



***SAN FRANCISCO
BAY AREA
RAPID TRANSIT
DISTRICT
AB 716 REPORT
FOR 2013***

March 31

2014

This report to the California State Legislature summarizes the implementation of BART's exclusion policy pursuant to AB 716. The report contains data gathered from documented calls of service from station agents and patrons regarding incidents occurring on BART property and trains in addition to statistics obtained from BART police officers.

**Assembly Bill
716**

Table of Contents

Message from BART Transit Security Advisory Committee	3
Overview of the Transit Security Advisory Committee	4
Transit Security Advisory Committee Members	5
Annual Report Introduction	6
Summary of Assembly Bill 716	7
BART Transit System Profile	8
AB 716 Implementation Plan	9
Implementation	14
Initial Conclusions and Observations	15
Appendices	18
Prohibition Statistics	19
Assembly Bill 716 Language	(Attachment A)

Message from the Transit Security Advisory Committee

Members of the California State Legislature,

The Transit Security Advisory Committee (TSAC) for the San Francisco Bay Area Rapid Transit District (BART) is the citizen and community oversight committee that works to make sure AB 716 is implemented as the Legislature intended.

Transit passenger misconduct continues to be an increasing problem -- just as additional transit service is needed to meet the growing demand in the Bay Area. Effectively addressing passenger misconduct is critical if we are to expand the use of public transit to meet a variety of state environmental and economic goals. AB716 has provided a useful tool to help us increasingly protect public transit passengers and public transit employees.

While this initial Report to the Legislature only represents a six month time period, BART is seeking, and the TSAC supports, further extension of the authority for BART to fully implement this important program that improves station safety. While we have made important conclusions in this report, we look forward to a longer implementation period to better focus our efforts.

The TSAC is dedicated to finding solutions to problems which impact the safety of BART stations, its riders and employees. We will continue to volunteer our time in this endeavor to address passenger misconduct through the BART exclusionary policy allowed by AB 716.

Sincerely,

Janet Abelson
TSAC Chair

Overview of the Transit Security Advisory Committee

BART's Transit Security Advisory Committee is an oversight group composed of at least five citizens from the BART District that serve as a volunteer review body for the implementation of BART's exclusion policy. Drawing from their private and public sector experiences, the committee brings a diverse set of skills to the planning and execution of the exclusion policy.

The advisory committee members are appointed by BART's Board of Directors. At least one of the advisory committee members shall have experience working with individuals with psychiatric or other disabilities and youth services. In addition, at least one advisory committee member shall be from the BART station agent's bargaining union.

The advisory committee shall be tasked, at a minimum, with all of the following:

- (1) Providing recommendations, in consultation with the county mental health director within the service area of the transit district, regarding the type and extent of training that should be undertaken by individuals with responsibility for issuance and enforcement of prohibition orders, with particular emphasis on training designed to assist those individuals in identifying and interacting with persons who are homeless or who have psychiatric or other disabilities.
- (2) Identifying, in consultation with the county mental health director within the service area of the transit district, services and programs to which persons who are homeless or who have psychiatric, developmental, or other disabilities may be referred by transit district enforcement personnel prior to or in conjunction with issuance of a prohibition order.
- (3) Monitoring the issuance of prohibition orders to assist the transit district in ensuring compliance with Section 51 of the Civil Code.
- (4) Providing the governing board of the transit district and the Legislature with an annual report summarizing the number of prohibition orders that were issued by the transit district during the preceding year, including, but not limited to, the types and numbers of citations by category, and the number of exclusion orders appealed, the appeals granted, the reasons granted, and other relevant information directly related to those orders.

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Introduction

Like other public transit systems in the state, BART has received an increasing number of complaints from riders and employees regarding safety onboard vehicles, in parking lots and passenger waiting areas. The BART Board of Directors believes that for a variety of reasons that it must be an ongoing priority that its workers and riders feel safe at BART. This is the reason why in 2010 BART sought to be included in state legislation (AB 716 by Dickinson) that reauthorized a program assisting crime control for the Sacramento Regional Transit District and Fresno Area Express. BART sought to have similar authority in the bill for the first time.

AB 716 passed the Legislature, was signed into law by the Governor and became effective on January 1, 2012. As amended, the bill authorized the creation of a three year pilot project where BART could focus on reducing the number of passenger disruptions and improving overall service through a process that would exclude passengers cited for certain offenses.

