiple different officers who each subsequently receive an individual finding. The chart below shows a breakdown of each allegation that received a finding as part of a completed case during the 2011-2012 reporting period. Note that the number of individual allegations with a finding far exceeds the number of closed cases in the chart above.



Cases Being Appealed

Separate from the 103 incoming cases detailed above, OIPA received 2 appeals of cases that were previously completed by BPD Internal Affairs. While one such appeal remained pending at the end of the reporting period, OIPA did not disagree with the findings arrived at by Internal Affairs in the other appeal.

OIPA also tracks the number of instances when it submits its own findings recommendations to the CRB, and the CRB disagrees with those findings by appealing to the BART Chief of Police. No such appeals occurred during this reporting period.

Cases Reviewed/Monitored by OIPA

As described earlier, OIPA reviews BPD Internal Affairs cases in a variety of different ways. Though potentially work-intensive, some reviews are completed informally, with any concerns being addressed through a conversation with BPD Internal Affairs investigators. It is this type of review that occurs each month when OIPA prepares a periodic report for the CRB. OIPA performs a review of some sort on each new case that came in during the month, and each closed case that was completed during the month. Therefore, without accounting for any of the other instances when OIPA finds reason to examine a particular BPD Internal Affairs investigation, OIPA reviewed more than 160 cases in this fashion during its first year.¹⁵

In addition, OIPA actively monitors those cases that are initiated through our office, even though they do not fall within our investigative jurisdiction. We have a responsibility to ensure that those cases are investigated in a timely, thorough, complete, objective, and fair manner. During the 2011-2012 reporting period, OIPA monitored 6 such cases.^{16,17}

¹⁵ Approximately 10 cases originally initiated prior to the opening of OIPA on June 27, 2011 were not reviewed by OIPA even though they were closed after that date.

¹⁶ This does not include OIPA's monitoring of the officer-involved shooting incident described elsewhere in this report.

¹⁷ These cases overlap with the number of reviewed cases mentioned earlier. These cases, however, receive a higher level of scrutiny from OIPA than some others that are reviewed more informally.

LOOKING FORWARD

OIPA has now begun shifting its focus from building a strong foundation for effective oversight to developing a vigorous and active oversight practice based upon that foundation. Over the course of the next year we plan to address those oversight functions that we have not yet had a chance to develop fully. In particular, we look forward to progressing with the development of an alternative dispute resolution process. Additionally, although we have been making policy recommendations whenever appropriate, we also look forward to issuing more formalized and comprehensive recommendations going forward. Beyond the complaint intake, complaint investigation, and reviews of investigations that we are currently engaged in, we feel that these steps are the next ones that will allow us to provide truly effective and independent oversight of BPD.

Additionally, OIPA is committed to focusing its outreach over the next year more heavily on youth throughout the Bay Area. We have listened to requests from interested young people for more of OIPA's attention, and we recognize the need to actively ensure that this segment of the Bay Area's population has full and unencumbered access to the services we provide. It is important that youth fully understand their rights and responsibilities in their interactions with the police. A better understanding of one's rights and responsibilities can potentially go a long way toward minimizing the chances that an interaction with police will result in a conflict. OIPA can play a meaningful role in educating the youth who come into contact with the BART system about what to do, and what not to do, during interactions with BPD officers.

A high volume of interactions between youth and police is likely common to every metropolitan or urban locale, and the BART District is certainly no exception. Young people make up an active and vibrant part of the BART community, and OIPA looks forward to ensuring that they are made aware that they can come to OIPA for assistance if they are victims of, or witnesses to, police misconduct. Taking the time to directly connect with some of the youth-focused organizations throughout the Bay Area will go a long way toward helping us achieve this important goal.

APPENDICES

APPENDIX A

BART Public Safety Accountability Act

APPENDIX B

BART Citizen Oversight Model

APPENDIX C

OIPA Complaint Form

APPENDIX D

OIPA Brochure

APPENDIX A
BART Public Safety Accountability Act

Assembly Bill No. 1586

CHAPTER 78

An act to add Section 28767.8 to the Public Utilities Code, relating to transportation.

[Approved by Governor July 15, 2010. Filed with
Secretary of State July 15, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1586, Swanson. San Francisco Bay Area Rapid Transit District.

Existing law creates the San Francisco Bay Area Rapid Transit District (BART), governed by an elected board of directors, with various duties and responsibilities relative to the operation of a rail transit system. Existing law authorizes the district to maintain a police department.

This bill would authorize the BART board of directors to establish an office of independent police auditor that would report directly to the board and investigate complaints against district police personnel relative to on-duty misconduct and off-duty unlawful activity, as specified. If the board establishes an office of independent police auditor, the bill would require the board to organize, reorganize, and manage the office and would require the auditor to prepare reports of his or her activities.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the BART Public Safety Accountability Act.

SEC. 2. Section 28767.8 is added to the Public Utilities Code, to read:

28767.8. (a) The board may establish an office of independent police auditor, reporting directly to the board, to investigate complaints against district police personnel.

(b) The appointed independent police auditor shall have the following powers and duties:

(1) To investigate those complaints or allegations of on-duty misconduct and off-duty unlawful activity by district police personnel, within the independent police auditor's purview as it is set by the board.