With several conditions to implementation, AB 716 authorized additional transit security measures to curb passenger misconduct and reduce nuisance behavior. In its first year with authority to implement a prohibition order program, BART has been working to reduce the number of passenger disruptions and improve overall service. The law provides for an appeals process should individuals who are transit-dependent be cited and for training of transit personnel to recognize and facilitate the needs of those experiencing homelessness or who may have psychiatric disabilities. The law outlines the composition and duties of an oversight committee to monitor the number of citations and exclusions issued by the transit district. This committee also oversees the training of transit personnel in dealing with passengers with special needs.

This report to the California State Legislature summarizes the implementation of BART's exclusion policy pursuant to AB 716 from May 2013 to December 2013.

I. Summary of Assembly Bill 716

The purpose of AB 716 is to enhance safety and public transit system security by excluding public transit riders whose actions impact the safety and security of public transit passengers and public transit employees. The law allows BART to exclude passengers from using transit for specified periods of time, depending on the nature and the frequency of offenses committed while on transit district property. The law does not intend to target or adversely impact any particular group of individuals. The law relies in part on provisions in the state Public Utilities Code (PUC) to define those actions or behaviors which passengers see as disruptive and the number of offenses for which a passenger may be cited. Generally, AB716:

- 1) Authorizes BART to issue a prohibition order to any person who, on at least three separate occasions within a period of 90 consecutive days, is cited for an infraction committed in or on a vehicle, bus stop, or light rail station of the transit district for any act that is a violation as specified in statute.
- 2) Authorizes a prohibition order to be issued to a person arrested or convicted for any misdemeanor or felony committed in or on a vehicle, bus stop, or light rail station BART Transit District.
- 3) Prohibits a person subject to a prohibition order from entering the property, facilities, or vehicles of BART for a period of time deemed appropriate.
- 4) Specifies prohibition processes, notification procedures, and hearing and appeals procedures.
- 5) Requires BART to establish an advisory committee and to ensure that personnel charged with issuance and enforcement of prohibition orders receive training as emphasized and recommended by the advisory committee.

The chaptered version of AB 716 is included in this report (Attachment A).

II. BART Transit System Profile

BART is a special governmental agency created by the State of California consisting of Alameda County, Contra Costa County, and the County of San Francisco. San Mateo County, which hosts six BART stations, is not part of the BART district. BART is governed by nine publicly elected Board of Directors, who represent specific geographic areas within the BART District. Each Board member serves a four-year term.

BART connects San Francisco with cities in the East Bay and suburbs in northern San Mateo County operating on five lines, 104 miles of track with 44 stations in four counties. A number of bus transit services connect to BART, which, while managed by separate agencies, is integral to the successful functioning of the system. The primary providers include the San Francisco Municipal Railway (Muni), Alameda ó Contra Costa Transit (AC Transit), San Mateo County Transit (SamTrans), County Connection, and the Golden Gate Bridge, and Highway and Transportation District (Golden Gate Transit).

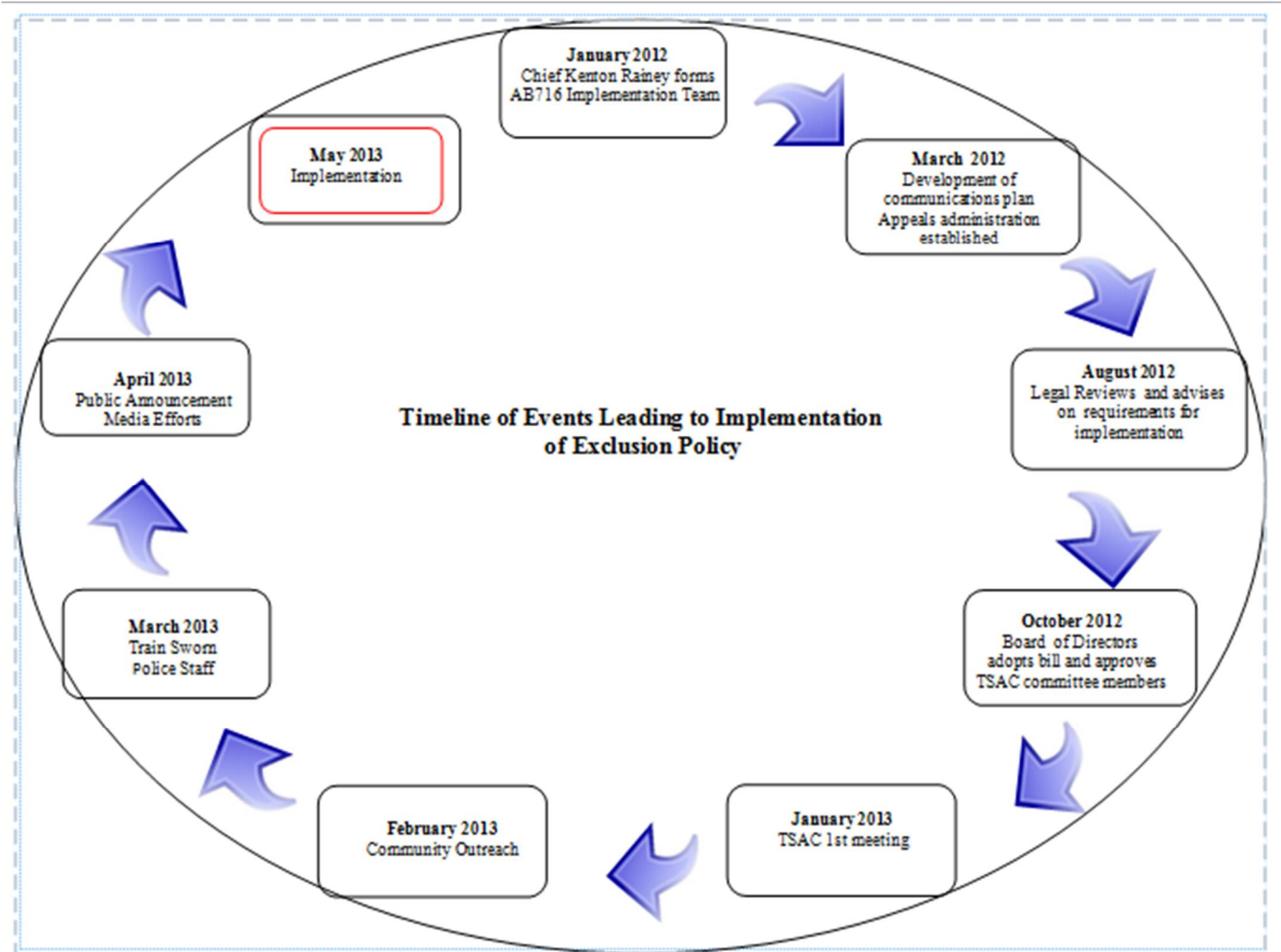
With average weekday ridership of over 400,000 passengers, BART is the fifth-busiest heavy rail rapid transit system in the nation. BART's single day ridership record was set on Wednesday, October 31, 2012, with over 568,061 passengers on the day the of the event attending the San Francisco Giants' victory parade for their World Series championship.

BART trains can achieve automated-controlled maximum speed of 80 mph and provide a system-wide average speed of 33 mph with 20 second station dwell times. Trains operate at a minimum length of three cars to a maximum length of 10 cars, spanning the entire 700 feet length of a platform. At its maximum length of 710 feet, BART has the longest trains of any passenger rail system in the United States.

The BART Police Department is comprised of 296 personnel, of which 206 are sworn peace officers. Its Chief of Police commands the department that is BART's sole law-enforcement entity and provides a full range of police services. A Citizens Review Board provides an independent citizen oversight system to ensure that complaints are investigated through an objective and fair process for all parties involved. An Independent Police Auditor is appointed to the Review Board and reports to the Board of Directors. The 11 member Citizen Review Board has the power to review policies, investigate complaints, and recommend discipline.

III. AB 716 Implementation Plan

Timeline of Events Leading to Implementation



Exclusion Officer Training Program

To ensure that BART Police officers are knowledgeable of AB 716 and trained on how to deal with specific types of transit passenger misconduct, an eight-hour training class was held in March 2013. The course provided training for BART's officers, who are then granted the authority to issue prohibition orders. Each class included information on disabilities, homelessness, youth violence, and mental illness.

Public Notice of Implementation

Media Strategy

A press conference was held on April 29, 2013, announcing an outreach effort to educate the public that riders who repeatedly violate transit laws can be banned from using the BART system for a specific amount of time. A press release was issued and local media outlets were invited to ask questions regarding the new authority granted by AB716. Additional information was placed on the BART website (www.bart.gov) to inform the public of offenses that would qualify for a prohibition citation and when enforcement on the system would begin (May 6, 2013). Several phone interviews were conducted through BART's Communications Department, which included interviews with BART Police Command Staff. Many of the local newspapers published articles on BART's new authority and implementation efforts.

Marketing Campaign

Implementation of BART's exclusion policy began in April 2013, with a marketing campaign that included Car Cards in BART trains, station ads, and informational pamphlets. These materials explained the new authority which would prohibit individuals who have committed violent acts, certain misdemeanors or felonies from riding on the BART system. The BART website also provided information as to where the public could learn more about AB 716 and its purpose. To meet the needs of limited-English speaking populations, BART made information available in multiple languages through its Language Assistance Line. A phone number listed on all program advertising advised the public of the multiple languages in which they could receive information.