(2) To reach independent findings as to the validity of each complaint.

(3) To recommend appropriate disciplinary action against district police personnel for those complaints determined to be sustained.

(c) The board shall organize, reorganize, and manage the office of the independent police auditor. Notwithstanding the authority granted the general manager in this part, the board may, by resolution, authorize a citizen review board to participate in recommending appropriate disciplinary action.

(d) The independent police auditor shall prepare, in accordance with the rules of the office, reports of his or her activities as permitted by law.

APPENDIX B
BART Citizen Oversight Model

EXHIBIT A BART CITIZEN OVERSIGHT MODEL

Purpose: To provide an effective, independent citizen oversight system that promotes integrity and encourages systemic change and improvement in the police services BART provides to the public by ensuring that internal police accountability systems function properly; that behavioral, procedural and policy deficiencies are identified and appropriately addressed, including racial profiling and allegations of racially abusive treatment; and, that complaints are investigated through an objective and fair process for all parties involved. The system will analyze allegations of misconduct; utilize data to identify trends, including disciplinary outcomes and trends; recommend corrective action and or training; maintain confidentiality; make policy recommendations; and, report regularly to the BART Board of Directors and the public. The essential community involvement component of the system shall be accomplished through the inclusion of a Citizen Review Board.

Chapter 1:

- 1-01 OFFICE OF THE INDEPENDENT POLICE AUDITOR
- 1-02 APPOINTMENT OF THE AUDITOR
- 1-03 SCOPE
- 1-04 DUTIES AND RESPONSIBILITIES
- 1-05 RELATIONSHIP BETWEEN OFFICE OF INDEPENDENT POLICE
AUDITOR AND CITIZEN REVIEW BOARD
- 1-06 RELATIONSHIP BETWEEN THE OFFICE OF THE INDEPENDENT POLICE
AUDITOR AND THE BART POLICE DEPARTMENT AND OTHER
DEPARTMENTS
- 1-07 COOPERATION WITH THE OFFICE OF THE INDEPENDENT POLICE
AUDITOR
- 1-08 INDEPENDENCE OF THE AUDITOR
- 1-09 CONFIDENTIALITY OF RECORDS AND INFORMATION
- 1-10 CODE OF ETHICS
- 1-11 TIMELINESS

Chapter 2:

- 2-01 CITIZEN REVIEW BOARD
- 2-02 APPOINTMENT OF THE CITIZEN REVIEW BOARD MEMBERS
- 2-03 CITIZEN REVIEW BOARD MEMBER QUALIFICATIONS/RESTRICTIONS
- 2-04 REMOVAL OF CITIZEN REVIEW BOARD MEMBERS
- 2-05 CITIZEN REVIEW BOARD LEAVES OF ABSENCE
- 2-06 CITIZEN REVIEW BOARD VACANCIES
- 2-07 SCOPE
- 2-08 DUTIES AND RESPONSIBILITIES
- 2-09 RELATIONSHIP BETWEEN CITIZEN REVIEW BOARD AND OFFICE OF
THE INDEPENDENT POLICE AUDITOR
- 2-10 CONFIDENTIALITY OF RECORDS AND INFORMATION
- 2-11 CODE OF ETHICS

Chapter 3:

- 3-01 OVERSIGHT SYSTEM EVALUATION

Chapter 1-01 OFFICE OF THE INDEPENDENT POLICE AUDITOR

The Office of the Independent Police Auditor shall be established by the Board of Directors in keeping with the Core Principles for an Effective Police Auditor's Office.¹

Chapter 1-02 APPOINTMENT OF THE AUDITOR

The Auditor shall be appointed by and report directly to the BART Board of Directors.

Chapter 1-03 SCOPE

The Office of the Independent Police Auditor shall have the authority to exercise its duties and responsibilities as outlined below, with regard to any and all law enforcement and police activities or personnel operating under authority of the San Francisco Bay Area Rapid Transit District. The Auditor's scope of authority does not extend beyond the BART Police Department.

Chapter 1-04 DUTIES AND RESPONSIBILITIES

A) Complaints Received From Members of the Public

A victim of on-duty police misconduct, a victim's parent or guardian, or a witness to misconduct may file with the Office of the Independent Police Auditor a complaint or allegation of wrongdoing against a BART police officer. Upon receipt of such complaint or allegation, the Office of the Independent Police Auditor shall:

- i) Ensure that a timely, thorough, complete, objective and fair investigation into the complaint is conducted. The Police Auditor shall investigate all complaints of allegations of police officer misconduct regarding unnecessary or excessive use of force, racial profiling, sexual orientation bias, sexual harassment, and the use of deadly force, suspicious and wrongful deaths.
- ii) Provide timely updates on the progress of all investigations conducted by the Office of the Independent Police Auditor to the complainant and the officer who is the subject of the investigation, unless the specific facts of the investigation would prohibit such notification.
- iii) Based on the results of the investigation, reach an independent finding as to the facts. The Auditor shall assess the conduct of the BART police officer in light of the facts discovered through the investigation, the law, and the policies and training of the BART Police Department.