Bookmarks with Spanish, Chinese, Korean, and Vietnamese translations were also distributed throughout the stations and given away at community service events, community meetings and job fairs that BART participated in from May 2013 to the end of the year. The bookmarks continue to be used to inform the public about the new safety authority.

Below are some examples of the marketing materials used during BART's initial campaign for this bill.

BART News Story:

New law aims to make BART safer, cleaner for riders, employees

<http://www.bart.gov/news/articles/2013/news20130130#sthash.PHdTpi35.dpuf>

Bookmark

<p>Make BART Safer and Cleaner</p> <p>BART has the authority to keep our passengers and employees safe and our surroundings clean and orderly.</p> <p>AB 716 state law allows BART to prohibit individuals who have committed violent acts, certain misdemeanors or felonies on the system from entering BART property.</p> <p>Go to www.bart.gov/police to learn more.</p> <hr/> <p>We still rely on passengers and employees to report bad or suspicious behavior when it occurs. To make a report, call 911 or BART Police at (510) 464-7000. Together, we can keep BART safe.</p> <p>   </p>	<p>If you need language assistance services, please call BART's Transit Information Center at (510) 465-2278.</p> <hr/> <p>如果需要语言帮助服务，请拨打 BART Transit (快速交通) 信息中心，电话号码为 (510) 465-2278。</p> <hr/> <p>통역이 필요하시면, BART 수송 정보 센터 (510) 465-2278 로 전화해 주십시오.</p> <hr/> <p>Si necesita servicios de asistencia de idioma, llame al centro de información de tránsito del BART al (510) 465-2278.</p> <hr/> <p>Nếu quý vị cần các dịch vụ trợ giúp ngôn ngữ, xin gọi cho Trung Tâm Thông Tin Chuyên Chở Công Cộng của BART tại số (510) 465-2278.</p> <p>   </p>
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Car Cards (Posters) were posted in BART Train Cars for 3 months



Community Outreach

BART police and staff reached out in January and February 2013 to various community groups and to the public throughout the BART service area to educate them on the new safety authority. This included meetings with:

- **National Alliance of Mental Illness (NAMI)**: BART's AB716 implementation team met with NAMI at the Mills Health Center in San Mateo on Wednesday, January 23, 2013. The group's main concern centered around the possible targeting or profiling of any particular group for the new citations, especially those with mental health challenges.
- **BART Citizen's Review Board-Alameda County Meeting**: On February 11, 2013, the AB716 team presented information to the BART Citizens Review Board. The meeting was held at the BART Board Room in Oakland and the public was invited to attend and ask questions to BART Police about AB716.

- **San Francisco Mental Health Board:** The AB716 team met with the San Francisco Mental Health Board of the Department of Public Health on February 13, 2013. The main topic discussed at the meeting was profiling of the homeless and individuals with mental health challenges.
- **Contra Costa County** - The AB716 team met with the Contra Costa County Health Commission at El Cerrito City Hall on February 28, 2013. The Commission had questions regarding the appeals process, effects on the mentally disturbed and the possibility that certain groups might be profiled.

At each of the meetings, participants were given the opportunity to ask questions, voice their concerns and offer suggestions on how the new authority should be enforced at BART. After meeting with each group, public input was reviewed and suggestions were incorporated into subsequent presentations and trainings. BART's Crisis Intervention Training (CIT) Specialist has followed up with all of the groups where presentations were initiated to provide statistical updates and gather feedback on the implementation of AB 716.

IV. Implementation

Prohibition Orders

Beginning in May 2013, BART began to implement its citation process as authorized under AB 716:

Public Utilities Code Section 99171(a) (1) provides: A transit district may issue a prohibition order to any person to whom either of the following applies:

(A) On at least three separate occasions within a period of 90 consecutive days, the person is cited for crimes committed in or on BART property for any act that is a violation of paragraph (2) or (5) of subdivision (a) of Section 99170, paragraph (6), (7), (8), or (9) of subdivision (b) of Section 640.5 of the Penal Code.

(B) The person is arrested or convicted for a misdemeanor or felony committed in or on a vehicle, bus stop, or light rail station of the transit district for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale or sale of a controlled substance.

(C) The person is convicted of a violation of Section 11532 of the Health and Safety Code or Section 653.22 of the Penal Code.

BART Prohibition Totals for May to December 2013

- **Public Utilities Code Section 99171(a) (1) (B)**
146 prohibition orders, none were contested.
- **Public Utilities Code Section 99171(a) (1) (A) or 99171(a) (1) (C)**
There have been no prohibition orders written for this code section.

The Transit Security Advisory Committee (TSAC)

The TSAC is comprised of local residents with experience in the areas of transit, youth advocacy, mental health, homelessness, public safety, and cultural awareness. The advisory committee, which is required by AB 716, monitors the number of citations and exclusions issued by BART and oversees the training of transit personnel. The training of transit personnel is mandated in order to recognize and facilitate the needs of the homeless and those struggling with mental health challenges or alcohol and other drug related issues. The TSAC reviews the appeals process, established for those who believe they have been mistakenly cited or are transit-dependent. In addition, the TSAC monitors statistics of citations and makes recommendations as needed to correct any discrepancies or problems. For additional information on TSAC, please visit: <http://www.bart.gov/about/bod/advisory/tsac/>.

V. Initial Conclusions and Observations

In 2013, BART initiated its AB 716 implementation program. Data has been collected for approximately a six month period and included in this report to the Legislature. BART Police believe additional years of enforcement will be needed to truly determine how effective and successful this new safety effort will be. However, there are some *initial* observations worthy of highlighting here:

1. Prohibition Orders have been issued across all stations throughout the BART system.

The stations with the greatest ridership numbers, however, have the most varied number of prohibition orders, and these are the stations in the downtown San Francisco area. The top 5 areas of concern as identified by collected statistics see Chart #1 are:

1. domestic violence incidents
2. batteries/threats on patrons
3. batteries/threats on employees
4. batteries/threats on officers
5. robbery

*There have also been a rising number of incidences of indecent exposure that the TSAC believes should be closely monitored.

2. More Time is Needed to Determine BART Employee Impact

In the short six month period that AB 716 has been enforced, 26% of the prohibition orders issued were in response to employee involved (including station agent) incidents. Although BART station agents, maintenance workers and police are increasingly in the middle of disruptive and sometimes violent actions from the public, the reported number of crimes against employees decreased in the six months reported in 2013. TSAC believes one reason for this could be due to ongoing contract negotiations at the time which may have resulted in incidents not being reported.

However, the TSAC believes that increased training for employee groups, including modification of current training for Station Agents, Fore Workers, Train Operators, Operation Supervisors and System Service workers be considered to help employees better identify potentially dangerous situations and individuals with specific needs. The TSAC believes this will help achieve BART's AB 716 program goals of reducing domestic violence, employee battery and recidivism. The TSAC also suggests that additional signage located at station agents booths could help inform the public and remind employees of the protocol of the new authority.

3. A Surprising High Number of Domestic Violence Incidents

From May to December 2013, 25% of prohibition orders issued involved domestic violence cases. The TSAC believes the number of these cases could possibly be decreased if BART officers issued Emergency Protective Orders (EPO) at our stations. The TSAC was surprised to find out that although BART officers are California sworn peace officers, within the District, officers are not able to issue EPOs although they have the ability to enforce them. The committee strongly recommends that BART officers have the authority to issue EPOs and it should consider pursuing legislation in the California State Legislature.

4. Outreach Efforts Involving Mental Health Must Continue to Grow

BART Police is addressing issues and concerns of individuals struggling with homelessness, mental health issues and drug and alcohol challenges. BART Police not only track cases involving individuals struggling with mental health issues, but share detailed information with all officers during their line-ups or via email. BART PD is steadily accomplishing its goal of having all officers CIT trained. Of the 189 sworn personnel at BART, 146 officers are CIT qualified. BART PD is dedicated to continuing this training though out the department to include both Community Service Officers and Dispatchers. CIT Officers are now able to offer services on the spot by referring them to appropriate resources throughout the BART System. The on-duty sergeant meets with the BART Police CIT Coordinator/Community Outreach Liaison to review individual cases and develop an action plans to connect or re-connect individuals to specific mental health services.

To increase relationships with key mental health groups in the Bay Area, BART has worked with the Homeless Outreach Teams (HOT team) in all four counties it serves. Information on mental health incidents are gathered and shared at monthly Multi-Disciplinary Forensic Team (MDFT) workgroup meetings in Alameda County, Contra Costa County and San Mateo County. The MDFT is a voluntary coalition of law enforcement agencies and allied service providers who meet to assist individuals with mental illness, substance abuse and co-occurring disorders who are at high risk of involuntary hospitalization and are arrested for behaviors and activity related to their disabilities. Currently BART PD is collaborating with mental health services and community resources throughout the BART District.