B) Recommendations for Corrective Action

- i) Independent investigative findings made by the Office of the Police Auditor shall include recommendations for corrective action, up to and including termination where warranted and shall include prior

¹ Report of the First National Police Auditors Conference, March 26-27, 2003, Prepared by Samuel Walker

complaints and their disposition. When the evidence does not support the allegations of misconduct, the Auditor shall recommend that the matter be dismissed.

- ii) In a confidential personnel meeting, the Auditor shall submit his/her investigative findings and recommendations to the Citizen Review Board for review. Should the Citizen Review Board agree with the findings and recommendations, the report will be submitted to the Chief of Police for appropriate action. The Chief of Police shall implement the recommended action, absent appeal.
- iii) Should the Chief of Police disagree with the findings and recommendation of the Auditor and Citizen Review Board, the Chief of Police, in a confidential personnel meeting, may appeal to the General Manager. The Chief of Police will submit his/her disagreements and recommendations to the General Manager. In a confidential personnel meeting, the General Manager shall make a decision and make his/her decision known to the Chief of Police, Citizen Review Board and the Auditor. The Chief of Police shall implement the General Manager's decision.
- iv) Should the Citizen Review Board disagree with the Auditor's findings, by simple majority, in a confidential personnel meeting, the Auditor and the Citizen Review Board shall attempt to come to a consensus. If the Citizen Review Board and the Auditor fail to come to a consensus, by simple majority, the Citizen Review Board may appeal. The efforts made to achieve consensus shall be documented by the Citizen Review Board and shall be forwarded to the Chief of Police as a part of the appeal. All appeals regarding findings and recommendations for corrective action or dismissal, between the Citizen Review Board and the Auditor will be initially appealed to the Chief of Police, in a confidential personnel meeting. The Citizen Review Board will submit their disagreements and recommendations to the Chief of Police, in a confidential personnel meeting. The Auditor will submit his/her recommendation to the Chief of Police, in a confidential personnel meeting. The Chief of Police shall make a decision on the matter and make his/her decision known to the Citizen Review Board and the Auditor, in a confidential personnel meeting. The Chief of Police shall implement discipline or dismissal, absent appeal.
- v) If the Citizen Review 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 Manager, in a confidential personnel meeting. The Citizen Review Board and the Auditor's recommendations will be submitted to the General Manager, in a confidential personnel meeting. The General Manager will render a finding and report it to the Chief of Police, Citizen Review Board and

the Auditor, in a confidential personnel meeting. The Chief of Police shall implement the General Manager's decision, which will be final.

- vi) Discipline recommended herein shall be subject to an administrative hearing prior to implementation, in a manner consistent with addressing the due process rights of public employees, when applicable.

C) Review Internal Affairs Investigations conducted by the BART Police Department

The Office of the Independent Police Auditor shall review internal affairs investigations conducted by the BART Police Department to determine if the investigations are complete, thorough, objective and fair. The Auditor, at his or her discretion, shall have authority to monitor or require follow-up investigation into any citizen complaint or allegation that is handled by the BART Police Department.

D) Mediation

The Office of the Independent Police Auditor shall develop a voluntary alternative dispute resolution process for resolving those complaints which involve conduct which may most appropriately be corrected or modified through less formal means. The Auditor shall review a draft of the voluntary alternative dispute resolution process with the Citizen Review Board and BART Police Associations and secure their concurrence prior to implementation.

E) Appeal of Internal Affairs Investigation Findings

Any complainant may file with the Office of the Independent Police Auditor an appeal of the findings of an internal investigation conducted by the BART Police Department regarding on-duty incidents. Upon receipt of such an appeal, the Office of the Independent Auditor shall:

- i) Review the completed investigation.
- ii) Determine whether or not further investigation is warranted and, if necessary, ensure that a timely, thorough, complete, objective and fair follow-up investigation into the complaint or allegation is conducted. This follow-up investigation may, at the discretion of the Auditor, be conducted by the Office of the Independent Police Auditor, the BART Police Department or any other competent investigative agency.
- iii) Provide timely updates on the progress of the review and any follow-up investigation to the complainant, to the extent permitted by law, and to the BART police officer who was the subject of the original

investigation, unless the specific facts of the investigation would prohibit such notification.

- iv) Based on the review of the original investigation and the results of any follow-up investigation (if conducted), reach an independent finding as to the facts.
- v) Independent investigative findings made by the Office of the Police Auditor shall include recommendations for corrective action, up to and including termination where warranted. When the evidence does not support the allegations of misconduct, the Auditor shall recommend that the matter be dismissed.
- vi) All internal affairs investigative findings that are appealed to the Office of the Independent Police Auditor shall be subject to the procedures for corrective action as outlined in Chapter 1-04.B, above.

F) On-Duty Officer Involved Shooting Incidents

The Auditor shall be notified immediately by the officer in charge at the scene to respond to the investigative scene regarding an officer involved shooting, resulting in the death or serious bodily injury to a member of the public or a police officer.

The Auditor shall have the authority to monitor all aspects of the ensuing investigation while it is in progress. The Auditor may observe interviews of employees, public complainants and witnesses that are conducted by the BART Police Department and may submit questions to be asked by the interviewer in accordance with state and federal law.

G) Recommendations on Procedures, Practices and Training

The Office of the Independent Police Auditor shall develop specific recommendations concerning General Orders and Directives, procedures, practices and training of the BART Police Department. Such recommendations should have as their goal improved professionalism, safety, effectiveness and accountability of BART Police Department employees. The Office of the Independent Police Auditor shall review with the Chief of Police and other stakeholders and shall present its recommendations to the Citizen Review Board for review and comment.

H) BART Police Associations

The Auditor shall meet periodically with and seek input from the BART Police Managers Association and the BART Police Officers Association regarding the work of the Office of the Independent Police Auditor.

I) Community Outreach

The Office of the Independent Police Auditor, in conjunction with the Citizen Review Board, shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with members of the public in the BART service area, and educating the public on the responsibilities and services of the Independent Police Auditor and functions of the Citizen Review Board.

J) Reporting

The Auditor shall prepare annual reports for the Board of Directors and the public, which prior to being finalized shall be reviewed in draft with the Citizen Review Board. To the extent permitted by law, reports shall include the number and types of cases filed, number of open cases, the disposition of and any action taken on cases including recommendations for corrective action, and the number of cases being appealed; findings of trends and patterns analyses; and, recommendations to change BPD policy and procedures, as appropriate. The reports shall include all complaints regarding police officers received by the Office of the Independent Police Auditor, BART Police Department, Office of the District Secretary, and other District departments.

Chapter 1-05 RELATIONSHIP BETWEEN OFFICE OF THE INDEPENDENT POLICE AUDITOR AND THE CITIZEN REVIEW BOARD

- A) At least monthly, the Citizen Review Board shall receive reports from the Independent 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 and dismissals, and the number of independent investigations concluded by the Office of the Independent Auditor. The report shall also include the number of cases being appealed either to the Office of the Independent Police Auditor by members of the public or by the Citizen Review Board according to the appeals process described in Chapter 1-04.B.ii-iv, above in the case of disagreements between the Chief of Police and the Auditor and Citizen Review Board to the General Manager, the Citizen Review Board and the Auditor to the Chief of Police, or the Citizen Review Board and the Chief of Police to the General Manager.

Reports shall include all complaints received by the Office of the Independent Police Auditor, BART Police Department, Citizen Review Board, Office of the District Secretary, and other District departments. For tracking purposes and to insure timeliness, this report shall include the number of days that have elapsed between the date of the complaint and the report to the Citizen Review Board.

- B) The Office of the Independent Police Auditor shall prepare and keep records of meetings of the Citizen Review Board.

- C) The Office of the Independent Police Auditor shall, for informational purposes, promptly notify the Chair of the Citizen Review Board whenever the Auditor is informed of a critical on-duty officer involved incident where death or serious bodily injury results.
- D) The Office of the Independent Police Auditor will facilitate the preparation of reports by the Citizen Review Board to the Board of Directors and the public.
- E) The Office of the Independent Police Auditor will provide staff support to and facilitate training for the Citizen Review Board.
- F) The Office of the Independent Police Auditor will coordinate a regular program of community outreach and communication with the public, in conjunction with the Citizen Review Board.
- G) The Office of the Independent Police Auditor will facilitate the application process for seats on the Citizen Review Board and will coordinate the selection process with the Office of the District Secretary and the Board of Directors.
- H) The performance and effectiveness of the Office of the Independent Police Auditor shall be assessed by the Citizen Review Board for consideration by the Board of Directors' Personnel Committee.

Chapter 1-06 RELATIONSHIP BETWEEN OFFICE OF THE INDEPENDENT POLICE AUDITOR, BART POLICE DEPARTMENT, OFFICE OF THE DISTRICT SECRETARY, AND OTHER DISTRICT DEPARTMENTS

- A) The Chief of Police, District Secretary and other Executive Managers with employees that routinely receive comments/complaints from the public shall each, jointly with the Auditor, develop standard operating procedures to govern the relationship and flow of communication regarding complaints involving police officers between the Office of the Independent Police Auditor and each of their respective departments.
- B) The Office of the Independent Police Auditor and the Chief of Police shall provide each other with timely notification of complaints, investigations, appeals and findings and with such information and cooperation as is appropriate and necessary.

Chapter 1-07 COOPERATION WITH THE OFFICE OF THE INDEPENDENT POLICE AUDITOR

- A) The Auditor shall have unfettered access to police reports and police personnel records. All parties who have access to confidential information

shall comply with all confidentiality requirements of the Department, the District, and all state and federal laws.

- B) During an investigation all involved sworn personnel shall be compelled to meet and cooperate with the Auditor in accordance with the Government Code 3300-3313.
- C) No person shall directly or indirectly force, or by any threats to person or property, or in any manner willfully intimidate, influence, impede, deter, threaten, harass, obstruct or prevent, another person, including a child, from freely and truthfully cooperating with the Office of the Independent Police Auditor.

Chapter 1-08 INDEPENDENCE OF THE OFFICE OF THE INDEPENDENT POLICE AUDITOR

- A) The Auditor and any employee of the Office of the Independent Police Auditor shall, at all times, be totally independent. All investigations, findings, recommendations and requests made by the Office of the Independent Police Auditor shall reflect the views of the Office of the Independent Police Auditor alone.
- B) No District employee or Director shall attempt to unduly influence or undermine the independence of the Auditor or any employee of the Office of the Independent Police Auditor in the performance of the duties and responsibilities set forth in this Chapter.