5. Fewer Mental Health Instances than Expected

From the initial data collected, it appears the mental health community was marginally affected by the new prohibition citation process. The number of contacts with individuals struggling with mental health conditions throughout the system had increased from 801 in 2012 to 896 in 2013. However, the majority of those contacts did not qualify under the prohibition order criteria. There were only seven (7) contacts (5%) of the 146 total prohibition orders during the time that this data was collected. A total of 556 contacts took place throughout the system from May to December and only seven of those contacts qualified under AB 716.

The TSAC did take note of the number of indecent exposure cases, which for six months was equal to the total amount of cases from last year (35). This type of crime may have specific connections to persons suffering from mental health challenges. The committee recommends that a continued emphasis be made to monitor this group of violators, as it may warrant additional outreach efforts and services in the future.

6. Higher Numbers of Young People Receive Prohibition Orders

Data for the last six months indicates that riders between ages 15-25 received a disproportionate number of prohibition orders compared to other age groups. Out of the 146 citations issued, 10 of those were issued to 17-year olds or younger (7%), and 51 prohibition orders were issued to those between the ages of 18-25 years (35%). When combined, 42% of the prohibition orders were issued to violators who were 25 years or younger.

Moving forward, the TSAC has recommended the current age groups used for prohibition statistics be further broken down into categories for juveniles and young adults: ages 17 and under and 18-25. BART Police have plans to work with various local school programs within the BART service area to achieve the program goals of reducing recidivism of delinquent behavior, youth violence, and gang activity.

7. More Focus Placed on Fare Evaders

Increased fare evasion continues to be a problem not addressed by AB716. Yet, BART Police have observed a correlation between chronic fare evaders and serious nuisance behavior among riders. Patrons are often affected by these violators, especially riders with disabilities who must use specific routes and elevators to enter or exit BART stations. The TSAC has recommended that fare evasion should be strongly considered an AB 716 violation so that all patrons can feel safe riding the BART system.

VI. Appendices

Prohibition Statistics

Chart	Title	Page
1	Prohibitions Statistics: Arrests, In-Custodies and Citations	19-20
2	Arrests: Pie chart	21
3	Prohibitions Statistics: Mental Illness Involved, Homeless Involved, and Juvenile Involved	22
4	Age Statistics	23
5	Breakdown by Age	23
6	BART Police Zone Statistics	24
7	Breakdown by Zone	24
8	Breakdown by Station	25

Attachment A - Assembly Bill 716 – Chaptered version

Prohibition Order Statistics
(From May 6, 2013 to December 31, 2013)

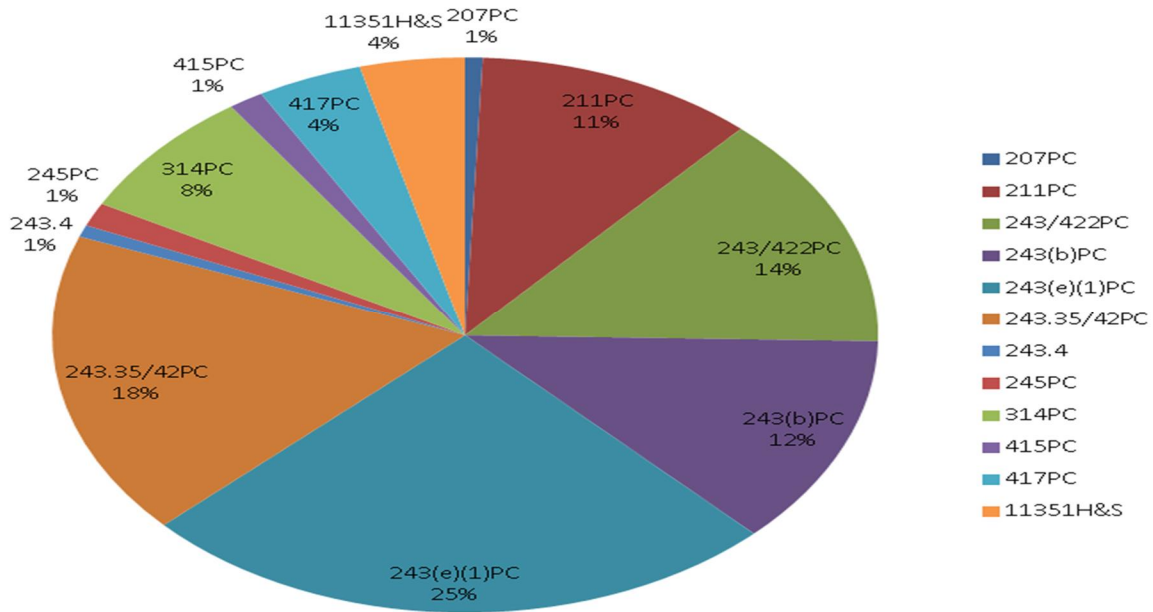
Chart 1: Arrests, Prohibition Orders Issued, In-Custodies and Citations