Chapter 1-09 CONFIDENTIALITY OF RECORDS AND INFORMATION

The Office of the Independent Police Auditor shall comply with all state and federal laws requiring confidentiality of law enforcement records, information, and confidential personnel records, and respect the privacy of all individuals involved.

Chapter 1-10 CODE OF ETHICS

The employees of the Office of the Police Auditor shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.

Chapter 1-11 TIMELINESS

Nothing in this section is intended to delay or interfere with the timely investigation and disposition of internal affairs investigations of alleged police misconduct. The Auditor and Citizen Review Board shall jointly develop a timeline for completion of the disciplinary process that will be concluded within 365 days.

Chapter 2-01 CITIZEN REVIEW BOARD

A Citizen Review Board shall be established by the Board of Directors to increase visibility for the public into the delivery of BART police services, to provide community participation in the review and establishment of BART Police Department policies, procedures, practices and initiatives, and to receive citizen complaints and allegations of misconduct by BART Police Department employees. Results of investigations into allegations of misconduct by BART police and recommendations for corrective action, including discipline, will be reviewed by the Citizen Review Board.

Chapter 2-02 APPOINTMENT OF CITIZEN REVIEW BOARD MEMBERS

The Citizen Review Board shall report directly to the BART Board of Directors. The Citizen Review Board shall consist of eleven (11) members appointed as follows: Each BART Director shall appoint one (1) member. The BART Police Associations (BPMA and BPOA) shall jointly appoint one (1) member, who will not be a current member of either Association. There shall be one (1) public-at-large member to be appointed by the BART Board of Directors. Members of the Citizen Review Board must reside in one of the three counties that make up the BART District and shall agree to adhere to the Code of Ethics described in Chapter 2-10. All appointments or re-appointments to the Citizen Review Board shall be for two-year terms. Those members appointed by Directors representing odd numbered Districts, as well as the public-at-large member shall have their terms expire on June 30th of the respective even numbered year. Those members appointed by Directors from even numbered Districts, as well as the BART Police Associations' member, shall have their terms expire on June 30th of the respective odd numbered year. Service on the Citizen Review Board shall be voluntary.

Chapter 2-03 CITIZEN REVIEW BOARD MEMBER QUALIFICATIONS

Citizen Review Board members must reside in one of the three counties that make up the BART District. Citizen Review Board members must be fair minded and objective with a demonstrated commitment to community service. No person currently employed in a law enforcement capacity, either sworn or non-sworn, shall be eligible for appointment to the Citizen Review Board. No relative of current and former BART Police Department personnel shall serve on the Citizen Review Board.² All appointees to the Citizen Review Board shall be subject to background checks. No person convicted of a felony shall serve on the Citizen Review Board. Members serving on the Citizen Review Board are not required to be U.S. citizens.

Chapter 2-04 REMOVAL OF CITIZEN REVIEW BOARD MEMBERS

The members of the Citizen Review Board shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics and comply with all applicable state and federal laws regarding confidentiality.

² Relatives include spouse, domestic partner, child, parent, brother, sister, grandparent, step-parent, step-child, legal guardian, father-in-law and mother-in-law.

Citizen Review Board members shall not miss more than three regularly scheduled meeting per year. The appointment of any Citizen Review Board member who has been absent from three (3) regular meetings during the fiscal year, shall automatically expire effective on the date that such absence is reported by the Independent Police Auditor to the District Secretary, except in the case of an approved leave of absence as described in Chapter 2-05. The District Secretary shall notify any Citizen Review Board member whose appointment has automatically terminated, and report to the Board of Directors and the BART Police Associations that a vacancy exists on the Citizen Review Board. The vacancy shall then be filled in accordance with Chapter 2-06.

In cases that warrant removal of a member from the Citizen Review Board for reasons including but not limited to breach of ethics, confidentiality, or criminal conviction, said removal shall be accomplished only by a resolution adopted by the majority of the Board of Directors.

Chapter 2-05 CITIZEN REVIEW BOARD LEAVES OF ABSENCE

- A) Citizen Review Board members may be granted a leave of absence not to exceed three (3) months. When such a leave of absence is granted, the seat shall be filled for the period of such leave and shall be filled in accordance with the procedure described in Chapter 2-06 B, C or D below, subject to ratification by the Board of Directors.
- B) Leaves of absence for Citizen Review Board members representing one of the nine BART Districts may be granted by the Director for the respective District.
- C) Leaves of absence for Citizen Review Board members representing the BART Police Associations may be granted by the BART Police Associations.
- D) Leaves of absence for Citizen Review Board members representing the public-at-large may be granted by the Board of Directors.

Chapter 2-06 CITIZEN REVIEW BOARD VACANCIES

- A) Vacancies on the Citizen Review Board shall be filled for the unexpired portion of the term, subject to ratification by the Board of Directors.
- B) A vacancy in a seat representing one of the nine BART Districts shall be filled by the Director whose appointee has ceased to serve.
- C) A vacancy in the seat that represents the BART Police Associations shall be filled by the BART Police Associations.
- D) A vacancy in the seat representing the public-at-large shall be filled by the Board of Directors from the pool of qualified applications submitted during the most recent application period for the public-at-large seat. If no qualified public-at-large applicants are available or willing to serve, the Board of Directors shall solicit new applications.