Crime	Description	Arrests & Prohibition Orders Issued	Percentage	In-Custody	Citations
664/207 PC	Attempt Kidnapping	1	1	1	0
211 PC	Robbery	16	11	16	0
243/422 PC	Battery/Threats On Employees	20	14	17	3
243(b)/422 PC	Battery/Threats On Officers	18	12	18	0
243(e)(1)PC	Domestic Battery	37	25	37	0
243.35/422 PC	Battery/Threats On Patrons	26	18	19	7
243.4 PC	Sexual Battery	1	1	1	0
245 PC	Assault with Deadly Weapon	2	1	2	0

314 PC	Indecent Exposure	11	8	11	0
415 PC	Disturbing The Peace	2	1	2	0
417 PC	Brandishing A Weapon	6	4	5	1
11351 H&S	Sales of Illegal Narcotics	6	4	6	0
Total		146	100%	135	11



Chart 2: Arrests



664/207 PC	Attempt Kidnapping	243.4 PC	Sexual Battery
211 PC	Robbery	245 PC	Assault with Deadly Weapon
243/422 PC	Battery/Threats On Employees	314 PC	Indecent Exposure
243(b)/422 PC	Battery/Threats On Officers	415 PC	Disturbing The Peace
243(e)(1)PC	Domestic Battery	417 PC	Brandishing A Weapon
243.35/422 PC	Battery/Threats On Patrons	11351 H&S	Sales of Illegal Narcotics

Chart 3: Prohibition Appeals, Mental Illness, Homeless and Juvenile Involved Orders

Crime	Description	Arrests & Prohibition Orders Issued	Prohibition Appeals	Mental Illness Involved*	Homeless Involved	Juvenile Involved (Under 18)
664/207 PC	Attempt Kidnapping	1	0	0	0	0
211 PC	Robbery	16	0	0	0	6
243/422 PC	Battery/Threats On Employees	20	0	0	5	0
243(b)/422 PC	Battery/Threats On Officers	18	0	4	2	1
243(e)(1)PC	Domestic Battery	37	0	0	0	2
243.35/422 PC	Battery/Threats On Patrons	26	0	1	2	1
243.4 PC	Sexual Battery	1	0	0	0	0
245 PC	Assault with Deadly Weapon	2	0	0	0	0
314 PC	Indecent Exposure	11	0	2	2	0
415 PC	Disturbing The Peace	2	0	0	0	0
417 PC	Brandishing A Weapon	6	0	0	1	0
11351 H&S	Sales of Illegal Narcotics	6	0	0	0	0
Total		146	0	7 (5%)	13 (9%)	10 (7%)

*In all cases involving mental illness issues, subjects are transported to and evaluated at a psychiatric facility prior to being booked at the jail.

Chart 4: Age Statistics

Age	Prohibition Orders Issued	Percentage
17 & Under	10	7
18 to 25	51	35
26 to 35	41	28
36 to 45	20	14
46 to 55	16	11
56 +	8	5
	146	100%

Chart 5: Breakdown by Age

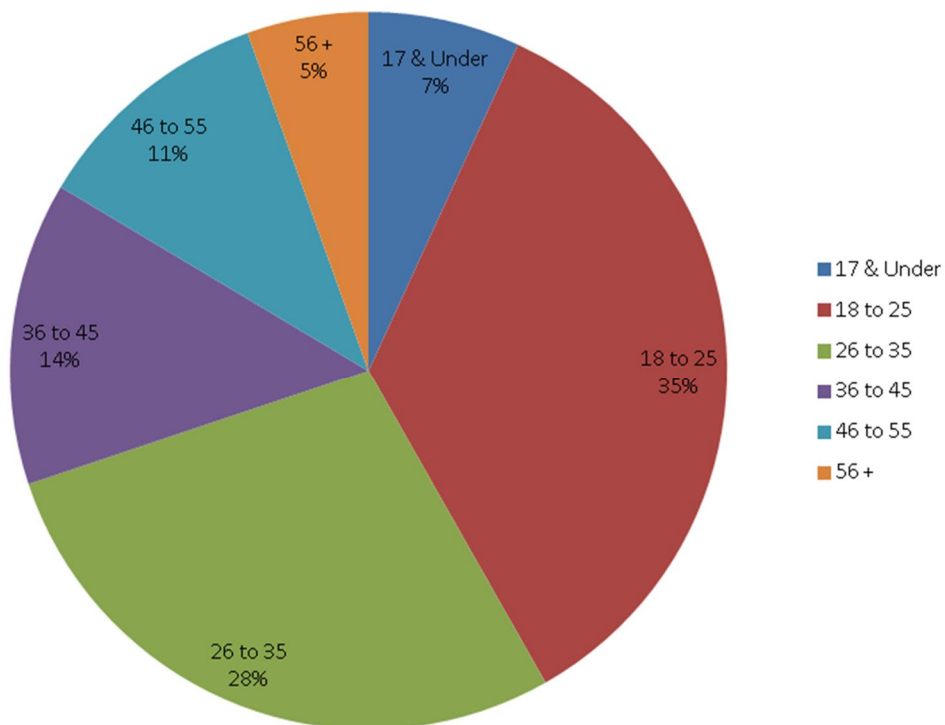


Chart 6: BART Police Zone Statistics

Zone	Prohibition Orders Issued	Percentage
Zone 1 (Oakland)	39	27
Zone 2R (Berkeley & West Contra Costa County)	17	12
Zone 2C (East Contra Costa County)	22	15
Zone 3 (South Alameda County)	22	15
Zone 4 (San Francisco County)	34	23
Zone 5 (San Mateo County)	11	8
	146	100%

Chart 7: Breakdown by Zone

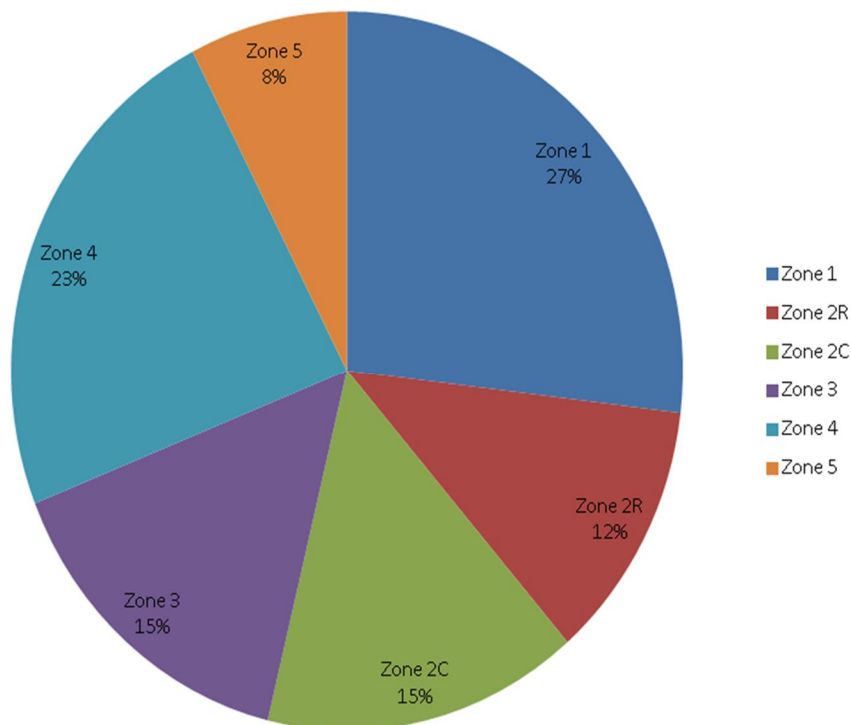


Chart 8: Breakdown per Station

Station	Prohibition Orders Issued	Percentage
12 th Street (Oakland)	6	4
16 th Street (San Francisco)	3	2
19 th Street (Oakland)	6	4
24 th Street (San Francisco)	2	1
Berkeley	3	2
Bay Fair (San Leandro)	9	6
Balboa Park (San Francisco)	2	1
Civic Center (San Francisco)	6	4
Concord	8	5
Coliseum (Oakland)	4	3
El Cerrito Plaza	1	1
El Cerrito Del Norte	10	7
Daly City	6	4
Dublin/Pleasanton	5	3
Embarcadero (San Francisco)	4	3
Fruitvale (Oakland)	3	2
Hayward	4	3
Hercules Transit Center	1	1
Lafayette	1	1
Lake Merritt (Oakland)	7	5
MacArthur (Oakland)	7	5
Millbrae	1	1
Montgomery Street (San Francisco)	1	1
West Oakland	6	4
Pittsburg/Baypoint	7	5
Pleasant Hill	1	1
Powell Street (San Francisco)	16	11
Richmond	2	1
Rockridge (Oakland)	1	1
South Hayward	1	1
San Leandro	3	2
San Francisco Airport	2	1
South San Francisco	2	1
Walnut Creek	5	3
	146	100%