Chapter 2-07 SCOPE

The Citizen Review Board shall have the authority to exercise its duties and responsibilities as outlined below, with regard to law enforcement and police activities or personnel operating under authority of the San Francisco Bay Area Rapid Transit District.

Chapter 2-08 DUTIES AND RESPONSIBILITIES

A) Complaints Received From Members of the Public

A victim of on-duty police misconduct, a victim's parent or guardian, or a witness to misconduct may file, at any public meeting of the Citizen Review Board, a written complaint or allegation of wrongdoing against a BART police officer. Upon receipt of such complaint or allegation, the Citizen Review Board will immediately turn the complaint or allegation over to the Office of the Independent Police Auditor.

The Auditor shall review complaints received by the Citizen Review Board to determine whether the Office of the Independent Police Auditor or BART Police Internal Affairs will conduct the investigation, in accordance with Chapter 1-04.A.i, above. The Auditor shall provide the Police Department with timely notification of all complaints received by the Citizen Review Board.

B) Recommendations for Corrective Action

i) In a confidential personnel meeting, the Auditor shall submit his/her investigative findings and recommendations to the Citizen Review Board for review. Should the Citizen Review Board agree with the findings and recommendations, the report will be submitted to the Chief of Police for appropriate action. The Chief of Police shall implement the recommended action, absent appeal.

ii) Should the Chief of Police disagree with the findings and recommendation of the Auditor and Citizen Review Board, the Chief of Police, in a confidential personnel meeting, may appeal to the General Manager. The Chief of Police will submit his/her disagreements and recommendations to the General Manager. In a confidential personnel meeting, the General Manager shall make a decision and make his/her decision known to the Chief of Police, Citizen Review Board and the Auditor. The Chief of Police shall implement the General Manager's decision, absent appeal.

iii) Should the Citizen Review Board disagree with the Auditor's findings by simple majority, in a confidential personnel meeting, the Auditor and the Citizen Review Board shall attempt to come to a consensus. If the Citizen Review Board and the Auditor fail to come to a consensus, by simple majority, the Citizen Review Board may appeal. The efforts

made to achieve consensus shall be documented by the Citizen Review Board and shall be forwarded to the Chief of Police as a part of the appeal. All appeals regarding findings and recommendations for corrective action or dismissal, between the Citizen Review Board and the Auditor will be initially appealed to the Chief of Police, in a confidential personnel meeting. The Citizen Review Board will submit their disagreements and recommendations to the Chief of Police, in a confidential personnel meeting. The Auditor will submit his/her recommendation to the Chief of Police, in a confidential personnel meeting. The Chief of Police shall make a decision on the matter and make his/her decision known to the Citizen Review Board and the Auditor, in a confidential personnel meeting. The Chief of Police shall implement discipline or dismissal, absent appeal.

- iv) If the Citizen Review 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 Manager, in a confidential personnel meeting. The Citizen Review Board, Auditor and Chief of Police recommendations will be submitted to the General Manager, in a confidential personnel meeting. The General Manager will render a finding and report it to the Chief of Police, Auditor and Citizen Review Board, in a confidential personnel meeting. The Chief of Police shall implement the General Manager's decision, which will be final.
- v) Discipline recommended herein shall be subject to an administrative hearing prior to implementation, in a manner consistent with addressing the due process rights of public employees, when applicable

C) Recommendations on Procedures, Practices and Training

The Citizen Review Board shall develop and review recommendations as to the General Orders and Directives, procedures, and practices of the BART Police Department in consultation with the Auditor. Recommendations should have as their goal improved professionalism, safety, effectiveness and accountability of BART Police Department employees. The Citizen Review Board may make recommendations to the Chief of Police, General Manager, and Board of Directors, as appropriate.

The Citizen Review Board shall review and comment on all additions and changes to policy, procedures and practices as well as all new initiatives (including training and equipment) proposed by the BART Police Department or the Office of the Independent Police Auditor and make recommendations to the BART Board of Directors.

D) Disagreements Regarding Proposed Policies, Procedures, and Practices

The Board of Directors shall review and resolve all disagreements regarding proposed policies, procedures, and practices that may arise between the Citizen Review Board and the Chief of Police, Auditor or General Manager. The Board of Directors shall make the final determination in all such instances.

E) BART Police Associations

The Citizen Review Board shall meet periodically with and seek input from the BART Police Managers Association and the BART Police Officers Association on issues of interest to the parties.

F) Community Outreach

The Citizen Review Board, in conjunction with the Office of the Independent Police Auditor, shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with members of the public in the BART service area, and educating the public on the responsibilities and services of the Independent Police Auditor and functions of the Citizen Review Board.

G) Reporting

The Citizen Review Board shall file quarterly reports of its activities with the Office of the District Secretary for distribution to the Board of Directors and shall prepare an annual report on its accomplishments and activities (including recommendations to improve BART Police Department services) for presentation to the Board of Directors and the public.

The Citizen Review Board shall review and comment on annual report drafts prepared by the Office of the Independent Police Auditor prior to the report being finalized for distribution to the Board of Directors and the public.

H) Monitor Study Recommendations

The Citizen Review Board shall report on the accomplishments or lack of progress made by the BART Police Department in implementing recommendations resulting from periodic studies that may be conducted to look at departmental policies and procedures, practices and training.

**Chapter 2-09 RELATIONSHIP BETWEEN THE CITIZEN REVIEW BOARD
AND THE OFFICE OF THE INDEPENDENT POLICE AUDITOR**

- A) At least monthly, the Citizen Review Board shall receive reports from the Independent 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 and dismissals, and the number of independent investigations concluded by the Office of the Independent Auditor. The report shall also include the number of cases being appealed either to the Office of the Independent Police Auditor by members of the public or by the Citizen Review Board according to the appeals process described in Chapter 2-07.B.ii-iv, above in the case of disagreements between the Chief of Police and the Auditor and Citizen Review Board to the General Manager, the Citizen Review Board and the Auditor to the Chief of Police, or the Citizen Review Board and the Chief of Police to the General Manager.

Reports by the Independent Police Auditor shall include all complaints received by the Office of the Independent Police Auditor, BART Police Department, Citizen Review Board, Office of the District Secretary, and other District departments. This report shall also include the number of days that have elapsed between the date of the complaint and the report to the Citizen Review Board.

- B) The Citizen Review Board shall make forms available at its meetings to accept complaints and allegations of police misconduct from the public. The Citizen Review Board will immediately file all complaints and allegations it receives from the public with the Office of the Independent Police Auditor.
- C) The Chair of the Citizen Review Board shall, for informational purposes, be promptly informed by the Office of the Independent Police Auditor of all critical on-duty officer involved incidents, where death or serious bodily injury results.
- D) The Citizen Review Board shall prepare reports for the Board of Directors and the public with support provided by the Office of the Independent Police Auditor.
- E) The Citizen Review Board (as well as the BART Police Associations) shall participate in an advisory role in the selection of the Chief of Police by interviewing finalist candidates.
- F) The Citizen Review Board shall assess and report to the Board of Directors' Personnel Committee on the performance and effectiveness of the Office of the Independent Police Auditor.
- G) The Citizen Review Board (as well as the BART Police Associations) shall participate in an advisory role in the process of selecting all successors to the first Independent Police Auditor.

- H) The Citizen Review Board will participate in a regular program of community outreach and communication with the public, in conjunction with the Independent Police Auditor.
- I) The Office of the Independent Police Auditor will the provide staff support to and facilitate training for the Citizen Review Board.
- J) The Office of the Independent Police Auditor shall prepare and keep records of meetings of the Citizen Review Board.

Chapter 2-10 CONFIDENTIALITY OF RECORDS AND INFORMATION

Members of the Citizen Review Board shall comply with all state and federal laws requiring confidentiality of law enforcement records, information, and confidential personnel records, and respect the privacy of all individuals involved.

Chapter 2-11 CODE OF ETHICS

The members of the Citizen Review Board shall agree to adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.

Chapter 3-01 OVERSIGHT SYSTEM EVALUATION

The Board of Directors, with input from the Citizen Review Board, Auditor, BART Police Associations, complainants and the public, will evaluate the BART Police citizen oversight structure after the first year of implementation to determine if the need exists to make changes and or otherwise make adjustments to the system to improve its continued performance. This evaluation shall in no way be intended to eliminate the BART Police citizen oversight structure.

APPENDIX C
OIPA Complaint Form



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

COMPLAINT FORM
Office of the Independent Police Auditor
 300 Lakeside Drive, 14th Floor, Oakland, CA 94612
 P.O. Box 12688, Oakland, CA 94604-2688
 Phone: (510) 874-7477 Fax: (510) 874-7475
 oipa@bart.gov www.bart.gov/policeauditor

Date Received: _____

OIPA CASE #: _____

1 About You

Name: _____
Last First Middle

Mailing Address: _____
Street City State Zip

Primary Phone: () _____ Alt. Phone: () _____

Best time to contact you: _____ E-mail Address: _____

Gender: _____ Age: _____

Ethnicity: Asian Black/African American Caucasian
 Hispanic/Latino Multiethnic: _____ Other: _____

Are you: a Victim, a Witness, or a Reporting Party who was not involved in this incident

2 About the Incident

Location of Incident: _____
 (Please be as descriptive as possible - any information listed may prove helpful in investigating your complaint.)

Date & Time of Incident: _____

Were you injured? Yes No If yes, please describe your injuries: _____

Were you treated by a medical professional? Yes No

Were you arrested? Yes No Are criminal charges pending? Yes No

Are you represented by legal counsel with regard to this incident? Yes No

If yes, please supply contact information for your attorney: _____

3 VICTIM / WITNESS INFORMATION

Name	Victim / Witness (choose one)	Address	Phone Number

4

INVOLVED POLICE OFFICER INFORMATION

Badge #	Name	Sex	Race	Physical Description

Were any of the officers in a police car? Yes No

If yes, please provide any identifying information that you have about the car(s): _____

5

Please describe the incident that forms the basis of your complaint. The more detail you are able to supply, the better equipped an investigator will be to conduct a thorough investigation. Use additional pages if necessary.

6

CERTIFICATION

I hereby certify that, to the best of my knowledge, all of the information included on this complaint form is true.

Signature of Complainant

Date

APPENDIX D
OIPA Brochure

The Office of the Independent Police Auditor

Driven by the Bay Area community's need for restored public confidence and trust in the BART Police Department, and by the call for systemic change to address that need, BART's Office of the Independent Police Auditor was created.

It is the mission of the Office of the Independent Police Auditor to provide all members of the public with effective and independent oversight of the BART Police Department by:

- Conducting unbiased and thorough independent investigations and reviews of police department investigations
- Making policy recommendations to improve the performance of the police department
- Maintaining continual communication with members of the public in the BART service area



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

Office of the Independent Police Auditor

Bay Area Rapid Transit District (BART)

300 Lakeside Drive, 14th Floor
Oakland, CA 94612

P.O. Box 12688
Oakland, CA 94604-2688

Phone: (510) 874-7477

Fax: (510) 874-7475

Email: oipa@bart.gov

www.bart.gov/policeauditor



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT



Providing the Public with
Effective and Independent
Oversight of the
BART Police Department

 Printed on recycled paper. Please share or recycle this brochure.

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OUTSIDE of Brochure

Independent Oversight: A Positive New Direction

The Office of the Independent Police Auditor (OIPA) is an integral component of the *Citizen Oversight Model* (“*Model*”) adopted by BART’s Board of Directors. As dictated by the *Model*:

- The Auditor has unfettered access to police reports and police personnel records
- All involved sworn personnel shall be compelled to meet and cooperate with the Auditor in accordance with the Government Code 3300-3313
- No one shall in any manner willfully intimidate, influence, impede, deter, threaten, harass, obstruct or prevent, another person, including a child, from freely and truthfully cooperating with the OIPA

To download a copy of the *Citizen Oversight Model*, visit www.bart.gov/policeauditor.

Providing Access and Transparency

The Office of the Independent Police Auditor (OIPA) is charged with a number of specific duties including:

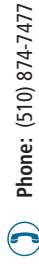
- Accept complaints of misconduct
- Investigate complaints filed with the OIPA that involve allegations of unnecessary or excessive use of force, racial profiling, sexual orientation bias, sexual harassment, the use of deadly force, and suspicious and wrongful deaths
- Review Internal Affairs investigations conducted by the BART Police Department
- Develop a mediation process for resolving some complaints
- Respond to the scene of officer-involved shooting incidents and monitor the ensuing BART Police Department investigation

Who Can File a Complaint?

Complaints may be filed by a victim of on-duty police misconduct, a parent or guardian of a victim, or a witness to police misconduct.

How Do You File a Complaint?

You can file a complaint with the Office of the Independent Police Auditor (OIPA) in a number of convenient ways:



Phone: (510) 874-7477



Fax: (510) 874-7475



Email: oiipa@bart.gov



Mail:

Office of the Independent Police Auditor
Bay Area Rapid Transit District
P.O. Box 12688, Oakland, CA 94604-2688



In-person Visit:

300 Lakeside Dr., 14th Floor, Oakland, CA 94612

An OIPA Complaint Form is available for download at www.bart.gov/policeauditor. You can also file a complaint by making a public comment at a BART Citizen Review Board meeting. Or you can file a complaint with the BART Police Office of Internal Affairs at (877) 679-7000 ext. 7029 or ia@bart.gov.

What Happens After You File a Complaint with the Office of the Independent Police Auditor?

1

An Investigation is Initiated

The Office of the Independent Police Auditor (OIPA) is responsible for ensuring that a timely, thorough, complete, objective and fair investigation into your complaint is conducted. In some cases the investigation may be conducted by the OIPA; in other cases it may be conducted by BART PD.

2

Progress is Regularly Reported

The OIPA will provide you with timely updates on the progress of those investigations it is responsible for completing.

3

OIPA Produces an Independent Finding

Complaints investigated by the OIPA will result in an independent finding, with a recommendation for corrective action where warranted, up to and including termination. Any corrective action recommended will consider prior complaints and their dispositions. When the evidence does not support the allegations of misconduct, the OIPA will recommend that the matter be dismissed. The OIPA will notify you of its finding once it is complete.

4

Findings are Sent to Citizen Review Board

Investigative findings made by the OIPA are submitted to the BART Citizen Review Board (CRB). The steps that follow the submission of findings to the CRB are described in greater detail in the *Citizen Oversight Model*, which is available for download at www.bart.gov/policeauditor.

5

Potential Routes of Appeal


If the CRB agrees with the OIPA’s finding, it will be forwarded to the BART Chief of Police for implementation. If the BART Chief of Police disagrees with the finding, the chief can appeal to the BART General Manager, who will make the final decision.

If the CRB disagrees with the OIPA’s finding, the CRB can appeal to the BART Chief of Police, who will make a decision. If the CRB disagrees with the chief’s decision, the CRB can then appeal to the BART General Manager, who will make the final decision.

6

Resolution

If the final decision in an investigation is to sustain allegations of misconduct, then discipline may be implemented. Any such discipline remains subject to applicable administrative appeal rights of the involved employee(s).



Bay Area Rapid Transit (BART)
Office of the Independent Police Auditor
300 Lakeside Drive, 14th Floor
Oakland, CA 94612

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